

COMMODITY CONTROL

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Introduction

The source of the power relating to commodity control in India is to be found in *entry 52 list I* and *entries 33 and 34 of list III*. There is historical evidence to show that when the Constitution was being drafted, the Central government was conscious of the tasks which lay ahead in the economic field which were, *inter alia*, maximization of agricultural production, price control of various commodities then in short supply, food distribution, controls on textiles and coal, increasing production of consumer goods, holding back inflation, and bringing down prices.¹ It was to fulfil these felt-needs that the distribution of powers between the Centre and the States was effected.

Entry 33 (list III) as it stood originally in the Constitution, was very narrow; it was merely complimentary to *entry 52 in (list I)* and empowered the Centre and the states to control the products of any centrally-controlled industry and corresponding imported goods. The *entry* did not cover such important commodities as wheat, cattle-fodder, sugarcane, raw materials like raw jute, cotton etc. As the distribution of powers stood at the time, no all-India pattern of regulation or control of these commodities could be enforced in the country. To tide over this difficulty, *Article. 369*, a transitory provision, authorised the parliament for five years to make laws with respect to these and many other commodities as if these were enumerated in the *concurrent list*. This was adequate for the time being but the problem acute in course of time in view of the impending lapse of *Article 369* on January 25, 1955. On the suggestion of the *Commodity Control Committee*, *entry 33, list III*, was amended to cover many more commodities so that the parliament became entitled to make necessary laws with respect to their control.

The constitutional restraints on the legislative power regarding commodity control arise out of *Articles 19 (1) (f), 19 (1) (g), 31 and 301*.

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1. Memorandum entitled 'Important Task Facing the Interim Government, dated 19 August 1946 and 'Major Tasks Before the Interim Government, dated 3 April 1947 quoted in Granville Austin *The Indian Constitution: Corner Stone of a Nation* 198-99 (1966.)

Legal Frame-Work

(a) *Industries (Development and Regulation) Act*

The legal frame-work for commodity control in India is furnished by a number of statutes enacted by parliament. The first in the list is the Industries (Development and Regulation) Act, 1951, especially Section 18 G. thereof. This provision was added to the Act in 1953 in anticipation of the lapse of the power conferred on parliament by *Article. 369*. Section 18 G was enacted by parliament under *entry 33 in list III* (as it stood before its amendment) to provide for control of the product of any centrally controlled industry mentioned in the *Schedule* to the Act. It empowers the Central Government to regulate supply and distribution of, and trade and commerce in, any article 'reliable' to a scheduled industry, which means finished products of the industries, finished product of a cognate character produced in course of the manufacturing process of the industry, and also imported articles of the same nature and description as the articles manufactured.²

According to sub-section (1) of S. 18 G of the Act, the Central Government has the power to regulate the supply and distribution of, and, trade and commerce in, the article or articles relating to any scheduled industry for securing the equitable distribution or availability at the fair prices. Under sub-section (2) of S. 18 G, the Government by a notified order could provide (1) for controlling the prices at which such an article shall be purchased or sold; (2) for regulating by licences, the distribution, transport etc., of such articles; (3) for prohibiting any person to withhold from sale of an article ordinarily kept for sale, (4) for requiring producers of any such articles to sell the whole or a part of their stock; (5) for regulating to such article detrimental to public interest; (6) for requiring the sellers to exhibit price list etc., (7) for collecting information and statistics and the like.

The section also provides that where a producer is required to sell the whole or a part of his stock to a particular person or body of persons, he would either be paid a price agreed upon, or where no such agreement is reached, the controlled price, or the price calculated at the market rate prevailing in the locality at the date of the sale.³

Sub-section 4 purports to remove from the judicial review any order made pursuant to Section 18G.⁴ However, Chapter III B containing Section 18 G has not been exempted from the operation of the fundamental rights like Chapter III A of the Act. It therefore seems that the right to challenge the exercise of power under S. 18 G as an 'unreasonable restri-

2. See *Tikaramji v. State of U.P.* 1956 SCR 393 at p. 432.

3. S. 18 G (3).

4. S. 18 G (4) runs as follows: No order made in exercise of any power conferred by this section shall be called in question in any Court.

ction' over the right to carry on any occupation, trade or business subsists. Thus, the reasonableness of the orders issued under this section may be tested under *Article 19 (1) (g)* of the Constitution. A number of control orders have been promulgated under the Act. *e.g.*, Cement Control Order, 1961; the Commercial Vehicles (Distribution and Sale) Control Order, 1963; the Ethyl Alcohol (Price Control) Order, 1961; the Imported Tourist Cars (Control) Order, 1961; Motor Cars (Distribution and Sale) Control Order, 1959 Scooters (Distribution and Sale) Control Order 1960, etc.

Besides, there are a number of enactments to control various specific commodities like Coffee, Coir, Tea, Rubber *etc.* The Coffee Act, 1942, establishes the *Coffee Board* consisting of representatives of the Centre and of coffee producing States of Mysore, Madras and Kerala and other interests in the coffee trade. The owners of coffee estates are to be registered by the registering officers appointed for the purpose by the State Governments; and rules for the purposes can be made by State Governments. Coffee prices are to be fixed by the Central Government. Quotas for internal sale of coffee are to be fixed by the *Board*. No coffee is to be exported by any one except by the *Board* or under its authorisation. Surplus coffee is to be marketed by the *Board*. All acts of the *Board* are to be subjected to control of the Central Government which may cancel, suspend or modify any action taken by the *Board*.

The Coir Industry Act, 1953, (enacted under *entry 52 list I*) takes the coir industry under the Central control. *The Coir Board* is appointed by the Central government and it consists of persons representing various interests including the governments of the principal coconut growing States. The functions of the *Board* are to promote, by such measures as it thinks fit, the development of the coir industry under the control of the Central Government. Specially, the *Board* has to take measures to promote exports of the coir products' manufacture of coir products, encourage research etc. The *Board* acts under the control of the Central government which can cancel, suspend or modify any action of the *Board*.

Similarly, the Tea Act, 1953, (also enacted under *entry 52 list I*) takes the tea industry under the central control and creates the *Tea Board* on the lines of the *Coir Board*. Among its functions fall the regulation of the production of tea, improving its quality, regulating its sale and export etc. Permission for tea plantation is to be given by the *Board*. Besides exercising a general control over the *Board*, the Central Government also exercises power to fix sale price of tea by various interests, maximum quantity of tea which can be sold in one transaction etc.

The Rubber Act, 1947 constitutes the *Rubber Board* representing various interests to promote the development of the rubber industry. With the previous approval of the Central Government, the *Board* can import rubber

for sale, or purchase rubber in the internal market at prices fixed by the Central Government. The *Board* also advises the Central Government on all matters relating to the development of the rubber industry including import and export of rubber etc. All owners of rubber planted land are required to register themselves with the *Board*. Maximum and minimum prices of rubber are to be fixed by the Central Government. Persons selling or buying rubber are to be licensed by the *Board*. The *Board* is also to license planting of rubber. All actions of the *Board* are subject to the control of the Central Government which may cancel, suspend or modify any action taken by the *Board*. People aggrieved by the *Board's* decisions regarding licenses for sale or purchase or for planting rubber can appeal to the Central Government. The rubber industry has been declared to be centrally controlled by the Rubber (Production and Marketing) Amendment Act, 1954, which amended the Rubber Act, 1947.

Besides the powers conferred by *entries* 52 and 33 in lists I and III respectively, the taxing power of the Centre may also be used to effectuate some aspects of commodity control. One such example is furnished by the Sugar (Regulation of Production) Act, 1961, which is in form a fiscal measure seeking to levy an exercise duty on sugar production, but in effect is designed to discourage sugar production beyond a target. Under the Act, the Central Government has taken power to fix from time to time, according to a fixed quota, the quantity of sugar which may be produced in a year. Excess quantity of sugar produced is to be subjected to a special excise duty.

(b) The Essential Commodities Act

The most important piece of legislation, however, in the area of commodity control is the Essential Commodities Act, 1955, enacted by parliament under *entry* 33, *list* III. The Act provides, in the interest of the general public, for the control of the production, supply and distribution of, and trade and commerce in, the following essential commodities: cattle-fodder, coal, components of automobiles, cotton and woolen textiles, foodstuffs, iron and steel, paper, petroleum and its products, raw cotton and cotton seeds, and raw jute. These commodities fall into three broad categories, *viz.*, food, raw-materials for industries, products of the centrally-controlled industries. This list of essential commodities is not exhaustive and the Central Government has power to declare any commodity as an essential commodity for the purposes of the Act if it is a commodity with respect to which parliament has power to make law under *entry* 33, *list* III. Thus, jute, textiles, drugs, non-ferrous metals etc. have been declared as essential commodities.

The Act is the most skeletal piece of legislation of all the economic legislation now prevailing in that country. It does not lay down as to how its objectives are to be attained and what policies the government has to

follow to attain them. A blanket delegation of power has been made to the Central Government to issue orders regulating or prohibiting the production supply and distribution of an essential commodity, and trade and commerce therein, if it is of the opinion that it is necessary or expedient to do so for maintaining or increasing supplies of an essential commodity or for securing its equitable distribution, and availability at fair prices. This indeed is a very broad delegation with no criteria prescribed for its exercise, and the Central Government has practically an unlimited choice as to the policies of control it may follow from commodity to commodity and from time to time. To make the provision still more effective, it has further been laid down that an order made under Section 3 is to be effective even if it is inconsistent with any statute or any statutory instrument. Both these provisions have been held to be constitutional by the courts on the basis that they contain the policy within themselves.⁵ The executive has thus a free choice as to what orders it may promulgate and what steps it may adopt from time to time to achieve the objects in view. The delegation of power is so broad that it is not just possible for the courts to control its exercise or to hold any order made under it *ultra vires*. It is purely a matter of objective satisfaction of the executive as to what orders it would make.

Without restricting the generality of the above provision, the Act authorises the Central Government to make orders for the various following matters: (a) regulation through licenses production, storage transport, distribution, disposal, acquisition, use or consumption of an essential commodity; (b) increasing cultivation of foodcrops; (c) controlling prices; (d) prohibiting the withholding from sale of any essential commodity; (e) requiring a stock-holder to sell any essential commodity to government; (f) regulating or prohibiting any commercial or financial transactions in foodstuffs or cotton textiles which may be detrimental to the public interest; (g) collecting any information; (h) requiring production of books of account *etc.*; (i) for any incidental matters.

The Act lays down the bases on which compensation is to be awarded to any person required to sell any essential commodity to the government. The general basis is (i) agreed price; or (ii) controlled price; or (iii) market price. If the Central Government is of opinion that it is necessary for purposes of controlling rise in prices or preventing hoarding, it may issue a notification that the prices payable for food-stuff sold to the Government be as follows: (1) agreed price; (2) controlled price; (3) average three months' market price. In case of foodgrains, edible oil seeds or oils, where no such notification has been issued, the price is to be paid having regard to: (i) controlled price; and (ii) post-harvest price. In case of sugar, when no notification is issued, the price payable to the manufacturer is to be determined

5. *Hari Shankar Bagla v. State of M.P.*, AIR 1954 SC 465.

having regard to (a) the minimum sugarcane price fixed by the government; (b) manufacturing cost of sugar; (c) tax or duty payable on manufacture, and (d) reasonable return on capital employed in the sugar manufacturing business. Provisions have also been made for confiscation of an essential commodity when any order under Section 3 is contravened. In such a case, the Act stipulates reasonable opportunity of hearing. Thus, it is laid down that before an order of confiscation is passed by the Collector, the person concerned is to be given a written notice informing him of the grounds on which it is proposed to confiscate the articles, he has to be given a reasonable opportunity of making a representation in writing, and of being heard against the grounds of confiscation. A right of appeal has been guaranteed against the order of confiscation.

The Central Government is also empowered to appoint an authorised controller for an undertaking engaged in production and supply of an essential commodity. The controller exercises such functions of control as may be specified by the government; he has to act according to the government instructions.

An interesting feature of the Act is the relationship which it generates between the Central and State Governments. Under the Act, all powers are concentrated in the Central Government, but it can confer powers on the State Governments or any officer of a State Government in two ways: (1) The power to make orders under Section 3 may be conferred by the Central Government on any State Government or any officer or authority subordinate there (2) An order made by the Central Government under Section 3 may confer powers and impose duties upon the State Governments or their officers. Such an order could contain directions to any State Government or its officers as to the exercise of the delegated power. A State thus acts as a delegate of the Centre, within the scope of authority assigned to it, and subject to any conditions imposed or directions given by the Central Government regarding the exercise of the delegated power. This enables the Centre to keep an administrative control over, and create uniformity of practices in, the various States. The Centre can delegate legislative, administrative or *quasi-judicial* power to the State Government. At times, an order made by the Centre directly confers administrative functions on the States as is done, for example, by the Fertilizer (Control) Order which empowers the State Governments to appoint licensing officers for dealers of fertilizers. At other times, the order empowers the Central Government to delegate its powers under the order on a State Government. For example, the Sugarcane (Control) Order provides for delegation by the Central Government of its powers on the State Governments or their officers. In case of some commodities, part of the regulation may vest in the Centre, and a part in the states. To take an example, in case of sugar, the task of regulation of supply of sugarcane to the sugar mills was being performed by the States under their own legislation

enacted under *entry 14, list II (agriculture)* and *entry 33, list III* of sugarcane and sugar, releasing sugar for sale *etc.* is being discharged by the Central Government under the Sugarcane Order, 1966 and the Sugar Order, 1955, promulgated under the Essential Commodities Act. The function) of regulating sugardealers through licensing has again been left to the States by delegation of power under the Essential Commodities Act. The question of licensing of sugarmills arises both under the Industries Act as well as under the Sugar Order. Recently, the Sugar Order, 1966, has encroached in the traditional state activity of regulating sugarcane supply to the mills. This power has now been assumed by the Centre under the Order, but then delegated to the states with the result that while hitherto the States carried on this task under their own constitutional powers, they would now act under power derived from, and as delegates of the Centre. Thus, a complex variety and pattern of relationship emerges between the Centre and the states under the Essential Commodities Act.

From the fact that under the Essential Commodities Act, all powers vest in the Centre and that the states merely act as the Centre's agents it would be wrong to presume that the States play no role in the policy making. Whatever be the legal and formal position, the fact remains that consultation between the Centre and the states continuously goes on, and that the Centre evolves the policies in the light of this Consultation. One illustration as to how the States influence policy-making in the area may be noted, *viz.*, food zones. In spite of the fact that the Centre can legally abolish these zones, and also though the public opinion is against it, yet, the Centre does not want to take any unilateral action, and continue the zones because the surplus states want them to stay. In the matter of food, legal powers though vest with the Centre, yet, administratively it has no organization of its own in the field to implement the accepted policies. It depends by and large on the States for such matters as procurement (except not that *the Food Corporation* has come on the scene). Conferences of Food Ministers are held from time to time to evolve national policies for maximization of production and procurement of food. How the States can thwart an accepted national policy is illustrated by the difficulties being caused in the preparation of a national food budget by state intransigence.

A number of provisions in the Act prescribe severe penalties for infringement to the Act or any order made thereunder.

Under the Essential Commodities Act, a large number of orders have been issued dealing with regulation and control of various commodities. Large discretionary powers have been conferred on administrative officers, in many cases, without many norms to regulate or control this discretion. A large mass of administrative procedure has thus come into existence and it reveals no uniform pattern or approach, but a bewildering variety of approaches, even when dealing with similar problems arising in respect of different

commodities. To take two examples to illustrate the point; in the area of price-control, various orders confer power on the government or officials to fix prices. In some, very definite formula have been laid down for the purpose, while others no such restriction has been provided for. In the Non-Ferrous Metals Order, there is a definite price-fixing formula, *viz.*, landed cost of the metal plus 3% as margin of profit. In the Sugar Order, there is no such definite formula, but still the elements which are to be kept in view in price-fixing have been laid down, *viz.*, price of sugarcane, manufacturing cost, reasonable profit margin and incidental charges. Thus the formula leaves much wider choice to the Government than the formula in the Non-Ferrous Metals Order which simply authorises the Textile Commissioner to fix the price of cotton, or in the Iron & Steel Order where the *Iron & Steel Controller* is authorised, without any apparent limiting factor, to fix the price of iron and steel products.

Judicial Approach To Price Fixation

A large number of cases have arisen around the price-fixing and without going into a detailed discussion of these cases at this stage their effect may generally be summed up as follows: price-fixing is a matter of executive discretion; at what stage whether of production, distribution or consumption, the price should be fixed is a matter for the executive to decide; attempts to definitise criteria to fix prices have not succeeded in the courts; attempts to claim some procedural safeguards against arbitrary exercise of prices have also not succeeded; it is extremely difficult to challenge an individual exercise of price-fixing on the ground of the price being uneconomic. In *Dwarka Prasad v. State of U.P.*⁶, the first case on price-fixing, the formula to fix prices laid down eight items, out of which six were fixed and two left some marginal discretion to the executive. The formula was held to be good. The Supreme Court projected the proposition that "arbitrary power unregulated by any rule or principle" was bad, that discretion should not be absolute. But, in course of time, the rigours of this principle have been diluted in actual application. Thus in *Diwan Sugar Mills v. Union of India*,⁷ the price-fixing formula in the Sugar Order was sustained on the ground that the discretion was not uncontrolled as all reasonable factors for fixing price were contained in the formula. The court rejected the contention of the manufacturers that the price fixed was uneconomic and there were no procedural safeguards against an arbitrary use of the power. In *Union of India v. Bhanamal Gulzari Mal*,⁸ the power of price-fixing sub-delegated to the *Iron Controller* without any formula was sustained on the ground that the policy was to be found in the parent Act and so his discretion was not

6. A.I.R. 1954 S.C. 224.

7. A.I.R. 1959 S.C. 626.

8. A.I.R. 1960 S.C. 475.

arbitrary. The court also rejected the argument that in *Dwarka Prasad's case*⁹ the tenor of the judicial approach was that there should be a prescribed formula for price-fixing. In substance, courts have washed their hands off the area of administrative price-fixing.

The variety and vastness of the administrative power and process under the Act can further be illustrated by reference to licensing an administrative technique used widely for regulating various incidents of trade and commerce in essential commodities. *inter alia*, production, distribution, export, movement, sale, purchase, manufacturing of commodities. Thus, to take two examples, under the Sugarcane Order, no gur or sugar can be manufactured without a licence and under the Jute (Licensing) Order, a licence is needed for carrying on business in raw jute. The Jute Textiles Order imposes a licence for manufacture of jute textiles through a power factory.

In many cases, no criteria have been laid down for grant or refusal of licenses nor have the administrative procedures been prescribed. Revocation of license has been left to the subjective satisfaction of the administrative authority concerned without laying down the grounds for such cancellation, or providing for an opportunity of hearing to the person affected. Though the courts have generally taken the position that there should be a hearing while trading licenses are revoked, yet in applying this principle in actual practice, they have taken an extremely flexible attitude and have left the norms of fair hearing very vague and fluid.¹⁰

Extensive and pervasive use is made of the technique of sub-delegation under the Essential Commodities Act, so much so that at times it goes five or six steps down the ladder. To take one example, the Sugar Order has been made the Central government under the Act. Under the Order, the Central Government again confers powers on itself to do a number of things. The order further empowers the Government to delegate its powers under the Order on any officer or State Government. Many a time the delegate is left free to exercise the powers conferred on him without any criteria being laid down to control his discretion. The power which is conferred by the statute on the Government subject to parliamentary control thus comes to be exercised by administrative officers free of any such restraint. For, a view has been propounded that the condition of laying of orders, stipulated in Section 3 (6) refers only to orders made under the Act and not to orders made in exercise of sub-delegated powers. Broad based sub-delegation dilutes accountability and sense of responsibility as the scope of authority becomes confused and difficult to ascertain. Courts have ceased to insist that sub-delegation be hedged in by laying down guiding

9. *Supra* note 6.

10. *Fedco v. Bilgrami*, A.I.R. 1960 S.C. 415.

lines for the sub-delegate to follow.¹¹ At times, even the delegate is not identifiable, for a particular officer may be defined in the order concerned as that specific officer or anyone else authorised to carry on his functions. This furnishes an example of departmental dual personality.

Thus, the area of commodity control is too much administrative ridden; too many powers have been conferred on the administration. There has been a great proliferation of the administrative machinery; powers conferred by the Act on the Central government are too sweeping and legally uncontrollable. Courts have practically given up their police functions in this area. Parliamentary control through the *Committee on subordinate Legislation on Government's Power* is only marginal. Rules and regulations multiply very fast and not easy to locate. Amendments are often made very frequently and so it becomes confusing to know what the latest legal position on the particular point is. Not many procedural or substantive safeguards are available. One can see in operation in the area of commodity-control many administrative techniques but not enough thought has yet been given to the task of devising suitable methods to control the administration.

Conclusion

There is good deal of overlapping between the Industries (Development and Regulation) Act, 1951, and the Essential Commodities Act, 1955. Section 18 G of the Industries Act, in fact, appears to be a superfluity. This provision was added in 1953 in anticipation of the lapse of the power under *Article 369* as the Central Government wanted to continue, to the extent it could, the policy of price control as an integral part of its economic policy and also to protect new industries being floated from losing money and the Centre took the power also to avoid each State rushing into the vacuum seeking to interfere with the industries. But, with the passage of the Essential Commodities Act, Section 18 G has become superfluous for under Section 3, the government can achieve all that which it can achieve under Section 18 G and much more, for Section 3 covers many more commodities than what Section 18 G does. Existence of two parallel statutory provisions creates unnecessary confusion.

Another point of overlap between the Industries Act and the Commodities Act, is with respect to the appointment of an authorised controller for an industrial undertaking engaged in production of an essential commodity. The provisions in the Industries Act are much more drastic than in the Commodities Act, for under it the whole management and control of the undertaking concerned can be taken over, while under the Essential Commodities Act, only some aspects of control may be assumed. Since

11. *Bhanamal Gulzarimal v. Union of India* A.I.R. 1960 S.C. 475.

the provision in the Industries Act is more drastic, there are better safeguard also, *e.g.*, there should first be an investigation and takeover only thereafter.¹² No provision of investigation or even that of hearing exists in the Essential Commodities Act before a takeover. This appears to be a lacuna in the Essential Commodities Act.

Under *Section 3*, the Central Government can make any order to regulate essential commodities. As already noted, the power is so broad as to be practically uncontrollable by the courts. Some control over this power is exercised by parliament as the orders are to be laid before parliament which can then be scrutinised by *the Committees of subordinate Legislation*. This power is a safeguard of limited value and efficacy. First, the questions of policy, by and large, are not gone into by the *committee*. Secondly, subdelegated order are not scrutinised by the *Committee* and the number of such orders in the area of commodity control may be said to be legion. Thirdly, when a power is delegated on the States, an order made by the State is free of legislative control. Lastly, the provision regarding laying is only directory and failure to lay does not affect the validity of the order.¹³

It may not be out of place to say here a word about *the Food Corporation of India*- an instrumentality of some significance which is bound to have impact on the regulation of trade, commerce, and movement of food-stuffs. The *Corporation* has been created by the Centre under the Food Corporation Act, 1964. The functions of the *Corporation*, as laid down in the Act, are: (1) To undertake the purchase, storage, movement, transport, distribution and sale of food grains and other foodstuffs. (ii) and, with the previous approval of the Centre, (a) to promote by such means as it thinks fit the production of food-grains and other foodstuffs; (b) to setup and assist in the setting up of rice mills, flour mills and other undertakings for the processing at foodgrains and other foodstuffs; (c) and to discharge such other functions as may be prescribed under the rules by the Central Government or as are supplemental, incidental or consequential to any of the functions conferred under the Act.

Under the aegis of *the Food Corporation of India*, there can be state organisation of two sorts: either the Central Government, on being requested by a state government or otherwise, establish a *Board of Management* for a state or two or more contiguous states, or (2) the Central Government may, after consultation with the State Government, establish a *Food Corporation* for that State. The *Board of Management* is to advise the corporation on such matters as may be generally or specifically referred to it and performs such other functions as the Corporation may delegate to it. Similarly, the

12. See *Khetan v. Union of India*, A.I.R. 1957 S.C. 676; *Ambalal Shah v. Hathi Singh Mfg. Co.* 1962 S.C.J. 718.

13. VIII Report (II LS) 17.

State Food Corporation may perform much of the functions of *the Food Corporation of India* as that *Corporation* may delegate to it.

The Food Corporation, along with its state subsidiaries, is fully a Central organ. Its capital is provided by the Central Government and the Central Government can give to the *Corporation* instructions on questions of policy. The *Corporation* is to give an annual report to the Central Government on its working. This report is to be placed before both houses of parliament.

This Act has been enacted under *entry 33, list III* and *entry 44 list I*. The interesting thing to note here is that the corporation can take interest in production of foodstuffs, and this can affect the State power on agriculture. The relation between *entry 33, list III* and *entry 14 list II* has not been worked out as yet.