

Mr. President : Then I will put the amendment of Pandit Thakur Das Bhargava.
The question is:

“That at the end of the amendment No. 415 of list XVIII (second Week), the following be added :

‘That for the words ‘any law’ the words ‘any reasonable law’ be substituted.’ ”

The amendment was negatived.

Mr. President : Then we take up the new article 302AAA, i.e., amendment No. 450. Mr. Santhanam has made a suggestion that in order to complete the amendment which has just been passed, “Contempt of Court” must be included in the Concurrent List, and I think it is consequential and we had better take that thing.

The Honourable Dr. B. R. Ambedkar : I will move an amendment straightaway, Sir, I move::

“That after entry 15 in the concurrent List, the following entry be added: ‘

‘15A. contempt of court.’ ”

Mr. President : I do not think there can be any objection to that.

Mr. Naziruddin Ahmad : There may be many more such things.

Mr. President : May be, but they will come up in time.

So, I will put this to vote.

The question is

“That after entry 15 in the Concurrent list, the following entry be added:—

‘15A, Contempt of Court.’”

The amendment was adopted.

Entry 15A was added to the Concurrent List.

New Article 302AAA

Mr. President : Then we take up amendment No. 450.

Shri T. T. Krishnamachari : Sir, I beg to move:

“That after article 302AA, the following new article be inserted:-

‘302AAA. (1) Notwithstanding anything contained in this Constitution, the President may by public notification direct that as from such date as may be specified in the notification:-

- (a) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or
- (b) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article :-

- (a) ‘major port’ means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;
- (b) ‘aerodrome’ means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.’ ”

[Shri T.T. Krishnamachari]

Sir, the reason for moving this article is that certain difficulties have been experienced in regard to what are called international aerodromes, in trying to fit in transit passengers—internationals—who come in there, but who may not ordinarily for the time being, come within the scope of the particular laws of the province in which the aerodrome is situated. The idea, I understand, is that Santa Cruz Aerodrome in Bombay and Dum Dum in Calcutta, are now to be treated as international aerodromes. It is possible that other aerodromes will also be treated as coming under the same category, before long. For instance, if there is absolute prohibition law in regard to liquor in any province, the moment the passenger lands and if he has some liquor with him, he would be coming within the scope of this law of the province, whereas it is, only proper that he should come within the scope of the law of the State only when he goes out of the aerodrome into the area covered by the State. Again, there are certain specified security regulations that may be necessary in the aerodromes, but which may not fit in with the scheme of security regulation current in the State. For instance, in military aerodromes the security regulations are very strict because the entire aerodrome is under military control. In the case of civil aerodromes the position is a little different. The Central Government which controls them will have to depend largely on local laws so far as security arrangements and other similar matters are concerned and it may be necessary, not merely to have a preventive staff whom the Central Government is empowered to have by fiscal legislation but also have a special police with special powers for the purpose of dealing with international traffic and those who interfere with it.

The same contingency will apply to major ports also, particularly to new ports that come into being in areas which were formerly called Indian States. There are some difficulties experienced in the case of such ports already and there may be more difficulties in future. This is merely enabling provisions to permit the President the limited power to get over the difficulties that might arise which would not necessitate the provinces to alter their laws to suit the special circumstances of a port or aerodrome. It will help the provinces to make a law irrespective of the fact that there is a major port or aerodrome situated in the State and it helps the Centre to control those areas if it desires to do so by passing laws in addition to those existing in the provinces or modifying those laws to suit the special circumstances of the case. Instances might be quoted against the utility of an article of this nature but their validity is limited. There are possibilities of more instances of a different nature arising in the future. I repeat that this is an enabling provision which does not seek to interfere with the powers of the provinces at all. Major ports and aerodromes are admittedly under Central control for an purposes and the Centre is also empowered to have additional legislative control by means of Presidential action.

The purpose of the amendment is simple one and I am told which is very necessary in regard to the administration of the aerodromes and major ports concerned with international traffic. I hope the House will accept it.

Mr. Naziruddin Ahmad: Will there be no changes necessary in the Seventh Schedule ?

Shri T. T. Krishnamachari : No. Major ports and aerodromes are Central subjects.

Mr. President : Prof. Shibbanlal Saksena has given notice of an amendment. He is not in his place and therefore it is not moved.

Shri R. K. Sidhwa: Sir, I cannot understand how this article is described as a simple one and merely a consequential change is sought to be made.

Mr. President : It was not stated that it is a consequential change.

Shri R. K. Sidhwa: The Mover said that it is a simple article concerned with international traffic and should be approved by the House.

Sir, the preamble does not state why the President should be empowered with extraordinary powers and over rule any law which Parliament may make regarding aerodromes and major ports. These come within the Union List, I do not see why clause (a) provides “any law made by Parliament or by the Legislature of a State”. I do not think any State is empowered to make laws regarding aerodromes and major ports.

Sir, if this article is meant for emergencies such as war and so on. I can understand it. During the last two World Wars, entry to the aerodromes and major ports was prohibited to the public and many restrictions were imposed regarding traffic therein. I can understand that. But I cannot understand why when Parliament in the ordinary course make laws, such laws should be superseded by the President. What are the reasons for empowering the President to do so ? No case has been made out for this. Today, in the international airports if any passenger comes from foreign countries he is subjected to search. His luggage and even his person are searched. There are both men and women inspectors at the Custom House for this purpose. All these restrictions are there now and so I do not think there is any need to give the President this power. As I said, I can understand the need for this power in an emergency. But, why, when laws enacted by Parliament are there for the purpose ordinarily, should the President have power to overrule those laws? In emergencies the position will be different, I agree, I have personal experience of it. Even relatives of persons embarking or disembarking at ports are not allowed access. Such restrictions are there and have been there in times of emergencies. I do not see any necessity for vesting this power in the President. Instead of this, however, I would suggest the following provision :- “Notwithstanding anything contained in this Constitution, the President may by public notification direct as from such date as may be specified any law may be made in the event of an emergency or war.” If these lines are added this article would get a different meaning and may be necessary. Otherwise it will mean you want to deprive Parliament of the power of making laws. I want an explanation as to why the words “Legislature of State” are put in. Has any State power to make laws concerning aerodromes ?

The Honourable Dr. B. R. Ambedkar : Sir, I think my Friend Mr. Sidhwa has entirely misunderstood the position. If he will refer to List 11, in Schedule Seven, items 30 and 35 which relate to the matters covered by the amendment moved by my Friend Shri T. T. Krishnamachari, he will see that the power of legislation given to the Centre under items 30 and 35 is of a very limited character. The power given under item 30 is for the purpose of regulation and organisation of air traffic. The power given under 35 is for the purpose delimitation of the Constitution and the powers of port authorities. He will very readily see that, so far as the territory covered by aerodromes or air ports and ports is concerned it is part of the territory of the province and consequently

[The Honourable Dr. B. R. Ambedkar]

any law made by the State is applicable to the area covered by the aerodrome or the port. These entries 30 and 35 do not give the Centre power to legislate for all matters which lie within the purview of the Central Government under the entries. The powers are limited. Therefore the proposal in this article is this that while it retains the areas covered by the aerodromes and by the ports as part of the area of the provinces—it does not exclude them—it retains the power of the States to make laws under any of the items contained in List II so as to be applicable to the areas covered by the aerodromes and the areas covered by the ports. What the amendment says is that if the Central Government think that for any particular reason such as for instance sanitation, quarantine, etc., a law is made by the State within whose jurisdiction a particular aerodrome or port is located, then it will be open for the President to say that this particular law of the State shall apply to the aerodrome or to the port subject to this, that or the other notification. Beyond that, there is no invasion on the part of the Centre over the dominion of the States in respect of framing laws relating to entries contained in List II so far as aerodromes and ports are concerned. I hope my Friend, Mr. Sidhva, will now withdraw his objection.

Mr. President : I shall now put amendment No. 450 to the vote. The question is :

“That after article 302AA. the following new article be inserted:

‘302AAA. (1) Notwithstanding anything contained in this Constitution, the President may by public notification direct that as from such date as may be specified in the notification—

Special provisions as to major ports and aerodromes

- (a) any law made by Parliament or by the Legislature of a State shall not apply to any major port or aerodrome or shall apply thereto subject to such exceptions or modifications as may be specified in the notification, or
- (b) any existing law shall cease to have effect in any major port or aerodrome except as respects things done or omitted to be done before the said date, or shall in its application to such port or aerodrome have effect subject to such exceptions or modifications as may be specified in the notification.

(2) In this article

- (a) ‘major port’ means a port declared to be a major port by or under any law made by Parliament or any existing law and includes all areas for the time being included within the limits of such port;
- (b) ‘aerodrome’ means aerodrome as defined for the purposes of the enactments relating to airways, aircraft and air navigation.’ ”

The motion was adopted.

Article 302AAA was added to the Constitution.

Mr. President : Then we go to the next item, article 306A.

Shri T. T. Krishnamachari : May I suggest that we pass over the next item for the time being and take up Schedule III-A ?

Mr. President : Yes we may take that up.