

[Shri Manubhai Shah]

Kerala price is Rs. 135 per cwt. The difference is only Rs. 15, or 12.5 per cent per cwt. When the production is doubled, the difference will become less. In practice for competitive capacity or as measure of export promotion, we may have to have a lesser price for export and a little higher price for internal consumption. There are no other mystical reasons as the hon. Member tried to tell the House. This is not a mystified or monopolistic concern. I can give this open invitation to any industrialists in this country. If they want to set up another factory for manufacturing the anatase and the rutile grades of pigments or any type of titanium dioxide, we shall certainly welcome such a proposal. But I may submit this as a matter of caution. Production of titanium dioxide is not just an ordinary method of chemistry. This type of pigment has very minute fragmentation—frictional distribution of pigment. It is a matter of great secrecy and great art and it is known only to few manufacturers in the world and in the country. If the hon. Member, Shri V. P. Nayar, or any other Member can get any other collaborator or any industrialist to set up one or more units of the primary industry....

Shri V. P. Nayar: When I come over there that will happen.

Shri Manubhai Shah: ...we shall openly welcome it. But I want to dispel this impression that for any reason any particular party is being preferred. That is not the intention. We openly welcome any manufacturer to open one or more units. It is difficult technologically and also from the point of view of qualitative production of this product. That is why the progress is not as rapid as many of us would wish it to be. Even then, it is a matter of congratulation that within three years, production has mounted to 5—6 times, and is going to be doubled in the next three years and the quality of production is of

high order. That is what I want to say.

Mr. Deputy-Speaker: Does he want to withdraw his amendment?

Shri V. P. Nayar: It may be put to the vote of the House.

Mr. Deputy-Speaker: I will put amendment No. 3 to the vote of the House.

The question is:

Page 2, line 11,—

for "1961" substitute "1959".

The motion was negatived.

Mr. Deputy-Speaker: The question is:

"That clause 3 stand part of the Bill".

The motion was adopted

Clause 3 was added to the Bill.

Clause 1, the Enacting Formula and the title were added to the Bill.

Shri Manubhai Shah: Sir, I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: I will put it to the vote of the House.

The question is:

"That the Bill be passed."

The motion was adopted.

PARLIAMENT (PREVENTION OF DISQUALIFICATION) BILL

The Minister of Law (Shri A. K. Sen): Sir, the next item in the Order Paper is for moving that the Parliament (Prevention of Disqualification) Bill, 1957 be taken into consideration. But at the unanimous request of the Business Advisory Committee and also in deference to the desire of the hon. Speaker, Government have decided to move a motion for reference of the Bill to a Joint Committee of both the

Houses with the concurrence of the Council. The matter was unanimously decided so far as the Business Advisory Committee was concerned and a request was forwarded to me for constituting such a Committee. I was also told in the mean time that the House would pass quickly any Bill that is introduced for the extension of the old Act which the present Bill seeks to replace.

The hon. Members are aware that under the Constitution there is an article providing for disqualification; under article 102(1), the holders of certain offices of profit would not be entitled to become Members of Parliament. That article also contains a provision enabling Parliament to remove that disqualification for specific offices.

The reason was obvious. The House is aware that this matter of disqualification from Membership of Parliament so far as the holders of office of profit are concerned, is really a legacy from British history.

[PANDIT THAKUR DAB BHARGAVA in
the Chair]

During the struggle between Parliament and the Crown, Parliament was very zealous to exclude all persons, who would be dependent upon the Crown, from the Parliament as being holders of office of profit. As that struggle abated and the supremacy of the Parliament became established and the State entered more and more into the innermost depths of social life, undertaking all sorts of activities of a welfare nature, trade, commerce, industry and so on, it was realised that the rigour of the old law could not be maintained. It had to be relaxed in specific cases.

In England today, for instance, the entire medical profession is nationalised and no doctor is entitled to practise on his own. He draws his remuneration from the State. If we have to have doctors in the Parliament, it will be impossible to get one these days who would not be holding some

office of profit. If the State has nationalised the entire medical profession, it will be illogical to debar these good medical men from Parliament as their advice would be very valuable on various health matters, simply because the State has thought fit to nationalise and he is debarred his avenue of independent profession. So, to the extent the State prevents persons from doing on their own, to that extent the rigour must be relaxed. That is the essence.

I can foresee within the very near future—not very distant—that there will be very few gentlemen of leisure of the old landed aristocracy or the old propertied classes, who would not be dependent upon the State for their livelihood either by way of serving State industries and undertakings or such other service, and would nevertheless be able to devote their leisure for the gentlemen's work in Parliament. In fact, the position becomes rather inconsistent with the gradual socialisation of society. I comprehend the aim of the socialist pattern of society means that more and more the means of production and distribution would come into the hands of the State. To that increasing extent, more and more people would be dependent upon the State for their livelihood and it will then be impossible to exclude engineers and professional men, teachers and so on. The other day, I can tell you, a practical instance has arisen. In polytechnics, in U.K. and in our country, in order to get good teachers, we have to recruit persons already well qualified either in actual factories or commercial firms or other scientific establishments. We have to recruit such people on a part-time basis in the Polytechnic, so that they can lecture to the students, attending evening classes. These people are really teachers of ability and they have to be employed for training up our young men for technical jobs, for engineering jobs and for other scientific jobs. It will be impossible to get them employed as teachers in Polytechnics and, at the same time, and

[Shri A. K. Sen]

of their services in other local legislatures or the Parliament, should their services be needed if they are disqualified. I have no doubt that their services will be more increasingly needed than the services of professional politicians, the gentlemen of leisure.

16 hrs.

It will be more and more a technical job, legislation here as also in the local legislatures, assistance to the legislature, active participation in expert legislation, which today more than at any other period of time is a matter for experts.

We have not been able to give effect to wholesale exemptions for all these categories of skilled technical or professional men, so that their services may be rendered possible so far as the Parliament and legislatures are concerned, but only with regard to certain types of services which are mentioned in the Act, which are more or less similar to those contained in the previous Act, and which are substantially the same as those recommended by the Joint Committee which had submitted a report already and about which a reference has been made in the Statement of Objects and Reasons. It may be necessary, no doubt, for a Select Committee to find out what other exemptions might be granted or the reverse. But it is sufficient to point out here that we have taken the minimum of exemptions which we think necessary for the purpose of enabling good, healthy and fresh blood to come and assist us in our work of legislation in Parliament.

Take for instance, a very important type of men, apart from teachers in Polytechnics about whom I have mentioned a few moments ago. Take the case of doctors and specialists who are appointed as visiting surgeons and physicians in hospitals and who may be having some part-time allowance. If the rigour of the law of office of ^{of} it is applied, possibly, they will

be excluded wholesale, and we shall have only those whose practice is general practice who are not carrying on research day to day in matters affecting health and life of the people, who would be able to come and join us in Parliament. So far as medical profession is concerned, people who practise very busily and generally as doctors, as you know them, earn their living—many get handsome incomes too—by attending patients from morning till night. But those who have to depend on State subsidy for carrying on arduous and laborious research in very important matters of health and hygiene in the laboratories from morning till night, who cannot move about from door to door earning their fees from patients, they would be debarred. It is for the Parliament to decide whether we shall have such experts who have devoted their life for advance of research in science or only those professional politicians who carry on their profession generally without following the arduous and difficult path of research and all other activities connected with it.

These are the principles which have really been underlying all legislation which seek to exempt certain types of offices from the disqualification vested by the Constitution.

With these words, Sir, since the matter is going to a Joint Committee, I beg to move:

"That the Parliament (Prevention of Disqualification) Bill, 1957, be referred to a Joint Committee of the Houses consisting of 30 Members; 20 from this House," (I shall give the names in a minute) "and 10 members from Rajya Sabha;

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

that the Committee shall make a report to this House by the

last day of the second week of the next session;

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

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

Mr. Chairman: The names must be a part of the motion. The motion will not be vailed unless the names are mentioned.

Shri A. K. Sen: I will give them in a minute. They are being typed. It has the concurrence of all the parties.

Mr. Chairman: I do not doubt that the names will be accepted by the House, but the names must be mentioned here; otherwise the motion will not be valid.

I can only put the motion before the House when it is complete.

The Minister of Health (Shri Kar-markar): In the meantime, Sir, can we take up another Bill?

Shri A. K. Sen: Sir, may I have your leave for a moment; I will try to get it.

Mr. Chairman: It is very unusual. According to law, I cannot accept this motion unless the names are mentioned. At the same time, I am anxious that the time of the House may not be taken. I think it is better to wait. I do not want to make a precedent in the House by putting the motion before the House without the names.

Shri A. K. Sen: Sir, may I have your leave to go out and find it?

Mr. Chairman: All right.

An hon. Member: What about the House, Sir?

Shri Surendranath Dwivedy (Kendrapara): Is the House adjourned for a minute, Sir?

Shri Easwara Iyer: In the meantime, Sir, I may draw your attention to the fact that there is no quorum in the House.

Mr. Chairman: The bell is being rung. Now there is quorum. The hon. Minister may give the names.

Shri A. K. Sen: The names are: Sardar Hukam Singh, Pandit Thakur Das Bhargava, Shri M. R. Krishna, Shri Dharanidhar Basumatari, Shri Rajeshwar Patel, Shri Rohan Lal Chaturvedi, Shri M. K. Jinachandran, Shri Ram Sahai Tiwari, Shri P. Subbiah Ambalam, Shri H. Siddananjappa, Shri Panna Lal, Shri J. Rameshwar Rao, Shri S. R. Damani, Shri Shivram Rango Rane, Shri Bimal Comar Ghose, Shri Surendra Mahanty, Shri Braj Raj Singh, Shri Aurobindo Ghosal, Shri S. Easwara Iyer and myself.

Mr. Chairman: Motion moved:

That the Parliament (Prevention of Disqualification) Bill, 1957, be referred to a Joint Committee of the Houses consisting of 30 members; 20 from this House, namely: Sardar Hukam Singh, Pandit Thakur Das Bhargava, Shri M. R. Krishna, Shri Dharanidhar Basumatari, Shri Rajeshwar Patel, Shri Rohan Lal Chaturvedi, Shri M. K. Jinachandran, Shri Ram Sahai Tiwari, Shri P. Subbiah Ambalam, Shri H. Siddananjappa, Shri Panna Lal, Shri J. Rameshwar Rao, Shri S. R. Damani, Shri Shivram Rango Rane, Shri Bimal Comar Ghose, Shri Surendra Mahanty, Shri Braj Raj Singh, Shri Aurobindo Ghosal, Shri S. Easwara Iyer, and Shri Asoke K. Sen and 10 members from Rajya Sabha;

that in order to constitute a sitting of the Joint Committee the

[Mr. Chairman]

quorum shall be one-third of the total number of members of the Joint Committee;

that the Committee shall make a report to this House by the last day of the second week of the next session;

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

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

Now, there are two motions already with me. I will take them as amendments to this motion for reference to the Joint Committee. One is for eliciting public opinion, and the other is for reference to a Select Committee. May I know whether Shri Easwara Iyer is going to move his motion?

Shri Easwara Iyer: Yes. I beg to move:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the 1st day of February, 1958;"

Mr. Chairman: Amendment moved:

"That the Bill be circulated for the purpose of eliciting opinion thereon by the last day of February, 1958;"

The second is the motion for reference to the Select Committee, given by Shri N. Siva Raj and four others. I see that none of them is present

in the House now. So, both the motions—the motion for reference to the Joint Committee moved by the hon. Minister and the motion for circulation moved by Shri Easwara Iyer—are now before the House.

Shri Easwara Iyer: I may be permitted to speak although my name has been suggested in the motion for reference to the Joint Committee.

Mr. Chairman: Ordinarily, when a Member is on the Select Committee or the Joint Committee, the usual rule is that he is not permitted to speak. But, at the same time, it is not obligatory on the Chair not to allow any particular Member, even if his name has been suggested for the Select Committee, or the Joint Committee, to speak. Since the hon. Member's motion is different, to an extent, from the motion of the hon. Minister—though he may be a Member on the Joint Committee—I do not find any difficulty in permitting him to speak.

Shri Easwara Iyer: This Bill seems to be a measure which requires anxious and serious consideration. As you know, a Joint Committee has gone into the matter of disqualifications and has done a very commendable work under your Chairmanship. In this I find that you have submitted a report scheduling the disqualification which may operate for membership of the legislature or Parliament and also scheduling such of those offices of profit which cannot operate as disqualification.

Now, this Bill proposes to make a law, seeking to have a comprehensive legislation regarding the disqualification, and it is with a view to facilitate a comprehensive legislation regarding disqualification of Members of Parliament, I suppose, that the Committee has been formed. But with great respect, I would say that the Bill, as it is now before us, is like the proverbial mountain producing a rat.

Here is a case where it is not comprehensive enough. The Bill, although purporting to consolidate the items regarding disqualifications, as contained in article 102 of the Constitution, merely enumerates the ten offices of profit which may not operate as disqualifications. Even in that, I suppose, the cardinal principle of disqualification is not taken note of. The hon. Law Minister in charge of the Bill, I suppose, has argued his case very well. He has, with the ability and the ingenuity of a lawyer's brain, put forward a case that so far as the society is advancing towards a socialist pattern, more offices are taken by persons like professional men, technical and highly skilled men under the Government. He said that their necessity could not be dispensed with and that therefore there should not be any bar to their operating as Members of Parliament. He called them gentlemen of leisure. I do not think that Members of Parliament are gentlemen of leisure.

Shri Nath Pai: Gentlemen at leisure.

Shri V. P. Nayar: Some of them are.

Shri Easwara Iyer: I do not think so. I would say that if that argument is taken to its extreme possibility, the Constitution may have to be amended. Now, the Minister is envisaging a time in the near future, when, according to him, there is more of nationalisation of professions, medical, legal or engineering, the skilled citizen may be needed by the State in the public sector. Therefore, he argues that disqualification must not be there. If it is taken to its logical conclusion, I might say, why not scrap article 102 of the Constitution. If article 102(1) disqualifies a person holding an office of profit under the Government, then, in the near future, when he envisages medical men and highly skilled men of the professions and also envisages that they should serve in Parliament also, then the time will come for amending the

Constitution and scrapping article 102. But so long as article 102(1) prohibits offices of profit under the Government of India or the Government of any State, I cannot for a moment imagine that any person holding an office of profit can serve as a Member of Parliament as is now obtaining.

What is this office of profit? I have been at pains going through the definitions contained in various enactments and various decisions of election tribunals, high courts and the Supreme Court, to find out the exact definition of an office of profit under the Government of India or under any State Government. I must confess that the more I try to analyse the thing the more confused I become. Possibly the Law Minister may be able to supply me with a definition. In this enactment I do not find any definition.

The basis of the theory of office of profit, in order to serve as a disqualification, must be rested on the principle, if I may say so with respect, that it will be incompatible for a man to continue the arduous task of being a Member of Parliament and, at the same time, doing the duties of an officer under the Government. It can also rest on the theory that if the Government is to seduce Members of Parliament by offering offices of profit, it may vitally warp his independence as a Member of Parliament. It can also be argued, as I find in your report, that if most of his time is to be taken up, it may tend to weaken his loyalty to the constituency. These are some of the bases on which the disqualification may be said to operate.

The Law Minister was waxing eloquent on the members of the medical profession, and I was scanning through this Bill to find out whether the medical profession is exempted. In all the 10 clauses of exemption, I do not find any skilled engineer or medical doctor serving under the Government being exempted, although the hon. Minister confined his arguments to persons like the medical personnel and engineers.

[Shri Saswara Iyer]

Leaving apart the exemption given to the Ministers, clause 2(f) of the Bill says:

"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 connected with the University".

This sub-clause (f) exempts a Vice-Chancellor and the Law Minister has said that the Government has substantially followed—he has been very cautious—the recommendation of your committee. I may refer in this connection to page 23 of the report of the Committee on the Offices of Profit. It says:

"Vice-Chancellors of both the categories exercise considerable amount of executive functions and are also in a position to distribute patronage. This feature was also emphasised by Shri C. C. Biswas, Union Minister for Law and Minority Affairs, when in the course of a debate in the House, he stated:

"They are executive officers. They carry patronage and all that" (Parliamentary Debates, Council of States).

Further, this has been referred to by the Law Minister, Mr. Biswas, in the Lok Sabha also. In another part of page 23, it says; quoting Mr. Biswas:

"I may tell you that it is quite a reasonable objection that as Vice-Chancellors do whole-time job in the Universities, they find little time to attend to duties of Parliament. As a matter of fact, they are so busy that we very seldom find them in this House or in the other House." (Lok Sabha Debates, dated 24th December, 1953).

"For these reasons, the Committee feel that if these Vice-Chancellors, either appointed or

elected, are exempted from disqualification, such exemption will be to the detriment of both the offices."

So, the Union Law Minister who was there in 1954 thought otherwise. What extraordinary circumstances have happened which now prevail upon the Government to say that Vice-Chancellors should be exempted? I do not find any reason.

Personally speaking, those Vice-Chancellors are really executive officers doing whole-time jobs and commanding a lot of patronage not only over the staff, but also the students. There is the question of examiners also. There is always the likelihood of their attempting, if not really succeeding, to influence the results of the election, if they happen to be Vice-Chancellors at the time of being elected. That is one example.

There are other examples of exemptions, where even members or directors of statutory bodies enjoying patronage under the Government are sought to be exempted. I am not going into the details, because the matter is going to the Select Committee where it can be discussed elaborately. But I would say that such exemptions ought not to have been provided, considering the state of affairs now existing. Possibly, in the near future, as the Law Minister envisages, circumstances may change when we may add to the list or do away with article 102, when the time comes.

This Bill deals according to me only with disqualifications. Nothing is mentioned in the enactment with respect to such of those offices of profit which will amount to disqualification. I may, with respect, say that when we bring about a legislation, it must be a comprehensive legislation in regard to qualifications and disqualifications. Article 102 provides a list of all the offices as at present existing which will disqualify a per-

son. The legislation that we bring in must be comprehensive, so that persons standing for election may not be in doubt and may not leave it to the tribunal to decide whether a particular office is an office of profit under the Government and they may not say "We are not in possession of an exact definition of office of profit".

There is also another point to which I would like Government to give serious consideration. Article 102 does not deal exclusively with offices of profit. It deals with other conditions which disqualify a Member of Parliament, like unsound mind etc. There is also provision whereby Parliament can provide for other circumstances which disqualify a man. If we refer to section 7(e) of the Representation of the People Act, it enumerates the disqualifications for membership of Parliament or State Legislature, containing some six sub-clauses. I would say, let us have a comprehensive legislation containing all disqualifications including offices of profit.

There may be cases. I am not saying anything with reference to any particular case, but let us suppose a case where a person is interested in some business venture and that business may have some connection, prior to his election, with the Government. Possibly he may associate in the business his relatives—sons, etc. But once he becomes a Member of Parliament and is pushed up to a responsible position of, let us say, a Minister, then again associates his name with that particular business. In that case, a presumption must arise that there is a disqualification and it must be provided, because as my hon. friend Mr. Nayar said, two and two will only make four and let Caesar's wife be above suspicion. Let there be a presumption. A person who lends his name to a particular business having connection with the Government of India or a State Government and continues to lend it, *prima facie* be disqualified and let the burden be thrown on the other side to

provide that he is seriously not connected. We know that in the ordinary law of contract or of conveyance, when a document stands in the name of a particular person, the presumption is that the land or property belongs to him, although it is open to the other party to show that some interest or entire ownership belongs to his son, a minor daughter or even a *pardanashin* woman.

I would respectfully say that, when we are at a time as most of our Ministers are saying, when we are in the infancy of our democracy, let us have a pure state of affairs and let there be no circumstances which will give rise to comments like this in the House of a Minister being associated in a business or titanium dioxide and other things coming into the matter. My respectful submission is, let us have a comprehensive legislation enumerating all the disqualifications and qualifications, so as to facilitate not only the persons who stand for the election, but also decision on the questions of offices of profit and other disqualifications.

Shri Naushir Bharucha (East Khandesh): Mr. Chairman, article 102 definitely lays down a salutary principle and when the Parliament seeks to lay down the categories of offices of profit to be exempted one has to be very careful about the fact that that salutary principle is not in the least tampered with.

I am not able to follow the argument of the Law Minister who said that this Parliament may be in need of specialists' advice from eminent doctors and others and that it would be undesirable to keep them out of the Parliament. I would like to ask him whether that is the only way in which expert advice can be procured for the House. If it becomes necessary—it might happen very rarely, once in a blue moon—that this House requires the advice of expert doctors, surely a Committee can be appointed to go into the whole question and the expert may be invited to give evidence before such a committee. I do not

[Shri Naushir Bharucha]

think it is a very convincing argument.

On page 2, sub-clause (i) of the Bill it is said that the offices of profit which are sought to be exempted are the office of a village revenue officer, such as *lambardar*, *malguzar*, *patel*, *deshmukh* and the like. I did not know that the Government had become so denuded of statesmanship that they could not get along in this House without the wisdom of *malguzars* or *patels*, most of whom have not studied beyond the fourth standard vernacular. What is the idea behind having these people?

Shri S. M. Banerjee (Kanpur): There may be more kisans.

Shri Naushir Bharucha: The danger is you may have a packed House here. Take for instance, the other offices. Take the office of a member of any force raised or maintained under the National Cadet Corps Act, the Territorial Army Act or the Reserve and Auxiliary Forces Act. The first thing I like as a qualification for a Member of Parliament is his independence. It is very seldom that people who have got to depend for their living upon the Government, will stand up to the Government and say, you are wrong. If you are going to exempt the Auxiliary Forces Act, I would like to ask, can an officer of that force stand up against the Defence Minister and say that you are doing something which is repugnant to commonsense? I can do that. He cannot do that. I would also like to know which Commandant of the Home Guard would stand up to the Home Minister and say that what you are talking is rot.

An Hon. Member: Even though it is.

Shri Naushir Bharucha: This is the type of men. Let it not be said, why is it that these people who hold part time of full time employment be deprived of their earning if they want to serve the country. Many of us have made a sacrifice of our profession to come here. I say, if really a man loves his country, he sacrifices

his profession. He will come here and give the benefit of his advice to this Government. All the same, if we examine this category, we find that so many people dependent upon the charity, dole, salary or remuneration of the Government are sought to be brought in here. I am afraid, as time passes, Government may have within the ranks of even the Opposition too many supporters of their own causes. This thing requires to be thoroughly studied.

I do not know with what object the hon. Minister in charge of the Bill is sending this to the Joint Committee. Is that to expand this list? I am in favour of very much contracting it, I do not think it may be practicable, though if it could, it would be desirable, to lay down the various categories of offices of profit because it is very difficult to define. New types of offices of profit may be created. Therefore, it may be difficult to lay down a schedule of offices of profit and say that these are barred and the others are not. Even then, I think we can so frame the law that we can keep out all people who are directly or indirectly dependent upon the Government for their maintenance. A good many of these are people who could be safely left out.

I therefore submit that it is a good thing that this Bill is going to a Joint Committee. Our effort should be this. We want to keep this House pure and independent. Otherwise, democracy has got no meaning. Just as in old England there used to be rotten boroughs which were in the pockets of the Government, we do not want to have rotten seats which may be in the pockets of the Government. That is the point which we have to guard against. I hope the Joint Committee will look into this matter.

Shri D. C. Sharma (Gurdaspur): Sir, I feel that this Bill is a misnomer. It has been wrongly called the Parliament (Prevention of Disqualification)

Bill. It should have been properly called the Parliament (Promotion of Disqualification) Bill, 1957. I have my reasons for saying that.

When we were discussing on the floor of the House the Representation of the People Bill, one of the arguments that were advanced in favour of that Bill was this: that the Bill was made so fool-proof and so good that all loopholes for election petitions had been almost plugged. It was said on the floor of the House that the Bill had been made so tight in a legal way that there would be no room for election petitions. What is the result? The result is that this time the number of election petitions has been much larger than the number of election petitions we had at the time of the last general election. That is because of the wisdom of the Law Ministry and the Government of India.

Now that they have brought forward this Bill for the prevention of disqualification for Parliament I venture to suggest most respectfully and most humbly that they will promote such a feeling in the whole country that they will put in jeopardy the seats of many of the elected Members of Parliament. You can take it from me that this will be the net result of this Bill which has been brought forward by the Law Minister today. It is so because it is an ill-conceived Bill. It is a Bill which has been conceived in a hurry and a Bill which was going to be passed in a hurry. I am glad that this Bill is going before a Joint Committee.

What is the Joint Committee going to do, I want to know. After all, the Joint Committee has got to work within the framework of the Bill which has been given to it. I should say that the framework of the Bill is very very unsound, very very fragmentary and very very incomplete. If the Law Ministry wants to do its job properly, I think it should go into the whole question very properly, very adequately and then come forward with a Bill.

Already we have had three Bills of this kind. This is the fourth Bill. I should say that if those Bills suffered from, I should say, sins of omission, this Bill is going to suffer both from the sins of omission and sins of commission. Therefore, I would say that this Bill is not going to do good to anybody. I think the Law Ministry had at its disposal the very good report which has been brought out and they have paid a left-handed compliment to that report on page 4 of this Bill. It is good that a compliment has been paid. But, I think all the labour of the Parliamentary Committee which went into this question has been, so to say, not made use of. What is the good of having a Parliamentary Committee if we are not going to take the maximum advantage of their report? It has not been done. What has happened is this. Some of the things which need not have been mentioned in this Bill have been included and some of the things which should have been included, have been omitted.

Now, the fundamental point is this. What is an office of profit? I would say that an office of profit should be defined very clearly. Because, if there was some confusion with regard to it when we had three Acts, I think there is going to be more confusion after this Bill has been passed. What is an office of profit? Does office of profit mean any advantage in terms of money? Does office of profit mean any advantage in terms of patronage? Does office of profit mean any advantage in terms of time? What is an office of profit? If you say that the Parliament is going to be a forum for those persons who can apply themselves to this work wholeheartedly, why do you have these Vice-Chancellors? You want to have different Vice-Chancellors of Universities in the Parliament. How can you have a person whose loyalty is going to be divided between his University and the Parliament? How can you do that? Vice-Chancellorship is a whole-time job as Chairmanship of a statutory body. If

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you think of exempting the Vice-Chancellors from disqualification, you are trying to give Parliament a fancied advantage and you are depriving the University of a real advantage. I think this is a thing which is not going to work either for the good of the University or for other bodies.

Again, you are going to have all these members who are Chairman of statutory bodies and non-statutory bodies. I think this only means that you are going to have those persons in the Parliament. Of course, you said that you want technical men, professional men. Of course, we want technical men, professional men on the floor of the House. I do not know what the advantage is going to be. Even I concede that you want technical men, persons who have inside knowledge of certain very technical subjects. I concede that you want to have them, but why do you want that those who are already having whole-time jobs as Chairman of statutory or non-statutory bodies should play with Parliament and play with those bodies also? I think every job has to be taken seriously, and if you want to keep out some persons, you have to keep them out firstly for this reason that they should make Parliament their whole-time job

I know most of the Members of Parliament are doing this work as a whole-time job, and even then they cannot do justice to it.

If I can be permitted to mention this, I know there is a very big political organisation in this country that has made it a rule that an MLA or an MP cannot be the President of a district organisation of that body, a provincial organisation of that body, or be an honorary officer in that body. Why have they brought in this salutary rule? Because they know that a person who is an MP or an MLA cannot do justice to the organisation of which he claims to be the President.

If you could think that a man cannot be useful for the purpose of the organisation and also for Parliament, do you think that a person can be useful for the purpose of a university and also Parliament, for the purpose of a statutory body and also this Parliament?

I think this Bill is full of self-contradictions, is full of baffling and confusing things. I do not know the source from which this Bill has come.

It has been said by Shri Bharucha, and I agree with him, that we want persons in this Parliament who are independent and who also can devote their full time to it, but by throwing open this Parliament to all these categories of persons—I omit the first two categories, I think the first two categories are all right—I think we are making this Parliament a Parliament of half-timers, a Parliament of those who are always going about on delegations and yet are Members of Parliament. You are making this Parliament a plaything for those persons who are the chairmen or directors of some bodies.

I would ask you one thing. It has been said that the officers of the National Cadet Corps, the Territorial Army and the Auxiliary Air Force should be permitted to come to Parliament. I have a big heart and I do not mind if you throw open Parliament to all the members of the armed Forces. I will be happy to do it, but why do you throw open Parliament to these persons only because they are having a temporary job or a part-time job? I think the business of Parliament will be better served if you have real soldiers who understand what our defence is instead of having these persons who understand defence but do not do so to that extent.

Of course, about home guards my friend Shri Bharucha has already spoken. Why has the office of Sheriff been included? If you want to have the Sheriff, then throw the Parliament open to all persons who are compar-

able in status and functions to the Sheriff? What is the harm there?

Therefore, I say this is a piece of discriminating legislation which has been brought forward to throw the doors of Parliament open to certain sections.

Ch. Ranbir Singh (Rohtak): To professors.

Shri D. C. Sharma: It is much better to have professors than some semi-literate persons.

I do not wish to attribute any motives. I think the Law Ministry must have done it with the best of motives, but I do not understand why these persons have been brought in here.

What are these delegations or missions? A man goes as a delegate on some mission and is there for six months or a year or so, and he thinks that it is a very good thing; he is making the best of both the worlds, the best of Parliament and the best of the delegation. I cannot understand the logic behind the clauses of this Bill.

Then about advisers. What prevents any one of us from becoming an adviser? We may be advisers for six months or more, make some money and also be Members of Parliament.

I say the membership of Parliament should be a sacred thing, an honourable thing and a thing which means the hall-mark of service to the nation. If you take away from the Members of Parliament all these things, I think you are doing injustice not only to Members of Parliament, but to this great country which has this great Parliament before it.

Therefore, I would say that you should scrap this Bill and you should not have this Bill before you. You should bring forward a Bill only after the whole thing has been considered.

It has been said that revenue officers such as *lambardar*, *malguzar*, *patel*, *deshmukh* and the like should be exempted.

Ch. Ranbir Singh: What frightens you here?

Shri D. C. Sharma: I have nothing to say against them. For what I know you may be a *Lambardar*, I do not know.

Ch. Ranbir Singh: Our Chairman has been; I have never been a *Lambardar*.

Shri D. C. Sharma: I have nothing against them; I have respect for them. They are doing some good service for the country.

Shri R. Ramasathan Chettiar (Pudu Kottai): In Parliament they will do better service.

Shri D. C. Sharma: But if you are going to exempt these persons who are responsible for collecting our land revenue and taxes, why do you not exempt others also? I say in all humility and with due respect to the Law Minister that before bringing to us a list of exemptions of the persons who will not be disqualified, he should define clearly what he means by an office of profit. If you do not do that, you open the doors of litigation, and you open the doors very wide.

Again I should say that if you are going to modify this Bill, you should please see to it that the list is made as comprehensive as possible, or left as vague as possible, because this kind of list which is neither vague nor comprehensive is not going to do any good.

When I heard the eloquent speech of the hon. Law Minister on the kind of talent that Parliament needed, I felt as if I was reading an address on parliamentary democracy by George Bernard Shaw. Bernard Shaw also had similar ideas about democracy, and he wanted that the different functions of democracy should be delimited. For instance, there should be a democracy where politicians take political decisions; there should be a democracy where economists take economic decisions; and there should be a kind of democracy where, for instance, technical persons can take technical decisions. I thought perhaps the Law

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Minister had that vision of democracy in his mind which George Bernard Shaw had at one time, and I thought he was going to give us a Bill which would be in conformity with that vision of democracy that that great thinker and socialist had. But I must say that the speech which he made has nothing to do with the clauses that are there in the Bill; that was only a blueprint of something which he had in his mind, but there was nothing of it in the Bill. But I hope, and I venture to submit very respectfully, that when this Bill goes to the *Joint Committee the Law Minister* will be able to translate his vision of democracy into clauses and sub-clauses. After all, it is the function of Law to translate visions into clauses and sub-clauses. I hope the Law Minister will be able to do that and he will be able to present this House with a Bill in which there will be as few loopholes for litigation and for disqualification as possible.

Shri Raghbir Sahai (Budaun): I quite agree that this Bill is of a very important nature, but at the same time, it is of a very controversial nature also, because it bristles with enormous difficulties. As other hon. Members who have preceded me have said, the term 'office of profit' has not been defined. It is natural that we should have lagged behind in that matter, because even in England, no such attempt has been made so far to define the term 'office of profit'. It was only in 1955 that a comprehensive Bill was placed before the House of Commons in regard to this subject, and I understand that it was only in this year that it had taken the shape of an Act.

As you, Mr. Chairman, have very aptly remarked in your report:

"...the concept of office of profit has a history of more than three centuries during which period it has undergone many changes and is yet far from being precisely understood and defined."

It were these difficulties which the previous Parliament had in mind when a joint parliamentary committee was constituted under your able guidance and chairmanship. From the terms of reference of that committee, I find that it was formed to study various matters connected with the disqualification of Members and to make recommendations in orders to enable Government to consider the lines along which a comprehensive legislation should be brought before this House.

I do not suppose that the truncated Bill that we have got before us today can be considered as a comprehensive Bill. The committee under your able chairmanship has gone into the whole subject very minutely, and it has given a report at once very valuable. And it is a unanimous report to which no Member has appended a minute of dissent. Yet, I find that the most important recommendations of that report have been entirely ignored.

For instance, as I have just now said, that the committee recommended that a comprehensive Bill based on the recommendations of the report should be placed before the House at an early date. As many as two years have elapsed, after which we find this Bill. This cannot certainly be called a comprehensive Bill about which the report had mentioned. In that report, it was also mentioned that the Bill should have schedules enumerating in detail the different offices which do not incur disqualification, offices in respect of which exemption should be granted, and offices which would disqualify Members. I submit that without those schedules, this Bill is entirely incomplete.

The other recommendation that that committee made was that a standing parliamentary committee should be constituted to look into these matters from time to time, because the committee itself had said that such frequent scrutiny will have to be undertaken in the case of committees which may have escaped their notice or

which may come into existence in the future. Unless and until such a parliamentary standing committee is constituted, the work cannot be supposed to be complete.

Although in that report we find that the Bill that was placed before the House of Commons in 1955 had been reproduced in *extenso* and that was a sufficient indication for Government to take some cue from it and to have framed a Bill on that basis, yet we find that only this truncated Bill has been brought forward. I agree that some of the recommendations of that committee have been accepted by Government and have been embodied in this Bill. But there can be two opinions with regard to some of them.

For instance, they have included the office of vice-chancellor, about which some hon. Members have just made a mention. I shall not weary the House by quoting the passages from the former Law Minister Shri C. C. Biswas's speech, since Shri Easwara Iyer has already drawn our attention towards them. But I certainly would like to quote the conclusion that that committee came to on the basis of their scrutiny:

"In fact, these Vice-Chancellors are the heads of the educational system which engages, or at least calls for the engagement of their entire attention to the onerous task which they are called upon to perform. Their hands are too full of work and the more they devote themselves to their work, the better it is for the nation they seek to serve. Moreover, the office of the Member of Parliament is also developing into a whole-time business."

With these pregnant words nobody can disagree. But I do not know for what reasons the Government entirely ignored those remarks, and why vice-chancellor is being included in the list

of persons who should be given exemption.

Then, I find that the office of sheriff has been included for giving exemption in this Bill. When I consulted the *Encyclopaedia Britannica* Vol. 20, (the latest edition, 1953, page 498) I found that the office of the sheriff was of an entirely honorary nature. The duties of the sheriff are both administrative as well as judicial. The duties given in the *Encyclopaedia* are:

"He attends to the judges at assizes and election petitions and is responsible for the executive execution of writs and of the sentence of death; acts as returning officer at parliamentary elections, and is liable for the safe custody of prisoners."

Now, why on earth has a man possessing these duties been exempted and permitted to fight the elections to Parliament and then sit here?

Mr. Chairman: In India, the sheriffs do not discharge those duties which are discharged in England by the sheriffs there.

Shri Karmarkar: This is from the *Encyclopaedia Britannica*.

Shri Raghbir Sahai: Quite right. But I find from your report....

Mr. Chairman: I think the hon. Member will take some more time.

Shri Raghbir Sahai: Yes.

Mr. Chairman: He may continue on Monday.

17 hrs.

The Lok Sabha then adjourned at Eleven of the Clock on Monday, the 16th December, 1957.