

Confidential

CONSTITUENT ASSEMBLY OF INDIA

REPORT OF THE UNION POWERS COMMITTEE TO THE
CONSTITUENT ASSEMBLY

We, the undersigned, members of the Committee appointed by the resolution of the Constituent Assembly of the 25th January to examine the scope of Union Powers, have the honour to submit this our report. Sir V. T. Krishnamachari and Sir B. L. Mitter were nominated to the Committee on 10th April, 1947, and the rest of us have had an opportunity of going over the entire ground again with them.

2. We consider that the scope of the subjects, Defence, Foreign Affairs and Communications in the Cabinet Delegation's Statement of the 16th May covers the following :—

A—"Defence" connotes the defence of the Union and of every part thereof and includes generally all preparation for defence, as well as all such acts in times of war as may be conducive to its successful prosecution and to effective demobilisation after its termination. In particular, "Defence" includes—

- (1) The raising, training, maintenance and control of Naval, Military and Air Forces and employment thereof for the defence of the Union and the execution of the laws of the Union and its Units; the strength, organisation and control of the existing armed forces raised and employed in Indian States;
- (2) Defence industries;
- (3) Naval, Military and Air Force works; §
- (4) Local self-government in cantonment areas, the constitution and powers within such areas of cantonment authorities, the regulation of house accommodation in such areas and the delimitation of such areas;
- (5) Arms, fire arms, ammunition and explosives;
- (6) Atomic energy, and mineral resources essential to its production.

We recommend further that in order to enable the Union Government effectively to discharge its responsibility for defence, it should be vested with the powers similar to those contained in Sections 102 and 128-A of the Government of India Act, 1935.

B—"Foreign Affairs" connotes all matters which bring the Union into relation with any foreign country and in particular includes the following subjects :—

- (1) Diplomatic, consular and trade representation;
- (2) United Nations Organisation;
- (3) Participation in international conferences, associations and other bodies and implementing of decisions made thereat;
- (4) War and Peace;
- (5) The entering into and implementing of treaties and agreements with other countries;
- (6) Trade and Commerce with foreign countries;
- (7) Foreign loans;
- (8) Naturalisation and aliens;
- (9) Extradition;
- (10) Passports and visas;
- (11) Foreign jurisdiction;
- (12) Admiralty jurisdiction;

- (13) Piracies, felonies committed on the high seas and offences committed in the air against the law of nations ;
- (14) Admission into, and emigration and expulsion from, the Union ;
- (15) Port quarantine ;
- (16) Import and export across customs frontiers as defined by the Union Government ;
- (17) Fishing and fisheries beyond territorial waters.

C—The term "Communications" although it is wide enough to cover any connection between places should for the present purposes of the Union, in our opinion, include the following:—

- (1) Airways ;
- (2) Highways and waterways declared by the Union to be Union highways and waterways ;
- (3) Shipping and navigation on inland waterways, declared by the Union to be Union waterways, as regards mechanically propelled vessels, and the rule of the road on such waterways ; carriage of passengers, and goods on such waterways ;
- (4) (a) Posts and Telegraphs :
Provided that the rights existing in favour of any individual State unit at the date of the establishment of the Union shall be preserved to the unit till the same are modified or extinguished by agreement between the Union and Unit concerned, subject however to the power of the Union to make laws for the regulation and control of the same.
- (b) Union telephones, wireless, broadcasting and other like forms of communication ; the regulation and control of all other telephones, wireless, broadcasting and other like forms of communication ;
- (5) Union railways ; the regulation of all railways (other than minor railways) in respect of safety, maximum and minimum rates and fares, station and service terminal charges, interchange of traffic and the responsibility of railway administrations as carriers of goods and passengers ; the regulation of minor railways in respect of safety and the responsibility of the administrations of such railways as carriers of goods and passengers ;
- (6) Maritime shipping and navigation, including shipping and navigation on tidal waters ; Admiralty jurisdiction ;
- (7) Major ports, that is to say, the declaration and delimitation of such ports, and the constitution and powers of Port Authorities therein ;
- (8) Aircraft and air navigation ; the provision of aerodromes, regulation and organisation of air traffic and of aerodromes ;
- (9) Lighthouses, including lightships, beacons and other provision for the safety of shipping and aircraft ;
- (10) Carriage of passengers and goods by sea or by air ;
- (11) Union Meteorological Services ;
- (12) Inter-Unit quarantine.

D—The expression "the powers necessary to raise the finances required" for the Union subjects in the Cabinet Delegation's Statement necessarily includes the power to raise finances by taxation and loans. In existing circumstances, we recommend the following sources of revenue for the Union:—

- (1) Duties of customs, including export duties ;
- (2) Excise duties ;
- (3) Corporation tax ;
- (4) Taxes on income other than agricultural income ;
- (5) Taxes on the capital value of the assets, exclusive of agricultural land, of individuals and companies ; taxes on the capital of companies ;

- (6) Duties in respect of succession to property other than agricultural land
- (7) Estate duty in respect of property other than agricultural land ;
- (8) Fees in respect of any of the matters in the list of Union powers, but not including fees taken in any Court, other than the Union Court.

We realise that, in the matter of industrial development, the States are in varying degrees of advancement and conditions in British India and the States are in many respects dissimilar. Some of the above taxes are now regulated by agreements between the Government of India and the States. We, therefore, think that it may not be possible to impose a uniform standard of taxation throughout the Union all at once. We recommend that uniformity of taxation throughout the Units may, for an agreed period of years after the establishment of the Union not exceeding 15, be kept in abeyance and the incidences, levy, realisation and apportionment of the above taxes in the State Units shall be subject to agreements between them and the Union Government. Provision should accordingly be made in the Constitution for implementing the above recommendation.

This is in addition to the recommendations of the Sub-Committee on Fundamental Rights regarding internal customs duties.

3. It is impossible to enumerate the powers implied or inherent in or resultant from the express powers of the Union. We think that in any case the following powers come within the category :—

- (1) Union judiciary ;
- (2) Acquisition of property for the purposes of the Union ;
- (3) Union agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies ;
- (4) Census ;
- (5) Offences against laws with respect to any of the matters in the list of Union powers ;
- (6) Enquiries, surveys and statistics for the purposes of the Union ;
- (7) Union Services ;
- (8) Industrial disputes concerning Union employees ;
- (9) Reserve Bank of India ;
- (10) Property of the Union and the revenue therefrom ;
- (11) Public debt of the Union ;
- (12) Currency, coinage and legal tender ;
- (13) All subjects in respect of Union areas ;
- (14) Powers to deal with grave economic emergencies in any part of the Union affecting the Union.

4. We are of the opinion that provision should be made in the new constitution for the recognition throughout the Union of the laws and public acts and records of the judicial proceedings of the Units and for judgments and orders delivered in one Unit being enforced in other Units. We note that a provision to this effect has already been made in the list of Fundamental Rights

5. In addition to the above subjects which, in our view, come within the scope of Union powers in accordance with the Cabinet Delegation's Statement, we hope that the following subjects will also be included in the Union List by agreement :—

- (1) Insurance ;
- (2) Company Laws ;
- (3) Banking ;
- (4) Negotiable Instruments ;

- (5) Patents ; trade marks, trade designs ; copyright ;
- (6) Planning ;
- (7) Ancient and Historical Monuments ;
- (8) Standard Weights and Measures.

Such an arrangement will ensure uniformity, throughout the territories of the Union, in matters bearing on trade and commerce as has in fact been recognised in many federal constitutions. We have included Planning in the above list for the reason that although authority may rest in respect of different subjects with the Units it is obviously in their interest to have a co-ordinating machinery to assist them.

6. We recommend the insertion in the constitution of a provision on the lines of Article (xxvii) of Section 51 of the Australian Constitution Act.

7. We also recommend that by agreement there may be a list of concurrent subjects as between the Union and the Units.

(Sd.) JAWAHARLAL NEHRU
 " GOVIND BALLABH PANT
 " B. L. MITTAR
 " JAIRAMDAS DAULATRAM
 " N. GOPALASWAMI AYYANGAR
 " K. M. MUNSHI
 " V. T. KRISHNAMACHARI
 " B. PATTABHI SITARAMAYYA
 " BISWANATH DAS
 " A. KRISHNASWAMI AYYAR

NEW DELHI;
 17th April, 1947.