

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

Mr. President : The question A is:

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

The amendment was negatived.

Mr. President : The question is:

That for article 254, the following be substituted :-

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

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

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

The amendment was adopted.

Mr. President : The question is :

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

The motion was adopted.

Article 254 was added to the Constitution.

New Article 254-A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. President : The question is

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

The motion was adopted.

Article 254-A was added to the Constitution.

Article 255

Mr. President : We go to article 255.

(Amendment No. 83 was not moved.)

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

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

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

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

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

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

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

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