

Tuesday, 26th August, 1947

Volume V



14-8-1947
to
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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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CONSTITUENT ASSEMBLY OF INDIA

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SUBEDAR MAJOR HARBANS RAI JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Tuesday, the 26th August 1947

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Ten of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

TAKING OF THE PLEDGE

The following member took the pledge:

Mr. S. K. Patil.

Mr. President: We shall now take up the consideration of the item of List I.

Mr. H. V. Kamath (C. P. & Berar : General): Mr. President permit me, Sir, to invite your attention to an incident which took place on the historic midsummer night of August 14-15. I must apologise to you, Sir, and to the House for harking back on old times, but in view of the intrinsic importance of the matter, I will request you to condone the delay in bringing it to your notice. You will be pleased to recollect, Sir, that on the night of the Assumption of Power Ceremony, the first item of the agenda was the singing of the *Vande Mataram*. Some of us in this House noticed that a number of our Honourable friends entered the Assembly Chamber—I would almost say trooped into this Hall—after the song had been sung. I would request you, Sir, to look into this matter, because there are certain considerations which arise from this action of theirs. They entered the Hall simultaneously, so simultaneously that it gave the appearance of the act having been performed not so much by accident as by design. You will be pleased to remember that the Assembly had resolved to leave this matter of programme entirely in your hands and they were in duty bound as members of this House to participate in the programme. My friends all very well know that this song, though it has not been adopted by this House as our National Anthem, yet it is a song, Sir, which has been hallowed, which has been consecrated, sanctified by the suffering and sacrifice, blood and tears, and the martyrdom of thousands of our countrymen and women. I shall be happy to hear from those members who came after the National Song had been sung that they did so not by design, but only by accident. Thank you.

Shri Balkrishna Sharma (United Provinces : General): Mr. President, I am really pained to see this matter being raised by an honourable friend of mine for whom I have great respect and love. As a matter of fact, Sir, most of us did feel that the behaviour of some of our colleagues in this House was not quite in the fitness of things. Yet, we here cannot force anybody....

Shri L. Krishnaswami Bharathi (Madras : General): May I rise to a point of order, Sir? I do not know what we are talking about. I have found on many occasions some members stand up without any motion before the House. You have been so good, Sir, as to permit that kind of thing. But I do not know if it is proper for a member to stand up and talk without being called by you. There must be a definite motion before the House on which we can talk. Therefore, I think it is a most improper procedure for some members to stand up without any motion before the House and therefore, I want your ruling on this.

Some Honourable Members: Order, order.

Mr. President: I think the matter should now be closed. We have heard from Mr. Kamath what he had to say. We have also heard something from Mr. Balkrishna Sharma. I do not know what can be done by pursuing the matter further. I think we had better drop it there.

We shall take up now the items. The next item is Item No. 27.

UNION POWERS COMMITTEE REPORT—*contd.*

ITEM No. 27

Shri K. Santhanam (Madras : General) : Sir, I beg to move the amendment in my name in list No. VII, rather than the one list No. 1. I have given a revised amendment.

Mr. President : Yes.

Shri K. Santhanam : I beg to move:

“That in item 27 after the words ‘other institution’ the words ‘financed by the Federation wholly or in part and’ be inserted.”

The reason for this amendment is that the Central Government is authorised by this item to declare by federal law any institution to be an institution of national importance. There may be many institutions built up wholly by private or provincial funds. It will not be fair for the Central Government to come down on one of them and say that it is going to be an institution of national importance. The consequences of that declaration may be that while that institution is serving the needs of a particular locality or a particular section of the population, it will become an all India institution available to the whole country. I realise there may be an advantage in such declaration with respect to certain institutions. But this power should be confined to those institutions which have been financed wholly or partly by the Central Government. It is only then that the Central Government will be entitled to declare the institution to be an institution of national importance. I beg to move the amendment, Sir.

Mr. President: Mr. Pataskar, you have got an amendment exactly in the same terms.

Mr. H. V. Pataskar (Bombay : General) : Sir, in view of the amendment moved by Mr. Santhanam, I do not propose to move mine. If I may be allowed to point out this item 27 corresponds to item 11 in the Government of India Act, 1935. There also it was provided that any such institution must be financed by the federation.

(I support the amendment, and do not move mine.)

Mr. Naziruddin Ahmad (West Bengal : Muslim): Mr. President, Sir, I beg to move:

“That in item 27 after the words “and any other” the word “similar” be inserted, and for the words “declared by Federal Law to be an institution of national importance”, the words “controlled or financed by the Federation” be substituted.”

Sir, the effect of this amendment would be to bring it exactly on the same basis as item No. 11 of List I in the Government of India Act from which the idea has been taken. Some changes have been made here. But I should submit that the text as given in the Government of India Act is slightly better. The effect of my amendment would be that it would extent the operation of the item to any other similar institutions. The word 'similar' is very important as it will give some idea as to the nature of the institutions which can be brought into operation of this item by the Federal authority.

The next change I desire to affect is to the effect that I want to delete the words "declared by federal law to be an institution of national importance" and instead of that, I want to substitute "institutions controlled and financed by the Federation". I submit the requirement of a declaration by Federal Law is unnecessary. As the item is included in List I, the Federation will have automatically the power to make laws. So, the provision that a thing has to be declared by the Federal law seems to be unnecessary because the power to legislate on this item would be implied. Instead of that, the words "controlled and financed by the Federation" would be better because that would be more appropriate. This is the effect of the amendment. This is clearly of a drafting nature and it does not seriously alter the purpose and scope of the item. With regard to Mr. Santhanam's amendment, I am in agreement with the spirit of the amendment.

Mr. Himmat Singh K. Maheshwari (Sikkim and Cooch Behar States): Mr. President, Sir, I beg to move :

"That in item 27 after the words "any other institution" the words "in a province" be inserted."

I suggest, Sir, that institutions of this kind in Indian States should be left alone. Otherwise, there will be no end to the amount of interference that can be practised under cover of an innocent looking provision like this.

Mr. President : These are the amendments I have notice of. The amendments and the original item are now open to discussion.

(No Member rose to speak.)

Mr. President: It seems nobody else wants to speak. Mr. Gopalaswami Ayyangar, do you wish to say anything ?

Mr. N. Gopalaswami Ayyangar (Madras : General): Sir, I accept Mr. Santhanam's amendment to the effect "that after the words 'other institution' the words 'financed by the Federation wholly or in part and'" be inserted.

With regard to Mr. Naziruddin Ahmad's amendment I might say that the word "similar" was changed into the words "any other" deliberately, because the institutions referred to in item 27 specifically are the Imperial Library, the Indian Museum, the Imperial War Museum and the Victoria Memorial. These, it was considered, were not sufficiently indicative of the kind of institutions that the Federation might choose to help financially and which the Federal Legislature might consider to be institutions of national importance. It is necessary, Sir, that we should not have the restrictive adjective "similar" in this connection.

The other point in Mr. Naziruddin Ahmad's amendment is that the language used in the Government of India Act, Item 11, is more appropriate. The difference between that language and the one which has been used in this item is that instead of saying "financed wholly or in

[Mr. N. Gopalaswami Ayyangar]

part by the Federation" you will have the words "controlled or financed by the Federation". So far as the latter part is concerned, it is practically the same as Mr. Santhanam's amendment. The use of the words "controlled or" would bring into the purview of this item institutions which may not be financed either wholly or in part by the Federation but which the Federation might seek merely to control. The whole idea behind Mr. Santhanam's amendment is that the Federation should not legislate about any institutions of the kind which are not financed wholly or in part by the Federation. Therefore, it seems to me that in order to subserve the object of the amendment which has been accepted it is not possible for me to accept the language used in the Government of India Act.

As regards Mr. Himmat Singh Maheshwari's amendment I am afraid he is unduly sensitive about the Federation encroaching on the province of the Indian States. I would ask him to realise how much he may stand to lose in Indian States if we excepted institutions of the kind located in Indian States from the financial help that such institutions may expect from the Federation, if the item stood as it is. I may assure him that there is no attempt behind this item to clutch jurisdiction over institutions in Indian States; if the rulers and the peoples of the Indian States are willing to run institutions of this kind and finance them wholly themselves, I do not think the Federation will be anxious to exercise any jurisdiction over those institutions. But it may be that the people of the Indian States would stand to benefit greatly by looking for help to the Centre in regard to institutions of national importance which neither they nor their rulers have got the financial capacity to maintain at the proper standard. I think, Sir, it will be to the benefit of the Indian State that they allow this item to remain as it is.

Mr. President: The first amendment which has been moved and accepted by Mr. Gopalaswami Ayyangar is Mr. Santhanam's.

The question is :

"That in item 27 after the words 'other institution' the words 'financed by the Federation wholly or in part and' be inserted."

The motion was adopted.

Mr. Naziruddin Ahmad: Sir, may I be permitted to withdraw my amendment ?

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: Then there is Mr. Himmat Singh Maheshwari's amendment. The question is:

"That 27 after the words 'any other institution' the words 'in a Province' be inserted."

The amendment was negated.

Mr. President: The question is:

"That item 27, as amended by Mr. Santhanam's amendment, be accepted."

The motion was adopted.

ITEM No. 28

(No amendment to Item 28 was moved.)

Mr. President: The question is:

"That item 28 be adopted."

The motion was adopted.

Mr. President: There is a motion in the name of Mrs. Renuka Ray that after item 28 a new item 28(A) be added.

Mrs. Renuka Ray (West Bengal : General) : Sir, I do not desire to move my amendment.

ITEM No. 29

Mr. Himmat Singh K. Maheshwari: Sir, I beg to move:

That for item 29 the following be substituted:

“Airways, Subject to the right of a federated State to develop air communications within it.”

As the House is perhaps aware, the States have the right at present to develop air communications within their areas. I want to know definitely whether the intention is to leave them this freedom or in future to take over the landing grounds and air communications in the States under the control of the Federation.

Mr. N. Gopalaswami Ayyangar: Sir, the item is a general description which provides for legislation being undertaken as regards airways. That by itself does not connote the elimination of Indian States altogether from engaging themselves in enterprises which provide air communication between one point in their States and another. The whole thing is to depend upon what is decided to be put into the federal law when it comes to be made. I have no doubt that such legitimate interests of Indian States, as deserve to be catered for, will be provided for in that law. After all, in regard to the question of airways in general, everybody should agree that the legislation regarding air communications, routes, etc., should be regulated and controlled by the centre. I do not think that what Mr. Himmat Singh apprehends will necessarily come to happen. There is no need to make an exception because, even in regard to airways operated by Indian States within their own limits, in respect of certain aspects of control, it would be necessary to vest power in the centre.

Mr. President: The question is:

That for item 29 the following be substituted:

“Airways, subject to the right of a federated State to develop air communications within it.”

The motion was negatived.

Mr. President: The question is:

“That item 29 be adopted.”

The motion was adopted.

ITEM No. 30

Mr. H. V. Pataskar: Sir, I beg to move:

“That in item 30 for the word “Federal” where it occurs for the second time the word “national” be substituted.”

Item 17 of the provincial list refers to provincial highways and waterways, and for that reason it seems to be proper to mention them here as national highways and waterways. I hope it will be accepted. Sir, I move.

Mr. Alladi Krishnaswami Ayyar (Madras : General) : Sir, I beg to move:

“That in item 30 the words ‘and waterways’ be deleted, and for the words ‘Federal Government’ the words ‘Federal law’ be substituted.”

The reason why I move this is that in item 31 you are providing for “shipping and navigation on inland waterways declared by the Federal Government to be Federal waterways”. Therefore, if you retain waterways here there will be a certain overlap between items 30 and 31.

[Mr. Alladi Krishnaswami Ayyar]

Secondly, if you use the general expression "waterways" it will be susceptible to the construction that the entire control over the waterways including irrigation and other rights may be taken over by the centre, which is certainly not the object of the original item. So in order to show that it must have a restrictive operation it is much better that waterways should be omitted from item 30 and brought under item 31. And later on for the development of waterways special provision is made. The idea is to preserve in their integrity all the other rights of the provinces in regard to waterways. For all these reasons I move this amendment.

I have no objection to Mr. Pataskar's amendment which seeks to substitute "national highways" for Federal highways. Sir, I move.

Mr. N. Madhava Rao (Eastern States): Sir, my only object in proposing to move an amendment* to this item is to emphasise what must have been in the minds of the authors of this list. Highways and waterways fall generally within the sphere of the Units, and if they are to be declared as federal in any particular case, it is reasonable to assume that the Government of the Unit or the Units concerned would be consulted, and their opinions given due weight. If the Federation makes such a declaration, it will be for improving the highway or waterway in question and maintaining it at a higher standard than the resources of the Units permit. Such being the case, it is most unlikely that any Unit would raise any objection unless the proposal was coupled with very unacceptable conditions. Several of the entries in the Federal List read as if unilateral action by the Federal Government was contemplated, although I am sure the real intention was quite different. It is expedient to remove this impression. I would not have really moved this amendment Sir. To save time I might have taken it for granted that before a declaration like this was made, the Units concerned would be consulted. But after Mr. Alladi Krishnaswami Ayyar's amendment, I feel a little confused as to what exactly is the object and import of this item. Is it mainly concerned with the construction and improvement of highways and their maintenance in a proper and efficient condition ? Or is it meant to empower the Federal Parliament to legislate in regard to the carriage of goods and passengers ? Both items 30 and 31, as they stand, are to me fairly clear. It is the amendment proposed by Mr. Alladi Krishnaswami Ayyar, that has aroused some doubt. I should like to have some enlightenment as to what exactly is the object of the amendments and how the entry would read with the amendments now proposed and what its effect would be on the powers and responsibilities of the Centre *re* (a) the maintenance of highways and (b) control of passengers and goods traffic on such highways.

Mr. Hussain Imam (Bihar : Muslim) : Mr. President, I should like to express certain opinions for the consideration of the House and for the guidance of the draftsman if my suggestions are approved of. I am referring to a particular matter as far as waterways are concerned. We agree that as far as the control of shipping is concerned, it is covered by item 31 and there is no need for its inclusion in item 30. But there is another aspect of waterways with which we are at the present moment concerned, namely, the development of power and irrigation as a consequence thereof. We have this scheme of the Damodar Valley in which

*No. 19—That in Item 30 after the words "declared by the Federal Government the words in consultation with the Government of the Unit or each of the Units concerned" be inserted.

two Provinces are interested—Bihar and Western Bengal. Now, because of the present set-up, the Central Government could not legislate on that without the concurrence of the two Provinces concerned. Similarly there is the Rihand Valley Project between Mirzapur District of U.P. and Palamau District of Bihar. The development of this project is dependent on the concurrence of the two Provinces concerned. I think that now that we are legislating anew, it is necessary that provision be made to distinguish between the two functions—the irrigational and power development aspects. In the smaller rivers, or rather in the case of rivers in which only one Province is concerned, it could remain as at present a Provincial subject. But where large rivers are concerned, in which two or more provinces are concerned or interested, it is only proper that these should remain a Central or Federal subject so that the present difficulties which we have to encounter of getting the concurrence of the Provinces asking them to bear some part of the expenses and cost thereof all these create difficulties—may be avoided. The Provinces are notoriously poor. Their resources are very meagre. Take for instance the Mahanadi Project in Orissa. It is impossible for that Province to finance this project out of their own resources. I therefore suggest that in framing this item, care should be taken to see that there is no encroaching on Provincial rights, as far as rivers, in which only one Province is interested, are concerned. But where more than one Province is interested in a River, and the work is of a major nature involving power development together with irrigation, it should remain a Federal subject. I am making this suggestion for the consideration of the House. I have, therefore, not put in any amendment; but if the House approves of this idea it may be incorporated by the draftsman when preparing the Bill.

Shri M. Ananthasayanam Ayyangar (Madras : General): Sir, the difficulty anticipated by the previous speaker can be fully overcome by the provision of the Government of India Act enabling the Federal Legislature to pass laws for more than one Unit wherever two or more Units are interested even in a Provincial subject. It does not need any alteration of the present item, and it need not be included in list I, it is not necessary to clothe the Federal Legislature with all the power, irrespective of whether a particular Unit wants the power to be exercised in their favour or not. That is my first point.

Then, as regards the amendment moved by Mr. Madhava Rao, there is some meaning in what he said. If highways are vested in the Central Government and included in the Federal List, without any qualifications, the regulation of traffic over the highways also will be a Central subject. Highways naturally pass through many units. There is no highway which does not pass through Units, and so far as roads are concerned, they are a Provincial subject. Therefore, he justly asks if it is the intention of the Centre to exclude these from the operation of the Provincial Legislature so, far as the road traffic is concerned. My view is that it is necessary that it must be exclusively with the Centre. There may be occasions when the traffic on these roads may have to be controlled in the interests of the Federation. But the ordinary kind of traffic may be left to the Provinces. In the Centre we are accustomed to such legislation as the Motor Vehicles Legislation. There is the Motor Vehicles Act passed by the Central Government which also gives power to create Provincial

[Shri M. Ananthasayanam Ayyangar]

Traffic Boards to deal with the traffic in the Provinces. Likewise though highways are included in List I, provision may be made to reserve certain powers to the Centre as in times of emergency for the regulation of traffic, though the ordinary maintenance of traffic may be entrusted to the Provinces. Therefore, there is no need to accept the amendment suggested by Mr. Madhava Rao, and the present item may be left as it stands.

Mr. N. Gopalaswami Ayyangar: Sir, for the very good reasons adduced by Mr. Alladi Krishnaswami Ayyar, I accept his suggestion that we drop "waterways" from item 30. If we retain it there, it would lead to a certain amount of overlapping between items 30 and 31, not to speak of other items relating to waterways in the rest of the list. The actual amendment proposed by him was originally "Highways declared to be such by Federal law", and we have an amendment moved by Mr. Pataskar that, for the words "Federal highways and waterways" the words "national highways and waterways" be substituted. I have already said that we are omitting "waterways" from this item, but I think it would meet the points of view of both these Honourable Members if I suggest that the item may read as follows :

"National highways declared to be such by Federal law."

If the House agrees to that small amendment, we may get through with it.

The next amendment that was moved was by Mr. Madhava Rao. I think he himself conceded that no highways are likely to be declared "national highways" without previous consultation with the units. That is a matter of administrative routine and I do not think it is necessary that we should insert the words that he has suggested in item 30. He wanted, however, some clarification as to what exactly was meant by the item as it stands, whether it would include, for instance, power being taken by the Federal Legislature to control traffic on the roads. What I would like him to realise is that the item as it stands primarily refers to the construction and maintenance of national highways. As regards the question of the regulation of traffic thereon, we are not giving any specific power to the Centre. As a matter of fact, in regard to other forms of communications like waterways and railways and, I believe, airways, we have specifically provided in this list for the Centre taking power to control carriage of passengers. We have not made any such provision here. I should therefore suggest to him that the powers that the unit may possess for the control of such traffic even on national highways, it will not be deprived of.

The next point that I wish to refer to is the one mentioned by my Honourable friend Mr. Hussain Imam. He referred to waterways. But, as I have said, we propose to omit waterways from this item. Apart from that, on the merits of what he said, some argument has been advanced on the other side by Mr. Ananthasayanam Ayyangar to the effect that in the constitution there will be provision for two units concerned with the same waterway applying to the Centre for legislation to regulate and control it. Apart from that provision which will certainly be made, I would refer Mr. Hussain Imam to item 83 in the Federal List itself, which refers to the development of inter-unit waterways for purposes of flood control irrigation, navigation and hydro-electric power. That ought to satisfy him to the full.

Shri Ananthasayanam Ayyangar: May I ask one question of Mr. Gopalaswami Ayyanger ? He said that “national highways” without any further qualification would only mean construction and maintenance of national highways and he said that item 31 provides for “carriage of passengers and goods on such waterways”. These according to him are not restricted by the powers conferred on the Centre. Without that the Centre will not have such power. On the other hand, can it not be taken as restricting the powers of the Centre, and if that is so, is it not necessary to accept in some form Mr. Madhava Rao’s amendment ?

Mr. N. Gopalaswami Ayyangar: Sir, my answer is this. In the remarks I made I was rather deliberate. I skated over rather thin ice from a legal point of view. “Highways” left as highways only in this item would cover power to make regulations even as regards traffic. I did not say in my remarks that the Centre would not have that power. What I really intended to convey was that we are not giving the Centre *exclusive* power—which is what is meant by inclusion of the item in this list—to regulate the traffic on even national highways. What I told Mr. Madhava Rao was that, even if the item were left to stand as it is, there is no specific taking away of the power in the units to make any regulations they may like. I think there is a certain amount of delicate interpretation of the wording of these items involved in what I said, but I believe the substance is clear from what I have said.

Mr. President: Mr. Gopalaswami Ayyangar has in effect accepted the amendment moved by Mr Alladi Krishnaswami Ayyar and the one moved by Mr. Pataskar. So I will put both these amendments in the way in which he intended them to be put, namely.

For item 30, the following be Substituted:—

“National highways declared to be such by Federal law.”

The amendment was adopted.

Mr. President: Now there is Mr. Madhava Rao’s amendment.

Mr. Madhava Rao: I withdraw my amendment, Sir.

Mr. President: Mr. Madhava Rao has withdrawn his amendment.

I hope the House gives him leave to withdraw his amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: I shall now put the item, as recast, to vote, namely “30. National highways declared to be such by Federal law.”

The motion was adopted.

ITEM No. 31

Mr. President: Item 31. There is an amendment by Mr. Alladi Krishnaswami Ayyar.

Mr. Alladi Krishnaswami Ayyar: Sir, as item 30 has been carried, 31 may be retained with this change. I would suggest the substitution of the words ‘Federal law’ for the words ‘Federal Government’ in item 31. The item, as amended, will read thus:—

“Shipping and navigation on inland waterways, declared by the Federal law to be Federal waterways, as regards mechanically propelled vessels, and the rule of the road on such waterways, etc.”

This will bring item 31 in line with 30.

Mr. Naziruddin Ahmad: Mr. President, Sir, the amendment which stands in my name is in the alternative form. I do not wish to move the first part. I wish to take up only the alternative part. The alternative part is again divided into two parts. I gave notice of it in two separate portions but they have been printed together. I only wish to move the last portion of the alternative amendment. The portion I beg to move runs thus :-

“That in item 31 for the words ‘on such waterways’, the words ‘in such waterways’ be substituted.”

I submit, Sir, that this is only a drafting amendment. When speaking of roadways we say ‘on’ such roadways but when speaking of waterways, I should think that it should be ‘in’ such waterways. While travelling on the road you move on the road but when passing in the waterways, the vessels go at least partly under the surface. This is the impression which I have got on the subject. As I have submitted it is purely a drafting amendment and I hope the Honourable Mover may consider the advisability of accepting it.

Mr. N. Gopalaswami Ayyangar: Sir, I accept Mr. Alladi’s amendment to substitute ‘Federal law’ for the words the ‘Federal Government’ in item 31.

As regards the amendment moved by Mr. Naziruddin Ahmad, it is a matter of what would be correct English. After all what this refers to is movement. We move on the road—that seems to be conceded. I do not know if it is right to say we move in the water. I think it is not necessarily wrong. I cannot accept the amendment straightforward but I shall ask the draftsman to have the English examined very carefully and decide between *on* and *in*.

Shri R. V. Dhulekar: (United Provinces : General) *[Mr. President, this amendment of Mr. Naziruddin Ahmad is out of order, regarding the use of “on” or “in”. Englishmen may be able to decide that and they may do what they like. As this constitution will be drafted in Hindi there is no need of such discussions.]*

Mr. President: *[We shall see to it when there is Hindi.]*

Mr. President: The first amendment is by Mr. Alladi Krishnaswami Ayyar. That has been accepted by Mr. Gopalaswami Ayyangar. I take it that the House accepts it.

The amendment was adopted.

Mr. Naziruddin Ahmad: I withdraw my amendment.

Mr. President: I hope the House agrees to the withdrawal of the second amendment by Mr. Naziruddin Ahmad.

The amendment was, by leave of the Assembly, withdrawn.

*[]*English translation of Hindustani Speech.

Mr. President : I put the item to vote.

Item 31, as amended, was adopted.

ITEM No. 32

Mr. President: We take item 32. There is an amendment by Sir V. T. Krishnamachari.

Sir V. T. Krishnamachari (Jaipur State): I do not move it.

Shri K. Santhanam: Sir, I beg to move—

“That in paragraph (b) of item 32, the word ‘broadcasting’ be deleted and the following be added at the end:

‘Federal broadcasting and law and regulation of broadcasting’.”

I was expecting that amendment No. 32 will be moved and if it was moved I was going to support it. The item as it stands gives not only law but also actual owning and regulation for telephones, wireless, broadcasting and other forms of communications whether owned by the Federation or not, to the control of the Centre. So far as law or regulation of these communications are concerned, there is no doubt that it should be a central power but whether the unit should possess these forms of communications as supplementary to the central lines of communication is a point which requires careful consideration; in such a big country as this, with all kinds of difficulties and many languages, it is essential that the line should not be drawn too tightly. I think at least so far as broadcasting is concerned, it is essential that every linguistic unit should be allowed to have its own broadcasting arrangements, subject of course to the regulation of the Centre for law and other matters which require to be regulated. I wish that the other matters also—telephones and other communications also—had been brought in but as that amendment is not moved, I am moving my amendment so that at least the broadcasting is brought in. Sir, I move the amendment.

Mr. A.P. Pattani: (Western India States Group 4) : Mr. President, the amendment which I wish to submit reads as follows:—

“That for paragraph (b) of item 32 the following be substituted:

‘Telephones, wireless, broadcasting and other like forms of communications owned by the Federation; and regulation of similar forms of communications owned by provinces or States’.”

The States, Sir, have agreed to federate—to Join the Union on the three subjects of Defence, Communications and Foreign Affairs. If I am correct in my interpretation, they are whole-heartedly prepared to co-operate with the Union in these subjects.

They do not wish to make more reservations than are necessary. Defence and Communications are interdependent subjects. Defence will be possible only if there are proper communications. My amendment, therefore, Sir, does not wish to restrict the powers of the Union. All I wish to suggest is that there should be a distinction between Federal telephones,

[Mr. A.P. Pattani]

wireless, broadcasting, etc. and similar forms of communications owned by Provinces and States. The latter should be regulated only by the Federation. I only want to make a distinction between the two ownerships and nothing more. So I submit the amendment.

Mr. N. Madhava Rao: Mr. President, Sir, these are amendments which I have tabled more with a view to elicit information than to make any positive contribution to the proper drafting of this item. I shall explain my object.

In the first sub-item, Posts and Telegraphs, it has been stated:

"Provided that the rights existing in favour of any individual State Unit at the commencement of this Constitution shall be prescribed to the Unit until they are modified or extinguished" etc.

Now, with regard to posts and telegraphs, there are certain rights more or less of a contractual character which subsist in favour of certain States. I am not aware that there are any with regard to telegraphs. With regard to telephones there is an understanding that the States are at liberty to erect and operate systems which are internal to the State. The Indian States are entitled to set up and maintain telephone systems, open them to the public and work them for gain or grant licences to private companies and persons for the same provided the lines do not go beyond the limits of the State into British India or into another State.

Now, I would like to know how this assurance that has been given in the past is likely to be affected by the adoption of this item of the Federal Legislative List.

Then again, Sir, with regard to Savings Bank, this is not really an item under communications at all. Merely because the Savings Bank is operated by the Postal Department this item is mentioned here. This question of Savings Bank was raised before the Davidson Committee. The Government of India, who were consulted by the committee, expressed their opinion as follows:—

"These operations which take the form of savings bank account and the sale of cash certificates represent a form of commercial exchange from which each party concerned derives some benefit which is fairly balanced by the consideration given.....We admit, however, that it would be a new and unjustifiable principle of political practice to hold that the Paramount Power is entitled to carry on these transactions in the States against the wishes of the Rulers and, in some cases, in competition with the Durbar's own local arrangements. We are prepared therefore to arrange for their complete cessation in the territory of any State that definitely asks for it."

Now, some States I know of are thinking of establishing their own savings banks and it is quite likely that for their proper working it would be necessary to ask the Postal Department to withdraw its own savings bank system. Now, whether the assurance conveyed in the passage which I have now read out is still valid or is to be regarded as a matter of ephemeral policy which may be altered at any time is a matter on which I should be very grateful for elucidation.

Thirdly, with regard to wireless and broadcasting, there is a provision in section 129 of the Government of India Act. I wish to know whether

anything corresponding to this would be reproduced in the new Constitution. It is for the sake of ascertaining these particulars that I am moving these three amendments, *viz.*,

"That in paragraph (a) of item 32, after the words 'Posts and Telegraphs' the words, 'telephones; post-office Savings Bank' be inserted."

"That in paragraph (b) of item 32, the word 'telephones' be deleted, and the following be added at the end:

'subject to the provision of the Constitution corresponding to Section 129 of the Government of India Act, 1935'."

"That paragraph (c) of item 32 be deleted."

Mr. Naziruddin Ahmad: I beg to move—That in item 32, the following new para. be added after para. (b) :—

"That in item 32, the following new para. be added after para. (b):

'(bb) other like forms of communications'."

This is practically an amendment of a drafting nature because it only seeks to make the enumeration complete. There are in clause (a) the Posts and Telegraphs owned and managed by the Government. In clause (b), telephones, wireless and broadcasting are mentioned. The sub-paragraph which I wish to add is to include within this list. "Other like forms of communications". There may be private postal undertakings by private individuals. The Government of India have the monopoly for carrying on postal communications. So, in order to guard against any loophole enabling private persons to undertake a parallel postal service. I have suggested that this sub-clause may be added. It is only a suggestion to the Drafting Committee to take note of and to do the needful that I have made in this amendment.

With regard to Mr. Madhava Rao's amendment in the matter of postal savings bank I think that though it is connected historically with the Postal Department, it does not form part of the "Communications" to which the States have acceded. I should therefore think that before dealing with the law relating to Postal Savings Banks, some consultation with the States' authorities may be undertaken. That is all I have to submit in this respect.

Mr. Himmat Singh K. Maheshwari: Mr. President, Sir, I beg to move that in para (a) of item 32 the words "or are acquired by the Federation" be deleted and at the end of para (c) of item 32 the words "in a Province" be inserted.

Sir, in connection with other amendments which I had the temerity to move earlier this morning I have been accused of being sensitive and also of being unduly apprehensive. I plead guilty to these accusations and I must say that my apprehensions regarding the acquisitive tendency of the Centre are not removed by the wording of item 32 or by any sub-item of this item. I have moved amendments only in respect of sub-items (a) and (c), but I am in full agreement with the amendment moved also in respect of clause (b) of item 32.

In this connection, Sir, I would like to draw the attention of the House to item 4, sub-clause (a) of clause C of the Report submitted to this House in April 1947. At that time, Sir, there was no intention on the part of the authors of the Report to acquire the rights of the States in regard to Posts and Telegraphs. This intention to acquire those rights seems therefore to be a later development.

With regard to clause (b) item 4 of clause (c) of the April Report may again be referred to. It was then intended to deal with Union Telephones, Union Broadcasting, Union Wireless and not with telephones.

[Mr. Himmat Singh K. Maheshwari]

wireless and broadcasting owned or controlled by States. The intention evidently was only to regulate wireless and broadcasting and other such means of communications owned by the States but not control them. The present item on the other hand seeks to control all telephones, all wireless stations, all broadcasting stations and other like forms of communication whether owned by the Federation or not. To my mind this is clearly an extension of the principle that was in mind when the earlier April Report was drafted.

Then again, Sir, with reference to clause (c) it has been pointed out already by other speakers that the Post Office Savings Bank does not form part of the subject of communications which is one of the three subjects in respect of which the States have acceded or propose to accede to the Federation in future. In practice, Sir, the business conducted by the Post Office does mean a certain amount of profit to the Post Office and it is only legitimate that Indian States which have established banks of their own should be permitted to deal with the savings bank business and that the Post Office should cease to do this work in future in Indian States.

Prof. Shibanlal Saksena (United Provinces : General) : Mr. President, Sir, my amendment is as follows:—

“That for para. (b) of item 32 the following be substituted:

‘(b) Telephones, wireless, broadcasting and other like forms of communication. Acquirement when such systems of communication are not owned by the Federation at present.’”

Sir, there are three subjects on which the States have acceded and they are Defence, Communications and Foreign Affairs. In regard to Foreign Affairs, Sir, the list of Federal subjects will show that the entire jurisdiction is with the Federal Government. As for Defence, there, too the entire control is with the Federal Government. In fact there is provision in item 5 allowing the States to keep their armies, though the strength organisation and control of these will be by the Federation. But I wish that this provision were not there, and no separate armies were allowed to be kept by any unit. Similarly in regard to Communications, I think that no defence system can work unless the communications are completely owned by the Federation. We had the experience of the last war and we know how the Fifth Columnists used to employ wireless transmitters and other things for purposes of espionage. We can conceive of another war. In that case, until the Federation has full control over the system of communications, it cannot adequately discharge its responsibilities for defence. So, I think, that so far as communications are concerned, the Federation must have complete ownership. Of course, I visualise that our Federation will trust its units and will in normal times delegate its powers to them and grant full autonomy by federal laws, but it must have the power in times of emergency to take away all control and be fully prepared to meet emergencies. For if we have no power of ownership of these means of communication, we cannot own them.

This is only possible by providing in this Federal list complete ownership of all the means of communication by the Federation and the power of acquirement by the Federation of all systems which are not owned by it at present. I therefore think that all members from the States will see that by accepting this amendment they will not in any way be losing their right to have their systems of broadcasting in their own States in their own languages. Only they will be giving the Federation the right in times of war to take complete control of all systems of broadcasting. Therefore, I have suggested that “Acquirement when such

systems of communication are not owned by the Federation at present", be added to the present clause after the deletion of the words "whether owned by the Federation or not" at the end of the present clause. Because there are some States which have got their own systems of communication. I want the Federation should have the right to acquire them at least during the time of emergency and to that I think, nobody should object.

Shri M. Ananthasayanam Ayyangar: Sir, I support Mr. Santhanam's amendment. We are all agreed that the Central Government must have control over broadcasting. Even the amendments that have been suggested by the States Ministers did not try to take away the control in the last resort of the Federal Government. All that I am able to read from their amendments is that they should be permitted to establish their own broadcasting stations and to some extent exercise control over them. I am sure that in the body of the Act a provision similar to the existing provision in section 129 of the Government of India Act will be enacted. There, reference is made to treaties and obligations between the Central or Federal Government and the States or Rulers of States regarding the manner in which the powers should be exercised and also in cases of emergency the Governor-General should have power to take charge of the entire broadcasting system in the whole country, whether the broadcasting station is within the ambit of a State or in a province. A similar provision clothing the Central Government with power to take charge in case of emergency will also, I am sure, be made. This provision is adequately made in the amendment of Mr. Santhanam who recognises that both the provinces and the States may be allowed to have their own broadcasting stations subject to laws and regulations to be made by the Centre.

Then I find Mr. Maheshwari takes objection to one thing in clause (a) of item 32, that is acquisition of broadcasting stations, and posts and telegraphs within the ambit of a State. It is true that it is not there in Entry No. 7 in List I in the Government of India Act. For the sake of uniformity, Sir, if a State is prepared to sell away the posts and telegraphs communications there, it must be open to the Federation to acquire them. Acquisition means not only voluntary acquisition or agreement between the parties, but compulsory acquisition also. The only thing to which they are taking exception is compulsory acquisition.

So far as the railways are concerned, there has been an attempt to centralise all the railway systems for the benefit of the entire State. I am not talking of the States who are not acceding. Those States who are acceding, originally even under the Cabinet Mission Plan, it was intended, should concede the three subjects Defence, External Affairs and Communications. Communications are practically the arteries of defence and in referring to defence, we think in terms of emergency. Therefore, Communications must be a federal subject and there ought to be no deflection from that. The States ought not to stand on respect or prestige in this matter. They must concede the power to the Central Government to acquire the posts and telegraphs within the ambit of a State whether voluntarily or by agreement or even by compulsion.

I support the amendment moved by my honourable friend Mr. Santhanam and oppose the other amendments.

Mr. S. V. Krishnamoorthy Rao (Mysore State) : Sir, I do not think clause 32 excludes the right of a Unit to own broadcasting, wireless, telephones, because it says in clause (b), telephones, wireless, broadcasting and other forms of communication, whether owned by the Federation

[Mr. S.V. Krishnamoorthy Rao]

or not. So, all that this clause does is to empower the Federal legislature to legislate, whether these forms of communication are owned by the Federation or not. Especially, in a country like India, in times of war and emergency, communications are closely allied with defence and so the power to regulate and legislate for these communications should rest with the Centre and the Centre alone.

I also oppose the amendment to exclude the Savings Bank from the Post offices, because these Savings Banks are a normal function of the post offices. No State so far as I know can afford the service that these Post office Savings Banks are doing, especially in the rural areas. Almost every State has got its own Savings Bank in the Treasuries and also the Banks financed or partially run by the State. But these post offices are situated in rural areas in small villages and I do not think any State or province can afford to start savings banks in rural areas. This work can be done and it is being done very usefully by these post offices, even branch post offices and therefore I oppose the amendment to exclude the savings banks from the purview of the post office.

I oppose all the amendments and support the original clause as it is.

Shri Gopikrishna Vijayavargiya (Gwalior State) *[Mr. President, I am of the opinion that broadcasting should be included in Communications. Broadcasting is also one of the means of communicating one's ideas and therefore this should also be a federal subject. The objections raised against it are not sound. The amendment of Mr. Santhanam in this connection is appropriate and broadcasting should be a federal subject. Many States today are pressing the view that this right should remain with them. In this connection, what I have to say is that when we are all jointly making the Federation, it is not proper to say that this right belongs to the States and that the Federal Centre should not interfere with it. I think that this is not in good spirit. We are framing the Federation in cooperation with the Princes and their representatives and therefore whatever few rights are being ceded in a few subjects must be surrendered without reservations. This includes Posts and Telegraphs. We must give them to the Federation.]

It is my experience that in the small States where there are only State Post-offices, the States place a number of restrictions on people's liberties. Very often, in cooperation with post-offices, C.I.D., and many similar methods the States suppress the news that is sent out, and people's confidential letters are detained, intercepted and utilised against them in litigation. Therefore, the post-offices, etc., should be a little more independent, and the States should be given minimum rights over them, so that the service that can be rendered to the people through the Post offices, should be properly done. These (Post-offices) can escape intrigues and mismanagement of States only by recognition as a Federal subject.

Therefore this whole subject should be treated as suggested in the amendment of Mr. Santhanam.]*

Chaudhri Nihal Singh Takshak (Jind State) *[Mr. President, I rise to oppose one half of the amendment of Mr. Maheshwari. As an inhabitant of an Indian state, I have some experience of those States which

[] English translation of the Hindustani speech.

have their own postal arrangements, particularly the smaller States. The State-subjects have a number of difficulties there. Post offices are considered a source of state-revenue and therefore the States try to have as many post-offices and as few postmen as possible, whereas, in the provinces (of India) the mail is distributed in a village twice a week, in Indian States it is distributed hardly twice a month, not even once a week. The reason is the shortage of postmen.

One other particular difficulty is that the money-orders that are sent there are "exchanged" and the "exchange" takes place in the post-offices in British India. This takes a lot of time. Many a time it happens that due to shortage of money in State-treasuries, money-orders are delivered after many days and delayed even for months.

The third special difficulty is that in such States as have their own postal arrangements, when the pensions are paid from Indian Provinces the recipients have to go very long distances. Very often, I have seen how much inconvenience widows have to undergo when they go (to post offices) to receive pensions.

The other thing is that post office is included in the "item" but the Savings-Banks clause cannot be separated from it. In the States where there are local post-offices, Savings bank facilities are not given. Therefore, the words or acquired by the "Federation" should not be deleted. I would request this Assembly that as soon as the Constitution comes into operation, right from the very beginning the post offices must be a Federal-subject, so that the difficulties of State subjects may be removed.]*

Mr. A. P. Pattani: Mr. President, Sir, last honourable member's remarks about the States who wish to cooperate in every possible way, as I said as a member from the States, are something that I do not understand. What is the intrigue of the States he talks about ? We are asking you to take the communications that are necessary for the Union. We are requesting that communications that are necessary for the Union are requesting that communications which are owned by the provinces or States should only be regulated by the Centre. Where is the intrigue in this ? I do not understand, Sir, and I wish the honourable member will explain.

Shri Gopikrishna Vijayavargiya: The thing is this. The intrigue I was mentioning was not regarding the present affairs. But in some post offices, some letters were intercepted and other things done by the States. That was what I was referring to and not the present state of affairs.

Mr. N. Gopalaswami Ayyangar: Sir, the first amendment that was moved to this particular item was that of Mr. Santhanam. I take it that he moved it because the previous amendment on the list had not been moved. I may say at once that, though that particular amendment was not moved by Sir V. T. Krishnamachari, an amendment in substance more or less the same as that amendment has been moved by Mr. Pattani; and, if the House will permit me, I propose to accept the substance of Mr. Pattani's amendment but in the language of Sir V. T. Krishnamachari's amendment which was not moved. The only verbal change that I would make in Sir V. T. Krishnamachari's draft is that I would substitute

[* English translation of the Hindustani speech.

[Mr. N. Gopalaswami Ayyangar]

Federal for Union. It will read: "Federal telephones, wireless, broadcasting and other like forms of communication". That, I think, disposes of Mr. Santhanam's amendment. I will not accept it.

Shri K. Santhanam: I withdraw it.

Mr. N. Gopalaswami Ayyangar : Then, Sir, I have to deal with the remarks of Mr. Madhava Rao in regard to certain points connected with the wording of this item. I may mention for his information that there is a State where there were agreements about telegraphs between the Paramount Power and the State. I refer to Kashmir. In addition to the Indian telegraph system which works in Kashmir, that State has also a State telegraph system, and the correlation and coordination of these two systems have been provided for by an agreement between the State and the Government of India. He referred also, Sir, to certain assurances and statements of policy made by the Crown Representative in respect of post offices, of telephones, of post office savings banks, and about wireless. Now I do not wish to go into all the statements of policy by the Paramount Power which is defunct today. But I would only say that any assurances of that sort were not supposed to be eternal. It is quite possible, even if the Paramount Power had continued in this country, for these arrangements being revised by agreement between the State and the Paramount Power. That procedure will still be available. The short answer to Mr. Madhava Rao as regards these matters is this. I would refer him to the terms of the Instrument of Accession which has been recently signed by all States which have acceded to the Dominion, and one of the items under Communications in respect of which they have agreed that the Federal Legislature should have power to make laws is worded as follows:—

"Posts and Telegraphs, including telephones, wireless, broadcasting, and otherlike forms of communication."

There is no limitation at all here. In actual fact this broadly worded item is limited by other arrangements. Now I was referring to agreements as regards these matters. We find in the standard Standstill Agreement which has been entered into between the States and the Government of India the clause that will apply to agreements is worded as follows:—

"Until new agreements in this behalf are made all agreements and administrative arrangements as to matters of common concern now existing between the Crown and any Indian State shall, in so far as may be appropriate, continue as between the Dominion of India or as the case may be the part thereof and the State."

So that, whatever assurances or agreements already exist will be continued until new arrangements are made. And such agreements, according to the schedule to that Standstill Agreement, could relate to Posts, Telegraphs and Telephones. There can be no quarrel then as regards the wording of the item in the Federal list in the Union Powers Committee Report. It really puts into the new constitution limitations on the power of the Federal Legislature which you do not find in the Instrument of Accession that you have already signed. And it preserves the right which exist in favour of any individual State at the commencement of this constitution. Those rights will be preserved until they are modified or extinguished by agreement between the Federation and the unit concerned. That, I hope, supplies the clarification which Mr. Madhava Rao sought.

There is one part of this item, clause (a) of item 32 to which some exception was taken in an amendment moved by my friend Mr. Himmat Singh. He thought that his apprehensions as regards the Centre were only fortified by the words which you find in this clause or are acquired by the "Federation". Now, I wish to put to the House this one point: Posts and Telegraphs are, according to the distribution of powers between the Centre and the Units, an item which should normally be under the exclusive control of the Federation. We recognize the fact that any arrangement that may exist with the States which accede should be continued until other arrangements are made. Now, take the case of the Federation deciding at some time in the future that, in the interests of the country as a whole it is necessary that the standard of postal administration of a particular State should be pulled up, that there was no hope of the State itself doing it, that therefore it is necessary for the Federation to take over the administration of Posts and Telegraphs in that particular State. I think, Sir, in the larger interests of India the Federation should have the power to acquire any rights that that particular State might have. When we say "or are acquired by the Federation" it means that for any rights in what is essentially a Federal subject—any vested interest—which an individual State may have, due compensation will be paid to that State on acquisition. No body who really appreciates a scheme of federation can object to the lodgement of such a power in the Centre.

Then, Sir, I would refer to the other amendment which was moved by Mr. Himmat Singh. He wants to restrict Post Office Savings Banks to Provinces. Apart from the merits of it, I think, if we do that, it will mean a tremendous unsettlement of the existing state of things. There are hundreds of States and thousands of Post Offices in such States which are now doing this work. Is it suggested that the Federation should not have anything to do with this sort of thing in any Indian State? The only thing we need provide for is that, in case any particular State makes out a case for running Savings Banks of its own, unconnected with the Post Office, then it will be a matter for negotiation between it and the Government of India as to whether the Post Offices in the State might be instructed from the administrative standpoint not to have any more Savings Bank work. That is quite possible and if a State makes out a case, I dare say the future Government of the Dominion will consider it. But to remove Post Office Savings Banks in all Indian States from the purview of the Federation will be an economic upsetting of conditions in Indian States which I for one will not recommend to the House.

Then, Sir, we have Mr. Shibanlal Saksena's amendment which runs as follows:

"That for para. (b) of item 32 the following be substituted:

'(b) Telephones, wireless, broadcasting and other like forms of communication. Acquirement when such systems of communication are not owned by the Federation at present.'"

I think, Sir, the amended form in which this item will appear as a result of what I have said already will cover the substance of what Mr. Shibanlal Saksena wants.

The only other amendment I need refer to is that of Mr. Naziruddin Ahmad. He very rightly points out that the words "other like forms of communication" which now occur in clause (b) will only refer to forms of communication of the same type as telephones, wireless and broadcasting. He wanted that the Centre should have power also to regulate

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forms of communication such as Post Offices and Telegraphs. The only thing that I need say on this point is this: Posts and Telegraphs, in item (a), are a Federal subject. You will notice that even in the case of any postal or telegraph systems, which under the exceptional arrangements which exist with certain Indian States are continued, the Centre will have the power—the Federal Parliament will have the power—to make laws for their regulation and control.

In areas which are not covered by any such special arrangements the Federal Parliament will have exclusive power to prohibit any other kind of postal communication between individual and individual or groups of individuals and groups of individuals. As a matter of fact, I believe, there is in the existing Post Office Act a section which makes it an offence to circumvent the regular post by making any arrangement privately for the dispatch of letters between one area and another. That is an offence under the Post Office Act. I am sure that provision will be continued. Nobody can send a telegram except through the Government Telegraph Office at present. In view of this, I do not think he need press the addition of the item he wanted. Sir, I have nothing more to say. The result is that I accept Mr. Pattani's amendment in Sir, V.T. Krishnamachari's language, and oppose all the other amendments.

Mr. President: I will now put the amendments to vote, and I think the best course would be to take the item by paragraphs.

There is first the amendment of Mr. Madhava Rao.

"That in paragraph (a) of item 32, after the words 'Posts and Telegraphs' the word 'telephones; post-office, Savings Bank;' be inserted."

(The amendment was negated.)

Mr. President: Then there is the amendment of Mr. Himmat Singh.

"That in para. (a) of item 32, the words 'or are acquired by the Federation' be deleted."

(The amendment was negated.)

Mr. President: Then I take up the amendments to clause (b).

Shri K. Santhanam: In clause (a) I have an amendment about the words "State Unit". These words are likely to cause confusion.

Mr. N. Gopalaswami Ayyangar: Sir, he might leave the refining of the phrase to the draftsmen.

Shri K. Santhanam: The intention is the States?

Mr. N. Gopalaswami Ayyangar: Yes.

Mr. President: To Item No. 32 (b) the first amendment is that of Mr. Pattani, in the language of Sir V. T. Krishnamachari.

The amendment was adopted.

Mr. President: Then I take it that Mr. Santhanam withdraws his amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: I do not think it is necessary to put Mr. Shibanlal Saksena's amendment now separately.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: Then we take Mr. Madhava Rao's amendment.

Mr. N. Madhava Rao: That is a consequential one and it drops, as also my amendment to 32(c).

Mr. President: Then we come to Mr. Himmat Singh's amendment.

"That at the end of para. (c) of Item 32, the words 'in a province' be inserted."

(The amendment was negatived.)

Mr. President: There is, I think, only one other amendment, that is the one by Mr. Naziruddin Ahmad.

"That in item 32, the following new para be added after para (b): '(bb) other like forms of communications'."

Mr. Naziruddin Ahmad: Sir, I withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then I put the item, as amended, to the vote of the Assembly.

Item No. 32, as amended, was adopted.

ITEM No. 33

Mr. Naziruddin Ahmad: Sir, I beg to move—

"That in item No. 33, the brackets enclosing the words 'other than minor railways' be deleted."

This is only drafting amendment. This item corresponds with item No. 20 in List I of the Government of India Act. It is exactly the same, except that the two brackets appear here which do not appear in the model. I submit that the brackets are unnecessary and without them the item would read better. In fact, to me it seems that the brackets are an eyesore and look like hurdles to impede the reader.

Mine is purely a drafting amendment and I suggest it to the House for consideration.

Mr. N. Gopalaswami Ayyangar: Sir, I agree that a bracket is a crude thing in a list of this sort, and I accept the amendment. But, If Mr. Naziruddin does not consider it inappropriate, I would put a comma before and after that expression (*Laughter*).

Mr. Naziruddin Ahmad: Sir, I agree.

Mr. President: There is no other amendment to this item and that moved by Mr. Naziruddin Ahmad has been accepted by Mr. Gopalaswami Ayyangar.

I now put this amendment to vote.

The amendment was adopted.

Mr. President: Now I put the item, as amended, to vote.

Item 33, as amended, was adopted.

ITEM No. 34

Shri K. Santhanam: Sir I move that in item 34, the following be added at the end:—

“Provision of education and training for the mercantile marine and regulation of such education and training provided by units and other agencies.”

The need for the centralisation of the qualifications needed for engineers, pilots and other executive officers of the mercantile marine need not be dilated upon. It is essential that all the standards as well as the actual provision of education should be in the control of the Centre, but there is no reason why there should be any prohibition of the provision of such education by universities and other agencies. Only such education and training should conform to, the standard set up by the Centre. The actual amendment that I am moving provides both for central provision as well as central regulation of other provision, by universities and State agencies.

(Mr. G. L. Mehta and Prof. Shibbanlal Saksena did not move their amendments.)

Mr. N. Gopalaswami Ayyangar: I accept Mr. Santhanam's amendment, Sir.

Mr. President: The amendment moved by Mr. Santhanam has been accepted by Mr. Gopalaswami Ayyangar, that in item 34 the following be added at the end:—

“Provision of education and training for the mercantile marine and regulation of such education and training provided by units and other agencies.”

I now put the amendment to vote.

The amendment was adopted.

Mr. President: The question is that item 34, as amended, be adopted.

Item 34, as amendment, was adopted.

ITEM No. 35

Mr. President: There is no amendment to item 35. I put it to vote.

The item was adopted.

ITEM No. 36

Mr. H. V. Pataskar: Sir, I beg to move that in item 36 the following be added at the end:—

“and the, constitution and powers of Port Authorities therein.”

Mr. R. K. Sidhwa (C. P. & Berar General) : Sir, until the Government of India Act, 1935, came into existence, all the major ports in India were controlled by the Provincial Governments, but before that period a wider franchise was given to the governing bodies of the various port trusts and therefore the non-official majorities were considerably increased. But the Government of India which was bureaucratic and was controlling those port trusts subsequently took away those powers from the Provincial Governments. I would have preferred not to burden the Central Government again with these major ports to be controlled by them. However, if it is felt that in the existing circumstances there should be a uniform law for all the major Ports I do not press my amendment to delete the item in this list and insert in List No. II.

Mr. A. P. Pattani: Mr. President, the only suggestion I have to make in this connection is that at the end the following proviso be added to this item:—

“Provided that for ports of federated maritime States such declaration or delimitation shall be made after consultation with the State concerned.”

I have only made this suggestion because in the past there has been a tendency on the part of the Central Government to take rather drastic action without consulting the States, and since we are coming into the Federation we should be consulted before suddenly delimitations of our ports are taken in hand. Of course, the same applies for declaration of a minor or a major port. Sir, I move.

Mr. Naziruddin Ahmad: Sir, I beg to move that for item 36, the following be substituted:—

“36. Major ports, that is to say, the declaration and delimitation of such ports and the constitution and powers of port authorities therein.”

Sir, the amendment is exactly a reproduction of item 22 in List I to the Government of India Act, from which the present item 36 has been taken. It is in substance the same; there is difference in the drafting. The amendment gives complete power to deal with the subject, *i.e.* to declare a port to be a major port. While the amendment emphasises the power to be given to the Federation the item under consideration emphasises the fact of declaration or the action taken under the item. I submit the amendment, would serve the purpose better. However, it is only a drafting amendment and it is submitted for the consideration of the Drafting Committee.

Shri Lakshminarayan Sahu (Orissa: General) : Mr. President, Sir I approve wholeheartedly of this item, but at the same time, I wish to add that there should be some provision for opening at least a new major port in every coastal province.

My amendment is:

‘That the following be inserted at the end of item 36:
“and also opening of at least a new major port in every coastal province.”

My anxiety for my own province actuates me to suggest this amendment. The present province of Orissa is in a very wretched condition. Once it was very prosperous and the present poor condition of Orissa is due to want of a major port and that is why I want that there should be an insertion of such a clause so that we, the coastal provinces, may have at least one major port. Mr. Sidhwa on the other hand wants that it should not be a subject under the Federal List; but I must oppose that and say that unless it is under the Centre, it is not possible for the Province to develop a new port. My friend Mr. Naziruddin Ahmad has partly supported me by his amendment and I therefore hope that my amendment also will be passed. The once prosperous province of Orissa has been reduced to such penury that it is a shame for the whole Union; it will remain a shame for the whole Union unless and until it is developed and brought into line with other provinces. When you are going to start, so to say, a new altogether, all the provinces must be started on an even keel and that is why I am so particular that we must have a major port, so that trade and industry may flourish. We must have a channel through which we may be able to be prosperous. Once the policy of starting canals in Orissa was started: but it was a failure and that caused great inconvenience and cost to the people of Orissa. Again, the Railways were started and the Railways have also become so to say a failure in Orissa to a great

[Shri Lakshminarayan Sahu]

extent because there are not many openings and we get floods almost once in three years and we suffer terribly. The real prosperity of the coastal province lies in its ports and in former times Orissa was very prosperous only on account of her ports. In almost every district we had one or two ports; in Balasore we had the port of Pipili and Chandbali, and in Puri in olden times we had the famous port of Chelitola. All these ports are practically non-existent today and I therefore wish that our new Union will give us such help that we may be able to start at least one major port for the province of Orissa. To start with, the Andhra province—it is expected it will be a new province—will have Vizagapatam; but though our province has been created in 1936 and it is a coastal province, we have no major port. I therefore wish that this should be included in item 36. As regards the Language, I feel some difficulty in wording it properly but I hope that may be changed properly by those who are incharge of the drafting.

Mr. G. L. Mehta: (Western India States Group) : Mr. President, I am intervening in this debate to make clear a few points. So far as ports are concerned in this country they are not merely intimately connected with Communications which is a Central subject and must therefore be under Central control but they have also enormous strategic importance. Last year the Government of India appointed a Ports Development Committee which presented a valuable report and the Honourable Members of this House, if they study the report, will see that this Committee has realized and emphasised the vital importance of ports on the coast of India for strategic, defensive as well as commercial purposes. Ports Sir, are also connected with Railways in the hinterland and Railways are a Central subject and therefore I would suggest that ports should be under Central control. Mr. Pataskar has given notice of an amendment that the constitution and powers of Port Authorities therein should also be included in the federal list. I think that is a reasonable amendment because if the delimitation of ports is included, naturally the constitution and powers of the port authorities should also be included in this list. Mr. Pattani has given an amendment that "Provided that for ports of federated maritime States such declaration shall be made after consultation with the State concerned". I am sure, Sir, that will be exactly what will be done and I do not know if this provision should find a place in the Federal Legislative List. Mr. Gopalaswamy Ayyangar will no doubt be able to enlighten the House in this matter. I would submit that the inclusion of this item in the Federal Legislative List is justified and if we had made a mistake before 1932, there is no reason why we should continue that mistake.

As regards the suggestion that there should be one major port in every province, that surely is a matter for detailed technical investigation and a question of the financial resources of the Province and of the country as a whole and is a subject of subsequent legislation, not a matter that should be put in the constitution itself or in the Federal Legislative list. If ports unduly compete with one another and if you want to stop that, it requires co-ordination and Central control. I therefore support the inclusion of this item in the Federal list as moved by Mr. N. Gopalaswamy Ayyangar.

Shri M. Ananthasayanam Ayyangar: Sir, I agree with Mr. Lakshmi Narayan Sahu that power has to be given to the Centre to create and develop ports. As regards competition between ports, it is a central subject and therefore it is up to the Federal Legislature to pass regulations to avoid competition between one port and another. As Mr. Sahu said attempts to improve Railways etc. have failed so far as Orissa is concerned

and therefore the only other source that can possibly be had is by creating a major port where there is none. There is provision for development in the 1935 Act as also in the list that we are now considering. If there is already a major port, it is open to improve it; if there is a minor port it is open to the Federal Legislature to declare it to be a major port but it does not give to the Federal Government power to start a major port at a new place. I think provision must be made to create a major port where there is none. No development is mentioned there. Declaration and delimitation are the words used. That means the declaration and delimitation of major ports only. This no doubt gives ample power to the Centre to declare as major port any port developed by a Province. The Centre should help the provinces with finances to develop the ports. Therefore I would urge upon Mr. N. Gopalaswami Ayyangar to accept the words "creation and development" along with the words 'declaration and delimitation'.

Shri T. T. Krishnamachari (Madras: General) Only one thing I would like to say in this connection and it is this : My friend Mr. Ananthasayanam Ayyangar said that the Provinces develop the ports and the Centre takes them over thereafter. That was not the case in my own province. My province has a special fund for minor ports in which over 60 lakhs had accumulated and a sum of Rs. 40 lakhs from this Minor Ports Fund was appropriated by the Provincial Government and put into the general revenues. It is not always the case therefore that the Provinces do the right thing in regard to ports under their control and the Centre the wrong thing.

Mr. N. Gopalaswami Ayyangar: I accept Mr. Pataskar's amendment to insert at the end of item 36, the words "and the constitution and powers of port authorities therein." That is an obvious addition to make and that is in substance what Mr. Naziruddin Ahmad intended by his amendment. Mr. Naziruddin Ahmad has really copied out the item as it stands in the List under the Government of India Act. We have slightly elaborated that item, so far as the first part of it is concerned, in our description. Instead of 'Major ports', we have said, 'Ports' declared to be major ports by or under Federal law or the existing Indian law including their delimitation. Now, I do not think that there is any thing very strongly in favour of the Government of India Act so far as this item is concerned.

The other point that has been raised during the debate is that in certain provinces major ports do not exist or minor ports have not been sufficiently developed so as to enable their declaration as major ports. Now, Sir, so far as these are concerned, we have laws already and we shall have power to make laws in the future. In our Federal legislation we shall have to indicate the conditions which should be satisfied before the Federal Government can declare a port, to be a major port under that law. It would be wrong. I think, to put into the Constitution any provision that there should be at least one major port in every coastal Province. May be that the coast of a particular province does not admit of the creation or development of a major port. There is no point in going and wasting money, on a coast which does not permit of this sort of thing. I am sure that no province which has got the necessary conditions and facilities for having a major port will be denied the opportunity of developing a major port in the new order of things. It is sufficient, Sir, that we take power to create and develop such ports wherever, they are necessary and wherever they can be created and developed.

[Mr. N. Gopalaswami Ayyangar]

One point I should refer to in the amendment proposed by Mr. Pattani. That provides for consultation with an acceding maritime State before any area in it is declared to be a major port. That consultation, as I have said in connection with the other items, will be a matter of routine in the future. I can understand Mr. Pattani's point that in the past certain things have been done which did not quite meet the legitimate wishes of particular Indian States which come under this description. I can well understand it. In the past, Indian States stood aloof constitutionally from the Centre. The question of major ports was one for the Government of India. Those States were, not in direct touch with the Government of India and had to negotiate through the Crown Representatives's Department. That was not always a healthy method of getting these questions settled to the satisfaction of both the Centre and of the State concerned. In the future, the States that have acceded to the Federation will become part of the Federation and, just as in the case of provinces previous consultation will take place before any area is declared to be a major port the same consultation will take place with the Units which are Indian States. There is also the fact that these Indian States will have representatives at the centre. I am sure there will be representatives in the Legislature and I am sure in the Government there will be some persons who will be there because of their connection with and experience of Indian States. Therefore, Sir what perhaps had happened in the past, Mr. Pattani may take for granted, will not necessarily happen in the future. If it does he has the means of pulling up the Federal Government in matters of this kind and seeing that that sort of thing is prevented.

Mr. A. P. Pattani: May I just say a word? Very often the interests of the different maritime States do not coincide under the present arrangements. Maritime States have their own particular interests and they should be able to place before the Government their case. It will not be possible for all to be represented by some one person or representative.

Mr. N. Gopalaswami Ayyangar: My answer to that is, I think, that practically every maritime state of any importance will have individual representation in the future Federal Legislature. With regard to States which do not have such representation, they certainly do have representation in the sense that along with other States, they will have the right to send representatives to the Federal Legislature so that there can be no question of any acceding State not being represented in, the Federal Legislature at all.

I am sorry I omitted to refer to Mr. Ananthasayanam Ayyangar's suggestion. I think really that the Act as it stands covers the points that he has stated. It is certainly open to the Federation to declare ports to be major ports. It does not necessarily mean that you are given power only to declare a minor port to be a major port. You can take any area in the country and say that it is a major port and provide for the creation of the necessary agencies for its development and so on. I think this is wide enough to cover his point.

Mr. President: I will now put the amendments to vote. There is an amendment by Mr. Naziruddin Ahmad.

Mr. Naziruddin Ahmad: I withdraw my amendment.

The amendment was by leave of the Assembly, withdrawn.

Mr. President: I then put the amendment of Mr. Pataskar which has been accepted by Mr. Gopalaswami Ayyanger, to vote:

"That the following be added at the end of item 36:

'and the constitution and powers of Port Authorities therein'."

The amendment was adopted.

Mr. President: The next amendment is by Mr. Pattani. That at the end of item 36, the following proviso be added:-

"Provided that for ports of federated maritime States such declaration or delimitation shall be made after consultation with the State concerned."

Mr. A. P. Pattani: I withdraw my amendment.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President: Then there is an amendment by Mr. Lakshminarayanan Sahu that the following be inserted at the end of item 36:—

"and also opening of at least a new major port in every coastal province."

The amendment was negatived.

Mr. President: The original item as amended by Mr. Pataskar's amendment is now put to vote.

Item 36, as amended, was adopted.

ITEM No. 37

Mr. President: Now we go to item 37.

(Shri K. Santhanam did not move his amendment).

Mr. G. L. Mehta: Mr. President, I beg to move that the following be added at the end of item 37 :—

"Provision for-aeronautical education and training and regulation of such education and training provided by Units, and other agencies."

Sir, I need not take up the time of the House in commending this amendment to their acceptance. For reasons which were explained by Mr. Santhanam in regard to education and training in mercantile marine services, we need also Central control and co-ordination in education in aeronautical services. I should only like to add one point and that is that for such services as mercantile marine and aviation, we have to pool our resources and in the initial stages, it would be too optimistic to expect that every unit or every state could start similar institutions. We have dearth of technical talent and then we have also the difficulty of getting the necessary aircraft, equipment and so on and therefore, in the initial stages it will be necessary that there will have to be one Central institution. But there is no need to prevent the units from starting such institutions if they so desire, provided we evolve and maintain uniform standards of education and training and competence in such matters. Sir, I move this amendment.

(Mr. G. L. Mehta did not move his other amendment No. 16 in List II).

(Prof. Shibanlal Saksena did not move his amendment.)

Mr. Naziruddin Ahmad: Mr. President, Sir, I beg to move:

"That in item 37 for the colon, a semi-colon be substituted, and for the comma, a semi-colon be substituted (*laughter*)."

I find, Sir I have created some amount of amusement in the House by this amendment, but it has a serious aspect. In fact item 37 consists of three different subjects. The first is Aircraft and air navigation. The second is the provision of aerodromes and the third is regulation and Organisation of air traffic and of aerodromes. I beg to submit that these three distinct items must each be separated by a semi-colon.

[Mr. Naziruddin Ahmad]

That has been the custom in drafting these items. In fact these three different sub-items should be separated by equal kinds of stops, but the separating punctuation between the first and the second is a colon. The reader here is suddenly halted. It acts almost like a full stop. But between the second and the third sub-items there is a comma. The reader is suddenly hurried from one subject to the other. I have carefully compared this item with Item No. 24 in List I in the Government of India Act to which item 37 corresponds. There the punctuation is exactly as I have suggested. I do not think that an intentional or conscious departure has been made here but this slight difference between the punctuation in the Government of India Act and this item probably is due to a clerical error. I submit this amendment, which is purely of drafting nature for the consideration of Mr. Gopalaswami Ayyangar.

Mr. President: Mr. Santhanam, there is another amendment in your name.

Shri K. Santhanam: I do not propose to move it, Sir.

Mr. President: We have then two amendments now. Does anyone wish to say anything about them ?

Shri M. Ananthasayanam Ayyangar: Sir, as regards training, the amendment moved by Mr. Mehta—I have no objection to it—only elaborates the powers already conferred. As you know all that you do is to insist upon the pilots or drivers having particular qualifications and the schools will come of their own accord. Therefore even in respect of aeronautical training or navigation schools, none of them need be opened. By a stroke of legislation that a particular qualification should be possessed by seamen or navigators or air-pilots, the situation can be solved. Therefore, this particular amendment may not be necessary. All the same, there is no harm in its inclusion and I support that amendment.

There is a fundamental thing to which I would like to draw the attention of the House at this stage. So far as the road highways are concerned, there are national highways and provincial highways. So far as the railways are concerned, there are State railways, all India Railways and there are minor railways. Likewise, in waterways, there are inland waterways and waterways which are declared federal waterways. So far as the airways are concerned, I would like to say, Sir, that there may be a tendency on the part of the Centre to starve the provinces. So far as the airways are concerned, the highways may be reserved for the Centre. Branch lines or branch airways should be left to the provinces to develop as they are better capable of developing this traffic than the Centre. I am not opposing or even moving a formal amendment. But I would like this Assembly to take note at this stage, that the federal legislature, when an Act is passed, ought to provide, as in the case of road traffic boards, for provincial Air traffic Boards, so that air traffic in the provinces may be regulated, expanded, and new lines may be opened so as to feed the main lines or highways, or between one province and another.

There is this danger also. I find, though I am not opposed to centralised capital flowing in all channels and I welcome it, this will help to concentrate the wealth of the country in the hands of a few persons. It may be possible for the Centre to prefer those men with a fleet of aircraft to proceed even to the villages to the detriment of a few persons

who may wish to start small air navigation companies in the provinces and gather a few rupees there, so that the province as well may become wealthy. To avoid competition also, there must be an air traffic board—a provincial board established in the provinces.

These are the limitations that ought to be taken into consideration at the time when we pass a federal law to safeguard the interests of all. In view of this and under the impression that it will be acceptable to the general Assembly I am not proposing any amendment. I support the entry as it stands.

Mr. N. Gopalaswami Ayyangar: Sir, I accept the addition proposed by Mr. Mehta at the end of this particular item which says, provision of aeronautical education and training and regulation of such education and training by Units and other agencies.

The other amendment was an amendment relating to the punctuation of this item. I entirely agree with Mr. Naziruddin Ahmad that the colon after “navigation” was a mistake for a semi-colon and I accept that amendment. I agree with him also, Sir, that after “aerodromes”, there should be a semi-colon instead of a comma.

Pursuing the same kind of mental process that should have instigated him to propose this amendment, I would suggest, if he approves, that the word “the” before “provision” be omitted. Or if he is not agreeable to that, after the second semi-colon, we should insert another “the”. I personally would prefer the dropping of “the” before “provision”, so that the item will read as follows:

“Aircraft and air navigation; provision of aerodromes; regulation and organisation on air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by units and other agencies.”

Mr. President: I now put the amendments to vote. The first amendment is by Mr. Mehta. I take it that it has been accepted by Mr. Gopalaswami Ayyangar. I put that amendment to vote now:

That after item 37, the following new item be added.

“Training in various branches of aviation, civil and military.”

Those who are in favour of this addition will please say Aye.

Many Honourable Members: Aye.

Mr. N. Gopalaswami Ayyangar: He has withdrawn that amendment.

Mr. President: I am sorry it is a mistake. I am sorry the vote has to be withdrawn. It was by a mistake that I put it to vote.

Now, I put this amendment to vote.

That at the end of item 37 the following be added.

“Provision for aeronautical education and training and regulation of such education and training provided by Units and other agencies.”

The amendment was adopted.

Shri M. Ananthasayanam Ayyangar: Sir, you are declaring according to the sense of the House, when we do not hear the eyes. At least the mover of an amendment must say Aye. Otherwise why should we accept it. It is as much the business of the mover as that of the House.

Mr. President: I take it that the mover has said Aye.

Now the amendment item with the semicolons is put to vote.

An Honourable Member: May the House know how it reads now!

[An Honourable Member]

Mr. President: "Aircraft and air navigation; provision of aerodromes; regulation and organisation of air traffic and of aerodromes; provision for aeronautical education and training and regulation of such education and training provided by Units and other agencies."

The item, as amended, was adopted.

Mr. President: It is one O'clock now. The House will now adjourn till ten O'clock tomorrow.

The Assembly then adjourned till ten of the Clock on Wednesday, 27th August 1947.
