

[Shri S. K. Patil.]

nor education. Therefore this is a rate of interest which is common to everybody, and there was no necessity whatsoever of considering any alternative. Surely the Government have done no wrong in going to them and having this loan, and surely if there is an opportunity, hundred times we shall approach them.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE INDIAN OATHS (AMENDMENT) BILL, 1958

THE DEPUTY MINISTER OF LAW (SHRI R. M. HAJARNAVIS): Sir I beg to move:

"That the Bill further to amend the Indian Oaths Act, 1873, as passed by the Lok Sabha, be taken into consideration."

The amending Bill proposed seeks to delete section 16 of the Indian Oaths Act, 1873. Section 16 is as follows:

"Subject to the provisions of sections 3 and 5, no person appointed to any office shall, before entering on the execution of the duties of his office, be required to make any oath, or to make or subscribe any affirmation or declaration whatever."

The Indian Oaths Act deals with two kinds of oaths: judicial oaths as well as official oaths. So far as the judicial oaths are concerned the procedure is prescribed, but as regards official oaths they have been entirely abolished. Curiosity prompted me to enquire as to why this provision was enacted, and the reason that I get is from the speech of Mr. Hobhouse, the

then Law Member of the Council of the Governor-General of India, and this is the record of the proceedings:

"As to official oaths, Mr. Hobhouse had very little to say. It was after the motion for leave to introduce the Bill that this clause was added, because the subject was brought to our attention by the Madras Courts' Act. He explained, when moving to pass that Act, what was the view taken by the Committee on that subject; and showed that, as regards Oudh and British Burma, every kind of oath or declaration had been deliberately dispensed with in the case of judicial officers assuming office. We did the same thing the other day with respect to Madras. Now, he supposed, if the principle was good for those parts India, it would be good for the rest of the country; and the principle which was good for judicial officers would be good for other officials. Therefore, he anticipated little or no difference of opinion on that point, although, he admitted that, on this point, the Bill was not a measure of consolidation, but one of alteration. With this explanation, he introduced the Bill."

Therefore, the reason that was given for the Bill was that in some parts the official oaths were prescribed, whereas no provision was made for official oaths in other parts. Therefore, in order to attain uniformity all over the country official oaths were abolished all over the country. In 1947 a very desirable practice was started on the initiative of the then Home Minister, late Sardar Vallabhbhai Patel. The Government of India required at that time that every Government servant should take an oath of allegiance, and the form of the oath of allegiance was also changed in light of the new context. That was like this:

"I, ———, do swear that I will be faithful and bear true allegiance to India and to the Constitution of

India as by law established and that I will loyally carry out the duties of my office. So help me God."

As regards the entrants who came later than 15th August 1947, a similar oath was prescribed, and now it is a term of the order of appointment or contract of service that before he enters service such an oath shall be taken.

As regards the foreigners, the form of the oath of allegiance is:

"I,——, a citizen of State—— temporarily residing in and holding a civil post under the Government of India do swear/solemnly affirm that, saving the faith and allegiance I owe to State——, I will during the period of my service as aforesaid, be faithful to India and to the Constitution of India as by law established and that I will carry out the duties of my office loyally, honestly and with impartiality. So help me God."

Lately, since 1952, we changed the form of oath and the form is as follows:—

"I,——, do swear/solemnly affirm that I will be faithful and bear true allegiance to India and to the Constitution of India as by law established and that I will carry out the duties of my office loyally honestly and with impartiality.

So help me God."

While this practice is being followed, we have neglected to consider section 16 of the Indian Oaths Act. It has been out of our mind. This omission we seek to correct by the present amending Bill.

I hope, Sir, that this Bill is beyond controversy and it would be accepted by the House.

MR. DEPUTY CHAIRMAN: Motion moved:
19 RSD—6.

"That the Bill further to amend the Indian Oaths Act, 1873, as passed by the Lok Sabha, be taken into consideration."

SHRI V. PRASAD RAO (Andhra Pradesh): Sir, as far as the Bill is concerned, we are perfectly in accord with it, but the only question is, why the Government has kept quiet for all these ten years. We have heard of Rip Van Winkle in books, but here is a Government that could not take cognizance of these things for the last ten years. Eleven years after independence, they come for the repeal of this thing whereas, in fact, it ought to have been enacted immediately after independence itself.

Of course, it is also necessary that every official should be administered an oath because of our own experience. There are officials and officials who are perfectly aware of that. That is why I do not want to go into details of that. But still, we perfectly agree that every official should be administered the oath.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Mr. Deputy Chairman, Sir, I would like to take this opportunity of heartily congratulating the Government for introducing this very healthy measure. Rather than criticising the Government as my hon. predecessor has done, I will congratulate them most heartily not only for bringing forward this measure though it may be at a late stage, but also for in practice doing what they seek to do hereafter after deleting section 16 of the Indian Oaths Act of 1873. A wrong that was committed as far back as 1873 is going to be righted now and, as a matter of fact, it was righted by the late Sardar Patel. In spite of there being in existence on the Statute Book section 16 of the Indian Oaths Act, he asked every new entrant and even the existing Government servants to take the prescribed oath.

Sir, while other measures relate to things mundane, this particular one

[Shri Jaspal Roy Kapoor.] relates to things on a higher plane, to things of a higher value and I would like to bow my head to the late Sardar Patel for the very far-sighted step which he took then. He was a most practical administrator and nothing that was necessary to see that the country progressed on right lines, nothing that was necessary to see that the administration improved, failed to receive his attention.

Sir, I would, however, like to know some more details about the manner in which this practice is being observed. Is it that all Government servants of whatever rank they be, from the highest to the lowest, have to take this oath? If it is so, I shall be very happy; if not, I hope all Government servants, of whatever grade they may be—whether they may be peons or ordinary labourers in the railways while, of course, they are holding permanent service under the Government, whether it be the Central Government or the State Governments—would be asked to take this oath. And while this oath is being administered, I would like that it might be observed as an occasion of great solemnity. Oaths, if administered in a very formal manner, are hardly of any value. We know how witnesses, when they go to a court of law, take oath and in actual practice, virtually say things—generally speaking, very often they do say things—in negation of the oath they have taken. Virtually, no sanctity is attached to the oath which a witness takes. I say 'generally speaking'. Therefore, I would submit that a very solemn procedure should be adopted on such occasions. Now, the solemn procedure that I suggest would be that every person who is called upon to take oath must be asked to take it according to the tenets of his religion. If he is a Hindu, let a Pandit administer the oath to him; a mullah in the case of a Muslim; a clergyman in the case of a Christian and in a temple, in a mosque, in a church or I would not mind even if it be in the office of the Communist Party if one

is a Communist. (*Interruptions.*) I make this . . .

MR. DEPUTY CHAIRMAN: Every witness before he gives evidence will have to be taken either to the temple, church or the mosque. Is it?

SHRI JASPAT ROY KAPOOR: With due respect to you, Sir, I would submit that your critical remark about my statement is beyond the point. At the moment, we are concerned with not the oaths which are administered to the witnesses, but we are concerned with the oath which will be administered to Government servants

MR. DEPUTY CHAIRMAN: But you refer to witnesses also.

SHRI JASPAT ROY KAPOOR: I refer to witnesses only in order to impress on you and on the House, through you, Sir, that oaths, when they are administered in the manner in which they are administered to witnesses, are hardly of any consequence. So, I mentioned, in order to substantiate my suggestion that oaths to Government servants should not be administered in the same way in which they are administered to witnesses.

MR. DEPUTY CHAIRMAN: But this improvement you suggest will have to be applied to the witnesses also logically.

SHRI JASPAT ROY KAPOOR: Not according to this measure. But even if that could be done, I welcome it. But, of course, there are practical difficulties in that case and I should not be supposed to be so ignorant of the practical difficulties. Even in that case, we can put our heads together to find out if there could be any alternative method or how best we can impress on the witnesses that telling a lie in spite of oath is something very serious. But, then, at the moment, I, for one, have not applied my mind to that subject and I hope eminent persons and jurists like you

would in calmer moments try to find out a solution for the difficulties that confront us so far as the disregard of oaths administered in courts of law is concerned. For the moment, I am confining myself to the remarks on the objects and provisions of this measure. If these oaths are sincerely taken and kept up, they would improve our ethical standards and solve the character crisis that has overtaken our country.

MR. DEPUTY CHAIRMAN: Yes. With these words, you support the Bill.

SHRI JASPAT ROY KAPOOR: Yes, Sir, with these words, I support the Bill and try to put forward some specific suggestions. A few suggestions I have already made. Sir, I must say things in a serious way. I do not want to take this measure in a very formal spirit and a little time spent on the serious consideration of the consequences that may arise not by the implementation of this measure, but by being treated lightly is worth while. Sir, our Prime Minister, Pandit Jawaharlal Nehru, only the other day, expressed his utter disgust about the moral degradation that the country is undergoing and it is worth while that on an occasion like this we should seriously consider as to how best we can improve the moral and ethical standards of the country. I would submit that we must do everything possible to raise our moral and ethical standards—Government servants and all. For, whilst undoubtedly we are progressing and making rapid strides in all other directions, we are, unfortunately, overtaken by a character crisis which must be solved if the results of our efforts are to be achieved and the country's soul is to be saved. This measure, if implemented in the proper spirit, is likely to take us substantially towards this end and, therefore, Sir, I submit that—what you directed me to do—I support this measure.

MR. DEPUTY CHAIRMAN: (To Shri Hajarnavis) Any reply?

SHRI R. M. HAJARNAVIS: Sir, as regards the observations of Mr. Prasad Rao . . .

SHRI H. N. KUNZRU (Uttar Pradesh): Can we not put it off till tomorrow? He may speak at some leisure.

SHRI BHUPESH GUPTA (West Bengal): Second Reading, Third Reading . . .

MR. DEPUTY CHAIRMAN: He does not want more than two minutes.

SHRI V. PRASAD RAO: Can't we take up the Second Reading and the Third Reading tomorrow?

SHRI BHUPESH GUPTA: Sir, very many fine sentiments have been expressed . . .

SHRI R. M. HAJARNAVIS: Mr. Prasad Rao referred to delay and all that I can tell him is that even Homernods and the Law Ministry does not claim perfection.

As regards the procedure suggested by Shri Jaspat Roy Kapoor, heads of departments are present when oaths are administered.

5 P.M.

Sir, oaths are administered to all Government servants who are in permanent employ and who are governed by the Government Servants' Conduct Rules.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Indian Oaths Act, 1873, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clause 2 was added to the Bill.

Clause 1, the Enacting Formula and the Title were added to the Bill.

SHRI R. M. HAJARNAVIS: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill be passed."

SHRI SANTOSH KUMAR BASU: (West Bengal): Sir, I want to speak for two minutes.

MR. DEPUTY CHAIRMAN: You can speak tomorrow.

There is a Message from Lok Sabha.

MESSAGE FROM THE LOK SABHA

THE PARLIAMENT (PREVENTION) OF DISQUALIFICATION) BILL, 1957

SECRETARY: Sir, I have to report to the House the following message received from the Lok Sabha, signed by the Secretary of the Lok Sabha:

"I am directed to inform Rajya Sabha that Lok Sabha, at its sitting held on Monday, the 5th May, 1958 adopted the following motion in

regard to the Parliament (Prevention of Disqualification) Bill, 1957:—

"That this House recommends to Rajya Sabha that Rajya Sabha do appoint five members of Rajya Sabha to the Joint Committee on the Parliament (Prevention of Disqualification) Bill, 1957 in the vacancies caused by the retirement of Dr. Shrimati Seeta Parmanand, Shri S. D. Misra, Kazi Karimuddin, Shri C. L. Varma and Shri H. D. Rajah from Rajya Sabha and communicate to this House the names of members so appointed by Rajya Sabha to the Joint Committee."

2. I am to request that the concurrence of Rajya Sabha in the said motion, and also the names of the members of Rajya Sabha appointed to the Joint Committee, may be communicated to this House."

MR. DEPUTY CHAIRMAN: The House stands adjourned till 11 A.M. tomorrow.

The House then adjourned at four minutes past five of the clock till eleven of the clock on Tuesday, the 6th May 1958.