

(c) how long it will take to remove the same?

The Minister of Transport and Communications (Shri S. K. Patil): (a) No.

(b) and (c). Do not arise.

**Amta Drainage Scheme, Howrah District, West Bengal**

705. { Shri H. N. Mukerjee:  
Shri Muhammed Elias:

Will the Minister of Irrigation and Power be pleased to refer to the reply given to Unstarred Question No. 3568 on the 8th May, 1958 and state:

(a) whether Government have since received from the West Bengal Government a report on the points raised in the representations sent by different organisations against certain modifications in the "Amta Drainage Scheme" of Howrah District; and

(b) if so, the action taken in the matter?

The Deputy Minister of Irrigation and Power (Shri Hathi): (a) and (b). Comments from the Chief Engineer, West Bengal Government on the various representations regarding the Amta Drainage Scheme were received, and finally, the revised scheme was discussed in the Advisory Committee on Irrigation and Power Projects on 30th October, 1958. The revised scheme has now been accepted by the Planning Commission

12.06 hrs.

#### PAPER LAID ON THE TABLE

#### NOTIFICATIONS ISSUED UNDER ESSENTIAL COMMODITIES ACT

The Deputy Minister of Agriculture (Shri M. V. Krishnappa): I beg to lay on the Table, under sub-section (6) of section 3 of the Essential Commodities Act, 1955, a copy of each of the following Notifications:

(1) GSR No. 1004 dated the 25th October, 1958.

(2) GSR No. 1082 dated the 15th November, 1958 making certain amendment to the Fertilizer (Control) Order, 1957. [Placed in Library. See No. LT-1060/58]

12.07 hrs.

#### PARLIAMENT (PREVENTION OF DISQUALIFICATION) BILL—contd

Mr. Speaker: The House will now resume further consideration of the following motion moved by Shri R. M. Hajarnavis on 21st November, 1958, namely,—

"That the Bill to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being, members of Parliament, as reported by the Joint Committee, be taken into consideration."

After general discussion the clause-by-clause consideration and the third reading will be taken up, for which five hours have been agreed to by the House. Shri A. K. Sen will continue his speech

The Minister of Law (Shri A. K. Sen): I was dealing on the last occasion with the objections relating to several offices, apart from the Schedule which has been introduced by the Joint Committee. I dealt with the question of Home Guards, the NCC, the Territorial Army and so on.

12.08 hrs.

[MR. DEPUTY-SPEAKER in the Chair]

I made it quite clear that it was not the intention of Government to disqualify these people who, according to us, and I have no doubt according to a majority of Members of the House, are rendering valuable services for the defence of the country.

There are two more offices which remain to be dealt with. I had already

indicated that with regard to Vice-Chancellor the Government will be prepared to accept an amendment. With regard to the office of sheriff, the matter was considered very carefully originally by the Bhargava Committee, which was appointed by the Speaker, and also by the Select Committee. These offices are of ancient origin and exist in the three Presidency towns of Bombay, Calcutta and Madras. They serve for a period of one year only and they are recruited from very important members of the public. They are regulated by rules made by the High Court. Even in England the office of sheriff, which was originally regarded as disqualifying the holder, is now exempt though, of course, in England there is a proviso that the sheriff would not be able to stand in his own constituency or in the area where he is serving. Naturally, of course, so far as the three Presidency towns are concerned, it is no use removing the disqualification without at the same time allowing the sheriff to stand where he is best known or wherein in recognition of his services he has been appointed by the High Court as its sheriff. The Bhargava Committee itself in its report suggests that the sheriff should be exempt. The Joint Committee accepted the original Bill, as it is, and therefore the exemption in favour of sheriff remains.

**Shri Raghbir Sahai (Budaun):** Pandit Bhargava has changed his opinion.

**Shri A. K. Sen:** I am talking of his report and not of his opinion, because that report is the opinion of the entire committee. Personally speaking, apart from the question raised about the sheriffs' disqualification, no valid reason has been shown as to why they should be disqualified. First of all although they technically hold an office of profit, by the very fact that their qualifications and their standing in public life are such that they are appointed as sheriffs and it is not shown why these important members

of the public should be debarred from standing as Members of Parliament specially when in their respective States they are not debarred from standing as members of the local legislatures. If such important men are disqualified, it would be difficult to get important men for such important offices like those of the sheriffs in these three Presidency towns. I do not think any sheriff has ever come to this House until now. But that is a different matter altogether.

**An Hon. Member:** Now the way has been opened.

**Shri A. K. Sen:** The way was always open. They had been qualified for so long. There is a vast difference between a man qualified and a man actually elected to be on the floor of the House. There is a vast area to be covered from the point where a man acquires the qualification to the point where he in fact becomes a Member. So many things have to be considered. So many things have to be done before a man gets himself actually elected. In fact, the primary thing is that he must command the confidence of the electorate.

Though technically the sheriff executes the decrees, orders and writs of these three High Courts, physically he never does it himself. Simply because he does it—might be, he does a very important service because the High Courts from time immemorial, ever since their creation, have felt that this important matter, viz. the execution of the writs and orders of the High Courts on the original side should be left to very important men who are always respected in public life and who have a position in public life and therefore they are appointed to this office—and if they are found fit to be appointed as persons responsible for the execution of the writs and orders of High Courts, I do not see how they are disqualified from taking part in the deliberations of a House like this. It is a question of qualification. Therefore, my submission is that

[Shri A. K. Sen]

the House should be pleased to accept the exemption in favour of these sheriffs.

The next point that was raised was about certain hereditary revenue officers mentioned in clause (j) of section 3 of the Bill, viz., *lambardars*, *malguzars*, *patels* and *deshmukhs*, who are not really officers in the sense that we understand that word, but who get a commission out of the collections made by them. These are persons who discharge very important functions and it is impossible to conceive that simply because a person is *malguzar* or a *lambardar* in a particular place, he should be able to influence the whole constituency of roughly four to five lakhs of people. In fact he may not have any influence whatsoever.

What is argued is that these people are so powerful that the moment they stand for election, others do not have a chance. I refute that submission because I do not ascribe that amount of influence to these officers who have been discharging very important functions usefully for quite a long time. But the Joint Committee introduced one qualification which the Government accepted and the House will be pleased to see the qualification as it now appears in clause (j), viz., "but who does not discharge any police functions".

It was contended that in some places some of these officers are additionally entrusted with police functions. It was argued that as these people discharge police functions in some places, they might be situated in a position which gives them greater advantage compared to their rivals. Whether it is a fact or not I do not know. If it does and that was the apprehension, the Government accepted the amendment which was then introduced in the Joint Committee. Speaking for myself I do not think that in a country like ours, any person exercising police functions has a better chance compared to others who do not discharge police functions. Personally I should

be inclined to believe that people who are discharging police functions are at an added disadvantage compared to others because they might be doing something which may be displeasing to others.

Shri Shree Narayan Das (Darbhanga): But whether people, who discharge police functions, when they come to Parliament will be independent?

Shri A. K. Sen: That is a different matter whether people who discharge such functions are worthy or not. Anyway, the point is academic. We have disqualified those officers who discharge police functions.

Shri Mahanty (Dhenkanal): What is the definition of 'police functions'?

Shri A. K. Sen: That is for the court to say and for us to understand. Our interpretation, I do not think, would be binding on the court. Any statement made by the Government or anyone else to the court would not be binding on the court.

Shri Mahanty: May I humbly submit that when we use the words 'police functions', at least we must be able to understand what 'police functions' are.

Shri A. K. Sen: I have enough faith in the intelligence of this House to appreciate that the words 'police functions' would not be meaningless to us and will certainly convey to us some definite meaning which is well understood by hon. Members of this House. I am sorry I cannot share the view which the hon. Member takes about the intelligence of the House.

Pandit Thakur Das Bhargava (Hissar): Though the House is not unintelligent, may I suggest that there are many hon. Members here—I am one of them—who do not know the exact meaning of the words 'police functions'. We are asked to subscribe

to a matter which we do not understand, I would respectfully ask the hon. Law Minister to kindly elucidate the point as to what are 'police functions'. They have not been defined in the Criminal Procedure Code. They have not been defined anywhere else. Therefore when an hon. Member asks him, to say that the House is intelligent is not a good answer. We would like him to tell us what the police functions are and who are those persons who come under this. According to me there is no *malguzar* who discharged police functions as such. There is none in the whole of India.

**Mr. Deputy-Speaker:** That means that the hon. Member understands and appreciates what police functions are.

**Shri Barrow (Nominated—Anglo-Indians):** I subscribe to be an unintelligent Member. Therefore would the hon. Law Minister kindly elucidate for my unintelligence?

**Shri A. K. Sen:** I have no doubt that the two hon. Members who have been very humble in the expression of their own views understand what police function is. In fact, you, Sir, were the Chairman of the Joint Committee, where the objection was raised that some revenue officers were discharging police functions. The exact words 'police functions' were used when objection was raised to this category of officers who might be discharging police functions. As a result of that this amendment was introduced.

I can only give my personal view to those who would like me to tell them as to what is meant by 'police functions', including Pandit Thakur Das Bhargava, who, I have no doubt, has a precise idea of the expression 'police functions'. It means any function connected with the maintenance of law and order. That is police function. That includes not only the positive part but also the preventive part relating to the maintenance of law and order. That is what is the ordinary meaning of police functions.

It does not really mean watching the streets. It means any function connected with the maintenance of law and order. Under the present law, even some of them are exempt under section 7 of the Representation of the People Act. I do not think the apprehensions expressed that this whole House will be packed with *malguzars* and *lambardars* have any bearing so far as reality is concerned, because, notwithstanding the exemption I do not think we have had any *malguzar* or *lambardar* in this House. The question is, does any person by rendering some useful service to the State, especially when the State is run by a democratic Government, disentitle himself from being a Member of Parliament. If that was the thing, in future, no person will come up or will be available to render useful services for the State, especially when the State is undertaking more and more activities and treading on larger and larger fields which originally were never treated as State domains at all. It is, again, a question of principle. If the House feels that, in a State like ours, whether it is in connection with the carrying out of our Plan or the carrying out of our village reconstruction programmes or social welfare activities, or various other activities on which the sustenance of the State depends, on which the running of the State depends, it is necessary to enlist the active support of certain persons, and if it is conceded further that the functions rendered by some of these persons who are enlisted to work for the State are useful, the question is, simply because they are so enlisted, should they be disentitled from becoming Members of Parliament, notwithstanding the fact that they are not officers of the Government. I have been endeavouring throughout to focus this particular principle which underlies this entire Bill, because there is no question of exempting offices of profit which are technically offices of profit unless we feel that there is need to recognise this basic fact, namely, that in a State like ours, there must be from the very nature of the activities into which the State

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has led itself, there are various persons whose services have to be accepted by the State, who have to render their service to the State and who are, nevertheless, not officers of the State. Is it necessary, in certain cases, to exempt these persons from being disqualified not only for the interests of the State, but also for the purposes of enabling good people to be so enlisted for the purposes of the State?

**Shri Mahanty:** Do you think that only bad people are interested in the State?

**Shri A. K. Sen:** I think the hon. Member has made a statement. It is difficult to cope with his running attacks. They are very pleasant and I am prepared to meet them. But, I suggest that we have to come to some finality at some stage. If the hon. Member is not convinced by my argument, I have no doubt he will vote against me.

**Shri Panigrahi (Puri):** You have got the majority.

**Shri A. K. Sen:** I do not think Government has been really actuated by any idea about the majority behind it. I think in this particular Bill, to be fair to myself and the Members of the Government and also Members of the Joint Committee, I think it is necessary to urge that we have had the very utmost accommodation and tried to accommodate responsive people for the purpose of seeing that we have an agreed solution as regards this particular problem the necessity of which is felt by the entire House.

These are my submissions on the various points and I submit that the House will be pleased to accept the Bill for consideration as recommended by the Joint Committee.

**Shrimati Masda Ahmed (Jorhat):** May I request the hon. Minister to

throw some light on the point of professors and teachers of Govt. aided institutions which was raised by Sri Liladhar Kotaki.

**Shri A. K. Sen:** They are not officers either under the Central Government or under the State Government. The question of exemption does not arise. It is only in the case of offices under the State Government or the Central Government that the question of disqualification arises.

**Mr. Deputy-Speaker:** The question is:

"That the Bill to declare that certain offices of profit under the Government shall not disqualify the holders thereof for being chosen as, or for being, members of Parliament, as reported by the Joint Committee, be taken into consideration."

*The motion was adopted.*

**Clause 2.— (Definitions)**

**Mr. Deputy-Speaker:** Now we take the Bill clause by clause. Clause 2. Any amendments? No amendment is moved.

The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

**Clause 3—(Certain offices of profit not to disqualify)**

**Mr. Deputy-Speaker:** Clause 3.

Those hon. Members who want to move amendments may do so.

**Pandit Thakur Das Bhargava:** I beg to move:

(1) Page 2,—

omit lines 19 and 20, 21 and 22.

(2) Page 2, lines 25 and 26,—

omit "or any other body which is an advisory body"

(3) Page 2, line 28,—

add at the end "for a period of not more than six months"

(4) Page 2,—

omit lines 29 to 36

(5) Page 2, line 30,—

omit "(whether consisting of one or more members)"

(6) Page 2, lines 30 and 31,—

after "temporarily" insert—

"for a period of not more than four months"

(7) Page 2,—

after line 36, add—

"Provided the holder of such office shall not be entitled to exercise his vote in respect of the matter of public importance for which such member has been appointed"

(8) Page 2,—

after line 36, add—

"Provided that such Committee is not invested with any powers which involve exercising of any executive and judicial functions or the Committee or its members are not in a position in which patronage by way of grant of land, scholarships making of appointments or conferment of other benefits can be exercised in any manner or form"

(9) Page 3,—

after line 6, add—

"Provided that the holders of offices whether as chairman or member of such statutory or non-statutory body or any other office of profit within the ambit of the meaning of clauses 1(a) and (2) of article 102 of the Constitution

which have not been examined and included in the Schedule referred to in clause (1) of section 3 or any of the other clauses of section 3 shall not be deemed to be declared by Parliament by law not to disqualify the holder"

(10) Page 3, line 9,—

after "whole duty is" insert "merely"

(11) Page 3, lines 10 and 12,—

for "who does not discharge any police functions" substitute—

"who is not enjoined upon to help the police or to discharge any police functions"

Shri Tangamani (Madurai) I beg to move

(1) Page 3 lines 2 to 6—

omit "but excluding (i) the office of Chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman secretary or member of the standing or executive committee of any statutory or non-statutory body specified in Part II of the Schedule"

(2) Page 3, lines 2 to 4,—

omit "(i) the office of Chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii) "

(3) Page 3 line 5,—

omit "or member of the standing or executive committee"

(4) Page 3,—

after line 12, add—

"(k) class III and class IV employees of commercial and industrial concerns under Central, and State Governments and workers in such industrial establishments governed by the Factories Act,

(1) teachers in non-Governmental institutions."

Shri B. Das Gupta (Purulia): I beg to move:

Page 3,—

(i) line 7, for "(j)" substitute "(iii)"; and (ii) after line 12, add—

"(iv) the office of Gram Sevak and Chief Officer—whether called by any other name—under a statutory village or regional Panchayat."

Shri L. Achaw Singh (Inner Manipur): I beg to move:

(1) Page 2,—

omit lines 19 and 20—

(2) Page 2, line 23,—

omit "of Vice-Chancellor of a University or"

(3) Page 3,—

omit lines 7 to 12.

Shri Dasappa (Bangalore): I beg to move:

Page 3, line 6,—

omit "Part II of".

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

Page 3,—

after line 12, add—

"Explanation.—For the purposes of clauses (h) and (i), the office of chairman or secretary shall include every office of that description by whatever name called."

Shri Mohammed Imam (Chitaldrug): I beg to move:

Page 2, line 24,—

for "chairman or member of the syndicate" substitute—

"member of the"

Shri Lakshtar Koteki (Nowgong): I beg to move:

Page 2,—

omit lines 16 to 18.

Shri Raghunath Sahai: I beg to move:

(1) Page 2,—

omit lines 21 and 22.

(2) Page 2, lines 30 and 31,—

for "temporarily" substitute—

"for a specified period".

(3) Page 3, lines 3 to 6,—

for "but excluding (i) the office of chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman, secretary or member of the standing or executive committee of any statutory or non-statutory body specified in Part II of the Schedule;" substitute "provided that such office does not entitle the member to any other emoluments notwithstanding whether he draws such emoluments or not;"

Shri N. R. Munkamy: I beg to move:

(1) Page 2, line 28,—

add at the end—

"provided the stay outside India does not exceed six months."

(2) Page 3, lines 2 to 6,—

for "but excluding (i) the office of chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman, secretary or member of the standing or executive committee of any statutory or non-statutory body specified in Part II of the Schedule" substitute "but excluding the member of any statutory or non-statutory body specified in Part I and Part II of the Schedule."

Shri Jagannath Das (Koraput): Amendment 85 stands in the name of Shrimati Sucheta Kripalani.

Shri Mahanty: How can you move it, then?

**Mr. Deputy-Speaker:** It can be permitted if it is thought necessary.

**Shri A. K. Sen:** I think we shall accept it.

**Mr. Deputy-Speaker:** It is on that understanding or that impression that I am allowing it to be moved by Shri Jaganatha Rao.

**Shri Jaganatha Rao:** I beg to move:

Page 2,—

for lines 23 to 26, substitute—

“(f) the officer or chairman or member of the syndicate, senate, executive committee, council or court of a University or any other body which is an advisory body connected with a university;”

**Mr. Deputy-Speaker:** All these amendments are now before the House.

**Pandit Thakur Das Bhargava:** My first amendment is 18 seeking to omit lines 19 and 20, i.e. (d) which reads:

“the office of a member of a Home Guard constituted under any law for the time being in force in any State;”

In regard to home guards, when the committee on offices of profit appointed by the hon. Speaker went into this question, only some incidents of this office was brought to the notice of that committee, and it was thought that home guards were on the same footing as the members of the Territorial Army and the NCC. It was under that impression that that committee stated that the home guards might also be exempted. But in the Joint Committee, many Members threw light on the work and the incidents of the office of home guards, and it appears that home guards are nothing but a part of the police.

**Mr. Deputy-Speaker:** Clause 3 and the schedule are the only two places where we shall have to stop and discuss. May we divide the five hours

which we have got between these two?

**Pandit Thakur Das Bhargava:** These are the two important things, and the time may be divided.

**Mr. Deputy-Speaker:** Would two hours be enough?

**Pandit Thakur Das Bhargava:** Just as you please. I have nothing to say.

**Mr. Deputy-Speaker:** I just wanted to have an idea.

**Pandit Thakur Das Bhargava:** We were told that it is not in an emergency that the home guards are called, but that they could be called at any time. Judging from their duties, they are part and parcel of the police. I am not very much acquainted with what they are doing in the whole of India, as in the Punjab we have not got the institution of home guards. In the Joint Committee, Members coming from States where there are home guards, told us many things. It was said that many home guards were called in at the instance of the officers of the home guards themselves even where they were not needed, because they get something from the Government, perhaps Rs. 2 or Rs. 2-4-0 per day, but it is not the emolument I object to. They may even get nothing. Those who perform voluntary duties in emergencies are certainly not regular members of the police force, but the position of the home guards is such that they are nothing but members of the police force practically speaking, and they are out to see that they are called because of the payment. That means they are people who are even less qualified than members of the police force themselves, because they are out to see that their services are utilised because they are to be paid something.

We have excluded the police. They may be getting more or less, but they are excluded, because in the British law as well as in our law, it has been said that members of the public who



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are paid by the Government are Government servants. The rule is quite clear that Home Guards constitute an office of profit. There is no doubt, because they get something from the Government. Similarly, all these offices which are mentioned here are all offices of profit. To start with, therefore, we must think that they come within the purview of article 102 of the Constitution. If any person wants to say that he should be exempted, the onus is on him to show that, as a matter of fact, they are discharging such duties by virtue of which they ought to be exempted, that they ought not to come within the mischief of the law.

In regard to home guards I do not see any redeeming feature at all. The NCC and the Territorial Army only work for Government in emergencies, and even under the Criminal Procedure Code any person can be asked to become a constable or a head constable or sub-inspector in emergencies. Such people may be exempted because they perform a patriotic duty. There is no reason why they should not be exempted. But persons who are practically police officers ought not to be exempted, and this is the criterion for all the other offices also. When I come back to them, I will have occasion to show that it is entirely wrong to think, as our hon. Law Minister thinks, that any person who gives some sort of service to the Government ought to be exempted. This is the basis on which he has proceeded and told us that even those who come under (j) should be exempted.

So far as Home Guards are concerned, I hope hon. Members who follow me will be able to tell us how they have been working. I was impressed by the speeches of hon. Members who took part in the discussions, and "I was of the view that it was no use exempting home guards as they did not perform any such patriotic duties as should earn any exemption for them.

Then I come to amendment 17, seeking to omit lines 21 and 22, i.e., the office of sheriff in Bombay, Calcutta or Madras. We were told that the sheriffs were performing very responsible duties. The only duty that we were told about at the time we were considering the question in the committee on offices of profit was that when high dignitaries, like Governors etc., came, they were regarded as first citizens, and they did honour to them and they arranged for their reception etc. Now, I find from the hon. Law Minister's reply to the consideration motion, that they are regular officers of the High Courts, they keep custody of persons, that persons are brought to the High Court by them. If they are paid officers of the Government, or even if they are unpaid, if their duties are such that they are within the control of the Government, then I see no reason why they should be exempted.

It is said that there are only three sheriffs in the whole of India. There may be three, one or three hundred. That is absolutely immaterial to my mind. The only question is whether they are people who can be said to be civil officers. Even if they are not officers of the Court, they are still officers of the Government, they perform executive functions, and they do some kind of service to the High Courts. There is no reason why they should be exempted.

We find in the British Act the sheriffs are not exempted. In the schedule, we find the following words:

"Sheriff, salaried sheriff, substitute or interim sheriff, substitute appointed under the Sheriff Courts (Scotland) Act, 1907."

In the other parts of that country, there are other sheriffs also apart from the sheriffs mentioned under the head 'judicial offices'. The sheriff being a judicial officer, his functions are practically the same as have been mentioned for our sheriffs by the Law Minister. If they are not exempted there, I

do not see any reason why they should be exempted here. The old idea that they were persons who were regarded as first citizens of the particular town or city, and that they only were responsible for the receptions held in honour of Governors etc. is quite wrong. As a matter of fact, they perform very specific functions of the High Court, and they do also execution work, practically execution work in this sense that they are also responsible for execution of decrees etc. So, my humble submission is that there is absolutely no reason why sheriffs should be exempted. If we made a mistake there in the committee, I am here to own it. If the duties of sheriffs mentioned by the hon. Law Minister in reply to a question from my hon. friend Shri Raghunath Sahai, are considered by the House, the House will come to the conclusion that it is absolutely unnecessary to exempt sheriffs, even if there be only three sheriffs in our country.

I now proceed to my amendment No. 18 which reads thus:

"Page 2 omit lines 23 to 26"

Lines 23 to 26 read as follows:

"the office of Vice-Chancellor of a University, or of chairman or member of the syndicate, senate, executive committee, council, court or any other body which is an advisory body connected with a University."

So far as the office of Vice-Chancellor is concerned, I understand that the Law Minister is pleased to accept that part of the amendment, and, therefore, I do not want to discuss that point at length and waste the time of the House.

In regard to the other offices, my humble submission is that the yardstick which we have applied to other offices should be applied here. The other offices are:

"chairman or member of the syndicate, senate, executive com-

mittee, council, court or any other body which is an advisory body.."

**Shri Hajarnavis:** May I interrupt the hon. Member? I understood him to say that sheriffs were not exempted under the UK Act. May I know on what provision of the UK Act he relies for this statement of his?

**Pandit Thakur Das Bhargava:** I have not fully heard the hon. Minister.

**Mr. Deputy-Speaker:** He wants to know under what provision of the UK Act sheriffs have not been exempted.

**Shri Tyagi (Dehra Dun):** May we also know whether the sheriffs draw any pay?

**Mr. Deputy-Speaker:** He had argued like that.

**Pandit Thakur Das Bhargava:** I have got a copy of the Act in my hand, and at page 1 the words are as I have just read out.

"Sheriff, salaried sheriff, substitute or interim sheriff, substitute appointed under the Sheriff Courts (Scotland) Act, 1907."

And this is given under the heading 'judicial offices'. I do not know how my hon. friend says like this.

**Shri Jaganatha Rao:** To which schedule is the hon. Member referring?

**Pandit Thakur Das Bhargava:** I am referring to the First Schedule. May I pass on my copy to the hon. Minister, if he so likes?

**Shri Hajarnavis:** No, I have got the copy here.

**Pandit Thakur Das Bhargava:** I submitted that so far as the office of vice-chancellor was concerned, I need not waste the time of the House by dealing with that point, because I understand an amendment in this respect is

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being accepted by the hon. Law Minister. The other offices are:

"chairman, or member of the syndicate, senate, executive committee, council, court or any other body which is an advisory body connected with a University;"

First of all, I object to the words 'which is an advisory body connected with a University'. In regard to advisory bodies in general, we have made it a rule that an office in an advisory body as such is not to be exempted. Every committee, statutory or non-statutory, has been examined, and should be examined with a view to find out the actual position. In name, it may be an advisory body, and yet the advisory body may be discharging functions which are of an executive or judicial nature; we do not know.

We have got a definition of 'statutory body' and 'non-statutory body', and we have just passed clause 2 defining these bodies. And there can be no body which is neither statutory nor non-statutory, provided it is a body. Therefore to say 'which is an advisory body', and then limit it again, is quite vague. So far as I am concerned, whenever an office comes before us in any committee or in any body, it is our duty to examine it fully and then decide the position and not leave it again to the court officer or the High Court or the election tribunal or the appellate authority next to the election tribunal. This is not right, when we have accepted some principle, there is no justification for making a schedule unless it be this that we want to decide matters in such a way that law may be clear, definite and unambiguous. In the report itself, you, Sir, have been pleased to say that the basis of the schedule is that everything must be clear and unambiguous. Now, again, if we leave it to some other person to decide whether it is an advisory body or not, then we make it ambiguous. My complaint in regard to sub-clause (j) also is the

same, as I shall have occasion to point out later. We had the entire material before us, and yet, we failed to do our duty. The duties that we had to discharge were to find out in regard to every committee and every office and make it certain whether such and such office in such and such a committee would disqualify or not. The Joint Committee has not discharged its duties, so far as this question is concerned. The words 'or any other body which is an advisory body' makes the position uncertain and ambiguous again. That means that before the Joint Committee, there was no other body to be considered, or there were some bodies which were yet to come into existence. I would submit that we should not give a blank cheque to any person, so far as this question is concerned, because, according to the hon. Law Minister himself, the Joint Committee had to decide about specific offices and say whether they came within the mischief of article 102 or not. If this is the view—and this is the right view, for, I understand that the Law Minister was pleased to tell us at the time when the motion for reference to Joint Committee was under discussion that it was to be determined by the Joint Committee whether specific offices came within the mischief of article 102 or not—then, to say 'or any other body which is an advisory body' and leave it in such a condition of uncertainty, is not fair. Therefore, these words 'which is an advisory body' are an anathema; they are unjustifiable. It is acting contrary to the principles which the Joint Committee itself has enunciated in its report.

Then, again, it is not clear to me whether 'chairman or member of the syndicate, senate, executive committee, council, court or any other body' is paid or unpaid. What are the functions of those persons? How are they exempted? As you know, there are various universities, and there are different rules in regard to the different universities. So, to lay down a

general rule without going into the actual functions of these committees etc. is not fair.

So far as the office of Vice-chancellor is concerned, we are not going to exempt it on the basis that it is a whole-time job, it is a case in which the appointment is made by Government, and the removal can also be made by Government, and moreover, a vice-chancellor is paid by Government from Government funds or from such funds as Government provide for the university. The same argument applies to each one of these offices. So, my humble submission is that the mere fact that they belong to an educational body such as syndicate, senate, executive committee etc. is alone not a fair criterion. As I have submitted, there are many offices in this country which we respect very much, and the holders of which discharge very useful functions, as for instance, our magistrates, the judges of the High Court and Supreme Court etc. And yet all those persons are not allowed to become members of the Houses of Parliament for various reasons. Those were the reasons applied to these persons also. They discharge very good functions, they are valuable. I have nothing against them. I have got nothing against any person. Even in regard to *lambardars* etc. it is not that I despise them or treat them with contempt. I treat them with all the respect that is due. All these officers are our countrymen and they are performing very useful functions. But that is not the basis for this, that is, whether they discharge useful functions or not. The basis is whether they are persons who are connected with Government in such a way that they will not show their independence here in this house. Similarly, the persons in the educational field are persons who are practically people connected with Government and will be under their thumb. They will not have the heart to say 'no' to a proposal which comes from Government, as we Members can do. This is the real basis. We want independent people. So this exemption on the basis of their function has not been justified. A

general provision has been made in respect of every University, whereas the functionaries belong to different Universities with different constitution of India.

Then I come to the next provision (g)—the office of a member of any delegation or mission sent outside India by the Government of India for any special purpose. If you kindly see article 101(4) of the Constitution, you will see that therein provision is made for absence of Members. If any Member is absent for more than sixty days, as interpreted in that article, he is disqualified. I am submitting that if a person goes in a delegation for any special purpose, the period of six months is more than enough. If a Member is to remain outside for the full five years of his tenure, of the tenure of this House, I should think he should not be exempted. After all, every Member has a duty to discharge towards his constituency and towards this House when he becomes a Member. If he is absent from India for all the five years or four years or three years or two years, it means that for the time being the House is deprived of his advice and consultation and his services in every way. The constituency is also, as a matter of fact, deprived of its right of representation in the House. Therefore I am submitting that in such people go outside to discharge very onerous duties so far as the country is concerned, they may be exempt, but it should not be for more than six months. I want to limit the period to six months which, in my opinion, will be sufficient for all practical purposes. Therefore, I have an amendment to the effect that not more than six months should be allowed and if he is absent for more than six months, he ought to be disqualified.

I proceed to the next item (h)—the office of chairman or member of a committee (whether consisting of one or more members) set up temporarily for the purpose of advising Government or any other authority in respect of any matter of public importance or for the purpose of making an inquiry into, or collecting statistics in respect

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of, any such matter, etc. etc. When I spoke on the motion for consideration, I had enough to say and I do not want to repeat all those things. But with your permission, I want to say one or two things even in regard to this. In the first place, I do not understand what is the meaning of the words "whether consisting of one or more members". I understand that when there is more than one member, it is called a body. If there is only one member, it should not be called a body—advisory body. This is only to see that if any hon. Minister wants to set up a single adviser, he can do so, and if a Minister wants to have four advisers all at one time not constituting a body, he can have even four advisers at a time. If it is said that it will be an advisory body, will it be a statutory advisory body or a non-statutory advisory body? It cannot be both; it must be either the one or the other. If it is advisory body, we have already defined statutory and non-statutory bodies in (i). Such advisory body must be included in (i). There is no occasion for having this provision on (h). According to me, it is idle to have this provision. So far as the Schedule goes, there are many such committees which are meant only for the purpose of collecting statistics and making inquiries. We have already said that they may be exempted but I do not know why this has been put in here for the purpose of duplicating matters. It is only with one purpose. That is what I suspect. If it had been said there that a single advisor is going to be appointed, the House would never have agreed. This is only. I should say, a camouflage for concealing that we are appointing some committee who is quite distinct from (i). It is not distinct from (i) and, I make bold to say, it cannot be distinct from (i). There is no occasion for enacting (h).

Then it is further said—'advising the Government or any other authority'. What is that 'authority'? Are the Government going to appoint some authority for the purpose of advising

any University professor or any Vice-Chancellor or what? I can understand Government taking powers for setting up a Committee to advise them. But I cannot understand this provision any other authority. My humble submission is, it is too vague and is too wide of the mark. If we allow things to go on in this way, we do not know what is going to happen. We do not want to travel along a line, the implications of which we do not know. These words 'in respect of any matter of public importance or for the purpose of making an inquiry into....' are vague. There is no doubt that we have exempted those bodies already and we propose to exempt such bodies, if any, that come into existence. But in view of the fact that the Joint Committee has also made a recommendation for the appointment of a Parliamentary standing Committee, it does not stand to reason at all to have an omnibus provision like this which may lead us to a very dangerous situation. When already we have said that all kinds of bodies which are created in future will have their composition gone into by the Standing Committee, it does not stand to reason that we have another clause in which we do not know what will be included. Because this is giving sanction for future committees of all kinds which will not be gone into by that Committee at all. If you retain (h), it means that in future any advisory committee may be appointed by the Government, and the Standing Committee will not be able to go into its composition, because after all, apart from (i) all the other offices are practically offices which may come into existence in future or which are at present being occupied by certain people. So that according to me, the provision (h) is the most dangerous provision in this Bill, and we should not be a party to a provision like this, whose implications we do not know.

Then again, it is said 'temporarily for the purpose of'. I cannot understand what is the full significance of the word 'temporarily'. An advisory body constituted for any purpose, if

it is good, is good whether temporarily or permanently. The sole purpose seems to be that some special Members of Parliament may be appointed, just as in England, as Private Secretaries to dance attendance upon the Ministers. The Minister may do what he pleases. The Private Secretary will be the conscience keeper of the Minister on all matters and everybody will look up to him as the giver and dispenser of all favours, whatever may lie in the hands of the Minister. It will not benefit the Minister. The Minister will be criticised. It will not benefit the Member. The Member will be regarded as a sort of deputy to that Minister. We do not want to have 'Under-Ministers' in this House without their being called as such. Surely we have provided for Minister of State and Parliamentary Secretary. Now they want to have advisors from within the House who may be able to dance attendance upon them.

Apart from this, if you kindly look at the UK Act, you will be pleased to find that they have limited even the number of Ministers and the votes of the Ministers. There they have said that not more than 70 votes will be exercised by such people. Now the vote of any Member of this House who becomes an adviser to a Minister or any other person in authority is practically gone to the other side, which means that in addition to the votes of the Ministers in the pockets of Government, they will have so many advisers whose votes will also be assured to Government. Then the House can be swamped by the Ministers and there will be no independence in Members, and the laws that will be passed by the votes of the Government will have that defect if this rule is abused. I do not have any apprehension in my mind that our Ministers will abuse it, but there may be likelihood of it being abused; there may be possibility of abuse. I am really fighting a phantom in regard to this Disqualification Bill. The Ministers are not behaving in this manner; the Government is not going to behave in this

manner. Even if they do, I know Members of the House are not going to be seduced from their duty. At the same time we do not know what will happen in future. We are making this law for all time. It is this likelihood that I am fighting against. Therefore my apprehension is that this is the worst kind of phantom with which we have to contend. I respectfully ask the hon. the Law Minister to look into it rather carefully and not be a party to enacting a measure whose full implications are not clear to many Members and perhaps may not be clear to the Minister himself.

13 hrs.

Having said this I come to sub-clause (i). In regard to this sub-clause I have given notice of many amendments some of which I have moved. I want to call the attention of the House to two or three of these amendments. I have submitted that so far as the schedule is concerned we have not gone through the composition of all the committees. I also pointed out that it was not made possible by Government. According to my view the Joint Committee should not have made a schedule and only stated: all right such and such office may or may not be exempted. It was in the pleasure of the House to accept it or not to accept it. Not only that the Schedule has been made in a complicated manner, with two negatives. We have not definitely said: all right, these are the committees in which a Member shall not be allowed to be appointed a Chairman, Member or Director. These are the committees in which a Member can go, but not as Chairman or Director. We have not said so. We have said that all the committees on earth, whether statutory or non-statutory are exempted, which means that all the committees the composition of which we do not know and have not been examined by Part I are exempted by this. This is not understandable. I submit that it is absolute dishonesty to put sub-clause (i) here in this form. It means that we are exempting those committees the com-

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position of which we do not even know. With one stroke of the pen we are trying to achieve this. The duty which we are expected to discharge is to find out the membership of which committee should disqualify and the membership of which should not disqualify. Unless we know the composition of all the committees we will not be in a position to do this. Without going through them to give a blank cheque is not just, legal or honest. The duty which the Constitution has cast on us is to find out which offices do qualify and which ones do not. We may in the discharge of our duties commit mistakes; I do not mind that. But the House without even knowing the composition of the Committees is asked to pass a measure. This is not right. A piece of legislation like this is not just and we are not doing our duty by the Constitution. We are—if I may use such an expression—committing a fraud on the Constitution if we make a provision like this without considering the pros and cons of the matter.

Secondly, as I have submitted we should only exempt those committees which we have examined. In regard to the other committee we should say that if they satisfy the conditions or the criteria which we applied to the committees in the Schedule they may be exempted; otherwise not. I also suggest that a committee of the Houses should be appointed to go into the composition of the other committees and make their report within six months, based on which Government may bring a supplementary measure completing the Schedule.

I find that a good many Members have given notice of amendments, some of them suggesting the inclusion of certain committees and some others exclusion of certain committees. I am rather happy that the schedule has been put through this examination by Members. I would in this connection like to submit a difficulty which confronted Members of the House. Though

the Members of the Select Committee were supplied with papers relating to the composition of the committees, the Members who were not Member of Select Committee have not been treated alike. I find that many Members of the House experience great difficulty in discharging their obligations to the House and I am one of those unfortunate Members who experiences this difficulty some times when so treated.

When a Bill comes to this House as reported by the Select or Joint Committee, Members who were not on the Committee have to pass judgment. All the literature supplied to Members of the Committee are not supplied to all the Members, and they are not in a position to know the factors which influenced the Committee to come to a conclusion. Unless the whole literature is supplied to all the Members I fail to see how Members would be in a position to find out whether a particular committee could be exempted or could not be exempted. For instance, there is the Delhi Rent Control Bill. So many representations were made to the Committee. It is very kind of the Chairman of the Committee to have placed all the evidence on the Table of the House. But all the papers on which we can interpret the evidence have not been given to us. The same difficulty is experienced in regard to this Bill as well. How can a Member decide whether a particular committee should or should not be exempted, unless he is supplied with all the literature furnished to Members of the Committee.

Mr. Deputy-Speaker: These matters ought to have been raised in the Joint Committee, because it is for the Joint Committee to direct what papers produced before it or taken cognizance of, shall be supplied to the Members. There ought to be no complaint about it now.

Pandit Thakur Das Bhargava: Even if it had not been brought to the

notice of the Joint Committee we are here to see whether these amendments ought to be accepted or not. Some hon. Members have given notice of amendments in regard to committees of which even the Members of the Joint Committees were not supplied with materials, as for instance Hindustan Steel Private Limited and Oils Limited. Suppose I am asked to give my opinion in regard to committees the composition of which I do not know, how will I be able to judge whether this committee should be exempted or not?

**Mr. Deputy-Speaker:** The Member who is moving the amendments will give the particulars and it is for the House to accept it or not.

**Pandit Thakur Das Bhargava:** I need not dilate upon this point as you have much more experience than I myself

**Mr. Deputy-Speaker:** I do not claim that.

**Pandit Thakur Das Bhargava:** It is on account of your modesty that you do not claim that. As a matter of fact, if a Member stands up here and gives the composition of the committee I will not be able to follow or appreciate whether this committee should be exempted or not. After all I must get some time; I must go through the composition of the committees; I must find out for myself whether the committee is such that it bestows some patronage on the person. These are not ordinary matters. These are serious matters. And the difficulty is that the composition of the committee, the notification or resolution under which it was constituted are not before the House. I am submitting on behalf of myself and other Members that until and unless we get these details we will be only giving our opinion blindfold which we do not wish to do. I therefore suggest that the Parliamentary Committee the constitution of which I have suggested may be requested to

go into the composition of the other committees and give their recommendations. That will be the data which the House will scrutinise. Our going into these matters at this stage will not be so good or decisive and we cannot have an intelligent exercise of our minds in regard to that matter until and unless these materials are furnished. Therefore, I am submitting that so far as these amendments are concerned you may please order that when the committee goes through these matters and gives its opinion, the hon. Members may be supplied the materials—they may either be placed on the Table of the House for 7 days *or outside—so that we may be able to say whether any body should be exempted or not*

Anyhow, I would request this House either to postpone the consideration of this Bill or to pass it in such a way that it may not be enforced on the 31st December 1958, but, as there was a proposal, this may come into force on 1st September, 1959 and the old Act may continue till such time as this comes into operation. During that period the composition of these committees may be gone into and we may ultimately decide. In that case there will be two scrutinies—one scrutiny has already been made in so far as the schedule is concerned and another scrutiny will be there by the Standing Parliamentary Committee and no hon. Member shall have any complaint whatsoever. If he is given an idea of the composition of these committees, he can judge for himself whether any committee should be exempted or not. There will be double scrutiny and the decision which the House will be giving will be more *pucca*. This is the point which I want to place before the House and Government for their consideration, to see that the old Act is continued till September 1959 and this Bill comes into operation then. So, there will be about 8 months to go into the composition of these committees and find out which committee should be exempted and which committee ought not to be exempted.



**Mr. Deputy-Speaker:** Just now we have taken a decision that we proceed to consideration of the clauses of the Bill. Can we now again go back and say . . .

**Pandit Thakur Das Bhargava:** I am not submitting that we should not continue consideration of the Bill.

**Mr. Deputy-Speaker:** Just now the hon. Member said that the consideration should be postponed.

**Pandit Thakur Das Bhargava:** I am submitting that so far as the schedule is concerned. There is a proposal of the Joint Committee that there shall be a Standing Parliamentary Committee and that committee be authorised to go through the composition of these committees. There are some amendments to add clause 3A. The recommendation is that this Standing Committee should be enabled to go through all the committees whether contained in the schedule or otherwise—in regard to future committees also—and it shall have an advisory function. I think this function has been accepted by Government. Therefore, so far as Government and the other hon. Members are concerned, there is no difference of opinion in regard to this.

Therefore, my submission is why should we duplicate matters? Why not we agree that this Committee shall go into the composition of all the committees and come to a decision. Then, we will be able to scrutinize it again. I am not against continuing the discussion of this Bill. If my proposal is accepted, the previous Act will continue till 1st September 1959 and during this period the Parliamentary Committee will do its work and this Bill may be enforced from 1st September 1959. I will come to this as I have submitted an amendment to add clause 3A; but, to some extent, I have anticipated it.

Now, I come to sub-clause (j). With regard to that, today, we had the benefit of hearing the hon. Law Minister. I put a question to him and the reply

to it, according to me, was not satisfactory. We look up to the hon. Minister who is a very distinguished lawyer, and at the same time a very distinguished man otherwise, to give us some guidance in understanding the provision. But, instead of giving us that guidance he twitted us. He did not give a fair reply to the question put by my hon. friend Shri Mahanty and also by myself and other hon. Members.

I for one, as a matter of fact, do not know the exact implication of the words 'discharging police functions'. I consulted the Criminal Procedure Code; it does not give any guidance at all. So far as the Police Act is concerned, I have not seen it, but I understand that there is no definition of 'police functions' there. What fell from the hon. Minister was that law and order functions may be regarded as police functions. My submission is that if this is so, then the lambardars in Rajasthan and Punjab do certainly discharge police functions. According to the rules of lambardarship etc. which are contained in the *Land Revenue Manual* they have to help the police. They are the helpers of the police. If that is so, they clearly come within this definition. Either you exempt all these lambardars etc. or you do not exempt them at all. I do not want the sword of Damocles to be always hanging over the heads of these persons.

I appreciate the feeling of the hon. Law Minister when he says that these persons, when they collect revenue, do a sort of duty to the Government. I do not deny that. I have got every respect for all those officials. Even the meaneast official of Government does a certain function. Who denies that? At the same time, may I know the basis for not giving the same exemption to a *chaprasi* of the tehsil or to another official who does the same thing? He also does the same thing. The *Tehsildar* and the *Naib Tehsildar* and *Patwari* also collect revenue. If they get their pay, the *lambardar*, *patel* or *deshmukh* gets no

pay but gets a commission. What is the difference? Moreover a lambar-dar is not a revenue officer at all according to the definition given in Land Revenue Act. He is a village officer only. They do not collection work in a voluntary capacity, they are paid by Government. Sometimes when the land revenue collected is very high, the emoluments are also high because actually they get some 2½ per cent or 5 per cent. When they are remunerated not by pay but by fees, what is the difference in capacity? Their capacities are the same, they discharge functions in the nature of public functions and they are in a way government servants; they are helpers of Government. The same rule that goes against government servants applies to them also. They hold offices of profit. If they do not, there is no case for exempting them. In so far as exemption is sought Government think that they are holding offices of profit. I really do not know the real basis for the distinction. All those are officers who perform duties to Government, why not they all be exempted? You have forgotten that you are placing them in such a position that they will not thank you for it. I can understand it if it is something minor, if they are not under the influence of Government, if they are not under the thumb of Government. From our experience I believe that they are all under the thumb of Government and they will not be independent when they come here. If you suppose my conclusions are wrong then exempt them. But do not put them in such a position that they come up for scrutiny and it depends upon the scrutinising officers to exempt them or not.

Now, it is not that the Government is at fault because Government supplied all the material to the committee. We have got the duties of the lambar-dars, malguzars, deshmuks etc. Here they want to exempt these officers. Instead of deciding on the basis of those duties, about which we have got all the information, we have not done our duty by them and we have put them in a state of uncertainty. I would

rather like that on the basis of the material it may be decided once for all who is to be exempted or who is not to be exempted. You leave it to the scrutinising officer to decide whether they will be allowed to stand or not and whether this will be regarded as an office of profit under article 102. Supposing he succeeds or fails there, there will be an election petition and ultimately the matter will be decided by the court. My hon friend has said that there are 45 lakhs of such people. What have they done to get this sort of a law from this House? They ought to be certain of their position and know where they stand.

**Mr. Deputy-Speaker:** Does not the hon Member recollect that we felt that difficulty in the Joint Committee also? These names are used in different places with different functions.

**Pandit Thakur Das Bhargava:** We felt the difficulty in the Committee on Offices of Profit because the duties of all these persons were not before us. We made a suggestion that whenever another Committee sits, all their duties must be placed before that. So far as the Government could get them, they placed all the duties before us. If they did not place the duties before us, it is the Government to be blamed.

**Mr. Deputy-Speaker:** The hon Member has said that all the duties were placed before us. That is one statement. In certain places the lambar-dars are innocent men, taking the office by heredity, they had nothing to discharge and nothing to do. So, we thought he was innocent in that respect and exemption may be given. At another place, the same title lambar-dar carried certain functions—to help the police and do certain other things.

**Shri D. C. Sharma (Gurdaspur):** Are there any lambar-dars in this House from whom you can get an interpretation. (Interruptions)

**Mr. Deputy-Speaker:** Pandit Thakur Das Bhargava is himself a lambar-dar.

**Shri Jaganatha Rao:** . . . Was a lambardar.

**Pandit Thakur Das Bhargava:** You know, Sir, that I was not a lambardar as such.

**Mr. Deputy-Speaker:** There are certain lambardars who are lambardars and there are others who are not as such. There is a distinction . . . (Interruptions.)

**Shri Hajaranavis:** There are lambardars who hold their offices and who do these duties and come under the influence of the Government; there are others, who are not influenced by the Government and they are not lambardars as such . . . (Interruptions.)

**Mr. Deputy-Speaker:** My friend is rather speaking in a lighter vein—not to be taken very seriously.

**Pandit Thakur Das Bhargava:** Sir, I do not treat your remarks lightly at any time but today since you yourself have been pleased to tell me that they were to be taken in a lighter vein, I will certainly submit to you.

There are some lambardars who are only lambardars in name; they do not discharge those functions. I have known very big lambardars who are owners of the entire villages. I happened to be the sole proprietor of a village and was appointed a lambardar but I did not discharge those duties for a single day and I do not know what the lambardar usually does. I never went after any revenue officer or after any police man. When I came to the House, I resigned that and they must have appointed somebody else who is not a proprietor; they may have appointed. But I know of many big people who are owners of lakhs of acres and they are also lambardars though they do not discharge any function. But at the same time, I have got no less an authority than your goodness as to how these lambardars behave . . .

**Mr. Deputy-Speaker:** We have to make a distinction between one set of lambardars and another set of lambardars.

**Pandit Thakur Das Bhargava:** Perfectly right. If we could not distinguish then we ought to see what the majority is like. I should say that even among the Government servants, there may be people much more independent than even many Members of Parliament of our House. There is no doubt there are all kinds of people. But at the same time, the majority will not be independent; the majority of such people. I know, will not behave independently if they came to this House. In regard to lambardars, you were pleased to give me a description which I do not have the courage to repeat in this House. Whenever an officer comes, what do we see. I have seen those officers coming during the fifty years of my practice. I know how officers come and how the lambardars are treated. As soon as they come, they are treated in such a manner which one must be ashamed of. All sorts of pressure are put upon them. During the national struggle, all these lambardars—of course with some exceptions—most of them appeared as police witnesses and the High Court judgments are there which say that these are police stock witnesses and even a confession made before them is regarded as inadmissible because they are regarded as persons of authority and they are the helpers of the police according to the rules. I who know what a lambardar is, myself do not know whether he discharges any police functions. If you want the exemption of these people, it is not my view to object to it; I am quite amenable to the will of the House. If the House wants to exempt them, let it be done. But take away those words 'discharges any police function'. I do not want to put them in this uncertainty as I do not want to put others too.

You were pleased to criticise me and say: if the whole material was there, why did you not do it. That is my con-

plaint. If the whole material was before us, we should have done. We should do it now. The entire material can be placed before the House. If the entire material is not there, let the Government say so and take the blame.

In the Representation of the People Act, in section 123(a) what have we done? We do not even enumerate all these things, all these offices. We say, without enumerating them: 'and the like'. I am glad that 'and the like' is not here. But at the same time the words are 'or by other name'. Even the names are not known. The Law Minister does not know even the names of these officers whom he wants to exempt! It is not fair; it is not the way in which law should be enacted in this House. The law should be quite exact, accurate and unambiguous. You do not even give the names. Who will supply the names whenever a question arises? Something will arise for decision whether it comes within the definition of this law or not. The best thing is to take away this village revenue officer who according to law (Land Revenue Act) is not a revenue officer even. If you take it away nobody will be put to any grievance; even the lambardars will have no grievance. In this Bill, we are not taking into account all the kinds of offices under the Sun which come under article 102. May I just exemplify by saying that we do not say anything about pensioners, about the servants of the local bodies, honorary magistrates—like the Justices of the Peace—and so on. We have not said a word about them; we have not touched them. We have neither qualified them nor disqualified them; we have left them in the lurch as they were previously under the mischief of article 102. There are many offices which have not been gone into by us and therefore, you cannot say whether they are exempted or not. This provision is ambiguous and does not help. If you leave it out nothing will be lost. All these lambardars will continue to enjoy their present position. So, I think we are not justified in enacting

sub-clause (j). It is possible that opinions may differ. Let them be resolved on another occasion. After all this is not the last Bill on the subject; other Bills may come and then there may be ample material and we can understand it better. In this way as it is now, we leave it to the scrutinising officer. Even now the scrutinising officer shall have to decide and there is no occasion for having this (j) at all.

Clause 3 contains many offices which ought not to be exempted. This contains many offices which we have not even considered and yet we have exempted them without consideration. It contains many offices which have yet to be determined by the scrutiny officer in the courts. It means that if my amendments are not accepted, clause (3) will act in such a way that ultimately the same difficulty will arise, as they will arise without having enacted this legislation. My humble submission, therefore, is that either the House may be pleased to accept some of these amendments, especially in regard to (h) and (i), or else my feeling is that we will not have done our duty to the people of this country by enacting this clause 3.

**Shri D. C. Sharma:** Mr Deputy-Speaker, Sir, the whole basis of this clause shows that there is no logic in this. The various provisions in the clause show a kind of arbitrariness of decision which is not conducive to any good legislation. I believe, in the first place, that the various provisions in this clause should have been made as firm, precise and definite as possible. I submit very respectfully that with the intention of plugging some loopholes this clause is going to create a larger number of loopholes.

Sir, I judge this Bill and this clause by one criterion and it is this. Will it increase the number of election petitions or will it diminish the number of election petitions? I am interested only in this aspect, and I think the Ministry is also interested in this aspect. After looking at this clause, and its provisions from that aspect, I find that any person elected on the

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basis of this Bill will not feel safe after he has been elected. The sword of election petition will be dangling over his head all the time, because there will be hardly any Member elected who will not come under the mischief of the provisions of one clause or another of this Bill. I can say that without the fear of any contradiction. For instance, Sir, take sub-clause (c) or sub-clause (d). Certain things are mentioned there, but I feel that instead of having this omnibus clause we should have said that all persons who are serving the Government in an honorary capacity or in a capacity which does not yield more than the compensatory allowance a Member gets be debarred from being under the office of profit. We should have made some general definition like that. But the more you think about it, I think, the more you get tied up in this knot of the office of profit.

The hon Member who preceded me showed an apprehensive mind, and I think anyone who reads this Bill will have that kind of apprehensive mind. Nobody will be able to fight his election with any freedom from fear. Even after he has been elected, I think he will be a victim of the fear all the time till the period for submitting election petition is over.

I find a great deal of arbitrariness made in the choice of exemptions. Well, I am glad the Minister has said that Vice-Chancellors of universities will not be permitted to stand for election. I think it will make for the good governance of universities, for promoting good education in the country, for promoting better relations between Vice-Chancellors and university staff and also, more than this, promoting better relations between Vice-Chancellors and the student community. I am glad that it is so. But I do not understand why my hon. friend over there was so apprehensive about the other persons—chairman, member of the syndicate, senate, executive committee and council, which is an advisory body. I agree with him that this qualification creates

a loophole for the Election Tribunal and the person who has been elected. I think the simple provision should be that any person who is connected with any academic body or any university should be exempted. That is what should have been done. The mere enumeration has made the thing much more difficult than it was before.

At the same time, Sir, I fail to understand what is meant by 'advisory body'. For instance, sometimes universities appoint professors who carry salaries ranging from Rs. 800 to Rs. 1200 or even more. Suppose a Member is put on a selection committee of that type, what will you call it? Will you call it an advisory body or by some other name? Therefore, anyone who is connected with a university or university bodies, because the university bodies are primarily academic, should not come under the mischief of this Act. Sometimes, I think, giving a definition is much more harmful than not giving any definition. What the hon. Minister has done in this Bill is this, that he had tried to define certain things and tried to define them in a way which, I should think, is not comprehensive. Therefore, his definitions are going to do much more harm than the actual definitions would have done. That is why I say that the simple provision should be that anybody who is connected with the academic life of a university, let him be a member of a syndicate or a senate, will not be under the mischief of this clause. Of course, the words "advisory capacity" should be altogether done away with, because otherwise the question will arise whether one is working in an advisory capacity or some other capacity.

I am glad that the hon. Minister has included a provision with regard to the office of a member of any delegation or mission sent outside India by the Government for any special purpose. I suppose there are various delegations which are of a commercial nature. There are some delegations which are of

a judicial nature and there are some delegations which are of a nature which involves matters of high policy. I think there is a difference between all these kinds of definitions. A man who goes to U.N., for instance, is going there for a different reason from a person who is sent to negotiate a deal with some commercial firm. I know that some of our Members are sometimes sent out for that reason also. Therefore, you cannot have a blanket provision like that. Cultural and political activities will have to be distinguished from commercial, business and trade activities for the purpose of this clause; otherwise, Sir, I think the whole purpose of this clause will be stultified.

Again, of course, I do not agree with the hon. Member who preceded me when he said that the term should be restricted to one year or six months. I am not particular about the term. I am particular about the functions of the delegation. It should be a functional thing and not a thing which has to be judged by the number of months or years which a person has to spend.

Then, I think the sheriffs should be left in peace; there are three of them and I do not want to say anything about them; I want to leave them alone. But, Sir, I do feel very strongly about the Home Guards. I do not know why these Home Guards are being exempted. I have some idea about the Home Guards. I know something about the Home Guards. The members of the Home Guard are policemen and they are doing the duties without being called policemen. That is the only difference. One may be a policeman and one may not be called by that name. If you call a rose by any other name it will smell as sweet. But even if you call a bad thing by a good name, that will stink. Therefore, I humbly submit that the Home Guard is not going to bring in new talents to this House, is not going to add to the prestige and dignity of this House, is not going to make

any rich contribution to the debates of this House and is not going to do things which are not done by the Members of this House here. So, the Home Guard should be done away with. The members of the Home Guard are doing purely police duties, and I think if you want to have them, then you should throw open the House to all the members of the Forces.

Again I would say that sub-clauses (h) and (i) are really very vague. I am a student of English and from the study of English I have found that there are two types of English: the English in which you want to make your meaning clear and that type of English, beloved of some types of persons, where you want that the whole thing should be left as confusing as ever. For instance, those of us who have read the book by Mr. J. M. Keynes written after the treaty of Versailles will also agree with me when I say this. He has given some examples of this kind of English. For instance, you can put a simple thing in a very circumlocutory fashion. A simple thing whose meaning is clear can be put in such a way that you should have to scratch your head before you discover the real or the implied meaning of it. I neither understand the implied meaning of these sub-clauses nor do I understand the real meaning. What is at stake here? Who are going to be the advisers and what are going to be their functions? There can be one single adviser which I do not understand though I can understand an advisory committee. But here, you call yourself an adviser in your own individual capacity. Of course, I do not share the fears of my learned friend who preceded me, namely, that all the Ministers will have advisers and those advisers will not act upon their rights. I do not share those fears. But, all the same, I want to know this. We do not need Members of Parliament to go out and collect statistics. I think there is a Statistical Institute and this work can be left to it. I do not

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know if there are any Members of Parliament now who are capable of going out and collecting statistics. This is a new function which the Members of Parliament are called upon to discharge going out to collect statistics. I do not know of any other country where Members of Parliament are called upon to discharge functions like that.

I can understand Members of Parliament going out for an enquiry which is within the purview of the functions of a Member of Parliament. For instance, we can go out for an enquiry into the food situation or some other situation. But I want to ask the hon. Minister what kind of persons he has in view, who will be sent out like an enumerator to collect statistics. Are we going to be permanent members of the Census Commission or Board? Of course we are already members of such Boards and we can be called upon to do that work, but are we going to be permanent members of this kind of Board? This is beyond the comprehension of anybody and is beyond the comprehension of any person who can understand what is meant?

Moreover, I want to say that there are advisers, advisers and advisers. I see nothing but advisers in this Bill. The members of the university are to be there in an advisory capacity. They are to act as advisers. Too many cooks spoil the broth, and too many advisers will spoil the working of my Government. Apart from other things, I see a danger in this. The Ministers will be surrounded by advisers. When you have too many advisers things do not always go right. I would, therefore say that this Government by advisers is not correct. Are we contemplating a thing like that? We do not want a Government only by advisers.

• Shri Raghubir Sahai: You may or may not accept their advice.

Mr. Deputy-Speaker: No advice is wanted at this moment!

Shri D. C. Sharma: If the advice is accepted I do not have any quarrel with you; but, if the advice is not accepted, and that will be the case mostly because we know the outcome of the various committees which are appointed, what will happen? What is the action taken by these committees? They are also of an advisory nature. Their advice is not accepted always. Therefore, if the advice is not accepted, the adviser becomes a figure of fun, a figure of contempt, a figure of ridicule and a figure of no consequence. Hence, I would respectfully submit that these sub-clauses should not be there. We do not want so many advisers, and we do not think that the advantages to be reaped from their appointment will be commensurate with their number or anything else.

I now come to sub-clause (j). All that I know about *lambardars* cannot be said on the floor of this House,—whether the *lambardar* is a hereditary office or a non-hereditary office, whether the *lambardar* is only a revenue-collecting being or something else. I think I need not say all that here. Of course, I agree with my friend over there. I respect the *lambardar*, because they are citizens of India. I respect them. But I would submit very respectfully that whenever anybody has to do anything with collecting, I should say, a commission or anything of that kind, he should be debarred from coming to this House. Why have we have debarred contractors from contesting elections to Parliament or Assembly? After all, they also earn a little commission on what they have done. Those persons do not take away all the money. You give a contract for a lakh of rupees, and their profits, I think, amount to ten per cent. Of course they do some work and these *lambardars* also do some work. If one set of persons

profit on what they have done, the others earn a commission on what they have done. The difference between a commission which is sure and a profit which is problematical is not known to me.

I think that a *lambardar*, so far as the office of profit is concerned, is placed in a more advantageous position than the Government contractor because the Government contractor runs a risk while the *lambardar* does not run any risk. His money is assured. Therefore, I very respectfully submit that this sub-clause should be done away with. The sub-clause says: "...but who does not discharge any police functions." To think that the *lambardar* is not responsible for law and order in his village is to think that he does not know what he has to do. The *lambardar* has many duties to perform. He is a handmaid of the Government and he knows all the functionaries who are running the Government. He is their friend and ally, I do not want to use any hard words about this gentleman, because I know quite a few of them. He is a limb—a very small limb—of the Government. If you are depriving the big limbs of the Government from contesting elections to the Assembly or Parliament, I do not see any reason why you should give the *lambardars* a chance to contest.

The *lambardar* should stay where he is. I would request the hon. Minister to leave him in peace; he is happy where he is. If you want to uproot him from his village and from the social context, I would say that we would not be doing justice to him or to anybody. I do not want to say what the police functions are not there; I know those police functions have not changed. So, this clause should be done away with as early as possible.

I was very keen that the Parliament should not be thrown open to members of the National Cadet Corps, Territorial Army, etc., but I think I should not press that point very

much. But I would ask the hon. Minister:—What is the logic or the principles behind all this? Is there any comprehensiveness about these things? Does it satisfy all our needs? I think the answer is 'no'. I would, therefore, ask him to see to it that we persons who come to the Parliament after incurring so much of expenditure and so much of agony of electioneering, are not at the mercy of those persons who try to harass the successful candidates and also at the mercy of those persons whose good lies in legal ingenuity and legal interpretation.

**Shri Narayanankutty Menon** (Mukandapuram): Mercy to lawyers.

**Shri D. C. Sharma:** I could request the hon. Minister that he should spare us from that agony and from that kind of trouble.

**Shri Narayanankutty Menon:** The hon. Law Minister is doing a service to lawyers. We should appreciate that.

**Shri Vasudevan Nair** (Thiruvella): There have been very serious criticisms about the Bill from all side of this House, but they have been from different angles. We, on this side of the House, look at the Bill from a very different point of view than the one adopted by many hon. Members on the other side. I should say there is no sign of improvement, as far as this Bill is concerned. I would request the hon. Minister even at this late hour to give very serious consideration when they are going to decide whether so many important and vital committees and corporations are going to be taken out of the purview of the activities of hon. Members of this House. I do not want to dilate very much on that, because I have dealt with it last time during the first reading.



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In regard to clause 3(i), I would request the hon. Minister to give consideration to the amendments moved by us—Nos. 4, 5, 6, and 7—and I would entreat him to see whether it is at all possible at least to allow Members of Parliament to be ordinary members of these committees and corporations. Under this Bill, the office of chairman, director or member of any statutory or non-statutory board, committee or commission mentioned in Part I of the schedule cannot be held by Members of Parliament. I would request Members to look at this problem from this point of view whether a Member can do justice to his work in Parliament if he is going to be an ordinary member of any such committee. Last time I tried to counter the argument if a Member of Parliament becomes a member of some other committee, he will lose his independence and he is liable to become corrupt. I do not want to go over that field again. We should look at this problem from the practical point of view. If he becomes a member of a committee or corporation and if he is not able to do justice to the work in this House, I feel he should not be in that committee. When Pundit Thakur Das Bhargava was speaking on this Bill last time, I feel that on principle he did not object to Members being in such committees. His anxiety, as far as I can understand, is that Members cannot discharge both functions satisfactorily. So, I would request Government at least to accept our amendment No. 6, so that a Member of Parliament can be an ordinary member of a committee, board or corporation. I do not think there is any difficulty for a member to perform these duties simultaneously—be an ordinary member of these committees and at the same time be a Member of Parliament.

If we are going to shut out the representatives of the people—Members of Parliament—from very im-

portant and vital sectors of our economy, when we are going to develop the public sector in the interests of the country, I feel it is a very serious decision that we are taking; we should not take such a decision in haste. We should consider it seriously, because when the Constitution was framed, when many members spoke about article 192, we did not have this idea of various autonomous corporations and the great developments in our economy at that time. We are going to have many more such bodies and we are going to put a large part of our revenue in them.

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Those institutions have to perform very important functions, and it will be unfair not only to the Members of Parliament but also to the people at large to shut out our representatives from such bodies, the net result of which will only be to leave them open to the bureaucrats, the representatives of private business and big business, as it is happening today. So, I would request the Government to look at this problem from that point of view. Pandit Thakur Das Bhargava even today raised the question and said that we will not be able to do justice to our work in Parliament. To me work in such committees is work as a Member of Parliament. What is the work of a Member of Parliament? Sitting in Parliament alone is not the work of a Member. Attending Parliament is not the only work, according to me.

Mr. Deputy-Speaker: Even sitting silently as a Member?

Shri Vasudevan Nair: That can also be a work in Parliament. We go outside. We attend to the problems of our constituency. There are ever so many bodies like the district development committees, advisory committees, community project bodies and so on and work on such bodies is part of the work of a Member of Parliament. This problem should be looked at from that point

of view. So, I would request the Minister to accept at least our amendment No. 6, if he cannot accept our amendments Nos. 4 and 5.

Now I would like to say a word or two about amendment No. 7. We have to remove the anomalies that exist today. In our part of the State, in Kerala, for example, there are two types of laws, as far as the teachers working in aided-schools are concerned. In the Travancore-Cochin area private school teachers in the aided schools can stand for election and participate in the political activities with complete freedom. But in the Malabar area, which was all along under the Madras Government, there is a law which forbids the very same category of aided-school teachers from standing for election and participating in any kind of political activity. As a matter of fact, they have forbidden them even participating in their own teachers' organisations, though there was so much of resistance against it. I am sure that this law exists in other parts of Madras State also. So, there is a demand from the teachers of that particular area, which comprises nearly a third of our State according to my information nearly 10,000 to 15,000 teachers are working in the aided school in that area—that this restriction must be removed. The present law forbids them from participating in any kind of public and political activities and standing for elections even for the panchayat boards and district boards, not to speak of the Assemblies and Parliament. So, we are moving this amendment to remove that anomaly which exists today, and I am sure the Minister would have no objection in accepting this amendment.

Now, without taking much of the time I would like to say a word or two on some of the suggestions of the hon. Pandit Thakur Das Bhargava. I agree with him that the Vice-Chancellor of a University who has to do full-time work as Vice-Chancellor cannot naturally be a Member of

Parliament. Government is also thinking of shutting out such Vice-Chancellors from the membership of Parliament. But I cannot at all agree with the argument that a member of Senate, a member of the executive committee, council or board or any other body should not be allowed to be a Member of Parliament, and he cannot stand for election. That is a very strange argument. There was some such argument from this side also, and that is why I am referring to that. As far as I know, Senate is such a body which meets only once or twice or, at the most, thrice a year and a member of the Senate has to attend those meetings and contribute what he can in those meetings. Some of the Members of this House are members of the Senate of several Universities. I do not see how the membership of a Senate stands in the way of performing duties as a Member of Parliament. So, that argument cannot be accepted.

Then, I agree with hon. Members that we should know something, more about the functions of the home guards, because in many parts of our country the home guards do not exist. In our area there are no home guards. In Bombay State also there are no home guards. What are their functions? Is it true, as the hon. Shri Sharma has said, that they are real policemen without being called policemen? If that is so, naturally they cannot be representatives of the people, Members of Parliament. So, I would request the hon. Member to enlighten us with some details of the functions of home guards in the States where they exist and function.

Then I come to the membership of delegations. There is an argument that membership of delegations which go out of India and absent from the country for months or years together should come under disqualification. I find there is some reason

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in that argument. There are some such delegations which tour other countries, go from one country to another and spent large part of their time in other work than the work of Parliament. So, to put a time limit on that is reasonable, and the amendment of some Members to that effect should be accepted by this House.

Before concluding, I would request the Minister to consider our amendment from another point of view also. Because, there is going to be a very practical difficulty in this sub-clause (i) being accepted by this House. We have already adopted the principle of participation of labour in the management of industries. In our State, in two of the industries the Kerala Government has already invited the representatives of labour and they are participating in the management. The Government of India is also trying to put it into practice and in the Hindustan Machine Tools Factory the representatives of labour are participating in the management. Now if it is decided that such people cannot become Members of Parliament it will be a very unfair decision, as far as the representatives of labour are concerned. These two decisions by this House go contrary to each other. So, we have to think about sub-clause (i) from this point of view also, and I again request the Minister to accept at least our amendment No. 6.

**Shri Mohammed Imam:** I do not want to take much of the time of the House.

**Mr. Deputy-Speaker:** I shall be highly obliged.

**Shri Mohammed Imam:** I have tabled amendments only on three matters. First one is that the Vice-Chancellor and the Chairman and members of the syndicate must not be allowed to serve on the State Legislatures or Parliament when they

are in their offices. The second one is that clause (j), which provides that the revenue officers and others will not be subject to any disqualification, must also be deleted.

Then, I have given notice of amendment to the Schedule whereby in the State of Mysore certain officers, viz., the Chairman and members of the Housing Board and the Chairman and members of the City Improvement Trust and Khadi and Village Industries Boards of Bangalore and Mysore should also come under disqualification. The whole idea is that when a person is elected either to the Parliament or to the legislature he must be in a position to devote his entire and undivided attention to the work of his constituency and in the interest of the people who have elected him. Secondly, he must not use his office or his position as a means for his own personal advancement. Thirdly, he must be in a position to set an example for others and lead a life of righteousness as long as he is a Member of this House.

The Government have not even considered entirely the recommendations of Pandit Bhargava's Committee. This Committee have emphatically pointed out that a person who is holding the office of a Vice-Chancellor, whether he is nominated or elected, will be subjected to disqualification and he cannot be a member of a legislature or of Parliament. But somehow the Government have not thought it fit to accept this recommendation. I am not aware of the reasons that have prompted the Government to ignore the recommendations of this Committee and provide a clause exempting the Vice-Chancellors and the members of the Syndicate from this disqualification.

As I pointed out the other day, Vice-Chancellors may be either appointed by the Government or may be elected. In either case, it must be conceded that a Vice-Chancellor has to devote a good deal of his attention and much

of his time for the affairs of the University. Apart from this, he draws a handsome salary from the funds provided by the Government. As the Vice-Chancellor he exercises considerable influence. There are Vice-Chancellors in various Universities who have been directly appointed by the Government. For example, take the case of the University of Mysore.

**Shri Sinhasan Singh (Gorakhpur):**  
Banaras Hindu University.

**Shri Mohammed Imam:** Banaras Hindu University and various other Universities. There the Vice-Chancellors are appointed by the Government. They are under the patronage of the Government. They always look to the Government for their continuance or existence otherwise they will be nowhere. Certainly they are not only holding an office of profit but an office of considerable influence and patronage. So, it is really against the spirit of the Constitution to permit an appointed or nominated Vice-Chancellor of a University to serve in the Parliament or in the State legislature.

The same thing applies to a Vice-Chancellor who has been elected by the Senate. It is usually the custom that the Senate submits three names or a panel of names to the Government and out of this panel the Government selects one. So, even in this case, he depends upon the mercy of the Government. It is because of the Government that he has been appointed as a Vice-Chancellor. He draws a salary from the funds of the University and invariably the funds of the University are replenished by the Government because certainly all these Universities are financed out of Government funds. So, it is but reasonable that this provision is taken away. A Vice-Chancellor, however eminent he may be, should not be allowed to stand for election or be a Member of Parliament. But if he has a real desire to serve the country and is very keen it is left to him to give up the trophies and become a full-time member of the legislature.

Again I go to the Syndicate. The Syndicate is presided over by the Vice-Chancellor and is an executive body of every University. They have to devote considerable time. I am not speaking of the Senate but of the Syndicate or the University Council. All the matters of the University, all its affairs are looked after by the Syndicate. They exercise considerable influence on the staff and on the teachers. The teachers and the lecturers and professors look to the members of the Syndicate for the improvement of their personal affairs. I think the members and the Chairman of the Syndicate ought not be allowed to serve in any legislature. Some of our representatives come from the University area. You know there are electoral colleges comprising of the teachers and professors of the University and at the time of elections the members of the Senate and the Vice-Chancellors exercise considerable influence and persuade the members of the staff according to their fancy. So, this is clearly an office of profit and the members of the Syndicate must be subject to disqualification when they hold their trophies.

Now I come to the provision made in sub-clause (j). Till now the village officers were not in a position to contest elections or stand for elections. Their applications were scrutinised and they were disqualified from contesting the elections. As I pointed out this case went up to the Supreme Court. Even the Supreme Court in a judgment recently have held that a village officer by virtue of his office cannot contest elections. Now here the Government want to see that the village revenue officer who does not exercise police powers may contest elections.

It is interesting to study the history of these village officers. It is true that most of them are hereditary village officers, but they owe their existence and emoluments to the Government. The Government can suspend them or may remove them from office. They are entirely at the mercy of the

[Shri Mohammed Imam]

Government. They are full time servants of the Government and when they have to do Government work, how can it be construed that once they are elected they will discharge their duties independently and fearlessly? After all the constitution provides that any Member here should not be subjected to any undue influence from the Government. So, a village officer or a revenue officer, when he is a child of the Government, when he is a nominee of the Government and the Government can remove him or dismiss him, how can he work fearlessly and without favour in a legislature? So, I think it is but right that this entire clause is deleted.

Now, I come to the Schedule and I am sure....

Mr. Deputy-Speaker: We will take up the Schedule later.

Shri Mohammed Imam: Later on.

So, it is but reasonable—and it has been pointed out by many other hon. Members also—that the provision made for Vice-Chancellors and members of the Syndicate as also the revenue officers is deleted. Then I think there will be considerable improvement and I am sure my hon. and respected friend, Pandit Thakur Das Bhargava, will be satisfied.

Shri B. Das Gupta: Sir, I am afraid, if this Bill, as it is, is passed, it will create more confusion....

Mr. Deputy-Speaker: What about clause 3?

Shri B. Das Gupta: I am coming to that—especially sub-clauses (h) and (j) of clause 3. I am dealing with sub-clause (j).

These *lambardars*, *malguzars*, *patels* or *deghmukhs*, or call them by any other name, have been exempted, especially those who have no police functions to discharge. The first thing is, these are officers existing in the villages, in the rural areas from time immemorial. In some places, it is

hereditary; in some places, it is not. It is very difficult to demarcate where the police functions begin and where they end. In our areas, these village revenue officers are called by a different name. Of course, their function is to collect and to help the Government to collect the revenue. Though officially they have no police functions, virtually, every revenue officer of the village functions as the helper of the police and not only the police, but every Government officer, anybody who comes in the village. The magistrate comes in a village; he is at his beck and call. When any Government officer with any Government function comes in the village, he is at his beck and call. To the Returning Officer, it will be a confusion how to demarcate a revenue officer without any police function or with any police function. I can predict that in the next election, the number of election cases will be more than at present.

As regards these *lambardars*, we are put in confusion. I am just citing one instance regarding Rajasthan. In Rajasthan, the *lambardar* is appointed under an Act of 1956. He is a revenue officer. He has got some 15 items of functions. He has to do everything. He has to report if a tree is cut in the village. He has to report also the occurrence of any cognisable crime or any other thing likely to disturb the peace of such area. At the same time, he has to report if any riot has been encouraged or something like that. I do not know if a Returning officer will consider the functions of this *lambardar* as police functions or not. I think there are more anomalies in these sections which will create more confusion for the returning officers and at the same time for us too. On what principle the discharge of any police function has not been exempted, and on what principle have the Home Guards been exempted? Home Guards virtually do police functions. The Home Guards, though they are temporary, have the duty of the police. They have been created to help the police and to maintain law and order

in the country. On what principle the Home Guards have been exempted, on what principle the *lambardars* who do not discharge any police functions have been exempted, and on what principle the *lambardars* who discharge any police functions have been disqualified,—really it is a confusion for us. I submit that in the future, it will be more confusion for the Returning officer to decide as to whom to allow and whom not to allow to stand in the election. Every revenue officer does all the functions. Whether officially they are police functions, whether police functions have been prescribed for him or not, that is a different thing. Virtually, he does all the police functions. So, it will be very difficult to demarcate where the police function begins and where the police function ends. I do not want to repeat the arguments put forth by my hon. friend, Pandit Thakur Das Bhargava. I appeal to the Minister that he should consider or reconsider very carefully and seriously not to hurry with this provision. I tell you, it is going to create confusion in the country regarding the elections.

Lastly, I quite agree with my hon. friend, Pandit Thakur Das Bhargava, that if you exempt them, you exempt totally and if you do not exempt them, do not just categorise them. It will be very difficult to find out who are doing police functions and who are not doing police functions. In the whole of India, in every State, in most of the villages, such offices have been in existence, for collection of revenue, for maintaining law and order and all these things. If you want to distinguish or demarcate one from the other, simply you will create great confusion. I request, at least in the rural areas, these things should be withdrawn or they should not be pressed. I think that will at least pave the way for more clarification in our future elections.

Mr. Deputy-Speaker: Shri L. Achaw Singh. There are still a large number of hon. Members who have to speak or

to support their amendments. Therefore, I request hon. Members to be as brief as possible.

Shri L. Achaw Singh: I shall take only two or three minutes. In support of my amendment No. 8 regarding Home Guards, I feel that the Home Guards are at best policemen and they are employed at a time of any emergency. They also enjoy certain favours from the Government and from the ruling party. It is improper that they should be exempted from disqualification. That is why I request the hon. Minister in charge of the Bill to consider this aspect.

Several hon. Members have already given various reasons for...

Shri A. K. Sen: I cannot hear anything

Mr. Deputy-Speaker: A little louder, or the hon. Member may move forward.

Shri L. Achaw Singh: I will speak louder.

Home Guards are at best policemen. They have got police functions. Practically, they are policemen. So, homeguards should not be there in the exemption list.

Secondly, regarding Vice-Chancellors, I have moved an amendment. I feel that the office of Vice-Chancellor is not compatible with the office of a Member of Parliament. He has to carry a very heavy burden as Vice-Chancellor, and it is not possible for him to attend Parliament and also carry out the duties of Vice-Chancellor. He has to engage in various activities in the House. So, this thing also should be considered.

Many hon. Members have already spoken about village revenue officials. I submit that in many States they have the functions of policemen. They, of course, do not get regular pay, but

[Shri L. Achaw Singh]

they are also Government servants everywhere. So, it is not proper that they also should be put on the exemption list.

The village revenue officers in Assam and Manipur are called *mawjadars*, and none of them can help a candidate either for the local legislature or for Parliament at the time of elections. It will be a major corrupt practice if any one takes the help of a village revenue official. So, he is a holder of an office of profit, and, therefore, I submit that the village revenue official also should not be included in the exemption list.

श्री सिंहासन सिंह (गोरखपुर) उपाध्यक्ष महोदय इस विधेयक की जो दफा ३ है, उसके अन्दर बहुत ने मशोधन प्राये हैं। मैं उनका बहुत ज्यादा विरोध नहीं करता हूँ लेकिन जो उस की उपधागये, एफ एच, आई और जे हैं उन के इस में होने में अब तक जो व्यवस्था थी उस में और आगे की व्यवस्था में बहुत अन्तर पड़ जाता है। हम कहा और किम को इस परिधि में बाहर रख मकेगे यह कुछ समय में नहीं आता। प्राय आखिर तक चलें, उपधारा 'ज' में कहा पर कि हम विलेज रेवेन्यू आफिसरों को मुक्ति दे रहे हैं। उन में हम लम्बरदार मालगुज्जार पटेल और देशमुख भी रख रहे हैं। हमारे उत्तर प्रदेश में "लम्बरदार" शब्द ता है लेकिन लम्बरदार कोई बसूली का काम नहीं करता। मालगुज्जार बसूली का काम नहीं करता। हमारे यहाँ न पटेल है, और न देशमुख ही है। विलेज रेवेन्यू आफिसर है, जाकि पटवारी है। हम के अन्दर पटवारी का भी एग्जेंप्शन दिया जा रहा है। हम ने अपने रिप्रेजेंटेशन आफ पीपल्स एक्ट के अन्दर जो दफा १२३ बना रखी है, जिस के मातहत करप्शन के आधार पर चुनाव याचिकायें मजूर होती हैं और बहुत से व्यक्ति पाच, छ वर्ष के लिये खड़े होने से बचिप हो जाते हैं, उस में दफा ३२३ के आखिर में दिया गया है कि गवर्नमेंट

सर्वेन्ट्स कौन कौन रहेंगे, उस में आखिर में दिया है :

"123 (7) (f) Revenue officers including village accountants such as, *patwaris, lekhpals, talats, karnams* and the like but excluding other village officers".

लेखपाल वगैरह जो हैं, उन के खड़े होने की बात तो दूर रही, अगर वह चुनाव में मदद भी करे तो चुने हुए व्यक्ति के खिलाफ चुनाव याचिका दाखिल होने पर वह मजूर हो जाती है और व्यक्ति डिबार किया जाता है अपने पद से।

अभी दफा ४ के अन्दर सरकार की तरफ से जो अमेंडमेंट आया है उस में लिखा हुआ है कि मन् १९५३ का जो प्रिवेंशन आफ डिस्क्वालिफिकेशन एक्ट है उस को रिपील किया जाता है। मगर ५४ नम्बर का जो अमेंडमेंट है, जो सरकार मूव कर रही है, उस के मजूर हो जाने के बाद रिप्रेजेंटेशन आफ पीपल्स एक्ट के अन्दर जा प्रतिरोध है, वह बहुत कुछ दूर हो जायेगा, उस के अन्दर प्रतिरोध यह है कि जिस कानून में ऐसी दफायें अचरोध के रूप में हैं, वे निकाल दी जाये, दफा ४ में यह रक्खा जा रहा है

"the Prevention of Disqualification Act, 1953, and any provision in any other enactment which is inconsistent with this Act are hereby repealed"

इस एक्ट के जरिये रिप्रेजेंटेशन आफ पीपल्स एक्ट की धारा १२३ की उपधारा ७ के एक अर्थ को भी रिपील किया जा रहा है। जब हम यह करने जा रहे हैं, जब हम एक इतना बड़ा कदम उठाने जा रहे हैं, तब हमें जरा गम्भीरता से सोचना पड़ेगा कि इस के हम पार्लियामेंट के स्तर को ऊंचा कर सकेंगे या और नीचे निरावेंगे। इस बारे में पंडित ठाकुर दास भार्गव ने बड़ी लम्बी तकरीर

करते हुए सब बातों पर प्रकाश डालने का प्रयत्न किया। इसलिये मैं अधिक न कह कर इतना ही कहना चाहता हूँ कि रिजिस्ट्रेशन आफ पीपल्स एक्ट में जो बिलेज आफिसर्स को रखा गया है, उन को वहाँ पर आप न राखें। वे लोग पिछले एक्ट में अपनी जगह पर सही रखे गये हैं। पहले एक्ट में भी कठिनाइयाँ आई थीं बहुत सी चुनाव याचिकायें आई थीं। जो पंचायत राज एक्ट या उस में के भी आदमी बहुत से भ्रा जाते हैं। गांव का सभापति भ्रा जाता था। सरपंच भ्रा जाता था। उन को भी निकाला गया। लेकिन अब आप इस कं क्षेत्र को और बड़ा कर विलेज रेवेन्यू आफिसर्स को भी निकाल रहे हैं। इस सम्बन्ध में जिक्र किया गया है कि वही आदमी आसकेगा जो पुनिम का काम न करना हो। यह बड़े झगड़े की बात होगी कि वह कहा पुलिस का काम शुरू करना है और कहाँ तक रेवेन्यू का काम करना है। रेवेन्यू की वसूली में भी पुनिम की जरूरत पड़ जाती है। झगड़ा बहुत बढ़ जायेगा जब कि पार्लियामेंट के स्तर पर इसमें कोई मुधार नहीं होगा।

इस के बाद मैं 'जे' के बारे में कहना चाहता हूँ। अभी कहा गया कि यह तो परिशिष्ट में सम्प्लिखित है और इस पर बाद में बहम होगी। लेकिन इस के अन्दर मैं इतना ही कहना चाहता हूँ कि हम अपने परिशिष्ट को ज्यादा लम्बा बढ़ाने जा रहे हैं, जिस में कि हम और भी अधिक आदमियों को भुक्त करने जा रहे हैं। जितना ही परिशिष्ट को बढ़ाया जा रहा है उतना ही झगड़ा उस में पैदा हो सकता है कि कौन गवर्नमेंट के अन्दर आता है और कौन नहीं। तमाम दुनिया भर की चीजें हम इस के अन्दर करने जा रहे हैं। ऐसी हालत में आप क्यों नहीं एक साफ कानून बना देते कि पार्लियामेंट के अन्दर आने के लिये किसी तरह का अवरोध नहीं होगा। जैसे कि चीन और रूस आदि मुल्कों में हैं। वहाँ का कमांडर इन चीफ भी पार्लियामेंट का मेम्बर है। वहाँ पर एग्जीक्यूटिव आफिसर्स और पार्लियामेंट के मेम्बरों में कोई फर्क नहीं है, सब कम्प्यू-  
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मिस्ट पार्टी के मेम्बर हैं और सब पार्लियामेंट के मेम्बर हैं। अगर हम समझते हैं कि किसी न किसी रूप में अधिक आदमियों को इन्हें वहाँ पर लाना चाहिये तो जरूर नावें। अगर हम इस की अच्छा समझते हैं तो इस के बिना कोई तत्व न रहे। लेकिन हम बहुत धीरे धीरे जो कदम बढ़ा रहे हैं, उस में हमें डर लगता है कि कहीं ऐसा न हो कि जो हमारा स्तर है वह नीचे न गिर जाये और जो हमारा डिमाक्रेटिव रूप आज है, उस में बहुत अन्तर्ग पड़ जाये। हमारे अन्दर करने में अगर सब एक हो जाये तो बात दूसरी है, लेकिन जब तक अलग अलग चीजें रहती हैं, जब तक यह रहता है कि कोई भी एग्जीक्यूटिव आफिसर जो कि सरकार में तनम्बाह पाता है, वह पार्लियामेंट का मेम्बर न बन सके और उस को दूसरे रूप में हम वहाँ लाना चाहें, तो वहाँ बड़ी गड़बड़ पड़ सकती है। ममलत, (आई) में हम ऐसे लोगों को लाना चाहते हैं जो कि किसी कारपोरेशन या बाडी का चेअरमैन हों। आये दिन हमारे यहाँ पर चर्चा होती है कि अमुक अमुक कारपोरेशन की कार्यवाही ठीक नहीं हो रही है। अगर उस कारपोरेशन का आदमी यहाँ आ जाये और पार्लियामेंट का मेम्बर हो जाये, तो यह डर होगा कि हम उस कारपोरेशन के बारे में नुक्ता चीनी नहीं कर सकेंगे। उस का जो प्रभाव ही होगा वह उस को दूसरे मेम्बरो पर डालने की कोशिश करेगा और कहगा कि जो भी बात हो उसे पार्लियामेंट के अन्दर न आने दो। यह चीज उन सरकारी कारपोरेशनों पर पार्लियामेंट के एकाधिपत्य को रोकती है, मंगसन को रोकती है, और देव् रेव को रोकती है। जो भी अपना नियंत्रण आज हम उन पर रखते हैं वह किसी न किसी अंश में निकल जायेगा। क्योंकि वहाँ का मेम्बर बराबर वहाँ के सदस्यों पर अपना प्रभाव डालना रहेगा इस नियंत्रण के विरोध में। गवर्नमेंट खुद तो ऐसा काम करती ही है लेकिन वह भी इन विषयों को यहाँ पर नहीं आने देगा।

दूसरी बात यह है कि मैं इस सदन के सदस्यों को जरा ऊंची नज़ा से देखना चाहता



[श्री सिंहासन सिंह]

हूँ, मंत्रिमंडल की तरफ भी ऊंची नजर से देखना चाहता हूँ, । लेकिन बहुत से आदर्श, स्वभाव से पानी की आंति नीचे गिरते हैं। इसलिये हो सकता है कि हम अपने ही अभिप्राय से अपने मंत्री के पास जाये कि प्रमुख कार-पोरेशन में मुझे रख दो। अगर इस तरह से हमारे यहाँ के लोग मंत्रियों और सेक्रेटारियों के पास पहुँचने लगे तो जो आज हमारी क्षमता वा विशेषता है, उस को भी कुछ थोड़ा धक्का पहुँचैगा : आज बहुत सी बातों में हम अपना ज्यादा कंट्रोल रख सकते हैं, मुझे डर है कि अगर इस तरह से हुआ तो हम अपनी स्वतन्त्रता को खो देंगे। यह बात बहुत अच्छी नहीं होगी। इसलिये अगर उपचारा (आई) न रहे तो इस के देश को कुछ कल्याण ही होगा अकल्याण नहीं होगा।

म.शैव साहब ने बहुत साफ शब्दों में कहा कि अगर कोई कमेटी बने और गवर्नमेंट की सलाहकार हो तो उस के लिये हम देखना चाहते हैं कि उस के आदमियों के मेम्बर बनने में कोई बाधा न ही। लेकिन हम ने अब एक नई भाषा उस में डाल दी कि वह कमेटी एक की हो या अनेक की। अब तक जब कमेटी का शब्द आया करता था तो हम लोग समझते थे कि उस में कुछ आदमी होंगे। लेकिन अब उसे कोई डिफाइन नहीं कर सकता। एक मेम्बर की भी कमेटी बन सकती है और उस की भी बन सकती है। अब हम ने एक मेम्बर की कमेटी की भाषा को भी उस में रख दिया। इसलिये मुझे डर है कि बहुत से मंत्रिगण बहुत से मेम्बरों को अपने सलाहकार के रूप में रखने का यत्न करेंगे। इस में "सलाहकार" शब्द है। और बिल में यह प्रपोजमेंट है कि उस में से टेम्पोरेरी शब्द निकाल दिया जाये। इस में यह हो सकता है कि अगर कोई मंत्री किसी सबस्थ की पांच बरस तक कोई पद न दे सकें तो वे उस को अपने साथ सलाहकार के रूप में नियुक्त कर में और वह उस के साथ सलाहकार के रूप में रहेंगे ही कर कुछ

एलाउन्स लेता रहे। यहाँ भी मुझे डर लगता है कि हमारे इस काम में से इस से बाधा पड़ेगी। लेकिन अगर इस में 'वन और मोर' शब्दों को रखना ही है तो इस में से ये शब्द हटा दिये जाने चाहिये कि वह ऐडवाइस करने के लिये हो। इस में ऐसी कमेटी होनी चाहिये जो कि हाउस से चुनी जाय। अगर इस तरह से एक आदमी की कमेटी बने और वह पार्लियामेंट के बाहर बने तो उस से मुझे अन्वेषा है। इसलिये मैं इस चीज का साथ नहीं दे सकता।

दूसरी बात डेलीगेशन के बारे में कही गई। "डेलीगेशन एबीड" पर मैंने कुछ नोट थाफ डिस्टेंस पड़े और मैं भी इस विषय के सहमत हूँ कि बिल में इस "डेलीगेशन एबीड" की प्रवधि निर्धारित करनी चाहिए की कि वह कितने समय के लिये होगा। वह एक परमानेन्ट रूप का धारण कर रहा है। आखिर ससद् के माननीय सदस्यों को भी सदन की मीटिंगों से अनुपस्थित रहने के लिए सदन में छुट्टी मागनी पड़ती है और अगर कोई सदस्य बिना किसी नोटिस के लगातार ६० दिन से अधिक सदन की बैठकों में अनुपस्थित रहता है तो मेम्बरशिप से डिबार हो जाता है। इसी तरह मैं चाहूँगा कि "डेलीगेशन एबीड" के लिये भी कोई ४, ५ या ६ महीने की प्रवधि निर्धारित होनी चाहिए और उसने दिन की मेम्बर हाउस से छुट्टी माग कर जावे और बाहर रहे।

इसके प्रतिरिक्त क्या यह उचित होगा कि उस मेम्बर को जो कि बाहर "डेलीगेशन एबीड" में रहेगा, उसको बाहर एलाउन्स के रूप में भी रुपया मिले और जो यहाँ यहाँ से एक मेम्बर का बतन होता है वह बतन भी उसको दिया जाय करे हालाँकि वह एक बिल भी यहाँ सदन की बैठक में न बैठे? क्या यह उचित होगा कि पार्लियामेंट के बिल मेम्बरों को बाहर डेलीगेशन में भेजा जाय उसको

यहां से बेलन भी हैं और उनको बाहर भी रखें ? मेरी राय में आप इसके लिये कोई एक अवधि दो, चार या पांच महीने की रख सकते हैं जैसे कि यू० एन० ओ० के लिए हमने दो, चार या पांच महीने की अवधि रखी हुई है और जिसका कि मतलब यह समझा जायेगा कि हमने उनको उतने समय की छुट्टी दे दी। लेकिन हमने इस तरह की कोई अवधि इसमें स्पष्ट रूप से नहीं रखी है और मुझे आशा है कि पब्लिक एक्सचेंजर पर इसका व्यर्थ का भार बढ़ेगा और यह उस स्थिति में कुछ मुनासिब नहीं जंचता है जबकि हम चारों तरफ़ आर्थिक सहायता मांगते फिरते हैं। मेरी शिकायत यह है कि हम जो पैसा खर्च करते हैं उसके बारे में हम अच्छी तरह से गौर नहीं करते कि आया यह पैसा हम सही तरीक़े से खर्च करने जा रहे हैं अथवा नहीं और क्या जो पैसे का अपव्यय हो रहा है वह बन्द नहीं किया जा सकता है और रोका नहीं जा सकता है। आखिर हमें यह कभी नहीं भूलाना होगा कि यह तमाम पैसा हमें जनता से मिलता है और शासन का यह कर्तव्य हो जाता है कि वह पैसा ठीक से खर्च हो और उसका अपव्यय न हो। मैं चाहता हूँ कि सरकार इस के लिए इस बिल में उचित संशोधन करे ताकि "डेलिगेशन एबीड" की कोई अवधि निश्चित हो जाय, दो या तीन महीने की। इस तरह की एक अवधि मुकर्रर होने के बाद अगर कोई डेलिगेशन बाहर जाय तो उस पर किसी को ऐतराफ़ नहीं हो सकता है।

इस के बाद वाइस चांसलर के बारे में कुछ सुनने में आया कि शायद सरकार विचार करने जा रही है कि वाइस चांसलर को पार्लियामेंट की मेम्बरी के लिए अयोग्य घोषित कर दिया जाय। लेकिन हमने देखा कि सरकार का कोई इसके लिए अमेंडमेंट नहीं है। जहां तक मैं समझता हूँ सरकार के दो ही अमेंडमेंट हैं। . . . . .

श्री राधा रमण (चांदनी चौक) : मेरा अमेंडमेंट है।

श्री सिद्दासन सिंह : आपका अमेंडमेंट है वह तो हो सकता है लेकिन सरकार का तो इसके लिए कोई अमेंडमेंट नहीं है। अब वह तो सरकार द्वारा आपके अमेंडमेंट को मानने का सबाल है लेकिन सरकार की तरफ़ जो अमेंडमेंट आता है वह तो मान कर ही लाया जाता है और वह तो स्वीकार किया जाना ही होता है लेकिन इसके विपरीत हम लोग जो अमेंडमेंट देते हैं उनको मानना न मानना सरकार की मर्जी पर है।

भारत कमेटी की जो रिपोर्टें हैं उसमें भी है कि वाइस चांसलर को न रखा जाय और अगर सरकार इसको मान लेती है तो ठीक है।

लिप्टीकेट और सिनेट का मेम्बर पार्लियामेंट का मेम्बर रहे, मुझे इसमें आपत्ति नहीं है।

केवल एक मिनट के लिए मुझे कुछ होम गार्ड्स के सम्बन्ध में सदन से निवेदन करना है और वह यह है कि होमगार्ड्स और पुलिस इन दोनों के काम में समन्वय होना चाहिए। जिस तरह होमगार्ड्स पुलिस का काम करते हैं उसी रूप में अगर बिलेज पटवारी पुलिस का काम करे तो वह क्यों अयोग्य घोषित किया जाये और वह क्यों निकाला जाये? होमगार्ड्स हालांकि पुलिस का काम करते हैं लेकिन उनको हमने इसमें से नहीं निकाला है और उसके लिए कोई आपत्ति नहीं है तो मेरा कहना है कि जो बिलेज पुलिस के कास्टेबुल का काम करे उनको क्यों डिस्क्वालिफाई किया और निकाला जाये? मेरा कहना है कि इन दोनों में समन्वय रहे। एक तरफ़ तो आप होम गार्ड्स को यह क्रीडम देते हैं कि वह पुलिस का काम करते हुए भी पार्लियामेंट का मेम्बर बना रहे लेकिन गांव में अगर कोई व्यक्ति पुलिस का काम करता है तो वह पार्लियामेंट की मेम्बरी के लिए अयोग्य ठहराया जाय, यह डिस्क्रि-

[श्री सिंहासन सिंह]

नेशन मेरी समझ में नहीं आता और इस लिए मेरा कहना है कि इन दोनों में समन्वय होना चाहिए। इन शब्दों के साथ मैं गवर्नमेंट से अनु-रोध करता हूँ कि इसमें आवश्यक संशोधन कर लिया जाय। इस तरह के विधेयक के बिना कोई हमारा काम बिगड़ने वाला नहीं था और उसकी कोई खास जरूरत नहीं थी। हमारे पास सन् १९५१ और १९५३ के कई विधान पहले ही से मौजूद हैं, प्रान्तों में मौजूद है और मेरी समझ में इन तरह के विधेयक को लाने की कोई खास आवश्यकता नहीं थी। धीरे धीरे सब काम चलता है। मैं उम्मीद करूँगा कि हमारे आन्वयन मिनिस्टर इन चीजों पर विचार करेगा और ऐसी नीबत नही माने देंगे कि हाउस में कहीं गई कुल बा मुना अनुमती है; जाये और यह धारा ज्यों का त्यों पास हो जाय और आधुनिक के लिए हमारे लिए झगड़े के सम्बन्ध खल जाए।

**Mr. Deputy-Speaker:** Now, Shri Raghuraj Sahai. First, I am calling those hon. Members who have got their amendments. They should try to avoid repetition now, and discuss briefly only the points.

**Shri Raghuraj Sahai:** I shall be very brief, and I shall confine my remarks only to my amendments Nos. 13 and 14, and if you will permit me, I shall speak on my amendment No. 50 also.

Amendment No. 13 relates to sheriffs. I would not weary the House by quoting the functions of sheriff either in England or in India, because last time when I spoke on this I gave everything in detail about it. Everybody knows that it is a whole-time job, although sheriffs in India are only confined to Bombay, Calcutta and Madras. We find from the discussion that took place last time and also this time that everybody in this House is opposed to exemption being given to a sheriff.

The Law Minister, in the course of his remarks, has referred to the report of the Bhargava Committee on office of profit. It is true that that committee made an exemption in regard to the office of sheriff. But, from what Pandit Thakur Das Bhargava himself has said today, and from what we find in his minute of dissent appended to the report of the Joint Committee, we find that he has changed his view.

With regard to sheriffs, it is stated that in England the high sheriff was declared to be ineligible for being elected or remaining a Member of the House of Commons on the ground of incompatibility of duties involved. The U.K. Select Committee on Offices or Places of Profit under the Crown, 1941, reviewed this matter and recommended in the light of modern conditions that the high sheriff should not be disqualified for election to Parliament except from his county or a division of his county or a borough within his county. Now from the British House of Commons Disqualification Bill—the Schedule of which was quoted by Pandit Thakur Das Bhargava as well as by the Law Minister—I find in the first Schedule of offices disqualifying for membership that sheriff, salaried sheriff, substitute or interim sheriff appointed under the Scotland Act of 1907, are subject to disqualification. Proceeding a little further, we find offices mentioned disqualifying for particular constituencies. So far as Scotland is concerned, no sheriff can stand. So far as England and Wales are concerned, we find the high sheriff of a county in England and Wales disqualified for particular constituencies—any constituency comprising the whole or part of the area for which he is appointed. So that for the constituency he is appointed, he is ineligible to stand as a sheriff.

What I mean to say is that even in England after a very long time, they come to the conclusion that the sheriff should be permitted to stand for Parliament which checks and counter-checks.

**Shri Hajarnavis:** I am grateful to the hon. Member for his clarification. I only want to add that a sheriff appointed in Scotland under the Act of 1907 draws about £1,800—£2,000 per annum as salary. Complete disqualification of the sheriff from standing for Parliament is confined only to Scotland and for those offices where the salary is about £1,800—£2,000, whereas the high sheriff is, as stated by the Law Minister, exempt from disqualification except for the constituency in which his bailiwick is situated.

**Shri Raghbir Sahai:** I am indebted to the hon. Deputy Minister for his clarification.

**Mr. Deputy-Speaker:** And the House is indebted to both.

**Shri Raghbir Sahai:** Everybody knows that so far as an office of profit is concerned, remuneration is no consideration, whether he gets a small petty sum or a big sum. That is immaterial. But the point is that with regard to sheriff, no case has been made out by the Law Minister that if these three worthy persons who are occupying the post of sheriff of Bombay, Madras and Calcutta are debarred from coming to Parliament, Parliament will be any the poorer. On the other hand, if we concede this principle, it will be conceding a very dangerous principle, and I would implore the hon. Law Minister to reconsider his views and also attach some value to the unanimous view expressed in this House.

With regard to the office of Vice-Chancellor, I am glad that the cumulative pressure of this House has prevailed on the Law Minister and he is going to delete the exemption thereof. This is all I have to say.

**Shri Radha Raman:** I do not propose to take much time of the House. I have got two amendments, one of which relates to the exclusion of Vice-Chancellor. About this the House has already heard from my hon. colleagues

and as Shri Raghbir Sahai has just said, the cumulative opinion of the House has prevailed on the Law Minister to withdraw the office of Vice-Chancellor from the list of exemptions, I need not take time of this House for this amendment.

Another amendment is No. 89. It is in respect of temporary suspension of disqualification in certain cases. Much is said about clause 3 and its implications. In spite of the fact that best efforts were made by the Joint Select Committee to attach a Schedule, the membership of offices listed wherein will disqualify a Member, it is not yet very comprehensive.

**Pandit Thakur Das Bhargava:** May I submit that the amendment on which my hon. friend is speaking is the subject-matter of a new clause 3A? We are only considering clause 3 now.

**Shri Radha Raman:** I am just adding.

**Mr. Deputy-Speaker:** If he wants to add, he will have another opportunity after we have voted on this.

**Shri Radha Raman:** I thought I might finish my arguments on that also. You will give me opportunity at another time but still I want to say a few words.

**Mr. Deputy-Speaker:** Now there would be none.

**Shri Radha Raman:** I want to say something on the Home Guards. I am of the same opinion as has been voiced by some honourable colleagues. I also feel that the words 'Home Guard' and 'office of the Home Guards' should be deleted. I say this because it has some relation with the police and it not only exists in urban areas but also in rural areas. If they are exempted, it will certainly have not a very good reaction because of the influence that the Home Guards have with police authority. I therefore feel that the Home Guards should not be exempted from disqualification.

[Shri Radha Raman]

I also feel that in (j) the exemption of offices of village revenue officer is equally bad, because these *lambardars*, *malguzars*, *patels*, *deshmukhs* and so on, though possibly not drawing at times any salary or allowance, certainly occupy a position which is of influence and which could always be used to the disadvantage of others. They generally have to carry out certain functions on a regular whole time basis. Therefore, I feel it will not be good to keep sub-clause (j) there; in my opinion, it should be deleted.

In respect of (i), I somehow feel that in this also there is much room for abuse specially in the case of the chairman or director. If these two words are removed, then the clause will, in my opinion, be acceptable.

All that I can say is that we are very sorry that this Bill had to come up in this form because whatever be the precautions the Joint Committee has taken in attaching a list, there is room for considerable confusion and misinterpretation.

Mr. Deputy-Speaker: Now, at this stage we are only discussing the confusion in clause 3 and not the whole Bill.

Shri Radha Raman: I am saying that this Bill as it is and particularly this clause has got sufficient room for confusion and for litigation in the form of election petitions etc.

In the case of Union territories I have got greater fear because there is no Legislature in the Union territories and there are so many committees in which Members of Parliament are associated and need to be associated. We do not know what our position is. Suppose we accept some office which is not in the list, which is not defined, we do not know what our fate may be. We may, at any time, be brought into trouble. I am very apprehensive with regard to the implications of this

clause, particularly, in relation to advisory committees or committees which sometimes even carry compensatory allowance. There will always be a fear in the minds of the Members of Parliament whether to accept it or not. In some cases they may accept it inadvertently and later on find themselves in difficulties.

I would very much like that the hon. Law Minister will take into consideration some of the amendments that are tabled and accept some of them which might improve clause 3 as it stands in the Bill.

Mr. Deputy-Speaker: I will now read out the numbers of the amendments that have been moved. There were certain others which are only duplication of some of these. The numbers are:

53, 56, 8, 13, 18, 65, 9, 39, 20, 21, 22, 23, 61, 24, 25, 28, 62, 27, 29, 12, 30, 4, 5, 6, 7, 86, 76, 77 and 1.

Shri Jaganatha Rao.

Shri Jaganatha Rao: Mr. Deputy-Speaker, Sir, . . .

Mr. Deputy-Speaker: I wanted to call the Minister at 3; we are already getting late. So, I hope the hon. Member will be brief.

Shri Dasappa: I have one amendment, Sir.

Mr. Deputy-Speaker: I will give him also an opportunity.

Shri Braj Raj Singh: Sir, I want to speak generally on clause 3.

Mr. Deputy-Speaker: If there is time.

Shri Jaganatha Rao: I have moved amendment No. 65. It seeks to delete the words 'office of the Vice-Chancellor of a University' from sub-clause

(f) of clause 3. The redrafted sub-clause will read thus:

“(f) the office of chairman or member of the syndicate, senate, executive committee, council or court of a university or any other body which is an advisory body connected with a university;”

I beg to submit that this Bill seeks to remove the disqualification of certain offices of profit under article 102 of the Constitution. We have borrowed this concept of office of profit from England. This phrase ‘office of profit’ is difficult of definition and so we have taken the interpretation which is being put in England which includes an office that carries with it a pecuniary gain or prestige or honour and influence. This Bill seeks to exempt certain offices of profit which are enumerated in the clauses from the disqualification.

The Vice-Chancellor, in cases where he is appointed by the Government or is removable by Government, though he is paid out of the funds of the university, according to our Supreme Court, holds an office of profit under Government. As this phrase is incapable of definition, we have taken the interpretation which is prevalent in England so as to suit our country’s developmental needs and also in well-advanced state. The Joint Committee Report, page 19, para. 10 reads:

“The Sub-Committee consider that while membership of certain committees may not be objectionable, yet the office of Chairman and Secretary of these Committees ought to incur disqualification as such offices take too much time of the members and involve the exercise of essentially executive functions and confers great influence, prestige and capacity to patronise.”

The office of Vice-Chancellor is more or less a whole-time job and so it is submitted that the Vice-Chancellor’s office might not be exempted from the operation of the disqualification under article 102.

This Bill proceeds on the basis of the Offices of Profit Committee Report, a committee of which my esteemed friend, Pandit Thakur Das Bhargava was the Chairman. I am surprised that he is disowning his own baby and he objects to several of the clauses which in that report were exempt. For instance, according to that report, the Home Guards were exempt. Some of the State Governments have passed Acts. For instance, the Andhra Government, the Bombay, Punjab, Mysore, West Bengal, and U.P., this office of Home Guard is exempted from disqualification. They are not whole-time servants. Though they have functions of the police, it cannot be said that they tantamount to police officers. Even in England . . .

**An Hon. Member:** They have been specially appointed to work at the time of elections.

**Shri Jagannatha Rao:** If he is appointed at the time of election he cannot stand as a candidate.

**Shri Braj Raj Singh:** What is the difficulty then?

**Pandit Thakur Das Bhargava:** I have got a circular in my hand which was circulated to us by the Secretariat which says:

“I am further to add that there are at present no Home Guards in the Andhra State, Assam, Kerala, Madras, Orissa, Punjab, Rajasthan, U.P., West Bengal, Jammu and Kashmir and in the Union territories of Delhi, Himachal Pradesh and Tripura.”

**Shri Jagannatha Rao:** My hon. friend, Pandit Thakur Das Bhargava is also objecting to members of the Syndicate and Senate and the executive com-

(Shri Jaganatha Rao)

mittee which is connected with the university. As I submitted earlier, the Committee on Offices of Profit exempted all these offices. I find no additional ground urged by him as to why they should not be exempt now.

So also in clauses (h) and (i), where the offices of chairman, director or membership of a committee, whether statutory or non-statutory, which occupies the full time and which carries with executive powers are sought to be disqualified.

Regarding the offices mentioned in clause (j), it is contended rather seriously by Pandit Thakur Das Bhargava and supported by my elderly friend, Shri Sharma, that they should be allowed to live in peace and they should not be uprooted from their jobs. I hold the view that these offices do not technically come under the definition of office of profit under Government. It may be said that they are persons in the service of Government as is mentioned in section 123(7) of the Representation of the People's Act. They are not whole-time servants and they do not hold any regular cadre as in the case of other government servants. But, nevertheless, by way of abundant caution and to remove any doubt, the Bill seeks to exempt the offices which are enumerated herein. I do not think that these *lambardar* and other people should be denied the privilege or the right of standing for election for the Parliament.

Further, my hon friend Shri Bharucha asked is this House devoid of or bankrupt of talent that we should allow these *lambardars* and others to come in. But every citizen who is aged 25 years is entitled to stand for election. Why deny to these *lambardars* and others, if they are not holders of office of profit, the opportunity to stand for elections? That is an argument which I am not able to appreciate. In brief, I submit that the arguments advanced in favour of these amendments moved by Pandit Thakur

Das Bhargava do not merit consideration. May I also, with your permission, move my amendment No. 67 which seeks to insert a new clause, clause 3(A) for the temporary disqualification of certain cases?

Shri Braj Raj Singh: We are not dealing with it.

Mr. Deputy-Speaker: It would be taken up later on. Now, the hon. Deputy Minister.

Shri Hajarnavis: Sir, there is a small amendment which I have moved. The intention is to make clear that where disqualification is created for a Chairman of a Committee or a Secretary of a Committee, that disqualification is attached to the two offices of Chairman and Secretary even if alternative terms are used. There may be certain committees constituted either by a rule or an order or by an Act in which instead of using the word 'Chairman', the word 'President' may be used or any other name may be used instead of Secretary. If the functions are similar, they would still come under the ban.

Shri Narasimhan (Krishnagiri): Convenor.

Shri Hajarnavis: We will have to examine the functions first and if the functions are those of the Secretary, then they would come under disqualification. That is the intention of the explanation.

Mr. Deputy-Speaker: Shri Dasappa. He may be very brief.

Shri Dasappa: A few minutes as you can allow me.

Sir, I had not the privilege or opportunity of taking part in the general discussion. I feel very much that the Bill has become complicated because of attaching a Schedule. That is my opinion.

With all respect for the authors, I honestly feel in enumerating those offices which you want to exempt as well as those which you do not want to exempt. I am afraid we have landed ourselves in a greatly difficult task—a never ending process for a huge country like ours.

Secondly, democracy as we are working it today does enjoin more and more of active participation of the representatives of the people in the various institutions in the country, working for the good of the country. It would be wholly wrong to import today the meaning and content of certain antiquated ideas which had their origin in a conflict between the Crown and the people's representatives in England. People's representatives themselves are here today, governing the country. If some of the Members of Parliament could take the responsibility of being Ministers and so on, I see no reason why little tasks here and there should not be entrusted to them. That is my view. If there is anything going wrong with them, there are other means of seeing to their rectification than by preventing them from holding certain offices where there is nothing more than compensatory allowances and where we suspect there is some patronage.

15.16 hrs.

[SHRI BARMAN in the Chair]

I have said this by way of introduction just to support my amendment. My amendment simply seeks to do this. In clause 3(i) there should be no two parts, one excluding the chairman, director as well as membership of any statutory or non-statutory body and the other one confining the exclusion only to office bearers as in part (ii). You remove part (i) altogether. It does not matter if a Member of Parliament is a mere member on any one of the bodies enumerated in Parts I and II. Between the two, I see very little difference. For instance, the

advisory committee on Air India International or the Indian Airlines Corporation is there. What does it matter if an hon. Member of this House—my friend, Shri Jaipal Singh who knows so much about airlines becomes a member of the advisory board. Why should we vote ourselves out of such bodies? I believe the hon. Minister will appreciate my point because that exactly was his stand. I have not been able to understand why the Members of Parliament should be so suspicious of our own conduct that we do not even deserve membership of any of these advisory committees.

The office of Chairman, Secretary or even membership of executive committees may entail additional duties which certainly will affect our own main responsibility here of representing our constituencies and attending to the enormous work of Parliament. Membership, however should not entail exclusion. That is the main thing which I have got to say.

Sub-clause (j) deals with the village officers. The Village Officers' Acts are to be found in every State and they are amenable to the discipline of the Government of the day. They can be suspended, fined and dismissed. I ask this question. If I am one of the village officers against whom the Government may have to take action and I am here sufficiently prominent to make my presence felt on the Minister or Ministers concerned, do you think that it will lead to fair and honest administration or efficient Government of the country?

Shri Narasimhan: Independent, also.

Shri Dasappa: It is bound to affect—as the hon. Member says—the independence of the Member on the one hand and also the independence of those entrusted with the governance. I see no object in introducing the village officers here. If they are so minded that they are in a position to represent the country on Parliament, they should not be so selfish as to stick



[Shri Dasappa]

on to the small office and there are ways and ways of unburdening themselves of these petty little responsibilities in the villages. Therefore, I am afraid that we are committing a great mistake here in having these village officers exempted. Even there is a kind of an exemption to the exemption. There is an exemption, there is a further exemption to that exemption and another exemption to the second exemption which says that those who discharge police functions cannot get this exemption. I want to know why there is this partiality. What about revenue functions which are so vitally connected with the day-to-day life of the people in the villages. He is also a powerful man. If he does all those things, namely, reporting against *darkhast*, this and that, against encroachment on land and various other things, why should he be exempted and the disqualification removed? This man who may have a little petty police function cannot exercise that power. Sir, I do not know what it is in other parts, but in my parts the man with police functions is known as 'patel' and the man with revenue functions like writing of accounts etc. is known as 'shanbhog' or 'karnam'. These two are like twin brothers in the administration of a village. What happens according to this is, you prevent the 'patel', the village headman, as he is called, from standing for any of these bodies whereas you permit his clerk—the other man is virtually in the position of the patel's clerk—to stand. I cannot conceive of a more illogical position than that, and I believe it will lead to a lot of disharmony. Either you disqualify both or qualify both; but, in any case, my own personal view is that it is not right that they should be exempted.

श्री बृजराज सिंह समापति महोदय, इस विधेयक की धारा ३ के सम्बन्ध में, जो कि इस विधेयक की जान है, मुझे कहना है कि यह सारी की सारी धारा ऐसी है, जिसे कि इस विधेयक में नहीं होना चाहिए था। प्रवर

समिति में मैंने इसका विरोध किया था और अब भी मैं सोचता हूँ कि इस में जिन पदों को हमने डिस्कवालिफिकेशन से बन्धा है, वे पद ऐसे हैं, जो कि पार्लियामेंट की स्वतन्त्रता और निष्पक्षता पर आघात कर सकते हैं। मुझे इस बात को खुशा है कि अन्तिम समय पर कानून मन्त्री महोदय और सरकार को यह स्वीकार करने के लिए राबी होना पड़ा कि वाइस-चांसलर—उपकुलपति—का पद एग्जेंप्शन की लिस्ट से निकाल दिया जाय और यह सही किया गया है। जो व्यक्ति किमी पद पर पूरे वक़्त काम करते हैं, वह अपना काम करेंगे या पार्लियामेंट में आकर काम करेंगे, वह एक सोचने की बात थी। प्रवर समिति में भी इस पर बहुत जोर दिया गया था और अब इस बात को माना जा रहा है, यह खुशी की बात है।

इस के साथ ही साथ मैं समझता हूँ कि होम गार्ड जैसे पद को एग्जेंप्शन की लिस्ट में रखना किमी तरह भी उचित नहीं है। मैं जानता हूँ कि आज बहुत से राज्यों में होम-गार्ड का अस्तित्व नहीं है। लडाईं के जमाने में, जिस वक़्त यहाँ पर ब्रिटिश हुकूमत थी, इस को शुरू किया गया था, लेकिन आज वह सब जगह नहीं है। यह भी तथ्य है कि उसको फिर से चानाने का प्रस्ताव चल रहा है। होम गार्ड जैसे पद को हम इस डिस्कवालिफिकेशन से अलग करें और उस को यह मौका दें कि वे लोग पार्लियामेंट में आकर हिन्दुस्तान भर के लिए कानून बनाने का काम करें, मैं समझता हूँ कि यह उचित बात नहीं है।

मन्-मन्नाब (एच) और (आई) में एडवाइज़री कमेटी के चेयरमैन और मेम्बर और किमी स्टैचुटरी या नान-स्टैचुटरी बाडी के चेयरमैन और मेम्बर को रखा गया है। इस सम्बन्ध में मेरा निवेदन यह है कि सरकार की ओर से ऐसे पदों पर जो नियुक्तियाँ होती हैं, वे पार्लियामेंट की निष्पक्षता पर आघात कर सकती हैं। लेकिन ये नियुक्तियाँ स्वीकर

अहोदय की तरफ से या राज्य सभा के चेयरमैन की तरफ से हों, तो मैं समझता हूँ कि उन से वह लाभ उठाया जा सकता है, जो कि पार्लियामेंट के मेम्बर विशेषज्ञ होने के नाते पहुँचा सकें। लेकिन अगर यह काम सरकार पर छोड़ दिया जाता है, तो वह बहुत ही खतरनाक चीज होगी। खुशकिस्मती के घसी हमारी पार्लियामेंट में एक पार्टी के तीन चीफार्ड मेम्बर हैं, लेकिन घाने चल कर यह स्थिति बचल सकती है और ऐसा हो सकता है कि ५०० मेम्बरों में से २५३ एक पार्टी के हों और २४७ दूसरी पार्टी के हों और अगर सरकार के हाथ में इस तरह रेवड़ी बांटने का अधिकार रहा, तो वह रेवड़ी बांट कर संतुलन को—बैलेंस को खत्म कर सकती है और इस तरह पार्टी की सरकार बहुत अनस्टेबल हो सकती है। वह इस प्रकार कमजोर हो सकती है और बदन सकती है। निकट भूत का इतिहास हम देख रहे हैं। एक के बाद एक मुक्त फ़ौजी शासन के अन्तर्गत चला जा रहा है और उससे बचने के लिए बहुत ही आवश्यक है कि मुक्त की सरकार स्टेबल हो, मजबूत हो, ऐसी हो जिसे भ्रामनी से न हटाया जा सकता हो। आज की सरकार से विरोध रखते हुए भी, और उसकी नीतियों का इस हाउस में और इस हाउस के बाहर विरोध करने हुए भी, मैं मानता हूँ कि आज इतनी सुरक्षा है कि ऐसी स्टेबल सरकार के होते हुए इस देश में फ़ौजी शासन नहीं हो सकता है। किसी भी देश में जनतन्त्र को कायम रखने के लिए सुस्विकर और स्टेबल सरकार का होना बहुत जरूरी है। इस तरह के पदों को डिस्क्वालिफ़िकेशन से एग्जैम्प्ट कर के भविष्य में एक ऐसी स्थिति पैदा हो सकती है, जो कि जनतन्त्र के लिए और एक स्वामी सरकार के लिए खतरनाक साबित हो। इन सब-क्लासिफ़ि में जहाँ तक ऐसी संस्थाओं, बाजीज, कार्पो-रेशन्स बगैरह के चेयरमैन और मेम्बर को स्वीकर अहोदय या राज्य सभा के चेयरमैन की तरफ से मनोनीत किया जाता है, वहाँ तक तो मैं चाहूँगा कि उसमें कोई आपत्ति न हो

और वह सिर्फ़ इसलिए कि हमारे देश में इन कार्पोरेशन्स आफ़ि की कार्यवाहियां बढ़ रही हैं, उन की संख्या बढ़ रही है और उनमें हमारे मेम्बर शामिल हों, इससे फ़ायदा हो सकता है लेकिन अगर मैं नियुक्तियां सरकार के हाथ में रखती है, तो जनतन्त्र को खतरा पैदा होता है। इसे हद तक मैं सब-क्लास (एच) और (आई) का विरोध करता हूँ।

जहाँ तक सब-क्लास (जे) का सवाल है, उस में लम्बरदार, मालगुजार, पटेल, देशमुख को रखा गया है और उसके साथ ही यह बताया गया है कि उस में विलेज रेवेन्यू आफ़िसर का वह पद भी शामिल होगा, जिस को किसी अन्य नाम से पुकारा जाता है—“बाई एनी अदर नेम”। यह बहुत ही गोल है। इतना गोल है कि इस के कुछ भी माइने लगाये जा सकते हैं। कुछ राज्यों में जमीदारियां खत्म हो गई हैं और अन्त में उन को पूरे हिन्दुस्तान में खत्म होना है। तब तो इस तरह के पद नहीं रह जायेंगे। सरकारी पद पर नियुक्त व्यक्ति ही मालगुजारी वसूल करेंगे, जैसे उत्तर प्रदेश में भैब गांव के सभापति को यह अधिकार दिया जा रहा है कि वह मालगुजारी वसूल करे। ऐसे अधिकारियों को अगर आप यह अधिकार देते हैं कि वह पार्लियामेंट के लिए खड़े हो सकते हैं, तो इससे बहुत ही भयावह स्थिति पैदा होगी। उस को टालने के लिए इस सब-क्लास को कतई निकालने की जरूरत होगी। अगर लम्बरदार, मालगुजार, पटेल और देशमुख इत्यादि पार्लियामेंट में आना चाहें, तो वे इस्तीफ़ा देकर भा सकते हैं। उन्हें इन दो में से एक को चुनना पड़ेगा। अगर वे पार्लियामेंट में रहना चाहें, तो उनको अपने पद से इस्तीफ़ा देना होगा, अन्यथा वे लम्बरदार मालगुजार, पटेल, देशमुख अथवा लेखपाल के अपने पद पर स्थित रह सकते हैं। अगर किसी नागरिक के दिल और दिमाग में यह भावना है कि पार्लियामेंट के मेम्बर बनकर देश की सेवा करनी है, तो अपने इस प्रकार के

[श्री इजराज सिंह]

पद से इस्तीफा देना कोई बड़ी कुर्बानी नहीं होती। इस स्थिति में इस उपचार को निकाल दिया जाना चाहिए।

शेरिफस के बारे में निवेदन कर के मैं समाप्त करता हूँ। हमारे कानून मन्त्री महोदय जानते हैं कि हमारे देश में केवल तीन शेरिफ हैं। ३८ करोड़ व्यक्तियों में से केवल इन तीन व्यक्तियों के लिए कानून में व्यवस्था करना, जिससे और भी ग्रहण लगाए जा सकते हैं, मेरे विचार में कोई अच्छी बात नहीं होगी, अगर शेरिफ साहबान पार्लियामेंट के मेम्बर बनना चाहते हैं, तो उन को अपने पद से इस्तीफा देना होगा। जिस तरह वाइस-चांसलर के पद को एग्जम्पशन को खत्म कर दिया गया है, उसी प्रकार शेरिफ के पद को भी वहाँ से हटा देना चाहिए।

इन शब्दों के माध्य में इस क्लॉज का विरोध करता हूँ।

**Shri Liladhar Koteki:** Mr. Chairman, Sir, I do not want to take much time of the House because some of the amendments that I have moved have also been moved by other hon. Members and they have advanced arguments in support of those amendments, particularly my amendments numbers 56, 57, 58 and also amendments regarding clause (j).

Sir, this Bill has got certain limitations because it has to fit in under article 102. The purpose of my amendments is to bring it as nearer the spirit and meaning of article 102 as possible. Article 102 of the Constitution says that if a person holds an office of profit under the State Government or under the Central Government he will be disqualified. This is the general

provision in article 102. Power has been given to Parliament to exempt certain offices of profit which are held by Members of Parliament. If we put this test in relation to the Members of Parliament, namely, whether the Members of Parliament can hold offices like a member of the Home Guard, National Cadet Corps, Territorial Army, Reserve and Auxiliary Air Force, etc., and such offices like lambarbars, malguzars, etc., then naturally, we shall not be able to do justice to our primary duty in Parliament. According to the spirit of the provision under article 102 to exempt certain offices of profit held by Members of Parliament, the test should be whether our holding of such offices is absolutely necessary for the efficient management of such bodies or corporations.

Reference may be made to sub-clause (e) of section 7 of the Representation of the People Act, 1951. That also categorically says that offices in companies or corporations where Government have got at least 25 per cent shares cannot ordinarily be held by Members of Parliament. So, my own view is that this authority given to Parliament should be utilized only in rare cases where it is felt that we should hold such offices.

Now, by my amendment No. 62, I want to exclude the schedule, both Parts I and II, because, our difficulty as pointed out in the general discussion, is that this very important term of 'office of profit' has not been defined either in the Constitution or in the Representation of the People Act or in the present Bill or even in the General Clauses Act. It is not proper that we should leave this very important term to be left out like that. That is why, we have to labour hard in the Bhargava Committee, in the Joint Committee and in the sub-committee to find out what this mysterious term 'office of profit' means. However difficult the term may be, sooner or later we must define it and if we do

so earlier by putting our heads together—by those who have got the knowledge of law, and we have got so many Members in this House as well as outside with such knowledge—it would be better. Why can we not find out a definition for this term? If we do that, then it will be left to the Government to decide whether they want some of us to participate in some of the important committees in which they think our presence is necessary.

Therefore, my submission is that, if it is not possible within the purview of this Bill to do so, the Government, particularly the Minister in charge of Law, should take early steps to bring an appropriate legislation by way of an amendment to the Constitution or whatever it is. I cannot suggest quite definitely how it should be done and—as to whether that will be possible. But this term 'office of profit' must be defined.

If I get time to speak on the schedule then I will justify why the schedule is not necessary if we take the trouble to define this term 'office of profit'.

With these words, I commend my amendments to the acceptance of the House.

श्री मूल बन्द बुबे (फर्रुखाबाद) : सभा-पति महोदय, जिन भेरे मित्रों ने इस बिल पर हो रहे वाद-विवाद में हिस्सा लिया है उनका विचार यह मालूम होता है कि उनको इस शब्दमूल में भ्रम क्लेश में कोई प्रिंसिपल की, कोई सिद्धान्त की, कोई मिस्टम की, कोई मैजिस्ट्री की बात नहीं मिलती। वे इस चीज को ही ढूँढते रहे कि इसमें कोई प्रिंसिपल की बात हो। मैं उनकी तबज्जह इस तरफ दिलाना चाहता हूँ कि इसमें कोई इन बातों का जिक्र नहीं है। आर्टिकल १०२ में तो केवल यह लिखा हुआ है कि जहाँ पर कोई आफिस आफ प्राफिट हो तो वह डिसक्वालिफाई करेगा और पार्लियामेंट को यह अधिकार है कि वह उस डिसक्वालिफिकेशन को हटा दे। वहाँ पर

कोई उलूल की आवश्यकता नहीं है। यह नहीं कहा जा सकता कि फ्लॉ आफिस में या फ्लॉ पद से धरर डिसक्वालिफिकेशन को हटा दिया गया है तो फ्लॉ जगह से क्यों नहीं उस डिसक्वालिफिकेशन को हटाया गया। यहाँ पर तो केवल बहुमत की बात है। जिस पद के लिए कोई चीज पास हो जायगी उससे तो डिसक्वालिफिकेशन को हटा दिया जाएगा और जिस पद के लिए कोई चीज पास नहीं हो सकेगी उससे नहीं हटाया जाएगा। इसमें कोई उलूल की बात नहीं है जहाँ तक आर्टिकल १०२ का सम्बन्ध है।

इस बात का भी मुझे ध्यान है कि बहुत सी हार्ड कोर्टस ने और यहाँ तक की सुप्रीम कोर्ट ने यह कहा है कि आफिस आफ प्राफिट का समझना नो सम्भव है मगर इसका कोई डेफिनिशन नहीं दिया जा सकता। मैं जो उन लोगों ने कहा है, उसको बड़ी श्रद्धा और बड़े आदर में ध्यान में रखता हूँ। लेकिन फिर भी मेरी समझ में नहीं आता है कि जिस बात को आप डिफाइन्ड नहीं कर सकते, जिस बात की आप सार्गीफ नहीं कर सकते, उसको समझ कैसे सकते हैं। इसका अगर मैं कोई उदाहरण दूँ तो यह मिलेगा कि आप की जो क्लॉज ३ है, उसी को आप देखें तो आपको पता लगेगा कि ज्वायंट कमेटी में बड़े बड़े लायक वकील मौजूद थे, एमिनेंट लायर मौजूद थे, मगर उनको समझ में यह नहीं आया कि ऑफिस आफ प्राफिट क्या है। क्लॉज ३ को देखें तो उनमें यह लिखा हुआ आप पायेंगे

"It is hereby declared that the following offices, in so far as they are offices of profit, shall not disqualify the holder thereof."

उन्होंने कहा है कि मिफं वे जिन्होंने हम शब्दमूल में दे रहे हैं वे आफिस आफ प्राफिट हैं बल्कि यह कहा है कि इन से फार एण्ड इट इज एन आफिस आफ प्राफिट। ये सब आफिस आफ प्राफिट है यह नहीं कहा है बल्कि कहा है कि

[श्री जूल चन्द कुर्बे]

इन सी फार एंड इट इज, ऐसा उन्होंने नहीं कहा है। इसका मतलब तो यह हो जायेगा कि जहां तक जितना यह आफिस आफ प्राफिट है उतना आफिस आफ प्राफिट यह नहीं हो रहा है। प्राप यह करते कि यह आफिस आफ प्राफिट है और यह नहीं है। अब यह नहीं कहा जा सकता है और यही कहा जा सकता है कि इन सी फार एंड। तो यह सब चीज जाहिर करती है कि ज्वारंट कमेटी को भी यह बात मालूम नहीं हो सकी कि आफिस आफ प्राफिट क्या है। जब उनके दिमाग में यह बात नहीं आ सकी तो जो एक मामूली धादमी है उसके दिमाग में कैसे यह प्रायेगी कि आफिस आफ प्राफिट क्या है। जब मामूली धादमी के दिमाग में यह बात नहीं आती है तब यह सवाल पैदा होता है कि वह क्या करेगा। ऐसी हालत में फर्ज कर लीजिये कि प्राप होम गार्ड्स को एग्जेंट करते हैं, एन० सी०सी० को एग्जेंट करते हैं तो इसका मतलब यह है कि ये ऐसी चीजें हैं कि उनमें अगर गवर्नमेंट उनको एग्जेंप्शन न दे और उनको प्रोत्साहन न दे तो उनमें कोई नहीं प्रायेगा। उनको एग्जेंप्शन इसलिए नहीं दिया गया है कि उनके कुछ भ्रष्टाचारत हैं, उनमें कुछ ताकत है या गवर्नमेंट उनको अपने हक में कर सकनी है बल्कि उनको एनकरेज करने के लिए, उनको प्रोत्साहन देने के लिए उन आफिसिस को एग्जेंट किया जा रहा है। इसी तरह से मन्बरदार बर्बर रह रखे गये हैं। उसमें कोई भ्रष्ट नहीं पड़ता है। लेकिन जिस सिद्धान्त के सहित यहां विरोध किया जाता है वह यह है कि इस में जो मन्बर पार्लियामेंट है उनकी स्वतंत्रता जाती रहेगी। यह भी कहा गया है कि यहां अगर वे लोग गवर्नमेंट की तरफ से पेश किया गया कोई छोटा मोटा आफिसिस मंजूर कर लें, या किसी कमेटी के मन्बर हो जायें तो उनकी स्वतंत्रता जाती रहेगी। लेकिन मैं कहूंगा कि प्राप इस बात पर गौर करें कि प्रापने १३७ आफिसिस या कमेटीज या बोर्डज ऐसी रखी हैं

जिनको कि प्राप एग्जेंप्शन दे रहे हैं। इसका मतलब वह हुआ कि १३७ मन्बर पार्लियामेंट तो इन बोर्डज में आ सकते हैं। फिर यह भी कहा जाता है कि प्राइवा भी जो आफिसिस सामने प्रायेंगे या जो बोर्डज सामने प्रायेंगे उनको भी एग्जेंप्शन दे दिया जायेगा। तो १३७ तो ये हुए और बाद में सी या दो सी या तीन सी और आफिसिस आफ प्राफिट हो सकते हैं जिन को कि एग्जेंप्शन दिया जा सकता है। एक स्टेज ऐसी भी आ सकती है जबकि जितने भी मन्बर पार्लियामेंट है वे सब किसी न किसी बोर्ड पर या कमेटी पर हों। अब इतने अधिक आफिसिस एग्जेंट होते हैं तो स्वतंत्रता कैसे बनी रह सकती है। गवर्नमेंट के हाथ में प्राप यह पावर दे रहे हैं कि १३७ तो जैसे ही एग्जेंट हो जायें और उसके बाद सी दो सी या तीन सी को भी एग्जेंप्शन दे दिया जाये जब भीका प्राये। इसका मतलब यह हुआ कि चार सी या पांच सी आफिसिस को प्राप एग्जेंट कर रहे हैं। तो जो बंसिम है, जो ग्रंडरलाइज प्रिंसिपल है कि प्राप मन्बरान पार्लियामेंट की स्वतंत्रता बनाये रखना चाहते हैं वह स्वतंत्रता कैसे बनी रह सकती है। यह ऐसी बात है कि जिस पर मुझ को संशय नहीं होता है।

मुझे बार बार यह खयाल आता है कि हम एक ऐसा काम कर रहे हैं जो किसी तरह से भी ठीक मालूम नहीं देता है। अब मबाल पैदा होता है कि किया क्या जाये। या तो प्राप आफिसिस आफ प्राफिट को डिफाइन करने की बात को छोड़ सकते हैं और कुछ आफिसिस को, दो चार या दस को जैसा प्राप मुनासिब समझें एग्जेंप्शन दे दें, अगर प्राप मन्बरों की स्वतंत्रता बनाये रखना चाहते हैं या फिर प्राप आफिसिस आफ प्राफिट को ही डिफाइन कर दें। मैं समझता हूँ कि जिस तरह से हम चल रहे हैं उस तरह से हमें नहीं चलना चाहिए। लेकिन सवाल पैदा होता है कि क्या किया

जावे। मैं तो यही कहूंगा कि प्राप भाफिस प्राफ प्राफिट की डिफाइन कर दें। लेकिन हमारे धानरेबल मिनिस्टर साहब की राय यह है कि यह होना बड़ा मुश्किल है, यह ही नहीं सकता है। अब जो कानून इंग्लैंड में है या जो पहले वहाँ कानून था, उसके अगर प्राप पाबन्द रहें तो कोई भी डेफिनिशन प्राप नहीं दे सकेंगे। उसकी डेफिनिशन के पाबन्द रहते हुए हमें दो सी, तीन सी और चार सी प्राफिस ऐसे रखने होंगे जिन को हमें डिसक्वालिफिकेशन से हटाना पड़ता है। अगर यह बात रहती है तो मैं समझता हूँ कि यह बिल बेकार सी बात हो जायेगी।

तो अब डिफाइन करने का सवाल रहता है। उनका ज्वाल है कि यह सम्भव नहीं है। मैं भ्रष्ट करता हूँ कि अगर इंग्लैंड के पुराने और नये कानूनों को ध्यान में रखा जाये तो मालूम होगा कि कोई तरीका नहीं है इसको डिफाइन करने का। मेरे दोस्त कहते हैं कि इसके लिए कांस्टीट्यूशन को भी बदलना पड़ सकता है। मैं समझता हूँ कि अगर कांस्टीट्यूशन को हमें बदलना भी पड़े तो कोई हर्ष की बात नहीं है। हम जहाँ छः बार कांस्टीट्यूशन को बदल चुके हैं वहाँ पर एक बार और बदल सकते हैं। हम न साल या डेढ़ साल इस बिल पर विचार करने में ज्वाइंट कमेटी में लगाया है वहाँ इतना वक्त लगा कर कांस्टीट्यूशन को भी बदल सकते हैं। कोई दिक्कत वाली बात मुझे नजर नहीं आती है।

श्री नरसिम्हन् : इससे ज्यादा फायदा होगा और यह आसान भी है।

श्री मुख जय बुधे : मेरा भी यही विचार है।

यह बात भी मेरे विभाग में है कि जनरल क्लाजिज एक्ट के एमेंडमेंट करके भी यह बात ही सकती है। धानरेबल मिनिस्टर साहब की यह राय है तथा पंडित ठाकुर दास भार्गव जी का भी यह जवाब है कि यह नहीं हो सकता है।

लेकिन मैं उनकी इस राय से सहमत नहीं हूँ। मैं उनकी राय की कद्र करता हूँ लेकिन कद्र करते हुए भी मैं उससे सहमत नहीं हो सकता। प्राप की राय यह है कि जनरल क्लाजिज एक्ट में यह इसलिए नहीं हो सकता है कि जनरल क्लाजिज एक्ट वही देखा जायेगा जोकि वह कांस्टीट्यूशन पास होने के वक्त मौजूद था यानी १९५० में जैसा वह था वैसा ही देखा जायेगा। मैं इससे सहमत नहीं हूँ। मैं दरखास्त करता हूँ कि प्राप इस बात को फिर से देखें, फिर से इस पर गौर करें कि अगर जनरल क्लाजिज एक्ट का एमेंडमेंट हम प्राज लाते हैं तो हम कह सकते हैं कि यह रिट्रास्पेक्टिव इफेक्ट में होगी, हम कह सकते हैं कि शुरू से ही ऐसा हो रहा समझा जाये। इस में क्या दिक्कत है? मैं तो इसमें कोई दिक्कत वाली बात नहीं समझता हूँ। जनरल क्लाजिज एक्ट में छोटी सी एमेंडमेंट करके हमारा परपज सर्व हो सकता है। मैं समझता हूँ कि सिबाय पब्लिक सर्वेन्स के और किसी का डिसक्वालिफिकेशन नहीं रहना चाहिए। तिरफ पब्लिक सर्वेन्स को डिसक्वालिफाई प्राप करें बाकी किसी को डिसक्वालिफाई करने से कोई फायदा नहीं है। काउन का क्या प्रस्तार्यार था और किस तरह वह फेवर करता है वह कोई सवाल प्राज कल नहीं है और न उस तरफ कोई ध्यान देना चाहिए।

अन्त में मैं इतना ही कहना चाहूंगा कि जो बातें मैंने कहीं हैं उन पर भी मंत्री महोदय गौर करें।

Shri Narasimhan: I would like to have one clarification. The Madras State has passed a statutory law making Members of Parliament ipso facto members of the State committees, which have become substitutes for various district boards. What I am worried about is, how far it is consistent within the privileges of this Parliament and to what extent it affects the Parliament's privileges. Supposing some State legislature

[Shri Narasimhan]

legislates for the Members of Parliament, is it good or desirable or, is a conflict likely to arise at some stage or other. I want to draw the attention of the House to that point and I hope this will be studied by the Law Minister.

A State legislature passes a law whereby Members of Parliament have become statutorily members of certain bodies in the States. It may be all right now; they have done it with good intention and that confidence in Members of Parliament is fully reciprocated and appreciated; we welcome it. But at some stage or other, it may lead to a conflict. When duties are cast on us by those people without the approval of this Parliament, it is likely to create some difficulty. Whether it should be foreseen or examined is the question which I pose before the Law Ministry to find out whether purely from the legalistic view or from the point of view of privileges of the House, this thing should be defined or not.

Pandit K. C. Sharma (Hapur): I have heard arguments with respect to the provisions of the Bill and the proposed disqualifications, but despite my best efforts to reconcile myself to the arguments, I am sorry, I have not been able to see the reasoning thereof. The fundamental principle is that democracy is a social experiment. In a democracy, every citizen has to take responsibility in carrying out the will of the people through the legislature and through the execution of the law. There are, of course, certain limitations which fundamentally have a bearing upon his independence or capacity to discharge the functions efficiently, honestly and with integrity. But unless there is some disability, every citizen should be permitted to partake in this great social experiment.

Under almost all the constitutions in the world, all citizens should have equal opportunity for participating in the administration of the country and

certainly to be a legislator is one of the necessary functions every citizen has to discharge with regard to the governance of the country.

The public servants are excluded not because they are dishonest or they cannot afford to be independent. Any Minister can bear testimony to the fact that Secretaries' notes are sometimes very much different from the wishes of the Minister. So, no Minister can think that his Secretary is not independent. They have their own views and they try to reconcile their views with the views of the Minister. That is how the democratic administration is being carried out. They are not slaves or people who should be just asked to carry out certain things, despite their opinion to the contrary. The public servants are excluded on the principle that they have to execute the policy of the Government.

Mr. Chairman: Mr. Sharma is speaking on the considering motion. That stage has passed. Now we are on clause 3 and the amendments. If he wants to support or oppose the whole clause, that is another matter.

Pandit K. C. Sharma: My respectful submission is that these limitations are to be mellowed down to the minimum. The very principle of article 102 is that an office of profit under the Government is disqualification for a citizen to become a legislator. Therefore, as we grow on, as education and experience grow on the disability should be narrowed down to the minimum. This provision exists in article 102. By experience, these offices are not offices of profit in the sense that they should be allowed to stand in the way of a citizen to become a legislator. For instance, take (f) about Vice-Chancellor. Objection is raised against the Vice-Chancellors.

Mr. Chairman: That is accepted by the Ministry.

**Pandit K. C. Sharma:** Then there are delegations and missions. That is not very seriously objected to. My opinion is that they should be allowed. It is not good to make too many distinctions whether the mission is commercial or political or legal. It is better to do away with the disability, if at all it exists. I do not believe that it exists at all.

Then there is provision about the office of chairman or member of a committee. I think this is a good provision and no objection should be taken to it. When a citizen should do his utmost for the development of the country, there should be no disqualification whatsoever for holding those posts.

Then about the office of chairman, director or member of any statutory or non-statutory body, I have dealt with this question in my first speech. Then objection is taken to home guards. I want to say a word or two about the home guards. In the U.P. Police Act there is a provision that the Superintendent of Police can call upon any citizen to render police service and to act as police constables. In a democratic government, when it is not an engine of oppression, police service is one of the noblest things that a citizen can be called upon to perform. These home guards are the people who maintain law and order when the ordinary machinery find it difficult to cope up with the problem. Then only these people come into the picture. May I respectfully ask: when people are murdered, is it a crime for certain people to take risks and help the police? Is it a crime to help them to maintain law and order? Then, this is not a class of service which can be put as a permanent service. Does not a lawyer take brief for the Government in certain cases? Still, they can become Members of Parliament. When they are not disqualified on the ground that they are accepting brief of the Government, I see no reason why youngmen who take risks in the cause of peace

and maintaining law and order should be disqualified.

Then, I do not know with regard to other States, but so far as my State is concerned, *lambardar* is a government official in a hamlet. He takes upon himself the work of collecting the Government revenue and depositing it in the Government treasury. I do not know where the Government influence or police influence or District Magistrate influence comes in. I come from a *lambardar* family. Most of my people have joined the Congress movement. *Lambardar* has therefore, nothing to do with influence.

**Pandit Thakur Das Bhargava:** What about *Mukhya*?

**Pandit K. C. Sharma:** That comes under the Criminal Procedure Code.

**Pandit Thakur Das Bhargava:** Your *Mukhya* is a *lambardar*.

**Pandit K. C. Sharma:** I am talking of my State. *Lambardar* has nothing to do with police. He cannot be influenced or terrorised by the district authorities. He is quite an independent man, because he happens to be the biggest co-sharer in the hamlet. His duty is to collect revenue and pay it in the Government treasury. Therefore, I feel that it should not act as a disqualification. Then, as the evolutionary process goes on, as people get educated, more and more people will become independent and so these limitations should be narrowed down to the minimum. You cannot escape the logic. I think these provisions are quite sound in logic and there need be no fear on that score. Therefore, I support the removal of those disqualifications.

**Shri T. Subramanyam (Bellary):** With regard to clause 3, sub-clauses (c) and (d), I would like to say something. Some amendments have been sought to be moved for the purpose of subjecting these people to disqualification. I strongly feel that these people should not be subject to disqualification.



[Shri T. Subramanyam]

I will first take up home guards. I can say something from my own experience. Just on the eve of the Hyderabad police action we have had about 150 miles of border of Hyderabad and all along the border in many of the villages home guards were enlisted. There were about 1,200 to 1,500 home guards and they were enlisted from all walks and callings of life—advocates, merchants, businessmen, students above 21 years and so on. My experience of them has been rather pleasant, and not at all unpleasant. They were very helpful and useful in keeping up the morale at the time of the police action round about Hospet and other places. In this context we must remember that military dictators are there round about us. We have long borders with Pakistan both on the east and the west. So, it would be a good thing if all able-bodied men and women are trained in this movement. It must be made very popular

An Hon. Member: Including among M.P.s?

Shri T. Subramanyam: Yes, they must set an example. Therefore, we should welcome this provision. They should not be subject to any disqualification. If any trouble should start, they should keep up the morale of the villagers and they should be a second line and third line of defence. They have no influence at all, and the remuneration that they get is only a pittance and some conveyance allowance for something which is absolutely nominal. So, no significance could be attached to it. Therefore, I strongly feel that the home guards should not be subject to this disqualification.

Then, what I said about home guards applies *mutatis mutandis* to the National Cadet Corps, territorial army and auxiliary corps. We must make them more popular. Young men studying in the colleges, professional, technical or arts, must be trained in the national cadet corps. Then, every citizen should be train-

ed by the territorial army. We must make them popular. My feeling is that just now they are not attracting large number of people as they should. We should make them popular bodies, the second and third line of defence, consisting of citizens from various walks and callings of life, if we have to make our defence position strong and sound. Therefore, they should not be subject to any sort of disqualification. We should make them more popular and attractive. So, I strongly feel that the national cadet corps, the territorial army and the auxiliary air force and the home guards should not be subject to any disqualification. On the other hand, every encouragement or inducement should be given to them so that they may join in large numbers.

16 hrs.

Then, with regard to the Vice-Chancellors the Government themselves have accepted that they should be excluded. With regard to the members of the Syndicate and the Senate, I would submit that they should not be subject to disqualification. It would not be proper and fair.

With regard to the sheriffs of Bombay, Calcutta and Madras—there are only three—I was told some time back that no sheriff of any of these cities has been a legislator or a Member of Parliament. Therefore it assumes more or less an academic character. In these circumstances when we are excluding the Vice-Chancellors I do not see why we should not put them in the same category as the Vice-Chancellor, i.e., exclude them. After all it has no practical importance that they should be included in a separate sub-clause. They could as well be excluded. I would appeal to the hon. Law Minister to exclude that particular sub-clause relating to the sheriffs of Madras, Bombay and Calcutta because more or less it is of an academic character. They have never come in. Then they have got

their own dignity, their own functions and responsibilities. Therefore they should be excluded.

With regard to clause (h), I feel the use of the word 'temporarily' is likely to create some difficulties and confusion. I wish it could be made more precise and a definition given to it so that any difficulty may be avoided in future.

With regard to clause (j), I would suggest to the hon. Law Minister that that may also be excluded because we have got village officers of various categories. Some receive regular monthly salaries and some receive yearly commissions on the amount that they collect. Then whatever they may be ultimately they are the subordinates in the Revenue Department and are subject to discipline and other measures attaching to the administration of the Revenue Department. Therefore, I suggest that clause (j) also should be excluded so that we can make this measure as simple and precise as possible.

Mr. Chairman: Dr. Sushila Nayar. She shall be the last speaker. I will not call any more.

Shri Achar (Mangalore): I want two minutes.

Mr. Chairman: We must finish this Bill today.

Dr. Sushila Nayar (Jhansi): I wish to say just a few words with regard to clause 3 that has been under discussion for some time. As I have tried to understand it, it seems to me that there is no underlying principle on which this disqualification or removal of disqualification is based. In all humility I submit that it is a dangerous procedure to just pick out any odd item and say that this will incur disqualification or this will not incur disqualification. I wish to emphasize with all the force I can that the big long Schedule that has been described is certainly not comprehensive and at the same time it is

debaring Members of Parliament from taking interest in a lot of national activities which are of considerable importance.

We are, in this country, trying to work as a welfare State. We are, in this country, trying to take up more and more developmental activities, industries, social services and other amenities under the wing of the Government which is only correct. At the same time we are trying here to put out of court about a thousand representatives of the people covering both the Houses, the upper and the lower House, from being associated in any way with any of these important activities. They cannot even be members—leave aside becoming the Chairman and the Secretary. I can understand that they should not be made Chairmen and Secretaries because they should retain their freedom to criticize the Government and to raise their voice here against any of the happenings that they consider are not correct. All that is necessary, but I feel that the Members of Parliament should not only be here to talk and express opinions with regard to the framing of policies, but they should be actively associated with putting into practice some of those policies and schemes. From that point of view I think it will be of considerable importance if we did not close the door in this fashion as we have tried to do in this Schedule. We should certainly debar people who are getting pay for those jobs, who are responsible for the execution of schemes actively like being Chairmen, Secretaries or members of the Executive Committee of some of these Boards etc., but I wish to ask how far it is correct to think in terms of ruling them out so completely. They represent their constituencies and the people. They are understanding the needs of those people. Their being associated with these bodies will be useful. Therefore my first submission will be that the Schedule as it is prepared is in need of very considerable and fundamental revision.

[Dr. Sushila Nayar]

I submit to the hon. Law Minister that he might withhold this clause and revise it in such a manner that a clear cut principle is evolved. While doing that, I submit, he should bear in mind that the association of the people's representatives with these various boards and bodies is of importance and should view this in the larger interest of the country. Therefore they should at least be free to be members of these boards so that they can present their point of view if not influence the decisions thereof. I, for instance, cannot understand at all why Members of Parliament can be on the advisory committees with regard to the railways, the National Consultative Committee, this that and the other, but cannot be associated at all with advisory committees with regard to the Indian Airlines or the International Airlines Corporations.

Mr. Chairman: We have not yet come to the Schedule.

Dr. Sushila Nayar: No, I am stating the general principle of clause 3. When we come to the Schedule, further discussion may be carried on at that stage. I have no objection to that. But what I am trying to say is that in this clause 3 we should see to it that the items that we have declared as causing disqualification and items that we are thinking are not incurring disqualification should be based on some general universal principles. They should not be left to the whims and fancies of people who will put one thing as incurring disqualification and another thing as not incurring disqualification. This is what is being attempted at present.

This is a very important Bill—most important I think that we have had for some time—and therefore I submit again in all humility that it should not be rushed through. There is no need to hurry it up. The hon. Minister should give it very careful con-

sideration. He is an able and brilliant lawyer and he is a public man. If he applies his mind, I am quite sure he can find a way by which it is not left to the whims and fancies of individuals but these issues are decided on some guiding principles.

Shri Achar: Sir, it is a short matter. I am referring to sub-clause (j). Of course, these officers, *lambardars*, *malguzars*, *patels*, and *deshmukhs*, who get a share in the revenue collections or who get a commission, are exempted. It happens, in our parts of the country, they are given a very small salary. They are functioning just like *lambardars* or other people who are getting a commission. The commission that they are getting, will be a large amount, much more than the salary that the *patels* are getting. They are getting a very small amount: Rs. 15 or 20. I am only submitting that if, in other parts of the country, they get exemption, just because these people are getting—as it happens to be the position in our parts—a small salary, they should not be disqualified. Their function is also to collect revenue. No doubt they are not paid any commission, nor do they get any share; they get only a fixed salary, a very small amount. I am only submitting that if others are getting exemption, why should not our *patels* also get; just because they get a small pay, why they should not be exempted.

Shri A. K. Sen: Mr. Chairman, I was very delighted to hear the echo of what I had stated when the Bill was first debated on the floor of the House as I listened to the speeches of my esteemed friends Shri Vasudevan Nair, Shri Sharma and others who have today voiced very strong and reasonable feeling that it is very important today to decide whether we are going to convert Members of Parliament into mere talkers or uninformed critics and not allow them to take part in the great revolutionary work that is being done outside the

floor of the House for building up our country. Personally, speaking for myself, I expressed myself in no unequivocal terms when we had a debate on this Bill first before the Bill was sent to the Joint Committee that I conceive it a primary duty of all Members of Parliament representing their different constituencies, not only to debate the general policies of the Government on the floor of the House, but also to actively participate in the great work of the Government which cannot succeed without the co-operation of Members of Parliament, of the people outside Parliament, of every one who feels that the country needs work, co-operation and unified effort. I still believe, and nothing has been said on the floor of the House notwithstanding the very insistent arguments of Pandit Thakur Das Bhargava, and nothing has happened to change my personal opinion on that matter. I personally feel, as more and more we shall be passing through successive plans, it will be apparent that the people who represent the country must participate in the work of the country and they will not be able to discharge that function by merely talking on the floor of the House. It was really for the purpose of giving effect to that increasing recognition of the new role which our legislators must fulfil that we had sought to frame, as it was, the original draft of the Bill, in order to enable Members of Parliament to take an increasing share in the work of the Government, consistent with the general feeling which is also very important that nothing should be done to affect the independence of the Members of Parliament.

I do not believe that by associating Members of Parliament in the work of the Government, we affect their independence. But, that feeling has to be taken cognisance of, has to be taken note of and nothing should be done procedurally which might, in any event, even give credence to that suspicion that the thing has been done

in a manner by which the independence of the Members has been affected. As I said, I was very delighted to find echo of my own feelings in the speeches of the representatives of an important Opposition Group, Shri Vasudevan Nair. Though there have been very strong speeches on our side of the House deprecating any attempt to associate Members of Parliament with any work of Government particularly extreme propositions have been more or less sought to be expressed through the speeches of many of our friends on this side of the House, which goes to the extreme limit of stating that Members of Parliament must not be given anything, that their function is only to sit on the cushions of this House and to talk and do nothing else.

**Shri D. C. Sharma:** Do we not go to our constituencies and work there?

**Shri Narayanankutty Menon:** There also, you do talking only. What else do you do?

**Shri A. K. Sen:** I do not subscribe to that extreme proposition. If I have not understood those hon. Members well, I ask for their apology. Somehow I have had the feeling that some Members at least feel that our function consists only in talking and not doing anything or sharing the responsibilities and burdens of the Government. Anyway, the original Bill has undergone many transformations, one of them being the introduction of a schedule which has the effect of disqualifying many offices which, again, personally speaking, I would have very much liked to be associated actively with our Members.

Nevertheless, I think a great scope is still left in the Bill itself for Members of Parliament to actively participate in the work of Government as I have said. And, as I said at the time of the consideration of this Bill a few days ago, last week, the mind of the Government is quite open even now about the Schedule and we shall be

[Shri A. K. Sen]

prepared to consider any proposal either for the deletion of some of the disqualifying offices from the Schedule or for the introduction of others which, on the merits, might appear to be justified. Personally speaking, again, so far as I am concerned, I would favour deletion rather than addition. Because, as I said, I firmly believe that the work of Government can never succeed completely and fully until and unless Members of Parliament take actively a part in the work of Government, especially, in the various nation-building activities with which the Government today is associated and with which the Government is going to be increasingly associated in a larger and larger measure in the future. There is no escape from that and the work of the Government will become extremely bureaucratic as one of the hon. Members on the other side has said unless we associate representatives of the people in this work, if we do not intend to leave it exclusively as a field where bureaucrats alone will function and none else. Therefore, personally speaking, I would request hon. Members when they are tabling amendments to the Schedule, to think more in terms of liberalising the disqualifications rather than increasing them. I can see quite a number of hon. Members here would be disqualified if the Schedule goes as it is. Our esteemed friends Shri C. R. Pattabhi Raman, Shri Narayanankutty Menon, and many others would be disqualified if the Schedule goes as it is.

Shri D. C. Sharma: That is the objective of the Schedule.

Shri A. K. Sen: It remains for the House to consider whether it is the objective or not. It is only for us to point out what the effect is and what our feeling in the matter is. The objective of the Schedule, certainly, is to disqualify some. The question is, which of these offices have to be finally disqualified and which of them should not be.

Coming to the details, I do not intend to go through each and every amendment separately. I shall take them in their broad categories and deal with them, as much in details as possible.

If we start from clause 3(c) of the Bill, we shall see that a good deal of criticism has been made with regard to the exemption we have extended to the N.C.C., the Territorial Army and the reserve and auxiliary air force. I would like to read out the report of the Joint Committee of the House of Commons when their Bill was under consideration. Their recommendation is as follows:

"The following is the schedule of non-ministerial offices which it is recommended should not disqualify:

Officers and men of the regular forces of the Crown who are in the reserve, retired or military lists, or on half pay or others not on the active service lists; officers and men of the auxiliary or reserve forces including officers in any reserve of officers as such and admirals of the fleet, field marshals and marshals of the Royal Air Force while not holding any office in the Royal Navy, Army or the Royal Air Force respectively."

They have themselves excluded all the auxiliary forces, the N.C.C. and so on. We are possibly less military in these matters or more suspicious. A person voluntarily undertakes military training for the defence of our country, takes the trouble of training himself for the defence of the country, and yet we are told that it is these very people who take all the trouble of voluntarily undergoing a severe and strenuous course of military training only for the purpose of defending the country must stand disqualified.

As I had said earlier, with great respect to the hon. Members who have voiced that sentiment and opinion, I

fall to see any logic, any patriotism, or any proper appreciation or objective appreciation of the facts of life which is necessary for the purpose of appreciating the *raison d'etre* of this provision for exemption.

As I said on an earlier occasion, left to myself, I want that every man and woman in this country should receive military training so that if ever the freedom of this country is threatened, we shall not have one or two lakhs of them ready to bear arms, prepared and trained to bear arms, but hundreds of thousands; and this is not the way to encourage that course, nor is it the way to encourage our young men and women to take up military training for the defence of the motherland. As I said, I shall strongly object to any suggestion that our Territorial Army or the N.C.C and the like stand disqualified.

Coming to the home guards, I am very glad at the intervention of Shri T. Subramanyam. Those who live near the border areas, or those who live in certain areas of a State like Madhya Pradesh where dacoits at one time more or less ran the daily life of the people in certain and the people were simply cowed down into submission, will appreciate the necessity of home guards. Take for instance the long border we have with East Pakistan, all over West Bengal, North Bengal and Assam, hundreds of miles, where every village is an object of attack any time. In fact, a state of tension is daily the lot of the villagers living on the border. Either a fisherman while casting his net is arrested and taken across the border, or an agriculturist ploughing his land is set upon and his bullocks carried away or his fields pillaged; either he is himself carried away or left in a helpless state. That is the state of every village on the border. The question is: have we got enough police, or enough military, to defend this large border of ours? Is it not necessary that every village has its own home guards so that every

young man, every decent man, knows how to defend his own village? And yet they have to be looked at with such suspicion, they have to be branded with such a stigma, that they will not be fit to stand either for the local legislature or for Parliament. Fortunately, in most of the States where there are Home Guards, there has been exemption by the State law in favour of members of the home guards becoming members of the local legislature, and in very strong language. I was just going through the Bombay Act where it says that notwithstanding anything, any member or officer of the Home Guards will be entitled to stand as a member of the local legislature. Yet we are told that *these people whom we have to recruit* in hundreds all over our border areas and other areas where dacoits have spread out should be disqualified. They have to defend the people, they have to carry all the risks of life, property and everything, and yet they will not be qualified to stand as a Member of Parliament.

I know myself, and in some of the places I have seen that every decent man has joined the Home Guards, or call it the village defence party all along the border; every decent man, whether he is a school teacher or a peon, or an agriculturist or a zamindar, every one has joined the village defence party all along the border. Otherwise, they cannot subsist. Yet we are told that this is vaguely an attempt to pack this Parliament with homeguards. I do not share either the apprehension or the reason behind such arguments.

Next is about sheriffs. I appreciate the reason which has been put forward by many hon. Members for disqualifying sheriffs, but nothing has been said which would convince us fully that the removal of the disqualification from these offices would cause any injury either to the independence or the quality of this House.

Next is about Vice-Chancellors. We have agreed to delete the

[Shri A. K. Sen]

exemption in favour of Vice-Chancellors, and we shall accept the amendment moved by Shri Jaganatha Rao.

Next is about members of senates, syndicates etc. I have frankly not followed why it has been urged that some of these members should be disqualified. Nor have I been able to follow the reasoning of my esteemed friend Pandit Thakur Das Bhargava that the words "which is an advisory body" imports and uncertainty. There may be many bodies, examiners bodies, ad hoc bodies, set up either under the order of the syndicate or of the senate which may be purely advisory, or which may not be purely advisory. It was said even by the Joint Committee that if such bodies exercise any real executive power, they should not be qualified. That is why the precaution was taken to extend the exemption only to bodies which are of an advisory nature. That was more or less in line with the recommendations of the Bhargava Committee which only wanted to extend such exemptions to purely advisory bodies. I do not see how the limitation of the scope of exemption by the use of the words "which is an advisory body" creates either any uncertainty or unreasonableness.

Then about delegations. I do not think much need be said in answer. So long as this country has the necessity of sending delegations abroad and so long as it is felt that there should be Members of Parliament taken in same delegation or other, it will be futile to try to extend the exemption only to certain types of delegations which will only create confusion again as to what is commercial, what is non-commercial, what is trade, what is non-trade. It may be all right to discuss, but very difficult to decide. After all, the distinction between commercial and non-commercial is very thin at the extreme.

As for sub-clause (h), this is exactly or substantially the same wording as in the present statute, and it is a very important sub-clause, because, as hon. Members are aware, many important Members of this House both from the Government side as also from the opposite side have been taken on various committees for the purpose of informing Government on important public matters.

Take, for instance, the committee which is now in operation under the chairmanship of Shri Tyagi on the question of tax evasion and so on. Now, is it to be suggested that such an important matter should be completely dissociated from the Members of Parliament? Or is it to be suggested that Members of Parliament should have nothing to do with the ascertainment of facts, recommendation of measures or devising various other remedies in the matter of Government and their affairs? Or is it not all the more necessary that in order that such recommendations and such enquiries and such ascertainment of facts are more responsive to the opinion of the House, important Members, important and capable Members, capable of doing the work, drawn from this House, should be associated with this type of work? I do not want to repeat myself, but I do not think there would be many who would share the apprehension that by such withdrawals from the House and by such associations of Members of this House, on matters the like of which we have enumerated in sub-clause (h) either the independence of the House will be affected or that the work of Government would suffer in any way or that Parliament will lose its dignity. If it is felt necessary to associate Members of Parliament with such important tasks, then this sub-clause must be accepted.

Then, I come to sub-clause (i). This is a sub-clause which has been introduced as a result of the schedule. As I have said frankly, the Bill had

not originally introduced a schedule. I opposed the introduction of a schedule originally. Hon. Members will recollect—this is really for the purpose of informing hon. Members; Dr. Sushila Nayar who had raised this point has not waited here to hear the answers to her appeal—I had originally opposed the introduction of a schedule like the present one precisely on grounds which have been mentioned by many hon. Members. I said—hon. Members will recollect—not only here but also in the Joint Committee that a schedule would never be exhaustive, and it is impossible to follow a uniform principle in preparing such a schedule. In fact, Pandit Thakur Das Bhargava was frank enough to admit with candour before the Joint Committee that no single principle could be followed nor could such a list be exhaustive. It is precisely on these grounds that we had originally objected to the idea of introducing a schedule and also because of a further complication namely that even assuming for the moment that we could devise a schedule which is as perfect, as final and as exhaustive as possible, still, in view of the fact that we have fourteen legislatures functioning in fourteen States, apart from Parliament, and the volume of legislation is certainly by no means insignificant, and also taking into account the fact that as the years will roll on, these States and these legislatures will undertake more and more important work, in the course of which hundreds and thousands of new committees are bound to come into existence and are bound to die out from time to time or bound to change their functions and colour, it will be seen that to keep pace with fourteen different States and legislatures and the Centre would be a very odious task, and a very difficult task to accomplish. Even now, I feel that it will be a very difficult task to accomplish; and the standing committee which is proposed to be set up, if the schedule is accepted, would have a tremendous task and a continuous work to keep itself engaged in.

However, so far as the principle is concerned, that finds support from large sections of the House including important Members of the Opposition groups, namely that Members of Parliament must be associated with the work of State undertakings, either statutory or non-statutory, and also with the work of various other bodies, either statutory or non-statutory. The question is: which of these ought to be disqualified. That really brings us to the question of shaping this schedule finally. As I said, when we come to the schedule, our mind will be open regarding the final shape which it should take.

The next is the rather controversial clause about *lambardars*, and *malguzars*. I suppose these people are extremely lucky that they have come so much before the notice of Parliament as they never would have dreamt in their lives, nor possibly will there be a future occasion when they will be so much in the picture as they are today. As I said, basically, it is merely an academic matter. After all, in the near future, I do not visualise many *lambardars* and *malguzars* of the type which would really get elected from a parliamentary constituency. As some hon. Members were pleased to point out, these are really persons who attach more or less a sentimental value to the offices which they have been holding hereditarily. It is a matter of notoriety that in Maharashtra and other parts, the office of the *deshmukh* or *pate* might carry a rupee or two rupees a year, so far as emoluments go, and yet thousands of rupees have been spent in litigation for the purpose of establishing one's right in the office itself. It is not so much a profit as a sentiment attached to the office, like a shebait of an ideal which is simply handed down from generation to generation, coming down from forefathers. This office has a big sentimental value to the holders. As some hon. Members were pleased to point out, and I think Shri D. C. Sharma was pointing it out, they are themselves revenue-payers. They own the largest block possible of the area



[Shri A. K. Sen]

which is in their charge for the purpose of collection of revenue. While they take a share for the collection, they themselves have to forgo a good deal by way of revenue which the Government appropriates. So, it is not that they are recipients all the time. They are also givers at the same time, because they are holders of land.

During the days of our fight for independence, it is a matter of common knowledge and history, hundreds of patels and deshmukhs had taken part in the fight for independence. And it is really forgetting history and doing them extreme injustice if we say that these are people who always put up their hands for the Government that may be there. Even today, in the whole of Maharashtra—it is a matter of common knowledge again, especially to those of our friends who come on the opposite side from Maharashtra—how many of the village officers had supported the candidates standing against the Congress. So, it is no use trying to generalise on these matters. These are ordinary human beings, ordinary good citizens, good cultivators, or good owners of land, paying revenue themselves, and doing a bit of service. There is no reason, apart from a general accusation, which should entitle us to accept the proposition that this large body of holders of hereditary offices who perform useful functions in the villages should be debarred from only standing as Members of Parliament. We are not at the moment thinking of automatically bringing them here.

**Shri T. Subramanyam:** In Mysore and other places, there are village officers who receive a salary of Rs. 4 or Rs. 5 regularly. It may not come even as a percentage of commission.

They take a very nominal amount. I would therefore urge and request that this small facility may be extended to them.

**Shri A. K. Sen:** If the hon. Member puts in an amendment, the House will

vote upon it. The point is that the Joint Committee has not thought it fit to introduce them also within the scope of this.

These are my submissions. I would request hon. Members to appreciate the reasons which have really made it impossible for us to accept the amendments except amendments Nos. 65 and 34 and Government amendments. Amendment No. 65 standing in the name of Shrimati Sucheta Kripalani was moved by Shri Jaganatha Rao. I would request the House to accept the Bill as reported by the Joint Committee and remedy whatever injustices there may be when the Schedule comes up for discussion.

As regards amendment No. 34, the hon. Member wants to add the word "society" after the word "board" in page 2, line 2. According to us, that was really covered by the existing clause. But we have no objection to accepting it. It may be clarified by accepting that amendment.

**Shri Vasudevan Nair:** May I know whether the Minister has any objection in accepting offices of teachers in aided schools?

**Shri A. K. Sen:** They are not offices of profit either under the State Government or the Central Government. I forgot to mention that. Article 102 debars only those offices which are held either under the State Government or the Central Government.

**Shri Vasudevan Nair:** But there is one difficulty. They are paid by the Government, although they are working in aided schools.

**Shri A. K. Sen:** They are not paid by the Government. I do not know what the law in Kerala is. I do not think that is possible. School funds are augmented as everywhere else.

**Shri Narayanaikutty Menon** (Mukundapuram): In Kerala, those

teachers are directly paid by the Government, though they are working in aided schools. So technically, they come under the category of those receiving payment from Government.

**Shri A. K. Sen:** There is a decision that so far as aided schools are concerned, the teachers are not holding offices of profit at all.

**Shri Narayanankutty Menon:** But the other thing will come. They are receiving salary directly from the Government.

**Shri A. K. Sen:** The hon. Member as a lawyer will appreciate that the decision is that mere receipt of salary does not make an office an office of profit. In the Hansa Mehta case, the salary was received from the University. Notwithstanding that, the High Court held that she held an office of profit under the State, though the funds out of which she was paid were of the University. Some litigation has to be there.

**Shri Narayanankutty Menon:** So that also will have to be tested by litigation. You just now mentioned that the Bill will have to be finished today. So what will be the position regarding sitting of the House?

**Shri N. R. Munisamy:** The hon. Minister was pleased to say that so far as revenue officers were concerned, village revenue officers who did not receive any salary but only a commission would be allowed to contest seats to Parliament. But in Madras State I find that village officers are regularly paid a salary of Rs. 30 or Rs. 28. They are discriminated against those village officers who receive a commission. Either they must be put on the same path as the others or this must be deleted as per my amendment.

**Shri Palaniyandy (Perambalur):** They are called village munsifs. They draw a salary of Rs. 15 or Rs. 20.

**Shri N. R. Munisamy:** I want clarification, Sir.

**Shri A. K. Sen:** There is no clarification. There were hon. Members from Madras on the Joint Committee. Up to now no hon. Member has raised this question. If the hon. Member wanted he could have tabled an amendment. So far as we, Members on the Government side, are concerned, we shall not express any views on that.

**Shri N. R. Munisamy:** I have tabled an amendment to delete the entire clause because there should not be one kind of treatment for persons receiving a commission and another kind of treatment for persons receiving a salary, when they are doing the same kind of work. There should not be any discrimination between the two.

**Shri Keshava:** In Mysore we have got both these categories of persons, Sir, the *karnam* and the *shanhog*.

**Mr. Chairman:** Even if there is no amendment tabled already, if the contention of the hon. Member appeals to the hon. Minister he can accept it.

**Shri A. K. Sen:** If the hon. Member moves an amendment even now I am prepared to waive notice.

**Shri C. R. Narasimhan:** What is the position of the Chancellor.....

**Shri A. K. Sen:** I am not prepared to answer all these questions. There is the court of law.

**Mr. Chairman:** In the meanwhile I will put the other amendments. I am told that this amendment of Shri Subramanyam relates to clause 2.

**Shri A. K. Sen:** He really did not appreciate that clause 2 had already been passed.

**Mr. Chairman:** It can be done at the third reading stage.

**Shri D. C. Sharma:** We want to know when the amending Bill will come now.

Mr. Chairman: I will not put the Government amendment, No. 58, and the other amendment, No. 65, which is acceptable to Government, to the House.

The question is:

Page 2,—

for lines 23 to 26, substitute—

“(f) the office of chairman or member of the syndicate, senate, executive committee, council or court of a university or any other body which is an advisory body connected with a university;”

The motion was adopted.

Mr. Chairman: The question is:

Page 3,—

after line 12, add—

“Explanation.—For the purposes of clauses (h) and (i), the office of chairman or secretary shall include every office of that description by whatever name called.”

The motion was adopted.

Mr. Chairman: Does any hon. Member want to have any amendment put to vote separately?

Shri Vasudevan Nair: No, Sir.

Mr. Chairman: The question is:

Page 3, line 5,—

omit “or member of the standing or executive committee”.

Those in favour will please say ‘Aye’.

Some Hon. Members: ‘Aye’.

Mr. Chairman: Those against will please say ‘No’.

Some Hon. Members: ‘No’.

Mr. Chairman: I think the ‘Noes’ have it.

Shri Narayanankutty Menon: The Ayes have it.

Mr. Chairman: Let the lobbies be cleared.

16.50 hrs.

[MR. SPEAKER IN THE CHAIR]

Mr. Speaker: If hon. Members will kindly resume their seats, I will put amendment No. 6 to the vote of the House.

Shri A. K. Sen: From the Government side we are prepared to accept the amendment.

Mr. Speaker: Very good.

The question is:

Page 3, line 5,—

omit “or member of the standing or executive committee”.

The motion was adopted.

Dr. Sushila Nayar: May I seek a clarification, Sir? Does that mean that Schedules I and II are now one and the same thing because the only distinction was this?

Shri A. K. Sen: No, Sir; that is not so.

Mr. Speaker: Only part of that is omitted—the office of Chairman remains there.

Shri A. K. Sen: Chairman and Secretary become disqualified; members are not disqualified.

Mr. Speaker: The hon. Member will kindly see that it contains reference to the office of Chairman, Secretary or Member of the standing or executive committee of any statutory or non-statutory body. So, the disqualification regarding the chairman and secretary stands.

Dr. Sushila Nayar: Is it in regard to Schedule I? What is the distinction between Schedule I and II? In Schedule I, Chairman, Secretary and Member—all are disqualified and in Schedule II Chairman and Member of the executive committee are disqualified and the members are not disqualified.... (Interruptions.) By this amendment, Schedule I and II are on the same basis. Is that correct?

Shri A. K. Sen: No, Sir; not at all. With regard to Part I Chairman, Secretary and Member—all are disqualified and in Schedule II Chairman and Secretary will be disqualified; not the members . . . (Interruptions.)

Shri Palaniyandy: It also includes members of the standing committee as well as the executive committee.

Shri A. K. Sen: Yes.

Mr. Speaker: Any other amendments? Shall I put clause 3 to the vote of the House?

Shri Keshava: I have an amendment, Sir; it is being accepted by the Government.

Shri A. K. Sen: No, Sir (Interruptions.)

Dr. Sushila Nayar: May I ask a clarification? Is there any reasoning in exempting the Chairman and the Secretary and members of a standing committee from disqualification?

Mr. Speaker: The whole thing has been debated and I am not here competent to give more clarification than what is apparent in the document itself. Now, the three amendments that have been carried are: Nos. 53, 55 and 6. I shall put all the other amendments to the vote of the House.

Mr. Speaker: The question is:

Page 2,—

omit lines 19 and 20, 21 and 22

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2, lines 25 and 26,—

omit "or any other body which is an advisory body".

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2, line 28,—

add at the end "for a period of not more than six months".

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2,—

omit lines 29 to 36.

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2, line 30,—

omit "(whether consisting of one or more members)".

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2, lines 30 and 31,—

after "temporarily" insert—

"for a period of not more than four months".

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2,—

after line 36, add—

"Provided the holder of such office shall not be entitled to exercise his vote in respect of the matter of public importance for which such member has been appointed."

*The motion was negatived*

Mr. Speaker: The question is:

Page 2,—

after line 36, add—

"Provided that such Committee is not invested with any powers which involve exercising of any executive and judicial functions or the Committee or its members are not in a position in which patronage by way of grant of land, scholarships, making of appointments or conferment of other benefits can be exercised in any manner or form."

*The motion was negatived.*

Mr. Speaker: The question is:

Page 3,—

after line 6, add—

“Provided that the holders of offices whether as chairman or member of such statutory or non-statutory body or any other office of profit within the ambit of the meaning of clauses 1(a) and (2) of article 102 of the Constitution which have not been examined and included in the Schedule referred to in clause (1) of section 3 or any of the other clauses of section 3 shall not be deemed to be declared by Parliament by law not to disqualify the holder.”

*The motion was negatived*

Mr. Speaker: The question is:

Page 3, line 9.—

after “whole duty is” insert “merely”

*The motion was negatived*

Mr. Speaker: The question is:

Page 3, lines 10 and 12.—

for “who does not discharge any police functions” substitute—

“who is not enjoined upon to help the police or to discharge any police functions”

*The motion was negatived*

Mr. Speaker: The question is:

Page 3, lines 2 to 6,—

omit “but excluding (1) the office of Chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman, secretary or member of the standing or executive committee of any statutory or non-statutory body specified in Part II of the Schedule”.

*The motion was negatived*

Mr. Speaker: The question is:

Page 3, lines 2 to 4.—

omit “(1) the office of chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii)”.

*The motion was negatived.*

Mr. Speaker: The question is:

Page 3,—

after line 12, add—

“(k) class III and class IV employees of commercial and industrial concerns under Central and State Governments and workers in such industrial establishments governed by the Factories Act;

(1) teachers in non-Governmental institutions”

*The motion was negatived*

Mr. Speaker: The question is:

(1) line 7, for “(j)” substitute “(iii)”, and (ii) after line 12, add—

“(iv) the office of Gram Sevak and Chief Officer—whether called by any other name—under a statutory village or regional Panchayat”

*The motion was negatived*

Mr. Speaker: The question is:

Page 2,—

omit lines 19 and 20

*The motion was negatived*

Mr. Speaker: The question is:

Page 2, line 23,—

omit “of Vice-Chancellor of a University or”.

*The motion was negatived.*

Mr. Speaker: The question is:

Page 3,—

omit lines 7 to 12.

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2, line 6,—

omit "Part II of".

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2, line 24,—

for "Chairman or member of the syndicate" substitute—

"member of the".

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2,—

omit lines 16 to 18.

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2,—

omit lines 21 and 22.

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2, lines 30 and 31,—

for "temporarily" substitute—

"for a specified period".

*The motion was negatived.*

Mr. Speaker: The question is:

Page 3, lines 2 to 6,—

for "but excluding (i) the office of chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman, secretary or member of the standing or executive committee of any statutory or non-statutory body specified in Part II of the Schedule;" substitute "provided that such office does not entitle the member to any other emoluments notwithstanding whether he draws such emoluments or not;"

*The motion was negatived.*

Mr. Speaker: The question is:

Page 2, line 28,—

add at the end—

"provided the stay outside India does not exceed six months."

*The motion was negatived.*

Mr. Speaker: The question is:

Page 3, lines 2 to 6,—

for "but excluding (i) the office of chairman, director or member of any statutory or non-statutory body specified in Part I of the Schedule and (ii) the office of chairman, secretary or member of the standing or executive committee of any statutory or non-statutory body specified in Part II of the Schedule" substitute "but excluding the member of any statutory or non-statutory body specified in Part I and Part II of the Schedule".

*The motion was negatived.*

Mr. Speaker: The question is:

"Clause 3, as amended, stand part of the Bill."

*The motion was adopted.*

Clause 3, as amended, was added to the Bill

#### New Clause 3A

Shri Jagannatha Rao: Sir, I beg to move:

Page 3,—

after line 12, insert—

"3A. Temporary suspension of disqualification in certain cases.— If a person being a Member of Parliament who immediately before the commencement of this Act held an office of profit declared by any law repealed by this Act not to disqualify the holder thereof for being such member, becomes so disqualified by reason of any of the provisions contained in this Act, such office shall not,

[Shri Jaganatha Rao]

if held by such person for any period not extending beyond a period of six months from the commencement of this Act disqualify him for being a Member of Parliament."

**Mr. Speaker:** That stands in the name of Shrimati Sucheta Kripalani.

**Shri Jaganatha Rao:** I have also given the same motion.

**Shri A. K. Sen:** In his name we are accepting it.

**Mr. Speaker:** Are there any amendments to this amendment?

**Shri Hajarnavis:** I move my amendment No. 54.

**Shri Barman (Cooch-Bihar—Reserved—Sch. Castes):** I have my amendment No. 66.

**Mr. Speaker:** I will come to that afterwards. Now, amendment No. 67 seeking to insert New Clause 3A is before the House.

**Pandit Thakur Das Bhargava:** Sir, in regard to this amendment my own apprehensions are that this is against the Constitution itself. Since the Schedule is not complete and we want that it may be completed before the Act comes into force, I suggested that a new Bill should be brought before the House for the continuance of the old Bill and this Bill should come into operation only on 1st September, 1959. This was one course which, if adopted, would have solved the difficulty. It appears this course is not acceptable to Government, and this amendment of Shrimati Sucheta Kripalani—amendment No. 67—is probably going to be accepted by Government to obviate the difficulties which some Members feel. It is felt that if there are some Members who are members of committees which come within the purview of the Bill, they may not resign before 31st December and they may be in difficulty. Very

probably this amendment is being accepted to obviate that difficulty.

Sir, I am also in sympathy with those Members who are under this difficulty and I also want that difficulty to be solved. But the way I suggested would have given a better solution. Now I am afraid, if this amendment No. 67 is accepted, even then the mischief of article 102 is so great that it is very difficult for the Members concerned to get out of it. If you will kindly see the wording of the amendment it is like this:

*"If a person being a Member of Parliament who immediately before the commencement of this Act held an office of profit declared by any law repealed by this Act not to disqualify the holder thereof for being such a member, becomes so disqualified by reason of any of the provisions contained in this Act, such office shall not, if held by such person for any period not extending beyond a period of six months from the commencement of this Act disqualify him for being a Member of Parliament."*

In the previous Act, if you will kindly have a look, there were two provisions, sections 3 and 4. Section 3 dealt with such offices as were declared by law to be such as would not attract provisions of article 102. So far as section 4 is concerned, it dealt with those committees which did not come within the purview of advisory committees as given in section 3. In regard to section 4 it is clear that the Committees mentioned in clause 4 will not disqualify till the 30th day of April, 1954. This Act was extended and now we have got an amendment that for the year 1954 we may read 31st December, 1958.

17 hrs.

But then what happens on the 1st January, 1959? So far as clause 3 is concerned, they were declared to be

absolutely nondisqualifying for all time but in clause 4, they were declared to be so temporarily. There was no absolute declaration in accordance with which the Committee decided, and it did not come within the purview of this period. So far as the Constitution is concerned, this Parliament is only entitled to declare certain offices which will not be disqualified, but, at the same time, we have got no right to say that in respect of persons who are disqualified the disqualification will not take effect for six months or so. We are not making any declaration about particular offices in this amendment. We have not done that. We can only declare the offices. We cannot extend the period of disqualification. We are incompetent to do so under this Constitution. So, I am afraid whether the solution that has been attempted may not yet put some Members into difficulties. I would rather ask those members to be careful enough and to see that they resign before 31st December, 1958

Even if this provision is passed, it may be that same authority may hold that this provision is not according to the Constitution. After all, there is a great doubt about the validity of this matter. Even a declaration about office of profit cannot be discriminatory. We are competent to declare certain offices to be such as will not attract the provisions, but, at the same time, we cannot extend the period during which the declaration will or will not take place. Thus an office of profit will affect different members differently. So, my humble submission is this. So far as the Constitution is concerned, it is doubtful whether we can do this. I am using the word 'doubtful', because I know this is going to be accepted by the hon. Law Minister. But I am clear in my mind that so far as I am concerned, this Parliament is not competent to declare that for six months there will be no disqualification. This would be rather suspending the Constitution itself. We are competent to declare that such and such offices are such as will not attract the provisions, but we cannot say that

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disqualification will not take place for a period of six months for certain persons only. Therefore, I would request the hon. Minister to look into it and see whether it is valid under the Constitution. Let him not pass it.

We passed the continuance measures in just one minute in the House and it was done without any fuss. But then, even now, there is time enough to pass the Bill in the correct manner, and to extend the committee, so that we also, who are a bit opposed to certain provisions of the Bill, may be able to participate in voting with the hon. Minister. Otherwise, I am afraid if this Bill is sought to be passed through, many persons will feel that honestly enough they cannot vote. The Bill is such that many committees are going to be included and membership of which will qualify, in spite of the fact that these committees have not been seen or examined. I cannot possibly agree to it and I cannot give my vote, in spite of these clauses, because so many committees have not been looked into.

I suggest that recourse may be had to the passing of a new act for continuing the measure and to see that this Bill comes into operation in September, 1959. Nothing is lost if for two months or more the life of the Bill is extended, with a view to solve the difficulty as well as to solve my own difficulty. I would not be able to vote for the passing of this measure if the provisions are put in this way. If they are put in the way we find it, as I have said, it will be a fraud on the Constitution to pass a Bill of this nature. I would respectfully ask the hon. Minister to look at the matter from the point of view which I have stated.

Shri A. K. Sen: There is no difficulty about it. We have examined the position. Under article 102, offices of profit will disqualify unless the Parliament declares by law to the contrary. Parliament has declared by law to the contrary in regard to certain Members who may be able to



[Shri A. K. Sen]

hold offices which are exempt today under the existing law. We are giving them only that exemption for six months.

**Mr. Speaker:** They will be exempted permanently as in the other provisions of the Act. So far as the existing ones which have been declared.....

**Shri A. K. Sen:** ..... the exemption is only for six months. In the meantime, they can take time to find out.

**Mr. Speaker:** Remove the disqualification perpetually or for a period of six months. There is nothing unconstitutional. I am putting the amendment to the vote. The question is:

Page 3, after line 12, insert—

“3A. *Temporary suspension of disqualification in certain cases.*— If a person being a Member of Parliament who immediately before the commencement of this Act held an office of profit declared by any law repealed by this Act not to disqualify the holder thereof for being such member, becomes so disqualified by reason of any of the provisions contained in this Act, such office shall not, if held by such person for any period not extending beyond a period of six months from the commencement of this Act disqualify him for being a Member of Parliament.”

*The motion was adopted.*

**Mr. Speaker:** The question is:

“That clause 3A stand part of the Bill”.

*The motion was adopted.*

*Clause 3A was added to the Bill.*

**Pandit Thakur Das Bhargava:** I have given notice of two more clauses.

**Mr. Speaker:** I am coming to that. Is there any special reason why we should sit abnormally today?

**Some Hon. Members:** No.

**Mr. Speaker:** All right. Shri Rane.

17.06 hrs.

BUSINESS ADVISORY COMMITTEE

THIRTY-SECOND REPORT

**Shri Rane (Buldana):** I beg to present the Thirty-second Report of the Business Advisory Committee.

RE: HIMACHAL PRADESH LEGISLATIVE ASSEMBLY (CONSTITUTION AND PROCEEDINGS)

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** I would like to inform the House that five copies of the Supreme Court judgment regarding the Himachal Pradesh Legislative Assembly's constitution and proceedings have been placed in the library of this House.

**Shri Braj Raj Singh:** Five copies are not enough.

**Shri Satya Narayan Sinha:** Five more copies will be placed tomorrow. But five copies are already available.

**Mr. Speaker:** The hon. Home Minister will make a speech tomorrow while moving the Bill for consideration. If there is some difficulty in Members not having sufficient opportunity to study it, that matter will stand over for further discussion and consideration on the next day.

17.07 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, the 2nd December, 1958.*