

Friday, 26th August, 1949

**Volume IX**

**30-7-1949  
to  
18-9-1949**



# **CONSTITUENT ASSEMBLY DEBATES**

## **OFFICIAL REPORT**

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THE CONSTITUENT ASSEMBLY OF INDIA

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*Deputy Secretary:*

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*Marshal:*

SUBEDAR MAJOR HARBANS LAL JAIDKA.

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## CONSTITUENT ASSEMBLY OF INDIA

*Friday, the 26th August 1949*

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The Constituent Assembly of India met in the Constitution Hall, New Delhi, at Nine of the Clock, Mr. President (The Honourable Dr. Rajendra Prasad) in the Chair.

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### DRAFT CONSTITUTION—(Contd.)

#### Article 296

**Mr. President :** Article 296.

**Mr. Naziruddin Ahmad** (West Bengal: Muslim): Mr. President, Sir, I rise on a point of Order. Amendment No.106 which the honourable Chairman of the Drafting Committee is proposing to move is a new amendment. It is again, like many others, an amendment to the Constitution itself and not an amendment to any amendment. Notice of it was first given on the 23rd of August and was received on the 24th and would, ordinarily, have been considered on the same day, but for want of time it could not be.

An honourable Member drew my attention to changes of a serious nature sought to be introduced by this amendment. By this amendment certain service rules are to be made applicable only to Scheduled Castes and Scheduled Tribes. In the original article of the Draft Constitution all minorities were sought to be covered. I would like to know what is the reason for this change and why this change should be made in this disguised form. It would have been straightforward for any Member to give notice that for “all minority communities” in the original article, the words “members of the Scheduled Castes and scheduled tribes” be substituted. Instead of that the whole clause was redrafted. It is only by chance that I noticed the change. My point of Order, therefore, is : first that it is an amendment to the Constitution itself; and second, it is not one of those subjects which, as I know, has ever been submitted for consideration by the House. Thirdly, it is not expressed to indicate the precise change to be effected on the original article. I wish to know how long this practice of facing the House at the eleventh hour with absolutely new articles containing vital changes which it is difficult to discover is going to be followed. One day recently I reminded Dr. Ambedkar that he had not complied with your request to explain the difference between the original article and the newly drafted article and the only thing he could say was that I must have read the original article and also the new article except the “commas and semi-colons.” He could not rise above indulging in a coarse joke of this kind. Are we to go on every day adding new articles and breaking our own rules ? How can we expect the people to follow the Constitution if we systematically break our own rules? I submit there should be a limit somewhere. There should be some recognised rules and recognised exceptions. I have never quarrelled with your ruling in particular cases that the change is regular. In this case, I submit with all humility, that a new article is sought to be introduced without the usual safeguard of giving the members clear notice of the exact change. If you allow this amendment I have other serious objections on the merits. but I do not wish to submit them now, At least we should have got some notice. There should have been consultation

[Mr. Naziruddin Ahmad]

with minorities, as Sardar Patel did in a similar context. This is highly unfair.

**Mr. President :** Will it meet your case if it is put off to some other date ?

**Mr. Naziruddin Ahmad :** I do not know, Sir, whether the House will be in a better mood to consider it on some other date, but I leave the matter entirely in your hands. In fact I think things would not very much improve by then. I object to this clause being put in this manner. My point is that the amendment should be rejected on technical as well as substantial grounds.

**Shri T. T. Krishnamachari** (Madras: General): May I submit, Sir, that my honourable Friend is wholly out of Order in raising this point of Order, because this matter was accepted by the House. The honourable Member had two clear days' notice of it and if he is not able to understand the significance of the amendment in two days, I am sure he cannot understand it in two months.

**Mr. President :** Is it suggested that when the question was reopened last time with regard to reservation of seats this also was one of the point considered and on this point also a decision was taken then?

**Shri T. T. Krishnamachari :** My suggestion is that since Muslims and Indian Christians are no longer to be treated as minorities this point does not arise.

**Mr. Naziruddin Ahmad :** Not at all. I submit that what was considered was the question of representation of minorities in the legislature. But this new article relates to a different matter, viz., the protection of the minorities in getting minor jobs in the Secretariats and districts etc. On the matter of representation in the legislature Sardar Patel was kind enough to consult us and we agreed not to have any reservation in the legislature.

**The Honourable Dr. B. R. Ambedkar** (Bombay: General) : Sir, the position is this. The report of the Minorities Committee provided that all minorities should have two benefits or privileges, namely, representation in the legislatures and representation in the services. Paragraph 9 of the report which was accepted by this House contained this :

"In the all India and provincial services the claims of all minorities shall be kept in view in making appointments to these services consistently with the consideration of efficiency in the administration."

That was the original proposition passed by this House. Subsequently the Advisory Committee came to the conclusion on the consent of the two minorities—Muslims and Christians—that they were not to be treated as minorities. When the House has now accepted that the only minorities to be provided for in this manner are the Scheduled Castes and the scheduled tribes, obviously the Drafting Committee is bound by the decision of the House and to alter the article in terms of such decision.

**Mr. President :** The point of Order taken is that what was decided at the time of reconsideration of the articles relating to minorities referred only to reservation of seats and that the question of services was not taken into consideration and that point was not decided.

**The Honourable Dr. B. R. Ambedkar :** As I understand it, the decision was that they were not minorities and therefore they are not to have either of the two privileges.

**Sardar Hukum Singh** (East Punjab : Sikh): Sir, I have with me the reports of the Minorities Advisory Committee as well as the sub-committee, and it is

nowhere even suggested that all safeguards will go or that the minorities are not to be treated as minorities. The only decision that was agreed to was :

“That the system of reservation for minorities other than Scheduled Castes in legislatures be abolished,”

That was the only decision agreed to by these minorities. But it was not the only safeguard. What Dr. Ambedkar read out related to reservation in the legislature. The claims of all minorities had to be considered under article 296 when making appointments to junior posts other than those to be recruited by the Federal Public Services Commission. So I am afraid the minorities would think that it is a breach of faith and a violation of gentlemen's agreement. If Sardar Patel were here I think he would not agree to this because what we agreed to was only about reservation of seats in the legislature. Therefore I think this proposal should be withdrawn. The original draft was a much better provision and only two articles, 266 and 299, are left for the safety of the minorities; and they are only wishful thinking. They are not fundamental, they are not even directive principles, they are not justiciable. The only comfort of minorities is that in some respects their interests will be cared for; if that is also taken away it will be a violation of a gentlemen's agreement.

**Mr. President :** I am afraid in view of the stand taken by some Members of the minority communities it would be necessary to let this matter stand over for reconsideration, when of course all points of view will be taken into account.

**An Honourable Member :** We can accommodate them and decide it here.

**Mr. President :** In matters relating to minorities we have always proceeded with their consent. And now when there is difference of opinion it is better that they should be ironed out in private discussion. That is why I suggest that it may stand over. We shall now take up the next article.

### Article 299

**The Honourable Dr. B. R. Ambedkar :** Sir, I beg to move:

“That for article 299, the following article be substituted :—

‘299. (1) There shall be a Special Officer for minorities to be appointed by the Special Officer, Officer, Special officer or President. minorities.

(2) It shall be the duty of the Special Officer to investigate all matters relating to the safeguards provided for minorities under this Constitution and to report to the President upon the working of the safeguards at such intervals as the President may direct, and the President shall cause all such reports to be laid before each House of Parliament.’ ”

The original article provided that there should be a minority officer both in the Centre and in each of the provinces. It is now felt that, as the number of minorities has been considerably reduced, it is not desirable to have a cumbrous provision like that for having an officer in each province. The purpose of the original article will be carried out if the Centre appoints an officer and makes him report to the President.

**Dr. Monmohan Das** (West Bengal: General): I rise to a point of Order. It has not yet been settled as to who these minority communities are. Minorities have been grouped for the provision of safeguards in respect of two matters; one is in respect of safeguards by means if reservation of seats in the legislatures and another is by means of reservation of posts in the services. Who these minorities are has not yet been settled.



**Mr. President :** This article, I understand, will not touch those points at all. Whatever the minorities are, the Special Officer will deal with all of them. Whether they are two minorities or more than two, they will all be dealt with by this officer who will be appointed.

**Sardar Hukum Singh :** If article 296 is to remain as it is drafted now, then there will be no other safeguard for any other minority except the Scheduled Castes. That being so, why not we wait and take up this article side by side with the other article which deals with Scheduled Castes, scheduled tribes, etc. ?

**Mr. President :** Here there is no mention of particular minorities. The expression used here is 'minorities'. It will cover all minorities whatever their communities are.

**Sardar Hukum Singh :** But if article 296 is to remain as it is, and if any other Scheduled Castes and tribes are to be treated as minorities, there will be no other safeguard for them. Why should here in article 299 the word 'minorities' occur ? It is illusory and will mean, that there is no other safeguard.

**Shri T. T. Krishnamachari:** There are minority castes, tribes and so on. This comprises all the minorities.

**Mr. President :** So far as this article is concerned, it covers all minorities whether contemplated under article 296 or not. There is no difficulty therefore in taking it up. This article does not mention particular minorities.

**Mr. Naziruddin Ahmad :** If the new article 296 is carried, this article will be meaningless.

**Mr. President :** It will not be meaningless, because there are more than two minorities there. For the Anglo-Indians also there is the same provision.

**Mr. Naziruddin Ahmad :** But the safeguards already provided are taken away here.

**Mr. President :** Whatever safeguards are provided for the minorities and whatever the minorities, this Special Officer will deal with them all.

**Mr. Naziruddin Ahmad :** But there will be no safeguards for other minorities. This therefore would be inapplicable.

**Mr. President :** I am leaving over article 296 for reconsideration. You proceed upon the assumption that it relates only to two minorities. We have not yet decided that it should stand in the form in which it is proposed.

**Shri M. Ananthasayanam Ayyangar (Madras: General):** Why not allow this also to stand over?

**Mr. President :** No. It would not make any difference if this is passed.

**Shri M. Ananthasayanam Ayyangar :** The word 'minorities' is so general that it might apply to linguistic minorities and to minorities based on religion, caste, etc. When we know that the Special Officer is to be appointed for two or three minorities, why not we say here, 'Anglo-Indians, Scheduled Castes' and so on? There is no definition of 'Minorities' in the whole of the Draft Constitution. Therefore let us specify the names of the minorities here. That is my suggestion to the Drafting Committee. We may say that the Scheduled Castes, scheduled tribes and the Anglo-Indians are the three minorities for whom we are making provision here. There are other minorities also. Let us not leave its interpretation to the jurisdiction of courts. Let us here decide what the minorities are. Otherwise any minority can come forward and ask for this or that right.

**Mr. President :** The safeguards are specified, and whatever the minorities are which enjoy these safeguards will have the protection of this Special Officer.

**Shri M. Ananthasayanam Ayyangar :** It is not stated anywhere who the minorities are. No community has been classified as a minority. There is no definition of 'minority'. If there is one, we can say this article will apply to such and such minorities. We use, the word 'minority' here and do not say that this applies to this or that minority. It may be that we are contemplating to have a general officer for them all. But the Constitution is for the future. We should therefore clear up this matter and include only those minorities for whom we intend making provision.

**Mr. President :** Personally I thought it is not necessary to put this off. But if Members think that we take article 296 and 299 together in order that they may specify the minorities here I have no objection.

**Shri T. T. Krishnamachari :** It is entirely left to you. But I think your original stand was the right one.

**Mr. President :** But if the House wants to put off the consideration of this article I have no objection. Personally I thought this could go through without affecting the decision that may be taken in regard to article 296.

**Shri T. T. Krishnamachari :** I hope the House will adopt that course. That is the proper course. We have very little work before us otherwise.

**Mr. President :** Mr. Ananthasayanam Ayyangar takes a different view.

**Mr. Naziruddin Ahmad :** In that case, we may proceed with the consideration of the article.

**Mr. President :** I think we had better proceed with article 299. It does not create any difficulty. If we, later decide that there are certain other minorities than those mentioned in article 296, they will be covered by article 299.

**Pandit Hirday Nath Kunzru :** (United Provinces: General): I understood you to say that we may proceed, with the discussion of article 299, because our decision about it will not affect our decision in respect of article 296. But our decision as regards article 296 will affect our decision about article 299. The two are inter connected. I cannot see really how the two can be discussed separately. The words 'minority communities' are used in both these articles. If the argument is that, as the Anglo-Indian community is to be treated as a minority in respect of the services for ten years, therefore the words 'minority communities' can be justifiably used in article 299, then the same argument applies to article 296. And so it is all the more necessary that this article also should be postponed. As you have decided that the discussion on article 296 should be postponed, I think it logically follows that the discussion on article 299 also should be postponed.

**Mr. President :** Dr. Kunzru, may I point out that in article 296 two particular minorities are mentioned. Therefore that article can refer only to those two particular minorities, whereas article 299 does not mention any particular minorities. It mentions the word "minorities" generally and whatever the minorities may be, they will be covered by article 299. Only the question of what communities will constitute, minorities is left over. That is Article 296.

**Pandit Hirday Nath Kunzru :** Is it agreed that if in the light of our decision on article 296 we find it necessary to revise any conclusion that we may now reach about article 299, the reconsideration of article 299 will be allowed ?

**Shri T. T. Krishnamachari :** Very unlikely.

**Pandit Hriday Nath Kunzru:** My Friend Mr. Krishnamachari says it is very unlikely. That means it is a possibility, and it is the possibility that must be taken into consideration now.

**Mr. President :** If it has to be reconsidered, let it not be taken into consideration today at all. Let it be considered once rather than twice. Article 299 stands over. We will now proceed to the next article 302. There, are certain amendments of which notice had been given, which are printed in the second volume of the printed amendments.

It is pointed out to me that there is some difficulty about article 302 also. Dr. Ambedkar has just now been telling me that there is some consideration to be given to one of the provisos in this article. He would like this article to be held over. In that case, the only thing left is Schedule III. Is there any objection to Schedule III also?

**Mr. Naziruddin Ahmad :** No, Sir, there is no objection.

### Third Schedule

**The Honourable Dr. B. R. Ambedkar :** Sir, I move:

“That in the Third Schedule, in Form I of the Declarations, for the words and brackets ‘solemnly affirm (or swear)’, the following be substituted:—

‘Solemnly affirm  
swear in the name of God.’ ”

Sir, I also move:

“That in the Third Schedule, in Form II of the Declarations, for the words and brackets ‘solemnly affirm (or swear)’, the following be substituted :—

‘solemnly affirm  
swear in the name of God.’ ”

“That in the Third Schedule, in Form III of the Declarations,—

- (a) for the word ‘declaration’ the words ‘affirmation or oath’ be substituted;
- (b) for the words ‘solemnly and sincerely promise and declare’ the following be substituted :—

‘solemnly affirm  
swear in the name of God.’ ”

“That in the Third Schedule, in Form IV of the Declarations,—

- (a) for the word ‘declaration’ the words ‘affirmation or oath’ be substituted;
- (b) for the words ‘solemnly and sincerely promise and declare’ the following be substituted :—

‘solemnly affirm  
swear in the name of God.’ ”

“That in the Third Schedule, in Form V of the Declarations,—

- (a) the words and figure ‘for the time being specified in Part I of the First Schedule’ be omitted;
- (b) for the words and brackets ‘solemnly affirm (or swear)’ the following be substituted :—

‘solemnly affirm  
in the name of God.’ ”

“That in the Third Schedule, in Form VI of the Declarations—

- (a) the words and figure for the time being specified in Part I of the First be omitted;
- (b) for the words and brackets ‘solemnly affirm (or swear)’, the following be substituted :—

‘solemnly affirm  
 \_\_\_\_\_  
 swear in the name of God.’ ”

“That in the Third Schedule, in Form VII of the Declarations,—

- (a) for the word ‘declaration’ the words ‘affirmation or oath’ be substituted;
- (b) the words and figure ‘for the time being specified in Part I of the First Schedule’ be omitted;
- (c) for the words ‘solemnly and sincerely promise and declare’ the following be substituted:—

‘solemnly affirm  
 \_\_\_\_\_  
 swear in the name of God.’ ”

“That in the Third Schedule, in Form VIII of the Declarations,—

- (a) for the word ‘declaration’ the words ‘affirmation or oath’ be substituted;
- (b) for the words ‘solemnly and sincerely promise and declare’ the following be substituted:—

‘solemnly affirm  
 \_\_\_\_\_  
 swear in the name of God.’ ”

Sir, I also move:

“That in the Third Schedule for the heading ‘Forms of Declarations’ the heading ‘Forms of affirmations or Oaths’ be substituted.”

**Mr. President :** I take it that there is no objection to the heading being changed.

**Mr. Naziruddin Ahmad :** There is no objection, Sir.

**Mr. President :** Then the heading is changed.

Then we take up the first part. There are several amendments to that.

**Shri H. V. Kamath (C.P. & Berar: General):** Mr. President, Dr. Ambedkar has just now brought before the House a revised form of affirmation or oath prescribed in the Third Schedule to the Constitution. I find that the several amendments moved by him prescribe....

**Mr. Naziruddin Ahmad :** Sir, are we considering Form No. 1 or are we dealing with the heading?

**Mr. President :** The heading we have passed.

**Mr. Naziruddin Ahmad :** I have some amendments to Form No. 1.

**Mr. President :** You may move them after Mr. Kamath has finished.

**Shri H. V. Kamath :** I find that the form of the oath or affirmation as moved by Dr. Ambedkar in this new Schedule differs from that which this House has adopted already in the case of the President and Governors. I invite the attention of the House to article 49, and also to the corresponding article 136 prescribing the oath or affirmation for the Governors of States. I refer to this copy of articles as agreed to by the Assembly, supplied to all Members of the House. Turning to article 49, my honourable colleagues will

[Shri H. V. Kamath]

see that the oath or affirmation as passed by the House has got a form which Dr. Ambedkar has now inverted in the amendment that he has just moved. That form in article 49 stands thus :

swear in the name of God  
 "I, A B, do \_\_\_\_\_  
 solemnly affirm."

I remember—and I hope my memory does not betray me—that when Mr. Mahavir Tyagi brought this amendment to my original amendment in this House some months ago, he made a point of this and pleaded that so far as the oath, the swearing was concerned it should go above the line, being more important, and the affirmation should go beneath the line, and the House accepted it. accordingly; and this final form of the affirmation or oath was as stated in article 49 which has been incorporated in this little booklet supplied to us. I am sure Mr. Tyagi will bear me out when he makes a speech today in the House. In this connection I am also glad to see that Mr. Jaspat Roy Kapoor has tabled an amendment on the same lines as mine, that is to say restoring the form of the oath as adopted in this House. Dr. Ambedkar has inverted it now, and I appeal to the House to restore the *status quo ante*, the original form of oath or affirmation as accepted and adopted by the House. Dr. Ambedkar might argue that the difficulty is that the language of the first amendment which he has moved today is to the effect : "Forms of Affirmations or Oaths" that is to say the word "affirmation" comes first and "oath" comes next. Therefore, according to that wording affirmation must come on the top of line and the oath must come below the line. I wonder whether Dr. Ambedkar will bring forward this argument, but if this argument is brought forward, then I for one would say that the heading could be changed to the effect "Forms of Oaths or Affirmations" and then retain the form of the oath as adopted by the House already, that is to say, the swearing of the oath should go on top of the line and the affirmation must go below the line. I am not a stickler for forms but I think that so far as the House is concerned it must not deviate from the form which it adopted long ago in December last; and I think that without adequate reason we should not alter or invert the form of oath or affirmation which the House has already adopted. Sir, I move my amendment No. 103 List II, Fifth Week, and commend it to, the House for its earnest consideration. It is as follows :

"That in amendments Nos. 56 to 63 of List I (Fifth Week) of Amendments to Amendments in the form of the oath or affirmation in the Third Schedule, for the words:

'solemnly affirm  
 \_\_\_\_\_  
 swear in the name of God.' "

(proposed to be substituted), the following be substituted:—

'swear in the name of God  
 \_\_\_\_\_  
 solemnly affirm.' "

**Mr. President :** Amendment No. 110 in the name of Mr. Jaspat Roy Kapoor is the same as Mr. Kamath. So that does not arise now.

**Shri Jaspat Roy Kapoor** (United Provinces: General): Yes, Sir.

**Mr. President :** Amendment No. 112 also stands in the name of Mr. Jaspat Roy Kapoor.

**Shri Jaspat Roy Kapoor :** It will serve my purpose if Mr. Kamath's amendment is accepted.

**Sardar Bhopinder Singh Man** (East Punjab: Sikh): Sir, I move:

"That in amendments Nos. 56 to 63 of List I (Fifth Week) of Amendments to Amendments, in the form of the oath or affirmation in the Third Schedule (in the words proposed to be substituted) the words 'swear in the name of God' be deleted."

My object in moving this amendment is that God's name for swearing purposes may not be permitted. I am not being inimical to the idea of God that I move the House to delete the name of God, but on religious and ethical considerations and also on reasons of great constitutional importance that I ask the House to delete the name of God for swearing purposes. When we were in school days, we were swearing too often "By God, it is true", "By God, I will do it", "By God, I will not do it", "By God, this is wrong", etc. and invariably we had been told by our teachers and elders that it was not a good habit to swear. I wonder how our habits which was then considered to be bad now becomes to be good when we are grown ups. To be, asked to swear, even otherwise, becomes too offensive. If a person is asked in spite of his declarations or solemn affirmation, to swear by God, he will say : "I am telling the truth. You must believe me as such. There is no need that I should swear by God." I believe it is beneath one's dignity to be asked to swear by God. I believe, at the same time, Sir, that is showing disrespect to God Himself that we should use His name for swearing purposes. Apart from that, I know it is doubting the individual's integrity to ask him to swear by God.

Besides this, I do not know whether the Drafting Committee and its Chairman has taken any steps to ascertain the wishes of God Himself on such a vital matter. I do not doubt the sovereignty of this Assembly; but I consider, Sir, that your sovereignty does not extend to such limits as to be binding even on God. He may not be a willing party to this affair. Without ascertaining His wishes, we are associating God's name in various places. According to Mr. Kamath's amendment, somewhere, in the clauses we have already incorporated the name of God. We are again incorporating the name of God for purposes of swearing. Tomorrow, you are going to associate. His name somewhere in the Preamble. I am doubtful whether God will at all like this. It may be a clever piece of Constitution for you; but still He may not like this Constitution. He may not like to be associated with this Constitution. He may be a communist God or He may have strong socialist inclinations. I would ask the Members and Dr. Ambedkar, "suppose without ascertaining His wishes you incorporate His name, what would happen to the Constitution if tomorrow He in His wisdom would withdraw His consent and would refuse to be associated with this Constitution at all?" Then, I would request you, before you incorporate His name in various ways and associate Him with your Constitution, to ascertain His wishes. In case Dr. Ambedkar had no access to God, then I request you Sir, to use your good offices to ascertain His wishes and let the House know that He is a willing party to this affair. After all oath taking, means two parties, the person who swears and the Person by whom you swear. Indeed, it is a point of Order with me and I submit whether at all we can incorporate or use the name of a person who is not a Member of this House and without His consent in the Constitution. It is really of great constitutional importance. Tomorrow, the whole labour will be lost if He withdraws his consent and refuse to be associated with your Constitution.

**Mr. Naziruddin Ahmad :** Mr. President, Sir, I beg to move :

“That with reference to amendment No. 56 of List I (Fifth Week) of Amendments to Amendments in the Third Schedule, in Form I of the Declarations, after the word ‘solemnly’ the words ‘and sincerely’ be inserted.”

I beg to move :

“That with reference to amendment No. 56 of List I (Fifth Week) of Amendments to ‘Amendments, in the Third Schedule, in Form I of the Declarations, for the words ‘all manner of people’ the words ‘all people’ be substituted.”

I beg to move:

“That with reference to amendment No. 56 of List I (Fifth Week), of Amendments to Amendments, in the Third Schedule, in Form I of the Declarations, the comma and the word ‘affection’ after the word ‘favour’ be deleted.”

My first amendment would raise a very important constitutional question namely whether the Ministers, as apart from Members, are required to be sincere or insincere. The House will be pleased to note that there are eight Forms of Declarations. With regard to Ministers of the Union, there are two Forms, I and II. The first relates to oath of office and the second relates to oath of secrecy. There are again two other forms relating to Ministers in the States, namely Forms V and VI, one relating to oath of office and the other relating to oath of secrecy. In all these cases the Ministers have to take the oath or make the affirmation to discharge their duties “solemnly” and not necessarily sincerely. One would think that the omission of the Word ‘sincerely’ does not mean any departure from the existing practice. I would ask the honourable Members to consider the forms of oath to members of Parliament and Judges. The Declaration which has to be made by a Member of Parliament is to be found in Form III. He has to make a declaration “Solemnly and sincerely.” A Judge has to take an affirmation in form No. IV. He has also to declare that he will do his duty “solemnly and sincerely.” Then, Sir, the oath to a member of a legislature of a state is given in Form No. VII. He has to declare that he would discharge his duties “solemnly and sincerely.” Lastly, the judges of the High Court under Form No. VIII, have to declare that they will discharge their duties “solemnly and Sincerely.” There is a carefully chosen phraseology, one set for the members of Parliament as well as members of the State legislatures and Judges of the Federal Court and High Courts that they will discharge their duties “solemnly and sincerely”, but not so in the case of the Ministers both of the Union and of the States. I would like to know whether the omission in the case of the Ministers is intentional or purely accidental. The careful manner in which the word “sincerely” is required in the case of the members of Parliament and members of the State legislature and Judges would show that this omission is deliberate and intentional. I would like to know from the members of the House whether it is their conception that so long as they are members of the Legislature, They are to discharge their duties solemnly as well as “sincerely,” but the moment he steps in the gaddi of a Ministry, he has to forsake sincerity. Is that the idea? If that is so, it is certainly in keeping with current ideas. In fact, Ministers are not required to be sincere, they are to be insincere. Insincerity in certain cases I know amounts to a virtue. The famous Radha addressed Shri Krishna :

“Nipata Kapata tua Shyam”

“Shyam, you are insincere”. That is the highest form of adoration. Shall we address our Ministers,

“Nipata Kapata tua Shyam”

‘You are our masters, but absolutely insincere.’ The oath is of that kind,

I would like to know whether the word 'sincere' is inapplicable to a Minister of Free India. I know that Ministers have got to be diplomatic; they have got to be clever; but I never thought that diplomacy which would be required of a Minister would preclude him from being sincere. That is with regard to amendment No. 119.

The next amendment is a mere matter of drafting. Form I says, "I will do right to all manner of people." I think the words "all manner of people" rather amount to bad use of English. The wording "all people" would be better. What the expression "all *manner of* people" implies, I fail to see. Therefore this is a drafting amendment which I think would be worthy of acceptance.

Then, my third amendment relates to the words 'affection or ill-will' occurring at the end of the form. It says that a Minister of the Union is required to do his duty in accordance with the Constitution and law "without fear or favour". That is quite good. The words "without fear or favour" are very appropriate as a Minister must discharge his duties to the people without fear or favour. But is he to discharge his duty without 'affection' to people? Should he be not imbued with a sense of love and affection to people? Yet the affirmation says that a Minister must act "without affection or ill-will" to the people. 'Without affection' is absolutely mischievous. He must have some amount of love and affection for the people but we find that Ministers today are getting away from the people. The love for the people which should characterise them is forsaking them. They are following a path of disaffection for the people. We find in the Provinces and in the Centre there is disaffection towards the people. If the Ministers take the oath that 'I will deal with you without affection' the people will reciprocate also 'we will also deal with you without any affection. So there will be mutual disaffection and ill-will. I submit that my first amendment with regard to the requirement of "sincerity" and with the requirement of affection should be accepted. But if the differential phraseology was not deliberately selected to give effect to obvious implications, I think in the first place the words 'and sincerely' should be inserted and in the second place, the words 'without affection' should be deleted.

**Mr. President :** These are the amendments relating to all the forms.. There are certain amendments which relate to particular forms. I may take them up later. Dr. Ambedkar, there are some amendments in your name in the printed list relating to other forms. Does any Member wish to move any other amendment? Regarding other forms I have noted, there are two amendments 123 and 128 which are of a different nature.

**Mr. Naziruddin Ahmad :** I think we shall confine our speeches to the present form. In that case there will be no more amendments. I do not wish to move 123 and 128 at this stage.

**Mr. President :** If Dr. Ambedkar moves 3401, perhaps it might become unnecessary. You consider that.

**The Honourable Dr. B. R. Ambedker :** Sir, I move

"That in Form VI of the Forms of Declarations in the Third Schedule, the words 'or as may be specially permitted by the Governor in the case of any matter pending to the functions to be exercised by him in his discretion' be omitted."

These are unnecessary because we do not propose to leave any discretion in the Governor at all.



**Shri H. V. Kamath :** May I remind Dr. Ambedkar that 143 has not yet been amended?

**The Honourable Dr. B. R. Ambedkar :** Yes, I remember that.

**Mr. Naziruddin Ahmad :** Sir, I beg to move:

“That with reference to amendment No. 57 of List I (Fifth Week) of amendments to Amendments, in the Third Schedule, in Form II of the Declarations, the following be added at the end :

‘or as may be specially permitted by the President in the case of any matter pertaining to the functions to be exercised by him in his discretion.’”

**Mr. President :** We have abolished all discretion.

**Mr. Naziruddin Ahmad :** The difficulty arises in connection with the phraseology occurring at the end of Form VI.

**Mr. President :** That is why Dr. Ambedkar has moved for its deletion.

**Mr. Naziruddin Ahmad :** In that case this will not be required. I do not move 128 also as it is similar. Sir, I move:

“That with reference to amendment No. 60 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form V of the Declarations, after the Word ‘solemnly’ the words ‘and sincerely’ be inserted.”

“That with reference to amendment No. 60 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form V of the Declarations, for the words ‘all manner of people’ the words ‘all People’ be substituted.”

“That with reference to amendment No. 60 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form V of the Declarations, the comma and the word ‘affection’ after the word ‘favour’ be deleted.”

“That with reference to amendment No. 61 of List I (Fifth Week), of Amendments to Amendments, in the Third Schedule, in Form VI of the Declarations, after the word ‘solemnly’ the words ‘and sincerely’ be inserted.”

**Shri Brajeshwar Prasad (Bihar: General):** Mr. President, Sir, I rise to endorse the sentiments expressed by Sardar Bhopinder Singh Man. I am opposed to the idea of dragging God in the Third Schedule. I am opposed to this because even those persons who swear by the name of God do not do everything in this world in the name of God. Where is the necessity of asking a man, however religious he may be, that he must do this and start doing that thing in the name of God. I may be a religious man but do I do everything in the name of God ? When I wash my mouth in the morning do I do it in the name of God ? Here we are performing a secular function. A Governor, a Minister or a President has to take into consideration the provisions of the Constitution when he is performing certain functions and duties. There is no meaning in asking him to swear by the name of God at the time of taking his appointment.

Secondly, I am quite clear in my own mind that secularism is the negation of all religion. Whatever statesmen and politicians may say on the ground of expediency, I am quite clear in my own mind that the concept of religion and the concept of secularism are poles asunder. There is no meeting ground between these two.

Thirdly, I am opposed to the idea of dragging in God here because I feel that no man would be prevented from following God, if he wishes to do so, even though he does not swear by His name at the time of taking up his office.

And lastly, I am opposed to this proposal because in politics, one has to do things which are irreligious things which are of a non-religious character.

Statesmen and politicians, we all know, have to undertake wars. A statesman has to resort to methods of violence and bloodshed, and it would be a mockery, a farce and quite ridiculous if he were to swear in the name of God and then resort to these things when the occasion arises. Having regard to all these considerations I am firmly opposed to the idea of dragging in God in the Third Schedule.

**Shri Mahavir Tyagi** (United Provinces : General),: Sir, the small amendment which my Friend Mr. Kamath has moved does not really warrant many speeches or many words for its support. The House has once discussed the question of the oath and it was decided that the oath should be taken in the name of God. There were my friends in the House who were really objecting to the oath being taken in the name of God, as they felt, "After all, why bring in God?" But in spite of their objection, the Constituent Assembly, decided that for such persons as had faith in God, their oath must be the same as the one they usually take in their private life; and therefore the words, "Swear in the name of God" were introduced, through an amendment. In the original draft, these words, "Swear in the name of God" did not occur. These words were introduced at the express desire of the House. And so the oath was so shaped that the words "Swear in the name of God" were over the line, and "solemnly affirm" were under it.

Now I am sorry that Dr. Ambedkar has come forward just with a little trick—the trick of a school-boy, if he will pardon me. What he has done is, he has brought on the words 'solemnly affirm' above the line, and brought God under the line. If it is to be only a trick, I would not mind it. But we should see that the people do not get the idea that now, after Swaraj, God has gone under. So, I say since the Constituent Assembly has once decided in connection with the oath, these words, "Swear in the name of God" should be above the line, and the other words must be below the line and naturally too. I say naturally, because even in spite of the presence of some agnostics in India, there are still the vast majority of the masses who believe in God. And while we are making a Constitution here, the masses have not given us a blank cheque for us to do as we choose. We have to make the Constitution to the liking of the masses whose representatives we are. I submit, Sir, that Dr. Ambedkar, honest as he always is, is sometimes too clever, I would say. He has been quite honest and outspoken. So I would request him not to do anything which is against the wishes of the masses whom he represents. Why bring in a little personal prejudice of his and make God go under the line? What is the significance of putting God under the line? What is God? Sir, God is Truth. So an oath taken in the name of God means that it is an oath in the name of Truth. And 'affirmation' as opposed to God is *expediency*. *Sublimated* so to speak. So the position is Truth versus '*expediency sublimated*'. "What is the need of taking an oath"? They say, a gentleman when he affirms a thing, it may be taken that he means it and shall act up to it. Similarly, one would argue that when a gentleman is elected to an office voluntarily, why need he even affirm? Why ask him for an affirmation? It must be taken for granted that he will remain a gentleman, and he will always be acting in a truthful manner. Then why have the formality of having any affirmation or oath. But when we are having the formality of an oath, I should be allowed to distinguish between an oath and an affirmation. As I have said, God is *Truth* and affirmation is '*expediency sublimated*'. I desire expediency to go under the line and Truth to go up. I am afraid some of the Honourable Members may not attach much importance to this question, and really I also admit that it is not a matter of very great importance.' But Dr. Ambedkar seems to be playing pranks with us. Why does Dr. Ambedkar come out with an amendment when on a previous occasion the House had already

[Shri Mahavir Tyagi]

given its decision on this question? Through, his amendment Dr. Ambedkar wants the whole House to commit itself to putting God under the line. But let us not forget that India gave the idea of God to the whole world. I have heard leaders of this House say that we must own the international numerals as against the Hindi numerals because the former were given to the world by India. Similarly I submit that when the world was rotting in chaos, we gave it the idea and conception of Truth and God. India gave it to the world. Why then should God go down particularly when He has 'made us free? God primarily belongs to India. This is the land of God. So God should be, above and affirmation below. Let us stick to the original draft. So I hope the House will not accept Dr. Ambedkar's amendment. There is no, question of party discipline, let not the Members be afraid of any Whips. My appeal to them is to reject the amendment of Dr. Ambedkar. Let us not be duped by what agnostics say—I am sorry for the word, but.....

**Mr. President :** You want the House to accept the amendment of Mr. Kamath ?

**Shri Mahavir Tyagi :** I want the House to oppose the amendment of Dr. Ambedkar and stick to the original draft we had decided upon in the beginning in connection with the oath to the President.

**Shri Prabhu Dayal Himatsingka (West Bengal: General):** Sir, I find a storm has been raised unnecessarily about the form which has been suggested by Dr. Ambedkar. In fact this one has been brought in, in place of two forms. Two alternative forms have been put into one form. Some people swear in the name of God and others solemnly affirm. Instead of having two different forms, it is put in one form. If originally instead of underlining, there was a stroke between "swear in the name of God" and "solemnly affirm", that also will serve the purpose. There is no meaning in suggesting that because in the amendment or the form proposed by Dr. Ambedkar, "solemnly affirm" has been put above the line, and the words "swear in the name of God" underneath, there is a suggestion that one is more important than the other. Alternative forms had to be used by those who either belong to the Christian religion who "swear" and the Hindus and other solemnly affirm. Therefore, there is no reason why there should be any formal amendments. In fact, the form suggested by Dr. Ambedkar and the form suggested by Mr. Kamath are one and the same. Whichever is accepted it will make no difference.

**Shri Jagat Narain Lal (Bihar: General):** Sir, discussion might be obviated if Dr. Ambedkar himself gets up and accepts the amendment. There is no meaning in putting one above the other. There is sentiment involved, in it. Both are one and the same. He may put "swear in the name of God" above and "solemnly affirm" below, so that it may suit peoples of both tastes and feelings.

**The Honourable Dr. B. R. Ambedkar :** In proposing this amendment, I have not the slightest desire to offend the sentiments of some of the Members who have spoken against the draft on the ground that God has been placed below the line. Sir, in this matter I must admit that we have really no consistent policy which we have followed. For instance, in article 49, which has been passed, God has been, I think, placed above the line and affirmation below the line. In article 81, we have placed affirmation first and the oath afterwards. In this article, to which we have moved amendments, we have merely followed the wording, of the principal clause, which runs: "Affirm or Swear". That being the language of the principal clause, the logical sequence was that the affirmation was placed above the line and the oath was placed below. It is a purely logical thing. Now, the reason why we

have thought it desirable to place affirmation first and oath afterwards, was because in this country, at any rate, the Hindu, when he is called upon in any Court of Law to evidence, generally beings by an affirmation. It is only Christians, Anglo-Indians and Muslims who swear. The Hindus do not like to utter the name of God. I therefore thought that in a matter of this sort, we ought to respect the sentiments and practice of the majority community, and consequently we have introduced this particular method by stating the position as to affirmation and oath. As I said, I have neither one view nor the other. I am perfectly prepared to carry out the wishes of the House. If the House is of the opinion that Mr. Kamath's amendment should be accepted—and I submit that that would be contrary to the practice prevalent in this country so far as the Hindus are concerned—then what I would suggest is this, that my amendments would be allowed at this stage, with the liberty that the Drafting Committee will take into consideration all the other articles which have been incorporated in the Constitution so far as to bring the whole matter in line. It will not be proper to make a change here and to leave the other articles as they stand.

**Shri Mahavir Tyagi :** Let grammar not stand in the way of God !

**Shri H. V. Kamath :** With regard to article 81, there was no amendment before the House. It was stated that every Member in each House of Parliament should make an affirmation and an oath according to the Third Schedule. But what the House has already adopted is the oath or affirmation for the President and the Governors, and that is in the form set out by me in my amendment today.

**Mr. President :** It is not necessary to have a discussion over this matter. You had better vote on it. It is not a question on which there is room for much discussion. As Dr. Ambedkar has said, he has no particular feeling in the matter, and if the House decides one way, he wilt ask for the liberty to put all the articles in that form. So I shall put the amendment to the vote.

**Mr. Naziruddin Ahmad :** My amendments have not been touched by Dr. Ambedkar at all.

**Mr. President :** That is different.

**The Honourable Dr. B. R. Ambedkar :** After the word “sincerely” ? After “sincerely” I would like to add something more. It would not be enough.

**Mr. President :** He wants the omission of the word “affection”.

*(after a pause)*

Well, I will take up the amendment. The question is :

“That in amendments Nos. 56 to 63 of List I (fifth Week) of Amendments to Amendments in the form of the oath or affirmation in the Third Schedule, for the words

‘solemnly affirm

swear in the name of God.’ ”

(proposed to be substituted), the following be substituted :—

‘swear in the name of God

solemnly affirm.’ ”

The amendment was adopted.

**Mr. President :** I take it that the House gives leave to Dr. Ambedkar to put the other articles, wherever such similar expressions occur in the same order.

**Honourable Members:** Yes.

**Shri Jaspat Roy Kapoor :** May I suggest that in all the places where we have the words "affirmation or oath" we may have the 'oath' first and 'affirmation' afterwards. It should be so in the substantive clause also.

**Mr. President :** That is so. It should be put in the same order wherever the expression occurs.

The question is :

"That in amendments Nos. 56 to 63 of List I (Fifth Week) of Amendments to Amendments, in the form of the oath or affirmation in the Third Schedule (in the word proposed to be substituted) the words 'swear in the name of God' be deleted."

The amendment was negatived

**Mr. President :** The question is:

"That with reference to amendment No. 56 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form I of the Declarations after the word 'solemnly' the words 'and sincerely' be inserted."

The amendment was negatived.

**Mr. President :** The question is :

"That with reference to amendment No. 56 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form I of the Declarations for the words 'all manner of people' the words 'all people' be substituted."

**Mr. Naziruddin Ahmad :** This may be left to the Drafting Committee.

**Mr. President :** It is not pressed. So I take it that it is dropped.

The question is :

"That with reference to amendment No. 56 of List I (Fifth Week), of Amendments to Amendments in the Third Schedule in Form I of the Declarations, the comma and the word, 'affection' after the word 'favour' be deleted."

The amendment was negatived.

**Mr. President :** The question is:

"That in Form VI of the Forms of Declarations in the Third Schedule, the words, or as may be specially permitted by the Governor in the case of any matter pertaining to word 'affection' after the word 'favour' be deleted."

The amendment was adopted.

**Mr. President :** I do not think it is necessary to put the other amendments to vote, because the voting will be the same as with regard to the other amendments.

**Mr. Naziruddin Ahmad :** They may be formally put and rejected by the House.

**Mr. President :** The question is:

"That with reference to amendment No. 57 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule in Form II of the Declarations, after the word 'solemnly' the words 'and sincerely' be inserted."

The amendment was negatived.

**Mr. President :** The question is:

“That with reference to amendment No. 60 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form V of the Declarations, after the word ‘solemnly’ the words ‘and sincerely’ be inserted.”

The amendment was negatived.

**Mr. President :** The question is:

“That with reference to amendment No. 60 of List I (Fifth Week) of Amendments to Amendments, in the Third Schedule, in Form V of the Declarations, for the words ‘all manner of people’ the words ‘all people’ be substituted.”

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The amendment was negatived.

**Mr. President :** The question is:

“That with reference to amendment No 61 of List I (Fifth Week), of Amendments to Amendments, in the Third Schedule, in Form VI of the Declarations, after the word ‘solemnly’ the words ‘and sincerely’ be inserted.”

The amendment was negatived.

**Mr. President :** Then I put the proposition moved by Dr. Ambedkar, as amended by Mr. Kamath’s amendment and Dr. Ambedkar’s own amendment, with regard to all these forms. I do not think it is necessary to read them separately.

The motion was adopted.

**Mr. President :** The question is :

“That the Third Schedule, as amended, stand part of the Constitution.”

The motion was adopted.

The Third Schedule as amended, was added to the Constitution.

**Mr. President :** We now adjourn till 9 o’clock on Monday.

The Assembly then adjourned till Nine of the Clock on Monday, the 29th August 1949.

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