

## APPENDIX K

(See paragraph 23)

### PROVISIONS OF THE CONSTITUTION BEARING ON WORK OF THE FINANCE COMMISSION.

#### *Article 269---*

(1) The following duties and taxes shall be levied and collected by the Government of India but shall be assigned to the States in the manner provided in clause (2), namely:—

- (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, sea or air;
- (d) taxes on railway fares and freights;
- (e) taxes other than stamp duties on transactions in stock-exchanges and future markets;
- (f) taxes on the sale or purchase of newspapers and on advertisements published therein;
- (g) taxes on the sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce.

(2) The net proceeds in any financial year of any such duty or tax, except in so far as those proceeds represent proceeds attributable to Union territories, shall not form part of the Consolidated Fund of India, but 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

(3) Parliament may by law formulate principles for determining when a sale or purchase of goods takes place in the course of inter-state trade or commerce.

(2) DATES OF DISCUSSIONS WITH REPRESENTATIVES OF CENTRAL  
MINISTRIES

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*Dates of discussions*

1. Ministry of Finance (Department of Revenue.) } 24th September 1956  
1st March 1957  
16th July 1957
  2. Ministry of Community Development : } 26th September 1956  
10th July 1957
  3. Commissioner for Scheduled Castes and Scheduled Tribes 7th January 1957
  4. Secretary to the Government of India, Kashmir Affairs 16th May 1957
  5. Ministry of Food and Agriculture . . . . . 11th July 1957
  6. Ministry of Education . . . . . 11th July 1957
  7. Ministry of Home Affairs. . . . . 15th July 1957
  8. Ministry of Railways . . . . . 17th July 1957
  9. Ministry of Finance (Department of Economic Affairs and Department of Expenditure). 27th July 1957.
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(1) Taxes on income other than agricultural income shall be levied and collected by the Government of India and distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the net proceeds in any financial year of any such tax, except in so far as those proceeds represent proceeds attributable to Union territories or to taxes payable in respect of Union emoluments, shall not form part of the Consolidated Fund of India, but shall be assigned to the States within which that tax is leviable in that year, and shall be distributed among those States in such manner and from such time as may be prescribed.

(3) For the purposes of clause (2), in each financial year such percentage as may be prescribed of so much of the net proceeds of taxes on income as does not represent the net proceeds of taxes payable in respect of Union emoluments shall be deemed to represent proceeds attributable to Union territories.

(4) In this article—

(a) "taxes on income" does not include a corporation tax;

(b) "prescribed" means—

(i) until a Finance Commission has been constituted, prescribed by the President by order, and

(ii) after a Finance Commission has been constituted, prescribed by the President by order after considering the recommendations of the Finance Commission;

(c) "Union emoluments" includes all emoluments and pensions payable out of the Consolidated Fund of India in respect of which income tax is chargeable.

Article 272--

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 Consolidated Fund 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.

## Article 273—

(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 Assam, Bihar, Orissa and West Bengal, 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.

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

(3) In this article, the expression "prescribed" has the same meaning as in article 270.

## Article 275—

(1) Such sums as Parliament may by law provide shall be charged on the Consolidated Fund 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:

Provided that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of a State such capital and recurring sums as may be necessary to enable that State to meet the costs of such schemes of development as may be undertaken by the State with the approval of the Government of India for the purpose of promoting the welfare of the Scheduled Tribes in that State or raising the level of administration of the Scheduled Areas therein to that of the administration of the rest of the areas of that State:

Provided further that there shall be paid out of the Consolidated Fund of India as grants-in-aid of the revenues of the State of Assam sums, capital and recurring, equivalent to—

- (a) the average excess of expenditure over the revenues during the two years immediately preceding the commencement of this Constitution in respect of the administration of the tribal areas specified in Part A of the table appended to paragraph 20 of the Sixth Schedule; and
- (b) 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 of raising the level of administration of the said areas to that of the administration of the rest of the areas of that State.

(2) Until provision is made by Parliament under clause (1), the powers conferred on Parliament under that clause shall be exercisable by the President by order and any order made by the President under this clause shall have effect subject to any provision so made by Parliament:

Provided that after a Finance Commission has been constituted no order shall be made under this clause by the President except after considering the recommendations of the Finance Commission.

*Article 278\*—*

(1) Notwithstanding anything in this Constitution, the Government of India may, subject to the provisions of clause (2), enter into an agreement with the Government of a State specified in Part B of the First Schedule with respect to—

- (a) the levy and collection of any tax or duty leviable by the Government of India in such State and for the distribution of the proceeds thereof otherwise than in accordance with the provisions of this Chapter;
- (b) the grant of any financial assistance by the Government of India to such State in consequence of the loss of any revenue which that State used to derive from any tax or duty leviable under this Constitution by the Government of India or from any other sources;
- (c) the contribution by such State in respect of any payment made by the Government of India under clause (1) of article 291,

and, when an agreement is so entered into, the provisions of this Chapter shall in relation to such State have effect subject to the terms of such agreement.

(2) An agreement entered into under clause (1) shall continue in force for a period not exceeding ten years from the commencement of this Constitution:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if after consideration of the report of the Finance Commission he thinks it necessary to do so.

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\*Repealed by the Constitution (Seventh Amendment) Act, 1956.

## Article 230—

(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.

(2) Parliament may by law determine the qualifications which shall be requisite for appointment as members of the Commission and the manner in which they shall be selected.

(3) It shall be the duty of the Commission to make recommendations to the President as to—

(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;

(b) the principles which should govern the grants-in-aid of the revenues of the States out of the Consolidated Fund of India;

\* (c) the continuance or modification of the terms of any agreement entered into by the Government of India with the Government of any State specified in Part B of the First Schedule under clause (1) of article 278 or under article 306; and

\* (d) any other matter referred to the Commission by the President in the interests of sound finance.

(4) The Commission shall determine their procedure and shall have such powers in the performance of their functions as Parliament may by law confer on them.

## Article 281—

The President shall cause every recommendation made by the Finance Commission under the provisions of this Constitution together with an explanatory memorandum as to the action taken thereon to be laid before each House of Parliament.

\*Sub-clause (c) omitted and sub-clause (d) relettered (c) by the Constitution (Seventh Amendment) Act, 1956.

Article 306\*---

Notwithstanding anything in the foregoing provisions of this Part or in any other provisions of this Constitution, any State specified in Part B of the First Schedule which before the commencement of this Constitution was levying any tax or duty on the import of goods into the State from other States or on the export of goods from the State to other States may, if an agreement in that behalf has been entered into between the Government of India and the Government of that State, continue to levy and collect such tax or duty subject to the terms of such agreement and for such period not exceeding ten years from the commencement of this Constitution as may be specified in the agreement:

Provided that the President may at any time after the expiration of five years from such commencement terminate or modify any such agreement if, after consideration of the report of the Finance Commission constituted under article 280, he thinks it necessary to do so.

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\*Repealed by the Constitution (Seventh Amendment) Act, 1956.

## APPENDIX X

(See table in paragraph 125)

### LETTER FROM PLANNING COMMISSION REGARDING ESTIMATES OF REVENUE FROM ADDITIONAL TAXATION DURING SECOND FIVE YEAR PLAN PERIOD.

*Demi-official letter No. PC. (P)77/56, dated 6th September 1957 from  
Shri Tarlok Singh, Joint Secretary, Planning Commission,  
to the Secretary, Finance Commission.*

Will you kindly refer to your letter No. FC. 6(2)-B/56, dated the 9th August, 1957? We have no objection to use being made of the estimates prepared by the Economic Division of revenue from additional taxation during the Second Five Year Plan for the various States as reorganised. We would, however, like to point out that these estimates were prepared in November, 1956. At that time there were no means of obtaining the estimates of the States concerned. Secondly, the estimates were not discussed with the States as they were prepared primarily for the internal use of the Planning Commission. In the third place, it has been the intention of the Planning Commission to arrange for a further round of discussions at which various financial estimates connected with the State plans would be reviewed. It is requested that if in the report of the Finance Commission a reference is to be made to the estimates of the Economic Division, the qualifications which necessarily circumscribed these estimates may kindly be indicated briefly.