

COUNCIL OF STATES*Friday, 18th July 1952*

The Council met at a quarter past eight of the clock, MR. DEPUTY CHAIRMAN in the Chair.

PAPER LAID ON THE TABLE**KUTCH MOTOR VEHICLES RULES, 1951**

THE MINISTER FOR PARLIAMENTARY AFFAIRS (SHRI SATYANARAYAN SINHA) : Sir, I beg to lay on the Table a copy of the Kutch Motor Vehicles Rules, 1951. [Placed in Library, See No. P/28-52:]

THE INDIAN TARIFF (THIRD AMENDMENT) BILL, 1952

MR. DEPUTY CHAIRMAN: I have to inform hon. Members that under Rule 162 (2) of the Rules of Procedure and Conduct of Business in the Council of States, the Chairman has allotted time till 10-30 a.m. today for the completion of all stages involved in the consideration of and the passing of amendments, if any, to the Indian Tariff (Third Amendment) Bill, 1952.

THE MINISTER FOR COMMERCE AND INDUSTRY (SHRI T.T. KRISHNAMACHARI) : Mr. Deputy Chairman, I beg to move :

That the Bill further to amend the Indian Tariff Act, 1934, as passed by the House of the People, be taken into consideration.

Sir, the present amending Bill is necessary because under sub-section (3) of section 4A of the Indian Tariff Act, 1934, power vested in the Government of India to impose export duties or to raise them has lapsed with the 1st March 1952. The wording of sub-section (3) is very categorical in that regard. The circumstances that existed at the time when this amendment to section 4A was introduced still continue to exist. And as we all know, we are living in times of uncertainty. Prices of articles which are exported from this country vary 9 C. S. Deb.

considerably in the markets of the world. I may give a few instances to show how prices in this country and prices abroad in regard to certain commodities which form part of the list of goods exported vary. In the case of groundnut, the price in India is Rs. 20-15-0 per maund during the last week of June 1952. In Singapore it is Rs. 48-2-0. In the case of oilseeds, particularly linseed, the price in India is Rs. 508 per ton about the same time—last week of June, and it is Rs. 974 per ton in the United Kingdom. Castor oil price in India is Rs. 1,120 per ton and in the U.K. it is Rs. 2,150 and in Egypt it is about Rs. 4,000. Linseed is much the same. This only indicates with prices ruling in the markets of the world fluctuating in the manner in which they have been fluctuating, a provision of this nature, authorising the Executive to impose export duties has to be continued for some time to come.

It may be asked, Sir, whether we should not put a time limit on the operation of this particular section—section 4A. The experience of the past has been that when the Government agreed to a time limit, the time limit has not merely been one that has put a seal on the necessity for continuing these powers, but it has also led to difficulties. I may add—and that I think must be more or less common knowledge in this House—that owing to a misreading of sub-section (3) of section 4A, the Revenue Division of the Government of India had felt that they were competent to go on levying export duties even after the 1st March 1952. Almost by an accident, we detected that the legal position was a little different and today, in bringing this measure before the House, we not merely seek to extend the powers that were vested in the Executive but also the condonation of what has been done by the Executive owing to a mistaken interpretation of sub-section (3) of section 4A. I can also tell the House that the amount of duty that we have collected, which our Law Department say has been collected under powers which are not legitimately vested in the Government

[Shri T. T. Krishnamachari.] after ist March 1952, comes to Rs. 1,63,00,000. This mistake which I am asking this House to condone, only indicates how difficult it is to operate a provision which restricts Government to a particular day, a day which has really no validity either in commercial practice or no relationship in the matter of the financial year adopted by Government.

It might be asked, if this section 4A is to be put on the Statute Book more or less as a permanent measure, what control will Parliament have. I would at once assure the House that the control of Parliament in regard to executive action taken under section 4A is complete. The control is not merely exercised by reason of the fact that you limit the operation of the section to a particular time and make Government come back to Parliament for renewal of the powers. That is not really necessary, because every act taken by Government under this section must have the approval of Parliament. Sir, section 4A, I may just remind the House and such of the hon. Members who might not have read this particular sub-section (2) of section 4A, reads thus :

"Every such notification shall be laid before Parliament, if it is in session, as soon as may be after the issue of the notification, and if it is not in session, within seven days of its reassembly, and the Central Government shall seek the approval of Parliament to the notification by a resolution moved within a period of fifteen days beginning with the day on which the notification is so laid before it ; and if Parliament makes any modification in the notification or directs that the notification should cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, but without prejudice to the validity of anything previously done thereunder."

Thus, hon. Members will recognise there is complete and thorough check on the initiative of the executive in this matter, subject only to this fact that the mischief would be done between the time that the notification is issued and the time Parliament takes cognizance of it, if it has happened that the notification has issued at the time Parliament is not in session. But that, in the present scheme of things, when

Parliamentary sessions are likely to continue for seven, eight or nine months in the year, is not likely and the scope for governmental or executive action without parliamentary approval would be very limited indeed.

Sir, yet another reason which I would like to reiterate now and which was mentioned at the time section 4A was incorporated into the Tariff Amendment Act is that the House will have to recognise that the imposition of export duty is something altogether different from the scheme of taxation of a Government. Export duty, *per se* is not intended to be a revenue producing measure, though incidentally it is. Very many of the duties that this Government has imposed within the last two years have been merely for the purpose of correcting an economic disequilibrium rather than to augment the revenues of Government. Of course, it is true that when export duties have to be reduced or abolished the revenues of Government are affected; but, that is the headache of my colleague, the Finance Minister and is not the principal reason. It is not possible for the Executive to bring before Parliament and get its approval every time because quick action and secrecy happen to be vital in regard to taking any steps for correcting an economic disequilibrium. If I do intend suggesting to my colleague, the Finance Minister, to impose an export duty on a particular matter and the matter gets known, there are elements in society, both in India and outside, which would speculate considerably and more or less nullify the effects that we intend to achieve by reason of the imposition of the export duties. So, inevitably, Mr. Deputy Chairman, we cannot escape from the fact that some discretion has to be given to the executive because quick action is necessary. All that we can do is to say that the Executive will have to approach Parliament for ratification of its action and in so doing, they will have to take care to see that anything that they do is of such a nature that the matter could be explained to Parliament, its support obtained and ratification also

obtained of the action taken by the Executive. So, it is not a question of the Executive acting in this matter without any realisation of the responsibility or in any haphazard manner. The operation of this particular provision is very peculiar indeed. The initiative in regard to this matter has to commence in my Ministry. After all, being responsible for Commerce and Industry we have to take the initiative. The actual question of the issue of the notification and the collection of the duty thereafter is the province of the Revenue Division of the Ministry of Finance. Also, in regard to any change that might occur, we have to advise the Revenue Division to make the changes and we have been advising them. Such advice as has been tendered by the Ministry of Commerce and Industry has been accepted practically in all cases.

I would cite an instance that took place recently. We had introduced export duty on jute twice within a very short period and the result has been extremely good. I do not know what the position today is, in view of the reduction in the export duty by Pakistan and the consequent reduction in the price of jute for manufacturers in the Continent, but it did happen that by prompt action on the part of Government we were able to keep our markets abroad, particularly in the United States where the Continental competition is very great. I have mentioned all this merely to illustrate that the powers vested in the Government by this section are being used seriously and well and for the benefit of this country. I do not recollect any instance—well, vested interests do complain—but by and large, there have been no complaints that the powers have been misused or that even there has been a shadow of abuse of the powers. Sir, I have stated the position very clearly. I have indicated that the operation of the restriction is in fact meaningless because the powers of Parliament are there which could be used for purposes of restricting the scope of the Notification when the Notification is laid before Parliament. Merely saying today that it would be enough if these powers are on the Statute

Book for one or two years seems projecting in the realm of conjecture. I think it would probably be wise to have this as a provision on the permanent Statute of the land. The temporary nature of the powers have been very clearly indicated by me and in any event, the control of Parliament over the executive in this matter is both complete and continuous. Sir, I move.

MR. DEPUTY CHAIRMAN: I will read the motion. Motion moved :

That the Bill further to amend the Indian Tariff Act, 1934, as passed by the House of the People, be taken into consideration.

SHRI C. G. K. REDDY (Mysore): Sir, before I proceed, I should like to say that in cases of amending Bills the Act which is being proposed to be amended may also please be circulated to Members.

KHWAJA INAIT ULLAH (Bihar) : It is circulated.

SHRI C. G. K. REDDY: Only relevant sections which are being amended. As all of us are new Members we do not know what is the nature of the Bill—of course the sections are there and the Act is available, I know, in the Library or elsewhere—but it would be much better, more convenient, if these were circulated in complete sets a couple of days before.

Sir, there are certain principles involved in the proposed amendment to this Act. There are two ways in which these amendments have effect. One is that the executive seeks to continue certain powers that were given temporarily hitherto; secondly, and in my opinion most importantly, it seeks to validate certain illegal, and I should like to repeat, admittedly illegal things that this Government has done since March 1952. Sir, on principle I don't think any hon. Member of this House would disagree with me if I say that any act which has been done illegally by a Government, whether it is due to negligence or deliberately—I don't think that it was done deliberately—is a thing

[Shri C. G. K. Reddy.] that ought to be condemned and I was surprised when the hon. Minister spoke in moving the Bill for consideration ; the tone was such that he did not appear to be regretting that his Ministry was responsible for this negligence and we are told, Sir, that there could be no complaint that the executive has been abusing the powers and that it would be quite wise and safe to let the executive look after things instead of Parliament. Sir, by the very absence of regret and apology to Parliament for things that have obviously been done illegally, I should think that the attitude of the Government to Parliament is now very clear to us. In the face of this I do not see how Parliament can accept the contention of the hon. Minister.

After all it is said Parliament is the supreme authority and even if there is a little time lag between the action of the Executive and the supervision or other action that the Parliament may take, it still is the supreme authority and it can always pull up the Executive. We are all aware, Sir, that Parliament is the supreme authority and whether an act is there or not, every act of Government is subject to the supervision and control of Parliament. Actually speaking let us see what happens if certain powers that hitherto have been given temporarily are there permanently on the Statute Book. Let me quote a hypothetical case, Sir. Supposing Parliament does not meet for two or three months together and immediately after we adjourn, a certain act is done under this Bill. Then, it would be about three months before we would be able to pull up the Government if we felt that the Government was wrong. So, Sir, I feel that the principles involved in this Bill are of such importance that it must receive our consideration. Unfortunately, this is a money Bill and, so far as this Council is concerned, it cannot throw it out ; but I am surprised that it has reached the stage of coming to the Council because, I should have thought that these principles ought to have been recognised elsewhere also.

Sir, I should like to make a suggestion in view of the fact that we do not have the power to amend or throw out this Bill. Sir, it will be remembered by hon. Members that on the last day of the last session when I had complained of certain things, about certain import duties which were intended to be imposed on certain goods, it was said in justification, Sir, that after all the Tariff Commission recommends and the Industry and Commerce Ministry accepts its recommendations. Now, I should like to know whether there is any body which recommends these export duties on whose advice the Ministry acts. In the absence of such a body, Sir, in whom we can have some trust, is it possible for us to give the Government unrestricted power ? I should like the hon. Minister to give us an assurance that apart from the Executive—I fully understand his argument that he has to take action quickly if there is a disparity in prices between those ruling here and elsewhere ; if certain rise or fall occurs, he has to take immediate action, in spite of that, I should like the hon. Minister to give us an assurance that the steps that are intended to be taken under this Bill will not be arbitrary, will not be done solely by the Executive, but that those acts will be done in consultation with a body in whom we can have some confidence. If this assurance is there, the fear that

I have of the effects of the Bill would be set at rest to some extent. Therefore, Sir, I appeal to the hon. Minister to let us have an assurance that he would set the fears that we genuinely feel at rest, and give us an assurance that the principle hitherto accepted would be followed. If I may read it out, Sir, it is said that the Central Government may by notification in the official Gazette direct a temporary amendment of the Second Schedule to be made, etc and again in sub-clause (b) of clause 2 it is said :

"for sub-section (3) the following sub-section shall be substituted, nantelv:—

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

I do not know what the interpretation of the hon. Minister is, but it would appear to me—I am not a lawyer—that when he says on the one hand that Parliament is supreme, and when this sort of thing is there in the Bill, then it would take away what little control the Parliament has. In view of this we should like to have some sort of an assurance from the hon. Minister in this connection and, as I said already, we have no power except to ask for assurances and recommend certain changes.

KHWAJA INAIT ULLAH : And to criticise also.

. SHRI C. P. PARIKH (Bombay) : Mr. Deputy Chairman, I rise to support the Bill which has been moved by the hon. Minister for Commerce and Industry. He has already expressed his regret for not having brought this Bill forward earlier, before the Parliament dissolved in the month of March and I think the hon. Members of the Opposition should be satisfied with that remark. It is good that the fact has been found out even though after four months, but when it has been found out and when the hon. Minister has regretted for it, I think the House should accord its full approval for condoning the omission.!

Now, Sir, with regard to the history of this Bill that amendment was passed in December 1950, just six months after the Korean War started and that amendment continued till March 1951. The emergency existed in commerce and trade ever since the Korean War started and during these six months a large amount of revenue could have been mopped up by the State in the shape of export duties. So I say, Sir, that if the Tariff Board had these powers earlier in its original Bill of 1934, it would have been a welcome feature, because during the first six months of the Korean War a hundred crores of rupees were lost by way of export duties to this Government. Oil seeds, short staple cotton, coarse and medium cloth and hessian—these four commodities alone would have brought to Government revenue over one hundred

crores, because the total value exported of those commodities was in the neighbourhood of 200 crores. In foreign countries the prices were 100 to 300 per cent, higher at that time and any man in the street could sell those things. Therefore in order that such an eventuality may not arise in future and the revenue whenever necessary could be mopped up by the State allowing the business and trade only its legitimate profits, and not the additional profits which they gain because of international situation etc., this Bill is welcome.

My hon. friend in the Opposition has said that before these duties are raised, they should be examined by the Tariff Board. He perhaps forgets that the Tariff Board is only investigating into the levy of protective duties and.....

SHRI C. G. K. REDDY : I did not say Tariff Board. I said some body which should advise the Minister and in whom we can have some confidence. I am aware that the Tariff Board has other functions

SHRI C. P. PARIKH : But, Sir, there is no body or institution which is capable of going into this matter. Moreover the Ministry has to keep this a complete secret, because whenever they have to levy a duty, they may have to levy it within 24 hours. Many factors have to be taken into account—the value of the exports that are being made, the demand for our goods in the foreign markets, etc. It is only the Commerce Ministry that is competent to examine all these aspects. It has to see that our export trade does not dwindle as a result, that our supply situation remains easy, that our internal resources are not depleted, that foreigners pay for our goods properly and not exploit us, and that middle men here do not make much profits. This assessment has to be done by the Commerce Ministry in closed chambers and the whole thing should be kept like a budget secret.

Now, with regard to these duties Sir, I have to say that when these duties are raised, naturally the Hon. the

[Shri C. P. Parikhs] Commerce Minister has to see that our trade does not deteriorate or languish on this account. When export duties are raised or levied, we have to see that they are levied at the proper time, or reduced at the proper time or increased at the proper time. The unfortunate part is when these increases were made huge profits had already been made by the exporters. Now the export duty on jute was raised to Rs. 1,500; that was done three months late, and after levy it should have been reduced much earlier. It was reduced to Rs. 750 three months later than it should have been. The thing is that in such cases our export trade suffers, because while levying duty we have to see that we are able to continue to export the maximum quantity to the foreign markets and that those markets are not lost to us. As a result of the mischief done in the case of jute, Government have lost a considerable revenue. At least when the reduction was demanded, Government could have acted promptly but the reduction also came too late. The result was that during this time many mills in Scotland and Germany working on jute worked three shifts and ousted our trade. We should see that such things do not recur and I would request the hon. Minister to see that they govern the position of the trade in such a way that our export markets are not lost to us. The time has now come when these export duties which are now existing will have to be reduced and reduced considerably if not abolished, because how can we go on importing things unless we are able to export sufficient quantities from our country. Export is the keynote of the development of our economy and if we do not consider these factors carefully, the whole internal economy will suffer.

Therefore, I have to bring to the notice of the hon. Minister this fact that this position has to be watched from month to month. He may take officials and non-officials into confidence by getting information as to how trade moves in foreign countries. He should not be satisfied with the information which is available in this

country. Information should also be acquired from our Embassies in foreign countries, because our Embassies are also responsible for the trade which is carried on in foreign countries. I think that our Embassies in foreign countries should be strengthened by competent Commercial Representatives attached to those Embassies, so that they would give us information as to the state of business in those countries, whether certain goods can be sold there at certain prices, what are the ruling prices in those markets and how we can sell larger quantities and so on. I think our main object should be to strengthen exports, and for strengthening our export trade our Embassies should be strengthened as much as possible. Reduction in duty a little late, or increase in duty a little late—these would not have happened if these departments both in India and abroad had been vigilant.

These export duties are levied in order that the merchants may not make undue profits. The recognised due share for the merchants is from two to ten per cent, and with that share of profits they were satisfied before 1939. I say that with that share the mercantile community will still be satisfied. But the Government should know what is the consistent policy, and that policy should be followed in order to have maximum exports. The duties should not be changed every now and then. When they are changed they should be changed with the view that our internal markets are not depleted and there is no undue rise in price in the country which affects our cost of living index. In exporting quantities of cloth last year, the Government made a great mistake in allowing huge quantities to be contracted to be exported. Licences were issued for 50 per cent, of the entire production of this country, I have to bring to the notice of the hon. Minister for Commerce that no totals for such licences were made, no figures were available in the press or to the public of the huge exports; but the merchants in this country who knew this trade

knew that such exports cannot be maintained on account of the internal position in our country. Fifty per cent, of our production of cloth was to be exported, and that would have created a scarcity in the country which no Government would have been able to justify. Our export commitments had therefore to be reduced and staggered. I think that such a policy of not seeing six months ahead in the matter of exports has severely hit both our economy and our business morality. Our trade in foreign countries suffered when we staggered the contracts. Contracts which were made in January 1950, were postponed till December 1950. Naturally, this lapse of twelve months in honouring the contracts is unprecedented in business morality. These events happened because the Government did not watch the situation. I have simply to ask the hon. Minister to see that these things do not recur. The situation has to be examined from month to month. The international situation has to be examined from month to month, because changes occur very rapidly in trade and commerce, and we are passing through times when we do not know what will happen next month. This Bill seeks to give power to the Government to act with all speed and take such action as is necessary, and I heartily support it on that account. But I have made some suggestions. A review of the position should be made every month both as regards quantity and prices; and the internal administration as well the foreign Embassies should co-operate fully, and if these fail, the country will be ruined in so far as our main economic sector is concerned, namely the import and export trade. With these words, I again support this Bill.

SHRI B. GUPTA (West Bengal) : Mr. Deputy Chairman, we have been confronted with two propositions. One is that we must condone an illegal act, and the other is that we should give powers to the Executive to impose certain taxes or duties without the prior sanction of this Parliament. Now,

I do not like these propositions to be summarily treated or dismissed lightly in the way in which the hon. Minister has sought to do it. After all, the question of taxation is a very vital matter. It relates to the sovereign powers of Parliament so much so that Parliament has to guard it at all costs. Besides, the condonation of an illegal act is also a matter which should not be glossed over.

I start with the condonation which is proposed. The hon. Minister has not expressed any regret at all. We know, Sir, this is not the way of presenting the proposition before Parliament. If a certain illegal act had been committed by the Executive, the hon. Minister should have come here and expressed regret—(An hon. Member "With folded hands ?")—and asked for condonation of the act. He has done nothing of the sort. He just asks us to condone this act. We know, Sir, that the habit—I am not using strong words—of committing illegal acts has become so infectious in high quarters that even the Revenue Department, which is supposed to be less violent than the Department of the hon. Dr. Katju, has caught the contamination and has started committing such acts. If some people in high positions begin to commit such illegal acts, there is no reason why we should be called upon here to condone such acts rather than condemn them. That is one point which I want to bring before the House.

Secondly, we have not been told as to how these illegal acts came about, who committed them, who are responsible for them, what steps Government have taken to prevent a repetition of such illegal acts, and so on. We have not been told anything at all about these matters. The hon. Minister may be interested in hiding the commission of illegal acts and their perpetrators. But we as Members of Parliament here are all interested in finding out who are the people who have got into this habit of committing such acts in disregard of Parliament when it is there. I seek some light on this point from the hon. Minister.

[Shri B. Gupta.]

The other proposition which is before the House is regarding giving them permanent powers. He has said that the economic situation has caused disequilibrium, and that it was for doing something which the exigencies of the situation required that he needed powers and then in the same breath he has asked for permanent powers—that this Bill should go into the Statute Book as a permanent measure. I think these are two inconsistent propositions. If the need for imposing export duties is temporary required by the exigencies of the present day war and economic situation, then why do you ask for permanent powers? Why not be satisfied with temporary powers, and why not agree to the time-limit that was pressed for in the other House? We know that the Executive feels uncomfortable when it sees that these permanent powers are no longer there as in the old days when they used to enjoy them. Now there is this Parliament which wants to talk in terms of power. So this little pilfering has started—this little encroachment, this poaching, so to say, on the sovereign powers of Parliament—coming by the back-door, taking away as many powers as possible, and then accumulating them to make the Executive supreme and Parliament a mockery. We stand against that kind of encroachment and that poaching upon the sovereign rights of Parliament. We say that we shall give powers to the Executive when we feel that they are necessary in the interests of the People, but not in this manner; we cannot sign away what belongs to us, the Parliament of India.

Now, Sir, export duty has to keep pace with the world market. It does not affect the traders. It does not affect the consumers. That is what we have been told. But when we are asked to discuss certain levies, certain duties, we do not merely address our mind to the question as to how they affect immediately a particular set of consumers or traders. But we go into the whole complex of policies. We go into the whole proposition. We see how the export duty will be realised, how it affects the market, how it affects

our international trade and how it affects our revenues and last but not least how it would be spent by way of social services when such services are obtained. We know, Sir, The Government have taken a lot of money by way of duties. But I do not know how these moneys have been spent. But we in Bengal know that when they have collected from the jute-growing areas about 45 crores of rupees, we have been given a mere pittance of one crore and five lakhs of rupees a year. When we come to discuss such measures we can discuss how the export duties—the moneys collected by those means—would be utilised for our country. This is now the financial policy which comes in for discussion. So we do not want to give up our right to discuss such matters when we are called upon to pass certain measures for imposition of export duties. Now if we give them the power today to impose duties without prior consultation with the Parliament, we are giving away our right to discuss all matters—including allied matters—relating to such measures. We cannot accept this proposition. Parliament must have its power. Parliament must discuss the issues before the Government proceeds to impose any tax whatsoever. Parliament must discuss these measures. Parliament must know why this tax is being imposed and how it is going to be administered and what will happen to the money realised under such taxations. All these are very important and material questions. Therefore, I think the hon. Minister in his haste for securing his powers has missed certain very vital matters of parliamentary democracy. I know, Sir, that if such an illegal act had been committed in England, the hon. Minister—his opposite number there—would have been called to account and the Revenue Department would have been subjected to enquiry and investigation and the Cabinet would have been answerable to the House of Commons. But here the hon. Minister, without even a tinge of conscience, very happily and in a very gay mood, has presented us with a certain proposition as if we

are in a playhouse and have come here to act as they would like us to act. I, Sir, strongly disapprove of this measure, #as also the way in which it has been brought before this House. It is a frame of mind which is inconsistent with Parliamentary democracy. It is an attitude which is repugnant to the sovereign powers of Parliament. It is an attitude which goes against the rights and privileges of this Parliament. Therefore, Sir, I would request the hon. Minister to rectify himself and to retrace his step and to enquire a little as to how this illegal act was committed.

In the other House he said that if this act was not condoned, he would have to pay back the money by illegal means. Now this is a very interesting argument: I have committed an illegal act. Therefore if you do not condone it, I have to pay back the money. Now, Sir, I do not know how an elegant gentleman swearing by democratic and Parliamentary decorum could have said that. However, if I had my way, I would have said: Let those Department bosses who have been responsible for the illegal act pay the penalty and let them be fined for this illegal act. I know, Sir, there is no use making suggestions here because I believe that having committed this illegal act there would be some of them who may even be promoted to higher positions. Therefore, I am not going into that. It is a waste of breath in this case. Still since a protest has to be launched against it and since we must speak about it, I would make a complete and constructive suggestion: Let the officers concerned forego their salaries and put that money in the public exchequer and we shall condone this act. Otherwise we shall be condoning an illegal act without amends and no Parliament can maintain its dignity by condoning in this manner such illegal actions on the part of the officers of the Government. This is what I wished to tell.

About other things, I am deadly against giving you such powers. If by the exigencies of the situation

c-riain powers are demanded of us, come forward with your arguments and tell us why you want this and then we shall in our wisdom consider as to whether to vest you with those powers or not. But do not come in this manner with this *fair accompli* to ask Parliament to condone an illegal act. That would not go to your credit at all.

DR A. R. MUDALIAR (Madras) : Mr. Deputy Chairman, in supporting this measure I may be pardoned if I were to make certain observations regarding the history of the measure and the principles which have been adopted in enacting the earlier amendments of the same type. The 1934 Tariff Act has been amended by the Act of 1950. But if one looks to the provisions of the 1934 Act one finds that the 1950 Amendment Act is not really an amendment but is a novel feature drafted on that Act and that it was not contemplated in 1934 that such a measure would be passed or that such a measure would be contemplated. The 1934 Act gives power to the Government without reference to Parliament in an emergency to increase or decrease the protective duties that have been levied under that Act. The 1934 Act is a consolidating Act regarding customs and other duties levied by the Government. It was felt at that time that in the case of protective duties either an increase of the protective duties more often or a decrease of the protective duties in the course of the year sometimes may have to be made and Government was given that power. In other words the anti-dumping duties have necessarily to be levied by the Government in the course of the year without waiting for prior approval. And when you remember Mr. Deputy Chairman that at that time the country was very much concerned with the import of Japanese goods, particularly textile goods, you will realise why this particular power was given by the Legislature to the Government. Normally, Mr. Deputy Chairman, and I should like to emphasise it, the taxation proposals of the Government come only once a year, during the Budget time. My hon. friend said

[Dr. A. R. Mudaliar.] that the 31st of March was not a very important date. I venture to state that after years of experience by the commercial public and by the Legislatures, the 31st of March can be either an ominous date of a very welcome date to those who do business, to those who conduct industries. It is on that date that either the duties are levied or come into effect. Of course they come into effect from the 1st of March by a temporary provision. By the passing of the Bill the duties that may be levied, the taxation proposals that will have effect for the following year, are determined by the 31st of March. Normally therefore it ought to be possible for the Government, only by a regular Finance Bill or by other taxation measures in conjunction with their Budget proposals, to bring them forward and to get the approval of the Legislature. The executive having power in the interval after 31st March to levy duties of any kind according to their discretion or according to their judgment was not contemplated till the Act of 1950 amending this provision was passed. It was for the first time in 1950 that this power was taken that the Government can in the course of the year, at any time during the year, levy certain export duties on articles which are exported out of the country. It may be justifiable. I am not questioning that at the present moment. But I am pointing out that it is a serious departure from well-established policy of over 50 or 60 years that taxation proposals should normally be brought before the House only once a year at the time of the Budget so that during the next twelve months trade, commerce and industry can adjust their transactions on the basis of these accepted taxation proposals.

The justification for this amendment Act of 1950 lay in the fact that certain commodities had an internal price which had no relationship with their external price and that therefore enormous profits were made by those who exported those goods and as exports were not free, that they were

subject to licences, that only a favoured few got these export licences, there was no need why they should make these enormous profits at the cost of the ordinary internal consumer or the ordinary internal trader. It may be argued that, if they did make these profits, the vigilant Income-Tax Department should follow up those profits and get out of them 15 annas in the rupee from the profit that they made. However, that remedy was not found to be quite practicable or at any rate not as effective as the remedy which has been proposed in the Amending Act of 1950. I do not quarrel with that except to point out as I said that the principle of taxation once a year under normal circumstances has been departed from in this case, but arising out of that, there is a serious defect, at any rate, serious difficulty, which many traders come across and which I should like to put before the Commerce Minister. There are traders and traders, businessmen and businessmen. I know that it is the fashion in more than one circle to condemn all businessmen and traders but I venture to think that there are still a few who are quite honest, innocent people living in the far corners of this country, who are not as cute as those who live in certain concentrated areas where business has become a real business, that these people are lumped up with the others and that the hardship that they suffer are well-known. Now, an export duty is suddenly levied. How far are the contracts made before the export duty was levied respected or allowed to be respected? How far are those transactions which had been completed and whereby a person here selling to a merchant abroad is bound to sell at a certain price, how far are they affected by the levy of the export duty? If that merchant were to export in pursuance of that contract after the date of the Act coming into force increasing the export duty, does that contract attract the extra amount of export duty or is there any mechanism in the Commerce Ministry whereby such traders are exempted? I believe there used to be a mechanism whereby, if persons [could prove that contracts were

entered into on a certain basis and that the imposition of the export duty would lead to very grave difficulties, those contracts would be examined. If there is no such mechanism, if there is no machinery to examine the contracts which had been made properly, legitimately, without any smear of what may be called suspicious elements about them, if there is not that mechanism, I venture to appeal to the Commerce Minister and his Department to see that that mechanism is created and that such contracts are exempted.

It was quite recently my privilege to examine certain textile contracts in connection with the Textile Export Trade. In that connection, I came across letters from foreign businessmen with whom contracts had been entered into, letters couched in the most offensive language both against the person who made the contract and even more against the Government of India who levied the export duty, saying that this was not a proper business transaction and that the levy of the export duty at the present time which had to be passed on in some cases to the purchasing merchant, was an inequitable transaction. I do not want such complaints to be made of the Government of India. I realise—I have got some knowledge of the administrative machinery—that in such cases, the guilty man, the man who wants to profiteer, the man who does not make an honest contract, can escape through this process. I am aware of that danger, but I venture to think that that danger can be remedied and that cases in which honest transactions have been made should be exempted from the operation of the levy of such a duty in regard to the commodities which had been contracted for already.

9 a.m.

Now, Mr. Deputy Chairman, very heavy weather has been made about the fact that the duty expired on the 31st March and that in the interval there has been some illegal gratifications received by the Commerce Minister in regard to the export

duties. First of all, I would deprecate the use of word "illegal" and probably call it "unlawful".

SHRI C. G. K. REDDY : The hon. Minister himself used it.

DR. A. R. MUDALIAR : Then I would make a humble suggestion as a humble Member of the House not belonging to one party or the other, that he may use the word "unlawful" instead of the word "illegal" in future, in his reply with reference to these transactions.

SHRI C. G. K. REDDY : Unauthorised.

DR. A. R. MUDALIAR : AU right, "unauthorised". The word "illegal" connotes in the English language certain sinister design which I do not think the Commerce Minister intended to convey to the House, either with regard to himself or with regard to his Department. Occasionally, a mistake of this kind may be made. It may be made even by the Opposition Members in a different direction. But to say that this was a mistake, that those who committed this mistake should come in sack cloth and ashes and make a *sashtanga namaskaram* before the hon. Members on the other side of the House, and say that they will never again make such mistakes, to make such heavy weather about it, is not really to appreciate the situation at its true worth. The tendency to blame officials who carry on their shoulders very heavy burdens now, who have got a thousand things to attend to, the tendency to abuse officials, to stigmatise them as corrupt is not too infrequent in this House and in the other House. Having had something to do with administration, having worked with officialdom, having had the great privilege of their enormous help and assistance, I venture to think that from the Government Benches and from the Opposition, there should be a halt to this outcry against officials from time to time, charging them with corruption, with dereliction of duty, negligence or anything of the kind.

[Dr. A. R. Mudaliar.] I am not condoning those who are corrupt but to categorise the whole group of them as either corrupt or inefficient is to make their work almost impossible. If you want to take the best from the Secretariat officials, an occasional cheerful word of recognition is necessary for the heavy work that they are carrying out, for the enormous amount of work that they do, a work that has increased owing to 500 people in the House of the People and 200 people in this Council of States having been returned, and whatever is the remarkable vigour and vitality so far as the Opposition is concerned, the officials do not deserve this unrestricted, unmitigated criticism that is falling on them day after day. I venture to think that the work of the Government will be better carried out if there is an occasional word of praise, an occasional word of recognition of the useful work which these officials do. I thought that the condemnation of the steel frame of the Government was a thing of the past, that it was very useful in those days when the British were in occupation of the Treasury Benches, but today it is that steel frame, if I may say so without fear of contradiction from anyone who knows the administration, it is that steel frame that has kept the administration going during the last six years. It is that steel frame that has enabled the Ministers many of whom were novices in the art of administration, to carry on. It is that steel frame that has kept the administration of the Government of the day going. I venture to raise my mild voice of protest against this, what I call, unmitigated criticism of the officials.

I never condone anybody who is wrong or corrupt but this criticism of all and sundry, of the whole class, is as bad as the criticism of the whole lot of businessmen as blackmarketeers.

SHRI B. GUPTA : There was no occasion for these remarks. (*Interruption.*)

.DR. A. R. MUDALIAR : The

hon. Member's horror of the steel frame is quite apparent from his remarks.

I should like to make one final observation and it does not specifically apply to the Bill that my hon. friend has introduced. I see that this Bill is dated the 12th July 1952. It was introduced in the House of the People very soon after. I wonder when this Bill was published in the Gazette of India. I wonder whether this Bill was ever studied by anybody outside the city of Delhi. I wonder whether there was any time for anybody to study this Bill and it is not merely in connection with this Bill but if my memory serves me right, there have been a number of Bills which have been introduced in this manner straightaway for consideration and even passed before those in Madras, Bombay and Calcutta had even an opportunity of looking at the Bill. I venture to raise a mild protest against this. The hon. Members in this House or the other House are not plenipotentiaries. They have not got the plenipotentiary right to vote as they like on all matters that may hereafter come before these Houses irrespective of consulting the views of their voters or their clientele or their constituencies and I venture to put it to the Leader of the House that in the case of Bills at any rate there ought to be sufficient time given for these Bills to be known in the various constituencies of the hon. Members and studied through circulation in the Gazette of India and that thereafter these Bills may be taken for consideration. Occasionally a very emergent measure may have to be passed but this has become more a habit because if I know anything of the last Legislative Assembly—the Constituent Assembly which was turned into a Legislative Assembly—I know that on many occasions the Gazette of India did not publish the Bill till after the Bill had been adopted by the House and had become an Act. I think this is not fair to democratic methods of Government and I venture to earnestly suggest that there should be a practice, which was always known in both the Houses of the Legislature,

the dispensation with the First Reading of the Bill by publication in the Gazette, sufficient time for the Gazette to be circulated to all the constituencies of hon. Members, time to receive the reactions of the constituents on those Bills and then the measure being taken in Second Reading by the Houses. I think Government will not lose, Members will gain by the advantage of having their constituents' reactions on the Bill and emergencies will not too often overtake the Government to overlook this kind of procedure. Sir, I have done.

SHRI ABID ALI (Bombay) : Sir, too much noise is being made with regard to the little mistake that has taken place in this matter. The friends who have been criticising the mistake should appreciate what my friend sitting in the centre has said. But I would have been happier if there were a larger number of honest, efficient and loyal officials in the Secretariat. The mistake that has been pointed out is not very ordinary but many such things and many more things of this kind may be happening with the present frame of mind of our officialdom. Beginning from the lowest category, if you enter the Secretariat a large number of messengers or peons will be seen playing cards at the entrance of the Secretariat building. Inside the corridor a larger number will be found sitting on the benches one leg up and another stretched far. This position makes them semi-nude. One feels ashamed to walk in the Secretariat in Delhi witnessing these scenes. Formerly some clerks had the habit of reading novels in the office. Now novels are read but with the leg on the table. It is difficult to talk to the Officers through phone ; "not in the office " is the reply. If one goes to their offices, they are having Conferences. No letter will be replied to. And after two or three months an acknowledgment will come saying that it is receiving attention. One year or two may pass before attention is given to the matter. I wish the Government does something substantial to improve this administration. People know that there is no food

available in the country. They understand the difficulties in spite of the shoutings of the mischief-mongers. But the unwillingness to work on the part of officials, gives cause for a justifiable grievance. No doubt many officers are good but the bad officers should have no place in Government machinery.

With regard to the Bill itself I would submit that I have only one observation to make. It is with regard to export. Much valuable material is being exported from India as was done formerly—cotton for 1 anna was purchased from villages and instead Manchester made cloth for 12 annas was sold to them. I request the hon. Minister in charge to check up the raw materials which are exported and regulate the export only of such materials which really we do not require. Steel is going in large quantities to Japan. We are short of it ourselves. Our factories are starving for scrap steel. Because of non-availability of the steel we are having difficulties. We export our scraps from here and import from outside manufactured steel materials. Our factories are closing, labour is getting more unemployed. I submit this point for immediate consideration and effective action.

SHRI GOVINDA REDDY

(Mysore) : I am surprised that this Bill has been considered to be an encroachment upon the powers of this House. No Member of this House would agree to allow the rights of Members to be encroached upon. The hon. Minister for Commerce has explained the circumstances which led to the delay in his coming to this House for powers in this regard. I do not know whether he has mentioned one other justification. In my opinion it is a very good justification as the Government could not decide the future policy. Owing to the devaluation of our rupee there was a great demand for Indian raw materials and we had a large measure of export from our country consequently. This necessarily, as Shri Ramaswami Mudaliar was explaining, led to the amendment o

[Shri Govinda Reddy] 1950 where Government had to have powers to impose export duties. This led to a flow of exports from this country of raw materials which led to a very peculiar situation round about the expiry of this amendment i.e., round about March 1952 and it was this. The commodities which were very necessary for the daily life of the consumer were being exported and the home price of such commodities rose in such large measure that the cost of living went up twice, thrice and it promised to go up ten times and 20 times. There was a hue and cry in the country and therefore Government had to slow down exports and when the Government did slow down exports, there was a hue and cry on behalf of the business community. The business community came and said 'your policy had not been determined before-hand because there was continuous exports.'

They said, " Because there were these exports and high prices were prevailing in certain articles we thought we could take advantage of this situation and we bought and stored commodities so that we might export them. But you have suddenly slowed down the exports or stopped all exports and so we suffer a great deal, we are almost ruined. Therefore, at least to the limit of the stocks we have, you must in some measure, allow exports." We saw delegations after delegations come to Delhi to sit tight on the neck of the Government of India, demanding the allowing of exports in a larger measure or in some measure. Government saw that this resulted in some hardship to the business community and therefore, Government had to consider reducing the export duties and allow exports in some commodities. As an hon. Member mentioned, the cloth merchants, the mill-owners complained to Government that internal consumption of cloth had fallen and their stocks lay idle and their money remained locked and they could not pay higher wages when they could not sell their cloth. This forceful

voice of the textile industry had to be heard and their request conceded.

SHRI C. P. PARIKH : No, that is not true.

SHRI GOVINDA RHDDY : Government had to allow greater quantities of cloth. So also in the case of wool. We know in the last year there was a hue and cry on behalf of the wool merchants. And I know the case about oilseeds, coming as I do from the South where lakhs and lakhs of maunds of oilseeds are grown and exported. Oilseeds were exported and because of the rise of price, Government had to slow down export. The merchant community raised a hue and cry and I also sent some representations on behalf of the merchants and so Government had to consider allowing a larger measure of exports of oilseeds

In these circumstances which developed round about the period in question, Government could not be sure of what their policy would be for the next six months or one year. They were not decided as to what to do in respect of certain commodities, with regard to import duties. If they allowed these import duties which they had imposed, to continue, then the exports would be affected. On the other hand, if they removed these import duties then necessarily the exports would have flown and the cost of living inside the country would have risen. Under these circumstances I feel the Government could not be sure of what they would do. This circumstance must be appreciated by the hon. Members of the Opposition also. It is, no doubt, true as Shri Ramaswami Mudaliar pointed out, that every Bill should be given an opportunity of being studied by the general public at large, besides the Members of Parliament so that any grievances that may be there on the part of the public or any possible loopholes in the provisions might be put right by their representing these matters to the Government.

This was a power which the Government already had and because this power would expire on a certain date they come here to ask that that power be continued, and in the interval to validate those actions that had been taken. If Government had come asking for new powers then I can understand hon. Members raising objections. But here it is just a question of Government continuing to have the power that they already have and Government asking for the authorisation of this body for such continuance. Therefore, I feel that the Commerce Minister is perfectly justified in coming here with this request. Of course, no objection is raised against Government having power to impose duties. The hon. Members of the Opposition themselves appreciate that Government should have power, but their only objection is that in this interval Government should not have committed the default, but that they should have come before this House for the proper authorisation. But as I have explained, this could not be done and Government was justified in taking the action that they did take. With these few words, Sir, I support the Motion.

PROF. G. RANGA (Madras) : Mr. Deputy Chairman, I am sorry I am unable to agree with my friend Shri Govinda Reddy and with his attempt to explain away the failure of Government to publish this Bill in the Official Gazette before it was brought up here. He seems to think that there is nothing new in this. But I say there is something very new and this has already been brought to the notice of this House very ably by my hon. friend Shri Ramaswami Mudaliar. There was an earlier practice in existence for over 40 years and this practice has been departed from in 1950, as a result of which the amendment of that year was passed. It was called a temporary amendment, but that temporary amendment is sought to be made permanent today. It is a matter of principle. It is a very important issue. It is of sufficient importance to be placed before the public in advance. Of course, if there

is a special emergency, the Government, I can understand, may not be able to do that. But as Shri Ramaswami Mudaliar has already stated, it would be open to Government to waive it in those circumstances. But generally speaking, there should be that duty of publishing the proposed Bill in the Official Gazette so that the general public would have an opportunity of knowing what is coming, what is in store for them, either favourable or otherwise, when the new session of the Legislature commences.

I agree with Mr. Govinda Reddy when he says that such emergent powers should be given to Government when necessary, and I am sure my hon. friends on this side of the House also would not object to that proposition. Such emergency power was given to Government in 1950 March, I think, by the first amendment of 1951, March, and by another passed at an earlier date, on the 20th December 1950, they gave power to Government to increase or levy export duty as an emergency measure. Later it came to be confirmed when they passed the next amendment in which they gave them power also to levy protective duties in certain cases. But there is one essential difference between these two amending Bills. In the second one, in which power is given to the Central Government to levy protective duty, it is categorically stated that Government should come before the House with such a recommendation or should make a notification bringing it to the notice of the House only after they have considered the recommendations made by the Tariff Board. That is with regard to protective duties. But when we come to the export duty there is no such provision. That is why my hon. friend Mr. C. G. K. Reddy was asking the hon. Minister to give an assurance to this House that if and when, hereinafter Government wish to make any such notification they should see to it, that they get the benefit of consulting some such body as the Tariff Commission, even if the Tariff Commission itself is not to be consulted*

[Prof. G. Ranga.] I think there is considerable force in that demand made by Mr. Reddy. I would like to know what difficulties Government are likely to experience in the way of consulting the Tariff Commission. If there is any insuperable difficulty, I would like Government to give an assurance on this occasion to the effect that they will take advantage of such consultations as they have laid down in respect of the protective duties.

Having said that, I would like to support my hon. friend Shri Rama-swami Mudaliar when he said that we need not expect the Commerce Minister to come here in sack cloth and ashes. Nevertheless there is a mode and a manner in which one can express one's regret.

Possibly, my friend, Mr. Krishnamachari, does not make much distinction between a very heavy talk and a very serious matter and a very light way of explaining away a mistake made, however big it may be, in his own department.

SHRI T. T. KRISHNAMACHARI : He is always serious.

PROF. G. RANGA : It is no good quarrelling with his mannerisms. Each one of us has our own mannerisms. One thing is clear ; he made it clear in the other House and he has made it clear in this House too—that he is sorry, as anyone of us is and I am sure he would take sufficient care, as anyone of us would like to if we were burdened with similar responsibilities to see that similar mistakes are not committed in future. In this connection, I would like to know whether the earlier mechanism of inter-departmental Secretaries' Committee is still functioning. If it does, then it must be possible for the Secretary of the Finance Ministry and the Secretary of the Commerce and Industry Ministry when they meet once a fortnight as it used to be in the past, or once a week or at least once a month, to review these things and find out whether there is any likelihood of any such

mistake occurring.' There used to be a salutary practice in the villages, Sir, between the moneylender and his clerk. They used to meet pretty often every month in order to see whether any of their promissory notes were going to be outdated. Now, some such care has got to be taken by the hon. gentlemen, the Secretaries of Ministries. I do understand how difficult it must be for the Ministers themselves to go into such _ detail, but it must be the special function and also the duty of the Secretaries. This brings me to the outright condemnation from some of these friends and almost unconditional praise given by my hon. friend Shri Mudaliar, to the Secretariat here. I cannot agree with that also. I have had some experience of these officers, low as well as high ; not all of them are good* Quite a good number are bad, in different, in calibre, in stuff and in character, but a very good number of them are really very good. We have paid them for it. Therefore, we need not go out of our way to pay compliments as has now become the habit with so many of my hon. friends on the other side of the Treasury Benches. The example was set, of course, by the great and late Sardar ; we should be satisfied with the compliments he has himself paid to the Secretariat and there is no need for my hon. friends to try to follow it. If we begin to do it from our end, then, I am afraid, the Secretariat will get a blank sheet and there is no knowing whether anybody can possibly control them at all. That is the difficulty and danger. We know of particular instances where some I.C.S. officers, placed very high indeed in the Secretariat, had had to be chollaned because of their misbehaviour—their cases had come up before the previous Parliament—and, as a matter of fact, even now there are some I.C.S. officers in whose cases it wouldn't be a bad thing to send them back to the provinces. At the same time, I do admit that we have got some of the ablest people anywhere to be found and it is very clear indeed that when our own Civilians go abroad they

acquit themselves marvellously well face to face with any Civilians that come from any other country—I mean democratic countries—because in these international conferences not many Civilians are able to come. I would like to express the hope, to be passed on by my hon. friend the Commerce Minister to his own assistants or, I should say, comrades-in-arms at the Secretariat level, that Parliament is quite prepared to appreciate their work, their ability, their honesty, their contribution to social welfare, so long as they do it in a conscientious manner, but, nevertheless, Parliament should be expected to be very vigilant about their behaviour and about their conduct-

Lastly, I am sorry, Sir, to say that the Commerce Ministry had not been properly advised in imposing the export duties that they did at the time that they decided upon. I had to protest when the export duties on groundnut and groundnut oil were raised and were increased on previous occasions. I had to warn the Finance Minister on those occasions that that was the wrong time and that we were in danger of losing our foreign markets. Several of my hon. friends who come from Bengal, also protested that the jute export duties that were being raised to about Rs. 350 and so on were also going to hit our export markets. At that moment, the Government was not inclined to listen to us at all. They were too wise and they knew about it. In the whole period of 2 years my friend Mr. Goenka, who is a bosom friend of our Commerce Minister

SHRI C. G. K. REDDY : He still is.

PROF. G. RANGA :was telling the people that we were losing the opportunity for earning a lot of money and allowing it to go into the pockets of profiteers by not imposing these duties. Government would not do it all these years because they were wise, they knew things better. When actually they came to impose them,

19! H n»V.

they imposed them at a wrong time. They imposed the duties absolutely at the worst possible moment. What happened ? We have lost our foreign markets. It is easy to lose a foreign market but it is very very difficult to get it again because the vacuum is not kept there always. Someone else gets in with his goods and wins the customers and it is not going to be easy for you to get back. Our Government Trade Commissioners are not quick enough, able enough, intelligent enough to regain these things and re-instate our own businessmen. Maybe, compared with other countries' Trade Commissioners our men may not be considered to be less efficient—I do not know and I am not competent to make any remark on this—but certainly our Trade Commissioners are not in a position to help our businessmen just as well as could be expected. We have lost our market for jute. Government asks us to grow more and more jute—not this hon. friend but his colleague, the Minister for Food and Agriculture. Individuals may change but in the Government they are two chips, one the Commerce and Industry and the other Food and Agriculture. We were asked to -grow more and more jute so that we could earn more exchange. We diverted more of our land for jute. They appealed to our patriotic sense because some other country was boycotting us at that time. What happens now ? My hon. friend says that he cannot give us notice or advance intimation because that would not be in our interests, but, when you bring forward such legislation, could not you take all possible steps to safeguard the interest of the people concerned—not mere vested interests but the mass of others who are affected? My hon. friend Shri Mudaliar has already brought to the notice of the hon. Commerce and Industry Minister the difficulties that may be experienced by such of the businessmen who have already made contracts, made agreements with other countries. I wish to bring to your notice the difficulties of the other producers of jute. I had first brought it to notice by a short communication ;

[Prof. G. Ranga.] later on, some other Members of the other House also brought it to notice and there were references also in that House. But I thought by some remark made by my hon. friend in the other House that he was going to give some relief to the people, when down came from Calcutta some big men. They had some discussions and they had the gift of discussing in such a manner as to be able to convert my friend overnight in such a way that the man who was anxious to help these people turned them away.

KHWAJA INAIT ULLAH : Was it a gift of conversation ?

PROF. G. RANGA : Yes. Why, in America there are men who are known as lobbying men. They are very very clever and very very efficient. In India many of our businessmen have engaged such persons.

SHRI C. G. K. REDDY : Members of Parliament also.

PROF. G. RANGA : I do not know that. Therefore, I wish to warn my hon. friend that it would not do well for Government to blow hot and cold with different sections of the people as and when it suits their convenience.

They should also consider the convenience of the people who have got to produce these things, who have got to process them and send them to other countries. So in the exercise of these powers, I would expect the Government—the Minister and the Ministry behind him—to exercise as much of wisdom as they possibly can, show as much patience as they possibly can and as much consideration as they can towards the people who are affected.

SHRI M. C. SHAH (Bombay) : Mr. Deputy Chairman, I rise to support the motion moved by the hon. Commerce Minister. I believe that it is absolutely necessary to have this amendment. We are today living in abnormal times with the clouds in the international situation hovering over us. This amendment was passed in December 1950 just after the inter-

national situation had worsened and the prices had shot up. Outside India the prices of some of the commodities had gone up very high. In India some of the raw materials were under control. For example, cotton was controlled here and when we compared the prices of Indian cotton with the prices of cotton of outside countries— America, Egypt or Africa—we found that our prices were very much below the level of prices prevailing there and cloth spun and woven out of Indian cotton when exported naturally fetched huge profits in comparison with cloth spun and woven out of American or Egyptian cotton. So it became absolutely necessary that these profits secured by our businessmen should be mopped up to a certain extent. They can have their reasonable profit, nobody will deny it, but the prices went up by a hundred per cent, or so and it was only fair that the public exchequer must gain. That was also the position with regard to jute manufactures. The prices of so many commodities had gone up outside India and it was very necessary that Government should be armed with these powers to levy export duties whenever necessary. The complaint then was that the action of the Government was tardy, that Government did not levy export duties at a time when it was absolutely necessary but that it came too late. So such powers should be with the Executive and we should not grudge giving these powers with certain safeguards if necessary and the safeguards are there already. Certain Members from the Opposition said that the Executive is going to be supreme. It is not the case, because after the issue of the notification with regard to the raising of the export duties, the matter has to be placed before Parliament within seven or fifteen days, and so Parliament can exercise effective control over all the actions of the Executive. If Parliament comes to the conclusion that a particular levy was not justifiable, Parliament being supreme can throw out that notification,

I therefore think that there is no substance whatsoever in the com-

plaint that the Executive is taking supreme powers and Parliament is becoming a mockery. At the same time there is a suggestion from Prof. Ranga and Mr. Reddy that there ought to be some sort of prior consultation. I think that is not practical at all. We all know that businessmen are all very shrewd people. We also know that some of the businessmen are, always hovering round the Secretariat and the Ministries to find out certain secrets whereby they can derive benefit and make huge profits. So if there was any such provision for prior consultation with anybody outside the Ministry concerned, then there is every likelihood of the information leaking out and there will be all sorts of speculation and things like that. So I submit, Sir, that the argument advanced that there ought to be prior consultation does not hold good.

Again, much is made about the mistake made by the Secretariat. There seems to be some misapprehension about it. It was thought that when the original notification lapsed, a further notification cannot be issued. But the powers to levy export duty remained. Now the Finance Bill was introduced on March 1, 1952 and this notification also lapsed on 1st March and if there was no mistake about interpretation, this matter could have been taken up with the Finance Bill which was introduced in Parliament on March 1. So there is this mistake but it is not a serious one. It is not a mistake which was done *mala fi le* or done with some ulterior motive and so there is nothing wrong in condoning this mistake. Otherwise, are we going to give away the one crore and sixty-three lakhs— the amount that has been collected— to these merchants who have paid in the *i cm* of export duties —very justifiable duties ? I do not think anybody will agree to give away that one crore and 63 lakhs to the merchants— at least not those who think in terms of the interests of the masses. They will never agree to this one crore and 63 lakhs being given to those businessmen who have paid legitimate export duties. So, Sir, I think much has

been made of this mistake, this omission on the the part of the Secretariat, which has been brought here for condonation at the earliest opportunity. I submit, Sir, as the protectors of the interests of the masses we should immediately agree to the condonation of this mistake.

Then about giving powers, there is not much opposition in this House. Almost all seem to have agreed except this one suggestion that there ought to be prior consultation with the Tariff Board or some such body. As I said and as the hon. Minister already said, this matter should be kept completely secret and there should not be any possibility whatsoever of that information leaking out. So I submit that this power to levy or reduce export duties as the situation demands must be g'ven.

My friend, Prof. Ranga said that because of certain mistakes of Government we have lost our export market, but I believe he is not correct at all. In fact, in the Provisional Parliament there were complaints that Government was too late in raising the export duties on jute, textiles, oilseeds, etc.

As a matter of fact they were late and crores of rupees were allowed to be pocketed by the exporters. A substantial portion of that money ought to have gone to the Indian exchequer. Today we are losing the export markets, but 't is not because of the duties that were levied, but because the international situation changes every day. Stockpiling has ceased. The end of the war in Korea is coming soon, and there is a slump in prices everywhere, though that slump has been arrested for the time being. That is the reason why we have to undergo difficulties with regard to our exports. But I submit that with the powers given to the Government under this amendment the Government will always watch the situation, and if the situation warrants, then naturally they will come forward immediately to levy export duties if there is a diversity of prices in the Indian market and elsewhere,

[Shri M. C. Shah.] as has been pointed out by the Commerce Minister while moving consideration of the Bill. The hon Minister has stated that there is a big disparity between the prices of certain oilseeds here and in Singapore and some other markets. If there is such a big disparity, a certain portion of that must be mopped up for the Indian exchequer. So, I submit that the House should unanimously agree to the Bill as moved by the hon. Minister for Commerce and Industry.

MR. DEPUTY CHAIRMAN : How much time will the hon. Minister require for his reply ?

SHRI T. T. KRISHNAMACHARI : Fifteen minutes. Sir.

SHRI KISHEN CHAND (Hyderabad): Sir, I rise to oppose this Bill on a constitutional point. I submit that ours is a Parliamentary democracy, and the fundamental right in a Parliamentary democracy is that the elected members keep a check and control over the Executive. All actions of the Executive must be approved and passed by Parliament before they become law. If the majority party uses its majority to give sanction to this type of Bills which give absolute powers to the Executive, then there is hardly any need to have any Parliament sitting at all. I would request the hon. Members on the Treasury Benches to consider carefully this point. They have been elected by the vast majority of this country to safeguard the interests of the public as against any action of the Executive which may go against their interests.

It has been pointed out that there is a proviso in this Bill that after the levying of an export duty the matter will be reported to Parliament within seven or 15 days and its opinion will be taken. Suppose that that legislation is not approved by Parliament, what happens ? Will all the duty collected during that period be returned to the merchants and traders who have paid it, or will the hon. Minister for Commerce again

come to the House and say that this duty has been collected and we must now condone the collection of that duty and henceforth there will be no further duty?

Sir, I feel that variation of duties of import and export too often kills the 'import and export trade of any country. This export and import business is a very delicate matter, and it has to be looked after over long periods in order to safeguard the interests of the trading community. In certain transactions the trading community makes huge profits, and in other transactions it makes a loss. When the trading community makes a profit, this House or the hon. Minister will immediately come forward to enhance the export duty. But if in any transaction the trading community makes a loss, I do not think the hon. Minister will think of any ways and means of trying to ameliorate the distress caused to the community. I would submit that it is very essential that these frequent changes in tariff on the imports or exports should not be permitted. I would even go further and say that the chance should be restricted to once in two years. But instead of even once every year, we are giving unlimited power to the hon. Minister to make variations in it.

Then, Sir, some Members have pointed out that if there is prior consultation the mercantile community will come to know of it and will take immediate advantage of it. Well, Sir, the hon. Minister gets facts placed before him by the Ministry concerned. It has been stated by certain Members of this House that our civil service is not as efficient as it was a few years ago, that there has been continuous and general deterioration in the level of administration in this country, that there has been corruption, and that there has been inefficiency all round. I realise that there are a few officers who may be doing extra loyal duties very efficiently. For such officers you may award medals; you may give them some sort of reward. But there is a large number of officers who are negligent in their duties. If you permit the Ministry to put certain facts before the

Minister on which he is bound to come to certain conclusions and levy an export duty, it will be far easier for the mercantile community to find out from the Ministry, or at least from the corrupt members of the Ministry, about the levy of such a duty and take as much advantage as they can from it. So, in this case it would be far better if any proposal for any change in the customs duty or in the export duty is brought before this House in advance, as is done in the case of the Budget proposals. I do not think it will be advisable to have it more often than once in a year.

On these grounds, Sir, I beg to oppose this Bill.

SHRI B. P. AGARWAL (West Bengal): Sir, in bringing this amending Bill for extension of power the Ministry wants that these emergency powers should be granted, and I think this is essential, because conditions in the business world are changing so quickly that it is very difficult for any Government or for anybody however efficient he may be to assess things in advance, a year ahead. So, the grant of these emergency powers, under which in case the situation demands the export duties can be reduced or enhanced, is very essential in the national interests.

But the question that has been raised in this connection is that the business community very often takes advantage of this situation and therefore secrecy should be maintained. This also, I think, is quite right. The business community is generally blamed, but I think all are interested in making profits. The business community is the shield behind which other people make profits. The business community is the medium through which these economic activities operate. I do not think that it is the business community alone but all those who are interested in profits that take advantage of such situations. Some may be doing it directly; some others may be doing it through other persons. But I think it is essential that secrecy in taxation affairs should be maintained. But the important thing which it is necessary

to see is that the Government machinery does not move very slowly. What a business man can understand and can see in these changing business matters and trade matters within a very short time, it takes a few months for the Government machinery to appreciate, as has been very ably pointed out by my colleague Shri Chandulal Parikh. It took the Government many months to enhance the duties, with the result that we lost a good deal of money in jute, cotton and other commodities. Recently we lost the export markets in jute because of this, because the Government machinery moved very slowly in appreciating the changing situation, and Pakistan was able to compete in the markets in other countries. So, while there is danger on the one hand that if secrecy is not maintained people may take advantage of the situation, on the other hand there is also the danger that the Government machinery is very slow to realise the situation. So, it is necessary that some measures should be taken by which Government can appreciate a changing situation quickly. And for that, Sir, I suggest that our Embassies should have Commercial Attaches and they should be more in touch with the commercial world which is very essential. It is seen, Sir, that in our Embassies we have officers or people who have more of political experience of things. I suggest that commercial interest is equally important in the present day situation. I think, Sir, our Embassies are not well provided in that respect. I doubt whether they have any machinery to know the commercial events that are taking place in the world. I would therefore request the hon. Minister to pay a little more attention and see how the machinery can be made more responsive to the changing conditions. With these words, Sir, I recommend that this power should be granted.

SHRI T. T. KRISHNAMACHARI: Mr. Deputy Chairman, at the outset I would like to express my gratitude to hon. Members who participated in these discussions and also the general measure of support they gave to this measure. Sir, I am grateful also to my friend Dr. Ramaswami Mudaliar

[Shri T. T. Krishnamachari] for his critical approach to this Bill and also the support that he gave.

In regard to one question that was raised by him, namely, that a measure of this nature should have had publicity and should have been published in the Gazette, I know he recognises that this measure has been brought in with a view to arm Government with certain powers and also to remedy a defect that has been revealed in Governmental procedure. And I am sorry that we could not give this measure the publicity that normally ought to be given. But I can say, Sir, as a Member of Government, that I agree entirely that whatever measures we bring in Parliament should have ample publicity subject only to special cases where such publicity is impossible for reasons of emergency. I think, Sir, in view of the conditions being more or less settled, the Government would be able to satisfy the requirements that have been mentioned here by my hon. friend Dr. Remaswami Mudaliar.

10 a.m.

Sir, in regard to the major criticism against this Bill, namely, the lapse on the part of the officers concerned in collecting duties even when the powers had lapsed, I agree that the Government have to apologise for that. In this respect I can say that if I appear in this House in *khadi*, that is a symbol of penance. Sir, the position is not merely as has been put forward. It is a matter of interpretation. As I said the initiative in regard to taking action under the provisions of this particular section rests with the Commerce Ministry. The notification is issued and the collection of duty is made by the Revenue Division of the Finance Ministry and if the Finance Ministry had even an inkling of doubt that the power had lapsed in regard to the collection of duties, they would have done what they did in March 1951 when they incorporated these duties in the Finance Bill of 1951. So it is a matter of interpretation as my hon. friend Mr. Shah put it that they felt that the power of issuing notification had lapsed but so far as the existing

notifications were concerned they still held good. As I said it is a wrong interpretation undoubtedly. It will also be found that the Law Department had to be consulted. The Law Department said that the interpretation of the Revenue Division of the Finance Ministry was wrong. Therefore it is a question of interpretation only. I therefore hope that the House will accept this measure in the apologetic spirit in which I have placed it before the House.

Sir, the question of arming Government with such powers has again been raised. I would ask the hon. Members who raised the constitutional points in this House to recall that there is a provision in the existing Statute here and in other countries where Parliamentary democracy functions, namely, the Provisional Collection of Taxes Act and it is by virtue of these powers that when the Budget is introduced on the 28th of February the taxing provisions in the Budget come into operation immediately. Well the Parliament might give their sanction to the provisions or they may vary them or revise them or amend them and until the time they revise, the collection is made and the collections are refunded in certain cases. But the power of the Government is there to collect taxes. Now what is sought to be done under section 4A is merely to vest Government with the powers under the Provisional Collection of Taxes Act. Some doubt was expressed by the hon. Member Shri Kishen Chand as to what would happen if, supposing, Parliament refuses these powers. Section 4(2) makes the position very clear in this respect. That says that if Parliament makes any modification in the notification or directs that the notification shall cease to have effect, the notification shall thereafter have effect only in such modified form or be of no effect as the case may be but without prejudice to the validity of anything previously done thereunder. So this makes the position clear so far as that is concerned.

Then, Sir, about the question of secrecy and consultation, I must say

that in this matter this is a Parliamentary Government. The Executive is responsible to Parliament and it has got a majority in Parliament. That is why it sits there. I do not say all business men are bad people, nor do I say all Secretariat people are bad people, nor for that matter all Ministers are good.

I suppose the law of averages works everywhere, and there are an equal number of bad people in every sphere. Therefore, we have to look at the people who are not good and the possibility of the Governmental action being anticipated and nullified. So, the responsibility that we have we can neither share with anybody nor seek anybody's advice on it. There are many people in this House and elsewhere who can perhaps advise us in a manner which would make mistakes practically impossible, but unfortunately this is a responsibility which Government must carry on its shoulders unilaterally, and which cannot be shared with anybody else.

One other word, Sir, about the sins of omission and commission on the part of the Secretariat. It is not strictly relevant. So far as the levy of this duty is concerned, as I have said already, it is a question of mistaken interpretation. Often times even judges do not interpret the law correctly. Mistakes in interpretation do occur, but on the question of what my hon. friend, Dr. Ramaswami Mudaliar said there has been some criticism, it is true, Sir, that when we are on the other side of the fence, we see all the things that are bad. It is only when you come close, you see that there is something good on the other side. It is the wholesale condemnation of the Secretariat officials that my hon. friend, Dr. Ramaswami Mudaliar, objected to. It is true they are busy. It is true also that they are not paid for working after 5 o'clock in the evening. If you happen to go to the Secretariat in the evening, you will find how many people are working late into the night. It is out of a sense of duty and out of a

sense of responsibility that the work must be done. There are also people who just watch the clock and exactly at 5 or even at 4.45, they take their hats and their tiffin baskets and go home. It is all there. But to those small number of people—undoubtedly there are many who work for three hours, four hours and five hours after five o'clock in order that the work of the Government may go—I think some encouragement is necessary by sparing them from abuse. It is not necessary to praise a man because he does his duty, but it is certainly necessary not to abuse him. I must say it is not merely the small number of I.C.S. men but even the Under Secretaries who work till 12 o'clock sometimes in the night, merely because some Members of Parliament ask questions in regard to information which they can collect from any book. I had a file sent down to me at 12 o'clock and I knew the poor Under Secretary was working till that time, and you do not pay him any over time. So let us refrain from abusing them. Let us also refrain from praising them. If you say you have been pleased, he feels pleased, but if you don't say it, there is no harm in it. That is all I would say as a person who has seen these people at work. I do however feel that they are as patriotic as any Minister or any Member of Parliament. The Member from Hyderabad referred to business men getting secrets from corrupt officials. He did not use the same language. He used a different language. He is a Socialist. I am a Congressman but I was rather surprised to hear a Socialist who is on the other side of the fence, talking about business men sometimes making profit and sometimes losing. Government can only check profits. As a Socialist he will be in a better position to understand it than a Congressman. We shall try to keep our secrets, but as he knows, business men are cuter—at least some of them are—than the Government servants, and if information goes, it cannot be helped. Again, it is a matter of the law of averages. Sometimes it goes, and sometimes it is

[Shri T. T. Krishnamachari.] kept and that is why we cannot afford to share our secrets with others I am afraid I cannot give an assurance to th's House that in future whenever we want to increase the duties or lower the duties, we would consult anybody, whether it is this House or any other body.

Then, Dr. Ramaswami Mudaliar said that this frequent raising and lowering of duties upsets the market and that foreign business men often times write letters which are very abusive of the Government and generally of our business men in India. It is true. I have myself seen letters, oftentimes letters writ'en by our own people, which are no less abusive, but when he spoke about this, it aroused a faint chord in my memory of what business men do. I have had a competent officer to advise me on that and I find that section 64A of the Sale of Goods Act covers people who made contracts before the duty is changed. If the contract does not include the possibility of the duty being raised or lowered and the responsibility specifically is not cast on one party to the contract, section 64A of the Sale of Goods Act covers the party, if the duty is raised or lowered. If the duty is lowered, he does not get the benefit, and if the duty is raised, he does not suffer. This is the normal law of trade wherever civilised commerce and trade function. This is all we can do. These changes may do some harm but we have to make the changes nevertheless. All that we can say is that we will not make frequent changes unless they are absolutely necessary. We have taken note of the admonition but at the same time we are helpless, because there are other over-riding considerations which are far more important. As I said, the whole object of an export duty is not taxation. Some hon. Members feel that this is a means of taxation. It is not so, because taxation comes in only incidentally. It is *per se* an economic corrective, and so long as we look at it from that point of view, we have

to take what steps we consider necessary.

Once again I feel gratified that several hon. Members with experience of the working of the administration of Government and of trade and commerce feel that this is not a serious lapse and that they are prepared to condone it. To those people who feel that this measure should be placed on the Statute Book as a permanent measure, I would say that it is only brought in by notification and then placed before Parliament for approval. If it does not approve, then the notification ceases to have any effect. Government has power vested in it by subsection (3) of the original section and clause (2) of this Bill. Power is also vested in Government under section 23 of the Sea Customs Act. In addition to it, general power is vested in Government under section 21 of the General Clauses Act. It is true that Government machinery does not move very quickly. All that we can say is we will try to do better in future, and I hope that with this assurance, the House will pass this Bill.

DR. RADHA KUMUD MOOKER-JI (Nominated) : I want to ask the hon. Minister whether he can also not include, in the powers that he is taking, the power to reduce the duty, if necessary.

SHRI T. T. KRISHNAMACHARI : Those powers are there. Even in regard to import duties we have section 23 of the Sea Customs Act. We have taken action under powers taken under similar notification for sacking cloth, bags, etc., which was issued by the Ministry of Finance on the 30th March 1951. Government have these powers and there is no doubt about it.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill further to amend the Indian Tariff Act, 1934, as passed by the House of the People, be taken into consideration

The motion was adopted.

MR. DEPUTY CHAIRMAN: AS there is no amendment, the Bill will now be returned to the House of the People with the intimation that the Council of States has considered the Bill and has no modification to recommend.

RESOLUTION TO CONFER POWER TO LEGISLATE *BE* ENTRIES IN STATE LIST

MR. DEPUTY CHAIRMAN : We shall now take up the Resolution. Shri T. T. Krishnamachari.

SHRI C. G. K. REDDY (Mysore) : Sir, may I make a submission before the hon. Minister moves it ? This Resolution is being put before us under Article 249 which is intended to be brought into play for the first time under the Constitution. Under Article 249 the Council of States has exclusive power in regard to the State and Concurrent Lists. Now this Resolution came into our hands only yesterday morning—late the day before yesterday. I should think that in a matter in which the Council of States has exclusive power, we should have been given ample opportunity to look into the implications of this Resolution. Therefore I would like to suggest to the hon. Minister to postpone the moving of this Resolution perhaps to next week so that we will have some time to go into it. Because the Council of States has exclusive power we will have to discharge this responsibility after understanding all the implications. I would request the hon. Minister to postpone the moving of this Resolution until early next week so that we have opportunity to go into it.

MR. DEPUTY CHAIRMAN : The Resolution was despatched to Members on the 15th.

SHRI C. G. K. REDDY : We received it on the 17th morning. It is not the fault of the Secretariat. It reaches sometimes at twelve in the night. We can see it in the morning only.

PROF. G. RANGA (Madras) : We see it only in the morning.

KHWAJA INAIT ULLAH (Bihar) : What did you do yesterday ?

PROF. G. RANGA : It is just like the photographer asking 'what did you do last night' and everybody laughing at it and he is unable to take the photograph. We want more time to consider the matter.

THE MINISTER FOR COMMERCE AND INDUSTRY (SHRI T. T. KRISHNAMACHARI) : The only thing I should like to mention is that 12th August is the day on which we last passed this. On 15th August this Resolution will expire. I am entirely in your hands, Sir. I can come again to this House any time the Chair directs. It is for you to decide Mr. Deputy Chairman.

MR. DEPUTY CHAIRMAN : We can have the discussion and if necessary carry on on Monday also.

SHRI C. G. K. REDDY : We can't have the discussion without knowing the implications. I may have been lazy but I have not had the opportunity and I am sure hon. Members have not had the opportunity to look into this.

SHRI H. N. KUNZRU (Uttar Pradesh) : Sir, I feel that the request of my hon. friend is a very reasonable one. Such Members of this House as were Members of the Provisional Parliament might not feel the need for more time to study the subject but I think it is only fair to the new Members that they should be given a little more time to understand its significance and its implications. After all this matter has been considered several times in the other place. A law was passed in 1946; it was amended several times. The last time I think in 1950 it was amended. It is therefore necessary that the new Members should have a little more time to study this important subject and no one, I am sure, will deny—not certainly my hon. friend Mr. P. T. Krishnamachari—that this is an important matter.