

[Dr. Krishnaswami]

of the Public Accounts Committee of this House will have the full power and authority to draw up the procedure. In matters pertaining to excess grants and similar subjects, which concern discharge of financial functions, it ought to be a sound and salutary rule that the Chairman of the Public Accounts Committee who would be elected from this House should regulate the procedure so as to give substantial power to the Members of this House. Those from the other House on this Committee will enjoy the capacity of being associate Members. They would certainly have the right to discuss, but when it comes to voting, I think the Chairman of the Public Accounts Committee should lay down rules whereby we have the assistance and wisdom of hon. Members from the other House, made available without their being given the power to vote on matters pertaining to excess grants and other such subjects which touch the financial powers of initiation of this House.

In conclusion, I hope it would be possible now that we have decided to associate Members of the Council of States with the House of the People. Only two weeks ago we were asked to join another Joint Select Committee of the Council of States and there we accepted the position of being associate Members. Similarly, when we have a joint Public Accounts Committee they would be associate members lending aid and assistance without strings. Let us all hope that this unseemly conflict between the two Houses is a thing of the past, and that the Leader of our House who has played a not inconsiderable part in emphasising the role which both Houses have to perform, will not forget that he is the Leader of the House of the People, that this House although it objected to this experiment is nevertheless willing to make a success of it. Probably as a result of the generous step that we have taken we may furnish an example to other countries

which have a bicameral legislature to emulate.

Mr. Deputy-Speaker: Does the hon. Minister want to say anything?

The Prime Minister and Minister of External Affairs and Defence (Shri Jawaharlal Nehru): No, Sir.

Mr. Deputy-Speaker: The question is:

"That this House recommends to the Council of States that they do agree to nominate seven members from the Council to associate with the Public Accounts Committee of this House for the year 1953-54 and to communicate to this House the names of the members so nominated by the Council."

The motion was adopted.

PREVENTION OF DISQUALIFICATION (PARLIAMENT AND PART C STATES LEGISLATURES) BILL

The Minister of Law and Minority Affairs (Shri Biswas): I beg to move:

"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, as passed by the Council of States, be taken into consideration."

Hon. Members have, I hope, examined the provisions of the Bill which has been in their hands for some little time. They are aware of the provisions of Article 102 (i) (a) of the Constitution. This Bill has been brought before the House in pursuance of the express provision contained....

Some Hon. Members: We are not able to hear.

Mr. Deputy-Speaker: The hon. Minister may speak a little louder, and there may be lesser noise in the House.

Shri Biswas: I was trying to make myself heard. Unfortunately, I am just suffering from an attack of flu. My voice is very weak.

Mr. Deputy-Speaker: Hon. Minister may sit in his place and speak.

Shri Biswas: I need not sit.

Mr. Deputy-Speaker: Hon. Minister may come to the shorter microphone.

Shri Biswas: Sir, I was pointing out that this Bill has been introduced in pursuance of the express power which has been reserved to Parliament by Article 102(1)(a) to provide for certain exceptions to the general rule of disqualification embodied therein. That Article, as you know, embodies a very salutary principle, viz., that Members of Parliament should not be permitted to accept any office of profit under Government without losing their seats.

The object of this disqualifying rule is well understood. It has a historical origin. It is based on English precedent. In England this disqualification was laid down on various considerations reflecting the various phases through which this controversy passed. At one time it was supposed that Parliament had the first claim upon the services of its Members, and Parliament considered it derogatory to its own privilege if one of its Members was permitted to accept some other office which would require his time and attention a great deal more. That was regarded as the "privilege phase" of this controversy.

Then came the "corruption phase". It was thought that if any Member accepted any office of profit from Government, there was every chance of the loyalty of that Member to Parliament being tampered thereby. Those were the days of conflict between the Crown and the Parliament in England. On the one hand, there was the desire on the part of the king to get as many adherents, as he could; and on the other, there was resistance on the part of Parliament to any such attempt. So, this disqualification rule was created. Under this nobody

could accept any office of profit under the Crown. If he did so, he would lose his seat in Parliament. Later on, it was found that this was an extreme view. As it always happened with extreme views, it was found that this might operate sometimes against those who laid down this rule. In order that Parliament's control over the executive might be effective, it was often found necessary that members of the executive also should be represented in Parliament. That is why you find ministerial offices exempted from the general disqualification. That was the "ministerial phase."

Leaving aside these historical developments in the United Kingdom, let us proceed now with the principle which has been accepted and embodied in our Constitution, in Article 102 (1) (a), which reads:

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

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

There are other grounds for disqualification also laid down in that Article. We are not concerned with them just now. We are concerned here only with the disqualification mentioned in Article 102 (1) (a), which it is within the power of Parliament to remove, by express provision in that behalf in the Constitution itself.

Article 102 (1) contains several clauses, (a), (b), (c), (d) and (e). Of these clause (a) refers to disqualification arising from the holding of an office of profit under Government. It is only in respect of that disqualification that Parliament has been given the authority by law to declare that certain of these offices shall not disqualify the holders thereof.

You will remember that this is not the first time that a Bill of this na-

[Shri Biswas]

ture is being brought before the House. First in 1950, there was the Parliament Prevention of Disqualification Bill, (Act XIX of 1950), in which certain offices were specifically mentioned as not to disqualify the holders thereof, viz. the offices of a Minister of State, a Deputy Minister, a Parliamentary Secretary, and a Parliamentary Under-Secretary. Then came the Parliament Prevention of Disqualification Bill, 1951 (Act LXVIII of 1951), under which the exemption was made retrospective. Although this Act was passed after the commencement of the Constitution, it was deemed to have come into force from the date of the commencement of the Constitution. The scheme of that Act was this. A number of committees which had been set up by Government were mentioned, and it was provided that the holding of the office of chairman or member of any of these committees would not operate as a disqualification for the holder to retain his seat in Parliament. After specific enumeration of some of these committees, by means of a general clause it was provided, that the office of chairman or member of any other committee appointed by Government shall also not disqualify. But these disqualifications were removed only up to a limited date, viz. up to the 31st March 1952, and not further.

Before this Act for the prevention of disqualification was passed, exempting the holders of particular offices from the disqualification referred to in the Constitution in Article 102 (1) (a), somehow or other, the existence of this Article appears to have been forgotten. And many appointments had been made by Government to various committees, without realising that membership of these committees might operate as a disqualification. When this was realised, some amends had to be made. On the one hand, the Members had accepted these offices, without knowing that they were incurring a disqualification under this Article, and on the other, the Government had put them into these offices, without realising that they were exposing them to this risk.

So amends had to be made by Government by enacting this law, and a blanket cover, so to say, was given up to a limited date. Within that date, it was for the Members to decide what they should do, and for Government to decide what they should do in their turn. Either these Members could resign their seats on these committees or statutory bodies, or they could retain their seats after that date, if the Acts under which those committees or statutory bodies were set up, could be suitably amended so as to ensure that membership of these bodies would not entail a disqualification. This blanket cover was given up to 31st March 1952. But since then, a number of appointments have been made by Government to various bodies set up by them. There have also been a large number of statutory bodies set up under Acts passed by Parliament, to which Members of Parliament have been appointed. The question arises, therefore, whether or not they stand disqualified, and if they stand disqualified, what is the remedy. Hon. Members will remember that some time back, there was the case of disqualification of certain Members of the Vindhya Pradesh Legislative Assembly.

There the disqualification was incurred under similar disqualifying clauses, contained not in the Constitution, but in the Part C States Act. A question was raised whether they could continue as members of the Legislative Assembly after their appointment as members of certain District Advisory Councils which carried certain emoluments. Under the provisions of an order, made under section 43 of the Act, the question was referred to the President, and the President referred it to the Election Commission. The Election Commission took the view—the Election Commission's opinion was practically the final word on the subject—that although they were in receipt of only Rs. 10 as D.A., that possibly might be regarded as no more than what they required to compensate them for their out of pocket expenses. He was prepared to

overlook that. But there were some of these members who were resident members, and in their case there was no question of any travelling expenses being incurred. They were all residents of the place and they would walk up to the place of meeting and walk back from there to their homes. So there was no question of payment of any travelling allowance to them, and if anything was paid—even Rs. 5; that is the amount paid, so far as I remember—even Rs. 5, it was said, would disqualify. That was the view taken by the Election Commission. And so 10 or 11 of these members, for no fault of their own, stood disqualified. Then Government had to introduce a Bill here which was given retrospective effect, to remove this disqualification. But that was a case which occurred not under the Constitution but under the Part C States Act which contained similar provisions. Here the question is one under the Constitution itself, and we are now legislating for the purpose of removing disqualification thereunder.

If you look at the present Bill, you will find the Bill refers to Committees and Statutory Bodies. "Committees" are defined to mean Committees, Commissions, Councils, Boards or any other bodies of persons, whether statutory bodies or not, set up by the Government. The principal thing is this—that body must be a body set up by the Government. It may be set up under a Statute, or it may not be under a Statute, but it must be set up by Government. A body set up by Statute need not always be a body set up by Government.

Then, with regard to the definition of a "Statutory body", it means any corporation, board, 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 or exercising powers and functions under any such law.

Now, as the disqualification mainly arises from the office being an office of profit, it is necessary to consider what profit means. Whether it is mem-

bership of an *ad hoc* body set up by Government, or of a statutory body set up by Government, unless the office itself is an office of profit, it entails no disqualification. The disqualification from office-holding requires first of all, that the office must be an office under Government and also that it must be an office of profit. Both the conditions must be satisfied. Now, so far as profit is concerned, generally no doubt profit is interpreted in terms of rupees, annas, pies—it means monetary profit. But in some cases the view has been taken office includes something more than that. Even where it is not monetary profit, but other benefits, that also may come within the meaning of the word 'profit'. For instance, if the office is one to which some power or patronage is attached, or in which the holder is entitled to exercise executive functions, or if it is an office carrying dignity, prestige or honour, that might be regarded also as an office of profit, the idea being that Government must not be in a position to seduce a Member of Parliament by placing him in a position where he can exercise authority, can feel he is somebody important, even if he gets no pecuniary remuneration. All temptations monetary or other must be removed. That being the object, the word 'profit' has sometimes been given this larger interpretation. So we have proceeded on this wider basis, so as to remove all possible disqualifications, arising either from acceptance of actual money or from acceptance of any other benefits equivalent to money, although not exactly measurable in terms of money.

Now, Sir, the question which has really agitated us regarding the quantum of profit is not so much the quantum of salary where there is a salary attached to the office. If there is a salary attached to it, of course it is an office of profit; there can be no doubt about it. But it is only the question of allowances which has raised difficulties. Now in every case wherever a Member has been appointed to a Committee, he has been permitted to draw certain allowances. So far as these allowances are concerned, the rule in England and

[Shri Biswas]

elsewhere where such a rule prevails is that if you draw no more than what you require to cover your actual out of pocket expenses, it will not operate as a disqualification. So far as house-rent allowance is concerned, there is hardly any trouble about it; travelling allowance also raises little trouble, and about conveyance allowance also there is no trouble. The main trouble has arisen in connection with daily allowance. As regards daily allowance, what should be the limit? This is the first time that the rate of daily allowance is being put on a statutory basis, to remove all doubts. Formerly—so far—there has been an office memorandum issued by the Finance Ministry and it was said that if no more than Rs. 20 was paid, it would be regarded as just sufficient to cover out of pocket expenses and this would not be an objectionable amount.

Shri S. S. More (Sholapur): Has it any legal validity?

Shri Biswas: No, it has no legal validity. But it was being given effect to. The question now is of putting it on a statutory basis, and we say that if no more than Rs. 20 is paid, that will be quite all right and there need not be any trouble about it. But, Sir, it was pointed out to us—several hon. Members drew Government's attention to the fact—that that was putting the Members to a disadvantage. Suppose a Member was here: while the session was on, as a Member of Parliament he would be entitled to draw Rs. 40 per day during this period. But supposing during that period he has to attend to his duties as member of a Committee that is, he does not attend Parliament on that particular day but attend the Committee instead, whether in Delhi or nearabout Delhi or elsewhere, then he will be limited to an allowance of Rs. 20, only, although, possibly, he may have to incur, if it is outside Delhi, more than Rs. 20 as actual expenses. We have suggested in this Bill that where the member has got to discharge his functions as a committee member during a period when Parlia-

ment is in session, then, of course, a maximum of Rs. 40 will be allowed; otherwise, the ceiling will be Rs. 20. That is what we have suggested in the explanation to clause 2(b):

"For the purposes of this clause, 'daily allowance' means an allowance which shall not,—

(i) in the case of a member of either House of Parliament, when that House is sitting, exceed forty rupees per day; and

(ii) in any other case, exceed twenty rupees per day;"

Then, Sir, you will find two clauses, clauses 3 and 4. In one clause, clause 3, permanent exemption has been provided for. In the other clause, exemption for a limited period has been provided for. As a result of an amendment moved in the other House, and accepted by the Government, the period is now up to 30th April 1954. The idea is this. In clause 3, we mention,

"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:"

that is, Committees which will perform only advisory functions as distinguished from executive functions. Insofar as such committees are concerned, membership of such committees ought not to operate as a disqualification at all, provided of course, members are within the ceiling as regards the quantum of allowance.

"Provided that the holder of any such office is not in receipt of, or entitled to, any fee or remuneration other than compensatory allowance;"

Then, if we turn to sub-clause (a) of the next clause, clause 4, we find there reference to the offices of Chairman and member of a Committee other than any such Committee as is refer-

(Parliament and Part C
States Legislatures) Bill

red to in clause (a) of section 3. So, between sub-clause (a) of clause 3 and sub-clause (a) of clause 4, the whole list of committees is exhausted. Now if you come under sub-clause (a) of clause 3, then you get permanent exemption. But if you come under sub-clause (a) of clause 4, the exemption is only for a limited period. That is a distinction which has been made. Then, in respect of statutory bodies, referred to in clause 4 (b) exemption is also temporary; these offices are—

“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.”

Sir, while on this sub-clause (b) of clause 4, I will just draw your attention to one fact. Sir, there may be offices which are offices of profit because there are undoubtedly profits attached to them in the sense of provision for monetary profit. But, the profit may not be derived from Government funds. Take the case of the Vice-Chancellor of a University. The Vice-Chancellor is appointed by Government, but he draws his remuneration not from Government, but from University funds. It has been held that although the University may be in receipt of Government grant, as soon as the grant is received by the University, it becomes part of University funds and it is no longer a part of Government funds. Therefore, it should not be from that point of view an office of profit under Government, and the holder should escape the disqualification.

But, Sir, there has recently been a decision of an Election Tribunal—Mr. More must be aware of it—Mrs. Hansa Mehta's case,—where it has been held that although the profit may come from a source other than Government, still if the office is one as regards which Government has the power to make or revoke the appointment, it should be regarded as an office under the Government. In other words, it

has been held that where the Government can say, ‘I am going to put you in some place where you will earn some money’,—and the power of appointment carries with it also the power to revoke that appointment—that will make it an office of profit under the Government.

Shri S. S. More: Do you disagree with the logic advanced by the Tribunal in that particular judgment?

Shri Biswas: We have not considered whether the judgment is correct or not. There it is. We proceeded on this basis. Suppose a question is raised whether a particular Member in the House of the People who is a Vice-Chancellor is not qualified, then the matter is referred to the President. The President refers the matter to the Election Commission. The Election Commission may take that view or may not. Whatever that may be, I was just pointing out why we have included in clause 4(b) this provision, “where the power to make any appointment to any such office or the power to remove any person therefrom is vested in the Government”.

Sir, having said so, I will now point out that in spite of the fact that temporary exemptions have been granted to the holders of offices of such statutory bodies, we have thought it fit to make some exceptions in this Bill. We have thus included the office of Vice-Chancellor under clause 3 for permanent exemption. We have also included in clause 3, some other offices by name namely the Deputy Chief Whips in Parliament, in sub-clause (c), and offices in the National Cadet Corps and the Territorial Army.....

Shri S. S. More: May I ask the hon. Minister at this stage whether the Deputy Chief Whip's office is statutory. It may be an office of a party but it cannot be an office in a statutory body. I can understand the exemption for membership of a statutory body.

Shri Biswas: I will just explain why they have been included. Strictly speaking, they are offices of Parliament;

they are not offices of Government.

Shri S. S. More: They are offices of a party.

Shri Biswas: They are offices of a party in Parliament. It so happens, I do not know why, they have been appointed by orders made by the President.

Shri S. S. More: Deputy Chief Whips, are they? Under what section?

Shri Biswas: I do not know.

Shri V. P. Nayar (Chirayinkil): Are they also government servants appointed by the President?

Mr. Deputy-Speaker: The hon. Members may reserve all their points. They may note them down and ask them at a later stage.

Shri V. P. Nayar: If it is explained at this stage, it will save a lot of time.

Mr. Deputy-Speaker: After he closes, I will allow them to put some questions.

Shri Biswas: What I want to point out is this. It is very necessary that this Bill should be passed today, though I quite appreciate the shortness of time. There may be many matters which require clarification. Possibly, the easiest thing would have been for us to have a Bill enumerating a number of offices and saying that the holders of those offices shall not be considered to be under a disqualification. That would be the simplest way. What was done was this. We tried to find out from the various Ministries, the various committees to which Members of Parliament have been appointed. We got those lists; we have circulated copies of those lists. I do not suggest that this is an exhaustive list. There are lots of statutory bodies. There might be some omissions in it. We went through these lists.

4 P.M.

Shri V. P. Nayar: On a point of information.

Mr. Deputy-Speaker: I have already said that I will allow hon. Members to put their questions later on.

Shri Biswas: So far as membership of statutory bodies is concerned, Government consider that the best way of dealing with the position would be to have a provision in the Act under which those bodies are set up. As a matter of fact, in one or two such enactments, there is now a provision as to whether membership of that body will operate as a disqualification for membership of Parliament.

Shri N. M. Lingam (Coimbatore): On a point of information, Sir.

Mr. Deputy-Speaker: I have repeatedly told hon. Members not to interrupt now.

Shri Biswas: In the Statement of Objects and Reasons, we have stated—

“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.”

Our idea is to examine the various Acts under which statutory bodies to which Members of Parliament have been appointed, have been set up, and we shall amend those Acts and insert therein suitable provision as to whether Members of Parliament who have been appointed to such bodies ought to be granted permanent exemption from disqualification or not. At the moment, we are granting a cover up to the 30th April 1954. So, if we accept this Bill today,—that is, no commitment on your part,—everyone is granted this blanket cover upto the 30th April 1954, and in the meantime, we may consider the cases where permanent exemption ought to be granted or withheld. In the other House the question of membership of a foreign delegation was raised. I am free to confess that the case of membership of such delegation had not occurred to us and we had not considered that question. But then, there is a blanket cover, which will cover all such cases for the time being. This is a matter which requires to be

considered, and it is only after the discussion in the Council of States on this Bill that it struck me that possibly I should have acted wisely if before bringing this Bill forward, I had a Parliamentary Committee appointed consisting of Members of both Houses. This is a matter concerning Members, as in the case of salary and allowances of Members, for which you had a Parliamentary Committee. In the same way, a Committee might have been a better way of dealing with this matter. But now I would ask you to accept this Bill as it is, Let the blanket cover be given upto the 30th April. In the meantime I shall examine all other cases and, if possible, we shall have a meeting of members of both Houses to consider their suggestions and hammer out a Bill which will be more satisfactory and will deal with the matter in a more effective way. That is my suggestion. There may be many questions and doubts, but if you do not accept this Bill, tomorrow somebody may write to the President that so and so is a member of such and such a body and he is under a disqualification for being a Member of Parliament etc. The President will refer it to the Election Commission and the Commission will examine the question. Therefore, the much easier thing would be to accept the Bill as it is, without a debate, and as I said, we shall examine the question afresh. If the other procedure had occurred to me, I would certainly have followed it, but as it is, it occurred to me only when the Bill was discussed in the other House. With these words, I move that the Bill be taken into consideration.

Shri S. S. More: May I ask one or two questions, with your permission, Sir?

Mr. Deputy-Speaker: The hon. Minister will no doubt note down these questions and then once for all reply to them later.

Shri S. S. More: Under *Explanation* on page 2 under clause 2, you find—

“in the case of a member of either House of Parliament when

that House is sitting, exceed forty rupees per day;”

I feel that this may appear to be discriminatory and as a matter of fact, it is, I am not raising this as a point of law or a point of order.

Mr. Deputy-Speaker: Does the hon. Member want to speak on this Bill also? Why should there be duplication?

Shri S. S. More: I am not going to make a speech again and I do not wish to invite any trouble from the Chair.

Mr. Deputy-Speaker: It is not at all proper to say so. Who is inviting trouble? I am here to get into trouble. The hon. Member has been a leading lawyer and he should not refuse to understand me correctly. All I said was whether the hon. Member was going to make a speech as well. I only wanted to put the motion to the House so that hon. Members may have the full background and wherever there is a doubt, they may wish to speak.

Shri S. S. More: The hon. Minister was pleased to say that according to his information, the President of India has appointed the Deputy Chief Whips of Parliament. How are they Government servants? Not only Government servants but he said that they are officers of Parliament. How is this?

Mr. Deputy-Speaker: All that the hon. Member wants to know is how the Deputy Chief Whip is an officer of Government, and if he is an officer of Parliament, where is the need for this disqualification.

Shri S. V. Ramaswamy (Salem): I wish to know the remuneration that the Deputy Chief Whip is getting.

Mr. Deputy-Speaker: The same thing, he is putting in another form.

Shri N. M. Lingam: The hon. Minister said that the disqualification will be removed by a specific provision in the statute, which makes provision for Members of Parliament to serve on those bodies. Now, I want to know what happens to Members serving in bodies created by notifications of Government.

Mr. Deputy-Speaker: That is why it is brought here.

Shri Biswas: I do not quite follow the question.

Mr. Deputy-Speaker: The question is this. Whenever under a statute, hon. Members are appointed as members of particular committees etc., the statute itself in most cases provides for a clause that it shall be considered as a disqualification for membership of legislatures etc. If that is so, what will happen to the Members of Parliament or Legislatures who are appointed in committees with some emoluments by a notification of the Government? Is that provided for here or is there going to be a comprehensive Bill?

Pandit Thakur Das Bhargava (Gurgaon): So far as compensatory allowance is concerned, is it the intention of the hon. Minister that only in cases where expenditure is incurred that compensatory allowance shall be given? Supposing, a person goes in a friend's car and has incurred no expenditure and yet draws travelling allowance, then, will such a situation be covered under this definition? Whether it is the intention to include the expenses incurred or liable to be incurred, I want to know.

Shri S. C. Samanta (Tamluk): I find an inconsistency. I am referring to clause 3:

"Provided that the holder of any such office is not in receipt of or entitled to, any fee or remuneration other than compensatory allowance."

Here, 'fee' has been referred to. If this 'fee' is there, then, there are many Members who are on the Committees and who are receiving at present or have accepted attendance fees. In the rule, it is said that they will be entitled to attendance fee. So, if the 'fee' remains here, then the intention of the Government to remove the disqualification will still exist. So, I would request the hon. Minister to think over it. In this connection, I have given two amendments, one for the definition and another in regard to clause 3.

Shri Satyendra Narayan Sinha (Gaya West): I want an information from the hon. Minister. The hon. Minister has circulated to us a list of Bodies and Committees which are sought to be exempted from the operation of this disqualification provision by virtue of this enactment. Is that list exhaustive or is merely illustrative, because in the list, we do not find the mention of the names—The Backward Classes Commission, The Delimitation Commission, The Gosamvardan Council. Such bodies have not been mentioned. I want to find out from him whether Members of these Bodies will also be sought to be exempted from the operation of this Bill.

Shri Sinhasan Singh (Gorakhpur Distt.—South): It is mentioned in clause 2(b): "Or other member to recoup any expenditure incurred by him....." etc. This is a very vague sentence. For instance, a local Member of a Commission was given Rs. 5/-. The Commission said that out of Rs. 5/- they hardly spent Rs. 2/-, and so now, Rs. 3 is provided. Now, every Member coming to attend any Committee will have to spend Rs. 30 or Rs. 40, and sometimes he spends more than Rs. 40. Ordinarily, allowance means loss of wages. So, I do not understand the purpose of the word 'recoup'. Is it the intention that the Member should file an account of expenditure in such cases, or, the word is only put here without meaning?

The other point is about the appointment of the Deputy Chief Whip. Suppose a person is appointed as a Deputy Chief Whip. When he is in Parliament, he is a Member of Parliament. His main business is to instruct...

Mr. Deputy-Speaker: The Chief Whip is appointed by Government. He is the Minister of Parliamentary Affairs, and he is appointed by Government. The hon. Member's intention seems to be that Government can appoint a Deputy Chief Whip and that both the Chief Whip and the Deputy Chief Whip should be borne on the rolls of the Government—one for this House and the other for the other House.

Shri Sinhasan Singh: It may be. The Deputy Chief Whip can be given a Government post if there be any idea of making it a paid post. He can also be Minister for Parliamentary Affairs or something like that. But the Minister of Parliamentary Affairs is in the House of the People, and so the Deputy Chief Whip may be a Deputy Minister of Parliamentary Affairs in the Upper House. But my question is: why should there be a Deputy Chief Whip? There is no necessity.

Mr. Deputy-Speaker: The hon. Member is arguing. He wanted some information.

Shri Sinhasan Singh: Any request for information will necessarily involve some argument.

Shri K. K. Basu (Diamond Harbour): I want to know whether the Deputy Chief Whip will get any allowance other than as a Member of the House?

Shri S. M. Ghose (Malda): In clause 3, it is mentioned: "the offices of Chairman and member of a Committee". What about the Member-Secretary of a Committee? Is it covered by this clause or not?

Mr. Deputy-Speaker: The hon. Minister.

Shri Biswas: First, with regard to the Deputy Chief Whips. The fact is that an order was issued by the Department of Parliamentary Affairs on 27th January, 1953, in respect of Shri Amolak Chand, who was appointed Deputy Chief Whip in the Council of States, and of Shri Dev Kant Borooah who was appointed Deputy Chief Whip in the House of the People with effect from 20th August, 1952. The order was made in the name of the President. This gave the Deputy Chief Whips the status of officers of Government.

Mr. Deputy-Speaker: Do they get any allowance other than as Members of Parliament?

Shri Biswas: As a matter of fact, it was suggested that when they work outside the session, they should get

an allowance, and that has raised this whole question.

Mr. Deputy-Speaker: Are they given an allowance even during non-session periods?

Shri Biswas: They should be given. The question was raised in connection with the payment to them of some remuneration for their work during non-session periods. That raised this question.

Now, this is the first time that the matter of paying the Deputy Chief Whips is brought before this House. I cannot say, without further enquiring into the matter, whether during this intervening period, they have been allowed to draw any allowance in anticipation.

Shri S. S. More: How many deputies have been appointed?

Mr. Deputy-Speaker: One for this House and the other for the Council of States.

Shri Biswas: It is a party appointment. Personally, I think it would have been much better if those two gentlemen were given some status or designation which would show that they are officers of Government.

An Hon. Member: That can be done by an Act of Parliament.

Shri Biswas: I am not discussing that question. Possibly, that would have been the better way of dealing with the matter.

Then, Sir, the question is: what should be the emoluments of the Deputy Chief Whips. I cannot tell you whether there were any rates fixed, but if this Bill goes through, it will be limited to the ceiling which has been prescribed here.

Shri S. S. More: I would request you to explore all the legalities of the matter, and I would like to know whether the Minister would be pleased to lay on the Table of the House all the orders which have been passed by the Minister of Parliamentary Affairs.

Shri Biswas: I do not know. It is not under the Ministry of Law.

[Shri Biswas]

Then, Sir, another question was asked. Mr. Thakur Das Bhargava asked whether compensatory allowances must be actually paid in order to be...

Pandit Thakur Das Bhargava: That was not my question. My question was: should any expenditure need be incurred necessarily so that a compensatory allowance may be payable. Suppose you pay a person a travelling allowance, and in fact, he does not spend any amount over travelling, would that come under this provision or not? Because, the word used is "incurred by him" and not "expenditure liable to be incurred".

Shri Biswas: The rule is this. If there is some allowance in excess of the prescribed limit attached to the office, it does not matter whether the Member actually draws that allowance or not. There is that allowance which he could draw, if he liked, whether he incurred it actually or not. In the case of travelling allowances, Members draw them at the rate prescribed. Whether they have actually incurred it or not is immaterial. There have been numerous cases where members have not actually drawn the supposed 'profit', but still they have been disqualified, because the office does carry that profit. Whether he actually draws it or not, so long as that allowance is attached to the office, it will make the office an office of profit, provided the allowance exceeds the limit. There is no intention to depart from the general rule.

At this stage may I point this out? We have not tried to dogmatise by saying: this is an office of profit, or this is not an office of profit. If you look at the language of Article 102 you will find who are the persons who are disqualified: a person who holds any office of profit under the Government of India or the Government of a State. Suppose this question is taken to the Supreme Court, it is the Supreme Court which will have to decide whether a particular post is an office of profit under the Government. It is a justiciable matter.

The basis on which we proceed is this. The holder of an office of profit suffers from a disqualification under the Constitution. Parliament is given power to exempt holders of certain offices from such disqualification. Now we say: here are these offices: whether they are offices of profit or not, we do not express an opinion. Even if we do so, that they shall not be held to be disqualifying offices, that will not bind anybody. Therefore we say: whereas doubts have arisen as to whether certain offices are offices of profit under the Government, we exempt them. Even if they are not offices of profit, there is no harm in including them. Even without our mentioning them they would not disqualify. But by way of abundant caution we have included these offices, whether they are really offices of profit or not.

In regard to questions that have been raised as to whether certain offices are offices of profit or not, Government cannot give an answer. In my opening remarks I explained the reason for circulating certain lists. I had actually circularised all the Ministries to let us know which are the offices known to those Ministries to which Members of Parliament had been appointed, so that we could proceed on that basis.

Mr. Deputy-Speaker: Hon. Minister could have asked Members of both Houses what are the committees or other bodies in which they are appointed.

Shri Biswas: This does not purport to be an exhaustive list. Many committees might have been left out. So I cannot say that merely because a particular committee does not find a place in the list, we do not think that disqualification incurred by being a member of that is or is not removed.

Then Mr. Ghose referred to the question about Secretary. Secretary of course is a member of the Committee. We have not treated secretaries separately. No accounts are to be furnished of the amount drawn as allowance. As a matter of fact we are fixing a

ceiling limit, in order to prevent filing of accounts.

Mr. Deputy-Speaker: I will place the motion before the House.

Motion moved:

"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, as passed by the Council of States, be taken into consideration."

There is a motion for reference to Select Committee by Shri Ramaswamy. Is he moving it?

Shri S. V. Ramaswamy: I shall move it and give time for the hon. Minister to consider it. I have already given you a copy of my motion with the names.

Mr. Deputy-Speaker: He must read out the motion. I am not going to give him my copy. Why can't hon. Members give the motion in advance and keep a copy with them.

An Hon. Member: Is he going to press his motion?

Mr. Deputy-Speaker: That is what I am trying to find out.

Shri U. S. Malliah (South Kanara—North): Has the hon. Member obtained the consent of the gentlemen to serve on the Committee?

Shri S. V. Ramaswamy: I presume most of them will not have any objection.

Mr. Deputy-Speaker: I won't allow this motion.

Now it is half past four. We have got a Half an Hour discussion at 5.30 and another at 6 o' clock. So, there is one hour for this Bill. As the hon. Minister has said the scope of the Bill is limited. Doubts have been created whether particular offices are offices of profit or not, and it is to remove that that this Bill has been brought. The only point is whether these offices ought to

be exempted or not, having regard to the fact that Members of Parliament have to be associated with certain committees. If Parliament wants to deny itself the privilege of sending its members for having a control over these committees, it is for Members to consider.

Shri Sadhan Chandra Gupta (Calcutta South-East): Sir, the hon. the Law Minister has given us a very illuminating discourse from the history of the United Kingdom about the provisions of this Bill. As far as we are concerned we have not been very much illuminated by it, because the history of the United Kingdom is not the history of our country. Now, Sir, we have often copied out blindly, many provisions from Britain, many laws from Britain, without realising that they are not always right. In fact we have more often than not gone wrong. But I can say that as regards this particular clause about disqualification, the clause in the Constitution and the clause in the various Acts providing for disqualification of Members, in this case at least we have been right. Because after all in blindly copying you sometimes go right, you sometimes hit upon a salutary principle, a salutary universal principle which is good for your country as it was good for theirs.

It is on that basis that I wish to deal with the matter I am not concerned with the controversies between King and Parliament or the consciousness of the Parliament of the United Kingdom about its own privileges. What I am concerned with here is what are the principles behind the disqualifying clauses in the Constitution and in the various Acts.

The principle is simple enough. This clause is meant to secure the independence of Members of Parliament, to secure their independence, to secure them from being tampered with by the Government so that they will not be able to perform their functions with integrity. That should be the rule. But there may be exceptions on account of public necessity. For example, there are many committees appointed by

[Shri Sadhan Chandra Gupta]

Government, by statute, upon which Members of Parliament may have to serve, upon which Members of Parliament are pre-eminently fit to serve in order that those committees may discharge their functions in the interests of the public. For these reasons some removal of disqualification has taken place, and it is necessary to remove those disqualifications. But here too we have very great apprehension that such powers may be abused for the purpose of distributing patronage. After all, we get quite a lot of money as Members of Parliament. But it is also a fact that for several months in a year there is no session. And if during those times we have a committee to serve upon, then there is further money coming into our hands. In most cases it is, from the financial point of view, very welcome. So, Sir, it is these things that make patronage. And we are rather apprehensive that such things may be done in order to swell the party ranks, in order to keep the party dissidents from becoming too restive and so forth. That is the thing to be guarded against. And we demand very strongly that in making appointments to committees, appointments should not be indiscriminately made, appointments should not be made with a view to distributing patronage alone. In making appointments of Members of Parliament the sole consideration that should be taken into account is consideration of fitness, considerations of necessity for public service, and not considerations of distribution of patronage. That is as far as committees, commissions, boards and other things are concerned.

But what we cannot understand is the exemption in the case of Vice-Chancellors and the Deputy Chief Whip. Why should we exempt Vice-Chancellors? If Vice-Chancellors are not government servants we need not worry about it. But the fact is that Vice-Chancellors of Universities are appointed by Government and, whoever may pay them, their office is an office of profit. I would be very averse to granting them exemption. In the

first place a Vice-Chancellor's post carries a considerable amount of remuneration and the Government would be free to distribute such posts, if it wanted to, in order to get the support of a particular person. A Vice-Chancellor may be a Member of Parliament on the other side or he may be a Member of Parliament on this side of the House. In either case such a provision would be pernicious. If he was a Member of the other side, that is if he was a Member of the government side, then his criticisms might be silenced by the fact that he might lose his job or by the fact that a person might not get a job of Vice-Chancellorship and so forth. If he is a Member of this side of the House, the Opposition might feel blunted by considerations of forfeiting his job or not getting a possible job of Vice-Chancellorship. This thing has to be guarded against. This is pre-eminently dangerous to the integrity of the Member of Parliament. Let us not forget that we cannot assume the integrity of every Vice-Chancellor or every possible aspirant to the Vice-Chancellorship. It carries with it, as I said, a large remuneration, and such remunerations are enough to disturb the integrity in the case of many persons. And in enacting the disqualification clause the Constitution has taken account of that very patent fact.

About Deputy Chief Whips, this provision is even more inscrutable. How do Deputy Chief Whips come in at all? Chief Whips and Deputy Chief Whips are nothing but party officials. In the British Parliament the Chief Whip of the ruling party gets his remuneration not as a Chief Whip but as a Parliamentary Under Secretary. Now, our Chief Whip is a Minister for Parliamentary Affairs and he gets his remuneration as such. But why should the Deputy Chief Whip get his remuneration at all? Why should the Deputy Chief Whip be foisted upon us as a government official? The reason given is that he has been appointed by the President. That is no reason at all. We know that the President is not an

autocrat. The President acts upon the advice of the Ministers. When one is said to be appointed by the President, it is only the other word for saying that he has been appointed by the Ministers, that is to say by the Ministers of the party to which he belongs. If the Deputy Chief Whip who is the official of a party cannot do without remuneration, I believe the party in power has ample resources to pay him from out of its own pocket. But why should the official of a party, a person who is required for the purposes of a party, be paid out of the public exchequer, out of funds raised from the people? And then why should he be exempted from disqualification on that account? Sir, we are strongly opposed to that kind of exemption. And there has been no explanation given either in the Statement of Objects and Reasons or in the speech of the hon. Minister, apart from the fact that he happens to be appointed by the President. If this is the only explanation, I would suggest that the President might dispense with his services and the Congress party may re-appoint him as Deputy Chief Whip. Therefore, in the case of the Vice Chancellors, and the Deputy Chief Whip, we voice our emphatic opposition to the provision and we want it to be deleted.

Shri S. S. More: Sir, I did not intend to make a speech on this particular measure; but the explanation which the hon. Minister has given for seeking exemption for the Deputy Chief Whip has provoked into making a speech.

Sir, if we go to America or if we go to England and look into their past history, and their parliamentary careers, we frequently come across cases where the parties in power often exploit the position which they occupy for strengthening their own machinery. In America, particularly, the spoils system prevails to a large extent. When a Party comes into power, it comes into power along with its rank and file. All important offices are held by party men who play to the tune of the party bosses. The question for

our consideration is this. We have often admitted on many an occasion that we are at the elementary stage of our parliamentary democracy. As far as the Constitution is concerned, we are emulating the U.K. But, as far as distribution of patronage is concerned, we are going with America. One leg, as far as the Constitution is concerned, is planted on the U.K. and another leg, crossing the Atlantic, is planted far beyond in America. My submission is that this is not desirable from the long range interest of the party system. I am not speaking from the partisan point of view. I am not here on the last day to throw some brickbats at the party in power. What is going to be the future of this country? Are we going to develop healthy conventions and a healthy party system or not? These are questions which demand serious consideration. As far as article 102 is concerned, the Members of the Constituent Assembly ruled that no person holding an office of profit should be allowed to contest any election. The Representation of the People Act then followed subsequently and there are sections 7 and 8. In certain cases power was given to Parliament to exclude certain persons from coming under that particular category. That does not mean that Parliament can go on adding indefinitely a long list, as long as it can be, so that A, B, C etc., the alphabets exhausted many times, shall come under that exemption clause. Let us look at the spirit of the Constitution. What is the spirit of the Constitution? It is to exclude office-holders subject to few exceptions. In this country, during the long period of imperial domination, many of us have been purchasable commodity. Whenever a certain thing—some office—is given to us, we are prepared to sacrifice the interests of the country; we are prepared to sacrifice the interests of the electorate. Some of us are a very cheap commodity too. So, it was very wisely said that no person holding an office of profit shall contest an election. My submission is that this parti-

[Shri S. S. More]

cular measure, though not violating the letter of the Constitution, does serious damage to the spirit of the Constitution. The fundamental purpose for which particularly article 102 (2) was framed was to make holding of offices a serious disqualification in the way of an aspirant for legislative offices.

Coming to the Deputy Chief Whip, who appoints him? Is he not a party man? I need not mention names. Some of the Deputy Chief Whips, as I understand now, getting a remuneration from the Parliament possibly, even during the non-session period, are moving about in certain constituencies where elections are to be held. What are they doing? Are they serving the cause of Parliament? Are they on any goodwill mission to the people or the peasantry? Certainly not. They are on a mission for running the elections on behalf of the Congress party, which means that the Congress is utilising public funds to finance and support their own party men who are striving and doing their best, by fair and foul means, to secure a majority in a particular Province.

[PANDIT THAKUR DAS BHARGAVA
in the Chair]

This is the most sinister purpose for which public funds can be used. None can voice his protest with more seriousness, with a louder voice. As a matter of fact, the Congress was brought up to its present stature by Mahatma Gandhi and Mahatma Gandhi considered the purity of our morals and purity of our conduct as the fundamental bases on which our political careers, and our public careers should be founded. Here, the Congress is succumbing to human weakness and is trying to use the coffers of the State—particularly when lakhs of people are suffering from famine conditions, from starvation, from unemployment, and have not even one square meal a day—for financing and oiling its machinery. I submit that I need not make a very long speech to express

my disapprobation very seriously. I feel that the hon. Minister shall be well advised, if any sensible advice is to be given to him—I do not expect that sort of sober advice from the Congress rank and file because they are a lump of clay in the hands of a few—to crop the Deputy Chief Whip, not only in the interests of the Congress party, but also in the interests of our democracy. Whether our democracy is going to have either a bad future or a bright future will depend on the way in which we try to operate this democratic apparatus in the initial stages. This particular measure is obnoxious. I would rather say that at least this clause about the Deputy Chief Whip should be taken away.

My hon. friend representing South East Calcutta has already said something about the Vice Chancellors of Universities. I support what he has said. The hon. Minister was very particular to point out the case of Mrs. Hansa Mehta, which was decided by a tribunal. She happened to be the Vice-Chancellor of the Baroda University. She put in a nomination paper. Objection was raised that she was holding an office of profit. The Returning Officer accepted the objection. Then, subsequently, she filed a petition before the tribunal and the Tribunal delivered a well argued judgment. The hon. Minister is now undoing the salutary principle which was laid down by that Tribunal. My submission is this. University Vice-Chancellorship is a full time job. Why should we have persons hobnobbing with things here in Parliament and then in the University? In this country, we have any number of people who could be wholeheartedly and exclusively put in charge of particular duties. If we were suffering from shortage of competent men, then we may say that a person is capable on four fronts and so we are placing him in charge of four things. Then his energies, his store of knowledge will be split up into four bundles and it will be ineffective on every front. Let us therefore select

our persons, let us place them exclusively in charge of particular responsibilities. Give them all encouragement, provide them with all the facilities necessary for doing full justice to that particular job in charge of which they have been placed, and then only they can rise to a particular standard of efficiency and competence. But, here there are many persons who are in Parliament, who are on the different Committees, who are on the District Committees, Taluk Committees simultaneously. They do not allow even a membership of a Gram Panchayat to escape from their little fingers. That should not be allowed. These office-hunters are always standing in a queue at the doors of those who have some patronage to distribute. If we can go about, as a matter of fact, and look at the doors of the Ministers, we shall see many such persons, with an artificial smile on their faces, praising and flattering a particular Minister, not because the Minister deserves all that praise, but because he wants something for himself, and this sickening flattery is the price that he is paying for getting that particular office coveted. That should not be allowed.

The purpose of the Constitution, I say the most salutary principle, the spirit of the Constitution, was that all such office-seekers should be suppressed with a rude hand. That was the purpose of the Constitution. The Party in power, after tasting power, is undoing what the Constitution has laid down. I may point out to you in the interests of the Congress Party itself that the question was raised in 1937....

Mr. Chairman: The hon. Member has already pointed out that.

Shri S. S. More: One minute, Sir. When the question was raised whether the Congress should accept office or not, Pandit Nehruji as the President of the Congress said: "Well, if we accept office, opportunists, power-seekers will be coming to us; many people will be coming to us for offices. That should not happen". And therefore, he pleaded

that we should not accept office. Unfortunately, he has accepted office now and the result which he predicted would follow at that time is following with a vengeance. Honest Congress people who struggled with the Congress, who faced the lathis and bullets of the Britisher have become a minority inside the Congress and those who are out for some office, for a Ministership here and a Ministership there, for a deputyship or membership of a delegation there, these people are becoming the majority inside the Congress. This augurs ill for the good of the country.

Therefore, I say, Sir, that this measure is bound to encourage nepotism, favouritism and corruption all along, everywhere, not only inside the Congress, but even outside, and it ought to be resisted by all persons who have the good of the country at heart. Therefore, Sir, I raise my very feeble voice against this particular measure.

Sardar Hukam Singh (Kapurthala-Bhatinda): Sir, I also rise here to add my weight to the voices that have been raised against extending this exemption to a very large number of offices. I will confine myself to this office of Deputy Chief Whip that has been included here.

We never knew, I must tell you Mr. Chairman, that these Deputy Whips were being considered as officers of the Parliament. We always thought that they were doing their job as Party representatives but today it was disclosed that the President had given sanction to it, that the appointment had been proposed by the Minister for Parliamentary Affairs. A very pertinent question was put to the hon. Minister whether, after that appointment, that Deputy Chief Whip had actually been drawing any salary or emoluments so far as inter-session periods are concerned, but no answer has been given. That was very necessary if we were required to vote whether such office should be exempted or not.

[Sardar Hukam Singh]

It has been argued that he also has his function as an officer of Parliament and therefore there was some proposal that he should be given emolument. We are told on this side by a friend of ours that actually such a Deputy Chief Whip has already drawn some remuneration for the inter-session period as well, but I am not sure; I cannot vouchsafe for it. Even if he has not drawn, it means that there is a proposal to give him something so that he might act as a Deputy Chief Whip and be free from any disqualification.

I come to the particular Deputy Chief Whip who, to my knowledge, for the last six months has been deputed to go into a particular State,—say PEPSU—there is no harm in disclosing it—and he has spent most of his time there. Now he is being called an expert so far as Congress affairs in that State are concerned. We have no objection to that. He might confine himself to those activities. The Party concerned has every right to depute him for any purpose that they want. But, when he is entrusted with this whole job of finding out means by which the Congress can be brought into power again and he has been spending most of his time there and now he is called an expert on that subject, and when also, I can say, he is to spend most of the time that is coming now in the inter-session period there for the same job of fighting the elections, is it fair that he should be paid some emoluments out of Government treasury and then be exempted saying that this is not an office of profit? Would it be in consonance with the principles and ideals that were laid down in the Constitution which we all value? Would it not be transgressing and transplanting all those principles that we cherished at that time?

It was, of course, as a salutary principle that this provision was inserted in the Constitution in order to maintain the integrity and independence of the Members. As has been

remarked, there might be certain offices where we might think that the services of certain Members are indispensable. On the necessity of public service we might have to utilise the services of a few Members here, but the list that is being presented, and as it is enlarged every day, certainly causes fear in our minds that this is wholly to distribute patronage, to give favours. It is only for the purpose of a kind of nepotism and favouritism that this Act is being enacted.

Therefore, so far as that particular office is concerned, I also join with friends of mine who have already raised their voice stating that there is absolutely no justification for including this job as well in the list of offices which are to be exempted from disqualification.

That is all I have to say.

Shri N. M. Lingam: I was amazed to see one or two Members on the opposite side, instead of trying to discuss the merits of the Bill, trying to use this as a handle to attack the Party in power. I particularly refer to Mr. More.

Shri S. S. More: You supplied the handle. (*Interruption*).

Shri N. M. Lingam: I refer to Mr. More.

Shri S. S. More: I represent the Opposition.

Shri N. M. Lingam: You preceded me just now. (*Interruption*). If you hold your soul in patience for a while, I shall explain what I mean.

Mr. Chairman: Order, order.

Shri N. M. Lingam: This Bill affects almost every Member in this House so vitally that there is more at stake than a superficial examination of the provisions will show.

Before I come to the merits of the Bill itself, I shall try to answer Mr. More. Mr. More has concentrated his wrath against the provision made in the Bill to exempt the office of the

(Parliament and Part C
States Legislatures) Bill

Deputy Chief Whip. The offices of the Chief Whip and the Deputy Chief Whip are common in any democracy. They are necessary functionaries in every democratic set-up. It was unfair, to say the least, on the part of the Member to attack the Deputy Chief Whip now holding office in Parliament.

An Hon. Member: Why not?

Shri N. M. Lingam: Because the Bill does not make an exemption in respect of a particular individual.

An Hon. Member: It refers to him.

Shri N. M. Lingam: It refers. It may be that a particular individual abuses his power. (*Interruption*). Let me argue my point. We are not concerned with X, Y or Z. We are here making a provision in respect of the Deputy Chief Whip. If Parliament agrees that the office of Deputy Chief Whip is necessary, we have to make some provision for them.

Shri S. S. More: Where? In the public Exchequer?

Mr. Chairman: I would request hon. Members not to interrupt.

5 P.M.

Shri N. M. Lingam: It is within their knowledge that the Deputy Chief Whip busies himself with all manner of odd jobs connected with the work of Parliament. If on any Bill, a select committee is to be set up, it is the business of the Deputy Chief Whip to go about and see that an agreed list of personnel is made available.

Shri K. K. Basu: He has been absent for the last six months.

Shri N. M. Lingam: He has also got to select persons to serve on various other committees, and in fact with so many other activities, not generally known to the public, the Deputy Chief Whip is busy. His functions are very delicate, and always behind the scenes. Possibly, the Members will appreciate his work, if his designation is changed to that of Deputy Minister of Parliamentary Affairs. It

was unfair on their part to open their broadsides against the Deputy Chief Whip. If we accept that democracy is a form of Government for us, we have to provide these functionaries for the working of democracy.

Now I come to the provisions of the Bill. The hon. Minister has explained the main provisions of the Bill and said that this Bill is the outcome of Article 102(1)(a) of the Constitution, which reads:

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

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

It is this provision that has necessitated the bringing forward of this measure. The most vital question to my mind, for this House to decide is whether Parliament should give exemption from disqualification to holders of certain offices or not, and if it decides to grant exemption, whether the scope of that exemption should be limited or large. If we decide that the scope of the exemption should be as large as possible, I am afraid we will be going against the spirit of the Constitution, because the Constitution lays down that it is very necessary that Members of Parliament should be above influence, even suspected influence, by the executive Government. So, if we are to respect the spirit of the Constitution, we have to see that the Bill before us makes as few exemptions as possible in the offices which Members of Parliament can hold. If that is agreed, we shall now take up the two operative clauses in this Bill, viz. clauses 3 and 4.

It may be argued that clause 3 is defective in the sense that it does not categorise the offices which may be

[Shri N. M. Lingam]

permanently exempted from disqualification. But the difficulty arises, because it is impossible to have an exhaustive list of offices which can be exempted from disqualification. Hon. Members will not have any quarrel with clause 3(a), which deals only with membership of committees which are purely of an advisory nature. But in regard to clause 3(b), I do not see eye to eye with the stand taken by the hon. Minister. Clause 3(b) seeks to exempt Vice-Chancellors from the disqualification. When it is held that the provision of the Constitution, with regard to exemption of certain offices from disqualification, is sacrosanct; we have to see that Parliament does not lightly exercise that power in the matter of granting exemptions. It is within the power of the House, as I said a little while ago, to give as wide a margin as possible, and as wide a field as possible, for Members of Parliament to engage themselves in activities other than parliamentary. But we would be acting against the spirit of the Constitution, if we exempt Vice-Chancellors, and protect them from the disqualification clause. The Vice-Chancellors are paid fat salaries, but the more important point is that they do not have the time to attend to their duties as Vice-Chancellors, together with their duties as Members of Parliament. A little while ago, the hon. Minister stated that the university is a statutory body, and since the grants made by Government become part of the funds of the university, it cannot be said that the Vice-Chancellors derive any pecuniary benefit from their office. I think such an interpretation....

Shri Biswas: I did not say that.

Shri N. M. Lingam: The hon. Minister maintains that it could not be said that he was having an office of profit under Government. That is too narrow an interpretation of the provisions of the Act.

Shri Biswas: I said that because that gentleman was drawing his remuneration from funds to which

Government might have contributed, it did not follow that he was holding an office under Government. Of course, it was an office of profit. But the question that has been considered in the Bill is whether it was an office of profit under Government. The fact that he was getting his remuneration was not denied, and the fact that he was getting his remuneration from Government funds in a sense,—because Government were contributing to the university's funds—did not also affect him. But he was held to be an officer under Government, because the appointment was one which Government had the right to make or revoke. That is why we have provided in clause 4(b):

“...where the power to make any appointment to any such office or the power to remove any person therefrom is vested in the Government.”

That will make that office a statutory office under Government.

Shri N. M. Lingam: I thank the hon. Minister for his explanation, but I still remain unconvinced of the soundness of the provision exempting Vice-Chancellors from the disqualification provision. Undoubtedly, the Vice-Chancellors are eminent men in their own field, but there are other eminent men in their own respective fields, as for instance, the great engineers, the great scientists, and the great medical men that we have. We do not have functional representation in this Parliament; this Parliament is elected on an entirely different basis. So, if we are to exempt this class of persons, I am afraid, Government will be weakening their case, and the entire basis for this measure will fall to pieces. If it is not considered desirable to exempt Members of Parliament from holding offices in statutory bodies, it is much more undesirable to exempt Vice-Chancellors from being disqualified.

Then, Sir, I come to clause 4. This clause also exempts; it gives a sort of

(Parliament and Part C
States Legislatures) Bill

blanket protection to Members holding any office at present, whether it be an office in a statutory body or in an advisory body. Sir, this raises one or two issues. The line between an advisory body and a statutory body is very fine and it is difficult to draw a distinction between the two. The Bill may be passed and certain offices may be held to be purely advisory here. But we do not know how the courts will hold these offices. Where the advisory character of an office will end and the executive character will begin or where the executive character will end and the advisory character will begin is difficult to say.

Sir, there are other provisions which are equally ambiguous. As I raised the point a little while ago, it is not clear if Members serving on bodies created by notifications of Government are exempt or not. There are one or two other points which I shall deal with while moving my amendments. But the principal point is with regard to removal of disqualification attaching to any statutory office in the statute creating these bodies. Sir, there are bodies already created under certain statutes. For instance, there is the Central Tea Board created by the Tea Act. It is not clear whether representation of Parliament in this statutory body is a disqualification or not, because under the Tea Act, Parliament has the right to send two representatives to the Tea Board. But under this Act, membership is a disqualification. So that point has to be clarified.

Sir, I shall deal with the other points while moving the amendments.

Mr. Chairman: Order, order. The House must realise that it is now about 5-15 P.M. This is a very serious matter. If this Bill is postponed, it might involve disqualification of a very large number of Members of Parliament. So this has to be put through. I would therefore request hon. Members to be very brief, and try to see that the Bill is disposed of today. Now, there are two other matters which are coming before the

House. At 5-30 there is a half-an-hour discussion and at 6 there is another half-an-hour discussion. Now, if this Bill is not finished before 5-30, either this Bill has to be postponed or those matters have to be postponed. As between the two, I would rather like that this Bill is not postponed. I therefore request Members to be very brief and try to finish this Bill.

Shri N. M. Lingam: I shall finish in two minutes.

Some Hon. Members: He has finished, Sir.

Shri N. M. Lingam: Sir, on a point of submission, this Bill took two days in the other House to be discussed.

Mr. Chairman: The hon. Member knows that we are closing this today.

Shri K. K. Basu: We are more wise and so we should take less time.

Shri N. M. Lingam: If that is the sense of the House, it is all right. But I thought there were so many Committees. As the hon. Minister has pointed out, the list that he has given of Committees is not complete....

Mr. Chairman: The hon. Minister also pointed out that he proposed to bring in another comprehensive Bill subsequently after consulting Members of both the Houses. That also ought to be taken into consideration.

Shri N. M. Lingam: Even so, there are so many committees of State Governments in which Members are serving, and this Bill does not give any protection to them. After all, this Bill may protect a few whom the Government may have in view here. But there are hundreds of others. Perhaps all these people may not know what their position is. So nothing will be lost by postponing the consideration of this measure.

Mr. Chairman: This Bill deals with Parliament and the Part C States legislatures.

Shri N. M. Lingam: Sir, according to the provisions of this Bill, and according to the Constitution also,

[Shri N. M. Lingam]

Members of Committees created by State Governments also are subject to disqualification. That is the position. So it is not covered.

Shri Biswas: That is covered by the word 'Government'. In the General Clauses Act 'Government' means both the Central Government and the Government of a State. We have used the word 'Government'. So membership of a Committee appointed by Government means 'appointed by the Central Government or the Government of a State'. So that is included.

Shri N. M. Lingam: Sir, I thought it was desirable to have it considered in detail, but since Government are anxious to push it through, I give my general support to the Bill.

श्री आर० एस० तिबारी (छतरपुर-दतिया-टीकमगढ़) : सभापति महोदय, हमारे बिधि मंत्री महोदय ने जो बिल सदन के सम्मुख उपस्थित किया है उस का मैं समर्थन करता हूँ। उन्होंने जो प्रिवेन्शन, आफ़ डिसक्वालीफिकेशन (पालियामेंट एण्ड पार्ट मी स्टेट लेजिस्लेचर) बिल पेश किया है उस में उन्होंने मी पार्ट स्टेटों को भी शामिल किया है। इस सम्बन्ध में मैं उन से यह प्रार्थना करता हूँ कि मी पार्ट स्टेट के नाते मंत्री महोदय ने विन्ध्य प्रदेश का ख्याल नहीं रखा है। विन्ध्य प्रदेश पहले बी पार्ट स्टेट था, फिर बाद में किसी कारणवश मी पार्ट में आ गया था। विन्ध्य प्रदेश ही ऐसा प्रदेश है जो कई राज्यों से मिला कर बनाया गया है। दूसरे राज्य एक ही तरह के हैं, जैसे दिल्ली है। पहले भी वह अकेला दिल्ली प्रान्त था और आज भी अकेला दिल्ली ही प्रान्त है। अजमेर भी पहले अकेला अजमेर राज्य था और आज भी अकेला अजमेर राज्य है। भूपाल आदि इसी प्रकार से अन्य मी पार्ट में जो रियासतें हैं उनकी स्थिति साफ़ है।

लेकिन विन्ध्य प्रदेश और हिमाचल प्रदेश कई रियासतों के मिलने से बन हैं। वहाँ की हालत भिन्न भिन्न प्रकार की है। दो दो गांव और चार चार गांव की अधिकारी रियासतें थीं, इन सब राज्यों को विन्ध्य प्रदेश में मिलाया गया है। वहाँ का हर राज्य का रेवेन्यू कानून अलग अलग था, ढंग अलग अलग था। आज भी वहाँ रेवेन्यू कानून कई तरह के ढंग के चलते हैं उसी भाँति फैसले किए जाते हैं।

इसलिए इस बिल में जो आपने वाइस चान्सलर, मेम्बर, सलाहकार कमेटी, आदि जितने प्रकार के आदमी अनर्हता के बचाव के लिए रखे हैं वे बहुत से विन्ध्य प्रदेश में आप को नहीं मिलेंगे। आपको मालूम है कि सरकार द्वारा बनाई गई सलाहकार कमेटी में शामिल होने पर पिछली बार आपके ११ आदमी डिसक्वालीफिकेशन में आ गए थे और आज भी इसलिए कि जमींदारों ने उन का साथ दिया और चुनाव में पोलिंग एजेंट रहे इसलिए पदस्थ कर दिया गया है यह फैसला उन जजों का है जो ट्रिब्युनल विन्ध्य प्रदेश में नियुक्त हुए थे। इसलिए मैंने अपना एक संशोधन भी आपकी सेवा में दिया है और मेरी प्रार्थना है कि आप उसे स्वीकार कर लें तो विन्ध्य प्रदेश की अधिकतर समस्या हल हो जाती है। जो पृष्ठ २ धारा ३ की पंक्ति २९ के अन्त में जोड़ना चाहता हूँ वह संशोधन यह है :

"the offices held by the village officers such as Zamindars, Mukhias or Patels who may be entitled to a certain percentage of compensatory allowance for collecting land revenue or for doing any other work under any law prevalent in the State."

मैं यह चाहता हूँ कि आप मेरे इस संशोधन को इस बिल में शामिल कर लें। विन्ध्य

प्रदेश में ज़मींदार ऐसे हैं कि जो दो या तीन रुपया सैकड़ा अलाउंस पाते हैं और उस दो रुपया से साल में उनको मुश्किल से १५ या २० रुपये की आमदनी या मुनाफा होता है। वह ज़मींदार सरकारी आदमी माने गए हैं। इस से वहाँ की परेशानी हर तरह से बढ़ती जाती है और समस्या हल नहीं होती। ३४, ३५ रियासतों के मिलने से वहाँ का कानून भी ३४, ३५ प्रकार का है और उन सब रियासतों के मिलने से विन्ध्य प्रदेश बना है। इसलिए मेरी प्रार्थना है कि इस को आप अवश्य इस में जोड़ लें। अगर आज आप नहीं इसको मिलाने हो तो कभी न कभी जोड़ना या अन्य भाँति का बिल फिर लाना पड़ेगा मेरी प्रार्थना है।

Many Hon. Members . rose—

Mr. Chairman: There are so many speakers. A number of them have amendments. I would request such of those as have amendments to speak at the time when amendments are moved. We have had enough of general discussion. I would therefore request hon. Members to be as brief as possible and only speak if they have got particular points to make. Otherwise, we are running against time. **Mr. Venkataraman.**

Shri Venkataraman (Tanjore): This Bill has been seized by the Opposition to hurl some attack on the party in power. The only point which has to be considered by this House at this stage is, how are we going to reconcile two conflicting principles in democracy. One is the principle of the Members of Parliament and Legislatures not being subject to the influence of Government. The other principle is the association of Members of Parliament and the Legislatures with the function of the administration. We have copied the British system in very many ways. But, in copying, we have not taken into account the difference that exists between the socio-political systems of England and India. Whereas private

economy exists in England, we have given to ourselves a sort of Welfare State. And, a welfare State implies the association of the public and representatives of the public with various institutions run by governments. We have taken upon ourselves certain enterprises which, normally, are performed by individuals in private enterprises. Take, for instance, the Employees' State Insurance Corporation and the Provident Fund Act Committees. In all those welfare organisations, it is very necessary that the members who represent the public, who represent as much as at least 7,00,000 of the population, should be associated and it is for that purpose this measure has been brought forward. It is very unfair, therefore, to attack the party in power saying that this has been brought forward only with a view to distribute patronage or to allow patronage to be exercised.

The second point of attack has been the Deputy Chief Whip. Sir, the office of the Deputy Chief Whip, as far as my knowledge goes, is very similar to the office in the United Kingdom of the Parliamentary Under Secretary. If we had called him, instead, as the Parliamentary Secretary or the Parliamentary Under Secretary, merely by nomenclature we would have escaped all the criticism that has been levelled against this office in this House. Are they or are they not performing today certain very important functions with regard to the business of the House? Members know very well that for the last 6 months, how actively the Deputy Chief Whip has been going about getting the consent of all the Opposition parties to the several functions of the House. He has never gone about canvassing support of the party members to party measures. He has done, not only to my knowledge but also to your knowledge—unless you want to be unfair—the work of going and consulting party leaders and group leaders with a view to associate them with the work of the House. Such work is really the work of the House.

[Shri Venkataraman]

and, if you really compare it with the office in England, it is work not of the party but of the House itself. Sir, we have in this instance of the Deputy Chief Whip adopted a language which is different from the office which now exists in other Parliamentary democracies. Therefore, I very strongly submit, Sir, that it is very unfair to have suggested that it is a sort of remuneration given for party work.

The other matter which has agitated the minds of the Opposition is that of the Vice-Chancellor. As the hon. Minister himself has said, we are not deciding now whether the office of the Vice-Chancellor is or is not an office of profit. In fact, the Bill itself in its preamble says,

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

this Bill has been brought forward.

I therefore very strongly support this Bill.

Shri Raghavachari (Penukonda): Sir, I rise to oppose this Bill; I do it for two or three reasons; the primary reason is this, the way in which the Government wants to rush through this Bill—which is important and which involves principles of far-reaching importance—bringing it on the last day and then saying that we must get it through.

Mr. Chairman: Some Bill must be brought on the last day.

Shri Raghavachari: But, Sir, an important Bill which does involve some important principles must have been brought earlier. Sir, the hon. Minister says that 60 or 70 people will be disqualified. From the provisions of this Bill, you will see that it shall be deemed to have been passed. So, we are always asked in this House, as in the Vindhya Pradesh Bill as well as in this Bill, to things that happened years or months before being validated.

Sir, these doubts about the capacity of these Members to serve on those Committees must have been in their eyes for many months past and today, all of a sudden, they want us to rush through. What is going to happen to these people? You are going to validate their existence ever since the beginning of this Parliament. Then, why should we rush through the thing under these circumstances?

Sir, the next thing is this. After all the Law Minister says that he is going to bring in another comprehensive Bill because he is not sure whether he has included all the people in this and there are to be included other categories also. Therefore it also shows that this Bill is brought in a hurry and it is haphazard and requires to be re-considered and re-introduced. Where is the hurry then? You can always do so; you have always the majority and you can validate it from the very beginning and nothing is going to be lost. Therefore, why are you lightly dealing with Parliament and asking it to pass it at the last minute—an important Bill which is expected to restore into office very many people? That is my first point of objection.

The next is the principle involved in it; whether Parliament Members should be exempted from all these disqualifications. Indeed, as somebody put it, is it a matter of privilege for the members of the party to serve or render efficient service for the administration of so many things? In fact, Sir, we have seen that the Constitution no doubt provides that the Parliament, in its wisdom, may exempt certain offices from being considered offices of profit for the purposes of disqualification. Sir, the list that has been given shows that there are about 70 members involved in this Committee or that Committee. I do not wish that almost every member must be put in a Committee whether he comes forward or the Government wants him. But, still there is an unpleasant taste about it. There is a

suspicion in the minds of the public that these people are hankering to get into this Committee or that. No doubt, this is by way of election by the House or the House elects them. We know there is a majority in the House. A Member goes to this Minister or that Minister and gets himself nominated and then the question of election is really a farce. Therefore, Sir, there is a principle involved. It is not that every member should be permitted to be a member of some Committee and then he must be exempted. Though there is a provision in the Constitution that certain offices may be exempted from being considered as disqualification because of their being offices of profit, still it is a matter which requires to be carefully thought and decided upon. And, it must be really a permanent Act, not tentative or temporary, as the hon. Minister is bringing in. This is not a fair way of treating this Parliament at all. It is a very negligent and irresponsible way of dealing with it. Some thing has come up today; some other thing will come up tomorrow.

Then, Sir, coming to the provisions of the Bill, you will see, Sir, that there is the word 'recoup'. You yourself referred to it, Sir. It means that the man must have spent something and then he would be entitled to recoupment. It cannot have any other interpretation. That is likely to create a lot of embarrassment and inconvenience.

Then, I also wish to refer to another thing. For instance, clause 3, proviso to sub-clause (a).

"Provided that the holder of any such office is not in receipt of, or entitled to, any fee or remuneration other than compensatory allowance;"

Most of the Members of Parliament are entitled to some remuneration. You cannot say that they are not entitled to any remuneration. Therefore, the provision of exemption that you wish to give is taken away by the language used in this Bill, unless

652 PSD.

you make some change limiting it to "during that period of service". The words now used are very expansive; they can be applied to every Member, who is entitled to some remuneration. It is not made clear here at all.

The other thing that I wish to submit is, that so far as clause 4 is concerned, some time limit is fixed, that is the 30th April, 1954. I think when the hon. Law Minister intervened he said that the Vice-Chancellor is expected to come under the definition of clause 4(b) because he may be removed from the office to which he has been appointed. If he comes under 4(b), there is no reason to make him come under 3(b) also specifically exempting him. If he comes under 4(b), he will not incur the disqualification upto the 30th April, and if he comes under 3(b), he will be a permanently exempted man. Therefore, you see that one portion of it contradicts the other; this measure has been conceived in haste and prepared for the day and for the moment. They have not given sufficient time for consideration by this House and then they want to rush it through. I therefore oppose the Bill.

Mr. Chairman: Shri Shastri.

Shri Sinhasan Singh: It is already 5-30 P.M., Sir.

Mr. Chairman: We have got to finish this Bill today. I will call upon the hon. Minister to reply after Shri Shastri finishes.

श्री बी० डी० शास्त्री (शाहदोल-सिद्धि) : भादरणीय सभापति जी, सदन के समक्ष जो विधेयक रखा गया है वह बस्तुतः कई दृष्टियों से बहुत महत्वपूर्ण है। इस विधेयक की पृष्ठभूमि पर जब हम विचार करते हैं तो हम सदन के सम्मुख घटित एक घटना चक्र याद आता है और वह घटना चक्र है विन्ध्य प्रदेश के १२ सदस्यों के डिस्क्वालिफिकेशन का। सम्भवतः इस की छाया लेकर उस की रूप रेखा पर इस विधेयक

[श्री बी० डी० शास्त्री]

को तैयार किया गया है और सदन के समक्ष लाया गया है । पहली गड़बड़ी तो उस मंत्री मंडल की थी कि जिसने एक ऐसा हास्यास्पद काम किया जिस से एक दो नहीं बारह बारह सदस्य डिस्क्वालिफाई हुए । फिर दूसरी गलती यहां के बहुमत ने इस आधार पर किया कि ऐसे डिस्क्वालिफाइड सदस्यों को जो एक बार मृत से हो चुके थे उन्हें पुनः जीवित किया और यह समस्या महज इस लिये पैदा हुई कि यह तय नहीं हो पाया अब तक कि आखिर आफिस 'आफ प्राफिट' है क्या । 'आफिस आफ प्राफिट' या 'लाभ के पद' के इसी चित्र को निश्चित करने के लिये इस विधेयक को लाया गया है ।

मैं पहली बात तो यह कहना चाहता हूँ कि इस में यह है कि स्टेटुटरी बाडी में कारपोरेशन, बोर्ड, कम्पनी, सोसायटी और ऐसी चीजें ली गई हैं । अगर ऐसे कारपोरेशन, बोर्ड या कम्पनी के सदस्य आज तक इस सदन में या किसी पार्ट सी स्टेट की विधान सभा में थे तो क्या यह बताया जा सकता है कि वह उचित तरीके से थे या नहीं ? क्योंकि इस विधेयक के आधार पर पूर्ण आशंका है कि वे आफिस आफ प्राफिट होल्ड करते थे । और अगर वे ऐसा करते थे तो इस के माने हैं कि आज तक वे सदन में अवैधानिकता से रहे और इस अवैधानिकता के बावजूद इस विधेयक को इस सदन के समक्ष उपस्थित करने की क्षमता ली गई है । खैर, कुछ भी हो मैं उस पर नहीं जाता, किन्तु इतना कहूंगा कि यह बड़ा जटिल प्रश्न है । पहले तो विधान में यह साफ नहीं है कि वस्तुतः लाभ के पद हैं कौन से । उसमें सिर्फ इतना है कि जो लाभ के पद स्वीकार करे वह डिस्क्वालिफाइड माना जाय ।

अब लाभ के पद निश्चित करने के लिये विधि मंत्री ने इस विधेयक को सदन के सामने उपस्थित किया है । हम जब गम्भीरता से सोचते हैं तो लाभ के पद वस्तुतः बहुत अन्धकार में हैं और इस विधेयक से भी वह साफ नहीं होते । आज तक कितने ही पद ऐसे छिपे हुए हैं कि जिनको स्पष्ट करना होगा कि यह लाभ के पद हैं या नहीं । जैसा कि अभी हमारे एक सदस्य ने बताया कि सात, आठ ऐसेम्बली के मेम्बर्स ऐसे हैं जिनके एलेक्शन को सेट एसाइड किया गया है, इस बिना पर कि वह एजेन्ट, मुखिया वगैरह थे । ट्रिब्यूनल ने इस बात को स्वीकार किया है कि मुखिया भी आफिस आफ प्राफिट होल्ड करते हैं । मैं नहीं समझता कि मुखिया कोई भी आफिस आफ प्राफिट होल्ड करते हैं, लेकिन चूंकि ट्रिब्यूनल ने जजमेंट दिया है कि मुखिया वगैरह आफिस आफ प्राफिट होल्ड करते हैं उन की एलेक्शन के मामले में योग्यता है और इस लिये उन के एलेक्शन सेट एसाइड हों । कहने का आशय यह है कि यह बड़ी महत्वपूर्ण चीज है । इसी तरह चुनाव हुए दो वर्ष हो गये । दो वर्ष के पहले जब रिटर्निंग आफिसर्स के सामने नामिनेशन पेपर्स उपस्थित किये गये तो स्क्रूटी के दिन यह कठिनाई एक बड़े विचित्र अन्धकार में थी और हम इस सम्बन्ध में कुछ निश्चय नहीं कर पा रहे थे । वकील अपनी अपनी तरफ से आगूमेंट्स कर रहे थे, लेकिन रिटर्निंग आफिसर के मस्तिष्क में यह चीज नहीं आती थी कि आखिर आफिस आफ प्राफिट है क्या और हम किस आधार पर अपना निर्णय दें । ट्रिब्यूनल द्वारा अब तक कितने ही एलेक्शन सेट एसाइड हुए इसी आधार पर कि लोग आफिस आफ प्राफिट होल्ड करते थे । कहीं पर ऐसे निर्णयों में गलती हुई और कहीं पर सही निर्णय

हुए। इस महत्वपूर्ण प्रश्न के सम्बन्ध में यह चीजें तब तक खत्म नहीं होंगी जब तक कि डिटेल् में, पूर्ण विवरण के साथ इस चीज को विधेयक के रूप में नहीं लाया जायेगा कि कितने किस्म के पद लाभ के पद माने जा सकते हैं। मैं तो कहूंगा कि अलग अलग प्रान्तों में अलग अलग प्रश्न हैं। मुखिया लोगों को कौन कह सकता है कि वह लोग आफिस आफ प्राफिट होल्ड करते हैं? लेकिन पार्ट सी स्टेट्स में ऐसे भी लोग हैं जिनके एलेक्शन सेट ऐसाइड हुए हैं। इसी तरह और प्रान्तों में भी ऐसे लोग हैं जो कि लाभ के पद स्वीकार करते हैं। इसी तरह प्रान्तों में असेसर होते हैं। बहुत से नामिनेशन पेपर्स इसी प्राउन्ड पर रिजेक्ट हुए हैं। असेसरों को एक वर्ष के अन्दर अधिक से अधिक दो मर्तबा सेशन जज के यहां जाना पड़ता है और उनको एक रुपया इस के लिये मिलता है। इस पद को भी लाभ का पद माना गया है। तो अब तक लाभ के पदों का निर्णय नहीं हो पाया है। यह इतना गम्भीर प्रश्न है और इस में न जाने केन्द्रीय और प्रान्तीय सरकारों को अपव्यय के साथ कितनी कठिनाई हुई है क्योंकि आज तक यह तय नहीं हो पाया कि आफिस आफ प्राफिट क्या है। इस तरह से कितने ही नामिनेशन पेपर्स रिजेक्ट हो चुके हैं और कितने ही एलेक्शन सेट ऐसाइड हुए। फलतः वहां पर फिर एलेक्शन हो, फिर लोग आय और केन्द्रीय सरकार का भी रुपया खर्च हो और प्रान्तीय सरकार का भी रुपया खर्च हो।

मैं समझता हूँ कि इस विधेयक को इतना पूर्ण बनाया जाय कि किसी प्रकार के सन्देह का स्थान न रहे कि आफिस आफ प्राफिट क्या है और क्या नहीं है। अगर इस शंका और उलझन से रहित विधेयक बनाने

का कोई रास्ता न हो तो मैं तो यही कहूंगा कि बेहतर होता कि एक सिलेक्ट कमेटी बनाई जाती और उसमें ऐसे चार छः पार्लियामेंट के सदस्य होते जो कि न्याय विधान को अच्छी तरह समझते हों, और कुछ प्रान्तों के लोगों से भी मुझाव लिये जाते और उनको सिलेक्ट कमेटी के सम्मुख उपस्थित किया जाता। इस ढंग से एक सुन्दर विधेयक तैयार किया जाता ताकि हम निशंक हो जाते और आफिस आफ प्राफिट का किसी को खतरा नहीं रहता। मुझ से पहले मेरे अतिरिक्त और भी वक्ताओं ने इस पर अपने विचार प्रकट किये हैं और इसी निष्कर्ष पर पहुंचे हैं।

चीफ व्हिप के बारे में कहा गया कि चीफ व्हिप वस्तुतः एक पार्टी का आर्गनाइजर होता है। वह पार्टियों का नियंत्रण करता है जिसमें कि उसकी पार्टी का मेम्बर अपनी पार्टी के ही साथ रहे, किसी दूसरी पार्टी को वोट न दे, विरोधी पार्टी को वोट न दे। इस तरह से चीफ व्हिप मजह एक पार्टी का आर्गनाइजर है और वही पार्टी को नियंत्रण में रखता है। पार्टी को नियंत्रण में रखने के लिये सरकार से उसको रुपया दिया जाय यह, जैसा कि और भी माननीय सदस्यों ने कहा, बिल्कुल गलत तरीका होगा। अगर चीफ व्हिप को किसी तरह सरकार की ओर से रुपया देने की बात तय हुई तो यह उचित नहीं होगा।

मैं इतना ही कहना चाहता हूँ।

Shri Biswas: Sir, I shall not take up much of the time of the House. So far as the principle of the Bill is concerned, there has been practically no challenge to it. My hon. friend, Mr. Sadhan Chandra Gupta, has raised the question that this might tamper with the loyalty of Members of Parliament, because all these offices of profit are likely to be distributed to Members of Parliament by way of

[Shri Biswas]

patronage. Let me assure my hon. friend that quite a large number of Members of Parliament have been associated by Government with committees or corporations of the description referred to in the Bill. I challenge any hon. Member to point out a single instance in which this has been done from the point of view of distributing patronage. It is only with a view to associate the Members with these national undertakings, national services, that this has been done. A suggestion was made that this Bill will be utilized by Government only as a means of seducing Members of Parliament. Nothing could be farther from the truth. Therefore, Sir, the question is one of utilizing the best talents in the cause of the country. If there are Members of Parliament whose services, in the interests of the country, could be utilized in these committees, why should not that be done, so long as that does not mean offering them a reward or a bribe to buy their allegiance to Government? So, it is a question of balancing an independent Parliament with the Executive. That is all. That is the main reason why the Constitution itself reserves to Parliament the power to grant the exemptions. There need not be any fear that this Bill will be misused or that this power has been misused in the past.

Then, Sir, specific objections have been taken in respect of two categories of officers who have been specifically referred to in the Bill. The first is the Deputy Chief Whips in Parliament. They have come in for a good deal of criticism. The Deputy Chief Whips are Government officers. They have been appointed by the Chief Whip. There is no desire to conceal the fact that they are Government officers. As has been pointed out by one hon. Member, suppose they had been given some other name, say, that of Parliamentary Secretary or Parliamentary Under Secretaries, well, they would have escaped disqualification by reason of the Act of 1950. There is

no desire to keep back anything. It has been done openly. I was not aware, when the question was put to me whether these Deputy Chief Whips were not actually drawing any allowances as Deputy Chief Whips. I have since ascertained the fact, and the fact is that they have not drawn anything so far. If the Bill is passed, if Parliament so desires, then, of course, the question of paying allowances and the quantum of such allowances will arise. In fact, when they were first appointed, the question naturally arose whether they should have to be paid anything. But then no payment was made. No payment was claimed by them either. Nothing of the kind. Now that this Bill was drafted and brought before the House, opportunity was taken to include their cases, because they are officers of Government just like Parliamentary Secretaries, who were granted exemption under the Act of 1950. But in fairness, I think I ought to make it clear that they have not claimed and they have not been paid any allowance so far.

Then, about the Vice-Chancellors. The argument proceeded on the basis as if the Members of Parliament who have been appointed Vice-Chancellors were seekers after those jobs, and they were anxious to remain both as Vice-Chancellors and as Members of Parliament, neglecting the duties of either office. Sir, as a matter of fact, the number of Vice-Chancellors who might also be Members of Parliament is not likely to be very large.

Shri K. K. Basu: Then, why have it?

Shri Biswas: There is no objection. As a matter of fact, no great principle will be violated. As it is, out of about 750 Members, if you appoint two or three persons Vice-Chancellors, you will not be infringing any principle, however sound, to such an extent that you should shudder about it. It is not like appointing 90 Members of Parliament to 90 different offices and then saying that they should continue to be Members of Parliament all the same.

(Parliament and Part C
States Legislatures) Bill

If two or three Members of Parliament hold offices of Vice-Chancellors, how will all principles vanish? Nothing of the kind. Therefore, I must say—I am not mentioning names—and the hon. Members may know the names, that there are not more than four of them, one in this House and three in the other House. But I may tell you that it is quite a reasonable objection that as Vice-Chancellors do whole-time jobs in the Universities, they can find little time to attend to their duties in Parliament. As a matter of fact, they are so busy that we very seldom find them in this House or in the other House.

An Hon. Member: Then, why should they be allowed?

Shri Biswas: I say that they are appointed Vice-Chancellors for various reasons. That men of such eminence in the academic sphere, in the scientific sphere, are also Members of Parliament is, so to say, doing honour to Parliament itself. It is not so much of honour to them in their own spheres of work as to Parliament.

Shri K. K. Basu: There is no question of such an honour. Even the honour of the President is next only to Parliament.

Dr. Suresh Chandra (Aurangabad): Sir, a point of order. I think the hon. Minister has insulted this House by saying that....

Mr. Chairman: It is not a point of order. I have heard him. This is not the way of interrupting the discussion.

Dr. Suresh Chandra: I have not been able to complete my sentence.

Mr. Chairman: I have heard the Member and I have understood him. It is no point of order.

Shri Biswas: I am very sorry. No one should think that I had insulted the House. Nothing of the kind. I am expressing my opinion and I have to say that I am entitled to hold my opinion as the hon. Members are entitled to hold theirs. Is it anything

by way of insult that I said? Why should I insult? They are all my friends. Sir, if you allow such men to be Vice-Chancellors and Members of Parliament, you are only doing an honour to Parliament. So, I say that the objections raised have not much substance in them. I do not think I need say anything more.

Mr. 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, as passed by the Council of States, be taken into consideration."

The motion was adopted.

Clause 2.— (Definitions)

Shri S. C. Samanta: I beg to move:

In page 1, line 12, after "conveyance allowance" insert a comma and "attendance fee".

Mr. Chairman: Amendment moved:

In page 1, line 12, after "conveyance allowance" insert a comma and "attendance fee".

Shri Biswas: I do not think it is necessary. The only allowances that are dealt with in the Bill are travelling allowances, conveyance allowances and so on. The question of 'fee' does not arise at all. If there is a fee attached to it, we are not going to fix a ceiling as regards the fee. Only as regards allowances, we are fixing a ceiling. We are not fixing a ceiling for 'salaries' also. If it is 'fee' or 'salary', that will be a disqualification.

Shri S. C. Samanta: With reference to clause 2,....

Mr. Chairman: He must have done it earlier. Now is not the time. I

[Mr. Chairman]

will put the question.

The question is:

In page 1, line 12, after "conveyance allowance" insert a comma and "attendance fee".

The motion was negatived.

Shri K. K. Basu: I beg to move:

In page 2, line 4, after "per day" insert "or such other sums as may be determined by the Parliament".

The object of my amendment is to avoid the necessity of changing this amount every now and then: today it is Rs. 40, tomorrow it may be Rs. 35.

Shri Biswas: My hon. friend presumes that Parliament may allow a higher fee?

Shri K. K. Basu: Higher or lower.

Shri Biswas: The words used here "not exceeding Rs. 40", with the result that if you make it Rs. 35 it is permissible.

Mr. Chairman: The question is:

In page 2, line 4, after "per day" insert "or such other sums as may be determined by the Parliament".

The motion was negatived.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3.— (Removal and prevention of disqualification for membership of Parliament).

Shri S. C. Samanta: I beg to move:

In page 2, line 22, omit "fee or".

In this connection I must say that I am not satisfied with the explanation of the hon. Minister for Law to my previous amendment. I hope that he would at least accept this amendment. The hon. Minister perhaps knows that there are so many committees where Parliament Members are sent. For example in the Local Advisory Committees for Railways fees used to be

paid. I was a member of one of those Committees. There are similar other committees where the rule says that Members will be paid fees and not allowance. To remove the disqualification that may be caused to such members, I suggest that my amendment may be accepted.

Shri Biswas: Sir, if fee is not covered by daily attendance, I am afraid I cannot accept this amendment for the inclusion of fee in this clause.

Mr. Chairman: The question is:

In page 2, line 22, omit "fee or".

The motion was negatived.

Shri K. K. Basu: I beg to move:

In page 2,

(i) omit line 24;

(ii) in lines 25 and 26, for "(c)" and "(d)" substitute "(b)" and "(c)".

Sir, I move for the omission of the clause regarding the Vice-Chancellor. In spite of the vallant defence of the hon. the Law Minister, I do not see any reason for their inclusion. I do hold, Sir, that Vice-Chancellorships are wholetime appointments. I know that in the Calcutta University till recently Vice-Chancellorship was a part-time appointment. But realising the importance of the post it has recently been made a wholetime appointment.

The example of one of our colleagues was given. Without meaning any disrespect to him, I should ask whether he has been able to pay undivided attention to his duty as a Member of Parliament. If seven hundred and fifty people could be found who can devote their undivided attention to this House, I don't find any reason why we should make an exception in the case of three or four persons. It is a question of principle, not of individuals. Whether they are honoured or we are honoured, it does not matter. If they are so particular of serving the people, let them resign

their Vice-Chancellorships and do so, through Membership of Parliament.

Dr. Suresh Chandra: Mr. Chairman, Sir, I do not like to take much of the time of the House, but I feel very strongly about sub-clause (b) of clause 3, and so do several Members of this House—that we should exempt the office of Vice-Chancellor of Universities from disqualification. I feel, Sir, that no Vice-Chancellor who is a wholetimer in the University can render justice to his duties as Member of Parliament. I really resent the expression used by the hon. the Law Minister that we are honouring ourselves by having these Vice-Chancellors among us. I do not want to enter into a discussion. But I feel that a member who comes as a result of the verdict of the people does more honour than a Vice-Chancellor. I oppose this clause and I feel that the office of Vice-Chancellor should not be given any exemption.

Shri Biswas: I have nothing to say, Sir.

Mr. Chairman: The question is:

In page 2,

(i) omit line 24;

(ii) in lines 25 and 26, for "(c)" and "(d)" substitute "(b)" and "(c)".

The motion was negatived.

6 P.M.

Shri K. K. Basu: I beg to move:

In page 2, after line 25, add:

"Provided that they are not entitled to any allowance other than those granted to other members save and except the eligibility to earn compensatory allowance for a week before the session begins."

Regarding the Deputy Chief Whip many arguments have already been put forward by this side and have been tried to be answered by the hon. Minister of Law. But I feel that the Deputy Chief Whips as yet are only meant for the running of the party in power. Therefore, if they want to make Deputy Chief Whips officers and

want them to be exempted from the disqualification, I do not see why they should get any allowance other than compensatory allowance for a few days before the session begins, to help the Minister of Parliamentary Affairs or the Chief Whip of the party.

As a matter of fact when I tabled the amendment I had no idea that the Deputy Chief Whip has been appointed by an order of the President. Some of the friends have said that the Deputy Chief Whips are actually drawing pay. Now it has been denied. I apprehended some such move on the part of Government. They want to put forward this particular provision. I know Mr. Borooah very well and I do not accuse him. It may be that he is busy otherwise. But I want to put a straight question. What service has he given to this House during this session? Possibly he has been able to attend it on three or four days in the six week session. Certainly he may be helpful to the party. Naturally, he owes allegiance to the party and he must serve it. But if the State pays him it is the duty of Parliament to know what service he renders. We have a Minister of Parliamentary Affairs. Due to his efficiency and guidance we are, at the fag end of the session, getting through this very important legislation which we are enacting under the Constitution, and in this manner we are in the first Parliament under the new Constitution discharging the responsibilities and duties cast upon us by our electorate. We want to have two Deputy Chief Whips to keep 375 Members in order. You know, Sir, on many days it is difficult to keep quorum after 5-30. If the party in power cannot keep fifty Members, they will possibly have to increase the number of Ministers to get the quorum. You, Sir, have been in the chair for a number of days and you know that even after the bell goes on Members were not there.

It is a very dangerous move on the part of the Government that the Deputy Chief Whips should be exem-

[Shri K. K. Basu]

pted from the disqualification and that they should be considered as having been appointed by the Government and not by the party in power. Let them have twenty Whips and Deputy Whips to represent every State. But why should the exchequer have to pay?

Therefore my suggestion is let them come, if necessary, two or three days before the session begins to help the Minister of Parliamentary Affairs. I see no reason why they should get any other allowance.

This is a very dangerous clause that the Government has put forward and has the potential of striking at democratic functioning. Therefore I urge upon the Government either to drop the whole clause or at least accept my amendment.

Mr. Chairman: Amendment moved:

In page 2, after line 25, add:

"Provided that they are not entitled to any allowance other than those granted to other members save and except the eligibility to earn compensatory allowance for a week before the session begins."

Does the hon. Minister wish to say anything?

Shri Biswas: I have nothing to say. There is no fear that a blow is going to be struck against democracy.

Mr. Chairman: The question is:

In page 2, after line 25, add:

"Provided that they are not entitled to any allowance other than those granted to other members save and except the eligibility to earn compensatory allowance for a week before the session begins."

The motion was negatived.

Shri Dabhi (Kaira North): I beg to move:

In page 2, after line 29, add:

"(e) the offices held by officers in any Home Guards Organisa-

tion set up under any law passed by any State Legislature."

Mr. Chairman: Amendment moved:

In page 2, after line 29, add:

"(e) the offices held by officers in any Home Guards Organisation set up under any law passed by any State Legislature."

Shri Dabhi: May I say a few words, Sir?

Mr. Chairman: The hon. Member should have said before. All right, he may speak.

Shri Dabhi: We know, Sir, that in various States Home Guards organisations have been set up under laws passed by the various State Legislatures. We see under sub-clause (d) of clause 3 of the present Bill, the offices held by officers in the National Cadet Corps and in the Territorial Army are exempted from the operation of article 102 (1) (a) of the Constitution. When these officers are exempted, I do not see any reason why the officers of the Home Guards Organisations should not also be exempted from the operation of the article. I hope the Government will accept this amendment.

Shri Biswas: This organisation is a statutory body set up by a State law. We have given a blanket cover in respect of all statutory bodies up to 30th April 1954, whether set up by the Central Government or by the State Governments. Meanwhile this amendment is not necessary. We propose to examine the case of all statutory bodies including those set up by the States. We shall make the necessary provision if they are not covered already. We cannot single out one State organisation. It will be considered on merits subsequently.

Shri Dabhi: I beg to withdraw my amendment.

*The amendment was, by leave,
withdrawn*

Mr. Chairman: Shri N. M. Lingam not in the House; Shri R. S. Tiwari,

not moved; Shri Vallatharas, not in the House; Shri S. V. Ramaswamy, not in the House; Shri B. D. Shastri.

Shri B. D. Shastri: I am not moving.

Mr. Chairman: Shri Hemraj, not moved. Now, I shall put the clause to the House.

The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 and 5 were added to the Bill.

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

Shri Biswas: I beg to move:

"That the Bill be passed."

Mr. Chairman: The question is:

"That the Bill be passed."

The motion was adopted.

PROBLEMS CONNECTED WITH DEFENCE ESTABLISHMENTS IN INDIA

Shri V. P. Nayar (Chirayinkil): I would like to know, Sir, whether we are having both the discussions today?

Mr. Chairman: We shall have one discussion: the problems connected with Defence Establishments in India.

Shri V. P. Nayar: What happens to the other, Sir?

Mr. Chairman: The other may go to the next session; I do not know what the rules are.

Shri V. P. Nayar: If it goes to the next session, when fixing the date for this discussion, the office may be asked to consult me.

Mr. Chairman: I do not know whether it will be taken up in the next session.

Shri V. P. Nayar: That is precisely the point which I wanted to submit. This discussion was given notice of on the 1st.

Mr. Chairman: This question need not be asked at this stage. If the rules so provide, it will go to the next session.

Shri V. P. Nayar: The only point is whether I should again give notice or I am precluded from giving notice. I do not know.

Mr. Chairman: The hon. Member must know the rules.

Shri V. P. Nayar: There is no rule in the Rules of Procedure.

Mr. Chairman: You can find out from the office.

Shri V. P. Nayar: I tried to find out. Unfortunately, there is no rule in the Rules of Procedure.

Mr. Chairman: If there are no rules, then, the practice in the House will be followed. We are now going to have a half an hour discussion on the subject "Problems connected with Defence Establishments in India".

Shri M. S. Gurupadaswamy (Mysore): Mr. Chairman, Sir, I am raising this discussion—a very important discussion—at the time of our departure to our homes. I am raising this at this time so that Members of this House may carry these defence problems in their minds and ponder over them. I am raising this discussion when our good neighbour Pakistan and our great friend America are very shortly embarking upon a honeymoon of military wedlock. So the problem has achieved a great import.

An Hon. Member: No.

Shri M. S. Gurupadaswamy: Now, Sir, I content myself to place only a very important observation before the House. Because there is no time and