

SENATE OF PAKISTAN

SENATE DEBATES

Monday, March 16, 1987

The Senate of Pakistan met in the Senate Hall (Parliament House), Islamabad, at six of the clock in the evening, with Mr. Chairman (Mr. Ghulam Ishaq Khan) in the Chair.

(RECITATION FROM THE HOLY QURAN)

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

يَا أَيُّهَا النَّاسُ قَدْ جَاءَكُمْ بُرْهَانٌ مِّن سَرِّكُمْ وَأَنْزَلْنَا
إِلَيْكُمْ نُورًا مُّبِينًا ۝ فَأَمَّا الَّذِينَ آمَنُوا بِاللَّهِ
وَاعْتَصَمُوا بِهِ فَسَيُدْخِلُهُمْ فِي رَحْمَةٍ مِّنْهُ وَفَضْلٍ
وَيَهْدِيَهُمْ إِلَى صِرَاطٍ مُسْتَقِيمًا ۝

ترجمہ: شروع اللہ کے نام سے جو بڑا مہربان اور رحم والا ہے۔ اے لوگو تمہارے پاس تمہارے رب کی طرف سے ایک صریح دلیل پہنچ چکی (ایک برزخ کبریٰ جو نظر آتا ہے یعنی رسول برحق) اور ہم نے تم پر ایک واضح نور (نور قرآن) نازل کیا جو اللہ کی طرف سے رسول پر نازل ہوا اور جو رہتی دنیا تک لوگوں کیلئے نور ہدایت ہے۔ پس جو لوگ اللہ پر ایمان لائے اور اس اللہ رسول اور کتاب اللہ کو مضبوط پکڑ اس کی پناہ میں آگئے تو ان کو اللہ اپنی رحمت میں اور فضل میں داخل فرمائے گا۔ (ہدایت سے نوازے گا) توفیق کو رفیق کر دے گا اور ان کو اپنی طرف پہنچنے والا سیدھا راستہ دکھادے گا۔

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LEAVE OF ABSENCE

جناب چیئرمین: بسم اللہ الرحمن الرحیم، رخصت کی درخواستیں۔ میری بخش زہری نے ناسازی طبع کی بنا پر مزید ۱۵ تا ۱۷ مارچ ۱۹۸۷ء، ایوان سے رخصت کی درخواست کی ہے۔ کیا آپ ان کی یہ رخصت منظور فرماتے ہیں؟
(رخصت منظور کی گئی)

جناب چیئرمین: جناب غلام فاروق صاحب نے اپنی گھریلو اور کاروباری مصروفیات کی بنا پر ۱۶ تا ۲۰ مارچ، ایوان سے رخصت کی درخواست کی ہے۔ کیا آپ ان کی یہ درخواست منظور فرماتے ہیں؟

(رخصت منظور کی گئی)

جناب چیئرمین: حاجی اکرم سلطان صاحب نے ٹیلیفون پر اطلاع دی ہے کہ وہ اپنی مصروفیات کی بنا پر آج بھی، یعنی ۱۶ مارچ کو اجلاس میں شرکت نہیں کر سکتے۔ اس لئے انہوں نے آج کیلئے رخصت کی درخواست کی ہے۔ کیا آپ ان کی یہ درخواست منظور فرماتے ہیں؟
(رخصت منظور کی گئی)

Mr. Javed Jabbar: Point of order.

Mr. Chairman: Yes, Mr. Javed Jabbar.

POINT OF ORDER *RE*: NOT TO REGULATE THE
LEGISLATIVE BUSINESS IN ADVANCE

Mr. Javed Jabbar: My point of order is with reference to the Orders of the Day as circulated today. I realise that any government suddenly faces un-expected legislative priorities but Sir, you are aware that it is a well established practice in almost all parliaments that at the start of each session the parliamentary business for that session is determined and announced to the members. This enables the members, particularly those who live hundreds of miles away from the legislative capital to plan their work. Now, we were told at the start of this present session that days such as Tuesday and Wednesday as per practice would be days on which there would be no sittings of the Senate. Now suddenly yesterday without any advance intimation we were informed

that Tuesday and Wednesday would be allotted for government business. Today we find that all other legislative priorities have been set aside in favour of the Tenth Amendment Bill. Now Sir, this is, I think, taking the members of the Senate and the Senate itself too much for granted. I think due deference should be paid to the requirements of the dignity and the status of the upper House of Parliament and a proper legislative programme should be announced at the start of each session.

Mr. Chairman: Thank you. May I request the honourable Minister for Justice and Parliamentary Affairs to throw light on the point of order which has been raised by Senator Javed Jabbar.

Mr. Wasim Sajjad: Sir, we have the highest respect in consideration for the Senate as the honourable member rightly pointed out that sometimes there are unexpected developments and we have to fix legislative priorities accordingly. Now after the passage of the Tenth Amendment Bill from the National Assembly it has come to the Senate and we felt that as a matter of priority this should be dealt with first before we go to the other matters because we may be proroguing this Senate session in other three or four days time and then we will have another session, I hope very soon thereafter. So, we can deal with all these matters which are left over in this session in the next session which I hope will be held soon. So, it does not mean any disrespect to the Senate. It is just said sometimes the legislative priorities have to be fixed keeping in view the requirements of the situation. Thank you Sir.

Mr. Javed Jabbar: Mr. Chairman, the legislative programme is to be announced at the start of each session.

Mr. Chairman: Yes Professor Khurshid Sahib.

پروفیسر خورشید احمد شکر یہ جناب چیئرمین! جیسا کہ جناب جاوید جبار صاحب نے کہا، ہم
در اصل اس ایوان کیلئے کچھ روایات قائم کر رہے ہیں اگر فی الحقیقت کوئی ایسی ایمر جنسی ہو کہ
جس میں حکومت کو کسی لیجسلیشن کی فوری ضرورت ہے تو as an exception
شاید جو بات محترم وزیر عدل نے فرمائی ہے اس پر غور کیا جاسکتا ہے لیکن اس وقت معاملہ یہ ہے کہ
آپ ایک ایسی دستوری ترمیم لائے ہیں جو اس سال نیشنل اسمبلی کے جو ایام کار ہیں ان کو متاثر

[Prof. Khurshid Ahmad]

نہیں کرتی اگر کوئی اثر پڑتا ہے تو اگلے سال پر پڑتا ہے۔ دوسرے الفاظ میں آپ کو کوئی ایسی ارجنسی نہیں ہے کہ اسی لیجسلیٹو سیشن کے اندر اسے لازماً پاس کریں پھر اس کو اس طریقے سے لے آنا میں سمجھتا ہوں کہ یہ پارلیمانی روایات کے بھی خلاف ہے اور آپ کو ایسی غلط روایت قائم نہیں کرنی چاہئے، غیر معمولی حالات میں کبھی آپ آئیں اور ایوان سے اجازت مانگیں کہ ہاں حکومت مشکل میں ہے ہماری مدد کیجئے تو سوچا جاسکتا ہے، لیکن عام حالات کے اندر یہ بات درست نہیں ہے اور آپ کے قانون کو ہم نے پڑھا ہے اور اس میں کوئی چیز ایسی نہیں ہے جس کا اس لیجسلیٹو سال کے اندر پاس کیا جانا لازماً ضروری ہے، چونکہ یہ کسی چیز کو affect نہیں کرتی ہے۔ لہذا میرا خیال ہے آپ روایات کا پاس کیجئے اور اس معاملے میں محض steam roll کرنے کی کوشش نہ کریں۔

Mr. Chairman: Mr. Ahmed Mian Soomro.

Mr. Ahmed Mian Soomro: Sir, what greater insult can there be to the Senate that repeatedly we are being hindered from framing and passing our own Rules of Procedure and privileges. It was again and again pointed out here that we should give top priority to our own business and we were assured before the Senate was prorogued last time that Monday and Tuesday would be devoted to the Rules of Procedure and Conduct of Business. To our surprise on Sunday night the Senate was prorogued. Again, in this session the other day, if you remember, it was again pointed out that now we would be devoting a day or two to this work so that we could finish it. I expected that Monday and Tuesday which in the programme sent to us showed no sitting, I thought that probably in these days we would be allowed to frame our Rules of Procedure and we might be allowed to sit on these days but to our surprise we see today another situation. My friend pointed out the urgency in this Bill. This year is almost over. The next year to which it relates has not even started. What is the reason that we are being hindered on one pretext or the other from framing our Rules of Procedure.

Thank you, Sir.

مولانا کوثر نیازی: جناب والا! میں اپنے دوست جناب جاوید جبار، پروفیسر خورشید صاحب اور سومرو صاحب کی تائید میں مزید یہ عرض کرنا چاہتا ہوں کہ آج جب یہ ایجنڈا ہمارے

پاس پہنچا تو یہ دیکھ کر تعجب ہوا کہ اس کے اندر سوالات کا سرے سے کوئی ذکر ہی نہیں۔ گویا سوالات بغیر رولز سسپنڈ کیے ایجنڈے سے ڈراپ کر دیئے گئے ہیں۔ حالانکہ رولز واضح ہیں کہ ہر سٹنگ جو ہے except Friday پارٹیوں کے ممبرز کے اس کا آغاز قرآن حکیم کی تلاوت کے بعد کوئی سیشن سے ہو گا۔ لیکن آج جو ایجنڈا سرکولٹ کیا گیا اس میں سرے سے کوئی سیشن ہی اڑا دیئے گئے ہیں کیونکہ Urgency اس کی ہے کہ Tenth امنڈمنٹ بل پاس کر دیا جائے۔ اور اس کا بھی نہیں لحاظ کیا گیا کہ وہ کوئی سیشن اور کو سسپنڈ کرنے کے لئے یہاں باقاعدہ موو کریں اور اس کے بعد ہاؤس کی منظوری سے اگر اسے سسپنڈ کرانا ہے تو کرائیں۔ میں سمجھتا ہوں اس طرح بلڈوز کرنا ایک ایسے امنڈمنٹ بل کو جس میں کوئی فوری ضرورت نہیں ہے، یہ اس ایوان کی واضح توہین ہے۔

جناب چیئرمین: جناب حسن اے شیخ صاحب۔

Mr. Hasan A. Shaikh: Sir, I know of no convention which prescribes that the House cannot be asked to consider some matter in which the government is interested. To say that the majority of this House is bulldozing a legislative Bill is an insult to this House. It is a matter of privilege of this House. If we decide, if the majority decides, if the 2/3rd members decide that a certain matter should be taken up then a small number of members cannot call it bulldozing and insult us. This to say the least is a breach of privilege of the members of this House.

Mr. Javed Jabbar: The substance of the point of order raised was:

- the emphasis was firstly on the need to announce a clearcut programme of parliamentary business.
- secondly, Sir, if the majority wishes to take up a Bill unexpectedly, then a motion to that effect should first be set down so that the wishes of the members of the House can be ascertained.

We are not accusing you of trying to bulldoze anything.

Mr. Hasan A. Shaikh: Sir, this was the word used by one of the members.

Mr. Chairman: But that is not the point of order. The point of order was that the business of the House should be more appropriately regulated in advance of the session. This was the point of order.

Mr. Hasan A. Shaikh: But Mr. Chairman, the question of regulating it earlier could have only arisen if the Law Minister had anticipated that the Bill can be passed by a certain date. There were those 'ifs' and 'buts' therefore, as soon as he found that it has been passed by the National Assembly and there was time enough for the Senate to consider it, then the Senate could consider it. There is nothing wrong in it. It is perfectly within the ambit of the government to bring it before the senate. The agenda is prepared by the government as far as the Senate is concerned. It is not prepared by the opposition or in consultation with the opposition.

Mr. Javed Jabbar: It is in consultation with.....

قاضی حسین احمد: جناب والا! جو بزرگ سینیٹر میرے ساتھی ہیں۔ ان کا مطلب یہ ہے کہ ہمیں چونکہ دو تہائی مجارٹی حاصل ہے ہم اکثریت میں ہیں۔ اس لئے ہمارے لئے کسی قاعدے اور ضابطے کی پابندی کرنی ضروری نہیں ہے۔۔۔۔۔
جناب چیئرمین: میرے خیال میں ایسی بات نہیں ہے۔

قاضی حسین احمد: یہی ان کا مطلب ہے یعنی ساری بات اس پر ہو رہی ہے کہ قواعد و ضوابط کے خلاف ایک کام ہو رہا ہے یہاں پر۔ اور سپر سیمبر کا یا جو معمول کا طریقہ ہے اس کے خلاف ہمیں ایک آرڈر آف دی ڈے یہاں دیا گیا ہے۔ وقفہ سوالات کو انہوں نے نوٹس دیئے بغیر معطل کر دیا ہے اسی طریقے سے جو لیجسلیٹو بزنس ہمارے سامنے تھا۔ ہم ایوان کے قواعد و ضوابط پر بات کر رہے تھے وہ بیچ میں چھوڑ دیا گیا۔ اچانک ایک بات ہمارے سامنے رکھ دی گئی۔ بات اس پر ہو رہی ہے اور وہاں پر ہمارے سینیٹر صاحبان یہ اصرار کر رہے ہیں کہ ہمیں دو تہائی مجارٹی حاصل ہے ہم جو طریقہ بھی اختیار کریں ہمارا حق ہے۔ میرے خیال میں اسی کو بلڈوزنگ کہتے ہیں۔

جناب چیئرمین: شکریہ! جناب سعید قادر صاحب۔

لیفٹیننٹ جنرل (ریٹائرڈ) سعید قادر: جناب چیئرمین! میرا خیال ہے کہ جو زیادتی ہو رہی ہے اس سلسلے میں بزنس آف دی ہاؤس تو سیکرٹیریٹ نے سامنے پیش کیا ہے اس سے پہلے کہ منسٹر آف پارلیمینٹری افیئرز، کچھ کہتے، پوائنٹ آف آرڈر ریز کر دیا گیا۔ یہ کیسے assume کیا جا رہا ہے کہ یہ جو مشکلات آج گورنمنٹ کو پیش آئی ہیں اگر وہ منسٹر آف پارلیمینٹری افیئرز، ہاؤس کے سامنے پیش نہ کرتے اور ان سے اجازت نہ لیتے تو کس طرح پروسیڈ کرتے۔ میرے خیال میں یہ کہنا کہ وقفہ سوالات کو حکومت نے eliminate کر دیا ہے یہ تو زیادتی کی بات ہے اور ڈیموکریسی میں رائے ہم سب کو دینی ہے آپ یہ سوال پٹ کر لیجئے اور یہاں پر جواب مل جائے گا کہ کیا کرنا چاہئے اس بحث کو طول دینے کا کیا فائدہ۔

جناب عبدالرحیم میرداد خیل: پوائنٹ آف آرڈر۔

جناب چیئرمین: ہو گئے کافی پوائنٹ آف آرڈرز، یہی ایک پوائنٹ آف آرڈر ہے جو

کہ اٹھایا گیا ہے اور اسی کا فیصلہ کرنا ہے۔

جناب عبدالرحیم میرداد خیل: میں کیا کہنا چاہتا ہوں۔۔۔۔۔

جناب چیئرمین: جی آپ بھی فرمائیں۔

جناب عبدالرحیم میرداد خیل: جناب چیئرمین! شکریہ کہ آپ نے فرمانے کا اظہار کر

دیا۔ گزارش یہ ہے کہ معلوم ایسا ہوتا ہے کہ حکومت کے پاس آج کے لئے سوالات نہیں تھے اور یہ اس سے ظاہر ہوتا ہے کہ پچھلے دنوں میں صرف دو ممبروں نے سینٹ میں سوالات دیئے تھے۔ اس کے بل بوتے پر آج انہوں نے سوالات کو نہیں رکھا ہے تو یہ واضح اعلان کرتے، واضح طور پر یہ کہہ دیتے لیکن اس طرح ہمارا استحقاق سخت مجروح ہوا ہے۔ یہ نہیں ہونا چاہئے اور اگر حکومت کے پاس بزنس نہیں ہے تو یہ ایک واضح بات ہونی چاہئے۔

Mr. Chairman: Would you like to reply finally to whatever has been stated.

Mr. Wasim Sajjad: I will first deal with the point of order raised by the honourable Senator Mr. Javed Jabbar, regarding the

[Mr. Wasim Sajjad]

arrangement of business – pre-arrangement of the business, as it were. I would like to draw his attention to Rule 23 which says:

“The Secretary shall arrange government business in such order as the Leader of the House or, in his absence, any other Minister authorised by him in this behalf may intimate”.

Now, if we have violated any rule that could be the basis of the point of order. I would request the honourable Senator to kindly let us know what rule we are violating. We are following Rule 23 and I may submit with great respect and humility that the government fixes the business of the government in accordance with the priorities of the government and that is what we have done.

Secondly, Sir, with regard to the point as to why we want to bring this matter before the House at this stage which Prof. Khurshid has said relates to the following year, that is correct. But the thing is that if we want to prepare a programme for the coming year that is to commence from the 20th of March, 1987, then we should know now whether the National Assembly is going to sit for 160 days or 130 days. Until and unless we have a verdict from this House we will not be in a position to prepare a programme for the subsequent year and that is why we want to be clear at this stage as to what is the verdict of the Parliament on this question which we have referred to them and we want an answer so that we can arrange our business accordingly.

As for the third point raised by Maulana Kausar Niazi regarding the Question Hour, as is known today was not normally intended to be a day for business. It was decided later to have this as a day for government business and, therefore, questions and answers could not be arranged; and before I could move the motion which I wanted to move for consideration of this House that the Question Hour be suspended, Maulana Kausar Niazi has raised this question that we have not asked for suspension. Well Sir, If I have your permission I would like to move that question.

Mr. Chairman: Well, let us decide the point of order first then we will come to the (Minister's) question. With regard to the point of

order raised by Senator Javed Jabbar and supported by a number of others Senators, in principle I agree that for every session the business of the House should be regulated and announced in advance. This was the ruling that I had given in the context of the President address when a privilege motion was raised there on last year (or it was it this year?) At that time we had come to the conclusion that the failure to regulate the business of the House in the desired manner was not due to anybody's fault. In fact, it suffered from contributed negligence on the part of all of us. But in future, and by future we meant the beginning of the next parliamentary year, the business would be more appropriately regulated. So, in principle I agree that it should have been so done but at the same time as far as government business is concerned, the Minister for Justice is perfectly correct in saying that under Rule 23 the business of the House for official days can only be regulated by the government itself and is no restriction can be placed on how they arrange and what priority they attach to various types of business which they have on their land. In that the Secretariat or for that matter the Chair has no discretion whatsoever and if I may read out the relevant Rule, it says;

“The Secretary shall arrange the government business in such order as the Leader of the House or in his absence any other Minister authorized by him may intimate.”

The Secretariat and the Chair have some powers with regard to arranging the business on a Private Members Day but not with regard to official business on official days, that is the government privilege and government prerogative whether you call it bulldozing or not and a majority in a democracy can and does bulldoze at times. It may be a word which probably is not very much liked but in ultimate analysis it does come to bulldozing when you stand up and vote and the majority wins regardless of the merit of the case—on which opinions can differ even otherwise. Now this is the first part of the ruling. In my opinion no breach of any rule has taken place and there is no question, of course, of any insult or indignity to the House as such.

The other point was with regard to questions. Now, if you refer the Rules on Questions, not less than 13 clear days notice is required to be given of a question unless the Chairman with the consent etc., decides

[Mr. Chairman]

otherwise. Now this is a requirement with regard to notice which members have to observe. Then, at least a notice of 7 days has to be given to the Ministry concerned that this particular question would be taken up on such and such date. Now according to the programme of work as was intimated to us earlier, there was no session fixed for Monday and there was no session on Tuesday and the only session that was going to take place was on Wednesday, with the result that the Secretariat could not ask any of the Ministry and any of the Division to be prepared with answers for these two particular days. Since there was going to be no official business on those days there was also no question of any questions being taken up. So, in a sense the Question Hour has fallen by default because of the change in the programme. But there again the Minister has made the point and that should be borne in mind that he was going to move that this Question Hour should be formally suspended but before he could come to that he was overtaken by the points of order. Now a point of order has in a certain sense a priority particularly if it relates to the Orders of the Day, I allowed it but we did not give a chance to the Minister to move his motion with regard to suspension of the Question Hour. Now if the formal 'Karravie' کارروائی has to be completed we will request the Minister to move that motion also. But that apart, there is I think no other point pending for orders at this stage. (*Interruption*).

Now as to the Rules of Procedure, there again it depends on the priority which government attaches to the business before it. If it considers that amendment in the Constitution should have the first priority even over the Rules. It can do. The Rules of course, also emanate from and follow the Constitution. Now supposing in the Constitution it was provided that the number of days for which the Senate has to sit should also be reduced (as has been done in the case of the National Assembly) from the existing ninety to something else, then that corresponding change would have been necessary to be made in the Rules also. The Rules in a sense follow the Constitution and the Constitution from that point of view, I agree with the government, has a priority. As to the question whether it (the amendment) should be done this year or it should have been done next year that of course is the government's own صوابدید. It is government's discretion and they supposed to know their policies better ر.موز مملکت خویش خسرواں دانند. It is

upto them to decide their own priorities and in this the Secretariat is completely helpless. The Order of the Day for official business on official day has to be what the government tells the Secretariat what it should be.

قاضی حسین احمد: جو آپ نے ابھی ارشاد فرمایا ہے کہ یہ اس رولنگ کا حصہ ہے، اگر یہ رولنگ کا حصہ ہے تو یہ بڑا خطرناک ہے، کیونکہ اسکا دوسرا حصہ یہ ہے کہ گدائے گوشہ نشینی تو حافظ مخروش اسکا مطلب یہ ہے کہ ہم سب پھر بیٹھے رہیں اور خسرواں ہی اپنے کام جانتے ہیں۔ اگر آپ نے جناب رولنگ کے حصے کے طور پر کہا ہے اسکا مطلب تو یہ ہے کہ ہم پھر گوشہ نشینی اختیار کر لیں۔
جناب چیئرمین: اس ضمن میں حافظ کا دوسرا ارشاد میرے خیال میں اس سے زیادہ بہتر ہے۔ کہ

حافظ وظیفہ تو دعا گفتن است و بس
در بند آں مباحش کہ نہ شنید یا شنید

I think in a democracy it is really a question of.....

در بند آں مباحش
مولانا کوثر نیازی: سب دعا گو بیٹھے ہیں۔ اقتدار کی اقبال مندی کے لئے۔

Mr. Ahmed Mian Soomro: With your permission Sir, you have just now stated that because they intend to make an amendment in the Constitution, the work relating to the framing of the Draft Rules.....

Mr. Chairman: I just gave that as an example that when it comes to a choice between the framing of rules and the amendment to a Constitution, I think government would be correct in its perception that the Constitution should have a priority. For the reason that the Rules follow the Constitution and they do not precede the Constitution.

Mr. Ahmed Mian Soomro: On that point Sir, my respectful submission is, I believe you had yourself Yesterday pointed out about

the Constitution Committee that means we should wait till that Constitution Committee also proposes whatever.....

Mr. Chairman: I think that is not the point at issue. We debated and discussed that Yesterday and it was disposed off. Let us now proceed with the rest of business.

مولانا کوثر نیازی: جناب چیئرمین! میں یہ گزارش کروں گا کہ آپ ازراہ کرم رول ۳۶ ملاحظہ فرمائیں۔

جناب چیئرمین: جی۔ اسی رول کی طرف تو آرہے ہیں۔
مولانا کوثر نیازی: میں عرض کرتا ہوں

“Except as otherwise provided in these rules, the first hour of every sitting, after the recitation from the Holy Quran and the making of oath by members, if any, shall be available for the asking and answering of questions.”

Questions, Answers ہر sitting سوائے پرائیویٹ ممبرز کے اسکا پہلا گھنٹہ کیلئے ہوگا۔۔۔۔

جناب چیئرمین: بالکل صحیح ہے۔

مولانا کوثر نیازی: اب اگر رول suspend کئے بغیر Questions اڑادیئے جائیں تو یہ Rules کی واضح خلاف ورزی ہے۔ اور Questions اڑادیئے گئے۔ جب ایجنڈا جاری کیا گیا اور اس میں Questions سرے سے رکھے ہی نہیں گئے تو اس کا مطلب یہ ہے کہ پہلے ہی رولز کو suspend کرنے کا تصور وزیر صاحب نے اپنے ذہن میں قائم کر لیا۔ حالانکہ Questions اس میں ہونے چاہئے تھے sitting اسی وقت ہوتی جب آپ Questions, Answers پیش کرنے کے قابل ہوتے سیکریٹریٹ کی طرف سے، پھر ایجنڈے میں آتا کہ Questions ہوں گے اور پھر وزیر صاحب اٹھ کر یہ کہتے کہ urgency کے پیش نظر ہم move کرتے ہیں کہ یہ رولز suspend کیے جائیں لیکن انہوں نے کوئی move نہیں کیا اور ایجنڈا پہلے جاری ہو گیا۔ اس کا مطلب یہ ہے کہ انہوں نے ہاؤس کو Taken for granted لے لیا۔ اور جناب والا! چونکہ ہر sitting کیلئے

سوالات شرط لازم ہیں تو منطق کے قاعدے کی رو سے اذافات الشرطیات المشروط - جب شرط فوت ہو گئی مشروط آپ سے آپ فوت ہو گیا۔ تو جب کورسپنڈنٹ نے نہیں رکھے اس سٹنگ کیلئے، تو یہ سٹنگ ہو ہی نہیں سکتی از روئے قواعد۔

جناب چیئرمین: میرے خیال میں یہ صحیح نہیں ہے کہ از روئے قواعد سٹنگ ہو ہی نہیں سکتی۔ سٹنگ ہو سکتی ہے، سوال ہوں یا نہ ہوں۔ یہی میں نے آپ کو سمجھانے کی کوشش کی اور یہی رولنگ کا حصہ تھا کہ اگر کوئی ایسا دن ہو، باوجود اس رول کے کہ ایوان میں سے کوئی صاحب کورسپنڈنٹ ریز ہی نہیں کرنا چاہتے تو پھر کیا کوئی سیشن نہ ہو؟

مولانا کوثر نیازی: وقفہ پرووائیڈ تو کیا جائے گا نا جناب۔

جناب چیئرمین: وقفہ تب ہو گا۔ سیکریٹریٹ کو یہ پتہ ہو کہ کسی کا کورسپنڈنٹ کیلئے ڈیو ہے یا نہیں ہے۔ جب نہیں ہے تو وہ کیوں پرووائیڈ کریں گے اس کی وجہ میں نے آپ کو یہ بتادی تھی کہ پہلے پروگرام کے مطابق آج کوئی اجلاس نہیں ہونا تھا۔ اس لئے کسی ڈویژن کو یہ نوٹس نہیں دیا گیا تھا کہ اس دن فلاں کورسپنڈنٹ آئے گا یا نہیں آئے گا۔ اور کورسپنڈنٹ کے نہ ہونے کی وجہ صرف یہی تھی۔

Mr. Ahmed Mian Soomro: Point of order, Sir. In that case, Sir, the Orders of the Day should have mentioned that the motion is to be given by the Law Minister and he should have given notice of that, we should have had notice of that; it should have been on the Orders of the Day that he will move a motion to the effect that the Question Hour be suspended. When that motion is also not on the agenda why should we presume and find that the Orders of the Day should be without that.

Mr. Chairman: Motions of this type are never put on the agenda. They are raised on the floor of the House. With regard to the questions being there or not there I have explained it in sufficient detail why they have not been there, It is no fun to put questions. If you look at the old Orders of the Day, it always says questions entered in a separate list will be answered. If there is no list in which any question appears how do you put it on the agenda that there would be a Question Hour. So, Mr. Wasim Sajjad I would request you to move your motion in order to complete the formality.

Mr. Wasim Sajjad: I beg to move that:

“Under Rule 229 of the Rules of Procedure and Conduct of Business in the Senate, 1973, the requirement of the Rule 36 of the said Rules be suspended with regard to Question Hour for 16th and 17th March, 1987.”

Mr. Chairman: The motion moved is:

“Under Rule 229 of the Rules of Procedure and Conduct of Business in the Senate, 1973, the requirement of the Rule 36 of the said Rules be suspended with regard to Question Hour for 16th and 17th March, 1987.”

Mr. Ahmed Mian Soomro: I oppose it, Sir.

Mr. Chairman: Well. It cannot be debated and the question will have to be put I think.

Mr. Ahmed Mian Soomro: It will be on record as opposing it, Sir?

Mr. Chairman: Right. Well that would come out in the votes, also.

The question is:

“That under Rule 229 of the Rules of Procedure and Conduct of Business in the Senate, 1973, the requirement of the Rule 36 of the said Rules be suspended with regard to Question Hour for 16th and 17th March, 1987.”

(The Motion was adopted)

Mr. Ahmed Mian Soomro: The government is doing well in breaking conventions. Let it be on the record of the Senate.

PRIVILEGE MOTIONS

Mr. Chairman: We come to the privilege motions—Maulana Kausar Niazi.

کل جو ڈیفرف ہوئی تھی وہ پڑھیں۔

PRIVILEGE MOTION; RE: AVOIDANCE TO FURNISH
INFORMATION ASKED FOR THROUGH
QUESTION No. 136

مولانا کوثر نیازی: میں جناب آپ کے حافظے کو تازہ کرنے کیلئے اسے دوبارہ پڑھ دیتا ہوں۔

جناب چیئرمین: جی پڑھیے۔

مولانا کوثر نیازی: میں نے ۱۷ نومبر ۱۹۸۶ء کو ایک سوال کانٹس دیا تھا جس میں یہ پوچھا گیا تھا کہ ۱۹۸۰ء سے لے کر ۱۹۸۶ء تک صدر مملکت کے ساتھ حج اور عمرہ کرنے والی خواتین و حضرات کے اسماء کی کیا تفصیل ہے، ان پر کتنا خرچ ہوا ہے۔ جناب چیئرمین نے ازراہ کرم اس سوال کو ایڈمٹ کر لیا اور یہ دو مرتبہ اپنے روٹا ڈے پر فکس بھی ہو گیا، لیکن دونوں دفعہ نامعلوم وجوہ کی بنا پر اسے ڈیفرف کر دیا گیا۔ اس پر میں نے سوالات کے وقفے کے دوران پوائنٹ آف آرڈر پر کھڑے ہو کر جناب چیئرمین کی توجہ اس جانب مبذول کرائی اور انہوں نے ازراہ کرم ایوان کے ڈپٹی لیڈر خان محمد علی خان کو ہدایت کی کہ وہ متعلقہ وزارت سے اس سوال کا جواب حاصل کرنے کی کوشش کریں۔ جناب چیئرمین! وہ سیشن گزر گیا، مگر میرے سوال کا جواب نہیں ملا۔ صاف ظاہر ہے کہ حکومت اس سوال کا جواب دینے سے گریز کر رہی ہے۔ جس سے میرا استحقاق مجروح ہوا ہے۔ لہذا میں تحریک کرتا ہوں کہ اس مسئلے پر ایوان میں غور کیا جائے۔ میں جناب اس پر اپنی گزارشات جناب وزیر صاحب کو سننے کے بعد عرض کروں گا۔

Mr. Wasim Sajjad: Sir, the honourable Senator had raised this question and it was directed to the Ministry for Religious Affairs. The Ministry of Religious Affairs does not keep any record of the visits by the President and accordingly when the question reached the Ministry for Religious Affairs, they said that we don't have any information and therefore, they sent the matter to the Cabinet Division. The Cabinet Division also said that they do not maintain any

[Mr. Wasim Sajjad]

record and rightly because this matter is really the concern of the President's Secretariat. It was for this reason that the matter was deferred and then, in the meantime, the session was prorogued and therefore, in accordance with the normal rules, of this House the matter came to an end. I understand that the honourable Senator Maulana Kausar Niazi has again raised this question in this session for which the normal 13 days notice is required and when the matter does come up the question will be answered and we will give whatever information we can give under the rules. Of course, we would also be entitled, I am not saying we shall raise, we will be entitled to raise any objection to the admissibility of the question if there is any and if, Sir, the Chair holds that this question must be answered we will give whatever information is available to us at this stage. So, there is no question of breach of privilege at this stage because the question has been moved and in the normal routine it will come up and when it comes up it is only then that the honourable Senator can say whether there has been a willful and a deliberate refusal on the part of the government not to answer that particular question. At this stage, I would say, Sir, that no breach of privilege has been involved. It is a pre-mature question, a question has been raised and in the normal routine when it comes up, we shall see what the reaction is going to be?

جناب چیئر مین: جناب مولانا کوثر نیازی صاحب۔

مولانا کوثر نیازی: جناب والا! میرے فاضل عزیز نے پوری بات نہیں بتائی۔ یہ صحیح ہے کہ یہ سوال وزارت مذہبی امور کو ریفر کیا گیا تھا اور اس نے کہا کہ اس کے پاس ریکارڈ نہیں ہے اور پھر کیمینٹ ڈویژن کو یہ سوال بھیجا گیا وہاں سے پریذیڈنٹ ہاؤس کو، پریذیڈنٹ ہاؤس نے یہ سوال لاء منسٹری کو بھیج دیا یہ رائے لینے کیلئے کہ قانوناً یہ سوال پوچھا جاسکتا ہے کہ نہیں۔ یہ حصہ انہوں نے اپنے جواب میں سے ڈیلیٹ کر دیا جو یقیناً ان کے نا لُج میں ہو گا۔ میں جناب والا! یہ عرض کرنا چاہتا ہوں کہ اس بات کا فیصلہ کہ کون سا سوال ایڈمسبل ہے کون سا نہیں ہے یہ گورنمنٹ کے کرنے کا نہیں ہے، چیئر اس کا فیصلہ کرتی ہے اور جب آپ نے ازراہ کرم اور ازراہ قانون اس کا فیصلہ کر دیا کہ یہ سوال ایڈمسبل ہے تو اس کے بعد لیت و لعل سے کام لینا اور دوبارہ اس کو لاء منسٹری کے پاس بھیجنا یہ رائے لینے کیلئے کہ قانونی طور پر یہ سوال پوچھا جاسکتا ہے یا نہیں، یقیناً یہ اس ہاؤس کی توہین ہے۔ دوسری گزارش یہ ہے کہ انہوں نے فرمایا

ہے کہ میں نے دوبارہ اس سوال کانوٹس دیا ہے۔ میں نے دوبارہ اس سوال کانوٹس نہیں دیا بلکہ جو سوال چلا آ رہا ہے، اسے نمبر سے میں نے اسے ریوائیو کیا ہے اور اس کیلئے ۱۳ دن کے نوٹس کی ضرورت نہیں ہے کیونکہ پہلے ہی سے اس کانوٹس دیا جا چکا ہے۔ اور حکومت کے پاس پہلے سے اس کانوٹس جا چکا ہے۔ اب یہ کہنا کہ جب یہ سوال آئے گا تو اس دن بھی یہ سوال کا جواب تو پورا نہیں دیں گے اس دن بھی جو اعتراضات ہوں گے اس سوال پر وہ فرمائیں گے۔ یہ سکوٹسچین آنسری، ہسٹری میں، میں سمجھتا ہوں پہلا موقع ہو گا کہ وزارت متعلقہ جواب دینے کی بجائے سوال پر اعتراضات، سوالات کے وقفے میں دائر کرے گی۔ حالانکہ سوال کے وقفے میں سوائے جواب کے اور کوئی بات نہیں کی جاسکتی نہ کوئی تقریر کی جاسکتی ہے۔ اور نہ اس پر پوائنٹس اٹھائے جاسکتے ہیں۔ اس لئے جناب چیئرمین! عندیہ حکومت کا صاف واضح ہے کہ وہ اس مسئلے میں جس میں یقیناً حکومت کا خرانہ انوالو ہے کوئی معلومات ہاؤس کے سامنے دینے سے گریز کر رہی ہے اور یقیناً آپ اس سے اتفاق فرمائیں گے کہ یہ میرے بھی استحقاق کی جرح کا باعث ہے اور اس ایوان کے وقار کے بھی منافی ہے۔

Mr. Wasim Sajjad: Sir, I think I have been misunderstood. I did not say that we would raise objections before the House on this question. I understand Sir, the normal procedure is that questions are admitted and if any objection is raised as to the admissibility it is considered by the Chair not in the House but otherwise, and then a direction is given that—no, we over-rule your objection or we uphold your objection. As far as the expense on the national exchequer is concerned, Sir, I just want to draw the attention of Maulana Sahib to the fact that when the President was abroad and as he is entitled to go abroad in the aircraft and there are vacant seats in the aircraft and the President requests some persons to accompany him, no expense of the national exchequer is involved, it is the courtesy of the President as the plane is in any case going. The President is entitled to it by virtue of his office and that question is of course I think a matter of a separate question altogether.

Mr. Chairman: I think that aspect can be looked into when the answer to this question is given. Here we are dealing with the question of admissibility. It is correct that I had admitted the question

but let me also read out that question in the form in which it had been admitted because Maulana Sahib has in his privilege motion slightly changed the text of that question. The original question as admitted reads:

کیا وزیر صاحب بتائیں گے کہ ۱۹۸۰ سے لے کر ۱۹۸۶ تک صدر مملکت کے ساتھ کتنے افراد نے حج اور عمرہ ادا کیا ان کے نام اور حیثیت کی تفصیل کیا ہے اور ان پر کل کتنا خرچ ہوا۔

This is the original question and this is the form in which it was admitted—for the reason which I might as well explain. The House is very well aware that the conduct of the President cannot be brought under discussion through questions or through privilege or adjournment motions of any type. This is the Rule and this also is according to the traditions both of the British Parliament, in India and wherever else there is a Federal structure. The Traditions are and the practice is that certain matters cannot be debated except upon a substantive motion which admits of a distinct vote of the House. Amongst these (matters) are the conduct of the sovereign, — this is the British tradition —, the heir to the throne, other members of the Royal family, a Governor General of an independent territory, the Lord Chancellor, the Speaker, the Chairman of ways and means Committee, members of either House of Parliament, Judges of the Supreme Court etc. The Rule there is that 'unless the discussion is based upon a substantive motion' drawn in proper terms, reflection must not be cast in debate on the conduct of the sovereign, the heir to the throne or others members of the Royal family the Lord Chancellor etc. Members of either Houses of Parliament or Judges of Superior Courts of United Kingdom including persons holding the position of a Judge of the Court of Bankruptcy etc., etc. The practice in India is—that members have the freedom of speech in the House and as a necessary corollary to this privilege they are immune from proceedings in any court, civil or criminal, for anything said on the floor of the House. This constitutional privilege of freedom of speech is however subject to the other provisions of the Constitution and to the Rules and traditions of the House which include that "conduct of high dignities cannot be questioned incidently in the course of a speech by a member on a bill, motion, resolution or any other form of discussion. The Constitution provides for discussion on the conduct of some of the authorities in the manner

[Mr. Chairman]

indicated therein – *e.g.* the President, the Vice President, the Speaker, the Deputy Speaker, Judges of the Supreme Court....etc.” Other high functionaries such as Governor, Minister etc. can be discussed but on appropriate motion drawn in the form provided. Now again quoting ‘Kaul’, if you would refer to page 387 it says:

“Questions relating to the head of State are not ordinarily admitted for answers on the floor of the House. If a question is admissible the requisite information may be obtained from the Secretary to the President and passed on to the member. In this category fall questions which seek information of purely factual character, *e.g.*, visits of the President abroad, the President’s Estate, and the expenditure incurred thereon. A question regarding appointment of Governors or President’s prerogative in respect of mercy petitions is inadmissible. However, a question seeking factual information regarding such matters may be admitted.”

Now, I had full knowledge of what the tradition and practices elsewhere were. I admitted the question only that it asked for factual information—of the type that I have read out to you when I read out the question. Now that information it is correct is not kept by the Ministry of Religious Affairs. I also believe that this information is not maintained in the ordinary course of business and is not kept in regular record or in regular files as part of permanent record. So if it has taken time to collect this information which relates to the period from 1980 to 1986 it is understandable. There certainly has been delay but this delay I would not consider—considering the nature of the question—as inordinate and until such time that it can be established that there has been a deliberate avoidane on the part of the government to answer this question, I don’t think the question of breach of privilege arises. The Minister here has stated that he would answer this question on the regular day whatever information in whatever form becomes available to him till then. So this is the position and it is not a privilege motion. Additionally,— and I think this is another factor which should be kept in mind—the honourable Senator has revived this question for the current session which means that he has acquiesced in the situation and

he cannot turn around now and say that since his question has not been answered there has been a breach of privilege. In a way he is estopped, by reviving the question, from raising a question of any breach of privilege. So, for these reasons the privilege motion is ruled out.

ADJOURNMENT MOTIONS

Mr. Muhammad Tariq Chaudhary, Adjournment Motion
No. 7.

ADJOURNMENT MOTIONS

(I) RE; STATEMENT OF GORDON HUMPHREY ON THE CRITICAL STAGE OF GENEVA TALKS

جناب محمد طارق چوہدری: میں تحریک کرتا ہوں کہ ایوان کی بقیہ کارروائی روک کر قومی اہمیت کے حامل اس فوری نوعیت کے مسئلہ کو زیر بحث لایا جائے۔

۸ فروری کے اخبار ”دی نیشن“ لاہور، میں امریکن ریپیبلکن سینیٹر Gordon Humphrey کے حوالے سے یہ خبر شائع ہوئی ہے کہ جینوا مذاکرات میں اگر پاکستان نے روسی فوجوں کی واپسی کا چار ماہ سے زیادہ عرصے پر محیط شیڈول قبول کیا تو اس سے پاکستان کو ملنے والی امریکی امداد مکمل طور پر بند ہو سکتی ہے۔ ایک سپر پاور کا یہ طرز عمل پاکستان کی آبادی، خود مختاری اور قومی عزت کے منافی ہے۔ لہذا ضروری ہے کہ اس ایوان میں اس مسئلہ کو زیر بحث لا کر ہم اپنی خود مختاری اور آزاد خارجہ پالیسی کا تحفظ کریں اور وہ اقدامات تجویز کریں جو کسی بھی ایسی متوقع صورت حال پیدا ہونے پر قومی تحفظ اور مفادات کیلئے ضروری ہیں۔

Mr. Chairman: Is it being opposed?

Mr. Zain Noorani: Certainly Sir, it is being opposed. Sir, may I request for a thing.

Mr. Chairman: Yes please.

Mr. Zain Noorani: Since this adjournment motion has been moved, I have great respect for the honourable Senator as a gentleman and as a Senator also but probably after hearing me because this is based on incorrect information probably.....

Mr. Chairman: Right. I think it is alright.

Mr. Zain Noorani: As I said probably he will not press it.

Mr. Chairman: Right. Right.

Mr. Zain Noorani: The other technical points I will not raise at this stage, I reserve that. But first of all I say it is based on incorrect information. Now first of all the adjournment motion says that a super power has done this. For the information of the honourable Senator neither Senator Gordon Humphery is a super power nor he is the Government of United States of America, he is an individual Senator. So it is not a super power who has said anything. Secondly Sir, this is based on a news item in the 'Nation' dated 8th February, 1987. Now, the portion from which the honourable Senator has drawn conclusion are not the words of the honourable Senator. The 'Nation' has reproduced a news item from an Indian Daily called the 'Hindustan Times', where the first part of it is the words of the correspondent. Mr. Bharat Karnat. If you want I will read it. It says:

“All India Radio referring to a report by Bharat Karnat, a correspondent of Hindustan Times, has disclosed that Pakistan will have to face a complete withdrawal of American economic and military assistance if any compromise with USSR on the Afghan issue at the Geneva talks of 25th February, 1987, is to be reached.”

This is not what the American Senator has said. This is what Mr. Bharat Karnat is saying. It goes on:

“Members of the American Congress have warned Pakistan that if it agrees to the withdrawal of Soviet troops from Afghanistan beyond the four months period, the Russian forces will completely smash the Mujahideen resistance. Pakistan will have to pay a heavy penalty if it makes any pact at Geneva at the cost of the Mujahideen.”

[Mr. Zain Noorani]

This is what Mr. Karnat has said. Now comes what the Republican Senator says:

“Republican Senator Gordon Humphrey in his interview to Bharat Karnat has said, “the Geneva talks are at a critical stage and it is feared that Pakistan may damage the Mujahideen’s interest and gain which they obtained at heavy cost.” The American Senator added, “if Pakistan did so the relations between the two countries will greatly be hampered.”

You see, Sir, what is the operative sentence? The operative sentence what the Senator said is that relations between the two countries be greatly hampered. What is the conclusion which the Indian journalist has drawn – that the Senator said that aid would be suspended, which are two different things.

Now, again in support of what I am saying that Senator Humphrey is a friend of Pakistan and he has not threatened Pakistan, I refer again to the same ‘Daily Nation’ of 14th February where it says:

“The Chairman American Congress Task Force, Senator Gordon Humphrey has said Pakistan follows certain principles concerning Afghanistan dispute. Pakistan is facing threats from USSR for her heroic role in the Afghan issue. In an interview with Voice of America he said, ‘since Pakistan is playing a pivotal role, its allies all over the world should proclaim their determination to ensure its security and solidarity.’ He has stressed upon the US Government to reiterate the security measures which it is willing to take for the security of Pakistan. He has also stressed upon his friends in the American Congress to approve US aid to Pakistan which has already been settled between President Reagan and Pakistan Government.”....so on and so forth.

So, first of all Senator Humphrey is not the super power who is being referred to. Secondly, he has not said that aid would be stopped. On the contrary he is pleading with the American Congress that aid to

Pakistan should be given. So, I am sure this adjournment motion has been moved on the basis of some mis-understanding on the part of the honourable Senator.

Mr. Chairman: Yes, Mr. Muhammad Tariq Chaudhary.

جناب محمد طارق چوہدری: جناب والا! امریکہ کبھی اتنی تیزی سے ہماری مدد کو نہیں آیا جتنی تیزی سے امریکی مدد کیلئے ہماری حکومت آئی، یعنی یہ میرا کام تھا کہ میں پہلے establish کر تا کہ اس پر بحث ہونی چاہئے یا نہیں ہونی چاہئے اور اس سے پہلے ہی انہوں نے وہ اپنے تمام دلائل اور اپنے تمام تیر اور اپنے تمام ترکش استعمال کر لئے جو اس سے بعد میں ہونے چاہیں تھے۔

جناب زین نورانی: تمام نہیں کیے۔

جناب محمد طارق چوہدری: آپ نے بھی بڑی فراخ دلی کے ساتھ ان کو اس بات کی اجازت دے دی، اب جب وہ اتنی محنت کر کے اتنی کوشش کر کے اتنی ہمت کر کے آپ کی اجازت لے کے امریکی حکومت کی مدد کو آہی گئے ہیں تو پھر میں اب اس پر کیا کہہ سکتا ہوں، یہ کافی ہے، آپ نے ساری صورت حال بالکل الٹ کر دی، یعنی یہ باتیں جو مجھے پہلے کہنی چاہیں تھیں اور ان کا یہ جواب دیتے، انہوں نے یہ سارے ترکش ابھی آزمائے۔

جناب چیئرمین: دیکھیں، ایڈمسیبلٹی کی ایک سب سے بنیادی شرط یہ ہے کہ جس موضوع پر جس نیوز آئیٹم پر، جس کمیٹی پر اس کی بنیاد رکھی جاتی ہے وہ صحیح ہے اور ایوان کا وقت بھی آپ کا وقت بھی، ہم سب کا وقت اس سے بچ سکتا ہے کہ اگر واقعات کا پہلے سے ہی یہ تصفیہ کیا جائے کہ یہ واقعات، جس مفروضے پر اس کی بنیاد ہے، وہ ہی صحیح نہیں ہے تو پھر نہ آپ کو تکلیف کرنا پڑے گی کہ اس کی ایڈمسیبلٹی کو ثابت کریں نہ ایوان کو اس میں جانے کی ضرورت پڑتی ہے۔ تو اس لئے میں نے جناب وزیر صاحب کو اجازت دی کہ وہ واقعات کو بیان کر دیں تو اب آپ اس پر اصرار کرتے ہیں یا نہیں کرتے؟

جناب محمد طارق چوہدری: جناب اس کے ایڈمسیبل ہونے پر تو جب یہ سیکریٹریٹ سے بچ بچا کر یہاں پر کسی طرح آگئی ہے، ساٹھ فیصد تو ہماری یہ جو تحریکیں ہوتی ہیں یہ وہیں نمٹا دی جاتی ہیں، ان کا قتل کر کے، کر یا کر م کر کے پھر اس کے پھول ہمارے سپرد کر دیئے جاتے

ہیں کہ چاہئے گنگا کی نذر کیجئے جب یہ وہاں سے کسی طرح بچ چکا کے آہی گیا تو اس میں تھوڑے بہت جراثیم بہر حال تھے، اب آپ اس پر فیصلہ کرنے پر آہی گئے ہیں تو میں اس پر اصرار نہیں کرتا۔

جناب چیئرمین: تحریک پر اصرار نہیں کیا گیا، یہ چار ایک نوعیت کی تحریک التوا ہیں پہلی نمبر ۸ جناب سعید قادر صاحب کے نام پر دوسری نمبر ۱۲ جناب طارق چوہدری صاحب کے نام پر ہے، تیسری مولانا کوثر نیازی اور قاضی عبداللطیف صاحب کے مشترک نام پر ہے نمبر ۲۶۔ اور چوتھی ہے مولانا سمیع الحق صاحب کے نام پر نمبر ۳۲، تو سعید قادر صاحب اپنی تحریک پڑھ لیں۔

(II) RE: STATEMENT OF MR. DEANE R. HINTON ON
PAKISTAN'S NUCLEAR DEVELOPMENT PROGRAMME

Lt. Gen. (Retd.) Saeed Qadir: I beg to move that the business of the House be suspended to discuss the wisdom in providing an official forum at the Institute of Strategic Studies, Islamabad on Monday, 16th February at or about 5 p.m. to Mr. Deane R. Hinton, Ambassador of the U.S.A. in Pakistan to criticise our government's peaceful policy for the development of nuclear energy.

جناب چیئرمین: جناب محمد طارق چوہدری صاحب۔

جناب محمد طارق چوہدری: میں تحریک کرتا ہوں کہ اس اہم ترین قومی اہمیت اور عوامی دلچسپی کے موضوع کو زیر بحث لانے کیلئے ایوان کی آج کی کارروائی کو موخر کر دیا جائے کہ پاکستان کا پرامن ایٹمی پروگرام ہدف تنقید بنا ہوا ہے اور ہمارے قومی زعماء کے بار بار اعلانات کے باوجود کہ ”پاکستان کا ایٹمی پروگرام قطعاً پرامن مقاصد کیلئے ہے“۔ کوئی بھی ان کے اس موقف کو مان کے نہیں دیتا اور اب امریکی سفیر ڈین ہینٹن کے بیان سے کہ پاکستان کی مبہم ایٹمی پالیسی کے باعث امریکی امداد بند ہو سکتی ہے کیونکہ پاکستان کے پروگرام کی بعض باتیں پر امن پروگرام سے مطابقت نہیں رکھتی ہیں۔ یہ بیان ایک ناکردہ گناہ پر دھمکی آمیز رویہ کی چغلی کھاتا ہے جس سے پاکستان کو نقصان پہنچ سکتا ہے اور ہمارا ملک گونا گوں مسائل و مشکلات کا

[Lt. Gen. (Retd.) Saeed Qadir]

شکار ہو سکتا ہے۔ لہذا اس اہم قومی موقف پر بہتر تجاویز مرتب کر کے پیش کر سکیں اس پر بحث کی جائے۔

جناب چیئرمین: جناب مولانا کوثر نیازی۔

مولانا کوثر نیازی: امریکی سفیر ڈین ھینٹن نے اسلام آباد میں تقریر کرتے ہوئے حکومت پاکستان پر زور دیا ہے کہ وہ ایک طرفہ کارروائی کرتے ہوئے ایٹمی ہتھیار بنانے کے معاہدے پر دستخط کریں، اس سے امریکی کانگریس سے پاکستان کی امداد منظور کرنے کے رستے سے رکاوٹ دور ہو جائے گی۔ امریکی سفیر کے یہ خیالات ہمارے اندرونی معاملات میں مداخلت کے بھی مترادف ہیں اور ان میں دھمکی بھی چھپی ہوئی ہے کہ اگر پاکستان نے اپنے ایٹمی پروگرام کو نہ چھوڑا تو اسکی امداد بند کر دی جائے گی، سفیر صاحب کی یہ تقریر پاکستان کے لئے بڑی اہمیت کی حامل ہے اس لئے ہم تحریک کرتے ہیں کہ اس پر بحث کرنے کیلئے ایوان کی کارروائی روک دی جائے۔

Mr. Chairman: Are these being opposed.

Mr. Zain Noorani: Yes, Sir, they are certainly being opposed.

Mr. Chairman: Yes please.

Lt. Gen. (Retd.) Saeed Qadir: I beg to draw your attention Mr. Chairman, to the fact that my adjournment motion has no relationship whatsoever with the subsequent adjournment motions which have been read out in the House.

I would like to draw your attention to the fact that I am not in any way questioning the criticism or the text of the speech of the speaker at the Institute of Strategic Studies. I have only raised the issue whether it was right for the government to provide its own forum to raise an issue which may be detrimental to Pakistan. So, there is a major difference between the subject matter which has been read out in the subsequent adjournment motions to mine. So, I would request that my adjournment motion should be de-linked and it should be settled separately because I have no intention and as a principle I think there

is the question of freedom of speech. I have no quarrel as to who would like to say what about our nuclear issue. Mr. Hinton has plenty of platforms available. He has his own newspaper available. He can go on doing what he likes. I have no quarrel with that. My point is, was it right for our government to provide him that platform. That is all. Do you wish me to proceed further?

Mr. Chairman: I think if you want to explain this further you may please do but that would mean that you want to disassociate yourself with the rest of the speakers.

Lt. Gen. (Retd.) Saeed Qadir: Sir, I would like to draw your attention to the fact that I have said, "to discuss the wisdom in providing an official forum," that is my adjournment motion. It has nothing to do with the other subject matter.

Mr. Chairman: But let us dispose it of first.

Mr. Zain Noorani: May I suggest that let us all take together as you have decided. When dealing with this I shall certainly deal with this matter which has been raised by the honourable Senator separately.

Mr. Chairman: But if you want it can be disposed of first.

Mr. Zain Noorani: I have no objection.

Mr. Chairman: We can dispose it of first.

Lt. Gen. (Retd.) Saeed Qadir: Would you like me to go on its admissibility?

Mr. Chairman: Yes, it is a question of admissibility at this stage.

Lt. Gen. (Retd.) Saeed Qadir: As you know Sir, in the Rules of the Procedure there are twelve conditions of admissibility and I would go into each one of these, one by one. This is an issue of urgent public importance, I think it can hardly be questioned.

Mr. Chairman: I think, if you answer one simple question the whole thing would fall in its proper place and that question is; how does the government or how for that matter the Institute of Strategic Studies could know what Mr. Deane R. Hinton was going to say in advance? Your objection is that a plat-form was provided to him. A platform was provided to him for saying good things, for saying bad things, for saying different things because the government could not know in advance what he was going to say exactly. So, there would be no question of the Institute having done anything wrong. It does not on that reasons become an urgent matter of public importance either. Every day Government Institutions, Government Departments are holding seminars inviting all sorts and all manners and all categories of people and they express all such questions. If you answer this the whole thing would fall in its proper place.

Lt. Gen. (Retd.) Saeed Qadir: The issue which is involved is that at this time in the history of this country when we are faced with such an important international issues which we can not overlook, the nuclear issue remains one of the most important issues in Pakistan and I think this government has repeatedly stated, not once, right from the Head of the State down to the common articles in the newspapers that Pakistan will continue to use its resources to develop peaceful nuclear resources in this country. Now when you give a subject of the nature as we did give Mr. Deane R. Hinton to speak on, the subject 'Reflection on Nuclear Issues in South Asia,' I ask you Mr. Chairman, that if this subject is given to anybody, can you isolate the important issue of nuclear development in any country, more so particularly in Pakistan? Now in asking for speaking on this subject at a time when the Aid Bill is likely to be discussed by the Senate Committee, and by the Government of U.S. itself at a time when this issue was so hot, the subject has been raised on a formal official platform. As I said earlier this subject has been debated before also and that it will continue to be debated and I think our Foreign Minister and the Minister of State for Foreign Affairs have very categorically given the government position which we all very strongly support, but the fact remains that what we would like to hear that there may be also some favourable reaction as a result of providing a platform to somebody to speak on an important issue such as the nuclear issue. Would you like to provide an official platform to create more problems for the government than to let it be

done outside the government forum? I agree with you that when you give a subject to anybody, you would not be able to establish what exactly he is going to say. But I think this subject as stated that 'Reflections on Nuclear Issue in South East Asia' would leave no doubt in anybody's mind as to where the primary target is going to be and more so it is not for this forum to know but everybody knows the views of certain people in this country. They have been expressed more than once. So why then take a chance on this issue? It could have been a six months later also, a year later also, or why not give some other subject, why bring in an issue which is sensitive in every way and form? Now this is the responsibility of autonomous agencies which are left by the government to act on their own to make sure that they do not embarrass the government. And I think here is a clear cut case of embarrassment of the government and the people of Pakistan and we all, I must repeat here, we all support the policy of the government totally in this respect. There can not be any disagreement on the issue and we also know what has lately been said on the floor of the National Assembly. The government has full backing, I am sure, of this House and the people of Pakistan.

Mr. Chairman: I think for an answer to what you have just now stated, you will have to wait till the other members have also spoken on the admissibility aspect and the Minister has replied. In that case, I think, your point would also be covered.

Lt. Gen. (Retd.) Saeed Qadir: Mr. Chairman, I would respectfully submit that the other adjournment motions and I do not wish to prejudice their motions, the same motions have been discussed in National Assembly and the fate of those motions is well known and I have no intentions of linking with their motions.

Mr. Chairman: Well, I think, the Members who have moved the motion let them argue on the admissibility.

Lt. Gen. (Retd.) Saeed Qadir: I maintain that you should delink my motion.

پروفیسر خورشید احمد: میں جنرل سعید قادر صاحب کی بات کی تھوڑی سی ایکسٹینشن کرنا چاہتا ہوں، اور وہ یہ ہے کہ امریکی سفیر نے اس تقریر سے غالباً چار دن

پہلے روزنامہ ”مسلم“ کو بھی ایک انٹرویو دیا تھا اور اس میں بھی کم و بیش یہی بات کہی تھی بلکہ اس میں یہ indication بھی دی تھی کہ اس بارے میں مزید چیز جو ہے وہ اس پلیٹ فارم پر کہی جائے گی۔ اس forewarning کے باوجود بھی انسٹیٹوٹ کا اس مسئلے پر غور نہ کرنا اور جو دوسرے process انہوں نے بتلائے ہیں انہیں نظر انداز کرنا، میرے خیال میں یہ ایسا مسئلہ ہے کہ اسے separate لینا چاہئے، اور اس دوسرے dimensions کو نظر انداز نہیں کیا جاسکتا کہ امریکی سفیر کے اس ایشو کے اوپر خیالات معلوم تھے چار دن پہلے اس نے ایک پبلک انٹرویو میں تقریباً اپنی بات کہہ دی تھی ان سب کے باوجود اسی موضوع پر فارن آفس کے زیر اہتمام، ایک ادارے کا، اسے invite کرنا اور یہ موقع فراہم کرنا، فی الحقیقت بہت ہی محل نظر ہے۔

جناب چیئرمین: مولانا کوثر نیازی صاحب۔

مولانا کوثر نیازی: میں ایک اور گزارش کرنا چاہتا ہوں۔ میں اپنی قرارداد کی وضاحت نہیں کر رہا۔ میں جناب والا! صرف یہ عرض کرنا چاہتا ہوں کہ جنرل صاحب نے اپنی جو ایڈجرمنٹ موشن پیش کی ہے وہ نیچر کے لحاظ سے، مضمون کے لحاظ سے ہمارے مضامین سے بالکل ملتی ہے۔ یہ الگ بات ہے کہ جنرل صاحب ہم سویلین کے ساتھ اپنے آپ کو بریکٹ نہ کرنا چاہیں۔ میں یہ گزارش کروں گا کہ تھوڑی سی insult وہ گوارا کر لیں تو ساری ایڈجرمنٹ موشنز ایک ساتھ ڈیل ہو سکتی ہیں۔

جناب چیئرمین: میرا تو یہی خیال تھا کیونکہ مضمون ایک ہی ہے۔

مولانا کوثر نیازی: بالکل ایک ہے۔

Mr. Zain Noorani: Sir, from second thought I am inclined to agree with the Senator, Saeed Qadir.

Mr. Chairman: Right but this is up to you.

Mr. Zain Noorani: I am grateful to him for pointing out something to me. In the case of the others I intend to rely on Rule 71(d) as far his adjournment is concerned it is not hit by 71(d) while the others are. Now as far as the notice of this adjournment motion is concerned, in the first instance Sir, the book to which you have so very

kindly referred to so many times Kaul and Shakhder, they have on more than one occasion said "that in a case of an adjournment motion urgency is to be determined from the date on which a notice is given and even a lapse of a single day is sufficient to make it inadmissible."

Now, this speech on the Institute of Strategic Studies was on the Monday 16th and at the latest it must have been published on 17th and notice has been given on 19th. So, lapse is already there, that is a first technical objection.

The Second technical objection is that this thing has been stated in that official forum. Now, I would like to know what is your's Sir, as a Chairman, interpretation of what is official forum. The Institute of Strategic Studies is an autonomous body. It does not require prior permission of the government to arrange discussion on security and strategic issues. At the same time we must not doubt, the utility and the wisdom of this research and analysis forum in allowing Ambassadors of friendly countries to take advantage of that platform. Then comes a question of what would they say as rightly said Sir, that they are not to know in advance what the guest is going to say. But in any case Institute of Strategic Studies does not require permission from the government. So there has been no lapse on the part of the government as stated in the notice of the adjournment motions. So, on these grounds this notice is not valid. It does not form a basis for admission.

Lt. Gen. (Retd.) Saeed Qadir: Mr. Chairman, as the time of the House is very valuable I do not wish to prolong my discussion. I can refuse each one of these arguments. My purpose of bringing the motion before this House was that the government should take note of this fact. It should not be treated so lightly that a forum which is very much so, that is, the government should have acted so carelessly and I would not press for this motion any further. I think, I have made my point and I am sure the Ministry of Foreign Affairs will look into it in its own time. Thank you.

Mr. Chairman: The motion is not pressed. But I think in order to clarify our own minds I would like to add one or two remarks.

- (1) What I said earlier that when arranging seminars or discussion of this type, you do not know in advance and

you cannot foresee in advance what a particular guest is going to say? True, he may have said something earlier but he can also change his views if in the meantime something else has happened and that has come to his notice.

- (2) What is still more important is that every lawyer, every advocate would like to know the brief of his adversary in a case and if by asking Deane R. Hinton to address this forum we could know what the brief of this gentleman was as far as his own government is concerned, you can prepare your own case before the Congress or anywhere else in a much better fashion and this is one of the purposes which Deane R. Hinton's statement has served that it put the government on notice, if put the country on notice, to prepare its case in a different and a much better fashion than it had done in the past. But at any rate, if the motion is not pressed, I think we need not argue it further.

Janab Tariq Chaudhary.

جناب محمد طارق چوہدری : شکریہ جناب چیئرمین جہاں تک اسکے recent occurrence ہونے کا تعلق ہے میں نے اس تحریک کانٹریس اس دن سیکرٹریٹ کو بھیج دیا تھا جس دن یہ میرے علم میں آیا اور میں نے اسکو اخبار میں دیکھا۔ پبلک انٹرسٹ کا تو یہاں پہ ہر آدمی کو اندازہ ہے کہ کتنا ہو گا۔ مجھے مختصراً یہ establish کرنا ہے کہ ہمارے لئے کتنا ہم ہے کہ اس پر ہاؤس میں بحث ہونی چاہئے۔ پاکستان جب بھی غیر ملکی امداد یا قرضے کیلئے کوئی قدم اٹھاتا ہے اور ہمارے مخالفین کے پاس ایک ہی رخ ہے اور ایک ہی بات ہے وہ ہے ایٹمی پروگرام۔ جس کے خلاف پروپیگنڈہ شروع کر دیا جاتا ہے اور اب اگر آپ سال بہ سال اس کی فائل اٹھا کر دیکھ لیں تو ہمیشہ اسی موسم میں یہ بحث کا سبب بنتی ہے اور اس سال انڈیا، اسرائیل، یہودی اور ہندو لابی کے ساتھ ساتھ پاکستان میں امریکہ کے سفیر ڈین ہنٹن بھی اس مہم میں براہ راست ملوث ہو گئے۔ ان کی اس سٹیٹمنٹ سے دو پہلوؤں سے بہت دکھ پہنچا ہے اور بڑی تکلیف ہوئی ہے۔ ایک تو یہ کہ انہوں نے کہا کہ پاکستان کی مہم ایٹمی پالیسی کے باعث امریکی امداد بند ہو سکتی ہے۔ پاکستان کے پروگرام کی بعض باتیں پر امن پروگرام سے مطابقت نہیں رکھتیں۔ یعنی ایک

تو انہوں نے واضح طور پر ہمیں دھمکا یا ہے کہ ہم تمہاری امداد میں کر دیں گے۔ اور دوسرا ہماری توہین کا پہلو یہ نکلتا ہے کہ میں نے اخبارات کے فائل دیکھے ہیں اوسطاً ایک برس میں بارہ دفعہ صدر مملکت نے اسکی تردید کی ہے کہ ہمارا ایٹمی پروگرام کسی قسم کے ہتھیاروں یا فوجی یا جنگلی مقاصد کیلئے نہیں ہے۔ تقریباً ایک مہینے میں دو مرتبہ وزیر اعظم نے اس بارے میں بیانات دیئے ہیں اور تقریباً weekly ایک دفعہ ہمارے بڑے وزیر خارجہ نے اور چھوٹے وزیر خارجہ نے پتہ نہیں کتنے بیانات دیئے یعنی اسکے باوجود اور اتنے تسلسل کے ساتھ ہمارے حکمران اور اکابرین یہ بات کہتے ہیں کہ ہمارا پروگرام پر امن مقاصد کیلئے ہے۔ انکی اس بات کو وہ سن کے نہیں دیتے۔ اور ہمارے اپنے ملک میں بیٹھا ہوا امریکی سفار تکار واضح طور پر یہ بات ہمیں بتلاتا ہے کہ اے حکمرانوں اے بڑے بڑے پاکستانیو تم سب جھوٹے ہو۔ یعنی اس سے زیادہ ہمارے لئے توہین کا اور کوئی پہلو نہیں ہو سکتا کہ ایک معمولی سفار تکار ہمارے حکمرانوں کے بارے میں اس طرح کی باتیں کہے۔ اس سے مجھے بڑا دکھ پہنچا ہے۔

پھر یہ ہے کہ انہوں نے یہ امداد جو دی ہے، یہ امداد نہیں قرضہ ہے۔ اور یہ قرضہ ہمیں اس وقت offer کیا گیا جب امریکہ کے مفادات اس خطے میں پوری طرح مخدوش ہو کر رہ گئے تھے۔ ایران اسکے ہاتھوں سے نکل گیا انڈیا پہلے ہی روس کی طرف جھکاؤ رکھتا تھا۔ چین کا اپنا ایک الگ سلسلہ ہے۔ اور افغانستان پر روسی فوجوں نے آکر قبضہ لیا۔ - - - -

Mr. Zain Noorani: Whether Iran and China are also part of Rule 71, I think we are at Rule 71.

Mr. Chairman: We are at Rule 71.

ایڈمسٹریٹری پر بات کریں، چھوٹے وزیر صاحب صحیح فرماتے ہیں۔
جناب محمد طارق چوہدری: میں اس طرح سے یہ establish کر رہا ہوں کہ اس پر بحث کی اس طرح ضرورت ہے بہر حال تب اس نے ہمارے اس اونٹ کے منہ میں زیرہ اس وقت دیا تھا جب اس کے مفادات پوری طرح خطرے میں پڑ گئے تھے۔ تو اس وقت ہم نے، ہمارے حکمرانوں نے اس کے مفادات کا بیڑہ اٹھایا۔ - - - -

جناب چیئرمین: اسکا ایڈمسٹریٹری سے تعلق نہیں ہے۔ ایک اہمیت کے متعلق آپ نے جو بات کہنی تھی وہ ہو چکی۔

[Mr. Zain Noorani]

mood to speak on the admissibility. first they should nove a motion to suspend Rule No. 71 before travelling all around to Israel, South Africa and China and I don't know where else which was not done that would be a serious lapse also and a privilege of the House has been infringed in my opinion.

Now we come to the admissibility. So Sir, as I said earlier the speech to which reference is being made was made on the 16th. Both these motions which has been moved today the notice has been given on the 22nd of February. Merely to say, کہ جس روز میرے علم میں آیا is not sufficient and for that I refer to again Kaul and Shakhder's book which says, it is not important at all to determine the time frame factor, it is not important when the honourable member or Senator came to know but what is the actual date of occurrence that is important in determining the urgency. It is clearly stated on at least two places in Kaul and Shakhder's book so from that point of view it does not come under that then Sir, again I know that the ruling of the other House not during the present tenure but at any time is not binding on you but in order to substantiate what is the international practice I am only mentioning that ruling 4 in volume II of ruling of the National Assembly of Pakistan, I think it is 1972 if I do not mistake it has been clearly elaborated there that it is an internationally accepted practice that the conduct of foreign diplomats is not discussed in this Parliament or either of its House and this has been followed in every country in the world. Then this is also borne out in 'Kaul's book again on page 420 where it says, conduct of a foreign government and its representatives can not be discussed on an adjournment motion. Then there is a proper method when a representative of the foreign government indulges in an activity or a statement or any thing which does not meet with our approval, the method is that we take it up through diplomatic channels that brings better results than rather taking it up in any other forum. Then again Sir, I refer to Rule 71(d) of the Rules which says that:

“it shall not revive discussion on a matter which has been discussed in the same session or in the Assembly within the last six months.”

At least three to four hours discussion took place on this matter only a few days back in the National Assembly and therefore even according

[Mr. Zain Noorani]

to this I doubt, although you have to rule on that whether it comes into this or not. When dealing with the adjournment motion in the National Assembly I made a very lengthy statement to which the honourable Senator Mr. Tariq Chaudhary has referred to. I do not want to go once again into the details of it and waste the time of the House but I will certainly reiterate what I said and say this that I meant every word of it and the Government of Pakistan means every word of it. Pakistan's peaceful nuclear programme shall go on, no matter what difficulties we have to face, no matter whom we have to oppose, no matter who helped us and no matter if we have to do it at our own. Our peaceful nuclear programme shall go on. We are not making any weapons, it is not our need, at the moment it is not our requirement. Our is a peaceful programme and we will continue even if it displeases our friends even if it displeases our foes. In view of this Sir, and the technical objection I hope the honourable members will not press their motions.

Mr. Chairman: Thank you. On this particular issue at least eight adjournment motions No. 106, 153, 156, 173, 215, 232, 279 and 94 were introduced in the National Assembly and were discussed and debated at great length. The conclusion at the end of that debate was what is stated in his ruling by the Deputy Speaker who was presiding over that meeting; "in the light of my previous ruling also, the other day I will hold this adjournment motion inadmissible because it is a statement which really discusses the conduct of an Ambassador which is not according to parliamentary practice",—something to which the honourable Minister referred again just now and this has been the practice in this country also—not today but right from the days of the Constituent Assembly. I have before me a ruling of the President of the Constituent Assembly at that time in a case which is almost exactly on all fours with what we are discussing today, and I will read that out if you bear with me for a minute:

On the 12th April, 1954 Mian Iftikhar-ud-Din sought leave to move an adjournment motion for discussion, the failure of the government to make a public protest and take other necessary measures against the interference of the American Ambassador in Pakistan in the internal affairs of our country by making an ill—advised pronouncement at Peshawar as reported in the newspaper of

1st April 1954 with regard to the effect of the recent Bengal elections on the position and policies of the Central Government of Pakistan. Mr. A. K. Brohi, the Law Minister opposed the motion on the ground that nothing could be done regarding the conduct of diplomatic representatives in Pakistan by way of public protest but if at all any action had to be taken in that respect it could be taken by means of diplomatic representation, a stand which has been reiterated by the honourable Minister again. He further clarified that under the law relating to foreign relations and international moralities it was out of the question for any government to make a public protest in regard to the conduct of any foreign representative. As such there was no failure on the part of the government to make such protest. Accepting the point raised by the Law Minister, Mr. President ruled the motion out of order.

تو یہ ازل سے ہی ستیزہ کار رہا ہے۔ یہ معاملے ہوتے رہے ہیں۔

And the motion is ruled out of order for these reasons.

Now the other two motions would be overtaken by the same fate—I am referring to Maulana Sami-ul-Haq and Qazi Abdul Latif's motions.

This brings us to the end of the adjournment motions.

Mr. Javed Jabbar: Mr. Chairman I just want to point out that you have given over fifty minutes today to adjournment motions.

Mr. Chairman: No, I do not think I have given 50 minutes to adjournment motions. We started exactly at 7.23 P.M. and it is now 8.08 P.M. by my watch, but since discussion had started I did not want to scuttle it mid stream.

Next item. Minister for Justice and Parliamentary Affairs.

Mr. Wasim Sajjad: Sir, with your permission I beg to move that the Bill further to amend the.....

MESSAGE—THE CONSTITUTION (TENTH AMENDMENT)
BILL, 1987—READ

Mr. Chairman: Sorry, I think one item I missed. There is a message received from the National Assembly. This is dated 12th March, 1987. It is addressed to the Secretary, Senate Secretariat. It says:

“Sir,

In pursuance of Rule 109 of the Rules of Procedure and Conduct of Business in the National Assembly, I have the honour to inform the Senate Secretariat that the National Assembly passed the Constitution (Tenth Amendment) Bill, 1987 on the 12th March, 1987. A copy of this Bill is transmitted herewith. Kindly acknowledge receipt.

Sd/-
AMINUL HAQ,
Secretary,
National Assembly”

Now you can proceed.

THE CONSTITUTION (TENTH AMENDMENT) BILL, 1987

Mr. Wasim Sajjad: Sir, I beg to move:

“That the Bill further to amend the Constitution of the Islamic Republic of Pakistan [The Constitution (Tenth Amendment) Bill, 1987], as passed by the National Assembly, be taken into consideration.”

Mr. Chairman: The motion moved is:

“That the Bill further to amend the Constitution of the Islamic Republic of Pakistan [The Constitution (Tenth Amendment) Bill, 1987], as passed by the National Assembly, be taken into consideration.”

Is it opposed?

قاضی حسین احمد: میں تحریک پیش کرتا ہوں کہ اس بل کو سٹینڈنگ کمیٹی میں پیش کیا جائے۔

جناب چیئرمین: میرے خیال میں آپ الفاظ بتادیں تو ہمیں ری پیٹ کرنے میں آسانی رہے گی۔

قاضی حسین احمد: رولز آف پروسیجر قاعدہ ۱۰۶ کے تحت میں تحریک پیش کرتا ہوں کہ اس آئین (دسویں ترمیم) کے بل کو سٹینڈنگ کمیٹی کے سپرد کیا جائے۔

Mr. Chairman: The motion moved, as an amendment to the earlier motion moved by the Justice Minister, is:

“That under Rule 106 of the Rules of Procedure and Conduct of Business in the Senate, the Constitution (Tenth Amendment) Bill should be referred to the Standing Committee concerned.”

Mr. Wasim Sajjad: It is opposed, Sir.

جناب چیئرمین: قاضی صاحب آپ کچھ اور اس بل کو سٹینڈنگ کمیٹی میں پیش کرنے کے حق میں توضیح پیش کرنا چاہیں گے؟

قاضی حسین احمد: جناب والا! حقیقت یہ ہے کہ یہ جو دسویں ترمیم کابل ہے، ہم اس سے اتفاق نہیں کرتے لیکن چونکہ یہ نیشنل اسمبلی کی طرف سے آیا ہے اور وہاں سے پاس ہو کر آیا ہے اس لئے ہم یہ نہیں کہہ سکتے کہ اس پر غور نہ کیا جائے لیکن میں یہ عرض کرنا چاہتا ہوں کہ اس میں ایسے مضمرات ہیں اور اس کے ایسے مختلف پہلو ہیں جن پر ہم چاہتے ہیں کہ زیادہ تیاری کے ساتھ اظہار خیال کریں اور اس کے مختلف پہلوؤں پر غور کریں، اس لئے اس کو فوری طور پر یہاں زیر غور لانا مناسب نہیں۔

جناب چیئرمین: اور کوئی صاحب، قاضی صاحب کی تحریک کے حق میں اگر اظہار خیال فرمانا چاہیں تو ارشاد فرمائیں۔

پروفیسر خورشید احمد: میں بھی اس کی تائید کرتا ہوں اور خصوصیت سے آپ کی توجہ اس طرف مبذول کرانا چاہتا ہوں کہ سٹینڈنگ کمیٹی کے مختلف کاموں میں ایک کام یہ بھی ہے کہ جو کسی بل میں ٹیکنیکل کمزوریاں اور خامیاں ہوتی ہیں، وہ ان کی اصلاح کر دیتی ہے۔ میں سمجھتا ہوں کہ اس بل کے ڈرافٹ میں بھی اس قسم کی کمزوریاں ہیں جن کو کہ refine کرنا بہتر ہے۔ مثال کے طور پر آرٹیکل ۵۴ اور ۶۱ میں ترمیم کی جارہی ہے۔ دونوں جگہ one hundred sixty کو one hundred thirty سے بدلا جا رہا ہے لیکن ایک جگہ صرف لفظ sixty کی جگہ thirty لایا جا رہا ہے اور دوسری جگہ one hundred sixty کی جگہ one hundred thirty لایا جا رہا ہے۔ بات ہے فنی، لیکن سوال یہ ہے کہ ایک ہی بل کے اندر جو زبان اور جو طریقہ آپ اختیار کر رہے ہیں، اگر اس sixty کو thirty سے بدلنے سے آرٹیکل ۵۴ میں آپ کا کام چل سکتا ہے تو آخر آرٹیکل ۶۱ میں sixty کو thirty سے بدلنے سے کیوں نہیں چل سکتا اور یہاں اس بات کی کیا ضرورت پیش آئی کہ صرف sixty کو thirty سے نہ بدلا جائے بلکہ one hundred sixty کو one hundred thirty سے بدلا جائے۔ یہ بات frivolous نہیں ہے بلکہ قانون میں ڈرافٹنگ کی بڑی اہمیت ہوتی ہے اور قانونی ترمیم کے اندر بھی جہاں کم سے کم الفاظ سے جو کام چل سکتا ہو، اس کیلئے امنڈمنٹس میں کم سے کم الفاظ استعمال کئے جاتے ہیں۔ یہاں صورت یہ ہے کہ ایک آرٹیکل میں کم سے کم الفاظ استعمال کئے گئے ہیں اور دوسرے آرٹیکل میں زیادہ سے زیادہ الفاظ استعمال کئے گئے ہیں اور یہ بات واضح نہیں ہے کہ ایسا کیوں کیا گیا ہے۔ اسی طرح اور بہت سارے پہلو ہیں جن کی بنا پر میں سمجھتا ہوں کہ اسے سٹینڈنگ کمیٹی میں جانا چاہئے تاکہ وہ فنی اعتبار سے اس کا جائزہ لے اور اگر کسی موقع پر اس میں improvement تجویز کرنا چاہے تو وہ کرے نیز اس دوران میں ایوان کو بھی یہ موقع مل جائے گا کہ وہ اس کے دوسرے مضمرات پر غور کر سکے اور یہ سارے مضمرات ڈیبٹ میں سامنے آسکیں۔

جناب چیئرمین: شکریہ! سعید قادر صاحب۔

لیفٹیننٹ جنرل (ریٹائرڈ) سعید قادر: جناب چیئرمین! یہ جو فی اعتراضات اٹھائے گئے ہیں یہ اعتراضات ایسے ہیں کہ اگر آئین کی کاپی کو سامنے رکھتے ہوئے دیکھیں تو یہ اسی وقت ختم ہو جاتے ہیں۔ اگر اس بل کو صرف اسی مقصد کیلئے سلیکٹ کمیٹی کے پاس بھیجنا ہے تو پھر یہ بڑی زیادتی کی بات ہے کہ ایوان کا وقت ان چیزوں پر جو کہ بالکل کلیئر ہیں، ضائع کریں۔ اگر آپ آرٹیکل ۵۴ کو دیکھیں تو اس کی شق نمبر ۲ میں لکھا ہوا ہے one hundred اور بریکٹس میں sixty تو ہمیں sixty کو thirty ہی کرنا ہے اور آپ اگر آرٹیکل ۶۱ کو دیکھیں تو اس کے اندر one hundred sixty بریکٹ کے اندر ہے تو پورا one hundred sixty کو چھین کر بنا پڑے گا۔ یہ فی چیزیں تو میں سیکنڈ کا بھی کام نہیں۔ اس لئے میرا خیال ہے کہ آپ اس پرووننگ کرائیے اور کام کو آگے بڑھائیے۔

جناب چیئرمین: گویا آپ اس بل کو سٹینڈنگ کمیٹی میں بھیجنے کی مخالفت کرتے ہیں؟

لیفٹیننٹ جنرل (ریٹائرڈ) سعید قادر: جی بالکل مخالفت کرتا ہوں۔

پروفیسر خورشید احمد: اس کی مخالفت میں انہوں نے کوئی دلیل نہیں دی۔

جناب چیئرمین: دلیل انہوں نے دے دی ہے۔

پروفیسر خورشید احمد: آپ thirty لے آئیں sixty کی جگہ، کوئی فرق نہیں

پڑتا۔۔۔۔۔ (مداخلت)

جناب چیئرمین: جناب جاوید جبار صاحب۔

Mr. Javed Jabbar: Mr. Chairman, my submission is that quite in addition to the technical deficiencies which may or may not exist in the present draft of the Bill, as you are aware, Sir, it is a standard convention prescribed in the Rules of Procedure that any Bill introduced into the Senate should be referred to the Standing Committee. Quite apart from being prescribed in the Rules of Procedure, this is a convention.

Mr. Chairman: May I correct you. That applies only to Bills originating in this House. It does not apply to Bills received from the National Assembly.

[Lt. Gen. (Retd.) Saeed Qadir]

Mr. Javed Jabbar: May I submit, Sir, that even when Bills are referred to the Senate from the National Assembly, more so than in any other subject, in the matter of the Constitution there is a need to look upon all aspects that may be affected by a Bill that seeks to amend the Constitution. So even more than any other subject that is legislated, I believe, that on the Constitution it is vital for the House to refer it to the Standing Committee so that all aspects are given due consideration before being brought back to the House. At the very most this will entail another week or ten days. I am sure since the government is so keen to ensure that the legislature's duration is not curtailed, it will welcome an addition to the duration of the present Senate.

Mr. Chairman: Any other view?

Mr. Shad Muhammad Khan: Mr. Chairman, Sir.

جناب چیئرمین: جناب شاد محمد خان صاحب۔
جناب شاد محمد خان: جناب چیئرمین، شکریہ! میں یہ عرض کرتا ہوں کہ یہ ایک ریت پڑ گئی ہے کہ ایسے معاملوں میں، جن کی ضرورت فوری نوعیت کی ہوتی ہے، مختلف قسم کے تاخیری حربے استعمال کر کے، انہیں delay کیا جاتا ہے۔
 حضور والا! ایک طرف تو یہ دعوے دار ہیں اور یہ کھلے عام کہتے ہیں کہ ۱۹۷۳ کا آئین بحال ہو، بحال ہو، بحال ہو، توجب حکومت اس کی طرف پیش رفت کرتی ہے تو پھر اس کی مخالفت برائے مخالفت کی جاتی ہے۔

جناب جاوید جبار: پوائنٹ آف آرڈر۔
جناب شاد محمد خان: آپ اس موشن پروٹ لیں، ہم اس کی مخالفت کرتے ہیں۔

Mr. Javed Jabbar: Point of order, Sir. Remarks against the sincerity of the members are constantly being made by my honourable colleagues. He should confine himself to the issues instead of accusing us.

جناب چیئرمین: اور کوئی معزز رکن اگر تقریر کرنا چاہتے ہیں تو ارشاد فرمائیں۔ جی مولانا کوثر نیازی صاحب۔

مولانا کوثر نیازی: جناب والا! میں اس بات کی پر زور تائید کرتا ہوں کہ اسے سٹیڈنگ

کمیٹی کے سامنے پیش کیا جائے کیونکہ آئین کے سلسلے میں ہماری حکومت نے اپنے پچھلے عرصہ اقتدار میں جس طرح کی ترامیم کی ہیں اور جس طرح اس کا حلیہ بگاڑا ہے اس سے صاف ظاہر ہے کہ اب اسے احساس ہوا ہے کہ جو کچھ اس نے کیا تھا وہ haphazardly کیا تھا، سوچے سمجھے بغیر کیا تھا اور اب حکومت کو سجدہ سہو کا خیال آ گیا ہے یعنی ۱۹۷۳ء کے آئین کی طرف پلٹنے کا۔

جناب شاد محمد خان؛ شاد باش کہ انہوں نے یہ مژدہ سنایا ہے کہ اب حکومت ۱۹۷۳ء کے آئین کی طرف پلٹ رہی ہے، اللہ کرے کہ وہ ان دفعات میں بھی پلٹے جن میں صدر جو ہے وہ ایک ہی عہدہ رکھ سکتا ہے اور چیف آف دی آرمی اسٹاف صدر نہیں بن سکتا۔ حکومت اس طرح کے معاملات کی طرف بھی آئے کہ ایوان وزیر اعظم کو الیکٹ کرے۔

بہر حال یہ طے ہے کہ آئین بہت ہی اہم مسئلہ ہے، اس کی ایک ایک شق پر غور ہونا چاہئے لہذا ہم اسے فوری طور پر اس ایوان میں لا کر کنسٹیبلڈ کرنا شروع نہ کر دیں۔ اسے پہلے ہم اپنی کمیٹی کے سامنے پیش کریں جو اس کے حسن و قبح پر پوری طرح غور کرنے کے بعد، ایوان میں اپنی رپورٹ پیش کرے اور پھر ایوان اس کا جائزہ لے۔

جناب چیئرمین؛ ویسے۔ شاد باد منزل مراد۔

جناب عبدالرحیم میرداد خیل؛ ”رہبر ترقی و کمال“۔

جناب چیئرمین؛ جی، ارشاد فرمائیں۔ میرداد خیل صاحب۔

جناب عبدالرحیم میرداد خیل؛ جناب چیئرمین! جو تجویز پیش کی گئی ہے میں اس کی مکمل تائید کرتا ہوں اور قرآن مجید خود یہ فرماتا ہے وامسواہم شوریٰ بینہم۔

جناب چیئرمین؛ شوریٰ تو یہاں پر بھی موجود ہے۔

جناب عبدالرحیم میرداد خیل؛ وامسواہم شوریٰ بینہم یہاں بھی ہے اور وہاں بھی ہے لیکن اس پر عمل یہاں تو نہیں ہو رہا، ہم کہتے ہیں کہ وہاں سے یعنی کمیٹی میں غور کرنے کی ضرورت ہے۔ تو میں یہ سمجھتا ہوں کہ اس کو کمیٹی میں بھیجا جائے، اس ایوان میں واقعی مسلم لیگ کی اکثریت ہے لیکن اکثریت کا مطلب یہ نہیں ہے کہ وہ اپنی بات کو ہی لائیں بلکہ ہم چاہتے ہیں کہ آپس میں مشاورت کریں اور اس طرح سٹینڈنگ کمیٹی کے ذریعے اس ایوان میں

آجائیں تو اس سے ایوان کا وقار مجروح نہیں ہو گا بلکہ اس میں اضافہ ہو گا۔
جناب چیئرمین: شکر یہ! جناب حسن اے شیخ صاحب۔

Mr. Hasan A. Shaikh: Mr. Chairman, I think, this is a bill which has been considered by the National Assembly in detail and it is such a short Bill that there seems to be no need to send it to the Standing Committee as it has already been discussed thoroughly in the National Assembly. We have been reading the debates of the National Assembly whenever they have appeared. I don't think there is any need whatsoever for this short Bill, there is only a question of 160 days and it has rightly pointed out at one place (60) is in bracket. So, it is said that (60) may be substituted by the word 30 and an other place 160. So, therefore it has been stated that it should be and I think from the point of view of drafting, it is quite appropriate that it should be done that way, there seems to be no need whatsoever to go to the Standing Committee.

میر حسین بخش بنگلڈی: جناب چیئرمین! جہاں تک اس بل کا تعلق ہے یہ غور و خوض کیلئے اس ایوان میں پیش ہوا ہے چونکہ اس بل کا تعلق قومی اسمبلی کی اس میعاد سے ہے کہ جس پر ۱۶۰ دن کی بجائے ۱۳۰ دن انہوں نے ریکومنڈ کیا ہے، چونکہ قومی اسمبلی میں اس بل کے تمام پہلوؤں پر بحث ہو چکی ہے اور قومی اسمبلی نے بھاری اکثریت سے اس بل کو منظور کر کے سینٹ میں مزید غور کیلئے اور منظوری کیلئے بھیجا ہے۔ تو میں یہ سمجھتا ہوں کہ اتنی سیر حاصل بحث کے بعد جو قومی اسمبلی میں اس بل پر ہوئی ہے اس بات کی قطعاً ضرورت باقی نہیں رہتی کہ اس کو کسی قائمہ کمیٹی کے پاس بھیجا جائے، بلکہ میں وزیر قانون کی اس تجویز سے مکمل اتفاق کرتا ہوں کہ سینٹ اس پر غور کرے، شکر یہ!

جناب چیئرمین: قاضی حسین احمد۔

قاضی حسین احمد: جناب والا! میں صرف وضاحت کے طور پر عرض کروں گا کہ ہم نے نوین آئین کے ترمیمی بل پر سیر حاصل بحث کی ہے اور وہ بحث ہم نے وہاں بھیجی اور انہوں نے وہاں shelf کر دی ہے قومی اسمبلی کے اندر اور اگر ہم یہ کہیں کہ چونکہ اس بل پر وہاں سیر حاصل بحث کی گئی ہے اس لئے یہاں اسکی کوئی ضرورت نہیں ہے تو یہ ہماری اہمیت کو بالکل کم کرنے والی بات ہے۔

میر حسین بخش بنگلہ دہی: جہاں تک سیر حاصل بحث کا تعلق ہے میں اس بات سے اختلاف نہیں کر رہا ہوں کہ یہاں پر سیر حاصل بحث اس پر ہو بلکہ میں اس بات سے اختلاف کر رہا ہوں کہ اس کو سٹینڈنگ کمیٹی کو ریفر کیا جائے۔

نوابزادہ جمالیگر شاہ جو گیزنی: جناب والا! ہم نے اولہ بدلہ نہیں لینا ہے کہ اس نے ہمارے اس بل کے ساتھ کیا کیا ہے بلکہ ہم یہ دیکھیں کہ جنہوں نے یہ تجویز کیا ہے کہ اس میعاد کو کم کیا جائے اس کی کیا اہمیت ہے، اس پر تو بات نہیں ہو رہی، اس پر بات ہو رہی ہے کہ جب ایک دفعہ وہاں سے بل آگیا تو میرے خیال میں اس کی ضرورت نہیں پڑے گی کہ اسے سٹینڈنگ کمیٹی میں بھیجا جائے۔

Mr. Chairman: The question is:

“That the Bill further to amend the Constitution of the Islamic Republic of Pakistan [The Constitution (Tenth Amendment) Bill, 1987], as passed by the National Assembly, be taken into consideration be referred to the Standing Committee under Rule 106.”

An honourable Member: opposed.

Mr. Chairman: Now, we come to the main motion. This is being opposed. So, this would be the start of the first reading. Is there any body prepared to say something on the main subject.

قاضی حسین احمد: جناب ڈسکشن کیلئے ہمیں کچھ وقت دے دیں تاکہ ہم اس کی تیاری کر لیں۔

جناب چیئرمین: ایک دن میں تو سب ختم نہیں ہو گا۔ تیاری کیلئے بھی بہت سارے دن ہوں گے۔

Mr. Javed Jabbar: Mr. Chairman, one can only draw your attention to the possibility that since the Bill has already been passed by the government majority in the Assembly, it may be a policy of the treasury benches in the Senate not to encourage speakers from the other side which means that very quickly the first reading may be completed even tonight. I would request you to guard against this possibility because the Senate above all Sir, must not be seen as

something that processes Bills at top speed simply because the Assembly has already processed a Bill or approved a Bill. This will lower the dignity of the Senate. We must give due consideration and time. So, I request you Sir, that we may be given at least 48 hours for the consideration of the first reading, whether or not enough speakers suggest themselves to you at this stage; otherwise it is possible that tomorrow if some members are not present in the Senate they will be deprived of the opportunity to speak in the first reading. That is why I volunteer myself in the first reading in order to defeat the attempt of the government to have ten the first reading.

Prof. Khurshid Ahmad: Point of order Sir. Sir, under Rule 104:

“On the day on which the motion for consideration is set down in the Orders of the Day which shall, unless the Chairman otherwise directs, 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.”

So, I think, two days have to be given.

Mr. Chairman: The notice of the Bill was received on Saturday in the morning and today I think we are meeting after more than 2-1/2 days. So, I think the requirements of this particular rule are very well satisfied. I have seen that there should be no relaxation as far as the rules are concerned. With regard to the point which Senator, Javed Jabbar has raised as far the Chair is concerned I can assure you that I will give every honourable member every opportunity of expressing his views to the full extent possible provided one condition that the members have to be relevant. The debate has to be within the scope of the Bill itself.

Mr. Javed Jabbar: Suppose Sir, at the end of today's sitting we are suddenly informed that there will be two sittings tomorrow which is not normally the convention in the Senate. Now this will be depriving many members who are not even present in Islamabad of the opportunity to participate in the debate. So, I suggest to you Sir, through your courtesy that at least we should confine ourselves to one sitting

tomorrow and not attempt to steam roll it through at double quick speed.

Mr. Chairman: I think that again becomes a mechanical process if the treasury benches so wish, you can start the session or sitting at 9.00 in the morning and continue non-stop with break only for prayers till 12.00 in the night. But I am just asking the question of two sittings. When two sittings are held on the same day, they are the continuation of the session in the morning, and they are not called a separate sitting. At any rate, do you offer to speak on the motion.

Mr. Javed Jabbar: Yes Sir, but what do you have to say about the suggestion by Prof. Khurshid that we postpone the first reading for another 24 hours or 48 hours or do we begin the first reading today?

Mr. Chairman: I think, we have to begin because the motion has been moved and it is being opposed. So, that is the start of the first reading.

Prof. Khurshid Ahmad: No. But we can fix the time for discussion. The motion has been introduced. Now we can decide to fix a time for discussion.

Mr. Chairman: I think, that would be an arbitrary decision if we know that the members are going to take long and they are anxious to express their views at a greater length that is what we envisage and what can be covered in one sitting etc. Then we may have to resort to that procedure also. But if members can express themselves within whatever time is available fully, then I think, there will be no compulsion on us to restrict them to any particular time-frame.

Prof. Khurshid Ahmad: I think, this has been the tradition in this House. We have been quite scrupulous with words. We have not tried to dilly dally the things.

Mr. Ahmed Mian Soomro: In 24 hours, I think, nothing will happen.

Mr. Chairman: I explained at a great length that the Orders of the Day for official days are in the hands of the government. If the Minister so wishes.....

Mr. Wasim Sajjad: Sir, actually I can appreciate their difficulties. There is not much to say against the Bill, that is their difficulty. I fully appreciate Sir, that if the members want to start Tomorrow morning, I would have no objection. Tomorrow morning Sir, that will give them sufficient time to invent some arguments against the Bill and therefore, in the interest of a good debate on the Bill, I would say let us start tomorrow morning with the discussion of the Bill.

Mr. Javed Jabbar: Mr. Chairman, before you respond to that simply to disprove that contention and to establish our sincerity, I will insist on speaking now.

Mr. Chairman: Please, go ahead.

Mr. Javed Jabbar: Thank you. Mr. Chairman, one is not going to be needing to invent any argument as the honourable Minister for Justice says. The Tenth Amendment Bill, I think, comes to the Senate particularly with great significance because we have the dubious distinction of having now to consider the third Constitution (Amendment) Bill within a period of two years. In fact, we have not even completed two years as of today, and this will be the third constitutional amendment that we will be dealing with, and if I may be permitted to say so, when I look back upon those very traumatic days of the Constitution (Eighth Amendment) Bill. I believe that that, in the light of history, can be described as an un-constitutional amendment Bill or what one would say غیر آئینی. The 9th amendment Sir, even though it espouses the principles of Islam I believe in retrospect can be described as the unnecessary Amendment Bill or the غیر ضروری بل because the Injunctions of Islam are already enshrined in the Constitution. Now the Tenth Amendment Bill which I would go on to say is the unnatural amendment Bill or the غیر فطری Bill. So, the Senate unfortunately is being asked to establish a pattern of dealing with most unusual constitutional amendments.

The RCO, Sir, the infamous RCO when we look at it ironically it gave us a few gifts and it is most unusual for an order that carried out so many arbitrary amendments in a demorcartically framed Constitution to have also blessed us with a few blessings in the form of certain, what I believe can be called, positive amendments, even though the manner in which they were made by the arbitrary will of a single individual is not condonable; is not democratic but the fact is that these extra 30 days that were given to the Senate, that were given to the National Assembly were given as a result of the RCO. Now it seems to me a paradox that we, in Parliament, are now being asked to give back what can be described as a gift, a gift whose intention may or may not be clear but certainly the gift was a gift. I believe that if the RCO did give us those one or two or three good things, those other two or three which I shall illustrate shortly, I believe it is our duty in Parliament to protect whatever democratic gift that we have received. For instance, Sir, the other two or three good amendments which I think came about through the RCO—one was the change in the nature of the legislation that the Senate could initiate. As you are aware, under the original 1973 Constitution, the scope of legislation of the Senate was strictly confined and it was through the RCO that any Bill other than a Money Bills could be initiated in the Senate. Another very positive amendment in the RCO was the fact that for the first time technocrats, professionals and Ulema were given reserved seats which may be seen as a mechanism to ensure the election of certain individuals but when you look at it in a broader perspective I think it was a recognition that the nature of politics is changing, that the nature of public policy-making is changing, that it is necessary now to induct into Parliament people who have specialized expertise in given fields and it is through this device that we were fortunate to have in the Senate the company of various distinguished individuals who, I think, will play a very positive part and have played a positive part in bringing to bear a well-informed analytical approach to the debates on legislation. But Sir, why then does this 10th amendment set about being so selective about dealing with a gift given to us by the RCO. One would have thought that if the argument is that the 10th amendment wants to, as the statement of objects and reasons says, it says: “so as to reduce the minimum number of working days to 130 of the Assembly....” does restore it to the position under the Constitution as originally enacted? If this is the

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spirit Sir, then I would suggest they should have also gone to Article 70 of the Constitution which as we know Article 70 to the best of my knowledge defines the scope of legislation and it says: "A Bill with respect to any matter in the Federal Legislative List and goes on to Article 73 where a Money Bill is confined to the National Assembly....", and "a Money Bill shall originate in the National Assembly...." On the face of it this is logical because all over the world it is an established practice that only a directly elected legislature has authority on the Money Bill. But in the case of Rajya Sabha in India for instance, there is in a neighbouring country an example by which the Upper House can take a certain limited degree of interest in Money Bills. So, if the spirit behind moving the 10th amendment was to go back to the spirit of the 1973 Constitution then I suggest to you that the mover of the Bill or the government party should have taken into account that since the 1973 Constitution was framed, many basic changes have occurred in Pakistan. The whole concept of the inter-provincial relationships has changed. The demand for greater provincial autonomy has now become a very basic central national issue. In the light of this, it is logical to expect that anyone who wants to restore not just the letter of the 1973 Constitution but the spirit of the 1973 Constitution should also take into note the new realities of the inter-provincial relationship within Pakistan, and if on the one hand you are revising the total nature of what the Senate can do through the RCO and we are living very comfortably with it, this, I thought, would have been a very good opportunity to give the Senate these powers..... and I must look upon the 10th amendment not as an echo of the voice of the National Assembly because all that the Assembly wanted to say has been said, and I am not going to get up here and only repeat the arguments that have been given in the National Assembly. I would look upon it from the perspective of being a member of the Senate. How does the Senate look upon the 10th amendment? Therefore, Sir, I would have suggested that in the 10th amendment one expected a clause or an amendment which would give the Senate some kind of role in the financial policy-making of the Government of Pakistan because that is a very essential role. Now when I say this, I don't mean that we should take away any of the powers or the authority of the National Assembly because that is the supreme power enjoyed by a directly elected legislature.

However, I believe that this is also a very good opportunity for the government to consider suggesting that the Senate itself be a directly elected body. Because I believe Sir, that the anomaly now is that whereas the inter provincial Federal relationship in Pakistan will become a supreme matter of national concern, the indirectly elected nature of the Senate does not give it the necessary credibility and authority. Now it is obviously a very radical proposal. In the United States of America the record shows that it took over one hundred attempts through various resolutions moved in Congress for them to accept in the early part of the twentieth century the proposal to amend the Constitution to make the US Senate also a directly elected body. So, obviously in Pakistan it is going to take us a few years to convert the power processes of this country to be able to accept a directly elected Senate but I believe that this represented a good opportunity for this to be done. However, the mover of the motion says that the idea is to restore the spirit of the 1973 Constitution. Then I would suggest Sir, that he is cutting the ground out from under his own feet because I respect him as a distinguished technocrat of the Senate, he was elected as a technocrat to the Senate. Now in the original 1973 Constitution there is no provision for a technocrat to be elected to the Senate. So Sir, if the intention is to restore the spirit of the 1973 Constitution then my honourable friend will have to submit his resignation alongwith the motion. But he will know that there are certain aspects of the 1973 Constitution which should be preserved, some that should be improved as time goes by because no document can claim to be a perfect document. Sir, I would also counter the argument put out to the effect and this has been said elsewhere that we are only here in the 10th amendment prescribing a minimal figure, that there is no intention to limit the total number of days that the Assembly can meet.

In this respect Sir, I would point out that if this is the case look at the unseemly haste with which we are often called into session because every one knows whether we admit it or not that we are often simply fulfilling the constitutional quota. Now this I think is a great injustice to democracy because when you look at the possibilities of what you can do with the days and then when you look at the practice which has been observed in Pakistan historically that we have always tended to gravitate towards whatever is minimally necessary under the

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law. Generosity has never been a hall mark of Pakistan's Parliamentary or legislative conventions. If this had been a hallmark, if only one could prove that from 1947 up to 1987 Parliament has been very generous in its sittings, in its durations..... In fact Sir, you will recall that it is one of the most tragic aspects of our constitutional history that the first Constituent Assembly which was charged with the task of formulating a Constitution between 1947 and 1953 barely met for about 35 to 40 days in the year and this is one of the most basic reasons why the Constitution of Pakistan which should have been formulated as a unanimous document in 1948 at the very latest Sir, was never formulated because the power structures of the country, the feudal and oligarchic and monarchical almost in their tone—did not want the popular will to be expressed through the process of the legislature. So when one hears the argument that one is only prescribing a minimal limit, one is very apprehensive that it is only the minimal figure that will be observed and not the maximum figure. When you look Sir, at what could we do with extra days in Parliament, what could the National Assembly do obviously one has often been given the feeling and one looks at the Orders of the Day and we look at only very cosmetic legislative business that is sometimes put on the Orders of the Day, minor amendments, innocuous amendments, one thinks that perhaps truly the legislatures of Pakistan don't have much business to conduct.

Sir, I suggest to you that if we really wanted to take a positive analytical look at the legislation of Pakistan simply from the point of review then I will try to categorise legislation into possibly three categories, one we could call "review" legislation simply to eliminate technical flaws, if you take the legislation from 1947 to 1987 there are literally hundreds of Ordinances and Bills that should now be reviewed in the light of 1987 which are enough to keep us busy for quite a few innocuous day. But Sir, more than that, I believe that this Parliament was elected after a gap of eight years that so many fundamental changes apart from the political change on the provincial autonomy question, so many economic, technological, scientific changes have taken place in the world today that all the laws on our statute books regarding energy, education, medicine, transportation, housing, media, labour, all of these laws have to be thoroughly re-examined, whether it is a law on industrial safety for a industrial unit which was

not even visualized when the original industrial safety ordinance was promulgated, whether it is an industrial unit that is the result of technology developed in the late 1970 and which exists in Pakistan or some aspects of the labour law..... take for instance the report of the I.L.O. a mission of the International Labour Organization visited Pakistan a few months ago and pointed out that Pakistan is still extremely deficient in fulfilling minimum standards prescribed by the International Labour Organization.....So these are just two examples. Take medicine, there is such a great need for legislation to be initiated for the regulation of public health in this country, there is a need for a regulation of the way in which pharmaceutical drugs are marketed in this country at a time when the World Health Organization says that it is enough to have just four hundred drugs available and all aspects of public health will be taken care of, Pakistan has the dubious distinction of allowing over 7000 drugs to be marketed in this country. So, Sir, when you look at the need for legislation there is an abundant body of subjects waiting for legislative action.

So, this second category I would say is reformist legislation. One is reviewist legislation the second is reformist legislation and the third category I would say Sir,—the duty of every government is to anticipate change because change is taking place at such a fast rate that we should look ahead ten years from now and visualize what is going to be the population growth, what are going to be the pressures on various sectors of national development and there I would suggest a kind of “anticipatory” legislation is required. Now, if you take these three types of legislation then I suggest to you that even a 130 or 160 days are not going to be enough. Now, I do not suggest that we should be in session 365 days of the year that is obviously impracticable. But I think the 10th amendment is psychologically devastating for Pakistan because it comes at a time when we have just managed to recover our democratic institutions and any such act even if it is innocently motivated will be viewed by people as one step back, not two steps forward. So apart from the need for legislative review there is also the psychological aspect of the 10th amendment which needs to be examined and Sir, I would say that at this stage any step that the government takes even though I am not of the government, I am independent and often in opposition to their viewpoint..... I however

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wish them well because they are a government representative of democratic processes and it must be our intent to strengthen democracy not to weaken it..... to be seem to be upholding the concept of accountability. Whenever people are able to notice what Parliament has done, whatever the National Assembly has done, whatever the Senate has done, even though they are very sceptical about the credentials of this Parliament because they say it was elected on a non party basis, the parties are sitting outside the Majlis-e-Shoorah, what credibility does this Parliament enjoy? However, they are forced to concede that at least the concept of accountability has now been initiated. The psychological, the physical aspects of the processes of State power, of government power being subjected to some kind of regulation, some kind of accountability is a very vital advance that this Parliament has made, and therefore, I would have expected that any move made by the government should have tended to strengthen democracy.

I am also quite disappointed that the government has chosen this particular time in the nation's history to introduce this relatively innocuous bit of legislation because truly this belonged to the scope of responsibility of the 10th Amendment Constitution Committee on which you have already admitted two privilege motions and disallowed one most recently. That Committee was supposed to look at the totality of the Constitution and to submit its considered recommendations. The Justice Minister himself recently said that there are aspects of the Constitution which require proper and thorough review and I think that this subject truly belongs to that kind of thorough and detailed review.

At this moment it is being said that the tenth amendment has really been initiated by the forces of bureaucracy because the forces of bureaucracy have felt that these past two years have resulted in a very awkward position for the bureaucracy constantly being asked to give answers to questions and come to parliament to help the government explain itself. I hope that this is not true. I hope that there are substantive grounds on the basis of which the government can justify this. I would, however, like to point out that the Justice Minister, honourable as he is, distinguished as he is, has taken us somewhat for granted because in introducing this motion he has not given us the

benefit of the rationale of the tenth amendment. I mean every Bill comes with a statement of objects and reasons but any Bill that attempts to even change a fullstop or a comma of the Constitution should be accompanied or preceded by a statement delivered by the Minister Incharge which gives us the philosophy behind the amendment and which tries to take care of some of the misgivings or questions that we have suffered from or that have been raised in the Assembly. I expect and I hope that at least in his winding up, rather than be cursory about the nature of the objections raised simply because of the overwhelming majority enjoyed by the treasury benches, the Justice Minister will address himself to some of the issues or some of the misgivings that we have in this matter.

Therefore, Sir, I hope that firstly it should have been referred to the Standing Committee. Secondly, the principles of this Bill require debate and discussion in this august House and I hope that my honourable colleagues will share some of the points that I have raised.

Thank you very much.

Mr. Chairman: Thank you very much.

Any other speaker for this evening?

Prof. Khurshid Ahmad: I will speak tomorrow.

Mr. Chairman: Then I will request you to register your names with the Secretariat – I mean those of you who want to speak. I already have a list of 15 speakers. They are I think almost entirely from the treasury benches. I need not read out their names. We can put them in some order to give equal opportunity to all sections of the House.

Prof. Khurshid Ahmad: We have no objection. They can have precedence.

Mr. Hasan A. Shaikh: They have nothing to say, therefore, they do not want to speak.

Mr. Chairman: I think just wait, we will come to that.

In the meantime, whoever wants to speak, please register your names with the Secretariat. It will facilitate my task.

So, if there is no other speaker then we meet at 10 O'clock in the morning tomorrow.

The House stands adjourned to meet again tomorrow at 10.00 A.M.

[The House adjourned to meet again at ten of the clock in the morning on Tuesday, March 17, 1987].
