



**THE  
SENATE OF PAKISTAN**

**DEBATES**

**OFFICIAL REPORT**

**Thursday, the June 24, 1976**

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**SENATE DEBATES**  
**SENATE OF PAKISTAN**

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**Thursday, June 24, 1976**  
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The Senate of Pakistan met in the Senate Chamber, (State Bank Building), Islamabad, at half-past nine of the clock in the morning, Mr. Chairman (Mr. Habibullah Khan) in the Chair.

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*Recitation from the Holy Quran.*  
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**STARRED QUESTIONS AND ANSWERS**

**Mr. Chairman :** Yes, now we taken up question. Question No. 6, Khawaja Mohammad Safdar.

**DEFECTIVE RAILWAY ENGINE**

**6. \*Khawaja Mohammad Safdar :** Will the Minister for Railways be pleased to state :

(a) whether it is a fact that the R. C. 5-UP reached Rawalpindi at 22.15 hours on the 2nd May, 1976 instead of the schedule time 20.35 hours ;

(b) whether it is a fact that this delay was due to defects in the engine of the said train ; and

(c) whether it is a fact that the same engine is being used for running the trains from Multan to Lahore and the R.C. 5-UP from Lahore to Rawalpindi ; if so, the reasons therefor ?

**Mr. Hafeezullah Cheema :** (a) Yes.

(b) Yes.

(c) Yes. The same engine is used to work R.C. 3 UP and R.C. 4 Down Ghazala between Multan and Lahore in accordance with the normal link of Rawalpindi based Railcars.

By this arrangement better utilization of railcars and rolling stock is obtained.

خواجہ محمد صفدر : سپلیمنٹری سوال - جناب چیئرمین ! میں محترم وزیر صاحب سے پوچھنا چاہتا ہوں کہ جب انہوں نے میرے سوال کے حصہ (ب) کے جواب میں یہ فرمایا ہے کہ اس ریل کار کا انجن خراب ہے ، اس میں میکانیکل خرابی ہے تو پھر اس انجن کو جس میں میکانیکل خرابی ہے اسے کیوں استعمال کیا جا رہا ہے - قبل اس کے کہ اس کی اصلاح کی جائے ؟

**Malik Mohammad Akhtar** (Minister for Law and Parliamentary Affairs): Sir, exactly this question arose in my mind when I looked into the brief.

**Mr. Chairman :** He has read your mind.

**Malik Mohammad Akhtar :** I have been informed that they have improved the engine, and now it is working upto the standard.

**Mr. Chairman :** What do you mean by improvement ?

**Malik Mohammad Akhtar :** They have just made some sort of repairs and brought it upto the standard, therefore, we need not bother.

**Mr. Chairman :** You need not bother, Khawaja Sahib. It has been repaired.

خواجہ محمد صفدر : بہت اچھا - وزیر صاحب نے کہہ دیا ہے اور کیا چاہیے -

**Mr. Chairman :** Next.

#### NPS No. 11 FOR RAILWAY DRAFTSMAN

7. \***Khawaja Mohammad Saffdar :** Will the Minister for Railways be pleased to state :

(a) whether it is a fact that the Finance Division through its O.M. No. N.F. 1(24)-NG-Imp-11/73-384/74, dated the 8th May, 1974, directed the Railway Division to place the Diploma Holders and Technical Draftsmen as well as promotee Draftsmen in the N.P.S. No. 11 ; and

(b) if answer to (a) above be in the affirmative, the steps so far taken by the Railway Division to implement the directive ?

**Mr. Hafeezullah Cheema :**

(a) According to Finance Division's O.M. No. F. 1(24)-NG-Imp-11/73-384/74 dated 8th May, 1974, N.S.P. No. 11 was to be allowed for posts including posts of Draftsmen for which the prescribed qualification for direct entry is matriculation plus three years Diploma course in any of the Engineering Branches from a recognized Institution. Promotees to these posts were also eligible for this scale.

(b) The categories of Diploma Holders and the technical Draftsmen holding the posts fulfilling the above prescribed qualifications have already been allowed N.S.P. No. 11.

خواجہ محمد صفدر : جناب والا ! میں نے واضح طور پر اپنے سوال کے حصہ (الف) میں پوچھا ہے کہ اس کیٹگری کے ملازموں کو گریڈ نمبر ۱۱ کیوں نہیں دیا جاتا۔ اس کا جواب ”ہاں“ ہوگا یا ”نہیں“ ہوگا؟

**Mr. Chairman :** To diploma holders and technical draftsmen ?

خواجہ محمد صفدر : یہ کہتے ہیں کہ یہ eligible ہیں۔ ٹھیک ہے یہ eligible تو ہیں لیکن میں یہ پوچھنا چاہتا ہوں کہ ان کو گریڈ ۱۱ دیا گیا ہے یا نہیں؟

**Malik Mohammad Akhtar :** When they are eligible, then as a matter of right they can claim. Who can stop them? There may be some conditions.

**Mr. Chairman :** Not like that. You are not appearing in a court. You just read part (a) of the question. It says :

“Whether it is a fact that the Finance Division through so and so directed the Railway Division to place the Diploma Holders and Technical Draftsmen in the NPS 11.”

It is a simple question. Whether the Finance Division has directed the Railway Division to place them in such and such Grade.

خواجہ محمد صفدر : کیا وہ اس گریڈ میں رکھے گئے ہیں، ان کو دیا گیا ہے یا نہیں دیا گیا اس کا جواب ”ہاں“ میں ہوگا یا ”نہیں“ میں ہوگا؟

And (b) is: The steps so far taken. Whether they have been upgraded or promoted or placed in the higher grade or not?

**Malik Mohammad Akhtar :** Sir, as a matter of fact, it needs a revised answer.

خواجہ محمد صفدر : ٹھیک ہے۔ ملتوی کروا ایجنے۔

**Mr. Chairman :** Beg your pardon ?

**Malik Mohammad Akhtar :** Sir, it needs a revised answer.

**Mr. Chairman :** All right. The question stands postponed to some other day. Will you reply or will the Railway Minister reply to this question ?

**Malik Mohammad Akhtar :** I will reply, Sir, and if he is available he will reply, because there should be a positive ‘yes’ or ‘no’.

**Mr. Chairman :** It is deferred to some subsequent date. Now, item No. 3, Mr. Mohammad Sulleman !

MOTION *Re* : EXTENSION OF TIME-LIMIT FOR PRESENTATION  
OF STANDING COMMITTEE REPORT ON THE PAKISTAN  
ARMY (AMENDMENT) BILL, 1976

**Mr. Mohammad Sulleman M. Samejo :** Sir, with your permission I want to make a motion under rule 164 of the Rules of Procedure and Conduct of Business in the Senate :

“That under rule 164 of the Rules of Procedure and Conduct of Business in the Senate, 1973, the time-limit for presentation of report of the Standing Committee on the Bill further to amend the Pakistan Army Act 1952 [The Pakistan Army (Amendment) Bill, 1976], may be extended upto 24th June, 1976”.

**Mr. Chairman :** So, this motion is being moved under rule 164. Was there no time-limit fixed for the presentation of the report ?

**Mr. Mohammad Sulleman M. Samejo :** There was no time-limit fixed, Sir.

**Mr. Chairman :** There was no time-limit fixed, and, therefore, it should have been presented within one month.

**Mr. Mohammad Sulleman M. Samejo :** Thirty days, Sir.

**Mr. Chairman :** Thirty days or one month, and since this has not been presented within 30 days or one month this motion is for the extension of time.

**Mr. Mohammad Sulleman M. Samejo :** Yes, Sir.

**Mr. Chairman :** All right. The motion moved is :

“That under rule 164 of the Rules of Procedure and Conduct of Business in the Senate, 1973, the time-limit for presentation of the report of the Standing Committee on the Bill further to amend the Pakistan Army Act, 1952 [The Pakistan Army (Amendment) Bill, 1976], be extended upto 24th June, 1976.”

Not opposed. I put the question. The question before the House is :

“That under rule 164 of the Rules of Procedure and Conduct of Business in the Senate, 1973, the time-limit for presentation of the report of the Standing Committee on the Bill further to amend the Pakistan Army Act, 1952 [The Pakistan Army (Amendment) Bill, 1976], be extended upto 24th June, 1976.”

*(The motion was adopted)*

**Mr. Chairman :** The motion is carried. You, now present the report.

STANDING COMMITTEE REPORT *Re* : THE PAKISTAN ARMY  
(AMENDMENT) BILL, 1976

Mr. Mohammad Sulleman M. Samejo : Sir, I have the honour to submit on behalf of the Committee its report on the Pakistan Army (Amendment) Bill, 1976, referred to the Standing Committee under rule 106 of the Rules of Procedure and Conduct of Business in the Senate, 1973.

The report is laid on the Table of the House.

Mr. Chairman : The report stands presented and laid on the Table of the House. Now, we take up resolution.

RESOLUTION *Re* : UNIFORM LAW REGULATING STANDARDS  
OF SERVICE AND AMENITIES FOR TOURISTS IN HOTELS  
AND RESTAURANTS OF BALUCHISTAN

Shahzada Saeed-ur-Rashid Abbasi (Minister of State for Tourism) : Sir, I beg to move the following resolution :

“Whereas, by virtue of the declaration made in the Proclamation issued by the President under Articles 234 of the Constitution on the 31st December, 1975, in respect of the Province of Baluchistan, the powers of the Provincial Assembly of that Province are exercisable by, or under the authority of, Parliament ;

And whereas the Senate is of the considered view that it would be in the national interest to have a uniform law for the whole of Pakistan in respect of the standards of service and amenities for tourists in hotels and restaurants ;

Now, therefore, the Senate, in pursuance of Article 144 of the Constitution, read with paragraph (b) of clause (1) of Article 234 thereof, hereby resolves that Parliament may by law regulate the matter relating to the standards of service and amenities for tourists in hotels and restaurants”.

Mr. Chairman : The resolution moved is :

“Whereas, by virtue of the declaration made in the Proclamation issued by the President under Article 234 of the Constitution on the 31st December, 1975, in respect of the Province of Baluchistan, the powers of the Provincial Assembly of that Province are exercisable by, or under the authority of, Parliament ;

And whereas the Senate is of the considered view that it would be in the national interest to have a uniform

[Mr. Chairman]

law for the whole of Pakistan in respect of the standards of service and amenities for tourists in hotels and restaurants;

Now, therefore, the Senate, in pursuance of Article 144 of the Constitution, read with paragraph (b) of clause (1) of Article 234 thereof, hereby resolves that Parliament may by law regulate the matter relating to the standards of service and amenities for tourists in hotels and restaurants”.

**Khawaja Mohammad Safdar :** Opposed, Sir.

لیکن جناب والا ! میں ایک پوائنٹ آف آرڈر اٹھانا چاہتا ہوں۔

جناب چیئرمین : کہہئیے۔۔

**POINT OF ORDER-Re : INCOMPETENCE OF PARLIAMENT  
TO IMPLEMENT RESOLUTION FOR LEGISLATING  
ABOUT TOURISM**

خواجہ محمد صفدر : ظاہر ہے جناب کہ اس۔۔۔۔۔

جناب چیئرمین : شیڈول کا حوالہ دیں۔

خواجہ محمد صفدر : شیڈول بھی کوٹ کرتا ہوں۔ دستور کا صفحہ ۱۷۵ اور آئٹم ۴۲۔

**Mr. Chairman :** Let me get it. Page ?

خواجہ محمد صفدر : یہی کتاب جناب اگر آپ کے پاس ہے تو صفحہ نمبر ۱۷۵ ہے۔

**Mr. Chairman :** Yes, yes.

**Khawaja Mohammad Safdar :** Fourth Schedule, Part II.

**Mr. Chairman :** Yes, I know Tourism is included in Fourth Schedule and Item No. 42.....

**Khawaja Mohammad Safdar :** .....is included in the Concurrent List.

**Mr. Chairman :** This Tourism which is at item No. 42 is included in the Concurrent List. Now, what is the requirement of 144 ?

**Khawaja Mohammad Safdar :** No, Sir, let us first see what are the requirements of 234 (1)(b).

**Mr. Chairman :** First go to 144.

خواجہ محمد صفدر : جناب والا ! پہلے تو ہمیں یہ دیکھنا چاہیے کہ یہ  
ایمرجنسی کا سہارا لے رہے ہیں -

جناب چیئرمین : نہیں یہ نہیں دیکھنا ہے - پہلے تو یہ دیکھنا ہے کہ کون  
صوبائی اسمبلی خود کر سکتی تھی تو ہم بھی کر سکتے ہیں آپ آرٹیکل 144  
پڑھیے -

**Khawaja Mohammad Safdar :** "(1) If two or more Provincial Assemblies pass resolutions to the effect that Parliament may be law regulate any matter not enumerated".....

**Mr. Chairman :** Not enumerated ?

**Khawaja Mohammad Safdar :** "In either list".

**Mr. Chairman :** "In the Fourth Schedule" ?

**Khawaja Mohammad Safdar :** "In the Fourth Schedule", Sir.

".....it shall be lawful for Parliament to pass an Act for regulating that matter accordingly, but any Act so passed may, as respects any Province to which it applies, be amended or repealed by Act of the Assembly of that Province. (2) The provisions of Article 71 shall apply to a Bill with respect to a matter which may be regulated by Act of Parliament under clause (1)."

اس میں جناب یہ الفاظ important ہیں -

"If two or more Provincial Assemblies pass resolutions to the effect that Parliament may by law regulate any matter not enumerated in either List in the Fourth Schedule,"

تو ان کے متعلق ریزولوشن ہو سکتا ہے - صوبائی اسمبلی کے اختیارات اگر ہم استعمال کر رہے ہیں تو صرف ان subjects کے متعلق ہم یہ ریزولوشن پاس کر سکتے ہیں جو کہ دونوں لسٹوں میں نہ ہوں -

**Mr. Chairman :** Let me ask the Minister concerned. I understand your point. Let me put to him. Mr. Minister, well, by virtue of the Proclamation we stand into the shoes of Provincial Assembly, the Baluchistan Provincial Assembly. In other words, this Parliament or a part of Parliament—and Senate is part of the Parliament—so, Parliament or Senate for that matter, can legislate only on that matter with regard to which the Provincial Assembly could do, and this is there in Article 144. If the Provincial Assembly of Baluchistan was competent to legislate on this matter which was not enumerated in any of the Lists, then we can do it, because the powers of the Provincial Assembly have been now, by virtue of that Proclamation, delegated to us, but first you read 144.

"If two or more Provincial Assemblies pass resolution to the effect that Parliament may by law regulate any matter not enumerated in either List in the Fourth Schedule".

Yes, we can do it, provided it is not enumerated in the Fourth Schedule, which means Federal Legislative List consisting of two parts, I and II, and secondly in the Concurrent List, it shall be lawful for Parliament to pass an Act for regulating that matter accordingly. Yes, Mr. Masud Ahmad Khan ?

**Mr. Masud Ahmad Khan :** Sir, can I request the hon'ble Law Minister for his comments.

**Mr. Chairman :** Oh yes.

**Malik Mohammad Akhtar :** Sir.....

**Mr. Chairman :** The last para of the resolution says:

“Now, therefore, the Senate, in pursuance of Article 144 of the Constitution.....”

Now, you are to first read Article 144 of the Constitution as the resolution says :

“.....the Senate, in pursuance of Article 144 of the Constitution”.

Article 144 says—If an Assembly, say like that, if the Baluchistan Provincial Assembly and one other Provincial Assembly “pass resolutions to the effect that Parliament may by law regulate any matter not enumerated in either List in the Fourth Schedule”, but this matter Tourism is enumerated as Item No. 42 in the Concurrent List.

**Malik Mohammad Akhtar :** Sir, then the object would be solved even without the resolution as it appears, but we can further debate it if it is deferred for the time being.

**Mr. Chairman :** That will be better, I think, because I myself feel doubtful whether we are competent. Now, the material and the relevant words are “not enumerated in either List”.

**Malik Mohammad Akhtar :** Sir, the resolution may be deferred for the time being.

**Mr. Chairman :** So, the Provincial Assembly can only pass resolution with respect to matter which is not enumerated, but this matter is enumerated.

**Malik Mohammad Akhtar :** Sir, we will further examine the question.

**Mr. Chairman :** Let the request come from the Minister concerned. Yes, Mr. Minister?

**Shahzada Seed-ur-Rashid Abbasi :** Sir, as the Law Minister said, we can.

**Mr. Chairman :** When would you like to take up this resolution ?

**Malik Mohammad Akhtar :** During next week, Sir.

**Mr. Chairman :** All right.

**Malik Mohammad Akhtar :** Sir, we will bring it again and we can debate it.

**Mr. Chairman :** All right, the consideration of this resolution stands postponed. Khawaja sahib, excuse me, I did not allow you to have much on this subject.

خواجہ محمد صفدر : کوئی بات نہیں -

**Mr. Chairman :** This was the only objection or was there any other objection ?

خواجہ محمد صفدر : نہیں جناب والا ! صرف یہی تھا -

**Mr. Chairman :** You raise so that he may come.

خواجہ محمد صفدر : نہیں جناب والا ! صرف اتنا ہی تھا کہ اس قرار داد کی ضرورت نہیں ہے کیونکہ یہ ایوان اس موضوع کے متعلق خود قانون سازی کر سکتا ہے - ریزولیشن کی ضرورت نہیں ہے - یہی میرا اعتراض تھا -

**Malik Mohammad Akhtar :** Sir, we will examine it further.

**Mr. Chairman :** All right, now we come to the legislative business, Item No. 6, Mr. Aziz Ahmed.

THE ARMY (AMENDMENT) BILL, 1976

**Malik Mohammad Akhtar :** Sir, as a matter of fact, the Bill came quite over two months have passed, and it is worrying us.

**Mr. Chairman :** Don't you want to move the motion ?

**Malik Mohammad Akhtar :** No, Sir.

خواجہ محمد صفدر : میں نے وزیر قانون کو request کی ہے کہ ابھی ہمیں اس ایوان میں رپورٹ مل رہی ہے ابھی پیش ہو رہی ہے - ہم نے ڈیکھی بھی نہیں تو اس لیے اس بل کو ملتوی کیا جائے -

**Mr. Chairman :** But something has to be said, some motion has to be made for its postponement.

**Malik Mohammad Akhtar :** No, Sir, it is not being moved.

**Mr. Chairman :** You are not moving Items 6, 7 and 8.

**Malik Mohammad Akhtar :** 6, 7 and 8, Sir.

**Mr. Chairman :** Are you not moving ?

**Malik Mohammad Akhtar :** Yes, Sir, not moving, but at the same time I may submit that the Bill is pending here over two months have passed, and we will do it on the next working day, so that it has been amended in the Committee also, and it has got to go back to the National Assembly.

**Mr. Chairman :** You want me to do what ?

**Malik Mohammad Akhtar :** Postpone it, Sir. I am not moving the motion.

**Mr. Chairman :** You are not moving the motion, then what will be the result unless it is adjourned ?

**Khawaja Mohammad Safdar :** Adjourn, Sir.

**Malik Mohammad Akhtar :** Adjourn, Sir.

**Mr. Chairman :** But you can say that you are asking for adjournment, postponement or deferment.

**Malik Mohammad Akhtar :** I seek adjournment, Sir, in that case.

**Mr. Chairman :** All right, it stands postponed. So, all right, this Bill stands adjourned to some other convenient date. Yes, Sheikh sahib.

#### THE LAND REFORMS (AMENDMENT) BILL, 1976

**Mr. Chairman :** He is not here.

**Malik Mohammad Akhtar :** Probably, Sir, he made a request that his business may be taken up when he comes.

**Mr. Chairman :** Who ?

**Malik Mohammad Akhtar :** Sheikh Mohammad Rashid, Sir.

**Mr. Chairman :** No, I have not received any such request from him.

**Malik Mohammad Akhtar :** Sir, he made a request.

**Mr. Chairman :** I was not here. All right, so this has to be taken in his presence. No other business ?

**Khawaja Mohammad Safdar :** No business, Sir.

**Mr. Chairman :** So, then what to do ? We meet tomorrow as there is no other business to transact.

**Malik Mohammad Akhtar :** Tomorrow is for Private Members Business, Sir.

**Mr. Chairman :** Private Members Business, yes, we meet at 9.00 ?

خواجه محمد صفدر : ٹھیک ہے جناب والا -

**Mr. Chairman :** Have you any objection, Malik Mohammad Akhtar sahib ? We meet tomorrow at 9.00 or 9-30 ?

**Malik Mohammad Akhtar :** Sir, as it is convenient to the hon'ble Senate.

**Voices :** 9.30, Sir.

**Mr. Chairman :** 9.30, all right. The House stands adjourned to meet tomorrow at 9.30 a.m.

*The Senate then adjourned to meet at half-past nine of the clock in the morning on Friday, June 25, 1976.*