

[Mr. Chairman.]

(1) of section 9 of the Salaries and Allowances of Members of Parliament Act, 1954, I hereby nominate the following Members from the Rajya Sabha to serve on the Joint Committee of the Houses of Parliament for the purpose of making rules under the said section:

1. Begam Aizaz Rasul.
2. Shri H. C. Dasappa.
3. Shri D. Narayan,
4. Shri H. C. Mathur.
5. Shri R. P. N. Sinha.

## PAPERS LAID ON THE TABLE

### NOTIFICATIONS REGARDING ALL INDIA SERVICES RULES

THE MINISTER FOR HOME AFFAIRS AND STATES (DR. K. N. KATJU): Sir, I lay on the Table a copy of each of the following Notifications, under sub-section (2) of section 3 of the All India Services Act, 1951:—

(i) Notification No. 10/1/54-AIS(II), dated the 14th September 1954, publishing the Indian Administrative Service (Pay) Rules, 1954. [Placed in Library, see No. S-331/54.]

(ii) Notification No. 10/2/54-AIS(II), dated the 14th September 1954, publishing the Indian Police Service (Pay) Rules, 1954. [Placed in Library, see No. S-332/54.]

(iii) Notification No. 28/1/54-AIS(II), dated the 14th September 1954, publishing the All India Services (Travelling Allowances) Rules, 1954. [Placed in Library, see No. S-333/54.]

(iv) Notification No. 6/1/54-AIS(II), dated the 14th September 1954, publishing the All India Services (Medical Attendance) Rules, 1954. [Placed in Library, see No. S-334/54.]

(v) Notification No. 20/1/54-AIS(II), dated the 14th September 1954, publishing the All India Services (Compensatory Allowance) Rules, 1954. [Placed in Library, see No. S-335/54.]

(vi) Notification No. 13/2/54-AIS(II), dated the 14th September 1954, publishing the Indian Police Service (Uniform) Rules, 1954. [Placed in Library, see No. S-336/54.]

## THE CONSTITUTION (THIRD AMENDMENT BILL, 1954

THE MINISTER FOR COMMERCE AND INDUSTRY (SHRI T. T. KRISHNAMACHARI): Sir, I move:

“That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Constitution of India and resolves that the following Members of the Rajya Sabha be nominated to serve on the said Joint Committee:

Shri C. C. Biswas,  
Shri S. V. Krishnamoorthy Rao,  
Shri Biswanath Das,  
Shri Fakhruddin Ali Ahmed,  
Dr. W. S. Barlingay,  
Shri Jagan Nath Kaushal,  
Shri Chandulal P. Parikh,  
Shri R. C. Gupta,  
Shri Rajagopal Naidu,  
Shrimati Parvathi Krishnan,  
Shri H. C. Mathur,  
Shri B. C. Ghose.”

Sir, in making this motion, I would like to take the House to the history behind this particular Bill to amend the Constitution. One has not to go very deep into the history of our Constitution and its working and all that hon. Members have to do is to refer to article 369 and deduce there-

from the patent fact that the powers vested in Parliament and the Government of India so far under article 369 will lapse on the 25th January 1955. Sir, article 369 mentions a large list of commodities in respect of which the powers of the Union as well as the State Government would be as if they were in the Concurrent List, notwithstanding the fact that the distribution is different or they fell in List I or List II.

12 NOON

It happens that in regard to several commodities powers already exist with the Union; under entries 52 and 54 of List I, Parliament can by law declare that certain commodities are of national importance and therefore, the control of these commodities should be vested in the Centre for safeguarding public interest. There is a residue which is covered by the present Bill. The residue happens to be those items under sub-clauses (b), (c), (d) and (e). Sub-clause (b) is foodstuffs, including edible oilseeds and oils; (c) is cattle fodder, including oilcakes and other concentrates; (d) is raw cotton, whether ginned or unginned, and cotton seed; and (e) is raw jute. I would also like to tell the House that the commodity under (e) does not find a place in the commodities listed under article 369; it is a new addition. There is yet another slight variation in regard to entry 33 in this Bill to which I would refer later. The position as it would obtain after the 25th January 1955 will be that the Government of India will have no specific powers in regard to the commodities listed under (b), (c), (d) and (e). It does not necessarily mean that there might not be an area in which some power might be exercised by the Government of India. Articles 301 and 302 give the Government general powers in regard to trade and commerce in respect of inter-State trade as well as intra-State trade. There are certain aspects of inter-State trade which detract the position of intra-State trade and it may be that the Government

of India might be able, by means of interpretation, to exercise some kind of control in regard to trade and movements of commodities within a State in so far as they affect the inter-State position. Again, Sir, in view of the responsibility of the Government, by virtue of the fact that entries 52 and 54 are in List I, namely industries and minerals, there might be some incidental, ancillary and supplementary powers that will have to be exercised by the Government in regard to raw materials needed by these industries. While it is fairly patent that in regard to movement of commodities there should be actual movement and that the manufacturer would not come within the scope of Government's control unless it is covered by powers vested in the Government of India under entries 52 and 54, there are certain things which the Government of India have to do. They have to exercise the control, as ancillary or incidental to certain powers vested in them. For instance, in excise regulations that the Government impose on particular commodities it takes us almost to the point of the grower dealing with the commodities. Regarding the excise on tobacco, we have to control the movement of tobacco within the State because that is necessary; for the purpose of collecting excise some kind of a check has to be put in and so it might be construed by hon. Members that the Government is not altogether without powers to control some of these commodities even though there is no specific provision in the Constitution after the 25th January 1955 to enable the Government of India so to act. Yet another point that would be mentioned is that the framers of the Constitution in their wisdom have made a provision—article 249—by which Government could approach this House to enable them to use the powers over certain commodities which normally fall within the State sphere, or rather certain powers which normally fall within the State sphere to be exercised by the Centre for a period of one year after obtaining the express permission of this.

[Shri T. T. Krishnamachari.]

House under article 249. We do recognise, Sir, that such a provision does exist; nonetheless, this Bill has been brought before the House.

Sir, it is not a question of an arbitrary decision by the Government of India that entry 33 of List III should be so amended as to embrace within its scope the entries enumerated under article 369 which fall into desuetude after the 25th January 1955. Hon. Members might be aware of the fact that pursuant to a promise that I made on the floor of Parliament, we appointed a committee to investigate into the exercise of controls by the Government of India, called the Commodities Controls Committee which was presided over by no less a person than the Deputy Chairman of this august House. The Committee went into the utmost detail in regard to the various facets of control exercised by the Government of India and by the State Governments; it examined the representatives of the State Governments, the representatives of the Planning Commission and also concerned interests in trade and commerce, not to speak of the several Government officials who assisted it in coming to a conclusion. I have no desire, Sir, to weary this House by a detailed reference to the work of this Committee; its report, as I said, is available to hon. Members of the House and hon. Members will find—if they read paragraphs 36 to 44 of the report of this Committee—that the position I am seeking to convey to the House is completely covered by the recommendations of that Committee and the views expressed in those paragraphs. Sir, the Committee felt that there was need for a continuance of the controls to be exercised by the Government of India in regard to the commodities which we have listed in this Bill. It was also felt by the Committee that the powers that the Government of India might be able to exercise by virtue of a resolution passed in this House under article 249 would not be adequate for the purpose. and, in any

event, the Committee has not been able to visualise that the need for exercise of those powers would be of a temporary nature covering only one or two years. In fact the Committee felt that this was a power which was necessary for the Government of India to exercise in the interests of the maintenance of the economy of the country, and in the interests of the maintenance of the industries to which some of these commodities relate.

Sir, the Committee made two suggestions: One suggestion was that entries 26 and 27 in List II should be transferred to the Concurrent List. Entries 26 and 27 relate to more or less the residual power in the hands of the States, power which has not been grasped or taken over by the Central Government and by Parliament by the exercise of powers under entries 52 and 54 of List I. Entries 26 and 27 read thus: *Entry 26*: Trade and commerce within the State subject to the provisions of entry 33 of List III. *Entry 27*: Production, supply and distribution of goods subject to the provisions of entry 33 of List III. List III, as hon. Members will realise, is based on entries 52 and 54 of List I. The Committee itself thought that that might be rather sweeping; it is taking over a large chunk of the residual powers vested in the States, powers which should not be defined powers, which would normally be exercised by the States in regard to industries which are not considered to be of national importance and putting them all into the concurrent field. They made an alternative suggestion, namely, that the powers in respect of these commodities might be brought within the scope of item 33 of List III, which is the operative part of the powers envisaged under items 51, 52 and 54 of List I, namely, while the control of the industry and the exploitation of the minerals is within the exclusive field of the Centre, trade and commerce of those commodities is in the Concurrent field and wherever the Centre is not desirous of taking all those

powers, well, the States can take the powers. Well, we have given very careful thought, Sir, to these recommendations and the Government of India felt reluctant to augment the powers of the Centre even in the concurrent field to any extent beyond what is barely necessary and we thought that this appreciation in a matter like this would probably commend itself possibly to most of the Members of the Houses of Parliament, and that is why, Sir, we adopted the latter suggestion and included these commodities which are the residue left out of article 369 with the exception of raw jute which are not within the purview of the operation of parliamentary law in item 33.

Sir, before I go into the history of this question I would like to take the House very briefly to the general opinion in regard to the concurrent field. Sir, the mere fact that we have taken these powers which normally would belong to items 26 and 27 of List II after the 25th of January 1955 into the concurrent field so as to perpetuate a situation which was in operation because of the operation of article 369 for a period of five years, will not be an infringement of the federal principles.

Sir, I shall read a short quotation from K. C. Wheare's Book on 'Federal Government' (Second Edition). Mr. K. C. Wheare says: "It is well to emphasize at once that the existence of a concurrent jurisdiction in some matters is not necessarily incompatible with the federal principle. But if there is a concurrent jurisdiction, there must exist also some provision to determine which authority, in case of conflict, is to prevail. That authority will possess, in my opinion, potential though not actual exclusive jurisdiction." I would like the House to mark the words "that authority will possess", in his opinion "potential though not actual exclusive jurisdiction." "It has the power to bring the subject in question under its exclusive control to the extent that it chooses to regulate it. It does not

matter, so far as the federal principle is concerned, whether the overriding authority on subjects of concurrent jurisdiction is vested with the general government or the regional governments. But if there is to be federalism, one condition must be fulfilled. There must be some matter, even if only one matter, which comes under the exclusive control, actual or potential, of the general government and something likewise under the regional governments."

Sir, I am mentioning this particular quotation more or less in anticipation of the argument that might be raised by certain Members of the House that by means of this Bill to amend the Constitution, by taking powers which were avowedly considered to be necessary at the time when the Constitution was framed to be of a temporary nature, we are violating the inherent principle of federalism. Sir, hon. Members here who have read the Constitution would also realise that the conditions prescribed by Prof. Wheare in regard to the clear demarcation of the exercise of those powers are also to indicate that though the powers are potential they would only be exercised in the case of necessity. I would venture to draw the attention of the hon. Members of this House to article 73. Article 73 indicates the extent of the executive power of the Union, and the proviso is really the important part of this article in my view. The proviso to article 73(1) says: "Provided that the executive power referred to in sub-clause (a) shall not, save as expressly provided in this Constitution or in any law made by Parliament, extend in any State specified in Part A or Part B of the First Schedule to matters with respect to which the Legislature of the State has also power to make laws." Again this proviso lays the obligation on the Union Parliament that even though they legislate in regard to a matter which avowedly falls within the Concurrent List, they should expressly state in that legislation that the executive power in respect of that particular

[Shri T. T. Krishnamachari.]

law or any portion of that law shall vest in the Centre. So the same safeguard that is mentioned by Prof. Wheare, namely, that that potential power can only be used in the case of necessity, has been safeguarded by the Constitution only in the proviso to article 73(1).

Sir, then I would like, if I am not wearying the House, to take the House to almost the background by giving the picture at the time that we were discussing article 369 which was article 366 in the draft Constitution, and also the items in List I. It was then item 64 analogous to items 52 and 54.

Sir, I am very happy that we have the privilege of having today in the House my esteemed friend, Pandit Hriday Nath Kunzru. He took part in the discussions with regard to article 306 of the draft Constitution, which ultimately became article 369. There was, Sir, a powerful body of opinion in the Constituent Assembly at that time that the draftsmen in envisaging that the Government of India would require these powers only for a temporary period of five years were taking a short view of the question. Sir, in the other House while speaking I referred with almost an *ex post facto* recognition of the hon. gentleman's intentions that Mr. Brajeswar Prasad, a Member of the other House did indicate that the draftsmen were doing something wrong in envisaging that these powers would be needed only for five years. He said these powers ought to be in List I—they are not in List I and that at any rate the period during which the powers should be exercised should range over 15 years.

Another hon. Member at the time, Mr. Shibban Lal Saxena, discussing item 52, which was item 64 at that time, wanted not the limited power that we have in item 33 of List III but the entire power in regard to the control of all commodities which Parliament by law might declare to be in the national interest, to be in List I.

SHRI S. N. MAZUMDAR (West Bengal): What was the hon. Minister's own view at that time?

SHRI T. T. KRISHNAMACHARI: It is not a matter of great interest because I happened to be one of those people, who are in the position of a drudge, in the Constituent Assembly, and drudges do not have any views; in fact they do not express them openly. If my hon. friend had any position of that kind he would be able to realise that he had better keep quiet except explain things when called upon to do so.

I think, Sir, the hon. Pandit Hriday Nath Kunzru speaking in regard to one particular wording of article 306 as it then was, had more or less particularly indicated that he felt that the draftsmen did not take a long view of the question. But that is not all. The background behind that discussion was certain minutes prepared by the Ministry of Food and Agriculture and the Ministry of Industry, all of which were discussed by the drafting committee with the Ministers of the Government of India and the Chief Ministers of States. Thanks to my friend who is now the Secretary of this Body, I was able to lay my hands on some of the memoranda that were prepared at that time and I found that a predecessor of mine in the office of the Ministry of Industry the late lamented Dr. Syama Prasad Mookerjee was very strong on this point and he felt that the powers in respect of these commodities which are important so far as the life of the community is concerned, like foodstuffs and raw materials for industries, should either be in List I or should be in the concurrent field. We had a considerable amount of discussion at that time and we were not able to come to any decision because the interim provision was felt to be satisfactory though my esteemed friend, the Chief Minister of Uttar Pradesh, at that time said that he would not like the Centre to have so many powers in the concurrent field because it is an accepted convention

that even in regard to matters in the concurrent field the Central Government only lays down a sort of a skeleton legislation and leaves it free to the State Governments, either by its express delegation of powers or by the use of the rule-making powers, to fill up all the gaps so that the control is necessarily in their hands. I am mentioning all this merely to draw the attention of the House to the fact that 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 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. I have reiterated this point merely to indicate that what is sought to be done is a thing which is recognised in principle and which is not a violation of the federal principle even to the extent that a purist might interpret it to be and that in the present circumstances it would be rather unsafe for the Government of India to divest itself of this power and depend for the use of this power either by means of legislation which might be challenged as being colourable or by means of the use of article 249 which avowedly is for a temporary and a very limited purpose.

Sir, the House would like to know if these proposals were placed before the State Governments. Yes; as soon as the Commodity Control Committee reported, a copy of the Report was sent to the various Departments of the State Governments and they were asked for their views. I think we first wrote to the State Governments on the 12th September 1953. Some of the State Governments sent their replies but at that time Assam, Madhya Pradesh, Madras, Punjab, PEPSU, Rajasthan and West Bengal did not send any reply. But after a subsequent communication sent to them in

August this year, Rajasthan and West Bengal agreed to the proposal that Parliament might take over the powers suggested by the amending Bill on a permanent basis.

Hyderabad, Mysore, Orissa, Saurashtra and Travancore-Cochin had replied to the Government of India's earlier letter of 12th September 1953 in the affirmative. The Bihar Government at that time suggested that power might be taken for an extension of the validity of article 369 for another period of five years. The Bombay Government replying in September 1953 wanted to be consulted again when final action was taken and when we wrote to them again in August, one Department of the Bombay Government said that they were not in favour of the proposal. Andhra, Madras and Madhya Bharat have written to us that they are considering the matter and we have not heard from them yet. The Assam Government wrote to us a few days back to say that they thought that the powers vested in the Government of India under item 52 were adequate.

SHRI H. C. DASAPPA (Mysore): What does the hon. Minister mean by 'one Department of the Bombay Government'? Was not the view of the Bombay Government as such available?

SHRI T. T. KRISHNAMACHARI: What happens is that sometimes the communication is spread over a number of Departments and each Department mentions a different opinion. In this particular case we got a reply from the Department of Civil Supplies. The Deputy Controller of Civil Supplies is the officer who intimated to us that the Bombay Government did not approve of the proposal.

As I have been saying, Assam has written to us to say that the powers vested in the Central Government under item 52 might be adequate for the purpose and it may not be necessary to have legislation of this type. To sum up, the State Governments of

[Shri T. T. Krishnamachari.]  
Hyderabad, Mysore, Orissa, Rajasthan, Saurashtra, Travancore-Cochin and West Bengal have broadly at one time or other indicated their acceptance of the provisions. Bombay is definitely against it. I have mentioned the opinion of the Government of Assam; Bihar is for an extension of powers under article 369 for another five years. Andhra, Madras and Madhya Bharat are still considering the matter. The other Governments have not given any reply. That roughly is the position regarding the opinion of the State Governments.

Only one more explanation is needed from me before I resume my seat and it is for the addition of a phrase in sub-clause (a) to item 33—'and imported goods of the same kind as such products'. This addition we have made apart from the addition of those commodities about which I have spoken already. It is felt that mere control in regard to commodities produced in this country would not be adequate because in more than one instance, practically in most of the instances, it happens that production in this country of any type of goods becomes inadequate and we have to supplement it by imports. Even in the case of commodities of which we produce enough for the time being, it is conceivable that the need may develop and we may have to import. Take the case of sugar. We were not importing sugar for a long time; in fact, we were thinking of finding export markets for our sugar. Now we have become a sugar importing country. If there is going to be any kind of control in regard to such imported things—of course price control is mentioned under item 34 of List III; it is mentioned baldly and therefore price control can be exercised—but if there is going to be any kind of control regarding storage and things like that, there might conceivably be objection from some quarters that item 33 does not cover control over imported commodities and therefore we thought that in the case of products which are analogous to those

that are produced in this country in respect of which the Government of India have powers under items 52 and 54 of List I, the power of control should extend also to such imported articles. That is the explanation for the addition to item 33.

That more or less sums up the position in regard to the need for an amendment of this nature and I do hope that I have in some measure anticipated the arguments that might be advanced against it. Also I might express the hope that a Bill of this nature, for which there is some support in the Constitution because only the powers that already exist under article 369 are sought to be made permanent in a very limited manner and that too reserving to the Government of India only the potential and not actual power, would not meet with any great opposition from this House

Sir, may I humbly submit that there has been a further change in the list of names? I am told Shri P. S. Rajagopal Naidu would not be here and the name of Shri V. Venkataramana has been suggested. May I request the Chair to make the alteration.

MR. CHAIRMAN: Motion moved:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill further to amend the Constitution of India and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:

Shri C. C. Biswas  
Shri S. V. Krishnamoorthy Rao  
Shri Biswanath Das  
Shri Fakhruddin Ali Ahmed  
Dr. W. S. Barlingay  
Shri Jagan Nath Kaushal  
Shri Chandulal P. Parikh  
Shri R. C. Gupta

Shri V. Venkataramana  
 Shrimati Parvathi Krishnan  
 Shri H. C. Mathur  
 Shri B. C. Ghose."

**SHRI RAJENDRA PRATAP SINHA**  
 (Bihar): Sir, I move:

"That at the end of the motion the following be added, namely :—

"The House further recommends that the Joint Committee shall submit its report to the Lok Sabha by the first day of the next session instead of by the 20th September 1954, as specified in the Motion of the Lok Sabha."

**MR. CHAIRMAN:** The motion and the amendment are before the House.

**SHRI S. MAHANTY (Orissa):** Mr. Chairman, I rise to oppose this Constitution (Third Amendment) Bill. I rise to oppose it because according to me it is mischievous and unwarranted. While listening to the hon. Minister I was—you will please excuse me—reminded of an old opium-eater who takes to some pellets of opium, may be for getting over some temporary infirmity, and then he is so much addicted to it that even though infirmities do not exist, he makes his plea for more pellets of opium. It does not require much intelligence, much less constitutional knowledge, to come to the conclusion that article 369 was a temporary provision. He has not explained that aspect of the question. Now, the marginal heading of article 369 reads: "Temporary power to Parliament to make laws with respect to certain matters in the State List as if they were matters in the Concurrent List." This very well suggests that it was a temporary measure and that it was meant only for a period of five years, because the exigencies of the circumstances obtaining at that point of time warranted the enactment of article 369.

[MR. DEPUTY CHAIRMAN in the Chair.]

51 R.S.D.

The limited question that we have to examine here is whether such circumstances do exist today or not; and if they exist, whether amendment of the Constitution to enlarge the scope of item 33 of List III of the Seventh Schedule is the best means, or there are any other means available for the purpose. These are the only limited issues which I feel are quite germane to the principles of this Bill. Now, Sir, for one thing I do not like the idea that the Union should always seek to rob the State Governments of their power. That disrupts in a way the very federal character of our Constitution and as a matter of fact the very basis of our Constitution, which is a federal Constitution. This will reduce the State Governments to the position of a lady's handbag with much ostentation but nothing very much inside. Therefore, as a representative of the State I feel it my duty to oppose any such surreptitious move which seeks to rob the State Governments of their powers and their autonomy. Now, let me itemise the amendments which are now being proposed. In the first place, the Government wants to include imported goods of the same kind as the products of any industry the control of which by the Union is declared expedient by Parliament. Well, there cannot be much quarrel about it. In the second place, it wants to include foodstuffs, including edible oil-seeds and oil, cattle fodder, raw cotton and raw jute in item 33 of List III of the Seventh Schedule. Let us see the Statement of Objects and Reasons which has been appended to this Bill. It says: "Some of these, like cotton and woollen textiles, paper, coal, iron and steel, being products of industries under Union control, could continue to be regulated by central legislation even after article 369 lapses on the 25th January, 1955. Other essential commodities, like foodstuffs, cattle fodder, raw cotton and cotton seed, would after that date be outside the legislative authority of Parliament." But it adds: "The position in respect of foodstuffs and cattle fodder at present is fairly



[Shri S. Mahanty.] comfortable .....”—I must emphasize *fairly comfortable*—“but it will not be advisable for the Centre to be divested of all legal powers to control their production, supply and distribution.” Therefore, it says in so many words that even though the position of food-stuffs is much more comfortable today, than what it was, when article 369 was either drafted or debated, though there is no need to regulate the production, supply and intra-State trade in these commodities, the Government feel that there must be some power with them to regulate these things. This, I think, will have made abundantly clear to the House that there is no need to include foodstuffs. There is no need to include edible oils and oilseeds; there is no need to include this cattle fodder, because the Government acknowledge that they have already come out of the wood. But even then they want to deprive the State Governments of their autonomy and of their power, because they are advised so—goodness alone knows by whom—and because they feel that some power must be with them to control the production, supply and distribution of these commodities *ad infinitum*. Therefore, a temporary provision is now going to be made a permanent feature of our Constitution at the cost of the autonomy of our States. Therefore, Sir, I ventured to liken the hon. Minister to an old opium-eater. The circumstances do not exist, but the craving for the pellets of opium is there.

I now come to the constitutional aspect of the matter. I have not the temerity to join issue with the hon. Minister because he was very much a framer of this Constitution. But my only regret is that he quoted some anonymous authorities who are less well-known, than the hon. Minister. What I wanted was, we should not have been burdened here, we should not have been confused here by quotation of authorities. There are authorities and authorities. I can, Sir, cite a hundred and one authorities which

will go against the arguments adduced by the hon. Minister. Therefore, that is futile.

SHRI T. T. KRISHNAMACHARI: Why not quote them?

SHRI S. MAHANTY: Because I consider it futile.

The point is, no amount of citation of authorities can carry us much further, because you forget the facts. I think there can be no two opinions on this that our Constitution is a federal Constitution. You are not going to bring about that sort of a centripetal, monolithic State at the cost of the States. There is today the Congress Party which might be keeping all the States in a sort of a cemented frame, but after that is removed the State Governments may feel the urge to come into their own, and you are not going to sacrifice that inherent autonomy and that legitimate aspirations of the States for a monolithic structure at the Centre.

PROF. G. RANGA (Andhra): Will the hon. Minister please take his seat on the front bench because some hon. Members are thinking that he is absent?

SHRI T. T. KRISHNAMACHARI: I am bodily present here.

SHRI S. MAHANTY: Now, let me stop at that. What I have been pointing out is that there was no need to include foodstuffs, including edible oilseeds and oils, and cattle fodder, in entry 33 of List III of the Seventh Schedule. Now according to my best capacity I have tried to convince the House from the general aspect of the question. Now, I will come to the concrete aspect. My regret is that the hon. Minister has not circulated to us the opinions which he has received from the State Governments. I think you will appreciate it that with the inadequate acoustic arrangements in this House, whatever he has been speaking we have not been able to hear, much less understand. Therefore, he should have been very fair to us by circulating the opinions that he

has received from the various State Governments. As a matter of fact, when a resolution under article 249 was being debated in this House—a debate to which the opinions of the State Governments were germane—the Commerce Ministry itself circulated a White Paper bringing therein all the opinions that were received from the State Governments, but in this case, I do not know for what mysterious reasons, the Government did not think it proper to circulate the opinions which were received from the State Governments.

**SHRI T. T. KRISHNAMACHARI:** May I point out, Sir, that with regard to article 249, whatever decision the House takes is supreme in regard to an amendment of the Constitution? If Parliament approves of a proposal made by Government then the proposal will have to be ratified by at least half the number of States.

**SHRI S. MAHANTY:** I know that, Sir, but the hon. Minister should also give us the credit that we are not here to put a “dhobi mark” on anything and everything that is brought here without meticulous scrutiny. Therefore, in fairness to this House and in fairness to this piece of legislation, he should have circulated the opinions of the State Governments. I am not going to be misled by what the State Governments have said or not for the simple reason that I have not seen them.

Now, coming to the States, I am citing the case of Orissa. It is a Part A State, there is no gainsaying that fact but it cannot be compared to a Part A State like West Bengal or Bombay. I do not ask the House to treat this with levity. I am speaking in all seriousness. Please consider this aspect and give me a solution to the problem—if my information is up to date and correct—in Orissa the *per capita* investment capacity in industries is Rs. 1-9; in Bombay it is Rs. 49; in West Bengal it is Rs. 35. This fact alone will bring home the awareness that though the Constitution confers a sort of equal

status for Orissa with Bombay or West Bengal, other factors are a handicap in allowing such undeveloped States like Orissa or Madhya Pradesh to come up to that standard. Now, in Orissa there is no industry. Agriculture is the only industry and mainstay of the people. We have always been affected, whenever there has been a flood or a drought. You know, Sir, the other day when I asked the hon. the Food Minister, as to the difference in the procurement price and export price of rice, he said there was a great difference between the procurement price and the export price of rice. In Orissa I am told it is eight rupees per maund; whereas in U.P. the procurement price is about Rs. 21 per maund? Well, Sir, the Orissa rice was being procured for Rs. 8 a maund and the U.P. rice was being procured for more than Rs. 21 a maund. While rice in Koraput district in Orissa was being procured for Rs. 9 a maund, it was being sold in Visakhapatnam, the neighbouring district in Andhra for Rs. 23 a maund. Yet rice is the mainstay of the people in Orissa. That is the only money crop; that is the only industry. Now, of course, my Congress friends are there in the Cabinet today. Well, they have not very much to think about, because they have delegated that business of thinking to others. But some day or the other, the Governments will have to solve their own problems. Then they will come to the Centre for money. Now, the hon. Minister for Commerce, with his sardonic smile, will just dismiss this, and the Finance Minister will plead that ubiquitous lack of money. So, Sir, what I have been saying is that by making it a permanent feature of the Constitution, you are going to tie down our hands. We cannot solve our own problems. Now it is well-known that there is a market in the whole of South-East Asia for rice, and our State Government, well aware of its own needs, may dictate a price, may control the production and entire trade in rice, so as to meet its own requirements. What happened about Sind? You know,

[Shri S. Mahanty.]

Sir, in the pre-partition period the Sind Government had to entail an expenditure of about Rs. 20 crores for the Sukkur Barrage, and they were able to wipe out that loan, in the course of five or seven years by levying a duty of Rs. 2 for every maund of rice or wheat that was exported outside. Thanks to my friend, Mr. Hathi, we have incurred now a loan of Rs. 100 crores for Hirakud Project. Now, I ask in all fairness as to how Orissa is going to pay that Rs. 100 crores unless it is going to be waived.

What are the means left with us? Orissa is mainly an agricultural country. Production of rice, and trade in it, are the main things there. It is our money crop. You are now going to control it. So, what will happen? I have just cited a concrete example to show why I am induced to oppose this Bill.

And then, Sir, if I understood the hon. Minister correctly, the Government of Bihar were of the opinion that instead of making it a permanent feature, article 369 should be suitably amended, namely, to substitute 10 for 5. That means, we could have continued these temporary provisions for another period of five years. That would not have been improper. Now, what was the objection to that? It is not going to be suggested here that the scarcity will be a permanent feature of our national life. Of course we are all well aware that sooner or later the Congress Governments would give way to other Governments. So long as they are there, they might think that scarcity is a permanent feature. I have nothing to quarrel with that, because everyone is apt to look at the world through his own glasses. But things are going to change. There is the first Five Year Plan, and already, the admirers of the Food Minister have started giving him parties and receptions because he has produced more rice, because he has brought about self-sufficiency in food. The second Five Year Plan is coming. Thereafter we might be exporting food

grains to foreign countries. Therefore, scarcity and famine may be a feature of the Congress rule, but that is not going to be a permanent feature of our national life. Therefore, when the circumstances are going to be changed, and are changed, I am asking in all seriousness why make this a permanent feature? The hon. Minister of course knows he has got a well greased voting machine at his disposal, and he can vote us down. I am quite aware of that fact. But he should at least try to clear our doubts about these points. Otherwise, we are going to be reduced to the status of debating societies. He must give answers to our questions, the questions that we are raising. So my question is: Why not amend article 369 of the Indian Constitution and substitute "ten years" for "five years", and thereby do away with this obnoxious Bill? Sir, here is article 249. It reads as follows:

"Notwithstanding anything in the foregoing provisions of this Chapter, if the Council of States has declared by resolution supported by not less than two-thirds of the members present and voting that it is necessary or expedient in the national interest that Parliament should make laws with respect to any matter enumerated in the State List specified in the resolution, it shall be lawful for Parliament to make laws for the whole or any part of the territory of India with respect to that matter while the resolution remains in force."

So, if at any time any emergency would arise a shortage, a famine, and all the rest of it; the hon. Minister he could come to the Rajya Sabha with a resolution asking for power to legislate for these subjects, even though they belonged to the State List. And we would have been glad to delegate that power to him. But he would not also do that. It is because of the fact—and he knows full well—that we are here as representatives of the States, and we are in a much better position to know what our States want and what our States do not want. Therefore, he did not like to risk that

position. He wanted to enter Parliament through back door to deny, if I may say so, the States their autonomy. He thinks that the Bill will be passed in the Lok Sabha, and then we will be asked here merely to give our seal of approval.

Therefore, Sir, to me, this Bill is repugnant, and according to the circumstances obtaining at the moment, it is irrelevant, it is unwarranted, and legally it is mischievous, and it is aiming at binding the hands of the State Government for all time to come, making it a permanent feature of the Constitution. I therefore consider it a most obnoxious piece of legislation which deserves to be thrown out.

**SHRI AKBAR ALI KHAN** (Hyderabad): Mr. Deputy Chairman, I thought my turn would come a little later, because I wanted to hear the persons who oppose this Bill, as I am one of those who support this amendment. Anyhow, I will take up some of the points that have been raised by my learned friend, Mr. Mahanty.

The first question that he has raised in this connection, Sir, is that our Constitution being federal, this provision, if added to the Concurrent List, goes against the federal nature of our Constitution.

He meant that it was against the very fundamentals of the federal Constitution and against the very spirit of our Constitution. I beg to point out that it is not so. First of all, it is true that our Constitution is a federal Constitution, but the fundamental thing that we have to note about it is that it inclines towards a unitary type of Constitution and not a sort of Confederation at States. The very fact that we have a long list of Union powers and in addition we have a Concurrent List where a number of items including marriage, drugs, etc. are given to the Centre shows that it is not correct to say that ours is one of those Federal States where the Centre has got very limited powers. So, I want to disabuse my

friend's mind on that point. In our Constitution the Centre has been given very wide powers in view of the conditions prevailing in our country. The Constituent Assembly after full and deliberate consideration of all aspects of the question, laid down this Constitution. It would not be correct to say that the mere inclusion of a certain item in the Concurrent List goes against the basic principles of federation which our Constitution contemplates.

The next point that the hon. Member made was that he could not agree to this, being a representative of the State. I suppose everyone of us here represents some State. Really in this Sabha representation of the States does not mean anything because everybody is a representative of some State. Anyhow, he thinks that rice and such other things which have been included in this Amendment are things which really should remain exclusively in the domain of the States. Probably here he has got the background of the provincial autonomy which existed before the inauguration of the Constitution and that suspicion is weighing heavy on his mind. Then, of course, there was a jealousy between the Centre and the provinces, naturally because the Centre was more dominated by considerations which were not in the best interests of the country. The Centre was more guided by the British. So naturally we thought that there should be no encroachment on what we had got in the provinces. But when we have our own Government at the Centre, our own Parliament, the representatives of our own people running the Central Government, to think of the autonomy or independence of the States, I submit, is not correct, especially in view of the increasing tendency towards uniformity in the world, in view of the currents which compel every country, howsoever isolated it may be, to think in terms of the world currents. It is much more so when we want economic solidarity, when we want national planning, when we want economic development. Suppose we want to control food.

SHRI S. MAHANTY: Abolish the States then and have a monolithic State.

SHRI AKBAR ALI KHAN: My friend will appreciate that it is one thing to abolish the States...

SHRI S. MAHANTY: Why?

SHRI AKBAR ALI KHAN.....and it is quite a different thing to have a few items taken out of the State List with a view to attaining economic solidarity in the country. Take for instance rationing. It is an all-India affair. We cannot afford to leave it to the States. We cannot allow each State to have its own rationing policy. Suppose we want to have certain prices fixed. The Centre alone should do it. My hon. friend will appreciate that we are only including this in the Concurrent List. It means that the States will still have powers, but in cases where the Centre feels that it is necessary to have Central legislation, I think it is only right that they should have the power in the best interests of the country.

SHRI S. MAHANTY: But unfortunately a written Constitution does not allow this latitude to my hon. friend

SHRI AKBAR ALI KHAN: My learned friend will fully appreciate that the fact that a Constitution is written or unwritten does not make any difference so far as this particular matter is concerned. The point is this: We have a certain power which was temporarily given on the last occasion for five years to the Centre. It is nothing new. In view of the experience that we have had, in view of the difficult food problem that confronts us, we cannot afford to leave this matter to the States exclusively. I do not say that the States will not fully co-operate with the Centre but certainly it would be easier and more in the interests of the country if such a power is entrusted to the Centre as well. Moreover, I want my hon. friend to realise that the Centre has got this power only concurrently with the States.

So the States, whenever necessary, can exercise their right to legislate. They are not debarred from it, but at the same time I think that past experience with regard to our food difficulties, the recent floods, etc. fully justifies this amendment of the Constitution. I agree that so far as the Constitution is concerned, any amendment should be brought forward only after the most careful consideration. I entirely agree that it should not be meddled with lightheartedly, but there again you will have to draw a distinction between fundamental things and the things which really relate to minor points or administrative convenience. If any amendment is brought forward to articles 13 to 32, I would be most unwilling to subscribe to it unless there are very very strong reasons for it. If any amendment is brought forward relating to such fundamental things as the principle of adult franchise, freedom of person, right to property, etc. which we consider to be fundamental, then certainly we will have to consider it seriously, but if the amendments are with regard to minor matters which our experience over the last five years dictates to be necessary, then I don't think that we should view such minor provisions in the Constitution as things which cannot be touched.

1 P.M.

It is true that the Constitution that the nation has made should be jealously safeguarded. It has to be preserved and it is not to be interfered with in fundamentals but as we learn through its working, if certain difficulties arise, if certain problems arise, it is our duty to face them and to consider them and to bring them according to our requirements and needs. So, I feel, Sir, that this is a very innocent amendment of the Constitution, though it is an amendment of the Constitution.

MR. DEPUTY CHAIRMAN: You can resume your speech in the afternoon. The House stands adjourned till 2-30.

The House adjourned for lunch at one of the clock till half past two of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

MR. DEPUTY CHAIRMAN: Yes, Mr. Akbar Ali Khan may continue his speech.

SHRI AKBAR ALI KHAN: Mr. Deputy Chairman, when we rose for the interval I was just submitting that so far as an amendment of the Constitution is concerned, certainly full thought should be given and with all seriousness the matter should be looked into. But everything depends upon the amendment that is being introduced. There is nothing sacrosanct about anything which we have made and if we feel a change necessary, after full and mature consideration, it is absolutely permissible for us to amend the Constitution.

Let us now see what is the amendment that has been brought forward. It is regarding item 33 which already exists:

"Trade and commerce in, and the production, supply and distribution of, the products of industries where the control of such industries by the Union is declared by Parliament by law to be expedient in the public interest."

The amendment sought for is this:

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

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

(b) foodstuffs including edible oilseeds and oils;"

Let us pause here for a moment and think why we want to control the price of essential commodities. Will my hon. friends who oppose this amendment

like the matter to be left to the discretion of each State? After all, this is necessary not only for the sake of the industries but also for the sake of maintaining the equilibrium in the different prices of food items that may be required on account of certain emergencies. I submit that we may just pursue the items that are given to the Centre in List I and also those given in List III. Then it will be seen that this item is a concomitant; it follows as a consequence that it is essential that this power should also be given to the Centre. I am sorry, Sir, I could not read the report of the Controls Committee which had the privilege of your chairmanship. But I just scanned through it and I felt that it has also recommended this step as was pointed out by the hon. Minister.

SHRI S. MAHANTY: But on a temporary basis.

SHRI AKBAR ALI KHAN: I submit the temporary provision was there and as was suggested by my hon. friend there, there are provisions in the Constitution under which the Centre can legislate and my hon. friends would even ask, "Why not take advantage of article 249 and have a resolution of this Rajya Sabha and then an amendment for a temporary power?" But I submit that this is a matter which has to be put on a permanent and sound footing, so that we may formulate a sound economic policy. That is our submission.

SHRI S. MAHANTY: Why?

SHRI AKBAR ALI KHAN: In view of the world conditions, in view of the conditions that exist in our own country and in view of the importance of the essential commodities which are required by the people, this amendment is necessary. Regarding these commodities the Centre has to see that uniformity is maintained so that prices do not go up unusually, lest they be a burden to the consumers, nor do they go down below a particular level lest the producer should suffer. My hon. friend wants to play with commodities

[Shri Akbar Ali Khan.]  
which affect the people of India so much.

Take for instance foodstuffs—one of the items now included. There cannot be any two opinions that this is such a commodity that it should be included in the Concurrent List. If it had been put exclusively in the Central List, I could understand that there would be some difficulty and the federating States might have some objection. But we are not excluding their power either. We are maintaining their power as well and we want the Centre also to exercise the power.

In the second item there is cattle fodder, including oilcakes. They are equally important, as important as human food. The food problem is very much linked with the problem of our animals, our cattle. Therefore, this also is an essential commodity. My learned friend there said that his State—I presume it is Orissa—is mainly agricultural, so he wants this power exclusively. But I think that is precisely the reason why the Centre should have this power—so that the Centre may help the State—when occasion arises and formulate an all-India policy. I am glad to note that the Government of Orissa has also agreed with this amendment of the Constitution. So at least the representative authority has agreed and my learned friend for reasons best known to himself does not agree. I leave it there.

Now I come to cotton and jute. I will take them both together. Sir, the textile industry is within the province of the Centre and we all know how important this textile industry is. We are short of cloth that we require and my hon. friends on the opposite side want that on cotton each State should have its own control, should have its own regulation, should have its own rules. Then you will have to scrap many of the items from List I. When List I puts textile industry under the Centre, there is no meaning in excluding the raw material that

is required by that industry and putting it at the discretion of the States only.

SHRI S. MAHANTY: But you can do it without amending the Constitution. Even without that you can control cotton.

SHRI AKBAR ALI KHAN: My hon. friends on the other side always want to come through the back-door, but we do not approve of this method; we would like to have a direct provision. Under article 369 this arrangement was to last only for five years. It is true that under certain items certain interpretations could be put and as the hon. Member suggested, we could get the necessary power without amending the Constitution by indirect method. But this is not correct, especially when the Constitution itself has provided definitely and specifically that this thing should continue for five years. Then after the expiry of that period of five years, there must be a clear and definite legislation, it would not be right to have recourse to other methods. My learned friend and others will surely know that the highest tribunal of the land, the Supreme Court has not at all looked with favour any legislation that comes through the back-door; such legislation which is styled "colourable legislation" has been disapproved. In the circumstances of the case, it was therefore, necessary and quite appropriate for the hon. Commerce Minister to move for amendment of the Constitution.

Regarding the jute industry, I need not mention to this House that we have not got sufficient jute also. We are not really economically in a sound balanced position. My learned friend wants that that also should be left to the discretion of the States. I submit that if this matter is looked at from this point of view, though it is an amendment to the Constitution, the amendment is such that it does not interfere with the fundamentals of the provisions and it is an amendment which, in view of the experience that we have gained, is essential in the

greater interests of our country from the food as well as from the industrial point of view. As such, I submit, Sir, that there should be no hesitation to accept this amendment and I commend this for the approval of this House.

Dr. B. R. AMBEDKAR (Bombay): Mr. Deputy Chairman, the Bill which is placed before this House raises two issues and it is desirable that the two issues should be considered separately. The first issue relates to the merits of the Bill, whether this Bill should be regarded as a good Bill on its own merits; and the second issue is, the manner in which this Bill is being carried through Parliament. I shall say a few words on the merits of the Bill.

It is quite obvious that there is nothing new in this Bill. What the Bill seeks to do is to drop entry No. 33 in the Concurrent List and to substitute in place of that entry, the provisions contained in article 369 as they stand now, with a small addition that is export of jute; otherwise, there is really no fundamental change at all and it is a mere substitution. Looking at it from this point of view, I cannot see how there can be any objection to the Bill as proposed by the hon. Minister in charge of it. The only kind of dispute that could arise would be whether the provisions of article 369 should be in the State List—List II—so that the States will have exclusive power or whether they should be placed in List I so that the Centre would have an exclusive power in dealing with these goods. The present position is this: According to article 369 these matters or these goods are treated as though they are entered in the Concurrent List. That is the present position. In the Concurrent List, both the Centre as well as the States have the power to legislate. Therefore, looking at the present position as defined in article 369 and entry 33, we find that both of them place these matters in the Concurrent List. It cannot be that the States can complain that any jurisdiction which was vested in them by the Constitution is being taken away by this amending Bill. The position, as I say, remains exactly the

same; the only question is whether the legislative control vested in the Centre by article 369—which was vested only for five years and no more—should now be continued for an indefinite period. Speaking for myself, I feel that that is a matter for the Administration to judge, whether the circumstances in which they are living now are so altered that the period of five years which was given to Parliament to legislate over these items should now be abrogated. On that point, speaking again for myself, I am quite prepared to submit to the decision of the Administration because they know far better than a Member of Parliament can hope to do. Therefore, Sir, so far as the merits of the Bill are concerned, I give my support to it.

The hon. Minister in charge while speaking on the Bill, made some reference to consultations with the States. I heard him say that he consulted the opposite departments in the various States and that the consultation, so far as I was able to judge from the observation that he made, was, if I may say so, somewhat perfunctory. I think that this is a very grave matter for the simple reason that this Bill is not going to become law merely by the vote of the two Houses. The Bill will have to go through a further ceremony before it becomes law. In this connection, I would like to draw the attention of the hon. Minister in charge to article 368, particularly to clause (c) of the Proviso which says: "Provided that if such amendment seeks to make any change in—\* \* \* (c) any of the Lists in the Seventh Schedule, \* \* \* the amendment shall also require to be ratified by the Legislatures of not less than one-half of the States specified in Parts A and B of the First Schedule by resolutions to that effect passed by those Legislatures before the Bill making provision for such amendment is presented to the President for assent." Therefore, this is one of those amendments.....

SHRI T. T. KRISHNAMACHARI: On a point of information. The first letter



[Shri T. T. Krishnamachari.]

dated the 12th September 1953 was addressed to all the State Governments and the second letter dated the 20th August 1954 enclosing a copy of this letter was addressed to the Chief Secretaries of all the States personally, not to the opposite departments of the Commerce Ministry.

DR. B. R. AMBEDKAR: Well, I am sorry; I perhaps made a wrong statement and I stand corrected, but all the same I want to urge that my argument is very sound, for whatever may be the preliminaries that might have been negotiated between the Minister-in-charge and the State Governments, the fact remains that the consent of the State by resolutions will be necessary in order that his amendment may become law, and if my hon. friend had by courtesy and by discussion and by consultation already obtained the goodwill of the State Governments, the subsequent action by the State Governments, namely, passing of resolutions, would have been a mere matter of form. But if they have not been satisfied with such consultations as the Minister has had, he may find that there is a hurdle which he may not be able to overcome. That is all I want to say.

Now I come to the manner in which the Government has been proceeding with the amendment of the Constitution. The Constitution is only about, I believe, four years old.

SHRI B. K. P. SINHA (Bihar): Four years and seven months.

DR. B. R. AMBEDKAR: Well, not an adult yet—may not be a child, and in the four years and seven months of its life it has been amended three times; I believe this is the third amendment of the Constitution. I do not know of any Constitution in the world which has been amended so rapidly and, if I may say so, so rashly, by the Government in office.

Now, Sir, I would like, in order to illustrate my point, to place before the

House the provisions in the Constitution of the United States of America and the provisions in the Constitution of Australia for the purpose of amending the Constitution. Later on I will show what difference there is between our Constitution and these two Constitutions in the matter of the amendment of the Constitution. In the Australian Constitution, article 128 lays down this provision that the amending law shall be passed by both Houses by an absolute majority in each House. That is the first condition. Secondly it shall be submitted to the electors to obtain their decision upon the amending law passed by the two Houses by absolute majority. If the two Houses are not unanimous in the proposed amendment then the Governor-General is empowered to put the last proposed law for amendment to the electors for their decision. And then these are the conditions. If in a majority of the States a majority of the electors voting in favour of the proposed law and if a majority of all electors voting also approve of the proposed law, then and then only the proposed law shall become part of the Constitution on receiving the assent of the King. The conditions are that in the first place both Houses must pass the proposed law by absolute majority, and if they do not agree, or are not unanimous, then the power is given to the Governor-General to refer the matter to the electors. Even in the first case the matter must be referred to the electors and even then it is not merely by the majority of the electors voting in favour of the Bill but majority of the States, a majority of electors and a majority of all the electors voting must approve the Bill before the Constitution could be amended.

Now let us take the Constitution of the United States. In the Constitution of the United States, article 5 which deals with the amendment of the Constitution provides thus: "When two-thirds of both Houses propose an amendment, then and then alone further action could be taken." The first condition is that two-thirds of both Houses must pass the amending Bill

or two-thirds of the States may call their conventions, that is to say, a meeting of the electors who may propose constitutional amendments as suggested by the State Government. Such amendments then will become law provided it is ratified by three-fourths of the States or by the Conventions in three-fourths of the States. I have taken these two Constitutions merely for the purpose of illustration. Many other provisions would be found in other constitutions.

Now what is the basic principle underlying this provision relating to the amendment of the Constitution? It seems to me that a student who scrutinises these two articles relating to the amendment of the Constitution in Australia and America will find that there are two principles which underlie any action relating to the amendment of the Constitution. The first is this that there must be notice to the people. The people must know that the Government is going to undertake the amendment of the Constitution. The second principle is that there must be consent of the voters either directly as in America or indirectly by the States by ratifying resolutions.

Now, Sir, is our Government observing these fundamental rules? It is quite true that our Constitution is a very fluid one. It is not as rigid, not half as rigid as the American Constitution or the Australian Constitution, and those who were in charge of framing the Constitution were fully conscious of the fact that the situation must be left fluid because it may be that circumstances would arise which would require amendment of the Constitution, and you cannot allow the Constitution to hold up the solution of social problems which are emergent. It was because of that that it was proposed that the provisions contained in article 368 should suffice. We don't require except in certain cases reference back to the States or reference back to the voters, but I have not the least doubt in my mind that no one who had anything to do with the draft-

ing of the Constitution ever thought that the Government would rush in on the spur of the moment to amend the Constitution without giving notice to the voters. Notice to the voters, if I may submit, is a general principle of political life and party life. Even in England no party would undertake any piece of legislation which did not form part of its political programme for the 3 P.M. election. Every party must have a mandate to do a certain

thing. Without a mandate a party cannot do anything. You cannot take the voters by surprise and you cannot assume absolute authority to amend even the Constitution simply because you are elected. This is exactly what our Government has been doing. Simply because they have obtained a majority they assume that they have not only the power to make any law whatsoever relating to any of the entries which give them the power to make laws but they have also got the power, merely by being elected, even without notifying their intention to the people as such, to even amend the Constitution. Is the Constitution not different in any sense from an ordinary law? Is it merely a scrap of paper to be amended at the whim of anybody? There is a saying in Marathi—I do not know whether I can translate it into English properly—and that saying is a very good one and very appropriate. We say, if the old woman dies it really does not matter very much but what we are afraid of is that Yama gets habituated to coming often and often and what we want to prevent is the Yama's invasion. It does not matter if the old woman is dead or snatched away. This is exactly what has been happening and I have been noticing the great contempt or the low regard or respect which the Government has for the Constitution. You may amend the Constitution; nobody has any objection to amending it but certainly you ought to treat the Constitution on a somewhat different footing, a better footing, a special footing. Tell the people what you are intending to do and then you may do it. Otherwise it might become necessary even to amend article 368 in a manner so as to prevent this facile invasion of

[Dr. B. R. Ambedkar.]  
the constitutional provisions. This is all that I wanted to say.

**SHRI RAJAGOPAL NAIDU (Madras):** Mr. Deputy Chairman, I rise to support this Bill but at the same time I am also in a manner in agreement with the previous speaker, Dr. Ambedkar, in the way in which this Bill is hurriedly put through before us. Sir, there is not much difference with regard to the merits of the Bill. As things stand now and as it would be after the amendment the only important point that has to be borne in mind is that a matter which is now in the State List is to be placed on the Concurrent List. A thing which was solely in the purview of the State Governments is now taken over to the Concurrent List by amending item 33 of List III of the Seventh Schedule suitably. **That is the only amendment** proposed and it is very simple.

Sir, an hon. friend from the Opposition has accused the Government of over-centralisation of power and of encroachment on the powers of the States. Sir, regionalism in my opinion should be discountenanced when national interests demand such an action. We have to remember that both the States as well as the Central Government are only creatures of the people and there cannot be any real conflict between the people represented in the States and people represented at the Centre, when national interests demand it. With the country launching an elaborate economic plan, it is absolutely necessary that Parliament is possessed of the power to control essential commodities. It was the object of the framers of the Constitution to impart as much strength to the Central Government as possible within the framework of the federal Constitution. In this respect the powers of our Constitution have gone far beyond the powers that are given by the framers of the Canadian Constitution and I thought my learned friend Dr. Ambedkar would refer to the Canadian Constitution but unfortunately he has not referred to it. He referred to the Con-

stitutions of Australia and the United States of America. Our Constitution is neither a purely federal Constitution nor a purely unitary Constitution; it is a happy mixture of both. It is a very novel Constitution.

**SHRI S. MAHANTY:** Neither fish nor flesh.

**SHRI RAJAGOPAL NAIDU:** Sir, in our Constitution there is division of powers between the Centre and the States; yet the Centre is vested with the power to override this division in the interests of the nation as you will find in article 249; and the Centre can take power in case of emergencies as you will find in article 352 and in some other cases some transitory provisions are there as you will find in article 369. Sir, I shall briefly deal with the power that is vested in the Central Government to enact laws in national interests in certain emergencies and in certain special cases. We find in article 249 that on passing a resolution in the Council of States the Centre can take over power that is given to the States. If a resolution is passed here by a two-thirds majority of the House, the Centre can take over the powers of the States. This is a novel feature which you do not find in any other Constitution in the world. Then in the case of emergencies—of course in normal times the Centre has power to give directions to the States under articles 256 and 257—such as external aggression and all that, we find that the Central Executive has got power to give directions to the States. In certain special cases we find in article 369 that the Centre can for a period of five years enact laws on matters which are purely within the State List. At the time of framing the Constitution probably it was felt necessary that the production, supply and distribution of the articles that are enumerated in article 369 should be controlled by the Central Government for a period of five years and now that period of five years is going to expire by January next year. It has now become necessary to seriously think

whether the Centre should continue having control over the production, supply and distribution of these articles or whether the control should be handed over to the States. I for one feel that the time has not come when the Centre should give up its control over the production, distribution and supply of these articles. On the other hand, I would go to the extent of saying that the Centre should exercise more control in the matter of production and distribution of the commodities that are enumerated in article 369

But the way in which the Constitution is to be amended probably will give room to a certain amount of criticism. It has been recently stated on the floor of this House that a Cabinet Sub-Committee is being constituted to go into the various articles that have to be amended. Probably the Cabinet Sub-Committee has not met and thought over the matter. But what we see in the papers is that the various State Governments have been consulted as to the various articles that need amendment and I do not know whether this amendment of entry 33 has been dealt with along with the other matters that were referred to the States or whether a specific reference has been made by the Central Government to the various State Governments on this matter. We have a little while ago heard the hon. Minister that not all the States had so far sent their opinions with regard to this matter and certain important States like Madras and, if I remember correctly, Bombay and Madhya Pradesh—some of these important States have not yet decided whether...

**THE MINISTER FOR COMMERCE (SHRI D. P. KARMARKAR):** Bombay has given its opinion. Andhra, Madras and Madhya Bharat have not yet supplied their views.

**SHRI RAJAGOPAL NAIDU:** Some of the States have not decided as to whether they should give up their powers to the Central Government, in favour of the Central Government

once and for all, or whether they should, after the expiry of this period of five years, should take over the entire matter. We have not known what the opinion of all these three State Governments is. I only feel that if the hon. Minister had extended the life of the control that has been exercised by the Central Government, which has been exercised so far, for another period of one year, by invoking the provisions of article 249, by passing a resolution on the floor of this House, we could have received the opinions of the various Governments. The Cabinet Sub-Committee which is now being constituted to consider the various amendments, they could have considered this aspect also and instead of having a piece-meal amendment of the Constitution, they could have considered all the amendments together. They are now thinking of amending entry 33. They could have done this at one and the same time instead of bringing forward an amendment as and when the Central Government thinks it necessary. And within this period of one year, the Central Government could have taken stock of the entire situation in the country. They would have received the opinions of all the State Governments in the matter and they would have had enough time to consider the whole matter. Again, only certain articles that are in the State List are now taken over to the Concurrent List according to the provisions of the present Bill. It may become necessary that in the course of another one year, in respect of things which we do not find in article 369, things which are in the State List, the Central Government would have to take over the powers in the matter of the production, supply and distribution of those articles. Suppose tomorrow it becomes necessary for the Central Government to take over a particular commodity which is purely within the purview of the State List, which is in List II, then we have to come forward with an amendment of the Constitution once again. Instead of

[Shri Rajagopal Naidu.] dealing with all the commodities together, we are now, by amending entry 33, introducing only certain articles for the present. As I have already submitted, if it happens tomorrow that some more articles will have to be included in the List, the only course for the Government is to bring forward another amending Bill to amend the Constitution. As the previous speaker has said, amending the Constitution is a very important matter and a very serious matter. It should not be treated like any other ordinary Bill. Dr. Ambedkar had quoted the practice in Australia and also in U.S.A. as to what steps they take before the Constitution is amended. We must remember that this Constitution has been framed after a good deal of labour, and after spending several years of time over this, very intelligent brains of our country had taken part in the matter of framing the Constitution. And when we try to amend the Constitution we have to think twice as to what are the things that would become necessary, in future, to be added to List III or deleted from it. All these aspects will have to be considered before one thinks of amending the Constitution.

Sir, I would only say this in conclusion. The Government should have thought of passing a resolution under article 249 extending the life of the powers of the Central Government by one more year and within that period they could have considered the entire matter and brought forward a comprehensive amending Bill. I will now briefly mention about the merits, whether foodstuffs and other articles that are enumerated in this amending Bill should continue to vest in the Central Government, or whether we can hand over the entire matter to the State Governments. Take for instance foodstuffs. No doubt it has been stated that the situation with regard to rice is now satisfactory in our country. I had said once before on the floor of the House that we got the real picture

of the situation, of the rice position in our country, only after the de-control of the foodstuffs. And thanks to the monsoon, because of the advent of good monsoon last year and this year, we are now having surplus foodgrains in our country. It may be that we are having floods and droughts and all that and unless we have these "foodstuffs" Centrally controlled, it may be that the States which are having foodgrains in surplus, may think that the Central Government is unnecessarily interfering in the matter of procurement and distribution of foodgrains. States like Orissa and Andhra may feel that the Central Government is unnecessarily interfering with the procurement of paddy in the States. Take for instance the deficit States. The deficit States will always look to the Central Government, for one thing, to get foodstuffs at fairly cheap rates, to see that the consumers get foodstuffs at a reasonable price. If not for any other reason, at least for this reason the Centre should have some powers. There are certain States which are highly deficit, like Travancore-Cochin, which will always look to the Central Government to see that the mouths of millions of their citizens are fed.

Sir, I need not go into the other commodities that are mentioned in clause 2 of this Bill. I will only be taking up the time of the House and it is enough when I have given one example in the matter, namely, distribution of rice. With these observations, I commend this Bill to the House

SHRI S. BANERJEE (West Bengal): Mr. Deputy Chairman, this is the third time that the Constitution is going to be amended. The first was an encroachment on the fundamental rights given by the Constitution; the second was colourless; and the third, the present one, is designed as an encroachment on the rights and powers of the States given by the Constitution. Sir, I oppose the Bill. Firstly, because the Minister in charge has not been able to make out a

clear case for it; secondly because it will impair the very nature, character and set-up of the present Constitution by disturbing the distribution of powers between the States and the Centre as envisaged in the Constitution after mature, long and anxious deliberation by the Constituent Assembly, thirdly because it is unnecessary, and fourthly because it is not desirable that a Constitution, which is the fundamental law of a land, should be treated with such levity and so lightheartedly. In the Statement of Objects and Reasons, it has been said that the only cause, the only reason, which has prompted the hon. Minister in charge of Commerce and Industry to bring forward this Bill before the House is that article 369 which gives power to the Parliament to legislate regarding matters under consideration, will expire on the 25th of January 1955. If that is so, the most proper, the most honest, and the most fair course, would have been to extend the tenure of that article of the Constitution by another period of five years. But that has not been done. Is it because the present Government of India has a design to encroach upon the autonomous powers of the States, and to take to itself all the powers which inherently, by the very nature of things, should belong to the States? What is, Sir, the nature of our Constitution? Is it federal? Is it unitary? What is it? The Members of the Constituent Assembly, in the preamble to the Constitution which was decided upon, proclaimed as follows:—

“WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN DEMOCRATIC REPUBLIC.....”

Not federal. The word “federal” has been scrupulously avoided. It was from the very beginning at the back of the mind of the framers of the Constitution to deprive the States of their powers as much as possible. And we see in this Bill that what was still left with the States is sought to be taken away and that attempt is

going to succeed. (*Interruption*) Yes, Sir, if you vote with us, they will fail. The heads are with us, the hands are with the Government and the heart is with the people and the hands are interfering to bring about a union between head and heart.

SHRI R. U. AGNIBHOJ (Madhya Pradesh): We have got all together.

SHRI S. BANERJEE: Therefore, it has not been claimed to be federal. But the three Lists in the Seventh Schedule unmistakably point to its federal character, and the other factor, the residuary powers having been vested with the Centre, shows the unitary nature of the Constitution. We cannot say, therefore, that this Constitution is fully federal; we can neither say that this Constitution is fully unitary. It is an admixture of both. It partakes of the nature of both. As long as it suits the Government of India to treat it as a federal one, it is federal; if it suits them to treat it as a unitary one, it is unitary.

SHRI RAJAGOPAL NAIDU: If the Government of India wants it to be unitary, it becomes unitary.

SHRI S. BANERJEE: Yes, that is exactly my point. When it suits their convenience, they treat it as federal, and if it suits them, they treat it as unitary. That is also my contention. I am glad that you have agreed with me. The Centre has ample power in its hands. The Bill was not necessary at all. In this connection, Sir, I would only quote what the hon. Minister in charge said in the other House the other day. He said:

“It happens that the power vested in the Central Government under article 369 lapses on the 25th of January, 1955, and with it will lapse all legislation passed under the legislative powers conferred on Parliament by this article. But it does not mean that.....”

SHRI B. K. P. SINHA: From what document is the hon. Member reading? I would like to know it.

**SHRI S. BANERJEE:** This is a Parliamentary document. Parliamentary Debates—Lok Sabha—Friday, the 10th September 1954. This is after all not a forged document.

**SHRI B. K. P. SINHA:** May I bring it to the notice of the hon. Member that the debates in the other House cannot be referred to and read in this House?

**MR. DEPUTY CHAIRMAN:** It is a statement made by the Minister. Go on, Mr. Banerjee.

**SHRI RAJAGOPAL NAIDU:** It is a point of order. Can any hon. Member read any speech made in the other House by any hon. Member?

**MR. DEPUTY CHAIRMAN:** He can refer to it when the speech is from the Minister.

**SHRI S. BANERJEE:** I can refer to it. What is the harm in it? Therefore, Sir, he himself admits that this is not necessary.

**SHRI T. T. KRISHNAMACHARI:** Not quite correct.

**SHRI S. BANERJEE:** You will have time to reply. Let me have my own say now.

Imagine, Sir, for a moment that a committee under the auspices of the very Department over which the Minister in charge of the Bill presides, a committee suggests an amendment to the Constitution and on the strength of that suggestion he brings forward a Bill to amend the Constitution. It is preposterous. I have never heard anywhere in this world that a committee, a departmental committee, of a certain Ministry proposes an amendment to the Constitution and the Minister concerned comes forward with a Bill to amend the Constitution. Imagine, Sir, again that if the Labour Ministry appoints a committee, and that committee proposes amendments to the Constitution which go to the very root of

private property, which is held sacred and sacrosanct in the present Constitution, would the hon. Minister in charge of Commerce and Industry agree to them? Sir, the Constitution is not a document to be trifled with in this way.

**Dr. Ambedkar**—he referred to the Constitutions of Australia and the United States of America. I am very sorry he is not here. He was at least, if not the architect, the framer of this Constitution. He knew fully well that this Constitution was framed by a Constituent Assembly which was elected not on adult franchise, but on a very limited franchise.

**SHRI S. MAHANTY:** Not for Constitution-making. They were not elected for Constitution-making.

**SHRI S. BANERJEE:** They were elected for Constitution-making.

**SHRI S. MAHANTY:** They were never elected. No one gave them a mandate. They were self-styled.

**SHRI S. BANERJEE:** Whatever it is, you may call it the so-called Constituent Assembly, I have no objection to it. But they were elected by a very limited electorate. And if Dr. Ambedkar were in charge of it, could he not make provision for placing the whole Constitution before the people of India before it could be accepted? Then and then only, it could have been rightly called the Constitution which would govern the future of India. But that was not done at that time and it was idle to expect such things being done at the time of the first and second amendments and now. And it does not lie in his mouth to say today that the people ought to have been taken into confidence. The people at large, Sir, are entitled to know the amendments of the Constitution but nobody knows what is in this amendment. It is only the privileged few who happen to know it, Sir, the Government want to amend the Constitution and

let them amend it by all means. We are for amending it lock, stock and barrel. We will be helping the Government; we will be co-operating with them. I would with all the emphasis at my command ask them to amend those articles of the Constitution which stand in the way of the progress of the people of this country. This is only giving extraordinary powers to the Centre to stifle the progress of the people of the country. Let us sit together round the table and let us take out the articles which require to be amended. Let us discover the plague spots in the Constitution and amend them.

**SHRI R. U. AGNIBHOJ:** What are we doing now?

**SHRI S. BANERJEE:** You are only seeking to deprive the States of some of their powers, and the behaviour of the State is noteworthy. Some had kept mum for some time. Perhaps wisdom dawned upon them later and they thought discretion to be the better part of valour and that it was not expedient to quarrel with the powers that be and they said 'ditto' to the amendment. West Bengal was one of them. Bihar wants article 369 to be extended for a further period. Bombay is definitely against it. Some of the States think that item 52 of List I of the Seventh Schedule is enough to confer all the powers that the Government wants by this Bill. I know that this amending Bill will have to go before the States according to article 368 of the Constitution, and they have to say by a resolution that they accept the amendment. But we have to remember that the State Governments and the Government of India, as they are now, belong to a happy family, and there is no chance of the States going against the Centre, not even the least possible chance.

**SHRI J. S. BISHT (Uttar Pradesh):** Who elected them, the State Governments and the Government of India? Were they not elected by adult franchise?

**SHRI S. BANERJEE:** You ought to remember that only 41 per cent. of the voters voted for the Congress. The majority voted against the Congress.

**SHRI R. U. AGNIBHOJ:** The Members of this House have been sent here only by the States.

**SHRI S. BANERJEE:** Not by the majority of voters but only by indirect election by means of proportional representation. Sir, I will not take up much time of the House. I have taken enough. I only appeal to the Members occupying the Treasury Benches. I see my old friend, Mr. Karmarkar, sitting there. We had worked together in the Central Legislative Assembly in 1946 and 1947, and we were very intimate with each other. I will appeal to him in particular to see to it that only the plague spots in the Constitution are amended—the super plague spot in the Constitution is article 31—see that it is amended and amended in such a way that the exchequer will have money enough to apply to the development of the people of the country. If they can do it, I am sure the people of India will bless them. Let wisdom at last dawn upon the Government of India to amend article 31 suitably and if that wisdom dawns. I think, they will be doing a great service to the country.

**SHRI RAJENDRA PRATAP SINHA:** Mr. Deputy Chairman, we have given to ourselves a Constitution which is democratic and also federal in character. I do not agree with my friend that there are no elements of federalism in it. The federal character of it gives to the Constitution a scheme of balance between the powers of the States and those of the Union. Then, we have the Fundamental Rights which give guaranteed rights to the citizens of this country. I feel that basically these are the three component parts which have their own privileges and rights under the Constitution. The States have got under their exclusive jurisdiction



[Shri Rajendra Pratap Sinha.]

land and other things pertaining to land like agriculture, forests, fisheries, etc. The Centre has got under its domain industry, commerce and trade and things like that. If we propose, as in this amendment, to take away certain powers of the States, if we want to remove certain items which are exclusively within the jurisdiction of the States and vest them in the Union, then we are out to disturb that balance of power. It is no small matter that we are trying to take away the rights which belong to the States, and therefore I submit that all concerned should thoroughly deliberate on it before the amendment is accepted by Parliament. This goes against the very sanctity of the Constitution and we should not amend it lightly and hurriedly. Now, we differ from the hon. Minister's conception of consideration. He said that he and his Government have given full and serious consideration to the proposals before us today and he thinks that that is enough whereas we consider that this is such an important matter where we ought to have taken not only the views of the States but that of the people at large before we could arrive at any decision in the matter of changing the Constitution. Sir, this Bill ought to have been published in the official *Gazette of India* so that the people would have got an opportunity to fully discuss this measure and express their opinion both in the press and on the platform. Today we would have been in a better position to ascertain the views not only of the States but of the people if such a procedure would have been adopted. What surprises me most is that this measure has not even been fully discussed in the Congress Party itself. As far as my information goes, this matter was not discussed in the A-I C C. or at the State level—not even by the Congress Parliamentary Party. I am citing this to give you an example of how lightly the Government has treated this question. May I ask the hon. Minister if a pointed reference was made to the

States that we are out to change the Constitution and abrogate the powers of the States in the manner that we are going to do today? What appears to me from the statement of the hon. mover of this motion is that the Commodity Committee Report was circulated to the States at departmental level and it was considered there at the departmental level. I do not think that the question was referred to the State and the matter was given consideration at the Governmental level in a manner as it ought to have been done. That is why we see that most of the States have not yet considered the matter—some of them are silent but we all know that some of them have definitely opposed this measure. Bihar has made a very sensible suggestion that article 369 should be given a fresh lease of life. All this shows that there is a disagreement between the States and the Union over this measure that they are going to adopt. Sir, I would commend to the hon. Minister to adopt the method of negotiations and agreements. Sir, in democracy we must evolve a common will, and the common will is to be evolved by harmonising the individual will and not by imposing the will of the elite and then seeking its concurrence from those at the bottom. Now to the extent we are denuding the States of their powers and privileges, we are retarding the democratic evolution in this country. I would urge upon the Government that they should seek a method of co-operation. Then alone the States will cease to think in terms of the State alone. They will then view their own difficulties and problems in the background of the Indian canvas.

Sir, the hon. Minister explained to us while introducing this Bill that although this is a measure to transfer some of the items placed in the State List—No. II to the Concurrent List—No III under entry 33, he would like to have more powers, executive powers, in respect of these articles. I presume that he has in view

to invoke the provisions of entry 52 of the Union List so that he may have greater powers in respect of these items. Therefore I think the hon. Minister has a mind to go even beyond the limits of this Bill that we are considering. He is not satisfied merely with placing the items under the Concurrent List under item 33 but virtually he proposes to place these items under the Union List No. 1 although technically they may be under the Concurrent List. Then, the hon. Minister referred to certain statements made by the Chief Minister of Uttar Pradesh while attending a Conference of the Chief Ministers for considering the Constitution. He is reported to have said that the Union Government should enact skeleton legislations and the rest should be left to the States to do. Sir, the very conception of a skeleton legislation is this that it should be done by agreement of the constituent States. If the skeleton legislation lacks that support from the States, it will become ineffectual. Its administration will not be uniform and effective. The point that I am making out is illustrated from the report of the Commodity Prices Board on controls and their continuance. It probably reported in 1947 and says at page 30 as follows:

"It must in this effort begin with Provincial Governments so that the work of the integration of controls is carried out with their cooperation and they are convinced of the necessity of maintaining them. Otherwise there is the danger as at present happens, of the Central Government maintaining a structure of controls which in effect is being undermined by action on the part of Provincial Governments. It is not enough to have a policy in which the Members of the Central and the Provincial Governments both believe. It would be necessary to explain to the general public the objectives of that policy and the circumstances which necessitate it."

So the skeleton legislation, unless it is backed and arrived at by agreements, will not be an effective measure.

Now my esteemed friend talked about articles 301 and 302 and he said that we would not like to live in an area of doubt and uncertainty. He thinks that in certain matters the decisions taken by the Union Government might lead to litigation and disputes. Now, I would say that such fears and doubts spring from his very approach to the problem. He is always thinking in terms of over-riding the desires and decisions of the States, and Sir, once you get into the habit of over-riding decisions, the climate of democracy gets disturbed. Therefore, we say that the Government of India should evolve methods of arriving at such decisions by negotiations and agreements and each party, whether it is Union or the State, should adhere to the discipline of the agreement and that, Sir, is the essence of democracy. Sir, we have many States and it is quite likely that in future we may have Governments in the States of different political complexions. Therefore, it is very imperative that we should build up traditions of reaching agreements by negotiations on such vital matters. Sir, you have enough regulatory powers and these regulatory powers should also be utilised by agreements and not by the method of imposing your own will upon the States. If he adopts this method of agreement, the hon. Minister need have no fears or doubts. If all the parties agreed to a certain legislation or decision on certain matters, as to the method of controlling these commodities, then there is no scope for any conflict or dispute. And in the event of an emergency the Government of India has always the over-riding jurisdiction and rights which they can also utilise not only in the emergency but also in the national interest. Sir, I would like to give another example. What is our attitude and approach to international affairs? We always try that the big powers should treat the smaller powers with.....

MR. DEPUTY CHAIRMAN: Please do not go to international affairs.

SHRI RAJENDRA PRATAP SINHA: I am not, Sir, I am only giving an example. We do not like that the big powers should push about the smaller ones and we all desire that they should work by agreement and resolve all their disputes by negotiations and agreement. That is what we are preaching in the international affairs, at the international level. So what I would like to submit is that the same attitude or approach should be there in the relations between the Union and the States. After all the Union Government have got very much bigger powers than the States and they are more powerful than the smaller States. If they adopt this method, it will be really very good. My hon. friend gave an example and asked what would happen if Madhya Pradesh refused to give cotton to Bombay. He said that the Bombay mills would close down, there would be labour problems and all sorts of problems of law and order and so on. But we must consider that if Madhya Pradesh is refusing to give cotton to Bombay, there must be some reason behind that attitude of the Madhya Pradesh Government. Sir, after all, all the States know this very well, that there is no self-sufficiency in any one of them. Madhya Pradesh knows that it is dependent for its sugar, for its steel and so many other things on other States. And if even then they are taking up such an attitude, then there must be some valid reason behind it. And now, instead of finding that out, instead of negotiating with them and trying to remove the difficulties or grievances, if we impose something, then all manner of discontentments among the people of Madhya Pradesh would pile up and it may lead to a very very explosive situation. Therefore, the method of agreement is better than the method of imposing our will upon the States, as we are trying to do here.

Then as regards food, my hon. friend has very clearly said that there is no emergency just at present, but that this emergency might crop up at any time. But that emergency would be for a temporary period and now he wants to have a permanent power in order to deal with a temporary situation, although provision has already been made in the Constitution itself to deal with such temporary situations, as I have explained before.

Now, there is article 249 of the Constitution to which I would invite the particular attention of this House. My hon. friend said that he is not happy about it. He has to come to this House every year in respect of any legislation passed under article 249, which is so inconvenient to him. But, Sir, the Home Minister may come tomorrow and say that the Fundamental Rights are very irksome and therefore, the Fundamental Rights must be curtailed in the interest of administrative efficiency. Then, Sir, where do we stand? Are we going to revise our Constitution merely to meet the conveniences of our Ministers? This is a point which this House has to consider. Sir, there is just one more point that I would like to make. We the Members of this House are the watchdogs of the interests of the States and their privileges. Sir, it is our bounden duty to protect these rights and these privileges here at the Centre irrespective of the party to which we may belong. Then I would also like my hon. colleagues to remember that this Rajya Sabha has been given certain prerogatives under the Constitution under article 249.

SHRI RAJAGOPAL NAIDU: That is the only prerogative.

SHRI RAJENDRA PRATAP SINHA: Yes, as my hon. friend here says, that is the only prerogative. And so the position is this. Because we are here representing the States, if the Union Parliament has to pass any

legislation in respect of matters placed under the State List, it must get the concurrence of this House. Sir, I may warn my hon. colleagues that if we agree to this amendment we would merely be abdicating or abrogating our own rights and privileges, rights which we must jealously safeguard.

SHRI H. N. KUNZRU (Uttar Pradesh): Mr. Deputy Chairman, the first question that the present motion requires us to consider is whether the Government need the powers that they want to obtain by an amendment of the Constitution. I think there can be no doubt that it is necessary in the interest of the country that the Central Government should be in a position to exercise powers, should be in a position to continue to exercise the powers that they have asked for. If this power is not given to them, on the expiry of the Essential Supplies Act, 1946, their power to deal with the supply and distribution of foodstuffs and certain other commodities will come to an end.

4 P.M.

We have to ask ourselves whether it is desirable that this matter should now be left to be dealt with by a number of State Governments. It is no doubt true that at the present time there is scarcely any check on the movement of foodstuffs and that prices are coming down but we cannot be certain that this is not due partly to the good luck that we enjoyed in 1952-53 and 1953-54. We had exceptionally good harvests during those two agricultural years. Can we be certain that we shall be so lucky as to continue to have bumper harvests year after year? We cannot be sure of that. If indeed we cannot be sure that even after the agricultural schemes which form part of the Five Year Plan have been carried out, India will be self-sufficient in respect of foodstuffs, then it is undoubtedly necessary that we should arm the

Central Government with such powers as may enable it, when things go wrong, to control the situation effectively.

Two objections have been raised to it by at least one previous speaker. One was that the Central Government might use this power so unfairly as to jeopardise the prosperity of a State. The prosperity of Orissa, it was asserted, depended on rice and should the Central Government take power to control the production of rice, the economy of Orissa might be totally upset. Sir, the Central Government is not going to exercise the power of controlling the production of foodstuffs as also its supply and distribution for the first time. It has been exercising this power for several years. Can it be said that this was so used as to prejudice the economy of any State? Far from doing so it has attempted to increase agricultural production in the interests of the country at large, particularly the production of foodstuffs. When I refer to foodstuffs, Sir, I do not mean cereals only; I mean other things too. For instances, in the case of sugar, the need for controlling it will be recognised by everyone. Even today, in spite of all that has been done, the supply of sugar at a proper price to the consumer has not been assured and I gather from today's papers that it is the intention of the Government to take over the existing stocks of sugar from the manufacturers or from such other agencies as might hold them. This shows what the essential character of the present situation is. We cannot, at a time like this, merely because of our interest in the States, act in such a way as to affect the future growth of the economy of the entire country.

The next objection that was raised was that the Government has brought forward this motion instead of asking the Rajya Sabha to declare that a situation has arisen in which this House may pass laws on certain subjects contained in the State List. I think that matter was dealt with by the hon. Minister for Commerce and

[Shri H. N. Kunzru.]

Industry. The situation being basically what it is, we have to consider whether it is enough that the Central Government should be armed with the power that it needs from year to year or that it should be given adequate power in the interests of the economic development of the country to control an undesirable situation whenever it arises. I think, Sir, that the second course is to be preferred to the first. We do not know, Sir, when prices of foodstuffs may begin to rise. Parliament may not be in session and to allow the prices to rise till Parliament meets and Government having obtained the consent of the Rajya Sabha, asks Parliament to pass a new law to enable it to deal with the situation which might profoundly affect the position of the consumers and upset relations between labour and the employees, is not a good position. The entire production of the country might be seriously affected if the Central Government was not in a position to take effective steps immediately to exercise adequate control. Even if we can be sure, Sir, that such a situation will not arise in the next three or four years, I should still, on general grounds be in favour of conceding to the Central Government the power that it has asked for. If we consider the industrial sphere, we find that the Central Government, as pointed out by my hon. friend Shri Krishnamachari, has power not merely to declare, by law, that it is expedient in the public interest to control certain industries but it can also regulate the raw materials of these industries so far as they consist of minerals. Now, the raw materials of industries do not all come from mines. Some of these raw materials come from other sources. Is there then any difference in principle in allowing the Central Government to control mining and mineral development and empowering it to control those raw materials of industry as are agricultural products?

I see no difference, Sir, between the two. Indeed what has been done with regard to industries and mineral

development makes me feel that the lacuna to which I have referred was left only because we had not had adequate experience of the economic situation when the Constitution was passed. On all these grounds, Sir, I am in accord with the Minister for Commerce and Industry in thinking that the Central Government should be allowed to continue to exercise the powers which they have already been exercising under article 369 of the Constitution, but there is one matter to which I should like to draw his attention. A certain procedure for altering the Constitution has been laid down in the Constitution itself. Now is it enough that the necessary legal requirements only should be followed and that the desirability of taking steps in the political sphere, to sound the opinion of Members of Parliament belonging to various parties should be ignored? In my opinion, Sir, if the Constitution is to be worked in the spirit in which its provisions should be carried out, then there can be no doubt that it is necessary, when Government want to change the Constitution, that they should consult with the other parties. This is necessary so that the changing of the Constitution may not be considered to be the affair of the majority party. The amendment of the Constitution, broadly speaking, should be regarded as a national affair, and it is therefore of the greatest importance that the Government of the day should consult not merely the majority party, its own party, but the other parties before deciding to bring forward a measure for the amendment of the Constitution.

There is one other observation that I have to make on this subject. It is well known that the present Government, or the Congress Party which means the same thing, is considering the amendment of the Constitution in certain important respects. Now the purpose which underlies the motion made by the Minister for Commerce and Industry could have been gained had he been content with asking this House to allow the Essential Supplies Act to remain in force for a year more. The amendment of entry 32

in the Concurrent List could then have formed part of a comprehensive plan for the amendment of the Constitution. It is possible, Sir, that the amendments that are apparently finding favour with the Congress Party may not be passed in a year, but, if necessary, the Essential Supplies Act could have been continued for another year and I venture to think that this process would have been preferable in view of the amendment of the Constitution that is likely to be undertaken in the near future to the motion adopted by the Government in the present case. Any one can alter the situation with regard to the motion before us, but I do hope that Government will try to bring about a unity of purpose among all parties before they place before Parliament any measure for the amendment of important provisions of the Constitution.

**SHRI S. N. MAZUMDAR:** Mr. Deputy Chairman, I am firmly opposed to this Bill. We are in favour of amending the Constitution lock, stock and barrel, as my esteemed friend, Mr. Satyapriya Banerjee, has said, and leaving apart what we want, if we take the professions of the Government and examine this amendment in that light, then also I find that there is no justification for this. And not only that, Government is not acting to its own professions.

Sir, Government spokesmen including the Prime Minister have been saying that article 31 does stand in the way of speedy implementation of land reform legislations, even the limited land reform legislations that have been introduced in the various States. Without any attempt to amend that article itself—I do not know when it will come and, Sir, it is very likely that there is a strong opposition inside, from the Cabinet down to the Congress Party—the Government has succeeded in shelving attempts to amend that article. Not only that, Sir. There are many articles of the Constitution in which amendment is necessary, but the Government is not coming forward with that. If article 31

is amended then we can be free from the burden of having to pay heavy compensation to the landlords and also we can, if not break the back of the exploitation by foreign capital, at least check it, curb it, but that is not being done. Now, Sir, I am not going to dilate on the exploitation by foreign capital but I am reminded of this because that concerns also amending certain aspects of the Constitution.

Sir, I brought to the notice of the Government, and particularly of the hon. Minister for Commerce and Industry how the British planters are behaving in different places. I forwarded a complaint to the Labour Minister that a British planter openly said, "I do not care for your Constitution." Then in another case I sent a letter of a British planter to a member of the Tea Board in which he made certain remarks which were absolutely objectionable and which hurt our national pride. The hon. Minister himself admitted that the manager was insolent and his remarks hurt our national pride, but he said that as under the Constitution we have no power to take any action, we cannot help. So before the insolence of the British planters we are helpless.

**SHRI T. T. KRISHNAMACHARI:** May I ask my hon. friend if I did tell him that under the powers of the Constitution now I have no powers? Is he quoting me correctly?

**SHRI S. N. MAZUMDAR:** I could not follow him, Sir.

**SHRI T. T. KRISHNAMACHARI:** I am asking if I wrote to the hon. Member and said that I had no powers under the Constitution

**SHRI S. N. MAZUMDAR:** I think he said "as the law stands at present".

**SHRI T. T. KRISHNAMACHARI:** I should like to see that letter.

**SHRI S. N. MAZUMDAR:** I shall give it to him.

[Shri S. N. Mazumdar.]

That is one aspect of this matter. We find that instead of coming forward with amendments to this article which stands in the way of social reform, the Government is coming forward with other amendments which are retrograde in nature. Of the three amendments including the one that is proposed, as my esteemed friend said, the second was colourless, the first was retrograde and this one is also retrograde. The hon. Minister himself has not been able to make out a case for this amendment and without referring to the proceedings of the other House I can say safely that he has not been able to convince even some of the stalwarts of his own party about the necessity of this amendment. There is no emergency now. Nobody who has spoken here has denied the necessity for Central co-ordination in the case of an emergency. But what emergency is there that if on the 25th January this article 369 expires the heavens are going to fall? There is no such emergency. The Constituent Assembly which was elected on a limited franchise and which was almost packed by members who support the present Government, even that Constituent Assembly did not think it wise to give this power permanently to the Central Government. The hon. Minister has referred to the fact that some hon. Member was insistent that this power should be extended but there were other Members who were equally reluctant to give this power permanently to the Centre. The hon. Minister has come forward with this amendment with a view to taking these powers permanently admitting that even if this amendment is not carried, the Central Government is not powerless. He says there will only be certain difficulties in that because he will have to come every year to the Rajya Sabha. Sir, the Rajya Sabha sits every year and emergencies are not such that they come suddenly without notice. The situation is not such that we remain completely unaware of the emergency developing but suddenly we wake up one morning to find the emergency knocking at the door.

If the Government claims to be efficient, they should be able to see the signs of emergencies and they should be prepared for them. It is not very difficult to call an emergency session of the Rajya Sabha. The main thing is that even now the majority of the State Governments which are Congress Governments are not very enthusiastic about this. Some Governments are definitely opposed to this while others have not given their opinion. My friend there was saying that we have been sent here by the State Governments. That is not a correct statement. Still taking my stand on that basis that the Members of the Rajya Sabha are supposed to represent their States, I ask the hon. Minister for Commerce and Industry to say whether he is prepared to permit hon. Members on the other side to vote according to the stand of their respective State Governments. Then we shall see what is the real position, but I am sure he is not going to do that. So it is not a question of any emergency actually. The Government because of its possession of brute majority in both the Houses is taking a very irresponsible attitude towards amendments to the Constitution. Without taking the correct steps in the matter, they are taking steps exactly in the opposite way.

Sir, the question of regionalism has been brought in. The Congress party before it came to power advocated that residuary powers should be given to the States but immediately it came to power the position was reversed. When the Congress party was advocating that residuary powers should be given to the States was not the picture of Indian unity before its mind? It was there but still why was the position reversed? Because, I shall say, from the very day the Congress party came to power the process of disintegration inside that very party started. It was afraid that there may be different State Governments which may take steps which are more progressive than the Centre. There may be occasions when different States may want to go farther than the Centre. For

all these reasons the Congress party reversed its own principle of giving the residuary powers to the States. Now even the powers that are given to the States under the Constitution are being sought to be curtailed. Sir, I do not understand why, even in the case of national emergencies like food crisis or other things, without this power it will not be possible to have a co-ordinated policy. Are we to understand that the different States will be pulling in different directions? Different States will pull in different directions if anti-peoples' Governments are there. If article 31 is amended and even if limited steps are taken to relieve the country from the burden of payment of heavy compensation to the landlords, then every State can develop its own resources and the question of deficit States and surplus States quarrelling with each other will not arise, if we proceed in the right direction. On these grounds, I firmly oppose this amendment.

SHRI KISHEN CHAND (Hyderabad): Mr. Deputy Chairman, I strongly oppose this motion referring this Bill to a Joint Committee. I oppose it not only on the ground that too frequent changes of the Constitution on petty points will undermine the very basis of our Constitution but I oppose it also on the ground that we are slowly and gradually taking away the power of the States to organise the life of their citizens according to the will of the people residing there; I oppose it also on the ground that the five items which are to be introduced by this amendment do not require any control by the Centre. Sir, I will try to elucidate all my points one by one.

As regards the Constitution, Dr. Ambedkar has pointed out that there should be some sort of sanctity about the Constitution. It is only four years ago that we adopted our Constitution and during this interval of four years nothing very fundamental has happened either to India or to the world which has completely changed our conception of the relationship between the Centre and the States. If we take

the case of other countries, as was pointed out by Dr. Ambedkar, in the case of the U.S.A. during the last 175 years there have been only 22 amendments of which 12 amendments were done at one time which means in 175 years they have only made 10 amendments. Our Constitution is based on those of Canada and Ireland. In Canada during the last 100 years only 7 amendments have been made. Sir, the Constitutions of the U.S.A. and Canada were promulgated 150 years ago when the condition of the world was quite different and yet they have not found any necessity for changing their Constitutions so frequently as we are going to do at the rate at which we are going at present, that is, in four years we require three amendments to our Constitution.

Sir, I was surprised that some months back an hon. Member of the previous Government said that he was a hack in making the Constitution and that he was not responsible for its making. Today another hon. Minister who is piloting this Bill also did not take the responsibility for making the Constitution. He said he was only a drudge. Sir, I am surprised. I ask who made this Constitution if everybody disowns it. If everybody thinks that he was either a hack or a drudge, then somebody must have made the Constitution. Sir, we should be proud to have made the Constitution and we should not shirk responsibility by saying that we were drudges or hacks. I feel that.....

SHRI T. T. KRISHNAMACHARI: I am happy that I am a drudge. It is much better than to be something else.

SHRI KISHEN CHAND: Personal opinions may differ. Probably the hon. Minister wants to shirk responsibility. He does not want to express his opinion about this clause and takes shelter by.....

MR. DEPUTY CHAIRMAN: Let us say, he is too modest.

SHRI KISHEN CHAND: It may be modesty but we wanted his definite



[Shri Kishen Chand.]

opinion. I personally feel that in the Congress party there is too much of camp following. There is a leader and at the behest of the leader they just raise their hands and adopt that policy. That is a very wrong procedure. If this Government is going to be run at the will and desire of one man, at the instructions of one man, then it means the end of democracy. It only means that the whole Congress party is just a lot of camp followers following the will and opinion of one man. As they are directed they simply raise their hands and feel accordingly. Sir we should try to see that in our Constitution, the framers had the interests of the Centre and the States before them and they tried to balance the various interests. As has been pointed out, ours is a mixture of a federal and unitary Constitution. The residuary powers have been given to the Centre and the States have been allotted a fixed number of items, heads of income and subjects under their charge. The result is that their whole sources of income are inflexible, their income is diminishing; and they have always to look to the Centre for grants and loans to be given to them, and yet, as I have said, when we are thinking of making the Five Year Plan a success, we want the States to contribute money. The States are taking up the river valley projects on a loan basis. Most of the States have got very huge loans on them, which they are quite unable to repay. Slowly and gradually we are taking away all sources of income from the States and burdening them with loans. The result will be that the federal part of our Constitution will disappear. If hon. Members are convinced and if the country is convinced that we want a unitary type of Constitution, there is no harm in it. A Constituent Assembly can be elected on the mandate of a unitary Constitution and they can frame a Constitution accordingly; but when we have a Constitution which has got a federal element in it, it should be the desire of hon. Members of this House that that special characteristic of the Constitution may be maintained. We should

try to fight for greater rights of the States; we should fight for greater decentralisation and not for greater centralisation. There is a tendency among members of the Government and officers to acquire power. Power is a contagious thing, and the desire for it goes on increasing. The hon. Minister has only given excuses for these four items. But I think, with the cleverness of the hon. Minister and other Ministers equally good excuses can be offered for doing away with all the items of the federal Constitution, finding out an excuse why such and such an item may not be introduced in the powers of the Centre. If we go on like this, if we go on the basis of an emergency, when the emergency does not exist, when, there is no special situation, there is no point in retaining this federal Constitution and the sooner we get rid of it the better.

Now, Sir, I come to the four items in this amending Bill of the Constitution. The first is foodstuffs. As I pointed out, when the Constitution came into force on the 26th January 1950, the food situation in our country was very serious. The framers of the Constitution knew the difficulties before the country in 1948. They took full account of that situation and after due consideration they came to the conclusion that the balance of powers between the Centre and the States can only be arrived at if for a period of five years we give special powers to the Centre, but normally the control on foodstuffs, their production, and their distribution should rest with the States. I think the hon. Member who preceded me, Dr. Kunzru pointed out that we have got self-sufficiency in food in our country. He said that it was due to the good harvest of 1952-53 and 1953-54.

SHRI H. N. KUNZRU: If I may correct my hon. friend, what I said was. I asked whether in spite of the good luck that we have had during the last two years, we could feel sure that we have turned the corner and that the

country would be self-sufficient in respect of food even if the entire agricultural schemes, which form part of the Five Year Plan were carried out successfully.

SHRI KISHEN CHAND: Thank you, Sir. I was saying just the same thing. I was pointing out that the hon. Member has said that there has been self-sufficiency during the last two years, whatever the causes, but he was doubtful whether this self-sufficiency would continue in future. If we base all our plans on surmises, on possible calamities which may occur in the future, then there can be no planning. Planning is based upon certain calculations. The experience of the last two years is that the country is self-sufficient in food production and the natural conclusion will be, unless very extraordinary events happen, there is no likelihood of such events happening, that the self-sufficiency in food will continue for years to come. Even if a sudden calamity happens in one year, we have enough stocks of food-grains as has been already assured by the hon. Food Minister. He even asserted in this House that in spite of these floods in Bihar and Assam and the drought in Orissa, we can carry on. The country is quite safe on the food front. When the country is so safe, I would ask the hon. Minister for Commerce and Industry to give any justification for including "foodstuffs" in that List.

Then I come to another item, cotton, and its production and distribution. When this Constitution was framed in 1950, our production of cotton was about 20 lakh bales—it may be a little less or a little more. It was approximately 20 lakh bales; now it has gone up to 40 lakh bales. Our total requirement is only 46 lakh bales and the position has eased. It is not at all serious. I am trying to show that between the time the Constitution was framed and the present time the condition has improved so much that if at all there was some justification at that time, for allowing a period of five

years of special power for the Centre, there is no justification for giving such power to the Centre at present; that with the increase in the production of cotton from 20 lakh bales to 40 lakh bales, in a period of about three or four years, we have turned the corner.

Then, Sir, in the matter of jute production, it was not in the List at all. It was not thought to be important enough to be included in the items. It was considered to be entirely a State subject and there was no need to include it even in the provisional powers given to the Centre. I ask what new situation has arisen. Even then jute was the principal dollar earner. Nothing has occurred during the last four years to change it. You know, Sir, when export duty was levied on jute goods, the Government of West Bengal raised a hue and cry that jute was the principal product of their State, that they must get a share in the export duty on jute. The Ministry of Commerce and Industry entirely bungled the whole situation. They put up a high export duty of Rs. 1,500 per ton; then they lowered it to about seven hundred and fifty rupees; and then further reduced the duty to normal figure thereby causing immense loss to the West Bengal Government. If we go on in this way, we can multiply examples as to how the interests of the State Governments have been sacrificed by the arbitrary powers of the Central Government and its Ministers. The List will be very long and the indictment will be so heavy, that we should be very careful when further power is allotted to them.

Sir, I am surprised to see oilcake and oilseeds being included in this List. Who will think that these things are so important that it will jeopardise the interests of the Union if these things are not included in the amending clause? Oilcake is entirely a cattle fodder and it was partly used—now given up—as a manure. How, if cattle fodder is not included in the powers of the Minister for Commerce and Industry will the interests of the

[Shri Kishen Chand.] .  
country be at risk, I cannot understand I submit, Sir, that as was pointed out by Dr. Ambedkar, there is a spirit of lightheartedness that the Constitution should be amended. After all, the Constitution (Amendment) Bill is like the other Bills which are brought forward in this august Parliament every session. And like other Bills we can

MR. DEPUTY CHAIRMAN. Do not repeat these arguments; there is very little time left.

SHRI KISHEN CHAND: And therefore, Sir, I will submit that there is absolutely no justification for referring this Bill to a Select Committee, and I oppose it strongly.

SHRI LAVJI LAKHAMSHI (Kutch): Mr. Deputy Chairman, by this Bill it is sought to expand entry No. 33 of List III. It is clear that but for this expansion, these articles, mentioned in the proposed Bill would be in the exclusive sphere of the States, apart from the provision in article 369 which is of a temporary character. It is quite clear that by this Bill what is sought to be provided is that what is of a temporary character today is sought to be made of a permanent character, that is to say, these goods shall be permanently also within the sphere of the Union, and they shall not be within the exclusive sphere of the States. To that extent, it is clear, Sir, that the measure seeks to make an important amendment in the Constitution. The framers of the Constitution, at the time of framing the Constitution, had put this in the exclusive list, the State List. Now, Sir, by reason of this provision, a provision of this character, which makes this change of a permanent character, they seem to think that federalism and decentralisation, these principles, are being militated against. I would submit, Sir, that if we look at the Constitution, we find that it is not the federalism which is emphasised; it is more the unitary character of our Constitution which receives the em-

phasis. We hear that famous phrase "unity in diversity". That is exactly what is expressed in our Constitution in the field of politics and in the field of our economics and other things for which the Constitution is making a provision. Therefore, it will not be right for the hon. Members who want to oppose it to do so on the ground that federalism is attacked or decentralisation is attacked. Therefore, they want to oppose this Bill or oppose this measure. But my submission is that the very essence of our Constitution is that its unitary character receives a greater emphasis, and the unitary character of our Constitution is clearly expressed in Part XI of the Constitution.

Now, Sir, in so far as this particular measure is concerned, on the merits of it it appears that there is no opposition whatsoever. As a matter of fact we find that the gentlemen who have been taking keen interest in the public affairs, have come to support this Bill. On merits there is a good case for supporting this measure. And there are other gentlemen who have opposed this Bill mainly on the abstract principles of federalism or decentralisation. But so far as the merits of this measure are concerned, they have not advanced any argument whereby they can say that these articles should not be included in the Concurrent List, as it is now proposed to be done. It would appear, Sir, that after having some experience and in view of the general agricultural scarcity, it was thought necessary that the Centre should have the concurrent power to legislate on these items. After five years' experience, most of the hon. Members of this House as well as of the other House have agreed that it is very necessary that these articles, these goods, which are sought to be included in this List are the basic necessities of our life, and they should be within the scope of the Centre also. It is not that entirely the States are deprived of their power to legislate on these items. And what is provided is that the Centre is not to be divested of the power which it enjoys. Now, Sir, what I am submitting is this that but for the initiative, direction and help of

the Central Government, this agricultural development would not have taken place. The Centre has given financial help also in the matter of agricultural development of various States. Now, if the States are given the exclusive right to legislate on the produce of this agricultural development, for which the Centre has given its help, it would be wrong really to deprive the Centre or the country as a whole of its right to have a say in the matter for the general good of the whole country. As a matter of fact, arguments after arguments have been advanced on the merits of the inclusion of these items in this List. What I have heard is that the manner in which this amendment is sought to be made is rather not finding favour with some of the hon. Members. On the merits of this measure there is no objection whatsoever. Not a single argument has been advanced whereby any Member has been able to show that by reason of the inclusion of these items in the Concurrent List the country as a whole would lose anything. As a matter of fact, the country as a whole would gain by it. It is only the way in which this Constitution is being amended, the manner in which the Constitution is being amended that has come in for some criticism by the hon. Members.

I would submit that, if on merits there is a good case for the amendment, if there is a good case for such a Bill, if there is a good case for giving this power to the Centre, I do not understand why we should make a fetish of changing the Constitution by saying that it should not be so lightly changed. Nobody says that the Constitution ought to be changed lightly. As a matter of fact, the important amendments about which we read in the paper relating to many important aspects of the Constitution, because they are basic and important amendments, are not rushed through here, to use the phrase which Dr. Ambedkar used. As a matter of fact, I submit that, if on merits, on its own showing, there is a good case for this amendment, we should not make a fetish of changing or amending the Constitution. I get

support for this proposition from the words of Dr. Ambedkar himself. He compared the provisions in the Constitution of the United States, the Constitution of Australia and our own Constitution with regard to amending the Constitution, and said that comparatively speaking, it is easier to amend our Constitution than for U.S.A. or Australia to amend their Constitutions because he said that we inserted the amending provisions of the Constitution having in view the fluid state of our country. I would say that that is exactly the reason why the framers of our Constitution thought that with experience gained from time to time it should be easy for us to change the Constitution. So we should not make a fetish of it. If the merits of the case demand it, we should go in for a change in the Constitution.

Again, Sir, I would like to remind my friends who are advocates of federalism that it is not the case that the States are entirely deprived of their right to legislate for these things. They are entitled to legislate with regard to these items, but there may be cases, there may be occasions, when it would be necessary for the Centre to embark on legislation regulating the production, supply and distribution of these essential articles or, what I call, basic necessities of life. There is really no reflection on the States here that they would necessarily make legislation against the interests of the country as a whole, but we know that many a time interested parties do embark on legislation which might be against the interests of the country as a whole, or it may be that facts relating to the whole country may not be before them. Therefore only the Union can take a dispassionate view of the whole situation and be in a better position to legislate having regard to the interests of the country as a whole.

In the political field, I would submit that, even though our Constitution is federal, it really emphasises the unity of the country, unity in diversity. Even the very diversities of our life-

[Shri Lavji Lakhamshi.]

express our innate unity. Even though there are federal characteristics in our Constitution, it has actually a unitary character. In the cultural field, we are one unit signifying the culture of India. I would submit that in the economic field also, particularly with regard to the basic necessities of life, there should be uniformity of approach. I would submit especially to my hon. friends on the opposite side that in the matter of the basic articles, all the people in this country should share not only in its prosperity but also, if the need should arise, even in adversity, and there should be no discrimination.

My hon. friend, Dr. Banerjee, said.....

SHRI S. BANERJEE: I am not a Doctor.

SHRI LAVJI LAKHAMSHI: I am sorry. But I wish that a Doctorate is conferred upon him. It is wishful thinking really. My friend, Mr. Banerjee in his speech referred to the character of the Constituent Assembly which framed this Constitution. He said that the Constituent Assembly was elected on a limited franchise, and therefore according to him it did not reflect the opinion of the electorate at large. I think that was his contention.

SHRI S. MAHANTY: Who elected them?

SHRI H. P. SAKSENA (Uttar Pradesh): May I answer that query, Sir, as to who elected them?

MR. DEPUTY CHAIRMAN: Order, order.

SHRI LAVJI LAKHAMSHI: It will be very easy to find out who elected them. It is there for you to see. The argument is that since the Constitution was framed by persons who were not elected on adult franchise, it is not valid, but I would remind him that to-day all the Legislatures in the country including this Parliament—except of course this Rajya Sabha—have been elected on adult franchise. If you are so enthusiastic about federalism, decentralisation and all that, why don't you try and bring in another Bill to bring about that situation and see your chance? According to your own showing, we are in a better position, because we have been elected on adult franchise, to amend this Constitution. On merits, none on the other side has been able to show that this is bad and that the Centre should not have any powers to legislate in these matters.

MR. DEPUTY CHAIRMAN: The hon. Minister will reply tomorrow.

SHRI H. P. SAKSENA: Does it mean that the discussion is over?

MR. DEPUTY CHAIRMAN: Yes. The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at five of the clock till eleven of the clock on Thursday, the 16th September 1954.