

"In accordance with the provisions of Rule 148 of the Rules of Procedure and Conduct of Business in the House of the People, I am directed to inform you that the House of the People, at its sitting held on the 15th December 1953, agreed without any amendment to the Forward Contracts (Regulation) Amendment Bill, 1953, which was passed by the Council of States at its sitting held on the 2nd December 1953."

THE PREVENTION OF DISQUALIFICATION (PARLIAMENT AND PART C STATES LEGISLATURES) BILL, 1953—continued.

SHRI C. G. K. REDDY (Mysore): Sir, I must first of all complain that the papers that were promised have not been received.

SHRI B. C. GHOSE (West Bengal): They have just been received.

SHRI C. G. K. REDDY: They may have been received just now. But we expected to have them yesterday because we wanted to examine what are the committees that are proposed to be brought under clause 4.

As I was saying yesterday, the Government probably has not given much thought to this matter. When I say that I mean that they may not have come to a conclusion as to the policy to be followed in this matter, as to whether they want Members of Parliament to be associated with such committees which may be called executive committees and in which essentially there should be representation by Members of Parliament. As far as I can see, there are certain committees—I am seeing them just now—which would come under clause 4. Among them are the Advisory Board of Archaeology, and the Advisory Board of Education. I do not know whether these committees come under clause 3 or clause 4. I take it that they come under clause 4.

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C.

BISWAS): May I, Sir, intervene at this stage, so that it will help my hon. friends to decide what they should say? If you will look at the Bill, you will find that there is a Preamble which says: "Whereas doubts have arisen as to whether certain offices are offices of profit under the Government." The basis on which this Bill has been framed is this. We are not going to take a final decision ourselves in this Bill as to which office is an office of profit and will disqualify a Member. Whether it is an office of profit which will disqualify or whether it is not an office of profit will depend upon the decision of the authorities who will have to decide the question. What we say is this. If it is not an office of profit, then it is already exempted; if on the other hand, it is held to be an office of profit, still it will be exempted. You will find that between clause 3 and clause 4 all kinds of offices are included. In clause 3 you will find that certain offices are categorically mentioned and clause 4 (a) says: "the offices of Chairman and member of a Committee other than any such Committee as is referred to in clause (a) of section 3." So if it does not come under clause (a) of section 3, it will come under clause (a) of section 4. If it is under 3(a), it is permanently exempted; if it is under 4(a) it is temporarily exempted. Whether any particular office would come within this category or not, that is not decided in this Bill except to this extent that certain offices although they are offices which are of an executive character have been expressly mentioned in clause 3(a). Take, for instance, the Vice-Chancellors of universities. They are executive officers. They carry patronage and all that. Still we have definitely included them in this category of permanent exemption. So it is not for the Government to say whether a particular office will come within this category or in the other category.

SHRI K. S. HEGDE (Madras): On a point of information, Sir. Is not the

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Government by implication deciding that profit is not merely pecuniary but also power and privilege? By passing this Bill are we not deciding the connotation of the word 'profit' as against the existing law and bringing it in conformity with the English law on the subject?

SHRI C. C. BISWAS: I shall deal with this later on. I would rather not interrupt my friend now.

SHRI C. G. K. REDDY: Sir, the situation seems to be more confused than what it was. It is precisely because of this that I tried to have this Bill referred to a committee. I tried to give an amendment but that was not accepted, because the rules are clear on the subject.

I wish, Sir, that you would allow the hon. Minister after hearing me if he thinks fit to move an amendment on his own to the effect that this matter be referred to a committee, because I think neither the Government nor the Department concerned has given any thought to the matter at all. On this I am even more convinced after the intervention of my hon. friend, the Law Minister.

I am aware that even if the Government were to give us information as to which committees would come under clause 3 and which committees would come under clause 4, the Election Commission may hold otherwise and so far as law is concerned, the Government's opinion may not count much. It would be greatly helpful, however, to this House and certainly to the Government itself, if, before it took decisions on such matters and tried to bring forward a Bill, it was clear in its own mind as to which committees are to be exempted and which committees are not to be exempted.

That would mean that, first of all, you have to decide as a matter of policy as to whether you want the advice or mis-advice of Members of Parliament on certain committees. If

you think that Members of Parliament could give some advice to the Government in certain matters, then the membership of those committees should be exempted and they should come under clause 3, although I can understand the hon. Minister's argument that if we try and categorise them, an independent legal authority may hold otherwise.

First of all, we must be clear in our mind as to what the object of the Bill is. The object of this Bill is to remove certain disqualifications, and, according to my hon. friend, Mr. Hegde, perhaps many of us have already incurred disqualification and it may be that when this Bill is passed, we may lose our membership. The object is to see that such of us who have incurred disqualification already or who in the opinion of the Government may, because of this Bill, incur disqualification hereafter, are exempted, or their disqualification is removed. But as far as I could see, the Government is not aware of what it is doing. It has just brought forward a Bill, very badly drafted, without knowing who are the people to be exempted. So far as sub-clauses (b), (c) and (d) of clause 3 are concerned, they are specific. (b) is Vice-Chancellors of universities, (c) Deputy Chief Whips in Parliament—and I should be very glad if Mr. Amolakh Chand comes under that—and (d) is also specific. It refers to National Cadet Corps officers.

I am not able to understand which committee out of these 17 committees would come under clause 3 and which would come under clause 4. If the intention of the Government is to see that Members of Parliament should not serve on any committee, Advisory or otherwise—because my hon. friend Mr. Hegde pointed out yesterday and I fully agree with him. It would be a very difficult thing to decide as to which committee starts becoming advisory and ends becoming executive committee; the line may, of course, be drawn, may be arbitrarily drawn—

then, the Bill is all right as it is. There are certain committees on the advice of which the Government may be acting; would that be an executive committee? Here, there are 17 committees.

Take, for instance, the Central Advisory Board of Archæology. In whatever way the Board may be constituted, the Government may be acting on the advice of that Board. Would that become an Advisory Committee? The Government may delegate some of its functions to the Board; if so, is it the intention of the Government to shut out the Central Advisory Board of Archæology to Members of Parliament? Like that, you will find so many others and I am referring to one particular body—the Governing Body of Training Ship 'Dufferin'—because I know something about it. It is not an office of profit; nobody is serving there as a holder of an office of profit. It appoints the staff, selects candidates and does other functions that would definitely be under clause 4. That means, as the hon. Minister said in the other House, a Member of Parliament who was a member of the Governing Body would have to resign the membership of the Training Ship 'Dufferin'. And the Government would have to decide automatically the scoring off of the composition of the Governing Body so far as that particular reservation was concerned.

SHRI K. S. HEGDE: It is also with regard to the Delhi Transport Authority and the Madras Port Trust.

SHRI C. G. K. REDDY: In statutory bodies, the condition is worse.

SHRI B. K. P. SINHA (Bihar): The Bombay, Madras and Calcutta Port Trusts are statutory bodies.

SHRI C. G. K. REDDY: Yes, this is only to look after the interests of the Members of Parliament. The idea of appointing a Member of Parliament on these bodies is to see that Parliament is given an insight into their

working. So, first of all, I would like to ask this question of the hon. Minister; have Government decided in respect of these bodies that they shall not have Members of Parliament on them any longer?

SHRI R. U. AGNIBHOJ (Madhya Pradesh): I feel these are not the only bodies. Every State Government would have bodies and the list would have to be expanded.

SHRI C. G. K. REDDY: Yes, so far as the Members of the State Legislature are concerned.

SHRI K. S. HEGDE: You are under a mistaken impression. We may be appointed on those State Committees and then we might incur disqualification, e.g., Road Transport Board, and Standing Labour Advisory Committee in the States.

SHRI C. G. K. REDDY: The whole thing boils down to this. I want to ask the hon. Minister first of all as to whether Government have decided as to which committee should be exempted and which committee should not be exempted? If so, have they drafted this Bill on the basis of the policy which they have arrived at? I have no doubt in my mind at all that the Government has not given its attention to this matter.

They have, merely for a certain immediate reason that certain members have incurred disqualification, brought out this Bill in order to protect them. I do not mind if they stop with that, if they merely state that certain offices of profit are to be exempted from disqualification and this Bill sought to remove those disqualifications. It would not then be a dangerous Bill with certain consequences. But the consequences of this Bill are these. As my hon. friend tried to suggest, this is going to create a new interpretation of the word 'office of profit'. It may also, by implication, put those Members who come under clause 4, sub-clause (a) and (b) under imme-

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date disqualification after March 1954.

In previous cases, the Removal of Disqualification Bill merely stated the offices which were enjoyed by certain Members and by which the disqualifications attached to those offices were removed. If Government had merely stated that, it would have been all right. By saying 'temporary removal of disqualification', you will see to it that after March 1954, Members of Parliament cannot serve on such committees.

So far as clause 3, sub-clause (a) is concerned, the Chairman and members of a committee are referred to here. It says: "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". That means, if it is to be strictly interpreted, the committee which would come under this sub-clause (a) would be an enquiry committee, a committee to collect statistics and such kinds of committees would be exempted; whereas the question of advisory committees is in doubt.

When we come to the Advisory Committees, the doubt immediately arises. We do not know what the Election Commission is going to say; we cannot foresee what the Election Commission may say tomorrow even after this Bill has been passed. They may say that the membership of such and such a committee is deemed to be an office of profit according to the quantum of definition given in the Bill, in respect of the compensatory allowance and other things.

Therefore, I would again like to ask the Government whether they have applied their mind to this question. Secondly, I do not think that they have accepted a certain policy in respect of representation of Members of Parliament on certain committees

and statutory bodies. Without coming to any such decision, I would like to ask why Government should come out with a Bill, a Bill which goes beyond the immediate necessity, the immediate necessity being, as he said in his introductory speech, to remove disqualification about certain membership of committees. That immediate necessity could have been satisfied by removing straightaway that disqualification; but he went further in trying to divide the functions of the Committee into those of an advisory nature and those of a committee which is other than advisory. Again, under clause 4, sub-clause (b), there is also the question of office of Chairman, director, member and officer of a statutory body, where the power of appointment is vested in the Government. There again, I am inclined to agree if clause 4, sub-clause (b) is as extensive as it is. I am inclined to agree with the Government, even if they had unwittingly created a situation whereby Members of Parliament are no longer allowed to be on statutory bodies. I would agree that Members of Parliament could not be directors of limited companies which are created by the Government or statutory bodies which are created by them.

SHRI S. N. DWIVEDY (Orissa): Or receiving help from the Government.

SHRI C. G. K. REDDY: So, I would like to ask the Government whether they have thoroughly examined the principle involved in this Bill in making Members disqualified by serving on this committee or that. Sir, with regard to statutory bodies like the Madras Port Trust and the Delhi Road Transport Authority, I would like to say that these have been going on not now but for a number of years. For a number of years Parliament has been represented on some of the statutory bodies, maybe as directors, maybe as trustees or maybe as other functionaries. Now, has the Government come to the conclusion that Members of Parliament should no longer be associated with

the statutory bodies? Because sub-clause (b) of clause 4 says:

"the offices of Chairman, director, member and officer of a statutory body, where the power to make any appointment to any such office or the power to remove any person therefrom is vested in the Government."

In all these cases, these 17 statutory bodies which have been listed by the hon. Minister and such other statutory bodies that may have been created by State Governments elsewhere, membership of those statutory bodies would mean disqualification under clause 4, sub-clause (b).

Therefore, I think that the House has not been able to give much attention to it. As I have already said, although the hon. Minister promised to give us the list long ago, I got it only just now, just when I started speaking. We have not been able to give our thought to the question whether certain bodies should be exempted or not, whether certain committees should be exempted or not and which committees come under which category. We have not come to any decision. And I do not think that even the Law Ministry has applied its mind because the list was not ready yesterday evening. If the list was not ready yesterday evening.....

SHRI C. C. BISWAS: The list was there but it was to be cyclostyled.

SHRI C. G. K. REDDY: I am pointing out to the hon. Minister that the list was ready but it was not in a condition to be shown to Members of Parliament because they were not sure themselves as to which committee comes under what.

SHRI C. C. BISWAS: The list was there and was prepared at the instance of the Ministry. Enquiries were made; the names of the committees and the names of the holders of the offices in those committees were all there.

SHRI C. G. K. REDDY: I have no complaint in regard to that even if it had come to us tomorrow. I am only pleading that we were not in a position to apply our mind and we cannot be expected to apply our mind here. And in view of the fact that the hon. Minister himself has said that it is not the Government's intention to classify these things, I would say that the Government must at least have an idea as to which committee comes under which class. If they do not even have that idea, then I would humbly suggest to the hon. Leader of the House, who only has the privilege of moving for reference to a Select Committee at any stage of the proceedings, I should ask him, in view of this and in view of the very fundamental issue involved where we may be doing something rather hastily which we would regret later on, to refer this to a committee so that we may take a couple of days. I do not suggest that this Bill should be put in cold storage till the next session. We can go into it in two days and we can ask that committee to report within two days. And two days would be adequate to apply our mind to it. At least we would be in a better position to come to a conclusion two days later than we are at the present moment. I have moved certain amendments to see that the position of certain committees and statutory bodies would not be very much affected.

I have moved an amendment deleting clause 4 and including those two categories also under clause 3. Although I tend to agree that Members of Parliament should not serve on these bodies, in spite of that I have given this amendment. I want to see that the *status quo* is maintained until such time as we can think about it deeply and then come to a conclusion. But if we try to pass the Bill as it is, including clause 4, that would mean shutting out these committees. Therefore, Sir, if the hon. Minister does not want to refer the matter to a committee where we

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can discuss it in a fuller manner and with all its consequences, I would request him at least to maintain the *status quo*. Let it be as it is for the next three or four months, and after three or four months a Bill can be introduced whereby we can do this and we can examine certain statutory bodies or certain committees where the membership of Parliament may be taken advantage of or may become slightly coloured which is the purpose of disqualification and we can come to a conclusion and pass the Bill ultimately.

SHRI B. M. GUPTE (Bombay): I want to suggest the same point which was just hinted by my friend there. It is evident from the definition of "Committee" that members of State committees are not protected under the Bill. And I do not see why Members of Parliament who are also members of committees appointed by State Governments should not be protected. As far as article 102 of the Constitution is concerned, the Members are disqualified if they hold offices of profit not only under the Central Government, but under the State Governments also. Now therefore this is particularly hard on the Members of this House because the Members of this House represent the States, and naturally they are expected to keep in contact with the activities of the State Governments they represent. But they are denied an opportunity to do so. I therefore submit that necessary amendment should be made here. I am sorry I could not send any amendment in time but my appeal to the hon. Minister is that he should move an amendment himself to that effect, and it can be easily done. Therefore, Sir, I submit that this protection should be extended in relation to the State committees as well.

SHRI B. RATH (Orissa): Sir, I will not repeat the argument advanced by Mr. Gupte. But as I read through

the clauses, I find that the offices of the Deputy Chief Whips in Parliament are included as not disqualifying their holders for being Members of Parliament. I do not understand why these persons have been included here. As far as I know, the Deputy Chief Whips do not get any compensatory allowance, and as such, unless the Government feels that they should get this allowance after this Bill is passed, I do not see any reason why this should be here. Also while considering this question, we have to consider whether this Prevention of Disqualification Bill, as it is presented, should be all comprehensive or not. Now, Sir, we know that there are certain parliamentary committees with which the Members of Parliament only are associated. There are some other statutory committees in which Parli-
3 P.M. ment is given representation and also there are advisory committees set up by Government in which sometimes, if the Government so desires, it takes in Members of Parliament. It is but natural for us to consider the question as to how far Members of Parliament should be taken into all such bodies—parliamentary committees or statutory bodies—in which Parliament has concurred that it must have representation. I feel that, if we allow Members of Parliament to become members of all such committees, commissions, advisory bodies and this and that, in which they may get some compensatory allowances in order to recoup any expenditure that they might incur in connection with those offices, then we arrive at such a position that Members of Parliament may be associated with any number of committees and as such sometimes they will get involved in so many ways with such institutions that the impartiality of the Members of Parliament may not be maintained. Under such circumstances, I feel that there must be some restriction on the Members of Parliament in joining all sorts of committees, whether they are executive or advi-

sory or whatever they may be. We have seen that during these few years, when such occasions have arisen, Government has come forward with specific Bills requiring certain offices to be declared as not offices of profit entailing disqualification of Members if they accept such posts. We have now so many Disqualification Removal Acts, but this Bill is so vague and so wide that, unless the Minister concerned brings in specific items and brings in specific persons, it is very difficult for us to agree to such a vague and wide and general Bill which might be taken advantage of by Government to satisfy some of the Members of Parliament and—I will not use the word ‘corrupt’—at least make them feel obliged to the Government and forget their independent stand with respect to certain issues about which they might be holding some other opinions. Therefore, I feel that this question must be properly examined, and as the Bill is worded now, it has very wide scope and as such it may create opportunities for corrupting the Members of Parliament which Members of Parliament never desire.

Then coming to the offices of the Vice-Chancellors of universities, we know that in a number of universities, the office of the Vice-Chancellor is a salaried post. I know that the Vice-Chancellorship in my university is a salaried post.

PRINCIPAL DEVAPRASAD GHOSH (West Bengal): In most of the universities.

SHRI B. RATH: In the Calcutta University they have made it a salaried post. In most of the universities, the Vice-Chancellor’s office is a salaried one. Why do you make a distinction between Vice-Chancellors and Vice-Chancellors? And why should we allow these Vice-Chancellors to become Members of Parlia-

ment? They hold charge of responsible institutions in which they have to work whole-time. I think it is a matter for consideration whether we should make Vice-Chancellors also Members of Parliament. Then they could do justice neither to the university nor to their work as Members of Parliament. Of course, I know that Vice-Chancellors are persons of the highest merit and hold their offices because of that. When their offices are salaried, I think their becoming Members of Parliament is not desirable. Under such circumstances, I feel that this Bill as it has been moved should be recast and it must be made specific and all aspects of the question must be taken into consideration before the Law Minister places it before this House for adoption.

SHRI B. K. P. SINHA: Sir, I entirely agree with the speakers who have preceded me that the amount of careful thought, planning and prior consultation that should have gone into the framing of this Bill, is not there. We do not know the magnitude of the problem. I feel that the Law Ministry should have had some consultations with the Government, the Members of the two Houses, the State Governments and the State Legislative Assemblies and Councils. It is only after such consultations that they would have been able to gauge the extent and the exact nature of the problem. I am afraid that without doing all that, simply on their own initiative, on their own impulses as it were, they have drafted this Bill which does not serve the purpose and is therefore defective in various respects. The first question to be decided in this connection is: What are the type of bodies, the membership of which will not entail disqualification. That is a question that should have been decided after careful thought and consultation before this Bill was drafted. The second question is: What should be the extent and the amount of the remuneration that would not disqualify a Member? It

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is only after these points had been decided and after due deliberation, that in the light of those decisions, this Bill should have been drafted. Nothing like that has been done in this case. Therefore, I fail to discover any principle in this Bill. As Mr. Rath has rightly pointed out, this question has to be looked at from the point of view primarily of the independence of the Members of the two Houses of Parliament. If we make exceptions in favour of Members holding offices of profit in all sorts of cases, then we are in for bad days. As it is, the rigidity of the party system has to a great extent destroyed the independence of the Members.

MR. CHAIRMAN: He means both sides.

SHRI K. S. HEGDE: Both Mr. Mazumdar and Mr. Rath agree.

SHRI B. K. P. SINHA: If these inducements were added to the rigidity of the party system, Parliament would lose all independence. Therefore I feel that latitude given to the Members in this respect should not be very wide. The scope should be very limited. It is only when it is considered very very essential in the interest of the nation that a Member should be allowed to hold an office which is considered to be an office of profit and if he does hold it, then in that case the remuneration should not be very high. The hon. Law Minister has tried to control the remuneration in this Bill but I find that he has failed. He says that only those who get a remuneration which does not exceed the compensatory allowance shall not be disqualified. Well and good. But the compensatory allowance is made up of 4 allowances—travelling allowance, daily allowance, conveyance allowance and house rent allowance. Out of these four, he has defined only one—daily allowance. Suppose an evil-minded Government—I don't mean this Government, this is a very fair-minded Govern-

ment and such Governments you are not going to have—maybe, in future.

SHRI S. N. DWIVEDY: Mutual admiration.

SHRI B. K. P. SINHA: Suppose there is an evil-minded Government whose existence hangs seriously in the balance and if it wants to lure a few Members of the Opposition; that can be easily manoeuvred.....

SHRI S. N. MAZUMDAR (West Bengal): No.

SHRI B. K. P. SINHA: The Government appoints them to some committees. Only daily allowance is controlled.

SHRI B. C. GHOSE: As the Congress Governments in all the States are doing.

SHRI B. K. P. SINHA: Worse days may come.

SHRI K. S. HEGDE: If others are not defined, the Election Tribunals or the Commissioners have got the right to consider what exactly is the proper thing. That is the existing law on the subject.

SHRI B. K. P. SINHA: That may be the existing law.

SHRI K. S. HEGDE: We are not changing the law at all.

SHRI B. K. P. SINHA: No. I think Mr. Hegde is absolutely wrong. He may read line 9 which says: "Compensatory allowance" means such sum of money as the Government may determine, and nothing is left for the Election Tribunal or the Election Commissioner or the Supreme Court.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI K. S. HEGDE: It says:

" 'Compensatory allowance' means such sum of money as the Government may determine as being payable to the Chairman or any other

member of a Committee by way of travelling allowance, daily allowance, conveyance allowance or house rent allowance for the purpose of enabling the Chairman or other member to recoup any expenditure, etc."

It was only for that purpose.

SHRI B. K. P. SINHA: The purpose is there. It may be for that purpose only but a Government may say "All right for travelling allowance we give every man ten First Class fares". The Government will be perfectly entitled under this clause 2(b) to allow that remuneration or that travelling allowance. As house rent they may give Rs. 500 or Rs. 1,000 unnecessarily. That means the Government have the power to raise the allowances, under the provisions of this Bill, to a level which may be very alluring and which may win over some Members who are wavering in their support of the Government.

SHRI C. G. K. REDDY: Quite right.

SHRI B. K. P. SINHA: In that sense this Bill, I feel, is defective. Then the office of the Vice-Chancellors—I don't know on what basis—have been excluded from the operation of disqualification. I think Mr. Rath has rightly pointed out that the offices of the Vice-Chancellors are very important offices and are now held by very important people and most of them are paid offices, because they have a pretty lot of work to do. In that case they are expected to be whole-time offices. So to expect them to be Members of Parliament as well as to discharge their duties efficiently as Vice-Chancellors is preposterous, in my opinion. They cannot do the two things at the same time and they should not be allowed to do so. In the United Kingdom, it is not only an office of profit that operates as a disqualification for Membership. Before the Act of 1707, which made offices of profit a disqualification, was passed, the House could disqualify from Mem-

bership certain Members who held certain posts like those of Ambassadors or Judges.

SHRI K. S. HEGDE: Ambassadors are not still excluded, even in the current law. That is what May says.

MR. DEPUTY CHAIRMAN: Let him continue.

SHRI B. K. P. SINHA: The holding of some offices, which operated as a sort of disability on Members attending the Houses, operated as a disqualification. Parliament as it were, acted in this respect as a very jealous mistress. They said, "If you are in Parliament, Parliament should be your only love. You should have no other love. You should have no such duties as will take you away from Parliament and may deprive Parliament of your valued advice." That is one of the grounds of disqualification and I think on that ground—the Ambassadors may not be there or particular offices may not be there, but this general ground of disqualification was there—on that ground many people holding such offices were disqualified in the past. So it is not only a question of profit. It is a question of doing something which is not compatible with the effective discharge of one's duty in Parliament. Looked at from that point of view, it should be a disqualification. It is a disqualification in England, and it should be a disqualification here but then in our case.....

SHRI B. B. SHARMA (Uttar Pradesh): Does my friend want that Vice-Chancellors should not be exempted from the operation of this Bill?

SHRI B. K. P. SINHA: I want that. In this case an additional complication is introduced by the Vice-Chancellors being mostly paid whole-time officers of the university. I can tell you of one university. That university has the distinction of sending two professors to this House. They are Members of this House. One of them,

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after she became a Member, was deprived of her professorship. The reason given was that she could not be both in Parliament and in her college, she could not effectively discharge both the duties, and therefore her services were terminated. Another eminent Member of this House was a professor. He resigned before he fought election, for then the Government were controlling that university. He then sought re-appointment after the university had become an autonomous body and he has not been re-appointed on the ground that he cannot be in the House and at the same time be a lecturer. But you will be amazed and surprised to learn that the Vice-Chancellor of that very university is a Member of this Parliament. That is a paid post and he gets a fat salary. He has a free house, a free motor car and so many amenities. For the professors there is one rule and for the Vice-Chancellor there is another rule and we are giving legal approval and sanction to that vicious discrimination by this Bill. I think there should be a principle. If the Vice-Chancellors are people of learning, their proper field is education, their proper field is not this or that House. They are more useful to the nation as Vice-Chancellors than as Members of Parliament and they have to choose to elect whether they should be here and give us their valued advice or they should confine themselves to their universities and give their valued advice and the benefit of their learning to the students and others. They cannot be at the same time in both the places.

Again I find that the wording is rather vague. It has been rightly pointed out by my friend Mr. Hegde that the word "advisory" is rather vague and then there are certain committees which are partially advisory and partially executive. You are leaving everything to the interpretation of the Election Commissioner or in some cases to the Supreme Court, and no Member can feel safe or feel sure in such a contingency. I find

from the list enumerated by the Law Minister that the Madras Port Trust is already there. As for the Industrial Finance Corporation, its duties are partially advisory and partially executive. So with the Rehabilitation Finance Administration and then the Employees' State Insurance Corporation, the Sindri Fertilizer and Chemicals Limited. They are all partially advisory and substantially executive bodies. We have to decide beforehand whether we would like our Members to be members of these bodies or not. If you decide that they should not be there, the provision should be very clear. If you decide that they should be there, then the provision should be in conformity with that decision.

Moreover, this term "public importance" is a very vague term. You know how many legal controversies this word "public" has given birth to. Sometimes the courts take one view and sometimes the courts take another view. Therefore, in this respect also, the Bill is a bit vague. I feel that it is too late now to urge that the Bill may be withdrawn and we should give our assent to this Bill. But at the same time, I feel that after mature deliberations

SHRI RAJAGOPAL NAIDU (Madras): Come with an amending Bill afterwards?

SHRI B. K. P. SINHA: No. After mature deliberations and after consultations with the State Governments and the State Legislatures and Members of Parliament, a Bill in general terms has to be introduced and passed. That has always been the demand, Sir, in England. In England whenever it is discovered that Members have been disqualified, there is an indemnifying Bill or a Bill for removal of disqualifications. Every time such a measure is introduced, the Members put forth the demand that there should be a general measure, in general terms so that a Member may know in advance what will entail a disqualification.

MR. DEPUTY CHAIRMAN. Was there any such Bill?

SHRI B. K. P. SINHA: There was no such Bill, because of the pressure of business.

SHRI K. S. HEGDE: Nowhere does the English law define the term "office of profit."

SHRI B. K. P. SINHA: But every time such a measure is brought this demand is put forward and the Attorney General who is in charge of such Bills makes the declaration that very shortly he would be introducing a Bill of that kind. But I find from the debates and the proceedings there, that that promise has never been implemented. But I do not see why we should follow the British precedent in this respect. That precedent is not binding on us. We should develop our own precedents and we should have our own way of working and it is not impossible to draft a measure in general terms.

Sir, that is all that I have to say.

SHRI RAJAGOPAL NAIDU. Mr. Deputy Chairman, this is a very important Bill in the sense that almost every one of the Members of Parliament are members of some committee or the other, whether a committee constituted by the Central Government or the State Governments. So it is natural that when a Bill of this sort is being moved, Members of Parliament should have been taken into confidence by constituting a select committee so that Members could have given their opinions as to what kind of a committee would disqualify a particular member and what committee would not disqualify him. Sir, there were two Bills of this kind before, as the hon. Law Minister pointed out, in which specifically it was mentioned what were the offices that would not disqualify the Members. Sir, as the previous speaker had rightly pointed out, under article 102 of the Constitution, it is clearly stated that a person shall be disqualified for being chosen as a member, if he

satisfies certain conditions, and these are given. The law passed on the two previous occasions declared that certain offices are exempt from them. For instance, the offices of the Deputy Ministers, Parliamentary Secretaries, Deputy Parliamentary Secretaries and so on. The Constitution does provide under article 102 that so far as Ministers of the Government of India and the Ministers of the Government of any State are concerned, for the purpose of article 102, they shall not be deemed to hold offices of profit. What we are concerned in a Bill of this kind is this. Certain offices are being mentioned, which would not be deemed as offices of profit, that is to say, "the offices of Chairman and members 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;".

Sir, this will all mean that it is the tribunal or it is the law court that will have to ultimately interpret what is a compensatory allowance. Of course, though "compensatory allowance" is defined, whether the particular incumbent, whether the Chairman of a particular committee, or a member of a committee is drawing compensatory allowance or any other allowance, whether the particular committee is an advisory body or whether it discharges executive functions, all these things will have to be gone into. So I would suggest that it would be better to mention specifically in the Bill itself, that the following offices would not amount to offices of profit within the meaning of article 102 of the Constitution. Instead of doing that, to bring a Bill of general nature and leave it to the tribunals and law courts to decide would certainly work great hardship. It is stated that with

[Shri Rajagopal Naidu.]
regard to daily allowance, if a Member of Parliament draws anything more than Rs. 40 as daily allowance certainly he would be deemed to hold an office of profit. Also, if a Member of Parliament draws anything more than Rs. 20 for attending meetings of the committee then of course, it would amount to an office of profit. For instance, there are certain Members of Parliament who are sent to foreign countries on delegations. Suppose they draw more than Rs. 20 a day.....

SHRI B. K. P. SINHA. Which they often do.

SHRI RAJAGOPAL NAIDU:..... would that amount to holding an office of profit? In the very Constitution it is provided in article 106 that Members of Parliament are entitled to receive such salaries and allowances as may be decided by Parliament by law. And until this is done they are entitled to draw the salary and allowances that the members of the Constituent Assembly had been drawing. So when the Constitution itself provides that Members of Parliament are entitled to such allowances and salary as are prescribed by law by Parliament, I cannot understand how they could prescribe a limit properly and say that if the Member draws anything more than that amount, it will amount to an office of profit.

SHRI K. S. HEGDE: On a point of information, may I ask if membership of Parliament is an office appointed by the Government of India or the State Government?

SHRI RAJAGOPAL NAIDU: My hon. friend Shri Hegde has rightly raised this point. In fact I was about to come to it myself. I feel surprised how Members of Parliament can be included in this Bill with regard to daily allowances and with regard to the amounts that they are entitled to draw when they serve on the committees. All these things will have to be gone into and my own opinion is

that much thought has not been given by the legal Department when drafting this Bill.

I feel that this Bill has been put before us without much thought and without taking the opinion of the Members of the House.

Then, Sir, as has been rightly pointed out by very many Members the office of Vice-Chancellor should not have been included. We find that in clause 3 certain offices are specified as offices that are not offices of profit. Sir, there are certain universities which are autonomous bodies but even there it is the Chancellor—so far, at any rate, as Madras is concerned—who puts up a panel of names and leaves it to the Senate to elect any one from the panel. The Vice-Chancellor is paid a very fat amount and he has got all the powers and privileges and it would therefore be dangerous, Sir, to exempt the office of Vice-Chancellor from the list of offices of profit. There are certain universities which are directly controlled by the Central Government. I cannot understand, Sir, how even these Vice-Chancellors can be exempt. There is some meaning in saying that the office of Vice-Chancellor in certain universities which are autonomous bodies should not be called as office of profit but it will be certainly ridiculous to call the office of Vice-Chancellor of a university which is directly controlled by the Central Government as an office not of profit. There are certain Vice-Chancellors who are acting in an honorary capacity. I know, for instance, in a particular university in the South, namely the Annamalai University, where the office of the Vice-Chancellor is an honorary post. It may be, that they may not have any pecuniary advantage but taking into account the enormous power that they wield and the amount of time that they have to devote if they want to discharge their duties properly as Vice-Chancellors, I am sure, Sir, that for this consideration, this sub-clause (b) of clause 3, namely, the office of Vice-Chancellor of a university, should be deleted. I had

tabled an amendment to that effect also and Members both from this side as well as that side have spoken for it. I am yet to see anybody speaking against it.

Then, Sir, it is very difficult to make a distinction between executive committees and advisory committees. A list has been given just now, the list of Statutory Bodies and Committees set up by the Government of India. Sir, it will be very difficult, if one goes through this, to find out what is an advisory body and what is not. It may be that a statutory body may be advisory in character and it may be that a statutory body would have to discharge certain executive functions also. For instance, Sir, take this Industrial Finance Corporation of India. Any Member of Parliament if he finds a place in that particular committee certainly will have enormous powers, and likewise there are so many other committees. So, all these things will have to be taken into account and I would earnestly appeal to the mover of this Bill, the hon. Law Minister, to consider once again whether it is not proper even at this stage that the Bill be referred to a Select Committee so that the opinion of all the Members of the House may be taken into consideration before we finally decide about this Bill.

Once again, I would say, Sir, that it is always safe to say: One, two, three, four, five, six, that these are the offices that would not be offices of profit instead of bringing in a Bill of this kind and leaving it to the Election Tribunals and law courts to decide what is an office of profit and what is not an office of profit.

PRINCIPAL DEVAPRASAD GHOSH: Mr. Deputy Chairman, I was very glad that an hon. Member from Bihar, Mr. Sinha, has seen fit to draw attention to the fundamentals of the principle which led to the introduction of these conditions for disqualification. It has been very well that

attention has been drawn to the fundamentals. What is really the reason why some conditions for disqualification have been at all introduced not merely in our Constitution but in all democratic constitutions in so far as membership of Parliament and of other Legislatures is concerned? The reason is simply this: That the impartiality, the integrity of Members of Legislatures or of Parliament should not be impugned or even should not be capable of suspicion in any respect. That is to say, if the Government can allow Members to come into the Legislature and, at the same time, enjoy offices of profit at the disposal of the Government then naturally one would feel that the impartiality of the Member in question will not be above suspicion. Otherwise, if that principle is given the go-by, then there is really no reason why even full-fledged Government servants drawing salaries—high or low—should be disqualified. After all, it is a fact that the presence of such officers in Parliament would be of great value, because they have got vast administrative experience; but, because of the disqualification clause, the Legislatures are deprived of the benefit of very valuable advice from these administrative officers. So, all democracies have seen fit to impose these disqualifications for this particular reason that Members of Legislatures should be absolutely independent and free and not be amenable to any sort of influence or any sort of undue pressure exercised on behalf of the Government in existence. From that point of view, it is clear that there is justification for this disqualification clause in the Constitution that any person holding any office of profit at the disposal of Government should not be allowed to either stand for the Legislature or be elected to the Legislature. From that point of view, it is really undesirable that attempts should be made to throw open practically all sorts of bodies, statutory bodies, both of an advisory and of an executive character, to Members of Parliament and Members

[Principal Devaprasad Ghosh]
of the Legislatures. Of course the argument that has been put forward in the Statement of Objects and Reasons is this "It is felt"—I read from the Statement of Objects and Reasons—"that it is expedient in the larger interests of the country to continue to appoint Members of Parliament to certain offices and it is necessary to remove the disqualification, if any, attaching to such offices." That may be so; that is one side of the question, but if it is expedient in the larger interests of the country to associate Members of Parliament or Members of other Legislatures with certain very important statutory bodies it is equally, if not more, desirable in the interests of the purity and independence of Members of the Legislatures to see that their *bona fides* may not be subject to any sort of question, any sort of suspicion, because of their being in receipt of emoluments attaching to these offices. May I suggest one thing? It would, of course, be a self-denying ordinance to Members of Legislatures appointed to committees and bodies in this manner. Members of Parliament may be allowed, Members of other Legislatures may be allowed, in the larger interests of the country, as the Statement of Objects and Reasons sets out, to become members of very important bodies, whether of an advisory or of an executive character, if a condition is laid down that no sort of fee, no sort of remuneration, no sort of compensatory allowance either in the shape of travelling allowance or daily allowance, or otherwise be drawn by the Members of the Legislatures appointed as members of these particular bodies. If that is done then that might at least remove some part of that air of suspicion that would otherwise be cast. Of course it might be said that there are certain executive bodies with executive powers, and that even without any allowances there is sufficient power and patronage attached to these bodies which might influence a Member of Parliament, still I am ready to concede that point, if it

is definitely laid down, as it has been laid down to some extent in the proviso to clause 3 that no fees, remunerations or allowances could be drawn. With that end in view, I would suggest a change in the wording of the said proviso, and that is, to substitute 'or compensatory allowance' for 'other than compensatory allowance', as now appears in the proviso. If it is done this way then it might go some way towards removing that stigma of suspicion that might otherwise attach. As to the other point, that the distinction between bodies which are of an executive character and bodies which are merely advisory is so very thin in practice that it is difficult to determine where the advisory character ends and the executive character begins, I agree with what many of my hon friends have stated, and I would say that the distinction is more or less of a very haphazard nature and if a distinction is at all to be made and if a list is at all to be drawn up, that list should be drawn up with much greater care and circumspection and discussed with the Members of the House. One other point I should like to raise—and in that also I am glad to find that I have the support of many hon Members both on this side and on the other—and that is with reference to the office of the Vice-Chancellor and the proposed exemption from disqualifications for this office. As many of my hon. friends have pointed out, the office of the Vice-Chancellor, as it now stands, is a very onerous office and in most cases it is now a salaried office. I can more particularly mention the Calcutta University where, right up to the present Calcutta University Act, the office had been an honorary office, and of course, many very distinguished citizens have had the honorary office and thrown lustre on the office itself. But under the present Act the office is a salaried office, and in most of the new universities that have been created in recent years the office is a salaried office. Apart from the question of salary the office carries a good deal

of power and patronage and it is a whole-time office, that is to say, it engrosses or at least ought to engross more than the ordinary energy of an average individual. It is an office which entails whole day work, and it requires all-day attention. I might even go further and say that sometimes this office calls for night attention also, when our student population takes it into its head to enforce a sort of all-night holdup or internment not merely of the Vice-Chancellor but of the entire body of the syndicate. Things have come to such a pass at least in Calcutta, and possibly in some other places also, that the Vice-Chancellor and the syndicate as a whole have been held up for the whole night. Anyway, even that may be looked upon as a passing phase of our student freaks, but the fact remains that the Vice-Chancellor's post is an office with a very great responsibility, practically almost beyond the exertions of an ordinary man with average strength and intelligence; and it certainly does stand to reason, as many of my hon. friends have pointed out, that a person who is engaged in an office carrying such onerous responsibilities, that he should devote himself entirely to that office, and he should not be called upon to divide his energies, his time and his attention between the Parliament or the Legislature on the one side and the university on the other, because the university, as it is at present constituted, constitutes a very heavy charge. It requires undivided attention and undivided application and diligence on the part of even a very highly gifted individual and hence the office of the Vice-Chancellor should not be exempted from disqualifications. I have nothing further to add except to commend the suggestion that has been made by my hon. friend, Shri C. G. K. Reddy and repeated by some other Members also, that it would be better if even at this stage the Bill be referred to a Select Committee where all these questions could be fully discussed. I would appeal to the Law Minister to

see if that suggestion can be acceded to.

SHRI RAMA RAO (Andhra): Mr. Deputy Chairman, I do not remember any Bill in this House that has received such a chilling reception as this. There have been more speeches opposing it on our benches than on the other. Naturally enough, because we are discussing a question that vitally affects the making of our Parliaments in future and also the high character and the vital functioning of democratic institutions. I would suggest that it should be thought over again. There are several special reasons: (1) The inadequacy of the measure; (2) the confusion it has already caused; (3) the need to consult the other House; (4) the need to consult the States and also the Members of the State Legislatures, and (5) the need to consult the country, because there were far too many casualties on technical grounds at the general election. Even the worst fellow who lost his deposit has a right to be heard on the subject.

Sir, what is "office of profit"? There has been a regular lawyers' battle here. I tried to follow it. I hold that the phrase "office of profit" is as difficult to define as that metaphysical abstraction, namely, the existence of the deity or the qualities of the deity. My friend Mr. Rajagopal Naidu has suggested schedules, categories, etc. etc. for this purpose. All the negative description that is being suggested could not amount to a positive description or an affirmative mandate to the Election Commission.

SHRI RAJAGOPAL NAIDU: We have done it in the past.

SHRI RAMA RAO: There were errors in the election law. I was surprised when Dr. John Mathai's nomination was thrown out by the Returning Officer and the Travancore High Court upheld the rejection, which was on the ground that he was connected with a firm that was receiving Gov-

[Shri Rama Rao.]

ernment contracts or had fiduciary relations with the Government. Now, where public men sponsor private projects and where they do not, becomes a difficult matter to determine. Are you sure, when we pass this legislation, that there will not be similar trouble at the next general elections? I am not.

Does clause 3 of this Bill represent all the wisdom we have been able to gather from the elections that were held? On what grounds were nominations rejected? On what grounds were elections set aside subsequently even when nominations had been accepted? Have you tabulated them properly, drawn the necessary conclusions and formulated the proper line of action for the future? I fear it has not been done; therefore I feel that this Bill does not give me that amount of satisfaction which I, as a Member of this House, have a right to expect. I am tempted to agree with my friend, Shri C. G. K. Reddy, that if there is going to be no Joint Select Committee, at least his amendments might be accepted. That would make the chances of the candidates to avoid troubles brighter and more numerous, and it would also make the work of the election authorities reasonable and easy.

Distinctions have been drawn between committees 'temporary' and 'permanent' and 'executive' and 'advisory', and 'validation retrospective' and 'prospective'. It has all meant only more confusion. A normal feature of legislation is to give a straight lead and not to finesse. This feature is missing here. I would find it difficult to accept any public work where some sort of Government help may be necessary, if I feel that as a result of my accepting a public responsibility I am likely to lose my membership of Parliament.

It appears to me, Mr. Deputy Chairman, that we can proceed safely along three lines. We can definitely say that Government servants cannot sit

in the legislatures, that is, those who draw a salary from the Government. We can say, as we have said in this Bill, that those non-official Members of Parliament, Assemblies and Councils, who draw compensatory allowance as described here will be exempted. But I would suggest that a large territory in between should also be covered in the interests of democratic purity. And that is to keep out those who are connected with large interests that depend on Government support direct or indirect and who try to capture legislative seats in the interests of their sectional advancement. I wonder whether the Bill as it is drafted is going to keep out those anti-social elements.

The object of a measure of this kind is to put down corruption, electoral or otherwise, and to preserve the independence of legislators. We must gain by the experience of England where they had for a long time the "King's Party" to defeat the "People's Party". Walpole's famous maxims are known to all: "Let sleeping dogs lie" and "Every man has a price". They in England were so afraid about losing parliamentary purity that even during the middle of the first World War Mr. Austen Chamberlain had to resign his seat in the House of Commons when he accepted office and seek re-election, just because it was the rule of the day that one who accepted office, having become a King's man, must seek the opinion of the electorate on the change. That has now been dropped.

However, good for us it may be to copy English examples and models, there would always be considerable difficulty in adapting them to our conditions. Let us see. We call ourselves a Welfare State. We are a new democracy. We have traditions of voluntary service which must be preserved, as typified by the experiences and the history of the Indian National Congress. Any legislation of the kind now under discussion must take full notice of the conditions in which we are working. A Congressman who is connected with an institution seeking Government help must not be preven-

ted from coming to Parliament simply because he is connected with a social service or a public utility institution. This requires again a thoughtful reconsideration of the various related problems with which we are beset.

When we are legislating on this subject, we have the experiences of other countries to go by, but we must not forget that the various trends and tendencies at work in this country are opposed to each other. On the one side, as I have said, we have got a tradition of voluntary service that must be preserved; on the other, a new and dangerous element is entering into the public life, that is, the capture of power by vested interests. I believe that at the last general elections several lakhs of rupees were spent by rich people to sponsor the candidatures of their stooges. Fortunately, the good sense and the morality of the common man rejected those stooges. But you never can tell what may happen. Therefore, we have got to make the law stiffer, stronger and sounder. If we are to do that, let us give the best possible reconstruction to this measure.

SHRI KISHEN CHAND (Hyderabad):

Mr. Deputy Chairman, when we are considering this Bill it should be considered not from any party point of view but in the best interests of democracy in our country. In a democracy like ours with a written Constitution, we cannot follow the example of Britain. They have an unwritten constitution and they have most of their procedure guided by conventions. Even there, there is a restriction that any office of profit will deprive a person from becoming a Member of Parliament. The whole trouble arises when we have to define 'office of profit'. In England, even the number of Ministers is restricted; the number of Parliamentary Secretaries is restricted. We have seen, Sir, that in our country certain legislatures have abused that right. In a small State like PEPSU with only 60 Members they have had 7 or 8 ministerships and then minis-

terships were offered to persons who crossed the floor. Therefore, we have got to be very careful that no temptation is placed before a Member to change his opinion or to support the Government. I find, Sir, that if we read this Bill, clause 3 is fairly clear; I do not see any ambiguity in it. The principal part of clause 3 is (a) which says: "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 inquiry into, or collecting statistics in respect of, any such matter." The idea is that any such committee will not have any executive or administrative authority. Hon. Members will ask—'Can we find out from these committees any committee which is purely advisory?' I submit, Sir, the very first two names—the Central Advisory Board of Archaeology, set up under a resolution, and the Central Advisory Board of Education, also set up under a resolution—both these committees are undoubtedly advisory committees. The second one advises the Government on matters of policy about secondary education. These two committees are clearly advisory committees. Similarly, the Government can set up an inquiry committee for collecting statistics. For instance, as the Government wants to become a Welfare State, they may like to find the distribution of income in the various strata of society. That would be entirely an inquiry committee collecting statistics. Similarly, other committees can be set up. So the underlying idea seems to be that committees which are advisory in nature or inquiry committees collecting statistics, as they do not have any executive or administrative authority, should be exempt from disqualification and membership of such committees should not debar them from becoming Members of Parliament. Of course, we must compare clause 3 and clause 4. Clause 4(a) pertains to committees which are not

[Shri Kishen Chand]

advisory committees or for the purpose of collecting statistics, but which are committees with certain administrative and executive authority. For instance, there are regional committees set up under the Employment Provident Fund Scheme, Faridabad Development Board, Indian Sugarcane Committee, the Governing Body of the Training Ship 'Dufferin'.

4 P.M. Sir, these are committees wherein a certain executive or administrative authority is vested. Therefore, clause 4 of this Bill wants to make a distinction from clause 3 and it is clearly stated in clause 4(a) that

"the offices of Chairman and member of a Committee other than any such Committee as is referred to in clause (a) of section 3"

So, clause (a) of section 4 and clause (a) of section 3 really constitute all the committees, some come under 3 (a) and others under 4 (a). The idea is that those that come under 3 (a) should not be debarred from membership, while those that come under 4 (a) should, eventually, be outside this Disqualification Removal Bill. As some Members of Parliament have become members of committees, and the Government did not realise their mistake before-hand so they have provided this "Removal of Disqualification Bill" for a temporary period up to March 1954. The Government should look into this matter carefully and decide which committees come under 3 (a) and which come under 4 (a). I think Government will come to the conclusion that committees which come under 4 (a) should not enjoy this "Removal of disqualification" and that in future, membership should not be open to Members of Parliament on these committees.

Then, in regard to 4(b), it is absolutely clear that it is for statutory bodies. I submit, Sir, that no Member of Parliament should be a member of these statutory bodies. These statutory bodies have very large ad-

ministrative and executive authority. We are slowly adopting a policy of nationalisation of industry and it is possible that in years to come the Government may own 300 or 400 factories. The Government may have 300 or 400 statutory bodies registered under the Companies Act as private companies. If hon. Members of Parliament are appointed directors of such companies it is possible that all the 700 Members may become directors of one board or another. Is it right, Sir, that this Parliament which controls all executive action should have most of its Members as members of these statutory boards and committees? Sir, I submit that it is the very negation of democracy. In a democracy, the legislature must always control Ministers, must control executive authority. By statute we have exempted the Ministers declaring their office as not an office of profit. I would go a step further and say that the number of Ministers should be restricted, so that the Government may not offer a temptation to any Member. It is very clear that this clause 4 (a) and 4 (b) is only a temporary removal of disqualification and I am quite sure that subsequently Government will come forward with a clear statement that all the members of these statutory bodies should resign from these bodies if they want to be Members of Parliament.

Then, I come to section 3 (b), (c) and (d). Already several Members have pointed out that the offices of Vice-Chancellors of universities should continue as ~~statutory~~ qualification. Sir, Vice-Chancellors have normally to work for about 10 hours a day and 30 days a month, it is not possible for a Vice-Chancellor to attend to his parliamentary duties. Although some Vice-Chancellors may not have any objection, even after their strenuous work at the university to accept to work as Members of Parliament, either the one or the other will suffer. After 10 hours a day and for 30 days a month, nobody can possibly attend to parliamentary

[Shri M. S. Ranawat.]

gress Party might have issued a confidential circular saying: "You also pass a Bill like this", and, as one party is ruling the country it may be presumed that the Congress Party will see that similar legislation is passed. But with the electorate which is not so educated or which is unable to understand such different pieces of legislation it may not be advisable. It is not good to have in Ajmer one set of disqualifications and another in Kishengarh. So the best thing would be that we should not make such general provisions. Then again, Sir, there is one thing about which we should be very very cautious. We have already made a promise that we will not draw more than Rs. 500. Mahatma Gandhi has laid down that standard of sacrifice. People in the country believe and every man in the village believes that these will be the elected people who will go to the legislatures to make a sacrifice for the country and not make money. Now slowly and slowly it seems that we are getting into a trap of temptation. Naturally, therefore, I am very doubtful, and it will reflect particularly on the Government party and the people will say and your opponents will straight-away say, "Oh, look here, they have opened a floodgate from where they can provide any favours to the Members of Parliament." And this will be the backdoor method of doing things. There may be so many committees and there may be so many favours. People hanker after such favours from Ministers. I can tell you, Sir, that the *lambardars* in the villages who are allowed only one per cent. or even half a per cent. of the revenue collected by them from the village, and who are the real representatives of the people in villages, have not been allowed to stand in the various elections to the legislatures. It has been decided that they cannot stand for elections because they hold an office of profit although they are the real leaders of the whole village community. All those people will now say: "Here you are, now

the offices of profit are being provided for the Members of Parliament." Therefore, Sir, I think, it is very necessary that we, as Members of Parliament, should be very very cautious about our own reputation. The whole country is already questioning our drawing Rs. 40 per day and the Ministers' drawing Rs. 2,000 per month. Already the people are angry about it. We have already got about 50 Ministers now. And this motive is bound to be imputed all over the country by the people that there is something fishy about it. It may be that probably the Government, at the present moment, do not mean it. But people are there to impute motives. Therefore, Sir, I would rather think that such Members who are disqualified under these circumstances, let them be thrown off and let them go for re-election. After all, what harm is there in having themselves re-elected? So many elected people, on account of the decisions of the Election Tribunals have to face the fresh elections for trifling mistakes. And you have not helped them. But here in this case you are so nervous that you think that even small things should be statutorily provided for. And it seems that the Government is so much in a hurry about it as if, if you do not pass this Bill today, half the number of Members will be disqualified for being Members of Parliament, and half the House will be empty. Is that the danger? Why can't you do it in a proper way? Let the Parliament Members think over it and thrash it out in a Select Committee and ask for legal opinion in the matter. Even if you pass this measure next year—I put a straight question to the Minister-in-charge. Is there any big danger that the whole Parliament or the Part C State legislatures will collapse and there will be no legislatures left in the country? Nothing like that is going to happen. I would therefore say, Sir, that the difficulty about the definition of the office of profit is already there. Then why do you want to make it more difficult by making it too general a clause? As a matter

of fact, when the question about the retired High Court Judges being appointed on other Government sponsored jobs came up, the House will remember the temper of the Members. Very senior Members of Parliament objected to that proposition. Similarly, if you are going to make this clause general and all-embracing, it will certainly create some sort of temptation for people. Of course, in this country there are crores and crores of people who look for even the smallest profits but at the same time there are many who do not care even for the biggest profits. So I request the hon. Minister that he should not press this Bill in this way. He is a very very considerate old man with great experience. I am sure that he will not rush through such an important piece of legislation which has the chance of reflecting on the Government party that they have passed such a measure for perhaps some fishy reasons or for giving some kind of favours to the Members at the hands of Government. The danger is more to the Government party, although it may be to the Opposition party also—to win them over—but all these dangers will not be there if you go slowly and cautiously. Sir, you will remember that some time back one Act was passed regarding ancient monuments. The monuments are scattered all over the country. In that case the Bill was not made general.

MR. DEPUTY CHAIRMAN: We are not dealing with monuments now.

SHRI M. S. RANAWAT: What I mean to say is, Sir, that there the Government does not mind the trouble of coming every time to Parliament for every small stone, but in this case the Government is making the measure so all-embracing that every possible office which the Government wants can be included in this Bill. Why make it so all-embracing? Things can be done in a more practical way.

SHRI S. BANERJEE (West Bengal): They are very generous in this matter.

SHRI M. S. RANAWAT: Maybe, but it gives rise to suspicion about their motives. As I said, the country at large, the man in the street everywhere is apt to question the motive of the Government. I was told that I go to Delhi because I get Rs. 40 per day here.

SHRI B. C. GHOSE: You are not worth Rs. 40 per day, is that it?

SHRI M. S. RANAWAT: That is what people think. In India people are so poor that they are apt to think like that.

PROF. G. RANGA (Andhra): It is all right for Ranas, Rajas and the industrial magnates to subsist on anything.

SHRI M. S. RANAWAT: What I was trying to explain was that our country is so poor that even a small sum would be considered a big sum by the general mass of the people, and therefore we should be careful in passing any such measure. I do not say your motive is bad; apparently it is innocent, but people are bound to suspect. The question of the Vice-Chancellors' office was raised, in which posts some people may be drawing Rs. 2,000 or Rs. 3,000 or even much more. That is why, Sir, I say that this should be referred to a committee for cool thinking. If necessary, submit it to the people at large for wider circulation and let more people give their opinion. And let us not come to any hasty decision.

DIWAN CHAMAN LALL (Punjab): Mr. Deputy Chairman, I think I am quite correct when I say that it is a long time since I heard a speech so full of wrong reasons in a right cause as the speech of the last speaker. I do not know whether he has even read the Bill which has been placed before us, and I certainly do not know whether he was making a mere political speech on this measure or a speech which might throw some light upon the various clauses of this Bill. When I said, that he has given wrong reasons in a right cause, what I meant was this: When hon. Members here asked for a little

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more time to digest this measure, there seemed to be unanimity in the House on that point. When for instance they asked specifically about the introduction of exemption for Vice-Chancellors, there again, on both sides there was unanimity. When in his speech my hon. friend was pleading for a little more time to consider this measure, when he asked the Law Minister to take a little more time to consider the opinions of the Members, which have been expressed here, there certainly he was pleading a right cause, but to say in the same breath that the heavens are going to fall on everybody in the country is really to talk without any sense of responsibility. What is this measure about? Let us be quite clear about it. This measure is a very simple one. The procedure in this Parliament is based upon the procedure of the House of Commons in England. Every Parliament of that nature has had measures of this kind presented to it for the purpose of clarifying the issues that arise from time to time in regard to the appointment of Members of Parliament to certain sinecures. If the Members of this hon. House have a knowledge of constitutional history, they will know that this is not a new matter. For four hundred years, this matter has been agitated in the British Parliament and after very great care and attention to these matters, that Parliament has come to certain conclusions, but the Parliament in England was forced into certain conclusions by the very nature of the history of that country. For instance, as hon. Members are aware, originally there was a conflict between the Parliament on the one side and the Crown on the other and that conflict crystallised itself into opposition to anything that the Crown wanted to do in order to exercise its influence upon the procedure and the working of the House of Commons. When Members of the House of Commons found that the Crown was interfering they took certain steps in order to prevent the

Crown from so interfering. There were three phases, according to constitutional history, in regard to this matter in the British House of Commons. The first phase was known as the privilege phase. Those who are familiar with May's "Parliamentary Practice" will readily realise what that particular privilege phase meant. It meant merely this that the House of Commons was exercising its right of privilege and preventing people from being nominated or being elected to the House of Commons who were not in a position to give their full time to the work of Parliament. That was the first phase of conflict between the Crown and Parliament. Here again, when it is suggested that Vice-Chancellors should be exempted from the provisions of this disqualification, my mind goes back to that particular phase in the British Parliament. If Vice-Chancellors are whole-time holders of their jobs, then obviously it becomes necessary to exclude a man of that type from parliamentary activities because he will neither be able to give any attention to his university job which is important, nor will he be able to do justice to his parliamentary work which is equally important.

The second phase in the British Parliament was known as the corruption phase, when offices were handed over by the Crown to the Members of Parliament in order to win the support of Members of Parliament for particular policies that the Crown wanted to adumbrate. Now, it is that phase that my hon. friend over there wants to refer to, but unfortunately it does not exist here. There is no question of winning over any particular Member to the Congress Party. The Party is so overwhelmingly in power that that question does not arise, and if any party, whether it is the Congress Party or any other Party, ever tries to do that, certainly public opinion will stop that. Let us not look at this matter with any sense of suspicion that this

is something being done for the benefit of a political party. Nothing of that nature is being attempted. What is being attempted is this: And now I shall come to the third phase that I referred to. All Governments are under the necessity of utilising such talent as they have for the purpose of the Government, and all Governments utilise such talent as they have either by appointing a man as a Minister as my hon. friend sitting there, or as a Deputy Minister as my friend sitting to my left, or by appointing such Members to advisory committees in order that the work of the Government may proceed smoothly. Now, this particular third phase has been reached in Great Britain, and it has been reached in India and has been there from the very beginning. I speak with a little knowledge and experience of this matter. I have been a member of so many advisory committees. I have been a member of a Royal Commission which toured the country for a couple of years.

DR. P. C. MITRA (Bihar): You were a member of the Constituent Assembly also.

DIWAN CHAMAN LALL: Yes, I have been a member of the Constituent Assembly also. I was also a member of the Drafting Committee of the Constituent Assembly, but I did not vacate my seat. I was a member of the Royal Commission on Labour which toured the country and also some foreign countries for a matter of two years and produced a very valuable report which is now being slowly implemented by our own Government. I did not vacate my seat. We were not paid anything by the Government. We were paid our compensatory allowance. Similarly I was a member of the Roads Committee which evolved the present set-up which exists in regard to the Road Fund, and yet I did not vacate my seat, nor did my colleague of those days, Lala Lajpat Rai who was with me.

PROF. G. RANGA: Nor did you cross the floor.

DIWAN CHAMAN LALL: Nor did I cross the floor

SHRI B. C. GHOSE: There were others who did.

DIWAN CHAMAN LALL: I do not know of any member of my party who did it. I must pay my compliment to my colleagues of those days in the Swaraj Party. Now, I would like my hon. friend, therefore, to remember this that this work has to be done, is being done and done in regular fashion for making use of the detached or unattached members for the purpose of using them for specific purposes. It is quite clear. If you are going to appoint them you pay them some travelling allowance. You pay them Rs. 2/8/- or so as house-rent per day. It may be you pay them what is called a compensatory allowance of ten dollars a day or 15 dollars if they go abroad, or 25 shillings if they go to England. Now, surely the man is capable of doing good work for his country and he is called upon by his Government to do that work—whether he is a member of the Governing Party or a Member of the Opposition, why should he lose his seat because he is called upon to do good work, God's good work? Is there any reason by which any hon. Member here can justify an action of that nature? I take it that it is necessary that talent should be utilized. Everybody cannot sit on the Ministerial Benches, but there is a good deal of talent which can be utilized for the purpose of doing good work as far as our country is concerned and when a man is called upon to do that good work and when he is a Member of Parliament, is he to be called upon to vacate his seat because he is doing this good work? The main provisions of this measure are intended for the purpose of safeguarding the seats of those Members whose services are called upon in an advisory capacity by the Government to assist Government in its task. I submit that there cannot be the slightest objection to the bringing in of a measure of this kind to remove any disqualification that might attach

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to a Member whose services are thus requisitioned by the Government. Now, my hon. friends will remember that something happened during the last Second World War as far as the House of Commons is concerned. 92 different offices were declared by Parliament to be offices which did not carry any disqualification because the work of Parliament had increased.

SHRI B. K. P. SINHA: For the duration of the emergency and during war only.

DIWAN CHAMAN LALL: He is quite mistaken. That emergency still continues and those offices are still exempt from any disqualification and it would be impossible for Parliament to continue its work today if that were not so. Perhaps my hon. friend is aware that only a few months ago the Prime Minister of Great Britain, Sir Winston Churchill, suddenly decided to do away with certain ministerships. There was a clamour to do away with them. They were done away with but before he did away with them, when they were appointed, this disqualification was removed, just as the disqualification is being removed here in the matter of certain particular offices that are being held under Government. But the question is not now of offices being held under Government. The question is of those who are utilized for advisory purposes and whose offices as Advisers should not be considered as offices of profit. Now, is there any hon. Member here who disagrees with that?

DR. P. C. MITRA: Where is that definition?

DIWAN CHAMAN LALL: My hon. friend should read the Bill for the definition. In this particular measure if you read clause 3 (a) you will find this :

"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."

'Public importance', mind you, it must not be a matter of private importance, it must be a matter of public importance:

"or for the purpose of making an inquiry into, or collecting statistics in respect of, any such matter:".

I take it that there is not a Member here now who, after listening to this particular explanation, is against the removal of the disqualifications that might be incurred by an Adviser appointed by Government in this respect.

SHRI K. S. HEGDE: There are no two opinions about it.

DIWAN CHAMAN LALL: Yes, there are no two opinions about it. Then let us come to the next case. Regarding the office of the Vice-Chancellors of universities I have said what I wanted to say.

SHRI K. S. HEGDE: May I interrupt? Only with this limitation if you merely say 'Adviser' it might land us in difficulties—that is all we are saying pertinently. I will give an illustration. Our Members who are representing us in the United Nations, they are not advising the Government but they are assisting the Government. Do you want them to be exempted or not?

PROF. G. RANGA: They are delegates of the Government.

DIWAN CHAMAN LALL: My dear friend Mr. Hegde is a very able lawyer and as a lawyer he exercises his privilege of splitting hairs, as we all do as lawyers.

SHRI K. S. HEGDE: You are also a lawyer.

DIWAN CHAMAN LALL: We are reading something into that particular thing as a lawyer. But my hon. friend now has made reference to a particular delegation which is in New York and on its way back. Sitting in front of me is one member of

that Delegation She is exempt because she was a Government servant but there are others who were not Government servants

THE PARLIAMENTARY SECRETARY TO THE PRIME MINISTER (SHRIMATI LAKSHMI MENON) I am not a Government servant

DIWAN CHAMAN LALL A Parliamentary Secretary is specially exempted from that disqualification under the law As far as the non-officials are concerned they may be giving their opinion to the United Nations Organisation but all the time they are advising their own Government Every time they are advising their own Government, whether they do it in reverse or whether they do it one way or the other but the fact is they are there as the eyes, ears and tongue of the Government all the time advising the Government I, who have been on missions of this nature, know perfectly well how important it is to advise the Government, how important it is not to take a single step without the final authority of the Government

SHRI K S HEGDE It is not merely advice They are representing the Government They must be merely advising the Government

SHRI B K P SINHA Our only contention has been that you should not leave it to the interpretation of the hon Members because it is ultimately to be interpreted by the Election Commission and by the Supreme Court and the interpretation that the hon Member gives may not be appreciated by them and accepted by them

DIWAN CHAMAN LALL: That is a plea that my hon friend may address to the hon Law Minister who will deal with it certainly but you may take it that there is no confusion in regard to this matter

In regard to the question of the Deputy Chief Whip, it is necessary to have a Deputy Chief Whip whether the Congress Party is in power

or whether the Socialist Party is in power or whether the Communist Party is in power or whether any other party is in power It is necessary and I take this opportunity to pay a great tribute to our Deputy Chief Whip who has done excellent work. (*Cheers*) The very fact that the entire House is in agreement with me in paying him compliments shows that the House would welcome the removal of any disqualification that he might incur by virtue of his office

Now I come to the question of the offices held in the National Cadet Corps or in the Territorial Army. I take it that a great drive is being made in regard to the Territorial Army I myself, in my old age, intend to join the Territorial Army. Am I to be asked to vacate my seat because I am anxious to do my little duty in a military sense, to my country?

SHRI RAMA RAO I too feel like that in view of the U S-Pakistan Pact

DIWAN CHAMAN LALL My hon. friend Mr Rama Rao will agree with me that this is a very important matter He has made a reference to a particular matter about which we shall hear something more presently So may I ask whether it is not necessary that this particular disqualification should be removed? Therefore upto this particular stage, Mr Deputy Chairman, we are all agreed that the necessity for this measure is so plain, that there should be no objection to it Perhaps the understanding of this particular clause was probably a little defective We now come to the last thing A lot of difficulty seems to have arisen in regard to, firstly, the temporary removal of disqualifications In regard to the other offices of Chairman and members of the committee other than any such committees as contemplated in clause 3—I have already dealt with. Here the Government is quite right in limiting the number of people

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who deserve this removal of disqualification. Other committees, whatever they might be, which are not of an advisory nature, are given a life-time until the 31st March 1954. Another few months. During that period the disqualification will not apply but after that, it will apply. This period apparently is given for the purpose of winding up the work of any of these committees with which any Members of Parliament may be connected.

SHRI K. S. HEGDE: Do you justify the exclusion?

MR. DEPUTY CHAIRMAN: It is only a temporary removal.

PANDIT S. S. N. TANKHA (Uttar Pradesh): After that period those persons will be covered under the former clauses, viz., clauses 3 and 4.

DIWAN CHAMAN LALL: May I say this that if my hon. friend will bear with me, if he were a bit patient, I had come to that point. Sub-clause (b) of clause 4 says:

"The offices of Chairman, director, member and officer of a statutory body, where the power to make any appointment to any such office or the power to remove any person therefrom is vested in the Government."

This too is removed up to this particular period of 31st March 1954. What happens when these questions are referred to the House of Commons where the procedure is very simple? When a particular statutory body is created and it is desirable that Members of Parliament should be associated with that particular body, what happens is this. In the body of the statute itself, a clause is inserted giving the necessary power for creating the necessary removal of disqualification. That is what happens in the House of Commons and I have no doubt that the hon. Law Minister when dealing with this matter, being quite familiar with the procedure in the House of Commons, will also lay

stress upon this, that in future whenever any statutory body which might provide a disqualification for a Member of Parliament to be a member of that body is set up by means of a statute—and a statutory body means a body set up by statute—then in the body of the statute itself, provision will be made in order to remove any disqualification that may be incurred by any Member of Parliament.

SHRI K. S. HEGDE: But our controversy is that we are not removing disqualifications but imposing disqualifications upon Members of Parliament.

DIWAN CHAMAN LALL: Quite right, but if only my hon. friend had heard what I said just now, the point would have been clear. It is only up to the 31st of March 1954. Thereafter, when any body is created by statute, my hon. friend will make it necessary for the Law Ministry to act in such a way that if any disqualification has to be removed in respect of any Member here being a member of the statutory body, the clause for the removal will be inserted in the body of the measure itself.

SHRI K. S. HEGDE: But how does the question of removal arise where there is no disqualification? Our contention is that there is no disqualification and by this clause you are imposing a disqualification.

DIWAN CHAMAN LALL: Well, my hon. friend may fight it out in the law courts if he thinks there is no disqualification. The Law Ministry is of the opinion that there is and as a matter of fact, such disqualification does exist in Great Britain and it exists in this country.

SHRI K. S. HEGDE: No.

DIWAN CHAMAN LALL: And the removal of it is part and parcel of the statute itself and that in my opinion, is a very clear exposition of the actual position created by this measure.

Sir, I do submit that about one thing Government has got to be very careful and that is the removal of too many disqualifications. That is very necessary not only for its own safety but also for the sake of the independent exercise of the powers which it controls. It is necessary, therefore, to limit it to the least. It may be said—and rightly for instance the plea has been made on the floor of the House—that there seems to be no reason why a Vice-Chancellor should be given this particular privilege. It may be said that Vice-Chancellors are able men, distinguished men. That argument would equally apply to very many I.C.S. officers, to many administrative officers, some of whom I see sitting in the official gallery. They are very able men and there is no reason why this disqualification should not be removed in their case also. They are excellent men, supermen. I know of one Vice-Chancellor who, unfortunately, does not happen to be even a Graduate. Therefore, this argument about distinction, although it does apply to some, does not apply to all. And if we are going to make that a rule, there are many other exceptions that we would have to make. I beg of him to consider this matter regarding the Vice-Chancellors. It opens a new avenue which is most undesirable, because the objective of the Government should be, and the objective of this House should be to limit the number of people who are qualified for removal of this disqualification to as low and as small a number as possible. With these words, Sir, I support this measure and with the hope that the hon. Law Minister will pay the greatest attention to all the objections that have been raised.

SHRI B. C. GHOSE: As was stated by the hon. Member who spoke just now, there appears to be a large measure of consensus of opinion that this Bill should not be passed without permitting Members some more time for thought. I do not, how-

ever, agree with the hon. Member who spoke just now when he said that this is a very simple measure. It is not as innocuous as it looks. As a matter of fact, as I was trying to study this Bill, the more thought I gave to it, the more I got confused. I must frankly confess that. Therefore, I would urge upon the hon. Law Minister to agree to the proposal which has come from every section of this House that some more time should be given to us to think about the implications of this measure so that we might give our considered opinions. My hon. friend Mr. Reddy referred to the principle involved in this Bill. As a matter of fact, that has probably not yet been decided upon. I would, however, like the hon. Minister for Law to consider this position. We take everything from the practice as it obtains in Great Britain. But there is a vital difference between that country and our country and I think the difference will increase in the future. Here the Government is considering the country—at least it says so—as a welfare State, that is, they are trying to promote the welfare of the people and they are extending its activities in every sector of public life. They are taking up more and more economic and commercial activities of the country. Now, visualise a situation where we have state trading. Even for the purchase of agricultural commodities we might have a board set up. Then would it mean that anybody who deals with it or has contact with that board—may be even an agriculturist—will be debarred or disqualified from being a Member of Parliament? And if we go on increasing our activities in that manner, I think we should ponder as to how far we, in our conditions, could accept the British practice.

But apart from that, coming to this piece of legislation itself, if we take up clause 3, sub-clause (a), you will find that it refers to the office of Chairman and members of a Committee set up for the purpose of ad-

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vising, e c. Now let us take up the definition of committee. The definition says:

“ ‘Committee’ means any committee, commission, council, board or any other body of persons, whether a statutory body or not. . . ”

So does it mean that a statutory body also, when it is tendering mere advice, will acquire this exemption? If that is so—and that is why we wanted clarification from the hon. Law Minister—because the definition of “Committee” runs as:

“ ‘Committee’ means any committee, commission, council, board or any other body of persons, whether a statutory body or not, set up by the Government.”

So it can be a statutory body also. Then does it mean that if that committee were merely to tender advice, then the Chairman and the members of such a committee will not be disqualified by serving as Chairman and members? And if that is so, then what happens to sub-clause 4(b), where it says: that the offices of Chairman, director, member and officer of a statutory body will enjoy this removal of disqualification.

SHRI C. C. BISWAS: Please read the words which follow.

SHRI B. C. GHOSE: Yes. It says, “ where the power to make any appointment to any such office or the power to remove any person therefrom is vested in the Government.” I was coming to that also. Does that mean that if the election is to be made by Parliament then such members and Chairman of such a committee will not be disqualified?

MR. DEPUTY CHAIRMAN: Not elections, but appointment.

SHRI B. C. GHOSE: That is why I say they will not be disqualified. The question of disqualification will not arise at all. Even if you state that Parliament will elect the members and

SHRI K. S. HEGDE: Then there is no question of disqualification.

PROF. G. RANGA: It is only when the Government makes the appointment.

SHRI B. C. GHOSE: I want to know because that office may be also an office of profit in the sense that some emoluments may be attached to that office.

SHRI K. S. HEGDE: It must be an appointment made by Government.

SHRI B. C. GHOSE: The emolument may be Rs. 20 or more than that.

SHRI K. S. HEGDE: One of the conditions precedent is that it must be an appointment made by Government; if it is election by Parliament it does not disqualify.

MR. DEPUTY CHAIRMAN: Even the power to remove him must vest with the Government.

SHRI B. C. GHOSE: Yes, I understand; but, is it fair, is it the law?

SHRI KISHEN CHAND: On a point of order, Sir. It means that if there are six members out of whom only two are members representing Parliament, because Government can appoint the remaining four, the whole body comes under this disqualification.

MR. DEPUTY CHAIRMAN: No, it applies only to those members.

SHRI KISHEN CHAND: ‘Powers to remove any person’. There, “any person” does not relate to Members of Parliament but to all.

SHRI B. C. GHOSE: No, Sir, that does not clarify the point. For example, take the kind of statutory bodies or boards that we have been setting up, as my hon. friend Mr. Karmarkar has been setting up, like the Tea Board, the Coffee Board or the Silk Board where the persons are removable by the hon. Minister.

Then at once they would be disqualified. Is not that the correct position, Sir?

MR. DEPUTY CHAIRMAN: Which committee?

SHRI B. C. GHOSE: The Tea Board or the Coffee Board.

SHRI K. S. HEGDE: There the appointment is made by the Government; they are not elected.

MR. DEPUTY CHAIRMAN: They are elected by Parliament.

SHRI B. C. GHOSE: No, Members of Parliament appointed by Government and also

SHRI K. S. HEGDE: No, they are not elected.

SHRI B. C. GHOSE: They are elected by Parliament but are removable by Government.

MR. DEPUTY CHAIRMAN: I do not think so.

SHRI B. C. GHOSE: I should invite the attention of the hon. Minister.

MR. DEPUTY CHAIRMAN: They continue to be members of such bodies.

SHRI B. C. GHOSE: My hon. friend, Mr. Karmarkar, had set up many committees, like the Coffee Board, the Tea Board, where the members are elected by Parliament but they can be removed by Government because all the other members are appointed by Government.

MR. DEPUTY CHAIRMAN: They cannot be removed; they continue to be members as long as they are Members of Parliament.

THE MINISTER FOR COMMERCE (SHRI D. P. KARMARKAR): In respect of the Members of Parliament, that statement would require correction. What we do in these cases is, as I said on an earlier occasion also, it is only for other interests concerned that we nominate. Regarding members elected by Parliament we have no right to remove them but they are

automatically removable if the whole
body ceases to exist.

SHRI B. C. GHOSE: What is the Law Minister's interpretation of that? Can the Government suppress the whole body which includes Members of Parliament? That was what I was driving at, although they are elected by Parliament the whole committee can be removed and dismissed by the Government, including Members of Parliament. So, would he acquire disqualification for that reason?

SHRI D. P. KARMARKAR: That is another point.

SHRI B. C. GHOSE: That is the point we are asking.

MR. DEPUTY CHAIRMAN: This is power to remove any person. Government may have power to supersede the whole committee but this refers only to individuals.

SHRI B. C. GHOSE: The Government can remove. The point here is "power to make any appointment to any such office or the power to remove", not "power to appoint and to remove".

He becomes automatically removable.

MR. DEPUTY CHAIRMAN: If the entire body goes, his membership also goes, but here it is personal.

SHRI B. C. GHOSE: If all the lawyers think so then that must be so but I am not sure.

MR. DEPUTY CHAIRMAN: Here the disqualification is personal to a particular member who holds that particular office.

SHRI B. C. GHOSE: I do not know if that is the interpretation. That is one of my difficulties. I find many committees here which are in the nature of statutory committees or statutory bodies because the definition of a statutory body is that it is any

[Shri B. C. Ghose.]

corporation, board or company, society or any other body of persons whether incorporated or not, established, registered or formed by or under any law for the time being in force. Now, here, Sir, the disqualification is removed for only a temporary period. After that, the disqualification will apply. So, I believe that most of the members of the committees listed in this paper which was circulated to us will acquire disqualification and they will cease to be members. If that is so, we have to consider whether that would be a desirable practice because as my hon. friend Diwan Chaman Lall has suggested, it is desirable to associate members in an advisory capacity.....

MR. DEPUTY CHAIRMAN: In statutory bodies, not

SHRI B. C. GHOSE: It may be statutory bodies or anything in an advisory capacity on statutory bodies. Government is always anxious to get talent and make use of it wherever they can get it and, therefore, we should have considered whether we should extend the disqualification to such an extent that such persons will also be disqualified from being Members of Parliament if their services were required by Government to serve on such committees.

Then, Sir, the point that was raised by my hon. friend Shri Rajagopal Naidu, I think, is very important, that is, that the law should not be framed in general terms, but that the persons who have to be given exemptions should be categorised, as otherwise difficulties may arise. I believe that is the practice in Great Britain also. We may also have a practice that Britain has, namely, that in case of doubt any Member may refer the matter to the Speaker who refers it to the House in the first instance and then the House refers it to the particular select committee so that a decision on that matter may be taken by the select committee and the necessary decision passed on to the Mem-

ber concerned so that he will know before hand as to whether the acceptance of a particular office will disqualify him from being a Member of Parliament or not.

SHRI K. S. HEGDE: What is the legal effect of it? Any interpretation by this House will not be accepted by the courts.

SHRI B. C. GHOSE: No, the idea is that if he is to be disqualified, then the Government will bring in a measure to exempt him from the disqualification and that before he accepts that office that action would be regularised so that inadvertently he does not accept an office which might render him liable to disqualification.

I should like to have some information on certain points, for instance, on the Vice-Chancellors about which we have heard a lot. I agree with what has been stated by my hon. friends about the Vice-Chancellors but I should like to know the position of university teachers, for example, of the Calcutta University. Are they automatically disqualified from being Members of Parliament

SHRI K. S. HEGDE: No.

SHRI B. C. GHOSE: ... because the Calcutta University is a statutory body and obtains large amount of funds from the Government. Take the examinership in the Calcutta University. Are the examiners of papers of the Calcutta University also to be considered to have accepted profit from some body which is a statutory body and, therefore, liable to be disqualified?

SHRI K. S. HEGDE: The appointment must be made by the Government, Central or Provincial. Appointment by an university is not appointment by the Government, Central or Provincial. This matter was considered in Mrs. Hansa Mehta's case.

SHRI B. C. GHOSE: Are the examiners also to be disqualified?

SHRI K. S. HEGDE: That is in places where the Government appoints the examiners.

SHRI B. C. GHOSE: If it is an appointment by the statutory authority?

SHRI K. S. HEGDE: The statutory authority is nowhere there. In the Constitution, the wording is, a person appointed either by the Central Government or by the Provincial Government, to use the old phraseology.

SHRI B. C. GHOSE: Then, if that is so, I have nothing to say.

Finally, Sir, I should like to say that as there appears to be a lot of confusion and doubt as to how these provisions will work and as we find that Members have not been able to give serious consideration to this problem, it will be much better to refer the whole thing to a select committee. I do not know if anything stands in the way of accepting this proposal, whether Members might immediately acquire disqualification if this Bill is not passed now. If that is so, then I have no objection to the Government passing this Bill but I would request the hon. Minister to set up a machinery, for example, a committee of both the Houses to enquire into this problem in a thorough-going fashion and to make its proposals. That committee may be set up immediately so that there may be no doubt as to what particular offices will attract disqualification and what particular offices will not.

5 P.M.

SHRI K. S. HEGDE: Before the hon. Minister gives his reply I would like to ascertain from him: Is there in any other legislature a similar provision where general principles are laid down or is it only here we are attempting to do it?

SHRI B. C. GHOSE: In Great Britain they have done.

SHRI K. S. HEGDE: There is no generalisation at all.

SHRI B. C. GHOSE: Categories.

SHRI K. S. HEGDE: Exactly. Instead of categories

MR. DEPUTY CHAIRMAN: There is no categorisation in this Bill.

SHRI K. S. HEGDE: Yes, only certain general principles. My point is that in all other countries they categorise only. They have failed to generalise. It has become impossible. And this is the only Bill which is now trying to generalise it. I ask on a point of information of the hon. Minister: Has he got any precedent in any other legislature where generalisation has been done before?

SHRI C. C. BISWAS: Mr. Deputy Chairman, I did not expect that there would be such a long discussion over what after all is a very simple measure. I say it is a simple measure notwithstanding all that has been said by my friends. The whole Bill is based on article 102 of the Constitution. That is one fundamental fact which ought not to be overlooked. Are you or are you not going to give effect to the principle which is embodied in that provision? Underlying that provision, there is a very sound principle.

Questions were raised by some of my hon. friends here: What is the policy? What is the principle behind this Bill? I say the principle and to some extent the policy is to be found in that particular article of the Constitution. We try only to give effect to that principle and policy.

Mr. Chaman Lall referred to the history of such legislation and such controversies in the U.K. and he referred to different phases, first the privilege phase, then the corruption phase and so on. As a matter of fact, Sir, if you turn to May's Parliamentary Practice, the latest edition of it, you will find a summary of the report of the select committee to which I referred in the course of my speech yesterday. That committee

[Shri C. C. Biswas.]
is the select committee which reported on this question of offices or places of profit under the Crown in 1941.

SHRI B. C. GHOSE: In 1942. Published in 1942.

SHRI C. C. BISWAS: That is the report of the select committee and in May's Parliamentary Practice you will find that a summary of the recommendations of this report has been included, and Mr. Chaman Lall's speech was based on that. However, I need not go into it. Article 102 says: "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." The general principle, the fundamental principle is to keep Members of Parliament absolutely free, immune from the influence or suspected influence of the Executive Government. It is always a difficult question to balance the Executive against Parliament. The history of England will show that there was always a conflict between the Crown and Parliament, a desire on behalf of one party to grab power at the expense of the other. However, that is the history of the matter, and we are not concerned with that. Here it is definitely laid down in the Constitution that Members of Parliament should not be open to any sort of influence from Government. If you hold an office under Government, that means you may be bound to oblige the Government, to follow their orders, instructions and so forth. That will interfere with your duties as an independent Member of Parliament. Therefore, the general rule is laid down, but there may be cases in which, if you try to enforce this rule very strictly, many difficulties will arise. You may thereby deprive Parliament of the services of many persons, whose services ought to be utilised in the best interests of the country, so you have got to make ex-

ceptions. One exception is laid down in the very Constitution itself. Ministers, it is said are not to be subjected to this disqualification merely because they are holding office under the Government and are in receipt of a profit. So there is that exception, but there will be other cases and those cases have to be provided for. It would have been very convenient if it was possible to enumerate all these cases and include them in the exemption clause.

PRINCIPAL DEVAPRASAD GHOSH: Is it not possible to arrange, as I suggested in my speech, that Members of Parliament may be allowed to be members of these bodies, but they will not be allowed to take any fee or remuneration or compensatory allowance? That might reconcile both the points of view.

SHRI C. C. BISWAS: The accepted legal position is this. The mere non-acceptance of a remuneration attaching to a particular office will not remove the disqualification. If to that particular office a remuneration is attached, then it will be regarded as an office of profit which will disqualify. There have been numerous cases where persons holding such offices have declined to accept remuneration, but then that has been of no avail, and still the disqualification has remained. Therefore it will not do to say that such members, if they are Members of Parliament, ought not to take any remuneration, for even if they do not take any remuneration they will automatically stand disqualified. Unfortunately it is not possible to maintain that position.

SHRI K. S. HEGDE: Is it the contention of the hon. Minister that even if the office has no remuneration attached to it—it is not a question of giving up the remuneration but no remuneration attached to the office—it will result in disqualification?

SHRI C. C. BISWAS: There are Indian cases where the courts have decided otherwise. The question of

no "remuneration" being attached to an office will not necessarily prevent disqualification from arising. If it was possible to have an exhaustive list of offices which will not be regarded as offices of profit within the meaning of article 102, that would have been the easiest thing. There can be no doubt about it.

SHRI K. S. HEGDE: Why is it not possible?

SHRI C. C. BISWAS: Then you have got to add to the list every now and then, but then, if it is possible to devise a formula which will apply and which will achieve the object we have in view, what is the objection? What is the objection to accepting the expedient which has been resorted to in this legislation?

SHRI K. S. HEGDE: Has it a precedent in any other Constitution similar to our own in any country where generalisation is incorporated?

SHRI C. C. BISWAS: I am not an authority and I cannot dogmatise. I do not know whether the Constitution of other countries has made any similar provision, but let us see whether we cannot cover the ground in the way it is suggested here.

I will just clear up one misunderstanding. It has been said that the Bill has been brought before the House without any careful consideration, no thinking, nothing of the kind, just sprung before the House. Nothing like that. I can assure my hon. friends that Government have considered this Bill even in the matter of its drafting very very carefully. It is not once, twice, thrice, but many times have they brought it under review, have got it examined by committees, and then approved this piece of legislation. I am not suggesting that this legislation is perfect and that you cannot have other clauses and other provisions introduced in it. You can say that of every Bill that may be brought before the House.

[THE VICE-CHAIRMAN (SHRI B. C. GHOSE) in the Chair.]

The question is whether the Bill as it stands fulfils the object you have in view. Now the object is to provide for certain exemptions from a disqualification which would otherwise attach to certain persons in terms of the Constitution. Nobody quarrels with the principles laid down in the Constitution. The question is what are to be the exemptions. Now, is it or is it not your desire that the scope of exemption should be made very very wide or it should be restricted? On that issue we have got to make up our mind. There was one amendment of which notice was given by my hon. friend Mr. Reddy, that clause 4 should be deleted and sub-clauses (a) and (b) of the clause should be added at the end of clause 3. That means that he is in favour of a blanket cover for all time.....

SHRI C. G. K. REDDY: I should like to interrupt.. I referred to this matter even in my speech. I said, first of all, I had not enough time to go through the Bill and secondly, I said that I agree in so far as clause 4(b) was concerned. I only put in that amendment—perhaps a little clumsily—to restore the *status quo*. I only wanted the *status quo* to continue until such time as Parliament can consider the thing in all its aspects. I also put two propositions before the Minister. One was that if he agrees to the Select Committee, then we could get time and we can redraft the Bill. In case he does not agree to that suggestion, then these amendments could be accepted so that the *status quo* would continue until such time as we may have enough opportunity to examine the thing. I do not want the hon. Minister or even the House to believe that I want these offices, which I want to be included in clause 3, to be exempted. My view is that one of them should not be exempted. Members of Parliament should not be on statutory bodies.

SHRI C. C. BISWAS: I quite appreciate the difficulties under which he was working. He did not have the list before him and naturally

[Shri C. C. Biswas.]

he framed his amendment in this way. But I was referring to it only for the purpose of ascertaining the views of the House as to whether or not the limitations of article 102 ought to be swept away altogether, as would be the effect of the amendment which has been moved. I venture to submit that the House is agreed that the exceptions to article 102 should be as few as possible, that this power given to Parliament to prevent the accrual of disqualification should be exercised sparingly.

SHRI K. S. HEGDE: May I bring it to the notice of the hon. Minister that even in other countries including England exceptions have been made sufficiently wide. This narrow interpretation that he is trying to put upon it has not been accepted.

SHRI C. C. BISWAS: I am not putting any interpretation at all. Here there are two kinds of exemptions which have been expressed in two classes and that has given rise to all this misconception. One fact is forgotten, and that is that clause 4 gives a temporary cover, so to say. Hon. Members should also not forget what has been expressly stated in the Statement of Objects and Reasons: "If it is found desirable to remove permanently the disqualification attaching to any statutory office, it would be possible to do so by a suitable amendment of the Act under which the office is held."

SHRI K. S. HEGDE: With all respect to you, Sir, when you go to a court of law, your Objects and Reasons are waste paper. You know that.

SHRI C. C. BISWAS: I know that as well as any one here and my friend might have assumed that I know that. The question is this—what is the course to be adopted? We are pointing out to the Government—the Law Ministry is pointing out to the Government—that in such cases they ought to follow the practice which is largely followed in

the United Kingdom. With regard to these statutory bodies, there is a provision in the statute itself that a member of that particular body—a director or anybody else who is now there—shall not continue to be a member if and so long as he is a Member of Parliament. Put it in any way you like, but that is there. That is the most effective way of dealing with the matter. Instead of trying to frame an exhaustive list of all these bodies in the legislation referring to the enactments under which they are created it is much better to have the disqualification or exemption provided for in those Acts. If it is considered in public interest—not in the interest of any particular individual—that in respect of such statutory bodies, say, D.V.C. for instance or the Sindri Fertiliser Factory or any other public concern—and there will be many public concerns of this character in future—if it is considered necessary to associate Members of Parliament with the executive functions of these bodies, then a provision to that effect will be made in the relevant Act. If, on the other hand, it is considered that although the advice and assistance of Members of Parliament will be of the utmost value, still having regard to the executive functions which these bodies will have to discharge, it will not be right to utilise the services of Members of Parliament, then it will be put down in the Act itself that no one will hold this office if he is a Member of Parliament or so long as he is a Member of Parliament. So we are not excluding any Member of Parliament from membership of any of these statutory bodies merely because they are not categorically mentioned in this Bill in a long schedule. That is what I was going to point out. It is for that purpose that we have left it open. We suggest that action should be taken by the Government on these lines in future legislation in respect of such undertakings. They will contain a provision expressly dealing with this question as to what extent Members of Parliament may be associated with the executive func-

tions of these statutory corporations That will be done So you have got to take the Bill as a whole It would not do to take out one sentence from this clause and another sentence from that clause and suggest that it is the only way of disposing of the whole matter That is not so We have devoted a good deal of time and thought

SHRI S N MAHTHA (Bihar) What about the existing corporations? Sindri, for instance?

SHRI C C BISWAS So far as the existing corporations are concerned clause 4 is there We have given a blanket cover till 31st March 1954 By that date they will have to decide whether they will remain on those bodies or they will resign if they want to retain the membership of Parliament

SHRI K S HEGDE If you will permit me to intervene, some of the Acts themselves provide for the appointment of certain Members of Parliament and you are contravening those Acts by this piece of legislation For example, take the Tea Board It contemplates representation of Parliament

SHRI C C BISWAS That also is a law made by Parliament Therefore any provision like that in a legislation of that nature will attract the exemption clause expressly provided for in article 102(a) of the Constitution It says "other than an office declared by Parliament by law not to disqualify its holder" Wherever there is a provision to that effect that is removal of disqualification by Parliament by law That law is just as good as this law, it is equally a law by Parliament

SHRI K S HEGDE The subsequent law does affect the earlier law Does not this Bill affect the earlier law?

SHRI C C BISWAS If the law is there, the person concerned already

stands exempted, there can be no further question of his exemption. He is already exempted He will not have to seek or apply for exemption or invoke this Act for the purpose of getting the exemption

SHRI C G K REDDY I am sorry to intervene again The Tea Act provides for the appointment of certain Members of Parliament on the Tea Board It does not say in the Act that

SHRI C C BISWAS If it is an appointment by Parliament it is outside the disqualification clause

SHRI C G K REDDY In the Act it is not specified that such members will not incur disqualification. Therefore, the mere fact—that Parliament has approved of certain of its Members to serve on a Board does not take away the effect of this Bill. That is my lay opinion

SHRI K S HEGDE That is by implication

SHRI C C BISWAS It does not take away the effect of the Bill What is the effect of the Bill on a case like this? As a matter of fact, the effect of this Bill favours that provision in that Act When an appointment has been made in terms of that Act then there is no question of his requiring to be exempted by virtue of this Bill

SHRI S N MAHTHA Sir, I want to put a small question By the 31st of March 1954, in the matter of a Board like that of the Sindri Fertilisers where I am a director, who should have to decide, whether I will have to decide for myself or Government will decide the issue? On account of such anomalies recently I resigned my directorship and Government accepted the resignation But they have again nominated me, and I am in the conundrum again I would like to know clearly whether I should take the decision now or will Government take the decision for me?

SHRI C. C. BISWAS: As a matter of fact, I am not concerned with the question whether the Member himself should take the decision or whether the Government will decide for him, or whether he must continue and Government will then make a special law only for him. That is a different matter. As matters stand, he will have to resign. Either he will have to resign his seat there or resign his seat in Parliament; and the two cannot co-exist according to the provision here. If that is a hardship, it is a hardship; there is no help for it; that is the scheme of the Bill. But, if you say that 31st March is too early and suggest 30th April or 30th of July, it is quite a different matter. The point is this. A certain period, which was considered reasonable, has been provided for. As it is, nobody will have to pay for his disqualification even if he incurs disqualification. As I pointed out earlier, I do not presume to say that this is an office of profit which will disqualify or not disqualify. The difficulty is this. Members of Parliament must not be permitted to hold any office of profit under Government. Look at the provision in article 103(1). It says:

"If any question arises as to whether a member of either House of Parliament has become subject to any of the disqualifications mentioned in clause (1) of article 102, the question shall be referred for the decision of the President and his decision shall be final."

And, it is then provided that,

"Before giving any decision on any such question, the President shall obtain the opinion of the Election Commission and shall act according to such opinion."

Therefore, the opinion that I may express here or the opinion which any other authority may express, will not do. It is the opinion of the Election Commission that will prevail, right or wrong; that decision shall be final. If the Act said that

the holder of such an office shall be exempt from such disqualification under article 102(1), you will be completely safe. You may thus widen the scope of exemption under article 102(1), if you like, and that is, therefore, the first question that I put to the House: Whether or not you want exemption on a wide scale or whether you want it to be on as reasonable a scale as possible.....

PANDIT S. S. N. TANKHA: May I know from you, Sir, whether or not after 31st March 1954, these persons who are already holding such offices will be covered by section 3, clause (a) under which they will be exempted automatically? Where then is the question of granting them an exemption?

SHRI K. S. HEGDE: Unless the committee on which they serve is merely advisory, they will not be covered.

PANDIT S. S. N. TANKHA: The section says, "the offices of Chairman and member of a committee set up for the purpose of advising the Government....."

SHRI K. S. HEGDE: Only in case of advisory committees the protection is given.

PANDIT S. S. N. TANKHA: If these persons are not covered by the sub-section, then they are certainly covered, I think, by the proviso to that sub-section, namely, "Provided that the holder of any such office is not in receipt of, or entitled to, any fee or remuneration other than compensatory allowance", and they will be exempted under this proviso.

SHRI C. C. BISWAS: As a matter of fact, I find it very difficult to answer questions with reference to specific bodies. That is not my function and you do not expect me to give an opinion because that opinion will bind nobody.

THE VICE-CHAIRMAN (SHRI B. C. GHOSE): They are just asking for clarification.

SHRI K. S. HEGDE: Our trouble is, though your opinion may not be binding, you should examine the principle you have enunciated before you formulate the thing, which you have not done.

SHRI C. C. BISWAS: I do not understand what it is that Government have not done before bringing this Bill.

SHRI K. S. HEGDE: You have not clarified to what extent the exemption should go.

SHRI C. C. BISWAS: If you say that I have not specified the offices categorically, I plead guilty; I have not done that. But according to me, the provisions which have been incorporated in the Bill are quite sufficient to carry out the objective in view, and it is not necessary to have a long schedule giving the names of the committees the membership of which will or will not disqualify. Whether this Bill will serve the purpose or not, remains to be seen. It is for the hon. Members who come within the categories referred to under clause 4 to take suitable action themselves. Otherwise, they run the risk of disqualification at the end of March 1954. That is the position and that is quite clear. There is no desire to conceal the fact from anybody; those are the clear provisions of the Bill.

AN HON. MEMBER: Does Government intend to bring forward a separate legislation in this matter before March 1954?

SHRI C. C. BISWAS: Where is the need for another legislation?

SHRI V. G. GOPAL (Bihar): Do you expect to withdraw this Bill and introduce another Bill?

SHRI C. C. BISWAS: What is the use of repeating what I have said.

The Bill has been brought forward after mature consideration and not in a haphazard manner. It was thought that a Bill framed in this manner will achieve its object. Let me say this, that if it does not serve the purpose, we will revise the whole thing. My opinion is that it will work. If you delay passing this Bill, the danger will be that somebody might draw the attention of the Speaker or the Chairman that "there is a stranger in the House, a person who has already incurred disqualification."

SHRI C. G. K. REDDY: And five hundred rupees.

SHRI C. C. BISWAS: "and five-hundred rupees". Fortunately that will not happen now. We are discussing this measure (*Interruption*) I do not know whether any useful purpose will be served by repeating what I have said. As a matter of fact, in my opening speech, I tried my very best to explain the whole position as clearly and as fully as I could. If that did not satisfy hon. Members I do not know if any remarks that I make now will satisfy them.

SHRI K. S. HEGDE: Our complaint is that you didn't understand us and we didn't understand you.

SHRI C. C. BISWAS: You wanted this to be referred to a Select Committee. I want that the Bill should be passed in this session. The Bill has to go to the other House; there also it will be debated and passed; we are pressed for time. The reason why this Bill was not brought forward earlier is that the Government was carefully considering how best such a measure should be framed; after careful consideration they have brought this measure.

SHRI K. S. HEGDE: What is all this, Sir? May I ask: Will the heavens fall if this measure is not brought before the House now? ...

SHRI C. C. BISWAS: The heavens won't fall; but you will fall. The

[Shri C. C. Biswas.]

principle is there; it is under article 102 of the Constitution; and we are trying to lay down certain exceptions. In the 1951 Act certain offices were mentioned categorically. If I am not letting out a secret, my original proposal was that membership of any committee which was set up by Government should be exempted from disqualification. But unfortunately attention was drawn to some decisions of the election tribunals which made it impossible to maintain that position. And, therefore, we had to see what best could be done. Nothing would have pleased the Government more than to have a Bill providing that any Member of Parliament who was appointed to a committee which had been set up by Government should not be subject to any disqualification. That was the original proposal, but when the whole question was discussed, other difficulties appeared and some provision had to be made to meet them. That accounts for the delay in bringing the Bill before the House and that also accounts for the form in which it has been formulated.

Then, Sir, a reference has been made to the Vice-Chancellors. Well, it is quite true that the Vice-Chancellors perform executive functions. It is also true, Sir, that—applying the first phase of the U.K. controversy, i.e., to say they may not find it possible to attend the House because their duties in the universities will keep them fully occupied. Well, the idea which prompted Government to include them specifically in the list of exemptions is this. They being very eminent men in their respective spheres, it would be wrong to deprive Parliament of the services of such distinguished people, and it would be equally wrong to deprive the universities of the services of such eminent men of learning. Therefore it was thought that they should be granted an exemption. It was thought that if they could attend to their duties in the House as honest Members of

Parliament, they would themselves say, "Please excuse us". But the object was that we should not impose a bar in the way of getting the services of certain eminent men for the service of the country. That was the only object.

SHRI K. S. HEGDE: Why does your logic fail when you are considering the Members of Parliament...

SHRI C. C. BISWAS: The logic did not fail. And therefore we have got this Bill in order to exempt Members of Parliament from incurring any disqualification consistent with the principle which is embodied in article 102(1). So long as the Constitution stands as it is, and so long as you have got to give effect to that Constitution—not nominally, but really and in substance—you ought to limit the scope of the exemptions. And exemptions have to be given with due regard to the interests to which my hon. friend has just referred. Certainly the services of the Members of Parliament should be utilised in the service of the country, and that is exactly the reason why we have brought forward this measure. There were other Bills placed before the House before this, but this Bill goes much further because it is in general terms. There were two Bills in 1950 and 1951 and the first of those Bills was confined to specific offices, and the next Bill was also confined to a limited number of offices to which appointments had already been made previously. There was only one omnibus clause relating to some committees, but it extended the exemption only up to a specified date. That is the position. So, we are actually giving effect to the Constitution. The Constitution provides for other disqualifications. For instance, clause (e) of article 102 says:

"if he is so disqualified by or under any law made by Parliament."

As the House knows, in the Representation of the People Act there are numerous grounds of disqualification. They are there. There is no

question of removing those disqualifications, because the power to exempt has been given only in respect of disqualifications arising from holding an office of profit under Government. So, we are trying to give effect to the Constitution as it stands. I do not think there are any further points that I am called upon to answer.

[MR. DEPUTY CHAIRMAN in the Chair.]

SHRI B. RATH: I wanted to know why the Deputy Chief Whips are not to be disqualified under this Bill.

SHRI C. C. BISWAS: Deputy Chief Whips ought to be regarded as servants of Parliament. Unfortunately

SHRI B. RATH: If we follow the procedure of the British House of Commons, Deputy Chief Whips are not officers of Parliament. Our Constitution clearly says as to who are the officers of Parliament. All that we understand from May's Parliamentary Practice is that the Whips are attached to the parties and are not officers of Parliament. They do not hold any office.

SHRI B. K. P. SINHA: But who says they do?

SHRI B. RATH: Then why include them in this?

SHRI C. C. BISWAS: They have been appointed by an order of the President. That makes them officers of Government technically, and that is why they have got to be included in this Bill.

SHRI K. S. HEGDE: May I ask the hon. the Law Minister to explain the need for Explanation (i) to clause 2?

SHRI C. C. BISWAS: I am glad that my hon. friend has put this question. If you look at the definition of 'compensatory allowance', it says:

" 'Compensatory allowance' means such sum of money as the Govern-

ment may determine as being payable to the Chairman or any other member of a committee by way of travelling allowance, daily allowance, conveyance allowance or house rent allowance for the purpose of enabling the Chairman or other member to recoup any expenditure incurred by him "

The question has been raised regarding the rate of daily allowances paid. No question has been raised as regards the other allowances. So, you might be drawing whatever allowances are given by way of house rent allowance, by way of conveyance allowance and so on. This question has been raised not recently but quite a long time ago, a few years ago, and that led to the issue of an office memorandum by the Finance Ministry which said that the daily allowance to be paid to members of such committees should not exceed Rs. 20, but then it was urged on the Government . .

SHRI K. S. HEGDE: You have not understood my question. My question was: Why are you including Members of Parliament in this Disqualification Bill? We are not appointed by the Government and we are not removable by Government. Why then this Explanation (i) to clause 2? Are you making us Government servants?

MR. DEPUTY CHAIRMAN: That defines what daily allowance is.

SHRI K. S. HEGDE: Daily allowance for Members of Parliament. But why should daily allowance come in here?

MR. DEPUTY CHAIRMAN: If they receive anything more than Rs. 40 it will involve disqualification.

SHRI K. S. HEGDE: How? We must be appointed by the Government.

MR. DEPUTY CHAIRMAN: If you are not an officer of Government, you do not incur disqualification.

SHRI K. S. HEGDE: I am unable to follow this, Sir.

MR. DEPUTY CHAIRMAN: Here daily allowance is defined. It should not be anything more than Rs. 40. If a Member of Parliament by virtue of his being a Member of Parliament receives more than Rs. 40 he incurs disqualification.

SHRI K. S. HEGDE: It says during the session. It does not come within the ambit of article 102, because Member of Parliament is not an officer appointed or removable by the Government.

MR. DEPUTY CHAIRMAN: That is explanation to clause 2(b). Here it refers to the quantum of daily allowance.

SHRI K. S. HEGDE: Whose daily allowance? Sir, I am sorry, I am not able to understand this.

SHRI C. G. K. REDDY: There is some confusion. May I explain, Sir? When Parliament is in session and some Members, who are on committees and when they are out of town, instead of getting Parliamentary allowance, will get an allowance of Rs. 40 from the committee. So I think that provision has been expressly provided for such cases.

MR. DEPUTY CHAIRMAN: When a Member of Parliament is a member of a committee, he should not receive more than Rs. 40.

SHRI K. S. HEGDE: From where? From Parliament or from the committee? Am I to understand that it is when the committee is sitting outside Delhi?

MR. DEPUTY CHAIRMAN: Whether it is in Delhi or outside.

SHRI K. S. HEGDE: Sir, the wording used is "in the case of a Member of either House of Parliament when that House is sitting," For that

period when the House is in session, if he is

MR. DEPUTY CHAIRMAN: It may be in Delhi or anywhere else, but if he receives more than Rs. 40 it may subject him to disqualification.

SHRI C. C. BISWAS: The ceiling is not Rs. 20, but the ceiling becomes Rs. 40, during that period when the House is in session.

MR. DEPUTY CHAIRMAN: When the House is sitting, it is increased to Rs. 40.

SHRI K. S. HEGDE: In such a case there is no exemption or grace from the Government if it is outside. He is not sitting as a Member of Parliament.

SHRI C. G. K. REDDY: But you get Rs. 40.

SHRI K. S. HEGDE: No. There you are a nominee of the Government, you are not a Member of the Parliament.

SHRI C. G. K. REDDY: Finance Department ...

SHRI K. S. HEGDE: Finance Department Memorandum has nothing to do with this, Mr. Reddy. It might come in those cases where you are elected by Parliament. That is an entirely different matter. But if you are appointed by the Government the fact that you are a Member of Parliament does not affect your membership of the committee. You are merely a nominee of the Government.

SHRI C. C. BISWAS: Suppose a Member of Parliament is absent for 14 days. He will still receive daily allowance.

SHRI K. S. HEGDE: As Member of Parliament.

SHRI C. C. BISWAS: As member of the committee.

SHRI K. S. HEGDE: As member of the committee, he will not carry his membership of Parliament there.

SHRI C. C. BISWAS: He may not carry his membership of Parliament to the committee with him but in fact we know what is the period during which the House is in session, while calculating the maximum allowance which is payable to him as member of the committee for that period.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to declare certain offices of profit not to disqualify their holders for being chosen as, or for being, Members of Parliament or, as the case may be, the Legislative Assembly of any Part C State, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We now take up the clause by clause consideration of the Bill. Clause 2. There is no amendment.

SHRI K. S. HEGDE: I had given an amendment to the Explanation.

MR. DEPUTY CHAIRMAN: It has come late. Unless the Minister is prepared to accept, I am not prepared to admit it.

SHRI B. K. P. SINHA: He may not accept it, but he may allow it to be discussed. That is a different matter.

MR. DEPUTY CHAIRMAN: Unless it is admitted, it cannot be discussed.

SHRI B. K. P. SINHA: It may be allowed for purposes of discussion, not for acceptance.

SHRI C. C. BISWAS: That will raise a controversy—whether it is outside India or inside India.

SHRI K. S. HEGDE: Let the hon. Minister consider the implication of it. That is why I wanted a discus-

sion. I am not going to press the amendment if the hon. Minister does not accept it.

SHRI C. C. BISWAS: I do not accept it.

SHRI K. S. HEGDE: Why I said that was, so that the hon. Minister may come in a better frame of mind.

SHRI C. C. BISWAS: I am quite in a good frame of mind.

MR. DEPUTY CHAIRMAN: I am not going to allow it.

SHRI K. S. HEGDE: Of course, I bow to your decision.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2 stand part of the Bill".

The motion was adopted.

Clause 2 was added to the Bill.

MR. DEPUTY CHAIRMAN: Clause 3. There are amendments.

SHRI RAJAGOPAL NAIDU: Sir, I move:

"That at page 2, line 24 be deleted."

SHRI C. G. K. REDDY: Sir, I move:

"That at page 2, after line 29, the following be added, namely:—

"(e) the offices of Chairman and member of a Committee other than any such Committee as is referred to in clause (a);

(f) the offices of Chairman, director, member and officer of a statutory body, where the power to make any appointment to any such office or the power to remove any person therefrom is vested in the Government'."

MR. DEPUTY CHAIRMAN: The amendments and the clause are open for discussion.

SHRI RAJAGOPAL NAIDU: Sir, hon. Members from both sides of the House have expressed, excepting probably the mover, that the office

[Shri Rajagopal Naidu.]
of the Vice-Chancellor of a University should be considered as an office of profit and that no exemption should be granted. Sir, the hon. Minister explained that we cannot afford to lose the services of eminent personalities who are acting as Vice-Chancellors of various universities in our country. If that is the reason as to why the hon. Minister included that in this clause, then I would earnestly and respectfully submit that it is a very unsound reason that has been given by the hon. Minister. Sir, he can be either a Vice-Chancellor of a university or a Member of Parliament. He cannot be both. If he wants to discharge his duties efficiently and properly he can remain there within the portals of the university and be discharging his duties as Vice-Chancellor. If he is both, he cannot do any justice either to Parliament, and indirectly to the country, or to the university of which he is the Vice-Chancellor. Sir, there is some reasoning in the matter of all other categories that are included. There is no doubt some point in the office of the Deputy Chief Whip being included; there is also some meaning in the other offices, namely, the National Cadet Corps and also the Territorial Army being included. But I do not find there is any reasoning behind the office of the Vice-Chancellor being included. I do not know whether there is any precedent in the history of any democratic country in the world where the office of Vice-Chancellor is being treated as not an office of profit.

SHRI C. C. BISWAS: It is not said that it is not an office of profit. Because it is an office of profit, it has been included in this clause.

SHRI RAJAGOPAL NAIDU: I would only ask whether in any country the office of the Vice-Chancellor is being exempted, as it has been done by the hon. the Law Minister now.

SHRI C. C. BISWAS: May I give just one fact for your information?

MR. DEPUTY CHAIRMAN: You may say it in your reply.

HON. MEMBERS: Let us hear, Sir.

SHRI RAJAGOPAL NAIDU: There is some meaning if an honorary Vice-Chancellor is exempted. There are instances where several great personalities are acting as Vice-Chancellors of various universities. The criterion should be, Sir, whether they are paid any remuneration.

SHRI C. C. BISWAS: That tradition is disappearing and has disappeared practically everywhere.

SHRI RAJAGOPAL NAIDU: Sir, my point is that the office of a Vice-Chancellor is not only an office in the ordinary sense but it is an office of profit because it carries with it some amount of remuneration, remuneration not of a small nature but remuneration of a very high nature, in some cases Rs. 2,000 or Rs. 3,000. These officers are being appointed by the Government and these officers are liable to be removed by the Government. Sir, I cannot understand how such an office whose very existence depends upon favouritism from the Government could be included as one of those that should be exempted as an office of profit. Sir, it is not too late even now and I would earnestly request the hon. Minister not to worry himself about personalities, not to worry himself about the fact that if Vice-Chancellors are not exempted their valuable services would be lost to the Parliament. As I had already said, they can either remain as Vice-Chancellors of the universities devoting their entire time and attention to the universities or they can be Members of Parliament. They cannot be both.

Sir, I earnestly request all the Members of this House to kindly support my amendment because I had heard the speeches of the hon. Members and neither from this side nor from that side there has been

even one single individual who could support the hon. Minister.

MR DEPUTY CHAIRMAN: You want permanent removal, Mr. Reddy?

SHRI C. G. K. REDDY: No, Sir. As I explained this morning and also yesterday, I had only suggested an amendment merely to get over a temporary difficulty which I feel that this Act will cause immediately on its passing and the hon Minister also agreed with me.

Sir, in so far as certain statutory committees are concerned, by an act of Parliament itself we have provided that certain Members of Parliament could serve on statutory committees, whether they are advisory or otherwise. According to the definition of a statutory body, it also includes a statutory committee. Well, even if it is an advisory committee, it becomes a statutory committee if it is created by a statute. Even in the definition, as has been already pointed out, there must be difference. Even so, what would happen is this that so far as I can recollect there are quite a number of committees and statutory bodies which are of an advisory capacity and also in other capacities where Members of Parliament are elected by Parliament itself, by the two Houses, by virtue of their being Members of Parliament. Now, as soon as this Bill is passed into law and there is no likelihood of any amendment being brought to those particular statutes specifically exempting the Members of Parliament elected according to those statutes before March 1954, what would happen?

The intention of the Parliament in giving places to Members of Parliament, whether rightly or wrongly, would be defeated. In March 1954, because of this Act, the Members on those committees whose statutes do not contain that specific provision,—whether such Members are elected by Parliament or nominated by Government,—would automatically and

immediately be disqualified. So, it is only to get rid of a temporary difficulty that I have moved this amendment and as I have already stated, I do agree with what the hon. Minister has said that we should not try to include

SHRI C. C. BISWAS: As a matter of fact, we are contemplating that the Acts which set up these committees will have to be amended. If you think that 31st March is too early a date—because of the Budget Session—and if you want to make it 30th April, I may accept that so that amending Bills may be introduced. I am quite ready to accept that.

SHRI C. G. K. REDDY: Very good, Sir, in that case with your permission, I beg to move that the date may please be changed from 31st March 1954 to 30th April 1954. Of course, I depend on the assurance of the Government that by that time

SHRI C. C. BISWAS: Let us dispose of the amendment moved by Shri Rajagopal Naidu first.

SHRI C. G. K. REDDY. I am moving with the permission of the Chair.

SHRI C. C. BISWAS: Let us dispose of the amendment regarding the Vice-Chancellors of universities first.

SHRI C. G. K. REDDY: He will not put my amendment to vote just now. I shall simply move:

"That in clause 4, in lines 33 and 34, for the words 'beyond the 31st day of March 1954,' the words, 'beyond the 30th day of April 1954,' be substituted"

But this I am doing on the assurance of the Government that for such statutes which have been already passed by Parliament they will immediately bring, that is, before the 30th day of April 1954, amending Bills to provide for express exemptions therein of those offices from being offices of profit. With that, Sir, I will even withdraw my ...

MR. DEPUTY CHAIRMAN: I will just take up this amendment. Amendment moved:

"That in clause 4, in lines 33 and 34, for the words, 'beyond the 31st day of March 1954,' the words, 'beyond the 30th day of April 1954,' be substituted."

SHRI K. S. HEGDE: Sir, we are still in clause 3. We are not in clause 4.

MR. DEPUTY CHAIRMAN: I am sorry.

PANDIT S. S. N. TANKHA: That amendment is not before the House.

SHRI K. S. HEGDE: Unfortunately I was not able to persuade the hon. Minister to accept my amendment but it comes in for discussion when we are considering clause 3. I have some specific cases in my mind's eye and I would like to place them before the hon. Minister for consideration. Now that, of course, comes when we consider clause 3 because the wording used in 3(a) is: "the offices of Chairman and member of a committee set up for the purpose of advising the Government or any other authority" in any matter. Now, would you kindly consider, Sir, one particular case which I shall place before you? In the United Nations' Delegations there were invariably certain Members of Parliament who were representing our Government. They were nominated by the Government—not elected by Parliament but nominated by Government. If you see the definition of 'committee' it includes them undoubtedly. There is no doubt about it. They are not there to advise the Government but to represent their Government. To put it in other words they are there to assist their Government.

MR. DEPUTY CHAIRMAN: But what is the profit they make out of it?

SHRI C. C. BISWAS: Is that a committee set up by Government? We appointed a delegate to the U.N. Commission, to the U.N. Delegation.

That is not a committee set up by Government.

SHRI RAJAGOPAL NAIDU: 'Committee' includes 'Commission'.

SHRI K. S. HEGDE: 'Committee' means any 'Committee', any 'Commission' whether a statutory body or not, set up by the Government. That is the definition of 'Committee' given here. I fail to see how the Indian Delegation was not set up by Government.

SHRI C. C. BISWAS: The U.N. Delegation is not a committee set up by the Government.

SHRI K. S. HEGDE: "any other body of persons set up by the Government" means that the 'delegation' is a body of persons and that Indian Delegation is set up by the Government.

In my opening remarks yesterday I said that the word 'office' is very difficult of definition, and invariably wherever there was a certain privilege they considered it an 'office'. Nowhere any definition of the word has been given, either in the Constitution or in any of the legislative enactments. That is why I said: Here is a body of persons set up by the Government, selection made by the Government, who will represent the Government. They do not advise the Government but for them the payment is more than Rs. 20 a day. I do not know under what 'exemption' they are coming in. The difficulty would not have arisen in their case had you not fixed the daily allowance as Rs. 20. Even if the words "for the purpose of advising the Government" were there, it would not help them when you have now fixed the daily allowance as Rs. 20 and at this fixed rate I do not think anybody would go to the United States at the rate of Rs. 20 a day. My friend who has just returned may be able to tell the House whether it is possible to get on with Rs. 20 a day. But when you have fixed that limitation here is a body of persons

which has been set up by the Government to represent the Government. They might advise the Government, they might assist the Government or they might represent the Government but they draw very much more than Rs. 20.

SHRI H. P. SAKSENA (Uttar Pradesh): Do you think that they simply represent the Government and never advise the Government?

SHRI K. S. HEGDE: The people who represent the Government do advise the Government and they do much more than that. What I say is: Here is a body of persons who not merely represent the Government and advise the Government but who do act on behalf of the Government.

SHRI B. K. P. SINHA: My hon. friend has gone very wide off the mark because he has missed the import of the word "office". This is no office. The term "office" is a very well-defined legal term.

SHRI K. S. HEGDE: Where is it defined? I have got here with me May's Parliamentary Practice and I would like to have the assistance of my hon. friend to find out even a single case where the term "office" is defined. I am throwing out this sporting challenge to him. I say "office" has never been defined. Let him show me the definition.

MR. DEPUTY CHAIRMAN: Is there any precedent to say that a delegation has been held to be a "committee"?

SHRI K. S. HEGDE: You are making it by legislative enactment.

SHRI RAMA RAO: It is a case where reference to the Oxford Dictionary is called for and I believe "delegation" means "committee".

SHRI K. S. HEGDE: I accept that "delegation" means "committee" if my hon. friend has got it in his Oxford Dictionary.

DR. RADHA KUMUD MOOKERJI (Nominated): I happened to be a member of a Government Delegation that went to a foreign country and worked there for over three months. How do you characterise that delegation?

AN HON. MEMBER: That is exactly the point before the House.

SHRI K. S. HEGDE: We cannot even quibble about it and say that a delegation is not a committee, because my friend by his definition has made out that it is a committee. There is no scope even for quibbling about it. What is the use of saying that it is not, when my hon. friend here says that it is a committee? I say by this Bill, we are merely straining the loyalty of the Members. You know the temper of the House. The Minister thinks it does not matter what you think about it. But this is what I think about it.

SHRI C. C. BISWAS: I do protest against this insinuation. I have never followed that line in any of my dealings. I have placed all my cards on the table, but I can place only my views and not Mr. Hegde's views. Mr. Hegde will place his views and it is for the House to decide.

SHRI K. S. HEGDE: But my difficulty is

SHRI C. C. BISWAS: It is an unfair charge.

SHRI K. S. HEGDE: He has placed all his cards, but if he had followed the views and the speeches made here, he would have taken us into his confidence and satisfied us on this question. There is a repeated request and I am sure he appreciates the position as well as anybody that this Bill is ill-conceived and ill-drafted. We may have a better understanding. There is no question of quibbling. Will this Bill have a bright future before it? My own prognosis is—and I think my

[Shri K. S. Hegde.]
prophecy will come true—that this Bill is going to create the utmost danger to the Members of Parliament.

SHRI RAMA RAO: Particularly the Congress Party.

SHRI K. S. HEGDE: I am not questioning the quantity of thought bestowed on the Bill, but I am questioning the quality of thought bestowed.

THE DEPUTY MINISTER FOR COMMUNICATIONS (SHRI RAJ BAHADUR): It is not fair to the Communists

SHRI K. S. HEGDE: I would like the hon. Minister to turn and open his eyes on this picture of the House. It is not a question of saying that this is my interpretation. There should be something to guide us, to be sure of the definition Committee means

MR. DEPUTY CHAIRMAN: Where does it mean a delegation?

SHRI K. S. HEGDE: Please read what is stated here. It says that a committee means any committee, commission, council, board or any other body of persons. Is not a delegation a body of persons?

MR. DEPUTY CHAIRMAN: No.

SHRI B. C. GHOSE: Not a body of persons?

MR. DEPUTY CHAIRMAN: Four or five members, they represent Government and each member gives his views.

SHRI K. S. HEGDE: Do they represent Government individually or as a body?

SHRI M. MANJURAN (Travancore-Cochin): It is a body of persons.

MR. DEPUTY CHAIRMAN: Why is a body considered a committee?

SHRI K. S. HEGDE: I am not speaking of the physical body at all.

I mean a delegation. And a delegation is only a body of persons, if we take the ordinary meaning of the words in the English language. It is a body of persons. It is not a body of animals that we are going to have, certainly it will be a body of persons. Does anybody say that it is not a body of persons? In truth

SHRI H. P. SAKSENA: Has the hon. Member come across a definition of the word "body"?

SHRI K. S. HEGDE: I see before my very eyes what it is.

MR. DEPUTY CHAIRMAN: Order, order. Go on, Mr. Hegde.

SHRI K. S. HEGDE: Sir, there is no question about it. Let us not try to bypass it and say

SHRI B. K. P. SINHA: What does the dictionary say?

SHRI K. S. HEGDE: More than the Oxford Dictionary, my experience of English for the last twenty five years can be relied upon. Are we not a 'body' here; there are certain elementary things which are not open to question. Let not my friend for the exigencies of the situation allow himself to read bad English out of it.

HON MEMBERS: Let us hear what the dictionary says.

SHRI K. S. HEGDE: All right May I have your assistance Sir, and know what the dictionary says about 'body'?

MR. DEPUTY CHAIRMAN: "delegation; (entrusting of authority to delegates); body of delegates, or representatives of a State "

SHRI K. S. HEGDE: Rightly, I had some faith in my commonsense. Here, body means 'group'. There is no doubt about it. There is hardly any scope for splitting hairs about it. Therefore I say that sufficient thought has not been bestowed on it.

PANDIT S. DUBE (Madhya Pradesh): Sir, there have been various points raised by Mr. Hegde, but entirely one point is missed, that is, it is the Government that advises that body. The Government sends its instructions to that body and that body therefore represents the Government. It may be that that body gives the necessary information of the local circumstances to Government to enable it to render advice but it is certainly Government which gives the advice to the body; and so it cannot be said that that body should be considered in that light. It is the Government that gives the advice.

(Shri B. K. P. Sinha rose)

MR. DEPUTY CHAIRMAN: Mr. Sinha, I think you have said enough in your speech already.

SHRI B. K. P. SINHA: Sir, I must have my say about the Vice-Chancellors. I entirely agree that the Vice-Chancellors of universities should not be excluded from the operation of disqualification. Let us analyse the problem. This Bill has nothing to do with the person who has been a Vice-Chancellor since before he was elected to this House. The disqualification that is pre-election is a matter for scrutiny only by the Election Tribunal. This question was raised in the case of a Communist Member of the Madras Assembly. He was disqualified under a certain provision of the Representation of the People Act. Somehow or other, he escaped scrutiny by the Returning Officer and he was elected; a petition was filed against him because, thereafter, it came to the notice of somebody. As a matter of fact, he was disqualified under the law. The Election Commission was moved and they rightly or wrongly passed an order of disqualification. That Member moved for a writ in the Madras High Court. But on a technical ground, the Madras High Court refused. It held that the Election Commission was outside its jurisdiction; and it didn't interfere. The matter then came up before the

Supreme Court. The Supreme Court also, on a technical ground, refused to intervene. But, it observed that the Election Commission can disqualify a person only if he has incurred a disqualification *after* he has become a Member. And if the disqualification is coming prior to the election, the Election Commission has nothing to do with that. So that is settled. Therefore, this Bill deals only with post-election disqualifications. My hon. friend said that he could not afford to lose the valuable experience, learning and guidance of the Vice-Chancellors. I would like to know how many of them are there. What is their number? Let us analyse them. So far as the benefit of their experience, their association and their guidance outside this House is concerned, we can always have it in any way we like it. But then the question is about the benefit of their experience, their knowledge and their guidance in the Parliament itself. Let us analyse the proceedings of the last two years, 1952 and 1953, and see to what extent they have helped us and in what matter they have shed light which was not shed by others.

SHRI RAJAGOPAL NAIDU: Because they were preoccupied with their duties in the universities.

SHRI B. K. P. SINHA: So the question of their valuable experience and of their valuable knowledge does not arise. That is an academic question. But here we are considering the practical question. Nothing prevents us from having their guidance outside the House. But inside the House the records will show how far they have been useful. Therefore, Sir, the argument which the hon. Minister advanced in support of the retention of this provision falls to the ground if we analyse things realistically. I can tell you, Sir, that Mrs. Hansa Mehta was the Vice-Chancellor of the Baroda University; her nomination papers were rejected and she lost the case also. Therefore, Sir, there is no reason why we should be extending our indulgence—I must say it is a sort of indulgence.....

SHRI H. P. SAKSENA: It is protection.

SHRI B. K. P. SINHA: All right, I use the word 'protection'. Why should we extend this protection to these handful of persons? They are essentially for the nation no doubt, but the nation can utilise their services in a different way. I think therefore that there is no reason why the amendment of Mr. Naidu should not be accepted by the Law Minister.

SHRI C. C. BISWAS: Sir, I will first deal with Mr. Naidu's amendment about Vice-Chancellors. As I have just pointed out, there are at least four Members of Parliament who are Vice-Chancellors, three in this House and one in the other House. I do not know if there are more, but at least four of them I know. And my hon. friend says that they have not attended the House. Well, they are not expected to attend, and the contribution which they make to the discussion does not depend upon their attendance. As a matter of fact, it is an honour to have such eminent persons associated with a body like this House or the other House. And if they cannot attend to their duties, they would themselves say, "Please excuse us." Sir, they did not seek these offices. As a matter of fact, they have been invited by their friends who thought that their services would be valuable here in the national interest. That is the reason why they were induced to stand for election. Not that they were seeking to aggrandise themselves. That is not the spirit in which such persons are expected to move in the matter of elections. I have high regard—others may not share it—for persons of such high academic distinctions and I do believe that on important occasions they can make a very useful and valuable contribution to the debates in the House. They may not attend on every occasion, and for every Bill and for every measure, but on important occasions when they attend, their services could be inestimable. So it is that I ask the House to consider

whether they should not have the benefit of the services of such men. Sir, I will just read one paragraph of the Select Committee's report. The reference here is not to Vice-Chancellors but to certain other distinguished academic persons:

"Certain Regius Professors at the Universities of Oxford and Cambridge, the Master of Trinity College, Cambridge, and the Provost of Eton, and probably the holders of some other similar academic offices are appointed by the Crown: these offices have no political significance and the stipends attached to them are not paid by the Crown or out of public funds. The legal position of these persons regarding disqualification for membership of the House of Commons is not free from doubt. In at least one case in modern times a Regius Professor has been a Member."

Therefore, it was considered that Vice-Chancellors should be included in clause 3. The question is whether they are holding offices of profit under the Government. That question was raised before the Election Tribunal in the case of Mrs. Hansa Mehta, in which case the decision was in her favour on this particular point. But this question is not free from doubt and therefore in order to remove all possibilities of doubt it was considered necessary to include these offices specifically in this clause.

SHRI M. MANJURAN: So, this is a doubtful legislation.

SHRI C. C. BISWAS: It is clearly stated in the Preamble:

"Whereas doubts have arisen as to whether certain offices are offices of profit under the Government;"

SHRI K. S. HEGDE: He has not answered the point raised by me.

MR. DEPUTY CHAIRMAN: Mr. Naidu, do you press your amendment?

SHRI RAJAGOPAL NAIDU: Yes, Sir.

MR. DEPUTY CHAIRMAN: The question is.

"That at page 2. line 24 be deleted."

(on a division being claimed by
Shri Rajagopal Naidu)

MR. DEPUTY CHAIRMAN: (after taking a count) Ayes 12 and Noes 37.

The amendment is lost.

SHRI C. G. K. REDDY: Sir, I desire to withdraw my amendment.

The amendment† was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 3 stand part of the Bill".

The motion was adopted.

Clause 3 was added to the Bill.

MR. DEPUTY CHAIRMAN: The motion is:

"That clause 4 stand part of the Bill."

There is an amendment.

SHRI C. G. K. REDDY: Sir, I move:

"That at page 2, lines 33-34, for the words and figures '31st day of March, 1954', the words and figures '30th day of April, 1954' be substituted."

MR. DEPUTY CHAIRMAN: Do you accept the amendment?

SHRI C. C. BISWAS: I accept the amendment.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 2, lines 33-34, for the words and figures '31st day of March, 1954' the words and figures '30th day of April, 1954' be substituted."

The motion was adopted.

†For text of amendment, vide col. 2534 supra.

MR. DEPUTY CHAIRMAN: The question is:

"That clause, 4, as amended, stand part of the Bill."

The motion was adopted.

Clause 4, as amended, was added to the Bill.

Clause 5 was added to the Bill.

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

SHRI C. C. BISWAS: Sir, I move that the Bill, as amended, be passed.

SHRI C. G. K. REDDY: Sir, I support the Bill but I should like to elaborate one point which was made by my friend Mr. Ghose about the manner in which such legislations should be brought. Sir, in almost every matter we follow the practice that obtains in the House of Commons and as the House is aware, so far as the removal or the incurring of disqualification is concerned, it is the House of Commons itself which decides and determines. I am afraid that it would not be possible—at least in law it may not be recognised if the House or the Select Committee of the House or of the two Houses make certain recommendations, that would not in law be tenable—but I will suggest to the hon. Minister that hereafter and right away in view of certain doubts which have been raised by almost every Member of this House a committee should go into this matter and the Committee should make recommendations on which basis a legislation should be brought in.

In future also I would suggest that even when certain exigencies make it necessary for disqualification to be removed or otherwise, it is always desirable that the Parliament as a whole should be consulted before a legislation is drafted. A Committee should first be appointed by the two Houses who will go into the whole question, report on it—because only

[SHRI C G K. REDDY]

a legislation passed by the Parliament could be recognisable in law—and then a Bill should be drafted on the basis of those recommendations and put before the Houses. In such a procedure two things could be avoided—firstly, the Parliament as a whole will be able to express itself. After all we can trust the Parliament as a whole to determine what is good for the Parliament and what is not good, and what we are doing today and whatever other legislation that we may bring in, in respect of this subject, is in respect of the good of the Parliament and independence of the Parliament and the Members of the Parliament. So the Parliament can be trusted to know what is good and what is not good for the Parliament and what will be good for the independence of the Members of Parliament and what is not

Secondly, the hon. Minister also will not have to face such a hostile House as he had to face today. It would then be possible, because this matter is a matter that concerns almost every Member of the House and the opinion of almost every section of the House would have been consulted before you even draft the legislation

In other legislations it is the Government's policy which has to be put before the House and Government has to fall or stand on the basis of that Bill. This Bill is not a Government's policy. It is the policy of the entire Parliament—not only of the Congress Party. It is not a Bill in the sense that the Government only is responsible for it. The Government is not responsible for it and I should think I greatly regret one particular sentence or paragraph in the speech of the hon. Minister where he stated, "We felt like that, and Government decided like that. It is the Government's policy". No, Sir. I don't agree that in this matter there can be any such thing as the Government's policy. It can only be the policy of the entire Parliament put together and the Parliament shall

decide. It is not the Government or its policy

MR DEPUTY CHAIRMAN: Ultimately it is Parliament that decides.

SHRI C. G. K. REDDY: I agree. What I feel is that

SHRI C C BISWAS: Is it the intention of the hon. Member that in respect of this matter or on a matter like this, there should be previous consultations with Members of both Houses before a Bill is drafted, because these are matters in respect of which provision has been for Parliament to make laws? Do you mean to say that in all such cases this procedure should be followed?

SHRI C G. K. REDDY: I don't question the procedure followed in respect of other Bills. I am only making a distinction. The hon. Law Minister or the Government should not think that this is a Bill which is based on Government's policy. No. But whatever the Government may be

SHRI C. C. BISWAS: Take the Bill on the question of salaries of Members of Parliament. What do you suggest?

SHRI C. G. K. REDDY: In future and in the present also because so many doubts have been raised, as has already been pointed out, a committee may be appointed to go into the whole question to find out what is good for the Members of Parliament and what detracts from their effectiveness and independence

In future even in the case of a small Bill when Government thinks that they want to remove a certain difficulty, I would suggest to Government that they must first consult a committee of the Parliament before they draft the Bill and only on the basis of the committee's recommendations that a Bill should be drafted and brought before Parliament. In that case such Bills will only take about two or three minutes of the time of the House and not more.

SHRI C. C. BISWAS As a matter of fact I may say that I had no idea that this would go on for such a long time. I thought that it would go through within one hour.

SHRI K. S. HEGDE I have a feeling that this will be the saddest day in the history of Parliament. The hon. Minister for Law has enunciated certain principles of Parliamentary procedure or justice or whatever it might be which are rather elementary in character and which we read when we were in the intermediate class. Probably he did not comprehend at that time the prospective growth of this legislation on the subject and that enormous exceptions would be made by the exigencies of situations. He is trying to resurrect or resuscitate certain old dogmas which have not been found satisfactory by the test of time and the difficulty is that he has tried to bring in certain ideas on which probably he himself was not quite clear. Whenever he made

MR. DEPUTY CHAIRMAN He has made his position quite clear.

SHRI K. S. HEGDE To himself.

SHRI C. C. BISWAS And to others as well except to yourself.

SHRI K. S. HEGDE Maybe but I am in good company and if only you want to take a private poll, you may do it. That apart this Bill, by attempting to have a new procedure which is never followed in any other part of the world, by trying to evolve a principle or putting it in a general form, has attempted to do something impossible. In the English Parliament they have been trying to have a generalisation for the last several years, for over 50 years but they found it impossible. Each committee said it is not possible and so they only dealt with individual cases. The Expert Committee report is before the hon. Law Minister. They said it is not possible but the hon. Law Minister has tried to do the impossible and where we land ourselves God alone knows. Let us pray that

the future is not going to be as dark as some of us think it would be. I wish all luck to the Bill because a good deal of luck is necessary if this Bill is to have any satisfactory result.

SHRI RAJAGOPAL NAIDU: Mr. Deputy Chairman as Mr. Hegde has put it, I don't know whether the hon. Minister is glad that the Bill is being passed or whether he feels sad about it. I feel personally he should feel sad about it. There is not even one Member of the House who had failed to express his feelings about the way in which this Bill is being moved. The excuse that is given by the hon. Law Minister is there is no time left and that this Bill will have to go to the other House, and passed by the other House before the conclusion of this session. That is not a proper excuse that should be given by the hon. Law Minister. If he has felt that this is such an important Bill, what he should have done is that he should have moved this Bill pretty early at the commencement of this session and he should have referred this Bill to a Select Committee. After all it would have taken about 3 or 4 days and the Select Committee would have returned the Bill in 4 days' time and this House could have considered threadbare the whole thing. I don't say that the excuse that is given by you is justifiable or not. Now what happens is this. You had generalised certain offices as amounting to non-offices of profit. There is nowhere in the history of the world, in any Parliamentary procedure in any Parliament that a Bill of this sort has been moved, that there is any law of this kind.

SHRI K. S. HEGDE He will have the credit of doing it.

SHRI RAJAGOPAL NAIDU: The hon. Law Minister will have to be congratulated for setting up a precedent to pass a Bill of this sort which is general in nature.

Sir, what will now happen is this. If, in the coming elections, anybody files a nomination and if an objection

[Shri Rajagopal Naidu.]

is raised then, if all these qualifications or disqualifications are enumerated, if they are categorised, it would have been very easy for the scrutinising officer, or for the Returning Officer to say whether a particular office is an office of profit or not. Now he will have to interpret whether a particular office is an office of profit or not; he will have to interpret whether that office is of an executive nature or of an advisory nature. Sir, will it not be leading to complications? I earnestly appeal to the Law Minister whether he is justified in moving a Bill of this sort. I would request him at least to come forward with an amending Bill and say, "these are the offices of profit and these are not the offices of profit. These are the exemptions under article 102". Sir, if you pass a Bill of this sort, I am sure it will lead to very many complications and very many conflicting interpretations will be given by the various Returning Officers. I am sure that this Parliament will not be a party to passing such a legislation and the Law Minister will own it and not this House.

SHRI C. C. BISWAS: Sir, if there is so much of controversy before the Returning Officer, well, that will not be the first time or the first occasion

that a controversy will have arisen. Go to a court, there is nothing but argument, both sides being arrayed with arguments. Merely because a subject may lead to a controversy, you must not make provision, that is an argument which does not appeal to me.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill, as amended be passed."

The motion was adopted.

SHRI RAJ BAHADUR: Sir, the next Bill is mine. I have got a short notice question to answer in the other House tomorrow and I wonder whether it would be possible for you to permit me to come at about a quarter to three...

MR. DEPUTY CHAIRMAN: It can be adjusted.

The House stands adjourned till 1-30 P.M. tomorrow.

The Council then adjourned till half past one of the clock on Thursday, the 17th December 1953.

COUNCIL OF STATES

Thursday, 17th December 1953

The Council met at half past one of the clock, MR. CHAIRMAN in the Chair.

ORAL ANSWERS TO QUESTIONS

CERTIFICATES FOR EXHIBITION FOR FOREIGN FILMS

*355. SHRI M. VALIULLA: Will the Minister for INFORMATION AND BROADCASTING be pleased to state the total number of foreign films granted certificates for public exhibition during 1952-53 with the names of the countries to which these films belong?

THE MINISTER FOR INFORMATION AND BROADCASTING (DR. B. V. KESKAR): The total number of foreign films granted certificates for public exhibition during 1952-53 was 2,537. A statement giving the names of the countries to which these films belonged is laid on the Table of the Council.

Statement

Country	No. of films granted certificates in 1952-53
U.S.A	2,025
U.K.	407
U.S.S.R.	23
Pakistan	5
France	14
Italy	14
Australia	12
Switzerland	11
Japan	2
Holland	4
Finland	1
Germany	4
Hungary	3
Sweden	2
Spain	2
Yugoslavia	2
Czechoslovakia	5
Africa	1
TOTAL	2,537

SHRI M. VALIULLA: May I know if all these films that have come from foreign countries are first-hand or second-hand films?

DR. B. V. KESKAR: What is the meaning of "first-hand", Sir?

SHRI M. VALIULLA: Were they sent here immediately, after they were ready from the studios, or have they been shown in those countries and have come here after that?

MR. CHAIRMAN: No information.

SHRIMATI SAVITRY NIGAM: Is the Government aware that a number of foreign films which are being exhibited here have no other value than that of propaganda for their own country and political parties?

MR. CHAIRMAN: She is suggesting that the foreign films have no other value than propaganda. That is what she says.

DR. B. V. KESKAR: I have got no definite information. There are about 3,000 films and I will not be able to say anything regarding them.

SHRI M. VALIULLA: All these films have come from about eighteen countries. Are all of them in English or in their own mother tongue?

MR. CHAIRMAN: In their own tongue?

PROF. G. RANGA: Some of them.

SHRI M. VALIULLA: Has any attempt been made by the Government of India to encourage the sending of our films to foreign countries as we are the second largest producers?

DR. B. V. KESKAR: Certainly, Sir, we do make efforts.

SHRI M. VALIULLA: How many have been sent?

(No reply.)