

JOINT COMMITTEE ON OFFICES OF PROFIT

FIRST REPORT

(FOURTH LOK SABHA)

(Presented on the 23rd November, 1967)



**LOK SABHA SECRETARIAT
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JOINT COMMITTEE ON OFFICES OF PROFIT

(Fourth Lok Sabha)

COMPOSITION OF THE JOINT COMMITTEE

CHAIRMAN

Shri S. R. Rane

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Raja Kamakhya Prasad Singh Deo Mahindra Bahadur
4. Shri Jagannathrao Joshi
5. Shri Srinibas Mishra
6. Shri K. Narayana Rao
7. Shri Dwaipayan Sen
8. Shri Ramavatar Shastri
9. Shri Ramshekhar Prasad Singh
10. Shri Maddi Sudarsanam

Rajya Sabha

11. Shri Sunder Singh Bhandari
12. Shri Lokanath Misra
13. Shri Narayan Patra
14. Shri Biren Roy
15. Shri H. V. Tripathi.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary.*

REPORT OF THE JOINT COMMITTEE

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 First Report of the Committee.

2. The motion for the constitution of the Joint Committee on Offices of Profit (Fourth Lok Sabha) was moved in Lok Sabha by Shri P. Govinda Menon, Minister of Law, on the 5th June, 1967 and was adopted on the same day (Appendix I).

3. The Rajya Sabha concurred in the said motion on the 16th June, 1967 (Appendix II). The message from Rajya Sabha communicating the names of members of Rajya Sabha elected to the said Joint Committee was reported to Lok Sabha on the 23rd June, 1967.

4. The names of members of Lok Sabha elected to the Joint Committee were published in the Lok Sabha Bulletin Part II, dated the 14th June, 1967 and the names of members of Rajya Sabha elected to the Joint Committee were published in the Rajya Sabha Bulletin Part II, dated the 22nd June, 1967.

5. The Committee have held six sittings* on the 3rd and 27th July, 18th and 19th September and the 6th and 7th November, 1967.

6. At the First sitting of the Committee held on the 3rd July, 1967, the Chairman in his inaugural Address welcomed the members of the Committee and explained briefly to them the concept of 'offices of profit' and the origin and functions of the Committee. The Chairman also referred to the salient features of the Parliament (Prevention of Disqualification) Act, 1959 which formed the basis of work by the Joint Committee. The Committee also approved the drafts of a letter and an Office Memorandum to be issued to all the State Governments Union Territories and Ministries of the Government of India calling for the requisite information and the proforma of Memoranda used by the Joint Committee on Offices of Profit.

*The Minutes of these sittings form part of the Report and are at Appendix IV,
Pages 12

7. At their Second to Sixth sittings held on the 27th July, 18th and 19th September and the 6th and 7th November, 1967, respectively, the Committee considered 53 memoranda out of which 51 related to the composition and character of the Committees constituted by the Central and State Governments and the emoluments and allowances payable to their members and 2 pertained to queries regarding 'offices of profit' received from Shri A. K. Kisku, M.P. and the Registrar, Indian School of International Studies, relating to the case of Shri M. L. Sondhi, M.P.

8. Detailed information regarding the composition, character and functions etc. of the 'Committees' and emoluments and allowances payable to their members was furnished by the respective Ministries/Departments of the Central and State Governments on requests made by the Lok Sabha Secretariat.

9. The Committee considered and adopted the Report on the 6th and 7th November, 1967.

10. The recommendations of the Committee in respect of the Committees, boards etc., examined by them are given in the succeeding paragraphs.

II

QUERIES REGARDING "OFFICES OF PROFIT"

A. *Whether holding the post of Principal of the Union Christian Training College, Berhampore constitutes an Office of Profit.*

11. In connection with the enquiry made by Shri A. K. Kisku, M.P., whether he would incur any disqualification by continuing as Principal of the Union Christian Training College, Berhampore, District Murshidabad (West Bengal) after his election as a Member of Parliament, the Committee noted that the above College was a private institution managed by a Board of Governors under a special constitution and sponsored by the Bengal Christian Council and it received grant-in-aid from the West Bengal Government and the University Grants Commission. Shri A. K. Kisku, as principal of the college, received salaries in the U.G.C. scale and the usual college and Government D.A. and also enjoyed the benefit of provident fund.

On the basis of information furnished by Shri A. K. Kisku in his letter dated the 11th May, 1967, the Committee also noted that the Training College was sponsored by the Bengal Christian Council, which was a registered society under the Societies Registration Act. Further, the Institution was controlled and managed by a Board of Governors, who through the Principal submitted biennially a report regarding the College to the Bengal Christian Council. The Principal who was *ex-officio* Secretary of

the Board exercised the executive authority of the Board and he was responsible to the Board of Governors for the day-to-day administration of the College. The College Board of Governors was the authority for appointment and dismissal of the Principal and staff. The West Bengal Government or the U.G.C had nothing to do with the matter. All appointments, however, got the formal approval of the Calcutta University.

The Committee considered the matter at considerable length and arrived at the following conclusions.—

- (a) that the Training College is sponsored by the Bengal Christian Council, which is a Society registered under the Societies Registration Act;
- (b) that the College is a private institution controlled by its own Board of Governors consisting of 11 non-officials and one representative of West Bengal Government;
- (c) that the College receives grants-in-aid from the Government and U.G.C. but has other sources of income, which constitutes the fund and the expenditure of that fund is not directly controlled by the Government; and
- (d) that the Principal is appointed by the Board of Governors and Government or U.G.C. has no hand in the matter of his appointment or removal from service. As such, the Principal owes no allegiance to the Government in the matter of his service.

The Committee also examined a number of judicial decisions having a bearing on the term 'office of profit'. The Committee noted in particular the following decision given by the Election Tribunal, Nagpur in *Krishnappa vs. Narayan Singh and others* (E.L.R. Vol. VII, P. 294):

“A person serving as a teacher in a grant-in-aid school does not hold an office of profit under the Government merely because the school receives grants from the Government for payment of a portion of the dearness allowance and the pay of the teachers.

The most important test for determining whether an office is held under the Government is whether the power of appointment and dismissal vests in the Government.”

In the light of the various judicial decisions, the Committee feel that in his capacity as the Principal of the Training College, Shri A. K. Kisku is not holding an 'office of profit under the Government' and he does not, therefore, incur any disqualification by continuing simultaneously as a Member of Parliament.

The Committee, however, note that under Art. 103 of the Constitution, it is provided that "if any question arises as to whether a member of either House of Parliament had become subject to any of the disqualifications mentioned in clause (1) of Art. 102, the question shall be referred for the decision of the President and his decision shall be final and that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion" and consequently the opinion of the Election Commission is effective and crucial in such matters.

B. *Whether a Teacher Employed in the Indian School of International Studies after being elected as a Member of Parliament could continue to draw his salary as a Teacher in addition to his salary and daily allowance as a Member of Parliament?*

12. In connection with the enquiry made by the Registrar, Indian School of International Studies, whether a teacher (Shri M. L. Sondhi) employed in that school who had been elected as a Member of Parliament could continue to draw his salary as a teacher in addition to his salary and daily allowance as a Member of Parliament, the Committee noted that the Memorandum of Association and Rules and Regulations of the Indian School of International Studies revealed that this body was registered under the Societies Registration Act, 1860 and was controlled by a Board of Governors which acted as the supreme authority of the school. The executive authority vested in the Executive Committee which was responsible for the management and administration of the school subject to the control of the Board of Governors. Except that the Central Government nominated two persons to serve as members of the Board of Governors one each from the Ministry of Education and Ministry of External Affairs, it exercised no control over the constitution of the Board of Governors or the Executive Committee. All appointments were made by the Executive Committee on the recommendations of the Selection Committee constituted for the purpose.

The Committee also noted that under the terms of the agreement, Shri M. L. Sondhi commenced his service in the School of International Studies with effect from the 12th March, 1962 in the grade of Rs. 800-40-1100 and accordingly he should at present be drawing a salary of Rs. 1000 per month including his five increments. According to the agreement, the Executive Committee could terminate the services of the teacher on grounds of mis-conduct without consulting the Government in any manner. Thus the power of appointment and termination of services vested in the Executive Committee and the Government played no part whatsoever.

The Committee further noted that the Institution received funds from the Education Ministry, University Grants Commission, and other private Indian and foreign foundations.

The Registrar, Indian School of International Studies, on being asked to clarify the position regarding certain points, stated *inter-alia* that the salaries of the teachers were paid from the grants received from various sources, namely Ministry of Education, University Grants Commission, Rockefeller Foundation, Ford Foundation and Asia Foundation.

The Committee feel that from the information furnished by the Registrar, Indian School of International Studies and further elucidation given by him subsequently, it is clear that the facts of this case are exactly similar to the case of Shri A. K. Kisku, M.P. on which the Committee have already expressed their opinion in para 11 *ibid.*, and as such the Committee are of the view that their decision in the case of Shri A. K. Kisku is applicable to this case as well. Consequently, Shri M. L. Sondhi, as a teacher in the Indian School of International Studies, which is a private body, does not hold an 'office of profit under the Government' and he does not, therefore, incur any disqualification by continuing simultaneously as a Member of Parliament and drawing the usual salary and allowance as an M. P. in addition to his salary as a teacher.

The Committee, however, note that under Art. 103 of the Constitution, it is provided that "if any question arises as to whether a member of either House of Parliament had become subject to any of the disqualifications mentioned in clause (1) of Article 102, the question shall be referred for the decision of the President and his decision shall be final and that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion", and consequently the opinion of the Election Commission is effective and crucial in such matters.

III

COMMITTEES, BOARDS ETC. APPOINTED BY CENTRAL AND STATE GOVERNMENTS

13. The Committee observe that the non-official members of the Atomic Energy Commission and the Panel of Agricultural Scientists are entitled to get remuneration which is more than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. As such, the Chairmanship, Membership or Secretaryship of the Commission/Panel ought to disqualify.

14. The Committee also note that the non-official Directors other than Members of Parliament, serving on the Board of Directors of India Tourism Development Corporation Ltd., and the Board of Directors of

Instrumentation Ltd. are entitled to get remuneration which is more than the 'compensatory allowance' as defined in the Parliament (Prevention of Disqualification) Act, 1959 and as such all the Directors except Members of Parliament ought to disqualify.

15. The Committee note that the non-official Directors of the Bharat Aluminium Company Ltd., are getting remuneration which is more than the 'compensatory allowance' as defined in clause 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959 and the Board of Directors also exercise executive and financial powers and wield influence and patronage. As such, the Committee are of the view that even Directorship of the Company ought to disqualify.

16. The Committee note that the non-official Directors including the Chairman of the Rehabilitation Industries Corporation Ltd., are entitled to get remuneration which is less than the 'compensatory allowance' as defined in clause 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. But as the Directors exercise executive and financial powers and wield influence and patronage, the Committee feel that even Directorship of the Corporation ought to disqualify.

17. The Committee are of the view that the Chairman and Secretaries of the Managing Committees of Institutions under Welfare Programmes, Kerala wield influence and power by way of patronage owing to the exercise of executive and financial powers. As such, the Chairman and Secretaries of the Managing Committees ought to disqualify and the Committee recommend the inclusion of this body in Part II of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959.

18. The Committee feel that the Chairman and members of the State Law Commission, West Bengal are getting honorarium or salary or sitting fee out of Government funds and the remuneration in every case is more than the 'compensatory allowance'. As such, Chairmanship, Membership and Secretaryship of the Commission ought to disqualify.

19. The Committee are of the view that the composition, character and functions of the Committees, Boards etc., specified in Appendix III are such that their Chairmanship, Secretaryship or Membership ought not to disqualify.

IV

IMPLEMENTATION OF RECOMMENDATIONS OF THE COMMITTEE

20. The Committee note with concern that the recommendations contained in the various Reports presented by the Joint Committee on Offices of Profit during the Second and Third Lok Sabha have not been implemented and a draft Bill based on those recommendations has not been

finalised so far. The Committee would like to emphasize the need to introduce in Parliament a comprehensive Bill on the subject as expeditiously as possible.

NEW DELHI;

The 7th November, 1967.

S. R. RANE,
Chairman,

Joint Committee on Offices of Profit.

APPENDIX I

(Vide para 2 of the Report)

Motion in Lok Sabha for the constitution of the Joint Committee on Offices of Profit.

"That a Joint Committee of the Houses to be called the Joint Committee on Offices of Profit be constituted consisting of fifteen members, ten from this House and five from the Rajya Sabha, who shall be elected from amongst members of each House according to the principle of proportional representation by means of the single transferable vote;

That the functions of the Joint Committee shall be—

- (i) to examine the composition and character of all existing 'committees' and all 'committees' that may hereafter be constituted, 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 what offices should disqualify and what offices should not disqualify;
- (iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise;

That the Joint Committee shall, from time to time, report to both Houses of Parliament in respect of all or any of the aforesaid matters;

That the members of the Joint Committee shall hold office for the duration of the present Lok Sabha;

That in order to constitute a sitting of the Joint Committee, the quorum shall be one-third of the total number of members of the Committee;

That in other respects, the Rules of Procedure of this House relating to Parliamentary Committees shall apply with such variations and modifications as the Speaker may make; and

That this House recommends to the Rajya Sabha that the Rajya Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Rajya Sabha to the Joint Committee."

APPENDIX II

(Vide para 3 of the Report)

Motion in Rajya Sabha

“That this House concurs in the recommendation of the Lok Sabha that a Joint Committee of the Houses to be called the Joint Committee on Offices of Profit be constituted for the purposes set out in the motion adopted by the Lok Sabha at its sitting held on the 5th June, 1967, and communicated to this House and resolves that this House do join in the said Joint Committee and proceed to elect, in accordance with the system of proportional representation by means of the single transferable vote, five members from among the members of the House to serve on the said Joint Committee.”

APPENDIX III

(Vide para 19 of the Report)

Committees, Boards etc. whose Chairmanship, Secretaryship or Membership ought not to disqualify.

UNDER CENTRAL GOVERNMENT

1. All India Handicrafts Board.
2. Central Advisory Committee for Consumer Cooperatives.
3. Central Committee on Employment.
4. Central Poultry Development Advisory Council.
5. Coal Development Council.
6. Committee on Untouchability, Economic Uplift and Educational Development of Scheduled Castes.
7. Court of the Forest Research Institute and Colleges, Dehra Dun.
8. Employees' State Insurance Corporation.
9. Export Advisory Committee for books and periodicals.
10. Film Export Advisory Committee.
11. Khadi and Village Industries Committee.
12. Indian Coconut Development Council.
13. Indian Sugarcane Development Council.
14. Medical Benefit Council of the Employees' State Insurance Corporation.
15. Mental Health Advisory Committee.
16. National Committee for International Council of Scientific Unions.
17. National Committee on Training in Community Development and Extension.
18. National Commission on Labour.
19. National Food and Agriculture Organisation Liaison Committee.
20. National School Health Council.
21. Panel for Air-conditioning and Refrigeration Industry.
22. Railway Catering and Passenger Amenities Committee, 1967.
23. Small Scale Industries (Official Level) Committee.
24. State Advisory Committee for the Territorial Army in Delhi.
25. Standing Technical Committee.
26. State Advisory Committee for the Territorial Army in the State of Bihar.

UNDER STATE GOVERNMENT

HARYANA

State Board of Technical Education, Haryana.

Kerala

1. Advisory Board on premature release of prisoners.
2. Board of Control for Orphanages.
3. District Advisory Committees for Harijan Welfare.
4. District Advisory Committees for Prohibition.
5. Managing Committee, Kerala Government Emporium, New Delhi.
6. State Advisory Committee for the Advancement of Backward Classes.
7. State Tribal Advisory Board.

Madras

Panchayat Union Councils.

Mysore

1. Bangalore City Advisory Committee for National Savings Scheme.
2. District Food Advisory Committees.
3. Sales Tax Advisory Committee.
4. State Advisory Board for National Savings Scheme.

Orissa

Advisory Committee for Ancillary Industries in Rourkela.

Uttar Pradesh

Hindi Samiti.

West Bengal

West Bengal Housing Board.

APPENDIX IV

Minutes of Joint Committee on Offices of Profit

I

First Sitting

The Committee met on Monday, the 3rd July, 1967 from 15.00 to 16.10 hours.

PRESENT

Shri S. R. Rane—*Chairman*

MEMBERS

Lok Sabha

1. Raja Kamakhya Prasad Singh Deo Mahindra Bahadur
2. Shri Jagannathrao Joshi
3. Shri Dwaipayan Sen
4. Shri Ramshekhar Prasad Singh

Rajya Sabha

5. Shri Sunder Singh Bhandari
6. Shri Lokanath Misra
7. Shri Narayan Patra
8. Shri Biren Roy
9. Shri H. V. Tripathi

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. At the outset, the Chairman welcomed the Members of the Committee and explained briefly to them the concept of 'offices of profit' and the origin and functions of the Committee (Annexure—I).

3. The Committee approved the drafts of a letter and an Office Memorandum which were proposed to be issued to all the State Governments/Union Territories and Ministries of the Government of India, respectively, calling for the information regarding the character and composition etc. of the Committee constituted by them (Annexures II & III). The Committee also approved the proforma of Memoranda used by the Joint Committee on Offices of Profit (Third Lok Sabha) for submitting to the Joint Committee, the information relating to the Committees/bodies etc., received from the State Governments, Union Territories and Ministries of the Government of India. (Annexure IV).

4. The Committee then adjourned to meet again on Thursday, the 27th July, 1967.

ANNEXURE I

Address by Shri S. R. Rane, Chairman, Joint Committee on Offices of Profit (Fourth Lok Sabha) delivered at the First Sitting of the Committee held on Monday, the 3rd July, 1967.

Friends,

It gives me great pleasure to welcome you all who have been elected to serve on the Joint Committee on Offices of Profit. Before I proceed to deal with the functions of this Committee, I should like to explain to you the 'Concept of Office of Profit' and the back-ground for constituting this Joint Committee which is of a recent origin only.

Concept of Office of Profit

As you are aware, in all democracies including the United Kingdom and U.S.A., holders of Offices under the Government, as a rule, are disqualified for being members of Legislatures. In India, this principle is embodied in Article 102(1)(a) of the Constitution which reads as follows:

"102(1) A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—

- (a) If he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder;

* * * *

What Constitutes 'holding an office of profit under Government'?

The term 'Office of Profit under the Government' has not been defined in the Constitution or the Representation of the People Act, 1951 or the Parliament (Prevention of Disqualification) Act, 1959. The various Courts or Election Tribunals or other authorities have, however, enunciated certain broad criteria in this connection in their judgments from time to time.

Holding Office under Government

For the purpose of determining whether an office of profit is under Government, it has to be seen whether Government have the power to appoint a person to that office and remove him from that office.

Background

On the 21st August, 1954 Mr. Speaker Mavalankar, in consultation with the Chairman of Rajya Sabha, appointed a Committee on Offices of Profit under the Chairmanship of Pandit Thakurdas Bhargava to study various matters connected with disqualification of members and to make recommendations in order to enable the Government to consider the lines along which a comprehensive legislation should be brought before the House.

The Committee, in their Report, recommended *inter alia* that a comprehensive Bill having schedules enumerating in detail the different offices which did not incur disqualification, offices for which exemption had to be granted and offices which would disqualify members should be brought forward by Government and a standing Parliamentary Committee might be constituted to undertake the work of continuous scrutiny of offices of profit.

In a democratic set-up, ordinarily Members of Parliament should be encouraged to serve on committees which are of an advisory character and represent the local or popular point of view in a manner which will effectively influence the officials' point of view. Members of Parliament by virtue of their membership are in a position to say and represent certain matter with some authority and confidence, and their views are likely to go a long way in influencing the view point of officials. It is at the same time felt that consistent with the above view expressed, Members of Parliament should not be permitted to serve on committees, commissions, etc. which jeopardise their independence or which will 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.

The Parliament (Prevention of Disqualification) Act, 1959

In pursuance of the recommendations made by the Bhargava Committee, the Parliament (Prevention of Disqualification) Bill was introduced in Lok Sabha on the 5th December, 1957. It was referred to a Joint Committee of the Houses and passed.

The Parliament (Prevention of Disqualification) Act, 1959, declares the offices of profit under the Government which do not disqualify the holders thereof for being chosen as, or for being, Members of Parliament.

The following are some of the salient features of this Act:—

- (1) Section 2(a) of the Act defines 'Compensatory Allowance' as under:—

“'Compensatory allowance' means any sum of money payable to the holder of an office by way of daily allowance (such

allowance not exceeding the amount of daily allowance to which a member of Parliament is entitled under the Salaries and Allowances of Members of Parliament Act, 1954) any conveyance allowance, house-rent allowance or travelling allowance for the purpose of enabling him to recoup any expenditure incurred by him in performing the functions of that office."

- (2) Section 3 of the Act enumerates the offices, the holders whereof will not disqualify for being chosen as, or for being, a Member of Parliament. However, under clause (i) thereof, (a) the office of Chairman of a statutory or non-statutory body specified in Part I of the Schedule and (b) the office of Chairman or Secretary of a statutory or a non-statutory body specified in Part II of the Schedule to the Act is not exempt from disqualification, even if, the holder of such an office is not entitled to any remuneration other than 'compensatory allowance'.

When the Parliament (Prevention of Disqualification) Bill, 1957, as reported by the Joint Committee, was being discussed in Lok Sabha in December, 1958, the Minister-in-charge of the Bill (that is, the Minister of Law) gave an assurance to the House that the Government would agree to set up a Standing Committee which would scrutinise the particulars of 'Committees' not already scrutinised and report their findings from time to time to Parliament and the Parliament will take appropriate action periodically. Accordingly, the first Joint Committee on Offices of Profit was constituted in August 1959 on a Government Motion for the duration of the remaining period of Second Lok Sabha. It was constituted again in 1962 for the duration of the Third Lok Sabha. This Committee, unlike other Parliamentary Committees, is constituted for the duration of the full term of Lok Sabha.

Functions of the Committee

The functions of the Committee are specified in the motion moved for the constitution of the Committee and adopted by Lok Sabha and concurred in by Rajya Sabha. These are:

- (i) to examine the composition and character of all the existing 'committees' and all 'committees' that may hereafter be constituted, 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 what offices should disqualify and what offices should not disqualify;

(iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959, and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

- The Joint Committee examine the detailed particulars regarding the composition and character etc. of the 'Committees' Constituted by the Ministries|Departments of the Central Government as well as by the State Governments. A Memorandum calling for the requisite information in this behalf from the Central Ministries, State Governments etc. has already been circulated to you separately and we shall take up its consideration after I have concluded my speech. The Joint Committee do not examine the composition and character of 'committees' which consist wholly of officials or which are constituted for *ad hoc* purposes. Further, the Joint Committee on Offices of Profit (Third Lok Sabha) decided that the composition and character etc. of the bodies registered under the Societies Registration Acts need not generally be examined by them unless any particular case merited consideration by them.

After examining the relevant information in respect of each committee, the Joint Committee record their recommendation whether it should be placed in Part I or Part II of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 or whether it should or should not be exempted from disqualification.

Members might, however, be interested to know that the Joint Committee on Offices of Profit (Second Lok Sabha), in their first Report made a very important recommendation, which reads as follows:

"The Committee feel that in order to obviate the danger of Members of Parliament incurring disqualification, Government should issue instructions to all the public undertakings whether fully or partially owned by them to provide in their rules that Members of Parliament serving on them shall not be entitled to any sum of money other than 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. As regards Members of Parliament appointed to serve on non-statutory bodies, the Committee feel that the rules relating to non-statutory bodies framed by Government should also be similarly amended to provide that Members of Parliament shall not be entitled to any sum of money other than 'compensatory allowance' as defined in section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959."

The Joint Committee also examine various queries received from Members of Parliament or Ministries of the Government of India on matters pertaining to "offices of profit" and express their opinion in appropriate cases.

Implementation of recommendations

Before I conclude, I might also mention to you that the question of implementing the recommendations made by the Joint Committee on Offices of Profit in their various Reports presented during the Second and Third Lok Sabha by bringing forward a comprehensive Bill is still under examination by the Ministry of Law, with whom the matter is being pursued.

I once again welcome you and trust that you will kindly extend your whole-hearted cooperation and assistance in ensuring the smooth and efficient working of this Joint Committee which functions in a somewhat judicial manner, unfettered by any party considerations etc.

ANNEXURE II

LOK SABHA SECRETARIAT

**PARLIAMENT HOUSE,
NEW DELHI-1.
Dated the , 1967**

No. 11/2/C II/67

From

**Shri M. C. Chawla,
Deputy Secretary.**

To

**All State Governments and
Union Territories.**

SUBJECT.—*Joint Committee on Offices of Profit (Fourth Lok Sabha).*

Sir,

I am directed to state that a Joint Committee on Offices of Profit for the duration of Fourth Lok Sabha has now been constituted. The functions of the Committee are as follows:—

- (i) to examine the composition and character of all existing 'Committees' and all "Committees' that may hereafter be constituted, 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 what offices should disqualify and what offices should not disqualify; and
- (iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and to recommend any amendments in the said Schedule, whether by way of addition, omission, or otherwise.

2. The Joint Committee on Offices of Profit (Fourth Lok Sabha) now desire that in order to assist them in their deliberations, all the State Governments be requested to furnish necessary information regarding the Committees|bodies falling under the following categories:—

- (1) All the existing Committees|bodies which have not been examined by the Committee so far.

- (2) All the existing Committees/bodies which although have already been examined by the Committee, but whose constitution (including payment of TA/DA etc. to the members) has undergone material change since their examination by the Committee in the past; and
- (3) All the Committees|bodies which may hereafter be constituted|established.

3. I am, therefore, directed to request you kindly to furnish to this Secretariat information regarding each of the Committees|Bodies falling under any of the three categories mentioned in para 2 above for consideration of the Committee in the following manner:

- (i) Name of the Committee.
- (ii) Act, Rule or Order under which the Committee was constituted.
- (iii) The term of office of the members of the Committee.
- (iv) The remuneration payable to the members of the Committee including pay, travelling allowance, daily allowance, house-rent allowance, compensatory allowance and sitting fee etc. (actual rates of payment may be specified).
- (v) Composition of the Committee (number of officials and non-officials and whether Chairman and Secretary are officials or non-officials).
- (vi) Mode of appointment of members.
- (vii) Functions of the Committee (Detailed functions may be given i.e. whether they perform executive, legislative or judicial functions and whether they have financial powers).
- (viii) Capital structure, shareholders, annual turnout of the Company etc. in case the body is a public undertaking.

4. Information in respect of the Committees which are composed wholly of officials or which have been constituted for a temporary period or which have ceased to exist, may not be supplied.

5. Copies of the Acts, rules, resolutions, orders or notifications setting forth the functions, composition, remuneration or allowances etc. paid to members of the Committee may also be supplied along with the information furnished by you on the lines indicated in para 3 above.

6. The receipt of this letter may please be acknowledged.

Yours faithfully,
 Sd./-M. C. CHAWLA,
 Deputy Secretary.

ANNEXURE III

LOK SABHA SECRETARIAT

PARLIAMENT HOUSE,
NEW DELHI-1,

No. 11|2|CII|67

Dated the _____, 1967.

OFFICE MEMORANDUM

SUBJECT.—*Joint Committee on Offices of Profit (Fourth Lok Sabha).*

The undersigned is directed to state that Joint Committee on Offices of Profit for the duration of Fourth Lok Sabha has now been constituted. The functions of the Committee are as follows:—

- (i) to examine the composition and character of all existing 'Committees' and all 'Committees' that may hereafter be constituted, 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 what offices should disqualify and what offices should not disqualify; and
- (iii) to scrutinise from time to time the Schedule to the Parliament (Prevention of Disqualification) Act, 1959 and to recommend any amendments in the said Schedule, whether by way of addition, omission or otherwise.

2. The Joint Committee on Offices of Profit (Fourth Lok Sabha) now desire that in order to assist them in their deliberations, all the Ministries|Departments of the Government of India may be requested to furnish necessary information regarding the Committees|bodies falling under the following categories:—

- (1) All the existing Committees|bodies which have not been examined by the Committee so far.
- (2) All the existing Committees|bodies which, although have already been examined by the Committee, but whose constitution (including payment of TA|DA etc. to the members)

has undergone material change since their examination by the Committee in the past; and

- (3) All the Committees|bodies which may hereafter be constituted| established.

3. It is, therefore, requested that information regarding each of the Committees/bodies falling under any of the three categories mentioned in para 2 above may please be furnished to this Secretariat for consideration of the Committee in the following manner:—

- (i) Name of the Committee.
- (ii) Act, Rule or Order under which the Committee was constituted.
- (iii) The term of office of the members of the Committee.
- (iv) The remuneration payable to the members of the Committee including pay, travelling allowance, daily allowance, house-rent allowance, compensatory allowance and sitting fee etc. (Actual rates of payment may be specified).
- (v) Composition of the Committee (number of officials and non-officials and whether Chairman and Secretary are officials or non-officials).
- (vi) Mode of appointment of members.
- (vii) Functions of the Committee (Detailed functions may be given *i.e.* whether they perform executive, legislative or judicial functions and whether they have financial powers).
- (viii) Capital structure, shareholders, annual turnout of the Company etc. in case the body is a public undertaking.

4. Information in respect of the Committees which are composed wholly of officials or which have been constituted for a temporary period or which have ceased to exist, may not be supplied.

5. Copies of the Acts, rules, resolutions, orders or notifications setting forth the functions, composition, remuneration or allowances etc. paid to members of the Committee may also be supplied along with the information furnished by you on the lines indicated in para 3 above.

6. The receipt of this Office Memorandum may please be acknowledged.

Sd.|- M. C. CHAWLA,
Deputy Secretary.

To

All Ministries of the
Government of India,
New Delhi.

ANNEXURE IV

LOK SABHA SECRETARIAT

Joint Committee on Offices of Profit (Fourth Lok Sabha)

MEMORANDUM No.

1. Name of the Committee,
Board, Council etc.
2. Name of Act, Resolutions etc. under
which constituted and Rules, Regula-
tions, if any, framed thereunder.
3. Term of office of members.
4. Travelling, daily allowances etc.
5. Composition.
6. Functions.
7. Manner of appointment.
8. *Classification of Committee*
 - (i) (a) Whether it is a purely
Advisory Committee,
(b) whether it is an Advisory
Committee wielding influence
or power by way of patro-
nage?
 - (ii) Whether it is a Non-Advisory
Committee which—
 - (a) carries executive, legislative or
judicial powers; or
 - (b) confers powers of disbursement
of funds, allotment of lands,
issue of licences etc.; or
 - (c) gives powers of appointment,
grant of scholarships etc.?
 - (iii) whether it is an office of an oc-
casional or contractual nature?
9. Recommendation.

Second Sitting

The Committee met on Thursday, the 27th July, 1967 from 15.00 to 16.10 hours.

PRESENT

Shri S. R. Rane—*Chairman*.

MEMBERS*Lok Sabha*

2. Shri Jagannathrao Joshi
3. Shri Srinibas Mishra
4. Shri Dwaipayyan Sen
5. Shri Ramavatar Shastri
6. Shri Maddi Sudarsanam.

Rajya Sabha

7. Shri Sunder Singh Bhandari
8. Shri Lokanath Misra
9. Shri Narayan Patra.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. The Committee first took up consideration of Memorandum No. 1 regarding the enquiry made by Shri A. K. Kisku, M.P., whether he would incur any disqualification by continuing as Principal of the Union Christian Training College, Berhampore, District Murshidabad (West Bengal) after his election as a Member of Parliament.

The Committee noted that the above college was a private institution managed by a Board of Governors under a special constitution and sponsored by the Bengal Christian Council and it received grant-in-aid from the West Bengal Government and the University Grants Commission. Shri A. K. Kisku, as Principal of the College, received salaries in the U.G.C. scale and the usual college and Government D.A. and also enjoyed the benefit of provident fund.

3. The Committee noted that in his letter dated the 11th May, 1967, Shri A. K. Kisku had elucidated the matter thus:

“This Training College is sponsored by the Bengal Christian Council, which is a registered society under the Societies Registration Act. Bengal Christian Council is the West Bengal

Branch of the National Christian Council. The respective Missionary and Church Societies are all affiliated with it, which themselves are all registered societies under Societies Registration Act. Actually, the College is entrusted with a Board of Governors which has a special constitution of its own and which has been approved by the Calcutta University and the Education Department of the Government of West Bengal.

* * * *

The College Board of Governors is the authority for appointment and dismissal of the Principal and Staff. The West Bengal Government or the U.G.C. has nothing to do with the matter. All appointments, however, get the formal approval of the Calcutta University.

Grants are received on the usual terms and conditions of satisfactory results in the Examinations, efficiency of administration, discipline and submission of an annual audit report by Chartered Accountants."

4. The Committee also noted that the Institution is controlled and managed by a Board of Governors, who through the Principal submit biennially a report regarding the College to the Bengal Christian Council. The Board of Governors consists of 12 persons including the President and Secretary of the Board. The term of office of the members is three years and after the Board is reconstituted, the members of the reconstituted Board hold office for a term of three years. The Principal who is *ex-officio* Secretary of the Board exercises the executive authority of the Board and he is responsible to the Board of Governors for the day to day administration of the College.

5. The Committee considered the matter at considerable length and arrived at the following conclusions:—

- (a) that the Training College is sponsored by the Bengal Christian Council, which is a Society registered under the Societies Registration Act;
- (b) that the College is a private institution controlled by its own Board of Governors consisting of 11 non-officials and one representative of West Bengal Government;
- (c) that the College receives grants-in-aid from the Government and U.G.C. but has other sources of income, which constitutes

the fund and the expenditure of that fund is not directly controlled by the Government; and

- (d) that the Principal is appointed by the Board of Governors and Government or U.G.C. has no hand in the matter of his appointment or removal from service. As such, the Principal owes no allegiance to the Government in the matter of his service.

6. The Committee also examined a number of judicial decisions having a bearing on the term 'office of profit'. The Committee noted in particular the following decision given by the Election Tribunal, Nagpur in *Krishnappa vs Narayan Singh and others* (E.L.R. Vol. VII, P. 294):

"A person serving as a teacher in a grant-in-aid school does not hold an office of profit under the Government merely because the school receives grants from the Government for payment of a portion of the dearness allowance and the pay of the teachers.

The most important test for determining whether an office is held under the Government is whether the power of appointment and dismissal vests in the Government."

7. In the light of the various judicial decisions, the Committee felt that in his capacity as the Principal of the Training College, Shri A. K. Kisku is not holding an 'office of profit under the Government' and he does not, therefore, incur any disqualification by continuing simultaneously as a Member of Parliament.

8. The Committee, however, noted that under Art. 103 of the Constitution, it is provided that "if any question arises as to whether a member of either House of Parliament had become subject to any of the disqualifications mentioned in clause (1) of Art. 102, the question shall be referred for the decision of the President and his decision shall be final and that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion" and consequently the opinion of the Election Commission is effective and crucial in such matters.

9. The Committee deferred consideration of Memoranda Nos. 2-36 to their next sitting.

10. The Chairman then apprised the Committee of the latest position regarding the implementation of the recommendations contained in the various Reports of the Joint Committee on Offices of Profit for the Second and Third Lok Sabha as intimated by the Ministry of Law in their O.M. No. F.17(3)|62-Leg.II. dated the 20th July, 1967 (Annexure).

11. The Committee then adjourned to meet again on Monday, the 18th September, 1967 at 15.00 hours.

ANNEXURE

No. F.17(3)|62-Leg.II.

GOVERNMENT OF INDIA

MINISTRY OF LAW

(Legislative Department)

New Delhi, the 20th July, 1967.

OFFICE MEMORANDUM

SUBJECT:—*Implementation of the recommendations contained in the various Reports presented by the Joint Committee on Offices of Profit.*

The undersigned is directed to refer to the Lok Sabha Secretariat's Office Memorandum No. 11|3|CII|67, dated the 7th June, 1967 and to say that a Bill giving effect to the recommendations of the various Reports of the Joint Committee on Offices of Profit had already been drafted but due to reorganisation of the former State of Punjab, it would require revision. The State Governments of Punjab, Haryana and the Administration of Chandigarh have already been addressed in this connection. The draft Bill will be revised as soon as communications have been received from those Governments who have already been reminded to expedite the comments.

Sd/- R. N. SHINGHAL,

To

Deputy Legislative Counsel.

**The Lok Sabha Secretariat,
(Shri M. C. Chawla, Deputy Secy.)
New Delhi.**

III

Third Sitting

The Committee met on Monday, the 18th September, 1967 from 15.00 to 16.30 hours.

PRESENT

Shri S. R. Rane—*Chairman*.

MEMBERS

Lok Sabha

2. Raja Kamakhya Prasad Singh Deo Mahindra Bahadur
3. Shri Srinibas Mishra
4. Shri K. Narayana Rao
5. Shri Dwaipayan Sen
6. Shri Ramavatar Shastri
7. Shri Ramshekhar Prasad Singh
8. Shri Maddi Sudarsanam.

Rajya Sabha

9. Shri Lokanath Misra
10. Shri Narayan Patra
11. Shri Biren Roy
12. Shri H. V. Tripathi.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. The Committee first took up consideration of Memoranda Nos. 5—14, 16—25, 27—34 and 36—47 relating to the various Committees/bodies constituted by the Central and State Governments.

3. The Committee were of the opinion that the composition and character of the following Committees/bodies were such that the Chairmanship or Secretaryship or Membership thereof ought not to disqualify:—

(1. Central Advisory Committee for Consumer Cooperatives Ministry of Food, Agriculture, C.D. and Cooperation).

2. Central Committee on Employment (Ministry of Labour, Employment and Rehabilitation).
3. Central Poultry Development Advisory Council (Ministry of Food, Agriculture, C.D. and Cooperation).
4. Coal Development Council (Ministry of Steel, Mines and Metals).
5. Committee on Untouchability, Economic Uplift and Educational Development of Scheduled Castes (Department of Social Welfare).
6. Court of the Forest Research Institute and Colleges, Dehra Dun (Ministry of Food, Agriculture, C.D. and Cooperation).
7. Employees' State Insurance Corporation (Ministry of Labour, Employment and Rehabilitation).
8. Export Advisory Committee for books and periodicals (Ministry of Commerce).
9. Film Export Advisory Committee (Ministry of Commerce).
10. Khadi and Village Industries Committee (Ministry of Commerce).
- *11. Indian Coconut Development Council (Ministry of Food, Agriculture, C.D. and Cooperation).
12. Indian Sugarcane Development Council (Ministry of Food, Agriculture, C.D. and Cooperation).
13. Medical Benefit Council of the Employees' State Insurance Corporation (Ministry of Labour, Employment and Rehabilitation).
14. Mental Health Advisory Committee (Ministry of Health and Family Planning).
15. National Committee for International Council of Scientific Unions (Ministry of Education).
16. National Committee on Training in Community Development and Extension (Ministry of Food, Agriculture, C.D. and Cooperation).
17. National Commission on Labour (Ministry of Labour, Employment and Rehabilitation).
18. National Food and Agriculture Organisation Liaison Committee (Ministry of Food, Agriculture, C.D. and Cooperation).

*Shri Dwaipayana Sen did not participate in the discussion on Memorandum No. 43 relating to the Indian Coconut Development Council, as he was serving on that body.

19. National School Health Council (Ministry of Health and Family Planning).
20. Panel for Air-conditioning and Refrigeration Industry (Ministry of Industrial Development and Company Affairs).
21. Railway Catering and Passenger Amenities Committee, 1967 (Ministry of Railways).
22. Small Scale Industries (Official Level) Committee (Ministry of Industrial Development and Company Affairs).
23. State Advisory Committee for the Territorial Army in Delh. (Ministry of Defence).
24. Standing Technical Committee (Ministry of Food, Agriculture, C.D. and Cooperation).
25. State Advisory Committee for the Territorial Army in the State of Bihar (Ministry of Defence).
26. Advisory Board on premature release of prisoners (Kerala).
27. Advisory Committee for Ancillary Industries in Rourkela (Orissa).
28. Bangalore City Advisory Committee for National Savings Scheme (Mysore).
29. Board of Control for Orphanages (Kerala).
30. District Advisory Committees for Harijan Welfare (Kerala).
31. District Advisory Committees for Prohibition (Kerala).
32. District Food Advisory Committees (Mysore).
33. Hindi Samiti (Uttar Pradesh).
34. Managing Committee, Kerala Government Emporium, New Delhi (Kerala).
35. Panchayat Union Councils (Madras).
36. Sales Tax Advisory Committee (Mysore).
37. State Advisory Board for National Savings Scheme (Mysore).
38. State Advisory Committee for the Advancement of Backward Classes (Kerala).
39. State Tribal Advisory Board (Kerala).
40. West Bengal Housing Board (West Bengal).

4. After some discussion on Memorandum No. 48, regarding the case of Shri M. L. Sondhi, M.P., the Committee postponed further consideration thereon till the receipt of the following information from the Indian School of International Studies:—

- (i) Name of the Visitor of the School;
- (ii) Composition of the Board of Governors, indicating the name and designation of each member in case of officials;
- (iii) Break-up of the grants received by the School indicating the source in each case; and
- (iv) Whether the salaries to the teachers are paid from the grants and if not, the source from which these are paid?

5. The Committee then adjourned to meet again on Tuesday, the 19th September, 1967 at 10.30 hours to consider Memoranda Nos. 2, 3, 4, 15, 26 and 35.

IV

Fourth Sitting

The Committee met on Tuesday, the 19th September, 1967 from 10.30 to 11.40 hours.

PRESENT

Shri S. R. Rane—*Chairman*.

MEMBERS

Lok Sabha

2. Raja Kamakhya Prasad Singh Deo Mahindra Bahadur
3. Shri Srinibas Mishra
4. Shri K. Narayana Rao
5. Shri Dwaipayan Sen
6. Shri Ramavatar Shastri
7. Shri Ramshekhar Prasad Singh
8. Shri Maddi Sudarsanam.

Rajya Sabha

9. Shri Lokanath Misra
10. Shri Narayan Patra
11. Shri Biren Roy
12. Shri H. V. Tripathi.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. The Committee took up consideration of Memoranda Nos. 2, 3, 4, 15, 26 and 35 relating to the various Committees/bodies constituted by the Central and State Governments.

3. During the preliminary discussion, a point was raised that a person who does not draw remuneration attached to an 'office' ought not to disqualify. In this connection, the attention was drawn to the decision of the Chief Election Commissioner, Shri S. K. Sen, in the matter of *Vindhya Pradesh Legislative Assembly Members* (4 E.L.R. 422) wherein he had held that for the purpose of deciding the question of disqualification, so

long as any profit was attached to any office, it was immaterial whether the profit had in fact been appropriated or not. Some offices might be considered offices of profit even though the actual payment of emoluments attached thereto might have fallen into disuse.

4. The Committee noted that the non-official members of the Atomic Energy Commission (Memo. No. 2) and the Panel of Agricultural Scientists (Memo. No. 15) were entitled to get remuneration which was more than the 'compensatory allowance' as defined in Section 2(a) of the Parliament (Prevention of Disqualification) Act, 1959. As such, the Chairmanship, Membership or Secretaryship of the Commission/Panel ought to disqualify.

5. The Committee also noted that the non-official Directors, other than Members of Parliament, serving on the Board of Directors of India Tourism Development Corporation Ltd. (Memo. No. 3) and the Board of Directors of Instrumentation Ltd. (Memo. No. 4) were entitled to get remuneration which was more than the 'compensatory allowance' as defined in the Parliament (Prevention of Disqualification) Act, 1959 and as such all the Directors except Members of Parliament ought to disqualify.

6. The Committee were of the view that the Chairmen and Secretaries of the Managing Committees of Institutions under Welfare Programmes, Kerala (Memo. No. 26) wielded influence and power by way of patronage owing to the exercise of executive and financial powers. As such, the Chairmen and Secretaries of the Managing Committees ought to disqualify and the Committee decided to recommend the inclusion of this body in Part II of the Schedule to the Parliament (Prevention of Disqualification) Act, 1959.

7. The Committee felt that the Chairman and members of the State Law Commission, West Bengal (Memo. No. 35) were getting honorarium or salary or sitting fee out of Government funds and the remuneration in every case was more than the 'compensatory allowance'. As such, Chairmanship, Membership and Secretaryship of the Commission ought to disqualify.

8. The Committee also desired that the question of bringing forward a comprehensive Bill regarding the implementation of the recommendations made by the Joint Committee on Offices of Profit in their various Reports presented during the Second and Third Lok Sabha should be vigorously pursued with the Ministry of Law, who should be asked to intimate the date by which the proposed Bill would be finalised and introduced in the House.

9. The Committee also decided that a Draft Report be prepared and circulated to the Members for their consideration at the next sitting of the Committee.

10. The Committee then adjourned to meet again on Monday, the 6th November, 1967 at 10.00 hours.

V

Fifth Sitting

The Committee met on Monday, the 6th November, 1967 from 10.00 to 11.15 hours.

PRESENT

Shri S. R. Rane—*Chairman*

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Shri Jagannathrao Joshi
4. Shri K. Narayana Rao
5. Shri Dwaipayan Sen
6. Shri Ramavatar Shastri
7. Shri Ramshekhar Prasad Singh

Rajya Sabha

8. Shri Sunder Singh Bhandari
9. Shri Lokanath Misra
10. Shri Narayan Patra
11. Shri Biren Roy
12. Shri H. V. Tripathi.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*

2. The Chairman first moved the following Resolution condoling the death of Dr. Ram Manohar Lohia, M.P. :—

“The Joint Committee place on record their profound sense of sorrow on the sad passing away of Dr. Ram Manohar Lohia, a great freedom fighter and patriot, who had dedicated his life for the cause of the nation.”

The members then stood in silence for a short while.

3. The Committee resumed consideration of Memo. No. 48 regarding the enquiry made by the Registrar, Indian School of International Studies,

whether a teacher (Shri M. L. Sondhi) who was employed in that school and had been elected as a Member of Parliament could continue to draw his salary as a teacher in addition to his salary and daily allowance as a Member of Parliament, in the light of further elucidation on certain points, given by the Registrar, which was set forth in Memo. No. 48A.

The Committee noted that the Memorandum of Association and Rules and Regulations of the Indian School of International Studies revealed that this body was registered under the Societies Registration Act, 1860 and was controlled by a Board of Governors which acted as the supreme authority of the school. The executive authority vested in the Executive Committee which was responsible for the management and administration of the school subject to the control of the Board of Governors. Except that the Central Government nominated two persons to serve as members of the Board of Governors, one each from the Ministry of Education and Ministry of External Affairs, it exercised no control over the constitution of the Board of Governors or the Executive Committee. All appointments were made by the Executive Committee on the recommendations of the Selection Committee constituted for the purpose.

The Committee also noted that under the terms of the agreement, Shri M. L. Sondhi commenced his service in the School of International Studies with effect from the 12th March, 1962 in the grade of Rs. 800—40—1100 and accordingly he should at present be drawing a salary of Rs. 1000/- per month including his five increments. According to the agreement, the Executive Committee could terminate the services of the teacher on grounds of misconduct without consulting the Government in any manner. Thus the power of appointment and termination of services vested in the Executive Committee and the Government played no part whatsoever.

The Committee further noted that the Institution received funds from the Education Ministry, University Grants Commission, and other private Indian and foreign foundations and the salaries of the teachers were paid from the grants received from various sources, namely, Ministry of Education, University Grants Commission, Rockefeller Foundation, Ford Foundation and Asia Foundation.

The Committee felt that from the information furnished by the Registrar, Indian School of International Studies, and further elucidation given by him subsequently, it is clear that the facts of this case are exactly similar to the case of Shri A. K. Kisku, M.P. on which the Committee have already expressed their opinion (vide Minutes of Second Sitting) and as such the Committee are of the view that their decision in the case of Shri A. K. Kisku is applicable to this case as well. Consequently, Shri M. L. Sondhi, as a teacher in the Indian School of International Studies, which is a private body, does not hold an 'office of profit' under the Government and he does not, therefore, incur any disqualification by continuing simultaneously as a

Member of Parliament and drawing the usual salary and allowance as an M.P. in addition to his salary as a teacher.

The Committee, however, noted that under Art. 103 of the Constitution, it is provided that "if any question arises as to whether a member of either House of Parliament had become subject to any of the disqualifications mentioned in clause (1) of Article 102, the question shall be referred for the decision of the President and his decision shall be final and that before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion". and consequently the opinion of the Election Commission is effective and crucial in such matters.

4. The Committee then considered and adopted their Draft First Report as circulated to them and decided to consider it further at their sitting to be held on Tuesday, the 7th November, 1967 to incorporate therein some amendments which were required to be made as a result of their decisions pertaining to Memoranda Nos. 49 to 52 *vide paras 6 to 8 post*.

5. The Committee thereafter took up consideration of Memoranda Nos. 49 to 52.

6. The Committee noted that the composition and character etc. of the following Boards constituted by the Central/State Governments were such that their Chairmanship, Membership and Secretaryship ought not to disqualify:—

- (1) All India Handicrafts Board (Ministry of Commerce).
- (2) State Board of Technical Education, Haryana.

7. The Committee noted that the non-official Directors of the Bharat Aluminium Company Ltd., were getting remuneration which was more than the 'compensatory allowance' as defined in clause 2(a) of the Parliament (Prevention of Disqualification) Act, 1959 and the Board of Directors also exercised executive and financial powers and wielded influence and patronage. As such, they were of the view that even Directorship of the Company ought to disqualify.

8. The Committee also noted that the non-official Directors including the Chairman of the Rehabilitation Industries Corporation Ltd., were entitled to get remuneration which was less than the 'compensatory allowance' as defined in clause 2 (a) of the Parliament (Prevention of Disqualification) Act, 1959. But as the Directors exercised executive and financial powers and wielded influence and patronage, the Committee felt that even Directorship of the Corporation ought to disqualify.

9. The Committee decided that the Report, as amended at their next sitting, might be presented to Lok Sabha on Thursday, the 23rd November, 1967 and laid on the Table of Rajya Sabha on the same day.

10. The Committee authorised the Chairman and, in his absence, Shri Jagannathrao Joshi to present the Report to Lok Sabha on their behalf.

11. The Committee authorised Shri Biren Roy and, in his absence, Shri Lokanath Misra to lay the Report on the Table of Rajya Sabha.

12. The Committee were apprised of the latest position regarding the implementation of the recommendations contained in the various Reports of the Joint Committee on Offices of Profit, as intimated by the Ministry of Law *vide* their O.M. No. F 17,(3)/62-Leg. II, dated the 26th September 1967 (Annexure).

13. The Committee then adjourned to meet again at 11.30 hours on Tuesday, the 7th November, 1967 to consider Memorandum No. 53 indicating necessary consequential changes required to be made in the Draft First Report.

ANNEXURE

No. F. 17 (13)/62-Leg. II

GOVERNMENT OF INDIA

MINISTRY OF LAW

Legislative Department

New Delhi, the 25th/26th September, 1967.

OFFICE MEMORANDUM

SUBJECT:—*Implementation of the recommendations contained in the various Reports of the Joint Committee on Offices of Profit.*

The undersigned is directed to refer to O.M. No. 11/3/CII, dated the 19th September, 1967, from the Lok Sabha Secretariat and to say that the requisite information is still awaited from the Government of Punjab who have been reminded. As soon as the said information is received, steps will be taken to finalise the Bill. It may be possible to have the Bill introduced in the next Session of the Lok Sabha.

Sd./-

for Deputy Legislative Counsel.

To

The Lok Sabha Secretariat,
(Shri M. C. Chawla)
Parliament House,
New Delhi.

VI
Sixth Sitting

The Committee met on Tuesday, the 7th November, 1967 from 11.30 to 12.45 hours.

PRESENT

Shri S. R. Rane—*Chairman*.

MEMBERS

Lok Sabha

2. Shri Nathu Ram Aherwar
3. Raja Kamakhya Prasad Singh Deo Mahindra Bahadur
4. Shri Jagannathrao Joshi
5. Shri K. Narayana Rao
6. Shri Dwaipayana Sen
7. Shri Ramavatar Shastri
8. Shri Ramshekhar Prasad Singh.

Rajya Sabha

9. Shri Sunder Singh Bhandari
10. Shri Lokanath Misra
11. Shri Narayan Patra
12. Shri Biren Roy
13. Shri H. V. Tripathi.

SECRETARIAT

Shri M. C. Chawla—*Deputy Secretary*.

2. The Committee took up consideration of Memorandum No. 53 indicating the amendments and consequential changes required to be made in the Draft First Report, which was adopted by the Committee at their sitting held on the previous day.

3. A point was raised that the Director of a company or Board who got remuneration which was less than 'compensatory allowance' as defined

in the Parliament (Prevention of Disqualification) Act, 1959 ought not to disqualify on other grounds that he exercised executive and financial powers and wielded influence and patronage as the Directors normally could not exercise any such powers in their individual capacity. This would also debar M. Ps. to serve on the Board of Directors of many Companies/Boards.

It was explained that normally Members of Parliament were not appointed as Directors of Companies and Boards where the Board of Directors were invested with executive and financial powers. However, the discussion was all hypothetical at this stage. Whenever any concrete case came before the Committee, it would be considered on its merits. The Committee, however, trusted that Government in their wisdom would refer to them the Bill, which was now being drafted in the Ministry of Law to give effect to the recommendations made by the Committee from time to time, for their comments in the first instance, before introducing it in Parliament.

4. The Committee then adopted the amendments and consequential changes mentioned in Memorandum No. 53 and decided to incorporate them in their Draft First Report, as approved at their sitting held on the 6th November, 1967.

5. The Committee then adjourned.

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