

that time it was not known when the delivery would be made. Now, they have come to know that the delivery of this dredger will be made before the end of the financial year and, therefore, it is absolutely necessary to pay for the dredger and to provide for that dredger in the current Supplementary Demands. Sir, that is so far as Mr. Kishen Chand is concerned.

Now, one point was just raised about the Thungabhadra High-Level Canal. My friend has spoken about these bridges and also about the question whether the Cuddappah-Kurnool canal can be remodelled to carry a large discharge of 6,000 cusecs. About the Thungabhadra High-Level Canal, I am informed that the work cannot be sanctioned without detailed investigation. Investigation beyond 82nd mile is necessary. The Government of India has already staffed that it would be prepared to take up the project after the various questions relating to the project have been settled, in consultation with the Andhra and Mysore Governments. Both of them are concerned in these projects.

At the same time this was a point raised by Mr. N. Prasad Rao. He spoke about the needs of the hillmen. They are being attended to. As regards the licences under the Arms Act, these are being sanctioned. No complaints have, so far, been received that licences are not being issued.

These were the only points that were raised. The other points have been dealt with by my friend, Mr. Datar. Mr. Gupta has been dealt with, so I need not say anything about the elections. I submit, Sir, that this Bill be taken into consideration.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of the State of Andhra for the service of the financial year 1954-55, as passed by the 102 R.S.D.

Lok Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up the clause by clause consideration of the Bill. There are no amendments.

Clauses 2 and 3, the Schedule, clause 1, the Title and the Enacting Formula were added to the Bill.

SHRI M. C. SHAH: Sir, I beg to move:

"That the Bill be returned."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be returned "

The motion was adopted.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2-30 P.M.

The House then adjourned for lunch at one of the clock.

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

THE PREVENTION OF DISQUALIFICATION (PARLIAMENT AND PART C STATES LEGISLATURES) SECOND AMENDMENT BILL, 1954.

THE MINISTER IN THE MINISTRY OF LAW (SHRI H. V. PATASKAR): Sir, I beg to move:

"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."

Sir, this is a very simple Bill brought forward for the purpose of extending the protection which was given in respect of certain Members of Parliament temporarily under section 4 of the present Act. The period of extension granted therein expires

[Shri H. V. Pataskar.] on 31st December 1954. The intention of this simple measure is to extend it for one further year.

As we are aware, Sir, under article 102 of the Constitution there is a provision which states as follows:

"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;"

Therefore, Sir, it was necessary for Parliament by law to declare as to which were the offices, by the holding of which the Members of Parliament would not be disqualified. Then we first passed certain legislation called Act No. 1 of 1953. It was, I think, introduced in both the Houses, and it was discussed in the year 1953, but ultimately it received assent in the year 1954. Under that Act some provisions were made by which certain Members of Parliament were enabled to continue, in spite of the disqualification which might have entailed under section 3. But in section 4, temporarily we made a provision as to the offices, by the holding of which Members of Parliament will not be disqualified. Then the idea was to examine this question about an "office of profit", and bring forward a comprehensive Bill for the consideration of both Houses of Parliament. But it appears that even that Act provided only for the exemption being granted till the 30th of April 1954. It was subsequently extended by another Act, Act No. XIX of 1954, to 31st of December 1954. After that, the Government examined this question, and in the light of the information that they could collect, they have, as a matter of fact, drafted a Bill for the purpose. But, in the meantime, as we all know, this is a

very ticklish question. The term 'office of profit' is defined in the Constitution in the same way as it is used, so far as the United Kingdom is concerned. There also, there is a commission which has been appointed, and which is going into the question as to what an office of profit is. But there are so many divergent views that there also they have not been able to arrive at a clear meaning of the term 'office of profit'. Therefore, we made some provision temporarily in accordance with article 102 of the Constitution. But even then the trouble comes as to the exhaustive list to be made. Therefore, Sir, the whole question is very complicated. The Government have no desire to extend the time limit from time to time, and in the meantime, I understand that a committee of both Houses has been appointed by Parliament to go into this question of 'office, of profit', and we sent our draft Bill to that committee, but that committee recommended that we should, for the time being, only ask for an extension of the provisions in section 4 of the present Act for one year more, i.e. till the end of December 1955. Therefore, in view of the recommendation made by the Parliamentary Committee consisting of the Members of both Houses, I thought we should, for the time being, only ask for this extension of the period till the 31st of December 1955. We have therefore brought forward this Bill which wants that the exemption which is now granted to the Members of Parliament should be validated till the 31st of December 1955. I think this is a simple measure, and I am sure the House would realise the circumstances under which it has been brought before the House, and I hope it would be passed without much discussion. I move.

MR. DEPUTY CHAIRMAN: Motion, moved:

"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."

SHRI RAJAGOPAL NAIDU (Madras): Sir, the hon. Minister has said that because this Bill is of a complicated nature, he has come forward with this measure to extend the blanket cover that is to be given by another one year. Sir, in my opinion, the Bill as such is not complicated, but the Government have made it more complicated by getting into certain things which, in my opinion, are certainly extraneous for the purposes of this Bill. Sir, in the course of one year this Bill has come up before this House three times. This is the third time that this Bill is coming up before the House. The parent Bill was introduced in December 1953 and in less than one year two amending Bills were being moved before us. even at the time when the parent Bill was moved, it was suggested by several Members, both on this side as well as on the other side of the House, that it is safe to enumerate in the Bill itself, by attaching a schedule to it, to specify clearly, provisions as to what would amount to an office of profit and what would, not amount to an office of profit. It was then stated by the then hon. mover of the Bill. Shri Biswas, that it was not necessary to attach any schedule to the Bill, and that the Bill by itself, as moved, was comprehensive enough. Then, Sir, certain difficulties were felt, and various Members of this House as well as of the other House had addressed the hon. Law Minister then, asking him whether their remaining in a particular committee would amount to an office of profit or not. Probably, looking at the numerous letters that had been addressed to the hon. Law Minister he was in a dilemma as to what to do. And he had come forward with an amending Bill to extend the life till the end of December 1954. And a committee was constituted to advise the hon. Law Minister as to what offices would amount to offices of profit and what offices would not amount to offices of profit. Sir, I am told by one or two members who had served in that Advisory Committee that only once, only during this session, they were summoned to meet. I

would ask the hon. Minister, Sir, this question: When it was such an important measure, what was the Ministry doing from April 1954 till December 1954, excepting to come forward before the House with another amending Bill of this nature? Originally, Sir, only four months' time was asked for, when the parent Bill was moved, and it was stated that within that period of four months they would come forward with a comprehensive legislation. Then again they came forward with another amending Bill, extending the period till December 1954. And now, between April and December nothing has happened excepting that the Advisory Committee has been constituted, and it met once only just to recommend for extending the period by another one year. Sir, nobody, in both the Houses would oppose this measure, but they can only criticise the way in which the Government is dealing with this measure, the way in which the Government is sleeping over the matter, a matter which affects the very life of a Member of Parliament, not only a Member of Parliament, but also a Member of the State Legislature. As the hon. the Law Minister has pointed out, article 102 of our Constitution does not define what is an office of profit except to say that a Ministership or a Deputy Ministership or even a Parliamentary Secretaryship and by a later amendment, even a whip of the Congress Party would not amount to an office of profit. Only a few instances are specified as to which offices would not amount to an office of profit. Then, Sir complications had arisen even when the original Bill was moved introducing statutory committees and advisory committees. What a statutory committee was, or what an advisory committee was, was not at all defined in the parent Bill. So, doubts had arisen in the minds of various Members as to what would amount to a statutory committee or what would amount to an advisory committee or even whether a Vice-Chancellorship of a University, to which are attached certain privileges like the appointment of so many persons and all that,

[Shri Rajagopal Naidu.] was defined as not an office of profit, and the hon. the Law Minister—Shri C. C. Biswas—was not able to say what office would amount to an office of profit, what would amount to a statutory committee or what would amount to an advisory committee. The only answer that was given was, "Please extend the life. Please give protection till April 1954. We will certainly bring forward a very comprehensive Bill and that Bill will contain everything." Sir, I have only to point out that an important measure such as this which affects the very existence of the Members of Parliament should have been given a very high priority in the matter of legislation. On the contrary, not much attention was given to this. The Committee met only once and even then nothing seems to have happened in that Committee. Sir, before the matter goes to a court of law for the Judges and for the lawyers to interpret what would amount to an office of profit, it is better that the hon. the Law Minister brings forward in the coming Budget session, a comprehensive Bill which will specify in its schedules what are offices of profit. The schedules may be of a positive character or of a negative character. The schedules might say that the holders of such and such offices would not be disqualified from being Members of Parliament or Members of State Legislatures, or the schedules might say, in a negative way that such and such offices are offices of profit, so that Members of Parliament and Members of the State Legislatures would know whether to accept an office or not and whether they would be disqualified by accepting a certain office. This is a very important Bill, and I want that the Government should not be sleepy in this matter. The Committee might meet some time next month and study the whole matter, and the Government should come forward with a comprehensive measure at the earliest possible opportunity. I am sure the Law Minister will not like his predecessor delay this matter. I

dare say the hon. Mr. Pataskar will pay special attention to this matter and see that a comprehensive Bill is moved in the next Budget session.

SHRI H. P. SAKSENA (Uttar Pradesh) : Whenever I find an old man, whether he is a Minister or an ordinary Member, in trouble, my whole sympathies go to him. From the way that the Law Minister related just now, it appears that the entire host of constitutional lawyers have not yet succeeded in finding a suitable definition for this little expression of 'office of profit'. Even the books on law and jurisprudence of the U. K. and other countries of the world have been consulted, but no safe definition could be found for this expression. My hon. friend, Mr. Naidu, has given the background of the frequency with which this measure has been brought before Parliament during the last twelve months. I may assure my friend, Mr. Naidu, that this will be the last visit

SHRI RAJAGOPAL NAIDU: Your assurance will not do. The Law Minister should give it.

SHRI H. P. SAKSENA:of this measure to the Houses of Parliament and that the Law Ministry will very soon succeed in their attempt at discovering a definition for an office of profit. As has been pointed out by my friend, Mr. Naidu, this Bill has had three visits or visitations to this House, but each time it had to be returned for the simple reason that the experts employed on this work could not succeed in finding a proper definition for this term. Now, the Committee is still at work. Let us all pray that that Committee will devote themselves to this work in right earnest and finish its labours as soon as possible. The Bill is a most non-controversial measure. It applies to us all here in Parliament as well as to our other friends who are in the State Legislatures.

SHRI RAJAGOPAL NAIDU: Except the hon. Ministers.

SHRI H. P. SAKSENA: I cannot believe that our friends, the Ministers, who have been exempted from the operation of this disqualification, will be so selfish as not to look to the interests of my young and ambitious friends like Mr. Naidu. With these words, I have no other choice but to support this Bill wholeheartedly.

SHRI KISHEN CHAND (Hyderabad) : Mr. Deputy Chairman, this is a non-controversial Bill. We can understand the underlying idea with which the framers of the Constitution inserted this provision regarding disqualification. Sir, Parliament is a sovereign body, and Members of Parliament sitting here can take decisions and those decisions become the law of the country. Therefore, if in arriving at decisions we are influenced by extraneous considerations, we cannot be sure that we are giving a free and unbiassed opinion in this House. We know that when in the original Bill such offices like the Vice-Chancellorship of a University and membership of some administrative and executive committees were being exempted from disqualification, there was a good deal of heated debate in this House and even votes were taken on this issue. I find that the object of all that discussion is being defeated by this indirect method of extension of the life of this measure and by the Government trying to continue certain Members enjoying offices of profit and yet getting this exemption from disqualification by extending the life of this measure.

I submit that it is a very simple matter of classification that any office in which there is executive power or granting of certain benefits to other persons or having a voice in the appointment of certain places of profit—in all such cases Members of Parliament should not take part because when they hold such places naturally their judgement will become biassed. I think that the hon. Law Minister will take very early steps to see that within the next 3 months a Bill is

brought forward. I know that there is no point in opposing this Bill because with the Congress majority it will be passed but I think it is a very wrong step taken by the Government to go on extending the life of this Bill by one year at a time. Therefore with this request that the hon. Minister will bring forward a comprehensive Bill within the next three months, I close my speech.

SHRI H. V. PATASKAR: Sir, so far as this Bill is concerned, I find that the main objection was: Why should not the Government have brought forward a comprehensive Bill and why should they have come to this House with a request that the protection granted by clause 4 of the original Act should be extended for a period of one year? I have already tried to explain that immediately after the passing of the former Act when a certain time was extended, Government collected all manner of information that they could and in fact, they did prepare as comprehensive a Bill as they could. I might, just at this stage, say that the information that was collected by the Government naturally revealed that there were three types of cases:

1. Where the statute provides for the election by Parliament from amongst members its representatives on the statutory body.
2. Where the Government is empowered to appoint a Member of Parliament on the statutory body— (that is not elected but appointed).
3. Where the statute makes no express provision for representatives of Parliament, but where the Government may appoint a Member of Parliament who is otherwise qualified to be a member of a statutory body.

After fully collecting all this information, the Government did, so far as their part was concerned, prepare a Bill which they intended to bring forward, but as I said, so far as the present motion is concerned, it is not, brought forward by the Government

[Shri H. V. Pataskar.] with a view to gaining time or to shirk its responsibility. But in the meantime, as we all know, it is a question of finding out whether it is an office of profit or not. It is a ticklish question and on that ground Government did not want to shirk its responsibility. I might say that even in England—I just say for the sake of information and I don't take any shelter behind that position that because in U.K. they have taken time so we are taking—but for the information of Members I may say that the practice there is that there are about 151 Acts and then in respect of those Acts wherever there is such an office, they bring forward an Act to exempt that office.

SHRI RAJAGOPAL NAIDU: The practice there is that the Bill itself will contain a clause specifying whether the holding of a particular office would amount to disqualification from being a member of Parliament or State Legislature or not.

SHRI H. V. PATASKAR: There are 151 Acts of this nature but when a question arises as to whether a particular office held by a Member of Parliament is or is not an office of profit, then it becomes very difficult because we have to wade through such a mass. Therefore the whole matter, so far as Government is concerned, I will say, is that the complexity of the question has been there and it is very difficult in its very nature to come out. I would like to assure all hon. Members of this House that Government has absolutely no desire either to put off bringing forward legislation of this kind. Naturally, Members of Parliament belonging to both Houses and belonging to all parties are interested in this question and we all know and I have stated in the beginning when I made this motion for consideration that it is because this Parliamentary Committee took it upon itself to examine this question that we thought it would be proper at least when they recommend—I don't know whether it held one meeting or more, we have *no* know-

ledge of it and I would make it clear that it is not a Government Committee but it is a Committee which was appointed by the Speaker of the House, as I understand it—and if this Committee had not been appointed and this recommendation had not been made, Government had taken all the steps that they could take to introduce a comprehensive Bill in the House. Everything was ready but we naturally thought that if a Committee consisting of Members of both the Houses of Parliament is already appointed and we expect that that Committee will report very shortly, would do its work very quickly and make its own recommendations to the Government so that when Government actually introduced that Bill, if they think that in a delicate question like this, if there are any recommendations of that Committee which Government should take into consideration before bringing forward a comprehensive Bill, they will do so. It is with this idea that this present extension of time is asked for by this present Bill. I can assure the hon. Members that there is absolutely no desire to shirk bringing forward the comprehensive measure. On the contrary, as I said, immediately after the last Act was passed, Government collected all manner of information which they could and they have in fact drafted a Bill and everything is ready but we thought that it is better to wait for the recommendations of this body. If unfortunately they also recommend that we should ask for an extension of time—I hope the members of this Committee which consists of Members of both Houses" and many of them are experienced Parliamentarians and probably they will look into this matter at a very early date and as soon as we get the recommendations without waiting any further, we shall consider the recommendations and see if any changes are to be made in the Bill which we have prepared and drafted and then bring forward the comprehensive measure without any delay. I think this small measure therefore can be passed but I can assure all Members that there is no desire to shirk the responsibility

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, *it* 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.