13

STANDING COMMITTEE ON FINANCE (1998-99)

TWELFTH LOK SABHA

MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT) BILL, 1998

THIRTEENTH REPORT

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

February, 1999/Phalguna, 1920 (Saka)

THIRTEENTH REPORT

STANDING COMMITTEE ON FINANCE
(1998-99)

(TWELFTH LOK SABHA)

MINISTRY OF FINANCE
(DEPARTMENT OF ECONOMIC AFFAIRS)

THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT) BILL, 1998

Presented to Lok Sabha on 24 February, 1999
Laid in Rajya Sabha on 24 February, 1999

सत्यमेव जयते

LOK SABHA SECRETARIAT
NEW DELHI

February, 1999/Phalguna, 1920 (Saka)

C.O.F. No. 13

Price : Rs. 12.00

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Ninth Edition) and Printed by Jainco Art India, Delhi.

CONTENTS

COMPOSITION OF THE STANDING COMMITTEE ON FINANCE
(1998-99)

Shri Murli Deora — *Chairman*

MEMBERS

Lok Sabha

2. Shri Dhirendra Agarwal
3. Shri Mohanbhai Sanjibhai Delkar
4. Shri Haribhai Parathibhai Chaudhary
5. Shri Uttam Singh Pawar
6. Shri Girdhari Lal Bhargava
7. Shri Chetan Chauhan
8. Shri Bhagwan Shanker Rawat
9. Shri Rayapati Sambasiva Rao
10. Shri T. Subbarami Reddy
11. Shri Kavuru Sambasiva Rao
12. Shri Sandipan Bhagwan Thorat
13. Shri Praful Manoharbhai Patel
14. Shri Prithviraj D. Chavan
15. Shri R. L. Jalappa
16. Shri Magunta Sreenivasulu Reddy
17. Shri Rupchand Pal
18. Shri Varkala Radhakrishnan
19. Shri Beni Prasad Verma
20. Shri S. Murugesan
21. Shri M. Sahabuddin
22. Dr. S. Venugopalachary
23. Shri Tathagata Satpathy

24. Kum. Kim Gangte
25. Dr. Bikram Sarkar
26. Shri S. Jaipal Reddy
27. Shri Joachim Baxla
28. Shri P. Chidambaram
29. Shri Buta Singh
30. Shri Ch. Vidyasagar Rao

Rajya Sabha

31. Dr. Manmohan Singh
32. Shri Krishna Kumar Birla
33. Shri N.K.P. Salve
34. Shri M. Rajsekara Murthy
35. Shri Narendra Mohan
36. Shri O. P. Kohli
37. Shri Raghavji
38. Dr. Biplab Dasgupta
39. Shri C. Ramachandraiah
40. Shri Amar Singh
41. Shri Prem Chand Gupta
42. Shri R. K. Kumar
43. Shri Gurudas Das Gupta
44. Shri Satishchandra Sitaram Pradhan
45. Shri Suresh A. Keswani

SECRETARIAT

1. Dr. A. K. Pandey — *Additional Secretary*
2. Dr. (Smt.) P. K. Sandhu — *Director*
3. Shri N.S. Hooda — *Assistant Director*

INTRODUCTION

I, the Chairman, Standing Committee on Finance (1998-99) having been authorised by the Committee to submit the Report on their behalf, present this Thirteenth Report on the Constitution (Eighty-Fifth Amendment) Bill, 1998.

2. The Constitution (Eighty-Fifth Amendment) Bill, 1998 was introduced in Lok Sabha on 14 July, 1998. The Bill was later referred to the Committee on 16 July, 1998 for examination and report thereon by the Hon'ble Speaker, Lok Sabha under Rule 331E of the Rules of Procedure and Conduct of Business in Lok Sabha.

3. To have the benefit of better understanding on various aspects of the Bill, the Committee took oral evidence of representatives of Ministries of Finance (Deptt. of Economic Affairs), Law, Justice and Company Affairs and Inter-State Council Secretariat on 18 January, 1999 and sought clarifications on the provisions of the Bill. The Committee considered and adopted the draft Report at their sitting held on 17 February, 1999.

4. The Committee wish to express their thanks to the Officers of the Ministries of Finance (Deptt. of Economic Affairs), Law, Justice and Company Affairs and Inter-State Council Secretariat for placing before the Committee the requisite information in connection with the examination of the Bill.

5. The Committee would like to place on record their appreciation for the valuable assistance rendered to them by the officials of the Lok Sabha Secretariat attached to the Committee.

6. For facility of reference, the observation/recommendation of the Committee has been printed in thick type in the body of the Report.

NEW DELHI;
17 February, 1999
28 Magha, 1920 (Saka)

MURLI DEORA,
Chairman,
Standing Committee on Finance.

REPORT

The Constitution of India, under Article 280 provides for a machinery for determining statutory flows from the Centre to the States on the recommendations of the Finance Commissions which are to be appointed by the President of India at least once in every five years. So far eleven Finance Commissions have been constituted and the Tenth Finance Commission (TFC) had submitted its report on 26th November, 1994 for the period of five years *i.e.* from 1995-96 to 1999-2000. The Tenth Finance Commission had, after having taken into account the repeated concerns expressed by successive Finance Commissions in the past on sharing of taxes between the Centre and the States and the recommendations made both by the Sarkaria Commission and Chelliah Committee on Tax Reforms (1991), recommended to the Government of India an alternative scheme (hereinafter referred to as the TFC Scheme) of sharing of taxes between the Union and the States. The Commission also recommended that this scheme of resource sharing be brought into force with effect from 1st April, 1996, after necessary amendments to the Constitution. The main feature of the scheme is that a fixed percentage of gross proceeds of Union taxes is to be assigned to the States, in contrast to the present scheme of sharing of Union Taxes between the Union and the States whereby the proceeds of personal income-tax and Union excise duty is shared between them and the States' share in the net proceeds of personal income tax is 77.5%, 47.5% in Basic/Special excise duties and 97.797% in Additional Excise Duties.

The alternative scheme envisages that 26% out of the gross proceeds of Union Taxes (excluding stamp duties, excise duties on medicinal and toilet preparations, Central sales tax, taxes on consignment of goods where such consignment takes place in the course of inter-State trade or commerce and surcharge on tax) is to be assigned to the States in lieu of their existing share in income-tax, the basic excise duties, special excise duties and grants in lieu of tax on railway passenger fare.

In addition, 3% share out of the gross proceeds of all Union taxes (excluding stamp duties, excise duties on medicinal and toilet preparations, Central sales tax, taxes on consignment of goods where such consignment takes place in the course of inter-State trade or commerce and surcharge on tax) is to be assigned to the States in place of existing share in additional excise duties in lieu of sales tax on tobacco, cotton and sugar. The Commission has proposed that tobacco, cotton and sugar may continue to be exempted from sales tax and the additional excise duties in lieu of sales tax on these items may be merged with the basic excise duties.

After the new scheme comes into effect, the devolution of Central taxes will be as follows :

(i) States' share will be 29% of the gross proceeds of all Central taxes except the following :

— Union surcharge on certain taxes [art 271 of the constitution]—entirely for the Union.

— Stamp Duty [art 268 of the constitution]—entirely for the States.

— Excise Duty on medicinal/toilet items [art 268 of the constitution]—entirely for the States.

— Central Sales tax [art 269 of the constitution]—entirely for the States.

— Consignment tax [art 269 of the constitution]—entirely for the States.

(ii) States' share in Central Taxes under the new scheme will not be treated as part of the Consolidated Fund of India.

The Tenth Finance Commission listed the following benefits resulting from the new arrangement of sharing of Union taxes between the Union and the States :

(i) With a given share being allotted to the States in the aggregate revenues from Central taxes, States will be able to share the aggregate buoyancy of Central taxes.

(ii) The Central Government can pursue tax reforms without considering whether a tax is shareable with the States or not.

(iii) The impact of fluctuations in Central tax revenues would be felt alike by the Central and State Governments.

(iv) Should the taxes mentioned in articles 268 and/or 269 form part of this arrangement, there will be a greater likelihood of their being tapped.

(v) The progress of tax reforms will be greatly facilitated if the ambit of tax sharing arrangement is enlarged so as to give greater certainty of resource flows to the States and if flexibility in tax reform is increased. The Indian tax system, heavily dependent on indirect taxes, with Union Excise Duties and Sales Tax comprising the core of the domestic trade taxes, suffers from deficiencies like high and multiple tax rates, taxation of inputs and cascading exclusion of services from the tax base, multiplicity of exemptions and concessions and lack of harmony in the tax system of the States. The country needs a climate in which there is a greater harmonisation of State taxes in terms of their rates, structure and procedures as also greater Centre-State harmonisation in domestic trade taxes.

(vi) The divisible pool proposed under TFC scheme does not include surcharges for the purpose of the Union. Therefore, the TFC scheme leaves some flexibility with the Union.

With a view to generate an informed debate, a discussion paper bringing out various aspects of the TFC scheme was laid on the Table of both Houses of Parliament by the Ministry of Finance (Department of Economic Affairs) on 20th December, 1996. Subsequently the matter was taken up for discussion by the Standing Committee of Inter-State Council. On the basis of the consensus reached in the Third Meeting of Inter-State Council held on 17 July, 1997, the Cabinet had *inter-alia* approved (on 5th August, 1997) in principle the recommendations of the Tenth Finance Commission regarding the alternative scheme. However, due to the dissolution of the Lok Sabha, the Constitutional Amendment Bill could not be introduced.

In their meeting held on 12 May, 1998, the Cabinet ratified the decision taken by the previous Government and accepted the alternative scheme as suggested by TFC, subject only to one modification *i.e.* the percentage of States' share of vertical devolution is to be reviewed by the successive Finance Commissions instead of freezing it for fifteen years as suggested by the Tenth Finance Commission.

The present Bill *i.e.* the Constitution (Eighty-Fifth amendment) Bill, 1998 seeks to implement the above decision of the Government by amending articles 269 to 272 of the Constitution with a view to bringing several Union taxes like Corporation Tax and customs duties at par with personal income-tax as far as their constitutionally mandated sharing with the States is concerned with effect from 1st April, 1996. The Bill was introduced in Lok Sabha on 14 July, 1998 and thereafter referred to the Standing Committee on Finance by the Hon'ble Speaker for examination and report thereon. In order to seek clarifications on various provisions of the Bill, the Committee took the oral evidence of the representatives of the Ministries of Finance, Law, Justice and Company Affairs (Legislative Department) and Inter-State Council Secretariat on 18 January, 1999.

The Committee have been informed that the alternative scheme of devolution recommended by the Tenth Finance Commission is in national interest as it helps to remove a perceived inter-tax bias in the tax mobilisation effort of the Government of India while leaving sufficient flexibility for meeting Centre's exclusive needs by keeping cesses and surcharges outside the pooling arrangement.

During the course of evidence, while replying to a query, regarding the rationale behind the decision to review the percentage of States' share in the gross proceeds of Union taxes after every five years in contrast to TFC's recommendation to freeze the same for fifteen years, the Finance Secretary *inter-alia* stated as follows :—

> "It was discussed in the Inter-State Council and the State Governments' view was obtained.........
>
> The State Governments felt that it should be reviewed every five years because the requirements of the State Governments get changed, the underlying conditions also change and, in any case, every five years there is a new Finance Commission. So, they recommended for a five year review. It was accepted by the earlier Government and was also endorsed by this Government, and accordingly they have taken this decision."

When asked about the reasons for implementing the alternative scheme of devolution with retrospective effect *i.e.* from 1.4.1996 and the financial implications on the national exchequer thereon due to the payment of arrears for three years *viz.* 1996-97, 1997-98 and 1998-99, the representative of the Ministry of Finance stated as follows :—

"It was first recommended by the Finance Commission from this date and it has been agreed to by all the State Governments in the Inter-State Council's meeting. So, it is a general consensus among the States and the Government of India that it can be implemented from 1.4.1996."

Supplementing on the above issue, the Secretary Ministry of Law (Legislative Department) stated that:—

"Once the Constitution amendment is carried out over there, it will be a statutory provision on the Constitution and that too with a retrospective effect. Then, it will have a constitutional force."

While delving on the financial implications on the Union resources, the Finance Secretary stated as under :—

"We have done the financial implication calculations of the first two years. These are really the budgetary numbers. As you remember, sir, that 1996-97 arrears suggested that the gain to the State Governments with the new devolution was roughly Rs. 2,000 crore, as you mentioned. Howevet, for 1997-98, there will be a negative of Rs. 3,525 crore. Negative to the State Governments because of lower revenues.

Then for 1998-99, we expect that the states will gain Rs. 2,300 crore roughly. The net gain for the three years' accumulated period comes to about Rs. 700 crore. It is less than a thousand crore. It is possible to accommodate."

The Committee are of the view that the alternative scheme of sharing of taxes between the Union and the States as recommended by the Tenth Finance Commission will not only help both the Centre and the States in sharing the buoyancy of aggregate Central tax revenues but also provide greater certainty of resource flows to the States. Once the new disposition comes into force, it will also help remove the perceived inter-tax bias in the mobilisation effort of the Government of India while at the same time leaving sufficient

flexibility for meeting the Centre's exclusive needs by keeping cesses and surcharges outside the pooling arrangement. Besides, introduction of this new arrangement is also going to cater adequately to the long outstanding demand of the States for greater devolution of gross proceeds of the Union taxes. After having examined the provisions of the Bill clause-wise and having been convinced of the objectives and the need of the Constitution (Eighty-Fifth Amendment) Bill, 1998, the Committee approve the same for enactment of Parliament without any recommendation for amendment.

NEW DELHI;
17 February, 1999
28 Magha, 1920 (Saka)

MURLI DEORA,
Chairman,
Standing Committee on Finance.

APPENDIX - I

MINUTES OF THE TWENTY-SIXTH SITTING OF THE STANDING COMMITTEE ON FINANCE

The Committee sat on Monday 18 January, 1999 from 1100 hrs. to 1155 hrs.

PRESENT

Shri Murli Deora — *Chairman*

MEMBERS

Lok Sabha

2. Shri Girdhari Lal Bhargava
3. Shri Bhagwan Shanker Rawat
4. Shri Kavuru Sambasiva Rao
5. Shri Sandipan Bhagwan Thorat
6. Shri Praful Manoharbhai Patel
7. Shri Magunta Sreenivasulu Reddy
8. Shri Varkala Radhakrishnan
9. Shri Beni Prasad Verma
10. Shri Tathagata Satpathy
11. Dr. Bikram Sarkar
12. Shri S. Jaipal Reddy
13. Shri Joachim Baxla
14. Shri P. Chidambaram
15. Shri Buta Singh

Rajya Sabha

16. Dr. Manmohan Singh
17. Shri N.K.P. Salve
18. Shri O.P. Kohli
19. Shri R.K. Kumar
20. Shri Gurudas Das Gupta
21. Shri Suresh A. Keswani

SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu — *Director*
2. Shri N.S. Hooda — *Assistant Director*

WITNESSES

I. The Ministry of Finance

(i)	Dr. Vijay L. Kelkar	—	Finance Secretary
(ii)	Shri Javed A. Choudhary	—	Secretary (Revenue)
(iii)	Dr. E.A.S. Sarma	—	Secretary (Expenditure)
(iv)	Dr. S.N. Acharya	—	Chief Economic Adviser
(v)	Shri A. Balasubramanian	—	Member (L) CBDT
(vi)	Shri S.D. Mohile	—	Chairman (CBEC)
(vii)	Shri J.S. Mathur	—	Additional Secretary (Budget)
(viii)	Shri M. Venkateswaran	—	Additional Secretary (Exp.)
(ix)	Shri S.K. Misra	—	Joint Secretary (CBEC)

II. The Ministry of Law

(i)	Dr. Raghbir Singh	—	Secretary (Legislative Department)
(ii)	Dr. K.N. Chaturvedi	—	Joint Secretary & Legislative Counsel

III. Inter-State Council Secretariat

(i) Shri S.K. Sharma — Secretary

(ii) Shri S.K. Malhotra — Adviser

2. At the outset, the Chairman welcomed the representatives of Ministries of Finance and Law and Inter-State Council Secretariat to the sitting of the Standing Committee on Finance and invited their attention to the provisions of Direction 55 of the Directions by the Speaker, Lok Sabha.

3. The Committee then took the oral evidence of the representatives of the above mentioned official witnesses on the Constitution (Eighty-Fifth Amendment) Bill, 1998.

. The evidence was concluded.

A verbatim record of the proceedings was kept.

(The witnesses then withdrew).

The Committee then adjourned.

APPENDIX II

MINUTES OF THE THIRTIETH SITTING OF THE STANDING COMMITTEE ON FINANCE (1998-99)

The Committee sat on Wednesday, 17 February, 1999 from 1500 hrs. to 1800 hrs.

PRESENT

Shri Murli Deora — *Chairman*

MEMBERS

Lok Sabha

2. Shri Girdhari Lal Bhargava
3. Shri Chetan Chauhan
4. Shri Bhagwan Shanker Rawat
5. Shri T. Subbarami Reddy
6. Shri Kavuru Sambasiva Rao
7. Shri Sandipan Bhagwan Thorat
8. Shri Praful Manoharbhai Patel
9. Shri Prithviraj D. Chavan
10. Shri Rupchand Pal
11. Shri Varkala Radhakrishnan
12. Shri S. Murugesan
13. Dr. S. Venugopalachary
14. Dr. Bikram Sarkar
15. Shri S. Jaipal Reddy

Rajya Sabha

16. Dr. Manmohan Singh
17. Shri M. Rajsekara Murthy
18. Shri Narendra Mohan
19. Shri O.P. Kohli
20. Shri Raghavji
21. Dr. Biplab Dasgupta
22. Shri C. Ramachandraiah
23. Shri Prem Chand Gupta
24. Shri R.K. Kumar
25. Shri Satishchandra Sitaram Pradhan
26. Shri Suresh A. Keswani

SECRETARIAT

1. Dr. (Smt.) P.K. Sandhu	—	*Director*
2. Shri S.B. Arora	—	*Under Secretary*
3. Shri N.S. Hooda	—	*Assistant Director*

2. At the outset the Committee took up for consideration the draft report on the Constitution (Eighty-fifth Amendment) Bill, 1998 and adopted the same without making any amendments/modifications. The Committee then authorised the Chairman to present the Report to both the Houses in the ensuing Budget Session of Parliament.

3. ** ** **
** ** **

The Committee then adjourned.

APPENDIX III

AS INTRODUCED IN THE LOK SABHA

Bill No. 78 of 1998

THE CONSTITUTION (EIGHTY-FIFTH AMENDMENT) BILL, 1998

A

BILL

further to amend the Constitution of India.

BE it enacted by Parliament in the Forty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Eighty-fifth Amendment) Act, 1998.

2. In article 269 of the Constitution, for clauses (1) and (2), the following clauses shall be substituted, namely:—

'(1) Taxes on the sale or purchase of goods and taxes on the consignment of goods shall be levied and collected by the Government of India but shall be assigned and shall be deemed to have been assigned to the States on or after the 1st day of April, 1996 in the manner provided in clause (2).

Explanation.—For the purposes of this clause—

(*a*) the expression "taxes on the sale or purchase of goods" shall mean taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(*b*) the expression "taxes on the consignment of goods" shall mean taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.

(2) The net proceeds in any financial year of any such 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 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. For article 270 of the Constitution, the following article shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 1996, namely:—

'270. (1) All taxes and duties referred to in the Union List, except the duties and taxes referred to in articles 268 and 269, respectively, surcharge on certain taxes and duties referred to in article 271 and any cess levied for specific purposes under any law made by Parliament shall be levied and collected by the Government of India and shall be distributed between the Union and the States in the manner provided in clause (2).

(2) Such percentage, as may be prescribed, of the proceeds of any such tax or duty, excluding refunds in any financial year, 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 in the manner provided in clause (3).

(3) In this article, "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.'.

4. For article 271 of the Constitution, the following article shall be substituted, namely:—

"271. (1) Notwithstanding anything contained in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in clause (2) by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

(2) The duties or taxes referred to in clause (1), are as follows, namely:—

(*a*) taxes on income other than agricultural income;

(*b*) duties in respect of succession to property other than agricultural land;

(*c*) estate duty in respect of property other than agricultural land;

(*d*) terminal taxes on goods or passengers carried by railway, sea or air;

(*e*) taxes on railway fares and freights;

(*f*) taxes other than stamp duties on transactions in stock exchanges and futures markets;

(*g*) taxes on the sale or purchase of newspapers and on advertisements published therein;

(*h*) taxes on sale or purchase of goods other than newspapers, where such sale or purchase takes place in the course of inter-State trade or commerce;

(*i*) taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment takes place in the course of inter-State trade or commerce.".

5. (1) Article 272 of the Constitution shall be omitted.

(2) Notwithstanding anything contained in sub-section (1), where any sum equivalent to the whole or any part of the net proceeds of the Union duties of excise including additional duties of excise which are levied and collected by the Government of India and which has

been distributed as grants-in-aid to the States after the 1st day of April, 1996, but before the commencement of this Act, such sum shall be deemed to have been distributed in accordance with the provisions of article 270, as if article 272 had been omitted with effect from the 1st day of April, 1996.

(3) Any sum equivalent to the whole or any part of the net proceeds of any other tax or duty that has been distributed as grants-in-aid to the States after the 1st day of April, 1996 but before the commencement of this Act shall be deemed to have been distributed in accordance with the provisions of article 270.

STATEMENT OF OBJECTS AND REASONS

The Tenth Finance Commission had submitted its report on the 26th November, 1994 for the period of five years, *i.e.* from 1995-96 to 1999-2000. The said report was laid on the table of both the Houses of Parliament on the 14th March, 1995. One of the recommendations of the Commission that has been pending under consideration of the Government is an alternative scheme of sharing of taxes between the Union and the States. The main feature of this scheme is that a fixed percentage of the total proceeds of Union taxes is to be assigned to the States. This is in contrast to the present scheme of sharing of Union taxes between Union and the States whereby the proceeds of personal income-tax and Union excise duty is shared between the Union and the States.

2. The alternative scheme envisages that twenty-six per cent, out of the total proceeds of Union taxes (excluding stamp duties, excise duties on medicinal and toilet preparation, Central sales tax, taxes on consignment of goods where such consignment takes place in the course of inter-State trade or commerce and surcharge on tax) is to be assigned to the States in lieu of their existing share in income-tax, the basic excise duties, special excise duties and grants in lieu of tax on railway passenger fare.

3. In addition to above, three per cent. share out of the total proceeds of all Union taxes (excluding stamp duties, excise duties on medicinal and toilet preparation, Central sales tax, taxes on consignment of goods where such consignment takes place in the course of inter-State trade or commerce and surcharge on tax) is to be assigned to the States in place of existing share in additional excise duties in lieu of sales tax on tobacco, cotton and sugar. The Commission has proposed that tobacco, cotton and sugar may continue to be exempt from sales tax and the additional excise duties in lieu of sales tax on these items may be merged with the basic excise duties.

4. The benefit of the alternative scheme of sharing of Union taxes between the Union and the States will depend on relative growth in the collection of taxes which are to be pooled.

5. The benefit of the scheme are as follows :—

(i) with a given share being allotted to the States in the aggregate revenues from Union taxes, the States will be able to share the aggregate buoyancy of Union taxes;

(ii) the Union Government can pursue tax reform without the need to consider whether a tax is shareable with the States or not;

(iii) the impact of fluctuations in Union tax revenues would be felt alike by the Union and the State Governments;

(iv) should the taxes mentioned in articles 268 and 269 of the Constitution form part of this arrangement, there will be a great likelihood of their being tapped; and

(v) the progress of reforms will be greatly facilitated if the ambit of tax sharing arrangement is enlarged so as to give greater certainty of resource flows to, and increased flexibility in tax reform.

6. The above scheme recommended by the Commission is in national interest as it helps to remove a perceived inter-tax bias in the tax mobilisation effort of the Government of India while leaving sufficient flexibility for meeting Centre's exclusive needs by keeping cesses and surcharges outside the pooling arrangement.

7. A discussion paper bringing out various aspects of the scheme was laid on the table of both the Houses of Parliament on the 20th December, 1996 with a view to generate an informed debate.

8. On the basis of a consensus reached in the Third Meeting of the inter-State Council held on the 17th July, 1997, the then Government had agreed in principle to accept the scheme recommended by the Tenth Finance Commission subject to certain modifications but the Lok Sabha was dissolved before a Constitution (Amendment) Bill giving effect to the decision could be introduced in Parliament.

9. The Government has decided to ratify the decision taken by the previous Government according in principle approval for the scheme recommended by the Tenth Finance Commission. The scheme has been accepted subject only to one modification. The modification is that the

percentage of States' share in the total proceeds of Union taxes may be reviewed by successive Finance Commissions instead of freezing it for fifteen years as suggested by the Tenth Finance Commission.

10. In order to implement this decision, this Bill seeks to amend articles 269 to 272 of the Constitution so as to bring several Union taxes like Corporation tax and customs duties at par with personal income-tax as far as their constitutionally mandated sharing with the States is concerned.

11. The Bill seeks to achieve the aforesaid objectives.

NEW DELHI;
The 29th June, 1998.

YASHWANT SINHA

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INDIA

[Copy of letter No. F.10(4)-B(S)/97 dated the 6th July, 1998 from Shri Yashwant Sinha, Minister of Finance to the Secretary-General, Lok Sabha.]

The President, having been informed of the subject matter of the Constitution Amendment Bill, 1998 for giving effect to, with some modifications, the recommendations of the Tenth Finance Commission regarding an Alternative Scheme of Devolution of Central Taxes, recommends under article 274(1) and article 117(1) of the Constitution of India, the introduction in and the consideration under article 117(3), respectively, of the Bill by Lok Sabha.

ANNEXURE

EXTRACTS FROM THE CONSTITUTION OF INDIA

* * * * *

Taxes levied and collected by the Union but assigned to the States

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 futures 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 places in the course of inter-State trade or commerce;

(*h*) taxes on the consignment of goods (whether the consignment is to the person making it or to any other person), where such consignment 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.

* * * * *

Taxes levied and collected by the Union and distributed between the Union and the States

270. (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.

Surcharge on certain duties and taxes for purposes of the Union

271. Notwithstanding anything in articles 269 and 270, Parliament may at any time increase any of the duties or taxes referred to in those articles by a surcharge for purposes of the Union and the whole proceeds of any such surcharge shall form part of the Consolidated Fund of India.

Taxes which are levied and collected by the Union and may be distributed between the Union and the States

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.

*　　　*　　　*　　　*　　　*

LOK SABHA

A

BILL

further to amend the Constitution of India.

(*Shri Yashwant Sinha, Minister of Finance*)