

**1447 Calling Attention to a 25 NOVEMBER 1958 Parliament (Prevention of 1948
Matter of Urgent Public Disqualification)
Importance
Bill**

was signed between the two countries in January, 1954 and further elaborated in October, 1954. Since then there have been differences of opinion between the two Governments over the interpretation of certain clauses of the Agreement and further discussions have been held from time to time. They wish to be Ceylon citizens as evidenced by the fact that almost all of them applied for Ceylon citizenship.

The Government of Ceylon issue periodical statistics on the progress of registration of these persons as Ceylon citizens. According to the latest statistics received, out of a total of 2,37,034 applications, covering an estimated 8,29,619 persons, filed by persons of Indian origin for Ceylon citizenship, only 24,559 applications covering 96,923 persons had been accepted until the end of August 1958. 1,96,063 applications covering 6,96,252 persons had been rejected. 7,397 applications are reported to have been withdrawn and 9,020 applications are still pending disposal.

The press reports about the Ceylon Minister's statement do not apparently represent the policy of the Government of Ceylon. In fact, the following day, the Prime Minister of Ceylon stated that his colleague had been misrepresented and that the Government had not decided the number who should be granted citizenship. In his discussions with our Prime Minister in December, 1957, he made it clear that his attitude like ours was based on the recognition that this is a human problem which calls for a human approach. In Parliamentary debates on this subject in August, 1958, he ruled out any inhuman methods as both impracticable and undesirable and declared that he was hopeful that "reasonably the problem could be solved." He also recognised that there was a lot of goodwill in India towards Ceylon.

In effect, the persons who have been refused Ceylon citizenship have been rendered "stateless". They cannot be-

come Indians unless they are registered as such. They could only be registered if they apply for Indian citizenship of their own free will and if they are qualified for such registration under our laws.

Our stand continues to be that these people, have, by decades of their residence in Ceylon and their contribution to Ceylon's development, earned the right to continue their way of life in the country of their adoption. Those of them who wish to become Indian citizens of their own free will, can apply to our High Commissioner in Ceylon for registration and, if they qualify under our citizenship law, our High Commissioner will register them as such. We have made this position clear in all our discussion with the Ceylon authorities. Our High Commissioner in Ceylon naturally discusses this and other matters with the Ceylon authorities. The Ceylon High Commissioner also discusses this and other matters of mutual interest with our officials here. These talks and discussions continue and no new developments have taken place recently.

There is thus a measure of agreement in our outlook. Ceylon authorities, who are directly concerned with the problem, and we, who are indirectly concerned with it, are both conscious of our long common tradition of good-neighbourliness and friendship and neither of us would like this friendship to be affected by any wrong or hasty step. We are both aware that no quick solution is available. We are both exploring possibilities of a just and fair solution of this essentially human problem.

12-15 hrs.

**PARLIAMENT (PREVENTION OF
DISQUALIFICATION) BILL—
contd.**

Mr. Speaker: The House will now take up further consideration of the

Disqualification) Bill

[Mr. Speaker]

following motion moved by Shri Hajarnavis on the 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.”

Out of the 10 hours' time allotted, already 6 hours and 13 minutes have been taken and the balance that remains is 3 hours and 47 minutes.

How long does the hon. Minister propose to take to reply?

Shri C. D. Pande (Naini Tal): He is not here, Sir; it may be postponed for some time.

Shri Tyagi (Dehra Dun): The Ministers are absent, Sir.

Mr. Speaker: Anyhow the Minister won't be called upon to reply today.

The Minister of Home Affairs (Pandit G. B. Pant): The turn of the Minister will not come today, I think.

Mr. Speaker: At 2-30 p.m. we have to stop. The Minister will reply some other day.

But there is neither the principal Minister nor the Deputy Minister.

Pandit G. B. Pant: But we are all here, Sir.

Mr. Speaker: I am not prepared to accept it, with all respect to the hon. Home Minister. Neither the principal Minister nor his Deputy is here. It is a very important Bill. Hon. Members are making submissions and we have unusually allotted not one day but three days for it.

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): He has gone to the bathroom, Sir.

Mr. Speaker: No, no; hon. Ministers must show greater courtesy to this House.

Shrimati Sucheta Kripalani (New Delhi): I endorse it, Sir.

Mr. Speaker: Who are the hon. Members who want to speak? I think Pandit Thakur Das Bhargava was on his legs.

Shri C. D. Pande: The Deputy Minister has come.

The Deputy Minister of Law (Shri Hajarnavis): Sir, I was here in the House but . . .

Mr. Speaker: Hon. Members, all of them, may have the same difficulty as the hon. Minister.

Shri Hajarnavis: Sir, . . .

Mr. Speaker: I am telling the hon. Members that nobody is an exception to such calls.

Pandit Thakur Das Bhargava (Hissar): Sir, I was submitting yesterday that this is a very unfortunate Bill since none of the hon. Members of this House has welcomed this Bill so far. But, at the same time, I must submit for your consideration that this is one of the most important Bills that have been brought in this House, as this Bill ensures the independence of the House and freedom of the hon. Members from any coercion or undue influence or any other kind of malady which may affect the integrity of their votes.

Now, I would like to call the attention of the House, first of all, to article 84 of the Constitution. I may submit that, according to me, most of the arguments which have condemned this Bill are due to the fact that hon. Members have not clearly thought out the matter for themselves. I find that many of the objections are such as could be remedied even by understanding the full implications of the provisions of the Constitution. Therefore, I would beg of you to kindly allow me some indulgence for time because I feel that I should clear away some of the cobwebs which are

really clinging in the minds of some hon. Members.

I would respectfully call the attention of the hon. Members to article 84 which gives the qualifications for Members; and the qualifications are not many. A person must be a citizen of India; he must be of a particular age—25 for the Lok Sabha and 30 for the Rajya Sabha. And further, any other qualifications which this hon. House may choose to add in respect of qualifications. I understand that no other qualifications have been sought to be applied by this House in regard to sub-clause (c) of article 84. A resolution was brought in this House in the previous Parliament to the effect that some educational qualification must be added to these qualifications. But the House did not agree to it. The only qualifications are that a person must be a citizen of India and he must be of a particular age. At the same time, the curious way in which we worked is that though no qualifications were attached, some disqualifications were enacted. A Member must be of such and such age; he must be free from this or free from that. So, the absence of those disqualifications becomes a qualification by itself. It means that a Member of Parliament must be a sound person. He should not be an unsound person. This unsoundness is attributed to various things. According to article 102, a Member should be physically sound; then he must not be an undischarged insolvent; he must be economically sound and then he must be politically sound and must owe allegiance to this Government and not to other countries. Lastly, he must be morally sound so that so far as his vote is concerned it would be fair and not given under coercion or undue influence or some other objection. If he holds any office of profit under the Government of India or the Government of any State other than those offices declared by Parliament by law not to disqualify its holder, then also it is a disqualification. Article 102(1) also disqualifies a person if he is of unsound mind—a
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physical condition—and if he is an undischarged insolvent. Certainly he must not be a citizen of some other country. So far as the freedom of vote is concerned the law is very insistent. There must be freedom of vote and independence to a Member. If he is not independent and is not free to vote, he is not fit to be a Member and he comes within the purview of article 102(1). There are various ways in which this is brought about.

What has happened in other countries? After all we have taken most part of our Constitution from other countries and principally from the U.K. I do not want to tire this House by giving the old history of four centuries in Great Britain where this principle has been evolved in this manner and it has culminated in the British Act of 1957. There was a time when there was a great tussle between the King and the Parliament. Eventually, Parliament was the victor and the king was defeated. At one time the mother of George IV said: "My son be a King every inch". She directed her son to become a King every inch. History records that such huge amounts as £25,000 a day were given by way of bribe by Kings at the time of election for securing Members who would support him. This battle of the superiority of Parliament against the King was won in England many years ago. We have practically copied our Constitution from other Constitutions in which the superiority of Parliament is granted. It is true that we have got Ministers of our choice. Even the President here can be turned out by a vote of Parliament. At the same time we must see that even our popular Ministers do not enjoy those powers of influencing the decisions of the hon. Members of Parliament. It is with this view that article 102 has been enacted in our Constitution. This article is of great importance and it is a great hurdle if we want to enact anything today to the country. We have not got a clean slate. According to article 102, no other authority

[Pandit Thakur Das Bhargava]

except the President and the Election Commissioner can adjudge the effect if any person has accepted any office of profit. Suppose a person under a wrong belief accepts an office of profit. In the British House of Commons, there are remedies. But here we have got no remedies and the person must be unseated. The question of questions is: what is this malady against which we seek a remedy?

He is disqualified if he holds an office of profit, according to this article. First of all, what is an office of profit? These are two principal questions involved.

These questions were there from the very start. It so happened that when we started our Parliament, some persons were appointed to various Committees, etc. We had then to bring three Bills: one in 1950, another in 1951 and the third in 1953 which subsequently became Act 1 of 1954. In all these Acts, the true criterion was that if a person accepted by way of remuneration any amount of money more than Rs. 20 or such other amount of compensatory allowance, he was disqualified. That was the criterion. In Vindhya Pradesh, there were some advisory committees and a sum of Rs. 5 or so was given to some of these members on the advisory committees. There were some resident members and some non-resident members. The question arose about non-resident members who were given Rs. 5 apart from their dearness allowance, etc. The Election Commissioner decided that they were drawing (the non-resident members) some profit and so they were unseated. We had to pass a law of immunity for them. On another occasion, the question of Deputy Ministers arose and we passed a law. In 1954, again we passed another law according to which certain Committees and offices were excluded from the purview of article 102 and they were declared not to incur disqualification. There was great uneasiness among the Members and many of them felt concerned

about it. Our late Speaker, Shri Mavalankar, appointed a Committee to go into this question. The main grievance of the Members was that these three Bills were not satisfactory and the criterion, whether a particular holder of an office was getting certain amount of money or not, was also not satisfactory. It was submitted before the Speaker that profit did not mean money alone; it meant something more than that. This plea was accepted and ultimately the Speaker, in consultation with the Chairman of the Rajya Sabha, appointed a Committee of fifteen Members who went into this question for years and then it produced a report, a unanimous report, which, according to the hon. Law Minister, has served as the basis for the present law.

I put in a plea for appointing a Joint Committee on the Bill. Even then I submitted and I submit now that as between those three Bills and the present Bill as introduced there was not much of a difference. The underlying idea of the previous Bills was that money was the primary consideration for holding whether there was an office of profit. Similarly, that was the basis or the pivot on which the present Bill was revolving. This was wrong. The Business Advisory Committee then made a recommendation to the Law Minister to have a Select Committee and on the basis of the arguments put in this House, the House was pleased to appoint a Joint Committee which went into the affairs and produced this report.

Now, what do I find? Every hon. Member rises in this seat and asks the Government to withdraw this Bill. Secondly, they ask the Government to bring another Bill. A third request came from my hon. friend Shri Guha. He said, let the Bill be re-committed to this very Joint Committee. There are some hon. Members here in this House who want that any person holding an office of profit should in no case be exempted. I can under-

stand that meptality. I congratulate them, that they think that this House must be so independent that no Member of this House may be able to hold an office of profit. That is one point of view, and it is not a point of view which can be condemned outright. But, at the same time, we are fully aware of the under-developed state of our country. We are fully aware that, as a matter of fact, the best interests of the country require that talents in the Members of Parliament should not be wasted; they should be utilised.

Our Constitution, in view of this fact, has itself provided a remedy. When you go to a hill you find a *booty* called *bichhu* which just sticks onto your cloth and body and produces pain. But at that very place you will find another *booty* which is called *patak* which takes away the pain. Similar is the case with our Constitution. Whereas the Constitution is very clear on this point that all persons who hold an office of profit will not be allowed to become Members of Parliament or continue as such, at the same time, it has given the remedy to Parliament itself because Parliament has been given powers to declare by law that such and such offices will not bring in disqualification, persons getting profit from such and such offices will not be disqualified.

Shri Mulchand Dube (Farrukhabad) May I know the number of Members of Parliament whose disqualification is being removed by this Bill?

Pandit Thakur Das Bhargava: As a matter of fact, no disqualification as such is being removed by this Bill.

Shri Mulchand Dube: The Bill says that persons holding certain offices which are specified will not be disqualified. I should like to know the number of persons whose disqualification is being removed by this Bill.

Pandit Thakur Das Bhargava: It is very difficult to give the number of persons whose disqualification will be

removed. I cannot give the number of *lambardars*, *patels* and others who are sought to be exempted from the operation of this Bill, nor can I say how many Vice-Chancellors are there in this House or how many Members are members of the Executive Committee in the University.

Shri Mulchand Dube: I was referring to the present Members of the House.

Pandit Thakur Das Bhargava: I am, sorry I cannot comply with the request of the hon. Member. I do not know it myself. At the same time, so far as the Members of this House are concerned there may be very many Members, but there are prospective Members also. The candidates for future membership are also being exempted. It is very difficult to say how many persons are being affected.

As I was saying, Sir, the remedy is provided by the Constitution itself and Parliament has been given power to declare that holding of such and such offices does not disqualify a person. Therefore, as I submitted, the remedy lies in our own hands; it does not lie in the hands of Government, it does not lie in the hands of the President, it does not lie in the hands of any person. It lies in the hands of Parliament itself, and vesting powers in the hands of Parliament is the best guarantee that they will be utilised in the right manner.

Now, exception has been taken by many hon. Members. They have made a request to Government to define the term 'office of profit', as if Government was the sole body interested in it and Government could define it. I beg to submit, no Government can define what an office of profit is, no President can define what an office of profit is, nor can anybody else give a definition to it as long as our Constitution is there. I know what an office of profit is. Every hon. Member knows what an office of profit is. Everybody knows what is the meaning

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of the term 'office of profit'. But it is incapable of being defined as the Constitution has not defined it. Any definition given by us will not be acceptable to the Constitution.

An hon. Member, Shri. Mulchand Dube, told us that the matter could be solved in an easy manner. He made the suggestion that under article 367 all the definitions given in the General Clauses Act can be taken to be definitions which can apply to the Constitution. If he kindly looks into the matter rather carefully he will find that not all definitions which are given in the General Clauses Act can be regarded as those which will apply to the Constitution. Those definitions must be adapted and modified under article 372. I doubt very much if a definition to this term is given even there. Even if it is given—I do not know whether it is given there because I have not seen the General Clauses Act—unless it is adapted and modified according to article 372 it cannot apply to this Constitution.

Shri Raghbir Sahai: (Budaun) Are you sure in the General Clauses Act the term 'office of profit' has been defined?

Pandit Thakur Das Bhargava: That is exactly what I am submitting. Even if it is defined there, unless it is adapted and modified under article 372 it cannot apply to the Constitution. Therefore, if it were such an easy question the Constitution itself would have defined the term 'office of profit'. But, I would submit, it is impossible to define 'office of profit'. The first question that arises is, what is an office? I would submit, even 'office' cannot be defined. Can we call an occasional employment of a Member of this House on a commission or committee once a year as an office? 'Office' by itself means that there must be some duration, some sort of tenure, a person must have accepted some function on a continuous basis and all that. It is not an occasional function where a person can go for a day or so

and get some profit. The second question is, what is profit? There is the ruling of the Supreme Court that even if no money is paid it becomes an office of profit. It is no question of payment of money. It is not a question of emoluments at all. It is a question of being entitled to emoluments. It has been said in this House by Shri Biswas very eloquently—I have got his speech here—that profit does not mean rupees, annas and pies, it means much more. One member of the Bar of Hissar once jocularly remarked that if he were made a Magistrate or a *Thanedar* he would pay Government Rs. 500 a month. Similarly, I should like to say, appoint me as the conscience-keeper of the Prime Minister or the Home Minister and allow me to proceed in all matters in my own way, I will pay you Rs. 5,000 a month. Therefore, it is not the monetary point alone. If a person gets into power by which he can distribute patronage, if people know that by referring to him they can get things done, if people know that he has got power and honour, even though there is no question of money involved, it is an office of profit. I refuse to recognise that money is the only consideration. That is the basis on which this Joint Committee went into this question. The previous Committee appointed by the Speaker in consultation with the Chairman also went into the question on the same basis. They went into the question for months and months and produced the report.

Therefore, my humble submission is that Government must clearly understand that money is not the only question. It was not the real basis on which the present Bill was introduced. I am very glad that the hon. Law Minister has accepted our view point. Their speeches showed anxiety for permitting participation of the M.P.s for more and more Committees. I can understand the anxiety of the hon. Law Minister and the Deputy Minister. I congratulate them

for that anxiety. They want that the door must be very wide, because they think that unless Members of Parliament are utilised for public purposes public interest may suffer. Many of us are of the same view, but not to the extent to which our hon. Ministers have gone.

Many of us think like this. The Committee about which I have mentioned also went into the question. There the majority of members thought that even where some influence is involved, some profit is involved, some patronage is involved, because Parliament has got the power to declare that particular offices of profit may not disqualify, where question of labour, health, sanitation and development are concerned Members of Parliament should be allowed to go on those committees and make their contribution. As regards other committees, a majority of members of that Committee thought that if, as a matter of fact, the post was such as a person could come in a position of power, then it is possible that his independence may be lost and the loss of his independence would be a loss to the House—the greater the Member, the greater the loss to the House and to the public in general. If there are ten Members of this House who are very influential and are, at the same time, very much respected by the House, if they lose their independence the result will be that all others who have got sympathy with them and who are under their influence will also be influenced. The result will be, indeed, very bad.

Yesterday, you were pleased to speak about Shrimati Sucheta Kripalani. If she were the Chairman, I can understand that she might discharge her duty rightly, but there might be other Members who may not be able to do so. And then, if such a Member was there, other Members will feel the difficulty of criticising their own colleague. Many questions come before this House, and they involve a question of whether this Commission

or that Committee has behaved well, and whether we should accept what it has done. The House criticises their actions. While we criticise a Chairman or a Member of Parliament who has been there, and who is principally responsible, the Government will get another ally to save themselves and to protect them and other Members who will also be there will think in the same way and will think twice before criticising their own colleague. I do not say that no arguments are there for granting full freedom. I understand that Shri Vasudevan Nair and Shri Naushir Bharucha were of the view that, as a matter of fact, it is not right to shut out Members from going to all those committees,—very important committees, as Shri Naushir Bharucha put it—and those committees which involve the turnover of crores of rupees, even much more than what our budget amounts to. I appreciate that point of view, but, at the same time, we must remember the other side of the picture too, I cannot put it better than what Shri Ranga said in the House when the Bill of 1950 was discussed. He referred to the work of Members and asked what would be the result if, supposing, the Government tempted many Members of this House and when many Members could not resist the temptation. Then, this House will be such as will have no independence at all.

This was the very real basis for centuries, and for centuries the Parliament fought with the King in the United Kingdom. Fortunately or unfortunately, I should say very fortunately, our Government is of a different kind; our Ministers do not visualise such a situation and they do not take the matter seriously, as in our Parliament, there is no such risk or hazard. No Minister is out to seduce another Member. All the Members of the House, according to my experience are not such as will just accept the influence and be seduced. I do not know of any single Member of the House who was not resisting the temp-

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tation or who, having been appointed to a committee, has not acted independently. So far, so good. But who knows what may happen subsequently. Other Governments can come in power and other kinds of Members can come.

What about the States? Even two or three members of a particular party just leave the party and go to the other party. The balance is such that everything shall topple down. Have we not seen what happened in Orissa and other places? If some members go away from one party to another by being appointed to certain committees or by being given positions of power, etc., what will be the difficulty? The difficulty will be that there will be no stable Government. Apart from that, my own humble submission is that no member of the Government and no Member of Parliament can discharge his duty rightly unless on every question that comes before him he decides the matter in an independent manner and without fear or favour. This is the right view.

I can understand the parties going wrong. I can understand other things going wrong. But I think so far as the individual Member is concerned, he ought not to be in such a position that other influences may work and he may not work independently. That is the real position as mentioned in article 102 of the Constitution.

The question is, what is the remedy. May I respectfully draw your attention to my Note of Dissent. I have stated there that we should keep this Bill in its present form, in which it has emerged out of the Joint Committee. If we allow Ministers to appoint advisers, what will happen? We have seen in the Joint Committee the nature of the committees and offices of profit. Sometimes, any adviser can be appointed by any Minister or any person in authority, and then that adviser can be a Member of this House. Having decided and defined these

kinds of committees, statutory or non-statutory, I fail to see how an advisory committee can be such as can be neither statutory nor non-statutory. Therefore, the advisory committee is out of the question.

Now, if we just pass this measure, what will happen? Every Minister in this House—and their number is not small—or even more than one may appoint an adviser to himself or to his Ministry and say that a particular Bill, in particular circumstances, of the case, requires an adviser. Or, in any other way, he can justify it. What will be the result? There will be as many advisers as there are Ministers, and where will we, the Members, be? If you allow such a free hand to the Ministers to appoint whomsoever they want, from Members of Parliament, to be their advisers, and take away their vote, what will be the result? The result will be that, as a matter of fact, the very danger against which the Constitution has provided through article 102 will remain unliquidated.

In the British House of Commons a practice like this was tending to come in, and every Minister wanted to appoint a Private Secretary or some officer like that. Then, the Parliament, in its wisdom, said that even the number of Ministers will be curtailed and not more than 10 per cent will be allowed to become Ministers. I know of a State Government where there is a plethora of Ministers and where everybody wanted to be a Minister. If a person becomes a member of the Legislative Assembly or of Parliament, he is out to—and everybody is out to—become a Minister. If the number of Ministers is large, and supposing all the Members are made Ministers, what would be the result? Where is the independence of the House? Who will represent the public then? So, unless there is a limit to the number of Ministers we are not safe.

But here, we have seen that this tendency is not seen. Along with the

Ministers, if you give every Minister an adviser, or appoint any number of Members of Parliament to be on committees according to the words of my friend Shri Hem Barua, what would happen? The whole House will be swamped and there will be no independence.

I have seen an instance in this House on one occasion. Once we were discussing in this House a Bill regarding vanaspathi. It so happened that Government did not expect and we also did not expect that the matter would come to a question of votes. It was all about the Bill relating to hydrogenation of vanaspathi oil. By chance, there was a vote, and what did I find? I found that Ministers who told me that they were against the measure went into the lobby with the Government, whereas we, a few persons, went the other way. We lost by two votes. I would, therefore, submit that the Government as a whole is bound to vote in one way. This is the accepted principle in our Constitution. A Minister can remain a Minister only as long as he votes with the Government. Whereas, as my friend, Shri D. C. Sharma said yesterday, we were a fortunate party. We were given so much freedom of vote and freedom of conscience and freedom in making speeches that in no other Parliament, I think, a party is allowed to behave in that way. This is good, because this party does not only consist of national leaders who have been in the brunt of the fight but of members on its rank and file who have seen those days in which they have fought with the alien ruler.

Similarly, I can say of other parties also in this House. They consist mainly of those Members—though they do not belong to the Congress Party—yet their concept of their duty and their background are the same as those of this party; so far as concept and duty are concerned, there is no difference. There are many of them here whose dust of feet I am unworthy to take away, because they have been in the Congress and they have

made sacrifices to the country. I find that in this matter this is very fortunate House. It does not consist of sycophants; it does not consist of Members who will lose their independence in any manner.

This is a fortunate thing, but we do not know how far it will continue. Therefore, we enacted article 102. What is the remedy now? Supposing this Bill is not there, as my hon. friend Shri Vasudevan Nair put it and, to an extent, Shri Naushir Bharrucha put it—what would happen? Then it means there is a state of such uncertainty and such suspense in the public mind that any person who stands for the election will not know whether he will sit in this House if he is successful in the election! Or, when he comes to this House, he may not know that such and such an office is an office of profit and he accepts it. Or, while being the holder of an office of profit, he is returned to the House. What will follow? First of all if objection is raised after sometime he may have to pay fine of Rs. 500 per day as prescribed in the Constitution. Ultimately, the matter when it comes up, shall go to the President who will send it to the Election Commissioner who will decide the point and unseat him. There is no provision for condoning the lapse or giving him respite from being unseated. Though this Bill is designed only for our Parliament, ultimately it will reflect on the other legislatures also. I want to know if this House wants to leave the whole country and all prospective candidates and the members elected to the legislatures in a state of anxiety and suspense and not enact this Bill. Some Members said, "Do not enact this Bill, but let the Government bring another Bill," I challenge the Government to bring another Bill and be successful in the attempt without a schedule. They must have a schedule. There is no other go. It is impossible to enact this legislation except by way of schedule.

This is not my conclusion. This is the conclusion of the British House of

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Commons who are really the authors of this concept as well as of many other things, which we are copying. They enacted a schedule and set at rest the discussions which went on for four centuries. They repealed a number of old Bills and Resolutions of the House of Commons which cover about 10 pages. So, this solution which has been found by the House of Commons is the one which we must copy. Some Members asked me, what is the use of copying a solution made by another Government in another set of circumstances? You can decide about the food you may be wanting to eat; it may be different in England and in India, but the manner of eating is the same. So, truth is everywhere the same. Either you must have a Bill in which a schedule is given laying down the qualifications and saying that other things which do not come under the qualifications are disqualified; or, you must have a Bill which says that these are the disqualifying offices and the rest are qualifying offices. If you want to be certain about your law and want to be unambiguous, you cannot do it without a schedule; there is no other way.

I heard Shri Guha saying, you can only declare offices which do not disqualify; you cannot have offices which disqualify in the Bill. Some other friends also expressed similar views. I am afraid some snag is there. They do not seem to understand this. Either lay down the offices which disqualify and say that the rest do not disqualify, or lay down the offices which qualify and say that the rest disqualify. Sub-section (4) of section 1 of the Act of the House of Common says clearly:

"Except as provided by this Act, a person shall not be disqualified for membership of the House of Commons by reason of his holding an office or place of profit under the Crown or any other office or place and a person shall not be disqualified for ap-

pointment to or for holding any office or place by reason of his being a member of that House."

I want to have a similar provision in this Bill that all those offices which do not come under this schedule will be regarded as qualifying. Every person shall be free to stand for election as a Member of Parliament or continue as such, provided he does not hold any of the offices which are given in the schedule. A provision of this nature alone will solve the difficulty and no other. Either leave the law as it is and on every occasion, whenever the question arises, the matter may go to the President or the Election Commission or, if you want to have a solution, without leaving the prospective candidates and the Members of Parliament in suspense, this is the only way in which Parliament can do it.

Let there be no confusion. When we make a schedule of disqualification, we are really making a schedule of qualification also, because all those offices become qualifying except those given in the schedule. You can have either a qualification schedule or a disqualification schedule. I do not mind; it will be the same thing for me. But let us understand that schedule is the only solution. Government by itself cannot make a schedule, as some Members suggested. This Parliament should pass it.

Mr. Speaker: Whatever might be the English law, article 102 specifically says that Parliament may by law lay down that certain offices do not entail any disqualification. There is no provision here that all the others are qualifying. The House would not commit itself to that position.

Pandit Thakur Das Bhargava: We examined about 1200 or 1300 committees and we have only selected 137. It means the holders of the rest of the offices are qualified. Either you must have a qualifying schedule or a disqualifying schedule; I have absolutely no objection.

Mr. Speaker: The House would not commit itself. There may be thousand committees. It has examined some. All that article 102 says is that Parliament may enact a schedule containing all those offices which, in the opinion of Parliament, do not entail disqualification. It does not mean that it gives a blank charter to every other committee. That is not contemplated.

Pandit Thakur Das Bhargava: The objection is perfectly well-founded. But instead of 137 committees, we must have a schedule containing the remaining 1363 committees, which we have regarded as qualifying. I have absolutely no objection, but the number will be large. You can very well say that these are the qualifying offices and the rest are disqualifying. If you will give me one day, I will produce a list of 1363 committees, the composition of which we have examined and found to be not objectionable. We will put that list before the House, if that solves the question. To my mind, there is no difference.

Shri Moraka (Jhunjhunu): How can the House exempt those bodies the list of which the House has not even seen? Apart from the question of examining, we do not even know what we are exempting.

Pandit Thakur Das Bhargava: There is one provision which is not clear, though it is impliedly clear, in section 3(1). That is that all other committees which do not come within the schedule are such as do not disqualify. Any person can become a member of any committee except those which are given in the schedule. That is the meaning. I do not see any difficulty.

Acharya Kripalani (Sitamarhi): Will there be any method in this madness or not?

Pandit Thakur Das Bhargava: This question is most relevant. If you once accept that the question of having a schedule, whether it is disqualifying or qualifying, is clear, then the next question arises. I am not running away from this question; this is most important. But first of all, let me

make it quite clear that having a schedule is the only way, whether it consists of qualifying or disqualifying committees. There is no difference to my mind.

Article 84 is there and article 102 is there. Sections 7 and 8 of the Representation of the People Act are there. They give the qualifications and disqualifications. If you read the whole of it, you will find that a person can become a Member only when he is not disqualified. A Member of Parliament will be able to hold an office of profit, which is not a disqualifying office. So, qualification and absence of disqualification mean the same thing.

Mr. Speaker: Qualification is something positive, disqualification is equally positive.

Pandit Thakur Das Bhargava: In the balance, there is nothing which can be said to be in suspense, just like zero. You cannot say what positively qualifying is quite different from negative disqualifying. Either the office is good or it is bad.

Mr. Speaker: If no parliamentary legislation is passed, normally under the existing Constitution, there will be disqualification. This House goes into the matter and exempts membership in certain bodies from disqualification. That is all that the House is committed to.

Pandit Thakur Das Bhargava: You have put the finger at the real painful point. The real painful point is, unless you go through the composition of all the committees and offices, you cannot be sure whether a particular office qualifies or disqualifies. That is the crux of the question and this is my complaint to you, as the Speaker of this House.

Mr. Speaker: All that I can understand is that to the extent that the Joint Committee have gone into the various details, they have included them in the schedule. If any other person gets up and says that others also should be free from disqualification, those may be included later on. We are not going to exhaust every kind of committee in the world.

13 hrs.

Pandit Thakur Das Bhargava: I would ask you in all humility to hear me for two minutes. I have a complaint to make to you directly. According to me unless and until somebody or some committee, select committee or any other committee, goes into the composition of all the committees and all the offices, the position cannot be clear or unambiguous.

Mr. Speaker: In the meanwhile, new offices may be created. It is impossible, because if we exhaust it today tomorrow some other committee would come in.

Pandit Thakur Das Bhargava: I am speaking of the existing committees. Nobody can say anything definite about future committees. We do not know what would come into existence and what would be the composition of those committees.

So far as the existing committees are concerned, my humble submission is that having gone through their composition, whether we say that its membership qualifies or disqualifies, the result is the same. That is my humble submission.

Mr. Speaker: The Constitution does not want to tie down the hands of this House.

Pandit Thakur Das Bhargava: If, however, you want a schedule giving the names of committees the membership of which is not considered objectionable, we shall give you a list.

Mr. Speaker: It will be beyond the jurisdiction of this House to do that. All that article 102 says is that Parliament can say that such and such a post will not disqualify its holder from being a Member of the House.

Pandit Thakur Das Bhargava: Supposing there are hundred committees. Can't this House say that out of one hundred committees membership of eighty-eight will not disqualify, while membership of the other twelve will disqualify? Can it not say that membership of all the hundred will not disqualify.

Under the Constitution Parliament is given the authority to declare that membership of such and such committees will not disqualify a person. This House is competent to go into the composition of all the committees on the earth.

Mr. Speaker: It is not called upon to do that.

Pandit Thakur Das Bhargava: I can say that all the committees that are existing may be scheduled and we may say that the membership of them is qualifying, while the membership of all the rest would disqualify. Can the House say this or not?

Mr. Speaker: I do not think the House can say that. The House can say that such and such offices will be exempted.

Pandit Thakur Das Bhargava: Supposing the House is pleased to exempt all of them? Can't it do so?

Mr. Speaker: Of course, it can do that.

Pandit Thakur Das Bhargava: If we can do that with regard to all the offices, can't we do that with regard to a part of them?

Mr. Speaker: I am not here to decide these matters. All that I can say is that the House cannot be expected to take that responsibility upon itself.

Pandit Thakur Das Bhargava: We can give you a complete list of all the committees which we have examined and membership of which we hold to be unobjectionable. But my complaint is quite different.

Shri Morarka: There will be another difficulty if we accept the scheme of Pandit Thakur Das Bhargava. If the schedule is to be accepted in that form, supposing a new company or corporation is floated by Government, the membership of it will not disqualify the person holding it.

Mr. Speaker: The hon. Member is aware of that position; but he suggests that the list should be exhaustive. That is his view.

Pandit Thakur Das Bhargava I could anticipate the objection of my hon friend I have got one complaint to make The hon the Deputy Speaker is here with us I represented to him on the Committee that he should get an exhaustive list of all the committees and their composition for scrutiny by the Sub-Committee and he did his very best I thank him for that But for his efforts we would not have got the composition of more than four hundred or five hundred committees At the same time the Law Minister and the Deputy Law Minister did their very best as well All the same the result is such that I feel ashamed and I have to voice this complaint You appointed this Committee of the House We were a Committee of Parliament, which is a sovereign body We as a body could certainly ask the Government to supply us the composition of all the committees which exist in the Centre and the States All the same some Ministries of Government did not send in the names of their committees and their composition

Shri Mahanty The Memorandum of Association of the Oil Corporation of India which was floated at that time was not sent

Acharya Kripalani In the absence of full facts, the House may pass a defective piece of legislation

Mr Speaker May I ask the hon the Deputy-Speaker to say what exactly happened there?

Sardar Hukam Singh (Bhatinda) We are aware of the fact that the Schedule is not complete At the same time we came to the conclusion that it could not be completed even if we spent ten years over it I do not agree with the point of view of **Pandit Thakur Das Bhargava** that it would be possible for him to supply a complete list in a day In fact, he was the Chairman of the Sub-Committee in the first instance, though afterwards he had to go away in connection with some case and we had to request another hon Member to

preside over the deliberations of the Sub-Committee

In fact we have taken nine months We wrote again and again to the Ministries and to the State Governments, but we have not been able to obtain all the information that we wanted There are however, certain practical difficulties **Pandit Thakur Das Bhargava** suggested that all the committees existing at present must have been examined In the first instance all the lists would not be received It is a fact that even some of the Central Ministries did not supply us with complete facts We tried our best Even if we had received those lists there would have been difficulties During the time we examined their membership other committees would have been constituted, while some of those we were examining might have gone out of existence We could continue this process for an indefinite period Therefore it was thought that it might be incomplete and inconclusive All that we could do was to draw up a schedule and suggest the constitution of a parliamentary committee which could go into the constitution of committees appointed afterwards and make its recommendations to the House so that Government may bring forward legislation That was the only course that was left to us

Strong objection has been taken by several Members, but no concrete remedy has been suggested If hon Members have any remedy, they may suggest some We have actually taken nine months, but our feeling is that even if we had taken another two years, we would not have been able to frame an exhaustive schedule

Some hon Members said that their ought to be some principles laid down We tried our best, but no principles can be laid down in this matter **Mr Bharucha** had suggested that there should be a compensatory allowance and we should give them Rs 42 instead of Rs 21 But there was objection and it was stated that even if one rupee is charged, that might detract

[Sardar Hukam Singh]

from the independence of the member, who has got to be active here. Therefore, we found it impossible to do that. Then Panditji gave the instance that there would be some person who would say: I am prepared to give Rs. 1,000 from my own pocket if you give me the post of Sub-Inspector of Police. He gave such instances. So, it was not possible for us to lay down any principles on which we could scrutinise them and put them broadly under some categories. If there is a principle then every time people would have to run to the courts to see whether those principles have been followed, whether those principles should apply to a particular committee and whether that should disqualify or not. So, that attempt was also given up. Then we thought of preparing a schedule. Then we found it impossible to complete it or to make it a comprehensive one. So the only alternative left to us was that we might frame a schedule, incomplete and incomprehensive though it might be, for the present, and we might also constitute a Parliamentary Committee to scrutinise from time to time such committees as come to their notice or it might invite the Central Government and the Ministries to send it in future the lists of such bodies, thereby bringing our law up to date as we desire. This was all that we could do.

Shri Hajarnavis: I am thankful to the Deputy Speaker for telling this House all that happened, but I must complete it lest any charge is levelled that the Ministries of the Government did not do their best to send all the information that they could secure within the time that was allowed. The requisition for information was made only in February when the Sub-Committee was formed. The Sub-Committee was formed sometime, I believe, in February, and their report was made in July or August. So, within six months, that is to say the time allowed, the various Ministries tried to collect the information. Then, it is not merely providing lists of the

committees; what was required was up-to-date information about the constitution of the various committees. Now the information about the formation of these committees has to be found from various files, as the composition of the committee changes, and its extraction took considerable time. So, I must say—and I am sure the members of the Sub-Committee will bear me out that all the Ministries of the Government did their best to supply the information that was required, but it necessarily, as the Deputy-Speaker said, takes time, and they took time. There was no deliberate default either on the part of the State Government or the Ministries of the Government of India to supply any information. The only thing is that within the time that was allowed they could not vouchsafe that they had convened all the committees. They had supplied us information about large number of committees and corporations.

Shri Dasappa (Bangalore): The result is the same.

Mr. Speaker: It was stated that the Sub-Committee was not able to collect all the information. I have been reading article 102 and I find that, in the very nature of it, it is impossible to have an exhaustive list of all the offices which are not disqualified. If it is an office of profit under the Government of India or the Government of any State, then there is disqualification. If it is not an office of profit at all, it does not come under the article, and there is no disqualification at all. Even if it is an office of profit, it is open to this House to declare that particular office of profit shall not entail any disqualification. That is all put in a negative manner. Positively we must address ourselves to particular offices of profit and then declare by an Act of Parliament that this office of profit, notwithstanding it being an office of profit, shall not entail disqualification under this article. That is what has been done. It is easy to go the other way and say that the other offices do not come

under this disqualification. We may say many things. But they will not come under article 102. The courts may not agree with what we say. Therefore, there is absolutely no lacuna. This will be a perpetual thing. We have to go on examining committees from time to time and add them to the list of exemptions, so far as article 102 is concerned. Therefore, nobody need worry that the list is not exhaustive. In the very nature of article 102, the list can never be exhaustive. Even if we sit for hundred years, in the meanwhile some other bodies will come. So, we will have to go on doing it perpetually. As and when new committees are brought to notice, new amendments will be brought in that notwithstanding article 102 those offices of profit will be exempt.

Acharya Kripalani: The very words "office of profit" are so vague. Some kind of definition must be attached to them. A great difficulty has arisen because different persons have interpreted these words differently.

Mr. Speaker: That is not possible under the Constitution. The words used in the Constitution are

"if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law not to disqualify its holder"

Unless we modify the Constitution, we are not competent to say what is an office of profit and what is not an office of profit. Therefore, in an Act of Parliament, again we say "this is an office of profit". We can only say that according to us it is an office of profit, but notwithstanding that it will not be a disqualification. Unless we amend the Constitution, whatever we do may not be acceptable in a court of law. That difficulty can be got over only by amending the Constitution.

Pandit Thakur Das Bhargava: That is exactly the point. When I started my speech, I humbly submitted that

it is impossible to define an office of profit coming under article 102. I am sorry, we have not gone into the real meaning. The real meaning of the term is understood by every person in its full implications. The hon. Deputy-Speaker has been kind enough to tell us that, as a matter of fact, in his view it is impossible to make such a comprehensive and exhaustive list. But, at the same time, my complaint is, as I was saying, though a defence has been made by the hon. Deputy Law Minister, also, I am not satisfied with the defence. Why could they not supply the information?

Mr. Speaker: The hon. Member may go to another point. There is no need to labour this particular point again.

Pandit Thakur Das Bhargava: I am very sorry, because the real points are not touched. I will tell you my difficulty. According to the Constitution—

"if he holds any office of profit other than an office declared by Parliament by law not to disqualify its holder"

he will be disqualified. So, unless you have got the entire and complete list, no Schedule can be made.

Mr. Speaker: No, even, if one is placed before the Sub-Committee it is enough for them to look into it and say there is no disqualification.

Pandit Thakur Das Bhargava: Then what is the use of making this schedule? It is useless unless you super-add the names of other committees.

Mr. Speaker: Very well. He has said what he wanted. Now the House will decide it.

Pandit Thakur Das Bhargava: Of course, the House will decide. My humble submission is that so far as this is concerned Parliament must make an effort to say that these offices qualify or disqualify. I am quite agreeable to have a list in which all the qualifying offices are given. I have no objection to that. Now there is information available.

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about 1,300 committees. So far as the other committees are concerned, may I humbly ask, what was the difficulty that the Central Government had in not sending the particulars except apathy, indifference and utter disregard of the orders of this Committee in which the Deputy Speaker and the Law Minister were present? How can they defend it? Are six months not enough to go through the records of the committees? If you want to make an incomplete schedule, that is the end of it. But I would submit that this House will not be discharging its duty unless it makes a full schedule, instead of the existing incomplete schedule, so far as the existing committees are concerned.

I have given notice of amendments to say that we shall have a standing parliamentary committee, which shall go into the rest of the committees. Mine is not a scheme in which I want to throw away this Bill and be done away with it. I do not want it. On the contrary, I want that there may be standing parliamentary committees, as has been proposed by the hon. Deputy-Speaker. To that the hon. Deputy Law Minister made some remarks. The Deputy-Speaker was not satisfied with those remarks, and so he gave us the undertaking that this will be done. Then, there is nothing in the Bill to make it a statutory body.

Mr. Speaker: Then is it not necessary that every office should be scrutinized and declared one way or the other by Parliament?

Pandit Thakur Das Bhargava: Quite right

Mr. Speaker: Then what will the standing committee do?

Pandit Thakur Das Bhargava: That is so far as the future committees are concerned.

Mr. Speaker: How can the standing committee decide it?

Sardar Hukam Singh: That can be done by Parliament only. Parliament

shall have to decide whether it should disqualify a particular office or not.

Mr. Speaker: So an Act has to be brought.

Sardar Hukam Singh: Certainly.

Mr. Speaker: So each time an Act has to be brought.

Sardar Hukam Singh: Yes, unless declared by law.

Mr. Speaker: So, what I would say is this. Why should this Parliament take upon itself to have a standing committee, if it is the Parliament that has to take a decision? Even when the Opposition introduce a Bill to constitute a body, it is for those persons who bring that body into existence to move this Parliament to exempt them from the disqualification. Why should Parliament take upon itself to decide whether it is a disqualification or not? Let the disqualification be there. The object of the Constitution, as I understand, is, disqualification is the rule. Absence of disqualification is not the rule. That is encroaching upon it and trying to take Member after Member of Parliament and wean him away from the legitimate work of discharging his duties to the House without passion or without interest. Therefore, this must be exercised with great care and caution. The floodgates ought not to be thrown open unless somebody or a Member of Parliament moves this House. There ought not to be a Standing Committee. It is opposed to principle. Already we are making an inroad. As many as 600 or 700 memberships have been allowed. I am very chary about it. Otherwise, the Constitution would have said, all those except the few which are disqualified, all the others; normally every man can hold any office of profit; only the holders of these offices cannot be kept here and all the others, he can hold on the surface of the earth in which case Parliamentary rule and independent judgment by the Members of Parliament will be absolutely useless. There would not be

anything. Therefore, this is an in-road.

Everybody who holds an office of profit, whoever he may be, is disqualified. He has justify to this House that except this gentleman who is a Member of this Parliament, it is impossible to get any other person to look after that other body, and if he goes to that other body, unless he comes in here, Parliament will suffer. It is only when he makes out that particular case, there will be exemption. It is not the general rule that everybody can hold any office and all the same be a Member here and sell away this Parliament to every other man in the world. I am really surprised how we are trying to throw open the floodgates to everybody who holds an office of profit. We must do this with great care and caution. No Member of Parliament should have one leg here and another leg there, except when Parliament decides. It is a matter for you, for the House to decide. No Standing Committee is proper at all

Shrimati Sucheta Kripalani (New Delhi): How to solve the problem? This Schedule won't solve the problem. If you give the ruling that no Member of Parliament shall hold office, that is very good. We have no objection. If you want them to hold office, if you want them to go on Committees, at least the position of the Member of Parliament should be made clear. There should not be the Damocles sword hanging all the time because the penalty is very severe. I would like to draw your attention to this.

Mr. Speaker: What I would reply to the hon. Lady Member is this. There is no good throwing the blame on the Government. Hon. Members of this House or the other House know in what Committees they are Members. Should they not write to the Joint Committee here: and say, I am a Member of this Committee, therefore exempt that, otherwise I cannot sit in this Committee. They could have well done so. It is the Joint Committee of

both the Houses. Why should they not do so? I am really surprised. If they want exemption, let them write.

Shrimati Sucheta Kripalani: Even if they were to apply, it is not incumbent on the Joint Committee to exempt. They will exempt according to certain principles which Pandit Thakur Das Bhargava will explain.

Mr. Speaker: It is for the Joint Committee to accept or not to accept. They can bring the information. The point now sought to be made by Pandit Thakur Das Bhargava is that the Government have not given a complete list. It was open to the Members to have given lists of Committees in which they are Members.

Shrimati Sucheta Kripalani: In the British Parliament there is a disqualifying list. So the task is simple. Unless you have an exhaustive list, those left out stand disqualified.

Mr. Speaker: It is for the Member to say that I ought not to be disqualified.

Shri Achar: In fact, a communication was sent to every Member. We were asked to state in what committees we are members. Most of the Members got, I have got such a letter. They must have communicated.

Mr. Speaker: Has the hon. Member concluded?

Pandit Thakur Das Bhargava: Not at all. I was submitting that we could not make an exhaustive schedule. That was my complaint. According to article 102(1) I am inclined to think that unless we make a complete schedule, we have not discharged our duty. We were given a mandate in the Joint Committee that we should find out a solution and the solution is only this that we make a schedule. You know, thrice before an attempt has been made in this House and we have given immunities to those who have accepted the membership of Committees. In the public interest alone, if on any committee no Member of Parliament is allowed to go, that will be a very bad thing. That

[Pandit Thakur Das Bhargava]

is my humble submission. I do not keep to the view that as a matter of fact, going on to a Committee is a bad thing. It is a right thing. The Constitution itself has allowed it to be done. Article 102(1) gives the right to Parliament. Parliament can say membership of what committees should be declared unfit and what committees should be declared fit. It is not any personal opinion. The whole Parliament declares.

My point is this. The question everybody put is, what was the yard stick, how do you find whether this committee is disqualified or qualified. I submit, the first thing that we have said is the monetary consideration, as has been the criterion of the Government. Apart from, that, there have been many speeches in this House and the hon. Law Ministers Dr. Ambedkar and Shri C. C. Biswas and others also had to say something at the time when these Bills came on the anvil of the legislature. We know what happened in the House of Commons Select Committee. They said that any office which involves patronage also should be disqualified. That was one of the reasons given by Lord Spence when he was the President of the Select Committee. We further know, as a matter of fact, that this has been the criterion so far as the three Bills were concerned. This is an accepted principle. A Member of Parliament should be debarred from going on a Committee which exercises judicial or executive functions. At the same time, they should not be put in a position of such power and prestige that they can distribute the patronage. This was the principle which we accepted. Even then, I submit, we struck a balance. A balance was necessary to be struck. If you go through all the speeches— I have gone through them—in so far as the three Bills are concerned, you will find, our worthy Deputy Speaker and Shri Ranga and other speakers—have given us guidance. They said, this is

the yard stick and we have accepted that. I can understand this. We have not taken it as even if a small patronage is involved or even if a small discretion is involved. We have not adopted that. It is impossible in the nature of things. I cannot conceive of any membership in which no patronage or no influence is there. We have seen that the amount of patronage should not be disproportionate. So far as public interests are concerned, I do feel that there are Committees in which the bureaucrats will have their own say. Members of Parliament if they are the persons who can bamboozle them and who can say in their face that they are going wrong. The Member of Parliament can discharge his duty without fear and do the right thing. In regard to committees on question of labour or sanitation or health or commodity committees or community development, we are members in various committees by virtue of certain resolutions. If we accept the position that no Members can go into them, all the Members will be disentitled to sit in the Parliament and will get unseated. This will be the result. Every Member in his constituency is a member of the Advisory Board in the National Extension Service or community development. In the public interests, I do not for one moment agree that no Member of Parliament should be allowed to go on a Committee. That would mean that we are not really understanding the real meaning of the provision which gave us power. Powers are given for this purpose so that in all matters in the best interests of the country, we must allow Members to go on certain Committees.

You have been pleased to interpret the words "under the Government of India or the Government of any State". These are words which have got a special meaning. These words are not sufficient. If there is a University or a department which gets money from the Government, because the money is got from the House, the money should not be regarded as

coming from the Government. The words are "under the Government". In the British Act of 1707 in Queen Anne's time the words were "either under the Crown or from the Crown". There is a great discussion in the books which we have seen and studied. The membership of every committee or commission or corporation which is fully financed by the Government, or partly financed by the Government or even controlled by the Government though not financed by it, is regarded as an office of profit. Government itself may not give the money, but if a department is controlled by Government, service in such a department will come within the mischief of the rule. The rule is a long one and is not covered by the apparent meaning of the words "under the Crown or from the Crown". Otherwise there will be great difficulty.

Many hon. Members have put forward many arguments, but the rule is quite clear to my mind that all civil servants, wherever existing, should not be allowed to come to the legislature, since Government has got influence over them. This is an accepted principle. This principle has not been followed here.

If you look into the British Act you will find a list of the various categories persons serving in which are not allowed to come to Parliament. This is to safeguard the independence of the Members. We are very jealous of the independence of the Members, and from what has fallen from you, you are the most jealous of all, and I am very glad that you take this view, but at the same time I must in all humility submit that even this view is not correct that no person should be allowed to serve on non-parliamentary committees unless it is a very rare case. They should be allowed in cases in which independence is not lost and the interests of the country are furthered by their participation in such committees. This is the principle which we have accepted.

Mr. Speaker: I will make my position clear. All that I meant was that each case of an office of profit might be
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examined by Parliament. That is all that I wanted to say. Let there not be a standing committee to dispose of this matter.

Pandit Thakur Das Bhargava: The principle is perfectly right. Each case must come to this Parliament, and Parliament must exercise its mind, but the difficulty is this.

13.33 hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

The Government of India works through its Secretaries, the Secretaries work through the clerks and the clerks through the chowkidars. Similarly, the sub-committee speaks for the Joint Committee, the Joint Committee speaks for the House and so on it goes on. I am of this view that all the committees given in the list should be scrutinised here. Then I will be most glad. After all, the individual Members of the Committee do not have so much knowledge, do not have the fullest possible knowledge about every committee. We went into every committee, we spent days and days. It was not an easy matter to go through 1,200 committees. Ask the Chairman of the sub-committee, Shri Jaganatha Rao. In respect of every committee we looked into the composition and other matters. There were 15 Members sitting around the table, and we were expressing our views. It may be that if a stronger Member was of the view that a particular committee should be exempted and pressed his view, we all agreed to it. At the last moment, the hon. Law Minister asked: "What have you done with regard to the Bhoodan committees?" He said that after all they did not make such a difference and we agreed. It is a matter of discretion. Once you allow this principle, it is most difficult. There is no balance in which the amount of influence, patronage or power can be measured to decide this way or that. After all, it is a question of discretion.

Many hon. Members have raised the objection that the State committees

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have not been brought in while the parent bodies have been mentioned. They do not know that the State Ministries did not come before us in respect of most of the committees in the States. So, how can we express an opinion with regard to them, and how can we be accused? It passed my comprehension. The argument saying that it was arbitrarily done is not well founded. Not a single hon. Member has come forward to say: "Here is the composition of a particular committee. You have not dealt with it fairly."

We can commit mistakes. The Joint Committee speaks on behalf of the House. If the House does not accept the schedule, any hon. Member is entitled to bring in amendments, but Members complain without having gone into the composition of committees. Some person asked me: "Why have you not included such and such a committee?", as if I was the only Member of the Joint Committee. I was one of the Members. I was overruled. Many others were overruled. Even the chairman could be overruled. After all, in a matter like this, it is not right to accuse the Joint Committee or the sub-committee. The best thing would be to find out the nature of the committee concerned and say that it has not been done rightly, and get it done here.

So far as the standing committee is concerned, I am sorry that the hon. Speaker, after expressing his opinion, has gone away.

Mr. Deputy-Speaker: The hon. Member should conclude now.

Pandit Thakur Das Bhargava: But I have to convince the House. The proposal of Standing Parliamentary Committee was a proposal made by us in the Committee and it was also accepted in the committee. This committee, Standing Parliamentary Committee is most important in that all committees, whether included in the schedule of the Bill or not, will come within its purview. This will constantly review them. It is not the final authority.

The House is the final authority, not even the Government. It will only recommend to Government and Government will come forward with a Bill before the House, because, after all, it is the House which is the deciding factor, nobody else.

It is quite true that in the British Act of 1957 they have evolved another rule, but we cannot have such a rule here. They have said that a mere resolution by the House is sufficient. Unfortunately that is not open to us in view of the requirements of the Constitution which says that Parliament must declare it by law.

Therefore, if you constitute the standing committee, it will go into all committees in future. It can also go into the present committees including those in the schedule. At the same time, my complaint was and is that unless and until we have gone through all the existing committees, we have not done our duty. If you see clause 3(i), it means that membership of all committees is immunised, even those committees which have not been examined. Even without considering them, are we in a position to say that all the committees should be exempted or not. This is unfair, this is dishonest. To make a rule that all the committees which have not even been examined will be exempted is not right, is not fair, is not honest. You may say that this parliamentary committee will be appointed within a month, and that it will make its recommendations within six months. Let it report. There will be a complete schedule so far as the existing committees are concerned. So far as the future committees are concerned, the future will take care of itself and the standing committee will recommend to Government to bring forward the necessary legislation. We cannot in anticipation....

Shri D. C. Sharma (Gurdaspur) The hon. Member just said that the future will take care of itself, but who will take care of the future Members of Parliament? How will

they be guarded against these disqualifications?

Shri Braj Raj Singh (Ferozabad): Should there not be a look at the clock also?

Mr. Deputy-Speaker: I also wanted to bring to the attention of the hon. Member that the first bell was rung by Mr. Speaker 15 minutes ago.

Shri Tangamani (Madurai): All that we can do is to give a list of offices which will not disqualify a Member. If we give a list of offices which will disqualify a Member, what prevents the court from saying that they will still be qualified. I would like to know what Pandit Thakur Das Bhargava has to say on this point.

Pandit Thakur Das Bhargava: My difficulty is firstly you have rung the bell.

Mr. Deputy-Speaker: Two bells have already gone before me. The Speaker rang the bell.

Pandit Thakur Das Bhargava: That I did not hear unfortunately.

Mr. Deputy-Speaker: There have been two before, this was the third one I rang.

Pandit Thakur Das Bhargava: My difficulty is this. I have not seen any person being so disturbed in the course of his arguments. And every Member has been allowed full time. There is no reason why I should not be given full time. If I am irrelevant, I can certainly be stopped, and I shall stop. Even apart from that, I do not know whether it is your ruling that a Member can be disturbed like this, and he cannot be allowed to have his full say on a Bill. So far as Bills are concerned, I understand that the convention is that every Member can take any amount of time he likes, provided he is not irrelevant, and he does not repeat his arguments.

Mr. Deputy-Speaker: I was adopting all the time what the hon. Mem-

ber himself had done while he was in the Chair; he had looked to the allotment of time that had been made by this House and by the committee.

Pandit Thakur Das Bhargava: Even that was not right. When I was in the Chair, yesterday, I did not disturb any Member. Even if I had been wrong, you must be right.

Mr. Deputy-Speaker: I am not arguing that. I am not disturbing. But the Speaker had perhaps a time-limit in his mind, and he had rung the bell. And that was before I took the Chair. He told me that perhaps Pandit Thakur Das Bhargava would be finishing soon. Perhaps, he had not a correct idea.

The hon. Member may take a few minutes more, but some end has to come.

Pandit Thakur Das Bhargava: If I am put many questions, am I to be so disrespectful as not to answer those questions? If the Speaker asks some questions, and you, Sir, take some time, and other Members also take some time is all that time to be counted against me?

Mr. Deputy-Speaker: As I had suggested earlier in this House, these interruptions and these interpellations are also part of the speech.

Shrimati Sucheta Kripalani: I would submit that the time may be extended.

Pandit Thakur Das Bhargava: I would respectfully ask you that you may give us a particular time within which we must finish, so that we may cover all the important points.

Mr. Deputy-Speaker: How long would the hon. Member take?

Pandit Thakur Das Bhargava: I shall require at least one hour more, because I have not touched the Bill, as you have seen. I am sure you would have looked into my minute of dissent. I have not touched even one

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category of those who have been exempted, and I have been very bitter, as you know, against all those categories.

Shrimati Sucheta Kripalani: The time may be extended.

Pandit Thakur Das Bhargava: You may fix that I should finish in such and such time, though, I think, it is not according to the rules; every Member has a right to speak on a Bill for as long as he likes. I am ready to obey your order, if you fix any time, I shall finish within that time, whether actually the speech is finished or not.

Mr. Deputy-Speaker: The hon. Member is always invited to every Business Advisory Committee meeting.

Pandit Thakur Das Bhargava: Therefore, I said that ten hours should be given. Yesterday, what happened was that the whole argument was collapsing, and then I requested the Chair to call me. I was not willing to speak yesterday. But when I found that whole thing was collapsing, I stood up.

Shrimati Sucheta Kripalani: There were so many Members who wanted to speak.

Pandit Thakur Das Bhargava: They were not here. I know the hon. Member herself was not here.

Shrimati Sucheta Kripalani: I may not have been here. But others were here.

Pandit Thakur Das Bhargava: You may fix some time, so that I may finish all the important points.

Mr. Deputy-Speaker: I would allow him, but other hon. Members are impatient. I would not myself impose any limit on the hon. Member.

Pandit Thakur Das Bhargava: It is very kind of you.

Shri Braj Raj Singh: He has already taken about an hour and thirty minutes.

Shrimati Sucheta Kripalani: In view of the fact that Pandit Thakur Das Bhargava is a very important Member, as far as this subject is concerned, and he has studied this subject, we are very anxious to hear him. Every time we put questions, it is not with any idea of interruption but with the idea of clearing our own minds,—because this is a very important subject which is going to affect each one of us—therefore, I would request that you may let him have the full time, but then five hours more must be given for this debate.

Shri D. C. Sharma: I second what the hon. lady Member has said.

Shri Braj Raj Singh: Shri D. C. Sharma has already had his say.

Shri D. C. Sharma: When I was speaking yesterday, the hon. Member who was in the Chair then never rang the bell, and he never interrupted me.

Shrimati Sucheta Kripalani: Seriously, we request that time should be extended.

Mr. Deputy-Speaker: In return, if Shri D. C. Sharma had been in the Chair, he would not have rung the bell.

Pandit Thakur Das Bhargava: I do not accuse you of cutting short my speech. I know you are very indulgent and every time I speak, you never ring the bell. But in regard to resolutions, we know that there is a time-limit of fifteen minutes within which one has to finish.

Mr. Deputy-Speaker: Now, the hon. Member may resume his speech.

Pandit Thakur Das Bhargava: I was submitting that the interpretation of

article 102(1) as given by the Law Minister, who was previously in-charge of the Bill was as follows. He said in his opening remarks:

"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 need not be entitled to become Members of Parliament. That article also contains a provision enabling Parliament to remove the disqualification for specific offices."

That was his view, that in regard to every office, Parliament must declare its view. If Parliament goes out of its way to scrutinize through every office, you can yourself visualise how much time will be taken. So, where is the wonder if in 1941 this matter about disqualification came up before the British House of Commons but they decided the question only in 1957? They took such a long time.

Here also, every time a Bill came up before this House, it was practically put off, and an immunity Bill was passed saying that Government would bring forward another Bill. It was under these circumstances that the Committee on Offices of Profit was appointed, and that committee submitted its report. Now, six months is not a good enough time for getting information about all the committees in the whole of India. I quite agree that there may be delay for a few months. But, as I am submitting, within one month, this standing parliamentary committee should be appointed and within six months, it must be able to finish its labours, so far as the existing committees are concerned. That is not too much. I am rather intrigued by the statement of the Deputy Minister when he says that it is impossible. I cannot understand. I am very sorry. Even you, Sir, were pleased to say that it is difficult to define what an office of profit is. On that point, I agree. The term 'office

of profit' is very difficult to define. It is very difficult to weigh what makes an office of profit. But getting the material in regard to the composition of the various committees is not at all a difficult thing.

Today, when the Speaker has spoken, and you, Sir, have spoken in this way, I am sure within two months, all the material will be gathered, and the standing parliamentary committee can go into that matter immediately and then report to Government, and Government can bring forward a supplementary Bill so that the whole thing may be complete.

As I submitted earlier, I feel very strongly on this point, that we cannot pass clause 3(i) which says that all committees are unobjectionable which do not come within the schedule. We are not justified in doing so, without seeing the composition of the various committees. It will be a fraud upon the Constitution. I am using not a very strong word, because this very word was used by Dr. Ambedkar on an occasion like this.

Therefore, I am submitting that it is very necessary that there should be a standing parliamentary committee appointed, and within six months, it must conclude its labours, and then Government should bring forward a supplementary Bill saying that such and such offices would be qualified while others would be disqualified. If Government bring forward a complementary or supplementary Bill, after the standing parliamentary committee has gone into the whole matter and submitted its report, then I shall be quite content. That is the whole scheme that I envisage.

Now, I come to the particular offices and categories of offices which have been enumerated in the Bill. So far as the Bill is concerned, there are a few offices only which they have touched; otherwise, they have not touched anything at all. This is the

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complaint which I made before the Joint Committee, and this is the complaint which I make here also.

What about the pensioners? There is nothing in this Bill in regard to them. What about honorary magistrates? Again, what about the servants of the local bodies? They will all hang in the balance; they will never know what their fate is, whether they will be able to stand for election and become Members. After all, when a Bill of this nature is being brought forward, they must know clearly what their position is. The law must be quite clear, and they must know where they stand. What is the use of insisting on them after they are elected to go through election petitions, to go through the trials and tribulations of election petitions?

My submission is that what is mentioned in this Bill is not exhaustive. Only a few categories have been mentioned and have been exempted. But all the cases have not been examined, in spite of my submission before the Joint Committee.

I have no objection so far as items (a) and (b) in clause 3 are concerned. As far as item (c) is concerned, I have not given notice of any amendment, and though some Members have objected, I, for one, am not so insistent that they may not be exempted.

But in regard to the home guards, I am very sorry I cannot say the same. I know that the committee of which I was the chairman could not thoroughly go into this question, and, therefore, we exempted home guards. But we made a mistake there. After I heard you, Sir, in the Joint Committee, I changed my opinion. As a matter of fact, when I came to know from Shri Mahanty that home guards are just like police people, and they are out to see that they are called—not that they are called in emergencies, just like the members of the Territorial Army—that they are ordi-

nary members of the public, and they are called for emergencies etc. to maintain security etc., I changed my opinion.

Mr. Deputy Speaker: It appears that the recommendations of the Bhargava Committee were much too powerful to be disregarded; so the Joint Committee also followed them.

Pandit Thakur Das Bhargava: I myself submitted that we were wrong then. After all, it will be foolhardiness on my part, it will be cussedness on my part, if I go on sticking to what I said in that committee; I am convinced after hearing you that I was wrong. You, Sir, were responsible for this. You explained in the Joint Committee what these home guards were. Shri Mahanty also told us what they were. I shall not be a good Member of Parliament, if I do not change my opinion, after hearing the Deputy-Speaker.

My humble submission is that home guards are part of the police. They are nothing but policemen. After all, what are policemen? They are our protectors. I love all policemen; I love all the Army people. They are not bad people. Similarly, the Vice Chancellors are good. The judges of the Supreme Court, are good. We do not allow them to become Members of Parliament. It is not a question of their goodness or badness. The point is whether they are such as to be allowed to come to Parliament on account of the fact that they are civil servants. They are practically executive or judicial or other Government officers. They are practically of those who are part of the Government and as such, they will not be independent Members of this House. That is the real trouble.

So far as Home Guards are concerned, I am clear in my mind that we made a mistake in that Committee, and I do not want to repeat that mistake.

Shri Dasappa: What is the profit that the Home Guards get?

Pandit Thakur Das Bhargava: In the Committee we saw the Act under which these Home Guards were constituted. At the same time, we heard the experience of hon. Members. But so far as the question whether they get any profit is concerned, I do not remember. The hon. Member may kindly go through the Act. As a matter of fact, at that time, we considered it. Therefore, I appointed a Minute of Dissent saying that they should not be exempt.

About Sheriff, there was some criticism, but after hearing the hon. Law Minister, who in his speech in the house gave a full description of what a Sheriff is,—he is in charge of prisoners, of a court of sessions, he is an officer of the High Court, he is an officer pure and simple exercising the powers of a public servant—I would be the last person to exempt him. I know what he will do, and I know what the Home Guards will do, how they will vote. As regards the Territorial Army, it may be asked whether they will go against the Minister of Defence if necessary? At the same time, there may be people among them who are more patriots than soldiers. Therefore, an exception might be made. But in regard to the Sheriff, I am quite clear in my mind that it will be a very great mistake to allow him to come to this House.

Similarly about the Vice-Chancellor. I had something to say in the Committee of office on this matter, and I stick to that opinion. I have heard it said that he does not get any money from the Government. Whose money is it that he gets? Rs. 5 crores have been given to the Banaras Hindu University by the University Grants Commission. Whose money is it? Is that not controlled by Government? Therefore, my humble submission is that there is no difference between a constable and a Vice-Chancellor from this standpoint, that he represents the

Government and is a public and civil servant of the Government.

Acharya Kripalani: That is true in the Banaras Hindu University.

Pandit Thakur Das Bhargava: For which Acharya Kripalani was once being proposed as Vice-Chancellor. Shri D. C. Sharma was also said to be one of the candidates sometime. These are all personalities whom we can worship, but we cannot allow them to enter the sacred precincts of this House in that capacity, because by the very nature of the duties of Members of Parliament, they must be independent of the Government. A Vice-Chancellor will not have the heart to speak a word against Dr. K. L. Shrivastava if he is here.

Shri Vasudevan Nair (Thiruvella): He is always expected to be independent of the Government

Pandit Thakur Das Bhargava: He is expected to be. Yet, we have made this provision. There are two kinds of Vice-Chancellors. One category is of persons as are not appointed or removable by Government. If anything is said in respect of them, I can understand it. But in regard to the rest of them, other persons like Pro-Chancellors etc., we have not said anything. The Vice-Chancellor is a man who is entirely devoted to his University and its affairs. Why take him from there?

Similarly about those persons in charge of corporations. Why trouble them to come here? They are doing their work very well for the nation. There is no difference, there is no halo about Members of Parliament. All are doing the same work. There are many people outside this House whom we worship. We respect Acharya Vinoba Bhave and Shri Jaya Prakash Narain, very much. Acharya Kripalani was not here before. So that would make no difference so far as

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one's position in life is concerned. The yardstick is there. According to the yardstick, whoever comes within that, whether he is good, bad or indifferent, whether God, or demi-God or human being, let him not enter the sacred portals of this House. This is the basis on which Vice-Chancellors should not be allowed to come in.

Similar is the case with the Syndicates and Executive Committees and so on. It appears that all these persons are exercising certain powers of appointment, certain powers of patronage, and they are too busy with their work. This is not a matter where Members are to be educated by anybody. Members are supposed to know all things. If they want the opinion of educational experts, they can examine them. There is no difficulty whatsoever.

As regards members of delegations etc., I have no objection provided the period is fixed. You know that under article 101(4) of the Constitution, we have fixed the period up to which Members of Parliament can be absent from the House before his seat is declared vacant. He should not be sent for more than 90 days according to that provision. Sixty days are to be counted according to 101(4) article. Therefore, my humble submission is that the period should be fixed. It may even be that the period may be fixed as six months or whatever is sufficient. But if he is to go away from here for all the years in which Parliament sits, what is the use of having that Member of Parliament. The constituency will be denied its rights. Therefore, the period must be fixed. It may be six months or whatever the House wishes.

So far as the question of chairman, director, member etc. is concerned, I have said enough and to spare. So far as adviser is concerned, I have also had my say. But so far as this adviser affair is concerned, it is too bitter a pill to swallow. I cannot swal-

low it. It means conferring on the Ministers powers of nepotism and favouritism. The real difficulty when we come to enact this Bill is this. On the one side, the Ministers feel intrigued that their powers of nepotism and favouritism are taken away. On the other, Members are not happy because they cannot be Members of Parliament and exercise these powers. Both sides are not happy. Whom are we favouring? For whose sake is the Bill being proceeded with? It is for the benefit of the public so that their representatives may be independent. Therefore, we are doing this unpleasant duty. So if we do not like it, what is the use of bringing this forward? Scrap this Bill.

As regards these advisers, if a committee is appointed, I can understand it; it is an impersonal thing. But imagine a single person being appointed as adviser. He will be the conscience-keeper of the Minister. People will flock to him as the giver of all favour. It may be within his rights or not to give favours. But he will be criticised. The Minister will also be criticised. So in the interest of both of them, this provision should be taken away.

So far as the advisory body is concerned, it will be either statutory or non-statutory. There is no occasion for a third kind of advisory body.

Shri Dasappa: In the U.K. have advisory bodies been disqualified?

Pandit Thakur Das Bhargava: There are no advisers in the U.K. Act. At the same time, I may tell the hon. Members that in the U.K. they have gone further. They have limited the number of Ministers; there cannot be more than 70 votes of them in the House of Commons of 612 people. Even among the Ministers, only 30 or 40 can sit and give their votes. We have not gone to that length here, because it is unnecessary. Other-

wise,—if I had any such suspicion in my mind that the Government are out to see that we, Members of Parliament, are not rightly treated, I am bound to see that I will limit the number of Ministers. In limiting the number of votes of Ministers, I want to have a majority and a very large majority of non-official votes so that we may be able to out-vote the Government wherever necessary. They should convince us and persuade us to give our votes. Otherwise, the rule should be that the Members of Parliament who have come here representing various constituencies should have the last word on the subject. There have been occasions when even in this Parliament, we dictated to the Ministers. It is the right thing to do, that this House should dictate to the Ministers to have a particular policy or follow a particular course. It is wrong that whatever a Minister dictates should be the law of the land.

So far as part-time officers are concerned, Shri D. C. Sharma—who is not here—said something to the effect that this House would be a House of part-timers and all that. Fortunately, the hon. Law Minister has acceded to the advice of the House to take away that provision. Persons who are paid by Government can no longer become Members of the House. That category has been removed. The only category that remains is the one mentioned in (j). Regarding this, I may say this. There is a proverb in Punjab about *lambardars* which decency does not allow me to repeat here. It is good that we do not allow *lambardars*, *malguzars*, *patels*, *deshmukhs* etc., to come to the House. So far as *malguzars* are concerned, I do not know what is really in the mind of the hon. Minister when he put this provision. The *malguzars* are persons who pay land revenue in the Punjab. As such, I think there is no question of doing anything about them. Every person who owns land can come here in this House. What is the difficulty?

As regards this, Ch. Ranbir Singh had something to say and he had a

dig at me also, that I was once a *lambardar* and that was, according to him, sufficient to say that *lambardars* are exempted. I may submit on a point of personal explanation that I happened to be the sole proprietor of a village and as such, there was no other person who could be appointed *lambardar*. So technically, I was a *lambardar*. I resigned from that some 7 years ago when I came to the House because I knew that *lambardars* cannot stand. I am not against *lambardars*. These people are not inherently bad so far as this House is concerned. What is a *lambardar*? He is a person who is the henchman of the *thanedar* or the *tahsildar* and the civil officers. I have yet to see an independent *lambardar* living in the village and discharging his functions and duties there. You may be a *lambardar* who may be sitting here in the chair; you may be a *lambardar* who is not concerned at all with these particular duties.

14 hrs.

Mr. Deputy-Speaker: I am not one.

Pandit Thakur Das Bhargava: But there are many whom I can see. So far as status is concerned, they have a very high status in society. I am not against those things. There are a few who would come otherwise also. But, at the same time, they can leave the *lambardarship* also.

So far as the *lambardars*, the *patels* and the *deshmukhs* are concerned, we had full details before the committee. My first charge is, why did we not go through these details; why did we not decide the question as to who should be exempted and who should not be exempted. Why did we leave it to the scrutinising officer or the election officer presiding over an election petition? It should have been decided then and there. I asked the Committee to go into the question. In the first committee we had some excuse because we were not furnished with

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the details. But, here we were furnished with the details and yet we failed in our duty.

After all, these men get some commission for doing the collection work. When a person gets some commission or is paid some salary, all the same, he gets payment from Government; out of Government money he gets something back by way of commission. As a matter of fact, he is just like any other government servant. Any other person appointed to realise government revenue shall be a government servant. I do not see any difference between a salaried person and a person who gets some commission. The Registrars also get some commission; they get some fees.

Again, these words have been added here—'who does not discharge any police functions'. I have got a very great complaint against the addition of these words, the idea being that we do not know what police functions are. They have not been defined anywhere. I have seen the Criminal Procedure Code—every word of it—and it is not defined there. A 'person in charge of a police station' is defined there; all other persons are defined; 'a police officer' is defined; but not a person discharging police functions'. We do not know what police functions are.

I have heard the story of a person who came and said: this camel is for sale. When asked, what was the price, he said Rs. 5; but, it must be sold with a dead cat around the neck. Then, what is the price? He said the price of the cat was Rs. 500/-. Therefore, if any person wanted to purchase it he must purchase both; and, therefore, the price would be Rs. 505. The camel could not fetch that price.

These lambardars should never be excluded by this exemption because they can in no manner be said to be discharging police functions. They help the police; they are the henchmen of the police. In every national

movement it was the lambardars who gave evidence against the patriots; they were the persons who told the police that this man did this or that man did it.

According to the rulings of the High Courts and various other courts, they are people in whose presence even a confession is bad. As a matter of fact, these people are parties to the fabrication of evidence etc. They are helpless before the police; they cannot do anything before the police; they are the henchmen of the police. If you allow them to come here what will be the result? Why are you anxious to bring them here? Let them resign the lambardarship in favour of their younger brothers and then seek election. It is the right of every person to become a Member. But what is the use of allowing these persons who though not discharge police functions strictly speaking are enforced upon to help the police. My humble submission is that it is not right to allow these persons here—to become Members of Parliament.

I am very thankful to you, Sir, for having kindly given me these last 15 or 20 minutes in which I could say something about these officers. I am also thankful to the Speaker for when he was here he did not bring it to my notice that, as a matter of fact, he had rung the bell. Then, perhaps, I would have submitted the same thing; and if he did not want to allow me time I would have sat down. Therefore, I am thankful for I had a full say about what I had to say.

Shrimati Sucheta Kripalani: Mr. Deputy-Speaker, Sir, as the debate of yesterday and today has revealed, this is a very complicated and intricate subject. The best of minds have gone into it and they are, I think, not definite as to what we should do.

This Bill is very important for the Members of this House for two reasons. We are anxious to preserve the independence and freedom of the

Members; we do not want the Members to be corrupted. At the same time, we want that the Members who are called upon to serve on certain committees should be able to serve on those committees with freedom, without any fear that they would be incurring disqualification, and the penalty attached, particularly so because the penalty attaching to disqualification is very severe.

Our Constitution lays down in article 102 the principle that no Member of the Parliament should hold any "office of profit." It is a good principle, we have accepted it. But, in the actual working of it, we have been finding difficulties. Therefore, as Pandit Thakur Das Bhargava has already pointed out, repeatedly, for two or three years we had to pass the Prevention of Disqualification Acts, in 1950, 1951 and in 1953. Ultimately there was a consensus of opinion in the House that this needed proper clarification. We wanted the position to be clearly and unambiguously declared so that we would know where we stand and how we are to function. The Bhargava Committee was appointed and this Bill is a result of the recommendations of that Committee.

I feel that the position has not been further clarified; the position is yet as unclear as before. The principle that a Member of Parliament should not hold an office of profit is, I say, good and wholesome. This is an extension of the principle that the Legislature and the Executive should be separated. If we do not adhere to this principle, if we disregard this principle, we can take away the independence of the Members and we can corrupt them; we can lure them into offices. That is one side of the question.

On the other side, a Member of Parliament who holds the position of a member of a committee, holds an executive position in the sense that he has power, prestige and influence. He can exercise that power, prestige and

influence for himself and for his friends during an election. There are therefore two aspects of corrupt practice on one side a Member can indulge in or the other hand the Government can corrupt him. Hence, it is a very wholesome principle which we want to retain. But the difficulty arises in actual implementation of the principle.

The other side of the picture is that ours is a new State. We have declared it as a 'Welfare State', as a 'Socialist State'. The public sector is expanding increasingly. As the public sector is growing and expanding, there is a very great demand that Members of Parliament should serve on these committees in order to see that these public sector institutions are working properly. As Shri Bharucha said, large amounts of our money are going to be expended throughout the public sector. How can we then say that Members of Parliament should not at all serve on them? This is a very legitimate and cogent argument which we cannot possibly ignore.

I can understand if in this Parliament, an august body, the supreme authority in this country, we make a declaration that no Member of Parliament should serve on any of these committees. It is a clear position; it is a good position for all of us. But, if we want that our Members should serve on such committees, then, we should make the position so clear that the Members should not feel that the sword of Damocles is all the time hanging over their heads. Therefore, the main issues before us are these. The first is, how to safeguard the Members from the mischief of incurring the disqualification which entails very severe punishment if we want them to serve on committees, at the same time, maintaining the independence of the Members and preventing them from being corrupted.

Secondly, what are the committees on which the Members could serve if

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the nation needs the services of particular Members both inside the Legislature as well as on the executive of those bodies outside? What is the minimum number of such committees?

The third issue is, what constitutes an office of profit? Yesterday, I had raised this question as to what is an office of profit, we were then told by the Law Minister that it is very difficult to define an office of profit. If we say that the criterion is remuneration, then I can understand that we fix a certain amount and say that so much of compensatory allowance would not come under the mischief of the office of profit; it is a simple definition; it is something tangible and clear and can be comprehended. But the conception of the office of profit is wider. It means not only remuneration but influence, power, position or patronage etc. These terms are so vague that it is difficult to define what is influence or power. However much clarity you may try to bring into it, still it eludes you. You yourself, Sir, expressed this view a few minutes ago, Pandit Thakur Das Bhargava has admitted this in his note of dissent. Many others have expressed the same view. In spite of the best efforts for the last nine months of the Joint Committee and the Sub-Committee, where experienced Members like Pandit Thakur Das Bhargava were there; you were yourself there. In spite of that you have not been able yet to draw up a list whereby you can draw a clear line and say that these committees should incur the mischief of office of profit and these should not. Sir, you yourself said a few minutes ago that you felt that even in ten years this task of drawing up a complete schedule cannot be completed. The task is stupendous. If you take only remuneration as the criterion then it is something clear and simple. Difficulty arises only when the concept of influence and position etc. is added to it. At the same time I do feel that mere criterion of remuneration for

defining office of profit would not be correct, because through influence one can corrupt people as also through power and patronage. Therefore, it is very difficult to come to any clear decision and to pass a Bill which will cover all these aspects. What is the result of the very sincere effort on the part of a number of very clever and top brains of this country? The result is that we have a two page Bill. Appended to this Bill are a large number of minutes of dissent, five in all, covering about 20 pages, written by the most influential Members of the Committee. In the report itself it is admitted that in spite of their best efforts, they could not draw up an exhaustive list. They scrutinised about 1200 committees and were able to draw up some kind of a list which is incomplete and unsatisfactory.

Now, take even the text of the Bill. The most important clause of this two-page Bill is clause 3. In this clause, objections has been raised both yesterday and today by hon. Members and also by Pandit Thakur Das Bhargava to sub-clauses (c), (d), (e), (f), (h), (i) and (j). We have in this clause sub-clauses (a) to (j) only. Objection has thus been taken to almost all these sub-clauses. Very serious objection has been taken also to the Schedule. It was pointed out yesterday and today and even in our Parliamentary Party meeting—if I am not divulging any secret—that the Schedule was very unsatisfactory Pandit Thakur Das Bhargava has explained that while the Joint Committee was drawing up the Schedule, it did select the Committees according to certain principles. Those Committees, that gave their Members a great deal of patronage and power, came under the disqualified list; others came under the exempted list. I earnestly believe that the members tried to do a sincere job. But what is the result? Schedules have been drawn up which appear to be iniquitous and arbitrary. Shri Dasappa has pointed out that the regional transport authority (a

body where there is enough scope for corruption and influence), in this schedule, is debarred for membership only in five states. In the rest of the States they are not debarred. It is so in the case of other committees too. Committees performing similar kind of function have been included in the Schedules for disqualification and the others left out. One incurs the disqualification while the other does not. Now, take the text itself. In the text, the Vice-Chancellor is allowed to become a Member of Parliament. If a Vice-Chancellor is allowed to become a Member of Parliament, why not the Chairman of the University Grants Commission? As it is, the Chairman of the UGC is debarred while the Vice-Chancellor is allowed.

Shri Hajarnavis: No, no.

Shrimati Sucheta Kripalani: You have not debarred but in practice it will be. If you go and get the interpretation of the courts, you will find it out. I have got that matter checked up by a lawyer and so I am telling this to you.

Mr. Deputy-Speaker: The hon. Member has got enough experience of judicial interpretation now.

Shrimati Sucheta Kripalani: Unfortunately, having fought my election petition case for seven years, I have got enough experience.

Mr. Deputy-Speaker: That is what I was referring to.

Shrimati Sucheta Kripalani: Our object was to get a clear Bill which will help to retain the independence of the Members and also allow some of them to function on the Committees. The position was ambiguous and not clear. Therefore, we took up this task. After all these efforts, the picture is not yet clear and it still remains ambiguous. What are the implications of this Bill? You know very well, Sir, being a lawyer Member of Parliament and also having fought an election

petition, what the position is. I may also point out that the penalty attached to disqualification is very severe. A few days back Dr. Parmar's election was set aside on the ground that in one of his remote polling stations one person had something to do with the military—it was later on discovered—and on that ground he attracted the disqualification. The whole election was therefore set aside.

Our election is a stupendous task. The British Parliamentary election is an easier task, it is a smaller constituency geographically and there are smaller number of voters whom the candidate has to approach. We have to approach five lakhs of voters. We have to go from place to place and cover distant areas. I had been to Dr. Parmar's constituency in Himachal Pradesh and I know what it is like. It is spread over remote regions where few people live. The people are mostly illiterate and it is very difficult to fight an election in such an area. Suppose in such an area a constituency has over 500 polling stations, the candidate has to find 500 election agents then such mistakes take place quite inadvertently. But over such a small mistake, the entire election can be set aside. Not only that. The candidate also stands disqualified for six years. He cannot be a Member this term and he cannot fight an election for the next time.

I will also give you my own experience about legal interpretations. Both Pandit Thakur Das Bhargava and myself are Members of the Rehabilitation Finance Administration. There are always three Members of Parliament on that Committee. When the first Bill was being passed, I think Dr. Ambedkar was the law minister,—he was an eminent lawyer—he examined the position and told us that there was nothing to worry and that we would not incur disqualification. Still we had our own doubts, our own legal interpreters were telling us that the position was wrong. We then got the legal interpretation from the Law Ministry which was officially sent to

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the Rehabilitation Finance Administration. The ministry also gave a similar opinion that we would not incur disqualification. Even then we were not satisfied. We got it again checked by our lawyers and also by Shri N. C. Chatterjee. We found the position to be altogether defective. We would have been disqualified but for the exemption extended to the Committee's membership. The lawyers also told us that this interpretation of the Law Ministry was a scrap of paper as far as the Courts were concerned. The interpretation had to be given by the Courts only.

Now let us take remuneration. What is the legal interpretation of "remuneration"? Just now Shri Thakur Das Bhargava gave an instance where members of a Committee who drew an allowance of Rs. 5 stood disqualified. Even if they had not drawn that amount but were merely entitled to draw the amount they could have incurred disqualification. As long as one is entitled to draw an allowance it is immaterial whether the allowance is drawn or not the person is liable to stand disqualified.

Then let us take the case of Shrimati Hansa Mehta. She was the Vice-Chancellor and when she became a Member of Parliament she was drawing her pay not from the Government but from the University. But the Government was the appointing authority and that is why she incurred the mischief of the office of profit. Yesterday, Shri Bharucha gave us the instances of some honorary doctors giving service to the Government and coming under the mischief of office of profit. Therefore, it can be seen that office of profit is a very vague term and it is difficult to keep away from the mischief. Therefore, we had demanded that it should be clearly defined. Some principle should be clearly laid down so that we know where we stand. That we find has not been done in spite of the

best efforts of the Joint Committee, so much so many Members of the Joint Committee have even sent strong notes of dissent. The text of the Bill is defective, and as far as the Schedule is concerned, though the makers of the Schedule were guided by certain principles and they tried to select the Committees according to certain standards, in actual fact the final list that has come to us today looks arbitrary and iniquitous. Therefore, neither in the matter of Schedule nor in the matter of the text of the Bill have we clarified the position. We have not made the position any better than before. We wanted to preserve the independence of Members. I do not know whether we are actually preserving the independence of Members or giving protection to Members who want to serve on any committee. I for one think that if Parliament today, here and now, decides that we should not serve on any committee that would be much better for us. If we have to serve on any committee, we should know where we stand.

As I said, Sir, in both these matters clarity has not been achieved. This bill has not achieved the object for which all this labour was undertaken. The Joint Committee considered it for nearly a whole year, but we are where we were. That is why, Sir, I had pleaded that the Bill may be withdrawn and brought back again after further consideration. Shri Thakurdasji has found fault with us of demanding the withdrawal of the Bill. I am not against the Bill as such, but I want the Bill to be very carefully reconsidered. Even if the bill is not withdrawn we should take some more time to go through it carefully. If we must append a Schedule to the Bill let us have all the necessary information which will enable us to have a complete Schedule. Only a complete and exhaustive Schedule can make the position clear and unambiguous. If we do not want the members to serve on any Committee the Parliament should

make such a declaration here and now. That would be a more acceptable position as far as I am concerned. But if the members have to serve on any committee, then the position should be made clear and unambiguous so that no one is exposed to the risk of being disqualified. Therefore, Sir, this Bill is full of defects. This Bill needs very major changes in order to be acceptable to the House. Therefore, though I had a great desire to support the Bill I can only give it a very qualified support; but I would again submit Sir that we must go very carefully through the Bill before it is passed.

Shri Tangamani: Mr. Deputy-Speaker. Sir, enough has been said about the merits and demerits of this Bill, and Pandit Thakur Das Bhargava has developed his point of view to a considerable extent. I shall confine myself to some three or four aspects. I would like to ask Pandit Thakur Das Bhargava whether by including in the Schedule some offices as offices which will not be exempted we can bind any court of law to decide accordingly. With respect, Sir, I have to submit that article 102 clearly says that any office of profit under the Government of India or the Government of any State is disqualified.

Pandit Thakur Das Bhargava: The court shall have no power to declare. It is for either the President or the Election Commissioner if he has already become a member and for the Presiding Officer if he is seeking election. The courts do not come in except in election petitions and then they will be bound by the law which we will pass.

Shri Tangamani: Supposing there is an election petition; even if we say that it is an office of profit and on that basis the election petition has been filed, what prevents the Election Tribunal, what prevents the High Court, what prevents the Supreme Court from saying that it is not an office of profit? We cannot bind the Supreme Court

Supposing we say in the Schedule that the following 137 offices are offices of profit and anyone holding a post as a member in one case or a Chairman or Secretary in some other case will be disqualified and these offices cannot be exempted, if a candidate who holds a particular office included in those 137 offices has been returned and there is an election petition,—the Election Tribunal probably might dismiss it—what prevents the Supreme Court from saying that although it is included in the Schedule as an office of profit actually it is not an office of profit? Office of profit, as Pandit Thakur Das Bhargava himself knows, is a thing which has not been defined by the Supreme Court. We are not called upon to say, enumerate or illustrate those offices which are offices of profit. All that we are given power is to say that these are the offices which, although they are offices of profit, we think it wise to exempt. That is the point which I was trying to bring out, and I know that Pandit Thakur Das Bhargava did not have enough time to go into this point. This is a real difficulty which I have. That is why I feel that although the matter was referred to the Joint Committee....

Mr. Deputy-Speaker: Pandit Thakur Das Bhargava conceded that he had his full say, but the hon. Member now complains that he did not have enough time.

Shri Tangamani: On this particular point he could only make a casual reference. If he had got two full hours, probably he would have developed that particular point also; but I did not have the benefit of that.

Any way, Sir, that is my first objection. Having said that, I would like to point out that the motion for reference of the Bill to a Joint Committee was adopted, as the House knows, on the 16th December, 1957. The Joint Committee held nearly 16 sittings. A Sub-Committee was also appointed. The Sub-Committee, as the hon. Deputy Minister was pleased to point out, was helped not only by

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the Central Government but also by the State Governments, and I have nothing to say against either the Sub-Committee or the Joint Committee. All that I would like to say is that after nearly a year when the Bill comes to this House we find that we have not advanced an inch; we remain where we were in December 1957.

Therefore, in the light of the discussion, my submission would be that instead of trying to polish this particular Bill it may be better to think about making certain amendments in the Constitution itself where we can define what an office of profit is. Having defined what is an office of profit whether it is on the basis of remuneration or power, if exemption power is given to this Parliament and the Parliament exercises its powers, then we will know where we stand. Now, even after this Bill is passed it will be very difficult to make out which will be an office of profit and which is not an office of profit.

Sir, the purpose which really prompted a large number of Members of this House as Members of Parliament must be free from the corroding influence of the Executive: there must be real independence of legislature. Therefore, they said that a Member should be safeguarded from corruptibility to do his duty to the electorate in public interest by not being put in a profitable position by the Government of the day where he would gain either in terms of money or power and be tempted to carry out Government's aim as against those of public interest. That was the first one. The second one was: "Where his duties as a Member of Parliament which should have a first claim on his time would suffer as a result of his acceptance of a position on a statutory or non-statutory body in an executive capacity." These were the two objections.

I would like to point out how in the case of those offices which are not

exempted—mentioned in the Schedule—these two will not apply. The second point is that the duties of the Member of Parliament will run counter to his duties if he is made a Member of a particular office where he may have to devote whole time. Just to illustrate, I will give only three or four instances. In the Schedule, Part I, page 5, there is the Employees' State Insurance Corporation established under section 3 of the Employees' State Insurance Act, 1948. The name may sound very bombastic and may give the impression it is a Corporation. But it is not a Corporation which is managing a big industry. The Employees' State Insurance Act was passed in 1948 and the Employees' State Insurance Scheme is being introduced to various units. It is now being extended to various units throughout the country. This Corporation is more in the nature of a tripartite body. In this tripartite body there are representatives of Government, representatives of labour and there are also representatives of employers. This body meets probably once a year, and even then whatever this body decides is not accepted by Government. It is more in the nature of an advisory body. It is through this body that for the first time the representatives of labour come to know what is happening in the Corporation. Apart from that the function of this Corporation is nil. But I find that when the Employees' State Insurance Corporation was established, any member of this Corporation would be disqualified from continuing as a Member of Parliament.

I will give another instance. There is the Dock Labour Board at Calcutta, Bombay and Madras. The Dock Labour Board also is more in the nature of a tripartite body. There are the representatives from the Government, and from the trade unions. Under the Act, these bodies are created, and really, the supreme authority under the Act is the chairman. The chairman is the executive officer. All

that the representatives of labour can do in this particular Board is to present the case of the workers. The only advantage they have is, they can present the case of the workers and discuss it, and they can also to some extent influence the decisions. Ultimately, the carrying out of the decisions is done by the chairman. I find that the members of the Dock Labour Board including the chairman will come under this disqualification.

Mr. Deputy-Speaker: Does the hon. Member like to continue his speech?

Shri Tangamani: I may require ten more minutes.

Mr. Deputy-Speaker: Then he can continue his speech the next day. We may now take up discussion on the Annual Report of the Hindustan Steel Private Ltd.

14.32 hrs.

DISCUSSION RE: HINDUSTAN
STEEL PRIVATE LTD.

Shri Nath Pal (Rajapur): I beg to move:

"That the Annual Report of the Hindustan Steel Private Ltd., 1956-57, laid on the Table of the House on the 26th March, 1958, be taken into consideration".

Mr. Deputy-Speaker: Sir, I should first like to point out that we had expected the courtesy of the Minister being present when we are discussing something that concerns his Ministry. We hope that we will not therefore be subject to platitudes in view of the fact of his absence, when we have to offer our criticism.

(At this stage, Sardar Swaran Singh entered the House)

Shri Nath Pal: I am very happy. I welcome the Minister.

The Minister of Steel, Mines and Fuel (Sardar Swaran Singh): I have come according to schedule.

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Shri Nath Pal: I should like to begin by stating the reasons that goaded me to demand this debate. The first reason is, the importance steel occupies in our economy, the pivotal role steel has to play in the economy of a country which is striving and struggling to make the journey from semi-feudalism to industrialization. This important and key role steel has to play is very adequately reflected in the second Five Year Plan. The Plan states:

"The expansion of the iron and steel industry has obviously the highest priority since more than any other industrial product. The levels of production of these materials determine the tempo of the progress of the economy as a whole".

The Plan further states:

"Conditions in India are favourable for securing the production of iron and steel at costs which are low in comparison with those of other countries".

These are remarks to which I shall be referring again and again during my brief speech.

Steel thus is the pivot round which the wheel of industrial progress is to turn. In concrete terms, out of a total allocation of Rs. 750 crores for all the industrial projects in the public sector, steel has been allocated Rs. 510 crores. That is, in simple arithmetic, steel alone is to consume 66 per cent of the money we are going to spend in the public sector in industrial projects.

The second reason, apart from this importance of steel in our economy, is the phenomenal rise, the soaring rise, in the prices of these estimates. The second Five Year Plan put the cost of all the three plants at Rs. 353 crores, the break-up being Rs. 128 crores for Rourkela, Rs. 110 crores for Bhilai and Rs. 115 crores for Durgapur. This amounts, as I said earlier, to an aggregate of Rs. 353 crores. If we take into