

and they have done everything possible to bring forward a comprehensive Bill. With these words, I commend my motion for acceptance.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill further to amend the Prevention of Disqualification (Parliament and Part C States Legislatures) Act, 1953, as passed by the Lok Sabha, be taken into consideration."

The motion was adopted.

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

SHRI H. V. PATASKAR: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

MOTION *RE*: CONSIDERATION OF U.P.S.C. REPORTS

MR. DEPUTY CHAIRMAN: We take up Mr. Rajendra Pratap Sinha's motion. Mr. Sinha, I hope, you know the limitations under which this debate has to be conducted.

SHRI RAJAGOPAL NAIDU (Madras): What are the limitations?

MR. DEPUTY CHAIRMAN: Under article 316 of the Constitution the Government has power to select officers for appointment as Chairman and Members of the Commission. Provision is made under article 317 of the Constitution, for action for suspension and removal of Members, and under article 318, for regulation of the conditions of service of members and staff of the Commission. Then consulting the Commission in regard to certain

matters and making regulations specifying matters in respect of which the Commission need not be so consulted are provided for in article 320. Then article 323 provides for laying before Parliament the annual reports of the Commission together with an explanation in regard to cases, if any, in which the Commission's advice was not accepted. Any debate in Parliament may rightly include criticism of Government for any acts or omissions in the exercise of the powers and duties specified above and will be certainly relevant but the suggestions or actions or the decisions of the Commission will not be relevant. Any criticism of the suggestions or decisions of the Commission will not be relevant because it is a constitutional authority. I hope the Members will bear that in mind. You can criticise the Government.

SHRI B. GUPTA (West Bengal): Is it that we can criticise the Government but not the Commission?

MR. DEPUTY CHAIRMAN: Not the actions and recommendations made by the Commission to Government. That is all you want.

SHRI B. GUPTA: Yes.

SHRI H. C. MATHUR (Rajasthan): Under article 323.....

MR. DEPUTY CHAIRMAN: Under the articles that I quoted, the powers of the Government and the Commission are defined. Any action of the Government in not implementing or accepting the recommendations of the Commission is open for criticism but criticism of the recommendations made by the Commission or the actions of the Commission or of particular Members of the Commission will not be relevant.

SHRI H. C. MATHUR: Members of the Commission are all right but what is there in this clause to prevent criticism of the Commission?

MR. DEPUTY CHAIRMAN: You cannot—it is a constitutional authority. It prescribes the procedure by which Members can be removed.

SHRI H. C. MATHUR: There is no question of removal—not that I am intending to criticise the Members of the Commission but I want to be clear about this matter.

MR. DEPUTY CHAIRMAN: Rule 200 of the Rules of this House reads as follows:

"A member while speaking shall not—

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(v) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms;"

3 P.M.

SHRI H. C. MATHUR: That is perfectly all right.

MR. DEPUTY CHAIRMAN: So you will have to bring a motion for removal of a particular Member

SHRI H. C. MATHUR: But there is no question of any such removal. Sir, you referred to certain articles of the Constitution. But there is absolutely nothing in the Constitution to debar us from.....

MR. DEPUTY CHAIRMAN: No, no. You should not criticise a member of the Commission.

SHRI H. C. MATHUR: I want to be clear in my mind. So far as the Constitution is concerned, I think there is absolutely nothing in it to debar us from criticising the functioning of the Commission.

MR. DEPUTY CHAIRMAN: No, no. That can be criticised if you want removal of any particular member and for that you will have to bring a substantive motion for that removal.

SHRI H. C. MATHUR: There is no question of any such removal, no removal of any Member. The point is, whether the functioning of the Commission can be the subject matter of criticism or not, whether the Commission as a whole is functioning properly or not, what are the handicaps under which it is working and such other

ancillary and allied matters. There is nothing to debar that. I believe, even under the Constitution or the rules. I fully know that so far as a particular high dignitary is concerned, not only of the Public Service Commission, but even any other person, we should not and we are not going to comment on any particular individual. But so far as the functioning of the Commission is concerned, I think we are well within our rights to criticise that.

SHRI B. C. GHOSE (West Bengal): I shall put a specific question, Sir. Can we say like this: "The Commission should act impartially. But there appears to be a feeling among certain sections of our people that the Commission does not always act with that amount of fairness. I am not certain. I do not know and I do not believe it is true. But if there should be such a feeling, the Commission should act in such a manner as not to give such an impression by its activities." If I say so much, will I be within or outside the Constitution?

MR. DEPUTY CHAIRMAN: I am afraid for any such allegation to be made against a constitutional authority, specific instances will have to be brought to the notice of the House. After all, we are acting as responsible Members of Parliament.

SHRI B. C. GHOSE: There is no reflection on the actions of any individual.

MR. DEPUTY CHAIRMAN: We are Members of Parliament and know our responsibilities.

SHRI B. C. GHOSE: But can we not say that there is a feeling among certain sections and we wish to know the truth about it?

MR. DEPUTY CHAIRMAN: You know your responsibility. I think it will not be proper for a Member of Parliament to make such allegations or even to believe in such expressions of opinion unless there are substantial points.

SHRI B. C. GHOSE: That is perfectly all right.

MR. DEPUTY CHAIRMAN: Any criticism of the Government will be relevant, but not of the Commission.

SHRI RAJAGOPAL NAIDU: I agree with the Chair on this point, that it is not proper for Members of Parliament to criticise any particular officer. But may I point out that in the matter of a similar thing—the High Court Judges—I am sure there is a provision in the Constitution that we cannot criticise the High Court as such, but we can criticise about a particular incumbent of that office.

MR. DEPUTY CHAIRMAN: No, no; you cannot do that.

SHRI RAJAGOPAL NAIDU: I mean, the Constitution provides a certain procedure.

SHRI B. GUPTA: What exactly is the article referred to?

MR. DEPUTY CHAIRMAN: I gave the rule.

SHRI B. C. GHOSE: It is not the rule. Does the article debar us from saying anything about the Commission? I am not saying anything, I am only asking the question to know our rights. I am not suggesting that I am going to make any sort of allegation or that I know anything against the Commission. I want to be clear about our rights before we take part in this discussion. We shall not make any reflections.

MR. DEPUTY CHAIRMAN: It is not proper and it will not be relevant.

SHRI B. C. GHOSE: This came up only since you raised the matter specifically, Sir. We are conscious of our responsibilities generally, and we would not have raised the issue if you yourself had not laid particular emphasis on this question.

MR. DEPUTY CHAIRMAN: I did so because I wanted the debate to be conducted on proper lines.

SHRI B. C. GHOSE: That we know; we know our responsibilities.

MR. DEPUTY CHAIRMAN: That is all right. Yes, Mr. Sinha.

SHRI RAJENDRA PRATAP SINHA (Bihar): Mr. Deputy Chairman, I move:

“That the Reports of the Union Public Service Commission for the periods 1st April 1951 to 31st March 1952, and 1st April 1952 to 31st March 1953, respectively, together with the Government Memoranda explaining the reasons for the non-acceptance of the Commission's advice in certain cases during the said periods, be taken into consideration.”

As you have already pointed out, under article 323 of the Constitution, the Union Public Service Commission submits annual reports and these reports are laid before the Houses of Parliament, along with any memorandum if there be any, from the Government explaining their position as to why they have not accepted the particular advice of the Commission. Sir, we have so far received three such reports from the Commission and I have gone through these reports. Sir, the general impression that I have gathered after going through these three reports is that apart from the fact that there have been cases of non-acceptance of the Commission's advice in many important matters—serious as they are—there are, Sir, very serious irregularities committed by the Executive Government in the matter of appointments to the civil posts and the civil services. If you permit me, Sir, I may add that I have found that there are occasions when the Government has even by-passed the Houses of Parliament in their anxiety to provide for their favourites. Sir, under article 320 of the Constitution, as you have already pointed out, the recruitments to civil posts and the civil services are to be made by the Union Public Service Commission. There are two basic ideas underlying this system of recruitment to the civil services adopted in our Constitution. Firstly, we desire that all eligible persons to a particular post should be entitled to enter into a fair and free competition to get that job. Secondly, we want to avoid all elements of patronage in the matter of appointments to our civil services. You will find that under the old Regulation which has been kept in force under article 372(1) there are several

[Shri Rajendra Pratap Sinha.] categories of employment and posts which have been kept away from the purview of the Public Service Commission. One of these categories is temporary appointments lasting for less than a year. I maintain from a review of all these reports that the Government has abused this power of temporary appointments. The Government has used it as a shield to bestow all kinds of patronage. Sir, if you look at the posts, you will find that on the very face of it, they are not temporary posts, but that they are likely to continue for more than a year.

Sir, appointments to such posts are made as temporary appointments merely to avoid the Public Service Commission. In the name of temporary and emergency appointments, I find that a large number of appointments are being made. The glaring examples are the Community Projects Administration and the All India Radio under the Ministry of Information and Broadcasting. We find, as a matter of fact, such appointments being made by every Ministry but these are the very glaring examples and I would like the hon. Minister to tell this House as to how many temporary appointments are being made every year by the Government and how many of them are continued even after the end of the year. Sir, I shall quote from the Report of the Commission itself. In the First Report—I am quoting from this because in the Second Report mention is made of the First Report—on page 3 they say, “this”—meaning the temporary appointments—“provision has unfortunately been invoked by Ministries and Departments of Government far too indiscriminately. There have been too many cases in which posts have been filled by the appointment of the Ministry’s nominees on the ostensible ground that the posts were temporary. A little reflection would, however, have shown that most of these posts were not likely to be done away with after one year. In many cases, the Ministry’s nominees have

been kept in office for periods far in excess of one year without any reference to the Commission.” Again in their Second Report, on page 15, they say, “the procedure prescribed at present is that as soon as it is evident that any temporary appointment made without consulting the Commission is likely to last more than a year, it should be referred to the Commission immediately. In a large number of cases this procedure was not observed. These are really cases of improper use of the power to make temporary appointments about which there have been so many public complaints.” Sir, they make the temporary appointments and they keep these appointments going on year after year and they do not also consult the Commission, although, under the Constitution, they are required to do so. Apart from bringing in an element of patronage in the civil appointments, this procedure acts very unfairly to the other candidates who compete from the open market when these temporary appointments are made permanent. When the appointments are regularised by inviting applications by means of advertisements, what happens is this. We cannot prevent these temporary appointees from competing in such examinations and these temporary appointees who have gained experience at the cost of the tax payer compete with the candidates from the open market and do better because of the experience that they have gained. I know it from my personal knowledge that appointments in the temporary cadre are purposely made in order that a particular candidate may gain experience and do better at competitive examinations and have a better chance of getting a permanent Government service, otherwise, he could never have got such a post.

Sir not only this, but the Commission have also referred to the fact that advertisements are drafted in such a way that it may suit a particular person. On page 9 of the first report, they say, “advertisements for posts in the category of technical,

scientific or specialised qualifications are often so drafted by Ministries as to tend to restrict the recruitment to the limited circle of persons already holding the posts advertised or analogous posts. One of the main functions of the Commission is to so draft the advertisement without sacrificing the requirements of the post, as to ensure a truly competitive selection for the post from the widest field." I have looked into the regulations and the method by which the Public Service Commission works in U.K. There, the Ministries merely inform the Service Commission that they want such post to be filled with a person of such and such qualifications. The advertisement is drafted by the Service Commission and not by the Ministries as is done here. Here Government are anxious to bestow patronage and therefore it is that they want to avoid going to the Public Service Commission, and continue to make these temporary appointments and draft the advertisements themselves.

I find from the Report that as early as January 1951, the Commission submitted their proposals to the Government as to how the existing regulations should be remodelled so that each case should come under the purview of the Union Public Service Commission. Now, the Government has not taken any decision in this matter. These proposals ought to have been placed before both Houses of Parliament, as required under the Constitution so that the Houses will be seized of the problems facing appointments and would have given their directions as to how appointments in the civil services should be made. Government have thought it better not to bring these proposals so that they could continue with their temporary appointments. In their latest Report, on page 2 the Commission say, "The Commission's proposals as regards matters and cases in respect of which the Commission need not be consulted have now been before Government since January 1951, and have to be laid before the Parliament." This has not been done

although this has been before them for the last three years now. In regard to temporary appointments, it goes on to say "Although there has been some improvement in this respect as a result of the Commission's vigilance cases of inappropriate appointments of this kind continue to recur and the Commission, who have no responsibility in this matter, continue to be the target of public criticism—particularly from unsuccessful candidates—to the effect that the Ministries' nominees who have been kept in office for periods far in excess of one year without any reference to the Commission continue to receive undue advantage. The Commission feel that the proposals they have made for dealing with such cases amply secure the objects for which the need of such power has been felt to be necessary."

Sir, we would like to know from the Government as to what those proposals of the Commission are in regard to temporary appointments. It appears that the Commission has dealt with this problem in order to see that such glaring irregularities are not continued and we are entitled to know what the Commission's proposals are in this respect. In U.K. they have an Act called the Superannuation Act of 1859, under which no civil servant is entitled to draw any pension unless his appointment had been concurred to by the Public Service Commission. I would like some such provision brought forward here and it should be made into law so that we may check this growing evil of appointments by the Government without the concurrence of the Public Service Commission. I would like to know from the hon. Minister his views. Will he bring forward such a measure before this House?

There is a very fundamental issue involved in the Reports that have been submitted to us. I will draw attention to the proviso to clause (3) of article 320 which says

"Provided that the President as respects the all India services and also as respects other services and

[Shri Rajendra Pratap Sinha]
posts in connection with the affairs of the Union, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted"

Now, Sir, I will draw your attention to clause (5) of article 320. It reads as follows:

"All regulations made under the proviso to clause (3) by the President . . . shall be laid for not less than fourteen days before each House of Parliament .. as soon as possible after they are made, and shall be subject to such modifications, whether by way of repeal or amendment, as both Houses of Parliament. . . may make during the session in which they are so laid."

Now, Sir, the question is whether it is morally right on the part of the Government to make the regulations and to act upon them and then to lay them before the Parliament. The question is whether it is not the spirit of clause (5) of article 320 that the Government should make the regulations, lay them before the Parliament for fourteen days and then act upon them. Now what the Government has been doing is this, that they make the regulations and act upon them and then at their convenience lay them before the Houses of Parliament. Sir, I will in this connection refer you to the cases of the integration of the services of Part 'B' and Part 'C' States. When the States were being integrated, Sir, it was one of the terms of the integration that all those serving in the States will be absorbed in the All India Services and the Central Services of the Government of India. Now, it was decided that the Public Service Commission should go into the merits of each officer by looking into the records of his past services, by interviewing him, and then decide into

which class he could be admitted in the Government of India Services. Now, Sir, all this proceeded on very well. Suddenly in July 1951, the Government of India made a regulation removing from the purview of the Commission certain categories of officers. I understand, Sir, that they were the income tax, excise and railway department officers of the States. Now even these officers in some of the States had been interviewed, but suddenly they were removed from the Commission's purview. The Commission were asked not to proceed with the selection of these categories of candidates. Sir, you will find that even direct recruitments to any posts in Income-tax, Excise and Railway Departments of the Government of India are made only in consultation with the Public Service Commission. The Commission remarks, "The decision to appoint the members of the services of the integrated States in suitable grades in the All India and/or Central services only in accordance with the recommendations of the Special Recruitment Board as endorsed by the Union Public Service Commission was thus the only correct one constitutionally." What does it mean, Sir? This means, Sir, that they acted unconstitutionally in removing from the purview of the Commission the selection of these officers of Part B and Part C States. Sir, the Commission remarks as follows in this regard: "The employees of some of the other Central departments were also interviewed and graded by the Special Recruitment Board in some of the States, but in July 1951 Government decided, under the proviso to clause (3) of article 320 of the Constitution that it was not necessary to consult the Commission about the absorption of these officers in the other Central services. The Commission was not consulted before this decision was taken. The Commission feel that a convention should be adopted that such proposals or exclusion should be laid before Parliament before they are actually brought into force. The Commission feel that the spirit of clause (5) of

article 320 of the Constitution requires that this power of the President should be exercised after such proposals have been laid before Parliament." Sir, I am inclined to agree with the sentiments expressed by the Commission and we must adopt the healthy convention that the Government after they have made the regulation must lay it before Parliament before they start acting on it. They must give us an explanation as to why they thought it better not to refer the matter to Parliament, and decided to by-pass this House when they took the decision to remove those cases from the purview of the Commission.

Then the Commission goes on to say, "In one or two cases Government have also been inclined to invoke this power to remove from the purview of the Commission particular posts on the Commission finding it difficult to concur in the appointment of nominees of Government to these posts." Sir, it is a very serious matter if the Government take it into their head to invoke the provision in the proviso to clause (3) of article 320 in individual cases. Whenever they find it difficult to get their favourites appointed they choose to remove that post, the particular case from the purview of the Commission, and this, I would say, Sir, if you permit me, is a scandalous matter, and the House must definitely say that such cases should not be allowed to happen in future and all those regulations which are made to remove some posts from the purview of the Commission must be placed before the Houses of Parliament. I would request the hon. Minister, Sir, to disclose the particular cases to which the Commission has made reference. Which were those posts, we do not know, which were removed from the purview of the Commission in order to suit the convenience of the Government? We would like to know, Sir, which were the few individual cases which, of course, the Commission has not revealed. We are entitled to ask from

the hon. Minister which were those particular cases.

Sir, there is another point to which I would like to draw your attention. We must adopt the very healthy convention that all recommendations of the Commission in connection with promotions and re-appointment of superannuated officers and the methods of recruitment to new posts must be scrupulously followed by the Government. The convention should be that they should not ignore the advice of the Commission in these matters.

Sir, I have gone through the working of the Service Commission of U.K. and looked into their annual reports as well, and I have not found a single instance, Sir, in which the Government did not accept the advice of the Commission in such matters whereas, Sir, you will find that in the three reports that we have before us, in the first report there are four cases in which they have not accepted the advice of the Commission; in the second report, Sir, there is only one case and in the third report, Sir, there are two cases where they have not accepted the advice of the Commission. Sir, this is a very serious matter and the Services will lose their morale if they know that their promotions do not lie on an impartial assessment of their work but by certain favouritism bestowed by their immediate officers or their bosses in the Ministry.

Sir, I will give you only one example. The Government has come forward with a memorandum explaining why they have granted extension to the incumbent of the post of Vice-Chairman of the Indian Council of Agricultural Research against the advice of the Public Service Commission. Sir, it appears to me that this memorandum is an eye-wash meant more to conceal facts than to throw light on facts. They say that this man was reappointed although he had attained the age of superannuation because of the following facts. They say in the second paragraph that

[Shri Rajendra Pratap Sinha.] recruitment to it was made by selection from persons with expert knowledge of agricultural science and having vast administrative experience. They say that the rules regarding superannuation need not be strictly applied in the case of scientific and technical personnel and their retention in service is clearly in public interest. We all know that. We have ourselves said so many times in Parliament that in the case of technical and scientific personnel we do not want that rules of superannuation should be observed. I agree. Now, let us see what the Commission has to say in regard to this case. The Commission has said: "After carefully considering the qualifications of the incumbent and comparing them with those of his predecessors, the Commission came to the conclusion that in respect of either administrative experience or technical knowledge he was nowhere near his predecessors and advised that it would not be in the public interest to grant him any further extension and that the best method of filling the post would be to select a younger person of real standing as an expert in agricultural science and/or an administrator. The Commission added that such a person could be had from the list of suitable officers serving in Part 'A' States furnished by the Ministry to the Commission." Government, however, granted the incumbent a further extension up to the 28th October 1952. Quite right. But then, Sir, the Government ought to have given information in their memorandum as to what were his qualifications which made them classify him as a scientific and technical personnel. Did the incumbent have any special qualification which entitled him to be qualified as a technical personnel? We want to know that. They ought to have given it in their memorandum. Did the incumbent possess any expert knowledge in Agricultural Science? Had he done any research work in agriculture? We are entitled to know all that. Sir, I understand that this

gentleman was knighted by the British Government and if you look to the report which is published about persons who are knighted, you will find the reasons for which he was knighted. We would like to know whether this gentleman was knighted for rendering some valuable service to the British Government or whether he was knighted for possessing some scientific talents of an extraordinary character. Sir, if he had some special qualifications, then we do not grudge. If he did not possess them, then it is a serious matter. Then there is the question of vast administrative experience. We would like to know what administrative experience he has had before he was appointed as the Vice-Chairman of the I.C.A.R. We would like to have an explanation from hon. Minister on these points.

MR. DEPUTY CHAIRMAN: Your time is up. You must close now.

SHRI RAJENDRA PRATAP SINHA: I will take only a few minutes.

Sir, this gentleman was reappointed on 20th October 1952. A new post was created for him from the day he retired as Vice-Chairman of that body. I have already referred to clause 3(a) of article 320 of the Constitution and I do not want to waste the time of the House by reading out the clause. There it is specifically laid down that the methods of appointment to new posts will have to be decided in consultation with the Union Public Service Commission. But what has been done? Without any reference to the Public Service Commission this gentleman is appointed as Production Commissioner and then the matter is referred to the Commission for its concurrence. We would like to know from the Government whether they made any regulation to take away from the purview of the Commission this particular post of Production Commissioner under proviso to clause (3) of article 320 and if such a regulation was not made before making

the appointment, then I submit, Sir, that this appointment was wholly unconstitutional. Now, how do I know whether they have made a regulation or not? I gather that from the remarks of the Commission. This is what the Commission remarks: "In accordance with the provisions of clause 3(a) of article 320 of the Constitution the method of recruitment for this new post had to be referred to the Commission in the first instance instead of the Commission being called upon to concur in the further re-employment of this person in this new post. After carefully considering the proposal of Government the Commission came to the conclusion that there was no justification for not recruiting a suitable person for this post on a competitive basis. After analysing the qualifications of the person, the Commission also advised that he was not such an outstanding person as to justify a third extension being given and that his appointment to the post would, therefore, not be in the public interest." Sir, the Government owe us an explanation for this serious encroachment upon the authority and privilege not only of the Commission but of this House as well. The Government has encroached upon the authority vested in Parliament.

In conclusion, I would like to submit that the Government should place before the House the proposals they have received from the Commission in regard to matters that are to be taken away from the purview of the Commission and we must be given an immediate opportunity to discuss them. Secondly, I urge that the Government should help in the creation of a healthy convention that the advice that is given by the Commission in the matter of promotions and re-appointment of retired officers should be accepted *in toto*. Sir, you cannot possibly build up a convention if you break it every year to oblige your undesirable favourites. Thirdly, I would submit that Caesar's wife must be above suspicion.

SHRI H. C. DASAPPA (Mysore): Everybody's wife must be above suspicion.

SHRI RAJENDRA PRATAP SINHA: The Government therefore must respect the Constitution.

SHRI B. K. P. SINHA (Bihar): May I bring it to the notice of the hon. Member that the Government is Caesar and not Caesar's wife.

SHRI RAJENDRA PRATAP SINHA: They must lay before the Houses of Parliament the regulations that they make before acting upon them. Unless they have received the concurrence of Parliament with regard to proposals they may put forward for matters to be removed from the purview of the Commission, they should not act upon them.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Reports of the Union Public Service Commission for the period 1st April 1951 to 31st March 1952 and 1st April 1952 to 31st March 1953, respectively, together with the Government Memoranda explaining the reasons for the non-acceptance of the Commission's advice in certain cases during the said periods, be taken into consideration."

PROF. G. RANGA (Andhra): What happens? Who moved the motion? I thought the Minister for Government has moved the motion.

SHRI RAJENDRA PRATAP SINHA: I have moved the motion.

SHRI S. MAHANTY (Orissa): Mr. Deputy Chairman, I congratulate the hon. mover of this motion for spotlighting our attention on some of the acts of omission and commission of the Government which seem to me scandalous. I wonder if "scandalous" is hardly the right word.

MR. DEPUTY CHAIRMAN: Scandalous?

SHRI S. MAHANTY: "Scandalous" would hardly be a sufficient word.

SHRI B. GUPTA: The word "scandal" will be scandalised by such actions.

SHRI H. C. DASAPPA: Hard words do not break bones.

SHRI S. MAHANTY: In the past, whenever we have ventured to offer our criticism on any of the provisions of the Indian Constitution, you have been always vigilant to point out to us that the Constitution is sacrosanct and that it should not be criticised, that such criticism is tantamount to violation of the Constitution. But you might have by now at least got the impression that if any one violates the Constitution, it is not the innocuous Members of the Opposition, but the Government itself by its own acts of omission and commission.

Sir, the hon. mover has cited two instances where superannuated officers have been granted extension in contravention of the advice of the Union Public Service Commission. I will only dilate on those two instances to point out how.....

MR. DEPUTY CHAIRMAN: The same two instances?

SHRI S. MAHANTY: The same two instances.

MR. DEPUTY CHAIRMAN: I thought you would have something fresh to say.

SHRI S. MAHANTY: Sir, in 1951 there was a gentleman. He was the Vice-President of the Indian Council of Agricultural Research. In 1951 also the Government had granted him an extension for one year in contravention of the advice of the Union Public Service Commission. The one year term which was granted by the Government in contravention of the Union Public Service Commission's advice, expired on 28th October 1952. Then, what did the Government do? The Government created a new post and that post was called Production

Commissioner. Sir, what would that gentleman produce? He would co-ordinate all the "Grow More Food" schemes of the State Governments and that, too, in Delhi. So, one big post was created, Production Commissioner, and they appointed this gentleman and said that he alone should be the Production Commissioner. Then, the Vice-President overnight was metamorphosed into a Production Commissioner. But when the Union Public Service Commission pointed out, "This is the third extension the Government has granted to this particular officer, it is not in the public interest," I do not know who that genius in the Government is, he might have answered to the Commission, "we know our business better."

SHRI B. C. GHOSE: The Government must have answered.

SHRI S. MAHANTY: So, this gentleman was granted two years' extension and this was his third extension. Now, when the hon. mover quoted the Union Public Service Commission's observations, he cited public policy; but he is ignorant of private favouritism. It may not have been in accordance with public policy, but certainly it was in accordance with private patronage.

Sir, I do not know—I will be very glad indeed if I am wrong—last year, in 1953, I gave notice of a question in this House and it came up for reply: Whether a superannuated officer who had been granted extension was ever charged with smuggling of Swiss watches from Pakistan to India? It is in the proceedings, you can find it. The hon. Minister who was replying, Mr. A. C. Guha, said: "The Government had no information and if the hon. Member passed the information to me, I would certainly see what could be done." I passed him all the information. I do not know—I will be very happy indeed if this gentleman was not that officer. My allegations were proved correct, and

the gentleman had to be 'fired' to use an American terminology

MR DEPUTY CHAIRMAN With out knowing you should not make such insinuations

SHRI S MAHANTY Sir, I said, I do not know

MR DEPUTY CHAIRMAN You say you yourself do not know As a responsible Member of Parliament you should not make such a statement

SHRI S MAHANTY Sir, I am saying that I will be the happiest man if I am proved wrong

THE DEPUTY MINISTER FOR HOME AFFAIRS (SHRI B N DATAR) He must not make such insinuations

SHRI S MAHANTY I stand by what I said Now an officer of the Food Ministry, a superannuated officer who had been granted extension was charged with smuggling Swiss watches from Pakistan to India

MR DEPUTY CHAIRMAN Who charged him?

SHRI S MAHANTY I charged him

SHRI B N DATAR Sir, he said 'an officer' He did not say 'an officer of the Food Ministry'

SHRI S MAHANTY Now, I find in this particular case,—I hope the hon Deputy Home Minister who was so enthusiastic, who was rightly enthusiastic to defend his officers, will tell me why this particular gentleman, who had been granted two years' extension, was sacked after the first year's service It was certainly not on the Union Public Service Commission's advice The Union Public Service Commission had to put up with what the Government did in contravention of their advice But why that particular gentleman had to be removed after one year, I

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hope the hon Deputy Home Minister will enlighten us This is one instance

Then, Sir, there is another instance, of the Chief Statistical Officer of the Indian Army

MR DEPUTY CHAIRMAN He knows it very well

SHRI B N DATAR It is in our Memorandum

SHRI S MAHANTY This was referred to the UPSC The UPSC interviewed a number of candidates and they found out a particular candidate whom they recommended to be very suitable for the post But what did the Government do? They appointed the man who was next in order of merit The Government's view was that that particular man had acquired some experience, it is more or less a technical job and therefore, the candidate next in order was appointed The man who was considered most suitable by the UPSC in his academic qualifications, in his efficiency, in his capacity, and in his foreign training, far out-distanced the nominee of the Government The UPSC also held that if this UPSC's nominee had been given the chance, after picking up some experience, he would have been far more suitable for manning the post than the Government's nominee Sir, what can I call it except as a very crude way of showing favours to your own persons?

Then, I will come to the Report of the Union Public Service Commission for the period, 1st April 1952 to 31st March 1953, wherein the Commission have been constrained to observe on first appointing persons on a temporary basis and then making them permanent behind the back of the Commission

"The Commission feel that the proposals they have made for dealing with such cases amply secure the objects for which the need of

[Shri S. Mahanty.]

such power has been felt to be necessary."

At another place they mention the fact that the office of the Commission.....

(Interruption.)

MR. DEPUTY CHAIRMAN: You see only the dark side of the picture. You must also see the bright side of it.

SHRI B. GUPTA: Bright side is sitting over there!

SHRI S. MAHANTY: I am coming to the bright side also. I simply cited a few instances to show how the Government are violating the provisions of the Indian Constitution.

SHRI B. K. P. SINHA: What are those provisions?

SHRI S. MAHANTY: Article 320.

SHRI B. K. P. SINHA: What is that?

SHRI S. MAHANTY: Read it. Sir, we are very much grateful indeed to the mover, because through this discussion at least we have been able to spotlight the attention of the Government on the big scandal that is going about..... (Interruption) also of this Parliament.

Sir, before I resume my seat, I will try to bring to the notice of this House the bright side of the Government. I can charge the Government with inefficiency, with crudeness, but not with dishonesty. At least they have the moral courage to publish such frank and fearless reports, although they pigeonhole them. At least they have the moral courage to publish such documents and place them before the public. That is the bright side of this Government.

SHRI B. GUPTA: Mr. Deputy Chairman, you are quite aware that we are not much enamoured of the manner in which the important officers of this Government are recruited. But even

so, it seems that the Public Service Commission, which the Constitution has provided for, is being, at every stage, tricked and ignored by the hon. Members of the Government. Sir. Public Service Commission is an institution.....

MR. DEPUTY CHAIRMAN: Please read paragraph 33.

SHRI B. GUPTA: Beg pardon?

MR. DEPUTY CHAIRMAN: You please read paragraph 33. Have your earphone on

SHRI B. GUPTA: That is my disadvantage, Sir, unfortunately. Otherwise you would have found me in a different form. When I came to Parliament, I had lost something. I say, Sir, that this Public Service Commission is repeatedly being ignored by the Government. I shall make no reflection whatsoever on the Public Service Commission, because this is not within the scope of the debate. My target, of course, in the present debate is only the Government.

Sir, I was telling you that we are not satisfied with the manner in which recruitment is made. But certain principles of recruitment have been laid down in the Constitution, and are supposed to be observed by the Government. It has been pointed out by the previous speaker that these principles and rules are not being adhered to by the Government of India, and, of course, by other State Governments. As has been pointed out, and pointed out very rightly, temporary appointments are being made in order to dodge the jurisdiction of the Public Service Commission. Sir, I can quite understand why they like these temporary appointments, because certain patronage has to be distributed amongst their followers to keep the party in power. And therefore temporary appointments have to be made. Now, Sir, in many selections they are guided naturally by the supreme political consideration of somehow

other, in the first instance, retaining themselves in power, and in the second instance, keeping up the bureaucratic machinery that they have set up in the country. Normally, Sir, I do not have any quarrel with the superannuated officers; if some of them are good, are capable of service, capable of doing some expert job, they should be retained in service. I have absolutely no objection in principle, as far as this is concerned. But it seems that from the old bureaucracy they always dig up some superannuated officers and retain them in positions of authority, as long as they can. I am not surprised. A superannuated political party will naturally require superannuated officers. Sir, if the political party had been one of youthful outlook, I think, it would have turned its attention to the young talents in this country and would have discovered youthful resources in men in order to carry on the administrative work. They are not interested in that. I can quite understand, Sir, that there are certain age restrictions with regard to certain officers. I am not quarrelling with a particular age being prescribed. The aging political Party will no doubt require this sort of an approach. It is understandable.

Now, Sir, certain allegations have been made, and the hon. speaker from our side is a perfect gentleman. He has cultivated certain habits of the Anglo-Saxon etiquette of speaking. Therefore he does not go into the details of the matter. Sir, it has been our privilege in this House to avoid that Anglo-Saxon way of speaking and instead speak in a straightforward and in a forthright manner. Sir, the Vice-Chairman of the Indian Council of Agricultural Research has been referred to. I would not name him, excepting that he is a Punjabi gentleman; and I would refer to his qualifications. Now everybody knows his qualifications. I think I know him by name and by his qualifications for a number of years. When I was a student in England, I came to know of this gentleman, a

knighted gentleman. He is naturally a knighted gentleman at that. And you know that one of the reasons why he was knighted was that he used to represent the Government of that time in various international councils and conferences, and he was a person who would sign on the dotted lines of anything given by the Britishers. He always raised his hand in Geneva and other places whenever the Britishers raised their hands. And he was very much in their band wagon. This is one of his qualifications, i.e. qualification No. 1. The second qualification is this. He maintains a herd of cattle; it is bulls and cows, you see. These are very important creatures. He maintains the whole herd, and has been doing so. I do not know, Sir, what they have produced. But he has been given a lot of publicity because of that. This is his qualification No. 2. Then his qualification No. 3 is this. He had been, fortunately for him, around Delhi for a long time, he had been hanging around this place—the Secretariat and its periphery—for a number of years. When we were in jail, many Members on that side of the House were in jail, that gentleman was flourishing in the sunshine of the Imperial favours in this great city of New Delhi. Naturally all these things become virtues in the present regime, because they have swallowed the British stuff, hook, line and sinker. Naturally such people become unavoidable for them. Therefore this gentleman, with no qualification whatsoever in the agricultural field, except that he maintains a herd of stud bulls and cows, has been knighted by His Imperial Majesty.....

DR. RADHA KUMUD MOOKERJI (Nominated): On a point of order, Sir. Is it quite fair and proper for a Member of this House to describe in such details the qualifications of an individual?

4 P.M.

SHRI B. GUPTA: I quite understand him, but the hon. Member should kindly note that objection has to be taken only when I refer to his disquali-

[Shri B Gupta]

fications. But I am now referring to his qualifications. Why should he object? He is the highest qualified officer for this regime! I do not quarrel over this matter, but let some other place be found for him. Now he is Vice Chairman and continues to be so. Extension after extension is given to him and naturally so. But the Public Service Commission is perfectly justified in making their comments about this gentleman, and if his Government has got any sense of propriety and any sense of decency, they would have respected the recommendations and comments of the Public Service Commission and would have shown that gentleman the door. He has lived enough in Delhi and he could now go and live somewhere else.

Now, reference has been made by the previous speaker in his mild manner, in his usual way, to certain services like Excise, Railways, and I think also, Income tax, being taken out of the purview of the Public Service Commission when 'B' and 'C' States were integrated. He stopped at that. Now why have they been taken out of the purview of the UPSC? I do not think that any explanation has been given. It has been pointed out that they have not been taken out in the right manner. It is even suggested that action has been taken in violation of constitutional provisions, at any rate in violation of the spirit of the Constitution. I am not a constitutional lawyer. Hon. gentlemen on the other side who are past-masters in violating the principles of the Constitution will kindly explain as to what extent the spirit and the letter of the Constitution have been violated in this connection. I asked myself how it happened that these services in the Part B and C States were chosen to be taken out of the jurisdiction of the Public Service Commission. Then it suddenly occurred to me that the relative of some of the former Ministers have been in the Railways and other services there. Naturally they were in

important positions and if they were to appear before the Public Service Commission they would not have given a good account of themselves, would not have received the elevation that they have received. It is for the Government to explain why it is so anxious to look after these Departments on its own, leaving the Public Service Commission completely out of the picture. As far as this Government is concerned, I believe that this Government, especially in the high places is a festering cesspool of corruption and nepotism. There is no doubt about it. That is why these things are taking place. You have created the Public Service Commission. Leave them the task which belongs to them rather than try to encroach upon their field and jurisdiction and arrogate to yourself certain tasks that you should never undertake. In Calcutta when I was travelling in the tram—the people of Calcutta have got a very fine sense of humour like your own people—some gentleman was talking to another gentleman, "Do you know the kind of Government that we have got? It is becoming a Government of the in-laws—sons-in-law, brothers-in-law, sisters-in-law—etc." There are Bengali terms for that. He was using them. He was saying, "The only qualification that you need have these days is whether you are the brother-in-law, or the son-in-law—God knows how many in-laws are there—of some Minister or other." This is how things are happening. I think that they have a sort of Cabinet Sub-Committee. The day before yesterday, in the course of the question hour it was revealed that certain appointments are made by certain departmental heads and that ultimately all of them go before the Cabinet Sub-Committee. I should have thought that the Cabinet—it has such a vast country to administer it is a big Cabinet all India Cabinet—had other more important matters to give its attention to. But, the Cabinet Sub-Committee is there to make certain appointments. Why is that so? You should entirely leave such things

to the Public Service Commission that you yourself have created. Why should they bother about these things? Let Mr. C. D. Deshmukh bother himself with his mixed economy; let Mr. Krishnamachari bother himself with the wooing of private capitalists; let Pandit Jawaharlal Nehru talk of his Socialism. Let them not enter the field which belongs to the Public Service Commission. When a Minister bothers himself about such things, naturally we apprehend nepotism. That is what we find. Now, we never know when they appoint anybody and afterwards there is no use being wise after the event. After all, they have to give important positions to their men, relatives and other people, and that is why you find the recommendations of the Public Service Commission rejected by these gentlemen of the Government. Here is the report about an officer from my own State—benighted State:

“An officer of a State Government while on deputation in a post in the Government of India was found guilty of fraudulently drawing house rent allowance without paying any rent.”

Wonderful morality.

“The Commission advised that the officer should be reverted to his permanent post in the State and that two increments should be withheld in his substantive post with cumulative effect. The Government of India agreed with the Commission but stated that the State Government took the view that the reversion of the officer would be an adequate punishment and no further action was required.”

Now, this is what is stated in their own report. A certain punishment was suggested, a very mild punishment. No Preventive Detention Act, and no detention without trial. A simple punishment was suggested by the Public Service Commission, but the hon. gentlemen of this hon. Gov-

ernment did not even bother to inflict this punishment upon that person who indecently drew house rent allowance in this manner. I do not know who he is, and I do not care.

Then the report further says: “A British Officer of the Indian Police who was holding the post of Inspector General of Police in Assam went on leave preparatory to retirement on the 5th October 1949, when the senior-most Indian officer of the Indian Police was appointed to officiate in the post. In November, 1949, the Government of Assam communicated to the Government of India that they proposed to re-employ the British officer, on return from leave, as Inspector General in view of the exceptional circumstances created by the partition.” In February 1950, the Government of India explained to the Government of Assam that the re-employment of a retired officer to the post would be contrary to the Indian Police Cadre rules according to which every cadre post in the cadre has to be filled by an officer who is a member of the Indian Police or the Indian Police Service which the retired officer would not be and that, in any case, the Union Public Service Commission must be consulted in the first instance on the proposal to re-employ the retired officer.” That gentleman, a British gentleman, who was to have retired was kept on because of the exceptional circumstances created by the partition, and the Public Service Commission was not consulted. That is the attitude.

When the three services were taken out of the purview of the Public Service Commission, I understand that the then Home Minister, Shri C. Rajagopalachari, objected to that and said that that should not be done and that they should remain where they were, within the purview of the Public Service Commission. Even so, it was done because a certain amount of measure was brought to bear upon the Government of the day and Shri C. Rajagopalachari, great as he

[Shri B. Gupta.]

was, had to eat the humble pie before the will of the Government. That is how matters stand. In my own State, Sir, you will find...

MR. DEPUTY CHAIRMAN: Order, order. We are not concerned here with your State.

SHRI B. GUPTA: We are not—I know.

MR. DEPUTY CHAIRMAN: You cannot refer to it.

SHRI B. N. DATAR: The hon. Member is reading not from the two Reports which are under review.

SHRI B. GUPTA: Yes, I can understand your excitement.

MR. DEPUTY CHAIRMAN: Order, order.

SHRI B. GUPTA: When these scandals are brought before the House, certainly you are excited.

MR. DEPUTY CHAIRMAN: The two Reports are under discussion—Reports for 1951-52 and 1952-53. Any thing extraneous to these Reports will not be relevant.

SHRI B. GUPTA: Anything good is extraneous. According to them, we are extraneous. The point is not there. I am trying to tell the hon. Members of Government.....

MR. DEPUTY CHAIRMAN: But you must be within the four corners of the rules.

SHRI B. GUPTA: I can battle with any enemy but the battle with procedure, rules, etc. is something beyond me.

MR. DEPUTY CHAIRMAN: As long as you are in this House, you have to follow the rules.

SHRI B. GUPTA: The Commission is being ignored in all fields of appointment here in Delhi in the matter of appointments under the Central Government. Cases have been cited but it is well known and why must we have a debate to get to know what is obvious, what is known to everybody, what has become the talk of the town, so to say? I think one of the reasons is that nepotism, corruption and favouritism have the better of the judgment of the Government and the good sense of the Government and that is why even their own Union Public Service Commission which is supposed to be a responsible body and given a place in the Constitution is so frivolously and flippantly ignored and avoided by these hon. gentlemen. I know if I say anything more.....

MR. DEPUTY CHAIRMAN: Mr. Gupta, before closing you read para 33 also.

SHRI B. GUPTA: He will reply to other points which may be raised. All that I say in conclusion is: "Stop this kind of thing. Give up appointments directly. Stop this sort of temporary appointments whereby you serve some of your favourites. Rely on the Public Service Commission and its judgment and thought and discretion." Because there is the provision in the Constitution and those whom you have appointed under all this kind of subterfuges should be eliminated from their posts and the public services which are supposed to be meant for the service of the people should invite and attract only the best talents in the country not those inflated, corrupt gentlemen who should be eliminated from the service instead of being pushed into positions of authority. I think the sooner Government takes this line, the better, because the Government has won notoriety in matters of scandals, corruption and nepotism, the like of which was scarcely known even in the dark history of administration under the British.

SHRI H. N. KUNZRU (Uttar Pradesh): Mr. Deputy Chairman, my hon. friend Shri Sinha has drawn the attention of the House to a very important matter. We cannot pay too much attention to the question of the proper recruitment of our civil servants. It is for this reason that the Constitution has provided for the appointment of a Public Service Commission and has conferred certain powers on it. Perhaps it would be more correct to say that the Constitution has for this reason placed an obligation on the Government to consult the Union Public Service Commission in respect of certain matters. When we find that the provisions of the Constitution or their spirit is departed from, it is necessary or it becomes a matter of urgent necessity that we should bring this matter to the attention of the House. The administration of the country depends on the character of the services. The services provide the framework which keeps the different parts of the country together. Indeed I could go further and say in respect of importance of this matter that we should pay a proper attention not merely to the recruitment of public servants but also to their training. I cannot unfortunately, deal with that question of training because that would probably be outside the purview of the resolution moved by my hon. friend Shri Sinha but I may say in passing that the Government has not so far realized the importance of training and that its neglect of this question has continued far too long. It seems a few months ago that Government had at last awakened to the importance of the matter and they appointed a senior civil servant to be the head of the institution for the training of I.A.S. recruits but subsequently the Government came to the conclusion that the Airlines Corporation was a more important institution than the institution started for the training of recruits to I.A.S. This is the measure of the importance that Government attaches to the training of its recruits. No wonder then that it has not dealt properly with the recommendations of the

Public Service Commission in the matter of recruitment of public servants. I brought many of the matters to which Shri Sinha has rightly drawn our attention, to the attention of the House during the debate on the Finance Bill in April 1953. The Home Ministry did not consider it worth its while to reply to the points that I had raised. They left it to the then Deputy Minister for Finance, my hon. friend Mr. Shah to deal with the matter. In reply to my observations regarding the failure of the Government to deal with the complaint of the Commission, regarding the limitations placed on its functions for at least 1½ years, he said that the matter was a very important one. The Commission had asked that the list of the posts that were excluded from the purview of the Commission should be drastically curtailed and that it was therefore necessary to consult the departments concerned. When the debate took place, I was under the impression that the recommendations of the Public Service Commission had come to the knowledge of the Government only 18 months previously but I find now that the Commission had brought this matter to the notice of the Government in January 1951. Really almost 28 months had elapsed since the Commission had approached the Government on this point, and yet the Government were not in a position to arrive at any decision on the subject. My hon. friend Mr. M. C. Shah said in reply to an interruption of mine that the observations of the Ministries to whom the recommendations of the Commission had been forwarded, had not been received, and he again said that the importance of the matter in a measure, justified the delay that had occurred. Sir, nearly 20 months have elapsed since then, and we do not yet know whether the government have even now arrived at a decision. Certainly, Sir, till the Third Report of the Public Service Commission, for the year 1952-53 was published—and it was published in, I think, February.

SHRI S. MAHANTY: January.

SHRI H. N. KUNZRU: No, it is February. Till then the reply of the Government has not been received. You will thus see that this matter has been before the Government for four years, without having been decided by it one way or the other. It may be a very important matter as my hon. friend Mr. M. C. Shah observed in the debate on the Finance Bill last year. But much more important matters have been settled in a much shorter time. The Five Year Plan did not take four years to be framed. It was formulated within a much shorter period. But this question of the recruitment to the services is so difficult, so intricate and so complex and so far-reaching in its effects that Government trembled to arrive at a decision on it even after the lapse of four years from the date on which the Commission forwarded its recommendations up-to-date. Sir, this is little short of a scandal that the Government should treat the observations of the Union Public Service Commission on so vital a matter so lightly.

In the earlier debate to which I have already referred, I also drew the attention of the House to what the Union Public Service Commission said in its First Report regarding the temporary appointments of men in the Central Ministries for a period of one year. This matter has again been referred to by the Public Service Commission and it has pointed out that the present method gives rise to a great deal of public criticism, criticism which reflects on the Commission itself. The impression has gained ground that the Commission invites applications from persons not already in the employ of the Government only as a matter of course, because it appears that at least in a fair number of cases, the people who had been temporarily employed were or had to be finally selected by the Union Public Service Commission. Now, is it right that the Government should place the Union Public Service Commission in so difficult a position? What the precise proposals made by the Commission with regard to this

matter were, I do not know, but we do know from the Commission's Reports, rather I do know from the Commission's Report that the gist of what it said was that the latitude now enjoyed by the Government should be ended and that all appointments should be made by the Public Service Commission. I dare say that in the detailed proposals that it made, it dealt with cases in which a decision might have to be given quickly or cases in which the recruitment might have to be made in England. But broadly speaking, it asked that all posts, whatever their duration, should be brought within its purview. So far as I can judge from the latest Report of the Commission, its complaint on this subject remains unredressed. Sir, we used to criticise the British Government a great deal for keeping certain posts under its own control so that it may appoint its favourites to them. But what are we to think of a National Government, which follows in the footsteps of the British Government? No regulations have yet been made defining or categorising the posts or the classes of service to which recruitment should be made by the Public Service Commission. Under article 372 of the Constitution, the old rules have, therefore, been continued and the list of exclusions therefore, is as large as it was so long as this country was a subordinate dependency of the British Government.

Another question which I think is important enough to be brought to the notice of this House is that according to the Commission's Report, a long interval elapses between the selection of suitable candidates by it and the offer of appointments. It appears from the examples given by the Commission that there have been cases in which Government have taken almost a year after the Commission's selections reached them, to make offers to the selected candidates. Now, if the Commission is asked to select a candidate for a certain post, I take it that this shows that some vacancies are likely to occur at an early date. But, from the manner in which appointments are

made, it appears that the Government felt that there was no urgency regarding the question of appointing new incumbents. I should like the Home Ministry to explain this matter. Does the delay occur due to extensions for short periods to the existing incumbents or is it merely due to the negligence or inefficiency on the part of the Ministries concerned? It happens sometimes that although the period of service of an officer is to end on a particular day, no selection is made for it even one or two weeks after the expiry of the date. The officers of the Government draw the attention of the higher authorities to this matter and yet Government shows no promptness in coming to a decision. Now, is the delay in the cases to which the Commission has referred due merely to the lethargy of the Government or the inefficiency of its officers or to something, more or less excusable? In any case, Sir, it is not right that candidates who have been selected by the Commission should be left in suspense for a long time and should for this reason, apply for being allowed to sit at an examination subsequent to that at which they appeared and got selected. The Report of the Commission is before the Government. I do not know whether it is anybody's business in the Home Ministry to read that Report or to bring the observations of the Commission to the notice of the Home Minister or the Deputy Minister. Knowing, Sir, the traditions of the Home Ministry, I am not inclined to think that there is no renaisance on the part of the permanent officers. I am forced, therefore, to the conclusion that such delay as there has been is the responsibility of the political heads of the Ministries. I have no doubt, Sir, that the Ministers and Deputy Ministers take action sometimes against negligent public servants, unfortunately, there is no authority that could take action against them for their negligence. I think the fact that they sit in judgment over others ought to make them more prompt in the despatch of their own business.

There is just one more point that I should like to deal with before I sit down. My hon. friend Shri R. P. Sinha has referred in his observations to the manner in which the post of Production Commissioner was filled by the Central Government. It appears from the observations made in the Second Report of the Public Service Commission that although it was incumbent on the Government, under article 320, to consult the Commission or rather it is incumbent on the Government to consult the Commission on all matters relating to methods of recruitment to civil service and for civil posts, the Commission was not consulted with regard to the method of recruitment for this particular post. It was only asked to approve of the selection made by the Government. I should like to know from the representative of the Home Ministry who replies to the debate whether this impression is correct. If it is, I should like to know what justification there was for the violation of article 320(a). As some discussion took place with regard to this matter between the Government and the Public Service Commission, I take it that the Public Service Commission pointed out to Government that it had to be consulted with regard to the method of recruitment and that it was not enough that the Government should ask it to express its opinion with regard to the suitability of a particular person. Yet, it seems Government disregarded what had been pointed out to it by the Commission and deliberately violated article 320. I agree, Sir, that the Government is under no obligation to accept the recommendations of the Commission even in the matter of methods of recruitment. All that the article lays down is that it shall be consulted with regard to this matter. Now, had the Commission recommended any particular method not to its liking, a method that would have led to the exclusion of the person whom it wanted to appoint, it could have disregarded the Commission's recommendations. It would have been then within its legal right in doing so.

[Shri H. N. Kunzru.]

but if it disregarded this provision altogether and made an appointment without previously consulting the Public Service Commission with regard to the method by which the post of Production Commissioner should be filled then the manner in which it proceeded was open to the greatest objection. I hope, Sir, that whatever may have happened in the past, such a serious violation of the Constitution will not occur again.

Sir, I said that this would be the last observation that I would make but there is just one more point to which I should like to refer very briefly before I sit down. I think the Commission has very rightly said that although clause (5) of article 320 requires the President to lay the regulations made by him before both Houses of Parliament after they have been made, I think it would be more in the public interest if the regulations were laid before both Houses of Parliament before they were finalised. Once they have been put into their final shape, it is impossible for Parliament to change even a word or a comma in them but if drafts of the regulations were placed before both Houses there is every possibility that suitable recommendations may be accepted by the authorities. I think this method can be followed without creating any complication of any kind. I hope, therefore, that the Government will consider themselves morally bound because the public interest will be better served, to follow the U.P.S.C.'s advice and lay the draft regulations before both Houses of Parliament so that hon. Members may have a real opportunity of influencing the opinions of the Government.

SHRI AKBAR ALI KHAN (Hyderabad): Mr. Deputy Chairman, at the very outset I may say that I had no mind to speak on this subject, but I should say that the speech of the hon. Mr. Sinha, and still more the speech of the hon. Member, Mr. Gupta have prompted me to speak on this subject.

SHRI B. GUPTA: To the right acting.

SHRI AKBAR ALI KHAN: Sir, the point is this. There is according to the Constitution a Public Service Commission entrusted with certain duties. At the same time the Constitution has provided in certain cases, specific cases, that the recommendation of the Public Service Commission may not be accepted by the Government. The point that this House has to see in order to come to a correct judgment is whether the recommendations of the Public Service Commission have been ignored by the Government as a rule or as an exception. That is the point we have to decide because if it were so that all the recommendations of the Public Service Commission have to be accepted, then there was no necessity to provide in the Constitution the ultimate sanction and the right of the Government to accept or not to accept. It is true these functions have been definitely allotted to the Public Service Commission and it is the duty of the Government, and Parliament will see, that the Government performs its duty, that they do not interfere in this matter unless there is a very very important case about which they can convince themselves and convince this House. Now after all the labour and hard work that my learned friend Mr. Sinha put in to refer to instances, he could refer really to two points mainly. One was about the temporary recruitment. Well, Sir, anybody who has some knowledge of administration or, leave aside administration, of day to day working of certain organisations will have to admit that there are occasions, immediate and urgent, when you have to make temporary appointments. For instance, I was in the Osmania University Council where our Council and the University being autonomous bodies we had to make large appointments but regarding temporary appointments we had to delegate our function to the Vice Chancellor. It would be impossible to follow the routine procedure for all these

temporary appointments which may be needed for the time being and the urgency may also be there; it would be impossible to ignore them and to say, "No, you must follow a definite routine." You must understand and I am sure my learned friends will appreciate that in order to have appointments through Public Service Commissions, there is a regular procedure: there are certain things that have to be done, and for those things to be done according to the Constitution and the rules it does take time and the work in the meantime may suffer if the temporary appointments are not made. The question is the fact that the Government reserves the right of temporary appointments, and that is nothing wrong. You have to show specifically, categorically, that this power, that this discretion has been abused in case No. 1, No. 2, No. 3, No. 4 and so on, that is the point. It would be very unfair to make a general allegation or a charge that this has not been done because there is their right of making temporary appointments and that it should not be there. Because that right is there, that is the reason why all these charges of favouritism, nepotism and so many isms according to my learned friends are being levelled against the Government. I say, Sir, that learned friends have failed to prove categorically and definitely the charges that they levelled in a very general fashion.

SHRI RAJENDRA PRATAP SINHA: They are in the Reports themselves. I would advise the non. Member to go through them.

SHRI AKBAR ALI KHAN: Then, Sir, the other thing that my learned friend Mr. Sinha referred to was the proviso to article 320. Now there are definite directions in the several sub-paragraphs of article 320 and yet the Constitution framers felt it necessary that a proviso should be there, and it will be our duty to see whether that proviso has been properly exercised or improperly exercised.

SHRI B. GUPTA: Some day we shall find that the Government exists by a proviso.

SHRI RAJENDRA PRATAP SINHA: In clause (3) the word used is 'shall' and it was very well explained by Mr. Kunzru.

SHRI AKBAR ALI KHAN: I quite say consultation is necessary.

SHRI RAJENDRA PRATAP SINHA: They must stick to the advice of the Commission with regard to the methods of appointment.

SHRI AKBAR ALI KHAN: I know my friends are becoming uncomfortable because it is very inconvenient; I quite see that. Here is article 320; this is a big article; I will just read the proviso:

"Provided that the President as respects the all-India services and also as respects other services and posts in connection with the affairs of the Union, and the Governor or Rajpramukh, as the case may be, as respects other services and posts in connection with the affairs of a State, may make regulations specifying the matters in which either generally, or in any particular class of case or in any particular circumstances, it shall not be necessary for a Public Service Commission to be consulted."

SHRI RAJENDRA PRATAP SINHA: And if you don't make the regulations then?

SHRI AKBAR ALI KHAN: I am submitting that the proviso is there and I am quite right to say

SHRI RAJENDRA PRATAP SINHA: But don't make the regulations.

SHRI AKBAR ALI KHAN: I think I would like to draw your attention, Sir, to the interruptions. Let them take down the points and have them answered at the time of the reply. That would be in accordance with the traditions of this House.

SHRI B GUPTA What are the traditions?

SHRI AKBAR ALI KHAN Of course you have no traditions, quite right

Now, Sir, what I was saying is this that this proviso definitely and clearly gives permission to the Government to bring regulations, to make exceptions, not only general exceptions but also particular exceptions and exceptions in special circumstances. So far as that authority is there, as I said, if the Government has done it or if they do it, it is perfectly within the ambit of the Constitution. I am not giving a blank cheque to the Government. The point is whether this power has been properly used or abused by the Government. That is the criterion that we have to look into. If this provision has been made use of in innumerable cases, exceptions have been provided, regulations have been enforced in order to get out of the province of the Public Service Commission, if they had been doing all these things as a matter of principle in violation of the provisions of the Constitution, then of course I would be with my learned friend, provided he had come with facts and figures. My submission is that the two main points brought forward by the hon the mover have, really speaking, no ground whatsoever. There is not much substance in them. It is all very easy to say that the Government has done this or done that. That I can expect, of course, from my learned friends on the front seats but not my friends in the back seat. That of course is due to company.

SHRI B GUPTA You are following the Prime Minister in making exceptions.

SHRI AKBAR ALI KHAN If I follow my leader, I am proud of it. You need not follow him.

SHRI RAJENDRA PRATAP SINHA What about the points made by Pandit Kunzru?

SHRI AKBAR ALI KHAN I am coming to them. When my hon friend Mr Gupta rose while Mr Mahanty was speaking, he said that he would bring forward the bright side. He knew if it was the dark side, this was the darkest.

SHRI B GUPTA Sir, don't I know that there is no bright side at all?

AN HON MEMBER He is referring to Mr Mahanty.

SHRI AKBAR ALI KHAN He did create an impression on the House that really there was something very serious happening and that the Government were doing things for which it ought to be severely punished. Those who had not gone into the Report carefully would have got the impression, 'Really, what is this that the Government is doing?' But when the matter was brought to the notice of my learned friend that it was absolutely beside the issue (*Interruptions*).

SHRI S MAHANTY The hon Member is misleading the House, Sir.

(*Interruptions*)

MR DEPUTY CHAIRMAN Order, order.

SHRI AKBAR ALI KHAN Naturally that is the way they feel when I am in possession of the House. I submit, Sir—I am referring to the cases referred to by the hon Mr Gupta, I am confining myself to him. Let Mr Mahanty not be restless—that those cases are not at all relevant to the Report that is under consideration at present. There may be things of by-gone days.

SHRI V K DHAGE (Hyderabad) Just one point, Sir.

MR DEPUTY CHAIRMAN Let there be no disturbance.

SHRI V K DHAGE Just one point. It may be that the points that were

referred to by Mr. Gupta were not relevant to the Resolution but would he like to deny the veracity of what he was saying?

MR. DEPUTY CHAIRMAN: That is another matter.

SHRI AKBAR ALI KHAN: I am sure my learned friends will appreciate that when the House discusses a question, the relevancy is that we should discuss that question and nothing else. We are limited to the Report. It may be that there are many good things in Bengal but we are not concerned with them while discussing this motion. Many things may have occurred ten years back, good, bad or indifferent, but what I am concerned with, what I am called upon to pronounce judgment on is the Report under consideration. Like a very clever leader, like an able speaker and like, I am sure, a clever advocate and Barrister, he tried to by-pass and sidetrack the issue by narrating instances which have nothing to do, nor any relevance nor even the remotest connection with the matter under discussion. What I say is this. Whatever the matter may be, we have to confine our attention to the Report under consideration. The question whether those facts are correct or not correct, which my hon. friend Mr. Dhage wanted, is different and I am not called upon to answer that. I will have to look into them; I will have to verify them and it is only then I can say whether they are correct or not. So the impression that my learned friend, through sheer ability, has created has got to be washed out of the mind of the Members of this august House. Those things were entirely irrelevant and they are not at all under consideration. Those cases should not influence our judgment when we pass our remarks on this Report. I can understand; it is the general tactics which they.....

SHRI B. GUPTA: On a point of explanation, Sir. I referred to a Report in which the Public Service Commission had made certain recommenda-

tions but they had not been adhered to. That was my only point. He is waxing eloquent on something. He can do it.

SHRI AKBAR ALI KHAN: I know like a clever lawyer and like a veteran speaker, he can say things.

MR. DEPUTY CHAIRMAN: Leave alone Mr Gupta. Come to the point.

SHRI AKBAR ALI KHAN: Yes, Sir. Certain other things have been referred to by my learned friend Pandit Kunzru. So far as his suggestion is that recruitment rules should be finalised at the earliest and that the Government should not delay the matter, I am one with him. I would say that certainly this is a matter which deserves early and immediate attention of the Government. I would request the Government not to delay the matter because it is a matter which is very important from the point of view of the Administration and the Services which we all want to put on a very high moral and intellectual level. Regarding that of course there can be no dispute. But there were other points also to which he referred. For instance, referring to article 320 he said that the regulation that is to be made should be put before this House before it is finalised. With due respect to my learned friend, I would say that that is not what the Constitution contemplates. There is the question of expediency or urgency and that is why the Constitution has provided that if there is any emergency, if there is any thing which is very important and which has to be dealt with immediately, the Government can take action by passing regulations and within a certain period they must be brought before Parliament. Dr. Kunzru might have suggested an amendment of the Constitution; that is a different matter but so far as that provision is there the position is very clear. After passing first a regulation whenever the necessity arises or whenever the occasion demands, the Government cannot sit complacently. The regulations should be placed before the House and

[Shri Akbar Ali Khan.]
they should stand the test of criticism of this august House. These things have been provided for special occasions and for special contingencies and the Government should be allowed to pass such regulations.

MR. DEPUTY CHAIRMAN: It is time, Mr. Akbar Ali Khan.

SHRI AKBAR ALI KHAN: I will take a few minutes tomorrow.

MR. DEPUTY CHAIRMAN: How much time? Two minutes?

SHRI AKBAR ALI KHAN: I think I will take ten minutes, Sir.

MR. DEPUTY CHAIRMAN: We will continue tomorrow.

The House stands adjourned till 11 A.M. tomorrow morning.

The House adjourned at five of the clock till eleven of the clock on Thursday, 23rd December 1954.