VOL-I

# RULINGS
# OF
# THE CHAIR
# (1973-1985)

House of the Federation

SENATE OF PAKISTAN

# Preface

Parliamentary practices of a legislative chamber evolve as a result of an intricate decades-long process through careful interpretation of constitutional provisions, rules of procedure and conduct of business and in-House legal traditions pronounced through various decisions or Rulings of the Chair.

The Rulings are issued for the purpose of consolidating a consistent and sound legal and procedural edifice for smooth regulation of House proceedings during legislation, debate and matters raised on points of order, motions and questions of privilege, as they occur.

At another level, the Rulings passed by successive Presiding Officers during their respective terms and in response to evolving needs of the House, serve to establish institutional benchmarks and uniformity of directions and decisions as merited and necessitated by different situations, thus forging standard practices for future reference.

As such, periodical consolidation and updating Chair's Rulings in a formalized documented form is an endeavour indispensible to preserving this important institutional memory as an important and reliable guide for all times.

The Senate of Pakistan started functioning on August 06, 1973. Since then, the rulings issued by successive Chairmen / Presiding Officers were compiled time to time but not regularly. The rulings during the periods August 14, 1973 to July 4, 1977; and 21st March 1985 to 20th March 1987 were compiled in two volumes, followed by the third edition covering the period from 1987 to 1997. After that the practice of compilation of rulings was discounted, which can largely be attributed to discontinuation of Senate by the dictatorial regimes.

The present publication is a compendium that condenses all previous rulings of the chair since advent of Senate till date. This publication marks culmination of marathon efforts made by the Senate Secretariat over a course of two years commencing in 2015 under the dynamic leadership and guidance of Honourable Chairman Senate Mian Raza Rabbani.

The latest Rulings covering the period between 2015 and 2017 merit a special mention. With Chairman Mian Raza Rabbani as Chairman Senate, Rulings of the Chair underwent a great transformation becoming more structured and formalized with the advent of a new tradition of clear-cut written instructions, in addition to verbal prounouncement. Apart from being documented, the latest rulings also stand distinguished due to their comprehensive countenance and attention to details. They not only frame issues, but also specify the constitutional stance to be adopted by all.

This publication is an endeavour to have a documented repository of legal and procedural memory, traditions and etiquettes, besides tracing and highlighting the origins, evolution and continuity of directions and decisions by the successive Chairs towards empowerment of both the Upper House and its constituents i.e. the provinces.

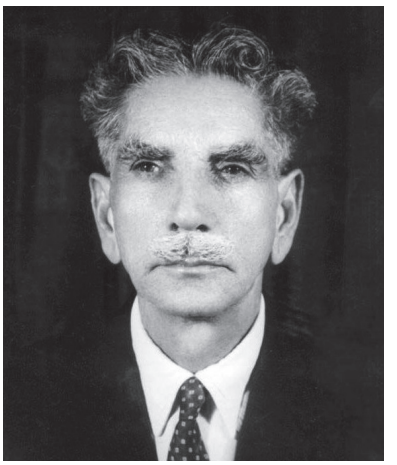
Special attention has been paid towards assiduously gleaning information and details from printed verbatim record of debates and other documents with an emphasis on ensuring factual, contextual and historical authenticity, sentient to the fact that good procedure requires that there be consistency in the interpretation of practice and in the application of given rulings.

In order to facilitate Members and readers in locating any point of reference in any given period, the rulings have been duly enumerated and listed under various house-business related categories and heads.

Besides Senator Mian Raza Rabbani, one individual that merits special mention is Ms. Rabeea Anwar, Joint Secretary (Legislation) who has made it possible not only the compilation of Rulings but has also rendered support in digging out and drafting many.

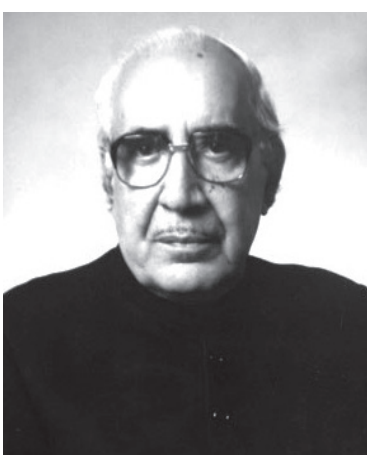
**Amjed Pervez**
Secretary Senate

## Chairmen during this Period



Mr. Habibullah Khan (Late)

06-08-1973 to 04-07-1977



Mr. Ghulam Ishaq Khan (Late)

21-03-1985 to 12-12-1988

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1. *Privilege Motion: Breach of privilege of Senator Khawaja Mohammad Safdar because of his arrest during the Senate session and failure of police to intimate the fact of his arrest and release to the Chairman Senate, as required by rules 64 and 65: motion not raised at the earliest opportunity: but omission on the part of the police to intimate the arrest and release of the member to the Chairman. Senate, held a breach of collective privilege of the House: motion held admissible on this ground:*

**Ruling**

On 1st December, 1973, Senator Khawaja Mohammad Safdar raised a question involving breach of privilege arising out of his arrest and detention for three hours and subsequent release without intimation to the Chairman, Senate.

The Minister for Law and Parliamentary Affairs raised the objection that the motion was hit by rule 59(1) which prevented a member from raising more than one question of privilege at the same sitting. He maintained that the mover had tabled another Privilege Motion as well; the two motions had been taken notice of and circulated by the Chair.

The Chairman observed that the rule did not prevent a member from giving notice of more than one Privilege Motion on the same day, but barred the raising of more than one question of privilege at the same sitting by the same member.

On the Law Minister's proposal that the mover should give a commitment that he would not move the other motion.

The Chairman observed:

> "Whether he commits or not, I would not allow".

The Law Minister argued that the member had neither been arrested nor detained but had only been taken from one place to another in a van and therefore no intimation to the Chairman was necessary. Even if it amounted to arrest or detention, it had not been made within fourteen days before or after the session and did not come within the scope of Section 3 of the Members of the National Assembly (Exemption from Detention and Personal Appearance) Ordinance, 1963. The Minister also objected to the motion under rule 59 as the same had not been raised at the earliest opportunity. The Chairman reserved his ruling on these points to the next sitting.

In the meeting of the Senate on 4th December, 1973, the Chairman announced his ruling as under:

On 1st December, 1973, Khawaja Muhammad Safdar moved a Privilege Motion alleging

that he along with Nawabzada Nasrullah Khan was arrested on 6th September, 1973; by the Superintendent of Police, Lahore, from the office of the Pakistan Democratic Party and taken under custody to the Civil Lines Police Station, Lahore. He was, however, released after about 2-3 hours, while the other person was detained under the Defence of Pakistan Rules. The mover made two points, namely:

i. That the action of the Superintendent Police amounted to breach of his privilege and that of the Senate, in as much as he was detained in contravention of the provision of Section 3 of the Members of the National Assembly (Exemption from Preventive Detention and Personal Appearance) Ordinance, 1963.

ii. That the fact of his arrest and subsequent release was not intimated to the Chairmen of the Senate as required by Rules 64 and 65 of the Rules of Procedure and Conduct of Business in the Senate, 1973. The Minister for Parliamentary Affairs opposing the motion contended that the action of the police in taking Khawaja Mohammad Safdar along with another person in the police van and keeping them for two or three hours, did not amount to arrest or detention and as such, no breach of privilege had been committed. The argument which he advanced was that since the Member had failed to submit his Privilege Motion at the earliest opportunity, as required under sub-rule 2 of Rule 59, the motion was inadmissible.

In reply to the first argument Khawaja Mohammad Safdar contended that the fact of has removal by the Superintendent Police from the office of Pakistan Democratic Party to the Police station, even though it was for two or three hours, came within the definition of arrest and detention under the ordinary law and as such breach of privilege had been committed. With regard to the second argument, his reply was that he learnt of the omission on the part of the police to report his arrest and release only when he had availed himself of the first opportunity to move his Privilege Motion.

Briefly, Khawaja Mohammad Safdar's complaint raises two points: (1) Breach of his privilege because of his arrest during the Senate session and (2) failure of police to report the arrest and release to the Chairman of the Senate as required by the Rules. The action of the police in removing Khawaja Mohammad Safdar from the party office to the police station and in detaining him for about 3 hours amounted to arrest or detention under the ordinary law, cannot be seriously controverted. Restriction placed on the movement of a person against his consent for howsoever short a period, amounted to arrest and, therefore, I have on hesitation in holding that Khawaja Mohammad Safdar was placed under arrest or, for that matter under detention on the 6th September, 1973, when he was removed in police van from the party office to the police station. Next, the right of a member to move a Privilege Motion is governed by the conditions laid down in rule 57 of the Rules of Procedure and Conduct of Business

in the Senate. Sub-rule (2) require in unequivocal terms that the question shall be raised at the earliest opportunity. This condition is mandatory and must be complied with. The Senate session lasted from 4th to 15th September, 1973, but the mover of the motion deliberately did not care to attend the session and lodged his complaint to the House by moving a Privilege Motion. Remedy for the redress of the wrong was open to Khawaja Mohammad Safdar but he knowingly did not avail of it. Since the condition in sub-rule (2) of Rule 59 is indispensable and the mover failed to comply with it, I have no alternative but to rule the motion inadmissible on this ground.

As regards the second point, namely, the omission on the part of the Superintendent Police to report the arrest and release of Khawaja Mohammad Safdar, there can be no manner of doubt that the arresting authority has clearly contravened the mandatory provisions of rules 64 and 65 which, enjoin upon him to immediately intimate the arrest and release of the Member to the Chairman of the Senate. It is not disputed that in this particular case, the Police did not intimate either the arrest or the release of Khawaja Mohammad Safdar to the Chairman of the Senate as required by the Rules. As such, the conduct of the arresting authority, namely, the Superintendent of Police amounted to gross contravention of the mandatory provisions of the Rules of Procedure and, therefore, objectionable. Since thus omission on the part of the police official concerned constitutes a breach of the collective privilege of the House, I hold the motion to be in order on this ground only.

Senate Debates,
1st December, 1973,
P 7—16.
4th December; 1973,
P 47—49.

2. *Privilege Motion: Ruled inadmissible as being late:*

**Ruling**

On 4th December, 1973, a member raised a question of breach of privilege. He contended that his arrest under rule 49 of DPR in August, 1973, his detention in the judicial lock up of Lahore District Jail in a cell meant for condemned prisoners with no ceiling fan and his treatment there as a 'C' class prisoner amounted to breach of his privilege.The Minister for Law and Parliamentary Affairs objected to the motion on the ground that it had not been raised at the earliest opportunity. The alleged incident had taken place in August, 1973 and the motion had been tabled in the month of December, 1973. He contended that the motion was clearly hit by rule 59 (2).

The Chairman noted that the incident was alleged to have taken place in August, but the motion had been brought before the House in December, after about four months

although there had been a Senate Session in September. He ruled out the motion because of the delay in bringing it before the House.

Senate Debates,
4th December, 1973.
P 51—53.

3. *Privilege Motion: Treatment of a Senator as 'b' class prisoner: earliest opportunity not availed of: Senate has no power to intervene: mover failed to show the privilege which was breached:*

**Ruling**

On 11th December, 1973, a member raised a question of breach of privilege involving the arrest of another member in August, 1973, and his treatment as 'B' class prisoner in district jail, Quetta, despite his request to the Provincial Government for being treated as an 'A' class prisoner.

The Minister concerned took objection to the motion on the ground that the member was arrested in August, 1973, and the motion was brought before the House in December, 1973. According to him it had been inordinately delayed, and violated rule 59 (ii) of the Rules of Procedure and Conduct of Business in the Senate, which requires that a question of privilege shall be raised at the earliest opportunity.

The mover stated that his motion was based on the information conveyed to him through a letter received by him the day before. He had drafted the motion and submitted it in the morning with the document which must be available in the Senate Secretariat.

The Minister for Law and Parliamentary Affairs rose on Point of Order and asked the member to specify the privilege that had been breached. The mover stated that the privileges enjoyed by the National Assembly members were admissible to the Senators also. Senators were mentioned at No. 16 of the Warrant of Precedence, their status was higher than that of Major-General and Secretary and other dignitaries and they were treated as VIPs through-out the country.

The Chairman ruled the motion out of order on the grounds that (i) the mover had failed to show that any breach of privilege had been committed; (ii) he did not raise the question at the earliest opportunity; and (iii) it was doubtful whether the Senate had any power to intervene in the matter.

Senate Debates,
11th December, 1973,
P 176—183.

4. *Privilege Motion: Treatment of Senator Mir Mahmood Aziz Kurd as class 'b' prisoner in district jail Quetta: question not raised at the earliest opportunity: Senate unable to intervene in the matter: ruled out of order:*

**Ruling**

On 12th December, 1973, a member sought leave to raise a question of breach of Privilege arising out of the treatment of Senator Mir Mahmood Aziz Kurd detained in District Jail, Quetta, as 'B' class prisoner and refusal of the Government of Baluchistan to accord the Senator the requisite status in jail.

Taking objection to the admissibility of the motion on technical grounds, the concerned Minister stated that the mover had not cited any provision of the Constitution, law or rules under which the Senator enjoyed any privilege which had been violated by the authorities concerned by treating him as a ' B ' class prisoner. Secondly, the mover had failed to raise the question at the earliest opportunity. The member was arrested in August, 1974 but the Question of his breach of privilege was being raised now in the middle of December.

Replying to the objections of the Minister, the mover stated that he got this information through a copy of the letter addressed to the Chairman of the Senate. Accordingly, he tabled the motion the day before yesterday before the commencement of the Senate session. He referred to Decision No. 16 from the Decisions of the Chair— Indian Central Legislative Assembly (1921—1940) which defined the scope of the term 'recent' according to which as soon as a matter is brought to the notice of the honourable member and he wishes discussion thereon, he should have the first available opportunity to bring it before the Assembly. Therefore, he contended, he availed himself of the first available opportunity to bring this matter before the Senate by tabling the motion day before yesterday.

The Chairman remarked that the decision quoted by the mover was about an adjournment motion, and not a, Privilege Motion. He asked the mover to explain how this definition of the term 'recent' would apply to a Privilege Motion.

The mover replied that in his opinion the terms, 'earliest opportunity' and 'recent occurrence' carry the same meaning. Replying to the other objections of the Minister he drew attention of the Chair to a letter issued by the Senate Secretariat on 6th October, 1973, saying that the members of the Senate, its Deputy Chairman and Chairman were entitled to the same privileges and courtesies as were admissible to the members of the National Assembly, its Deputy Speaker and Speaker as laid down in the Members of the Senate (Salaries, Allowances and Privileges) Order, 1973. He also referred to the Warrant of Precedence for Pakistan in support of his contention. According to the Jail Manual also he argued, a Senator while in jail should be given the requisite status in view of his educational qualifications, standard of living, position in his party and his

monthly income being over five hundred rupees. Failure of the jail authorities not to accord VIP treatment to the retinue therefore, tantamounted to the violation of the aforesaid privilege of the Senator.

The Minister rebutting the arguments of the mover observed that his first objection still holds good that the notice of the motion was given very late although it was within the knowledge of the mover that the Senator was arrested and given class 'B' in jail as far back as 17th August, 1974. On this score alone the motion should be ruled out of order. Secondly, the mover did not cite any specific provision of law which specified grant of 'A' class or 'B' class in jail as a privilege of a Senator.

After hearing the arguments, the Chairman observed that the objections raised by the Minister prevailed for three reasons. First, no rule or law or provision of the Constitution had been cited wherein it had been specifically aid down that a member of the Senate must be classified as 'A' class prisoner in Jail. Secondly it was not clear whether a Senator was entitled to the privilege of being granted 'A' class in prison. The relevant executive authority exercises its discretion in determining whether a prisoner should be given 'A' class or 'B' or 'C' class. As such the Senate was not competent to order the executive to grant a particular class to a Senator in prison. Thirdly, the mover did not take the first opportunity to give notice of the motion. The argument that as he did not know of it earlier or he could not bring it to the notice of the House at the earliest opportunity was not tenable. On these grounds, the Chairman ruled the motion out of order with the following observations:

> "I cannot hold it in order. But I must suggest to the Government to consider this question favourably. I will request the honourable Minister to consider this question on humanitarian grounds, keeping in view the status of the House and Senators. I hope and trust that the Minister will give due weight to my suggestion that the Senators should in no case be treated at a level less than that accorded to the other dignitaries."

Senate Debates,
12th December, 1973,
P 214—224.

5. *Privilege Motion: Medical treatment of Mir Mahmood Aziz Kurd: Minister's assurance: mover satisfied: ruled as withdrawn:*

**Ruling**

On 13th December, 1973, a Senator sought to raise the question of the Privilege of Senator Mir Mahmood Aziz Kurd, who was arrested in August, 1973, and lodged in the District Jail, Quetta. The Jail Medical Officer directed that the Senator who was ill

should be sent to the Civil Hospital for proper treatment. The Senator was taken to the Civil Hospital, but was brought back to the District Jail after about two days on the plea of shortage of police guard. There being no permanent doctor in the Jail the doctor visited the Jail once a week, and no proper medical aid was available. The provincial government by refusing Senator Mir Mahmood Aziz Kurd to be sent to hospital for proper treatment had committed a gross breach of privilege of the Senator. The mover appealed to the Minister for Interior that as no medical facilities were available in Jail, he could by way of human sympathy use his good offices and arrange for better medical facilities be fitting a Senator.

The Minister stated that the mover of the motion would be satisfied to know that the Senator had been attended to by the Medical Specialist. He was given 'A' class within three days of his arrest. A full time Medical Officer was on the staff of the Jail. The present state of the Senator's health was satisfactory.

The Mover was satisfied at the Minister's statement and requested to withdraw his motion.

Mr. Chairman ruled:

> "So *the* Privilege Motion is withdrawn in view of the explanation and reply given by the honourable Home Minister".

Senate Debates,
13th December, 1973,
P 230—233

6. *Privilege Motion: Incorrect report about voting in the National Assembly: breach of privilege of the mover's party: ruled out: parties have no privileges: breach of privilege of National Assembly cannot be discussed in the Senate:*

**Ruling**

On the 25th April, 1974, a Senator sought to raise discussion on a question of breach of privilege of his party — Jamiat-ul-Ulema-e- Islam and submitted that incorrect reporting had been done about the National Assembly in the Nawa-i-Waqt editorial of 25th March, 1974, wherein it was stated that thirteen members of the Assembly did not take part in the voting and from the Opposition in the National Assembly, the National Awami Party, Jamiat-e-Ulema-e-Islam (Mufti Group) and Sirdar Shaukat Hyat Khan also voted in favour of the Bill. This misreporting, the Senator complained, had impaired the position of his party.

The Chairman referred to rule 57 of the Rules of Procedure and Conduct of Business

in the Senate, 1973, and observed that if the privilege of a member or of the Senate or of a Committee was violated the question could be raised, but there was no provision in the rules for raising the question of breach of privilege of a party.

The Minister for Law and Parliamentary Affairs opposed the motion and asked as to how a breach of privilege, alleged to have occurred in the National Assembly, could be made the subject matter of a Privilege Motion in the Senate.

After some discussion, the Chairman ruled the motion out of order with the following observation:

> "I have already said that a question involving a breach of privilege of a Member of the Senate or a Committee thereof, may be raised. He can say that Nawa-i-Waqt has committed a breach of his privilege or whatever has been done. 1 cannot, however express my opinion on the privilege of the Members of the National Assembly, because that is the concern of the National Assembly. Therefore, I very reluctantly rule this Privilege Motion out of order".

Senate Debates,
25th April, 1974,
P 695—696.

7. *Privilege Motions: Motion not to have precedence over questions:*

**Ruling**

On 25th July, 1974, when the Chairman, called for questions, a member rose to seek permission of the Chairman for raising a question of privilege first. The Chairman asked the Senator if he wanted it to be taken up even before the questions. The member replied in the affirmative and in support of his standpoint referred to rule 61 which read:

> "A question of privilege shall have precedence over adjournment motions".

The Chairman observed that he had not taken up adjournment motions. But, of course, he would give it precedence over adjournment motions.

Senate Debates,
25th July, 1974,
P 1-2.

8. *Privilege Motion: Force used against Mr. J. A. Rahim: ruled as deferred until the Minister is present:*

**Ruling**

On 25th July, 1974. a member sought leave to raise a question involving breach of privilege of a Senator as well us of the Senate as Senator J. A. Rahim the then senior Minister, according to a press report, received blows from the rifle butts of the Federal Security Force men, who had forcibly entered Senator J. A. Rahim's residence in Islamabad in the early hours of Wednesday, the 3rd July, 1974 morning. The Senator, bruised and bleeding was taken to the Islamabad Police Station and was later on removed to the VIP Ward of the CMH, Rawalpindi. This atrocious attack on the person of the Senator, who had been physically disabled by the FSF to attend the Senate sitting on that day was a flagrant breach of the privilege of the Senator as well as of the Senate.

The Minister Without Portfolio, stated that the Privilege Motion was addressed to the Interior Division. The Interior Minister happened to be out of town, and he had to convey a request on his behalf that the matter be deferred until his return.

The Chairman ruled:

> "This stands deferred until the Interior Minister himself is present in the House".

Senate Debates,
25th July, 1974,
P 9.

9. *Privilege Motion: Delay in proceeding with the case against Senator Mir Mahmood Aziz Kurd: Minister concerned not present: deferred:*

**Ruling**

On 29th July, 1974, a member sought leave to raise a question of breach of privilege as Senator Mir Mahmood Aziz Kurd was neither being proceeded against nor released since 17th May, 1974 when his case was remanded by the Member, Board of Revenue Baluchistan, to the Deputy Commissioner, Kalat. The Privilege Motion alleged that the detention of the Senator since 17th May, 1974, was malafide, with the sole object of preventing him from attending the Senate session, and thus the privilege of a Senator as well as that of the Senate was being infringed.

The Minister Without Portfolio, stated that the Interior Minister would be the proper member of the Government to reply to such a Privilege Motion, and suggested that if

more detailed information was required, then it could be deferred However, raised a preliminary objection that all matters which were sub-judice could not be agitated in the Senate. The very contents of the Privilege Motion indicated that the matter was sub-judice. If a case was referred by one judicial authority to a lower judicial authority, then the proceedings were before the judicial authority and that authority should be moved and the proper forum was the court, itself.

The mover differing with the Minister claimed that his Privilege Motion complied with all the conditions of admissibility land down in rule 59. The condition which the Minister had sad was being attracted was not there in the rules. That condition was laid down in the rules in respect of adjournment motions. Therefore, in the opinion of the mover that objection was without any substance. He, however, stated that he had no objection to the request made to the Chair by the Minister that the Privilege Motion be adjourned till the Home Minister arrived from tour, but if the Minister insisted on his objection, then he could elaborate his reply.

The Minister maintained that his objection was covered by item (iii) of rule 59; yet he requested that the motion be deferred so that the Interior Division also had time to study it.

To the Chairman's objection that the latter part of condition no. (ii) of 59 was not satisfied as the Senator did not bring the motion at the earliest opportunity, the mover took the plea that be never knew anything about that case and that it was only day before yesterday when the son of the detained Senator came over there, met him and gave all those papers and information. When he received the information, he availed of the first opportunity to move the Privilege Motion before the August House.

The Chairman was, however, of opinion that he saw no way to overcome the difficulty that the earliest possible opportunity available could not be availed of for, if a man slept over such a matter, what could be done? The case was pending since 17th May, and according to them his detention was malafide, illegal and unlawful.

Senator M. Zahural Haq sought permission to state that the interpretation of earliest opportunity in rule 59 sub-rule (ii), as put by the Chair, was not correct in the context of thecase. The detention was alleged to be malafide and it was a continuing wrong. If the interpretation adopted was accepted, then a continuing wrong starting from 17th of May, if it had not been raised in the Senate, would be clothed with legality or with impunity from the House. That should not be the interpretation as could be held with regard to those incidents which had become a closed chapter and had not been raised at the earliest opportunity, but if a particular incident was continuing, then the interpretation would not be correct.

Mr. Chairman, however, did not appear to be convinced as that analogy would not apply to the case that if something was a continuing wrong, a mover could come to

the House to raise the question at any time convenient to him. It was not without significance that the condition was put to the rules that it should be raised at the earliest opportunity. Anyhow, on the agreed suggestion from both sides, the Chairman ruled:

> "The Privilege Motion stands deferred and will be taken up when the Interior Minister is present in the House".

Senate Debates,
29th July, 1974,
P96—100.

10. *Privilege Motion: Failure of the district magistrate, Quetta, to inform Chairman about a members' release on bail: referred to standing committee:*

**Ruling**

On 30th July, 1974, a member sought to raise a question of breach of privilege of the Senate as the DM, Quetta, had failed to comply with rule 65 of the Rules of Procedure and Conduct of Business in the Senate, 1973. He alleged that he was released on bail on 19th June, 1974, but no information to that effect had been sent to the Chairman of the Senate in the appropriate form set out in the Second Schedule appended to the Rules.

Rao Abdus Sattar, Leader of the House, stated that an inquiry would be held and if it was found out that no information was sent to the Chairman, appropriate action would be taken in the matter. Another Member proposed that the matter could be referred to the Standing Committee.

The Chairman observed that in his opinion the proper course to adopt would be to refer this Privilege Motion to the Standing Committee on Rules of Procedure and Privileges. A member was arrested and later on released on bail but the Deputy Commissioner and District Magistrate in violation of rule 65 of the Rules of Procedure did not send any intimation to the Chairman of the Senate. So, it was for the Standing Committee to probe into the matter.

After taking the sense of the House the Chairman ruled:

> "This Privilege Motion is referred to the Standing Committee in Rules of Procedure and Privileges".

Senate Debates,
30th July, 1974,
P 118-119.

11. *Privilege Motion: Delay in decision of case against a Senator: matter sub-judice: held inadmissible:*

On the 6th August, 1974, Khawaja Mohammad Safdar raised a question of breach of privilege of a member as well as of the Senate alleging that Senator Mir Mahmood Aziz Kurd, was neither being released nor proceeded against since 17th May, 1974. He further alleged that the detention of the member was mala fide with a view to preventing him from attending the session of the Senate.

The motion was opposed by the Minister for Interior on the grounds that the member was arrested by the Provincial Government and not the Federal Government and the Senate could not, therefore, intervene in the matter. Secondly, the admission of the motion for discussion would prejudice the trial of the member by the court for which 16th August, 1974, had been fixed by the Court. The Minister observed that the allegation that the detention of the member was malafide with the sole object of preventing him from attending the session of the Senate was incorrect. The mover reiterated his contention that an inordinate delay in disposal of the case by the Deputy Commissioner, Kalat, was intended to keep the member under detention for an indefinite period. The Minister for the Interior again rebutting the charge remarked that the Senator himself did not apply for bail.

Thereupon the Chairman observed that one of the conditions of admissibility in the case of a Privilege Motion, as laid down in rule 59 (iii) of the Senate Rules, was that the matter should be such as required the intervention of the Senate. The case was pending trial in a court of law. The Senate was, therefore, unable to intervene in it. The motion was ruled out of order.

Senate Debates,
6th August, 1974,
P220—223.

12. *Privilege Motion: Suppression of Facts by The Interior Minister Regarding Firing in Quetta On 23rd July, 1974: No Contrary Proof Furnished: Ruled Out:*

**Ruling**

On 29th August, 1974, a member sought to move a Privilege Motion on the plea that on 6th August, 1974, the Minister for Interior during the course of discussion on the admissibility of an adjournment motion in the Senate had denied that any firing took place in Quetta city on the night of 23rd July, 1974, On the contrary, the same day Mr. Ghaus Bakhsh Raisani, senior Minister, had made a statement in the Provincial Assembly of Baluchistan admitting the fact of firing in Quetta on the night of 23rd July, 1974. Thus the Ministerfor Interior had committed a breach of privilege of the Senate by suppressing the facts of the case.

The motion was opposed by the members from the treasury benches on the grounds firstly, that the mover did not avail of the earliest opportunity tomovethe motion. Secondly, Mr, Raisani did not say that there was continuous firing in the city on the night of 23rd July, 1974, as reported in the daily Newa-e-Waqt of 8th August, 1974. It was contended that what Mr. Raisani said was that there was some firing from Pushtoonabad which was not within the municipal limits of Quetta. The Chairman asked the mover to prove whether Mr. Raisani had made any statement to that effect. The mover read out a portion of the proceedings of the Baluchistan Assembly in which Mr. Raisani had said that there was firing in Pushtoonabad killing one boy and injuring another person. After hearing the relevant proceedings of the Baluchistan Assembly the Chairman observe that Mr. Raisani did not say that there was firing in Quetta city on the 23rd July, 1974.

Another member drawing attention of the Chair to Decision No. 16, Decisions of the Chair, (1921—1940), said that the term earliest opportunity meant that as soon as a matter of this kind was brought to the notice of the member, he should at the first available opportunity bring it before the Assembly. In this case the member raised the question as soon, as he came to know of it. The Chairman disagreeing with the view of the member observed that the ruling quoted by him related to an adjournment motion and dealt with the scope of the term "recent" as one of the conditions of admissibility of an adjournment motion. It was not applicable to a Privilege Motion. The term "receipt" is related to occurrence whereas the term "earliest" is with regard to the moving of the motion. The Chairman ruled out the motion on the ground that it had not been established that Mr. Raisani had made any statement to the effect that firing had taken place (in Quetta City) on the night of the 23rd July 1974.

Ruling on the scope of the term "recent" was deferred to some other occasion.

Senate Debates,
29th August, 1974,
P 696—708.

13. *Privilege Motion: House search of a Senator without warrants: allegations denied by the Minister: ruled out:*

**Ruling**

On 18th November, 1974, a member raised a question of the breach of privilege of Senator Mir Abdul Wahid Kurd contending that on the morning of 25th October, 1974, his residence was raided and searched by a Police party without any search warrants. It was further alleged that the police took away 40 pairs of Shalwar and Qameezfrom, his House.

The motion was, however, deferred for consideration on 29th November, 1974.

In the meeting of the Senate on the 29th November, 1974, the Minister of State for Parliamentary Affairs categorically denying the allegations made in the motion stated that the search of the Senators's House was conducted under a case FIR No. 159/74 under Sections 3, 4 and 5 of the Explosive Substances Act 1908, and under Section 427 of the Pakistan Penal Code. Warrants of search were issued by the Assistant Commissioner under Section 96 of the Criminal Procedure Code and were shown to the Senator in the presence of witnesses and a Magistrate. The Assistant Commissioner, Quetta, had accompanied the police raiding party to ensure proper execution of warrants in view of the status of the Senator. The Minister added that in addition to this, the Senator being involved in three other criminal cases was at that time lodged in district jail, Quetta, under judicial lock-up as an 'A' class detainee. As for the 40 pairs of Qimeez and Shalwar, these were in the custody of the police who were investigating whether these clothes were being supplied clandestinely to the NAP workers or the Marri suspects for use in unlawful activities.

After hearing arguments from both sides of the House the Chairman observed that the Senators enjoyed no such privilege under which a Senator was exempt from House search or arrest if involved in a criminal case. He, therefore, ruled the motion out of order in view of the categorical denial of the allegations made in the motion by the Minister concerned.

Senate Debates,
29th November, 1974,
P 261—267.

14. *Privilege Motion: Refusal of SP Quetta to receive certain Senators: allegation categorically denied by the Minister: held inadmissible:*

**Ruling**

On 23rd November, 1974, a member raised a question of breach of privilege of the Senators alleging that they rang up the Superintendent of Police, Quetta, to inform him that the Leader of Opposition in the Senate and two other Senators wanted to see him. In reply the Sento to the SP told the Senators that the SP had refused to receive the Senators.

The Minister of State for Law and Parliamentary Affairs opposing the motion categorically denied the allegation and said that the Superintendent of Police, Quetta, did not refuse to receive the Senators. Even the Sento to the Superintendent of Police, Quetta, said nothing discourteous to the Senators. The mover then remarked that if the Superintendent of Police himself, instead of his Sento, had said that he was unable to see the Senators due to his preoccupation with official business, it would not have

been a discourtesy. The Minister of State for Defence and Foreign Affairs intervening in the discussion pointed out that this was a matter of common practice that if the officer himself is busy, he asks his Private Secretary or Personal Assistant to regret his inability to see the members and other visitors.

A member took objection to discussion of facts during the course of debate on admissibility of the motion. The Chairman replying to the member observed that one had to know the facts in order to hold a motion admissible or otherwise.

After hearing discussion on various aspects of admissibility of the motion, the Chairman observed that he was not satisfied that the Superintendent of Police had refused to receive the deputation of the Senators. In view of the denial by the Minister of State for Parliamentary Affairs that the SP had refused to receive the deputation and in view of the admission by Mr. Zamarrud Hussain, the mover, who said that the SP had told him that he was very busy at that time and could not see the Senators, the Chairman held the motion inadmissible.

Senate Debates,
23rd November, 1974,
P 105—114.

15. *Privilege Motion: Treatment meted out by police to Senator Abdul Wahid Kurd, while in police lock-up in Quetta: held in order and referred to the Committee on rules of procedure and privileges:*

**Ruling**

On 18th December, 1974, a member raised the question of the breach of privilege of Senator Abdul Wahid Kurd and contended that he was kept for eighteen days in the Cantonment Police Station, Quetta, in below freezing point temperature without a charpai and heating facilities. He further alleged that the Senator was tortured with instrument in the torture cell, with a black pattee covering his eyes.

The Minister of State for Parliamentary Affairs categorically denied the allegations made in the motion but asked for time to consult the member concerned and call for a report from the Provincial Government.

The Chairman suggested that under the circumstances the best course for the House would be to let this Privilege Motion go to the Standing Committee on the Rules of Procedure and Privileges. The House agreed to this suggestion and referred the motion to the Committee concerned.

Senate Debates,
18th December, 1974,
P 502—504.

16. *Privileges motion: Entry of police in Senator Kamran khan's House: Senator not prevented from performing his duties: no Brach of privilege involved: ruled out:*

**Ruling**

On 27th January, 1975, a member raised a question of breach of privilege contending that a police party headed by a DSP entered his House at Mingora, Swat, on 21st January, 1975 for carrying out a search. The son of the member insisted seeing the search warrant before allowing the police to enter his House. As the police officer failed to show the warrant, the police party had to leave. The mover added that was being done to harass the members of the Opposition on account of which he was not in a position to discharge his duties as a member of the Senate with a peaceful mind. He reiterated that the entry of police into his House without a warrant was a breach of his privilege not only as a member of the Senate but also as a citizen of the country. In this context he also referred to Clause (1) Article 14 of the Constitution.

The Minister for Interior opposing the admissibility of the motion observed that the Privilege Motion was self-contradictory as it was said that on the failure of the police officer to show a search warrant the police party had to leave which showed that nothing had actually happened. Moreover, as the Senator was not present in the House, the question of breach of privilege did not arise. He added that as the police was a provincial responsibility, the Senate was not the proper forum where this matter could be agitated.

The Minister of State for Law and Parliamentary Affairs remarked that the motion was self-contradictory. As the privilege of the member had not been violated, the motion was not admissible, he added.

Supporting the mover, another member observed that when the question of breach of privilege of a member came up for consideration, it should not be opposed merely on technical grounds. Rather it should be viewed from the point of view of breach of privilege of a member of the Senate irrespective of his individual personality or party affiliation. He suggested that in order to avoid the recurrence, such cases should be referred to the Committee on Rules of Procedure and Privileges for consideration and report.

After some discussion the Chairman observed that proceedings of the Senate were governed by its Rules of Procedure and under the rules a question of breach of privilege could only arise if a Senator was obstructed in the performance of his duties as a member of the Senate. Since no such breach of privilege or obstruction in the performance of his duties as a member was pin-pointed, the motion was ruled out of order.

Senate Debates,
27th January, 1975,
P 126—131.

17. *Privilege Motion: Ban imposed by Sindh Government on visit of Senators and other Dignitaries to Luari Sharif: no such privilege exists: mover did not avail of the earliest opportunity. Ruled out:*

**Ruling**

On 27thJanuary, 1975, Mr. J. A. Rahim raised a question of breach of his privilege as well as the privilege of all Senators from Sindh contending that in a circular letter dated 23rd December, 1974, the Acting Chief Minister of Sindh under the orders of the Prime Minister had directed that no Senator shall visit Luari Sharif during any religious ceremony or on an occasion like an URS. He alleged that this order was a clear breach of the privilege of all Senators from Sindh.

The motion was opposed by the Minister for Law and Parliamentary Affairs on the grounds that no such privilege as referred to in the motion was available to Members of Parliament under the Constitution and that the member did not raise the question at the earliest opportunity. The circular was issued on 23rd December, 1974, and the House met on 16th January, 1975 but notice of the motion was received on 21st January, 1975.

The mover contended that the date given on the circular did not prove that he had received the circular on the same date. He said that there was no inordinate delay on his part.

After some discussion, the Acting Chairman observed that going to Luari Sharif was not a privilege available to Members of Parliament under the Constitution. Also, he added, the member did not avail of the earliest possible opportunity to move the motion. The motion was, therefore, ruled out of order.

Senate Debates,
27th January, 1975,
P 112—122.

18. *Privilege Motion: Failure of Federal Government to lay in time before the Senate recommendations of national finance commission and explanatory memorandum under Article 160 (5) of the constitution: mover did not avail of the earliest possible opportunity: ruled out:*

**Ruling**

On 12th November, 1975, a member gave notice of a Privilege Motion alleging that the failure of the Federal Government to put the recommendations of the National Finance Commission before the Senate with regard to the distribution of revenues between the Federation and the Provinces under Article 160 (5) of the. Constitution

amounted to the breach of privilege of the Senate.

The Minister of State for Parliamentary Affairs opposed the motion and referring to Article 160 (5) of the Constitution stated that the Report of the National Finance Commission together with an explanatory memorandum was included in the order of the day of that day. It was, therefore, evident that no time was lost in laying before the House the recommendations of the Commission. It was not practically possible to present the report in the last session of the Senate as some action had to be taken and the document had to be printed which was a time-consuming process, he added.

The mover suggested that the motion may be referred to the Committee on Rules of Procedure and Privileges. The Committee would look into the causes of delay due to the printing or any other reason.

The Chairman asked the mover to state his grievance clearly as the recommendations of the Commission had already been laid before the House and the Government had not failed to lay the paper before the House as Clause (5) of Article 160 did not specify the time during which such recommendations were required to be laid before both Houses. If that were the intention, the time limit would have been specified as had been done in Clause (4) of Article 160 of the Constitution which reads,

> "As soon as may be after receiving the recommendations of the National Finance Commission, the President shall by Order specify".

But the expression 'As soon as may be' had not been used in Clause (5) of the Article.

The mover replying to the query of the Chairman said that in the absence of any time limit prescribed in the Constitution, the Government should prepare this document in a judicially reasonable time. After some discussion the Chairman deferred consideration of the motion till the next day at the request of the Minister of State for Parliamentary Affairs. On 13th November, 1975, discussion on the admissibility was resumed.

The Minister for Finance, Planning and Economic Affairs opposing the motion observed that Article 160 (5) of the Constitution provided that the report of the Commission should be laid before the two Houses of Parliament. This provision of the Constitution had been complied with. The Constitution did not specify the time during which the report was required to be laid before the two Houses of Parliament. Secondly, he remarked, the decisions taken by the Government on the recommendations of the National Finance Commission were mentioned in the last budget speech of the Finance Minister in the National Assembly and these were discussed in detail on the floor of the Assembly during that session. Since these decisions had been made public, there was no bar to these being discussed by the members of the Senate. Therefore, he argued, no breach of privilege of the Senate or its members was involved.

The Chairman observed that the Senate had a right to discuss a document when it was laid on the table of the House.

The mover disagreeing with the view of the Minister for Finance said that where no time limit was prescribed, a reasonable time limit should be fixed. He added that when the decisions were mentioned in the last budget speech, these should have been laid before the Senate in July or even in August when the sessions of the Senate were held. According to him this breach of privilege was committed in July and August last.

The Minister of State for Parliamentary Affairs asked the mover why he did not table this motion in July last. The mover replied that it was a case of continuous offence, and was, therefore, of recent" occurrence and the condition of taking up this matter at the 'earliest opportunity' was not attracted here. The Chairman disagreeing with the view of the mover remarked that the question of the earliest opportunity was material and the 'opportunity' was net continuous. He announced his written ruling:

Khawaja Mohammad Safdar has given notice of the following motion:

> "The National Finance Commission has sent its recommendations with regard to the distribution of Revenues between the Federation and the Provinces long time ago, and the Federal Government was bound under Article 160 (5) of the Constitution to lay those recommendations together with an explanatory memorandum as to the action taken thereon before the Senate. The Federal Government has failed to discharge its constitutional obligation, and the Senate has been denied its right and privilege to bring the recommendations of the National Finance Commission as well as the action taken by the Federal Government thereon under discussion. This has lowered the prestige of the Senate and the privileges of this August House have been badly violated."

The subject-matter of the motion concerns the Federal Government under Article 160 (5) of the Constitution, and the recommendations were to be laid before the Senate under rule 135 of the Rules of Procedure and Conduct of Business in the Senate, 1973. According to sub-rule (ii) of rule 59 of the Rules of Procedure, the question of breach of privilege shall be raised at the earliest opportunity. In this case, as the motion reads, the recommendations of the National Finance Commission were sent to the Federal Government long ago.

In view of the circumstances explained above, I need not go into the details, so far as the merits of the case are concerned, and I rule the Privilege Motion out of order only on this ground that the earliest opportunity was not availed of by Khawaja Mohammad Safdar".

Senate Debates,
12th November, 1975,
P 11—30.
13th November, 1975,
P 97—108.

19. *Privilege Motion: Obstruction at the gate by the police when the member was entering the premises of the Senate: motion adopted and referred to the Committee on rules of procedure and privileges:*

**Ruling**

On 13th February, 1975, Senator Ch. Mohammad Aslam raised a question of breach of his privilege contending that when he was coming to attend the session of the Senate that day at 10.00, A.m. he was stopped at the gate of the premises of the Senate by the police guard on duty. He revealed his identity but the Head Constable and ASI misbehaved with him. However, on the intervention of somebody from the Watch and Ward Staff, he was allowed to come in.

The Minister for Law and Parliamentary Affairs stated that the obstruction of the member was positively a breach of his privilege as a member as he was stopped from coming to attend the session of the Senate. He suggested that the motion might be referred to the Committee on Rules of Procedure and Privileges. Another member subscribed to the view of the Minister for Law and Parliamentary Affairs.

After some discussion the Chairman held the motion to be in order. The House on a motion by the mover referred it to the Committee on Rules of Procedure and Privileges.

Senate Debates,
13th February, 1975,
P 618—626.

20. *Privilege Motion: Alleged arrest and detention of Senator Maulana Shah Ahmad Noorani by Karachi Police: question not raised at the earliest opportunity: ruled out:*

**Ruling**

On 3rd March, 1976, Maulana Shah Ahmad Noorani raided a question of breach of his privilege alleging that on 19th December, 1975, he was arrested and detained for about two hours from 4 Pm. to 6 Pm. in the Soldier Bazar Police Station, Karachi and the Police officials concerned did not comply with the provisions of Rules 64 and 65 of the Senate Rules.

The Minister for Law and Parliamentary Affairs opposing the motion denied the allegation stated in the motion. He added that arrest could be effected only on a criminal charge or on some similar allegation, and he had not committed any such crime which warranted his arrest.

The member reiterating the allegation said that he was arrested without warrant by the police in broad day light on Bunder Road (Karachi). The police did not intimate the fact of his arrest to the Chairman as required by rule 64 of the Senate Rules.

The Chairman observed that according to his own statement the member was arrested on 19th December, 1975 while the Senate was in session up to 24th December, 1975. He added that as required by rule 59 (ii) the question of privilege was not raised at the earliest opportunity. The motion was, therefore, ruled out of order.

Senate Debates,
3rd March, 1976,
P 143—147.

21. *Privilege Motion: Continued harassment of the mover by police, cid and intelligence personnel inside the government hostel, Islamabad: held in order: referred to the Committee on rule of procedure and privileges:*

**Ruling**

On 4th March, 1976, Maulana Shah Ahmad Noorani Siddiqui sought to move a Privilege Motion against his continued harassment by the Police, CID and Intelligence personnel inside the Government Hostel. Explaining his motion, the member said that he and other Senators staying in the Government Hostel could not attend to their duties as the Senator had no peace of mind in the presence of the CID and Intelligence staff at the Reception of the Hostel and their knocking at the doors of Senators' rooms and enquiries about their movements.

The Minister for Law and Parliamentary Affairs denied the allegation that the Intelligence and CID men were present inside the Hostel and were harassing the member either by knocking at his door or by making fictitious calls. On an enquiry by the Chairman, the member stated that the alleged harassment related to his stay in the Hostel during the current session and during February when he had come to Islamabad in connection with meetings of a Standing Committee. The Minister for Finance argued that the allegations were not specific in as such as they did not name the official or the particular harassment caused by him to the Senator. He also contended thatthe motion related to a matter in which the Senate could not intervene.

Another member said that as admitted by the Law Minister himself, his denial of the allegations was based on the reports of the concerned agencies received by him. On the other hand, he added, a number of Senators from the Opposition had stated that harassment of members staying in the Hostel was going on and no member from the other side had contradicted these statements. The Chairman reserved his ruling. On March 16, the leader of the House moved that the motion be referred to the Committee

on Rules of Procedure and Privileges.

The Chairman consequently put the motion to the House which was carried. As he allowed the motion to be moved the motion is deemed to have been admitted under the rules.

Senate Debates,
4th March, 1976,
P220—235.
16th March, 1976.
P 391.

22. *Privilege Motion: Delay in reply to mover's letter by officials of the ministry of foreign affairs: ruled out of order on the ground that the mover had not shown that he had a Parliamentary privilege to go abroad as a right:*

**Ruling**

On 5th March, 1976, Maulana Shah Ahmad Nourani Siddiqui moved a Privilege Motion involving breach of his privilege as a member due to the: delay in replying to his letter dated 22nd January, 1976, written to the Ministry of Foreign Affairs seeking permission to go to Libya to attend an International seminar.

The Minister for Law and Parliamentary Affairs opposed the motion. The Chairman asked the mover to explain whether it was his privilege as a member to go abroad, whether it was his privilege as a member to have a reply at the earliest from the Foreign Office and whether delay in reply by the Foreign Office involved breach of his privilege as a member. The mover replied that as a member of Parliament it was his privilege to have a reply from the Foreign Office at the earliest so that he could know the foreign policy being pursued by the Government.

The Minister for Interior while explaining the Government policy said that if an invitation was extended by a foreign Government to a Pakistani national, it should be routed through the Government of Pakistan. And if it was not so done, then a person could not ask for permission as a matter of right.

The Chairman ruled the Privilege Motion out of order on the ground that it had not been shown by the mover that it was his Parliamentary privilege to go abroad and that the Foreign Office was not empowered to refuse the passport or permission to him.

Senate Debates,
5th March, 1976,
P 273—280.

23. *Privilege Motion: Continuation of Martial Law after revival of representative institutions like the National Assembly and the Senate: Not pressed after assurance by the Prime Minister.*

**Ruling**

On the 6th of July, 1985, Senator Qazi Hussain Ahmed, sought to raise a question involving breach of privilege arising out of the continuation of Martial Law after the revival of Representative Institutions e.g. the National Assembly and the Senate, and urged that the Martial Law be immediately lifted so that the object of the creation of Pakistan based on the Objectives Resolution be achieved and a political system in accordance with the tenets of Islam as laid down in the Holy Quran and Sunnah and the supremacy of Sharia be established. The Prime Minister intervening in the Debate assured the House that Martial Law would be lifted after receipt of the Reports of the two Special Committees of the Senate and the National Assembly on the future political structure and the revival of political parties in the country, and after taking such other steps as may be necessary in the light of these reports. A resolution will then be tabled for the lifting of Martial Law and he would himself initiate the move that Martial Law be lifted. Upon the assurance of the Prime Minister the motion was not pressed.

Senate Debate,
6th July, 1985
P 11-24.

24. *Privilege Motion: Taping of telephone of the member and censor¬ing his mail: The allegation denied by the Minister: No Privilege involved and as such no breach occurred: Only such breaches of privilege are actionable as are recognised by law: If an officer has committed any wrong in unauthorisedly taping the telephone, be is otherwise liable to disciplinary action under the Service Rules but it does not involve breach of privilege of the Member.*

**Ruling**

On 6th July, 1985, Senator Maulana Kausar Niazi sought to raise a question of breach of his privilege alleging therein that his telephone was being taped and his mail censored. The Interior Minister opposing the motion denied the alleged facts. He informed the House that he had made an inquiry and found that neither was the Member's mail being censored nor his telephone being taped. He offered to make further inquiries if the Member gave proof that the information received from the Department denying the allegation of taping or censoring was incorrect. In that case, he assured the Member

that he would bring the Department or the officer concerned to book.

The Chairman, Mr. Ghulam Ishaq Khan, ruled that no right of privilege in such matters was available to members under any law. No breach of privilege was, therefore, involved. If an officer had done any wrong or acted in an unauthorised manner he was liable to disciplinary action under the Service Rules. Accordingly, he held the motion to be out o. order.

Senate Debates,
6th July, 1985.
P 25—28.
7th July, 1985.
P 127—129

25. *Privilege Motion: An adjournment motion on the situation arising out of the alleged halt to the Process of Islamization ruled by the Chairman out of order in Chamber on the ground that the matter sought to be discussed was a continuing process: The Decision was sought to be called in question through a Privilege Motion alleging that the Chairman's decision in Chamber was contrary to established parlia¬mentary practices and conventions which required that the mover be afforded an opportunity to read oat his motion in the House before the Chairman holds the same as inadmissible on any ground: This according to the mover had caused breach of the Privilege of the House: Privilege Motion held inadmissible as the Chair's decision could neither be discussed nor debated in the House nor could the Chair's decision conceivably cause a breach of any privilege whatsoever much less of that of the House.*

**Ruling**

On 7th July, 1985, Senator Maulana Sami-ul-Haq invited the Chairman's attention to his adjournment motion on the alleged stoppage of the process of Islamization in the country and questioned the Chairman's power to disallow that adjournment motion in Chamber. He contended that according to the established Parliamentary conventions and practices the Chairman should have allowed him to move the motion in the House and disallowed the same on the ground of admissibility after hearing him. The Chairman was, according to him, expected to maintain what he called long standing Parliamentary tradition. The mover also contended that the dismissal of the adjournment motion in Chamber, had infringed the privilege of the whole House. No precedence of any past practice was cited in support of the above arguments.

The Chairman, Mr. Ghulam Ishaq Khan, observed that the proceed¬ings of the House were regulated by the Rules of Procedure and Conduct of Business in the Senate, 1973.

The Chairman alone had the power to determine the admissibility of otherwise of an adjournment motion under the relevant rules. He was equally competent to disallow a motion either in the House or in his Chamber and his decision in the matter could not be challenged or debated in the House. In practice, he had been in most cases, allowing members to read out their adjournment motions in the House and satisfy him on their admissibility before ruling them out on any ground. But there were also exceptions to this practice. Notices were reoeived, on occasions, of motions which were patently inadmissible and such motions had to be disallowed in the Chamber in order to save the time of the House. Distinguishing an adjournment motion from a Privilege Motion in the matter of procedure, the Chairman observed that while under the Rules there was no bar to disallowing a question of privilege or a motion of adjournment in the Chamber, in practice, because of the precedence which a question of privilege has over adjournment motions he had almost invariably allowed the question of breach of privilege to be raised in the House itself before determining its admissibility.

As regards the question of breach of privilege sought to be raised by the member, the Chairman drew the attention of the members to a ruling of the National Assembly to the following effect:

> "The particular resolution which was given notice by Mukhles- uz-Zaman has been disallowed by the honourable Speaker. Now, the Privilege Motion is sought to be moved against his decision. I think, I am not competent to hold that this decision on that particular resolution is open to any objection. No specific rule has been quoted to me about the infringement of any privilege. There¬fore, I rule it out of order."

Relying on the above ruling the Chairman ruled the Privilege Motion to be out of order. The Chairman observed that the honourable Member had quoted no rule, precedence or practice to show that any privilege had been infringed. On the other hand, Parliamentary traditions universally are that the decisions of the Chair, bonafide given whether in the House or in the Chamber are not open to question or discussion in the House and such decision cannot conceivably cause a breach of any privilege whatsoever, much less of that of the House.

Senate Debate,
7th July, 1985
P 129—135.

26. *Privilege Motion: On the appointment of Governors in the pro¬vinces of their domicile, contrary to the provisions of Article 101(2) of the Constitution: Article 101 not revived in its original form by the Constitution Revival Order 1985: Hence no violation of the Constitution and no breach of any privilege occurred.*

**Ruling**

On 8th July, 1985, Senator Maulana Kausar Niazi sought to raise a question of breach of privilege arising out of the appointments of certain Governors in the Province of their domicile, contrary to the provision of Article 101(2) of the Constitution. This according to the mover not only resulted in a Constitutional violation but also amounted to infringement of the privilege of the House. Opposing the motion, the Justice Minister drew the attention of the House to the Constitution Revival Order, 1985, under which the proviso to Article 101(2) had not been revived. Therefore, according to him there was neither any violation of the Constitution nor the breach of any privilege involved. The Chairman, Mr. Ghulam Ishaq Khan, held the motion out of order, stating that as Article 101 had not been revived in its original form and the proviso to its sub-Article (2) (which placed restrictions on the appointment of Governors to their home provinces) had been omitted, there could be no question of its violation and no breach of any privilege.

Senate Debate,
8th July, 1985,
P 239—242.

27. *Privilege Motion: Telecasting of Prime Minister's speech on the floor of the House not covering the context in which the speech was made, nor indicating even the background of the speech and not mentioning the Privilege Motion in reply to which the speech was made: Criticising PTV policy as allegedly aiming at projection of one personality and blacking out the proceedings of the Senate thus giving rise to a breach of privilege of the House: Allegation denied: Motion ruled out as no breach of any privilege occurred.*

**Ruling**

On 8th July, 1985 Senator Qazi Hussain Ahmed sought leave to raise a question of breach of privilege arising out of the policy of the PTV to give no or inadequate coverage to the proceedings of the Senate. He particularly based his motion on the telecasting of the speech of the Prime Minister made on the floor of the House on the preceding day while responding to the Privilege Motion of the Senator about the lifting of the Martial Law. The PTV, he contended, did not highlight the context in which Prime Minister made the speech nor indicated its background to enable the viewers to understand its full import. Criticising the PTV policy the Member alleged that the aim of the PTV appeared to be to give projection to one personality and generally to black out the proceedings of the Senate. This policy, he opined, was objectionable and amounted to breach of the privilege of the House.

Opposing the motion, Dr. Mahboob-ul-Haq, on behalf of the Minister of Information

and Broadcasting, explained that the context of the speech was quite clear from the T.V. report he had received. Refuting the mover's allegations, he quoted some extracts from the transcript of the programme which made it clear that the Prime Minister spoke in reply to Qazi Hussain Ahmed's Privilege Motion in regard to lifting of the Martial Law.

After hearing the mover and the Minister concerned the Chairman, Mr. Ghulam Ishaq Khan, observed that, "as regards the question of privilege, the extract from the programme telecast by PTV on the relevant day which Dr. Mahboob-ul-Haq has read out and which has been placed before you, explains the correct factual position. No privilege even if one existed seemed to be hurt on that score." He further observed that, "you say that the night before, the people who viewed the programme in question, had noted the point that you are making." Who were those viewers and from what point of view they were watching the relevant T.V. programme makes the whole affair quite vague and confusing. I agree with you, however, that it is desirable that projection should be balanced and the views expressed should be fairly projected in PTV programmes. But in case it is not done it would still not come within the ambit of Privilege Motion. Referring to Speaker National Assembly ruling which the Minister had cited, the Chairman observed that the Speaker had based his ruling on past traditions and conventions in India and England and while personally he agreed with those views, he would never-the-less like to point out that it was not necessary that this House must follow that ruling. The Senate was competent to reach its own conclusion in such matters. Ruling the motion out of order the Chairman concluded that the question raised did not fall within the ambit of a Privilege Motion.

Senate Debate,
8th July, 1985,
P 242—245

28. *Privilege Motion: Raising the question of privilege and thereby challenging the validity of Chairman decision on the admissibility of a question given notice of by the member: Chair decision could not be questioned in the House: No privilege could be founded on Chairman's decision: To allow to raise such a question in the House would amount to setting a bad precedent and would be against the universal Parliamentary practice not to question the validity of Chairman decision in the House in any manner whatsoever: motion ruled out.*

**Ruling**

On 9th July, 1985, Senator Maulana Kausar Niazi sought to raise a question of breach of privilege based on the allegation that he gave notice of a question for oral answer in the House but the Chairman disallowed the same in Chamber under rule 45 (iv) and (xvii) (a) and (d). He contended that he had studied the relevant rules and had come to

the conclusion that it could not have been disallowed under that rule or for that matter under any other rule. The question, it was contended, was disallowed on the wrong interpretation of the relevant rule, thus causing breach of his privilege.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, observed: —

> "An identical question alleging breach of privilege was sought to be raised in the House yesterday which the House would recall had to be disallowed on the ground that the Chairman's or a Presiding Officer's decision in such matters can not be challenged. It neither infringes anybody's privilege nor any question of breach of privilege arises in such matters. It is an established principle, universally practiced in all democratic institutions of the world. For one, I would not like to set a wrong precedent and open a venue for departure from that practice, The question should not have been raised in the House by means of a Privilege Motion. I am sorry I have got to reject it. From the very beginning I had invited you to come to me in Chamber if you have any complaint on that score so that I may explain my decision but the Chairman's ruling neither operates as breach of anybody's privilege nor can any question of such breach arise or be raised in the House. The motion is ruled out of order. "

Senate Debate,
9th July, 1985,
P 310-311.

29. *Privilege Motion: The question raised was that the government had failed to constitute a Finance Committee as was required by Article 88 of the Constitution although the Prime Minister had during the previous session assured the House that he would propose the names of the members to be elected to the said Committee: The Prime Minister had failed to do so: The Chairman held that under Article 88 (2) it was the duty of the House to elect the members of the Finance Committee: No obligation lay in that behalf on the Government alone: The Prime Minister was requested to nominate the members but this did not absolve the House of its constitutional obligation to elect them if he did not do so: there was, therefore, no breach of any privilege.*

**Ruling**

On 18th August, 1985 Senator Ahmed Mian Soomro sought leave to raise a question of breach of privilege of the House arising out of the alleged failure of the Federal Government to constitute a Finance Committee as provided in Article 88 of the Constitution. He pointed out that although the Prime Minister had, during the

previous session, pledged to propose the names of the members to be elected to the said Committee when the formation of the Committee was under consideration of the House. The Prime Minister, however, had failed to do so and this according to the member, hindered the House in the performance of its duty under the Constitution. In his brief statement, explaining his motion he contended that it was mandatory to constitute a Finance Committee to regulate the financial affairs of the Senate. He explained that although the Finance Committee was required to be elected by the House but the House had requested the Prime Minister having faith in him to propose the name of any one he deemed fit to serve on the Committee. The Prime Minister had agreed to propose the names but no such proposal was made before the conclusion of the last session. The Justice Minister had also failed to take necessary steps to have the Committee elected even though it was a mandatory Committee. The Member also said that as the Prime Minister had failed to name members of the Committee he has himself given notice of a separate motion for the formation of the Committee.

Opposing the motion, Mr. Iqbal Ahmed Khan, Justice Minister stated that it was true that the Leader of the House had been authorised to propose names of the members of the Finance Committee for consideration of the House. Earlier, he had himself moved a-motion in the last session proposing to authorise the Prime Minister to constitute the Finance Committee. The motion was, however, opposed on the ground that it was a constitutional requirement that the Committee should be elected by the House and that power under the Constitution could not be delegated to the Prime Minister. Upon this objection he said he had withdrawn his motion. He agreed with the contention that under Article 88 of the Constitution the authority to elect members of the Finance Committee vested in the House alone, but then proceeded to point out that under the said Article there was no requirement that it must be the Government to move a motion for the constitution of the Committee. The Committee could be formed on a motion by any member, but no motion in that behalf has been moved by any one. Besides, the Article does not place any time limit within which the Committee should be constituted and as such there could be no question of the breach of any privilege of the House or any of its member. If it was the duty of the House itself to constitute the Committee and that was a constitutional mandate, it would not be wrong, he argued, if he said that by failing to constitute the Finance Commntee the House itself had committed breach of its own privilege.

Prof. Khurshid Ahmed stated that the Constitutional provisions operated as no bar to authorising Prime Minister to propose the composition of the Committee and for the House to elect its members on that basis. It was for this reason that the House had decided that the Prime Minister should propose the names of the members of the Committee which the House would then elect.

The Chairman, Mr. Ghulam Ishaq Khan, referred to the proceedings of the last session in which the issue regarding composition of the Committee was considered in the House. He observed that the good office of the Prime Minister had been invoked because of several considerations. There being no fixed number of membership of the Committee and there being no formal opposition in the House it was thought that the Prime Minister, as Leader of the House, was in the best position to suggest both a reasonable number for members of the Committee and to nominate such persons to it, in such numbers, as would fairly reflect all shades of opinion in the House. It was for these reasons that the House decided to request the Prime Minister to propose the names of the members of the Finance Committee. A proposal was also made at that time that the House should delegate its power to the Prime Minister to constitute the Committee but it was held by the Chair that that would be contrary to the constitutional requirements which enjoin upon the House itself to elect the members of the Committee. The names proposed by the Prime Minister would have to come before the House for formal election.

The Chairman also pointed out that when the Prime Minister was authorised by the House to propose the composition of the Committee he was not present in the House and he never undertook personally to propose the composition of the Committee. In the circumstances, therefore, no breach of privilege of the House appears to have occurred. The mover at this stage indicated that he did not wish to press his Privilege Motion but would move separately his own motion for the constitution of the Committee.

Senate Debate,
18th August, 1985,
P 4—9.

30. *Privilege Motion: The question of privilege raised was that the government amended the provisions of the Federal Ministers and Ministers of State Salaries, Allowances and Privileges Act 1975 by a notification and raised thereby the salaries of Ministers without the approval of the two Houses: this failure on the part of the government, it was contended, amounted to breach of privilege of the House: it was also contended that the Act itself by its Section 3 had fixed the salaries of the Ministers and Ministers of State: therefore the act of the government in raising the salaries under Section 22 without making statutory amend¬ment in Section 3 through an Act of Parliament was contrary to law: it was held that the government has power under Section 22 to issue "such instructions, rules exceptions, further concessions as the government may from time to time prescribe or grant": the government therefore, acted under statutory power vested in it under Section 22: There was, therefore, no breach of any privilege: the motion was accordingly ruled out.*

**Ruling**

On 19th August 1985, Senator Ahmed Mian Soomro sought leave to raise a question of breach of privilege of the House arising out of the alleged failure of the Government to bring about increase in the salaries and allowances of the Ministers and Ministers of State by suitably amending the Salaries, Allowances and Privileges of the Federal Ministers and Minsters of State Act, 1975, and having the amendments passed by Parliament before enforcing its decision. He contended that the said Act is on the Statute Book and any amendment sought to be made in it must have the approval of the Parliament. The Government, he said, took action under Section 22 of the said Act which says, that 'the Act shall have effect subject to such instructions, rules, exceptions, further concessions as the Government may, from time to time prescribe or grant'. He contended that it was a well settled principle of statutory construction that any rule made under an Act cannot override the Act and the rules derive their authority from the parent Act under which they are made. The Act provides for certain rates of salaries and allowances for the Ministers and Ministers of State. Therefore, any amendment made therein should have the approval of the two Houses. He urged that the Govt, could not act under Section 22 ignoring the other provisions of the Act where under salaries and allowances have been specifically fixed. This failure on the part of the Govt. to effect suitable amendment in the Act through an Act of Parliament constituted in his opinion a breach of privilege of the House.

Opposing the motion Dr. Mahbubul Haq contended that there was no breach of privilege of the House in any manner whatsoever. He explained that Section 22 of the Act authorised the Government to issue instructions from time to time for further concessions or easement without referring the matter to the National Assembly or the Senate. When the Government effected the increase in the salaries and allowances of the Ministers the instructions issued under Section 22 were formally placed on the Table of the National Assembly on 16th June, 1985. No Bill was moved or passed by the National Assembly in that behalf. The same could also be laid on the Table of this House for information. As the Government clearly acted in accordance with the statutory provision of Section 22. it had committed no breach of privilege in revising the salaries and allowances of the Ministers. Mr. Ahmed Mian Soomro contended that the Act itself under Section 3 fixes salaries for the Ministers but the Government issued a notification on the 13th June, 1975 re-fixing the salaries. This measure was repugnant to the Act. Dr. Mahbubul Haq explained that Article 250 of the Constitution lays down that within two years from the commencing day, provision would be made by Law for determining the Salaries, Allowances and Privileges of Federal Ministers and Ministers of State. It was in pursuance of that Constitutional provision that an Act was passed in 1975 by the National Assembly and the Assembly in its own discretion provided in Section 22 that the Act would have effect subject to such instructions, rules, exceptions, further concessions or easements, as the Government may, from time to time, prescribe or grant. The reason under¬lying that provision was that after an initial salary structure has been set up under the 1975 Act the Government did not have to come again and again to the Assembly for increasing salaries and allowances,

A provision to that effect was accordingly made under Section 22 of the Act. For such measures taken from time to time no approval of the National Assembly or the Senate was required.

Mr. Hasan A. Shaikh expressed the view that Mr. Soomro had made out a good case for consideration of the Privileges Committee and, therefore, advised that the motion be referred to the Privileges Committee. The Justice Minister Mr. Iqbal Ahmed Khan assured the House that he would examine the contention raised by the honourable members and if he found it necessary he would pilot an amending Bill to remove the lacuna, if any, in the Law. He would also consult Mr. Ahmed Mian Soomro. He would consult the honourable member and would try to satisfy him even if he did not find it necessary that the Law required any amendment, he added.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, observed: "I agree with the honourable Minister for Justice. The Motion as it is worded is based on the assumption that there has been a failure on the part of the Government to have the law, by which it has amended the law relating to salaries and allowances of Ministers and Ministers of State, approved and passed by the Senate before enforcing and acting upon the amended law. This assumption, I am afraid, is not based on facts. Ministers' salaries and allowances, as was explained, are governed by the Federal Ministers and Ministers of State, Salaries Allowances and Privileges Act of 1975. Section 22 thereof provides and I will read that out. 'This Act shall have effect subject to such instructions, rules, exceptions, further concessions or easements as the Government may from time to time prescribe or grant'. The point of the honourable Mover is that in the notification which has been issued to effectuate an increase in Salaries etc., the wording used refers to 'refaxing of salaries, allowances and privileges' and his objection is that by resorting 'to refaxing' the Government it appears has taken the whole exercise out of the ambit of the authority which it had under Section 22 of the Act. Now, it may be a bad law and perhaps it is a bad law, but I don't think, that the action of the Government in issuing the notification instead of amending the (basic) law for which it had to come not only to the Senate but also to the National Assembly, takes it outside the purview of the law. The Government has apparently acted under the executive authority which Section 22 of the Act confers on it. Now, as I said, it may be a bad law but we are not here to question the legality of laws in that sense. Whether a law is good or bad, is a different matter. For that you will have to go to a court of law. But, I think the Government had the power to refix and increase the salaries and allowances (of Ministers) and it has done so by taking advantage of whatever the law on the subject provides. And this also is a law which was enacted in 1975 and is not a law of the making of the present Government. Accordingly, I don't think that there has been any breach of privilege and there arises any question of referring it to the Privileges Committee. The Motion is held out of order".

Senate Debate,
19th August, 1985,
P 68—74.

31. *Privilege Motion: The question raised was that Government failed to lay before the House the reports of the Council of Islamic Ideology as required by the resolution unanimously passed by the Senate on 13th July, 1985: Besides the resolution the Government is also under a constitutional obligation to lay the reports before the two Houses: It was contended that no time limit was indicated in the Senate resolution for laying the reports and as the reports were also received by Government in June 1985, those would be laid within six months of their receipt as required by Article 230(4): The Chairman ruled that according to accepted principle of interpretation where no time limit for doing an act was indicated, die act must be done within a reasonable time: Therefore, the Government was duty bound to inform the House within a reasonable time of the action taken or proposed to be taken in the matter and of the delay, if any, in taking the required action.*

**Ruling**

On 20th August 1985 Prof. Khurshid Ahmed sought leave to raise a question of serious breach of the privilege of the House allegedly caused by the total neglect of the Federal Government of the resolution of the House unanimously adopted on the 13th of July 1985, recommending to the Govern¬ment to place before the House all the reports of the Council of Islamic Ideology presented to it between July, 1977 and July, 1985, along with details of the action taken on the reports. Despite the passage of five weeks, he said the reports had not been placed before the House which, according to him, amounted to an open and flagrant violation of the Senate directives.

Explaining his motion Prof. Khurshid Ahmed stated that in the first instance, the country had passed through a long period of Martial Law and recently entered the democratic era. This necessitated a psychological change in attitudes which in turn required that in the changed circumstances Government must take prompt and timely notice of things and make itself accountable to this House and to the people and in regard to what it had been doing in the past and what it was doing now. He further explained that not only was action required on the Senate resolution but Article 230 (4) of the Constitution also obligated the Govt, to place the final or interim reports of the Council before the Parliament and there was no doubt in his mind that the Government had failed to fulfil its constitutional obligation under the said Article.

Opposing the motion Justice Minister, Mr. Iqbal Ahmed Khan, drew the attention of the House to the text of the motion adopted by the House which was as under: -

> "The Government may lay the reports, whether interim or final, of the Council of Islamic Ideology before this House together with the details of the action taken thereon."

He said there was no necessity of having this resolution passed because the Government even otherwise, was under obligation under Article 230(4) of the Constitution to lay the reports within 6 months of their receipt. He explained that the Government had received six reports during the Martial Law period from 1977 to 1984. In addition, it had received 15 other reports on individual - laws. As the Assemblies had been dissolved and were not functioning since 5th July, 1977 there was no question of placing the reports before the Assemblies in those years. The Assemblies were revived only after the General Elections in February, 1985 and since then the Government had not received any report from the Council. The earlier reports were, however, received in June, 1985, and as required by the said Article these reports would be laid on the table of the House within six months. But as regards the resolution passed by the Senate, he argued that it did not give any time limit in which the reports were to be laid. Besides, he pointed out the resolution also required that details of the action taken on the recommendations in the reports should also be laid. The Council's recommendations pertained to several departments and Govern¬ment had to ask these departments, which it had done, to furnish details of the action taken by them on the recommendations of the Council. He, therefore, contended that, in the circumstances when Government had not acted against the requirements of the resolution there was no question of breach of any privilege of the House. He also informed the House that the reports were quite voluminous and required printing in adequate numbers to enable the Govern¬ment to furnish them to individual members of the two Houses. The printing of copies was likely to take some time. He assured the House, however, that in any case, copies of those reports would be laid within the time limit provided under the Constitution.

The Chairman, Mr. Ghulam Ishaq Khan, observed that according to the accepted principle of interpretation when no time is prescribed for doing of a certain act that act must be done within a reasonable time. Prof. Khurshid's objection was tenable because in the absence of any time limit for compliance, the Government was duty bound to inform this House within a reasonable time of the action which it had taken or which it proposed to take on the resolution or under Article 230 (4) of the Constitution. In future, he directed that government should note that where the Senate made a recommendation on any issue Government, irrespective of whether there was a time limit indicated or not, should inform the House within a reasonable time of the action taken or of the reasons for the delay in taking the required action so that the Senate was aware of the fact that the Government had taken due notice of the resolution passed or recommendation made by it. In view of the categorical statement of the Justice Minister that reports would be laid before the House the member did not press his motion, however.

Senate Debate,
20th August, 1985,
P 175—181

32. *Privilege Motion: The question of breach of privilege arose out of the alleged surveillance of a Senator by Special Branch (Police): Allegation in the motion denied: A member of Parliament cannot claim in the matter of application of law any privilege other than that enjoyed by an ordinary citizen: it has not been alleged that the member has been harassed physically and the alleged surveillance/shadowing has in any way interfered with the discharge of his functions as a Senator: motion ruled out of order.*

**Ruling**

On 26th October, 1985, Senator Mr. Muhammad Tariq Chaudhry sought leave to raise a question of breach of privilege arising out of the alleged shadowing of the member by the personnel of the Special Branch (Police). This, the mover contended, violated his right of freedom of speech, movement and individual liberty. He stated that during his Press Conference at Multan, the Intelligence (Special Branch) people were present. When he went to the Provincial Assembly he was shadowed there also. The same people had been seen around his residence in Lahore. This action on the part of the adminis¬tration, he alleged, had adversely affected his social status, right of freedom of movement and speech and amounted to a breach of his privilege.

Opposing the motion Mr. Muhammad Aslam Khan Khattak, Minister for Interior, denied the allegation and stated that the Ministry of Interior had not issued any instructions in that regard. The Government of Punjab had also been consulted and they have categorically denied that any surveillance of Mr, Tariq Chaudhry was done by the Special Branch or any other Branch. In any case, Mr. Muhammad Aslam Khan Khattak urged that this was a provincial matter and the Federal Government was not primarily concerned with it.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, observed: —

> "The main point to be determined is whether the privilege of a member has actually been breached. If it is so then a member has the right to raise it whether it involves a Provincial Government or the Federal Government. The object of the Parliamentary privileges is to safeguard the freedom, authority and dignity of the Parliament and they are considered necessary for the proper exercise of the functions entrusted to the Parliament, However, the privileges are not meant to place the members of Parliament on a footing different from that of an ordinary citizen in the matter of application of law, and unless there are good and sufficient reasons in the interest of functioning of the Parliament itself or the vindication of its authority to do so, the fundamental principle is, and this is really the quintessence of all that I have been able to read on the subject of privileges

not only here, in India, but also in the United Kingdom and many other Parlia¬ments, that all citizens including the Members of Parliament are to be treated equally and unless so specified in the Constitution or any valid law or any such Parliamentary traditions, which by constant usage and adherence to them have assumed the force of Law a member of Parliament cannot claim any privilege higher than that enjoyed by an ordinary citizen.

In this case the honourable member has said that he is being shadowed. It has not been alleged that he has been harassed physically. It has not been alleged that this shadowing has in any way interfered with the discharge of his functions as a Senator. Every citizen is entitled to the right of freedom of movement and speech but if one wishes to convert it into a Parliamentary privilege he has to prove that the reported harassment and shadowing has interfered in the discharge of his duty as a member of the House. That being not the case, I am afraid, it will have to be ruled out of order."

Senate Debate,
26th October, 1985,
P 74—79.

33. *Privilege Motion: The question sought to be arose out of the alleged failure of the government to introduce the Political Parties Bill as assured by the Prime Minister in the House: allegation in the motion denied: The Prime Minister did indicate any specific date for presentation of the Political Parties Act nor did he make any commitment that no other bill would be presented before the Political Parties Act: matter anticipatory: motion held inadmissible.*

**Ruling**

On 28th October 1985, Senator Qazi Hussain Ahmed sought leave to raise a question of breach of privilege arising out of the alleged failure of the Government to introduce the Political Parties Bill, as was assured by the Prime Minister in the House, and of its attempt to link the lifting of the Martial Law with the passage of the Constitution (8th'Amendment) Bill. The Member contended that the Prime Minister had assured that the Political Parties Restoration Bill would be given priority. For this purpose, separate special committees of the Senate and National Assembly were constituted. "Those Committees have submitted their reports. The reports have also been discussed. But it is surprising that instead of introducing the Political Parties Restoration Bill the Government has introduced Constitution (8th Amendment) Bill and has linked the lifting of Martial Law with the passage of that Bill." This Privilege Motion he, contended, was against the failure of the Government to introduce the Political Parties Restoration Bill as had been assured by the Prime Minister and this in his opinion had caused breach of the Senate privilege.

Opposing the motion, Mr. Iqbal Ahmed Khan, Minister for Justice and Parliamentary Affairs denied the allegation. He read out the relevant portions of the Prime Minister speech. He also said that it was evident from the mover's stand that this main aim at that time was that a date for the lifting of Martial Law should be fixed and it should not be unduly prolonged or the people kept in a state of uncertainty. He said the Prime Minister had already announced on 14th August that Martial Law would be lifted by 31st December 1985. This had achieved the main aim of the mover that a date for lifting of the Martial Law should be announced to remove the state of uncertainty. He denied that the lifting of the Martial Law had been linked with passage of (Eighth) Amendment Bill. "The aim of the Constitution (8th Amendment) Bill is to strike a balance between the powers of the President and the Prime Minister and to provide for other constitutional measures necessary for the lifting of Martial Law by the end of the year." This Bill after necessary amendments was unanimously passed by the National Assembly and was now before the Senate. As has been indicated more than once by the Prime Minister the Government would introduce the Political Parties (Amendment) Bill soon. Therefore, no breach of Privilege has occurred and, technically, the Privilege Motion was inadmissible.

Ruling out the motion, the Chairman, Mr. Ghulam Ishaq Khan, extensively quoted relevant extracts from the speech of the Prime Minister and observed that the record showed that neither the Prime Minister nor the Justice Minister or any other Minister for that matter had ever linked the lifting of Martial Law with the passage of the (Eighth) Amendment Bill. The Prime Minister's announcement of 14th August was unconditional and is still unconditional. The record also did not show that the Prime Minister had indicated any specific date for the presentation of Political Parties (Amendment) Bill or made any commitment that no other Bill, would be presented in the House before the Political Parties (Amendment) Bill. The whole matter was anticipatory in nature and, there has not occurred any breach of the privilege of the House.

Senate Debate,
28th October 1985,
P 187—204.

34. *Privilege Motion: The question raised arose out of a press report that the Constitution (8th Amendment) Bill would be passed unanimously by the Senate and that the Government would not accept any amend-ments therein, such a statement it was contended created doubts about the independent status of the Senate: Authoritative official circles for the purposes of the Bill were the Law Minister and the Prime Minister: there assurance that the Senate was fully independent and competent to pass the bill the way it liked should be given due weightage and credibility: Motion ruled out of order.*

**Ruling**

On 29th October 1985, Senator Maulana Kausar Niazi sought leave to raise a question of breach of privilege arising out of a press report, appearing in the daily "Nawa-e-Waqt" of 25th October 1985, and attributed to "high official circle" which alleged that the Constitution (8th Amendment) Bill would be unanimously passed by the Senate during the current session and further, that while the Senate would have the freedom and power to discuss the Bill but Government would not accept any amendment in the Bill because that would unnecessarily delay the passage of the Bill. The mover said that if that be true, this would degenerate the Senate into a debating society and that would constitute a breach of privilege of the House and its Members as being derogatory to the independent status of the Upper House.

Opposing the motion, Mr. Iqbal Ahmed Khan, Minister for Justice and Parliamentary Affairs stated that he had read the motion several times but had been unable to understand how the facts alleged would constitute a breach of privilege. The correspondent of the newspaper, he said, had presumably given his own assessment of the passage of the Bill. If the newspaper had assumed that the Bill would be unanimously passed it would hardly give rise to any breach of privilege. It had been, he said, their (Government) endeavour, to work jointly in cooperation (with others concerned) and develop a consensus on all important matters before the House. This spirit he explained, was amply demonstrated in the National Assembly where with concerted efforts and cooperation of all concerned the same Bill was passed unanimously. He stated that he did not know from which source the press report emanated. The Prime Minister, a number of other Ministers and he himself had stated time and again that the Senate had full authority to pass the Bills before it in any manner it liked. It is an Independent Sovereign House and in regard to the passage of the Constitution (Amendment) Bill enjoyed the same powers as the National Assembly. The Government had made no attempt to undermine the indepen¬dence and dignity of the House.

Ruling the motion out of order, the Chairman, Mr. Ghulam Ishaq Khan, observed:-

> "I have carefully read the Privilege Motion. I do agree that privilege of the Senate might be involved if the newspaper report be correct, as that would tend to undermine the authority and dignity of the House. I have been studying the press report from this point of view, which you have in mind but from an objective analysis of the news item in question, I have not been able to get the impression that it infringes the privilege of the House. The report states that it has been learned from a "high official source." Now an SHO is a high official for a villager and a Deputy Commissioner for another person. The person that matters in the context of the motion is the Justice Minister who has (just now) categorically stated that the Senate is an Independent Body and was free to make any amendment in the Bill it liked. The Prime Minister has made a similar statement regarding the

sovereign, independent status of the Senate and its competency to pass the Constitution (8th Amendment) Bill. Those statements deserve greater credence than newspapers assessments and should be given due weightage. The motion is, accordingly, ruled out of order".

Senate Debate,
29th October 1985.
P 286-292.

35. *Privilege Motions: Seeking to raise a question of breach of privilege arising out of the allegedly incorrect, abnormally limited and non-comprehensive coverage given by Pakistan Television Corporation to Senate proceedings: allegations in the motions denied: there was no attempt on the part of PTV at a deliberate distortion of facts, mischief or deliberate lie: incomprehensive coverage or for that matter no coverage at all did not constitute breach of privilege: the House might resort to some other device i.e. By bringing a bill or resolution on the subject to improve the working of the PTV but not by a Privilege Motion:* accordingly, the motion ruled out of order.

**Ruling**

On 12th November, 1985, Senators Maulana Kausar Niazi and Mr. Javed Jabbar sought leave to raise identical questions of breach of privilege arising out of the allegedly incorrect, abnormally limited and in- comprehensive coverage given by the Pakistan Television Corporation (PTV) in its special reports on Senate proceedings of 27th October and 29th October, 1985, respectively. In support of his motion Maulana Kausar Niazi stated that certain portions of PTV report on the Senate proceedings of 27th October, 1985 were incorrect. It did not contain even a reference to the voting on the Shariat Bill which took place in the House on that day. Mr. Javed Jabbar pointed out that an abnormally limited and in-comprehensive coverage was given by PTV on 29th October, 1985 to the one-and-a-half-hour dissertation on the Constitution (Eighth Amendment) Bill by Senator Ahmed Mian Soomro.

Opposing the motions, Mr. Hamid Nasir Chatta, Minister for Informa¬tion, stated that he had compared the official proceedings of the Senate with the transcript of the PTV special reports but did not find any distortion or deliberate falsehood. A mention was duly made of the voting on the Shariat Bill in the PTV report. Mr. Chatta recalled that it had already been ruled by the Chairman, Senate and the Speaker of the National Assembly that an incomplete coverage did not constitute a breach of privilege. Only a deliberate attempt to misquote or tell a deliberate lie could be considered as amounting to a breach of privilege. He had, he said, looked through the record but could not find any evidence of distortion or deliberate lying. The honourable Senator had beer correctly quoted but he had not been quoted fully. Mr. Chatta further stated that it

was not possible to cover every aspect of the proceedings spread over four to five hours in a report/presentation of about 15 minutes' duration. He contended that since there had been no deliberate attempt on the part of the Pakistan Television Corporation to distort facts, there had been no breach of privilege. Of course, the persons concerned are human beings. There may have been some mistakes or shortcomings. It is always the endeavour of the Administration to improve the working of the organization and set the things right, he said.

Ruling the motions out of order the Chairman, Mr. Ghulam Ishaq Khan, observed: —

> "The honourable Minister had referred to a ruling that I had given on the subject recently. We have to look into the whole thing in its proper perspective. One aspect is the privilege of this House and the other is the privilege (or the rights) of the entire nation. Unless there is a special provision conferring a particular privilege on the members of this House they have to be treated at par with the rest of the population. This is what I had stated on that occasion also and I hope there was no disagreement on that. It may be that the PTV is not projecting the national concerns fully or not conducting its affairs in conformity with the national aspirations but that would not constitute breach of privilege of this honourable House. The House could suggest ways and means of improving the working of the PTV not by a Privilege Motion but by resorting to some other device i.e. by bringing a Bill or a Resolution on the subject.
>
> There are a number of earlier rulings that unless there is a deliberate distortion on the part of the media we cannot treat such matters as breach of privilege either of the House or of any particular member. In the present case I do not consider that there has been a deliberate distortion on the part of PTV authorities. Even though I would request the honourable Minister to look into the competency aspect of PTV yet I don't think that incomprehensive coverage or for that matter even no coverage on the part of PTV constitutes a breach of privilege of the House".

Senate Debate,
12th November, 1985.

36. *Privilege Motion: Seeking leave to raise a question of breach of privilege arising out of the allegedly unconstitutional Act of the government of Sind in depriving the Speaker of the Sind Assembly to appoint and promote officials posted in Assembly Secretariat under the rules framed under Article 127 read with Article 87 of the Constitution: against the motion it was urged that the Sind Assembly itself was competent to take action even against the Chief Minister under Article*

*136 if it so desired: the question raised did not fall within the purview of Rule 57 of the Senate Rules which provides for breach of privilege of the Senate, its members or its committees: it did not extend to the breach of privilege of the Sind Assembly: the matter was outside the purview of the Senate: ruled out of order.*

**Ruling**

On 11th December, 1985, Senator Javed Jabbar sought leave to raise a question of breach of privilege of the Senate "as the supreme custodian of the rights of the four Provinces in the Federation of Pakistan" by the action of the Government of Sind in contravention of the constitutional rights of the Speaker of the Sind Assembly to adMinister the affairs of the Sind Assembly Secretariat and to appoint and promote on his own officials posted in that Secretariat. The mover contended that such action adversely affected the democratic traditions and practices in a Province and tantamount to setting out a dangerous precedent for similar (undemocratic) action in other Provinces.

The mover explained that the country had been under Martial Law for thelast 8 years, an abnormal situation, during which no court and the power of judicial review against executive action involving violation of fundamental rights. The 'Federal Legislative Forum' had now become the only custodian for the redress of whatever grievances the people had against similar violations. In this view of the matter, the Member pleaded that one should take a liberal, reasonable and a balanced view of the "privileges" rather than a narrow, legalistic or technical view. The matter, under reference, arising out of the conflict of authority between the Speaker of the Sind Assembly and the Chief Minister of Sind on the eve of the lifting of Martial Law did not augur well for the future of democracy in the country. It had caused apprehensions and unrest in the city of Karachi and the interior of the Sind Province which is a part of the Federation of Pakistan. The mover further stated that the High Court of Sind while dismissing the writ petition filed on the subject by the Speaker of the Sind Assembly had not yet released the text of its judgement and, therefore, one could not comment in depth on the view taken in the matter by the court. However, when a similar motion was raised in the National Assembly, a few days ago, the question was considered sufficiently complex for arriving at a judgement on admissibility and that House had not yet determined as to whether it constituted a breach of privilege or not.

Another member, Mr. Ahmed Mian Soomro, informed the House that he also wanted to raise a similar question, but in the form of an adjournment motion, namely, the tussle between the Speaker of the Sind Assembly and the Chief Minister of Sind on the transfer of the Secretary of the Sind Assembly which had created public resentment affecting the functioning of the Federation of Pakistan. He was, however, told by the Senate Secretariat that the motion would not be admissible under Rule 71(i) of the Rules of Procedure and Conduct of Business in the Senate. The member emphasized that it was an important matter and should be discussed as such a tussle was not in the interest of the Federation.

Opposing the motion, Mr. Iqbal Ahmed Khan, Minister for Justice and Parliamentary Affairs, observed that besides the fact that a petition on the subject filed by the Speaker of the Sind Assembly had been dismissed in-limine by the High Court of Sind, the matter fell within the sphere of the Sind Assembly itself and was outside the purview of the Senate. If the order of the Government of Sind was illegal or if any privilege of the Speaker had been infringed then under the rules framed in accordance with Article 127 of the Constitution, the Provincial Assembly could take notice of such infringement. Further, under Article 136 of the Constitution, the Provincial Assembly was fully competent to take action, if it so desired even against the Chief Minister himself. Hence the motion was not admissible, and to take up the same in the Senate would amount to breach of privilege of the Sind Assembly and an interference in the Provincial sphere and responsibility. He, therefore, urged that the motion be ruled out of order.

The Justice Minister further submitted that despite the fact that a similar motion was under consideration in the National Assembly, the Senate being sovereign body was fully competent to take a decision independently in the matter.

Mr. Hasan A. Shaikh, drew attention of the mover to Rule 57 which provides that a member may, with the consent of the Chairman raise a question involving a breach of privilege either of a member of the Senate or of a Committee thereof. The question raised related to the alleged breach of privilege of the Sind Assembly which was not covered by Rule 57 of the Senate Rules. the question raised was outside the purview of the Senate. Agreeing with the submissions of the Justice Minister, the Deputy Chairman, Makhdoom Sajjad Hussain Qureshi, ruled the motion out of order.

Senate Debate,
11th December, 1985.
P 1179—1186.

37. *Privilege Motion: The question raised was that there has been a breach of privilege of the House because of non-compliance with the Constitutional provision contained in Article 61 read with Article 54 (2) that the Senate should meet for at least 90 days in a year according to the Gregorian calendar starting, as understood by the mover of the motion, from 1st January and ending on 31st December: it was held the year means the full year of the life of a House which in the case of the Senate commenced on 21st March, 1985 when the House held its first session and would end on 20th March, 1986: and as this year was not yet over the motion was held to be premature and speculative: accordingly, it was ruled out of order.*

**Ruling**

On 23rd December, 1985, Senator Maulana Kausar Niazi sought leave to raise a question of breach of privilege arising out of the Senate failure to meet for 90 days in a year as required by Article 61 read with Article 54 (2) of the Constitution. The mover contended that since the present Senate came into existence in March, 1985, it was on a proportionate basis required to meet for a minimum period of 71 days in the year 1985, ending on 31st December, 1985. When the motion was given notice of the Senate had hardly met for 22 to 29 days and even if it now met continuously for the remaining days of December it would not be able to complete the 71 days for which it was required to meet under the said provision of the Constitution. He, therefore, argued that there had occasioned a clear violation of the requirements of the Constitution and this had resulted in breach of the privilege of the House. The mover thought that as Article 262 contemplated that for the purposes of the Constitution, "periods of time shall be reckoned according to the Gregorian calendar", the Senate was required to meet for at least 90 days, between the 1st January to 31st December of a year. As the Senate commenced its session from 21st March, 1985 it would, on a pro rota basis, be required to meet for 71 days from 21st March to 31st December, 1986. The mover also contended that it was government's obligation under the Constitution to have arranged the business of the House in such a way as would have enabled the Senate to fulfil the constitutional requirement of Article 61 read with Article 54 (2).

Opposing the motion, the Justice Minister, Mr. Iqbal Ahmed Khan explained that elections were held in February, the House commenced its 1st session on 21st March, 1985, therefore, it was impossible for the House to meet for the minimum number of days required by the Constitution. He further explained that the Government remained pre-occupied with finding ways and means to lift Martial Law as soon as possible. In this connection several constitutional and legal measures were required to be taken before lifting of the Martial Law. Therefore, the House had to be adjourned from time to time with a view to enabling the Government to remove, through a process of negotiations I outside the House, the legal and constitutional hurdles in the way of lifting of Martial Law. He maintained that it was an extraordinary year and all government energies were directed towards the Nation's 1st priority of lifting of the Martial Law and the establishment of democracy in all its true manifestations. It was not fair therefore to accuse the government that it deliberately neglected to call the House to session to complete the required number of days under the Constitution. He contended that the House, too, could not absolve itself of its obligation to sit for the minimum number of days during the year. The members could, on a requisition, signed by l/4th of the total membership call upon the Chairman to summon the House with a view to completing the required number of days under the Constitution. The Minister also referred to the past practice in the year 1975, 1976 and 1977 when the Senate could not complete the required number of days in the respective calendar years, reckoned according to the Gregorian calendar, and the provisions of the removal of difficulties Order had to be resorted to over-come the problem. In the present situation, he contended that Article

4 of the Revival of Constitutional Order for the Removal of Difficulties could be taken advantage to overcome the difficulty arising out of Senate failure to meet for 90 days in a year. He assured the House that the Government was making every possible effort to run the House according to the Constitution and no body (in Government) could conceive of violating any provision of the Constitution deliberately. However, keeping in view the extraordinary circumstances of the year if any lapse had occurred it could hardly be termed as amounting to a breach of privilege. Even if it was construed to be a breach of privilege, the House had full power to condone the same. He maintained that the term Gregorian calendar used in Article 262 of the Constitution would mean the cycle of 365 days and some hours in a year and would not mean a calendar year starting from 1st January and ending on 31st December. He, therefore, argued that since the session of the Senate started on 21st of March, 1985 it would complete its 1st year on 20th March, 1986 by which time it would be able to meet for 90 days in a year. Presently, therefore, there was no contravention of the provision of Article 61 and as such no breach, as alleged, occurred. The Privilege Motion, therefore, was pre-mature at that stage and should be ruled out.

Senator Wasim Sajjad, contended that the Removal of Difficulties Order would have been applicable if there had been some genuine difficulty. The fact was that because the powers under the Constitution were not properly exercised the present difficulty had arisen. In these circumstances, the exercise of the powers by the President for the removal of difficulties would be ultra vires of the RCO and the Constitution. Some other members argued that a lapse had actually occurred and government should accept it in good grace and be careful in future.

Referring to Article 54 and Article 61 the Attorney General stated that this constitutional provision required that the Senate should meet for not less than 90 working days in a year. He also referred to Article 262 which provides that the periods of time shall be reckoned according to the Gregorian calendar. He argued that the periods of time would be co-related to the provision of Article 54. He held the view that for the Senate the periods of time would be computed in each year from 21st March, 1985, when the House held its first sitting and would end on 20th March of the next year. He, therefore, concluded that the motion, at that stage, was premature because the Senate had not yet completed the first year of its existence and, therefore, it could not be said that it had failed to meet for 90 days in a year as required by Article 61. It was, therefore, wrong to assume that there had occurred a breach of privilege.

Ruling out the motion the Chairman, Mr. Ghulam Ishaq Khan, observed: -

"Before we decide whether there has been a breach of privilege either of the House as such or of any individual member thereof, there are several aspects of the motion which need to be carefully examined."

Briefly, the motion of Maulana Kausar Niazi says that under the Constitution it is

incumbent on the Senate to meet for three months or 90days upto 31th December, 1985. The words used are 'upto 31st December' and that since the present Senate came into existence in the month of March, 1985, it was essential for it to remain in session on a pro rota basis for 71 days during the calendar year 1985.

The first point to be examined is whether this contention which is the substance of the motion is borne out by the provisions of the Constitution itself. The relevant provisions bearing on this issue are contained, as was referred to by several members and the Attorney General, in Article 54 (2) and Article 61 of the Constitution. These provisions in their application to the Senate after merging the two would read that: —

> "There will be at least three sessions of the Senate every year and 'not more than 120 days shall intervene between the last sitting of the Senate in one session and the day appointed for its sitting in the next session'. This provision is governed by a proviso at the end which reads; that "the Senate shall meet for not less than 90 * working days in each year". This is followed by an 'explanation' which says that the phrase "working days" includes any day on which there is a joint sitting and any period not exceeding two days for which the Senate is adjourned".

These are the constitutional provisions in so far as they bear on this particular point. It would be observed that while the Constitution does require the Senate to hold three sessions every year and to meet for at least 90 working days in each year, the point to be determined is as to whether it refers to 31st December as the cutoff date for a year as is stated in the motion. The difficulty arises from the fact that the Constitution does not define the word "year". The Honourable Member (Maulana Kausar Niazi) has assumed that the year referred to in Article 54 and in Article 61 means the calendar year ending 31st December. This assumption does not appear to me to be correct as in that case nothing would have been more simple for the framers of the Constitution than to say that the Senate shall meet for a specified number of days in a calendar year or a proportion thereof in part of a year. But it does not say so nor can such a conclusion, as I shall explain later, be inferred from other provisions of the Constitution.

The Constitution (and this is with regard to the second part of what is contained in the motion) also does not contain any provision associated in common perception with a full year. It does not define the word "year". It does however, define a "financial year" which means a year commencing on the first of July. If the calendar year was intended in any way or for any purpose it could also have been defined in that same manner. The only provision in the Constitution dealing with this point is Article 262 which says that for the purpose of the Constitution the periods of time shall be reckoned according to the Gregorian Calendar. A period of time obviously will have a beginning and an end but it is to be noted that the Constitution does not require that the beginning or the end of the period must coincide with the beginning or end of the Gregorian Calendar or any sub-division thereof. All it specifies is that the interval between the

beginning and the end of the period should be reckoned, enumerated, computed or counted according to the Gregorian's system, in which, as has been mentioned by the honourable Minister for Justice and Parliamentary Affairs, the year consists of 365.25 days roughly divided over 12 months of different durations. Such a view will also be consistent with other provisions of the Constitution in which the word "year" or its plural "years", appear to denote a period of time. The five-year tenure of office of the President, for example, under Article 47 (1) or under Article 44 does not begin or end with the beginning or end of a calendar year but is to be counted from the day of the first meeting of the Majlis-e-Shoora in Joint Sitting summoned after the elections of the Houses to the Majlis-e-Shoora or the day, according to Article 44, that he enters upon his office. Similarly, the five-year term of the National Assembly is counted in case it has not been dissolved earlier, from the day of its first meeting and not from the beginning of the calendar year in which it meets. The same is true of the term of office of the Chairman and Deputy Chairman Senate which again under Article 62 is to be reckoned from the day they enter upon their respective offices. Bearing in mind that the basic unit of computation in a calendar is the day and the day in the Gregorian system is measured from mid-night to mid-night, "any period of time," whether it is a day or a month or a year would need to be computed according to that system, and not on the basis of the calendar year which ends on 31st December.

In the light of this rather lengthy explanation, we may now examine the provisions of Articles 54 (2) and 61. Under these Articles both the National Assembly and the Senate are required to sit for 160 days and 90 days respectively in a minimum of three sessions each year. Since the Houses can meet only when they have been constituted, the period of time in which they have to hold the prescribed number of sessions and meet for the specific number of days is to be related to the period of their own existence. This period under the relevant provisions of the Constitution starts from the day of their first meeting. Accordingly, the National Assembly would complete the first year of its five-year term, I believe, on the 21st March, 1986 and the Senate on the 20th March, 1986. It is a period of one year of 365 days, calculated in the manner outlined above, in which the Constitution requires the two Houses to meet for the specified number of days. In other words, the period of a year referred to in Article 54 (2) and Article 61 of the Constitution has to be a period which is co-terminus with each year of life of a House. In that light the Constitutional provision that the Senate shall meet for 90 days each year is required to be fulfilled in a period which is co-terminus with the first full year of life of the Senate, that is, either 21st or 20th March, 1986 and not in any case 31st December or the end of the calendar year.

There is another contention also in the motion. It attributes the alleged failure of the Senate to meet for the prescribed number of days to the Government. I think the Minister for Justice and Parliamentary Affairs has categorically replied to this contention that no member of the Government or for that matter no member of the House can think in terms of the violation of the Constitution knowingly or deliberately.

"In conclusion, according to my reading of the Constitution, the year in

which the Senate or the Assembly has to meet for the specified number of days is the "full year of life" of each House which would be completed only on the 20th or 21st March, 1986 and if we do not miss our respective obligations we have enough time to meet the constitutional obligation. Already, I think, the Senate has met for 41 days. In the "Joint sitting", it will be meeting for another 4 or 5 days. In this manner it would have completed 46 or 47 days and from now till the 20th or 21st March, 1986 there is enough time in which to meet for the remaining number of statutory days. For these reasons then I will have to hold the motion, unless Maulana Saheb wants to withdraw it, to be out of order being premature and speculative at this stage".

Senate Debate,
23rd December, 1985,
P 1670—1703.

38. *Questions: Speech by members on a matter arising out of a question or answer to a question during question hour not permissible:*

**Ruling**

On the 5th December, 1973, during the question hour, while supplementary question to starred question No. 9 relating to production of Vanaspati ghee in the country were being asked, a member sought permission of the Chair to speak for 3 or 4 minutes about Vanaspati ghee. The Minister concerned raised a Point of Order that while the member was within his rights to ask a supplementary question, he could not make a speech. The Chairman agreeing with the Minister observed that this was no occasion for a speech.

Senate Debates,
5th December, 1973,
P 81.

39. *Questions: Supplementary questions: the member asking a supplementary question should himself explain it:*

On 11th December, 1973, during the course of the question hour when a member asked a supplementary question to know the reasons for non-payment of the face value of the demonetized currency notes deposited by the repatriates from East Pakistan, the Minister expressed his inability to follow the supplementary question. At that stage another member rose to explain the member's question. The Chairman observed that the member should himself explain his supplementary question.

Senate Debates,
11th December, 1973,
P 170—171.

40. *Starred questions: May be deferred at request:*

**Ruling**

On 17th January, 1974, Mr. Deputy Chairman gave the following ruling with regard to the deferment of starred question:

> "Some questions were set down in the Order of the Day today, but we have received a request on behalf of the Minister for Information, Haj and Auqaf saying that as he is out of the country, he would not be able to reply to the question. The questions may be deferred for some other day".

Senator Khawaja Mohammad Safdar stated that some other Minister could reply as these questions had been deferred for the third time. Mr. Deputy Chairman observed

no other Minister could satisfy the member concerned to reply on his behalf and deferred the questions.

Senate Debates,
17th January, 1974,
P 54—55.

41. *Questions: Supplementary question should not be outside the scope of the main question:*

**Ruling**

On 21st January, 1974, Senator Khawaja Mohammad Safdar asked a starred question regarding the steps Government had taken to repatriate Pakistani patriots in the jails of Bangladesh.

The Minister concerned gave facts and figures in his reply to show how the Government efforts had borne fruit in changing the attitude of the Government of Bangladesh.

Senator Shahzad Gul inquired whether the Government had recognised Bangladesh as in the reply the words 'the Government of Bangladesh' were used several times instead of the so-called Government of Bangladesh or Muslim Bengal.

The Deputy Chairman, observed that in his opinion it was not a supplementary question as it was outside the scope of the main question. The Senator could put a separate question in that connection.

Senate Debates,
21st t January, 1974,
P181—182.

42. *Questions: Answer laid on the table in order: need not be read in the House: supplementary questions permissible:*

**Ruling**

On 16th April, 1974, a member asked a starred question regarding the number of various industries in each province. The Minister for Labour and Works replied that the information to the extent available had been placed on the Table of the House on 1st April, 1974, in response to starred question No. 37 asked by the member on 9th February, 1974. The member was not satisfied and said that this was a starred question for an oral answer. He failed to understand why the information in reply had been placed on the Table of the House. The Chair remarked that what seemed to

have happened was that as the reply was not ready on the day on which the question was set down for answer, it was said in reply that the required information was being collected and would be placed on the Table of the House in due course. Later, when the information was collected, it was placed on the Table of the House. The Minister then said that the procedure actually was that when an answer is laid on the Table of the House in the circumstances mentioned by the Chair, then it is the option of the member to look into the answer and put supplementary. He, therefore, suggested that the Member might go through the answer and put supplementary questions if he so desired.

The member reiterated his view that the answer should have been given orally because it was a starred question. The oral answer was cleverly avoided, he added.

The Chairman observed:

> "That would not be done. The entire answer, the entire information the member wanted has been laid on the Table of the House which means that it is not being concealed from anybody. It is now a public document. Everyone can have a look at it. You can have a look at it and if you want to put any supplementary questions, I can defer it to some other date."

Thereafter the question was deferred to a later date.

Senate Debates,
16th April, 1974,
P 487-488.

43. *Questions: Supplementary not connected with the original question: Minister within his rights to ask for notice*:

**Ruling**

On 16th April, 1974, during course of supplementary to a starred question regarding demands of Tarbela Dam Workers Union, a member asked the Minister whether four workers had died as a result of the Police atrocities.

The Minister concerned rose on a Point of Order saying that a new point was being raised as to why a person was killed and so on and so forth. He was, therefore, within his rights to give a complete story of the whole case.

The Chairman observed:

> "I feel that it is a new question put in the garb of a supplementary not connected with the original question. Therefore, you can only ask for notice."

Senate Debates,
16th April, 1974,
P 485.

44. *Question: It is for the chair to decide whether the supplementary arises out of the question or fresh notice is required for a supplementary:*

During the course of supplementary question to starred question No. 33 regarding answer of Pakistanis stranded in Nepal as on 31st January, 1976 and the steps proposed to be taken by the Government to repatriate them to Pakistan, a member asked Minister concerned to inform the House from what date the arrangements for bringing them to Pakistan had been under consideration of the Government. The Minister concerned asked for a separate notice. The member demanded that it is for the Chair to decide whether a fresh notice is required for a supplementary and whether the supplementary arises out of the question or the answer given by the Minister.

The Chairman observed:

> "I am not inclined to agree with you. If the question arises out of his answer, then it is a supplementary. If he gives a certain answer to your question and supplementary question. Now, if he is ready for answering it, he will answer your supplementary. But if he is not ready, he will ask for a notice. And if the supplementary does not arise out of his answer, then it is irrelevant. He is not bound to answer it. He wants to ask for notice and therefore, your supplementary has nothing to do with the question or with the answer given by him. It is absolutely irrelevant".

The member said that the Minister should be fully prepared to answer each and every supplementary question which arises out of their answer to a question, supplementary or original.

On this the Chairman observed: —

> "When your supplementary is relevant in the sense that it arises out of his answer, you can ask the question and he is bound to answer, but there are two ways of doing that. But if he is not ready and wants to consult his papers, then he can ask for notice. He can't say that I am not going to answer this question but he can ask for notice. This is the practice, and the rule that I have been able to understand"

Senate Debates,
9th March, 1976,
P 317—320.

45. *Absentee Members: Mover absent: Adjournment Motion ruled out:*

**Ruling**

On 17th January, 1974, the Deputy Chairman called Adjournment Motion standing in the name of Senator Kamran Khan. As there was no response, the Deputy Chairman ruled:

> "In the absence of the Senator, the motion is ruled out."

Senate Debates,
17th January, 1974,
P 61.

46. *Absentee Members: Mover absent: Adjournment Motion lapsed:*

**Ruling**

On 12th February, 1974, there was an Adjournment Motion by Senator Haji Sayed Hussain Shah about Railway accidents in Quetta Division. When the motion was taken up, the mover was not present in the House. The Chairmen ruled that the motion lapsed because of the absence of the mover.

Senate Debates,
12th February, 1974,
P 461.

47. *Absentee Members: Mover absent: misbehaviour of Karachi Police with The mover; fell through:* on 8th March, 1976, a member sought to move a Privilege Motion to discuss the misbehaviour of Karachi Police with him.

**Ruling**

The mover was absent without any intimation and no request was made by him for postponement or adjournment of consideration of the Privilege Motion. The Chairman observed:

> "There is another Privilege Motion by the same gentleman. He is not present. Well, normally if there is a request from the gentleman concerned, whether it is from this side or that side of the House, then after sounding the House and taking sense of the Members, we normally defer consideration of that motion. But if there is no request, then we cannot postpone it. In future also we will follow the same practice. If there is a request for postponement, it can be considered but if there is no request, then it cannot be considered. Consideration of admissibility of the motion cannot be postponed as there

is no such request from Maulana Sahib. Therefore, I have no alternative but to announce that it falls through because of the absence of the mover."

Senate Debates,
8th March, 1976,
P 302.

48. *Absentee Members: Members absent without reason; leave is not to be granted as a matter of course:*

**Ruling**

On 2nd April, 1974, the Chairman read out the telegraphic leave application of Senator Maulvi Zahoorul Haq. His telegram read:

"I am unable to attend session. Kindly grant me leave till 2nd instant."

The Chairman observed that the member had given no reason for his absence. But it was for the House to grant leave to the member. He then asked the House whether leave be granted to the member.

The Prime Minister, who was present in the House, objected to the tendency of member not to attend the House and observed:

"Leave can be granted on this occasion but you would have noticed, and I am sure the Speaker of the National Assembly would have also observed, that Members are not attending the Assemblies, and on many occasions quorum is lacking. It should be made clear to the Members of the Senate as well as the Members of the National Assembly that leave should be granted and can be applied for rather in genuine cases, in really extraordinary cases, and not as a matter of course."

The Chairman ruled:

"I quite agree with the Prime Minister that the leave should not be granted for mere asking. If there are genuine cases in which leave is really needed and there are good grounds, for example, illness or other compelling circumstances, then, of course, leave should be granted. It is up to the House to grant leave. I put it to the House. Is the House prepared to grant leave?"

The House granted the leave.

Senate Debates,
2nd April, 1974,
P 161-162.

49. *Absentee Members: Mover absent after motion under rule 187 moved: discussion allowed:*

**Ruling**

On 6th May 1977, the mover of the motion under Rule 187 was absent, when it was taken up for discussion.

On a query by the Chair a member contended that once a resolution was moved, it became the property of the House and the movers' absence had no effect except that the mover was deprived of the right to reply.

The Chairman agreed with the member and ruled that discussion of the motion may continue.

Senate Debates,
6th May, 1977,
P 120.

50. *Resolution Arab Israel war: Ruled inadmissible as:*

i. It did not raise substantially one definite issue:

ii. Did not primarily concern the government of Pakistan:

iii. Aimed to discuss the foreign policies of foreign government:

iv. Debate on foreign policy was to be held in the National Assembly on 17th December, 1973.

**Ruling**

On 14th December, 1973, Senator Mufti Zafar Ali Nomani sought leave of the House to discuss the following resolution:

> "The Senate expresses its thanks to the Allah Almighty for the success which was achieved by the Arab-Muslim forces in the recent Arab-Israel War; and congratulates our Muslim brothers for their heroism and for the unity which they have displayed and for the bold step they have taken in imposing oil embargo on those countries which are directly or indirectly supporting Israeli aggression against Arab Muslims and expresses the hope that the Muslims of Pakistan will struggle jointly with the Muslim world for the return of Baitul-Maqaddas to the Muslims."

Rao Abdus Sattar, the Leader of the House, opposing the resolution stated that although he had great sympathy and respect for feelings expressed by the mover of the resolution yet technically speaking it did not fulfil the conditions prescribed in rule, 115 the Rules of Procedure, which required that a resolution must relate to matter which would be primarily the concern of the Federal Government or in which the government would have a financial interest. It was therefore, not admissible.

The mover stated that he had drafted it after deep study of rule 115 and his resolution was already admitted for consideration. In a way Government's financial interest was also involved in the matter because if the Arabs would impose the oil embargo upon the rest of the world, oil would be available to Pakistan at cheaper rates. It was of Primary concern to the Government as according to the Prime Minister of Pakistan the Government had rendered great deal of support to the Arab cause and, therefore, it deserved thanks.

Senator Khawaja Mohammad Safdar supporting the resolution stated that it primarily concerned the Federal Government as it was that Government which planned the foreign policy, and had to build up friendly and other relations with various countries, dealt with war and peace through the Ministry of Foreign Affairs, and was shortly

calling a conference of Muslim countries. If Pakistan did not aim at strengthening relations with the Muslim countries, there was no need of calling such a conference and undertaking tours of these countries. 1 he matters also deeply concerned the public and the public Relations Department and, therefore, primarily related to the Federal Government. Refuting the objection that the resolution did not raise substantially one definite issue, the Senator stated that basically it raised a single issue, which was the Arab-Israel conflict. A tribute was being paid to the Muslim martyrs through the resolution and it should, therefore, be allowed.

Dr. Mubashir Hasan, Minister for Finance, Planning and Development, opposing the resolution from the Treasury benches, stated that as it attracted debate on the foreign policy of the Arab countries, and also it was not in the public interest to discuss it.

Mr. Chairman observed that it was not competent for the Senate of Pakistan to debate the foreign policy of another.... country. Moreover, the National Assembly was holding a foreign policy debate on the 17th December, 1973, and there would be a full-fledged discussion over it. In case the mover was not satisfied he could ask for a debate and hold general discussion over the matter, Mr. Chairman appreciated the spirit of the resolution, but as he was bound by the rules, and as a resolution which stood in clash with the rules could not be discussed in the House, therefore, he ruled it as inadmissible.

Senate Debates,
14th December, 1973,
P 286—292

51. *Adjournment Motion: Killing of press conference of the Governor of Baluchistan: matter discussed in the National Assembly: held inadmissible:*

**Ruling**

On 4th December, 1973 a Senator sought leave to move for adjournment of the House to discuss the 'killing' of the Press Conference of the Governor of Baluchistan, which he addressed on 9th November, 1973. The motion also alleged that the statement of the Governor disclosed the hard reality that the national press was completely gagged.

The Minister for information and Broadcasting opposing the motion, raised two technical objections, namely:

i. that it was not admissible as it dealt with a hypothetical case;

ii. that it could not be discussed as the rules did not permit reviving discussion on a matter which had been discussed in the Assembly or the Senate within the last six months.

The Minister told the House that the alleged incident did not occur at all. The Governor of Baluchistan's statement was not 'Killed' but appeared in the press late by one day only and the press cuttings showed that the text of the statement was published in full. The Minister disclosed that an identical motion had been ruled out by the Speaker in the National Assembly as being hypothetical.

The Chairman ruled:

> "In view of the statement made by the Honourable Minister for Information and Broadcasting that since this very matter had been discussed in the National Assembly within the last six months, I hold it inadmissible under rule 71 (d)."

Senate Debates,
4th December, 1973,
P53—56.

52. *Adjournment Motion: Increase in sale price of Petrol, Diesel and Kerosine oil: ruled out as being subjudice:*

**Ruling**

On 4th December 1973 a member sought leave to move an adjournment motion to discuss the orders of the Government increasing the sale price of petrol, diesel and Kerosine oil.

The Minister for Labour and Works stated that he had no objection to the motion being discussed in the House but that according to his information a writ petition had been filed in the matter.

He added that probably the petition was going to be heard for admission on the very day the question of admissibility was being discussed in the House.

The mover insisted that as the Minister had no objection to the motion being discussed and as he was not very sure about the filing of the writ petition, the motion could be admitted.

The Chairman observed that the Minister had already stated that a writ petition had been filed, but he was not sure about the date on which it was going to be heard. In view of the fact that the case was pending in the High Court for decision, he held it inadmissible as it was hit by sub-rule (1) of rule 71 which prohibits discussion of matters pending before any court or other authority performing judicial or quasi-judicial functions.

Senate Debates,
4th December, 1973,
P 56-57.

53. *Adjournment Motion: Non-availability of diesel and Kerosine oil in the Punjab during November-1973: notice of identical adjournment motion in National Assembly does not debar Senate from discussing the same issue: discussion on admissibility allowed: necessary factual details allowed to establish the urgency and public importance of the matter: the allegations denied by the Minister: ruled out:*

**Ruling**

On 4th December, 1973, a member sought leave of the House to move an adjournment motion to discuss the non-availability of Diesel and Kerosine oil in the Punjab during the entire month of November. 1973.

The motion was opposed by the Minister for Law and Parliamentary Affairs on the ground that the matter had already been discussed in the National Assembly in its current session. The Chairman deferred the adjournment motion to enable the Senate Secretariat to verify whether this matter had been discussed in the National Assembly during its current session.

On 5th December, 1973, discussion on admissibility of the motion was again taken uP The Chairman observed that on enquiry he had been informed that in the National Assembly a member gave notice on the 26th November, 1973 of an adjournment motion about recent increase in the prices of Petrol and allied products. The same day in the National Assembly another member gave notice of another adjournment motion to discuss the announcement of the Government regarding increase in the prices of Petrol and Kerosine oil and other related items. These two motions were still awaiting discussion on the question of admissibility in the National Assembly. The Chairman accordingly ruled that rule 71 (d) was not attracted in this case.

The Minister without Portfolio then gave certain facts about the non-availability of Petrol and Kerosme Oil. The mover rising on- a Point of Order took objection to the statement* of facts by the Minister when only admissibility was under discussion. The Chairman observed that in order to determine whether the matter was of urgent public importance, it had to be known whether there had been complete non-availability of the two Articles in the whole of Punjab Province during the month of November. The Chairman asked the Minister to let him know whether he admitted or denied the alleged non-availability of the two Articles in the Punjab in the month of November, 1973.

The Minister stated that it was not a fact that the two Articles were completely non-available. Secondly, he added, there was no question of urgency in the matter as the month of November was over. Rebutting the objection of the Minister the mover said that he had given notice of the motion on 30th November. The Chairman agreeing with the mover observed that as there was no sitting of the Senate in the month of November and the first sitting of the Senate was on the 1st December, the mover had taken the earliest opportunity to table the motion. The Chairman again asked the Minister to tell him whether he admitted the allegation or denied it. The Minister said that he had already denied the allegation of complete non-availability of the two Articles.

Thereupon the Chairman ruled that non-availability of the two Articles in the whole of the Punjab during the whole month of November, 1973, had been categorically denied by a responsible functionary of the Government i.e. the Minister. He, therefore, held the motion as inadmissible.

Senate Debates,
4th December, 1973,
P 58—59.
5th December, 1973,
P 83—89.

54. *Adjournment Motion: Abnormal rise in prices of essential commodities: matter not of recent occurrence: ruled out:*

**Ruling**

On 6th December, 1973, the question of admissibility of an adjournment motion moved by a member on 4th December, regarding recent abnormal rise in the prices of essential commodities as a result of which it had been well-high impossible for the common man to keep body and soul together, was taken uP

The motion was opposed by the Minister concerned on the ground that it was not a matter of recent occurrence. The mover argued that it was a matter of recent occurrence because there could be no doubt about it. He maintained that if the Minister would deny it, then he would prove by facts and figures that there had been a definite rise in prices.

The Chairman observed that the price-hike trouble started since May, 1973 and not after the last session. He ruled that the matter was not of recent occurrence and was hit by rule 71 (c). The motion was, as such, ruled out of order.

Senate Debates,
6th December, 1973,
P 94—101.

55. *Adjournment Motion: Imposition of restrictions on "The Daily Shahbaz," Peshawar: matter not of primary concern of Federal Government: ruled out:*

**Ruling**

On 6th December, 1973, a member sought leave of the House to move an adjournment motion to discuss the imposition of restrictions on the 'Daily Shahbaz 'Peshawar, as a result of which the paper had been forced to cease publication, and thus the fundamental rights guaranteed in the Constitution were infringed. The Chairman asked the member to quote the law under which the order imposing restrictions was issued.

The member could not quote the exact law, but argued that the paper ceased publication on account of the undue restrictions by the Government in an indirect manner verbally as well as in writing. He added that the written order was challenged in the Peshawar High Court and the Court held that the order was invalid.

The Minister for Information and Broadcasting, Auqaf and Haj, stated that the Federal

Government had no concern with the matter and that if the Senator had seen any order to that effect, he should say so.

The member said that it was done by the Provincial Government but as the freedom of the press had been guaranteed in the Constitution, therefore, it could be held as a matter concerning the Federal Government.

The Chairman, however, ruled the motion out of order on the ground of the matter not being the concern of the Federal Government.

Senate Debates,
6th December, 1973,
P 101—102.

56. *Adjournment Motion: Orders of the Federal Government banning the Daily Khyber mail for advertisements: allegations denied: ruled out:*

**Ruling**

On 7th December, 1973, a member sought leave of the House to move an adjournment motion to discuss the situation arising out of the orders of the Federal Government banning the daily "Khyber Mail" for the placement of Government advertisements.

The Minister concerned opposed, the motion on the grounds that (i) its subject matter related to a matter which was not primarily the concern of the Federal Government and that (ii) it dealt with a hypothetical case. He denied that the Federal Government had banned placement of advertisements on the Khyber Mail and said that on eight different days in November alone 47 advertisements were given to the Daily. The Minister added that he was not aware whether in any particular case a Provincial Government had acted differently, but in that case the matter would concern the Provincial Government and not the Federal Government.

The mover defending his motion said that it was based on a news item that the Federal Government had banned the daily Khyber Mail for placement of advertisements.

The Chairman ruled the motion out of order in view of the statement of the Minister that 47 advertisements were given to the Daily in eight days.

Senate Debates,
7th December, 1973,
P 109—111.

57. *Adjournment Motion: Smuggling of Banaspati ghee being against mandatory provisions of the Constitution ruled out of order.*

**Ruling**

On 11th December, 1973, a member sought leave of the House to move an adjournment motion to discuss large scale smuggling of Banaspati Ghee from the Punjab resulting in an acute shortage of ghee in that Province.

The Minister concerned opposing the motion contended that the press report was against the mandatory provisions of the Constitution of Pakistan. He said that in the newspaper report, on which the mover had based his motion, the Punjab was treated as a separate country and export to Frontier Province and Baluchistan was described as smuggling out of the country. That was a violation of Article 151 of the Constitution, which lays down that trade, commerce and intercourse throughout Pakistan would be free subject to only those restrictions which Parliament might by law impose in the public interest.

The Chairman ruled the motion out of order on these grounds.

Senate Debate,
11th December, 1973,
P 183—187.

58. *Adjournment Motion: Grave situation in Baluchistan: procedure for disposal explained admissibility, if opposed, grounds of opposition and mover's reply will follow, but, if not opposed, motion is held in order and leave of the House is asked without debate if leave is not granted. Motion is dropped the matter is taken up if leave is granted the motion was admitted in view of no objection by the Minister but leave refused by the House:*

**Ruling**

On 13th December, 1973, a Senator sought leave of the House to move an adjournment motion to discuss the grave situation in Baluchistan as disclosed in the press release of the Public Relations Directorate published in the national press on the 9th December, 1973, which said that thirteen outlaws were killed and four injured while the troops suffered one killed and two wounded.

As soon as the mover finished reading his motion, the Minister opposed it. Thereupon the Chairman told the Minister that he could make a statement on the grounds on

which it was opposed. The Minister, however, suggested that if the mover wanted to say something in favour of the motion, then he would reply. The Chairman did not accept the Minister's suggestion and observed that the Minister could give the grounds for opposing and the mover could reply. The Minister, however, repeated that it would be better if the mover supported his motion by a statement and then he would reply. He declared at the same moment that he had no objection to the admissibility of the motion.

The Chairman ruled that the merits of the adjournment motion and facts could not be gone into at that stage unless the House was adjourned for debate and that only technical objections about admissibility could be raised at the moment.

When the Minister expressed the view that it would not be a debate but the mover would merely complete the motion by reading the supporting statement which was a part of the motion, and that he had a right to do that, the Chairman questioned the Minister's stand and ruled that such a right was there under the old set of rules in the National Assembly, but it was not there in the present rules.

The Chairman explaining the procedure ruled as follows:

> "When the motion is read, from the Government side somebody gets up and opposes it on the grounds of admissibility, and then statements are made from both the sides. After hearing them the Chairman gives his ruling whether it is admissible or not, and the matter ends there. But if it is held to the admissible, then the leave of the House is asked for whether the House gives leave for the adjournment of the House. Now, he has moved, and I asked you whether you have got any objection to the admissibility. You did not object to it on grounds of admissibility. I have no alternative but to hold it admissible in view of the No-objection plea of the Minister. Once it is held admissible, then the next stage comes. Now the House has to be asked for permission."

The Minister objected to the putting of question without mover's statement and rebuttal, the Chairman nevertheless put the question under rule 73 (2), and as it was negative by the majority of members rising in their seats, he informed the mover that leave to move the motion was not granted to him by the House.

Senate Debates,
13th December, 1973,
P 235 -245.

59. *Adjournment Motion: May be taken up with mutual agreement even when time is over:*

**Ruling**

On 13th December, 1973, when the time fixed for discussion on admissibility of adjournment motion was over, the Minister without Portfolio rose to observe that there was another adjournment motion awaiting decision on its admissibility. The Chairman observed that the time was over, but if both the mover and the Minister agreed to take up the other adjournment motion also, he had no objection.

Senate Debates,
13th December, 1973,
P245.

60. *Adjournment Motion: Grave situation in Baluchistan a provincial subjec not of urgent public importance not of recent occurrence ruled out:*

**Ruling**

On 14th December, 1973, Khawaja Mohammad Safdar sought leave to move a motion for adjournment of the business of the Senate to discuss the grave situation in Baluchistan, as disclosed in a press release of the Inter-Services Public Relations Directorate published in the national press on the 9th December, 1973. The press release said that thirteen outlaws were killed and two wounded.

The Minister concerned opposing the motion stated that the Provincial Government had called the Army in Baluchistan in aid of the Civil administration and when the Army apprehended the outlaws, they resisted. That was why there were some casualties but the situation had improved except in a very limited area where the outlaws operated. The Army which had been called by the Provincial Government was doing its duty in a patriotic spirit, hence the motion was not in order. He added that a District Magistrate could under the Criminal Procedure Code call the Army in aid of the Civil administration, but that did not take the matter out of the jurisdiction of a Provincial Government.

The Chairman asked the mover to reply to the Minister's objection that law and order fell within the provincial sphere and the Federal Government was not primarily concerned with the matter. The mover answering the objection stated that it was not a question of mere law and order but according to the Baluchistan Government it was a problem of insurgency. As the Army was suffering casualties, the issue related to the Defence Forces and thus was not merely a provincial matter.

The Chairman ruling the motion out of order observed that killing of a soldier, an outlaw or citizen or an official or non-official was purely a matter of law and order which was a provincial subject and not the concern of the Federal Government. The Leader of the Opposition had pointed out that every day some outlaws were ambushed and killed; hence it was not a matter of urgent public importance and of recent occurrence. According to him it was a continuing process. Therefore, he ruled the motion out of order.

Senate Debates,
14th December, 1973,
P 277—282.

61. *Adjournment Motion: Death of a political detenue due to lack of proper medical aid in jail allegations denied by the Minister the subject fell in the provincial sphere ruled out:*

**Ruling**

On 14th December, 1973, a member sought leave of the House to move for adjournment of the business of the House to discuss the circumstances leading to the death of Mohammad Siddiq Khan, General Secretary of the NWFP United Democratic Front and Finance Secretary of Provincial NAP unattended and without proper medical aid on 7th December, 1973.

Opposing the motion, the Minister concerned said that as Mr. Siddiq Khan had been detained under the orders of the NWFP Government, the subject-matter of the motion was not the concern of the Federal Government. The motion was, therefore, inadmissible under rule 71 (f) of the Rules of Procedure of the Senate. Giving the facts, the Minister stated that the late detenue had a severe heart attack on 7th December to which he succumbed despite all possible medical aid given to him. He also read out a statement of the son of the deceased to prove that despite every effort his father could not survive. He contended that as the deceased was detained under the orders of the Provincial Government, the administration of prisons was a provincial subject, and death due to the lack of medical aid was denied, the motion should be ruled out of order.

When a Senator pointed out that a valuable life had been lost, the Chairman observed that the Minister concerned had denied that the death had occurred due to the lack of proper medical, aid, that the denial was supported by the son of the deceased detenue and that die motion related to a provincial matter. He ruled the motion out of order on these grounds.

Senate Debates,
14th December, 1973,
P 282—286.

62. *Adjournment Motion: Statement of Governor of Baluchistan on Balcuhistan situation the Minister had categorically denied allegation the matter was very minor the question primarily concerned the provincial government the issue was not recent-matter a continuing process ruled out:*

**Ruling**

On 20th December, 1973, a member sought leave of the House to adjourn the business of the Senate to discuss the statement of the Governor of Baluchistan, who, while talking to pressmen on his arrival at Lahore, said that there was a situation like that of insurgency in Baluchistan. This statement of the Governor of Baluchistan had caused widespread alarm in the country.

The Minister concerned opposed the motion on the following grounds:

i. It was not a matter of recent occurrence. Even according to the motion it was a continuing process.

ii. The issue did not raise a very important question.

iii. It was a question of law and order which was primarily the concern of the Provincial Government.

iv. The allegation was not based on facts but on personal opinion of an Ex-Governor of Baluchistan. Under the Constitution the power to maintain law and order vested in the Chief Minister and his Cabinet and the Chief Minister had stated on 19th November, that there was no state of insurgency in Baluchistan and it was an exaggeration to describe a limited trouble as insurgency.

The mover rebutting the arguments advanced by the Minister stated that the had based his adjournment motion on the Ex-Governor's statement that the skirmishes with rebels which had stopped for some time had started again. So it was not a continuous process but was of recent occurrence. The Governor was the agent of the Federal Government and was as such much more important than the Minister. The importance of the issue was not negligible as it was a question of insurgency in a part of the country. It could not be dismissed as a minor incident. The situation in Baluchistan could not be held as merely a law and order situation because the Governor had stated that trained guerillas were in operation in the area. It was thus too serious a matter to be brushed aside lightly.

The Chairman observed that the mover had referred to "Nawa-i-Waqt" of 14th December, 1973. The statement had also been published in "The Sun" of Karachi, the version of which was translated in Urdu by "Nawa-i-Waqt".

The Sun reported: —

> "Nawab Mohammad Akbar Bugti, Governor of Baluchistan, has said that a state of insurgency continues to exist in Baluchistan where recently some persons had been killed in clashes with miscreants."
>
> "When pointed out that one of his Minister had recently said that there was no insurgency in Baluchistan the Governor said the insurgency was there."

The Chairman ruled:

> "The Interior Minister who is directly concerned has made a categorical statement on the floor of the House with full sense of responsibility denying that there is a state of insurgency in Baluchistan. It is a very minor matter, a matter of law and order, which is primarily the concern of the Provincial Government, and moreover, it is a continuing process and this even Mr. Bugti has said.
>
> Anyhow, in view of his statement which is not free from doubt, and in view of the categorical denial by the Interior Minister that there is no state of insurgency in Baluchistan and also that it is not of recent occurrence, and it is a continuing process, I rule the motion out of order.".

Senate Debates,
20th December, 1973,
P 322—328.

63. *Adjournment Motion: Refusal of sugarcane growers to supply sugarcane to sugar mills in NWFP mover did not avail the first or earliest opportunity ruled out:*

**Ruling**

On 20th December, 1973, a Senate sought leave of the House to move an adjournment motion to discuss the situation arising out of the refusal of the sugarcane growers to supply their sugarcane to the sugar mills in NWFP, resulting in the stoppage of sugar mills.

The Leader of the House, opposing the motion, asserted that it did not fulfil the condition laid down in rule 71. He maintained that the matter was neither of urgent public importance nor of recent occurrence. Also he added, it did not primarily concern the Federal Government.

The mover in reply maintained that he had raised an issue of urgent public importance as it was a problem of the sugarcane growers of NWFP who had unanimously demanded an increase in the sugarcane price. The Chairman asked why he did not bring the motion on 18th December, 1973; when according to his own statement the strike was continuing for a week. The mover replied that there was a joint sitting on the 18th and as the newspaper of that day reported that the negotiations were going on, he was hopeful that the problem would be solved. He emphasised that the issue had assumed national importance as the whole country would suffer from sugar shortage in case the strike succeeded. The Chairman observed that, on the other hand, negotiations between the sugarcane growers and the Government were continuing. This showed that there was no logic behind his adjournment motion. He added that he could bring this motion on any of the dates from 14th to 18th. The mover stated that negotiations were continuing during those days but they had failed now and, therefore, the adjournment motion was moved at the first opportunity.

The Chairman disagreed with the mover and observed that according to his information the negotiations had not failed but had just begun, and even if the negotiations had already failed the mover ought to have declared as such in his adjournment motion. He, therefore, held the motion inadmissible on the ground that the mover had not availed of the earliest possible opportunity.

Senate Debates,
20th December, 1973,
P 328—331.

64. *Adjournment Motion: Supply of kerosine oil to certain districts of the Punjab motion may be amended to make it admissible chair has discretion to fix any day for discussion:*

**Ruling**

On 16th January, 1974, a member sought leave of the House to move a motion for adjournment of the business of the House to discuss the failure of the Federal Government to make necessary arrangements for the supply of Kerosine oil in the Punjab especially in Sialkot, Gujranwala, Sheikhupura and Lahore District.

The Minister for Production, Presidential Affairs and Commerce, opposing the motion, stated that distribution of Kerosene oil in the districts was a provincial subject. He also contended that the motion did not relate to a matter of recent occurrence and was in general terms. The mover, while conceding that distribution of Kerosine oil was the function of the Provincial Government, contended that import of oil was the concern of the Federal Government. He argued that the matter was of recent occurrence as the shortage of oil in villages and towns was reported daily in the national press. After

some discussion, the Minister without Portfolio, agreed to the motion being discussed if the mover amended the motion by omitting reference to districts of the province. The mover accepted the suggestion and sought leave of the House to move the motion, as amended. Thereafter, the Chair held the motion in order and asked the House whether the mover had leave of the House to move the motion.

Leave having been granted, the Chair asked the House when it would like to discuss the motion. The Minister for Production, Presidential Affairs and Commerce wanted immediate discussion. The mover suggested that the date and time for discussion of the motion should be fixed with the consensus of the House. The Minister for Production, Presidential Affairs and Commerce opposed postponement of discussion of the motion to some other day.

After hearing both sides, the Deputy Chairman observed that under the rules [rule 73 (2)] it was his (Chair's) discretion to fix the date and time for discussion of the motion.

Senate Debates,
16th January, 1974,
P 6—14.

65. *Adjournment Motion: Federal Government's failure to supply the defence forces with modern weapons ruled inadmissible as the Minister gave assurance divulgence of matter not in public interest agreement between two other countries not the concern of the Federal Government:*

**Ruling**

On 17th January, 1974 Senator Khawaja Mohammad Safdar sought leave of the House to discuss the failure of the Federal Government to provide the Pakistan Defence Forces with modem weapons so as to enable the Defence Forces to effectively protect the borders of Pakistan against future Indian aggression, especially when the Indian Armed Forces have been equipped with the latest and most sophisticated arms including SAM-6 which the Soviet Union has agreed to supply to India, as reported in the Pakistan Times of 4th January, 1974. The Press report added, the massive arms aid given to India by the Soviet Union under the Mutual Defence Pact had further tilted the balance of power in the Sub-Continent in favour of India.

Mr. Aziz Ahmad, the Minister of State for Foreign Affairs and Defence opposing the motion stated that the supply of Soviet weapons to India was not a new phenomenon. It had been going on for many years. The Government had viewed the situation resulting from the induction of Soviet and other Weapons to that country including the projected induction of SAM-6, and had to act with very close attention all the time. He assured the mover and the House that there had been no inaction, neglect

or dereliction by Government of duty in looking after the defence of the country, and that every action and measure necessary was being taken to see that the armed forces remained capable of defending the country. The Minister, stated that he could not disclose those measures but assured the House that there was no inaction, negligence or indifference in respect of the vital question of producing a deterrent force to defend that territorial integrity and independence of the country.

When the mover asked permission to speak on the admissibility Mr. Deputy Chairman ruled:

> "The Minister of State for Defence has said that the Soviet Union has agreed to supply India with sophisticated arms as reported in the Pakistan Times of 4th January, 1974. Now the agreement between the two other countries is not the concern of the Federal Government of Pakistan. Secondly, the Minister has already said that they are conscious of the thing but they cannot divulge so many things in the House in the public interest. Therefore, I don't think that this adjournment motion can be made."

The mover, however, insisted that if the Minister was allowed to say something on behalf of the Government, he should also be allowed to say something about the reasons why he had brought that adjournment motion before the House. He claimed that the admissibility of his adjournment motion was not objected to and it was consequently deemed to have been admitted by the House.

Thereupon the Minister without portfolio, stood on a Point of Order and stressed that the motion had already been opposed not only by a Senator but also by the Minister-in-Charge, and if the mover still insisted and was not prepared to withdraw his motion, then the question could be put to the House, and the House could decide whether it was prepared to adjourn.

The Minister for Interior, States and Frontier Regions and Kashmir Affairs, also suggested that as the motion had been opposed the debate was absolutely uncalled for and the procedure under rule 73 had to be followed. He requested that the leave of the House could be asked.

Then the Deputy Chairman agreed to put the question. However, when the motion was put to the House it was negatived.

Senate Debates,
17th January, 1974,
P 55—60.

66. *Adjournment Motion: Death of certain persons of Marri area in the Army controlled part of Quetta jail matter a provincial concern and not recent ruled out:*

**Ruling**

On 24th January, 1974, Senator Mir Abdul Wahid sought leave of the House to move an adjournment motion to discuss the death of certain persons belonging to Marri area who died in that part of Quetta Jail which was under the administration of army authorities. These deaths, the mover alleged, were caused on account of inhuman torture to which they were subjected during interrogation by the Army. This incident, he added, was a reflection on the behaviour of the Army deployed in Baluchistan, and had caused deep resentment amongst the public of Pakistan.

In reply to the Deputy Chairman's query, the mover stated that his source of information was a telephonic message from Quetta the day before the preceding day, and a press report published in ' Himmat ' of 8th January. Moreover, the Baluchistan students Organisation Association and National Awami Party, Quetta, took out processions and visited the jail as well as the graves where the victims had been buried. Disclosing the source of the allegation that the jail was under the administration of the Army authorities of Quetta, the mover stated that he had visited the jail along with Senator Mohammad Hashim Ghilzai, Leader of the Opposition, and certain other persons, but was not allowed to enter that particular part of Quetta jail and the Superintendent of the jail told him that the said portion was under the Military Administration. The Leader of the Opposition, produced some documents in support, which Mr. Deputy Chairman examined and remarked that he did not find any proof that the jail was under the administration of the Army.

The Minister of State for Foreign Affairs and Defence, opposing the motion, stated the Senator's impression or information that any of these persons had died as a result of torture by the Army was totally incorrect. Similarly, his information that any jail where these persons were kept, was under the administration of the Army authorities also was incorrect. The procedure, explained the Minister, normally was that whenever the Army wanted to interrogate any of the suspects arrested, they took remand form Court and during the period of the remand from the Court, an Army Officer went to interrogate the suspect. The suspect was kept in whatever jail was convenient and so far as treatment within the jail was concerned, it came under the administration of the jail authorities. The administration of jails was not a Central subject and, therefore, that was a question which should be put to the Provincial Government.

The Deputy Chairman observed that the Minister of State had denied facts and, therefore, if the alleged incident had taken place in Quetta jail, the matter concerned the Provincial Government and the House had no jurisdiction to debate the adjournment motion. Moreover, the reference to 'Himmat 'of 8th January given by the mover showed

that the date of the alleged occurrence was very old and, therefore, permission could not be granted to move the motion.

Senate Debates,
24th January, 1974,
P 271—273.

67. *Adjournment Motion: Alleged death of a few persons of Marri area: discussion on a matter which has already been discussed, cannot be revived: ruled out of order:*

**Ruling**

On 24th January, 1974 a member sought leave of the House to move an adjournment motion to discuss the alleged death of a few persons of Marri area in Loralai jail due to the inhuman torture to which they had been subjected during interrogation by the Army. The motion was disallowed as the allegations in this motion were of the same nature as stated in another motion in respect of Quetta jail, which had been denied by Government and on this ground the other adjournment motions had been ruled out of order.

Senate Debates,
24th January, 1974,
P 273.

68. *Adjournment Motion: Inhuman treatment meted out to a few persons by coastal guards: not brought at the earliest possible opportunity: allegations denied: mater subjudice: ruled out:*

**Ruling**

On 5th February, 1974, a member sought leave of the House to move an adjournment motion to discuss the inhuman treatment meted out to a few persons of Makran district by Coastal Guards personnel.

The Minister of State for Defence and Foreign Affairs explained the position of the Government and denied the allegation. He stated that the said persons were criminals and smugglers. They had an encounter with the Coastal Guards and murdered two of them while they were performing their public duties. It was also stated that the case was pending investigation and that there was a delay of four weeks in bringing up the adjournment motion. The Chair referred to a pre-Independence ruling in which it had been held that where Government denied the correctness of certain allegations, the Government's version had to be accepted in preference to the mover's.

The motion was disallowed on the following grounds:

i. that the matter was Subjudice;

ii. that there was delay of four weeks and the motion had not been brought at the earliest possible opportunity; and

iii. that the allegations were denied by the Government.

Senate Debates,
5th February, 1974,
P 304—308.

69. *Adjournment Motion: Railway accidents in Quetta Division: mover absent: ruled out as lapsed:*

**Ruling**

On 12th February, 1974, the Chairman ruled out an adjournment motion regarding railway accidents in Quetta Division of which notice was given by Senator Haji Sayed Hussain Shah. Mr. Chairman called for the mover but finding him absent gave the following ruling:

> "The Senator Haji Sayed-Hussain Shah does not appear to be present in the House. There is nobody to say anything on his behalf. Therefore, I rule the adjournment motion out of order, not on merit, but because of the absence of the mover it lapses".

Senate Debates.
12th February, 1974,
P 461.

70. *Adjournment Motion: Derailment of passenger and goods trains due to lack of supervision: rulings:*

i. Rules say that if an occurrence is recent Motion can be moved, other¬wise it cannot be moved.

ii. Mover's Motion on return from leave cannot make an occurrence recent.

**Ruling**

On 13th February, 1974, a member sought leave to move a motion for adjournment of the business of the House to censure the Pakistan Western Railway for lack of supervision due to which derailments of passenger and goods trains had become a daily practice. In one day two passenger trains both bound for Quetta went off the track, one near Chairman and the other near Galan Railway station:. In both the accidents many passengers were injured and railway traffic remained suspended for many hours. In order to hush up the accidents the Divisional Superintendent, Quetta, in clear violation of the Railway Act, did not alert the Garage and Loco Shed staff by blowing alarm, sirens installed for this very purpose. Instead, the staff was alerted through special messengers and thus much precious time was wasted. These accidents have caused great resentment and indignation amongst the public of Pakistan.

The Minister-in-charge stated that action against any individual could not be justified without thorough inquiry. Explaining the actual position, the Minister denied the allegation that the derailments had become the daily practice. He declared that railway accidents were rather very infrequent due to strict supervision and vigil maintained at all levels by the officers and staff. The Minister gave facts and figures to prove that all rescue measures had been taken on receipt of report of the derailment, and departmental inquiries had already been ordered, and as soon as responsibility was fixed, proper action would be taken against defaulters. The Minister hoped that with that explanation the mover would not press his adjournment motion.

On Mr. Chairman's queries, the mover stated that the source of his information was the daily 'Mashriq'of 29th January, 1974, which reported that the accident had occurred on 28th. The mover gave notice on 9th February, 1974. In reply to Mr. Chairman's question that if gave notice on 9th February, 1974 and the accident happened on 28th January, 1974, how the occurrence could be termed as recent, the mover stated that he was on leave from 5th - When he came in the evening on 8th, the session had commenced. Therefore, he gave notice on 9th February.

Mr. Chairman observed that he could not change the rules for the sake of the mover. The rules said that an adjournment motion could be moved only regarding a recent occurrence. An occurrence could not possibly become recent on the mover's return from leave for one or a half year. The accident occurred on 28th January but nobody raised the question upto 9th February. Therefore, it could not be held as recent. It would, therefore, be advisable for the Senator to accept the explanation of the Minister that nothing particular had happened.

The mover said that he was satisfied with the statement of the Minister. The Chairman then ruled the motion as not pressed.

Senate Debates,
13th February, 1974,
P508—510.

71. *Adjournment Motion: Establishment of Russian naval bases around Arabian sea: ruled out as not recent: also ruled that*

i. (Matter is recent because of recent occurrence and not because the mover learnt of it recently.

ii. Matter is urgent only if arisen suddenly.

**Ruling**

On 28th March, 1974, Senator Khawaja Mohammad Safdar sought leave to move an adjournment motion regarding the establishment of Russian Naval Bases around Arabian Sea, especially in Somalia, Aden and Persian Gulf.

The Minister without portfolio; made a brief statement and requested the mover to withdraw his adjournment motion as he had made his point and the government had taken note of it which was already aware of the situation.

The Minister for Law and Parliamentary Affairs and Education and Provincial Coordination, objected to the admissibility of the adjournment motion on the ground that under rule 71 an adjournment motion should raise an issue of urgent public importance, should relate substantially to one definite issue and should be restricted to matter of recent occurrence. The international developments, particularly in the Arabian Sea or in the Indian Ocean, were not matters of urgent or recent occurrence. These developments took years and could be discussed in a debate on foreign policy or the defence policy of Pakistan.

Mr. Chairman directed the mover to confine himself to prove firstly, that it was a matter of urgent public importance, secondly, that it was a matter of recent occurrence, and thirdly, that it was primarily the concern of the Pakistan Government.

The mover stated that the matter was urgent as the country with which Pakistan had unpleasant relations had set-up naval bases so near to Pakistan's borders yet the Pakistan Government had taken no steps in the matter. Regarding recent occurrence, the mover stated that the press note was published in the newspapers on 23rd March, and he had no other source to trace the movement of Russian Naval forces. The mover insisted that the matter was urgent.

Mr. Chairman observed that it was not urgent. The date of the mover's information was not the determining and decisive factor. The decisive and determining factor in an urgent motion for such a matter is that it should be of recent occurrence, not because you learnt it recently. He agreed that it was a matter of public importance but did not agree to accept it as urgent as in his opinion a matter was urgent only if it had arisen suddenly. This was not only his view but it was the view of very eminent Speakers of the House of Commons.

Mr. Chairman added that the fate of the adjournment motion would be decided on the two objections raised by the Law Minister under rule 71 (a) and (c). On the implication of urgency some authentic dictionary or old rulings could be relied upon. He quoted a ruling of the Speaker of the Lok Sabha Mr. Mavlankar as follows:

> "What I think was contemplated was the occurrence of some sudden emergency either in home or on foreign affairs or both."

The ruling of Speaker of the House of Commons was as follows

> "Now the crucial test always is as to whether the question proposed to be raised has arisen quite suddenly and created an emergent situation of such a character that there is a prima facie case of urgency and the House must therefore, leave aside all other business and take up consideration of the urgent matter at the appointed hours."

It meant that the occurrence should be so sudden and emergent that there was no alternative but to adjourn the business of the House to discuss it. Proceeding further the ruling said:

> "The urgency must be of such a character that the matter really brooks no delay and should be discussed on the same day that notice has been given".

Mr. Chairman observed that the matter was no doubt of public importance but it lacked urgency in the sense that it had not arisen suddenly. The race of building Naval bases in Indian Ocean by Super Powers was continuing since long and, therefore, the matter was either urgent nor recent in that sense. He ruled it out of order, on these grounds.

Senate Debates,
28th March, 1974,
P 3-9.
29th March, 1974,
P 47—49.

72. *Adjournment Motion: Regarding failure of the government to get the Kashmir issue included in the agenda of the Muslim Summit Conference: ruled out of order as rules do not allow raising of discussion:*

**Ruling**

On 1st April, 1974, Khawaja Mohammad Safdar sought to move an adjournment motion to discuss the failure of the Federal Government to get Kashmir issue included in the agenda of the Muslim Summit Conference held in Lahore. Opposing the motion, the Minister of State for Defence and Foreign Affairs stated that an identical adjournment motion moved in the National Assembly had been ruled out of order by the Speaker. He added that Islamic Summit had been convened for a specific and limited purpose namely to get all the Muslim Countries in the world to show their unity behind the Arab cause. Kashmir was not intended to be brought before the Summit.

Agreeing with the mover of the motion, the Chairman held that the motion was not barred by reason of the fact that an almost identical motion had been ruled out of order by the Speaker. He added that the motion apparently related to a matter which was not primarily the concern of the Federal Government. He ruled that the rules did not permit the matter to be discussed through an adjournment motion.

Senate Debates,
1st April, 1974,
P91—94.

73. *Adjournment Motion: Failure of Federal Government to help about 400 Pakistanis forced to lead a miserable life in Paris: withdrawn after statement by the Minister concerned:*

**Ruling**

On 4th April, 1974, Khawaja Mohammad Safdar sought leave to move an adjournment motion to discuss the failure of the Federal Government to give suitable help to about four hundred Pakistanis forced to lead a miserable life in Paris. These Pakistanis were duped by some fake organization to go to France where they would find jobs. The Federal Government should have either repatriated them to Pakistan or helped them in finding jobs. The Minister-in-Charge in his statement giving the factual position of the case said some 400 Pakistanis had drifted into France from neighbouring European countries and elsewhere. On 25th March, 1974 twenty Pakistanis along with a few Arabs and Mauritanians went on hunger strike in Paris demanding that their stay should be regularised, they should be provided with jobs, and an agency be set-up to look-after them. The French Government considered this a blackmail and thinking that it would create a bad precedent for other illegal entrants desired that the Pakistanis should be repatriated. The Minister also stated that it was not known how far the news report that the affected persons went to France as a result of an advertisement in English Press in Pakistan was correct.

On an assurance by the Minister that the matter has been taken up with the Ambassador in France and a report awaited, the mover withdrew his adjournment motion.

Senate Debates,
4th April, 1974,
P 214—215.

74. *Adjournment Motion: Increase in fare on Karachi Jeddah route: ruled out of order as allegations denied by government:*

**Ruling**

On 11th April, 1974 Khawaja Mohammad Safdar sought leave to move an adjournment motion to discuss the increase of more than 100% in the passenger fare on Karachi-Jeddah route which had disappointed intending Haj Pilgrims. The Government side denied that the passenger fare for Haj pilgrims on the route had been increased for this year and any increase in fare by N. S. C. would only be made with the consent of the Government. The Chairman ruled the motion out of order on the ground that allegations had been denied by the Government.

Senate Debates,
11th April, 1974,
P 348—350.

75. *Adjournment Motion: Limitation and powers of the managing board of the Pakistan shipping corporation: in admissible as motion related to a matter which can only be remedied by legislation:*

**Ruling**

On 12th April, 1974, Khawaja Mohammad Safdar, sought leave to move an adjournment motion to discuss the failure of the Federal Government to define limitations and powers of the Managing Board of, the Pakistan Shipping Corporation which had resulted in a standstill of almost all the export activities of the Corporation. The motion was opposed on the grounds that it was not well conceived and was contrary to facts. The Chairman asked the mover to state how the Government had failed to define the limitations and powers of the Managing Board. The mover contended that the motion was admissible and that the Government should have brought some sort of legislation to define the powers of the Board. The Chairman held the motion to be inadmissible as it related to a matter which could only be remedied by legislation.

Senate Debates,
12th April, 1974,
P407—416

76. *Adjournment Motion: Federal Governments alleged failure to protect lives and properties of the inhabitants of distt. Sanghar from dacoits from across the border: motion withdrawn: speech not allowed after motion withdrawn:*

**Ruling**

On 12th April, 1974, a member sought leave of the House to move for adjournment of the business of the Senate to discuss the failure of the Federal Government to protect the lives and properties of the inhabitants of village Megaro, District Sanghar, against dacoits from across the border who entered Pakistan territory, injured two villagers and looted valuables worth thousands of rupees, as reported in the daily 'Jang' of the 9th April, 1974.

The Leader of the House opposed the motion on the ground that it did not satisfy the conditions prescribed by rule 71. He said that the Chief Minister of Sind was already doing his utmost to check these incidents and hoped that the mover would not press the adjournment motion. The Minister without Portfolio, giving details of the facts, disclosed that the Indian intruders were apprehended and killed. Thereupon the mover said that he would not press his motion.

At this stage a member rose to speak on the motion. The Chairman addressing the member observed:

> "You should have risen earlier. He has already withdrawn."

Senate Debates,
12th April, 1974,
P 405-407.

77. *Adjournment Motion: Press release by Federal Government relating to Baluchistan ruled out of order as motion related to more than one issue:*

**Ruling**

On 16th April, 1974, Mr. Shazad Gul sought leave to move an adjournment motion to discuss that the press Release issued by the Federal Government on 14th April, 1974 was, keeping in view the critical situation prevailing in Baluchistan, most unsatisfactory and illusory.

The Minister for Interior opposed the motion on technical grounds that the matter did not relate substantially to one definite issue. He said that press release dealt with many points. (1) termination of military action from 15th May, 1974, (2) continuance of the development work by the Army. (3) Civil infrastructure in the Province. (4)

Military assistance to Civil power made available on the request of the Provincial Government and (5) grant of amnesty. The Minister also contended that press release covered so many matters relating to Baluchistan that it could not be the subject matter of an adjournment motion. Moreover, Baluchistan had already been debated in the National Assembly for full day. The Chairman disagreeing with the contention that it had been discussed in the National Assembly stated that the press release has been issued now and that it was not discussed in the National Assembly. The Chairman explained to the mover of the motion that his motion related four matters, namely, (1) amnesty, (2) invitation to return, (3) development work and (4) cessation of military operation. The mover of the motion contended that he had referred to only one press release in his adjournment motion. The Chairman ruled the adjournment motion out of order on the ground that it did not relate to one specific and definite issue.

Senate Debates,
16th April, 1974,
P 490—500

78. *Adjournment Motion: Press statement of Baluchistan Governor: allegation denied ruled out:*

**Ruling**

On 18th April, 1974, a member sought leave to move an adjournment motion regarding the statement of the Governor of Baluchistan to the effect that although Mir Ghous Bakhsh Bezanjo, Mr. Mengal and Mr. Khair Bakhsh Marri had been detained by the Baluchistan Government, the question of their release was a matter between them and the Prime Minister. It was alleged in the motion that the Governor's statement went against the principles of provincial autonomy as laid down in the Constitution.

Rao Abdus Sattar, Leader of the House, opposed the motion on the ground that the motion was hit by paragraphs (a), (b), (c) and (d) of rule 71. He stressed that the motion did not raise an issue of urgent public importance and was not a matter of recent occurrence. Nor did it relate to a matter with which the Federal Government was primarily concerned. He pointed out that the situation in Baluchistan and allied matters had already been discussed in the House. He added that all the three persons were in custody on account of serious criminal charges levelled against them by the Baluchistan Government and were not in custody under any law of preventive detention under orders issued by or at the instance of the Federal Government. He said that the responsibility for the statement fell entirely on the Governor. Most probably the Governor had said so because the Federal Government had announced the grant of amnesty in certain cases. The Leader of the House said that as the matter concerned the Provincial Government, the motion could not be admitted.

The Minister for Labour and Works stressed the point that the statement had not

been made by the Prime Minister but by the Governor. He argued that if a Governor makes a statement that he had to consult such and such authority and to do such and such thing, it did not mean that the Prime Minister in any way came into the picture. Had the statement been made by the Prime Minister or had he said that although the Baluchistan Government had taken these persons in custody the Governor of Baluchistan was not entitled to release them without consulting him, then it would have become the subject matter of discussion in this House. The Minister added that the adjournment motion could, therefore, be discussed in the Provincial Assembly of Baluchistan but not in the Senate.

In reply to the questions put by the Leader of the Opposition whether the Governor of Baluchistan was not an agent or representative of the Federal Government and whether it could be denied that he made that statement as a representative of the Federal Government, the Minister for Labour and Works stated that the Governor of Baluchistan was not entitled to make such a statement. Nor did the Governor have any authority to pass orders under the Defence of Pakistan Rules where under the power vested in the Chief Minister, who was the executive head of Baluchistan.

The Chairman observed that the question which appeared to him to be very material and relevant in deciding the admissibility of the motion was the authenticity of the information about the actual statement of the Governor. There was no press release to corroborate the statement. It was not a regular statement made by a Government functionary. It was only an airport statement. An authentic report of the statement of the Governor was, therefore, necessary. Another point which required clarification was that the adjournment motion sought to raise discussion on a matter which was general and vague. It also sought to raise discussion on a constitutional matter, namely, powers of the Governor vis-a-vis the Federal Government. Its admissibility may, therefore, have to be viewed in that perspective also. The mover stated that the statement of the Governor of Baluchistan appeared in the Pakistan. Times as an official spokesman of the Federal Government. Even that morning he had looked for any contradiction in the papers, but there was none. He was not in a position to produce anything from any other source and thought that it was up to the Government to produce the authentic version. He added that on his way from Rawalpindi to Quetta, the Governor of Baluchistan had made a statement at the airport on the basis of the discussions he had with the Prime Minister. According to the mover, this meant that the detenues were not going to be released as they had been detained by the Baluchistan Government on criminal charges, and if the Government wanted to release them, they had to get new powers from the Federal Government.

The Chairman observed that it was clear that those three persons had been detained by the Provincial Government. He continued that the second point was how they could be released because the Prime Minister had made a statement earlier giving general details of the decisions taken the other day, such as, withdrawal of the army, continuation of development work, etc. So, what the Governor wanted to convey probably by making this statement was that before they were released, the Prime

Minister would be consulted or informed of it. The Chairman added that the Prime Minister came into picture because the amnesty had been granted by him, though detention had been ordered by the provincial government. He concluded that the amnesty could not be granted by the provincial government. The point at issue was how this could be regarded as an encroachment on provincial autonomy.

The mover stated that if these under trial prisoners were going to be released under the general amnesty, he would not have come with the adjournment motion. But he believed that the Governor of Baluchistan was passing on the powers of the provincial government to the Federal Government. He observed that if the provincial government of Baluchistan had got the powers to release them, there would not have been need of making a specific motion of the cases of these three gentlemen and that if they were going to be released under the amnesty, that would have been all right. He added that they were not political detenues as they had not been arrested under preventive law, they had been under detention for the last eight months without charge-sheet being framed and week after week remands had been extended. The mover remarked that those gentlemen were being pressurized to yield to the demands of the Federal Government and of the Agent of the Federal Government, that is, the Governor. He contended that the case was not pending before any court, and was not sub judice.

The Minister rebutting the point stated that they have been arrested under the substantive law and their cases were before the courts of Law, and thus sub judice at the moment.

The time for consideration of admissibility of adjournment motions being over, the Chairman asked the Minister for Labour and

Works to get into touch with the Governor of Baluchistan and ascertain from him what he actually had said in his statement.

The next day when discussion on admissibility of the motion was resumed the Minister informed the House that he had spoken to the Governor over the phone. The Governor had told him that he never meant what was being attributed to him. His intention was entirely different. He had stated that action would be taken in accordance with the decision taken by the Federal Government but it was for the provincial government to decide whether to release the detenues or not. He stated also that the Federal Government too could release them after they were convicted. Under the constitution the President also could release them. So, it was a matter between the Provincial government and the Federal Government. The Governor himself was not involved in it. Amnesty would be granted by the Federal Government on the recommendation of the Provincial Chief Minister, as there were cases against the detenues for substantive offences. The Minister added that the statement of the Governor did not definitely convey the meaning which was being attributed to it, by the mover of the motion. The word 1 consulted ' in particular was not used at all. Moreover, if that statement was made the subject matter of discussion in the House, then by implication, it would be the discussion on a matter which was sub-judice because all the three detenues were

charged with substantive offences and their cases were pending before the court So, the adjournment motion may be ruled out of order.

After further discussion the Chairman observed:

> "I think we have had enough discussion. Much has been made of the word "consult". As a matter of fact, I want to remove the misunderstanding about why the word 'consultation' or "consult" was used by the paper in its report today. What actually happened was that the word * consult' was used by the Governor. To my enquiry from the Opposition Members their argument was that the statement of the Governor tantamount to interference in the provincial autonomy.

The matter of these three prisoners was between the provincial government and the Prime Minister's meaning thereby that he (Prime Minister) had to be consulted. It is the right, the privilege or the prerogative of the provincial government to release them—why the Prime Minister would be consulted? This is what actually led to the misunderstanding. The basis of your adjournment motion, Mr. Kamran Khan was that the Governor had repeatedly said in his statement at the Airport that Mr. Bezanjo. Mr. Mengal and Sardar Marri had been detained by the Baluchistan Government, your argument was: why should the Prime, Minister be consulted before their release which according to you, is an encroachment upon provincial autonomy? Now, this has been denied by the Governor, and the denial has been conveyed through the honorable Minister. I am supported, in this view by a decision of the Chair, No. 26 of 1921 Legislative Assembly (Central) 1921 1940, which I quote"

Government disputes FAC stated therein: President accepts Govern¬ment's version of facts unless there is a proof to the contrary:

> "A member desired to move for the adjournment of the House to discuss the forcible occupation by the military of a Muslim Idgah in the Central Provinces. After hearing the Government Member, the President said that the Government denied the Correctness of the facts stated in the motion and he had to accept Government Member's statement unless there was any proof to the contrary.;
>
> Since the Governor has denied the allegation attributed to him that he stated those words, I accept the version of the statement he has made, and, therefore, rule the adjournment motion out of order."

Senate Debates,
18th April, 1974,
P555—556
19th April, 1976,
P 579—586.

79. *Adjournment Motion: Stoppage of militia and road maintenance personnel of Dir Swat from proceeding to Islamabad: ruled out: notice not given in time: also ruled that objection against Chair's Ruling not permissible:*

**Ruling**

On the 25th April, 1974, a Senator sought leave of the House to move an adjournment motion to discuss the situation arising out of stopping of Militia police and Road Maintenance personnel of Dir and Swat at Malakand by Levy and Scouts from proceeding to Islamabad for the redress of their grievances, as a result of which tension had been created in the area.

The Minister-in-charge opposed it and/stated that adjournment motions were brought to draw the attention of the Government to a particular fact. He informed the House that the matter was well in hand. The deputation met the Prime Minister. He, therefore, requested the Senator to have some patience as the Government was fully seized of the matter. The mover acknowledged the correctness of the position explained by the Minister but remarked that he could wait while the people concerned could not wait.

Thereupon, the Chairman observed:

> "The position is that you are referring to an incident which had occurred long before. The deputation met the Prime Minister the day before yesterday, and the Prime Minister, to my knowledge, as reported in the Pakistan Times, met the deputationists and assured them that he would meet them during his next visit to Peshawar and look into their grievances. On his assurance the deputationists have gone back. You have referred to something in your adjournment motion which had preceded this meeting between the Prime Minister and the deputationists. The stopping of these people, the Long Marchers of Dir, Swat and other places by Levy or Scouts had taken place about five, six or seven days before the Prime Minister met the deputationists. Apart from the technical disability with which this adjournment motion suffers, you did not give two hours' notice. The notice was received at 8.30 a.m. and the meeting was schedule to commence at 9.30 a.m. I could not even look into it. On that ground alone it could be ruled out. Then it is nota recent matter. It is an old one. Nawa-i-Waqt has referred to it. To my knowledge it appeared in the press yesterday. It is not a matter of recent occurrence."

The Senator contended that tension had increased recently and that it was not a continuing process. The Minister-in-charge further pointed out that while the mover had alleged that the people were stopped, the fact was that they had succeeded incoming to Islamabad and met the highest executive authority in the country. The Prime Minister told them to go back after giving them the assurance of meeting them at

Peshawar, and they had since gone back. The Senator from Swat, Mr. Sher Mohammad Khan, who met the Prime Minister along with the delegation also corroborated the statement of the Minister. The mover observed that he did not deny the information in possession of the Law Minister. He added that he wanted to cut the matter short. Thereupon the Chairman ruled:

> "If you want to cut it short, then the motion is out of order on the ground that sufficient notice was not given.".

The mover, however, claimed that sufficient notice was given.

The Chairman then finally observed:

> "What I told you is that I could disallow this motion on more than one grounds. Firstly, two hours' notice was not given there are other grounds as well. Then you got up and said that you wanted to cut it short.] said that if you wanted it to cut short, then I could do so by rejecting your motion on the mere ground that two hours' notice was not given. Now, do not bring into question my ruling. Supposing you start taking objection to my ruling—I ruled it out of order—then it would create a very bad precedent in the House, which I cannot permit.".

Senate Debates,
25th April, 1974,
P 696—699.

80. *Adjournment Motion: Failure of Federal Government to run goods trains on Khusat, Harnai and Sibbi Railway station:s in Baluchistan: ruled out: matter neither urgent nor recent*

**Ruling**

On the 25th July, 1974, a Senator sought to move an adjournment motion to discuss the alleged failure of the Federal Government to run goods trains on Khusat, Hamai and Sibbi railway station:s on account of which transportation of coal — the most important mineral wealth of Baluchistan — had been stopped resulting in loss to business concerns and wastage of national wealth.

The Minister Incharge opposed the motion and explained that due to sabotage activities difficulties were being faced in running trains on the line. However, under army supervision, mixed trains had been and were running. He hoped that with further improvement in the situation, which was getting better, goods trains would again be on the tracks in the near future. He also appealed to the Opposition to cooperate with

the Government in discouraging the sabotage activities.

The mover stressed that the mixed trains which were in operation had also been stopped and that a few passenger trains were being run under cover of helicopters during the day time only. As regards cooperation with the Government, he maintained that it was the question of rights of the people of Baluchistan which, he alleged, the Government had usurped. In reply to a query he stated that the matter was eleven months old and was continuing since then.

Mr. Chairman observed that an adjournment motion could be moved only on an issue of urgent public importance which justified adjournment of the other business before the Senate. He added that according to the mover himself the matter was about eleven months old. Hence it was neither urgent nor recent and was hit by Rule 71 of the Rules of Procedure and Conduct of Business in the Senate, 1973. He, therefore, ruled the motion out of order.

Senate Debates,
25th July, 1974.
P 12—16.

81. *Adjournment Motion: Alleged naked dance in a drama telecast by Karachi television station: allegations denied: ruled out:*

**Ruling**

On the 29th July, 1974, a Senator sought leave of the House to move an adjournment motion regarding the alleged naked dance by a TV artist in a drama telecast by the Karachi Television Station as reported in "Elan" Karachi of 18th July, 1974.

The Minister-in-charge opposed it on the ground that the news item referred to in the motion was incorrect. The fact, he stated, was that about a year ago Pakistan Television Corporation entered into a contract with renowned film Director for the preparation of a series of twelve films on the condition that if the first film so shot proved to be below the mark, the contract would be cancelled. The first such film was on Mohenjo-Daro which also contained the dance of the said artist. This film having been found below the standard was not telecast at all from any TV station and the contract with the film Director was also cancelled. Moreover, the dance of the artist was not naked as she was in dress.

The mover stated that as his adjournment motion was based on a newspaper report which has now been contradicted by the Minister-in-charge, he would not press his motion. Thereupon the Chairman observed:

"Since it has been denied by the Minister concerned, the motion is ruled out of order."

Senate Debates,
29th July, 1974,
P 100—102.

82. *Adjournment Motion: Laying of wreath by Prime Minister on the monuments of freedom fighters of Bangladesh: ruled out: the action was not important enough to give rise to an Adjournment Motion:*

**Ruling**

On the 29th July, 1974, a member sought leave to move a motion for adjournment of the business of the House to discuss the news that during his official visit to Bangladesh, the Prime Minister of Pakistan went to Savar to lay wreath on the monument of so-called freedom fighters of Bangladesh who were alleged to have been killed by the Pakistan Army. This, he alleged, had sent a wave of resentment throughout the country and badly damaged the prestige of Pakistan.

Speaking on behalf of the Cabinet Division and the Ministry of Foreign Affairs, Mr. Khurshid Hasan Meer, Minister Without Portfolio, refuted the allegations. He stressed that laying of the wreath on the monument was an essential part of the formal protocol of the Prime Minister's visit to Bangladesh and that it did not carry any other implications. He also opposed the motion on technical grounds and argued that as required under rule 71 (a) it did not raise an issue of urgent public importance.

The mover stated that if the clarification now made was correct it should have been given along with the news published after Prime Minister's Bangladesh tour. At that time a Government announcement indicated that the Prime Minister visited the monument under pressure as otherwise the Bangladesh Government had threatened to cancel all ceremonies/functions. The mover emphasised that the details of the Prime Minister's tour ought to have been settled prior to the visit and Savar ceremony should have been refused.

After some discussion the Chairman ruled the motion out of order and observed:

"The National Assembly, the most representative body in the country, had unanimously given a mandate to the Prime Minister to recognize Bangladesh and the timing was left to his discretion. In the context of this political situation he had gone there on a goodwill mission to bring the two countries closer, in order to give effect to that mandate of the National Assembly, If during that stage of our political life, he thought it expedient and wise to go to Bangladesh and, in order to complete formalities of

protocol, he laid a wreath on the national monument, I don't think it is such'an action on the part of the Prime Minister that it should give rise to an adjournment motion. I don't think, it is of that importance. I, therefore, rule it out of order."

Senate Debates,
29th July, 1974,
P 102—107.

83. *Adjournment Motion: Heavy bombing on bambore range bordering the district of Kachi in Baluchistan: allegation denied by Minister: ruled out:*

**Ruling**

On 30th July, 1974, a member sought leave of the House to move an adjournment motion regarding alleged bombing by the Air Force on the Bambore Range bordering the district of Kachi mainly inhabited by Marri tribesmen in the second week of June, 1974, causing the death of innumerable men, women and children and destruction of Marri settlements in the region. The motion alleged that the attack on unarmed and peaceful people of the Bambore Range and the adjoining areas was reported to be continuing followed by other repressive measures.

The Minister without Portfolio, making a statement on behalf of the Government, categorically denied the alleged aerial bombing on Bambore Range or on any other place in Baluchistan. He added that the Prime Minister under-took an extensive tour of Baluchistan, and wherever he went he found that the conditions were peaceful. According to the report of the Prime Minister's tour of these areas published in the Pakistan Times on 28th July, 1974, a large number of the residents of the Marri area told the Prime Minister in Mawand that there had been no bombing in the area. The army operations were intended against certain miscreants who harassed the local population and tried to disrupt law and order In fact, in many cases the local population asked for army protection from the marauders. So the Federal Government had to discharge its responsibility under the Constitution. But there is no Federal Administration in Baluchistan. There was a legally constituted government in the province. And in all these areas peace was returning. The mover repeated the allegation and denied the Government version by saying that there had been bombing in the areas.

The Chairman after hearing both sides ruled that as a responsible Minister had denied the allegations and as he had no proof that there was aerial bombing on Bambore, he was left with no option but to rule the motion out of order.

Senate Debates,
30th July, 1974,
P 120—130.

84. *Adjournment Motion: Heavy bomb attack on Chamalang range in Lorelai district of Baluchistan: ruled out: allegation denied:*

**Ruling**

On 30th July, 1974, a member sought leave of the House to move an adjournment motion regarding a bomb attack between 12th and 20th June, 1974, by the Air Force on Chamalang Range in the Loralai district of Baluchistan inhabited by the Marri tribe, killing a number of persons and cattle and razing to the ground several Mam settlements in the area.

The Minister without Portfolio, opposed the motion on the grounds, firstly that all the allegations were denied, and secondly, the motion could not be discussed under rule 71 (d) as the same incident had already been discussed in the National Assembly within the last six months.

The mover requested that a deputation be sent to the area to make an inquiry and submit its report to the House, and secondly, the Government should agree to hold a full-fledged debate on the Baluchistan situation. After hearing the arguments advanced by the two sides of the House, the Chairman ruled:

> "In view of the emphatic denial by the Government side of the allegations, I have no alternative but to rule out the adjournment motion".

Senate Debates,
30th July, 1974,
P 130—133.

85. *Adjournment Motion: Failure to provide medical and other facilities to Sardar Attaullah Mengal: the Chairman instructed interior Minister to note the complaint and look into the matter: on this assurance the motion was not pressed:*

**Ruling**

On 5th August, 1974, a member sought leave of the House to move an adjournment motion to discuss that the Government has neither provided Sardar Attaullah Mengal, who is a heart patient, proper medical treatment nor was he being supplied with newspapers or radio causing him physical and mental deterioration.

The motion was opposed on several grounds, namely, that:

(a) It violated rule 71 (b) and did not relate substantially to one definite

issue as it talks of two issues—radio and health; the allegation of the failure of the Government to provide medical and other facilities was categorically denied by the Minister; and

(b) The matter referred to in the motion was not the concern of the Federal Government but of the Provincial Governments.

During the course of discussion, the Interior Minister stated that Sardar Attaullah Mengal had already been examined by a medical specialist. He was also being supplied with the newspapers which were on the approved list of the jail. He could also be given a radio if he asked for it.

It was contended in support of the motion that only the Federal Government had the powers of keeping detenues of one province in the custody of some other province and so the matter was the concern of the Federal Government. As regards the allegation that Mr. Mengal was a heart-patient and had not been provided with even the essential facilities, the Chairman instructed the Interior Minister to note the complaint and look into the matter. The Minister gave the assurance that he would inform the Provincial Government to allow Mr. Mengal the best possible facilities including medical facilities.

The mover being satisfied with the assurance did not press the motion.

Senate Debates,
5th August, 1974,
P 195—201

86. *Adjournment Motion: Bombing by air force planes on Bhutter Village of Marri area: allegation denied by the Minister: held not in order:*

**Ruling**

On 5th August, 1974, a member sought leave to move an adjournment motion to discuss the alleged bombing of Bhutter village of Marri area by Air-Force planes between 5th and 20th July, 1974, resulting in numerous deaths, loss of livestock and property.

The motion was opposed inter alia on the following grounds:

(a) That there had been a full-fledged debate in the National Assembly on that issue on the 27th June and, therefore, it could not be re-agitated in the Senate under rule 71 (d) of the Rules of Procedure and Conduct of Business in the Senate, 1973.

(b) That the allegation of the aerial bombing was categorically denied by the Minister.

During the discussion the Minister of State for Foreign Affairs and Defence observed that no debate had taken place in the National Assembly over the matter in issue. The Chairman, therefore, over¬ruled this objection raised from the Government side. The Minister of State for Foreign Affairs and Defence observed that the motion referred to a purely hypothetical situation and that the mover was seriously mis-informed. The Chairman, however, ruled out the motion on the ground of categorical denial of bombing by the Minister.

Senate Debates,
5th August, 1974,
P 195—201

87. *Adjournment Motion: Continuous firing in Quetta On 23rd July, 1974:law and order a provincial subject: ruled out of order:*

**Ruling**

On the 6th August, 1974, a member sought leave to move an adjournment motion to discuss the failure of the Government to fix responsibility for the continuous firing in Quetta which took place on 23rd July, 1974, during the Prime Minister's visit to Quetta.

The Minister for Interior opposed the motion on the ground firstly that it related to a matter of law and order so the proper forum to bring this motion was the Provincial Assembly of Baluchistan which was in session and secondly, the Minister added, the allegation that continuous firing took place on that night in Quetta was absolutely wrong.

In support of the motion the Leader of opposition contended that as the Federal Security-Force which controlled law and order was under the Federal Government, it was concerned with the matter proposed to be discussed in the motion. Thereupon the Chairman observed that the crux of the matter was that as the Provincial Government was responsible for protection of life and property of the people, it was a provincial subject. The motion was, therefore, ruled out of order.

Senate Debates,
6th August, 1974,
P223—226

88. *Adjournment Motion: Army attack in Sheerani village of Lorelai district: matter already debated in the National Assembly: ruled out:*

**Ruling**

On the 6th August, 1974, a member sought leave to move an adjournment motion to discuss the unwarranted attack by Army- men on village Sheerani in the 3rd week of June, 1974, resulting in several deaths and destruction of livestock, Houses and crops.

The Minister of State for Defence opposed the matter saying that the occurrence was alleged to have taken place between 16th and 21st June, 1974, and there had been a full-fledged debate on the issue in the National Assembly on the 27th June, 1974, therefore, the motion attracted rule 71 (d) and was not in order.

Thereupon the Chairman ruled that the matter has been discussed in the National Assembly. If a matter is discussed in the Assembly, it cannot be discussed in the Senate during (he next six months. The motion was, therefore, ruled out of order.

Senate Debates,
6th August, 1974,
P 227—228.

89. *Adjournment Motion: Refusal of permission to opposition leaders of the National Assembly to visit Chamalang range and adjoining areas: motion not moved at the earliest possible opportunity: ruled out:*

**Ruling**

On the 6th August, 1974, a member sought leave of the House to move an adjournment motion to discuss the refusal of permission by the Government to Opposition Leaders to visit Chamalang Range and the adjoining areas to make an assessment of the damage caused by bombing.

The motion was opposed on the grounds that there had been no bombing. The permission to visit the areas in question was refused by the Government of Baluchistan as alleged by the mover, the matter fell within the domain of the Provincial Govern¬ment.

It was contended in support of the motion that as the permission was refused not only by the Provincial Government but also by the Army, the matter, therefore, was the concern of the Federal Government. The Chairman observed that the alleged occurrence took place on 2nd July. The session commenced on 25th July, 1974, and the motion was brought on the 26th July, 1974. As it was moved late it could not be

regarded as a matter of urgent public importance and was ruled out of order.

Senate Debates,
6th August, 1974,
P 229—234.

90. *Adjournment Motion: Customs go down set on fire by the custom staff deliberately: held not in order:*

**Ruling**

On the 7th August, 1974, a member sought leave to move an adjournment motion to discuss burning down of custom go down at Nokundi by the Customs Staff deliberately to prevent audit inspection.

The admissibility of the motion was objected to on the grounds that the officials concerned had been suspended, an enquiry into the matter was being made and probably legal proceedings had been instituted. It was contended in support of the motion that its discussion would not prejudice the trial of the officials if legal proceedings had not been instituted against them.

Mr. Chairman ruled the motion out of order on the ground that its discussion would prejudice the trial of the accused.

Senate Debates,
7th August, 1974,
P279—281.

91. *Adjournment Motion: Strike by railway-men of Karachi division: held in order: but leave refused to move the motion:*

**Ruling**

On the 8th August, 1974 Khawaja Mohammad Safdar sought leave to move an adjournment motion to discuss the strike of Railway men of Karachi Division resulting in stoppage of Railway traffic and over-crowding of passengers at the Railway station:.

The Minister for Railway opposing the motion informed the House that the Railway Labour Union, which was not a bargaining agent under the Industrial Relations Ordinance, 1969, instigated the staff to go on strike. The strike was as such illegal. Also, it is incorrect to say the Minister added, that the strike had caused stoppage of the Railway traffic on the main line as well as on the Karachi Circular Railway.

No train services were cancelled. The question of overcrowding of passengers did not arise. The Minister, however, expressed his regrets for the inconvenience caused to the public. The mover then said that as the Minister had taken no objection to the admissibility of the motion under the rules, it may be admitted.

The Chair holding the motion in order asked the House whether the member had the leave of the House to move the motion. On a count, the Chair informed the member that he did not have the leave of the House.

Senate Debates,
8th August, 1974,
P 300—303.

92. *Adjournment Motion: Official interference in Gujranwala bye-election: if election petition is filed, the matter becomes sub-judice and if no petition is filed, then it is not a matter of urgent public importance: inadmissible:*

**Ruling**

On the 8th August, 1974, a member sought leave to move an adjournment motion to discuss the alleged official interference and malpractices in the bye-election to the Gujranwala National Assembly seat, which led to a three-day strike and a procession as reported in the daily "Nawa-e-Waqt" of 30th July, 1974.

The Leader of the House opposed the motion and denied the allegation. The Minister for Railways also opposed the motion on the grounds that the defeated candidates have a legal remedy open to them and, in the instant case, if they have filed an election petitions, the matter would become sub-judice. The Chair then asked the mover why he did not table the motion on the 30th July when he read about the alleged interference in the bye-election in the newspaper because the Senate was in session on that day. The mover stated in reply that the newspaper was received late. After hearing the arguments for and against the motion, the Chairman

observed:

> "…. If the complainant has filed an election petition, then it is sub-judice; and, if he has not cared to file it, then it is not a matter of urgent public importance. The motion is ruled out."

Senate Debates,
8th August, 1974,
P 303—308.

93. *Adjournment Motion: Air-force bombing on Shaldra Mohallah Quetta: allegation denied by the Minister: ruled out:*

**Ruling**

On the 8th August, 1974, a member sought leave to move an adjournment motion to discuss the alleged bombing of Shaldra (Pashtoonabad) Mohallah of Quetta city, without provocation on 2nd August, 1974, atabout9.15 a.m. causing fright to all the citizens of Quetta.

The allegations were categorically denied by the Minister of State for Defence who stated that what might have been imagined by the inhabitants of the area as bombing was not actual bombing. In the month of August, PAF had their flying practice at the Samungli Air Base. In the course of the practice the PAF., Supersonic aircraft on two occasions crossed the sound barrier (Known as Cross Mark I) and there was a tremendous explosion. Even windows can be shattered and walls can develop cracks. This was exactly what had happened on that particular day.

The Chairman observed that the Minister concerned had stated that there had been no bombing at all and had also explained what actually happened. In view of the categorical denial of the allegation, the motion was ruled out of order.

Senate Debates,
8th August, 1974,
P 308—312.

94. *Adjournment Motion: Bomb Blast Outside the Place Where Prime Minister Addressed a Public Meeting in Quetta: law and order subject: ruled Out:*

**Ruling**

On 12th August, 1974, a member sought leave to move an adjournment motion to discuss the bomb explosion just outside the public meeting which was being addressed by the Prime Minister in Quetta on the 2nd August, 1974, causing the death of a young man and injuries to two police constables.

The motion was opposed by the Interior Minister on the ground that it related to a provincial subject. The Minister stated that it was incorrect to say that the bomb blast occurred outside the public meeting injuring two constables.

The Leader of the Opposition said that the matter fell within the purview of the Federal Government under Article 149, Clause (4) of the Constitution. Under the Article the Federal Government was competent to give directions to the Provincial Government

for the purpose of preventing any grave menace to the peace or tranquility or economic life of Pakistan or any part of Pakistan. As the Provincial Government had failed to maintain law and order there, the Federal Government would be within its rights to issue directions to the Provincial Government in this regard particularly when the Prime Minister was present there. The Minister for the Interior, rebutting this argument observed that the point raised by the Leader of the Opposition was beyond the scope of the motion. The scope, he added, was that a boy carrying a bomb lost his life. This did not involve a grave law and order situation. Another Minister argued that if the motion had been framed so as to relate specifically to issuance or non-issuance of directions to the Provincial Government, it would have fallen within the purview of Parliament. But the motion, framed as it is, tantamount to transgression of the limits of provincial autonomy as laid down in the Constitution. Another Member from the Opposition side, supporting the motion, remarked that the motion was in order for the simple reasons that it related to a serious incident which occurred on a day when the Prime Minister was to address a public meeting.

The Chairman observed that the presence of the Prime Minister in any city or town did not make a matter the responsibility of the Federal Government. He held the motion out of order on the ground that it related to a Provincial matter.

Senate Debates,
12th August, 1974,
P 350—353.

95. *Adjournment Motion: Provincial Minister's orders to Police to punish Quaid-e-Awam's critics: Minister and Police were provincial subjects: held inadmissible:*

**Ruling**

On the 13th August, 1974, a member sought leave to move an adjournment motion to discuss a statement alleged to have been made by a Provincial Minister directing the police and the administration to punish the critics of the Quaid-e-Awam, and if they failed in it, he would snatch away their belts and uniforms on his next tour of that area.

The Minister for the Interior opposed the motion on the ground that the Minister and the police in question belonged to the Provincial Government. The Federal Government had no concern with them.

A member supporting the motion said that as the Provincial Ministers were appointed with the approval of the Prime Minister, they were responsible to the Prime Minister and as such the Federal Government is responsible for their actions. The Minister for the Interior in reply quoting Article 132 of the Constitution stated that the Chief Minister of a Province, and not the Prime Minister of Pakistan, appoints Provincial Ministers from amongst the members of the Provincial Assembly. Therefore, this is

clearly a Provincial matter.

The Chairman observed that even if it was presumed that this particular Minister had been appointed with the approval of the Prime Minister, that would not make the matter a Federal Subject. The Minister and the police were a Provincial Subject. The Motion was ruled out of order.

Senate Debates,
13th August, 1974,
P 397—402.

96. *Adjournment Motion: Pilferage of hand- grenades etc. from Pakistan Ordinance Factory: two separate issues mingled in one motion: held not in order:*

**Ruling**

On the 13th August, 1974, a member sought leave to move an adjournment motion to discuss the failure of the Government to stop pilferage of hand-grenades and other explosives from the Pakistan Ordnance Factory, Wah, and the failure of a Police Officer to arrest the culprits when 24 hand grenades were found on 7th August, 1974, on the road near Fawara Chowk, Rawalpindi.

The Chairman pointed out to the mover that he had mingled up two different issues in one motion. The pilferage of hand-grenades from the Pakistan Ordnance Factory was the concern of the Federal Government while the failure of the Police to arrest the culprits was a Provincial subject. Therefore, he ruled the motion out of order.

Senate Debates,
13th August, 1974,
P402—405.

97. *Adjournment Motion: Arrest of NAP and JUI Workers in Baluchistan Under DPR: matter a provincial subject and subjudice: not in order:*

**Ruling**

On the 13th August, 1974, a member sought leave to move an adjournment motion to discuss the indiscriminate arrests of NAP and JUI workers under the DPR by the Government of Baluchistan, basing it on a telegram saying that the Zhob District Administration arrested a number of JUI and NAP members on the instructions of the Baluchistan Government.

The Motion was opposed on the ground that the matter, besides being a provincial subject, was sub-judice. The mover argued that the matter fell within the sphere of the Federal Government if viewed in the light of Article 149 (4) of the Constitution under which the executive authority of the Federation extends to the giving of direction to a Province as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menace to the peace or tranquility or economic life of Pakistan or any part thereof. He contended that the Provincial Government had failed to maintain law and order in the Province as bomb explosions and mass arrests were the order of the day there.

The Chairman observed that in the motion there was no mention of failure of the Provincial Government to maintain law and order in the Province. Also the matter might be sub-judice because they had been arrested under the Defence of Pakistan Rules and, as pointed out by the Minister for the Interior, their application for bail had been refused. He further observed that a case became sub-judice from the day the enquiry commences because nobody could remain in the custody of the Police without the orders of a court. A Magistrate was, however, competent to remand a person to Police custody for more than twenty-four hours.

Summing up his observations the Chairman ruled:

> "It is a provincial subject and it is sub-judice. Therefore, it cannot be discussed here".

Senate Debates,
13th August, 1974,
P 405—409.

98. *Adjournment Motion: Failure of the government to apprehend persons engaged for espionage by Bharati government: matter Subjudice: ruled out:*

**Ruling**

On 23rd August, 1974, a member sought leave to move an adjournment motion to discuss the alleged failure of the Government to apprehend persons engaged for espionage by the Bharati Government who had communicated important secrets and documents to Bharati intelligence officers, as reported in the daily Nawa-e-Waqt of 20th August, 1974.

The Minister of State for Defence opposing the motion stated that the persons engaged in espionage activities had, in fact, been apprehended. Explaining the delay in their apprehension, he said that in the matter of espionage it was neither possible nor sometimes desirable to arrest a spy as soon as hi activities came to the notice of the

government. The mover contended that the government could not keep a vigilant eye on the spies with the result that important secrets had been divulged and the ring leader of the spies had fled to Europe. Disagreeing with the Minister, he urged that as the Minister had taken no technical objection to its admissibility, the motion may be admitted.

The Chairman ruled the motion out of order on the ground that the matter was Subjudice.

Senate Debates,
23rd August, 1974,
P591—593.

99. *Adjournment Motion: Discriminatory treatment meted out to Sardar Attaullah Mengal and others in Sahtwal jail: matter not concern of Federal Government ruled out*:

**Ruling**

On 23rd August, 1974, a member sought leave to move an adjournment motion to discuss the discriminatory treatment meted out to Sardar Attaullah Mengal and other in Sahiwal jail under instructions of the Federal Government.

The motion was opposed by the Leader of the House on the ground that the matter was not the concern of the Federal Government.

It was contended in support of the motion that under the orders of the Federal Government, the prisoners were transferred from Baluchistan to the Sahiwal jail and so the matter of discriminatory treatment in the jail was the concern of the Federal Government. The Chairman ruled the motion out of order with the remarks:

> "I am not satisfied that the alleged treatment meted out to the under-trial prisoners is done at the instance or under the direction of the Federal Government. The treatment to prisoners in jail is a provincial subject."

Senate Debates,
23rd August, 1974,
P 593—598.

100. *Adjournment Motion: Raid by Indian dacoits on two border villages: date of occurrence not given: held inadmissible being neither specific nor of recent occurrence:*

**Ruling**

On 29th August, 1974, a member sought leave to move an adjournment motion to discuss the alleged failure of the Government to protect the two Pakistan border villages Umar Kot and Naplo from attack by Indian dacoits as reported in the Pakistan Times of 21st August, 1974. On the Chairman's enquiry about the date of the alleged occurrence the mover said that the news of the dacoity appeared in the Pakistan Times on 21st August, 1974, but the date of the occurrence was not given in the Paper. The Chairman held the motion out of order on the ground that the matter was neither specific nor of recent occurrence.

Senate Debates,
29th August, 1974,
P 708—711.

101. *Adjournment Motion: Fire on railway track on Quetta Railway Sation: matter subjudice: ruled out:*

**Ruling**

On 29th August, 1974, a member sought leave to move an adjournment motion to discuss the alleged failure of the Pakistan Railways to prevent incidents of sabotage within the Railway yard, endangering life and property of the citizens. The mover alleged that fire broke out in the Quetta Railway yard on 24th August, 1974, resulting in the burning of two oil tankers and damage to another as reported in the daily "New Times "of Rawalpindi, on 25th August, 1974.

The motion was opposed by the Minister for Works on the ground that the matter was sub-judice as an immediate enquiry had been ordered and, according to the statement of the Chief Minister of Baluchistan, two culprits responsible for the incidents had been arrested. The Chairman ruled out the motion on the ground that the matter was sub-judice.

Senate Debates,
29th August, 1974,
P 712-71

102. *Adjournment Motion: Wapda house explosion: matter a provincial subject: ruled out:*

**Ruling**

On 5th September, 1974, a member sought leave to move an adjournment motion to discuss the WAPDA House explosion which took place on 3rd September, 1974, killing two and injuring eight persons.

The motion was opposed by the Minister for the Interior on the ground that law and order, being a provincial subject, was not primarily the concern of the Federal Government. Moreover, the matter was under investigation by the Police.

The mover contended in support of the motion that it did not pertain to law and order. A 200 lbs. Time-bomb was (reported to have been planted in WAPDA House in an attempt to protect the undesirable persons connected with Tarbela Dam by destroying the WAPDA record. The allegation was refuted by the Minister for the Interior. He observed that the Government bad no such intention whatsoever.

The Chair remarked that if that plea was accepted it would become a question of inference and the motion would be hit by rule 71 (g). After hearing the view-points expressed for and against the motion, the Chairman held the motion out of order because it related to a provincial subject.

Senate Debates,
5th September, 1974,
P 790—792.

103. *Adjournment Motion: Murderous attack on Sahibzada Ahmad Raza Qasuri, MNA resulting in the death of his father: matter not primary concern of Federal Government and sub-judice: ruled out:*

**Ruling**

On 19th November, 1974, a member sought leave to move an adjournment motion to discuss the alleged dastardly attack on Sahibzada Ahmad Raza Qasuri, MNA, with automatic weapons between the night of 10th and 11th November, 1974, which resulted in the murder of his father Nawab Mohammad Khan as reported in the press.

The Minister of State for Parliamentary Affairs opposed the motion on the grounds that the matter proposed to be discussed, apart from being sub-judice, was a provincial concern as protection of life and property of citizens including those of members of the National Assembly was a provincial subject. Further the matter appeared to involve a breach of privilege. If it did, he argued, a motion for adjournment was not

the proper procedure for raising the question of privilege. He quoted precedents from the Decisions of the Chair (1921—1940) in support of his contention that a question of privilege could not be raised through an adjournment motion.

The mover contended that the matter proposed to be discussed was the responsibility of the Federal Government. He recalled that during discussion on the Bill to constitute the Federal Security Force, the House was told that the purpose of the Force was to maintain law and order effectively. He added that no case regarding the attack on Sahibzada Ahmad Raza Qasuri, MNA, had till then been registered and therefore the matter was not sub-judice. He said that Security Force men were seen patrolling the roads not far from the Assembly Hall. He concluded that his motion was in order as it related to a matter of urgent public importance and of recent occurrence and that it is primarily the concern of the Federal Government. The Chairman drawing the attention of the mover to rule 71 (f) observed that even if it was accepted that sometimes the Federal Security Force, which was under the administrative control of the Federal Government, was associated with the maintenance of law and order, that was done only to help the provincial government. The Chairman held the motion out of order as the matter, apart from being sub-judice, was not primarily the responsibility of the Federal Government.

Senate Debates,
19th November, 1974,
P 14—19.

104. *Adjournment Motion: Entry of thirty thousand Afghan nationals in Pakistan: matter a continuing process: ruled out:*

**Ruling**

On 19th November, 1974, a member sought leave of the House to move an adjournment motion to discuss the failure of the Federal Government to prevent the Afghan nationals from entering Baluchistan. He alleged that the Governor of Baluchistan had disclosed in a press conference that about thirty thousand Afghan nationals had entered Baluchistan as reported in the Nawa-e-Waqt of 19th October. 1974.

The Chairman asked the mover to explain how it was an urgent matter in view of the fact that according to the Press Conference the Afghan nationals had been entering Pakistan for the last six or seven months.

The mover replied that during the last few months the Interior Minister had made repeated statements that the Government had sealed the Pakistan-Afghanistan border. He added that all of a sudden the Governor of Baluchistan had stated that thirty thousand saboteurs had entered Baluchistan. The statement of the Governor

was a fresh disclosure which had come to light all of a sudden and as such was a matter of urgent public importance. The Chair observed that he personally felt that the matter was no doubt of public importance but this had been continuing for the last six or seven months. Therefore, it was not urgent and had not created any emergent situation to justify the adjournment of the House for discussion. The motion was, therefore, ruled out of order.

Senate Debates,
19th November, 1974,
P 19—21.

105. *Adjournment Motion: Theft of imported wheat during transit: matter sub-judice: ruled out:*

**Ruling**

On 21st November, 1974, Khawaja Mohammad Safdar sought leave to move an adjournment motion to discuss the failure of the Federal Government to prevent the theft of 25 % to 30% of imported wheat during transit from Karachi to inland destinations resulting in a great financial loss to the Government as reported in the daily Nawa-e-Waqt dated 11th November, 1974.

The motion was opposed by the Minister of State for Parliamentary Affairs on the ground that at least five persons had been arrested under Section 409 PPC and Section 5 (2) of the Prevention of Corruption Act. Therefore, the matter in question was sub-judice. It was contended by the mover that the motion related not to one incident of theft only but also to several other occurrences of theft during the last six or seven months. Besides, he added, the instant case was registered against the officers of Food Department in Karachi but no case had been registered with regard to the occurrence of theft in Peshawar. Lahore or Khanewal and other places. He further remarked that the case was not pending before the court or before any authority performing judicial or quasi¬judicial functions. According to him, only the police was investigating and might have arrested certain persons.

The Chairman observed that the Minister had made a categorical statement that certain persons had been arrested and produced before the court and the court released them on bail. So the motion related to a matter pending in a court and was ruled out of order on the ground of being sub-judice.

Senate Debates,
21st November, 1974,
P 53—59.

106. *Adjournment Motion: Disruption of power supply in Karachi: matter not of urgent public importance: ruled out:*

**Ruling**

On 21st November, 1974, Khawaja Mohammad Safdar sought leave of the House to move an adjournment motion to discuss the disruption of power supply in Karachi for 130 minutes due to short- circuit by operational fault as reported in the Dawn of 12th November, 1974.

The motion was opposed by the Minister of State for Parliamentary Affairs on the ground that the matter was not of urgent public importance. Electric fault had been repaired after two or three hours. Referring to a decision from the Decisions of the Chair in support of his argument, the Minister contended that the matter had lost the element of urgency because the fault had been rectified within two or three hours.

The mover referring to Decision No. 355 from the Decisions of the Chair, 1941—1945, (Indian Central Legislative Assembly) contended that on 7th March, 1941, an adjournment motion regarding the matters of every day jail and police administration was held in order by the President of the former Central Legislative Assembly of India. He argued that the matter of the instant adjournment motion was also one of urgent public importance.

The Chairman observed that the facts of the decision referred to by the mover were different from those of the instant motion. As supply of electricity had been restored in a few hours, the matter ceased to be urgent. If there was any urgency as a result of breakdown of electricity about a few months ago, it ceased to exist as soon as the fault was removed and the supply of electricity restored. He agreed with the mover in principle that such an incident would have been held to be of urgent public importance, but since the fault was removed within a couple of hours the matter ceased to be urgent. The motion was on that ground ruled out of order.

Senate Debates,
21st November, 1974,
P 59—65.

107. *Adjournment Motion: Defective electric supply to Quetta: motion held in order:*

**Ruling**

On 23rd November, 1974, a member sought leave to move an adjournment motion to Discuss the defective supply of electricity to Quetta city on 9th November, 1974, resulting in heavy financial loss to industrial units, and public and private property

such as electric motors, TV Sets, etc.

The Minister of State for Parliamentary Affairs opposed the motion on the ground that it related to a matter which was 'a continuous wrong'. He referred to decision No. 32 reported in the 'Decisions of the Chair' (1962—1965) and argued that the matter had not occurred suddenly and was not of 'urgent' importance. He added that the term 'urgent' used in rule 71 of the Rules of Procedure has been defined in May's Parliamentary Practice as something which 'emerges suddenly'. The motion, he contended was, therefore, inadmissible. The mover insisted that the motion related to a specific matter of failure of electricity in Quetta city on 9th November, 1974, as reported in newspaper.

The Chairman observed that the decision quoted by the Minister was not applicable to the point at issue because the then Home Minister happened to make statements in reply to the statements of Maulana Maudoodi made over many months. He added that in the present case the complaint was that on the 9th November, 1974, failure of electric supply in Quetta had caused damage to television and radio sets, etc. This damage which was there and had not been repaired was a specific issue. Mr. Chairman held that the motion was in order.

Senate Debates,
23rd November, 1974,
P 114-117.

108. *Adjournment Motion: Incomplete recitation of Sura Baqr of the holy Quran by TV corporation: motion vague: held inadmissible:*

**Ruling**

On 23rd November, 1974, a member sought to move an adjournment motion to discuss the incomplete recitation of Surat Baqr of the Holy Quran by TV Corporation, Lahore on 26th September, 1974. On enquiry by the Chair, the mover could not point out the words allegedly omitted in the recitation of AyatNo. 185 of Sura Baqr to show that the entire meaning had been changed.

Thereafter the Chairman observed: —

> "The mover could not point out the specific words allegedly omitted in the recitation of Sura Baqr. The motion is vague. So disallowed.".

Senate Debates,
23rd November, 1974,
P 119-122.

109. *Adjournment Motion: Clash between Sibbi scouts and Marri tribesmen: ruled out for lack of proof:*

**Ruling**

On 25th November, 1974 Mr. Zamurrud Hussain sought leave to move an adjournment motion to discuss the clash between Sibbi Scouts and Marri Tribesmen on the 4th November, 1974, at Tartani Nallah, resulting in the death of seven and injuries to four Scouts. The Minister of State for Parliamentary Affairs, opposing the motion observed that as it is evident from the last four lines of the motion, the member wanted to discuss the policy of the Government which he could do through a motion under rule 187, and not through an adjournment motion. He added that the motion, if admitted, would automatically raise discussion on the Baluchistan situation which was now under control and it would not be in the public interest to discuss it on the floor of the House. The Chair then asked the Minister of State if he denied or admitted the allegation that seven Sibbi scouts were killed and four wounded as a result of this clash. The Minister replied that he would have to ask for a report from the Interior Division. The mover remarked that he had got this information through a reliable source. Mr. Rafi Raza Minister for Production rose on a Point of Order and remarked that what was at issue in the motion was contained in the last four lines, that is, the policy of the Government and not the facts. In his view the motion sought to discuss the policy of the Government in keeping the dash concealed and as the Minister of State had pointed out, this matter could, net be discussed in the form of an adjournment motion. The Chair could, therefore, give a ruling on this point.

The Chairman then observed that the question of policy emerged from the concealment of certain allegations. At this stage the Minister for Law and Parliamentary Affairs Malik Meraj Khalid took objection to the admission of the motion on the ground that as the Sibbi Scouts were the concern of the Provincial Government, this matter could not be discussed in this House. Also, the alleged clash between the Sibbi Scouts and the Marri Tribesmen related to the Law and order situation, which was a provincial matter; it was for the Provincial Government to conceal or not to conceal this matter. The mover had produced nothing to establish the correctness of his information about the alleged clash. The Chair then remarked that it seemed that there was no proof furnished by the mover that this occurrence had actually taken place. It was not for the Government to prove its incorrectness. The Chairman observed:

"Here you have alleged that a clash had taken place resulting in the death of seven Scouts and four wounded. Well, I am not personally convinced that the occurrence has taken place. If the occurrence has taken place and when you lack proof or you have not been able to furnish proof that this incident has definitely taken place, the question of concealment does not arise. The question of Government policy does not come in. So I do not hold it in order for lack of proof'.

Senate Debates,
25th November, 1974,
P 140—148.

110. *Adjournment Motion: Entry of thirty thousand Afghan nationals in Baluchistan: a similar adjournment motion disallowed earlier in the same session: held inadmissible:*

**Ruling**

On 26th November, 1974. A member sought leave to move an adjournment motion to discuss the failure of the Federal Government to guard against illegal entry of thirty thousand Afghan nationals in Baluchistan during the last six months who were engaged in anti-state activities.

The motion was opposed by the Minister of State for Parliamentary Affairs on the ground that an identical motion had been ruled out earlier in the same session of the Senate, and that the matter proposed to be discussed was a continuous process and not of recent occurrence. The Chairman disallowed the motion on the ground that a similar motion had been ruled out by him previously.

Senate Debates,
26th November, 1974,
P 189.

111. *Adjournment Motion: Misappropriation of Railway earning in Gujranwala: matter subjudice: ruled out.*

**Ruling**

On 26th November, 1974, a member sought leave to move an adjournment motion to discuss the failure of the Railway Authorities to trace the culprits responsible for misappropriation of Railway earnings in Gujranwala District, as reported by daily Nawa-e-Waqt, Lahore dated 30th October, 1974.

The Minister of State for Parliamentary Affairs opposing the motion stated that 13 persons had been arrested and cases against them registered; as such, the matter was sub-judice. The motion could not, therefore, be entertained. A member remarked that as the Minister had given a reply to the question posed by the mover of the motion, the question of the matter being sub-judice did not arise. A matter became sub-judice only when the investigating agency put in the Challan in the court of law. According to him the motion was in order and the matter ended with the reply given by the Minister.

The Chairman observed that once the remand was taken by the police with the orders of the court, the case became subjudice. For 24 hours the accused remains in the custody of the police and after 24 hours he must be produced before the court. That was "Katcha" Challan and on that the remand was given.

After hearing the opposition's viewpoint on the subject, the Chairman ruled that in view of the Minister's statement that the Government had done its duty by arresting thirteen persons who were the culprits, and registering cases against them, the case became sub-judice. Therefore, the motion could not be entertained.

Senate Debates,
26th November, 1974.
P 193—196.

112. *Adjournment Motion: Failure of Railway authorities to prevent accidents: an identical motion disallowed earlier: ruled out:*

**Ruling**

On 26th November, 1974, a member sought leave to move an adjournment motion to discuss the failure of the Pakistan Railways to prevent an accident on a manned level-crossing situated between

Spezand and Sariab Railway station:s causing the death of one person and injuries to five others as reported in the daily "Mashriq", Quetta on 7th November, 1974. On enquiry by the Chairman, the Minister of State for Parliamentary Affairs stated that a motion about the same incident was moved by another member and disallowed on the 22nd November, 1974. The Minister for Railways then stated that two persons had already been arrested and the action was being taken against them. In view of this position, he said the mover of the earlier motion had not pressed his motion. The Chairman remarked that a motion withdrawn or not pressed or disallowed meant the same thing, AS an identical motion had been disallowed earlier, the motion was ruled out of order by the Chairman.

Senate Debates,
26th November, 1974,
P 196—197.

113. *Adjournment Motion: Inadequate arrangement of fresh air in Coal mines lease no. 8 of Sindji Quetta: matter a provincial concern: ruled out:*

**Ruling**

On 26th November, 1974, a member sought leave to move an adjournment motion to discuss the failure of the Government to make adequate arrangements of fresh air in Coal Mines Lease No. 8 of Sindji, Quetta, resulting in the death of two workers, as reported in the daily "Mashriq", Quetta, of 7th November, 1974.

The motion was opposed by the Minister of State for Parliamentary Affairs on the ground that coal mines were the concern of the Provincial Government and not of the Federal Government, vide entry 30, Concurrent Legislative List read with Section 3 (aa) of the Mines Act, 1923. The Federal Government was concerned with mines of nuclear substances, oil and gas fields, while the rest were governed by the Provincial Governments concerned under the Mines Act, 1923.

The mover contended in support of the motion that the responsibility of labour welfare in mines devolved on the Federal Government. The Coal Mines were under PI.D.C. The labourers in mines died because of the stoppage of electricity which was the responsibility of WAPDA. This matter was, therefore, the concern of the Federal Government.

Disagreeing with the mover the Minister observed that although the regulation of labour and safety in mines were on the Concurrent Legislative List, under the Mines Act of 1923 Coal Mines were a Provincial subject. The Chief Inspector, who was the supervising authority, was also under the control of the Provincial Government.

The Chairman ruled:

"The statutory provision clearly lays down that the matter is a provincial subject. The Provincial Government should be held responsible for the alleged failure and the matter may be agitated in the Provincial Assembly. Ruled out".

Senate Debates,
26th November, 1974,
P 189—193.

114. *Adjournment Motion: Eighth Asian games at Islamabad: allegations denied: matter not definite: in admissible:*

**Ruling**

On 27th November, 1974, a member sought leave to move an adjournment motion to discuss the failure of the Government to stop the Pakistan Sports Board to hold the Eighth Asian games at Islamabad involving an expenditure of millions of rupees, a colossal waste of money which a poor nation like Pakistan can ill-afford. The Law Minister opposing the motion denied the allegations made in the motion. The Minister added that the decision to hold the Asian Games had been taken by the Government to further some of the cardinal objectives of the present Government which were, intended in brief, to further international goodwill, project national image and provide a boost to enkindle interest in the health and physical culture at the national level. Thus the money to be spent on the holding of the Asian Games will not go waste. The

financial burden will not be allowed to fall exclusively on the national exchequer as the Peoples Republic of China has come forward to share the burden in a big way. The mover of the motion then remarked, that the motion may be admitted for discussion as the Minister did not oppose it but simply stated the objectives in furtherance of which the decision to hold the Games had been taken by the Government. The Minister replying to the remarks of the member observed that he did oppose the motion on the grounds that the allegations made in the motion had been denied by him and the member has produced no document to prove it to the contrary. Secondly he added, the motion sought to raise discussion of a wide question of policy of the Government which can be done through a motion or a resolution, and not through an adjournment motion (Ruling No. 393-Decisions of the Chair- Legislative Assembly (Central)-1941 to 1945).

The Chairman observed that even the approximate amount of money likely to be spent on the Asian Games has not been mentioned by the member. The matter proposed to be discussed in the motion is, therefore, not definite. Secondly, in the opinion of the member this expenditure is extravagance while in the opinion of the Minister it is not so. It is, therefore, a matter of opinion. Had it been a waste of money to hold such games, no country would have been anxious to press for the holding of these games. The Chairman then ruled:

> "No country has so far, to my knowledge, alleged that it is waste of money and sheer extravagance. So, I don't think it is matter which should be discussed by this House on an adjournment motion. There are many other remedies open to you (the member) to bring this matter under discussion of this House. I don't think it is definite matter of public importance to that extent. Therefore, it is reluctantly ruled out of order".

Senate Debates,
27th November, 1974,
P206—211

115. *Adjournment Motion: Handing over of power distribution to provincial governments of the Punjab and Sindh: committee acted strictly in accordance with the Constitution: inadmissible:*

**Ruling**

On 27th November, 1974, Khawaja Mohammad Safdar sought leave to move an adjournment motion to discuss the decision of the Inter-Provincial Co-ordination Committee to hand over power distribution to the Provincial Government of the Punjab and Sind thereby creating manifold technical and administrative difficulties. Malik Mohammad Akhtar, Minister of State for Parliamentary Affairs, opposing the motion drew the attention of the Chair to the provisions of Article 157 of the Constitution and stated that the Inter-Provincial Coordination Committee has simply acted in accordance with the provisions of the Constitution in this respect and has implemented the mandatory provisions of Article 157 (2) of the Constitution. The

mover of the motion then remarked that he took objection to the decision of the Inter-Provincial Coordination Committee for fear of its creating manifold technical and administrative difficulties in the distribution of power.

The Chairman intervening in the debate observed that a Provincial Government is entitled to ask the Federal Government under Article 157 (2) of the Constitution to hand over the distribution and administration of powers to it, and the Federal Government acting in accordance with the provisions of the Constitution has agreed to do so. Thereafter the Chair ruling the motion out of order observed:

> "So far as the decision taken by the Inter-Provincial Coordination Committee is concerned, it is strictly in accordance with the provisions of the Constitution. They have not exceeded their powers. The Provincial Government is entitled to ask the Federal Government to hand over the distribution and administration of power to it. The Inter-Provincial Coordination Committee has given those powers to them (Provincial Governments of the Punjab and Sind) in compliance with the provisions of the Constitution strictly. In, other words, they are simply implementing the provisions of the Constitution."

Senate Debates,
27th November, 1974,
P211—213.

116. *Adjournment Motion: Increase in prices of cigarettes, matter being a continuous process ruled out:*

**Ruling**

On 28th November, 1974, a member sought leave to move an adjournment motion to discuss the alleged failure of the Federal Government to put a stop to the arbitrary increase in the prices of cigarettes by the Pakistan Tobacco Company which had added paisa's seventy-five to the price of a packet of twenty cigarettes. This, he alleged, had greatly perturbed the public.

The Minister for Law and Parliamentary Affairs objected on technical grounds. He stated that the matter was a continuing process. Thereupon Mr. Chairman ruled:

> "I am constrained to hold it out of order on the ground that this complaint of yours commenced since May last. There was an increase in May, then in August, and then the third time. So it is a continuous process and not recent."

Senate Debates,
28th November, 1974,
P 251—253.

117. *Adjournment Motion: Externment of an MPA from NWFP: motion not raised at the earliest opportunity: ruled out:*

**Ruling**

On 29th November, 1974, a member sought leave to move an adjournment motion to discuss the illegal order of the Government served on 15thNovember, 1974 directing Major General (Rtd) M.G. Jilani, MPA of NWFP to leave NWFP within three days and requiring him to proceed to Lahore and not to move out of the limits of Municipal Corporation Lahore, without prior permission. The mover alleged that his time and again detention, internment and extemment had deprived his electorate of their constitutional right to be represented through an elected member in the Assembly.

The motion was opposed by the Minister of State for Parliamentary Affairs on the ground that the matter was neither specific nor one of urgent public importance. His alleged time and again detention had been debated in the Provincial Assembly and so could not be re-agitated there. He added that the movement of Mr. M. G. Jilani had been restricted to the Municipal limits of Lahore under lawful order passed under Rule 32 of the Defence of Pakistan Rules by a competent authority in the public interest and that the remedy lay in a court of law. The mover urged that the impugned order of arrest was in contravention of Article 10of the Constitution. The Chairman observed that the remedy lay with the court, if the order was illegal or unconstitutional. Another member argued that Mr. Jilani, MPA had been arrested under a particular and not a general law. His detention, therefore, could be discussed through an adjournment motion as is evident from Decision No. 356, Decisions of the Chair (1941— 1945).

The Chairman ruled that the order was passed on 15th but the motion was not presented on 18th. The member had not availed of the earliest possible opportunity. The motion was, therefore, ruled out of order.

Senate Debates,
29th November, 1974,
P 267—278.

118. *Adjournment Motion: Three railway accidents in twenty-four hours on Karachi Kotri railway station:: held in order:*

**Ruling**

On 12th December, 1974, a member sought leave to move an adjournment motion to discuss the three train accidents on account of derailment within twenty-four hours.

The Minister of State for Parliamentary Affairs opposed the motion on the ground that it related to three issues and came within the mischief of rule 71 (b). The Chair asked the Minister to explain the difference between an event and an issue. The Minister replying to the Chair's query observed that relying on the term "a definite matter" used in rule 71 (b), his objection was that the motion related to three separate issues and not to one definite issue. The Chair then asked Khawaja Mohammad Safdar to enlighten the House as to whether it was an issue or an event, Khawaja Mohammad Safdar stated that there were rulings in which many things had been brought together in one adjournment motion and that motion had been held to be in order. He added that there were other rulings where each incident had been held to be a separate issue for a separate adjournment motion. To his knowledge there was no hard and fast rule on this point. But he was of the view that some latitude should be given to the members to bring to the notice of the House an important event which occurred due to the negligence of the government employees.

The Minister remarked that there were other ways of criticising the actions of the Government. He said that if it was a general case of negligence, it could be moved through a substantive motion, but the motion under consideration was hit by the rules as it involved more than one matter. The Deputy Chairman holding the motion in order observed:

> "I hold that this is a matter of recent occurrence. It is an issue of urgent public importance. It relates to one issue although there are various events because I do not want to restrict the scope of the issue. Although the events are altogether different but the issue is one—that due to the negligence of the Railways this incident has occurred."

Senate Debates,
12th December. 1974,
P 239-243.

119. *Adjournment Motion: Ban for two months on dispatch of Coal to any place outside Baluchistan: order passed by District Magistrate was a provincial subject: ruled out:*

**Ruling**

On December 12th, 1974, a member sought leave to move an adjournment motion to discuss the ban imposed by the District Magistrate, Quetta, on the dispatch of coal from Quetta for two months to any place outside Baluchistan, as reported in the "Daily Imroz," Lahore dated the 17th December, 1974.

The motion was opposed on the ground that the impugned order had been passed by the District Magistrate, Quetta, in the ordinary course of administration of law

and was not the concern of the Federal Government. The Minister contended that the executive authority of the Federal Government in respect of the distribution of coal did not extend to the Province. He also objected that an order passed in the course of the ordinary administration of law could not be made the subject of an adjournment motion. He referred to decision No. 30—Decisions of the Chair—Legislative Assembly (Central)—1921 to 1940 in support of his argument. The mover argued that the order had no doubt, been passed by the Deputy Commissioner, Quetta, but it concerned the Railways, which was a Federal subject. Khawaja Mohammad Safdar inviting the attention of the Chair to decision No. 363 from the Decisions of the Chair—Legislative Assembly (Central)—1941—1945 stated that an adjournment motion relating to a similar order in similar circumstances had been held in order. The President of the Legislative Assembly (Central) holding the motion in order had observed:

> "The Railways are a Central subject; and I think it is competent for a Member of this House to raise a question of this character in the Assembly."

The Chair holding the motion out of order held:

> "I am not satisfied that this is a direction which brings in the Railways. This is an order of the District Magistrate which has been passed under a law and he is competent to issue such orders. Secondly, this is a matter which basically concerns the Provincial Government. Therefore, we cannot discuss such matters."

Senate Debates,
12th December, 1974,
P 243—249.

120. *Adjournment Motion: Theft of wheat from government go downs: matter was not a primarily concern of Federal Government: ruled out:*

**Ruling**

On 17th December, 1974, a member sought leave to move an adjournment motion to discuss the theft and smuggling of wheat worth more than two lakhs of Rupees Form Government Godowns. Malik Mohammad Akhtar, Minister of State for Parliamentary Affairs, denying the allegations opposed the motion on the grounds that apart from being vague, the matter was neither urgent nor did it primarily concern the Federal Government. Alter hearing the arguments for and against the motion, the Chair ruled:

> "It is not primarily the concern of the Federal Government; therefore, I rule it out."

Senate Debates,
17th December, 1974,
P446—451.

121. *Adjournment Motion: Alleged detention of air marshal (Rtd.) Asghar khan in Hyderabad by F.S.F. and the Police: matter not primarily the concern of the Federal Government: ruled out:*

On the 17th December, 1974, Khawaja Mohammad Safdar sought leave to move an adjournment motion to discuss detention of Air Marshal (Rtd.) Asghar Khan and 33other persons in Hyderabad by F. S. F. and Police since 13th December, 1974, and the in human, callous, illegal and unlawful restrictions on the Air Marshal (Rtd.). Malik Mohammad Akhtar, Minister of State for Parliamentary Affairs, opposed the motion on the grounds that the motion related to a provincial matter. It was also defamatory, ironical and inferential. The Chairman observed that detention of Air Marshal (Rtd.) Asghar Khan was an act of the Provincial Government and ruled:

> "Since it is not a matter directly concerned with the Federal Government and it is a law and order issue which is a provincial matter: therefore, I have no alternative but to rule it out."

Senate Debates,
17th December, 1974,
P451-455.

122. *Adjournment Motion: Ban on a public meeting of Air Marshal (Rtd.) Asghar Khan: allegation denied: matter not concern of Federal Government: ruled out:*

**Ruling**

On the 17th January, 1975, a member sought leave of the House to move an adjournment motion to discuss the use of the Federal Security Force by the Punjab Government to prevent Air Marshal (Rtd.) Asghar Khan from holding a public meeting at Mochi Gate, Lahore, on 12th January, 1975, as reported in the Daily Nawa- i-Waqt of 13th January, 1975. He further alleged that the failure of the Federal Government in dissuading the Punjab Government from using the Federal Security Force for curbing the civil liberties and fundamental rights of the public, had sent a wave of resentment throughout the country. The Minister for Interior opposed the motion on the ground that it did not primarily concern the Federal Government and denied the allegation about the use of Federal Security Force. He pointed out that as confirmed by the Provincial Government, a contingent of FSF was kept in reserve but was not used against Mr. Asghar Khan. He further observed that under the FSF Employment Rules 1974, the Federal Security Force, when requisitioned by the Provincial Government, acted under the orders of the Magistrate who was a provincial officer. He added that the law and order was a provincial subject and the Federal Government had no power under the Constitution to give directions or orders to provincial governments in this respect.

The mover contended that the situation in Lahore was not such as to indicate the inadequacy or ineffectiveness of the Police to handle it and the Federal Government could have refused to lend the services of the Federal Security Force as it did when the help of Central Levies was sought by the Mengal Government in Baluchistan. The Minister stated that under the law a Magistrate could call upon a military commander as well as the Federal Security Force to help him in maintaining law and order. Hence the Federal Government did not come in the picture.

The Deputy Chairman ruled the motion out of order on the ground of denial of allegation by the Minister. He further ruled that it did not lie within the domain of the Federal Government to interfere in matters of law and order.

Senate Debates,
17th December, 1975,
P28-32.

123. *Adjournment Motion: Accident between 25 Ups1nd Express and a local train: motion anticipatory: ruled out:*

**Ruling**

On 28th January, 1975, a member sought leave of the House to move; an adjournment motion to discuss the failure of the Federal Government and negligence of the Railway Department in stopping the accidents like the Railway accident between 25 Up-Sind Express and a local train, as a result of which 3 persons were killed and many injured.

The motion was opposed on the grounds that four or five adjournment motions with regard to inefficiency of the Railways were pending for consideration of the House. The instant motion was, therefore, anticipatory and may be disallowed.

Another member supporting the motion said that the matter proposed to be discussed in the instant motion could not be treated as anticipatory because the inefficiency of the Railways was going to be discussed in the House. But this motion related a particular accident which resulted in the death of four persons. This matter was, therefore, of urgent importance and could not be treated as anticipatory.

Having heard the arguments for and against the motion, the Acting Chairman observed that the motion was anticipatory as a date had already been fixed to discuss the inefficiency of the Railways. The motion was, therefore, ruled out of order.

Senate Debates,
28th January, 1975,
P 190—193.

124. *Adjournment Motion: Failure of Federal Government in guarding railway tracks and bridges in Baluchistan from damage and bomb blasts: matter not concern of Federal Government: ruled out:*

**Ruling**

On 28th January, 1975, a member sought leave of the House to move an adjournment motion to discuss the failure of the Federal Government in guarding railway tracks and bridges in Baluchistan from damage and from bomb blasts. He further alleged that the track and bridge near Hamid Sayed Railway station: between Quetta and Chairman was badly damaged by a bomb blast on 27th December, 1974.

The Minister concerned opposed the motion on the ground that the matter fell within the provincial sphere as the Railway Police was under the charge of the Provincial Government. Secondly, the Minister added, the matter was not of such urgent importance as to be discussed by the House leaving aside its normal business. The number of such blasts had now been reduced. The mover contended that the death of persons in the accident was of urgent as well as of public importance. Besides carrying the passengers from one place to another, he added, Railway Department was also responsible for the security of life and property of the passengers. The matter was, as such, the concern of the Federal Government.

The Chairman ruled that the matter was a Provincial subject and not primarily the concern of the Federal Government. The motion was ruled out of order.

Senate Debates,
28th January, 1975,
P193-196.

125. *Adjournment Motion: Derailment of goods train at Kotri railway station:: motion anticipatory: ruled out:*

**Ruling**

On 28th January, 1975, a member sought leave of the House to move an adjournment motion to discuss the derailment of a Goods Train at Kotri Railway junction causing heavy financial loss to the public money as the diesel engine railway and 6 wagons had been damaged.

The motion was opposed by the Minister for Law and Parliamentary Affairs on the ground of it being anticipatory as it related to the inefficiency of the Railways with respect to which four or five adjournment motions had already been fixed for

consideration of the Senate.

The Chairman ruled the motion out of order on the ground of it being anticipatory.

Senate Debates,
28th January, 1975,
P 196—197.

126. *Adjournment Motion: Irregularities of Railways b towards dry port at Lahore: motion anticipatory: ruled out:*

**Ruling**

On 28th January, 1975, a member sought leave of the House to move an adjournment motion to discuss the state of affairs in the Railway Administration due to which the existence of the Dry Port of the country at Lahore was in great danger and it was believed by the public that the promise of sending and bringing goods from and to the Port was only on paper and was not likely to be fulfilled. The motion was opposed on the ground of it being anticipatory and vague.

The Chairman ruled out the motion on the ground of it being anticipatory.

Senate Debates,
28th January, 1975,
P 197-199.

127. *Adjournment Motion: Fire in a passenger train near Sibbi resulting in death of two passengers: motion anticipatory ruled out:*

**Ruling**

On 28th January, 1975, a member sought leave of the House to move an adjournment motion to discuss the incident of fire in a passenger train between Panir and Gadal Station near Sibbi, as a result of which two passengers died and six passengers were injured.

The motion was opposed by the Minister for Law and Parliamentary Affairs on the ground of it being anticipatory as it related to the inefficiency of the Railways with

respect to which four or five adjournment motions were fixed for consideration of the Senate.

The Chairman observed that the motion was anticipatory as a date had already been fixed to discuss the inefficiency of the Railways. The motion was ruled out of order.

Senate Debates,
28th January, 1975,
P 196.

128. *Adjournment Motion: Fatal accident at railway crossing in Rawalpindi: allegations denied by the Minister: motion also anticipatory: ruled out:*

**Ruling**

On 28th January, 1975, a member sought leave of the House to move an adjournment motion to discuss the fatal accident between Awami Express and a motor taxi on 6th December, 1974 at an unmanned railway crossing near Rawalpindi resulting in the death of one person and serious injuries to two others as reported in the Daily 'Nawa-e-Waqt', Lahore on 27th December, 1974.

The Minister for Railways categorically denied the allegation that a railway accident occurred on 26th December, 1975. The Chairman remarked that there was already a substantive resolution on the inefficiency of the Railways pending consideration by the Senate. After some discussion the Chairman ruled the motion out of order on the grounds that the allegations of the case had been denied and that the motion had anticipated a matter for the consideration of which a date had been previously fixed.

Senate Debates,
28th January, 1975,
P199-202.

129. *Adjournment Motion: Detention of air Marshal (Rtd.) Asghar Khan at Jhelum bridge: matter a provincial subject and not concern of Federal Government: ruled out:*

**Ruling**

On 29th January, 1975, a member sought leave of the House to move an adjournment motion to discuss the failure of the Government in the implementation of the Constitution in the country in respect of freedom of speech, freedom of movement and freedom of holding public meetings. The mover alleged that Air Marshal (Rtd.) Asghar

Khan had not been allowed to proceed to Lahore to address a public meeting under the auspices of "Mukhtar Rana Release Committee" and was detained at the Jhelum Bridge on his way to Lahore from Abbottabad as reported in the daily 'Nawa-e- Waqt Lahore on 29th December, 1974.

The Motion was deferred to 30th January, 1975. In the meeting of the Senate on 30th January, 1975, the motion was opposed by the Minister for Interior on the grounds of the matter being a provincial subject and not one of recent occurrence. He stated that the District Magistrate Jhelum, had prohibited carrying of Arms under Section 144, Criminal Procedure Code. In this connection, checking was being carried out by the Police at Jhelum Bridge.

Air Marshal (Rtd.) Asghar Khan was requested, while travelling by car, to allow the checking of his car, which was resisted by him and he turned back instead of proceeding onward to Lahore.

The mover referring to Article 15 of the Constitution said that the Federal Government had failed to implement the fundamental rights guaranteed by the Constitution as was evident from this incident.

The Chairman observed that in case of the violation of the Constitution the aggrieved person had to seek remedy in a court of law. He ruled the motion out of order on the ground of the matter being a provincial subject and not the concern of the Federal Government.

Senate Debates,
30th January, 1975,
P289-293.

130. *Adjournment Motion: Break-down of electric supply in Jacobabad: matter not of urgent public importance and also not of recent occurrence: ruled out:*

**Ruling**

On 29th January, 1975, a member sought leave of the House to move an adjournment motion to discuss the financial loss and inconvenience to the public due to the break-downs in the supply of electricity in Jacobabad as reported in the Daily "Zamana" Quetta, 7th January, 1975.

The Minister concerned opposed the motion on the ground of not being of recent occurrence. He further stated that in the month of January, there was always shortage of water in Sukkur Barrage and they had to do load shedding in the areas adjacent the Sukkur Thermal Power Station. The matter was, therefore, a continuing process and not of recent occurrence.

The acting Chairman pointed out that as the electric supply was restored to the public in Jacobabad after 2 or 3 hours, the matter had lost urgency. After some discussion he ruled the motion out of order on the grounds that the matter was neither urgent nor of recent occurrence.

Senate Debates,
29th January, 1975,
P 244—246.

131. *Adjournment Motion: Accident between a passenger train and a truck near Mailsi railway crossing: motion anticipatory: ruled out:*

**Ruling**

On 29th January, 1975, a member sought leave of the House to move an adjournment motion to discuss that due to the negligence of Railway Administration an accident between a passenger train and a truck took place at a railway crossing between Mailsi and Ashraf Shah Station on the night of 9th January, 1975, resulting in the death of two persons and injuries to three others as reported in the daily 'Jang' Quetta of 11th January, 1975.

The motion was opposed by the Leader of the House on the ground of the motion being anticipatory and therefore could not be discussed under rule 71 (e) of the Rules.

The Chairman ruled the motion out of order on the ground that the motion anticipated a matter for the consideration of which a date had been previously fixed.

Senate Debates,
29th January, 1975,
P 242.

132. *Adjournment Motion: Illegal and unjust order of the Federal Government for Suppressing the news of firing in Taj Pura, Lahore On 15th October, 1975: motion not specific and covered more than one definite issue: ruled out:*

**Ruling**

On 12th November, 1975, a member sought leave of the House to move an adjournment motion to discuss the illegal and unjust order of the Federal Government for suppressing the news of the indiscriminate and unprovoked firing on the public meeting in Taj Pura, Lahore, by the FSF on the 15th October, 1975, and giving out that only three persons were trampled under the feet of the public. He alleged that the dead bodies of

the victims of the firing were forcibly removed and burried at some unknown places to cover up the true facts.

The motion was opposed on the ground that the Federal Security Force was placed at the disposal of the Provincial Government on their request to assist the provincial civil administration. The matter was therefore, a provincial subject. Secondly, the Government of the Punjab had issued a press note about the incident published in various newspapers. It was, therefore, evident that the news of the incident was not suppressed by the Government. He, therefore, denied the allegation that any orders in this respect were issued by the Federal Government. Thirdly, he added, the motion related to more than one issue. The mover contended that the Federal Government had issued an order directing that no news should be published with regard to the incident of Taj Pura. The same order was challenged in the High Court and the Court held it illegal and void. He argued that the motion as such pertained to the orders of the Federal Government and the Senate was, therefore, the proper forum to discuss it. He also referred to the decision No. 363 of the Decisions of the Chair, 1941—1945 (Indian Central Assembly) in support of his contention that the matter was the concern of the Federal Government and also related to one specific issue.

The Chairman observed that the ruling quoted by the member was not applicable to this case as there was no objection by the Government spokesman that that the motion related to more than one issue. But in the instant motion the objection was that the motion related to more than one definite issue. Concluding his observations, the Chairman ruled the motion out of order on the ground that it covered more than one issue.

Senate Debates,
12th November, 1975,
P 33—44.

133. *Adjournment Motion: Inaction of Prime Minister on the complaint against the MNA's misbehaving with presiding officers during bye-election polling in Lahore: law and order a provincial subject: ruled out:*

**Ruling**

On 13th November, 1975, a member sought leave of the House to move an adjournment motion to discuss the indifference on the part of the Prime Minister on the complaint against Main Hamid Yaseen, MNA, for misbehaving with and manhandling of the six members of the staff of the Lahore College for Women, who were acting as Presiding Officers during the polling for bye-election on the 19th October, 1975. The complaint of the staff of the Women's College, Lahore, was forwarded to the Prime Minister for necessary action as revealed to them by the Provincial Education Minister.

The Minister for Law and Parliamentary Affairs stated that the complaint forwarded by the staff concerned had been withdrawn and the matter had as such lost urgency.

The Chairman ruled the motion out of order on the ground that the matter pertained to law and order which was a provincial subject.

Senates Debates,
13th November, 1975,
P 112—121.

134. *Adjournment Motion: Alleged humiliating treatment meted out to hajis by customs officials at Karachi port: motion not specific: allegation denied by the government officials acted in the discharge of their official duties ruled out:*

**Ruling**

On 27th February, 1976, a member sought leave of the House to move an adjournment motion to discuss a specific matter of recent occurrence and great public importance, i.e., the statement made by the Secretary-General, Jamiat-ulema-i-Pakistan. Karachi Division, alleging humiliating treatment meted out to Hajis by the Customs officials at the Karachi port.

The Minister for Finance, Planning and Development opposed the motion on the ground that it did not relate substantially to one definite issue of urgent public importance. He contended that the allegation of bad treatment was based on a statement made by a particular individual which might or might not be correct because it did not refer to any specific incident.

The mover argued that as the alleged treatment was meted out to all the Hajis, it constituted one specific issue. Secondly, he added, Hajis gave vent to their grievances in this respect through the press and various organizations protested against the treatment of Hajis by the Customs authorities who were accordingly directed by the Government to treat Hajis in a proper manner according to the Law. And the Religious Affairs Ministry admitted this fact. All this underscored the importance of the matter for discussion on the floor of the House.

The Minister for Finance, Planning and Development disagreeing with the member argued that twelve ships carrying more than eighteen thousand Hajis could not be considered as one specific issue. Secondly, he added, only those Articles carried by Hajis on various ships were seized which were banned under the Law. So the seizure of goods on various shops was effected in accordance with the Law. Thirdly, the

statement referred to in the motion did not specify any one incident or the case of any one of the Hajis which should be discussed here. Lastly, denying the allegation, he stated that bad treatment was not meted out to the Hajis.

The Chairman ruled the motion out of order on the ground that the Minister concerned had denied the allegation in the motion. Also, he observed, the Customs officials had acted in the discharge of their official duties; therefore, it could not form the basis of an adjournment motion.

Senate Debates,
27th February 1976,
P 13—25.

135. *Adjournment Motion: Federal Minister's statement on the present government being run under bureaucracy and not by the peoples representatives: matter not of recent occurrence: ruled out:*

**Ruling**

On 27th February, 1976, a member sought leave to move an adjournment motion to discuss the statement of the Federal Minister for Communications published in the daily 'Jang' dated the 23rd December, 1975, alleging that the Government was not being run as the People's Government but as a Government under the bureaucracy.

The Minister for Communications opposed that motion on the ground that it did not relate substantially to one definite issue of urgent public importance and of recent occurrence, pointing out that the motion had not been tabled on any sitting day of the Senate in December subsequent to the publication of the statement in the press, Mr. Chairman ruled the motion out of order on the ground that it did not relate to a matter of recent occurrence.

Senate Debates,
27th February, 1976,
P 25—29.

136. *Adjournment Motion: Alleged arrest of 20 Personnel of Pakistan Air Force and recovery of 35 Kilograms of Hashish from their persons: matter subjudice: ruled out:*

**Ruling**

On 1st March, 1976, a member sought leave to move an adjournment motion to discuss the alleged arrest of 20 personnel of the Pakistan Air Force and the recovery of 35 kilograms of Hashish from their persons as stated in a press release of the Inter¬ Services published in Daily 'Jang' dated 19th January; 1976.

The Minister for Law and Parliamentary Affairs denying the allegations of the case opposed the motion saying that it not only referred to the conduct of the PAF personnel in their personal capacity but also related to a matter pending before a court. He added that only one officer was arrested who was being tried in a foreign land by a Tribunal.

After some discussion on the admissibility of the motion the Chairman ruled the motion out of order on the ground that discussion of the motion would prejudice the case of the personnel pending trial by a Tribunal in a foreign land.

Senate Debates,
1st March, 1976,
P 54—64.

137. *Adjournment Motion: Alleged disappearance of Dr. Abdul Hayee Baluch MNA: matter inferential: ruled out:*

**Ruling**

On 1st March, 1976, a member sought leave to move an adjournment motion to discuss the alleged disappearance of Dr. Abdul Hayee Baluch, MNA, as reported in daily 'Hurriyat', of 5th February, 1976.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that the matter proposed to be discussed was not specific but vague. Also, he added, it was not urgent. Further, the allegations stated in the motion were denied by him.

After some discussion the Chairman ruled the motion out of order on the ground that it was based on an inference.

Senate Debates,
1st March, 1976,
P 64—67.

138. *Adjournment Motion: Mistakes in telephone bills: matter not specific; ruled out:*

**Ruling**

On 3rd March, 1976, a member sought to move an adjournment motion to discuss mistakes in telephone bills in Karachi inspite of the fact that the telephone department was paying Rs. One lakh every month to the State Bank as computer charges as reported in the daily 'Hurriayaf of 11th January, 1976.

The Minister for Communication opposed the motion on the ground that it was not specific. He also denied the allegation stated in the motion.

The Chairman addressing the member observed that the complaint did not specify the period of time and particulars of the bills. The mover replied that, it was a general complaint and was a matter of recent occurrence and was also specific because it concerned the Telephone Department.

The Chairman observed that since the allegation in the motion was denied, the motion was ruled out.

Senate Debates,
3rd March, 1976,
P 149—159

139. *Adjournment Motion: Guarantee of protection of the Muslims of Philippines: not of recent occurrence: ruled out:*

**Ruling**

On 5th March, 1976, a member sought leave of the House to move an adjournment motion to discuss the resolution of the Motamar Alam-e-Islami calling upon the Islamic nations to force the Government of the Philippines to guarantee protection to the Muslims of that country.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that the matter was not primarily the concern of the Government as it was an internal affair of a foreign country. The policy of the Government was not to interfere in the internal affairs of other countries. He argued that if the mover wished to discuss the foreign policy of the Government he could move a motion under rule 187. The Chairman observed that the mover wanted the Government to guarantee the protection of the Muslims of the Philippines by approaching that Government or by putting pressure

on it.

After some discussion the Chairman agreed with the mover that it was a matter of public importance but ruled it out of order on the ground that it was not a matter of recent occurrence as the matter had been continuing since long.

*Senate Debates,*
*5th March, 1976,*
*P 281—288.*

140. *Adjournment Motion: Guarantee of protection of Muslims living in a foreign country: if moved through a resolution or a motion under Rule 187 it would be more appropriate for discussion than through an Adjournment Motion:*

**Ruling**

On 5th March 1976, a member sought leave to move an adjournment motion to discuss the resolution of the Motamar Alam- e-Islami calling upon the Islamic nations to force the Government of the Philippines to guarantee protection to the Muslims of that country.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that a matter which was beyond our jurisdiction could not be allowed to be discussed through an adjournment motion. The mover could discuss the Government policy- if he was dissatisfied. He added that they did not want to interfere in the internal affairs of another country. The mover could not discuss it through .an adjournment motion.

The Chairman observed that a resolution on the subject would have been more appropriate and a step in the right direction as discussion of the present motion would have repercussions on our foreign policy. So, the appropriate course for the mover would have been to bring a resolution. He added that foreign policy could not be discussed by bringing an adjournment motion. A resolution or a motion under rule 178 would have been a more appropriate course for us to adopt because the issue involved was too big for an ordinary adjournment motion which could be thrown out on technical grounds.

Senate Debates,
5th March, 1976,
P 281—288.

141. *Adjournment Motion: Death of a French professor fighting with the Baluch revolutionaries: allegation denied: ruled out:*

**Ruling**

On 5th March, 1976, a member sought leave of the House to move an adjournment motion to discuss the report published in the daily 'Jang' dated 1st February, 1976, regarding death of a French Professor fighting with the Baluch revolutionaries.

The Minister for Interior opposed the motion on the ground that the matter was neither of urgent public importance nor of recent occurrence. He also denied the facts alleged in the press report on the grounds that as the French Professor never came to Pakistan, there was no question of his fighting along with the rebels because his entry into Baluchistan was banned under the orders of the Government dated 13th March, 1974.

The Chairman observed that the Minister concerned had categorically stated that the French Professor never entered Pakistan and that he did not die there while fighting along with the rebels against Pakistan's Forces. There was no proof to the contrary furnished by the other side. Therefore, the motion was ruled out of order.

Senate Debates,
5th March, 1976,
P 288-289.

142. *Adjournment Motion: Shooting of film "786" in Pakistan: mover absent: no request for postponement: fell through:*

**Ruling**

On 8th March, 1976, when the adjournment motion regarding shooting of film '786' tabled by a member was taken up for consideration of its admissibility, the mover was absent without intimation. Nor was there any request by him for postponement of consideration of his motion. The Chairman then observed:

"This is another adjournment motion No. 13, tabled by Senator Maulana Shah Ahmad Noorani. Unfortunately, he is not present. He has made no request for postponement. It falls through. Well, I must make one thing clear. There should be no misunderstanding about the decisions. Whenever there is a request from any gentleman, it is always considered favourably after taking the sense of the House. But if there is no request, it borders on discourtesy too. It may not be intentional; it may be inadvertent. But it does not take much labour to write to the Chairman to postpone it. And I always do so as far as possible. In the case of this motion there is no such request."

Senate Debates,
8th March, 1976,
P 303.

143. *Adjournment Motion: Regarding accord of transit facilities by Federal Government for trade between Iran and Bharat: fell through:*

**Ruling**

On 9th March, 1976, a member sought to move a motion for an adjournment of the business of the House to discuss the overland transit facilities accorded by the Federal Government for trade between Iran and Bharat and consequent passing of hundreds of goods trucks through Pakistan.

The Chairman ruled:

> "The same objection is there. Question of notice again arose. This was also received at 9.45 a.m. This is on record. This was not received two hours before the commencement of the sitting. It falls through."

Senate Debates,
9th March, 1976,
P 340.

144. *Adjournment Motion: rotting of forty-eight thousand tons of Wheat at Karachi dock. matter not of recent occurrence: allegations denied by the government spokesman: ruled out:*

**Ruling**

On 9th March, 1976, a member sought leave of the House to move an adjournment motion to discuss a news item that appeared in the daily 'Hurriyat'on 27th February, 1976, in which it was reported that Forty-Eight thousand tons of wheat was rotting at Karachi docks.

The Minister for Law and Parliamentary Affairs opposed the admissibility of the motion on the ground that the matter was neither of recent occurrence not of urgent public importance. He also denied the allegation that wheat was rotting due to the negligence of the Government.

The mover contended that the matter was of recent occurrence.

The Chairman observed:

> "Apart from giving any ruling on the term 'recent' I rule it out of order because it is denied clearly, emphatically and forcefully by the honourable Minister."

Senate Debates,
9th March, 1976,
P 340—354

145. *Adjournment Motion: Appointment of members of dismissed cabinet as advisers to the Governor of Baluchistan: fell through:*

**Ruling**

On 9th March, 1976, a member sought leave to move a motion for adjournment of the business of the House to discuss the appointment of four members of the dismissed cabinet of Baluchistan as advisers to the Governor of Baluchistan, by the Federal Government.

The Minister for Law and Parliamentary Affairs opposed the motion:

The Chairman observed:

> "It falls through on this technical ground that its notice was not given two Hours before the commencement of the sitting."

Senate Debates,
9th March, 1976,
P 338—340.

146. *Adjournment Motion: Appointment of dismissed Ministers as advisers to the Governor of Baluchistan: action taken by lawfully constituted authority in the administration of law cannot constitute good ground for Adjournment Motion: ruled out of order:*

**Ruling**

On 16th March, 1976, a member sought leave of the House to move an adjournment motion to discuss a matter arising out of the alleged appointment of dismissed Ministers as Advisers to the Governor of Baluchistan by the Federal Government as reported in 'Pakistan Times' dated 1st January, 1976.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that it did not satisfy the provisions of Rules 71 (d) & (e) of the Senate Rules. According to these rules a motion shall not revive discussion on a matter which had been discussed in the same session or in the Assembly within the 'last six months. Secondly, a motion' shall not anticipate a matter for the consideration of which a date had been fixed. This matter was debated by the Parliament in joint sitting and Mr. Abdul Hafeez Pirzada explained the circumstances necessitating appointment of these Ministers as Advisers. Secondly, in the near future, also this matter was going to be debated again through the discussion of an Ordinance which allowed the members to be appointed as Advisers. He further stated that the proclamation of emergency under Rule 234 was

necessary because the funds allocated to the Baluchistan Government could not be spent in time and it was found that the Provincial Government could not keep up the pace of development. He added that nobody was removed on charges of malpractices. In fact, some of them who were considered senior enough and were able to deliver the goods had been taken as Advisers.

After some discussion the Chairman ruled:

> "It is a well-established Parliamentary practice— repeatedly upheld by many Speakers of the Assemblies and Parliaments everywhere—a very long practice that an action taken by a lawfully constituted authority in due course of the administration of law cannot constitute a good ground for an adjournment motion. That is the only thing. Now the action, good or bad, whatever it is, has been taken under the Constitution. Under the Constitution the authority concerned was quite competent to appoint these very persons as Advisers who had been removed as Ministers. There is no bar to that. Therefore, I will rale it out of order."

Senate Debates,
16th March, 1976,
P 396—403.

147. *Adjournment Motion: Alleged increase by Pakistan Railways in fare for carriage of goods: allegation of resultant hike in prices not substantiated by mover: ruled out:*

**Ruling**

On 16th March, 1976, a member sought leave of the House to move an adjournment motion to discuss*the matter arising out of the alleged increase by 30 per cent in the rate of fare for the carriage of goods by the Railways from the 1st January, 1976, causing a further hike in the prices of consumer goods.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that the subject matter of the motion related to the policy of the Railways and could be discussed under Rule 187 of the Senate Rules reproduced below.

> "A motion that the policy or situation or statement or any other matter be taken into consideration shall not be put to the vote of the Senate but the Senate should proceed to discuss such matter".

He added that the matter was not one of urgent public importance. Increase in the prices of fuel and the acceptance of a number of demands of the Labour Unions necessitated this increase in the goods fare by the Pakistan Railways.

After some discussion the Chairman asked the mover if he could substantiate and prove some authentic facts and figures that this increase in the freight rate by the Pakistan Railways had actually caused a hike in prices of consumer goods. Not satisfied with the reply of the mover, the Chairman held the motion out of order.

Senate Debates,
16th March, 1976,
P 403—407.

148. *Adjournment Motion: Large entourage of Prime Minister of Pakistan: matter not specific: not recent: ruled out of order:*

**Ruling**

On 17th March, 1976, a member sought leave of the House to move an adjournment motion to discuss the alleged adverse criticism of the extraordinarily large entourage of the Prime Minister of Pakistan in his foreign tour as reported in the foreign press.

The Minister for Law and Parliamentary Affairs opposed the motion and denied the facts. He added that there was no criticism in the foreign press and read out the relevant portion of a Press cutting.

Thereupon the Chairman observed that it was not a specific matter nor of recent occurrence and also the mover did not attach the necessary documents along with his adjournment motion. The motion was ruled out of order.

Senate Debates,
17th March, 1976,
P 434—438

149. *Adjournment Motion: Alleged arrest of Pakistani fishermen by Bharati Navy matter not of recent occurrence: ruled out of order:*

**Ruling**

On March 17th, 1976, a member sought leave of the House to move an adjournment motion to discuss a matter arising out of the alleged arrest of Pakistani fishermen by the Bharati Navy in the open sea and their internment in Gujrat Jails as reported in Nawa- i-Waqt, dated the 1st March, 1976.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that the facts mentioned in the paper were incorrect and explained the correct facts.

Thereupon the Chairman observed that the matter was a continuous thing. There are other remedies open to the mover but adjournment motion was not the appropriate remedy. It was not of recent occurrence. The motion was ruled out of order.

Sen*ate Debates*,
*17th March, 1976*,
*P 439-443.*

150. *Adjournment Motion: Alleged failure of chief Minister Sind to produce Ch. Zahur Illahi, MNA before high court Lahore mover failed to produce enough evidence ruled out:*

**Ruling**

On 18th March, 1976, a member sought leave to move a motion for the adjournment of the business of the House to discuss a definite matter of recent and urgent public importance, namely, non-production of Ch. Zahur Illahi, MNA before the Lahore High Court resulting from the order of the Chief Minister Sind not to comply with the direction of the court that the MNA be produced before it.

The Minister for Law and Parliamentary Affairs opposed the motion contending that (i) it related to a provincial matter; and (ii) the matter was sub-judice. He also added that according to the information received by him the alleged order had not been passed by the Chief Minister. The mover and certain other members argued that the matter was neither sub-judice nor was it provincial. It was emphasised by them that what was sub-judice was the detention of Ch. Zahur Illahi and not the alleged order of the Chief Minister. It was also asserted by them that as the Advocate-General Punjab after seeking several adjournments from the High Court for the production of Ch. Zahur Illahi, had at last put in an affidavit that the Home Secretary, Government of Sind had ordered that the orders of the Lahore High Court be not complied with. The matter had recorded publicity in the press and had not been denied it was alleged. The Chairman said that failure to deny a press report did not necessarily mean that the report was correct. He added that the matter was very serious and the burden of establishing that the alleged order had been passed by the Chief Minister lay on the Mover. He announced his ruling in the following words.

> "Since there is not enough evidence produced by the Mover and his supporters to the effect that the Sind Chief Minister has actually issued any order to his Home Secretary not to comply with the orders of the High Court, I rule it out of order."

Senate Debates,
18th March, 1976,
P 472—487

151. *Adjournment Motion: Deportation of Khawaja Khairuddin from Pakistan: provincial matter: ruled out of order:*

**Ruling**

On 19th March, 1976, a member sought leave of the House to move an adjournment motion to discuss a matter arising out of the publication of a news in 'Nawa-e-Waqt' about the alleged deportation from Pakistan of Khawaja Khairuddin, Senior Vice President of the Muslim League. It was alleged that the Police went to his House and took him to the Airport where he was put in a plane.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that the subject matter of the motion was not primarily the concern of the Federal Government as it was a provincial matter. He added that the SDM, Central, Karachi, had issued search warrants against the gentleman under Section 98 of Cr. PC. read with Maintenance of Public Order Ordinance, 1960. His House was searched and some prejudicial material which was against the integrity and solidarity of Pakistan was found in his House. He further said that under the Defence of Pakistan Rules the Provincial Government was competent to make an order requiring a foreigner to vacate the country. In this case the Government of Sind made an order under the Defence of Pakistan Rules (Rule 39 read with rule 213) requiring Khawaja Khairuddin, a foreigner, to leave the country.

The mover argued that Khawaja Khairuddin was a Pakistani, and a Pakistani passport was issued to him. He was not a foreign national. The Minister did not agree with the mover and said that he was carrying a forged passport.

The Chairman observed that whether he was a Pakistani or a foreigner, this issue could not be decided by the Senate. This did not constitute a subject matter for an adjournment motion.

The Chairman ruled the adjournment motion out of order on the ground that this was a Provincial matter.

Senate Debates,
19th March, 1976,
P528—539.

152. *Adjournment Motion: Rail car-tractor accident: not urgent: notice given late: ruled out:*

**Ruling**

On March 4th, 1976, a member sought leave to move a motion for adjournment of the business of the House to discuss the rail car tractor accident as reported in the daily 'Nawa-e-Waqt' dated 13th March, 1976.

The Minister concerned opposed the motion on the ground that the accident took place due to the fault of the tractor driver and not due to the negligence of the railway authorities. The motion was, therefore, out of order. The Deputy Chairman told the mover that he had not given notice of the motion as required by rule 69 in time and, also, it was not clear how it was a matter of urgent importance. Another member replying to the query of the Chair said that rule 70 provided that the notice should be delivered two hours before the commencement of the sitting. He said that in this case notice had been given two hours before the commencement of the sitting. The Minister disagreeing stated that the Senate was supposed to sit at the time which had been set down in the Orders of the Day and notice had to be given two hours before that time. The Deputy Chairman observed that this view which was shared by the Chairman also was supported by a number of rulings.

The Deputy Chairman ruled the motion out of order on the ground that the notice was not given within two hours of the stipulated time under rule 70, and, the Senator had failed to satisfy the House that there was urgency in the matter.

Senate Debates,
24th March, 1976,
P 33—37.

153. *Adjournment Motion: Tear gas and Lathi Charge on students of Jehan Zeb College Hostel, Saidu Sharif: law and order provincial matter: consent to the moving of the motion withheld:*

**Ruling**

On 9th March, 1976, a member sought leave of the House to move an adjournment motion to discuss a matter arising out of the report published in the Daily 'Nawa-i-Waqt', Rawalpindi, dated 20th March, 1976, alleging the excesses committed by the police by using tear gas and Lathi charge on the students of Jehan Zeb College, Saidu Sharif, in their hostel and the arrests of a number of students.

The Chairman observed that tear-gasing, Lathi-charge and arrest of students by the Police fell within the provincial sphere. The -Federal Government was not primarily concerned with this matter. He, therefore, withheld his consent to the moving of the motion.

Senate Debates,
29th March, 1976,
P 75—77

154. *Adjournment Motion: Police Lathi charge on a peaceful student procession in Mirpur, Azad Kashmir: not primary concern of the Federal Government: ruled out:*

**Ruling**

On the 2nd April, 1976, Khawaja Mohammad Safdar sought leave to move a motion for adjournment of the business of the House to discuss the police Lathi-charge on a peaceful student procession.

The Minister for Law and Parliamentary Affairs opposed the motion on the grounds that it was not specific, as there was no mention of the place where the police Lathi charge actually occurred. Secondly, the paper referred to by the mover said that it was in Azad Kashmir. But Azad Kashmir did not form part of Pakistan. The mover replying to the objections of the Minister said that the matter was specific as the students of Mirpur had been lathi-charged. As for the other objection of the Minister, he added it carried no weight as the Prime Minister of Pakistan was the Chairman of the Azad Jammu and Kashmir council, six members of National Assembly were its members and one Federal Minister was its Vice ¬Chairman. Therefore, he argued, the Government of Pakistan was concerned with the happenings there.

The Minister for Law and Parliamentary Affairs stated that under the Constitution the status of the State of Jammu and Kashmir was to be determined in due course and that the existence of the Council could not override the provision of the Constitution in this behalf. The mover then referring to Article 257 of the Constitution said that the Constitution provided that relationship between Pakistan and the State of Jammu and Kashmir as a whole and not the present Azad Kashmir which was only a part of the State.

The Chairman then observed:

> "So far the people of the state of Jammu and Kashmir have not decided to accede to Pakistan or to India. That has yet to be determined by means of referendum. Since it is not constitutionally a part of Pakistan, lathi charging and tear-gasing occurring there cannot be primarily the concern of the

Federal Government. It is a law and order question. They (Azad Jammu and Kashmir Government) have their own laws, their own administration and their own constitutional set-uP Azad Kashmir is neither a province within Pakistan nor it is a territory having acceded to Pakistan. Strictly speaking, it is not the primary concern of the Federal Government. Since the Federal Government constitutionally is not concerned in the matter and since it is not a Province, the adjournment motion is out of order."

Senate Debates,
2nd April, 1976,
P 316—322.

155. *Adjournment Motion: Apathy of government towards Textile Industry which had run into crisis: matter not of urgent importance: ruled out:*

**Ruling**

On 5th April, 1976, a member sought leave of the House to move an adjournment motion to discuss a news item published in the daily 'Dawn' dated 2nd April, 1976, regarding textile industry crisis.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that the matter was not of recent occurrence.

The Chairman asked the mover to satisfy him whether the motion related to a matter of recent occurrence.

The mover reiterated his earlier stand and said that it was a recent matter because the Government had increased the prices of furnace oil, gas and cement recently leading to this crisis.

After some discussion the Chairman ruled the motion out of order on the ground that the matter was not of urgent importance as it was a continuing process.

Senate Debates,
5th April, 1976,
P 367—371.

156. *Adjournment Motion: Poor quality basmati rice exported to Abu Dhabi: ruled out due to inordinate delay in moving the motion: the emergency element of the subject matter of an Adjournment Motion weakens if moved after 48 hours of the occurrence:*

**Ruling**

On 8th April, 1976, two members jointly sought leave of the House to move an adjournment motion to discuss a press report published in the daily. 'Jang' of Karachi dated 8th April, 1976, regarding poor quality rice exported to Abu Dhabi.

The motion was opposed by the Minister for Commerce and Tourism on the ground that this was not a matter of recent occurrence.

The Chairman observed that the news appeared in the daily Jang, Rawalpindi, on 6th April, 1976. But the motion was tabled in the evening on the 7th April, although the Senate had met the same day in the morning. The motion was ruled out of order on the ground of inordinate delay in giving its notice.

Senate Debates,
8th April, 1976,
P489—506

157. *Adjournment Motion: Increase in prices of Gas, Cement, Oil, Power tariff, PIA and Railway fares and freights: motion under Rule 187: increase in prices of consumer goods amended to cover the subject matter of the Adjournment Motion: motion not moved:*

**Ruling**

On 12th April, 1976, four adjournment motions relating to the increase in prices of gas, cement, oil, power tariff PIA and Railway fares and freights were moved but deferred till Friday, the 16th of April, on the suggestion of the Finance Minister, who said that the same adjournment motions had also been moved in the National Assembly and a date for discussion there had already been fixed. The Leader of the House in the Senate has made a proposal that we should wait till the discussion takes place in the National Assembly. The Finance Minister explained that the subject matter of the adjournment motions and the subject matter of the motion under rule 187 were more or less the same because once we started discussing the increase in prices of certain items; naturally we had to discuss all these things. That would save lot of time if we took them together as these were related matters.

The Chairman observed that there was another way to get out of the dilemma in which we found ourselves. Let this motion be amended. Instead of saying 'consumer goods' you could say 'prices of Articles and fare'. It would cover all the adjournment motions as well as this motion because consumer goods would not include obviously the 'increase in the PIA and Railway Fares and other things'. You could amend it. It would read like this 'Khawaja Safdar to move that the situation arising out of spiraling prices of the

consumer goods and other Articles, or fares'. If the House agreed, it could be amended so as to cover all the adjournment motions as well as this motion.

On this proposal both the sides of the House agreed. The Chairman again observed that when its turn came, any gentleman could move an amendment and the House may agree to it. Then we would fix a day for that. It may be 16th as suggested by the Finance Minister. Then this motion would become a substantive motion and it would cover all the adjournment motions. The members approved the suggestion. Thereupon the Chairman observed that the motion under Rule 187 in the name of Khawaja Mohammad Safdar set down for today as item No. 42 in the Orders of the Day, would be amended in such a way as to cover all the adjournment motions pertaining to the increase in prices of consumer goods and other Articles and fares and 16th, would be fixed for its discussion.

None of such adjournment motion was moved in view of the agreement and accord reached between the two sides of the House.

Senate Debates,
12th April, 1976,
p- 5 9.

158. *Adjournment Motion: Alleged arrest of Senators: normal course adopted: no repressive measure: motion based partly on arguments and inferences: ruled out:*

**Ruling**

On 14th April, 1976, a member sought leave of the House to move an adjournment motion to discuss a matter arising out of the alleged arrest of two Senators (including the Leader of the Opposition) from the MNAs, Hostel, Islamabad, on the 14th April, 1976, in connection with some cooked up cases.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that the matter was sub-judice. The members had been arrested for specific offences and not in connection with some cooked up cases as alleged, Case No. 81 of 1975 was registered on 7th August, 1975, by the Deputy Secretary, Ministry of Interior, Government of Pakistan. The offences were under Section 121 waging or attempting to wage war against Pakistan, Section 121-A-conspiracy to commit offences, Section 22-collecting arms etc. with intention to wage war, Section 123-A condemning the creation of the state etc., and Section 2 of the High Treason (Punishment) Act. He further said that the court was going to assemble day after tomorrow to hear their

cases:

The Chairman observed that they were arrested in the ordinary course of law. He added that this was not a repressive measure and that they were charged with substantive offences and were being tried in a court of law. It was thus for the Court to decide whether they had been lawfully and legally arrested or not. The latter part of the motion contained arguments and inferences which were not permissible under the rules. The motion was, therefore, ruled out of order.

Senate Debates,
14th April, 1976,
P 95—109.

159. *Adjournment Motion: Alleged misuse of funds allocated by the government for northern area: matter vague: a continuing process: not of recent occurrence: ruled out:*

**Ruling**

On 26th April, 1976, a member sought leave of the House to move an adjournment motion to discuss a matter arising out of the allegation by Mr. Qurban Ali, a representative of the Council for Northern Areas that crores of rupees allocated by the Government each year for Northern Areas are not being utilised properly, as reported in Nawa-e-Waqt of April 18th, 1976.

The Leader of the House opposing the motion stated that the matter was not of recent occurrence. Also, he added, it was hypothetical and vague.

The Minister for Interior observed that there was an elected Council in the Northern Areas and Mr. Qurban Ali was an elected member of that Council. The Senate is not, therefore, the proper forum where this matter could be taken uP Also, he added, the area was not even a province.

The Chairman agreeing with the Minister asked the mover to reply to the main objection to the admissibility of the motion that it was vague. He enquired how much amount was misappropriated and when. The mover said that according to the statement of Mr. Qurban Ali, this happened during this very year. Thereupon the Chairman ruled:

> "So far as admissibility is concerned, I rule it out of order because it is vague and a continuing process and it is not of recent occurrence."

Senate Debates,
26th April, 1976,
P 228—231.

160. *Adjournment Motion: Alleged Imprisonment of Pakistanis in Muscat Jail violation of law of a foreign land federal government not competent to interfere: ruled out of order:*

**Ruling**

On 16th April, 1976, a member sought leave of the House to move an adjournment motion to discuss a matter arising out of the alleged imprisonment of more than one thousand Pakistanis in Muscat jail as reported in 'Nawa-e-Waqt', dated the 18th April, 1976.

The Minister for Interior opposing the motion explained the facts as well as the steps taken by the Federal Government with a view to exercising strict control over the situation and assured that Federal Government was doing all that was possible.

The Chairman observed that "Muscat has its own laws and regulations to regulate the conduct of their own citizens as well as the foreigners who go there, and if they break the law or violate the law of that country, then they have to suffer. I do not understand how this Government comes into the picture. Similarly, if there is any foreigner from any other country who comes here and who has no passport, or visa, or other document, then he is arrested. Tried and imprisoned. How can any other country interfere? Similarly, if a Pakistani goes to another country and violates the law of that country, how can our Government interfere?

They seem to have violated the law of the land. The Federal Government is not competent to interfere. The motion is ruled out of order on that ground."

Senate Debates,
26th April, 1976
P 231—233.

161. *Adjournment Motion: Alleged failure of government for not declaring public holiday on 21st April 1976. the death anniversary of Allama Iqbal: matter of policy cannot form good basis of Adjournment Motion: ruled out:*

**Ruling**

On 26th April, 1976, a member sought leave of the House to move an adjournment motion to discuss the alleged failure of the Federal Government to declare 21st April, 1976 the death anniversary of Allama Iqbal, as national public holiday.

The Chairman enquired whether public holiday on account of the death anniversary of Allama Iqbal was observed lastyeard and it has not been done this year.

The Minister for Interior, States and Frontier Regions state that the Government had declared, from the year 1975, the 9th November as public holiday on accountof birthday of Allama Iqbal. His death anniversary, has not been declared as public holiday. However, in some provinces it has been declared a public holiday. Concluding, the Minister said that the motion related to a matter which was neither of public importance nor of recent occurrence.

The Chairman observed:

> "The Interior Minister has made a categorical statement that the death anniversary has never been declared a closed holiday by the Federal Government: certain provincial governments have been doing it. But so far as the Central Government is concerned, as a matter of policy they only declared his birthday as a closed holiday but not his day of death. The motion involvesa question of policy. As a matter of policy it cannot form a good basis for an adjournment motion. You can move a motion under Rule 187 or you can bring in a resolution but, being a question of policy, it cannot form the subject matter for an adjournment motion. The motion is ruled out of order."

Senate Debates,
26th April, 1976,
P 225—227.

162. *Adjournment Motion. Forced sterilization of Muslims living in India: the matter was not the concern of the government of Pakistan: ruled out:*

**Ruling**

On 4th May, 1976, a member sought leave to move an adjournment motion to discuss the forced sterilization of Muslims Minority in India against their basic religious beliefs resulting in tragic clash between the police and Muslims in the areas of old Delhi as reported in daily 'Jang' dated 22nd April, 1976.

The motion was opposed on the ground of not being the concern of the Government of Pakistan. The Minister-incharge maintained that the matter alleged in the motion related to the internal jurisdiction of India and it would not be proper for the Senate to discuss it.

The mover contended that the matter concerned the Muslin Minority in India. Pakistan was created to safeguard the interests of Muslims, wherever they might be living and that they could discuss the matter in view of the Liaqat Nehru Pact arrived at between India and Pakistan.

The Presiding Officer ruled out the motion on the ground of not being the concern of the Government of Pakistan.

Senate Debates,
4th May, 1976,
P 465-469.

163. *Adjournment Motion: Federal Government's unconstitutional order of suspending Baluchistan Government and of directing Baluchistan Governor to assume all powers in the province on behalf of the Federal Government: the Senate was not the proper forum to discuss the matter: constitutionality of the order to be decided by a high court or the supreme court: ruled out:*

**Ruling**

On 5th July, 1976, a member sought to move an adjournment motion to discuss the alleged unconstitutional order dated 1st July, 1976, of suspending the Baluchistan Government and directing the Baluchistan Governor to assume all powers on behalf of the Federal Government.

The motion was opposed by the Minister for Law and Parliamentary Affairs on the ground that it related to a matter which was not specific and which could be remedied by legislation. Also, he added, the entire Baluchistan problem was debated in a meeting of Parliament in Joint Sitting on 26th February and again two months later in the Senate. He argued that the matter could not be discussed again. There was a bar to reviving discussion on a matter which had been discussed in the Senate or Assembly within the last six months. He said that the order of the Federal Government was in accordance with Articles 232 and 280 of the Constitution.

The mover disagreeing with the Minister contended that Article 232 did not empower the Federal Government to dismiss the Chief Minister and other Minister of a Province if a Chief Minister, is to be dismissed a procedure laid down for this purpose is to be followed by passing a vote of no confidence against the Chief Minister concerned. Secondly, he added, the Provincial Government of Baluchistan cannot be suspended for more than six months under Article 234 of the Constitution. The order of the Federal Government was as such unconstitutional.

The Chairman observed that the previous order by which the Provincial Government and the Provincial Assembly of Baluchistan were suspended expired on the night between the 29th and 30th June. A fresh order was issued on 30th June. Under this order the Provincial Government has been suspended and its power has been given to the

Governor. But the Provincial Assembly has been revived. So it could not be contended that this order had been continuing for more than six months. He was, therefore, of the view that this adjournment motion should go to the Provincial Assembly.

The mover contended that unless there was a Government of the Province, the Provincial Assembly could not be convened.

Thereupon the Chairman observed that such a complicated constitutional point could not be decided by him. If there was anything unconstitutional or illegal in the order passed by the President that could be challenged only in a High Court or in the Supreme Court. He could not sit in judgement over it. In his view, he added, the Senate was not the proper forum to raise discussion over this question. The motion was, therefore, ruled out of order.

Senate Debates,
5th July, 1976,
P 145—158.

164. *Adjournment Motion: failure of Federal Government to abolish toll tax on vehicles carrying goods and merchandise from Punjab to Sind: ruled out:*

**Ruling**

On 4th August, 1976, Khawaja Mohammad Safdar sought leave of the House to move an adjournment motion to discuss the failure of the Federal Government to abolish toll tax on vehicles carrying goods and merchandise from Punjab to Sind. It was alleged that the discriminatory orders of the Prime Minister abolishing toll tax on the carriage of goods between the provinces of Sind and Baluchistan appeared in the press on 1st July, 1976.

The motion was opposed on the ground that the matter was a provincial subject and that the Prime Minister could pass such orders under Article 149 of the Constitution: The mover maintained that he was not challenging the competency but the indiscriminate policy between provinces adopted through the directive by the Prime Minister. He averred that such directives should have been issued in respect of other provinces as well.

The Chairman ruled out the motion on the grounds that there was no Constitutional or Legal Provision under which the Prime

Minister was bound and had failed to pass such orders in respect of other provinces and that no representation had been made to him by people of other provinces.

Senate Debates,
4th August, 1976,
P 16—27.

165. *Adjournment Motion: Failure of Federal Government to get Kashmir issue resolved on the basis of UNO Resolutions before re¬establishing rail-link with Bharat: matter not recent: solution of Kashmir issue not conditional on the resumption of rail- link with Baharat ruled out:*

**Ruling**

On 5th August, 1976, a member sought leave of the House to move an adjournment motion to discuss the failure of the government to get the Kashmir issue resolved on the basis of the UNO Resolutions before re-establishing rail-link with Bharat on 22nd July, 1976, as reported in the Pakistan Times of 23rd July, 1976.

The Minister for Law and Parliamentary Affairs opposed the motion on the ground that the matter proposed to be discussed was not of recent occurrence. The joint statement in respect of restoration of civil aviation and passenger and goods traffic by rail was placed before the Senate on 7th July, 1976 in reply to starred question No. 22. But the member did not table the motion about it then.

The mover replying to the Minister's objection stated that the joint statement placed before the Senate only said that rail-link between the two countries would be restored in future. He argued that the joint statement only anticipated the restoration of rail-link in future. Since the occurrence did not come about on that date there was no justification for him to agitate the matter. And if he had tabled the motion, it would have been treated as anticipatory and thrown out on that ground.

The Chairman then asked the Minister to readout the relevant portions of the statement. After the relevant paragraphs of the statement had been read out by the Minister, the Chairman observed that the solution of Kashmir issue was not conditional on the resumption of rail-link between India and Pakistan. The Chairman held that in view of the statement made by the Law Minister, the mover had failed to establish that the Government had not been able to solve the Kashmir issue because in his opinion the solution of Kashmir issue was not conditional on the resumption of rail-link between the two countries. Also he added, the matter was not of recent occurrence. The motion was, therefore, ruled out of order.

Senate Debates,
5th August, 1976,
P 79—82.

166. *Adjournment Motion: Signing of air-link agreement with Bharat without getting the Kashmir issue resolved on the basis of the UNO Resolutions: matter not recent: ruled out:*

**Ruling**

On 5th August, 1976, a member sought leave of the House to move an adjournment motion to discuss the signing of agreement with Bharat for running air services between the two countries (as reported in Nawa-e-Waqt of I4th July, 1976) without getting the Kashmir issue resolved on the basis of the UNO Resolutions.

The Minister for Law and Parliamentary Affairs opposing the motion stated that the joint statement regarding rail-link and civil aviation was placed before the House on 7th July in reply to a question regarding resumption of over flights and restoration of air- link between Pakistan and Bharat. The mover had thus been informed of this agreement on 7th July, 1976. He should have therefore, taken the earliest available opportunity to table the motion.

The mover replying to the objection of the Minister stated that as the agreement had not been signed by that date, there was no specific matter to be taken up through an adjournment motion on the floor of the House.

The Chairman disagreeing with mover observed that actual signing of the agreement was immaterial. He added that the joint statement regarding agreement of the delegations of the two countries to the resumption of over flights and air-link between the two countries was placed before the House on 7th July, 1976. The member did not avail of the earliest available opportunity to table the motion. The motion was, therefore, ruled out of order.

*Senate Debates,*
*5th August, 1976,*
*P 83—87.*

167. *Adjournment Motion: Failure of Government to renew the passport of Malik Mohammad Qasim, Secretary General, Pakistan Muslim League: ruled out:*

**Ruling**

In the meeting of the Senate on 19th August, 1976, a member sought leave of the House to move an adjournment motion to discuss the failure of the Government to renew the passport of Malik Mohammad Qasim, Secretary General, Pakistan Muslim League, thus preventing him from proceeding to England.

The Law Minister opposed the motion on the ground that the renewal of passport was still under consideration. The motion, therefore, dealt with a hypothetical case. He argued that even if it was rejected, it did not make the matter urgent.

The Chairman observed that it had not been proved that it was obligatory on the Federal Government to renew the passport. The motion was, therefore, ruled out of order.

Senate Debates,
19th August, 1976,
P205—214.

168. *Adjournment Motion: Inadequacy of measures taken by Pakistan Railways to protect railway line from floods which brought traffic to and from Karachi to a dead stop: allegation not substantiated: ruled out:*

**Ruling**

On 19th August, 1976, a member sought leave of the House to move an adjournment motion to discuss the inadequacy of measures taken by the Railways Department to protect the railway line from the flood resulting in the stoppage of all traffic to and from Karachi as reported in the Pakistan Times of 16th August, 1976.

The motion was opposed by the Minister concerned on the grounds that it did not relate to a definite matter of urgent public importance. The motion was deferred to 20th August and 23rd August, but discussion on its admissibility could not be completed. On the 24th August, 1976 the Minister for Law and Parliamentary Affairs made a statement on the floods.

On 27th August, 1976 when the discussion on admissibility of the motion was resumed, the Minister concerned stated that inadequacy of the measures adopted by the Railways Department could be judged only after the floods were over and water had receded.

The Chairman observed that the Minister for Law and Parliamentary Affairs in a statement made the other day listed various measures taken by the Government and the Railways Department for protection of the railway lines. In view of the statement he held that the allegation of inadequacy of measures taken by the Railways Department to protect the railway lines from the ravages of floods had not been substantiated. The motion in its present form was therefore, inadmissible.

Senate Debates,
19th August, 1976,
P 214.
24th August, 1976,
P 41—45.
27th August, 1976,
P 129—130.

169. *Adjournment Motion: Permission to discuss the inadequacy of measures by the railway to protect railway lines from floods: statement by the Minister for Law in regard to the measures taken by the government: allegation not substantiated: ruled out as inadmissible:*

**Ruling**

On 27th August, 1976, Khawaja Mohammad Safdar sought permission to move an adjournment motion to discuss the inadequacy of the measures taken by the Pakistan Railway to protect the railway line from the floods which had brought the movements of all traffic to and from Karachi to a dead stoP The motion was opposed. The Law Minister, read out a detailed statement in this regard discussing the measures taken by the Government to protect the lives and properties of the flood affected people. He said that under the orders of the Prime Minister the existing plans and flood warning system were reviewed to lay down long term policy measures to combat floods. The Provincial Government submitted the flood protection plans which was estimated to cost about Rs.500 crores, out of which Rs.310 crores were intended for flood protection works in Sind, Rs.116 crores in Punjab, Rs.15 crores in NWFP and Rs.9.50 crore in Baluchistan. In addition, about Rs.52 crores were estimated for implementing the flood protection plan of the Railways throughout the country. He said that the Highway Departments and the Railways were making efforts to restore normal traffic in the shortest possible time. Khawaja Mohammad Safdar said that there was no Railway line on which any train was running Sheikh Mohammad Rashid said that losses were still being assessed and, therefore, the final figures were not available and that after the floods were over the measures adopted by the Government could be discussed.

The Chairman ruled as under: —

> "The Minister for Law and Parliamentary Affairs made a statement the other day on the flood, situation in the country including the alleged damage caused to the Railway line by the flood. He had listed the various measures taken by the Government and the Railway Department for the protection of the Railway line. In view of that statement I hold that the allegation of the mover on the adjournment motion of inadequacy of measures taken by the Railway to protect the Railway line from damage caused by flood has not been substantiated. Therefore, the adjournment motion in its present form is held inadmissible".

Senate Debates,
27th August, 1976,
P 129—130.

170. *Adjournment Motion: Permission to discuss the failure of Federal Government to convince the Canadian Government that Pakistan would use atomic reprocessing plant for peaceful purposes: allegations denied by the Minister concerned and that negotiations were going on and therefore, it was premature either to entertain any apprehensions or express any opinion in the matter: ruled out of order:*

**Ruling**

On 27th August, 1976, Khawaja Mohammad Safdar sought permission to move an adjournment motion to discuss the failure of the Federal Government to convince the Canadian Government that Pakistan would use the Atomic Reprocessing Plant to be obtained from France, only for peaceful purposes and not for making an atomic bomb. The motion was opposed by Mr. Aziz Ahmed, Minister for State for Defence and Foreign Affairs. He denied the allegation that the Government of Pakistan had failed to convince the Canadian Government of its peaceful intentions with regard to the reprocessing plant and that the Canadian Government had threatened to close down the Karachi reactor. He added that Canada was not directly concerned with the Reprocessing Plant and it had only to supply fuel for the Karachi Power Plant for which the supply was continuing and discussions for its continuance were taking place. The mover enquired as to why the need for further discussions about the continuance of the fuel supply had arisen. The Minister answered that it was premature to discuss the matter at this stage. The Minister for Fuel, Power and Natural Resources observed that the mover was taking an untenable position inasmuch as he was trying to blame the Pakistan Government, for the acts of another government. Pakistan Government was not responsible for the attitudes of other governments.

After hearing both sides, the Chairman ruled as under:

> "My ruling is that both the allegations made have been denied by the Minister concerned. Therefore, on these grounds alone the adjournment motion can be thrown out as inadmissible. Further, it has been categorically stated by the Minister concerned that the negotiations are still continuing between the two Governments concerned. Therefore, it will be premature to entertain any apprehensions or express any opinion in the matter. In view of these grounds the adjournment motion is held inadmissible."

Senate, Debates,
27th August, 1976,
P 126—129.

171. *Adjournment Motion: Failure of Federal Government to get uranium from governments of Canada, Belgium or America: allegation denied: ruled out:*

**Ruling**

On 27th August, 1876, a member-sought leave of the House to discuss the failure of the Federal Government to persuade the Governments of Canada, Belgium and America to supply Uranium to Pakistan, although USA, was supplying Uranium to Bharat as reported in Nawa-e-Waqt dated 31st July, 1976.

The Minister concerned denied the allegation and opposed the motion saying that Pakistan was not getting Uranium either from America or Belgium so, the question of the alleged failure of the Government of Pakistan to persuade them to give us Uranium did not arise. The supplies of Uranium to Pakistan from Canada were still continuing.

The Chairman ruled the motion out of order on the ground of denial of allegation by the Minister.

Senate Debates,
27th August, 1976,
P 126—129

172. *Adjournment Motion: Permission to discuss the failure of government to implement the award of wage commission in respect of the employees of daily ta'mir: statement given by the Minister concerned that government would do everything possible to help in implementing the award: motion not pressed:*

**Ruling**

On 7th September, 1976, a member sought permission to move an adjournment motion to discuss the failure of the Federal Government to enforce the Wage Board award in respect of working journalists and other employees of the Daily Ta'mir Rawalpindi. The motion which came up on the 8th September stated that the award had been given sometime back by the Wage Board appointed by the Federal Government but had not been implemented by the management of the Daily Ta'mir. The Minister for information and Broadcasting gave an assurance that the Government will do whatever it can to redress the grievances of the workers- of the Daily Ta' mir and so the mover did not press the motion, which was ruled out.

Senate Debates,
7th September, 1976,
P422-423.

173. *Adjournment Motion: Permission to discuss inadequate supply of cement to Punjab, elaborate statement given by the Minister Incharge giving the facts and figures: motion not pressed:*

**Ruling**

On 10th November, 1976, a member sought leave to move: an adjournment motion to discuss the failure of the Federal Government to make adequate supply of cement to the Punjab. The motion was opposed. The Minister for Production denying the allegation said that out of the total production capacity of 34 lakh tons in the country production capacity in the Punjab factories was only 12 lakh tons. He said that the requirements of the Punjab were undoubtedly greater than the capacity of 12 lakhs. In September there was heavy rain-fall and some of the factories had to cut down their production because the limestone mines were flooded out. There had also been communications problems. All these factor had created scarcity. The Minister said that 400,00 tons were being supplied to the Punjab on an emergency basis to meet the new go down construction programme for wheat and other agricultural produce. Cement was also being -provided on a—emergency basis to Lahore and Lyallpur for the housing programme of the Provincial Government. Eleven special trains had been run from Hyderabad Zeal Pak factory to Lahore, Lyallpur, Sahiwal, Gujranwala and Sargodha. Besides to counter the difficulties, the Federal Government had established fair-price shops and an effort was being made to make door-step delivery of cement. He said that the Government was doing its best to increase the supply of cement. The mover was satisfied and the Chairman ruled out the motion as not pressed and withdrawn.

Senate Debates,
10th November, 1976,
P20—22.

174. *Adjournment Motion: Discussion on steep rise in the prices of consumer goods matter of continuing phenomenon and not of recent occurrence: ruled out of order:*

**Ruling**

On 10th November, 1976, a member sought permission to move an adjournment motion on the steep rise in the prices of consumer goods notwithstanding warning issued by the Ministers to profiteers and hoarder and instructions given in this behalf to various concerned agencies. The Minister for Law and Parliamentary Affairs opposed the motion on the ground that it related to a matter which was neither specific nor of recent occurrence. Moreover, the matter was a continuing process and had been

repeatedly debated in the National Assembly and the Senate. The Minister for Finance argued that the motion was of a general nature as it did not specifically mention the items of which the prices had gone uP He added that prices fluctuate according to the national and international situation and do not remain static. Mr. Chairman asked the mover to restrict his reply to the objections on the point whether the motion related to a specific and definite issue. The mover said that the term 'consumer good' was specific and included all the essential items of daily use. The Chairman ruled as follows:

> "Since the *alleged steep rise in the prices of consumer goods is a continuing phenomenon and is not of recent occurrence therefore, it would not justify the adjournment of the normal business of the House to have a discussion on this motion. Hence it is ruled out of order.*"

Senate Debates,
10th November, 1976.
P 10—19.

175. *Adjournment Motion: Permission to discuss the failure of the Federal Government to provide protection to opposition leaders matter primarily the concern of the Provincial Government: ruled out of order:*

**Ruling**

On 11th November, 1976, a member sought permission to adjourn the business of the House to discuss the failure of the Federal Government to provide protection to the Opposition Leaders notwithstanding creation of numerous Federal Civil Forces for eradication of goondaism in the country. He alleged that on 30th October, 1976, some unknown persons had sealed the walls of the bungalow of Sher Baz Mazari, MNA, President National Democratic Party in Karachi, beat his servants and broke the panes of the doors and windows of his bungalow.

The motion was opposed by Khan Abdul Qayyum Khan, Minister for Interior; on the ground that the question of Law and Order was the concern of the Province c'd there was no occasion for the Federal Civil Forces going into operation. The Law Minister Malik Mohammad Akhtar referred to ruling No. 10 page 9 of the Decisions of the Chair 1962—65 to support the objection raised by Khan Abdul Qayyum Khan. The mover of the motion Khawaja Mohammad Safdar said that at the time of the pronouncement of the said ruling, the Federal Security Force was not in existence. According to the mover the matter could not be said to be within the exclusive jurisdiction of the Province.

After hearing the arguments advanced by the Government and the Opposition, the

Chairman ruled as follows:

> "This motion seeks to raise discussion on the subject of law and order and protection of life and property of the citizens. As is evident from the discussion and law on the subject the maintenance of law and order and the protection of life and property of the citizens is primarily the concern of the Provincial Government and not of the Federal Government. On these grounds alone, I rule the motion out of order."

Senate Debates,
11th November, 1976,
P 34—37.

176. *Adjournment Motion: Permission to discuss acute shortage of Vegetable Ghee in the Punjab: allegation denied by the Minister concerned and there being nothing to rebut the same motion ruled out:*

**Ruling**

On 11th November, 1976, Khawaja Mohammad Safdar for sought permission to move a motion to discuss the failure of the Federal Government to make adequate supply of vegetable ghee to the Punjab.

The motion was opposed. Syed Qaim Ali Shah, Minister for Industries denied that there was any shortage of ghee in the Punjab. He contended that the matter was not of urgent public importance and that the allegation was vague and of a sweeping nature. He added that the production had increased not only in the Punjab but throughout Pakistan and there was a rise of 20% in ghee production. The Minister disclosed that Government had already given to Punjab more than the prescribed quota. According to him, 2042,2624. 636 and 1419 tons had been given over and above the quota during the months of July, August, September and October respectively, inspite of some bottlenecks in the distribution.

The mover replied that he had seen people standing in queues from morning till evening before the ghee agencies but they could not get any ghee.

After hearing both sides, Mr. Chairman ruled as under:

> "All right. Now, the allegation that the Government had failed to make available to Punjab adequate supplies of vegetable ghee and as a result of failure of the Government there is acute shortage of the commodity is categorically denied by the Minister concerned and he has actually quoted

facts and figures from his record ; So, in view of his statement and there being no evidence to rebut his statement I am unable to hold that the Government has actually failed in making the supplies available to Punjab or there is actually acute shortage of ghee. Therefore, the motion is ruled out of order.".

Senate Debates,
11th November, 1976,
P 28—34.

177. *Adjournment Motion: Permission to discuss shortage of cigarettes: matter not of recent occurrence: ruled out of order:*

**Ruling**

On 12th November, 1976, a member sought permission to move an adjournment motion to discuss the acute shortage of cigarettes not withstanding stem warning by the Federal Finance Minister to the producers and distributors of cigarettes.

The Minister concerned opposed the motion on the grounds that it was not based on facts as there was no shortage of cigarettes. He said that due to floods, when the communications had been disrupted, there was some shortage but the Government had taken effective steps and there was no shortage whatsoever at the moment. It was also contended that smoking was a matter neither of general, public importance nor of recent occurrence. The mover replied that there were crores of citizens who smoke and the matter as such, was of general public importance. He added that there had been shortage of cigarettes for the last 2 or 2-1/2 months. Thereupon the Chairman ruled as under:

"I hold the motion out of order on the ground that it is not of recent occurrence. According to mover's own admission, the alleged trouble is continuing since about 2-1/2 months. So he could have brought this motion during the last session. We metalation 8th September, 1976. You cannot say that it is a hardship caused to the people because of a recent occurrence. The matter is not of recent occurrence. So on that ground alone it is ruled of order.".

Senate D*ebates,*
*12th November, 1976,*
*P 43—48.*

178. *Adjournment Motion: Permission to discuss the inordinate delay in the finalization of the Pay Commission Report: statement given by the Minister concerned justifying the delay and assuring its early receipt: motion not pressed:*

**Ruling**

On 12th November, 1976, a member sought permission to move an adjournment motion to discuss the under delay in the finalization of the report of the Pay Commission for Banks and Financial Institutions. Opposing the motion, the Minister for Law and Parliamentary Affairs said that the Pay Commission was first appointed on 28th May, 1974 and its terms of reference covered all categories of employees of the nationalised banks and financial institution. When the Commission had done the initial spade, work, a Wage Commission comprising the same members as of the Pay Commission was appointed on 7th November, 1974, due to the serious unrest among the clerical and lower staff of the nationalized banks and financial institutions. The Wage Commission was appointed under the Industrial Relations Ordinance 1969 to give its decision on the rate of wages and other terms and conditions of service of such employees of the banks and financial institutions as were covered by the definition of 'worker' in the Ordinance; all clerical and all non-clerical staff were covered by the definition. The Wage Commission submitted its report in May, 1975, which was notified on 9th June, 1975. Consequently, the Pay Commission was reconstituted on 2nd December, 1975 with clerical and lower staff taken out from its terms of reference. The Federal Government appointed the National Pay Commission to formulate recommendations regarding emoluments and other terms and conditions of service of the Govt. Servants. The President and the members of the Executive Boards of the Banks fell within the purview of this Commission. This necessitated some arrangement for coordination between the two commissions.

The motion was opposed on the grounds that it related to a matter which was neither of recent occurrence nor was of urgent public importance because bulk of the Bank employees and the employees of the Financial Institutions like l. C. P, NIT. State Bank. Agricultural Development Bank, House Building Finance Corporation, NDFC and the People's Finance Corporation, had been allowed revised scales of pay alotigwith Government employees. The Minister informed the House that the report of the Pay Commission for Banks and Financial Institutions was likely to be received shortly and hoped that the Member would not press the motion. The mover pointed out the delay in the matter and hoped that it would receive more attention. The Minister assured the mover that the report would be finalized without loss of time. The Chairman declared that the motion was not pressed.

Senate Debates,
12th November, 1976,
P 52—54.

179. *Adjournment Motion: Failure of government to prescribe obscene literature and photos appearing in the magazine (Namood) published by the College of Arts, Lahore: matter not the concern of the Federal Government: ruled out of order:*

**Ruling**

Maulana Shah Ahmad Noorani Siddiqi sought permission to move an adjournment motion to discuss the failure of the Government to prescribe obscene literature and photos appearing in the college Magazine (Namood) of the National College of Arts, Lahore, in the issue of March, 1976. The motion was opposed. To the Chairman's enquiry as to which Government had failed to prescribe the magazine, the member replied that it was the Federal Government. The Chairman did not agree and remarked that it was not necessarily the Federal Government. The member argued that if the Provincial Government was acting on behalf of the Federal Government, the latter government would be responsible. The Chairman said that the Press and Publications Ordinance was adMinistered by the Provincial Government and asked specifically whether the complaint was against the Provincial Government or the Federal Government. The member re-iterated that he blamed the Federal Government because the Arts College was directly under its control. The law Minister Malik Mohammed Akhtar objected that since the obscene photos were contained in the March issue, the matter was not of recent occurrence.

The Chairman ruled the motion out of order on the ground that the Federal Government did not become responsible for the subject matter of the motion due to the mere fact that the obscene literature and photos were published in the college magazine.

*Senate Debates,*
*15th November, 1976,*
*P 71—74.*

180. *Adjournment Motion: Discussion on the rejection of haj applications: allegation denied by the Minister concerned: held out of order:*

**Ruling**

A member sought permission to move an adjournment motion to discuss the rejection of several thousand applications of intending Hajj pilgrims. The motion was opposed. Malik Mohammad Akhtar stated that the principle of first come first served was being observed and that some applications had to be rejected for want of capacity. He added that the government had been trying to accommodate the maximum number of pilgrims. Maulana Shah Ahmad Noorani said that the main grievance was that the applications were rejected without giving any reason, only the word "rejected "was endorsed on the unsuccessful applications. Maulana Kausar Niazi said that the applicants were duly

informed that there was no shipping space and added that 34,000 persons were being sent to Hejaz that year and that the unsuccessful candidates had been informed that they had the option either to take back their deposit or take priority next year: The Chariman ruled as under:

> "Now since *the allegations are denied by the Minister concerned and there is no evidence to* the contrary, this is held out of order.".

Senate Debates,
15th November, 1976,
P 74—79.

181. *Adjournment Motion: The disturbance and resultant losses in District Dir NWFP maintenance of law and order in Dir was a provincial subject: ruled out:*

**Ruling**

On 16th November, 1976, Khawaja Mohammad Safdar sought permission to move an adjournment motion to discuss the grave disturbance and the resultant loss of life in Dir and the failure of the Federal Government to pacify the public. The motion was opposed by Khan Abdul Qaiyum Khan, Minister for Interior on the ground that the law and order was a provincial subject. He added that if a Provincial Government calls the army for maintaining law and order, responsibility in the sphere does not shift to the Federal Government and the subject remains the concern of the Provincial Government. Khawaja Mohammad Safdar said that Dir was one of the Districts of Malakand Division; under Article 247 (6) of the Constitution the President had detribalized Dir. Mr. Kamran Khan submitted that the President had not done so and that Dir was still a provincially adMinistered tribal area. He however added that the Federal Government had a great say in the provincial by adMinistered tribal areas and no Provincial law could apply to such areas without the approval of the Federal Government. He contended that the Federal Government was responsible for the situation of law and order in Dir. Mr. Shahzad Gul said that there was emergency in the country during which the law and order becomes a subject of the Federal Government under Article 232 of the Constitution.

The Chairman ruled out the motion on the ground that Dir though a district, is still a provincially adMinistered tribal area and as such the maintenance of law and order there is primarily the responsibility of the Provincial Government.

Senate Debates,
16th November, 1976,
P 84—98.

182. *Adjournment Motion: Permission to discuss failure of government to persuade the Indian Government to stop construction of Salal Dam; statement given by the Minister concerned that India had not been violating any term of the Indus Waters Treaty: motion not pressed:*

**Ruling**

On 22nd November, 1976 a member sought leave of the House to discuss the failure of the Pakistan Government to persuade Indian Government to stop construction of the Salal Dam, on river Chenab in flagrant violation of Indus Basin Treaty. The Minister of State for Defence and Foreign Affairs said that the motion was based on misconception of facts. In wanting to construct the Dam, India had not been violating any part of the Indus Waters Treaty, which permits India to use the waters of the river for no consumptive purposes or for the generation of hydro-electric power. The Dam was designed solely to enable India to set up a hydro-electric plant. The treaty lays down a number of safe-guards to ensure that any plant permitted under the Treaty is so designed that it does not in any way, interfere with the flow or quantity of water that goes down the river for use in Pakistan. The objective of the Government has always been to make sure that the design of the Dam conforms to the safeguards laid down in the Treaty. The Minister informed the House that negotiations the matter were still in progress and that they had led to a better understanding on both sides of each other's point of view. He added that Pakistan's technicians had been in contact with the Indian technicians about the design of the Dam but 'still there were certain points which needed to be resolved. He denied the allegation made in the Motion. The mover expressed apprehensions that the design of the Dam may permit use of waters of the river for consumptive purposes and said that this should be guarded against. He did not press the motion. The Deputy Chairman ruled that the motion was not pressed.

Senate Debates,
22nd November, 1976.
P 198—203.

183. *Adjournment Motion: Stealing and selling of hearts and skulls of dead bodies: matter related to law and order: a provincial subject: not of recent occurrence. motion held inadmissible.*

**Ruling**

On the 6th July, 1985, Senator Abdul Rahim Mirdad Khel sought leave to move an adjournment motion to discuss "the grave situation" arising out of the theft of hearts of five male dead bodies and of the sale of stolen human skulls at the rate of Rs. 1,000 per piece, alleged to have taken place on the 27th of August, 1-984, at Multan.

The Chairman, Mr. Ghulam Ishaq Khan, observed: —

> "The incident took place in August, 1984. If a theft has indeed been committed, then it is a provincial matter and the Federal Government is not concerned with it. We used to hear of the "stealing" of hearts in a romantic sense but this is the first incident involving the theft of hearts, physically! It looks, very odd. However, as the matter is Provincial and an old one, the motion is not admissible".

Senate Debate,
6th July, 1985.
P 40-41.

184. *Adjournment Motion: On the deteriorating law and order situation in Karachi: ruled out of order: (a) law and order a provincial subject*

i. Not of recent occurrence, nor sudden, and urgent or of emergent nature,

ii. Date of incident and not the date of knowledge of tbe mover a determining and decisive factor.

**Ruling**

On the 6th July, 1985, Senator Qazi Hussain Ahmed, sought leave of the House to move an adjournment motion to discuss the deteriorating law and order situation in Karachi. The Chairman observed that maintenance of law and order being a Provincial subject, the Member should explain as to how the Federal Government could be held responsible for it. The Chairman also pointed out that the incident forming the subject matter of the motion took place several months ago and it was no longer a matter of recent occurrence.

The Member contended that Karachi was a mini Pakistan where people of all the four Provinces reside. Therefore, the matter raised was one of national importance and as an all Pakistan matter was the concern of the Federal Government. He also contended that although the actual incident occurred several months back, the tension still persisted. The Chairman however did not agree with the plea of the Member that Karachi was a mini Pakistan. He observed that legally, Karachi was a part of Sind and was its capital. The maintenance of Law and order in Karachi was a provincial responsibility and not a Federal subject. If the contention that tension in the city still persisted was accepted then it would be a matter of a continuing nature and not relate to one definite occurrence, thereby placing it beyond the ambit of an adjournment motion.

Rising on a Point of Order Mr. Ahmed Mian Soomro invited the attention of the Chairman to Parliamentary convention according to which anything occurring between the last session and the opening day of next session was considerate to be a recent matter provided a notice was given before the meeting of the next session. The Chairman, Mr. Ghulam Ishaq Khan, observed that to go by convention was one thing and to go by specific rulings of the Chair was another. He invited the attention of the member to an earlier ruling of the Senate according to which the date of the mover's knowledge was not the determining and decisive factor but on the contrary the date of the occurrence of the incident forming the subject matter of the motion was the decisive factor. In holding this view, the Chairman observed as under: -

> "The decisive and determining factor in an adjournment motion for such matter is that it should be of recent occurrence and not because that you learnt of it recently. Now, if you see the traditions of the House of Commons on adjournment motions - and I think, they are equally relevant — they say: 'what is contemplated is the occurrence of some sudden emergency either at home or in foreign affairs or both'. And, the crucial test always is as to whether the question proposed to be raised has arisen quite suddenly and created an emergent situation of such a character that there is a prima-facie case of urgency and the House must, therefore, leave aside all other business and take up consideration of the urgent matter at the appointed hour. It means the occurrence should be so sudden and emergent that there was no alternative but to adjourn the business of the House to discuss it. And further, "that the urgency must be of such a character that the matter really brooks no delay and should be discussed on the same day that notice has been given of".

Accordingly, the Chairman proceeded to hold the motion to be out of order.

Senate Debate,
6th July, 1985.
P 33—39.

185. *Adjournment Motion: Decision of the government to send its 500 employees for haj involving an expenditure of rupees one crore fifty lakhs annually placing unnecessary burden on the public exchequer which could be utilized for building residential quarters for poor government employees and for educational scholarships for their children: the allocation was duly voted upon, debated and approved by the National Assembly, a forum fully competent to approve such budgetary allocations: the motion also seeking to revive the discussion already held in the National Assembly: ruled out of order.*

**Ruling**

On 7th July, 1985 Senator Maulana Kausar Niazi sought leave to move an adjournment motion seeking to discuss the Government decision to send 500 Government servants for Haj at public expense, as reported in the daily "Muslim" of 26th June, 1985, involving a huge expenditure of Rs.150 lacs from public exchequer. He contended that Haj was not obligatory for those who could not afford to foot the expenses involved. There was, therefore, no justification in saddling the public exchequer with such a large financial burden. These funds according to him could be usefully diverted towards building residential quarters for poor Government employees or for granting their children educational scholarships.

Opposing the motion Dr. Mahboob-ul-Haq, the Finance Minister, explained that the expenditure was part of the budgetary proposals presented to the National Assembly and approved and passed by it. He, therefore, contended that it was incumbent on the Government to implement the budgetary proposals approved by the National Assembly. He further explained that the underlying object was to afford an additional facility to the low paid Government employees in the shape of performance of Haj at public expense, like the other facilities such as medical treatment, subsidies on housing and education etc. This new facility proposed to be provided for in the current budget was a part of the programme and duty of a welfare State. The Minister also opposed the motion on technical grounds.

The Chairman, Mr. Ghulam Ishaq Khan, observed there were three essential criteria among others for the admissibility of an Adjournment Motion:

i. that it should be of urgent public importance;

ii. that it should be restricted to a matter of recent occurrence; and

iii. that it should not revive discussion on a matter which has already been discussed in the same session (of the Senate) or in the Assembly within the last six months."

The provision for Haj by Government employees at public expense was, as has been explained, part of the budgetary proposals which have been debated and discussed and which now have the assent and approval of the National Assembly — an elected House which is constitutionally, primarily concerned with the budget and allocations for individual items of expenditure. The issue raised is, therefore, not one of urgent public importance any longer and the motion will only revive a discussion on a matter which has already been discussed and settled. Accordingly, the Chairman held the motion out of order.

Senate Debate,
7th July, 1985.
P 138—144.

186. *Adjournment Motion: Consideration of the consequences of the failure of the last round of the indirect talks with the Kabul Regime on Afghanistan in Geneva: the matter relates to foreign policy which could be debated in the context of the foreign policy debate: talks are a continuing process, cannot be the subject of an Adjournment Motion: ruled out.*

**Ruling**

On the 7th of July, 1985, Senator Maulana Kausar Niazi sought leave to move an adjournment motion to discuss the consequences of the failure of the Geneva proximity talks. The mover contended that the wide publicity given to the talks had raised expectations that the talks would produce positive results and Pakistan would be able to get rid of the super power domination of Afghanistan but the fact remained that there was no progress made in the last round and there is little evidence of achieving a break-through in these talks in the near future. Opposing the motion, the Minister of State for Foreign Affairs, Mr. Zain Noorani, contended that the adjournment motion was based on the misunderstanding that the talks would quickly lead to positive results. This assumption, he contended, was factually incorrect. He referred to the Foreign Minister's statement in which he had said: -

> "These are complex issues and will have to be negotiated with care and patience. We are cautiously optimistic about the prospects for making further progress but expectations should not be focused on dramatic results".

The Minister of State also quoted from the Foreign Minister's address at a function in Karachi, on 23rd June, 1985, in which he had stated, "The Geneva talks now underway would certainly result in progress; however, we should not expect anything dramatic to come out from these talks. They would certainly pave the way for an ultimate solution". He, therefore, concluded that the Government had on no occasion raised undue expectations and at no stage had expected dramatic results from such complex talks, which have already been through several rounds.

On hearing the mover and the Minister concerned the Chairman, Mr. Ghulam Ishaq Khan, observed: -

> "We are talking of Geneva 4 which by itself— by definition — implies that this is a continuous process and not something which happened or which arose suddenly. We are also thinking of extending the talks to, and there is already a mention of Geneva 5, which means that the process would continue. So, while the motion raises a big policy question which can be debated in the context of the country's foreign policy, whenever there is a debate on such policy — and I am sure, sooner or later, the Government

would agree to such debate either in a joint sitting or separately in each House — but it cannot be, I am afraid, the subject of an Adjournment Motion".

The Chairman, therefore, ruled the motion out of order.

Senate Debate,
7th July, 1985.
P 145—147.

187. *Adjournment Motion: Firing by Afghan Aircrafts at Chairman on 21st June, 1985 resulting in four deaths including women and children and huge damage to property: motion raising a matter of continuous nature: such matters routinely taking place almost every day: a short debate on Afghanistan policy, bombardments and border violations recently held in the National Assembly: ruled out of order.*

**Ruling**

On 8th of July, 1985, Senator Abdur Rahim Mir Dad Khel sought to move for leave to discuss a firing incident by Afghan Military aircrafts at Chaman as a result of which four persons including women and children were killed and extensive damage was caused to property.

Opposing the motion Mr. Zain Noorani Minister of State for Foreign Affairs stated that as there was no discussion on the admissibility of the motion and member had made a speech on the merits of the motion, it was necessary that he also made a short speech explaining the relevant facts. He then referred to the Prime Minister's visit to Chaman on 28 June, 1985. The Prime Minister describing the unprovoked shelling of Chaman as a cowardly act had said on this occasion "the Government was duty-bound to safeguard the territorial integrity of the country and provide protection to the life and property of the people". The Minister assured the House that the Government would not be deflected from the pursuit of its principles and accept the solution of the Afghan problem by crude military pressure. He further assured that while the Government would pursue the path of peaceful solution of outstanding differences it would not flinch from making any sacrifices to defend the integrity of the country and the lives and properties of the people. He informed the House that the Kabul regime had been warned that it would be entirely responsible for the consequences of its unprovoked acts against Pakistan. Reverting to the admissibility of the motion the Minister informed the House that a short debate on Afghanistan policy held in the

National Assembly recently, covered all aspects of the aerial violation, encroachment of Pakistan territory and even ground to ground shelling. Discussion, therefore, on these matters could not be revived.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, observed: -

> "As far as the admissibility of the motion, Mr. Abdur Rahim Mir Dad Khel has himself stated that the violations have been so numerous that if they were counted lit will take more than half an hour to finish'. According to this statement the matter is not an isolated occurrence of immediate nature but a continuing one. This was the first condition of admissibility; the second condition to which Mr. Zain Noorani drew attention is that there has been a detailed debate on border violations in the National Assembly. Therefore, any matter which has been discussed already in the lower House within the last six months cannot be reopened for discussion in the Senate."

Senate Debate,
8th July, 1985.
P 251—254.

188. *Adjournment Motion: Enhancement of Karachi Electric Supply Company electricity charges by revising the schedule of tariff on the direction of Federal Government: Minister denying such decision having been taken: motion ruled out as groundless.*

**Ruling**

On 8th of July, 1985, Senator Ahmed Mian Soomro sought leave to move an adjournment motion to discuss the question of enhancement of electricity charges by revising the schedule of tariff of KESC on the directive of the Federal Government. He further stated that the rates of electricity levied by the KESC were already higher than the rates levied by WAPDA in the rest of the country.

Opposing the motion, the Minister concerned stated that no such decision had been taken to enhance the charges or revise the electricity tariff. He also contended that the matter was not one of urgent public importance.

The Chairman, Mr. Ghulam Ishaq Khan, held the motion out of order on the ground that since no such decision as is alleged in the motion has been taken by the Government, it was not based on facts.

Senate Debate,
8th July, 1985.
P 248-249.

189. *Adjournment Motion: Sending of women Hockey, Football, Cricket teams abroad: matter not of recent occurrence: matter may be sensitive for some but not for the whole "Ummah": thus not of urgent Public importance: Ruled out.*

**Ruling**

On 9th of July, 1985, Senator Qazi Hussain Ahmed sought leave of the House to move an adjournment motion to discuss the situation arising out of Government decision to send Women Hockey, Football and Cricket teams abroad which according to the mover was against the basic ideology of the country, Islamic injunctions and the national and Ummah traditions.

Opposing the Motion, the Minister for Justice stated that the matter was not one of recent occurrence. He informed the House that the Government had not imposed any ban on sending such teams abroad. If any ban were imposed the same would be under some Law. The motion, therefore, he contended, raised a matter which could be remedied by legislation. While holding the motion as inadmissible the Chairman, Mr. Ghulam Ishaq Khan observed that in the short debate on the admissibility, three things had surfaced: firstly, it is a continuing affair. If that be so, it would not be a recent occurrence; secondly, it was something that had not yet occurred, hence speculative; thirdly, when read between the lines, the text of the motion appears to indicate, and the allegation admittedly is, that the decision has hurt the feelings of "sensitive Muslims" only, in other words not of the whole Ummah! So it is not a matter of general public interest.

Senate Debate,
9th July, 1985.
P 346—318.

190. *Adjournment Motion: A crowd of 6000 to 7000 persons tried to take out a procession after a Majlis in Qaudhari Imam Bara head¬quarters, Quetta: the Police advised the precisionists not to take out the procession: the crowd became unruly and persons from the crowd fired at the Police which resulted in a number of casualties: the Police resorted to tear gassing and returned the fire: a group of persons attacked the Police Station of the area: nine policemen died and twenty were wounded: from the civilian ride 13 person were killed and 39 wounded: the crowd set on fire a jeep and two trucks belonging to the Police department and some other vehicles: a branch of Muslim Commercial Bank was also burnt down: three clinics and a godown of a local firm were damaged: the government appointed a high court judge to hold judicial enquiry: the matter related to law and order situation with which the provincial government and not the Federal Government was concerned: the movers sought to discuss this incident through*

*adjournment motions: the chairman ruled the motions out of order under rule 71(l) as the matter was under enquiry and sub-judice.*

**Ruling**

Senators, Mohammad Tariq Chaudhry, Maulana Kausar Niazi, Maulana Sami-ul-Haq individually, and Senator Qazi Abdul Latif jointly with Senator Abdur Rahim Mir Dad Khel moved adjournment motions on the incident occurring at Quetta in which several lives were lost, several persons had received injuries and Government had to clamp a curfew in order to control the law and order situation arising out of that incident. In view of the gravity and importance of the incident and the keen interest evinced by the members to discuss the same, the Chairman showed indulgence to the members to discuss the incident without admitting the adjournment motion in the technical sense. Mr. Mohammad Aslam Khan Khattak the Interior Minister- not electing to take refuge under the plea that the matter raised was a provincial subject, relating to law and order situation, not primarily the concern of the Federal Government or was subjudice, explained at length the circumstances leading up to that incident and the role government had played in trying to handle the situation before the incident actually occurred. The Interior Minister also informed the House that a Committee has been appointed under a Judge of the High Court to inquire into the incident and make report to the Government. The matter, accordingly was subjudice before an authority performing judicial functions. The Chairman, Mr. Ghulam Ishaq Khan, ruled the motion out of order upon the ground that the incident sought to be discussed related to a matter pending before an authority performing judicial or quasi-judicial functions and was, therefore, inadmissible under rule 71(L).

Senate Debate,
11th July, 1985.
P 576—592.

191. *Adjournment Motion: The PIA management submitted proposal to the Government for increase of inland fare: the proposal was under consideration of the government: the motion not based on any occurrence: Mere making of application or submitting a proposal would not become an occurrence in the sense of a physical happening. On different is applications were made to the government but such actions would not become an occurrence: Accordingly, the Chairman ruled the motion out of order because it raised a hypothetical case.*

**Ruling**

On 18th August, 1985, Senator Maulana Kausar Niazi sought leave to move an adjournment motion stating that the Managing Director, PIA, Air Marshal Waqar

A2eem, disclosed in his press conference, reported in daily "Jang" dated 13th July, 1985 that PIA had made an application to the Government for increase of inland fares. This news according to the mover had caused unrest and worry among the white collar class of Pakistanis. He stated that the people were generally not satisfied with the performance of PIA. It is a well-known fact that PIA as it is, was making huge profits in its commercial operations! He contended that the matter raised is of urgent public importance and of recent occurrence and as such the motion was in order.

Opposing the motion, the Justice Minister Mr. Iqbal Ahmed Khan stated that the motion dealt with a hypothetical case as the Government had not yet taken a decision on the request of the PIA Management for increase of inland fares. He, therefore, contended that the motion was inadmissible under rule 71 (L).

Maulana Kausar Niazi, however, explained that it was a fact that PIA had made an application to the Government which was pending with it. He expressed the apprehension that the Government, un-aware of relevant facts and the public feelings, might accede to the request for increase in the inland fares and, as such it was necessary to discuss the matter in the House in order to forestall such action by Government. Thereupon, the Chairman, Mr. Ghulam Ishaq Khan, remarked, "now the cat is out of the bag. You admit that the incident has not yet occurred and as the Law Minister has remarked it is a premature clamour (you are making). It is clear that you are trying to stave off 'the occurrence'. In order to dissuade the Government from acceding to PIA request for increase in fares you have to adopt some other procedure, not the device of an adjournment motion. I am sorry the motion is contrary to the rules." Maulana Kausar Niazi submitted that he was making the application by PIA as the basis of the adjournment motion. The Chairman observed that the motion was not based on any occurrence — in the sense of a physical happening. Maulana Kausar Niazi replied that making of an application to the Government for the increase of fare is an "occurrence." The Chairman asked that if something occurs in one's mind can it be called an "occurrence"? The occurrence he observed is something which could be acted upon and which by itself was complete and capable of producing result. Here, only an application has been made and such applications (or proposals) are made by Departments every day for consideration by Government for the resolution of their difficulties or certain specific issues. This would hardly constitute an 'occurrence'. Accordingly, the Chairman ruled the motion out of order,

Senate Debate,
18th August, 1985.
P 12—14

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192. *Adjournment Motion: The mover sought to discuss reported news item on India having acquired capability to produce 30 Atomic Bombs annually: It was contended that the motion was inadmissible as the matter lay outside*

*government responsibility: it was discussed in the Assembly two days before: it was anticipatory as the debate on foreign policy was in the offing: The Chairman held that matter raised should concern the administrative responsibility of the Minister, be within the scope of Ministerial action of the Minister concerned, and the probability of the matter being brought before the House in time by other means may not exist.*

**Ruling**

On 20th August, 1985, Senator Qazi Abdul Latif sought leave to move an adjournment motion to discuss the news item reported in daily "Jang", dated 11th August, 1985, according to which Bharat had acquired the capability of producing 30 atomic bombs annually.

Opposing the motion Mr. Zain Noorani, the Minister of State for Foreign Affairs contended that the motion was inadmissible under rule 71(d) because the subject matter of the motion had been discussed in the National Assembly two days before. However, in deference to the members of the Senate, in particular, the mover, he sought permission to make an explanatory statement on the Government stand on the issue. The mover, however, insisted that the House should be afforded an opportunity to discuss the matter and Government should apprise the House of the counter measures it proposed to take in the matter.

The Chairman, Mr. Ghulam Ishaq Khan, observed that before an adjournment motion was held to be in order there were several conditions, among others, the following which must be satisfied namely—

i. it should concern the administrative responsibility of the Minister of the Government. What Government of India was doing would not fall within the administrative responsibility of the Minister concerned;

ii. the matter raised should be within the scope of the Ministerial action of the Minister. Mr. Zain Noorani possessed no magic wand by which he could negate what the Indian Government had acquired in the matter of nuclear capability;

iii. the probability, of the matter being brought before the House in time, by other means. The Chairman informed the House that the other day Mr. Zain Noorani had indicated that there would be a debate on foreign policy soon. The member would, therefore, have an opportunity to discuss the issue of nuclear capability of India during the Debate on foreign policy.

The motion would have to be dis-allowed, therefore, on the aforesaid technical grounds. Thereupon, however, the mover did not press his motion.

Senate Debate,
20th August, 1985.
P 184—188.

193. *Adjournment Motion: The mover sought leave to discuss the action of the Council on Animals Welfare in Great Britain, reported in daily "Jasarat", dated 20th August, 1985, recommending to the government of Great Britain to ban the slaughter of animals by Muslims and Jews if they were not made unconscious before slaughter: The Chairman ruled out the motion as premature, not raising a matter of public importance, not concerning the administrative responsibility of the Minister and not falling within the scope of Ministerial action.*

**Ruling**

On 22nd August, 1985, Senator Maulana Kausar Niazi sought leave to move an adjournment motion on a news item reported in daily "Jasarat" of 20th August, 1985 according to which an official Committee known as 'Council on Animals Welfare', made recommendations to the Government of Great Britain that the exception provided in the relevant law to the system of animals slaughter by Muslims and Jews should be dispensed with and no animal be allowed to be slaughtered without first making them un-conscious. According to the Council's claim it had spent three years in examining the possible effects on animals being slaughtered by Muslims and Jews according to their religious rites and found that the system of slaughtering animals by Muslims and Jews was extremely painful to animals and therefore, it thought fit to recommend a ban on such slaughters. According to the mover, Muslims residing in Great Britain numbering nearly three to four lacs have lodged protests and showed indignation on the recommendations of the Council.

Opposing the motion, Mr. Zain Noorani, the Minister of State for Foreign Affairs, contended that the Government of Pakistan was not primarily * concerned with the matter, it did not fall within the scope of responsibility of the Government and, lastly, it was anticipatory, for the reason that the Council had only made a recommendation to the British Government for a possible action and the British Government had not until then, taken any action on the recommendations. He also contended that the Government of Pakistan had no authority whatsoever on what the British Government might do in the matter. He, therefore, expressed his inability to understand how the motion was admissible under the rules. He, however, shared the sentiments of the Muslims in Britain on the issue and in particular, the concern of the member in that behalf.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, observed: -

> "Indeed the motion is premature as it is based on a proposal upon which the British Government has yet to take a decision".

The Chairman added, —

> "I think, yesterday, I had the opportunity of informing the House of the criteria for admissibility of an adjournment motion. I think, I stated, that the matter should be sufficiently important, it should be specific and urgent to warrant a change in the order of Business of the House for the day so as to provide for emergency debate and that in coming to a decision, regard should also be had to the extent to which the matter was concerned with the administrative responsibility of the Minister and could come within the scope of Ministerial action. The present motion does not come up to any of these criteria. Accordingly, I rule it out of order."

Senate Debate,
22nd August, 1985.
P 331—334.

194. *Adjournment Motion: The mover sought to discuss the failure of the PBC and PTV to mention names of the members asking questions in the House: ruling out the motion the Chairman observed that media was free to give coverage to the proceedings of the House in any manner it liked and that the matter was not one of public importance.*

**Ruling**

On 22nd August, 1985, Senator Abdur Rahim Mir Dad Khel sought leave to move an adjournment motion to discuss the failure of PTV and PBC to give names of individual Senators in their programmes covering the Question Hour's part of the proceedings of the Senate. The mover contended that through TV and PBC coverage the people get to know of what questions their representatives ask in the House but in-adequate coverage of it by the media frustrates that object. The Justice Minister, Mr. Iqbal Ahmed Khan, on the other hand, contended that no obligation could be imposed on the news media to give total coverage of the proceedings. The media had full authority to give coverage to the proceedings of the House in any manner they liked and there were several rulings of the Chair in support of that proposition. The mover, he contended, was perhaps under the impression that the Government could give such directives to the news media. This was not, he contended, desirable or otherwise within the Government's authority. He, therefore, said that the motion should be held

inadmissible.

Ruling out the motion the Chairman, Mr. Ghulam Ishaq Khan, observed that the Justice Minister was absolutely right that news media could not be obliged to give coverage to a particular item in a particular manner. Besides, he said, the matter raised was not one of urgent public importance. The Chairman also observed that, "in his view, the news media otherwise give adequate coverage to the proceedings of the House".

Senate Debate,
22nd August, 1985.
P 334—336.

195. *Adjournment Motion: Senator Javed Jabbar sought leave to discuss a matter regarding the desertion of over 3000 members of the Sind Reserve Police in 1984-85: the motion related to a Provincial Force: Irrespective of whether the Minister agreed with this or not it would set¬up a wrong precedent to allow discussion on a provincial matter: the unfortunate duty of the Presiding Officer is to balance conflicting claims: the motion was accordingly, ruled out.*

**Ruling**

On 22nd August, 1985, Senator Javed Jabbar sought leave to discuss the case of desertion of over 3000 members of the Sind Reserve Police Force in 1984-85, many of whom were reportedly involved in dacoities and looting while posing as policemen. Opposing the motion the Minister of Interior, Mr. Muhammad Aslam Khan Khattak, contended that the matter related to a Provincial subject and was primarily not the concern of the Federal Government. He was however prepared to discuss it, if it was so desired. Ruling out the motion the Chairman, Mr. Ghulam Ishaq Khan, observed: -

> "I think the basic facts are that the force is a Provincial Force and law and order is a Provincial subject. Whether the Minister agrees with this or not, I would not like to set up a wrong precedent — and this is one of the unfortunate duties of a Presiding Officer to balance conflicting claims — by allowing discussion through an Adjournment Motion on a purely Provincial matter which the motion is, both from the point of view of responsibility for law and order as well as from the point of view of composition of and responsibility for the Force."

Senate Debate,
22nd August, 1985.
P 337-338.

196. *Adjournment Motion: Inland and Foreign Mail's Censorship: The matter had come under discussion in the National Assembly within the last six months at the admissibility stage and in this House too it is admissibility of the motion that is being discussed: motion not admissible under Rule 71 (d): action taken lawfully by authority in due course of administration of law can be remedied only by legislation: motion not admissible under rule 71(k): ruled out.*

**Ruling**

On 26th October, 1985, Senators Maulana Kausar Niazi and Javed Jabbar sought leave to move identical adjournment motions to discuss the decision of the Federal Government to make all foreign and inland mail in Pakistan subject to scrutiny and censorshiP Maulana Kausar Niazi referred to the press report published in daily "Muslim", dated 1st October, 1985, which staled that a large number of people had complained about the inordinate delay that was occurring in the delivery and receipt of foreign and inland mail because of Government decision to subject all mail and material to scrutiny by Special Police and the Intelligence Bureau. The complainants included politicians, journalists, writers, business men and even some legislators who had alleged that since August 31 last when Government imposed censorship on mail they had either received no letter or the frequency of the mail had got drastically reduced.

Opposing the motion Mr. Muhammad Aslam Khan Khattak, Minister for Interior, stated that the matter had come under discussion within the last six months in the National Assembly and on hearing the Government point of view the honourable member there (National Assembly) did not press his motion. The action in question, had been taken under the Post Office Act of 1898. He further stated that the censorship was not being done on an overall basis and that the mail of the honourable members was not being censored. However, necessary action was being taken in order to check sabotage and subversion as also to ensure that the envelops and.packets received from foreign countries did not contain any subversive literature or explosives.

Ruling the motion out of order the Chairman, Mr. Ghulam Ishaq Khan, observed: -

> "Essentially two points have been raised. One is with regard to admissibility of the motion under Rule 71(d). The issue is whether this particular case can be treated as having been discussed in the National Assembly earlier and does it in that case come within the mischief of rule 71(d), which says that, it shall not revive discussion on a matter which has been discussed in the same session or in the National Assembly within the last six months. The fact is that a discussion has taken place on the admissibility of this particular motion in the National Assembly and to my way of looking at things since we are also at this stage discussing the admissibility of the

motion it would come within the mischief of rule 71(d).

The second point is that an adjournment motion under rule 71(k) shall not relate to a matter which can only be remedied by legislation. According to my information and what has appeared in the National Assembly earlier it appears that the action in question has been taken under Section 26 of the Post Office Act of 1898. It is a well-established Parliamentary practice that an action taken by a lawfully constituted authority in due course of admin¬istration of law cannot constitute a good ground for an adjournment motion. Since, it is a matter which can only be remedied by law, therefore, I am afraid, it will have to be held out of order."

Senate Debate,
26th October, 1985.
P 102-109.

197. *Adjournment Motion: Purchase of Boeing 737 planes by the government allegedly unsuitable for Pakistan: allegation denied: matter not of recent occurrence and not raised at the earliest opportunity: fears expressed in the motion hypothetical: ruled out of order.*

**Ruling**

On 28th October, 1985, Senator Maulana Kausar Niazi sought leave to move an Adjournment Motion to discuss the purchase by Government of Boeing 737 Planes allegedly unsuitable to conditions in Pakistan. The mover quoted several instances of various technical defects found in planes operation and the opinions expressed by technical experts and passengers on the performance of the planes.

Opposing the motion Dr. Mahboob-ul-Haq, Minister for Finance, contended that the motion was not admissible on several grounds. Firstly, it was not a matter of recent occurrence because the decision to buy these planes was taken by PIA Board on 7th August, 1983, and they were finally inducted into operation in May, 1985. Secondly, the decision had been taken after very careful deliberations and examination at various levels not only at the PIA, in the Ministry of Finance and Planning Commission, in the Central Develop¬ment Working Party (CDWP), in the ECNEC but also at the highest level by the President and then a review by Wafaqi Mohtasib, Thirdly, the fears expressed by the honourable Senator were not factually correct. The aircrafts, in question, had been operating satisfactorily. Their performance which is 6.5 hours a day is rated as 'Excellent'. There are no known hazards associated with these planes and hundreds of these planes are working elsewhere. He, therefore, concluded that the

apprehensions expressed by the mover were presumptive and hypothetical. Ruling out the motion the Chairman, Mr. Ghulam Ishaq Khan, observed: -

> "I shall have to rule it out of order on technical grounds. It is not a matter of recent occurrence. The planes were purchased and inducted sometimes in May, 1985, since then, the Senate has met three times already and this question was not raised. The fears expressed are also hypothetical. So, it is ruled out of order".

Senate Debate,
28th October, 1985.
P 214-220.

198. *Adjournment Motions: Construction of Kala Bagh Dun and its repercussions on the residents of the NWFP: motion held in order: discussion to take place after relevant facts and information became available.*

**Ruling**

On 14th November 1985, Senators Mautana Samiul Haq and Syed Abbas Shah sought leave to move identical adjournment motions to discuss the effects of construction of the Kala Bagh Dam on the residents living in the command area of the Dam in NWFP The movers contended that the news published about the construction of the Kala Bagh Dam in 'Daily Jang' and 'Nawa-i-Waqt' had created tremendous unrest, worry and concern among the people, because, according to the report, it would cause colossal loss to properties in NWFP, a major portion of Tehsil Nowshera would get submerged and as a result more than one hundred thousand residents would be displaced.

Opposing the motion on technical grounds, Mir Zafarullah Khan Jamali, Minister for Water and Power, stated that the matter came under discussion a number of times in the previous session of the Senate and it was also discussed a few days back in the National Assembly. Further he drew attention to the news item published in the 'Nawa-i-Waqt' wherein the Prime Minister was reported to have stated that a decision in respect of Kala Bagh Dam would be taken after examining all aspects and that his Government would not take any hasty step so as to cause harm to any province of Pakistan. He, therefore, concluded that there was no reason for unrest, alarm or worry.

The movers on the other hand contended that the news item referred to in the adjournment motions had brought about a radical change in the situation and therefore, the arguments advanced earlier became irrelevant to the existing situation. It was pointed out that, according to one news item published in the daily 'Nawa-i-Waqt', an understanding on the Kala'Bagh Dam has been reached and that there would not be any change either in the site and or the height of the Dam. Given this situation, the matter called for discussion in the House.

The Chairman, Mr. Ghulam Ishaq Khan, held the motion in order and observed that the fact was that the Prime Minister had given a statement. According to one Paper it was positive and, according to another negative. This constituted a new ground on the

basis of which the motion could be discussed, if the House so permitted.

The consensus was that the discussion should be postponed till such time that a decision, on the subject, was taken by the Government and all facts and figures about the Dam, its parameters, diamensions, etc., became available.

Senate Debate,
14th November, 1985.
P 942—946.

199. *Adjournment Motion: Restriction imposed on prominent leaders belonging to the movement for restoration of Democracy (MRD) from entering Sindh and Karachi: the ban bad been imposed by the Provincial Government: Federal Government not involved in it: motion ruled out of order.*

**Ruling**

On 16th December 1985, Senators Maulana Kausar Niazi and Ahmed Mian Soomro sought leave to move identical adjournment motions to discuss the restrictions imposed on political leaders of MRD belonging to the Provinces of Punjab, NWF Pand Baluchistan from entering Sind and Karachi. Maulana Kausar Niazi named the prominent leaders of MRD, against whom the Sind Government order banning their entry operated as Nawabzada Nasrullah Khan and Mr. Ghaus Bukhsh Bizenjo who in fact had reached Karachi were ordered to go back due to the said ban.

The movers contended that such a restriction on movement had caused serious public resentment and was detrimental to the integrity and solidarity of the Federation of Pakistan.

Opposing the motions, Mr. Muhammad Aslam Khan Khattak, Minister for Interior, observed that he agreed with the honourable Members that within the Federation, there should be no ban on the movement of Pakistanis from one province to another. But the reason for putting such restriction arose out of the Government of Sind's apprehension that their visit would create law and order situation in Sind and trigger agitation endangering peaceful conditions. He also stated as the ban had been imposed by the Provincial Government it was a matter in which the Federal Government could not interfere. He assured the Members that he would convey their feelings in the matter to the Provincial Government, even though as the subject matter of the motion fell outside the purview of the Federal Government, the motion itself was inadmissible.

Agreeing with the submissions of the Minister the Deputy Chairman, Makhdoom Muhammad Sajjad Hussain Qureshi, ruled the motion out of order under rule 71(f).

Senate Debate,
16th December, 1985.
P 1506—15011.

200. *Point of Order: Raised when oath ceremony was in progress: constitution of the Senate not in accordance with the provisions of the Constitution: not allowed at the stage of Oath Ceremony:*

**Ruling**

On 6th August, 1973, when members of the Senate were making oath, a Senator raised a Point of Order that the House was not constituted in accordance with the provisions of the Constitution. He read out Clause (2) of Article 59 of the Constitution and said that the expression, "Proportional representation" in the Clause meant that the strength of all the parties in the Provincial Assemblies should be reflected in the Senate. The Presiding Officer disagreeing with the member observed that elections had been held on the basis of proportional representation by means of the single transferable vote and the result had been announced by the Chief Election Commissioner. He ruled that no Point of Order could be raised until the Senate was properly constituted and the members of the Senate who have been elected or chosen have taken ohactand after the oath ceremony is over and the Chairman is eetsed. "You can raise this Point of Order, after wards'*. The Presiding officer said.

Senate Debates,
6th August, 1973,
P 3.

201. *Point of Order: There cannot be second Point of Order until the first Point of Order is disposed of:*

**Ruling**

On 7th September, 1973, the consideration of the Economic Reforms (Amendment) Bill, 1973, was objected to by a Senator on a Point of Order that members were not given sufficient time to study the Bill. Another Senator wanted to raise a second Point of Order Mr. Chairman observed that he had not given a ruling on the earlier Point of Order and that "there cannot be a second Point of Order to a Point of Order".

Senate Debates.
7th September, 1973,
P 13.

202. *Point of Order: Circulation of the bills among members well ahead for study and to avoid reckless amendments: upheld:*

**Ruling**

On 7th September, 1973, Senator Mian Arif Iftikhar raised a Point of Order asserting that as copies of the Economic Reforms (Amendment) Bill, 1973 which was moved

for consideration by the Minister for Production and Commerce, were not supplied to the members well ahead of time, but just at the time of entering the House, it was difficult to understand what it was, they did not know, what they were amending. The Senator maintained that the argument that the Bill was published in newspapers so that everybody would come to know of it, goes against the ruling of Mr. Chairman himself and that of the Speaker of National Assembly. The newspapers were not officially considered a source of information for the honourable members of the National Assembly or of the Senate. The Senator maintained.

> "It is absolutely necessary that members should be given some time to read the Bill."

Mr. Chairman observed:

> "As you must have noted, the Senator has given a bit of advice to the Minister that in future they should do the thing properly. What he means to suggest is this that the

notice required by the rule should be given in advance, so that they may come prepared. I hope the Minister must have noted that."

Senate Debates.
7th September, 1973,
P 12-17.

203. *Point of Order: Necessary factual details allowed to establish the urgency and public importance of the facts:*

**Ruling**

On 5th December, 1973, the question of admissibility of an adjournment motion regarding non-availability of diesel and kerosene oil throughout the Punjab during November, 1973, given notice of by a Senator was under discussion.

The Minister without Portfolio, while opposing the admissibility of the motion, gave some facts about the matter whereupon the mover raised a Point of Order saying that the Minister ought to confine his arguments to the legal aspects of admissibility.

The Chairman directed the Minister to confine his speech to the contents of the adjournment motion and enquired from him whether kerosene oil and diesel were not available throughout the Punjab during the month of November, 1973.

A member raised a Point of Order that impliedly the Chairman's query meant that he

had admitted that adjournment motion and was asking the Minister to furnish details concerning merits of the motion.

The Chairman observed that in order to determine whether the matter was a matter of urgent public, importance, it had to be known whether there had been complete non-availability of the two Articles in the whole of Punjab Province during the month of November.

Senate Debates,
5th December, 1973.
P 84.

204. *Point of Order: A Point of Order must fulfil conditions laid down in Rule, 209.*

**Ruling**

On 13th December, 1973 when discussion on the Employees' (Cost of Living): Relief Bill, 1973, was going on, the Leader of the House, while referring to the spiraling prices, drew the attention of members to the conditions prevailing in the neighboring country, Senator Mufti Zafar Ali Nomani rising on a Point of Order said that the high or low price of anything in the neighboring country could not be made a topic of discussion. The Minister for Labour and Works requested the Chair to rule whether it was- a Point of Order.

The Deputy Chairman read out rule 209:

> "A Point of Order shall relate to the interpretation or enforcement of these rules or such Articles as regulate the business of the Senate and shall raise a question which is within the cognizance of the Chairman, and ruled that Mufti Zafar Ali's point was not relevant."

When Senator Khawaja Mohammad Safdar wanted to further argue the point, the Deputy Chairman observed that it was not proper for him to reply on behalf of the other persons or to express, his own opinion on the point.

Senate, Debates,
13th, December, 1973,
P 24—255.

205. *Point of Order: Previous sanction of President: Regulation Specified at Serial No. 10 In The Sixth Scheduled Protected by Article 268 (2) not being amended previous sanction of President not required for Amending Act 22 Of 1972: ruled out:*

**Ruling**

On 7th February 1974, Mr. Chairman ruled that previous sanction of the President was not required for amending Act 22 of 1972.

A question that the previous sanction of the President was required was raised on 5th February, when the Minister for Finance, moved the motion for consideration of the Foreign EX (Prevention of payments) (Amendment) Bill, 1974. That motion was objected. to by Senator Khawaja Mohammad Safdar through a Point of Order contending that the previous sanction of the President for introducing the Bill was necessary as it sought to amend the Foreign Exchange Repatriation Regulation, 1972 which was included in the Sixth Schedule of the Constitution at serial No. 10 and as such was protected under Article 268 (2) and could not, therefore, be altered, repealed or amended without the previous sanction of the President. After hearing the arguments briefly Mr. Chairman ruled out the Point of Order on the ground that the Bill under consideration was a separate piece of legislation which did not directly amend the protected Regulation and, therefore, no previous sanction of the President was necessary for introducing it in the House. He promised to give the reasons later on. The Chairman gave the detailed ruling, on a subsequent date as follows.

> "I have looked into the relevant Constitutional and Legal provisions and found that the Foreign Exchange (Prevention of Payments) Bill, 1974, seeks to amend the Foreign Exchange (Prevention of Payments) Act, 1972, (Act, 22 of 1972) which came into force on the 25th September, 1972, that is to say, before the enactment of the Constitution. This Act clearly provided that its provisions were to have effect notwithstanding anything contained in the Foreign Exchange (Repatriation) Regulation. Even before the Constitutional provision was extended to the Foreign Exchange Repatriation Regulation, 1972, the Foreign Exchange (Prevention of Payments) Act, 1972, had made certain provision independent of the Regulation. Constitutional protection, has not been extended to the Foreign Exchange (Prevention of Payments) Act, 1972. There is, therefore, no restriction on its being amended without the previous sanction of the President. The Foreign Exchange (Prevention of Payments) Act, 1972, is a separate and independent piece of legislation whose provisions were to have effect notwithstanding anything contained to the contrary in the Foreign Exchange (Repatriation) Regulation, 1972. For this reason, I rule that the previous sanction of the President is not required for amending the Foreign Exchange (Prevention of Payments Act,) 1972."

Senate Debates,
5th February, 1974.
P 314—319
7th February, 1974,
P 416

206. *Point of Order: Two days' notice necessary to move consideration motion of a bill upheld:*

**Ruling**

On the 12th February, 1974 the motion for consideration of the Banks (Nationalisation) Bill, 1974 was moved by the Minister for Finance, Senator Mr. Zahurul Haq rising on a Point of Order, invited the attention of the Chair to rule 104, and stated that the said Bill had been passed by the National Assembly on 11th February, and it had been communicated to the Senate this morning. He argued that compliance of rule 104 was necessary unless for reasons to be given by the honourable Minister, the Chairman was satisfied to do away with two days, requirement. The Senator emphasised that the discretion which was exercisable under the rule should be based on reason.

The Chairman observed:

> "Normally, there should be two days' notice; I do not think that the Chairman is bound to explain the reason."

The Senator insisted that the compliance of rule 104 was necessary. The Minister, therefore, expressed his willingness to give time to the Opposition Members to move amendments.

The Chairman observed:

> "Mr. Zahurul Haq, you are correct that there should be two days' notice. The Minister will have no objection if amendments are moved. I think you have carried the day and your objection seems to have prevailed."

We will take up this motion of Dr. Mubashir Hassan on the 14th

Senate Debates,
13th February, 1974,
P 462-465.

207. *Point of Order: Can be raised when something is done or said against the rules.*

**Ruling**

On 15th February, 1974, a member during his speech on the Banks (Nationalisation) Bill, 1974, made a reference to the Peoples' Party's manifesto. To this another member objected by saying that the Bill was not the Peoples' Party's manifesto and that the member was not relevant."

The Chairman observed:

> "He was only referring to the remarks made by Dr. Mubashir Hassan yesterday that since it was in the Peoples' Party's manifesto that the banks should be nationalised, therefore, it should be accepted."

He directed Mr. Kamran Khan to continue but not to go into details. Senator Kamran Khan stated that what he had said was that when the honorable Ministers speak in the House, they should not unnecessarily bring in the Peoples' Party's manifesto.

> "Senator Sardar Mohammad Aslam rising on Point of Order said Why we should not mention the Party's manifesto? The party had got an overwhelming majority."

The Chairman rules:

> "Sardar Mohammad Aslam you should know that this is no Point of Order. He may be saying something which may not appear to you to be right. You can contradict him in your speech when your turn comes. Making reference to certain observations does not come within the purview of a Point of Order. If he does or says something which is against the rules, then you can raise a Point of Order. If he says, something which is not palatable to you, you can say in course of your speech that it is not correct but you cannot raise a Point of Order like this."

Senate Debates,
15th February, 1974
P 606-607.

208. *Point of Order: An explanation cannot be made through a Point of Order:*

**Ruling**

On 1st April, 1974, when Senator Khawaja Mohammad Safdar was speaking on his amendments, Senator Shahzad Gul sought permission to explain a point.

The Chairman did not allow him as Senator Khawaja Mohammad Safdar was already speaking. He however, told him that he could only raise a Point of Order. Thereupon the Senator said that he was then raising a Point of Order.

The Chairman ruled

> "This is not a Point of Order. Point of Order is raised only when rules are not being observed."

Senate Debates,
1st April, 1974,
P 121—23.

209. *Point of Order: Previous sanction of President: consideration of the Land Reforms (amendment) Bill, 1974, without previous sanction of President as required by Article 268 (2) ruled out as:*

i. introduction or motion of bill without previous sanction not barred under Articles 268 (2) as against Articles 74 and 162.

ii. sanction may be deemed to have been given by virtue of Article 75 (3).

**Ruling**

On 8th April, 1974, when Mr. Khurshid Hasan Mir, Minister Without Portfolio, moved the Land Reforms (Amendment) Bill, 1974, for consideration, Senator Khawaja Mohammad Safdar raised a Point of Order that under Article 268 (2) of the Constitution the Bill needed previous sanction of the President as it sought to amend the following Regulations included in the Sixth Schedule to the Constitution:

i. The Land Reforms Regulation, 1972;

ii. The Dir and Swat (Devolution and Distribution of Property) Regulation, 1972;

iii. The Dir and Swat (Settlement of Disputes of immovable Property) Regulation, 1972, and;

iv. The Land Reforms (Baluchistan Pat Feeder Canal) Regulation, 1972.

The Minister accepted the objection as valid and said that the sanction has been obtained, and that he had sent for the sanction which he would place before the Chair. Khawaja Mohammad Safdar said that the date of President's sanction too would have to be ascertained as the Bill had already been passed by the National Assembly.

Adjourning the House at the request of the Minister Mr. Chairman asked the Law Minister to come prepared to answer the two points raised by Khawaja Mohammad Safdar.

On 10th April, 1974, when the Bill was taken up again, Sheikh Mohammad Rashid, Minister for Health and Social Welfare stated that on 27th March, the Prime Minister had advised the President to accord previous sanction to the Bill. The President accorded the sanction on the 29th March and it was countersigned by the Prime Minister on 1st April.

The Senator said that the Bill was introduced in the National Assembly on 26th March, the Standing Committee's report on the Bill was presented to the Assembly on 27th March, and the Bill was passed by the Assembly on 1st April. He maintained that when the Bill was passed the President's sanction as counter signed by the Prime Minister was not there.

The Minister contended that it was not necessary for the sanction to have been obtained before the National Assembly passed the Bill: sanction of the President was required before the Bill was passed finally. He cited Articles 268 (2) and 74 of the Constitution, the former lays down, " The laws specified in the Sixth Schedule shall not be altered, repealed or amended without the previous sanction of the President" and the latter provides "A Money Bill, or a Bill or amendments which, if enacted and brought into operation, would involve expenditure from the Federal Consolidated Fund or withdrawal from the Public Account of the Federation or affect the coinage or currency of Pakistan or the constitution or functions of the State Bank of Pakistan shall not be introduced or moved in Parliament except by or with the consent of the Federal Government". He said that under Article 74 consent of the Federal Government was clearly necessary before the introduction of a Bill covered by that Article, but a Bill amending altering or repealing a law in the Sixth Schedule would not be operative unless the President had given his approval.

The Senator argued that according to his interpretation, Article 268 (2) implied that a Bill which sought to alter, repeal or amend any Law enumerated in the Sixth Schedule could not even be introduced in the National Assembly, except with prior sanction of the President. That was the procedure but if it was not followed from the very beginning, the result would not be desirable. He differed with the interpretation that the sanction could be obtained any time before the passage of the Bill and maintained that as the sanction was countersigned by the Prime Minister and the Bill was passed by the National Assembly on the same day, it was not correct to say that the requirements of the Constitution had been met. The Senator then quoted a ruling of the National Assembly of Pakistan based on Article 26 of the 1962 Constitution which laid down that a Bill, or amendment of a Bill providing for or relating to preventive detention shall not be introduced or moved in the National Assembly without the previous consent of the President. He maintained that he had rightly objected to the consideration of the Bill.

Senator Shahzad Gul on a Point of Order said that as required by rule 80 (2) of the Rules of Procedure the notice of the Bill was not accompanied by previous sanction of the President.

Mr. Chairman said that the Constitution contemplated two sets of different legislations. One set included legislation which could not even be introduced without the previous

sanction of the President. He cited Articles 74 and 162 of the Constitution and stressed that each of these Articles clearly and unambiguously laid down that no Bill covered by the Article shall be introduced in Parliament (National Assembly) except by or with the consent of the Federal Government or previous sanction of the President. On the other hand, the introduction of the other set of legislation is not so barred. He read out Article 268 (2) of the Constitution and pointing out the difference in language of this Article and Articles 74 and 162 said that Article 268 (2), unlike Articles 74 and 162 did not use the expression, "shall not be introduced, except with the consent of the Federal Government previous sanction of the President". He continued that the difference in language was deliberate and under Article 268 (2) no stage was found for the previous sanction. He added that an objection could be raised on the constitutionality of a law amending a law specified in the Sixth Schedule on the ground that the amending law had not received the previous sanction under Article 268 (2). He said the cure for such a defect was given in Clause (3) of Article 75 which provides'

> "No Act of Parliament and no provision in any such Act shall be invalid by reason only that some recommendation, previous sanction or consent required by the Constitution was not given if the Act was assented to or deemed to have been assented to in accordance with the Constitution."

The Chairman held that the motion for consideration of the Bill was in order.

Senate Debates,
8th April, 1974,
P293—295,
10th April, 1974,
P 300—308.

210. *Point of Order: Suspension of rules: chair not bound to give reasons:*

**Ruling**

On the 24th April, 1974, when the motion for consideration of the Constitution (First Amendment) Bill, 1974, was moved a Senator on a Point of Order objected to the consideration of the Bill and stated that according to his information the Bill was passed by the National Assembly the previous day and its notice to the Senate Secretariat must have been given by the Minister Incharge the same evening. Thus two days after the receipt of notice, as prescribed in Rule 104 of the Senate Rules of Procedure, had not yet elapsed and hence the motion could not be discussed.

In reply to a query the Senator admitted that the Chairman could suspend this or the other rules but there ought to be some sound reasons for that.

Mr. Chairman ruled that:

> "The words used in Rule 104 are: "Unless the Chairman otherwise directs". Hence it is not incumbent on the Chairman to give reasons for suspending the rule. I am not bound to give reasons. Although there are many reasons but under the rules I am not bound to give reasons.".

Senate Debates,
24th April, 1974,
P 689—691.

211. *Point of Order: Private members' day being a holiday next working day to be treated as private members' day: questions not to be asked on that day: ruled out:*

**Ruling**

On 12th August, 1974, a member raised a Point of Order that under rule 22 of the Rules of Procedure of the Senate no Government business could be transacted on that day. As the last Friday (a Private Members' Day) was a holiday, it should have been a private members' day today. The question should not have, as such, been set down in the orders of the day for that day.

Another member pointed out that this pointof order should be raised after the questions as rule 36 provided that the first hour of every sitting on all days except Fridays shall be available for questions. And it was not Friday on that day.

The Presiding Officer then drawing attention of the House to rule 36 observed that the rule was very clear on this point and ruled out the Point of Order.

Senate Debates,
12th August, 1974,
P333—335.

212. *Point of Order: Attendance of Ministers: over-ruled but sentiments to be conveyed:*

**Ruling**

On 9th July, 1975, a member raised a Point of Order saying that mostly the Ministers did not attend the Senate Session but entrusted their business to other Ministers.

The Minister of State for Parliamentary Affairs contended that the Minister did not absent themselves deliberately but because of other pressing engagements they were represented by another Minister. He argued that legally a Minister could be represented by proxy on account of joint responsibility of the Cabinet.

The Chairman observed that legally a Minister could pilot the Bill of another Minister but the wishes and sentiments of the House would be conveyed to the other Ministers.

Senate Debates,
9th July, 1975,
P 70—76.

213. *Point of Order: Clarification of in consistency or difficulty justifying motion for suspension of rule 232 of the rules of procedure and conduct of business in the Senate, 1973: difficulty clarified: over-ruled:*

**Ruling**

On 13th August, 1975, a member raised a Point of Order seeking clarification of the particular inconsistency or difficulty which necessitated the motion under rule 229 for suspension of rule 232 of the Rules of Procedure and Conduct of Business in the Senate, 1973, under which the Chamber should not be used for any purpose other than that of a joint sitting, sittings of the Senate or the Assembly. He asked the Minister through the Chair to clarify the difficulty or inconsistency necessitating the motion for suspension of rule 232 to permit the Kashmir Council to meet in the Senate Chamber.

The Minister for Law and Parliamentary Affairs explained the rationale of the motion for suspension outlining the composition and functions of the Azad Jammu and Kashmir Council under the new Constitution of Azad Jammu and Kashmir, State. Not satisfied with the Minister's explanation, the member said that the President of Pakistan was competent to declare by notification that the Senate Chamber would not be treated as Chamber on that particular date and in that way suspension of rule 232 would be redundant.

The Chairman disagreeing with the member observed that the Chamber was the property of the Senate and the Senate along was competent to use it for any purpose. The Point of Order was therefore, over-ruled.

Senate Debates,
13th August, 1975,
P 50—54.

214. *Point of Order: Statement on merits not to be made by the mover unless motion held in order: only a brief statement on breach of privilege to be made by the mover:*

**Ruling**

On 5th March, 1976, a member moved a Privilege Motion alleging breach of his privilege resulting from the delay in reply to his letter by the officials of the Ministry of Foreign Affairs. The mover during his brief statement started making a speech on the merits of the case.

The Minister for Law and Parliamentary Affairs raised a Point of Order saying that the mover could not be allowed to make a speech. The mover had a right to make a short statement and then he (the Minister) had a right to give a reply.

The mover argued that there was no restriction of this kind in the case of a Privilege Motion.

The Chairman observed that unless he held the motion in order, the mover could not make a speech on its merits. He could only make a brief statement on the breach of his privilege.

Senate Debates,
5th March, 1976,
P 276.

215. *Point of Order: Senate not competent to pass Resolutions mentioned in the constitution: such power vests in Parliament in Joint Sitting: ruled out of order:*

**Ruling**

On 15th April, 1976, the Minister for Law and Parliamentary Affairs in pursuance of Article 234 of the Constitution moved a

Resolution regarding enactment of law by Parliament to regulate Co-operative Banking in Baluchistan.

Rising on a Point of Order a member took objection to the moving of the resolution saying that under the Constitution the Senate is not competent to pass Resolutions mentioned in the Constitution. According to his interpretation, the power to pass Constitutional Resolutions vests in Parliament in joint sitting and not the Senate

meeting separately. In support of his argument he referred to Articles 47 and 234 which clearly provide that such Resolutions shall be passed by Parliament in joint sitting.

On enquiry by the Chairman, the member said that in the Constitution the words 'Parliament in joint sitting' have been used with reference to Resolutions mentioned in Articles 47,232 and 154 of the Constitution. The Chairman observed that in the Constitution, wherever the phrase 'Joint sitting' is used it means joint sitting of both Houses of Parliament. The Minister for Law and Parliamentary Affairs stated that under Article 50 of the Constitution, the Parliament consists of two Houses known as the National Assembly and the Senate. Both Houses constitute the Parliament. Thus the instant resolution can be moved in and passed by the National Assembly or the Senate separately. When both Houses pass it, it will be treated as having been passed by the Parliament.

The Chairman observed that if Parliament in joint sitting only meant Parliament, then the words 'in joint sitting' were redundant. The word 'Parliament' and the phrase 'Parliament in joint sitting' conveyed different meanings. Parliament did not mean 'joint sitting'. Referring to para (b) of Clause 1 of Article 234 of the Constitution, he added, the President may by Proclamation declare that the power of the Provincial Assembly shall be exercisable by, or under the authority of, Parliament. The resolution which the Law Minister sought to move was one which should have been passed by the Provincial Assembly but since the Assembly is suspended as a result of the Proclamation, the Parliament was acting by virtue of this Proclamation on behalf of the Provincial Assembly. So this was a resolution which the Parliament could debate and pass. As for the question what Constitutes Parliament, it means the two Houses but not necessarily a joint sitting. Whenever Parliament in joint sitting is required to debate an issue or take a decision, it is specifically mentioned in the Constitution. But in the case of this resolution there is no such limitation. Parliament i.e. the two Houses sitting separately are therefore, competent to pass this resolution. Concluding his observations, the Chairman ruled:

> "My ruling on the objection raised by Khawaja Mohammad Safdar is that the Law Minister is quite competent to move the resolution and this House is fully competent to entertain, discuss and pass or reject it. That disposes of the objection."

Senate Debates,
15th April, 1976,
P 127-136.

216. *Point of Order: Written consent of Chairman for a motion under Rule 229 to be moved: the word "difficulty" in the rule means "impossibility": ruled out:*

**Ruling**

On 22nd June, 1976, the Leader of the House moved that under rule 229 the requirement of sub-rule (2) of rule 114 be suspended with regard to the resolution authorising Parliament in joint sitting to pass the budget of the Province of Baluchistan.

A member raised the Point of Order that (as required by rule 229) the mover had not obtained written consent of the Chairman before moving the motion. He also contended that there was no inconsistency between sub-rule (2) of rule 114, which required a Minister to give three days' notice of his intention to move the resolution, and any other rule; nor was there any difficulty in complying with the requirement of sub-rule (2) of rule 114. According to him, the word "difficulty" meant 'impossibility' of application of any rule.

The Law Minister argued that there would be difficulty in passing the budget of Baluchistan in time by Parliament in joint sitting in case the requirement of sub-rule (2) of rule 114 was not dispensed with. He added that as the motion was included in the Orders of the Day, it showed that the consent of the Chairman had been obtained. The member who raised the Point of Order contended that the delay on the part of the Government in bringing before the House the resolution authorising Parliament in joint sitting to pass the budget of Baluchistan was not a difficulty within the meaning of rule 229, as it could have been easily avoided by the Government.

The Chairman read out the relevant part of rule 229, which says "Whenever any inconsistency or difficulty arises in the application of these rules, any member may with the consent of the Chairman M ● "ahd observed that the very fact that he had called upon the Leader of the House to move the motion implied that the consent was there. It was not necessary for the Chairman to give his consent in writing, he added. With regard to the question of' 'difficulty', the Chairman observed that under the Proclamation the powers of the Provincial Assembly of Baluchistan had been delegated to and the Provincial budget had to be passed by Parliament in joint sitting before the end of June. He added that unless the resolution was taken up that day (22nd June) there would be difficulty as very few days were left for the passing of the budget by Parliament in joint sitting in time. Explaining the meaning of the word 'difficulty' the Chairman said that it did not mean 'impossibility'. 'Difficulty', according to him, is a thing which can be overcome but 'impossibility' is a thing which cannot be overcome. Concluding his observation, the Chairman held that Parliament in joint sitting would face difficulty in passing the budget in time if the requirement of rule 114 (2) was not dispensed with. The Point of Order was, therefore, over-ruled.

Senate Debates,
22nd June, 1976,
P 36—40.

217. *Point of Order: Inadmissibility of Baluchistan Budget Resolution: the resolution did not contain arguments and inferences ruled out:*

**Ruling**

On 22nd June, 1976, the Minister for law and Parliamentary Affairs beg to move resolution regarding passing of Baluchistan Annual and Supplementary Budget statements by Parliament.

A member raised a Point of Order saying that the resolution contained "arguments and inferences" and was, therefore, inadmissible under Rule 115(4) of the Rules of Procedure and Business in the Senate, 1973.

The Chairman ruled out the Point of Order, as the resolution did not contain inferences and arguments and was not hit by rule 115 of the Rules.

Senate Debates,
22nd June, 1976,
P 43.

218. *Point of Order: Parliament incompetent to implement resolution for legislating about tourism: up-held and resolution deferred:*

**Ruling**

On 24th June, 1976, the Minister of State for Tourism moved the resolution in the Senate relating to the standards of Service and amenities for tourist in Hotels Sad Restaurants.

A member raised a Point of Order saying that the Parliament was not competent to implement resolution for legislation about tourism, as that was included in the Concurrent list at item No. 42. He maintained that the Parliament could by law regulate any matter not enumerated in either list in the Fourth Schedule, if two or more Provincial Assemblies passed resolution to that effect under Article 144 of the Constitution.

The Chairman upheld the Point of Order and deferred the resolution to some other date.

Senate Debates,
24th June, 1976,
P 60.

219. *Point of Order: Expunction of supplementary and all discussion relating to question No. 11, the answer to which was ruled out as improper*:

**Ruling**

On 8th July, 1976, Mr. Mohammad Hanif Khan raised a Point of Order that all the supplementaries and discussion relating to Question No. 11 pertaining to stoppage of placing advertisements to Daily Nawa-i-Waqt by Government be expunged as irrelevant.

The objection was opposed by Khawaja Mohammad Safdar from the opposition.

Mr. Chairman ruled "All the supplementary and discussion relating thereto cannot be ruled as irrelevant, particularly when the other side was answering and had not objected to that".

Senate Debates,
8th July, 1976,
P 269.

220. *Point of Order: Statement of objects and reasons accompanying a Bill when it is transmitted to the Senate: statement of objects and reasons not necessary in the case of a Bill passed by the National Assembly and transmitted to the Senate: over-ruled:*

**Ruling**

On 24th August, 1976, when the First Reading of the Defence of Pakistan (Third Amendment) Bill 1976, commenced, a member raised a Point of Order that the Bill was incomplete as it was not accompanied by the statement of objects and reasons. He contended that in view of the provisions of rule 80 (2) which required that the notice should be accompanied by a copy of the Bill together with a statement of objects and reasons, the Bill could not be considered by the House.

The Chairman observed that Part I of Chapter X of the Rules of Procedure and Conduct of Business in the Senate, 1973. dealt with Bills originating in the Senate, Part II with Bills passed by the Senate and amended, rejected or not passed by the Assembly, and Part III with Bills originating in the Assembly and transmitted to the Senate, He added that the Bill had originated in the National Assembly, had been passed by it and transmitted to the Senate, Rule 80, which had been the basis of the objection of the Senator, was not applicable to this Bill as it originated in the National Assembly. Rule 102 which was applicable to this Bill read, —

> "When a Bill originating in the Assembly has been passed by it and is transmitted to the Senate, the Secretary shall, as soon as may be, cause it to be circulated among the members."

He pointed out that the Bill had originated in the Assembly, had been transmitted to the Senate and circulated among all the members. He emphasised the difference between rule 80 and rule 102. Rule 80 (2) required the Bill to be accompanied by a statement of objects and reasons, if it originated in the Senate. Rule 102 which was applicable to the Bill under consideration did not require that the Bill must be accompanied by a statement of objects and reasons.

He concluded that the Bill having been transmitted from the National Assembly could be taken into consideration, even though it was not accompanied by a statement of objects and reasons.

Senate Debates.
24th August, 1976,
P 46—53.

221. *Point of Order: Comments on subjudice cases: comments on such cases may prejudice their merits: upheld:*

**Ruling**

On 25th August 1976, when the Defence of Pakistan (Third Amendment) Bill, 1976, was under discussion a member raised a Point of Order that the member speaking on the subject was commenting on the charges for which some of the political leaders had been arrested and as such comments may prejudice the merits of their cases pending before the courts. The member who was making the speech questioning the validity of the Point of Order said that he was only referring to what was reported in the press about such cases.

The Chairman upheld the Point of Order and directed the member concerned not to comment on the charges for which same political leaders had been arrested because that would prejudice the merits of the cases.

Senate Debates,
25th August, 1976,
P 85-86.

222. *Point of Order: discussion on rice husking corporation not relevant to the discussion on Cotton Ginning Control and Development Bill, 1976 upheld:*

**Ruling**

On 1st September, 1976, when the Cotton Ginning (Control and Development) Bill, 1976, was under consideration, a member raised a Point of Order saying that the discussion on the Rice Husking Corporation was not relevant and that the speaker should confine himself to the Bill.

The Deputy Chairman observed that the Point of Order was valid. The member could give an example and pass on to the Bill instead of elaborating other issues.

Senate Debates,
1st September, 1976,
P 213.

223. *Point of Order: Mis-statement that holy Quran could be amended ruled out:*

**Ruling**

On 8th September, 1976, when the Constitution (Fifth Amendment) Bill, 1976, was under discussion a member raised a Point of Order saying that the speaker's statement that the Holy Quran had also been amended was against the basic faith of Muslims. The Chairman over-ruled the Point of Order on the ground that the member who made the speech never said so.

Senate Debates.
8th September, 1976,
P496-497.

224. *Point of Order: The word written in hand in a Clause of the Bill was not approved by the National Assembly and should be ignored: over ruled as typing of the word was not necessary:*

**Ruling**

On the 17th November, 1976, when the Legal Practitioners and Bar Councils (Second Amendment) Bill, as passed by the National Assembly, was under consideration, a member, raising a Point of Order said that the word 'Second' in Clause (1) of the Bill had been written in hand. He contended that the Bill, as passed by the National Assembly, should be considered. The Chairman ruled out the Point of Order on the ground that Clause (1) of the Bill appended to the message received from the National Assembly

had the word 'Second' written in it in hand and that he could not but take Cognisance of the Bill received with the message. He added that even if the word 'second' did not appear in the Clause of the Bill as passed by the National Assembly, the Secretary of the Assembly was competent under rule 221 of the Rules of Procedure and Conduct of Business in the National Assembly, to add the word 'second' in the Clause.

Senate Debates,
17th November, 1976,
P 126.

225. *Point of Order: Previous sanction of the President under Rule 80(2) lacking in respect of the Land Reforms (Second Amendment) Bill, 1976: sanction of the President must accompany the notice of the bill: bill was originally an Ordinance promulgated by the President, laid before and passed by National Assembly: sanction not required: ruled out of order:*

**Ruling**

On 22nd November, 1976, the Minister for Food and Agriculture moved that the Bill further to amend the Land Reforms Regulation 1972, be taken into consideration. Khawaja Mohammad Safdar raised the Point of Order that as the Bill sought to amend the Land Reforms Regulation, 1972 which was specified in the Sixth Schedule to the Constitution, it could not be amended without the previous sanction of the President. Clause (2) of Article 268 of the Constitution clearly provided that the laws specified in the Sixth Schedule shall not be altered, repealed or amended without the previous sanction of the President. He contended that under rule 80(2) of the Rules of Procedure and Conduct of Business in the Senate, 1973, the notice should be accompanied by a copy of the sanction. Since no copy of the sanction accompanied the notice, the Bill could not be taken into consideration in the Senate.

Sheikh Mohammad Rashid, Minister for Food and Agriculture, argued that this Bill was originally an Ordinance and sanction of the President was obtained for its promulgation. Therefore, he contended, there was no necessity for obtaining the sanction of the President again for consideration of the Bill. Senator Masud Ahmad Khan argued that an Ordinance laid before the National Assembly was deemed to be a bill and that the sanction of the President was implied as it was mentioned in the preamble of the Ordinance that the President was satisfied that circumstances did exist for its promulgation.

Khawaja Mohammad Safdar drew the attention of the House to Articles 89 (3) and 268 (2) of the Constitution and said that as the Bill sought to amend a law which

was specified in the Sixth Schedule, the previous sanction of the President for its consideration in the Senate was essential. The Minister observed that the objection in this regard was not raised in the National Assembly while passing this Bill; it implied that the requirement of the previous sanction accompanying the notice was waived there. Khawaja Mohammad Safdar reiterated that the sanction obtained by the Minister for the Ordinance was not sufficient for consideration of the Bill in question in the Senate. Senator Kamal Azfar said that the rules and chapter referred to by the objector were not applicable here as that chapter dealt with Bills originating in the Senate but the Bill under discussion had come from the National Assembly. Secondly, he added, once an Ordinance had been promulgated with the previous sanction of the President, a second sanction for its consideration either in the National Assembly or in the Senate was neither necessary nor possible because there was no time interval between the Ordinance and the Bill for obtaining a second sanction. He argued that the sanction given for the promulgation of the Ordinance was deemed to be the sanction for its becoming a Bill as under the Constitution the Ordinance laid before the National Assembly was deemed to be a Bill introduced in the National Assembly.

After hearing arguments from both sides, the Deputy Chairman ruled:

"I am inclined, in fact, to accept the interpretation that when an Ordinance is laid in the National Assembly and it is deemed to be a Bill, a formal sanction for a Bill is not required, and rule 82 is not strictly applicable to such Ordinances. Therefore, if, at all, there was any irregularity, if anything was not done in the Lower House, that will not, in fact, affect legislation in the Senate. Therefore, I think rule 82 is not strictly applicable and it is ruled out of order."

Senate Debates,
22nd November, 1976,
P 227—237.

226. *Point of Order: Discussion on matters beyond the scope of the amendment under Section 8 of the Political Party's Act, 1962: upheld:*

**Ruling**

On 4th January, 1977, when the Bill regarding amendment under Sec. 8 of the Political Parties Act, 1962, was under discussion the Law Minister raised a Point of Order saying that the speaker was dealing with procedure as contemplated under Sec. 7 while the Bill was to amend Section 8 of the Act and thus he was going beyond the scope of the Bill.

The Speaker maintained that he was explaining various aspects of the Bill and was relevant.

The Deputy Chairman upheld the Point of Order and asked the speaker not to be irrelevant.

Senate, Debates,
4th January, 1977,
P 375.

227. *Point of Order: Suggestion to refer the Bill to a select committee: not a Point of Order:*

**Ruling**

On 29th April, 1977, when the Leader of the House was on his feet during the discussion on a Bill, a member rising on a Point of Order suggested that the Bill in hand be referred to a Select Committee as apparently there, seemed to be some illegality in it.

The Chairman ruled that there was no irregularity in the procedure and the point raised was not a Point of Order.

Sen*ate Debates*,
*9th April, 1977*,
*P 90.*

228. *Point of Order: Not more than one question of privilege could be raised at the same sitting by the same Member: Point of Order held valid.*

**Ruling**

On 6th July, 1985 Senator Maulana Kausar Niazi sought to move a second Privilege Motion in the same sitting. Thereupon a Member rising on a Point of Order said that under rule 59 (i) of the Rules of Procedure and Conduct of Business only one question could be raised by the same member at the same sitting.

The Chairman, Mr. Ghulam Ishaq Khan, held the Point of Order as valid and deferred the consideration of the second Privilege Motion by the Member to the next sitting.

Senate Debate,
6th July, 1985.
P 29.

229. *Point of Order: Drinking of water by a Member in the House: not permissible under the rules: Point of Order upheld.*

**Ruling**

On 6th July, 1985, a Member rising on a Point of Order sought clarifica¬tion from the Chair whether a member is allowed to drink water in the House.

The Chairman, Mr. Ghulam Ishaq Khan, upholding the Point of Order observed: —

"As far as my knowledge goes, this is against the rules".

Senate Debate,
6th July, 1985.
P 39.

230. *Point of Order: The President promulgated eight Ordinances on 13th , 14th and 17th of March 1985, in exercise of his power under Article 89 (1) of the Constitution: The President took oath of his office on 23rd March, 1985 under the Constitution: The question raised was that these Ordinances were promulgated by the President under supra Constitutional power derived from the proclamation of 5th July laws (continuance in force) Order 1977 read with provisional Constitutional Order 1981 as on these dates the President had not entered upon his office as President under the Constitution: these Ordinances were therefore, permanent statutes not required to be laid on the Table of the House for approval of the two Houses as required by Article 89 (2): the Chairman ruled that as Article 89 stood revived at the relevant time and the two Houses had also, in the meantime, started functioning and as the President was at that time an amalgam of CMLA and President under the Constitution it was thought a democratic act to place the Ordinances promulgated by him before he took oath of his office under the Constitution before the revived Houses for approval to avoid a possible legal objection later that upon revival of the two Houses the Ordinances ought to have been placed before the two Houses for approval as required under Article 89(2) which by then stood revived: terefore, placing of the Ordinances before the National Assembly and later before the Senate was in order: as regard vires of the Ordinances the Chairman held that as these Ordinances when placed before the Assembly were treated as Bills under Article 89 (3), were passed by the Assembly as such and were later transmitted to the Senate with messages for their approval, the Senate could not go behind the status of the Ordinances which were approved as Bills and transmitted to it for approval: besides, as supported by the ruling of the Supreme Court in Zia-*

*ur-Rehman case (PLD1970 Supreme Court page 49) the vires or the legality of a law could only be questioned in a court of law and such matters are really for interpretation by the Court and not by the House: if any one still felt it necessary to question the vires or validity of these Laws he could have re-course to Courts under Article 9 of the PCO 1981, as it then existed or under Article 191 of the present Constitution as was held by a very eminent Judge of this country, Justice Hamood-ur-Rehman in the above case.*

**Ruling**

On 6th July, 1985, Mr. Iqbal Ahmed Khan, Minister for Justice and Parliamentary Affairs laid the following Ordinances on the Table of the House as required by Article 89 (2) of the Constitution: -

i. The Modaraba Companies and Modaraba (Floatation and Control) (Amendment) Ordinance, 1985 (XIX of 1985).

ii. The Pakistan Animal Quarantine (Import and Export of Animals and Animal Products) (Amendment) Ordinance, 1985 (XX of 1985).

iii. The Emigration (Amendment) Ordinance, 1985 (XXI of 1985).

iv. The Korangi Fisheries Harbour Authority (Amendment)

v. Ordinance, 1985 (XXII of 1985).

vi. The West Pakistan Maternity Benefit (Amendment) Ordinance, 1985 (XXIII of 1985).

vii. The Representation of the People (Seventh Amendment)

viii. Ordinance, 1985 (XXIV of 1985).

ix. The Senate (Election) (Second Amendment) Ordinance, 1985 (XXV of 1985).

x. The Representation of the People (Eighth Amendment)

xi. Ordinance, 1985 (XXVI of 1985).

These Ordinances were earlier laid before the National Assembly. Treating them as Bills in terms of Article 89(3) of the Constitution they were considered and passed by the Assembly and transmitted to the Senate with message for approval.

Rising on a Point of Order Senator M. Zahoor-ul-Haq contended that the President assumed office of the President under the 1973 Constitution on 23rd of March, 1985 when he took oath of his office. He, therefore, could not promulgate the above Ordinances under Article 89 (1) prior to 23rd of March, 1985. Prior to this date, he had the power to make Ordinances under his supra constitutional power derived from the proclamation of the 5th July, 1977, Laws (Continuance in Force) Order 1977, read with provisional Constitutional Order 1981. These Ordinances were promulgated on 13th, 14th and 17th March 1985 when he held power to issue Ordinances under the supra constitutional power derived from aforesaid legal Instruments. These Ordinances, therefore, were permanent statutes not required to be laid on the table of two Houses for approval under Article 89 (2). The Present exercise, he concluded, was therefore unnecessary.

The Minister for Justice and Parliamentary Affairs on the other hand, contended that under the Constitution Revival Order 1985, the President had the power to revive the Constitution fully or partially. On 10th March, 1985, he had revived the Constitution including Article 89 of the Constitution. The Ordinances in question were however issued on 13 the, 14th and 17th of March, 1985 when Article 89 stood revived. The President, therefore, could issue the Ordinances only under Article 89 (1) and not under the supra constitutional powers vested in him earlier. These Ordinances, therefore, he went on to argue were not permanent statutes and accordingly, required approval of the two Houses. Thereupon, the Chairman observed that the honourable Member could raise this Point of Order when the House took up consideration of the aforesaid Ordinances. In the meantime, he requested the Minister for Justice to take note of it and expressed the hope that the Justice Minister would be able to provide all the background information, together with the relevant notifications so that the House when it took up the issue next, had a good comprehension of what would be discussed.

When on 9th July, 1985, the House resumed Legislative Business Mr. M. Zahoor-ul-Haq again pointed out that on the 6th of July he had raised some legal issues with regard to the eight Ordinances which were going to lapse on the 13th, 14th or 17th of the month. The question raised was that those Ordinances were issued by the President in purported exercise of power under Article 89 (1), while the President took oath under the revived Constitution in accordance with Article 41 (7) on the 23rd of March, 1985. The amendments in the Constitution were brought on the 2nd of March, 1985. A large number of Articles of the Constitution were re-activated on the 10th of March, 1985 including the Schedule pertaining to the Oath and, therefore, between the 10th of March, 1985 and the 23rd of March, 1985, the President could exercise the powers under Article 89 of the Constitution only with the aid of Chief Martial Law Administrator Order, 1977 (CMLAO 1 of 1977), or one could also say, PCO of 1981, but the President could exercise the powers directly under Article 89, only after he had taken oath of his office under the Constitution. Therefore, these Ordinances, to say the least were not Ordinances under the Constitution of 1973. They were Ordinances under the supra constitutional powers and had, therefore, become permanent statutes.

As such the Minister of Justice was not right, in his view, to take a Bill to the National Assembly and then to bring it here in order to have the Ordinances approved, as was the requirement of Article 89. The member added that unless this point was made clear, in his humble view, the entire exercise would be an exercise in futility.

Replying to these contentions the Attorney General, Mr. Aziz A. Munshi, said that "the member had in fact conceded on the floor of the House that the Ordinances had been validly made by the President in exercise of the powers conferred under the proclamation of the 5th July, 1977, Provisional Constitution Order 1981, and the Laws (Continuance in Force) Order, 1977. Having conceded that the only question which remained un-solved was that the Ordinances had been laid on the Table of the House, only by way of abundant caution. The position, he contended, was that General Muhammad Zia-ul-Haq became President and took oath under the Revival Order in the Joint Sitting on 23rd of March, 1985. He drew attention to Article 41 (7) which provides: —

> "Notwithstanding anything contained in this Article or Article 43, or any other Article of the Constitution or any other law, Gen Zia-ul- Haq, in consequence of the result of the Referendum held on the nineteenth day of December, 1984, shall become the President of Pakistan on the day of the first meeting of the Majlis-e-Shoora (Parliament) in Joint Sitting summoned after the elections to the Houses of Majlis-e-Shoora (Parliament) and shall hold office for a term of 5 years from that day, and Article 44 and other provisions of the Constitution shall apply accordingly".

Under the Revival Order, he said, the President became the constitutional President on the day of the Joint Sitting. The Ordinances were promulgated between 13th and 17th of March, 1985. The learned member said that these Ordinances were validly promulgated by the President in exercise of the powers of Chief Martial Law Administrator and the President in pursuance of the Proclamation Order 1977 and the Provisional Constitution Order 1981 and the Laws (Continuance in Force) Order 1977. If they had been validly promulgated, and if by way of abundant caution, they were laid before the House there was no impediment in approving them. This was according to Attorney General for removal of doubt. Since on the 10th of March, 1985, the constitutional provisions had come into play by virtue of its revival by notification, so it was not entirely without caution or (putting it differently) it was not entirely without any basis if the Ordinances had been laid before the House. It was, he said, always better to act in legislation with caution. If there was no objection to the legality of the Ordinances there should be no objection to a step which was taken by the Law Division only by way of abundant caution. Therefore, he said that since the authority of President Zia-ul-Haq in promulgating the Ordinances was not questioned, but was already admitted, the House might consider the question of just passing the Ordinances as they were because there was no other technical impediment in passing the Ordinances.

Mr. Zahoor-ul-Haq replied, that he facilitated the task of the Attorney General by conceding that these Ordinances had been validly made but not under Article 89 of the Constitution but under the supra constitutional powers derived by the President from the proclamation of 1977. They were mis¬described as having been made under Article 89 (1). That being so, the Ordinances were permanent statutes not required to be approved (by the legislature) and were not liable to lapse, as was contended by the Justice Minister, on the 11th, 14th and 17th Let there be, he demanded a categorical statement by the State that indeed they were Ordinances made under extra Constitutional powers read with Article 89. If they were sticking to the proposition that the Ordinances were lapsing on 11th, 14th or 17th, then that could not be accepted because that was wrong proposition". He further contended that as these Ordinances were permanent statutes they required no approval of the Houses under Article 89 (2).

The Chairman, Mr. Ghulam Ishaq Khan, observed, "what the honourable Member wanted the Attorney General or for that matter the Justice Minister to identify exactly was whether or not these bills or rather the original Ordinances were Ordinances promulgated in exercise of the supra constitutional powers of the President as Chief Martial Law Administrator, that is by virtue of the authority vesting in him or which he assumed, under those Orders. And if that was the situation, then it was perfectly clear, that those Ordinances were complete statutes requiring no further endorsement either by the National Assembly or by the Senate. On the Other hand, if the Ordinances were enacted or were assumed to have been enacted under the Constitution itself, then the Honourable Member's point was that as the President had not taken oath by that time, he could not promulgate or give assent to these Ordinances in his capacity as the Constitutional President. Therefore, the Chairman thought that it was necessary to identify the exact status of the Bills. Somebody had to make up his mind and if that was done that would facilitate the task of the House and also of the legislative Assembly. If the Ordinances were assumed as valid laws already, then all that was required to protect them subsequently would be to proceed about them in the manner as you would to protect many of the other Ordinances and Laws passed by the President in his capacity as Chief Martial Law Administrator, by virtue of the powers enabling him to do that under the Proclamation.

Mr. Hasan A.Shaikh agreeing with the contentions raised by Mr. Zahoor-ul-Haq, stated that the Attorney General had conceded in substance the point raised by Mr. Zahoor-ul-Haq. He stated that the President became the President after he took oath on the 23rd March and it was then that he became amenable to the authority under the Constitution of 1973. Anything done by the President, earlier, between the 10th of March and 22nd of March, was done under the proclamation of the 5th of July, 1977 and therefore, it was not required to be validated by the House. That is why so many other Acts, so many Ordinances and so many Presidential Orders had not come before the House.

Putting it differently, the Chairman observed that the 'Attorney General' had

mentioned that the Justice Ministry resorted to this device (of placing the Ordinances before the House) by way of abundant caution. The 'abundant caution', he thought was an altogether different invocation. The question involved, however, was of identity of a particular Instrument and the capacity of those who promulgated it. If it was contended that it was promulgated by the President in his capacity 'as the Chief Martial Law. Administrator and all the powers enabling him in that behalf', then it was a totally complete Act. It did not require exercise of 'abundant caution' any further. But if on the other hand it was contended that this was not the position, then the 'abundant caution' question might come into play. Then it would be treated as a Law under the Constitution under its Article 89, and then, of course, it would assume a different complexion. And this was exactly the objection of the honourable Member Mr. Zahoor-ul-Haq.

Professor Khurshid Ahmed opined that the concept of 'abundant caution' had been extraneously brought into the debate. He observed that if the Law Ministry felt really so concerned with the question of abundant caution they would have brought in all the hundreds of Ordinances that were promulgated before that. He agreed that a very important legal issue had been raised that could be decided only on legal basis. It had to be seen what authority was invoked in the original Ordinances when they were promulga¬ted, whether the President invoked his authority from the Constitutional Amendment or from the Proclamation of 5th July, 1977.

The Chairman pointed out that he himself was searching for the document, to ascertain how the original Ordinances and their preambles were worded; whether they stated that the President promulgated them in exercise of powers so and so.

Mr. Zahoor-ul-Haq stated that was the reason why he raised the Point of Order, Mr. Zahoor-ul-Haq read out the preamble of the Ordinances which is as under: —

> "Now, therefore, in exercise of the powers conferred by Clause 1 of Article 89 of the Constitution, the President is pleased to make and promulgate the following Ordinances".

The Chairman asked the Member to read the complete preamble whereupon the Member read out the whole preamble which indicated that the President had promulgated these Ordinances purportedly in exercise of the powers conferred by Clause 1 of Article 89 of the Constitution. The Chairman then enquired as to who had signed the Ordinance at the end and in what capacity. Mr. Zahoor-ul-Haq replied that the Ordinances were signed by the President Zia-ul-Haq and then proceeded to state that apparently, from a reading of the preamble it appeared that the President had invoked his power under Article 89.

The Justice Minister then submitted that the Ordinances had been laid under the requirements of the Constitution and contended that the validity of the laying down

could not be challenged at that stage. He also contended that the Senate was dealing with these Ordinances as Bills. However, he said, he would make his submission on the points raised by the honourable Member later. The Chairman also asked the Justice Minister to advise the House whether the President could promulgate these Ordinances before taking oath or not? Also whether those Ordinances had been validly made and whether the Senate while dealing with those laws which had already been passed by the National Assembly could come to an independent determination on them on merit. The question simply would be that if the procedure adopted or legality of the laws was in doubt should that be challenged in court or would the Senate be competent to decide such issues at its floor? Rising on a Point of Order Mr. Ahmed Mian Soomro stated that if he was not wrong, the validity of the Ordinances had not been challenged by his learned brother. The Chairman retorted that the validity had indeed been challenged. Mr. Ahmed Mian Soomro then stated that he thought that the point raised was that the Ordinances had not been made under the 1973 Constitution but under the powers vested in the President under the Proclamation Order and, therefore, they were not required to be placed before the Senate or the National Assembly as those Ordinances had become permanent statutes. Mr. Chairman agreed that that was the issue involved.

> "Speaking from memory" Mr. Hasan A. Shaikh pointed out that in Indian legislature, substantial questions of vires of a statute were not dealt with by the Chair but they were left to be decided by the Courts of Law. Seeking clarification, the Attorney General said that he was sure that his friend from Peshawar had no misgivings about the issue involved because he did not question the validity of these Ordinances having been promulgated by the President Zia-ul-Haq and he himself gave the reasons in support thereof. Interrupting the Attorney General, the Chairman observed that the question was different: It was whether these Ordinances were laws under the Constitution or were laws made under the supra Constitutional power of the President. The Attorney General replied that Mr. Zahoor-ul-Haq's view was that the Ordinances ought not to have been laid before the House. Mr. Chairman reiterated that also was not the point at issue. What he contended was that if the law was passed by the President, in his capacity as Chief Martial Law Administrator by virtue of all the powers he had in the various enactments starting from the 5th of July, 1977 proclamation, then these Ordinances were complete, enforceable, implementable Acts or Laws and nothing further had to be done about them. But since, as he read out the preamble of one of the Ordinances, they had not been promulgated by the President in that capacity, but in his capacity as the Constitutional President under the Constitution then, of course it created a problem because the President, by that time, had not taken the oath and that was what had to be addressed."

At this stage the Justice Minister gave a chronological account of the various laws

passed during the Martial Law Regime under which the President had assumed power, firstly as CMLA and later as the President of Pakistan. He stated that by proclamation of the 5th July, 1977, Gen. Zia-ul-Haq assumed the Office of CMLA, held the 1973 Constitution in abeyance and dissolved the National Assembly, the Senate and the Provincial Assemblies. In Begum Nusrat Bhutto's case PLD 1977, Supreme Court, page 657, the Supreme Court examined the authority of the said proclamation and proceeded to hold that the CMLA was competent to promulgate all Acts or legislative measures which were in accordance with or could have been performed or carried out by means of Presidential Orders, Ordinances, Martial Law Regulations, or Orders as the occasion arose. On 16th September, 1978, the President issued Succession Order, 1978 (PO No. 13 of 1978). In pursuance of Article 3 thereof he assumed the office of the President. On 24th of March, 1981, he issued the Provisional Constitutional Order (PO. No. 1 of 1981). By Article 2 of the said Order certain provisions of the Constitution were made part of the Order, including Article 89 thereof which empowered the President to promulgate Ordinances. The Ordinances in question were promulgated under Article 89 of the Constitution by the President and, therefore, after the revival of the Constitution and the restoration of Parliament the procedure laid down under Article 89 had to be followed. Article 89 of the Constitution 1973 was kept alive by the President as CMLA through PCO of 1981 by virtue of Article 2 thereof. Such being the position, the Justice Minister contended that when the President promulgated the Ordinances in question, on 13th, 14th and 17th March, 1985, he had lawful authority to do so as the President under PCO of 1981 where-under Article 41 regarding the office of the President was kept operative and this was consistent with the assumption of office as President by General Mohamamd Zia-ul-Haq under the President Succession Order 1978. The President thus existed legally and constitutionally on the 13th of March, 1985 on the basis, among others, of the President's Succession Order. He was, accordingly, empowered to promulgate these Ordinances as President. A reference to Article 3 of the President Order No. 13 of 1978 i.e. the President Succession Order might be relevant. Article 3 states that "upon the office of the President becoming vacant, the CMLA or such other person as may be designated by him, shall be the President by or under the Constitution". Under Article 4 of the said Order if the CMLA was the President he would hold the office until a President was elected in accordance with the Constitution. Accordingly, General Muhammad Zia-ul-Haq was the President on the 13th March, 1985, under the Constitution and competent to perform all functions assigned to the President by the Constitution, irrespective of the Revival of the Constitution Order, 1985. In this manner the President could perform the functions under Article 89 of the Constitution to promulgate an Ordinance even before the 13th March, 1985 and, therefore, the Ordinances could be laid before the House, which had, in the meantime, come into existence. Lastly, he submitted that as far as the vires and legality were concerned it was not the function of the House to exercise judicial powers in relation to the same and interpret the law as to its validity; the exercise of such judicial power was the exclusive function of the judiciary under the Constitution as held in Zia-ur- Rehman case (PLD 1973 Supreme Court, page 49). He also cited rulings reported at page 66 and 69 of PLD 1973 Supreme Court. He further submitted

that the Rules of Procedure and Conduct of Business in the Senate, provided that the Bills which had been introduced should be dealt with under Part III as Bills originating in the Assembly and transmitted to the Senate. These were to be proceeded with as laid down in rule 102. There was, he said, no condition that while discussing the Bills which had been transmitted by the National Assembly, objection like the vires of the Ordinances could be raised.

Resuming his arguments, the Attorney General invited the attention firstly to PO. No. 13 of 1978 provisions of which apart from the Proclamation of 5th July, 1977, were upheld by Supreme Court. Article 3 thereof, he said, provided that upon the Office of the President becoming vacant and before the election of the President under the Constitution the Chief Martial Law Administrator or such other person as might be designated by the CMLA would be the President and would perform all the functions assigned to the President by or under the Constitution, or under any law. He elucidated the point explaining that the performance of the functions assigned to the President under the Constitution, included the functions under Article 89 of the Constitution and these functions as defined in Article 89 of the Constitution included the power to promulgate Ordinances. He posed the question as to what would be the consequence when on becoming the President he performed the function defined in Article 3 of the President Succession Order of 1978. A consequence was that in the year 1978, until March, 1985, he had available to him the protection of the Laws (Continuance in Force) Order, 1977 under Article 7 of which there was no limitation period of laying the Ordinances on the Table of the House within four months of their promulgation. Referring to Article 7 of CMLA Order No. 7 of 1977, he pointed out that Ordinances promulgated by the President or by the Governor of a Province under this Order were not subject of the limitations as to their duration as was prescribed in the Constitution. This was the basic point missed in the discussion. Under Article 7 (1977 Order) an Ordinance could be promulgated by the President as provided in Article 89, but under Article 7 of the Laws Continuance in Force Order, the limitation of four months of Article 89 would not apply and, therefore, the President could promulgate an Ordinance and not yet put it on the Table of the House. In the instant case, he contended the situation changed slightly after introduction of the Provisional Constitution Order. Under the Provisional Constitution Order, Article 89 was kept alive by its Article 2. Article 2 read: "The following Articles of the Constitution of Islamic Republic of Pakistan, 1973 which is in abeyance, in this Order referred to as the Constitution, shall be deemed to form part of this Order and shall have effect subject to this Order and any order made by the President or the Chief Martial Law Administrator". These Articles contained Article 89 also but that was to be read, as in the preamble, along with the Laws (Continuance in Force) Order. Therefore, the Attorney General contended, the requirement of laying (the Ordinances) before the Houses under Article 89 (2) had not to be complied with. In any case, on the 2nd of March the Revival of the Constitution Order was promulgated and on the 10th of March 1985, by virtue of Article 4 of the revival of the Constitution Order, the provisions of the Constitution were revived and Article 89 also came into full operation. Thus the provisions relating to the framing of

Ordinances, the promulgation of the Ordinances and the requirement of placing these Ordinances before the House came into operation on the 10th March, 1985. To put it briefly, he continued, the position was that on 13th of March, 1985 General Mohammad Zia-ul-Haq was the President of Pakistan. He took oath of his Office under the Revival of Constitution Order and the Constitution on 23rd of March, 1985. But being the President also on the 13th March, 1985, he continued to enjoy the privileges the rights and authorities which were available to the President in the performance of all the functions. The accumulative effect of all the legislative measures taken by the CMLA and the President right from 5th July, 1977 until he took oath of his Office as President under Article 41(7) of the Constitution was that he continued to remain the President. If he continued to remain the President, he continued to perform all functions assigned to the President by or under the Constitution. Therefore, when he promulgated the Ordinances in question, on 13th, 14th and 17th March, 1985 he was acting as President and was performing his functions as such. He, accordingly, had the authority to act in accordance with Article 89 in promulgating the Ordinances in question. The mere fact that the Ordinances had been placed on the Table of the House he contended would not affect their legality. The Ordinances had been laid on the Table of the House for approval because the Rouses had been restored and the Laws (Continuance in Force) Order 1977 and Article 7 thereof which dispensed with the requirement of placing the Ordinances before the Houses were scrapped or had become redundant, and that was precisely the reason why the Ordinances had been put before the House for approval. He also submitted that once an Ordinance had been introduced in the other House i.e. National Assembly and transformed into a Bill under the provision of Article 89 (3) the only Business before this House was to treat the same as a Bill and not term it as an Ordinance any longer and proceed with it as a Bill under the Rules of Business. Pre-empting the argument which might be advanced by some other member the Attorney General argued that the interpretation of a law relating to Ordinances was an exercise of judicial powers. "There is a dichotomy of powers" he argued. So far as this House was concerned, so far as the Constitution was concerned, the Supreme Court has held that there should not be any encroachment by one Organ of the Government, namely the legislature on the functions of another Organ of the Government, namely the Judiciary. The powers of the Senate, he said, are described in Article 70 and certain other Articles of the Constitution. In a system where there is dichotomy of sovereign powers then it is necessary from the very nature of things that judicial powers should be vested in judiciary. Judicial powers have been defined as follows: —

> "The Judiciary or Judicial Department is an independent and equal co-ordinate branch of the Government and it is that branch whereof which is intended to interpret, construe and apply the law and that department of Government which is charged with the declaration what the law is and its construction so far as it is the written law. This power, it is said, is inherent with the judiciary by reason of system of division of powers itself under which as the Chief Justice quoted, legislature makes, the executive executes, and the judiciary construes the law". Zia-ur-Rehman case (PLD

1970 Supreme Court, page 49)"

In conclusion, the Attorney General said that laying of the Ordinances in question, on the Table of the House had converted these Ordinances into Bills and, therefore, the function of the House was to deal with them as Bills and not to enter upon any other controversy.

Prof. Khurshid Ahmed rising on a Point of Order contended that he was afraid that Attorney General and the Justice Minister had not addressed themselves to the issue which the House was seized of. The issue was not whether the President was a de-jure President or not. The issue was which the Chairman had asked them to address themselves to.

After the Justice Minister, the Attorney General, Mr. Zahoor-ul-Haq and other Members concluded their submissions, the Chairman explained the point in issue and gave his opinion as under: —

> "If you would just give me a few minutes, I would try to reformulate what the point under discussion is and also draw attention to some other aspects of the case because I have also since had an opportunity of studying what the legal and constitutional position is. I do not claim to be an expert. I do not claim even to have sufficient knowledge of the constitutional intricacies. You can guide me in this, but in order to facilitate the debate and keep the discussion on the rails, I would like to invite your attention to a few points which are in my mind and I think when you are addressing these issues you can cover those points also.

In the first place, I would like to draw your attention to the definition of the President as given in the Constitution and this definition, right from the day of the promulgation of the 1977 Order has stayed in fact. "President means, the President of Pakistan and includes a person for the time being acting or performing the functions of the President of Pakistan". The rest (of the definition) i.e. "and as respect anything required to be done under the Constitution before the commencing day" etc. is not particularly relevant for our present purpose. The point to be stressed and what I am trying to point out is that 'President' is any person who at a given time is performing factually the duties or functions of the President, that is point No. 1. Second, the Honourable Minister for Justice has already referred to the Proclamation of the 5th of July, 1977, and the Laws (Continuance in Force), Order, 1977 (Order No. 1 C.M.L.A Order No. 1of 1977). Iwould invite attention of the House to two or three provisions of this Order. One, under Article 2, on the abeyance of the provisions of the Constitution of the Islamic Republic of Pakistan, it says that "Pakistan shall, subject to this Order and any Order made by the President and any Martial Law Regulation or Martial Law Order made by the Chief Martial Law Administrator, be governed as nearly as may be in accordance with the Constitution". This means that the Constitution, mutatis mutandis or as far

as possible, remained in fact, despite the fact that on overall basis it had been kept in abeyance, but for actual working it remained available to the extent that it could be used.

The next point is that according to Article 3 of this Order "the 'President' shall, (and I think this again is important) except where he is himself the Chief Martial Law Administrator, act on and in accordance with the advice of the Chief Martial Law Administrator". Now at the time, when this provision came into force, the President was a person distinct and apart from the CMLA, but the contingency was taken care of that there can be a time when the President and the Chief Martial Law Administrator are combined in one person. Now in both the positions the President whether described as dejure or defacto according to the definition that I read out had to act on the advice of the Chief Martial Law Administrator and, where the two posts were combined in one person then, since a person has just one mind, the two get so intermingled that there was no distinction between the President and CMLA for the purpose of the Constitution. The President had all the powers, whether he invoked and used these powers deliberately and openly or not because he was the CMLA also, and the two functions (of President and CMLA) were combined actually in one person. This then is the second point to remember.

Next we come to the 1978 Order. This is Order No. 13 of 1978 in which there is a provision that, notwithstanding anything contained in the Constitution or any other law, upon the office of the President becoming vacant by reason of death, physical or mental incapacity, resignation etc., the Chief Martial Law Administrator or such other person as may be designated by the Chief Martial Law Administrator, shall be the President and shall perform all the functions assigned to the President by or under the Constitution or any other Law. This is the other provision which we have to keep in mind and, under this, the Chief Martial Law Administrator also becomes the President.

Next we have the 1981PCO. And there are several important provisions in this. Firstly, it says, "Now, therefore, in pursuance of the Proclamation of the fifth of July 1977 read with the Laws (Continuance in Force) Order, (to which I referred earlier) and in exercise of all powers enabling him in that behalf, the Chief Martial Law Administrator is pleased to make the following Order". The Order thus made, then amongst other things, says that "the following Articles of the Constitution of the Islamic Republic of Pakistan, 1973, which is in abeyance, shall be deemed to form part of this Order, and shall have effect subject to this Order and any Order made by the President, or the Chief Martial Law Administrator". The Articles referred to include, among others, Article 89. Now, Article 89 of the Constitution, if you refer to it, has several Clauses and of the two important Clauses, the first one reads, "The President may, except when the National Assembly is in session, if satisfied that circumstances exist which render it necessary to take immediate action, make and promulgate an Ordinance as the circumstances may require"; which means that right from the beginning, right from the PCO of 1981, the President had assumed to himself powers pertaining to the promulgation of Ordinances

under Article 89. Article 89 is not, therefore, a new invocation of authority or power, but it was continued and was available to the President, whether he described himself as President or Chief Martial Law Administrator, all the time. Further on, Article 89 says in its second Clause that these Ordinances shall be laid within a period of four months before the House. The requirement of sub-Article (2) were, however, dispensed with in the Laws (Continuance in Force) Order. Let me read out the requirement of the Constitution first then I shall come to the Laws (Continuance in Force) Order. Under the original Article 89 (2), any Ordinance promulgated under this Article "shall have the same force and effect as an Act of Majlis-i-Shoora" and "shall be subject to like restrictions on the power of Majlis-e-Shoora (Parliament) to make laws but every such Ordinance shall be laid before the National Assembly and before both the Houses, if it contained provision dealing with any of the specified legislative matters and shall stand repealed at the expiration of four months from its promulgation".

The Laws (Continuance in Force) Order, 1977 under its Article 7 says that an Ordinance promulgated by the President (and such Ordinances had to be promulgated under or by resort to Article 89 of the Constitution) shall not be subject to the limitation as to its duration prescribed in the Constitution, which I read out. Thus, they were exempt. The President could promulgate Ordinances but he was not bound to place them before the House, because of the reason that the House, had been dissolved, and no House existed. It would have been a contradiction in terms to provide that they should be placed before the House when the House, in fact, did not exist. This was the situation till the present amending Ordinances were promulgated. Now the contention is that it was quite right for the President to issue these Amending Ordinances invoking the same Article 89, under which he used to take action previously, but it is not necessary to seek their approval from the House. The fact is that the CMLA and the President are merged for the present into just one person, regardless of whether he is described or describes himself as the Chief Martial Law Administrator or the President. By virtue of the Proclamation of the 5th July, 1977 by virtue of the Laws (Continuance in Force) Order, by virtue of this 1978 order and by virtue of the PCO of 1981, he continues to be the same person, performing the functions of the President. But a change comes after the 10th of March. He promulgates or revives the Constitution. Article 89 is also revived in its original form. The President remains the old President of the Martial Law vintage. He is the same person. He has not yet taken an oath and he does not enter upon the office of the President under the revived Constitution till the 23rd of March. But he continues to be the person performing the functions of the President under the Martial Law and whatever other powers he had. A change came yesterday. I objected to what the Attorney General was then describing. I thought he was mixing up apples and oranges when he said that this was by way of abundant caution' that the laws had been brought before this House. I could not really understand that. This was why I applied myself personally to studying this whole business, how it stood on that particular day in relation to Article 89 in its revived form with its requirements of placement of Ordinances before the House within four months. He said Article had been revived on the 10th of March, but the President continued to be the old President

with his old powers until the 23rd of March when he took oath and formally entered upon the office of the President under the Constitution. Now, this is also a debatable point whether his entering upon that office is something altogether new, because the Martial Law still continues. The "Grundnorm" is still the Proclamation of the 5th of July, 1977 and a view can be taken that his entering (upon office of the President) or taking oath under the Revived Constitution only meant that this is the date, the point of departure, from which his period of limitation of 5 years as President and till such time that a new President has been elected and inducted in his place, is to be enumerated. It serves, to my mind, no other purpose. But coming back to what is bothering us is this that in the relevant period we had the old President, armed with all the powers of the Martial Law, of the Laws (Continuance in Force) Order of 1977, the President Succession Order, 1978 and the PCO of 1981. But, during that time, that very President had also revived certain portions of the Constitution which required that certain actions of his should come before the House, which too had since been revived. This means that having enacted those laws in these circumstances somebody could have objected, and this is where the "abundant caution" question comes in, that you have now the revived Article 89 and you are invoking the powers of Article 89, so within four months period, these Ordinances should have come before the revived House, and this is perhaps the "abundant caution" which the Ministry of Justice has exercised in converting these Ordinances into Bills and in deciding to place them before the House. If you agree with this interpretation, then I think the business to proceed with the Bills would be in order.

The Chairman added, that on the legality of the business itself, the Ordinances were placed actually before the National Assembly. The vires of this could have been questioned by the National Assembly. I do not mean to say that we must follow the National Assembly in this matter. I think I said on the very first day that we can come to our own conclusions in such matters. But if there was such a vital defect, I am sure somebody in a House of 237 would have pointed it out and we have some very able Parliamentarians in that House, also. But whatever the position, if there was a fatal defect on the legal and the constitutional front they would have taken that uP Now the position is that the amending Ordinances have been issued by the President when he was fully competent to do that. The only obligation which the Ministry now felt in bringing up these laws converting them into Bills and placing them before the House was the requirement of the revived Article 89, which means that, although the President still could exercise powers under the Laws (Continuation I Force) Order which dispensed with the requirement of placing the Ordinances before the Parliament and although that provision has still not been formally revoked, yet, at least by implication, when the Houses are revived, he felt obliged to bring them to the House (within the stipulated period). I think it would have looked as a totally un-democratic act when, on the one hand, you are trying to revive the Constitution and revive the democratic Houses, and on the other hand, you are not prepared to place the Ordinances before them, taking shelter under the old Laws (Continuance in Force) Order. This is why I think they were placed before the House.

The question that next arises is what is it which is before us? Before us, is only a Bill. I am really not certain, and this is where I would like again to have your advice, that when a Bill is before us, do we have to go into the 'Shajra-i- Nasab' of it. Do we have to go into its pedigree? We received only a Bill with a recommendation from the National Assembly and we may look at it only as a Bill. This is one of the points which the Attorney General made and I think there is a good deal of force in it, because it is not something original which is before us where we can look into its vires. Here is something which we got with a message from the Lower House that here is a Bill passed by it; please consider it. So we only look at a Bill at this stage and not go into the question that the Bill was originally an Ordinance because the Ordinances were placed at the Table of the Assembly, and I don't think, on the Table of this House, for the reason that we were not concerned with them. We only received the Bills.

The third (point) and the last point that I would like to bring to your notice is, and I think this was one of the questions which I had posed to the Attorney General and the Minister for Justice also, whether it was for this House to go into the vires and legality of these Bills. I have some extracts with me from the judgement in what was referred to as the Zia-ur-Rehman case. There, the position is quite clear that the vires or the legality of these measures can be only questioned in a Court of Law. I had another doubt in mind, and I have tried to clarify that also, namely; can the question be raised that since access to Courts has been blocked; is barred by the Proclamation of the Martial Law, etc., and because the writ jurisdiction of the Courts under Article 199 has not been revived and there is no access to Courts, so, the House must of necessity decide such issues. But then I had a look at the PCO oft981. There, it is clearly mentioned under its Article 9 that subject to this Order, a High Court, if it is satisfied that no other remedy is provided by law. may on the application of any aggrieved party make an order "directing a person performing within the territorial jurisdiction of the Court functions in connection with affairs of the Federation etc. "and further" or, declaring that an act done or proceedings taken within the territorial jurisdiction of the Court by a person performing functions in connection with affairs of the Federation, a province or a local authority has been done or taken without lawful authority and is of no legal effect", which means that if we pass a wrong law the vires of which somebody doubts he can have recourse to the Courts of Law, as was held, by a very eminent Judge of this country, Justice Hamood-ur-Rehman in Zia-ur-Rehman case that such matters are really for interpretation by the Courts and not by the Houses. Now these are all the relevant points that I could think of and, unless you totally disagree with this submission, my request to you would be that we proceed with the enactment of these laws as we have received them from the Assembly. At the end of it if anybody still has some lingering doubt he can question this whole affair in a Court of law, for which we have the authority and to which we have access. I am sorry, if I have taken all this long but I thought that I should place before you the points which we must address".

After the aforesaid observations of the Chairman Mr. M. Zahoor-ul- Haq explained that when the Martial Law came on the 5th of July 1977, the Regime retained the President

of this country who was then the late Ch. Fazal Elahi. The necessity of PO-13 in 1978 arose when he discontinued his office. So the trump-card of the Government was the PO-13, which Mr. Chairman had tackled correctly and which was of no significance. The entire period could be split up into three portions. 5th of July 1977 to the 24th of March, 1981. This was the period during which the President as CMLA plus President governed the country according to the Laws (Continuance in Force) Order. The source of the power was the Proclamation. He was the CMLA, the President was subordinate to him, then he supplemented the Laws (Continuance in Force) Order, 1977 by PCO in March, 1981 and that also for a very limited purpose. The limited purpose was that doubts had arisen with regard to the jurisdiction of the superior courts and whereas the laws (Continuance in Force) Order, 1977 was also made by the Chief Martial Law Administrator on the same day and doubts had arisen as to the effect of said Order as regards the jurisdiction of the superior Courts thereunder. So, after that, he continued again. The Chairman had explained the case absolutely correctly. But he would challenge these gentlemen (in the Government) if they could cite any law during this period where an Ordinance had been promulgated by the President without reference to the Laws (Continuance in Force) Order or without reference to the Provisional Constitutional Order until today, despite the fact that he became the President by PO-13, he had never exercised power as President under Article 89. He had always exercised power under the proclamation of July 1977 read with the laws (Continuance in Force) Order, read with the PCO 1981.

He agreed that the situation between the 10th and 23rd of March, 1985 had assumed importance. The same President, with super power as Chief Martial Law Administrator, or the same man on the 13th, 14th and the 17th March and, therefore, if he signed an Ordinance and he did say so within the terms of Article 89, it was a permanent statute. It was not liable to be placed on the Table of the House under sub-Article (2) of 89. And there was another example that between the 10th of March, 1985 and the 23rd March 1985, the President had amended the Constitution on the 19th of March. If he was President under the Constitution he could not have amended the Constitution, but your latest books would show that one amendment was brought about on the 19th of March. So, if a person was President and the Chief Martial Law Administrator and he could amend the Constitution between the 10th of March and the 23rd of March, how could he say that the Ordinances issued by him were subject to the requirements of Article 89 (2) even by way of abundant caution to which your honour had referred and to which the learned Attorney General had referred. That had disappeared, it is out of context with the Constitution and, he did not believe anybody could deny that the President had amended the Constitution on the 19th March. So, between the 10th of March and the 23rd of March, he was exercising Supra Constitutional powers and by using the Article 89 in the description or preamble part of it would not become a statute which should entertain any caution and should be brought to the National Assembly or the Provincial Assembly or to the Senate.

Interrupting the Member, the Chairman observed that he thought there was a slight

difference. Although he personally agreed with the Member, he had tried to explain earlier that the President continued to be the old President of the Martial Law vintage and when he amended the Constitution even as late as the 19th March, he was acting as an amalgam of President and CMLA in one person. That was in order. The factor of "abundant caution", however, entered the picture because while under the Laws (Continuance in Force) Order, this requirement of four months had been deliberately suspended - it has not been revoked even today - and at the same time Article 89 has been revived in its pristine form as it existed in 1973, somebody could have raised this same legal question which we were discussing, that there was a contradic¬tion involved in not bringing the Ordinance to the Houses of Parliament even upon full revival of Article 89 of the Constitution ? Mr. Zahoor-ul-Haq opined that the Revival Order had not (specifically) revoked the Laws (Continuance in Force) Order, The Chairman replied that while that was correct as already stated by him, the argument on the other side was that the Constitution should supersede the Laws (Continuance in Force) Order to that extent, as the same person making the Laws (Continuance in Force) Order had in the same capacity now revived the Constitution also.

Accepting the Chiarman's exposition and thanking him for it Mr. Zahoor-ul-Haq stated that he did not intend to press his Point of Order.

Senate Debate,
6th May, 9th & 10tth May, 1985.
P 43—46, 395-402, 472-y88.

231. *Point of Order: Non-representation of any Senator from Tribal areas in the Special Committee for the revival of political parties: motion to appoint the committee and its members was unanimously adopted by the House: ruled out.*

**Ruling**

On 8th July, 1985, rising on a Point of Order Malik Faridullah Khan drew attention to the fact that no member from the Federally AdMinistered Tribal Areas has been included in the Special Committee for the Revival of Political Parties as announced by the Minister for Justice on 7th July, 1985, with the result that thirty lakh people of the Tribal Areas have been deprived of their right to express their views on the vital issues before the Committee.

Ruling out the Point of Order, the Chairman, Mr. Ghulam Ishaq Khan, observed that while it could not be a Point of Order, the Justice Minister must have taken note of the Member's point of view. The motion to appoint the Committee and its membership was put to the House the other day; the House had unanimously adopted it. If this point had been raised at that time, it would have been considered as valid and appropriate. But at this stage, it could not constitute a Point of Order. At the same time, it would

be wrong to assume that the Government even at this stage would not take into consideration the views expressed by the Senators from the Tribal Areas.

Senate Debate,
8th July, 1985.
P 192—193.

232. *Point of Order: Non publishing of questions/answers in the news-papers as put of the Senate proceedings: newspapers are free to publish whatever suits them so long as they do not distort the facts: ruled out of order.*

**Ruling**

On 9th July, 1985, rising on a Point of Order Maulana Kausar Niazi drew attention of the Chairman to non-coverage by the media of the questions and answers orally made in the House during its sitting on 8th July, 1985, even though according to him the media otherwise give full coverage even to such trivial news as a bride having not gone to her in-laws because she would have missed a TV programme, "Andhera Ojala". He, therefore, requested that the newspapers should make provision for giving full coverage to the questions asked and their answers orally given in the House during the question hour in each sitting. Ruling out the Point of Order the Chairman, Mr. Ghulam Ishaq Khan, observed: —

"I share the sentiments of the Member, but this is hardly a Point of Order. Even if, it was so, it has been decided on a number of occasions that as far as the media are concerned they are free to publish whatever suits them so long as they do not distort the facts. When we talk of the freedom of press, the media must also be conceded the freedom to publish what they like. Only yester¬day, I gave an identical ruling".

Senate Debate,
9th July, 1985.
P 310.

233. *Point of Order: DIB Staff sitting in Visitors Galleries and taking notes of the speeches of Senators: Held that as long as people sitting in galleries do not interfere with duties of Senators or proceedings of the House, they have full liberty to take notes of whatever they wanted: Ruled out of order.*

**Ruling**

On 9th July, 1985, rising on a Point of Order Maulana Kausar Niazi drew attention of the Chairman to the staff of DIB taking notes of the speeches of the Senators while sitting in the visitor's galleries and requested the Chairman to give his ruling as to whether that act of DIB officials was not derogatory to the prestige of the House.

Ruling out the Point of Order the Chairman, Mr. Ghulam Ishaq Khan, observed that "as long as the people sitting in the galleries of the House did not interfere with the duties of the Senators, or the proceedings of the House they had full liberty to take notes of whatever point they wanted to". Maulana Kausar Niazi, however, remarked that DIB's people presence in the House during the proceeding of the House constituted an indirect threat to the Members that their utterances were being recorded. The Chairman ruled that the apprehension expressed by the Member was not well-founded. Senate debate is a public record, open to everyone.

Senate Debate,
9th July. 1985.
P 345-346.

234. *Point of Order: The Point of Order related to the question whether anything happening or occurring during the period between two sessions of the House becomes legitimate subject matter of adjournment motion provided that during that period a notice of the motion was given in the Secretariat or is filed on the opening day of session: The member referred to a ruling which stated "Matters arising during the period when the House is not in session should be raised on the first day the House meets": All matters which occurred during the period the House was not in session no matter how much time may have elapsed would fall within the purview of "recent occurrence": This view was said to find support from National Assembly's decisions reported at page 35 on adjournment motion No. 53 in the National Assembly Decisions from 1972 to 1975: The Chairman held that adjournment motion No. 53 was ruled out because the matter no longer remained urgent: The Chairman also ruled: "A matter which is fairly old and the responsible authorities had already taken required action could not be revived and made subject matter of an Adjournment Motion".*

**Ruling**

On 18th August, 1985, Prof. Khurshid Ahmed invited the attention of the Chairman to his submission made in the last session to the effect that if anything occurs between two sessions i.e. after the prorogation of one session and before the commencement

of the next session would be treated as urgent if it was raised at the first available opportunity. He reminded the Chairman that he was asked to bring references or rulings on the point. In this connection he referred to page 422 of the book "Practice and Procedure of Parliament by M.N. Kaul" which reads as follows: —

> "The matter is urgent only if it is of very recent occurrence and must be raised at the first available opportunity. Matters arising during the period when the House is not in Session should be raised on the first day the House meets. A matter which has been continuing for some time cannot be raised through an adjourn¬ment motion. The matter even of very recent occurrence is not urgent if an opportunity of discussion will arise in the ordinary course of business within a reasonably short time."

The Member also contended that the above view finds support from the National Assembly ruling reported in the Decision of the Chair 1972-75 page 35, on adjournment motion No. 53. Interrupting the Member the Chairman, Mr. Ghulam Ishaq Khan, observed that the motion was ruled out because the matter (of increase in oil prices) remained no longer an urgent matter. The Member, however, explained the rationale of the ruling stating that the motion was not ruled out merely on the basis that the incident occurred before and its notice was given on the first day [of the session] but because the matter remained no longer urgent. The member submitted that he wanted to bring these authorities to the notice of the Chairman. The Chairman, however, recalled that the other day he had expressed the view that a matter on which an action had already been taken no longer remained urgent. The Chairman stated that matters were being raised on the basis that they arose between two sessions, and that they would be treated as urgent if they were raised at the earliest opportunity [after the commencement of the session]. The Chairman observed that it did not cover matters which were fairly old i.e. which happened one year before or even earlier. He remembered that a matter regarding a Middle School was sought to be raised. The matter actually occurred in 1983 or 1984 and the responsible authorities had already taken the required action. Such matters could not be revived and made the subject matter of an adjournment.

Senate Debate,
18th August, 1985.
P 19-20.

235. *Point of Order: Clarification sought whether there was any contradiction between the expression "The first available opportunity" and the limitation of "half an hour" allotted every day to adjournment motions: Chairman ruled that adjournment motions required a notice and once a notice was even if the motion was not taken up on the same day it did not lapse simply because it had not been taken up at the right time of "First available opportunity".*

**Ruling**

Rising on a Point of Order Mr. Javed Jabbar sought clarification whether there was any contradiction between "the first available opportunity" and the limitation of "half an hour" allotted every day to adjournment motions. As a result, many pressing matters could not be tabled. The Chairman, Mr. Ghulam Ishaq Khan, ruled that, "adjournment motions require a notice. Un-like Privilege Motions, once a notice is given, even if the Motion is not taken up on the same day it does not lapse simply because it has not been taken up at the right time of first available opportunity".

Senate Debate,
18th August, 1985.
P 21.

236. *Point of Order: Non-inclusion of the Shariat BID in the Orders of the Day before the House: ruled out: the matter related to Private Members Bill, could be raised on a Private Members' Day.*

**Ruling**

On 23rd October, 1985, rising on apPoint of Order, Maulana Samiul Haq drew attention of the Chair to the fact that the Shariat Bill presented in the last session had not been included in the Orders of the Day before the House.

Mr. Iqbal Ahmed Khan, Minister for Justice and Parliamentary Affairs, pointed out that the Bill in question, was presented on a Private Members' Day and under the rules it would come up for consideration on a Private Members' Day. As the day in question, was not a Private Members' Day, therefore, only the Government Business found place in the Orders of the Day.

Mian Mohammad Yasin Khan Wattoo, Minister for Education stated that the point raised by the honourable member was not relevant as it did not relate to the business before the House at the moment. Under rule 209(2) of the Rules of Procedure and Conduct of Business in the Senate, 1973, a Point of Order raised on a given day, could be raised only about the business before the House on that day. The honourable member would have the right to raise his Point of Order on the Private Members' Day only.

Ruling out the Point of Order, the Deputy Chairman observed that the business in the House was governed by its rules of procedure. As the Point of Order is not related to the business included in the Orders of the Day before the House, therefore, it was not

in order. The honourable member could raise this Point of Order on a Private Members' Day when the Private Members Bill could come up for consideration of the House.

Senate Debate,
23rd October, 1985.
P 14-17.

237. *Point of Order: Bills on the Orders of the Day on a Private Members' Day if not introduced on that day due to the absence of the member concerned would be taken up on the next Private Members' Day if they succeed in the ballot: however, a question or a resolution could be taken up on behalf of the member concerned by another member in the former's absence.*

**Ruling**

On 10th November, 1985, rising on a Point of Order Mr. Iqbal Ahmed Khan, Minister for Justice and Parliamentary Affairs, sought ruling from the

Chair whether Private Members Bills included in the Orders of the Day on a Private Members' Day, if not presented on that particular day due to the absence of the member concerned could be taken up on a subsequent Private Members Day.

The Chairman, Mr. Ghulam Ishaq Khan, observed that in the case of a Question or a Resolution if the member concerned was not present, these could be taken up, under the rules, on his behalf by another member but no such provision existed in respect of Bills and Privilege Motions. Hence in such a situation the Bills would remain on record and they would be taken up on the next Private Members Day, if they succeed in the ballot for the next Private Members Day.

Senate Debate,
10th November, 1985.
P 768—770.

238. *Point of Order: Entry of a Non-member/stranger in the Senate hall not allowed: upheld.*

**Ruling**

On 14th November, 1985, rising on a Point of Order Senator Maulana Kausar Niazi drew attention of the Chair to the fact that a 'bureaucrat' entered the premises of the Senate Hall, whispered in the ears of Minister Zafarullah Khan Jamali who after listening

to the whispers left the Hall alongwith that person. He pointed out that under the rules, no stranger could enter the premises of the Senate Hall when the Senate was in Session.

The Chairman, Mr. Ghulam Ishaq Khan, ruled that the Point of Order was valid and, in future, this should not happen.

Senate Debate,
14th November, 1985.
P 933-934.

239. *Point of Order: If Friday is a holiday, next working day should be Private Members' Day: the provision in the rules could apply only if Friday happens to be a holiday during the course of a continuous session of the Senate: but if a session is adjourned to a particular day and Friday intervenes during the recess period then the day the session is resumed after recess, could not under proviso to Rule 22 be treated as Privat Members Day on the assumption that the day would be the day next after Friday.*

**Ruling**

On 8th December, 1985, rising on a Point of Order, Senator Ahmed Mian Soomro drew attention of the Chair to Rule 22 of the Rules of Procedure and Conduct of Business in the Senate, 1973 which says:

"22. On Fridays private members' business shall have prece¬dence, and on all other days no business other than Government shall be transacted except with the consent of the Leader of the House.

Provided that if any Friday is a holiday, private members' business shall have precedence on the next working day".

He contended that since last Friday was a holiday and the day in question i.e. 8th December, 1985, happened to be the next working day, therefore, on this day government business should not be taken up and it should be a Private Members' Day.

Opposing the Point of Order, Mr. Iqbal Ahmed Khan, Minister for Justice and Parliamentary Affairs, contended that at the time the rules were framed Friday used to be a working day and Sunday as the weekly holiday. Hence, a provision was made that if during the course of a continuous session Friday happened to be a holiday then the next working day would be utilized as Private Members' Day. In the present situation, however, since the Senate was not in continuous session and the sitting was specifically adjourned to 8th December, 1985, therefore, the Friday, next following 8th

December, would be a Private Members' Day. And if Friday and Saturday both were holidays, then the following 'Sunday' could be treated as the next working day for the purpose of Private Members' Day. The proviso to rule 22 could have application only if Friday was a holiday during the course of a continuous session.

Accepting the arguments advanced by Mr. Iqbal Ahmed Khan, the Deputy Chairman, Makhdoom Muhammad Sajjad Hussain Qureshi, ruled out the Point of Order.

Senate Debate,
8th December, 1985.
P 974—976.

240. *Amendments: Amendments to remove clerical errors to be left to the secretary for correction:*

**Ruling**

On 10th September, 1973, a Senator proposed an amendment to Clause 3 of the Federal Public Service Commission Bill, 1973 to rectify a clerical omission.

The Minister Without Portfolio submitted that under the normal rules the general principle was that all the clerical amendments were carried out by the Secretary. Welcoming the amendment, he requested the Chairman to order that a note might be recorded so that the Secretariat could incorporate the amendment during the third reading.

The Chairman accepted the Minister's suggestion and directed that it should be left to the Senate Secretariat to make necessary clerical corrections.

Senate Debates,
10th September, 1973,
P 29-30.

241. *Amendments: An amendment may be allowed by Chairman to be moved with out notice:*

**Ruling**

On 13th September, 1973, when the Service Tribunals Bill, 1973, was under consideration, some Senators wanted to refer it to the Standing Committee concerned. The Minister concerned had no objection to Bill being referred to the Standing Committee. The question whether oral amendment without notice could be moved was raised. The Chairman read out rule 189— "Notice of an amendment to a motion shall be given one day before the day on which the motion is to be considered, unless the Chairman allows the amendment to be a moved without such notice"—to the House and allowed the amendment that the Bill be referred to the Standing Committee concerned to be moved without notice by a member.

Senate Debates,
13th December, 1973,
P63-64.

242. *Amendment: Bill originating in the National Assembly and transmitted to the Senate: motion to elicit opinion may be moved under 106 read with Rules 83*

**Ruling**

On 11th December, 1973, the Minister for Works, Labour arid Local Bodies, moved for the consideration of the Displaced Persons Compensation and Rehabilitation (Amendment) Bill, 1973 as reported by the Standing Committee, a Senator moved an amendment that the Bill be circulated for eliciting public opinion by 1st January, 1974. Another Senator objected to the amendment on the ground that unlike the rules relating to the Bills originating is the Senate, the rules pertaining to the Bills originating in the National Assembly and transmitted to the Senate have no provision for a motion for circulation of such Bills for the purpose of eliciting public opinion. He cited rules 102, 103, 104, and 105 in support of his contention which was supported by the Minister.

Mr. Deputy Chairman ruled that the amendment was in order under rule 106 read with rules 83, 84 and 86. Under rule 106, the rules regarding Bills originating in the Senate and referred to Standing Committee became applicable to Bills received from the National Assembly on reference of such Bills to the Standing Committee and rule 83 read with rules 84 and 86 permit an amendment for circulation of Bill for eliciting public opinion.

Senate Debates,
11th December, 1973,
P190-195.

243. *Amendment: Minister's objection under Rule 89 (L)-over ruled.*

**Ruling**

On 19th January, 1974 the Minister for the Interior who was piloting the Prevention of Anti-National Activities Bill, 1973 in the Senate, raising on a Point of Order objected under Rule 89(1) to three amendments to Clauses 9,15 and 19, which were to be moved by Senator Khawaja Mohammad Safdar. The Minister maintained that the amendments were contrary to Rule 89(1). Mr. Deputy Chairman said that the Chairman had the discretion to allow the amendments to be moved. The Minister stated that was not a case where that power might be exercised, because the Bill was introduced during the last session and there was ample time for honourable members to move amendments.

Mr. Deputy Chairman ruled:

> "With all respect to your opinion in regard to rule 89 I will allow the member to move the amendments".

Senate Debates,
19th January, 1974,
P 166.

244. *Amendment: Minor amendments need not be moved: can be corrected in the third reading by the Secretariat.*

**Ruling**

On 12th February, 1974, Mr. Deputy Chairman ruled that a minor amendment to remove typographical mistake should not be formally moved as it could be corrected in the third reading by the Secretariat.

An amendment to delete the word 'of occurring in the second line of sub-Clause (1) of Clause 28 of the Marketing of Petroleum Products (Federal Control) Bill, 1974, was moved by Senator Shahzad Gul. The Senator read out the text of the Clause which ran thus:

> "No court shall call in question or permit to be called in question, any provision of this Act or of any order made or anything done or may action taken thereunder."

He maintained that the word 'of between the words 'or' and 'any' was totally redundant and should be deleted.

The Minister who was piloting the Bill agreed to omit the word 'of.

Mr. Deputy Chairman ruled as follows:

> "But do not move it formally because this is not such a major amendment. It is a minor amendment and can be corrected in the third reading and the Secretariat will correct it. So, in view of the submissions by the Minister Incharge, I direct that the Secretariat may look into this and may correct the typographical mistake of 'of' occurring in the second line, in sub-Clause (1) of Clause (28)".

Senate Debates,
12th February, 1974,
P 498—499

245. *Amendment: To a Clause: scope of discussion: political thinking cannot be connected:*

**Ruling**

On 28th March, 1974 in the course of the second reading of the Centers of Excellence Bill, 1974, a member while speaking on his amendment to substitute sub-Clause (3)

of Clause (5) by a new sub-Clause, criticized the laws enacted by the Government for the welfare of the labour class as being not beneficial to that class. The Law Minister raised a Point of Order that it was an amendment to a douse and the scope of discussion on the amendment is much narrower than on the general principles of the Bill. The Deputy Chairman directed the member to speak on the amendment and observed that the member could not connect other political thinking with it.

Senate Debates,
28th March, 1974,
P 28.

246. *Amendments: Constitution (amendment) Bill: second reading: amendment of Clause having effect of amending the original Article of the Constitution: ruled out.*

**Ruling**

On 25th April, 1974 during the second reading of the Constitution (First Amendment) Bill. 1974, Senator Khawaja Mohammad Safdar sought to move an amendment to substitute Clause (3) of the Bill by the following:

> "3. Amendment of Article 8 of the Constitution. —In the Constitution, in Article 8, in Clause 3, paragraph (b) be deleted."

The Minister for Law took objection to the amendment on the ground that it was outside the scope of the Bill because it sought to delete the existing Clause 3, as passed by the National Assembly, and substitute it by a new Clause.

The Minister for Production opposing the amendment said that as the proposed amendment amounted to an amendment* of the Constitution, it could originate in the National Assembly only and not in the Senate. Supporting this view, the Law Minister stated that this amendment actually sought to amend Article 8 of the Constitution. It could not, therefore originate in the Senate. Also, he contended that as the member wanted to substitute the existing Clause 3 by a new Clause, he could not do so without suspension of Rule 90 (1). He added that the proposed amendment had the effect of a negative vote and was as such also hit by rule 188 (2) and (3) of the Rules of Procedure.

The Minister for Production further stated that the object of the amending Bill was the addition of the words "or as amended by any of the laws specified in that schedule," to paragraph (b) of Clause (3) of Article 8, of the Constitution. The amendment should, therefore, be relevant to this only. Put, conversely, the amendment proposed total deletion of paragraph (b) of Clause (3) of Article 8, without any substitution, addition

or subtraction. So this was not the subject matter here and the amendment could not be admissible here.

The member replying to the objection said that if the arguments of the Minister for Law and the Minister for Production were accepted as valid, then all the amendments including those proposing the substitution of sixty days by ninety days would be deemed to be an amendment to the Constitution and would on that ground not be allowed to be moved in the Senate.

The Chairman observed that Clause (3) of the Bill sought addition of the words or as amended by any of the laws specified in that schedule," to paragraph (3) Clause (b) of Article 8 of the Constitution. But the amendment proposed by the member sought to delete the Clause and insert a new Clause is its place. He added that this amendment would ultimately have the effect of amending not only the Constitution but would also do away completely with the Schedule. He therefore, held that the amendment was not only against the rules but also ultra vires of the Constitution.

Senate Debates,
25th April, 1974,
P 746—755.

247. *Bills: The Chair revised his order dispensing with the requirement of two days' notice under Rule 104.*

**Ruling**

On 1st December, 1973, when motion for consideration of the Displaced Persons (Compensation and Rehabilitation) (Amendment) Bill, 1973, was made a member raised a Point of Order that as the requirement of rule 104 of the Rules of Procedure and Conduct of Business in the Senate, 1973 had not been complied with, the Bill could not be taken up for consideration. He said that the Bill was passed by the National Assembly the day before and even if it is assumed that the Minister had given notice of consideration of the Bill the same day, two days had not intervened between the day of the notice and the day of consideration of the Bill.

The Chairman informed the House that as in his opinion the Bill was not controversial in nature, he had under the power vested in him by rule 104, directed that the motion for consideration of the Bill be taken up without waiting for the lapse of two days from the date the Minister gave notice of the motion.

Several members said that they should be given sufficient time to study the Bill. The Chairman asked the Minister whether he agreed to the consideration of the Bill being postponed and two days being given to the members as required by rule 104. The Minister agreed.

The Chairman, in deference to the wishes of the House directed that two days be allowed to the members to study the Bill and deferred consideration of the Bill.

Senate Debates,
1st December, 1973,
P 28-33.

248. *Bills: Speeches must be confined to points within the scope of the bill:*

**Ruling**

On 13th December, 1973, a Senator while speaking on the Employees (Cost of Living Relief) Bill, 1973, criticizes the political policies and conditions in the country such as law and order, political atmosphere, confrontation and the rule of Law. Senator Sardar Mohammed Alsam rising on Point of Order asked whether the member was discussing the political situation in the country or the Bill.

The Deputy Chairman referred the speaker to rule 197 of the Rules of Procedure and

warned him not to be irrelevant or indulge in repetition.

The Senator persisted that the point he as making had not been brought to the notice of this House. The Chairman upheld the Point of Order and said that that was not within the Scope of this Bill.

Senate Debates,
13th December, 1973
P 259.

249. *Bills: Bill brought on the orders of the day: held that Chairman had suspended two days' condition under Rule 104.*

**Ruling**

On 13th December, 1973, when Mr. Ghulam Mustafa Khan Jatoi Minister for Political Affairs and Communications moved the Post Office (Amendment) Bill, 1973 for consideration: Senator Khawaja Mohammad Safdar raised a Point of Order that two clear days had not yet intervened between the day of supply of copies of the Bill to the members and the day on which consideration motion was being moved, and therefore, the Bill should be postponed. He complained that the Bill was received by him at 11 O'clock at night, he and his colleagues had not had the time to study it. He requested that the tradition of hasty legislation should not be set up when there was no cause to hurry uP Under rule 83 (2) even half a day had not passed since the receipt of the Bill, he added. He, therefore, strongly objected to its being taken up that day.

The Deputy Chairman ruled as follows:

> "The Bill has been set down in the Orders of the Day. Rule 104 says that it shall, unless the Chairman otherwise directs-and the Chairman has made a direction-be not less than two days from the receipt of the notice, the Minister, or as the case be, the member giving notice may move that the Bill be taken into consideration. The Chairman has already suspended the operation of rule 104 and it has been put in the Orders of the Day".

Senate Debates,
13th December, 1973,
P 273—274.

250. *Bill: Minister's notice before circulation of bill: held valid.*

**Ruling**

On 16th January, 1974, the Chair ruled that notice under rule 103 of intention to

move a Bill was necessary, but it was not mandatory to give a second notice after the circulation of the Bill on receipt from the National Assembly. The facts are that when the Minister incharge of the Bill moved that the Prevention of Anti-¬National Activities Bill, 1973, as passed by the National Assembly, be taken into consideration, Senator Khawaja Mohammad Safdar raised a Point of Order that the Bill could not be taken into consideration as rules 102,103, and 104 of the Rules of Procedure in the Senate had not been complied with. He had received the Bill only last night, while the notice under rule 103 of intention to move the Bill for consideration had been given earlier. Under rule 103 the said notice should have been given by the Minister after the circulation of the Bill and not before. The Minister concerned replied that the Bill had already been circulated and he could now be allowed to give a fresh verbal notice that the Bill be taken into consideration.

Mr. Deputy Chairman ruled:

> "In this case the notice, was given by the Minister on, the day when the Bill was passed by the National Assembly on 26th, the notice was therefore, taken into account, and the Bill was fixed in the Orders of the Day. It is valid notice, and the objection is over ruled".

*Senate Debates,*
*16th January, 1973,*
*P 15—20*

251. *Bill: Third reading: expression 'third reading" missing in Rule 89: "held it" implies third reading:*

**Ruling**

On 21st January, 1974, when the Prevention of Anti-National Activities Bill, 1973 entered the third reading stage and Senator Shahzad Gul began a detailed analysis of the Bill the Minister concerned raised a Point of Order saying that the Senator, taking advantage of the fact that there was no rule about the third reading of the Bill in the Rules of Procedure and Conduct of Business in the Senate, was going into details and was commenting upon the amendments which had been moved and discussed threadbare during the second reading. He said there was an omission in rule 98.

Mr. Deputy Chairman read out rule 98 which was to the effect that when a motion was made that the Bill be passed, speeches of a general character could be made. Although the expression third reading' was not used in the rule, it gave the same meaning.

Senate Debates,
21st January, 1974,
P 186-187.

252. *Bill: Third reading: scope defined:*

i. Debate on general principles:

ii. Allowed-repetition of arguments, ad¬vanced in first and second readings.

iii. Not allowed-discussion on amend¬ments:

iv. Not allowed-reference to Section un¬less essential not allowed:

**Ruling**

On 21st January, 1974, in the third reading of the prevention of Anti-National Activities Bill, 1973, a Senator began to discuss the amendments and Clauses of the Bill in detail. The Minister concerned raising on a Point of Order objected by saying, "Advantage is being taken of the fact that probably there is no rule about the third reading of the Bills in the Rules of Procedure for the Senate". He pointed out that rule 98 suffered from the omission of the expression "third reading," yet the meaning was quite clear. He complained that the Senator was going into all the amendments, which was not in consonance with rule 98. He requested the Senator through the Chair "to confine himself to the main points."

Mr. Deputy Chairman held that he would not allow repetition of arguments advanced by other Senators during the first and second readings. He would also not allow going into the amendments already discussed during the second reading nor would he allow referring to Sections unless it becomes very necessary. Mr.. Deputy Chairman further ruled that discussion on general principles would, however, be allowed within the scope indicated.

Senate Debates,
21st January, 1974,
P186-187.

253. *Bill: Repetition of earlier arguments in third reading: ruled out:*

**Ruling**

On 21st January, 1974, Mr. Abdul Qaiyum Khan, Minister for Interior, States and Frontier Regions and Kashmir Affairs moved the motion for third reading and passage of the Prevention of Anti-¬National Activities Bill, 1973. Senator Khawaja Mohammad Safdar raising on a Point of Order drew the attention of the Chair to the question as to what should be the nature of discussion during the third reading and for that

purpose wanted to produce some authorities before the House. The Minister objecting to the Point of Order stated that authorities would only be relevant if there was any ambiguity in the rules.

Mr. Deputy Chairman read out rule 98 which required that discussion on motion for passage should be of general character confined to arguments in support or rejection of the Bill without unnecessary debate in details. He asked the Senator to speak within the scope of that rule according to which discussion should be restricted to general principles. The Senator quoted a passage from book "Parliament" by Jenning that repetition was allowed in third reading.

On third reading only verbal amendments may be moved and the third reading is in substance a repetition of the second reading.

Mr. Deputy Chairman observed that it meant repetition of the Bill and not the repetition of the arguments. The Senator insisted that it meant repetition of arguments. Mr. Deputy Chairman ruled that discussion could be made on the modified nature assumed by the Bill after incorporation of the amendments and quoted the following ruling:

> "Speaking during the third reading of the Bombay Papers, Bill, a member proceeded to go into great detail when the President intervened and ruled that the honourable member has to speak on the motion that the Bill be passed. All these details have been fully thrashed out during the discussion which took place at earlier stages. The honourable member must now confine himself to supporting or opposing the Bill."

Mr. Deputy Chairman ruled that it was clearly provided in the rule that only the general principles could be discussed without repetition.

Senate Debates,
21st January, 1974,
P183-184

254. *Bills: Discussion:*

i. First reading: to be confined to main principles:

ii. Second reading: to extend to details when amendments are moved:

**Ruling**

On 12th February, 1974, Mr. Chairman gave a ruling when Senator Shahzad Gul

declared his intention to oppose the motion for consideration of the Marketing of Petroleum Products (Federal Control) Bill, 1974, moved by Mr. Hayat Mohammad Khan Sherpao, the Minister for Fuel, Power and Natural Resources.

Addressing the Minister, Mr. Chairman observed:

> "Your motion that it should be taken into consideration at-once is opposed by Mr. Shahzad Gul. You can now say anything in support of your stand. You need not go into the details of the Bill at this stage. You may only explain the main principles of the Bill. That is all. Details will be discussed when the amendments are moved, that is in Clause by Clause discussion."

Senate Debates,
12th February, 1974,
P 468-469.

255. *Bills: First reading: Clauses may be referred to in support of points on principles:*

On 28th March, 1974, in the course of first reading of the Centers of Excellence Bill, 1974, a member while discussing the broad principles underlying the Bill criticized it with reference to a particular Clause. The Minister for Law and Parliamentary Affairs, raising on a Point of Order said that the Senator could not go into details or refer to the Clauses of the Bill the Chairman observed that while discussing Principles of the Bill, the Senator could refer a certain Clause of the Bill in order to support his point on principle.

Senate Debates,
28th March, 1974,
P 16.

256. *Bills: Motion for deletion cannot be moved as an amendment:*

**Ruling**

On 28th March, 1974, when an amendment given notice of by a member proposing deletion of Clause 6 of the Centers of Excellence Bill, 1974 was called by the Deputy Chairman, the Law Minister raising on a Point of Order stated that a request for deletion could not be moved as an amendment. It was meant to enable a member to speak on the Clause. The Law Minister added that "deletion", meant no amendment, if a member wanted deletion, it meant he was opposing the Clause.

The Deputy Chairman quoted rule 188 (3) which says "An amendment shall not be

moved which has merely the effect of a negative vote" and observed that the member could exercise this vote when the question is put before the House, but deletion could not be sought by a motion for amendment.

Senate Debates,
28th March, 1974,
P 31-32

257. *Bills: Third reading: Senator comments upon Clauses: ruled that arguments should be of general character:*

**Ruling**

On 2nd April, 1974, Senator Khawaja Mohammad Safdar while speaking in the third reading of the Criminal Procedure (Amendment) Bill, 1974, raised a question regarding certain Clauses.

The Minister for Law, Parliamentary Affairs, Education and Provincial Coordination, objected through a Point of Order that all those matters had gone into a great detail in the first reading. He drew the attention of the Chair to rule 98 wherein the scope of debate in the third reading was defined. The Law Minister maintained that the matters to which the Senator was referring were specific. They had already been debated and each amendment had been moved. He stressed that the Senator was just raising "another debate during the third reading which cannot be allowed and needs your ruling".

Mr. Chairman observed:

> "You confine your remarks, your speech only to the general principles and within the scope of the Bill. And if you go into the details, and particularly if you repeat the arguments which you had advanced yesterday, that would not strengthen your case. That will be just a waste of our precious time. And secondly you should please confine your remarks to the general principles of the Bill".

The Senator quoted Jarrings from his book 'Parliament' that the 'third reading is the repetition of the second reading' and began to repeat his arguments.

Mr. Chairman asked him not to repeat and to confine his discussion to the general principles. He observed:

> "If you again during the course of third reading rack up those complaints or

objections, technical or otherwise, you see, then you will be reverting to the debate again in the first reading."

Senate Debates,
2nd April, 1974,
P165-166.

258. *Bills: First reading: principles of the bill and not individual cases to be discussed:*

**Ruling**

On 10th April, 1974, a member while supporting the Land Reforms (Amendment) Bill, 1974, in the first reading cited particular cases to prove how injustice was done to the people of Swat under the Regulation which was being amended.

The Chairman remarked that the member was discussing, individual cases. To say that a certain person was a rightful owner of land and the other was not was not relevant to the Bill. He advised the member to discuss the principles of the Bill.

The Minister for Health and social Welfare stated that the member was citing a few instances. He was justified in discussing the principles of the Bill.

The Chairman observed that if he was allowed to go beyond the principles of the Bill, then someone else might get up and set another example. This would be beyond the scope of the present bill.

Senate Debates,
10th April, 1974,
P 328—329.

259. *Bills: Point of Order: amendment affecting laws in the Sixth Schedule of the Constitution without previous sanction of the President: sanction of the President may be obtained any time before the bill is enacted: over ruled:*

**Ruling**

On 11th April, 1974, when Mr. Rao Abdus Satter, Leader of the House moved an amendment to Clause (3) of the Land Reforms (Amendment) Bill, 1974, Khawaja Mohammad Safdar raised a Point of Order that the said amendment could not be moved without previous sanction of the President as required by Clause (2) of Article 268 of the constitution. He argued that the Chair was pleased to rule on his earlier Point of Order the other day that the consent of the President could be obtained at any time

before the Bill was passed. Quoting a few rulings from other Parliaments the member contended that the amendment in question amounted to amending a law specified in the sixth schedule and required the previous consent of the President before it could be considered by the House.

The Minister for Health and Social Welfare opposing the Point of Order stated that the Chair had already ruled that the sanction of the President was required only before any of the laws specified in the sixth schedule was passed which did not mean that such an amendment or Bill could not be discussed on the floor of the House without the previous sanction of the President. The Minister added that when the amending Bill did not require previous sanction of the President in the manner as was required for the introduction of a money bill under Article 74, an amendment like the present one also did not require the previous sanction of the President.

The Chairman observed that his earlier ruling was not quoted by the member correctly. What he has stated in his ruling yesterday was that there were certain laws with regard to which no motion could be moved in the House without previous sanction of the President. But there were other laws with regard to which there was no constitutional requirement for obtaining the previous sanction of the President. The constitutional requirement in the case of such laws was that these could not be altered, repealed or amended without the previous sanction of the President. But this did not mean that motions with regard to such Bills could not be discussed on the floor of the House. He added that anything objectionable unconstitutional or illegal could also be cured under Article 75 of the constitution.

The Chairman finally ruled that although it would have been advisable for the mover of this amendment to obtain the previous sanction of the President to the Bill, he did not think that discussion thereon could be stopped. The consent of the President could be secured at any time before the Bill was actually enacted.

Senate Debates,
11th April, 1974,
P 359—370.

260. *Bill: In a bill in English national or regional language word not to be inserted unless necessary:*

**Ruling**

On the 22nd April, 1974, during the second reading of the People's Open University

Bill, 1974, a Senator moved an amendment to sub-Clause (1) of Clause (3) to substitute the word 'Award' for the word 'People's.'

The Minister Incharge opposed the amendment and stated that the word 'People's' was quite suitable and fair enough.

The mover remarked that according to him the word, People's' smacked of partisanship and that it would be desirable to take this political connotation and political tinge out of it. He further stated that the word 'Awami' would be more appealing and attractive for the common man of Pakistan.

Thereupon Mr. Chairman observed:

> "To me there does not seem to be any specific differ¬ence between these two words— 'People's' in English and 'Award' in Urdu. 'Awami' means 'People's'. But you cannot, unless it is necessary, insert Urdu, Punjabi, Pushto, Sindhi in a Bill which is in English."

Senate Debates,
22nd April, 1974,
P 656-657

261. *Government Bill: Consideration motion can be moved by any Minister:*

On the 22nd April, 1974, when at the first reading stage, the People's Open University Bill, 1974, was under consideration Senator Mohammad Hashim Ghilzai Leader of the Opposition, objected to the way the Bill was brought in the House which, he alleged, was not according to the rules. He referred to rule 103 of the Rules of Procedure whereby the motion for consideration in case of a Government Bill should be moved by a Minister. He stated that in this case as the motion was moved by the Leader of the House, it could not be discussed.

The Leader of the House replied that the Bill had been originated and moved by the concerned Minister and could, therefore, be discussed in the House. Everyone had a right to speak on its aims and objects and there was no restriction on discussion, he added.

Over ruling the objection Mr. Chairman observed:

> "The rule lays down that any Minister in case of a Government Bill may give notice of his intention to move that the Bill be taken into consideration.

That has been done. A notice of his intention to move was given by the Minister Mr. Abdul Qaiyum Khan and the motion for consideration was also made by him. You cannot prevent the members from speaking on it. The motion was never moved by the Leader of the House. He only made a speech. Mr. Ghilzai, you will recall that I told the Leader of the House that motion for consideration need not be moved because it had already been moved by Mr. Abdul Qaiyum Khan. He wanted to make a speech and he made a speech. You cannot prevent him from doing that. You cannot prevent him from making a speech".

Senate Debates,
22nd April, 1974,
P 646-647.

262. *Decorum: A Member must speak from his own seat:*

**Ruling**

On 7th September, 1973, when the Federal Public Service Commission Bill, 1973, was being explained by the Minister Without Portfolio, Senator Qamaruz Zaman Shah rose on a Point of Order from a seat other than his own. The Deputy Chairman asked the member to speak from his own seat.

Senate Debates,
7th September, 1973
P22.

263. *Decorum: No members can keep on reading Newspaper, speak while sitting and without permission:*

**Ruling**

On 11th December, 1973, while the admissibility of the adjournment motion moved by Senator Khawaia Mohammad Safdar regarding the smuggling of Banaspati was being considered, the member began to read out the newspaper. The Minister Without Portfolio raised a Point of Order to the effect that no member could keep on reading what he had already said. The mover maintained that it was the Government newspaper which gave the news.

The Minister for Law and Parliamentary Affairs, criticised the violation of dignity and decorum of the House by the Mover, who kept on muttering to himself while he was sitting down. Emphatically protesting against interference and non-observance of rules by the mover, the Law Minister declared

> "If we have to participate in the discussion in the House which is our constitutional right, we shall not allow the House to see butchering of all these rules. Mr. Chairman, kindly see that honourable Member from the Opposition observes the rules and stops interference by speaking while sitting. Continuing the Law Minister pointed out that nobody was permitted to speak in the House while sitting and without leave."

The Chairman observed:

> "I have already told him."

Senate Debates,
11th December, 1973,
P 186-187.

264. *Decorum: Ruling of the Chair must be respected:*

**Ruling**

On 13th December, 1973, Senator Khawaja Mohammad Safdar sought leave of the House to move an adjournment motion to discuss the Baluchistan situation.

The Minister without portfolio stated that he opposed the motion but had no objection against its admissibility.

This statement of the Minister led to arguments on the procedure to be followed in case the admissibility of the motion was not opposed.

Mr. Chairman ruled in such a case that the motion must be held to be in order. He was therefore going to put the motion according to rule 73. When the Minister insisted that the mover should make a short statement, so that he could oppose the motion, the Deputy Chairman raised a Point of Order that the mover should be given a chance to make a short statement, before the House or Chair could make up its mind whether the motion was in order or not.

When Mr. Chairman had decided to ask for the leave of the House, Senator Niamatullah Khan stood up to say that under rule 71 (b) he wanted to oppose the motion on the ground that it was not a matter of urgent public importance, and suggested that the Leader of Opposition be allowed to speak on that point so that the Minister could reply. To this a Senator objected by saying:

> "We must respect the ruling of the Chair and I strongly object to this".

The Chairman then ruled:

> "I have already given may ruling that in view of no ob¬jection from the other side, the leave of the Hose be obtained".

Senate Debates,
13th December, 1973,
P243.

265. *Decorum: Member cannot read a written statement:*

**Ruling**

On 13th December, 1973, when consideration of the Employees (Cost of Living) Relief Bill, 1973 was in progress, Senator Haji Sayed Hussain Shah was given the floor. He

began to read from a written statement. Senator Ch. Mohammad Aslam raised a Point of Order that the honourable member was reading a statement.

The Chairman observed:

> "Under the rules, he cannot read a written statement. He is just referring to his written notes."

Subsequently Senator Tahir Mohammad Khan, the Deputy Chairman rising on a Point of Order, repeated Ch. Mohammad Aslam's objection.

The Chairman directed the Senator not to read but to take help from his written statement.

Senate Debates,
13th December, 1973,
P 253.

266. *Motion: Rule 59 does not prevent sending of notices of any number of motions but bars the raising of more than one question by the same member at the same sitting*:

**Ruling**

On 1st December, 1973, a Senator raised a question involving breach of privilege arising out of his arrest and detention for three hours and release without intimation to Chairman as required under rule 64 and 65 of the Rules of Procedure and Conduct of Business in the Senate, 1973.

The Minister for Law and Parliamentary Affairs raised a legal objection claiming that the motion was hit by rule 59 (1).

The Minister maintained that the mover of the Privilege Motion had tabled another Privilege Motion as well.

He suggested that the Senator should, in the first instance, withdraw both the motions and give one Privilege Motion at one sitting.

Mr. Chairman observed that the rule did not prevent the sending of more than one notice, but prevents the raising of more than one question of privilege.

The Law Minister stated that the mover had already, raised the question to which Mr. Chairman replied that he had raised only one question. The rule required that not more than one question should be raised and the mover had done the same.

On the Law Minister's proposal that the mover should give a commitment that he would not move the other motion.

Mr. Chairman ruled:

> "He can raise discussion on one Privilege Motion and if he tries to raise discussion on the second and the third, this will not be allowed".

Senate Debates,
1st December, 1973.
P8.

267. *Motion: Interpretation of rules: difference between Rules 59 and Rule 71:*

**Ruling**

On 12th December, 1973, the admissibility of Privilege Motion regarding the maltreatment of a Senator as 'B' Class prisoner in Quetta jail was being discussed. In support the mover cited decision No. 16 from the decision of the Chair, Legislative Assembly Central 1921—40, giving the definition of the term 'recent' which was interpreted to imply that as soon as a matter was brought to the notice of a member and he wished discussion thereon, he should have the first available opportunity to bring it before the House.

Mr. Chairman observed:

> "This ruling was given about an adjournment motion and not a Privilege Motion. You have to satisfy the House that the word 'recent' may mean one thing for an ad-journment motion and another for a Privilege Motion. As pointed out earlier, rule 59 deals with Privilege Motion and the conditions are, not more than one questions shall be raised by the same member at the same sitting, the question shall relate to a specific matter and shall be raised at the earliest opportunity, the matter shall be such as requires the intervention of the Senate and lastly, the question shall not reflect on the personal conduct of the President. Now, you must have noticed that there is no word 'recent'. The word 'recent' is nowhere used in rule 59 because it is one of the requirement of this rule that the matter shall be raised at the earliest opportunity. Rule 71, which deals with the adjournment motion, requires in sub-Clause (c) that it shall be restricted to a matter of recent occurrence. Now you see the differ¬ence between the requirement of a Privilege Motion and adjournment motion. While for an adjournment motion it must be a matter of recent occurrence, there is no such condition in case of a Privilege Motion. That is why I said that the Honourable Speaker had given a ruling on with regard to an adjournment motion. As I pointed out earlier that it is a very important thing and you want to adjourn the House to discuss certain matter which is of urgency and of recent occurrence but in your recent Privilege Motion these conditions are not fulfilled. So, on this ground I thought that the two are distinguishable from each other."

Senate Debates,
12th December, 1973,
P 214-218.

268. *Motion Under Rule 83 (3) may be moved for the sake of regulation: motion moved: Rule 83 (2) dispensed with:*

**Ruling**

On 13th December, 1973, when the Chairman called for legislative business, the Minister for Labour and Works, who was to pilot the Employees (Cost of Living) Relief Bill, 1973 solicited Mr. Chairman's guidance as to whether it was necessary to move the motion for the waiver of the requirement of sub rule 2 of Rule 83 even though two days had already elapsed. Mr. Chairman directed the Minister to better move the motion for dispensing sub rule 2 of Rule 83. And in view of no objection, the motion was put before the House and adopted.

Senate Debates,
13th December, 1973,
P 245.

269. *Motion: The Chair should go by the record:*

**Ruling**

On 21st December, 1973; when discussion on a motion under rule 187 regarding inefficiency of Pakistan Western Railway was resumed, the Minister incharge stated that Khawaja Mohammad Safdar had already made a statement on the Motion. The Minister said that the motion was discussed except that he had to make a reply because Khawaja Mohammad Safdar, the mover of the motion had finished his speech, at the time the sitting concluded because of lack of quorum.

The Chairman said:

> "Let me look up the record .... According to the record, Khawaja Mohammad Safdar, the mover of this motion was on his feet. He was making a speech when the quorum was broken. ... He was speaking, still when it was noted that there was no quorum then the Presiding Officer was pleased to say, "There is no quorum, the House is adjourned to meet again at 10.00 a.m. on Mon¬day"

The Minister replied:

> "Actually what happened was that Khawaja Sahib had more or less finished his speech".

The Chairman ruled:

"I should, go by the record. The record shows that he was on his feet. He has a right to speak."

Senate Debates,
21st December, 1973
P 361.

270. *Motion: Objection under Rule 85: a formal motion has to be moved:*

**Ruling**

On 14th February, 1974 when the motion for consideration of the Banks (Nationalization) Bill, 1974, moved earlier by Minister for. Finance, was taken up for further consideration, a member raised objection under rule 85 of the Senate Rules of Procedure to the effect that the Bill was against the injunctions of Islam, and should, therefore, be referred to the Council of Islamic Ideology. The Chairman asked the mover if he would formally move it. Senator Khawaja Mohammad Safdar pointed out that no formal motion was needed in that case because the member had already raised an objection and that was sufficient under rule 85 as there was no mention of a motion in that rule.

The Chairman ruled:

"With due deference to the experience and eminence of Khawaja Safdar, I personally feel that a formal motion has to be moved."

Senate Debates,
14th February, 1974,
p, 540,541.

271. *Motion : Policy relating to supply of Atta at subsidised rates: ruled that:*

i. Motions under rule 187 governed by chapter xi of the rules of procedure:

ii. Word "substantially" in rule 115 (3) carried commonly known meaning:

iii. Part of the motion be deleted to make it admissible for discussion:

**Ruling**

On the 26th July, 1974, a Senator moved a motion under rule 187 to take into consideration the policy relating to the supply of Atta at subsidised rates in view of

the fact that the quality of such Atta at the ration shops was below normal standard jeopardising the health of the general public.

The Minister Incharge opposed the motion on the ground that it was a provincial matter and that Atta depots were controlled by the provinces. Supporting him another Minister pointed out that the motion was vaguely worded and was not specific.

In the course of discussion Mr. Chairman observed that the motion involved two issues—one was the policy of the Government to subsidies wheat price which was the concern of the Federal Government, the second was its distribution, and the checking of adulteration which was a provincial matter. The motions under rule 187 were covered by Chapter XI on Resolutions of the Rules of Procedure wherein rule 115 (3) laid down that a Resolution shall be clearly and precisely expressed and shall raise substantially one definite issue, while the mover had mixed up two issues in one and the same motion. Senator M. Zahurul Haq drew the attention of the Chair to the fact that the qualifying word in rule 115 (3) was "substantially" which did not imply only one issue and that it had taken the rigidity out of the rule. Mr. Chairman observed that the term "substantially" carried commonly well-known meaning and that the motion did raise two substantial Issues. One issue was the policy of the Federal Government to subsidise wheat price and the second was the failure of the provincial government to keep a vigilant watch over the supply, distribution or sale of wheat which was being adulterated resulting in danger to public health.

Senator Sardar Mohammad Aslam on a Point of Order submitted that they were not going to discuss the adulteration but the policy whereupon Mr. Chairman observed that in that case the latter part of the motion should be dropped through an amendment. Senator M. Zahurul Haq moved the amendment which was not opposed. The amended motion was allowed and discussed. At the conclusion of discussion Mr. Chairman ruled:

> "The motion as moved by the mover Mr. Qurban Ali Shah, according to my view (I may be wrong) it did not look to be quite admissible, because it has two parts, one Provincial and the other Central. So, I said if you drop that part of the motion which relates to the Provincial sphere, then it will become relevant and in order to make it relevant and admissible I requested if somebody could move an amendment dropping the part in question so that it will become relevant. I think it was Mr. Zahurul Haq who moved that amendment dropping the latter part and leaving the first, which related to the Federal Government. Therefore, it will be a motion and will not be put to the House and treated as talked out."

Senate Debates,
26th July, 1974.
P43—65.

272. *Press: misreporting of proceedings: all papers which misreported to bring out a correct report:*

**Ruling**

On 17th April, 1974, the Minister for Labour and Works, made a submission that on the preceding the House had pass the Transfer of Property Ordinance (Repeal) Bill, 1974. He explained in brief the objects and reasons of the Bill. There was some discussion on it in which Senator Khawaja Mohammad Safdar opposed the Bill on certain points, while Mr. Shahzad Gul supported the Bill. But the newspaper had incorrectly reported the proceedings and published absolutely misleading reports. With the exception of one or two newspapers, the others actually omitted to explain the objects and reasons of the Bill. It had been reported that Khawaja Mohammad Safdar supported the Bill and Mr. Shahzad Gul opposed it, whereas the position was quite the reverse. The Minister felt that it might be a bonafide mistake. The press might not be in a position to understand the Bill. The same morning before the National Assembly, he made a statement wherein he had mentioned that only one newspaper had misreported the proceedings. But when he left the Assembly, he found that it was not only one but many newspapers which had misreported these proceedings. This might lead to some kind of confusion and misunderstanding in the minds of the public. Therefore, the press report needed correction. 'Mashreq' and 'The Pakistan Times' reported the proceedings correctly but 'Nawa-i-Waqat' and 'Dawn' misreported it.

The Chairman observed:

> "The speeches of the Minister concerned and the members of the Opposition have been correctly reported only by 'The Pakistan Times'. So, I would like the other newspapers also to toe the line of 'The Pakistan Times' and correct the whole thing in tomorrow's issue .... I would like the papers concerned, particularly 'Jang', to do correct reporting in tomorrow's issue just on the lines of 'The Pakistan Times'. I say this to all particularly the 'Jang' because Jang's banner headline is so misleading that it changes the whole structure, the whole thing .... So, I hope that all the papers which have misquoted the proceedings with regard to the Transfer of Property Ordinance (Repeal) Bill would bring out tomorrow a correct report. They will correct their mistake."

Senate Debates,
17th April, 1974,
P 509—513.

273. *Relevancy: Criticism can be made without violating the rules of relevancy:*

**Ruling**

On 15th February, 1974, when consideration of the Banks (Nationalization) Bill, 1974, was taken up, Senator Kamran Khan said that it was not his intention to make any political speech but since the honourable Finance Minister started his speech with certain political remarks he would like to set the record straight. He criticized the Peoples Party and its manifesto and claimed that the way nationalization was taking place it was certainly not in the interest of the country, and that the common man had lost faith in the word of the Government.

The Chairman observed:

> "Mr. Kamran, you can say all these things regarding the Bill but it relates to nationalization of banks if you go to other industries nationalization of other factories 'and other things—that would not be quite relevant. You can criticize nationalization of banks, no doubt; you can disagree with the principles underlying this Bill but so far as other industries are concerned, this would not be quite relevant.... You can speak about anything which is in the framework of this system of nationalization of banks. But that must be confined to the nationalization of banks. You can criticize condemn or express your disagreement with the scheme of things but that must be within the framework of the nationalization of banks Bill. You may say anything, criticize the Government or condemn them, with regard to the nationalization of banks. But you cannot say that about the nationalization of cotton or rice or steel mills. Therefore, if you are proving your case with regard to nationalization of banks, you would be quite relevant."

Senate Debates.
15th February, 1974,
P 606—611.

274. *Un Parliamentary expression: Words Aira Ghaira Nathu kha1ra held to be slang and un Parliamentary should be avoided:*

**Ruling**

On 19th January, 1974, in the course of the second reading of the Prevention of Anti-National Activities Bill, 1973 a Senator Speaking on an amendment proposed by him in sub-Clause (6) to Clause 8 of the Bill suggesting that the words "any other person" occurring in lines 1 and 2 of the said sub-Clause be deleted.

He said that he never saw such a vague and meaningless term as "any other person" in any Bill as it gave impression that the Government could empower any " Aira Ghaira Nathu Khaira " to search the person of any gentleman.

The Minister for Interior, States and Frontier Regions and Kashmir Affairs, took strong exception to the expression 'Aira Ghaira Nathu Khaira'.

> "They are the people who make and unmake the government, and I object to the use of these terms, and I think that these words should be expunged. They are responsible citizens and they make and unmake a government; they should not be addressed like that."

The Senator agreed to withdraw the words.

The Deputy Chairman ruled that he should avoid the use of un Parliamentary and slang words in his speech."

Senate Debates,
19th January, 1974,
P 161—162.