



THE
SENATE OF PAKISTAN
DEBATES

OFFICIAL REPORT

Monday, September 10, 1973

CONTENTS

	Pages
The Federal Public Service Commission Bill, 1973—(Passed) ..	27—44

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SENATE DEBATES
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Monday, September 10, 1973

The Senate of Pakistan met in the Senate Chamber at half past five of the clock, in the evening, Mr. Chairman (Mr. Habibullah Khan) in the Chair.

(Recitation from the Holy Quran).

The Federal Public Service Commission Bill, 1973.

جناب طاہر محمد خان : جناب والا۔ اس سے پیشتر ملک میں کچھ ایسی روایات رہیں کہ ہمیشہ ایک مخصوص طبقہ کی حکمرانی رہی اور ان ہی کے مفادات کے لوگ ملازمتوں میں، تجارت میں اور ملک کی سیاست پر مسلط رہے ہیں۔ ۱۹۷۰ء کے انتخابات نے ملک کے عام شہری کے لئے، اس ملک کے غریب مزدور اور کسان کے لئے ترقی کا راستہ آگے بڑھنے کا راستہ کھول دیا، اس بات کی گنجائش پیدا کر دی کہ ملک کے ہر شعبہ میں لوگ صلاحیت کی بنیاد پر ترقی کریں اور آگے بڑھیں۔ پیپلز پارٹی کی حکومت نے زندگی کے سب شعبوں میں انقلاب لانے کا ایک عہد کیا تھا اور ایک انقلاب لانے کی کوشش کر رہی ہے۔ ملک میں انتظامی اصلاحات نافذ ہو چکی ہیں۔ اس سے پیشتر پبلک سروس کمیشن بھی جیسا کہ میں نے عرض کیا ہے کہ مخصوص مفادات کی نگرانی کیا کرتا تھا تو چنانچہ اس بل کے ذریعے یہ کوشش کی گئی ہے کہ عوام کی نمائندہ ہو، ایسے لوگوں کو آگے بڑھنے کا موقعہ دیا جائے کہ جنکے آباؤ اجداد کے کھاتے میں بہت بڑے بڑے لوگوں کی خدمت تو نہ ہو لیکن اس بات پر یقین ہو کہ ان کے اندر صلاحیت اور لیاقت موجود ہے کہ وہ فرائض کو بطریق احسن انجام دے سکیں، وہ اپنے عوام کی خدمت کر سکیں، وہ مادر ملت کی خدمت کر سکیں۔ تو جناب والا! اس بل میں ایک اور بھی اس بات کی گنجائش رکھی گئی ہے کہ صرف ایک مخصوص طبقہ ملازمتوں کی نگرانی نہ کرے بلکہ وہ لوگ جو ایک پیشہ میں داخل ہوتے ہیں، وہ جو ایک پیشہ میں مہارت حاصل کرتے ہیں، وہ جو ایک پیشہ کو عروج تک پہنچاتے ہیں، وہ جنکا نام و نشان جو ہے وہ بچا رہتا ہے لیکن واقعہ یہ ہے کہ وہ اس ملک کی تعمیر میں بنیاد کی حیثیت رکھتے ہیں ان لوگوں کو بھی اعلیٰ ملازمتوں کی تقرریوں کے سلسلہ میں Confidence میں لیا جائے۔ جناب والا! اس بل میں یہ گنجائش رکھی گئی ہے کہ تمام شعبوں میں Professionals کو پبلک سروس کمیشن میں ایک با عزت مقام دیا جائے اور Professionals جو ہیں وہ تمام ملازمتوں کی تقرریوں کے سلسلہ میں اپنی پیشہ ورانہ لیاقت اور جوہر کو دکھائیں۔ جناب والا۔ میں سمجھتا ہوں کہ اس بل کے ذریعے عوام کی حکومت نے، پیپلز پارٹی کی حکومت نے یہ کوشش کی ہے کہ اس ملک میں ملازمتوں کے میدان میں بھی عام آدمی کے لئے ترقی کا راستہ کھولا جائے۔ شکریہ۔

آغا غلام نبی خان : *جناب چیئرمین صاحب - میں اس بل کو Support کرتا ہوں۔ اور جیسا کہ یہ بل پیش کیا گیا ہے بلکہ ہمارے ممبر طاہر صاحب نے جو تقریر کی ہے اس سے معلوم ہوتا ہے کہ اس پبلک سروس کمیشن میں کوشش کی جا رہی ہے کہ ایسے آدمی بھیجے جائیں کہ ایک طبقے کو وہاں encourage کریں۔ اسکے معنی یہ ہوتے کہ سلیکشن میں وہ اپنی ذمہ داری سے کام نہیں لیں گے بلکہ ایک طبقے کا خیال رکھیں گے۔ یہ بالکل غلط ہے۔ اس بل میں ایسی کوئی چیز نہیں ہے کہ پیپلز پارٹی کا ایسا Idea ہے کہ پبلک سروس کمیشن میں ایسے ممبرز رکھے جائیں جو صرف ایک طبقے کو یا کچھ حصہ کو encourage کریں اور لائیں یہ بالکل غلط ہے۔ اس میں ایسے ممبرز پریڈنٹ کی طرف سے رکھے جائیں گے جو اس شعبے میں ماہر ہونگے اور بجائے اسکے کہ صرف پبلک سروس کمیشن کے ممبرز اپنا decision دیں۔ بلکہ جس شعبے میں جس Candidate کی Selection ہوگی اس شعبے کا ایک ماہر آدمی مقرر کیا جائیگا خاص کر اس ایک purpose کے لئے جیسا کہ میں نے بل کو سمجھا ہے۔ اب تک صرف یہ تھا کہ وہ اپنی opinion اپنی رائے دیتے تھے مگر پبلک سروس کمیشن کے ممبروں کے سامنے انکا اپنا ووٹ یا انکی اپنی رائے کا کوئی خاص وزن نہیں ہوتا تھا۔ پبلک سروس کمیشن کے تین یا چار ممبرز جو ہوتے تھے وہی فیصلہ کرتے تھے۔ اب ایک یا دو ممبرز کو اس کمیشن میں رکھ کر صرف انکی ڈیوٹی یہ ہے کہ کیونکہ وہ اپنے شعبے کے expert ہیں، وہ اپنی opinion دیں اور اس opinion کا زیادہ وزن ہونا چاہیے۔ نہ اس میں کوئی انقلاب ہے، نہ اس میں کوئی خاص چیز میں دیکھتا ہوں۔ یہ ہے کہ پہلے ایک ممبر مقرر کیا جاتا تھا جو کہ صرف ان پبلک سروس کمیشن کے ممبروں کو guide کرتا تھا۔ اب ان کو اپنی رائے دینے کا حق ہے وہ تین ممبران ہونگے۔ جو محکمہ متعلقہ کے افسران ہونگے۔ وہ چوتھے اور پانچویں ممبر ہونگے۔ یہ بہت Simple بل ہے۔ میں اس بل کو سپورٹ کرتا ہوں۔

Mr. Khurshid Hasan Meer (Minister without portfolio) : There is no amendment to clause 2.

I, therefore, request that the clause be put to vote.

Mr. Chairman : Let me put the question. The question is :

“That the Bill to provide for a Federal Public Service Commission [The Federal Public Service Commission Bill, 1973], as passed by the National Assembly, be taken into consideration”.

The motion is adopted.

Mr. Chairman : We take up clause by clause consideration of the Bill. Let us take up clause 2. There is no amendment in it.

The question is :

“That clause 2 do stand part of the Bill”.

The motion is adopted.

Clause 2 stands part of the bill.

*Speech not corrected by the honourable Member.

Mr. Chairman : Clause 3. I think there are some amendments to clause 3. Am I correct ?

Mr. Khurshid Hasan Meer : Yes, Sir.

Mr. Chairman : Mr. Ihsanul Haq to move his amendment.

Mr. Ihsanul Haq : Sir, propose this amendment in section 3, sub-clause (1) of the proposed Act. Then I subsequently propose that for the word "Three" occurring after the words "not less than" and before the words members may be appointed, the word "five" may be substituted.

Mr. Chairman : Is it your first amendment? Your first amendment is that in clause 3 of the Bill before the word "There", brackets and the figure "(1)" be inserted. This is your amendment. Am I correct?

Mr. Ihsanul Haq : Yes, Sir.

Mr. Chairman : You want to move or you want to withdraw?

Mr. Ihsanul Haq : I want to withdraw.

Mr. Chairman : I think this was inadvertently left out.

Mr. Ihsanul Haq : It was not numbered properly.

Mr. Chairman : That will come later on.

Mr. Ihsanul Haq : That is the decision.

Mr. Chairman : Clause 3. This will be now be sub-clause (1). It should be there because we have a sub-clause.

Mr. Khurshid Hasan Meer : After the honourable Member has moved this amendment, I will make a submission about this, about the first amendment.

Mr. Ihsanul Haq : Amendment in section 3. I propose the figure and the bracket. It may be added after the words "composition of the Commission", now as sub-section (1).

Mr. Chairman : No, no, in clause 3 of the Bill before the words "there" brackets and the figure "(1)" be inserted. This is your amendment.

Let him first complete his amendment. You want sub-clause (1) to be inserted in clause 3.

Mr. Ihsanul Haq : That in clause 3 of the Bill, brackets and the figure "(1)" be inserted.

Mr. Chairman : Now you may move your amendment.

Mr. Khurshid Hasan Meer : Before the amendment is moved, I want to make a submission. I want leave of the Chair to make a submission about this. This is a clerical amendment.

Mr. Chairman : No, when he has made a motion.

Mr. Khurshid Hasan Meer (Minister without Portfolio): He has made it already. But I want to made a submission that under the normal rules during the third reading the draftsmen themselves make these corrections and I accept this correction. I welcome it and I think the honourable Member and I merely wish that the Chair may please order in the proceedings that a note may be made of it and the draftsman may incorporate this amendment during the Third reading.

Mr. Chairman : I want to understand myself. What will be the harm this amendment is moved by him?

Mr. Khurshid Hasan Meer : This is a matter of procedure. I am grateful that the honourable Member has noticed it. There may be improvements. There are many minor amendments which escape notice. So the general principle is that all clerical amendments are carried out by the draftsmen of their own accord. If a member points out such an amendment, then the Chairman or the presiding officer records a note during the proceedings. Otherwise, the difficulty will arise apart from this general practice—that supposing this is the only amendment and it is a small clerical amendment, then the Bill would necessarily have to go to the National Assembly for this reason alone. All that is required is that since I have accepted it in principle, the Chair may record a note and then the draftsman will make the necessary amendment.

Mr. Chairman : Then the whole thing boils down to this that on principle you accept this amendment, but instead of now moving the amendment and putting it to the vote of the House, it should be left to the draftsman to make the necessary corrections.

Mr. Khurshid Hasan Meer : This is the only amendment which I have accepted.

Mr. Chairman : All right. Then we leave it to the draftsman to make the necessary corrections in the amendment.

Mr. Ihsanul Haq, you move your second amendment.

Mr. Ihsanul Haq : I beg to move :

“That in sub-clause (1) of clause 3 of the Bill for the word “three” occurring in the third line the word “five” be substituted”.

Mr. Khurshid Hasan Meer : Instead of my formally opposing the amendment....

Mr. Chairman : Let me put the amendment before the House.

Mr. Khurshid Hasan Meer : Before you put the amendment, I want to make a submission for the information of honourable Members and the House. I along with the officers of the Department discussed this matter and some other amendments also with the honourable Member during the day and we were able to satisfy the honourable Member that it was really not necessary because the provision is flexible inasmuch as the maximum number of persons to be appointed has not been fixed, but it should not be less than three. So, you will find, Sir, that no maximum limit has been fixed. I thought that most probably the honourable Member was satisfied and that we would not have to go through a long procedure of moving an amendment and having it opposed and putting it to vote. It is, of course, up to the honourable Member to agree to it or not.

Mr. Chairman : So far as I am concerned, I do not know whether he is prepared to accept it and the House should know it.

Mr. Khurshid Hasan Meer : He would be at liberty before the motion is moved, otherwise, the procedure will become very complicated. If the motion before the House is formally moved, then the permission of the House has to be taken for withdrawing that. But before that he can withdraw his amendment.

Mr. Chairman : Is the honourable Member prepared to withdraw his amendment ?

جناب احسان الحق : جناب مسٹر صاحب نے فرمایا ہے کہ amendment جو ہے وہ withdraw ہو سکتی ہے۔ وہ مجھے یہ assurance دے دیں کہ جو افسران فیڈرل پبلک سروس کمیشن کے ممبران ہونگے *ex-officio* ان کو ووٹنگ کا پورا پورا حق ہوگا۔

جناب خورشید حسن میر : وہ لکھا ہوا ہے۔

جناب چئیرمین : یہ ٹھیک ہے۔

Mr. Khurshid Hasan Meer : Most certainly.

Mr. Ihsanul Haq : Here it is stated "for the discharge of such functions as he may determine". Now one does not know what is determined ? Whether it will be determined that they can vote or they will be just to serve as adviser.

Mr. Khurshid Hasan Meer (Minister without Portfolio) : *I will satisfy the honourable Member and the House because I find that there is a general sort of feeling that this matter should be clarified. Now the position is that this is exactly what the object of the Bill is. This is exactly how it is different from the previous law that the *ex-officio* member should have the right to vote. This is also in accordance with the recommendations of the Fulton Committee.

The departmental representative must have a major say in the selection of personnel because recruitment should not remain divorced from training and career planning and if this clause is read carefully,—I will read it out again—what it means is this :

"The President may, in addition to the members referred to in sub-section (1),..."

First of all the words 'in addition to the members' make it quite clear.

"...appoint one or more persons in the service of Pakistan to be members *ex-officio*.....".

Ex-officio means that they will be members so long as they hold a particular office in the Government of Pakistan. Supposing, Sir, in the matter of recruitment to the Industries Department, a head of certain industries department is appointed. His appointment will say that this is by virtue of his present office so long as he is head of that department, he will be a public servant. That is the wording. *Ex-officio* means he will be a member because the words 'in addition' are there. Now as regards performance as may be determined, it does not at all mean that when a member *ex-officio* goes there by any general order or any rule, he can be barred from voting. That is not the object at all. Supposing, there are as many as ten technical departments and the heads of which have become *ex-officio* members. Now it is not possible that all those ten will go and cast ten votes. That would completely demolish the whole object of the Federal Public Service Commission. So, when we say for performance of such functions as may be determined, we mean that in the rules the President will prescribe that if a person from the Industries Department is appointed to be an *ex-officio*, he will go and be a member for the selection of personnel for those departments only.

Mian Arif Iftikhar : *Point of order. Sir, with all due respect to the honourable Member and, no doubt, if it is again a clerical mistake or perhaps no doubt I have missed it out, first of all sub-section (1) is not present in the draft that has been circulated to the honourable Members. It is not there. It goes on.

Mr. Chairman : You were not here when it was being discussed.

Mr. Khurshid Hasan Meer : We have already disposed of that.

Mr. Chairman : You were not present here when this matter was settled once and for all and you are taking us back. You are putting us in the reverse gear.

Mian Arif Iftikhar : I wish to just elaborate further, but I entirely submit to your ruling in this matter. When the honourable Member finishes his submission, I will then continue after that.

Mr. Chairman : You have raised a point of order although apparently it was not a point of order. It has already been decided.

Mr. Khurshid Hasan Meer : Therefore, Sir, the words may discharge all such functions as the President may determine does not at all mean that he will not cast a vote. He is an additional member and then as a member he will have to vote with all the privileges of a member. So, I can assure the honourable Members that there is no doubt about that at all.

Mr. Chairman : I am asking the mover. He has given an assurance although not directly and clearly. It has been given, I think, indirectly. You accept his assurance ?

جناب احسان الحق : جہان تک میر صاحب نے assurance دی ہے۔ میری سمجھ میں نہیں آتا کہ Ex-Officio discharge such function as may be determined. کی بجائے یہ ہوتا اگر وہ اس طرح function کرینگے جس طرح fulfilled member کرتا ہے۔

Mr. Khurshid Hasan Meer : That would lead us to serious difficulty because a fulfilled member can sit on the selection of any person. An *ex-officio* member will sit only on the selection of a person relating to his own department. So, we cannot read like this. We would say he will be in addition—he will be a member. A member has a right to vote. Previously, Sir, I may say that departmental representative used to be called to the Public Service Commission. They will go only in the matters which will relate to their departments.

Mr. Chairman : Mr. Khurshid Hasan Meer, we understand and appreciate your arguments that there will be three permanent members and the other two will be from the service. They will be *ex-officio*. Well, they will be nominated or appointed with regard to their Division. They are specialists or something like that and they may be changing. They may not be permanent members by virtue of their office. So this is the scheme.

Mr. Khurshid Hasan Meer : That is the scheme and that they will not sit on all cases. They will only sit in the performance and functions of the Commission relating to their departments.

*Speech not corrected by the honourable Member.

Mr. Khurshid Hasan Meer : Sir, we have very carefully considered this with the draftsman and with the Ministry of Law and they have satisfied us that the present working answers the object which is intended.

Mr. Chairman : So, Mr. Ihsanul Haq, do you withdraw ? I am not suggesting that you withdraw. I am asking whether you want to withdraw.

جناب احسان الحق : جناب والا۔ جیسا کہ میر صاحب نے فرمایا ہے کہ وہ اس طرح ہوگا کہ ان کو ووٹ دینے کا حق fulfilled ممبر پبلک سروس کمیشن کی طرح ہوگا اس عرصہ کے لئے جس عرصہ کے لئے انہیں لگایا جائیگا۔ تو مجھے withdraw کرنے میں کوئی اعتراض نہیں۔

Mr. Chairman : So this is withdrawn. Now, Mr. Ihsanul Haq, you please move your third amendment ?

جناب احسان الحق : جناب والا۔ اس کے بعد میں تیسری amendment withdraw کرتا ہوں۔

“ Out of whom at least two members shall be the persons who are or have been in the service of Pakistan.”

Mr. Chairman : It will be redundant in view of the decision of the second. So, the amendment is not moved.

Mr. Ihsanul Haq : Not moved.

Mr. Chairman : All right. Then we proceed. The question is : That clause 3 do stand part of the bill.

The motion is adopted.

Clause 3 stands part of the Bill.

Mr. Chairman : Now we move to clause 4. Mr. Ihsanul Haq.

Mr. Ihsanul Haq : Sir, I beg to move :

“ That a person who has once held office of member of the Commission shall not hold any office of profit in the service of Pakistan before the expiry of two years from the date he ceases to hold such office.”

Mr. Chairman : Motion moved :

“ That a person who has once held office of member of the Commission shall not hold any office of profit in the service of Pakistan before the expiry of two years from the date he ceases to hold such office.”

Mr. Khurshid Hasan Meer : I oppose, Sir.

Mr. Ihsanul Haq : *I draw the attention of the honourable Minister to his own statement in Pakistan Times, Saturday, September 8, 1973. Mr. Khurshid Hasan Meer made it clear that the Government was keen to maintain the independent status of Public Service Commission. So, Sir, keeping in view his statement on the floor of the House.....

Mr. Chairman : Will you please read it again. Mr. Khurshid Hasan Meer made a statement to the effect that.

Mr. Ihsanul Haq : It is said, Sir, that Mr. Khurshid Hasan Meer was keen to maintain the independent status of the Federal Public Service Commission. Keeping in view this statement... ..

Mr. Chairman : I think you stick to it.

Mr. Khurshid Hasan Meer : Sir, I have already formally opposed it.

Mr. Chairman : You opposed his amendment but you do not repudiate your statement.

Mr. Khurshid Hasan Meer : Sir I beg leave to try to satisfy the hon'ble Member and other Members about this.

Mr. Ihsanul Haq : Sir, let him explain the thing.

Mr. Chairman : Due to some sort of conspiracy between you and the hon'ble mover of the amendment you raised the discussion and then you agreed.

Mr. Ihsanul Haq : Sir, there is no such conspiracy.

Mr. Chairman : There may be some accord. If you do not agree to the word 'conspiracy', there may be some secret accord.

Mr. Khurshid Hasan Meer (Minister without Portfolio) : *Sir, I assure you and the hon'ble Members that there is no secret accord at all but it is our duty to satisfy or to discuss and learn from the Members who proposed the amendments and many a time we find that the amendments are very valuable and useful. Sir, you will always find us willing to accept useful things.

Here is the question of independent status of the Federal Public Service Commission. It is not only the question of assurance given by me but it is a very simple question; it is really a basic question of the policy of the Government, as enunciated by the Prime Minister himself. Sir, as I submitted in the beginning of the first reading, actually the Federal Public Service Commission was set up in the United Kingdom in the year 1855. Since then, this situation has been functioning in the United Kingdom. Along with other institutions we have borrowed this institution from the United Kingdom. We have tried to give it an independent status as much as it enjoys in the UK. We have also taken into account the fact that the institutions borrowed by us from the British themselves are undergoing a change there. Like the services, as the Prime Minister has said, we have in our country been trying to stick to a certain form of administration which has become outmoded with the British themselves and they have discarded that. In the matter of Public Service Commission, in the United Kingdom they call it Civil Service Commission, they have set up a Committee, very well known as Lord Fulton Committee and they went into the whole matter of administration from 1966 to 1968 and one major recommendation was that the process of selection of the personnel is at present divorced from the other important processes of their training and of their career and this is wrong. They have also gone into the procedure of the Public Service Commission and they have come to the conclusion that these procedures were outmoded.

Mian Arif Iftikhar : *Point of order. Sir, the hon'ble Member, for whom I have the greatest possible respect, is going into the details and explanations of what has transpired with the Fulton Committee in the United Kingdom. We in

*Speech not corrected by the honourable Minister.

this House, as he has very correctly pointed out and as our esteemed Prime Minister and Chairman of our Party has said, will take from other countries what is useful to us but the hon'ble Member is explaining what they have discarded and is continuing harping on the history of the Committee and what happened to the Federal Public Service Commission in the United Kingdom. I would like to know if this is relevant to the point.

Mr. Khurshid Hasan Meer : Sir, is this the point of order ?

Mian Arif Iftikhar : Sir, if he can talk of history, I can very well ask him to be relevant.

Mr. Khurshid Hasan Meer : If I am irrelevant, the Chair is there to correct me. If the Chair says I am irrelevant, I will correct myself. I am trying to make a point.

Mr. Chairman : The point of order of Mr. Arif Iftikhar is ruled out. You proceed and be brief.

Mr. Khurshid Hasan Meer (Minister without Portfolio) : *Sir, I merely wanted to remove certain impressions that exist in our country. We do not know the latest thinking in the United Kingdom but we are trying to check what the British themselves have discarded. Never heless, what I wanted to say was this that the Fulton Committee had recommended in the UK that this independent status of Civil Service Commission should be done away with and it should become part of the Establishment Division, which in the UK is known as the Treasury. We have not done it. On the contrary, we have maintained the independent status of the Public Service Commission.

Now, the point is about this amendment. What is sought to be introduced is that was this the case previously. If this was not the case previously, then why has it become necessary now? In the previous law, the Federal Public Service Commission functioned under the Constitution and there was no such bar. We have got the terminology from the High Court because in the Constitution it is provided that in the matter of Judges of the High Court, after they have ceased to hold office as Judges of the High Court, they are barred from holding office of profit under the State for a period of two years but even with regard to the Judges of the High Court this bar does not operate in their own field and they can get appointments of judicial or semi-judicial nature. They are not barred.

Mian Arif Iftikhar : Two wrongs do not make a right.

Mr. Khurshid Hasan Meer : This is not wrong at all. Here, just imagine the complications that would arise. Just now, we are saying that *ex-officio* Members may be appointed to the Commission by virtue of the office they hold in the Government. For instance, an officer or a head of the department, let us say, an Adviser of Industries or Secretary of Industries or a Director of Industries, by virtue of that office, becomes an *ex-officio* member of the Federal Public Service Commission and two months later he is transferred..

Mr. Chairman : Excuse me for the interruption. If you go to the definition, would you mean that a member of the Commission could included the Chairman and it shall not have less than three *ex-officio* members.

*Speech not corrected by the honourable Member.

Mr. Khurshid Hasan Meer : They are comprised in addition to this.

Mr. Chairman : So far as I have been able to understand, the amendment is with regard to this.

Mr. Khurshid Hasan Meer : Sir, I will come to that also.

(Interruption)

Mr. Chairman : There will be two sort of members of the Public Service Commission—one will be permanent members for three years and they will not be less than three and the other will be *ex-officio* members. If I am correct, his amendment relates to the members who have been permanently appointed. They are not *ex-officio* members.

Mian Arif Iftikhar : Yes.

Mr. Ihsanul Haq : He will be relevant if *ex-officio* members are also included and then he can argue that fact.

Mr. Chairman : I will give you full opportunity. Will you please resume your seat ! You can then take as much time as you can. What I mean to suggest is this that your amendment mentions only the members. Now, there are two types of members with the Public Service Commission; some are permanent members and some are *ex-officio* members who will be in government service. His argument is that it is not possible to accept this amendment because if the *ex-officio* members are appointed to the Public Service Commission, they may come back to their department and how they can be prevented from that. So, his argument will be relevant if you include the *ex-officio* members also but if your amendment only relates to permanent members of the Public Service Commission and the *ex-officio* members are excluded, then he will be irrelevant.

Mr. Khurshid Hasan Meer : *Sir, it is not the question as to what he has in mind. We have to take the amendment as it is and to go along with the consequences that would follow. What the hon'ble Member has in his mind is not relevant after the law is made.

Therefore, Sir, I was only pointing out one difficulty. There are many other difficulties that will follow and I will presently come to them. I merely picked up one complication that would follow. Let us take up the other complications that would follow. First of all, if a distinction is sought to be made between *ex-officio* members and the other members, this is an invidious distinction. That means that they are of a lower status. Sir, I am not arguing. I would like to make my points. It is very simple. If higher status is given to the other members and a lower status is given to the *ex-officio* members, then they are not equal members at all. And, first of all, why should there be any distinction at all ? They will cast as good a vote as anyone else and we have provided, the scheme of this law is that the Federal Public Service Commission should be able to function by committees of two and more instead of the whole Public Service Commission sitting and making the selections. Committees of two and more will be able to do that as they are doing at present even. Even at present, they are doing that. For instance, at present only one member of the Federal Public Service Commission goes and makes selections. We have said that only committees of two and more will do that. Now, out of the committee of two members, if one is a member and one is an *ex-officio* member, that equals both. If, about the one we say that he is not independent unless we stop his re-employment and about the other we are not bothered,

*Speech not corrected by the honourable Minister.

this will be contradictory. Then let us proceed further, Sir. The members of the Federal Public Service Commission are not appointed like the Judges of the High Court permanently. That is never done. They have a tenure. They had a tenure of three or four years previously. They were not appointed until their age of retirement. So this whole scheme is different. I would appeal to the members not to introduce into this law notions and conceptions of procedures which are entirely of a different institution because that will make and create so many complications that it would become unworkable and, besides, I appeal to the members that this is new. We have promised and my statement has been referred to. All I stated was that we will maintain the independent status. Well, we are trying to maintain that. Now this is something new. It never existed before. So I would appeal to the honourable Members that this would create very serious difficulties for us if this concept is introduced, and not to press this amendment as it would create invidious distinctions, that ordinarily a member is not considered independent unless he is given this bar that he cannot be re-employed for two years after he leaves service, and an *ex-officio* member, about him we are satisfied that he is independent even without that bar. This will be a Contradiction in terms. So I will appeal sir, that the honourable Member should not press it and it is not possible to incorporate it. The members of the Public Service Commission are not appointed permanently until the ages of retirement.

جناب احسان الحق : *جناب والا اس میں میں نے بڑی احتیاط کے ساتھ صرف لفظ

استعمال کیا تھا "ممبر" کا۔ جس سے مراد جہاں تک میں سمجھتا ہوں وہ وہی ممبران ہوتے ہیں جو Permanent Members ہوں۔ *ex-officio* ممبران کے لئے تو میر صاحب خود فرما چکے ہیں کہ وہ آتے اور جاتے رہیں گے اور ان کا کوئی tenure نہیں ہوگا۔ انہیں کسی ایک کام کے لئے لیا جانے گا اور اس کے بعد وہ واپس اپنے ڈیپارٹمنٹ کو چلے جائیں گے۔ تو جہاں تک ممبران کا تعلق ہے ایکٹ میں جو ہے اس میں بھی ممبران اور *ex-officio* دونوں طریقے سے لکھے گئے ہیں۔ اور میری مراد یہاں پر اس امینڈمنٹ میں انہی ممبران سے تھی جو کہ پبلک سروس کمیشن کے permanent members ہوں گے۔ اور دوسرے میر صاحب نے جیسے فرمایا ہے کہ آج بہت ساری Administrative changes باہر کی دنیا میں آ رہی ہیں۔ اگر وہ تھوڑی دیر مناسب سمجھیں اور آپ اجازت دیں تو میں ان سے عرض کروں گا کہ یہ جو ہاؤس کے ممبران ہیں آپ ذرا enlightened کر دیں۔ کہ What are the changes that have taken place in the world تاکہ ہمیں پتہ چل جائے کہ وہاں پر کس قسم کی Administrative changes آ رہی ہیں۔ کیونکہ ہمیں تو معلوم نہیں تھا کہ امریکہ میں بھی changes آ گئی ہیں۔ ولایت میں بھی Changes آ گئی ہیں اور دوسرے ممالک میں بھی آ رہی ہیں اگر یہ بات ہے تو ہم بھی تو یہاں پر Changes ہی لا رہے ہیں۔ جیسا کہ ہمارے وزیراعظم صاحب کا بھی خیال ہے اور وہ ایسی چیزوں کے لئے ہر وقت تگ و دو کرتے رہتے ہیں اور Services میں اور ہر شعبے میں انقلابی تبدیلیاں لانا چاہتے ہیں ہم ہر طرح سے آپ کے ساتھ ان تبدیلیوں کو لانے میں شریک ہونے کے لئے تیار ہیں، لیکن ہمیں یہ تو ذرا سمجھا دیا جائے کہ وہ کون کون سی ایسی major changes ہیں جو administration میں آ رہی ہیں تاکہ

اس کے مطابق اس کی روشنی میں یہ واپس لیں۔ - آنریبل منسٹر صاحب نے فرما دیا ہے کہ اس امینڈمنٹ کو adopt کرنے میں تکلیفیں ہوں گی اور بل پاس ہونے میں دیر ہوگی جس کی انہیں اشد ضرورت ہے۔ جس کو میں مدنظر رکھتے ہوئے اپنی امینڈمنٹ کو press نہیں کرتا اور اسے میں واپس لیتا ہوں۔

Mr. Khurshid Hasan Meer : *Thank you. I am very grateful, Sir, and I can promise, Sir, that I will arrange with the Press Information Department of any other department concerned to supply the members of the honourable Senate the copies of the speech of the Prime Minister and the explanatory address given by me along with the other schemes about the administrative reforms. The papers are available and we will try to have those distributed for the information of the honourable Members. As regards the administrative changes which relate to the Federal Public Service Commission, I have already said that actually the recommendations in the United Kingdom were very far-reaching, but we did not want to adopt those in full.

Mr. Chairman : Then the amendment is not moved ? You withdraw it.

Mr. Khurshid Hasan Meer : Actually, Sir, I think it has already been moved and opposed by me and, therefore, permission of the House shall have to be taken for withdrawing it.

Mr. Chairman : Yes, Mr. Ihsanul Haq, you withdraw the amendment ?

Mr. Ihsanul Haq : Yes Sir.

Mr. Chairman : All right. Has Mr. Ihsanul Haq leave of the House to withdraw his amendment ?

Members : Yes.

Mr. Chairman : The permission is granted. The amendment is withdrawn.

Mr. Khurshid Hasan Meer : Now clause 4 has to be put, Sir.

Mr. Chairman : Yes. The question is :—

That clause 4 of the Bill do stand part of the Bill.

The motion is adopted clause 4 stands part of the Bill.

Mr. Khurshid Hasan Meer : *Sir, before the next amendment is called for, I may submit that I have discussed this matter also with the honourable member and we actually appreciate the contribution made by him and we will take care to see to what extent these suggestions can be incorporated in the rules, because this is a matter which really relates to the rules that will have to be framed later. How we will try to see as to how much of it can become so, because I am not sure that all promotions can be a matter for the Federal Public Service Commission because that is never done. There are departmental promotions, there are some other promotions that used to be on other matters, we will take into consideration and we will give them a serious thought. More than that I cannot say while framing the rules. So I will request the honourable Member that the amendment in the law itself may not be pressed.

Mr. Ihsanul Haq : I agree with the honourable Minister, Sir, and it is now moved.

Mr. Chairman : Amendment not moved. So, the question is—

That clause 5 do stand part of the Bill.

The motion is adopted.

Clause 5 stands part of the Bill.

Mr. Chairman : Now we come to clause 6.

Mr. Khurshid Hasan Meer : Sir, again it is a matter that will be looked after in the rules as to how and in which month the Federal Public Service Commission is to submit a report to the Federal Government. That is a matter that can be looked after under the rules because rules will be framed. That was not done previously. Now comprehensive rules will be framed for its conduct of business. Now it is coming to be a parliamentary law, and we will have ample opportunity for the Government to provide comprehensive rules and in this matter also I have discussed with the honourable Member and I appeal to him not to press.

Mr. Abdul Hafeez Pirzada (Minister for Law and Parliamentary Affairs) : *Sir, I may like to explain. In the pattern of legislation there is greater and greater tendency for delegated legislation as it is called and that is why the rule-making power has been provided in all laws so as to enable the executive to frame rules according to the objective requirement of each law. If we start at providing all the minute details in the bill, then the laws are bound to become cumbersome and this practice has been depreciated all over delegated legislation is the practice in the Parliamentary democracy.

Mr. Khurshid Hasan Meer : *I say that we will take into consideration both the paras of this new clause 1 and 2 but what will be the decision of the Government on 1 or on 2 after careful consideration, that we will inform the Member after the rule are framed.

Mr. Ihsanul Haq : Sir, I want to move my amendment.

Mr. Chairman : You want to move it after this explanation.

Mr. Ihsanul Haq : Yes, Sir.

Mr. Chairman : All right.

Mr. Ihsanul Haq : I beg to move :

That clauses 6 and 7 of the Bill be renumbered as clauses 7 and 8 and the following new clause after clause 5 be added, namely :

“6. *Report of annual activities.*—(1) The Commission shall submit a report on its yearly activities to the Federal Government in the month of December each year.

(2) The yearly report of the Commission shall be laid for consideration before the National Assembly and the Senate (Parliament).”

Mr. Chairman : Motion moved :

That clauses 6 and 7 of the Bill be renumbered as clauses 7 and 8 and the following new clause after clause 5 be added, namely :

“6. *Report of annual activities.*—(1) The Commission shall submit a report on its yearly activities to the Federal Government in the month of December each year.

(2) The yearly report of the Commission shall be laid for consideration before the National Assembly and the Senate (Parliament).”

Mr. Khurshid Hasan Meer : Opposed.

جناب احسان الحق : جناب والا باقی جو قانون کے ادارے ہیں جن میں فائنانس کمیشن اور آڈٹ اینڈ اکاؤنٹس کیلئے provide کیا گیا ہے۔ یہ ہے کہ۔

The recommendations of the National Finance Commission together with an explanatory memorandum as to the action taken thereon, shall be laid before both Houses and the Provincial Assemblies.

اس طرح سے آڈٹ اینڈ اکاؤنٹس کیلئے ۱۷ آرٹیکل میں یہ ہے کہ

The reports of the Auditor-General relating to the accounts of the Federation shall be submitted to the President who shall cause them to be laid before the National Assembly and the reports of the Auditor General relating to the accounts of the Provinces shall be submitted to the Governor of the Province, who shall cause them to be laid before the Provincial Assembly.

اس میں جیسا کہ میر صاحب نے فرمایا ہے۔ کہ ہم اس کو رولز میں لے آئیں گے میں نہیں سمجھتا کہ اس میں کونسی ایسی بات ہے اور اس میں کونسی تکلیف ہوگی۔ کہ پبلک سروس کمیشن کی جو رپورٹ ہے۔ ایک طرف تو میر صاحب کہہ رہے ہیں۔ کہ سروسز میں تبدیلیاں لانا چاہتے ہیں۔ تو اس لئے اگر پبلک سروس کمیشن کی رپورٹ اس قومی اسمبلی کے سامنے آجائیگی تو اس میں کیا حرج ہوگا۔ اور اگر ان کی کارکردگی نیشنل اسمبلی کے سامنے آئے گی اور وہ اس کا جائزہ لے گی۔ تو ان کی انقلابی تبدیلیوں کے لانے کے منافی نہیں ہوگا۔ بلکہ یہ اشد ضروری ہوگا۔ کہ قومی اسمبلی کے سامنے ان کی رپورٹ آ جائے۔

Mr. Abdul Hafeez Pirzada : (Minister for Law and Parliamentary Affairs)

*I would like to reply to the honourable Member. He has cited the examples of constitutional Provisions in respect of the Finance Commission and other Commissions. The task assigned to the Finance Commission is entirely different from the task assigned to the Public Service Commission. In its very nature and in the terms of its office a Finance Commission has got to report on certain financial aspects with regard to distribution of the surplus revenue between the Federation and the Provinces so as to make certain proposals in the form of a report so that it is obligation and the duty of the Finance Commission to submit a report. Since it is a matter of division of assets or money or revenues between the Federation and the Provinces, the Joint Sitting of Parliament or National Assembly and the Senate are competent to discuss the question of distribution of revenues between the provinces and the Federation and between the Provinces *inter se*. The task assigned to the public Service Commissioner is not that of reporting that a report should be submitted. It is only when an institution or an organisation or an authority is encumbered by the Constitution with the task of submitting a report that such a report can be laid before the National Assembly on which discussion can be held. The task that has been assigned to the Public Service Commission is to conduct examination, etc., and to recruit people. Advertisement is there and finally when the people are recruited, the responsibility is fairly and squarely of the Establishment Division to answer questions asked in the National Assembly and in the Senate. As the object of laying a report when there is no report or nothing to report can be equally satisfied and fulfilled by asking questions from the Minister-in-charge of Establishment and all the information that is necessary will come before the House in the form of replies of those questions, it is a totally superfluous and redundant provision and in any case it is a matter of detail. If it is considered, the rules will provide for the laying of the report. It is the Establishment Division which deals with the question of appointment in the Federal Service and in the All Pakistan Service, and, therefore, it is the Establishment Division which is bound to answer questions every time when question is asked.

Mian Arif Iftikhar : *With your permission, Mr. Chairman, Sir. My learned and esteemed friend, the Law Minister, has pointed out that he has given the example of the Finance Commission and the minute details and the data of the break-up of its accountability that they have to be laid before the House. He has then gone on to say that whereas the task of the Finance Commission is of a different nature and the task of the Public Service Commission is merely recruitment and I would quote him "of asking questions from the Establishment Division which will no doubt be answered" whether they are circulated or not circulated or notice is required for them, none of which has ever been happening before. He says that it is unnecessary. Well, Sir, if it is unnecessary, there is no single department of Government other than those in which the security of the State of Pakistan and its Armed Forces and its integrity is involved and that should not and cannot be part of a public document. As a matter of fact, no person better than the honourable Law Minister should be able to understand that he will spare the considerable amount of time to our party and its esteemed representatives of whom he is first and foremost amongst those who are led by our great Chairman and Prime Minister who has brought these reforms that the possibility in the form of a report, the time wasted in asking those questions, the time wasted in answering them will be put to use, but further Sir, I come to the whole question of the Establishment Division and the Federal Public Service Commission. With regard to these, here taking the minimum time of the honourable Members I would quote. I am quoting from a book written by Million Ban of the London School of Economics. It says: It has been said public servants earlier onwards the Minister without Portfolio my learned and esteemed leader, Mr. Khurshid Hasan Meer, has pointed out that if they are allowed to vote, what difference it makes or alternately if they are sent back to their Division does it not make any difference because it is unnecessary, it would be wrong to debar them from two years service. First of all, is there constitutional guarantee in this Bill itself to the effect that they will go back to their Divisions and be chosen only from their Divisions.

Mr. Khurshid Hasan Meer : On a point of order. We have already enacted that.

Mian Arif Iftikhar : It is not a point of order. I am making a general statement on the amendment. I have not voted against. I am making some submission.

Mr. Chairman : I myself do not understand you. How your argument is relevant to the discussion of the clause ?

Mian Arif Iftikhar : The clause before the House. The question is that clause before the House was the question as to whether two years after leaving.

Mr. Khurshid Hasan Meer : That clause has been adopted.

Mian Arif Iftikhar : That does not mean that it cannot form part of the discussion.

Mr. Chairman : No, no.

Mr. Khurshid Hasan Meer : We are discussing the Bill clause by clause. This is the second reading of the Bill. He is an experienced parliamentarian and we are new. He knows the difference between the first reading, the second reading and the third reading. We are now in the process of the second reading.

*Speech not corrected by the honourable Member.

Mian Arif Iftikhar : *Precisely, with regard to the word experienced parliamentarian, that is a compliment to me. I am saying that he is a seasoned revolutionary and leftist—I hope he does not take it as an insult. I am quoting from book.....

Mr. Abdul Hafeez Pirzada : May I be informed whether he is quoting from book dealing with parliamentary practices?

Mian Arif Iftikhar : *Yes. The State in capitalist society encompasses all form. I may be allowed to continue with my submission. There is to be the fact that States' intervention in economic life entail a relationship between businessman and civil servant in an antagonist or even as a representative of different divergent interests as partner in the service of national interest which civil servants like the politician are most likely to define in terms of congruent long term interest of private capitalism—that was point No. 1. Point No. 2— Now, he you will notice that it has been said that the interest of the bureaucrat is different in a state that has not yet become full-fledged socialist state based upon the principles of Islamic socialism which our Party stands for and towards which end we are working. The fact remains that there is a possibility—and the Law Minister not going to insult his intelligence by saying that there have been open examples between the bureaucrat and the business interest and I would further with your permission quote this inter- changability between Government.....

Mr. Chairman : I am anxious that it is high time we adjourn for Maghrib prayers and also the National Assembly is going to meet.

Mian Arif Iftikhar : I will join you in the prayers and I pray that I may be allowed to finish my submission. This interchangability between Government service of one kind or another and business is particularly characteristic of the new breed of technocrats of Pakistan who have been scorned by the economic interventionism of the neo-capitalistic state. . .

Mr. Abdul Hafeez Pirzada : Point of order, Sir.

Mr. Chairman : Will you give the floor to the Law Minister who has stood up on a point of order ?

Mian Arif Iftikhar : *I want to join him for his prayers for Pakistan's future and wanting to be brief.

Mr. Chairman : Please resume your seat for a moment.

Mr. Abdul Hafeez Pirzada : I can see the over-exuberance on the part of the honourable Member to address the August Senate on this very important amendment, but with respect to him, I may point out that he is totally irrelevant that his submission has not relevance whatsoever to the amendment that is before the House. I say it is totally irrelevant and that it has nothing to do whatsoever with the subject matter.

Mian Arif Iftikhar : *I may be allowed to finish. He has referred to the words over-exuberance but I think he is carried away as disraeli said by verbosity. Allow me to finish my submission.

Mr. Chairman : Excuse me for this intervention.

Mian Arif Iftikhar : *My whole objection is that I have not been able to finish the quotation because either the honourable Ministers are on their poin tsofoder and the Law Minister has just told me that the National Assembly has got to meet. Who would want to prevent the National Assembly from meeting ; it meets day in and day out. But the Senate is also a parliamentary body and it also must have time to legislate. Coming to my point, I was saying that this counrty has not yet broken the Shackles of feudalism completely. It is, therefore, necessary that the report of the Public Service Commission be laid on the table of the Senate so that honourable Member can give attention to this matter of greater importance which can continue until the establishment of an Islamic socialist state. The report consisting of documents other than classified documents is necessary to be laid on the table of the House as the bureaucratic rule still exists. Thank you.

Mr. Khurshid Hasan Meer : The mover of the amendment may have some thing to say.

جناب نرگس زمان خان کیانی : جناب چیئرمین صاحب - نماز کا وقت ہو چکا ہے ۔

نماز ضروری ہے ۔ اسکو بعد میں بھی لیا جا سکتا ہے ۔

جناب احسان الحق : جیسے کہ خورشید حسن میر صاحب نے اور پیرزادہ صاحب

نے assurance دلائی ہے ۔ اور وہ فرما رہے ہیں کہ رپورٹ کا معاملہ رولز میں لے آئیں گے تو اسلئے میں اس سلسلے میں اپنی amendment withdraw کرتا ہوں ۔

Mr. Chairman : Ihsanul Haq.

Mr. Khurshid Hasan Meer : *Sir, one minute, I should not be misunderstood. All that the Law Minister and I have submitted before this House is that these are matters which will be dealt with under the rules. What will be in the rules I can not say at the moment. After the rules are framed, after the taking careful consideration the Government frames the rules, they will become the property of the House. What will be in the rules I cannot say at present. All that I said is that under the scheme of the present law these matters will come within the purview of the rules. I should not be misunderstood as making false promises.

Mr. Chairman : All right. So Mian Ihsanul Haq wants to withdraw his amendment : I ask the House whether they are ready to give leave for the withdrawal ; is the House prepared to give leave to Mr. Ihsanul Haq for withdrawal of the motion ?

Members : Yes.

Mr. Chairman : So the right to withdraw his amendment is granted,

Then we move to Clause 6, no amendment . The question is :

“ That Clause 6 do stand part of the Bill.”

Mr. Khurshid Hasan Meer : Both Clauses 6 and 7 may be taken together as there is no amendment to both.

Mr. Chairman : Separately. The question is :

“ That Clause 6 do stand part of the Bill.”

The motion is adopted. Clause 6 stands part of the Bill.

Mr. Chairman : The question is :

“That Clause 7 do stand part of the Bill.”

The motion is adopted. Clause 7 stands part of the Bill.

The question is :

“That Clause 1, Short Title and Preamble, do stand part of the Bill.”

The motion is adopted. Clause 1 stands part of the Bill.

Mr. Khurshid Hasan Meer : Sir, I think during the second reading, whatever aspects of the Bill were not highlighted have been thrashed out. All that remains for me is to make the motion that the Bill be adopted. I therefore move :

“That the Bill to provide for a Federal Public Service Commission [The Federal Public Service Commission Bill, 1973], be passed.”

Mr. Chairman : The question is :

“That the Bill to provide for a Federal Public Service Commission [The Federal Public Service Commission Bill, 1973], be passed.”

The motion as adopted. The Bill is passed.

The House stands adjourned to meet again on 13th at 10 a.m.

The Senate adjourned till ten of the Clock in the morning on Thursday, September 13, 1973.