

New Article 265-A

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

“That after article 265, the following article be inserted :—

‘265A. (1) Save in so far as the President may by order otherwise provide, no law, of a State in force immediately before the commencement of this Constitution shall impose, or authorise the imposition of, a tax in respect of any water or electricity stored, generated, consumed, distributed or sold by any authority established by any existing law or any law made by Parliament for regulating or developing any inter-State river or river-valley.

Exemption from taxation by States in respect of water or electricity in case of certain authorities.

Explanation.—In this clause, the expression “law in force” has the same meaning as in article 307 of this Constitution’.”

In the following paragraph of the article, I wish to introduce some new words with your permission and move it with those words.

“(2) The Legislature of a State may by law impose, or authorise the imposition of, any such tax as is mentioned in clause (1) of this article but no such law shall have any effect unless it has, after having been reserved for the consideration of the President, received his assent; and if any such law provides for the fixation of the rates and other incidents of such tax by means of rules or orders to be made under the law by any authority, the law shall provide for the previous consent of the President being obtained to the making of any such rule or order.”

Mr. President : Mr. Naziruddin Ahmad is not moving amendment No. 308. As there is no other amendment to this motion, I will put it to vote. The question is :

“That new article 265-A, as moved in the amended form, stand part of the Constitution.”

The motion was adopted.

New article 265-A was added to the Constitution

Article 266

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

“That for article 266 the following article be substituted :—

‘266. (1) The property and income of a State shall be exempt from Union taxation.

(2) Nothing in clause (1) of this article shall prevent the Union from imposing or authorizing the imposition of any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State, or any operations connected therewith, or any property used or occupied for the purposes thereof, or any income accruing or arising therefrom.

Exemption of the Governments of States in respect of Union taxation.

(3) Nothing in clause (2) of this article shall apply to any trade or business, or to any class of trade or business, which Parliament, may, by law declare as being incidental to the ordinary functions of Government’.”

Mr. Naziruddin Ahmad (West Bengal: Muslim): I am not moving amendment No. 309.

Shri P. T. Chacko (United State of Travancore and Cochin): I beg to move:

“That in amendment No. 272 of List TV (Seventh Week), in clause (2) of the proposed article 266, after the words ‘trade or business of any kind carried on’ the words ‘beyond he limits’ be inserted.”

The purpose of my amendment is to exempt all properties and income of a State from Union taxation, even when the State is carrying on a business or trade within its own limits. The Union will have no power to tax properties or income of a State in one case where the State carried on a business

[Shri P. T. Chacko]

or trade outside its limits. This principle of immunity from inter-governmental taxation was accepted by this House when it accepted article 264 where it is provided that the properties of the Union shall be exempt from taxation by a State. I only want that this principle should be extended and applied in the case of the States as well. In the United States Constitution there is no provision exempting the Union properties or State properties from reciprocal taxation. But, in interpreting the Constitution the Supreme Court has very clearly laid down this principle of immunity from reciprocal taxation. Power to tax was held to involve power to destroy. Until recently, even the income of an officer of a State was exempted from the taxation of the Union. Later on, however, in applying this principle the Supreme Court began to draw a sharp line of distinction between the governmental and traditional functions of a government on one side and the business or trade carried on by a State merely for the purpose of profit on the other. Immunity was denied in cases where the State carried on a business or trade as distinct from a governmental function. But to define 'governmental function' is not easy. What might have been deemed in earlier days as a dangerous expansion of State activities may today be deemed to be an indispensable function of the Government. The State Government does not exist for its own sake. It enters the field of private enterprise, not with profit motive alone. It is no doubt the duty of a State to nationalise public utility services and also the key industries. The modern concept of a State is such that the conduct of a business or trade within its own limit very often becomes a function of a State. There is an express provision in the Constitution of the Commonwealth of Australia granting immunity from reciprocal taxation. Section 114 of the Constitution reads :

"A State shall not without the consent of the Parliament of the Commonwealth raise or maintain any naval or military force or impose any tax on property of any kind belonging to the Commonwealth, nor shall the Commonwealth impose any tax on property of any kind belonging to a State."

The provision is imperative and properties of all kinds belonging to a State are exempted.

Secondly, Sir, this power, if vested in the Union, to tax the properties of a State indiscriminately, would hamper the progress of the State. Taxation is always a double-edged weapon and it has a tremendous power to regulate the subject of taxation. Any tax on industries conducted by a State serves the purpose of discouraging the State from running any industry. The result would be to discourage the State from nationalising public utility services and other industries. Some progressive States may have a well-defined scheme of social programme. You are destroying such social programme by adding one more obstacle to the innumerable obstacles already in existence.

In short, this taxation would prevent the State from carrying on its social functions and would in effect reduce the capacity of the State to serve its own people. A State cannot be looked upon just like an individual who is conducting business. In the case of an individual, the profit goes to his own pocket, resulting in concentration of wealth in his hands and thereby giving him more economic power, which may be utilised for the further exploitation of his own fellow-beings. His income is taxed purposely to prevent the concentration of wealth in the hands of the private individual. In the case of a State, the profit obtained by the State obviously enables the State to serve its own people better.

I would also like to point out that the proposed taxation would even prevent the expansion of industrialisation, which is so much needed for us. Take for example a State like my own, Travancore. It is a State which is thickly populated. It is one of the most thickly populated States not only in India but probably in the whole world. The majority of the people are agriculturists

Land suitable for cultivation is limited there. Whereas, in other places the problem is to obtain the labour force for cultivating the available land, the problem in Travancore is to obtain land to utilise the available labour force. In such a State, there was only one salvation for the people, that is, industrialising the State, and the State came forward with a steady policy of Industrialisation and invested a large amount of money, four to five crores of rupees. The State has succeeded to a very large extent in its venture to industrialise. The effect of the proposed taxation is definitely to discourage a State like from investing any further amount of money in industries.

Now, in a State like this, industrialisation is a vital problem, a problem of life and death for the seven million inhabitants of the State. The industrialisation of the State becomes a governmental function there. To give the Centre the power to tax the properties of the State and the industries conducted by the State will be to discourage the State from investing any further amount in industries. Again it would be impossible for private enterprise to exploit certain resources of a State. In such cases where private capital refuses to venture, it is the duty of the State to invest capital for that purpose. This tax would prevent, would discourage the State from investing any amount to exploit such resources.

Finally, Sir, the proposed tax may cripple or obstruct the ordinary governmental functions of a State. As Chief Justice Marshall put it, the power to tax involves the power to destroy also. If power to tax is conceded, the State will have no voice in fixing the extent of taxation. As a matter of right, if a State can be taxed lightly it can also be taxed heavily. If it can be taxed justly, it can also probably be taxed oppressively. Generally, the business or trade carried on beyond the limits of the State may be assessed as something distinct from a purely Governmental function. The State may have only a profit motive in conducting business outside the limits of that State, a just reason why the business or trade carried on by a State beyond its own limits could be taxed by the Union. I only point out, Sir, that the principle underlying the proposed article is not sound. The power proposed to be invested in the Union will necessarily retard the progress of a State. It will act as a check to social programmes of a State. It will check the expansion industrialisation and finally it may cripple the State itself. I request the House to consider its repercussions on the States and their social programmes.

Shri S. P. Nataraja Pillai (United State of Travancore & Cochin): Mr. President, Sir, I beg to move :

“That in amendment No. 272 of List IV (Seventh Week), the following proviso be added to clause (2) of the proposed article 266 :—

‘Provided that the trade or business which was carried on by or on behalf of the Government of a State before the commencement of this Constitution and any income accruing or rising therefrom shall not be liable to Union taxation.’ ”

Sir, my amendment has only a limited scope. I want to exclude from Union taxation the existing trade or business in a State or any income accruing therefrom in this connection, I would like to submit before the House that if this article as it stand is given effect to immediately it will have the effect of paralysing the finances of the State, probably leading to a financial breakdown. I am sure it will be the case in some of the South Indian States at least. For example, Sir, in Mysore and Travancore, for the last two decades and more, an active policy of industrialisation was adopted and followed and crores of rupees have been invested in industries. If we take the case of Travancore alone, nearly five to six crores of rupees have been invested in industries and annually there is a net revenue of fifty to sixty lakhs of rupees to the State from this source. The policy of industrialization

[Shri S.P. Nataraja Pillai]

was adopted not only to improve the material condition of the people but also as a method to find funds to meet the progressive needs of the Government. This attempt was successful. Now as a result of the financial integration scheme which has now been adopted as a result of the Federation that is being hammered out here, according to the present estimate Travancore State is expected to lose at least 40 per cent. of its revenues. Curiously enough in Travancore 40 per cent. of its revenue is being budgeted for expenditure on education, public health and public works. If, in addition to the gap which is expected to occur as a result of this financial integration, this Union tax is to be enforced immediately on the income which the State derives from trade and industries, that will widen the gap still further and will result in a financial breakdown as it were.

But when I say this, Sir, I do not for a moment forget the tremendous responsibilities of the Union and the absolute necessity of providing financial resources to discharge its activities. But at the same time, Sir, the Centre has also to see that if the States are to shoulder their responsibilities and discharge their duties, financial resources must be available to them too. I have heard it said here, Sir, that the authority of the Centre is all prevailing and pervasive and their demands are paramount; but I feel that that approach is not quite correct. As far as the States and the Centre are concerned, they are only discharging two different and distinct functions of the Union Government. The inefficiency or ineffectiveness of one is sure to react on the efficiency and the effectiveness of the other.

In these circumstances, it is absolutely necessary that the State finances should not in any manner be affected so as to prevent the State from functioning with efficiency. At this time of transition as I pointed out before, when this State stands the chance of losing at least 40 per cent. of its revenue as a result of the financial integration scheme that is being worked out, this provision to tax the income from trade or business in the State should not be given effect to.

The Government of India appointed a Committee known as Indian States Finances Enquiry Committee and they have published a very valuable report after carefully going into the question of State finances. In page 47 of Vol. I of that report they refer to article 266 of the Draft Constitution, that is about this identical article, and the following words occur :

“We cannot however, overlook the fact that if it should be enacted in its present form (that is, in the form of giving the right to the Centre to tax the State trade) it will have adverse consequences upon the finances of Indian States, to the extent that they are now dependent upon the tax-free income from those enterprises; in some States such income is considerable. We recommend, therefore, that should article 266 be enacted in its present form, the existing State owned and operated enterprises should be exempted from federal taxes on income to the extent to which they now enjoy such immunity.....”

I have only put this idea in my amendment and my object is only to exempt the existing State-owned and operated enterprises from the Union taxation. That will give relief to the State when the State is faced with a difficult financial situation on account of the new Constitution that comes into force immediately. And when its revenues stand to lose a good portion of it we should not enact a provision by which it will be reduced still further. Clause (2) of the proposed article vests the authority with the Parliament to tax the business or trade or income accruing therefrom in future in the States. So when that is being done, I completely agree with the general principle since tax on income being an item of the federal finance, the Union may have the right and necessity to tax the income to meet its demand. But when the State has been enjoying a particular amount of revenue on an investment

they have made and when on the basis of that a financial system has been evolved and when their administrative structure has been based on that, it will be unwise to immediately enforce this taxation and dislocate it. It will paralyse the Government's activities and at the same time lower the efficiency of that administration.

I therefore, very earnestly request the Drafting Committee to consider whether this exemption could not be granted as recommended by the Indian States Finances Enquiry Committee and accept my amendment which I feel will substantially help the State in its present situation. Travancore situated as it is, having to face grave problems of over-population and re-organization schemes, having adopted compulsory primary education, having enforced prohibition as the next step and having introduced reforms in the land revenue assessment and taxation to a basic tax, I think it is only fair that such a State as that should be given all facilities to carry on that administration without lowering its present standards.

Shri S. V. Krishnamoorthy Rao (Mysore State): Mr. President, Sir, I have tabled two amendments Nos. 312 and 436. I will move both of them; they apply to the same question.

Sir, I move :

"That in amendment No. 272 of List IV (Seventh Week) for clause (3) of the propose article 266, the following be substituted :—

'(3) Nothing in clause (2) shall apply to—

- (a) any trade or business, or to any class of trade or business which the Government of a State was carrying on as an ordinary function of such Government, at the commencement of this Constitution.' "

Sir, I do not move clause (b) as it is already there.

Sir, I also move:

"That in amendment No. 312 of List V (Seventh Week), in sub-clause (a) of the proposed clause (3) of article 266, after the words 'at the commencement of this Constitution' the words 'and such programmes of their development and expansion the preparations for which are complete' be inserted."

Sir, article 266 clause (1) gives general immunity to the income and property of a State.....

Mr. President : You are not moving clause (b) of amendment No. 312 ?

Shri S. V. Krishnamoorthy Rao : Clause (b) is already there in the present clause (3) of article 266; therefore I am not moving this. It is already there.

Clause (1) gives a general immunity to the property and income of the State. Clause (2) gives power to Parliament to tax any trade or business carried on by a State. Clause (3) gives exemption to clause (2), so that Parliament may declare by law any trade or business as being incidental to the ordinary functions of Government. My submission is that clause (3) will seriously affect the finances of a State like Mysore or Travancore, as already submitted by my honourable Friends, Mr. Chacko and Mr. Nataraja Pillai. The Mysore Government have, during the past fifty years, by a judicious policy of state enterprise and state aid, developed a number of industries. According to the proposal of financial integration as recommended by the States Finances Enquiry Committee, a number of central taxes will go to the Centre. In fact, at page 30, paragraph 32 of their report, they say that present dependence of Mysore on federal sources of revenue is indeed considerable and the immediate scope for developing provincial taxes is rather limited. By these proposals Mysore stands to lose nearly 321.59 lakhs of Rupees. Of course the Central Government proposes to make good sixty per cent. of this loss during the course of fifteen years. But what remains will be a few indus-

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trial concerns and public utility concerns like Hydro-electric works, industrial and other works, the Iron and Steel works. The Mysore Government have already invested nearly fifteen crores of Rupees as reported at page 31 of the States Finances Enquiry Committee report on Hydro-electric works, industrial works, Iron and Steel works. They are running nearly twelve items of Industries like the Central Industrial works soap factory, Porcelain factory, silk Weaving factory, Electric factory, the Mysore Implements factory. The Mysore Chromate factory, Silk and filature factory, Iron and steel works, Nationalised Motor Transport, the Sandalwood oil factory, etc. If all these industries which were started and developed during a period when there were no central taxes, were now to be taxed as a result of article 266, my submission to this House is that the finances of the State will be very greatly crippled. Mysore has got vast schemes of electrification of every village with a population of 1,000 and more, within the course of next two or three years. We have got a scheme for introducing electric trolley buses in the Bangalore city. We have got schemes of rural development and spread of education. With the taking over of the central resources of revenue, the financial position of Mysore will be greatly jeopardised. If additional taxes also were to be introduced on the trade and business that are being carried on by the Government as part of the Government—these are industries which are being carried by the Industries, Department of the Government of Mysore—it will greatly hamper the financial position and further development of educational and other facilities that the State intends to give to the people.

My respectful submission is that the financial policy of the Government of India should be to help the States and not to hamper their development. In fact, I learn that such an assurance was given in the Finance Ministers' Conference. Dr. John Matthai, our Finance Minister, is here and if an assurance were to be given by him that those industries which have been already started and are being run by the State as an ordinary function of the Government, will not be taxed, I am not going to press the amendments. In fact, the supply of electricity is the cheapest in Mysore. Industrial concerns are supplied from six to two pies per unit for the development of industries. For irrigation purposes, we supply electricity at half an anna per unit. I think nowhere in India is electricity supplied—so cheap. If we are to continue this policy of industrialisation my submission is that the central taxes should not fall on the industries and trade which are already being carried on by the Government. Of course, clause (3) says that Parliament may by law declare. I too accept this proposition so far as future industries that are to be started by the State are concerned. Some States may, in order to avoid central taxes, take over certain industries and certain private trade and business and run them as a department of State. Such things should be prevented; but that would apply to future industries future trade and business. Trade and business, and industries which have already been started by the Government as part of their routine, I submit, should not be taxed and this clause, should not act as a hindrance for the development of the State. My respectful submission is that these amendments should be accepted or if the Honourable Dr. Ambedkar is not willing to accept them, if an assurance is given, I do not propose to press these amendments.

Mr. President : There are four amendments of which notice has been given by Mr. Brajeshwar Prasad. As they all relate to the other amendment.....

Shri Brajeshwar Prasad : There are five amendments, the fifth amendment is number 338 in List VI which I want to move.

Mr. President : You may move that; the others do not arise.

Shri Brajeshwar Prasad : Sir, I move :

“That in amendment No. 272 of List IV (Seventh Week), in clause (1) of the proposed article 266, for the words ‘exempt from’ the words ‘subject to’ be substituted.”

Sir, the only constitutional justification which may be urged in support of this provision is that such a provision finds a place in the Canadian or in the Australian Constitution. I am convinced that the analogy does not hold good in our case. The constituent units in India, the Indian States and the provinces are not on a par with the constituent units of Canada and Australia. The facts of Indian history cannot be ignored. These provinces and the Indian States have never been sovereign in any sense of the term. They have been servants and agents of the Government of India. I think that the scope must be widened for union taxation; nothing is lost by restricting the sphere of union taxation.

It is not only on constitutional grounds, but also on political grounds that I am opposed to this article. It is risky, it is dangerous to give wider autonomy to the provinces. I am convinced that the only reason why we are making provision for this article in our Constitution is that the majority of Members of this House are champions of State rights. The fact is that all the provinces and the Indian States, whatever constitutional status we may confer on them, are the agents and servants of the Government of India. Let us not blink at these facts. There is one party ruling in this country and there is not the slightest possibility of any other party coming into power or of the provinces becoming autonomous. They are all knit together under the aegis under the leadership of the Congress Party. There is neither historical nor constitutional justification for vesting this power of taxation into the hands of the States. A realistic approach of the situation would entitle us to subject the property and income of a State to Union taxation.

Shri Alladi Krishnaswami Ayyar (Madras: General) : Mr. President, with my intimate acquaintance for over twenty years with conditions in Mysore and also with my acquaintance with condition at present in Travancore, I may at once say, my sympathy is in favour of certain observations made by the Mysore and Travancore representatives, so ably presented to this House. At the same time we will have to look at the matter in the large perspective of Indian industry and Indian advancement.

So far as any exemption is called for in regard to Mysore and Travancore industries which have been going on for some time, I do not believe that there would be any controversy in that regard. I am sure the Government of India and the Parliament of India will take a very favourable view of the situation and will extend the necessary encouragement to those industries which have been thriving for such a long time. It is unnecessary to say that under the able Dewanship of Sir M. Seshadri Iyer, Sir M. Viswesvarayya and other talented Dewans of Mysore; Mysore has made a very rapid progress in this regard, and I think we on this side of India are equally interested in the progress of Mysore. We are not anxious that Mysore should live on mere subsidies from the Government of India, as is necessarily apt to for some time until the finances are in proper order—upto fifteen years. That is so far as these particular States are concerned; you have an express provision that Parliament may exempt. It is a permissive power that is given to Parliament under the section. There is no duty cast upon Parliament to, levy a tax and I am sure in the larger interest of trade and industry, Parliament will certainly not go to the length of taxing these industries which have been thriving.

With regard to the other Parts of India, the question will have to be viewed somewhat differently. For various reasons under the British regime no socialisation of industries began. The provinces were functioning practically as

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police states and not interesting themselves in the large schemes of industry excepting in regard to Pykara scheme and similar projects when Sir C. P. Ramaswamy Iyer was Member of the Madras Government. There is the danger on the part of the provinces to start a number of industries which may not be financially successful but at the same time they may kill private enterprise. Our objective may be towards socialisation of key industries, but if that objective is to fructify and to yield excellent results, it has to be necessarily a little slow. As we advance there is no doubt that the time will come when most of the key industries will be taken up by the State. That is the object of the provision to the effect that if trade is started, it shall be open to the Centre to levy a tax.

Reference has been made to Australian, Canadian and, American Constitutions. There is no need to go into that. At the time when the Canadian and Australian Constitutions were drafted it was not thought that large schemes of socialisation would be undertaken. Therefore they put it simply in the general language that the property of the State shall not be subject to taxation by the Union or Federal Government and the property of the Union Government shall not be subject to tax at the instance of the Provincial Government. So far as the United States is concerned in the early days though there was no express provision through the medium of the doctrine of Instrumentality, they held that the State cannot tax the Federal Government and the Federal Government cannot tax the State instrumentality because both are parts of a single composite mechanism and if you permit one to tax the other, it may destroy the whole mechanism. Later, the doctrine of instrumentality itself was felt to be not in the large interest of the State, and quite recently the swing of the pendulum is the other way. The other day one of the most enlightened of Supreme Court Judges held in what is known as the *Spring of the State of New York*, in regard to certain springs which were worked by the State of New York—for this part of business they held that there is no immunity of the State from tax. They said ‘You have to draw some line between one kind of activity of a State and another kind of activity. Of course it cannot be a rigid definition. What may be in one sphere may easily pass into another sphere with the progress of the State and with the development of the polity in the particular State’.

But, normally speaking, you cannot regard at the present day under existing conditions the carrying on of trade and business as a normal or ordinary function of the Government. It may develop into ordinary function—certain aspects of it, especially the transport service and certain key industries, may soon become the parts of the State enterprise. The clause runs thus :

“Nothing in clause (1) of this article shall prevent the Union from imposing or authorising the imposition of any tax to such extent, if any, as Parliament may by law provide in respect of a trade or business of any kind carried on by, or on behalf of, the Government of a State or any operations or connected therewith, or any property used or occupied for the purposes thereof, or any income accruing or arising therefrom.”

The Parliament will take note of the progressive tendency of the particular times and may at once declare accordingly. It might not have been the ordinary function of Government before. Now it may become an ordinary function. There will be sufficient elasticity in clause (3) to enable the Government to exempt from taxation particular trades or industries which are started as public utility services or declare them as regular State industries. Nobody can question a law made by Parliament because the Parliament has stated that a particular industry is an ordinary function of the State whereas according to the notions of an individual economist A or B it is not an ordinary function of a Government. Parliament will lay down the law of the land and it will be the sole arbiter of the question as to whether it is an ordinary function of Government or not.

Therefore having regard :

- (a) to the plenary power of Parliament to exempt any particular industries, and particular business from the operation of the tax provision,
- (b) having regard to the fact that it is not obligatory on Parliament to levy any tax,
- (c) that the very conception of State industry may change with the further evolution of the State and changing times, and
- (d) to the inter-connection between one State and another.

it will be very difficult to differentiate between particular States, between States which have been working certain industries and other States. But as a matter of administrative policy and as a matter of parliamentary legislation it may exempt States like Mysore and Travancore which have been carrying on trade and business for a very long time and such industries today are as solid and stable footing so as to warrant an exemption, but on the other hand to lay down a general principle of law that even at the present day before the provinces are on their feet every trade or business is exempt from taxation will lead to wild-goose schemes being started by various provinces. They may not take into account the general interests of the trade and industry in the whole country. They may not have regard to the difference between one kind of industry and another. Under those circumstances the particular provision which has been inserted by Dr. Ambedkar is a very salutary one and is consistent with the most advanced principles of democratic and federal policy in all the countries. With these words I support Dr. Ambedkar's amendment.

The Honourable Dr. John Matthai (United Provinces : General) : Sir, I do not propose to go into the details of the various suggestions that have been made in the course of the debate this morning on this subject. But there are certain general observations that I would like to make and which I hope would allay the fears that have been expressed by honourable members who have taken part in the discussion.

My friends from Travancore have been extremely apprehensive as to the sort of use that might be made of this provision by a Travancore who happens to be the Finance Minister of the Centre today, and Travancore's fears appear to be shared by the neighbouring State of Mysore. I want to make this perfectly clear that, speaking for myself and for my colleagues in the Central Government today, there is nothing which we are more anxious to encourage and put through than the industrialisation of the country. And if there is any apprehension that this provision is likely to have the effect of checking the progress of industrialisation in the country, either through private enterprise or through State enterprise. I want this House to take this assurance from me, that is about the last thing we want to do in the use of this particular provision; because if there is the slightest possibility of the operation of his particular provision having the effect of putting some restriction or curb upon the industrialisation of the country, then as far as we in the Centre are concerned, the House may rest assured that the operation of the provision would certainly be adjusted to the requirements of the country in this regard.

There is really no greater problem, for example, the faces me today as the Finance Minister at the Centre than the determination of the precise repercussions upon industrial development, of the present structure of direct taxation in the country. And as far as we are concerned at the centre, we are anxious that consistently with public requirements, the structure of direct taxation in the country should be so modified that all unnecessary handicaps in the way of industrial development are not merely removed, but removed as early as possible. Well, that is the point of view from which the Central

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Government is looking at the problem of industrialisation. I am justified in asking the House to accept this assurance from me that if this provision should have the slightest effect in checking industrialisation in any of the States concerned, then we would be the last to make of this provision.

There is another matter also in regard to which I should like to make general observation. The speeches this morning, to my mind, seem to be based on the assumption that there is a kind of inevitable conflict between the financial objectives of the Centre and the financial objectives of the States. Nothing could be farther from the truth.

Shri T. T. Krishnamachari : Hear, hear.

The Honourable Dr. John Matthai : As things are shaping today, and as we realise more and more the need for a united structure in the country, both politically and economically, the identity of interests between the Centre and the States is bound to be extremely close. If by the operation of a provision of this kind it is found that the finances of a State are rendered difficult, then it is a problem which will cause anxiety not merely to that State, but to the Centre also. I am faced with that problem in a large number of cases today. Therefore, if the operation of this provision is going to have the effect of causing budgetary difficulties to any State, the House may depend upon it that it would be as much the interest of the Centre as it would be the interest of the State to see that necessary adjustments are made.

Most of the particular industries to which reference has been made by those who have spoken this morning on behalf to Travancore and Cochin and Mysore are industries which belong to the category of what are called public utility undertakings. Now, public utilities are not quite an easy matter to define with the precision required in a court of law. But we all have a general idea of what public utility concerns imply. I would therefore give this assurance not merely on behalf of the Central Government, but I know I can give this assurance also on behalf of the Drafting Committee who are responsible for this provision, that it is not our intention to levy any tax of the kind referred to in this provision, upon industries run by States whose object is to produce services of a public utility character. That, as far as our intentions go, is clearly outside the scope of the provision that is under debate today.

There is another assurance that I would like to give. If it happens that this operation is brought into force in respect of any industrial undertakings owned by a State, and if there happens to be, at the same time, an undertaking owned by the Centre of the same character, it is our intention that the liabilities imposed upon the State should be equally imposed upon the Centre. As the House knows, it is our idea that when the Centre hereafter, promotes undertaking of an industrial character, those undertakings should, as far as possible, be organised and managed on the basis of independent public corporations. These corporations for running industrial undertakings would be treated on exactly the same basis as the States would be treated in respect of similar industrial undertakings. With regard to undertakings run by the Centre directly, departmentally, the analogy of the railways and the Posts and Telegraphs which are expected, if there is any surplus in their budgets to make a certain contribution towards the general revenues of the country, would apply.

So I am able to give this assurance. First of all, public utility undertakings would be outside the scope of taxation under this provision; secondly, there would not be any discrimination between the Centre and the State in regard to the taxation of industrial undertakings, and I hope the House will now find less difficulty in accepting this provision.

There is just one other point to which I would like to make a reference. As regards the question of the budgetary difficulties that might be caused to the States in consequence of taxation imposed under this provision, it is necessary for the House to remember that as in the case of every federal government in the world, so here, we are rapidly making use of the expedient of subsidies or subventions from the Centre for helping the States in promoting essential undertakings of a public utility character, and development projects of national importance. If it happens that the revenue resources of a State are seriously crippled by taxation under this provision, then, assuming that the development projects are projects of national importance, it automatically follows that there is a corresponding obligation which will fall upon the Centre to make up so far as its resources permit such shortfall as might occur in the financial resources of the States. I mention this point only to enforce the suggestion with which I started, that there is today, in the set-up which is gradually growing up and which would be finalised when this Constitution comes into force, a complete identity of interests in respect of financial matters between the Centre and the States. Any objection to this provision on the assumption that there is to be a continuing conflict between the Centre and the Provinces has no justification whatsoever.

The Honourable Dr. B. R. Ambedkar : Sir, the only part of this article which has been subjected to any criticism is clause (3). There has been no comment on any other part of this article. I do not believe that after the reassuring speech which has been made by the Finance Minister there is anybody in the House who will entertain any kind of doubts or fear of Parliament exercising this power without regard to the financial resources of the State. I do not think I need say anything more on that point.

Shri P. T. Chacko : In view of the assurance given by the Honourable Finance Minister I would like to withdraw my amendment.

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

Shri P. S. Nataraja Pillai : I would like to withdraw my amendment also.

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

Shri S. V. Krishnamoorthy Rao : I would like to withdraw my amendment.

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

Mr. President : What about Mr. Brajeshwar Prasad?

Shri Brajeshwar Prasad : I am not withdrawing my amendment.

Mr. President : The question is:

“That is amendment No. 272 of List IV (Seventh Week), in clause (1) of the proposed article 266, for the words ‘exempt from’ the words ‘subject to’ be substitute.”

The amendment was negatived.

Mr. President : The question is:

“That proposed article 266 stand part of the Constitution.”

The motion was adopted.

Article 266 was added to the Constitution.

Article 296 and 299

Mr. President : There are two articles 296 and 299 and some Members have presented to me that they got notice of certain amendments to these too late.

The Honourable Dr. B. R. Ambedkar : I am prepared to hold them over.

Mr. President : So these two articles (296 and 299) will stand over.

Mr. Naziruddin Ahmad : Can have an assurance as to when these are coming up?