



THE  
SENATE OF PAKISTAN  
DEBATES

OFFICIAL REPORT

Wednesday, April 16, 1975

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## SENATE OF PAKISTAN

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Wednesday, April 16, 1975

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The Senate of Pakistan met in the Senate Chamber, (State Bank Building), Islamabad at eleven of the clock in the morning, Mr. Deputy Chairman (Mr. Tahir Mohammad Khan) in the Chair.

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(Recitation from the Holy Quran)

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Mr. Deputy Chairman : I think there is no question today. There is a message from the National Assembly.

MESSAGE FROM THE NATIONAL ASSEMBLY RE : ADOPTION  
OF THE CODE OF CRIMINAL PROCEDURE  
(AMENDMENT) BILL, 1975

Mr. Deputy Chairman : It reads :

“In pursuance of rule 109 of the Rules of Procedure and Conduct of Business in the National Assembly, 1973, I have the honour to inform the Senate Secretariat that the National Assembly passed the Code of Criminal Procedure (Amendment) Bill, 1975 on the 15th April, 1975. A copy of the Bill is transmitted herewith. Kindly acknowledge receipt. Secretary National Assembly.”

There is another message from the Secretary National Assembly to the Secretary Senate.

MESSAGE FROM THE NATIONAL ASSEMBLY RE : ADOPTION  
OF THE DANGEROUS DRUGS (AMENDMENT)  
BILL, 1975

Mr. Deputy Chairman : It reads :

“In pursuance of rule 109 of the Rules of Procedure and Conduct of Business in the National Assembly, 1973, I have the honour to inform the Senate Secretariat that the National Assembly passed the Dangerous Drugs (Amendment) Bill, 1975, on the 15th April, 1975. A copy of the Bill is transmitted herewith. Kindly acknowledge”.

[Mr. Deputy Chairman]

Now, we come to the legislative business. Item No. 2.

**THE CODE OF CRIMINAL PROCEDURE (AMENDMENT)  
BILL, 1975**

**Malik Mohammad Akhtar :** Sir, I beg to move :

“That the Bill further to amend the Code of Criminal Procedure, 1898 [The Code of Criminal Procedure (Amendment) Bill, 1975], as passed by the National Assembly, be taken into consideration.”

**Mr. Deputy Chairman :** The motion moved is :

“That the Bill further to amend the Code of Criminal Procedure, 1898 [The Code of Criminal Procedure (Amendment) Bill, 1975], as passed by the National Assembly, be taken into consideration.”

**Malik Mohammad Akhtar (Minister of State for Parliamentary Affairs) :** Honourable Chairman, in giving in brief the objects and reasons of the present amending Bill, I would like to point out before this honourable and august House that difficulties are being faced in calling the Federal Security Force, an important organ of the Federal Government, to the aid of civil administration of various provinces. The purpose of creating this Force was for maintenance of law and order and I am glad to say that this Force has successfully assisted the civil administrations of the various provinces by virtue of the powers conferred in the Act through which this Force has been constituted. But it is necessary to make certain amendments in Criminal Procedure Code as well which are being sought. Sir, we are amending Clause (1) of Section 130 of the Code of Criminal Procedure which authorises a magistrate to require any commissioned or non-commissioned officer and any soldier in command of Pakistan Army and even volunteers enrolled under Indian Volunteers Act, 1869—I am sorry I should say Pakistan Volunteers Act—to disperse any unlawful assembly by Military Force and to arrest and confine persons forming part of such assembly. Sir, any commissioned or non-commissioned officer would now be in a position to call the Federal Security Force. The words “Federal Security Force” have been bracketed with “Pakistan Army and Volunteers” so that that purpose could be achieved by use of this Force. Sir, by the present amending Bill we are only giving powers to any of the magistrates as it would appear from the Bill itself. It is Clause 3 of the Bill which empowers and it reads :

“When a Magistrate determines to disperse any such assembly by the armed forces, he may require any officer thereof in command of any group of persons belonging to the armed forces to disperse such assembly with the help of the armed forces under his command and to arrest and confine such persons forming part of it as the Magistrate may direct, or as it may be necessary to arrest and confine in order to disperse the assembly or to have them punished according to law.”

So, Sir, according to Clause 4, we are amending and we are substituting it in a way that the present object which I have explained is achieved and particular article 132A, which is being inserted in this :

“the expression “armed forces” means the military, naval and air forces, operating as land forces and includes the force constituted under the Federal Security Force Act, 1973.”

So, Sir, this is the entire aim which is evident from the new section, 132A, part (a) and the rest is technical. That is just a technical part of the consequential amendments. The only major amendment is to make a provision to enable Federal Security Force to be at the command of a magistrate who is authorised to disperse unlawful assemblies.

Mr. Deputy Chairman : I don't think there is any Member who wants to speak. Is there any? Yes, Agha Sahib! Well, there is no speech, therefore, I put the question to the House. Yes, Mian Sahib.

Mr. Ihsanul Haq : No, Sir.

Mr. Deputy Chairman : So, the question before the House is :

“That the Bill further to amend the Code of Criminal Procedure, 1898 [The Code of Criminal Procedure (Amendment) Bill, 1975], as passed by the National Assembly, be taken into consideration at once.”

*(The motion was carried)*

Mr. Deputy Chairman : Now, we take up the Bill clause by clause. There are five clauses and no Member has given any notice of amendment. Therefore, I put all the clauses together.

The question before the House is :

“That Clauses 2, 3, 4 & 5 form part of the Bill.”

*(The motion was carried)*

Mr. Deputy Chairman : Clauses 2, 3, 4 & 5 form part of the Bill.

Now the question before the House is :

“That the Preamble Short Title and Clause 1 form part of the Bill.”

*(The motion was carried)*

Mr. Deputy Chairman : The Preamble, Short Title and Clause 1 form part of the Bill.

Now, we come to the next item. Yes, Malik Sahib.

Malik Mohammad Akhtar : Sir, I beg to move :

“That the Bill further to amend the Code of Criminal Procedure, 1893 [The Code of Criminal Procedure (Amendment) Bill, 1975], be passed.”

Mr. Deputy Chairman : The motion moved is :

“That the Bill further to amend the Code of Criminal Procedure, 1898 [The Code of Criminal Procedure (Amendment) Bill, 1975], be passed.”

[Mr. Deputy Chairman]

No speech? Would you like to further elaborate it?

Malik Mohammad Akhtar: No, Sir.

Mr. Deputy Chairman: No speech.

The question before the House is:

“That the Bill further to amend the Code of Criminal Procedure, 1898 [The Code of Criminal Procedure (Amendment) Bill, 1975], be passed.”

(The motion was carried)

Mr. Deputy Chairman: The Bill stands passed.

Yes, Malik Mohammad Akhtar.

Malik Mohammad Akhtar: Sir, with the consent of the House, I would like to make a small statement under rule 231. Rule 231 is, Sir:

“A statement may be made by a Minister on a matter of public importance with the consent of the Chairman but no question shall be asked nor discussion take place thereon at the time the statement is made.”

If you allow, I would like to make it clear. I do not want to take the House unaware. Some remarks have been made against the Chairman of the Senate and even against the Speaker of the National Assembly. If you allow me, I can read those. These are by one of our colleagues, one of the Senators namely Mr. J. A. Rahim, who is entitled to come and sit here and raise any of the objections. I want to read the respective part. Sir, I have read it in many papers and here it is.

انہوں نے کہا کہ پارلیمنٹ کے دو ایوان قوم کے لئے کسی مسئلہ پر بحث کے لئے اعلیٰ ترین forum فراہم کرتے ہیں۔ تاہم انہوں نے الزام لگایا کہ قومی اسمبلی کے سپیکر اور سینٹ کے چیئرمین ایوانوں کی کارروائی کو صحیح طریقے سے نہیں چلا رہے۔ وہ ارکان کی تقاریر کے دوران بار بار مداخلت کرتے ہیں حالانکہ سپیکر اور چیئرمین کا کام ایوانوں کی کارروائی کو چلانا ہوتا ہے۔ وہ کوئی رائے نہیں دے سکتے۔ انہوں نے خدشہ ظاہر کیا کہ ان کا یہ رویہ سینٹ اور قومی اسمبلی جیسے اداروں کی تباہی کا باعث بن رہا ہے۔

Then he is talking about bycot.

انہوں نے آئین میں کی جانے والی ترامیم پر بھی شدید نکتہ چینی کی اور رائے ظاہر کی کہ یہ ترامیم عام انتخابات کے بعد ہونی چاہئیں تھیں۔

Sir, what I propose to do is simple. There could be three ways to answer this statement.

Firstly.....

**Mr. Deputy Chairman :** Malik Sahib, the requirement of this rule is :

1. A statement must be of public importance and
2. Chairman has to give the consent for the statement.

Number (1) you are satisfied.....

**Malik Mohammad Akhtar :** Sir, I have not made any statement. The matter has a public importance. It is a serious matter. Aspersions has been made on the working of this House, the custodian of the rights of this House, the Honourable worthy Chairman. And I consider, there could be nothing of greater importance than this issue. I am again trying to avoid the controversy. I want to give the factual position. I want to explain the working of this House that we are working smoothly, we are working efficiently and whatever we have done not only in this House, I will take opportunity all that Senate and National Assembly as well.....

**Mr. Deputy Chairman :** Malik Sahib, you know that this statement has lowered down the status and the position of the Parliament in the eyes of the public at large. Therefore, this is aspersion now.

**Malik Mohammad Akhtar :** We must explain our position, Sir.

**Mr. Deputy Chairman :** I think, you will make a statement.

**Malik Mohammad Akhtar :** Thank you, Sir. I am again repeating that there is no idea to give importance to the statement of the honourable Senator, J. A. Rahim. As he has spared no opportunity to attack on the worthy Chairman of this House and the honourable Members of this House as well as the National Assembly, I am obliged to make this statement. Sir, I contradict all the allegations made by him. Sir, I would say that the Senate is functioning in accordance with the Constitution and the rules which have been framed under Article 67 of the Constitution. Sir, so much so that almost all the Bills are to be passed in this House. So much so, Sir, even amendment in the Constitution is only valid and only comes into force when this august House with its total membership passes an amendment Bill. Sir, besides that I take pride in saying that we have achieved the object of making this upper House.

Sir, look into the agenda, we have covered during this session the Concurrent Legislative List. It is my first attempt as a small and humble servant of this House and a little Minister to bring before this august House. Sir, of course the Money Bills are not coming here but all the legislative business is coming here. The Bills which formed part of the Legislative List, are first brought over here. Sir, since I have become Minister I am more careful about that and then, Sir, this august House was constituted in August 1973 and, Sir, in a period of say about two years which we will be completing after three months, we have passed 103 Bills and then we have dealt with 85 adjournment motions and 27 privilege motions. Now, Sir, who can say that the doors are shut, who can say that this House is not taking active part. He has attacked the Chairman. May I remind him that the Chairman as well as our worthy Speaker, both the custodians of the Parliament, are acting in accordance with Rules of Procedure.

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[Malik Mohammad Akhtar]

Now the next question that would arise would be, Sir, about the Rules of Procedure. He may come tomorrow with a statement that the Rules of Procedure are not properly framed. May I remind him that the Rules of Procedure which we are taking at present are the same rules which we had after the framing of 1956 Constitution under 1962 Constitution and they are almost parallel to those rules, identical to those rules as in Lok Sabha. So the Honourable Speaker and the Honourable Chairman are working and dealing with the privilege motions and adjournment motions in accordance with the rules.

Sir, he had got a grievance which appeared in Nawa-i-Waqt that all the matters just said to be Provincial and why they should be discussed in this House. Sir, you can see Nawa-i-Waqt. He is an old man. I have got a respect for him. But I would say that he is not well-versed with the rules. I would not use the word 'ignorance' I would say that he does not know the rules. You know we had a big Constitutional Accord in October 1962 for the purposes of determining the provincial autonomy. Sir, the law and order is a matter which is to be dealt with at provincial level.

Sir, law and order is a matter which is dealt with at provincial level. Now this honourable Senator, I will still call him an honourable Senator, wants us to discuss and debate these adjournment motions and privilege motions in these two Houses, although we are debarred under the Rules of Procedure which are settled Rules of Procedure.

As far as the working of this august House and the National Assembly is concerned, I may be allowed to refer to that even in the public interest. Sir, who does not know that the short term session of the National Assembly was called in 1971. We adopted the Interim Constitution. Thereafter a Constitution Committee was framed and that Constitution Committee placed its report before the National Assembly and thereby the Constitution of Islamic Republic of Pakistan came into being, which is more Islamic, more democratic and contains adequate Islamic provisions.

Sir, After having given the number of adjournment motions, privilege motions and Bills, I would say that in the National Assembly we have passed 196 Bills and a large number of resolutions. The Senate, as I have already said, has disposed of 107 Bills : not 106 Bills as is written in my note book. The number of Bills comes to 107 after this which we have just passed. In addition to that there have been debate on Simla Agreement. Recognition of Bengla Desh, Baluchistan situation and Foreign Policy of Pakistan were debated in this House and in the other House. The disaster of Tarbela Dam was also debated over here.

**Mr. Deputy Chairman :** I think, Sardar Mohammad Aslam is on a point of order.

**Sardar Mohammad Aslam :** Sir, may I know what is being rebutted by the Honourable Minister ?

**Mr. Deputy Chairman :** He is trying to rebut the statement of an honourable Senator that this House is not actually working. He is trying to say that this House has done so great job, has passed so many Bills, so many resolutions. And I think he is relevant so far that part of the statement of the honourable Senator is concerned, that this House is not functioning.

**Malik Mohammad Akhtar :** Sir, I will be finishing shortly, and then the honourable Members can make statements.

Sir, we made an amendment in the Constitution in respect of Qadiani Issue and the National Assembly remained in session for quite long for this purpose. There is another point. This House has directed the Government and the Law Ministry to bring in privileges Bill which is waiting for the Opposition to come in. The Bill is ready. The Constitution has been amended from time to time. The honourable Senator has taken a serious objection in respect of an amendment in the Constitution. May I remind this august House that the Constitution was amended first in respect of territories of Pakistan. Then we amended it in respect of the number of sittings of the Senate. We have probably reduced it from 130 to 90. That was all essential. Again the Constitution was amended in respect of Qadiani Issue whereby certain definitions have been made in Article 260 in accordance with the decision taken by these two Houses after the Special Committee gave its recommendation to the National Assembly. Finally, the last amendment was made in respect of Emergency and powers of detention during the session of some persons who are found to be guilty of connivance and who are found to be involved in such activities which are against the State. So, Sir, whatever we have been doing, we have been honestly doing that with great efforts and vigour. This House has been dealing with legislation, adjournment motions and privilege motions. If at all any amendments of the Constitution were brought they were brought in normal course such as the amendment in respect of Qadiani Issue had to be there. So, what disturbs Mr. Rahim? Then we had to make an amendment in Article 10 of the Constitution regarding detention. We had to change the law as far as it was concerned with the persons involved or acting in subversion or involved in activities against the integrity and solidarity of Pakistan. That is all Sir, because I don't want to open a big controversy. I only wanted to make a statement that this House, the National Assembly, the Honourable Chairman and the Honourable Speaker are working strictly in accordance with the Constitution and the Rules of Procedure approved by all the Members.

**Mr. Deputy Chairman :** You have finished your statement, I think?

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

**Mr. Deputy Chairman :** Thank you very much. Because the rules do not provide that it has to be debated, therefore, the statement is so made. I think, there is no other business before the House and we have received a message from the President of Pakistan. I read out the message to you :—

“In exercise of the powers conferred by Clause (1) of Article 54 of the Constitution of the Islamic Republic of Pakistan, I hereby prorogue the Senate on the conclusion of its sitting on the 16th of April, 1975.”

The message is read and the Senate is prorogued.

**Rao Abdus Sattar :** Thank you very much, Sir.

**Mr. Deputy Chairman :** Hope to see you somewhere in July.

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The Senate stood prorogued at 11.58 a.m.  
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