

The Honourable Dr. B. R. Ambedkar : Entry No. 19. Now, with regard to the question put to me by my Friend Dr. Deshmukh, he wants that the words “for reasons connected with the State” should be substituted. In my judgment, that would be a limiting entry; and ours is a much better one as it specifies the subject-matter in connection with which the preventive detention may be ordered.

And then Mr. Brajeshwar Prasad wants public safety to be introduced.

Shri Brajeshwar Prasad : I did not want it. I only wanted to know whether the phrase “reasons connected with defence etc.” included “public safety or interest.”

The Honourable Dr. B. R. Ambedkar : Yes, “security of India” is a very wide term.

Shri Brajeshwar Prasad : I am not referring to “security of India” but to “public safety or interest”.

The Honourable Dr. B. R. Ambedkar : Now, with regard to Mr. Naziruddin Ahmad’s question, he wants the words “persons subjected to such detention” to be deleted.

Mr. President : No, he has not moved that amendment. He only wants to substitute the word “external” for the word “foreign”.

The Honourable Dr. B. R. Ambedkar : We are hitherto using the word “foreign” throughout, and I think it is better we keep to the same word.

Shri H. V. Kamath : Is the security of India the same as the security of any part of it ? And is the present entry in consonance with article 275?

The Honourable Dr. B. R. Ambedkar : Yes, undoubtedly.

Mr. President : I shall put amendment No. 149 of Mr. Naziruddin Ahmad to vote.

[The amendment was negatived.]

Mr. President : Then I put Dr. Deshmukh’s amendment.

[The amendment was also rejected.]

Mr. President : Then I put the entry as it was moved by Dr. Ambedkar.

[The amendment was adopted.]

UNION LIST

ENTRY 4

***Mr. President :** Then we come to entry 4.

*CAD, Vol. IX, 29th August 1949. p. 731.

The Honourable Dr. B. R. Ambedkar : I move :

“That for entry 4 of List I, the following entry be substituted :—

‘4. Naval, military and air forces; any other armed forces of the Union.’ ”

Honourable Members will see that this entry was a very large entry, and it consisted of two parts. Part one of the entry related to the raising of the forces by the Union. Part two related to the forces of the States mentioned in Part III. In view of the fact that it has been decided to put the States in Part III on the same footing as the States in Part I, it is desirable to delete the second part of this entry. And so far as any States have today any forces, it would be provided for by a provision in the part dealing with the transitory provisions of this Constitution.

With regard to the first part of the entry, it is felt that it is a mouthful, and that many of the words are not necessary, and that the short phraseology now proposed—naval, military and air-forces—would be quite sufficient to give the Union all the powers that are necessary for the purposes of maintaining an army, navy and air-force.

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***The Honourable Dr. B. R. Ambedkar :** It is necessary to retain the words “any other armed forces of the Union” because, besides the regular army, there are certain other forces which come under the armed forces and which are maintained by the Centre. For instance, there are what are called the “Assam Rifles” to guard the border. There are certain armed police forces maintained by the Centre with regard to the certain Indian States. In order, therefore, to give them a legal basis, it is desirable to include them in this entry 4.1 might also mention that they were also recognised in entry I of the Government of India Act, 1935 as distinct from the naval, military and air forces.

Mr. President : I shall put Sardar Hukam Singh’s amendment to the House.

[The amendment was negatived.]

Mr. President : Then I put the entry moved by Dr. Ambedkar.
(The amendment was adopted. Entry 4, as amended, was added to the Union List.)

ENTRY 5

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†The Honourable Dr. B. R. Ambedkar : Sir, entry No. 5 should be read along with entry No. 64. Entry 64 deals with the control

*CAD, Vol. IX, 29th August 1949, p. 732.

† *Ibid.*, p. 733.

of industries which Parliament has declared to be necessary in the interests of the public. This, that is entry 5, relates to the taking over of industries for the purpose of defence or for the prosecution of the war. That being the important difference, I think it would hamper war effort considerably if entry 5 was made analogous to entry 64. Declaration by Parliament will be necessary in both cases. But the scope of entry 5 is much wider than that of entry 64. Having regard to the different ends and aims in view, it is sought to differentiate entry 5 from entry 64.

[Entry 5 was added to the Union List.]

ENTRY 6

(Entry 6 was added to the Union List.)

ENTRY 7

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

“That for entry 7 of List I, the following entry be substituted :—

‘7. Delimitation of cantonment areas, local self-government in such areas, the constitution and powers within such areas of cantonment authorities and the regulation of House accommodation (including the control of rents) in such areas.’ ”

There is an amendment to this standing in the name of my honourable Friend Mr. T.T. Krishnamachari the effect of which is merely to omit the word “self” in the expression “local self-Government” so that it will read “local government”.

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Shri Mahavir Tyagi : Sir, may I suggest that the entry be held over ?

The Honourable Dr. B. R. Ambedkar : Why ? I do not understand. If you have any comments to make we are quite prepared to hear and give you a reply.

Shri Mahavir Tyagi : I feel that either we must be given a full chance of tabling our amendments and pulling our case before the House, or such articles as are controversial may please be ordered to be held over.

The Honourable Dr. B. R. Ambedkar : This amendment standing in the name of Mr. Sidhva has been there from 26th January! My friend has now become awake to the situation. There was plenty of time for him to give an amendment and I am even now prepared to say that he can make out his case for such changes as he wants and I am prepared to satisfy him.

*CAD, Vol. IX, 29th August 1949. p. 735.

Shri Mahavir Tyagi : Sir, we have accepted Dr. Ambedkar's speed—he is going very fast—we have taken no objection to that. But on items like these he might agree

The Honourable Dr. B. R. Ambedkar : Why don't you say what you want to say ?

Shri Mahavir Tyagi : My submission is that such items on which there are controversies or on which honourable Members say or feel that they want to table an important amendment, such items may please be held over. It will smooth the way, It will accelerate the work.

Mr. President : Then the House will adjourn till 9 o'clock tomorrow. We shall take all the amendments tomorrow as they come, but I shall not give any further time.

The Honourable Dr. B. R. Ambedkar : I am entirely in your hands, Sir, so far as this amendment is concerned. If I can know what objections my Friend Mr. Tyagi has, I am prepared to deal with his case now in the House.

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***The Honourable Dr. B. R. Ambedkar (Bombay : General) :** Sir, the amendments moved by my Friend Mr. Tyagi are the only amendments which call for reply. His amendments are in alternative form. In the first place, he wants to delete the whole part dealing with regulation of house accommodation including the control of rent. In his alternative amendment he is prepared to retain the control and regulation of house accommodation, but wishes to delete the words 'rent control'. It seems to me, the matter is really one of commonsense. If my Friend has no objection to the retention of the words "regulation of house accommodation", as is clear from his alternative amendment, then it seems to me that the control of rent is merely incidental to the power of regulation of house accommodation. It will be quite impossible to carry out the purpose, namely, of regulating house accommodation, if the authority which has got this power has not also the power to control rents. Therefore my submission is that the control of rents is incidental to the regulation of house accommodation. If Mr. Tyagi has no fundamental objection to the retention of the power to deal with house accommodation, I think he must not have any objection to the transfer of control also.

Mr. President : I will now put the amendments to vote. The first is that of Dr. Deshmukh.

Dr. P. S. Deshmukh : I will be content if the Drafting Committee will be pleased to consider it at the time of the final draft.

Mr. President : It is only a matter of drafting so far as I can see. So we might leave it to the Drafting Committee.

(The amendment was negatived.)

[Amendment of Dr. Ambedkar was alone adopted Entry 7 as amended was added to the Union List]

ENTRY 12

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***The Honourable Dr. B. R. Ambedkar :** Sir, there are various considerations which arise with regard to this amendment. As my honourable Friend, Mr. Kamath will see this is not the only entry which relates to foreign nations. There is, in the first place, an entry called Foreign Affairs which is broad-enough to be operated upon by this country if it wishes to establish itself as a member of any international organization. There is also the entry following, which we are dealing with now, which permits legislation relating to participation in any international conference or any international body. In view of that, I should have thought that the kind of amendment which has been moved by my honourable Friend, Mr. Kamath is really unnecessary. Secondly, it must be remembered that this is merely a legislative entry. It enables the State to make legislation with regard to any of the entries which are included in List I. If there was an article in the body of the Draft Constitution which limited the legislative power of the State given by any one of these entries, the question such as the one raised by my honourable Friend, Mr. Kamath would be very relevant, but I do not find that there is any limiting article in the Constitution itself which confines the legislative power given under this entry to the membership of the United Nations Organization and there is no such entry at all in the article. Therefore the State can act under any of the other items and be a member of any other international organization. But if the House is particular about it, I think no harm can be done if Mr. Kamath's amendment is accepted and therefore, I leave the matter to the House to decide.

[Entry 12 was added to the list]

NEW ENTRY 9-A

***Mr. President :** There is notice of one amendment by Prof. Shibban Lal Saksena for adding one more entry ; “Cosmic energy, and scientific and industrial research and other resources needed for its production, development and use.”...

Would you like to move it. Mr. Shibban Lal Saksena ?

The Honourable Dr. B. R. Ambedkar : I do not know what it means.

Mr. President : We have atomic energy; he wants to have cosmic energy also.

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Prof. Shibban Lal Saksena : ... I hope Dr. Ambedkar will see that this lacuna is removed.

The Honourable Dr. B. R. Ambedkar : Sir, all I can say is that if the amendment moved by my Friend Prof. Shibban Lal Saksena is at all necessary, I think we have enough power under entry No. 91 of List I to deal with that : “any other matter not enumerated in List II or List III including any tax not mentioned in either of those Lists”. That matter could be covered by this.

Mr. H. V. Kamath : That would cover many of the entries in the List itself.

(The motion was negatived.)

‡**Mr. President :** Entry 14. Dr Ambedkar, would you like to say anything in reply ?

The Honourable Dr. B. R. Ambedkar : No elucidation is necessary.

(Entry No. 14 was added to the Union list.)

ENTRY 22

‡**The Honourable Dr. B. R. Ambedkar :** Sir, I move :

“That for entry 22 of List I, the following entry be substituted : —

‘22. Piracies and crimes committed on the high seas or in the air; offences against the law of nations committed on land or the high seas or in the air.’ ”

The second part of this entry—“offences against the law of nations committed on land or the high seas or in the air” is new. It was an omission made in the earlier part of the draft. With regard to the first part, we are substituting the word “crimes” for “felonies and offences”, as it is the common word used in India. “Felonies and offences” are English

*CAD. Vol. IX, 30th August 1949, p. 744.

†*Ibid.*, p. 745.

‡*Ibid.*, pp. 747-748.

technical terms. We are also taking out of the first part, the words, “against the law of nations” because piracies and crimes are matters which can be regulated by any country by reason of its own legal jurisdiction and authority. It has nothing to do with the law of nations.

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The Honourable Dr. B. R. Ambedkar : Sir, listening to what my honourable Friend Mr. Naziruddin Ahmad said, I am afraid I have again to say that he has not got a very clear notion of what this entry 22 proposes to do.

Mr. Naziruddin Ahmad : The difficulty was that Dr. Ambedkar was engaged in conversation and did not hear me.

The Honourable Dr. B. R. Ambedkar : I was no doubt engaged in conversation; but I was quite *avadhan* to what he was saying.

My Friend first posed the question as to why we should use the term “piracy and crime” in plural. Well, the other way in which we can use piracy and crime would be in collective terms. I think in matters of this sort, where criminal legislation is provided for, it is much better not to use the word in collective form. He cited some examples, but he forgets the fact that in some cases the generic use of the term is quite sufficient; in other cases it is not sufficient. The Drafting Committee, therefore, has deliberately used the word “piracies and crimes” in plural because it is appropriate in the context in which it is used.

My Friend Mr. Naziruddin Ahmad said as a second count against this entry that there ought to be a semi-colon after ‘Piracies’. Now, that, I think, would distort the meaning and the purport of item 22. Supposing we had a semi-colon after ‘piracies’, ‘piracies ‘ in item 22 would be dissociated from the rest of the entry. Now, if piracies are dissociated from the rest of the entries, it would mean that the centre would have the right to legislate on all piracies, including piracies in inland rivers also. It is not the intention of this entry to give to the Central Legislature the power to legislate on piracies of all sorts. The words “committed on high seas or in the air” are words which not only qualify the word “crime” but they are also intended to qualify the word “piracy”.

Then, the third count of my friend was that we should omit the words “on land, on high seas and in the air” after the words “offences against the law of nations”. That would not make it clear that the second entry is an all-pervasive entry and gives the power contrary to the first part of the entry to the Central Legislature to deal with offences against the law

*CAD, Vol. IX. 30th August 1949, pp. 750-751.

of nations, not merely on the high seas and in the air but also on land. In other words, the States will have no kind of power so far as the second part of the entry is concerned. I, therefore, submit that the entry as proposed carries the intention of the draftsman and no amendment is necessary.

Mr. Naziruddin Ahmad : The honourable Member has not heard me. What about offences committed against the law of nations, which is neither on land, nor on high seas, nor in the air, but in the low seas?

The Honourable Dr. B. R. Ambedkar : It can only be in his imagination, it cannot be anywhere else.

Sardar Hukam Singh (East Punjab : Sikh) : If piracies are not dissociated from the remaining items, then would these words 'in the air' also qualify the word 'piracy'?

The Honourable Dr. B. R. Ambedkar : There may be piracies in the air also.

Mr. Naziruddin Ahmad : Piracies are always on water, never on land or in the air,

Mr. President : I will now put the amendments to vote.

Mr. Naziruddin Ahmad : I would like only the last one to be put to vote.

[Except the amendment of Dr. Ambedkar, other amendments were negatived Entry 22, as amended was added to the Union List.]

ENTRY 26

The Honourable Dr. B. R. Ambedkar : Sir, I move :

"That for entry 26 of List I the following be substituted :—

'26. Import or export across customs frontiers; definition of customs frontiers.' "

This is just a re-arrangement of the original entry.

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Mr. Naziruddin Ahmad : ...The word "and" in "import and export" in my amendment is most important. As I have said already this is more or less of a drafting nature and therefore I would leave it to the Drafting Committee to deal with it without having my motion put to the House.

The Honourable Dr. B. R. Ambedkar : Sir, I am content with clarity and I do not wish to run after elegance.

[The amendment was adopted. Entry 26, as amended, was added to the Union List.]

ENTRY 26-A

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Prof. Shibban Lal Saksena : Sir, there have been cases in the Supreme Court of America on this subject and I would like it to be clearly stated. I would therefore like to move my amendment. Sir, I move :

“That after entry 26 of List I, the following new entry be added :—

* 26-A. Ownership of and dominion over the lands, minerals, and other things of value underlying the ocean seaward of the ordinary low watermark on the coast exceeding three nautical miles.’ ”

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***The Honourable Dr. B. R. Ambedkar :** This matter is already covered, if I may say so, by article 271 A. My difficulty is : my friend Prof. Shibban Lal’s amendment speaks of ownership. Now, in all these legislative lists, we only deal with power to make law, not power to appropriate. That is a matter which is regulated by another law, and not by legislative entries. I therefore cannot accept it.

Mr. President: He has referred to a judgment of the Supreme Court of the United States, but I think that is based on the absence of something like article 271-A of our Constitution.

The Honourable Dr. B. R. Ambedkar: We discovered that there was no entry and this was therefore a matter of doubt and in order to clear that doubt we put in 271 A. It is practically a *verbatim* reproduction of Mr. Shibban Lal’s amendment.

ENTRY 31

†**Mr. President :** I find there are some amendments to entry 31.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

“That for entry 31 of List I the following entry be substituted :

‘31. Highways declared to be national highways by or under law made by Parliament.’ ”

It is just transposition of words to make the matter clear.

[Entry 31, as amended, was added to the List]

ENTRY 37

‡**The Honourable Dr. B. R. Ambedkar :** Sir, I move :

** That in amendment 12 of List I, in entry 37, for the words ‘by air or by sea’ the words ‘by railway, by sea or by air’ be substituted”.

This is just caused by an omission.

*CAD, Vol. IX, 30th August 1949, pp. 753-754.

†*Ibid.*, p. 754.

‡*Ibid.*, p. 755.

Dr. P. S. Deshmukh : Sir, I beg to move :

“That in amendment No. 12 of List I (Sixth Week), in entry 37 of List I. for the words ‘by railway, by sea or by air’ (proposed to be substituted), the words ‘by land, sea or air’ be substituted”.

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***The Honourable Dr. B. R. Ambedkar :** Sir, I am afraid I cannot accept the amendment moved by Dr. Deshmukh, because if we include it, it will become a central subject.

Dr. P. S. Deshmukh : If it is between two provinces?

The Honourable Dr. B. R. Ambedkar : That will come under inter-State traffic.

Dr. P. S. Deshmukh : I am prepared to withdraw my amendment.

(The amendment ws, by leave of the Assembly, withdrawn.)

(Shri H. V. Kamath did not press his amendment.)

ENTRY 38

†The Honourable Dr. B. R. Ambedkar : Sir, I move :

“That for entry 38 of List I, the following entry be substituted : — ‘38. Railways.’ ”

I think this change requires some explanation. If honourable Members will turn to entry 38 as it stands in the Draft Constitution, they will notice in the first place the distinction made between Union railways and minor railways. The distinction was necessary because, in respect of the Union railways, the Centre would have the authority to legislate with regard to safety, minimum and maximum rates and fares, etc. The responsibility of actual administration as carriers of goods and passengers, in respect of minor railways, was limited. In other words, so far as maximum and minimum rates and fares, station and service terminal charges etc. are concerned, they were taken out of the jurisdiction of the Central legislature. It is felt that it is desirable that, as the railway service is one uniform service throughout the territory of India, there should be a single legislative authority to deal with railways in all matters on a uniform basis. Consequently the entry in the First Part is now extended to all railways including minor railways. Again, as legislation is intended to be uniform, it is felt that it is unnecessary to retain the second part of the entry which makes a distinction between Union railways and minor railways. I might also say that this entry is purely a legislative entry. It is not an entry which deals with ownership. That means that even if the Centre had

*CAD, Vol. IX, 30th August 1949, p. 757.

†*Ibid.*, p. 757.

power to regulate minimum and maximum fares and rates and terminal charges, every State which owned a minor railway, whether it is a State in Part I or Part III, if it was the owner of the particular railway, would be entitled to receive and keep the proceeds of the rates and fares as may be fixed by the Centre. It does not affect the rights of ownership at all. They remain as they are. If the Centre wishes to acquire any minor railway now owned by any State either in Part I or Part III the Union will have to acquire it in the ordinary way. Therefore this is purely a legislative entry. The object of the amendment is to have a uniform law with respect to all matters dealing with railways and it does not affect any question of ownership at all.

The question of tramways is however separated from the question of railways. We propose in the Interpretation Clause to define railways in such a manner as to exclude tramways so that the States in Parts I and III will retain the power to regulate tramways in all respects as though they are not covered by 'railways'.

Shri R. K. Sidhva : There is a Minor Railways act which is worked by the Provincial Governments. May I know whether it is intended to repeal that Act and bring it into the Union ?

The Honourable Dr. B. R. Ambedkar : Yes, the Union will have power to abrogate that Act, make any other law or retain it if it so feels. It is only an enabling entry which will enable the centre either to make different laws regulating the major and minor railways or make one single law regulating all railways irrespective of whether they are major railways or minor railways.

Shri R. K. Sidhva : Then the minor railways will be governed by the Minor Railways Act ?

The Honourable Dr. B. R. Ambedkar : Yes, the existing law will continue until Parliament changes it. This is merely to give power to the Parliament to change it.

Mr. President : I would now put entry 38 to the vote. I am told there is an amendment which I have received this morning after nine. I am afraid I cannot accept it.

[Entry 38, as amended by Dr. Ambedkar's amendment, was added to the Union List.]

ENTRY 39

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That for entry 39 of List I. the following entry be substituted :—

*CAD, Vol. IX. 30th August 1949. p. 758.

‘39. The institutions known on the date of commencement of this Constitution as the National Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial, the Indian War Memorial, and any other institution financed by the Government of India wholly or in part and declared by Parliament by law to be an institution of national importance.’ ”

The substance of the entry is the same as it exists at present, except for a few verbal changes which have taken place in the nomenclature of the institutions subsequent to the 15th August 1947.

Shri B. Das (Orissa : General) : When the Constitution comes into force, will the name “Imperial War Museum” be changed to “National War Museum” as “Imperial Library” has been changed to “National Library” ?

The Honourable Dr. B. R. Ambedkar : I understand that the “Imperial Library” has been changed to “National Library”, but the Imperial War Museum retains its existing name. These descriptions are intended merely to identify the institutions, whenever Parliament wishes to make any law about them.

Shri B. Das : I want to know whether when the Constitution comes into force and the Adaptations are made, the word “Imperial” will go. I expect words like “His Majesty’s Government”, “The Crown” etc., will vanish.

Honourable Dr. B. R. Ambedkar : Adaptations will apply to laws and not to names.

Mr. President : This entry gives the right to the Central Legislature to change the names.

There is an amendment to this by Mr. Naziruddin Ahmad, No. 160.

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The Honourable Dr. B. R. Ambedkar : I do not think that much explanation is necessary as to why I cannot accept the amendment of Mr. Naziruddin Ahmad. As you will see the entry really falls into two parts. In the first part it deals with specific institutions which are enumerated therein. In the second part it deals with institutions which are either financed by the Government of India, wholly or in part. Therefore, it is not possible to use the words “similar” because that would circumscribe the object of the entry, which is to give the Central Government power to take over any institution which is either financed by itself or financed partly by itself and partly by the Provinces.

*CAD, Vol. IX, 30th August 1949, p. 760.

[Out of 3 amendments by Mr. Naziruddin Ahmed, 2 were not passed by him and one was rejected with Dr. Ambedkar's amendment, Entry 39 was added to the Union List.]

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ENTRY 40

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

“That for entry 40 of List I, the following entry be substituted :—

‘40. The institutions known on the date of commencement of this Constitution as the benares Hindu University, the Aligarh Muslim University, and the Delhi University and any other institution declared by Parliament by law to be an institution of national importance.’ ”

I submit the word “university” is a mistake and it ought to be “institution” and I hope you will permit me to substitute it.

There is no fundamental change in this except that the latter part permits also Parliament to take over any institution which it thinks is of national importance.

Dr. P. S. Deshmukh : May I suggest that 40-A may also be taken together ? It is part and parcel of the same thing.

The Honourable Dr. B. R. Ambedkar : Sir, I move :—

“That after entry 40 of List I the following new entry be inserted :—

‘40A. Institutions for scientific or technical education financed by the government of India wholly or in part and declared by Parliament by law to be institutions of national importance.’ ”

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†**The Honourable Dr. B. R. Ambedkar :** Sir, I find my honourable Friends, Mr. Naziruddin Ahmad and Dr. Deshmukh, running at cross-purposes. One wants to enlarge the scope of the article by adding the word “academy”. The other wants to limit the scope of the article by dropping the word “Delhi University and any other institution declared by Parliament by law to be an institution of national interest”.

So far as Dr. Deshmukh’s amendment is concerned, it seems to me quite unnecessary to introduce the word “academy” because the word ‘institution’ is large enough to include both University and academy. Therefore, that is quite unnecessary.

With regard to the amendment of my honourable friend Mr. Naziruddin Ahmad, Delhi University is as was pointed out by him already under the central Legislature by virtue of the fact that the Delhi University is in a commissioner’s province, which is subject to the legislation of the centre. Therefore, in introducing the words “Delhi University” we are really not

*CAD, Vol. IX, 30th August 1949, p. 761.

†*Ibid.*, p. 767.

departing from the existing state of affairs. With regard to the subsequent part of the entry relating to any other institution declared by law by Parliament, it seems to me, that it is desirable to retain those words, because there might be institutions which are of such importance from a cultural or from a national point of view and whose financial position may not be as sound as the position of any other institution and may require the help and assistance of the centre. In view of that, I think the last part of the entry is necessary and I am not prepared to accept his amendment.

Now with regard to my honourable friend, Mr. Kamath, he wanted to introduce the words "research institution". He has forgotten, or probably is attention has not been drawn to my amendment dealing with entry No. 57-A which deals with research institutions. Of course, that entry is limited to coordination and maintenance of standards. Mr. Kamath has, perhaps, in mind agencies established by the provinces and which it may be desirable for the Centre to take over. It seems to me that it is no use overloading the Centre with every kind of institution. It would be enough if, as I said, the provisions contained in 57A were allowed to pass because that will give the Centre enough power to maintain by law coordination and the maintenance of standards for higher education in scientific and technical institutions. I think that ought to suffice for the present.

Mr. President : I will now put the amendments.

(All 3 amendments were negatived.)

[Entry 40, as amended by Dr. Ambedkar's amendment, was added to the Union List.]

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ENTRY 41

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

"That in entry 41 of List I for the words "and Zoological" the words "Zoological and Anthropological" be substituted."

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†The Honourable Dr. B. R. Ambedkar : The word "anthropological" is very wide and would cover even "ethnology".

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‡The Honourable Dr. B. R. Ambedkar : Sir, I am afraid my Friend Mr. Sidhva has drawn too much upon the altitude of neglect and indifference shown by the Central Government in the past towards geological surveys in India. I quite admit that hitherto this matter has been neglected

*CAD, Vol. IX, 30th August 1949, p. 769.

†*Ibid.*, p. 769.

‡*Ibid.*, p. 770.

by the Centre, but it does not follow from that that the provinces are going to take any more interest in geology than the Centre has taken hitherto.

First of all, this is a matter of very great magnitude involving a great deal of expense and I do not think that the provinces will be able to find the resources to develop the minerals which are to be found within their area. From that point of view I think there will be no advantage in transferring geology to the Concurrent List so as to give the provinces an opportunity to legislate about it.

The second difficulty I find in accepting his amendment is that we have in the Union List an entry stating that the mineral resources of India may be developed by the Centre. If Parliament were to make a law that the mineral development of the country shall be a central subject obviously there would be very great difficulty created in the way of Parliament executing that law or developing the mineral resources, if the provinces retained with themselves concurrent power of legislation. Therefore, my request to Mr. Sidhva is to allow the entry to remain as it is.

Mr. President : Then I put the amendments to vote. The first amendment moved by Mr. Kamath

Shri H. V. Kamath : As Dr. Ambedkar assures me that the word “anthropological” includes the word “ethnological”, I accept his superior wisdom and won’t press the amendment.

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

Mr. President : Then Mr. Sidhva’s amendment..

Shri R. K. Sidhva : In view of the assurance given, I beg leave to withdraw the amendment.

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

(The amendment of Dr. Ambedkar was adopted.)

[Entry 41, as amended, was added to the Union List.]

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ENTRY 43

***Mr. President:** Now we take up entry 43. Dr. Ambedkar has to move an amendment.

The Honourable Dr. B. R. Ambedkar : Sir, I move :

“That for entry 43 of List I. the following entry be substituted :

‘43. Acquisition or requisitioning of property for the purposes of the Union.’ ”

Members will see that the original entry as it stood had other words along with it, namely, the principles of compensation etc. Those words, it is proposed to put in a separate entry in the Concurrent List. So it is

unnecessary to retain those words here. That entry will be entry 35 in the Concurrent List.

Shri Syamanandan Sahaya (Bihar : General) : Sir, I want to make a suggestion.

Mr. President : Just wait a little. There is an amendment to be moved.

Shri Syamanandan Sahaya : I want to make it before the amendment is moved. This item on the list which is proposed by Dr. Ambedkar will have a deal to do with the language of article 24 and I suggest therefore that this item be held over till we have passed article 24....

The Honourable Dr. B. R. Ambedkar : I submit that is unnecessary because the power to lay down principles in any case will have to be given to the legislature. The question is whether the centre; should have a separate entry and the Province should have a separate entry for laying down principles of acquisition. What is proposed is this, that for both Centre as well as the provinces, there should be a common entry in the Concurrent List. Therefore, whatever happens to article 24, this entry regarding principles will have to be put in somewhere. Unless my friend has any objection to putting the matter in the concurrent List, there is no object served by postponing the consideration of this entry.

Shri Syamanandan Sahaya : I was thinking of a case where even in the matter of acquisition by States the principle may have to be decided by the Central Parliament.

The Honourable Dr. B. R. Ambedkar : That is exactly the point. If my friend would understand it, if we put it in the Concurrent List, the Centre also will have power.

Shri Syamanandan Sahaya : Precisely, but you say that the "Centre also will have". My submission is

The Honourable Dr. B. R. Ambedkar : What I am saying is this : that we are cutting out the words "principles" etc. and putting them in entry 35 of the Concurrent List. If my friend will refer to the two entries, 43 in the Union List and 9 in the State List he will find both of them are exactly in the same terms. In other words, both of them not only give the power to compulsorily acquire property but also give the power to lay down principles. Instead of distributing the entry regarding principles between the Centre and the provinces independently of each other, it is now proposed to take out those words "principles" etc., and put them in entry 35 of the Concurrent List.

Prof. Shibani Lal Saksena : Would there be any harm if the thing is postponed until the other article is passed ?

The Honourable Dr. B. R. Ambedkar : No good will be served by postponing. I am not in favour of having these things postponed. There is already so much time taken in the consideration of this matter.

Dr. P. S. Deshmukh : Sir, I move :

“That in amendment No. 21 of List I (Sixth Week), in the proposed entry 43 of List I, after the words “of property” the words ‘according to law of the Union’ be inserted.”

...I therefore, hope that the amendment proposed by me which specifies that any acquisition or requisitioning of property shall be by law passed by the Parliament and shall not be undertaken arbitrarily will be accepted.

The Honourable Dr. B. R. Ambedkar : It is quite unnecessary. These entries do deal with legislative power. What is the use of adding the words ‘according to the law of the Union’? According to the entry as it is, the Union will have the power to make the law. It cannot mean anything else.

Dr. P. S. Deshmukh : I beg leave to withdraw my amendment.

[The amendment was, by leave of the Assembly, withdrawn. Entry 43, as amended, by Dr. Ambedkar’s amendment was added to the Union List.]

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ENTRY 50

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***Shri Jagat Narain Lal :** ...This will make the meaning quite clear. There will be no ambiguity. I suggest this to Shri T.T. Krishnamachari. The object they have in view can be achieved by adopting my suggestion.

The Honourable Dr. B. R. Ambedkar: I will consider the matter. For the present the entry proposed by Shri T. T. Krishnamachari may go in.

[The following amendment of Mr. Krishnamachari was adopted.]

Mr. President : *The* question is.

“That for entry 50 of List I, the following entries be substituted :—

‘50. The incorporation, regulation and winding up of trading corporations, including banking, insurance and financial corporations but not including co-operative societies.

50-A. The incorporation, regulation and winding up of corporations, whether trading or not with objects not confined to one State but not including universities’.”

[Entries 50 and 50-A were added to the Union List.]

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ENTRY 52

†The Honourable Dr. B. R. Ambedkar : I move :

“That for entry 52 of List I, the following entry be substituted :—

*CAD, Vol. IX, 30th August 1949, pp. 773-774.

†*Ibid.*, p. 774

‘52. Constitution and organisation of the Supreme Court and the High Courts; jurisdiction and powers of the Supreme Court and fees taken therein; persons entitled to practice before the Supreme Court or any High Court’.”

The last words are additions. It is found necessary to have them because the time has come when it is necessary to regulate the right to practise of persons practising in both the High Court and the Supreme Court.

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***The Honourable Dr. B. R. Ambedkar :** I do not wish to interrupt the debate, but I would like to point out that we have already passed articles 192A, 193, 197, 201 and 207 which deal with the constitution of the High Courts. Under these-articles, except for pecuniary jurisdiction, the whole of the High Courts are placed, so far as their Constitution, organisation and territorial jurisdiction are concerned in the centre. It seems to me, therefore, that this amendment is out of order.

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†**Mr. Naziruddin Ahmad :**...The original entry dealt with the Supreme Court only. In the new entry proposed by Dr. Ambedkar, it reads : “Constitution and organisation of the Supreme Court and the High Courts;” Then again, he has added “persons entitled to practise before the Supreme Court or any High Court”.

My first objection is as to the surreptitious manner in which important things are interpolated into the entries. I could have well understood...

(Interruption).

Shri Mahavir Tyagi : On a point of order, Sir, is the word “surreptitiously” parliamentary ?

†**The Honourable Dr. B. R. Ambedkar :** Is it a proper argument, Sir, to say that the Drafting Committee has surreptitiously tried to introduce something ? My honourable friend is entitled to ask me an explanation as to why I have altered the entry. There is nothing surreptitious. I am perfectly prepared to justify every item and every part of it.

Shri Mahavir Tyagi : I want your ruling, Sir, is the word “surreptitiously” parliamentary ?

Mr. President : I confess I am not acquainted with parliamentary practice to such an extent as to say whether ‘surreptitiously’ is or is not parliamentary. I would ask the honourable Member not to use expressions which may be offensive.

Mr. Naziruddin Ahmad : I bow down to your ruling, Sir....

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*CAD, Vol. IX, 30th August 1949, p. 775.

†*Ibid.*, p. 778.

***Shri T. T. Krishnamachari :** The attention of the Members of the House has already been drawn by Dr. Ambedkar to article 207. May I say, Sir, in view of that that the honourable Member need not labour this point ?

The Honourable Dr. B. R. Ambedkar : I can reply. I want only ten minutes. I have understood what he wants to say.

Mr. Naziruddin Ahmad : There is a promise to reply but it would be an unusually fortunate thing for me actually to get a reply from Dr. Ambedkar.... This is too important a matter to be lightly dealt with. I submit that if we assume that the drafting Committee is entitled to do whatever it likes, then of course I am entirely out of court. I feel I am faced with certain defeat irrespective of reason.

The Honourable Dr. B. R. Ambedkar : Sir, I am constrained to begin by stating that I have on very many occasions noted that my friend Mr. Naziruddin Ahmad has got into the habit of speaking of the drafting Committee in most derisive terms. I have not descended to his level in order to reply to him, but I should like to give him a warning that if he persists in doing this kind of thing, I shall certainly not fail to pay him in the same coin.

Mr. Naziruddin Ahmad : Are members to be threatened in this manner ? Of course it produces no effect on me.

The Honourable Dr. B. R. Ambedkar : This is not a threat. This is a warning.

Now coming to the points raised by my friend Dr. Panjabrao Deshmukh, I am very sorry that I cannot accept his suggestion. Because he wants to enlarge entry 52 in such a manner and to such a magnitude as to include every court in this country. It is an impossible proposition and I am afraid I cannot accept it.

I shall now deal with the arguments of my Friend Mr. Naziruddin Ahmad. First of all, he said that we were trying to smuggle in the High Court in this entry 52, because it did not find a place in the entry as it stood before. The House will remember that the Drafting Committee has been from time to time revising not only the entries but also the articles. I am not here to claim any omniscience on the part of the Drafting Committee. If the Drafting Committee has failed to grasp the whole thing at one grasp, I am not prepared to blame the Drafting Committee nor am I prepared to allow anybody to sit in judgment over it and pass censure upon the Drafting Committee. It is a huge task and we are bound to go slowly on our way.

Shri H. V. Kamath : Cannot the House sit in judgment on the Drafting Committee ?

*CAD, Vol. IX, 30th August 1949, pp. 780-782.

The Honourable Dr. B. R. Ambedkar : But the House should recognise what I am saying *viz.*, that it is not possible for the Drafting Committee to bring forth before the House a neat and complete formula which will not require reconsideration. Now Sir, my friend said that we have brought in the High Courts. Well, we have deliberately brought in the High Courts because we felt that it was necessary to bring in High Courts in view of certain articles that we have already passed. My Friend, Mr. Naziruddin Ahmad, evidently forgot articles 192A, 193, 197, 201 and 207 which deal with the High Courts and if he were patiently to apply his mind to these articles, he will find that the only matter that is left to the Provincial Legislatures is to fix jurisdiction of the High Courts in a pecuniary way or with regard to the subject matter. The rest of the High Court is placed within the jurisdiction of the Centre. Obviously when considering entries in the Union List which are meant to give complete power to the Centre, we were bound to make good this lacuna and to bring in the High Courts which, as I said, by virtue of these articles excepting for two cases have been completely placed within the purview of the Parliament. There is nothing surreptitious about it. This is merely correcting an error which originally crept in by reason of the fact that the article and entry were not properly composed. That is the reason why High Courts have been brought in.

Coming to the question as to why we have brought in the entry—Persons entitled to practice before the Supreme Court and the High Court—the position has been already explained by my friend Mr. Alladi Krishnaswami Ayyar ; but I will put the same matter very shortly, and it is this that, really speaking, there is nothing very extraordinary in bringing in these words—persons entitled to practice before Supreme Court or High Court—as Members will see article 121 which gives Parliament the power to make any law with regard to persons practising before the Supreme Court. Therefore, that power is already there and there is nothing new so far as the entry refers to persons entitled to practise before the Supreme Court.

Now with regard to the High Court, the position is this. The power which the Centre have today is contained in entry 17 of the Concurrent List which deals with professions, and legal profession is one of the professions. It is, therefore, perfectly possible for Parliament to enact a law regulating the practice of persons appearing in the High Court by virtue of the power given to it by entry 17 which is in the Concurrent List, but the trouble with that is this. Concurrent List means that both parties can legislate. The Centre can legislate and the provinces can legislate and the legislation may be not quite in consonance with each other. Consequently it was felt that while leaving entry 17 as it is in the Concurrent List to cover all professions,

to pick out a part of the legal profession and to put it here so as to make any legislation with regard to legal profession in so far as it relates to practice of persons before High Courts an exclusive subject for legislation by the Centre, and the reason why we did it was because of the hard cases referred to by my friend Mr. Alladi Krishnaswami Ayyar and I may repeat one of them. Probably you have not heard what he said. Supposing, for instance, a lawyer or a barrister from Madras appears in a case in the Supreme Court and the Supreme Court instead of deciding the case remanded the case to Bombay High Court. What happens? The Bombay Government or Bombay law if enacted under entry 17 may not permit a person from Madras to appear in the Bombay High Court, with the result that one Madras, Lawyer who appeared in the Supreme Court conducted the whole case but if the case is remitted back to the High Court of Bombay, that High Court may by law prevent him from appearing before it. I think it will be agreed that is a great hardship. In order therefore to have a uniform position with regard to persons practising in different High Courts what this entry proposes to do is to cut it from entry 17 dealing with professions and to put it here so that the practice of persons appearing in the High Court may be regulated by uniform law. There is nothing revolutionary and there is nothing surreptitious in entry 52 as is proposed by the Drafting Committee.

Mr. President : I will now put the amendments to vote.

(All amendments except that of Dr. Ambedkar as given before, were rejected.)

[Entry 52 as amended was added to the Union List]

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ENTRY 53

***The Honourable Dr. B. R. Ambedkar** (Bombay : General) : Sir, I move :

“That in Entry 53 of List I, the words and the figure ‘except the States for the time being specified in Part III of the First Schedule’ be omitted.”

This is because we propose to make no distinction between a State in Part I and Part III.

Shri H. V. Kamath (C.P. & Berar : General) : There is a little amendment of mine, No. 198. Sir, I move :

“That with reference to amendment No. 25 of List I (Sixth Week), in entry 53 of List I, for the words and exclusion of the jurisdiction of any such High Court from, the words ‘ and exclusion from the jurisdiction of any such High Court of be substituted.”

*CAD, Vol. IX, 31st August 1949, pp. 783-784.

This is only an interposition of words, I know, but it changes the meaning slightly and brings out what is intended in the entry. I believe that this entry has reference to exclusion from the jurisdiction of any High Court of certain areas....

The Honourable Dr. B. R. Ambedkar : Sir, Mr. Kamath's amendment is wholly unnecessary because the object of my amendment is to delete altogether that portion of entry No. 53 beginning from "except" to the end. If I was retaining any part of the entry then of course the question might arise whether the phraseology used in the entry is better than the one suggested by Mr. Kamath or *vice versa*.

Shri H. V. Kamath : My amendment has reference to the entry itself not to the amendment.

The Honourable Dr. B. R. Ambedkar : I think that cannot arise because I am omitting the whole thing. The second point is that the language used in entry 53 has to be in keeping with the language employed in article 207.

Shri H. V. Kamath : If this is accepted the language in the other article which has already been passed will have to be amended—at the third reading.

Mr. President : I find that Dr. Ambedkar's amendment refers only to a part of this entry.

The Honourable Dr. B. R. Ambedkar : I am taking out the last part "except the States for the time being specified in Part III of the First Schedule". The entry as amended would stand:

"Extension of the jurisdiction or of a High Court having its principal seat in any State within the territory of India to and exclusion of the jurisdiction of any such High Court from, any area outside that State."

The entry merely provides for the extension or the exclusion of the jurisdiction.

Shri H. V. Kamath : My amendment refers to the second part, "exclusion of the jurisdiction of any such High Court from any area outside that State".

The Honourable Dr. B. R. Ambedkar : I am not accepting your quibbling.

Shri H. V. Kamath : It is no quibble. It is a question of correct English.

The Honourable Dr. B. R. Ambedkar : If it is a matter of mere English we can take it up at the next stage.

Mr. President : Then I shall put Mr. Kamath's amendment to vote.

(The amendment was negatived.)

Mr. President : I shall now put Dr. Ambedkar's amendment to vote.
(The amendment was adopted.)

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ENTRY 56

The Honourable Dr. B. R. Ambedkar : I move :

“That for entry 56 of List I the following entry be substituted :—

‘56. Inquiries, surveys and statistics for the purpose of any of the matters in this List

There is hardly any difference. We have merely made it “for the purpose of any of the matters in this List”.

Mr. Naziruddin Ahmad (West Bengal : Muslim) : Though my amendment No. 167 will improve the text, I do not want to move it.

(Amendment No. 254 was not moved.)

Shri Phool Singh (United Provinces: General): Mr. President, Sir, the amendment suggested by Dr. Ambedkar will limit the scope of this entry..., With these few words I request Dr. Ambedkar to reconsider the situation.

The Honourable Dr. B. R. Ambedkar : Sir, I think the fear expressed by my friend is somewhat groundless and arises from the fact that he has not adverted to the fact that all other inquiries and so on relating to the States, and other matters, are now put in the Concurrent List. So there is no absence of any such purpose that he wants.

(*Entry 56, as amended, was added to the Union List.*)

ENTRY 51

†**The Honourable Dr. B.R. Ambedkar :** Sir, I move :

“That for entry 57 of List I, the following be substituted :

‘57. Union agencies and Union institutes for the following purposes, that is to say, for research, for professional, vocational or technical training, for scientific or technical assistance in the investigation or detection of crime, for the training of police officers, or for the promotion of special studies’.

The entry is somewhat enlarged by the introduction of the words “vocational training” and “investigation or detection or crime, for the training of police officers” and so on.

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‡ **Mr. President :** There is an amendment to this entry 57, standing in the name of Mr. Karimuddin (No. 3544). As it is not being moved. Dr. Ambedkar may reply.

*CAD, Vol. IX, 31st August 1949, pp. 784-785.

†*Ibid.*, p. 785.

‡*Ibid.*, pp. 787-788

The Honourable Dr. B. R. Ambedkar : Mr. President, I have compared the amendments moved by my honourable Friend Mr. Kamath with the entry as proposed by me. I think except for one matter, it will be quite open to Central Government to carry out the purpose which my honourable Friend Mr. Kamath has in mind. The only thing which the Central Government will not be able to effectuate under entry 57 is spiritual research. I do not think that this House, knowing full well the various problems with which the Central Government has to carry on these days, would like to burden it with any such agency as spiritual research. The rest of the objects of the amendment will be covered by entry 57.

Shri H. V. Kamath : How do you say that the administrative service officers are covered by the entry as proposed ?

The Honourable Dr. B. R. Ambedkar : I think so, because the training is not only for police officers. The language used is “research, for professional, vocational or technical training”. Anything can be brought in under the above.

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Mr. President : I will now put the entry as moved by Dr. Ambedkar in the amended form. The question is :

“That for entry 57 of List I, the following entry be substituted :

‘57. Union agencies and Union institutes for the following purposes, that is to say, for research, for professional, vocational or technical training, for scientific or technical assistance in the investigation or detection of crime, for the training of police officers, or for the promotion of special studies’.”

(The amendment was adopted.)

(*Entry 57, as amended, was added to the Union List.*)

ENTRY 57(A)—(*contd.*)

***The Honourable Dr. B. R. Ambedkar :** Sir, I move :

“That after entry 57 of List I, the following new entry be inserted :—

“57A. Co-ordination and maintenance of standards in institutions for higher education scientific and technical institutions and institutions for research’.”

This entry is merely complementary to the earlier entry, No. 57. In dealing with institutions maintained by the provinces, entry 57-A proposes to give power to the Centre to the limited extent of co-ordinating the research institutions and of maintaining the standards in those institutions to prevent their being lowered.

Sir, I also move :

“That in amendment No. 28 of List I (Sixth Week), in the proposed new entry 57A of List I, for the word ‘maintenance’ the word ‘determination’ be substituted.”