

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be returned."

The motion was adopted.

# THE PARLIAMENT (PREVENTION OF DISQUALIFICATION) BILL, 1957

THE MINISTER OF LAW (SHRI A. K. SEN): Mr. Deputy Chairman, I beg to move the following Motion:—

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on 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, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

- (1) Dr. Shrimati Seeta Parmanand
- (2) Shri Amolakh Chand
- (3) Shri S. D. Misra
- (4) Kazi Karimuddin
- (5) Shri Purna Chandra Sharma
- (6) Shri N. Ramakrishna Iyer
- (7) Shri C. L. Varma
- (8) Shri Abdur Rezzak Khan
- (9) Shri Rajendra Pratap Sinha
- (10) Shri H. D. Rajah."

The House will recollect that there have been three Acts since the Constitution, by which exemptions have been conferred on certain offices under article 102 of the Constitution, which prescribes that any person who 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, shall be disqualified for being chosen or continuing as a Member of Parlia-

ment. Look at the list. So far as this Bill is concerned, it is enough to convince the House that some of the offices at least are very important offices and it is absolutely necessary that they must remain Members of Parliament. For instance, in clause 2(a) the office of a Minister. This flows from the principle of ministerial responsibility which you have accepted as a cardinal feature of our Constitution. We have accepted as one of the main features of our Constitution the institution of Government being responsible to Parliament. Therefore, it is absolutely necessary that Ministers must be Members of Parliament. Since they held an office of profit, unless this disqualification is removed, they would not be able to continue as Members of Parliament. Then (b) is the office of the Chief Whip or a Deputy Chief Whip. Everyone will agree that it is absolutely necessary that the holders of these offices should be Members of Parliament. Then, (c) relates to the office of a member of any force raised or maintained under the National Cadet Corps Act, 1948, the Territorial Army Act, 1948, or the Reserve and Auxiliary Air Forces Act, 1952. Hon. Members are aware that considering the vastness of our country and the meagre resources which we can afford, we are not capable of maintaining a large regular army, an army sufficient to defend our freedom. Further, we have not also accepted it as an objective that any country should fritter away its resources in maintaining large armies. But nevertheless in order to prepare the people for defending their country, it is necessary to train people in military work and in Defence Services. And, therefore, the National Cadet Corps in the Universities have been established or our Territorial Army units have been established in various parts of the country. We are glad to say that we have been attracting very able young men into these services who are acquitting themselves excellently. It will be absolutely illogical and, if I may say so, unfair to disqualify these

[Shri A. K. Sen.]

persons who have joined the Defence or semi-Defence Services from a sense of patriotism, from a sense of service to our country, from being Members of Parliament. There is no reason whatsoever why a man who chooses to remain idle and not take training in defence should be qualified to be a Member of Parliament, whereas a bright young man who has chosen to learn the art of defending the country and also who goes through the arduous process of making himself a good soldier so that if the call comes he can defend the country, should be disabled from standing as a Member of Parliament. The same thing with regard to Home Guards who perform very useful functions.

With regard to the offices of sheriff, hon. Members are aware that in the Presidency High Courts we have the offices of sheriff. They are really the executive part of the courts. They are the carriers of the processes of the court, and do all other acts necessary to make the judgments and orders of these High Courts effective. In other words, they form the arms of the Courts. They are appointed by the High Courts concerned, and they perform extremely useful functions, and throughout the history of these services the best men have been recruited from public life to be sheriffs. There is no reason why a sheriff should be disabled from standing as a Member of Parliament.

With regard to Vice-Chancellors, members of the syndicates, senates, executive committees, councils or any other bodies connected with the Universities, the same reasoning applies. Hon. Members are aware that so far as Upper Houses in the States are concerned, there are special constituencies for teachers and graduates. We have accepted it as a very important feature of our Constitution to give representation for teachers in the States. We have also followed the same principle in sending representatives to the Upper House here from

Universities and from teachers, so that the cultural life of the country may be properly represented here.

SHRI BHUPESH GUPTA (West Bengal): But by nomination.

SHRI A. K. SEN: Even here, though the Constitution does not provide a special constituency, as I have said we have taken care in choosing the representatives to get reputable teachers and other experts in our educational life so that their voice may be heard.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Through nomination.

SHRI A. K. SEN: That is what I am saying. We have taken care to send representatives from these groups because it is felt necessary that teachers—teachers not only of the letters, of the humanities, but also of science—should be here to assist the Parliament in the work of legislation. Whether in a particular matter in fact a Vice-Chancellor will be elected or not elected is a different matter. That depends upon the electorate and the parties who will choose their candidate. The point here is, is there anything attached to these offices which should disqualify them technically to be Members of Parliament? That does not mean that they will be automatically brought here as Members of Parliament. It may be necessary that a particular Vice-Chancellor might be required here or the electorate may feel that they should send him to Parliament. That is the point. The same observation with regard to members of senate, syndicate, and so on. These are offices of dignity. These people perform extremely useful functions, and it is absolutely illogical to disable them from being Members of Parliament technically.

Then, with regard to members of delegations we send out abroad, delegations to the United Nations, delegations to international conferences and various other special conferences. They draw allowances during their stay abroad. It is senseless to disable

them from being Members of Parliament.

With regard to statutory bodies created by statutes, the Joint Committee appointed by the Speaker of Lok Sabha reported that they should not be disqualified from being Members of Parliament. If hon. Members refer to that report, they will find the whole list of statutory bodies set out in the report, a glance at which will show immediately that it is absolutely necessary that in these statutory bodies Parliament is represented by its Members. More and more the State will be undertaking functions in the matter of industry and trade and other forms of social and economic activities, in which it will be necessary for Parliament to be represented, so that these statutory bodies may function in accordance with the policies and desire of Parliament. It is to give effect to this recommendation of the unanimous report of the Committee appointed by the Speaker of Lok Sabha that we have introduced these exemptions.

Then with regard to advisory bodies also, they have recommended that they should be exempted.

With regard to officers like *lambar-dars*, *malguzars*, *patels* and the like, it is the same as in the last Act which is due to expire on the 31st December. These are, hon. Members are aware, hereditary offices which are not really created by Government but offices which are inherited by the incumbents by reason of their birth. They have been treated in law as heritable property, partable sometimes, and by custom transferable. These persons perform certain important functions so far as village units are concerned, and they have been rendering great services in the matter of revenue collection, though they have not been appointed by the revenue authorities. When the Representation of the People Act of 1951 was passed and the provisions about corrupt practice were inserted, the participation of *lambar-*

*dars*, *patels* and *desmukhs* was not regarded as corrupt practice under the Act—in fact the provision lays down that participation by revenue officers like village accountants—that is the example given—would be regarded corrupt practice. It was accepted by the House that these persons who inherit these offices as property may, like other citizens, participate in elections. If they can do so, it logically follows that they should not be technically disqualified from standing as Members of Parliament. My own personal view is that they are not. They are not offices of profit in the sense that the term is used, but this is probably, with a view to setting at rest all doubts on the matter, inserted by way of abundant caution.

The next is, there are certain States which have exempted certain part-time officers like visiting surgeons, physicians and other experts, part-time teachers in polytechnics and so on, who are not whole-time officers of Government but who render part-time services, mostly experts. Some States have exempted these officers from disqualification. We are only saying that those officers who come within sub-clause (j) of clause 2 and who are exempted in their own States from disqualification and are entitled to stand for the local Legislatures, should logically be entitled to stand for Parliament. They should be exempted from disqualification so far as Membership of Parliament is concerned.

That is mainly the structure, and as I explained when I moved the motion for consideration before the Lok Sabha, this falls much short of what I should have personally liked to go in the matter of exemption, and I told that House on that occasion, and I repeat the same here, that the whole concept of office of profit to disqualify the holder from standing as or being a Member of Parliament is a legacy of British history. It is really an accident of British history.

**SHRI BHUPESH GUPTA:** The history itself is an accident.

**SHRI A. K. SEN:** All histories are accidents. It is an accident of British history. It owes its origin to the period when the Crown was in constant conflict with Parliament, and both were contending for ultimate supremacy. The long and bitter struggle which ended in the supremacy of Parliament, ending a despotic monarch, marked the beginning and the ultimate establishment of this theory of office of profit. Even when responsible Government had almost been accepted in England, even as late as Walpole's time, Members of Parliament were won over by slow temptations in the way of offices of profit. In order to ensure that the Crown was not able to win over recalcitrant Members of Parliament on the side of the Crown, Parliament made it perfectly clear, carrying on its long struggle, that the Crown shall not employ a person who was entitled to be a Member of Parliament, as holding an office of profit. The length to which the rigour of that doctrine went is illustrated by a case where a man drew only a shilling a year as his honorarium, but held a high office. Only a shilling a year—it was a token remuneration. The man was elected to Parliament successfully beating his rival. The election was challenged and the tribunal set aside the election on the ground that, however small the remuneration, it was nevertheless a profit and the holder of it was a holder of office of profit. But the rigour of that doctrine had to suffer abetments as the State entered more and more into social and national life, when the whole field of employment came to be occupied predominantly by the State in many important matters. Take, for instance, England of today, the home of this doctrine of office of profit. The entire medical profession is nationalised including the specialists. The members of the profession are not entitled to practise on their own. But they depend on the State for their livelihood. In the case of even specialists, it is so. They are in the

pay of the State and in exchange of the services they render to the nation, they get their pay—they call it 'pay' or possibly, by some other name, I forget which. If this rigour is to be observed, then no doctor in future can be a Member of Parliament in England. The same thing will happen here when more and more branches of our life are nationalised. Take, for instance, the entire zamindari system. It is now completely nationalised. Those who were originally connected with the zamindaris holding some offices—a large number of people all over the country—and were entitled, before nationalisation, to be Members of the State Legislatures and also Members of Parliament, are today disqualified from becoming Members of Parliament or Members of State Legislatures. We have been able to provide for these people. Take, for instance, the large number of doctors who are employed in hospitals today as part-time surgeons and visiting physicians who draw very little allowance possibly, which hardly covers even their motor car expenses. They are disqualified today and we have not removed their disqualification even under this Bill. There are teachers in polytechnics who render part-time service; there are good engineers and good lecturers from commercial firms. I know of Calcutta University where in the evenings, they have good people from the business world to lecture to the students on business administration. These people come and lecture for an hour or two possibly and they get some odd remuneration. All these large number of people who are now brought within the ambit of State activity stand disqualified for election to Parliament. Take the case of a completely socialised State which Mr. Gupta refers to, where there will be none of the offices of profit. Who will then be a Member of Parliament under such a State?

**SHRI H. N. KUNZRU** (Uttar Pradesh): We are not legislating for such a State.

SHRI A. K. SEN: No, no . . .

PANDIT ALGURAI SHASTRI  
(Uttar Pradesh): You are right.

SHRI A. K. SEN: In many instances, we have legislated. As I said, there is the nationalisation of land, nationalisation of various industries, the State trading and so on.

As I said, left to myself, possibly I would have been in support of exempting these large number of useful people so that their services might be made equally available for our counsel here. But we have taken care or rather we have proceeded with caution and have confined ourselves to the minimum of categories which are necessary, at the present moment, to be exempted. All the parties thought—and they expressed this through their representatives in the Business Advisory Committee—that this matter should go to a Joint Select Committee. They informed me that, since that might take some time, in the meantime, the parent Act might be extended as many stand disqualified—members who are serving in their advisory capacities, who are delegates abroad and so on. It was the desire expressed by all the parties in the Business Advisory Committee and the Government agreed to the reference of this Bill to a Joint Select Committee. We have also introduced a Bill for the extension of the existing Act up to 31st December, 1958 and that Bill is posted immediately after this one.

So, with these words, I recommend that this motion be accepted by the House.

MR. DEPUTY CHAIRMAN: Motion moved:

“That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on 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, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:—

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- (9) Shri Rajendra Pratap Sinha.
- (10) Shri H. D. Rajah.”

Time allotted is 2 hours. We have to close this at 5-20 P.M. So, hon. Members may please be brief.

SHRI KISHEN CHAND (Andhra Pradesh): Sir, this a motion for reference to the Joint Select Committee. The hon. Minister when moving this motion was very eloquent. In a long-drawn out statement he tried to make out that we are moving towards the socialistic pattern of society and almost everybody will become a holder of office of profit and that, therefore, we must extend the bounds of this disqualification law to cover everybody, whether he gets any salary or does not get any salary from the State. He gave the example of the medical profession in the United Kingdom where, according to him, every doctor is a paid servant of the State. Well, Sir, I beg to differ from him. I fundamentally differ from him. And when the matter is referred to the Joint Select Committee, I want them to very carefully examine the very first principles of it. First of all I maintain that a Member of Parliament should be like a Caesar's wife, above suspicion. That should be the first criterion. The second criterion is this. India is a big country; it is not like the United Kingdom—a small

[Shri Kishen Chand.]  
country—where the maximum distance is 10 hours. Even in Scotland you entrain on the previous evening and you can be in London on the following morning to attend Parliament. India is a vast country with long distances and a Federal Constitution. Therefore, we have got to lay down the first criterion that a Member of Parliament is above suspicion and above temptation, and the second criterion is that whether he can devote enough time, whether he has got spare time, and whether by permitting a dual membership, that is, of Parliament and a profession—whatever he may be doing in his own sphere of life—we are not sacrificing the interests of both. I do not want to mention any names, but several Members have got to attend to their business in their constituencies and they cannot devote as much time as they would like to in Delhi in the Houses of Parliament. I know, Sir, that there have been cases of Vice-Chancellors having been Members of Parliament. But the whole-time Vice-Chancellorship is a very heavy job. It requires at least 12 hours of work every day, and seven days in a week and 30 days in a month. And if you expect the Vice-Chancellor of a distant University to be a Member of Parliament, the result will be that the interests of both will be sacrificed. He will neither be able to be a good Vice-Chancellor nor a good Parliamentarian. So I submit that the second criterion according to me is the availability of time. And the third criterion is that he is not holding directly or indirectly an office of profit by which he can indirectly build his future career by advancing his prospects. This is not a right thing for a Member of Parliament to follow. Sir, with these preliminary remarks disagreeing with general principles as enunciated by the hon. Law Minister while commending this motion, I come to the various categories of offices of profit and I would take to point out to you, Sir, and request the Joint Select Committee through you that they should care-

fully examine these offices of profit. I shall begin in general terms with the Life Insurance Corporation which has hundreds and hundreds of insurance agents.

SHRI BHUPESH GUPTA: Sir, I find the Law Minister is going away. And my friend here is only a Parliamentary Secretary.

MR. DEPUTY CHAIRMAN: He represents the Government.

SHRI BHUPESH GUPTA: If the Law Minister wants to go, somebody else should be here.

MR. DEPUTY CHAIRMAN: Please go on.

SHRI KISHEN CHAND: Sir, I was saying that take the case of the Life Insurance Corporation. There are hundreds of insurance agents. They are getting a commission and they are doing absolutely personal business in insuring anybody's life. Now would you allow them to be Members of Parliament? At present, you do not permit them to be Members of Parliament. I can point out several categories of persons who come under this Bill and are at par with the life insurance agents. Sir the hon. Minister said: What about the Public Prosecutor? He may be a part-time man. As far as part-time surgeons and physicians are concerned, he gave an example. They can remain part-time surgeons possibly in Tuticorin and stand for Parliament and become Members of Parliament. Now, Sir, I cannot understand how a part-time job in Bombay can be carried on with a full-time job of Parliament in Delhi. It is an enigma to me, I cannot understand it. I suppose he has got to attend three days a week in the hospital at his place and three days a week he will be flying to Delhi and again flying back from Delhi. I submit that the whole idea behind the principles enunciated by the Law Minister was incorrect and was basically wrong, and it

has been incorporated in this Bill. Therefore I oppose very many items in this Bill.

I come first of all to the members of Armed Forces. I think the members of the Armed Forces cannot be Members of Parliament. That is recognised. Here a distinction is made between the National Cadet Corps and the Territorial Army. If a member has been trained and he is not undergoing training at the time, he can certainly be a Member of Parliament. I will have no objection to that. But during the period he is a regular member of the Territorial Army or the National Cadet Corps undergoing training, he should not be a Member of Parliament. So here also there should be that qualifying clause by which members of the National Cadet Corps, Territorial Army, Reserve and Auxiliary Air Force, during the period in which they are undergoing training—and with some other restricted period extending to, say, a year on this side or that side—cannot be Members of Parliament.

Then, I come to the office of sheriff. Well, I was rather surprised because the hon. Minister said that he was the arm of the judiciary to carry out and execute the orders of the judiciary. He is a sheriff of Madras, and he ought to be there to execute the orders of the court. But instead of being in Madras he will be sitting in Delhi carrying on the duties of a Member of Parliament. Sir, is it possible? It is a contradiction in terms. How can he be a sheriff with active duties in Madras and yet be a Member of Parliament? It is absolutely beyond my comprehension.

Then, about Vice-Chancellors I have already explained the position. The Vice-Chancellorship is a whole-time job and a Vice-Chancellor should never be allowed to be a Member of Parliament. We want to keep our educational institutions free from politics. We do not want politics to enter into our educational institutions. And if

you make a Vice-Chancellor a Member of Parliament, he will certainly be elected on a party ticket.

SHRI H. D. RAJAH (Madras): Vice-Chancellors are Members of local legislatures.

SHRI KISHEN CHAND: I will answer that point in a moment. Now, Sir, the whole question is whether a Vice-Chancellor can find time to come to Delhi. If the Vice-Chancellor of Osmania University who is sitting in the Andhra Pradesh Legislature—within the same ambit—finds that he has to spend half an hour or one hour on some days, it is practicable. The hon. Minister tried to make an analogy and stated that because we have a teachers' constituency for the Legislative Council,—and the Vice-Chancellor is a super-teacher—he can be a Member of Parliament. Well, as I pointed out, a local teacher may be a Member of the Legislative Council because it may not interfere with his work, because it is in the same city. He has to attend only for a few hours. But carrying on two jobs—Vice-Chancellorship and Membership of Parliament—with distances varying up to 1,000 or 1,200 miles is impracticable, and moreover the analogy of Legislative Councils cannot be applied to Parliament. The hon. Minister said that the constitution had taken care to give due representation to art, literature and science by nominating some hon. Members to the Rajya Sabha. It is all right, as very good care has been taken to see that the incumbents are not whole-time officers somewhere else and their activities do not suffer. I don't want to name anyone but a Member of this House is a Vice-Chancellor of Shantiniketan and the result is that he cannot attend to this House. He is seldom seen. The late Shyam Nandan Sahaya was Vice-Chancellor of Bihar University and he could not devote any time either to Parliament or to that place.

SHRI TAJAMUL HUSAIN (Bihar): He could not attend . . .

**SHRI KISHEN CHAND:** These examples can be multiplied and I don't think the analogy of Legislative Councils where we have a teacher's constituency is applicable here. If that is a wrong step, if Parliament finds that teachers' constituency is not working well, it will be far better to remove it and not introduce a defective thing in Parliament on the analogy that some other defective system is prevalent somewhere else.

Then I come to members of syndicate, senate and executive Committee. I don't mind that because they are not whole-time people. A member of a senate or syndicate . . .

**SHRI BHUPESH GUPTA:** Members of Senate are even now there.

**SHRI KISHEN CHAND:** So I said I am taking objection not to the entire sub-clause but only to that part which relates to Vice-Chancellor. I am trying to make my position clear; because I have raised an objection against Vice-Chancellor, the hon. Minister will get up and say 'Have you taken objection against the member of syndicate or senate'. I am trying to make it clear the other officers who are not whole-time officers and whose time is not taken up, they are in a different category. I am in full sympathy with the office of member of any delegation sent abroad and I agree that they can be Members of Parliament.

I come to statutory bodies. Here also I have been trying to understand what he means by statutory bodies. Does he mean the Board of Directors of the Sindri Fertilizers, which is entirely owned by the Government, or the Industrial Finance Corporation? As the Government goes on establishing industrial concerns, there will be large number of corporate bodies. Do you think it is right and proper that Parliament, which sits in judgment and which scrutinises and examines the accounts and activities of the management of an industrial concern by the Board of Directors, should leave open membership to their representa-

tives. Because if a member of that body is a Member of Parliament, it amounts to really sending a representative. Do you think it is right and fair? I strongly oppose it. I think members of any Statutory Body which is connected with an industrial undertaking of the Central Government or the local Government should not be Members of Parliament. But it is quite a different thing that by an Act of Parliament we set up, say, a Coir Industry Board or a Coffee Board, and Parliament specifically selects and nominates an individual on its behalf on that Committee or Board; to that I will have no objection. Distinction have to be made but in a generalised way, the hon. Minister has tried to mix up many officers and if an hon. Member raises an objection against one of them . . . (Time bell rings.) I have almost finished.

I now come to (i) which mentions *lambardar*, *malguzar*, *patel*, *deshmukh* etc. If they have to perform some functions in a village, if they are only nominal officers doing no functions, then I would not mind; but if they are getting a commission out of the land revenue collected—a *Patel* and a *Patwari* gets a regular commission from land revenue collected—they are at par with the Commission Agent of the Life Insurance Corporation. The Insurance agent also gets a commission while the *Patel* and *Patwari* also get some amount of commission from land revenue collected. So the two are at par with each other. I have raised objection against the Commission Agent of the L.I.C. and I strongly make objection against *Patel Lambardar*, *Malguzar* and *Patwari*. I don't know what *deshmukh* is and what his office is; so I cannot say anything about it but I can say what is *lambardar*, *malguzar* and *patel*. They should not be there.

(Time bell rings.)

I will end by reminding the hon. Minister to keep in mind these points and not be led away by



certain ideas of the 15th Century or what prevailed in the United Kingdom when there was a struggle between the Royalists and the Commons. Those days are gone and I think he was reading history quite incorrectly. Even now in the U.K. there is a Bill like this and they have not included many of the posts which the hon. Minister has included here. Quoting the example of U.K. in the 15th Century or 16th Century and forgetting the example of U.K. in the 20th Century is a surprising thing from the hon. Minister. I would request the Joint Select Committee to carefully examine it.

**SHRI B. K. P. SINHA (Bihar):** Mr. Deputy Chairman, at the outset I may like to sound a note of caution. This is a measure which affects the purity, integrity and independence of Parliament and this measure should not be treated as a party measure. In the U.K. whenever a measure of this sort is put before the House, it is not treated as a party measure and Members from the various parties are not only free but they express their opinion freely. We here, while we are in one sense party-men, in another sense we are the custodians of the democratic rights of the people which are represented by this Parliament.

**SHRI BHUPESH GUPTA:** There is conflict between the two positions.

**SHRI B. K. P. SINHA:** When there is conflict between the two positions, the demands of the purity and independence of Parliament come first and party considerations have to be subordinated to that. I would therefore deal with this measure from that broad point of view and not in a party spirit, in the spirit of one belonging to a party.

While many of the offices enumerated here have been properly excluded, I feel that many which should not have been are being excluded. Shri Kishen Chand rightly pointed out that several factors are to be considered, and one of them is the availability of Members for service in Parliament. Now this

exclusion of Members from Parliament has passed through various phases in the U.K. The earliest phase was one of Parliamentary privilege. There was then no law excluding the holders of offices of profit from sitting in Parliament but all the same since Parliament demanded that Members should be free to be present in Parliament, if their work was of such a nature that they could not physically or humanly be present both in their offices and in Parliament, they were by a special Resolution of Parliament, debarred from sitting in Parliament. And that phase is even now not dead in the U.K. I feel that it is a consideration which should weigh even with us while we think of excluding certain offices of profit from the purview of disqualifications laid down in the Constitution. I therefore feel that the office of Vice-Chancellor should not, in propriety, be excluded. When this measure was brought, several years back, there was very strong opposition in this House but all the same the measure went through and the office of Vice-Chancellor was excluded. The hon. Minister for Law has advanced as an argument the existence of Teachers' constituencies but there are Teachers' Constituencies only in Legislative Councils. There is no such provision so far as the Parliament of India is concerned, neither for the Lok Sabha nor for the Rajya Sabha. It is not difficult to get teachers who are not Vice-Chancellors who can, with advantage, shed light on the problems that are discussed in Parliament. I do not know how many vice-chancellors are still gracing the benches of Parliament. I would like to know from the hon. Law Minister how many there are in Parliament and whether in their absence the work of Parliament has proceeded efficiently and smoothly or not. And I would further like to know if there is a vice-chancellor in Parliament, or two vice-chancellors or three vice-chancellors; I would like to know what has been their contribution to the activities or the debates in Parliament.

**AN HON. MEMBER:** Nil.

**SHRI B. K. P. SINHA:** If that is nil, then there is no justification for excluding them. Mr. Kishen Chand rightly pointed out that they are now whole-time workers. When we were students, even a judge could be on this job. The job meant dignity and nothing more. But now a vice-chancellorship entails hard whole-time work and therefore, to exclude such offices would mean putting in Members, giving latitude to people who would not be able to devote their time to Parliament, to come and sit in Parliament.

Next I come to sub-clause (h) which speaks of "the office of—

(i) chairman, director or member of a statutory body"

I read the report of a Committee appointed by Parliament to consider the question of offices of profit. I read about it a long long time back and **therefore, I speak subject to correction.** As far as I remember, that body recommended that statutory bodies which are connected with executive work should not be excluded. But here not only statutory bodies which would be advisory in nature but also statutory bodies which would be of an executive nature are also being excluded. The clause is worded in very general terms.

Next I come to sub-clause (j) which deals with any part-time office. That means that if for the State Legislature there is no such disqualification then *ipso facto*, the person who is entitled to sit in the State legislature can sit in Parliament. Now, every State, according to our Constitution has as much right *vis-a-vis* a State Legislature as Parliament has, in regard to its own membership, to exclude office of profit from disqualification and we do not know what are the State laws on this subject. We do not know what are their exact provisions so far as these offices are concerned. And there may be a wide variety between

one State and another. Therefore, to ask us to exclude all these offices, without knowing what offices are excluded by the States, would, in my opinion, be improper.

These are only two or three clauses to which I wanted to draw the pointed attention of the hon. the Law Minister and this House. By and large, I feel that the exclusions embodied in this Bill are proper. The hon. Law Minister has so far as the exclusions, by and large, are concerned, hit the right nail with the wrong hammer. I do not agree with his enunciation that history is the outcome of accidents. It is not so and one need not be a Marxist to know that history is always purposeful. If he had read under Toynbee—I am sure he would have—he would know that history is always purposeful. It is with a purpose that these offices were excluded and their holders were disqualified from sitting in Parliament. In the early stages no doubt, there was the conflict between the Crown and Parliament in England. But then came a stage when government meant Parliament and when government meant the ministers sitting in Parliament and history records that the danger was greater under these conditions when Government was in control of Parliament than when the Crown controlled the executive. The danger was that the government in power may win over the opposition party members or win over the independents. In India there is greater risk in that respect because in India the party system is not fully established and there are many independents too. I am afraid, in times to come, independent members will have to play a more important part and it would be open to the government to win over some of them by luring them with some reward or office and the parliamentary majority may tilt very heavily in favour of the government which may not hesitate to bribe members and thus win them over. Therefore, I feel that while the Select Committee deals with this measure, they

will keep these considerations in mind and keep the paramount consideration of maintaining the integrity and the purity and independence of Parliament in mind.

**SHRI BHUPESH GUPTA:** Mr. Deputy Chairman, at the very beginning, I must express my thanks to the hon. the Law Minister for not having confined his remarks to the provisions of this Bill. Not that he was irrelevant; but he gave expression to his thoughts over this problem, where he said that he would like to go a little further. Whether I agree with him or not is a different matter. I think, sometimes, this way of speaking helps the discussions and debates and it creates a homely atmosphere in the House which I would like to have.

The hon. Law Minister touched on a very important political point, namely, the British doctrine of disqualification or office of profit. Now, I am not enamoured, as you know, of the British systems. There are some things which we may take for the present and there are others which we should reject outright. I am not perpetually in love with whatever has happened in the Anglo-Saxon world, and I think we should not stick to them or to the doctrine of office of profit as understood in England. Therefore, whatever I am going to say should not be judged from the point of view of how things are in England. I do not take my lessons from England, but sometimes we quote precedents in order to understand things better.

The hon. Minister said that that system of office of profit developed in England in the background of the conflict between the Crown and Parliament, and he stopped at that. He was quite right when he mentioned that thing, although this was not the only factor and there were many other factors which dominated the scene at that time. But that was an important factor. Now, naturally in that

situation, the people became suspicious about those who were getting any benefits from the Crown whether it be one shilling or something else. It was not the amount that mattered. So this principle was laid down at that time. Now we must judge this matter, the House and the Select Committee must consider this matter against the background of our political conditions, because we must judge it from our point of view. We must judge it from them and consider this question against those conditions, see all the factors against and those in favour and weigh in the balance and find out the course that we should strike in this matter. That should be our approach. While England had its conflict between the Crown and Parliament there, do not we have a conflict in this country between the ways of the Congress Government, the Congress party and the ends of democracy?

**SHRI B. K. P. SINHA:** Not at all.

**SHRI BHUPESH GUPTA:** There are such conflicts and contradictions and we will have to resolve them and keeping those conflicts in view, we have to form our own doctrine, or our own approach to this matter.

Therefore, Sir, in this country we find today that there is a lot of suspicion about these offices of profit. There is reluctance to extend the qualification for membership of Parliament to those people who are deriving some material benefits from the Government posts or quasi-government posts. It is understandable that there should be such fears. Why is there such a fear? The British have left that legacy we know but hon. Members opposite have yet to outlive the British past in many ways. They are often found hugging that legacy in abundance. Naturally, we on this side of the House are also apprehensive whenever such things come because we know that legacy on the other side dies very very hard. Under the British we had every reason to question the office of profit and debar it from such

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positions as membership of Parliament. But, has the situation been created in the country today, political or otherwise, that we can say that no longer the doctrine should obtain in this country and that, irrespective of whether one holds an office of profit or not, he should be eligible for membership of the Parliament? I wish that situation had come. I do not make it a very fundamental principle; there are countries in the world where the office of profit does not disqualify any individual; I know that but I am talking about our situation. The time has not yet come. We find that people who are holding such offices somehow or other are connected in a partisan way with the particular party in the country, namely, the ruling party. Secondly, when it comes to the question of selection, there is always a tendency to choose such people . . .

SHRI B. K. P. SINHA: May I appeal to the hon. Member not to make this a party affair by adopting this attitude in his speech?

SHRI BHUPESH GUPTA: I am not a cosmopolitan in politics of the kind that the hon. Member is. I am a party man but I have a national approach. I think both the parties could sit together and approach the issue. I need not abandon my party and the hon. Member need not abandon his party. I think both the parties could sit together and strive on a national basis.

MR. DEPUTY CHAIRMAN: Your time is limited.

SHRI BHUPESH GUPTA: Don't treat this as a partisan issue. That is what I am saying. What happens is that the Congress party chooses its candidates from among the people who keep positions of authority where wire-pulling becomes easier and where the election battle can be easily fought. That is why we are afraid of this and many people on that side are also afraid. I know that. We have seen

at the time of the nominations of the Congress candidates a few months ago what happened. That is why we are afraid.

MR. DEPUTY CHAIRMAN: You will be making a greater contribution if you speak on the provisions of the Bill.

SHRI BHUPESH GUPTA: I am dealing with the office of profit. This is my contribution. Others will judge it for whatever it is worth.

That is our trouble sometimes.

SHRI AKBAR ALI KHAN (Andhra Pradesh): The question is not one of making a contribution but of making propaganda for the party.

SHRI P. D. HIMATSINGKA (West Bengal): Confusion.

SHRI BHUPESH GUPTA: Now, a great contribution has been made by this hon. Member. Some gems should drop from time to time as otherwise I cannot get on.

The fear is there and that is why people on this side of the House are opposed to certain exemptions being given. I am not going into the question of the Vice-Chancellors and others. It is conceivable that some Vice-Chancellors, especially the Vice-Chancellor of the Delhi University, may be useful and the Vice-Chancellor who is in Trivandrum or Gauhati may not be available but, Sir, we have seen that when a Mayor contests an election, he uses everything, motor cars and everything, for his electoral campaign. When somebody connected with the Government, remotely even, having access to the advantages there, contests an election, technically his candidature is valid, he mobilises every single resource within his reach against the other party. Now, even without holding what is called an office of profit under the law, they do such things. If they hold offices of profit, there would be day light robbery. That is all I can say. I have

seen it with my own eyes as to how this thing happens. Now, the Sheriff is exempted. We will discuss it in the Select Committee but, take his counterpart, another person called the Mayor. I have seen a Mayor contesting an election, pressing into service the whole of the Corporation for his election campaign.

**SHRI P. D. HIMATSINGKA:** He does not hold any office of profit.

**SHRI BHUPESH GUPTA:** The Chairman of the Sindri Fertilisers is in a position to get elected. Such a person will not be a person who is not in the liking of the Congress Party. Always the Chairman will be a person who is *persona grata* with the ruling party. That is number one; number two is he will perhaps be in a position to contest in that constituency where things are concentrated. He will use all his authority and power of his position to influence the voters. Now, imagine the Tata Company in the public sector or under some statutory body or committee as envisaged here. The Chairman of that board or committee is not disqualified. If he wishes to contest an election to this House, he will be getting their nomination, not ours. After all, the Tatas give funds to them and naturally the candidature will also go to them and that person will be contesting the election. What will happen is that he will be mobilising everything under him and the workers there will all be influenced, terrorised and intimidated. Such things will happen and that is why we are apprehensive of this thing. I would ask my friend not to be idealistic because we are living in a rather harsh, cruel and tedious world under the Congress Government. Idealism has got very little scope and we can think of other things regarding this disqualification when the situation is better and brighter. Now, take the case of the Territorial Army. The hon. Minister is a very eloquent person and he chooses his words. He vaxed eloquence on the Territorial

Army, linked it up with the defences of our country and said that they have to defend such a vast country, that the best sons of the land will be drawn into the Territorial Army and all that. He also said that they may not like to come into the professional army. I am sorry, he said this about the Cadets. When he came to the Territorial Army, he spoke at a lower key. It is understandable. The Territorial Army consists of people (*Time bell rings*) of different kinds, some types of people who are not always the best. The delinquent children of the rich find places in the Territorial Army. Sometimes, good for nothing fellows I see in Calcutta are in the Territorial Army. The Home Guard is used for breaking strikes and for doing this sort of thing. When the postal strike notice was published, we came across reports in the press in Calcutta that the great Territorial Army and the Home Guards, supposed to be defending the frontiers of India, will be acting as blacklegs. Therefore, Mr. Deputy Chairman, my heart does not very much gladden when I hear that such people are being now qualified for membership of Parliament.

I need not say anything about the other things. These things have got to be seriously considered. We should look at who could make the greatest contribution to democracy and the parliamentary institution in our country and we should see that such people are not debarred. At the same time, we have to guard against certain tendencies and practices of the party in power which always places its own interests above the interests of the growth of parliamentary institution. We have to keep that in mind and, having regard to that, we have to make our own choices in this matter and come to our own judgment in regard to his matter.

Therefore, Sir, it is from that angle, I say, that disqualification or removal of disqualification or exemption, as you call it, should be viewed. It is a

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political question; it is a question which should take fully into account the present set up and, as far as we of the Opposition are concerned, we are apprehensive about it not because of certain unalterable principle, not because of certain preconceived notions but because of the hard knocks that we are getting from the party in power, because of its desire to utilise the offices and posts of authority for pushing its own partisan ends.

Even now, Sir, I may mention this. The hon. Member referred to nomination of men of science, culture and art. He comes from Calcutta and knows there are many men of science, culture and art belonging or supporting the opposition point of view. Has one been nominated? Culture disappears when it belongs to the Opposition. Science becomes sort of an impedimental thing or preventive thing when it comes to the Opposition. These things had been happening. Therefore, even in the matter of selection, nomination, we find that partisan mentality. There are people belonging to both sides, the opposite side and this side, who are contributing to science, art and culture and selections and nominations can be made but even their smallness is exhibited by the party in power. Therefore, Sir, I say I would like the Joint Select Committee to discuss this matter not from any doctrinaire view but from practical considerations keeping in view the conditions which obtain today.

SHRI SONUSING DHANSING PATIL (Bombay): Sir, I rise on a point of order.

SHRI BHUPESH GUPTA: There rises the champion of democracy.

MR. DEPUTY CHAIRMAN: Mr. Basu Please sit down, Mr. Patil.

SHRI SONUSING DHANSING PATIL: Sir the hon. Member made

a reflection on the powers of the President and the Governors.

MR. DEPUTY CHAIRMAN: I do not think he referred to the President.

SHRI SONUSING DHANSING PATIL: He spoke about the question of nominations. It is the power of the Governors and the President.

MR. DEPUTY CHAIRMAN: Nomination of the candidate for election.

SHRI SANTOSH KUMAR BASU (West Bengal): Mr. Deputy Chairman, it would not have been necessary for me to take part in this discussion in view of the comprehensive and lucid manner in which the hon. the Law Minister made out the case in favour of his Bill. But I find that in the course of the debate certain points have been raised which require an answer. Now, for us to take our lessons in parliamentary system of Government from the Leader of the Communist Party, I hope such a day will not arrive in this country.

SHRI. BHUPESH GUPTA: It has arrived; I am giving it.

SHRI SANTOSH KUMAR BASU: We are wedded to parliamentary system of government, and the two-party system of government, which is probably unknown to my friend, Mr. Bhupesh Gupta, so far as the land of his inspiration is concerned.

SHRI BHUPESH GUPTA: My land of inspiration is India and it is very well known.

MR. DEPUTY CHAIRMAN: Order, order. Hear him.

SHRI SANTOSH KUMAR BASU: Now, there is another point to which I would like to refer, namely, the point raised by my hon. friend, Mr. B. K. P. Sinha, for whom I have the greatest respect. He says that because the independents play a large part in parliamentary government in this country, these categories which have been mentioned in the Bill could very well be the recruiting ground for

independent members. I will tell my friend that independent members are a negation in a sound and efficient system of parliamentary government. I am not unmindful of the very valuable contributions that some respected independent members are making to our deliberations at present. But if we are to visualise a perfect system of parliamentary government, it is only a two-party system of government that must be our goal. That is what has been achieved successfully in England and successfully in the United States of America where the parliamentary system of Government has reached its acme of perfection. It is the continuance of other systems prevailing in France and some other countries which is having repeated reverses for their governments so far as the formation of Ministries is concerned. The two-party system of...

SHRI B. K. P. SINHA: Sir, I did not...

MR. DEPUTY CHAIRMAN: Order, order. No explanation now.

SHRI B. K. P. SINHA: I do not want to disturb him but he has put some words . . .

MR. DEPUTY CHAIRMAN: It is not necessary; he is not yielding. Please sit down.

SHRI SANTOSH KUMAR BASU: That has always been the goal of the parliamentary system; right from the Montagu-Chelmsford reports onwards, in every deliberation, in every committee, in every conference including the All Parties Conference and so on it has been the aim that the independents should be ruled out when we have a perfect system of parliamentary Government.

SHRI H. D. RAJAH: No; no. It is not correct.

SHRI SANTOSH KUMAR BASU: As regards these categories in the Bill, may I draw the attention of the House to the fact that adult franchise has been adopted by us and constitutionally everybody is entitled to be returned

as a Member of Parliament but there are certain disqualifications also and those disqualifications should be removed as far as possible in order to give the widest possible latitude to our people to come in through the open door. What is the spirit underlying these provisions? The spirit is this that those who are acting in the interests of the country, in the service of the people in a Welfare State, should have no bar set against them to their entry into Parliament. These categories if they are analysed will go to show that people who are either giving honorary service or practically honorary service should not be disenfranchised, if I may use that expression, so far as their entry into Parliament is concerned. Our aim is to enlist every son and every daughter of India in the service of the State in an honorary or a semi-honorary capacity and if that be our goal, then the door should be left wide open to enable them to come into the legislatures and Parliament. I submit that from that point of view this list is rather limited. It may be that in course of time further expansion will be necessary if we are to make our welfare State conform to a parliamentary system of Government which is based upon adult franchise. I support the Bill.

SHRI H. N. KUNZRU: Mr. Deputy Chairman, the Law Minister in his exposition of the principles underlying this Bill, I think, went so far as almost to express a wish that the categories from which Members of Parliament could be drawn could be widened, that some more people should be qualified for being Members of Parliament and the hon. Member who spoke last said that the independents are misfits . . .

SHRI BHUPESH GUPTA: Are a negation, he said.

SHRI H. N. KUNZRU: ... or a negation of the parliamentary system. He is enamoured of the British system where there are, for all practical purposes, only two parties. If his

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view is taken literally, then we might fill the legislatures with Government servants. Since no independent members are needed, what does it matter whether a Member of Parliament occupies a place of profit under the Government or not? The Bill before us is totally unnecessary if this view is accepted. But the fact . . .

**SHRI SANTOSH KUMAR BASU:** May I just clarify the position? The position that I took was this that in a two-party system of Government all these people might come in as members of a constitutional Opposition Party—those who are in the categories, there is nothing to prevent them.

**SHRI BHUPESH GUPTA:** We are trying to . . .

**SHRI B. K. P. SINHA:** Sir, I would again request that I may be allowed to clarify . . .

**SHRI R. P. N. SINHA (Bihar):** It is not necessary now.

**SHRI B. K. P. SINHA:** You are not the Deputy Chairman.

Sir, what I said was that conditions in India being what they are, we have independents and in future we are likely to have more independents and those independents can be easily won over by the lure of these offices. That was the only argument that I used. I never spoke about the two-party system.

**SHRI H. N. KUNZRU:** I was not referring to Shri Sinha; I was referring to the hon. Member who spoke last.

**MR. DEPUTY CHAIRMAN:** He wanted to explain the position while Mr. Basu was speaking. Now I gave him an opportunity, that is all.

**SHRI H. N. KUNZRU:** I shall now examine the character of the Bill that has been laid before us. As the Law Minister said, there are already three laws on the subject, three Acts that were passed by Parliament on this subject. The most recent of these

laws is the Prevention of Disqualification (Parliament and Part C States Legislatures) Act, 1953 and it will be useful to compare the provisions of this Act with those of the Bill. We all know that Ministers are not disqualified for being Members of Parliament because they are drawing salaries as Ministers. The two Acts that we should examine are the Parliament (Prevention of Disqualification) Act, 1950 and the Prevention of Disqualification (Parliament and Part C States Legislatures) Act, 1953. Now, the Act of 1950 says that a person who holds an office of a Minister of State or a Deputy Minister or a Parliamentary Secretary or a Parliamentary Under-Secretary shall not be disqualified for being a Member of Parliament and the Act of 1953 adds to these certain other offices the holders of which shall not be subject to disqualification. They are, (a) the offices of Chairman and member of a Committee set up for the purpose of advising the Government or any other authority in respect of any matter of public importance or for the purpose of making an enquiry into or collecting statistics in respect of any such matter, provided that the holder of any such office is not in receipt of or entitled to, any fee or remuneration other than compensatory allowance; (b) the offices of Vice-Chancellors of Universities; (c) the offices of the Deputy Chief Whips in Parliament; (d) and the offices held by officers in the National Cadet Corps, raised and maintained under the National Cadet Corps Act, 1948 (XXXI of 1948) and in Territorial Army raised and maintained under the Territorial Army Act of 1948. Now, this Bill goes further than these two Acts taken together and asks us to agree that people who occupy the office of a member of a Home Guard, or chairman, director or member of a statutory body other than a body connected with a University, unless the law by or under which the statutory body is established otherwise expressly provides; the chairman or member of a non-



statutory body, etc.; and the office of village revenue officer, such as lambardar, malguzar, patel, deshmuks and the like, who is remunerated by a share of, or commission on, the amount of land revenue collected by him. There are other categories too that are referred to in this Bill, but I shall deal only with those categories that I have read out. The Lok Sabha appointed a Committee to submit a report on offices of profit. This Committee which had these two Acts before it made this observation with regard to the position of the office of Vice-Chancellor. Vice-Chancellors, it said, fall under the following two categories: (i) those appointed and removable by Government, and (ii) those elected by the Senates, etc. Now, this Bill makes no distinction between these two types of Vice-Chancellors. The Act of 1953 also says that the persons holding the office of Vice-Chancellor of a University should not be disqualified for being Members of Parliament. Nevertheless, the Offices of Profit Committee made a distinction between these two categories of Vice-Chancellors and further quoted with approval the following observation of the Law Minister in 1953 with regard to the duties of Vice-Chancellors: "They are executive officers. They carry patronage and all that." Again, referring to what the same Minister said, it quotes the following words from his speech: "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." Then, the Committee says, "for these reasons the Committee feel that if these Vice-Chancellors, either appointed or elected, are exempted from disqualification, such exemption will be to the detriment of both the offices. The Committee, therefore, are of the opinion that the office of Vice-Chancellor should not be exempted from disqualification."

The Law Minister while speaking on this Bill did not, so far as I could hear him, refer to the views of the Report of the Committee on Offices of Profit.

SHRI AKBAR ALI KHAN: He did not.

SHRI H. N. KUNZRU: Even if the office of Vice-Chancellor is to be treated as an office, the whole of it should not be disqualified from being a Member of Parliament. I think the decision arrived at by the Committee on Offices of Profit should be seriously considered and we should like to know why this recommendation has been departed from not merely in the case of elected Vice-Chancellors but also in the case of those who are appointed and are removable by Government. Then, again, I refer to the Committee. The Committee on page 34 of its Report refers to Commodity Committees and Development Councils and it says: The Committee, though they have recommended exemption from disqualification of a Member of Parliament for being members of these Committees, are not prepared to treat these office bearers on the same level as ordinary members and recommend that those offices should be treated as offices of profit. That is, the Committee makes a distinction between the membership of such a Committee and being an office bearer in it and the reason given by it is this: "As regards the Chairmanship, Vice-Chairmanship or Secretaryship of such committees, standing committees or sub-committees, the Committee feel that the duties of these office-holders entail regular long hours of work, and the powers exercised by them are of considerable executive and administrative character." It is clear from these words and from other observations made by the Committee that it regarded an office to be an office of profit not merely when its holder received a salary but also when he could exercise patronage or enjoyed large executive and administrative

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powers. But no regard seems to have been paid to this by those who are responsible for bringing the Bill before us. There are other observations of the Committee that merit attention, but I do not want to detain the House long by my observations.

I shall refer only to one more point, and that is for allowing village revenue officers to be Members of Parliament. This question was considered in connection with the passing of the Representation of the People Act of 1951. Section 123 of this Act which deals with corrupt practices says "taking the help of any person in the service of the Government and belonging to any of the following classes in the interest of any candidate" would be a corrupt practice. Several offices are mentioned, but the one that I am concerned with is that of revenue officers, and this is what section 123(7)(f) refers to: "revenue officers including village accountants such as patwaris" etc. That is, when the Representation of the People Act was passed and this matter was considered, it was decided to hold that the revenue officers should not be treated as non-officials. Otherwise there would have been no reason for trying to describe their assistance in the interests of a candidate as a corrupt practice.

Now without any explanation we are asked to reverse our previous decision. We have to decide what an office of profit is, and what the consequence of an increase in the number of persons holding offices of profit in Parliament will be. The question has a long history behind it. The question concerns not only those countries where in the past there were serious conflicts between Parliament and Crown but other countries. So long as we have a Parliament, and a democratic Parliament, it must be our prime duty to see that the Members are persons

who can express their views freely and independently. By joining a party voluntarily they may sacrifice some of their independence. But the conditions of their work should not be such as to compel them to be subservient to the Government. If we increase the number of offices, the holders of which are free to be Members of Parliament, I think in course of time the character of Parliament is bound to be affected. We have to see in connection with any office how much of patronage or power or influence its holder can exercise. Even though the office may carry no salary with it, yet the other advantage that it carries may be such as to affect the independence and outlook of a Member. Even under a two party system if we want to fill our Parliament with people who are of the character of those who were called placemen in England in former times, we ought to be very careful with regard to defining the categories of offices the holding of which is not incompatible with the membership of Parliament. Even when there is a two party system, care will have to be taken to see that the Members of Parliament are people who can give free expression to their views and are not, because of the temptations placed in their way, prevented from exercising that freedom and sense of responsibility which their electors expect from them.

SHRI TAJAMUL HUSAIN: Mr. Deputy Chairman, I am strongly of opinion that no one should be prevented from becoming a Member of Parliament. There should be no disqualification. There should be no qualification for a Member of Parliament. If a person—let him be a Government servant, for instance, a District Magistrate or a District Judge or a High Court Judge—wishes to become a Member of Parliament, let him be elected. But there should be a provision that the moment he is elected and before he takes his oath as a Member of Parliament, he ceases to be a Government servant.

**SHRI KISHEN CHAND:** Let him resign before filling his nomination paper.

**SHRI TAJAMUL HUSAIN:** Whether he resigns before or after makes no difference. That is not my point. My point is, let any one who wishes to stand for Parliament stand. Nothing should prevent him from doing that. When once he is elected and before taking the oath either he should resign his post in Government or there must be provision that he ceases to be a Government servant. Suppose at the time of filing nomination paper a person is a High Court Judge and about to retire from the Bench within two months. He is about 60. If he does not resign before election, he will not become a Member of Parliament. But he has to wait for five years to enable him to file his nomination paper. So, if a High Court Judge wants to become a Member of Parliament, let him do so. Do not prevent him. After his election he must resign or cease to be a Judge. We are going to have two categories of people: those who can become Members of Parliament and those who cannot; which means that voters cannot send to Parliament any one they like. Their choice is restricted and limited.

Sir, we are a democratic  
**5 P.M.** country. What does democracy mean? In democracy we are not masters; the people, the *janata*, are the real masters of the country. It is a kind of a joint family and their property is India. We are nothing more than their representatives. We may call ourselves as managers, but we are not the masters. Our real masters are the people of this country. They have sent us here for a certain number of years, for a fixed period. After that they will judge whether we have done our work properly or not. Therefore, what right have we to tell them, "Thou shalt do this thou shalt not do that". Have we any right to tell such masters to send such and such a person and not to send such and such person?

I will give you an extreme example. Suppose the people, our masters, want to send a particular class of people. Who can prevent them from doing so? Suppose they want to send idiots. Who can prevent them from doing it? (*Interruptions.*) It will then become a Parliament of idiots and of course, the greatest idiot will be the Leader of the House and he will become the Prime Minister. There is some advantage also in having a Parliament of idiots. The saying is that idiots never disagree. There will be no discussion here; there will be no adjournment motion; there will be no point of order or point of information and you will have a very easy and good time.

**SHRI BHUPESH GUPTA:** What will be . . .

**SHRI TAJAMUL HUSAIN:** The Parliament of idiots will order their generals, "Go on, march to Goa and take it." (*Interruptions.*) But we are not idiots. We discuss points here. They will order, "Take Kashmir in four or five days. Take that part of Kashmir which Pakistan has taken possession of illegally." But we are not such. We discuss the matter here, go to the United Nations.

Since this Bill is going to the Joint Select Committee, I shall make one or two suggestions.

My first suggestion is—as I have already said—do not have any qualification. I do want to repeat what I have already said. I want the Joint Select Committee to think seriously this point. Then there would not be any discussion whether the Vice-Chancellor should come in or not. But the Joint Select Committee may not agree with me. They will agree with the Law Minister, with the Government and may say that so and so must come in and so and so must not come in. In that case, I would suggest that only those people should be allowed to come in who can give their whole time service to Parliament. I do not want a Vice-Chancellor to come

[Shri Tajamul Husain.]  
into Parliament. Suppose the Vice-Chancellor from Trivandrum comes into Parliament, can he do the work of Parliament? He will not be able to do his work as Vice-Chancellor also. We have the experience of so many Vice-Chancellors who were here; they could do nothing; they could not contribute anything. I do not want anyone who cannot give his whole time service to Parliament to be here. I would even go to the extent of saying that a busy lawyer should not be taken in unless there is an agreement between the Government and the lawyer candidate that he will not go and attend the law courts during Parliament session. Any lawyer who gets elected gets merely Rs. 21 per day and he can run away. I am a lawyer. I do not get a pie. So I am here.

(Interruptions.)

SHRI BHUPESH GUPTA: He did not know it so far. I understand it.

SHRI TAJAMUL HUSAIN: I am too old to practise. So, why do you have people, lawyers, advocates, who cannot devote their full time and enrich the work of Parliament?

MR. DEPUTY CHAIRMAN: Yes, your time is up.

SHRI TAJAMUL HUSAIN: My time is up? You have given two minutes.

MR. DEPUTY CHAIRMAN: No, no, it is over.

SHRI TAJAMUL HUSAIN: As regards honorary magistrates, I think somebody said about them.

(Time bell rings.)

Then, I do not discuss these things. That is all I have to say.

पंडित अल्लूराय शास्त्र (उत्तर प्रदेश):  
उपसभापति महोदय, यह विधेयक बड़े महत्व का है। बड़ा बड़ा शंकायें उठा करती थीं और यह प्रश्न होता था कि लाभ

के पद के कारण एक विधान सभा का सदस्य अपनी सदस्यता से वंचित कर दिया जाता है या कर दिया जा सकता है। कई बार मेरे मन में यह प्रश्न उठा कि ऑल इंडिया रेडियो में अक्सर मुझे टाक देने के लिये बुला लिया जाता है और उसमें एक कॉन्ट्रैक्ट साइन करना पड़ता है कि खास समय पर अपना निबंध दे देना चाहिये और उसमें कुछ फीस भी मिलती है, तो "कॉन्ट्रैक्ट" शब्द के कारण आया यह लाभ का पद है या नहीं। इस प्रश्न पर विवाद उठा रहा है। इसी तरह इस प्रश्न पर भी विवाद उठा रहा है कि यदि कोई सरकारी कॉलेज है और उस कॉलेज की ऐडवाइजरी कमेटी का कोई मेम्बर है तो आया वह लाभ के पद पर है या नहीं है। ये संदेह उठा करते थे और लोग ऐसे पदों को स्वीकार करने में आताकानी किया करते थे। एक दफ्ता विन्ध्य प्रदेश के बहुत से सदस्य अपनी सदस्यता से वंचित कर दिये गये थे क्योंकि उनको किसी तरह का एलाउंस या भत्ता मिल गया था और वह लाभ का पद मान लिया गया था। फिर यहां पर लोक सभा ने एक विशेष विधि पाम करके वह जो डिसक्वालिफिकेशन पैदा हो गई थी उसको दूर किया था। इन कारणों से इस प्रकार की विधि की आवश्यकता महसूस की जा रही थी। उसके लिये एक कमेटी बनी, उसने एक निश्चय करके अपनी अनुमति दी और उसके आधार पर यह विधेयक तैयार हुआ है। जिस योग्यता और विद्वता से हमारे विधि मंत्री जी ने इस सम्बन्ध में यहां पर भाषण दिया, उसको हम सब ने सुना और उनके भाषण को सुनने के पश्चात् जो बातें मेरे माननीय मित्र किशन चन्द जी ने और उनके पश्चात् हमारे बुजुर्ग मित्र पंडित हृदयनाथ कुंजरू ने यहां पर कहीं उनको भी सावधानी से मने सुना है। आज जब यह विधेयक प्रवर समिति के सुपुर्द हो रहा है, तो मैं समझता हूं कि उस चेतावनी की आवश्यकता है, जो

मेरे मित्र मिन्हा साहब ने वहां मेरी और तजम्मूल हुसैन साहब ने यहां से दी। तजम्मूल हुसैन साहब शुरू में क्या बोल रहे थे, कुछ मेरी समझ में नहीं आया। जो जनता का प्रतिनिधि है, जो चुना जाता है उसके लिये योग्यता या अयोग्यता का प्रश्न नहीं उठता है मैं नहीं समझता कि किसी विधि बनाने वाले भवन को या संसद् को ऐसा बनाना चाहिये कि जिसके सदस्य अपात्र हों। विधि बनाने वाले लोग विशेष योग्यता के होने चाहिये और उनकी सब से बड़ी योग्यता यह है कि वे निर्द्वन्द्व होने चाहियें। जो सरकार हों उसके पल्ले से उनका पल्ला बंधा हुआ न हो। सरकारी अधिकारिता का लेशमात्र भी सम्बन्ध विधि बनाने वाले कार्य के साथ नहीं होना चाहिये। Not an iota of executive authority should enter into the legislative authority or field. दोनों को दूर रहना चाहिये।

दोनों के दो अलग अलग मार्ग हैं। "फटकचन्द गिरिधारी, जिसके लोटा नथारी" ऐसा होने पर ही जनता का प्रतिनिधित्व होता है। एक वह है, जिस का अधिकार दिये गये हैं और वह उन अधिकारों से जनता पर शासन करे। लेकिन वह जो शासन करने वाली मंडली है, उसका प्रतिनिधित्व यहां नहीं होना चाहिये, अन्यथा सब से ज्यादा योग्य हाई कोर्ट के जज हैं, सुप्रीम कोर्ट के जज हैं, जो राज कानूनों को अल्ट्रा वाइर्स आंक दी कास्टिड्यूशन करते रहते हैं; यदि उन्हीं को यहां बिठना दिया जाये तो जो विधि वे बनायेगे वह अल्ट्रा वाइर्स नहीं होगी।

SHRI TAJAMUL HUSAIN: On a point of order, there should be no reflection on the High Court or the Supreme Court. कि 'राज अल्ट्रा वाइर्स' बनाते रहते हैं।

MR. DEPUTY CHAIRMAN: He did not cast any reflection.

पंडित अल्लू राय शास्त्री : आप हिन्दी समझते नहीं।

SHRI TAJAMUL HUSAIN: He says that I do not understand Hindi. He is wrong.

इनको यह नहीं कहना चाहिये कि मैं हिन्दी नहीं समझता — मैं हिन्दी बहुत अच्छी तरह समझता हूं।

पंडित अल्लू राय शास्त्री : अगर आप समझते होते तो रेफ्लेक्शन की बात नहीं कहते। इसीलिये मुझे यह कहने की आवश्यकता पड़ी।

SHRI SANTOSH KUMAR BASU: It was no reflection on the High Court. On the contrary, the hon. Member has said that the High Courts have been acting quite independently.

पंडित अल्लू राय शास्त्री : यह मैंने कहा कि जो विधि हम बनाते हैं, उसमें दोष आ जाते हैं, खामिया होती है। क्योंकि हम जनता के प्रतिनिधि हैं और जनता का प्रतिनिधि उन्हीं की हैमियत का आदमी हो सकता है। जनता अपने बीच में से लोगों को भेजती है और जनता की इच्छा से उनके प्रतिनिधियों द्वारा जो शासन होता है, उसी का नाम प्रजातंत्र है, तो प्रजातंत्र की प्रणाली में जो लोग यहां इन भवनों के सदस्य होने चाहियें, उनका सम्पर्क किसी प्रकार से अधिकारिता के साथ नहीं होना चाहिये, इतनी बात मुझे कहनी है। जहां एक तरफ इस बात की खीचातानी हो रही थी कि जरा जरा सी बातों में लाभ का पद घोषित कर के हम सदस्यों को उनकी सदस्यता से वंचित करते थे, उनको उससे प्रोटेक्शन मिलना चाहिये था और यह साफ होना चाहिये था कि लाभ पद कौन कौन से हैं के वहां दूसरी तरफ ऐसा भी नहीं होना चाहिये कि जब हम उस तरफ बढ़ें कि लाभ का पद यह नहीं है, वह नहीं है, तब उसकी इतनी बड़ी श्रृंखला हम बना दें कि सारे लाभ के पद घोषित हो जायें।

[पंडित अलगू राय शास्त्री]

सच्ची बात तो यह है कि विश्वविद्यालयों के जो वाइस-चांसलर्स हैं उनको अगर आप एलेक्शन में डाल देंगे तो मैं कह सकता हूँ कि विश्वविद्यालय दलबन्दी के दलदल और अखाड़े बन जायेंगे और विद्यार्थी उसमें फंसेंगे क्योंकि वाइस-चांसलर साहब खड़े होंगे, विद्यार्थियों को उनमें श्रद्धा होगी और जिस दल की तरफ से वे खड़े होंगे उस दल के विरोधी और दूसरे लोग इतने पवित्र और विद्वान व्यक्ति के विरुद्ध प्रचार करेंगे। तो आप वैधानिक प्रतिबन्ध न भी लगावें तब भी व्यावहारिकता का तकाजा यही है कि इस तरह की चीज आप यहां न लायें। जिसको यहां आने का शौक है, जिसको यहां लाये जाने का शौक है वह उस पद को छोड़े और यहां पर आ जायें। इसी तरह से टैरिटोरियल आर्मी की बात इसमें ला दी है। अभी एक विधेयक यहां पर आया था और उसके समर्थन में कुछ बातें मैंने कही थीं। मालूम नहीं कि वह ट्रेनिंग का पीरियड होगा या मेम्बरी का होगा और आप कब इसमें मौका देंगे। अगर मिलिटरी जैसा तानाशाही यहां क्रायम करनी हो तब तो ऐसे लोगों को आज्ञा दी जा सकती है लेकिन अगर हम उन्हें बचाये रखें तो कोई हर्ज नहीं होगा। मैं यह नहीं कहता कि जो राय मैं दे रहा हूँ वह सही है, लेकिन यह सोचने की बात है। यह तो मैंने एक उदाहरण के रूप में कह दिया है लेकिन इस सम्बन्ध में जो मेरा सब से बड़ा ऐतराज है वह केवल एक बात के बारे में है। चूंकि संयुक्त प्रवर समिति के सामने यह विधेयक जा रहा है इसलिये चेतावनी के रूप में मैं इस बात को कहता हूँ। इस बात में मेरा दृढ़ मत है। कुछ स्टेट्स ने स्वल्प वेतन भोगी और स्वल्प समय के लिये काम करने वाले कर्मचारियों को अपने यहां यह अधिकार दिया है कि वे उनकी विधान-सभओं में सदस्य बन सकते हैं। तो हम अब उनको यह मौका दे रहे हैं कि वे यहां पर भी आ जायें। एक भूल जो

उन्होंने की थी, उसी भूल को हम यहां दुहराना चाहते हैं। मुझे यह कहना है कि इस तरह से हम निश्चित रूप से एक बड़ी भारी बीमारी को इसमें स्थान दे रहे हैं। जहां सरकार ही जनता है, जहां गवर्नमेंट का तरीका तानाशाही का है, जहां इस प्रकार से विचार-विमर्श करने और बहस करने का मौका नहीं होता है; उन देशों और उन प्रणालियों के बारे में मैं कोई बात नहीं कहता, लेकिन जहां प्रजातंत्र प्रणाली है वहां यह बात बड़ी घातक है, बड़ी भयंकर है उदाहरण के लिये, मैं एक मंत्री हूँ, और मेरे एक रिश्तेदार हैं जो कि डाक्टर हैं और उनको एक सरकारी अस्पताल में थोड़े से समय के लिये काम करने को दे दू और कह दूँ कि आप यहां काम कीजिये और थोड़ा सा वेतन लीजिये, नाम-मात्र को टांगा वगैरह का खर्चा लीजिये, और फिर एक टिकट दे कर के उनको पार्लियामेंट में बैठा दू। दोनों पदों का महत्व अलग अलग है लेकिन अगर हम उन दोनों को मिला देंगे तो फिर हम सरकारी कर्मचारियों से इस भवन को भर देंगे। लोग थोड़ी तनख्वाह ले कर, स्वल्प समय काम कर के सरकारी कर्मचारी भी बने रह सकते हैं और इन भवनों में भी आ सकते हैं और इसकी प्रतिष्ठा को ले कर के अपने उस पद का बहुत बड़ा दुरुपयोग कर सकते हैं, इसकी बड़ी भारी संभावना है और यह चेतावनी मैं देना चाहता हूँ कि जब संयुक्त प्रवर समिति इस पर विचार करे तो इस बात को देखे कि जहां लाभ वाले पदों की व्याख्या करना आवश्यक है, ताकि अधिक से अधिक सदस्यों को डिसक्वालिफाई होने से बचाया जा सके, वहां इस बात को भी देखने की बड़ी भारी आवश्यकता है कि इसके अन्दर ऐसी कैटेगरीज को शरीक न किया जाये जिनके कि आने से ये विधान-सभायें एक तरह से एंज्जीक्यूटिव बॉडी हो जायें और उनका एक अखाड़ा बन जायें। इस सम्बन्ध में बड़ी भारी सावधानी बरतने की आवश्यकता है।

इन शब्दों के साथ मैं मोटे तौर पर इस विधेयक का समर्थन करता हूँ लेकिन यह चेतावनी भी देना चाहता हूँ कि इस प्रकार के जो लेकुना और लूपहोल्स हैं, उनको दूर कर देना चाहिये।

SHRI A. K. SEN: Mr. Deputy Chairman, there is little to answer and little to add to what I have already said. But a few points which seem to be common in the speeches of the various Members need to be answered. Shri Kishen Chand referred to the question of Vice-Chancellors, and he was supported by Shri Kunzru and a few others over this question. They said that the main argument against having them here is that they had no time to devote to parliamentary work having regard to their preoccupations. In support of this argument it has also been said that the test for qualifying persons to become Members of Parliament must be the availability of time at the disposal of such Members. That means only those who can devote their 24 hours for parliamentary work will be competent to become Members of Parliament, or in other words gentlemen of leisure or who are not dependent upon any work could come here. Sir, having regard to the various fiscal policies we have been pursuing, the programme of nationalisation of land and various other means of income, it is doubtful to forecast whether in the future there will be any gentlemen left who can be dependent upon some sort of an income which will allow them to devote their whole time in Parliament. There was that time when we had gentlemen of leisure with plenty of money who could devote their time, but that time is gone now and every one must work for his living. There will be no parasites in the society who can devote their 24 hours, in Parliament, and the allowance paid to Members of Parliament would hardly be enough to sustain Members and their families. It will therefore be necessary to draw upon other fields where people have to work in other occupation, but nevertheless have time to devote for

parliamentary work. If availability of time was the sole test, I doubt how many of us would be competent to be here today. Look at the House, Sir. We are debating on the question of qualification or disqualification for membership. How many of us are here? They are not all Vice-Chancellors. They are not all preoccupied with their work elsewhere. They, I take it, claim that they have time to spare for parliamentary work. But on a vital subject like this how many of us are here present today? It is impossible to lay that test down to be adhered to as an infallible test. What is necessary is that whenever one's services are required by Parliament, he may be available in his special field from which he has been drawn. Legislation will be a matter for experts more and more. There is no doubt about that, and we must draw experts from every field of our life. The professional politician has not a very long life to live in this country and in other countries. The days of professional politicians are gone. In every country it is the man who works with his hands, who toils with his body, who is now coming forward to undertake the responsibility of parliamentary work and legislation, and that will be the sole test in future. I have no doubt about it. How far is a man contributing, with his own hands, with his own brain and with his own skill, to the welfare of the State, what is he doing in his daily life for increasing the prosperity and wealth of the country and for adding to the welfare of the nation, that will be the sole test, and not how much time he is left with in his own walk of life or how much leisure he can command having regard to his patrimony or having regard to the wealth he might have amassed in the past, for such persons will rather be rare in future, thanks to our wealth-tax, our inheritance-tax and various other taxes. It will be a forgotten species very soon, people coming with patrimony, people supported by patrimony.

**SHRI BHUPESH GUPTA:** Provided the Life Insurance Corporation believes in that.

**SHRI A. K. SEN:** My learned friend can never forget little incidents or big incidents. He seems to be obsessed by various matters including the Congress Party and I was coming to him immediately.

**SHRI AKBAR ALI KHAN:** Nightmare for him.

**SHRI A. K. SEN:** Mr. Sinha said the same thing, availability of time Let us take that test.

**SHRI H. N. KUNZRU:** What about Vice-Chancellors who are appointed by the Government?

**SHRI A. K. SEN:** It is only they who come under disqualification, not others because they will not be offices of profit under the Central Government. When we talk of Vice-Chancellors, we talk of Vice-Chancellors appointed by the Government. Other Vice-Chancellors are not disqualified by the terms of article 102, whether they are appointed by the Government or appointed by institutions or supported by the Government. There is hardly any distinction because today the whole field of education is financed by Government—primary schools, secondary schools, colleges, Universities etc. Which educational institution is there today like Eton or Harrow which does not depend upon governmental finance? It is no use forgetting realities, it is no use shutting our eyes to hard facts. There is no educational institution today, there is no research laboratory today, there is no scientific institution today which can carry on except with governmental aid because the sources of private aid are all dried up. Therefore whether it is indirectly financed by Government or directly financed by Government, the question is the same. We cannot have gentlemen of leisure for long. As I said, that species will cease to exist and will meet its natural death very soon. People who toil, who will work will be

drawn as Members. People who sustain themselves by the sweat of their own brows will be those who will fill the Parliament of the future. There is no doubt about it. The signs are on the wall because freely and daily we talk about destroying the influence of the propertied classes. Legislation is, directed increasingly towards curbing the power of accumulation of wealth. Therefore if that is the spirit of our legislation, if that is the spirit of our policy, I cannot see how we can still think or dream of drawing people from the leisured class. As I said, there will be no leisured class in the future. Now the next speaker was my very good friend Shri Bhupesh Gupta.

**MR. DEPUTY CHAIRMAN:** We want to finish this Bill before 5-30.

**SHRI KISHEN CHAND:** The other Bill also before 5-30.

**SHRI A. K. SEN:** I shall finish in two minutes. There is hardly anything in his speech worth answering excepting his favourite subject of Congress Party. That was a little irrelevant in the context of the discussion today. He seems to be suffering from a chronic obsession regarding the imaginary misdeeds and imaginary policies of the Congress Party. The Congress Party answers its deeds or its misdeeds to the nation.

**SHRI BHUPESH GUPTA:** But Mr. T. T. Krishnamachari could not do it.

**SHRI A. K. SEN:** If anyone does not answer it, he will not come here whether he is a Congressman or not.

**SHRI BHUPESH GUPTA:** How was the answer given to Shri Feroz Gandhi's charges?

**SHRI A. K. SEN:** We have dealt with that. Now that really answers everything and we shall certainly discuss all these categories in the Joint Select Committee and will come to a decision.



Mr. DEPUTY CHAIRMAN: The question is:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on 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, and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee:

- (1) Dr. Shrimati Seeta Parmanand
- (2) Shri Amolakh Chand
- (3) Shri S. D. Misra
- (4) Kazi Karimuddin
- (5) Shri Purna Chandra Sharma
- (6) Shri N. Ramakrishna Iyer
- (7) Shri C. L. Varma
- (8) Shri Abdur Rezzak Khan
- (9) Shri Rajendra Pratap Sinha and
- (10) Shri H. D. Rajah

The motion was adopted.

#### THE PREVENTION OF DISQUALIFICATION (AMENDMENT) BILL, 1957

THE MINISTER OF LAW (SHRI A. K. SEN): Sir, I beg to move:

"That the Bill further to amend the Prevention of Disqualification Act, 1953, as passed by the Lok Sabha, be taken into consideration."

Sir, it is really consequential. As I explained to the House, there was a unanimous desire expressed in the Business Advisory Committee that the motion which we have just now accepted should be really moved in the Lok Sabha for reference to the Joint Select Committee. It was also agreed that the existing Act should be extended so that many of our Members may not be disqualified. So it is really for the purpose of carrying on

the existing Act during the passing of the Bill which we have introduced. So I submit that the House may pass it.

Mr. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Prevention of Disqualification Act, 1953, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

Mr. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clauses 2, 1, the Enacting Formula and the Title were added to the Bill.

SHRI A. K. SEN: Sir, I move:

"That the Bill be passed."

Mr. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

#### HALF-AN-HOUR DISCUSSION

STATEMENTS MADE IN U.S.A. BY THE GOVERNOR OF THE RESERVE BANK AND THE FINANCE MINISTER

SHRI H. D. RAJAH (Madras): Sir, this discussion which I initiate today in this House is borne out of certain questions put in this House and answers received from the Finance Minister. The answer was very unsatisfactory from our point of view and hence this is brought before the House.

The Finance Minister and the Governor of the Reserve Bank had occasion recently to go to America and when they went there, certain views were aired by them which were not exactly, according to us, in the interests of our country. When certain officers go outside our country, it is not, according to diplomatic etiquette or according to the policy