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CONSTITUENT ASSEMBLY DEBATES

OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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Marshal:

SUBEDAR MAJOR HARBANS LAL JAIDKA.

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CONSTITUENT ASSEMBLY OF INDIA

Monday, the 8th August 1949

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

DRAFT CONSTITUTION—(Contd.)

Article 253—(Contd.)

Mr. President : We shall take up consideration of article 254, to begin with.

The Honourable Dr. B.R. Ambedkar (Bombay: General): Sir, before we begin discussion of article 254, I would request you to allow consideration of Mr. Tyagi's amendment to article 253, because the Prime Minister wishes to sneak on it. Although the debate is closed, I would request you to, allow the Prime Minister to make a speech before you put the amendment to vote.

Mr. President : Yes, Honourable Pandit Jawaharlal Nehru.

The Honourable Shri Jawaharlal Nehru (United Provinces: General): Sir, I am grateful to you for your indulgence in permitting me to say a few words in regard to this matter. There is hardly anyone in this House who does not feel rather strongly on this question of salt. Quite apart from the economic implications involved in this matter, salt, at one time in our national history, in the history of our struggle for freedom, became the word of power which moved large masses of human beings and brought about a strange, revolution in the country in the courses of a few months. Therefore, whenever this question comes up, naturally, we are moved not only by the immediate exigencies, of the situation but also by its past history. So, I suppose it is because of this that at one time the Drafting Committee, or some committee, put in this article in our Constitution. As I said all of us must necessarily feel a great deal of sympathy for their outlook. Nevertheless, when we gave thought to this matter, careful thought—because we are building something for the future and it would be wrong to do something which might come in the way of the national good of the future—we felt that, if we put this clause in as it was it would certainly come in our way. For instance, as it is drafted, it would obviously prevent us even from dealing with foreign salt which may be dumped into this country.

Now it may be suggested that we might leave out foreign salt and deal with indigenous salt. Even then unless you go carefully into this matter and unless you provide for all kinds of possible anomalies, difficulties would arise. That kind of thing might well be done by way of legislation when you can go into all its details and clarify matters. But it is very difficult to deal with that in a constitution, clarifying conflicting situations which might involve many uncertain factors. Therefore, it seemed to us that it would not be desirable to include this article as originally put in the Constitution. Therefore, I stand to support the amendment that Mr. Tyagi has moved for the deletion of this article.

May I say just two things in this connection? One is this : let no Member of this House and let no member of the public outside this House imagine, for an instant that this Government and, I imagine, any successor Government, will think in terms of taxing salt. That is quite clear. The second is this. If this House so desires, we can go into the question in a separate law which can be

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dealt with by Parliament in detail, providing for all possible contingencies. To put it in the Constitution may tie our hands up and create difficulties in future. Therefore, I trust that this House will accept Mr. Tyagi's amendment.

Mr. President : I will now put the amendments to vote. The question is:

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

The amendment was adopted.

Mr. President : The question is :

"That in clause (2) of article 253, 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 253, as amended, stand part of the Constitution."

The motion was adopted.

Article 253, as amended, was added to the Constitution.

Article 254

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

"That for article 254, the following be substituted :—

254. (1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Bengal, Bihar, Assam and Orissa in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute products to these States such sums as may be prescribed by the President.

(2) The sums so prescribed shall continue to be charged on the Consolidated Fund of India so long as export duty on jute or jute-products continues to be levied by the Government of India or until the expiration of ten years, whichever is earlier.

(3) In this article, the expression 'prescribed' has the same meaning as in article 251 of this Constitution."

Sir, this amendment makes an important change in the existing system of sharing the export duty-on jute and jute-products. Under the Government of India Act, it was provided that certain provinces which are mentioned in this article should be entitled to a certain share in the proceeds of the export duty on jute and jute-products for the reason that jute forms a very important commodity in the economy of the provinces mentioned in this article. The proposal in the amended article is to do away with this right of certain provinces to claim a share in the export duty on jute and jute-products. The reason, if I may say so, is a very simple one. Ordinarily all export and import duties belong to the Central Government and no province has any right to a share in the export duty levied on any particular commodity which, as I said, happens to form an important commodity in the economy of that particular province. In view of the fact, however, that the finances of Bengal, particularly, could not be balanced without a share in the export duty, an exception was made in the Government of India Act, 1935, whereby the Bengal Government and the other Governments were given vested rights, so to say, to claim a share in the export duty which, as I said, was contrary to the general principle that the export and import duties belong to the Central Government. It is now felt that this exception which was made in the Government of India Act, 1935, should not be allowed to be continued hereafter. The reason why it is felt that this vicious

principle should be stopped right now is that it is perfectly possible to imagine that other provinces also who have certain commodities grown in their area and exported outside on which the Government of India collects an export duty may also lay claim to a share in the export duty on those products. If that tendency develops it would be a very difficult position for the Government of India. Consequently it has been decided that that principle should now definitely be abrogated. But it is equally clear that if that principle of sharing in the export duty was withdrawn suddenly it might create a difficulty in balancing the budgets of the several provinces which were up to now dependent upon a share in the export duty. Therefore a provision is made that instead of giving specifically a share in the export duty an equivalent sum, or such other amount as the President might determine may be made over or assigned to those provinces for the period the export duty continues to be levied or until the expiration of ten years, whichever is earlier. The latter is introduced in order to enable those provinces to get sufficient time to develop their resources so that after the period mentioned in this article they would be in a position to balance their budgets.

I hope, Sir, the salutary principle which is now embodied in this amended article 254 will be acceptable to the House.

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

“That in clause (1) of the proposed article 254, for the words ‘by the President’ the words ‘by Parliament by law’ be substituted.”

I agree with the principle enunciated by Dr. Ambedkar that the export duty should be pooled together and then divided, if necessary, according to the needs of the provinces. But I feel that these allocations should only be made by Parliament by law. I am opposed to the principle adopted by the Drafting Committee of empowering the President, to allot funds. Such allotments be included in the Finance Bill at the time of the presentation of the budget and should be properly discussed in Parliament. To give this power to the President is, I think, undemocratic and I see, no justification for it. Otherwise the President might do something which might not be liked by Parliament and still the Parliament would not be able to interfere. By giving this power to Parliament we will make our Constitution more democratic. Parliament which is charged with the allocation of finances of the whole country will certainly see that funds are allocated in the proper way. I, therefore, think my amendment should be accepted.

(No other amendment was moved.)

The Honourable Rev. J. J. M. Nichols Roy (Assam: General): Sir, I gave notice of an amendment—which, however, I am not moving.

The amendment reads as follows :

“That on the export duty levied by the Government of India on jute or jute-products and tea, such sums of at least fifty per cent. or any higher percentage as may be prescribed shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States which are the producing units of these commodities.”

I find that the Drafting Committee have changed their former draft and a modified draft has been moved by Dr. Ambedkar this afternoon. In this new amendment the principle of giving a share of the export duty on jute and jute-products to the States has been conceded. “Such sums as may be prescribed by the President”, will be given to the States mentioned in the amendment, but no percentage whatever is mentioned in this new amendment. The Drafting Committee has also indicated the idea that the grants-in-aid to the States of Bengal, Bihar, Assam and Orissa, which are the producing units of jute and jute-products, will be given until the expiration of ten years or so long as export duty on jute or jute-products continues, whichever is earlier. There is no certainty,

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however, how much each producing unit will get. This article as amended by the Drafting Committee deals only with the export duty on jute and jute-products. It does not deal with any other export duty. We in Assam feel that it should have dealt with the export duty on tea also. At least two-thirds of the tea produced in India is produced in Assam. About 395 million pounds of tea is produced in Assam. From the export duty on tea produced in Assam, the Government of India realised in the last five years about 19 (nineteen) crores and 90 (ninety) lakhs of rupees. Now, from the year 1947-48, the Government of India have been realising annually about six crores of rupees from export duty on tea produced in Assam. We feel that Assam should get a share from this export duty and we have not been paid anything from the Central Government out of this export duty. Assam has got only a subvention of about 30 lakhs. This is nothing compared with the amount of money which the Centre is taking from the export duty on tea.

Sir, when we calculate all the export duty on jute and tea produced in Assam, we find that the Centre is getting from the duties on Assam products about eight crores of rupees annually. In all, we find that the excise duty as well as the export duty on tea and jute produced from Assam and the Income-tax realised in Assam bring in to the coffers of the Central Government about ten crores of rupees, whereas we are given by them only 120 lakhs in the shape of Income-tax and forty lakhs in the shape of jute duty and thirty lakhs of subvention, totalling 190 lakhs.

Now, surely we feel that there has not been a just treatment of the province of Assam by the Centre up to the present time. We hope somehow or other the present Government which is our own Government will consider all these points and give Assam at least a good subvention, if not a share from the tea duty. As the Centre is taking away about ten crores of rupees in the shape of income-tax and also in the shape of export duties and excise duties, we are entitled from the standpoint of justice to get at least half of that amount from them.

It appears that the attitude of this House and of the Government of India is that no share should be given to any province from the export duty, with the exception of jute export duty. I cannot understand why this exception was made. Dr. Ambedkar stated that at the time when this was given, Bengal was in great financial difficulty, and the Government at that time departed from the general principle of giving no share of the export duty or other duties to the provinces. But, Sir, that principle might be extended a little bit further to help Assam province that is now in reality in a state of bankruptcy. We have already stated that Assam has a deficit of one crore of rupees. From the official report sent to the Government of India by Assam and the other provincial Governments and submitted to the Expert Committee on financial provisions of the Union Constitution, which has been published in a book form it will be found that when all the schemes and institutions taken up now under the post war grant of the Government of India are completed and also that if prohibition of alcoholic liquor is taken on hand by Assam as advocated by the Congress Party in India, Assam will have an overall deficit of about ten crores of rupees in future years.

Sir, in view of this I would request that this matter may be considered and that something may be done for the province of Assam. If this is not to be done from the duty on tea, it should be done by means of a subvention. But I see no hope of that when I look at the article dealing with Financial relationship between the Centre and the State. Look at article 253. This altogether

prevents the Government of India from giving any help to the provinces unless it is done by Parliament. Also article 255 will not give any power to the Government of India unless it is done by Parliament to give some grants-in-aid to those provinces which are in deficit.

Often it is difficult for a small province to get its desires carried out through any Parliament. Those provinces which have a large number of members in Parliament are able to pull the strings and get what they want. Small provinces sometimes go without being taken care of. I hope that such may not be the case in these matters. But if the House will consider these points I believe the Drafting Committee would reconsider the provisions under reference and treat the case of Assam as a special case in the matter of the tea duty as the former Government did in the case of the province of Bengal in the matter of the jute duty.

Sir, I am sorry I am not able to press my amendment before this House for reasons which are known to honourable Members. But I would request that this matter may be considered carefully by this House whose members are also members of Parliament and by the present Government of India. With these words I hope that these conditions of Assam will be considered by the present Government and that, when the time comes for considering the grant of subventions that will be given to the different province, Assam's case will be carefully considered and that a subvention will be given to Assam which will help her to carry on her administration and raise her standard to the level of the administration in other parts of India.

Pandit Lakshmi Kanta Maitra (West Bengal: General): Mr. President, Sir, as a member hailing from one of the important jute-producing units of the Indian Union, I feel myself called upon to put in a few observations in connection with this article.

I generally agree in the view expressed as a piece of political and economic theory that all duties, import or export or otherwise, belong to the State and as such belong to the Government of India. As a piece of theory, it is unimpeachable, but I am afraid the Drafting Committee in the later stages of its confabulations lost its gear and brought about a proposition, which, though apparently innocent, is a grave menace to the whole taxation structure of the province now known as West Bengal. It will also affect to some extent the finances of other jute-growing units such as Bihar, Assam and Orissa, but in the case of Bengal, it will be a serious menace. Let me at once tell the House that when I make these observations on this particular duty, I do not at all stand before the Drafting Committee with folded hands. I am on very strong ground. In the first place, I would like to tell the House that there is a long history behind this jute duty. It is not as simple as Dr. Ambedkar sought to make it out. The jute duty was imposed first as a war measure in the year 1916, and from that year onwards up to the year 1936 the proceeds of the duty were of the order of four crores of rupees a year. When this tax was first imposed, it was generally believed that it was imposed, to raise finances for the effective prosecution of the First World War but that it would be discontinued at the earliest possible moment after the termination of the war. Sir, as every one, knows Government is a particular type of institution which once it imposes a tax, does not let go its hold on it easily. This jute duty came in for elaborate examination at the Third Round Table Conference and there it was very clearly made out that this was not an ordinary type of tax at all. According to the Taxation Inquiry Committee, export duty could not be imposed if the commodity on which the duty was sought to be imposed was a monopoly one in the first place and secondly if the levy was on a small scale. These were the criteria laid down by the Taxation Inquiry Committee. Now,

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till 1936 jute was practically a monopoly of the province of Bengal. Therefore, the Government of India had some justification. In accordance with the Taxation Inquiry Committee's report, to levy tax on jute in Bengal. But it was pointed out at the Third Round Table Conference, and the point was discussed at very considerable length, as to whether or not the export duty on jute was justified at all. Sir, I do not want to go to great details but I would refer to one or two questions that were raised at the Third Round Table Conference. The question was raised by the Honourable Sir, Nripendra Nath Sircar, the late Law Member of the Government of India, who interrogated Sir Edward Benthall, Chairman of the Chamber of Commerce, Calcutta. Sir Edward Benthall was also Leader of the House in the Central Legislature in the year 1946. In the course of this question and answer, it was established beyond doubt that it was a discriminatory tax—I ask the House to bear that in mind—a discriminatory tax, because this was a tax on the agricultural produce of a particular province; and as you know agriculture is a provincial subject, and therefore the jute tax was a discriminatory tax not only from the point of view that it taxed an agricultural commodity, an agricultural product of a particular province but also from the point of view that it taxed only a few provinces as against others. Sir, I would read one or two passages. In reply to question No. 6257 by the late Sir N. N. Sircar at the Third Round Table Conference:—

“What effect does this tax have on the land revenue and the ryot?”

Sir Edward Benthall replied :

“It is a direct tax on an agricultural product and it therefore has the same incidence as land revenue. It undoubtedly falls on the producer.”

“When it was first imposed in 1916, it was imposed as a war measure and with the high prices obtaining then, it probably fell on the consumer, but today it undoubtedly falls on the producer, and mainly on the ryots of Bengal, and this incidence is actually in the neighbourhood of eighteen per cent.”

Then on another question replied to by Sir Joseph Null (No. 6259), the matter was further clarified. On the point raised by Sir Abdur Rahim—the reply was:—

“It is a tax on agricultural income and it is a tax of a discriminatory nature on certain provinces only.

Sir, there was a long series of questions put on this jute duty, but I do not want to weary the House with all those details, but it was established beyond any dispute that this was a peculiar tax in as much as it infringed even in those days the constitutional provisions of the limited reforms. Therefore, I am submitting to you that Dr. Ambedkar will not at all be right if he feels that it is only out of generosity that the Centre grants a portion of the proceeds of this tax to the provinces concerned. It was as a result of these discussions at the Third Round Table Conference and on incontrovertible proof given on behalf of the province of Bengal by men like Sir Edward Benthall that the Government of Great Britain made a substantive provision in the Government of India Act, 1935, in Section 142, that fifty per cent of the net proceeds of the jute duty should go to that province. Thereafter Sir Otto Niemeyer who was to fix the allocation of revenues between the provinces and the Centre, went into the whole question and raised this allocation of net proceeds of jute duties to Bengal to $62\frac{1}{2}$ per cent. This will appear on page 10 of Sri Otto Niemeyer's Award.

“Therefore I recommend that the percentage should be increased under section 140(2) of the Act to $62\frac{1}{2}$ per cent.”

The jute tax is such that the Government of Great Britain had to give a statutory recognition to the claim of the principal jute, growing province of Bengal to this tax to the extent of 50 per cent. in the Act, but Sir, Otto Niemeyer went further in his Award and allocated $62\frac{1}{2}$ per cent. Now, when the Constituent Assembly had been meeting in the earlier stages the Honourable the President appointed a Committee known as the “Expert Committee of the financial provisions of the Union Constitution”. This Expert Committee which has been referred to by several honourable Members in this House as the Sarker Committee, made certain specific recommendations on this. I have seen views held on this Expert Committee Report in this House in the course of the last two or three days. I have seen some Members swearing by it, quoting some of its recommendations very earnestly in support of any contention that they wanted to be accepted by the House. I have seen it condemned outright by Members for whose judgment we always have a high value. I want to know of these honourable Members why they go on changing their views from day-to-day. It seems to me that the Constituent Assembly has been seized by the philosophy of Heraclitus—a policy of perpetual flux; I—find constant change not only in the views of the Drafting Committee, but also in the opinions of the Members of the House. Before the ink of the report of this Committee is dry we find it almost scrapped. But let me quote one relevant passage from this report bearing on this particular question:

“It is necessary, however, to compensate the provinces concerned for the loss of revenue, and we recommend that, for a period of ten years or till the export duties on jute and jute-products are abolished, whichever may be earlier fixed sums as set out below be paid to these Governments as compensation every year.”

<i>Provinces</i>	<i>Amount Rs.</i>
West Bengal	100 lakhs.
Assam	15 lakhs.
Bihar	17 lakhs.
Orissa	3 lakhs.

I am rather at a loss to understanding what led the Drafting Committee to depart from the previous position and make such a radical change in the original draft on this particular subject. The original article, namely article 254, read thus :—

“Notwithstanding anything in article 253 of this Constitution, such proportion, as Parliament may law determine, of the net proceeds in each year of any export duty on jute or jute products shall not form part of the revenue of India, but shall be assigned to the States in which jute is grown in accordance with such principles of distribution as may be formulated by such law.”

Suddenly a surprise has been sprung on us by a new draft today. I want to know what led the Drafting Committee to make this radical change negating the original proposition altogether. It is a very serious matter. Today the Province, of West Bengal has got to shoulder the entire debt of the undivided province of Bengal. In these days it has become the fashion to describe the Province of Bengal as the “Problem Province”. Have you stopped to consider how much of that problem is your own creation? Have you ever thought how you can best solve the problems of this Problem Province? Have you ever applied your mind to that question? I ask, what is going to happen at the end of ten years or if this whole jute duty is abolished earlier? What would be the fate of the Finances of Bengal? From the Income-tax divisible pool Bengal used to get 20 per cent. but the men in authority have now cut it down to 12 per cent. on the ground that two-thirds of Bengal have gone out. They do not know the actual position. It is true that two-thirds of Bengal have gone out to Pakistan but 79/80th out of the total income-tax revenue is collected in West

[Pandit Lakshmi Kanta Maitra]

Bengal. Is this not known to the authorities? Two-thirds of the jute producing areas have gone to East Pakistan and do they realize that every single ounce of jute that is produced have got to be processed in West Bengal? This fact is not adequately recognized. You should view these economic problems against the background of realism. I emphatically maintain, Mr. President that this fact is not given due consideration by the Government when making allocation of funds to my Province. I may tell the House that today West Bengal happens to be the home of jute industry in India. Do you know how much dollar it earns for you every year? In 1948-49 it earned a huge amount of dollars worth 76 crores. Can you point to any other item of export in the whole of the Indian Dominion, which earns for you much in foreign exchange? Now what is the actual position of jute growing in the Provinces? 'The Bengal jute mills industry requires 71,00,000 bales of jute every year. Immediately after the partition *i.e.*, 1947-48, the Indian Union could produce seventeen lakhs of bales. The next year Assam, Bihar and Orissa also increased its cultivation and the production rose to 21 lakhs and this year it is going to be in the neighbourhood of 30 lakhs of bales. If proper incentive is given by the Centre the percentage will increase still more. The most important consideration at the present moment is its bearing on foreign exchange. Now I ask in all seriousness if this commodity earns for the Government of India the much needed foreign exchange and dollar in such substantial measure, are not the Provinces which grow and process jute entitled statutorily to some *quid pro quo*. Today Dr. Ambedkar comes forward and says, "Oh no, no; this is a most vicious principle; I want to leave it to the President." To rob the province of this share, is it a virtue? I am sorry I have to speak a bit strongly. When I feel that the whole House is being misled by a proposition which is apparently innocent, but which has very serious, very grave implications for the provinces, I cannot but raise my voice of protest against it. I wish that my honourable Friend had not brought this in at all, or dropped this article altogether. The way in which he has put it makes it more dangerous. If he had been absolutely silent on salt, and also silent on this particular item, jute, probably the danger would not have been so great. But, having once provided in the Draft for exclusion of the proceeds of jute duty from the revenues of India. Suddenly, after the lapse of a month and a half, he provides that the Consolidated Fund of India will be charged certain grants-in-aid to these provinces, which will be prescribed by the President. I find "Prescribed" here means 'prescribed by the Finance Commission' and until the Finance Commission has been constituted, prescribed by the President by order, and after the Finance Commission had been constituted "Prescribed by the President by order after considering the recommendations of the Finance Commission." The other day, I had an occasion to ask the honourable Member a question *viz.*, immediately after the commencement of the Constitution what is going to be the position with regard to the allocation of jute duty to these provinces, Bengal, Bihar, Assam and Orissa.

Sir, the Honourable the Prime Minister who has just left, made a statement to us that he would be shortly appointing a Committee. I do not know how many Commissions would be there. There is already provision for a Finance Commission under article 251. Probably it will be something in the nature of an *ad hoc* Committee. That is how I understood him and how Dr. Ambedkar interpreted it for us. What is important to know is, if for any reason this *ad hoc* Committee could not come to any decision or were late in coming to any decision, shall we have to wait till the regular Finance Commission as contemplated in article 251 clause (3), or pending any decision, as I find in subclause (b) (ii) or clause (4) of article 251, the President himself would make the grants-in-aid? Neither arrangement is satisfactory or suitable. If you can—

not do anything the *status quo* should be maintained. As to whether or not you will abolish the tax we will see, the future Parliament will see. But try to visualise what is going to happen at the very beginning of the enforcement of the Constitution. I am apprehensive, frankly speaking, because I know when the Montagu-Chelmsford reforms were introduced, the scheme foundered on the rock of finance. The Meston Award was responsible for this. Even the Otto Niemeyer Award could not rectify the errors of the previous Government. It will interest my honourable Friend Dr. Ambedkar to know that of the total revenues collected in Bengal, 70 per cent. goes to the Centre. This is a fact not known to many people. You get all these figures in Sir Walter Layton's report to the Simon Commission. It is no mercy, therefore, that we ask for when we want a substantial measure of the proceeds of the jute duty from the Centre. It is for this unfair and iniquitous allocation of finances throughout the past that my province has suffered and a problem has in consequence been created for you. If you do not solve this problem in a statesman-like spirit, the problem will multiply and these problems will ultimately devour you, all of you.

Shri Biswanath Das (Orissa: General): Sir, I stand to oppose the amendment.

In moving the motion, the honourable the Law Minister.....

Pandit Hirday Nath Kunzru (United Province: General): Which amendment is the honourable Member opposing?

Shri Biswanath Das : I am referring to his amendment regarding jute duty.

Pandit Hirday Nath Kunzru : Is he referring to Dr. Ambedkar's amendment or Prof. Shibban Lal Saksena's amendment?

Shri Biswanath Das : I said the Honourable the Law Minister, it could not be Prof. Shibban Lal Saksena.

The Honourable the Law Minister as the Chairman of the Drafting Committee characterised this system of distribution as vicious. I agree with him that it is a vicious system because it ought to be and it is a Central source. No stretch of imagination could bring it or ought to bring it under the purview of the provinces. As such the system is vicious. A conviction such as this ought to have led my friend and the Government which he represents to undertake a full-fledged financial enquiry, a Taxation Enquiry and find out the taxable capacity and the taxation that is levied and collected from the various provinces and they should have come forward with a proposal acceptable to the House.

Sir, the British system of taxation which has been continued today is certainly vicious. It has not been undertaken with a view to evolve a scientific national system of taxation. The Britishers levied taxation as it suited them, just to meet the exigencies of the situation. That system prevailed for a time and the men with the loudest voice got most. From 1919, they professed to change the system and we got the Meston Award. That was found unsuitable and the result was an enquiry. Financial Enquiry undertaken by the Round Table Conference. To their utter surprise, they found that Bengal, Assam, Bihar and Orissa were very hard hit. They also had advised the Government, which, if accepted, would have taken India a step forward, to allow a share of Income-tax to the provinces, and that on the basis of population. Unfortunately, as I have already stated, the British had their curious way of meeting the situation and arriving at decisions. In the result, we got the Niemeyer Award.

[Shri Biswanath Das]

So awards after awards were, thrust on India with the result that you do not have today a sound financial system which you could call national or desirable or essential. Therefore, I accept and agree with my honourable Friend that the system today of allocating the share of the jute duty to provinces is certainly vicious, looked at from this point of view; but my complaint against him is that he has done nothing, taken. No steps as yet to undo the mischief as it shows. Sir, you were, good enough to appoint an Enquiry Commission but I must frankly state, as I have already stated, that the scope of that enquiry was so very limited that the provinces hard hit cannot get the justice that they ought to have. I claim that a thorough enquiry into our system of taxation, allocation and the rest should be undertaken in the future so as to devise a scientific and national system of finance in this country to keep pace with the needs of social justice. Until then necessarily these disparities will be continued.

My Friend Mr. Saksena comes forward with his amendment. His amendment—he will pardon me so characterising—it is the position of those who have. You damn, you condemn the system as vicious and do nothing to wipe off the miseries that accrue out of the past sins committed by an alien rule. Therefore, it will be unfair if you claim and have the benefits and advantages of the system to continue and thus have it both ways. You cannot have if both ways. Sir, this levy of jute duty and the allocation of it to the provinces has a history of its own. I have already stated that the enquiry of the Federal Finance Committee found that Bengal, Bihar, Orissa and Assam were very hard hit and no action was taken to relieve the distress. Just before Sir Otto Niemeyer was coming to India to conduct his enquiry, the then Provincial Governor of Bengal in his famous speech he delivered at the St. Andrew's Day Dinner stated that he spoke this on behalf of himself and his Ministry and he made a claim that he cannot run the provincial administration of Bengal unless he gets two crores of rupees. Curious it is that a Noble Lord, such as he, hurled a criticism on the British Imperialism stating that the Province of Bengal cannot be held responsible for the sins or commissions and commissions done by the Centre viz., the system of land lordism that was devised for Bengal. He stated that the Permanent Settlement has deprived Bengal from an annual revenue of four to five crores. Having done that it is for the British Government to make good the deficits of Bengal. Therefore, he, among other things, claimed two crores as the minimum necessary for his own province. Other provinces also placed their own demands. The result was, as I have stated, other provinces got a good share of jute duty along with Bengal.

You are going to limit it to ten years. Many provinces have undertaken long-range annual commitments on the basis of allocation of this revenue. What are they going, to do ? Is it your idea that they should close this chapter of taking up national activities, constructive work in the sphere of nation-building activities and forego this revenue? If that is so, I cannot praise very much either the source from which this amendment is sponsored or the honourable Members of this House if they accept this motion. Sir, think of provinces like Bengal. If they are to be deprived annually of a crore, how are they going to meet their demands? Are you going to stop the educational and health activities of Bengal and Assam? A province like Orissa, may not mind very much if it is deprived of Rs. 3 lakhs; still Rs. 3 lakhs a year is not an ordinary sum to be left aside. Under these circumstances, I do not agree with those who claim that it should be confined only to ten years. If my honourable Friend had stated that in the course of these ten years he would undertake thorough enquiry into the taxation system and structure of this country and devise ways and

means, I should have no objection. Sir, the Government of India in 1946 had deputed two officials—I believe Prof. Adarkar and Mr. Nehru—to study the financial system of Australia. Their report should have been utilised by the Constituent Assembly as also by the Drafting Committee. They have reported not only regarding the financial system of Australia but also the conditions under which the Australian system could be applied to India. They have clearly stated now allocation of grants were made on the basis of population and area and how the permanent commission that they have established is authorised to receive applications from needy provinces. The Commission looks into the provincial budgets and grants are made to such needy provinces. If that were the position there would not be any objection. Nothing of the kind is provided either in the provisions that have been passed in this Constitution or from any announcements made by Government in the Parliament or in the Constituent Assembly. Under these circumstances I must frankly confess that the motion moved by my honourable Friend the Law Minister is not very helpful to the cause of progress of national activities of these provinces.

Sir, one word more and I shall have done. You have bared and bolted the gates. You have laid down that no other provinces except the existing provinces will have the benefits of jute duty even if they undertake extensive jute cultivation in their provinces. If the news published in the papers is true, Travancore has undertaken the cultivation of jute in about a lakh of acres. What is the inducement that you are going to offer? The inducement is nothing. You give them nothing for the trouble they undertake in the Province of Madras or the United States of Cochin and Travancore.

Sir, whom are you helping? Are you helping yourselves or are you helping Pakistan? Pakistan, it has to be sadly admitted, holds the key. It has the raw jute and you have got the machinery for the finishing processes. Therefore Pakistan dictates its own terms, and you are anxious to accommodate Pakistan because you are anxious to get dollars. Under these circumstances it is the duty of the Central Government to spare no pains to undertake the expansion of jute cultivation in India. The motion moved by my friend gives me little hope in this direction, because it is confined only to those provinces that are at present getting the benefits of jute duty and it is again confined only to ten years.

I do not know the basis on which this money is to be allocated. If it is to be on the basis of past allocations there is no inducement at present or in the future for the provinces to extend cultivation. Sir, speaking of my own province, I must frankly confess that this comes to me as a great disappointment, because Orissa is undertaking a huge, extensive programme of jute cultivation. Added to it, the States of Orissa, which have been merged, were having lot of cultivation of jute. Are you going to deprive them of the benefits of this allocation? I do not know whether the provisions will benefit the Government of India or Pakistan. I leave it to honourable Members to think it out for themselves. My honourable Friend says that this is a very vicious principle and I agree with him. If any one thinks that this is an undesirable course of action, they why have article 249 at all. This article apportion the excise duty on certain manufactures, such as medicinal and toilet Preparations, and the duties collected from these sources are to be assigned to the very provinces from which they are realised. If it is such a vicious Principle why again embody the same in the Constitution? Sir, “consistency is the hobgoblin of little minds.”

[Shri Biswanath Das]

It is now time when you should have a judicious and national system of finance or you give the provinces a certain degree of freedom to have their own taxation arrangements. While discussing this question I may refer the honourable Members of this House to certain acts done by the Government of Sind in 1942. In 1942, 43 and 44, the Government of Sind levied a duty on export of rice from that province and the result was that they could get a big sum which was enough to clear off her Barrage debts. We in Orissa could have done the same thing. But we refused to play into the hands of our friends in this game and we refused to have such benefits while our sister provinces were suffering. But is that the reason why the discrimination that is now proposed is to be perpetuated? As I have already stated, I plead with you that there should be a full-fledged enquiry carried out now. The taxation enquiry of India of 1924-25 is now out of date. So is the economic enquiry that was then conducted. I plead that the time has come when such an enquiry is a necessity and it should be undertaken.

Dr. B. Pattabhai Sitaramayya (Madras: General): May I know whether Shri Biswanath Babu considers that the wording of the article as it is, prevented the participation in jute duties, if Madras or Travancore were to grow jute in the future?

Shri Biswanath Das: I am sorry I do not carry the amendment with me. But that is my reading and I should be glad if it is not. I shall be glad if it is not so, but my conviction is that it is.

Shri Rohini Kumar Chaudhuri (Assam: General): Mr. President, Sir, my beloved amendment, which circumstances have compelled me to forsake at the present moment, runs as follows :—

“That for article 254, the following be substituted:—

‘254. Notwithstanding anything in article 253 of this Constitution—

- (a) sixty-two and a half per cent., or such higher percentage as may be prescribed of the net proceeds in each year of any export duty on jute or jute-products, and
- (b) seventy-five per cent. or such higher percentage as may be prescribed of the net proceeds in each year of any export duty on tea, shall not form part of the revenues of India but shall be assigned to the States in which jute or tea, as the case may be, is grown in proportion to the respective amounts of jute or tea grown therein.”

Sir, my honourable Friend Dr. Ambedkar has proposed an amendment No. 72— which deals only with jute. So far as jute is concerned, I have nothing much to say, except that the grant which is now being made to the Government of Assam should not be reduced. I say this because in the new proposal it will be quite possible, on account of pressure, of circumstances or on account of more weighty demands from more important provinces, the province of Assam may find itself neglected, and it may not get what it should; that is to say, the increased share in the jute duty may be subjected to further diminution. I would only wish that this amendment which the Honourable Dr. Ambedkar has proposed might not have a tendency to reduce the amount of jute duty which the province is already getting. I would like to draw the attention of this house to this matter that all provinces, including Assam which produces tea, should get a share of the tea export duty which is now exclusively appropriated by the Government of India.

To the forceful and illuminating speech which my honourable Friend Gopinath Bardoloi delivered in presenting the other day a doleful picture of the province of Assam, I have very little to add. Mr. Nichols Roy also suit and completely proved to the House that unless something is done to improve the finances of the province of Assam, the crash may come at any moment. The amount which is said to be in deficit is, I am prepared to say, far more than what we, expect after a close examination. My Honourable Friends in this House, will be, I hope, pleased to remember that Assam is a province of India, having an area of nearly fifty thousand square miles and with a population of 74 or 75 lakhs. The revenue of the province is only Rs. 3½ crores and with the assistance they get from the Government of India, the total income at the present moment is Rs. 5 crores. I will ask the honourable Members of this House to consider that under the present circumstances, when the price of everything is on the rise, is it possible with this fund to run an administration of such a vast area and with such a mixed population of all kinds? Is it possible to carry on the administration and to improve it on such a slender income as we now obtain from the province? I would ask the honourable Members of the House, as I have asked the people of my province to consider for a moment, whether it would be of any use to carry on the province as a part of the Government of India? I ask the other people in other provinces to consider whether they should carry this rotten limb of India or, whether they should not—if they have any sympathy for that province—forego a little of their own income and to give that province a larger share of the income which the Government of India derives, and repair the rotten limb? If they are unwilling to do it, it is better that the limb is amputated so that that limb may not affect the rest of the provinces of India. That is for this House to consider.

It has been said already—and I do not wish to repeat it—with much greater effect than I can possibly say that you have to make up your mind. Are you going to have Assam with you or not? If you are going to have Assam with you, are you prepared to spend something from your own revenues. Are you prepared to do it and make Assam as it should be—a prosperous province, a forward province, a province which has strong men there, which has educated men there, a Province which is full of people who can resist communism, because that is the place from which communism is spreading to the rest of India? Assam is the gateway through which communism is spreading. Are you going to allow this province to develop on such unsocial elements and movements? Or, are you going to put this province, in such a position that it may develop on the right lines, that they may be able to keep the people contented, that they may be able to make them educated as the rest of India and progressive as the rest of India, so that those people themselves may rise against communism and take part in protecting that border of India, that frontier of India? That is a question which has to be considered by the honourable Members of the House. If they are not prepared to give them a share of the duty but the Centre of India must appropriate it and if they do not care what happens to Assam then they can leave the matter as it is and things will drift in such a way that it will be difficult to retain Assam. It will either form part of the Pakistan province or it will be taken over by some other Communist power of Asia. That is a thing which I can foresee. I only wonder why cleverer people in the rest of India cannot foresee this. Things are coming to such a pass, that unless the rest of India sacrifices something and gives a helping hand to the province, then that province must go out of India. There is no help for it.

I can quite realize the volume of feeling which the people of Assam sometimes display against the people who come from outside the province. To some extent I am ashamed to say that some people of the province have gone

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to the length of showing a want of sympathy to people who go from outside the province to take shelter there. The reason for this malady is that the people feel that the people from the rest of India and the Government of India do not feel as much as they should for that province, and therefore they should reciprocate by showing some amount of unsympathy for the rest of India. That is the feeling of some. I am not justifying it. At the same time I cannot justify the callous attitude of the rest of India so far as that province is concerned. That is what I have to say.

If you want to retain Assam, if you want to have a peaceful India, if you want to protect the frontiers of India, then you must bestow more care and thought on that province and improve that province. After all, a large proportion of the people of that province are tribal people who for so long under British rule were never allowed to mix with the people of their own kith and kin : they were not allowed to mix with the indigenous people of the plains. Therefore, those people cannot have any sympathy for the rest of India because they were never allowed to mix with the rest of India. All sorts of restrictions were imposed and some still linger. You have now to convert those tribal people and educate them in the new nationalism of India. They are in India but they have not been able to feel that they are Indians and they have not been able to feel that we have any connection with that part of India in the hills which they inhabit and that they have no connection with the India which we see in Delhi, Bombay, Madras and other centres. What steps, then are you going to take to let them feel it ? If you are going to take any steps then you must give more finance. What is the way of getting more finance? That province cannot tax itself any more. They have gone to the limit. Long before any province had an agricultural tax that province had it. In fact every form of taxation has been resorted to in order to follow in the path which was laid down. They have taxed all luxuries as far as possible. They have taxed land to the highest pitch. No more is possible. No more money can be collected within that province. India must give up a part of the loot of petrol and other excise duties. Even the British people living in Assam had considered that to be a loot. The kerosene duty has also been dubbed as a loot not only by the people of the province but also by Englishmen residing in that province. Speeches have been delivered in that way but the previous Government was impervious to this criticism, but under the present Government today we have to see that the needy are helped and not the rich and not the more educated, nor those who are clever enough to take care of themselves. The people who have to be benefited are those who have exhausted all their resources. They ought to get some kind of legitimate treatment from the Government of India. It is legitimate to expect a share of the export duty on tea which is taken entirely by the Government of India. Why could not Assam get a part of the tea duty ? Tea is grown in the province. Whenever you think of taking tea, you ask your hotel-keeper or your house-keeper whether it is Assam tea or some other tea which you are getting and you taste it and if you find it is Assam tea you smack your lips and say, here is a real cup of tea, which is a solace to life. You say all that and yet after that you take away the entire excise duty. Do you for a moment consider how much Assam has to pay for this production of tea?

Vast acres of land in Assam are under a monopoly of European planters. Where only a few hundred acres of land are under tea, about thousand acres are in their possession for future expansion. This is a permanent arrangement which has been made by the then Government. Unfortunately, the unutilised land cannot be put to use by the other people either.

The majority of the labourers in these plantations come from outside the province of Assam on very low wages, as the local people are not prepared to work on those wages. Labourers from other parts of India are indentured to serve on these plantations. That means the people of Assam get no share in the considerable sums of money that are distributed to the workers on these plantations by way of wages.

Nor does the Government of Assam profit by these plantations. Vast tracts of land have been allotted to European Planters for a nominal rent under the original settlement.

Prof. Shibban Lal Saksena : Cannot that be enhanced now?

Shri Rohini Kumar Chaudhuri : That is part of a contract. Some legislation will have to be enacted to change that.

What I say is this. My land is occupied; my labourers do not get a chance of working on these plantations. Even for the tea I take I have to pay the same price. I am told that outside India tea is sold cheaper than here. If you are getting so much money out of us, after having put me to so much sacrifice, after having prevented me from using the land which I could otherwise have utilised for better purposes, after having done-all that, why should you not give me a share in the profits ? I do not mind my neighbouring provinces getting a share of it. Unfortunately, the new amendment which has been put before this House by Dr. Ambedkar does not take any notice of this question of tea. That is my grievance. I, therefore, suggest that tea should be put on an equal footing with jute and that you give us a share of the export duties. The Government of India have so long proved a greedy Government and have taken the entire export duty of the province. I hope I am still not too late in asking the honourable Members of this House to insist that justice is done to the province of Assam. If the benefit of the production of jute can be obtained by the provinces of Bihar, Bengal, Assam and Orissa, why should not the benefit of the production of tea be obtained by Assam? In pleading for Assam I am pleading for all these provinces as well.

With these words, I appeal to the honourable Members of this House to take more interest in the province of Assam, if they want to retain it in the Indian Dominion. After all you are our elder brothers. You are more progressive than us—that is what the world says, though I am not prepared to admit it fully. At any rate you have a major voice in the administration of Government. Even in your own self-interest, even for your protection, you should think of us.

Pandit Hirday Nath Kunzru : Mr. President, Dr. Ambedkar's amendment raises two questions, namely, the propriety of distributing the proceeds of export duty on jute between the Government of India and the provinces and giving adequate grants to those provinces that stand in need of them. These are two distinct questions and they should not be mixed up.

So far as the first question goes, the Expert Committee on which a good many of the various speakers have relied, does not support the case for the distribution of export duties between the Centre and the provinces. I do not know what Mr. Rohini Kumar Chaudhuri said on this point but I believe all the other speakers agreed with the Expert Committee on this point. They recognised that no province had any right to the proceeds on an export duty. Some of the Members have come forward with a demand that the export duty on tea should, like the export duty on jute, be shared by the Centre with certain provinces. But if the principle that the proceeds of an export duty should be retained by the

[Pandit Hirday Nath Kunzru]

Centre is accepted as sound, there can be no basis for that demand. I agree with Dr. Ambedkar that export duties like customs duties should be purely central and that the entire proceeds should be retained by the Centre; it does not, however, mean that needy provinces should get no assistance. My honourable Friend Pandit Lakshmi Kanta Maitra pleaded hard for Bengal and pointed out that it would be impossible for Bengal, without the assistance that it was getting from the Centre, to make both ends meet. He quoted from the report of the Expert Committee, but forgot to read out one sentence which is of great importance to provinces like Bengal, Bihar, Assam and Orissa; and that sentence is this :

“if at the end of ten years, which we think should be sufficient to enable the provinces to develop their resources adequately, the provinces still need assistance in order to make up for this loss of revenue.”

i.e., the loss due to the retention of the entire jute export duty by the Centre—

“It would no doubt be open to them to seek grants-in-aid from the Centre which would be considered on their merits in the usual course by the Finance Commission.”

I have read out this sentence in order to satisfy the representatives of provinces like Bengal and Assam who have pleaded for generous treatment for their provinces. There is no doubt that these provinces need help from the Centre; but it is not necessary, in order to get this help, to claim a share in the export duty on jute or of the proceeds of any other export duty. The Centre can retain the proceeds of all these duties and yet be morally bound to help the provinces that are unable to balance their budgets without substantial central grants. These provinces will doubtless be able to place their demands before the Central Government and the Finance Commission when it is appointed. The Finance Commission, I suppose, will scrutinise the provincial budgets, will see to what extent the provinces have tried to help themselves. It may further want to assure itself that the provinces are taking proper steps to exploit their resources fully in order to add to their revenues; and if after an examination of these points it is satisfied, that any of the provinces that have applied for Central Grants should receive help from the Centre, it will no doubt make a recommendation to that effect. There need, therefore, be no fear that if the export duties are made wholly Central the provinces that are benefiting now by receiving a share of the proceeds of jute export duty will be left in the lurch. I do not think that this can happen. My honourable Friend Pandit Lakshmi Kanta Maitra asked Dr. Ambedkar what would happen if the Finance Commission was not immediately appointed. Clause (2) of Dr. Ambedkar's amendment says that the word “prescribed” in article 254 has the same meaning as in article 251. Pandit Lakshmi Kanta Maitra asked in connection with this whether Bengal and the three other provinces that are receiving a share of the jute export duty will be left to their own resources if the Finance Commission was not immediately appointed. If he or any other Member who is interested in this question turns, to the definition of “Prescribed” in article 251 he will find that it means:

“Until the Finance Commission has been appointed, prescribed by the President by order, and after a Finance Commission has been constituted, prescribed by the President order after Considering the recommendations of the Finance Commission.”

It is therefore clear that, whether, a Finance Commission is appointed or not the four provinces concerned will be given definite sums out of the proceeds of the jute export duty or to speak more accurately they will get out of the Consolidated Fund of India sums as may, be prescribed by the, President by order; nothing depends on the appointment of the Finance Commission.

Pandit Lakshmi Kanta Maitra : On what principle would the allocation be made by the President?

Pandit Hirday Nath Kunzru : The Government of India cannot dictate to the Finance Commission what it should do. I suppose my honourable Friend Dr. Ambedkar has proposed that the word “prescribed” should have the same meaning as in article 251 so that the Central Government should not be accused of arriving at a one-sided decision in its, own favour. The matter has been left entirely to the Finance Commission for its decision. The Government of cannot decide for the Finance Commission on what principles it should proceed. If the Government of India were to do that, the provinces concerned would undoubtedly accuse it of gross unfairness.

Pandit Lakshmi Kanta Maitra : I did not say that. I said, on what principles then will the President make the allocations in the absence of the report of the Finance Commission ?

Pandit Hirday Nath Kunzru : That I cannot say, but obviously the President will have to consider the needs of the province concerned. I cannot say too Strongly and too clearly that, in my opinion whether any province gets any portion of an export duty or not, if it is unable to balance its budget without assistance from the Centre, the Centre will be morally bound to give it.

Pandit Lakshmi Kanta Maitra : If the Government gives such an assurance, it will be all right.

Pandit Hirday Nath Kunzru : The, Government may or may not give such an assurance. But I am quite certain that the Central Legislature, will not allow the Central Government to ignore the needs of the provinces. My honourable Friend is a member of the Central Legislature. Is he going to keep quiet on this subject if the Central Government arrives at an arbitrary decision which is manifestly and grossly unfair to his province ? And, if ‘the decision of the Central Government is grossly unfair, I have no doubt that he will not be the only person to stand up for Bengal; every fair-minded Member of the House will stand up for it and try to get for it the financial assistance that it needs.

Pandit Lakshmi Kanta Maitra : Thank you very much.

Pandit Hirday Nath Kunzru : Sir, I wish that clause (3) of the amendment proposed by Dr. Ambedkar which has created this misunderstanding had been left out. No harm could have been done had the word “prescribed” in this article not been defined in the same manner that it has been defined in article 251. I still suggest to my honourable Friend Dr. Ambedkar that clause (3) of the amendment proposed by him should be dropped. But this is not the only reason on which I make this suggestion. I have one other reason for asking him to omit the definition of the word “Prescribed” from the amendment that he has proposed. It is right that the Finance Commission, when appointed, should consider the needs of the provinces. it should consider how much money they need as grants-in-aid in order to meet their ordinary expenditure. It is further right that it should consider how much money they should spend on nation-building services, for instance the development of education, public health and agriculture. It is equally right that it should consider any plans prepared by them for their industrial development and, after considering ‘all these things, recommend to the Centre what should be the grant given on each count and also lay down how much money should be raised by loan either by the Centre or by the Provinces or by both. But I do not consider it desirable that the Commission should be able to say to the Centre that it should part with a particular source of revenue or that it should share it with the

[Pandit Hirday Nath Kunzru]

provinces It will be within its province in examining the needs of the provinces and making such recommendations on the subject as it considers fit. The Central Government will take recommendations into account and, as I said the other day, I hope that a convention will grow up that Government should normally that is, except in emergencies accept the recommendations of the Commission. But if the Commission is allowed to make recommendations with regard to the distribution of the proceeds of certain sources of revenue between the Centre and the provinces, a difficult position may arise. It may not be possible for the Government of India to accept such a recommendation of the Commission and in that case, the growth of the convention that I should like to come into existence will be retarded. Besides, no Commission can weighfully the responsibilities of the Central Government. The Central Government is responsible for many things, the most important of which is the security of India. It Should therefore rest with it to decide whether certain sources of revenue should be shared between it and the provinces or not. If the grants to 'be given to the provinces are large, and if they have to be given grants year after year, if in other words the provinces have to be assisted by the Centre to meet large recurring expenditure, then it will probably be found to be desirable that the central Government, instead of giving lump sum grants, should share a certain source of revenue with the provinces. But, otherwise, I do not think that it will be desirable for the Government of India to do so. On these grounds, Sir, I am of the opinion that clause (2) of the amendment proposed by Dr. Ambedkar to article 254 should be omitted.

Mr. President : I think you mean clause (3) ?

Pandit Hirday Nath Kunzru : Yes, Sir, it is clause (3). It is clause (3) of the amendment moved by Dr. Ambedkar to article 254 that should be dropped No, harm will be done thereby. If the President in any case desires to have the help of the Commission, he can refer the matter to it under sub-clause (d) of clause (3) of article 260. Under that article, even if clause (3) of article 254 proposed by Dr. Ambedkar is dropped, the President will have the power to ask the Commission whether a particular head of revenue should be shared between the Centre and the provinces, but I think it is desirable from every point of view that the question of allocation of such sources of revenue as are meant to be wholly Central immediately or in the near future should not be considered by the Commission unless the President asks for its views on the subject. It is a matter that ought to be settled between the Central Government and the provinces. For these reasons, Sir, I propose that clause (3) should be dropped. If you will allow me to do so. I will move an amendment, to that effect. But if it is too late now to move an amendment, however formal it may be, then I shall support the amendment moved by Mr. Shibban Lal Saksena asking that the matter should be determined by Parliament by law. If that is accepted clause (3) will be automatically ruled out.

Shri T. T. Krishnamachari (Madras: General): I move that the question be now put.

Mr. Naziruddin Ahmad (West Bengal: Muslim): Sir, this is a very important matter and discussion should not be closed now.

Mr. President : I am entirely in the hands of the House. The question is:

"That the question be now put."

The motion was adopted.

Mr. Naziruddin Ahmad : Sir, I had a point of order to make.

Mr. President : A point of order at this stage ?

Mr. Naziruddin Ahmad : I was waiting all the time.

Mr. President : You ought to have raised your point of order at an earlier stage. It is too late now to raise any point of order.

The Honourable Dr. B. R. Ambedkar (Bombay: General): Mr. President, Sir, in my reply to the debate, I do not propose to go over the many tales of woe that have been sung in this House by Members from different provinces who feel that they have been badly treated in the distribution of revenues that has been ordered under the Government of India Act, 1935. I just propose to take the few more concrete points to reply to.

First of all, I propose to say a word with regard to the amendment moved by my Friend, Professor Shibban Lal Saksena. He wants that the grants, instead of being fixed by the President, should be fixed by Parliament. Now, in the course of the debate on other financial articles that took place last time, I said that it was not the intention to bring Parliament in the matter of the distribution, because we do not want that the distribution of revenue should become a subject matter either of log-rolling between different provinces or wrangling between the representatives of different provinces. We want this matter to be decided by the President or by the President on the advice of the Finance Commission. That is the reason why I am not prepared to accept Professor Saksena's amendment.

Then I come to the point raised by my Friend, Mr. Maitra. His first argument was that he saw no reason why the Drafting Committee should now bring forth an amendment so as to change the original article. I am sure he forgot to refer to the recommendations of the Expert Committee on Finance. If he will refer to that, I think that he will agree with me that it was the Expert Committee who recommended that the system of allocation of the jute duty and the duty on jute-products should be altered. It was therefore not a matter of any volition or wish on the part of the Drafting Committee to effect a change in the original article.

Pandit Lakshmi Kanta Maitra : They referred to compensation also.

The Honourable Dr. B. R. Ambedkar : I will come to that. The only thing which the Drafting Committee did not accept was the allocation suggested by the Expert Committee on Finance, to be given to the different provinces which would be losing their share in the export duty on jute. It was felt by the Drafting Committee that probably the figures suggested by the Expert Committee required further examination. Having regard to the very short time that was at the disposal of the Expert Committee, the Drafting Committee did not feel sure that the figures suggested by the Expert Committee could be accepted by them without further examination. It was because of that fear that the Drafting Committee, instead of adopting the figures suggested by the Expert Committee, adopted their own formula which now finds a place in the new article, viz. that the grants-in-aid in lieu of compensation for the loss of the jute duty shall be prescribed by the President. There is therefore no desire on the part of the Drafting Committee either to take away a legitimate source of revenue from the four provinces which have been mentioned in this particular article, in which, so to say, they have a vested right, nor has the Drafting Committee attempted to make any fundamental alterations in the figures suggested by the Expert Committee. All that they have done is to, leave the matter to the President.

Now, my Friend, Pandit Hirday Nath Kunzru, pointed out that the Drafting Committee was wrong in inserting a definition of the word "prescribe" in the article now before, the House. He went further to say that even in the last article which we passed, which is 260, the word "prescribed" ought not to be

[The Honourable Dr. B. R. Ambedkar]

there. Now, it seems to me somewhat difficult, whatever may be the merits of the proposition that he has urged, to avoid the definition of the word “prescribed.” We have said in the main part of article 254 that the grants-in-aid shall be such as may be prescribed. Now, any lawyer would want to, know what the word “prescribed” means. Either we would have to have a special definition of the word “prescribed” which would be confined to or circumscribed by the provisions of article 254 or we would have to alter the provisions contained in article 260 where the word “prescribed” has been defined.

Mr. President : Probably you refer to 251.

The Honourable Dr. B. R. Ambedkar : I am sorry. I stand corrected. It is 251. It seems to me that so far as prescription of allocation is concerned, the Drafting Committee has suggested two different definitions of the word “Prescribed.” One definition of “prescribed” means, prescribed by the President when there is no report before him of the Finance Commission and the second definition of “prescribed” is prescribed when the President has got before him the recommendations of the Finance Commission. The reason why the Drafting Committee has been required to give two different definitions or interpretations of the word “prescribed” is this. It is quite clear that the Provinces want that the existing allocation not merely of the jute duty but the allocation of other sources of revenue provided under other articles of the Constitution must not be the same as are now existing, because their complaint is that the amounts now given to them are neither adequate nor just and that some revision of the allocation is necessary. Obviously if the allocation is to take place immediately so that the new allocation would commence on the commencement of the Constitution, it is obvious that such allocation can be made only by the President without waiting for the recommendations of the Finance Commission because it is inconceivable that no matter what amount of hurry the Central Government was prepared for, it will not be possible to appoint a Commission to have its report before the Constitution commences. Consequently, we had to devise this double definition of the word “prescribed”. In the first place the prescription will be by the President without the recommendation of the Finance Commission. That, of course, does not mean that the President will act arbitrarily. That does not mean that the President would act merely on the advice, of his Cabinet, which might be interested in safeguarding and securing the position of the Centre *vis-a-vis* the Provinces. It is, I think, in the contemplation of the central Government and I should like to make that matter quite clear that the Central Government does propose to appoint some Committee, which will be an Expert Committee or some expert officer, which would of course not be a Commission within the meaning of this Constitution, for going into the question and finding out whether the existing allocation, not merely of the jute duty and duty on jute-products, but other allocations of other sources of revenue required to be so revised as to do justice between province and province and between the Centre and the provinces. Consequently, when the first order of the President would be issued it would not be issued, as I said, arbitrarily by the President or merely on the advice of the Executive at the Centre but he would have some independent, some expert opinion by which he would be guided. After that when the further question arises of revising the orders, the question that will arise is this, whether the President should act on the advice of Parliament or whether he should act on his own advice or whether he should act on the advice and recommendation of the Finance Commission which is to be appointed under the Constitution. As I said, there are three different alternatives which we could adopt. I know my honourable Friend, Pandit Kunzru with the best of motives, suggests that the President should act independently and not

be guided, by the recommendations of the Finance Commission. There is a section of opinion represented by my honourable Friend, Professor Saksena, that no allocation should be made by the President even upon the recommendation of the Finance Commission unless Parliament gives sanction to it. As I have said there are defects in both these positions I do not think that it is right for the President after having appointed a Commission to recommend the allocation, that he should altogether disregard the recommendations of that Commission, pursue his own point of view and make the allocation. That I think would be showing disrespect to the Commission. As I have said, the third alternative of leaving the matter to Parliament seems to me to be full of danger, involving provincial controversies, and provincial jealousies. Therefore, the Drafting Committee has adopted, if I may say so, the middle way, namely, that although the matter may be debated in Parliament, in the action taken by the President, he should be guided by the recommendations made by the Fiscal Commission and should not act arbitrarily. I hope the House will accept this. This is, the most reasonable compromise of the three methods and it is the best way of dealing with this matter.

Mr. President : The question A is:

“That in amendment No. 72 above, in clause (1) of the proposed article 254 for the words ‘by the President, the words ‘by Parliament law’ be substituted.”

The amendment was negatived.

Mr. President : The question is:

That for article 254, the following be substituted :-

“254 (1) There shall be charged on the Consolidated Fund of India in each year as grants-in-aid of the revenues of the States of Bengal, Bihar, Assam and Orissa in lieu of assignment of any share of the net proceeds in each year of export duty on jute and jute-products to these States such sum as may be prescribed by the President.”

(2) The sums so prescribed shall continue to be charged on the Consolidated-Fund of India so long as export duty on Jute or jute-products continue to be levied by the Government of India or until the expiration of ten years, whichever is earlier.

(3) In this article, the expression ‘prescribed’ has the same meaning as in article 251 of this Constitution.”

The amendment was adopted.

Mr. President : The question is :

“That the proposed article, 254 stand part of the Constitution.”

The motion was adopted.

Article 254 was added to the Constitution.

New Article 254-A

Mr. President : Then we shall take up 254-A.

Mr. Naziruddin Ahmad : I have a point of order. Sir, the point of order is that amendment No. 82 seeking to introduce a new article 254-A is entirely a new matter. We have already decided in the House that amendments to the Constitution should be presented by a certain date. We have presented our amendments. No further amendments to the Constitution could be allowed according to the rules. The only amendments which are admissible today would be amendments to the original amendments as well as amendments to regular amendments I submit that the present amendment is not related to

[Mr. Naziruddin Ahmad]

any amendment at all. I have carefully gone through the Amendment List original Printed List as well as the others, and this has no relation to any amendment at all. Further the amendment itself is so worded that it is not related to any other amendment but it is an independent proposition altogether. It says that “after article 254 the following article be substituted.” There is here no attempt or even a pretence of it being with reference to or related to or being in connection with any amendment. I submit, Sir, that this article cannot be inserted in this way.

The Honourable Dr. B. R. Ambedkar : No doubt the point raised by my honourable Friend is quite valid, but I submit that you have infinite discretion in this matter to allow any amendment if it is an amendment of importance.

Mr. President : I think on previous occasions also we have allowed new articles to be inserted and this is a new article which is sought to be inserted after article 254.

Shri T. T. Krishnamachari : When you have allowed the Drafting Committee to function, it will be its duty continually to examine the Draft Constitution and if they find that here is a lacuna, because of the fact that the Committee is in existence, it has got to take steps to fill in this lacuna. The present amendment arises out of that necessity.

Mr. President : On previous occasions I have allowed fresh articles to be introduced, and this is a new article which is sought to be introduced after article 254 and so I allow this Dr. Ambedkar, you may move the amendment.

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

“That after article 254 the following article be inserted :—

254A. (1) No Bill or amendment which imposes or varies any tax or duty in which States are interested, or which varies the meaning of the expression ‘agricultural income’ as defined for the purposes of the enactments relating to Indian Income-tax or which affects the principles on which under any of the foregoing provisions of this Chapter moneys are or may be distributable to States, or which imposes any such surcharge for the purposes of the Union as is mentioned in the foregoing provision of this Chapter, shall be introduced or moved in either House of Parliament except on the recommendation of the President.

Prior recommendation of President required to Bills affecting taxation in which States are interested.

(2) In this article the expression ‘tax or duty in which States are interested’ means—

- (a) a tax or duty the whole or part of the net proceeds whereof are assigned to any State; or
- (b) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the Consolidated Fund of India to any State.”

Sir, I might mention one or two reasons why we felt that at the fag end, so to say, this new article be inserted in the Constitution. A similar provision exists in the Government of India Act. The Drafting Committee considered the matter. They did not think it necessary to incorporate and transfer that article, into the new Constitution. However when a Conference of Premiers was held, it was suggested that such an article would be useful and perhaps necessary, because, once an allocation has been made by Parliament between the provinces and the States, such an allocation should not be liable to be disturbed by any attempt made by any private member to bring in a Bill to make alteration in matters in which the provinces become interested by reason

of the allocation, It is because of this that the Drafting Committee has now brought forth this amendment in order to give an assurance to the Provinces that no change will be made in the system of allocation unless a Bill to that effect is recommended by the President.

Mr. President : There is no amendment to this article. If any Member wishes to speak, he may do so now.

Mr. Naziruddin Ahmad : Mr. President, apart from the technical objection which I took, I have another objection, namely, that it is again another instance of an insidious attempt to encroach upon the provincial field. I shall point out only one such instance in this article. This article indirectly gives power to the Parliament to vary the definition of the expression 'agricultural income.' I suppose it is well known that agriculture and agricultural income is a Provincial subject. It has been a Provincial subject for a long time since the Act of 1935 came into force. It is also the scheme of the present Draft Constitution that agricultural income and agricultural subjects should be Provincial subjects. Again, coming to article 303 clause (1), sub-clause (a), "agricultural income means agricultural income as defined for the purposes of the enactments relating to India Income-tax." This was the definition which was accepted also in the Government of India Act of 1935. That the definition of agricultural income as given in the Income-tax Act was taken as the basis showed the limit of the Centre and the provinces. The Government of India Act actually adopted this definition in the Indian Income-tax Act and crystallised it for ever so far as that Constitution was concerned as to what agricultural income meant. If we now try to vary the meaning of agricultural income, the result would be that agricultural income which is a provincial matter, and which is a provincial subject will be seriously encroached upon. Parliament may easily encroach upon the definition and might easily say "agricultural income is an income which does not arise from agriculture." There is nothing to prevent Parliament from doing so. Parliament would have been prevented under the existing state of things as in the Draft Constitution. This new article tries to improve upon this and make a change. Agricultural income might now mean anything or nothing. It will mean exactly what Parliament might desire. This is another way, another instance of however encroaching upon the Provinces. I have already dealt with the disastrous consequences of this attempt. We have already in the last article seen a tendency and we have encroached upon the allocation of jute and other taxes. In fact, jute under the original Draft article was to be given over to the provinces, where they were grown in proportion. But, now the whole conception has been changed; this is also another change. I submit, Sir, if we pass this article as it is. including an inherent right to Parliament to change and modify the meaning of the expression 'agricultural income,' we will be forced to secure your permission to change, the definition of agricultural income. If you begin in a non-scientific manner in an aggressive manner to collect all powers in the hands of the Centre, there will be no limit to this attempt. I find this insidious attempt everywhere visible in all these articles.

I know that the result of my arguments will be absolutely nil; I therefore simply enter my humble protest,

Prof. Shibban Lal Saksena : Sir, this article demands the prior sanction of the President for moving Bills in Parliament relating to taxation in which the States are interested.

I do not want to attack this provision on the grounds on which the honourable Member preceding me has attacked it. But, I want to challenge the principle on which this is based. In fact, there is article 97 which we have passed in which powers of Members of Parliament are restricted about Bills or

[Prof. Shibban Lal Saksena]

amendments to money Bills. I do not see why this article should further restrict the powers of Members of Parliament from bringing forward Bills relating to taxation in which the States are interested.

The fact that Members of Parliament may not be permitted to bring Bills on their own account which may affect taxation in which a State is interested is an infringement of the inherent right of the Members of Parliament. Why should they not be allowed to bring forward Bills in which their States are interested ? If the majority in the Parliament is opposed to it, it shall be thrown out but why should a Member be restricted from bringing forward such a Bill ? But if any Member feels that a particular taxation affects his province or is not fair or proper, he should be entitled fully to bring that point of view before the Parliament. He may belong to a Party which is in Opposition and Government may not bring forward that Bill. Why should he be precluded from bringing a Bill ? I therefore think that this article is an infringement of the inherent rights of Members of Parliament and I do not see any reason for it. If this is passed, it will mean that no member can bring forward any legislation in the form of a Bill for the benefit of his province. If there is a tax in existence which hits his province very hard he cannot get that repealed. He will have to submit it to the President and that means that it will be the pleasure of the Executive to allow him to bring it forward or not. It is a big limitation on the rights of Members of Parliament and it should not be accepted.

Mr. President : Do you wish to speak, Dr. Ambedkar ?

The Honourable Dr. B. R. Ambedkar : I do not think any reply is necessary.

Mr. President : The question is

“That New article 254-A stand part of the Constitution.”

The motion was adopted.

Article 254-A was added to the Constitution.

Article 255

Mr. President : We go to article 255.

(Amendment No. 83 was not moved.)

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

“That in article 255, for the words ‘revenues of India, wherever they occur, the words ‘Consolidated Fund of India’ be substituted.

“That in the first proviso to article 255, the words and figures ‘for the time being specified in Part I of the First Schedule’ be omitted.

“That in clause (a) of the second proviso to article 255, for the words ‘three years’ the words ‘two years’ be substituted.

The first two amendments are just formal.....

Mr. Naziruddin Ahmad : On a point of Order No. 86 is entirely new and not related to anything. It is not a formal matter. It is a serious matter.

The Honourable Dr. B. R. Ambedkar : That is what I am trying to explain.

Mr. Naziruddin Ahmad : It is not an amendment to an amendment it is amendment to the Constitution.

The Honourable Dr. B. R. Ambedkar : I move it with the permission of the Chair.

Mr. Naziruddin Ahmad : I wanted Dr. Ambedkar to be forced to take the permission of the Chair to move it.

The Honourable Dr. B. R. Ambedkar : I have taken his permission. President can give his permission before or after moving it.

This matter refers to grants and the provision in the original article itself is that an average of three years should be paid to Assam. It was represented to us that if the average of three years is taken the Assam Government will get very little because in the first year they did not spend anything but if we took the average of two years, they would get more. It is to meet this difficulty that the Drafting Committee has introduced the words two years instead of three years.

(Amendment No. 87 was not moved.)

Syed Muhammad Sa'adulla (Assam: Muslim): Mr. President, Sir, the passing of the previous articles of the Draft Constitution so far as financial provisions are concerned, has passed the death sentence upon all hopes and aspirations of the provinces, not merely of the backward and poor provinces but also of all the richer provinces. I say this after going through the memoranda that were submitted to the Expert Financial Committee presided over by Mr. N. R. Sarkar, the present acting Premier of Bengal. If anybody had cared to go through this volume which was supplied by the Assembly Office, they must have noticed that every one of the provinces, whether their income was three crores or fifty crores, wanted a revision of the divisible pool of Income-tax. They wanted that Corporation Tax should be included in the divisible pool of Income-tax. They recommended that all excise duties on commodities produced in a particular province and all export duties should also be brought on the divisible pool. The "tale of woe"—in the phrase of Dr. Ambedkar—which the representatives from Assam have been placing before the House is nothing new as I will show by giving references from these memoranda that even the richest province in the Dominion of India—I mean Madras—wanted all these things which Assam representatives wanted the Centre to give.

Sir, I am speaking not as a member of the Drafting Committee but as a representative from the very benighted province of Assam. On-behalf of Assam I express our heartfelt gratitude to those honourable Members who spoke on Friday last *viz.*, Pandit Hirday Nath Kunzru, Mr. B. Das, and Professor Saksena who were kind enough to extend their support for Assam's claim for a fairer deal from the Centre. If my honourable Friends will listen to what I have got to say—and whatever I will say I will quote from documents that have been supplied by the Constituent Assembly—I am perfectly sure that they will show us the same sympathy and support. By a happy coincidence, the Constituent Assembly, yesterday supplied each Member with two pamphlets which have been issued by the External Affairs Department giving a detailed description of the Excluded and Partially Excluded areas of Assam and the North-eastern Frontier Tribal and Excluded areas. As the time is so short, I do not think honourable Members had either the time or, shall I say, the inclination to go through these pamphlets. Therefore, I have to give you a word-picture of the conditions of Assam, not merely its topography and geography, but its economic, political and financial conditions.

The topography of Assam, I always describe as that of a poor man's hut. It is just like a ridge on the top with two sloping roofs on either side. From our western boundary, namely the district of Mymensing in Eastern Pakistan runs eastward a range of high hills through Assam right up to a point which is the tri-junction of Tibet, China and Burma. This range of hills has divided

[Syed Muhammad Sa'adulla]

the province into two valleys which have been described in this pamphlet as the Brahmaputra Valley on the northern side and the Surma Valley on the southern side. Since the partition of the district of Sylhet, portions of which have now gone into Eastern Pakistan, that valley should be called the Barak Valley because the river that bisects this area is called Barak. Now, the division of the valley by the mighty Brahmaputra on the one side and the smaller Barak on the other, has created problems for the province of Assam and has added to her increased expenditure and misery. If we are to have some utility services, say a trunk road on the southern bank of the Brahmaputra, there must necessarily be a trunk road on the northern side for the convenience of the inhabitants on the northern bank. Similarly with the conditions in the other valley. Then again, it will be news to many of you, including my friends the representatives from Assam who stated that after the partition, Assam has got only 50,000 sq. miles in area, but I say that the very first sentence of this pamphlet issued under the aegis of the External Affairs Department runs as follows—"Assam and territories associated with it, have an area of roughly 100,000 sq. miles." When you think of this vast area, with its population of only 73 lakhs, you will know that for every administrative purpose, from a magisterial court down to a police-station, our administration cannot but be very very costly, compared with densely populated provinces. I can place before you one fact, on the authority of the Finance Minister of Assam who while moving his budget estimates in March last before the Assam Assembly had to say that 72 per cent. of our total revenues goes to pay our salary bill. If as much as very nearly three-fourths of the provincial revenue goes towards the payment of Salaries of its public servants, no wonder very little is left for any development or for any social service. No wonder, Sir, that Assam is so backward, in providing all the amenities that go with an efficient and full-fledged autonomous government. Assam now is the poorest province in the Dominion of India, poor not in resources, but poor in numbers, poor in its financial position and poor in the economic condition of her population. But this poverty has been forced upon her by man-made laws and the inequity of Central Governments. During the Minto-Morley Reforms of 1911, the financial conditions of India was that the Central Government functioned as a unitary government and appropriated all the revenues of India. The Provinces got only whatever they required from the Government of India. That was somehow tolerable, although the weak Assam could never impress upon the then Government to give her a little more to increase her social amenities and services. Then in the next period of the Montague-Chelmsford Reforms, the greatest injustice was done to the poor province of Assam. Everyone remembers that in that Reform, the financial arrangement was that certain heads of revenue were allocated to the Provinces and certain others to the Centre; and Lord Meston, by a curious calculation, either through want of proper appreciation of the condition of Assam or through negligence of Assam's representative in placing their case before him, calculated that Assam was not merely solvent but will have such a surplus that it will be able to give the Centre a contribution of fifteen lakhs per year. But all these calculations were found to be entirely wrong divorced from facts. Assam was a deficit province, to the tune of Rs. 25 lakhs every year, and in spite of that, Assam had to pay this Rs. 16 lakhs contribution, increasing her deficit every year, till the year 1927, when through agitation in the Assam Council, this imposition was withdrawn from Assam.

Then I come to the Simon Reforms when Assam prepared and placed her memorandum—I myself drafted it because I was then the France Member of the Government of Assam—before the Commission. We were prepared to prove by irrefutable figures that Assam cannot be put on a footing which will

make her run as a Major Province—not to speak of the question of adding institutions which every self-governing province must have. The Federal Finance Committee that sat along with the Simon Commission, presided over by Lord Eustace Percy, were compelled to admit in their report that Assam must have a subvention of Rs. 65 lakhs to balance her budget. This document was considered during the time of the Joint Parliamentary Committee and the Round Table Conference by another Committee in England, presided over by Lord Peel. Even that Committee had to admit that certain Provinces—and they used the words “notably Assam and Orissa”—cannot function as a major province unless substantial help is given to them for some time. In spite of those recommendations from unimpeachable quarters, by what freaks of accounting I cannot say, Sir Otto Niemeyer came to the conclusion that Assam ought to be quite satisfied to get a subvention of Rs. 30 lakhs. This is the cruellest joke that could be perpetrated upon a poor province like Assam, for you will be surprised to hear that Assam is contributing to the Central coffers to the tune of Rs. 10 crores every year whereas we get the small pittance of Rs. 30 lakhs as annual subvention

I will give the figures just now. If the Members representing Assam had to dilate on a tale of woe it is on account of these man-made laws which have left Assam in the poorest of condition, with the barest of institutions that go for a self government. But Assam is not poor in her natural resources. If Assam was allowed to run her own course she would be in the fore-front of an the Indian provinces. In spite of the poverty of its exchequer Assam stands fourth in the matter of literacy throughout India. That shows that we have been spending, proportionately, a higher percentage on education than the comparatively richer provinces. Similarly we stand third in the matter of road communication. One can motor throughout the year, in spite of very heavy rain-fall, from one corner of Assam to the other. Very few provinces have that.

Shri Brajeshwar Prasad (Bihar: General): Is the system of communications developed in the frontier tracts ?

Syed Muhammad Sa’adulla : Yes, there are, not *pucca* roads, but winter tracks right into the interior in the frontier. I myself have travelled from Sadiya which is our eastern frontier to a distance of twenty-five miles by motor car to a place called Nizamghat which is right into the interior, and on the other side there is a sub-division fifty miles away called Pasighat to which you can motor.

If we could utilise the resources that we have, then we could have brought Assam to the fore-front of India’s provinces. What are the resources ? Take Petroleum and kerosene. Assam is the only province which produces that very valuable commodity in the dominion of India. We get only a paltry sum of Rs. 5 lakhs of royalty of the crores of rupees worth of crude oil that is pumped out the bowels of mother earth, whereas the Central Government by way of excise duty on the manufactured articles is enjoying for the past twenty years or more a sum of very nearly Rs. 2 crores of rupees annually. We tried our level best to get a share of it. But all our petitions, all our threats, went in vain. The Central Government was adamant and we did not get a single pice out of that excise duty, although if I remember aright—I dealt with the subject in 1929 and it is full twenty years ago—there is a Privy Council case from the Dominion of Australia where this very question arose and the Privy Council decided that the proceeds of such excise duty ought to go to the State, and for very good reasons. The more you produce petrol from the crude oil the more you are depleting the natural resources and the natural wealth of the province. This excise duty is in the nature of tax on capital.

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Secondly, this industry has been the target of Communist agitation from a very long time. Some honourable Members may still remember that the Assam Government had to use force in 1938 and firing had to be resorted to at Digboi, the headquarters of the Petrol Industry, when some people were killed. There was such an agitation about that episode that the then government—a Congress government, not my government—had to requisition the services of no less a person than the late Sir Manmathanath Mukerjee, retired Chief Justice of the Bengal High Court to sift the evidence to find out if the firing was justified. Production of petroleum, which is such a dire necessity in these days of civilisation and which brings such a big revenue to the Central coffers, had to be protected at very heavy cost and no wonder as you heard from the Honourable the Premier of Assam on Friday last that they had to double the police force in the province since they came to office in 1946. Where would the Central Government be if the Assam Government did not sacrifice her meagre and exiguous revenues for the protection of that oil-field ? If for nothing else, at least for this reason that we are protecting the source of revenue which is being enjoyed by the Centre, Assam could legitimately claim her share in this excise duty.

Next I come to jute. Sir, through the efforts of the representatives of Bengal in the Joint Parliamentary Committee, the then Government was forced to adopt the principle of giving a part of the export duty on jute to the growing provinces. In that year,—it was first given in 1934,—Assam was supposed to produce 5 per cent. of the total jute grown throughout the world and on that basis she was getting on an average 14 lakhs of rupees per annum. But since the declaration of independence, when the largest jute-growing area of Bengal fell to the lot of East Pakistan, the position of Assam has gone very high as one of the jute-producers of the world. Assam, which had a vast area of waste land was increasing her jute acreage every year. And, if I remember aright, now Assam stands next to Bihar, among the highest jute-growing area of the Dominion of India. This adjustment of percentage has its necessary—repercussion in the amount of the jute export duty that fell to Assam's lot.

We were told by the Prime Minister of Assam on Friday that recently (that is in 1947-48) from the, meagre 14 lakhs, Assam's share had gone up to 40 lakhs. But there is a Bengalee saying that even if the "Data", the donor, wants to give the "bidhata" steps in and stops it. Similarly, at the time when we had a morsel of food close to our mouth, it was snatched away by the present National Government of India. Whereas previously during the British regime the percentage allotted to the provinces stood at 62½ per cent. It has been reduced last year by a stroke of the pen to 20 per cent. by the present Government. Now, it was asserted by the honourable representative from Bengal that jute was one of the commodities that was earning the much-required dollar exchange for India. Now what incentive will there be for the provinces to increase their jute area, or to produce more bales of jute, if they get nothing from this ? Article 254 which we have passed just now is merely a soap. It says that for ten years or even earlier if the Government thinks it wise to abolish jute export duty, these four provinces will get a pittance. I say, Sir, if the provinces had been left alone, they could have very well realised something from jute producers. Assam has been very patriotic in the past and when there was no tea export duty or tea excise duty levied, the Assam Government requested the tea industry to submit to a voluntary taxation and the industry without the least demur voluntarily paid a cess of eight annas per acre of planted area to raise a road fund and that continued from 1927 to 1937.

Now I come to tea. People who have got no idea of the tea industry cannot conceive what great sacrifice Assam has made in the past, which sacrifice is continuing even now. The tea industry in Assam is more than a hundred

years old and in order to attract foreign capital and to clear the wild-animal infested malarious jungles, the then Assam Government had to offer very easy terms of land settlement. The earlier grants were all fee-simple, which meant that they paid no land revenue to the Government of Assam. Next there are 99 years' leases, for which Government levied the ludicrously low land revenue of about $4\frac{1}{2}$ annas per acre, whereas the ordinary cultivator has to pay about Rs. 4 per acre. So, in order to establish the tea industry on a very stable and firm footing in Assam, the Assam Government sacrificed an incalculable amount of money in the shape of land revenue. And now when the Central Government has stepped in and has started levying an excise duty of 3 annas per pound on teas that are sold for internal consumption in India and an export duty of 4 annas per pound on teas that are exported out of India, Assam is denied even an anna of the sum which goes to the Central Government. On an average Assam produces 350 million pounds of tea per annum. Three-fourths of this, under the Indian Tea Control Act, is sold to outside, which brings in a four anna per pound duty to the Central coffers. The rest one-fourth is sold in the internal market and that brings in three annas per pound. Now out of this 350 million pounds, which is very nearly the requirements of Great Britain per annum, about 300 million pounds go from Assam alone. This is earning for the Central Government their much-needed sterling capital. Now on an average each tea garden has a labour force of one thousand to two thousand men. The communist agents are at work to seduce them from their legitimate duties and to force them to go up in revolt. Supposing the Assam Government think that as they are getting nothing they would give up the idea of preventing communists from tampering with the labour forces, where will the tea industry be and where will be the sterling capital of the Central Government? But even then the man-made laws have denied Assam anything out of these tea export and excise duties. Then again the sacrifice which Assam is making for this tea industry can be gauged from this fact alone that the largest amount of revenue that Assam gets is from land revenue; it is very nearly $1\frac{1}{2}$ crores but the share of the tea gardens in this land revenue is only 17 lakhs. If concession rates had not been given in those early years perhaps the tea garden people would have to pay at least 75 lakhs as land revenue. But there is yet another doleful and gruesome aspect about the tea industry. The Central Government has a most unjust, iniquitous and pernicious scheme of allocating the shares of different provinces from the income-tax pool. By what calculation, Sir Otto Niemeyer placed Assam's share of this pool at 2 per cent. only. I fail to gather, while Bengal and Bombay was given 20 per cent. and Madras and U.P. 15 per cent. and so on. Out of roughly one thousand tea estates in Assam as many as 750 have got their managing agencies outside Assam—some 600 of them in Calcutta and 150 in London, as these are all sterling companies, and income-tax on Assam produced tea is paid either in Calcutta or in London. The amount which is paid in Calcutta goes to the credit of Bengal and that is why they are getting 20 per cent. of the total divisible pool. If that point had been given due consideration the division of that Pool should have been on the basis of, first, source of revenue and secondly, necessity of the area which grows that tea. I am again constrained to quote the Bengali proverb of "pouring oil on the oily head" or the Biblical saying, "To him that hath more shall be given." While poor Assam and Orissa have been crying hoarse over getting some substantial help, even when a large percentage in the pool was released after the division of India, Madras which has 50 crores of revenue got 10 per cent. or an increase of 3 per cent. more and Bombay got 22 per cent. but poor Orissa and Assam got an increase of 1 per cent. only. Even when there was a chance justice would not be meted out to these poor provinces. The same trouble is with Bihar. Bihar would have got a much higher percentage than 10 per cent. if the income derived from the Tata Iron Works at Jamshedpur were credited to the province of Bihar. But their headquarters being in Bombay the benefit of the

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huge income-tax that is paid by Tata Iron Works goes to Bombay and not to Bihar.

Sir, I have tried to show from these facts and figures that Assam had and still has a very great claim on a share of the proceeds of the export and excise duties on tea and the export duty on jute as also the excise duty on petrol. And, as I said in the beginning, Assam is not the only province which was claiming this. I find on page 9 of this volume of Memoranda placed before the Expert Financial Committee that Madras recommended that all export and excise duties levied by the Centre should be shared with the provinces, that Bombay wants corporation-tax to be included with income-tax and divided among the provinces. She is not satisfied with 20 per cent. of the divisible pool of income-tax but claims 33 and one-third per cent. Then the U.P.—the largest province in India so far as population is concerned—says :

“That first essential is to enlarge the divisible pool of taxes at the Centre and make available to the provinces at least half of the surcharge on income-tax; corporation-tax and all allied taxes should be included in the divisible pool like half of income-tax. Similarly all excise and export duties levied by the Centre should be included in the pool.”

On page 18 of this Memorandum I find that Bengal made a similar claim. So it will be apparent that it was not merely a poor province like, Assam which was crying hoarse for a share of these excise and export duties but the richer provinces also claimed it.

Now you should consider this problem of Assam from another point of view. Assam, though a part of India, is by force of circumstances practically cut off from the rest of India. Those of us who have to come to this Assembly have to travel through 180 miles of Pakistan territory before we reach the borders of the Indian dominion at a place called Ranaghat. The Central Government is therefore trying to have an approach road and a rail link through Indian territory to Assam by the northern, foothills. I do not know how many crores of rupees will be spent and when it will be ready; but some action was taken by them to connect Assam with the rest of India through a small tract on the northern part of Bengal near Jalpaiguri which is Indian territory. But you will be surprised to know that this rail link takes us not to Bengal or Calcutta first but to Bihar; and if one has to come to Calcutta he will have an extra 200 miles of railway travel. What that will cost in freights and fares I need not say; the House can imagine it. But who will use this railway? I am perfectly sure that no trader or travellers will use it willingly. Then, Assam is now the frontier province. In the last war the vulnerability of India through the East was proved. Through the east, the Japanese were actually on Indian soil when they surrounded the Manipur State in Assam and captured three-fourth of the headquarters of the Naga Hills. The fact that Assam is now a frontier province of the Dominion of India makes Assam a question of all-India concern. For, if Assam is invaded by her neighbours and reinforcements were not promptly rushed there from the rest of India, she will very soon cease to be a part of India. Can you envisage such a contingency with complaisance ?

As I told you, at the time of the Niemeyer Award Assam was an undivided province with no high court of its own. Though it was a major province the people of Assam had to come to the Calcutta High Court which had appellate powers over Assam. Assam had no university and no technical or professional colleges. And yet she was given only, Rs. 30 lakhs under the Award, whereas the Award gave the North-West Frontier Province Rs. 100 lakhs on the ground that it was an undeveloped province. Sind too got a sum of Rs. 110 lakhs under that Award. Though Assam was the most undeveloped of the major provinces

of India with no amenities of civil or civilized administration and though she had practically no social service the Award gave her only a paltry sum of Rs. 30 lakhs.

Sir, I started by saying that the allocation of revenues between the Centre and the provinces has been made on a very unscientific principle. One of the arguments that I want to advance is that in making financial adjustments of this kind you should take into due account not only the needs of the backward units, but also considerations of equity. The consideration that Assam is contributing a very large share of federal revenues should not be given the go-by in the present set-up of things. Then again, due note must be taken of the special position of the frontier regions. This is a question of definite all-India national interest. It is in the interest of the Centre that efficient and good government obtains in Assam.

Assam has, in spite of her poverty, tried her utmost to help herself by such taxation as can be levied. As stated by Sriji Rohini Kumar Chaudhuri, Assam imposed taxes on agricultural income in 1938, tax on betting and amusements and heavier tax on motor vehicles motor spirit and lubricants and levied tax on professions and trades and on the sale of goods. In spite of this she has not been able to get her budget balanced. As stated by our Prime Minister the other day, we are faced with a deficit of a crore of rupees in the current budget. I make bold to say that the one crore deficit is an under-estimate. For, during the general discussion of the budget in the Assam legislature I quoted facts and figures from the Budget estimates and the memorandum to prove that the deficit was in the neighbourhood of 2½ crores. The Finance Minister in his reply to the general discussion of the Budget did not dispute my statement.

Sir, Assam has a revenue of five crores including the thirty lakhs of subvention, the fourteen lakhs from jute duty and the forty lakhs from her share of the income-tax. She is going to have a deficit of two crores, if not two and a half crores. The present administration of Assam, hoping that the Government of India will implement their promises of continuing the grants from the Development Fund for about ten years, started building many necessary institutions such as a High Court, a medical college, a forest school and an agricultural school. Grants from this Development Fund are about to stop and, Assam is in addition faced with the miserable prospect of a deficit of three or four crores in a total income of five crores through the burden of recurring expenses of the new institutions. I request the honourable Members of the Constituent Assembly to lend their whole-hearted support to this request—I would not use the word ‘claim’ of Assam or getting a fairer deal in the new set-up of things.

Shri Brajeshwar Prasad : I would like to know whether the demand is for larger grants for raising the level of the tribal people or whether it is for improving the amenities of the people of Assam and for having technical or vocational schools.

Syed Muhammad Sa’adulla: I am glad that my friend interrupted me. I had lost the trend of my argument I intended to advance about the tribal areas. The interpretation he wants to put on article 255 is wrong. It starts thus : “Such sums as Parliament may by law provide shall be charged on the revenues of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States”. The words are “for providing grants-in-aid to the States.”

I have given a general picture of the topography and geography and the financial conditions of Assam. I think nowhere in India have we got the same different categories of political institutions or political areas inside the same

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province, as in Assam. First, we have got the administered area or rather what we call the "included" area, *i.e.* that area which comes within the jurisdiction of the Legislative Assembly of the Province. Then we have got another area called the "partially excluded" area, three hill districts which have been given the right to send representatives to the local legislature, but the ordinary legislation of that legislature will not apply to them, unless the Governor assents to that. Then comes the third category, the "totally excluded" area. These excluded areas have no right of representation in the local legislature; yet the province of Assam has to bear the burden of these areas, whereas there is practically no income from them. Take for example the Naga Hills, an area of four thousand square miles, whose population in the administered area is about two lakhs and about one and a half lakhs in the non-administered area. From this area we have got about two lakhs of revenue because there is a British firm operating a coal mine in that area. This represents the entire income from the royalty of the coal mines. These hill people do not pay any land revenue. They say, "This land is ours". Not even their Chief has got any right to tax them. If you want to impose any land revenue, they will rise in revolt. Although the income from the area is only two lakhs, it costs the provincial exchequer about thirteen lakhs for administering the Naga Hills.

Shri Brajeshwar Prasad : How much?

Syed Muhammad Sa'adulla: About thirteen lakhs.

Shri Brajeshwar Prasad : What about their forest wealth?

Syed Muhammad Sa'adulla: There are hardly any communications there.

Shri Brajeshwar Prasad: Potato is also grown in that area.

Syed Muhammad Sa'adulla: No potato in that area but in Khasi Hills. That shows the amount of money we have to spend on these excluded areas. Then the last category of areas in Assam formerly used to be called "Frontier tracts" but now called the "North-eastern frontier agency areas". These areas are being administered by the Governor as an agent of the Governor-General of India. Only recently they have undertaken to bear the entire costs.....

Shri M. Ananthasayanam Ayyangar (Madras: General): May I know if the honourable Member is supporting or opposing the amendment. We are unable to follow his arguments from here.

Syed Muhammad Sa'adulla : I have got to place all these facts before the House. Our income is only five crores of rupees whereas our area is one hundred thousand square miles. With this income we are unable to have good administration in this frontier Province on account of the conditions that I have given.

Shri M. Ananthasayanam Ayyangar : What are his concrete suggestions?

Syed Muhammad Sa'adulla : The position I have already explained. Therefore we cannot but come to the inevitable conclusion that the Centre must come to our aid by way of grants-in-aid and this section 255 speaks of such an aid. But even the little ray of hope that I had, in cursorily reading this article, has been shattered by the fact that the whole thing has been left to the Parliament to decide. Now we have heard twice on the floor of this House from the Chairman of the Drafting Committee that if we leave the question or the percentage of the jute export duty to be given to the provinces, to the Parliament, there will be such a wrangling among the different provinces that

it is better, to leave it to the President. Unfortunately the amendment which was sent in by my Friend, the Rev. Nichols Roy from Assam only this morning has not been allowed by the President, because it came too late. Now, friends like Mr. Ananthasayanam Ayyangar say “help yourselves before you come , to the Centre with the begging bowl.” I have already shown that the Assamese people have already taxed themselves to the farthest extent possible, but even then that does not convey the real situation in the province. I have already stated that the total population of the province at present is 73 lakhs, out of which ten lakhs are labour population on the tea estates, people who have got no vested interest or any land in the province. They do not contribute a copper to the provincial exchequer, except for the fact that they go to the country liquor shops now and then, but these people are in the habit of brewing their own rice beer at home. Then till recently, we had two districts which were permanently settled zamindari areas. Only in the last session of the local Legislative Assembly, we passed an Act abolishing zamindari in Assam, but for my purpose it will be sufficient to say that these two districts contain a population of fifteen lakhs. These people do not contribute directly to the provincial exchequer. Therefore all the taxation that we impose falls upon five or six districts of the province and the total population of these six districts is less than fifty lakhs, a heavy burden on them indeed.

Sir, it has been stated that there will be a Financial Commission which will go into all these matters and we should not be despondent or pessimistic of not getting a just decision from that authority. But our previous experience makes me very doubtful whether the special position of Assam will be understood or appreciated by any such body unless some one connected or intimately acquainted with the conditions of Assam is in that Committee or Commission. I will give one little examples Two years ago in order to balance the Central Budget some bright officer of the Finance Department of the Central Government thought of taxing betel-nut and the decision was uniform throughout India; and without knowing the conditions poor Assam was taxed to the tune of 5 lakhs of rupees. Whereas throughout India dry betel-nut or “supari” is eaten and sold in the market, in Assam only, the supari is eaten in its cutcha form. It is sold in its shell, the thick covering outside and within the kernel inside is juicy and heavy. The tax levied was by the seer and while the dry supari per seer contained up to 115 to 120 nuts, the kutchcha Assam supari called “tambul” weighed 20 to the seer. The result was that the poor Assam cultivators who grow for their home consumption, a few trees of betel nut had to pay this tax at a rate which is three times, if not four times higher than the rest of India. Such will be the fate, of Assam again unless some one acquainted with Assam conditions or fully appreciating the position of Assam be included in the Financial Commission.

Shri Brajeshwar Prasad : You have not said how much grant you want. What are your substantial proposals ?

Syed Muhammad Sa’adulla : In fact even the Drafting Committee cannot give you the percentage. All I can say is that I have placed the facts before you for your very sympathetic and just consideration and reasonable recommendation to the Central Government.

Mr. President : I just came to know from the speech of Mr. Sa’adulla that Mr. Nichols Roy had given notice of an amendment. It was received just when we were starting the proceedings and therefore it could not be copied and circulated. If Mr. Nichols Roy wants to move his amendment, I would give him permission at this stage to move it.

The Honourable Rev. J. J. M. Nichols Roy: Mr. President, Sir, as I studied the different articles regarding the financial provisions I felt that it is very important that I should move this amendment to article 255 :

That with reference to amendment No. 2917 of the List of Amendments, in article 255, after the Words "Parliament may by law provide", the words "or until Parliament thus provides, as may be prescribed by the President" be inserted; and the following explanation be added at the end :—

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

The article as amended by me will read thus:—

"Such sums, as Parliament may by law provide or until Parliament thus provides, as may be prescribed by the President, shall be charged on the revenues of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States."

The reasons for moving this amendment are very clear. According to this article 255 all the distributions to the provinces as grants-in-aid will have to pass through Parliament and Dr. Ambedkar himself has stated in this House that when such sums are placed before Parliament, it will take a long time and cause wrangling among Provinces for each Province will try to pull the strings as hard as possible to get as much share as possible for itself. I am sure it will take some time before the small provinces will be rendered immediate help, that is necessary to be rendered; and the provinces of Assam, Bihar and Orissa, I should say, require immediate help, and it will be impossible for the President or the Government of India to render such help now unless the power is given to the President to do this. Therefore, I have introduced the following words : "or, until Parliament thus provides, as may be prescribed by the President". The President, therefore shall have power by order to prescribe certain sums to be given to the provinces that are in need and also act on the recommendation of the Financial Commission. I think, Sir, this amendment is very necessary. I felt that this should be considered by the House and I think that unless it is left to the President, provinces like Assam will be in a great turmoil, a financial crisis will surely come about and we cannot go on in this way. It is sure, if there is turmoil in the Province of Assam, that the whole of India will be involved and that has been stressed by my honourable friend Syed Muhammad Sa'adulla and also by my honourable Friend Mr. Rohini Kumar Chaudhuri and by the Premier of Assam on Friday last and has been pressed by each and every speaker from Assam. It is very necessary that financial help should be immediately rendered to the Province of Assam and that cannot be done under Article 255 as it stands today. Therefore, the power must be given to the President to render immediate help to those provinces that are in need. This amendment is very very necessary and I do not see how this House can pass the article 255 as it is now without considering this proposition. I hope, Sir, that this House will not commit suicide by allowing Assam to be in a turmoil and thus the whole of India will be involved and I hope this matter will be borne in mind when considering the amendment, which I have moved today.

Mr. President : The House will now stand adjourned till 9 A.M. tomorrow.

The Assembly then adjourned till Nine of the Clock on Tuesday, the 9th August, 1949.
