

Friday, 5th August, 1949

**Volume IX**

**30-7-1949  
to  
18-9-1949**



# **CONSTITUENT ASSEMBLY DEBATES**

## **OFFICIAL REPORT**

REPRINTED BY LOK SABHA SECRETARIAT, NEW DELHI  
SIXTH REPRINT 2014

---

Printed at JAINCO ART INDIA, NEW DELHI.

THE CONSTITUENT ASSEMBLY OF INDIA

*President:*

THE HONOURABLE DR. RAJENDRA PRASAD.

*Vice-President:*

DR. H.C. MOOKHERJEE.

*Constitutional Adviser:*

SIR B.N. RAU, C.I.E.

*Secretary:*

SHRI H.V.R. IENGAR, C.I.E., I.C.S.

*Joint Secretary:*

MR. S.N. MUKHERJEE.

*Deputy Secretary:*

SHRI JUGAL KISHORE KHANNA.

*Marshal:*

SUBEDAR MAJOR HARBANS LAL JAIDKA.

## CONTENTS

### Volume IX—30th July to 18th September 1949

	PAGES		PAGES
<b>Saturday, 30th July 1949—</b>		<b>Thursday, 11th August 1949—</b>	
Taking the Pledge & Signing the Register .....	1	Draft Constitution—( <i>contd.</i> ) .....	351—391
Draft Constitution—( <i>contd.</i> ) .....	2—42	[Articles 5 and 6 considered].	
[Articles 79-A, 104, 148-A, 150, 163-A and 175 considered].		<b>Friday, 12th August 1949—</b>	
<b>Monday, 1st August 1949—</b>		Draft Constitution—( <i>contd.</i> ) .....	393—431
Draft Constitution—( <i>contd.</i> ) .....	43—83	[Articles 5 and 6 considered].	
[Articles 175, 172, 176, 83, 127, 210, 211, 197, 212, 214 and 213 considered].		<b>Thursday, 18th August 1949—</b>	
<b>Tuesday, 2nd August 1949—</b>		Government of India Act, 1935 (Amendment) Bill .....	433—472
Taking the Pledge and Signing the Register .....	85	<b>Friday, 19th August 1949—</b>	
Draft Constitution—( <i>contd.</i> ) .....	85—127	Draft Constitution—( <i>contd.</i> ) .....	473—511
[Articles 213, 213-A, 214 and 275 considered].		[Articles 150, 215-A, 189, 190, 250 and 277 considered].	
<b>Wednesday, 3rd August 1949—</b>		<b>Saturday, 20th August 1949—</b>	
Draft Constitution—( <i>contd.</i> ) .....	129—163	Draft Constitution—( <i>contd.</i> ) .....	513—554
[Articles 276, 188, 277-A, 278 and 278-A considered].		[Articles 277, 279-A and 280 considered].	
<b>Thursday, 4th August 1949—</b>		<b>Monday, 22nd August 1949—</b>	
Draft Constitution—( <i>contd.</i> ) .....	165—204	Draft Constitution—( <i>contd.</i> ) .....	555—595
[Articles 188, 277-A, 278, 279, 280, 247, 248, 248-B and 249 considered].		[Articles 284, 285, 285-A, 285-B and 285-C considered].	
<b>Friday, 5th August 1949—</b>		<b>Tuesday, 23rd August 1949—</b>	
Draft Constitution—( <i>contd.</i> ) .....	205—240	Draft Constitution—( <i>contd.</i> ) .....	597—635
[Articles 249 to 253 considered].		[Articles 286 to 288-A and 292 considered].	
<b>Monday, 8th August 1949—</b>		<b>Wednesday, 24th August 1949—</b>	
Draft Constitution—( <i>contd.</i> ) .....	241—274	Draft Constitution—( <i>contd.</i> ) .....	637—676
[Articles 253, 254, 254-A and 255 considered].		[Articles 292 to 295 and 295-A considered].	
<b>Tuesday, 9th August 1949—</b>		<b>Thursday, 25th August 1949—</b>	
Draft Constitution—( <i>contd.</i> ) .....	275—311	Draft Constitution—( <i>contd.</i> ) .....	677—699
[Articles 255 to 260 considered].		[New Article 295-A considered].	
<b>Wednesday, 10th August 1949—</b>		<b>Friday, 26th August 1949—</b>	
Draft Constitution—( <i>contd.</i> ) .....	313—349	Draft Constitution—( <i>contd.</i> ) .....	701—717
[Articles 260 to 263, 267 to 269 and 5 & 6 considered]		[Articles 296, 299 and Third Schedule considered].	
		<b>Monday, 29th August 1949—</b>	
		Draft Constitution—( <i>contd.</i> ) .....	719—736
		[Seventh Schedule : List I : Entries 1 to 7 considered].	

PAGES	PAGES
<b>Tuesday, 30th August 1949—</b>	<b>Monday, 5th September 1949—</b>
Draft Constitution—( <i>contd.</i> ) ..... 737—782	Draft Constitution—( <i>contd.</i> ) ..... 967—1008
[Seventh Schedule—( <i>contd.</i> ): List I : Entries 7 to 12, 9-A, 13 to 15, 15-A, 16 to 26, 26-A, 27 to 40, 40-A and B and 41 to 52 considered.]	[Fifth Schedule : Paragraphs: to 6; Sixth Schedule: Paragraph 1 considered].
<b>Wednesday, 31st August 1949—</b>	<b>Tuesday, 6th September 1949—</b>
Draft Constitution ( <i>contd.</i> ) ..... 783—828	Draft Constitution—( <i>contd.</i> ) ..... 1009—1054
[Seventh Schedule—( <i>contd.</i> ): List I : Entries 53 to 57, 57A, 58, 58-A, 59 to 61, 61-A, 62 to 64, New Entry 64-A, 65 to 70, 70-A, 71 to 73 and 73-A considered].	[Sixth Schedule : Paragraph 2 to 15 considered].
<b>Thursday, 1st September 1949—</b>	<b>Wednesday, 7th September 1949—</b>
Statement <i>re</i> : Vindhya Pradesh Representation in the Assembly ..... 829—830	Draft Constitution—( <i>contd.</i> ) ..... 1055—1099
Draft Constitution—( <i>contd.</i> ) ..... 830—875	[Sixth Schedule : Paragraphs 16 to 18, and 1 and 20; Articles 281 to 282- considered].
[Seventh Schedule—( <i>contd.</i> ): List I : Entries 74 to 91: List II : Entries 1—15 considered].	<b>Thursday, 8th September 1949—</b>
<b>Friday, 2nd September 1949—</b>	Draft Constitution—( <i>contd.</i> ) ..... 1101—1147
Condolence on the death of Shri Gopinath Srivastava ..... 877	[Articles 282-B, 282-C, 283 and 274-A to 274-E of Part X-A considered].
Draft Constitution—( <i>contd.</i> ) ..... 877—928	<b>Friday, 9th September 1949—</b>
[Seventh Schedule—( <i>contd.</i> ): List II : Entries 15 to 67; List III : Entries 1, 2 and 2-A considered].	Draft Constitution—( <i>contd.</i> ) ..... 1149—1192
<b>Saturday, 3rd September 1949—</b>	[Articles 264 to 266, 296 and 299; Seventh Schedule and articles 250, 202, 234-A, New article 242-A, 248-A, 263 and 263-A considered].
Draft Constitution—( <i>contd.</i> ) ..... 929—965	<b>Saturday, 10th September 1949—</b>
[Seventh Schedule—( <i>contd.</i> ): List III : Entries 2-A, 3 to 25, 25-A, 26, 26-A, 27, 28, 28-A, 29 to 31, 31-A, 32, 33, 33-A, and B, 34, 34-A, 35, 35-A, 36 and New Entry 88-A considered].	Draft Constitution—( <i>contd.</i> ) ..... 1193—1266
	[Articles 24 considered].
	<b>Monday, 12th September 1949—</b>
	Draft Constitution—( <i>contd.</i> ) ..... 1267—1348
	[Article 24 and part XIV-A- Language considered].
	<b>Tuesday, 13th September 1949—</b>
	Draft Constitution—( <i>contd.</i> ) ..... 1349—1426
	[New Part XIV-A (Language) considered].
	<b>Wednesday, 14th September 1949—</b>
	Abolition of Privy Council Jurisdiction Bill ..... 1427
	Draft Constitution—( <i>contd.</i> ) ..... 1427—1493
	[New Part XIV-A (Language) considered].

PAGES	PAGES
<b>Thursday, 15th September 1949—</b>	Draft Constitution—( <i>contd.</i> ) ..... 1621—1673
Draft Constitution—( <i>contd.</i> ) ..... 1495—1541	Motion <i>re</i> Translation of the Constitution.
[New Articles 112-B and 15-A considered].	[Articles 303 and 300-A and B considered].
<b>Friday, 16th September 1949—</b>	[Eighth Schedule and Articles 303, 304, 99, 305 and 1 considered].
Draft Constitution—( <i>contd.</i> ) ..... 1543—1590	<b>Sunday, 18th September 1949—</b>
[Articles 15-A, 209-A to E, 315 and 303 considered].	Motion <i>re</i> October meeting of ..... 1675
<b>Saturday, 17th September 1949—</b>	Assembly.
Abolition of Privy Council ..... 1591—1620	Draft Constitution—( <i>contd.</i> ) ..... 1676—1693
Jurisdiction Bill	[Article 1 considered].

## CONSTITUENT ASSEMBLY OF INDIA

*Friday the 5th August 1949*

The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Nine of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

### DRAFT CONSTITUTION—(Contd.)

#### Article 249—(Contd.)

**Mr. President :** We shall take up the discussion of the article which we were dealing with yesterday.

**Shri B. Das** (Orissa: General): Sir, the House is discussing Chapter 1, Part X which deals with “the distribution of revenues between the Union and the States”. Article 249 and the subsequent articles up to article 260 deal with the collection and assignment of taxes between the Centre and the Provinces. Article 255 deals with grants-in-aid from the Union to the States and article 260 deals with the appointment of a Financial Commission to enable the making of independent grants to the Provinces without interference by the Finance Department of the Central Government.

Sir, this House had no opportunity to discuss this subject which concerns the social well-being of the entire population of India. In July 1947, Pandit Jawaharlal Nehru, the President of the Union Constitution Committee, reported and gave a small Chapter (Part VII) on Finances and Borrowing Powers. It was discussed later in the House and was incorporated in the report in the Second Series. In the July-August 1947 discussions, the question was left hazy. But, Sir, you at least appointed an Expert Committee to go into this question of the financial provisions of the Union Constitution. That Expert Committee reported sometime early in 1948. This sovereign House never discussed that report of the Expert Committee. The Drafting Committee must have taken into account the report of the Expert Committee and modified the articles under discussion. But, Sir, I must say that these articles remind me of similar articles in the Government of India Act, 1935. They do not show any tendency of the Finance Department of the Government of India to part with the resources arbitrarily commandeered, so that the Provinces can live happily and prosperously and do their duty by the people under their charge. Sir, the Expert Committee in paras. 27 and 28 have spoken about the needs of the provinces and the Centre. They say :

“The needs of the provinces are in contrast, almost unlimited, particularly in relation to welfare services and general development. If these services, on which the improvement of human well-being and increase of the country’s productive capacity so much depend, are to be properly planned and executed, it is necessary to place at the disposal of Provincial Governments adequate resources of their own, without their having to depend on the variable munificence or affluence of the Centre.”

Sir, I have watched the Finance Department of the Government of India from 1925. It has always maintained its mood that it will give some charity to the provinces. They think that their primary responsibility is the defence of India, and not bringing about social and economic justice to the teeming millions of India after we have attained independence. Sir, this Expert Committee was appointed by you in accordance with the wishes of this House, so that their recommendations could be given effect to. But what is the attitude of the present Finance Department ? It goes on merrily with its colonial pattern expenditure, without realising its primary obligation to the people of India and without giving a share of the revenues of India to the provinces so that

[Shri B. Das]

they can develop the social and economic well-being of the people of India. Sir, I would have been happy if articles 249 to 260 had incorporated at least some of the recommendations of the Expert Committee Report. Sir, the attitude of the Finance Department has been the same since 1925. Why is it that the Finance Department of the, Government of India is so heartless ? We may be thinking that we are an independent nation now, but the Finance Department of the Government of India still lives in the days of 1925 and 1935. Perhaps it has become more authoritative than it was under the alien rulers, and does not think of the responsibility it has to discharge to the millions of this country. Here in this Constitution we are, going to say in the Preamble that we will secure social and economic justice to the people of India. The House has heard thousands of speeches about political justice to the people, but when has the House heard during the last two and a half years anything about economic justice to the teeming millions of this country that are living in the provinces? Sir, the House appointed the Expert Committee, but why is it that the Government of India have not brought forward any proposals so that the provinces could get a share of the revenues of the country and spend it for the development of the undeveloped conditions of the people and for the social well being of the people ? The Expert Committee on pages 13 & 14 of their Report recommended the division of the proceeds of revenue between provinces, but the principle governing the award of Sir Otto Niemeyer is sought to be continued. Sir Otto Niemeyer came here to see that British rule was perpetuated in India. It was not his duty, it was not necessary for him to see that the provinces developed, to see that the people were happy and contented. The Government of India now seeks to perpetuate the award of Sir Otto Niemeyer even two years after independence was achieved! I would have been pleased if paragraphs 50-58 of the Expert Committee report with slight modifications had been incorporated in the Constitution. I do not find the Finance Minister here. I believe my honourable Friend, Dr. John Matthai, is a Member of this House. It is his responsibility, it is his obligatory duty to come here and explain why his Government has not come forward with assistance to the provinces in the last two years. He is not present here, but I hope some member of the Government who is a Member of this House will come forward with an explanation of this dilly-dallying and shilly-shallying policy of the Finance Department of the Government of India. Sir, the recommendations of the Expert Committee, which was appointed by you, made their recommendations as a whole. They are one piece of recommendation. The Government of India have accepted nothing, nor has their spokesman here explained why they are so inattentive to the recommendations of the Expert Committee appointed by you with the concurrence of this House. In Paragraph 71 of the report, it is stated :

“We would further recommended in order to save time, that the Finance Commission may be set up in advance of the coming into effect of the Constitution, and its status regularised after the Constitution comes into effect.”

In article 260, it is stated that—

“The President shall at the expiration of five years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such other time as the President considers necessary, by order constitute a Finance Commission. . . .”

What is the use of this Commission and what is the use of this Constitution when the Finance Department of the Government of India maintains its autocratic independence and spends most of the revenues of India on the so-called defence of India, spends it on the inflated staff of the Government of India. The staff of the Government of India can be retrenched by half or more than half and considerable savings can be made. What is the condition of the finances of the Government of India ? It is already running at a loss. Its revenues do not cover its normal

expenditure, and yet the Finance Department goes on merrily spending as it likes, without caring for the primary responsibility imposed on it by the Constitution that it should render social and economic justice to the people Sir, this is a charge against the Government of India, and the Government of India must justify their position by explaining on the floor of this House why it has rendered no social and economic justice to the people of India during the last two years of our independent existence. It is no use saying that the Constitution will be promulgated on The 26th January 1950 and thereafter the Finance Department will formulate proposals with this end in view and put them before this House. That is not the real attitude of the Finance Department. The Finance Department has become too powerful. From six or seven departments, the Government has come to consist of nineteen Ministries, each Ministry as an autonomous body, each Ministry functioning and spending as it likes. Who are these finance officers ? They are the traditional careerists who worked under Sir Basil Blackett in 1925, who Worked under Sir James Grigg in 1936 and 1937. Such are the men who are guiding the financial affairs of the Government of India and they are, arch-bureaucrats and arch autocrats, and if any of them has any democratic spirit, I will bow to him. I know none of them have that; otherwise they would have shown it by their action in the last two years and I will say this, Sir. they have defied the Constitution. They have not understood the spirit of the independent Constitution that we are framing in this House and they will carry on in their autocratic way until we collapse.

**Mr. President :** I do not like to interfere with the honourable Member's Speech, but here we are discussing a particular article of the Constitution.

**Shri B. Das :** Yes, Sir.

**Mr. President :** It deals with duties levied by the Union but collected and appropriated by the States. I do not think that criticism of the policy of the Government comes at all under this article. I will therefore suggest to him to confine himself to the merits of the article as it is and not to criticise the general policy of the Government of India for which he has got another platform and another place, where he can give expression to his views. Shri B. Das : Sir, I bow to your ruling. This Constitution has three main aspects, namely, the political aspect, the social and economic aspects. The bed-rock of economic justice is based on the distribution of finances between the Centre and the provinces. I wish we had initiated a debate yesterday as soon as article 247 was taken into consideration. Sir, I did not like to talk on article 247 because it dealt with the interpretation of the term "Finance Commission" and others. I bow to your ruling but at the same time I suggest article 249 and the subsequent articles deal with the assignment of the revenues and taxes between the Centre and provinces. Although article 249 deals only with one aspect of duties levied by the Government of the Union but collected and appropriated by the States. It deals with one ambit of the recommendations but the Committee recommended that there should be an immediate division and allocation of resources between the Centre and the provinces. Is it not legitimate on my part to question why they have not been incorporated in the Constitution and why a representative of the Government has not come forward and opened the debate and told us if the portions of the recommendations I have referred have been accepted by them and what relief the Government of India contemplate to give to the provinces ? If I was a little harsh on the Finance Ministry of the Government of India, it is because I know worst things of the financial structure of India.

Sir, I do hope the provinces will not be treated as charity boys of the North Block of the Secretariat. Somehow it has happened that people have to come with begging bowls. Whether it is in regard to the Food Commission or the



[Mr. President]

Bengal food problem of 1943, nobody wants charity. We put forth the just demands of the people of India and the Centre which was an autocratic Government intended to maintain the British Raj in the past should give up that mentality and should part with the legitimate resources to the provinces. I do not ask any further and I do not at present ask anything more. The Expert Committee has put forward its recommendations. Let the spokesman of the Government of India stand up here and say : “We have accepted in too or with certain modifications the recommendations of the Expert Committee.” That will give certain relief to the provinces. We can look forward to the development of the provinces and towards giving better public Health standards to the people. I read in papers that our Public Health Minister has been approached and she wants to build *fabricated* hospitals in Delhi while the provinces have not got even a lakh of rupees to build their hospitals; while undeveloped provinces like Orissa, Assam—I will include even Bihar—have very few beds in their hospitals, the Centre goes merrily and talks of prefabricated: hospitals at Delhi costing crores and crores of rupees. Is that the way to develop the provinces ?

I will again join in the discussion when the jute duty in article 254 comes up for discussion and when article 260 is taken up where the Finance Commission will have to be appointed five years after the Constitution. It is a very heartless and insincere draft. Is it the spirit of democracy working in the Finance Ministry of the Government of India that it will obstruct at every stage in order to maintain its hold on the finances and to spend it in the best way it likes ? I am giving out no secret when I say that in 1946 the Government of India decided that the Army expenditure should be reduced to one hundred crores. We know today it is one hundred and fifty-eight crores and that too after the partition. I cannot see why the Government of India should grab the wealth of the provinces and dispense it in the way they like. This sovereign House framing this sovereign Constitution is not going to allow the Finance Ministry of the Government of India to play ducks and drakes with the resources of India according to its fancy and whimsicality and thus let the provinces starve. Sir, on behalf of the provinces, particularly the undeveloped provinces of Bengal, Bihar, Orissa and Assam, I plead before this August House for justice for the undeveloped provinces; I plead that the pose of the Finance Ministry that no steps should be taken with speed and haste should be condemned and this House must accept the recommendations of the Expert Committee which had on it such expert financiers, namely, Sir Nalini Ranjan Sarkar, Mr. V. S. Sundaram, Mr. M. V. Rangachari (who was member Secretary). This officer is still a Deputy Secretary in the Finance Department of the Government of India. Why has the Finance Department overruled the decisions of this Committee? I plead before the House that justice should be rendered to the teeming millions of India and to the helpless provinces by giving them what is their due.

**Mr. President :** Any one, else who wishes to speak? (No Member rose.) Dr. Ambedkar, do you wish to say anything ?

**The Honourable Dr. B. R. Ambedkar** (Bombay: General): There is nothing to be said.

**Mr. President :** I shall now put the amendments to vote.

The question is:

“That in clause (2) of article 249, the words ‘in that year’ be deleted.”

The amendment was adopted.

**Mr. President :** The question is :

“That in clause (1) of article 249, after the words ‘such stamp duties’ the words ‘as are imposed under any law made by Parliament’ be inserted.”

The amendment was adopted.

**Mr. President :** The question is:

“That in clause (2) of article 249, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

The amendment was adopted.

**Mr. President :** The question is:

“That article 249, as amended, stand part of the Constitution.”

The motion was adopted.

Article 249, as amended, was added to the Constitution.

### **Article 250**

**Mr. President :** The motion is:

“That article 250, form part of the Constitution.”

(Amendments Nos. 2842 to 2850 were not moved.)

**Shri R. K. Sidhwa (C.P. & Berar : General):** Mr. President, I move:

“That at the end of article 250, the following be added :—

‘The net proceeds of said distribution shall be assigned by the States to the local authorities in the jurisdiction.’ ”

I have got another amendment to this amendment, No. 201. Shall I move that also, Sir ?

**Mr. President :** That has also the same effect.

**Shri R. K. Sidhwa :** I want to move the second part.

“That with reference to amendment No. 2851 of the List of Amendments, in article 250, the following proviso be added at the end :—

‘Provided that the proceeds collected by the Government of India under clause (c) shall be assigned to local authorities in the jurisdiction of the States.’ ”

Sir, this article has been more or less borrowed from the Government of India Act, Section 137. This article refers to the collection of four kinds of taxes : One is in respect of succession to property; the other is estate duty; the third is terminal taxes and the fourth is taxes on railway fares and freights. My amendment is to the effect that the taxes collected under clause (c) by the Government of India should be assigned to the local authorities in the jurisdiction of the States.

My object in moving this amendment is this. Tolls, octroi and terminal taxes are the major sources of revenue of the local bodies. Before the Government of India Act of 1935, these terminal taxes were a provincial subject; but under the Government of India Act, 1935, this has been put down in the Central List. Unless the Centre agrees to levy a terminal tax, no provincial Government can increase or put an additional item for terminal tax, which has created a great deal of difficulty to the local bodies. There have been a great many references on this matter to the Government of India.

**The Honourable Dr. B. R. Ambedkar :** I am very sorry, Sir, I should have requested you at the very outset to allow this article to stand over.

**Mr. President :** It is suggested that this article be held over.

**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 here 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 than. ax 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.”



**Mr. President :** Does any one wish to say anything about this article (*No Member rose*). Then I will put amendment No. 79 to vote.

The question is :

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

The amendment was adopted.

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

The question is :

“That article 252, as amended, stand part of the Constitution.”

The motion was adopted.

Article 252, is amended, was added to the Constitution.

---

### Article 253

**Mr. President :** Then we take up article 253.

(Amendment Nos. 2883 and 2884 were not moved.)

**Mr. President :** What about amendment No. 2885 ? Do you wish to move it, Dr. Ambedkar ?

**The Honourable Dr. B. R. Ambedkar :** No; Mr. Tyagi will move his amendment.

(Amendment Nos. 2886 to 2896 were not moved.)

**Mr. President :** Do you move your amendment No. 2897, Mr. Bardoloi ?

**The Honourable Shri Gopinath Bardoloi** (Assam: General): I do not want to move the amendment, but I would like to speak on the article.

(Amendment Nos. 2898 to 2902 were not moved.)

**Shri Mahavir Tyagi** (United Provinces : General): Sir, I had an amendment.

**Mr. President :** I have not finished all the amendments. I am taking them in order and will come to your amendment later. Amendment No. 81.

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

“That in clause (2) of article 253, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

**Mr. President :** Then amendment No. 214, in the name of Shri Mahavir Tyagi.

**Shri Mahavir Tyagi :** Sir, I move:

“That with reference to amendment No. 2886 of the List of Amendments, clause (1) of article 253 be deleted.”

Sir, clause (1) of article 253 runs as follows :—

“No duties on salt shall be levied by the Union.”

Sir I am one of those who had participated in that great movement of salt *satyagraha*, and I appreciated then, as I do appreciate today the argument that since the salt tax tells on the pockets of the poor it should not be levied. I still stick to that old opinion of mine. I also confess that it is on account of that conviction that most of the Members of this august House have preferred to bring in through this clause, the prohibition of any duties on salt. But, Sir, to levy a duty, or not to levy it is the business of the State and the Parliament. We are sitting as the Constituent Assembly. I object to this clause being here, not because

I am in favour of salt duties being levied, but because I do not want to tie down the hands of future generations for ever. Once we put it down in the Constitution there shall be no salt duties for centuries to come; and so long as there does not come into being another Constituent Assembly, the government's hands shall remain tied, and even if they want to levy any salt duty and even if circumstances are so changed that salt duty is warranted, they will not be able to levy it. That is the kind of thing we should always avoid. That is the only reason why I wish to commend this amendment to the House.

Sir, at present, after the division of India, we are having most of our salt supply from foreign countries. From Pakistan, in the year 1948-49, we imported about 40,000 tonnes of salt, from Egypt about 25,000 tons and from other countries, about 34,000 tons. This foreign supply of salt—ordinary crude salt and not the table one—was about 300,000 tons. There are agreements between one country or the other. Sometimes, while discussing our import-export problems with Pakistan our future Government may feel the necessity of levying a duty on salt imported from Pakistan. It may also be necessary to levy an import duty on foreign salt in order to protect our own indigenous industries of salt against competition. There are so many other advantages of the duty. Sir, this is a very simple case, and I do not want to dilate on it and waste the time of the House in pressing tile issue. I only want that the hands of the future Generations and of future Parliaments should be free to act. If today the Parliament were to decide the issue about levying the salt duty, like many of my Friends I will put up a strong opposition. We have only lately, and deliberately, given up this income. The income from this source was not less than one to ten crores. For the sake of the principle we have already sacrificed nine crores. If ever the Government feel that instead of resorting to other direct taxes, it is convenient to have some income from salt, must be free to take advantage of and tap this source of revenue. With only these words, I commend this amendment and I hope I shall not be misunderstood. Although this amendment obviously seems to be unpopular, but I want to make it clear that by this amendment, I do not mean to ask the Government to levy any salt duty. Here it is not a question of levying or not levying the duty. It is a simple question of not shutting the door for future governments to exercise their discretion. That is the only question. I hope the House will rise above sentiments and exercise a free vote. Let the future Governments be as free in the matter as we are today.

**Mr. President :** Amendment No. 215, do you move it, Mr. Bardoloi ?

**The Honourable Shri Gopinath Bardoloi :** I do not propose to move the amendment, but as I said, I would like to speak on the article.

**Mr. President :** Yes, let me first get through the List. Amendment No. 216 ?

**The Honourable Rev. J. J. M. Nichols Roy (Assam: General):** I do not propose to move it, but I should like to speak.

**Mr. President :** Amendment No. 217 ?

**The Honourable Shri Gopinath Bardoloi :** That forms part of the same thing.

**Mr. President :** These are all the amendments. Mr. Bardoloi can speak now.

**The Honourable Shri Gopinath Bardoloi :** Mr. President, Sir, it is with considerable hesitation that I am proposing to make certain observations in regard to article 253, of the Draft. I must take this opportunity of conveying my thanks to the Chairman and the Members of the Drafting Committee for having given be Premiers an opportunity to discuss this and other questions, and also for

[The Honourable Shri Gopinath Bardoloi]

giving me an individual interview for the purpose of explaining the special difficulties of the Province of Assam. I must say, however, that while I am not satisfied with what they have proposed, I am surely grateful for their courtesy, I also want to mention in this connection, Sir, the courtesy which I received from the honourable Member for Finance of the Government of India in respect of reply to certain questions which I had raised in connection with these financial arrangements, deserves grateful acknowledgement.

Now, I think I will not be doing my duty to myself, I will not be doing my duty to my people, if I did not place before this House the real financial situation of the province. To put it, in a word it is facing a financial crisis and unless the Government of India by a short-term measure and the Constitution by a long-term measure did something for pulling this Province up, the situation as it appears to me is very dark in the future. I want to lay special stress on this on account of the special difficulties of the Province, on account of its being now a border Province of India, on account of it being a sort of a guardian of the eastern gates of India.

Sir, talking about the history of the financial arrangements from which this Province is suffering, I do not propose to take the time of the House; but I would like to observe that even from 1919 this Province has been suffering from grossly unfair treatment in the matter of financial arrangement. In 1919, although the Province had not even anything which would go by the name of social service—not even educational institutions enough for giving education to students, when even 10 per cent of the school-going students had not the opportunity of going to primary schools—even then this Province was put under the obligation of contributing Rs. 15 lakhs to the Centre under the Meston Award. The result was that the finances of the Province broke down and within seven or eight years the whole thing had to be revised. I think in 1927 or 1928, Sir Alexander Muddiman revised this scheme and exonerated Assam from the payment of this contribution. Soon after that there was a proposal for the revision of the financial arrangements but things went on like that till the picture of the new Constitution under the Government of India Act of 1935 loomed large before the country. At that time, the Percy Committee thought that the arrangement under which Assam was suffering must be removed and a fair deal must be meted out to the Province. I do not propose to repeat the various stages through which the final award given by Sir, Otto Niemeyer had to be accepted, but all that the Otto Niemeyer award gave us was only Rs. 30 lakhs of subvention. The result was that the situation which existed in the Province in 1919 continued; no social service whatsoever could be possible with the finances available and no educational institution worth the name. I do not think the Government of the time was very anxious for that either. It was a planters' *raj*. It cannot be the object of an alien Government to educate the people; and when things could run so smoothly possibly without education and other social service to pay, they thought that things would go on like that

This was the position of Assam before partition. The period of deficit continued in the budget of the Province excepting perhaps in those two years of war when some revenue was obtained on account of sales-tax on petrol etc., and which brought in an amount of about a crore or more each year. But all these years the provincial budget had to run at a deficit although as I said just now the social services were *nil*, and there were no educational institutions where you could educate your children, and although in every sphere of development we were held up. This was the pre-partition position. With partition, is thrown a responsibility which I hope we have all been able to realise. We are cut off from India, and though most of the linking work is being done under the provi-

sion of Central grants, a lot of provincial expenditure had also to be incurred in order that from the link up to the areas within the Province some kind of communication is possible. But the most important fact in regard to communications is this. All the four hundred miles of border area verges on Pakistan, China or Burma and the border with Pakistan runs through hills. The entire economy of this Hills area was disturbed and these poor people in the border areas, particularly the hill people, have to depend entirely upon supplies from the Province of Assam instead of Sylhet or Mymensingh as it formerly used to do. The necessity therefore of linking these areas with road communications has become very imperative and the Government had to undertake the work. Some money was provided in the post-war grant for that purpose; but I regret to say that on account of the curtailment of the post-war budget, these activities had, most unfortunately, to be curtailed.

Then, on account of the creation of the border, and I must add, the difficulties created by the communists, we had to increase the number of the provincial police force to an extent which bears no proportion whatsoever to the provincial revenue and expenditure. We had to increase our expenditure on police by more than 120 per cent. Those frontier areas which were formerly looked after by the Centre through the Assam Rifles which were entirely paid by the Government of India, had also to have provincial police force. The result was that about five districts had to be immediately posted with police forces, on account of which, formerly, the Province did not have to pay anything.

Sir, I want specially to stress the mischief from which the Province is suffering and is likely to suffer from the communist activities in that part of the country. You know that an attempt is being made by this party to connect themselves with people of the same profession in Burma and China. Already a recrudescence of violent actions has taken place;—and if you go through the newspapers you will see that the tactics they have adopted at Dibrugarh are the same as they adopted in Calcutta, namely trying to occupy places of Government by violent means like acid-throwing, bombing, hand-grenading, pistol-firing etc. Now, the police might show you one way of putting down some of these activities; but my point of view is—and I hope this view is shared by all of us—that if we want to root out the evils of communism it can ever be done with the police force alone. We have to take recourse to ameliorative measures to raise the standard of the people and give them training in a sort of self-government which I suppose is being preached by these communists also. That can be done only by having a very much more *per capita* expenditure on the people than the Province is able to give today from its finances.

What I want to point out, Sir, is that these circumstances have made the financial position of the Province very difficult. Its original revenue was Rs. 3½ crores just before partition. It is almost the same today. Today we have little over 5 crores with the Government of India grants. But we cannot definitely manage with that income of Rs. 5 crores and over. Already the provincial budget is suffering a deficit of Rs. 70 lakhs; I understand Rs. 30 lakhs will come in as a supplementary demand in the coming session. So it is absolutely necessary that there should be an increase in the provincial revenues by Rs. 1½ crores if the Province is to run in the most normal level, according to the prepartition standard. In the meanwhile, through the kindness of the Finance Ministry, we, as all other Provinces, have got some development grant. It has been calculated that that grant will throw a recurring expenditure of about Rs. 2½ crores a year on the Provincial finance. In other words for the immediate requirements of the Province we shall require Rs. 4 crores—1½ crores immediately and 2½ crores in the course of the next four or five years.

The point therefore is, how to meet this demand. I have tried to examine the benevolent provisions that have been put in the Draft, one of which we

[The Honourable Shri Gopinath Bardoloi]

accepted just now—article 251. According to the present distribution, on the basis of which money is given to Assam, we will get only 3 per cent of that revenue and it does not come to more than 1½ crores. There is of course, the subvention of Rs. 30 lakhs. I do not know what will be proposed in the future by the Financial Commission. We have also been given about Rs. 40 lakhs on jute duty. But when I am speaking about the deficit of the Province, I want to say that all this income has been taken into consideration and the deficit is there in spite of them. The fact, therefore, is how are you going to get the money? I am prepared to believe that the Financial Commission would be very charitable to the Province and will be able to find some more money, but will that be enough to meet the requirements of the Province even to the minimum ? That is the reason why I think, Sir, that a share of the excise duties, particularly on products which are produced in the Province, might very well be allocated to us and that was the reason why I had proposed two amendments. The existing, provision is to the effect that “if only Parliament passes the law, the duty will be distributable”. I wanted that that clause should be substituted by a positive clause by which the duty would be distributable as a matter of fact without any reservation as to legislation by Parliament. In that connection I want to say that for the last twelve years the same provision has been there in the constitution, but no Province has got any benefit out of it because the Parliament in the meantime did not pass any law. What, therefore, I want in order that the Province might get a little benefit is that the excise duty on tea which is produced in Assam—and the total produce of Assam is two-thirds that of India,—petroleum which I suppose is produced only in Assam, and kerosene, should be distributable immediately after the House passes this provision.

The second point was that I wanted that of this duty 50 per cent should be allotted to the Province. I should like to point out in this connection that the Government of India gets on petroleum and kerosene about Rs. 2 crores of revenue from the produce of Assam. I want you also to consider that the mineral wealth of this Province is being depleted every day by the extraction of petroleum and when it is exhausted the Province will have to suffer a big loss of revenue, even on crude petrol, and ground rent. If at least a fair portion of the duty is given to us it would not only be helpful but equitable. Then as regards tea, two thirds of tea that is produced in India comes from Assam. The Government of Assam gave a special concession to the tea planters in the matter of land revenue and many other things for bringing this industry into existence. Now that sphere has been taken by the Centre and the Province has suffered a lot and should be entitled to obtain compensation on account of that. I thought therefore that I was making only a fair proposition when I was putting these facts before the House. When the Centre was getting Rs. 8 crores I could see no reason why 50 per cent of the duty could not be allotted to the Province so that it might be saved from the difficulties which it is facing today. Against that argument, it may possibly be advanced that the overriding needs of the Centre should outweigh the considerations of a particular Province. I am no less an appreciator of the overriding needs of the Centre; mine is a frontier Province and I should realise it more than any other man. But after all Assam is India also, it is a very important part of India today on account of the frontier; and therefore if you wanted that it should function as a province it should have a level of administration which should at least be able to stand in such a manner as you could keep the people contented, you could have a little development and be able to do away with those evil forces which are out to destroy society today. I was therefore not claiming anything extraordinary. I again plead that I am not asking for anything extraordinary, but only for a fair deal.

Then, Sir, I would like you to consider the expenditure which provincial revenues have been able to incur per head of the population. In that connection, if I want to compare with a province like Bombay, I should not be mistaken. I wish well to any other province, but it does us good to have that comparison. The poor Province of Orissa has been able to spend only Rs. 3 per head of the population for their social service including Government expenditure also. Assam is able now to spend only Rs. 5. But Bombay spends, I think, Rs. 22 per head of the population and that does not include, I am sure, the foodgrains concessions that the Government of India make to keep up supply to the deficit areas. If all that is taken into account, I am sure the expenditure per head will come to Rs. 30 in the case of Bombay. I do not want to cast any reflection on anybody. When passing the Objectives Resolution, we had high hopes of the future of India. When passing the clauses on Fundamental Rights, we thought that poverty, distress, disease and ignorance will be dispelled from the face of India. Now, I want to ask: How are you going to do it? Well. I am personally not saying that my amendments are sacrosanct. All that I plead to you is that unless you look at the whole thing from that standpoint, India is not going to be the India of the Objectives Resolution or according to the Fundamental Rights that we have passed. I further want to point out to you that Bombay possibly imposes a sort of taxation for all exports of textiles that go out of Bombay. On the other hand, look at Assam with Rs. 5 per head. Its sources of revenues from petroleum and tea are depleted in every way and it is not able to give the necessary social services that the State ought to give to the people who are so backward and lowly; I want to put it to you whether this not a case of:

To him that hath, more shall be given, and

From him that hath not, even the little that he hath shall be taken away.

I believe that this state of things will not be allowed by this House to be continued and that if they are not able to accept my amendment, then at least they will look at the questions of Provinces like Orissa, and Assam with sympathy for adequate grants.

**Shri B. Das :** Sir, the heart-rending speech of the Premier of Assam revealed in what way the finances of India are being allocated or are being thought of being allocated. Central Excise should mainly belong to the Provinces. The Sarker Committee report in para 18 remarks :

“During the war, all Provinces except Bengal and Assam, had surplus Budgets.”

We have heard from the Premier of Assam in what distressful condition Assam is at present, and that distress has been enhanced by the advent of Communists, both from the East and from the West—from Burma and from East Bengal: both foreign governments. Therefore, Assam's needs deserve very careful consideration by this sovereign House. If the Government of India is careless, if it has no idea of helping the Provincial Units or observing the fundamental duty of the State, if the Finance Department of the Government of India is adamant and bureaucratic then this House must compel the Government of India to function as a democratic government. In para 40, page 9, the Sarker Committee has discussed the Central Excise duties and it has reached the conclusion that at least 50 per cent. of the Central Excise duties collected by the Centre must go to the Provinces. My honourable Friend Mr. Bardoloi has said that he would like Assam to get 75 per cent of the Petroleum and Kerosene excise duties. I think on the ground that he has advanced, he is justified in claiming that percentage of Central Excise duty.

I am very grateful to him for referring to Orissa. Talking of Orissa, we are entitled to the share of the excise duty on tobacco. Government or India is

[Shri B. Das]

at present adamant. It does not accept N. R. Sarker's report where it says on page 10:

"We accordingly, recommend that 50 per cent of the net proceeds of the excise duty, on tobacco should not form part of the revenues of the Federation but should be distributed to the provinces."

Sir, the Government of India enjoys a superior position. It does not think it has any responsibility to explain its conduct, or its attitude towards financial disbursement to this sovereign House. A moment ago, we heard Dr. Ambedkar saying that a Special Officer or a Special Committee is going to be appointed to examine how resources can be re-allocated to provinces. That came out incidentally in the course of his reply. Why was it that the spokesman of the Government of India on the floor of this House did not feel it his responsibility to take this House into confidence ? I wish to criticise again the conduct of the Finance Ministry of the Government of India, that it is not observing democratic principles. Excise duties are produced by the sweat and toil of the citizens of the provinces. If my honourable Friend Mr. Bardoloi referred to Communists threatening Assam, I may say that the Central Excise duty ought to be used for fighting them, as the very method of collection of the Central Excise duties in the Provinces is strengthening communist activities. The excise duty which is being collected in every province, in the United Provinces, in Madras, in Orissa, etc., is done by an undemocratic method and this is seized by the communists in their propaganda. We all know what is happening in the north Madras districts in Nalgonda and in Chittoor. One of the items in the agitation of the Communists among the peasants is : "You grow your tobacco and the Government of India comes and charges duty". The Government of India are so silly that they stick to this method of collection. They do not collect this revenue through the officers of the provinces. They have got their own staff for the collection of the excise duty from tobacco from the villagers. Who are the Central Excise officers? They are all urban people. Talking of my own province, most of them come from Calcutta. Speaking their Calcutta language, they adopt a highbrow attitude towards the villagers in Orissa. They do not know how to talk as brothers to brothers. They irritate the poor peasants who have grown the tobacco from which the Government of India collect so much excise duty. Sir, this House has had no opportunity to discuss the proper method of taxation and allocation of the taxes. If we had such an opportunity we would have advised the Government not to follow the British methods which they have, inherited. The provincial officers know and are in constant touch with the local people and they are alive to the needs of the public and handle problems with human sympathy. Let them collect the tobacco duty. Incidentally I may say that the Government of India in the Finance Department must mend its manners.

Sir, I support on principle my Friend Mr. Bardoloi's demand that 75 per cent or a higher percentage of the duty on petroleum and kerosene should go to Assam in view of its great need and lack of expanding resources. I support also wholeheartedly the recommendations of the Sarker Committee that 50 per cent. of the Central Excise duty should go to the provinces.

I also hope that the point which I have raised, namely that the Central Excise duty should be collected by provincial agencies and not through the alien agency of the Central Government who have very little sympathy for the villagers who produce the article on which this duty is charged, be immediately given effect to.

Next I come to article 253 (1) which says : “No duties on salt shall be levied by the Union”. This is a sentimental provision. Already in another place during the last session my Friend Mr. Thirumala Rao advocated that salt duty should be reimposed. The removal of the salt duty has benefited nobody. it has made the black-marketeers and the salt manufacturers raise the price of salt. When the Salt duty existed we used to buy salt at one anna per seer, today I think we have to pay five or six annas per seer. So, the provision contained in -article 253(1) is a mere sentimental provision. I do not say anything more about it.

As regards sub-clause (2), the draftsmen including Shri T. T. Krishnamachari may take pride, saying that they have included such a provision in the Constitution. But what is the Constitution worth if it does not give the the benefit of its provisions to the masses? Therefore, although I did not move any amendment to this sub-clause, I may say now that my intention was to compel the Government of India to bring legislation before Parliament within six months from the date of the commencement of the Constitution over such redistribution. The subclause says that *by law* so much of the excise duty shall be distributed. But who will compel Parliament to pass such a law ? This Draft Constitution is so worded that it does not compel the Government of India Finance Department to do anything or to part with the monopolised sources of revenue. We are slowly giving all the powers to the Central Government and taking away the little freedom and the little power that the provinces now possess. In this matter of the Central Excise duty which is to be collected by the Union, why this pious language here, ‘such duties as are mentioned in the Union List. We have not yet settled the Union List. If it wants, the Finance Department of the Government of India will direct the Drafting Committee to omit from or include in the Provincial List such items as they want. That is why the sub-clause says : ‘if Parliament by law provides .... in accordance with such principles of distribution as may be formulated by such law.’ I think this goes against our principles. This august House has every right to demand from the spokesmen of the Government of India what will be the principles of such law—the principles of distribution. We see everywhere a lukewarm sympathy. I find that no Government of India spokesman is present here. Always the Draft is accepted; that is bow we are carrying on. How does it benefit the masses ? It is no-use our passing a Constitution which cannot be implemented automatically and the Government of India is not compelled to let go its hold on the finances of India. This is a point on which I am shouting too much. I do ask you, Sir, with all respect, to examine whether the Draft articles on the financial distribution are fair to the masses and whether they automatically provide for the Government of India Finance Department disbursing the resources which the British Government financiers from 1924 have commandeered from the provinces. I hope in due course you will direct the Drafting Committee to examine the aspects which have been brought to your notice.

**Mr. Tajamul Husain** (Bihar: Muslim): Mr. President, I had sent in an amendment that clause (1) of article 253 be omitted. I was not present in the House at the time of the consideration of that article and therefore somebody else moved the amendment. Sir, I do not think it is right to incorporate in the Constitution that no duty on salt shall be levied by the Union. I think this is an important matter and should be left to the Parliament to decide. Parliament can make any law it likes. It is the duty of the Parliament to tax or not to tax and so far Parliament has been doing it, *i.e.*, levying tax on salt. Why prevent Parliament from making laws ? After all, Parliament is the representative of the people and if at any time the Parliament feels that this tax should be levied, it should be free to do so. If this provision remains in the Constitution, Parliament will be helpless and the people will be helpless. You are binding the people by this article. If the representatives of the people feel that in the interests of India



[Mr. Tajamul Husain]

this tax should be levied, they should be at liberty to do so. It should be left to the discretion of the Parliament. Now, Sir, the question is, who will benefit by it ? If there is no duty on salt, none will benefit. If foreign salt is imported into India, are we then to lose money and not tax the salt which is imported ? Who will be the loser in that case? It will be the people only. No doubt we have got to respect the wishes of Mahatma Gandhi. He was at one time of the opinion that there should be no duty on salt, but the time has changed. In those days we were a subject people and we used to do many things in order to turn out the British from this country. The British are no longer here; we are now completely independent and it is for us to increase our income without detriment to the country at large. I hope that the honourable the Law Minister will consider the position and accept the amendment that has been moved.

**Mr. Naziruddin Ahmad** (West Bengal: Muslim): Mr. President, Sir, I wish to confine my remarks to the deletion of clause (1) of article 253, to the effect that no duties on salt shall be levied by the Union. The amendment of Mr. Mahavir Tyagi seeks to delete it and I desire to support his amendment. I may inform the House-as they will find from the printed blue book of amendments that my honourable Friend, Sardar Hukam Singh, Mr. Tajamul Husain, I and some others gave notice of this very amendment long before. We did not move the amendment so that Mr. Mahavir Tyagi who has suffered in the last noncooperation movement, especially in connection with salt, may have the honour of moving it.

Sir, I shall discuss the amendment purely on a statistical basis. Speaking, of pre-Partition figures, the salt tax brought 'to the Central Government nine crores of rupees per annum. That amounted, on a pre-Partition basis, to a tax of three annas per head per year, *i.e.* three pies per month per head, which actually works out at one tenth of a pie per head per day. The amount per head is so infinitesimal that if this tax is remitted, it is impracticable to pass on this small exemption to the poor consumer, and the result has been that the poor consumer for whose benefit this remission was intended, could not be benefited. The result of this remission has been that some middlemen in the salt trade got the entire benefit. It was practically a gift from the Government to some big salt dealers and therefore the pious purpose for which this salt tax was remitted has been entirely frustrated, and there is practically no means of giving effect to this laudable object. I therefore suggest that the tax should not be abolished by an article in the Constitution. It should be left to the legislature to deal with this subject in the way best suited for the benefit of the poor. I would suggest that this tax should be imposed and the amount collected should be reserved for the benefit of the poor who are the real object of Mahatma Gandhi's solicitude. Sir, there is no point in retaining clause (1) in the Constitution. We have violated the sacred principles of Mahatma Gandhi so often in this Constitution that the deletion of clause (1) should not be objectionable on that account. One of the principles of Mahatma Gandhi was that there should be decentralisation, that power should be taken away from the Centre and made over to the Provinces and States. Instead of that, we find that so long as Mahatma Gandhi was alive, there was some amount of sympathy for that view, but after his death, the idea of decentralisation has been given up and excessive centralisation is our object today. I think Mr. Mahavir Tyagi's amendment should be accepted by the House.

**Shri Raj Bahadur** (United State of Matsya): Mr. President, Sir, I regret I do not find myself in agreement with the amendment which has been moved by my honourable Friend, Mr. Mahavir Tyagi. He has urged only three or four points in support of his amendment. He says that we should not tie

down the hands of the future generations in this respect, and he goes on to say that we have been importing huge quantities of salt from Egypt, Pakistan and other foreign countries to the tune of one hundred thousand tons annually. The last thing he said was that the deletion of the salt duty has resulted in a loss of rupees nine crores to the revenues of India. These are mainly his arguments.

I think, Sir, that on a closer scrutiny these arguments would be found to hold no water. It is true that human memory is proverbially short. But I would still remind my friend, that the glorious salt satyagraha under the leadership of the Father of the Nation constitutes a glorious chapter in the history of our nation, which can hardly be forgotten or ignored on the mere question of tying-down the hands of the future generations. On the other hand, we should embalm the memory of this heroic struggle in our Constitution itself so that it may serve as a source of inspiration for the coming generations. It is a short-lived consideration to say that loss has resulted to the revenues of India. Objection has also been taken by certain other friends that the abolition of salt duty came as a free gift to the black marketeers in the country. I say that black market does not prevail in the salt market alone; it prevails elsewhere also. The remedy is not to deny the principles, to deny the heroic struggle by which we stood during the course of the struggle for Independence; the remedy lies elsewhere. We should abolish the black market entirely not only from the salt market but from other commodities also. It is obvious that after food grains and cloth, salt constitutes the third most important commodity for human consumption and is required by human beings to the greatest extent. As such the effect of abolition or retention of salt duty would fall on the masses in general. I would submit that I stand for the retention of this clause not on purely sentimental grounds, and yet I say that I do not, in any way, intend to minimise the importance of sentimental grounds. National sentiments, I think, every Member of this House must covet and for them every member of the nation must lay down his life. This provision should therefore, be enshrined in the Constitution in memory of the glorious salt satyagraha under the leadership of the Father of the Nation. How can we forget the famous Dandi march ? If not for anything else let it remain at least as a tribute of the nation, a homage of the country, to the memory of that heroic struggle and to the memory of the Father of the Nation. We must preserve something in our Constitution which may reflect the tone and temper of our struggle, which may serve as a proud reminder of the glorious struggle against foreign domination. As I said earlier it is not a question, merely of national sentiments alone. I oppose it on ground of national economy also. As I said, if in the past the abolition of salt duty constituted a gift to the black marketeer, then that black market may properly and effectively dealt with elsewhere. But somehow this question brings to the forefront of the present discussion another problem. The problem of how our salt industry was suppressed by the British and what we should do to revive it. Coming, as I do, from one of the Indian States which have suffered heavily on account of the suppression of this industry, I have got a special feeling in this respect. In my own province. Rajasthan and in my own state, the Bharatpur State, several lakh mounds of salt were manufactured annually by way of a well developed cottage industry, but in the year 1879 the British suppressed that industry for their own purposes and for their own ends. The result was that the population of that State dwindled and the people migrated to other places. It resulted in the loss of employment to hundreds and thousands of people. Have we not to rehabilitate that industry once again ? While we may lose by the abolition of salt duty a few crores of rupees as revenue to the Union, we shall be providing employment to hundreds and thousands of people if we try to establish the industry once again. At the same time we shall become self-sufficient so far as the salt supply for our country is concerned. It is a shame that even at the present day we have got to import as much as one lakh of tons of salt from other countries. If we take certain steps so that our industry is revived and if it flourishes, we can eliminate these

[Shri Raj Bahadur]

imports of salt entirely. Meanwhile we can impose added customs tariff for such imports. We can devise means and ways by which the industry may thrive once again and in that case what little we may lose by way of revenue, we shall gain in other ways.

The third point which also is as material as the previous ones is the psychological factor which the deletion of this clause involves. Supposing we delete this clause. People rightly or wrongly already accuse some of us that although we profess loudly from the house tops the principles by which Mahatma Gandhi stood, the principles which he preached to the nation, not only preached but practised himself, we have abjured all those principles. In case we delete this clause from the article the charge will come : It is hardly two years that Mahatma Gandhi is not amidst us and we have denied ourselves even the remembrance of his great deeds. We have refused the retention of a clause in our Constitution, which could have made immortal the cause for which he once sacrificed so much and on the basis of which he aroused millions of our countrymen. I would submit therefore that the psychological effect on the masses would be very bitter in case we remove the clause and we would come in for criticism at every doorstep and at every street corner. It is therefore proper that at this state of our nation's existence, we must see that we do not do anything which may result in bitterness amongst the masses. Salt is a thing which comes in for daily use by everybody, particularly the Kisans of our country require salt for their cattle and for their own selves. It may be true that the duty on salt may be very little *per capita* but the psychological effect would be great and as such it is necessary that this clause must be retained.

While giving my opinion for the retention of this clause, I would submit that it requires certain amendments. We cannot use the word "salt" alone here, because from Calcium Chloride to Platinum. Chloride there are a thousand and one salts and it would be better if the word "common salt" is used. Similarly it would have been better if we use the words "produced in India" after the word "salt". If these amendments are incorporated the clause would have nothing to be desired I think. With these remarks, I submit Sir, that this clause must be retained in our Constitution.

**The Honourable Rev. J. J. M. Nichols Roy :** Mr. President, though I have not moved the amendment which stood in my name, yet the feeling is that there must be certain adjustments regarding the excise duty between the Union and the Provinces or the States, so that the States might have enough money to carry on their own administration. I realize that there is an opinion that the excise duty belongs to the Centre and must not be considered as a duty which should be given as a vested interest to a province or a State. But at the same time, Sir, we must also realize that the States which produce the commodities from which these duties are realized feel that they have a right simply because these commodities are produced from their areas. For example, petroleum is produced in Assam as the Honourable the Premier of Assam has already stated, and the Centre realizes about two crores, of rupees from that petroleum and kerosene as the Central Revenue. Moreover, Sir, this House and the country know that two-thirds of tea produced in India is produced in Assam and the Central Government gets excise duty *plus* export duty on tea, about which I shall have occasion to speak afterwards, of about more than 6 crores of rupees. We in Assam do not get anything from that. We surely feel that we have a right to get something, at least some percentage and our claim is not less than 50 per

cent. of the amount of duty that has been realised from the commodities produced in Assam. That feeling is there, it has been there for many years from the very beginning when petroleum was produced in Assam. Now, Sir, we have got our own Government and we realise that it is no use fighting against the ideas of the Central Government which is also sympathetic to all the States and especially to our backward Frontier Province of Assam. We expect that some kind of adjustment will be made and aid given to the States so that the States may be able to run their own administration.

The reason why we are so much troubled on this question is this. As the Honourable the Premier of Assam has stated, we are in a very bad financial condition. We have a revenue of three and a half crores. We get from the Central Government one crore and twenty lakhs by way of Income-tax. We also get from the Central Government as share of jute duty about forty lakhs and a subvention of thirty lakhs. In spite of all that we are now in deficit and the deficit runs to about one crore. This will be more when our institutions which we have just started will be carried on and maintained by the provincial Government. We have calculated that that deficit would come to about two and a half crores, may be about three crores. This is the position in a province which is a frontier province and not well developed. We need, as the Honourable the Premier of Assam has stated, four crores just now in order to balance our budget and also to carry on those institutions which we have started. We hope that immediately a Finance Commission will be set up and that the President will give us at least four crores. If four crores are given, we shall be getting about what we demand, that is fifty per cent. of the excise and export duties. For this reason, we believe that immediately the Finance Commission must be set up which must give relief to the provinces of Assam, Orissa and other provinces which are running in a deficit.

Sir, I want to speak on one point more, that is, clause (1) of article 253. I, myself have always considered that the fight against the old regime was strengthened by this great weapon of abolishing the salt duty, and stirring up the masses of India against the then ruling Government. That seemed to me to be the cause of the abolition of the salt duty and the sentiment in India against the salt duty. But, I see no reason why we should bind the future generation by putting it in the Constitution at all that there shall be no salt duty realised in the Union of India. The word "Duties" in this clause will include also import duty. Parliament can make law if they want regarding this. But, once we put it in the, Constitution it becomes almost a permanent fixture. Therefore, I should say that we should not bind the power of Parliament to make laws regarding this. Parliament may easily help a place like Rajasthan as my honourable Friend Mr. Raj Bahadur has stated and encourage the people in that State and give them some financial help in order to bring up the salt industry, and I wish that Parliament would do something of the kind. Therefore, I consider that it is unwise for this House to put this in the Constitution itself. It may be the sentiment of many people on account of our great respect and admiration for Mahatma Gandhiji; but the cause that produced the sentiment that stirred us at that time against the old regime is now different altogether. Now, we must have a sentiment for helping the poor to get as much money as possible in order to raise the condition of the poor people. We should not tie up the hands of the Government and tie up the hands of Parliament to impose a duty on this commodity if it is necessary to do so. I believe members of Parliament will be able to decide whether to impose a tax or not impose a tax according to the conditions that exist at the time. Therefore, Sir, I would like, to leave out altogether clause (1) of article 253.

Finally, I would also request that this House will realise the position of the deficit States and render them help as far as possible and strengthen the hands

[The Honourable Rev. J. J. M. Nichols Roy]

of Government also to help these deficit States like Assam, Orissa, and others. With these words, I resume my seat.

**Sardar Hukam Singh** (East Punjab: Sikh) : Mr. President, Sir, I have come here to support the amendment moved by my honourable Friend Mr. Tyagi. I congratulate him on moving this amendment because I feel that such a strong congressman, a staunch supporter and believer, in Mahatma Gandhi should take a realistic and practical view of the whole thing. Even after hearing, my honourable Friend Mr. Raj Bahadur I have not been convinced of the utility of this clause and I do not find any reason except sentimental ground, for keeping this clause. I had myself sent in this amendment and if I am permitted, I might say that this amendment to amendment is only a repetition of the old amendment itself. As it has been moved now, I heartily support it.

As I was saying, I do not find any grounds other than sentimental ones on which this clause can be supported by anybody. It has been said that it would be a fitting memory to our revered Mahatma Gandhi if we were to retain this clause. My submission is that in other places and other respects, we have disregarded many desires of our great leader. If we really want a memorial to Mahatma Gandhi we have other ample opportunities and I would remind my honourable Friends that there are amendments proposed to article (1) where some honourable Member of this House wants to propose that the great name should be introduced in our Constitution itself. I agree that that would be a proper place for a fitting memorial.

So far as I can make out, I think it would not have looked nice to keep, a provision here in the Constitution itself binding an future Parliaments not to levy a particular tax. In my humble opinion it is not justified on any grounds whatsoever. This has been urged here by me of my Friends that it would have a psychological effect. I fail to understand what that effect would be. It is already remitted, we are not levying that; but I do not see any psychological effect. Rather we have suffered a heavy loss in our revenues and I do not feel any justification for such a loss under the present circumstances when our finances are so scanty and we are rather in an awkward position at this moment. Besides this heavy loss, I do not find any appreciable relief to the poor which was our real intention. My Friend Mr. Naziruddin Ahmad has referred to this aspect of the question that 9 crores of rupees distributed over our population—though I do not agree that he worked out the calculation rightly—that means 4 annas per individual per month, which will come to 2 pies per man per day. This reduction has not produced any psychological effect but it has lost us a great amount of revenue; and then the prices have even gone higher and so the effect has been rather reverse of what we desired. Then again there is a third thing that I wish to impress *i.e.*, this refugee problem is causing a very great headache to our Government and so far it has baffled any solution. In the last meeting that was convened where the officials And non-officials all assembled, it was discussed that the refugees could be given bonds for the present and payments could be made by instalments or even if they could be paid interest on those bonds they would be satisfied. I now find a solution of the whole refugee problem in this. If we were to levy this duty and to earmark this for rehabilitation purposed we could liquidate the bonds given to our refugee brethren and then there would be no additional burden on the State revenue as well. So in my estimate there is no justification on any ground in retaining this clause and I support wholeheartedly the amendment moved by my honourable Friend Mr. Tyagi.

**Prof. Shibban Lal Saksena :** Mr. President, Sir, that is another very important clause in the Draft Constitution. The first part deals with salt duty. My Friend Mr. Tyagi has moved an amendment for its deletion. I humbly beg to oppose his amendment. I do not appreciate why this clause should have been kept in the Draft and should now be sought to be deleted. Was it when Mahatma Gandhi was alive that this clause was put in and after him we want to remove it? In fact I notice that the Drafting, Committee did not move the amendment, but got it moved by Mr. Tyagi. It has been said by Mr. Tyagi and other friends that the removal of the clause does not mean that we want to impose duty on salt, and what we want to see is only that we should not bind the future Parliament. They say it is only sentimental. I personally feel even sentiment has a great value in life. Salt has a history in our freedom movement and I think we shall not be doing anything harmful if we keep this clause as a memento to the great part which salt played in our freedom movement in the Constitution. I am therefore deadly opposed to the removal of this clause about salt. There is no sense, in saying that because it is there that all future Parliaments will be bound by it. If there is an occasion when it is necessary to do it, then they can change the Constitution also; but why do you want to first remove it from here and then say in Parliament “we want revenue and so we must impose salt duty.” It is not only on sentimental reasons that I object to its removal, in fact the reasons are mainly economic. It is even the poorest of the poor who have to pay duty on salt and therefore Mahatma Gandhi wanted that the poor man’s salt must not be taxed. That was the principle on which that great movement of salt satyagraha was launched. I think by removing this clause we are denying all the arguments which we advanced at that time, for which we suffered and fought. I am therefore deadly opposed to the removal of this clause from this article. Removal of the clause would be really an outrage on the sentiments of the people and on the history of our freedom movement.

Coming to the second part, about excise duties, I think a very strong case has been made out by our Friends Mr. Bardoloi and Rev. Nichols Roy. They have shown that the present distribution of finances is wholly lop-sided. In fact I was surprised to learn that Assam contributes about 6 crores in excise on tea and 4 crores in export duty. Similarly we, have 2 crores on excise on petroleum so that from these two products only Centre gets about 12 crores and yet we pay only thirty lakhs subsidy to Assam. I think a frontier province whose needs should be paramount should not be so badly treated. ‘there must be some amendment of the present system of distribution of finances and at least Assam must get some share of the huge revenue that we get from Assam products. He has demanded 1½ crores for meeting his normal budget deficit and 2½ crores for development purposes. I endorse his demands and I think we must be able to help Assam financially so that it may become fully competent to be our Eastern Frontier.

Then I want to raise another question of principle in this connection. This question is distribution of excise duty not only for Assam but to other provinces also. United Provinces contributes about 6 crores on sugar excise. There should be some system by which the provinces should get a share out of their contributions. I realise that the principle of allotment out of these duties is not very fair.

The Next clause deals with jute export duty. We have to pay several crores as share to some provinces. I therefore think that all these clauses must be reconsidered. There must be some rational method of allocation of finances of the country. I suggest that all the collections from income-tax or excise etc, must be pooled and whatever the Centre requires must be set apart, but out of the remainder there must be an equitable distribution based on many things, on the

[Prof. Shibban Lal Saksena]

needs of the provinces, secondly, on their backwardness, thirdly, on population, fourthly, on sources of origin of the revenue and all these facts must be taken into consideration and an equitable distribution made on an examination of these things.

Only then can our provinces be run properly. At present the financial award of Sir Otto Niemeyer has been condemned by everybody, and yet it has continued and will continue. Of course there will be the report of the proposed Finance Commission and then a revision of the present arrangement, will take place but for two or three years just now, which are most crucial in the history of the nation, we shall have to continue under the same arrangement. I feel this question is a most urgent one and must not be delayed. The Centre also must be strong, financially. We have listened to the remarks of Pandit Kunzru about the burdens that the Centre has to bear. All these things have to be considered and so from the very commencement of the new Constitution, we should have, a proper system. To say that when the Commission reports, we shall revise the arrangement, will not do. This part of the Constitution should be reconsidered and we must have a proper system of distribution of finances between the Centre and the provinces.

**Shri T.T. Krishnamachari** : The question be put.

**Shri R.K. Sidhwa** : There has not been any discussion on the amendment moved by Mr. Tyagi.

**Mr. President** : There has been discussion on that amendment. About four or five Members have spoken on that clause.

The question is :

“That the question be now put.”

The motion was adopted.

**Mr. President** : Dr. Ambedkar, do you wish to say anything?

**The Honourable Dr. B.R. Ambedkar** : Sir, I am prepared to accept the amendment moved by Mr. Tyagi, and I think it is necessary that I should offer some explanation on behalf of the Drafting Committee as to why it has proposed to accept this amendment.

Before I begin with the main points, which justify the acceptance of the amendment, I should like to meet the point of criticism which has been levelled against the Drafting Committee by my Friend Professor Saksena.

Professor Saksena said that it was not proper for the Drafting Committee to have originally put clause (1) in the article, and now be ready to accept the amendment moved by Mr. Tyagi. I should like to state that clause (1), which the Drafting Committee put, does not have its origin in the deliberations of the Drafting Committee itself. That clause was suggested, if I remember correctly, in the report of the Union Powers Committee where a decision was taken that there should be no imposition of any salt duty. As the Drafting Committee was bound by the directions and the principles contained in the Report of the Union Powers Committee, they had no option except to incorporate that suggestion in the article which deals with this matter. Therefore, there is really no question of vacillation, so to say, on the part of the Drafting Committee.

I now come to the practical difficulties that are likely to arise if that clause was retained. It will be recalled that in List I, we have two entries, entry 86 which permits the levy of excise by the Central Government, we have also entry 85 which permits the levy of a duty of customs. Now, if sub-clause (1) of article 253 remained as part of the Constitution, it is obvious that the Central Government would not be entitled to employ either entry 86 or entry 85 for the, purpose of levying an excise or custom on salt. That is quite clear, because

clause (1) takes away legislative power with respect to salt duty which was otherwise levied by entry 86, or entry 85. Now, it was represented that while the non-employment of the powers given under entry 86 to levy excise may not cause much difficulty to the country, the embargo, if I may say so, on the utilisation of the powers, given under entry 85 to levy a customs duty may cause a great deal of difficulty, because that would permit the importation of foreign salt to be brought into India without the Government of India being in a position to apply any kind of legislative remedy to stop such influx of salt which may practically destroy the Indian salt industry. It was, therefore, felt that the better thing would be to remove the embargo and to leave the matter to the future Parliament, to act in accordance with circumstances that might arise at any particular moment. That is the reason why the Drafting Committee is prepared to accept the amendment of my Friend Mr. Tyagi.

**Shri R.K. Sidhwa :** May I know why the item of prohibition was entered in the directive policy? If clause (1) of this article is to be deleted, may I know why the item regarding prohibition was inserted in the Directive Principles of the Government, and may I also know why the wearing of Kirpans was also put in the Fundamental Rights ?

**The Honourable Dr. B.R. Ambedkar :** Oh, Kirpans stand on quite a different footing.

**Mr. President :** Before I put the amendments to vote, I desire to say a few words about the amendment moved by Shri Mahavir Tyagi. I was considerably surprised by the attitude which has been adopted by the Drafting Committee in regard to this amendment. It was not without reason that salt was selected by Mahatma Gandhi as the one tax out of so many taxes which the poor people of this country paid, for disobedience, when he started this movement of disobedience. It was because he felt that even the poorest beggar, when he took his morsel of food, perhaps once in a day, he had to pay a share of this tax, that he selected this particular tax, and it was for this reason that when he made his appeal it caught everybody throughout the country. There were people then who felt that this civil disobedience would not be a success because he had selected a tax which after all, was such a small tax, and which had such small incidence. But we saw the result. Within three weeks, from one end of the country to the other there was hardly a village, there was hardly a place where the law was not disobeyed.

I say that even today if you are going to reimpose this tax you will have the same kind of movement which convulsed the whole country from one, end to the other. I would therefore suggest to the House to consider carefully whether it should not have this clause in the Constitution as a memento of that glorious struggle which we had. My advice—and deliberate advice—to this House is to reject the amendment of Mr. Mahavir Tyagi. But that is left to the Members of the House.

**Shri Brajeshwar Prasad (Bihar: General):** I formally move that the consideration of this article should be held over.

**Mr. President :** I think I had better put it to the House to vote.

**Shri Mahavir Tyagi :** Sir, if you will kindly permit my putting a question Honourable Members : (No questions) do you think the deletion of this clause (1) will mean that the salt tax will be levied ?

**Mr. President :** It opens the door for it, and in our present financial difficulties I am not sure that it would be taken advantage of.



**The Honourable Shri K. Santhanam** (Madras : General): It refers not only to the excise duties on salt but also duties on salt coming from abroad. That is why we wanted the deletion of this clause. Otherwise this will mean this Government of India cannot impose any duties...

**Several Honourable Members :** No speeches now.

**Mr. President :** Let, there be no speeches. If the Members so desire, I may allow the article, to be held over for further consideration.

**The Honourable Shri K. Santhanam :** The article may be held over.

**The Honourable Dr. B.R. Ambedkar :** The article may be held over.

**Shri Mahavir Tyagi :** The article may be held over.

**Mr. President :** This article will stand over. The House stands adjourned till 3 P.M. on Monday.

The Assembly then adjourned till Three of the Clock on Monday, the 8th August 1949.

---