

(ix) Ministry of Finance (Revenue Division) Notification No. 34.C-Exc., dated the 3rd August, 1954.

(x) Ministry of Finance (Revenue Division) Notification No. 35.C-Exc., dated the 20th August, 1954. [Placed in Library. See No. S-362/54 for (i) to (x).]

REPORT OF - THE REHABILITATION  
FINANCE ADMINISTRATION FOR THE  
HALF-YEAR ENDED 31ST DECEMBER  
1953 AND OTHER CONNECTED PAPERS.

THE LEADER OF THE HOUSE (SHRI C. C. BISWAS): Sir, on behalf of Shri A. C. Guha, I lay on the Table a copy of each of the following papers under sub-section (2) of section 18 of the Rehabilitation Finance Administration Act, 1948:

(i) Report of the Rehabilitation Finance Administration for the half-year ended the 31st December, 1953.

(ii) Analysis of charges for the year ended the 31st December, 1953.

(iii) Statement of loans called up during the year 1953.

(iv) Statement of overdue instalments for the period ended the 31st December, 1953. [Placed in Library. See No. S-363/54 for (i) to (iv).]

STATEMENT re: ACTION TAKEN ON  
ASSURANCES GIVEN AND SUGGESTIONS  
MADE IN RAJYA SABHA.

THE LEADER OF THE HOUSE (SHRI C. C. BISWAS): Sir, I lay on the Table the following statements showing the action taken by the Government on the various assurances, promises and undertakings given by Ministers and on suggestions made by Members during the various sessions shown against each:

*Assurances etc.*

(i) Statement Seventh Session,  
No. 1. 1954.

(ii) Statement Sixth Session,  
No. VII 1954.

(iii) Statement Fifth Session,  
No. X 1953.

(iv) Supplementary Fourth Session  
Statement No 1953.  
XI

(v) Supplementary Third Session,  
Statement No. 1953.  
XVI

[See Appendix VIII, Annexure Nos 155, 156, 157, 158 and 159 for (i) to (v).]

*Suggestions*

Supplementary Fourth Session,  
Statement No. III 1953.

[See Appendix VIII, Annexure No. 160.]

THE TEA (AMENDMENT) BILL,  
1954

THE MINISTER FOR COMMERCE AND  
INDUSTRY (SHRI T. T. KRISHNAMACHARI): Sir, I beg leave to introduce a Bill to amend the Tea Act, 1953.

MR. DEPUTY CHAIRMAN: The question is:

"That leave be granted to introduce a Bill to amend the Tea Act, 1953."

The motion was adopted.

SHRI T. T. KRISHNAMACHARI:  
Sir, I introduce the Bill.

THE CONSTITUTION (THIRD  
AMENDMENT) BILL, 1954—

*continued.*

MR. DEPUTY CHAIRMAN: Now we go to the Constitution Amendment Bill.

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

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

Sir, this House is aware of the circumstances under which this Bill has been introduced, because this matter was discussed almost threadbare on the last occasion when I moved the motion in this House for this House's joining the Lok Sabha in the Select Committee. The Select Committee submitted its report and it was considered by the Lok Sabha. So far as the Select Committee was concerned, no material change has been made by them in the structure of the Bill. The only change that was made was a verbal change, in clause 2, item 33, sub-clause (a). It is really of no consequence, Sir.

Sir, the House might perhaps direct its attention to the minutes of dissent appended to the Select Committee's Report. Some hon. Members of this House are also members of the Select Committee and some of the Members who have appended minutes of dissent come from this House. Sir, I shall not take the time of the House in following at any great length the contentions raised by the hon. Members who have submitted minutes of dissent.

There is, however, one point that has been conceded by the hon. Members who do not agree with the Bill in its present form, namely, that there might be need for the use of those powers dealt with in this Bill, in the near future, namely, for a period of five years after the 25th of January, 1955. Keeping that in mind, they have indicated that they might favour, or rather that they might have favoured a Bill which merely sought to extend the transitional and temporary powers based on article 369, by a further period of five years. Sir, that is one common ground between those who support the

Bill and those who oppose the Bill, to a very large extent, namely, that there might be need for it during the next five years. Well, all that I would submit is that if we can look ahead during the next five years and say that the need will be there, I do not know if we can look ahead beyond those five years and say that the need would not be there beyond.....

**SHRI B. GUPTA (West Bengal):** There is no justification for thinking that the.....

**SHRI T. T. KRISHNAMACHARI:** That there will not be any need.....

**SHRI B. GUPTA:** There is no justification for thinking that they consider these powers essential. They only want Parliament to lay down the period, keep it as five years.

**MR. DEPUTY CHAIRMAN:** Order, order. You will have your chance, Mr. Gupta.

**SHRI T. T. KRISHNAMACHARI:** Sir, I do hope the hon. Member would not make these involuntary interruptions. Sir, the position is not really.....

**SHRI B. GUPTA:** I also hope you would not put in inopportune interpretations.

**SHRI T. T. KRISHNAMACHARI:** It is a little difficult if an hon. Member has no control on his physical movements. I recognise that my hon. friend labours under certain disabilities, Sir, and my sympathies are with him, and I think the House might put up with them. Nevertheless, I come to my business. I merely said that it is an indication that they might have felt in that way. But I think in a House of this nature, representing the cream of the intelligence of this country, it is hardly necessary for me to labour this particular point.

**SHRI B. GUPTA:** I am glad the hon. Minister has some respect for intelligence.

SHRI T. T. KRISHNAMACHARI: My contention is merely that it is rather difficult for us to foresee what the contingency would be beyond the next five years.

The other point that I would like probably again to underline—it is a point which I did not make on the last occasion, I believe—is this. The Government of this country is divided up between the Union and a number of States. We can leave the Part C States out of the question, because the Part C States come under the control of the Union for several matters and the right to govern themselves is not a right given to them by the Constitution, but by the Union. But so far as Part A and Part B States are concerned, they are numerous and have a wide variety of powers of administration. Some of these States are the products of amalgamation and there are also instances where States have been split up by the separation. And assuming, Sir, that one hon. Member says that a particular provision in the Bill may not be necessary in the case of State A, it does not mean that it is not necessary in the case of State B. It may be that State A is in favour of control over raw jute, but may not be in favour of control over cotton, because it does not affect that particular State. Or it affects a particular State whether there is control over cotton, but it does not affect it whether there is control over raw jute. Another State may be supposed to be in a totally different position. My humble suggestion to the House is that if hon. Members of this House coming from particular States have got a particular view on a particular item of this Bill, they should ponder over the possibilities of similar difficulties or similar proclivities in the minds of hon. Members coming from other States. The necessity is greater, particularly in a House of this nature which, as I said, represents the States, to sit down and take an over-all view of the situation. And having this in view, Sir, all those discussions which took place in the other House on two occasions and in this

House on one occasion and in the Select Committee, only confirm the opinion of Government that this Bill is necessary.

To deal particularly with the various points raised in the minutes of dissent, first I would like to say that a question has been raised about the psychological aspect of a measure of this nature. I think psychology can be applied to individuals, psychology can be applied to the mass, but psychology applied to various States with a variety of interests would be rather a difficult thing to envisage. It is a little beyond my comprehension at any rate, to analyse the psychological impact of any decision that Parliament might take, namely, the approval of this Bill, on the mass of the people occupying the different States.

But if the psychological impact really means that their power is taken away, that the entire States' sphere in administrative control is rendered a nullity, well, there might be something in it. That is what is sought to be made out by saying that it is the psychological aspect of this Constitution problem. Sir, I would humbly submit that the power that is sought to be taken over is not a power that is at present enjoyed by them. In fact, lawyers will say in the matter of possession, that possession is nine points of law and the possession of these laws is not with the States at the present moment. The psychological effect will only be the denial of something that might come within their purview.

SHRI H. C. DASAPPA (Mysore): Now it becomes ten points.

SHRI T. T. KRISHNAMACHARI: Yes, my hon. friend has raised a point and I certainly concede that. Sir, the psychological effect is, to some extent, blurred.

The second point is: Is it really so? Is it really a fact that by taking over these powers and putting them

in the Concurrent List—it is not the exclusive List of the Centre; it is a Concurrent List in which both the Centre and the States can legislate—the States are denied the right? The word used here is ‘occupied field’ which I think has an extremely attractive significance in so far as a lawyer is concerned. ‘Occupied field’—within inverted commas. Anything put in inverted commas attracts the eye and the occupied field is limited to a very large extent by not merely the legislation that the Centre enacts but by particular provisions of the legislation that do not allow elbow room for the States to act. Therefore, Sir, there may be the occupation but there may be a lot of enclaves and there might be occupation, occupation of a very small category and there might be a large field unoccupied. The whole idea of the Concurrent List is that there must be room for the States to occupy if necessary and if they want—but one does not want to occupy a house unless one wants to occupy it and if the States want to occupy, they have got to occupy—there must be room for it and that is what the Concurrent List provides. I have also, Sir, indicated on the last occasion that in the case of the executive powers to be exercised by the Union, there is an obvious limitation. The Union must make a conscious and deliberate inroad into the States’ powers by mentioning the type of executive power that it wants to use in any particular legislation and get Parliament’s sanction. The whole idea is that there should be precision in regard to determination of the particular spheres of activity of the Centre and of the States. In fact, I would like to say that this peculiar feature of the Indian Constitution is something which is almost not copied from anywhere. We have taken into account the essence of the provisions in a Constitution where there is a Concurrent List, like the Canadian Constitution, and also in a Constitution where there is no express Concurrent List but nevertheless there is a concurrent field, and have sought to remedy any

possible clash by asking for a specific taking over of powers in regard to the executive field. That, I think, Sir, makes the occupied field less occupied so far as the Union is concerned.

I do not propose to deal with the pulverisation of States’ powers. As I said, Sir, these are all attractive words which are very eloquent and I suppose in the time gone by when our moderate leaders held forth the platforms, when we appreciated the merit of the English language, pulverisation might have drawn applause from the audience but with the progressive—what shall I say—dislike or disinclination to appreciate a foreign language, I think the words used here fall flat in this House.

Sir, the other question that has been raised is that there has been a lot of dependence on the Report of the Commodities Control Committee. Well, Sir, to some extent when you rely on facts, you are dependent on facts. The dependence is not so much—with all due deference to the fact that you, Sir, happened to be the Chairman of the Committee—on its Report but on the facts that have been brought out by the Committee’s Report. Sir, it has been said that the Committee has been composed only of Central Government officials and the standing of those officials was also raised with regard to how an individual likes to assess the standing of any official. I am not, Sir,—again with all deference to you—asking the House to attach any importance to the Report of the Committee as such, though I do attach importance to it but I am asking them to attach importance to facts, facts which cannot be questioned and against which you have nothing to place. Therefore, if the Government does rely—as it ought to rely—on the recommendations that the Committee made, I suggest that the Government and those hon. Members who had relied on those facts have not committed any heinous sin. If at all, the Com-

[Shri T. T. Krishnamachari.]  
 mittee's Report shows that it has evaluated the working of the controls and that there is need for a continuance of controls in certain directions. As to the method by which that need can be fulfilled, various suggestions have been made. I do not propose to go into them and I am not really worried about whether a particular thing was politically desirable or not. All that they were concerned with was whether a particular suggestion was administratively feasible or not. Politics, so far as the Committee was concerned, was out of the question. In fact, they have eschewed the fact whether any particular suggestion was politically desirable or not; it is for the Government of the day to take political responsibility. Therefore, a factual evaluation of the position such as is presented by the Committee is one on which I think any sane Government would really depend, and I am not ashamed, Sir, that we have relied upon the recommendations of this Committee in regard to formulating our own policy in this particular matter.

Sir, mention has also been made about the State Governments not being represented but if hon. Members had read the Committee's Report, they would have found that not merely were the State Governments consulted but their views were also obtained, as also the views of the Planning Commission; in addition, the views of the interests concerned were also obtained. So, the evaluation has been very nearly complete; it may be that the State Governments expressed a different view; it may be that particular sections of the State Governments express a different view now. But it is an idle charge to make that the State Governments have not been consulted by the Government and, therefore, to this extent the Committee's Report is not worth while taking into consideration. The

answer is, as I said, Sir, we are not worried about the Committee's Report but we are only concerned about the facts presented by that Report. Sir, this is the main basis on which hon. Members who have submitted minutes of dissent have expressed their disinclination to support a measure which is more or less a permanent part of the Statute Book, that is, it makes some of the provisions of article 369 a permanent part of the Constitution.

Sir, I do not think I am called upon now nor is it proper for me to deal with the possible lines on which opposition to this motion might be made. It will not be proper for me to discuss the amendments but the amendments give, more or less, an idea of how the Opposition arguments would be presented. There are various lines of approach. As I said, one is the question of limitation of period of this particular amendment. That might be done in various ways and whether it can be done in the way in which the amendment has been presented is a different matter altogether and that would be discussed at that time. The other question is whether 'production' is necessary in "Trade and commerce in, and the production, supply and distribution of . . .". Yes, Sir. The amendment is, more or less, a copy of the wording of the present entry 33 and it also follows the pattern of entries 26 and 27 of List II. It would be rather difficult to say that some kind of control would not be necessary. I will cite the instance. Sir, of a product which does not come within the ambit of the proposed legislation and is not in List I either. Take, for instance, tobacco. There is an excise on tobacco and, in order to allow the Central Government to use its taxing power, certain provisions find a place in that measure and even a grower has got to take some kind of permission—some kind of control over production is necessary—as ancillary or incidental to the taxing power that the State exercises.

So it is wrong. You might not have the word 'production'. For instance I have stated the other day you might not include expressly raw cotton and raw jute, but the control over raw cotton and raw jute might come incidentally and you control the textile industry and the jute industry. It might have been controlled like that. There is another way of doing it, not control it but levy an excise duty and the taxing power will be attractive, which will make your powers a little wider.

As I said, these are various factors which can be used in a federal constitution. When the federation has taken responsibilities those responsibilities have got to be discharged and that is why, if hon. Members will look into the Canadian Constitution, they will find that 'agriculture' is in the Concurrent List, certain measures enacted by the Dominion Parliament in Canada have been declared to be *ultra vires* for the reason that it had affected certain other rights, namely, property rights and also that it is not necessary. When a power is expressly conceded to the Dominion the courts have held in the past that that power need not be used, and it is also true, Sir, that in most of the federal constitutions, whether American, Australian or Canadian, powers not enumerated, powers which look as though they have been excluded, are being utilised merely because of the responsibility that is cast on the federation, on the federal Government of maintaining certain essential services and so on. So this is a possibility of our dealing with the question in an indirect way, but that is not our intention. If you are to deal with a question in an indirect way, it is to be dealt with like that; that is what is called colourable legislation but colourable legislation need not be resorted to where the intentions are express and it is patently necessary for such and such a purpose, and therefore I see no particular magic in giving up the word 'production'. It does not to any extent circumscribe the power. The presence of the word does not to any extent augment the

power as that power is not going to be used for other purposes.

One advantage, Sir, that we possess is that whatever the Centre might do the State has a remedy. If it feels that by interpretation, by depending on a necessity, the Centre has encroached on the State field, then that Government which is perhaps a Government run by the same party as the party that runs the Central Government, that State Government may go to a court of law and say that the Centre has exceeded its powers. We do not take any offence. It is not as if my chief, the Prime Minister, takes exception to any Chief Minister doing so, but permission is given to move the Supreme Court to indicate that a particular provision of law enacted by Parliament is *ultra vires* and impinges on the State sphere. It is a matter which is looked at from a purely impersonal point of view. That being so I do not see the magic in taking away the word, because it follows a particular pattern, the language used in the Constitution and the elimination of that might lead to doubts and disputes which we may not be able to envisage. So at this stage I have nothing more to add except to commend my motion to the House.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill further to amend the Constitution of India, as passed by the Lok Sabha, be taken into consideration."

SHRI B. C. GHOSE (West Bengal): May I move my amendment?

MR. DEPUTY CHAIRMAN: Afterwards, after the first reading is over.

SHRI B. C. GHOSE: Amendments should have been moved, Sir.

MR. DEPUTY CHAIRMAN: Until this consideration motion is carried you cannot move the amendments.

[Mr. Deputy Chairman.]

If you want to speak only on your amendments you need not speak at this stage, if you so like it.

SHRI B. C. GHOSE: I wish to speak, Sir.

Sir, I recognise, as the hon. Minister himself stated, that this measure has been discussed at very great length and there is little scope, if any at all, to shed fresh light on the issue. Nevertheless, as it is a very important measure, we consider it necessary to briefly state the grounds of our opposition to this amendment, as we are very strongly opposed to it.

Our main grounds have been stated in the Minute of Dissent appended to the Report of the Select Committee. Now, Sir, one or two things have been said about our Minute of Dissent about which I should like to say a few words. It has been said that we have admitted that conditions today are basically the same as they were when the Constitution was passed and having admitted that, we have also said that there is a ground for giving this power to the Centre for an extended period. I do not think, Sir, that that follows. What we have stated is that the conditions remain basically the same, and therefore if at that time the Constitution-makers had thought that five years' time was sufficient, then that should be considered as sufficient, and there should be no further extension. The fact that we stated the conditions were basically the same does not mean that, as considered from this point of view, they should be given another period of five years' extension. It has also been stated in the second place that we have agreed really to an extension of the period of time by five years. Now, Sir, that is also not quite true. In the first place what we have stated is that 'if it should be essential'—those are the qualifying words, if it should be considered essential, then the Centre might be given an exten-

sion for another five years. Now there were one or two difficulties which were responsible for the attitude—at least so far as we were concerned—for the attitude that we have taken up and the difficulties were (1) technical and (2) practical considerations. The technical difficulty was that as soon as we had agreed to serve on the committee it was stated that we had accepted the principle. We questioned as to what the principle was. We said that we 'are' not opposed to an amendment of the Constitution. There are various articles in the Constitution which we should like to see amended, but we were opposed to this particular amendment, and the fact that we had agreed to serve on the committee did not mean anything more than that we had accepted the principle of amendment of the Constitution, but it was suggested that the principle involved was to grant an extension of the period of time. Now that was the technical objection.

The second was the practical consideration. Now what we found was that the majority party which has the necessary voting strength was committed to carry through the amendment; we were opposed to it. Under that circumstance what could be done? We thought that it would be a matter of expediency, of practical good sense, to strive for a compromise and as, if I may say so, owing to lack of foresight, Government were bent upon such a measure, we thought we might at least mitigate the evil effects by limiting it to five years' period of time.

Now, Sir, that explains the position that at least we had taken up in the Select Committee and the reasons why we had stated that if it should be considered essential, an extension of a five-year period might be given.

Now I come to the amendment itself. It appears to me, Sir, that the differences between the Government and us arise from one or two considerations. The first is the difference

in appreciation and assessment of certain factors bearing upon this issue. The second is a fundamental difference in our approaches to this problem. Under the first category I should like to place before you, Sir, certain facts. For example, it has been stated by the hon. Minister in this House—and it has been repeated many times—that what the Government is doing is simply taking certain power and placing it in the Concurrent List. They are not placing these powers in List I, they are placing them in List III. Now, I am reminded of the story of the woman—which was related in this House by Dr. Ambedkar—who when accused of having an illegitimate child stated, "well, but it is a small baby". Sir, the fact remains that the transference of these powers to the Concurrent List would entail encroachment on the rights of the States. There is no denying that fact because if and when the Centre will exercise these rights, to the extent that the State laws may be repugnant to the Centre's laws, then the Centre's laws will prevail.

**SHRI T. T. KRISHNAMACHARI:** We are saying that the baby is necessary; not that ~~is it~~ not wanted.

**SHRI B. C. GHOSE:** It may be your idea that it is necessary but we thought it was not necessary at all.

Now, the point that I was suggesting was that the Government are not taking over these powers merely to place them in a glass case, just to look at them and be happy that they have these powers. They have taken these powers to use them as the hon. Minister himself has made it clear many times. He is quite frank in his opinion, for which I congratulate him. They intend to use these powers whenever necessary and intend to use them to the fullest extent and therefore there is no doubt that the powers of the States will be encroached upon and to that extent we do not think that any difference is

made by the simple fact that these powers are placed in the Concurrent List. Sir, I do not want to enter into a discussion on the question of the occupied field to which the hon. Minister has referred because that was discussed at very great length in the other place and I do not want to waste the time of the House by referring to that problem, because I believe we shall be travelling along two parallel lines not coming to meet at any place, if we started that discussion.

In the second place, it is said that even though the powers are taken over by the Centre in the Concurrent List, yet their administration will virtually remain with the States and so really it is not such an encroachment. That I think is a naive argument because that would mean that the Centre will only act in collaboration and co-operation with the States. Now, that has been the basis of our argument for opposition to this amendment. We have stated that if it is necessary to have such powers, they must be exercised, to be effective, in co-operation with the States and if it is agreed and conceded that the powers must be exercised in co-operation with the States, then there is no sense in the Centre taking over these powers.

We can certainly visualise a position if that were a correct statement of facts that there might be conflicts between the Centre and the States and if such a conflict arises the Centre will certainly try to force the States to pursue a line of action that the Centre desires.

In the third place it is stated that this power is necessary in view of the needs of planning and certain Members have advanced the argument that planning and control go together. You cannot have any planning without control and since we are committed to Five Year Plans in succession therefore these powers of control should also be in succession, that is. in perpetuity with the

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Centre. That also, I feel, Sir, is a sort of naive argument. Take the present situation. There is a plan and we shall have many more plans but certain fields still lie within the sphere of the States, for example, health, education, irrigation etc. In these matters also planning is necessary but planning is being done in co-operation and consultation with the States. It does not necessarily mean that because we must have planning therefore we must have all controls with the Centre. There are certain controls which are necessary; we realise that. But it has been found that even the present distribution of powers has not stood in the way of the plan being implemented and the present distribution of powers means that the States have certain rights.

In the fourth place it has been argued by the hon. Minister that these powers are already with the Centre. So it does not mean a new situation. That argument was, I believe, validly answered by my friend Mr. Dasappa that once we pass this legislation, it will become ten points of the law. The States know that these powers are with the Centre but they know as well that after five years these powers will revert to the States.

In the fifth place, we might examine a little more closely the merits of the case as to whether it is necessary that control measures should always lie with the Centre. Is our experience this that the Centre has always acted in the national interests without any fault or defect? Have not there been measures which have been with the Centre and their exercise of them has not always been conducive to national interest? Sir, we shall have a Bill in this House presently—the Indian Tariff (Amendment) Bill—and I hope I shall have occasion to show to the Minister that there have been cases where although the Centre has had the power that power has not always been exercised in the national interest. And how can we presume that if these powers

were left with the States, the States will act in an anti-national manner? What ground have you really to believe or to argue that if the powers are left with the States, the States will not act in the national interest? It is quite conceivable that a particular State might some time take up an attitude which might appear unreasonable because it may be guided only by its own interests but I am sure if the larger interests of the nation are brought to its notice, it will not be so foolish as to say, 'No, whatever the national interests may be, the local interests must prevail'.

SHRI GOPIKRISHNA VIJAIVAR-GIYA (Madhya Bharat): Why do you assume foolishness on the part of the Union Government—that it will do something foolishly?

SHRI B. C. GHOSE: I do not say that. I suggest, let us place both the Centre and the States at the same level. There is no reason to suppose that the States will be more anti-national than the Centre or they will not be more anxious to safeguard the national interests than the Central Government will be. I am not placing one above the other.

SHRI B. GUPTA: Under the Congress they will be equally bad.

DIWAN CHAMAN LALL: Could you be sure of concerted action?

SHRI B. C. GHOSE: Certainly; there is concerted action today and the hon. Minister will bear me out that the Centre is working more or less in close co-operation with the States.

DIWAN CHAMAN LALL: Concerted action on the part of the different States acting to one purpose.

SHRI B. C. GHOSE: Certainly I believe that if the national interest is explained to the States they will not be so foolish as not to fall in line with what might be considered the national interest. I do not believe it, whatever may be the complexion of the Government—whether it is the Government of my

friend, on my left which, I believe, will never be established in the country, or whether it is the Government of the Congress.....

DR. RADHA KUMUD MOOKERJI (Nominated): 'National interest' means all-India interest.

SHRI B. C. GHOSE: 'National' means the interests of the country as a whole. I was suggesting, Sir, that in the Constitution today there are sufficient powers with the Centre to safeguard national interests. In a national emergency there is power under article 250; in a national emergency they can take over all powers. In temporary emergencies, there is power under article 249, although that power is limited to one year. And I believe that is a very wholesome provision, because it should be limited to one year as it should be necessary for the Centre to come and explain their conduct every year for powers that they want to assume. And now, if you give this power to them in perpetuity, it will mean that they will never have to explain their conduct before Parliament or before anybody. Incidentally, I cannot help referring here to the fact that the passage of this amendment will entail, at least after 1955, some curtailment of the rights of this House. Those rights are already with the Centre, but after January 25, 1955, those powers would have vested with the States and therefore, if the Government had wanted any powers under this article they would have had to come to the Rajya Sabha and ask for powers, so that they may legislate in those fields. As it is an encroachment upon our rights as well, it is, I believe, incumbent upon us to oppose this measure as strongly as we possibly can. Even so, the hon. Minister had stated that even if we did not pass this amendment, he had sufficient powers under other provisions or under administrative acts to get what is intended to be obtained by this amendment and he referred also to colourable legislation. I believe he would rather re-

sort to straightforward and direct methods—and I congratulate him on that—than resort to colourable legislation. I think it is an important matter that if you feel that you have already sufficient powers and then if you know also that you can take resort to certain practices which give you those powers then you have no case to amend the Constitution. I think the amendment of the Constitution is not a very light matter. It should be resorted to only when there is a very serious situation or when there is a strong case for such an amendment. I do not think that a case has at all been made out. For example, if you look at the amendment, Government have included jute in the present amendment; but, so far, jute was not in article 369. The Government have had no difficulty in regard to jute. As a matter of fact, as the hon. Minister has himself told us, the production of jute has gone up from 16½ lakh bales to 46 lakh bales; even without this power and even though it is a State subject, there has been sufficient improvement in the matter of jute. As a matter of fact, if it is considered that the Centre should have power in the event of certain contingencies developing in the future, then the Centre should have all the powers; anything might happen with regard to any of the powers that might be vested, or that are today vested in the States, and, therefore, the hon. Minister might quite legitimately advance the argument that no powers should be left with the States and that all the powers should be with the Centre. Certainly we are not going to accept that kind of a proposition.

Finally, on this matter we might ask ourselves as to what is the necessity at the present moment of passing this piece of legislation. The Government themselves agree that today there is no emergency; that so far as food and all other materials are concerned, the position is very easy. But their argument is that contingencies or emergencies may

[Shri B. C. Ghose.]

develop when such powers should be with the Centre and, therefore, what may happen in the future and consideration of that fact are supposed to have induced the Government to bring this amendment on the floor of the House today. I think that is a very bad argument, because that is not an argument which should be used for amending the Constitution. Only when the circumstances are so strong and compelling that it becomes absolutely essential here and now to amend the Constitution, the Government should have brought such a measure. Why is it then that even under those circumstances, the Government have thought it right to bring forward such a piece of legislation at this moment? The conclusion becomes irresistible that it is probably because of the political complexion of the different State Governments at the moment, because in future it might not be so easy to get through such a piece of legislation in view of the provisions in the Constitution.

SHRI H. C. DASAPPA: Why?

SHRI B. C. GHOSE: Because there must be 51 per cent. of the States in favour and that might not be possible in the future.

SHRI H. C. DASAPPA: Oh! oh!

SHRI B. C. GHOSE: I am suggesting that it is a very bad precedent that the present Government is very lightly tinkering with the Constitution, because it may induce the other parties, if they are in the same position again, to ignore.....

SHRI T. T. KRISHNAMACHARI: I think it might be 'lightly dealing' or 'tinkering with'.

SHRI B. C. GHOSE: It is both, it is 'dealing lightly' and 'tinkering', although tinkering is always done lightly. I was suggesting that the other parties might also introduce amendments to the Constitution in the same light-hearted manner. That

is a thing which we do not want and no precedent of that nature should be set up.

Now, so much about the merits of the case. But even apart from the merits, the reason why Government have come forward with such a piece of legislation and the reason why we are opposing it, is certainly due to a fundamental difference in our approach and that difference is in our attitude towards the question of 'centralisation' and 'decentralisation'. I am aware that the hon. Minister has stated that he also wants decentralisation as far as possible. I am also aware that the Prime Minister himself has stated that he is all in favour of decentralisation, but there must be strategic controls. Now, those are very fine words, but I believe there is a fundamental difference. Although we sometimes speak the same words, those words do not have the same meaning. I can best illustrate what I mean by referring to you the difference in approach on the part of our friend who is not present here today, Shri Deokinandan Narayan, and the honourable Commerce and Industry Minister in regard to the problem of cottage industries. I believe that there is a fundamental difference between my friend Shri D. Narayan and the Commerce and Industry Minister on the problem of cottage industries. Yet the Commerce and Industry Minister has all the time told us that he is all in favour of protecting the cottage industry as far as possible, but that does not satisfy my hon. friend Shri D. Narayan. So there is a fundamental difference in the approach to that problem and in our approach to this question, there is also a fundamental difference. It is not merely a matter, as the hon. Minister might say, of semantics. This is a question of something very much fundamental and I think that this is a very wrong approach to the whole problem and if we proceed in this manner, we feel that it will not be to the good of the country. Centralisation of power, whether in politics or econo-

mics, is something to which we are vehemently opposed. And, therefore, Sir, we think that from every point of view this is a very bad piece of legislation which should be opposed as strongly as possible.

**MR. DEPUTY CHAIRMAN:** Before I call on the next speaker, I should remind the hon. Members that the Business Advisory Committee has fixed four hours for the debate on this Bill. And now only two hours and thirty or forty minutes remain at our disposal. I want to close the speeches of all the Members today, and if necessary, we may sit even beyond 5 o'clock, as long as we do not finish the speeches. And the hon. Minister will reply tomorrow. We will take up the clause by clause consideration tomorrow. That will give about one and a half hours extra. I would request hon. Members also to restrict their speeches. I have got already 15 names before me, and perhaps, one or two more may crop up. Yes, Mr. Tankha.

**PANDIT S. S. N. TANKHA** (Uttar Pradesh): Mr. Deputy Chairman, I wholeheartedly and unreservedly support the measure before the House. Knowing fully well, Sir, the gravity of the measure, namely, that it is an amendment of the Constitution and not an ordinary piece of legislation. I am in entire agreement with those hon. Members of the House who consider that the Constitution is a very sacred thing, and should not be lightly interfered with, and should not be amended for small matters. I am also fully conscious of the fact, Sir, that only five years have elapsed since our Constitution was enacted and this is the third occasion on which we have found it necessary to amend the Constitution. But, Sir, in this connection, what we have to see is whether we are amending the Constitution for the well-being of the people and for arming our Centre with powers which are necessary for discharging its obligations effectively, or, we are arming the Centre

with measures which will be arbitrary, and which it may at its choice use to the detriment of the people in general of the various federating States. In the light of this standard or yardstick, let me examine the present measure and see what it aims at.

Now, Sir, as the House is well aware, our Constitution prescribes three lists of legislative competence under Schedule VII, namely, list I prescribing the legislative field for the Centre, list II which is reserved exclusively for the States and list III the Concurrent List—which prescribes subjects on which both the Centre and the States can legislate together. Now, Sir, item 52 in the Union List, list I mentions the following:

“Industries, the control of which by the Union is declared by Parliament by law to be expedient in the public interest”, and item 54 in the same list mentions “Regulation of mines and mineral development to the extent to which such regulation and development under the control of the Union is declared by Parliament by law to be expedient in the public interest.” So, Sir, it comes to this that the Constitution contemplates and makes permissible under list I the making of laws by Parliament in matters of industries, mines, minerals etc. which it considers to be expedient in the public interest. Now, Sir, list III, which is the Concurrent List, mentions against item No. 33 as follows:

“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.”

Now, Sir, what are we doing in respect of this item by the proposed amendment to the Constitution before the House? What we are doing is

[Pandit S. S. N. Tankha.]  
merely adding on to this item 33 certain articles enumerated in clause 2 of the present Bill, namely, "Trade and Commerce in, and the production, supply and distribution of: (a) the products of any industry where the control of such industry 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". Now, Sir, the words "imported goods of the same kind as such products" are intended to be introduced in addition to what is specified in item 33. And further, Sir, the clause provides for inclusion of articles, namely, under sub-clause (b) foodstuffs, including edible oilseeds and oils, and further the articles mentioned against sub-clauses (c) to (e), namely, under sub-clause (c) cattle fodder, including oil-cakes and other concentrates, under sub-clause (d) raw cotton, whether ginned or unginned, and cotton seed, and under sub-clause (e) raw jute. Now, Sir, we have therefore to see whether or not powers to legislate in respect of these matters should be given to the centre by placing and thus including these articles in the Concurrent List. To arrive at a correct decision on the point, we have further to note that the Constitution, under article 369, gave powers to the Centre to legislate in respect of all these articles, for which provision is now being asked for for a temporary period of five years, and which period, Sir, is to expire on the 25th of January 1955. Article 369 reads as follows:

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

(a) trade and commerce within a State in, and the production, supply and distribution of, cotton and woollen textiles, raw cotton (including ginned cotton

and unginned cotton or Kapas), cotton seed, paper (including newsprint), foodstuffs (including edible oilseeds and oil), cattle fodder (including oil cakes and other concentrates), coal (including coke and derivatives of coal), iron, steel and mica;"

Now, Sir, out of these articles mentioned in sub-clause (a), articles such as cotton and woollen textiles, paper (including newsprint), coal (including coke and derivatives of coal) and iron and steel have been declared under section 2 of the Industries (Development and Regulation) Act, 1951 to be such in respect of which it is expedient in the public interest that the Union should take under its control, the industries having been specified in the First Schedule of the said Act.

Therefore there remains only the following articles, viz.....

MR. DEPUTY CHAIRMAN: You can continue in the afternoon. There is a message from the Lok Sabha.

#### MESSAGE FROM THE LOK SABHA

##### ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT) BILL, 1954

SECRETARY: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary to the Lok Sabha:

"In accordance with the provisions of Rule 132 of the Rules of Procedure and Conduct of Business in the Lok Sabha, I am directed to enclose herewith a copy of the Administration of Evacuee Property (Amendment) Bill, 1954, as passed by the Lok Sabha at its sitting held on the 25th September 1954."

Sir, I lay the Bill on the Table.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at one of the clock.