

[Mr. President]

The question is:

“That in article 255,—

- (a) after the words ‘Parliament may by law provide the words ‘or until Parliament thus provides, as may be prescribed by the President’ be inserted;
- (b) after the words ‘Parliament may determine’ the words ‘or until Parliament determines as the President may determine’ be inserted; and
- (c) the following Explanation be added at the end of the article:—

“*Explanation.*—The word “prescribed” has the same meaning as in article 251 (4) (b).”

The amendment was adopted.

Mr. President : Then I put the article, as amended.

The question is:

“That article 255, as amended, stand part of the Constitution.”

The motion was adopted.

Article 255, as amended, was added to the Constitution.

Article 256

Mr. President : We now take up article 256. Amendment No. 2925 by Dr. Ambedkar, in Vol. II, of the printed list.

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

“That for clause (1) of article 256 the following clause be substituted: —

“(1) Notwithstanding anything in article 217 of this Constitution, no law of the legislature of a State relating to taxes for the benefit of the State or of a municipality, district board, local board or other local authority therein, in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income.”

Sir, it is proposed in a subsequent article to permit local authorities to levy certain taxes on professions, trades callings and employments upto a certain limit. It is feared that such a tax, if levied by the State, might be called in question on the ground that it amounts to a tax on income and being within the exclusive authority of the Centre. It is to prevent any such challenge to any law made for the purposes mentioned in sub-clause (1) that this provision has been deemed by the Drafting Committee to be very necessary, and accordingly I move this amendment.

Mr. President : There is an amendment to this amendment of which notice, has been given by Mr. Sidhwa.

Shri R. K. Sidhwa (C.P. & Berar : General) : I do not wish to move it.

Mr. President : Then there are amendment Nos. 2926 and 2927 on the Printed List, of Giani Gurmukh Singh Musafir. I see he is not moving them. Then No. 2928 standing in the name of Sardar Bhopinder Singh Man.

Sardar Bhopinder Singh Man (East Punjab: Sikh): I am not moving it.

Mr. President : Then amendment No. 203, Mr. Sidhwa.

Shri R. K. Sidhwa : I do not wish to move it.

Mr. President : Then Nos. 89 and 90 in the name of Mr. P. D. Himatsingka. He is not moving them. No. 91 in the name of Dr. Ambedkar.

The Honourable Dr. B. R. Ambedkar : Sir, I do not wish to move it.

Mr. President : Amendment No. 92, Mr. Shibban Lal Saksena.

Prof. Shibban Lal Saksena : Sir, I beg to move:

“That in clause (2) of article 256, for the words ‘two hundred and fifty rupees’ in the two places where they occur, the words ‘one per cent. of their annual income’ or ‘one thousand rupees’ be substituted.”

If that is done, the clause will run as follows :—

‘(2) The total amount payable in respect of any one Person to the State or to any one municipality, district board, local board or other local authority in the State by way of taxes on professions, trades, callings and employments shall not exceed one per cent. of their annual income or one thousand rupees per annum :

Provided that, if in the financial year immediately preceding the commencement of this Constitution there was in force in any State or any such municipality, board or authority, a tax on professions, trades, callings or employments, the rate or the maximum rate of which exceeded one per cent. of their annual income or one thousand rupees per annum, such tax may continue to be levied until provision to the contrary is made by Parliament by law and any law so made by Parliament may be made either generally or in relation to any specified States, municipalities, boards or authorities.’

Sir, I only want an increase in the amount. In fact, the amendment which Dr. Ambedkar has moved makes it legal for local boards, district boards and municipalities to levy taxes on the income of the inhabitants in their areas. In fact I would have very much wished that this clause (2) had been deleted. This was an amendment which no less a person than the Premier of my Province, the Honourable Pandit Govind Ballabh Pant had also given notice of. What his amendment intended and what I also want to impress upon the House is that our local bodies are practically starved of finances. We have provided for finances for the Central Government, we are trying to allocate taxes between the Provinces and the Centre, but the municipalities, the local boards and all these local bodies have practically no finances. I come from the District of Gorakhpur which has recently been divided into two parts but still it has a population of about 22 lakhs. The annual income of the District Board there is only Rs. 11 lakhs which means about eight annas per individual of the population. Do you expect that any district board with such an income can do anything for the welfare of that mass of population ? I can quite understand the Centre being strong and having finances, the Provinces being strong and having finances, but ultimately all nation building tasks will have to be done by local authorities. You may say you can lay out railways and roads, you can also provide Universities, but ultimately it is the municipalities and local boards which have to look to the sanitation of the areas, to the primary education in their areas and to roads. Do you imagine that with a sum of Rs. 11 lakhs the District Board of Gorakhpur can meet the needs of that big District ? What has been my experience in my district must also be the experience of all of you in your districts. I therefore think that if you limit this source of income of taxation only up to a limit of Rs. 250, then you really close one important avenue to the District Board. In my district there are 23 sugar mills, and they pay huge dividends—in fact Rs. 30 crores was the annual profit of the sugar factories in United Provinces and Bihar that year. Cannot the District Board legitimately ask them to pay a few thousand rupees? But by this you make it impossible for the District Board to levy any tax on the sugar mills although the sugar mills use their roads and the Board have to spend money on those roads. Yet we cannot tax these factories beyond Rs. 250. I have only demanded one per cent. of their income or Rs. 1,000. I have taken care to put both the things because it is quite possible that in the case of individuals it would not be possible to find out their income. We would not have all the powers of the income-tax authorities to go and find out the incomes of individuals. In the case of factories and corporations like sugar mills, they publish their balance sheets and we can know their income and tax them to the extent of one per cent. In other cases, you can limit the amount to Rs. 1,000. This will increase the revenues of

[Prof. Shibban Lal Saksena]

the local bodies substantially. In fact at present because we cannot tax the rich properly we are forced to tax the poor people heavily. Even the man with a betel shop is taxed Rs. 5 or 10, which he cannot afford to pay. If we can tax the sugar mills and other factories as also other mill owners to the extent of at least 1 per cent of their annual income, I am sure these poor people will be spared that tax, which is now very heavy on them. I therefore think that this limit of Rs. 250 is a proposition which should not be laid down in the Constitution. If necessary, it can be left to the Parliament, to which we have left many other things. Here you want to fix in the Constitution that no local board shall levy a tax over Rs. 250 on income. I would therefore request the Drafting Committee to alter it as I have suggested or omit it altogether, so that the local boards may be free to tax on incomes according to the needs of their areas. While we are spending crores of rupees under the central budget, local boards are starved for very small sums. They are the bodies who really want the money so that they can give proper attention to the people in their areas, give them better roads and schools and other amenities which they very much need. All our schemes are ultimately calculated to provide amenities to the villagers but if we deny the revenue to the district and local boards who are responsible for satisfying the needs of these areas, the people of those areas will suffer. I think that the sources of revenue of the district boards, municipalities and local boards must not be limited in this manner in the Constitution. This is a very retrograde provision in the Constitution and must be amended.

Shri B. M. Gupte (Bombay: General) : Sir, I support this article as amended by the proposed amendment of Dr. Ambedkar and I congratulate the Drafting Committee on having redressed a legitimate grievance of the local bodies Government of India imposed a limit of a maximum of Rs. 50 only for profession tax and that practically rendered the source valueless. In the rural areas this source of revenue was not fruitful, as there agriculture is the predominant occupation and there are hardly any professions which can be taxed. The municipalities could have usefully imposed this tax but this maximum of Rs. 50 practically did not make it worthwhile for them to go into the expenses of collecting such petty sums. Naturally therefore this source was practically rendered useless for them and I therefore congratulate the Drafting Committee for having redressed this grievance of the local bodies.

The financial condition of the local bodies is already very parlous. Their financial resources are far too inadequate compared to the services that expected from them. Their sources of taxation are already being encroached upon by the Central Government and the provincial Governments. In a democratic State the efficiency of the local bodies which cater to the day to day needs of the ordinary citizen is a matter of very great importance. Therefore anything calculated to improve the financial resources and hence the efficiency of the local bodies is certainly to be commended.

I sympathise with Prof. Shibban Lal Saksena's amendment but we cannot go so far. We must maintain a balance between the needs of the Centre and the local bodies and in that light I think Rs. 250 is a substantial increase over Rs. 50 and Rs. 1,000 would be quite disproportionate. Though anything calculated to improve the efficiency and financial resources of local bodies is commendable, still I think that Rs. 1,000 would be a very high limit. Therefore I support the article as amended by Dr. Ambedkar.

Shri R.K. Sidhwa : Sir, I am reluctantly obliged to accept this article, although it is an improvement upon the previous one as suggested by the Drafting Committee. Why I say that I am reluctantly compelled to accept the article is

because I do feel that local bodies in this country have not been given which is due to them in the Constitution. The local bodies are an epitome of the national government and in this Constitution we have tried to build it from the top leaving the bottom to take care of itself. That attitude, I can assure you, will not bring happiness and prosperity to the masses of this country. Local bodies have till now been left at the mercy of the provinces and although in this clause and some others hereafter mention has been made about the finances of the local bodies, their relation and their adjustment are entirely to be left to the provincial governments, with the result that the local bodies are suffering immensely financially and the consequence is that the villages, small towns and even the big cities suffer today. These are the places where we really should begin if we really want to bring in any kind of amenities and prosperity to the people to whom we have pledged to better their position. But in this Constitution I am sorry to say that kind of provision has not been made.

Under the 1935 Act a good deal of injustice was done by the British government to the local bodies and I am glad that this limit of Rs. 50 has been raised to Rs. 250. I would have preferred that this limit had been graded and brought up to Rs. 2,500. That would have brought revenue to the local bodies from persons who can afford, to pay and would have gone for the benefit of the needy and poor people. In October last year there was a conference called by the Health Ministry of all provincial Ministers of Local Self Government. They unanimously stated that the local bodies were suffering for want of funds and their finances should be improved if they are to do any good to the people. They appointed a Committee called the Local Finances Committee which met last month in Delhi and sent their interim recommendations to the Drafting Committee so that their case may not go by default. The Committee considers this limit of Rs. 250 as being very low and they would like to raise it to a thousand rupees per annum. I do not know what consideration was given to this recommendation. This was a unanimous decision of the Ministers of the provincial Governments but it is not considered at all, and the Drafting Committee imposes their own decision which will benefit no one. The U.P. Government also had a committee, called the Local Bodies Graft-in-Aid, Committee who also sent an interim report to the Drafting Committee in which they say:

“Clause (ii) mentions a special tax on trades and callings as compared with clause (iii) which is a general tax. In regard to the latter, the powers of our municipal boards were further curtailed by the Professions Tax Limitation Act, 1941, which provides that notwithstanding the provisions of any law for the time being in force, any taxes payable in respect of any one person to a province or any local authority by way of tax on professions, trades, callings or employment shall from and after April 1, 1942, cease to be levied to the extent to which such taxes exceed fifty rupees per annum. * * * Thus its exclusion from the restrictions of the Professions Tax Limitation Act has been of little practical utility or benefit. The tax under section 128(1) (iii) of the Municipalities Act was really a profitable source of income, and therefore its limitation to a low maximum of Rs. 50 per annum is not only objectionable in principle, as it violates against one of the chief canons of taxation requiring assessment on each individual in proportion to his ability to pay to ensure an equitable distribution between rich and poor, but has also affected adversely the financial position of several municipalities.”

I, therefore, contend that this provision of the Drafting Committee will not meet the requirements of the local bodies. In the Calcutta Corporation they are levying a licence fee of Rs. 500 for certain professions which they are allowed to do under the Government of India Act, 1935. Under this provision they will be deprived of that income. The Administrative Officer of the Calcutta Corporation cites the instance of Joint Stock Companies which as managing agents control more than half a dozen large industrial concerns and may not yet be taxed more than Rs. 500 while the burden of taxation falls more heavily on the poorer sections of professional and business people. The

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Corporation wants the upper limit to be raised to Rs. 2,500 while the West Bengal Municipal Association suggests Rs. 1,500. I therefore feel that while the Drafting Committee has made very little improvement on their previous draft they were not correct in rejecting a graded scale so that local bodies get a large amount which can be used for constructive work. From my own experience I may say that they should not be treated in this way because the provincial Governments are always stingy in the matter of granting funds for these bodies and unless we in this Constitution make better provision for them the lot of people living in those areas will not improve. I do not know why the Drafting Committee were so stingy when the provincial Governments who have to administer these local bodies thought a larger amount was necessary.

Sir, I support this article subject to above remarks.

Shri Prabhudayal Himatsingka: Sir, I oppose the amendment of Prof. Saksena. I had an amendment myself but I did not move it as it was not discussed in the party. This article is an exception to the general rule that taxes on income are to be imposed by the Centre only. It is an exception for the benefit of the local bodies. But if you see the article you will find that taxes can be imposed on professions, trades, callings and employment for the benefit of the State or a municipality, district board, local board, etc. So that provincial Governments can impose this tax and local bodies can also do it. Whether a man has an income or not from some trade, profession or calling; he may be made to pay Rs. 250 to the State and also taxed by the local body in whose jurisdiction the trade or profession is carried on. The man who has an income which is small or has no income at all should not be made to pay any tax. In the Government of India Act there was a limitation that the tax should not exceed Rs. 50 and the provincial Governments have passed Acts levying Rs. 30 on all persons making an income by any profession, trade or calling. The result is that a person who has to pay Rs. 30 as income-tax has to pay a like sum to the provincial Government. On the basis of this article he can be made to pay Rs. 250 to the municipality and Rs. 250 to the provincial Government apart from what he has to pay to the Centre in the shape of income-tax. Here, wherever any person is carrying on any trade or profession, whether he is making an income or not, he can be compelled to pay tax. Therefore the salutary provision of limiting it to Rs. 50 was very good. The present suggestion that it can be made 1 per cent. of the income or Rs. 1,000 is such that it cannot be supported under any circumstances. My friend forgets that simply because a man carries on a profession he may not be in a position to pay even Rs. 50 not to speak of Rs. 1,000. Therefore I wish that the Drafting Committee which had amendment No. 91 in its name had moved it limiting it to Rs. 100. But as they have not moved it, they should agree to Rs. 250.

Chaudhari Ranbir Singh (East Punjab: General): *[Mr. President, I am reluctant to support this article because I hold that the amendment moved by my Friend Mr. Shibban Lal Saksena to this article is based on a principle and its rejection would mean injustice to the general public. These days generally the people of meagre income have to pay. Profession Tax. While the poor Harijans have to pay twenty to twenty-four rupees on account of Profession Tax, though their capacity does not permit them to pay even two or three rupees, the rich industrialists and factory owners, who are capable of paying far more than the Harijans, do not pay their full share. The maximum limit of Profession Tax prescribed under this article is Rs. 250. It would operate inequitably against the poor people. As an agriculturist I would like to state

*[.....] Translation of Hindustani speech.

before the House that apart from the Land Revenue, the other taxes that are realised from us in the Punjab by District Boards and other Local bodies come to six pies in the rupee. Now attempts are being made there to raise this rate further. Well, the income of rupees two thousand a year goes tax free but not even a bigha of land is exempt from Land Revenue. I am utterly unable to understand the logic behind this proposition. Certainly this operates very disadvantageously against the farmers. Irrespective of the fact whether they have economic holding or not, land revenue is charged from them, and in addition to that the Profession Tax at the rate of six pies a rupee is also realised from them. I fail to understand why this principle of additional taxation is not applied, in respect of rich people. Limiting of Profession Tax to an amount of Rs. 250 a year would cause a considerable loss to the income of District Boards and other Local bodies and in that case they have either to impose further taxes on the poor section of the population or they have to curtail the undertakings, beneficial to the poor. If we mean to do good to the poor and to establish hospitals and other institutions for their benefit we have to tax the rich people. You will be in a position to do so only when you accept the amendment moved by Prof. Shibban Lal Saksena. As compared to the taxes that agriculturists have to pay, this maximum limit of Profession Tax is not, much. I may again add that keeping in view the principles on which the land revenue is charged, the limit for the Profession Tax is very negligible because the agriculturists have to pay far more than one per cent. on their incomes. I would, therefore submit that the amendment to this article moved by Mr. Shibban Lal Saksena should be adopted.]*

Babu Ramnarayan Singh (Bihar: General) : Mr. President, I partly agree with you when you object to the speeches made in criticism of Government. But, Sir, it is very difficult to forget the experience specially when it is a bitter one. Sir, we are making the Constitution. I was under the impression that all the powers of the country will be directly transferred to the people in the villages. Now, what do I find ? All the powers are concentrated in the Centre and some powers are allowed to trickle down to the provinces. Now we have to see what the provinces have done and will do. Some amendments have been given notice of by Prof. Saksena. I do not understand why this limitation of Rs. 250 is imposed on the levy that can be made by a local body. There is no limitation on the taxes that may be levied by the Central and provincial Governments. They may levy lakhs and lakhs. This is most objectionable.

Sir, when I said that all the power should be given to the people in the villages I did not mean that there ought to be no provincial or Central Government. Let there be Central and provincial Governments. But let them not govern the people. Let them help and organise the people and advise the people. Why should even in matters of taxation the people in the villages and districts are not to have a hand ? If you go to the mofussil you will see the governmental activities there. If there is a very well-kept road it is a P.W.D. road of the Centre or of the Province. All roads constructed by local bodies are in a very bad condition. This is so because all the money is in the hands of the Central or provincial Government. It is all going the wrong way. All the money should belong to the local bodies. As it is they are getting some funds by way of mercy from the local Government which in turn gets something from the Central Government. I do not think this is right. This process should be reversed. Everything should belong to the villagers. The provincial Government should get contributions from the local bodies and the Central Government should get contribution from the provincial Governments. Sir, I am not going to say much on the subject. I would only say that the amendment of my Friend, Mr. Saksena, is a very reasonable one. With these words I strongly support and I appeal to the House to accept his amendment.

Shrimati Purnima Banerji (United Provinces : General) : Mr. President, Sir, I am sure all of us agree with the amendment moved by Dr. Ambedkar to empower local bodies to levy taxes on professions. We also agree with the other amendment moved by Prof. Shibban Lal Saksena saying that the upper limit of the tax collected should not be fixed at Rs. 250 but should relate to the income of the person concerned. As you know, in our province of the U.P., we have by a recent Act established about twenty-two thousand Panchayats all over the province. To these Panchayats such rights and functions have been given which, if properly exercised, would really bring Swaraj to the people. As you know, our country is big and wide and medical amenities and educational facilities are all very sadly lacking. If these Panchayats or local bodies are to function properly, they must have adequate finances at their command. We have given them enough powers and we hope that, as time passes on, they will lay down roads and will foster such industries as will add to the prosperity of the villages and the localities. We fear that all these nation-building activities which are now allotted to them will not be able to reach their fruition unless we have enough finances. Therefore we agree with the amendment now placed before the House that the finances of the local bodies should draw some profit from the trades and professions in the area concerned and this income should bear some proportion to the income of the persons paying the tax. As I said, we hope that these Panchayats and local bodies will lay down roads and will pay their fullest attention to the development of such industries as will add to the general prosperity of the villages. With these words, I support the amendment moved by Dr. Ambedkar and also the amendment moved by my Friend, Mr. Shibban Lal Saksena, saying that the limit of Rs. 250 should not be fixed but rather it should be stated in this way that it should be at least one per cent. of the income of the person taxed.

Shri M. Ananthasayanam Ayyangar (Madras: General): Sir, those friends who want to increase the maximum limit from Rs. 250 to one per cent. of the income, I am afraid, have entirely misunderstood the needs of the Centre and the manner in which whatever the Centre collects by way of income-tax is distributed to the provinces. Let us first of all see what the Centre gets and what proportion is given away to the provinces. A large proportion of the income-tax is distributed to the provinces. Only a fraction is retained by the Centre. Another source of revenue to the Centre is excise and even there the Centre is only a collecting agency for purposes of uniformity. As in the case of income tax a large proportion of it is to be given away to the provinces on principles hereafter to be laid down by the Finance Commission. The only thing that the Centre collects and retains for itself is the customs revenue. Therefore the Centre will be completely starved if we go on allocating various sources of revenues to the provinces. That is what our friends are attempting to do. The article which has now been moved by my honourable Friend, Dr. Ambedkar is a concession. Income-tax is a source of revenue to the Centre. The Profession Tax is an invasion of the income-tax field. There is already a provision in the present Government of India Act of 1935; Section 142-A fixes the maximum limit at fifty rupees. This profession tax is an invasion into a source of revenue for the Centre. From its collection of income-tax, the Centre gives grants-in-aid to the provinces and the provinces in turn give grants-in-aid to the municipalities, corporations and various other local bodies. This is not as if this professional tax is the only source of revenue to the local bodies and village panchayats. In the villages there is no professional tax. Agriculture is the only profession there. There is no justification for increasing the maximum from Rs. 250 to one per cent. of the income especially considering the rise in the cost of living index, which is now nearly three times the pre-war figure. The suggestion of my Friend, Mr. Shibban Lal Saksena, is that the maximum, instead of being Rs. 250 should be one per cent. If Rs. 250 is the maximum, then the income on the basis of

one per cent should be Rs. 25,000. Is there a chance of any one having an income of more than Rs. 25,000 in an ordinary village ? Therefore this suggestion is not going to be useful so the villages are concerned. So far as the municipalities are concerned, it is only from the provinces that money could flow into the municipalities as it would flow from the Centre to the provinces. This could only be from the allocations made from the income-tax collected by the Centre. Under these circumstances, Rs. 250 which is now the upper limit is sufficient and anything more than that would seriously interfere with the collection of income-tax by the Centre. I am therefore constrained to oppose the amendment of my Friend, Mr. Shibban Lal Saksena, and support the article as moved.

The Honourable Dr. B. R. Ambedkar : Sir, I do not think that any very detailed reply is called for. The position is simply this that in every Constitution the taxing resources of a State are generally distributed between the Centre and the States. The question of distributing the resources between the States and the local authorities is left to be done by law made by the State, because the local authority is purely a creation of the State. It has no plenary jurisdiction; it is created for certain purposes; it can be wound up by the State if those purposes are not properly carried out. This article, which I am proposing is really an exception to the general rule that there ought to be no provisions in a Constitution dealing with the financial resources of what are called local authorities which are subordinate to the State. But having regard to the fact that there are at present certain local authorities and their administration is dependent upon certain taxes which they have been levying and although those taxes have been contrary to the spirit of the Income-tax law, the Drafting Committee, having taken into consideration the existing circumstances, is prepared to allow the existing state of affairs to continue. In fact exception was taken to the limit fixed by the Expert Committee which was Rs. 250. The proposal was that it ought to be brought down to Rs. 150. The Drafting Committee on reconsideration decided that that need not be done and under the present state of affairs may be continued up to the limit and within the scope that it occupies today. I therefore say that this is a pure exception, and on principle I am definitely opposed to it and I am therefore not prepared to accept any amendment that may have been moved by any honourable Friend.

Mr. President : The question is :

“That for amendment No. 91 above, the following be substituted:

“That in clause (2) of article 256, for the words ‘two hundred and fifty rupees’ in the two places where they occur the words ‘one per cent. of their annual income’ or ‘one thousand rupees’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

“That for clause (1) of article 256, the following clause be substituted:—

“(1) Notwithstanding anything in article 217 of this Constitution, law of the legislature of a State relating to taxes for the benefit of the State or of a municipality, district Board, local board or other local authority therein, in respect of professions, trades callings or employments shall be invalid on the ground that it relates to a tax on income.”

The amendment was adopted.

Mr. President : The question is :

“That article 256, as amended, stand part of the Constitution.”

The motion was adopted.

Article 256 as amended, was added to the Constitution.