[Shri B. R. Bhagat.]

ended the 31st December, 1957. [Placed in Library. *See* No. LT-1106/58]

(ii) Report of Directors of the Bank together with the Accounts and the Auditor's Report for the year ending the 31st December, 1957. [Placed in Library. See No. LT-1107/58]

(iii) Letter No. 525-Rep-II/26-57, dated the 19th July, 1958 from the Director of Commercial Audit, New Delhi, to the General Manager, Manipur State Bank Limited, Imphal. [Placed in Library. *See* No. LT-1108/58.]

NOTIFICATIONS UNDER THE SUPPRESSION OF IMMORAL TRAFFIC IN WOMEN AND GIRLS ACT, 1956

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI B. N. DATAR) : Sir, I beg to lay on the Table, under sub-section (4) of section 23 of the Suppression of Immoral Traffic in Women and Girls Act, 1956, a copy of the following Notifications:—

(i) Notification No. H. 28-242/57, dated the 6th November, 1958, publishing the Himachal Pradesh Suppression of Immoral Traffic in Women and Girls Rules, 1958, issued by the Himachal Pradesh Administration. [Placed in Library. *See* No. LT-1109/58.]

(ii) Notification No. F.22(10)/54-Home, dated the 16th May, 1958, publishing the Suppression of Immoral Traffic in Women and Girls (Delhi) Rules, 1958, issued by the Delhi Administration. [Placed in Library. *See* No. LT-1110/ 58.]

(iii) Notification No. 9(6)-PD/57, dated the 30th October, 1958, publishing the Suppression of Immoral Traffic in Women and Girls (Tripura) Rules, 1958, issued by the Tripura Administration. [Placed in Library. *See* No. LT-1111/58.]

ALLOTMENT OF TIME FOR CONSIDERATION OF MOTION RE REPORT OF THE ALL-INDIA INSTITUTE OF MEDICAL SCIENCES

MR. CHAIRMAN: I have to inform Members that under rule 153 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, two hours are allotted for the consideration of Dr. Shrimati Seeta Parmanand's motion in respect of the Second Annual Report of the All-India Institute of Medical Sciences. New Delhi.

THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) BILL, 1958

THE DEPUTY MINISTER OF LAW (SHRI R. M. HAJARNAVIS): Sir, I beg to move:

"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 passed by the Lok Sabha, be taken into consideration."

Sir, before 1 proceed to explain the various clauses of the Bill, I might remind the House that this Bill deals with article 102 of the Constitution. That article reads as follows: —

"A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament, 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."

Therefore, Sir, three conditions are necessary before any disqualification can be incurred under this article. Firstly, it must be an office of profit; secondly, that office of profit must be under the Government, and thirdly, it must not have been exempted by some , law made by Parliament.

Now, Sir, the first enactment which dealt with this matter was Act 19 of 1950 by which Ministers of State, Deputy Ministers, Parliamentary Secretaries and Parliamentary Under Secretaries were exempted from disqualification. The next Act was Act 68 of 1951. That Act is only of some historical value, because' its provisions dealt with certain temporary Committees and those Committees or offices are no longer in existence. The third Act that is in force is An 1 of 1954. That is in force till the end of the current year and unless exemptions are renewed, several Members of this House and the other House will be liable to incur disqualification. Now, Sir, under the provisions of that Act certain Committees were exempted. Secondly, Vice-Chancellors were exempted. The next category whose disqualification was removed was that of the officers of the National Cadet Corps and the Territorial Army. Then, Sir, certa'n other Committees, of course, subject to certain conditions, were also sought to be exempted from disqualification. The Bill, as it was originally proposed, did not attempt to make any change in the law which prevailed then. The Bill was referred to a Select Committee, and the Select Committee made certain changes which I will proceed to explain presently. But before I come to the main change effected by the Select Committee, I will deal with a few small changes which were effected

Sir, in clause 1, sub-clause (2), it was stated that the Act shall come into force on the 1st January, 1959. Now some kind of apprehension was raised in the Select Committee as to whether there would not be some small interregnum between the 31st December 1958 and the 1st January 1959. I personally did not think that there was any hiatus between the two points of time, but in order to avoid any risk to the seats of the Members of this House, we decided to enforce the Act a day earlier. And now we say that the Act shall come into force on 31st December, 1958.

Then, Sir, so far as clause 3(b) is concerned, we have added the office of Whip. Originally, Sir, the offices of Chief Whip and Deputy Chief Whip were exempted. Now the office of Whip has also been included in the exemption list.

Then, Sir, the Select Committee raised some question of principle. The Select Committee thought that we could go on on the m'odel which had been followed in the United Kingdom. In the United Kingdom, Sir, what they have now done is that they have made an exhaustive and a detailed list of offices which disqualify, and by a provision of the Act it has been said that those offices which are not contained m the Schedule are completely exempted from disqualification. So, the U.K. law is now settled. We have only to refer to the Schedule and find out whether a particular office has been included or not. If it is not included in the Schedule, then that office is free from any kind of disqualification. This idea was very attractive and we tried to see whether it could be followed here. But there were several difficulties. How far we have succeeded in reaching our ideal, is for the House to see.

Now, Sir, first of all, as I have already stated, article 102 requires that any such disqualification shall be removed by a law passed by Parliament. Now in the U.K. what has been done in this. If a Committee of the House decides that a particular office ought not to be disqualified, then an Order-in-Counoil will be issued, which will have the effect of removing that disqualification. Such a procedure cannot be followed here

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because the disqualification hero under the Constitution can only be removed by law declared by Parliament so that legislation is not dispensed with. The second difficulty and a very serious difficulty with which we met was that here we are not only to remove the disqualification of the offices of profit created by the Government of India but also by the Governments of States, and it is difficult to keep track of all the offices created by the other States. No sooner a list is made than it becomes out of date. Thirdly, another thing we have to c'onsider is that the Constitution might change. While the Parl'ament is considering the passing of the disqualification Act or dealing with that matter, the name might change.

SHRI H. N. KUNZRU (Uttar Pradesh): Which constitution?

SHRI R. M. HAJARNAVIS: The constitution of the committee.

AN HON. MEMBER: Not Pakistan's.

SHRI R. M. HAJARNAVIS: The constitution of the committee itself may change and the name may change. Supposing we disqualify a certain committee under one name and the name is changed, the question would be whether it is still under disqualification. These are the difficulties with which we were confronted when we made the schedule, but the schedule is there. The idea behind the schedule was this. In preparing the schedule we were mostly guided by very valuable work done by a Joint Committee of both the Houses under the chairmanship of Pandit Thakurdas Bhargava. The idea was that an office of profit is constituted not only by receipt of remuneration or by receipt of monetary gain, but if the office permits a person to exercise patronage or influence, the office becomes an office of profit. The question would be whether such an interpretation is permissible of the term 'office of profit' under the Constitution. There is a decision of the Supreme Court, where this term has been interpreted. They were of course not interpreting the Constitution but a provision which was similar. It was section 14 of the Mysore I Town Municipalities Act. It provided that a person who holds an office of profit under the Government of India or the Government of any State specified in the First Schedule to the Constitution shall be disqualified. So the Supreme Court were interpreting a similar provision. This is what Their Lordships observed. The decision is reported in A.I.R. 54, Supreme Court, at page 653. They said:

> "The plain meaning of the expression seems to be that an office must be held under Government to which any pay, salary, emolument or allowance is attached. The word 'profit' connotes the idea of pecuniary gain. If there is really gain, its quantum or amount would not be material but the amount of money receivable by a person in connection with the office he holds may be material in deciding whether an office really carries any profit."

So the argument may still be advanced that what a man gets is merely a compensation to him for expenses made by him, for what are called, out-of-pocket expenses. An argument may still be raised that what he gets is not profit but merely a reimbursement. We have therefore made it clear in clause (3) that:

> "It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, etc."

So that we don't say that we regard these offices as offices of profit. That question still remains to be argued or decided. Even if we had called them offices of profit still the courts were free to decide whether they were in fact offices of profit or not, because it j is not permissible for us to define an expression which has not been defined in **th« Conirtitution,** in our **own Act,**

and thus limit the scope or the significance of the term which occurs in the Constitution. If we either try to extend the content of that expression as occurring in the Constitution or try to limit it, the courts will not permit it to be done. Therefore we have said that in case these are held to be offices of profit, then the Legislature should remove the disqualification.

Now the schedule has been made. I have already explained the principles on which the schedule has been prepared. The schedule consists of two parts. The first is in respect of committees for which there is complete disqualification. They are 42 Central Government bodies and 55 State Government bodies. Part two contains partial disqualification attached to Chairmen and Secretaries or Presidents and Secretaries or their Executive officers. This is the Bill.

This is a Bill which is, in no sense, a party measure. It is a Bill in which every Member of this House is interested. I might make it clear that our mind is still open. We shall listen to the various arguments that may be raised in this House.

SHRI BHUPESH GUPTA (West Bengal): Your mind had been three-fourths closed in the other House.

SHRI R. M. HAJARNAVIS: We accepted many amendments there. There is no reason to suppose that we will not further improve the Bill by accepting amendments moved here. The chief amendments accepted in the other House were, the Vice-Chancellors were deleted from the exemptions so that they now come under the ban. The second was, we proposed to exempt members of the Standing or Executive Committees That is now omitted so that members of the Standing or Executive Committees or other bodies are now ineligible to become members.

SHRI V. K. DHAGE (Bombay): Standing Committees of what?

SHRI R. M. HAJARNAVIS: Standing Committees of the bodies under '(i).

SHRI H. N. KUNZRU: Standing Committees...

MR. CHAIRMAN: Of the bodies which are mentioned under (i).

SHRI R. M. HAJARNAVIS: Certain Committees which were included in the schedule were excluded as a result of amendments moved in . the Loft Sabha. With these remarks, I commend this motion for the acceptance of the House.

MR. CHAIRMAN: Motion moved:

> "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 passed by the Lok Sabha, be taken into consideration."

SHRI J. S. BISHT (Uttar Pradesh): Sir, I only want some clarification. May I know what is meant by the word 'office'? Does it mean a post? If it is a post, does it mean a permanent post or a temporary post?

SHRI R. M. HAJARNAVIS: I am sorry but I thought I did deal with this point in my speech.

SHRI J. S. BISHT: Be˙ng a lawyer he should understand this. A Government Counsel, a Standing Counsel, those who are permanent employees, for them that is all right. But if you employ a lawyer for one case, would that be an office of profit?

SHRI R. M. HAJARNAVIS: I have already submitted to the House that we cannot undertake any definition of the word or expression 'office of profit'. Whether we define a part of the expression or whole of the expression, I don't think it is permissible, but dealing with the precise question that the hon. Member has in mind, I might tell him that the question was considered by the House of

[Shri R. M. Hajarnavis.] Commons Committee, and in the House of Commons the general opinion was that the relation between a client and a lawyer is not that of an employer and an employee so that he does not hold an office under the Government, but the Standing Counsel will always be supposed to belong to a separate category. The Standing Counsel always gave the undertaking that he would not stand for Parliament so long as he is a Standing Counsel but I believe, so far as the position in law stands, the appearance as a Counsel for the Government does not, I think, incur this disqualification. But that is my personal opinion based on what I have gathered from the report of the debates in the House of Commons.

SHRI J. S. BISHT: If a Government employed him, he being a criminal lawyer on Rs. 1000 per day, for 9 months, that would amount to an office of profit?

SHRI R. M. HAJARNAVIS: A person dealing with a single case, however prolonged it might be, does not, I think, occupy any office. That again is my personal opinion.

(Several hon. Members rose)

MR. CHAIRMAN: Order, order. Mr. Saksena wants to ask something.

SHRI H. P. SAKSENA: (Uttar Pradesh): I also want to ask a question, Sir. May I know if there is any provision disqualifying a person on the ground of age, in this Bill?

MR. CHAIRMAN: Mr. Sapru.

SHRI P. N. SAPRU (Uttar Pradesh): I only want to say that in the debate in the House of Commons it was mentioned that Mr. David Maxwell, who is now the Lord Chancellor, got a fee of £24,000 at the Nuremburg trial and he was not disqualified.

DR. W. S. BARLINGAY (Bombay): May I rise on a point of clarification? I would like to invite the attention of the hon. Minister to lines 19 and 20 on page 2 of the Bill where it is stated:

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

The question I wish to ask is this. The hon. Minister was himself the treasurer of the Nagpur University at one time and he knows the constitution of the Academic Council of which I happen to be a member. Now, it appears to me that this Academic Council most probably is not covered by any of these phrases contained in this sub-clause (f). For instance, the Academic Council could not be regarded as an executive committee, although it has got executive functions. I would like to ask the hon. Minister whether the Academic Council of the Nagpur University would be exempted under sub-clause (f).

SHRI H. N. KUNZRU: This can scarcely be a point for clarification. This is a point on which hon. Members can make their own remarks.

MR. CHAIRMAN: I think we can start discussion now. But Mr. Sinha, I thought you wanted to ask something. Is it discussion or clarification?

SHRI RAJENDRA PRATAP SINHA (Bihar); Sir, I seek a clarification from the hon. Minister. Will not the point raised by Mr. Bisht be covered by the Representation of the People Act?

SHRI R. M. HAJARNAVIS: I think we are only dealing with this Act and so the other Acts do not come here for discussion or clarification. There, in the Representation of People Act, section 7(d) deals, as far as I can remember, and I am quoting from memory, with the disqualifying of persons who enter into contracts for the sale of goods. A lawyer does not...

SHRI RAJENDRA PRATAP SINHA: Or if he renders service?

SHRI R. M. HAJARNAVIS: I am coming, step by step. A lawyer does not sell goods. The second clause is about entering into contract for the execution of works. The expression "execution of works" means a contract for constructing buildings and so on. "Works" is a term which denotes the construction of buildings and things of similar nature. So that also does not come in. The last clause is in respect of services undertaken by Government. Here services undertaken by Government, to my mind, mean services like post offices, supply of electricity, water, railways and so on, and not service by Government. It speaks of services and not service undertaken by the Government. In any case a lawyer employed by the Government to defend any case is not rendering any services undertaken by the Government. So no part of section 7(d) will cover this case.

MR. CHAIRMAN: Now, let us start the discussion.

SHRI PERATH NARAYANAN NAIR (Kerala): Mr. Chairman, this is an important Bill in relation to the Members of Parliament, present and prospective. It has got an important bearing on the growth of democracy in this country.

[MR. DEP'UTY CHAIRMAN in the Chair.]

Mr. Deputy Chairman, in my own way, I have tried to understand the provisions of this Bill and I strongly feel that this House which has accepted the welfare State as its goal and which is seeking to build up a socialist pattern of society in this country and which is committed to the developing of the public sector as the dominant sector in our economy, this Parliament, will not be well advised to give its approval to this measure in its present form.

Sir, I do riot desire to get bogged up in the comparatively minor issues raised in this Bill, whether revenue officials, *lambardars, malguzars,* and others must be disquauned from standing for Parliament whether sheriffs should be exempted, whether the home-guards must have the chance to stand for election and so on. They are important issues in their own way, but we will have time to consider them when we take up the clause by clause consideration. At this first reading stage of the Bill, I would like to coniine myself to some of the fundamental and important issues raised here, mainly in subclause 3(i) which keeps certain offices like chairman, director or memDer and secretary of important statutory and non-statutory bodies created in this country rather "out of bounds" for Members of Parliament. Sir, these statutory bodies and non-statutory bodies have been kept out of bounds for Members of Parliament on the ground that the independence of Members, their freedom from influence, must be preserved. Now, let us try to understand clearly what is the exact nature, what is the form and content of the independence of Members of Parliament, their freedom from influence which this Bill seeks to preserve. Sir, the world has travelled a long way from the days of the 17th century in England when there was so much of conflict between the Crown and Parliament, when certain steps had to be taken to preserve the independence of Parliament from the influence emanating from the Crown. And even in present-day England, where the Conservative Government reigns supreme, where you have yet to find general acceptance for planned economy, they have recourse to certain measures, certain provisions to preserve the independence of Members of Parliament. But today, in present-day India, we have accepted planned economy. A number of corporations are being created to change the face of this country, for the economic development of our country, and we have accepted that the public sector must increasingly be the dominant sector in our economy also. I am not just interested in scoring a debating point. I want to relate

[Shri Perath Narayanan Nair.j before this House certain facts of present-day life in India. We have got a plan. We are allotting crores of rupees to be spent for the economic development of our country, and this Parliament has called upon the masses of our country, the masses in their hundreds of thousands, to participate in this national reconstruction of our country. Such revolutionary activities are taking place in this country with funds allotted by the Government.

It is no longer a *laissez faire* State. I will begin with the very bottom. There is a Block Advisory Committee in the area in which I come from. This year, to be exact, a sum of Rs. 4£ lakhs out of public sums has to be spent in that area. Members of Parliament are members of that Advisory Committee. What is the function of this Advisory Committee? This sum of Rs. 4£ lakhs will become more than Rs. 12 lakhs or even Rs. 17 lakhs in the next three years the way it goes on. Now, the members of that Advisory Committee have to fix up priorities, about how this money is to be spent, the priorities for minor irrigation works, the priorities for cottage industries and so on. These will have to be decided by the Advisory Committee. Is this then patronage that these members are exercising by handling these things? You may say that this is an Advisory Committee but this Advisory Committee lays down the priorities and in 99 cases out of 100 these priorities are binding on the executive which is actually in charge of the day to day administration there. In this present-day life of India, the masses of the people are called upon, their representatives are called upon, to handle money. It may not be in a direct way but you have to do it some other way and if we want this national reconstruction to succeed in our Country more and more, hundreds of these people will have to be co-opted. I want to ask this question. Is the independence of Members of this Parliament taken away because in this manner **and** to this **extent money** is i being handled by the Committee? Should we exclude the Members of Parliament from such Committees? I am tak ng it from the very bottom. Take the District Development Councils. In the district from which I come about four crores of rupees are spent every year again with the help of the Advisory Committee and you, by your directive, have said that Members of Parliament *ex-officio* are members of these Committees. These Committees are also concerned about the spending of money. It adds to your prestige and it is patronage. It is there but in the interests of development of the economy, the social development of our country. Do you want to exclude Members from these things? The question is this: When you seek to define an office of profit, when you seek to apply standards when you include power and patronage, the existence of patronage, then naturally you land in all these difficulties. As Members of Parliament, we are not only committed, this House is not only committed just to lay down the formula or the policies; is it not committed to the implementation of these policies also? As I said earlier, it is no longer the *laissez faire* State. Our State today having accepted these objectives which it has done is directly interested in the economic development of the country and also by our own action, we have given this special responsibility. If this is your case in respect of the lower levels, in respect of the Block-level Committees and the District Development Committees, what is your case with regard to these important Corporations? We have been obliged to set up all thes» Corporations and my complaint !.i, Sir, that under sub-clause (i) of clause 3 you seek to disqualify certain officer and this covers not only the Chairman, Managing Director and othfr executives in charge of the day to day administration of the corporation but also others.

Ms. DEPUTY CHAIRMAN: On the other hand, the declaration is that they are n°t disqualified.

SHRI PERATH NARAYANAN NAIR: No, Sir, that is the beautiful part of it. The clause gives powers to Parliament to exempt but it is not covered by the schedule. The schedule disqualifies. I am coming to that point.

MR. DEPUTY CHAIRMAN: Is it your case that they should be disqualified?

SHRI PERATH NARAYANAN NAIR: They must not be disqualified.

MR. DEPUTY CHAIRMAN: That is the purport of the clause.

SHRI PERATH NARAYANAN NAIR: They have got two parts in the schedule, part I and part II. Under part I they disqualify the offices of Cha'rman, Director or member of any statutory or non-statutory body.

MR. DEPUTY CHAIRMAN: Ar$_e$ you referring to clause 3(i)? Please read clause 3(i). "It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State, shall disqualify. . . .

SHRI PERATH NARAYANAN NAIR: But in the sub-clause (i), it is said: • "... but excluding... ".

MR. DEPUTY CHAIRMAN: Of course, excluding those mentioned ir the schedule.

SHRI PERATH NARAYANAN NAIR: It does exclude. That is my point.

MR. DEPUTY CHAIRMAN: Members of bodies enumerated in Schedule I are disqualified.

SHRI PERATH NARAYANAN NAIR: They apply certain standards and one of the main considerations which has moved the Joint Committee has been that the independence and the institutional purity of Parliament must be preserved. They seek to do this by excluding the Members 'of Parliament from these Corporations and other bodies on the ground that they are called to handle public money i and to that extent wield patronage and power. My quarrel is with the standard which they have sought to apply. In this present-day India, when we have accepted to build up this country into a welfare Slate, if you apply that standard, then difficulties would arise. The Joint Committee has taken away the compensatory allowances. I agree with that. Clause 3(i) also lays down certain other standards which have bf>en accepted in the United Kingdom for example, where there is difficulty about simultaneous presence in two bodies, where the duties are incompatible with the duties to be performed in Parliament. All these things I accept but my real difficult-/ and quarrel is that when you apply certain standards of patronage and power, you are applying a subjective standard and there enters an element of arbitrariness. When you apply these subjective standards in an arbitrary manner, you will get this sort of thing. What is your purpose? In the name of preserving the independence of the Members of Parliament, you keep them out of these bodies which are created for the real economic development of the country.

MR. DEPUTY CHAIRMAN: Your case is that they should not be excluded?

SHRI PERATH NARAYANAN NAIR: Not to be excluded?

MR. DEPUTY CHAIRMAN: What is the argument you are advancing?

SHRI PERATH NARAYANAN NAIR: You have made mention of the Chairman, the Managing Director or a Director. If holding the office of a Chairman or a Director or a Managing Director means actual day-to-day charge of the administration, then it is a full-time job and I do not want Members of Parliament to be put there. Now, the Joint Committee and the Sub-Committee, in the name of harmonising the public interest and

[Shri Perath Narayanan Nair.]

the independence of Members have come to certain hotch-potch arrangements. They have said that in the present stage of our backward economy, when we are going ahead with the development of our country, naturally the knowledge, the experience of Members of Parliament will have to be pressed into service to a certain extent. Sir, I go a step further. It is not that Members who have particular knowledge, particular experience in particular things should be given an opportunity to serve on these bodies. Parliament has to bring to bear on the administration of the Corporations that broad social outlook, that social purpose, which is likely to lead to the accepted social welfare State, the socialist pattern of society that we envisage for our country. It is the trusted representatives of the people alone who can bring to bear on the administration of these Corporations that broad social outlook, that social purpose, which animates the Members of Parliament. That is what is absolutely called for in the administration of these bodies. That is the reason why. Sir, the standards, the yardsticks which the Joint Committee and the Sub-Committee have sought to apply in the determination of the offices oi profit are not good here. What are or what are not offices of profit? That cannot be the real point. Now, Sir, what happens if Members of Parliament are debarred from serving on these Committees? You leave them to the bureaucrats. Some of them are quite good but we have the other experience also. I am not suggesting that no bureaucrat must be there. Is it our experience to find that broad outlook and social purpose, that social urge, that freedom from the profit motive incentive? Can we find it there in the galaxy of eminent bureaucrats? Can we not expect that from Members of Parliament? Now I am not suggesting that every Member of Parliament must tomorrow be on some corporation or other. No But Members of Parliament as sucli must not be disqualified. There are some people, individual Members, competent Members, and generally as a class, Members of Parliament alone can bring to bear on the administration of these corporations, what I described as that broad social purpose, which must animate the administration of the country. Now, otherwise, if you cannot do it by bureaucrats alone—and our experience, I think, has not been quite happy and I am sure the hon. Minister will agree with me—then, are we to leave the management of these corporations to these barons of the private sector who do not accept this social welfare State as their objective, who are day in and day out working against the socialist pattern of society, who are guided not by oublic interest but by profit motive? Will you be leaving the whole thing in the hands of these private barons? Will it be in the interests of our country? Now, the whole position is this. The Joint Committee erred when they sought to follow the model if the United Kingdom. The economic pattern, the pattern of economic organisation there, their political concepts, are entirely different from the political concepts and the pattern of economic organisation which we are nourishing in this country. Now, we have already experience of hnw these Drivate barons have been managing these corporations, not only in this country, but even in the United Kingdom. What is your experience? Thev want to scuttle it. They want to sabotage these public sector operations, because it is against th^ir verv grain. Now, when this Parliament and this Government accent a certain ohiective, will it be in the interests of this countrv to call unon peonle who have entirely a different out-'ook, whose interest it is to see that these public comnrations are not worked to benefit? Now. if vou exclude these members, if vou exclude the broad outlook also from the functioning of these things, b'ir»aucrats remain and these barons of the ori-I vate sector remain. And what is ' your experience. Sir? We have our I experience. A number of these peo-

pie—Shri J. R. D. Tata, Shri Biren Mooterjee, Shri Birla—have been on these private corporations and some of these corporations have been functioning for the last nine or ten years. Are we completely satisfied with them? It is a different outlook. It is profit motive which runs counter to the policies and objectives upon which we have agreed here. So, my complaint is, why should you taboo Members of Parliament from being even on the Board of Directors as an ordinary member. Now, I want to make it clear that I accept certain of these things. No Member of Parliament if he is to preserve his independence, must stand to gain pecuniary advantage under this. That compensatory allowance clause is there. I am all for it and nowadays it is almost a full time job. That means, Members of Parliament are obliged to devote a large part of their time for Parliamentary work. But I include in this the work in these corporations, to see that the economic life of our country progresses. That is, according to me, part of the normal Parliamentary work. It ought to be part of Parliamentary work, unlike in previous days. With the whole people in our set-up, with the participation of hundreds of thousands of people of this country, there is no meaning in our saying that this Plan will succeed. Now, it will be to our peril if we leave the management of these corporations to the barons of the private sector and to the bureaucrats. That is my main point.

Again, I will come to the Joint Committee's recommendations. Probably they have stated in so many words that there is no single or uniform principle applied in determining these things, but they have tried to borrow. As I could see from the arguments advanced by some of the Members who have given their minutes of dissent, they have been trying to borrow the U.K. example. But conditions are quite different here. Everybody must agree that this pecuniary advantage must not be there. Then, Members have a full-time job. If they are holding office in other places. simultaneous presence in both bodies is not possible. I agree. And I also agree that Members of Parliament should not serve on bodies, the administration of which will come into conflict with the duties of Parliament. Now, these corporations are set up in pursuance of the policies laid down by this Parliament, in pursuance of objectives to which this Parliament is committed. So, there is no question of those things. Then, the only question is when you begin to apply this intangible, invisible yardstick, this patronage, where will you draw the demarcating line, which must be arbitrary? There cannot be any element of finality about it. Now, Sir, I find that, taking some aspects of life in the present day as it is, they have chosen to exclude some of these corporations, you know, from the mischief of that section. I am thankful to them. But, again, because they have chosen to apply this yardstick, a very intangible th˙ng, that has made a hotch-potch of the whole thing. With regard to the particular corporations mentioned in the Schedule, Part I and Part II, I am coming to that later. Now, the whole trouble arises because we find that Parliament is bound by article 102. As the hon. Minister has read out to the House, it says anybody holding office of profit under the Government, Central Government or State Government, is disqualified from being chosen as or for being a Member of Parliament, unless the Parliament accepts it. Now, Sir, I think that particular article 102, except for the verbal changes—"Crown" has been substituted by "Government" —has been bodily taken from the earlier 1935 Government of India. Act which has been taken bodily from certain enactments following the British model. Now, I have already said that the British model, if you apply that, cannot be applied here and conditions are quite different. Now, Sir, the hon. Minister himself has expressed to us how difficult it is just to give any precise definition of this "office of profit". Members, leading Members, have already begun to argue what is office, temporary, permanent, what is emolument, what is profit,

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etc. All these things are there. Earlier, it was office under the Crown, Now, it is office under the Government of India or the State Government. It is so difficult. We have not, until now, been able to define an office of profit.

Now, Sir, my contention is that the Government and the Parliament must apply their mind to an amendment of the Constitution. Since the Constitution has been adopted, we have travelled far, and we have to see if all the provisions of the Constitution are in tune with present-day developments. Is it not necessary that in order that we may realise our objectives, objectives which Parliament has accepted, certain articles of the Constitution should be amended? I feel that unless you amend the relevant article in the proper way, unless you bestow your thought on that question, so long as that article remains there as it is, article 102, there will be these difficulties.

Again, Sir, apart from this question of what is an office of profit, the disqualification extends to offices of profit under the Government. Offices of profit—what about other beneficiaries under the Government? Now if you want to preserve the independence of India, let us come to realities, let us know something about the realities existing in the country. Office of profit is barred, but what about other beneficiaries? You know that hundreds of people benefit by the bounties of our Government in various ways. Take, for example, the proprietors of newspapers. Government gives them an advantage. It is money distributed by Government. Of course they do not hold an office of profit under the Government; even then they are beneficiaries. Need we not extend these thing to those persons also? Then there are other beneficiaries, people who benefit by the Tariff Board recommendations, people who benefit by import licences and other things. All those things are patronages and concessions and advantages conferred on them by the Government. All those things do not come under the definition of office of profit. Now, Sir, as people wh'o are interested in preserving the independence of Parliament, may we not also consider the question of barring those people? Will it be enough if this office of profit alone is defined? Other beneficiaries and receivers of bounties from the Government, need they not be barred? These questions arise.

Now, Sir, an office of profit—pecuniary gain, they were just saying. Rs. 6000 or Rs. 5000 or whatever it is—that brings disqualification so far as membership of Parliament is concerned. What about those in the private sector who hold sway over vast regions, who spend crores of money? Now, Sir, will the institutional purity of Parliament be maintained if they who bask in the sunshine of the private sector, who handle crores of rupees, who wield tremendous patronage, who wield tremendous power, far more than even a member of the Government of India, are to be here? I am not raising these abstract questions because, when you accept the socialist pattern, when you work out a social welfare state, what incentives, what impulses must animate you? Should it be the profit motive of the big private sector? Practically speaking, Sir, we, Members of Parliament, will touch these big corporations only at our own peril. But they will be a hunting ground for these barons of the private sector. Are you preserving the independence of Parliament that way? To my mind it is not so. That is why I say that this Parliament, this House, will stultify itself if it were to give its approval to this Bill.

Now, Sir, I am not a lawyer. I do not want to be legalistic about these things. But the schedule which you have attached, I wonder what purpose it serves. The hon. Minister himself has explained the difficulties he has been feeling particularly about that schedule. Now the Constitution gives power to Parliament, enjoins on Parliament, that it can make exemptions. So far as you are empowered to make exemptions, you are perfectly at liberty to do so under the articles of the

Constitution. But you disqualify. Of course you can disqualify, I am nol questioning that. But will these disqualifications be binding on the court, in our country? ' The Sub-Committee of the Joint Select Committee and the Joint Select Committee have applied certain standards in determining these offices of profit, and I have already explained that at least one of those standards which they have applied is so insensible, is so intangible, is so subjective that it is very difficult to look upon it without attributing an element of arbitrariness to it.

SHRI R. M. HAJARNAVIS: Will the hon. Member excuse my intervention? The disqualification has not been created by the Joint Select Committee. The disqualification which operates is one which has been created by the Constitution. All that we are entitled to say is that the Joint Select Committee have declined to remove that disqualification.

SHRI PERATH NARAYANAN NAIR: Now, much has been said on that point in the other House also. My point is, you disqualify specifically, you go into the rules and regulations governing the working of these things.

SHRI BHUPESH GUPTA: The Constitution does not lay down the disqualifications. It only says "if he is so disqualified by or under any law made by Parliament" That is to say, you are creating this disqualification under the article of the Constitution.

SHRI PERATH NARAYANAN NAIR: Article 102. Now, you say thai holding office as chairman or directoi or member of this and this and this statutory body will be a disqualification. Now, Sir, v/e are at liberty to lay down these things. Has it got legal validity? I want to ask whether the standards which this Joint Committee have applied in determining this dis qualification are standards to b(accepted by the courts in this country, and if it has no legal validity then why all these troubles? 93 RSD—4.

MR. DEPUTY CHAIRMAN: If you lay down the law, courts will have to accept.

SHRI PERATH NARAYANAN NAIR: Under the Constitution Parliament can exempt. If you exempt, the court will not intervene. Here you disqualify, you are performing a function which under the Constitution you are not entitled to perform.

MR. DEPUTY CHAIRMAN: This law says what is disqualification and what is not disqualification. Under the article read by Mr. Bhupesh Gupta Parliament has certainly got powers to do that. If the Parliament accepts the Bill as it is, the courts will have to accept it.

SHRI R. M. HAJARNAVIS: May I again read article 102?

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

<

It is quite clear that the disqualification is created by the Constitution, and unless the disqualification is removed he cannot be a member.

> "A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—
>
> (a) if he holds any office of profit under the Government of India or the Government of any State, other than an office declared by Parliament by law" not to disqualify its holder;".

MR. DEPUTY CHAIRMAN: This law enacts what is not an office of profit.

SHRI BHUPESH GUPTA: It is for Parliament to say whether it comes within the mischief of this law or not. You are bringing so many things within the mischief of this law. We do not like you to do so. That is the point.

SHRI PERATH NARAYANAN NAIR: You say that under this law a director of the State Trading Corporation is disqualified. I take the risk and I go to the court. I say that under article 102 this is not an office of profit. I will argue before them, that after all I am taking a compensatory allowance, that I am not taking part in the day-to-day administration. So far as patronage is • concerned, it is a subjective standard. I am confident that I can get a verdict from the Supreme Court that this particular thing is no office of profit. The fact that you have declared that membership of the State Trading Corporation is a disqualification is not binding on the court. I am just raising this point because I know, not being a lawyer, I cannot be quite strong on these legalistic niceties. Again, that point has been raised, and to my lay mind it has appealed with some force. Again, the hon. Minister himself has said that they have chosen to disqualify membership of these non-statutory bodies. Some of them may be animated by this public urge. After all in the functioning of these administrations there must be a broad outlook which only Members of Parliament can bring to bear. Suppose they change the names of the bodies, how can you by law, by a schedule, bind down ...

MR. DEPUTY CHAIRMAN: Reserve that right to Parliament.

SHRI PERATH NARAYANAN NAIR: You again disqualify membership of certain non-statutory bodies like Chairman of the All-India Silk Board. Suppose they call it by some other name.

MR. DEPUTY CHAIRMAN: What the article says is—(102):

> "A person shall be disqualified for being chosen as, and for being, a member of either House of Parliament—
>
> (a) if he holds any office of profit"—

that is the operative clause—

> "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;".

This law declares that particular offices, though offices of profit, will not disqualify membership. That is what Parliament is doing.

1 P.M.

SHRI PERATH NARAYANAN NAIR: Yes, to that extent I agree. But the whole purpose of this Schedule does not exempt.

MR. DEPUTY CHAIRMAN: It is not the Schedule. It is a different matter.

SHRI PERATH NARAYANAN NAIR: No, no. I am quite clear in my mind regarding home-guards.

SHRI R. M. HAJARNAVIS: We are again more cautious. We do not call them 'office of profit'. If they are 'offices of profit', then they are exempt from disqualification.

SHRI PERATH NARAYANAN NAIR: Of course, it is an opinion.

MR. DEPUTY CHAIRMAN: You can continue in the afternoon.

The House stands adjourned till 2.30 **P.M.**

The House adjourned for lunch at one of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

SHRI PERATH NARAYANAN NAIR: Mr. Deputy Chairman, I was referring to certain legal points that have been raised in regard to this Schedule. But I am not taking my solid stand against this Schedule on legal grounds. I am perfectly willing to leave those questions in the very competent hands of the Law Minister and the Deputy Law Minister. Nor is

my quarrel against this Schedule because of the fact that this Schedule in the very nature of things is not exhaustive, is even illogical. My complaint against this is on other grounds. Firstly, factual. If the Joint Committee had made it clear as to what exactly were the conditions that guided them in these things, if we had had some material to go by—what were the emoluments which the chairman or the director of these institutions got—if that information were given to us, if they had told us by what yardstick they measure the extent of patronage and power which these officers derive, that would have made things easier for us. Now that is not there. Again, I am objecting to this Schedule because this seeks to keep out almost a large number of corporations—statutory and non-statutory bodies—in the functioning of which everybody interested in the national welfare must be interested.

Sir, when Parliament created these bodies, this Parliament had in view certain social values. Now, it is absolutely essential that in the administration of these statutory bodies—these public corporations—which deal with crores and crores of public money, these social values must be kept in view. And who can do it better than the Members of Parliament who alone are imbued with a social urge and a social purpose? Sir, in regard to the management of these corporations, till now we accepted this new socialistic pattern. Now, we are guided mostly by how much profit one gets. The jungle law of the private market, the keenest competition and the survival of the most unscrupulous should not prevail. We in this Parliament, have accepted certain values in managing these corporations. Of course, a fair return for the money invested must be the consideration because, after all, in the new set-up, we are hoping to get more and more money from out of the working of these institutions so that the tax burden may be lessened, so that we may find the requisite funds for our developmental activities—a fair return, but not maximun*-profit. Again, Sir, in regard to the management, we have to keep in view in the public interest, the employment opportunities which these corporations offer. Who will be better competent, better able, to see that these social objectives are implemented there? If we leave it to men whose experience has been limited to the managemnt of the private bodies, these social urges, these social values, do not animate them, do not imbu*[1] them. Again, when we manage thest corporations, it is part of our objective that fair conditions of living, fan-standards of work, must be guaranteed to the large number of people employed there. So, when we accept the public sector and all the implications of running these corporations, it carries with it all these social value*. Now, in regard to the management of these things, are we to keep Members of Parliament out, who alone arc qualified, are more competent to bring to bear upon the administration these enlightened social values? So is my complaint against this Schedule. Here you seek to exclude the Life Insurance Corporation, the State Trading Corporation, the Advisory Committees on the I.A.C. and the Air-India International and so many other things. I will have something more to say when I go to the Schedule. I have given notice of certain amendments . in regard to this Schedule.

SHRI J. S. BISHT: It is only with regard to the board of directors.

SHRI PERATH NARAYANAN NAIB: Board of directors? Of course, personally speaking, I am willing to concede this to those whose time-major time—will be taken up with the actual day to day management. The managing director or the chairman—such people—must be excluded. But here, in Part I of the Schedule, even directors of these corporations are disqualified. Sir, unless it is th* concern of this Parliament—and we take it seriously as part of our res-

[Shri Peratii Narayanan Nair.] ponsibilities to see that these social values are kept in view,—I do not kriow what will happen to these corporations? We have got the bitter, tragic experience of these public corporations in the United Kingdom to aqt as a sort of warning to us. Again Sir, we do all these things in the name of safeguarding the independence, the freedom, of the Members of Parliament. Are we to understand that the independence of Members of Parliament will evaporate the moment you enter the portals of these institutions? The Member of Parliament is elected by lakhs of voters. Now what is the safeguard against falling a prey to corruption and other things? First of all, it is the broad outlook and the social urge which animate the individual. Then the fact that you are watched by your own conferers, by the people at large —your voters—must act as a safeguard against your being susceptible to all sorts of influences. And Members of Parliament by the very nature of the position they occupy, by the trust they have got from the people of this country, by the knowledge that every action of theirs will be under the vig'lant and watchful eyes of thousands and lakhs of people outside have the best safeguard against corruption. And that is all the more reason why those who come from the private sector, mere bureaucrats, have nothing to look to in regard to these things. It n a close preserve for them. So, even in the matter of fighting corruption, in keeping the institutional purity of Parliament, I say the Members of Parliament are more competent to resist all these temptations than anybody else. Why not this institutional purity of Parliament:—at least a portion of it— be carried out into these organisations? Are we to leave it to be implemented by all sorts of influences? Are we not to put any cl»eck on that? So, this argument that it is the institutional purity of Members of Parliament only and that they can be kept out of these corporations does not maKe any appeal to me. As a matter of fact, what is it that we find? A *a* rlain gentleman is appointed to the board of management or the board of directors of the Life Insurance Corporation. He takes it into his head— or his party takes it into head—that he should stand for election to Parliament. Immediately, under the present set-up, this gentleman resigns from the directorship of the board. And mind you, that seat is kept vacant. Then he faces the electorate. He gets a crushing defeat. Immediately he is being taken in and re-appointed to the management. It is a fact of life today. I do not think hon. Members from the other side will refute it. If this is the way, how are we going to keep up the institutional purity of Parliament? Is there any meaning in that? Even now things are being done like that. So, I do not want that sort of things. I want that this institutional purity, this ability to resist corruption and evil influences that the Members of Parliament enjoy, that these qualities must be taken to some of these corporations which will be in the greater interest of our national uplift.

Sir, I want to say something about these particular corporations which have been kept out of bounds for Members of Parliament in this Schedule. I will do so on some later . occasion. When I say this, I am noi suggesting that all these Members of Parliament must be there on all committees and all that. I am not at all suggesting that. Even among the Members of Parliament there are individuals and individuals. Their capacities differ; their soc'al urges differ; . their experiences d'ffer and their outlook differs. My only point is that you can have by "all means all other considerations. I have no doubt in my mind that any membership of these bodies must not carry with it any pecuniary advantage. I am cent per cent for the acceptance of compensatory allowance. It is a different question altogether. The definition

of 'compensatory allowance has been given in clause 2 of this Bill. I am positive that that peculiarity must be there. I am also quite clear in my mind that these full-time jobs which take up the major time of Parliament Members in the day-to-day administration must not be included. Parliament Members have their primary responsibility to the electorate. But there is this question of patronage and all that. I ask you one question. Where do you draw a dividing line? There must be some demarcation line. Instances are the same. You handle public money and you lay down certain priorities. To that extent you carry with you a certain amount of patronage and other things. Maybe, Sir, it is slightly more in regard to some of these corporations. But where do you draw that dividing line? Well, I have no illusions that in the present set-up, if some of the Members of Parliament are taken up on these corporations, things will improve. The ruling party is there and the choice lies with it. And we have found from experience that they have their own notions for appointing these people, but even then if a Member of Parliament serves on these corporations in some way or the other, he will be subject to the vigilant and watchful eyes of other Members ol Parliament and of the masses also. And again, Sir, that Member of Parliament is actively participating in the new objectives and new social values which we, in the collective wisdorr of Parliament, have accepted. Thai is why, Sir, I say that on this sidt of the House, whether opportunities will be there to serve on these corporations, etc., I do not know. No sucr illusions are there.

SHRI H. P. SAKSENA: You havi got opportunities in Kerala. You arc serving the people there quite al right according to your notions.

SHRI PERATH NARAYANAI NAIR: Yes, Sir, in Kerala we have got opportunities. But if you accept this Parliamentary legislation, even in Kerala, in that limited sphere, we will be precluded from serving on these corporations. That is why, I want aU Members of this House, including my esteemed friend, Shri Saksena, to see that this Schedule ,ii not there. It must apply to the States also.

Now, Sir, this pressing problem has come to the forefront—wholesale trading in foodgrains. We must have some control by the State. Now, Sir, it is absolutely necessary that unless you hold the price-line, especially for foodgrains, all your calculations about your Plan will go away. Now when the Government has taken this step it has not set up the machinery required for that. We find that sectional interests and trading interests are always having hartals and other things. There is a certain definite opinion that this attempt or this effort on the part of the Government to control these foodgrains must be thwarted. Now this Parliament which has agreed to the policy of State trading in rice must see to it that it is worked properly. For that purpose there may be certain boards or corporations which may have to be set up. Is it not necessary that some Member of Parliament should be there on such bodies? We have accepted certain social objectives, and if we want to implement them properly and if we want to have the real benefit out of that policy, we will have to share our responsibility with each other. I want to make it clear again that I am not here suggesting that every Member ought to be there on these bodies. That is not my point at all. Sir, this Bill seeks to disqualify Members of Parliament, however efficient they may be and whatever their outlook may be and whatever their conception of social values may be. I am against that j particular thing. Now, Sir, in regard I to some of the corporations mentioned I in the Schedule, I will have some ! occasion to speak later.

There is one thing here in regard : to these Home Guards. Of course

[Shri Perath Narayanan Nair.] Parliament is absolutely within its right to exempt those offices. I have absolutely no complaint about that. But I have personally some experience in regard to these Home Guards. They are just entrusted with certain police duties without being actually called policemen. Sir, I had the occasion to go through the speech of the lion. Law Minister in the other House also wherein he made some particular reference to the conditions obtaining in the border areas. He pointed out how these Home Guards had been organised there and under the circumstances obtaining in those border areas how they were performing their patriotic duties and all that. Now, Sir, these Home Guards do a certain kind of work and I do not feel that any disqualification must be attached to them. But ordinarily, Sir, they are entrusted with the duties of civil police in other areas. There I have got some difference of opinion. I have, of course, nothing to say against these N.C.C., A.C.C. and other bodies. My contention is that there must be the widest possible opportunities for our people to select their representatives to Parliament and to the State Legislatures, and the area of disqualification must be reduced to the minimum. This Schedule especially has a different object in view. That is why I say that this House will be stultifying itself, if it were to give its approval to this Bill in its present form. Thank you, Sir.

SHRI BD3UDHENDRA MISRA (Orissa): Mr. Deputy Chairman, I feel that the Bill, as it has been presented, not only contains many loopholes which, with a careful scrutiny, qpuld have been plugged, but it also does not give us any complete picture of the situation as a whole.

Sir, article 102 of the Constitution of India under which this enactment is sought to be made has been read out many times in this House, and I do not want to go into that, except to remind the Members here that we can only enact legislation under the provisions of article 102 oi the Constitution. I should have been happy, Sir, had the Vice-Chancellor of a University been left where he was, instead of dragging him into this controversy. Whether a V-ce-Chancellor of a University, in view of his whole-time job under ue University, can do justice to Parliament as one of its Members, and if he can do justice here as a Member of Parliament, then whether he would be failing in doing proper justice to the University of which he is the Vice-Chancellor, is a different matter altogether in the context, and there may be a difference of opinion about thai. I, for one, certainly feel that at a time when our entire educational policy is going to be reorientated, we should have here in the Parliament, as Members, Vice-Chancellors who, with their experience of educational policies, would be able to guide us but, as I have said, that is a different matter altogether. The Vice-Chancellors, whether we exclude them or whether we do not exclude them, do not at all come under the provisions of article 102 of the Constitution of India. Article 102 of the Constitution of India refers to an office of profit that is held under the Government—either the Central Government or the Government of a State. May I know— could the Law Minister explain—what renders the Vice-Chancellorship to be an office of profit under a State or the Central Government? As it has been said, the word 'office' has not been defined anywhere, but generally there have been three canons, three established tests to see whether an office is an office under the Government or not. One is the power of appointment, the other is the power of dismissal and the third is the source from which the allowance is received. So far as the source from which the allowance is received is concerned, certainly it is not received from the Government source as it is well known that the universities are autonomous bodies and even if the Government makes a certain contribution to Universities, it cannot be said that the receipt is from Government sources. So far as

the power of appointment is concerned, the practice is different from university to university in India. There are certain universities in which the appointment is directly made by the Government, such as in the Banaras Hindu University, but there are other universities in which it is an elected post, elected by the senate. So far as the power of dismissal is concerned, I think the Law Minister will enlighten me. With my association with a university for the last 10 years, I have yet to come across a statute of a university or an Act where the power of dismissal of a Vice-Chancellor has been vested in the Government. So you will see that none of the tests that can make it an office of profit or an office under the Government is satisfied in these cases. Moreover there are universities, about 5 in number in India out of 33 universities, and very important universities as well, whose Vice-Chancellors are honorary. They don't get any remuneration or allowance ■whatsoever.

SHRI R. M. HAJARNAVIS: If that is the position, then I don't think there is any question arising regarding application of article 102.

SHRI BIBUDHENDRA MISRA: I am coming to that—that is what I have already said. I say that the Vice-Chancellors should have been left where they were. By making first a recommendation that they should be excluded,—I am referring to the recommendations of the Joint Committee,—and then by bringing an amendment that they should not be excluded, we are accepting, for the time being, that the Vice-Chancellorship is an office of profit under the Government. That is my objection. The Vice-Chancellorship of a University is not an office of profit. Doubts about it have been expressed in the past. Even in this Parliament, which in 1953 passed the Removal of Disqualifications Bill, (Act I of 1954), which has been referred to, even in that Act, there was a doubt as to whether the Vice-Chancellorship of a university is an office of profit or not. That is why I will only refer to the Preamble of Act I of 1954 which said while excluding the Vice-Chancellors:

> "Whereas doubts have arisen as to whether certain offices, are offices of profit under the Government and whereas it is expedient to declare that such offices should not under certain conditions disqualify or be deemed to have disqualified the holders thereof, for being chosen as or for being Members of Parliament as the case may be, the Legislative Assembly or any Part C State."

My point is this that even the Act I of 1954 expressed a doubt as to whether the Vice-Chancellorship of a University is an office of profit under the Government or not. I fail to understand what happened in the meantime for the Government to consider that the Vice-Chancellorship of a University is an office of profit under the Government.

Then this Bill, in effect, excludes, rather puts a ban on the participation of Members of Parliament in the,, undertakings in the public sector. I need not repeat the arguments of my previous speaker. I fully endorse . them. Only I emphasise them, and I would only put it in this way that, if we have accepted the socialistic pattern of society as our goal, if we ; have accepted these Five Year Plans , as a step towards that goal, if we are serious about it, if we have accepted the public sector as the core of the Plan, it would be laying down a dangerous precedent, it would be an act of sacrilege so far as the electorate is concerned, to go back upon it and to say that Members of Parliament should remain only as Members of Parliament, which means that they should sit here and criticise and not take any responsibility and leave the responsibilities to the bureaucrats.

Then I will refer to the schedule. In my opinion the schedule is haphazard, scrappy, incomplete and arbitrary because you will find a very funny

[Shri Bibudhendra M:sra.] thing which has not been taken note of anywhere. You will find that so far as the Regional Transport Authority or the State Transport Authority is concerned, it appears to ban the Regional Transport Authority and the State Transport Authority of only two States. You will find mention of it so far as only two States are concerned. It is well known to the Minister of Law that the Regional Transport Authorities or the State Transport Authorities are constituted under Section 64 of the Motor Vehicles Act and that Act is an all-India Act. The State Transport Authorities and Regional Transport Authorities are existing throughout India, in all the States. By incorporating them so far as West Bengal and Orissa are concerned, and by excluding the names so far as other States are concerned, are we to understand that a member of the Regional Transport Authority or State Transport Authority in Orissa or West Bengal is precluded from being chosen as or for being a Member of Parliament whereas a member of the same body in Bombay or Madhya Pradesh or any other State is qualified? That is why I say that no attention has been paid while drawing the schedule. It would have been all right to lay down only that the bodies throughout India created under this Act are exempted or not exempted, That would have served the purpose instead of putting only two States in the schedule and omitting the rest of the States, simply because information of it was not available to the Joint Select Committee.

Then I would only speak a word about another example. That may not be of general interest. It relates to the State from which I come. It is in Part I—Appeal Committee under the Board of Secondary Education (Orissa). I wonder if the Members of the Select Committee knew or know even now the functions of the Appeal Committee under the Board of Education. I wonder if they know that in the Appeal Committee apart from the official members who »re holders of offices of profit, the non-official members do not get any allowance whatsoever. Since there is no clue anywhere either in the Select Committee Report or anywhere else as to the quantum of influence that they exercise, the functions that they are asked to discharge and the allowances that they get, we are not in a position to judge as to what should be an office of profit that should be excluded and what are those offices of profit that should not be excluded. I am only citing this as an instance. There are other examples as well.

As it will be seen, in so far as certain States are concerned, membership of the Text Book Committee and the Education Committee has been banned whereas iri other States it has been permitted. So my submission is that you should lay down the general principles only. ' Don't proceed with the schedule. Lay down the genera) principles and let the schedule follow. That would be a question of interpretation. If you are laying down, the schedule, keep by all means-the names of all institutions throughout India, and don't make it haphazard.

MR. DEPUTY CHAIRMAN: You will continue on the next day when this Bill is taken up.

SHRI BIBUDHENDRA MISRA: I may be permitted to finish here. I will only read one line and finish my speech. I would refer to certain expressions in clause 3 which say:

> "It is hereby declared that none of the following offices, in so far as it is an office of profit under the Government of India or the Government of any State . . ."

I would like to know what this expression 'in so far as it is an office of profit under the Government of India or the Government of any State' means. Such expressions only, complicate matters. It only gives rise to fresh trouble as to whether such and such undertaking or post is an office of profit or not. In my opinion **such**

dubious language should have been avoided in this Bill. Thank you, Sir.

3 P.M.

MOTION REGARDING THE SECOND ANNUAL REPORT OF THE ALL-INDIA INSTITUTE OF MEDICAL SCIENCES

DR. SHRIMATI SEETA PARMA- j NAND (Madhya Pradesh;. Mr. Deputy Chairman, I move:

"That the Second Annual Report of the All-India Institute of Medical Sciences, New Delhi, for the period 1st August, 1957 to 31st March, 1953, laid on the Table of the Rajya Sabha on the 24th November, 1958, be taken into consideration."

Sir, the reason for my making this motion is that an institute of the nature of the All-India Institute of Medical Sciences, started with such colossal expenditure, which has gone or is expected to go to the tune of almost Rs. 11 crores—already it is about Rs. *5%* crores—which was started, Sir, because to begin with, there was a donation of a million pounds from the New Zealand Government, should stand the test of the highest principles of public administration and fulfil the goal which it has set out for itself. Sir, I would here refer to the speech of the then Health Minister, Rajkumari Amrit Kaur, when the Bill connected with this Institute was introduced on 3rd May, 1956. This is what she said:

"I should probably never have been able to get our Government to give me that amount of money to start with. This is not a new scheme. It has been before both Houses because money fcfr it has been budgeted over the last four years. There have been some delays in starting it but there was no question ever of this Institute being anything except one for developing sciences which are allied to modern medicine."

Sir, I would say again at the end of my speech, something with reference to this amount of money and what was necessary for the Ministry to see and for the House to be aware of, after dealing with the different para graphs set out in this Report, para graph by paragraph, with the different matters dealt with in this-Report.

I would begin by saying that this Report should have been presented in August, 1958 S3 ai to allow suffic.ent time, because it deals with the period up to 31st March, 1958, and there is no reason why it should have taken six months to be laid on the Table of the House. Here para 2 deals with the teaching staff, and the position regard ing the teaching staff on 31st March, 1958 is that there are 25 professors and there are 2? assistant professors. In addition, there are 5 associate professors and . . .

DR. W. S. BARLINGAY (Bombay). They are only sanctioned posts.

DR. SHRIMATI SEETA PARMA-NAND: Yes, that is true. They are sanctioned posts. For biochemistry there is one post, for bacteriology one, for preventive medicine one and for surgery and its branches eight, and associate professor one. That means that :he posts filled are 4 and posts of associate professors and assistant professors there are 7. I would like to point out here something with regard to the way in which the posts are filled or the way they should be filled. These are posts in an institute over which the Government spends such a lot of money. The present budget is for Rs. 23£ lakhs and the next year's is estimated to be Rs. 35 lakhs, in addition to the expenditure already incurred. For various reasons and 'n order not to give room for any criticism of partiality or nepotism and things of that sort, these posts should be referred to the Public Service Commission. I would like here to point out the way in which it is done. It i? an autonomous institute and GoTorn-