

CONSTITUENT ASSEMBLY OF INDIA

Sunday, the 16th October 1949

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

DRAFT CONSTITUTION—(Contd.)

Mr. President : We have got a number of articles on the agenda. Some of them are of a controversial nature and are of great importance. They will probably take a little time in discussion, while the others are more or less of a formal nature. I would like to take up the difficult and controversial articles first, so that we might dispose them of and then we can deal with those which are only consequential amendments and things of that sort. Shall we begin with 264A, Dr. Ambedkar ? Will it suit you ?

Mr. Naziruddin Ahmad (West Bengal : Muslim) : May I point out that these amendments were received by us at quarter past nine this morning and I had to read them on my way to the Assembly.

Mr. President : Quarter past nine ? They were circulated last night.

Some Honourable Members. : We got them at 9 A.M.

Shri Mahavir Tyagi (United Provinces : General) : My proposal is that this article may be taken up in the afternoon, Sir.

Mr. President : We may not have a session in the afternoon. In this way I do not know what to do.

Mr. Naziruddin Ahmad : These are very intricate matters and they are reopening decisions of the House already taken.

Mr. President : Article 264A has been there for several days, article 274DD has been there for several days; so also article 302AA.

Mr. Naziruddin Ahmad : I am speaking generally of the agenda today. Most of them reopen matters already decided by the House. It is difficult for anyone, even the fastest brain, to follow these changes. No indication is given as to what changes are to be made.

Mr. President : No doubt article 280A, I understand, is a new article which has come up today; but the others have been there on the agenda for many days.

Shri H. J. Khandekar (C.P. & Berar: General) : 264A is a new article altogether and we got notice of it at about 9 A.M. today. It is impossible to send any amendment to that article. Therefore, I request that it may be taken up in the afternoon or tomorrow.

Mr. President : It means that we shall have to prolong the session for two or three days. I do not think that will be right. Let us take up article 264A.

Article 264A

The Honourable Dr. B. R. Ambedkar (Bombay : General) : Sir, I move amendment No. 425.

“That in amendment No. 307 of List XIII (Second Week), for the proposed article 264A, the following be substituted—

‘264A. (1) No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase	of goods where such sale or purchase takes place—
Restriction as to imposition of tax on sale or purchase of goods.	(a) outside the State; or
	(b) in the course of the import of the goods into, or export of the goods out of the territory of India.

[The Honourable Dr. B. R. Ambedkar]

Explanation.—For the purposes of sub-clause (a) of this clause a sale or purchase shall be deemed to have taken place in the State in which the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State.

- (2) Except in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase at any goods where such sale or purchase takes place in the course of inter-State trade or commerce :

Provided that the President may order by direct that any tax on the sale or purchase of goods which was being lawfully levied by the Government of any State immediately before the commencement of this Constitution shall, notwithstanding that the imposition of such tax is contrary to the provisions of this clause, continue to be levied until the thirty-first day of March, 1951.

- (3) No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.' "

Sir, as everyone knows, the sales tax has created a great deal of difficulty throughout India in the matter of freedom of trade and commerce. It has been found that the very many sales taxes which are levied by the various Provincial Governments either cut into goods which are the subject matter of imports or exports, or cut into what is called inter-State trade or commerce. It is agreed that this kind of chaos ought not to be allowed and that while the provinces may be free to levy the sales tax there ought to be some regulations whereby the sales tax levied by the provinces would be confined within the legitimate limits which are intended to be covered by the sales tax. It is, therefore, felt that there ought to be some specific provisions laying down certain limitations on the power of the provinces to levy sales tax.

The first thing that I would like to point out to the House is that there are certain provisions in this article 264A which are merely reproductions of the different parts of the Constitution. For instance, in sub-clause (1) of article 264A as proposed by me, sub-clause (b) is merely a reproduction of the article contained in the Constitution, the entry in the Legislative List that taxation of imports and exports shall be the exclusive province of the Central Government. Consequently so far as sub-clause (1) (b) is concerned there cannot be any dispute that this is in any sense an invasion of the right of provinces to levy as sales-tax.

Similarly, sub-clause (2) is merely a reproduction of Part XA which we recently passed dealing with provisions regarding inter-State trade and commerce. Therefore so far as sub-clause (2) is concerned there is really nothing new in it. It merely says that if any sales tax is imposed it shall not be in conflict with the provisions of Part XA.

With regard to sub-clause (3) it has also been agreed that there are certain commodities which are so essential for the life of the community throughout India that they should not be subject to sales tax by the province in which they are to be found. Therefore it was felt that if there was any such article which was essential for the life of the community throughout India, then it is necessary that, before the province concerned levies any tax upon such a commodity, the law made by the province should have the assent of the President, so that it would be possible for the President and the Central Government to see that no hardship is created by the particular levy proposed by a particular province.

The proviso to sub-clause (2) is also important and the attention of the House might be drawn to it. It is quite true that some of the sales taxes which have been levied by the provinces do not quite conform to the provisions contained in article 264A. They probably go beyond the provisions. It is therefore felt that when the rule of law as embodied in the Constitution comes into force all laws which are inconsistent with the provisions of the Constitution shall stand abrogated. On the date of the inauguration of the Constitution this might create a certain amount of financial difficulty or embarrassment to the different provinces which have got such taxes and on the proceeds of which their finances to a large extent are based. It is therefore proposed as an explanation to the general provisions of the Constitution that notwithstanding the inconsistency or any sales tax imposed by any province with the provisions of article 264A, such a law will continue in operation until the 31st day of March 1951, that is to say, we practically propose to give the provinces a few months more to make such adjustments as they can and must in order to bring their law into conformity with the provisions of this article.

I do not think any further explanation is necessary so far as my amendment is concerned but if any point is raised I shall be very glad to say something in reply to it when I reply to the debate.

(Amendment Nos. 426 and 427 were not moved).

Prof. Shibban Lal Saxena (United Provinces : General) : Sir, I move:

“That in amendment No. 425, in the Explanation to clause (1) of the proposed article 264A, the words ‘for the purpose of consumption in that State’ be deleted, and the following new clause be added at the end :—

- ‘(4) The Union Parliament shall have power to amend the laws in respect of taxes on sale or purchase of goods with a view to bring uniformity in the laws made by the various States of the Union or in the interests of the Union as a whole, provided that no Bill for such amendment shall be moved in Parliament without the prior permission of the President, and the President before giving such permission shall obtain the views of the Governments of the various States concerned.’ ”

Sir, this amendment No. 425 is in modification of the original amendment No. 307. It is a bit more comprehensive and tries to deal with some of the objections which had been raised against that article. But I feel that the article even as moved by Dr. Ambedkar is very defective and will have the effect of reducing the income of several provinces by some crores of rupees. In fact I am told that the Central Provinces Government will lose about 1 crore and the Bihar Government about 2 crores. Probably the same will happen to other provinces also.

The principles that Dr. Ambedkar has placed before us are simple. First, on imports and exports to sales tax will be levied; secondly, on inter-State trade no sales tax will be levied; and thirdly, on essential articles of life no sales tax will be levied without the approval of the President. But in clause (1) restrictions are to be put on the power of the States to impose sales tax on articles meant for import and export even to the extent of one pice per maund or other small amounts. The result will be that many of the provinces will lose huge amounts of revenue. For example, the Premier of the Central Provinces was telling me that they export manganese and other mineral products from their State. Bihar exports mica and such other things. They impose a small amount like one or two pice per maund as sales tax. That brings to the coffers of the province a crore or so of rupees.

Now we have said that if these goods are meant for consumption in the State then alone this tax can be imposed, otherwise not; and this will result in the depletion of the finances of the provinces to very dangerous extent. I therefore think that these words “for the purpose of consumption in that State” should be removed and to make up for this depletion, I am suggesting, a new clause, which I read just now and which says : “The Union Parliament

[Prof. Shibban Lal Saksena]

shall have power to amend the laws in respect of taxes on sale or purchase of goods with a view to bring uniformity in the laws made by the various States of the Union or in the interests of the Union as a whole.” It may be argued that if this power is not kept here then many States shall levy taxes which would really amount to an excise tax or production tax in a way. What I want is only this, that when there are any such taxes which injure the Centre or which are injurious to trade, then this overall power given in clause (4) shall come into play and I also say that the President shall have the final power, so that the Centre will have the power to intervene, if necessary.

At the same time I do not want that this article 264A should cripple the provinces to such an extent that they will not be able to carry on their nation building activities such as Education etc. Therefore, this amendment of mine that is, removing the words “for the purpose of consumption in that State” and adding clause (4) will not injure the Centre in any way and will also let the State have some income. In fact in our discussions on the financial provisions States like Assam told us that they produce mineral oil, petroleum etc., but that they do not get anything. It was agreed in the Conference of Prime Ministers also that they can impose sales tax up to one pice and thus, they can have some revenue with which they can run their administration. It is only fair that province which produces an article should have at least some portion of that revenue. In fact, in my province, we produce sugar and although sugar is not taxed, we put a cess on sugar-cane and that brings to the province about a crore of rupees.

I do not think that such restrictions will help the Centre. But they will injure their main source of revenue. In fact in some provinces the revenues are much greater. I therefore, think that this article is an important article and it must be suitably amended, and I do not think that the provinces should be treated in such an unjust way as has been done by this article. If my amendment is accepted the Centre and the provinces will both benefit, and by deleting the words “for the purpose of consumption in that State” the Centre will not lose any money in import and export duties. I think that it is never the intention of any Provincial Government to usurp that function, and besides clause (4) will enable the Union Parliament to put limits on the amounts of sales tax they put and that will not affect the imports or exports and if a small tax it levied the Provinces will be able to benefit and it will be so good for them.

It is also unfair to the provinces that produce the main products such as petroleum or tea not to permit them any income there from. Now if Assam is allowed to have a small sales tax at the very beginning of one pice or two pice per maund, it will be able to have a large amount of money for their own province. Similarly, provinces like Bombay will have some money from the sales tax on the things produced therein and if these are uniform all over the country, the provinces will also gain and there will be no difficulty in inter-State trade and export and import. I think my amendments are very fair and something should be done to make provisions for these matters.

Shri Mahavir Tyagi : Sir, I beg to move:

“That in amendment No. 425 of List XVIII after clause (1) of article 264A, the following new proviso be inserted :

‘Provided that the sales tax shall not exceed Rs. 3/2 per cent of the sale price.’ ”

Sir, while moving this amendment, I wish to appeal to the sense of justice of this House in the name of the people whose representatives we are. This article from one point of view is extremely important. I deem this Constitution to be a contract between the State and the people. This contract has been given for drafting to the arbitration of the representatives of the people.

We should therefore not be guided, biased or prejudiced by the administrative difficulties, as may be pointed out by the honourable ministers, in various provinces; but we should take notice of the difficulties of the citizens at large. Constitution is a contract between the Citizen and the State; the main terms are, that the citizen shall pay such and such taxes whenever they be required by law to do so. This is the biggest liability which the citizens agree to take on themselves. On the one side, there are the citizens of India and on the other is Dr. Ambedkar, acting on behalf of the second contracting party, the State. He is already representing the State and puts the State's point of view. The state, through this Constitution takes over the responsibility of maintaining peace and enhancing the prosperity of the people. People being absent, I must appeal to the good sense of the representatives of those people, to be loyal to their clients and safeguard their interests in this supreme court of the nation. We are deciding their fate in their absence in this House.

When we allow the Provincial Governments to pick a pie from the private pocket of an individual citizen, we should see to it that it is obtained only willingly, and that every pie that we draw from the pocket of a private individual must ultimately go back to him either in the shape of services rendered to that individual or in the shape of an enhanced sum returned to him. Today in India hundreds of taxes are being realised, and the people do not really get any substantial benefit out of these taxes, either in the shape of additional 'prosperity' which they are told to expect from Government or any other kind of service. Whatever little service the State renders here in India is a further charge on the people. For instance, there are the railways which is an amenity given to people, but then it is run on a commercial basis and people are to pay for it. The telegraphs, the Post Office, the canals and everything else which go as services, we make extra charges for them. The State renders no free service to the people except a few dozes of quinine mixtures mixed with water that the State gives free to some poor people. Otherwise even doctors charge their fees and treat the people on payment. So we see that the State is not actually rendering any free service except that we are giving our citizens a psychological satisfaction to enjoy in their belief that they are a free people. They do not know what is the value of freedom. State justifies taxation on the plea that it defends the borders against wars. Wars never come alone, and when a war comes, it brings an extra tax along.

Now I submit that the taxes we get from the private individuals do not go back to them. If the Provincial Governments are permitted to realize sales tax, it is for them to see that they also enhance the prospects of commerce and bring about general prosperity among those people who are engaged in commerce. Now, what service do they render to the shop-keepers and those persons who, either purchase or sell ? They render no service to them. Have they created any new markets or given any facilities ? What for is this tax ? When various taxes were enumerated in the list of provincial subjects, it was considered that the sales tax was a sort of minor help to the provinces, for their revenues were static and there was no chance for raising them. The provinces mostly depended on their land revenue which is more or less fixed for a number of years. Therefore, with the increased activities of the provincial Governments it was thought better to give them some margin of extra revenue to balance their budgets.

Now, Sir, they got a little margin in the shape of this sales tax. As I see things, within a few years, the situation is totally changed. The sales tax is becoming a major source of revenue, even bigger than what their main sources of revenue used to be. In my province, previous to the war, the total revenue was hardly 13 crores or so; now, it is nearing 55 crores. These other taxes which the provinces have levied, over and above their main source of revenue are also taxes from the same people.

[Shri Mahavir Tyagi]

Now, Sir, the incidence of taxation is the heaviest in India. India had never faced even in times of war, such an incidence of taxation as it is bearing today. And, the Governments are rendering the least service in exchange for these taxes. This House is the highest authority vested with all powers of Sovereignty; we are sitting as the Supreme Court to decide whether we can permit the provincial Governments to go on taxing the people without any ceiling limits. Because there is no ceiling limit on this sales tax, they can go on raising the tax and ultimately there may come a time when the people may not be in a position to give much, and our taxes in the Centre would consequently be adversely affected. If the provincial Governments go on raising their taxes at the present speed, the result would be that total paying capacity of the people would be exploited by provincial Governments and the Central Government would thereby suffer. My point is that if we do not fix a limit, the provincial Governments would go on taxing, and we would be doing sheer injustice to the people who are at our mercy and who will have no right to protest or withhold these taxes. They would only have to draw solace from the fact that they were after all being taxed by the persons for whom they had voted. This is "ballot box democracy," which will tell in that manner on the people. I therefore, submit, Sir, that a limit of six pies per Rupee which comes to Rs. 3-2-0 per cent. should be fixed so that the provinces may not enhance the rate of this tax.

Again, I want to fix a limit also from another point of view. What I say is that in spite of the budgets of the various provinces having been inflated too much they are not rendering more service to the people than what the old Governments used to do. The result is that though they are freely inflating their budgets with the help of this liberty of raising taxes, they are doing nothing to reduce their expenditure, there is no tendency in any province to reduce the expenditure. The expenses today are more than what they used to be during the times of war. I say war was an emergency and they had temporarily to raise the taxes. Sir, it was foreign rule then. But now it is the people's government. Even though war is finished, the provincial governments have not begun to reduce their expenditure. Most of their income is going towards revenue expenditure and no portion of it is devoted towards the capital expenditure which is meant to enrich the people. If the money was spent in capital investments, I could have understood. Very little of the revenue expenditure is going towards capital expenditure. Whenever any money is invested in capital expenditure, it is obtained by borrowing.

Therefore, Sir, they are not only depleting the resources of the provinces, but also encumbering the citizens. I therefore, submit if in this manner, the provinces are given full opportunity to go on encumbering the position of the citizens in the provinces, it will tell upon the prosperity of the country as a whole. Therefore, while we are deciding between the citizens and the States, we must also define the limits to which the taxation of the provinces can go. With these words, I appeal, without any consideration to our party labels and prejudices, to the provincial Governments, that we, sitting as the judges of the nation, must do justice unimpaired, unprejudiced, fair and balanced to the citizens who are not here. They must be given full justice.

There are so many defects in the present system of sales tax. Now, in Delhi, there is no sales tax; in the United Provinces, there is a sales tax on motor cars, radios, on bicycles and other things. Whenever any citizen in Meerut wants a motor car or a bicycle, he does not go to the local shop there. The local agency suffers. He comes to Delhi. I see Dr. Ambedkar beckoning me to keep quite; he is using undue influence.

The Honourable Dr. B. R. Ambedkar : I have followed the point.

Shri Mahavir Tyagi : Have you followed it ? Have you also appreciated it ? Are you prepared to accommodate me ? You have got the delegates of the People behind you. Dr. Ambedkar, I can assure you, if you are just, if you recognise justice, you might become later on the Supreme Judge of India in your life, if you do justice to the citizen. I submit, Sir, this is the manner in which this tax is being levied. In one State there is a tax of two annas per Rupee in another State there is a tax of two pies per Rupee. In one State the sale is taken at one point only; in another State it is taken at so many points wherever there is a sale. Like the gamblers' den, whoever is playing, he has something to pay to the gamblers' pool. In this manner, the provinces are running after every sale. This is something which is tending to become a blind law.

I submit that this is a very serious matter. It would be better if Dr. Ambedkar would reconsider the whole article and make it a 'uniform tax' and put it in the hands of the Central Government. The best thing would have been for the Central Government to enact a law so that the provinces would have a uniform pattern of taxation and the tax would be realised at one single point and in relation to one single commodity. A commodity should not be taxed at every point whenever it is put up for sale. With these words, Sir, I hope the House, 'not caring for the mandates or labels (लेबल) that they might have received from their houses, will please do justice and speak freely and vote freely in the matter and guard the rights of the citizens.

Mr. President : There are some more amendments which relate to the article as it was originally proposed. I do not know if all the amendments arise; but there is one which certainly can be moved. Amendment No. 385, Mr. Ajit Prasad Jain.

Shri Amiyo Kumar Ghosh (Bihar : General) : I have got amendment No. 383, standing in my name.

Mr. President : Let me see first amendment No. 385.

(Amendment 385 was not moved).

Mr. President : Do you want to move amendment No. 383 ?

Shri Amiyo Kumar Ghosh : Yes, Sir.

Mr. President : Just show how it fits in with this now.

Shri Amiyo Kumar Ghosh : Mr. President, Sir, of course my amendment No. 383 was tabled against amendment No. 307, that is to say, to article 264-A as it originally stood but today another amendment to that amendment has been moved which does not change the original position in the least except that an explanation has been added to the previous article, to clear certain minor points. So it fits in with the amendment moved just now by Dr. Ambedkar. So I move my amendment:

"That in amendment No. 307 of List XIII (Second Week) clause (2) of the proposed new article 264A be deleted."

What I want by this amendment is this, that clause (2) which deals with inter-State trade and commerce and gives an exemption to such transactions from sales tax, should be deleted. As a matter of fact, my clear impression is that this Constitution though in form is Federal, is in essence a Unitary Constitution. In this Constitution all powers and all sources of finance have been taken away by the Centre and the provinces have been left without any resources of their own. As a matter of fact the Union has been so much over-loaded that it may break at its own weight. It is said that we have got provincial autonomy, I assert that the provincial autonomy we have under this Constitution is worse than what it was in 1935 Act. Coming to the

[Shri Amiyo Kumar Ghosh]

question the only source of taxation which the provinces have in this Constitution is the sales tax. But that power has been taken away by this new article 264A to a great extent.

Now I will particularly speak with reference to the province of Bihar because I am not acquainted with the sales tax position prevailing in other provinces. So far as Bihar is concerned, I must emphatically assert that if this new article 264A is allowed to stand, the Province will lose immediately an income of more than 2 crores of rupees. In Bihar the income per capita and consequently its expenditure per capita is the lowest in the whole of India the reason being that hitherto its financial resources were inelastic. It has got fixed income in land revenue. In other provinces like U.P., Madras and Bombay the land revenue is a progressive one but in Bihar, due to Permanent Settlement, the income from this land is rigid, being something less than 2 crores.

Then there is another source of income from excise, but if prohibition is to be carried out, the province is going to lose $5\frac{1}{2}$ crores out of its present revenue and there is no other source of revenue left to Bihar except sales tax to implement the loss that the province will sustain by the introduction of prohibition. This sales tax was the only elastic taxation left in the hands of the States to increase their revenue but that too is now taken away. Bihar has great resources but in spite of her holding rich position, she is one of the poorest province in India. Today 75 percent. of the coal and iron consumption of India is supplied by Bihar. Besides these, there are other commodities like sugar, cement, chillies, tobacco etc. which go out of Bihar; but if this provision is allowed to stand, the result will be that Bihar will not be entitled to any tax on these commodities at all, and will not derive any benefit from her own wealth. This article also closes the door of future implementation of the income for all times.

It is therefore only fair that Bihar which produced iron, coal etc. with the labour of the province and has to spend lots of money over maintaining law and order in those industrial areas—should be allowed to have an income out of them. It is understandable if some such clause is put into the effect that a uniform taxation will be levied on all such commodities that go out of any province and a position of such taxation will go to the province which produce them and the balance to the province where it is consumed. Under the present article 264A all the coal, iron and other commodities will leave the boundaries of Bihar, the Province will have no hand to tax them at all—a position which is very unfair to the Province. This will tell very heavily upon the financial resources of the province.

The State Governments are primarily responsible to the people and morally obliged to carry out so many social welfare programmes. They are to maintain law and order which requires huge expenditure. They are to eradicate want, ignorance, disease and unemployment. How to discharge these obligations? All these works require spending and doing. But where from to spend if there is no income ?

So, I submit that this is a clause which falls very heavily upon all provinces, particularly Bihar, and I would request the Drafting Committee to reconsider the subject over again. Everyday Provinces are being saddled with new responsibilities and if they have to discharge them, it will require

large money more money. The situation in the country is such that expenses on police and other administrative matters are mounting. Where from can these be met if we have no financial resources of our own ?

So, I oppose this Article 264A and I submit that so far as inter-State trade and commerce are concerned, they should not be exempted from sales tax and altogether deprive a province from such an important source of income. The benefit of this article goes wholly to the big businessmen who always evade paying taxes but is of no relief to the petty-businessmen and the consumers. If the power of imposing sales tax is abrogated in such a manner then it is better to liquidate the States altogether. If you want to maintain the States, you should not reduce them to the position of orphans with a begging bowl in hand approaching the Union Government for money and help. They must be given to stand on their own legs and must be allowed some resources where from they can implement their various plans into action. A healthy State means a strong Union.

Then, Sir, in this new article, it is said—

No law of a State shall impose, or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—

- (b) in the course of the import of the goods into, or export of the goods out of the territory of India.

Now, this gives a great loop-hole to the business-men to escape taxation. In all cases of export, there are various transactions before the commodity is actually exported from the country. But under this clause, all these transactions—the intermediate transactions which take place—are exempted from sales-tax. I could have understood the position if it was that at the point of export, that is to say, the last transaction, where from it is actually exported, the sales-tax will not be realisable at that point. But this clause as it stands means that all transactions that take place in the course of sending the goods outside the territory of India will be exempted from sales-tax. Now, how can you check the nature of these transactions ? A buys a commodity saying that he will export it. But he does not export it, but, sells to B, and B purchases it saying that he will export it, and in this manner the commodity passes on from one hand to other and from one province to another without payment of any tax, and it may be that in the end it is not exported at all. How can you check up this process ? There will be a lot of difficulty and confusion, if this clause is passed as it stands. So my humble submission is that there, export and import should be clearly defined, and we must say that export means the last transaction and import means the first transaction, and only at the point of these two transactions commodities will be exempted from sales tax, and at no other point.

With these words, Sir, I commend my amendment for the acceptance of the House.

Mr. President : Dr. Kunzru, do you want to move an amendment to this article ?

Pandit Hirday Nath Kunzru (United Provinces : General) Yes, Sir, but my amendment is being typed and I hope it will be ready very soon. I hope you will kindly give me a little time to.....

Mr. President : Well, you may move it later and in the meantime we may have some discussion.

Shri Jagat Narain Lal.

Shri Jagat Narain Lal : (Bihar : General) Sir, I have tabled no amendment, nor do I purpose to press for the support of any amendment that has been moved here. But all the same, I do want to make a suggestion to the Mover of this article 264A, to take into consideration certain views which are strongly held and which are being felt by a fairly large section of the House, for reasons many of which have already been expressed here.

There is no disagreement on the question of not allowing the States to tax imports or exports as such. But it has been already said by the some previous Members, and I have got to repeat it, that unless the words are properly clarified, the words “in the course of” which occur in sub-clause (b) of clause (1) are bound to create a good deal of confusion. It has been pointed out that the Supreme Court of the U.S.A. had arrived at certain decisions with regard to this question which have clarified the position. We want for various reasons that these words should go.’ I would suggest that they be replaced by the words “at the initial stage of import into” and “at the ultimate stage of export out of India”. I suggest that these words that I have suggested may be kept, for the simple reason, firstly, that that will eliminate confusion, and secondly, the difficulties which would be felt in taxing the goods which pass from hand to hand until a part of them is exported out of this country, would be eliminated. Otherwise, there will be a good deal of confusion and a good deal of difficulty.

Some of the previous speakers have already pointed out the difficulties which will be felt by Provinces like Bihar, and C.P. if the words “for the purpose of consumption in that State” in sub-clause (1) are retained, and I do not want to repeat those arguments. But I do want to point out that in the absence of certain very important sources of revenue which we do want, on account of the programmes which the Congress has chalked out—say for prohibition and so on—and sales tax is a very important source of revenue and an expanding source of revenue. While the Centre is in no way hit and is in no way affected, there is no point in saying that the Provinces where big manufactures go on, and very large-scale production goes on, like iron, sugar, coal, cement and so on should not tax the sale of those commodities in or outside the province. So I want that the words “for the purpose of consumption in that State” should go out. Otherwise, the proviso which has been provided to sub-clause (2) where it is said that they may continue to be levied for one year, should go, and they should continue to be levied as before.

These are the few suggestions which I want to make to the Mover of this article. I do not want it to be pressed in the form of an amendment, but I leave it to the good sense of the Mover. There is neither the desire that the Centre should be crippled, that the Federal Government should be crippled by being deprived of taxes or the power to tax, nor should there be any desire on the part of the Federal Government—and I hope there is none—that the States should be crippled. Both should work harmoniously. Both are inter-related, as on the safety and welfare of the Federal Government and of the States, the safety and welfare of the entire country rests. Therefore, Sir, I appeal to the Mover of this article to take into consideration these two suggestions and to make such alterations or modifications as may be acceptable to the entire House and there may be no feeling of resentment or the feeling that the difficulties of the States have not been fully taken into consideration. I do not want to add more to what has already been said.

Pandit Hirday Nath Kunzru : Mr. President, Sir, I beg to move:—

“That after clause (1) of article 264A, the following new clauses be inserted:—

- ‘(1a). No law of a State shall impose or authorise the imposition of a tax on the sale or purchase of goods within a State except where such sale or purchase is made to or by a consumer.
- (1b) Parliament may, by law, fix the maximum rate at which a sale tax may be levied by a State on the sale or purchase of goods.’ ”

Sir, the amendment placed before the House by Dr. Ambedkar prevents a State from levying sales taxes on imports and exports. It thus protects the interests of the Central Government. The amendment also prevents the State from imposing sales taxes on goods bought or purchased in the course of inter-State trading. It thus protects also the interests of the State in which the goods are ultimately to be sold. But except in a limited way, it does not protect the interests of the consumers. Clause (3) of the amendment moved by Dr. Ambedkar says, that no tax on the sale or purchase of any essential goods declared by the Central Government to be essential for the life of the community, shall be levied by a Legislature, unless the law imposing the tax has been reserved for the consideration of the President and has received his assent.

This amendment protects the interests of the consumers too, but only in respect of those articles that are declared by the Central Government to be essential to the life of the community. It will depend on the Central Government what goods it will include in this category from time to time. It is therefore desirable that something more should be done to protect the interests of the consumer.

In many provinces, Sir, the sales taxes are levied only when the goods pass to the consumer. But it is not so in all provinces, nor is there a limit to the rate of the tax. I think it is desirable in the interests of the public at large that the Constitution should take account of these points.

The first part of my amendment requires that a tax on the sale or purchase of goods should be levied only when the sale or purchase is made to or by a consumer. The second part of my amendment authorises Parliament to fix the maximum rate at which such a tax may be levied. It may be said that the general economic condition of the people will impose a limit on the power of the Government of any State to fix the rate of the sales tax. It is very difficult in the first place to determine what the economic rate should be. In the second place, if the rate is to be determined only by experience, that is by following the method of trial and error, the proceeds of a tax may be large in the case of a particular commodity, but, on the other hand the sale of some other commodity might go down. The matter cannot therefore be left to be judged entirely by the Finance Minister of a State. It is important enough to require to be dealt with at this stage.

In some of the countries, there are multiple-point sales taxes. Perhaps the economic condition of those countries permits of the imposition of such taxes. But, in India, particularly at the present time when prices are high, obviously it is undesirable that each of the processes that has to be gone through before the manufactured goods reach the hands of a consumer should be subjected to the payment of a tax on the sale or purchase of goods. I think it will be generally agreed that it is desirable that some restriction should be placed on the power of a State in this respect. And even where such a restriction has been imposed, it is desirable that the Parliament should have the power to prescribe the upper limit of the tax.

[Pandit Hirday Nath Kunzru]

Several speakers have complained of the burdensome character of the sales taxes that have to be paid at present. That shows that the Governments concerned have not been able to adjust the rates in such a way as to create a sense of contentment among the consumers. Something more is, therefore, obviously required to be done. All that need be done in this connection is that Parliament should be given the power of fixing the upper limit where this may be necessary. It may not do so in every case. It may not do so in the case of luxury goods; but it may have to do so in the case of goods which, though not absolutely necessary for the satisfaction of our primary needs, are nevertheless in such general demand that it will be a hardship to the people to go without them.

Sir, I think that what I have said sufficiently explains the purpose of my amendment and shows that the amendment is such as to meet with the approval of the House. As I have already said, the amendment placed by Dr. Ambedkar before the House fully protects the interests of the Central Government and the interests of the State in which the goods purchased in another State are to be sold. But it only protects partially the interests of the consumer. My amendment seeks only to give as full protection to the consumer as Dr. Ambedkar's amendment has given to the interests of the Central Government and those of the State in which the goods purchased are ultimately to be sold.

Shri B. M. Gupte (Bombay : General) : Mr. President, Sir, I am sorry I have to express my dissatisfaction at clause (2) as it stands just now. My grievance is that it does not take into adequate account the difficulties of the provincial governments. Ours is a welfare State and it is bound to be more and more so as time rolls on, but most of the welfare work falls to the share of the provinces and the local bodies. The lower we go down the units of administration, the closer they come into contact with the daily needs of the people, and even today the Provincial Governments are hard put to it to meet their responsibilities with regard to what are called nation-building activities. And in the case of some of the provinces their difficulties are accentuated by the merger of States.

Take, for instance, the case of the province to which I have the honour to belong, viz., Bombay. Today Bombay is facing the prospect of heavy deficits in its budgets for some years to come at least; and at such a time, instead of affording more sources of revenue to them we are clamping restrictions on the sources already available to them. Now, the sales tax is the most important and perhaps the most elastic source of revenue, and if we affect the income from that source, how will they meet their deficits ? The provincial governments proposed that the provinces and the Centre should sit round a table, take stock of the whole situation and arrive at some arrangement for a more equitable distribution of the financial resources of the country and if there was not enough to go round, for a more equitable sharing of the financial difficulties.

The report of the Expert Finance Committee appointed by you, Sir, was an admirable opportunity for that purpose; but the Drafting Committee shelved the consideration of that report, maintained the *status quo* and provided for the appointment of a Finance Commission within two years of the commencement of the Constitution. There may be very good reason for that. I do not challenge that, but my point is that those good reasons should apply equally to the imposition of these restrictions. If the financial adjustment could wait, then certainly the imposition of these restrictions also could wait. After all, the question is not whether these restrictions are proper—they may be proper—but whether we are justified in imposing these restrictions without

making any compensatory sources available to the provinces. In the absence of such sources of revenue, what will the provinces do ? They will always look to the Centre for grants and we will be making the provincial Finance Ministers a crowd of unfortunate beggars on the doorsteps of the Central Finance Minister. I do not think this is a very desirable position.

I am glad one concession is made in the provision. That concession is that the present arrangement might continue up to the 31st March 1951. My point is that it would have been better if this period had been extended up to the time when the First Finance Commission will have made the necessary adjustments in the financial relations between the provinces and the Centre. We could certainly have waited till then. That would be only three years instead of one and a half years, which is a very small matter. Otherwise, I feel that there is bound to be a dislocation in the financial structure of the provinces. It must be remembered that the Centre cannot remain unaffected by the effects of that dislocation.

After all, the Centre and the Provinces are parts of one integrated whole. Take, for instance, the case of sugar at present. The Central Government passed a freezing order at Delhi, but the looting and shooting took place in Calcutta and Bombay. Let us therefore remember that any discontent arising out of the financial difficulties of the provinces would ultimately detract from the strength of the Centre, however strong that Centre may be. And as I have once said, a strong Centre cannot be sustained on weak units.

Shri Prabhu Dayal Himatsingka (West Bengal : General) : Sir, I beg to support the amendment moved by Dr. Ambedkar for the incorporation of article 264A. The article is framed to meet a number of difficulties and in the circumstances appears to be the best. I personally would have liked if the Centre had been authorised to impose the tax, collect it at the source,—at the import or the production centres,—and distribute the collections to the provinces. That would have reduced the number of points where expenditure has to be incurred in keeping books of account, but as the provincial governments did not agree to the Centre imposing the tax and then distributing it, the article as now proposed is the best. It seeks to do away with certain anomalies, which exist in the legislation of certain provinces where tax is imposed on sale, even though the article is delivered or consumed in another province. Similarly, it will do away with the tax on certain articles which are produced in one province but are sent to other provinces, that is to say in the course of inter-State transactions. At the present moment, Sir, I know of two cases where taxes have been imposed in Bengal to the extent of 25 lakhs of rupees on a mill which is situated in Orissa. Even though the goods were sold in provinces other than Bengal, still Bengal imposed an amount of twenty-five lakhs of rupees as taxes, simply because the company's head quarters happens, to be in Bengal. The present section will do away and remove such taxes being levied in such cases where the sales take place outside the province.

So far as the suggestion made by Pandit Hirday Nath Kunzru is concerned Bengal has met the difficulty already because it has introduced what is called registered dealers. When a sale takes place between two registered dealers, no sales tax is realised. When a sale takes place to a person who is not a registered dealer, then and then only is the tax realised; and therefore it is presumed that a man who is not a registered dealer is taking it for purposes of consumption. So, Bengal has met this difficulty by making registration necessary in the case of those who do not want to pay any taxes on their purchases.

[Shri Prabhu Dayal Himatsingka]

I support the article as moved by Dr. Ambedkar. Certain apprehensions have been expressed by different provinces, but I do not see that there is any justification for the same. They ought to know that they will be safe because there are a number of articles produced in each province which are exported for consumption in other provinces. Similarly, they ought to know that there are a number of things which come to the different provinces for consumption. Take, for instance, the case of cloth from Bombay. When cloth goes out from Bombay, they are prevented from imposing any sales tax, and Bihar which is importing a lot of cloth from Bombay will be able to realise the tax from such cloth. Therefore, ultimately, they will adjust in such a manner that all the provinces will practically get what they have been getting now. The thing will adjust itself in the course of a year or two, and none of the provinces will stand to lose anything but at the same time, the whole procedure will be simplified. I therefore support the article as moved by Dr. Ambedkar.

Shri Gopal Narain (United Provinces : General) : Mr. President, Sir, I have risen to support the amendment of my Friend Shri Mahavir Tyagi. He has struck the right note. In levying a tax or in introducing a measure of taxation the first consideration should be whether it is in the interests of the people. We have to see when we introduce a tax that it will be spent in the interests of the people, the masses. It is argued that we have introduced prohibition and so this new tax is required to make up the deficit in that direction. In my own Province only in eight districts we have introduced prohibition and that too is not successful. This is not prohibition in any sense.

Why do we need such taxation ? I may say, Sir, that it is due to the top-heavy expenditure that we are introducing new measures of taxation. We are not economising in that direction in the Centre and in the Provinces. We find that Economy Committees have been established and have submitted their reports. In my own Province they have submitted a report that we should lessen our expenditure by Rs. 6 crores, and out of that six crores I found that four crores are from the capital expenditure for roads and buildings and two crores from other directions. This is not sufficient. Before levying this new taxation we should have an economy drive in the Centre and in the Provinces. We are not doing any good to the masses but are burdening them with taxation. My Friend Mr. Tyagi has drawn the attention of the House in this very direction. He has said that we must see if this taxation will do any good to the people at large. I think they are being burdened unnecessarily on account of the huge expenditure in the administration of the Government. We should curtail it first and then we should think of introducing this taxation.

I will say one thing more. As for the amendment of Dr. Ambedkar, there is some discrimination in it. Some provinces will suffer by that. The U.P., Bihar and the C.P. will be the greatest sufferers by that amendment. I think there should be no discrimination as between Province and Province. All the Provinces, if they have to suffer, should suffer equally. It may not be beneficial to one Province while the other Province have to suffer, I would appeal to Dr. Ambedkar to accept the amendment of Mr. Tyagi.

With these few words, I support the amendment moved by Shri Mahavir Tyagi.

Shri Yudhisthir Mirsa (Orissa States) : Sir, the question be now put.

Several Honourable Members : No, no.

Shri Mahavir Tyagi : You kindly exercise your discretion, Sir, the matter is very important.

Mr. President : You have already spoken and you will have, no chance again. I have to put the closure motion to vote.

The question is :

“That the question be now put.”

The motion was adopted.

The Honourable Dr. B. R. Ambedkar : Sir, there are three amendments before the House. The first is the amendment of my Friend Prof. Shibban Lal Saxena. According to his amendment, what he proposes is that the power practically to levy sales tax should be with the Parliament. There are two fundamental objections to this proposal. In the first place, this matter was canvassed at various times between the Provincial Premiers and the Finance Department of the Government of India in which the proposal was made that in order to remove the difficulties that arise in the levy of the sales tax it would be better if the tax was levied and collected by the Centre and distributed among the Provinces either according to some accepted principles or on the basis of a report made by some Commission. Fortunately or unfortunately, the Provincial Premiers were to a man opposed to this principle and I think, Sir, that their decision was right from my point of view.

Although I am prepared to say that the financial system which has been laid down in the scheme of the Draft Constitution is better than any other financial system that I know of. I think it must be said that it suffers from one defect. That defect is that the Provinces are very largely dependent for their resources upon the grants made to them by the Centre. As well as know, one of the methods by which a responsible Government works in the power vested in the Legislature to throw out a Money Bill. Under the scheme that we have proposed; a Money Bill in the Province must be of a very meagre sort. The taxes that they could directly levy are of a very minor character and the Legislature may not be in a position to use this usual method of recording its “no confidence” in the Government by refusing taxes. I think, therefore, that while a large number of resources on which the Provinces depend have been concentrated in the Centre, it is from the point of view of constitutional government desirable at least to leave one important source of revenue with the Provinces. Therefore, I think that the proposal to leave the sales tax in the hands of the Provinces, from that point of view, is a very Justifiable thing. That being so, I think the amendment of my Friend Prof. Shibban Lal Saxena falls to the ground.

With regard to the amendment of my Friend Mr. Tyagi, I would like to say that I am in great sympathy with what he has said. There is no doubt about it that the sales tax when it began in 1937 was an insignificant source of revenue I have examined the figures so far as Bombay and Madras are concerned. The tax in the year 1937 in Madras was somewhere about Rs. 2.35 crores. Today it is very nearly Rs. 14 crores. With regard to Bombay the same is the situation, namely, that the tax about Rs. 3.5 crores in 1937 and today it is somewhere in the neighbourhood of Rs. 14 crores. This must be admitted as a very enormous increase and I do not think that it is desirable to play with the sales tax for the purpose of raising revenue for the simple reason that a taxation system can be altered on the basis, so far as I know, of two principles. One is the largest equity between the different classes. If one class is taxed more than another class it is justifiable to employ the taxation system to equalise the burden.

The second important principle, which, I think, is accepted all over the world is that no taxation system should be so manipulated as to lower the standard of living of the people, and I have not the slightest doubt in my mind that the sales tax has a very intimate connection with the standard of living

[The Honourable Dr. B. R. Ambedkar]

of the people of the province. But, with all the sympathy that I have with my friend, I again find that if his amendment was accepted it would mean that the power of the provinces to levy the sales tax would not be free and unfettered. It would be subject to a ceiling fixed by Parliament. It seems to me that if we permit the sales tax to be levied by the provinces, then the provinces must be free to adjust the rate of the sales tax to the changing situation of the province, and, therefore, a ceiling from the Centre would be a great handicap in the working of the sales tax. I have no doubt that my Friend Mr. Tyagi, if he goes into the Provincial Legislature, will carry his ideas through by telling the Provincial Governments that the sales tax has an important effect on the standard of living of the people, and therefore, they ought to be very careful as to where they fix the pitch.

Shri Mahavir Tyagi : Have I become so inconvenient to you?

The Honourable Dr. B. R. Ambedkar : Not at all. If I were a Premier, I would have taken the same attitude as you have taken.

Now, coming to the amendment of my honourable Friend Pandit Kunzru, I am inclined to think that the purpose of his amendment is practically carried out in the explanation to sub-clause (1) where also we have emphasised the fact that the sales tax in its fundamental character must be a tax on consumption and I do not think that his amendment is going to improve matters very much.

There is only one point, I think, about which I should like to say a word. There after I know, some friends who do not like the phraseology in sub-clause (1), in so far as it applies, "in the course of export and in the course of import". Now, the Drafting Committee has spent a great deal of time in order to choose the exact phraseology. So far as they are concerned, they are satisfied that the phraseology is as good as could be invented. But I am prepared to say that the Drafting Committee will further examine this particular phraseology in order to see whether some other phraseology could not be substituted, so as to remove the point of criticism which has been levelled against this part of the article. Sir, I hope the House will now accept the amendment.

Mr. President : Before putting the proposition moved by Dr. Ambedkar to vote, I desire to say a few words, particularly because I see in front of me the Honourable the Finance Minister. I do not wish to say anything either in support of or in opposition to the article which has been moved, but I desire to point out that there is a considerable feeling in the provinces that their sources of revenue have been curtailed a great deal, and also, particularly among the provinces, which are poor, that the distribution of the income-tax is not such as to give them satisfaction. I desire to ask the Finance Minister to bear this in mind when he comes to consider the question of the distribution of the income-tax, so that it may not be said that the policy of the Government of India is such as to give more to those who have much and to take away the little from those who have little.

I shall now put the various amendments to vote.

The question is :

"That in amendment No. 307 of List XIII (Second Week), clause (2) of the proposed new article 264A be deleted".

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 425, in the Explanation to clause (1) of the proposed article 264A, the words ‘for the purpose of consumption in that State’ be deleted, and the following new clause be added at the end :—

- ‘(4) The Union Parliament shall have power to amend the laws in respect of taxes on sale or purchase of goods with a view to bring uniformity in the laws made by the various States of the Union or in the interests of the Union as a whole, provided that no Bill for such amendment shall be moved in Parliament without the prior permission of the President, and the President before giving such permission shall obtain the views of the Governments of the various States concerned.’ ”

The amendment was negatived.

Mr. President : The question is :

“That in amendment No. 425 of List XVIII after clause (1) of article 264A, the following new proviso be inserted —

‘Provided that the sales tax shall not exceed Rs. 3/2/- per cent of the sale price.’ ”

The amendment was negatived.

Mr. President : The question is:

“That after clause (1) of article 264, the following new clauses be inserted:—

- ‘(1a) No law of a State shall impose or authorise the imposition of a tax on the sale or purchase of goods within a State except where such sale or purchase is made to or by a consumer.
(1b) Parliament may, by law, fix the maximum rate at which a sale tax may be levied by a State on the sale or purchase of goods.’ ”

The amendment was negatived.

Mr. President : Then I put the original proposition moved by Dr. Ambedkar. The question is :

“That in amendment No. 307 of List XIII (Second Week), for the proposed article 264A, the following be substituted—

‘264-A. (1) No law of a State shall impose or authorise the imposition of, a tax on the sale or purchase of goods where such sale or purchase takes place—
Restrictions as to imposition of tax on the sale or purchase of goods.

- (a) outside the State; or
(b) in the course of the import of the goods into, or export of the goods out of, the territory of India.

Explanation.—For the purposes of sub-clause (a) of this clause a sale or purchase shall be deemed to have taken place in the State in which the goods have actually been delivered as a direct result of such sale or purchase for the purpose of consumption in that State, notwithstanding the fact that under the general law relating to sale of goods the property in the goods has by reason of such sale or purchase passed in another State.

- (2) Except in so far as Parliament may by law otherwise provide, no law of a State shall impose, or authorise, the imposition of, a tax on the sale or purchase of any goods where such sale or purchase takes place in the course of inter-State trade or commerce.

Provided that the President may by order direct that any tax on the sale or purchase of goods which was being lawfully levied by the Government of any State immediately before the commencement of this Constitution shall, notwithstanding that the imposition of such tax is contrary to the provisions of this clause, continue to be levied until the thirty-first day of March, 1951.

- (3) No law made by the Legislature of a State imposing, or authorising the imposition of, a tax on the sale or purchase of any such goods as have been declared by Parliament by law to be essential for the life of the community shall have effect unless it has been reserved for the consideration of the President and has received his assent.’ “

The amendment was adopted.

Article 264-A, as amended, was added to the Constitution.