

1233 Himachal Pradesh 24 NOVEMBER 1958 Parliament (Prevention 1234.
Legislative Assembly of Disqualification)
(Constitution and Bill
Proceedings) Validation
Bill

(v) Compensation as admissible under the Workmen's Compensation Act, 1923.

11. Steps have already been taken by the Shipping Master to ascertain through the district authorities concerned the names etc. of the legal heirs of the deceased seamen and the payments will be made as soon as formalities have been completed. As far as the amounts due under Workmen's Compensation Act are concerned, it is understood that the Company is arranging to deposit the amounts due with the Commissioner for Workmen's Compensation for disbursement.

12.10½ hrs.

REPRESENTATION OF THE PEOPLE
(AMENDMENT) BILL

The Deputy Minister of Law (Shri Hajarnavis): I beg to move for leave to withdraw the Bill further to amend the Representation of the People Act, 1950.

Mr. Deputy-Speaker: The question is:

"That leave be granted to withdraw the Bill further to amend the Representation of the People Act, 1950."

The motion was adopted.

Shri Hajarnavis: *I introduce Act 11.*

12.11 hrs.

HIMACHAL PRADESH LEGISLATIVE ASSEMBLY (CONSTITUTION AND PROCEEDINGS) VALIDATION BILL*

The Minister of Home Affairs (Pandit G. B. Pant): I beg to move for leave to introduce a Bill to validate the constitution and proceedings of the Legislative Assembly of the New State of Himachal Pradesh formed under the Himachal Pradesh and Bilaspur (New State) Act, 1954.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to validate the constitution and proceedings of the Legislative Assembly of the New State of Himachal Pradesh formed under the Himachal Pradesh and Bilaspur (New State) Act, 1954."

The motion was adopted.

Pandit G. B. Pant: I introduce† the Bill.

12.11½ hrs.

STATEMENT REGARDING HIMACHAL PRADESH LEGISLATIVE ASSEMBLY (CONSTITUTION AND PROCEEDINGS) VALIDATION ORDINANCE

Pandit G. B. Pant: I beg to lay on the Table a copy of the explanatory statement giving reasons for immediate legislation by the Himachal Pradesh Legislative Assembly (Constitution and Proceedings) Validation Ordinance, 1958, as required under Rule 71(1) of the Rules of Procedure and Conduct of Business in Lok Sabha. [Placed in Library. See No. LT-1041/58].

12.12 hrs.

PARLIAMENT (PREVENTION OF DISQUALIFICATION) BILL—contd.

Mr. Deputy-Speaker: The House will now take up further discussion of the following motion:

"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."

*Published in the Gazette of India Extraordinary Part II—Section 2, dated the 24th November, 1958.

†Introduced with the recommendation of the President.

[Mr. Deputy-Speaker]

Out of ten hours allotted for general discussion, one hour and 25 minutes have already been taken and there is a balance of 8 hours and 35 minutes.

Shri Raghbir Sahai (Badaun): Mr Deputy-Speaker, I find it very difficult for myself to congratulate the Minister on having brought forward this Bill, as it has originated from the Joint Committee. I find that there is very little in this Bill to enthuse us

At the time when this Bill came up for discussion first a number of criticisms had been levelled against it, and very many suggestions offered on behalf of the Members for the consideration of the Joint Committee. But it appears that almost everything that was stated in this House was ignored. The only change that I find from the original Bill is that a schedule has been added to it. It would also appear that the schedule is neither exhaustive nor complete. It was suggested by the Joint Committee in its report that to make it exhaustive and complete and up to date a Parliamentary Standing Committee be set up. That was also not done

Now, to all these proceedings I think the hon Minister himself was a party, and it is really a matter of surprise that this valuable recommendation of the Joint Committee was entirely ignored by him. The other day when the hon. Minister introduced the Bill, as it has emerged from the Joint Committee, he gave us three vital objections to the formation of this Standing Committee, and he went on distinguishing between the UK Act and the Constitution of India

12.15 hrs.

[MR. SPEAKER in the Chair]

With your permission, I would like to point out those points of vital difference according to the Minister, as explained by him the other day.

The first point that he enunciated was that legislatures cannot define

offices of profit and they will be interpreted as in the Constitution. But everybody knows that Constitution has also not defined what an office of profit is. It has given an indication that Parliament can declare by law an office the holder of which will not be disqualified. We have done it in three previous Acts of Parliament, namely, the Acts of 1950, 1951 and 1954.

The second vital difference that he raised was that article 102 requires us to make a list of those offices which are exempt. The English Act is just the reverse. We have to make use of article 102 so far as we can. But it does not prevent us from laying down those offices as well, which would disqualify

The third point that he raised, and he also called it a matter of vital difference is that we have not only to examine offices created by the Government of India but by the State Governments as well. He then goes on to say that in England the Act gives the power to amend the First Schedule by the addition or omission of any office or the removal of any office. But under article 102 the disqualification can be removed by an Act of Parliament alone. Therefore, he objected to the constitution of the Parliamentary Standing Committee.

If the Parliamentary Standing Committee, as recommended by the Joint Committee, had been instituted, the continuous scrutiny of all these committees and advisory boards would have gone on. And to meet the objection raised by the hon. Minister, the recommendations of that Parliamentary Standing Committee would have been forwarded to the Government and the Government would have introduced a legislation in whatever shape it liked. So, from what I have stated, the objections that were raised by him were by no means vital nor, if I may be permitted to say so, relevant. Now, I do not understand why should the Deputy Minister be so

allergic about the U.K. Act which should, as a matter of fact, serve as a model, because everybody knows that the very idea of office of profit was borrowed from Great Britain.

Shri Tyagi (Dehra Dun) On a point of order Unfortunately, I have been displaced by the hon Minister

The Minister of Law (Shri A. K. Sen): We did not want to sit between the Speaker and the Chair

Mr. Speaker: I am afraid, he has already been displaced once

Shri Raghbir Sahai: Before the point of order was raised by my friend, Shri Tyagi, I was saying that the U.K. Act should serve as a model to all of us because we know that the very idea of office of profit was borrowed from the House of Commons of Great Britain and we have all along been proceeding on the lines of the British model

With your permission, I may now quote a few lines from the Bhargava Report of the Committee on Offices of Profit, Part I, page 9, in which he says

"These sections 26(1)(a) and 69(1)(a) of the Government of India Act, 1935, with consequential changes are reproduced in the Constitution of India as articles 102(1)(a) and 191(1)(a) respectively"

So, all these ideas have been borrowed by us from the House of Commons. As a matter of fact we should have profited by that Act and made our legislation simple, cogent and exhaustive as far as we could. By exhaustive I mean that there should be comprehensive legislation as was repeatedly urged in this House. Whenever this matter of offices of profit was taken up by Parliament and that there should not be more than one legislation on this point

Mr. Speaker: Hon Members, who spoke at the time of reference of the Bill to the Joint Committee, must give place to other hon Members who have not spoken so far.

Shri Raghbir Sahai: I was not a member of the Joint Committee

Mr. Speaker: No, not a member I find that the hon Member has already spoken at the time of reference to the Joint Committee

Shri Raghbir Sahai: I was neither a member of the Joint Committee nor have I spoken

Mr. Speaker: He spoke at the time of reference of the Bill to the Joint Committee

Shri Raghbir Sahai. At the time of reference, yes

Mr. Speaker: So, if he will go on speaking now, what about other hon Members who have not spoken? Anyhow as he has been called, he can continue and conclude as early as possible

What I want to do is, because I want to do justice to all hon Members, that those hon Members who took part in the debate at the time of reference of the Bill to the Joint Committee, would not ordinarily get an opportunity unless they have appended dissenting notes which they desire to explain. After all other hon Members should also get an opportunity to speak. There is nothing absolutely rigid but as far as possible I should try to accommodate other hon Members

Shri Raghbir Sahai may continue

Shri Raghbir Sahai: I was speaking about the other legislation, i.e., the Representation of the People Act, 1951, in which also I find that there are certain sub-clauses, to the main clause 7 regarding disqualifications for membership of Parliament or of a State Legislature where this offices of profit business comes in I mean sub-clauses (d) and (e). Sub-Clause (d) runs as follows:

"if, whether by himself or by any persons or body of persons in

[Shri Raghunath Sahai]

trust for him or for his benefit or on his account, he has any share or interest in a contract for the supply of goods to, or for the execution of any works or the performance of any services undertaken by the appropriate Government."

Sub-clause (e) reads:

"if he is a director or managing agent of, or holds any office of profit under, any company or corporation other than a co-operative society in the capital of which the appropriate Government has not less than twenty-five per cent share."

So, what I mean to say is that on offices of profit there should be comprehensive legislation and this piecemeal mentioning of this subject in one Act and another is misleading to the public. Therefore I was submitting that there should be a comprehensive Act on the subject.

I also find that no provision has been made in this Bill giving us an idea as to what would be the effect by incurring such a disqualification knowingly or unknowingly and how, if that disqualification was incurred, it could be removed. I find that there is a definite provision in the House of Commons provisions with regard to this, viz, section 6—Effects of disqualification and the provision for relief. When I spoke last on this subject, I drew pointed attention to this matter in my observations, but I think they have been entirely ignored.

In this Bill I also find that the procedure for the declaration of disqualifications has not been defined. We find that a provision concerning this has been inserted in the Great Britain Act.

Then there are other objectionable features which I find in this Bill, viz, Vice-Chancellors have been exempted from this disqualification. This subject has already been discus-

sed several times and there are no two opinions that the office of a Vice-Chancellor is a whole-time job and he can scarcely do justice to his membership of Parliament. Previous experience has also shown this. We know that in the case of the late Acharya Narendra Deva and the late Shri Shyama Nandan Sahaya, although they were respected Members of this House as well as of the other House, they could not give such time as was required by the two Houses because the business of Parliament is a whole-time job.

Then, this sacred office of a Vice-Chancellor should be kept away from political influences as far as possible. Take the case of the Banaras Hindu University which was discussed on the floor of this House more than once and the way in which all sorts of criticism was levelled against the present Vice-Chancellor. In fact, he was made the butt end of all kinds of attack. What would have been his position if he had been a Member of this House?

We should also guard against ambitions of over-ambitious Vice-Chancellors. We know that there are very learned Vice-Chancellors in our country, but at the same time we know that there are over-ambitious Vice-Chancellors too, who wanted to be here, there and everywhere. Let us guard against those over-ambitious Vice-Chancellors.

In this connection our present hon. Law Minister, whom I saw just now, holds an entirely different view from that of his predecessor, Shri C C Biswas. On a previous occasion Shri Biswas stated—I am again quoting from the Report of the Committee on Offices of Profit (Bhargava Committee Report), page 23—

"They are executive officers, They carry patronage and all that."

Further, he went on to say:

"I may tell you that it is quite a reasonable objection that as

Vice-Chancellors do whole-time job in the Universities, they find little time to attend to duties of Parliament. As a matter of fact, they are so busy that we very seldom find them in this House or in the other House "

Now, everybody will endorse these weighty remarks of the previous Law Minister on this subject

Then there is the case of the Sheriffs. It is still worse. They have also been exempted from this disqualification. We find that in England, a Sheriff attends to the judges at assizes and election petitions and is responsible for the executive execution of writs and of the sentence of death, acts as Returning Officer at Parliamentary elections and is liable for the safe custody of prisoners. In India under the Sheriff of Calcutta (Powers of Custody) Act, 1931, he was authorised to take any person in his lawful custody to or from the Presidency Jail of Calcutta. Under the Sheriffs Act, 1852, they are empowered to keep in their possession and to dispose of properties that are entrusted to them by the civil courts. Our present Law Minister also narrated the duties of the Sheriffs in his last speech. His functions, according to him, are, they are entrusted with the service of processes of courts for executing writs of execution for arresting persons convicted of contempt of court, taking them to jail and in those courts which still have sessions court, for producing prisoners to the Sessions court from jail and conducting them back. These are the important functions performed by him. From all this that I have mentioned, it would appear that the Sheriffs virtually perform the duties of a police officer, a jailor or custodian of property. Then, why need they be exempted from this disqualification? Whether they receive any remuneration or not is entirely immaterial. On this subject, I am again quoting from the pregnant remarks of the Bhargava Committee report on page 24 in which the question of Honorary Magistrates,

Justices of the Peace, Revenue officers and Munsiffs or Judges was discussed and they have been treated as holders of offices of profit, for, these posts confer great influence and prestige on the incumbent and the only fact that they are honorary servants should not weigh with the Committee in saving them from the disqualification. I submit that the arguments given by the Bhargava Committee report with regard to Munsiffs and Judges apply on all fours with regard to the Sheriffs and if they were not exempted from that disqualification, surely, the Sheriff should not have been exempted from this disqualification.

I am sorry, the case of pensioners was not taken up by this Committee. At present, we find that retired government servants, namely, Doctors, Judges, Magistrates, who have served the Government for a life time, who are in receipt of regular pensions, do sometimes seek election to Parliament or the State legislatures. They get their pension and also the pay and allowance, for which any Member of Parliament or Member of a State legislature is entitled. This appears to be very unfair. On principle, they should not be permitted to seek election and they should be under this disqualification. Even if this disqualification is removed, they should at least forego either their pension or the pay which they are entitled to get as a Member of Parliament.

From all these remarks that I have made it would appear that this Bill requires drastic changes, and as was evident on the previous day also from the speeches that were made, the Bill suffers from a number of lacunae which ought to be removed. It was very good on the part of the Deputy Law Minister to have said that he has an open mind on the subject and he would like to listen to every argument and give due consideration to them and to the suggestions offered in this House. I hope the suggestions that we are now making will be received sympathetically and with consideration by the hon. Law Minister.

Mr. Speaker: Shri Vasudevan Nair I find all hon Members from the Communist Party are only from Kerala. The other hon Members who took part on the last occasion were also from Kerala. Let it not be said that the other States have not been represented.

Shri Punnoose (Ambalapuzha) The fault will be ours.

12.34 hrs

Shri Vasudevan Nair (Thiruvella) Sir, as the hon Deputy Minister on the last day remarked, this Bill is a very important Bill not only to the Members of this House as he said, but according to me, to the entire country, because, according to the present provisions in this Bill, Members of Parliament, the representatives of the people are not allowed to be members of a number of our Corporations and Chairman, Secretary or Members of the Standing Committee or Executive committee of a number of other institutions. There is a long list attached to the Bill as Parts I and II of the Schedule.

I agree that the Joint Committee has spent a lot of time on this Bill. They nearly worked for a year in preparing their amendments and proposing their changes. They might have given careful consideration to the many provisions of the Bill. But I am sorry, I cannot agree with their major recommendations and important proposals of the Joint Committee. I take definite objection to this provision, sub-clause (i) of clause 3 when it comes to this part,

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

My proposal is that this should be deleted from this Bill, and Members of Parliament should have the freedom, right to be members of such bodies. According to me, the very approach of the Joint Committee and almost all the Members who have submitted their dissenting minutes too is a puritan one. Their approach is so abstract that they do not take into consideration the great developments that are taking place in our country. According to me, if the Bill is going to be passed like this, I am afraid, the Parliament, the sovereign body of this country, will not be able to discharge its responsibilities to the people of this country. We are in a period when very great developments in our economic, and industrial field are taking place. Already a number of autonomous corporations have come into existence and we are quite sure, a number of others are going to take shape in the near future. Why should we shut our eyes to realities? As soon as the Second Five Year Plan was framed, as soon as the policy of the Government was proclaimed with regard to the development of the public sector, there was a lot of hue and cry against that. Even today, there is a regular campaign going on against this particular policy of this Parliament of this Government and there are interests, I should say there are powerful interests in our country who are out to sabotage this policy of the Government and this Parliament. They are so particular to see that these autonomous corporations are not contaminated by representatives of this House. They are so particular to see that as far as possible, these bodies are left to the very same representatives of big business who used to run many of these institutions as their private institutions. Now, they want to come into this organisation or this body through the back door. I will come to that part later. I will relate the story of many of our corporations, many of these bodies who are running these bodies actually today? In this background, we should look at this problem. I am afraid the Joint Committee did not approach this

question in this light, taking these factors into consideration. That is why I said that they have looked at the problem from the abstract point of view or the puritan point of view.

Now, as I said, there are interested parties to see that the Government or the public sector does not come in, in any of the sectors of our economy. Let me illustrate my statement by a very recent development. The National Development Council has taken a decision that the State should enter the wholesale trade in foodgrains. The Chambers of Commerce and Industry and representatives of big business have already come out denouncing the action of the Government. They have already given their verdict. They have said that this is going to be a failure. This is doomed to be a failure. We have some experience and we learn something from the experience of England where when the Labour Party was in power, a number of very important industries were nationalised. The corporations or organisations which were established to run these nationalised industries were filled with the very representatives of big business who were successful in seeing that the nationalised concerns were a failure.

In our country also such an attempt is being made, and in this context it is very necessary that we should have at least some representatives of the people on such bodies in the committees of these corporations and boards. I think it is the duty of this House, of the Members of Parliament to nourish these institutions, to protect these institutions and also to safeguard these institutions as the apple of our eye. If we are not able to do that, then we will not be able to do justice to the people of the country who have sent us to this House.

Let us examine what is the alternative if this is not done. Of course, Members of Parliament would not be satisfied if on such bodies we can nominate real experts in the field. Is

that happening today? Are real engineers, technicians and experts in the field being nominated to such committees? We would not have any complaint if such people could come and manage such institutions. It would be much better, but that is not happening. On the other hand, I can give you some instances. Take Air India International. Shri Tata is there. Take Sindri fertilisers. Shri J. J. Gandhi is there. Take the Rehabilitation Industries Corporation. Even in that corporation there is Shri G. D. Birla. Take the Industrial Finance Corporation. Lala Sri Ram was there. Now he is not there, I agree. I can give more instances like this. As regards this Rehabilitation Finance Corporation, we all know that all individual schemes, all industrial schemes of rehabilitating refugees were allowed to be utilised only by private capitalists till now, and they failed miserably. They are again coming in into the newly created Rehabilitation Industries Corporation, and are trying to utilise Government money and the public sector is being put in the hands of these very same people. So, that is the alternative before us.

If some representatives of the people, if some Members of this House are there in these committees, they can influence others who are in the committees, others who are in these corporations. At least Members of Parliament will react to public opinion, but what about these representatives of the vested interests, the capitalists and the bureaucrats?

Mr. Speaker: If a Member of Parliament misbehaves, would the other Members have the courage to attack him here? And would not some people side with him and some others side with the others? This House will be divided.

Shri Vasudevan Nair: But we go by majority. The House may be divided.

Mr. Speaker: There will be different majorities for different individuals.

Shri Vasudevan Nair: But we should have some faith in this House and the Members; otherwise how can we carry on? My complaint is that we look at this problem with a suspicious mind.

Mr. Speaker: Then, will he be allowed to vote if there is a charge against him? We will assume a Member of Parliament is a chairman of a particular committee. Very often we call the affairs of that committee into question.

Shrimati Sucheta Kripalani was a chairman of a committee to investigate into the affairs of a corporation. If she should herself be the chairman of that corporation, what will happen in this House?

Shrimati Renu Chakravartty Basirhat: Even a vote of no-confidence can be moved against her.

Mr. Speaker: Therefore, she will have some to support her and some to oppose her. This House will not give a dispassionate decision about it.

Shri Punnoose: You asked whether the Member would be allowed to vote. We can legislate that he or she should not get a vote on that occasion. Even that is possible.

Mr. Speaker: I do not know. It is for the hon. Members to decide whether it will be at all advantageous that persons who do not have any vested interests in any particular institution should be in charge, open freely to discuss, debate and accuse....

Acharya Kripalani (Sitamarhi): Canvass.

Mr. Speaker: Or even allowed to canvass on the floor of the House.

Shri Punnoose: Is it not a fact that representatives of private capital are in this House. They can be here. They are representing their interests.

Mr. Speaker: They are alone. Yes, he may go on. I only expressed my views.

Shri Vasudevan Nair: Yes, Sir. This is a very important question. As far as I can see, mainly three arguments...

Mr. Speaker: Instead of capitalists ruling outside, there will be a number of capitalists here, without their own capital, in charge of various administrations. At least the capitalists have got their capital, but these persons, Members of Parliament, will be interested in particular institutions, transacting public money, and when some person is accused, there will be a number of persons for them, and a number of persons against them. This will become a body corporate.

Shri Vasudevan Nair: If a particular Member abuses public property, Members of Parliament are expected to denounce that particular Member. We proceed on such expectations. Otherwise, we cannot exist in this world.

Mr. Speaker: It will become more difficult.

Shrimati Sucheta Kripalani (New Delhi): That Member has greater advantage to canvass than any other Member.

Shri Vasudevan Nair: If Members of Parliament are liable to be canvassed like that by a particular Member...

Shri Narayanankntty Menon: (Mukandapuram): No Member is amenable to canvassing.

Shri Vasudevan Nair: ... it is just an impossible situation, and we cannot have public life.

As far as I can see, mainly three arguments were raised when it was stated that Members of Parliament should be excluded from such corporations and committees. One major argument was that the independence of the Members will not be there.

Mr. Speaker: One word. I referred to Shrimati Sucheta Kripalani, but there is nothing in it. I am sure I will not be misunderstood.

Shrimati Sucheta Kripalani: There is no misunderstanding.

Mr. Speaker: I never impeached her integrity. It was only an instance, by way of illustration. Even if she should be a Chairman and still a Member, so far as she is concerned, I have absolute faith in her.

Pandit Thakur Das Bhargava (Hissar): She is a Member of character, but others like us who are under her influence will also support her, so that Government will get her as well as other persons who are interested in her to support them, and it will be a very bad state of affairs in cases other than hers from the public point of view.

Mr. Speaker: And the Speaker may also support!

Shri Vasudevan Nair: The major argument is that the independence that is expected of Members of Parliament will not be there if they are going to be members of such corporations and committees. I fail to understand this argument. It does not necessarily mean that a member of such corporations and committees will lose his independence. After all, there are Members, there are representatives in this House as well as in other Houses who have all kinds of interests outside. I need not go into details. There are among us industrialists themselves, there are among us representatives of big business who always argue for big business. I need not mention names, that is not proper. So, there are all kinds of people who have got all kinds of interests, and are we going to say that every one is taking an objective, disinterested, dispassionate view when every question is being discussed?

Mr. Speaker: He is expected to.

Shri Vasudevan Nair: He is expected to, but we know there are cases when even without such membership, people take sides, people take up positions which are not objective, which

are not dispassionate and not disinterested. There are such instances. My argument is that membership of such corporations does not necessarily make him dependant, take away the independence of a Member.

Pandit Thakur Das Bhargava: Probably it would; not necessarily.

Shri Vasudevan Nair: In certain cases it may happen, I do not dispute, I am coming to that, but this membership does not necessarily take away the independence. It depends upon the individual.

The second argument is that Members may become corrupt. This argument also I am not able to digest very much. Of course, there is some element of truth in this argument. But, from among the Members of Parliament we are having Ministers and Ministers of State. How many Ministers do we have? A number of Ministers. If a membership in the State Trading Corporation can corrupt a Member, if a membership on the standing committee or the executive committee of a Coir Board or a Rubber Board can corrupt a Member, of course Ministership will much more corrupt a Member. There may be such cases. But, at the same time we know that there are Ministers and Ministers who are not contaminated by such positions. So, that also depends upon individuals, according to me. It all depends upon the movements that make up the individuals. It all depends to some extent upon the nature of parties.

Pandit Thakur Das Bhargava: How will the Minister be corrupted? He is in charge of the Ministry, and he is interested in the Ministry, and he does his very best in the interests of the Ministry. So, how will he be corrupted? He cannot be corrupted at all. It is to see that his influence does not corrupt the Members of Parliament that we are having this Bill. Ministership is excepted by the Constitution itself.

Shrimati Sucheta Kripalani: And he is a top executive authority. So, this is no argument at all.

Shrimati Renu Chakravartty: A Minister is not disqualified; that has been provided in the Constitution itself.

Mr. Speaker: If the Minister is disqualified, then we would not have a parliamentary democracy but only a Presidential democracy as in America.

Shri Vasudevan Nair: The third argument is that we have got to devote almost our whole time to our work as Members of Parliament, and so, we may not get the time for doing such extra work. Of course, that is an argument that should be conceded. Suppose a Member is put in charge of the chairmanship of a corporation; if that chairmanship is going to prove a full-time job, then I agree that that Member cannot continue to be there. But as far as I understand, many of these boards of directors or managing boards are only policy-making boards. They are not sitting for twenty-four hours a day on all the three hundred and sixty-five days in a year in charge of the administration. There are others who are in charge of the administration. These boards only lay down the policy. And according to me, work as a Member of Parliament includes such work also. The work of such corporations or such committees is also part of the work of Members of Parliament. I agree that Government or the proper bodies who are choosing such Members to these committees should select such people as can put in some amount of work, some amount of constructive work in such institutions. So, it all depends upon the choice also. The work of such committees should be considered as part of the work of a Member of Parliament.

Then, I would like to make clear that because I argue that Members of Parliament should be allowed to be

on these committees, I do not cherish such an amount of illusion as far as the working of these corporations is concerned, in the present circumstances. For, what is the use of having a law that Members are allowed to work on such corporations, if the proper authorities who are to choose the Members do not give consideration in the proper spirit and choose the proper persons? There are such factors now existing. This Bill, if it is passed, accepting the amendments that we have put forward, can be made use of by Government and by the Ministers to have their own people in certain corporations and in certain bodies; of course, that is possible. And such posts can be made use of to solve certain problems inside the Government or inside the party that runs the Government. All those difficulties are there. So, I do not say this will solve all the problems, and that all these institutions will run all right because some Members of Parliament are there.

But there are two alternatives before me. One is leaving these institutions entirely in the hands of officials and representatives of big business. The other is that along with them we have some representatives of this House or the other House, and in the States, the representatives of the State Legislative Assemblies. And all those Members in such bodies can be made use of in the interests of the country, in the interests of those institutions and in the interests of the people. Between these two alternatives, I choose the second alternative. There is no meaning in shutting out the Members of Parliament from such bodies and leaving them entirely in the hands of big business.

So, I think there should be a lot of re-thinking, as far as this Bill is concerned. I would have heartily supported the amendment put forward by my hon. friend Shri A. C. Guha, and which was ruled out of order unfortunately by the Deputy-Speaker earlier, namely that this Bill should

go before a Select Committee again; but on technical grounds, the House could not consider that amendment. So, the only way out is for Government to withdraw this Bill as it is. That is my suggestion. And I support Shri A. C. Guha, who proposed that the Bill as it is should not be enforced upon this House and it should be withdrawn. We should give some more careful consideration to the various provisions of the Bill and to the various principles underlying the Bill. And then, let Government come forward before this House during the Budget Session with a fresh Bill, different from this Bill, and then, we can pass that Bill.

Shri Hem Barua (Gauhati): As I can and scrutinise the provisions of this Bill, somehow or other, the impression that I gather is this, that it is going to defeat the very purpose of the democratic institutions that we are endeavouring to build in this country.

As regards article 102 of the Constitution, whatever might be the motive force behind it, and whatever might be the ideal that must have inspired and actuated the architects of the Constitution, I find that it would have been better that there had not been any provision like that in the Constitution. I find this provision in the Constitution a little bit superfluous, if not redundant. Whatever might be the spring-board of inspiration, so far as article 102 of the Constitution is concerned, the provisions of this Bill seek to put a lot of loose interpretation on this particular aspect of the Constitution.

At the same time, I would say that while making these provisions in this Bill, there was no guiding principle before the Members of the Joint Committee. I hope they will excuse me for saying so, because I do not find any guiding principle, any fundamental principle in drawing up the pattern of disqualifications to be incorporated in this piece of legislation.

By common consent we are dedicated to the building up of a parliamentary form of Government in this country, so that democracy may live. I do not want to be verbose about it, but then on the success or unsuccess of the democratic system that we want to build up in this country depends the future of democracy not only in this country, but also—let me limit the dimensions—in the whole of South-East Asia, and it is more so against the background of the collapse of democracy in our neighbouring countries.

This being so, I find a heavy responsibility lies on the shoulders of Parliament. While deliberating upon the provisions of this Bill, we have to take one particular aspect of things into consideration, and that is, how to maintain the dignity and the purity of Parliament intact, because once the dignity of the Parliament is damaged or the purity of Parliament is stultified, the people would come to lose confidence in this system, and the very purpose of the Constitution, namely to build up a democratic system in this country, would be defeated, and then the entire country, and the future generations, will blame us for this failure on our part.

The other aspect is this, and that is, there is a compulsion of some unavoidable facts. What are those unavoidable facts? We find today that the responsibility of Parliament, this Sovereign forum of the nation, has increased thousand fold, and the increased responsibility of Parliament makes for an increased volume of work. And when I speak of volume of work, it does not mean volume of work only on the floor of the House, but it includes volume of work that a Member of this House has to take into account, so far as his work in the Library is concerned, so far as his work in the field or in the factory in the cause of the people is concerned. Now, it is becoming more and more voluminous. It claims more and more time and attention. This House claims more and more time and attention of the Members of

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Parliament. On the other hand, we find another aspect of things emerging out of the present situation. We find that the constituencies which we all have the honour of representing here are advancing so far as political consciousness is concerned, so far as enlightenment is concerned. It is a very healthy sign for democracy no doubt; but at the same time the constituencies are becoming very vigilant. They want the representatives to visit them when the House is not in session; they want them to identify themselves with the peoples' interests. This factor we must not forget. It is because of these compelling forces, as I have pointed out, that I do not want the association of Members of Parliament with any extra-parliamentary work whatsoever, because that claims a fair deal of their time and attention. I want them to be devoted servants of yours

13 hrs.

Mr. Speaker: Of ours.

Shri Hem Barua: Of yours, Sir, worshipping in the shrine of this House in the cause of the people, in the cause of the country. If their attention is diversified by multifarious activities, the attention that they are called upon to devote to this House would suffer.

Now, Sir, it is against this background that I would like to go a step further. Because of the increase in the volume of work, of increase in the volume of responsibility, let alone allowing a Member of Parliament to associate himself or herself with any extra-parliamentary work, I would go a step further and say that a Member of Parliament should have no subsidiary occupation even. That is what I feel. It must be a dedicated job. Absorption of a Member in any subsidiary occupation should not be allowed. How does this affect his Membership, I shall point out. I am connected with an educational institution and I have been offering resigna-

tion after resignation of it, mainly because of the fact that I feel that a job for which the people have elected me must be done with care and attention. A Member must not diversify his attention between two bodies for the sake of earning more money. I would, therefore, go a step further and say that a Member must not absorb himself even in subsidiary occupations, from the time he has been elected to this House. If you allow a Member to occupy himself in extra-parliamentary work, the dignity of the Parliament suffers. On no account whatsoever would I like this Parliament to be converted into a springboard for offices of profit or for personal aggrandisement. It is a fact that Members of Parliament are privileged persons. They claim certain privileges and the country also allows them certain privilege. Now on the strength of those privileges, on the strength of the fact that he is a Member of Parliament, if he gets associated with extra-parliamentary work, that damages the interests of Parliament. I would beseech you to see that this is stopped and the purity and the dignity of the House is maintained by your enjoining upon the Members to devote undivided attention to this House.

Let me now come to the provisions of this Bill. I shall refer to them one by one, but before I do so, I would like to say one thing. There is no fundamental principle whatsoever laid down, in order to formulate pattern of disqualification. On this aspect even article 102 of the Constitution is silent. Article 102 of the Constitution leaves the responsibility of determining qualifications or disqualifications on the shoulders of Parliament. Instead of laying down the basic principle by the formulation of a pattern, they have left the entire responsibility in the hands of the House. In this connection I would draw the attention of the House to the Spens Committee recommendations. The Spens Committee

constituted during this century. The Spens Committee has laid down the basic foundations in order to draw up the pattern of qualifications or disqualifications. What the Spens Committee has laid down as the basis were kept as fundamentals by the framers of the British Act. What about us? We do not have any basic principles like that.

Mr. Speaker: Are they included in the statute itself?

Shri Hem Barua: They had a Committee; it is known as the Spens Committee, and it laid down certain principles. Two of them are very important. One is incompatibility of simultaneous membership; another is physical impossibility of simultaneous attendance. They had these two principles before them in drawing up the pattern of qualifications or disqualifications. My humble submission is that we do not have any such basic principles to draw up this pattern.

Mr. Speaker: Did the Committee here evolve any principles before they applied it to individual cases?

Shri Tangamani (Madurai): No principles appear to have been applied.

Shri Jaganatha Rao (Koraput): Even the House of Commons Disqualification Act, 1957, does not lay down any principles.

Mr. Speaker: Mr. Barua says the Committee had before them two well-known principles and they tried to apply those principles to individual cases, but the sub-committee here evolved no such principles for their guidance for application to various cases like Membership of Corporations, and so on. Have they been set out in the Sub-Committee's Report or Joint Committee's Report?

Shri Jaganatha Rao: They were considered.

Mr. Speaker: Have they set them in their report? They must have something to go by.

Shri Morarka (Jhunjhunu): As a matter of fact the sub-committee says—(page 19, paragraph 14):

"In categorising the Committees into disqualifying and non-objectionable ones no single uniform principle has been strictly applied as the Sub-Committee was influenced by the fact that in the peculiar circumstances of our country and the undeveloped state in many respects participation of members of Parliament, many of whom have special knowledge of various subjects could not rigorously be excluded".

Mr. Speaker: This is the principle on which they went.

Shri Hem Barua: So the Sub-Committee or the Joint Committee did not lay down any principle. A very serious charge was brought in this Committee by Pandit Thakur Das Bhargava. He said that some of the Central Government Departments as also some of the State Governments did not co-operate with the Joint Committee by furnishing the necessary material. Hence the Committee had to work with inadequate materials, or on inadequate information. No doubt the Members of the Committee, which included Pandit Thakur Das Bhargava and the Law Minister, put in their best efforts.

Shri Tyagi (Dehra Dun): You are always in the right!

Shri Hem Barua: Thank you for the compliment.

Now, before allowing Members of Parliament to associate themselves with certain corporations or committees, or other statutory bodies, we

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should see whether this association is compatible with the Membership of Parliament or not. That must be a thing.

Then there are provisions made for association with certain corporations and committees, and there is a Schedule for it. It is also said that these organisations are non-profit-making organisations, and since they are not profit making organisations, the Joint Committee or the Bill has provided for a compensatory allowance, and the compensatory allowance—the daily allowance particularly—is not going to exceed the daily allowance that the Member of Parliament enjoys when Parliament is in session.

It is true that association with these corporations might not be association with profit making organisations. But should we forget that there are invisible profits behind this association also, and often invisible profits are more alluring than visible profits, just as a dream woman often is more alluring or charming than a woman in flesh and blood? It is something like that. Should we forget this invisible profit accruing out of this association?

I will limit my argument to certain basic points. Take, for instance, association with the Central Board of Film Censors or with the Special Recruitment Board. It is allowable under the provisions of the Bill; a Member of Parliament can associate himself with the Central Board of Film Censors and the Special Recruitment Board. Regarding the Central Board of Film Censors, I do not want to bring it as a libel against any Member of Parliament; I know that Members of Parliament, because they are the people's representatives, are men of character, of sound mind, of sound morals and all sorts of things. At the same time, human nature is something that is fallible. There are foibles also. If we take

into account these foibles and if we base our argument on a principle, we find in respect of the association with the Central Board of Film Censors or the Recruitment Board, though they might look innocuous at the surface, there are deep portents within. Hence the argument that since it is incompatible with the membership of Parliament, a Member of Parliament should not be allowed to associate himself with any extra-parliamentary committee.

Now, my hon. friend has argued about the private sector, the horizon of industry and that sort of thing. That was his argument. It is a very sound argument. But at the same time, there are two possibilities: either a Member of Parliament who gets into an association like that or a corporation like that gets himself defeated and overwhelmed in it or he becomes redundant. He has to withdraw from it or become part of the system or the pattern that is built up by the private sector, if the pattern might be a pattern of exploitation, the pattern might be a nasty one,—and there is every likelihood, taking human nature into consideration, of other Members also becoming a part of the pattern. I do not want to preserve Members of Parliament in splendid casements of isolation; at the same time, we have to open our eyes to these objective factors before us.

There is another thing. Often there might be abnormal situations arising out of this association with corporations; committees and the like. Since the activities of these committees, corporations and so on—take, for instance, the L.I.C.—are under the supervision or vigilance of Parliament, they may be questioned on the floor of the House. When a comrade or colleague of ours is associated with a corporation like that and when the activities of the corporation are questioned by Parliament on the floor of the House, he becomes a part of Parliament, he becomes a part of our-

elves. Then we come to the purity of Parliament—the purity of Parliament is not an impersonal thing; it is a collective purity: at the same time, it is a purity on the individual plane also—we cannot say that only one Member of Parliament has associated himself or was allowed to associate himself with this corporation and the corporation is in the docks of Parliament today, and it does not affect us. By saying like that, we cannot put him in the docks and at the same time claim purity on our part. That is one thing. That is what has happened so far as the Mundhra muddle *vis-a-vis* the LIC and things like that are concerned. Those abnormal situations might emerge on the floor of the House and then we have to preserve the prestige of Parliament, and as I have already said, the prestige of Parliament does not only mean collective prestige, but also individual prestige, because we have to carry the dignity of this House not only within the Parliament building but also outside.

That is what I have been feeling when Members of Parliament go abroad. I feel it acutely that we should carry with us the dignity of the country, the dignity of the nation and the dignity of the Parliament. In order to preserve that dignity, we have to preserve it not only on the collective plane but also on the individual plane.

Then I come to advisory bodies. There are two categories already—statutory and non-statutory bodies. Then we find a third category called advisory body. Against the background of statutory and non-statutory bodies, the advisory body does not have any *locus standi*. Now, let us scan and examine the work of the advisory bodies. Suppose the recommendations of the advisory body—it does not matter whether that body is going to be a single-member body or a multi-member body—to the Government are going to be only advisory and recommendatory, then there is no meaning in duplicating the administrative machinery as also expenditure on

administration by having this superfluous thing. On the other hand, if it means that the recommendations of the advisory body are binding on the Government, think—it might be invisible in a sense—of the enormous prestige, the enormous influence and the enormous power that such a body is likely to command. Whatever might be the good intentions we might have about these bodies—the path to hell is paved with good intentions only—the flood-gates of corruption are opened, because when a man knows that a certain Member of an advisory committee advises such and such Minister, the country being as it is, that Member is drawn into the catacomb—I do not say of corruption—of unhappy things.

Then let me come to individual items,—these items, there are so many. Some Members have already spoken and some are going to speak. There are dozens of them mentioned. What about these individual items? I would only pick up a few. Take, for instance, the Home Guards and the office of Sheriff. Shri Raghbir Sahai has spoken about the office of Sheriff and so I do not think I should deal with it. Then there is the office of Vice-Chancellor of a University, membership of the University Executive Council etc. Now, we are waiving disqualifications in relation to these offices only because of the fact, as I have said before, that we do not have a fundamental or guiding principle before us while formulating the provisions of this Bill. Or else we would not have waived disqualifications so far as these people are concerned.

I should now refer back to the Spens Committee. It had two fundamental principles primarily or particularly before it. One was incompatibility; another was the physical impossibility of simultaneous attendance. So far as these offices are concerned, particularly the office of Vice-Chancellor, the consideration of physical impossibility of simultaneous attendance operates and operates very largely. The Vice-Chancellor's job is a whole time job,

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and if it is not a whole-time job anywhere it must be made a whole-time job in view of the educational responsibilities that are multiplying today in our country.

Mr. Speaker: Why was it thought necessary to exempt Vice-Chancellors?

The Deputy Minister of Law (Shri Hajarnavis): They are already exempt under the 1954 Act.

Mr. Speaker: We are considering it now.

Shri Hajarnavis: We are merely continuing that provision.

Shri Tyagi: What is the logic of it?

Mr. Speaker: Then, they did not exercise any independent judgment now.

Shri Hajarnavis: It is only bringing forward the law as it exists and adding something to it.

Shri Tyagi: This should be amended as well.

Shri Hajarnavis: Then a case must now be made to repeal that.

Shri Tyagi: Instead of coming forward with another amendment later, it would be better to come forward with an amendment in this Bill itself.

Shri Tangamani: There is an exhaustive list prepared—both Part I and Part II.

Mr. Speaker: The hon. Minister only answers that so far as the Vice-Chancellor is concerned, he was not disqualified. We had Shri Syamanadan Sahaya here from Bihar. He was a Vice-Chancellor simultaneously. Asked why he was allowed, the Minister says it was continued from previous practice.

Shri Hem Barua: Whether it is a previous practice or not, we are discussing the provisions of this Bill, the Bill that is on the anvil of Parliament today. About this office of Vice-Chancellor, what happens? I have said,—it is a fulltime job. If it is not a whole-time job anywhere in this country, in any University, it must be made a whole-time job in view of the fact that the responsibility of the Vice-Chancellor's office is increasing today. It is the absentee Vice-Chancellors that have created problems of administration as also problems of indiscipline among the students with which this Parliament is faced. It was only recently that we discussed certain problems facing the Banaras Hindu University. When we discussed the Banaras Hindu University, it was not only the Banaras Hindu University that was in the dock but the entire country and the student population that was there on that occasion.

Shri Vajpayee (Balrampur): They have a whole-time Vice-Chancellor.

Shri Hem Barua: There are occasions when the Vice-Chancellors are absentee Vice-Chancellors as has been pointed out by Shri Sahai. I do not want to name them. But if we make a provision in law that a Vice-Chancellor can be a Member of Parliament and, at the same time, stick on to the office of Vice-Chancellor, in that case, we give a lease to the administrative problems in the Universities. That we do not want to do.

If somebody desires that the Vice-Chancellors are very big people and they are wanted as ornaments in this House, I would say that the days of decorative emblems are over and the days of serious work and hard application have set in. We must not forget that. We do not want ornaments here. Because of these circumstances and conditions, the objective conditions, ornaments as ornaments can shine in brilliance neither here nor there because of these disadvantages;

because of the claim on their time and attention, because their energy will be divided between two responsibilities and one responsibility is as much serious as the other responsibility.

There is another provision in the Bill—there are so many provisions that have to be deleted—about the membership of the Executive Council of the University. With the experience that I have of a University, I want to tell you that this membership of the Executive Council of the University and simultaneous membership of Parliament must go. The Executive Council is a large administrative body in the sense that it meets very often and it has to meet very often in order to decide so many things—administrative and other problems in the Universities.

Supposing a member of the Executive Council is also a Member of this House—and this House has its meetings at least during 7 months out of 12—in that case, there is that element of physical impossibility for a Member of this House simultaneously to attend the meetings or sittings of the Executive Council of the University with those of the Parliament. Because all these practical difficulties stand in the way, a Member of Parliament must not be allowed to be a Member of the University Executive Council also. Therefore this item in the Bill must go. We must ring the ding-dong bell to it.

What about the Home Guards? The association of a Member of Parliament with the Home Guards is a derogatory thing. They discharge police functions; at the same time, these Home Guards are supervised by the police officers. Supposing in a particular place or a particular rural area where there is a police outpost, a Member of Parliament is to be connected with the Home Guards there, he is to be supervised by a Sub-Inspector of Police or an Assistant Sub-Inspector of Police which damages

his prestige as an individual and also damages the prestige of the Parliament over which you preside. That is about the Home Guards.

Then, about the National Cadet Corps and the Territorial Army. I do not have any objection to association with these bodies because these are meant for national emergencies and national emergencies are national emergencies for all in the country whether he is a Member of Parliament or whether he is in the streets. National emergencies are national emergencies.

About Revenue Officers. This is an old institution and a tradition-bound institution too set up by the British rulers. They are the henchmen of the Government and they are in the villages as outposts of the administration. They discharge police functions—might be invisibly—and they are made to do it. They are a sort of secret police and just to associate Members of Parliament with this institution is as derogatory as associating Members of Parliament with the Home Guards institution.

Whatever that might be, as I have pointed out, the dignity of the House has to be preserved; democracy is to be saved and the parliamentary system is to be given a very wide base and all that. In view of these considerations, I find certain provisions in the Bill incompatible with the membership of Parliament. At the same time, there are physical difficulties for Members of Parliament to do honour and justice to both occupations. I want these Members of Parliament to be free from all extra-Parliamentary work.

Shri B. Das Gupta (Purulia): Sir, I rise to oppose the Bill. As amended by the Joint Committee, it militates against our Constitution. In the Statement of Objects and Reasons, in the original Bill, it has been stated that most of the recommendations of the Committee on Offices of Profit have

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been given effect to. But, I am sorry to say that I find that some of the most important recommendations have not only been ignored; but, on the contrary, important Offices which were recommended for disqualification by the Committee have been exempted in this Bill. The Joint Committee did not at all improve the Bill, rather, it has made the matter more complicated.

In the original Bill, Government could not find it practicable to have schedules enumerating in detail the different offices which did not incur disqualification, offices for which exemption has to be made and offices which would disqualify the Members.

But the Joint Committee has, after all, found it practicable, to draw up a list of such bodies, boards corporations or committees,—offices of which will entail disqualifications,—to draw two such incomplete lists in two parts and attach them to this Bill as a Schedule.

13.31 hrs.

[MR. DEPUTY-SPEAKER in the Chair.]

I think it has created more confusion. It is incumbent on such a Bill to make a comprehensive legislation based on the underlying principle and the real intention of article 102 of our Constitution. Undoubtedly the principle is the proper development of democratic institutions and the democratic way of Government in the country. The intention is to keep the legislatures independent of the executive. In a democracy, a legislator must be free to carry out his duty to the electorate un-influenced by the personal loss or gain. A legislator must not have even the slightest scope of offer from the executive Government of any appointment, position or offices, however they may be described, which carry emoluments of some kind or the other with them. He must not be tempted

to put himself under the obligation of the Executive in the slightest way, not only technically but morally too. I submit that this Bill has left the door open for the executive to seduce the legislator.

Firstly, the attempt to base the Bill on the model of the British House of Commons Disqualification Act, 1957 is, I think, not an approach in the right direction. We have not realised—we must now realise—that the tendency to look to Great Britain or America for everything has not proved to be healthy in our national life. Apart from that, the development, especially, of the Parliamentary life in England has its own peculiar history and tradition going back for many centuries. Ours is different. The provisions which have been made by our Constitution and the laws, may not mean the same thing as they do in England. If we try to frame laws and try to have the same meaning, we may sometimes invite confusion and trouble in the practical field.

The Schedule attached to the Bill could not be made complete even within the last four years. Many more bodies have been left unlisted which stand for disqualification this way or that way. In Part I of the Schedule, 42 bodies under the Central Government and 55 bodies under different State Governments could be listed. In Part II, 28 bodies under the Central Government and 12 bodies under five State Governments only have been enumerated. Can it be a fact that the remaining eight States including U.P. and West Bengal do not have a single body which should be enumerated in Part II for disqualification?

In fact, the Joint Committee in spite of its long and best efforts could not secure the co-operation of some Central Ministries and States to make the list complete. If we enact this incomplete schedule we must be doing in effect an act to frustrate the behests of our Constitution.

Secondly, the question of practicability of preparing a complete list of such bodies comes in. If exhaustive lists cannot be prepared, the law in its practice is bound to be discriminatory in so far as the question of disqualification is concerned. The logic that the House of Commons Disqualification Act has a schedule and so we too should have one is untenable. For all practical purposes the objective condition of ours is quite different from that of England. England has a unitary form of Government, we have a Federal Government. England is a fully developed country. Ours is mostly undeveloped. A democratic Government is becoming increasingly a Government by Committees more so in our undeveloped country with the growing function of development Committees, Commissions, statutory and non-statutory bodies and similar other organisations are coming into existence in a growing number and would come by hundreds with the extension of the public sector and with the advance of the economy on socialistic lines under the Central and the fourteen State Governments. With the decentralisation of the administrative and economic structure which today or tomorrow is bound to materialise, there will be no end to such bodies, big and small, there will be hundreds and hundreds of such bodies. To maintain an exhaustive list of such bodies from time to time, even by a Standing Committee as has been proposed, is an unworkable proposition. The effect will be undesirable. Some will be disqualified no doubt but their compatriots would get an easy access to this august House to bask in the sunshine of the executive, frustrating the very spirit of the Constitution and also the provisions of the articles of our Constitution.

There are some other important facts to which I may draw the attention of the House. I fail to understand why some vital recommendations of the Committee on Offices of Profit have not been given effect to in this

Bill. In its report, the office of the Vice-Chancellor of the Universities had been recommended for disqualification. But they have been exempted under this Bill. Why? Lambardars in general have been admitted. What is the function of these lambardars? It is peculiar that in Rajasthan a lambardar has got at least fifteen items of duties and then he is not exempted for the purpose of election to the State Legislature. But these lambardars and the revenue officers may be without any police function—have been exempted in this Bill, and this has only paved the way for corrupt practices in rural areas right and left. The Home Guards have been exempted even though they have got police duties. These are ominous. These provisions along with the provision in clause 3(h) where a committee for advising the Government has been exempted are in contravention of the very spirit of the Constitution.

In conclusion I submit that the present Bill should be withdrawn as it cannot be recommitted after the ruling from the Chair. A fresh Bill may be brought with as far as possible, a wide definition of the term "office of profit" keeping in view the past and present experience and the development in future. Undoubtedly, Sir, law can be made so that both members and candidates are enabled to ascertain in a clear and definite manner whether the acceptance of a particular office of public employment in a particular capacity would involve them in disqualification or not. I am sorry that the Bill has failed in that

Lastly, I may urge upon this House that the enactment which we are going to make today is of far-reaching importance. By our present action we are building up the future. It will be better for this House and for our nation if the Government withdraws this Bill as it is framed and brings a fresh Bill on the lines I have suggested.

Shri Ajit Singh Sarhadī (Ludhiana): Mr. Deputy-Speaker, Sir, we are grateful to the Joint Committee for their labours in drawing out a very comprehensive list of the offices where it would incur disqualification and where it would not. Of course, we have not got the guiding principles laid down in the Sub-Committee's Report which form the basis of this recommendation, but we can presume the guiding principles which they kept in view. We appreciate that they could not draw out a very exhaustive list because they had not the complete data before them. But the main principles, Sir, from which we have got to see this Bill are, how far it would conduce to the keeping of the independence and integrity of the individual Members of Parliament. I believe, that was in the mind of the members of the Sub-Committee when they drew out the list.

I think there is no difference of opinion on the main point; everybody wants that the Members of Parliament should be independent, should have integrity, should be kept beyond temptation, and they should truly and correctly reflect the views of their electorate and be in a position to courageously and boldly criticise the actions of Government which go against the public. But there is also another aspect from which we have got to see the provisions of the Bill. We have selected for our objective a welfare State based on the socialistic pattern of society. The functions and duties of the State are bound to increase in time to come, especially in the sphere of industrial activities, commercial activities and scientific activities where the State has to take most of the functions to itself in a socialistic pattern of society.

Now, naturally the question arises, are the Members of Parliament to be kept out of touch from all these Corporations that would be constituted if the State takes up the functions,

commercial, industrial and others. That was one view point that was placed from the Communist benches. I concede that we have to keep this also in view, but basically we have got to maintain the independence of the House. Therefore, we have got to see how far we should have a legislation the nature of which should maintain the independence and integrity of the Members of Parliament, and keep them beyond temptation. At the same time, in the corporations that may be constituted or the organisations or committees that may be formed in a socialistic set-up of society or a welfare State, the Members of Parliament should also be there in an advisory capacity to give them a status, to give them a position. In order to inspire confidence in the minds of the people about a corporation which the State is to run, it is not only the association of individuals and experts alone that is required, but to give it a status the Members of Parliament or members of public importance or public standing must be associated in some capacity or the other.

Sir, my respectful submission is this. This Bill is a very important Bill. It is to lay down for the future the qualification or disqualification of an individual who comes into Parliament. It is for all time to come, because every time we are not to come back to this House for a certain legislation. Therefore, we have got to keep both aspects in view while drawing up a legislation of the kind.

It was from this point of view that article 102 of the Constitution was drawn up by the framers of the Constitution. Whereas they said that holding of offices of profit would certainly be a disqualification, they have, at the same time, authorised Parliament to have a Legislation giving exceptions to the basic provision.

My submission is that we have got to judge the present Bill from a certain yardstick, and that yardstick should be that there must be a certain

balancing between the two views, a sort of a mean between the two. Let us see whether the present Bill meets that situation or not.

Now, unfortunately, the list that we have got from the Joint Committee pertains to both the Houses. We have got two Houses, the Lower House or the present Lok Sabha and the Upper House or the Rajya Sabha. In most of the States also we have got two Houses. As you know Sir, for the Upper Houses in States we have got certain electoral colleges which send in teachers, graduates etc. and we have also got certain constituencies of the Municipal Councils and all that. In a way, the Upper Houses in the States reflect all the different kinds of people. That system could easily have been adopted by the Joint Committee in this matter.

I would suggest for the consideration of the hon. Law Minister whether it would be not in the fitness of things that Members of Lok Sabha should be entitled to serve on those bodies only which are advisory in character or which are created by Parliament or the Lok Sabha itself. They should not be associated at all with anything that carries a profit. An office of profit, as the Law Minister knows very well, does not confine itself to the benefit which that office gives as such, but an office of profit also means a certain sort of patronage. It has that definition also. I find that most of the offices which are mentioned in the schedule, as recommended by the Joint Committee and which, it is said, would not incur disqualification, or at least some of them, are offices which are certainly offices of profit which carry a lot of patronage. I would submit that Members of the Lok Sabha should be kept in such a position where they could absolutely be beyond temptation. Their integrity and independence must be maintained. But, as I said, there are certain corporations or bodies which must have among

them public men of standing who must have a chance of studying their work and justifying their work or otherwise in Parliament, and in such cases disqualification can be removed in respect of their nomination or election to the Rajya Sabha. We could have two sorts of lists, which might strike a balance between these the two factors, whereby the integrity and independence of this House could be maintained and also, at the same time, such public men could occupy the position of Members of Parliament and justify the actions of the Corporations before the public through the Rajya Sabha. This principle was adopted in the matter of election to the upper Houses in the States.

So, my respectful submission is that my suggestion may be carried out. I quite see that the Joint Committee has undertaken a lot of labour and has done it at so many sittings, and this Bill is the result of such a long period of deliberation and consideration and it is a very important measure and is of a significant nature with very great implications. I think that the Law Minister would be well advised that in this form, which I suggested, the Bill is approved, then it would be better. Of course, the motion is not there for the purpose, namely, for recommendal, and it has been ruled out of order. But I think that still we have got time and we should consider the aspect of splitting up the list into two parts: one part will mention that the Members of the Lok Sabha should not be able to occupy any office of profit even if it carries no monetary benefit but only patronage, and that they should be working only in an advisory capacity at such offices. That is my first submission before the House for its kind consideration.

My second point to which I will now draw your attention is this. It is contained, so to say in the provisions of the Bill itself, and I would not take long on that. In this respect, I agree with some of

[Shri Ajit Singh Sarhadi]

my hon. friends who have preceded me in their criticism. I find that there are three provisions which particularly need emphasis. They are sub-clauses (d), (e) and (f) of clause 3, which mention those offices which are excepted or which do not disqualify a Member from holding those offices. Sub-clause (d) mentions the office of a member of a House Guard, "constituted under any law for the time being in force in any State". Sub-clause (e) mentions the "office of sheriff in the city of Bombay, Calcutta or Madras." Sub-clause (f) speaks of the office of Vice-Chancellors of universities, etc. I would confine myself to these three provisions.

My respectful submission is that, as I stated at the outset, there should be a guiding principle, and that principle is, the Members should be beyond temptation. We have got to see whether these three sub-clauses do comply with that basic principle. I submit that they do not. They are absolutely contrary to it. Home Guard, as I understand, constitutes a sort of executive machinery for the keeping of law and order. It may be resorted to at a time of emergency, but, all the same, we have found that it has been used, and it is being used, by the police officers. I wonder how the membership of the Home Guard should not disqualify, especially when revenue officials of small stature have been rightly disqualified. This is a sort of anomalous position for which there cannot be any justification. It may be asked as to why an individual should be deprived when through a patriotic motive, he joins the Home Guard. It can be said that they are on the same level as the Territorial Force members or the members of constabulary force or even the N.C.C. That is one of the arguments which have been advanced. Auxiliary Forces have also been mentioned. We have got to see that they are different things. But so far as the Home Guard is concerned, and its contact with the

public is concerned, I submit that the Home Guard should be excluded from the provisions of clause 3. There are amendments to that effect, and I hope the Law Minister would be able to accept them.

Next comes the office of Sheriff. Sheriff, as the Law Minister was pleased to state when he sponsored the Bill last, acts as an arm of the Judge for the purpose of execution of his orders. Certainly he forms part of the machinery of the executive in that case. Of course, my hon. friend who preceded me, Shri Raghbir Sahai, brought out the legal point on the matter and he has proved that the sheriff is an official of the Government and that as *such his position is attracted by an office of profit which should qualify.* Therefore, he said the post of sheriff should be excluded from this clause.

About the post of Vice-Chancellor; the point has been argued by Shri Hem Barua and I need not dilate on it further. I wonder if the justification emphasized by the hon. Deputy Minister in regard to this could hold good. He said that it was the practice previously to include this post. But when we are having a certain sort of legislation now, we should see whether a thing which previously existed is correct or not. If it does not fit in with the things existing or with the policy that we are now embarking upon, it should be eliminated. Therefore, I submit that these three sub-clauses be deleted. I hope the Minister would accept the amendments that have been tabled in this connection.

My main point, as I have already submitted, is that the Bill is certainly objectionable inasmuch as the Members of the Lok Sabha have not been put in such a position as I pointed out. That is, the Members of the Lok Sabha at least should be kept beyond temptation, and the dignity and the independence of the Members should be maintained, and such, they should never be allowed to serve on committees which carry patronage.

Mr. Deputy-Speaker: I will now call on Shri T. Subramanyam. Those who have had chances of speaking when the Bill was being referred to the Joint Committee will be called a little later.

Shri T. Subramanyam (Bellary): It is gratifying that this Bill is before us after lapse of a fairly long period. I submit that in enacting this measure there should be no further delay, because a lot of confusion and difficulty was created in the past. The main object of the Bill is to make the membership of Parliament a source of service to the nation and not a source of profit to the Member by virtue of any office being held either under the Central Government or under the State Governments, and to enable the Members to maintain high standards of integrity, honesty and responsibility in the discharge of their public functions as representatives of the nation. This is the chief objective. In implementing this objective we should not be very rigid nor allow the position to get very loose. We should adopt a position of golden mean by which Members should not be prevented from holding offices, if they do not get anything more than the compensatory allowance, which has been very appropriately defined in this Bill and at the same time, discharge their responsibilities to the nation. Interpretations should not be rigid.

14 hrs.

Some years back, the membership of the Legislative Assembly of a State was nullified just because the members were nominated to some advisory body and they had taken some allowance. It was an unfortunate thing and afterwards, there was a lot of apprehension in the minds of members as to what posts they should not hold. Some of them got so apprehensive that they had to resign or refuse some of the posts which were absolutely legitimate. Now four or five

years have elapsed since this matter has been under the consideration of this House and therefore, I submit there should be no further delay.

In a developing economy, not merely consultative and advisory bodies, but other bodies as those referred to in clause (i) should not be a source of disqualification. It is good that under clause (h), consultative and advisory bodies are free from disqualification. But in a developing economy, other bodies should also be brought in. For instance, take co-operative societies. In future, co-operative societies will play a greater role in production and distribution in our country. In a Welfare State, it is bound to be like that. Suppose the Government constitutes a co-operative society for the first time and nominates the Chairman, Vice-Chairman and the directors of a co-operative concern, like a sugar factory. They might get some allowance which is not more than the compensatory allowance drawn by Members of Parliament. If that should be a source of disqualification, it would give rise to much hardship, because while others will be holding that position, if Members of Parliament are disqualified from exercising these functions, which I feel they should exercise as representatives of the people, it would be a very great hardship. Therefore, I submit that after clause (f) a separate clause might be introduced referring to Chairman, Vice-Chairman, Secretaries, Treasurers and Directors of co-operative societies. They should also be free from this disqualification.

Something was mentioned about Home Guards. I feel they should be given full benefit. It is a voluntary participation and they are drawn from various professions—merchants, advocates and others. In this context, I might mention that at the time of the Hyderabad police action, in my own district of Bellary, 1,500 Home-

[Shri T. Subramanyam]

Guards were drawn from various walks of life, men and women—merchants, advocates, etc.—and they all learnt the use of fire-arms. In future also, internal troubles may arise—God forbid—but there is nothing like being prepared for an emergency to protect the legitimate interests of the people. So, I feel it has been very properly laid down that Home Guards would be free from disqualification.

I feel that the list which pertains to some offices of profit is not quite satisfactory. For instance, the posts of directors connected with steel corporations involve exercise of patronage and they should be included. We should be very careful in these matters. The word 'profit' means that they should not get anything more than the compensatory allowance or the allowance drawn as Members of Parliament, just to enable them to meet the bare expenses. In future, when it is a question of nominating Government officers and Members of Parliament to such posts, if the non-officials draw nothing more than the compensatory allowance they now receive under the Salaries and Allowances Act, they should not be disqualified. They should certainly play their role

In future, so many corporations and organisations, especially co-operative societies, will be brought into existence and so, we should not be very rigid about this matter. Members of Parliament, as representatives of the people, should be enabled to play their role in advisory and consultative bodies and other organisations like co-operative societies, provided they do not draw a pie more than what they get under the allowances for Members of Parliament.

I do not want to say anything more except that the measure should be enacted as early as possible, without any further delay. Some Members have been saying that this measure should be withdrawn and some other measure should be placed before

Parliament or that it should again go back to the Joint Committee or some such thing. If this sort of advice is accepted, I do not think there will be any finality to it, because by the time any other committee submits its report there will be other committees coming from the Central and State Governments. I suggest that from time to time, at the end of every year or two years, the Government should prepare a list of committees, societies and other bodies constituted by the Central and State Governments. The various departments of the Central and State Governments should oblige and see that they conform to the request made to them and promptly send all the information that is required. The Government should get this information from time to time and amend or add to the list if that can be done, I am sure all the disabilities and hardships will be removed. There should be no further delay in enacting this and Members of Parliament should be allowed to play their role in the public life of this country, as representatives of the people, while at the same time, they should maintain their high standards of integrity, decency and dignity.

Shri Mulchand Dube (Farrukhabad): In U.K. the disqualification attaching to the holder of an office of profit has been there since the time when there was a constant conflict between the King on the one side and the House of Commons on the other. The Members of the House of Commons were jealous of their independence and they did not want to be influenced by the Crown. So, there were constant struggles between the Crown and the House of Commons. The result was that in the beginning the House of Commons started with this view that any office that prevented the holder of that office from performing his duties as Member of Parliament should be a disqualification.

Later on, what happened was that the King began to interfere and distribute his patronage and favours to

Members of the House of Commons. In this way, the Members of the House of Commons were being influenced and corrupted by the favours conferred upon them by the King. So, there was some change and the House of Commons began to hold that any holders of an office of profit from the Crown was disqualified from being a Member of the House or from being chosen as a Member. The Kings were irremovable. They could not be removed by the House of Commons or by anybody except by a revolution. The question is whether the same situation is prevailing in this country and whether we should still adhere to the disqualifications that were imposed by the House of Commons in certain circumstances. Here it must be remembered that in the United Kingdom the office was under the Crown. Even in the 1935 Act the word "Crown" was used. But in the Constitution we have used the word "Government". The Government in this country is removable by a vote of this House. Therefore, the disqualification should not, I submit, operate with as much force as it did operate in the United Kingdom. The President, who is the head of the executive, is also removable by a vote of both Houses of Parliament. Therefore, the disqualification from holding an office of profit under the Government should not be applicable with as great force as it used to apply in the United Kingdom.

The other difficulty that I feel is that the office of profit has not been defined anywhere. The question is whether the same difficulty which was felt by the House of Commons in the United Kingdom is felt by us too. There the favours that could be distributed by the King could take innumerable forms and shapes. Here that is not possible. The Government cannot do the same thing which the Crown could. The Crown had a special position and special privileges. The Government of our country do not hold the same position. Therefore, there should not be any difficulty

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in defining the words "office of profit" so far as this country is concerned.

Hon. Members who have spoken before me have tried to evolve some kind of an order from the Schedules attached to this Bill. My submission is that so long as you do not define what an office of profit is, it would not be possible to bring any consistency in the lists that are appended to the Bill. It may be said that articles 102 and 191, which refer to the office of profit do not have any definition, but may I refer to article 367 of the Constitution which says that all words and phrases that are defined in the General Clauses Act, 1897, can be used for the interpretation of the Constitution? Therefore, if the General Clauses Act is amended to define the office of profit it will hold good for the purpose of the Constitution also. I do not see what difficulty is there in defining the office of profit once and for all. The difficulties that the House of Commons felt about it do not exist so far as this country is concerned.

We can simply say that only public servants will suffer from this disqualification. That would be quite enough. When there are some advisory bodies, some corporations and some companies, if we say that some are not exempt, some are exempt, in some cases the Chairman and the Secretary are not exempt, in others the members are exempt, I do not think we can evolve any order out of this chaos.

From 1950 onwards we have passed three Acts, removing the disqualification, and those Acts have been repealed. Now we have got the fourth Act, which also seeks to remove certain disqualifications. If this Act is also incomplete then what happens? Now, information has not been received from some States; information has not been received even from the Ministries of the Central Government. Then, even if we remove these disqualifications, there will be many others who will still be incurring disqualifications. Here we must bear in mind the result of this disqualification. If

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after incurring this disqualification any Member chooses to sit in the House he would be liable to a fine of Rs. 500 a day. Until this list is complete there may be many persons who are suffering from this disqualification and are incurring a penalty of Rs. 500 per day.

Therefore, the best thing would be to define an office of profit and confine it to the public servants and leave the matters as they are. Otherwise, there are bound to be many difficulties. And I do not see why there should be any difficulty in defining an office of profit. Whatever might have been the difficulties in the United Kingdom, they do not exist here. As I have submitted earlier, the hon. Members who have spoken before me have tried to evolve some order out of this chaos and they have raised certain objections to certain exemptions from disqualifications that have been mentioned in the Bill saying this disqualification should not be there or that disqualification should be there. All this seems to me to be an attempt at evolving some kind of an order out of the chaos.

My submission, therefore, is that the best thing would be for the Government to withdraw the Bill and bring another Bill in which the office of profit may once for all be defined so that after definition any person who enters upon an office and is likely to incur disqualification may be forewarned about it and he may not accept an office which may involve disqualification. Suppose some of the offices are not included in the list. What will happen to them? Will they continue to incur disqualification and the Sword of Damocles will be hanging over their heads? Then, when you say that you are removing a disqualification you must at least ensure that those persons did incur a disqualification. That is another difficulty which has to be met. Therefore, I submit that without withdrawing the Bill and bringing in a new Bill the difficulties are not going to be solved.

Shri Laladhar Kotaki (Nowarnar):
Mr. Deputy-Speaker, Sir, in this Bill

one difficulty is that we have not laid down any principle to guide us as to which offices of profit should be exempted so as to remove the disqualifications of the Members of Parliament. That is why we find that some of the offices have been included in the list of exemptions without justification. For instance, the office of Vice-Chancellorship of a university is a whole-time job which requires undivided attention. That has been exempted in item (f) of clause (3). As was pointed out by several speakers, this has led to lack of discipline and various irregularities in our universities. In this connection, the words "office of profit" should be interpreted in the wider context so that not only the Government employees, whether at the Centre or the States, but also such employees who are whole-time workers like teachers and professors of Government-aided colleges or private colleges and schools, should also be debarred from standing as candidates for or being Members of Parliament.

Then in clause 3(d) the members of Home Guards have been exempted. I feel that a Member of legislature should not be allowed to be an officer or a member of the Home Guards organisation. I know several cases where members of legislatures are the heads of Home Guards. That requires the whole-time attention of the officer and members. He, therefore, can devote his time neither to the legislative work nor to his office as the member or head of the Home Guard.

So also in our State of Assam there are certain offices which are called honorary offices like the honorary Prohibition Commissioners etc. They get certain honorarium but as that is not taken as emoluments or salary they are not disqualified. I feel such offices should not be exempted.

There is another office which is not mentioned in item (j) of clause 3, but which is covered under it. That office is the office of mauzadars. In our State the revenue collectors are called

mausaders and they get a commission for collecting revenue for the Government. They also should be debarred or disqualified from being Members of legislatures.

I feel the guiding principle should be whether the holding of an office, whatever be the emoluments—whether honorarium or salary or whatever it is—will affect the dignity of a Member of Parliament and we should apply that test in allowing or disallowing a Member to hold certain offices.

I do not want to go into the details of the list. As has already been pointed out, the list is not exhaustive. We have not got full reports from the various States and from the various Ministries and therefore this list cannot be complete. Although the Joint Committee has suggested the constitution of a Standing Committee which could go into the lists and examine them from time to time so that they can be amended if and when necessary, but as already pointed out this would lead to certain difficulties till the list is finalised. Therefore I suggest that we should lay down in the body of the Bill itself the principle and define the various offices of profit although that is not strictly within the purview of this Bill. But as that may lead to confusion and may leave out some very important offices which some of the Members might be still enjoying at the cost of the dignity of the House and their duties as Members of Parliament, that should be incorporated in the body of the Bill.

Lastly, I find that even the suggestion of the Joint Committee that there should be a Standing Committee to scrutinise the list does not find a place in the body of the Bill. I suggest that that should be done.

With these words Sir, I conclude.

Shri L. Achaw Singh (Inner Manipur): Mr. Deputy-Speaker, Sir, the Bill, as it has emerged out of the Joint Committee, is still full of controversies and misgivings. The Bill seeks, in its present form, to exempt certain

holders of offices of profit from attracting disqualification under article 162 of the Constitution. Primarily it was designed to preserve the independence of the Members of Parliament. Now the objective of the Bill has been very much vitiated in its present form.

If you go through the minutes of dissent, you find that there are a large number of divergent views and some of the views expressed by those who have signed the minutes of dissent are very forceful ones. Indeed, most of the provisions seeking to remove the disqualifications of MPs are nothing but attempts to circumvent the principle and spirit of the Constitution. Even the last UK Act is more progressive. It is more clear and precise. It has divided offices into two—those whose membership is a disqualification and those offices whose membership is not a disqualification. Here, in this Bill, we find that a lot of complications and uncertainties have been introduced by the provisions of exemptions and exceptions.

It is an ideal of democratic governments that representatives of the legislatures should be free of the undesirable influences or undesirable forces which might bias the judgments of the legislators from expressing their views on public matters. In particular they should be free of the financial influences. They should be free of the executive so far as pecuniary benefit is concerned. The present Bill is a halting and indecisive one in so far as it has not gone far enough and has not been able to accomplish the above purposes. This will put Members voluntarily or otherwise in the hands of the executive and in a position of dependence upon the executive.

The Herbert Committee of the House of Commons has enunciated certain principles. They have formulated three criteria on which the offices have to be judged. One of them is the incompatibility of the duties of these holders of offices of profit with their duties in the Parliament. The second is the control by the executive of the Members of Parliament by means of

[Shri L. Achaw Singh]
financial influences arising out of distribution of offices. The third is that the control of the executive by Parliament also calls for the presence of certain Ministers in Parliament.

I would like to refer to another criterion which has been mentioned by some of the committees on this subject, i.e., if the holders of such offices should or should not be, whether taking money or any honorarium, in a position to influence unduly people who are working under them or within their jurisdiction. Judging from all these principles, we find that the Bill has not fulfilled its purpose. It has got a lot of ambiguities and also anomalies. It was expected that it would make a clean sweep of all the ambiguities, perplexities and anomalies which were contained in all these previous legislations. In its present form, we find that the destruction of Members' independence by the hope of obtaining some favour from the Executive can hardly be prevented. One of the major defects that we find in this Bill is that the number of Committees mentioned in the Schedule is neither exhaustive nor comprehensive. A scrutiny of a number of Committees which may be formed later on, which are not covered by this Schedule by the Government or a Standing Committee, I am sure will leave a certain number of doubts and uncertainties in the minds of the people as well as Members of Parliament. The present Bill is a fragmentary Bill and it has failed to ensure the sanctity and purity of Parliament. The manner in which Advisory Committees have been exempted from disqualification in a general way without looking into their functions will certainly take away the entire merit of the Bill. There are a number of Advisory Committees whose functions are of an executive nature and which involve powers of patronage. I submit that clause 3(1) requires to be amended. This clause gives a blanket cover to a number of statutory and non-statutory bodies which are not covered by this Schedule. It removes disquali-

fication of a director, chairman or a member of any of these committees. It is a very unfortunate clause. It has to be opposed. It also leaves room for doubt as to whether it will also cover statutory committees or bodies which may be constituted later on.

Next, I submit that presumably this Bill has been drafted on the basis of the recommendations of the Bhargava Committee. I find, in many respects, it has got provisions contrary to its recommendations. I would like to refer to para 81 of the report where it is clearly stated that Members of Parliament nominated or elected by sectional or other interests such as employers, employees, consumers, should not incur the disqualification. I would also like to refer to page 19 of the Report of the Joint Committee where it says:

"The Sub-Committee note that Members of Parliament happen to be sometimes elected or nominated by sectional interests such as employers, employees etc., to represent them on some of the Committees. The Sub-Committee are of the view that such members ought not to incur disqualification."

But, in spite of this recommendation, I find that the Schedule has included some Committees where the interests of labour are represented. For example, in Part I of the Schedule, there are a number of local Committees which are constituted under the Employees State Insurance Act, and also a number of Port Trust Boards where representatives of trade unions are included in the membership. This will take away the right of labour to have their representation by Members of Parliament. I would request the Minister to look into this.

As regards clause 3(1) which refers to village revenue officers, I find that the inclusion of the clause is unjustified. A village revenue officer may be remunerated by a commission or a share of land revenue or even a monthly salary. He may have police functions or not. But, for all intents and purposes, he is a public servant

and he is an instrument of the executive. I do not see any reason why he should be allowed to come to Parliament. I would like to refer to a provision in the Representation of the People Act where we find that any one who takes the assistance of the village revenue official would be disqualified. That clause is there. This is a very obnoxious provision in so far as he is a very powerful prop of the executive.

Then, I come to Vice-Chancellors of Universities. In para 44 of the Bhargava Committee report, it is clearly stated that holders of the office of Vice-Chancellors of Universities should not be exempted from disqualification. They are appointed by the Government and they draw their pay from funds given by the Government and controlled by the Government. Their time is fully occupied by their office. We must also realise that they exercise enormous influence over a number of professors, lecturers and hosts of hundreds of thousands of students who might be used as electioneering agents at the time of election. The decision of the majority of the Joint Committee is contrary to accepted principles of democracy. I would also request the Minister to revise this decision.

I come to clauses 3(d), and (e), which refer to Home Guards and sheriffs. As regards Home Guards, I do not find any difference between Home Guards and Police officers. At the time of emergency they are used by the Government and by the police officers. They are sometimes more zealous instruments of erroneous Government policies and they have not hesitated to shoot the people at the instance of the police officers. There is a hierarchy of officials, Commandants of Home Guards. They are appointed by the Government. They enjoy a certain privilege and patronage. These offices of patronage and privilege are liberally distributed by the ruling party. They also depend upon the Government for their continuance in office. It will be a very unhealthy practice to allow members

of the Home Guards to be candidates for election to Parliament and to be Members of Parliament.

Coming to the Sheriffs, they are also public officers to all intents and purposes. They are jailors and they are also custodians of properties. They may or may not get any remuneration. I would like, in this connection, to refer to page 24 of the Bhargava Committee report where they say that honorary magistrates, Justices of the peace, revenue officers, Munsifs and Judges need not be exempted from disqualification, because these posts confer great influence and prestige on the incumbent. The argument with regard to honorary magistrates, revenue officials, Munsifs and Judges must apply to the case of the Sheriffs.

Lastly, I find that the Bill has left out a number of Committees. Perhaps, the State Governments and local administrations have not given them full co-operation. I know, in some of the Union Territories, Tripura and Manipur, there are a number of Advisory Committees set up by the local administrations. I do not think they have sent in any list from those respective Union Territories. If you scrutinise some of them, it will be very easy to find that there are Advisory Committees which are of an executive nature, and which also have powers of patronage. I would only like to cite two instances—the case of the State Transport Authority and the Textbook Committee—with regard to the Union territories.

Lastly, I would like to appeal to the Government to give serious consideration to all the suggestions made by the hon. Members of this House. This Bill is a very controversial one, and I would like to appeal to the Government to jealously guard the independence of this House and of Parliament, and also uphold the democratic ideals because we are faced with a very serious situation specially when our neighbours have taken to undemocratic methods. We have been hearing of coups and military dictatorships and it is the duty of Parliament to keep up the standard because India

is the only big country having democratic form of Government in this part of the world.

Shri Mahanty (Dhenkanal): This is a Bill of unusual importance. It does not relate to any temporary administrative or political problems which can permit a partisan attitude. Here is a Bill which relates to the institutional purity of our parliamentary life, and to that extent it relates to the very purity of political life in our country. I have tried to approach this subject with impartiality, without any partisan spirit, and we except the Government will also mete out the same treatment to the views and observations which we may put forward before them for their consideration.

The fact remains that in the Constitution nowhere has an office of profit been defined. Well, so many other things are not defined. It is just like the "Brahman" of the Upanishads which can never be defined. However, the attempt has been to apply certain rational standard, certain criterion, which will fulfil the objectives.

The fact has to be borne in mind, that the concept of the office of profit and disqualifying persons who are holders of offices of profit is a British concept. We have inherited that concept in framing our Constitution. Therefore, article 102 of the Constitution is a reflection of the British tradition which has been evolving through centuries.

Originally, when this Bill was framed and introduced in this House, it was a lean, cut and dry affair. In the Joint Committee, after much deliberation, it was thought proper that, following the pattern of the U.K. law, for the sake of precision, a schedule might be appended, and the Joint Committee also tried its level best to compile a schedule, but we find that it is most unsatisfactory, possibly more unsatisfactory than it was ever before.

It was said in the Joint Committee that a schedule could not be

compiled which would satisfy all the objections, but I do not think that the intelligence of the Joint Committee or the able Minister of Law and the Deputy Law Minister was so limited as not to be able to overcome those difficulties. Had certain criteria, certain principles been observed, as were observed by the Spens Committee when the U.K. law was being framed, possibly these difficulties would have been obviated, but I am constrained to say that no principle was laid down, only subjective tests were applied, only subjective criteria were laid down, and whichever committees, bodies or corporations suited the particular fancy of a majority was accepted, and which ever did not, was rejected. That will be obvious if anybody goes through the whole pattern of this Bill as it has been framed.

Of course, we have in this country the law in our Constitution that aliens, fanatics, lunatics, minors and bankrupts will not be allowed to sit as Members of Parliament, not even stand as candidates. Also, we have the Representation of the People Act where certain disqualifications have been laid down, and certain persons having subsisting contracts with Government for the supply of goods or execution of works, are disqualified. Over and above that, here is a matter which tries to confine itself to offices of profit.

The concept of the office of profit, as I said a little earlier, has evolved through centuries of British history. During the 17th century, during the reign of James I, for the first time I believe the House of Commons started seriously considering how to exclude persons holding offices under the Crown from membership of Parliament, because it was found in many instances that wherever a conflict arose and the House was in conflict with the Crown, persons holding offices under the Crown found themselves bound to support the Crown under the circumstances. Therefore, since then this question is being debated.

This is nothing new. But even in the 17th century certain principles had been clearly laid down, *viz.*, the incompatibility of the two offices and the durability of absence.

For instance, ambassadors, in 17th century England, were not disqualified from holding seats in Parliament because those were the days of matrimonial diplomacy and diplomacy was not a whole-time job. If the Queen of England married the King of Spain, both the countries were expected to maintain very good relationship and the ambassador had very little work to do. Therefore, ambassadors were continuing in their own countries, and whenever occasions arose, of course, they paid visits to the countries to which they were accredited. Therefore, in the 17th century, an ambassador was not disqualified from holding a seat in the British House of Commons, because holding the office of ambassador did not enforce a long period of absence and thereby deprive the House of the services or the contributions of the particular Member. But subsequently when matrimonial diplomacy gave way to Machiavellian diplomacy, and diplomacy was a whole-time job, ambassadors were precluded. Since then the House of Commons had laid down consistently the criterion of the period of absence.

Now, what do we find? We find in the context of things that a Member of Parliament is expected to be a whole-time servant of his constituency and constituents. As soon as he is elected to the Lok Sabha, his duty is first towards his constituents, and then only to any others. We find in this Bill that the flood gates have been thrown open to, all sorts of people, right from the Home Guards to Vice-Chancellors and chairmen, members and chairmen of statutory and non-statutory bodies. In all fairness, may I point out that the whole time of a person who is a member of a corporation in the public sector is bound to be directed towards fulfilling the responsibilities which he has assumed, and there comes the

conflict if he continues also to be a Member of Parliament? Neither will he be able to safeguard the interests of his constituents to whom he owes his first moral and political responsibility, nor will be able to do his job in the corporation well, discharging the particular functions with which he has to be invested. It has been said in the Joint Committee that now the public sector is expanding, and if Members of Parliament are increasingly associated in various capacities with these corporations or public bodies, then it will contribute towards the efficient running of those corporations. I, for my part, do not wish to invest myself as Member of Parliament with the attributes of omniscience. I do not believe in the proposition that as soon as a Member is elected to Parliament he becomes both omniscient and omnipotent. Politics is thousands and thousands of miles away from commerce. If the country feels that a particular person can better serve the nation by serving as the chairman of a corporation, for God's sake, let him be the chairman or member of the corporation; let him not come here.

Now, what will happen if a Member is allowed to serve on the corporation also? Sir, this House has a membership of about five hundred odd. There is a wilderness of Opposition; leave them alone; about a hundred Members. There will then be about four hundred Members. Towards the close of the Second Five Year Plan, we shall have about four hundred corporations and public bodies in this country; and it is just possible—I am considering, hypothetically—that everyone of these four hundred Members may be in some way or other connected with some corporation or the other. And whenever, for instance, the Hindustan Steels come up for discussion, the Member who will be the chairman or a member of the standing committee or whatever body it might be of that public body can canvass sympathy and support among the Members of Parliament and can get the very objective

[Shri Mahanty]

of parliamentary scrutiny frustrated. Therefore, I take very strong exception to this fact. It is really unfortunate that under very facile, very fatuous and very obvious considerations, sub-clauses (h) and (i) should have been inserted in the Bill.

Then, we come to another aspect of this Bill. The Minister of Industry gave a very able exposition before the Joint Committee about the proposition, and about his conviction that Members of Parliament should be associated with those bodies more and more. I do not wish to attribute any motive to anybody, but the fact remains that, in this particular case, we have to fall back upon certain precedents. We cannot say that we do not follow any precedents. If we say not follow any precedents. If we say it will be a sort of intellectual dishonesty.

We are following all kinds of precedents, and they are UK precedents. Now, let us look at the UK precedents. I would like to hear from the hon. Minister to what extent Members from the British Parliament are associated with the public corporations. It is only to a very limited extent that Members of the British Parliament are associated with these corporations. If I remember aright, when they drafted their legislations in regard to the National Electricity Board of England and some other boards, they provided for Members of Parliament to serve on those bodies or not, and they also laid down whether such membership qualified them or disqualified them. The whole matter is left to the Parliament there, and moreover the instances of such membership, are few and far between.

In the Joint Committee, we had tried our level best to get all information regarding the number of such corporations public bodies, over which particular Members have been serving; but in spite of our best efforts, the information that could be supplied to us by Government was unsatisfactory and incomplete.

I was saying a little while ago that if we looked to the UK precedents we shall find that this concept is not being as much exaggerated there, as it is being sought to be done in this Bill today.

There is another important thing, that whichever Member is elected to these bodies and corporation must be elected by the House. I take strong exception to the fact, that Ministers will nominate Members of Lok Sabha or of Rajya Sabha to such bodies. That is derogatory both to the sovereignty of the Speaker or the Chairman as the case may be, and also to the dignity of Parliament. Let no Member of Parliament know to any Minister for a berth in whatever capacity it may be, in whatever corporation it may be.

Of course, I do realise, and I do concede the point that while we are framing a law for disqualifying holders of offices of profit, a provision of this nature cannot be inserted in the law. But in all humility, I plead, that let Government and let this House bear this aspect in mind and see that something is done, so that no Member is ever appointed or public bodies and corporations, by any Minister.

The other day, the Rajghat Samadhi (Amendment) Bill was being discussed in this House. If you will kindly look at the pattern of the Rajghat Samadhi (Amendment) Bill you will find that about six or seven Members of Lok Sabha, and about three Members of Rajya Sabha—I say this subject to correction—are to be represented on the Rajghat Samadhi Committee. You will find there the provision that the Members will have to be elected. Here is a small body which is concerned with the task of maintaining the Gandhi Samadhi at Rajghat. To serve on that Committee Members from both Houses have to be elected. But we find, that is not so in the case of the various public, statutory and non-statutory bodies and corporations. I would like to know from the hon. Minister that

if Members could be elected to the Rajghat Samadhi Committee, why Members should not be elected to the statutory and non-statutory bodies and corporations which wield infinite power and which have got enormous power to confer patronage.

Then, we find that as is quite natural, the schedules cannot be complete or comprehensive, because the creation of such public bodies is a continuing process. So, I concede that difficulty. A parliamentary committee is being proposed which will try to screen these from time to time and advise accordingly. That is all right. But that will not serve the purpose which we have in mind.

Now, article 102 of the Constitution says that the holders of certain offices will attract disqualifications for contesting for a seat and for being chosen as a Member of Parliament and for continuing also as a Member of Parliament. Now, it is just possible that a person who is serving on one of these statutory or non-statutory bodies, is elected, and sits in the House for one year or six months or for even two years. Under the given set-up of things, there will be, and there is bound to be, a time-lag between his election, between his continuance as a Member of the House and the time when this parliamentary committee declares that particular office as a disqualification. So, even that parliamentary committee is not going to fulfil the objects which we all have in view, both the Government and we the Members of Parliament.

That difficulty could have been obviated, if certain basic principles could have been laid down, and if, according to those principles we could have formulated our proposals. To that extent, my fundamental disagreement with this Bill will linger, and I shall never be tired of repeating that this is an unprincipled Bill, and it will throw open all kinds of flood-gates and will create all kinds of problems, and to that extent, I am quite in agreement with the view that this Bill should be recommitted again to

the Joint Committee or to any other committee, to be considered afresh in the light of these objections which to know from the hon. Minister that are being raised from both sides of the House.

There are two or three other things to which I would like to invite the attention of the House. The first is, clause 3 (j) which reads thus :

"the office of village revenue officer, whether called a *lanbar-dar*, *malguzar*, *patel*, *deshmukh*, ...who does not discharge any police functions."

Holders of these offices, will not attract disqualification. It lays down only one proviso, and that is :

"but who does not discharge any police functions".

I have tried my best to find out what 'police functions' means. Even in the *Police Manual*, police functions have not been defined. I do not know if they are defined in the General Clauses Act. What are police functions? Those who are acquainted with these matters, those who are acquainted with our countryside, must have been aware of the blurred twilight of definition between revenue officers and persons performing police duties. What happens? In the countryside, these gentlemen are practically the symbols of State power. When the police sub-inspector comes, usually these gentlemen have to arrange for his boarding and lodging etc. etc.

15 hrs.

Shri Morarka: What is 'etc. etc.'?

Shri Mahanty: That I leave to my hon. friend's imagination. Whenever the police official comes or the Magistrate comes, they visit these gentlemen. These gentlemen collect village revenue, possibly maintain records and also help—they do not themselves directly discharge any police function—the police officers. I know many very disparaging remarks have been made about these village

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officers in a number of judicial pronouncements. I do not wish to bring them to the notice of the House today, but I beg to submit that to allow this blurred twilight to continue, will confuse, confound and frustrate the very objectives we have in view. I am quite emphatic in my assertion that if this provision is inserted here, the whole principle of free and fair elections will be defeated. I do not wish to labour more on that.

Once again, I appeal to Government. Let them eschew this kind of unrealistic notion. There can be no revenue officer who does not discharge any police function. If the Government are very keen to retain this provision, let them define what police functions are.

Then I am very much troubled about the provision relating to Home Guards and the Territorial Army. We know the functions of the Home Guards. The Government know it better. In fact, some literature was circulated about the Home Guards. They function during emergencies. In Bombay State, these Home Guards function as anti-prohibition police.

Shri Naushir Bharucha (East Khandesh): And as guards for hon. Ministers.

Shri Mahanty: Shri Naushir Bharucha is more informed about Bombay. I would ask the whole House in all seriousness whether, if these gentlemen come to Parliament, that institutional purity and that dignity will be maintained. I yield to none in my admiration for the Home Guards. It is true that during emergencies, they discharge police functions. If they are so patriotic as to get themselves enrolled as Home Guards and agree to serve under the discipline of the Superintendent of Police, we wish them well; let them serve us when we are in danger. Let them serve that cause better. Let

them not interrupt their activities by coming to this House. I think if Government are planning in this way, there may be a Rump Parliament; there will be another Cromwell who will be Leader of the House. Then only I can appreciate their anxiety to stuff this House with Home Guards. If that is not the intention, let these Home Guards be kept at a very safe distance.

Then I come to Territorial Army. We are proud of our Army. We are proud of our Territorial Army. If our Army personnel are safeguarding the country out of other motives, here our Territorial Army personnel are safeguarding our country out of sheer patriotic motives. So I have my deepest regard and respect for them. But I am the last person to allow any kind of politics to vitiate the Army, be it the Army or the Territorial Army. When a person who has been performing his work in the Territorial Army seeks election to Parliament, he will stand on certain political platform. He shall have to agitate and propagate for certain political principles. Again the line of difference between the Territorial Army and the Army is very thin. Therefore, it is high time Government considered whether in the given context of things, it is wise to allow our Army personnel to be divided by this kind of political controversies.

It is just likely that one person, say, a Lt. Commander of the Territorial Army, will try to seek election through one party ticket. Another cannot be prevented from contesting his seat through another party ticket. In that case, you will find the entire army, our brilliant Indian Army, will be disrupted; and politics will vitiate, and we do not know what miseries will be in store for us.

Therefore, I would beg to this House to consider this proposal very seriously. I have not tabled any amendment, particularly in the hope and

belief that Government will consider it and will themselves suggest that this is dropped.

Now, I come to the office of Vice-Chancellor.

An Hon. Member: The hon. Minister is asleep.

Shri Narayankutty: Menon: The hon. Minister is not only asleep but fast asleep.

Shri Mahanty: He is trying to wake up.

From the very beginning since this Bill was introduced in this House, both sides were insistent in their common denunciation of this provision, because the Vice-Chancellor's job is incompatible with membership of Parliament, because the Vice-Chancellorship will impose on the Member prolonged periods of absence from the House. I know there are one or two Vice-Chancellors in this Parliament and the House can judge how long they sit in this House.

So I would like to say that they can be fair neither to the institutions that they control nor to the Parliamentary duties, those they are asked to perform. In the case of Banaras Hindu University, the Government have been coming and shedding tears, 'Look, an educational institution of the description of Banaras Hindu University is being disrupted on account of politics'. Now, I believe the Government cannot take back what they have already said in the case of Banaras Hindu University. Is it being suggested that all Universities should be converted into the arena for matadors and bull-fighters of politicians? Certainly not. But if you are allowing Vice-Chancellors to be Members of Parliament, what is there to stop them from deploying the entire student community to canvass for them? This office not only carries a lot of patronage, of power and of influence—this is not my only objection—, but if you allow these Vice-

Chancellors to contest for seats here—this is my fundamental objection—then all the Universities will be converted into dark arenas for partisan minds. If we want that for educational purity, our educational institutions should function better on academic lines, then let us not have Vice-Chancellors here in Parliament. They have got a much better job to perform than come to this House.

These are some of my objections. I do not wish to take more time. Possibly at the clause by clause consideration stage, if you kindly give me an opportunity, I shall have to say something more. But before I conclude, I would once again make an appeal to the House. Here is a matter which relates vitally to the institutional purity of the Indian Parliament. From that point of view alone, this entire legislation has to be judged by this House. So far as we are concerned, we do not maintain any partisanship about it. We maintain an open mind. We hope and believe that the Government will not stand on any pedestal of false prestige and try to throw away all the suggestions that we have made.

श्री कोरटकर (हैदराबाद) : उपाध्यक्ष महोदय, मैं संयुक्त प्रश्न समिति को बहुत शुबारकवाद देता हूँ कि उन्होंने इस बिल को मौजूदा शकल देने में कड़ीब कड़ीब एक वर्ष का समय लगाया और एक वर्ष तक इस पर और करके यह वर्तमान विधेयक हमारे सामने पेश किया है जो कि जरूरी था। लेकिन इस के साथ ही साथ मैं इस बात को भी अनुभव कर रहा हूँ कि एक वर्ष का समय इस बिल के बनाने में लगाने की ज्वाएंट कमेटी को कोई खास जरूरत नहीं थी। मामूब ऐसा होता है कि स्टेट गवर्नमेन्ट्स की तरफ से और साथ ही साथ सेंट्रल मिनिस्ट्रीब की तरफ से जो कारपोरेशंस, सोसाइटीयाँ और कमेटीयाँ काम कर रही हैं उनकी लिस्टें बक्स पर सूईकन नहीं की गई और उन लिस्टें के संस्कार में ही ज्वाएंट कमेटी का सारा का सारा बक्स निकल

[श्री कौरटकर]

गया और इसी में उनको बहुत बेर लग गई। यह बेर न लगती यदि क्रिस्टें ही न बनाई जाती।

संसद् सद्यस्यता प्रयोग्यता निवारक विधेयक पर जो यहाँ अब तक स्वीचेज हुई हैं उन सब में मेरी समझ में एक चीज नजर आ रही है कि बहुत सी डिसक्वालिफिकेशंस जो निवारित की गई हैं उन को न निकालने की ही तरह ज्यादा रक्षान है और उसकी वजह यह है कि डिसक्वालिफिकेशंस निवारित करने के लिए दफ्ता १०२ में जो लिखा गया है उसका यह अर्थ तैयार किया जा रहा है। बाक्या तो यह है कि आफिस आफ प्राफिट अगर कही हो तो उसको डिसक्वालिफाई करना चाहिए। यह एक उद्देश्य है और अर्थवाद सिद्ध उसी बल हो सकता है जब कि कोई बहुत जरूरी चीज हो लेकिन उसके लिए न तो कोई उद्देश्य तय किये गये और न ही किसी उद्देश्य पर चला गया है। कुछ आफिसेज ऐसे क्रारर दिये गये हैं जिनके कि होल्डर्स एलेक्शन में हिस्सा ले सकते हैं और वहाँ रहते हुए भी पार्लियामेंट के मेम्बर बन सकते हैं।

उपाध्यक्ष महोदय, मैं यह एक उद्देश्य रखना चाहता हूँ और मैं समझता हूँ कि सदन का भी अनुरोध रक्षान कुछ ऐसा है कि इसके लिए एक ही अर्थवाद तैयार किया जा सकता है जब कि किसी आफिस में रहने के बावजूद भी उस व्यक्ति का पार्लियामेंट में रहना भी उतना ही जरूरी हो। मसलन् मंत्री और उपमंत्री हैं और वे आफिस आफ प्राफिट होल्ड करते हैं लेकिन आफिस आफ प्राफिट में रहते हुए भी उनका पार्लियामेंट में रहना उतना ही जरूरी है जितना कि उनका अपने आफिस में रहना जरूरी है। मैं चाहता हूँ कि हम सिर्फ इसी एक उद्देश्य के अन्तर्गत अपनी लिस्ट को तैयार करें और अगर हम इस उद्देश्य के अन्तर्गत अपनी लिस्ट तैयार करेंगे तो दूसरे बिन्दु में डिसक्वालिफिकेशंस निवारित किये गये हैं यह सब के सब बेकार हो जाते हैं। चुनावों के भी तक जितनी भी स्वीचेज हुई हैं उनमें यह नजर आया है कि

किसी ने शीरिफ का विरोध किया, किसी ने वाइस चांसलर का विरोध किया, किसी ने पटेल और पटवारी का विरोध किया तो किसी ने होमगाव्स का विरोध किया और इन सब से एक ही नतीजा निकलता है कि केवल ए० और बी० इन दोनों को छोड़ कर जितने भी सब संस्थाएँ हैं, उनका विरोध किया जा रहा है। और नतीजा यह है कि एक ही उद्देश्य पर कि पार्लियामेंट में उन आफिसमें का रहना भी उतना ही जरूरी है जितना कि अपने आफिसेज में उनका रहना जरूरी है, अगर एसी सूरत हो तो उस हालत में यह डिसक्वालिफिकेशन निकलेगी अर्थात् यह डिसक्वालिफिकेशन किसी तरीके से भी नहीं निकाली जा सकती है। इस तरह का अर्थवाद रखा जा सकता है। इसलिए इस उद्देश्य पर चलते हुए मैं सरकार, मैं मानने यह एक विचार रखना चाहता हूँ कि सी० में लेकर जे० तक जितने भी आफिस आफ प्राफिट करार दिये गये हैं, और यह कहा गया है कि उन 'होल्डर्स पार्लियामेंट के लिए खड़े हो सकते हैं, वे सब का सब निकाल देने चाहिये।

इसमें साथ साथ एक चीज और रखना चाहता हूँ और वह यह है कि बहुत से माननीय सदस्यों ने इस चीज को समझने रखा है कि जिस संसदलिस्टिक पैटर्न की समाज का हम निर्माण करने जा रहें हैं और जिस संसदलिस्टिक पैटर्न में कमेटीज़ और दूसरे बहुत से इस्टीट्यूशंस का होना जरूरी है और उन इस्टीट्यूशंस में लोकमत का रहना भी उतना ही जरूरी है—ऐसी स्थिति में इन कमेटीयों व सभासदों इत्यादि को डिसक्वालिफाई नहीं किया जाना चाहिए। उन सूरतों के लिए मैं अर्थात् यह विचार रखना चाहता हूँ कि ऐसे इस्टीट्यूशंस में लोकसभा अगर यह समझे कि वहाँ पर लोकमत का रहना बहुत जरूरी है तो जितनी ऐसी पब्लिक कारपोरेशंस हैं उन के विधान में एक क्लॉज रक्षना चाहिए और वह यह कि उन की मेम्बरशिप में एक मेम्बर पार्लियामेंट का भी

हो, एक या दो या तीन जैसे भी हो और इस कानून से इस तरीके का एक क्लॉज आ सकता है कि जहाँ जहाँ उन कारपोरेशंस के कास्टिट्यूशन के लिहाज में कहीं पार्लियामेंट के मेम्बर का रहना जरूरी है तो वह डिसक्वालिफिकेशन नहीं होगी क्योंकि वह भी उसी उसूल के अन्दर आ जायगी कि उस मेम्बर का बहा रहना भी इतना ही जरूरी है जितना कि पार्लियामेंट में रहना जरूरी है। हम बिल को अग्र कर दिया जाये तो उम्मा नतीजा यह होगा कि जितना भी यह सब क्लॉज का विरोध किया जा रहा है वह बाकी नहीं रहता है और जो दो बड़ी भारी लिस्टें तैयार की गई हैं कि बड़ा क्लॉज डिमन्शनफाई हो सकता है और जिन लिस्टों के बारे में बार बार ऐनराज किया जा रहा है कि वह लिस्टें कम्प्लीट नहीं हैं बाकी नहीं रहेंगी। वे लिस्टें पूर्ण हो भी नहीं सकतीं क्या कि वह हर मिनट और हर वक्त बदलती रहेंगी, हर वक्त नई कमेटीया बननी, नये कारपोरेशंस बनेंगे, हर वक्त नये मेम्बर आयेगे और इस की और बहुत से माननीय मद यों ने अपने अपने बिचार प्रस्तुत किये हैं लेकिन मेरा तो कहना है कि जब यह आपका आई० क्लॉज ही निकल जाता है तब उन लिस्टों के बनाने का कोई मवाल ही बाकी नहीं रहता है। जहाँ कहीं किसी मेम्बर के रहने की जरूरत है वहाँ उनके कास्टिट्यूशन में जब यह क्लॉज आ जाती है और यहाँ पर भी इस कानून में यह बात आ जाती है कि जिन किसी जगह पर कास्टिट्यूशन में अपनी अपनी बार्डर्स के कास्टिट्यूशन में यह बात आ जाती है कि पार्लियामेंट का मेम्बर रहना चाहिए तो लोक सभा और राज्य सभा जहाँ का भी मेम्बर हो वह अपनी तरफ से चुन कर उसको भेज सकते हैं और वह डिसक्वालिफाई करार नहीं दिया जायगा। यह ही दो क्लॉज रख कर मैं अपना भाषण खत्म करता हूँ।

Shri Naushir Bharucha: Mr Deputy Speaker, Sir, the main objective of

this Bill is to prevent corruption of Members of Parliament or the State Legislatures by inducement to hold any office of profit I have been listening very carefully to the debate so far and it appears that most of the hon Members who have spoken on this Bill are attempting to enact a perfect measure I am afraid, having regard to the complexities of administration as well as to the complexities of human nature, it is impossible for any parliamentary draftsman to draft a Bill which will satisfy all the requirements

Sir I am of opinion that only one particular objective should be kept before the House in framing this measure and that is that we should broadly aim at the preservation of the independence of Member of Parliament or of State Legislatures Barring this, it is very difficult to attain any other objective And, I am inclined to think that even this objective is very difficult to attain because whatever may be the language of the law, there will always be an Executive, either a State Government or the Union Government which can corrupt, if it wants to, any Member by offering him the inducement of Deputy Ministership or something else

Shri Tyagi: Does my hon friend suggest that every hon Deputy Minister is corrupt?

Shri Naushir Bharucha. I think it is possible to corrupt and, therefore, no amount of language of law can prevent that Much of our difficulty arises from the language of article 102 of the Constitution where it has been stated that a person is disqualified if he holds an office of profit under any Government, Union or State, other than an office declared by law by Parliament not to entail such disqualification This raises various questions. What "office" means? It also raises the question of what "profit" means; and also it raises the question, what exactly is the meaning of 'under the Government' I am afraid in our very

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anxiety to preserve the independence of the Members of Parliament, we have swung a bit too far the other way and the view that I am presenting before this House perhaps represents the other side, namely, I am in favour of associating Members of Parliament with the numerous statutory bodies which are looking after the diverse aspects of the country's administration. My biggest reason for this is, that if you examine the magnitude of the functions of the statutory bodies, you will find that put together they are far greater, in financial magnitude and other functions, than the Government itself. Take for instance the Life Insurance Corporation. It has got a turnover of Rs. 350 crores a year. Take the Hindustan Steel Construction Company. It has got a bloc capital of Rs. 440 crores which will very soon go up to Rs. 600 crores. These two statutory bodies alone between them would have a financial turnover which is far higher than the complete turnover of the Union Budget. I ask this Government: when the administration of the country in some of its most important aspects is being carried on by statutory bodies, is it wise to dissociate Members of Parliament from giving a lead and presenting the point of view, which is really the point of view of the statesman and different from the point of view of the experts or the view that those who are accustomed to run these concerns take. I am definitely of the view that if you have to elect between two evils, the evil of the possibility of corruption, which could be safeguarded by certain suggestions which I am going to make presently, and the evil of dissociating Members of Parliament and thus depriving the development of the country of the experience and guidance which they could certainly give, I am prepared to take the risk. If there is a slight chance of corruption, it is desirable to take the chance but it would be totally unwise to cut off Members from the vast sections of administration which constitute among them-

selves the bulk of the country's administration.

Taking the scheme of the Bill, we find it defines 'compensatory allowance' with the object of restricting the monetary benefit. What is compensatory allowance? It is equal to the daily allowance a Member gets, namely, Rs. 21 per day. My own opinion is that this should be at least twice this amount. If I am sent on a mission by Parliament to Calcutta, I could not disband my home in Delhi and Bombay for which I get Rs. 21 and still I have got to spend money for the hotel in Calcutta, while I do not get my allowance as M.P. for the days I am absent. Where am I going to get the money from? I am asking this House not to be niggardly in fixing the compensatory allowance. It should be twice the amount which a Member gets for the simple reason that he has to incur twice the expenditure—one at Delhi and the other at another place where he is sent. It is no use fearing that because you give Rs. 42, to a Member for eight or ten days, his independence is going to be lost. I plead for a better definition of compensatory allowance.

We have also got another aspect. There are certain types of offices about which we do not worry about the monetary part but what my hon. friends had described: power, patronage and honour. It is true that there is this aspect which has to be borne in mind. But an hon. Member is to be protected from being taken by surprise when suddenly one morning he finds that with the intent of rendering service he offers help to a particular body but he is disqualified because power or patronage or honour is supposed to attach to that office.

Take for instance an hon. Member of this House who belongs to the medical profession. He offers his service as a physician in a Government

hospital. I am not sure that this will not entail disqualification of membership of the House. May I point what happened in Bombay? We have got a state insurance scheme under which a panel of doctors are appointed. The State Government appealed to the doctors to give service on very low fees and form the panel of doctors. One morning all found that they were disqualified from being members of the State Legislature! When I resigned from the Bombay State Legislature and sought re-election on the Samyukta Maharashtra issue I had a doctor friend who was my election agent. I was doubtful about his position and so asked him not to be my election agent; otherwise my election would be rendered void. I kept him out. Subsequently, the High Court also thought that the panel of doctors held offices of profit! What is the profit—six rupees per year for a patient! They are giving far more service for this small monetary benefit but still according to the interpretation of the Act, they were supposed to hold offices of profit! We want all such cases to be safeguarded.

Therefore, I am suggesting that we can fairly well attain our objective of retaining the independence of the Members of this House if we provide certain things among many others. I have given notice of amendments accordingly. We should make provisions over and above what is contained in the law for safeguarding Members from disqualification by saying that where the total monetary benefit received in cash apart from the compensatory allowance does not exceed Rs. 2,000 in any one year, there shall be no disqualification. Does anybody really suggest that a Member of Parliament can be corrupted because Rs. 2,000 a year is received by him for rendering some service? The reason why I want such a clause is this. There may be a casual case where a man renders service and accepts some payment of Rs. 50 or Rs. 100 and suddenly finds out that it disqualifies him from membership of the House. Certainly

we cannot go to the other extreme in our anxiety. One cannot be so absurd as to say that the receipt of Rs. 50 by a Member has rendered him unfit to hold his office as a member of Parliament.

I am also inclined to exempt all cases where the holder of an office does not draw cash remuneration attached to the office, as also any compensatory allowance attaching thereto. Take for instance the case of the Chairman of the University Grants Commission. I am told that Rs. 3,000 a month is the salary attached to this office and the present incumbent—I was told and I am subject to correction—draws only Re. 1. But still you will be declaring a person of that kind unfit for membership of Parliament. Surely, there must be some sense of proportion maintained in this respect.

Now, take the case of any body which has been constituted by an Act of Parliament or State legislature where the holders thereof do not draw either the compensatory allowance or the daily allowance. I think such cases should also be exempted.

Besides, we ought to exempt cases where a Member of Parliament has been elected to an office by the vote of Parliament or is appointed thereto by a Presiding Authority on the ground that he would be serving Parliament. He is not under the control of the Government. That thing should also be made clear.

15-28 hrs.

I would go a step further and say that there may be cases where it may be stated that though a man does not draw cash allowance or compensatory allowance, he is influenced by the honour and prestige attached to a particular office. If a court of a tribu-

[PANDIT TRAKUR DAS BEARGAVA in the
Chair]

nal is of the opinion, having regard to all the circumstances of the case, that any power, patronage or honour

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attaching to such office is not of a character as would materially influence the judgment of an ordinary prudent man in the discharge of his duty as a member of legislature, then such offices should also be excluded.

I would also say that where the power of appointment rests with sectional interests, whose representation is provided for by any statute or order of the Union or State Government, they should also be exempt. The law provides sectional interests to be represented. For instance, law requires labour, or for a matter of that, the employers to be represented. In those cases also, disqualification should not be entailed.

Finally, I would also plead that if the issue of disqualification is raised in any court, tribunal or legislature or other authority after six months of the date of the last receipt of cash benefit, such incumbent should be protected. Supposing a Member has received Rs. 50 or something like that, he should not be kept under suspense for the rest of the life of Parliament, and if any action has to be taken against him it should come within six months of his last receipt of any benefit under that office. The idea is to provide for a period of limitation. In case any Member has received through inadvertence any benefit the disqualification should not be kept hanging fire on his head.

Sir, there are definitely other points with regard to which I am absolutely in agreement with the hon. Members who have spoken. For instance, my hon. friend, Shri Mahanty spoke about the N.C.C. and the Territorial Army. Surely, Sir, we ought to have some sort of a sense of proportion. We want to disqualify hon. Members from offices on statutory bodies. Why? It is because some sort of patronage—a very vague and indefinite term—attaches to that office. But, all the same, we do not mind officers of the

Territorial Army coming and sitting here. I ask the Government, what is the intention? Do you want to have a regiment of voters in this House? Why do you want the Territorial Army in this House? Sir, the Territorial Army is so much accustomed to military discipline that, I would say, military discipline, in other words the Territorial Army, and independence of judgment are incompatible. By its very training a member of the Territorial Army has got to obey without questioning, while the type of people that we require here are people who can question even a Defence Member.

Shri Goray (Poona): If he happens to be in India.

Shri Naushir Bharucha: I should like to know what would happen if an officer of a Territorial Army stands up during the defence debate and challenge a statement made by the Defence Minister. What is going to happen? As my hon. friend Shri Mahanty rightly asked, do you want to introduce politics in the Territorial Force and crack open your Territorial Force? One day, I was told, when in some political function a General came, the hon. Prime Minister asked him: "Well, how is it that you are here? What has Army to do with politics?" I am asking, when you introduce an entire regiment in this House, what is going to happen to independent judgment? Similarly, the N.C.C. and such organisations should be studiously kept out.

As regards the *lambardars*, *mamlatdars* and *patels*, I am inclined to ask, is this Government so devoid of statesmanship that without the wisdom of *lambardars*, *mamlatdars* and *patels* it cannot carry on the administration and it must have them in this House? What is this idea of bringing an army of paid servants into this House and then say that we are preserving the independence of Parliament? Sir, Government is swallowing an elephant and straining at a gnat. It wants to

cut off Members of Parliament from statutory bodies where they can do very useful work. I speak with my experience of the Bombay Municipal Corporation. There is the statutory body for supply of electricity and transport. They look after the city's electricity supply and transport. They have made it a convention that the Chairman must be a member of the Municipal Corporation, because he can give first-hand information to the House. The Committee consists of members of the Corporation as well as outsiders. The members of the Corporation are included so that they must be in the know of the thing and they will run the administration with an eye on the public. If you leave it to the experts they will say, scrap the tramways and raise the bus fares. If a member of the Corporation or a legislator is there, he will say: "No, the public must be provided with a cheap form of transport". That is why members of the Municipal Corporation are kept there.

I, therefore, plead that this Bill as it stands is far from satisfactory. It might be desirable that the Government might withdraw it and bring up another Bill bearing in mind all those considerations that we have pointed out, but I definitely say that I strongly object to the exclusion of Members of Parliament from the various sectors of our administration. Where statutory bodies carry on administration in a manner which leaves many things to be desired, if the element of Members of Parliament is infused in the statutory bodies, not only our statutory corporations will run better but I am sure this House will get fuller information.

Shri D. C. Sharma (Gurdaspur): Mr. Chairman, Sir, I do not feel happy....

Shri Naushir Bharucha: Nobody is happy.

Shri D. C. Sharma.....after reading through this Bill which has emerged from the labours of the Joint

Committee extended over an year. I think those labours have been mainly wasted, those labours have mostly gone for nothing. The Bill that has come before us is a hotch-potch; it is neither here nor there. As it has been already said, it is an incomplete Bill, and we are asked to pass a Bill which is not complete or which is not fully drawn up.

I am most concerned about the majesty of this House, Lok Sabha, which is the fountain-head of our national life and which is the motive power behind all kinds of activities—legislative, judicial, executive and others. When I consider what kind of Parliament or Lok Sabha we will have when this Bill is passed, I feel strongly distressed.

The membership of Parliament should be, as it has been said here, a wholetime job, and by passing this Bill we are seeing to it that this Parliament becomes the playground, the happy playground of those persons who are going to be half-timers, whose main activities will lie outside the Lok Sabha and who will occasionally come to grace the benches in Lok Sabha as people sometimes go to grace a tea party or a wedding celebration. We are throwing open the doors, the portals of this Lok Sabha to persons whose main interest will lie outside Lok Sabha and not in the Lok Sabha. I ask you, Sir, is that a happy position for anybody to contemplate? Certainly not.

I would have liked that the membership of Lok Sabha be made a great privilege which a free country can confer upon the noblest, the most learned and the most scholarly and devoted servants of the country. On the other hand, we find that on account of this legislation membership of Lok Sabha is going to be made not any kind of privilege but something which will be doled out to this man, to that man and to the other man.

[Shri D. C. Sharma]

Sir, when I look at this Lok Sabha, the set-up of the present Lok Sabha to which I have the honour to belong, and also the set-up of the Lok Sabha to which I had the honour to belong last time, I find that our Lok Sabha is fully furnished with all those kinds of talents, whether on the Government Benches or in the Opposition, which can deal with all those problems which arise from day to day, whether those problems are executive, judicial or of any other nature. This Lok Sabha and the last Lok Sabha were full of talents of all kinds. There were representatives of all kinds of talents of the finest kind which can be brought to bear upon the solutions of public problems. We are now trying to bring in new talents which are not needed. You say that Government servants cannot stand for election to Lok Sabha. That may or may not be a happy rule, but I feel that when this Act is again amended after some years perhaps Government servants also may find a place in Lok Sabha. I feel that we are on the inclined plane; we are going down hill; gradually we are forgetting the great privilege which Members of Parliament should enjoy. That is what is going to happen. You say that Government servants cannot become Members of Lok Sabha but I know of a Vice-Chancellor who is a Government servant and whose services have been lent to a university and I think he is going to be there for 3, 9 or even 12 years. You cannot have a Government servant as a Member of the Lok Sabha but you will have a Vice-Chancellor as a Member of the Lok Sabha because by accident of fate or by the accident of fortune, he is able to transport himself from a Government job to a job of a Vice-Chancellor. Wherein lies justice in that kind of thing? Therefore, I say that this kind of juggling with these privileges will not be conducive to the greatness of this House of whose honour I think the hon. Minister is as jealous as I am or anybody else.

When I go outside this House, peo-

ple say to me, "Oh, you are all Members of the Lok Sabha. The quorum bell rings so many times and there is not enough of quorum in the Lok Sabha". This is one thing on which people twit us and accuse us of. For instance, we are now discussing a very important Bill, but there are not, I think, many Members present in the House at this time. So, the lack of quorum is a standing reproach so far as the Lok Sabha is concerned.

When you have men of this kind, these half-timers and these part-timers, I believe the problem of quorum will become an insoluble problem. These persons will be attending the meetings of the universities, the Home Guards, the NCC committees and they will be attending all these committees. They are useful bodies. I do not say they are not useful. They are useful things. The Members will also attend the statutory bodies and the non-statutory bodies, and so, who will be here to keep the quorum in the Lok Sabha at that time? At that time, the quorum will have to be reduced from 50 to 25 or even to 15. Therefore, I think that in the interests of the good functioning of the Lok Sabha, in the interest of the dignity of the Lok Sabha, so many types of persons as given in these clauses should not be excluded so far as the office of profit is concerned.

What I want to say is this. It is good sometimes to bring in an omnibus Bill. But what are we doing here? We are trying to copy more or less the provisions which are to be found in the United Kingdom Parliament. We have taken our idea from there. I do not say there is any harm in copying from other Constitutions and other countries. We can take good things from other countries. There is no harm there, but while we are copying it, what we are doing is—I am saying this respectfully—we are giving a bad copy. We forget that the United Kingdom has different

kinds of administration, a different kind of executive and different kinds of set-up. Here we have a federal kind of Government. There are State legislatures, and in these legislatures we have two Houses. We have also the Central legislature and in it there are two Houses. Now, we are trying to bring forward a Bill which will cover all the points in the case. I think this is something which is not easy to achieve.

I will tell the House why it has happened like this. It has been said that the village *Lambardars* should be eligible to contest the elections. The village *Lambardars* are very fine persons. I have nothing to say against them, but I would say that this exemption which is implied in this Bill so far as the village *Lambardars* and men of that category are concerned, is meant more for the State legislatures and not for the Rajya Sabha or the Lok Sabha.

An Hon. Member: Ban them.

Shri D. C. Sharma: They cannot be banned. But I can tell you that the problem of *Lambardars* has not been a burning problem or question with us. I know it has been a burning question with some of the State legislatures. So, I would say that one greatest mistake that has been done is this: instead of having four Bills to deal with the four different types of legislatures that we have—the Assemblies and the Councils at the State level and the Lok Sabha and the Rajya Sabha at the Centre—we are trying to have one Bill to cover all of them, with the result that what is good for a State legislature is forced upon the Lok Sabha and what is good for the Lok Sabha is being forced upon the State legislatures. I would, therefore, say that this Bill is a kind of miscellany into which we have tried to fit too many things which, I should say, are not compatible with each other. I would hence submit to the hon. Minister that he should bring forward separate Bills which

can cover all these four pieces separately and not one omnibus Bill which covers all these things in one.

I would submit that an office of profit is like this: there are certain things which you can define and there are certain things which by their very nature one cannot define. Of course, you can have some objective tests. But the objective tests do not always apply to what you might call an office of profit. So many Members have pointed out on the floor of the House today as to what logic is there in saying that membership of one corporation does not entitle a person to become, or does not disqualify him from becoming, a Member of the Lok Sabha but that membership of a similar corporation or body would disqualify the person from becoming a Member of the Lok Sabha. There is no logic in it. I do not want to go into all these cases to which my hon. friends have referred.

The thing is this. You think of the Hindustan Steel Private Ltd., and put it down in the list. Somebody thinks of Oil India Private Ltd., and that is also put down. Some of them qualify and some of them are disqualified. You do not think of other things. After all, the Members of the Joint Committee did not profess an encyclopaedic knowledge about all the statutory and non-statutory bodies that are in India both at the State level and at the Central level. Nobody knows that. Therefore, the whole thing has been guess work, and guess work of a very poor type. The whole thing has been, I should say, a kind of hit and miss affair. If you have remembered a thing, you have included it, and if you have not, it has not been included. Thus, I would say that you are defining office of profit to help the Members of the Lok Sabha to escape election petitions. That, I think, is the basic idea. You want that persons who have been elected to the House should not have to stand the fire of the election petitions. This is what was said: that

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The Representation of the People Act was also simplified, and this is also simplified. We are simplifying everything. We are seeing to it that election petitions become a thing of the past by simplifying the procedure. But you will find that the result is, more election petitions this time than there were formerly, because we have simplified the whole procedure. By our simplification, we have had a large number of election petitions. While defining the office of profit, we are opening the doors to more election petitions. I am not a prophet, but I warn this House that by passing this Bill, there will be more election petitions on the ground of office of profit than before, because after all, the definition of the office of profit is not within the competence of any Ministry or the Lok Sabha. You cannot give an exhaustive list of all the bodies. Ultimately it is not we, but the judiciary, who are going to sit in judgment on these things.

We are giving the judiciary a loophole, because they might say, "You have included this thing, but not that thing." So, by our very inclusion of certain things, we are putting a premium upon those things which have been excluded and the exclusions are going to be larger than the inclusions. The judiciary will take shelter behind the exclusions, rather than the inclusions. Are you going to help the Members of the Lok Sabha who get elected after the rough and tumble of elections, after spending so much money, after undertaking so much travail and trouble, by saying, "Come here, we are now passing this Parliament (Prevention of Disqualification) Bill and we shall see to it that you feel as uncomfortable on these benches as possible?" I think if at all there is a Bill which makes our seats here uncomfortable after election, it is this Bill, because this will give a loophole to the persons who have been defeated to create more trouble for us.

So, I say that the office of profit should have been left as vague and undefined as before. I think this is going to create a great deal of trouble for us. I do not want to go into details about certain provisions of the Bill, because so many Members have spoken already on them. Mr. Chairman, you are a lawyer of eminence and I am not one, but, very respectfully I would submit that I have not seen any Bill where the whole is penalised, but the part is sanctified. I will tell you how it is. For instance, you cannot stand for election if you are a member of the police, but you can stand for election if you are a member of the Home Guard.

An Hon. Member: Both are so different.

Shri D C Sharma: Of course, we are all so different, but still there is some basic unity between you and me. Similarly, there is basic unity between the police and the Home Guard.

Shri Naushir Bharucha: They are birds of the same feather.

Shri D C Sharma: You know them much more than I do, I look at them from a distance. The members of the National Cadet Corps can come to the Lok Sabha. Of course, I do not share the fears of my hon. friend there. That thing will never happen in this free democratic India. We will never have that kind of experience which some unfortunate countries are having. What I am submitting is that while the members of the NCC and the Territorial Army can sit in this House, the members of the defence forces are not allowed. The whole is stultified, but the part is exalted. If you can have the members of the NCC here, why not throw open the doors to the members of the defence forces also? They will be much more useful for us than anybody else.

The offices of the Sheriff in the city of Bombay, Calcutta and Madras have been exempted. I have heard so many things about Sheriffs and I have met some of them who are admirable and honourable persons. But if the Sheriffs are allowed to do the duties normally assigned to them, I do not think that the position of the Lok Sabha will be exalted by them. I stand here to ask the hon. Minister in the name of the dignity of this House, whether the dignity of this House would be enhanced if you throw open the portals of this House to the Sheriffs who perform such kind of duties?

The office of profit means not only the monetary value of the profit, but the amount of patronage that it enjoys. No one will look at that thing. I do not see any reason why these Chairmen Directors, etc. are exempted. If I am the Chairman or Director of a corporation, it is inherent in the very nature of my duties that I am going to exercise some kind of patronage. Patronage embarrasses him who exercises it and demoralises those in whose favour it is exercised. If we are going to have this kind of patronage for Members of Parliament, I do not know what will happen.

I know of some States where it is said that some people there keep themselves in office only by judicious distribution of patronage. It is not only in our country; it was said about Lloyd George that he became Prime Minister by the distribution of patronage. It may be right or wrong; I do not know. But when you ask Members of Parliament to hold such big offices, where they can dole out things to others, I do not know what will happen. This kind of thing is not going to work.

I do not want to say anything about the *lambardars*, *malguzars*, *deshmukhs*, *patels*, etc. For one thing, I feel happy that they have thought of small men. I am myself a small man and if anybody speaks of small men,

I feel happy. But I want to ask one question. Do these small men want that they should have these privileges? After all, they are in many ways part of the machinery of the Government. So, anyone who is a part, however small it may be, of the administrative machinery of the Government should not be allowed to contest the elections. You may ask me what kind of Parliament and Members I have in view. I want the membership of Parliament, State Vidhan Sabhas and Vidhan Parishads to be whole-time jobs. I want only such people to come as Members of Parliament. I do not want people who have other interests to come here. I do not also want to say, as Barnard Shaw said, that there should be three parliaments—economic parliament, parliament for social service and this kind of parliament. I do not want to say that. But, all the same, I submit we should try to give this privilege of membership to those persons whose main interest is this body or some other Legislature.

16 hrs.

Now what are we going to do? We will bring the Vice-Chancellors here. I have the honour to belong to one University and I know how many committees work there, how many faculties work there and so on. Now, if you have a Vice-Chancellor here, you will have to tell him "Look here, you come here and don't attend to your duties there" or "you be there and don't attend to this duty". Therefore, the Vice-Chancellors will be on the horns of a dilemma. They do not know which way they should go and which way they should not go. Therefore, I would submit one thing and that is this: the membership of this Parliament is a cherished privilege and we should not try to make this privilege such as people do not highly think of it.

I can say one thing about compensatory allowance. There are some Members of Parliament who have told me that the compensatory allowance

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that they are given is such that it is very much below what is given to persons who are not Members of Parliament. So, we suffer from a disability. They ask us: what can we do? After all, we have to stand by the law of the land. The compensatory allowance that is given to the Members of Parliament is not very adequate. Of course, I do not say that we should be given more adequate allowance. I am not saying that. But I say that you should see to it that the compensatory allowance which is given to others is also brought on the same level as is given to the Members of Parliament. Now there are some corporations where the members are getting more allowances and other things. They should also be brought down to the level of what the Members of Parliament get.

Then, this Bill is not a final Bill. This is a Bill which will be in the continuous process of revision, in the continuous process of being amended, because, as some hon. Members have stated, many more corporations will be coming into being in future and there will be no end to that. Therefore, why do you have this recurring trouble? Why do you have this constant headache? You cannot solve it by a standing committee, because you cannot have a standing committee which knows everything. Moreover, you have seen how the State Governments have co-operated with you when you wanted information from them. They do not co-operate. How do you know that they will co-operate in the future?

Therefore, I would say that this office of profit should be defined in such terms that it does not hit anybody and that it does not give much scope to the judicial powers to play with this phrase. It should be defined in such a way. I do not want that we should try to define it in this way so that there is room for misunderstanding, for conflicting interpretations and for other things.

With these words, I would inform the hon. Minister that I do not want him to withdraw the Bill, I do not want him to send the Bill to the Joint Committee, but I would ask him to revise the Bill in the light of what has been stated by the Members on the floor of the House, and then revise the Bill in such a way that the judiciary is not able to play with this idea of office of profit and that it does not get much latitude in order to help those who file election petitions. I would, therefore, say that this is what should be done, and that it is in the interest of the Legislatures and also in the interest of the country as well.

श्री० रणबीर सिंह (रोहतक) : सभापति महोदय मैं समझता हूँ कि इस बिल के पीछे दो स्थल हैं। कुछ दोस्त समझते हैं कि खतरा है कि कोई सरकार मेम्बर्स को खरीद कर के देश के हित में न चलते हुए भी कायम रह सकती है। कुछ दोस्तों का खयाल है कि दर-भ्रमल दूसरा खतरा हो सकता है कि देश के हालात बदल गये और हमारे देश का जो राज्य चलाने का तरीका है वह विलायत के मुताबिक नहीं। विलायत से हम ने बहुत सारी चीजें लीं, खयालात लिये लेकिन उन के साथ १०० फी सदी इत्तफाक नहीं किया। आज मेम्बर्स के लिये जो डिस्कवालिफिकेशन होनी चाहिये उस को अगर हम विलायत या दूसरे देशों के मुताबिक करेंगे तो हो सकता है कि हम देश के हित के खिलाफ जायें।

एक जमाना था जब हिन्दुस्तान के अन्दर जो हुकूमत थी वह एक ला एण्ड धार्डर की हुकूमत थी, हुकूमत अमन कायम रखने के लिये थी। आज पांच सात सालों के अन्दर जो तरक्की हुई है और जितनी तरक्की हमें करनी है उस के नुस्ते निगाह से मैं समझता हूँ कि हमारी सरकार को ऐसे आदमियों की जरूरत है जो सरकार से सहयोग कर सकें। आज सरकार को खरीदने की आवश्यकता नहीं है सरकार को सहयोग की आवश्यकता

है। भाज किस ढंग से जिस तंजी से हम बन रहे हैं जितनी हमारी सोचने और काम करने की शक्ति है मैं समझता हूँ कि उतनी तेजी से हम उठान नहीं कर रहे हैं और हो सकता है कि हमारी जो रफ्तार कम हो गई है उससे हमारे लिये खतरा हो जाय। करोड़ों रुपये लगा कर आज हम कारखाने कायम कर रहे हैं और उन कारखानों में जो हमारे देश के नुमाइन्दे हैं हम उनका एसोसियेशन इस लिये न रहने दें कि हमें यह डर है कि मेम्बर खरीद लिये जा सकेंगे। मुझे तो इस से उल्टा डर है कि आज जो देश में करोड़ों रुपये लगा कर कारखाने कायम किये गये हैं कहीं उनका गलत इस्तेमाल न हो जाय। इसलिये मैं समझता हूँ कि हमें कोई बीच का रास्ता निकालना होगा।

मेरा अन्दाजा है कि हमारे देश में पार्लियामेंट का ही नहीं जितना भी हमारे देश का राजनैतिक ढांचा बना हुआ है वह ला एण्ड थार्डर को कायम रखने के लिये बना था। आप थ्रॉट डिपार्टमेंट को ले लीजिये फाइवेंस या किसी भी महकमे को ले लीजिये। आज सड़कें बनती हैं मकान बनते हैं कारखाने बनते हैं सरकार के खर्च पर बनते हैं लेकिन जिसे टेक्निकल नालेज कहते हैं वह कहीं नहीं है। बहुत सी चीजें ऐसी हैं जिनमें सही तौर पर कमी हो सकती है। इस देश के अन्दर सबसे बड़ा काम आप जानते हैं कि हमारी स्टेट के अन्दर हो रहा है जिसका नाम भास्करा डैम है। वह १४० करोड़ से शुरू हुआ और अब १७० करोड़ पर पहुँच गया है। और भी काम हो रहे हैं उन के जो एस्टिमेट्स हैं वह कई दफा डूने डूने हो गये हैं। लोहे के कारखाने लग रहे हैं ख्याल था कि शायद २५० करोड़ ६० से यह कारखाने बन जायेंगे लेकिन ५०० करोड़ ६० से ऊपर अन्दाजा जा चुका है। जिस प्राइमी की मरद से सारे हाउस का फैसला करना है वह अगर दूर से ही किसी चीज को देखता है तो हो सकता है कि

कई दफा गलत अन्दाजा लग जाय और गलत फैसला हो जाय। इसी लिये मैं समझता हूँ कि हो सकता है कि कुछ आइयों को इस में खतरा माफूम पड़ता हो लेकिन मुझे इस में कोई खतरा नजर नहीं आता। जिस तरह से पार्लियामेंटरी कमेटीज बनती हैं एलेक्शन कमेटीज बनती हैं उस में कोई प्राइमी एलेक्शन से आजाय तो मुझे कोई ऐतराज नहीं। जिसके पास शक्ति होगी वह चुना जायेगा। लेकिन जो आज बड़े बड़े काम हो रहे हैं उन से सदस्यों को दूर रखना देश के हित की बात नहीं है। कई दोस्त हैं जिन का अन्दाजा है कि अगर एक कमेटी में कोई मेम्बर रख दिया जाय तो वह खरीदा जा सकता है। अगर ऐसी ही बात है, सदस्यों की कीमत कुछ रुपया ही है तो इस का इलाज मुश्किल ही होता है। उस का इलाज तो लोगों के ही पास है। यहाँ पर लोग भायेंगे और जब उन को वक्त मिलेगा वह इस का इलाज सोचेंगे। लेकिन मैं ऐसा नहीं मानता। मैं समझता हूँ कि दूसरे देशों के अन्दर जहाँ तक सदस्यों का वास्ता था, उन के जिम्मे वह काम नहीं आया। अमरीका के अन्दर पार्लियामेंटरी डिमाक्रेसी है। इंग्लैण्ड में भी डिमाक्रेसी है, लेकिन सरकारी कारखानों को चलाने का काम उन्होंने उतनी तेजी से नहीं किया जितनी तेजी से हम कर रहे हैं। हम उन से बहुत साल पीछे रहे हैं। जितना काम उन्होंने ने इतने दिनों में किया है, हम उस को बहुत थोड़े सालों में आगे बढ़ा कर करना चाहते हैं तो उस के लिये जैसा मैं कहता हूँ उस की बहुत जरूरत है।

मुझे हंसी आती है कि कई लोगों के ख्याल से छोटा सा नम्बरवार जो है वह बहुत खतरनाक साबित हो सकता है। मैं जानता हूँ कि सन १९५२ से पहले कुछ नम्बरवार थे और वह इस सभा के काफी पुराने मेम्बर हैं। मैं नहीं जानता कि कभी भी उन के फैसले में इसलिये फर्क आया हो कि वह नम्बरवार हैं। हमारी स्टेट के अन्दर

[श्री० रघुवीर सिंह]

कई ऐसे नम्बरदार रहे हैं जोकि नम्बरदार रहते हुए भी कांग्रेस संगठन के साथ मिलते थे, उस के साथ हमदर्दी रखते थे, उस के टिकट पर एलेक्शन लड़े और नम्बरदार कायम रहे। मैं जानता हूँ कि मेरा बाप नम्बरदार था और सन् १९२४ के एलेक्शन में कांग्रेस टिकट पर चुनाव लड़ा और उसके बाद कई दफा जेल गया। और भी नम्बरदारों को मैं जानता हूँ, किसी ने भी हमारा रास्ता नहीं रोका, रास्ते को ब्लाक नहीं किया। मेरी समझ में नहीं आता कि इस हिन्दुस्तान में कैसे यह सम्भव हो सकता है। आज हमारे देश में बड़े बड़े अफसर हैं, जिन को दो-दो हजार रुपये तन्क्वाह मिलती है, चार-चार हजार रुपये तन्क्वाह मिलती है, उन के बारे में भी यह सोचना कि वह सरकार की पालिसी के साथ है, शायद बिल्कुल गलत होगा। अगर कमी देखा जाय तो पता चलेगा कि वह लोग जितना क्रिटिसिज्म सरकार का करते हैं, यह सही, यह गलत, उतना कोई नहीं करता। जब सरकारी नौकरो के बारे में ऐसा नहीं सोचा जाता तो यह मान लेना कि जिन का ढोड़ा बहुत भी बास्ता ऐसे स्थानों से है वह गलती करेंगे, यह ठीक नहीं है। कम से कम पंजाब के लिये तो ऐसा हुआ, पंजाब का ही एक ऐसा इतिहास है, कि वहा पर एक नम्बरदार चीफ मिनिस्टर बना, मिनिस्टर भी बना, अगर उस ने इतिहास में कभी किसी अफसर के दबाव से अपने फंसले को नहीं बदला तो मुझे कोई शक नहीं मालूम होता कि आज की आजादी के दिनों में कोई हिन्दुस्तानी इस तरह से अपना फंसला बदलेगा।

इसी तरह पटेल के बास्ते हैं, दूसरे के बास्ते हैं। सही बात यह है कि देहात की लीडरशिप जो है, सही तौर पर या गलत तौर पर जो इस जमात के आदमी हैं उन के हाथ में ही रही, या कम से कम ऐसे आदमियों के हाथ में रही जिन का ऐसे लोगों

के बास्ता था। लेकिन मैं नहीं मानता कि देहात की लीडरशिप गलत आदमियों के हाथ में रही है। हिन्दुस्तान के देहातों का इस देश की आजादी में बहुत बड़ा हिस्सा है, और जब भी ज़रूरत पड़ी हिन्दुस्तान को, तो हिन्दुस्तान के देहात कभी भी पीछे नहीं रहे, और आगे भी मुझे पूरा विश्वास है कि वह पीछे नहीं रहेंगे। ज़रूरत किस ढंग की आती है, यह कोई नहीं जानता, लेकिन जब ज़रूरत आयेगी तो यह जो छोटे छोटे खयालात हैं वह गलत साबित होंगे और देहात के जो आम आदमी हैं, जो स्टेट्स से चुन कर आते हैं, वे उस के रास्ते में रोड़े नहीं बन सकेंगे।

मैं समझता हूँ कि बहुत अच्छा हुआ कि जो पाबन्दी हटाई का फैसला किया गया है यह बहुत सही फैसला है। जो नम्बरदार बगैरह हैं उन को एग्जैम्पशन मिलना ही चाहिये था। पहले यह बहुत गलत बात थी कि उन का एग्जैम्पशन नहीं था। कई दफा अजीब बात हुई कि पंजाब के अन्दर नम्बरदार ऐसा खतरनाक आदमी बन गया था कि वह नेम्बर बन सकता था। फर्ज कीजिये कि स्टेट के एक पार्टी का उम्मीदवार नम्बरदार है और लोक-सभा की उम्मीदवारी के लिये भी उसी पार्टी का दूसरा आदमी खड़ा है तो उसे वह भरवा सकता था क्योंकि उसे खड़े होने की इजाजत थी लेकिन मदद करने की इजाजत नहीं थी।

वह जो खराबिया थी मैं समझता हूँ कि वह अच्छा हुआ कि वे दूर हट गईं।

इस के अलावा जैसा मैं ने पहले कहा मैं यह मानता हूँ कि यह जितना है उस में पंजाब का जिक्र आता है कि जिस का नेम्बर होना भी कानून के खिलाफ थाप बना रह है कि वह पार्लियामेंट का नेम्बर नहीं रह सकेगा अगर वह बोर्ड का नेम्बर ही। यह पाबन्दी मेरी समझ में कुछ मुनासिब नहीं जंचती है। अब पंजाब के अन्दर जिनमें ने

कि आजादी की जद्दोजहद में हिस्सा लिया हो और देशभक्ति में जैसे गये हों उन आंदोलियों का इंतजाम करने के लिये और उन को फिर से बसाने के लिये जो बोर्ड बनाया जाय उस बोर्ड का मेम्बर पार्लियामेंट में न जा सके कुछ मुनासिब नहीं जंचता है। ऐसे व्यक्ति के ऊपर जिस का कि उन से वास्ता रहा हो इस तरह की पाबन्दी भावद करनी बेरी समझ में तो नहीं आती है। पता नहीं क्यों हमारे डिप्टी स्पीकर साहब जोकि पंजाब की हालत को जानते थे मुझे मासूम नहीं क्या बजह थी क्या सत्ता बात थी कि उस बोर्ड के मेम्बर के लिये पार्लियामेंट की मेम्बरी के लिये डिस्क्वालिफ़ाई कर दिया गया। मैं तो समझता हूँ कि उस का पार्लियामेंट में मेम्बर रहना बहुत जरूरी होता है क्योंकि यही तो लोग होते हैं जिन्होंने कि उन के लिये सब कुछ काम किया है और वे ही अगर वहां न रह सकें तो यह कुछ मुनासिब नहीं जंचता है। मेरे दोस्त और संसद सदस्य ज्ञानी गुरुमुख सिंह मुसाफिर उस बोर्ड के मेम्बर काफ़ी समय से होते चले आये हैं और मैं समझता हूँ कि उस बोर्ड की मेम्बरी से उन्होंने ने आज तक कोई नाजायज फ़ायदा नहीं उठाया और वह कैसे उस से कोई नाजायज फ़ायदा उठा लेंगे यह बात मेरी समझ में नहीं आती। शायद उन्होंने वहां से अपना इस्तीफ़ा दे दिया या शायद देना होगा लेकिन मुझे यह बात समझ में नहीं आई कि हम इस किस्म की पाबन्दी क्यों लगाते हैं जबकि वह दरअसल में देश के हित की बात है प्रहित की बात नहीं है।

जहां तक सदस्यों की इंटिग्रेटी का सवाल है और जो भाप यह कहते हैं कि यह तमाम पार्टीज का सवाल है यह एक पार्टी का सवाल नहीं है मैं समझता हूँ कि यह बात सही है कि हिन्दुस्तान का सवाल है लेकिन जिस ढंग से वह सारा चलता है वह सोचने का ढंग और तरीका पुराना है और

यह उस देश का तरीका होता था जहां की सरकार कारखाने की तरह नहीं चलती थी लेकिन हमारे देश में तो सीमाव्य से बेसी स्थिति नहीं है और आज करोड़ों रुपया हम पब्लिक सेक्टर में लगा रहे हैं और अगर इस सदन के सदस्यों का उन कारखानों में और प्रोजेक्ट्स में सहयोग नहीं होगा तो सही तौर पर उन को उन के काम और प्रगति के बारे में पता और जानकारी नहीं हो सकेगी और पता अगर लगेगा भी तो तब लगेगा जबकि देश को काफ़ी नुकसान हो चुका होगा। इस के भलाबा यह भी हो सकता है कि कई दफ़ा चूकि हम सारे हालात से ना-वाकिफ़ रहेंगे हम शायद कभी-कभी कोई ग़लत फैसले भी करें।

मैं मानता हूँ और जैसा मैं ने पहले कहा कि मैं तो बीच का रास्ता चाहता हूँ। मिस्त्रस्टीज वाला नामिनेशन भाप बेशक हटा दीजिये वह सदन की तरफ से हो चाहे कमेटी के रूप में हो लेकिन इस बात का खयाल अवश्य रखना जाय कि जो भी बड़े प्रथवा छोटे कारखाने पब्लिक सेक्टर में लाये जायें उन के कामकाज और प्रगति के ऊपर सरकार का और इस हाउस का पूरी तौर पर ध्यान रहे और उन के चलाने और उन के काम की हर वक्त देख-भाल करते रहने के लिये और जांच पड़ताल करते रहने के लिये एक स्टैंडिंग कमेटी होनी चाहिये और गवर्नमेंट की उस के लिये कोई कमेटी हो तो मुझे उस में भी कोई ऐतराज नहीं है। मुझे इस में भी कोई आपत्ति नहीं होगी अगर उस स्टैंडिंग कमेटी में किसी अपोजीशन पार्टी के मेम्बर को लगा दिया जाय या इधर के किसी मेम्बर को लगा दिया जाय और मुझे ऐसी कोई आशंका नहीं है कि वह ख़रीद लिया जायेगा। हूँ अपने सदन के सदस्यों पर पूर्ण विश्वास है और मैं ऐसा नहीं समझता कि वे देशहित के विरुद्ध कोई भी क़दम उठावेंगे। मैं जो समझता हूँ कि अगर इस हाउस का कोई

[बी० रघवीर सिंह]

मेम्बर वहाँ पर लगा होगा तो वह हमें बतला सकेगा कि कला अडवर्टेकिंग सतत रास्ते पर जा रही है या सही रास्ते पर जा रही है। मैं समझता हूँ कि वह जो पाबंदियाँ लगाई हैं अगर उन को ढीला कर दिया जाय तो इस से देश का नुकसान नहीं होगा। इस सचन के मेम्बरों की ईमानदारी पर कोई खतरा नहीं होगा बल्कि सही मानों में देश हित के लिये यह जरूरी है कि यह पाबंदी भाप डोनी करें और ऊर्ज कीजिये अगर उस में कुछ आपत्ति हो तो उस के लिये कोई बीच का रास्ता निकाल लें।

Pandit K. C. Sharma (Hapur): Mr Chairman, I support this Bill because I do not like too many restrictions with regard to eligibility to Membership of Parliament.

The fundamental question of integrity, incorruptibility and independence of the Member of Parliament has been raised. There is a biological principle that from the tree you will expect a sort of fruit that the tree is meant to yield. The corner stone of a good parliamentary democracy is the free and untainted vote. This is the principle laid down by the first President of the American democracy and it stands to this day. Once the free and untainted vote is ensured and it becomes the practice of the elections, the incorruptibility and independence of the Member is ensured. It is the effect of a cause in scientific terminology. It is not the nature of the function that takes away the independence or honesty of a Member; it is the environmental atmosphere that affects his way of doing.

There is a lot of confusion about the thinking of some hon. Members. They should know that in a modern democracy, it is the party candidature that ensures success. The electorate are more and more conscious of their functions. The more educated the

people grow, the more critical and analytical they grow about the activities of the Government, the more it would become difficult for any independent candidate to succeed to a seat in Parliament. Therefore, it is the party discipline that is the guarantee about the incorruptibility, about the independence or about the way of thinking or the way of functioning of any Member of Parliament. It is not given to individual whim or wish; it is the party whip that carries the man to his functions or to his doings in the Parliament, whatever job he takes up. Therefore, the Member's taking this job or that job does not affect his conduct at all.

Another factor is a free, independent and critical press. Our press is enlightened and critical, of course. The more the press takes interest in the governance of the country, the more well equipped it is about the ways and functions of the Government and the more scientific its criticism is, the greater it is a guarantee for the good conduct and independence of a Member of the House or a Minister.

What I am laying stress upon is the simple fact that the social environment helps the man in his growth just as the man has the capacity to create a new environmental atmosphere. This is a two-way thing. Man is the product of social institutions as he is the creator of those institutions themselves. Parliament or the Government is no exception to this general axiom. Therefore, my humble submission is that the argument about taking a job does not very much affect either the integrity or the independence of an hon. Member. What does affect is the way the party to which he belongs functions. It is the party machine. It is a queer phenomenon. Not only with regard to the independence of the Member alone, but even with regard to any functionary in the social institutions set up, they stand

for liberty. But if you analyse, very little liberty is left to the individual. He is so much circumscribed by the forces around him and it is the party machine that the poor fellow has been set in that, in the last, determines his conduct as to what view he has to take or what job he has to take up or what thing he has to do or what thing he has not to do.

There are certain amendments. I do not see any reason why the Vice-Chancellor of a University should be prohibited from taking an honoured seat in the Houses of Parliament. It would be an honour to even a political institution like the Parliament to have the highest functionary in an academic institution. For instance, I may point out that the Rector of the Moscow University is not a communist and yet he has a place on the Presidium of the U.S.S.R., because, he has to give a detached view of things. If a Government which we decry that it is not a democracy, that it does not take the peoples wishes into account and dictates from above, permits or thinks it necessary that the highest functionary of the academic institution should find his place on the highest body of the Government of that country; I see no reason why the Vice-Chancellor of a University should not be allowed to have a seat in the Houses of Parliament.

Some Hon. Members Dr. K. L. Shrimali.

Pandit K. C. Sharma: It is a poor comparison to put Dr. K. L. Shrimali by the side of the Rector of the Moscow University, with all respect to Dr. K. L. Shrimali.

Chairman of other Committees—these are little functions and they do not affect the character of a man if the man is worth something. Being a Member of this Committee or that or this Commission or that—these are small things and they do not affect if the man is stabilised in his view and has grown enough. It is the function of the party machinery to pick up the people who have got a certain back-

ground, who have got a certain training, a certain view point. By being a member of this Commission or that a man does not change easily. Man is too solid a commodity to be thrown away by the wind. That is an impossible thing.

About Committees of the House, my hon. friend Ch. Ranbir Singh has said enough and I may not repeat his arguments. These village officers and others do not exercise powers or functions that in any way bind them to the Government's views. I do not think many revenue officers will find a place in Parliament, because in future the political parties will require more intelligent people, better equipped people, and certainly a man who is well-educated, well-equipped, has his worth in the economic or social field of the community, is not going to take up jobs like that of a revenue officer. These are not the jobs which a man who counts in the social structure would take to. So, it is not likely that this class of people would adorn these Benches. There need be no fear about it.

I submit that there should be more exemptions, for instance of the professional services, like lawyers, university professors, journalists and a thousand others. I want to make a distinction between profit and professional services. A contractor may be making profit and profit alone and nothing else. He has no professional ethics or professional code of conduct, but wherever a code of conduct comes in, wherever professional ethics come in, there is no danger in the gentleman in the profession concerned coming to Parliament, subject to the condition of his physical capacity to do the job, availability of time etc. I do not think that a man who is trained in a profession, who knows something of his professional ethics, who has a code of conduct would be corruptible simply because he is placed in this office or that office. He is too much a stabilised being to be swayed this way or that.

[Pandit K C Sharma]

Every country has got its own traditions. I came to Parliament, to this House, in 1946. When the election for the Speaker took place, a Member of the Executive Council, Sir Ardeshir Dalal, did not vote for one who was called the Government candidate. He remained neutral. Another Member, Maharaja Himmat Singh refused to vote for the so-called Government candidate, because they had their own view of things, and it not being a Government motion as such, they refused to be swayed simply by the colour of the skin or by the whip of certain parties. They had independent views.

Later, I have noted that you, Sir, both in the Constituent Assembly as well as in Parliament, though a member of the same party, have differed on important measures. Even in certain cases where whips were issued, the Members simply notified that they differed and that they made it a question of conscience.

So, the tradition of this House is that it is much more independent than even the U K Parliament. Members have not moved this way or that way not even on account of party affiliations.

It is almost common knowledge that a Congress Party ticket means almost a sure success. A member of the Congress Party depends much more on the support of the party for his success in the elections than a member of any other party anywhere else in the world. No other party in the world at present is so powerful a factor in the ensuring of success of a member in the elections. Despite this the Members have had more independence than any Member in the legislature elsewhere.

Therefore, with this background and with the experience of the working of this House and the fundamental fact that only on the free and untainted

vote of the electorate does the incorruptibility and independence of a Member rest, I think these changes do not in any way affect either the integrity or the independence of the House, and therefore, I welcome this measure.

Shri N R Munisamy (Vellore)
The Bill as it has emerged from the Joint Committee is a real improvement on the original Bill that was introduced in the House. All the same it does not satisfy all the canons of what legislation ought to be. It is incomplete, something is wanting, the clauses are all ill-drafted and the wordings are vague, and there is much scope for improvement. So, I am not quite happy with this legislation since it admits of several interpretations.

Several previous speakers have referred to article 102 of the Constitution and I may also be allowed to read it out with particular reference to the points which I propose to raise. Clause 1(a) of the article reads:

"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,"

In this Bill we are dealing with disqualifications and how they are attracted. It has got four clauses, but the really important clause is that which enumerates the several offices of profit. Ordinarily speaking, in order to know whether a person holds an office of profit or not, a definition has to be incorporated in the Bill. I do not find any such definition in the definition clause. It only defines compensatory allowance, statutory and non-statutory bodies. In the schedule they have enumerated the offices that are to be declared by Parliament not to disqualify Members. But that is only by passing the Constitution which only refers to a holder of an office of profit, and we have not

defined what an office of profit is. We are not doing our proper duty as Members of Parliament by mentioning whether particular offices disqualify a Member or not, without defining what an office of profit is. There are certain hard cases where the offices have to be eliminated from the operation of disqualification, but by giving a catalogue of offices which are now declared not to attract disqualification, we are not going to satisfy the requirements of the Constitution. Therefore, I request the hon. Law Minister to take note of this and to put in an amendment defining an office of profit.

16.39 hrs.

[SHRIMATI RENU CHAKRAVARTY in the
Chair]

At least if the list enumerated in the Bill had been exhaustive I could have understood, but even that is not so. We have enumerated only some and left out the others. It appears from the report that the State Governments and the Central Government have been very reluctant to give a list of all the bodies that are working. I can only say this much, I happen to be a member of the advisory council of the District Board. It is a statutory body of which Members of Parliament as also members of the local legislature are members. It is not enumerated in either part I or part II of the Schedule under Madras. It looks as though I would be disqualified after the passing of this Bill.

Shri Ranga (Tenali): You can resign from that.

Shri N. K. Munisamy: It is a statutory body and it is not as if I can resign, because even if I do not attend a particular meeting, still I am supposed to be a member, and therefore I will be disqualified. Therefore, I would say that we should not keep this question open, for, in that case many of the Members here may become disqualified—if this provision in the Constitution is interpreted

strictly—whenever they happen to be members of such boards. So, I would suggest that it is better that we define what an office of profit is.

Various suggestions have been made by the Members here saying that there is incompatibility or that there is conflict between these jobs and the functions of Members as Members of Parliament. And everyone has offered his own suggestions. Still, the armoury of Government is not wanting, and is not so feeble as not to be able to arrive at a definition as to what an office of profit is. They can still find a way out by defining what an office of profit is.

According to the various interpretations and decisions given by the courts, I came to understand that whoever draws any salary from Government is said to hold an office of profit. Suppose a particular person happens to hold a particular office in a local board or any other body, and he happens to draw some allowance, or he draws not even a single pie but the Act says that he is entitled to draw certain allowances, then it means that he stands to gain or stands to profit thereby, and, therefore, the fact of his being a member of that board or that advisory committee or council becomes a disqualification for him. The very fact that he is an *ex officio* member is sufficient, even though he does not receive any money at all from that body. Therefore, I would suggest that it is very important that we should not brush it aside and simply say that these are the only offices which are exempted from disqualification. Unless we know exactly what the disqualification is there is no use. Merely enumerating these offices is not enough. We must know definitely what an office of profit is, and what disqualification is.

I hope that in the future, when Government bring forward an amendment, they will specify in the Bill these various other bodies also holding offices in which case it will

[Shri N. R. Munisamy]

not be a disqualification. I hope Government will look into this aspect and define in the definition clause what an office of profit is. Otherwise, we shall be in a maze of difficulties later on. I have just cited one instance; there may be various other instances of a similar nature. Therefore, I would request Government to give some thought to this matter.

I have been very patiently hearing the many speakers who have spoken on this Bill, and I find that not one of them has been very happy about this. Unanimously, I would say, they wanted that it should be deferred or that it should be withdrawn or that proper amendments should be introduced in the present Bill, to ensure that it is very fool-proof and does not leave any lacunae, which will result in a number of cases cropping up in the courts, as a result of which, just as our hon. friend Shri D. C. Sharma has said, many of the Members might certainly incur disqualification.

Under these circumstances, I would say that Government should address themselves to this problem and give proper thought to the matter and come forward with a proper definition of what an office of profit is, in the absence of which, I am sure, we shall not be doing our work properly. I would say that this Bill is defective in this sense that it does not give any definition of what an office of profit is, which is a very important aspect on which the whole Bill is based. This is a lacuna which cannot be pardoned by anybody; the future legislators will certainly say that the Law Ministry had not bestowed proper thought on this matter, and had done this work in a hurried way and in an incomplete way.

I would respectfully say that the Members of the Joint Committee have put forth about a year of work in this task, and they have produced this Bill, and their work deserves to be appreciated to that extent; but I would

respectfully state that that work is not to be appreciated for want of a proper definition of what an office of profit is.

As regards clause 3, in the Act I find that the office of Minister is exempted. But here in this Bill, I find under sub-clause (a):

"Any office held by a Minister, Minister of State or Deputy Minister for the Union or for any State, whether *ex officio* or by name".

Exemption given to them. But I find in clause (2) of article 102 of the Constitution:

"For the purposes of this article, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State by reason only that he is a Minister either for the Union or for such State".

So there was no need to have brought in this provision in sub-clause (a) of clause 3 in the Bill.

Many Members have given cogent reasons against exempting certain offices. I may also add to them. Take the office of Vice-Chancellor. Much has been said about it. I will only say this, that the Vice-Chancellor of a University is a person holding office and drawing a fat salary. He is supposed to be a government servant. If a government servant who is in receipt of pay from Government is to be allowed to sit in Parliament, it will not, as others have maintained, maintain that sort of impartiality and purity which we want in the legislature. Therefore, such persons who draw salaries from Government should be scrupulously avoided, and whatever be the knowledge they possess and the status they have in private life and so on, they should be excluded from membership of Parliament.

Then I come to the provision about village officers, *lambardars*, *deshmukhs* and so on. These persons receive salary from Government. They are public servants and so there need not be any exemption given to them. Here I find three conditions put in about the village revenue officer. The first is that he is to collect land revenue, the second that he is remunerated by a share of, or commission on, the amount of land revenue collected by him, and third, he does not discharge any police functions. These are the three conditions for them. I would only say that every village officer in every village takes not only commission, but—subject to correction—also pay. They receive from Government a pay of Rs. 30 or Rs. 20—I do not know what the figure is. So far as my State is concerned, they are paid Rs. 30 a month. As regards the share in the revenue they collect, the commission varies from year to year, sometimes from *fasli* to *fasli*. Therefore, I would say that village officers need not be put in here.

As regards compensatory allowance, I find in sub-clause (h):

"the office of chairman or member of a committee (whether consisting of one or more members), set up temporarily for the purpose of advising Government or any other authority".

If the holder of that office is not entitled to any remuneration other than compensatory allowance, he is exempt. This compensatory allowance comes into operation only in (h). They receive salary just as others. The compensatory allowance is not the same for everybody. Members of Parliament get Rs. 21 whereas others get Rs. 20 plus Rs. 10. I am not saying that they should be brought to our level. But since we have incorporated a provision here 'if the holder of such office is not entitled to any remuneration.', a similar provision must be

added in respect of the Vice-Chancellor of a University or any other person, because they need not get more than what they are entitled to get as any other Member of Parliament. Therefore, I would say that this provision must also be added to sub-clause (f).

Again, there is no definition of 'temporary'. It may mean one year, or two years or it may go from year to year for two or three years. 'Temporary' is a very vague term and I would respectfully say that some definiteness should be there about it—say three or five years. This Government has got the right to extend the life for another term. Therefore, I respectfully submit that 'temporarily' should be defined, whereby people may know where they stand.

There are various other bodies whose names have been brought to limelight. It is stated here in the Report that there is a Standing Parliamentary Committee. It must get recognition. I do not find any mention of this Standing Parliamentary Committee in the scheme of the Bill. There are references to various other things. Since it is stated that this Standing Parliamentary Committee will scrutinise from year to year what those bodies are the membership of which or the holding of offices in which will disqualify a person, this should get statutory recognition; otherwise, it will not be effective nor can we enforce it. Therefore, I would say it must be recognised.

Again as regards the various other councils and bodies which have not been brought to the notice of the Joint Committee, I would only say that instead of having these two parts in the Schedule, we must altogether eliminate them and keep only clause 3 with a definition added to it. The definition would clearly say, and the court would decide which are posts of profit and which are not. If this list

[Shri N. R. Munisamy]

is exhaustive I can understand it; but, it is only illustrative. But this schedule has to be added to year after year as and when they come across cases of Members and occasions when they have to be disqualified.

We are aware that in olden days when the Britishers were ruling the country, they were having some sort of Legislature and therein there were some members who were nominated. Those nominated members always sided with the Government on the floor of the House. Evidently, Government have got the same background, to have some persons who support the party here in the House. Here whenever some thing is brought before the House, automatically, even without being asked, they will automatically speak on the side of Government. That is, probably, the reason why these posts have been enumerated. Though they receive salaries and every other patronage, powers and privileges, yet they are to be eliminated so that they will support Government as and when the need arises. This will work havoc in the long run. It is better to have a particular formula or a test which you can say that this institution is to be exempted and that institution shall not be exempted. Otherwise, it would be opening the floodgates of nepotism and corruption. I do say nepotism and corruption guardedly because some hon. Members may be going in for certain chairmanship or membership of some statutory bodies wherein there is a great deal of power and prestige also.

Therefore, I would request that these persons should be scrupulously avoided for being members. We are creating a separate class in Parliament who can participate in the discussions and support Government. Only the future has to say whether these things enumerated in the Schedule are, beyond all doubt, of an impartial type.

Madam, as you are watching the time, I will say the last word and be done with it. In the Parliament (Prevention of Disqualification) Act which was passed in 1950, we were having in a general way what the offices of profit are. We have been extending the life of the Act from 1953 onwards till 1958, for a period of five years. In these five years, many Members of Parliament had been taken on several Committees and commissions and their position there was supposed to be an office of profit. Therefore, they thought it better to come with an Act whereby we can enumerate what offices can be said to be incurring this disqualification. At the initial stages, they never thought that we should have a schedule running on like this with about 137 items in two parts. Some more bodies will have to be included later on year after year and so, I say that, to avoid the length tail-like schedule which goes on expanding year after year, it is better to have a brief Act whereby a definition would guide us. The courts should try to interpret it and put us in the proper way.

वंशित ठाकुर दास शर्मा : मि० चेयरमैन इस बिल के मुतालिक बहुत सारी बहस आज सुबह से अब तक होती रही है और शुक्रवार को भी होती रही। एक मेम्बर भी यह कहता हुआ सुनाई नहीं दिया कि वह इस बिल को मंजूर करता है और इस बिल ने उस को कोई एतराज नहीं है। यहाँ तक कि हमारे डिप्टी स्पीकर साहब को भी डिप्टी मिनिस्टर साहब की तकरीर से तसल्ली नहीं हुई। गरजकि एक भी शख्स इस हाउस में नहीं है जिस ने इस बिल को माना हो।

Shri Dasappa (Bangalore): His reports are in English. It would enable us to follow his arguments better if he speaks in English. So, I submit that he may speak in English.

Mr. Chairman: Pandit Thakur Das Bhargava has a right to write his reports in English and speak in Hindi.

But I have also to request him on this point. He is a very respected Member of this House and his views shall have to be taken into consideration on this Bill. Many hon. Members feel and I also feel like that; we want to follow his arguments because he has been associated with the report of the Committee on Offices of Profit from the beginning and also later on in the Select Committee. So, I would request him, if it be not very inconvenient to him, to speak in English so that all sides of the House may be able to follow him.

Pandit Thakur Das Bhargava: Madam Chairman, in obedience to your orders as also the desire of my hon. friends... (*Interruptions*). It has never happened that when a request has been made to me, I have not acceded to that request.

So far as this Bill is concerned, I was submitting that there was no single Member in this House who had not taken exception to this Bill. It is a very unfortunate Bill in that sense. So much so, even when our hon. Deputy Minister was making his motion, our hon. Deputy-Speaker who was in the Chair then said that he was not fully satisfied with what he had said. I feel that a Bill of this nature which has been criticised from so many points of view and from so many angles is a Bill which requires perhaps much more elucidation than what he got from the hon. Mover of this Bill. In fact, I do not envy him

because he had a hard task to perform. He knew and we also knew from the start of this thing. The Government did not at first agree to make a Schedule as they realised that making of a Schedule was a very complicated task and it might or might not succeed.

Mr. Chairman: The hon. Member may continue tomorrow. I would not like him to start his arguments and then break the continuity now. Now, the hon. Minister of Parliamentary Affairs may make his announcement to the House.

17 hrs.

BUSINESS OF THE HOUSE

The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha): With your permission, Madam, may I announce a slight change in the order of Government business for the current week?

In the statement made by me on Friday, I said that discussion on the statement of the Minister of Finance on the Investment Policy of the Life Insurance Corporation would be held on 27th November. The motion will now be moved on Friday, 28th November instead. This means that discussion will continue on Saturday the 29th November also.

17.01 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, the 25th November, 1958.