

SENATE OF PAKISTAN

SENATE DEBATES

Monday, June 30, 1997

The Senate of Pakistan met in the Senate Hall (Parliament House) Islamabad, at five minutes after seven in the evening with Mr. Chairman (Mr. Wasim Sajjad) in the Chair.

Recitation from the Holy Quran

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

يَا أَيُّهَا النَّاسُ قَدْ جَاءَكُمْ بُرْهَانٌ مِنْ رَبِّكُمْ وَأَنْزَلْنَا إِلَيْكُمْ نُورًا مُبِينًا
○ فَأَمَّا الَّذِينَ آمَنُوا بِاللَّهِ وَاعْتَصَمُوا بِهِ فَسَيُدْخِلُهُمْ فِي رَحْمَتِهِ مِنْهُ
وَفَضْلٍ وَيَهْدِيهِمْ إِلَى صِرَاطٍ مُسْتَقِيمٍ ○

ترجمہ: اے لوگو بے شک تمہارے پاس اللہ کی طرف سے واضح دلیل آئی اور ہم نے تمہاری طرف روشن نور اتارا۔ تو وہ جو اللہ پر ایمان لائے اور اس کی رسی مضبوط تھامی تو عنقریب اللہ انہیں اپنی رحمت اور اپنے فضل میں داخل کرے گا اور انہیں اپنی طرف سیدھی راہ دکھائے گا۔

Mr. Chairman: Mr. Sartaj Aziz sahib.

Mr. Sartaj Aziz: Mr. Chairman, I beg to move under Rule 236 of the

Rules of Procedure.....

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Mian Raza Rabbani: Sir, on a point of order.

POINT OF ORDER

i) Re: Kidnaping of a journalist

Mr. Chairman: Yes, Mr. Raza Rabbani Sahib, on point of order.

Mian Raza Rabbani: Sir, today is Monday and Monday is a Private Members' Day. Sir, before I come on the point of order, the Press Galleries are staging a walk out and I think it is fortunate that the Prime Minister is also present. You would recall, sir, through you, I would like to bring it to the notice of the Prime Minister that two or three days ago Mr. Humayun Fer, a renowned, seasoned and a very old journalist of Islamabad was kidnapped and his where abouts, still today are unknown. The Government has failed to provide any information to the journalist community or to his wife or family with regards to his where about. If in the Federal capital, this is the state of the law and order that a journalist, coming out with his wife to hail a taxi, is kidnapped by unknown people and the Federal Police is unable to trace his where abouts. It is a matter of grave concern.

Mr. Chairman: So, when the Interior Minister is here, I will ask him to make a statement on this. Do You want to make a statement on this, yes, Mushahid Hussain sahib?

Mr. Mushahid Hussain: Sir, because the Interior Minister has already talked to the members of the press, a couple of hours ago and assured them that the Government is fully aware of the situation and that Mr. Humayun Far, a journalist from Islamabad is being investigated for certain actions and that

he is safe and sound and I personally had two telephonic conversations with the son of Mr. Humayun Far.

Ch. Aitzaz Ahsan: Mr. Chairman, if he is under custody, we would like to know in whose custody Mr. Humayun Far is and what are the charges against him, if not, also what is prima facie the evidence, but certainly the charges against him.

Mr. Chairman: However, if the Interior Minister has details, he will come and give us the detail. In the mean time

آپ جو دوسری بات کرنا چاہ رہے تھے وہ کریں۔

ii) Re: Suspension of rules.

Mian Raza Rabbani: Sir, I really don't know why the honourable Finance Minister is moving for suspension of the rules, because today is Monday and Monday, according to the Rules of Procedure, Rule 22, is a Private Members' Day and this is the only day in the week in which private members' business is taken up and in any case, I would like to draw your attention to Rule 236 of the Rules of Procedure and Conduct of Business, which says that 'whenever any inconsistency or difficulty arises in the applications of these rules. Now, sir, it has limited it to two. No. 1, is that there should be an inconsistency in case, there is no inconsistency, there should be a difficulty arising in the application of these rules or is otherwise considered necessary, any member may with the consent of the Chairman.

جناب چیئرمین، ابھی تو انہوں نے پڑھا ہی نہیں۔ After I heard the motion, I

If it is in order, I find it out in order, I rule it out of order. مجھے سننے تو دیں ہے کیا۔

will put it to the House. پتہ پتہ تو پٹے ہے کیا؟

And secondly, you know, we had a discussion in my chamber, the Government wishes to move the Constitution 14th Amendment Bill. It appears to me that they may, would like to suspend the Rules to enable them to move this Bill.

Mian Raza Rabbani: Sir, I may humbly submit (a) that the Order of the Day is given by the Government, they could have put it on the Order of the Day over the weekend. So, members could have had ample notice.

جناب چیئرمین، تو اسی لئے تو suspension کر رہے ہیں ناں۔

میاں رضا ربانی، جناب میری ایک منٹ کے لئے اگر آپ عرض سن لیں، میں بات

مکمل کر لوں۔ دوسری بات یہ کہ suspension کے لئے move کر رہے ہیں۔

for bringing a Bill. A Constitutional Amendment Bill. It is not an ordinary Bill. The Bill has not been circulated to any member. It may have been circulated in their own Parliamentary Group meeting, that is another point. But as far as the Opposition is concerned, we do not know what is the Bill about, and they expect us to go ahead and not to oppose the suspension of rules. They expect us to say all right, go ahead and bulldoze it. This is not the way, sir. I would most humbly request through you that in principle we are not against the concept of Floor Crossing but atleast the tradition of the Senate and Parliament should be kept in mind this is a Constitutional Amendment Bill, it is a very important Bill, the Members must get time, if not ample time, time atleast to read the Bill, to form an opinion on it and then to make a healthy contribution. But just to bring it say, yes or no and we pass the Bill.

جناب چیئرمین، اس کی کاپیاں تیار ہو گئی ہیں خالد انور صاحب، تقسیم ہو گئی ہیں۔

میاں رضا ربانی، جناب ہمیں تو یہاں پر نہیں ملیں۔

Sir, there is no Bill. All that is lying here is the order of the day and the

prorogation order. There is no copy of the Bill. There is no copy of the Bill that is on the table of the House, sir.

جناب چیئرمین: 'نہیں نہیں' they are under preparation, تقسیم ہو رہی ہیں۔

Mian Raza Rabbani: Sir, if they are under preparation, sir, it is a constitutional amendment bill, how can it be passed like this

کہ ابھی تک کاپیاں تقسیم نہیں ہوئیں اور وہ کہہ رہے ہیں کہ جی بل جو ہے وہ پاس کرنا ہے۔ جناب وہ motion move کر رہے ہیں، ابھی کاپی دے رہے ہیں تو یہ کس طرح موشن موو ہوگا۔ جناب چیئرمین! میں نے پہلے بھی یہ عرض کیا تھا کہ وہ دن نہ لائیں کہ جب آپ بھی گوہر ایوب اور سومرو صاحب کی صف میں کھڑے ہوں۔ جناب چیئرمین صاحب! وسیم بھادڑ کا ایک اپنا مقام ہے۔ وہ دن نہ لائیں کہ آپ کو بھی گوہر ایوب اور سومرو صاحب کی صف میں کھڑا کیا جائے کہ ایک نے بارہویں ترمیم جو ہے بارہ منٹوں میں پاس کی دوسرا جو ہے وہ بلڈوز کرے جاتا ہے بحلیش۔

LEGISLATION

(Fourteenth Amendment) Bill 1997.

Mr. Chairman: I will give this assurance, it will not be passed in twelve minutes.

Mian Raza Rabbani: Sir, or in fifteen minutes. Sir, the Bill has not been circulated as yet. Sir please! I beseech you, live up to your own tradition.

Mr. Chairman: However, the point is that after this Bill is circulated, you will get time to talk about it.

کوئی ایسی بات نہیں ہے۔

Mian Raza Rabbani: Sir, it is not a question of hitting time, we have to apply our mind to the Bill.

جناب چیئرمین، کریں ناں پھر - You are an experienced lawyer, Aitzaz

Ahsan is also experienced.

میاں رضا ربانی، جناب آپ مجھے بتائیں کہ Constitutional Amendment Bill

is given to us on the floor. It is given to us on the floor and we are told that all

- This is not fair. right now give your opinion on it, کیسے ہوگا۔

جناب چیئرمین، کابیلیاں تقسیم کریں۔ جی اعجاز جتوئی صاحب، آپ کیا کہنا چاہ رہے

ہیں۔

جناب اعجاز علی خان جتوئی، جناب تین تین آدمی کھڑے ہیں، ان کو تھوڑا

ڈیکورم سکھائیں۔ جناب میں یہ کہتا ہوں کہ یہ اس defection clause کے خلاف تو پیپلز پارٹی

والے خود بھی بڑا چلاتے رہے ہیں۔ دیکھیں حکومت میں رستے ہوئے یہ ایک بل لا رہے ہیں، یہ تو

میں سمجھتا ہوں کہ ان کو آج اعتراض نہیں ہونا چاہیئے۔ ہم تو expect یہ کر رہے تھے کہ یہ اس

پہ ایک اور بل لے آئیں گے۔

(مداخلت)

جناب اعجاز علی خان جتوئی - چھ چھ آدمی کھڑے ہیں وہاں پر۔

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کر رہے ہیں۔

(interruption)

Mr. Chairman: You see Aitzaz Sahib, I will give you time to speak on the Bill and I know it that with your experience as a lawyer, you will have no difficulty in speaking on the Bill and understanding all these intircacies.

Ch. Aitzaz Ahsan : May I submit, Mr. Chairman:

Mr. Chairman: Yes, please.

Ch. Aitzaz Ahsan: I may or I may not have, I am not aware of a difficulty in speaking on the Bill but I certainly have a great disability on applying a proper dispassionate and an easy mind to such an important piece of legislation. It is not an ordinary legislation. It will tell upon the entire political structure in this country. On principle, we are not opposed to a law which concerns defection and which inhibits defection but the least we can seek from you Mr. Chairman, and it must be noticed on the record and for the sake of the record that while my honourable colleagues were speaking and after they had objected which is not about two minutes ago, have we been supplied with the copies of the Bill as it is to be moved. There were some drafts that were moving around, there were some drafts that we were reading about in the newspapers but this is the first serious positive step and this step requires for the purpose of good legislation and this is not an ordinary legislation. This is an amendment in the Constitution itself. The Constitution is the supreme law of the land. Are we going to go down in history as the country as perhaps the only country where constitutional amendments have been moved one after the other after suspending rules.

Mr. Chairman: Anyhow let us proceed and see.

Ch. Aitzaz Ahsan: Sir, kindly let me submit.

Mr. Chairman: Yes, please.

Ch. Aitzaz Ahsan: My submission is first of all before anything, before even he seeks a suspension of the rules, this Bill has been placed on the table, on our desks two-three minutes ago. First of all, without any particular hesitation and the honourable Prime Minister is here, they should immediately, I

submit give time atleast to read it.

Mr. Chairman: Anyhow, it is upto the House. The motion will come before the House.

I will give you time to speak on this. اور اس کے بعد جب debate ہو گی

Ch. Aitzaz Ahsan: That is one thing. We are expected to speak on it immediately as the debate starts. After all, I am sure the people of the Treasury Benches will not speak.

جناب چیئرمین، وہ دیکھ لیتے ہیں معاملہ آگے تو چلے۔

(مداخلت)

Mr. Chairman: Once we are seized of the Bill then we can look into all the complications.

Ch. Aitzaz Ahsan: Mr. Chairman, I believe from newspapers that this is going to stifle speech also.

Mr. Chairman: I don't know.

وہ سامنے آنے گا آپ کی باتیں سن کے پتہ چلے گا کہ کیا ہو رہا ہے۔

Ch. Aitzaz Ahsan: May I submit?

Mr. Chairman: yes, please.

Ch. Aitzaz Ahsan: I believe and I have reasons to believe or I expect that there will be probably no speeches.

Mr. Chairman: Why do you expect so?

Ch. Aitzaz Ahsan: May be I am wrong.

Mr. Chairman: We don't know, we will see.

Ch. Aitzaz Ahsan: But this appears to be and I will probably be proved right that probably no input from the treasury benches except that of the movers.

Mr. Chairman: Why should pre-empt and prejudge what the other side is going to say?

Ch. Aitzaz Ahsan: Even treasury members and particularly the Opposition which have to give a definite input, which wants to give a definite input, which wants a good law on defection. At least that, you know, sometimes before even rules are suspended.

Mr. Chairman: Yes, please Nisar Sahib.

Ch. Nisar Ali Khan: Sir, I just want to set the record straight. An impression is being created here as if all of a sudden we have come up with this bill and we are asking the members of the Senate, from both sides, to push it through within a next couple of hours. Sir, with due respect I would say just for the sake of the record:

یہ پچھلے دو مہینوں سے اس بل پر کام ہو رہا ہے اور پچھلے دس دنوں سے

we have been in touch with every political group represented both in the Senate and the National Assembly. Almost eight days ago I, in your presence Mr. Chairman, inter-acted with the Leader of the Opposition in the National Assembly myself. You were present at the lunch,

اس کے علاوہ غورخید احمد شاہ جو ان کے representative ہیں، ان کو آج سے ایک ہفتہ پہلے یہ جو

original draft ہے ہم نے دیا۔ ہمارے جو allies ہیں

not only the allies but quite a few groups who are not our allies, like the JUI, like the Pukhtoon Khaw

ہم نے circulate کیا اور یہ جو بل ہمارے سامنے آیا ہے یہ مسلم لیگ کا بل نہیں ہے۔ we created a consensus out side the House. There were long deliberations,

discussions and every political group except, unfortunately, the PPP inter-action تھی اور ان کی input سے 'یہ کہنا کہ all of a sudden ایک بل آ گیا ہے اور آپ کے سامنے پڑھا ہے یہ بالکل غلط ہے۔ اس کے پیچھے بہت home work ہوا ہے۔

every political group has been taken into confidence. As so much so sir, the Leader of the House, the Prime Minister has put it before the parliamentary party only after all the political groups had agreed on one draft.

مسلم لیگ کی پارلیمانی پارٹی کے سامنے تو آج یہ draft آیا ہے۔ میری with due respect یہ التجا ہے کہ we do not want to stifle debate in this House, we want to carry them along ابھی آپ کے ساتھ meeting ہوئی جس میں 'میں بھی موجود تھا اور ہمارے دونوں معزز سینئر صاحبان بھی موجود تھے۔ ہم ان کا یہ کہنا appreciate کرتے ہیں کہ they are basically let us not make it for the anti-defection formality بہت آگے پیچھے let us work out things a political issue , جس میں اگر objective ایک ہے تو یہ بھونٹی موٹی چیزیں work out ہو سکتی ہیں۔

Ch. Aitzaz Ahsan: Sir, I would like to respond to this, what has been said but while I am responding, being in the opposition, having a certain responsibility to this House, I may just bring to the notice again, because I hope somebody from the treasury benches has gone to the press room, sir, Interior Minister has gone, that is why my friend Mr. Mushahid Hussain seems to be sitting here. No body left from here, that is why I thought....

Mr. Chairman: No, that has been handled

اس پر آئیں ناں۔

Ch. Aitzaz Ahsan: I would at the same time

یہ بھی ضروری ہے I would request somebody from the treasury benches to go up to the press room and see what their concerns are and to assure them, sir, بات درست ہے کہ دو تین بلکہ شاید پانچ، چھ دن پہلے ہمیں approach کیا گیا اور ہم سے مراد یہ ہے کہ وہ فرما رہے ہیں کہ lunch پر محترمہ بے نظیر بھٹو صاحبہ کے ساتھ منسٹر صاحب کی بات ہوئی۔ جناب lunches پہ اب ساری constitutional amendments نہیں ہو سکتیں، in principle کوئی ہمیں بات کرے کہ آپ defection laws/anti-defection laws چاہتے ہیں۔

Mr. Chairman: Copy was given to her in my presence.

چوہدری اعترار احسن۔ یہ وہ کاپی نہیں جناب۔ میں آپ کو یہ بتا دوں، میں آپ کو دکھا سکتا ہوں کہ اس میں بہت فرق ہے۔

Mr. Chairman: I know, but draft was given to her.

چوہدری اعترار احسن۔ یہ وہ چیز نہیں ہے اگر تو یہ ہوتی تو ہمیں کیوں اعتراض ہوتا۔ جناب چیئرمین۔ نہیں exactly وہ چیز نہیں ہے لیکن مفہوم وہی ہے۔

چوہدری اعترار احسن۔ نہیں، نہیں مفہوم بھی نہیں ہے۔ اس میں بہت زیادہ فرق ہے اور ایک صاحب، محترم ایم این اے ابھی بیٹھے ہوئے تھے، چلے گئے ہیں، اسفند یار ولی صاحب انہوں نے یہ دیا تھا۔ وہ دو drafts تھے، بالکل ان سے مختلف تھے۔ اگر یہ پوچھا جائے کہ جناب آپ مجھ سے پوچھیں کہ آپ anti-defection laws کے حق میں ہیں کہ خلاف ہیں، میں کوں گا کہ بالکل حق میں ہوں، ضرور ہونا چاہیئے، بڑی ابھی بات ہے۔ یہ ایک ہمارے ہاں trend ہے جو بڑا منفی trend رہا ہے یہ اس کو control کرنے، اس کو یہ ختم کرنے میں رکاوٹ بنے گا۔ ہم بالکل اس کے حق میں ہیں لیکن اگر یہ کہا جائے کہ یہ آئین میں ترمیم کا قانون، جو آج تجویز کیا جا رہا ہے، اس کی ہم من و عن تائید کرتے ہیں، اس پر امان و صداقت ہے تو جناب یہ ذرا مشکل بات ہے اور جتنی بات حجت ہوئی اس میں کوئی ہمارا اور آپ کا consensus نہیں ہوا۔ ہم نے کچھ ترمیم ان کے حضور پیش کیں اور اس ڈرافٹ میں ہمیں پتہ چلا کچھ عرصہ پہلے کہ وہ منظور نہیں ہو رہیں، ایک بات۔ دوسری بات، یہ ابھی کوئی اس سیشن سے پندرہ بیس منٹ پہلے ہمیں ڈرافٹ دیا گیا۔ ہم نے تصدیق کی Law Ministry سے اور یہ کہا گیا کہ یہ move ہو رہا ہے۔ تو

ہمیں زیادہ سے زیادہ وہ بیس منٹ رعایت Law Ministry نے دے دی ' ان کی مہربانی ہے -
 کتنا موقع ملا کہ ہم دیکھ سکیں -

once the House is seized of the جناب چیئرمین - اعتراض صاحب بات یہ ہے کہ

bill then all these things can brought out compromise ہو سکتا

Let me now hear.... لیکن بات اب چلنی چاہیے -

چوہدری اعتراز احسن - میں صرف ایک عرض کر دوں - میرا مدعا ' میں ایک جملے میں

ختم کرتا ہوں ' صرف یہ ہے کہ اس سے پہلے کہ suspension of rules ہو ' ہاؤس کو آپ
 تھوڑی دیر کے لیے ایڈجن کر دیں ' مطلب ہے کہ ایک گھنٹہ کم از کم دے دیں - ہم پڑھ لیں
 آپس میں ڈسکس کر لیں - پھر بے شک rules suspend کر دیں -

Once the جناب چیئرمین - دیکھیں بات آگے چلے تو یہ ساری باتیں ہوں گی ناں -

House is seized of the bill then these things can be considered.

چوہدری اعتراز احسن - جناب پھر بھی ان کو suspend کرنا پڑیں گے پر ہم

دیکھ تو لیں کہ کیا بات کرنی ہے -

جناب چیئرمین - دیکھیں ناں let the House be seized of the matter ابھی تو

کچھ بھی نہیں ہے یہ تو آپ

we do not know what rules are being suspended, we do not know what bill is
 going to come before the House.

Ch. Aitzaz Ahsan: Sir this has been put on the table.

Mr. Chairman: Yes, but it is not officially before the House.

Ch. Aitzaz Ahsan: And if it is on the table, we would like time to
 read and consider it.

جناب چیئرمین - جی شفقت محمود صاحب آپ کیا کہنا چاہ رہے ہیں -

جناب شفقت محمود - جناب میں یہ عرض کرنا چاہتا ہوں کہ میں نے تو پہلی دفعہ

اس بل کو دیکھا ہے۔

جناب چیئرمین۔ ابھی موقع آئے گا جب آپ بات کر لیں۔

جناب شفقت محمود۔ ابھی بات یہ ہے کہ سینٹ کا پروبجر یہ ہے کہ جب بھی کوئی قانون آتا ہے اس کو انگریزی اور اردو میں تقسیم کیا جاتا ہے۔ اب یہ صرف انگریزی میں تقسیم کیا گیا ہے۔ ہو سکتا ہے کہ مجھے بہت سارے جو انگریزی کے الفاظ اس میں ہیں، ان کی صحیح طرح سمجھ نہ آئے۔ تو جب تک اردو میں تقسیم نہ کیا جائے، میں اس کو غور سے جب تک نہ پڑھوں تو میں کیسے اس پر فیصلہ کر سکتا ہوں۔

جناب چیئرمین۔ جی جناب اقبال حیدر صاحب آپ کیا کسنا چاہ رہے ہیں۔

Syed Iqbal Haider: In principle, there are no two opinions about the concept of the anti defection law.

جناب چیئرمین۔ ابھی تو اس بل پر بحث نہیں ہو رہی۔

Syed Iqbal Haider: But sir, when such a noncontrovertial issue is being raised in such a controvertial manner, it defeats the very purpose on which we have the consensus sir. What is the need of this haste. What is the need that it has to be moved through suspension of the rules. Sir, those issues on which there is controversy, there are two opinions, yes, you may follow some kind of secrecy but what is need, which 'peer' or which 'faqir' had told the present government that if the bill is not moved on Monday, the 30th of June, it shall be defeated. Sir, this is as absurd as that today is our Private Members' Day. I would jealously guard our Private Members' Day.

Mr. Chairman: As for as your Private Members' Day is concerned, I will be asking the government to provide you an alternate Private Members' Day in lieu of today.

Syed Iqbal Haider: Sir, it is also unfortunate that press galleries are empty. Mr. Chairman, how can we debate on such an issue when the press is so aggrieved, the whole nation will not know.

جناب چیئرمین - وہ علیحدہ ایٹو ہے اب اس پر بات کریں - آپ کے پرائیویٹ ممبر ڈے کی حفاظت میں کروں گا اور میں حکومت سے کہوں گا کہ آپ کو اس کے عوض اسی ہفتے ایک پرائیویٹ ممبر ڈے الٹ کر دیں -

سید اقبال حیدر - جناب پرسوں یہ بل لیں، آج نوٹس دیں -

جناب چیئرمین - یہ فیصلہ تو ہاؤس نے کرنا ہے - I will be putting the motion -

before the House

Syed Iqbal Haider: Sir, it will be against my party discipline if I vote here because today you have moved the bill. You are talking of party discipline and without seeking party approval for the bill, whether I should say yes or no, I am being called upon to vote on this bill without taking decision of the party.

جناب چیئرمین - جی سرتاج عزیز صاحب آپ موشن موو کریں -

Mr. Sartaj Aziz: I beg to move Mr. Chairman, that under Rule 236 of the Rules of Procedure and Conduct of Business in the Senate, 1988, the requirements of Rule 22, 23, and 27 regarding Private Members' Day business, arrangement of government business and orders of the day be dispensed with.

Mr. Chairman: What about 84, 85 and 87?

Mr. Sartaj Aziz: That will come later. I am to take this and this is because when it says that otherwise considered necessary.

Mr. Chairman: It has been moved by Mr. Sartaj Aziz, the Minister

for Finance under Rule 236 of the Rules of Procedure and Conduct of Business in the Senate, 1988, that the requirements of Rule 22, 23 and 27 be dispensed with.

(The motion was carried)

جناب چیئرمین - ابھاجی موشن موو کریں جی - کیا موشن ہے آپ کا۔

Syed Iqbal Haider: Let there be vote count.

Mr. Chairman: I will put it to vote again.

(The motion was carried).

Mr. Chairman: The motion is adopted. Mr. Sartaj Aziz! Please move your motion.

Mr. Sartaj Aziz: Sir, I beg to move a Bill further to amend the Constitution of the Islamic Republic of Pakistan, 1973 [the Constitution 14th Amendment Bill, 1997].

Mr. Chairman: Mr. Sartaj Aziz the Minister for Finance, has moved a Bill to amend the Constitution of the Islamic Republic of Pakistan [The Constitution 14th Amendment Bill, 1997]. Is it being opposed.

Ch. Aitzaz Ahsan: It is opposed.

Mr. Chairman: It is opposed. Sartaj Aziz Sahib could you briefly, tell us.

کس چیز کے بارے میں آپ یہ Bill move کر رہے ہیں۔

Mr. Sartaj Aziz : May I move the next motion for suspension of the requirement of rule 84, 86, so that it could be taken up.

جناب چیئرمین - move کر دیں۔

Mr. Sartaj Aziz: Mr. Chairman, I beg to move that under rule 236 of the Rules of Procedure and Conduct of Business in the Senate 1988, the requirements of rules 84, 86 and 87 of the said rules regarding reference of Bill to standing committee and time for consideration of bill in respect of the Bill further to amend the Constitution of the Islamic Republic of Pakistan 1973, [The Constitution 14th Amendment Bill, 1997], be dispensed with.

Voices: Opposed.

Mr. Chairman: It has been moved by Mr. Sartaj Aziz under rule 236----

(interruption)

Mian Raza Rabbani: Sir, this is a Constitution Amendment Bill which is not being referred to the standing committee, how can it be taken up in the House like this?

Ch. Aitzaz Ahsan: Sir, for a moment, leave the Bill what it is. Whatever, its contents, let us assume we have not even read it. But the point is that this Bill intends and purports to amend the Constitution. Let them also, through brute majority, suspend the rules subsequently but the Bill ought to be referred to the committee and argument must at least be heard on this. As to why, what is the justification for not referring it to the committee. Are their MNAs defecting tomorrow? Are they afraid of defection? What are they afraid of? What is coming down upon their heads? Why this haste on the question of reference to the committee, the members of the opposition would like to express their views and thereafter the minister can reply.

جناب چیئرمین۔ آپ نے اپنا point of view express کر دیا۔

Ch. Aitzaz Ahsan: Mr. Chairman, I am just saying why you should hear us.

Mr. Chairman: I am hearing you.

Ch. Aitzaz Ahsan: I have not said yet why it should not be suspended. That is a separate issue. And the other members would also like to express their views and you should hear us.

Mr. Chairman: As a Leader of the Opposition, I am hearing you and then will put the motion to the House.

Ch. Aitzaz Ahsan: Sir, I will not usurp the right of other members. I will speak last, the others will like to speak first on this.

Mr. Chairman: But who will be representing the point of view of your party.

Ch. Aitzaz Ahsan: We will all like to speak. But I will speak last.

Mr. Chairman: I don't think I can allow a general debate on this.

میاں رضا ربانی۔ جناب چیئرمین! آپ میری گزارش سن لیں۔ آپ کہہ رہے ہیں کہ
Why should it be referred to the standing committee. جناب میں آپ کو ابھی وہ کاپی
پیش کرتا ہوں جو مجھے ابھی ملی ہے۔ میں نے دوستوں کی کاپی دیکھی ہے کہ اس کا کوئی
2 بھی ہے جو میرے پاس بل ہے یہ (3) a پر آ کر ختم ہو جاتا ہے۔ نہ یہ signed ہے۔ اور
اس کی پچھلی سائیڈ blank ہے۔ میں نے اسی لئے کہا کہ گوہر ایوب اور سومرو اور وسیم بھاد میں
بہت بڑا فرق ہے۔

جناب چیئرمین، نہیں کوئی اتنا زیادہ فرق بھی نہیں ہے۔
میاں رضا ربانی۔ لیکن جناب یہ آپ دیکھیں کہ آپ کے دور کے اندر یہ ہو رہا ہے کہ

بل مجھے incomplete مل رہا ہے not signed by the Minister incharge, the requirements of the rule are not being fulfilled. amend کو آئین of the law, the requirements of the rule are not being fulfilled. رہے ہیں جناب یہ کوئی عام قانون نہیں ہے کہ بھئی ordinary Bill ہے کوئی بات نہیں۔ آئین کی ترمیم کا بل ہے اور وہ ممبرز کو اس طرح سرکویٹ ہو رہا ہے کہ اس پر Minister incharge کے signatures تک نہیں ہیں اور بل کا اردو translation نہیں ہے اب مجھے انگریزی ابھی طرح نہیں آتی تو میں اس بل کو کس طرح پڑھوں۔

جناب چیئرمین، میرے خیال میں اب مغرب کا وقت ہو رہا ہے so I will adjourn the House for 15 minutes مغرب کے بعد we will take up this matter. So the House is adjourned for 15 minutes.

(The House then adjourned for Maghrib Prayers for 15 minutes)

(The House reassembled at 9.09 PM)

جناب چیئرمین، یہ دیں جی ان کو copies دیں۔

Amending the Rules. جناب 3 item میں نے move کیا تھا۔

Mr. Chairman: So, it has been moved by Mr. Sartaj Aziz under rule 236 of the Rules of Procedure and conduct of Business, 1988 that the requirements of rule 84, 95, 86 and 87 be dispensed with.

(The motion was carried)

Mr. Chairman: The motion is adopted.

اب جناب یہ جو motion move کیا ہوا ہے۔

Mr. Sartaj Aziz: Mr. Khalid Anwar will make some comments on it.

جناب چیئرمین - جی جناب ذرا بتائیں کہ what is this amendment?

Mr. Khalid Anwar: Sir, this Bill ceases to meet a long standing demand of the nation in relation to the vice of defection. The nation has suffered under this for many years and we have had unfortunate expectacle of people being elected under one symbol and then defecting to another party and unfortunately, during the last tenure of government of the Peoples Party we witnessed this in the Frontier Province when Pir Sabir Shah's government was defeated by reason of defection, sir. It raised grave concerns amongst the nation as a whole that the democratic process was being reduced to the level of bargaining, of horse trading with a devastating impact on the purity of the democratic system. It was commented upon, adversely by the Supreme Court which noted the fact that defections operate in such a manner that they destroy the normative moorings of the Cosntitution of Pakistan. In any representative form of government, if people are elected by the political sovereign that is to say the people of Pakistan and subsequently change their loyalties. The result is that for all effective purposes that constituency which elected those people stands unrepresented and the member of the assembly be it a Provincial Assembly or a National Assembly in fact it is representing himself and none else. This surely is totally destructive of constitutional democracy of representative government.

Mr. Chairamn! you will recollect that we still have on our statute books the Political Parties Act, 1962 in section 8(b), that act declares that defection is a vice which renders the defector liable to be unseated. Unfortunately, despite the existence of section 8(b) we have not yet succeeded in unseating any person

and we know the very unfortunate circumstances in which persons elected to the National Assembly appears with the then Prime Minister on television and cases which are pending against them are withdrawn. We also know those unfortunate circumstances in which large sums of money change hand and the loyalty of a member of the provincial assembly is subverted. This Bill seeks to address this problem, it is a problem which cannot be solved except on the Constitutional Bill and the fundamental reason for that is that Article 62 and 63 of the Constitution specify with particularity the reasons on the basis of which a person can be disqualified. We, therefore, deemed it necessary to bring a law on this subject. The law which has been drafted, I am very happy to say, with not merely the active consent and concurrence of all our fellow members that they have projected it actively and they want a very strong feelings that the law should be such that its effectiveness should not be impaired or impeded in any manner whatsoever.

This is the only reason while the jurisdiction of the, superior courts has been excluded. Our experience has been that in such matters since its impossible to find evidence of corruption, that a member of the National Assembly or the Provincial Assembly has been purchased with large sums of money exchanging hands and the only way in which a court of law can decide is on the basis of evidence and evidence not being procurable under these circumstances. We came to the unhappy conclusion that there was no option other than to exclude the jurisdiction of the superior courts. It didn't give us any pleasure or happiness to do so but it was ex-necessita, it was inherent in the situation that some effective steps had to be taken in order to ensure that this is removed from the political lexicon once and for all.

Sir, this concept of defection for ulterior motives or material games is denounced not merely in Pakistan but we have a similar law in India which also exclude the jurisdiction of a superior court. This vice is also condemned in England where normally defectors are referred to as rats deserting a sinking ship. Here there has been an unfortunate derogatory epithet of 'Lota' which normally applied to such people. I call it unfortunate because I think we all recognize that member of this august Assembly should not be subjected to pressure and this is a third concept, the first two were purchasing a member or taming his loyalty by ulterior means, the third is under coercion. Now unfortunately we saw this, it is possible to fabricate a false case against a member and then obtain his loyalty. This law seeks to out law that course. Under this law it will not be possible, under any possible circumstances for a member's loyalty to be subverted either by money or by threat or by promises. This is the reason that some of the provisions of this law appears strict but the consensus within all the parties was that without this it would not be possible to achieve that objective which not merely we but I think, that the people of Pakistan as a whole earnestly seek and desire and it is for this reason that we seek the cooperation of the entire House in the passage of this legislation. Thank you Sir.

Mr. Chairman: Thank you, Aitzaz Ahsan.

Ch. Aitzaz Ahsan: Mr. Chairman, I am grateful to the learned Law Advisor for having expounded the principles of the Bill that have today been moved and presented in this House by the honourable Minister for Finance. Mr. Chairman; the learned Law Advisor has eloquently stated and dwelt upon basic requirements for the legislation that has been proposed. I really take no particular

cavil with the proposition and with what he has said. Yes as I said earlier, had we been asked and were we to be ever asked, would we favour an anti-defection law, Mr. Chairman, we would say then, we say so now that yes, we would like to have an anti-defection law. Beyond that Mr. Chairman mere holy shibboleths will not do. It is all very well to justify or attempt to justify the present proposed legislation on the basis of a selective rendering of the history of our parliament and parliamentarians. I think by and large parliamentarians have shown great consistency and their commitment to their political party. I too disagree with my learned friend when he says that this has become or implies that there are scandalous proportions to this evil that we today wish to obstruct, remove and inhibit. But we must not forget Mr. Chairman that there have been times and politicians and political workers and parliamentarians have been under intense pressure, intense coercion to change their loyalties.

There was a time Mr. Chairman, from 1990 to 1993 that there was such a reign of terror in the province of Sindh that the world was also noticing it, amnesty international, the committee of jurists and some other number of people and bodies the world over, concerned with human rights, were noticing the torture and terror at that time particularly aimed at and against the members of one political party. But was there any defection Mr. Chairman. Yet we support this, the concept of an anti defection law. Yes we do support this. I could start as a counter measure to what the learned law advisor has said as a counter point and start scoring points and remind of the Marriot Hotel in 1993 but I will not do so, because I think that of all the hundreds of parliamentarians and perhaps thousands, defection and evil indeed, has been limited to mini sequel minority but since that mini sequel minority, Mr. Chairman, does have a destabilizing

effect upon democratic government and democratic institutions. I think that we should have an anti- defection law.

Now when I say Mr. Chairman, that we should have an anti-defection law, the question might necessarily and reasonably be asked but then why do I stand here to criticise the bill that is being proposed. Mr. Chairman we do not want to be an opposition that opposes for opposition sake. I had the great privilege on an earlier occasion to make a speech from this very seat, not long ago, on the 1st of April and the greater privilege was, because at that time Mian Mohammad Nawaz Sharif the Prime Minister of Pakistan also adorned this House and I rose to speak to endorse and to support a bill that was being moved by the government to amend the Constitution. It was a bill that purported and intended to remove from the Constitution Article 58 (2) (b) . Without reservations, Mr. Chairman, I have the pleasure and the privilege to support the government in that case. There have been other occasions when although the honourable Prime Minister had not been here but when I have had and my partymen have had the privilege of rising and supporting motion moved by the government, many people have asked us when we support an amendment in the General Clauses Act of 1897, which is a good amendment, we were asked why do you support? You are the opposition. And many people were perplexed -- why do you support, is there a sell out? They used

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I said regardless, when they bring a good proposal , when they bring a good amendment and propose it, we will support it. We will support their measures and their actions purely on the merit of each action. And when they bring bad law, we will criticise it. We will criticise it fearlessly. And we will criticise it

without any qualm, without any hesitation and without any reservation.

Mr. Chairman, first of all, laws made in a hurry are bad laws. What is the purpose of making this law today and you are aware Mr. Chairman, that until 15 minutes ago we were closeted and I promise you Mr. Chairman, you are aware of this fact, we were showing great flexibility and we have come very close to their draft. We have no particular pleasure in even criticising an anti defection law. We had hoped that I would again stand and with the Prime Minister, sitting there, I would again say that this law we accept and adopt and we came very close. We wonder at the hurry. First of all, if we do not rush legislation, we will make good laws but if we rush legislation and we are rushing this legislation. Mr. Chairman, we have deliberated on it only for a while. We have deliberated. We probably have come up with some concept of our own. Each one in this House who might speak has some particular impression of the law and an opinion on this law but Mr. Chairman, this rushing a constitutional amendment, first of all, I regret that this government unfortunately, the government of Mian Sahib, the first and the second, will probably known as the government that passes, that rushes through amendments in the Constitution by suspending rules. Why?. The 12th Amendment suspended rules. 58 (2) (b), we joined it. It is good amendment, we joined them suspended rules. We are also responsible. I accept responsibility for that. But the third time again we suspended rules to amend the Constitution, that is not an ordinary document. It is not somebody rewriting a chapter or half a chapter of his novel. Not somebody rewriting a play, a serial play for the Pakistan Television. No, Mr. Chairman, it is rewriting the most sacred document that the representatives of the people can create in this country to which so many high dignitaries including

yourself, the Prime Minister, the President, the Chief Justice, they take oath to defend and uphold that. Now, we are amending that Constitution. We are changing that Constitution and we have come up to the law, with regret, I submit Mr. Chairman, that that will deprive a member, a parliamentarian of his very status. Mr. Chairman, there is a perception, an implication in this law that a parliamentarian is bad per se, is bad, is unreliable. He must not be relied upon. He is a scheming conspiratorial character, he is going to scheme against my government and he is scheming against my government, is the sky going to fall tomorrow? What is happening? I ask you Mr. Chairman, is there some big move in the government party? Is there a great rebellion growing within? Are they going to move a no confidence motion tomorrow or day after? Even I hope not. I hope that a democratic government, even that of Mian Sahib, is allowed to run its turn. I say that officially on the record standing here as the Leader of the Opposition and with all solemnness I say that and everybody is listening, that are we afraid what is happening, we are rushing around, I have seen, I have been doing it myself. There is a frenzy, there is an amendment that has to be passed tonight, what is going to happen and as the poet said :

غلام بھاگتے بھرتے ہیں مشعلیں لے کر
محل پر ٹوٹنے والا ہو آسماں جیسے

What is going to happen? If we discuss it and debate it, according to the rules that will take two days, three days over it. Give a notice, or permit us to make amendments. We have very good amendments that we think of, Mr. Chairman we want that. We want to avoid two things and that Mr. Chairman I would like all honourable members of this House to hear what do we want. We do not want to oppose an anti-defection law or vote against it. I want to make

that very clear. In principle, that is a good idea but in principle the Law Advisor must know, he is a lawyer of great distinction and I recognize that but he must know that laws and civilized laws are based upon two fundamental principles called the principles of natural justice. That is all that we want to introduce in that basically. The principles of natural justice, I would of course like to have my personal objections to Clause 5 also, strong one that have we been discussing the principle of natural justice is first of all the principle of *audi alteram partem*. Mr. Chairman, the *latin maxim* which has been translated often as no man, both sides must be heard, is technically the literal meaning but effectively it means no man shall be condemned unheard. We want, if Mian Sahib as the Leader of the Parliamentary Party in Parliament, if Mohtarma Benazir as the Leader of the Pakistan Peoples Party, if the leader of the Awami National Party, if the leader of the MQM, if the leaders of the other parties want to expell a person, let us say expell me, I should have a right of a hearing. The Constitution must provide for that Mr. Chairman, it is a very ordinary requirement of civilized law and legal system.

Mr. Chairman: But won't it be read into the statute?

Ch. Aitzaz Ahsan: Mr. Chairman, this is the Constitution, and I will come to that, whereas in the case of Zakir Ahmed you are well aware of that you have been quoting PLD 1965 Supreme Court page 90 and my learned friend, the Law Advisor, he is also well aware of it which is started by saying that a right of a hearing is to be implied in every statute but Mr. Chairman, the second limb of this kindly see of that principle, of natural justice is that no man shall be judged in his own cause and if the right of hearing is to be implied under their

own bill as it has been moved, the hearing is before the party leader. We as you are aware Mr. Chairman have proposed a disciplinary body which should be independent besides the party leader that should hear him. So, even if the hearing is implied in the Constitution as to amend it, as it will be amended. It will be hearing by the party leader himself which will violate because he has to take the decision, which will violate the second principle of natural justice and you are well aware of it, Mr. Khalid Anwar is well aware of it, we vex eloquent all the time in courts about, we need a hearing or the plaintiff has not been given a hearing, the petitioner has not been given a hearing, the Deputy Commissioner has passed an order without hearing the affected party. The Subordinate Judge has passed an order without hearing the party, we are, the time saying is now, he was depriving a man of a status and stature of an office and position that he may have obtained after years of struggle in politics and politics is not an easy business Mr. Chairman. Politics is not all sugar and honey, politics is being in the opposition, politics is being in the opposition and remaining committed to Mian Muhammad Nawaz Sharif when he was in the Opposition. Politics is standing by him as so many of his colleagues stood by him. Politics is taking the brunt of the Government if a Government takes on your colleagues, as is happening to many of our colleagues today but Mr. Chairman, now this man after all the struggle, at the late stages of his life finally get, recognized in constituency, gets voted by a constituency lets say of 250,000 voters, comes to the National Assembly and can be removed at the whim and will of the party leader and there is no court that can give him relief, he can have no recourse to court process. Is this a civilized law Mr. Chairman, this is going to be a part of our Constitution and I had proposed and we came very close what the Prime

Minister also to know, we came very close until we were informed by some of his colleagues that we should go up, alright we will come here but kindly see the context and this is what we had submitted. The context is thus, "a person, a MNA is deemed to have defected, if he commits breach of party discipline the word I am reading means because I take it to understand that there might be a substitution but even means, which means the violation of the party constitution, code of conduct and declared policies. Now what can be declared policies? Supposing the leader of the Muslim League or any other party, as I said one thing, another leader of the same day has said another, now does that mean that there is an immediate clash between them? What is the declared policy of the party, will that be a gazette notification or do I read every day in the newspaper what is my leader saying and I just have to go along with that. These are arbitrary powers being given and being taken by the party leader. It was not expected of the Muslim League which prides itself allegedly or internal democracy what they keep telling us, they say, you have no democracy and I stand here and say we oppose the dictatorship of a party leader, we can not make him a dictator. We can not make him a dictator and their MNAs and their Senators are making Mian Sahib, he may not use it. The only assurance that we are being given is that Mian Sahib will not use it, may be not, I am not for a moment, doubting Mian Sahib's good intention, I am not doubting at this moment because that is not relevant, there may be other occasions that I may doubt but I reserve that right. I am not doubting, it is not relevant, I am not doubting his gentleness, his humanness, he is being friendly, he is being warmed to his partymen, he is not being vindictive. For the moment, that is not the issue, but this is the Constitution of Pakistan, Mr. Chairman, it does not apply to one

political party or one leader or the another leader or another party, it applies to all of us and hopefully it is our prayer to God, it is our wish and desire that it will apply for all times. It is to apply in perpetuity, Mr. Chairman, in perpetuity, but we are creating, Mr. Chairman, as I said, there is no hearing providing in this because if there is a hearing, it is a hearing before the person who is himself the complainant and himself the judge. Who is the one who is aggrieved and he is the one who is going to decide. He is the one who determines what is his party policy and what is the code of conduct of the policy and he is the one who decides the fate of the member whether he has violated the party policy or not. Its heads I win tails, you loose for the members and parties are made by members. These leaders are made by members, Mr. Chairman. This is the tradition. Here I stand proudly on behalf of the Pakistan Peoples Party. Beseaching, and again also on behalf of all the Parliamentarians sitting in this House and sitting in the galleries and those not here, beseaching on their behalf that we must not expose them to arbitrariness to the whims of any individual, how could, howsoever good, howsoever noble, howsoever humble, howsoever kind, howsoever generous, we must not. It militates, this law militates against the conscience of good laws against the conscience of the Constitution, Mr. Chairman, and as I said, I don't know why they are worried, is it one MNA who is, I found only, so far have heard only two MNAs from Rawalpindi who occasionally voice opinions that our little decardent to Mian Sahib and sometimes even choose to be blunked and little brust about party policies. But otherwise we don't have this, I don't see him in his party also. I think the party is being run, apparently as an outsider I look at it, is being run smoothly, is being run by him prettier, neatly and efficiently as far as the party is concerned, as far as the parliamentary parties

are concerned, in the National Assembly and in the provinces, I do not, particularly, Mr. Chairman, contribute, therefore, to the wisdom of this Law. You may also see, Mr. Chairman, that there are two or three other elements and I don't want to take too much time of the House, I know the Law will be passed. Whatever we do, but we have to answer to our conscience to the Constitution and we have to answer to the people of Pakistan and to history. We cannot let bad laws be made merely because a person who has never been in a political environment or persons more than one, perhaps he is not responsible for it but more than one. Some persons who have never been in political environment apparently drafted it. There were short carrier in politics in this House and suddenly to them, it feels oh! Parliamentarians are dirty people, well why it is the end of your carrier then you become parliamentarians. Why do you come and join and sit in our ranks. You, who have been propounding the principles of audi, alteram, partem and no man shall be the judge in his own cause and natural justice and I do not only refer to the honourable Law Advisor, I refer to others who have actually been propounding, I even shocked to hear and to learn that somebody else has drafted this law and not provided for him, it is offset, it was said in Maulana Maududi's case, it was said as you are well aware in the Anjuman Sargodha Ahmedia case, hearing has to be given and why ? Because the honourable Judges drew back also to the Quranic renditions where even God Almighty the all-knowing, nobody knows everything but Him, the all-knowing, the all-seeing, Mr. Chairman even He gave a hearing to Hazrat Adam before banishing him from Heaven or Eden. This is a principle we have drawn out. Who would know more than Almighty what Adam had done? Did He not know? Was He unaware? But He was aware and yet that hearing was

given and this principle has consistently, as I submitted, been applied Mr. Chairman and I wish the honourable Prime Minister will even now bypass all his Advisors, bypass them, I would submit, even Advisors whom when we were coming close, said

چلیں جی اوپر چلتے ہیں۔

Bypass them, make a good law Mr. Prime Minister. We are prepared to draft for you this law. We are prepared to give a draft on this law and it will not be very far from Mr. Sartaj Aziz what was probably we were told all those accepted by the honourable Prime Minister. But Mr. Chairman there are other things in this. Kindly see Clause (1) it is shortly drafted. Clause (1) if a member of a parliamentary party defects he may by means of a notice in writing addressed to him by the head of the political party, now who is to determine the head of the political party? We have no problem. Mian Sahib has no problem. Sir, there may be problem. There may be two people who might be saying I am the head of the party and he is the head of the party. This is the Constitution Mr. Chairman. Who is to determine? Will somebody one of them oust, the other says no, you are not ousted? What is the Chief Election Commissioner thereafter to do? Then the matter will go to courts, of course. Then the matter will go to court despite clause (5) placed by, I believe the draftsman, a draftsman who has been on these high positions himself or such other persons as may be authorised in this behalf be called upon to show cause within not less than 7 days of such notice as to why a declaration under clause (2) should not be made against him? If a notice is issued under clause (1), this is clause (1).

Mr. Chairman: It should be this clause.

Ch. Aitzaz Ahsan: It should be this clause. Mr. Chairman I don't know. If a notice is issued under clause (1) and as is clause (1) is preceded.

If a notice is issued under this clause it should be. The Presiding Officer of the concerned House shall be informed accordingly.

Then kindly see Mr. Chairman, in clauses (1) and (3), one I have already dealt with, I am now going to do over it again except read it, to show it, so in the context, I am not. I will not elaborate but just read.

جناب چیئرمین: اب آسمے پلین نالں۔

Ch. Aitzaz Ahsan: Sir, no. It commits breach of party discipline which includes the violation of party constitution, code of conduct and declared policy. Who has declared that?

Then (3) abstain from voting in the House in relation to any matter against party policy.

جناب چیئرمین: نہیں وہ change already ہو گیا ہے۔

چوہدری اعتراف احسن: جب amendment آنے گی اس کی آپ move کر چکے

ہیں۔ They will have to move a formal amendment.

Mr. Chairman: I think the Bill now before you has the word 'Bill' as it.

Ch. Aitzaz Ahsan: The Bill is. Now they have moved it already once, Mr. Chairman, they cannot give.

جناب چیئرمین: نہیں، نہیں، بہر حال اگر آپ چاہیں کہ amendment آنے لیکن I think the Bill is before me

Ch. Aitzaz Ahsan: Mr. Chairman, the Bill that was moved before

them.

(interruption)

جناب چیئرمین: اس میں دیکھیں ناں، میرے خیال میں اس میں confusion نہیں ہونی چاہئے۔

Ch. Aitzaz Ahsan: This is the Bill originally moved.

Mr. Chairman: No, the Bill which is now before me has the words 'in any Bill against the body.

Ch. Aitzaz Ahsan: Mr. Chairman, the Bill that was moved was this.

(interruption)

جناب چیئرمین، بہر حال اگر آپ چاہتے ہیں کہ اس میں باقاعدہ amendments آ جائیں تو آجائیں گی۔ This I don't know۔

Ch. Aitzaz Ahsan: This is the Constitution.

Mr. Chairman: The document before me has the word 'Bill'.

میں یہ آپ کو بتا رہا ہوں۔

Ch. Aitzaz Ahsan: No, Mr. Chairman, the document is still with us, it has not been taken back or withdrawn, that was given to us as the Bill moved.

Mr. Chairman: So there should be no confusion on this, I want to make sure that we are talking of the same.

چوہدری اعتراف احسن: اس پر چونکہ میں نے نشان مارے ہوئے ہیں ان کے ساتھ بیٹھ کر یہ کہتے ہیں۔

جناب چیئرمین، میں چاہ رہا ہوں کہ اس پر confusion نہ ہو۔ یہ جو آپ نے مجھے دیا ہے کافی۔

چوہدری اعتراز احسن، نہیں جناب یہ پہلا ہے۔ میں اپنا کاغذ دے دیتا ہوں۔

Mr. Chairman: The point is, that I take it, that this document which you have given me is now the Bill under consideration before the House.

(مداخلت)

جناب چیئرمین، جو changes ہیں وہ دیکھ لیں، - if you are not agreed on it, we will have it pended. But if you accept this, if you take this which has been moved اس کو آپ basis بنالیں۔ اس کو دیکھ لیں اگر اس پر اختلاف ہے۔

چوہدری اعتراز احسن، میں آپ کو عرض کرتا ہوں the Bill that was moved

was this in which-----

(مداخلت)

جناب چیئرمین، نہیں دیکھیں۔

چوہدری اعتراز احسن، میری عرض سن لیں جناب please سن لیں۔

جناب چیئرمین، میں یہ پاہ رہا ہوں کہ ان بھوٹی چیزوں پر وقت ضائع کریں۔

چوہدری اعتراز احسن، ایک منٹ میں clear ہوتا ہے جناب۔

The Bill that was moved was this without these big amendments in the typewriter, I will tell you because this was the Bill that we discussed, when Mr. Sartaj Aziz, Khalid Anwar were there.

جناب چیئرمین، نہیں دیکھیں۔ میری عرض سن لیں۔

Ch. Aitzaz Ahsan: Sir, one minute.

جناب چیئرمین، جی۔

Ch. Aitzaz Ahsan: At the Azan time, before Azan, the Bill was moved, when we went down to discuss it, he said that we don't want any matter,

it should be a bill. Now they changed the bill, this is not the bill that was moved. Then we said to them that this declaration, mentioned in sub-clause 1, in presence of Mr. Sartaj Aziz, Mr. Khalid Anwar and I think the honourable Deputy Chairman.....

(Interruption)

جناب چیئرمین، نہیں دیکھیں۔

Ch. Aitzaz Ahsan: That Mr. Sartaj Aziz read during the Azan.

جناب چیئرمین، نہیں آپ کی بات صحیح ہے۔ میں یہ چاہ رہا ہوں کہ اس پر وقت ضائع نہ کریں۔

چوہدری اعتراف احسن، نہیں جناب وقت ضائع نہیں ہوتا۔

Mr. Chairman: What we can do is that we can request Mr. Sartaj

Aziz to move this bill properly, so that you are all aware, that this is a bill.

اس پر تو جھگڑا نہ ہو۔ اس پر confusion نہیں ہونا چاہیے کہ جی بل کو نا ہے؟ اس جھگڑے کو میں بعد میں sort out کروں گا۔ آپ ابھی اپنی تقریر مکمل کریں

we will sort it out. don't worry. There should be no confusion on this, if you want that this should be properly amended by a motion, we will do it, but what I want to say to you is that there should be no confusion on this matter.

Ch. Aitzaz Ahsan: Sir, once a bill has been moved, then under clause.....

(Interruption)

جناب چیئرمین، آپ کے سامنے جو move ہوا ہے وہ مجھے دے دیں۔

چوہدری اعتراف احسن، وہ میں نے آپ کو دے دیا۔

جناب چیئرمین، مجھے تو جو آپ نے دیا وہ یہی ہے۔ جو سر تاج عزیز صاحب نے دیا ہے۔

چوہدری اعتراف احسن، نہیں جناب میں نے جو دیا ہے اس میں نیچے typing نہیں ہے۔ جناب یہ typing discuss ہوتی ہے اور آپ کے سامنے ہوتی ہے۔

جناب چیئرمین، ٹھیک ہے جناب۔ مان لی آپ کی بات I understand your point
 proceed now کافی وقت ہو گیا ہے۔ تو خالد انور صاحب that is the bill before the
 House اس میں آپ amendment move کریں گے۔

چوہدری اعتراف احسن، اور اس میں amendment move کرنے کے لئے clear two
 days notices ہونے چاہئیں۔ اب Bill move ہو چکا ہے۔

Mr. Chairman: We will come to that.

میں نے آپ کی بات مان لی۔ I just want the House to be clear what is under
 discussion? So there should be no confusion کہ آپ کس کی بات کر رہے ہیں اور وہ
 کسی اور کی بات کر رہے ہیں۔ so now we are very clear that the Bill before the House
 is that has been given to Mr. Khalid and any amendment have to be brought
 into that Bill. I think now please conclude ہے۔

Ch. Aitzaz Ahsan: One minute, Mr. Chairman, I just-----

Mr. Chairman: Please don't interrupt the Leader of the Opposition.

جناب صفدر علی عباسی، جناب میاں صاحب بیٹھے ہیں۔ ان کا دسترخوان بڑا مشہور
 ہے۔ دس بج چکے ہیں کوئی کھانا وانا کھلائیں۔

جناب چیئرمین، آپ بل پاس کر دیں آپ کو کھانا میں کھلاؤں گا۔ جی راجہ صاحب۔
 راجہ محمد ظفر الحق، کھانے کا بندوبست کر دیا گیا ہے۔

Mr. Chairman: Aitzaz Sahib, Please conclude this.

Mr. Aitzaz Ahsan: Mr. Chairman, I just want to submit while the
 debate goes on. I wanted to make a few more submissions, but quite obviously in

the interest of the consensus and good legislation and conscious of the fact that some consultations and probably serious consultations have gone between the treasury benches inter see and with Mr. Raza Rabbani. I have just got a note from Ch. Nisar Ali who has been very active. I must appreciate his efforts also. I don't want to say anything further, I beg your leave to go into the lobby.

in the mean time I hear the other جناب چیئرمین، آپ جا کر بات کریں

people, جی جناب مولانا فضل محمد - باقی پارٹیوں کا بھی موقف آ جائے پھر بات ہو گی۔ شفقت صاحب آپ کی پارٹی کا لیڈر بول چکا ہے جی جناب مولانا صاحب۔

حافظ فضل محمد۔ بسم اللہ الرحمن الرحیم۔

ہرچہ دانا کند کند نادان

لے کے بعد از خرابی بسیار

جناب عالی! کاش کہ یہ قانون بہت پہلے بن جاتا تاکہ وہ مناظر ہمیں نہیں دیکھنے پڑتے جو کہ 88 کے دوران کچھ ممبران مری میں یرغمال بنائے گئے تھے اور کچھ سوات میں۔ اعتراض احسن صاحب کی اس بات سے میں قطعاً اتفاق نہیں کرتا ہوں کہ یہ ممبروں پہ اس بل کی وجہ سے عدم اعتماد کا اہمار ہے۔ ممبروں میں 'ہمارے parliamentarians میں' سیاست میں بہت سے اس قسم کے لوگ در آئے کہ پاکستان تو بھوڑو پوری دنیا میں 'سیاست کے حوالے سے پاکستان اتھارٹی' بدنام ہو گیا جیسے کہ corruption میں پاکستان نمبر 2 پہ تھا۔ اس سیاست کو گندی اور غلیظ چیزوں سے عبارت کر کے پوری دنیا میں پاکستان کی بدنامی ہوئی۔ یہ چند سالوں میں ہم نے بہت سے ایسے لوگوں کو دیکھ لیا ہے، ہم نے بہت سے ایسے سفید پوشوں کو دیکھ لیا ہے جو لاکھوں ڈالروں پہ یہاں پر بکتے تھے۔ ابھی ابھی جو سینٹ کے انتخابات ہوئے، صوبائی اسمبلیوں میں بہت سے ایسے معزز حضرات 'بہت سے ایسے بڑے بڑے لوگوں کو ہم نے دیکھ لیا کہ وہ بک جاتے تھے۔ اس میں کوئی شک نہیں ہے۔ جہاں تک اس بات کا تعلق ہے کہ کورٹ کو یہ اختیار نہیں ہے کہ اس قسم کے کیس کو سن لے۔ میں کہتا ہوں کہ یہ حقیقت ہے کہ ہر چیز کا ایک شر کا پہلو ہوتا ہے، ایک خیر کا تو کسی بھی عمل کے بارے میں جواز یا عدم جواز یا اچھے یا برے ہونے کا

جو فیصلہ ہے، اس کے اس پہلو پر ہے کہ اس کا شر غالب ہے یا خیر غالب ہے۔ اس میں کوئی شک نہیں ہے کہ اس بل کے حوالے سے کچھ شر تو ضرور ہے۔ یعنی شر کا مطلب یہ ہے کہ ایک شخص کی ذاتی، آزادی سلب ہو جاتی ہے لیکن اس سے جو لوگ غلط فائدہ اٹھاتے تھے، اس سے پوری سیاست بھی بدنام ہو گئی اور بہت بڑی خیانت در آئی۔ جناب آپ سمجھتے ہیں کہ ایک سیاسی جماعت کے ایک ورکر کی حیثیت سے، جناب عالی! مجھے چتا ہے میں ایک غریب آدمی ہوں۔ یہاں اس پارلیمنٹ کا ممبر بننے کے لئے لوگ لاکھوں بلکہ کروڑوں کے روپے خرچ کر کے یہاں ممبر بننے میں نے وہ تصویر کھینچوانے کے پیسے اپنی جیب سے دیئے ہیں۔ یہ کتنی بڑی خیانت ہے کہ ایک سیاسی جماعت کے ورکر دن رات ایک کر کے، خون پسینہ بہا کر، 'work' کر کے گھر گھر جائیں، ایک آدمی کو ممبر بنا کر یہاں بھیج دیں، وہ اپنے ذاتی مفادات کے لیے، اپنی ذاتی خواہشات کی تسکین کے لیے کروڑوں کی قیمت پر بک جائے۔ اس سے بڑی خیانت کہاں پر ہے۔ اس کی آزادی سلب ہونی چاہیے اور میں تو کہتا ہوں کہ یہ جو عدالتی حق ان کو ہے یہ صرف یہ نہیں ہے کہ وہ سپریم کورٹ میں جائے، حق وصول کرے یا ہائی کورٹ میں جائے، ایک سیاسی جماعت، ایک سیاسی ورکر کی سب سے بڑی عدالت ان کی اپنی پارٹی ہے۔ جہاں بھی کوئی پارٹی ہوتی ہے، ان کے باقاعدہ ادارے ہوتے ہیں مختلف نام کے۔ مثال کے طور پر شوری ہے، جنرل کونسل ہے یا اس کی عائد ہے، جو بھی ہے۔ کوئی بھی لیڈر اس طرح حماقت نہیں کرتا ہے کہ معمولی سی بات پر اپنے کسی ممبر کو خارج کر دے اپنی پارٹی سے۔ جب تک اس کی نظر میں، اس پورے ادارے کی نظر میں یہ بات نہ آ جائے اور اس کا جماعتی ادارہ باقاعدہ اس نتیجے پر نہ پہنچ جائے کہ واقعی اس ممبر کا شر ہماری جماعت کے لئے زیادہ ہے اور اس سے ہماری جماعت کو شر پہنچتا ہے۔ اس کے ساتھ جناب میں کہتا ہوں کہ اس کے لیے اپنی جماعت کی عدالت کا دروازہ کھلا ہے وہ وہاں جائے اور اس سے اگر وہ مطمئن نہیں ہے کہ یہ ڈکٹیٹر ہے، آمر ہے، ہمیں مشورے کی اجازت نہیں دیتا تو پورے پاکستان میں کئی ہزار اور کئی سو دوسری سیاسی جماعتیں ہیں، ان میں شامل ہو جائے۔ سیاسی جماعتوں کے اندر جس میں جمہوریت ہو، وہاں جائے۔ وہاں ان کو اپنی آراء کی آزادی ہے۔ جناب عالی! یہ حقیقت ہے کہ اگر پارٹی لیڈر کو یا پارٹی ادارے کو یہ اختیار حاصل نہ ہو تو وہ جائے کہ اس خباثت، اس گندگی، اس بڑی خیانت کے سدباب کے لیے کوئی اور دوسرا راستہ ہے۔ میں نے بھی ذاتی طور پر اس پر بہت سوچا کہ اس کے عدالتی حق کو چھینا جاتا ہے۔ لیکن

ہماری نظر میں اس کے علاوہ اور کوئی دوسرا راستہ نہیں ہے۔

جناب عالی ! میں چند منٹ لوں گا۔ اس کے ساتھ ساتھ ہم 63 میں ترمیم لانا چاہتے ہیں۔
 تو 63 کی دوسری دفعات جو ہیں وہ بھی ہماری اس ایوان سے درخواست ہے، 'دست بستہ درخواست ہے کہ اگر اس کو اس وقت سے لاگو کر دیا جائے تو یہ خباثت ہے یا گندگی ہے یا خیانت ہے یہ پہلے سے ممبروں کے اندر ہوتی ہی نہ اگر 62، 63 کے بالکل مطابق کوئی ممبر آئے۔ وہ دہانتار ہو، خائن نہ ہو، گناہ کبیرہ کا مرتکب نہ ہو۔ یہی ہماری درخواست ہے کہ اگر اس دفعہ کو لاگو کرنا چاہتے ہیں تو اس گورنمنٹ سے ہماری یہ بھی درخواست ہے کہ 62، 63 کے دوسرے حصے جو ہیں ان کو بھی لاگو کر دیں۔ ہمیں یقین ہے، آپ کو بھی یقین ہے کہ ایوان کے بہت سے ممبرز ایوان سے خارج ہو جائیں گے۔ لیکن وہ بھی آئین کا ایک تقاضہ ہے۔ جناب عالی ! ہم یقیناً اس کے حق میں ہیں۔ ہاں البتہ اس میں ایک ترمیم ہونی چاہیئے کہ لیڈر کا فیصلہ بالکل حتمی ہو بشرطیکہ لیڈر کا فیصلہ صریح قرآن اور حدیث کے مخالف نہ ہو۔ کیونکہ رسول کریم صلی اللہ علیہ وسلم کی حدیث ہے کہ "جہاں جس عمل میں اللہ کی نافرمانی ہو، اللہ کے احکام سے تصادم ہو وہاں کسی بھی شخص کی عملداری اور تابعداری یا نکرانی نہیں چلے گی"۔ اور اس قسم کے واقعات بھی ہیں۔ تو اس بارے میں ہماری یہ ایک ترمیم ہے۔ ہم کہتے ہیں کہ اگر دفعہ نہ ہو تو آئندہ کے لئے اس ترمیم کو شامل کر دیا جائے کہ پارٹی لیڈر کا فیصلہ یقیناً حتمی ہو بشرطیکہ قرآن اور حدیث کی صریح مخالفت نہ ہو۔ اگر جزوی معاملات میں مخالفت ہو تو پھر بھی قابل برداشت ہے۔ لیکن قرآن اور سنت کے صریح خلاف ہو تو پھر اس کے فیصلہ کی حیثیت نہیں ہونی چاہیئے۔ بہت شکریہ۔

جناب چیئرمین۔ شکریہ جی۔ مولانا صاحب۔ جی جناب اکرم شاہ صاحب۔ پہلے پارٹیز آجائیں پھر شفقت صاحب آپ کو۔ جی اکرم شاہ صاحب۔

جناب اکرم شاہ خان۔ شکریہ جناب چیئرمین ! 14th Amendment کے ذریعے جو اراکین کی وفداری تبدیل کرنے کا بل پیش کیا گیا ہے میں اس پر مسلم لیگ اور ان کی اتحادی پارٹیوں کو مبارکباد پیش کرتا ہوں۔ جناب چیئرمین ! اب تک ہمارے ایوانوں میں 'قومی اسمبلی میں' سینٹ میں اور صوبائی اسمبلیوں میں جو مناظر ہم نے دیکھے ہیں یا جو کچھ ہوتا رہا ہے، وہ نہ صرف ان ایوانوں کے لیے، ان ایوانوں کے ممبران کے لیے، سیاسی پارٹیوں کے لیے بلکہ پوری قوم

کے لیے ہر وقت باعث شرم ہیں۔ جناب چیئرمین! جیسا کہ حافظ صاحب نے یہاں پر ذکر کیا کہ کبھی چھانگا مانگا کے جنگوں کی سنوریاں، کبھی مری کی سنوریاں کبھی میریٹ ہوٹل کی سنوریاں، یہ جو ہمارے ایوانوں میں ہارس ٹریڈنگ در آئی تھی، اراکین پارلیمنٹ کے ضمیروں کو جس طرح خرید جاتا تھا، جس طرح سے مجبور کر کے ان کو ضمیر فروش بنایا جاتا تھا، میں سمجھتا ہوں کہ اس بل کے ذریعے اب یہ راستے بند ہو جائیں گے اور جو بھی یہاں ممبر بن کر آئے گا وہ ایک پروقار اور باعزت طریقے سے اپنا فرض ادا کرے گا، خواہ وہ قومی اسمبلی میں ہو، سینٹ میں ہو یا صوبائی اسمبلیوں میں ہو اور پارٹیوں کو بھی وہ شرمندگی نہیں اٹھانی پڑے گی جو اب تک ہوتی رہی ہے۔

دوسری بات یہ ہے جناب چیئرمین! یہاں پر اعتراض احسن صاحب نے جن خدشات کا اظہار کیا۔ یقیناً جس طرح سے ہمارے ملک کا آئین ہے اسی طرح ہر پارٹی کا ایک آئین ہوتا ہے جس میں اس پارٹی کے تمام کارکنوں کے حقوق و فرائض کا مکمل طور پر خیال رکھا جاتا ہے۔ لہذا یہاں سے ایک ممبر کے اخراج کا فیصلہ پارٹی صدر خود نہیں کر لیتا بلکہ ہر پارٹی کے آئین میں جو اس ممبر کے حقوق و فرائض متعین ہوتے ہیں، ان کے مطابق اس کو پورے پورے حقوق دیئے جاتے ہیں۔ لہذا میں سمجھتا ہوں کہ ان کے خدشات بے جا ہیں اور کوئی پارٹی یہ نہیں چاہے گی کہ وہ اپنے منتخب ممبر کے ساتھ دشمنانہ رویہ اپنائے۔ بہر حال یہ بل جو پیش کیا گیا ہے، میں سمجھتا ہوں کہ اس کے بند اراکین کے وقار میں کمی نہیں آئے گی بلکہ اراکین کا وقار اور بڑے گا اور ہارس ٹریڈنگ وغیرہ کی لعنتیں جو ہماری پوری قوم کے لئے باعث شرم تھیں ان کا خاتمہ ہو جائے گا۔

جناب چیئرمین۔ شکریہ، ڈاکٹر حنی صاحب۔

ڈاکٹر عبدالحی بلوچ۔ جناب چیئرمین! آپ کا شکریہ کہ آپ نے مجھے بھی اس ترمیمی بل پر کچھ گزارشات پیش کرنے کا موقع فراہم کیا۔ یہ اپنی جگہ حقیقت ہے کہ تیرہویں آئینی ترمیم کے بعد یہ anti defection law کا بل بھی قابل تعریف ہے اور خوش قسمتی یہ ہے کہ یہ بل ایک ایسی پارٹی کی طرف سے پیش کیا جا رہا ہے جس کے بارے میں اکثر یہ کہا جاتا تھا کہ مسلم لیگ جمہوری کچھ کی پارٹی نہیں ہے۔ یہ حقیقت اپنی جگہ ہے کہ میاں محمد نواز شریف کی قیادت میں مسلم لیگ نے کم از کم اس پارلیمنٹ کے اندر اس تھوڑی سے مدت میں دو اچھے کام کئے ہیں اور دو اچھی ترامیم اس معزز ایوان میں لائی گئی ہیں اور اس کے لئے وہ قابل ستائش ہیں۔

اس میں صرف اتنی گزارش تھی کہ ایسی ابھی یا بہترین ترامیم جو وہ لا رہے ہیں اس کے لئے قائمہ کمیٹی یا رولز کا طریقہ کار موجود ہے یا جو رولز مصلح کئے جاتے ہیں اس کی ضرورت نہیں تھی۔ اگر اس طرف تھوڑی سی توجہ فرما دیتے تو اور بھی اچھا ہوتا۔ یہ جو ایوان کا اتنا وقت ضائع ہوا، یہ قائمہ کمیٹی کے ذریعے اگر چودھویں آئینی ترمیم کا بل لایا جاتا تو معزایوان کے لئے اور بھی زیادہ بہتر ہوتا۔ بہر حال سیاسی کچھر، جمہوری کچھر، پارلیمانی نظام کے لئے اور خود سیاسی جماعتوں کے وقار کے لئے یہ آئینی ترمیم بہت ہی ضروری تھی۔ اس کو بہت پہلے ہو جانا چاہیئے تھا اور اکثر و بیشتر جو پارلیاں برسر اقتدار آتی ہیں وہ اقتدار سے پہلے تو اس طرح کے قوانین کی وکالت کرتی رہتی ہیں لیکن حکومت میں آنے کے بعد وہ خود اس تلاش میں ہوتی ہیں کہ ممبران کو توڑ کر اپنے لئے زیادہ اکثریت بنائیں۔ بہر حال یہ ایک ابھی مثال ہماری پارلیمنٹ کے اندر قائم ہو رہی ہے۔

اس کے ساتھ ساتھ میں یہ ضرور گزارش کروں گا کہ وحدانی طرز کے پارلیمانی نظام کا علاج بھی میاں صاحب کو ڈھونڈنا چاہیئے کیوں کہ یہ وفاقی پارلیمانی نظام نہیں ہے۔ اس کو صحیح معنوں میں وفاقی پارلیمانی نظام ہونا چاہیئے اور اس کے لئے ضروری ہے کہ وہ تمام اختیارات جو اس وقت وفاق کے پاس ہیں، بڑی مرکزیت ہے۔ اتنی بڑی مرکزیت دنیا کے کسی پارلیمانی نظام میں نہیں ہے، اس کا بھی تدارک ہونا چاہیئے۔ قومی وحدتوں اور وفاق کے درمیان اختیارات کی تقسیم بہت ضروری ہے۔ مالی اختیارات صوبوں کو بھی ملنے چاہئیں اور نہ صرف یہ بلکہ جو صوبوں کی نمائندگی کرنے والا ادارہ سینٹ ہے، اس کو بھی بااختیار ہونا چاہیئے۔ مالی بل سینٹ میں بھی پیش ہونا چاہیئے۔ ٹھیک ہے سینٹ میں ممبران indirectly elect ہو کر آتے ہیں۔

جناب چیئرمین، وہ اور مسئلہ ہیں جنی بلوچ صاحب۔ ان پر کسی اور موقع پر بات کر لینا۔

ڈاکٹر عبدالحی بلوچ - میں عرض کر رہا ہوں کہ اس طرف بھی جانا چاہیئے یعنی ایک ایسا بل، جیسے یہ ضروری ہے، میں سمجھتا ہوں کہ میں اس معزز ایوان میں ضرور لاؤں کہ یہ سب کی طرف سے مشترکہ بات ہے کہ defence, currency, foreign affairs, communications علاوہ باقی اختیارات قومی وحدتوں کے پاس یا صوبوں کے پاس جانے چاہئیں۔ میں سمجھتا ہوں یہ ضروری ہے اور ساتھ ہی جناب میں یہ بھی عرض کروں کہ جمہوری کچھر کے لئے Election Commission کو بھی بااختیار بنانا چاہیئے۔ computerized identity cards کا سسٹم ہونا چاہیئے

اور جو لوگ الیکشن پر 'دو'، 'دو چار'، چار کروڑ خرچ کرتے ہیں اس کا بھی تدارک ہونا چاہیئے۔ واقعتاً ایک جمہوری کچھ کی اس ملک کو ضرورت ہے۔ اس کے علاوہ اور کسی کے پاس اس ملک کے مسائل کا حل نہیں ہے۔ تو اسی لئے میں یہ باتیں بھی ان کی خدمت میں گوش گزار کر رہا ہوں۔ عدالت کو بھی مالی اختیارات ہونے چاہئیں۔ مطلب میرا یہ ہے کہ یہ ساری چیزیں ضروری ہیں۔

جناب چیئرمین، ڈاکٹر صاحب یہ تو اور مسائل ہیں۔ یہ کسی اور موقع پر discuss کر لیں۔

ڈاکٹر عبدالحئی بلوچ۔ بالکل میں عرض کروں گا میں کسی اور موقع پر بھی عرض کروں گا۔

جناب چیئرمین، آج صرف اسی بل تک محدود رکھیں۔

ڈاکٹر عبدالحئی بلوچ۔ جناب میں آخر میں صرف اتنا عرض کروں گا، کیوں کہ آپ کچھ جلدی کر رہے ہیں کہ یہ ایک اچھی مثال ہے۔ یہ ساری باتیں میں سمجھتا ہوں کہ جمہوری کچھ کے لئے ضروری ہیں کیوں کہ یہ جو صوبوں کے درمیان احساس محرومیت ہے یا اختیارات کی تقسیم نہیں ہے اور یہ جو تمام قومی وحدتیں ملک کے اقتدار اعلیٰ میں شریک نہیں ہیں، اس کا بھی قلع قمع ہونا چاہیئے تاکہ ایک اعتماد کی فضا بحال ہو اور ہم ملک کو معاشی بدحالی سے نکال سکیں۔ معاشی لحاظ سے بھی جناب دولت چند ہاتھوں میں مرکوز ہو رہی ہے اور عام جہری بے چارہ پس رہا ہے۔ ان کے لئے بھی قوانین ہونے چاہئیں تاکہ ملک کے اندر معاشی انصاف ہو۔ انہی گزارشات کے ساتھ میں مسلم لیگ اور اس کے اتحادیوں کو مبارک باد پیش کرتا ہوں کہ انہوں نے کم از کم ملک کے اندر horse trading کی جو بے مراد رسم ہے، اس کو بند کر دیا ہے اور لوگ جو اس کی بنیاد پر پیسہ لے کر اقتدار کی خاطر اپنی وفاداریاں بدلتے تھے، کم از کم اس anti-defection law کے آنے سے وہ راستے بند ہو جائیں گے۔ یہ ایک اچھی بات ہے۔ بہت مہربانی جناب چیئرمین۔

جناب چیئرمین، بہت مہربانی۔ جی شفقت محمود صاحب۔ اس کے بعد جمالی صاحب آپ کو بھی موقع دیتا ہوں۔ جی شفقت محمود صاحب۔

جناب شفقت محمود۔ شکریہ جناب چیئرمین۔

Let me say sir, at the outset that I agree with the objectives and

purposes of this bill. I think there should be an anti-defection law. I think that there should be discipline within the party. I believe that the party must have a right to expect from people, who have been elected on its ticket, to observe party discipline. But sir, as stated by the Leader of the Opposition, there are areas and there are problems with this bill that I would seek to bring to your notice.

First of all sir, I have said on the floor of this House and I say it again that we have been, for the past three months, witnessing an almost unbelievable speed at which legislation is being done. We have said this before and we say it again, why is it that legislation is not allowed to proceed in a particular way and the only example that I want to give right now sir, and if I may have your attention sir, is that a certain bill was introduced earlier in the evening? Then that bill was substituted by another bill in which some amendments are going to be moved and now perhaps with the result of the parleys that have taken place, a consensus might have emerged there but the point sir, is that if the same consensus could have emerged within the Committee, the same consensus could have emerged if the normal process and procedure laid down for the passage of bill was followed. So why is it a necessity to short circuit these processes and then arrive at a kind of forced consensus?

No. 2, sir, as far as the definition of the issue of defection is concerned, I think that is very important and I think that any member who votes against the party directives on a particular issue in the House, would certainly be breaching party discipline. If he does not follow the party directive on the floor of the House on vote of confidence or other matters would be certainly breaching party discipline. But sir, to make this whole concept of breach of party discipline as a vague concept, sir, may I have your attention please.

Mr. Chairman: Yes, I am listening to you.

Mr. Shafqat Mehmood: Thank you, sir. Sir, to make the concept of party discipline so vague as has been defined in this Bill militates against something that has been stated again and again in our country, we have been saying for a very very long time that there must be democracy within the parties, now how it will be possible for them to be democratic in the party that if a member votes with a party on all important issues, does not oppose a party but if within the conclaves of the party or at some other forums questions the party leadership on a certain policy, after all it is possible for a member to have an objection to a certain policy being followed by the party. Now if a person opposes that policy of the party on a certain issue without opposing the party on the floor of the House, without defecting from the party, does not mean that that member will be on displeasure of the party leader, he is deprived and denied of his membership, I think sir, this would open a Pandora's box and has been stated by the Leader of the Opposition that this law makes the party leader a judge in his or her own accord. So, I don't think sir, that this allows for the kind of flowering of different thoughts within party does not allow for an internal debate within the party, does not allow for new thoughts and new ideas to emerge from within the party or it warps a kind of blanket dictatorship within the party which sir, is neither good for democracy nor good for the country and let me say sir, one thing over here very briefly that when we talk of democracy, we are talking about a culture democracy and the culture does not only include the things that have been mentioned here but culture of democracy also includes dissent and debate without breaching the broad parameters of the party, now, if we are going

to stifle that dissent and debate then I think sir, that we are not either serving democracy or even not serving the country. I will sir, briefly mention two other points. In clause 5, the jurisdiction of the courts has been barred, I will say on this sir, that since Montesquieu's theory of democracy is based on the separation of power and the separation of power is based on three pillars which itself constitutes democracy and those three pillars are; there is a legislature, there is an executive and there is a judiciary. Now, if any one of these pillars that constitute democracy start to say that no other pillar has any right to question what this one pillar does, then we are here working against democracy that means we are working against the very spirit and the very foundation of democracy, how is it possible for the legislatures to say that we will bar the courts, tomorrow the courts will say, we don't allow the legislatures to do this and a third way the executive will say we bar the legislature and the courts. So we can not do this, we can not go against spirit of democracy. We can not go against the spirit which defines Constitution. So, sir, and also practically speaking, I will say today on the floor of this House that if this law is used, I assure you sir, that cognizance will be taken by the courts, why? Because the member who has been debarred will point out malafide and the moment malafide is pointed out, immediately the courts will take cognizance either we have some learned former Judges of the Supreme Court sitting here who allegedly have held to draft this law, I ask them that will the courts not take cognizance, how many laws there have been in the past in which the courts while having been expressly barred have taken cognizance. So, sir, putting this piece of Clause 5 and barring the courts really does not amount to anything because the courts will take cognizance and this is a bad law. It will irritate the judiciary, it excludes

judiciary for one very important part and also sir, is it possible that democracy would not allow any kind of review? It is not possible. So, therefore, sir, I would suggest that the para 5 is really meaningless, will have no impact whatsoever, so that should be deleted. Last thing that I would like to say.....

(interruption)

جناب چیئرمین: جی conclude کریں۔

Mr. Shafqat Mehmood: Because the Bill has been changed so many times. It was para 5 to begin with, it is now para 6. We don't know which Bill we are considering. Amendments have not been moved by the way.

جناب چیئرمین: نہیں مطلب واضح ہے۔ So, now please if you can conclude

Mr. Shafqat Mehmood: No, sir, I was just going to say that the honourable Law Advisor talked about ulterior motives and material gain. Now, the point is that in breach of party discipline, there is a possibility that there might be no ulterior motives or no material gain. So, what kind of basis are we creating over here. So, I would say, sir, that this Bill must be passed but defection has to be very carefully defined and its ambit structure and the jurisdiction of the courts not barred. Thank you very much.

Mr. Chairman: Thank you. Aitzaz sahib, do I take it?

Because then we can - کیا situation - understanding develop ہوئی ہے۔ کہ کچھ proceed on those lines.

Ch. Aitzaz Ahsan: Mr. Chairman, I am very pleased to inform you and the House, I think we have arrived at an agreed draft. I hope one day we will have the occasion of further improving it but without reservations of those kinds we have contributed our support to that draft provided it comes in, I think Mr.

Sartaj Aziz has gone.

Mr. Chairman: So, as long as we know, in the meantime we can hear Jamali sahib.

Mir Zafarullah Khan Jamali: Sir, After listening to Mr. Aitzaz, they have probably come to an agreement. There were few charges against them which I want to illustrate but I think, I might have been dropping them. Coming to the necessity, listening to the speeches and the Bill which has come up with amendments all over. One has to gauge, Mr. Chairman, as to who has been responsible for the initial horse trading. If you go back a few years, we can easily gauge the two major parties today who are debating the Bill, who want the defection clause to come in, who want to put the Parliament straight, who want to put the Parliament of the race, who started the horse trading? Sir, it is very easy to keep the Parliament as hostage. Since '80s, the Parliament has been hostage of the major political parties. I must admit, which is the fact, without any sycophancy or anything, Mr. Nawaz Sharif has been at the receiving end throughout, which is a fact and it is on record. If you take the motion brought against the Prime Minister of 1989, who were there who changed the loyalties, who were there who looked the horse trading, who were there who took the Muslim League's MNAs and made them sit in the Islamabad Stadium and picturised them. They have forgotten those days. When we go back in 1993, again we see, that again Nawaz Sharif is at the receiving end. Who were the people responsible for making Mr. Chatha and Iqbal Ahmed Khan break up from Nawaz Sharif? Who were the people responsible for breaking the Muslim League? And who were the people again who patronised those people who

deserted the Muslim League and Mr. Nawaz Sharif. To talk it is very simple, their eloquence, their ability, I don't doubt. They are eminent lawyers and barristers to which I don't have any challenge. But to put the record straight, they tried to emerge here as paper masters and paper heroes with their eloquence, whatever they want to speak, take the House as hostage, tried to play to the galleries, in the end subjugated and tried to cover their black deeds and the wrongs done in the past, yes we have come to the understanding.

یہ ہم پر کوئی احسان کر رہے ہیں۔

Is it a favour to us? Is it a favour to the Senate? Is it a favour to the Muslim League? We have no option but to give credit to Mr. Nawaz Sharif and the Muslim League who bore the brunt for three years from 1993 to 1996. People who were taken as a hostage in 1990 and the No Confidence Motion was made to fail when the provincial Government of Punjab and the Provincial Government of Balochistan were at one side, so many things were used. Now, Mr. Chairman, these are facts which everyone is trying to over look, which everyone is trying to shadow out, which everyone is trying to become a hero and to come out as a good speaker with eloquence and they think that they can face the press galleries, these are the people who are responsible for horse trading initially. It must be brought on record as far as the Senate is concerned. Because whosoever were responsible, now are trying to become the heroes. Yes, we have agreed. So, I think Mr. Chairman, the whole thing is that let the people be in the proper places. If they had not misbehaved, this thing would not have occurred. To sit in the mid of the night and then try to emphasise that Muslim League is trying to bulldoze the Bill, it is not so. Muslim League is trying to bring you on the right path. I know my friends and my goody Mr. Aitzaz Ahsan

might be taking down few notes to reply back but if he will reply back I would reserve my right of reply. Because then I would come out more open for many other things.

Mr. Chairman, I must congratulate the Muslim League whatever it is. There are drawbacks, there are Nawaz Khokhar, there are so many people who have been there but let us not go to that. I think in all honesty if both the major parties the Muslim League and the Pakistan Peoples Party and the other parties i.e., ANP, there is the JUI, there is the Pashtoon Khaw, there is the Baloch National Alliance, there is the JWP, there is the BNP who, whichever, so many parties, I think if we all stand honestly and try to look in ourselves I don't think we would be arguing that much.

Now of course without going through deliberations, now if the eminent lawyers and barristers want to eradicate and not to give the courts a choice, to the members of parliament, Sir, we are not all corrupt, we are not all Lotas, we are not all purchaseable, just for a bunch of few but this one Act we appreciate I will support it, I have supported it and I will support it all the way no matter what happens? They have to think it over because tomorrow these very barristers will be facing the court of law again. In the Parliament it is one thing, in the court of law it is the other thing but they are the same persons. They will be pleading the cases that Mr. so and so was not heard, it had ex-parte decision. He was not given a chance to be heard and the court may please allow that. I leave it to that judgement under discretion but in the end I would just sum up, I think my congratulations to Mr. Nawaz Sharif and Muslim League and my appreciations ultimately to others also. Thank you very much.

Mr. Chairman: Khalid Anwar Sahib what is the status of the

agreed draft, if there is an agreed draft?

Mr. Khalid Anwar: Pronounced that we arrived at a complete agreement and the draft is now in the process of being finally typed out and the agreed modality is because all these, technically speaking, will be amendments to the original Bill which was circulated. In order to save time what we will do simply read out the amendments in one shot.

جناب چیئرمین، ایک اور طریقہ کار یہ ہو سکتا ہے کہ اس بل کو withdraw کر کے agreed draft move کریں۔

Mian Raza Rabani: Sir, that will require a number of Rules to be suspended.

Mr. Chairman: No, no. somebody will move to withdraw. Hosue permit

کرے گا نیا move ہو جائے گا۔ اگر agreed draft آ گیا ہے بجائے اس کے کہ اس پر وقت ضائع ہو۔
this can be withdrawn, the new Bill which is agreed that we will move and pass with consensus. Is that alright? Any reservation on that? Ch. Aitzaz Ahsan any reservation on this procedure?

Ch. Aitzaz Ahsan: No reservation, except that we will have to suspend rules all over again.

Mr. Chairman: Which rules?

Ch. Aitzaz Ahsan: Because the new Bill will not be on the Order of the Day. That is the easier way.

Mr. Chairman: Once you are agreed that these are procedural things, in the meantime, we can hear Iqbal Haider Sahib while the draft is being typed.

Syed Iqbal Haider: Thank you Mr. Chairman.

جناب چیئرمین، اب لمبی تقریر نہ کریں۔

Syed Iqbal Haider: Thank you Mr. Chairman, I will be very short, to the point and though I had several points on the draft which don't need to be discussed any further but Mr. Chairman, you would agree that the haste which has been shown in moving this Bill, not only deprived us from examining the issue properly but also sir, denied us an opportunity to join a very brotherly and friendly tested friend of Pakistan celebrations today. The 30th June, 1997 is the historic day in the world that China is celebrating the reunion of Hong Kong and there was a reception to celebrate this occasion which we are deprived to join.

Mr. Chairman: I was supposed to attend that but because of this I am here. I am sure our friends will understand.

Syed Iqbal Haider: They would not be able to understand the haste for moving this Bill, it could have been moved tomorrow, it could have been moved day after tomorrow but the celebration of this great occasion would not take place every day.

Mr. Chairman: So two events of historical significance will do occur today.

Syed Iqbal Haider: Sir second point is, that I am doubtful if this anti defection clause would apply effectively on us, the Senators, you would agree that when MNAs are elected, they are nominated by the party and they are given party ticket, so on the record of the Election Commission, the nomination by the party is very much part and parcel of the election record. Same procedure

applies when MPAs are elected, the specific nomination by the party is very much on the record of the Election Commission. But when the Senators are elected, we do not produce any ticket or letter of nomination by the party. My proposition is that since the Bill says "to a person who is nominated by the party", we are neither issued any symbol of the party in the election of the Senator nor there is a room for any nomination by the party for the election of a Senator, a Senator can take a plea that, I belong to the party but I have not been as such because Election Commission's record does not disclose that he has been nominated. So there is a flaw, there is a possibility that we Senators may escape the scope of this defection.

جناب چیئرمین، بھر تو آپ کے لیے اچھا ہے۔ آپ مزے سے defect کریں۔

Syed Iqbal Haider: Sir, my another point is that this piecemeal amendments to the Constitution are causing another hotch potch system because every day a new amendment on one particular issue is brought. My suggestion is that when there is a consensus in the nation on issues like 58-2(b), on issues like defection, ban on defection and issues like women seats and several other issues, why can't the government take up these issue by one single amendment and even today our Parliament and assemblies are denied of the representation of women and women have been denied of their representation in our parliament and assemblies sir.

It is more important issue than the defection clause. I fail to understand what is the hesitation on the part of the present government to allow representation of women in the Parliament and assemblies? Why this discrimination against the fifty percent population of our country and why the

same amendment in the same haste and with the same zeal should not be moved to restore the seats of women in the Parliament. Sir, all these issues require national consensus. We have been cooperating and as our leader of the Opposition has rightly pointed out for all national cause, we will extend our support, whether it is Mian Sahib's government or anybody else's government because national issues are far more important issues. It is most unfortunate that even on these noncontroversial issues, consensus is not being sought by the present government. It is not the only issue sir, we are passing through a very critical stage where rumours mongering is going on against the very existence of the democratic institutions. It is not an ordinary phase sir, I am not over emphasising or exaggerating Mr. Chairman, that the nation is faced with the issue of Kashmir, consensus can be drawn on what form of the negotiations should take place with India, consensus is required. Only then Pakistan can negotiate with India when there is consensus within Pakistan among all political parties, as well as all the institutions of the country. Census is another issue which needs to be implemented without any delay. Sir, NFC Award is causing undue unrest among the smaller provinces. That so called NFC Award given by the caretaker government require revision by the elected representatives of the people and I challenge that the caretaker government had no business to give any kind of NFC Award. Their whole sole objective was just to hold election and not to indulge in these policy matters. Now these are the issues of national concern, Nuclear Power, foreign policy, the Peace in Afghanistan require consensus. Sir, single handedly you will not be able to solve the cause or achieve the objective which you are trying to do. We need at this moment and when there is a threat to the very existence of the institutions, when there is a threat to

the integrity of the politicians and political parties, when there is a threat to the whole democratic process, you need consensus on the major issues and without that you will never be able to solve these issues. And this is not the only amendment that is required, there are so many other amendments. Why are they shy of presenting a comprehensive bill to remove the ills of the Martial Law, to remove the ills of the dictatorship, to remove the encroachments made on the parliamentary system through the Martial Law days amendment sir? Here I would also like to emphasize sir, my friend.....

Mr. Chairman: You were saying about a small speech.

Syed Iqbal Haider: Last point sir, my friend on this occasion have unnecessarily referred in mudslinging, reference has been made that PPP indulged in any kind of horse trading. Saber Shah case was decided by the Supreme Court of Pakistan, who did the horse trading is finally decided by the Supreme Court of Pakistan and the learned Sardar from Balochistan whom I otherwise personally respect. I would only suggest to him.⊙

اتنی نہ بڑھا پاکی دامن کی حکایت دامن کو ذرا دیکھ ذرا بند قبا دیکھ
اور میں ان سے پوچھوں گا کہ وہ ۸۸ میں جس طرح سے بلوچستان کے چیف منسٹر بنے تھے کیا وہ
شخاف طریقہ کار تھا۔ چودہ دسمبر ۸۸ کو جو بھی واقعہ بلوچستان میں ہوا کیا وہ شخاف اور جمہوریت
کے اصولوں پر کاربند ہوتے ہوئے ہوا۔ تو اس طرح کی الزام تراشیاں تو ہم بہت ساری کر سکتے
ہیں۔ ہالے پو تو کو کس نے defect کروایا۔ ہمارے ایک درجن ایم این ایز کو کس نے kidnap
کیا۔ کس نے میریٹ ہوٹل کو بھرا۔ یہاں پر کس نے کونسی محفلیں لگائیں؟ آپ شیشے کے گھر
میں بیٹھ کر دوسروں پر پتھر نہ پھینکیں تو بہتر ہوگا۔ اور اس وقت قومی ہم آہنگی کی ضرورت
ہے۔ نیشنل ڈویژن اور descent کی ضرورت نہیں ہے۔ اس لئے میں زیادہ اس پر بات نہیں کروں
گا۔ جو کچھ ہوا ۹۰ء سے ۹۲ء تک جو بدترین ہارس ٹریڈنگ ہوئی جس طرح سے ہمارے ایم پی ایز

اور ایم این ایز کو اغوا کیا گیا۔ چند ایک کو جان سے بھی مارا گیا۔ وہ باتیں ہم نہیں چلتے۔ آج ہم اس موقع پر نہیں چلتے کہ اس پر زیادہ بات کریں، تاہم ضرورت اس بات کی ہے کہ اگر وہ لعنتی کام آپ نے کیا ہے تو آپ اسے بند کریں اور اگر ہمارے کسی ساتھی نے کیا ہے تو ہم بھی اسے بند کریں گے اور آئندہ کے لئے یہ طے کریں کہ آئندہ آپ پارس ٹریڈنگ نہیں کریں گے۔ جناب چیئرمین صاحب! آج بھی جناب پیر مہر الحق ڈپٹی لیڈر آف دی ایجوکیشن کو کس نے اغوا کیا ہوا ہے؟ حکومت نے کیا ہوا ہے۔ صرف اس لئے کہ وہ پیپلز پارٹی کے ساتھ اپنی وفاداری تبدیل کرنے کو تیار نہیں ہے۔ اسی طرح سے ہمارے اور ایم پی اے کے اوپر زور دیا جا رہا ہے تو ہمیں اس طرح کی باتیں نہیں کرنی چاہئیں۔

جناب چیئرمین۔ جناب! اب اسے conclude کریں۔

سید اقبال حیدر۔ جناب چیئرمین صاحب! میں یہاں پر صرف یہی کہوں گا کہ ماضی میں بہت سے ایسے واقعات ہیں، ایم کیو ایم نے ہمارا ساتھ دینے کے لئے ۲ دسمبر ۱۹۸۸ء کو معاہدہ کیا تھا اور درپردہ آئی جے آئی کے ساتھ ۱۹ ستمبر ۱۹۸۹ء کو معاہدہ کیا تھا۔

جناب چیئرمین۔ آپ کیسی باتیں کر رہے ہیں۔ یہاں تو بل پر بحث ہو رہی ہے۔

سید اقبال حیدر۔ جناب والا! میں یہ کہہ رہا ہوں کہ defection کی 'میں کہہ رہا ہوں immorality کی 'میں کہہ رہا ہوں فلور کراسنگ کی۔ مجھے یہ باتیں اس لئے کہنا پڑ رہی ہیں کیونکہ ہم پر بے بنیاد اور غلط الزامات لگائے جا رہے ہیں۔ یہ میں کہنا چاہتا ہوں۔ اگر یہ بے بنیاد الزامات نہ لگائے جاتے تو مجھے یہ باتیں کہنے کی ضرورت پیش نہ آتی۔

جناب چیئرمین۔ برائے مہربانی آپ جتنی صاحب بیٹھ جائیں۔ ڈاکٹر بیدی صاحب! کیا آپ کی پارٹی کے لیڈر نہیں بول چکے۔ چلیں دو منٹ آپ بول سکتے ہیں۔ کدھر ہے ڈرافٹ نہیں آ رہا۔

ڈاکٹر محمد اسماعیل بیدی۔ بسم اللہ الرحمن الرحیم۔ جناب والا! یہ بہت اچھا بل ہے۔ میں جناب نواز شریف کو پوری قوم کی طرف سے مبارک باد پیش کرتا ہوں اور میں سمجھتا ہوں کہ 58-2(B) کے بعد یہ دوسرا ایک اچھا اور جرات مندانہ فیصلہ ہے جو کہ نواز شریف نے پاکستانی قوم کے لئے کیا ہے۔ میں سمجھتا ہوں کہ اگر وہ بحاری مینڈیٹ سے فائدہ اٹھاتے ہوئے ایک تیسرا

قدم اٹھائیں اور وہ قدم یہ ہے کہ اسلامی نظریاتی کونسل نے سٹارش کے لئے اسلامی قانون بنایا ہے۔ اس کو سینٹ اور قومی اسمبلی میں اگر پیش کریں تو میں سمجھتا ہوں کہ پوری قوم کی بھی یہ خواہش ہے کہ اس ملک میں اسلامی نظام نافذ ہو کیونکہ ہم سسٹم کو تبدیل کرنا چاہتے ہیں، نہ کہ انسان کو۔ جب تک اس ملک میں سسٹم تبدیل نہیں ہو گا، اس وقت تک اس ملک میں کوئی انصاف اور مساوات قائم نہیں ہو سکتی۔ لہذا میں چاہتا ہوں کہ نواز شریف کو جو بھاری مینڈیٹ ملا ہے، آج پوری قوم کی نظریں اس پر لگی ہونی ہیں۔ وہ روایات جو سیاست دانوں کو پوری دنیا میں بدنام کر چکی تھیں وہ منڈیوں میں حیوانوں کی طرح بک رہے تھے اور لاکھوں روپے ان کی بولیاں لگتی تھیں۔ لیکن مجھے اس بات کا فخر ہے کہ جب سوات اور مری میں لوگ بند تھے، اس وقت بھی جمعیت علماء اسلام کے ممبر اسلام آباد میں آزاد گھوم رہے تھے۔ کسی نے یہ جرات نہیں کی کہ وہ جمعیت علماء اسلام کے ممبروں کو خریدیں تو لہذا یہ تو مسلم لیگ اور پیپلز پارٹی کی خود شروع سے ہی ایک demand تھی کہ اس بل کو آنا چاہیے لیکن میں حیران ہوں کہ آج کچھ ساتھی اس بل کی مخالفت کر رہے ہیں۔

اس ملک اور قوم کے لئے ایک بنیادی ضرورت ہے کہ کھیر اور جمہوریت کو مستحکم کیا جائے۔ اس کا یہی علاج ہے کہ یہ روایت اس بل کے ذریعے ختم کی جائے۔ کسی کے ذہن میں یہ نہ رہے کہ میں کسی کو لاکھوں میں خرید کر کسی حکومت کو تبدیل کروں گا۔ دو صوبائی حکومتیں بھی گئیں، اسی آرڈیننس کے ذریعے ختم ہو چکی تھیں۔ اب next time ان لوگوں کا خیال ہے کہ ہم بیک میل کر کے کسی اور جمہوریت کو ختم کریں گے۔ لہذا میں دوبارہ اپنی پارٹی کی طرف سے، پوری قوم کی طرف سے جناب نواز شریف کو مبارک باد پیش کرتا ہوں اور میں چاہتا ہوں کہ ہر پارٹی اس میں share کرے۔ اسلام علیکم۔

جناب چیئرمین۔ شکریہ جی۔ ڈرافٹ ابھی تک نہیں آیا۔ جی فضہ جو نیچو صاحبہ۔

محترمہ فضہ جو نیچو۔ جی ڈرافٹ ابھی تک نہیں آیا ہے۔

جناب چیئرمین۔ جی ڈرافٹ کا انتظار ہے۔ جی فضہ جو نیچو صاحبہ۔

محترمہ فضہ جو نیچو۔ چیئرمین صاحب! جہاں تک اس قانون کا تعلق ہے، اس قانون کی اس بل کی اشد ضرورت تھی اور اس کے آنے سے پارٹی سسٹم مضبوط ہو گا۔ لیکن ہمارے ممبر

صاحبان کو کچھ شکایت ہے کہ یہ پہلے نہیں ملا یا بحث کا کھل کر موقع نہیں ملا۔ اگر یہ بل پہلے ملتا تو تیاری ہوتی کیونکہ روایت یہ رہی ہے کہ جب اس طرح کی amendment لائی جاتی ہے تو پھر کچھ وقت بھی دیا جاتا ہے۔ میرے خیال سے آپ لوگوں کو یہ چیز یاد ہوگی کہ جب آپ میچلے دنوں 8th amendment میں ترمیم کا بل لا رہے تھے تو تب خواجہ صدر صاحب کی Chairmanship میں چالیس ممبروں کی کمیٹی بنی تھی اور اس میں اس چیز پر تین مہینے کھل کر بحث ہوئی تھی، اس میں مختلف چیزوں پر ممبر صاحبان نے President صاحب کے پاس بھی جا کر بحث کی تھی۔ چونکہ یہ چیز چلی آ رہی ہے تو اس لئے point raise ہو رہے ہیں کہ ہمیں وقت ملنا چاہیئے۔ چونکہ اب اس پر understanding ہو گئی ہے اور اس کو بہتر طریقے سے لایا جا رہا ہے اور دونوں اطراف اس پر متفق ہیں، امید ہے یہ بہتر شکل میں سامنے آئے گا لیکن ہر صورت میں جو پہلے بھی بل تھا no matter اس میں کچھ چیزیں تھیں لیکن کچھ نہ ہونے کی بجائے بہتر ہے کہ یہ law pass ہو اور ایک ایسی چیز آنے جس سے کہ پارٹی سسٹم مضبوط ہو۔ شکریہ۔

جناب چیئرمین۔ شکریہ جی۔ Where is the draft اس میں کتنی دیر لگے گی۔

Anybody else کوئی پارٹی کے نمائندے بولنا چاہتے ہیں۔ جی اعجاز جتوئی صاحب۔

جناب اعجاز علی خان جتوئی۔ شکریہ جناب چیئرمین! جناب وہاں سے کچھ چیزیں

ایسی اٹھائی گئی ہیں۔

جناب چیئرمین۔ آج اختلافی بات نہ کریں۔ بات اب consensus میں جا رہی ہے،

کوئی ابھی بات کریں، بھگڑے والی بات نہ کریں۔

جناب اعجاز علی خان جتوئی۔ لیکن کچھ باتیں ایسی ہیں جو تاریخ کا حصہ ہیں۔

جناب چیئرمین۔ پھر کسی اور موقع پر، آج فضا ابھی ہو رہی ہے۔ آج اس بل کے

بارے میں ابھی باتیں کریں۔

جناب اعجاز علی خان جتوئی۔ جناب میں اپنے ضمیر کے مطابق حقائق بیان کروں

گا۔ اگر آپ اجازت نہیں دیتے ہیں تو میں تقریر نہیں کروں گا۔ میں ایسی مصنوعی تقریر نہیں کر

سکتا جہاں پر کسی پارٹی کا کچھ اور political culture ہو، یہ باتیں ہوئی ہیں، ڈکٹیٹر شپ کی باتیں

ہوئی ہیں، جس پارٹی نے 20 سال تک اپنے اندر ایکشن نہیں کروائے ہیں، ہم نے اپنے اندر ایکشن

کروائے ہیں۔ جس پارٹی کے اندر ایسا ہو، یہ ان کے حقائق ہیں، ہم ابھی چاہتے ہیں لیکن بات یہ ہے کہ ہم controversy نہیں چاہتے، لیکن یہ خود باتیں raise کرتے ہیں۔

جناب چیئرمین۔ تو میرے خیال میں یہ باتیں کسی اور موقع پر۔ جی آفتاب شیخ صاحب آپ کچھ فرمانا چاہتے ہیں۔

جناب آفتاب احمد شیخ۔ جناب چیئرمین! I am not speaking on this Bill میری ایک proposal ہے کہ تھوڑا سا وقت قاتو ہے، ہمارے اعتراض احسن صاحب تشریف فرما ہیں تو کوئی تازہ غزل یا کوئی اشعار سنا دیں تو کیا برا ہے۔

جناب چیئرمین۔ نہیں نہیں ایسا نہیں۔ جی جناب جاوید اقبال عباسی صاحب کوئی اختلافی بات نہیں کرنی، بل کے بارے میں بات کرنی ہے۔

حاجی جاوید اقبال عباسی۔ جناب اختلافی بات نہیں کروں گا۔ تحمدہ و نصلی علی رسولہ الکریم۔ اما بعد اعوذ باللہ من الشیطان الرجیم بسم اللہ الرحمن الرحیم۔ ہمارے قائد منع کر رہے ہیں، لیکن میں مبارک باد پیش کرنا چاہتا ہوں۔

جناب چیئرمین۔ آپ کی مبارکباد سے بھی ہم لوگ خوف زدہ ہیں۔

حاجی جاوید اقبال عباسی۔ او جی اک دو گھلاں مینوں کرن دیو جی۔ وزیر اعظم صاحب ما افسوس رہی۔ اک دو غریباں نوں وی گھلاں کرن دیو جی۔

جناب چیئرمین۔ جی مسعود کوثر صاحب۔

سید مسعود کوثر۔ میں بل کے متعلق بات کرنا چاہتا ہوں۔

جناب چیئرمین۔ آپ کی یہ تجویز اچھی ہے، میرے خیال میں آزاد اراکین کے بارے میں کچھ ہونا چاہیئے۔

سید مسعود کوثر۔ جناب میں سمجھتا ہوں کہ 1988 اور 1990 میں حکومتوں نے۔۔۔۔۔

جناب چیئرمین۔ سات دن کے اندر تجویز زیر غور رکھنی چاہیئے۔

Syed Masood Kausar: Let me express myself. Sir, the point is

that in our provincial assemblies and I would say in the North Frontier Assembly no single party in the past few years has been able to get even a bare majority. So, we have three groups of people either belonging to political party 'a', political party 'b' and on their own they are not in a position to form a stable government.

تو اس میں جناب والا! یہ ہوتا ہے کہ When the independents, so-called independents یہ گورنمنٹ کو destabilize کرنے کے لئے influence کرتے ہیں اور میں سمجھتا ہوں کہ حقیقت میں بہت کم لوگ جو political parties کے ہوتے ہیں وہ بہت کم defect کرتے ہیں اور آپ دیکھ لیں کہ اب تک کتنے لوگوں نے defect کیا ہے۔

جناب چیئرمین۔ نہیں آپ کی اس سلسلے میں جو تجویز ہے وہ دیں that what you propose تاکہ شاید اس پر بھی کوئی consensus ہو جائے۔

Syed Masood Kausar: My proposal is that after a certain period of time when a person independently gets elected, he has to join any political party and once he joins a political party then of course, he is brought under the discipline of that political party.

جناب چیئرمین! میری دوسری تجویز یہ ہے کہ

This Bill only provides punishment for an individual who defects from the party, we don't have anything against that political party which attracts defection. If a person who becomes a Lota and joins another political party, there must be some kind of impediment, some kind of penalty, some kind of punishment on that party who accepts a Lota. So, therefore, without it because it should not be only the prerogative of a political leader to decide whether somebody has become a Lota or not, because sometimes you never know who is Lota. So, my personal feeling is that in order to ensure that there is no horse trading as such because there are many leaders who are sitting here are willing to indulge in lotaism and

they have been purchasing and selling, they have brought this law but the fact is that if you really want to stop this corrupt and illegal practice then it must be ensured that not only a certain class of people who happened to be members of a political party but also there should include an independent and also the party which accepts a person or lure the person to join a political party after he has been elected on a different political party's ticket. So, these three matters I think, should need serious consideration and I hope that in future these categories of people whom I have mentioned the law will cater for all these type of people. Thank you very much.

جناب چیئرمین - ان کی تجویز یہ تھی کہ اگر کوئی شخص independent حیثیت سے

elect ہوتا ہے تو let us say seven days, ten days he should join a political party and then be subject to the discipline of the party, that is his suggestion.

Mr. Khalid Anwar: Sir, may be I just respond very briefly, take a hypothetical case, in a constituency one Muslim Leaguer stands, one Peoples Party and one independent, the electorate rejects both the Peoples Party candidate and the Muslim League candidate, does it make any constitutional sense to force the winning man to join the defeated party. It may complete negation of the will of the elective. It makes complete non sense of parliamentary democracy.

جناب چیئرمین - آپ کی بات وزن رکھتی ہے لیکن -

on the other hand in matters which are purely party matters like the election of the Prime Minister, election of the Speaker, election of the Chairman, why should then they be voting on these elections.

Mr. Khalid Anwar: Why should not? It is very simple sir, even if

you have such an amendment what stops an independent from standing and creating his own party. He says my party ; his ex-party. So these suggestions are not practical, they just can not function.

جناب چیئرمین۔ جی جناب عالی صاحب آپ کیا کہتے ہیں اس پر۔

جناب جمیل الدین عالی۔ جناب معزز سنیئر صاحب نے پارٹی سسٹم اپنی جگہ ' یہ ترمیم بہت اچھی آ رہی ہے یہ بہت تاریخی بات ہے لیکن آپ بنیادی انسانی حق پر حملہ کرنا چاہتے ہیں۔ ایک آدمی کسی طریقے سے بھی ایک آزاد امیدوار کی حیثیت سے جیت کر آتا ہے اس کا ایک فرد کی حیثیت سے ایک معاشرے کے فرد کی حیثیت سے اور ہاؤس کے ممبر کی حیثیت سے اس کا بنیادی حق ہے کہ وہ جدھر چاہے ادھر رہے آپ کو کیا حق ہے کہ آپ اس کو پابند کریں کہ وہ منتخب ہونے کے بعد سات دن کے اندر اندر یہاں چلا جائے یا وہاں چلا جائے۔ اگر وہ اپنی رائے بدلنا چاہے تو آؤٹ ہو جائے۔ میرا خیال ہے کوثر صاحب اگر اپنے لئے یہ بات مختص کرتے ایک پارٹی کا ممبر ہوتے ہوئے اور اپنی پارٹی لیڈر کی تقریر کے خلاف اور مجھے جناب والا ! آپ سے آج شکایت کرنے کی جرات ہو رہی ہے اور امید ہے کہ آپ قبول فرمائیں گے میری اس بات کو کہ جب آپ پارٹی لیڈر کو اجازت دیتے ہیں تو آپ کا عام طور پر یہ رویہ ہوتا ہے ' مانا کہ وہ اظہارِ سامعہ کھینچا جا رہا ہے ' آپ مجبور ہیں اس میں ' لیکن آپ عام طور پر لیڈر کو اجازت دیتے ہیں اور اس کے بعد دوسرے لیڈر کو کہتے ہیں ایک ہی پارٹی کے آپ نے تمام ہی حضرات کو سوائے میرے دوست ڈاکٹر صدر عباسی کے جس کو تفصیلی گفتگو کرنے کی اجازت دی ہے اور یہ بھی تاج حیدر شکایت کر رہے ہیں۔ بہت سے لوگ ادھر بھی بیٹھے ہوئے ہیں ہم تو اس احترام میں اور شرم میں بیٹھے ہوئے تھے کہ معاملہ جلدی سے نمٹ جائے تو آپ نے ایک پارٹی کے کئی ارکان کو اور آپ نے ان پر یہ بھی واضح نہیں کیا کہ وہ کئی باتیں اپنے لیڈر کے اصولی موقف کے خلاف کہہ گئے ہیں ان کے لیڈر صاحب جو باتیں accept کر چکے ہیں ان کے اراکین نے ان کے خلاف تمام باتیں کی ہیں۔

جناب چیئرمین۔ آئندہ ایسی باتیں نہیں کریں گے اس قانون کے بعد۔

جناب جمیل الدین عالی۔ آپ فرماتے تو جناب میں بڑا خوش ہوں لیکن میں مسعود

کوٹر صاحب کی یا کسی صاحب کی بھی تقریر کی بناء پر اپنے اس حق کو واپس لینے کے لئے تیار نہیں ہوتا I am independent till I want to

جناب چیئرمین۔ جی جناب کوٹر صاحب۔

سید مسعود کوٹر۔ جناب والا جب ہم اس Law کے context کی بات کر رہے تھے تو purpose یہ تھا کہ politics میں کرپشن کا خاتمہ کیا جائے اور ہارس ٹریڈنگ کو ختم کیا جائے۔ میں یہ سمجھتا ہوں کہ ایسا بھی ہوتا رہا ہے کچھ آزاد اراکین کبھی ایک گروپ کے ساتھ شامل ہو کر حکومت بناتے رہے ہیں اس کے بعد وہ اٹھ کر دوسرے گروپ میں اپنی loyalty فروخت کر کے مل کر حکومتیں کرتے رہے ہیں تو میں اس لحاظ سے کہہ رہا تھا کہ اتنے مادر پدر آزاد بھی نہ ہوں کہ کبھی ادھر جائیں اور کبھی ادھر جائیں۔

(مداخلت)

جناب چیئرمین۔ I reserve my ruling on this point۔ جی مسعود کوٹر صاحب۔

سید مسعود کوٹر۔ میری بات سے اگر ان کی دل آزاری ہوئی ہے تو میں اپنے الفاظ واپس لیتا ہوں مگر یہ الفاظ غیر پارلیمانی نہیں ہیں۔

جناب چیئرمین۔ انہوں نے اپنے الفاظ واپس لے لئے ہیں۔ معاملہ ختم ہو گیا ہے۔ جی مسعود کوٹر صاحب۔

سید مسعود کوٹر۔ جناب میں یہ عرض کر رہا تھا کہ it is a very serious problem کہ جتنا ہارس ٹریڈنگ کا پرابلم آزاد امیدوار کی وجہ سے ہوا ہے اتنا سیاسی پارٹی کے لوگوں کی وجہ سے نہیں ہوا۔ آپ 1988 میں دیکھ لیں آپ 1990 میں دیکھیں یہ عالی صاحب تو ابھی آئے ہیں حاضری کرتے کرتے ان کو پتہ نہیں ہے کہ سیاست میں کیا ہوتا رہا ہے۔ اس لئے میں یہ گزارش کروں گا کہ اس کا ضرور کوئی سدباب کیا جائے۔

جناب چیئرمین۔ سربراہ صاحب ڈرافٹ آ گیا ہے۔ so give me a copy of the

draft۔ جی item No.4 نہیں جب بل ہی نہیں آیا تو وہ move کریں گے I think instead of

moving this for consideration we will move the new bill which you will introduce

now تو اس کو move کریں گے۔

جناب چیئرمین، میرے خیال میں یہ کریں گے ناں پہلے

this Bill should be withdrawn and then you move Item No.4 straight away, I

think بات ان سے کر کے then you can straight away go to item No.4.

I think, In the meantime what you could look at is the Bill which has been moved should be withdrawn with permission to introduce a new Bill by suspending the relevant rules. I think

ان سے بات کر کے I think that would be appropriate and then you can straight away introduce the new Bill. ایک کاپی مل گئی جی آپ کو۔ ایک کاپی مجھے دے دینا۔ کیوں جی۔ اعتراض صاحب آپ نے دیکھ لیا یہ بل۔

Ch. Aitzaz Ahsan: Yes, Sir.

Mr. Chairman: O.K. So, what I am proposing is that the Minister Incharge will withdraw the Bill which has been moved with permission to introduce the new Bill by suspension of the relevant rules.

Ch. Aitzaz Ahsan: Right, Sir.

جناب چیئرمین، تو اس قسم کا موٹن move کر دیں کہ I may be permitted to withdraw the Constitution under 104 with permission to introduce a new Bill called this by suspension of the relevant rules. نام یہ جو ہے ٹھیک ہے اعتراض صاحب۔

چوہدری اعجاز احسن، ٹھیک ہے۔

Mr. Chairman: O.K.

Mr. Sartaj Aziz: Mr. Chairman, I seek permission under Rule 105 to withdraw the Bill introduced by me earlier under item No.2 of the supplementary

Order of the Day today and seek leave to introduce the new Bill in its place.

Mr. Chairman: Mr. Sartaj Aziz has sought permission under Rule 104 of the Rules of Procedure and Conduct of Business in the Senate, 1988, to withdraw the Bill at item No.2 of the Order of the Day for today and seeks permission to introduce a fresh Bill called The Bill Further to Amend the Constitution of the Islamic Republic of Pakistan [The Constitution (Fourteenth Amendment) Bill, 1997] by suspension of the relevant rules.

(The motion was adopted)

Mr. Chairman: The Bill stands withdrawn and permission stands granted to introduce this fresh Bill called [The Constitution of Pakistan (Fourteenth Amendment) Bill, 1997].

Mr. Sartaj Aziz: Do I introduce it?

جناب چیئرمین، جی اس کو introduce کریں پھر ۲ اور ۳ اکٹھے پڑھ دیں اس کے بعد۔

Mr. Sartaj Aziz: I beg to introduce Mr. Chairman a Bill further to amend the Constitution of the Islamic Republic of Pakistan, 1973, [The Constitution (Fourteenth Amendment) Bill, 1997].

Mr. Chairman: So, the Bill stands introduced.

Mr. Sartaj Aziz: May I also move Mr. Chairman that under Rule 236 of the Rules of Procedure and Conduct of Business in the Senate, 1988, the requirements of Rule 84, 86 and 87 of the said rule regarding reference to the Bill to the Standing Committee and time for consideration of the Bill in respect of the Bill further to amend the Constitution of the Islamic Republic of Pakistan, 1973, (The Constitution (Fourteenth Amendment) Bill, 1997) be dispensed with.

Mr. Chairman: It has been moved by Mr. Sartaj Aziz, under Rule 236 of the Rules of Procedure and Conduct of Business in the Senate, 1988 that the requirements of rule 84, 86 and 87 of the said regarding reference of the Bill to the Standing Committee and time for consideration of Bill in respect of the Bill further to amend the Constitution of the Islamic Republic of Pakistan, 1973, the Constitution (14th Amendment) Bill, 1997 be dispensed with.

(The motion was adopted)

Mr. Chairman: Item No.4.

Mr. Sartaj Aziz: I beg to move Mr. Chairman ! that the Bill further to amend the Constitution of the Islamic Republic of Pakistan, 1973 the Constitution (14th Amendment) Bill, 1997 be taken into consideration at once.

Mr. Chairman: It has been moved by Mr. Sartaj Aziz, the Minister Incharge of Law, Justice, Human Rights and Parliamentary Affairs that the Bill further to amend the Constitution of the Islamic Republic of Pakistan, 1973 the Constitution (14th Amendment) Bill, 1997 be taken into consideration at once.

(The motion was adopted)

Ch. Aitzaz Ahsan: I am conscious Mr. Chairman that every one in this House now has had a long day and I do not propose to take more than three four minutes but since it is a Constitutional amendment I think that its merits atleast demand that something be said. I once again in the Constitutional amendment, I can not but at the moment congratulate the Prime Minister on the adoption of this Bill. I will not be congratulating him in the manner in which the honourable Senator Mr. Jamali was congratulating him, I am sure his application has been noticed by the Prime Minister and I will take no notice of Mr. Jamali's

caveats upon my articulation. It is my privilege Mr. Chairman to have secured, though one's speech, some rights for the public representatives to have secured the application of two fundamental principles of civilised law to have secured the supremacy of Constitutional principles to have secured the right of hearing against persons who are under threat and shadow of punitive action and to have secured the containment of our bitterness, be it with party leaders or anybody else. History, Mr. Chairman, has witnessed today that we on this side have stood for democratic principles. History has witnessed today Mr. Chairman, that we on this side have presented proposals to inhibit the growth of dictatorial trend in any organization. History will also witness Mr. Chairman, that our proposals have in part been accepted by the government. I, therefore, also must thank first from the other side, although, more grateful really, in many ways to my colleagues but first to the other side, I must thank to Mr. Sartaj Aziz, Ch. Nisar Ali, Mr. Khalid Anwar, Mr. Ajmal Khattak, Mr. Chairman, Mr. Asfandiyar Wali who is not in this House but has played a substantial role in bringing about a consensus whereby the rights of people under threat of some kind, of prosecution or deprivation were given rights, justified under the law. I must thank Mr. Aftab Sheikh for his very positive input. I must thank also Mr. Chairman, Mr. Raza Rabbani, Syed Khurshid Shah, the Deputy Opposition Leader in the National Assembly, Syed Masood Kausar, Senator Iqbal Haider and above all also Mr. Chairman, yourself and now I must conclude by saying that this is still not a perfect law Mr. Chairman and I hope that the improvements that are required and some of the amendments that have been mentioned by Syed Iqbal Haider like for women seats etc, will be brought in soon by the government. It has the requisite majority. My only request, Mr. Chairman, will

Mr. Chairman: Clause 1(a) or clause 1.

Ch. Aitzaz Ahsan: Clause 1 sir. This is also sub clause.....

جناب چیئر مین۔ ہر حال یہ آپ میں آپ طے کر لیں but correction ہو جانی چاہیئے۔ یہ مجھے دے دیں جی۔ پھر یہ جو corrections کی ہوئی ہیں۔ خالد انور صاحب یہ مجھے دے دیں۔ نہیں اچھا ہو گیا جی۔ ایک کام کو مکمل کر لیں باقی پھر۔ I think it is a bill with consensus which is a good thing

So I will take up the Bill clause by clause.

Mr. Shafqat Mehmood: It is a procedural matter, but we do not have a bill.

Mr. Chairman: No, no this is going on by consensus. Now you have the copy of the bill. So now I can move the clause.

The question is that Clause 2 do forms part of the bill. All those in favour may please stand.

(76 persons stood in favour)

Mr. Chairman: 76 in favour, none against.

(Motion was adopted)

Mr. Chairman: Clause 2 forms part of the Bill, having been passed by not less than 2/3rd of the total majority of the House. Question is

اور تو کوئی clause نہیں ہے 2 کے بعد ایک ہی clause ہے

The question is that Clause (1) which is short title and commencement and the preamble do form part of the bill. All those in favour, may please stand

(76 persons stood in favour)

جناب چیئر مین۔ (وہی 76 جی) all those against may please stand

(none stood against)

Mr. Chairman: 76 in favour none against, clause one which is short title and commencement and preamble do forms part of the Bill, having been passed by not less than 2/3rd majority of the total membership of the House. Next item is item No. 5.

Mr. Sartaj Aziz: I beg to move Mr. Chairman that the Bill further to amend the Constitution of Islamic Republic of Pakistan 1973, the constitution 14th amendment bill 1997, be passed.

Mr. Chairman: It has been moved by Mr. Sartaj Aziz, the Minister incharge of Law, Justice, Human rights and Parliamentary Affairs that the bill further to amend the Constitution of the Islamic Republic of Pakistan 1973, the constitution 14th amendment bill 1997 be passed. All those in favour please stand.

(76 persons stood in favour)

Mr. Chairman: All those against may please stand.

Mr. Chairman: 76 in favour, none against. The Bill has been passed by majority of not less than 2/3rd of the total membership of the House. Any other item.

جناب چیئرمین۔ اب کل کا کیا کرنا ہے۔ کل کتنے بچے راجہ صاحب۔
(مداخلت)

Mr. Chairman: The House is adjourned to meet again tomorrow at 5 p.m

(The House was then adjourned to meet again on Tuesday 1st of July, 1997 at five of the clock in the evening.)