

(1988) 10 GAU CK 0004

In the Gauhati High Court

Case No : Civil Rules No's. 972 of 1987 and 323 of 1988

Border Security Force (B.S.F.)

APPELLANT

Vs

State of Meghalaya and Others

RESPONDENT

Date of Decision : 07-10-1988

Acts Referred:

Border Security Force Act, 1968 — Section 4
Commissions of Inquiry Act, 1952 — Section 2(2), 3

Citation : AIR 1989 Guw 81

Hon'ble Judges : A. Raghuvir, C.J.;J. Sangma, J;B.L. Hansaria, J

Bench : Full Bench

Advocate : J.P. Bhattacharjee, A.M. Mazumdar and A.A. Mir, for the Appellant;
N.M. Lahiri, General, Meghalaya, A. Sarma, Government Advocate Meghalaya,
Sheikh Chand Mohammad, Sr. Central Govt. Standing Counsel and B. Datt, The
Addl. Solicitor General of India for Union of India, for the Respondent

Judgement

A. Raghuvir, C.J.—Baghmara is the Head Quarter of a Revenue Sub-Division in West Garo Hills of Meghalaya State. This town is on the Bangladesh border and is situate between International border pillars 1143 and 1158. The town is divided by a P. W.D. Road Along the two sides of the highway there is a bazar. Near the bazar there is Police Station, a Primary School building and residential quarter of the Sub-Divisional Officer. The inhabitants of the town speak more than one language and follow different customs and celebrate festivals in their day to day life.

2. On April 14,1987 the Rishi Community of the town were celebrating Charak Puja in the Primary School building. The establishment apprehended disturbance to peace and tranquillity in the town therefore alerted the law enforcement agencies. The Sub-divisional Officer who is also an Executive Magistrate was present in the town. The incharge officer of the Police Station was at the Thana. The Deputy Superintendent of Police arrived in the town al the behest of Superintendent of police. The three were present at the Police Station when puja was celebrated at 1600 hours of the day. Few hours after Puja the town

experienced serious communal disturbance. For reasons which will become later clear the further details of the disturbance are not set out in the judgment. Suffice however to state a senior Sub-Inspector (Sardul Singh) of Border Security Force (BSF) stationed in the town opened fire on a crowd near a place called MT garage at 2115 hours. The following day on April 15 the senior Sub-Inspector lodged a first information report at the Police Station which is registered as P. S. Case No. 20/87 under Sections 147, 148, 323, 353, 427 of Indian Penal Code.

3. The State of Meghalaya on July 10, 1987 (in the impugned order) appointed District Judge, Shillong a one man Inquiry Commission to report on the causes and nature of the disturbances at Baghmara on the date; the circumstances under which the fire was opened by the BSF and action taken thereafter; the allegations of excesses by the-Police and BSF in dealing with the situation; and any other circumstances which to the Commission may appear to be relevant. The inquiry was to be held under the Commissions of Inquiry Central Act 60 of 1952.

4. The Commission after having made the necessary proclamations invited statements by all concerned on August 27, 1987. Six or seven organisations submitted memoranda before the Commission. On September 7, 1987 the BSF raised a preliminary objection questioning the legal authority of Meghalaya to inquire on a subject which only the Union of India alone can enquire and prayed a month's time to submit then written statement in the event of the preliminary objection was rejected. The Commission did not decide the objection. The inquiry was adjourned to September 27 for filing the written statement.

5. On September 16, 1987 a Writ Petition is filed in this Court Civil Rule No. 972/87 by BSF to quash the impugned order and to interdict the Commission to desist from further inquiry. This Court on September 18, 1987 ordered the Commission to dispose of the preliminary objection and the objection was heard, on September 18 and on November 6, 1987. Two orders of the Government of India were filed before the Commission at the hearing -- one is dated September 23, 1969 the other is of June 25, 1973 issued by the Ministry of Home Affairs to support the objection. In the former order instructions to the Director General, Border Security Force, were issued and it is recited : "No inquiry shall be ordered by the State Government into any action taken by a person subject to the BSF Act in the maintenance of public order." The Commission heard the counsel for BSF and ordered evidence is necessary to decide the objection therefore examined on November 30, 1987 three witnesses -- Dibila Marak, the Sub-Divisional Officer, N. Ch. Marak in-charge of the P. S. and T. A. Marak the DSP referred to earlier.

6. This Court on December 4, 1987 by another order passed at the instance of the BSF directed the Commission not to record evidence touching the subject of enquiry but to decide the preliminary objection. In the further proceedings the Commission recorded the evidence of B.V.S. Brona, Deputy Commandant of 74

Battalion on February 22 who deposed -- "In case our services are requisitioned for internal security or maintenance of law and order, we take orders from State Government Authorities". As to the relevance of what is contained in the passage more anon.

7. The Commission on February 23, 1988 decided that the senior Sub-Inspector of BSF did not act in aid of Civil powers. The officer on his own volition opened fire on the crowd. The preliminary objection was thus not sustained. The inquiry later was posted to March 18 and 19, 1988.

8. On March 12, 1988 BSF filed another writ petition (Civil Rule No. 323 of 1988) for a like relief as in the earlier writ petition. This Court on March 30, 1988 ordered the two writ petitions be heard together. Two of us in this Bench tentatively expressed two different opinions. Since what was said on that occasion is not decisive of the subject at issue it is not necessary to dilate on what was said. The order passed on that day by Division Bench is reported in (1988) I GLR P. 449 (Border Security Force (BSF) Represented by Commandant 74th Battalion, BSF, Tura, Meghalaya v. State of Meghalaya and Ors.). The two writ petitions thereafter were ordered to be heard by a Bench of three Judges on June 15, 1988.

9. On August 1 st, 1988 this Bench of three Judges pointed out to the Union of India (whether) they are defending or opposing the cases without ever to have filed a counter in opposition or in support of the writ petitions. The Union of India therefore was ordered to submit their answer in the cases. Thereupon a counter and an additional counter were filed by the Union of India supporting the case of the BSF.

10. The contentions raised by the BSF in the two writ petitions is that the State of Maghalaya had not the power to appoint a Commission to inquire as to the occurrence of April 14 at Baghmara because no authority other than Union of India can inquire actions of BSF Officers. Secondly because no State including Maghalaya in the Republic of India in any contingency can review the actions of armed forces including BSF. As to events that led to the opening of fire on April 14 there was some vacillation whether the senior Sub-Inspector acted on the invitation of the Civil authorities. In the course of hearing the BSF also represented senior Sub-Inspector who opened fire not on the invitation of the civil authorities. It is averred as he was present at the occurrence he ordered to fire to meet the emergency contemplated u/s 131, Code of Criminal Procedure. The Officer it is maintained was not guilty of any impropriety. On the other hand it is asserted had he not acted as he did many lives would have been in danger, enormous property would have been lost in arson on that day.

11. The State of Meghalaya in opposition to the writ petitions averred law and order in the territory of the State is their responsibility. The occurrence on April 14, at Baghmara by far in that sense is their responsibility. The State therefore desired to probe into the occurrence. The senior Sub-Inspector as per their case

opened fire on his own accord. The State Government with a view to know what transpired before and after the event on that day appointed a Commission and is awaiting report of the Commission. The State made it clear that no civil authority of the State invited the BSF for maintaining the law and order in the town.

12. The impugned appointment of a Commission is valid. The order is passed within the four corners of their Constitutional power. The order is not ultra Vires of Constitution or of the Act 60 of 1982. The interference in law and order of a town by a senior Sub-Inspector of the Force cannot in law have the effect of cessation of responsibility on their part "to maintain law and order.

13. The State added it was open for them either to order a Magisterial inquiry, a Judicial Inquiry or in their options it was open for them to have had appointed a Commission of Inquiry as was done by them in the impugned order. The occurrence reveals there was no necessity to have exercised the power of Section 131 of the Code of Criminal Procedure. This stand of Meghaiaya is adopted by the Advocate Generals of Assam and Mizoram in their oral submissions. The other four States the State of Manipur, State of Tripura, State of Arunachal Pradesh and the State of Nagaland of North-Eastern region have not appeared in the cases after notice to them in the cases.

14. In the counter the Union of India averred the BSF Officers were invested with powers under Sections 47, 48, 49, 51, 53, 149, 150, 151 and 152 of the Criminal Procedure Code, 1898. As respects the occurrence on April 14 it is asserted the Senior Sub-Inspector opened fire in good faith. The conduct of the officer was beyond reproach. In their additional affidavit it is averred -- "As is well known, there are not only incursions from across the border, but there are also forces working within the country giving rise to situations which are very often beyond the control of the State Police and the State, the armed forces of the Union are thus discharging onerous duties and functions in far flung areas of the country some time in dense jungles and some times in inaccessible and inhospitable terrains and under hostile conditions"....."The State is no doubt primarily charged with the maintenance of public order and it may do so through the agency of the Police, which to a limited extent, be armed. However, the maintenance of public order which requires the assistance of the armed force is expressly beyond the Legislative competence of the State Legislature and, therefore, of the State Executive. The exercise of the power by the Central Government to deploy the BSF in aid of Civil power is not dependent on the requisition or consent of the State. The Central Government can suo motu deploy the force in any State."

15. The BSF Act 47 of 1968 and the rules promulgated under the Act were heavily relied in support of the writ petitions therefore we now turn to the provisions of the Act and give a brief resume of that Statute and all the Rules to obviate any controversy in this regard. The object for enactment of the Act 47 of 1968 was to avert smuggling and unauthorised entry into the Indian territory and to instil security among the people residing in the border areas of the

country. This Act in ten chapters covers 142 sections. At first two sets of Rules were promulgated. Border Security Force Rules of 1969 and Adjustment of Jurisdiction Rules of 1969. Later Superannuation Rules of 1978. Border Security Force Pay and Allowance Rules of 1978. The Rules were promulgated exercising power u/s 141 of the Act.

16. Chapter I Sections I to 3 defines certain words. Chapter II in Sections 4, 13 enabled constitution of Border Security Force. Chapter III in Sections 14 to 47 defines offences and penalties. In Sections 48 to 56 of Chapter IV punishments are prescribed. In Chapter V Sections 57 to 63 deal with the trial of offences. Sections 64 to 81 of Chapter VI relate to formation of Courts. In Chapter VIII Sections 107 to 118 what sentences can be imposed is set out. In Chapter IX Sections 119 to 138 deal with revision applications. In Chapter X miscellaneous matters are dealt in Sections 139 to 142.

17. When civil authorities invited BSF in aid of civil administration under the BSF Act what are the powers was one of (he questions raised at the debate. Two cases of Privy Council (1878) 5 IA 178 (Her Majesty the Queen v. Burah) and another AIR 1947 PC60 (Prafulla Kumar Mukherjee v. Bank of Commerce Ltd.) were cited to spell out their power. A case of AIR 1941 16 (Privy Council) was also cited. In the instant case consideration of such a contingency is moot and academic as BSF was not invited to deploy the forces in aid of civil authorities.

18. Whether the BSF authorities can disperse an assembly in exercise of powers u/s 131, Cr.P.C. without invitation by the civil authorities was another cognate question raised by the BSF authorities. The counsel for the BSF and the Union of India both contended they can. While the State of Meghalaya stoutly resisted the inference.

19. We may at this stage remind ourselves that such an issue is not to be determined by this Court in the instant writ petitions. The issue raised in the writ petition is whether the State Government under the Commissions of Inquiry Act of 1952 was entitled to appoint a Commission as respects the occurrence of April 14 in Baghmara. In answering this question it may be relevant to consider powers of the BSF authorities. But the issue whether BSF can open fire without invitation by the civil authorities in the two cases does not arise for consideration. Before we part with the cognate issue we cannot but mention that the senior Sub-Inspector who lodged the first information report the next morning after the incident slated he acted in self defence at the occurrence.

20. The principal issue that arises in the case is under the Commissions of Inquiry Act 60 of 1952. The issue relates to the powers of the State of Meghalaya. The issue calls for the consideration" of the provisions of the Act. The Act received the assent of the President on 14th August, 1952 and was brought into force by a notification issued by the Central Government u/s 1 (3) of the Act. The Act empowered the States and the Central Government to appoint Commissions of Inquiry. The appropriate Government, whether it is Central

Government or it is the State Government, whenever required on a resolution by Parliament or Legislative Assembly of the State, by notification in the Official Gazette, can appoint a Commission of Inquiry. Section 4 vests the Commission powers like summoning witnesses production of documents receiving affidavit evidence. Section 5 empowers the appropriate Government to confer the Commission additional powers. Whenever the necessity arises u/s 7 the State can notify the Commission ceases to exist. The Commission can regulate its own procedure under S. 8. The other sections of the Act are not relevant in the case.

21. The powers of a Commission and vires of the Act (incidentally) were considered by the Supreme Court in *Ram Krishna Dalmia Vs. Shri Justice S.R. Tendolkar and Others*, The Act again came up for consideration before a larger Bench of seven Judges of the Supreme Court in *State of Karnataka Vs. Union of India (UOI) and Another*, In that case the State of Karnataka by notification on May 19, 1977 appointed a Commission to inquire a set of charges against the Chief Minister of the State. The Government of India in a notification on May 23, 1977 appointed another Commission as respects the same person. The State of Karnataka thereupon in a Civil Suit before the Supreme Court assailed the notification of Union of India and questioned the vires of the Act. The suit was held maintainable by all the six judges except Bhagwati, J. as he then was. The notification of the Union Government was held invalid by Kailasam, J. who decreed the suit. He did not consider vires of Section 3 of the Act. The other six judges of the Bench held Section 3 is valid and declared notification of the Union Government covered different counts other than specified in May 19 notification of the State. Y; V. Chandrachud, J as he then was, N.L. Untwalia, J., P.N. Singel, J. Jaswant Singh, I. agreed with the conclusions reached by the Chief Justice M.H. Beg. In view of the majority of opinion the vires of the Act is no more in doubt.

22. We now come to the crucial question argued on behalf of the BSF in the two petitions. The issue is raised u/s 2 of the Commissions of Inquiry Act 1952, and that section omitting the unnecessary clauses reads as under :

"2. Definitions-- In this Act, unless the context otherwise requires,--

(a) "appropriate Government" means -

(1) the Central Government, in relation to a Commission appointed by it to make an inquiry into any matter relatable to any of the entries enumerated in List I or List II or List III in the Seventh Schedule to the Constitution; and

(2) the State Government, in relation to a Commission appointed by it to make an enquiry into any matter relatable to any of the entries enumerated in List II or List III in the Seventh Schedule to the Constitution".

Under Clause(2) of Section 2 the " State Government can appoint a Commission in regard to any of the matters enumerated in List II and 111 in the Seventh Schedule to the Constitution. Relevant to that enumeration no item in List III is

called for consideration. Items 1 and 2 of List II of the Seventh Schedule are the two relevant items. They read as follows : --

"1. Public order (but not including the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or of any contingent or unit thereof in aid of the civil power).

2. Police (including railway and village police) subject to the provisions of Entry 2A of List I."

Having regard to the reference to in the latter we extract items 2 and 2-A of List I which read as under-

"2. Naval, military and air forces; any other armed forces of the Union.

2-A. Deployment of any armed force of the Union or any other force subject to the control of the Union or any contingent or unit thereof in any State in aid of the civil Power; Powers, jurisdiction, privileges and liabilities of the members of such forces while on such deployment."

23. This entry was unsuccessfully attempted by the Parliament to repeal in 45th Bill of Constitution Amendment.

24. The plea of the BSF is that it is an armed force subject to the control of the Union. When force is deployed in aid of the civil power it is urged the State Government has no power to enquire into the conduct of its officers as it is an armed force. This plea is sought to be supported with reference to what is contained in Item 1 and Item 2 of List 11 and for emphasis words "subject to the provisions of Entry 2 A of List I" are relied on by counsel for BSF and the Union of India. If in the two cases such a question was necessary to decide we would have decided as stated earlier. The issue is a moot question as Americans say and academic as it is said in Commonwealth Countries.

25. The learned Advocate General for Meghalaya cited two decisions for the purpose of interpreting the words "subject to the provisions": One is S. Sundaram Pillai and Others Vs. `R. Pattabiraman and Others, . The counsel argued statutory exceptions are to be interpreted in the manner set out in paras 42 and 43 (at page 592) of the case. That ease considered the function of a provision in a statute and in that case four aspects are set out (1) qualifying or excepting certain provisions from the main enactment;

(2) it may entirely change the very concept of the intendment of the enactment by insisting on certain mandatory conditions to be fulfilled in order to make the enactment workable;

(3) it may be so embedded in the Act itself as to become an integral part of the enactment and thus acquire the tenor and colour of the substantive enactment itself; and (4) it may be used merely to act as an optional addenda to the enactment with the sole object of explaining the real intendment of the statutory provision. These four were referred as parameters of a proviso." The second case

The Commissioner of Income Tax, Mysore, Travancore-cochin and Coorg, Bangalore Vs. The Indo Mercantile Bank Limited, was also relied for similar purpose. S. M. Railway Co., Ltd. v. Bezwada Municipality where the sphere of a proviso was elucidated -- "The proper function of a proviso is to except and deal with a case which would otherwise fall within the general language of the main enactment, and its effect is confined to that case. Where, as in the present case, the language of the main enactment is clear and unambiguous, a proviso can have no repercussion on the interpretation of the main enactment, so as to exclude from it by implication what clearly falls within its express items".

In the case it is held -- "The territory of a proviso therefore is to carve out an exception to the main enactment and exclude something which otherwise would have been within the section. It has to operate in the same field and if the language of the main enactment is clear it cannot be used for the purpose of interpreting the main enactment or to exclude by implication what the enactment clearly says unless the words of the proviso are such that that is its necessary effect. (Vide also 1946 AC 32)".

26. The language of Item 2A of List I and in Item 2 List II shows the Union of India has control over the armed force. When the armed forces deploy their force in aid of Civil power it is argued jurisdiction, privileges and liabilities of any member of such force cannot be questioned by the States. The meaning and content of items 1 and 2 of List II and 2A of List I are relied on by the Union of India and by the BSF to hold the State Government of Meghalaya has no power to appoint a Commission of Inquiry.

27. We have earlier held it is not the case of the BSF in the instant case that force was deployed in aid of civil power or on the invitation of the civil authorities. The contention of BSF that whenever their force is deployed whether on invitation by civil authorities or otherwise cannot be sustained.

The contentions raised hardly are supported by any statutory provision or covered by any principle. No case cited to support the contentions.

28. We have in vain asked under what principle of law the State is estopped to appoint a Commission. Finally as nothing is suggested we set out a part of the additional counter relevant to the question.

"The armed forces of the Union doing such extremely difficult functions in sensitive areas are subject to harassment and humiliation at the hands of the State Authorities, the morale and confidence of the armed force will get shattered which would be fraught with very serious consequences for the nation as a whole. In the interest of the Nation and in the interest of the discipline and morale of the armed forces of the Union, it would be highly improper and inappropriate if the State Government are allowed to enquire into their functioning or the manner in which they are discharging their duties. Further, the Constitution makes it clear that it is the Union of India who have absolute control and superintendence over the armed forces. If a section of the armed force is

brought into control and jurisdiction of the State Government even for a limited purpose of Inquiry as in the instant case, there will be complete erosion of the power and authority of the Central Government which the nation can ill-afford."

29. What is set out in the above passage is earnestly repeated that in the interest of the Nation and in the interest of the discipline and morale of the armed forces the State Government should not be allowed to inquire. We consider without meaning any reflection on any authority the plea is an argument in despair.

30. We are considering in the two cases the constitutional power of Meghalaya to appoint a Commission under the Commissions of Inquiry Act, 1952. The State of Meghalaya desired to have a report as to the cause of "disruption" to peace and tranquillity in Baghmara on April 14, 1987. The subject of law and order is their allotted sphere in the List of powers of the Seventh Schedule of the Constitution. The impugned Notification suffers no constitutional vice whatever.

31. For all the aforesaid reasons we see no merit in the writ petitions. The petitions are dismissed with costs. We quantify costs in each at Rs. 500/-.

J. Sangma, J.

32. I agree..

Hansaria, J.

33. I am in respectful agreement with the Hon''ble Chief Justice. The need for this supplementary note has been felt because of expression of different views by me in the case reported in (1988) 1 Gau LR448 (BSF v.State of Meghalaya).

34. The views expressed by me in the aforesaid case were tentative and I had put them on record to enable the learned counsel of the parties and the learned Advocates General to advance detailed arguments to enable us to arrive at a final decision on this subject which is of great importance in so far as the State Governments are concerned. Hearing of detailed arguments brought out some aspects of the matter which have led me to fall in line with the thinking of the Hon''ble Chief Justice.

35. The first aspect relates to the extent of legislative power relating to the entries enumerated in the Seventh Schedule As we are primarily concerned with Entry 1 of List II the same may be noted again.

"Public order (but not including the use of any naval, military or air force or any other armed force of the Union or of any other force subject to the control of the Union or any contingent or unit thereof in aid of civil power)."

36. It has been stated in Queen v. Burah 5 IA 178, which still holds the field though the decision was rendered in 1878, that when a question relating to a legislative competence arises the same must be determined by applying the following test :

"The established Courts of Justice, when a question arises whether the prescribed limits have been exceeded, must of necessity determine that question; and the only way in which they can properly do so, is by looking to the terms of the instrument by which, affirmatively, the legislative powers were created, and by which, negatively, they are restricted. If what has been made is legislation, within the general scope of the affirmative words which give the power, and if it violates no express condition or restriction by which that power is limited, it is not for any Court of justice to inquire further, or to enlarge constructively those conditions and restrictions."

37. Entry I has conferred a power in the State Legislature to make any law relating to public order. This is the affirmative aspect of the entry. Negatively the State Legislatures have been debarred from making any law even if the same be relatable to public order but which includes any matter relatable to use of any naval, military or air force or any other armed forces of the Union or any other force subject to the control of the Union or of any contingent or unit thereof when these forces come in aid of civil power. The restrictions imposed by Entry 1 cannot be enlarged constructively. This is the message of *Burah's* case. If any Commission of Inquiry be relatable to disruption of public order, as is the inquiry at hand, and the same does not require any inquiry into the matter covered by exclusionary part of Entry 1, no further restriction can be placed on the power of the State Government. I would like to state clearly that I am unable to accept the stand of the Union of India taken in its additional affidavit filed on 29-8-88 that the Central Government can deploy BSF, as was done in the present case according to it, in aid of civil power without any requisition or consent by the State Government. According to me such a stand would constitute direct intervention with the duty assigned by the Constitution on the States to maintain law and order or, for that matter, public order. I would therefore not accept the contention of the learned additional Solicitor General that in the present case the BSF had come in aid of the civil power because of which the subject-matter would be squarely covered by Entry 2A of List I and would be beyond the scope of Entry 1 of List II because of the exclusionary part maintained in this entry.

38. As the "pith and substance" of the present inquiry is relating to disruption of public order, the incidental encroachment on the working of the armed force would not introduce any infirmity in the notification inasmuch as it is settled law that if a subject-matter in pith and substance falls within one entry, its incidental encroachment over the field occupied by another entry would not matter so far as legislative competence is concerned.

39. Another aspect which had weighed heavily with me while expressing my tentative view was that if a State Government is allowed to appoint Commission of Enquiry of the present nature which involves working of the armed forces of the Union the same would dilute the control over these forces vested in the Central Government. Learned Advocate General, Meghalaya, however, submitted that appointment of a Commission to inquire into the working of the BSF would

not in any way dilute the control over the BSF vesting in the Central Government by virtue of what has been stated in Section 4 of the Border Security Force Act inasmuch as Commission of Enquiry is a fact finding body and by appointing such a Commission no control over the working of the BSF can be said to have been affected. I have found sufficient force in this submission and according to me appointment of Commission of the present nature does not affect the control which vest in the Central Government because if the Commission in its report finds anything wrong with the working of the armed force the matter shall have to be referred to the Central Government to take action pursuant to the report of the Commission. The report by itself has no binding effect. As such the mere fact of appointment of a Commission of Enquiry does not affect the control over the armed forces vested in the Central Government.

40. Still another aspect of the matter was highlighted by the learned Advocate General, Meghalaya,. He urged that if the States be incompetent to order even appointment of Commission of the present nature it would not be possible to maintain orderly life in the States. We were reminded that it is the duty of the States primarily in our Constitutional set up to maintain law and order and, for that matter, public order; and denial of right of the present nature would greatly impede the States in discharging this constitutional function satisfactorily. I would agree with the learned Advocate General in this submission.

41. After the case was argued in detail following expression of tentative views, I wanted to apprise myself as to what had happened in the Constituent Assembly when Entry 1 of List II was taken up for consideration. A perusal of the deliberations which took place on this entry as narrated at pages 864 to 866 of Constituent Assembly Debates Vol. IX, shows that there was no debate at all on the exclusionary part of this entry except that Sardar Hukum Singh had suggested an amendment that after the words "naval, military and air forces" the words "or any other armed forces of the Union" be inserted. This amendment was accepted without any debate.

42. The above are my reasons for departing from the tentative view taken by me earlier and in agreeing with the Hon"ble Chief Justice that the notification at hand does not suffer from any constitutional vice.