

[Mr. Naziruddin Ahmad]

not my amendment to amendment and therefore under the rules it should not be allowed. We have certainly made some exceptions in special cases but these exceptions are now showing a tendency of becoming the rule. I submit therefore that this amendment should be ruled out on technical grounds alone. There is again a question of convenience. I think in form this amendment is most objectionable. The clauses of article 285 of the Draft Constitution have merely been repeated here with additions and alterations of a variety of sorts. The amendments however should have come as amendments to the original article. Instead the whole article is written with new ideas incorporated or interpolated and the old clauses and amendments have been presented as a new article. It takes a long time to find out what are the changes made.

Dr. P. S. Deshmukh : As in the Hindu Code Bill.

Mr. Naziruddin Ahmad : As Dr. Deshmukh aptly points out—like the Hindu Code Bill. Old clauses and new ideas have been blended together and presented as new with necessary interpolations here and there. It is extremely difficult to sort out what are the real changes made. Clause (2) has been changed in many places. Then there is article 285-A which is entirely new. Then article 285-B is composed of parts of old article 285 and the proviso of this article is entirely new. It purports to be a reproduction of 285(3) but it is now made a new article with entirely new features. Clause (d) of this article is entirely new. I think it is difficult for anyone to try to follow these changes. I therefore object not only on the ground of their being in breach of the rules but also on the ground they are in a form not readily intelligible and the should have been expressed as amendments to the Constitution itself. That would have made it easier for honourable Members to follow the changes.

The Honourable Dr. B. R. Ambedkar : This is not the first time when my Friend has raised a point of Order. You have been good enough to allow the Drafting Committee to depart from the technicalities of the Rules of Procedure and I therefore submit that in this case also you will be pleased to allow us to proceed.

Dr. P. S. Deshmukh : Sir, I rise to protest against this attitude of Dr. Ambedkar. You have allowed him some privilege and he is misusing that, Sir. He can and must show how he wishes to alter the original draft articles concretely and specifically and not proceed in the way he did with the Hindu Code Bill and substitute anything in any place without specifying how it compares with the original.

Shri M. Anathasayanam Ayyanagar (Madras: General) : My Friends who raised the point of order should know that the whole scheme of Public Service Commission has been altered and these are consequential changes. Therefore if others had not been altered, possibly this would not have required any alteration. Under those circumstances, these objections are not valid.

Dr. P. S. Deshmukh : I beg to submit that every amendment must be related to the original draft that was circulated.

Mr. President : So far as the Drafting Committee is concerned I have allowed a certain amount of latitude because many of the difficult articles about which there was likely to be difference of opinion or which required consideration were left over for the purpose of reconsideration and if as a result of reconsideration the Drafting Committee proposes new article, I do not think I should all any technicalities to stand in the way of the new articles being placed before us. I therefore allow these articles to be moved.

Mr. Naziruddin Ahmad : There are a number of articles and these articles should be put separately.

Mr. President : That is a different matter and we can discuss them separately. Dr. Ambedkar may explain how the separate articles came into being. You move them together and we may take them separately at the time of voting.

The Honourable Dr. B. R. Ambedkar : Yes, they may be put separately.

Sir I move :

“That for article 285, the following articles be substituted :—

285. (1) The Chairman and other members of a Public Service Commission shall be appointed, in the case of the Union Commission or a Joint Commission, by the President, and in the case of a State Commission, by the Governor or Ruler of the State :
 Appointment and term of office of members.

Provided that at least one-half of the members of every Public Service Commission shall be persons who at the dates of their respective appointments have held office for at least ten years either under the Government of India or under the Government of a State, and in computing the said period of ten years any period before the commencement of this Constitution during which a person has held office under the Crown shall be included.

(2) A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains, in the case of the Union Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission, the age of sixty years, whichever is earlier:

Provided that—

(a) a member of a Public Service Commission may by writing under his hand addressed, in the case of the Union Commission or a Joint Commission, to the President and in the case of a State Commission, to the Governor or Ruler of the State, resign his office;

(b) a member of a Public Service Commission may be removed from his office in the manner provided in clause (1) or clause (3) of article 285-A of this Constitution.

(3) A person who holds office as a member of a Public Service Commission shall on the expiration of his term of office, be ineligible for re-appointment to that office.

285-A. (1) Subject to the provisions of clause (3) of this article, the Chairman or any other member of a Public Service Commission shall only be removed from office by order of the President on the ground of misbehaviour after the Supreme Court on a reference being made to it by the President has, on inquiry held in accordance with the procedure prescribed in that behalf under article 121 of this Constitution, reported that the Chairman or such other member, as the case may be, ought on any such ground be removed.
 Removal and suspension of a member of a Public Service Commission.

(2) The President in the case of the Union Commission or a Joint Commission and the Governor or Ruler in the case of a State Commission may suspend from office the Chairman or any other member of the Commission in respect of whom a reference has been made to the Supreme Court under clause (1) of this article until the President has passed orders on receipt of the report of the Supreme Court on such reference.

(3) Notwithstanding anything contained in clause (1) of this article, the President may, by order, remove from office the Chairman or any other member of a Public Service Commission if the Chairman or, such other member as the case may be,

(a) is adjudged an insolvent; or

(b) engages during his term of office in any paid employment outside the duties of his office.”

And here I want to add a third one, as (c):

(c) is in the opinion of the President unfit to continue in office by reason of infirmity of mind or body.

[The Honourable Dr. B. R. Ambedkar]

(4) For the purpose of clause (1) of this article, the Chairman or any other member of a Public Service Commission may be deemed to be guilty of misbehaviour if he is or becomes in any way concerned or interested in any contract or agreement made by or on behalf of the Government of India or the Government of a State or participates in any way in the profit thereof or in any benefit from emoluments arising therefrom otherwise than as a member and in common with the other members of any incorporated company.

285-B. In the case of the Union Commission or a Joint Commission, the President and in the case of a State Commission, the Governor or Ruler of the State, may by regulation—

Power to make regulations as to conditions of service of members and staff of the Commission.

- (a) determine the number of members of the Commission, and their conditions of service; and
- (b) make provision with respect to the number of members of the staff of the Commission and their conditions of service :

Provided that the conditions of service of a member of a Public Service Commission shall not be altered to his disadvantage after his appointment.

285-C. On ceasing to hold office—

Bar to the holding of office by Members of Commissions on ceasing to be such members.

- (a) the Chairman of the Union Public Service Commission shall be ineligible for further employment either under the Government of India or under the Government of a State;
- (b) the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of any other State Public Service Commission but not for any other employment either under the Government of India or under the Government of a State;
- (c) a member other than the Chairman of the Union Public Service Commission shall be eligible for appointment as the Chairman of the Union Public Service Commission or as the Chairman of a State Public Service Commission but not for any other employment either under the Government of India or under the Government of a State;
- (d) a member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission, but not for any other employment either Under the Government of India or under the Government of a State.

Sir, these are the clauses which deal with the Public Services Commissions, their tenure of office and qualifications and disqualifications and their removal and suspension. I should very briefly like to explain to the House the matters embodied here, the principal matters that are embodied in these articles.

The first point is with regard to the tenure of the Public Service Commission. That is dealt with in article 285. According to the provisions contained in that article, the term of office of a member of the Public Service Commission is fixed at six years or in the case of the Union Commission, until he reaches the age of 65 and in the case of a State Commission until he reaches the age of 60. That is with regard to the term of office.

Then I come to the removal of the members of the Public Service Commission. That matter is dealt with in article 285-A. Under the provisions of that article, a member of the Public Service Commission is liable to be removed by the President on proof of misbehaviour. He is also liable to be removed by reason of automatic disqualification. This automatic disqualification can result in three cases. One is insolvency. The second is engaging in any other employment, and the third is that he becomes infirm in mind or body. With regard to misbehaviour the provision is somewhat peculiar. The Honourable House will remember that in the case of the removal of High Court Judges or the Judges of the Supreme Court, it has been provided in the articles we have already passed, that they hold their posts during good behaviour, and they shall not be liable to be removed until a resolution in that behalf is passed by both Chambers of Parliament. It is felt that it is unnecessary to provide such a

stiff and severe provision for the removal of members of the Public Service Commission. Consequently it has been provided in this article that the provisions contained in the Government of India Act for the removal of the Judges of the High Court would be sufficient to give as much security and as much protection to the members of the Public Service Commission. I think the House will remember that in the provisions contained in the Government of India Act, what is necessary for the removal of a Federal Court Judge or a High Court Judge is an enquiry made by the Federal Court in the case of the High Court Judges or by the Privy Council in the case of the Federal Court Judges, and on a report being made that there has been a case of misbehaviour, it is open to the Governor-General to remove either the Federal Court Judge or the Judge of the High Court. We have adopted the same provision with regard to the removal of Public Service Commission, wherever there is a case of misbehaviour.

With regard to automatic disqualifications, I do not think that there could be any manner of dispute, because it is obvious that if a member of the Public Service Commission has become insolvent, his integrity could not be altogether relied upon and therefore it must act as a sort of automatic disqualification. Similarly, if a member of the Public Service Commission who is undoubtedly a whole time officer of the State, instead of discharging his duties to the fullest extent possible and devoting all his time, were to devote a part of his time in some other employment, that again should be a ground for automatic disqualification. Similarly the third disqualification, namely, that he has become infirm in body and mind may also be regarded, without any kind of dispute, as a fit case for automatic disqualification. Members of the House will also remember that while reading article 285-A, there is a provision made for suspension of a member of the Public Services Commission during an enquiry made by the Supreme Court. That provision is, I think, necessary. If the President thinks that a Member is guilty of misbehaviour, it is not desirable that the member should continue to function as a member of the, Public Services Commission unless his character has been cleared up by a report in his favour by the Supreme Court.

Now I come to the other important matter relating to the employment or eligibility for employment of the members of the Public Services Commission—both the Union and State Public Services Commissions. Members will see that according to article 285, clause (3), we have made both the Chairman and the Members of the Central Public Services Commission as well as the Chairman of the State Commission, and the members of the State Commission ineligible for reappointment to the same posts: that is to say, once a term of office of a Chairman and Member is over, whether he is a Chairman of the Union Commission or the Chairman of a State Commission, we have said that he shall not be reappointed. I think that is a very salutary provision, because any hope that might be held out for reappointment, or continuation in the same appointment may act as a sort of temptation which may induce the Member not to act with the same impartiality that he is expected to act in discharging his duties. Therefore, that is a fundamental bar which has been provided in the draft article.

Then the second thing is that according to article 285-C, there is also a provision that neither of these shall be eligible for employment in any other posts. There is therefore a double disqualification. There is no permission to continue them in their office, nor is there provision for their appointment in any other posts. Now, the only exceptions, that is to say, cases where they could be appointed are these :

The Chairman of a State Public Services Commission is permitted to be a chairman or a Member of the Union Commission, or a Chairman of any other State Commission.

[The Honourable Dr. B. R. Ambedkar]

Secondly, the Members of the Union Commission can become Chairman of the Union Commission or any other State Commission.

Thirdly, the Members of the State Commission can become a Chairman or a member of the Union Commission, or the Chairman of a State Commission.

In other words, the exceptions are : namely, that one man, who is a Member of the Union Public Services Commission, may become a Chairman of the State Public Services Commission : or a Member of the State Public Services Commission can become a Chairman of the Union Public Services Commission, or become a Member of the Union Public Services Commission. The principal point to be noted is this, that neither the Chairman nor the Member of a State Commission can have employment under the same State. He can be appointed by another State as a Chairman or he can be appointed by the Central Government as the Chairman of the Union Public Services Commission or a Member of the Union Public Services Commission, the object being not to permit the State to exercise any patronage in the matter either of giving continued employment in the same post, or in any other post, so that it is hoped that with these provisions the Members of the Commission will be as independent as they are expected to be.

I do not think there is any other point which calls for explanation.

Shri Lakshminarayan Sahu : What about Members of Joint Commissions?

The Honourable Dr. B. R. Ambedkar : A Joint Commission is the State Commission. That is defined in clause (4) of article 284.

Dr. Manmohan Das (West Bengal: General): I would like to be clear on some points about 285-A. If the Supreme Court as being referred by the President reports that the Chairman or some other Member of the Public Service Commission should be removed, then will it be obligatory on the part of the President to remove him ?

The Honourable Dr. B. R. Ambedkar : Certainly.

Mr. Naziruddin Ahmad : You have asked the honourable Member to explain to the House the difference between the new draft and the original. That would have been helpful for a proper appreciation of the real changes.

The Honourable Dr. B. R. Ambedkar : If any point is raised in the course of the debate, I will explain it in the course of my reply.

Mr. Naziruddin Ahmad : I do not know whether to oppose or not to oppose.

The Honourable Dr. B. R. Ambedkar : You must have read both drafts. The only thing you might not have read are the commas and semi-colons.

Mr. President : I will now take up the amendments.

Shri Jaspat Roy Kapoor (United Provinces: General) : Sir, I beg to move:

“That in the proviso to clause (1) of the proposed article 285, for the word ‘one-half’ the word ‘one-third’ be substituted.”

The question of the formation and the personnel of the Public Services Commissions is of considerable importance. In fact, it is impossible to over-emphasize its importance. Entrusted with the task of selecting candidates to fill various posts under the Central and the Provincial Governments, the formation of both the Central and the State Public Services Commissions becomes of very great importance. On its proper formation and on the proper selection

of the Members of such Commissions depends the proper selection of persons who will be called upon to discharge the responsible and, onerous duties of the Government in the various Departments. That being so, I think it is worthwhile that we should consider the various articles relating to this subject in detail and with very great care and caution.

The proviso to which I have just moved my amendment lays down that one-half of the members of every Public Services Commission shall be persons who at the dates of their respective appointments have held office for at least ten years, either under the Government of India or under the Government of a State, and so on. This means, Sir, that in actual practice, the official members shall almost always be in a majority in the Public Services Commissions. Ordinarily, the total strength of a Public Services Commission is either three or five, so that if there are three Members, half of them at least—which would mean two at least—would be Government servants.

Only one place is left to be filled by one who has not been in government service for ten years. Similarly, if there are five members, three at least shall always be government servants and only two can be recruited from outside that sphere. This I consider to be rather giving government servants undue representation on the Public Service Commission. The government servants' views should not be so overwhelmingly represented on the Public Service Commissions. While it is necessary that we must have the advantage of the experience of government servants of ten years' standing, at the same time I think that their views should not be the determining factor in the selection of all candidates and that the views of the non-officials and representatives of other interests should also be properly represented on the Commissions. But it would not be so if by a statutory provision the majority of the members of all the Commissions shall always be persons of ten years' standing in government service.

The longer the period a person has been in government service the more conservative he becomes and develops the whims, caprices and even the idiosyncracies of that class. They get out of touch with public opinion and the changing needs of the society. I think, therefore, it would not be safe and in the public interest to give government servants a permanent majority on both the Central and States Commissions. The freshness of the outlook of non-officials must also be brought to bear upon the selection of candidates in a fair measure.

My honourable Friend Dr. Ambedkar is not present here. (An honourable Member : He is here), if he is here, he does not care to hear anything that is said with regard to the articles he has moved, because he feels safe that it is not possible for any Member to carry the vote of this House against any one of his proposals. However, I hope that this House on this occasion would seriously consider whether it should not compel Dr. Ambedkar to accept some of the amendments which I will move. I have already moved one and some more I will move hereafter. It seems Dr. Ambedkar has developed a great deal of regard and affection for government servants. Perhaps it is due to the fact that he has been so long associated with the government and the cabinet. I do not grudge the government servants the affection and regard they have been able to win from Dr. Ambedkar. But I do think that Dr. Ambedkar has allowed himself to be rather unduly influenced by the views of government servants so far as this article is concerned, for we find that he has absolutely ignored the views and opinions of the Chairman of the present Federal Public Service Commission, the unanimous view of the Members of the F.P.S.C. as also the views of the Chairmen of the different provincial Public Service Commissions.

Let us see what their views on this subject are. There was a conference held last year in New Delhi, a conference of the Chairman and members of the

[Shri Jaspat Roy Kapoor]

F.P.S.C. and the Chairman of the different provincial Public Service Commissions. This is how they expressed themselves on this point. I am reading from the pamphlet which has been circulated to us by the Constituent Assembly Office containing comments on the draft provisions from various bodies.

“The proviso to clause 285(1) of the Draft Constitution provides that at least one half of the members of every Public Service Commission shall be persons who at the date of their respective appointments have held office for at least ten years in the Government of India or under the Government of a State. The Conference is of opinion that in order to provide for the representation of the interests involved this proviso should now be amended so as to provide one-third in place of one-half occurring in the first line of the provision.”

This wholesome advice based on long experience of such responsible person as the Chairman of the F.P.S.C., unanimously supported by the other members of the conference has been absolutely ignored, and the views of the permanent officials of the Home Ministry have been allowed to prevail. How conservative the views of the officials of the Home Ministry are can be easily found if we refer to what they have suggested in their memorandum :

“The only further comments that we would like to offer are with reference to the recommendations made by the conference of Chairmen of the Public Service Commissions forwarded to the Constituent Assembly with the Federal Public Service Commission’s letter, No..... dated.....

In paragraph 4 of that letter, it has been suggested that the provision for service personnel in article 285(1) should be altered from one-half to one-third. This Ministry is inclined to the view that from the point of view of public service (not from the point of view of the country as a whole but of course from the point of view of the existing public servants) the services be even more strongly represented on the Commission.”

So if they had their way they would probably make, the Public Service Commissions an absolute monopoly of the government servants and a close preserve for them. What we now find is that the Drafting Committee headed by Dr. Ambedkar has simply accepted the recommendations of the official members of the Home Ministry in absolute disregard of the saner counsel of the F.P.S.C. and the Chairman of other provincial Public Service Commissions. This I consider to be a highly unsatisfactory state of affairs.

Not only this. I would draw your attention to one more point with regard to this article. In this proviso what is wanted is not only that one-half of the members of such Commissions shall have ten years experience of government service, but in their case it is also necessary that at the time of their appointment they must be government servants, which means that if a person has retired from government service only a few months before a particular date he is not eligible for appointment as a member of the Public Service Commission. That is, he should not have had an opportunity of associating himself freely even for a month or so after retirement from government service. I do not understand the reason or the logic behind it. Let us take the case of a retired High Court Judge retiring at the age of sixty. After that retirement, along with his retirement he can be appointed to the Union Public Service Commission, but if unfortunately he has been out of office for even a month or two he shall not be eligible for such appointment. I submit that there is no sense in it, there is no logic in it. I would therefore submit that in order that interests other than government servants are properly and duly represented on Public Service Commissions, in the place of ‘one-half’ in the proviso we should have the word ‘one-third’.

While discussing the previous article my honourable Friend Chaudhri Ranbir Singh was making out a strong case for the appointment of rural-minded persons on the Public Service Commissions. If we retain the word ‘one-half’

there will not be a reasonable opportunity either for the appointment of a rural-minded member or an urban-minded member. I think honourable Members will agree that in the Public Service Commissions we should, if possible; have always a good educationist, a good public man and so on. But if we retain the word 'one-half' here it will be impossible to have a suitably formed Public Service Commission either at the Centre or in the provinces.

The next amendment that stands in my name is this which I beg to move.

"That in clause (2) of the proposed article 285, the words 'in the case of the Union, Commission, the age of sixty-five years, and in the case of a State Commission or a Joint Commission' be deleted."

So that, after the deletion of these words, clause (2) would read thus:

"A member of a Public Service Commission shall hold office for a term of six years from the date on which he enters upon his office or until he attains the age of sixty years, whichever is earlier."

The object of this amendment is that the age of retirement should be uniformly at the age of sixty both in the case of the Union Public Service Commission as also in the case of State Public Service Commissions. I see no reason why there should be this difference between the ages of retirement in the two cases. If a person becomes unfit to continue to work as a member of a State Public Service Commission at the age of sixty, surely he does not become more qualified to discharge the more onerous and more responsible duties of a member of the Union Public Service Commission. If he is unfit at the age of sixty to act in one place, surely he is unfit to act as a member on the superior body. I think, therefore, that at least for the sake of consistency if not for any other reason it is necessary that the age of retirement in both the cases should be sixty.

My third amendment is:

"That clause (3) of the proposed article 285 be deleted."

Clause (3) runs thus:

"A person who holds office as a member of a Public Service Commission shall, on the expiration of his term of office, be ineligible for re-appointment to that office."

I desire its deletion not because I am opposed to the contents of this clause but because it is absolutely redundant and unnecessary in view of article 285-C which has been moved by Dr. Ambedkar which forms part of article 285. Under article 285-C it is specifically laid down as to what particular employment could be held by retiring members of any Public Service Commission. Under its various clauses—which I need not read here as they are quite clear—it is not possible for a retiring member of a Public Service Commission to be reappointed to that particular post. He can of course be employed to other posts in the different Public Service Commissions, but he cannot be re-employed to the very post which he has vacated. Clause (3) of this article, therefore, is absolutely unnecessary and the Constitution may not be burdened with the retention of this unnecessary clause.

The next amendment that stands in my name is No. 10 (List I, Fifth Week).

Mr. President : What about No. 8 ?

Shri Jaspat Roy Kapoor : I am not moving No. 8 because it refers to the original article as it had been proposed, but has now been given up and, therefore, it will have no place now.

[Shri Jaspat Roy Kapoor]

I move my amendment (No. 10) and it is this:

“That in clause (b) of the proposed new article 285-B, the following words be inserted at the beginning:—

‘in consultation with the Chairman of the Public Service Commission concerned’.”

So that clause (b) of article 285-B would read thus:

“In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor or Ruler of the State, may by regulations—

(b) in consultation with the Chairman of the Public Service Commission concerned make provision with respect to the number of members of the staff of the commission and their conditions of service.”

I think that this amendment of mine should be readily accepted because all that it seeks is that in making appointments of members of the staff of the Commission and in determining their salaries and conditions of service, etc., out of courtesy, if for nothing else the Chairman of the Public Service Commission concerned should be consulted by the President or the Governor or the Ruler as the case may be. It may be done not only out of courtesy, but I think it will serve a very useful purpose. The Chairman of these Commissions are the best persons to know what the requirements of the Commission are, what sort of persons they want on their staff, what should be the strength, salary and other conditions of service of the staff. It has been provided in the case of the appointment of the staff of the High Court, the staff of the Auditor-General and in other cases that while the appointment is to be made either by the President or by the Governor, the head of the office should be consulted. That is a necessary and useful provision and I think we must have it here in article 285-B.

Sir, my next amendment is No. 11. It runs thus:

“That in the proposed new article 285-C—

- (i) for the word ‘employment’ wherever it occurs the words ‘office of profit’ be substituted; and
- (ii) in clause (d), after the words ‘State Public Service Commission’ where they occur for the second time, the words ‘or as a member of any other State Public Service Commission’ be inserted.”

I will take these two amendments one by one. In article 285 we have the word ‘employment’ throughout. It is intended thereby that a member of the Public Service Commission, after retirement, shall not be employed by the Central or provincial Commissions in any capacity whatsoever except in the capacities mentioned in the article itself. This is a very salutary provision and I am entirely in agreement with it. I wish that its scope had been extended to which point I will later refer when I move another amendment. But I do not see why it should not be open to the Central or Provincial Governments to utilise the services of retiring members of the Public Service Commissions in an honorary capacity. I take it that the word “employment” would cover all employment, whether paid or honorary. Even if ordinarily the word ‘employment’ is understood to carry certain salary, I think to make the position clear it would be advisable to substitute it with the words ‘office of profit’. I hold strong views on the subject that persons who have been in Government service for long on handsome salaries and may be in receipt of handsome pensions also should be expected to render honorary service to the State and to society. I therefore think that it is necessary to accept this amendment of mine.

The next amendment I have moved is:

“That in clause (d), after the words ‘State Public Service Commission’ where they occur for the second time, the words ‘or as a member of any other State Public Service Commission’ be inserted.”

This clause will then read: “A member other than the Chairman of a State Public Service Commission shall be eligible for appointment as the Chairman or any other member of the Union Public Service Commission or as the Chairman of that or any other State Public Service Commission or as a member of any other State Public Service Commission.....” The implication of this amendment is that a member of a State Public Service Commission, on ceasing to hold office as such, may be eligible for appointment as a member of any other State Public Service Commission. In clause (d) we find that the Chairman of a State Public Service Commission shall be eligible for appointment as Chairman of any other State Public Service Commission. It means that he shall be eligible for appointment to a parallel post. On the same analogy I think a retiring member of a State Public Service Commission should be eligible for appointment to another parallel post in another State Public Service Commission. I see no reason for making this distinction between the Chairman of a State Public Service Commission and a member thereof.

Now, Sir, my last amendment is this: Honourable Members may not have copies of it, because it was submitted by me this morning just before the session began. It reads thus :

“That at the end of the proposed new article 285-C, the following proviso be added:—

‘Provided that a member’s total period of employment in the different Public Service Commissions shall not exceed twelve years’.”

This amendment is more important than my other amendments. I was confirmed in this view from what I heard Dr. Ambedkar say this morning in moving his own amendment. He said, while explaining article 285 that a person shall not hold office as a member of a Public Service Commission for more than six years. That of course is partially provided in clause (3) of article 285. But that clause refers only to the re-employment of a person to that particular post. So far as the other posts are concerned, that clause does not apply. So, according to article 285-C a member of a Public Service Commission can continue to be a member of one or other of the Public Service Commissions for any number of years. I say ‘any number of years’ because, because for six years one can be a member of a State Public Service Commission. Thereafter, for another six years, he can be the Chairman of a State Public Service Commission. It comes to twelve years. Thereafter again he can be the Chairman of another Public Service Commission for a third term of six years, thus putting in a total eighteen years’ service. He can next be a member of the Union Service Commission for six years, making his total service twenty-four years. If fortune favours him again for the next six years he can be the Chairman of the Union Service Commission. Thus for thirty years he could be in service or till he reaches 65 years of age. I submit this is not a satisfactory state of affairs. I hope it is not even the intention of the Drafting Committee, much less of the Honourable Dr. Ambedkar, that it should be open to the Government to go on conferring its favours on a particular member of a Public Service Commission who acts according to the wishes and inclinations of the Government.

This article 285-C of course makes a show of putting bar with regard to the employment of retiring members of the Public Service Commissions, but then we analyse it carefully, we find that only a show is made so far as the substance is concerned, we find that the Government can go on retaining a person in the service of a Public Service Commission, of course in different Public Service Commissions, for any length of time. I consider this article as it stands at

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present to be more obnoxious than if there was a provision that members of the Public Service Commission shall be permanent servants until they attain the age of sixty five.

Shri Brajeshwar Prasad : Until they die.

Shri Jaspat Roy Kapoor : If they were permanent, they would not be looking up to the President or the Governor for their future employment, the President and the Governors would in their turn be only acting on the advice of their Cabinets. If the members of the Public Service Commission were permanent, they would not have to look to the favours of the Government of the day concerned for their future, and they would act absolutely independently. They would neither be after the smiles of the Government nor would be afraid of their frowns. As it is, when the period of six years would be nearing completion, they would be looking to the Government of the day concerned for being reappointed to some other Public Service Commission, and it cannot therefore be expected that they would act in an absolutely independent and impartial manner, as I hope Dr. Ambedkar would certainly like them to work. It is necessary, therefore, that this temptation of being reappointed after every six years should not be put before the members of the Public Service Commission. If it is really the intention of Dr. Ambedkar that the term of service should be not more than six years, I would very much prefer to have the words "six years" rather than "twelve years" in my amendment, but if it is not the intention, I think it is necessary to accept the amendment I have moved limiting their term of service only to a period of twelve years and no further.

These are the various amendments, Sir, which I have moved and I hope Dr. Ambedkar would be good enough to give his serious consideration to them and accept them, if not all, at least the more important ones.

Pandit Hirday Nath Kunzru (United Provinces: General): Mr. President, Sir, I move :

"That in amendment No. 3 above, for the proposed new article 285-B, the following article be substituted :—

285-B.— (1) In the case of the Union Commission or a Joint Commission, the President and, in the case of a State Commission, the Governor or Ruler of the State may, by regulations, determine the number of members of the Commission and their conditions of service and the number of members of the staff of the Commission.	Conditions of service of members and staff of the Commission.
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Provided that the conditions of service of a member of a Public Service Commission shall not be altered to his disadvantage after his appointment.

(2) Appointments of the members of the staff of a Public Service Commission shall be made, and the conditions of service of those members shall be such as may be prescribed, by the Chairman of the Commission or such other member of the Commission as the Chairman may direct :

Provided that the conditions of service prescribed under this clause shall, so far as they relate to salaries, allowances, leave or pensions, require the approval, in the case of the Union Commission or a Joint Commission of the President and in the case of a State Commission, of the Governor or Ruler of the State."

Sir, the purpose of my amendment is very simple. Article 285-B as moved by Dr. Ambedkar does not state how the members of the staff of a Public Service Commission should be appointed. My amendment fills up this gap. It lays down that the members of the staff of the Public Service Commission shall be appointed either by the Chairman of the Commission or by such other member of the Commission as he might authorise in this behalf. The House will remember that the Supreme Court and the High Courts have been given the right to appoint members of their staff. In the case of the Supreme Court they are to be appointed either by the Chief Justice or by such other Judge

as might be authorised by him in this connection. A similar provision has been made in connection with the appointment of members of the staff of the High Courts. As the Public Service Commissions will be very important bodies, it is desirable that they should be given the same freedom as will be possessed by the Supreme Court and the High Courts in connection with the appointment of the members of their staff.

The importance of the Public Service Commissions is manifest. They will deal with the recruitment of persons to posts under the State. The efficiency of the administration of the State will consequently depend on the manner in which recruitment is made. It is therefore of the utmost importance that the body making the recruitment should possess within limits as much independence as possible. I propose therefore that the staff of a Public Service Commission should be appointed by the Chairman of that Commission or by any other member authorised by him to make appointments.

The second point where my amendment differs from article 285-B moved by Dr. Ambedkar is the determination of the conditions of service of the staff of a Public Service Commission. The article, moved by Dr. Ambedkar leaves full powers in this respect to the President in the case of the Union and Joint Commissions and to the Governor and rulers of States in the case of State Public Service Commissions. The Supreme Court and the High Courts have been allowed to determine the conditions of service with the approval of the President and the Governor of the States concerned. There is no reason why the same procedure should not be followed here. It may be said that the President or the Governor, whoever may have to deal with the subject, will if he is a reasonable man, if he wants that the staff of the Public Service Commission should be competent and contented, consult the Public Service Commission concerned. The same argument might have been used in the case of the Supreme Court or the High Courts, but these bodies have been allowed the power to determine the conditions of service of the members of their staff with the approval of the President or the Governor or ruler of a State as the case may be. There is no reason why any distinction should be made in this respect between the Public Service Commission and these bodies. I propose, therefore, that the Public Service Commission should have the power to determine the conditions of members of their staff but should secure the approval of the President or the Governor or ruler of a State in so far as the conditions of service, relate to salaries, allowances, leave or pensions. My honourable Friend, Mr. Jaspat Roy Kapoor has also moved an amendment on this subject. His object is to require the President and the Governors and rulers of States to consult their Public Service Commissions in respect of these matters before taking decisions. I go a step further and say that the power should be initially in the hands of the Public Service Commissions but that they should be required to fix the salaries, allowances and leave and pensions, with the approval of the President, the Governors or Rulers of States, as the case may be. I think that if for nothing else at any rate, in order to secure uniformity and to show that the Constituent Assembly does not want that there should be any difference between the status of the Public Service Commission and the status of a High Court, it is desirable to accept my amendment which is preferable to Mr. Jaspat Roy Kapoor's. I hope, therefore, that the House will find no difficulty in accepting my amendment.

Sir, I should now like to say a word or two about two of the provisions laid before us by Dr. Ambedkar. The article as proposed by him requires that no member of a Public Service Commission should hold office in that Commission to which he belongs for more than six years. He has proposed that a member of a Public Service Commission on completing his tenure of office should be ineligible for further employment in that capacity. This position has been

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criticised. I am, however, entirely in favour of it. A Public Service Commission must be an independent body. Its members should not be able to look up to the executive for any favour. If the provision proposed by Dr. Ambedkar is retained then there will be no fear that a member of a Public Service Commission will be subservient to the wishes of the executive because he cannot secure an extension of his term of office; he can therefore be expected to discharge his duties independently and fearlessly. But if the term of office of a member of a Commission is allowed to be extended, or if, he is allowed to be re-appointed as a member then there is every fear that members of the Public Service Commissions in order to secure their re-appointment will try to curry favour with the executive. I am not, therefore, in favour of any change in the provisions suggested by Dr. Ambedkar.

The next point that I should like to refer to is the eligibility of the Chairman and members of Public Service Commissions for further employment under the State. The provisions of article 285 (c) have been criticised as being too wide or in some respects too narrow. My honourable Friend, Mr. Jaspat Roy Kapoor has proposed that a member or Chairman of a Public Service Commission should not be debarred from serving the State in an honorary capacity. I confess that I had not thought of the subject before, but as I thought about it when he was speaking, it seemed to me that he was putting forward a reasonable suggestion. In one or two cases in the United Provinces it was wished that the Chairman of the Public Service Commission on his retirement might be usefully employed in an honorary capacity. The man was competent and it was thought that the community should not be wholly deprived of his services. I, therefore, agree with the view expressed by Mr. Kapoor on this point.

I part company with him, however, when he goes on to suggest other changes in article-285 (c) . I think this article is a great improvement on the corresponding article contained in the Draft Constitution. It allows a member of a Commission to accept the Chairmanship of another Commission, whether it is a State Commission or the Union Commission. The fear was expressed that if this was done, the members of the Public Service Commissions might try to win the favour of the Executive and secure their appointment as Chairman of one Public Service Commission after another. What has to be borne in mind in this connection is this. The Chairmanship of a Public Service Commission is a position requiring great experience and ability and if it is felt that a man had discharged his duties either as a member of a Commission or as Chairman of a Commission so well as to justify his appointment as the Chairman of another Commission, I do not see why this should be objected to. It is to the advantage of the country that it should be able to use proved capacity in its service without thereby curtailing the independence of a member of a Commission. The proposal that a member of a Commission might for two terms be a member of the same Commission stands on a different footing, because this provision will certainly interfere with the independence of the member. But if the Chairman of a Public Service Commission in a province is appointed Chairman of the Public Service Commission of another province, there can hardly be any fear that his re-appointment will be due to the recommendation of the Premier or the Governor of the State to which the first Commission belonged. I do not think therefore that the provision that has been criticised requires any change.

I think that the articles as they are deserve to be accepted by the House except in respect of the change suggested by Mr. Kapoor. I hope that Dr. Ambedkar will see his way to accept the suggestion made by Mr. Kapoor that retired members of a Public Service Commission should not be debarred from serving the country in an Honourable capacity.

Shri Jaspal Roy Kapoor : May I know what the honourable Member, Pandit Kunzru thinks with regard to my suggestion that the period of employment should be limited to twelve years ?

Pandit Hirday Nath Kunzru : I have already dealt with that. A member of a Public Service Commission can remain in employment for eighteen years only if he has the good luck of being appointed as the Chairman of two Commissions successively. Had appointment to the Chairmanship of the Commissions been under the Central Government, then, my honourable Friend Mr. Kapoor's objection would have been valid. In the case of the Chairmanship of the State Commissions, however, the appointing authority will not be the same. There will be a different appointing authority for each Commission. Consequently, there need be no fear that a Chairman of a Public Service Commission in order to be appointed as Chairman of another Commission after completion of his tenure of office will be liable to be subject to any improper influence on the part of the executive or will not discharge his duties with perfect independence.

Mr. Naziruddin Ahmad : Mr. President, Sir, I have a lot of amendments; but I wish to move only one. I should rather desire that I should move it now and then take part in the general discussion at the end. That would be very convenient. In fact, there are a variety of sections and a variety of amendments most of which may not be moved. It would be convenient if you give me this permission.

Mr. President : Which amendment do you want to move?

Mr. Naziruddin Ahmad : I would move only amendment No. 69. it is very nearly a drafting amendment; but it seems to me to be important. I beg to move

"That in amendment No. 3 of List I (Fifth Week), of Amendments to Amendments, in clause (1) of the proposed new article 285-A, for the words 'shall only be removed from office by order of the President on the ground of misbehaviour' the words 'may be removed from office by order of the President only on the ground of misbehaviour' be substituted."

May I have your permission to defer the general comments when all the amendments are moved?

Mr. President : Very well.

Shri H. V. Kamath (C.P. & Berar. General): Mr. President, the House is dealing with an important chapter of our Constitution today. Ever since we became free two years ago, unfortunately to the accompaniment of partition, we have found that the Public Services, many of them, at any rate, have been depleted considerably, and this question of the purity of the services and their administrative efficiency has come to the fore more pointedly than ever. Therefore, I feel that the more attention we bestow upon the consideration of this chapter the better it would be for the future of our country.

I have given notice of four amendments which now, by your leave, I shall move before the House. I crave your pardon as well as the pardon of the House for having sent them in only this morning, as a result of which my colleagues have not been supplied with copies of my amendments. I am entirely to blame for that; I would appeal to my honourable Friends to follow the amendments as I read them before the House.

The first amendment is to the effect.

"That in amendment No. 3 of List I (Fifth Week), in the proviso to clause (1) of the proposed article 285, for the words 'at least one half' the words 'not more than one-half' be substituted."

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The second amendment is:

“That in amendment No. 3 of List I (Fifth Week), in clause (1) of the proposed article 285-A, for the words ‘misbehaviour or of infirmity of mind or body’ the words ‘misdemeanour or incapacity’ be substituted.”

The third amendment has two alternatives. If the first be unacceptable to the House, I would urge that the second alternative be accepted. The first one is to the effect :

“That in, amendment No. 3 of List I (Fifth Week), sub-clause (b) of clause (3) of the proposed article 285-A be deleted.”

Or if this be not acceptable to the House, alternatively:—

“That in the same clause 3 (b) of the proposed Article 285-A for the words ‘engages during his term of office in anybody’s employment’ the, words ‘take up during his term of office any other employment’ be substituted.”

My fourth amendment is :

“In article 285-B for the words ‘the President the Governor or Ruler of the State’ the words ‘Parliament and State Legislature’ be substituted, respectively.”

If this were accepted 285 (B) would read as follows :—

“In the case of the Union Commission or a Joint Commission, Parliament and in the case of a State the Legislature may by regulation etc.”

These are the four amendments to the article moved by Dr. Ambedkar before the House.

It is agreed on all hands that the permanent services play an important role in the administration of any country. With the independence of our country the responsibilities of the services have become more onerous. They may make or mar the efficiency of the machinery of administration—call it steel frame or what you will,—a machinery which is so vital for the peace and progress of the country. A country without an efficient Civil Service cannot make progress in spite of the earnestness of those people at the helm of affairs in the country. Wherever democratic institutions exist experience has shown that it is essential to protect the Public Service as far as possible from political or personal influence and to give it that position of stability and security which is vital to its successful working as an impartial and efficient instrument by which Government—of whatever political complexion—may give effect to their policies. It is imperative that whichever Government comes into Power, the permanent services must carry out the policy laid down by the Government for the time being in office. In countries where this principle has been neglected, and where instead the spoils system has taken its place, inefficient and disorganised Civil Service has been the inevitable result and corruption has become rampant with all its attendant consequences. It is therefore of the utmost importance that the Public Service Commissions that we contemplate under these articles should be completely independent of the Government of the day whether at the Centre or in the States. Otherwise I am afraid the Civil Services will apprehend that amenability to Ministerial pressure and a correct attitude towards questions in which a little coterie or the group for the time being in power, is interested, will secure them promotions rather than merit or efficiency. I have often known that a Secretary to a Minister if he volunteers an opinion which is not palatable to the Minister in Office, the Minister puts him on the blacklist and he is not considered favourably for future promotions. Of course once a policy is laid down the public servants have to carry them out. But I know of instance where Ministers have looked upon with disfavour Secretaries or other servants, whose opinion was invited

criticising their policies : this is a very undesirable state of affairs and I am sure that sorts of thing should not be encouraged. Therefore I hold that where there is any apprehension on the part of Civil Servants that, if they are amenable to Ministerial pressure, they are likely to be promoted, and that merit and efficiency count less, if that mentality seizes public servants, there is likely to be demoralisation throughout the ranks of the services.

It is, with that in view that I have proposed the first amendment. The draft is to the effect that at least one-half of the members of every Commission shall be persons who have been in the service either in the Government of India or the Government of a State, Mr. Kapoor moved an amendment seeking to reduce this to one-third. Mine seeks to make this minimum the maximum. It always happens that the minimum goes on increasing till it swallows or comprises the whole and if this article is passed there is no bar to an the members of the Commission being appointed from those persons who have held offices under the Government of India or of a State. Therefore I want that this minimum should be the maximum and in no case should this maximum be exceeded. That will at least be a safeguard against weightage of these Service Commissions by persons who have been in Government service and who have come—I will not say from the umbra but the penumbra of this Governmental influence, who have moved in a particular rut and who are likely to be always influenced by particular attitude of mind towards the Government in power. Therefore to preserve the impartiality and independence of the Public Service Commissions I have moved this amendment, the effect of which would be that the minimum of one-half would be the maximum and in no case would that one-half be exceeded, so far as the number of those who have held office under Government, is concerned.

As regards the point made out by my Friend Mr. Kapoor, that the age of 65 should be reduced to 60, for both the Union and State Commissions, I am of a different view. I feel that the figure must be 65 for both, that the age limit of 65 should be laid down both for the Union Commission and for the State Commissions. We know that the age-limit of 55 for superannuation which was fixed by the British, has now been increased by the recommendation of the Pay Commission to 58; and the general trend in India—and perhaps in the rest of the world also—is towards an increase in the expectation of life and in the prolongation of youth. That is to say, in the twentieth century, the trend is towards the prolongation of youth though I would not venture an opinion whether we are going “back to METHUSELAH” of Bernard Shaw. But all the world over, longevity is tending to increase because of a modern methods of medicine and dietetics.

Dr. P. S. Deshmukh : Dietary but not diet.

Shri H. V. Kamath : Yes, Sir, who would say that our leaders today, you, Sir, including, who are over sixty, who dare say that any one of them who are leading us to day cannot grace the highest office in the land with credit and glory to the country ? If that be so, then I think there is no reason why the Chairmanship or membership of the Public Service Commissions should be confined to the age-limit of 60, that the Chairman or the members should be asked to retire at the fairly early age of 60. I for one would like this age limit to be uniform for both the Commissions and be raised to 65.

Then my second amendment is more or less verbal in that it seeks to substitute the words “Misdemeanour and incapacity” for “misbehaviour and infirmity of mind or body”. Taking the second first, “incapacity”. I would invite the attention of the House to the article which, we have already passed

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regarding the removal of the Vice-President of India. The word used there is “Incapacity” and that word refers to both mind and body. The word “infirmly” I feel is rather a medical or scientific term and not, if I may say so, a constitutional term. Incapacity would be the more appropriate word.

As regards the word “misbehaviour” that word has a sort of conversational or colloquial ring about it. But the House is familiar, in law and constitutional law with the expression “grave misdemeanour” of officers or of high dignatories and so on. I therefore, feel that the word “misdemeanour” would express the sense intended here in this article, far better than the word “misbehaviour”. I would however leave it to the far wiser men who are busy drafting the Constitution, and I would only request them to consider this matter with the consideration which I believe it deserves.

My third amendment deals with sub-clause (3) (b) of article 285-A. Firstly, it deals with the deletion of the sub-clause, because in my humble judgment, this will be comprised in the term “misdemeanour”. A person who, while holding the office of Chairman or member of a Public Service Commission takes up any other employment can certainly be, charged with misdemeanour. If this view be not acceptable to the experts of the Drafting Committee, I would only plead with them, and I am sure they will realise that these words, “any body” are so very vague, clumsy and ugly. I do not know how Dr. Ambedkar in spite of his profound knowledge of the English language tripped and stumbled and fell in this manner. I have never come across this sort of ugly and clumsy words as “anybody’s employment” in any constitutional treatise. I feel the idea would be much better expressed by “any other employment.” Further, depending on my meagre knowledge of the English language, I may say that “engaging in an employment” is not quite correct. You may take up an employment—I am however, not quite happy about my own amendment in this regard but you generally engage in the work or service; but to say “engaging in an employment” is not King’s English, or constitutional English. I hope this will also receive the attention of the wise men of the Drafting Committee and that they will clothe their idea in better language when it comes in its final form before the House.

Then my last amendment, No. 4, is an amendment of substance. Its effect would be that instead of the President or the Governor or Ruler of a State having the power, this power to make regulations as to conditions of service of the members and staff of the Commissions will be vested in the Central Parliament and the State Legislatures. I would request the House to turn for a moment to the original draft of the article 285 as it stood in the Draft Constitution. I invite the House to look for a moment at clause (2) of this original article 285. That provides that matters affecting not merely the number of Members of the Commission but their tenure of office, their conditions of service and the number of members of the staff of the Commission shall be vested in the President or the Governor. The House will see the difference between the draft as it has come before us today and the draft as it originally stood. The tenure of office has been taken out of the purview of the President and the Governors. In article. 285 we have provided for the tenure of office of members on the three Commissions—Union, State or Joint. Clause (2) of article 285 deals with that matter. That means to say that the Drafting Committee has felt the need for bringing this matter, namely the tenure of office, before the Constituent Assembly. I desire that matters relating to the number of Members of the Commission, their conditions of service and the number of members of the Commission and their conditions of service—regulations in

regard to these matters—must be left to either Parliament or the State Legislatures. I do not for one moment dispute or question the proposition, that so far as appointment is concerned, it should be made by the Governor or the President in consultation, if necessary, with the Chairmen of the various Public Service Commissions. But so far as these matters are concerned, *viz.*, how many members there should be on the Commission, the conditions of service of these Members and of their staff—of course Parliament cannot certainly appoint these persons—must be left to Parliament or the Legislatures to deliberate upon and to decide. After Parliament has framed the rules in this regard, the Governor, Governors or the President would be asked to make appointments accordingly. I feel that unless the Members of these Commissions are absolutely sure that their conditions of service will be secured throughout their tenure and entirely independent of the executive, they will not put their heart into the work and they will not bring to bear that deep interest in those problems that confront them from day to day, which is so necessary for the efficient discharge of their public functions.

I am glad to find that article 285-C is an improvement on the original draft. The original draft was comprised in clause (3) of article 285. That provided for certain exemptions by the President and the State Governors in so far as the bar to the appointment of Members of the Commissions on ceasing to hold office was concerned. It is very salutary, nay, essential that Members of these Commissions must not be eligible to any office in the Government of India or the Government of a State. The old Government of India Act did provide that the Governor-General could make exemptions where he deemed it necessary or fit. But I think it was a very wise move not to exercise this power through the Governor-General in cases where it was absolutely uncalled for. About a month ago, some of us were agitated on learning of an appointment of a Member of the Bombay Public Services Commission to an ambassadorial post. I do not wish to mention the name. He was appointed to this post even before he had resigned his office. After he was appointed, he resigned his office naturally. But this sort of irregularity, to say the least, which might smack of nepotism and personal favouritism, must not be countenanced if you wish to make the services strong and efficient. If a Member of the Public Services Commission is under the impression that by serving and kowtowing to those in power he could get an office of profit under the Government of India or in the Government of a State, then I am sure he would not be able to discharge his functions impartially or with integrity. This appointment which was made recently was a bad one in principle, and I am sure though the Governor-General must have given his approval, is no reason why that particular person was deemed so necessary that the very salutary rule with regard to the bar to the appointment of Public Services Commission members was set at naught. I am glad, however, that the present draft of the article makes no such exemptions and the Members or the Chairman of the Public Services Commission will not be eligible to any appointment under the Government of India or the Government of any State after they cease to hold office.

Lastly, I would like to observe that most of the democratic countries in the world have set up Public Services Commissions to free the matter of appointments from nepotism or favouritism and the exercise of Political patronage, and in order to protect Ministers against the charge—it may be unfounded or ill founded—of using their positions to promote family or group interests. The public here have sometimes been made to feel that family or group interests have been promoted at the expense of the national; and to protect the Ministers against such a charge, it is necessary that the Public Service commissions must be kept completely independent of the executive and further that the

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recommendations made by these Commissions in the matter of appointments must normally be given effect to, and in every case when Government or a Minister, makes an appointment contrary to the recommendations of the Public Services Commission, he must give adequate reasons in writing as to why he disregarded the recommendations of the Commission.

Instances have, happened during the last two years, and Ministers were asked questions in the Legislature as to why certain persons were appointed contrary to the recommendations of the Federal Public Services Commission. The answers were to my mind unsatisfactory and created grave doubts in the minds of many honest people as to why Ministers should go out of their way to make appointments without any regard to the recommendations made by the F.P.S.C. I hope under the new set-up that is coming in our country this sort of thing will not prevail, that we will have a better and purer dispensation and that the Public Service Commissions both in the Union Centre and in the States will function in such a manner that firstly, the members of these Commissions will discharge their duties absolutely independently of the governments of the day, with impartiality, integrity and with wisdom and, secondly, the Services will be manned by such persons as will not be amenable to ministerial pressure or ministerial patronage at the cost of efficiency and the administrative purity of the State.

(Shri Kuladhar Chaliha did not move his amendment.)

Dr. P. S. Deshmukh : Sir, I move:

“That in amendment No. 3 of List I (Fifth Week), of amendments to amendments, in sub-clause (b) of clause (3) of the proposed new article 285-A, the word ‘body’s’ be deleted.”

The amendment is somewhat on the lines of the amendment that has been moved by my Friend Mr. Kamath. He has correctly characterised the wording as very unhappy, and if there is to be an improvement which can be acceptable to Dr. Ambedkar I think the dropping of the word “body’s” would be a great improvement. But if Dr. Ambedkar agrees I would not mind accepting my Friend Mr. Kamath’s amendment.

So far as the whole article is concerned I would very strongly like to support the amendment moved by Mr. Jaspat Roy Kapoor, especially the first one which refers to curtailing the number of government servants on the Commissions to one-third instead of one-half. I wish it were possible for you to give me permission to move for the deletion of the whole provision. It is a pity that nobody has taken into account what this proviso means. I do not expect that you, Sir, would condescend to be the Chairman of any of these Commissions even of the Union Commission. But if by any chance you were, even persons like you, Sir, who have taken any part in the liberation of the country will not be eligible to be appointed on the Commission so far as half the portion of it is concerned.

Appointments are going to be confined only to government servants who have ten years’ standing. This means that the choice would have to be confined to only old servants and all those who have been appointed by the present independent Government of India will have to wait till 1957 before any of them will be eligible for appointment in this preserved half. It puts a definite premium on those who, contrary to the interests of the country, served the British Government and enslaved the country in the interest of the British if we are going to preserve half of the commission for them in those terms. It is an abnoxious provision and I do not think any Congressman would like it to remain so as to exclude all patriots from half of that body.

Even those who had refused government services on patriotic grounds alone will be debarred from entering the Commission to the extent of this half. The least possible thing that should be done is to accept Mr. Kapoor's amendment although I think the House will agree with me that the Whole proviso should go.

It is a pity that the present rulers of India are in such great love with the permanent services. The ambassadorial posts ought really to go to non-official workers and leaders who have sacrificed themselves in the interests of the country. None of them are considered fit. We might have different ideas and ideals of administration. But it is totally wrong that such posts should go more and more to persons who have not had the country's interests at heart when the time came and I consider that there is every reason to urge that this policy ought to be altered as also the ideals with which our present rulers are actuated. The House ought to be more careful in passing articles without sufficient consideration. This provision is a shadow of our slavish past which ought to be wiped out from this article.

Shri B. Das (Orissa: General) : Sir, the Draft Constitution has provided three instruments by which the integrity of our administration would be maintained. The first is the Supreme Court and the Chief Justice of India, the second is the Auditor-General, who will maintain the purity of our finances, expenditure and the collection of taxes; and the third is the Federal Public Service Commission which will maintain the purity and integrity of our services. It has already been observed by other Members that in the past as a reward for their loyalty people had become members of the Public Service Commissions. It has not on merit but on loyalty to those who ruled the country in the past. The provisions of article 285 and the duties specified in article 286 remove favouritism from the Home Ministry and even the Home Minister.

There is one thing which I do not like. A government servant with ten years' standing can be a member of the F.P.S.C. It means that if he joined the service in his 25th year he will remain for 30 years. He might get rusty and the onus of proving his uselessness will be left to the members of Parliament to move a resolution in the House for dismissal of that member of the F.P.S.C. . So far as I can see the Draft Constitution is enamoured of the age of thirty-five. Whether it is the Governor or the Governor-General or the High Court Judges or the Judges of the Supreme Court or Members of the Federal Public Service Commission the age should be thirty-five.

If I have my inclination I would support the idea of my honourable Friend Mr. Jaspat Roy Kapoor that only one-third of the members of the Federal Public Service Commission should be officials. The rule is there that fifty per cent of the members should be officials, but today as far as I can gather most of the members of the Federal Public Service Commission are officials. My Friend Dr. Deshmukh said that they will continue for another six years. I do hope that steps will be taken simultaneously with the promulgation of this Constitution that only 33 per cent or 50 per cent of the members of the Federal Public Service Commission will be allowed to be filled by the appointment of officials and the rest left for others who are not officials. At the same time a High Court Judge or a very high official or even the President or the Governor-General should examine how these people have come to the Federal Public Service Commission, whether they have come by favouritism or whether they do satisfy under the rules and conditions of recruitment of high officials under the Draft Constitution to continue as members of the Federal Public Service Commission for the next five or six years.

The evil tradition is there. It is a very bad tradition—a tradition of nepotism. The Home Department in the past have thrown away the recommendations of the Federal Public Service Commission. As far as I am aware,

[Shri B. Das]

the Home Ministry has made new Rules of recruitment by which the recommendations of the Federal Public Service Commission will have to be accepted. It is for the Governor-General and the President to see that the recommendations of the Federal Public Service Commission as such are accepted. We know today the Government of India contains people who are the wife's brother or sister-in-law's cousin or something like that of all people. All such nepotism should go. And to maintain the integrity of the administration and the security of the Government of India only those shall be recruited that will be recommended by the Federal Public Service Commission—not as it exists today but as it will be reorganised after 26th January 1950.

I do hope that in spite of article 285 or 286 it will be possible for us to examine the question of the continuity of some of the old fossils—retired gentlemen—who have entered the Federal Public Service Commission not by merit but through loyalty in other spheres of life, on communal basis of life, etc. It should be done away with. Without that the Constitution will prove a failure.

Mr. Naziruddin Ahmad : I want to speak. You said that you will permit me.

Mr. President : I want to close the discussion and the voting on this today. There is hardly any time now as there are only five minutes to one. There are some other articles dealing with the Public Service Commission and you will have an opportunity in the next article.

The Honourable Dr. B. R. Ambedkar : Mr. President, Sir, there are just a few points on which I would like to say a word or two in reply to the criticism made on the articles, which I have submitted to the House.

The first criticism is with regard to the composition of the Public Service Commission. The reservation made there that at least one-half of the members of the Public Service Commission should have been servants of the Crown has been objected to on the ground that this is really a paradise prepared for the I.C.S. people. I am sorry to say that those who have made this criticism do not seem to have understood the purpose, the significance and the functions of the Public Service Commission. The function of the Public Service Commission is to choose people who are fit for Public Service. The judgment required to come to a conclusion on the question of fitness presupposes a certain amount of experience on the part of the person who is asked to judge. Obviously nobody can be a better judge in this matter than a person who has already been in the service of the Crown. The reason therefore why a certain proportion is reserved to persons in service is not because there is any desire to oblige persons who are already in the service of the Crown but the desire is to secure persons with the necessary experience who would be able to perform their duties in the best manner possible. However, I am prepared to accept an amendment if my Friend Mr. Kapoor is prepared for it. I am prepared to say "Provided that as nearly as may be one-half" instead of saying "Provided that at least one-half."

Shri H. V. Kamath: Why not say "not more than one-half"?

The Honourable Dr. B. R. Ambedkar : No, I have done my best.

With regard to the second question, that persons who have been in the Public Service Commission should be permitted to accept an honorary office under the State, personally I am not now inclined to accept that suggestion. Our whole object is to make the members of the Public Service Commission independent of the

executive is to deprive them of any office with which the executive might tempt them to depart from their duty. It is quite true that an office which is not an office of profit but an honorary office does not involve pay. But as everybody knows pay is not the only thing which a person obtains by reason of his post. There is such a thing as “pay, pickings and pilferings”. But even if it is not so, there is a certain amount of influence which an office gives to ‘a person’. And I think it is desirable to exclude even the possibility of such a person being placed in a post where, although he may not get a salary, he may obtain certain degree of influence.

Now I come to the amendment of my Friend Mr. Kunzru. I quite agree with him that there is obviously a distinction made between the services to be employed under the Public Service Commission and the services to be employed under the High Court, the Supreme Court and the Auditor-General. I would like to explain why we have made this distinction. With regard to the staff of the High Court and the Supreme Court, at any rate those who are occupying the highest places are required to exercise a certain amount of judicial discretion. Consequently we felt that not only their salaries and pensions should be determined by the Chief Justice with the approval of the President but the conditions of their service also should be left to be determined by the Chief Justice. In the case of the Public Service Commission much of the staff—in fact the whole of the staff—will be merely concerned with what we call “ministerial duties” where there is no authority and no discretion is left. That is the reason why we have made this distinction. But I quite see that my argument is probably not as sound as it might appear. All the same I would suggest to my honourable Friend Pandit Kunzru to allow this article to go through on the promise that at a later stage if I find that there is a necessity to make a change I will come before the House with the necessary amendment.

Sir, my attention is drawn to the fact in the cyclostyled copy of my amendment to article 285-A in sub-clause (3) (b) the words ought to be ‘in any paid employment’. They have been typed wrongly as ‘in any body’s employment.’ I hope the correction will be made.

As I said to Pandit Kunzru, the Drafting Committee will look into the matter and if it feels that there are grounds to make any alteration they will, with the permission of the House come forward with an amendment so that the position may be rectified.

Mr. President : I will now put the amendments to vote first.

The question is:

“That in amendment No. 3 above, in the proviso to clause (1) of the proposed article 285 for the word ‘one-half’ the word ‘one-third’ be substituted.”

Shri Jaspat Roy Kapoor : In the place of this I accept the suggestion made by Dr. Ambedkar to have ‘as nearly as may be one-half’.

Mr. President : Then I shall put that to vote. The question is:

“That in amendment No. 3 above, in the proviso to clause (1) of the proposed article 285, for the words ‘at least one-half’ the words ‘as nearly as may be one-half’ be substituted.”

The amendment was adopted.

Shri Jaspat Roy Kapoor : I beg leave of the House to withdraw amendment No. 5.

The amendment was, by leave of the Assembly, withdrawn.

Shri Jaspat Roy Kapoor : I beg leave of the House to withdraw amendment No. 6.

The amendment was, by leave of the Assembly withdrawn.

Shri Jaspat Roy Kapoor : I also took permission to withdraw my amendments Nos. 10 and 11 and also the one given notice of this morning.

Mr. President : They refer to article 285-B to which we have not yet come. Amendment No. 1 of Mr. Kamath falls to the ground since an amendment to add 'as nearly as may be one-half' has been accented.

Shri H. V. Kamath: If you hold it falls through, I have nothing to say.

Mr. President : There is no other amendment to article 285.

The question is:

"That proposed article 285, as amended, stand part of the Constitution."

The motion was adopted.

Article 285, as amended, was added to the Constitution.

Mr. President : Now we come to article 285-A. The first amendment is, that Mr. Naziruddin Ahmad, No. 69.

The question is :

That in amendment No. 3 of List I (Fifth Week), of Amendments to Amendments, in clause (1) of the proposed new article 285-A, for the words "shall only be removed from office by order of the President on the ground of misbehaviour" the words "may be removed from office by order of the President only on ground of misbehaviour" be substituted.

The amendment was negatived.

Mr. President : Amendment No. 2 of Mr. Kamath. The question is:

"That in amendment No. 3 of List I (Fifth Week) in clause (1) of the proposed article 285-A, for the words 'misbehaviour of infirmity of mind or body', the words 'misdemeanour or incapacity' be substituted."

The amendment was negatived.

Mr. President : Amendment No. 3 of Mr. Kamath. The question is:

"That in amendment No. 3 of List I (Fifth Week), sub-clause (b) of clause (3) of the proposed article 285-A be deleted."

The amendment was negatived.

Mr. President : The next amendment of Mr. Kamath. The question is:

"That in amendment No. 3 of List I (Fifth Week), in sub-clause (b) of the proposed article 285-A, for the words 'engages during his term of office in anybody's employment' the words 'takes up during his term of office any other employment', be substituted."

The amendment was negatived.

Mr. President : The next one is the amendment of Dr. Deshmukh. It does not arise now, because those words are, not there.

Now I will put article 285-A to vote. Members will remember that in subclause 3 (b) there is a misprint 'in any body's employment' for 'a paid employment'. The question is

"That proposed article 285-A stand part of the Constitution."

The motion was adopted.

Article 285-A was added to the Constitution.

Mr. President : Now we come to article 285-B. I will put amendment No. 9 to vote.

Pandit Hirday Nath Kunzru : Sir, in view of the assurance given by Dr. Ambedkar I do not want my amendment to be put to the vote.

The amendment was, by leave of the Assembly, withdrawn.

Shri Jaspat Roy Kapoor : Sir, I beg leave of the House to withdraw my amendment No. 10.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : Then I will put amendment No. 4 of Mr. Kamath.

The question is :

“That in amendment No. 3 in the proposed new article 285-B. for the words ‘the President and in the case of a State Commission, the Governor or Ruler of the Slate’ the words ‘Parliament and the State Legislature’ be substituted respectively.”

The amendment was negatived.

Mr. President : The question is :

“That proposed article 285-B stand part of the Constitution.”

The, motion was adopted.

Article 285-B was added to the Constitution.

Mr. President : Then we come to 285-C. Amendment No. 11.

Shri Jaspat Roy Kapoor : I beg leave of the House to withdraw it.

The amendment was, by leave of the Assembly, withdrawn.

Mr. President : There is another amendment by Mr. Jaspat Roy Kapoor.

Shri Jaspat Roy Kapoor : I beg leave of House to withdraw that amendment also.

The amendment was, by leave of the Assembly withdrawn.

Mr. President : The question is:

“That proposed article 285-C stand part of the Constitution.”

The motion was adopted.

Article 285-C was added to the Constitution.

Mr. President : The House will now adjourn till nine o’clock tomorrow morning.

The Assembly then adjourned till nine of the Clock on Tuesday, the 23rd August 1949.
