Thus wrote Gandhiji in 1922:

Swaraj will not be a free gift of the British Parliament. It will be a declaration of India's full self-expression... expressed through an Act of Parliament... it will be merely a courteous ratification of the declared wish of the people of India... The ratification... will be a treaty to which Britain will be a party...
The British Parliament, when the settlement comes, will satisfy the wishes of the people of India as expressed...through the freely chosen representatives.

Twenty-four years later these words were repeated during the opening session of the Constituent Assembly. These were the first definite reference to Constituent Assembly and the members agreed that they were its justification. Gandhiji expressed that Indians must shape their own destiny and that "only in the hands of Indians could India become herself." The demand made by Gandhiji was affirmed from time to time, by various public bodies, Indian political leaders and constituted the first origin of the Constituent Assembly. The truth came out with the Assembly's inauguration in 1946.

The Assembly began its deliberations on December 9, 1946. Its first achievement was the adoption of the Objectives Resolution on January 22, 1947, moved by Pt. Nehru on December 13, 1946. The Resolution laid down the fundamental propositions on the basis of which a Constitution for free India had to be framed. This was the first step towards giving shape, in the

1. In an article entitled "Independence" published in "Young India" of January 5, 1922. I Select Documents, 33-34.
2. Inaugural Address by Shri Sachchidananda Sinha, the temporary Chairman of the Constituent Assembly, December 9, 1946. Id. at 398-99.
3. The demand became a part of the official policy of the Indian National Congress in 1934 whereby it was expressly so stated.
printed and written word, to one of the dreams and aspirations of a nation.\textsuperscript{4} The Resolution provided, \textit{inter alia}, that the new Constitution would be dedicated to the goal of social revolution but it did not specify as to how these aims were to be achieved. Neither Panchayat nor indirect Government was mentioned and the allusions to decentralisation were obviously made in deference to the Cabinet Mission Plan 1946.\textsuperscript{5} There was definitely a reference to federal set-up to be erected but that too was to be shaped in accordance with that Plan.\textsuperscript{6}

After providing for such a basis for the Constitution, the Assembly appointed various Committees to make recommendations on different provisions of the Constitution.\textsuperscript{7} The Assembly's approach to the framing of the financial provisions was based on its resolve that "the soundest framework for our Constitution is a federation with a strong Centre."\textsuperscript{8} Having laid this foundation firmly, after the June 3 Announcement, the framers embarked on erecting the fiscal structure of the Constitution. With the basic knowledge of the theory and working of various Constitutions of the world, they set to fill colours in the body framework. In this respect, they largely borrowed from the Government of India Act 1935.

\textbf{Drafting of Financial Provisions}

In the earlier stages, the financial relations had engaged the attention of two Committees, the Union Powers Committee and the Union Constitution Committee. The former did not apply its mind to the specific questions of allocation of

\textsuperscript{5} Austin, Granville, \textit{Indian Constitution: Cornerstone of a Nation}, 33, Oxford University Press, Bombay, 1974.
\textsuperscript{6} Clause (3) of the Objectives Resolution.
\textsuperscript{7} The Important Committees were: The Union Constitution Committee, Union Powers Committee, Provincial Constitution Committee, the Advisory Committee on Fundamental Rights.
\textsuperscript{8} See supra chapter I.
resources. The three legislative lists compiled by it included taxing powers and generally followed the legislative Lists in the Government of India Act 1935.\(^9\)

One feature of the Act of 1935 was that the federal taxes under it fell into four categories. The first category were taxes and duties which were to be levied and collected by the Centre but the proceeds were to be entirely distributed to the Provinces. Among these were estate duty and succession duty, stamp duties and terminal taxes on goods and passengers. In the second category was Income tax levied and collected by the Federal Government but it was obligatory on it that a prescribed percentage determined by an Order-in-Council, should be made over to the Provinces. Thirdly, there were salt duty and federal excise and export duties, with respect to which, it was open to the Federal Legislature to decide by law that the whole or any part of the net proceeds of these should be distributed to the Units. In the last category were the import duties, corporation tax and the other central taxes which were to be retained in full by the Federal Government.\(^10\)

The Union Powers Committee were of the opinion that residuary powers (including by implication, powers of taxation) should vest in the Centre except in the case of the Indian States where any extension of the federal jurisdiction beyond the limited range envisaged in the Cabinet Mission's Plan 1946, would have to be with the consent of those States. Again considering the dissimilarities between the Provinces and the Princely States in matters of economic development, the Committee suggested that the principle of uniformity of taxation among the Units might be kept in abeyance for a period extending up to 15 years after the establishment of the Federation during which period the incidence, levy, realization and apportionment of the federal taxes in the Princely States would be subject to agreements between them and the Federal Government.


\(^10\) See supra, Chapter III.
Recognising that the retention by the Federation of the proceeds of all the taxes specified in the Federal List might be detrimental to the financial stability of the Units, the Committee recommended that the Constitution should suitably provide for the assignment or sharing of the proceeds of some of those taxes on a basis to be determined by the Federation from time to time.\textsuperscript{11}

The Financial provisions were debated in the Union Constitution Committee. In the committee, Shri Gopalaswami Ayyanger and Alladi Krishnaswami Ayyar suggested specific provisions on the subject of federal finance.\textsuperscript{12} These were considered at the joint meeting of Union Constitution Committee and Union Powers Committee on June 30, 1947 and with some slight modifications, were incorporated in the Memorandum, appended to the Union Constitution Committee's Report of July 4, 1947, as Clauses 1 to 5 of Part VII, entitled "Finance and Borrowing Powers."\textsuperscript{13}

Clauses (1) and (2) laid down that while revenues derived from sources in respect of which the Federal Parliament had exclusive powers to make laws, would be classified as federal revenues, provisions should be made for the levy and if necessary for the distribution of certain federal taxes, namely, customs, federal excises, export duties, death duties, taxes on income and taxes on companies. Clause (3) empowered the Federal Government to make subventions or grants out of federal revenues, for any purpose, notwithstanding that the purpose was not one with respect to which the Federal Parliament might make laws. Clause (4) authorised the Federal Government to borrow for any of the purposes of the Federation upon the security of federal revenues subject to such limitations and conditions as might be fixed by federal law. The last clause (5) empowered the Federal Government to grant a loan to or guarantee a loan...\textsuperscript{14}

\textsuperscript{11} Second Report, Union Powers Committee, July 5,1947 II Select Documents, 777-78. See also the Committee's First Report, which on partition became outdated and was consigned to the use of Library shelves. II Select Documents, 745-46.

\textsuperscript{12} Memorandum on the principles of the Union Constitution prepared by Shri N. Gopalaswami Ayyanger and Shri Alladi Krishnaswami Ayyar, June 1947. II Select Documents, 547-48.

\textsuperscript{13} Id. at 585. These clauses corresponded to Sections 136 to 140, 162 and 163(2) of the Government of India Act 1935. See supra Chapter III.
by any unit on such terms and under such conditions as it might prescribe.

The above clauses came up before the Constituent Assembly on July 30, 1947. Clauses (1) and (2) were held over at the instance of Shri G. Ayyangar who opined that the clauses raised issues of far-reaching importance and, therefore, it was suggested that an expert committee should investigate, in detail, the distribution of revenues between the Central and Unit Governments. An Expert Committee with Shri N.R. Sarkar, Shri V.S. Sundaram and Shri N.V. Rangachari as members was appointed which thoroughly examined the whole question of financial adjustments between the Centre and the Units and gave its report on December 5, 1947. 14

Clause (3) of the Ayyangar-Ayyar Memorandum, Shri Ayyangar explained, sought to enable the Federal Government to subsidize activities which otherwise fell within the exclusive sphere of the Units. This power, he said, was "a very necessary weapon" for the Federal Government to possess in the interest of the development of the country as a whole. The rationale behind Clause (5) (regarding Centre borrowing power), was to make the Federal Government itself responsible for the solvency of the Units. 16

Speaking on Clause (3) (providing for subvention or grants from the Federal Government to the units) Shri Biswanath Das urged that the federal grants-in-aid or subventions to the Units should not be treated as "charity grants" of the Federal Finance Ministers and should therefore, be placed on a statutory basis. 17 Another member, Shri Omeo Kumar Das expressed the hope that the Expert Committee, if proposed, would ensure a fair deal to the units in this respect. 18

17. Id., Vol. IV, 934-35.
18. Ibid.
The three clauses (3), (4), and (5), however, were adopted by the Constituent Assembly without much debate and with no modification. 19

The Committees appointed by the Assembly, submitted their reports during the period April to August 1947 and by that time the broad principles as set out in the recommendations of these Committees had been discussed in the Assembly. The whole matter was, thereafter, made over to the Constitutional Advisor Shri B.N. Rau, in order to undertake the preparation of a Draft of the Constitution, embodying the various decisions of the Assembly on the reports of its Committees. 20

The Draft containing 240 Clauses and 13 Schedules as prepared by the Constitutional Advisor in October 1947, retained the division of taxing powers as embodied in the Federal and Provincial Lists recommended by the Union Powers Committee in its Second Report. 21 The distribution of revenues between the Federation and the Units was dealt with in Clauses 194-A to 210 under Part IX of the Draft Constitution. The scheme of the Draft provided the assignment in whole or in part, of the proceeds of certain federal taxes to the units, viz., the Provinces and the Federating States. The Chief Commissioner's Provinces were excluded for the purpose because they were the direct responsibility of the Federation. It also dealt with the grants-in-aid from the Federation to the Units and certain other important aspects of the financial relations between the Federation and the Units including their respective borrowing powers. It is remarkable to note that the provisions so drafted by the Constitutional Advisor generally followed by the corresponding provisions of the Government of India Act 1935.

The Draft, thus placed before the Assembly, exhibited that while all the duties or taxes included in the Federal List were

19. Id. at 937.
20. III Select Documents, 5.
21. 9th Schedule to the Draft Constitution, Id. at 174-82.
to be levied and collected by the Federation under Clause 196, the net proceeds of duties in respect of succession to property other than agricultural land, estate duty in respect of property other than agricultural land, stamp duties mentioned in the Federal List, terminal taxes on goods or passengers carried by railway or air and taxes on railway fares and freights, except in so far as those proceeds represented proceeds attributable to Chief Commissioners' Provinces, were to be assigned to the Units and distributed among them inter se in accordance with such principles of distribution as the Federal Parliament might formulate by law. The Parliament was, however, empowered to increase at any time, any of these duties or taxes by surcharge for federal purposes and the entire proceeds thereof were to accrue to the Federation.  

Clause 197 of the Draft provided for a sharing of the proceeds of federal taxes on income other than corporation tax. A prescribed percentage of the net proceeds of such taxes, except in so far as those proceeds represented proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of Federal emoluments, was to be assigned to the Units. The authority to prescribe this percentage as well as the mode of its distribution among the Units inter se, was vested in the Federal Parliament. Here also, power was given to the Federal Parliament to levy, at any time, a surcharge on the said taxes, exclusively for federal purposes.

Clause 198(1) provided for the abolition of the salt duty. Sub-clause(2) of Clause 198 dealt with permissive distribution of duties of excise and export duties levied and collected by the Federation. Sub-clause(3) made an exception in the case of export

22. Clause 196 of the Draft was in substance identical with Section 137 of the Government of India Act 1935. See supra
23. Clause 197 corresponded with Section 138 of the Act of 1935 except that there the authority to prescribe the Units' share and its distribution between them, vested in the Executive to be exercised by an Order-in-Council. See supra.
24. Proviso to Clause 197, corresponded with Clause (3) of Section 138 of the Act of 1935.
duty on jute or jute products. A portion of the proceeds of this duty as prescribed by the Federal Parliament by law, was to be made over to the Units in which jute was grown, to be distributed among them in proportion to the respective amounts of jute grown therein. 25

Clause 199, which was based on Section 142 of the Government of India Act 1935, dealt with general or specific federal grants to the Units.

Clause 200, dealing with taxes on professions, trades, callings and employments, clearly laid down that no law of a Unit relating to taxes for the benefit of the Unit or of a municipality, district board, local board or other local authority therein, would become invalid on the ground that it related to a tax on income. 26

Clause 201, corresponding with Section 143 of the Act of 1935, was a saving provision in respect of certain taxes, duties, cesses or fees.

Miscellaneous Financial Provisions were contained in Clauses 203 to 206. Clause 203 authorised the Federation or the Units to make grants for any public purpose, notwithstanding that the purpose was not one with respect to which the respective legislature might make laws. Clauses 205 and 206 dealt with the immunities of the Federation and the units as regards mutual taxation. 27

Though for the most part, the Draft followed the provisions of the Act of 1935, there was, however, an important departure in Clause 207 of the Draft from the corresponding Section 155 of the 1935 Act. Justifying the change and explaining why the Federation should have the power to tax the Units,

25. Sub-clauses (2) and (3) of Clause 198 of the Draft were based on the Clauses (1) and (2) respectively of Section 140 of the Act of 1935. See supra.

26. This clause was substantially a replica of Section 142-A of the Government of India Act, 1935.

27. Clauses 203, 205 and 206 were, in substance, identical respectively with Sections 150(2), 154 and 154(A) of the Act of 1935.
but not *vice versa*, the Constitutional Advisor observed that when the Federation taxed the institutions of the Units, it taxed its constituents, whereas, when a Unit taxed the operations of the Federal Government, it acted upon institutions created not by its own constituents but by people over whom it could claim no control.  

Chapter II of Part IX of the Draft Constitution containing Clauses 209 and 210 dealt with borrowing by the Federal, as well, the Unit Governments, which followed the provisions in this respect, as mentioned in Sections 162 and 163 respectively of the Government of India Act 1935. No change was effected in this matter from the Act of 1935.

These were the general provisions relating to the distribution of revenues and borrowing powers between the Federation and the Units as contained in the Draft Constitution. The Expert Committee appointed at the suggestion of Sh. G. Ayyanger was asked to work out the details thereof and to report on the Financial Provisions of the Constitution Act. Inter alia, the Committee was to report on the financial relations between the Centre and the Unit and between the Units inter se; the financial procedure, i.e., the procedure relating to the budget expenditure and money bills and the borrowing powers of the Units. The Committee began its work on November 17, 1947 and after a thorough examination of the whole matter submitted its report on December 5, 1947. The Committee was required to undertake the whole question in the light of the memoranda sent by the Government of India and the Governments of the Provinces on the distribution of revenue and the existing relations under the Government of India Act 1935, their working during the last ten years. The Committee also received memorandum on the matter assigned to them, from the Ministry of Finance of the Government of India.

28. Note on Certain Clauses by the Constitutional Advisor appended to the Draft, October 7, 1947, III Select Documents, 204-205.
29. See supra.
31. Ibid.
In its Memorandum, every Province pointed attention to the urgency of its programmes of social service and economic development and to the limited nature of its own resources, both existing and potential. All the Provinces asked for substantial transfer of revenues from the Central sources. The Expert Committee reached the general conclusion that India had the federal form of government and that every federation was based on a division of authority and involved a certain amount of compromise. The Committee observed that they had to distribute the total available resources among Federal and Provincial Governments, in adequate relation to the functions imposed on each. The arrangements so made were not only to be equitable in themselves and in the interests of the country as a whole but were also to be administratively feasible. They were also to ensure that there should not be violent a departure from the status quo. While there should be as much uniformity as possible, the weak Units were to be helped at least to maintain certain minimum standards of service.

The Committee further observed that the needs of the Provinces were in contrast unlimited, particularly in relation to welfare services and general development. The proper planning and execution of these services, on which, so much depended, the improvement of human well-being and increase of the country's productive capacity, required that the Provincial Governments should have adequate resources of their own, without their having to depend on the variable munificence or affluence of the Centre. At the same time, the Expert Committee found it difficult and impracticable to augment the Provinces' revenues by adding more subjects to the Provincial List, as it would have resulted in upsetting the equilibrium of the Centre which was not only in charge of the basic functions such as Defence, Foreign affairs, 

32. Indian federation, the Expert Committee observed, was the result of gradual devolution of authority and not that of agreements among sovereign states. Report, Expert Committee, December 5, 1947, para 26.

33. Id, para 27.
and communication, all expensive functions, but also might have to assume leadership in the coordination and development of the research and higher technical education. Taking into consideration their respective needs, the Committee observed that they could not avoid 'divided heads' but they aimed at having them only few and to arrange the shares of the Centre and the Provinces in these heads in such a way as not to result in friction or mutual interference.\(^{34}\) After making these general observations, the Expert Committee recommended no major change in the list of taxes in Federal Legislative List as recommended by the Union Powers Committee.\(^{35}\) They also did not suggest any new item for insertion in the Provincial Legislative List.\(^{36}\) The Federal Government was to levy and collect all the taxes in the Federal List but the Centre was to retain the whole of the net proceeds of the following taxes only, viz., duties of customs, including export duties, taxes on capital value of assets and taxes on the capital of companies, and taxes on railway fares and freights\(^{37}\) and central excises other than on tobacco.\(^{38}\) As regards jute export duties, the Committee were of the opinion that the duties were capable of very limited application and had to be levied with great caution and that they were unsuitable for sharing with the Provinces. To compensate the Provinces growing jute, they, however, recommended fixed sums\(^{39}\) to be paid to these Provinces for a period of ten years or till the export duties on jute and jute goods were abolished, whichever might be earlier.

The Expert Committee recommended that the net proceeds of the following taxes to be shared with the Provincial Governments, viz.:  

(1) Income-tax including corporation tax;\(^{40}\)

\(^{34}\) Id., para 28.  
^{35}\) Id., para 30.  
^{36}\) Id., para 33.  
^{37}\) Id., para 34.  
^{38}\) Id., para 40.  
^{39}\) Accordingly, West Bengal was to receive Rs. 100 lakhs, Assam - Rs. 15 lakhs, Bihar Rs. 17 lakhs and Orissa to receive Rs. 3 lakhs every year. Report, para 36.  
^{40}\) Id., para 38.
(2) Central excise on tobacco up to 50 per cent of its net proceeds;\textsuperscript{41} and

(3) Estate and succession duties.\textsuperscript{42}

As regards Income-tax the Committee recommended that not less than 60 per cent of the net proceeds of this tax including corporation tax and the tax on Federal emoluments was to be divided between the Provinces.

On the question of apportionment of income tax among Provinces, each Province supported the basis which could fetch it a good slice of the tax. Bombay and West Bengal supported the basis of collection or residence while the United Provinces that of population. Bihar was in favour of a combined basis of population and origin. Orissa and Assam wanted weightage for backwardness. East Punjab while suggesting no basis, wanted her deficit of Rs. 3 crores somehow to be met.\textsuperscript{43} The manner which the Committee recommended was: 20 per cent on the basis of population; 35 per cent on the basis of collection and 5 per cent as an adjusting factor to mitigate hardships.

The Expert Committee examined the pros and cons of each basis so supported by the Provinces. As regards "origin or locus of income" as the basis of distribution, the Committee observed it to be relevant but found not suitable in the context of the complex industrial and commercial structure of moderate times, where a single point of control often regulated a vast network of transactions and therefore rejected it.\textsuperscript{44} "Residence" of the tax-payer was no doubt an important factor but apart from the artificial legal definition of residence for income tax purposes, the Committee found it a difficult factor to apply in practice in distributing the proceeds of the tax.\textsuperscript{45}

\textsuperscript{41} Id., para 40.
\textsuperscript{42} Id., para 42.
\textsuperscript{43} Id., para 55.
\textsuperscript{44} Id., para 50.
\textsuperscript{45} Id., para 51.
"Collection" another possible criterion, but not without its own objections. The place of collection, the Committee said was usually the principal place of business of the tax-payer or his residence, if he was not carrying on a business or profession. The objection to this factor was that it was unfair to the areas of origin and sale which were completely ignored, while it gave too much weightage to the place of control of a business which was usually though not necessarily, the place of collection. Moreover, even more than in the case of residence, the place of collection could be easily altered at the will of the tax-payer. Another possible basis considered by the Committee was the "needs" of the Provinces "roughly measured on the basis of their population". The objection to this basis was that a "share" was something to which a Province was entitled because its citizens or things had in some measure contributed to the fund, while needs, regulated somewhat like grants-in-aid, could be met without regard to the Province's contribution to the Centre or to any common pool. The basis, the Committee thus recommended was in their opinion, as equitable as could be devised in the prevailing circumstances. It was the basis of collection as well as population and provided for adjustment on the basis of need.

The Committee further recommended that not less than 50 per cent of the net proceeds of excise on tobacco to be divided between the Provinces on the basis of estimated consumption. In regard to Succession and Estate Duties, the Expert Committee laid down 60 per cent of the net proceeds from such duties as the minimum share for the Provinces, to be distributed among them inter se on the basis: duty in respect of real property on the basis of collection of the property and of the balance, 3/4ths on the basis of the residence of the deceased and 1/4ths on the basis of population.

46. Id., para 52.
47. Id., para 53.
48. Id., para 57.
49. Id., para 58.
As regards stamp duties and terminal taxes on goods etc., the Committee suggested that they were to be administered by the Centre but the proceeds were wholly to be made over to the Provinces for their benefit. 50

Taxation of agricultural income by the Provinces, the Committee observed, stood in the way of a theoretically sound system of income-tax in the country. The Expert Committee liked to take an opportunity to do away with this segregation. In their view it could be easily done as the origin of agricultural income could be traced without much difficulty. The Centre could levy and collect this tax as part of an integrated system of income taxes, and the proceeds thereof should be handed over back to the Provinces. However, for the time being, the Committee recommended the continuance of status quo in this regard. In view of the importance of the matter, the Committee recommended that the Provinces should be consulted at once, tax on agricultural income might be omitted from the Provincial List and merged in the Central income tax and similarly the estate and succession duties on agricultural property, in the similar duties on property in general and consequential changes being made elsewhere in the Constitution. 51

The Committee did not recommend any far-reaching changes as regards subventions or grants-in-aid. They, however, could not favour grants-in-aid on the Australian model. 52

The net effect of the recommendations of Expert Committee was that on the basis of the existing revenue position, the Centre was to have to transfer to the Provinces a sum of the order of Rs 30 crores annually. In order that the method of apportionment could be adapted to the changing conditions from time to time, the Committee recommended a periodical review, by a neutral expert authority, of the distribution of proceeds

50. Id., paras 43, 44.
51. Id., para 49.
52. Id., paras 45, 46, 48. See infra chapter IX also.
of taxes among the Provinces. For the purpose, they recommended a Finance Commission with a High Court Judge or ex-High Court judge as Chairman and four other members which should be entrusted with the task of (i) allocation between the Provinces of their shares of centrally administered taxes assigned to them; (ii) to consider applications for grants-in-aid for Provinces and report thereon; (iii) to consider and report on other matters referred to it by the President.\textsuperscript{53}

The report of the Expert Committee submitted on December 5, 1947, was placed on the table of the Constituent Assembly by Dr. Ambedkar on November 4, 1948.

The recommendations of the Expert Committee were considered by the Drafting Committee appointed to scrutinize the Draft Constitution,\textsuperscript{54} as prepared by the Constitutional Advisor, giving effect to the decisions already taken in the Assembly and other matters which were ancillary thereto and to submit to the Assembly for consideration the text of the Draft Constitution as revised by them. In addition to the report of the Expert Committee, the Drafting Committee also had for their consideration the detailed memoranda from nearly all the Provincial Governments.

The Draft of the Constitution as revised and settled by the Drafting Committee was submitted to the President of the Assembly on February 21, 1948, the Committee, however, continued to function and dealt with suggestions for amendments made from time to time. The Drafting Committee suggested that the system of distribution of revenue as laid down by the Government of India Act 1935 should be retained for at least five years, when a Finance Commission might review the situation. This view, the Drafting Committee took, in view of the unstable financial conditions prevailing during the framing period. They thus

\textsuperscript{53} Id., paras 65-67.

\textsuperscript{54} The Drafting Committee consisting of seven members was appointed on August 29, 1947. Dr. Ambedkar was elected as its Chairman.
rejected the recommendations of the Expert Committee in this regard.\textsuperscript{55}

During 1948, the Drafting Committee, in conjunction with the Union Powers Committee and Constitution Committees (both the Union and the Provincial) considered the proposed changes in the Rau's Draft. The Provincial Finance Ministers also met in New Delhi several times during 1948 and 1949, and expressed their views on the question of distribution of revenues. Amendments to the Draft were received from a large number of Assembly members, and views were expressed by the Union Government as well as the Provincial Governments on all aspects of the matter. The Drafting Committee then met in July 1949 with the Finance and Prime Ministers of the Provinces to thrash out the thornier questions of contention.\textsuperscript{56}

It was during the first week of August, 1949, that the Constituent Assembly began full debate on the financial provisions. By this time, many more opinions were expressed inside and outside the Assembly, memoranda were submitted on the most controversial issues of division of revenue between the Centre and the Provinces and among the Provinces \textit{inter se}.

\textbf{Discussion in the Constituent Assembly on Financial Provisions Contained in the Draft Constitution, February 21, 1948.}

\textbf{Income Tax}

Article 251 of the Draft Constitution dealt with income-tax fell under sub-chapter entitled as "Taxes levied and collected by the Union, and distributed between the Union and the States". It was very much the same as it had been originally framed and provided that the tax was to be levied and collected by the Union and the revenue thereof to be divided between the Union and the Provinces in a manner to be determined by the

\textsuperscript{55} Dr. Ambedkar's letter, while submitting the Draft, III Select Documents, 516.

\textsuperscript{56} Austin, 227.
President after considering the recommendations of the Finance Commission. The "taxes on income" did not include the "corporation tax" which was retained as an exclusive union tax.\(^{57}\)

In the Assembly, the members expressed different opinions so far as the distribution of the tax between the Union and the Provinces and Provinces inter se, was concerned.

Moving an amendment to Article 251, Prof. Shibban Lal Saksena\(^{58}\) said that the whole thing in this Article was how adjustment between the claims of the Provinces and the Centre was to be made, and it had been said that such percentages were to be prescribed by the President by an order. Such an important matter, Prof. Saksena observed, should not have been left to the discretion of the President alone. Of course, it would be by the Executive. But he wanted that it should be done by the Parliament by law. He was vehemently of the view that the Parliament might not be deprived of its right to allocate the finances between the Centre and the Units. This was a very important question and he wondered how the Drafting Committee missed this point.

At least sovereign Parliament of a nation, Prof. Saksena said must have a say in the matter.

If the President could by order allocate crores of rupees, he asked, what would be the purpose of having the Parliament. If the Parliament was not to distribute the income tax to the Provinces then what would be its functions. It was something very extra-ordinary in Prof. Saksena's view. He further expressed that when a Finance Commission made a Report, Parliament should after discussing those principles bring forward a Bill suggesting as to how it wanted them to be implemented and allocate proper shares to the various Provinces. He was, therefore, of the view that allocation of the tax proceeds should be done by the Parliament by law and not by the President by an order.\(^{59}\)

57. *Ill Select Documents*, 612.
58. Prof. Saksena represented the United Provinces.
Shri Bishwanath Das, a member from Orissa, was opposed to the recommendations of the Expert Committee on giving 40 per cent of the proceeds from the tax to the Centre. He did not go beyond the terms of the Article 251, but questioned why the Centre should retain 15 per cent more than what Australian Commonwealth kept for herself.  

Shri Das supported the three principal basis for the distribution of income-tax proceeds among the Provinces recommended by Adarkar-Nehru Report, viz., population, area, and collection. He was, however, not in favour of collection as the basis for distribution.

Shri Upendra Nath Burman proposed that the recommendations of the Expert Committee, on the matter, should be accepted.

Dr. B.R. Ambedkar met with all the objections raised by the members. He said that he could not accept either of the opinions. He further stated that the question whether the Centre-Units percentage of revenue collected by way of income tax should be fixed in the Constitution itself or should it be left to the President to decide, was a matter over which considerable thought had been bestowed both by the Central Government as well as by the Provincial Governments in the Conference. It was agreed, he said, that the best thing would be to leave the matter to be decided by the President and that no proportion should be fixed in the Constitution itself. The Assembly, thus, adopted the Draft Article 251 in toto.

**Duties Levied by the Union But Collected by the States**

Draft Article 249 dealt with the "duties levied by the Union but collected and appropriated by the States." It provided: "Such stamp duties and such duties of excise on medicinal and

60. In this connection, he referred to the report of Prof. Adarkar and Pt. Nehru wherein they had shown that in Australia, the Commonwealth retained to itself only 25 per cent of the income-tax.

61. A member from West Bengal.

62. Chairman of the Drafting Committee.

63. **IX C.A.D.**, 221.
toilet preparations as are mentioned in the Union List shall be levied by the Government of India but shall be collected...by the States within which such duties are respectively leviable." The proceeds therefore were to be assigned to the States.

When discussions began on this Article, Shri Brajeshwar Prasad raised his objections against the general principles of the provision itself. He made two propositions - the first was, that all duties and taxes should be levied, collected and appropriated by the Government of India. The Provinces should have no power in this matter. There should be no financial autonomy, he said, in this sphere because of very valid political reasons.64

The second proposition which he wanted to lay down was that there should be an independent authority at the Centre to allocate funds between the different Units in accordance with the needs of each Unit. He suggested that authority might either be the President or the Parliament or the Finance Commission. He rejected the existing system, because it was opposed to the basic concept of nationalism. Shri Prasad further stated that having due regard to the facts of political life, the President should allocate the funds. Financial autonomy for the Units he opined, was dangerous because it would pave the way for establishment of independent States. Therefore, he wanted that Provincial Ministers should have come over there before the Government of India and placed their case for the allocation of funds, so that they might remain under the control of the Government of India.65

Shri Bisheshwarnath Das, however, expressed opinion quite opposite to that of Shri Brajeshwar Prasad. He observed that the Provinces should not be treated as charity-boys of the North Block of the Secretariat. Somehow it had happened

64. IA C.A.D., 204.
65. Ibid.
in the past that people had to come with begging bowls, whether it was in regard to the Food Commission or the Bengal problem of 1943, nobody wanted charity. He, therefore, suggested that the Central Government should give up the past mentality and should part with the legitimate resources to the Provinces. When put to vote, the Assembly adopted Article 249 substantially in the form in which it was drafted by the Drafting Committee.

**Taxes Levied by the Union but Assigned to the States**

Article 250 of the Draft Constitution entitled as "Taxes levied and collected by the Union but assigned to the States". It dealt with four kinds of taxes, viz., (a) duties in respect of succession to property other than agricultural land; (b) estate duty in respect of property other than agricultural land; (c) terminal taxes on goods or passengers carried by railway or air; and (d) taxes on railway fares and freights. Clause (2) of the draft Article provided that "the net proceeds of any such duty or tax... shall be assigned to the States within which that duty or tax is leviable in that year, and shall be distributed among those States in accordance with such principles of distribution as may be formulated by Parliament by law."

Shri R.K. Sidhva proposed an amendment for the deletion of sub-clause(c) and suggested that the administration of taxes mentioned therein, should be wholly transferred to the State Governments. He requested the President of the Assembly that his amendment should be held over. The latter, in turn, assured Shri Sidhva that if the Article was held over his amendment would also be adopted.

But ultimately, the Article was adopted by the Assembly with the addition of two more entries in the sub-clause(2),

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66. 1\textit{A.C.A.D.}, 207-208

67. A member representing Central Provinces and Berar.

namely, taxes other than stamp duties on transactions in stock-
 exchanges and futures markets; and taxes on the sale or purchase
of newspapers and on advertisements published therein."

Taxes Levied and Collected by the Union but May be Shared With
States

Draft Article 253 mentioned "Taxes which are levied
and collected by the Union and may be distributed between the
Union and the States". Under this Article levy of salt duty
was abolished. Clause (2) of this Article provided that "Union
duties of excise other than such duties of excise on medicinal
and toilet preparations as are mentioned in the Union List shall
be levied and collected by the Government of India, but if
Parliament by law so provides, there shall be paid out of the
revenues of India to the States to which the law imposing the
duty extends, sums equivalent to the whole or any part of the net
proceeds of that duty and those sums shall be distributed among
those states in accordance with such principles of distribution
as may be formulated by such law."

In respect of Clause (1) of the Article, abolishing duties
on salt, Shri Mahavir Tyagi stated that to levy a duty or not
to levy it, was the business of the Union and State Legislatures.
He objected to this Clause because he did not want that the
hands of future generations should be tied down for ever. Once
the Constituent Assembly put it down in the Constitution that
there should be no salt duties for centuries to come, and so long
as there did not come into being another Constituent Assembly,
Shri Tyagi said, the Government's hands would remain tied. Even
if they wanted to levy the duty and even if circumstances were
so changed that the levy of the duty was warranted, they would
not be able to levy it. He said that this type of a thing, they
should always avoid. With these reasons he proposed for the
deletion of Clause (1) of Article 253.

69. Shri Tyagi represented the United Provinces.
70. IX C.A.D., 224-25.
Shri Bishwanath Das, on the same point, expressed that the provision contained in Article 253(1) was a mere sentimental and suggested that salt duties should be re-imposed.\textsuperscript{71} Shri Raj Bahadur, however, suggested that the Clause should be retained but in an amended form. He said that from calcium chloride to platinum chloride there were a thousand and one salt and that it would be better if the word 'common salt' was used in place of the word 'salt'.\textsuperscript{72} Shri J.J.M. Nichols Roy\textsuperscript{73} expressed the same views as those of Shri Tyagi and therefore, liked to leave out the Clause (1) of the Article 253.\textsuperscript{74}

Dr. Ambedkar accepted the amendment moved by Shri Tyagi. He was of the opinion that if the sub-clause remained a part of the Constitution, it was obvious that the Central Government would not be entitled to make use of either entry 86 or entry 85 of List I, for the purposes of levying an excise or custom on salt.\textsuperscript{75} Shri K. Santhanam\textsuperscript{76} further stated that the clause referred not only to the excise, but also duties on salt coming from abroad. That was why, he said, that the members wanted the deletion of this clause.\textsuperscript{77}

Summing up the views of the members, Shri Nehru said that when the members of Assembly gave thought to this matter, they felt, that, because they were building something for the future

\textsuperscript{71} IX C.A.D., 230-31.
\textsuperscript{72} IX C.A.D., 234.
\textsuperscript{73} Mr. Roy represented the Province of Assam.
\textsuperscript{74} IX C.A.D., 234. Shri Naziruddin Ahmad from West Bengal, Sardar Hukam Singh representing East Punjab, also proposed the deletion of this clause. IX C.A.D., 232, 236.
\textsuperscript{75} Id. at 238.
\textsuperscript{76} Representing Madras.
\textsuperscript{77} IX C.A.D., 240.
and that it would be wrong to do something which might come in the way of national good, that if they put this Clause as it was, that would certainly come in their way. For instance, as it was drafted, it would obviously prevent them even from dealing with foreign salt which Shri Nehru said might be dumped into the country.78

The Constituent Assembly, therefore, adopted the amendment moved by Shri Tyagi for the deletion of Clause (1) of draft Article 253.

Regarding Clause (2) of draft Article 253, dealing with union duties of excise, suggestions were made in the Assembly for the assignment of 50 to 60 per cent of the proceeds thereof among the Provinces. Representing Assam, Shri Gopinath Bardoloi wanted that the Province of Assam should be given a little benefit on the excise duty on tea which was produced there and accounted to two-third of the total produce of the country. Similar demand was made by him in respect of petroleum and petroleum products and kerosene oil. He wanted 50 per cent of the proceeds in these cases to be allotted to Assam.79 On this point Shri Bardoloi was supported by Shri Bishwanath Das, who wanted that the recommendations of the Expert Committee on the point should be given effect to.80

But the Assembly adopted Clause (2) without any change.

Grants-In-Lieu of Duty on Jute

Article 254 of the Draft dealt with grants in lieu of export duty on jute and jute products. The draft Article was re-drafted by the Drafting Committee and moved by Dr. Ambedkar in the Assembly in its new form. It ran as: "254(1). There shall be charged on the Consolidated Fund of India in each year as grants-in-aid to the revenues of the States of Bengal, Bihar,

78. IX C.A.P., 241.
79. Id. at 226, 228.
80. Id. at 230-31. See supra for the Expert Committee's recommendation on this matter.
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 those States, such sums as may be prescribed. The sums so prescribed were to continue to be charged on the Consolidated Fund of India so long as export duty on jute or jute products was levied by the Government of India or until the expiration of ten years, whichever was earlier.

Introducing this Article in the Assembly, Dr. Ambedkar referred to a corresponding provision in the Government of India Act, 1935. The provision was with the avowed purpose of benefitting the Provinces mentioned in the Article which were held entitled to a certain share in the net proceeds of jute export duty for the reason that jute formed a very important commodity in the economy of these Provinces. There were proposals coming from certain members for doing away with this right of these Provinces. But, Dr. Ambedkar found that it was evident that if the principle of sharing in this export duty was withdrawn suddenly, it might create a difficulty in balancing the budgets of the several Provinces which were till then much dependent upon a share in the duty. Therefore, to enable these Provinces to get sufficient time to develop their resources, this provision was made so that after the period mentioned in this Article, they would be in a position to balance their budgets.

Referring to various proposals and defending the provisions of Article 254, Dr. Ambedkar said: "Pandit Kunzru with best of motives, suggested that the President should act independently and not be guided by the recommendations of the Finance Commission. There was a section of opinion represented by my honourable Friend, Professor Saksena, that no allocation should be made by the President even upon the recommendations of the Finance Commission unless Parliament gave sanction to it. As he had said there were defects in both these positions. He did not think that it was right for the President, after having appointed a Commission to recommend the allocation, that he should altogether disregard the recommendations of that

81. Id. at 242-43.
Commission, pursued his own point of view and made the allocation. That; the thought would be showing disrespect to the Finance Commission. As he had said, the alternative of leaving the matter to the Parliament seemed to him to be full of dangers involving provincial controversies and provincial jealousies. Therefore, the Drafting Committee had adopted, if he might say so, the middle way, namely, that although the matter might 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. 82

After such debate, the Assembly adopted the Article as it was moved by Dr. Ambedkar.

**Grants-in-Aid**

Article 255 of the Draft Constitution, entitled as "Grants from the Union to Certain States", provided that the Union would make grants-in-aid to the States as Parliament might determine to be in need of assistance and that different sums might be fixed for different States. In addition to the provision for grants-in-aid in general, the draft Article provided that there would be paid out of the revenues of India as grants-in-aid of the revenues of the State of Assam, sums equivalent to the average excess of expenditure over the revenues during the three years immediately preceding the commencement of the Constitution. In this respect it was made out by the members that Assam would get very little if the principle of average of three years was adopted. It was because of the fact that Assam had spent nothing in the first year. But if the average of two years was taken then Assam would be getting huge sum. With this consideration, Dr. Ambedkar said that the Drafting Committee had replaced the words "three years" by the words "two years". 83

Nichols Roy moved an amendment to Article 255 which read as: "Such sums as Parliament may by law provide or until

82. Id. at 260-61.
83. Id. at 264-65.
Parliament thus provides, as may be prescribed by the President, shall be charged on the revenues of India in each year as grants-in-aid of the revenues of such States as Parliament may determine to be in need of assistance, and different sums may be fixed for different States." 84

Dr. Ambedkar agreed with Mr. Roy and accepted the amendment moved by him. 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 stood in Article 255, Dr. Ambedkar said that relevant change would be made. 85

Sales Tax

The most difficult problem in the Assembly, related to sales tax issue. It provoked a 'royal battle' in the Assembly and one that exhibited the basic differences between the Union and Provincial Governments. The Provinces laid their absolute right to levy a sales tax as conferred on them by the Government of India Act, 1935. The Central Government, on the other hand, aimed at restricting this right of the Provinces in order to promote "freedom of trade, commerce and intercourse throughout the territory of the country" which was guaranteed by the Constitution and in order to prevent high prices which would result from multiple taxation. At a meeting with the Provincial Finance Ministers during October 1948, the Union Government recommended that there should be no sales tax on the import from one Province to another of essential food items, and that the Sales Taxes on raw materials should be held to a minimum. 86 Subsequently the Union Government proposed to control the use of sales tax by means of a provision in the Constitution and to that end, it sent to the Drafting Committee, its proposals in the form of a new Article 264A. The Article,

84. Id. at 274.
85. Id. at 293.
86. Austin, 227-28.
among other things prohibited the taxing of the sale or purchase of goods, by a Province, when the sale took place outside the boundaries of the Province or in the course of export, from or import into India, and it also prohibited the taxing of sales or purchases in the course of inter-State trade and taxing of essential goods (as defined by Parliament) without Presidential consent, taxes on the sale or purchase of goods, however, continued to be a State subject. 87

On July 24, 1949, several days after it received new Article 264A, from the Union Finance Ministry, the Drafting Committee met with Dr. Prasad, Pt. Nehru and Mr. Mathai, the Union Finance Minister and the Provincial Finance and Prime Ministers. The Union leaders explained that it was agreed that the sales tax be left as an exclusively provincial subject, but they emphasised that the use of sales tax by the States should be restricted to safeguard the progress of the industrial development of the Union and to ensure a uniform application of the tax. Dr. Ambedkar further added that the new Article 264A would go to reinforce the right to freedom of trade as guaranteed by Article 16 of the Draft Constitution. Thus, until Article 264A was introduced in the Assembly on 16th October 1949, different and conflicting opinions were expressed by the Provincial Governments, public organisations and political leaders. However, in the Assembly, it was adopted without much debate.

Finance Commission

Article 260 of the Draft Constitution provided for the setting up of a Finance Commission at the expiration of five years from the commencement of the new Constitution and thereafter at the expiration of every fifth year or at such other time as the President considered necessary, to make recommendations on the matters relating to distribution of revenue between the Centre and the States. Dr. Ambedkar moved an amendment to Clause (1) of Draft Article 260, replacing the words "at the expiration of five years from the commencement of this

87. Ibid.
constitution" by the words "within two years from the commencement of this Constitution". The Amendment was felt necessary because it was intended that the President be permitted to appoint the Finance Commission much earlier.

Dr. Ambedkar, while summing the debate on Article 260, said that the House might have realised the amendment moved by Dr. Kunzru referring to Clause (3) of Article 260, where the functions of the Finance Commission were laid down. But, in order to understand the exact significance of his amendment, Dr. Ambedkar observed that it was desirable to know the method of allocation of revenues already provided for in the two Articles, that the members had already passed, namely, Articles 251 and 253. It would be realised, he said, that the Draft Constitution separated the distribution and allocation of income-tax from the distribution and allocation of central excises. With regard to income-tax, the distribution and allocation of the proceeds were a matter which were left to the President to decide. On the other hand with regard to the distribution and allocation of the proceeds of the Central duties of excise, the matter was left entirely to be determined by law to be made by Parliament. The next point to bear in mind, Dr. Ambedkar said, was that Clause (3) of Article 260 required the Finance Commission to advise and make recommendations with regard to the distribution and allocations not merely of the taxes which were made distributable by law to be made by the Parliament, but also with regard to the distribution and allocation of income-tax. What he meant from Dr. Kunzru's amendment was that he wanted to take out the distribution and allocation of income-tax from the purview, so to say, of the Finance Commission. That his point was this that while the President might well take the advice of the Finance Commission in making the allocation of Central duties of excise, he should be, as to say, made independent of the Finance Commission, with regard to the income-tax. It seemed to Dr. Ambedkar that the position of the President would be considerably strengthened
if he could refer as a justifying cause to the recommendations made by the Finance Commission. In his opinion, the Finance Commission would be acting as a bumper between the President and the Provinces, which might be clamouring for more revenue from income-tax. He, therefore, did not think that there was any reason for accepting the amendment moved by Mr. Kunzru. Thus Article 260 was adopted by the Assembly in the form in which it was moved by Dr. Ambedkar.

The Assembly then took Article 261 of the Draft Constitution for discussion. This Article was one of those numerous provisions in the Draft Constitution which sought to centralize more and more power in the President, that was to say, in the Executive. Article 261 required the President to place before Parliament the recommendations made by the Finance Commission together with an explanatory memorandum as to the action taken thereon. Shri H. V. Kamath did not see any reason, why the action to be taken on recommendations of the Finance Commission should be left to the judgement solely of the President and his Cabinet. In answer to Shri Kamath's objection, Dr. Ambedkar said that his observations were based upon a complete misunderstanding of the provision contained in Article 261. No further opinion was expressed on this point and the provision was adopted by the Assembly as moved by Dr. Ambedkar.

Borrowing

Article 268 of the Draft Constitution which fell under chapter on borrowing was then moved in the Assembly. Prof. K. T. Shah suggested to introduce a clause to put limitation upon the authority of Parliament to sanction loans. Dr. Ambedkar explained the point that it was admitted that it would be the executive alone which could pledge the credit of the country for borrowing purposes, for borrowing was an executive act in one

88. IX C.A.R., 303, 311, 313, 315.
89. Id. at 316.
90. Id. at 328.
91. Id. at 337.
aspect of the case, but in Article 268, it was not proposed that the power of the executive to borrow would be unfettered by any law that was to be made by Parliament. The provision as contained in Article 268 expressly provided that the borrowing powers of the executive should be subject to such limitations as Parliament might by law prescribe. The Article was thus adopted by the Assembly.

The clause-to-clause discussion of the Draft Constitution came to an end on October 7, 1949. The Assembly then asked the Drafting Committee to redraft the Constitution in the light of the amendments adopted and recommendations made. Accordingly the Drafting Committee re-drafted the Constitution and submitted it to the President of the Assembly on November 3, 1949. Thereafter the Assembly started the third reading of the Constitution on November 17, 1949. It was merely a general discussion and no amendment was made to the Constitution so re-drafted and presented to the Assembly. The Constitution was adopted by the Constituent Assembly on November 26, 1949 and came into force on January 26, 1950.

It is obvious from the above description that the allocation of financial resources between the Centre and the States received a great deal of attention at the hands of the Constitution-makers. While the desire to have a strong Centre was more or less universal, there was, at the same time, no dearth of doughty champions of provincial autonomy in the financial sphere. These spokesmen of provincial rights did raise their objections against provisions which in their opinion, would have the effect of placing the States in a position of financial subordination to the Centre and leave them with inadequate resources.

The pattern of financial relations between the Centre and the States, which finally emerged may be summarised in the following paragraphs. As stated earlier, the division of revenues

92. Id. at 339.
93. IX C.A.D., 607-922; 938-96.
made in the Government of India Act 1935, as well as its financial plan, had been retained in the new Constitution.

The Constitution completely separated the taxing powers of the Union and the States and made them mutually exclusive. Of the 31 items of revenue enumerated in the Union and the State lists in the Seventh Schedule, taken together, as many as 19 are placed in the State List. With respect to these sources of revenue, the States are made independent, to levy them, to determine the rates of these taxes and duties, collect them and appropriate their entire proceeds.

Out of the 12 tax items enumerated in the Union List, the revenue from only a few of them is exclusively assigned to the Centre, in the sense that the proceeds thereof are wholly appropriated for the use of the Union Government. These are customs duties; corporation tax, and wealth tax. As for the other sources of tax revenue mentioned in the Union List,

94. These are land revenue (item 45); agricultural income tax (item 46); succession and estate duties in respect of agricultural land (items 47, 48); taxes on lands and buildings (item 49); taxes on mineral rights (item 50); liquor and opium excise etc. (item 51); stamps (item 63); sales and purchase taxes (item 54); terminal taxes on passengers and goods (items 52, 56, 59); taxes on consumption and sale of electricity (item 53); taxes on vehicles (item 57); taxes on animals and boats (item 58); taxes on luxuries (item 62); taxes on profession, trades and callings (item 60); capitalization taxes (item 61); and certain fees (item 66).

95. Item 83, Union List, Seventh Schedule.

96. Id., item 85.

97. Id., item 86.

98. These include taxes on income other than agricultural income (item 82); certain excises (item 84); estate duty and succession duty in respect of property other than agricultural land (items 87, 88); terminal taxes (item 89); certain stamp duties (items 90 and 91); taxes on newspapers and advertisements therein (item 92); and taxes on inter-State sale or purchase of goods (item 92A).
the Centre is authorised to share the proceeds thereof, in part, with the States or make over the whole of these to them. 99

Apart from the tax resources assigned to the Centre, the Union Government is to derive revenue from non-tax items such as railways (item 22); airways (item 29); posts and telegraphs, telephones, wireless, broadcasting and other means of communication (item 31); property of the Union and revenue thereof (item 32); fees in respect of any of the matters in the Union list but not including fees taken in any court (item 96); foreign exchange (item 36); foreign loans (item 37); Reserve Bank of India (item 38) and lotteries (item 40).

The Constitution has vested the residuary powers of taxation in the Union. 1 It has, at the same time, avoided the concurrent jurisdiction in the financial sphere. 2

The taxes levied and collected by the Union fall into four broad categories: (i) taxes, the proceeds of which are wholly retained by the centre 3 ; (ii) taxes, the proceeds of which may be shared with the States if Parliament so decides 4 ; (iii) taxes, the net proceeds of which are compulsorily shared with the States; 5 and (iv) taxes, the net proceeds of which are wholly assignable to the States. 6

The Constitution confers borrowing power on both the Union and the States. While the Union has unrestricted powers of borrowing in India and abroad subject only to such limits as may, from time to time, be fixed by Parliament by law, 7 the

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99. Articles 270, 272 and 269.
1. Entry 97 of the Union List.
2. List III, the Concurrent List contains no tax entry.
3. These include customs duties, corporation tax and wealth tax.
4. These relate to excise duties other than on toilet and medicinal preparations, Article 272.
5. These relate to income-tax, other than agricultural income tax, Article 270.
6. These include estate duty, taxes on railway fares and freights, terminal taxes, stamp duties and duties of excise on toilet and medicinal preparations; Article 269.
7. Article 292.
State powers in this respect are limited both territorially and otherwise. The latter cannot raise loans outside India. Even within India, the States, though authorised to receive loans from the Central Government or to float public loans, they are required to seek prior consent of the Government of India for raising a public loan if there is still outstanding any part of a loan which has been made to them by the latter or in respect of which a guarantee has been given by the Government of India. Thus, in the matter of borrowing, the States are not placed on equal footing with the Centre.

The Constituent Assembly also realised that even after sharing with the Centre in certain Union sources of revenue, the States might be left with inadequate resources for meeting their manifold responsibilities in respect of social services and welfare activities. It, therefore, retained the provision of the Act of 1935 providing for grants-in-aid to the Provinces by the Central Government. The Constitution, rather, provides for grants-in-aid of the revenues of States on a much larger scale than that provided under the Act of 1935. That the distribution of resources contained in the Constitution would make the States at the very inception, dependent on the Central Government was clear to the framers of the Constitution. They, therefore, considered that it would not be desirable to give the Centre unfettered discretion in the matter of making financial assistance available to the States. It was on this consideration that provision has been made for the establishment, at more or less regular intervals, of the Finance Commission, to advise the President with regard to the

8. Article 293.
10. Article 275 provides for grants-in-aid of the revenues of States in general. Article 273 provides for grants-in-aid to Assam, Bihar, West Bengal and Orissa in lieu of the export duty on jute and jute goods. In addition to these, Article 282 authorises the Centre and the States to make grants for any public purposes, notwithstanding that the purpose is not one with respect to which Parliament or the legislatures of States, as the case may be, may make laws.
devolution of funds to the States. The Commission, in the words of Shri B.N. Rau, the Constitutional Advisor to the Assembly, is "a quasi-arbitral body whose function is to do justice between the Centre and the States."11

All said, but the fact remains that under the balance of power established by the Constitution, the States cannot claim to be coordinate and co-equal with the Centre. It has thus been aptly said that though "other parts of the Constitution may demonstrate the unique aspects of Indian federation and the degree to which the Union and State Governments are coordinate in their activities....none fly so directly in the face of classical federal tradition as the provisions for the distribution of revenues... The Assembly's approach to these portions of the Constitution, as well as the financial provisions themselves, exemplify Birch's description of cooperative federation."12

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