

COMMITTEE ON OFFICES OF PROFIT

THIRD REPORT

(EIGHTH LOK SABHA)



Presented to Lok Sabha on 7th August, 1986

Laid in Rajya Sabha on 7th August, 1986

**LOK SABHA SECRETARIAT
NEW DELHI**

August, 1986; Sravana, 1908 (Saka)

Price : Rs. 1.60

CORRIGENDA TO THE THIRD REPORT OF THE
JOINT COMMITTEE ON OFFICES OF PROFIT
(EIGHTH LOK SABHA)

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**JOINT COMMITTEE ON OFFICES OF PROFIT
(EIGHTH LOK SABHA)**

COMPOSITION OF THE COMMITTEE

Kumari Kamla Kumari—*Chairman*

**MEMBERS
*Lok Sabha***

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Appayya Dora Hanumantu
6. Shri Mahendra Singh
7. Shri Sriballav Panigrahi
8. Shri P.M. Sayeed
9. Shri S.B. Sidnal
10. Shri Balram Singh Yadav

Rajya Sabha

11. Shri Sohan Lal Dhusiya
- * 12. Shri K. Gopalan
13. Shri Puttapaga Radhakrishna
14. **
15. **

SECRETARIAT

1. Shri M.K. Mathur—*Joint Secretary*
2. Shri R.S. Mani—*Senior Legislative Committee Officer*

* Elected by Rajya Sabha on the 13th March, 1986 *vice* Shri Amar Prosad Chakraborty, M.P. died.

** Vacant *vice* Shrimati Monika Das and Shri B. Krishna Mohan ceased to be member of the Joint Committee on their retirement from Rajya Sabha on 2nd April, 1986.

REPORT OF THE JOINT COMMITTEE ON OFFICES OF PROFIT

I

INTRODUCTION

I, the Chairman of the Joint Committee on Offices of Profit, having been authorised by the Committee to present the Report on their behalf, present this their Third Report of the Committee.

1.2 The matters covered by the Report were considered by the Committee at their sittings held on 15th, 16th, 27th and 28th January, 1986 and 10th February, 1986. Minutes of these sittings form part of the Report and are at Appendix.

1.3 The Committee examined the composition, character, functions etc. of 24 Committees/Boards/Corporations/Commissions etc. constituted by the Central and State Governments and the emoluments and allowances payable to their members, non-official Directors, Chairman etc. with a view to consider whether holders of offices on these bodies would incur disqualification under article 102 of the Constitution of India.

1.4 The detailed information, regarding the composition, character, functions, emoluments and allowances payable to the members of these bodies was furnished by the concerned Ministries/Departments of the Central Government and the State Governments.

1.5 The Committee considered and adopted the Report on the 31st July, 1986.

1.6 The observations/recommendations of the Committee in respect of the matters considered by them are given in the succeeding paragraphs.

II

COMMITTEES/BOARDS ETC. CONSTITUTED BY THE CENTRAL AND STATE GOVERNMENTS AND UNION TERRITORY ADMINISTRATION

Board of Directors of Paradeep Phosphates Limited (Ministry of Industry)

2.1 The Committee note that the non-official Directors of Paradeep Phosphates Limited are paid actual expenses incurred upto the limit of Rs. 350 per day besides out of pocket and incidental expenses of Rs. 50/- per day and actual travel expenses by Rail or Air. Thus the amount drawn by the non-official Directors are more than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Moreover, the main objects of the Company are to do all kinds of business including manufacture, marketing, import and export of various kinds of fertilizers, chemicals etc. The Company is also empowered to invest money and borrow amounts. Hence, the Board exercises executive and financial powers. As such, the Committee recommend that the non-official Directors of the Paradeep Phosphates Ltd. *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Company Law Advisory Committee (Ministry of Industry— Deptt. of Company Affairs)

2.2 The Committee note that the non-official members of the Company Law Advisory Committee are entitled to only TA and DA @ Rs. 49/- per day as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are to advise the Central Government and Company Law Board on matters arising out of the administration of the Companies Act, 1956 and hence are advisory in nature. As such, the Committee feel that the non-official members of the aforesaid Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

The Oil Industry Development Board (Ministry of Petroleum and Natural Gas)

2.3 The Committee note that the non-official members of the Oil Industry Development Board are paid actuals of T.A. and lodging charges, D.A. limited to a maximum of Rs. 85/- per day and a sitting fee at the rate

of Rs. 100/- for the first day and Rs. 50/- for subsequent days. The payment of daily allowance thus exceeds the 'compensatory allowance' and the payment of sitting fee is not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Board include levying of cess and rendering of financial and other assistance for the promotion of all such measures as are conducive to the development of oil industry. The Committee feel that the Board thus exercises both executive and financial powers. In view of above, the Committee recommend that the non-official members of the Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*National Advisory Board of Statistics (Ministry of Planning—
Deptt. of Statistics)*

2.4 The Committee note that the non-official member of the National Advisory Board on Statistics are entitled to TA and DA at the Central Government rates which are covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The powers and functions of the Board are to provide technical guidance for policy issues concerning development of statistics and as such the functions are advisory in nature. Hence the Committee feel that the non-official members of the Board *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Board of Directors of Gujarat Fisheries Central Co-operative
Association Ltd. Ahmedabad (Gujarat)*

2.5 The Committee note that the non-official Directors of the Gujarat Fisheries Central Co-operative Association Limited are eligible for TA and DA @ Rs. 50/- per day which are covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The Board of Directors, however, exercises both executive and financial powers as the entire administration, management and control of the Association, *viz.* to execute deeds, agreements, purchase or take on lease lands, sell fishery products, borrow money or deal with shares, is vested in the Board of Directors. As such, the Committee recommend that the non-official Directors of the Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Haryana State Industrial Development Corporation Limited (Haryana)

2.6 The Committee note that the non-official Directors of Haryana State Industrial Development Corporation Ltd. are paid a sitting fee of Rs. 200/- per meeting besides TA and hotel charges. The payment of sitting fee is not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959,

The main functions of the Corporation are to plan, formulate and execute projects for setting up Industries with a view to promote or advance the industrial development of Haryana. The Corporation is also empowered to execute financial transactions for the purpose. The Corporation thus exercises executive and financial powers. As such, the Committee feel that the non-official Directors of the said Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Haryana State Handloom and Handicrafts Corporation Limited
(Haryana)*

2.7 The Committee note that the non-official Directors of the Haryana State Handloom & Handicrafts Corporation Ltd. are paid TA and DA at the Government of Haryana rates (maximum rate Rs. 51/- per day) which are covered by the 'compensatory allowance'. Besides, the Chairman is entitled to pay of Rs. 1500/- p.m. which is not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions and the powers of Corporation are to set up factories, training centres, research institutes and cooperatives for cottage industries and also to promote, establish, run, aid, assist and finance industrial undertakings and to provide all kinds of financial and technical assistance to artisans and weavers. The Corporation is also empowered to invest money and to raise loans. Thus, the Corporation exercises both executive as well as financial powers. Hence, the Committee feel that the non-official Directors (including Chairman), *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Consultative Council for State Electricity Board (Himachal Pradesh)

2.8 The Committee note that the non-official members of the Consultative Council for State Electricity Board (Himachal Pradesh) are paid TA and DA as per rules of the State Government, which are less than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Consultative Council are to advise the Board on major questions of policy and schemes and as such they are advisory in nature. Hence, the Committee feel that the non-official members of the Board, *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Licensing Board (Himachal Pradesh)

2.9 The Committee note that the non-official members of the Licensing Board, Himachal Pradesh are paid TA and DA as per Government rules which are covered by the 'compensatory allowance' as defined

in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee feel that although it had been intimated by the Himachal Pradesh Government that the powers of the Board are advisory in nature, yet it appears that the Board might wield influence while granting licences or certificates of competency to the electrical contractors, supervisors and wiremen. In taking necessary action against wiring contractors on account of allegations of incompetence, negligence or breach of provisions of the Indian Electricity Rules, the Licencing Board exercises executive powers. Hence, the Committee recommend that the non-official members of the aforesaid Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Board of Directors, Karnataka Backward Classes and Minorities
Development Corporation Limited (Karnataka)*

2.10 The Committee note that the non-official Directors of the Board of Karnataka Backward Classes and Minorities Development Corporation Limited are entitled to TA, DA and sitting fee of Rs. 50 per day for attending the meeting of the Board. The payment of sitting fee is not covered by the 'compensatory allowance'. Moreover, the Board exercises executive and financial powers while discharging their functions, namely, to advance loans for the purchase houses, shops etc. and in administration and financial transactions relating to factories, companies etc. for the benefit of minorities in the State of Karnataka. As such, the Committee feel that the non-official Directors *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Board of Directors of Karnataka Shipping Corporation Limited
(Karnataka)*

2.11 The Committee note that the non-official Directors of the Karnataka Shipping Corporation Limited are entitled to a sitting fee of Rs. 150/- per day which is not covered by the 'compensatory allowance'. Further the Board exercises executive powers as they are responsible for direction, management and superintendence of the Company's affairs. Hence, the Committee have recommended that the non-official Directors (including the Managing Director) of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Madhya Pradesh State Electronics Development Corporation
Limited (Madhya Pradesh)*

2.12 The Committee note that the non-official Directors of the Madhya Pradesh State Electronics Development Corporation are paid a sitting fee of Rs. 75/- which does not come within the ambit of 'compen-

satory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporation are to promote and develop Electronics Industry in the State of Madhya Pradesh by taking over or establishing companies associated with electronic industry, to operate as agents of State Government in schemes designed to develop this industry and also to act as consultants in their management and other technical and financial matters. As such, the Corporation broadly exercises executive and financial powers. In view of above, the Committee recommend that the non-official Directors of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Madhya Pradesh Junior Services Selection Board (Madhya Pradesh)

2.13 The Committee note that the Chairman and Members of the Madhya Pradesh Junior Services Selection Board are entitled to salary of Rs. 3000/- p.m. and Rs. 2000/- p.m. respectively which are not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. They are also entitled to draw TA and DA at the highest rate admissible to class I officers of the State Government (Maximum rate Rs. 50/- p.m.). The functions of the Board include *inter alia* selection of suitable candidates for Junior Services by competitive examinations and/or interviews after screening. Since the Chairman and members of the Board are entitled to Salary, the Committee feel that the non-official members (including Chairman) of the said Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

District Employment Guarantee Committee (Maharashtra)

2.14 The Committee note that the non-official members of the District Employment Guarantee Committee, Maharashtra are entitled to TA and DA as admissible under the State Government Rules which are less than the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act 1959. The functions of the Committee are to suggest necessary steps for effective implementation of the employment Guarantee Scheme in the district and the functions thus are advisory in nature. Hence, the Committee feel that the non-official members of the said Committee *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Panchayat Employment Guarantee Committee (Maharashtra)

2.15 The Committee note that the non-official members of the Panchayat Employment Guarantee Committee, Maharashtra are entitled to TA and DA as admissible under Government rules, which are less than the 'compensatory allowance' as defined in section 2(a) of the Parliament

(Prevention of Disqualification) Act, 1959. Moreover, as the functions of the Committee are only to review and monitor the progress made in implementation of the employment guarantee scheme and to suggest steps for ensuring its effective implementation, the functions are purely advisory in nature. Hence, the Committee feel that the non-official members of the said Committee *should be exempted* from disqualification for being chosen as or for being a member of Parliament.

*The Maharashtra State Road Transport Corporation Board
(Maharashtra)*

2.16 The Committee have been informed that though at present the Maharashtra State Road Transport Corporation Board consist of officials only, yet non-officials could be appointed in future as provided in the rules. If non-official Directors are appointed, they will be entitled to payment of sitting fee of Rs. 40/- per meeting in addition to TA and DA as per State Government rules. The payment of sitting fee is not covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The non-official members are also entitled to the facility of residential telephone with calls upto Rs. 3000/- per annum. The functions of the Board relate to promotion of efficient road Transport services in the State of Maharashtra. The Board exercises executive and financial powers while operating the Road Transport services. As such the Committee feel that the non-official Directors, if so appointed, on the Board of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*Maharashtra State Powerlooms Corporation Limited
(Government of Maharashtra)*

2.17 The Committee note that the non-official Directors of the Maharashtra State Powerlooms Corporation Limited are paid sitting fee @ Rs. 25/- per meeting which is not covered by the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The powers and functions of the Corporation relate to improved management of such Co-operative Spinning Mills and Powerloom Co-operatives as the Maharashtra Government might entrust, from time to time, by improving the equipments and accessories required, supplying of raw materials, providing facilities for the various processes required for the power loom industry, assisting in marketing their produce and raising finance for the purpose. Thus, the Board of Directors of the Corporation exercise executive and financial powers and hence the Committee feel that the non-official members of the Corporation *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament,

Maharashtra State Handlooms Corporation Limited (Maharashtra)

2.18 The Committee note that the non-official Directors of the Maharashtra State Handlooms Corporation are paid T.A., hotel and other expenses besides a sitting fee of Rs. 25/- per meeting which are not covered by the 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. Besides, the Chairman is provided rent free quarter, telephone, peons and car facilities. The functions and powers of the Corporation are to take over the management of such handlooms cooperatives as the Maharashtra State Government might entrust to them from time to time and to raise finances for working capital by issue of share capital, debentures, bonds or by raising loans or accepting deposits. The Corporation is also empowered to invest in Securities or Bonds and to borrow sums of money. Hence, the Corporation is vested with executive and financial powers. As such, the Committee recommend that the non-official Directors (including Chairman) *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Orissa State Housing Board, Orissa

2.19 The Committee note that the non-official members other than MLAs of the Orissa State Housing Board are entitled to TA only. The MLAs are entitled to draw TA and DA as prescribed for them under their Salary and Allowances Act and Rules. The payment thus drawn by the non-officials is less than the 'compensatory allowance'. The Board, however, exercises executive and financial powers while discharging their functions in regard to management of the Board and construction of buildings, sale, letting out or exchange of any property comprised in the scheme. As such, the Committee feel that the non-official members of the above Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament. The above recommendation of the Committee is in consonance with the earlier recommendation of the Joint Committee on Offices of Profit (Fifth Lok Sabha) which had examined a similar body viz. Himachal Pradesh Housing Board.

Punjab Rajya Sainik Board (Punjab)

2.20 The Committee note that the non-official Members of the Punjab Rajya Sainik Board are paid TA and DA at the State Government rates which are covered by the 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Board broadly are to advise on matters relating to the welfare and resettlement of ex-servicemen, their families and also the families of serving and deceased Armed Forces Personnel and also to disseminate information to the general public regarding the Armed Forces in the country

and also to create an awareness among the masses on the various aspects of the Armed Forces. Thus the board exercises mainly advisory functions. Hence, the Committee recommend that the non-official members *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Committee constituted to review the implementation of Working Plan for Industrial Development of Scheduled Tribes Sub-Plan area, Rajasthan—Proposal to nominate Shri Prabhu Lal Rawat, M.P. as a Member thereof

2.21 The State Government of Rajasthan proposed to nominate Shri Prabhu Lal Rawat, M.P. as a non-official member of the Committee constituted to review the implementation of working plan for Industrial Development of Scheduled Tribes Sub-plan area in Rajasthan and requested permission of the Hon'ble Speaker in the matter. The case was referred to this Joint Committee for opinion. From the information received from the State Government, the Committee note that the non-official members (including M.Ps and MLAs) of the said Committee are entitled to T.A. etc. which is covered by the 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee are to review the implementation of working plan for Industrial Development of Scheduled Tribes Sub-Plan area and are purely advisory in nature. Hence the non-official members (including Members of Parliament, if appointed) *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

State Level Children Board, Rajasthan—Proposal to nominate Shri Birbal, M.P. as a member thereof

2.22 The State Government of Rajasthan also proposed to nominate Shri Birbal, M.P. as a non-official member of the State Level Children Board, Rajasthan and requested permission of Hon'ble Speaker in the matter. The case was referred to this Joint Committee for opinion. From the information received from the State Government, the Committee note that the non-official members of the State Level Children Board, Rajasthan are entitled to T.A. only as per Government rules for attending meetings of the Board. The functions of the Board are mainly to co-ordinate and integrate efforts relating to child welfare and so the functions are purely advisory in nature. As such, the Committee recommend that the non-official members (including an M.P. if nominated) of the said Board *should be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*The State Integration Council, Uttar Pradesh—Proposal to nominate
Shri Mahabir Prasad, M.P. as a member thereof*

2.23. The State Government of Uttar Pradesh proposed to nominate Shri Mahabir Prasad, M.P. as a non-official member of the State Integration Council, Uttar Pradesh and sought permission of the Hon'ble Speaker in the matter. The case was referred to this Joint Committee for opinion. The Committee in this connection note that the non-official members of the said Council are entitled to TA and DA which are regulated under Salary, Allowances and Pension of Members of Parliament Act, 1954. The payments will not thus exceed the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Council are to make suggestions regarding ways and means of national integration and as such are advisory in nature. Hence the Committee feel that the non-official members (including members of Parliament, if nominated) *should be exempted* from disqualification for being chosen as, or for being a member of Parliament. This conclusion of the Committee is in conformity with the earlier recommendation of the Joint Committee on Offices of Profit (Seventh Lok Sabha) made in paragraph 2.15 of their Twelfth Report, wherein after examining the State Level Integration Committee for promotion of national integration Himachal Pradesh the Committee had recommended as follows :

“...The main function of the Committee is to formulate the policies and programmess of national integration which is purely advisory in nature. As such, the Committee feel that the non-official members of the State Level Integration Committee for promotion of National Integration *ought to be exempt* from disqualification.”

*Delhi Co-operative Housing Finance Society Limited Apex Financing
Institution (Delhi Administration)*

2.24 The Committee are informed that the Delhi Co-operative Housing Finance Society Limited is constituted under the Delhi Co-operative Societies Act but the present Directors are nominated by the Administrator of the Union Territory of Delhi. The Committee feel that although the composition and character etc. of the bodies registered under the Societies Registration Act need not generally be examined by the Committee, but this particular case merited consideration. The Committee note that the non-official Directors of the said Society are entitled to conveyance allowance @ Rs. 50/- per sitting held at the Headquarters. For the sittings held outside the Headquarter, they are entitled to boarding and lodging in Five Star Hotel or Rs. 150/- for lodge plus Rs. 50/- as meal allowance in A class cities and Rs. 150/- only at all other places. Besides, the Chairman is also entitled to the following facilities :

- (1) Conveyance allowance @ Rs. 400/- p.m. ;

(2) One Private Secretary ; and

(3) One Driver.

Since the functions of the Society involve financial transactions by way of granting loans or advances to member Cooperative Housing Societies, borrowing money, obtaining funds by way of deposits, loans or grants from the member societies, managing the properties, undertaking housing construction activities etc. it is evident that the Society exercises executive and financial powers. Taking all aspects into consideration, the Committee recommend that the non-official Directors (including Chairman of the said Society) attract disqualification under Article 102 of the Constitution.

III

REVIEW OF EARLIER RECOMMENDATIONS

2.25 The Committee held the opinion that there is an impending need to amend the Parliament (Prevention of Disqualification) Act, 1959 so that members of Parliament are not mechanically recommended for disqualification on account of drawal of salary, sitting fee, honorarium etc. or for exercising executive or financial powers. They feel that the parent Act should be amended so as to qualify members of Parliament in their association with various Committees appointed by the Centre and the States as membership of such Committees would be beneficial to M.Ps in discharging their duties towards their constituencies/States more effectively. The Committee feel that when M.L.As are associated with such Committees by the State Governments, M.Ps should not be debarred to be associated on account of existing provisions under the Parliament (Prevention of Disqualification) Act, 1959. The provisions in the State Acts appeared to have been made more liberal by recent amendments in this regard.

2.26 The Committee have been informed that the suggestions for amendments to the parent Act are, strictly speaking, not within the competence of the Committee. However, the Committee strongly feel that in view of changed circumstances, some M.Ps who are also eminent in the domain of knowledge or activity of various Boards/Committees etc. can very well be treated as experts belonging to the non-official world as they possess local experience or knowledge, qualifying them to be associated with such Committees. As such, instead of amending the schedule to the Act based on examination of various bodies by the Committee, the Committee recommend *ab initio* for amendment of the parent Act itself by enlarging/modifying norms fixed for disqualification under the Act.

2.27 The Committee have been further apprised that in the year 1955 the Bhargava Committee on Offices of Profit have *inter-alia* recommended that M.Ps should not be permitted to go on Committees, commissions etc. which jeopardise their independence or which would place them in a position of power or influence or in a position where they receive some patronage from Government or are themselves in a position to distribute patronage. Their association with such Boards, Committees etc. should not affect their duties as members of Parliament.

2.28 In this connection, the Committee also note that the Joint Committee on Offices of Profit (Seventh Lok Sabha) have examined the

Prevention/Removal of Disqualifications Acts of all the State Governments and Union Territories Administrations with a view to see whether any uniform principles could be decided upon to avoid anomaly in their appointments to Committees constituted by State Governments. The recommendations of the Committee are contained in their Ninth Report (Seventh Lok Sabha), presented to Lok Sabha and laid in Rajya Sabha on 27 April, 1984. In that Report, the Committee have observed that the Parliamentary Joint Committee on Offices of Profit could not perhaps sit in judgement over the powers of a State Legislature, given to them under article 191 of the Constitution and that the Joint Committee on Offices of Profit could make recommendations for Members of Parliament only. The Committee have strongly felt in their Ninth Report (Seventh Lok Sabha) that there is need for evolving of uniform principles in regard to disqualification for membership under articles 102 (1) (a) and 191 (1) (a) of the Constitution, and the only feasible method could be to amend the Constitution and make it obligatory for the State Legislatures to be guided by such principles as Parliament may by law provide in regard to the matter.

2.29 The Committee would, therefore, once again like to urge upon the Ministry of Law and Justice to take necessary steps without further delay for bringing legislation to evolve uniform principles in regard to disqualification for holding Office of Profit under articles 102 (1) and 191 (1) of the Constitution, in consultation with the State Governments and Union Territory Administrations, in the light of their recommendations/observations, made in their Ninth Report (Seventh Lok Sabha).

2.30 The Committee have also considered the matter regarding intimation of decisions taken by the Committee to Members of Parliament affected by the recommendations made by them. The Committee strongly feel that in respect of specific requests received from the State Governments, Bodies, etc. seeking approval of Hon. Speaker for nomination of particular members of Parliament as Chairman, Directors or Members on such bodies, the decisions of the Joint Committee on Offices of Profit recommending disqualification should be brought to the notice of affected members of Parliament for their information and such action as they deemed necessary by forwarding the relevant reports of the Committee to them and drawing their attention to the relevant portions of the report.

NEW DELHI ;
31st July, 1986
 Sravana 9, 1908 (S)

KUMARI KAMLA KUMARI
 Chairman,
 Joint Committee on Offices of Profit.

APPENDIX

(*Vide* para 1.2 of the Report)

MINUTES OF THE JOINT COMMITTEE ON OFFICES OF
PROFIT (EIGHTH LOK SABHA)

X

Tenth Sitting

The Committee met on Wednesday, the 15th January, 1986 from 15.00 to 16.30 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrahi
7. Shri Balram Singh Yadav

Rajya Sabha

8. Shrimati Monika Das
9. Shri Sohan Lal Dhusiya
10. Shri B. Krishna Mohan
11. Shri Puttapaga Radhakrishna

SECRETARIAT

1. Shri M.K. Mathur—*Joint Secretary.*
2. Shri R.S. Mani—*Senior Legislative Committee Officer.*

2. At the outset, some members raised a point in regard to the impending need to amend the Parliament (Prevention of disqualification) Act, 1959, so that Members of Parliament were not mechanically recommended for disqualification on account of drawal of sitting fee, honorarium etc. or for exercising executive or financial powers. A suggestion was made to amend the parent act itself so as to qualify members of Parliament in this association with various Committees appointed by the Centre and the States as membership of such Committees would be beneficial to M.Ps in discharging their duties towards their constituencies/states more effectively. Their contention was that when M.L.As were associated with such Committees by the State Governments, M.Ps should not be debarred to be associated on account of present provisions under the Parliament (Prevention of Disqualification) Act, 1959. The provisions of the State Acts had been made more liberal by recent amendments.

3. The Committee were informed that this Committee had been constituted on a motion moved in the House on 2nd April, 1985. The motion itself had specified the functions of the Committee limiting to the following :

- (i) to examine all Government "Committees", membership of which may disqualify a person for being chosen as, and for being a member of either House of Parliament under article 102 of the Constitution ;
- (ii) to recommend in relation to the "Committees" examined by it as to what offices should disqualify and what offices should not disqualify ; and
- (iii) to scrutinise the schedule to the Parliament (Prevention of disqualification) Act, 1959 and to recommend any amendments therein.

4. The Committee were further apprised that the suggestions for amendments to the parent Act were strictly speaking not within the competence of the Committee. However, the contention of the Members was that in view of changed circumstances, some M.Ps who were also eminent in the domain of knowledge or activity of various Boards/Committees etc. can very well be treated as experts belonging to the non-official world as they possessed local experience or knowledge. As such, instead of amending the schedule to the Act based on examination of various bodies by the Committee, the Committee should recommend *ab initio* for amendment of the parent Act itself by enlarging/modifying norms fixed for disqualification under the Act.

5. Tracing the genesis of the Committee, it was further explained that in the year 1955 the Bhargava Committee on Offices of Profit had *inter-alia*

recommended that M.Ps should not be permitted to go on Committees, Commissions etc. which jeopardised their independence or which would place them in a position of power or influence or in a position where they received some patronage from Government or were themselves in a position to distribute patronage. Their association with such Boards, Committees etc. should not affect their duties as members of Parliament.

6. The Members however desired that this matter should be discussed at length at a subsequent date for which the members would give suggestions and points in writing. **The Chairman then desired that all such suggestions should be sent by members to her by the 15th February, 1986 to enable the Committee to examine the matter thoroughly at a later date.**

7. The Committee then took up for consideration Memoranda Nos. 36 to 43 relating to the following Committees/Boards/Corporations etc. constituted by the Central and State Governments.

Committee constituted to review the implementation of Working Plan for Industrial Development of Scheduled Tribes Sub-Plan area, Rajasthan-Proposal to nominate Shri Prabhu Lal Rawat, M.P. as a Member thereof

8. A reference was received from the Government of Rajasthan seeking Speaker's approval for nomination of Shri Prabhu Lal Rawat, M.P. as a non-official member of the Committee constituted to review the implementation of working plan for Industrial Development of Scheduled Tribes Sub-plan area in Rajasthan.

9. The Committee noted in this connection that the non-official members (including M.Ps and MLAs of the said Committee constituted to review the implementation of working Plan for industrial Development of Scheduled Tribes sub-plan area, Rajasthan were entitled to T.A. etc. which was covered by the 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were advisory in nature. Hence the non-official members (including Members of Parliament, if appointed) *should be exempted* from disqualification for being chosen as or for being a member of Parliament.

Board of Directors, Karnataka Backward Classes and Minorities Development Corporation Limited (Karnataka) (Memorandum 37)

10. The Committee noted that non-official Directors of the Board of Karnataka Backward Classes and Minorities Development Corporation Limited were entitled to TA, DA and sitting fee for attending the meeting of the Board. The payment of sitting fee was not covered by the 'compensatory allowance.' Moreover, the Board exercised executive and

financial powers while discharging their functions namely to advance loans for the purchase of houses, shops etc. and in administration and financial transactions relating to factors, Companies etc. for the benefit of minorities in the State of Karnataka. As such, the Committee felt that the non-official Directors *ought not to be exempt* from disqualification, for being chosen as or for being a member of Parliament.

*Board of Directors of Karnataka Shipping Corporation Limited
(Karnataka) (Memorandum No. 38)*

11. The Committee noted that the non-official Directors of the Karnataka Shipping Corporation Limited were entitled to a sitting of Rs. 150/- which was not covered by the 'compensatory allowance.' Further, the Board exercised executive powers as they were responsible for direction, management and superintendence of the Company's affairs. Hence, the Committee recommended that the non-official Directors (including the Managing Director) of the Corporation *ought not to be exempt*, from disqualification for being chosen as or for being a member of Parliament.

*Consultative Council for State Electricity Board (Himachal Pradesh)
(Memorandum No. 39)*

12. The Committee noted that the non-official members of the Consultative Council for State Electricity Board (Himachal Pradesh) were paid TA/DA as per rules of the Government which was less than the 'compensatory allowance.'

The functions of the Consultative Council were to advise the Board on major questions of policy and schemes and as such they were advisory in nature. Hence, the Committee felt that the non-official members of the Board, *ought to be exempt* from disqualification, for being chosen as or for being a member of Parliament.

Licensing Board (Himachal Pradesh) (Memorandum No. 40)

13. The Committee noted that the non-official members of the Licensing Board, Himachal Pradesh were paid TA/DA as per Government rules which was covered by the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The Committee felt that although it had been intimated by the Himachal Pradesh Government that the powers of the Board were advisory in nature, yet it

appeared that the Board might wield influence while granting licences, certificates of competency to the electrical contractors, supervisors and wiremen. In taking necessary action against wiring contractors on account of allegations of incompetence, negligence and breach of provisions of rules of the Indian Electricity permits, the Licensing Board exercised executive powers. Hence the Committee recommended that the non-official members of the aforesaid Board *ought not to be exempt* from disqualification, for being chosen as or for being a member of Parliament.

District Employment Guarantee Committee (Memorandum No. 41)

14. The Committee noted that the non-official members of the District Employment Guarantee Committee, Maharashtra were entitled to TA and DA as admissible under Government Rules which were less than the 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were to suggest necessary steps in respect of effective implementation of the Employment Guarantee scheme in the district and thus were advisory in nature. Hence the Committee felt that the non-official members of the said Committee *ought to be exempt* from disqualification for being chosen as or for being a member of Parliament.

*Panchayat Employment Guarantee Committee (Maharashtra)
(Memorandum No. 42)*

15. The Committee noted that the non-official members of the Panchayat Employment Guarantee Committee, Maharashtra were entitled to TA and DA as admissible under Government rules, which were less than the 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. Moreover as the functions of the Committee were only to review and monitor the progress in implementation of the employment guarantee scheme and to suggest steps for ensuring its effective implementation, the functions were purely advisory in nature. Hence the Committee recommended that the non-official members of the said Committee *ought to be exempt* from disqualification for being chosen as or for being a member of Parliament.

*National Advisory Board on Statistics (Dept. of Statistics—(Ministry
of Planning) (Memorandum No. 43)*

16. The Committee noted that the non-official members of the National Advisory Board on Statistics were entitled to TA and DA at the

Central Government rates which were covered by the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The powers and functions of the Board were to provide technical guidance for policy issues concerning development of statistics and as such the functions were advisory in nature. Hence the Committee felt that the non-official Members of the Board *ought to be exempt* from disqualification for being chosen as or for being a member of Parliament.

The Committee then adjourned to meet again at 11.00 hours on Thursday, the 16th January, 1986.

XI

Eleventh Sitting

The Committee met on Thursday, the 16th January, 1986 from 11.00 to 12.00 hours

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Sharad Dighe
4. Shri Mahendra Singh
5. Shri Sriballav Panigrahi
6. Shri Balram Singh Yadav

Rajya Sabha

7. Shri Sohan Lal Dhusiya
8. Shri B. Krishna Mohan
9. Shri Puttapaga Radhakrishna

SECRETARIAT

1. Shri M.K. Mathur—*Joint Secretary*
2. Shri R.S. Mani—*Senior Legislative Committee Officer*

2. The Committee took up for consideration 3 Memoranda (Nos. 44 to 46) relating to the following Board/Corporation/Council etc. constituted by the State Government.

Punjab Rajya Sainik Board (Punjab) (Memorandum No. 44)

3. The Committee noted that the non-official Members of the Punjab Rajya Sainik Board were paid TA and DA at the State Government rates

which were covered by the 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Board were broadly to advise on matters relating to the welfare and resettlement of ex-servicemen, their families and also the families of serving and deceased Armed Forces Personnel and also to disseminate information to the general public regarding the Armed Forces in the country and also to create an awareness among the masses on the various aspects of the Armed Forces. Thus the board exercised mainly advisory functions. Hence the Committee recommended that the non-official members *should be exempted* from disqualification for being chosen as or for being a member of Parliament.

*Madhya Pradesh State Electronics Development Corporation
Limited (Madhya Pradesh) (Memorandum No. 45)*

4. The Committee noted that the non-official Directors of the Madhya Pradesh State Electronics Development Corporation were paid a sitting fee of Rs. 75/- which did not come within the ambit of 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Corporation were to promote and develop Electronics Industry in the State of Madhya Pradesh by taking over or establishing Companies associated with electronic industry, operate as agents of State Governments in schemes designed to develop this industry and also act as consultants in their management and other technical and financial matters. As such, the Corporation broadly exercised executive and financial powers. In view of the above consideration, the Committee held the opinion that the non-official Directors of the Corporation *ought not be exempted* from disqualification for being chosen as or for being a member of Parliament.

*The State Integration Council, Uttar Pradesh-Proposal to nominate Shri
Mahabir Prasad, M.P. as a member thereof (Memorandum No. 46)*

5. A reference was received from the Government of Uttar Pradesh regarding the proposed nomination of Shri Mahabir Prasad, M.P. as a non-official member of State Integration Council, Uttar Pradesh. The Committee in this connection noted that the non-official members of the said Council were entitled to TA and DA as per Government rates (maximum DA Rs. 51/-). Members of Parliament, if nominated, would be entitled to TA and DA which would be regulated under Salary, Allowances and Pension of Members of Parliament Act, 1954. The payments would not thus exceed the 'compensatory allowance' as defined in Section 2 (a) of the parliament (prevention of Disqualification) Act, 1959. The functions of the Council were to make suggestions regarding ways and means of national integration and as such were advisory in nature. Hence the Committee felt that the

non-official members (including members of Parliament, if nominated) *should be exempted* from disqualification for being chosen as or for being a member of Parliament.

6. While coming to this conclusion the Committee also relied on the earlier recommendation of the Joint Committee on Offices of Profit (Seventh Lok Sabha) when they had examined State Level Integration Committee for promotion of national integration, Himachal Pradesh and had recommended as follows :—

“.....The main function of the Committee is to formulate the policies and programmes of national integration which is purely advisory in nature. As such, the Committee feel that the non-official members of the State Level Integration Committee for promotion of National Integration *ought to be exempted* from disqualification.”
Twelfth Report (7LS), Para 2.15.]

7. The Committee then discussed their future programme and decided to meet again on Monday, the 27th January and Tuesday, the 28th January 1986 at 12.00 hours daily.

The Committee then adjourned.

XII

Twelfth Sitting

The Committee met on Monday, the 27th January, 1986 from 12.00 to 12.45 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrahi
7. Shri Balram Singh Yadav

Rajya Sabha

8. Shri Sohan Lal Dhusiya
9. Shri B. Krishna Mohan
10. Shri Puttapaga Radhakrishna

SECRETARIAT

1. Shri R.S. Mani—*Senior Legislative Committee Officer*

2. The Committee took up for consideration Memoranda Nos. 47 to 54 relating to the following Corporations/Boards/Councils etc. constituted by the Central Government and State Governments.

*The Oil Industry Development Board (Ministry of Petroleum)
Memorandum No. 47*

3. The Committee noted that the non-official members of the Oil Industry Development Board were paid actual T.A., actual lodging charges, D.A. limited to a maximum of Rs. 85/- per day and a sitting fee at the rate of Rs. 100 for the first day and Rs. 50 for subsequent days. The payment

of daily allowance thus exceeded the 'compensatory allowance' and the payment of sitting fee was not covered by the 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification), Act, 1959. The functions of the Board included levying of cess and rendering of financial and other assistance for the promotion of all such measures as were conducive to the development of oil industry. The Committee felt that the Board thus exercised executive and financial powers. In view of above, the Committee recommended that the non-official members of the Board *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

*The Maharashtra State Road Transport Corporation Board
(Maharashtra)—(Memorandum No- 48)*

4. The Committee learnt that although at present the Maharashtra State Road Transport Corporation Board consisted of officials only, yet non-officials could be appointed in future. If non-officials Directors were appointed they would be entitled to the payment of sitting fee of Rs. 40/- per meeting in addition to TA & DA as per State Government rules. The payment of sitting fee was not covered by the 'compensatory allowance' as defined in section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The non-official members were also entitled to the facility of free residential telephone with calls upto Rs. 3000/- per annum. The functions of the Board related to promotion of efficient road Transport services in the Maharashtra State. The Board exercised executive and financial powers while operating Road Transport services. As such, the Committee felt that the non-official Directors, if so appointed, on the Board of the Corporation *should not be exempted* from disqualification for being chosen as or for being a member of Parliament.

*Maharashtra State Powerlooms Corporation Ltd. (Government of
Maharashtra)—(Memorandum No. 49)*

5. The Committee noted that the non-official Directors of the Maharashtra State Powerlooms Corporation Ltd. were paid sitting fee @ Rs. 25/- per meeting which was not covered by the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The powers and functions of the Corporation related to improved management of such Co-operative Spinning Mills and Powerloom Co-operatives as the Maharashtra Government might entrust from time to time by improving the equipments and accessories required, supply of raw materials, providing facilities for the various processes required for the powerloom industry, assist in marketing their produce and raising finance for the purpose. Thus the Board of Directors of the Corporation exercised executive and financial powers and hence the Committee felt that the non-

official members of the Corporation *should not be exempted* from disqualification for being chosen as or for being a member of Parliament.

Haryana State Industrial Development Corporation Limited
(Haryana) (Memorandum No. 50)

6. The Committee noted that the non-official Directors of Haryana State Industrial Development Corporation Ltd. were paid sitting fee of Rs. 200/- per meeting besides TA and hotel charges. The payment of sitting fee was not covered by the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The main functions of the Corporation were to plan, formulate and execute projects for setting up of Industries with a view to promote or advance the industrial development of Haryana. The Corporation was also empowered to execute financial transactions for the purpose. The Corporation thus exercised executive and financial powers. As such, the Committee felt that the non-official Directors of the said Corporation *should not be exempted* from disqualification for being chosen as or for being a member of Parliament.

Haryana State Handloom and Handicrafts Corporation Limited
(Haryana)—(Memorandum No. 51)

7. The Committee noted that the non-official Directors of the Haryana State Handloom & Handicrafts Corporation Ltd. were paid TA & DA at the Government of Haryana rates (maximum rate Rs. 51/- per day) which were covered by the 'compensatory allowance'. Besides, the Chairman was entitled to a pay of Rs. 1500/- p.m. which was not covered by the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions and the powers of the Corporation were to set up factories, training centres, research institutes and cooperatives for cottage industries and also to promote, establish, run, aid, assist and finance industrial undertakings and to provide all kinds of financial and technical assistance to artisans and weavers. The Corporation was also empowered to invest money and raise loans. Thus the Corporation exercised both executive as well as financial powers. Hence the Committee felt that the non-official Director (including Chairman) *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

Maharashtra State Handlooms Corporation Ltd.
(Maharashtra)—(Memorandum No. 52)

8. The Committee noted that the non-official Directors of the Maharashtra State Handlooms Corporation were paid T.A., hotel and other expenses besides a sitting fee of Rs. 25/- per meeting which were not covered by the

'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. Besides, the Chairman was provided rent free quarter, telephone, peons and car facilities. The functions and powers of the Corporation were to take over the management of such handlooms cooperatives as the Maharashtra State Government might entrust to them from time to time and to raise finances for working capital by issue of share capital, debentures, bonds or by raising loans or accepting deposits. The Corporation was also empowered to invest in Securities or Bonds and to borrow sums of money. Hence, the Corporation was vested with executive and financial powers. As such, the Committee recommended that the non-official Directors (including Chairman) *should not be exempted* from disqualification for being chosen as or for being a member of Parliament.

Madhya Pradesh Junior Services Selection Board (Madhya Pradesh)
(Memorandum No. 53)

9. The Committee noted that the Chairman and Members of the Madhya Pradesh Junior Services Selection Board were entitled to Salary of Rs. 3000/- p.m. and Rs. 2000/- p.m. respectively which were not covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. They were also entitled to draw TA and DA at the highest rate admissible to class I officers of the State Government (Maximum rate Rs. 50/- p.m.). The functions of the Board included *inter alia* selection of suitable candidates for Junior Services by competitive examinations and/or interviews after screening. The Board thus performed executive functions. As such, the Committee felt that the non-official members (including Chairman) of the Board *ought not to be exempt* from disqualification for being chosen as, or for being a member of Parliament.

*Board of Directors of Paradeep Phosphates Limited (Ministry of
Chemicals & Fertilizers)—(Memorandum No. 54)*

10. The Committee noted that the non-official Directors of Paradeep Phosphates Limited were paid actual expenses upto the limit of Rs. 350 per day besides out of pocket and incidental expenses of Rs. 50/- per day and actual travel expenses by Rail or Air. Thus the amount drawn by the non-official Directors were more than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The main objects of the Company were to carry on all kinds of business including manufacture, marketing, import and export of all kinds of fertilizers, chemicals etc. The Company was also empowered to invest

money and borrow amounts. Hence, the Board exercised executive and financial powers. As such, the Committee recommended that the non-official Directors of the Paradeep Phosphates Ltd. *should not be exempted* from disqualification for being chosen as, or for being a member of Parliament.

The Committee then adjourned to meet again at 10.15 hours instead of at 12.00 hours on Tuesday, the 28th January, 1986

XIII

Thirteenth Sitting

The Committee met on Tuesday, the 28th January, 1986 from 10.15 to 10.45 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dabhi
4. Shri Sharad Dighe
5. Shri Mahendra Singh
6. Shri Sriballav Panigrahi
7. Shri Balram Singh Yadav

Rajya Sabha

8. Shri Sohan Lal Dhusiya
9. Shri B. Krishna Mohan
10. Shri Puttapaga Radhakrishna

SECRETARIAT

Shri K.K. Ganguly—*Legislative Committee Officer.*

2. The Committee took up for consideration Memoranda Nos. 55 and 56 relating to the following Committee, Board etc. constituted by the Central Government and the State Governments.

*Company Law Advisory Committee (Ministry of Industry and Company Affairs—Deptt. of Company Affairs)
(Memorandum No. 55)*

3. The Committee noted that the non-official members of the Company Law Advisory Committee were entitled to only TA&DA (@ Rs. 49/- per day)

which were covered by the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. The functions of the Committee were to advise the Central Government and Company Law Board on matters arising out of the Administration of the Companies Act, 1956 and so the functions were advisory in nature. As such, the Committee felt that the non-official members of the aforesaid Committee *ought to be exempt* from disqualification for being chosen as, or for being a member of Parliament.

State Level Children Board, Rajasthan—Proposal to nominate Shri Birbal, M.P. as a member thereof (Memorandum No. 56)

4. The Committee noted that the non-official members of the State Level Children Board, Rajasthan were entitled to T.A. only as per Government rules for attending meetings of the Board. The functions of the Board were mainly to co-ordinate and integrate efforts relating to child welfare and so the functions were purely advisory in nature. As such, the Committee recommended that the non-official members (including an M.P. if nominated) of the said Board *should be exempted* from disqualification for being chosen as or for being a member of Parliament.

The Committee then discussed their future programme and decided to meet again at 15.30 hours on *Monday, the 10th February, 1986.*

The Committee then adjourned.

XIV

Fourteenth Sitting

The Committee met on Monday, the 10th February, 1986 from 15.30 to 16.30 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Ajoy Biswas
3. Shri Ajitsinh Dab_३
4. Shri Mahendra Singh

Rajya Sabha

5. Shri Sohan Lal Dhusiya

SECRETARIAT

1. Shri M.K. Mathur—*Joint Secretary*
2. Shri R.S. Mani—*Senior Legislative Committee Officer*

2. The Committee took up for consideration Memoranda Nos. 57 to 61 relating to the following Committee/Boards etc. constituted by the State Governments and Union Territory Administration :—

- (i) *National Rural Employment Programme District Level Steering Committee, Orissa (Memorandum No. 57)*
- (ii) *National Rural Employment Programme State Level Steering Committee, Orissa. (Memorandum No. 58)*

3. The committee deferred consideration of the above memoranda and desired that further information on the following points in respect of the aforesaid Committee might be called for from the Government of Orissa for their consideration :—

- (i) Actual rate of T.A. and D.A. payable to the non-official members of the above Committee ;
- (ii) the detailed functions of the Committee in regard to utilisation of funds provided to different implementing agencies ;
- (iii) copies of the guidelines issued by the Government of Orissa for the above Committee for ensuring equitable distribution of funds and avoidance of wasteful expenditure ;
- (iv) the scope of functions and powers in regard to minimum wages payable to workers ; and
- (v) it may also be clarified whether the Committees exercised executive or financial powers. If so, the details thereof.

Orissa State Housing Board, Orissa (Memorandum No. 59)

4. The Committee noted that the non-official members other than MLAs of the Orissa State Housing Board were entitled to TA only. The MLAs were entitled to draw TA & DA as prescribed for them under their Salary & Allowances Act & Rules. The payment thus drawn by the non-officials was less than the 'compensatory allowance'. The Board, however, exercised executive and financial powers while discharging their functions in regard to management of the Board and construction of buildings, sale, letting out or exchange of any property comprised in the scheme. As such, the Committee felt that the non-official members of the above Board *ought not to be exempt* from disqualification for being chosen as or for being a member of Parliament.

The above recommendation of the Committee was in consonance with the earlier recommendation of the Joint Committee on Offices of Profit (Fifth Lok Sabha) which had examined a similar body viz. Himachal Pradesh Housing Board and recommended as follows :—

"The Committee note that Chairman of the Himachal Pradesh Housing Board, if a non-official member, is entitled to a pay which does not come within the ambit of the term 'compensatory allowance'. The other non-official members are entitled to TA/DA

which is less than the 'compensatory allowance'. However, as the Board exercises executive and financial powers, the Committee feel 'hat the membership of the Board (including Chairmanship ought not to be exempt from disqualification" [17th R (5LS), para 28].

Delhi Co-operative Housing Finance Society Limited (Apex Financing Institution) (Delhi Administration) (Memorandum No. 60)

5. The Committee were informed that the Delhi Co-operative Housing Finance Society Ltd. was constituted under the Delhi Co-operative Societies Act but the present Directors, nominated by the Administrator of the Union Territory of Delhi would continue in office till 1.4.1986. The Committee, therefore, decided that although the composition and character etc. of the bodies registered under the Societies Registration Act need not generally be examined by the Committee, but this particular case merited consideration by them.

The Committee noted that the non-official Directors of the said Society were entitled to conveyance allowance @ Rs. 50/- per sitting held at the Headquarter. For the sittings held outside the Headquarter, they were entitled to boarding and lodging in Five Star Hotel or Rs. 150/- for lodge plus Rs. 50/- as meal allowance in A class cities and Rs. 150/- only at all other places. Besides, the Chairman was also entitled to the following facilities :—

- (1) Conveyance Allowance @ Rs. 400/- p.m.
- (2) One Private Secretary; and
- (3) One Driver.

Since the functions of the Society involved financial transactions by way of granting loans or advances to member Cooperative Housing Societies, borrowing money, obtaining funds by way of deposits, loans or grants from the member societies, managing the properties, undertaking housing construction activities etc. it was evident that the Society exercised executive and financial powers.

Taking all aspects into consideration, the Committee recommended that the non-official Directors (including the Chairman) of the said Society attract disqualification under Article 102 of the Constitution,

Board of Directors of Gujarat Fisheries Central Co-operative Association Ltd., Ahmedabad (Memorandum No. 61)

6. The Committee noted that the non-official Directors of the Gujarat Fisheries Central Co-operative Association Limited were eligible for TA and DA @ Rs. 50/- which were covered by the 'compensatory allowance' as defined in Section 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. The Board of Directors, however, exercised both executive and financial powers as the entire administration, management and control of the Association namely, to execute deeds, agreements, purchase or take on lease lands, sell fishery products, borrow money or deal with shares, was vested in the Board of Directors. As such, the Committee recommended that the non-official Directors of the Board *ought not to be exempt* from disqualification, for being chosen as or for being a member of Parliament.

7. The Committee, thereafter, considered the matter regarding intimation of decisions taken by the Committee to Members of Parliament affected thereby. The Committee were informed that the functions of the Joint Committee on Offices of Profit were confined to examination of Government Committees, Bodies, Commissions etc, and to recommend in relation to them what offices should disqualify and what offices did not disqualify for membership of Parliament to enable the Government of India to amend the Parliament (Prevention of Disqualification) Act, 1959 accordingly. Hence the decisions of the Joint Committee which affected the sitting members and their intimation to them was not the concern of the Committee. However, the Committee strongly felt and decided that in respect of specific requests received from the State Governments, bodies, etc. seeking approval of Hon. Speaker for nomination of particular members of Parliament as Chairman, Directors or Members on such bodies, the decisions of the Joint Committee on Offices of Profit recommending disqualification should be brought to the notice of affected members of Parliament for their information and such action as deemed necessary by them. It was thought sufficient if copies of the relevant Reports of the Joint Committee after presentation to Parliament were forwarded to the affected members of Parliament drawing their attention to the relevant portions of the Report.

The Committee then adjourned.

XXI

Twenty-First Sitting

The Committee met on Thursday, the 31st July, 1986 from 15.30 to 16.15 hours.

PRESENT

Kumari Kamla Kumari—*Chairman*

MEMBERS

Lok Sabha

2. Shri Sharad Dighe
3. Shri Mahendra Singh
4. Shri Sriballav Panigrahi
5. Shri P.M. Sayeed
6. Shri S.B. Sidnal
7. Shri Balram Singh Yadav

Rajya Sabha

8. Shri Sohan Lal Dhusiya
9. Shri K. Gopalan
10. Shri Puttapaga Radhakrishna

SECRETARIAT

1. Shri M.K. Mathur—*Joint Secretary*
2. Shri R.S. Mani—*Senior Legislative Committee Officer*

2. The Committee took up for consideration their draft Third Report and adopted it.

3. The Committee decided that the Report might be presented to Lok Sabha on 7th August, 1986 and also laid on the Table of Rajya Sabha on the same day.

4. The Committee authorised the Chairman and, in her absence, Shri Sharad Dighe, M.P. to present the Report to Lok Sabha on their behalf.

5. The Committee also authorised Shri Puttapaga Radhakrishna, M.P. and in his absence Shri Sohan Lal Dhusiya, M.P. to lay the report on the Table of Rajya Sabha.

The Committee then adjourned.