

introduce a Bill further to amend the Central Sales Tax Act, 1956.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Central Sales Tax Act, 1956."

The motion was adopted.

†Shrimati Tarkeshwari Sinha: I introduce the Bill.

*INDIAN STAMP (AMENDMENT) BILL

The Deputy Minister of Economic Affairs (Shrimati Tarkeshwari Sinha): I beg to move for leave to introduce a Bill further to amend the Indian Stamp Act, 1899.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Stamp Act, 1899."

The motion was adopted.

†Shrimati Tarkeshwari Sinha: I introduce the Bill.

BUSINESS ADVISORY COMMITTEE

Twenty-fourth Report

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): I beg to move:

"That this House agrees with the Twenty-fourth Report of the Business Advisory Committee presented to the House on the 25th April, 1958."

Mr. Speaker: The question is:

"That this House agrees with the Twenty-fourth Report of the Business Advisory Committee presented to the House on the 25th April, 1958."

The motion was adopted.

INDIAN OATHS (AMENDMENT) BILL

The Deputy Minister of Law (Shri Hajarnavis): I beg to move:

"That the Bill further to amend the Indian Oaths Act, 1873, be taken into consideration."

This Bill is a single-line measure beyond any controversy and seeks to repeal section 16 of the Indian Oaths Act which has become archaic and somewhat out of joint in the present context. Section 16 of the Indian Oaths Act 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 take any oath or to make or subscribe to any affirmation or declaration whatsoever."

Now the need for repealing this particular provision arose this way. On the eve of the Independence of India, on the initiative of the then Home Minister, Sardar Vallabhbhai Patel, a very commendable step was taken, namely, that all full time Government servants were required to take an oath of allegiance in the prescribed form. That oath was taken on the first working day after the 14th or August, 1947. The form of oath then prescribed was as follows:

"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. So help me God."

Previous to this, the oath of allegiance was administered only to a few officials, possibly only those officials whose appointments were directly made by either the King Emperor or on behalf of the King Emperor and the form of oath was as follows:

"I would be faithful and would bear true allegiance to His Majesty, King George VI, Emperor of India and his successors accord-

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†Introduced with the recommendation of the President.

ing to law and that they will truly serve the sovereign in their office and would do right to all manner of people after the laws in the administration of India."

It will be noticed by the House that in the new oath, which was then prescribed, the allegiance was to India and to the Constitution of India. The emphasis was shifted from the personality of the Sovereign to the Constitution of India. Later on, a decision was taken that all the new entrants to the Government services should also take similar oath of allegiance, and that taking of this oath would be a term of their appointment. In 1952 the oath of allegiance was somewhat changed and it is in that form that the oath of allegiance is taken at present. That form is as follows:

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

There is a slight variation in this form, for foreign nationals who serve the Government of India. That form is as follows:

"I, a citizen of X, temporarily residing and holding a post under the Government of India do swear and solemnly affirm that saving faith and allegiance I owe to State X, 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."

This practice has been in vogue for more than ten years. But, all the time, I am sorry to say, section 16 of the Indian Oaths Act was lost sight of.

Now, the Government of India intends to continue the practice of

administering oaths. As members of this House are aware, oaths of allegiance are administered to, and taken by, the highest officers of the State. For instance, the President takes oath of allegiance under Article 60 and Vice-President under Article 69; Ministers of the Union under Article 75(4), Members of Parliament under Article 99, Judges of the Supreme Court under Article 124(6), Governors of the State under Article 159 and Judges of the High Courts under Article 219. Therefore, what is good enough for them, for the highest dignitaries of State, is also good for the Government servants who enter the administration at some lower level.

Now, the reasons why section 16 was introduced in the Act of 1873.....

Mr. Speaker: Is there any positive provision to administer oaths to Government servants?

Shri Hajarnavis: No. Sir, it is only permissive. Section 16 only relates to prohibition.

Mr. Speaker: Where is the provision in the Oaths Act that this prohibition may be removed? Is it anywhere stated that oath can be administered to officials?

Shri Hajarnavis: Under the Government Servants' Conduct Rules, we have made it a term of appointment that he will take the oath of allegiance.

Mr. Speaker: Therefore, the bar is sought to be removed?

Shri Hajarnavis: Yes.

Mr. Speaker: Why not we have a clause saying that this will also be at the discretion of the Government. It can be said that oaths shall be administered to such and such people. Section 5 says that the oath or affirmation shall be made by the following persons—witnesses etc. Likewise, we can say that officers of particular categories, as notified from time to time by the Government, shall be obliged to take the oath of allegiance.

Shri Hajarnavis: I am obliged for this very valuable suggestion. In the mean time, after the barred section being out of the way, when the Act comes up for further revision, we will bear in mind the very valuable suggestion that has fallen from you.

As I was mentioning, we tried to investigate as to why section 16 was enacted in this forth in the earlier Act and we find no convincing reason has been mentioned, by the then Law Minister, Mr. Hobhouse. He had very little to say about this. He said—

“It was after the motion for leave to introduce the Bill that this clause was added, because it was brought to our attention by the Madras Courts. On that he explained when moving to pass the Act what was the view taken by the Committee on the subject and showed that as regards British Burma every kind of declaration has been deliberately dispensed with in the case of judicial officers there.

We did the same thing the other day with respect of Madras. Now, suppose if the principle was good for those parts of 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 also. 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 of alteration.”

With this he introduced the Bill. The only reason then that was advanced by the hon. Law Minister then for introducing this prohibition was that he wanted to assure uniformity all over India. This decision could as well have been otherwise. The oath of allegiance could have been made compulsory as such a practice also obtained then in certain parts of India.

Mr. Speaker: Why not apply it to a judicial officer? Why should he not take it? It is really surprising. While he has to administer the oath, he himself is a free lancer.

Shri Hajarnavis: That is so. Under the present rules, I believe, he is required to take the oath. But, as you pointed out, it is done under the rules or under the executive instructions rather than under a statutory provision. We shall bear that in mind.

The administration of oath, Government think, is a very wholesome feature. It ought to be preserved, for after all, all the stages of transition in human life are marked either by oaths or by vows, whether it is *upanayanam* or it is a wedding. Vows are taken and a sort of a picturesque background is provided to the event so that a deep and salutary impression may be etched on the mind of the participant, which might last throughout his life. Therefore, Government think that this section 16 which stands in the way of this practice should be repealed.

Mr. Speaker: Motion moved:

“That the Bill further to amend the Indian Oaths Act, 1873, be taken into consideration.”

The motion was adopted.

Mr. Speaker: There are no amendments. The question is:

“That clauses 1 and 2, the Enacting Formula and the Title stand part of the Bill.”

The motion was adopted.

Clauses 1 and 2, the Enacting Formula and the Title were added to the Bill.

Shri Hajarnavis: Sir, I beg to move:

“That the Bill be passed.”

Mr. Speaker: The question is:

“That the Bill be passed.”

The motion was adopted.