

SENATE OF PAKISTAN  
SENATE DEBATES

Monday May 15, 1989

The Senate of Pakistan met in the Senate Hall (Parliament House) Islamabad at 5.30 of the clock in the evening, with Mr. Chairman (Mr. Wasim Sajjad) in the Chair.

(Recitation from the Holy Quran)

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

لَّذِیْنَ اسْتَجَابُوا لِرَبِّیْمِ الْاِحْسٰنِ وَالَّذِیْنَ

لَمْ یَسْتَجِیْبُوْا لَهٗ لَوْ اَنَّ لَهُمْ فَاغِی الْاَرْضَ جَمِیْعًا

وَمِثْلَهٗ مَعَهٗ لَافْتَدَوْا بِهٗ اُولٰٓئِكَ لَهُمْ سُوْرٌ

الْحِسَابِ وَمَا وُهِمُ جَعَلْتُمْ وَبِئْسَ الْیَهَادُہٗ

اِنَّنِیْ یَعْلَمُ اَتَمَّا اَنْزَلَ اِلَیْكَ مِنْ رَّبِّكَ الْحَقِّ

كَمَنْ هُوَ اَعْمٰی اَتَمَّا یَتَذَكَّرُوْا اُولٰٓئِكَ اَلْاٰلِیَابِ ۝

اَلَّذِیْنَ یُؤْفِقُوْنَ بِعَهْدِ اللّٰهِ وَاَلَا یَنْتَظِرُوْنَ

الْبِیْئٰتِ ۝ وَالَّذِیْنَ یَصِلُوْنَ مَا اَمَرَ اللّٰهُ بِهٖ

اَنْ یُّوْصَلَ وَیَخْشَوْنَ رَبَّهُمْ وَیَخَافُوْنَ سُوْرَ

الْحِسَابِ

(السرہ ۱ تا ۲۱)

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بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

لَّذِينَ اسْتَجَابُوا لِرَبِّهِمْ الْخَيْرَى وَالَّذِينَ

لَمْ يَسْتَجِيبُوا لَهُ لَوْ أَنَّ لَهُمْ فَاىِٕ اَرْضَ جَمِيعًا

وَمِثْلَهُ مَعَهُ لَافْتَدَوْا بِهِ اُولٰٓئِكَ لَهُمْ سُوْرَةُ

الْحِسَابِ وَمَا وُهِمُ جَعَلْتُمْ وَبَشَّ السَّهَادَةُ

اِنَّهُمْ يَعْلَمُوْنَ اِنَّمَا اُنزِلَ اِلَيْكَ مِنَ رَّبِّكَ الْحَقُّ

كَمَنْ هُوَ اَعْمَى اِنَّمَا يَتَذَكَّرُ اُولُو الْاَلْبَابِ ۝

اَلَّذِينَ يُؤْفُقُوْنَ بِعَهْدِ اللّٰهِ وَلَا يَنْقُضُوْنَ

الْبَيْتَاتِ ۝ وَالَّذِينَ يَصِلُوْنَ مَا اَمَرَ اللّٰهُ بِهِ

اَنْ يُوصَلَ وَيَخْشَوْنَ رَبَّهُمْ وَيَخَافُوْنَ سُوْرَةَ

الْحِسَابِ

الرصد ۱۳۱۳۱۳

ترجمہ : شروع کرتا ہوں اللہ کے نام کے ساتھ جو نہایت مہربان اور رحم والا ہے جن لوگوں نے خدا کے حکم کو قبول کیا ان کی حالت بہت بہتر ہوگی اور جنہوں نے اس کو قبول نہ کیا اگر روئے زمین کے سب خزانے ان کے اختیار میں ہوں تو وہ سب کے سب اور ان کے ساتھ اتنے ہی اور نجات کے بدلے میں صرف کر ڈالیں مگر نجات کہاں ہے ایسے لوگوں کا حساب بھی برا ہوگا اور ان کا ٹھکانا بھی دوزخ ہے اور وہ بری جگہ ہے بھلا جو شخص یہ جانتا ہے کہ جو کچھ تمہارے پروردگار کی طرف سے تم پر نازل ہوا ہے حق ہے وہ اس شخص کی طرح ہے جو اندھا ہے اور سمجھتے تو وہی ہیں جو عقلمند ہیں جو خدا کے عہد کو پورا کرتے ہیں اور اقرار کو نہیں توڑتے اور جن رشتہ مانے قرابت کو جوڑے رکھنے کا خدا نے حکم دیا ان کو جوڑے رکھتے اور اپنے پروردگار سے ڈرتے رہتے اور بے حساب سے خوف رکھتے ہیں۔

#### LEAVE OF ABSENCE

جناب چیئرمین : رخصت کی درخواستیں، میریوسف علی خان مگسی نے ذاتی مصروفیات کی

بنیاد پر ایوان سے حالیہ مکمل اجلاس کے لیے رخصت کی درخواست کی ہے کیا آپ ان کی درخواست منظور فرماتے ہیں؟

(رخصت منظور ہوئی)

جناب چیئرمین : میر غلام حیدر تالپور نے چند ناگزیر وجوہات کی بنیاد پر ایوان سے اسے ۱۴ مئی تک رخصت کی درخواست کی ہے کیا آپ ان کی درخواست منظور فرماتے ہیں؟

(رخصت منظور ہوئی)

#### FURTHER DISCUSSION ON THE PRIVILEGE MOTION RE: LAUNCHING OF PEOPLES WORKS PROGRAMME

Mr. Chairman: Now we will take up the Privilege Motion relating to the Peoples Works Programme. Mr. Aitzaz Ahsan, you were on your feet when we adjourned yesterday

Mr. Aitzaz Ahsan: Mr. Chairman, I was submitting and making my submissions respectfully yesterday when you decided to adjourn the proceedings on this privilege motion till today. The proceedings, of course, of the Senate did continue after that but it was the privilege and choice of the Chair

to continue to be in the Chair at the time when I address and make my remaining submissions.

I had submitted, Sir, yesterday and very briefly just to recount and to carry and to bring it to that point

(1) That this is not a breach of privilege. There is nothing in the Constitution, nothing in the law which would make any breach or alleged breach of the Constitution and the law outside the precincts of this House a breach of the privilege of this House and I submitted Mr. Chairman, that learned members of this House cannot be hyper -- sensitive, become paranoid about every thing that is happening. There are courts of law under the Constitution duly empowered to check and to correct the wrongs that may be done and they have ample powers under Article 199 of the Constitution. It is not the province of this House Mr. Chairman, to go into these matters.

I then dwelt upon the constitutional provisions relating to the competence of the Federation and of the Provinces and I pointed out, as Mr. Chairman, you must recall, that there was entry No. 25 in the Concurrent List which empowers indeed enjoins, when read with Articles 37 and 38 both, upon the Federation and upon the Provinces to act in advancement of social welfare, and I had submitted, Mr. Chairman, that the Peoples Programme was a programme manifestly, obviously and undeniably for social welfare of the people of Pakistan. The question that is taken is, is its implementation necessarily and solely within the competence and Province of the individual Provinces? In the objection that is taken is initially, of course, they said that we cannot even formulate the programme but during the arguments during my submissions and the manner in which, Mr. Chairman, you were pleased to formulate the objection to my arguments, it took a slightly different light. According to the formulation the objection is not necessarily to the formulation of the Peoples Programme. The idea is, any one can formulate it, the objection is taken to the implementation of directly by the Federation and I submit Mr. Chairman, very clearly that every thing that is in the lists has to be implemented.

Now, it cannot be said of the Armed Forces that if it is in the list it must be implemented by some other one. It cannot be said that if wills, intestacy and succession are in the Concurrent List, they must be implemented solely by the Provinces. It cannot be said that since arbitration

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is in the Concurrent List its actual implementation must be within the Province and within the jurisdiction of the Provinces. There is a fallacy in this. There is patent, obvious, clear, transparent fallacy in this logic. If Trusts and Trustees are on the concurrent list then the question of creating trusts, the question of controlling trusts, the question of providing machineries for administering trusts will be both in the federal and in the provincial jurisdiction because there Mr. Chairman, we will draw our argument on this side of the House from item No. 47 because this is the implementation. If social welfare is in the federal province as it might also be in the provincial province, we are not stopping them from carrying out a programme of social welfare. Let them do that. Very good. But if it is in the province, if it is in the competence of the Federal Government then item 47 says, "matters incidental or ancillary to any matter enumerated in the list", and 'implementation' is *ipso facto* ancillary and incidental. You cannot have a programme unless you can implement it. You cannot have jurisdiction over trusts unless you can control trusts, unless you can create trusts, unless you can administer trusts. You cannot have jurisdiction an ancient and historical monuments, archaeological sites and remains unless you can actually prevent their deterioration, administer them, locate them, look after them, discover them and do every thing that is necessary in that behalf. You cannot have a mere scheme of formulation of Zakat, when Zakat is mentioned at item No. 40 without the authority and power to implement it, to recover it, to disburse it.

So, Mr. Chairman, the idea that although social welfare is in the Concurrent List and thereby although social welfare is within the competence of the Federation, its implementation must be through the Provinces, is an idea that is fallacious, that is wrong because the very idea, the concept of social welfare between two governments may differ. Mr. Chairman, we want to build hospitals, we want to build roads, we want to build schools. There is a provincial government which does not think it is social welfare. We tell them we want to build hospitals, they say 'No'. Their concept of social welfare is some thing different. It is probably personal welfare.

Now, how can we go about it. When we are competent to formulate schemes for social welfare, we are competent to implement schemes of social welfare and this I am replying to the argument because basically the argument that can e

from the learned Senators was that we are not competent at all but the way it came, during the arguments and the submissions I was making, from the Chair, it came about in a different way and the emphasis was on the implementation through the provincial machinery. My answer is we are permitted, we are justified, we are competent and authorised to carry out the schemes through a federal machinery and through the federal administrative set up.

Now, as for social welfare, Mr. Chairman, social welfare can be of so many things but the important thing is Mr. Chairman, and I was referring to it yesterday when the call of the *Azan* came; the entries in the list have to be given the widest possible meaning. Social welfare in itself is wide, and I defy anybody, I defy any person who has any thing to do with logic, with semantics, with polemics, with whatever, with language, I defy them to state to me to prove that hospitals, dispensaries, roads, water supply, schools are not in social welfare, I defy them. So, it is manifestly within social welfare in entry No. 37 under the Constitution that is I think, an argument that can be sealed and delivered but even if there be minds that tend to take a narrow view and I think there cannot be a narrow view of social welfare. Social welfare is social welfare and that is what is the language is but there might be others who think that social welfare can be narrowed down to exclude hospitals, dispensaries, roads, schools water supply while they may be those people then I would refer Mr. Chairman, to Seervai and Seervai says at page 1684, you were pleased to record it yesterday.

**Mr. Chairman:** Which edition is this? Because I looked at Seervai it does not have this.

**Mr. Aitzaz Ahsan:** Sir, I have it, I will give you this edition later on. It was with me but I had photocopied some of the pages. There are so many books, so many references that I have photocopied and I will give you that. It is, I think, the latest edition. I think it is 85th or 86th edition and it is on page 1684, para 17.148 and of course Seervai is himself relying on a judgement which I submitted yesterday where the Secondary Education Board U.P. wanted to carry out some educational activity. The question was, does it fall within its jurisdiction or not? Articles 42, 43 and Article 37 which are similar to the Articles that I was quoting, 37 and 38 and then the entries in the list were involved and the courts were bound to evolve.... This is from the

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judgement :

"The Courts were bound to evolve, affirm and adopt principles of interpretation which would further and not hinder the goals set out in the Directive Principles....."

And I refer to Directive Principles Article 37 and 38 abolition of illiteracy, shelters, housing, social welfare etc. needs of the people.

"The Courts were bound to evolve, affirm and adopt principles of interpretation which would further and not hinder the goals set out in the Directive Principles. Therefore, courts must bear these principles in mind when interpreting statutes."

Article 41 directs the State within the limits of its economic capacity and development to make effective provision for securing the right to work to education and to put assistance in cases of unemployment, old age, sickness and disablement and in another case of undeserved want. Article 41 and 43 and part of Article 47 have been set out together as they have been relied to support the social and industrial legislation.

Then, again Sir, at another point and referring to another judgement of the Supreme Court of that jurisdiction Seervai at page 1581 (again volumn II same edition) Sir, says and this is the crux of my argument and this is also the crux of the effort that is being made against me and my Government in its effort to work for the social well being of the people of Pakistan in accordance with the manifesto of the Pakistan Peoples Party. It was Justice Heg De a very learned Judge as you know who was one of the Judges, who resigned in the supersession case in 1973 and you are so well aware of all that :

"The provisions of the Constitution are not erected as barriers to progress."

They are the barriers to progress Mr. Chairman, the privilege motion is a barrier to progress, the very design behind it is a barrier to progress. The Constitution cannot countenance that. The provisions of the Constitution are not erected as barriers to progress. They provide a plan for orderaly progress towards the social order contemplated by the preamble of the Constitution. We see no conflict on the whole between the provisions contained in part III and IV Funda-

mental Rights and Principles of Policy. They are complementary and supplementary to each other. The mandate of the Constitution is to build a welfare society in which justice (social, economic and political) shall pervade all institutions of our national life. The hopes and aspirations aroused by the Constitution will be belied if the minimum needs of the lowest of our citizens are not met.

Mr. Chairman, then there is the case of AIR 1970, Supreme Court, page 169, in which the Directive Principles of Policy were taken and it was felt that while scope of the Legislative List 87, 88 and 89 was limited, resort was had to the Directive Principles to widen the scope of the authority of the State to take action because it was action in furtherance of social welfare the good of the people and the Directive Principles embodied in Article 39(c) applies both to Parliament and to the State legislature and it will be difficult to see how entries 86 to 88 of List 1 would exclude any power of the State legislature to implement some of the principles, the legislative entries must be given a large and liberal interpretation. Here in a way it was the opposite. The State was expanding its power against the union and the court said, although the entry gives a limited power, we will take resort to the Directive Principles and expand it.

In another case in Bombay versus F.N. Balsara, the provisions of the Bombay Prohibition Act 1949 were impugned on the ground *inter alia* of lack of legislative competence and violating Article 91(f) of the Constitution. The Supreme Court upheld the legislative power of the State under entry 31 List II of the Government of India Act by giving the widest meaning to liquor as including not only strong drinks but any liquid containing alcohol. The Act imposed reasonable restrictions in the public interest. A prohibition law implementing a directive of Article 47 has been similarly upheld.

And Mr. Chairman, there is also the authority of AIR 1969 Supreme Court, 1563, Jaggan Nath Bakhshi Singh versus (the State of U.P.) and here the court observed that it is the elementary and cardinal rule of interpretation that the words used in the Constitution which confer legislative power must receive the most liberal construction. Social welfare confers legislative powers on Parliament. It is an elementary and cardinal rule that it must receive the most liberal interpretation and if there are words of wide amplitude they must be interpreted so as to give effect to that amplitude. Social welfare, it would be out of place to put a narrow

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or restricted construction on words of wide amplitude in a Constitution. A general word used in an entry like the present one must be construed to extend to all ancillary or subsidiary matters which can fairly and reasonably be held to be included in it.

A brief word Mr. Chairman, on this particular situation which I referred to you yesterday. There is the Federal Legislative List. There is the Concurrent List and as far as formalized lists are concerned that is all, the residue is with the province, the Federal, the Concurrent and nothing more. Then, there is a void, a vacuum and all that comes in that void and vacuum is deemed to be in the provincial sphere. Now, what does come in the void and vacuum. Will the void and vacuum be able to control the act which is expressly stated in one of the lists as a part of the Constitution? Will something that is not defined by the Constitution, that is not mentioned by the Constitution, something that is not concretized by the language of the Constitution be allowed to control that which is specifically mentioned, that which is specifically stated in the Constitution i.e., social welfare? Will some vague notion of that which is not even there because the Provincial List is not spelled out? There is the Federal List, the Concurrent List and the residue. The residue is not quantified, it is not concretized, it is not identified. Can that which is not identified control that which is specifically identified? There, I refer Mr. Chairman, again to Seervai in a West Bengal case, this is at page 162, Volume I, and he quotes from Professor Wheare on the concept of federalism, Wheare's book on federalism; 'the powers granted in the Exclusive Union List and in the Concurrent List cover as in Western Germany a word on this, I will make subsequently Mr. Chairman, briefly. 'The powers granted in the Exclusive Union List and Concurrent List cover as in Western Germany almost all subjects of importance and what is left to the exclusive authority of the States tends to be of subordinate concern.' Mark, Mr. Chairman, 'the exclusive authority' that and what is left to the exclusive authority of the States tends to be of subordinate concern.

Now, the lists must have full play. They can not be restricted. They must be enlarged. They must be given full amplitude as the courts have said and that which is left out by the Constitution must remain subordinate. But Mr. Chairman, this is not to say that we would grudge, that we would obstruct any Province when it carries out its social welfare programme. We would welcome that but

Whereas has mentioned West Germany Mr. Chairman, and this would explain what I have quoted. If the same kind of problem arose there and after the surrender of Germany, the Allies gave to the German nation a Constitution and it was intended in the Constitution by two in-built devices to keep the Federal Government weaker than the States and the two were the systems of proportional representation that was introduced in the basic law which was the Constitution of Germany in 1949 and the other was the right, spelling out the right of the States and it was through the reconstruction programme, the Martial Plan - the reconstruction programme. The federation reached out to the most distant villages, to the most distant deprived people who had suffered in the war and created the new programme of development.

In the United States itself Mr. Chairman, there was a new deal, the States were not at that time, particularly keen on extending or admitting the extension of the Federal authority and it was president Roosevelt who came out with this new deal. The courts resisted it but subsequently as you well know Sir, the courts went out and went on to uphold the new deal and all manners of social welfare programmes were taken by the United States - the union. Although the States initially thought that it was their province, and their competence and I quote also Mr. Chairman, which depicts this from a book, a profile on American politics, while I read a quotation from President Eisenhower you might also want to see Mr. Chairman, a cartoon that is published in this book to illustrate the issue that is being focussed. (Then a copy of the cartoon was given to Mr. Chairman). I have other copies if any other honourable Member wants but I did not know that other learned members had an equal sense of humour as the Chairman does occasionally display with no aspersions against the other learned members, they seem to laugh.

**Mr. Chairman:** I think, you are again getting off the track. I think, you were on the right line, so, please don't get distracted.

**Mr. Aitzaz Ahsan:** Mr. Chairman, Eisenhower says addressing the Governors in the 50's 'opposed though I am to needless federal expansion since 1953, I found it necessary to urge federal action in some areas traditionally reserved to the States. In each instance State's inaction or inadequate action coupled with undeniable national need has first emergency federal intervention. This is then the purpose of the Peoples Programme. We have found that some Provinces are more concerned on many other things unless about social

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welfare. It is our responsibility and our duty, if a privilege motion is moved, Mr. Chairman, let me just come to the last point that I want to make. The privilege motion does not take into consideration the fact that the Federal Government not too long ago implemented & undertook Mr. Junejo's five points programme. I does not take into consideration that the then Prime Minister also created a mass literacy programme from the build schools, & Nai Roshni Schools were built all over the country. Federal funds were employed in the Provinces. Nobody complained about any breach of privilege. Nobody complained about breach of privilege Mr. Chairman, When the Punjab Cabinet discussed foreign policy, then the federation was not threatened. Nobody complained when the one Chief Minister starts thinking of his tours official or on semi-official level abroad. Nobody complained when he takes the Punjab Police and the Punjab Police leave their jurisdiction, their areas. Leave the citizens re-exposed to crime and go into another province to lookafter the so-called alleged apprehensions of security of that Chief Minister and nobody complained about breach of privilege Mr. Chairman, when a Chief Minister threatened to throw out all the Federal Government employees from his Province. Am I to then assume Mr. Chairman.....

**Mr. Chairman:** But you should have done it, you see, you never came to the House. I told you even yesterday.

*(Interruptions)*

**Mr. Chairman:** You were aggrieved so that you should have come.

**Mr. Aitzaz Ahsan:** Mr. Chairman, I did not come to this because precisely I think that this is not the forum for this.

**Mr. Chairman:** That is your argument, we don't know that.

**Mr. Aitzaz Ahsan:** It is your argument also.

**Mr. Chairman:** No, that would not be correct to quote my argument as Minister.

**Mr. Aitzaz Ahsan:** Mr. Chairman, I will certainly take a lot of guidance and light from your argument as a Minister.

**Mr. Chairman:** Argument is an argument.

**Mr. Aitzaz Ahsan:** Mr. Chairman, I would certainly like to quote the ruling also. There is a ruling of the Chair on your argument; accepting your argument.

**Mr. Chairman:** Ruling would be relevant.

**Mr. Aitzaz Ahsan:** And what great precedents you have left for me and my colleagues to follow Mr. Chairman, both Minister for Interior and Law that you have held both offices. Here, I would say Mr. Chairman, that there are two rulings in 1985 to 1987. One is at page 246. Now, the mover sought leave to raise a question of breach of privilege. Now, this is not a question of a point of order but a breach of privilege arising out of a statement of Mr. G. M. Syed which according to the mover was a deliberate attempt of subverting the Constitution of Pakistan and undermining the territorial integrity of the country and thus amounted to an offence of high treason. Opposing the motion, the Interior Minister said that the matter was a provincial one and the Federal Government had no concern with it. Now, I go, Mr. Chairman, to page 248, first paragraph that starts there the last five lines -- 'Mr. Wasim Sajjad, Minister for Justice and Parliamentary Affairs and I adopt these words, Mr. Chairman. Also opposed the motion and stated that privilege under the rules concerns the duties and conducts of the members and it is only those acts which play hinderance in the performance by them of their functions in the House which constituted a breach of privilege. The impugned statement, he added, did not interfere in any way with the functioning of the House and, it did not therefore, constitute a breach of privilege. The Peoples Programme causes no interference in the functioning of this House. Mr. Chairman, the House is functioning, the Peoples Programme is on. Nobody has been stopped from coming to the House and intimidated. There is no constitutional right of any Senator to participate in the People Programme. There is no breach of privilege as such.

**Mr. Chairman:** But if we take the definition of State as given by you yesterday and Dr. Sher Afgan, the Parliament is included in that definition of State and you were contending that it is the obligation of everybody who is a part of the State to implement this programme then it would also become the duty of the Parliament to implement this programme.

**Mr. Aitzaz Ahsan:** Certainly, if Parliament resolves that

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the Parliament can legislate. The Parliament expresses itself effectively only through legislation,.....

**Mr. Chairman:** Only through resolutions.

**Mr. Aitzaz Ahsan:** And Parliament, Mr. Chairman, is a composite one. That House alone is not Parliament. Together when according to the procedure prescribed in the Constitution they come by a majority vote in both Houses in one House after the other & they concur on a specific piece of legislation that becomes law & that is the function of Parliament. Even resolution, you know, you are well aware, Mr. Chairman, has no binding effect or are not enforceable that way. They are expressions of concern, they are expression may be honest & may be very touched sentiments but they have no effect. The House functions & Parliament, of course, let them make a law for social welfare. We will be willing that they move law further and if this House Passes, the National Assembly passes, it will be its function, its domain of social welfare, and of course, I am reminded by my learned colleague that President is also part of Parliament. I do not dispute that.

**Mr. Chairman:** Also, local authority. What about local authority ?

**Mr. Aitzaz Ahsan:** The local authorities ...

**Mr. Chairman:** That is also a part of the definition of the State.

**Mr. Aitzaz Ahsan:** That is & let them also go ahead with social welfare. Why should I be stopping them now. I don't stop them. Let the Punjab Government and its local bodies today kill all the mosquitoes in the Punjab. Why are they directing all their energies against the People Programme. Let them kill mosquitoes otherwise let them ask us to include in that campaign also in the Peoples Programme. We will do it but let them first do it.

Then, Mr. Chairman, there is page 276. Now, this is a very interesting ruling, Mr. Chairman. Here was the Five-Point Programme. Here was the Five-Point Programme. The predecessors they have all been saying, you have adopted the Five-Point Programme, Peoples Programme, a Five-Point Programme. This was a Five-Point Programme and the Senator was excluded from it. He had been allocated Rs. 5,50,000/- to spend. He had been allocated & he was deprived of that. A motion came and the ruling was also given. The

mover sought leave to raise a question of breach of privilege arising out of Government's decision to close primary sections of Model Schools at Islamabad and contended that the decision was against the spirit of the Five-Point Programme of the Prime Minister and has affected his "privilege" to make proposals within an annual financial limit of Rs. 5 million in implementing of the educational components of the Prime Minister's Five-Point Programme. Here was a vested stake also that a monetary stake of the Senator in that Five-Point Programme, a monetary stake, a fiscal stake. Opposing the motion, the Minister concerned stated that the rationale of the decision was to provide admission in Class IV to every child in the existing Model Schools in Islamabad on the basis of merit alone through the device of a competitive examination conducted by a board. The Chairman ruled the motion out of order on the ground that the Five-Point Programme of the Prime Minister did not confer any right or privilege on the members of the Senate. (Pause)

**Mr. Chairman:** The same is repeated.

**Mr. Aitzaz Ahsan:** Because that elucidates it and that is the big substance of it.

He further observes that the impugned decision of the Government did not amount to interference with the members of the Senate in the performance of their duties as such members. There was, therefore, no question of any breach of privilege. It is a ruling, Mr. Chairman, on all fours; it is a ruling, Mr. Chairman, from which I feel, when I submit with great respect, despite my admiration for your legal acumen, there is no escape and it is a ruling, Mr. Chairman, that even a lawyer as competent as you, will not find a way out. I say this with respect because I am sure, your's is a more discerning and, a more incisive mind than mine and, finally, Mr. Chairman, I have just one thing to say:

Privilege motions are to be admitted, are to be taken and privileges I might mention, I think, I did give you pages, Mr. Chairman yesterday, they are enumerated in Kaul also it is not privilege, no privilege and it is the final ruling.

But anyway, I ask one question. I beg a question, Mr. Chairman. Why do they oppose the Peoples Programme? Why do they want to create walls and obstruction in the way of the development of the People of Pakistan? For 11 years nothing has been done for them. Now, when something

[Mr. Aitzaz Ahsan]

is to be done for the first time 2 billion rupees are being allocated. They have been allocated; they have been implemented. They want to obstruct the programme. Why do they do that? We want to rid this country of the culture of Klashnikovs and heorine that we have inherited. Why this vengeful attitude Mr. Chairman? Merely because Pakistan Peoples Party is doing it! Only because of that! Is it **مخالفت برائے مخالفت** I ask? They say all sorts of things. They say about me and Mr. Behrawar Saeed moved me to the soul when he said what a committed and devoted and totally, of course, Muslim he was and Pakistani he was. Mr. Chairman, merely out of **مخالفت** they make resolutions. The say **کیا اور** **کون**؟ I ask the Professor, the Senator

جس کا باپ، جس کا دادا، جس کی والدہ... ۸۴ سال میرے دادا کی عمر تھی

when he went to jail for Pakistan. My father left government service and courted arrest. My mother had me in her hands, in her arms when I was a year and a half and courted arrest.

پھر مخالفت برائے مخالفت

میں ان سے پوچھتا ہوں کہ کیا یہ سیاست اس طرح چلے گی کہ یوں کریں گے؟ میں ان سے پوچھتا ہوں ایسی بھی جماعتیں ہیں جنہوں نے پاکستان کی مخالفت کی اور ہم نے جائیں دیں ہم نے جیلیں کاٹیں اس کو بچانے کے لیے۔

ہم ہوتے قتل اور تیری آنکھیں مائل انتقام اب بھی ہیں

شکر یہ جناب

Mr. Chairman: After this burst of emotionalism let us come back to Constitution. There is one area which I think you might like to cover. That is the argument of Mr. Tariq Chaudhry based on Article 97. It was his argument that even under the Concurrent List, the executive authority of the Federation does not extend to matters in the Concurrent List except under a law. I just read out the Article. This is on what he has based his argument. Article 97 says:

"97. 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, including exercise of rights, authority and jurisdiction in and in relation to areas outside Pakistan."

So, that means that in respect of Federal List there is total power, there is no problem. Then, this Article further says:

"Provided that the said authority shall not, save as expressly provided in the Constitution or in any law made by Majlis-e-Shoora (Parliament), extend in any Province to a matter with respect to which the Provincial Assembly has also power to make laws".

So, in respect of the concurrent field the argument was that the executive authority does not extend to those matters except expressly either under the Constitution or expressly under a law, and this programme you were saying is on the executive side. So, if you would like to comment on that.

**Mr. Aitzaz Ahsan:** Mr. Chairman, there is a very simple answer to that. The programme has been totally misconceived because the argument was based on the premises that it is an extra-ordinary budgetary programme.

*(Interruptions)*

**Mr. Chairman:** No. No. It is within the budget.

*(Interruptions)*

**Mr. Aitzaz Ahsan:** May I just submit that the programme is under the Finance Act. It is under a legislation.

**Mr. Chairman:** The allocation would be under the Finance Act but the argument was that the executive authority of the Federation does not extend to matters in the Concurrent List except that you have to frame a law.

**Mr. Aitzaz Ahsan:** Mr. Chairman, I am referring to the law. The law which directly applies to this is the Finance Act which was passed in December. It is an Act of Parliament, Mr. Chairman.

**Mr. Chairman:** So, your argument is that the Finance Act covers this.

**Mr. Aitzaz Ahsan:** Yes, Sir, it is an Act of Parliament.

*(Interruptions)*

**Mr. Aitzaz Ahsan:** It is an Act passed by Majlis-e-Shoora. It is deemed to be an Act of Majlis-e-Shoora for this purpose.

**Mr. Chairman:** I just wanted your re-action on this because this was an argument which was made on which I thought we should get a clarification.

**Mr. Ahmed Mian Soomro:** Sir, it has been passed by the National Assembly and not by Majlis-e-Shoora.

**Mr. Aitzaz Ahsan:** Sir, I think the learned Senator does not know that all Acts are Acts of Parliament.

**Mr. Chairman:** No. No. He knows this very well.

**Mr. Aitzaz Ahsan:** What I am submitting is that this is under an Act of Parliament wherein an allocation has been made and all ancillary steps have been taken.

**Mr. Chairman:** His argument was that the allocation has been made but the executive authority has not been conferred.

**Mr. Aitzaz Ahsan:** No, Sir, the executive authority has to be exercised under the umbrella of an Act of an allocation is made by an Act. But every time the President and the Federation does every time, the executive authority does not have to be equipped with an Act all the time. What Article 97 says is that there must be an umbrella of federal legislation - an Act of parliament. That umbrella is the Finance Act. I exactly do not know whether it is 1988 or 1989.

**Mr. Chairman:** That was conceded. They said that there is a Finance Act but that only gives you authorization to spend money under a broad general heading but the argument was that the executive authority under Article 97 cannot extend unless you pass expressly a law for that.

Any other person who would like to say some thing on behalf of the Government.

**Dr. Sher Afgan Khan Niazi:** Sir, I refer to M.N. Kaul's book (third edition) page 178. It says :

"The fundamental principle is that all citizens including members of parliament have to be treated equally in the eye of law. Unless so specified in the Constitution or in any law, a member of parliament cannot claim any privileges higher than

those enjoyed by any ordinary citizen in the matter of application of law.

**Mr. Chairman:** Right. Let me just summarize the arguments on behalf of the Government.

The first argument was that no breach of privilege has taken place and breach of privilege only takes place if there is actual obstruction or hindrance created in the path of the parliament or in the way of the parliament in the performance of its functions.

As regards the argument that the Federal Government has no authority, they have based their case on Articles 37 and 38 and also on Article 7. Article 7 says that the State shall perform certain functions and there the definition of State has been given. It includes the Federal Government, the provincial government and as we were talking just now the local authorities and the parliament. Article 37 says that the State shall take certain steps. Similar is the position in Article 38 and it is the contention of the Government that under these Articles the Government has an obligation to take certain steps in the interest of social welfare.

As far as the point that this is a matter which pertains to the provincial field is concerned the argument of the Government has been based on item 25 of the Schedule which is the Concurrent List and they are saying that under the heading 'Social Welfare' in item 25 the Government has the power and the authority to implement this programme. I think this summarizes the arguments that the Government has the power to implement this programme, to authorize this programme, to create this programme and to formulate this programme under the heading 'Social Welfare'.

**Mr. Aitzaz Ahsan:** And by your leave Mr. Chairman, before I lose my right to the floor of the House, I just want to make one further submission. I say this with all respect Mr. Chairman, because your ruling is yet to come. If on the point of admissibility, and I submit with respect, you come to the conclusion if you do, if you do not that is another matter, but if you do come to the conclusion that the privilege motion was not admissible, I will beseech you thereafter, as in the precedent ruling, you may not go in the constitutionality because Mr. Chairman, this is a matter that will go to courts. It is ultimately a matter that has to be decided by the courts and the courts must be allowed their jurisdiction.

**Mr. Chairman:** Lastly, Mr. Chairman, in respect of the arguments, concerning Article 97 the contention of the Government is that the Finance Act itself is the law which permits the executive authority of the Federal Government. This, I think, summarizes the arguments of the Government.

**Mr. Sartaj Aziz:** Mr. Chairman, the basic point which the movers of the privilege motion have made emphasizes very clearly that they are not opposing the objectives of the programme, or the urgency of promoting social welfare and all the means that the Government or the State can evolve for that purpose. The objection is on the procedure and the manner in which the programme has been implemented and on this subject there are constitutional arguments and there are administrative and financial arguments. I will first take the constitutional arguments which the honourable Minister has dealt with at some length. The point which I would like to emphasize through you Mr. Chairman, is that in promoting the objective of social welfare & the well being of the people it should not be done in a manner that compromises & jeopardizes another important objective that is of provincial autonomy. The Minister has very diligently & eloquently tried to interpret various Articles and various items of the schedule to show that Federal Government can do certain things & all Constitutions should have & I am glad that our Constitution does have the flexibility in which this kind of interpretation can be given. But we must put this interpretation in the total context in which this Constitution has been implemented & is with us for the last 16 years. Under the scheme of things there is a clear concept of regional responsibility between the Federal and Provincial Governments and subsequently even between the provincial and the local governments. There are certain functions which clearly belong to the Federal Government, there are certain functions which clearly belong to the Provincial Governments and certain functions are being performed by the local governments. Now under that pattern which

has evolved we all know that since power throughout the country is a federal subject, we all know that federal highways are the federal subject but secondary roads are done by the provincial governments and local roads are done by the local bodies. Primary schools are done by the local authorities in most cases and some provincial governments. The higher and secondary colleges and institutions are handled by the provincial government and in the management of universities the Federal Government with University Grants Commission performs certain functions. Similarly the question of health and other activities. It is very clear Mr. Chairman, that bulk of the activities under the proposed Peoples Programme are of a local nature, they include primary schools, they include dispensaries, they include small scale roads. Even before this Constitution under the previous Constitution these functions have been performed either by the provincial governments or by the local authorities. Now, if the Federal Government is going to go out into all the villages and rural areas and build primary schools and dispensaries and local roads then the whole concept of provincial autonomy is thrown to the winds. It is Mr. Chairman, a very very important issue because it is my firm belief that even the provincial autonomy which is in this Constitution has not been fully and faithfully implemented because of the circumstances and the disruptions of the democratic process that we faced and, therefore, all political parties including the Peoples Party under the MRD framework have been advocating further expansion in the area of provincial autonomy so that the provincial governments become more effective. They should have the resources to implement more and more programmes. In fact the authority of the provincial government to approve a development project extends to fifty million which is one fourth of the total amount that we are talking about.

Now, the Federal Government were to through its own implementing machinery begin to implement small projects in all parts of the country. Then, we are moving in the opposit direction instead of expanding the area of provincial autonomy, we are further restricting it and literally destroying a very very important constitutional dimension and violating the very spirit of this Constitution. We are not here defining in a very narrow and legal sense one Article or the other. Of course, the Federal Government is concerned with social welfare through its five year plans, through its allocations, through its policy, coordination and all the other functions listed it can and should promote social

[Mr. Sartaj Aziz]

welfare but when it comes to implementing small scale schemes for the well-being of the people then the established patterns, instead of abolishing them and instead of side tracking them, instead of building a parallel machinery, they should be faithfully and honestly implemented. Therefore, Mr. Chairman, I think that the manner in which the Peoples Programme is being undertaken is a clear violation of the spirit of this Constitution and since the Senate is responsible to protect the interests of the provinces as part of the Federation it does constitute a breach of privilege.

**Mr. Chairman:** Would you like to address this question that there is no hindrance or obstruction in the way of the Senate, would you like to respond that ?

**Mr. Sartaj Aziz:** That is one aspect of the privilege that it should not directly obstruct the holding of meetings or the manner the members speak & so on & so forth. But when you take the responsibility of the Senate as a whole in safeguarding the basic provisions of the Constitution and protecting the rights of the Provinces then in a very fundamental sense any violation of those rights does constitute a breach of privilege. It is not in a narrow sense of holding meeting but the very functions for which we are here is to protect the interests of the Provinces and if the Government in a particular case is moving in a manner in which the implementation of its functions are totally contrary to the concept of Provincial autonomy that is invaded in this Constitution then obviously it is violating the rights of the Provinces and, therefore, the privilege of this Senate.

In this context Mr. Chairman the Specific points of Article 97 the explanation is not covered because the provision to that Article refers to Majlis-e-Shoora and not to the National Assembly and the Finance Act only gave approval to the spending of the money of Peoples Programme without actually defining the manner in which that was to be spent. It could have been spent through the previous system of the Provincial Governments or local authorities and, therefore, this requirement that it should be done under the law is not met by the Finance Act itself.

The next aspect Mr. Chairman, is the administrative and financial procedures. It is the normally established practice that there is a well laid down procedure under which public funds are made available from the Federal Government to Provincial Governments, from the Provincial Governments to local authorities, in all cases there are

procedures of audit and financial regulations which are carefully adopted. In this the constitution of district committees under non-official administrators and allocating funds directly to such non-officials who are mostly office bearers of the Peoples Party and in many cases defeated candidates as a result of the last election. Of course, political representatives of different parties particularly elected representatives can be associated in advisory committees along with District Council Chairman and elected people that is not excluded but to make them responsible for handling public funds, without having under the rules the *modus operandi* of which is laid down in several regulations and rules is a violation of the normal rules. If money is given to non-officials it is on the basis of a contractor. You can issue tenders and so on and so forth. But to give responsibility, regulations. This again Mr. Chairman, is not in accordance with the established rules. As pointed out by the movers it can of course lead to a great deal of corruption and irregularities and to that extent the purpose for which the Programme is meant would be jeopardized to that extent.

Finally Mr. Chairman, I would like to point out for the honourable Minister's benefit as he mentioned that nothing was done in the past 11 years and for the first time two thousand million rupees are being provided for this purpose, I would like to remind him that the Five-Point Programme of the Muslim League Government which was started in 1985 had a total expenditure of two thousand crores in the first year, twenty hundred crores in the second year and twenty three hundred crores in the third year. Ten times and then eleven times the amount that is being talked about and exactly the kind of things that are being contemplated in the Peoples Programme were undertaken e.g. tubewells, primary schools, drinking water, dispensaries and several other programmes.

**Mr. Chairman:** But why was no objection taken to that.

**Mr. Sartaj Aziz:** I am coming to that point. That programme was implemented entirely through the Provincial Governments and the local bodies but only the funds were allocated.

**Dr. Sher Afgan Khan Niazi:** Point of order, Sir,

جناب اسی کے ضمن میں ۲۹ مئی ۱۹۸۵ کو

[Dr. Sher Afgan Khan Niazi]

Then, one of the component of the Parliament, the President of Pakistan pointed out that everything was divorced, embezzled, everything was finished, no progress was done, nothing was done, therefore, the dismissal of the National Assembly was carried out.

**Mr. Chairman:** Thank you. This is no point of order. Yes Mr. Sartaj Aziz. So, the objection is as to why did you not raise any objection to the Five Point Programme if it was a breach of privilege?

**Mr. Sartaj Aziz:** The Five Point Programme did not contain any violation of the Constitution. I do admit that the Nai Roshni Schools project which was started by the Federal Government with the concurrence of the Provinces and was implemented and in each case there was a board in which Provincial Chief Ministers were included, the location of the district organization for the schools, the location of primary schools, even electricity which is a federal subject, the selection of villages where they were to be extended, was done in consultation with the Provincial Governments and of course, for all the local programmes there were District Coordination Committees and the allocation of those funds the so called M.N.A's programme was only 150 crores out of 2,000 crores. The normal impression is that the entire Five Point Programme was only the M.N.As programme and most of the Five Point Programme was implemented through the Annual Development Programme. If today this programme is implemented in the same way, there is nothing wrong with it and we welcome. I am glad that the Minister mentioned that it is the first time, it is being done. I hope, I don't know how long they will be, but at least for this year we will like to compare the physical targets which are achieved under this programme. If it is to be implemented with similar targets as in the last three years. The Minister of State has mentioned that nothing was done. We should not follow any particular statement but we should look at the concrete results which have been achieved. The Auditor-General is going to audit those expenditures. The published report about the number of schools, the mileage of roads built, they are all on record and I hope that this year they will be able to show the same physical results that were shown by the Muslim League Government in those three years because in each of those things the physical targets are not only based on rhetoric and promises but actually documented in reports and on the ground and they

are welcomed to ask the Auditor-General to make a special report on the implementation of Five Point Programme so that the facts come before this Parliament and they are able to see what proportion of that was actually implemented.

So, Mr. Chairman, in conclusion I would sum up my argument by saying that all the Members of the Senate particularly from our party welcome any measures which are there to promote the well-being and welfare of the people. We would like the Government to allocate as many resources as possible because there are a large number of un-met needs. But for God's sake in implementing those programmes don't violate the basic norms of provincial autonomy that is in the Constitution. Don't further damage and spoil the relationship between the Federal and Provincial Governments because that is the basic strength of this Federation. Don't try to evolve a parallel structure of administration and financial administration which leads to any irregularities and which violates the normal functions only then the basic objective will really be achieved without jeopardizing other objectives that are equally important.

**Mr. Chairman:** You want to say something.

**Syed Iftikhar Hussain Gilani:** Yes, two minutes.

**Mr. Chairman:** O.K. we allow you two minutes.

**Syed Iftikhar Hussain Gilani:** Thank you very much Mr. Chairman. I think very lengthy arguments have been addressed to you. I, just in reply to the concluding remarks of the honourable Member about the participation of Provincial Governments, functionaries in the programme will show how a District Committee is constituted (1) There is an administrator and then (2) is an elected representative or public spirited person. Now, (3) is the District Education Officer who is a Provincial Government officer, (4) is the District Health Officer who is again a Provincial Government officer, (5) is the Assistant Director, Local Government and Rural Development Programme again a Provincial Government officer, (6) is the Executive Engineer C & W Department again a Provincial Government officer, (7) The Executive Engineer, Public Health Engineering Department, (8) The Planning Officer, District Committee and any other persons, Government functionary nominated by the Government. This is the Constitution of the Committee.

**Mr. Chairman:** Have you a copy of it please ?

**Syed Iftikhar Hussain Gilani:** Yes. This is the plan. This is the constitution of the Committee which is to implement the programme within a district which in totality almost besides the District Chairman involve almost every agency that is concerned with the development programmes of the Province in that district they are Provincial officers. Now I will just say one more thing that God forbid - I say God forbid deliberately that if the arguments are accepted by the Federal Government what will happen? Two Provinces say we want this programme, we don't mind. Let anyone come and make a development projects in our Province, we have no objection - it is a Federal Government. Now I would go to an extent Mr. Chairman, that anyone who may be totally politically opposed to me, I love him to come and make any development projects in my district. Now, going into such subtle and intricate legal and constitutional intricacies that whether it violates of it does not violate, it is a programme for the welfare of the people. The purpose is, the welfare of the people. I think it should not matter Mr. Chairman Sir, and I beg of the honourable Members whether it is done through X or Y. It is a development programme subject to all the audits, subject to, as I said, the Committee constituted of persons on which the Provincial Government has total control as such. They will be sitting there in the committee.

**Mr. Chairman:** We adjourn the House till 7.30 P.M. for *Maghrab* prayers.

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(Then the House adjourned for *Maghrab* prayers.)

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[The House re-assembled after interval with Mr. Chairman (Mr. Wasim Sajjad) in the Chair].

**Mr. Chairman:** Syed Iftikhar Hussain Gilani, I think you have the floor.

**Syed Iftikhar Hussain Gilani:** Yes Mr. Chairman. So, as I was making a submission that I have already read out the constitution of the Committee and the functions of this Committee. I just broadly read out because this will show to your honour and the honourable Members that in fact this is the committee who is in total control of everything starting from an identification of a programme upto the completion - the implementation, identification, preparation. These are the functions given of this committee. There are twelve

functions in all. I just read the main important functions:

1. Identification and preparation of the schemes for a district.

This very committee, as I am submitting Sir, in which out of eight members, six members are Government functionaries of the Provincial Government.

**Syed Abbas Shah:** May I ask for an explanation from the Minister through you Sir, that most of the Chairmen are announcing schemes without any meeting of the Committee. So, I would like the Minister to elaborate this thing also for us.

**Syed Iftikhar Hussain Gilani:** Mr. Chairman, in response to the honourable Member's anxiety, if they are doing it they are violating the rules which are prescribed for them. They are violating the directions and I assure the honourable Member that appropriate action will be taken in each case which is brought to the notice of this honourable House or any where and on your directions - whenever we are given a direction we would certainly take an appropriate action.

**Akhunzada Behrawar Saeed:** Point of order.

**جناب چیمبرمین :** ذرا ان کو ختم کرنے دیں تو پھر بعد میں آپ کو وقت دوں گا۔

**Akhunzada Behrawar Saeed:** I would like to know Sir, as to who is the appointing authority of the administrator and what are the qualifications of the administrator ?

**جناب چیمبرمین :** وہ تفصیل کی بات ہے۔ آپ یہ کاپی بے شک لے لیں۔ میں بھی لے کر رکھ لیتا ہوں۔ جناب گیلانی صاحب۔

**Syed Iftikhar Hussain Gilani:** No. 3, Sir, submission of schemes to Federal Implementation Committee for administrative approval. This committee will submit these. Then preparation of monthly progress of implementation, this very committee does that. Maintenance of account & placing monthly statement before the committee, keeping record of the minutes of the committee, review of audit reports, review of performance audit, execution of the orders, review of the implementation of the programme, disseminating information about the projects, allocation of funds and any other

[Syed Iftikhar Hussain Gilani]

matter which may be entrusted to the committee. So, I was submitting Sir, that this is a committee which in of all the agencies of the Provincial Government are in totality involved, as I said, from the time of identification to the time of completion of a project.

Now, Sir, as I was submitting earlier that the intention of the scheme is welfare of the people which is being done by agency 'X' I think, I am sure the worthy honourable Members who moved this privilege motion, will be large hearted enough to see to the result. What will be result? The result is, as I said the Five Point Programme -, the purpose was for the good of the people. The intention has to be seen. The Government does not want to fritter away the money, neither the Federal Government nor the Provincial Governments. We are answerable to the Houses of Parliament - to this honourable House to all the disciplines - financial disciplines. So, the Government's intention is to spend this money for the welfare of the people and as I said the agencies are involved in totality. So, therefore, I don't see any reason as far as the technical objections are concerned that will be valid. Thank you.

Mr. Chairman: Could I have a copy of this ?

Syed Iftikhar Hussain Gilani: Yes Sir.

Mr. Chairman: Thank you. *سید قادر صاحب آپ کچھ کہنا چاہتے ہیں* I think, several people are wanting to say something.

Gen. (Retd.) Saeed Qadir: In view of the fact that the Minister has chosen to give fair amount of information with regard to the functioning of this committee & the constitution of this committee a large number of questions arise & the first question is, why was it necessary to adopt a procedure different to what already existed. Nobody is objecting to the Peoples Programme or whatever programme you like to call it. The social welfare programme system existed. If it was so bad and defective, could not they find a method to improve that? Secondly, who constitutes this committee? If this committee consists of six members out of eight from the Provincial Government, surely the Provincial Government then is the constituting authority. In that case I am sure there will be no dispute and differences. So, if the Government will resolve these matters they would have the cooperation of all the members of not only this House but the entire country. Why don't they adopt that particular line.

**Mr. Chairman:** Well, I am sure the debate in this House will lead to some thinking on this matter and that is what we are trying to do. **Dr. Mahbubul Haq.**

**Dr. Mahbubul Haq:** Thank you Mr. Chairman.

**Mr. Chairman:** Now, briefly because I want to wind up the debate today.

**Dr. Mahbubul Haq:** I shall try to be very brief but the question we are discussing here, is one of the most vital issues that has come before the Senate and unless we can give a constructive lead on this issue to the country, the alternative I fear, will be only the streets. I will like to deal with three issues that the honourable Minister for Interior dealt with in his summing up. First, whether the conception of Peoples Works programme in the form in which it has come is contrary to both the letter and spirit of the Constitution. However, liberal the definition we might take of the lists that are in the Constitution.

Second; whether this mode of execution has ever been tried before in the last 41 years and why it constitutes a threat to the fabric of the Federation.

And third; how does it effect our functioning as Members of the Senate and how does it constitute a breach of privilege.

On the first issue Mr. Chairman, it is, if I may say with due respect very naive to suggest that a liberal definition of the Constitution and social welfare will enable the Federation to take over the execution of programmes at the local level of primary schools, of dispensaries, of roads and of clean water. It is for two reasons. Firstly, the Provincial Governments at the moment totally depend on central resources for development. Not only that that non-development budget shows a deficit of 1800 crores a year and has to be met by the Centre unless the National Finance Commission dispenses its award and can meet this deficit. But every penny of development for Provinces comes from the Centre and if a programme is taken up by the Centre to that extent the Provinces are denied the programme. There is no two ways about it. It can be done either by the Centre or by the Province because it is those limited development funds, it can not be said as the Minister said that if the Centre is doing two crores let the Provinces do even more because these are the very resources which are transferred to the Provinces.

[Dr. Mahbubul Haq]

Mr. Chairman, the Constitution is very clear on what development programmes have been left to the Provinces. In fact there was a major debate on it in formulating the 1973 Constitution and there was a back drop to it. The break up of East and West Pakistan exactly on these issues of Provincial autonomy. Let me remind you Mr. Chairman, in 1970 when Sheikh Mujib-ur-Rehman led his agitation.... in Five-Point Programme that he came up with. At that time a Six Point Programme - at that time 80% of the development expenditure was being executed by the Provinces and the Federal Government was doing only 20% and that was not found acceptable, not consistent with Provincial autonomy and Shaikh Mujib-ur-Rehman in his Six Points said the Centre should be responsible only for defence, for foreign policy, for currency and the development programmes belong to the Provinces. Today the provinces have been protesting for a long time now that only 25% of the total development programme has been left to the Provincial executive and many functions which are in the Constitution for the Provinces which are outside the Concurrent List and the Federal List have been overtime usurped by the Federal Government. Since the Federal Government has the resources and the Provinces are not being given those resources and this has led to a tension between Federation and the Provinces and these programmes include agriculture research universities, water logging and salinity, some of the irrigation programmes which belong to the Provinces. The 1973 Constitution was accepted and enthusiastically endorsed by the Provinces because they felt that it will guarantee if Federal structure in which the economic and development rights could be secured. So, the dialogue all this time has been how to restore that element of Provincial autonomy to which Peoples' Party has been fully committed? Why today, we should be taking up programmes which, for 41 years, were always executed through the Provincial Governments, never once they were taken up by the Federal Government. Why should they be taken up instead of transferring more autonomy to the Provinces, why should it be less?

Mr. Chairman: Now, since you are on the floor, particular matter on which you would like to tell us is - why no objection was taken to the Five-Point Programme?

Dr. Mahbubul Haq: I am coming to that, Mr. Chairman.

after a few minutes. But I am just wanting to make a point that if once we concede the argument that even local works programme can be executed by the Federal Government, there will be no barrier left for the Federal Government taking over the total Provincial ADP on the same liberal interpretation on social welfare. Everything can be done by the Federal Government and the Provincial Governments can be denied those resources, and on that may I suggest will be one of the most fundamental threats to the Federal structure that was conceived in the 1973 Constitution. Now Sir, a point was made, may be under Five-Point Programme this was done before and I want to make it very clear as one who was part of that programme that there are three clear differences between the Five-Point Programme and the People Works Programme:

1. At that time the programme was implemented to the extent that Schemes costing Rs. 50 lacs were executed through elected representatives of the Parliament, for the Senate and the National Assembly and the Provincial Assemblies, not through unelected people.

2. The programme was bipartisan. It was not for Muslim League or any particular party. It was for all Members of the Parliament, irrespective of party and the third and the most important difference was -

3. The execution was totally left in the hands of the Provinces. All that the Members of the Assembly could do was to identify what were the felt-needs of the people in their constituency? Whether they needed a road, or a school, or a dispensary? But after that it had to be sent to the Provincial Governments and Provincial Governments certify whether it was feasible that Provincial Governments control the funds? They released the funds, they executed the programmes through their departments? I recall, Mr. Chairman, this very question had arisen in October 1988.

**Mr. Chairman:** 1988 ?

**Dr. Mahbubul Haq:** 1985, at the beginning of the inception of the programme for the Members of the Parliament, how it is to be executed? At that time, Prime Minister, Junejo held a meeting with the four Chief Ministers and I was present there and the minutes of those meetings should be on record, and this was the issue that was discussed - how the programme should be executed? And the Provincial

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Governments insisted as was their right under the Constitution that the programme will be executed only through the Provincial Governments and the funds will be placed at their disposal and only on that basis they will agree and these were at that time Provinces which belonged to the same party but they insisted and they insisted because the preservation of constitutional rights of the Provinces was important, and that was conceded and as I said this is a matter of record which can be looked up by looking up the minutes of that meeting in October, 1985, that after discussion the execution of the programme, all the modalities, the procedures were formulated in a fashion that the Provinces should do it and that was kept throughout this period till three years of that programme.

In fact, may I remind this House that one Federal Minister violated the procedures. He by-passed the Provincial Governments. He set up a machinery outside the established framework and procedures and he was made to resign on that basis. This was the regard for the Constitutional norms and for the distinction between the functions of the Centre and the Provinces, and as such, I would suggest to the present Government that if they say that there is nothing different in this programme compared to Five-Point Programme, why not to adopt the same procedures and the same modalities and avoid all these skirmishes and these challenges to the Federal authority which are coming in the Provinces. Because Provincial Governments very rightly are looking at this issue in a larger framework, as we have to as Senators, as custodians of Provincial interests and as elected by Provincial Assemblies; that once we dismantle even the functions the Provinces already have rather than giving them more by way of Provincial autonomy which is contained in the 1973 Constitution, where do we stop ?

The honourable Interior Minister said take a liberal definition. I have already demonstrated that that is impossible, that both sides cannot do the same programme because of limited development resources coming from the Centre but even if they could after taking that kind of a liberal definition, are not we striking at the heart of Federal fabric? Because no sanctity remains then between the functions of the Centre and the Provinces. What stops the Federation from taking over every development function of the Province under the same umbrella and where shall we stop ?

Now, it has been suggested how does it affect us as

Senators. Mr. Chairman, if our privilege is only this that we draw our salaries and if there is a disruption in that we raise the issue here, or if we come to this office and we are stopped on the way, we can raise it here, that is a very limited definition of how the Senate as a custodian of the Constitution and custodian of the interests of Provincial Governments has to act when we see that this very issue is disruptive now of the Federal structure and when we see that already in the two Provinces....

Mir Hussain Bakhsh Bungalzia: Point of Order.

جناب چیرمین : جی پوائنٹ آف آرڈر۔ حسین بخش بنگلزی صاحب ۔  
میر حسین بخش بنگلزی : جناب اس ماؤس کا ایک منٹ جو ہے وہ گیلری میں بیٹھے لوگوں سے  
بات کر رہا ہے ۔

Mr. Chairman: Ghulam Mustafa Shah Sahib, under the rules of the House you are not permitted to even talk with any person in the galleries. I will be grateful if you will please resume your seat.

Dr. Mahbubul Haq Sahib the precise objection is that unless any hindrance is caused, and there is a ruling on this question previously to which the Interior Minister referred that there should be an actual obstruction and hindrance in the performance of functions and only that can constitute

Dr. Mahbubul Haq: Mr. Chairman, if the Provincial governments are in uproar and if the Federal authority is challenged were in uproar and if the Federal authority is challenged in the Provinces on this issue, if the only alternative to our acting on this is actions in the streets, I think, it is incumbent on us to refer this issue to the Privileges Committee where we can have a very calm, orderly discussion on this and the Government can also implement its objectives of reaching the people through Wroks Programme but through modalities which are acceptable to the Provinces and which are consistent not only with provincial autonomy guaranteed in the 1973 Constitution but the norms and procedures which have been set up for the last 41 years and not once which were violated whether in the Five Point Programme or at any other time. I think it will give an opportunity for a cool dialogue in that forum and will provide from this forum an alternative to a more violent disruption of this Federation and we are committed Mr. Chairman, to both, the protection of the Constitution and the protection of

[Dr. Mahbubul Haq]

the Federation and this is how I understand our privilege and our role in this because otherwise it will be said that when there was such a threat to the Provincial autonomy and Federal fabric we took a narrow definition and we played fiddle when the Rome was burning.

We have seen again and again that issues of this kind can be blown into national issues which disrupt the Federal fabric. We have seen the experience of 1970 to which I referred that when even 80% of the programmes were with the Provincial Governments even then objections were raised that the rest should also be there. Now, when only one quarter of the programme is there, when the dialogue should be how to augment Provincial autonomy and not to detract from it, at that time Mr. Chairman, it is incumbent on the Senate to take cognizance of this and take it to the Privileges Committee and have a very sober, orderly dialogue with the Government on how the disruption that I fear can be avoided. Thank you very much.

Mr. Chairman: Thank you Dr. Sahib.

Dr. Sher Afgan Khan Niazi: Mr. Chairman, Sir.

جناب چیئرمین: جی اب بہتر یہ نہیں ہوگا کہ باقی کے خیالات سن کر جواب دے دیں۔

Dr. Sher Afgan Khan Niazi: Mr. Chairman, Sir, a very important point that I want to clarify that I was a Member National Assembly in that very set up when fifty lakhs for each MNA were allocated. I want to bring this thing on record that totally the schemes were made by the Members themselves as I did myself and there was no consultation with the Provincial Governments, there was no scrutiny. When with the Ministry of Local Government the schemes I got deposited and they were executed on my say either by the ADLG or the Chairman of the District Council. Therefore, simply the money was transferred from the Federal Government to the Provincial Government but its use was solely on the discretion of the Member who was allocated that amount and I got constructed forty schools in my constituency under a scheme like this.

Mr. Chairman: Dr. Mahbubul Haq, I think, is the relevant person. First let him answer this because he was the person incharge.

*(Interruptions)*

**Mr. Chairman:** Please turn by turn, we will give opportunity to every one to explain the position. Yes Dr. Mahbul-Haq.

**Dr. Mahbul Haq:** I think Mr. Chairman, that is not correct & the funds (because I was Finance Minister at that time) were transferred to the Provincial Governments. They were the disbursing authority, they were the executive authority, they used various departments and wherever they did not have a capacity to executive the programmes they came to some other special arrangements but almost for most of the programmes they augmented their own capacity and executed them through the Provincial Governments.

**Mr. Chairman:** I am sure the guidelines must have been prepared and something must be in writing.

**Dr. Mahbul Haq:** The guidelines were prepared and they exist. Let me also add one more point.

**Mr. Chairman:** If the guidelines were there then that should govern what the procedure should be.

**Dr. Mahbul Haq:** I have one more thing to say Mr. Chairman. There is a distinction between the national budget & party funds. I would like this House just to think that if in the United Kingdom Margaret Thatcher runs a development programme tomorrow and asks that it should be spent entirely through the unelected workers of the Conservative party what will be the situation there? The Government will fall in a day. We must maintain the distinction between national budget and party funds. That is why in the Five Point Programme it was not run through any particular party and this was done entirely through the Provincial Governments and their departments. The procedures on this were drawn up in detail and there was what was called a 'Green Book' which was also circulated.

**Mr. Chairman:** Would you be able to give me a copy of that?

**Dr. Mahbul Haq:** I will obtain a copy and give it to you.

**Mr. Chairman:** I will be grateful.

**Khawaja Ahmed Tariq Raheem:** Mr. Chairman, I would like to submit that the schemes were totally framed by the Members of the National Assembly or the Senate, as the case may be, because I am sure, many of the Senators had the same facility available to them. The Provincial Governments had nothing to do with it barring that the funds at times were transferred to a certain agency. It necessarily did not go to the local government.

**Mr. Chairman:** Whatever the arrangement was, are you prepared to follow the same arrangement? That is the question.

**Khawaja Ahmed Tariq Raheem:** Let it be brought on record so that we can comment on that, but what I would like to point out and object is that the so called distinction being made on the basis of Margaret Thatcher's Government or national budget and the party funds, certainly the honourable Senator knows that this particular amount was part of the national budget, it was passed, no objections had been made; in the past no one has objected to it and now some thing is being re-opened after a lapse of six months or seven months. Is that proper, is that a proper course? This particular point should also be taken into consideration. I only wish to point it out because I am sure that the other Members will be speaking and I would like to hear them and then make a detailed reply on that but this point should be considered that it has passed through the normal norms and procedures.

**Mr. Chairman:** I think it will be better if at the end of the debate you can cover also this point. Now, Lt. Gen. (Retd.) Saeed Qadir Sahib.

**Lt. Gen. (Retd.) Saeed Qadir:** Mr. Chairman, I invite your attention on two points. First is, the honourable Minister raised the point that the Provincial Government was not involved. The procedure was specifically laid down and there is nothing hidden about it, you can get it and find out whether the.....

*(Interruptions)*

**Mr. Chairman:** I think that would be the appropriate course. The honourable Minister for Law has already furnished us with a copy of the procedure this time and I think Dr. Mahbulul Haq or may be he will have some difficulty. Khwaja Ahmed Tariq Raheem will provide us with a copy which will be placed on the Table of the House and then the Mem-

bers can examine it and make some observations.

**Lt. Gen. (Retd.) Saeed Qadir:** The local government can provide the procedure.

*(Interruptions)*

**Lt. Gen. (Retd.) Saeed Qadir:** The second point Sir, was that you raised the issue that already there is a decision made in the previous motion.

**Mr. Chairman:** Yes, this was referred to by the Interior Minister.

**Lt. Gen. (Retd.) Saeed Qadir:** Right & it was referred by the Interior Minister on page 248 wherein the then Minister which was your goodself, it was your argument at that time. The Chairman did not give a ruling based on that argument. The Chairman gave a ruling based on totally different argument but what you argued was what the Minister read out.

**Mr. Chairman:** No, as I told you my argument is not relevant but the decision is relevant.

*(Interruptions)*

**Mr. Chairman:** But there is a specific decision of the Chair on the Five Point Programme which was also referred to by the honourable Interior Minister.

**Lt. Gen. (Retd.) Saeed Qadir:** That is on page 276. I am coming to that also. The specific decision on the Five-point Programme was in connection with a particular school about some admission in a particular class. So, this is something which is a constitutional matter. The issue what we are raising over here is that the Constitution is being violated in various forms and Dr. Mahbubul Haq has just enumerated those. Now, there is a lot of difference between a privilege motion being moved where clause 6 has been added or subtracted in relation to the Constitution being violated in totality. So that is what you have to take note of. Thank you.

**Mr. Chairman:** Thank you. Mir Nabi Bakhsh Zehri.

جناب سیرنی بخش زہری: جناب چیئرمین صاحب! آپ کی بہت نہربانی کہ آپ نے مجھے اس مسئلہ پر بولنے کا موقع دیا۔ میں آپ کا شکریہ گزارا ہوں۔ اس مسئلے پر بہت سے آئینہ سینٹروں

[Mr. Nabi Bakhsh Zehri]

نے اپنی رائے کا اظہار بڑی تفصیل کے ساتھ کیا ہے اور بعض رولز اور ریگولیشنز کا بھی ذکر کیا ہے۔ میں انوس کے ساتھ اس مسئلے پر کچھ کہنا چاہتا ہوں جو کہ میں نہیں چاہتا تھا اور میں چاہتا تھا کہ بجائے اس کے کہ ہم سینیٹ میں بیٹھ کر اتنی تجویزیں دیں اور ایک فیصلے پر آئیں بہتر تھا کہ خود سینٹرل گورنمنٹ یعنی فیڈرل گورنمنٹ اور صوبائی حکومتیں مل کر اس مسئلے کو طے کر لیں مگر بد قسمتی سے ایسا نہ ہو سکا۔ یہاں تک کہ صوبوں اور مرکز کے درمیان اختلاف ایک ناخوشگوار حالت تک پہنچ گیا ہے۔ مجھے خوشی ہوئی ہے اور جن آئریبل ممبران نے اس مسئلے پر تجاویز پیش کی ہیں۔ استحقاق کے متعلق یا اسے زیر بحث لانے کے متعلق وہ قابل مبارک باد ہیں۔ کیونکہ سینیٹ ایک ایسا ادارہ ہے جس پر دو ذمہ داریاں ہیں ہم سینٹرل صوبوں کے نمائندے ہیں اور ہم اپنی صوبائی نمائندگی کے ساتھ ساتھ صوبائی حقوق کے تحفظ کے ذمہ دار ہیں۔ ہم پاکستان کی سلامتی، فیڈریشن کی یکجہتی اور پاکستان کے استحکام کے بھی ذمہ دار ہیں۔ مجھے کہنے دیجئے جناب چیئرمین صاحب کہ نیشنل اسمبلی ان دونوں چیزوں کی ذمہ دار اپنے آپ کو نہیں گردان سکتی اور نہ اس کا دعویٰ کر سکتی ہے۔ اس میں صرف حلقوں کی نمائندگی ہے۔ ہر ایک ایم این اے اسے کام میں احضام کے ساتھ ذکر کرتا ہوں۔ صوبائی اسمبلی کے ممبر اپنے حلقے کے متعلق بات کرتے ہیں۔ یہاں تک اور صوبوں کے حقوق کا مسئلہ پیش ہوتا ہے۔ یہ بڑا پیچیدہ مسئلہ جناب چیئرمین! آپ کے زیر بحث ہے اور سینیٹ کے فیصلے کا لوگ انتظار کرتے ہیں۔ اسے آخری ہاؤس، ایوان بالا اور سینیٹ کہتے ہیں۔ ہم یہاں، اس باعزت ایوان میں بیٹھے ہوئے ہیں۔ قطع نظر اس بات کے کہ پارٹی پارٹیکس میں پارٹی کے لوگ کہاں کھینچتا تانی کرتے ہیں۔ یہ ان کی اپنی مرضی ہے۔ بعض ممبروں نے بڑی اچھی تجاویز بڑی اچھی مثالیں آپ کی خدمت میں پیش کی ہیں۔ میں اتنا عرض کرتا ہوں کہ میں آزاد سینٹریٹ ہوں میں نہ گورنمنٹ کے ساتھ ہوں اور نہ میں اپوزیشن کے ساتھ ہوں مجھے یہ رعایت حاصل ہے کہ اگر فیڈرل گورنمنٹ بہتر کام کرے اور اگر میں اپنے نقطہ نظر سے اچھا سمجھتا ہوں تو یہ نا انصافی ہوگی تو میں اس کے بہتر کام اور کارکردگی کو طے پر اچھا نہ کہوں اور اگر فیڈرل گورنمنٹ میں کسی جگہ نقص ہیں تو میں بلا جھجک ان کو پوائنٹ آؤٹ کر دوں بلکہ آپ کی دسالت سے اور اپنی سینٹرل برادری کی دسالت سے اس ایوان کے ذریعے ہم اس کی اصلاح کریں گے میری مراد یہ نہیں ہے کہ میں فیڈرل گورنمنٹ کے خلاف ہوں یا اپوزیشن کے خلاف ہوں۔ بعض چیزوں پر میں نے فیڈرل گورنمنٹ کا ساتھ دیا ہے اس ایوان میں تمام ممبران گواہ ہیں۔ یہ مسئلہ بہت پیچیدہ ہو گیا ہے اور ہمیں ایک ذمہ داری سونپی گئی

ہے کہ ہم سب چیزوں کو دیکھیں اور ملک کی سلامتی سے لے کر صوبائی حقوق تک نظر رکھنا ہمارا ذمہ داری ہے اس وقت پاکستان کی سلامتی متزلزل دکھائی دیتی ہے اور یہ ہو سکتا ہے کہ مرکز اور صوبوں میں باقاعدہ عملی طور پر clash ہو جائے۔ یہ کتنی بد قسمتی کی بات ہوگی یہ چیز فیڈرل گورنمنٹ کے پاس ہونی ہی نہیں چاہیے تھی۔ میں احترام کرتا ہوں۔ پرائم منسٹر کا ذاتی طور پر بھی اور ان کے ماشاء اللہ آدھی صدی یا اس سے زیادہ وزرا اور Advisors موجود ہیں ان کا بھی یقیناً وہ اس مسئلے پر زیادہ لائق آدمی اپنے ساتھ رکھے ہوئے ہے تو کیا وہ پوائنٹ آؤٹ نہیں کرتے کہ ایسے جھگڑوں کا نتیجہ پاکستان کی سلامتی کے لیے کیا براہد ہوگا۔ وہ خیال نہیں کرتے ہیں کہ advice دیں کہ یہ مسئلہ کس طرح حل کرنا چاہیے۔ پانی میں انسان آگے جاتے ہوئے سوچتا ہے کہ آگے بہت گرا پانی ہے وہ ایک لالچی لالچا کر پیٹے لالچی کو آگے کرتا ہے تاکہ گرائی کا پتہ لگ سکے اور اگر پانی بہت گرا ہو اس کے قدم سے بھی زیادہ تو متعلقہ آدمی ذرا پیچھے ہٹ کر سوچتے ہیں کہ ہمیں کون سا راستہ اختیار کرنا چاہیے یہ ان کی بات نہیں ہے۔ نہ صوبوں کے لیے اور نہ مرکز کے لیے۔ ہم نہ فیڈرل گورنمنٹ کو یہ اجازت دیتے ہیں کہ وہ ایسے اقدام کرے جس سے یہ چند منٹش پیدا ہو اور دنیا بھر میں یا ہمارے ملک میں موجود پاکستان کے دشمن خوش ہوں۔ ہم صوبوں کو بھی مشورہ دیتے ہیں ہم ان کے نمائندے ہیں۔ وہ بھی ہم لوگوں سے ایڈوائس لیں۔ ہمیں ایڈوائس دیں اپنے حالات بتائیں ہمیں افسوس ہے کہ صوبوں نے بھی اس مسئلے میں ہم سے کوئی مشورہ نہیں لیا نہ ہمیں کوئی بریفنگ دی نہ ہماری مدولی۔ اصل مسئلہ کیا ہے یہ ہمیں صرف اخبارات سے معلوم ہوا۔ یہ صوبائی حکومتوں کی ذمہ داری تھی ہم ان کے نمائندے ہیں انہوں نے ہمیں بریفنگ نہیں دی۔ ہم جو بھی ہیں جس نظریے کے بھی ہیں اس صوبے کے نمائندے ہیں قطع نظر اس کے کہ حکومت کس پارٹی کی ہے اور کون وزیر اعلیٰ ہے وہ ہمیں دعوت دے کر دہاں بلائیں۔ وہ ہمیں بلائیں تو ہم خوش ہوں گے ہم ان کو اپنی رائے دیں گے ان سے رائے لیں گے ان سے ہدایت لیں گے کہ ہمیں یہاں کیا کہنا چاہیے اس وقت ہم بعض سینیٹرز نے فیڈرل گورنمنٹ کے معاملات سے واقف ہیں اور نہ صوبائی حکومتوں کے معاملات سے یہ پارٹی کی بنیاد پر ایک افسوس ناک جنگ ہو رہی ہے جو نہیں ہونی چاہیے یہ ایک قومی مسئلہ ہے یہ صوبائی حقوق کا مسئلہ ہے یہ صوبوں کی ترقی کا مسئلہ ہے ہوا میں فیڈرل گورنمنٹ ڈیپلینٹ نہیں کر رہی دہاں کر رہی ہے اور خود فیڈرل گورنمنٹ نے ہمارے آئین ۱۹۷۳ء میں تیسرا کیا ہے کہ یہ کام صوبائی

[Mr. Nabi Bakhsh Zehri]

اختیار میں ہے، ایک صوبے کی باؤنڈری ہے اور ایک ڈسٹرکٹ کی ہے صوبے کے اندر جو بھی کام ہو میں سمجھتا ہوں کہ اس کے لیے وہ لوگ جو شکست خوردہ ہیں وہ لوگ جو ممبر نہیں ہیں وہ لوگ جو ایسے نامزد نہیں ہو سکتے وہ سرکاری فنڈ کو استعمال کریں اور اس انداز سے جو ہم سنتے ہیں۔ آئینی بحث میں وزیر قانون یا دوسری طرف سے جو دلائل آپ کی خدمت میں پیش کئے گئے ہیں قطع نظر ان کے یہ تو عقلی بات ہے کہ ہوا میں ڈویلپمنٹ نہیں ہوتی فیڈرل گورنمنٹ کی سر زمین متعین ہے اسلام آباد اور باقی زمین سے صوبوں کے رہنے والوں کی زمین ہے۔ میں خشک روٹی کھانا چاہتا ہوں آپ کہتے ہیں کہ میں تمہیں پلاؤ دیتا ہوں اگر نہیں کھاتے ہوا اور اپنا منہ نہیں کھولتے ہو تو میں تمہیں گولی سے مار کر یا تمہارا منہ کھول کر کہوں گا کہ کھاؤ پلاؤ، بابا میں خشک روٹی کا عادی ہوں میرا طریق کار وہ ہے میں پہاڑی آدمی ہوں پہاڑ کا رہنے والا ہوں، تم کہتے ہو کہ نہیں یہ پلاؤ ہے اور میری پیپلز پارٹی کی طرف سے ہے، ہم قدر کرتے ہیں کہ وہ پیپلز پارٹی اگر صوبوں میں ڈویلپمنٹ کرتی ہے اس کا نام دیا ہی رہے گا کہ پیپلز پارٹی گورنمنٹ نے کیا ہے وہ بغیر نام کے، بغیر عزت کے نہیں ہے گی بلکہ باعزت و بااحترام ہوگی مگر یہ ایک علیحدہ نظام چلانا میرے خیال میں جناب چیئرمین صاحب آپ نے تین دن سے کئی نوٹس لیے ہیں، اور کئی قانون دانوں کا نقطہ نظر سنا ہے۔۔۔۔۔

جناب چیئرمین: آپ نے ایک بڑا اہم پوائنٹ اٹھایا ہے کہ آپ کو پلاؤ کھلایا جا رہا ہے اور آپ کھانا نہیں چاہتے، یہ بڑا اہم نکتہ آپ نے اٹھایا۔ جی فرمائیں۔  
میر نبي بخش زہری: جناب میں یہی عرض کر رہا ہوں ہم تو دلائل سے بات کرتے ہیں قانونی بات دیکھ لوگ (x x x x x) لوگ میں لیکن ہم لوگ جو ہیں تجربے کی بات کرتے ہیں۔  
جناب چیئرمین: یہ لفظ جو x x ہے حذف کیا جائے، آپ زہری صاحب اپنی تقریر وائسڈ اپ کریں۔

میر نبي بخش زہری: جناب والا! یہ تو میں نے صاف طور پر عرض کر دیا کہ زمین صوبے کی ہے اب فیڈرل گورنمنٹ اسی طرح سے اسی نظام پر کام کرے جو پہلے ہوتا رہا ہے میں اب سینٹ برادری سے عرض کرتا ہوں اور فیڈرل حکومت کو مشورہ دیتا ہوں کہ اس میں ان کی کوئی بات نہیں ہے یہ ووٹنگ کی بات نہیں ہے یہ جیتنے کی بات نہیں ہے ایک ٹیکنیکل معمولی بات کو بہت بڑھایا گیا کیا ہم یہاں اس ٹاؤس میں بیٹھے رہیں اور خدا نخواستہ اس ملک کا + حکم جناب چیئرمین القاد حذف کیے گئے۔

نقصان ہو جائے اور جب ہم صوبوں میں واپس جائیں تو وہ ہمیں صوبے میں داخل نہ ہونے  
دیں دونوں باتیں ہم سے نہیں ہو سکتیں دونوں ہماری ذمہ داری ہیں اس ہاؤس کو فیصلہ کرنا پڑے گا  
تاکہ آئندہ کوئی حکومت ایسا کام نہ کر سکے جو خلافِ قانون ہو خلافِ اصول ہو، یہ ہے میری  
گزارش شکریہ!

Mr. Chairman: Now, anybody else who wants to speak?  
Would you not like to wind up at the end once you have heard  
all the Members - Professor Sahib, you are the mover of the  
motion, I think once, you have heard the other Members, then  
you will be in a better position to wind up and then the  
Ministers can wind up on this side. Bangulzai Sahib, please  
to be very brief.

میر حسین بخش بنگلزئی : جناب چیئرمین! آج اس معزز ایوان میں جو تحریک استحقاق  
پیش ہے اس کی ایڈ میسیبلٹی پر مختلف انداز میں دلائل دیئے گئے ہیں، سرکاری پنچوں کی طرف  
سے ان کا نقطہ نظر سامنے آیا ہے اور ہاؤس کی طرف سے بھی سینئرز کا نقطہ نظر سامنے  
آ رہا ہے میں اس بحث میں اپنے خیالات کا اظہار و ٹوک انداز میں کرنا چاہتا ہوں اور میں آپ  
کی خدمت میں یہ عرض کرنا پسند کروں گا کہ یہ تحریک استحقاق قانونی، آئینی، اخلاقی اور سیاسی  
 لحاظ سے کیوں ایڈ میسیبل ہے۔

جناب والا! جہاں تک سینیٹ کے تصور کا تعلق ہے جہاں تک سینیٹ کی فارمیشن کا  
تعلق ہے سینیٹ صوبائی حقوق کی guardian ہے ملک کی سلامتی کی guardian  
ہے۔ آئین کے تحفظ کی guardian ہے۔ جہاں تک صوبوں کے حقوق کی بات ہے میرا تعلق صوبہ

بلوچستان سے ہے جو اپنے رقبے کے لحاظ سے ملک کا سب سے بڑا صوبہ ہے لیکن  
آبادی کے لحاظ سے اس ملک کی قومی اسمبلی میں میرے صوبے کے صرف ۱۳ ممبر ہیں ۳۴  
میں سے، میں کسی کو یہ اجازت نہیں دے سکتا ہوں کہ وہ میرے صوبے کے حقوق پر  
ڈاکہ ڈالے، کیا میں سینیٹ میں اس لیے منتخب ہو کر آیا ہوں کہ کوئی  
جماعت اپنی عدوی برتری کے حوالے سے قومی اسمبلی میں میرے حقوق کو پامال کرے کیا میں اس  
لیے ادھر بیٹھا ہوں کہ میرا بحیثیت سینیٹر کے یہ استحقاق ہے کہ میں وی آئی پی کے طور پر  
ایئر پورٹ پر آسانی سے آ جا سکوں۔ کیا سینیٹر کی حیثیت سے میرا استحقاق صرف یہ بنتا ہے  
کہ میں تنخواہیں لیتا پھر دوں اس ملک کے آئین نے مجھے یہ پریویج دی ہے اور یہ گارنٹی دی ہے  
میں جس صوبے کی نمائندگی کرتا ہوں اس صوبے کے عوام کے حقوق کا تحفظ میری منصبی ذمہ داری  
ہے۔ آپ بجٹ کے حوالے سے قومی اسمبلی میں جو چاہیں پیش کریں اور اس کو پاس کریں میرے  
صوبے کے ۱۳ میرا اپنے عدوی حساب سے اس نا انصافی کے خلاف کیا آواز بلند کریں گے اور

[Mir Hussain Bangalzai]

ان کی آواز کو کس انداز میں سنا جائے گا۔ اسی وجہ سے آئین کے حوالے سے سینٹ کی ترتیب تمام صوبوں سے برابری کے حوالے سے ہے اگرچہ میرے صوبے کے ۱۲ ممبر قومی اسمبلی میں ہیں لیکن اس صوبے کے حقوق کے تحفظ کے لیے آئین میں یہ حوالہ دیا گیا ہے یہ پرلویج دی گئی ہے کہ سینٹ کے اندر جنرل سیٹوں پر ۱۲ ممبر ہوں گے۔ اس حوالے سے جناب والا! یہ میرا فرض بنتا ہے کہ میں اپنے صوبے کے حقوق کے تحفظ کی ذمہ داری پوری کروں۔ لہذا یہ ہر سینیٹر کا ایک ممبر کی حیثیت سے پرلویج ہے اگر صوبے کے حقوق کے ساتھ کسی بھی انداز میں کوئی چپقلش ہو تو ہم آپ کی رسالت سے اس کو اس ہاؤس میں defend کریں۔ اب ایک آئینل سینٹ نے یہ کہا کہ مشرقی پاکستان کے چلے جانے سے پہلے جبکہ صوبائی کیمٹ ۸۰ فیصد صوبوں کے حوالے سے فرسٹ ہوتا تھا اور وفاق کے پاس صرف ۲۰ فیصد تھا اس کے باوجود لوگ اس بات پر satisfied نہیں تھے جس کے نتائج ہم سب کے سامنے ہیں جس کے نتائج تاریخ کے اوراق میں محفوظ ہیں۔ جس کے تلخ نتائج ہمارے ذہنوں اور سینوں میں محفوظ ہیں کیا اس بات کو اسی انداز میں دہرایا جائے گا کیا آج بھی ہم تاریخ سے سبق نہیں لے سکتے کیا ہم اس لیے یہاں آئے ہیں کہ پاکستان کی سلامتی کے ساتھ ایک پروگرام کے حوالے سے کھیلین نہ پاکستان کے حوام اس بات کی اجازت دیں گے اور نہ یہ آئینل ہاؤس اس بات کی اجازت دے گا۔

دوسری بات ہم سوشل ویلفیئر کے حوالے سے کسی بھی پروگرام کی مخالفت نہیں کرتے یہ میں آپ کے سامنے واضح کرتا ہوں۔ سوشل ویلفیئر کا جہاں تک تعلق ہے آپ جو بھی پروگرام لانا چاہیں ضرور لائیں اس لیے کہ آپ برسرِ اقتدار ہیں اس لیے کہ ہم نے آپ کو یہ حق دیا ہے لیکن اس کا طریق کار کیا ہوگا۔ اس وقت اعتراض صرف اس پروگرام کے طریق کار پر ہے اس کی بنیادی اساس پر نہیں ہے آپ کا کیا خیال ہے کہ صرف آپ ہی لیگوں کی ویلفیئر کے لیے سوچتے ہیں اور ہم سب باقی یہاں ڈاکو بیٹھے ہیں ہم بھی اتنے ہی پاکستانی ہیں ہم بھی اتنے ہی جذبات رکھتے ہیں ہم بھی اس ملک کی سلامتی کے ساتھ اتنے ہی concerned ہیں جتنا کوئی اور ہو سکتا ہے لہذا ہماری تجاویز میں اور ہماری تجاویز solid انداز میں وفاق کو united رکھنے کے حوالے سے ہیں۔

جناب پہلی بات جو میں آپ کی خدمت میں عرض کرنا چاہتا ہوں کہ صوبوں کے حقوق کے ساتھ کسی بھی پروگرام کے حوالے سے نہ کھیلا جائے بلکہ ملک کے تمام لوگوں کو اعتماد میں لے کر logic

کے ساتھ reason کے ساتھ محبت کے ساتھ آگے چلا جائے اور ملک کے وزیر اعظم کا یہ فرض ہے وہ بے شک کسی پارٹی کی چیئر پرسن ہے ہمارا اس سے کوئی تعلق نہیں لیکن ہم یہ سمجھتے ہیں کہ وہ اس ملک کی وزیر اعظم ہے اور ملک کے وزیر اعظم کو وزیر اعظم کی حیثیت سے سوچنا چاہیے کہ اس پروگرام کے متعلق پورے ملک کے احساسات کیا ہیں۔

دوسری بات اس ملک کی پارلیمنٹ اور جمہوری تاریخ میں ہمیشہ یہ بات کہی گئی ہے اور یہ دعویٰ کیا گیا ہے کہ ہم جمہوریت میں یقین رکھتے ہیں اور ہم جمہوریت کی پیداوار ہیں ہم ووٹ کے ذریعے آئے ہیں اور ووٹ کے ذریعے ہم نے ۷۴ کا آئین بنایا ہے۔ تسلیم بالکل صحیح ہے۔ ہم اس بات پر آپ کو مبارک باد دیتے ہیں آپ بالکل جمہوریت کے ذریعے ایوان میں پہنچے ہیں آپ کا یہ حق ہمارے حراںکھوں پر لیکن آپ اس جمہوریت کو، آپ اس ووٹ کے حق کو کس انداز میں استعمال کرنا چاہتے ہیں اس لیے دنیا کی سیاسی تاریخ میں جمہوری تاریخ میں پارلیمانی تاریخ میں کچھ مسلمہ اصول ہیں اور ان مسلمہ اصولوں میں سے ایک اصول یہ ہے کہ گورنمنٹ کے خزانے کا ایک ایک پیسہ گورنمنٹ کے نمائندوں کے ذریعے اور پیکیج سے ووٹ لے کر آنے والے نمائندوں کے ذریعے خرچ ہوگا اس لیے کہ وہ منتخب لوگ اپنے اداروں کے سامنے پاکستان کے عوام کے سامنے جوابدہ ہیں ایک ایک پائی کے لیے۔

جناب والا! بنیادی جمہوریت لوکل کونسل سے لے کر سینیٹ تک یونین کونسل، تحصیل کونسل، ٹاؤن کمیٹی، ڈسٹرکٹ کونسل، صوبائی اسمبلی، نیشنل اسمبلی، سینیٹ یہ سب کے سب ادارے منتخب ہیں اگر آپ انتخابات کے نتائج میں اس سنجیدگی سے یقین رکھتے ہیں تو جناب لوگوں نے ووٹ دے کر کیا گناہ کیا۔ لوگوں نے ووٹ دے کر جن ممبروں کو منتخب کر کے اسمبلی میں بھیجا ہے کیا ان کا صرف یہی گناہ ہے کہ انہوں نے پیپلز پارٹی کو ووٹ نہیں دیا یہ ان کی صوابدید ہے وہ جس کو بھی چاہیں ووٹ دیں لیکن ملک کے آئین کے حوالے سے جس کو بھی ووٹ ملے ہیں جو بھی نمائندہ منتخب ہو کر آتا ہے آئینی تقاضوں کے مطابق اس کا یہ حق بنتا ہے کہ گورنمنٹ ایگزیکٹو کے اندر اس کی رائے لی جائے اس کو consult کیا جائے اور اس کی رائے کا احترام ہو بنیادی بات جس سے ہم اختلاف رکھتے ہیں وہ یہ ہے کہ آپ اپنا پیپلز پروگرام ضرور چلائیں مگر کن کے ذریعے، ملک کے اندر منتخب لوگوں کے ذریعے سے، پیپلز پارٹی کے ورکروں کے ذریعے سے نہیں۔ اس لیے کہ پیپلز پارٹی کا ورکر پیپلز پارٹی کا رہتا تو صرف پیپلز پارٹی کے سامنے

[Mir Hussain Bakhsh Bangalzai]

جوابدہ ہے جو آدمی اپنے حلقہ انتخاب سے منتخب ہو کر آیا ہے وہ تو اس پورا حلقہ انتخاب کے اندر جواب دہ ہے۔ نہ تو کسی حلقہ انتخاب کے لوگ پیپلز پارٹی کے درکرز سے پوچھ سکتے ہیں نہ وہ آدمی جو منتخب ہو کر اسمبلی میں پہنچا ہے وہ ان سے پوچھ سکتا ہے اس سے تو آپ پوچھ سکتے ہیں میں کس سے پوچھوں میرا جو حق اس اسمبلی کے اندر بنتا ہے کہ اس ملک کے ساتھ کیا ہو رہا ہے اس ملک کے بجٹ کے ساتھ کیا ہو رہا ہے۔ یہ بات میں کس سے پوچھوں اور کس حیثیت میں پوچھوں اور کس سے پوچھوں کیا آپ میرے حق پر تلوار چلانا چاہتے ہیں، کیا آپ میرے اس حق کو غصب کرنا چاہتے ہیں، اگر آپ ایسا ارادہ رکھتے ہیں تو یقیناً رکھیے، مگر میں آپ کو اس کی قطعاً اجازت نہیں دوں گا۔ اور نہ میرا صوبہ آپ کو اجازت دے گا۔

ہم اس بات کو سمجھتے ہیں کہ بہت سارے زعماء کرام اور وزراء کرام کچھ کتابوں کے حوالوں سے، قانون کے حوالوں سے، مختلف دفعات کے حوالوں سے prove کرنا چاہتے ہیں کہ یہ privilege نہیں بنتا، مگر میں اس ملک کی بنیادی اساس اور سلامتی کے حوالے سے یہ بات کہ دینا چاہتا ہوں کہ جہاں پر لوگوں کے ذہنوں میں ایک بات فریم ہو جائے، ایک پروگرام فریم ہو جائے، ایک نفرت فریم ہو جائے، اس وقت آپ کے قانون کو کوئی شخص نہیں دیکھتا، اس وقت آپ کی یہ تمام قانونی مویشگافیاں جو ہیں یہ دھری کی دھری رہ جاتی ہیں، لہذا پاکستان کے اندر پاکستان کو تمام لوگوں کے احساسات اور جذبات کا خیال رکھتے ہوئے آگے بڑھانے اور یہ تینہ ہے، یہ کوئی معمولی بات نہیں ہے، اس کو lightly نہ لیا جائے، جناب والا! اپنے ملک کے سیاسی اور نمائندگی کے تقاضوں کے حوالے سے میری یہ تجویز ہے کہ اس privilege motion کو privileges committee کے حوالے کر کے آپ اس ماؤنس کی honour کو بحال کریں تاکہ privilege کمیٹی کے سامنے دوڑوں عمائدی دوڑوں پارٹیاں، اپنا اپنا نقطہ نظر حوصلے کے ساتھ، دلائل کے ساتھ پیش کر سکیں اور اس پر کوئی صحیح فیصلہ آسکے، میں ان الفاظ کے ساتھ آپ کا شکریہ ادا کرتا ہوں۔

جناب چیرمین ! شکر یہ - جناب سومر و صاحب

**Mr. Ahmed Mian Soomro:** Thank you Mr. Chairman, I will be very brief because I think we have already debated this.

**Mr. Chairman:** I think most of the angles have been covered. I think this is a new angle which has been brought in that the power of accountability which the Senate has, has been taken away. This is a new angle and I am sure this will be replied to.

**Mr. Javed Jabbar:** Mr. Chairman, with great respect I do not think this represents the introduction of any new point.

**Mr. Chairman:** I just thought I will draw attention to this. The only point he made was that the House has the right or privilege to take the Government into account. The government officials, I mean, are a part of the machinery and, therefore, the Government can be made to answer for them. What he is saying is, right or wrong, that by having it implemented through people who are neither government servants nor elected people the power of this House to take them into account has been taken away. Whatever the value of the argument might be, this is a point that has been made.

**Mr. Javed Jabbar:** Mr. Chairman, may I submit that Article 169 clearly states, which the honourable Interior Minister covered in his presentation of argument very lucidly yesterday, that for every penny of the State of Pakistan, the Government of Pakistan is subject to audit by the Auditor General who in turn is answerable to parliament through the Federal Government.

**Mr. Chairman:** Quite right.

**Mr. Javed Jabbar:** So, there is no question of any unaccountability of public money;

**Mr. Aitzaz Ahsan:** May I make one short submission because if we expand this argument that nobody who is not a representative can be associated with the programme then no programme can be at all implemented because a lot of labourers work on that, a lot of engineers work on that. So many people work on that but they have no representative capacity.

(Interruptions)

**Mr. Chairman:** Mr. Ahmed Mian Soomro.

(Interruptions)

**Mr. Ahmed Mian Soomro:** I am sorry this is not the way that the dignity of this House should be maintained. However, I am not referring to any particular person.

Sir, we have heard very lengthy arguments, very able arguments and very irrelevant arguments. This is the longest debate on the admissibility of a motion.

**Mr. Chairman:** No, there have been longer debates. I think on the President's speech it took four days.

**Mr. Javed Jabbar:** Yes, the debate on the privilege motion concerning the dissolution of the Assemblies took four days.

**Mr. Ahmed Mian Soomro:** I mean on the admissibility of a privilege or an adjournment motion.

**Mr. Chairman:** Yes, that was on the admissibility of a privilege motion concerning dissolution of Assemblies and it took four days. I remember listening endlessly to very learned arguments.

**Mr. Ahmed Mian Soomro:** I stand corrected, Sir.

**Lt. Gent. (Retd.) Saeed Qadir:** Mr. Chairman, may I request that we should be allowed to continue to break the record.

**Mr. Chairman:** No. No. It is not a question of breaking the record. The idea is to debate this issue and we will examine, of course, all the legal and other constitutional issues which have been raised by the honourable Members.

Yes Mr. Ahmed Mian Soomro.

**Mr. Ahmed Mian Soomro:** Sir, here I would once again reiterate what I had proposed very long time back in the Senate. That it is necessary that we have an Act of Parliament to be called the Privileges Act. The privileges should be defined, the punishment for the breach of them should be defined and the forum for trying them must be defined.

We are now almost completing four years since our birth - I mean the present Parliament or Senate. So, I very humbly would like to point out that this is one of the essential things that we should consider so that we are clear what are the privileges of a Member, what are the privileges of the House and be clear whether there has been any breach or privilege or not. Because so often we have found, Sir, and it has been ruled that this is not a privilege and, therefore, the question of its breach does not arise.

I would here, Sir, make a humble submission about the Rulings of the Chair. Sir, we have had the able guidance of the previous Chairman who had been good enough to have a lot of his rulings printed for our guidance but I think the same is not the case with the National Assembly or any of the Provincial Assemblies that they have printed their rulings for the guidance of their successors. In that context, Sir, my humble submission is that those rulings are not binding on you. You can differ from them. Today, you are in the Chair; tomorrow your successor may not agree with what you have said. I go a step further. Sometimes you are not here, the Deputy Chairman is presiding, sometimes he is not here and one of the three of the Panel of presiding officers is presiding and if they are also not here anybody from the House presides and in many a case there may be a person who does not know very much of law. His ruling obviously would not be binding on you when you preside, if it is quoted as a precedent. Therefore, my humble submission is that these rulings are a guide and not mandatory for you to follow.

Then, Sir, just one or two points I would like to submit here with reference to the arguments of the very learned Interior Minister who himself is a very able lawyer. One of his arguments was that why is it that when the Punjab Police went into Sind, for whatever reasons, a privilege motion was not raised. So, why it is being raised now? If we accept that argument it means that for ever we close the door to privilege motions of this House because rightly or wrongly if that was not raised; whether it should have been raised or should not have been raised is a different matter; if according to the very learned honourable Minister that was not raised, therefore, why is this motion being raised, I very humbly submit that this is no argument. If there is a breach of privilege it can be raised - whether there is or it not is for you to determine but that is no argument

[Mr. Ahmed Mian Soomro]

as to why a privilege motion was not brought at that time. May be the Senators did not think that that was a breach of privilege. The argument that because of that all privilege motions in the future should not be admitted on the basis of that. I very respectfully submit that I do not think I could be in agreement with him on this ground.

Another point is, Sir, he referred to an Act - the Finance Act. An argument against the proviso to Article 97 of the Constitution I respectfully submit that an Act is an Act but Act of whom? There is a Provincial Act, it is an Act of the Provincial Legislature, there is an Act of the National Assembly as the Finance Act but it is not an Act of the Majlis-e-Shoora. Majlis-e-Shoor's Act would be one which is approved by both the Houses, by Parliament. Parliament comprises of both the Houses and under our Constitution because the Finance Act is not supposed to come to the Senate, therefore, that is .....

*(Interruptions)*

**Mr. Chairman:** But in this connection I will just like to draw your attention to Article 260 where act of Parliament is defined. It says:

"Act of Majlis-e-Shoora (Parliament) means an Act passed by Majlis-e-Shoora (Parliament) or the National Assembly and assented to, or deemed to have been assented to, by the President;"

**Mr. Ahmed Mian Soomro:** The Finance Act is an Act where Senate has been excluded Sir. Therefore, my submission is that it would not come within the proviso of Article 97 of the Constitution. And lastly Sir, I would not go into detail but point out one thing only that the present ruling party, Peoples Party, was one of the components of the MRD and the programme of MRD was to give only four subjects to the Federal Government which were finance, communications, defence and foreign policy. And all the subjects according to their own manifesto and programme were to go to the Provinces. Now, why do they want to bring in social welfare and also do social welfare through the Federal Government. I would, therefore, appeal to them to please carry out what they have promised to the people. Carry out their mandate on the basis of which they have come. They are an elected government democratically elected. They should respect their programmes because the MRD's programme is their

programme as they were an important component part of that. The rest of the argument Sir, I do not want to repeat you have heard both the sides and I am sure as a competent and able lawyer you will be able to appreciate the .....

(Interruptions)

**Mr. Ahmed Mian Soomro:** Please Mr. Minister sit down while I am on my feet.

**Dr. Sher Afgan Khan Niazi:** Mr. Chairman, there is a very important point.

جناب چیئرمین : ڈاکٹر صاحب بیٹھیں ایک منٹ - پہلے ان کو ختم کر لینے دیں۔ ہم آپ کو بعد میں موقع دیں گے۔

(Interruptions)

**Mr. Ahmed Mian Soomro:** Sir, since he is losing patience, please give him the floor.

جناب چیئرمین : جی ڈاکٹر صاحب آپ پوائنٹ آف آرڈر پر ہیں ؟

**Dr. Sher Afgan Khan Niazi:** You may kindly look clause (4) of Article 91 of the Constitution, which is very important:

Article 91(4) - "The Cabinet, together with the Ministers of State, shall be collectively responsible to the National Assembly".

جناب چیئرمین : کیا مطلب ہوا ؟

**Dr. Sher Afgan Khan Niazi:** That was responsible to the Parliament and particularly to the Senate but this is to the National Assembly.

**Mr. Chairman:** Collective responsibility to the National Assembly means that the National Assembly by passing a vote of no confidence can remove the Government. The Senate cannot do it. So, that is what collective responsibility means. Dr. Bisharat Elahi Sahib.

**Dr. Bisharat Elahi:** Thank you Mr. Chairman. Sir, this

[Dr. Bisharat Elahi]

privilege motion is a very important motion and a lot has been said for it and on it by my honourable colleagues. I shall not take very much of your time and the time of this House but since the honourable Interior Minister dwelt on a number of rulings I would also like to be given the opportunity of quoting something from a book but before I do that let me start by saying that the three corner stones of the Constitution of Pakistan are based on Islam, federalism and democracy. And federalism or provincial autonomy has been a very sensitive issue since the inception of Pakistan. My worthy colleagues have mentioned about the 1970's crisis with the then East Pakistan but I would like to take you to the first Constitution of Pakistan. It took them nearly eight or nine years before the Constituent Assembly could come up with a Constitution. And the most important reason for the delay in formulating and finalizing that Constitution was an issue of federalism and provincial autonomy. My friends here both on the treasury benches and the other Members of this honourable House should be aware of this. Even today provincial autonomy is a very sensitive issue and any effort to upset the balance may lead to very serious consequences.

Now Sir, I would only dwell on this issue because most of the argument including this have been adequately covered by my friends but I would like to quote from the Constitution of the Islamic Republic of Pakistan edited and introduced by Makhdoom Ali Khan. This is on page 4 of the Introduction to this Constitution:

"This doctrine of legislative omnipotence finds no place in a Federal system of Government. Federalism is a means of bringing together racially or culturally diverse groups of people under a system of Government which has the flexibility and strength to bear the tensions emanating from such conflicts. Sir Kenneth Wheare considers this system of government appropriate to those groups of States or communities which desired to be united under a central government for some purpose and regional governments for others. C.F. Strong argues that in the absence of two conditions a Federal State cannot be created.

And this is important Mr. Chairman, Sir.

First there must be a sense of unity among the peoples of the units desiring federation and secondly these people "though desiring union, do not desire

unity, for if they desired unity they would form not a Federal but a unitary system". Federalism is thus the recognition of a need to balance the centrifugal forces of diversity with the centripetal pulls of unity in a plural society."

Sir, although the whole of page 5 is relevant but I will now go to the last four lines on this page.

"The principal reason for incorporating these rules in a formal legal document is to place curbs on the arbitrary acts of government, to safeguard the liberties of the people and to confine the operation of sovereign authority

And I repeat,

to confine the operation of sovereign authority within defined limits;"

Sir, in view of what I have already said and in view of all the arguments that have been given let us not tremble with this delicate balance between the Federal Government and the Provinces. It is not in the national interest and it is not in the interest of any Federal Government neither is it in the interest of any Provincial Government. Let us carry on the way we have been doing in the past. We have got to strengthen provincial autonomy and not weaken it. Thank you very much, Sir.

Mr. Chairman: Thank you very much. Mr. Behrawar Saeed.

جناب چیئرمین: بہرہ ور سعید صاحب - مختبرات کریں۔ صرف ایڈمیسیٹی پر بولیں۔  
اخوندزادہ بہرہ ور سعید: بسم اللہ الرحمن الرحیم۔ جناب چیئرمین صاحب۔ شکریہ جب  
بھی میری باری آتی ہے آپ۔۔۔۔

جناب چیئرمین: آپ کی تقریر ذرا لمبی ہوتی ہے اس لیے میں گھبرا جاتا ہوں۔

اخوندزادہ بہرہ ور سعید: میں کوشش کروں گا کہ باسکل مختصر عرض کروں۔ جس طرح میرے  
دوستوں نے اشارہ کیا ہے کہ اس ایوان بالا کے وجود کا مقصد صرف اور صرف یہی ہے کہ وہ یہ  
دیکھے کہ نہ تو کوئی شخص اپنے اختیارات سے تجاوز کرے اور صوبوں کے اختیارات پر حملہ کرے  
اور نہ صوبے کوئی ایسے اقدام کریں جس سے صوبے میں نافذ مرکز کے قوانین میں کوئی دشواری پیدا ہو۔  
اور جب ایسی سچٹیشن پیدا ہو تو پھر یہ اس ایوان کا فرض ہے کہ آگے اس ایوان کا اس میں انٹرسٹ  
ہے۔ پریویجیشن کے رول ۶۲ کے (۵) میں یہ درج ہے۔

Where the Senate has an interest.

اور یہی ہمارا انٹرسٹ ہے کہ ہم دیکھیں کہ جو ہمارا فیڈرل نظام ہے یہ smoothly چلے۔ یہ کاماب

[Akhunzada Behrawar Saeed]

ہو۔ کوئی اس میں نہ تو کسی کی حق تلفی کرے اور نہ کوئی اس میں خواہ مخواہ اپنا رعب جانے کی کوشش کرے اس سے تمہی پیدا ہوگی فائدہ نہیں ہوگا۔

جناب والا! اس وقت بحث کا یہ موضوع گو کہ ایک پریویج موشن کے ذریعے سے زیر بحث لایا گیا ہے اچھا ہوتا اگر وزیر داخلہ جس طرح سے انہوں نے اعلان کر کے سندھ کے مسئلے پر ایک گول میز کانفرنس بلانے کی تجویز پیش کی ہے جسے میں صحیح اقدام سمجھتا ہوں۔ اسی طرح سے اگر ایوان میں بھی یہ موشن پیش کرتے کہ صوبوں اور مرکز کے تعلقات پر تفصیلی بحث ہو تو بہتر ہوتا۔ مگر وہ انکی اپنی مرضی ہے۔ جو چاہے ان کا حسن کرشمہ ساز کرے۔

یہاں جو قانونی دلائل دیئے گئے ہیں۔ اس سے پہلے کہ میں ان کے بارے میں کچھ گزارشات کروں۔ میرے سامنے اس مسئلے کے دو بڑے پہلو ہیں۔ سب سے اہم ترین پہلو اس کا سیاسی ہے اور یہ قانونی موٹگانیا یا قانونی دلائل یا جس کو میں کہوں گا ہمارے دوست بڑے rhetoric طریقے سے بڑے جوش سے کئی کئی کتابوں کے حوالے دے کر اس پوائنٹ کو ثابت کرنے کی کوشش کرتے ہیں کہ یہ سوشل کام ہے اور سوشل کام کرنے کے لیے ہر ایک کو یہ حق حاصل ہے۔ خاص کر مرکز کو یہ حق حاصل ہے کہ جہاں چاہے وہ سوشل کام کر سکتا ہے۔ ٹھیک ہے۔ لیکن اگر ہم اپنے اس آئین کو دیکھیں جناب تو اس کے چند حصے ہیں۔ پہلے حصے میں آئین کی تعریف اس طرح سے کی گئی ہے کہ اس کی ہیئت ترکیبی کیا ہے۔ اور وہ یہ ہے کہ یہ ایک فیڈریشن ہے جس میں ایک فیڈرل ایریا چار صوبے اور قبائلی علاقے شامل ہیں۔ میرے ایک دوسرے دوست نے اس کی تائید میں پرنسپل آف پالیسی کے آرٹیکل ۷، ۳۱، ۳۲ اور ۳۹ کو بڑا ایکٹوٹ کیا اور یہ کوشش کی کیونکہ ان آرٹیکلز میں ایسے کام۔ درج ہیں جو کہ لوگوں کے آرام کے لیے سہولت کے لیے رفاہ عامہ کے فردی ہیں اس واسطے مرکزی حکومت کو یہ حق پہنچتا ہے کہ وہ اس میں دخل دے۔ جناب والا! میں یہ گزارش کروں گا کہ آئین کا یہ حصہ جس کو پالیسی سٹیٹمنٹ کہتے ہیں یہ اس آئین کی خصوصیت نہیں ہے۔ دنیا کا کوئی بھی آئین اٹھالیجئے۔ اگر آپ مجھے اجازت دیں تو میں یہ بھی کہوں گا کہ یہ روس کے آئین میں بھی ہے۔ جتنی اچھی باتیں انسان کے دماغ میں آتی ہیں وہ اسی پیراگراف یا اسی حصے میں درج کی جاتی ہیں کہ سٹیٹ جس طرح سے جناب ڈاکٹر صاحب نے اس کو ڈیفائن کیا کہ سٹیٹ کیا ہے اور پھر یہ آگے فرمایا کہ اس میں مجلس شوریٰ ہے۔ پھر یہ فرمایا کہ اس میں نیشنل اسمبلی ہے سینیٹ ہے اور پریزیڈنٹ صاحب ہیں جناب والا! میں یہ گزارش کروں گا کہ اس سے آپ ذرا آگے بڑھیے یہ جو اتنے ذہین اصول نو بصورت پیرلئے میں پالیسی سٹیٹمنٹ میں درج ہیں ان پر عملدرآمد

کرنے کے لیے تقسیم کار کا طریق اختیار کیا گیا ہے جو کہ ہر جگہ ہوتا ہے ہر ملک میں ہوتا ہے ہر آئین میں ہوتا ہے اور وہ تقسیم کار یہاں صوبوں اور مرکز کے دائرہ اختیارات کو محدود کرتا ہے۔ یہ سلسلہ نیا نہیں ہے اس دن بھی میں نے عرض کیا تھا ۱۹۳۵ء کے ایکٹ کے متعلق میرے ایک دوست نے اشارہ کیا کہ Diplock نے آرگومنٹ کرتے وقت فرمایا تھا کہ میں چیئر سے عرض کروں گا کہ مجھے interference کی اجازت دے۔ میں یہ عرض کروں گا کہ جب تمیزالدین خان کیس میں ایک طرف سے Diplock آیا اور دوسری طرف Prick آیا شاید ان دنوں وہ (وزیر موصوف) پڑھتے تھے Diplock نے آرگومنٹ شروع کرتے ہوئے یہ کہا

The key to the lock lies in the interpretation of the dominion.

اور میں یہ کہوں گا

The key to the powers of the Federation and the provinces lies in Article 8 Act of 1935.

یہ جناب والا! اس کا آئینی پہلو ہو گیا۔ میں نہیں سمجھتا۔ میرے ان دوستوں نے بڑے زور شور سے کتابوں کے ڈھیر لاکر۔ کبھی ہمارے پاس ایک وکیل صاحب ہوتے تھے۔ ان کی بڑے میں ہمیشہ بیس پچیس کتابیں ہوا کرتی تھیں۔ جو بھی موکل آتا کتے اٹھاؤ سول کیس میں کیا پھر بھی وہی کتابیں ہوتی تھیں فوجداری کیس میں بھی وہی کتابیں ہوتی تھیں اس میں وصول تک کبھی اٹھی نہیں مگر وہ کتابیں ساتھ جاتی تھیں کتابیں تو میں بھی لائبریری سے اٹھا کر لاسکتا تھا لیکن اس کی کوئی ضرورت نہیں ہے یہاں (سر کی طرف اشارہ کرتے ہوئے) سے کام لینا چاہیے اور یہاں سے ہم کام لیتے کس واسطے ہیں؟ ہم چاہتے ہیں کہ اس ملک میں خوشگوار تعلقات ہوں ہم چاہتے ہیں کہ ملک مضبوط ہو۔ ہماری یہ خواہش ہے کہ یہ ملک آزاد ہو۔ اور ہماری یہ خواہش ہے کہ اس ملک میں ہر ایک صوبے کے رہنے والے کو تسکین قلب حاصل ہو۔ اس کے سوا باقی ان کو خدا دے۔ میں یہ سوال پوچھتا ہوں کہ سندھ نے اتنی جدوجہد کے بعد ۱۹۳۶ء میں بمبئی سے اپنے آپ کو الگ کیوں کیا وہ تو بہت بڑا صوبہ تھا اس کے پاس تو بڑی دولت تھی اس دولت کو وہ سندھ پر خرچ کر سکتے تھے وہ کیوں الگ ہوا ہم نے صوبہ سرحد میں ۱۹۰۵ء میں یا ۱۹۰۱ء میں پنجاب سے اس صوبے کو الگ کیا پنجاب تو بڑا سرسبز و شاداب صوبہ ہے اس کی آبادی بہت زیادہ ہے اس کے پاس پیسہ بہت ہے کارخانے ہیں ہم ان سے کیوں الگ ہوئے ہیں تو جناب اتنی جدوجہد کے بعد پھر وہ یونٹ بنا پھر وہ یونٹ کیوں ٹوٹا کیوں ناکام ہوا کیا اس تجربے کو

[Akhunzada Behrawar Saeed]

ہم پھر اس لیے دہراتے ہیں کوئی شخص یا کوئی وزیر صاحب اپنے جوش خطابت میں آکر آئین کی غیر متعلقہ شقوں کی آرٹ لے کر یہ کہے کہ ہاں مرکز کو اس میں دخل دینے کا حق حاصل ہے سوشل پروگرام کے تحت، سوشل پروگرام کو آپ کتنا وسیع کریں گے جتنی بھی اس کو آپ وسعت دینا چاہیں لیکن میں یہ پوچھتا ہوں کہ اس سوشل پروگرام کو آپ جس طریقے سے صوبہ سرحد میں نافذ کرتے ہیں اور عملدرآمد کرتے ہیں جس طریقے سے آپ سندھ میں اس پر عمل درآمد کرتے ہیں تو بلوچستان نے کیا تصور کیا ہے پنجاب نے کیا تصور کیا ہے اگر وہ اپنے revenue کو بند کرے تو آپ کا Federal Consolidated Fund کہاں سے آئے گا پھر یہ وزراء صاحبان اتنا وکالت میں کمال لیں گے کہ اس کو پورا کر لیں گے۔ جناب ہمیں جوش کی بجائے ہوش سے کام لینا چاہیے فرض کیا (میں دلائل کی حد تک عرض کرتا ہوں) کہ یہ سوشل پروگرام وفاقی حکومت کے دائرہ کار میں آتا ہے گو کہ مجھے اس سے انکار ہے کہ وہ یہ کام کر سکتے ہیں لیکن وہ کہتے ہیں کہ یہ کام ہم بھی کر سکتے ہیں اور اس سے پہلے ۵ سالہ پروگرام میں وہ کام کر کے دکھا چکے ہیں اگر وہ اس کام کو کر سکتے ہیں جس کو وہ کرنا چاہتے ہیں تو پھر یہ تو فیڈرل گورنمنٹ ہے اس کے پاس تو بڑے مسائل ہیں اس کے پاس تو ہمارے انڈیشن کی رائی بھی ہے پھر کی بھی ہے پھرتی بھی ہے اس کا علاج بھی ڈھونڈیں اس کے ہزاروں ایجنٹ میرے ملک میں کام کر رہے ہیں اس کا علاج ڈھونڈیں اس ملک میں روٹی کے لیے لوگ ترستے ہیں اس کا علاج ڈھونڈیں منگائی روز بروز بڑھ رہی ہے اس کا علاج ڈھونڈیں کپڑے اور مکان کی بات تو نہیں ہے ہاں پی اور پی اور پی کی بات ہے پیتے رہیں، کرتے رہیں مجھے کوئی کچھ عرض نہیں ہے لیکن اس میں میری ایک گزارش ضرور ہے کہ ان کا منشور جو شور کرنا چاہے کرے ان کو اجازت ہے لیکن وہ منشور ان کی پارٹی کا ہے وہ منشور میرا نہیں ہے وہ میرے ملک کا نہیں ہے وہ میری قوم کا نہیں ہے اگر اس منشور کی افادیت کو وہ ثابت کریں کہ ہاں قوم کے لیے ہے پھر تو کوئی بات ہوئی مگر ایک شکست خوردہ امیدوار کو ایڈمنسٹریٹ بنا کر throughout ایسے لوگوں کو جن کو عوام نے مسترد کر دیا ہے ان کو لا کر ان کے ہاتھ میں وہ سب کچھ دے دیتے ہیں اور پھر کہتے ہیں کہ اس میں تو ۶ سرکاری اہلکار ہیں، اس میں بہرہ ور مسجد کے کلاس فیلو بھی ہیں اس میں وزیر داخلہ کے کلاس فیلو بھی ہیں کیا فرق پڑے گا اختیارات تو ہمارے اس شخص کے پاس ہیں جسے عوام نے مسترد کر دیا ہے اور دروازہ اعلان کرتے ہیں زکوٰۃ کے فنڈ کا کیا حشر بنا رہے ہیں حج کے ساتھ کیا مذاق ہو رہا ہے۔ کس کس چیز کو اس روئے کس کس چیز کے متعلق اپنی فریاد کو کہے جناب ڈاکٹر صاحب کے کانوں تک پہنچاؤں میں اس لیے نہیں کہتا ہوں میں ڈاکٹر صاحب کا بہت احترام کرتا ہوں اور اپنے نوجوان وزیر داخلہ کا اس سے بھی زیادہ احترام کرتا ہوں میں صرف اتنی گزارش کرتا ہوں کہ خدایا اس ملک کو بچانے کی کوشش کیجئے آئیے ہم بھی آپ کے ساتھ ملتے ہیں ہم آپ کو پیشکش کرتے ہیں

کہ باہم بیٹھ کر ایسا کوئی پروگرام طے کریں جس سے صوبے بھی خوش ہوں آپ اگر مڈ ٹرم انتخابات کی تیاری کر رہے ہیں کیجئے۔ آپ کے پاس اس کے سوا کوئی چارہ بھی نہیں ہے۔

You have to meet your lot of Waterloo, the earlier, the better, and when one man is there in the name of Nawaz Sharif, remember ..... (Interruption)

کیجئے تیاری کیجئے ہم بھی تیار ہیں لیکن موقع آنے دیں اور اگر آپ بے موقع لاتے ہیں تو کل یہ اعلان کیجئے انشاء اللہ ہم کمر بستہ ہو کر میدان میں اتریں گے۔

جناب والا! میری گزارش یہ ہے کہ اس سینٹ کا یہ فرض ہے کہ وہ ایسے معاملے میں جہاں صوبوں اور مرکز میں تصادم ہونے کا خطرہ ہے اور جو حالات بنے ہوئے ہیں مثلاً بلوچستان میں کیا ہو رہا ہے ہم آنکھیں کیوں بند کر رہے ہیں جناب چیئرمین! ایک ڈائریکٹر مرکزی حکومت کا جاتا ہے پیپلز پارٹی کا کرتا دھرتا اس کو ہوائی اڈے پر وہ کہتے ہیں کہ اس جہاز میں ایک گھنٹے کے بعد واپس تشریف لے جاتے ہو یا کل کے جہاز کے لیے جیل میں انتظار کرتے ہو وناں اگر یہ ہو سکتا ہے تو یہ پنجاب میں بھی ہو سکتا ہے میں پھر وہی دلیل دہراؤں گا کہ باقی تین صوبے ان میں ہمارے ایسے دوست ہیں

جن کو اب یہ حکومت اس لیے پال رہی ہے کہ اس کی حکومت کو انہوں نے میا کی جیٹا کی ہے وہ دن وہ بھی دن تھے جب محترمہ مینظر صاحبہ کے والد بزرگوار نے ایک جماعت کو سپریم کورٹ سے غیر ملکی ڈیکلیئر کر دیا تھا ان کو سینے سے اب لگایا جاتا ہے کیونکہ اس کی وزارت بنے، بناؤ، کوئی بات نہیں اگر آپ خوش ہیں تو ہم خوش تو نہیں ہیں مگر رضی ہیں مگر اس کے نتائج آپ کو بھگتنے پڑیں گے سندھ میں اب جو یگم صاحبہ فرماتی ہیں کہ نیم لیاوت جیسے آثار ہیں گوریلا وار نیئر شروع ہے وہ گیارہ سالہ دور تو گیا ۶ مہینے آپ کو ہو گئے ہیں اس عرصے سے پہلے تو نہ گوریلا وار تھی نہ نیم باغیاز حالات تھے اب کیسے پیدا ہوئے ہیں نے پیدا کئے، نواز شریف نے پیدا کئے، کیا بگتی نے پیدا کئے، جناب والا یہ حکومت کی نااہلی نے پیدا کیے یہ حکومت مرکز میں اور سندھ میں نااہل ثابت ہوئی ہے اور اگر ان میں کچھ بھی جمہوریت کی قدر ہے جو کہ میں سمجھتا ہوں کہ نہیں ہے تو میرے اس مال سے نکلنے سے پہلے وہ مستفی ہو جائیں تو میں مبارک باد دے دوں گا۔

جناب چیئرمین : شکریہ! میرے خیال میں اب ختم کر دیں تو بہتر ہوگا۔  
انورزادہ بہرہ ور سعید : میرے دوست منظر فار انٹریٹ نے آرٹیکل ۷ آرٹیکل ۳۰....

جناب چیمبرین :- اس کا بات تو ہو گئی نا۔

اخونزادہ بہرہ در سعید :- مجھے اجازت دیں آرٹیکل ۲۸، ۲۹، ۹۷ اس کا تو ذکر کیا مگر آرٹیکل

۱۳۱، ۱۳۲ (سی) کو کیوں نظر انداز کیا وہاں تو آرٹیکل ۱۳۲ (سی) کتنا کلیئر ہے اس کو نظر انداز کرنا ایک اچھے دیکھی کے لیے جو کہ وہ سمجھتا ہے کہ وہ ہے مناسب نہیں میں پڑھ دیتا ہوں آپ کی اجازت سے اگر اس کو اس میں تکلیف ہے۔ ۱۳۲ میں پڑھ دیتا ہوں۔

"142. Subject to the Constitution:-

(a) Majlis-e-Shoora (Parliament) shall have exclusive power to make laws with respect to any matter in Federal Legislative List".

Sir, the stress is on the Federal Legislative List which is defined in Schedule 4. It is given and there under item 25 shelter is being taken by the Interior Minister that this is social work.

جناب چیمبرین :- ان کا انحصار ہے۔۔۔

اخونزادہ بہرہ در سعید :- جناب میں آگے چلتا ہوں میں (سی) بڑھتا ہوں۔

جناب چیمبرین :- (بی) بھی پڑھیں۔

اخونزادہ بہرہ در سعید :- میں (بی) بھی پڑھ لیتا ہوں۔

It says:

"142. (b) Majlis-e-Shoora (Parliament), and a Provincial Assembly also, shall have power to make laws with respect to any matter in the Concurrent Legislative List";

concurrent دونوں کی پاور میں ہے دونوں کی مرضی سے ہے دونوں کے مشورے سے ہے اور (c)

جو کہ all pervading ہے۔

"142 (c): A Provincial Assembly shall, and Majlis-e-Shoora (Parliament) shall not..."

Sir, this may be noted. It is not the National Assembly. It is said 'the Majlis-e-Shoora', that is, the National Assembly, the Senate and the President - all the three are incompetent, it is not within their jurisdiction. It is *ultra vires* of their powers because it says:

"... (Parliament) shall not, have power to make laws with respect to any matter not enumerated in either the Federal Legislative List or the Concurrent Legislative List";

This my friend has very nicely evaded. Why? Because he had not the reasons to meet this.

**جناب چیئرمین :** ان کی آرگومنٹ یہ تھی کہ یہ کنکرنٹ لسٹ میں سوشل ویلفیئر ہے سوشل ویلفیئر پر وہ انحصار کر رہے ہیں۔

**اخونزادہ بہرہ درسعید :** کنکرنٹ لسٹ میں ہے تو کنکرنٹ میں دونوں کی مرضی شامل ہے۔ اس میں صرف چونکہ اے وزیر داخلہ ہے بی وزیر قانون ہے سی وزیر فلان صاحب ہے تو وہ جب چاہیں اس کو کریں نہیں جناب، جس کے مزاج میں جو آئے وہ نہیں ہوگا اس ملک کے آج اگر یہ وزیر ہیں آج اگر یہ جھنڈا ہلاتے ہیں تو کل وقت آئے گا کہ یہ جھنڈے کا الٹا سرا آئیگا اس کے بعد ڈنڈا بھی ہے۔ جناب والا! ہم اس ملک میں ایسا کرنے کی اجازت نہیں دیں گے۔ ہم تعاون کے لیے تیار ہیں۔ خدا کا واسطہ ان کو دیتے ہیں ہم یہی کہتے ہیں کہ آپ نے اپنے اتنے خزانے کھولے ہیں کتے ہیں خزانہ خالی ہے۔ خالی خزانے میں سے جو کچھ بھر رہا ہے یہ تو بس تنگ والی بات ہوگئی۔ نیکہ اٹھایا تو روپے نکلتے ہیں نیکہ ہٹایا تو روپے غائب ہو گئے لیکن ان کا مطلب جناب آپ اجازت دیں اگر ان کا مطلب صرف اتنا ہے۔ ایک بادشہی کے حکمران فوت ہو گئے۔ اجازت دیجئے جناب

**جناب چیئرمین :** بس آخری بات۔

**اخونزادہ بہرہ درسعید :** نہیں جناب

**جناب چیئرمین :** میرے خیال میں اب کافی ہو گیا ہے آدھا گھنٹہ ہو گیا ہے۔

**ڈاکٹر شیر افغان خان نیازی :** اپڈیٹیشن پر ابھی نہیں آئے وہاں آئیں تو بہتر ہے۔

Mr. Chairman: He has talked about it.

Dr. Sher Afgan Khan Niazi: He has not talked about the admissibility. I request, Sir, he may be given time for presenting his views on admissibility.

**جناب چیرمین :** انہوں نے بات کی ہے ان کی آرگومنٹ کا کیا وزن ہے یہ علیحدہ بات ہے انہوں نے ایڈمیسیٹی کی بات کی ہے۔ جی فرمائیے۔

**اخونزادہ بہرہ ور سعید :** جناب والا! اس ساری کارروائی سے تو معلوم ایسا ہوتا ہے ایک بادشاہی میں ایک بادشاہ لاوارث ثروت ہو گیا۔ ان کے under nineteen کچھ اور کچھ اور وزراء سارے جمع ہو گئے۔ فیصد کیا کہ صبح گیٹ میں سے جو آدمی پہلے داخل ہو اس کو بادشاہ بناؤ۔ خوش قسمتی سے ایک فقیر آیا۔ وہ میرے پیر صاحب سمجھیں یا میرے منٹو صاحب سمجھیں یا مجھے سمجھیں۔ انہوں نے کہا کہ تم بادشاہ ہو۔ اس نے کہا کہ میں بادشاہ ہوں حلوہ لے آؤ۔ اس نے حلوہ کھالیا کچھ دیر کے بعد انہوں نے کہا کہ جناب ملک پر تو حملہ ہو گیا۔ حملہ ہو گیا تو کہا حلوہ لے آؤ۔ انہوں نے کہا کہ دشمن کی نوچیں شہر میں داخل ہوئیں اس نے کہا کہ حلوہ لے آؤ۔ وزیر نے کہا کہ دربار کے اندر تو میں داخل ہوئیں اس نے کہا کہ حلوہ لے آؤ انہوں نے کہا کہ تخت کے قریب پہنچ گئی ہیں اس نے کہا کہ حلوہ لے آؤ۔ حلوہ کھالیا اور اپنی گودڑی اٹھائی اور کہا کہ کس نے آپ کو کہا کہ مجھے بادشاہ بناؤ۔ تو پھر ایک شاعر نے کہا ہے اس پر میں اپنی تقریر ختم کرتا ہوں۔

بلبل نے آشیانہ چمن سے اٹھالیا  
اس کی بلا سے بوم بے یا ہمالے

Mr. Chairman: There are 2 formal items on the agenda, that is, items 2 and 3. After finishing them we will adjourn the House. Yes Syed Abbas Shah Sahib - items 2.

#### Motion Under Rule 171(1)

Syed Abbas Shah: Sir, with your permission I move:

"That under sub-rule (1) of rule 171 of the Rules of Procedure and Conduct of Business in the Senate, 1988, delay in the presentation of report of the Standing Committee on Petroleum and Natural Resources and Water and Power on the issue raised in the adjournment motion moved by Senator Javed Jabbar on the frequent breakdowns of electric power at Karachi, be condoned till today".

Mr. Chairman: It has been moved by Syed Abbas Shah that:

"That under sub-rule (1) of rule 171 of the Rules of Procedure and Conduct of Business in the Senate, 1988, delay in the presentation of report of the Standing Committee on Petroleum and Natural Resources and Water & Power on the issue raised in the adjournment motion moved by Senator Javed Jabbar on the frequent breakdowns of electric power at Karachi, be condoned till today".

(The motion was adopted)

**Mr. Chairman:** The delay stands condoned.

Next item 3.

**Report of the Standing Committee regarding frequent  
breakdown of electricity - presented**

**Syed Abbas Shah:** Sir, I present the report of the Standing Committee on Petroleum and Natural Resources and Water and Power on the issue raised in the adjournment motion moved by Senator Javed Jabbar on the frequent breakdowns of electric power at Karachi.

**Mr. Chairman:** The Report stands presented.

Now, I adjourn the House to meet again tomorrow, 16th May, 1989 at 10.00 A.M.

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[The House adjourned to meet again at ten of the clock in the morning on Tuesday, May 16, 1989].

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REPORT OF THE STATION COMMITTEE

Mr. Chairman, the delay in the passage of the bill is regrettable.

Very respectfully,  
Your obedient servant,

Report of the Station Committee regarding the  
proceedings of the Electricity Bill - presented

At a meeting of the Station Committee held on the 14th day of May, 1908, the following report was presented by the Chairman, Mr. J. H. ...

Mr. Chairman, the report is as follows:

It is recommended that the bill be passed as amended on the 15th day of May, 1908.

The House of Representatives has passed the bill on the 14th day of May, 1908.