

SENATE OF PAKISTAN

SENATE DEBATES

Thursday, the 1st September, 1988

The Senate of Pakistan met in the Senate Hall, (Parliament House), Islamabad, at 5.45 of the clock in the evening, with Mr. Acting Chairman (Syed Muhammad Fazal Agha) in the Chair.

RECITATION FROM THE HOLY QUR'AN

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ
يٰۤاَيُّهَا الَّذِيْنَ اٰمَنُوْا لَا تَخَوْنُوْا اللّٰهَ وَرَسُوْلَهُ
وَتَخَوْنُوْا اٰمَنِيْكُمْ وَاَنْتُمْ تَعْلَمُوْنَ ۝ وَاَعْلَمُوْا اَنْمَّا
اَمْوَالُكُمْ وَاَوْلَادُكُمْ فِتْنَةٌ ۗ وَاَنَّ اللّٰهَ عِنْدَ اٰخِرِ
عَظِيْمٍ ۝ يٰۤاَيُّهَا الَّذِيْنَ اٰمَنُوْا اِنْ تَتَّقُوا اللّٰهَ يَجْعَلْ
لَكُمْ فُرْقٰنًا وَيُكَفِّرْ عَنْكُمْ سَيِّئَاتِكُمْ وَيَغْفِرْ لَكُمْ
وَ اللّٰهُ ذُو الْفَضْلِ الْعَظِيْمِ ۝

(سورة الانفال: آیات ۲۷ تا ۲۸)

ترجمہ :- اے ایمان والو! نہ تو خدا اور رسول کی امانت میں خیانت کرو اور نہ اپنی امانتوں میں خیانت کرو اور تم ان باتوں کو جانتے ہو اور جان رکھو کہ تمہارا مال اور اولاد بڑی آزمائش ہے اور یہ کہ خدا کے پاس نیکیوں کا بڑا اثواب ہے۔ سو سو اگر تم خدا سے ڈرو گے تو وہ تمہارے لئے امیر فارق پیدا کر دے گا یعنی تم کو متلا کر دے گا۔ اور تمہارے گنہگاروں کو نہیں بخش دے گا۔ اور خدا بڑے فضل والا ہے۔

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PANEL OF PRESIDING OFFICERS

Mr. Acting Chairman : In pursuance of sub-rule (1) of rule 14 of the Rules of Procedure and Conduct of Business in the Senate, 1988, I nominate the following members in order of precedence to form a panel of presiding officers for the September–October, 1988 Session of the Senate :

1. Mr. Mahmood Ahmed Minto.
2. Akhunzada Behrawar Saeed.
3. Mir Abdur Rehman Jamali.

I have received a message from the Secretary General, Inter Parliamentary Union. I will read it out for you. Mr. Peirre Cornillon, Secretary General, Inter Parliamentary Union has expressed on behalf of the Inter Parliamentary Union their deepest condolences to the members of the Senate Inter Parliamentary group, and Government of Pakistan on the tragic death of Gen. Zia-ul-Haq, President and other senior military officers. They have also conveyed their sympathies to the families of the deceased.

QUESTIONS AND ANSWERS

Mr. Acting Chairman : Question Hour. Mr. Aijaz Ali Khan Jatoi.

DRY PORTS

1. ***Mr. Aijaz Ali Khan Jatoi** (put by Mr. Javed Jabbar) : Will the Minister for Railways be pleased to state :

- (a) the total number of dry ports presently operating in the country ;
- (b) the employment quota fixed in the said ports for the people of Sindh ; and
- (c) the total number of the employees working at present in these dry ports indicating also the names, place of domicile of employees belonging to the Province of Sindh in each of the said ports with district-wise break up ?

Mr. Mahmood A. Haroon : (a) Five dry ports including one at Karachi are being operated on the Pakistan Railways.

(b) Hundred per cent quota of employees in B.S.-1 to 10 is fixed for the candidates belonging to the areas falling within civil districts of the concerned Railway Division. That all employees working at Karachi Dry Port belong to Sindh.

(c) 105 employees are working in Karachi Dry Port, belong to the districts of Karachi.

Mr. Acting Chairman : Any supplementary ? No. Next Mr. Muhammad Mohsin Siddiqui.

SABOTAGE ACTIVITIES BY INDIAN AGENTS

2. ***Mr. Muhammad Mohsin Siddiqui :** Will the Minister for Interior be pleased to state :

(a) whether it is a fact that some Indian agents who entered Pakistan illegally were found involved in sabotage activities, especially in Karachi ; and

(b) whether it is also a fact that the matter was taken up with the Government of India ; if not, its reasons ?

Malik Nasim Ahmed Aheer : Information is being collected from the concerned agencies and will be laid on the table of the House as soon as received.

یہ سوال وزارت کو ۲۸ کو ملا اور چونکہ اس میں کافی معلومات درکار تھیں اس لئے اس کا جواب ہم اتنی جلدی معلوم نہیں کر سکے۔ تو next rota day تک میں تمام معلومات ہاؤس کے سامنے لاسکوں گا۔

Mr. Acting Chairman : Mr. Mohsin Siddiqui it is deferred to the next rota day.

Mr. Muhammad Mohsin Siddiqui : Thank you.

Mr. Acting Chairman : Next, again Mr. Muhammad Mohsin Siddiqui.

Malik Nasim Ahmed Aheer : Sir, the answer is again the same, "I have not been able to collect the reply because we got the notice on 28th and the time was too short and I have to collect a lot of information." It would again be deferred to the next rota day, Sir.

Mr. Muhammad Mohsin Siddiqui : No objection.

Mr. Acting Chairman : Deferred to the next rota day. Next Question No. 4.

PAY SCALES FOR POLICE EMPLOYEES

4. ***Amir Abdullah Khan Rokri (put by Brig. (Retd.) Muhammad Hayat Khan) :** Will the Minister for Interior be pleased to state whether it is a fact that steps are being

taken by the Government to provide better pay scales to the employees of the Police Department ; and if so, the details thereof ?

Malik Nasim Ahmed Aheer : The case for providing better pay scales to the employees of the Police Department is under active consideration with the Government. The Police Committee Report—1985 recommended as follows :—

Rank	Existing Scale	Recommended Scale
Constable	B.S. 2	B.S. 5
Head Constable	B.S. 3 & 5	B.S. 7
Asstt. Sub-Inspector	B.S. 7	B.S. 9
Sub-Inspector	B.S. 11	B.S. 14
Inspector	B.S. 14	B.S. 16

The recommendation was agreed in principle by the Cabinet Sub-Committee set up to review the report as well as by Provincial Governments.

- [5. Disallowed.]
[6. Disallowed.]

ملک نسیم احمد آہیر : حکمہ پولیس کے ملازمین کو بہتر سکیل فراہم کرنے کا معاملہ فوری طور پر حکومت کے زیر غور ہے۔ پولیس کمیٹی رپورٹ ۱۸۵ کے مطابق سفارشات حسب ذیل ہیں۔ کانسٹیبل بی ۲ سے ایم اس کو بی ۵ میں لے جانا چاہتے ہیں۔ ہیڈ کانسٹیبل کو ۳ اور ۵ سے ۷ میں لے جانا چاہتے ہیں۔ اسسٹنٹ سب انسپیکٹر کو ۷ سے ۹ میں لے جانا چاہتے ہیں۔ سب انسپیکٹر کو ۱۱ سے ۱۳ میں لے جانا چاہتے ہیں اور انسپیکٹر کو ۱۳ سے ۱۶ میں لے جانا چاہتے ہیں اور اس رپورٹ کے لیے ذیلی کمیٹی مقرر کی گئی تھی کابینہ کی اور صوبائی حکومتوں کی سفارشات ہمیں موصول ہو گئی ہیں اب ان پر انشاء اللہ جلد ہی مناسب فیصلہ کیا جائے گا۔

Mr. Acting Chairman : No supplementary ?

PROMISED REPLIES

AUCTION OF CARS BY CUSTOMS

235. *Nawabzada Jehangir Shah : Will the Minister for Finance and Economic Affairs be pleased to state :

(a) whether it is a fact that five cars placed at the disposal of the Customs Officers at Quetta, were irregularly auctioned at throw away prices despite public protests against low bidding ; and if so ;

(b) whether the Government intends to take suitable action against the Collector of Customs, Quetta, for the aforesaid irregularity ; and

(c) the steps so far taken by the Government against the persons responsible for it ?

Mian Muhammad Yaseen Khan Wattoo : (a) No.

(b) Does not arise.

(c) Does not arise.

TRANSPORTATION OF CONTRABAND GOODS

Nawabzada Jehangir Shah : (a) Whether it is a fact that a huge quantity of contraband goods collusively cleared at Gwadar Airport were subsequently seized at Karachi Airport by the Customs staff concerned.

(b) Whether it is also a fact that smuggling is being conducted on a massive scale in Makran with the connivance of the concerned Customs staff ; and

(c) The action taken against Customs Officers responsible for encouraging/conniving/at smuggling in the said area ?

Mian Muhammad Yaseen Khan Wattoo : (a) The Customs staff at Karachi Airport have effected a number of seizures of contraband goods coming from Turbat and Gwadar Airports. There was no collusion of the Customs staff of Gwadar Airport because domestic flights originating from there were normally not checked by Customs. Now the Customs staff at Gwadar, Pasni, Turbat, Panjgoor and Quetta airports have been directed to carry out suitable checks against transportation of contraband goods by domestic flights.

(b) Prevention of smuggling along the Makran coast is primarily the responsibility of Pakistan Coast Guards who have been given necessary powers under the Customs Act, 1969 and equipment for the purpose. Customs department has small preventive units at Mand, Turbat and Panjgoor which seized goods and vehicles worth Rs. 75,22,133/- during 1986-87.

(c) As explained at (a) above there was no collusion of Customs staff. However, severe disciplinary action will be taken against any Customs Officer found guilty of conniving at or encouraging smuggling.

CUSTOM EMPLOYEES DOMICILED IN FATA

* **Haji Malik Faridullah Khan :** Will the Minister for Finance and Economic Affairs be pleased to state that (a) total number of officers and other persons belonging to FATA recruited in Customs and Central Excise Department since 1986 indicating also (b) the number of persons recruited from other provinces of the country with province-wise break-up ?

Dr. Mahbubul Haq : (a) In total 5 officials in BPS-3 to BPS-15 have been recruited from FATA/NA in the Customs and Central Excise Department since 1986.

(b) The recruitments made in the above pay scales from other provinces of the country with province-wise break-up are as under :—

Name of Province/Region	Number of recruitments since 1986
Merit.	10
Punjab.	69
Sindh (U)	31
Sindh (R)	26
N.W.F.P.	22
Baluchistan.	4
Azad Kashmir.	2

VEHICLES SEIZED BY CUSTOMS OFFICIALS

46. ***Malik Haji Saadullah Khan :** Will the Minister for Finance and Economic Affairs be pleased to state :

(a) the total number of trucks, buses, motor cars, motor cycles and other machinery with particulars of makes and models seized and impounded by Custom authorities on the charge of violating customs rules and regulations throughout Pakistan in 1987 together with their value ;

(b) whether it is a fact that for lack of proper facilities these vehicles and machinery etc. remain exposed to sun and rain under the open sky, and if so, the average time for which they remain so exposed ; and

(c) whether any of these vehicles or machinery etc. have been disposed of: if so, after what period of time and for what value, separately in each case ?

Dr. Mahbubul Haq : (a) The total number of trucks, buses, motor cars, motor cycles seized and impounded by the Custom authorities for violation of customs rules and regulations throughout Pakistan, during the year 1987, is 538.

The total value of the vehicles seized during 1987 is Rs. 5,71,34,261.

The details of makes and models of the vehicles seized during 1987 are placed as Annex-A.

[Annexure placed in the Senate Library].

(b) Yes, most of these vehicles are involved in smuggling cases. This necessitates retention in Customs custody as they have to be exhibited in courts of law as case property. In cases of departmental adjudication, the decision on appeals has to be awaited before these are disposed of.

(c) Details of disposal of the aforesaid seized vehicles, together with the disposal value, and the period of time after which the said vehicles were disposed of, separately in each case are placed as Annexure-B.

[Annexure placed in the Senate Library].

2. Number of accused in judicial lock-ups :-

Punjab	988
N.W.F.P.	394
Baluchistan	1388
Sindh	927
Total :	3697

Allotment of plots to the affectees of village Sumbal Korak (Islamabad).

*125. Mr. Amir Abdullah Khan Rokri : Will the Minister incharge of the Cabinet Division be pleased to state :-

whether it is a fact that CDA has allotted alternative plots to the residents of the village Sumbal Korak Islamabad, if so, the names of the persons who have been allotted alternative plots and who have not been allotted such plots with reasons thereof ?

Minister incharge of the Cabinet Division : Yes. List containing the names of the eligible affectees of village Sumbal Korak who have been allotted/offered plots is placed at annexe 'A'. List of affectees of this village who have not been allotted plots is placed at annexe 'B'. Their cases are under process/investigation and they will be alternative plots if found eligible.

ANNEXURE 'A'

LIST OF ELIGIBLE AFFECTEES OF VILLAGE SUMBAL KORAK WHO HAVE BEEN OFFERED/ALLOTTED RESIDENTIAL PLOTS IN ISLAMABAD.

S.No. Names & Father's Names of Allottees.

1. Mohammad Siddique Bhatti s/o Fazal Hussain Bhatti.
2. Allah Ditta s/o Gama.
3. Mohammad Razzaq s/o Imam Din.
4. Haji Ahmad s/o Kazim Ali.
5. Mehrban s/o Karam Dad.
6. Fazal Ellahi s/o Ellahi Bux.
7. Mohammad Azim s/o Raja Khan.
8. Mohammad Salim s/o Raja Khan.
9. Mohammad Aslam s/o Mohammad.
10. Mst. Maroof Jan wd/o Fazal Karim.
11. Mst. Fazal Jan wd/o Fazal Karim.
12. Abdul Rehman s/o Mir Zaman.
13. Mir Zaman s/o Faqir Mohammad.
14. Faujdar s/o Shah Wali.
15. Zardad, Abdul Ghafoor s/o Mir Zaman.
16. Mohammad Hanif s/o Abdul Aziz.
17. Sultan s/o Karam Dad.

S.No. Names & Father's Names of Allottees.

18. Banaras, Gulzar s/o Noora.
 19. Allah Dad s/o Hayat Bux.
 20. Ghulam Qadir s/o Noor Mohammad.
 21. Manzoor Hussain s/o Khan Mohammad.
 22. Mohammad Taj s/o Sher Dil Khan.
 23. Gulzar s/o Allah Ditta.
 24. Qaim Din S/o. Mehandeo.
 25. Sher Dil Khan s/o Behram Khan.
 26. Akram s/o Fazal Din.
 27. Mohammad Sadiq s/o Waris Ali.
 28. Mohammad Amin s/o Mohammad Din.
 29. Mohammad Iqbal s/o Sher Zaman.
 30. Mohammad Ashraf s/o Ghulam Haider.
 31. Mehboob Khan s/o Sajawal Khan.
 32. Malik Ghulam Mustafa s/o Kamal Khan.
 33. Ali Shan s/o Faqir.
 34. Fateh Mohammad s/o Fazal Din.
 35. Allah Ditta s/o Kalu Khan.
 36. Mst. Rehmat Jan wd/o Kala.
 37. Aziz s/o Mohammad.
 38. Allah Ditta s/o Noor Mohammad.
 39. Fida Hussain s/o Mir Zaman.
 40. Azram s/o Gul Dad (case of double allotment).
 41. Faqir Mohammad s/o Fazal Karim.
 42. Noor Ellahi s/o Karam Sultan wd/o Karam.
 43. Sain Bostan s/o Faqir.
 44. Ghulam Murtaza s/o Mirza Khan.
 45. Mohammad Akram s/o Mohammad.
 46. Mohammad Ismail s/o Badal.
 47. Abdul Rahim s/o Raja Khan.
 48. Mohammad Ramzan s/o Mohammad Zaman.
 49. Mohammad Afsar s/o Fazal Ellahi.
 50. Hussain s/o Jalal.
 51. Gohar Rehman s/o Mohammad Iqbal.
 52. Qurban s/o Fazal Ellahi.
 53. Sultan s/o Mangoo.
 54. Mohammad Ashraf s/o Ghulab.
 55. Master Jehandad s/o Fazal Karim.
 56. Mst. Jaifilan wd/o Mohammad Khan.
 57. Ali Akbar s/o Kazim Ali.
 58. Ghulam Murtaza Mashooq Hussain s/o Khan.
 59. Sarain Dad s/o Fazal Ellahi.
 60. Allah Din s/o Alam.
 61. Rashid s/o Ghulam Mohammad.
 62. Mohammad Hussain s/o Mirza Khan.
 63. Karim Dad s/o Khuda Bux.
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S.No. Names & Father's Names of Allottees.

64. Bostan **Khan** s/o Faqir Mohammad.
 65. Ashraf Hussain Shah s/o Inayat Hussain Shah.
 66. Farman s/o Mangoo.
 67. Ramzan s/o Fazal Dad.
 68. Mst. Mirza Khanum w/o Ghan Khan.
 69. Ghulam Haider s/o Sher Zaman.
 70. Mst. Maqbool Jan d/o Jalal and w/o Mohammad Akbar.
 71. Abdul Rahim s/o Haji Fazal Karim.
 72. Sub Maj Habib Ullah Khan s/o Hassan Khan.
 73. Mst. Fazal Jan d/o Miran Bakhsh
Mst. Walayat Jan d/o Miran Bux.
 74. Mehran Khan s/o Atta Mohammad.
 75. Abdul Razzaq s/o Kala Khan.
 76. Mohammad Razzaq s/o Atta Mohammad.
 77. Mst. Mahtab Nishan wd/o Badal Bakhsh.
 78. Maqsood Ahmad s/o Mohammad Afsar.
 79. Mst. Gul Jan wd/o Farman Khan.
 80. Khuda Bukhsh s/o Sharaf.
 81. Mohammad Sharif s/o Mohammad Shafi.
 82. Khan Mohammad s/o Fateh Mohammad.
 83. Mst. Khurshid Begum w/o Khan Mohammad.
 84. Hukamdad s/o Jehandad.
 85. Mst. Hussain Bibi w/o Mohammad Shafi.
 86. Mst. Barkat Jan (allotted under the directive of Wafaqi Mohtasib).
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ANNEXURE 'B'

LIST OF AFFECTEES OF VILLAGE SUMBAL KORAK WHO HAVE NOT BEEN OFFERED/ALLOTTED RESIDENTIAL PLOTS IN ISLAMABAD.

S. No. Name & Father's Name.

1. Khan Mohammad s/o Kazim Ali.
 2. Mst. Anwar Bibi w/o Abdur Razzaq.
 3. Khuda Bux s/o Ali Mohammad.
 4. Fazal Karim s/o Bakar.
 5. Sunno Alias Munawar Jan d/o Bostan.
 6. Ghulam Nabi s/o Johandad.
-

ALLOTMENT OF PLOTS OF AFFECTEES OF VILLAGE POONA FAQIRAN (ISLAMABAD)

Mr. Amir Abdullah Khan Rokri : Will the Minister Incharge of the Cabinet Division be pleased to state :—

Whether the Government has provided alternative plots to the affectees of village Poona Faqiran. If so, the location of these plots indicating also the names and total number of those affectees who have not yet been provided plots and the time by which the same will be provided to them ?

Minister Incharge of the Cabinet Division : (i) Yes.

(ii) Plots were allotted in model village Poona Faqiran except one plot which was allotted in Sector I-10/1, prior to the planning of model village.

The names of the affectees who have not been provided plots are given at Annexure 'A'. Allotment to those who are found eligible and who meet the prescribed requirements shall be made in due course.

ANNEXURE 'B'—'A'

S. No. Names & Father's name

1. Mohammad Fazil S/o Noor Khan.
 2. Abdul Majeed S/o Karam Ellahi.
 3. Mohammad Sharif S/o Khuda Dad.
 4. Mohammad Bashir S/o Khuda Dad.
 5. Mohammad Ayyub S/o Fateh Mohammad.
 6. Mansab Khan S/o Sikandar.
 7. Irshad Begum.
 8. Aurengzeb S/o Fazal Dad.
 9. Mushtaq S/o Fazal Dad.
 10. Pervez S/o Fazal Dad.
 11. Mohammad Ikhtlaq S/o Mohammad Ajaib Khan.
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FINAL REPLY OF UNSTARRED SENATE QUESTION No. 4

(Interim Reply Given on 30th July, 1987)

4. **Syed Mazhar Ali :** Will the Minister for Finance and Economic Affairs be pleased to state the total gross turn over and the profit of companies, their net taxable income, taxable liability assessed and income tax/corporate tax collected from them by the three income tax regions, i.e., Northern, Central and Southern regions, during the year 1986-87 separately for each region ?

Dr. Mahbubul Haq :

(Rupees in Million)

	Northern Region	Central Region	Southern Region
1. Total gross turn over	Rs. 12661.304	Rs. 33868.741	Rs. 151990.000
2. Profit of companies.	Rs. 2912.872	Rs. 2577.408	Rs. 18789.000
3. Net taxable income.	Rs. 1636.217	Rs. 2246.609	Rs. 10667.000
4. Taxable liability assessed.	Rs. 804.933	Rs. 1126.585	Rs. 4811.000
5. Income tax/corporate tax collected.	Rs. 708.073	Rs. 980.060	Rs. 4269.000

Mr. Acting Chairman : This brings us to the end of the questions.

LEAVE OF ABSENCE

جناب قائم مقام چیئرمین : جناب ممتاز احمد خان اپنی بیٹی کے علاج کے سلسلے میں امریکہ میں قیام پزیر ہیں اس لئے انہوں نے ایران سے یکم ستمبر تا اختتامِ جلسہ اجلاسِ رخصت کی درخواست کی ہے کیا ایران ان کی رخصت منظور کرتا ہے۔
(رخصت منظور کی گئی)

جناب قائم مقام چیئرمین : خواجہ محمد حمید الدین نے اپنی عیال کی بنا پر ایران سے یکم ستمبر تا اختتامِ رخصت کی درخواست کی ہے کیا ایران ان کی رخصت منظور کرتا ہے۔
(رخصت منظور کی گئی)

جناب قائم مقام چیئرمین : قاضی عبدالجید نے اپنی علالت کی بنا پر ایوان سے یکم ستمبر کے لئے رخصت کی درخواست کی ہے کیا ایوان اُن کی رخصت منظور کرتا ہے۔

(رخصت منظور کی گئی)

جناب قائم مقام چیئرمین : برادیسر خورشید صاحب ایک بین الاقوامی کانفرنس میں شرکت کے لیے مغربی جرمنی تشریف لے گئے ہیں لہذا انہوں نے ایوان سے یکم ستمبر کے لیے رخصت کی درخواست کی ہے کیا ایوان ان کی رخصت منظور کرتا ہے۔

(رخصت منظور کی گئی)

جناب قائم مقام چیئرمین : صاحبزادہ یعقوب خان وزیر خارجہ نے اطلاع دی ہے کہ وہ ایک میٹنگ میں شرکت کرنے کے لئے نیگوسیا تشریف لے جا رہے ہیں اس لیے وہ ایوان میں تشریف نہیں لاسکیں گے۔ سردار وزیر احمد ترکیننی صاحب نے بھی درخواست کی ہے کہ وہ آج کے دن کیلئے لاہور چنڈ سرکاری مصروفیات کی بنا پر تشریف لے جا رہے ہیں اس لیے وہ ایوان میں موجود نہیں ہونگے۔

پریویج موشنرز۔ پارچہ اصحاب نے ایک ہی موضوع پر پریویج موشنرز دی ہیں۔

On breach of privilege arising out of the proclamation of emergency and creation of emergency cell.

اس میں ہیں پریویج موشن نمبر ۱، ۲، ۳، ۴، ۵ اور ۸ جاوید جبار صاحب ہیں، محمد طارق چوہدری صاحب ہیں، برادیسر خورشید احمد صاحب ہیں، برادیسر خورشید احمد صاحب کی دوسری بھی اسی موضوع پر ہے۔ ڈاکٹر نور جہاں صاحبہ ہیں۔

جدا صاحب! آپ اپنی تحریک پڑھ دیجئے۔

PRIVILEGE MOTIONS; RE: FORMATION OF AN 'EMERGENCY COUNCIL'

Mr. Javed Jabbar: Thank you.

I move that the privilege of this House, as the custodian of the people's will and the Constitution, has been breached by the creation of an 'Emergency Council' for which there is no provision in the Constitution. Even the Continuation in office of a Caretaker Cabinet when the head of that Cabinet is no longer in office is also an occurrence that is against the spirit and letter of the Constitution. The formation of an Emergency Council in the presence of a Caretaker Cabinet is de-facto the creation of two Cabinets, causing a substantive, distortion in the constitutional process. I move that this breach of privilege be discussed in the House. Thank you.

جناب قائم مقام چیئرمین : طارق چوہدری صاحب نہیں ہیں۔ پروفیسر فرخید احمد صاحب بھی موجود نہیں ہیں۔ ڈاکٹر نوز جہاں صاحبہ۔

Dr. Noor Jehan Panezai : Thank you, Sir.

I move that the breach of privilege of the House caused by the act of the President of proclamation of emergency on 17th August, 1988 followed by the Constitution of an 'Emergency Council' which was against the existing provisions of the Constitution may be discussed. I, therefore, move that the motion may be held in order and referred to the Committee on privileges. Thank you.

Mr. Acting Chairman : Are the motions being opposed ?

Mr. Wasim Sajjad : Opposed, Sir.

جناب قائم مقام چیئرمین : جاوید جبار صاحب، کیا آپ کوئی arguments دیں گے ؟

Mr. Javed Jabbar : بسم اللہ الرحمن الرحیم

Mr. Chairman, in moving this privilege motion one is conscious that the action of the creation of an Emergency Council subsequent to the proclamation of an emergency has been done by a person with whom we are very closely familiar, the Chairman of the Senate, who has assumed the office of the President in most grave circumstances, one is, therefore, quite conscious of that distinguished gentleman's knowledge of the Constitution and his respect for the constitutional process. So, therefore, at the very outset in moving the privilege motion one is not questioning anyone's intent or anyone's knowledge. One is questioning the interpretation of the Constitution and one is doing that fully conscious of the fact that it is quite convenient and fashionable to say that the job of interpreting the Constitution is that of the judiciary, in this, I am in fundamental disagreement with. I think, the legislature that shapes and frames the law is equally, if not sometimes more, competent than the judiciary to correctly interpret the Constitution particularly in a political context. The Constitution can be interpreted by the judiciary in legal niceties or nuances in which contrary evidence has to be presented but when the Constitution has to be interpreted from a political view point the legislature is the supreme arbiter of what is the meaning of the Constitution. Now, while one supports at this phase of national life all actions which are correctly taken by the President or the Acting President, as we may designate him from time to time and there seems to be quite a discrepancy Mr. Chairman, in this regard because even today there are references made to him as Acting President and as President, and perhaps there is a need to issue a clear-cut clarification in this respect, one must point out that support for Presidential action even in a time of emergency has to be qualified support. Support cannot be a blank cheque, however distinguished an individual may be, without any disrespect to an individual's integrity, it is the duty of the legislature to remain vigilant always that since all

individuals are human beings, they are capable of error, no one is perfect and that is why I move this privilege motion because one feels that the actions undertaken both in the proclamation of emergency but more substantively in the formation of the Emergency Council is a point that interferes and that reflects upon the enactment, the fulfilment of the duties enjoined upon this legislature. Mr. Chairman, one acknowledges that a serious, if not an unprecedented situation, was created as a result of that tragic crash on the 17th of August 1988, purely in terms of life at one stroke in a few minutes we lost more Generals and officers than a nation loses in a time of war. So, by no means can there be any disagreement on the gravity of that incident, a tragic incident, a substantive blow to the nation quite apart from the human tragedy which inflicted on 30 people and 30 families. So, certainly in terms of the unusualness of it, in terms of the gravity of it, there is no dispute. One disputes whether that automatically logically needs the steps taken on the evening of the 17th of August.

I would like to place on record as a member of a legislature who has always questioned the wisdom of Martial Law and the continuation of the rule of might over right I would like to emphasize ones appreciation for the quality of leadership exhibited by the Armed Forces of Pakistan at that critical juncture because we are talking about constitutional processes and very recently in our history when a President had the choice to follow a constitutional path in 1969, he chose not to do so and that had disastrous consequences for the country. We had to pay with half the territory of this country, half of our heart had to be cut out and handed over because of that one single deviation from the constitutional process. So, one admires the restraint and the commitment of the Armed Forces to the constitutional principle, possibly as a result of the eleven years of experience that they benefitted from. At the same time one is struck by the irony that here one is acknowledging or applauding someone for what is really someone's duty. With due respect, the Armed Forces only carried out their solemn obligation under the Constitution of Pakistan. They did not do anything that is unconstitutional but neither did they do anything that was in any way a favour to the country but so devalued have our political values become, there has been such a deterioration in the faith of institutions, that today when the leadership of the Armed Forces does its solemn duty, one is bound, one is morally obliged to extol and to appreciate this, with, of course, the proviso that that commitment to the Constitution process has to be tested by time as well as circumstances.

Sir, when pressing the privilege motion and in raising the issue of the Emergency Council one can not overlook the fact that the incident of the 17th of August represents possibly the gravest breakdown of security in this county, it represents in a flash of time the inability of Intelligence agencies which receives crores of rupees of secret funds whose job it is to protect the life and security of the Head of State and other important personages of Intelligence agencies which are entirely unaccountable to Parliament. Indeed, I suspect that even the Prime Minister does not often have complete access to the reports of the inter-services intelligence. It is a power unto itself that goes direct to the Head of State or to the Chief of Army Staff. And therefore, the 17th of August represents an opportunity to begin to enforce accountability. I mean we have made such a mockery of the concept of accountability that if we are to determine whether this privilege motion against the formation of the Emergency Council is valid or admissible, one must refer to the very principle of accountability; we are talking about an environment where there is no accountability. So, when one foresees

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this issue, one is not asking the President of Pakistan to become suddenly accountable for every action because the Constitution protects the President from being taken to court for any action and one does not wish to do that. But simply to refer to the environment in which this action was undertaken, Sir, in questioning the constitutionality of the formation of the Emergency Council, I would like to emphasize that one is not questioning the patriotism or the dedication of the four Chief Ministers or the three Chiefs of the Armed Services who have been included in the Emergency Council; I am confident that they are Pakistanis committed to the democratic process and one is not devaluing even their ability to render good advice to the Head of State in moments of grave emergency, but one apprehends that there can be numerous possible negative developments from the formation of an Emergency Council and let us look at the history of what has happened where even the Armed Forces were most impeccable in their conduct in the announcement of general elections and in the conduct of general elections. Let us remember December, 1970, when possibly the only really free and fair party based elections were held in this country and they were held at a time when the Armed Forces were in power. The trouble began sixty days later when it came to handing over power. Let us look at 1977 and 1985, I go to the extent of saying that 29th of May, 1988, represents actually a historical continuity from March 1971, the unwillingness of certain elements within the Armed Forces to respect the democratic process and on the 29th of May most unfountantly, one will not go into the details here but it was a decision that went contrary to public opinion which delivered its verdict in February, 1985.

Mr. Chairman, the question arises whether the Emergency Council is merely an administrative convenience or an administrative mechanism with respect one submits that the Head of State has absolutely unrivalled authority to requisition a meeting at as higher level as he deems fit and the record will show that time and again the Head of State of Pakistan, the Head of Government of Pakistan have often convened meetings where Cabinet has sat together with the Chief Ministers and indeed even the service chiefs perhaps to consider movements of unusual crisis of substantive matters. So, therefore, if the motivation was to enable a process of regular consultation, all it needs is one phone call to each of those individuals and they would be within Islamabad's precincts within a matter of hours. There is no need to create a new body which simply adds to the confusion already inherent in our constitutional process.

Sir, I submitted in the text of my privilege motion that the de-facto consequences of the creation of the Emergency Council is two Cabinets and without any disrespect to the commitment of the members of the present Cabinet one is tempted to say that here we have a Caretaker Cabinet which is a left over and here we have an Emergency Council which has the potentiality of being a Take-over Cabinet. One sincerely hopes that this is not so. One referred right in the beginning to the commitment of the Armed Forces which has expressed their respect for constitutional process. But the creation of two bodies at a time unprecedented in our history when we are heading for a reconciliation is bound to particularly when Parliament does not exist, when neither of those two Cabinets is responsible to an elected legislature because with respect many members of the present Caretaker Cabinet are not elected members. So, in that sense they are not responsible to the Senate, they are responsible to an individual who, alas, is not any longer with us and in turn, are now responsible to a person who has not chosen his own Cabinet but has simply inherited it in actuality. I believe, Mr. Chairman, that the present Cabinet should have resigned soon after the 17th of August and a new Cabinet

possibly even of the same individuals should have been re-inducted to keep respect for the constitutional principle well established all over the country that every time the head of Cabinet changes so does the Cabinet.

Mr. Chairman, this is the first time that the country is facing party-based elections in 11 years. More than ever before there is a special need to ensure the least partisan type of government. I do not believe that there is any such thing as a neutral government. Neutrality is a concept that does not enjoin any commitment and I do not think it is humanly possibly to remain neutral but one can at least hope for the least amount of partiality that is what the nation requires because we are coming out of a period of depolarisation. It is not normal times, if it were normal times one may not insist on the creation of a least partisan government. So, what we need to do is to point out that with the unfortunate developments of the ruling party—the Muslim League—what we have is a most partisan government not a least partisan government. And if the argument is given that in parliamentary governments and parliamentary system as one of the distinguished members of the present Cabinet has made a statement in this morning's newspaper that in parliamentary systems there is no concept of neutral governments just before elections. May I submit that ours is not really a parliamentary system yet. Ours is a presidential type of system transiting to full parliament and in parliamentary system, the head of parliamentary government remains in office till the date of elections. In our case, there is no head of a parliamentary government. We had an executive President who was occupying another post and he has been succeeded by someone else. So, the analogy from parliamentary traditions does not apply to the situation in Pakistan as it exists today.

Sir, finally in pressing for the admissibility of this privilege motion, one must clarify that the intent is not to complicate an already complexed situation. One does not want to waste the nation's time or the legislature's time at a time when we should be giving undivided attention to the holding of free and fair party-based elections. For it is one's duty to raise this issue at this juncture irrespective of, however, distinguished, honest and capable the people may be at the helm of affairs today, one must caution them; one must check them if one feels that there is an act that may lead to bitter consequences and, therefore, Mr. Chairman, I submit that in determining the admissibility of this motion please go beyond the technicality to considering the political context in which this action was done. Thank you.

Mr. Acting Chairman : Thank you. Mr. Muhammad Tariq Chaudhry.

طارق چوہدری صاحب آپ تشریف نہیں رکھتے تھے، آپ اپنی موشن پڑھ کر سنا لیں۔

جناب محمد طارق چوہدری : بسم اللہ الرحمن الرحیم۔ میں تحریک کرتا ہوں کہ اس معزز ایوان کے استحقاق کو

خروج کرنے والے اس اقدام کو زیر بحث لایا جائے کہ صدر پاکستان جنرل محمد ضیاء الحق کے حادثاتی انتقال کے بعد پیدا ہونے والی صورتحال میں ایمر جنسی نافذ کر دی گئی ہے اور ایمر جنسی کو نسل بنائی گئی ہے۔ اگرچہ ہونے والا حادثہ بہت ہی بڑا واقعہ ہے لیکن اس کے باوجود ایسے حالات پیدا نہیں ہوئے کہ ایمر جنسی نافذ کر دی جاتی۔ ایمر جنسی کے نفاذ کے بعد ایمر جنسی

[Mr. Muhammad Tariq Chaudhry]

کونسل کا آئین میں کوئی تصور موجود نہیں ہے۔ لہذا اس غیر آئینی اقدام سے میرا اور اس بلورے ایوان کا استحقاق شروع ہوتا ہے جو آئین سازی اور اس آئینی کی حفاظت کا براہ راست ذمہ دار ہے

Mr. Wasim Sajjad : Opposed.

جناب قند طارق چوہدری : جناب چیئرمین! ۱۷ اگست کے المناک اور افسوس ناک بہت ہی بڑے حادثے کے ہو گئے ہیں کے بعد کی صورت حال کا ہمیں پوری طرح اندازہ ہے اور احساس بھی ہے۔ لہذا میں اور میرے دو سب ساتھی حکومت کے لئے کوئی غیر ضروری مشکلات، کوئی وقت کھڑی کرنے کے لئے یہاں نہیں ہیں۔ ہم ان مشکل حالات میں صدر پاکستان غلام اسماعق خان صاحب اور ان کی کابینہ جو انہوں نے اپنی سہولت کے لئے باقی رکھی ہے کے کام کو آسان بنانے کے لئے پاکستان میں اتاؤٹس کیلئے ہونے انتخاب کو facilitate کرنے کے لئے ان کے ساتھ ہر طرح کا تعاون اور ان کی مدد کریں گے۔ یہ بہر حال ہماری ذمہ داری ہے۔ تاہم ۱۷ اگست اور ۱۸ اگست کی درمیانی رات صدر مملکت کے حادثے کی اطلاع ملنے کے فوراً بعد کابینہ کا جو ہنگامی اجلاس طلب کیا گیا جس میں مرکزی کابینہ کے افراد کے علاوہ پاکستان کی مسلح افواج کے سربراہ اور مختلف صوبوں کے چیف منسٹرز بھی موجود تھے صورتحال کا اندازہ کرتے ہوئے اس سینیٹ کے چیئرمین غلام اسماعق خان نے آئین میں دینے ہوئے اختیار کے مطابق پاکستان کی صدارت کا عہدہ سنبھالا۔ یعنی وہ اس لئے پاکستان کے صدر ہیں کہ وہ اس ہاؤس کے ممبر تھے اور اس ہاؤس نے ان کو چیئرمین منتخب کیا اور اس ہاؤس کے چیئرمین کو آئین نے یہ اختیار دیا کہ صدر مملکت کے نہ ہوتے ہوئے وہ پاکستان کی صدارت سنبھالیں گے اور پاکستان کے صدر ہوں گے۔ لہذا آئین کے مطابق، اس ہاؤس چیئرمین ہونے کی وجہ سے وہ پاکستان کے صدر ہیں اور آئین میں درج شدہ احکامات کے مطابق ان کو اس عہدہ پر بلا لیا گیا اور وہ قائم ہیں۔ لہذا اس ہاؤس کو ہم آئین کی خلاف ورزی کے لئے استعمال ہونے کی اجازت نہیں دے سکتے۔ اگرچہ آئین میں ایمر جنسی کے بارے میں پورے دو صفحے ہیں، پانچ آرٹیکل اور بے شمار سب آرٹیکل ہیں، جن میں اس بات کی وضاحت کر دی ہے کہ وہ کیسے حالات ہیں، کس طرح کی صورت حال ہے، جس میں ایمر جنسی نافذ کی جائے گی، ایمر جنسی کے بعد حکومت کو کیا اضافی اختیارات حاصل ہو جائیں گے، اور ایمر جنسی سے کس طرح اور کس نوعیت کا کام لیا جائے گا۔ یہ ہماری باتیں وضاحت کے ساتھ اس میں بیان کر دی گئی ہیں، آئین نے ایمر جنسی نافذ کرنے کی اجازت دیا ہے، لیکن ساتھ ہی آئین نے یہ بھی بتا دیا ہے کہ ایمر جنسی کیوں نافذ کی جائے گی، کن حالات میں نافذ کی جائے گی، ماکن کے لئے نافذ کی جائے گی، اور وہ ایمر جنسی کن کن اختیارات دے گی۔ کیا صدر مملکت کے طیارے کو حادثہ اس لئے پیش آیا ہے کہ ہماری اس کابینہ کے پاس ان کے تحفظ اور حفاظت کے لئے مناسب اختیارات نہیں تھے، یعنی آپ ان لوگوں کو مزید اختیارات دینا چاہتے ہیں، جو ایک عام ریولور اور ایسٹونل کی حفاظت نہیں کر سکے، اس ریولور یا ایسٹونل سے غلطی سے گولی چلنے سے اپنے ہی لوگوں کو

ذمہ داری لیتے ہیں، ان کو آپ کلاٹکلوف دینا چاہتے ہیں؟ یعنی جن لوگوں کو پہلے سے دئے ہوئے اختیارات کو استعمال کرنے کی اہمیت نہیں ہے، ان کو آپ مزید اختیارات دے رہے ہیں۔

جناب والا! معاف کرنا، ہمارے ایک لیفٹیننٹ جرنل ہیں جو کہ ریٹائرڈ ہیں، جن کا نام جنرل شفیع الرحمان ہے، اور وہ پاکستان کے سب سے بڑے مزاح نگار بھی ہیں، ان کی مزاح پر بہت سی کتابیں ہیں، حقیقتیں مزید حقیقتیں اور اس طرح کی دیگر کتابیں ہیں، اس میں ان کا ایک بہت ہی باپولر کردار ہے "شیطان" اور ایک ہے "آپا" "شیطان" تو بہت کھیلتا سا ایک کردار ہے اور "آپا" ایک ایسا کردار ہے جس کو ہر بولنے والے واقعہ کا پہلے سے علم ہوتا ہے۔ ہمارے یہاں بھی ایسے لوگ ہیں جو یہ کہتے ہیں کہ ہمیں اس حادثہ کا تین ماہ پہلے سے علم تھا۔ یعنی اس کا مینہ کی "آپا" جو ہے جن کو تین مہینے پہلے سے اس واقعہ کا علم تھا، اور اس واقعہ کا علم ہونے کے باوجود اس کا مینہ کے میگزین "تربیت" وزیر ہونے کے باوجود، اور سے با اختیار ہونے کے باوجود، وہ صدر مملکت اور ہماری افواج کے جو بہترین دماغ تھے، ہمارے ملک کی جوانی، شان اور بان تھے ایسے لوگ ایک المناک حادثے کا شکار ہو گئے۔ مگر ان کے تحفظ کے لیے انہوں نے کوئی قدم نہ اٹھایا لہذا میں اپنے وزیر داخلہ سے عرض کرونگا کہ وہ اپنی تفتیش کا یہیں سے آغاز کریں۔

پاکستان میں ایجوکیشن بائیس برسوں کے بعد اٹھانی گئی ہے (مداخلت)

Mr. Muhammad Aslam Khan Khattak : Point of personal explanation.

جناب قائم مقام چیئرمین : جناب محمد اسلم خان خٹک -

جناب محمد اسلم خان خٹک : جناب آئزبل میجر میری سیٹلمنٹ کو غلط انداز میں پیش کر رہے ہیں، ہمیں

اینٹی بیس رپورٹ ملی تھی I do not know whether he knows about it or not. کہ صرف صدر، میجر منسٹر، وزیر داخلہ، چیف منسٹر صوبہ پنجاب، چیف منسٹر صوبہ سرحد، اور چار، پانچ اور آرمی محتاط رہیں کیونکہ ان افراد کے متعلق اس حکومت کے مخالفین نے یہ سازش کی ہوئی ہے، چونکہ وہ عوام کو سڑکوں پر نہیں لاسکتے، لہذا انہوں نے یہ فیصلہ کیا ہوا ہے کہ ان کے اکابرین tall popies جس کو کہتے ہیں، ان کو eliminate کیا جائے۔ ہم نے، تمام اینٹی بیس نے، وزیر داخلہ نے پوری کارروائی کی۔ ہم لوگ تو اب بھی بچ رہے ہیں لیکن پوری کارروائی کی گئی کہ حفاظت ہماری کی جائے۔ اب یہ واقعہ کیسے ہوا، یہ سنا کر کیسے ہوا، یہ وزیر تفتیش ہے۔ یہ کیا بیان دے رہے ہیں کہ ہمیں معلوم تھا کہ صدر کے اوپر attack ہو رہا ہے۔ وہ تو ہم سب پر ہو رہا تھا۔ دس بارہ آدمیوں کو چنایا گیا تھا۔

جناب قائم مقام چیئرمین : جناب صاحب، آپ کا شکریہ۔۔۔ طارق صاحب، آپ relevant ہو کر

admissibility پر بات کریں۔

جناب فدا طارق چوہدری : گزشتہ روز یہ بات ثابت کرنے کی کوشش کر رہا تھا کہ ایمر جنسی اور ایمر جنسی کونسل کی ضرورت نہیں تھی۔ اور یہی میرا موضوع ہے۔ میں بالکل ایک اسی طرح ادھر ادھر موضوعات سے نہیں ہٹا ہوں اور انشاء اللہ نہیں ہٹوں گا۔

جناب غلام اسحاق خان صاحب جو ہمارے بزرگ، زیرک اور تجربہ کار انسان ہیں، اس نازک وقت میں صدارت ان کے پاس ہے، اور ہم اس بات سے مطمئن ہیں کہ اس سسٹم کے اندر جو بہترین available آدنی تھا، اقتدار اس کو منتقل کر دیا گیا۔ اور کسی حد تک ہمارے وہ سامنے رہے ہیں، ہمارے درمیان رہے ہیں۔ ہم ان کے ذہنی رویہ کو بھی سمجھتے ہیں، اور جانتے ہیں، ہمیں پورا بھروسہ ہے کہ وہ آئینی اور قانون کے تقاضوں کو ملحوظ رکھیں گے لیکن ایمر جنسی اور ایمر جنسی کونسل کی جب ہم مخالفت کرنے کھڑے ہوتے ہیں تو ہمارا منشا اور مدعا کسی فرد کی مخالفت کرنا نہیں ہے۔ بلکہ پاکستان کے اندر قائد اعظم کے عقلمند دور کو اگر نکالیں تو ضیاء الحق شہید جیسا شاندار کوئی آدمی برسر اقتدار نہیں آیا ضیاء الحق نے اس ملک کے اوپر ایک رحم دل بادشاہ کی طرح حکومت کی۔ وہ ایک رحم دل بادشاہ تھے، لیکن بادشاہ جتنا بھی رحم دل ہو۔ اورنگ زیب عالم گیر کے بعد، اس کی اولاد جو برسر اقتدار آئی تو غلبہ سلطنت کو باقی نہیں رکھ سکی اسلئے باقی نہیں رکھ سکی کہ ادارے نہیں تھے، کسی اصول کے مطابق ادارے نہیں تھے لہذا اصول کے مطابق اداروں کی تشکیل اور پھر ان تشکیل پذیر اداروں کی تکویم۔ یہ بنیادی ضرورت ہے، جنرل صاحب کے بعد یہ ایک چھوٹا سا ادارہ باقی تھا، جناب غلام اسحاق خان اس ادارہ کے چیئر مین تھے، یہ ادارہ، ایک سسٹم تھا۔ اس سسٹم نے اس اندھری رات میں بدترین قسم کے حالات کو وقوع پذیر ہونے سے بچایا۔ اس سے ہم اداروں کی تشکیل اور انکی تکویم کا اندازہ لگا سکتے ہیں۔ لہذا کوئی بھی ادارہ جو آئین کی منشا اور مرضی کے خلاف بنایا جائے گا۔ وہ کبھی صحیح نتائج پیدا نہیں کرے گا۔ اور جو ادارہ آئین کی منشا کے خلاف بنایا گیا ہے اس کے نتائج بھی رات میں نکلے ہیں، ایمر جنسی کا نفاذ قوم کے ذمہ دارانہ رویے کی توہین ہے۔ آج تک پاکستانی قوم نے کبھی بھی مشکل حالات میں کسی بھی موجودہ حکومت کے لئے کوئی مشکل اور وقت پیدا نہیں کی۔ نہ صرف ماضی بلکہ آراگت کے حادثہ کے بعد بھی پاکستانی قوم کا ذمہ دارانہ رویہ اس پر گواہ ہے۔ لہذا ایمر جنسی کا نفاذ غیر ضروری اور جلد بازی کا نتیجہ ہے۔

ایمر جنسی کونسل۔ اسکی آپ ذرا ہیئت ترکیب دیکھئے وہ کس طرح تشکیل پاتی ہے۔ ایمر جنسی کونسل ایک طرح کا اس وقت سپریم ادارہ ہے آپ اس کو جس طرح بھی کہیں کہ یہ ایڈمنسٹریٹو ہے یہ ہے وہ ہے، اتنا اعلیٰ ترین ادارہ اگر اسکی ضرورت ہو تو آئین کی کتاب میں اس کا اندازہ ہونے سے باقی نہ پھرتا۔ اس کا اندازہ اس میں لازماً کر دیا جاتا۔ اب وہ کس طرح تشکیل پاتی ہے۔ صدر ہلکت، سینیٹر منسٹر، وزیر دفاع، وزیر داخلہ، وزیر عدول

[Mr. Muhammad Tariq Chaudhry]

ایرجنسی کونسل جس کا بار بار ذکر کر رہا ہوں یہ اصولاً غلط ہے اس لئے کہ یہ آئین کے بنیادی اصولوں کے مطابق نہیں ہے۔ غلطی ہے اس لئے کہ اس کے عناصر ترکیبی سیاسی ہیں یہ ٹیکنیکلی غلط ہے، پریکٹیکلی غلط ہے، سیاستاً بھی غلط ہے اس لئے کہ پاکستان کا کوئی بھی سیاستدان اس کی حمایت نہیں کر سکتا اور یہ اپنی ترکیب و ترتیب کے لحاظ سے بھی غلط ہے اور یہ اپنی جگہ پہ ایک حقیقت ہے کہ کونسل کے پردے میں جن لوگوں نے ایرجنسی کو exercise کرنا ہے ان کے تئور درست نہیں اور انکی سیاسی دیانت بھی مشکوک ہے لہذا اس طرح کی کونسل کی میں مخالفت کرتا ہوں اور میں درخواست کرتا ہوں اپنے چیئرمین سے، صدر پاکستان سے اور حکومت سے کہ وہ آئین سے بلا اقدامات جو ہیں وہ نہ اٹھائیں۔

Mr. Muhammad Mohsin Siddiqui

Mr. Chairman.

جناب قائم مقام چیئرمین : فمن صدیقاً صاحب نماز کا وقت ہو گیا ہے تو.....

Mr. Muhammad Mohsin Siddiqui : Then you will kindly give me a chance after Maghrab Prayers.

Mr. Acting Chairman : It will be decided later on.

اب نماز کا وقت ہو گیا ہے میرے خیال میں نماز کے لیے بیس منٹ کا وقفہ کرتے ہیں۔ اس کے بعد پھر کلردوائی شروع ہوگی۔

Mr. Muhammad Aslam Khan Khattak : I would say this much that it was not only to assassinate the members of the government. The plot was to assassinate one of the greatest political leaders of the country and this Government took full steps to give total protection to that personality.

Mr. Acting Chairman : Thank you. So we will meet after 20 minutes.

(The House adjourned for Prayers)

[The House re-assembled after interval with Mr. Acting Chairman, (Syed Muhammad Fazal Agha) in the Chair]

جناب قائم مقام جیڑمین : بسم اللہ الرحمن الرحیم . محترمہ ڈاکٹر نوز جہاں صاحبہ -

ڈاکٹر نوز جہاں پانیزنی : شکریہ جناب جیڑمین ! بسم اللہ الرحمن الرحیم . جناب جیڑمین ، ۱۷ اگست کا سانحہ بہت بڑا سانحہ ہے . اس میں شک ہیں ہے کہ پوری قوم اس حادثے سے متاثر ہو چکی ہے مگر پھر بھی ملک میں ایسے حالات نہیں تھے جن کے لیے ایمر جنسی کو نسل بنانی جاتی یا ایمر جنسی نافذ کی جاتی . کیونکہ آئین میں ایمر جنسی نافذ کرنے کی ذمہ داری بڑی وضاحت سے درج ہے . ایمر جنسی ان حالات میں لگائی جاتی ہے کہ ملک کو کوئی بیرونی خطرہ درپیش ہو یا اندرونی خلفشار درپیش ہو . ہمارا سابقہ حکومت (جناب محمد خان جو نیجو صاحب) نے ۲۰ سال کے بعد ایمر جنسی ختم کر کے بنیادی حقوق عوام کو لوٹا دیئے تھے . موجودہ حالات میں ملک میں ایمر جنسی نافذ کرنے کا نہ تو کوئی قانونی اور نہ ہی اخلاقی جواز ہے . ملکی کاروبار عام طریقے سے چل رہا ہے بلکہ اس کے نفاذ سے لوگوں میں خدشات بڑھ گئے ہیں . آئندہ جمہوری حکومت کا قیام اور آنے والے انتخاب کو لوگ شک کی نگاہ سے دیکھ رہے ہیں اور عوام کو خدشہ لاحق ہے کہ آئندہ عام انتخابات آزادانہ ، غیر جانبدارانہ اور منصفانہ طریقے سے نہیں ہو سکیں گے کیونکہ ایک تو ایمر جنسی قائم ہے . دوسرا گھران حکومت جو اس وقت مرکز اور صوبوں میں کام کر رہا ہے . اس کے وزراء اور تمام وزراء نے اعلیٰ سیاسی اغراض و مقاصد رکھے ہیں .

میں ایک بات کی طرف آپ کی توجہ دلاتا چاہتا ہوں کہ اسی وجہ سے اہوں نے ۲۶ اگست کو سرکاری مسلم لیگ کے قیام کے لیے سرکاری اتر در سرخ استعمال کیا اور غیر آئینی طریقے سے پارٹی کے نام نہاد انتخابات کرائے ، عہدہ ازیں اپنے مقصد کے لیے ان صوبائی وزراء اعلیٰ نے جو مسلم لیگ کے خود ساختہ صدور ہونے کا دعویٰ کرتے ہیں . اپنے سرکاری مناصب کا غلط استعمال کیا ایک بات خاص طور پر میں دیکھا ڈیر لانا چاہتی ہوں کہ ۲۶ اگست کو سابق ممبران اسمبلی اور موجودہ ممبران سینٹ اور سابق ممبران صوبائی اسمبلی کو صوبائی دارا حکومتوں میں طلب کیا گیا اور ان کے ترقیاتی منصوبوں کو عملی جامہ پہنانے کے لیے فنڈز دینے کا وعدہ کیا گیا ان کا مقصد یہ تھا کہ ۲۶ اگست کے اجلاس کو جس میں جناب محمد خان جو نیجو صاحب بلا مقابلہ صدر منتخب ہوئے ، سبوتاژ کیا جائے اور مسلم لیگ کا یہ اجلاس منعقد نہ ہو . ان وزراء اعلیٰ نے اپنے اقتیارات کو غلط استعمال کیا ہے لیکن میں یہ بات بتانا چاہتا ہوں کہ ان کی تمام تر کوششیں ناکام ہو گئی ہیں اور سابق ممبران قومی اسمبلی ، موجودہ ممبران سینٹ سابق صوبائی ممبران کی بھاری اکثریت نے اجلاس میں شرکت کر کے اجلاس کو کامیاب بنایا اور یہ بات قابل غور

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جناب قائم مقام چیئرمین : ڈاکٹر صاحبہ ، excuse me آپ admissibility پر بات کریں

ڈاکٹر نور جہاں پانیزئی : میں اسی پر آ رہی ہوں اور خاص طور پر یہ بات قابل غور ہے اور توجہ طلب ہے کہ آئندہ انتخابات کے لئے اگر وہی رویہ رہا تو آپ یہ کیسے کہہ سکتے ہیں کہ انتخابات غیر جانبدارانہ طور پر ہوں گے۔ یہ بات ہمارے لئے ضرور باعث فخر ہے کہ سینٹ کے معزز اور بہت ہی learned چیئرمین آئینی طریقے سے ملک کے صدر بنے ہیں اور نہایت عمدہ طریقے سے امور مملکت چلا رہے ہیں۔ مجھے امید ہے کہ وہ ہم سے زیادہ political mind رکھتے ہیں۔ وہ عوام کی خواہش کو ضرور مد نظر رکھتے ہوئے اپنی اعلیٰ صلاحیتوں سے قوم کی بہترین خدمت کریں گے قوم کو موجودہ حالات سے نکال کر آزادانہ، غیر جانبدارانہ انتخابات منعقد کروا کر قوم کے منتخب نمائندوں کو حکومت بنانے کی دعوت دیں گے۔

ایک بات میں یہ کہنا چاہوں گی کہ کاشی ! مرحوم صدر اس اسمبلی کو بلا جواز نہ توڑتے اور منتخب حکومت کو dismiss نہ کرتے تو آج ملک میں یہ انتشار اور سیاسی غلامی نہ ہوتا۔ مجھے پاکستان کی عدالتوں پر پورا پورا بھروسہ ہے کہ وہ انصاف کے تقاضوں کو پورا کریں گی۔ میں اپنی افواج کو مبارک باد اور خراج تحسین پیش کرتی ہوں کہ انھوں نے اس کٹھن گھڑی میں آئین کی بلا دستی کو قائم رکھتے ہوئے سینٹ کے چیئرمین کو صدر بنایا۔ یہ ایک بڑا اہم مسئلہ ہے، آپ ان ساری چیزوں کو سامنے رکھ کر یہ بتائیں کہ ان حالات میں الیکشن غیر جانبدارانہ طور پر کیسے ہو سکیں گے۔ اور میری قریب قریب قانونی طور پر اور لٹری طور پر admit کرنے کے قابل ہے کیونکہ اس میں فوری نوعیت اور فوری اہمیت کا مسئلہ درپیش ہے۔ میں نے first available opportunity میں اسے پیش کیا ہے اور میں آپ سے اور جناب صدر سے یہ درخواست کر دوں گی کہ یہ سارے مسائل سامنے رکھیں اور اس قوم کی خواہشات کو مد نظر رکھ کر اس caretaker cabinet کے ممبروں کو ہٹایا جائے اور غیر جانبدارانہ حکومت قائم کی جائے

شکریہ !

جناب قائم مقام چیئرمین : شکریہ ! جناب وسیم سجاد صاحب اس کی admissibility

پیراجہاں بات ہو رہی ہے۔

Mr. Muhammad Ali Khan : Everybody is entitled to speak.

جناب قائم مقام چیئرمین : Right ، شیخ صاحب فرماتے ہیں..... وسیم سجاد صاحب آپ

کہہ رہے ہیں۔

جناب وسیم سجاد : جناب ! آپ ان کو فرد اجازت دیں ، آپ کا یہ حق ہے، لیکن میرا

خیال ہے کہ ان کا یہ کہنا کہ everybody is entitled to speak درست نہیں ہے۔

جناب قائم مقام چیئرمین : یہ آپ کے لیڈر آف دی ہاؤس کہہ رہے ہیں ، میں کیا کہہ سکتا ہوں یہ بات محمد علی خان صاحب کی طرف سے آئی ہے

Mr. Javed Jabbar : Mr. Chairman, in the well established practices on privilege motions every member is entitled to speak on admissibility.

جناب وسیم سجاد : جناب والا ! یہ درست نہیں ہے ۔

جناب قائم مقام چیئرمین : میرے خیال میں ، رولز میں تو ایسی کوئی provision نہیں ہے سجاد صاحب ، چلیں ، ان کو بولنے دیں ۔ آپ ، شیخ صاحب ذرا ٹائم سا خیال رکھیں ، admissibility کی طرف strict ہوں ، irrelevant arguments نہیں ہونے چاہئیں ۔

جناب وسیم سجاد : رولز کے مطابق جناب جو فیئر ٹریک پیش کرتا ہے ، اس کو حق ہوتا ہے کہ وہ بولے ۔ لیکن وہ بھی ایک فقہر ساریان اس ٹریک کے حق میں دے سکتا ہے ۔ ویسے جناب کی مرضی ہے اگر آپ کسی کو ٹائم دینا چاہیں تو تھیک ہے ۔

جناب قائم مقام چیئرمین : آپ تشریف رکھیں ، ماضی میں بھی ایسا ہوتا رہا ہے ۔

Mr. Hasan A. Shaikh : It is not the privilege of an individual member.

It is the privilege of the House.

جناب قائم مقام چیئرمین : شیخ صاحب ، آپ subject پر بات کریں ، اور relevant رہیں ۔

جناب وسیم سجاد : جناب والا ! مزید وضاحت کے لئے عرض کئے دیتا ہوں تاکہ آئندہ کے لئے آگاہی رہے ۔

Rule-63 : "Where a question of privilege has been allowed to be raised the Chairman shall after the disposal of Questions and before other business on the Orders of the Day is entered upon call upon the member who gave the notice and thereupon the member shall raise the question of privilege and make a short statement relevant thereto."

ایک تو یہ ہے جی کہ جس نمبر نے نوٹس دیا ہے ، اس کو بولنے کا حق حاصل ہوتا ہے اور اس پر جس پر پابندی ہے کہ وہ فقہر بیان دے گا اپنی ٹریک کی حمایت میں ۔

we have gone through the emergency almost throughout period of our Pakistan's life. It was only Mr. Junejo who lifted the emergency and for the first time thereby gave

[Mr. Wasim Sajjad]

freedom to the people of Pakistan to say what they like without the bottlenecks of emergency. Now, what is this bottleneck of emergency for? If the people of Pakistan are allowed to function freely as a free country, as a free nation, as a free people, why should the Law Minister be afraid of them. They are his people, if he thinks that he can cajole them or he can persuade them, he can do so but I think it is their right to speak.

جناب قائم مقام چیمبرمین : بالکل آپ نے صحیح فرمایا۔
جناب وسیم سجاد : ایسی تقریریں جائز نہیں ہیں۔
جناب قائم مقام چیمبرمین : جو کہ پہلے ایسے ہوتا رہا ہے۔۔۔۔

Mr. Javed Jabbar : Equally it is quite clear that all members have the right.

Mr. Ahmedmian Soomro : Point of order, Sir. My learned Law Minister has read the relevant provision but nowhere does it say nobody else is prevented from speaking on the admissibility, this is a right of the House. Everyone of us has a right to speak on the admissibility of the motion.

جناب قائم مقام چیمبرمین : میرے خیال میں اس پوائنٹ کو controversial بنانے میں جتنا وقت لگا ہے اس میں شیخ صاحب اب تک اپنی تقریر بھی ختم کر لیتے۔

Mr. Muhammad Ali Khan : Sir, I will suggest that you take the sense of the House. If these people are ready to speak on it why should they be denied the right of speech.

جناب قائم مقام چیمبرمین : خان صاحب، آپ تشریف رکھیں، شیخ صاحب آپ ارشاد فرمائے

Mr. Hasan A. Shaikh : Sir, these privilege motions that have been moved before you are of very great importance and significance in the chequered constitutional history of Pakistan. We are plodding through this chequered history for the last 40 years and unfortunately....

جناب قائم مقام چیمبرمین : شیخ صاحب، آپ admissibility پر بات کریں، نام پر نوک بہت کم ہے، اس لئے آپ admissibility پر بات کریں۔

Mr. Wasim Sajjad : Sir, the Law Minister is not afraid of anything. The Law Minister is only trying to point out the rule to which we have bound ourselves to obey. Not only we ourselves but the Constitution also says we have to obey these rules.

جناب والا ! کوئی بھی ہاؤس بغیر روز کے نہیں چل سکتا۔

Mr. Acting Chairman : That is right.

جناب وسیم سجاد : ہم جب قسم اٹھاتے ہیں اور حلف اٹھاتے ہیں اس میں بھی یہ کہتے ہیں۔

جناب قائم مقام چیمبرمین : اب یہ principle آج کے لئے decide ہو گیا ہے کہ آج وہ برہی گے ، اس لئے آپ انہیں بولنے دیں۔ شیخ صاحب ، آپ relevant ہو کر بات کریں۔

Mr. Hasan A. Shaikh : Sir, the whole thing is this that all these privilege motions are admissible because they raise a question.

جناب قائم مقام چیمبرمین : شیخ صاحب ، آپ صرف اس کی admissibility پر بات کریں۔

Mr. Hasan A. Shaikh : I am not saying anything else.

All the privilege motions are admissible because they raise a question of very great importance. There is a question which should have been raised by every member. Now, if the only four members have raised this question, it does not mean the other people are stopped from supporting them or telling you in their submissions that it is a correct method of approaching the problem. What is the problem? The problem is the people have lost their fundamental rights because of the announcement of emergency. The Government may say what they like, the Ministers may say what they like. Fundamental rights stand suspended during the period of emergency under the Constitution. Therefore, it is a very important matter which this House should consider.

Secondly Sir, I have a feeling, we are trying to avoid the people, we are going for elections. If these elections are going to be free, what is the secret of this freedom? The Secret is that the people must be allowed to function freely and there is no provision anywhere in the Constitution for establishment of a government upon the Government, of establishment of a Cabinet over the Cabinet, or establishment of a Committee above the Cabinet. If the Committee consists of people other than the Cabinet Ministers, people who are appointed by the Cabinet Ministers as heads of their services, they are to govern the Cabinet, then I think the freedom is not there. Therefore, you Sir, allow these privilege motions to be moved; that is the only way we can protect the interest of the people and protect the privilege of this House and of the members of this House. Thank you Sir.

Mr. Acting Chairman : Thank you Mr. Muhammad Mohsin Siddiqui.

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, Sir, the privilege motions moved by my learned friends are neither valid nor warrantable by any provision of the Constitu-

[Mr. Muhammad Mohsin Siddiqui]

tion or the rules of this Ordinance. If we go to the provision of the relevant article—to begin with Article 232. Article 232 says :

“if the President is satisfied that a grave emergency exists in which the security of Pakistan, or any part thereof, is threatened by war or external aggression, or by internal disturbances beyond the powers of a Provincial Government to control, he may issue a Proclamation of Emergency.”

Now, let us imagine what was the condition in this country on that tragic event from 17th night upto now. The situation was that we were suspecting that it was some enemy agents and we have still the same suspicion. It was a case of sabotage and such a serious event has happened where not only the Head of State but the very very high ranking military officers were killed. Now, anything could happen during that period, if the President would have not invoked his function under this Article, I think, he would have failed in his duty. It was wiser on his part to take remedial measures in advance that a situation may not arise where-in internal disturbances or external aggression or war may begin but the President in pursuance of the power vested in him has issued the proclamation. Neither he has suspended the fundamental rights nor has taken away the authority of the courts because after this declaration even this emergency can not be questioned in a court of law. Now, my learned friend can not object to anything which he has done strictly according to the Constitution and anything which is warranted by a Constitution, enabled by a Constitution or authorized by a Constitution can not in any circumstances be a breach of the privilege of any member. An objection has been raised as to why Emergency Council has been constituted. If you read this chapter (relating to Emergency) situations have been thought of where powers have been vested in both executive and legislative that in case of emergency such steps may be taken. Who could supervise if such a situation would arise? When the situation is there, when an act is done and an overt act has happened then you would like to have an Emergency Council. The Emergency Council—it is an administrative body, it is not a body as my learned friend Mr. Jabbar says that it is a substitution or the supersession of the Cabinet. From where he got, from where he got this idea? This is a wild idea. Emergency Council is constituted of three chiefs of the Army who really in a situation like this are the most essential and integral part of such a body, all the Chief Ministers of the four Provinces and three of four Ministers holding vital portfolios relating to this; for example the Defence, the Interior and the Law. Now, the position is as to how this Council violates my right, how it violates Mr. Jabbar's right or the right of this House. The Council has not done anything. This is a body which has been created to deal with an emergency situation which could arise any time. Therefore, I would submit that this is also authorized by the Constitution. The President can take such steps, such measures as may be necessary to give effect to the emergency and then the most important thing that I think has escaped their notice that this emergency will be only for three months because the National Assembly stands dissolved and if the elections are not held within three months then it has to come to the Senate for approval, therefore, we will have fullest opportunity to discuss it. A privilege is not something which you, in your own imagination (whimsical thing) imposed on yourself which you do not deserve. A privilege is one which gives you some semblance or title, some right and anything that is contrary to the dignity of this House, the dignity of a member happens or anything which threatens his future, safety or security, then you can say that your privilege is breached. Anything done constitutionally can not violate anybody's privilege.

I would submit that these steps were taken as a precautionary measure and they were rightly taken and at a proper time and by good luck and by the grace of God no occasion arose to use other provisions of the emergency and I am thankful to the President that he has been so careful and so cautious that he has not touched any part of the Constitution. Neither he has exercised any power, nor has he taken over any of the Provinces, nor given instructions to any of the Governor because there is no occasion for it. But the mere fact that a body has been created to take stock of the situation, to take into account the remedial measures that may be necessary that is neither against the Constitution nor against the spirit of the Constitution. And therefore, all these questions that have been raised, of course, it is upto them to impute motives, I hold nobody's brief and therefore, I am not going to challenge anybody but there will be people who will challenge them. Because instead of imputing motives you should look into things with a more mundane outlook. As members of the Senate, we have to take a very very mundane and a broader outlook of the situation. We have to take into consideration the security of the country and any step taken for the security of the country within the framework of the Constitution is legal, valid and does not violate anybody's privilege.

Mr. Acting Chairman : Thank you, Muhammad Ali Khan Sahib.

جناب محمد علی خان : بسم اللہ الرحمن الرحیم ۔ جناب چیئرمین صاحب صدر مملکت کا اعلان

انتقال میں سمجھتا ہوں کہ وطن عزیز کے لئے بہت بڑا المناک حادثہ تھا اب ان کے رخصت ہو جانے کے بعد ہمیں چاہیے کہ بیٹھ کر ملکی حالات کا صحیح طور پر از سر نوز جائزہ لیں۔ جب ہم جائزہ لینے کے لئے بیٹھ جاتے ہیں تو دو چیزیں ہمارے سامنے آتی ہیں۔ ایک موجودہ کابینہ اور ایک ایرضنی کونسل۔ جناب والا! آج کل بعض لوگ یہ کہہ رہے ہیں کہ موجودہ کابینہ پارلیمانی جمہوریت کی بیدار ہے۔ میں آپ سے یہ پوچھنا چاہتا ہوں کہ ملک میں جمہوریت کہاں ہے۔ مرحوم صدر نے ۲۹ مئی کو جو ایکشن لیا تھا اسی دن پاکستان سے جمہوریت کا جنازہ نکل گیا تھا۔ بلا کسی جواز کے اس نے مسلم لیگ کی حکومت، اس کے سربراہ محمد خان جو نیو کو بر طرف کیا اور ساتھ ہی نیشنل اسمبلی کو بھی ختم کیا۔ کیا جمہوریت اسی کو کہتے ہیں؟ کیا یہ جمہوریت ہے اور پھر بھی جو لوگ اسی زعم باطل میں مبتلا ہیں کہ ملک میں اب بھی جمہوریت ہے جناب والا! میں سمجھتا ہوں کہ وہ احمقوں کی جنت میں زندگی بسر کر رہے ہیں۔ یہ ٹھیک ہے کہ اس کابینہ میں اچھے لوگ بھی ہیں۔ سارے برسے نہیں ہیں اور اس میں بچے ایسے لوگ بھی نظر آتے ہیں کہ اگر وہ حکومت میں نہ بھی ہوں تب بھی لوگوں میں ان کی قدر و منزلت ہے اور لوگ ان کو قدر کی نگاہ سے دیکھتے ہیں۔ لیکن ان میں کچھ ایسے بھی ہیں جو ان کے یوں کے ساتھ چلے، بوسے ہیں اور ان کی یہ خواہش کہ اگر موت بجا ہم سے ملتی ہو تو وہ منترسی کے دفتر میں آکر ہم سے ملاقات کرے۔ حالانکہ بعض ایسے ہیں جو عمر کے ایسے حصے کو پہنچ گئے ہیں

[Mr. Muhammad Ali Khan]

کہ میں سمجھتا ہوں کہ انہیں دنیا اور مافیہا کے سارے انتظام کو نظر انداز کر کے اپنی عاقبت سونارنے کے لیے، آخرت کی تیاری کرنی چاہیے۔

جناب دلا! سوسمورتی نے نظریہ زندگی کے تحت زندگی کو چار حصوں میں تقسیم کیا تھا۔ پیدائش سے ۲۵ سال تک اس کو کہتے ہیں گرتھ آٹم یعنی اس میں لوگ لکھنا پڑھنا سیکھیں اور تجربہ حاصل کریں۔ پچیس سے پچاس تک شادی کریں۔ بال بچے پیدا کریں۔ اور بچوں کی پرورش کریں۔ پچاس سے پچہتر تک جو تجربہ انہوں نے حاصل کیا وہ دنیا کر دیں اور پھر پچہتر سے نیکر سوسال کی عمر تک، اس پیریڈ کے لیے اس نے جو لفظ استعمال کیا ہے وہ ہے گیان دھیان۔ وہ گیان دھیان میں مشغول ہو جائیں۔ اور دنیاوی تشکلات سے اپنے آپ کو فارغ کر لیں۔ بعض لوگ اس کینٹ میں ایسے ہیں جو گیان دھیان کے مرحلے سے گزر رہے ہیں۔ لیکن کرسی سے چمٹے ہوئے ہیں اور آوازیں دیتے ہیں اور نینا رہے ہیں اور یہ گن گاتے ہیں کہ اس ملک میں جمہوریت ہے جمہوریت تو محمد خان جو نیبو کی حکومت کے زمانے میں تھی۔ جمہوریت اس وقت تھی جب ۲۰ سال کے بعد ایرجینی کو ختم کیا گیا تھا۔ وہ جمہوریت تھی جب کہ ہر ایک کو بولنے کا حق تھا۔ پریس آزاد تھی۔ بلک میٹنگز ہو سکتی تھیں اور آج سب اپنے کردوں میں بیٹھے ہیں۔ جناب اگر آپ باہر جائیں اور کسی سے پوچھیں اور جو جملے یہاں ملک میں ہو رہے ہیں۔ ان کی جو حقیقت ہے۔ وہ آج ریفرنڈم کی ہے۔ اور وہ لوگ نینا رہے ہیں کہ موجودہ کابینہ کو ہٹایا جائے تاکہ صدر مملکت اپنی صوابدید کے مطابق ایک نئی کابینہ تشکیل دیں جو ملکی حالات کے مطابق ہو۔

دوسری بات یہ ہے کہ یہ جو ایرجینی کونسل ہے اس کی کوئی حقیقت نہیں ہے۔ اس کا کوئی legal aspect نہیں ہے۔ جو ایرجینی کونسل بنانی گئی ہے۔ اس میں سروسز کے تینوں چیف اور چاروں صوبوں کے وزراء اعلیٰ شامل ہیں۔ اس کی ضرورت نہیں تھی۔ پہلے تو اس کینٹ کی ضرورت نہیں ہے اور پھر ایرجینی کونسل کی ضرورت نہیں تھی جناب دلا! میں نے ساری عمر اس سیاست میں گزارا ہے لیکن میں آپ کو یقین سے یہ کہتا ہوں کہ ہم نے آج تک ایسی کینٹ کا نام تک نہیں سنا جس کا سرٹ ہو۔ یعنی بغیر وزیراعظم کی کینٹ، یہ مذاق ہے قوم کے ساتھ، اس ملک کے ساتھ اور اس ملک کی تاریخ کے ساتھ اور آئین کے ساتھ۔ اگر اس بارے میں ہم آزاد نہیں اٹھائیں گے تو تاریخ ہمیں کھ مٹا دے گی۔ جناب دلا! آج کل کے حالات کا تقاضا ہے کہ موجودہ حکومت کو ختم کیا جائے۔ صدر مملکت کو یہ موقع فرمایا جائے کہ وہ اپنی صواب دید کے مطابق نئی حکومت بنائیں۔ تاکہ نیا الیکشن ہو۔ ایرجینی کونسل کے قیام کا بالکل کوئی جواز نہیں اس کوئی ضرورت نہیں ہے۔ شکر ہے!

نوابزادہ جہانگیر شاہ : اَللّٰهُمَّ صَلِّ عَلَى سَيِّدِنَا مُحَمَّدٍ وَعَلَىٰ آلِهِ وَصَحْبِهِ وَسَلَّمَ . بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ . شکر یہ پڑھیں صاحب!

Syed Abbas Shah : Point of order, Sir.

The motion should be admitted Sir. Everybody wants to speak and let everybody talk on that. Also, this is the sense of the House, Sir.

Mr. Acting Chairman : This is no point of order, sit down please.

جو گزنی صاحب آپ continue کریں ۔

نوابزادہ جہانگیر شاہ : جناب بات یہ ہے کہ حکومت کا کاروبار پبلسیشن ، آئین اور consensus of opinion سے جلتا ہے ۔ یہ ملک اس طرح نہیں چل سکتا کہ ہمارے دل میں ایک دہم آگیا اور ہم نے ایرجنسی کو نسی بنالی ۔ حالانکہ ایرجنسی کے لئے کچھ قواعد و مقصدیات ہیں ۔ ماشاء اللہ ملک میں ایسا کوئی ہنگامہ نہیں ہوا ہے اور جو واقعہ ہوا ہے وہ بالکل ایک حنا فتنی صدر کے اندر ہوا ہے جس کا الزام نہ قوم پر آسکتا ہے نہ ملک سے باہر کسی پر آسکتا ہے ۔ فرن کے پہرے میں یہ واقعات ہر چلے ہیں میں نہیں سمجھتا کہ اس کے باوجود بھی ایرجنسی لاتی ہوئے گا یہاں پر کوئی مجاز ہے ۔ جیسا کہ میرے معزز بھائی نے عرض کیا ۔ ہم نے جمہوریت کے ابھی تین ماں دیکھے ہیں ۔ یہاں جس وقت ایرجنسی کو اٹھایا گیا اس وقت ہی کابینہ میں یہ آواز اٹھائی گئی تھی کہ آپ بغیر ایرجنسی کے کیسے ملک کو چلائیں گے لیکن جو نیچو صاحب نے کہا کہ نہیں ۔ ملک ہم چلائیں گے لوگوں کی خواہشات کے مطابق ، پاکستان بنانے والے لوگ تھے ۔ اس وقت بھی سیاسی جماعتیں تھیں آج بھی سیاسی جماعتیں ہیں اور لوگ اس ملک کی حفاظت کریں گے ۔ ملک کی حفاظت کرنے والے چند جنرل نہیں ہو سکتے اور نہ ہی چند اشخاص ہو سکتے ہیں ۔ ملک شہنشاہوں سے تباہ نہیں ہوتا کہ کون آیا کون گیا ۔ ملک اس وقت تباہ ہوتا ہے جب آپ اس کے قوانین کو پاس کے آئین کو روند ڈالیں ۔ جب قانون اور آئین نہیں رہے گا تو کسی شخص کو ذمہ داری کا احساس نہیں رہے گا ۔

میں سمجھتا ہوں کہ یہ ترکیب ایڈ میبل ہے اور ہم ایرجنسی کو بالکل condemn کرتے ہیں ۔

دل سے کنڈم کرتے ہیں اس لئے کنڈم کرتے ہیں کہ آئین میں اس کی گنجائش نہیں ہے اور نہ یہ ملک کھیلنے کا ٹھکانہ مندرجہ ملک کو آپ ایک اور راستے پر لے جانا چاہتے ہیں ۔ دوسری بات ۔ یہ موجودہ کابینہ کا کردار ایک دن میں ہم نے دیکھا ہے جس طرح ہینکی بیگی سے انہوں نے اپنی مسلم لیگ کو توڑ ڈھونڈ دیا تو اور کیا کچھ نہیں کر سکتے ۔ ہم ان سے کیا توقع کر سکتے ہیں ۔ ایکشن کلام جو ڈیپٹی ، ریٹائرڈ آفیسر ، ریٹائرڈ ججز ، ان لوگوں کے حوالے کر دیں جو کسی امیدواری کا خیال نہ رکھتے ہوں کسی حلقے سے گھڑے نہ ہوں ان کے حوالے کر دیں ۔ صدر

[Nawabzada Jehangir Shah]

صاحب کا نام کے دلوں میں جو اس وقت image ہے وہ بہت ہوا اچھا ہے۔ اگر انہوں اس کو ان لوگوں کے ہاتھ میں دیا جو مرن ایکشن کرائیں تو میرے خیال میں اس سے پاکستان کی بنیادیں مضبوط پھر جائیں گی اور ہمارا ڈیکوریٹو صبح لائن پر استوار ہو جائے گی۔ اور ہم آگے بڑھنے میں کامیاب ہو سکتے ہیں اور اگر ایسا نہ کیا گیا تو میں کہتا ہوں کہ فساد شروع ہو جائے گا۔ کیونکہ موجودہ انتظامیہ کے ذرا اعلیٰ پروگرم اعتماد نہیں رکھتے اور جب وہ اعتماد نہیں رکھتے تو پھر وہ عملی کوچوں میں نکل آئیں گے اور پھر اس وقت آپ کو مارشل لا لانا پڑے گا۔ اس کا بہتہ کی ضرورت کیا ہے کیوں آپ نے اس کو غیر آئینی طور پر رکھا ہے۔ ان الفاظ کے ساتھ میں تحریک کی تائید کرتا ہوں۔ اور پھر زور تائید کرتا ہوں۔

جناب قائم مقام چیئرمین : شکریہ - جناب وسیم سجاد صاحب

Mr. Wasim Sajjad : Mr. Chairman, Sir.....

Mr. Ahmedmian Soomro : Sir, I would also like to.....

Mr. Acting Chairman : You did not ask for it.

جناب احمد میاں سومرو : جناب اس سے پہلے میں نے عرض کیا تھا۔ اگر آپ مہربانی

کریں۔

جناب قائم مقام چیئرمین : چلیے۔ آپ بولیں۔ وسیم سجاد صاحب تشریف رکھیں۔

Mr. Ahmedmian Soomro : Sir, the issue before the House is a very important one and I would respectfully request you, Sir, that since this is the only democratic institution functioning at present, let the House debate it. After all it is only to be talked out, the government is not bound by the views of the members but the House will have at least an opportunity to express its views and may be the government respect those views if they feel that those are correct, particularly the formation of the National Emergency Council. When the 8th Amendment to the Constitution was being passed and talks were going on between the then Government of Mr. Muhammad Khan Junejo and the persons who were not in the government party, one of the conditions was that the then existing National Emergency Council would be removed from the Constitution and that was done.

Sir, every action has to have a source from some authority. I would like the government to point out under which provision of the Constitution have they exercised this right, if they have any, to form a National Emergency Council. Sir, do we have two Cabinets in the Centre? It appears that the National Emergency Council is a sort of super Cabinet. So, whether it is constitutional or not, I would like some light to be thrown on that. In case I am wrong and I have not been able to find any authority from which it derives its source, they may kindly point out to us. This issue is no doubt one of urgent public importance and recent occurrence which is fit to be discussed in this august

House. I would, therefore, Sir, request you to admit it. I am sure that 90% of this House would want this motion to be admitted for discussion.

Thank you, Sir.

(interruption)

Lt. Gen. (Retd.) Saeed Qadir : Point of order. Do we understand that this is an adjournment motion or a resolution? I thought this is a privilege motion.

Mr. Acting Chairman : This is a privilege motion.

Lt. Gen. (Retd.) Saeed Qadir : Sir, how can a privilege motion be debated unless the admissibility has been established and so far the admissibility has not been established.

Mr. Javed Jabbar : Point of order. Mr. Chairman, if you refer to previous precedents the Chairman takes the sense of the House to determine the admissibility. So, in this case you are entitled to take the sense of the House.

Mr. Wasim Sajjad : This is incorrect, Sir.

Lt. Gen. (Retd.) Saeed Qadir : I do not think there is any such decision by the Chair.

Mr. Wasim Sajjad : Sir, whether a privilege motion is in accordance with the rules framed by this House, it is the Chairman who decides. He does not take the sense of the House. In an adjournment motion after he holds it to be admissible, the Chairman asks the members to stand up in their seats and if a certain number stand up, he says it is admitted. But in a privilege motion the rules have to be looked at. The Chairman examines the contentions in the light of the rules. If he finds a privilege motion in accordance with the rules he will hold it admissible in which case the matter will be referred to the Privileges Committee. So, what Mr. Javed Jabbar has said is not correct.

Mr. Javed Jabbar : Mr. Chairman, point of order. A privilege motion often raises substantive issues which only the Privileges Committee looks into in depth. If you look through the rulings, the Chairman on various motions has taken the sense of the House and decided to refer it to the Privileges Committee.

Mr. Wasim Sajjad : Sir, this is incorrect. May I again explain?

(interruption)

Mr. Javed Jabbar : May I complete what I am saying Mr. Minister?

Mr. Acting Chairman : Javed Sahib, I have got your point. Please resume your seat.

Mr. Javed Jabbar : I am submitting Mr. Chairman, that reference should be made to the rulings.

Mr. Wasim Sajjad : May I just explain, Sir, that previously under the rules after the Chairman held the motion to be admissible, somebody would move that it be referred to the Privileges Committee and in that case the Chairman would get the sense of the House but under the rules today the matter stands referred to the Privileges Committee automatically once you hold it to be in order. Therefore, the previous rulings are only relevant to that extent.

Mr. Acting Chairman : The rules are before me. Thank you.

قاضی عبداللطیف : تجھے اجازت دی جائے۔

جناب قائم مقام سپریمین : فرمائیے۔

قاضی عبداللطیف : حمد و تعالیٰ علیٰ رسولہ الکریم ، بسم اللہ الرحمن الرحیم ، جناب میرزا!

معزز اراکین اور پاؤس نے ایمر جنسی اور کونسل پر اپنے خیالات کا اظہار فرمایا ، جن کے میں نے خیالات سنے ہیں وہ ان دونوں چیزوں کے خلاف اظہار خیال نہ رہے تھے ، سیری سمجھ سے یہ بات بلا توجہ کہ ایمر جنسی کے حالات کیا ہوتے ہیں اگر ہمارے شمال ، جنوب ، مغرب اور مشرق کی جانب سے ہمیں دھمکیاں دی جا رہی ہیں ، ہماری سرحدات پر فوجیں اکٹھی کی جا رہی ہیں اور ہمیں کہا جا رہا ہے کہ اگر پاکستان نے اپنے رویے پر نظر ثانی نہ کی تو ہم ایسا اقدام کریں گے جس سے اس کو پھٹانا پڑے گا اور اسی کے ساتھ ساتھ آپ کے محاس اور نازک ترین شعبہ جو کہ افواج پاکستان کا ہے اس میں بھی اگر تخریب کاری کا امکان ہے اور تمام دروازے اسی پر کھلے کہ یہ حادثہ تخریب کاری کا نتیجہ ہے تو میری سمجھ میں نہیں آتا کہ اس کے سوا ایمر جنسی کے اور کون سے حالات ہوتے ہیں کہ جس پر یہ کہا جائے کہ ہنگامی حالات ہیں۔ ملک کے اندر جو کچھ ہو رہا ہے وہ بھی ہمارے سامنے ہے اور ملک کے باہر سے جو کچھ ہمیں دھمکیاں دی جا رہی ہیں وہ بھی ہمارے سامنے ہیں اور ان کے اقدامات بھی ہمارے سامنے ہیں کہ انہوں نے عملی طور پر یہ اقدامات بھی کیے ہیں پھر میری سمجھ میں نہیں آتا ، میں تو یہ سمجھوں گا کہ

انہی کے مقصد کی کہہ رہا ہوں نہ باں سیری ہے بات ان کی

جو کہا جا رہا ہے آخر آپ نے اپنے ملک کے تحفظ کے لئے وہ کون سے اقدامات کیے ہیں میں سمجھتا ہوں جہاں تک دستور کی بات ہے میں تسلیم کرتا ہوں کہ ایمر جنسی کا اس کے اندر کوئی تذکرہ نہیں ، نہ اس میں اس کی گنجائش ہے لیکن اگر انتظامی طور پر صدر کوئی کونسل بنانا ہے تو اس پر کیا اعتراض ہو سکتا ہے۔ اگر ایک سربراہ کا وزیر اعلیٰ اپنی ضروریات کی بنا پر فوج کو طلب کر کے کوئی نافرمانی کر سکتا ہے اور فوج سے امداد حاصل کر سکتا ہے اور اس پر کوئی اعتراض نہیں ہوتا تو صدر مملکت نے اگر یہ ضرورت محسوس کی کہ موجودہ حالات کے اندر فوج سے بھی تعاون حاصل کرنا چاہیے تو میں سمجھتا ہوں کہ یہ ایک دانشمندی کا اقدام تھا ، یہ صحیح ہے کہ ہم افواج کو سیاسیات

میں ملوث نہیں کرنا چاہتے اور نہ یہ دیکھنا چاہتے ہیں لیکن اس کے ساتھ ساتھ اس وقت ضرورت اس بات کی ہے کہ فوج اور سول کے درمیان میں ایک ایسا رابطہ قائم ہو تاکہ بدگمانیاں دور ہو جائیں اگر آپ ان کے درمیان میں اس طرح کو بڑھائیں گے اور آپ ان کے اوپر زیادہ اعتراضات کریں گے تو اس کا نتیجہ کیا نکلے گا، نتیجہ اس کا یہی ہو گا کہ فوج اور سول کے درمیان پھر کشیدگی پیدا ہو جائے گی اور اس کا انجام مارشل لا ہی تو ہو گا۔ اس کا معنی یہ ہے کہ ہم اپنی قوم کو پھر مارشل لا کی طرف دھکیل رہے ہیں۔ مارشل لا سے نجات دلانے کے لیے طریق کار یہ تھا اور میں سمجھتا ہوں کہ صدر مملکت نے اس موقع پر فوج کا تعاون حاصل کر کے سول اور فوج کے درمیان ایک رابطہ قائم کر دیا ہے اور وہ جو ان کے درمیان بدگمانیاں بڑھائی جا رہی ہیں ان بدگمانیوں کا انہوں نے سدباب کر دیا ہے اب اس صورت میں اگر وہ کسی کو بلا کر کے انتظامی امور میں ان سے مشورہ لیتا ہے اور ان کو اپنے حالات سے بھی آگاہ کرتا ہے تو میں نہیں سمجھتا کہ یہ دستور کی خلاف ورزی کیسے ہوئی۔ ان کو دستوری حق نہیں دیا گیا، ان کو دستور کے اندر کوئی تحفظ نہیں دیا گیا اور نہ یہ ان کو دستوری مقام دیا گیا ہے صرف انتظامی معاملات کے لحاظ سے اور وہ دونوں کے درمیان جو خلا نہیں پیدا ہو لے گا امکان تھا اس کو دور کرنے کے لیے اگر صدر نے یہ کیا ہے تو میں سمجھتا ہوں کہ انہوں نے بہترین اقدام کیا ہے تاکہ فوج اور سول کے درمیان میں بدگمانی پیدا نہ ہو، خلا نہیں پیدا نہ ہو اور خلیج بڑھے نہیں، میں یہ نہیں سمجھتا کہ جو لوگ اس طرح کی اور اس طرح کی گفتگو کرتے ہیں وہ ملک کی کوئی خدمت کر رہے ہیں۔ فوج اور سول کے درمیان میں کشیدگی کو بڑھانا اور خلیج کو زیادہ کرنا یہ ملک کی کون سی خدمت ہے۔

میں گزارش کر رہا ہوں کہ یہ صدر مملکت پر ہی اعتبار کرنا ہو گا۔ صدر مملکت آپ جانتے ہیں اپنی تاریخ کے لحاظ سے اور اپنی عروس کے لحاظ سے اپنی عمر کے لحاظ سے اپنے تجربہ کے لحاظ سے سیاسی آدمی نہیں ہیں بلکہ غیر جانبدار آدمی ہیں۔ اب اگر آپ ان کو سیاست میں گھسیٹتے ہیں تو میں سمجھتا ہوں کہ یہ ملک کے ساتھ دشمنی ہوگی۔ صدر کو اپنی حیثیت میں رہتے دیکھئے اور جس وقت سے آج کہتے ہیں کہ 'بھی غیر جانبدار حکومت ہونی چاہیے' اگر غیر جانبدار صدر آپ کو مل گیا ہے اور اس کی تاریخ شاہد ہے کہ اس نے کبھی سیاست کے اندر حصہ نہیں لیا، ہمیشہ اس نے قانون کی پاسداری کی ہے اور اس وقت بھی وہ قانون کی پاسداری کرے گا۔ ہمیں یقین ہے لیکن یہ کہہ دینا کہ یہ دستور کی خلاف ورزی ہے۔ دستور کے اندر اگر اس کو تحفظ نہیں ملتا تو میں سمجھتا ہوں کہ یہ کوئی اعتراض کی بات نہیں ہے اور اس وقت ہمارے ملک کے جو حالات ہیں جہاں تک سول اور جنس کا تعلق ہے وزیر قانون صاحب نے پہلے کہہ دیا تھا کہ بنیادی حقوق معطل نہیں ہوئے ہیں اور اگر اگر جنس فوج کے لحاظ سے ہے اور فوج کو تیار رکھنے کا حکم دیا گیا ہے کہ ۲۴ گھنٹے آپ تیار رہیں، اپنی سرمدات کے تحفظ کے لیے تو میری سمجھ میں نہیں تاکہ اس پر اعتراض کی کوئی بات ہو سکتی ہے، اتنی گزارش تھی۔

جناب قائم مقام چیرمین : شکر یہ ! اس موضوع پر ادر لوگ بھی بولے گئے۔ وسیم سجاد صاحب
آپ ارشاد فرمائیں۔

Mr. Wasim Sajjad : Thank you, Sir. Mr. Chairman, the question raised before this honourable House is whether the imposition of emergency by the President of Pakistan on the evening of the 17th of August this year and the subsequent formation of the Emergency Council in any way is a breach of the privilege of this honourable House.

Mr. Chairman, we have repeatedly gone over this question and there are several rulings of the honourable Chair that a breach of privilege of this House takes place if any act is done by which impediment is placed in the functioning of this honourable House. Needless to say that if an action is taken by the President or for that matter of any functionary under the Constitution and this act is in accordance with the constitutional mandate then no question of breach of privilege of any organ arises. The Constitution gives us the powers, the functions of the various organs of government, it gives us the powers of the Senate, it tells us about the powers of the National Assembly, it gives us in detail the powers of the President and if any of these persons acts in accordance with the Constitution, performs its constitutional powers and functions then the question of breach of privilege of this House does not arise.

Sir, the situation which led to the promulgation of emergency on the evening of 17th of August is evident and everybody knows the situation in which this was done. We were facing a calamity of a national character. The President of Pakistan had been killed in a crash under circumstances which raise grave doubts as to how this has been done. Prior to this there were threats by certain outside forces regarding Pakistan's security and the circumstances of this crash indicated quite clearly *prima facie* that it was an act of sabotage.

Sir, in these circumstances when there is a possibility or a threat of external aggression against Pakistan, when these circumstances could also have led to disturbances within Pakistan because there was also evidence to believe that the purpose of this act and the purpose of a number of acts which have taken place in Pakistan before the incident of the 17th of August and after the 17th of August show that there are certain forces trying to create conditions of destabilization within Pakistan. Sir, even today I believe 5 aircrafts entered Pakistan's territory and threw bombs resulting in some casualties. Sir, on the same day *i.e.* the 17th of August or perhaps it was the subsequent day some missiles were discovered in Karachi and Sir, prior to that the assassination of Allama arif Hussain Al-Hussaini, they are all Sir, pointing to the same direction that there are certain forces within and outside Pakistan who have not reconciled to the security of Pakistan and are creating conditions in which to create unrest within Pakistan. It is in these circumstances Sir, that the President exercising his powers under Article 232 of the Constitution which gives him the power to impose an emergency if he is satisfied that there is a threat of external aggression or threat of disturbances within Pakistan imposed Emergency in the country. This power of the President is in the field of executive powers, in the Constitution itself it is said that any act done by the President under that power cannot be challenged before any court of law. The rulings of the Supreme Court of Pakistan and rulings of the Supreme Courts of other

countries also have clearly said that this is an act in the exercise of executive powers and cannot be questioned. In these matters it is the satisfaction of the President as the Head of the State, being in possession of certain information, which may not be in the public interest to disclose, comes to this conclusion that a situation has been created where the emergency should be imposed can impose emergency and Sir, in the history of Pakistan lasting over 40 years I cannot think of a graver incident when the Head of the State himself is assassinated, killed in circumstances such as the one which took place on the 17th of August. If any precedent is needed Sir, in the case of the assassination of Mrs. Indra Gandhi in 1984 similar proclamation was made in India also and not only that all the steps which are envisaged by the Constitution were undertaken because at that time the Government of India felt that a situation of emergency had been created.

Sir, Article 232 of the Constitution as I submitted with respect empowers the President to issue a proclamation of emergency. The issuance of the proclamation of emergency leads to certain enabling powers to the Federal Government. These enabling powers are that the Federal Government can assume control of the governments of the provinces. The Federal Government can legislate for the provinces. The Federal Government can legislate in matters which otherwise would have been prohibited to, because of the existence of certain fundamental rights. The President can also issue a separate order by which he can suspend fundamental rights in the national interest. The President Sir, has not passed any order suspending fundamental rights. He came to the conclusion that circumstances in Pakistan did not justify the issuance of that order, therefore, today despite the emergency in the country the fundamental rights are enforced, any citizen can move a court of law for the enforcement of his rights, no rights have been taken away and this shows the maturity of the nation, it shows the confidence of the nation, it shows that even in a crisis we are able to go through these situations following the constitutional powers.

Mr. Chairman, objection has been taken to the formation of an Emergency Council and it has been argued that the Constitution does not envisage an Emergency Council. It has also been urged that there is nothing in the Constitution which permits the formation of such a council. Sir, the Constitution does not mention the Emergency Council. The Emergency Council is not a constitutional body and no constitutional role has been given to the Emergency Council. It is a wrong statement to say that an Emergency Council is a kind of a supra cabinet. This is absolutely incorrect. There is no second cabinet, there is only one cabinet and that functions according to the Constitution. The Emergency Council is purely an administrative body created by the President in exercise of his executive powers to advice him in a system in the implementation of the emergency. Sir, Article 90 of the Constitution says that :

"The executive power of the Federation shall vest in the President....."

Article 97 of the Constitution says that :

"Subject to the Constitution, the executive authority of the Federation shall extend to the matters with respect to which *Majlis-e-Shoora* (Parliament) has power to make laws,....."

Today the *Majlis-e-Shoora* (Parliament) or the President in the exercise of his legislative powers has power to make laws over all matters in Pakistan, whether they are contained in the Federal List or whether they are contained in the Concurrent List or in the Provin-

[Mr. Wasim Sajjad]

cial List. Although there is no Provincial List but what we would call the residuary List i.e., all matters which remain after we have exhausted the Federal List and the Concurrent List. So, therefore, the legislature today has power to make laws over any subject, any matter in Pakistan and the executive authority of the Federation extends to all this field. It is an exercise of this executive power that the President has created the Emergency Council. The Emergency Council does not supplant the Cabinet. The Emergency Council is no substitution for the Cabinet. The Emergency Council is not above the Cabinet. The Emergency Council is purely an executive body which has been created to assist the President of his functioning as the President in this Emergency.

Sir, I have clarified earlier also in the course of Press statements that this is purely an administrative body that the three Service Chiefs have been included so that they can also assist and advise the President because the imposition of the Emergency itself assumes that there was certain threat and to deal with this threat assistance from the Armed Forces is not only a requirement, it may sometimes become a duty, sometime a national duty which has to be discharged and even this assistance which is provided by the Armed Forces is envisaged and permitted by the Constitution itself. May I Sir, refer you to Article 245 of the Constitution which says :

“The Armed Forces shall, under the directions of the Federal Government, defend Pakistan against external aggression or threat of war, and, subject to law, act in aid of civil power when called upon to do so.”

Therefore, Sir, it is the duty of the Armed Forces to act under the direction of the Federal Government in case of external aggression and to act in aid of civil power when called upon to do so. Sir, the emergency envisages a proclamation when there is threat of external aggression or threat of internal disturbances if the Armed Forces can come to the aid of the Federal Government, if the Armed Forces are to act under the directions of the Federal Government then, Sir, what is there in the Constitution to prevent the three Service Chiefs in advising or assisting the President in the implementation of the emergency procedure. There are so many matters on which the technical advice which is available from the Service Chiefs is of assistance to the President in the discharge of his functions and the Service Chiefs. Sir, act under the directions of the Federal Government. They act under the control of the Federal Government. They act in aid of the Federal Government and it is not only, as I said, a duty, it is a requirement which at a certain time has to be made under the Constitution.

Sir, may I now deal with some points which were raised by the honourable members. One of the members said that he had great respect for the Chairman. He started his speech by saying that he had great respect for the Chairman but nevertheless when dealing with the motion, he started questioning the ruling of the Chairman. The ruling of the Chairman was that interpretation of the Constitution is not a function of this House and there is not one ruling Sir, there are twenty rulings by the Chairman and if we say that we have respect for the Chairman then we should also have the respect for the ruling of the Chair and that again is our constitutional obligation. Then Sir, an honourable Senator suggested that instead of forming an Emergency Council the President should have used his phone to call the Service Chiefs and tell them what to do. Sir he could use the telephone. The President may also send a messenger, he may call them to his

office. I don't think Sir, it is upto us to tell the President how he should communicate to the Service Chiefs. I agree Sir, that telephone is a very useful instrument but Sir, telephone is not the answer to all the problems in the country. Let us give authority to the President to use the telephone when he wants to and to otherwise call them when he wants to. I think Sir, we are trespassing the jurisdiction of the President and outstepping our jurisdiction when we suggest to the President that he should make phone calls and not otherwise deal with his subordinates.

Then, Sir another argument was raised that the Cabinet should have resigned. Sir, there is nothing in the Constitution which says that the Cabinet shall automatically resign. However, there is a power with the President to remove any member of his Cabinet. There is a privilege the members to say, Sir, in these circumstances we resign. On the 17th of August, the President himself requested the Cabinet to continue and it is as a result of that request that the Cabinet is continuing in its office but it is upto the President, it is his entire privilege, he can change his Cabinet, he can reform his Cabinet, he can enlarge his Cabinet, he can reduce his Cabinet and therefore, for us to advise him what he should do, again Sir, I would say, is overstepping our jurisdiction. Sir, lastly, it has been repeatedly said that the President should ensure impartial elections. I would like to assure the honourable members that President wants impartial elections in the country. He is committed to impartial elections and impartial elections shall be held according to the Constitution. Therefore, there should be no fears on this account whatsoever.

With these words Sir, I would say that the privilege motion is absolutely inadmissible. It does not conform with any of the requirements of a privilege motion. It has no connection, no nexus at all with a privilege motion as we understand it under the rules of this honourable House and therefore, it may kindly be declared out of order. Thank you.

Mr. Acting Chairman : Thank you.

Mr. Javed Jabbar : Under Rule 206(3) and 207, I request the right of reply. The mover of a motion has the right to reply.

Mr. Wasim Sajjad : Sir, this is not a moving of the motion.

Mr. Javed Jabbar : This is a privilege motion. It is a well established precedent now. I don't know what has happened to the Justice Minister today. He has suddenly become very apprehensive about allowing debate and discussion on this issue.

Mr. Acting Chairman : Mr. Javed Jabbar, I think we can not finish with this subject today, let us defer it to the next day.

Mr. Javed Jabbar : You want to defer it to the next sitting—to Private Members, Day.

Mr. Acting Chairman : To some other day, we will decide for that.

Mr. Javed Jabbar : But-Mr. Chairman, the issue is very substantive.

Mr. Acting Chairman : O.K. let it be on Private Members Day (on Sunday). Now, we take up the adjournment motions. The adjournment motion moved by Mr. Muhammad Mohsin Siddiqui. He is not in the House. Next the adjournment moved by Mr. Muhammad Mohsin Siddiqui, Professor Khurshid Ahmed, Qazi Abdul Latif, Dr. Noor Jehan Panezai, Maulana Sami-ul-Haq on the unfortunate and tragic air crash near Bahawalpur on 17th August, 1988.

Mr. Javed Jabbar : Mr. Chairman, I had submitted a motion on the same subject related to the report on that crash which has been submitted, I believe, yesterday to the President.

Mr. Acting Chairman : But I have not received the file. I will check it with the Secretariat.

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, I am here.

Mr. Acting Chairman : Yes, you are there but are you going for the first motion you have submitted ?

Mr. Muhammad Mohsin Siddiqui : Yes.

Mr. Acting Chairman : Please read it out.

ADJ. MOTION *RE* : REPORTED IN ACTION OF SUPARCO TO LAUNCHING TWO COMMUNICATION SATELLITES IN SPACE

Mr. Muhammad Mohsin Siddiqui : Sir, I beg to move that the normal business of the House be suspended to discuss a matter of urgent and national public importance and of a recent occurrence namely the news/report appeared in the daily Dawn, dated 19-8-1988, that Pakistan's space communication network has been put in abeyance. The implication of the step may be of serious nature and the country may lose the slots in space (geo-stationary orbit), allotted to it by the International Communication Union. If that happens, it will be an irreparable loss to the country. Although the launching of Pakistani Communication Satellite was approved in December 28, 1984, but so far even initial work has not been done on it.

The SUPARCO which is mainly responsible to undertake this project of paramount and utmost importance for our national security and national goal has come out with a very poor performance. There is every likelihood that if Pakistan loses the two slots, it will be an irreparable loss and with no communication satellite of its own. Pakistan may be like an orphan in the explosive world of communication in the years to come. Therefore, the House may discuss this grave situation forthwith.

Mr. Acting Chairman : Is it being opposed ?

Mr. Mahmood A. Haroon : Opposed Sir.

Mr. Muhammad Mohsin Siddiqui : The adjournment motion itself is quite self-explanatory. As a matter of fact in the comity of nations the orbit which is now within the control of the human hand is divided into various charts and Pakistan has been very very lucky to get two slots. Unfortunately, since its allotment it has not been used and the attention has been drawn and a press-cutting which I have enclosed for the benefit of the members I would like to read it with your permission.

Can space go in low priority areas in the scientific endeavour of a middle order developing country like Pakistan ? Not in this space age in anything science policy particularly with communication explosion while space has attained a sprouting dimension. In one way, cultural onslaught from other, countries mostly from across the border would undermine the polity and threaten the existence of a country with no effective space programme to counteract the blink of T. V. programme poured through a satellite. The authorities are hardly conscious on that account in Pakistan and a Lahore based three columns headline reports "PAKSAT—may go to cold storage". 'Dawn' dated 23rd July. In fact, this is a real distressing news but perhaps the policy makers in Pakistan do not understand the full implications of it. Pakistan has been allotted two slots in the so-called geo-stationary orbit; 36 thousand kilometres up in the space over the Equator, 38 degree east and 41 degree east by the International Communication Union. These slots have to be filled by the proposed Paksat network with the communication satellites—a one being the principal satellite and the other as the backup unit. In the geo-stationary orbit, 36 thousand kilometres up a satellite in its movement synchronises with the rotation of the earth. To an observer on the earth the satellite does appear as a stationary object in space though actually it is moving with the movement of the earth. In such an orbit, therefore, the satellite can act as a stationary relaying space station for T.V. programmes, radio programmes, telephone system. The service is for 24 hours because the satellite is over the horizon all the time as if staying but at the same spot.

Another great advantage of geo-stationary orbit is that it is a high orbit and it necessarily can cover an area almost equivalent to one-third of the globe circuit. It is a unique orbit and, therefore, a very coveted one. Now, the policy-makers perhaps do not understand the simple fact that the slots allotted in this unique orbit are not in your possession unless you occupy them. Even over the globe if you leave an allotted land unoccupied for long you risk your right over it and sometimes someone else might occupy it. Of course, you can go into litigation and perhaps leave a will for your children to fight out the case to gain control. In space the dangers of such an episode is manifold. The geo-stationary orbit is only a fictitious line and this can accommodate only a limited number of satellites. Because of the interference problem as things do stand today it can accommodate no more than 180 satellites each at a two degree distance and it is almost reaching the saturation point. There is also a lurking danger that after waiting for a reasonable time the allotment of the slots may be cancelled due to non-utilization. Such a thing happens over the globe also on many a lands allotted for building houses. It may be stated that the pressure of these slots in the geo-stationary orbit is already great and mounting with time. There is a chance that on the pretext of non-utilization someone who is powerful may fill the slot. The point needs be underlined that in every other orbit a satellite appears over the horizon for a certain period

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of time and then disappears beyond the horizon to re-appear again after sometime, if you don't have a slot in the geo-stationary orbit.

جناب قائم مقام چیرمین : حسن صاحب آپ admissibility پر بات کریں آپ نے تو پورا literature پڑھنا شروع کر دیا۔

Mr. Muhammad Mohsin Siddiqui : With your permission I said this because this gives you all that is necessary.

جناب قائم مقام چیرمین : آپ اب specific ہو جائیں ٹائم آدھا گھنٹہ ہے اور میں ایڈجسٹمنٹ کرتا

ہیں۔

Mr. Muhammad Mohsin Siddiqui : I don't mind. But I can read only a few lines that Pakistan is already in the back yard of space communication. The proposed space network seems to have been put in abeyance. The implication of the step may be serious and the country may lose the slots in the special orbit. If that happens it will be an irreparable loss.

The situation that this Article discloses is that we have not for such a long time used it. If the space allotted to us is not used, naturally, it will be either unauthorisedly occupied or by the Union which is the controlling body may be cancelled and allotted to some body else. You will lose such valuable advantages that it can yield to you. We have an organization—SUPARCO which, of course, the Government says could fill these slots and a certain policy has been made. There are certain provisions made but no steps have been taken. The purpose of this adjournment motion is that it is a valuable right, the most inalienable right that we should not allow to be jeopardized, to be destroyed and for that matter we have to take a serious view of the situation so much so that if we feel that SUPARCO or its present incumbents are not delivering the goods we should sack them and we should put a new body. So that we can use these slots for our benefit both internally and internationally. If this House takes a serious view of the matter, I hope, the Government will be fully responsible and fully responding to the sentiments of this House and take up this matter in right earnest and see that these slots are not lost and they are properly used for the benefit of the country inside and abroad. Thank you, Sir.

Mr. Acting Chairman : Thank you. Mr. Wasim Sajjad.

Mr. Wasim Sajjad : Mr. Chairman, Sir.

I opposed this adjournment motion apart from the other grounds that I shall presently refer to on the ground that it is hit by Rule 75(j) that is : "It shall not deal with a hypothetical case".

Sir, if I read the adjournment motion you will yourself quite clearly see that this raises a purely a hypothetical case. It says :

"I beg to move that the normal business of the House be suspended to discuss a matter of urgent and national public importance and of recent occurrence, namely, the news report appeared in the daily Dawn dated 19-8-1988 that Pakistan's Space Communication Network has been put in abeyance. The implication of the step may be of serious nature and the country may lose the slots in space geo-stationary orbit allotted to it by the International Communication Institution."

Sir, by use of the word 'may' it may be, it may not be. This is a purely hypothetical situation and therefore, Sir, this is not admissible. Apart from that Sir, I would like to draw your attention, Sir, and the attention of this House to the actual facts of this case. The facts are Sir, that the project called 'PAKSAT' for the launching of the communication satellite in geo-stationary orbit for providing varied forms of domestic communication services was initiated by the Pakistan Space and Upper Atmosphere Research Commission (SUPARCO) in 1982. This project was considered by the Federal Government in 1983. As proposed by SUPARCO, the Federal Government was pleased to direct that SUPARCO should proceed ahead with the conduct of a feasibility study of the project in cooperation with a foreign company having expertise in this field. A report based upon this study was presented to the executive committee of the Space Research Council which discussed the matter at length in November, 1985. Then Sir, the Research Council directed that a committee under the chairmanship of the Adviser to the then Prime Minister on Science and Technology should consider this project further and make its recommendations. So, Sir, these recommendations are under preparation and it is now intended that because the office of the Adviser to the Prime Minister no longer exists that this matter should now be further considered in the executive committee of the Space and Research Council. So, the matter has not been given up. The matter is still under consideration. There are, of course, financial constraints and all these matters will have to be considered in the context of establishing this particular programme.

Sir, as far as slots are concerned SUPARCO has already applied to the International Frequency Registration Board of the International Telecommunications Union in June, 1983 for the allotment of two slots in the geo-stationary orbit and frequencies for PAKSAT system. Accordingly two slots at 38 degrees east and 41 degrees east and frequencies in the KU band 14 GHz for the uplink and 11 GHz for the down-link have been reserved. In the process of reservation the administrations of Iran, USSR, US Interest, India and the Federal Republic of Germany raised objections to the PAKSAT system on the plea that it would cause interference with their existing and proposed systems. The International Frequency Registration Board asked the administration of Pakistan to coordinate with these administrations with a view to resolving the problems. The coordination work has been successfully completed by SUPARCO with all the administrations except the administration of India with whom the dialogue is still going on.

[Mr. Wasim Sajjad]

Sir, in view of what has been explained by me, the allegations contained and the assumptions made in the adjournment motion are incorrect. It is not correct to say that the programme has been given up. It is not correct to say that the slots which we were trying to reserve will be lost to Pakistan. In fact, process is already under-way and we hope that there will be a successful conclusion to this dialogue and to these talks which are going on. So, the newspaper report on the basis of which this adjournment motion was put before this House is misleading, inaccurate and distorted. Therefore, Sir, I request that this may kindly be ruled out of order.

جناب تمام مقام پیرزمین : حسن صاحب منٹرو صاحب کی statement کے بعد آپکی کیا رائے ہے؟
Press کریں گے؟

Mr. Muhammad Mohsin Siddiqui : I press it for the simple reason that the Minister is just stressing on the word 'may'.

Mr. Acting Chairman : Sir, I have heard your arguments please.

Mr. Muhammad Mohsin Siddiqui : No, Sir, I have a right of reply.

Mr. Acting Chairman : You are repeating the same thing.

Mr. Muhammad Mohsin Siddiqui : Unless we bring it to your notice how would you give your ruling.

Mr. Acting Chairman : I think you have already said this.

Mr. Muhammad Mohsin Siddiqui : Sir, he is relying only on the word 'may' but he is ignoring the words :

"Although the launching of Pakistan's satellite was approved on December 28, 1984 but so far even initial work has not been done on it".

This is not something hypothetical, this is something concrete and he has not given even a simple reply about it. This is such a serious question and he is trying to belittle it by saying that it will never be. How he says and what is the authority on the basis of which he says that these slots will not be cancelled ?

Mr. Acting Chairman : You still press it ?

Mr. Muhammad Mohsin Siddiqui : I press it.

Mr. Acting Chairman : Then I read out my ruling.

The motion does not seem to raise any matter of urgent public importance on one definite incident of recent occurrence but seeks to discuss government policy to launch satellite in space to serve the communication network and for relaying TV and radio programme in the telecommunication system. For the foregoing reasons the motion is inadmissible under the rules. The member is advised to move a resolution or a motion under Rule 194 on the subject-matter of this motion.

Next is adjournment motions by :

Mr. Muhammad Mohsin Siddiqui,
Prof. Khurshid Ahmed,
Qazi Abdul Latif,
Dr. Noor Jehan Panezai and
Maulana Samiul Haq

on the unfortunate and tragic air crash near Bahawalpur on 17th August, 1988.

Mr. Mohsin Siddiqui kindly read out your adjournment motion.

(ii) RE : TRAGIC AIR CRASH NEAR BAHAWALPUR IN WHICH PRESIDENT AND
OTHERS LOST THEIR LIVES

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, Sir, I beg to move :

That the normal business of the House may be suspended to discuss an urgent matter of public importance and of recent occurrence that is the act of sabotage in which the President General Muhammad Ziaul Haq and 29 others lost their lives on August 17, 1988. This tragic incident of sabotage spread a wave of grave resentment and anguish not only in the country but world over. It also indicates serious alarming situation for the security of the country. Such acts of sabotage and terrorism have taken life of the most precious man i.e., the Head of the State and other high-ranking officers of armed forces.

The sabotage activities have assumed a proportion wherefrom the life of the Head of the State to almost a common man is neither safe nor secure and have also threatened the very existence of the country in great jeopardy, risk and uncertainty. The whole nation has been aghast to dismay, despair and the increasing sabotage activities have put the nation in complete disarray and it is high time that entire energy of the government and the people of Pakistan be directed to remedy the situation and make our beloved country worth living, free from sabotage and terrorism.

جناب قائم مقام چیئرمین : شکریہ ! قاضی عبداللطیف صاحب آپ بھی اپنی موشن پڑھ دیجئے۔

قاضی عبداللطیف : بسم اللہ الرحمن الرحیم ۔ جناب والا ! میں تحریک پیش کرتا ہوں کہ میٹنگ کی کارروائی روک کر اہم ترین حالیہ وقوع پذیر قومی اہمیت کے حامل اندوہناک واقعہ پر بحث کا موقع دیا جائے ۔ روزنامہ جنگ داولپٹی ۱۸ اگست - صدر ضیاء الحق فضائی حادثہ میں جان بحق ہو گئے ۔ جناب والا اس اندوہناک حادثہ میں ملک کی بہت سی قیمتی جائزی کا نقصان ہوا ہے اور ملک اندرونی اور بیرونی طور پر نکل کر ان کا شکار ہو گیا ہے ۔ حکومت ملک کے حساس ترین شعبوں کی حفاظت میں بھی بری طرح ناکام ہوئی ہے ۔ یورپین کونسل کی تشریح ناک صورت حال پر بحث کا موقع دیا جائے ۔

جناب قائم مقام چیئرمین : ڈاکٹر نورجہاں صاحبہ آپ بھی اپنی موشن پڑھ دیجئے۔

ڈاکٹر نورجہاں پانیزئی : شکریہ جناب چیئرمین ! میں انتہائی قومی اہمیت کے معاملے پر بحث کرنے کے لیے زیر قاعدہ ۷۷، لائٹس دیتی ہوں کہ مورخہ ۱۷ اگست ۱۹۸۸ کے المناک حادثے سے پیدا ہونے والی ستر لاکھ ناک صدمت حال کو زیر بحث لایا جائے۔ شکریہ !

جناب قائم مقام چیئرمین : مولانا سید الحق صاحب۔

مولانا سید الحق : جناب چیئرمین صاحب ! میں تحریک پیش کرتا ہوں کہ سینٹ کی معمول کی کارروائی ملتوی کر کے قومی اور قومی لائقیت کے حسب ذیل معاملہ کو زیر غور لایا جائے۔ شہید صدر پاکستان جنرل محمد ضیاء الحق مرحوم کے حادثہ شہادت پر ایوان میں بحث کی جائے۔

جناب قائم مقام چیئرمین : شکریہ۔ تحریک امتزاج کا وقت تقریباً ختم ہو گیا ہے، تو میں سمجھتا ہوں کہ ایڈ میٹیٹی پر بحث کے لیے نیکٹ منگ پر اس کو ٹیک اپ کرتے ہیں۔

مولانا سید الحق : جناب چیئرمین صاحب! میں اتنی گزارش کرتا ہوں کہ میرے خیال میں اس پر کسی کا اکتان رائے نہیں ہے کہ یہ قابل قبول ہے یا نہیں۔ میرے خیال میں آپ ایڈمٹ کر لیجئے۔ پھر وقت مقرر کر لیں گے۔

جناب قائم مقام چیئرمین : اس کے بارے میں تو بعد میں فیصلہ ہو گا جب دونوں طرف سے سنیں گے۔

مولانا سید الحق : کسی نے مخالفت میں آواز جو کر نہیں اٹھائی۔۔۔۔

جناب قائم مقام چیئرمین : ابھی پوچھا ہی نہیں میں نے۔

مولانا سید الحق : آپ پوچھ لیں انشاء اللہ اس پر سب کا اتفاق ہو جائے گا۔ ایک منٹ آگے بڑھ جائے گا۔ اس پر سب کا اتفاق ہے تو کوئی وقت متعین کر لیں۔

Mr. Acting Chairman : Is it being opposed ?

Mr. Mahmood A. Haroon : Sir, it is not being opposed in that sense but the explanation given would, I am sure, satisfy the members of this honourable House that it should not be discussed at present.

جناب قائم مقام چیئرمین : ٹھیک ہے مولانا صاحب اس کو ڈیفز کرتے ہیں آئندہ کے لیے۔

بحث کے لیے انہوں نے فرمایا ہے کہ اس طرح میں اس کو اپوزٹ نہیں کرتا ہوں۔ رضاحت کے بعد شاید آپ اسے پورس نہیں کریں گے۔ تو پھر نیکٹ ٹائم پر لیتے ہیں، نیکٹ ورکنگ ڈے پر تشریف رکھیے۔

وسیم سجاد صاحب آپ اپنی موشن پیش کر دیجئے۔

MEMBERS OF THE STANDING COMMITTEES—ELECTED

Mr. Wasim Sajjad : Sir, with your permission I beg to move :

That the following members may be elected as members of the Standing Committees mentioned below against their names :—

- | | | |
|-----|--|--|
| (1) | Sahibzada Ilyas, Senator. | Standing Committee No. 8—on Education, Scientific and Technological Research. |
| (2) | Syed Abbas Shah, Senator. | Standing Committee No. 2—on Defence, Defence Production and Aviation. |
| (3) | Mir Sohrab Khan Khoso, Senator. | Standing Committee No. 4—on Petroleum and Natural Resources and Water and Power. |
| (4) | Mr. Abdul Hameed, Senator & Mr. Sultan Ali Lakhani, Senator. | Standing Committee No. 3—on Commerce, Industries, Production, Communications and Railways. |
| (5) | Mr. Mahmood Ahmed Minto, Senator. | Standing Committee No. 4—on Petroleum and Natural Resources and Water and Power. |
| (6) | Mr. Muhammad Ibrahim Baluch, Senator. | Standing Committee No. 6—on Foreign Affairs, Kashmir Affairs and Northern Areas and States and Frontier Regions. |
| (7) | Mr. Muhammad Mohsin Siddiqui, Senator. | Standing Committee No. 5—on Finance and Economic Affairs, Planning and Development, Statistics and Population Welfare. |

جناب قائم مقام چیئرمین : sense of the House کیا ہے ، یہ موشن جو وسیم سجاد صاحب نے

پیش کی ہے یہ قبول ہے۔

Mr. Ahmedmian Soomro : Sir, I have no objection to any of these. I support him but I think we should raise some procedure of our elections by this Senate to various committees for the future.

Mr. Acting Chairman : Right. The motion moved is :

That the following members may be elected as members of the Standing Committees mentioned below against their names :—

- | | | |
|-----|---------------------------|---|
| (1) | Sahibzada Ilyas, Senator. | Standing Committee No. 8—on Education, Scientific and Technological Research. |
|-----|---------------------------|---|

- (2) Syed Abbas Shah, Senator. Standing Committee No. 2—on Defence, Defence Production and Aviation.
- (3) Mir Sohrab Khan Khoso, Senator. Standing Committee No. 4—on Petroleum and Natural Resources and Water and Power.
- (4) Mr. Abdul Hameed, Senator & Mr. Sultan Ali Lakhani, Senator. Standing Committee No. 3—on Commerce, Industries, Production, Communications and Railways.
- (5) Mr. Mahmood Ahmed Minto, Senator. Standing Committee No. 4—on Petroleum and Natural Resources and Water and Power.
- (6) Mr. Muhammad Ibrahim Baluch, Senator. Standing Committee No. 6—on Foreign Affairs, Kashmir Affairs and Northern Areas and States and Frontier Regions.
- (7) Mr. Muhammad Mohsin Siddiqui, Senator. Standing Committee No. 5—on Finance and Economic Affairs, Planning and Development, Statistics and Population Welfare.

(The motion was adopted)

Mr. Acting Chairman : The motion is adopted.

ہاؤس کی رائے کیا ہے، بزنس کو اب جاری رکھیں یا (وقفہ)
یا پھر اینڈ آف اسٹیم نمبر ۶ پر ہے، Call Attention Notice اس کو لے لیتے ہیں۔

Mir Afzal Khan Sahib, Minister for Production, he has to make a statement before the House.

CALL ATTENTION NOTICE; RE : CEMENT DEVELOPMENT FUND

Mir Afzal Khan ; Sir, the subject is regarding Call Attention Notice of Senator Muhammad Mohsin Siddiqui.

In the above mentioned notice the honourable Senator has claimed that a legal provision contained in the Management Cement Establishments (payments to Corporation) Ordinance, 1979 have been violated by the State Cement Corporation in spending the Cement Development Fund to make up the losses of its manufacturing units and for purchase of shares in its under implementation cement projects instead of spending it on development schemes of cement industry in the country. Mr. Siddiqui has further claimed that even after 9 years of establishment of CDF no step has been taken to establish any institutional cell for research and development and thus utilize the money for the purpose the fund was created. The Call Attention Notice has been moved apparently through ignorance of the provisions of the Management Cement Establishment Ordinance, 1979 its amendment of 1982 and the rules of 1987 made under Section 5 of the said Ordinance, the Cement Development Fund reads as under :

The proceeds of amount paid by the units shall be credited to a fund to be known as the Cement Development Fund which shall be administered in such manner and used by the Corporation in such development schemes as may be prescribed. This section was subsequently amended in 1982 to utilize the fund in such development schemes or other purposes including payment of a subsidy to a unit that may be in the interest of the cement industry owned by the State.

From the above provisions it is clear that the fund can be utilized on development scheme or for other purposes including payment of subsidy in respect of cement industry owned by the State only and not for the cement industry as a whole as claimed by the honourable Senator.

Further the Ordinance does not provide for spending the fund on research as stated in the notice accordingly it is not against the stipulation of the Ordinance to subsidize losses of cement manufacturing units. Under section 6 of the Ordinance the Federal Government may make rules for carrying out the purposes of the Ordinance and such rules may provide for :

- (a) the manner and time of payment by the units;
- (b) the maintenance of the accounts of the fund, investment of the fund and its use in development schemes.

The rules have since been notified in the gazette on 21st July, 1988 and Rule 3 thereof provides for utilization of the amount of fund collected by the corporation for its units with the prior approval of the Federal Government as under :

- Government equity/loan for the new cement projects/schemes undertaken by the corporation.
- Government equity/loan for balancing modernization and rehabilitation of the ongoing cement units.
- Subsidy to a cement unit to compensate for the differential and transportation expenses of cement from one area to another or for the aforesaid or un-avoidable heavy cost of losses.

Similarly under Rule 10 the Corporation is to issue shares in such instalments and at such times as may be arranged between the Ministry and the Corporation against the fund utilized by the development projects.

State Cement Corporation has collected 2,610.686 million rupees as receipt of the Cement Development Fund since its inception in 1976 upto 30th June, 1987 out of this Rs. 1,896.211 million have been spent on development projects whereas an amount of Rs. 2.87 million has been utilized towards the payment of subsidy to certain units. The details are at Annexure 4. The balance amount of Rs. 427.367 million will be spent mainly on future development projects.

Mr. Acting Chairman : Thank you.

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, since the learned Minister has referred to certain rules.....

جناب قائم مقام چیئرمین : محسن صدیقی صاحب اس میں میرے خیال میں آپ کو right of reply نہیں ہے ، آپ نے سیشنٹ مانگی تھی ، انہوں نے سیشنٹ دے دی ، بس بات مکمل ہو گئی۔

Mr. Muhammad Mohsin Siddiqui : No, no. I am just referring to you that he is referring to certain rules which have been framed after my Call Attention Notice and therefore, I need time to study them before I can be in a position to.....

Mr. Acting Chairman : I think this can be sorted out between you and him (the Minister) in his chamber. It will be better because the Chairman had allowed for a statement by the Minister which he has done.

Mr. Muhammad Mohsin Siddiqui : I am entitled to five minutes time, in any case, when I read it then he had to reply. I have under the rules five minutes time to answer.

Mr. Acting Chairman : So, you give a fresh notice then to this effect.

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman it is an obligation.....

Mr. Acting Chairman : There is no such provision in the rules, I am sorry.

Mr. Muhammad Mohsin Siddiqui : You can refer to rules.

جناب قائم مقام چیئرمین : یہ رول ۱۵۱۵۹ آپ پڑھ لیں۔

Rule 59(5) — "There shall be no formal motion before the Senate and no discussion or voting shall take place on the notice. The member who has given notice shall make a brief statement and the Minister concerned shall make a statement on the subject. The statement by the member shall not exceed five minutes and the statement by the Minister shall not normally exceed ten minutes."

اس کے آگے کوئی provision نہیں ہے۔

The matter is over.

Mr. Muhammad Mohsin Siddiqui : On that day when I moved this.....

جناب قائم مقام چیئرمین : شکریہ محسن صدیقی صاحب، آپ تشریف رکھیں ، آپ اس معاملے پر بول چکے ہیں۔

Mr. Muhammad Mohsin Siddiqui : : Mr. Chairman, it is my privilege and right to claim that I have a right.....

Mr. Acting Chairman :- Mr. Mohsin Siddiqui, I will request you to please come to my Chamber, I will satisfy you there.

Mr. Muhammad Mohsin Siddiqui : It is not a matter of Chamber, it is a matter of House.

جناب قائم مقام چیرمین : آپ تشریف رکھیں، یہ ہو گیا ہے۔

Mr. Muhammad Mohsin Siddiqui : It is a matter of House, what I will do in your Chamber? There will be no House!

جناب قائم مقام چیرمین : آپ تشریف رکھیں۔

Mr. Muhammad Mohsin Siddiqui : There will be no House. The other day when they asked me to read it so that it may not lapse. . .

Mr. Acting Chairman : Mr. Siddiqui you go to the Rule. Please sit down.

Mr. Muhammad Mohsin Siddiqui ; Would you kindly bear with me for one minute. It will not make much difference to you.

Mir Hussain Bakhsh Bangulzai : Point of order Sir, when the ruling comes from the Chairman then the member has no right to speak on.

Mr. Muhammad Mohsin Siddiqui : As a matter of fact when this motion came, your predecessor said that I should read it so that it should not lapse. The Minister was not there, when the Minister will come, he will reply. Then you will have a chance. have in any case five minutes chance to speak on it.

Mr. Acting Chairman : That is what the Minister has done.

Mr. Muhammad Mohsin Siddiqui : But I have not been able to utilize my five minutes.

Mr. Acting Chairman : You had your chance earlier.

Mr. Muhammad Mohsin Siddiqui : Can you kindly be patient to hear me. Your predecessor said, this motion will come again, now, you just read it.

"interruption"

Mr. Acting Chairman : Please carry on, but be brief and to the point.

Mr. Muhammad Mohsin Siddiqui : My request is simple for which I stood up. I said that he has referred to certain rules which rules have been framed after this Call Attention Notice. Unless I have the copy of those rules.

Mr. Acting Chairman : This is what I am asking you, you kindly go to his Chamber, he will give you a copy of the rules.

Mr. Muhammad Mohsin Siddiqui : Why should I go to the Minister's Chamber? He should supply me in the House.

Mr. Acting Chairman : O.K. I will request the Minister who will send the rules to your office.

Mr. Muhammad Mohsin Siddiqui ; Then I will reply.

Mr. Acting Chairman : Then you have to take it fresh. This is over.

(interruption)

Mr. Acting Chairman : Mr. Muhammad Mohsin Siddiqui, I am sorry, I have given my ruling. The House stands adjourned to meet again on 4th September, at 5.45 P.M. which will be a Private Members Day.

[The House adjourned to meet again at 5.45 P.M. on Sunday, September 4, 1988]
