

Tuesday, 9th August, 1949

Volume IX

30-7-1949  
to  
18-9-1949



# CONSTITUENT ASSEMBLY DEBATES

## OFFICIAL REPORT

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THE CONSTITUENT ASSEMBLY OF INDIA

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*Deputy Secretary:*

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*Marshal:*

SUBEDAR MAJOR HARBANS LAL JAIDKA.

## CONTENTS

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

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

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

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

## CONSTITUENT ASSEMBLY OF INDIA

*Tuesday, the 9th August 1949*

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

DRAFT CONSTITUTION—(Contd.)

**Article 255—(Contd.)**

**The Honourable Rev. J. J. M. Nichols Roy** (Assam : General) : Mr. President, yesterday I spoke a little on my amendment. I have given now a correct version of my amendment. That would make the thing clear. May I speak on it, Sir ?

**Mr. President** : I will take this in the place of the one that you moved yesterday.

We shall continue discussion of the article which we were discussing last night.

**The Honourable Rev. J. J. M. Nichols Roy** : May I read it, Sir?

**Mr. President** : I shall read it out at the time of voting. Mr. B. Das.

**Shri B. Das** (Orissa: General) : Sir, we are discussing article 255 which deals with grants-in-aid to provinces generally, and also in certain reserved fields such as development of Scheduled and Tribal areas and helping the development of Scheduled tribes in some of the provinces.

Sir, I join my feeble voice to the “tales of woe”, however disliked it may be by the richer provinces and by that great humanitarian, Dr. Ambedkar. Sir, if I am feeble, it is because my province has remained undeveloped throughout one hundred and fifty years of British rule. The colonial pattern of government that the Englishman introduced wanted complete centralised control and wanted expansion of the British rule not only in India but throughout Asia. That did not allow the Centre under the former British Raj to part with any finances for the development of those undeveloped provinces of which we heard so much yesterday. Sir, everything is not happy in the Drafting Committee. Yesterday my honourable Friend Dr. Ambedkar told us that the Drafting Committee came to the conclusion that it would adhere to the old system of financial redistribution. I had an idea that the Drafting Committee was there to draft the principles that are laid down by Expert Committees of this House or that are the intentions of this House. I congratulate my Friend Syed Muhammad Sa’adulla Saheb on that excellent speech which he delivered yesterday pleading for that benighted province of Assam. That reveals there was no unanimity of opinion in the Drafting Committee on that Issue. Yet in the name of the Drafting Committee we are told that we have no alternative but to accept articles 254 or 255 or the subsequent articles that we will discuss today and tomorrow. I thought Dr. Ambedkar always felt for the under-dog as he had the spirit of humanity. This Constitution will remain a scrap of paper if the Centre follows the tradition of its foreign predecessors—the British Government—and monopolise all the sources of taxation and does not assist the Drafting Committee and this House to arrive at an equitable basis of distribution of resources so that

[Shri B. Das]

the provinces stand on an even keel. Even Lord Meston thought that to stand on an even keel Bihar, Orissa and Assam needed help. Even the Otto Niemeyer Award admitted at the time that certain provinces are undeveloped and they need resources but under the circumstances it excluded the grant of more money. But today we heard from the spokesman of the Government of India in Dr. Ambedkar, that the Government of India had no concrete scheme, no definite scheme to raise the basic standard of expenditure of those undeveloped provinces of Bihar, Orissa and Assam and, to which list West Bengal, by act of God and man having been partitioned, has been added.

Sir, I referred the other day to that bureaucratic document that the Government of India in Finance Department placed before the Sarker Expert Committee. The Government of India attained by then independence though it was only five months old. The Finance Department produced an autocratic, bureaucratic document which is colourless and heartless and without any conception of the sovereign—duties that developed on the Finance Ministry, because it has conserved all sources of revenue in its own hands—not by its own efforts but through the system of centralised rule that it inherited from the former British Raj. My idea of independence is over and I do not dream of independence. I do not breathe in the atmosphere of independence today. Sir, accidentally, circumstantially we have become part of a Commonwealth and one is ashamed to open daily papers—whether Indian or British papers—India is part of that Commonwealth Empire and India must follow the doctrine of the United Kingdom by handing over all its economic resources. Today our resources are subordinated to British economic policy and we do not find the spokesman of the Finance Ministry present here to explain his functions or to explain the attitude of the Government of India. Sir, the document I referred to is the memorandum which the Finance Department produced before the Sarker Committee and it gives an analysis of revenues and expenditures for ten years on page 4. It says that the revenues of the Government of India were 1968 crores, civil expenditure 1731 crores, defence expenditure 1887 crores. We know how the huge defence expenditure was met. It was met from the borrowings and it has added up to the unproductive size of the public debt but in para. 8 on page 3 they say, I mean the Finance Department—I will not say the Finance Ministry as it did not understand the functions of Finance Ministry then or even now—that in these ten years it helped the provinces to the extent of 196.7 crores, and it says in spite of its own heavy commitments the Centre released nearly 200 crores of rupees to the provinces during this period. It shows the bureaucratic mentality and spirit of the Finance Department and we see no change in it after one and a half years when that document was written; and yet let me analyse it. In 1937-38 the annual revenue of the Centre was 86 crores; in 1946-47 it was 336 crores; and in 1949-50 it is 325 crores. These revenues the Government of India did not manufacture themselves. They get it from the people of India and yet it grudges the 200 crores which means out of 1968 crores it is only 10 per cent. It gave 10 per cent of the revenues collected during these ten years to the provinces and it grudges it.

Here under article 255 we are discussing grants-in-aid to the provinces. Who made the Government of India, Finance Department, into a charitable institution that it gives occasional charities to undeveloped areas like Assam, Orissa, Bihar or Bengal? We stand on justice and equity, we stand here on our rights that every province must have social justice, must have a basic standard of income or revenue. If I am condemned to four or five rupees *per capita* income, if Assam is condemned almost to the same level, it is not my fault. It is a legacy that foreign rulers have left. Today the spokesman of the Government of India stands up and talks glibly that they do not want to accept any change

in the basic standard of revenue that must be allocated to the provinces. Sir, I said on Friday last that you will be pleased to examine, after these articles regarding re-distribution of finances between the Provinces and Centre, are considered, whether the Centre has discharged its powers and duties so as to give a minimum standard of development, and to raise the standard of administration in those areas where better public health, better standard of education, better mode of living should come into being simultaneously with this Constitution. I do not claim that the Centre should so allocate the revenues as to give Rs. 25 *per capita* revenue expenditure to Orissa or Assam. I do not say that. But this august House, this sovereign House will nullify itself, will stultify itself if it does not determine before this Draft Constitution becomes an Act, what will be the basic standard of revenue placed at the disposal of the Provinces so that the Provinces might start on an even keel. Sir, article 255 talks of grants-in-aid of the revenues, of such States “as Parliament may determine to be in need of assistance.” My honourable Friend Rev. Nichols-Roy had tabled an amendment whereby he wants the introduction of the idea that what minimum assistance the provinces are getting, let them not be deprived of, till the so-called *ad hoc* committee or the Finance Commission comes into existence : There is a very deliberate suspicion on the part of my friends from the undeveloped provinces that the Government of India in the Finance Department may become more autocratic and may deprive the provinces of the small grants, in-aid that are now prevailing. My honourable Friend Dr. Ambedkar talked and waxed eloquent on the provision of article 256 over the development of Assam, and over the development of other tribal areas—he quoted article 255 proviso (a) that the average expenditure of revenues during the three years immediately, preceding the commencement of this Constitution should be granted to these provinces. I must say, Sir, this is very bad logic on the part of that great humanitarian leader Dr. Ambedkar. Undeveloped provinces like Assam and Orissa had no resources to develop these tribal areas, these excluded areas, although the Government of India Act, 1935, of which my honourable Friend Dr. Ambedkar is so fond, from which he quotes so often as if it is the Magna Charta on which all constitutions could be based—that Act provided that it was the duty of the Central Government to help the development of these tribal areas. But, Sir, it remained a dead letter. The 1935 Act was never promulgated at the Centre. It was a mistake, and I recognise that it was a mistake on our part, not to have accepted the 1935 Act the Federal Constitution at the Centre. If we did, today we would have been much better off. What happened? Did the Central Government help in the development of the tribal areas in these undeveloped provinces? No. Sometimes it gave doles in charities, but it did not really help in the development of the tribal areas; the Nagas, the Khasis and other tribes in Assam remained where they stood. What it did, it did for the defence of the British Empire, on the eastern frontier, and we know in the last war, where the enemy came. The enemy came through those hills, on to the Kohima battle-fields. So today to talk here, blithely that the undeveloped provinces will get the average of the last three years expenditure before the Constitution commences, shows the incapacity of the Government of India’s Finance Department, to face the situation to solve those problems. It has not faced the situation. Sir, I am a man of principles too—I agree with my honourable Friends Pandit Kunzru and Dr. Ambedkar that there should be principles, financial principles which should guide the governance of India and the provinces. But what are the financial principles that must be laid down. My Friend Dr. Ambedkar, coming from the Rs. 25 *per capita* standard of Bombay presidency, does not like the export duty to be distributed iniquitously to certain provinces. He quoted from the Export Committee’s Report, and it was a pleasant surprise to find that the Government of India and Dr. Ambedkar have accepted at least one moiety of the recommendations of that Committee. My friend quoted from ‘that report, but he forgot to quote the consequential lines, regarding the allocation of jute duty. Sir, though we



[Shri B. Das]

are not discussing specially the share of jute duty, we are still considering the grants-in-aid; and on page 9 of the Report, in para. 36, where the Sarker Committee allocates money for a period of ten years, they qualify it by saying... "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, it should 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". Dr. Ambedkar did not qualify the Draft article which this House accepted yesterday—254—with this part of the recommendation, that the grants-in-aid must be given till provincial resources reach the right -standard. Here the Centre denies us, the undeveloped provinces, a basic standard of expenditure. Then in one stroke, by article 254, they still keep these poor provinces on tenterhooks. Orissa gets only 3 lakhs. I am not very much pleading here the cause of Orissa. I am pleading the cause of justice and equity, that there should have been a proviso somewhere so that the wrong done so arbitrarily by the Centre in the Draft Constitution, by article 254, may be set right automatically. That is why I plead before you, you as the guardian of this sovereign Constituent Assembly. You will see that there is some definite binding on the Government of India to give up its autocratic and bureaucratic codes and to pass round its resources to enable the Provinces to develop and not to be at the mercy of the Finance Commission or the Finance Minister of the time assisted and guided as he will always be by bureaucratic officials who continue in their set career from 1924 onwards without any appreciation of new responsibilities devolved on them.

Sir, the Nalini Sarker Committee's recommendation must be taken as a whole, not in part, because it conceived the idea of a Finance Commission immediately appointed. We know it was postponed. The amendment tabled by Dr. Ambedkar refers to the appointment of a Finance Commission. That means that in ten years Bengal will be deprived of 100 lakhs whereas the consideration of Bengal's possible deficits or deficiencies will not be taken up for some four years from today. Is that justice ? Is that fair ? We talk here time in and time out of justiciable rights. What is justiciable, when millions and millions are deprived of their basic standard of administration so that they cannot develop? If the richer Provinces like Madras, Bombay, and the U.P. are silent here today, if they think they have no obligatory duties to see that economic justice is rendered to the undeveloped Provinces. I think they are living in an Utopian paradise. If they think that their prosperity will add to the prosperity of India, they are entirely mistaken. If so many Provinces in the east of India starve, if they go on in utter poverty, if the standard of people is not developed, how can India be prosperous and how can Madras laugh at our demand of raising our basic standard of administration by securing a minimum basic standard of resources? The Government of India has not faced it, they are not facing, it because it is a bankrupt Government. That is not the concern of this sovereign House. Let the spokesmen of the Finance Ministry come here and tell us their plans over redistribution of resources—they do not tell us their reactions—they want us to continue in that same sorry way as we did under the foreign administrators for years and years.

I plead before this august House that these financial provisions of the Draft Constitution are, if I may use the word, mere bunkum. They do not create a democratic sense in the Provinces. They do not help the provinces to live with hope and to reconstruct life with hope under this Constitution My Friend Dr. Ambedkar spoke yesterday and acknowledged the existence of the Nalini Sarker Report and said he was prepared to accept a moiety of it. Sir, it lies in your hands to appoint a Committee of this House to examine the Nalini Sarker Report so that we incorporate such beneficent recommendations that are

there for the uplift of those underdeveloped Provinces. It is not to the advantage of the Centre, handicapped as it is today, to part with its resources. It may be the Parliament that will make the law, but the Parliament may not make any law. What was the attitude of the Finance Department in the Parliament in the last two years ? I do not blame Dr. Matthai alone, I blame Dr. Matthai and his predecessor Mr. Shanmukham Chetty, the two independent Ministers, I blame strongly the policy dictated by the Finance Department. Dr. Matthai may fancy he has the law today and he can give a moiety here and there when justice demands other rights—fuller distribution of resources to Provinces

Sir, we heard the appointment of the Fiscal Commission. We know it has been appointed with our distinguished Friend Mr. V. T. Krishnamachari as the President. How many years will they take to assess the fiscal policy of India ? Mr. Shanmukham Chetty, in the Parliament, announced that there will be a Taxation Inquiry Committee, that the Taxation Inquiry Committee will see what taxes should be levied, then the House and the country will determine what resources should go to the Provinces. But, Sir, a year afterwards Dr. Matthai stated in the House that unless we know the *per capita* basis of income, unless we know the national income of India, we are not going to appoint a Taxation Inquiry Committee.

**Mr. President :** May I point out to the honourable Member that we are not discussing the Government of India ? We are discussing the Constitution and any remarks which he wishes to make should be confined to the Draft Constitution and the provisions contained therein.

**Shri B. Das :** Thank you, Sir, that is what I am trying to do. I am sorry I have to bring in the Government of India—it has become like King Charles' head in my speeches!

**Mr. President :** Yes, it seems to be so.

**Shri B. Das :** Yes, Sir, but how can the resources come to Provinces, how can the grants-in-aid come to Provinces unless the basic system of distribution of resources is set down in this Draft Constitution ? That is the objective with which I speak, and I was illustrating and I still wish to illustrate that the Government of India are deliberately postponing this evil day when they will stop their extravagance and pass on the equitable share of the resources to the Provinces. That is all that I am aiming at. If I am wandering about in my speech. I am not as brilliant a speaker as Dr. Ambedkar, so I have to go in a round-about way.

**Mr. President :** I have not interfered with the speakers when they have been discussing these financial provisions because I felt that any grievances which Members might feel might be mentioned here. But very often these speeches have gone much farther than the particular article under consideration, and the speeches become pointless when no amendments have been moved which would enable the House to decide in a way different from that proposed by the Drafting Committee. I would therefore suggest to Members that now that the grievances have been ventilated they should confine themselves to the articles and if there are any amendments they might speak on the amendments. But general discussion of the policy of the Government of India becomes pointless here because we are not here discussing the Government of India, nor have we got anyone here as representative of the Government of India present in this House. This is the Constituent Assembly charged with a particular duty, namely, the framing of the Constitution, and we are not concerned with what the Government of India has been doing or is doing at the present moment—we are concerned with what the Constitution should be. So, if Members have any grievances they may ventilate those grievances elsewhere and they should

[Mr. President]

confine their Speeches here to the articles and to any amendments which they wish to move. It was open to Members to move amendments; I find they have not moved them and still speeches are being made which go against the Draft Constitution as proposed by the Drafting Committee.

**Shri B. Das :** Sir, I am aware of my shortcomings. Even Dr. Ambedkar yesterday admitted the shortcomings of the Drafting Committee. He could not face squarely and fairly the recommendations of the Drafting Committee. If we had not moved any amendments it was because the Drafting Committee itself is confused and I find my Friend Janab Sa'adulla Saheb speaking quite differently in such a passionate manner. I do not know whether I am to lend my support to Dr. Ambedkar. I am not going to make any further speeches on this or on article 260. If the recommendations of a Committee of this House appointed by you is not given effect to, what hopes can provinces have? And the Finance Commission may come about five or six years hence. It is a well-known practice of British statesmen who have since left this country, that when they could not solve a problem they would appoint a committee. And if they could not solve it to appoint further sub-committees. The tradition of the Government of India or of the other House is not to remedy these difficulties ....

**Mr. President :** It was open to the honourable Member to have moved amendments to every particular article that has been placed before the House and to every single sentence therein but he has not done so.

**Shri B. Das :** I feel guilty, but in one place I suggested that the Government of India within six months of this Constitution should announce in the House the basis of allocation of these resources. Somehow that could not be moved, because we have not a sympathetic atmosphere in the House. I therefore appeal to you. I have full confidence in you. I would request you to ask your experts to examine the Drafting Committee's report along with the Government of India Act, 1935, the provisions of which never came into operation. If that is the economic justice which we are going to do to the provinces, woe betide me, woe betide this House and woe betide this country. Every province will remain in an extremely backward condition, because the Government of India in the Finance Ministry will carry on its merry career. The caravan will move on even as it did in the days of Sir Basil Blackett and Sir James Grigg and thereafter. That is my sorrow and my misfortune.

**Shri Brajeshwar Prasad (Bihar : General) :** Sir, I rise to offer a few comments on article 255. I am opposed to the provision made in the article that Parliament should determine the amount of the grants to deficit provinces. I do not see any reason why any difference should be made between the procedure adopted in articles 254 and 255. Under article 254 it was proposed that the President and not the Parliament be empowered because the prospect of the Members wrangling on the floor of the House was not considered to be proper and in consonance with the spirit of nationalism. Therefore the President was empowered and not Parliament. I do not see any reason why another procedure has been adopted in article 255 where Parliament has been empowered. If wrangling is not good under article 254, it is also not good under article 255. Therefore I am in favour of the procedure laid down in article 254.

Sir, I want to speak very frankly and without any reservation. There is another reason why I am in favour of the President and not the Parliament. The reason is that there is apprehension in our minds that the majority of the members belonging to one particular province may tilt the balance against the interests of the minority provinces or deficit provinces without paying any regard or having any consideration of the interests and the needs of the deficit provinces. Therefore I am in favour of the proposal that article 255 should be amended on the lines suggested by my honourable Friend, Rev. Nichols Roy.

There has been much wrangling on the floor of the House that such and such province has been exploited and that proper attention has not been paid to the needs of the weaker provinces. I do not want to enter into any controversy on this point. I claim myself to be a nationalist and as belonging to the whole of India and as such I would not support on the floor of the House any measure in favour of one province and against the interests of another province I feel that as long as men like your august self, Sir, are at the helm of affairs in the Government of India, as long as men like Rajaji, Sardar Patel, Pandit Nehru and Maulana Abul Kalam Azad are there, the interests of the provinces, which mean the interests of the people of India, are perfectly safe. Therefore, I entirely support the proposition laid down in article 255 that grants shall be made in accordance with the needs of the provinces to be determined not by Parliament but by the President.

There is another point to which I would like to draw the attention of the House. This article 255 ought to have come before the House after we had decided the constitution of the Government of the tribal areas. The implication of this article is that the tribal areas shall remain tagged on to the provinces and I am strongly opposed to this idea. I am in favour of the proposition that all tribal areas should form one centrally-administered area. I would like to refer here to the views of the Assam Government. On page 12 of the pamphlet that has been distributed to us the view of the Assam Government has been that :

“The present artificial union should be ended. The backward tracts should be excluded from the province of Assam and administered by the Governor in Council as agent of the Governor-General-in-Council and at the cost of the central revenues. The time may so on come when that frontier will become no less, if not more, important for the defence of India than the North-West Frontier.”

Coming to the views of the Simon Commission, they had expressed the view that :

“The typical backward tract is a deficit area and no provincial legislature is likely to possess either the will or the means to devote special attention to its particular requirements.”

I am in favour of the idea that all tribal areas should be taken away from the boundaries of the different provinces. I do not know how far this is the proper time when I should go into the question of the constitution of the tribal areas but if you would permit me, Sir, I will give my reasons for the suggestions that I have made.

Reason No. 1 is that I am in favour of the separation of the tribal areas from the different provinces because the economic position of the provinces is deplorable. They will not be able to devote any money towards the development of the tribal people. The plight of Assam, its heart-breaking tale of woe and suffering to which our attention was drawn in such a brilliant way by our honourable Friend Mr. Sa’adulla, has impressed me, and other Members who have listened to his speeches. It is a deficit province. It has not been able to raise the standard of living of the non-tribal section of the people. How can you expect it to pay attention to people coming from the Mongoloid races ?

Sir, it is not only in relation to the tribal areas of Assam but in relation to the other tribal areas as well that my remarks are equally applicable. I feel that there has been exploitation on a mass scale, we must hang down our heads in shame. The tribal people have been made a pawn on the chessboard of provincial politics, and humanity demands—I approach the problem purely from a humanist point of view—that these people must be taken away from the provinces and placed under a Commissioner General. I feel that there should be an independent and autonomous authority at the Centre, under the superintendence, direction and control of a man like Thakkar Bapa who will be able to pay proper regard and attention to it and do his level best for the

[Shri Brajeshwar Prasad]

uplift of these people. I do not want that the Central Government itself should interfere in the affairs of the tribal areas. The problems are too delicate and we need the advice and help of experts, of anthropologists, of doctors and of scientists; politicians and legislators have no part to play as far as the development of tribal areas is concerned. I feel that if you separate these tribal tracts and integrate them into one whole it will give a sense of oneness to these tribal people, a demand which has been made from time immemorial. They are the ancient sons of the soil; they must now find a place in the Government of India after the advent of Swaraj. Sir, I am quite clear in my own mind that if proper steps are not taken to bring about an improvement in the condition of this exploited mass of humanity, there will be an *unheaval*. There is already unrest. It is dangerous to be a prophet in politics but I am sure that the next general elections will reveal the nature of the problems that controls us. Let there be no complacency on that point. Sir, the proposal I have placed before the House is in perfect accord with the principles of self-determination ....

**Dr. P. S. Deshmukh (C.P. & Berar : General) :** Sir, may I point out that this proposal is not before the House ?

**Shri Brajeshwar Prasad :** I asked the permission of the Chair to speak on this and I thought the silence of the Chair amounted to permission.

**Mr. President :** Only to this extent that the speech is confined to the financial provisions.

**Shri Brajeshwar Prasad :** This question is vitally linked up with the proviso that has been made. We are giving power to the provincial Governments but we have not yet decided the constitution of the tribal areas. If we pass this article we will be out of court in suggesting that the tribal areas should be separated from the provinces. I have already said that this article should have come after we decided the constitution of the tribal areas; but since this has come first I think this is the proper place where I can place my views regarding the tribal arms. Sir, the proposal I have placed before the House that all the tribal areas should be integrated into one whole and placed under an autonomous body under the Central Government is in perfect accord with the principles of Self determination.

**Mr. President :** We can consider that when we consider the Schedule.

**Shri Brajeshwar Prasad :** Very well, Sir.

**An Honourable Member:** I move that the question be now put.

**Several Honourable Members:** No. no.

**Mr. Naziruddin Ahmad (West Bengal : Muslim) :** Sir, I strongly protest against untimely demands being made for closure of the debate. We are now faced with extremely difficult problems which have to be solved now, which we had been postponing from time to time.

**Shri Brajeshwar Prasad :** Sir, I have also felt the injustice of demanding closure on vital questions.

**Mr. President :** I have not accepted any motion for closure that is not proper.

**Mr. Naziruddin Ahmad :** When there is a general desire for continuing a debate it should not be thought that Members desire to waste the time of the House. Some Members may be more fortunate than others in knowing the mind of the Drafting Committee which again appears to be a mouth piece of some powerful body behind them. But we are not, so fortunately placed.

We find that the House is frequently being faced with radical amendments absolutely unawares. And although we feel the justice of your remark that debates are sometimes pointless, I will submit that new ideas are often thrown out for the first time and Members have no time to consider and study them and send in amendments. The absence of amendments, therefore, does not mean that there are no objections. That is why Members are forced to some extent to air their grievances in a general manner and that inevitably leads to some pointless debate. The remedy is that Members should be given ample time in advance to consider new proposals and suggest amendments if they think proper.

My honourable Friend Shri Brajeshwar Prasad has raised a very important point, that articles which are related to one another logically should be put before the House in one lot. Instead of that we are being given things in a piecemeal fashion. The Drafting Committee treats us as if they are magicians and we are the spectators; they give one show at a time and keep other connected things up their sleeve. They thus commit the House to a certain view and then proceed to other things. This practice of doing things piecemeal is very inconvenient. Even the Government of India Act which was passed by experts in the British Houses of Parliament was not dealt with in this manner. I think it is better that the Drafting Committee should give us a complete picture of what they want. We can then suggest proper amendments and the debate would then be more to the point. Otherwise the Members feel helpless and stray away from the point under debate.

Sir, I submit that article 255 is connected with various other things of which one is the problem of the Tribal Areas. You cannot take a partial view of it; you have to take an over-all picture and then decide things. I think this article is a wholesome one but I desire that the hands of the President should be strengthened. I have given my view that the Centre is taking too much power to itself, but if they do take any power I should like it to be exercised by the President rather than by the Parliament which would be a body with fluctuating opinions. I agree with Dr. Ambedkar's remark yesterday that leaving the distribution of revenue among the provinces in the hands of the Parliament would be a dangerous thing. Parliament acts according to the mood of the moment and is likely to arrive at combinations between the different Provinces to the detriment of a needy Province which may not have adequate representation in the House. I therefore agree with the amendment of Rev. Nichols-Roy that, until Parliament makes any law, the President should have the power to give the necessary orders. I think there was a lacuna in article 225 which is sought to be removed by this amendment of Rev. Nichols Roy. In fact there would be a gap between the passing of this Constitution and the enactment to be made by Parliament. There is bound to be a long interval; and Parliament again will take sufficient time to consider it, and there is also the Upper House. If there is difference of opinion between the two Houses there will be further delay. Parliament may quite reasonably take time to come to a decision on intricate matters of law and may not pass any law at all. I therefore submit that until Parliament enacts a law the President should be given power to intervene and act as he thinks just and proper. I would rather submit that the President should be allowed to act in his discretion and if his acts are satisfactory Parliament may pass the necessary law and empower the president to discharge his functions. So I submit that Rev. Nichols-Roy's amendment is extremely timely and proper and should be accepted by the House.

But how do we consider these things? Dr. Ambedkar, who is the mouth piece of the Drafting Committee, which is again the mouthpiece of the powerful section of the House, is now and then absent. He is absent in body now., Even when he is bodily present in the House. he is absent in mind. In these circumstances this debate looks like .....

**Mr. President :** The honourable Member is not just in complaining about Dr. Ambedkar's absence. I think Dr. Ambedkar is present here most of the time. Even now I believe he is somewhere in the House.

**Mr. Naziruddin Ahmad :** Sir, he is absent in mind, at any rate. I say go with great respect. I quite sympathise with Dr. Ambedkar. He is a powerful man. He works very hard. But the pressure put upon him seems to be too much. He is now present in body but absent in mind, being engaged in conversation. It is this misfortune of ours that I was referring to.

The point is this. Unless he replies to the debate, which he does not usually do, the result will be, as it has been, that any refusal on his part to consider the amendment will be accepted by the House and amendment will be lost. So, in order to make the debate effective, I think Dr. Ambedkar should listen to it. There is of course no power in the House to compel him to do so. But some attention is due to our discussions.

**Shri A. V. Thakkar (Saurashtra) :** Sir, I had no intention to take part in this debate, had it not been for the remarks made by the honourable Member from Bihar, Mr. Brajeshwar Prasad. The article as it stands with the modification suggested by Dr. Ambedkar is very good in its own way. Enough provision has been made in the article for supplying funds to the provinces which have large tribal populations and scheduled areas. Some provinces are rich enough and prosperous enough to take care of such groups of people and of their backward areas, while others are not. It is for this reason that the necessary provision has been made in the article. As far as 'it goes, it is very good. I am thankful to the House and to the Constitution-makers for making provision, in the Constitution itself for that.

Now, speaking of the present welfare work, of course, it does not fall within the Constitution-making body's jurisdiction, but I may just drop a hint, as it is connected with this question, this vital question. In expectation of the provisions that are being made in the Constitution, people are expecting perhaps much. But the poor provinces which are in need of money and which are starving for money do expect something from the Central Government. Those poor provinces are Assam and Orissa. The question of Assam is a bit complicated. There are friends who have spoken on that and will yet speak on that subject. With regard to Orissa, our Friend, Shri B. Das, has spoken. But the real point about it is this : The tribal people of these areas form a very large proportion of the total population of the provinces. In Orissa they form 30 to 3 per cent of the population or I am sorry, 35 lakhs, while in Assam their population is about 24 lakhs. These provinces cannot provide any funds for the welfare of their backward people. The Constitution promises to look after their welfare. But the fulfilment of the promise will take not less than three years. I am not exaggerating the time that will be taken. For the whole thing to come into force not less than three years will be -needed. Therefore, it is time that the Prime Minister and the Cabinet considered this question anxiously and very carefully and immediately provide some funds, if not for all the tribal areas in the different provinces, at least in Assam and Orissa.

My honourable Friend from Bihar proposed that all the tribal areas in India should be formed into a separate group of areas—I do not know whether it is possible to form them into one single area—and placed under the Government of India. To that proposition I may say that that is the best way of doing a disservice to these tribal people. Do you want to assimilate them or to dissimilate them ? Do you want to keep them apart from the general population or do you want them to become a part of the nation ? I am afraid my Friend Mr. Brajeshwar Prasad has not done, the right thing in putting forth this Proposition. Sir it is our business to assimilate the tribal people. At present we have them

separated from us and residing on hill-tops and in valleys which are heavily malarial. Do you want to put them still further away from us ? That is not the way for doing them a service, excuse me. The best way to serve them would be to provide enough funds for them from the Centre....

**Shri Brajeshwar Prasad :** May I interrupt the honourable Member to explain my view by means of an illustration ? I am of opinion that the line of action that should be taken in the future should be left to their future leaders. They should be free to decide whether or not to keep these people as a separate entity.

**Shri A. V. Thakkar :** There is no question of separation or amalgamation. The areas are there and they will remain there. Therefore, I would request the Government of India to provide funds for the welfare of these people before this Constitution comes into force and not simply make a promise on paper in the Constitution Book.

**Dr. P. S. Deshmukh:** Sir, before I speak on the article, I would like to say that I endorse the remarks made by my Friend Mr. Naziruddin Ahmad so far as the consideration of the suggestions made by various Members are concerned. It is a fact which I hope it will be possible for you to take notice that very often the amendments moved and the remarks and observations made, which are not absolutely in keeping with the ideas and suggestions of the Drafting Committee, are very rarely attended to. I think he has rightly complained about the absence of Dr. Ambedkar from the House and his lack of attention to suggestions made for his consideration. We do not object to his absence, but there should be at least some arrangement.....

**Shri Brajeshwar Prasad:** He is now present and not absent.

**Mr. President :** Dr. Ambedkar has not been absent for any length of time. He has been present most of the time.

**Dr. P. S. Deshmukh :** I accept that, Sir. My suggestion was that if he is to be absent or occupied with certain other matters, there should be someone to pay some attention to what is urged by honourable Members of the House.

I think that the members of the Drafting Committee and the Chairman himself are so obsessed with the correctness of their own ideas that they as a rule do not think that there is anything useful in the suggestions made by the honourable Members of this House. I do not think this attitude is correct, and I can quote instances where sensible suggestions made by the honourable Members of this House and amendments urged by them have simply been brushed aside without being considered. I hope it will be possible to rectify this position because I think there are many Members of this House who wish to take this Constitution more seriously than probably many others.

Coming to the article, Sir, I support the amendment that has been moved by the honourable Rev. Nichols-Roy. Sir, my reasons for supporting this amendment are however entirely different from those advanced by many of the honourable Members who have spoken before me. Mr. Brajeshwar Prasad is going from bad to worse in expressing his lack of confidence in the future Parliament and Assemblies elected on adult franchise. (*Laughter*). He has also become increasingly autobiographical. I do not object to that, Sir. We are fortunate in having an opportunity to listen to the ideas that he holds and holds so strongly. But I support the amendment on different grounds altogether. In fact, on principle I am totally opposed to the powers, so far as the finances of the State are concerned, being given to the President individually. I agree fully with Prof. Shibban Lal Saksena in this that there should be no encroachment on the autonomy of the Parliament in all possible matters, and that was the reason



[Dr. P. S. Deshmukh]

why I contested even the embodiment of the Fundamental Rights because they take away to that extent the supremacy of the Parliament. Whenever any expenditure is charged on the revenues of India, there is an encroachment on the supremacy of the Parliament. Article 254 has been altered from what it was. If we look at the original draft of this article, we will find that the power which is now given to the President was intended to be given to the Parliament. This was how the article was intended to stand.

“Notwithstanding anything in 253 of this Constitution, such proportion, as Parliament may by law determine, of the net proceeds in each year of any export duty on jute or jute-products shall not form part of the revenues of India, etc.”

Now, if Dr. Ambedkar found it necessary to alter this article and give the powers to the President, he should have logically taken care to bring about the same change so far as article 255 was concerned. I am certain, Sir, that this is merely due to lack of attention and lack of care. And what was the reason that was given by the honourable Dr. Ambedkar so far as this change in article 254 was concerned ? I was not at all satisfied with it. He seems to have for the moment, any way, the prejudice which Mr. Brajeshwar Prasad is never tired of expressing viz., lack of faith in the future Parliament. The only reason he gave was that he did not think it wise to leave it to the Parliament to decide these financial issues. I do not feel convinced by this only argument advanced by him.

**Shri Brajeshwar Prasad :** I gave two reasons. Probably my friend did not follow me.

**Dr. P. S. Deshmukh :** I do not propose to answer Mr. Brajeshwar Prasad to the extent he expects because that is unnecessary for my purpose. I am only referring to points which I think are relevant and should be answered. Just as I do not like the President being given any powers so far as the revenues of the State and their distribution is concerned, I also do not like any items to be charged on the revenues of India. This is a special and somewhat exceptional provision which should not be resorted to in such liberal manner, because there is a very special provision so far as charging of the revenues of India is concerned. That is governed by article 93 which we have already passed. That article lays down—

“So much of the estimates as relates to expenditure charged upon the Consolidated Fund of India shall not be submitted to the vote of Parliament.”

Whenever we have a provision whereby any expenditure is charged upon the Consolidated Fund, to that extent Parliament is deprived of any effective voice in it, and I do not think it is in the interests of the dignity or the supreme nature of the position of the Parliament to increase the items where expenditure is charged on the Consolidated Fund of India. In spite of all that, Sir, this is a provision which relates to the welfare and the proper governance of those areas where the unfortunate tribal people live. The areas are so big and the population so large that it is only right that the powers of any expenditure that we provide for in that regard should be given to the President. Even is the Act of 1935 the excluded areas and the welfare of the tribal people were in the discretion and were the special responsibility of the Governors and the Governor-General. If we agree that the condition of the tribal areas is such that they require some special assistance, then it is only proper that Dr. Ambedkar should change the provisions of article 255 so as to bring them in conformity with the provisions of article 254. He is yet to get up and say whether he accepts this amendment or not. I hope he will be in a position to say that he agrees with the contention that has been advanced. My interest in this provision for Assam is because Assam forms an important frontier of India and it has been suffering financially for a very large number of years. I am somewhat personally interested in the matter and this is because of the fact that in

my own province of the Central Provinces and Berar, we have also got tribal areas and a large tribal population. Their population in our province is 44,39,000 out of the total population of 1,96,00,000 or roughly 22.6 per cent. Sir, besides this I have always taken the utmost interest in the welfare of the backward and suppressed and oppressed communities in India and from that point of view also, I sincerely urge that the utmost possible help should be rendered to the province of Assam. I hope, therefore that this sensible amendment which appears to have convinced the honourable Doctor long ago so far as article 254 is concerned will appeal to him now and the amendment would be accepted.

**Shri Prabhu Dayal Himatsingka :** (West Bengal : General): Mr. President Sir, I beg to support the amendment moved by my honourable Friend the honourable Rev. Nichols Roy. That amendment, if accepted, will make this article a little more flexible. At the present moment, until Parliament by law provides no amount can be given as grants-in-aid to any of the provinces. If the amendment suggested by him is accepted, if the Parliament does not by law provide the President may prescribe by Order and then the provinces may be given such sums as they may be in need of. You will find, Sir, from the scheme of the provisions of this Chapter that except for income-tax, all the other collections made by the Centre are to be retained by them until 'under article 260 the Finance Commission makes a report and then the President can take action : but so long as that is not done, it is necessary that the President should be enabled to make some provisions for the provinces which are in need of such an aid. The other provision in this section is quite necessary and useful and in spite of the difficulties imagined by my Friend, Mr. Brajeshwar Prasad I do not see how even if any other provision is made for the tribal areas as suggested by him, the provision in this article can stand in the way. The two provisos make provision that if any amounts is spent by any of the Provinces for schemes of development that will be undertaken both in consultation or with the approval of the Government of India, such sums will be paid by the Government of India and similarly Assam will be paid out of the revenues of India as grants-in-aid such sums, capital and recurring, which they will be spending in excess of what they had spent in the last two years. Therefore, Sir, I do not see how these provisions here can in any way stand against or militate against any of the provisions that we may make hereafter. Therefore, I would appeal to the Drafting Committee to accept the amendment moved by the honourable Rev. Nichols Roy as that will not in any way interfere with the scheme and at the same time will make this provision more flexible.

**Shri Biswanath Das** (Orissa: General) : Sir, a point has just now been made that the provisions made herein interfere with the powers of the Parliament. I join issue with my honourable Friend in this Statement. I do not see how the provision at all interferes with it, namely, with the powers of the Parliament. In the first place, an enquiry is being provided statutorily under the Constitution. The President undertakes an enquiry. In the second place, under article 255 a Bill is placed before the Parliament and the Parliament passes the Bill. Again Parliament under the statute places a self-denying ordinance upon its own self that such and such a State will be given such and such an amount. Therefore the assignment comes under the sanction accorded by the Parliament itself; and thirdly, it has also been laid down that that is for a period or term of years. All the necessary safeguards have been provided by the Drafting Committee. I therefore, plead with my Honourable Friends who hold that the provision regarding grants in this article at all interferes with the powers of the Parliament. In fact I hold that the aid flows from the powers vested in Parliament and emanate with its own sanction. Therefore, there is little reason in attacking the article on that score.

[Shri Biswanath Das]

Sir, I have another complaint against this article against the use of the expressions “scheduled tribes” and “scheduled areas”. Sir, special expressions have been coined and used for denoting and connoting certain ideas and certain difficulties. But experience has shown that with more connotations used, the difficulties increase. Sir, regarding the Depressed Classes, we have substituted a word “Harijan” and that has not solved either our or their difficulties. We have to move with the times. In the Draft Constitution, we have proclaimed and provided equality for all, and provisions have been made in more than one place to give effect to these declarations. That being the position, I do not see why these expressions “scheduled tribes, scheduled areas” and the rest be kept and perpetuated in the Constitution. Sir, in this connection, it may not be out of place to recall that the Imperialist Britain very cleverly put in the idea of separate electorate in 1898. Eleven years hardly passed and you find an insistence in the Minto-Morley Reforms for implementing this in the statute and hardly thirty seven years after that you get the partition of India. With this experience, I plead with my honourable Friends not to play with fire and go on coming expressions “scheduled tribes and scheduled areas”. Why should we ? They are an backward classes; we have got many backward classes and a special provision is being made and protection has been given in articles 28 to 40 and they are quite enough. As if these are not ample, you have made special provisions; but why not vest these powers in Parliament, and give confidence to the Parliament? People have devoted their life-long services-this country has given birth to persons like Thakkars and a galaxy of such workers who have made it a life-long devotion of theirs to serve these backward people. Why not have confidence In the good sense of the country, in the protection afforded in the Constitution and why perpetuate these expressions which I believe, Sir, lead into something deplorable as is our experience with regard to separate electorate ?

Having stated so far about backward tribes and areas, I come to another portion of article 255.

I specially refer to the first clause in the proviso, which reads :

“The average excess of expenditure over the revenues during the three years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part I of the table appended to paragraph 19 of the Sixth Schedule;”

Sir, grants will have to be made on the basis of the excess expenditure incurred during the past three years. How and why ? Where are the unfortunate Governments of Assam and Orissa to find excess money to be spent in these undeveloped areas ? They are themselves running into deficits and their incapacity and the colossal want of these areas have been stressed by no less a person than Thakkar Bapa himself, who has devoted all his life and pleasure to this great problem. Why should you rely on the past expenses when these administrations have to run without any surplus balance to be invested in these undeveloped areas ? Sir, this portion of the provision seems to be unnecessary especially after provisions contained in sub-clause (b) of the proviso, namely, “the costs of such schemes of development as may be undertaken by that State with the approval of the Government of India for the purpose etc.” Clear it is that nothing could be done without prior sanction.

Sir, I am thankful to the honourable House as also to the Drafting Committee and the Government for making, special provision for these undeveloped areas, in this article. But, when are these benefits to commence? These benefits could accrue after five years. I understand certain amendments are coming limiting the period further down, which I welcome. They may come a little earlier. As has been stressed by the honourable and revered Thakkar Bapa,

their wants are urgent and immediate and the resources of the provinces are few and far between. Under these circumstances, I plead that certain specific provisions be made or a declaration be forthcoming from the powers-that-be that immediate provision in this regard is made.

With these words, Sir, I support the amendment of my honourable Friend, Rev. Nichols Roy because it eases the situation so far as it goes.

**Shri P. S. Nataraja Pillai** (Travancore State) : Sir, my only excuse for intervening in this debate at this late stage is that coming as I do from a Schedule III State, there are certain facts which I would like to place before this House.

Sir, perhaps the articles bearing on the distribution of revenues between the units and the Centre are the most important ones, perhaps the vital ones, in any Federal Constitution. As the Draft Constitution now stands, the distinction between States in Schedule I and the States in Schedule III has been done away with and we have accepted articles placing the Schedule III States on a par with the Schedule I States. So far, even on the question of financial distribution between the provinces and the Centre there have been complaints and though there have been awards, even their bickerings and friction still continue. I do quite well realise the onerous responsibility of the Centre and without adding to its financial resources the Centre will not be able to discharge it. But, at the same time, Sir, for the material and moral welfare of the people, the States have also to discharge their duties. Unless this question of division of finances is equitably settled and justice done, we cannot expect the peaceful progress of our people.

Sir, these new Unions of States created by the merger of Indian States have for a long time enjoyed a kind of right to tax the central sources of revenue, as income, excise and customs. Their financial system and their administrative structure have been developed on these sources of income. Now if all of a sudden, the central sphere is marked out, taken away and if the States are left with only the resources they can take along with other provinces, then the future of these States will be black indeed. For example, in the State from which I come, Travancore, forty per cent. of the revenue is derived from the central sources of revenue. Immediately this Constitution comes into force, that source of revenue will be lost to this unit. The administrative system of this State was developed during the course of the last one century and more, and the administration itself was modelled with these resources at their command. Now unless some provision is made for a transitional period to develop other sources of revenue to meet the exigencies of their administration, the lot of these States will be hard indeed.

This fact is not new to this House, as is evident from the Report of the Union Powers Committee, in paragraph 2 of their report dated 17th April 1947. where they say:

“Some of the above taxes are now regulated by agreement between the Government of India and the States. We therefore think that it may not be possible to impose a uniform standard of taxation throughout the Union all at once. We therefore recommend that uniformity of taxation throughout the Union may, for an agreed period of years after the establishment of the Union, not extending 15, be kept in abeyance and the incidence, levy and realisation and apportionment of the above taxes in the State units shall be subject to agreement between them and the Union Government. Provision should accordingly be made in the Constitution for implementing the above recommendation.”

In pursuance of this recommendation, provision has been made in the Draft Constitution. But I feel, Sir, by the changes that have been effected and by the articles that we have adopted before, the revised Draft may not contain article 258 as drafted in the original Draft. As it is today, the States in

[Shri P. S. Nataraja Pillai]

Schedule III and Schedule I stand on a par. Unless some sources of revenue are set apart or some adjustments made-for the transitional period, for ten years or so, to make the States capable of meeting their demands from their own resources, these States cannot function. Some provision must be made in 'the Constitution to give them adequate financial help. That help may be in the form of subventions or in the form of grants. If the Constitution is to take effect on a particular date, from that date onwards, these States will lose the right which they had been enjoying for a long time past.

I may, in this connection, beg leave to place before the House that in certain States, the administration has been steadily progressive and they have been catering to the growing needs of the people. In some States, for, example, Travancore the State from which I come, compulsory education has been introduced prohibition has been enforced, and even land tax which is considered to be the principal source of taxation for provinces, a basic tax on land has been fixed and prohibitory assessment and taxation abolished. Unless some provision is made, the future of these States will be pitiable indeed. In a highly literate and politically conscious country, unless the State is able to provide for the natural and progressive development of the people and to satisfy their aspirations, there will be serious trouble, and that will not help the progress and prosperity of the whole of India. For, I feel that the strength of the chain will depend upon the strength of the links. Discontent and trouble in any area, will not be in the interests of the people of India. I earnestly submit to the House that this aspect of the question may also be considered.

**Shri Rohini Kumar Chaudhuri** (Assam: General) : Mr. President, Sir, honourable and responsible persons who were entrusted with the framing of the new Constitution should take into consideration the past experience so that the past defects may be remedied in the present Constitution. It is with this end in view that several Members of any province as well as from elsewhere spoke at length on the inequity and the injustice which was done under the past Constitution so far as provinces like Assam and Orissa were concerned; but Sir. I need not repeat or allude to those things in my present speech. I would only ask honourable Members of this House to remember that the justice which we had expected by an amendment of article 253 or 254-that expectation has gone in vain, and now we are left to this article 255. If 255 were worded in a different way, it might help provinces like Assam and Orissa. As it stands it even now rests with the Parliament whether any money would be allocated to any province in need of such money or not. Of course this article enables the Parliament to give sufficient grant to the provinces which are in need of it but it does not make it compulsory on the part of Parliament to make such grant. The Parliament is composed of members of different provinces, and each member is under some obligation or has given some sort of assurance that the concern of his province will be his first concern; and now therefore if in a tussle between different provinces the Parliament is not persuaded to give a grant to any particular province, or in an emergence the Parliament decides not to make any grant to any particular province and it confines the grants to richer provinces, what will be the fate of Bihar, Orissa and Assam that stand in absolute need of grant from the Centre ? I would therefore ask honourable Members who are in charge of the framing of this Constitution to give special attention to this aspect of the question whether the provinces who are admittedly in need of grants can expect or would be entitled to expect that some grant should always be made to them in order to meet their needs. Under the old article 142 of the Government of India Act the Government at the Centre has always been giving some grant to the Provinces, and so if it is treated as a matter of convention and if the words in 255 really mean 'shall', then I have nothing to say. But if this

article leaves the option to Parliament even not to grant a province which may be in need of that grant, then I would most respectfully protest against the present phraseology of this article.

I would also like to draw the attention of the House to the first proviso of article 225. This is the only silver lining in the *whole* chapter of finance in our Constitution. It compels the Government of India to finance certain grants for development and raising the level of administration of scheduled areas in a particular State. To that extent it is all right but when you say that it should be raised only to the level of the rest of the areas of that State, I think it practically means that you are giving nothing. In the poor state of finances in a province like Assam where there is a large tribal area, if you only wish that it should be raised to the level of the rest of the areas of the province, it means you will do nothing because time is coming shortly, unless you do something in the matter, when the whole administration of the province of Assam shall have to collapse for want of finance and the condition in that province will deteriorate from day to day and by the time you have this article in force it will be very bad. If your ambition is only to raise the tribal areas in the province of Assam to the rest of the province, it means that your ambition is very small indeed and that you do not want to do anything. Therefore I would suggest that the ambition which you ought to have in this matter is that the areas—tribal areas—should be administered in such a way that it can be brought up not merely to the level of the rest of the province of Assam but also to the level of the areas of the Union itself. Therefore I have suggested in my amendment that these words ‘of the areas of that State’ should be converted to “areas of the Union”. Although that amendment is not there, there is nothing to prevent us from working in that direction. Another point to which I would draw the attention of the House is as regards the sub-clause (a) of the second proviso which says :

“The average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution, etc.”

I submit that the Word ‘average’ should not be there. When the period is reduced from three to two years I think the question of average did not arise. The word ‘average’ might be dropped and we might say ‘excess expenditure should be provided for’. The expenditure is rising every year and even the expenditure of one year will have no proportion to expenditure of next preceding year. Therefore in the interest of tribal areas, the word ‘average’ should have been dropped and ‘any excess of expenditure found At the time this Constitution comes into force’ should be substituted. If these two considerations are borne in mind i.e., consideration of raising the level of the tribal areas to the ordinary level of the rest of the Union; and -secondly, excess of expenditure found at the time of the Constitution coming into force, then something,, substantial, I am sure, will have been done in the cause of improvement of tribal areas.

**Pandit Thakur Das Bhargava** (East Punjab : General) : Sir, this article 255 is really one of the symbols of the solidarity of India. Those poor provinces who cannot meet their expenses and raise their level of administration to the level of the administration of other province stand in need of financing by the Centre, and whatever may have been the policy in the past, the policy of the present Constitution is to bring about a change in that policy and now the rule is confirmed by article 255 that these provinces will be helped by the Centre. It says :

“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.”

[Pandit Thakur Das Bhargava]

Unfortunately, I find there are three 'mays' in this article and only one 'shall'. This article does not, as a matter of fact give any right to any province in need to insist and to get its rights declared by Parliament. It is in the discretion of the Parliament and the article is so worded that it leaves full discretion to Parliament to give such assistance or not.

I should have been more happy if a duty had been enjoined upon Parliament to give assistance to such of the Provinces as stood in need of it. In this connection I cannot but mention to you the case of East Punjab. The provisos to this -article speak of the administration of scheduled tribes, etc., etc. But unfortunately there are some provinces, specially East Punjab, whose finances have been devastated and whose better income earning parts have been given over to Pakistan, and where, therefore, the income has now become comparatively much lower than before. In regard to such provinces, it is absolutely clear that unless the Centre goes to their aid, it will be difficult for them to arrange for an administration which will be on a level with those in other provinces. In regard to such provinces it is necessary that the President should be authorised to give such aid as the Cabinet thinks justifiable. To this end, and probably for other purposes also, the Rev. Nichols Roy has brought in his amendment and I support that amendment. Before such laws are made by Parliament, there is no reason why the President should not be empowered to do the right thing when the occasion demands it. I therefore, support this amendment, and request that it may be passed by the House.

**Prof. Shibban Lal Saksena** (United Provinces : General) : Mr. President, Sir, first of all, I want to draw the attention of Dr. Ambedkar to one fact connected with this article. In this article, he has said ". 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". But, Sir, I had moved a similar amendment, in connection with articles 251 and 254 in which I had only desired that the allotment should be made by Parliament by law. But the argument raised against it was that there will be unnecessary wrangles in Parliament for allotments to the provinces. But I find that in the present case, he has stated "that Parliament may by law provide. . . . etc." May I know whether there will not be wrangles in Parliament for bigger allotments to the provinces ? Either he is illogical, or he has other purposes Which he wants to hide. Or it may be that he made a mistake then in connection with my amendment, when he objected to the words "Parliament by law may." Anyway, I am glad he has agreed to these words in the present article.

Sir, I support the amendment moved by the Rev. Nichols Roy, and I am thankful to Mr. Sa'adulla for his long and illuminating speech in which he gave us a very lucid idea of things in Assam. I personally also feel that this Home has not shown its concerns for Assam to the extent that it deserves. Assam is our frontier province, and the last war has shown its importance. But we are literally starving it. Assam gives us at least Rs. 12 crores by way of export duty on tea and Petroleum alone, leaving aside all the other things, and we take every pie of it and give them only 30 lakhs. And yet we expect that Assam, our eastern frontier should be the bulwark of our defence. I think that the case made out by our Assam friends is a steel case and it must be considered by the House. This amendment, in fact, only enables the President that this relief to Assam should be given immediately. Otherwise "Parliament by law" will take some time, and they want that as soon as this Constitution is passed, the President, can by order allot to them some share by which they will be able to meet the recurring deficits and

also carry out some of their development schemes. I have been to Assam on many occasions, in connection with labour Organisation of railway workers, of coal mines and petrol workers there, and I know how important this area is. It is a vast expanse of probably 50,000 sq. miles with a population of only 75 lakhs. The tribal people form a third of the population,. Here we have provided special sums for their- development. But I feel that we must have a five-year plan to bring these tribal areas into line with the rest of the population. They have been neglected for many generations. Thakkar Bapa who has spent his whole life in serving these people drew our attention to the plight of these people, both in Orissa and in Assam, and he is happy that we are providing in Constitution special sums for them. I hope we shall not wait for law to be made by Parliament in this respect. Allotments should be made from the funds of the Union for development of these areas and these tribal people so that they may take their proper place in our free country and be a bulwark of our freedom and the guardians of the eastern frontiers of India.

**The Honourable Dr. B. R. Ambedkar** (Bombay: General) : Mr. President, Sir, I can at once say that I am prepared to accept the amendment moved by my Friend Mr. Nichols Roy. The draft of this article does seem to give the impression that until Parliament determines each year what the grants are to be, the President will have no power to do so. That certainly is not the intention of the Drafting Committee. The Drafting Committee would like the President to exercise -his -powers of making grants under article 255 even before Parliament has made any determination of this matter. And in order to make this position quite clear, I am, as I said before, prepared to accept the amendment moved by Mr. Nichols Roy. I would, however, at this stage, like to say that I have not yet had sufficient time to examine the exact language he has put in his amendment; and therefore, subject to the reservation that the Drafting Committee would have the liberty to change the language in order to suit the text as it stands in article 255, I am prepared to accept his amendment.

**Mr. President :** I will now put the amendments to vote. The first is amendment No. 84 of Dr. Ambedkar.

The question is :

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

The amendment was adopted.

**Mr. President :** Then comes amendment No. 85, also of Dr. Ambedkar.

The question is:

“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.”

The amendment was adopted.

**Mr. President :** Then I put amendment No. 86.

The question is:

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

The amendment was adopted.

**Mr. President :** And then I put Rev. Nichols Roy’s amendment.



[Mr. President]

The question is:

“That in article 255,—

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

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

The amendment was adopted.

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

The question is:

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

The motion was adopted.

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

#### Article 256

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

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

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

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

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

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

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

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

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

**Mr. President :** Then amendment No. 203, Mr. Sidhva.

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

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

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

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

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

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

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

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

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

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

[Prof. Shibban Lal Saksena]

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

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

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

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

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

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

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

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

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

[Shri R. K. Sidhwa]

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

Sir, I support this article subject to above remarks.

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

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

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

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

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

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

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

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

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

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

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

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

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

The amendment was negatived.

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

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

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

The amendment was adopted.

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

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

The motion was adopted.

Article 256 as amended, was added to the Constitution.



**Article 257**

(Amendment No. 2929 was not moved)

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

“That the words ‘by law’ be added at the end of article 257.”

It is a little inadvertent omission.

**Mr. President :** There are two other amendments which do not arise after the amendment of Dr. Ambedkar.

The question is :

“That the words ‘by law’ be added at the end of article 257.”

The amendment was adopted.

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

“That article 257, as amended, stand part of the Constitution.”

The motion was adopted.

Article 257 as amended, was added to the Constitution.

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**New Article 258-A**

**Mr. President :** We will leave out 258 for the present and we shall take up article 259. There is one new article 258-A of which notice has been given by Shri Himatsingka, Patil and Barman. Is it to be moved?

**Shri Prabhu Dayal Himatsingka :** No, Sir.

(Amendment Nos. 2938 and 2939 were not moved.)

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**Article 259**

(Amendment No. 2940 was not moved.)

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

“That in clause (1) of article 259, for the word ‘Auditor-General’ the words ‘Comptroller and Auditor-General’, be substituted.”

This is done in order to bring the same nomenclature in article 259 which has been given to this office in the previous article this Assembly has passed.

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

“That in clause (1) of article 259, for the word ‘Auditor-General’ the words ‘Comptroller and Auditor-General’ be substituted.” The amendment was adopted.

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

“That article 259, as amended, stand part of the Constitution.”

The motion was adopted:

Article 259, as amended, was added to the Constitution,

**Article 260**

**Mr. President :** Then we go to article 260.

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

“That for amendment No. 2943 of the List of Amendments, the following be substituted:—

That for clause (1) of article 260, the following clause be substituted :—

‘(1) The President shall, within two years from the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary, by order, constitute a Finance Commission which shall consist of a Chairman and four other members to be appointed by the President.’ ”

Sir, the point of this amendment is this. Originally, as the article stood, it stated that the Commission shall be appointed at the end of five years. It is felt that it is necessary to permit the President to appoint the Commission much earlier and consequently we are now providing that it should be appointed within two years from the commencement of the Constitution.

**Mr. President :** You may move amendment No. 96 also.

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

“That in sub-clause (b) of clause (3) of article 260, for the words ‘revenues of India’ the words ‘Consolidated Fund of India’ be substituted.”

This is a formal one.

**Mr. President :** There are amendments to this article, which have been printed in the Book.

(Amendments Nos. 2941, 2942, 2944, 2945, 2946, 2947, 2948, 204, 205, 97 and 98 were not moved.)

**Mr. President :** Amendment No. 115. Pandit Kunzru.

(Pandit Hirday Nath Kunzru was not in the House.)

He told me that he would like to move this amendment. I would allow any other Member if he wishes to move it.

(At this stage Pandit Hirday Nath Kunzru came in.)

**Pandit Hirday Nath Kunzru :** (United Provisions: General): Mr. President I beg to move :

“That with reference to amendment No. 95 of List I (Third Week) of Amendments to Amendments, for sub-clause (a) of clause (3) of article 260, the following sub-clauses be substituted :—

- ‘(a) the distribution between the Union and the States of the net proceeds of taxes on income which are to be divided initially between them under this Chapter;
- (aa) the allocation between the States of the respective shares of the net proceeds of taxes which are to be, or may be, divided between the Union and the States under this Chapter;’ ”

Sir, the sub-clause to which I have moved the amendment runs as follows:

“(a) the distribution between the Union and the States of the net proceeds of taxes which are to be, or may be, divided between them under this Chapter and the allocation between the States of the respective shares of such proceeds;”.

This sub-clause which is sub-clause (a) of clause (3) of article 260 provides that it will be the duty of the Finance Commission not merely to distribute that part of the taxes divisible between the Central Government and the provinces which belongs to the provinces among the provinces themselves, but also that the Commission should lay down how these proceeds are to be distributed, that is the proceeds of what I may call the divisible taxes, between the Centre and the provinces. My amendment, if accepted, will leave the position as it is so far as

[Pandit Hirday Nath Kunzru]

the taxes on income are concerned; but it will change the Position with regard to the other divisible taxes which, I suppose, will be excise duties. I have left the position with regard to taxes on come as it is because article 251 lays down that after the Finance Commission has been appointed, the President will prescribe the percentage of the net proceeds of the taxes on income to be assigned to the provinces after consultation with the Finance Commission when it is appointed. I confess that I did not fully realise when this article was under discussion what the effect of the definition of the word 'prescribed' laid down there would be on article 260. I discovered this only when I drafted with the help of the Draftsman and Joint Secretary of the Constituent Assembly the amendment that I have just moved. I have however sought to impose one limitation even in that respect, and that limitation is this. While the President may consult the Finance Commission initially with regard to the respective shares of the net proceeds of the taxes on income calculated in the manner laid down in article 251, to be assigned to the Centre and the provinces, the Commission should not have the power to review these percentages later on its own initiative. If we leave sub-clause (3) of article 260 as it is, then it will be the duty of the Commission to make recommendations to the President as regards the distribution of the proceeds of the divisible taxes between the Centre and the provinces and it will be able to review any percentages that may be initially fixed. The purpose of my amendment is to limit the power of the Finance Commission in this respect to the initial fixation of the percentage. Once the shares of the Centre and the provinces have been fixed, I suggest that the Finance, Commission should have nothing more to do with that matter unless the matter is referred to it by the President. Should the provinces stand in need of more money later on, should their recurring expenditure increase to such an extent as to need, on prudent financial and economic grounds, not large grants but a definite share in the proceeds of certain taxes, then the matter ought to be considered by the Government of India in consultation with the provinces. I shall not discuss this question at length because I dealt with the principle underlying this yesterday; but I venture to repeat that my opinion on this subject has not been altered in the slightest degree by the observations made by Dr. Ambedkar yesterday.

Now I come to the second part of my amendment. If sub-clause (a) of clause (3) of article 260 is left as it is, then the Finance Commission will be able to say how much of the net proceeds of the Union duties of exercise should be kept by the Government of India and how much should be assigned to the provinces. Now the article that relates to the imposition of Union duties of excise and the distribution of their proceeds between the Centre and the provinces is article 253. There is nothing in the language of that article to compel the President to consult the Finance Commission before coming to a decision on this subject. If the second part of my amendment is accepted, then the power of the President to consult the Commission in this respect will remain absolutely untrammelled. Honourable Members will thus see that if my amendment is accepted, while the provinces will, lose nothing, the Centre which will have to bear the ultimate responsibility for the protection of the highest interests of the country and for its defence will be in a Position to discharge those responsibilities adequately even in emergencies. The framers of the Constitution realised that the position as contemplated here might be found to be unsatisfactory later on when the Central Government was confronted with an exceptional situation and for this reason, I suppose, 'included Article 277 in the Draft Constitution which empowers the Government of India in, an emergency to suspend all or any of the provisions of articles 249 and 259 of this Constitution. This is obviously a very sweeping provision. The representatives of the provinces will easily see how dangerous this article is. They will be completely at the mercy of the Government of India

when, say, a war breaks out. This article show that the framers of the Constitution feel that under the provisions of article.....

**The Honourable Dr. B. R. Ambedkar :** It has not been passed yet.

**Pandit Hirday Nath Kunzru :** That is why I am referring to it now otherwise there would have been no point in referring to it.

**The Honourable Dr. B. R. Ambedkar :** I have a right to withdraw it.

**Pandit Hirday Nath Kunzru :** Dr. Ambedkar says he has a right to withdraw I hope he will be wise enough to withdraw it.

**The Honourable Dr. B. R. Ambedkar :** No, it might be modified.

**Pandit Hirday Nath Kunzru :** But I understand that its purpose is to enable the Central Government to resume the whole or a part of that portion of the money that might generously have been made over to the provinces. Now the Government of India Act, 1935, also envisaged a position when the Central Government might be unable to make over to the provinces the prescribed share of the taxes on income and authorised the Governor-General to delay the process of transferring to the provinces their share of the net proceeds of these taxes. But this article 277 goes far beyond that. I suggest, that in order to remove the possibility in view of which article 277 has been inserted in the Constitution, the Finance Commission should have nothing to do with the allocation of the shares of the Central Government and the Provincial Governments in the proceeds of any tax. This is a matter that should be decided by the Central Government, as I have already said, in consultation with the provinces. If this is done I am owe that the Central Government will be able to discharge their supreme responsibility and also to justify their position to the provinces. No situation will in that case arise which will compel the Central Government practically to annual the provisions of all the financial articles that we have so far discussed.

Sir, there is a Finance Commission in Australia. It has been functioning for sixteen years, but its duty is to examine the demands of the provinces and scrutinise their budgets and then recommend how much money should be given to them either in order to make up for their deficits or for any other purpose. It has, so far as I know not been authorised to say to the Commonwealth Government that it should give, a certain proportion of the proceeds of a certain tax to the States. In Canada, very recently an attempt was made to induce the provinces to agree to an arrangement like that prevailing, in Australia. During the war the Central Government persuaded the provinces to vacate the income-tax field and occupied it completely itself. Under the Canadian Constitution the provinces can levy taxes on income for purely provincial purposes. But the Dominion Government has levied such high taxes that there is hardly any possibility of the provincial Governments reentering the field of income-tax. The Dominion Government suggested that the Provinces should agree to the appointment of a Finance Commission which would recommend periodical grants to the Provinces, in consideration of their needs. But it was never suggested during the course of the discussion, either by the Dominion Government or by the Provinces that the proposed Finance Commission should have the power to say to the Dominion Government that a certain proportion of the net proceeds of the income tax should be made over to the Provinces. All that suggested was that the Finance Commission should, after considering what the legitimate needs of the Provinces were make such recommendation as would satisfy their requirements. In Canada no agreement was arrived at, let me add between the Centre and the Provinces.. But this does not in any way vitiate the argument that I have been using.

[Pandit Hirday Nath Kunzru]

Sir, I do not think that I need dwell any further on this subject. I think that I have said enough to show that it is not desirable that apart from the income-tax in respect of which we are committed under article 251, we should go further and allow the Finance Commission to decide how the proceeds of the Union Excise Duties should be divided between the Centre and the Provinces. Nor is it desirable, in my opinion, that the Finance Commission, after initially laying down what percentage of the net proceeds of the tax on income should be retained by the Centre, and assigned to the Provinces, should have the power to review this percentage later. The needs of the provinces can be adequately met in other and sounder ways.

**Shri B. Das :** Sir, very reluctantly I accept the amendment moved by my Friend Dr. Ambedkar. Sir, there is a Sanskrit adage:

सर्वनाशे समापन्ने अर्थं त्यजति पंडितः

*Sarvanashe Samapanne ardhani tyajati panditah.*

Mr. Kamath will correct my Sanskrit, if it is wrong, but it means that “wise men part with half of their just demands when there is prospect of annihilation”. The Government of India, in their mad career from 1924 onwards up to now, in their self-centred financial policy, have annihilated the growth and development of the provinces. It is now said that within two years of the coming into effect of the Constitution, the Finance Commission should function. But this is also a departure from the recommendation of the Sarker Committee’s Report where they recommend that the Finance Commission should be appointed immediately. Of course, Dr. Ambedkar has told us that an *ad hoc* committee, or some special officer is going to review the position of the Provinces and the Centre, as regards the resources and may, allocate something to the undeveloped provinces for their immediate development. Sir, apart from incidental expressions on the floor of the House, no declaration on this *ad hoc* committee has been made. I, therefore, hope that before we close the debate on these dealings with the distribution of finance between the Centre and (the Provinces, some sort of definite declaration would be made.

Sir, I wholeheartedly support the amendment moved by my Friend Pandit Kunzru, to the amendment of Dr. Ambedkar. Sir, this morning I observed Pandit Hirday Nath Kunzru is a man of principles. He has pointed out the existences of a lacuna. These principles have to be put into practice. His speech definitely pointed out how the lacuna exists, and also how those principles must be given effect to. Of course something is better than nothing. Pandit Kunzru wants clause (3) (a) to be subdivided into (a) and (aa), and I hope the House will accept this in the interest of those undeveloped provinces about which the House has heard so much the other day and today.

What we have been trying to assert incidentally places before the House the fact that there is no initial distribution of the resources. We may have failed to emphasise and to convince others that an initial division of income-tax and other resources is necessary, for the development of the undeveloped provinces, such as Orissa, Assam, Bihar and to a certain extent Bengal. And I suppose Pandit Thakur Das Bhargava wants that East Punjab also should be included in the list of provinces of low resources, which want initial allocation of resources for development. Sir, I do very respectfully differ from my respected Friend Pandit Kunzru, that the President or the Cabinet or the Government of India in the Finance Department should not think of apportioning initially all resources simultaneously with the promulgation of this Constitution. In other aspects, such as

Excise Duties and other duties, they have been recommended in the Sarker Report I have occasionally differed from the recommendations of that Committee., especially that the distribution of income-tax should be on the collection basis. My objection still stands and I hope Pandit Kunzru has already advocated my stand, that the distribution of Income-taxes should be on a population basis.

My honourable Friend Pandit Hirday Nath Kunzru referred to the system envisaged by the Grants Commission in Australia. We have, got some inkling of it in the Nehru-Adarkar Report. The thing is that though Australia was not a sovereign Government, and it had a dominion system of Government, it could utilise its resources for the uplift of the undeveloped provinces. Unfortunately in India for 150 years, up to 1947, we were a subordinate Government run under the colonial pattern of British system, whereby all the resources were concentrated at the Centre and were spent at the behest of the British Finance Member for good of Britain and not of India. Today we want to hear something to soothe our heart that the Finance Department of the Government of India is not following that colonial pattern of finance administration in India. That is the crux of the situation. I do not mind my honourable Friend Dr. Ambedkar postponing the appointment of a Grants Commission or the Finance Commission for another two and a half years—perhaps it will be three years because if on 26th January, 1950 we accept this Constitution, in another place we will compel the Cabinet and the President to appoint the Finance Commission within two years of that date which means it will be four years after the Nalini Sarker Committee reported.

But, Sir, how are we to determine the principles of the distribution of revenues ? I plead guilty I have given no amendment because we were left in a haze. The House at no stage; discussed the principles of finance allocation and today we authorise the President to appoint a Finance Commission and to lay down certain principles.

Sir, I am grateful to Pandit Hirday Nath Kunzru who referred to article 277. That the President of India should interfere in provincial resources in time of emergency shows a mentality which the Britishers had in 1937. Knowing that the war was coming, in 1937 they amended Section 126 of the Government of India Act in the House of Commons and called it Section 126-A, whereby all resources were placed in the hands of the Central Government. Not only all our leaders were placed in jail, but provinces worked under Section 93 to serve U.K. What happened was that India was bled white during the 2nd War, nearly Rs. 4,000 to 5,000 crores were mulcted out of us by the Allied Powers. in which the U.S.A. equally benefited along with the U.K. Everything was purchased at controlled prices, at pre-war level of prices, and if there is inflation today, if there are financial difficulties, poverty and starvation, inflation and high prices, it is due to that Section 126-A. I would have thought, Sir, a national Government, a democratic Government framing an independent Constitution would not think of acquiring financial powers under article 277 in time of emergency. This is an evolution of mind of those of us who fought for the freedom of India. I cannot fathom why this power should be handed over to the President.

Whenever I examine any article of these financial provisions, I feel baffled. Sir, we have postponed article 258, but what does it aim at ? It aims at centralization of all sales tax so that there will be uniformity of basis in collection of sales tax. Sales-tax today is on a lower trend because our Finance Minister has agreed to spend less dollars and less sterling during his recent London visit. If we accept lower expenditure, how can Provinces like Madras who live on luxurious goods of foreign import, live when there is less sales-tax. There will

[Shri B. Das]

perhaps be another debate on article 258 but I am looking at the picture as a whole. The Finance Commission would be faced with bigger problems than was originally visualised by the Drafting Committee.

**Mr. President :** Article 258 does not refer to sales-tax?

**Shri B. Das :** Yes, Sir. it will refer to sales-tax.

**Mr. President :** It refers to agreement with States.

**Shri B. Das :** Yes, Sir, and there the Government of India comes in.....

**Mr. President :** It has nothing to do with sales-tax.

**Shri B. Das :** Let me then give the information to the House that the Government of India is in close correspondence with the Provincial Finance Ministers and others. They want uniformity of sales-tax in all the provinces and yet they are decided on reducing the volume of trade in the Provinces whereby the revenue, of the provinces will be reduced. I am not an advocate of the use of foreign goods, I do not use them if I can help it, but everywhere the Centre is using its arbitrary power to reduce the income of the provinces and yet it does not settle the fundamental issue that the initial basis of distribution of resources should be revised. I do not wish to harp on points on which I have spoken on so many occasions during the last three or four days, but I am baffled at the trend of events as regards the distribution of finances between the Centre and Provinces. I am not very happy that three years hence a Finance Commission will be appointed, but I see a ray of hope, I see a streak of light. If the principle advocated in Pandit Hirday Rath Kunzru's amendment is accepted wisdom may dawn on those who are in control of the Government of India today that the initial basis of allocation of resources should be revised. I do hope that Pandit Kunzru will not object if undeveloped provinces like Orissa, Assam and Bihar get a little more money than they would otherwise be given by the Finance Commission later.

**Prof. Shibban Lal Saksena :** Sir, this is a very important article in the Constitution. I am glad that Dr. Ambedkar has provided that a Finance Commission shall be appointed within the first two years of the commencement of this Constitution and thereafter at the expiration of every fifth year or at such earlier time as the President considers necessary. Dr. Kunzru has given notice of two amendments to clause 3(a) of this article. I personally feel that the amendments will make the position worse. In fact he proceeds on certain assumptions. I feel that this Commission shall be only a body to recommend to the President and not a body whose decision is binding. He wants a convention that whatever this Commission recommends should be binding on the President. He says that the President of course has the power but he should not exercise it : that he should impose on himself a sort of voluntary self-denying ordinance. We have recently had the report of the Experts Committee on Finance and the other day Dr. Kunzru himself told us that it was wise that the report was not accepted. He must realise that there can be a Finance Commission which can make reports similar to the one which was made by the Sarker Committee and which the Central Government and the Drafting Committee thought fit to scrap. I therefore, say that the Finance Commission shall be a body of experts who shall examine the position of the Republic so far as finance is concerned and shall make their recommendations. They shall adduce their reasons for their viewpoint, but I do not think it could be a body which can take away the admitted responsibility of the Parliament to make final decisions in regard to finance. I am therefore opposed to any conventions being established that the Finance Commission's report shall be accepted.

In the previous article I opposed the powers of the President to make allocations on the ground that I wanted the Parliament to do it by law. If Dr. Kunzru's assertion were accepted that there shall be a convention by which the recommendations of this Commission shall be accepted, I personally feel that this convention would be very unhealthy and harmful. It will detract from the authority of the Parliament to make allocations. In fact this Commission has been given power to make recommendations about distribution of the proceeds of the taxes, about grants-in-aid, about the continuance or modification of the terms of any agreement, etc., in fact on anything which is referred to it. so that if the Commission's recommendations have to be accepted by convention it becomes more powerful than the Cabinet itself. The Cabinet will not be able to touch any of the recommendations of the Commission. I do not want to take away these powers of the Parliament and give them over to the Finance Commission, howsoever wise a body it may be. Dr. Kunzru's objection to the Parliament interfering with the recommendations of the Commission is this. Suppose the Finance Commission makes a recommendation giving a larger proportion of the taxes to a particular State and the President or the Parliament reduces the amount to be given to that particular State or province, then the province will accuse the Centre of depriving it of the sum which the Finance Commission thought fit to allot to it. I personally feel that the Parliament will be a parliament of the whole nation and every State will be represented on it. If Parliament after consideration of all the pros and cons of every proposal and after taking into consideration all the arguments of the Finance Commission, thinks in its supreme wisdom that a State should have a particular allocation, I think Parliament will be within its rights and nobody will make any accusation against it, because the members representing the particular State will also be there to give their opinion about the allocation. I therefore think that it will be a very dangerous principle to give authority to any outside body like the Finance Commission to dictate to the Parliament and to the Government that "this shall be the distribution of the finances of the country." I therefore feel that the fundamental assumption on which the two amendments of Dr. Kunzru are based is wrong. This Finance Commission as has been defined in the Constitution will be a Commission which will recommend to the President as to how the distribution of the finances will take place between the Centre and the States. That should be its function. It should not have the authority to have the last word on the distribution. Dr. Kunzru gave the example of Australia where he said such a convention was prevalent. I think except for Australia no such convention exists anywhere else. I am not fully familiar with conditions in Australia to be able to say why they have adopted this convention. But so far as my own country is concerned I feel that Parliament should be the ultimate authority and nobody shall have the right to criticize Parliament in its allocations, since every part of the country sends its representatives to it. I therefore think that the recommendations of the Commission shall be only recommendatory as contemplated by this Constitution and according to the clause as framed by Dr. Ambedkar. If that goes, these two amendments become superfluous. Dr. Kunzru wants the distribution between the Union and the States of the net proceeds of the taxes on income which should be divided initially between them and that this allocation should be the function of the Finance, Commission. Article 251 says .

"Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax..... shall be distributed."

Further it says that the word "prescribed" means "until it Finance Commission has been constituted prescribed by the President by order and after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission." Dr. Kunzru wants



[Prof. Shibban Lal Saksena]

that this Finance Commission should not have the power to make a recommendation about the distribution of income-tax proceeds on each occasion on which the matter is referred to it but only wants that initially on the first occasion it should be permitted to do so. It may be that according to conditions today the proceeds of income-tax may be distributed in a certain manner; but tomorrow the finances, of the Centre may get worse and they may not be able to spare those allocations, while the finances of provinces may be better and they may not need that amount. So if the amendment is accepted, the Finance Commission cannot change the allocation. I think it is better that, the Commission should be able to report to the President every time how the taxes should be divided, according to conditions then existing. Laying down a fixed percentage for all time will defeat the very purpose of this Commission. I therefore do not think the first amendment of Dr. Kunzru is at all proper. He wants that the power of the Government and the President should not be taken away by this Commission so far as any change in the distribution of percentage is concerned. He wants that the recommendation of the Commission should be sacrosanct, but I want them to be recommendatory. They should not be binding and on every occasion the Finance Commission's advice should be sought as to the distribution between the provinces and the Centre. If the recommendations are not to be treated as binding on the President, the first clause becomes meaningless and the amendment therefore has no significance.

The second clause of the amendment refers to allocation between the States, but article 260 refers to distribution between the Union and the States. Therefore this amendment would deny to the Commission the power to say that so much of the proceeds of an excise duty should go to the Union and so much to the States; he wants the President to be the final authority to determine the allocation between the States and the Centre. That is to say, the President will say that 20 per cent will go to the provinces and then the Finance Commission will say how it will be distributed. This means that the Finance Commission will be useless, if it has no power to determine the percentage of allocation as between the Union and the States. Therefore I think this second amendment is even more dangerous. What I am really afraid of is the devolution of responsibility from Parliament to an outside authority, whether it be the President or the Finance Commission. I want Parliament to be the ultimate authority, in which case these amendments are out of place. Parliament must know the financial state of the country. The Finance Commission must have full authority to go into every aspect of every duty and the condition of provinces as well as the Centre, so that its report may enlighten Parliament. The second amendment is more dangerous because it makes the Finance Commission a useless body. In fact during discussions on articles 253 and 254, each province wanted a share of the duties that are raised in that particular province. So the President here should not be given the power to make allocations; Parliament must be the authority to allocate the shares. But this amendment of Dr. Ambedkar really wants that the allocation shall not be made by the Commission or by Parliament but by the President in his discretion, who will decide the percentage to be distributed and the Commission will report as to the manner of distribution. I think these two amendments are based on the supposition that the recommendations of the Finance Commission are to be binding. I do not think these recommendations should be sacrosanct. In the next article I will move an amendment that whatever decision is taken will have to be approved by Parliament which will decide whether the clarifications made by the President are proper. The ultimate authority must be the Parliament which will decide according to the state of the country. Sir I hope my points will be borne in mind and considered.

**The Honourable Dr. B. R. Ambedkar:** Sir, the House must have realised that my honourable Friend Dr. Kunzru's amendment referred to clause (3) of article 260 where the functions of the Finance Commission are laid down. But, in order to understand the exact significance of the amendments he has moved, I personally feel that it is desirable to know the method of allocation of revenues already provided for in the two articles we have already passed, namely, 251 and 253. It will be realised that the Draft Constitution separates the distribution and allocation of the income-tax from the distribution and allocation of central duties of excise. With regard to income-tax the distribution and allocation of the proceeds is a matter which is left to the President to decide. That will follow from reading article 251(2) with clause (4) (b) (i) and (ii). On the other hand with regard to the distribution and allocation of the proceeds of the central duties of excise the matter is left entirely to be determined by law made by Parliament, which you will find set out clearly in article 253.

As it is one o'clock I will continue my speech tomorrow.

The Assembly then adjourned till 9 of the clock on Wednesday, the 10th August, 1949.

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