

Shri R. K. Sidhwa : I would request, Sir, that my amendment also may be held over.

Mr. President : If the article is held over, your amendment also will be held over.

Shri R. K. Sidhwa : All right, Sir.

Article 251

Mr. President : Then we take up article 251.

(Amendments Nos. 2852 to 2857 were not moved.)

Shri Upendra Nath Barman (West Bengal: General) : Sir, I beg to move:

“That in clause (2) of article 251. after the words ‘such percentage’ the words ‘not being less than sixty per cent.’ be inserted and the words ‘or the taxes payable in respect of Union emoluments’ be deleted : and the following proviso be added to clause (2) of article 251:—

‘Provided that for a period of five years from the commencement of this Constitution, of the net proceeds assigned to the States, thirty-three and one-third per cent., shall be distributed among the States on the basis of population, fifty-eight and one-third per cent. on the basis of collection and the remaining eight and one-third per cent. shall be distributed in such manner as may be prescribed.’”

Mr. President, Sir, my amendment resolves itself primarily into three proposals, firstly, that the Central emolument should not be excluded in computation of the tax on income for distribution to provinces. The Centre will have a large amount out of income-tax and it is only proper that the Central emolument as described in clause (4) sub-clause (c) should also be computed in that allocation.

The next proposal is that some minimum percentage should be fixed here and now. It is a fact that after five years a Commission will be appointed which will go into all the factors under which a province is to work the Constitution *viz.*, its requirements, commitments and its future advancement, but during this interim period it is not provided in the Constitution as to how this allocation is going to be made. I understand the Finance Department is going to appoint a Committee in order to make some interim arrangement but this Committee also will find the same difficulty as the ultimate Commission which is going to be appointed after five years is going to face them. This is a very controversial matter and the sub-committee to be appointed now will be troubled with various considerations and claims from different provinces. It will be extremely difficult for them to adjust different claims of different provinces. During the period before which the Finance Commission makes its recommendations of the principles on which allocation is to be made, the various provinces are to do several things, and they have to undertake several development measures. If they are in the dark as to what would be their income from this allocation, it will be very difficult for them to adjust their budget from year to year. If certain minimum of this distributable tax be fixed here and now, then the provinces will know how much they are going to get out of this tax, because every province from past experience knows what is the collection every year in their province and also what is going to be the collection in the year under question. So they shall know, at least roughly what amount they are going to get out of this Central distribution of income-tax. If that is not fixed and it is left to the Committee's recommendation, it will be very difficult for them to launch upon any permanent development scheme. It is for that reason that a certain minimum should be fixed. My proposal is that at least 60 per cent. should go to provinces and States and my main argument is that some minimum should be fixed.

Then in their allocation I have indicated that there should be some settlement about the different claims of the different provinces for the interim period because the committee will be nonplused by the different claims of different provinces. Some provinces having large population ask that this allocation should be on population basis whereas other provinces want on collection basis. Other provinces that are backward say that this should be not on population basis or collection basis but on some other basis. Now the Committee will be confronted from different provinces and so if we can set this controversy at rest by fixing some percentage here and now and leave something for general allocation to the Committee, then the Committee will find it much easier. I submit that the provinces must be given a fixed minimum percentage so that they will be able to adjust their budget and launch upon any development schemes which shall continue for a number of years.

The Centre of course needs revenue in a much greater degree, but my submission is that the Centre has got several sources which can bring them a large amount; but the scope of the provinces is very limited and those scopes are very closely connected with the interests of the masses. As we find from List II of Seventh Schedule, the taxes which are given to provinces are of such a nature that they shall always be resisted by the people of the States. Those taxes are un-popular and their scope is very much limited. So at least this income-tax which will be substantial a certain minimum percentage should be fixed here and now so that the provinces may adjust their budgets in that light. That is my submission.

(Amendments 2859 to 2878 of Vol. II and 75 of the Supplementary List were not moved.)

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

“That in clause (2) of article 251, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

(Amendments Nos. 75, 77 and 78 were not moved.)

Mr. President : No. 244.

Prof. Shibban Lal Saksena (United Provinces : General) : Sir, I beg to move :

“That for amendment No. 2875 of the List of Amendments, the following be substituted:—

“That in sub-paras. (i) and (ii) of sub-clause (b) of clause (4) of article 251, for the words ‘by the President by order’ the words ‘by Parliament by law’ be substituted.”

Sir, in this sub-clause (b) (i) it is said.

“‘Prescribed’ means—until a Finance Commission has been constituted, prescribed by the President by Order.”

and in sub-clause (ii) it is said—

“after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission.”

Sir, this article deals with the allocation of income-tax collected by the Central Government in the various provinces and it is said that “such percentage, as may be prescribed, ‘of the net proceeds in any financial year of any such tax, etc. etc. shall be distributed among those states in such manner as may be prescribed.’” Now “prescribed” means, before the Financial Commission has been constituted, prescribed by President by order and after the report also “prescribed by the Order of President, after considering the recommendations of the Commission.” Now I want to substitute this, that instead of ‘President by Order’, we should substitute ‘Parliament by law’. Sir, this is very important article by which Income-tax is to be distributed to the various States. Just now Mr. Barman moved his amendment that the percentage should be 60 per cent. and he

[Prof. Shibban Lal Saksena]

suggested how it should be distributed. He suggested all the three methods according to which it should be distributed, some percentage to the provinces from which it was collected, again on population basis and so on. So this is a contentious subject and in fact if we study the report of the Expert Committee on the Financial Provisions of the Union Constitution which you appointed, you will find that they have given the history of the tax and have pointed out as follows :-

“On the question of apportionment of income-tax among Provinces also, the provinces differ widely in their views. Bombay and West Bengal support the basis of collection or residence, the United Provinces that of population and Bihar a combined basis of population and origin (place of accrual); Orissa and Assam want weightage for backwardness. East Punjab, while suggesting no basis, rents her deficit of Rs. 3 crores somehow to be met.”

So we find there are different basis on which the apportionment is desired and we know that income-tax is one of the most important sources of Central Revenues. The whole thing in this article is how this adjustment between the claims of provinces and Centre is to be made, and it has been said that such percentage as are prescribed shall be distributed by order of President. I think such an important matter as distribution of revenues between Centre and States should not be in the discretion of the President alone. Of course it will be by the executive. But I want that it should be done by Parliament by law. Before the Finance Commission has reported, the Government must bring forward a Bill showing how they wish to allocate the proceeds of income-tax and it shall be for the Parliament to approve of it. Similarly, after the recommendations of the Commission, the Government must bring forward a Bill and must say which recommendation they accept and how the allocation should be made. When that Bill is brought then the Parliament should be able to decide how the allocation is to be made. I do not think that such wide powers of distribution of hundreds of crores of rupees between the provinces and the Centre should be vested in the President. This must be within the province of the Parliament. The Parliament must not be deprived of its right to allocate the finance between the Center and the provinces. This is a very important question and I wonder how the Drafting Committee missed this point. I do not know why they want to centralise all powers in the President. At least the sovereign Parliament of the nation should have a say in the matter. If it comes before the Parliament the needs of the provinces will be known, and we shall know what adjustment is justified. My amendments are very simple and I do not know would not accept them.

But they are the very essence of democracy. If the President can by order allocate crores of rupees I do not know what the Parliament is for. If Parliament is not to distribute the Income-tax to the provinces, what are its functions. It is something extraordinary. When the Finance Commission makes a report on principles. Parliament should after discussing those principles bring forward a Bill suggesting how it wants them to be implemented and it must be able to allocate the proper shares to the various provinces. It is a very important matter and I do think that these provisions giving the President, by order, the power to allocate these crores of rupees should not remain.

In fact, the remaining portion of the article deals with the way the amount is to be calculated. It has been said that taxes on Union emoluments should be excluded. There is a view that they should not be. Even the Expert Committee has said that they should not be. Anyway, even if I do not object to that. I do object to the other thing about allocation. It should be done by Parliament by law and not by the President by order.

Shri T. T. Krishnamachari (Madras : General): Mr. President, Sir, I have to move a formal amendment and it follows the scheme that the House has adopted all along, namely, substitution of the words “Consolidated Fund of India” for the words “revenues of India.” I find there is an omission in sub-clause (c) of clause (4) of this article where the words “revenues of India” have been used. With your permission, therefore, I move :

“That in sub-clause (c) of clause (4) of article 251, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

Shri Biswanath Das (Orissa: General) : Sir, the, consideration of this article takes me to the consideration of the recommendations of the Sarker Committee appointed by you to recommend the financial relationship between the Centre and the provinces. Due to certain difficulties the report of the Committee could not be discussed in this Assembly. Necessarily therefore along with this article you will please allow us to discuss fully and frankly the contents of the Sarker Committee Report.

I expected that the terms of the Sarker Committee would be wide enough to include more things than have been undertaken for investigation. I plead with you and with the honourable Members of this House that the time has come when attempts should be made to find out means for evolution of a proper system of finance both for the Provinces and the Centre. Our finances have been allowed to develop without taking care to develop them properly and in a scientific manner. In the result, they have grown in their own way without any consideration of the scientific evolution of such an important question as this. The Sarker Committee Report has nothing in it to face the problem squarely and well. All that it has done is to recommend to this House in what manner certain items of revenue have to be distributed both between the Centre and the provinces as also among the provinces themselves. The limited scope of recommendations therefore makes me confine myself to the recommendations themselves. Considering this article I cannot go beyond the terms of this article, namely, the allocation of the proceeds of the Income-tax. The Sarker Committee proposes that 60 per cent. of the proceeds should go to the provinces while 40 per cent. should go to the Centre. I had expected that sufficient explanation should have been given why the Centre should have 40 per cent. In this connection let me refer to the report of Professor Adarkar and Mr. Nehru wherein they have shown that in Australia the Commonwealth retains to itself only 25 per cent. of the Income-tax, Why should you have 15 per cent. more than what Australia keeps for herself is a matter on which the Committee ought to have given us an explanation. True it is that the Centre requires more money under the present circumstances. But the present difficult circumstances are not to be perpetuated. I have little complaint with any one who pleads for some more expenditure for the Centre in the first three or five or ten years of its existence, but to have a permanent allocation of 40 per cent. out of Income-tax seems to me not very justifiable.

Having stated so far regarding the allocation of the proceeds between the provinces and the Centre, I come to the principle of distribution among the provinces themselves. On this question again I must join issue with the recommendations of the Sarker Committee. Till 1935, Income-tax was not a provincial source. Under the Government of India Act, 1935, Income-tax was kept with the Centre. Though its levy, assessment and distribution is kept in the Centre, yet it was clearly laid down that 50 per cent. of the net proceeds will be distributed among the provinces. Sir Otto Niemeyer’s Award stood till 15th August 1947. Unreasonable as the principles of distribution are, it has crippled the smaller provinces. I must in this connection state that provinces under the British Government have had their peculiar existence. The British started, not to develop India in a distinct and defined manner, but wanted to have their own conveniences and set up administration and trade centres with a view to help British trade, with the result that the three presidencies have been propped up with a

[Shri Biswanath Das]

certain amount of prestige and convenience, all attached to the British administration and attached to the then conveniences of British trade. That being the position, all the business houses had been concentrated in the three presidency towns, and if they are in any other province it is in a few fortunate provinces like the United Provinces. That being the position, the proceeds of Income-tax have unfortunately been allowed by Sir Otto Niemeyer to be distributed mainly on the basis of collection, which is a very unfair and artificial method, for Income-tax or tax on income accrues out of consumption and utilisation of goods by the generality of the masses. Therefore, in whatever manner trade—foreign or internal—may proceed from certain definite and established trade centres, it is unfair to say that the provinces having in their areas the business firms as the centrally distributing agencies or manufacturing centres should alone earn the profits. And therein lay the unfairness and unscientific method of the basis of distribution.

As I have already said, the British never attempted to evolve a national system of finance. The business view and the business propensities of the Britisher necessarily told him to look at it from the point of view of collection of taxes because in their country the various local areas have been uniformly developed. If one area has developed its trade the other area is developed in agriculture. So both the areas get the benefits in their due proportions and in due course. In our country unfortunately this is not the case. Therefore, the point of view taken up by Sir Otto Niemeyer cannot be regarded as justifiable. The failure of it can be seen from the recommendations of another Committee. I am referring to the expert enquiry, the Federal Finance Committee that submitted its report in 1933 as a result of the Round Table Conference. Therein you find a decision has been taken that the principal basis ought to be population. Of course it was only an expert enquiry.

In this connection I again refer you to the recommendations of Professor Adarkar and Mr. Nehru wherein they have laid down three principal basis, namely, the basis of population, the basis of area, as also the basis of collection. They have given the last place to the basis of collection and rightly so because collection is after all an artificial process. True it is that centres like Calcutta, Bombay and Madras need attention. Let them have something. But it is unfair to claim the major share from the distribution of Income-tax. Friends from the three presidencies will excuse me if they feel that I am hard on them. It is nothing of the kind. I want a uniform process of development—I do not want any province to be inconvenienced. In fact, I always feel as an Indian and speak primarily from the point of view of an Indian. While thinking of the three developed and advanced provinces I also want them to see that their brothers and sisters in other provinces also follow them. Let them be behind them but let them follow them. Otherwise they will be left singularly alone to themselves. Therefore I do not agree with the principle of distribution on the basis of collection.

The Sarker Committee committed the same blunder—mainly though not exactly as the blunder committed by Sir Otto Niemeyer. The Sarker Committee has taken a step forward by recommending 60 per cent. for the provinces and 40 per cent. for the Centre. I claim that they should have given more to the provinces who are in charge practically of all the nation-building activities of the country.

Severe condemnation of the report comes on another count also, and that is on the recommendation regarding the distribution of the proceeds on the basis of collection to the extent of 35 per cent. out of the 60 per cent. That means practically about 60 per cent. of the proceeds to be distributed on the basis of

collections. This to me is very unfair. As I have already stated, I repeat that the Income-tax or tax on income accrues from the incomes of the people and that is measured in terms of consumption or production. The agricultural provinces produce raw materials. The industrial provinces undertake the process of industrialisation and produce the finished goods. There again there is a roundabout process. There again those industrial goods are taken and the proceeds are distributed to the same fortunate provinces with the result that the business houses are all located in those three provinces and the agricultural provinces are being deprived of the benefits of the Income-tax, though they have rightly earned the Income-tax. Under these circumstances I do not agree that the basis of 35 per cent. out of the 60 per cent. is fair to the smaller provinces.

I further request the honourable Members of this House to think of a certain reserve fund. When I speak of a reserve fund I have before me certain precedents. You have got the Petrol Cess Fund, commonly known as the Road Cess Fund. That has been distributed on a certain specified basis. About 15 per cent of it or so is kept with the Centre to develop the undeveloped areas. Therefore, let the Centre keep something to itself and distribute it properly and equitably, keeping in view the interests of the whole of India. With these words, I request the House to give due consideration to the aspects that I have raised in my speech.

Pandit Hirday Nath Kunzru (United Provinces: General): Mr. President, the issue raised by Mr. Upendra Nath Barman's amendment is of a vital character and requires the careful consideration of the House. In order to understand what the effect of this amendment will be it is necessary to go back to the past and consider the relations that exist between the Government of India and the provinces in regard to the distribution of the net proceeds of the Income-tax. Under the Government of India Act an Order-in-Council was passed in 1936 fixing 50 per cent. as the share of the provinces in the net proceeds of the Income-tax, excluding the proceeds attributable to Chief Commissioners' province and the tax on Federal emoluments.

Till the war broke out or rather till three or four years after the break of the war, the Government of India was unable to make over to the provinces their maximum share as fixed by the Order-in-Council. The Order-in-Council laid down that during the first of the two periods referred to in that Order, the Government of India might retain such an amount from the share of the provinces as, taken together with the contribution of the Railways to the Central revenues, would raise the total to Rs. 13 crores. During the war, when the railway surpluses increased considerably, it was not necessary for the Government of India to take any amount out of the provincial share in order to make up the total of Rs. 13 crores that I have just referred to. I do not know exactly what the share of the provinces at the present time is, but I believe that they are getting 50 per cent. of the net proceeds of the income-tax calculated in the manner explained by me. We have to see whether the position of the Central Government has improved so much since, say, the termination of the war as to enable it to give a larger share of the net proceeds of the income-tax to the provinces. Anyone that is familiar with the Budgets of the Government of India for the years 1947-48 and 1948-49 knows how parlous the position of the Central finances is. Some of us ventured to draw attention to the very unsatisfactory financial condition of the Centre during the last Budget debate. The Finance Member thought that the arguments that had been advanced on their point were puerile but I trust that even he is now convinced that our position is far more serious than even the most pessimistic amongst us had imagined three or four months ago. Can we, when we appear to be faced with a huge deficit, when our credit has fallen so low that we cannot accept to raise large loans, say that it would be advisable to accept the amendment moved by Shri Upendranath Barman ? His proposed is based on the recommendations of the Expert Com-

[Pandit Hirday Nath Kunzru]

mittee which was presided over by Mr. N. R. Sarker. He has not gone as far in claiming a share in the income-tax for the provinces as the Expert Committee had recommended, but so far as the proportion of the net proceeds of income-tax to be assigned to the provinces goes, he follows the recommendation of the Expert Committee. The Expert Committee has pointed out in its report that if its recommendations were accepted, the Central revenues would lose about Rs. 30 crores less 40 per cent. of the net proceeds of the Estate and Succession duties. Even granting that Shri Upendranath Barman's proposal is more moderate than that of the Expert Committee, it is obvious that the House should not accept the principles laid down by a Committee that thought that the Centre could without difficulty make over nearly Rs. 30 crores to the provinces. Our financial position at present is as serious as it can well be. I do not therefore think that it will lie in the interests of India as a whole to accept Mr. Upendranath Barman's proposals. It may benefit the provinces, but the financial and administrative stability of the provinces depends to no small extent on the position of the Centre. It would be short-sighted of the provinces to demand a larger share from the Centre, regardless of the effect that their claims would have on the position of the Central Government. I repeat therefore that, in my opinion, the state of our finances at the present time does not allow us to accept a proposal like that placed before us by Mr. Barman.

Pandit Lakshmi Kanta Maitra (West Bengal: General): I am sorry to interrupt my honourable Friend, but I would like to ask one question : What is the data in possession of the honourable Member ? Paragraph 59 on page 4 of the Sarker Committee report says that it will not be beyond the capacity of the Centre to part with these Rs. 30 crores. So what data has my honourable Friend to contradict the finding of this Committee except saying, of course, that the finances have gone down ?

Pandit Hirday Nath Kunzru : Well, that is a very important consideration to be taken into account. This Expert Committee reported in December 1947. Is the position the same as it seemed to be then or has it deteriorated to such an extent as to be alarming ? My honourable Friend took part in Budget debate....

Pandit Lakshmi Kanta Maitra: But it is only a temporary phase.

Pandit Hirday Nath Kunzru : Well, he was no more optimistic about the financial position of the Government. of India than any other Member. But today he comes forward with the argument that the position of the Central Government will not always be as unsatisfactory as it is now.

If it improves, then the financial relations between the Centre and the Provinces can be reconsidered. That is one of the purposes of the Government in recommending the appointment of a Finance Commission. My honourable Friend, I am sure, has read the Draft Constitution carefully and knows that provision has been made for the appointment of a Finance Commission, in order that the provinces may not be starved of the funds required for the development of the social services. But when he or any other Member of the House says that we should imagine that the position of the Central Government has already improved, I part company with him. If this is not my honourable Friend's point, then I cannot understand the purpose of the question that he put to me. All that I was saying before he put his question was that, even admitting that the provinces would be responsible in the main for the development of the social and other services on which the welfare of the people depended, we could not at the present time agree that the Centre was in a position to make over 30 crores or even 20 or 15 crores to the provinces.

Sir, Mr. Upendra Nath Barman's amendment does not merely propose that the share of the provinces in the net proceeds of the income-tax should be greater than what it is today. It also suggests a method of distribution of the provincial share between the provinces. The criteria laid down by him are those recommended by the Expert Committee. These criteria are population, place of collection and certain other factors. He suggests, following the recommendations of the Expert Committee, that 58 and one-third per cent of the provincial share should be distributed on the basis of collection. With all respect to the Expert Committee, I do not think that the basis of collection can in any circumstance be accepted as a sound basis for the calculation of the share of any province. The Government of India sent out a committee to Australia to consider how the Commonwealth Government assisted the State Governments in maintaining their solvency and in developing the social services; That committee which consisted of Mr. B. K. Nehru and Mr. Adarkar, has in its recommendations expressly ruled out the basis recommended by the Expert Committee and accepted by Mr. Barman. The test proposed by that committee for distribution are, population, area, and *per capita* income. According to the last test a more prosperous province should receive proportionately less financial assistance from the Centre than a province living from hand to mouth. These are the tests that the Commonwealth Grants Commission in Australia has worked out on the basis of the experience that it has gained. The reasons for trying these tests are perfectly simple. A province may have reached a large degree of industrial development and a large amount of income-tax may therefore be collected in that province. But the goods produced in that province are not all consumed there. The industries in that province can be in a flourishing condition only when their products are taken by people living largely in the rest of India. There is no reason therefore why the place of production or the place of collection of the income-tax should be taken as a test for the distribution of the provincial share. It is as unsatisfactory as any test can be.

Apart from this, if federation means anything, it means that there should be a transfer of wealth from the richer to the poorer provinces; just as the very concept of social welfare implies that there should be a transfer of wealth from the richer to the poorer people, so the concept of federation, the concept of national solidarity implies that the richer provinces, should part with a portion of what may in strict theory be due to them, for the benefit of the poorer provinces. Otherwise it will not be possible to raise the less developed provinces to the level of the more, fortunate provinces. It will not even be possible to guarantee that the social services in the less developed provinces will reach a minimum standard.

For the reasons that I have given, I think that it would go against the very principles underlying the establishment of a federation if Shri Upendra Nath Barman's proposals were accepted. It is true that the Expert Committee recommended it. But, even before the Government of India rejected the proposals of the, Expert Committee, I personally found myself in complete disagreement with it. I was amazed to find that any committee of experts could propose such a basis for the distribution of the provincial share. I think that it is a matter for satisfaction that the Government of India have rejected the recommendations of the Expert Committee which would have placed them in a dangerous position.

Now, Sir, I should like to say a few words about what fell from my honourable Friend Prof. Shibban Lal Saksena. He suggested that the division of the financial resources of the country between the Centre and the provinces should be made by Parliament by law.

[Pandit Hirday Nath Kunzru]

I do not think that the suggestion made by him is a very happy one. In Australia, the Commonwealth Grants Commission does not owe its existence, to any Parliamentary statute. It is the result of an agreement between the Commonwealth Government and the States. Its recommendations have not to be placed prior to their acceptance before Parliament. If we divide the financial resources between the Centre and the provinces on a statutory basis, it would introduce a very undesirable element of rigidity in the financial relations between the Central and the Provincial Governments. I believe that my honourable Friend, Mr. Saksena, has recommended that any recommendations that the Finance Commission might make should also be given effect to by Parliament by law. I do not at all see why this should be necessary. If the Finance Commission inspires general confidence, if the provinces and the Centre feel that its members do not allow themselves to be influenced by the opinions of any authority, I have no doubt that a convention will grow up in this country as it has in Australia that the recommendations of the Commission should broadly speaking be accepted by the Central Government. I say broadly speaking because in times of stress, it may not be possible for the Government of India to accept the Finance Commission's view of its position, but barring emergencies, I should think that in course of time both the Central Government and the provincial Governments would come to place confidence in the judgment of the Finance Commission and accept its proposals. Sir, the method of distribution of the financial resources of the country between the Centre and the Provinces as proposed in the Draft Constitution seems to me to be more elastic, based on a better principle and in every respect preferable to the amendment moved by Shri Upendra Nath Barman. I personally think that the powers given to the Finance Commission are wider than they should be but that is a different matter and I do not propose to deal with it at this stage.

Sir, my only purpose in taking part in this debate was to make it clear to the House how undesirable it would be not merely from the point of view of the Centre but also from that of the provinces, if Mr. Upendra Nath Barman's proposals were accepted. Provinces like Assam, Orissa and the C.P. which are starved for want of funds and whose condition is such as to extort the sympathy of all fair-minded people, would remain for ever in the backward condition that they occupy now. Their only chance of getting more funds for their development and for raising their standard of social services is that the basis of collection should not be the basis of the distribution of proceeds of the income-tax. I hope therefore that the House will unhesitatingly reject Mr. Upendra Nath Barman's amendment.

Shri M. Ananthasayanam Ayyangar (Madras : General) : The question may not be put.

Mr. President : There has been only one speech so far on the subject.

Shri B. Das : Mr. President, Sir, I am very grateful to my Friend, Pandit Hirday Nath Kunzru, for emphasising the distress of the provinces of Orissa and Assam. The income-tax collected is frittered away in useless expenditure by the straps of the Finance Department. The Expert Committee recommended that 60 per cent. of the income-tax including all sources of income-taxes—super tax, corporation tax and everything, should go to the provinces. The Premier of the United Provinces in his memorandum to the Expert Committee laid emphasis that not only personal income-tax but all kinds of income-tax should be distributed to the provinces. Sir, there is a legitimate demand by the Premiers of the various provinces that sixty per cent.—somebody demanded fifty per cent., but I claim sixty per cent as has

been recommended by the Expert Committee—should go to the provinces. The question arises as to the basis of distribution. Should it be on collection basis or should it be on population basis or should it be on some other basis ? Bombay naturally collects the largest amount of income-tax because most of the companies have their headquarters in Bombay. My honourable Friend, Pandit Kunzru, just now stated that Bombay is not a consumers' province. Yet Bombay very much likes to get something for nothing, to get some percentage on a collection basis. Mr. N. R. Sarker, who today happens to be the Premier of West Bengal, knowing that Calcutta has the headquarters of many Companies, recommended that thirty five per cent should be on the basis of collection and twenty per cent on a population basis. This is a very wrong system of allocation and we protest against it and I am glad this has been supported by my honourable Friend, Pandit Kunzru. We undeveloped provinces such as Orissa, Assam particularly and Bihar, we do not accept that some people will get something for nothing because the foreign rulers concentrated trade and commercial activities in Calcutta and Bombay. We do not subscribe to this method of allocation. I do claim that 60 per cent. of the income-tax and not personal income-tax as it is now done at present, should go to the provinces. Ten per cent. may be kept in the hands of the Central Government to meet the special needs of the State. The other 50 per cent. should be distributed on population basis. Sir, I have. to point out that my province which had 9 lakhs of population before the merging of so many states has now got a population of 1 crore and 40 lakhs. These States have very primitive forms of administration, primitive sources of taxation, and they have been merged into -the Orissa Province and have been incorporated to a standard of administration as is prevalent in the provinces, and the Government of Orissa have ensured that these merged States should have similar standard of administration as exists in Orissa Province, and yet the income that accrues from the States is very little. The allocation of income-tax, which the Otto Niemeyer Award 'gave about which I have said on a previous occasion this morning, was arbitrary. It awarded two per cent. out of this allocation of income-tax, and later the Government of India,—not this Government of India—changed into three points and Orissa got 3 per cent of the income-tax allocated to the provinces.

I am surprised that the Government of India is a party to the draft article 251. Under the changed conditions this sovereign House has altered the position of many States. Why do not the Members of the Government of India who also Members of this House advise the Drafting Committee to change the system of allocation of income-tax, so that provinces like Orissa, which is more than doubly handicapped by the merging of the States, get an equitable share of income-tax The only equitable share is allocation on *population basis*.

I am grateful to Pandit Kunzru and my honourable Friend, Mr. Biswanath Das, for referring to the Adarkar-Nehru Report of 1947. The report was printed some time ago but it saw the light of day in March 1949. I had only a chance to glimpse through it. Why is it that the Government should pick holes with such weighty opinions, such weighty views and shelve it? Why should it not raise discussion in the country or even on the floor of this House ? I think that as long as the Government of India remains blank on the subject and it follows a policy of grab and hold; nothing can be done. The Adarkar-Nehru Report provides a solution to develop the provinces. Provinces which are undeveloped, which are backward must get weightage by special grants as in Australia. Based on *per capita* income, undeveloped provinces should receive financial grants. Is it not the function and duty of the spokesmen of the Government of India hero to take the House into confidence and to tell what they have in mind ? Is their

[Shri B. Das]

mind blank or have they been thinking and thinking these two years and cannot decide to part with resources ?

Sir, I went through the memorandum that the Government of India submitted to the Sarker Committee. It is a heartless, colourless memoranda. It deals with its own difficulties; it never assume that the Finance Ministry of the Central Government has sovereign responsibilities to India and to the provinces at, large. Nowhere in that long memorandum is there any mention that the provinces must develop, or the provinces must get more resources, more share of the income-tax so that they can develop. I had never seen a more cruel document drafted by the foreign rulers that ruled us up to August 1947. I have seen the memorandum in 1936-37. I have seen the notes of the financial satraps and bureaucratic rulers in 1924 and 1925 and I never read such a heartless document and Sir, that was, the considered views of our Finance Department, the Department of the independent Government of India—which now plays ducks and drakes with the resources of the provinces and overawes the provincial financial ministers! It is a shameless Government. It is a shamless Government I again say, and poor provinces, poor Premiers of the provinces have to plead their own case, they have to plead their poverty, their backward conditions. Of course, Bombay need not plead. Why should Bombay plead with a *per capita* revenue of Rs. 25 ? Why should Madras plead with a per capita income of Rs. 19? Why should U.P. plead with income of Rs. 21 ? But Orissa, poor as we are with a *per capita* revenue of Rs. 4 or 5, should ask for something nearer a basic level. Assam spends much less after the partition of Assam; and is it not the sovereign duty of this House to ensure adequate and minimum basic expenditure for the development of these provinces? That can only be ensured if 60 per cent of all sources of income-tax goes to the provinces, based by allocation on population basis and on no other basis.

Mr. President : Before Dr. Ambedkar speaks on this article, there is one which has struck me as requiring a little clarification and I would like you to consider that. In sub-clause (2) of this article 251 we find :

“Such percentage, may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as these proceeds represent proceeds attributable to States for the time being specified in Part II of the First Schedule or the tax payable in respect of Union emoluments, shall not form part of the revenues of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.”

It is not clear to me what the significance of the expression “within which tax is leviable in that year” is. Does it mean the States where the taxes resides or does it mean the States where the income on which the tax is levied is earned, or does it mean anything else ?

Shri B. Das : Sir, when these financial matters are being discussed, it is necessary that the Finance Minister must be present on the floor of the House in view of the fact that he is a Member of this House. We are not discussing academic issues here when the Finance Minister need not be present here.

Mr. President : I trust some one will communicate the desire of the Member to the Finance Minister.

Shri T. T. Krishnamachari : May I mention, Sir, that the wording has borrowed practically word for word from section 138 of the Government of India Act, 1935 ? I can only say at this moment that it is sought to deal with that portion of the tax that would be collected from such Part III States as have a special arrangement with the Union Government.

Shri Biswanath Das : May I request you, Sir, to convey to the Honourable the Finance Minister who is also a Member of the House not to be present as the Finance Minister of the Government of India, but to be present as a Member of this House so that we will have the benefit of his wise counsel and advice.

Mr. President : That is why I said that the wishes of the Members might be communicated to him.

The Honourable Dr. B. R. Ambedkar : Sir, I can explain the thing now. I do that, I will take up the other amendments.

There is an amendment by Mr. Barman and there is another amendment by Prof. Saksena. I am sorry to say that I cannot accept either of the amendments.

This question whether the percentage of revenue collected by way of Income-tax should be prescribed in the Constitution itself either as sixty per cent or any other percentage or should be left to the President to decide is a matter over which considerable thought has been bestowed both by the Central Government as well as by the provincial Governments in the Conference which took place the other day to discuss this matter. It was agreed that the best thing would be to leave the matter to be prescribed by the President and that no proportion should be fixed in the Constitution itself.

With regard to the other question raised by Prof. Saksena, that instead of the word “prescribed”, the wording should be “prescribed by Parliament”, again I am sorry to say that I cannot accept the amendment. Our scheme is to allow the President to prescribe the proportion in the first instance by himself and in the second instance after a consideration of the recommendations of the Finance Commission. We do not propose to bring the Parliament in. Because, in that case, there would be a great deal of wrangle between the representatives of the different provinces and great injustice may be done by reason of the fact that certain provinces, may have a very large majority in the Parliament and certain other provinces may have a small representation. Consequently, to leave the matter to Parliament practically means leaving it to the voice of those provinces who happen to have a larger representation at the Centre, and that I think would cut at the root of the justice which you want to be done to the various provinces.

Now, Sir, coming to the difficulty that you have raised, the words “States within which that tax is leviable in that year” are necessary. They occur in the Government of India Act, 1935. The reason why these words were then introduced was because Income-tax was not to be levied in the Indian States which were to come within the Indian Union. In lieu of the Income-tax, the Indian States were required to make certain contributions. Therefore, if the tax was not to be levied in that State would not be entitled to obtain a share. We do not know what is going to be the procedure under the present Constitution. This matter is being examined by a Committee which has been appointed to investigate into the finances of the Indian States. If the recommendation of that Committee is that Income-tax should be leviable in all the States whether they originally constituted Indian Provinces or Indian States, then naturally these words would have to be altered. While moving this article, I retain liberty to the Drafting Committee to suggest to some amendment in that respect when the report of that Committee to suggest to before us. That is the reason why these words are here.

Mr. President : Just one thing more. May I take it that it is not intended to cover cases within what used to be British India?

The Honourable Dr. B. R. Ambedkar : No, no; States in Part III.

Shri B. Das : Dr. Ambedkar has referred to decisions of a Conference of Prime Ministers of Provinces and the Drafting Committee. This House has no knowledge of what passed between them and what the result of their discussions is. Unless a Minute of those discussions is laid on the table of the House in the form of a Note or otherwise, we are not in a position to come to any conclusion as to the action of the Drafting Committee.

Mr. President : I take it, if there had been any question raised by any of the Premiers of the Provinces, they would be hear to raise them if they did not agree with the draft. Therefore I take the draft as now placed before the House has the concurrence or the consent of the Premiers.

Shri B. Das : The House is not bound by what the Premiers and Finance Ministers did outside this House. If any decision was taken, it is the privilege and prerogative of this House to have copies of those documents.

Mr. President : No one is bound here by any decision taken by the Premiers and the Drafting Committee. The House is free to cast its vote in any way it likes.

Pandit Lakshmi Kanta Maitra : I would like to ask for clarification from Dr. Ambedkar on one point. The point is this: This article provides that the revenue shall be distributed among the States in such a manner and from such time as may be prescribed. Now, the word "Prescribed" has been defined in clause (4) sub-clause (b) and means, "Until a Finance Commission has been constituted, prescribed by the President by order, and after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission." This Finance Commission comes at a later stage. As has been settled so far, this Finance Commission, mentioned in sub-clause (b) (ii) of clause (4), is going to be appointed within a period of two years from the late of the commencement of the Constitution. Prior to that immediately with the commencement of the Institution, what is going to be the criterion by which this allocation is to be guided ? We have been told recently by the Honourable the Prime Minister that apart from this Commission, another Commission—call it a Commission or a Committee or whatever it may be something like an *ad hoc* committee is going to be appointed. How does that fit in with this ? This word 'prescribed' in sub-clause (b) does not mean that the President will be acting on the recommendation of the *ad hoc* committee which will be appointed within three or four months time. Will the interim allocation be decided on the recommendations of the Finance Committee ? It is not clear as to what is going to happen with regard to the period immediately following the coming into operation of the Constitution, and before the appointment of the Commission envisaged in a subsequent period.

The Honourable Dr. B. R. Ambedkar : Sir, the explanation is very simple. If we wanted that there should be no interim enquiry before the President made an order of allocation, we would have merely said that such allocation as existed before the commencement of the Constitution shall continue until they are redetermined by the President on the recommendation of the Commission. We have not said that, and we have not said that deliberately, because we want that an enquiry should be made and on the basis of the enquiry the President may prescribe by order. That is the reason for the difference in language.

Pandit Lakshmi Kanta Maitra : That is to say, the interim Commission will be appointed straightaway now and on the recommendation of that Commission the President will prescribe by order ?

The Honourable Dr. B. R. Ambedkar : Yes. Otherwise we would have merely said that the existing allocation will continue until the President issued the new order ?

Mr. President : I will now put the various amendments to vote. I will first put amendment No. 2858, moved by Shri Upendra Nath Barman.

Shri Upendra Nath Barman : Sir, in view of the statement of Dr. B. R. Ambedkar, I wish to withdraw my amendment.

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

Mr. President : Then I put amendment No. 76, moved by Dr. Ambedkar. That is a verbal amendment.

The question is :

“That in clause (2) of article 251, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

The amendment was adopted.

Mr. President : Then there is the amendment of Shri T. T. Krishnamachari. The question is:

“That in sub-clause (c) of clause (4) of article 251, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

The amendment was adopted.

Mr. President : Then there is Professor Saksena’s amendment.

The question is :

“That for amendment No. 2875 of the List of Amendments, the following be substituted:

“That in sub-para (i) and (ii) of sub-clause (b) of clause (4) of article 251, for the words ‘by the President by order’, the words ‘by Parliament by law’ be substituted.”

The amendment was negatived.

Mr. President : Then I put article 251 as amended.

The question is :

“That article 251, as amended, stand part of the Constitution.”

The motion was adopted.

Article 251, as amended, was added to the Constitution.

Article 252

Mr. President : Then we take up article 252. But there are two new articles proposed, 251-A and 251-B. Do you wish to move them, Mr. Krishnamachari ?

Shri T. T. Krishnamachari : No.

Mr. President : Then we come to article 252 and to it there is amendment No. 2881 standing in the name of Shri Santhanam.

(Amendment Nos. 2881 and 2882 were not moved.)

Mr. President : Then there is amendment No. 79 in the name of Dr Ambedkar.

Shri T. T. Krishnamachari : Sir, it is also in my name, and I may be allowed to move it. I move :

“That in article 252, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”