

SENATE OF PAKISTAN

SENATE DEBATES

Tuesday, July 19, 1988

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

RECITATION FROM THE HOLY QUR'AN

بِسْمِ اللّٰهِ الرَّحْمٰنِ الرَّحِیْمِ

وَمِنَ النَّاسِ مَنْ يَشْتَرِي لَفْسَهُ أُبْتِغَاءَ مَرْضَاتِ اللَّهِ وَاللَّهُ
رُؤُوفٌ بِالْعِبَادِ • يَا أَيُّهَا الَّذِينَ آمَنُوا إِذَا خُلُوتُمْ فِي السَّلَامِ كَافَّةً
وَلَا تَتَّبِعُوا خُطُوتِ الشَّيْطَانِ إِنَّهُ لَكُمْ عَدُوٌّ مُّبِينٌ • فَإِنْ
زَلَلْتُمْ مِنْ بَعْدِ مَا جَاءَ تِلْكَ الْبَيِّنَاتُ فَاعْلَمُوا أَنَّ اللَّهَ
غَفُورٌ حَكِيمٌ •

(سورة البقرة ۲۰۷ تا ۲۰۹)

ترجمہ : اور انسانوں میں کوئی ایسا بھی ہے جو رضائے الہی کی طلب میں اپنی
جان کھپا دیتا ہے اور ایسے بندوں پر اللہ بہت مہربان ہے ۔ اے ایمان
لانے والو ۔ تم پورے کے پورے اسلام میں آ جاؤ اور شیطان کی پیروی
نہ کرو کہ وہ تمہارا کھلا دشمن ہے جو صاف صاف ہدایات تمہارے پاس آ
چکی ہیں اگر ان کو پا لینے کے بعد پھر تم نے لغزش کھائی تو خوب جان رکھو
کہ اللہ سب پر غالب اور حکیم و دانا ہے ۔

QUESTIONS AND ANSWERS

جناب چیئرمین : جزاک اللہ ۔ بسم اللہ الرحمن الرحیم ، سوالات ۔

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تقاضی عبداللطیف : پوائنٹ آف آرڈر آج ایجنڈے میں شریعت آرڈیننس نہیں ہے کیا اس پر بحث ختم ہو چکی ہے۔

جناب چیئرمین : اس پر بحث شروع ہی نہیں ہوئی۔

تقاضی عبداللطیف : اس دن انہوں نے جب پیش کیا تھا تو کہا تھا کہ بحث کے لیے پھر دوبارہ لایا جائے گا۔

جناب چیئرمین : اگر کوئی بحث کرنا چاہتا ہے تو اسے Rejection کا موشن move کرنا پڑے گا جس کے لیے نوٹس دینا پڑتا ہے۔

تقاضی عبداللطیف : نوٹس دینا پڑے گا۔

جناب چیئرمین : جی، جناب پروفیسر خورشید صاحب

CASES OF CORRUPTION IN DEPARTMENTS UNDER CBR.

33. *Prof. Khurshid Ahmad : Will the Minister for Finance and Economic Affairs be pleased to state :

(a) the total number of cases of corruption, misuse of power, bribery, etc. detected in different branches of tax collection agencies (direct and indirect taxes) during the last five years on year-wise basis ; and

(b) the final action taken in respect of the above cases with year-wise break-up ?

Dr. Mahbubul-Haq : (a) Cases of corruption, misuse of power, bribery etc. detected in the Income Tax Department and Customs and Excise Department under C. B. R. during the last five years are :—

Income Tax Department :

Year	No. of cases
1983	10
1984	7
1985	8
1986	19
1987-88	25
	69

Customs and Excise Department :

Year								No. of cases
1983	...	...	...	...	...	...	...	16
1984	...	...	...	...	...	...	...	31
1985	...	...	...	...	...	...	...	48
1986	...	...	...	...	...	...	...	59
1987-88	...	...	...	...	...	...	...	57
								211

(b) the final action taken in respect of the above cases with year-wise break-up is as under :

Income Tax Department :

Year				Total number	Major/minor Penalty	Exoneration	Under process
1983	..	...	...	10	03	03	04
1984	...	...	...	07	04	03	—
1985	...	...	...	08	03	04	01
1986	...	...	...	19	06	01	12
1987-88	...	...	...	25	03	—	22
				69	19	11	39

Customs and Excise Department

Year				Total number	Major/minor Penalty	Exoneration	Under Process
1983	...	...	...	16	09	05	02
1984	...	...	...	31	15	08	08
1985	...	...	...	48	17	06	25
1986	...	...	...	59	29	06	24
1987-88	...	...	...	57	15	06	36
				211	85	31	95

پروفیسر خورشید احمد = صنفی سوال - کیا وزارت خزانہ نے اس امر پر کوئی investigation کی ہے انکم ٹیکس، کسٹم و ایکسائز کے بارے میں یعنی ایک یونیورسٹی audit کرائی ہے کہ وہاں کرپشن ہے اور دوسری طرف جو کیسز آپ کے زیر غور آئے ہیں وہ اتنی کم تعداد میں ہیں جس کے معنی یہ ہیں کہ اس ڈیپارٹمنٹ میں تو کوئی خرابی پائی نہیں جاتی کیا اس پر آپ نے کوئی investigation کی ہے غور بھی کیا ہے کہ ایسا کیوں ہے؟

Dr. Mahbubul Haq : Mr. Chairman, I think, the honourable Senator is right that the cases which have been detected in the past are rather few and the penalties which have been given are rather light. It is, as a result of this that we announced in the Budget that a new Ordinance of Prevention of Tax Evasion is being promulgated and in that the punishments will not be only for tax evasion by the taxpayer but also by anyone who abets or facilitates the tax evasion and those punishments will be heavy including imprisonment, ineligibility for government service in future and ineligibility for elective office and ineligibility for taking economic patronage from the government. So, as such, once this Ordinance comes in, we believe, that it will become possible which it does not in the existing laws to award much quicker and heavier punishments to the corrupt officials.

Mr. Chairman : Thank you. Any other question—Prof. Khurshid Ahmed.

پروفیسر خورشید احمد = جہاں تک مجھے یاد پڑتا ہے جس آرڈیننس کا احترام وزیر خزانہ ذکر کر رہے ہیں اس کا اصل ہدف بزنس مین اور پبلک ہے میرے سوال کا جو موضوع ہے وہ Tax collecting agencies ہیں اور لازماً ان کو آپ اسمبلی کا ممبر نہیں بننے دینگے تو وہ ان کیلئے deterring punishment

نہیں ہے آپ کو گورنمنٹ رولز کو لازماً بدلنا پڑے گا لیکن میں ساتھ ہی پوچھنا چاہتا ہوں کہ آخر کیا وجہ ہے کہ ۱۹۸۳ سے انکم ٹیکس ڈیپارٹمنٹ میں کسٹم ڈیپارٹمنٹ میں cases under process ہیں اور کیا وزیر خزانہ یہ

بتا سکیں گے کہ major penalty کتنوں کو ملے گی اور minor penalty کتنوں کو ملے گی۔

Dr. Mahbubul Haq : Mr. Chairman, I first want to clarify that in the new Ordinance the punishment for tax evasion will be equal for both the taxpayer and as well as the official concerned, and that is why I mentioned it.

So far as the past is concerned, Sir, I am looking into these cases to see how this can be processed more quickly because many of the cases are under process, I do not have readily the material to respond as how many have been given major penalty and how many minor penalty ?

Mr. Javed Jabbar : Would the honourable Minister comment on the curious fact that in the first year of the restoration of civilian democratic rules of 1985, Part (b) of the answer for the Customs and Excise Department over 50% of the cases, three years later, are still under process *i. e.* 25 out of 48 ?

Mr. Chairman : I think, it is covered by his general reply that he hasn't got the material to answer these questions but he would look into them.

Mr. Javed Jabbar : But Mr. Chairman, when the question was put, surely the Ministry supplied the necessary data to the honourable Minister.

Mr. Chairman : Well, a research of this type takes some time.

پروفیسر خورشید احمد = جناب چیئرمین ! مسئلہ
research کا نہیں
کا ہے۔ کسی کو
total laxity in administration
ہے مسئلہ جو ہے وہ
اس بات کی فکر نہیں

Dr. Mahbubul Haq : Mr. Chairman, that is why I wanted to make it clear that we are bringing a new Ordinance which we hope will be promulgated by the next month and that will make sure that the punishments for corrupt officials are prompt and fairly severe. So far as the past is concerned, as I said, I have not had the time to look into all these cases. I shall try to ensure that they are processed quickly.

Mr. Chairman : Mr. Javed Jabbar's point was about the expeditious disposal of the cases. I hope that is also being looked into in the Ordinance.

Dr. Mahbubul Haq : Right, Sir.

Mr. Chairman : Next question—Prof. Khurshid Ahmed.

MALPRACTICES PREVALENT IN KARACHI STOCK EXCHANGE

34. ***Prof. Khurshid Ahmed :** Will the Minister for Finance and Economic Affairs be pleased to state :

(a) whether the Corporate Law Authority has taken any action against any of the malpractices prevalent in the Stock Exchange so far ; and

(b) whether it is a fact that a premium of Rs. one million is being paid presently to get membership of the Karachi Stock Exchange and over half a million rupees for getting an office in the Karachi Stock Exchange ?

Dr. Mahbubul Haq : (a) The malpractice pointed out by individuals and the press are examined thoroughly by Corporate Law Authority. However, none of the complaints received could be substantiated.

(b) Membership right can be acquired from an existing member subject to mutually agreed terms and conditions. However, the Corporate Law Authority and the Karachi Stock Exchange are not aware of the quantum of premium.

پروفیسر خورشید احمد = ضمنی سوال - کیا محترم وزیر خزانہ یہ بتا سکیں
گے کتنی شکایات موصول ہوئی ہیں اور اس بات کو جانچنے کا کیا
Process ہے کہ جو شکایات ہیں وہ فی الحقیقت properly investigate ہوئی ہیں۔

Dr. Mahbubul Haq : Mr. Chairman, I have a list of all the complaints which have been received, if he likes I will mention a few major ones,—Whenever the complaints are made, the Corporate Law Authority meets and reviews them. In the last two years, the major complaints have been made.....

Mr. Chairman : Can you indicate the total number and then refer to one or two prominent ones, if you like ?

Dr. Mahbubul Haq : Sir, I do not have the total number. I have the main substantive complaints which have come to the Corporate Law Authority. I will just mention one or two major ones.

It was alleged that some of the members and Directors of Karachi Stock Exchange happened to be holding directorship of certain listed companies which provide them inside information liable to be misused for their personal gain. Sir, this is investigated and the law provides that every Director, officer or any shareholder holding 10% or more of shares of any company must inform the Authority of the acquisition and disposal of shares in the company within 30 days of such transaction. The Karachi Stock Exchange provides the Authority on a daily basis details of shares purchased and sold by any member of KSE in any listed company of which he is a Director and as such, all the information was available to the Corporate Law Authority on the basis of which the allegation was investigated and was found that it had no basis.

Another major complaint Sir, has been received which is probably coming up in the next question, where it is alleged that the premium of membership card was about Rs. 10 lacs and that of the office in Karachi Stock Exchange building was Rs. 5 lacs. Sir, presently, the law and the rules are that the transfer of membership card is governed by the rules of Stock Exchange and it is mutually agreed between person who transfers and the person who receives the transfer.

The Karachi Stock Exchange charges Rs. 2500 as fee for transfer of membership card. Similarly office accommodation can also be transferred by mutually agreed terms. Sir, all details of this are given in the annual report of Karachi Stock Exchange. The complaints which were received and the investigations which were done are in the annual report which is the second annual

report of the Corporate Law Authority and with your permission, Sir, I would like to place that report on the Table of the House.

Mr. Chairman : In answer to this question the Secretariat has received a copy of this report and they have also requested that it should be circulated to the members. What I propose is that these reports should be placed on the Table of the House for the benefit of the members and any one who wishes to study them can pick up a copy. With regard to the particular question which is right now under discussion, I have just seen this report and it mentions on page 49 that during the year 1986-87, thirty complaints were received by the CLA out of which 25 were disposed of and the remaining five were in the process at the close of the year. Of these three were pending on November 30th which is probably their closing date. These complaints generally disclose grievances of the share-holders, creditors and others in regard to the company affairs, internal disputes of the companies, lapses, etc. May be you find this report of interest and then on the basis of it later on you can, if you so wish, ask further questions. The report is placed on the Table of the House.

Next question.

INCREASE IN THE ANNUAL LISTING FEE FOR COMPANIES

35. *Prof. Khurshed Ahmed : Will the Minister for Finance and Economic Affairs be pleased to state :

(a) the rate of previous and existing annual listing fee for companies listed on the Stock Exchange, indicating the reasons for the increase ;

(b) whether the listed companies or the general public were consulted before making the change ; and

(c) whether it is a fact that the increased revenue from the increase in fee has been passed on to Members of the Stock Exchange by way of reducing the commission payable by them to the Stock Exchange and by providing them and the brokers with certain fringe benefits and free of charge services ?

Dr. Mahbubul Haq : (a) Annual listing fee of companies listed on Karachi Stock Exchange was increased with effect from 1st July, 1987 to raise funds for construction of a new block of the Exchange's building and for installation of new computer for computerisation of the Clearing House. The rates of previous and existing annual listing fees which are related to the paid up capital of the companies are :—

Paid up capital in million rupee							Previous Rates	Existing Rates
Up to 10	...	...	...	...	...	...	1500	2500
10 — 20	...	...	...	...	...	...	2500	5000
20 — 25	...	...	...	...	...	...	2500	7500
25 — 30	...	...	...	...	...	...	6000	7500
30 — 40	...	...	...	...	...	...	6000	10000
40 — 50	...	...	...	...	...	...	6000	12500
Above 50	...	...	...	...	...	...	10000	15000

(b) No.

(c) No.

جناب چیئرمین : ضمنی سوال -

پروفیسر خورشید احمد : آخر کیا وجہ ہے کہ اس معاملے میں کوئی consultation کا نظام نہیں ہے جب آپ فیس میں کمی پیش کرتے ہیں تو بجائے اس کے کہ arbitrarily کی جائے ، اسٹاک ایکسچینج کے جو ذمہ دار افراد ہیں ، ان سے آپ کا کوئی نہ کوئی contact سہنا چاہیے اور یہ کام افہام و تفہیم کے ساتھ کیا جائے آخر اس کے لیے کوئی پروسیجر کیوں موجود نہیں ۔

Dr. Mahbubul Haq : I think, Sir, that is a good suggestion. I do believe myself in mutual consultations and I shall instruct the Corporate Law Authority that in future before they approve a change in the listing fee, they should have a process of consultation.

Mr. Chairman : Is there no Advisory Committee ? I thought there used to be an Advisory Committee on this matter.

Dr. Mahbubul Haq : I believe, Sir, that they do have an informal system but I gather from the honourable Senator that he would like it to be more institutionalized and we will try to do that.

Mr. Chairman : Right. Thank you very much.

پروفیسر خورشید احمد : میرا دوسرا سوال یہ ہے کہ جو تفصیلات محترم وزیر صاحب نے دی ہیں ، ان پر ایک نگاہ ڈالنے سے یہ معلوم ہوتا ہے کہ progressivity تو انہوں نے اس کے اندر ضرور build کی ہے لیکن آپ غور فرمائیں گے کہ وہ افراد جن کا اس سے پہلے ۲۰ سے ۲۵ ملین کیپٹل تھا ، اور دو ہزار پانچ سو روپے انکی فیس تھی ، یہ اب three times بڑھ گئی یعنی سات ہزار پانچ سو ، اسی سے جن افراد کا چالیس سے پچاس ملین کیپٹل تھا ، ان کا چھ ہزار سے بڑھ کر بارہ ہزار پانچ سو ہو گیا ہے جو تقریباً اڑھائی سو فیصدی ہے لیکن جن کے کیپٹل پچاس ملین یا اس

سے زیادہ ہیں، ان میں صرف پچاس فیصد rise ہے۔ آخر اس میں صحیح
کیوں نہیں بنائی گئی ہے۔ proportion progressivity

Dr. Mahbubul Haq : May I say Mr. Chairman, that the fee is a very small proportion of what the paid up capital is of these companies which are being listed and is not too much of a hardship and ultimately, after all, all these funds are being raised for the construction of a new block of the Exchange building and for installation of a new computer. So, these are the services which will also be provided to the very companies which are being listed on the Stock Exchange.

پروفیسر خورشید احمد۔ میرا سوال دراصل اس مقصد کے لیے تھا کہ آپ
نے جن دواہم ضرورتوں کے لیے فیس بڑھائی ہے، ان کو فی الحقیقت زیادہ
just سہنا چاہیے تھا اور جن افراد کا سرمایہ پچاس ملین یا اس سے زیادہ
ہے، اس پر فیس لازماً بڑھائی جانی چاہیے تھی۔ جو کہ بظاہر بہت ہی عجیب
سی معلوم ہوتی ہے۔

اسی ضمن میں میرا دوسرا سوال یہ ہے کہ آپ نے اس بات سے یہ تو
انکار کیا ہے کہ کوئی کمیشن pay back نہیں ہوئی ہے لیکن کیا آپ یہ بتا سکیں
گے کہ فی الحقیقت اس زمانے میں جو کمیشن بطور rebate کے واپس کی جاتی
ہے اس میں as a matter of fact کوئی تبدیلی ہوئی ہے یا نہیں۔

Dr. Mahbubul Haq : Mr. Chairman, so far as the question of progressivity is concerned that is a matter of judgement and I assume that is the best judgement that was reached by the Corporate Law Authority whatever informal consultations they had.

I think the other question is a very valid one. There was a reduction in the commission service charges payable by member of the Karachi Stock Exchange but that was introduced, Sir, on 1st November, 1985 and the reduction in the charges for computer services was effected from 1st July, 1986. So far as the room rents are concerned which are mentioned in part (c) of the question, they have in fact been raised by the Lahore Stock Exchange by 50% and these things preceded by about two years or one year the increase in the listing fee. So, there was no nexus between the two.

Mr. Chairman : Right. There is no nexus, no connection between the two.

Next question. No. 37.

میری آئندہ آپ سے درخواست ہوگی کہ سوال کو ذرا مختصر رکھا کریں
ہم نے کوشش کی کہ اس کو مختصر کریں لیکن پھر بھی -----

It almost reached the ceiling of 150 words.

برگڈیئر (ریٹائرڈ) عبدالقیوم خان = لیکن میں اس سوال کو کس
طرح مختصر کر سکتا تھا۔
جناب چیئرمین = آپ کر سکتے تھے۔ بہر حال،
برگڈیئر (ریٹائرڈ) عبدالقیوم خان = آپ نے کوشش بھی کی تو نہیں
کر سکے۔
جناب چیئرمین = ہم نے کوشش کی کہ اسے مختصر کیا جائے جس سے
مطلب بھی فوت نہ ہو اور تفصیل بھی آجائے۔

KAMALIA PAPER MILLS PROJECT

37. *Brig. (Retd.) Abdul Qayyum Khan : Will the Minister for Finance and Economic Affairs be pleased to state :

(a) whether it is a fact that the Kamalia Paper Mills Project was approved by the ECNEC in September, 1985 ;

(b) whether the approval was accorded after proper feasibility studies ;

(c) whether the Pakistan Banking Council had carried out any feasibility studies and held it viable project ;

(d) whether it is also a fact that the Financial Management Services, UK had also carried out feasibility study of the project and recommended it as a viable project ;

(e) whether it is further a fact that the government funding agencies of Canada, West Germany and Austria have agreed to finance the foreign exchange component of this Project and that these financial agreements have already been approved by the Ministry of Finance and are current since April, 1987 ;

(f) whether it is also a fact that the said project is a joint venture between PIDB and Klockners and that the latter have agreed to put in one-third of total equity portion of the project in foreign exchange ;

(g) whether besides the Klockners, government funding agencies of Canada, West Germany, Austria and Pakistan Banking Council and Financial Management Services, UK have all found the project viable ;

(h) whether it is further a fact that the inordinate delay in the decision to fund this project has already resulted in cost escalation to the tune of 1.5 billion rupees ; and

(i) the efforts made so far by the government to resolve the difference of opinion, if any, to prevent further escalation of the cost involved?

Dr. Mahbubul Haq : (a) Yes.

(b) Yes.

(c) Yes.

(d) Yes.

(e) Yes.

(f) The said project is a joint venture between PIDB and a foreign private party to be arranged by Klockners who will put in 10 per cent share in the equity of the project.

(g) Yes.

(h) ECNEC approved the project at a cost of Rs. 2657 million in September, 1985 subject to the condition that financial institutions should scrutinize the economic viability of the project before financing NDFC estimated the cost of the project at Rs. 3973 million including interest during construction on foreign currency loan. If the mark-up during construction on local currency loan was also included, it would have been around Rs. 4200 million. According to the last appraisal done by NDFC in November, 1987 the project cost has been estimated at Rs. 4650 million on account of mark-up during construction, thus showing a net increase of Rs. 289 million over the initial estimates of NDFC.

(i) The issues involved were considered in the meeting under the chairmanship of Finance Minister held on 15th June, 1988 and it was decided that the Government of Punjab will send Project document on the proforma prescribed by the Planning Commission for consideration by Central Development Working party which should highlight :—

(i) the alternative of adopting a modular, less costly and viable plant, taking initially the pilot plant for newsprint and small plant of writing paper ; and

(ii) possibility of associating local and foreign private parties who are experienced in paper manufacturing technology based on bagasse.

جناب چیئرمین = آپ صنی سوال پوچھیے ۔

برگنڈیئر (ریٹائرڈ) عبدالقیوم خان = جناب اس جواب کا مطلب

یہ ہے کہ پرانا پراجیکٹ جو ہے وہ shelf ہو گیا ہے اور اب نئے

پراجیکٹ کے لیے suggestions دی گئی ہیں ۔ تو اب نئے پراجیکٹ

کے لیے fresh studies undertake ہوں گی تو اس میں کتنا عرصہ

لگے گا ۔

Dr. Mahbubul Haq : Sir, the old project went up to a cost which was not found financially viable or feasible by the NDFC and latter on in examination by the Planning Commission. As such the effort which is being made at the moment in a committee which we set up under the Deputy Chairman, Planning Commission is to reduce the cost around about Rs. 100 crores and to build this project in a modular form and add to it as we gain experience and find that it is financially and economically viable. The committee has indicated to me that their report will be submitted by the end of this month and I hope, Sir, we shall be in a position to take a decision on this finally within the month of August. That shall certainly be our effort.

Mr. Muhammad Mohsin Siddiqui : Will the honourable Finance Minister inform that this Kamalia project was basically a project for manufacture of newsprint and more than 15 crores of rupees were spent. Now, since Tamil Nadu in India has already, based on bagasse, set up a unit which is running successfully for newsprint; why is this not converted into a project of newsprint so that we can save lot of foreign exchange that we are spending on importation of the newsprint ?

Mr. Chairman : My advice would be that you study the history of the project. It started as a newsprint project but then it was discovered that it was not feasible. This factory that you mentioned in Madras was also known at that time. An expertise group went there and studied it. They also went to Brazil and some other places and they also studied this very newsprint technology from bagasse also, but finally they came to the conclusion that at this stage of the development of technology production of newsprint from bagasse was not feasible.

Dr. Mahbubul Haq : May I just add. I think, Sir, you have clarified it extremely well. Basically, Sir, we have been interested in a newsprint project and all our effort was to do so but the two teams—one which visited Argentina and the other which visited Tamil Nadu, they looked at the plants in operation based on bagasse. Their recommendation was that this technology is still not proven, and the plants were having difficulties and we should not invest in a major fashion in such a technology and their suggestion was that we should start with a pilot newsprint project and convert the main project into a paper project. So, as such the project was re-cast in 1985 by the sponsoring authorities with the thrust being on

paper production but it also contains a pilot project for newspapers and if the technology is proven then it can be expanded into a fullfledged newspaper project.

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, I think, I have not been able to make myself understood by you. I know all the facts and therefore, there is no lack of knowledge of facts. My question is that Tamil Nadu has successfully started operation and production in 1986 and now for more than about 1½ years, it has been successfully running and not only the team of the Kamalia paper project but other teams from private sector have also visited that plant because they had a very big show on the inauguration and the technology is now proven and the India is using that paper. That is why I say that instead of going back to a smaller project why not have this newsprint paper and a further study on that subject is necessitated because now that technology is proven and established.

Mr. Chairman : May I make a suggestion to Dr. Mahbulul-Haq if he is the Minister Incharge, and I hope he will accept it. This Kamalia Paper Project is being taken up in the public sector. If the private sector, an industrialist and entrepreneur of your calibre are convinced that the Tamil Nadu project is working successfully, I think, the private sector should be most welcomed to undertake the production of newsprint from bagasse anywhere they like in this country.

Dr. Mahbulul Haq : We shall be very glad Sir, to accommodate any private party if it is such a profitable project and the technology is proven. I think, private parties would be welcomed and we will conclude the deal even today.

Mr. Muhammad Mohsin Siddiqui : My objection to this suggestion Mr. Chairman, would be that this is a project with a technology which has to be with a little risk and that is why the Government of India has taken it herself. Why do you throw the burden on the private sector ? You are coming in commodities, you are coming in consumer goods and so far as things of high technique are concerned you throw the burden on the private sector, that is neither fair nor feasible. I would suggest that my suggestion is prompted.....

Mr. Chairman : Right. I think you write a suggestion to the Ministry

Mr. Muhammad Mohsin Siddiqui : It is in the best interest of the country that we should even with extra-expenditure produce newsprint from bagasse so that we cut our import list and save our foreign exchange. Why should public sector not come in ?

Dr. Mahbulul-Haq : I am only surprised Mr. Chairman, that when it is a question of public sector, it is suggested the technology is proven. When it is offered to the private sector it is suggested that technology is risky. I think Sir, the proof of it is that we have offered it again and again to private sector in the last few years.

Mr. Chairman : I think you can make another suggestion also to the honourable Member and that is, unfortunately the Chief Minister of Frontier is not sitting in the House, the Charsadda Paper Factory which is based on bagasse, it is still available to be picked up by anybody—private or public.

Mr. Muhammad Mohsin Siddiqui : But there is no bagasse available and because of the labour trouble that is not running.

Mr. Chairman : There is bagasse available I think the largest factory....

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, it is not fair that you introduce your knowledge and you want to force your opinion on us. It is our privilege.

Mr. Chairman : I don't want to waste the time of the House by suggestions. Don't accept it, if it is not acceptable to you. I am in no position to force opinion on any body.

Mr. Muhammad Mohsin Siddiqui : Of course, it is not acceptable and my question remains still unanswered as to why not save the foreign exchange which you are incurring in millions, may be eighty millions or something like that on the importation of the newsprint? When it is now established that a newsprint can be manufactured from bagasse, why not send a delegation now to Tamil Nadu and see that plant. It is in a sister country. It would not cost you much and see if the technology is proven, then establish a factory here.

Mr. Chairman : I would request you to resume your seat because you are begging a question and I can not permit questions being begged.

Mr. Muhammad Mohsin Siddiqui : I am not begging the question. I am putting the question. I take exception to this because it is my privilege. It is my right to ask a question.

Mr. Chairman : I hope you understand what begging a question in English means.

Mr. Muhammad Mohsin Siddiqui : My question is simple that why this question is not going to be re-examined in the light of the performance at Tamil Nadu.

Dr. Mahbubul Haq : Sir, may I suggest Mr. Chairman, that I greatly value the opinion of the honourable Senator. Sir, we will certainly try to have another look at Tamil Nadu which last time I think we did in 1984 or 85 and we can find out how well the project is working. There were initially grave doubts about it. We certainly will keep our mind open on this to any suggestions which are constructive and in the national interest.

Mr. Muhammad Mohsin Siddiqui : Thank you.

Mr. Chairman : And make an offer to the private sector.

Dr. Mahbubul-Haq : That too Sir.

Mr. Chairman : Next question, Mr. Abdul Majid Kazi.

COLLECTORATES OF CUSTOMS

38. *Mr. Abdul Majid Kazi (Put on his behalf) : Will the Minister for Finance and Economic Affairs be pleased to state :

(a) the total amount of revenue collected by Customs Collectorates at Custom's House, Karachi, during the years 1985-86 and 1986-87 ;

(b) the number of officers in BPS-20 posted in the Custom's House, Karachi ;

(c) whether it is a fact that each Collectorate in Custom's House is headed by grade 20 officer and if so ;

(d) whether there is any plan under consideration of the government to appoint an officer in BPS-21 to supervise and coordinate the said Collectorates, if not, the reason therefor ?

		<i>(Million of Rupees)</i>	
		1985-86	1986-87
Dr. Mahbubul Haq :—	(a) Coll. of Customs (App.) ..	24671.9	28184.6
	Coll. of Customs (Prev.) ..	4179.6	4086.5
	grand total : ..	28851.5	32271.1

(b) The number of officers in B-20 posted in the Custom House, Karachi is six.

(c) Yes.

(d) No.

Mr. Javed Jabbar : Would the honourable Minister agree that with reference to part (b) of his answer, the number of official in B.P.S 20 available at the Customs House, Karachi is inadequate to deal with the volume and the variety of material being processed by that department.

Dr. Mahbubul Haq : I think, Sir, the honourable Senator is right and I am having a look at the whole structure of Central Board of Revenue and the Custom Collectorates as well as other taxation staff. In order to see as to what are the real requirements and how best we can beef up the staff, it is in that context that I shall review this as well.

Mr. Javed Jabbar : Mr. Chairman, I thank the Minister for that response but I do presume that the re-examination will include the reference to the concentration of power into few individuals at the Customs House. With reference to that I hope he goes in for a wider distribution of authority to discourage corruption.

Mr. Chairman : Well, that was the whole tenor of his budget speech, you have listened to that.

Dr. Mahbubul Haq : Sir, I am doing that and I may just add one more thing for the information of the House. We have agreed to set up for the first time Customs Tribunals on the same lines as there are Income Tax Tribunals. So that there is an alternative to what the honourable Senator says, the concentration of power in the hands of the Customs Officers. There is no court of appeal at the moment. They can go to various layers of Customs officials and now there will be Customs Tribunal—Judicial ones and they are being set up fairly.

Mr. Chairman : Thank you. Next question No. 39, Mr. Muhammad Mohsin Siddiqui.

PRIVATE INVESTMENT COMPANIES

39. *Mr. Muhammad Mohsin Siddiqui : Will the Minister for Finance and Economic Affairs be pleased to state:

(a) the measures taken by the government to check the coming into existence and activities of illegal private investment companies; and

(b) the measures, if any, taken so far to recover the deposit's money from such companies?

Dr. Mahbulul Haq : (a) Soliciting of deposits/finances by individuals, partnerships and companies through advertisements in public media or postal circulars handbills, displays in public places or by any other means was prohibited by amending the Banking Companies Ordinance, 1962 through the Finance Act, 1987. Necessary legal action against the enterprises which continued to solicit deposits in an indirect manner by inviting the public to participate in their business/investment, is being taken by the State Bank of Pakistan. State Bank of Pakistan has filed criminal complaints against 62 enterprises, out of which 9 cases have been decided and the accused persons have been convicted.

The following additional measures were taken to warn the public and to discourage the operations of enterprises soliciting deposits:—

- Press notes cautioning the public against risks in investing their money with the companies offering attractive but unrealistic returns were issued.
- The Finance Minister's budget speech 1987-88 mentioned the activities of the companies soliciting deposits and the general public was advised to beware of the fraudulent offers of unusually high profits on deposits being made through advertisements in newspapers.
- The proprietors/directors/sponsors of the enterprises accused of soliciting deposits in violation of the provisions of Banking Companies Ordinance and defrauding people are being prosecuted by the Provincial and Federal law enforcing agencies. They have also been placed on Exit Control List.

(b) Efforts are being made to ensure that the depositors' money is returned by the enterprises which accepted deposits unlawfully. The Ministry of Interior, issued a Press Note on 12th May, 1988 warning such enterprises to return the depositors' money within two months failing which they will be liable to criminal prosecution in addition to the action taken by the State Bank of Pakistan. The time limit fixed for returning the depositors' money has expired by 12th July, 1988 and the position is being reviewed by the Interior Division.

Mr. Muhammad Mohsin Siddiqui : I would like to give a little background to my question that these private illegal finance companies started working sometime in 1952-53 in East Pakistan and thereafter in Punjab and in Sind and the same *modus operandi* was adopted this year. Why no action was taken to stop

it where billions of Rupees of the poor depositors have been risked because of lack of prompt action? Of course, the present Finance Minister is not responsible for it but as he represents the government therefore, it is my question to him.

Dr. Mahbubul Haq : Mr. Chairman, this is precisely the question I asked on the assumption of office as Finance Minister. I realize the anguish of the honourable Senator and that of the nation that 338 finance companies mushroomed during 1987 and even though the State Bank tried to take prompt action by alerting the government and by advertising in the newspapers and on the TV. The phenomena kept multiplying. I think, Sir, there has been a very serious legal lacuna, these companies have also been taking advantage of under which they can set themselves up without prior approval of the government and can advertise and solicit funds. We have now amended the relevant Ordinance and we have closed that legal lacuna. At the same time we have taken some fairly strict action. Both Ministry of Law and Ministry of Interior has proceeded against it and we have been successful in apprehending some of them and we have been able to get some of the money back. But this is not adequately compared to what has happened in 1987. I do believe Sir, that this issue should have been tackled more urgently, more expeditiously last year. But what we can do now is to ensure that in future we have legal framework that does not permit the setting up of any finance company and every company that has to be set up has to have the authorization of the government and is closely monitored by the government that is why the Ordinance, as I suggested, has been amended.

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, I am glad and thankful to the honourable Minister for letting us know the measures that have been taken but most of these proprietors, Managing Directors and sponsors of such bogus finance companies have escaped and they have gone to other countries and they are sending communications from there. What steps have been taken to repatriate them from abroad?

Dr. Mahbubul Haq : Sir, the cases have been handed over to FIA. They are pursuing them. As in other branches in our national life when a crime takes place, it is always very difficult under our existing procedure to apprehend the criminals but as I suggested so far during the drive that was undertaken last month, 5 prominent companies and their proprietors have been apprehended.

Mr. Chairman : I think, the question was; what steps have been taken or are being taken to repatriate the people who have left abroad and to bring them back to face justice in this country? I think, this was the question.

Dr. Mahbubul Haq : Sir, so far as the people gone abroad are concerned, that is, as you are aware, very difficult to arrange their repatriation. We had immediately placed most of the people that came to our knowledge on the Exit Control Order so that they should not be able to get their passports and get out of the country. But those who have escaped illegally, it is always very difficult to apprehend them abroad.

Mr. Chairman : Any other Supplementary?

Mr. Muhammad Mohsin Siddiqui : May I suggest that why not the honourable Minister in collaboration with the Minister of Interior use Interpol for getting them back?

Dr. Mahbubul Haq : We shall certainly be glad to seek the services of Interpol or any other organization that could help us in this matter.

پروفیسر خورشید احمد : کیا محترم وزیر صاحب اس بات سے واقف ہیں یہ تو انہوں نے کہا کہ ہم نے ایف آئی اے کو کیس دے دیا ہے۔ لیکن اخبارات میں یہ رپورٹس آئی ہیں کہ خود ایف آئی اے والوں نے بڑی بڑی رشوتیں لیکر لوگوں کو باہر بھیجا ہے۔

Mr. Javed Jabbar : Sir, there is an adjournment motion pending on this subject.

Mr. Chairman : Right.

Dr. Mahbubul Haq : I hope, Sir, the honourable Senator will also suggest to us to whom we should hand over the FIA officials who might be involved in the alleged bribes and corruption?

Mr. Chairman : I think, it would be debated and you (Mr. Javed Jabbar) are right—there is an adjournment motion coming on this.

پروفیسر خورشید احمد : دوسرا سوال میرا یہ ہے کہ ایک طرف آپ نے یہ بات کہی ہے کہ ہم نے ریڈیو اور اخبارات میں اعلانات کیئے کہ ان کمپنیوں سے ہوشیار رہو لیکن کیا وزیر خزانہ اس بات سے واقف ہیں کہ اسی زمانے میں آپ کے ٹیلیوژن پر ایسے پروگرام ہو رہے تھے جن میں کہا جا رہا تھا کہ آئیے اور ان کمپنیوں میں پیسہ لگائیے۔ یہ تضاد کیا ہے۔

جناب چیئرمین : سب معاملہ چوں کہ کفر از کعبہ بر خیزد والی بات ہے۔ جب وہ تحریک التوا ر آئے گی، اس پر بحث ہو جائیگی۔ اگلا سوال۔

Mr. Wasim Sajjad : "Sir, on this question I would request the honourable Senator if he could kindly have it deferred because I have not been given the supplementary material of this question. So, I would be grateful if it is deferred, Sir".

Mr. Chairman : Right. We defer it.

Next Question-Mr. Muhammad Mohsin Siddiqui.

CHAIRMAN OF PAEC

41. ***Mr. Muhammad Mohsin Siddiqui :** Will the Minister Incharge of the President's Secretariat be pleased to state :

(a) whether the PAEC has set up any power generating plants based on nuclear energy in the last 5 years; and

(b) the name, education, qualifications of the present Chairman, PAEC and the period of extension in service granted to him on his attainment of the age of superannuation and its basis?

Mr. Wasim Sajjad : (a) The PAEC has planned to set up a 900-MW, Nuclear Power Plant at CHASHMA site in Mianwali Distt. Tenders were issued in December, 1982 for its supply but none of the potential suppliers responded mainly because of political considerations. They have been insisting that Pakistan should sign the Nuclear Non-Proliferation Treaty first as a pre-condition. As this discriminatory demand is not acceptable so long as India is also not forced to do so, the Project has been delayed. None of the 4-5 Nuclear Power Plants, that were planned to be set up before the years 2000, could thus be established during the last 5 years, obviously for reasons beyond the control of the PAEC.

(b) Mr. Munir Ahmad Khan is at present the Chairman of PAEC. His educational qualifications and professional experience are as under:—

- | | | |
|---|---|--|
| Educational Qualifications and Degrees. | (i) B.A. (Physics and Maths), 1946 Distinction : | Govt. College, Lahore. |
| | Academic Roll of Honour. | |
| | (ii) B.Sc. (Electrical Engg.), (1949). | Engineering College, Lahore. |
| | (iii) M. S. (Electrical Power) (1952) Rotary International Scholar, Distinction: Honoured by being elected Member Sigma XI Research Society of America. | North Carolina State College, Raleigh NC, USA. |
| | (iv) Post-graduate Studies (1954—56) | Illinois Institute of Technology, Chicago, III, USA. |

Mr. Chairman : Supplementary Question.

Mr. Muhammad Mohsin Siddiqui : Sir, from the answer it appears that no steps—concrete or other-wise have so far been taken by the present incumbent as Chairman, Pakistan Atomic Energy Commission, to set up any unit except there is a reference to Chashma. Now, so far this country is concerned, it is in great need. The man who has been presiding over the Atomic Energy Commission, according to the statement made in the answer, for 16 years, and he has been given extension over extension. Why not new people with better knowledge of technology are inducted in the PAEC so that some breakthrough can be made in the generation of atomic energy in this country?

Mr. Wasim Sajjad : Sir, as far as the first question is concerned that no sufficient effort has been made, as has been indicated in the reply Sir, that tenders were issued in December, 1982, for the Chasma Project but because of international consideration and pressures we did not receive any tender. We are being asked by certain countries to sign the Nuclear Non-proliferation Treaty on which our consistent stand is that we are prepared to do so provided no discriminatory treatment is given to Pakistan and the other country of the region. India is also asked to sign the NPT. We have made countless efforts in this connection so that this matter is resolved on a regional basis. We are against the spread of nuclear weapons but we have said that we would not allow this country to be given discriminatory treatment. Sir, for these reasons the international tenders for such projects are not being received and this is the reason why the nuclear plants which we intended to establish before the year 2000 have not come up so far. As far as the other question is concerned regarding the Chairman of the Atomic Energy Commission, it is correct Sir, that he has been here since 1972. He is an eminent scientist and we feel that he has made great contribution to the nuclear effort in Pakistan and it is for this reason Sir, that we feel his continued association with this programme is necessary and essential in the national interest.

Mr. Chairman : Thank you.

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, so far as his qualifications are concerned, we have seen it. As far as atomic energy is concerned there are all engineering qualifications and a man in 16 years could not produce even a pilot plant. Sir, we have the pilot case of Kahuta where something has been done but why in 16 years the Chairman is unable to perform anything? How do we expect to go on giving extensions to him? My question was why do they not induct some other person. There are Pakistanis abroad who are well-versed in atomic assigns, and why not this post should be advertised and a proper man should be selected for that?

Mr. Wasim Sajjad : Sir, as far as the qualifications of the Chairman are concerned, on page 8, you will see that he has a postgraduate diploma in Nuclear Science and Engineering under the Atoms of Peace Programme 1956-57. He was with the International Atomic Energy Agency Vienna from 1958 to 1961 and then he also served again 1962—71 as senior officer Nuclear Power and Reactor Division. He has submitted many research papers connected with the Nuclear Science and Technology. Sir, we are prepared to take any body in the commission from abroad if he qualifies but not necessarily as Chairman of the Commission. Chairman of the Commission is a specialized job requiring expertise administrative and otherwise and as I said, it is the government's perception that the present incumbent Mr. Munir Ahmad Khan has performed a useful job and therefore, he is being allowed to continue for the next three years.

Mr. Muhammad Mohsin Siddiqui : Mr. Chairman, probably the learned Minister has not understood that these diplomas are not qualifications. There is no research to his credit; he has no Ph. D. in Nuclear Sciences, he has got no basic qualifications. As an Engineer he might have served in many international organizations on atomic energy. Sir, my question is—don't wait for somebody applying for this post—why do you not advertise the post internationally and get the best available man and if he is fit enough for Chairman, have him as Chairman No. II or III. I do not say that straightaway place somebody as Chairman but I do suggest that a time has come, after a lapse of 16 years, when we should make very serious efforts to activate our Atomic Energy Commission. It has been still useless and the man is absolutely unable to deliver the goods.

Mr. Chairman : I think, this is neither fair to the man nor to the questions of this type particularly with regard to an autonomous organization. They are not asked as a matter of courtesy because those people are not in the House to answer.

(2) It is also not fair to the organization because I don't think many people know in this House, in fact, I wonder if any one knows what exactly the job is that the Pakistan Atomic Energy Commission is doing?

(3) You also do not appear to have looked at the qualifications. He has done a course in Research Associate in Reactor/Engineering. Then he has done a course in Research Reactor Design for two years in the United States. Then he has been senior officer. Nuclear Power and Reactor Division, and then for 10 years he has been the Chairman of the Board of Governors of the International Atomic Energy Commission but your suggestion has been heard by the government.

Mr. Muhammad Mohsin Siddiqui : My point is———

Mr. Chairman : Please, let us finish. You have asked more than three supplementaries and that is the end of it.

Next question. **Mr. Muhammad Tariq Chaudhry.**

SALE OF VEHICLES IN THE COLLECTORATE OF CUSTOMS, QUETTA.

42. ***Mr. Muhammad Tariq Chaudhry :** Will the Minister for Finance and Economic Affairs be pleased to state :

(a) the total number of vehicles including cars, buses, vans and tractors auctioned on 20-3-1988 in the Collectorate of Customs, Quetta indicating also their model, make and the highest bid accepted separately in each case ;

(b) whether it is a fact that during the years 1986-87 of 29 clerks of the Customs Collectorate, Quetta promoted only seven were local ; and

(c) the names, domicile and permanent addresses of the persons recruited/appointed in grades 1 to 11 in the said Collectorate during the last two years ?

Dr. Mahbubul Haq : (a) The total number of vehicles including cars, buses, vans and tractors put to auction on 20-3-1988 by the Collectorate of Customs, Quetta is 28. The information regarding model, make and the highest bid accepted in each case is at Annex. I.

[Dr. Mahbubul Haq]

Sl. No.	Description of Vehicle	Highest Bid	
1.	Issuzu Car Model 1965-66	Nil	
2.	Nissan Datsun Model Un-known	Nil	
3.	Mazda Car Model Un-known	Nil	
4.	Tractor Model Un-known	44,500	Accepted
5.	Toyota Pickup Model Un-known	30,000	Do.
6.	Datsun Pickup Model Un-known	26,500	Do.
7.	Russion Motor Cycle Model 1981 (completely rusted)	1,850	Do.
8.	Toyota Land Cruiser Jeep Model 1974.	14,000	Do.
9.	Merceedez Benz Car Model 1974	33,500	Rejected
10.	Merceedez Benz Car Model 1968	15,000	Do.
11.	Toyota Corrolla Car Model 1980	42,000	Do.
12.	Toyota Mark-II Model 1985.	45,000	Do.
13.	Bed Ford Bus Model 1983.	Nil	
14.	Datsum 120y Model 1976.	56,000	Accepted
15.	Mazda 929 Model 1978.	Nil	
16.	Toyota Cresida Model 1982	1,06,000	Rejected
17.	Ford Mini Bus Model 1981	1,28,000	Accepted
18.	Ford Kombi Van Model 1973	Nil	
19.	Ford Closed Van Model 1980	20,000	Rejected
20.	Ford Club Van Model 1979.	70,000	Accepted
21.	Toyota Hiace Model 1977	46,000	Rejected
22.	Suzuki Motor Cycle Model 1979.	5,000	Accepted
23.	Ford Transit Crew Bus Model 1979.	75,000	Accepted
24.	Ford Transit Crew Bus Model 1981.	1,36,000	Accepted
25.	Simica Car Model Un-known.	11,000	Rejected
26.	Peugeot Car.	10,000	Do.
27.	Merceedez Benz Bus Model 1963	6,000	Do.
28.	Nissan Blue Bird Car Model 1986.	1,98,000	Accepted

(b) During the year 1986-87, 26 officials and not 29 were promoted in the Collectorate of Customs and Central Excise, Quetta. Out of these officials 15 belong to Baluchistan.

(c) The names, designations and domicile/addresses of the officials recruited/appointed in Grade . I to II in the Collectorate of Customs and Central Excise, Quetta during the last two years are as under :—

S. No.	Name of employee	Designation	Domicile	Address
1	2	3	4	5
1.	Abdul Kabir.	Sepoy (B-2),	Baluchistan.	Killi Nali Batyazai, Distt. Pishin.
2.	S. Masroor Ali.	Do.	Do.	Distt. Turbat, Merkan.
3.	Muhammad Aslam.	Do.	Do.	Railway Colony, Quetta.
4.	Din Muhammad.	Do.	Do.	Sariab Mills, Sariab Road, Quetta.
5.	Amanullah.	Do.	Do.	210-E, Brewery Road, Railway Colony, Quetta.
6.	Abdul Malik.	Do.	Do.	Zaki Bakery, Akbar Mohammad Road, Quetta.
7.	Abdul Ghafar.	Do.	Do.	Raisani R/o Dariner Tehsil, Mastung.
8.	Muhammad Younas.	Do.	Do.	Sariab Mills, Sariab Road, Quetta.
9.	Mohammad Anwar.	Do.	Do.	Railway Colony, Joint Road, Quetta.
10.	Fazal Ahmad Shams.	Do.	N.W.F.P.	Vill. Gharo, Teh. & P.O. Kabul, Distt., Swat.
11.	Nazir Ahmad.	Do.	Baluchistan.	H. No. 326, Block No. 3, Satellite Town, Quetta.
12.	Muhammad Saleem.	Do.	Do.	H. No. 597/A, Railway Colony, Joint Road, Quetta.
13.	Habib-ur-Rehman.	Do.	Do.	C/o. Baluch Music, Sariab Road, Quetta.
14.	Muhammad Iqbal.	Do.	Do.	Railway Colony, Joint Road, Quetta.

[Dr. Mahbubul Haq]

1	2	3	4	5
15.	Muhammad Qasim.	Sepoy (B-2)	Baluchistan.	H. No. 8-5/4, Kansai Road, Shaldara, Quetta.
16.	Muhammad Umar.	Do.	Do.	Baluchi Street, Quetta.
17.	Ghaibi Khan.	Do.	Do.	Muhammad Azam Store-keeper, Distt. Pishin, Gulistan.
18.	Imam Bakhsh.	Do.	Do.	Kacha House, Brewery Road, Fatima Jinnah T.B. Sanitorium, Quetta.
19.	Dost Mohammad.	Do.	Do.	Killi Ahmad Khanozai.
20.	Muhammad Javed.	Do.	Do.	H. No. 233/A, Joint Road, Railway Colony, Quetta.
21.	Ataullah.	Do.	Do.	H. No. 25/399, Railway Housing Society, Quetta.
22.	Juma Khan.	Do.	Do.	Killi Daba Arbab Ghulam Ali Road, Quetta.
23.	Muhammad Din.	Do.	Do.	Ration Dealer, Village Aid, Sariab Road, Quetta.
24.	Nasir Ali.	Do.	Do.	Village Gook, Teh. Mand, Distt. Turbat.
25.	Bebarq Khan.	Do.	Do.	Tehsil Nokundi, Distt. Chagai, Baluchistan.
26.	Muhammad Issa Khan.	Do.	Do.	1-20/37, Sarafa Bazar, Quetta.
27.	Mir Ahmed.	Do.	Do.	C/o Rahim Khan and Sons General Store, Brewery Road, Quetta.
28.	Muhammad Hafeez.	Camel Man (BPS-1).	Baluchistan.	Mir Mitha Khan Street, Brewery Road, Quetta.
29.	Muhammad Zaman.	Do.	Do.	Do.
30.	Abdul Manan.	Do.	Do.	Killi Jhelum Ahmad Khan Zai, Sariab Road, Quetta.
31.	Abdul Nabi.	Do.	Do.	Village Tari P.O. Mastung, District Kalat.

1	2	3	4	5
32.	Ghulam Farooq.	Camel Man. (BPS-1).	Baluchistan.	Mian Ghundi Tehsil, Quetta.
33.	Muhammad Naeem.	Do.	Do.	H. No. 3-17/30, Faiz Mohammad Road, Quetta.
34.	Jameel Ahmad.	Sepoy (BPS-2).	Do.	H. No. M-49, Sariab Phat- tak, Litton Road, Quetta.
35.	Rashid Khan.	Driver (BPS-4) (promoted from Lasker).	Do. Do.	C/o Mohammad Zaman, Shopkeeper, Sariab Road, Quetta.
36.	Din Muhammad.	Driver. (BPS-4). (promoted from Sepoy).	Do.	Killi Kirani, Quetta.
37.	Mr. Naeem Shah.	Inspector (BPS-11).	Do.	H. No. 7-19/67, Haji Fateh Khan Road, Nichari, Quetta.
38.	Mr. Khalid Kurd.	Do.	Do.	H. No. 4, Brewery Road, Quetta.
39.	Mr. Siddique Khan.	Inspector (BPS-11).	Baluchistan.	National Photo Studio near Police Station, Zhob.
40.	Mr. Abdul Qahir Khan.	Do.	Do.	Village Zarghoon, Sub Teh. Karezat Teh. and Distt. Pishin.
41.	Syed Mohsin Ali.	Do.	Do.	C/o Haji Yaqoob, Railway Ration Dealer, Joint Road, Quetta.
42.	Syed Asad Ali.	Do.	Do.	C/o Haji M. Yaqoob, Joint Road, Quetta.
43.	Mr. Ehtisham-ul-Haq.	Do.	Do.	1/4, Senior Asstt. Colone Whit Road, Quetta.
44.	Mr. Yunus Ata.	Do.	Do.	H. No. 5-6/18, Kaiqabad Road, Quetta.
45.	Mr. S. Saleem Shah.	Do.	Do.	H. No. 7-19/67, Haji Fateh Khan Road, Quetta.
46.	Mr. Ghulam Jaffar.	U.D.C. (BPS-7).	Punjab	C/o Awan General Store, Gurdatt Singh Road, Quetta.

[Dr. Mahbubul Haq]

1	2	3	4	5
47.	Mr. Safdar Ali.	U.D.C. (BPS-7).	Baluchistan.	H. No. 3-4/37, Prince Road, Quetta.
48.	Mr. Asghar Khan.	L.D.C. (BPS-5)	Do.	H. No. 161-D, Railway Colony, Quetta.
49.	Mr. Nasrullah Khan.	Do.	N.W.F.P.	P.O. Jallowzai, Teh. No-shera, Distt. Sheikhan, Peshawar.
50.	Mr. Abdul Hafeez Khan	Do.	Baluchistan.	H. No. 1, Lytton Road, Quetta.
51.	Mr. Ali Ahmad.	L.D.C. (BPS-5).	Do.	C/o Cloth House, Shop No. 112, Sunehri Market, Quetta.
52.	Mr. Aamir Hameed.	Do.	Do.	H. No. 10-5/6, Joint Road, Quetta.
53.	Mr. Muhammad Ishaq.	Do.	Punjab.	Sariab Mill Colony, Quetta.
54.	Mr. Musa Khan.	Do.	Baluchistan.	C/o Abdul Sattar Awan, State Bank, Quetta.
55.	Mr. Riaz Gill.	Do.	Do.	H. No. 12, Al-Gillani Road, Quetta.
56.	Mr. Nazir Ahmad.	Do.	Do.	Tehsil Mastung, Distt. Kalat.
57.	Mr. Muhammad Akram	Do.	Do.	H. No. 125/A, Joint Road, Quetta.
58.	Mr. Asif Jan.	Do.	Do.	Haroon Manzil, Quetta.
59.	Mr. Shafqat Ali.	Do.	Do.	H. No. 7-1/93, Hyder Ali Street, Quetta.
60.	Mr. M. Iqbal.	L.D.C. (BPS-5)	Baluchistan.	H. No. 378/-A, Joint Road, Quetta.
61.	Mr. Shehzad Amir.	Do.	Do.	H. No. 132-B, Joint Road, Quetta.
62.	Murad Bukhsh.	Camel Man. (BPS-1)	Do.	C/o Supdt., Customs, Pasni.
63.	Dil Murad.	Do.	Do.	Do.
64.	S. M. Khursheed.	Do.	Do.	Do.

1	2	3	4	5
65.	M. Umar.	Camel Man. (BPS-10)	Baluchistan.	C/o. Supdt., Customs, Pasni.
66.	Dost Mohammad.	Do.	Do.	Killi Kirani, Quetta.
67.	M. Rasheed.	Water Carrier (BPS-1).	Do.	Sariab Mill, Quetta.
68.	Abdul Qadoos.	Do.	Do.	Baluchi Street, Quetta.
69.	Qasim Ali.	Daftri (BPS-1).	Do.	Sariab Mill, Quetta.
70.	Khursheed Alam.	Lasker (BPS-1).	Do.	216-A, Joint Road, Quetta.
71.	Abdul Rasheed.	Do.	Do.	Sariab Mill, Quetta.
72.	Noor Mohammad.	Tandal. (BPS-1).	Do.	Block No. 1, New Quetta.

جناب چیئرمین : اگلا سوال نمبر ۴۳، جناب طارق چوہدری صاحب

لیکن اس کا جواب ابھی نہیں آیا۔

جناب محمد طارق چوہدری : یہ سوال ہی اس کا جواب ہے۔

جناب چیئرمین : یہ سوال ہی اس کا جواب ہے، کیا مطلب؟

جناب محمد طارق چوہدری : جناب یہ جو میں نے سوال بھیجا تھا کہ اس

کے دو حصے تھے، پہلے تو اس سوال کو ٹکڑوں میں تقسیم کر دیا گیا میرا سوال یہ تھا کہ اسلام آباد میں جولائی ۱۹۷۷ء سے ۲۰ مارچ ۱۹۸۵ء تک فوجی اور

سول افسران بشمول ان کے زیر کفالت افراد کے نام کیا ہیں جنکو پلاٹ الاٹ کئے گئے تھے نیز ان پلاٹوں کے سائز اور سیکڑ جن پر یہ پلاٹ الاٹ کیے گئے تھے، ایک یہ تھا، دوسرا حصہ اس کا یہ تھا کہ ۲۳ مارچ ۱۹۸۵ء سے

۲۹ مئی ۱۹۸۸ء تک جو پلاٹ الاٹ کئے گئے ان کی تفصیل کیا ہے اس کے دو حصے تھے تاکہ ہم تقابلی جائزہ ہم لے سکیں، اب اس سوال کا جو جواب

[Mr. Muhammad Tariq Chaudhry]

ہے وہ بہر حال اگر ہم بد نیتی نہ کہیں تو نیک نیتی پر مبنی بالکل نہیں ہے اس لئے کہ میں نے اس کا نوٹس کل نہیں دیا تھا آج سے کم از کم ۱۵ دن پہلے اس کا نوٹس دیا گیا تھا اور سی ڈی اے کا دفتر ہمارے پارلیمنٹ آفس سے بمشکل دو کلومیٹر دور ہے اور وہاں سے یہ معلومات اتنے دلوں میں اکٹھی نہ ہو سکتا یہ ہماری سمجھ سے بالاتر ہے ماسوائے اس کے کہ پردہ نشینوں کے ناموں سے پردہ اٹھنا جو ہے وہ ان کو قبول نہیں ہے، لہذا میں اس کو قبول نہیں کرتا میں سمجھتا ہوں کہ یہ نیک نیتی پر مبنی نہیں ہے لہذا میری یہ درخواست ہے کہ اس سوال کا جواب لائبریری میں رکھ دینے کی بجائے آئندہ روٹاڑے پر اس کو فیکس کریں اور ہمارے سامنے یہاں جواب لائیں،

Mr. Wasim Sajjad : Sir, I assume that this is with reference to Q. No. 43.

Mr. Chairman : That is right. Q. No. 43.

Mr. Wasim Sajjad : Sir, the question was sent to the Senate Secretariat on 1st June, 1988. It was received by the CDA on the 19th or 20th of June. The information which is required relates to a period of 8 years and there were large number of officers. We are collecting the information, Sir. There is no question of trying to withhold information. In fact, substantially this very question already stands answered in the National Assembly in April.

Mr. Chairman : In the National Assembly ?

Mr. Wasim Sajjad : Yes, Sir, it has already been answered substantially. Some part of it is new, Sir. We are trying to collect the information and I can assure the honourable Senator that we shall bring this answer to this House as is the right and privilege of the honourable Senator.

Mr. Chairman : Well he has requested that it should come up on the next rota day. I hope it can.

Mr. Wasim Sajjad : I hope we can. We are collecting the information. If we can, we shall definitely do that.

قاضی عبداللطیف : جناب والا! جب قومی اسمبلی میں یہ سوال

آچکا تھا تو پھر معلومات ساری کی ساری وہاں اکٹھی ہوں گی تو وہاں سے تو مہیا کرنا بڑا آسان تھا۔

جناب چیئرمین : نہیں وہ کہتے ہیں کہ ایک حد تک وہاں پر جواب دیا گیا

تھا، اگلا سوال

ALLOTMENT OF INDUSTRIAL PLOTS IN ISLAMABAD

44. *Mr. Muhammad Tariq Chaudhry : Will the Minister Incharge of the Cabinet Division be pleased to state :

(a) number of industrial plots in sector I-9 and I-10, Islamabad, allotted for the establishment of wooden furniture manufacturing units, indicating also names and addresses of the allottees;

(b) number of such plots not utilized by the allottees so far and its reason ; and

(c) whether it is a fact that an application for allotment of an industrial plot for similar purpose made by Muhammad Boota and Sons is pending with the CDA for the last two years, if so, the action taken by CDA on that application?

Mr. Wasim Sajjad : (a) Details given in Annexure 'A'.

(b) All units in Sector I-9 are in production whereas the process of establishment of 12 units out of 13 industrial units in I-10 is in progress. According to the terms and conditions of allotment, the allottees are required to complete the construction within a period of three years from the date of allotment. Since the plots in question were allotted between 1986—88, their construction period has not yet expired.

(c) No. The application was considered by the Industrial Allotment Committee but was rejected after consideration.

Annexure 'A'

INDUSTRIAL PLOTS ALLOTTED FOR FURNITURE/KITCHEN CABINETS AND FLUSH DOORS IN SECTOR I-9 AND I-10/3, ISLAMABAD

Sl. No. Plot No. & Sector			Name of Firm and Address of Allottee
1	2	3	
1.	82	I-9	Raja Saeed Ahmad, 1-Al-Khadim Chambers, Faizabad, Muiree Road, Rawalpindi.
2.	214	Do.	Mr. Shahid Aziz (Proprietor) M/s. Pak. Wood System, Plot No. 214, Industrial Area, Sector I-9, Islamabad.
3.	394-A	Do.	M/s. ZOOCE LTD., Plot No. 394-A, Industrial Area, Sector I-9, Islamabad.
4.	250	Do.	M/s. Comforta Furnishers, Plot No. 236, Industrial Area, Sector I-9, Islamabad.
5.	424	Do.	M/s. Continental Furnishing Co. Ltd., 2nd Floor, Uzma Arcade, Khayaban-e-Iqbal, Main Clifton Road, Karachi.
6.	413	Do.	M/s. Nafees Industries Ltd., Plot No. 413, Industrial Area, Sector I-9, Islamabad.
7.	32	I-10/3	M/s. Ch. Ijaz Ahmad and Brothers, H. No. 37, St. No. 5, F-8/3, Islamabad.

[Mr. Wasim Sajjad]

1	2	3
8.	34	I-10/3 M/s. Ghousia Builders, A. G. N. Ch. Managing Director, 482, G-8/1, Islamabad.
9.	80-A	Do. M/s. Malik Wood Works, Plot No. 10, I. & T. Centre, G-8/4, Islamabad.
10.	111	Do. M/s. Tribsin Wood Industries, H. No. 220, St. No. 74, Sector G-9/4, Islamabad.
11.	113	Do. M/s. Abdullah Butt, H. No. 914, I-10/1, Islamabad.
12.	146	Do. M/s. Khawaja Industries, H. No. 8, Affandi Colony, Rawalpindi.
13.	149	Do. M/s. Hussain Wood Industries, H. No. 19, F-6/2, Islamabad.
14.	215	Do. M/s. Alam Furnitures, H. No. 1394/C, Committee Bazar, Lahore.
15.	66-67	Do. M/s. Mushtaq Ahmad, H. No. 866, St. No. 27, G-9/1, Islamabad.
16.	68-69	Do. M/s. Wood Kraft Industries, 77-Millat Colony, Rawalpindi.
17.	74-75	Do. M/s. Ittehad Industries, H. No. 16, St. No. 19, F-6/2, Islamabad.
18.	76	Do. M/s. Baiga Engineering, Abdul Rahman, M. D. 430, St. No. 50, G-9/1, Islamabad.
19.	196	Do. M/s. Mohammad Aslam Khan and Co., The Mall, Wah Cantt.

Mr. Muhammad Tariq Chaudhry : No Supplementaries.

Mr. Chairman : All right. Next question.

PREMISES HIRED FOR OFFICES UNDER THE MINISTRY OF FINANCE

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

(a) the total number of plazas, complexes, bungalows, flats, houses, shops and other residential accommodation hired for the offices of all the organizations functioning under the Finance Ministry at Tehsil, District, Province and Federal levels; and

(b) the total amount of rent being paid annually to the owners of the said accommodation; and

(c) the total amount allocated during the current fiscal year for the construction of government offices of these organizations ?

Dr. Mahbubul-Haq : The information is being collected and as soon as received, it will be placed on the Table of the House.

Mr. Chairman : The reply says that the information is being collected.

Dr. Mahbubul Haq : Yes, Sir.

Mr. Chairman : And this applies to Q. Nos. 45 and 46.

VEHICLES SEIZED AND IMPOUNDED BY CUSTOMS AUTHORITIES

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

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

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

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

Dr. Mahbubul Haq : The requisite information is being collected from field units and will be placed before the House as soon as received.

Mr. Chairman : Next question No. 47.

AMOUNT EARMARKED FOR GRANT OF LOANS TO FARMERS

47. ***Mr. Abdur Rehman Jamali :** Will the Minister for Finance and Economic Affairs be pleased to state the total amount earmarked by the Agricultural Development Bank of Pakistan for the grant of loans to the farmers of Naseerabad Division (Baluchistan) for the year 1988-89 ?

Dr. Mahbubul-Haq : Agricultural Development Bank of Pakistan intends to earmark Rs. 80 million for the grant of loans to the farmers of Nasirabad Division during 1988-89 as against Rs. 64.5 million actually disbursed during 1987-88, showing a proposed increase of 25 per cent. However, lending target for 1988-89 will be finalized after approval of overall lending allocations for financial year 1988-89 by the National Credit Consultative Council.

جناب عبدالرحمان جمالی = کیا وزیر موصوف یہ فرمائیں گے کہ اگلے سال کے لیے کچھ بڑھا سکتے ہیں ۔

جناب چیئرمین = فرماتے ہیں کہ ۲۵ فیصد زیادہ کیا ہے ؟
 جناب عبدالرحمان جمالی = جناب اس سے بھی زیادہ کریں ، کیونکہ ہمارے ساتھ ضلع جبکہ آباد ہے ان کی ایک ایک جو چھوٹی برائچ ہے وہاں پر ہمارے سارے ڈویشن کے برابر loaning ہوتی ہے ۔

ڈاکٹر محبوب الحق = میں جناب صرف یہ عرض کر دینا چاہتا ہوں کہ overall جو credit میں increase ہو رہی ہے وہ کوئی شبہ ۱۲ سے ۱۵ فیصد کے درمیان ہوگی تو ہمارا خیال تھا کہ نصیر آباد کو ان کی پیمانگی کی وجہ سے ۲۵ فیصد اضافہ خاصا ہوگا لیکن ہم ضرور اس کا دوبارہ جائزہ لیں گے ۔

جناب چیئرمین = نصیر آباد الحمد للہ بڑا Progressive علاقہ ہے سارے جمالی وہاں پر رہتے ہیں تو پیمانہ نہیں ہے ، اگلا سوال

DUTY FREE SHOPS

4. *Prof. Khurshid Ahmed : Will the Minister for Finance and Economic Affairs be pleased to state whether it is a fact that the Duty Free Shops in Islamabad and Karachi have become an important vehicle for the sales and purchase of 'A' forms and for the supply of duty-free goods to agents or through agents to people who are not entitled to such purchase ? What steps the Government is taking to ensure that the Duty Free Shops do not operate as Bara Markets ?

Dr. Mahbubul-Haq : This is not correct. Only incoming passengers have been allowed to make purchases from Duty Free Shops Limited against valid form 'A' issued in their names. The goods are required to be purchased in person and delivery through attorney/accredited representative is not allowed under any circumstances. However, it has been observed that the passengers after

making purchases from the Duty Free Shops Limited according to the concessions available under the passengers Non-Tourist Baggage (Import) Rules, 1983 and Transfer of Residence (Baggage Import) Rules, 1983 sell the goods in the market. Instructions have been issued to all concerned to keep vigilance over the shops in and around the Duty Free Shops to curb such illegal activities.

پروفیسر خورشید احمد: جناب والا! یہ بات تو ٹیکنیکلی غالباً درست ہے جو جواب میں کہی گئی ہے لیکن کیا یہ مناسب نہ تھا کہ چوں کہ اس سلسلے میں پریس میں بھی کافی چیزیں آئی ہیں کہ حکومت کچھ زیادہ vigilance کا ثبوت دے اس معاملے کو investigate کرے اور یہ دیکھے کہ فارم اے کی جو تجارت ہے یہ بھی ختم ہو، صرف یہی نہیں کہ وہاں سے مال خریدنے کے بعد ادھر ادھر بیچ نہ دیا جائے۔

Dr. Mahbubul Haq : Mr. Chairman, it is correct that there has been an informal rolling business in form 'A' and particularly the concession available to air-conditioners, refrigerators and deep freezers under the Transfer of Residence Rules which meant there will be zero duty, seem to have been abused. There was large-scale import of these items. As a result of it, Sir, in the budget for 1988-89 we have tried to plug this leakage at the source and now the import of air-conditioners, refrigerators and deep freezers under, even the Transfer of Residence Rules has been made dutiable and we hope that that in itself will be a very major deterrent to the trade that is alleged to have been going on in form 'A'.

SHAH FAISAL MOSQUE

4. Prof. Khurshid Ahmad : Will the Minister Incharge of the Cabinet Division be pleased to state :

(a) whether it is a fact that the golden crescents on the top of the towers of Shah Faisal Mosque had to be installed for the second time because of the irregularities that had been committed during the 1st installation ; and

(b) if so, the names of those officers responsible for the irregularities and the nature of action if any, taken against them ?

Mr. Wasim Sajjad : (a) No. Some defects pointed out by the supervisory staff were rectified by the contractor at his own cost.

(b) Not applicable.

TRANSFER OF PROPRIETARY RIGHTS OF CDA HOUSES, ISLAMABAD

5. Prof. Khurshid Ahmed : Will the Minister Incharge of the Cabinet Division be pleased to state the names of the Sectors in Islamabad in which proprietary rights of the government owned houses have been transferred to the

[Prof. Khurshid Ahmed]

employees of CDA indicating also the total number with dates of possession in each case, together with reasons for such action ?

Mr. Wasim Sajjad : 'The proprietary rights' of government-owned houses have not been transferred to any of the CDA employees by CDA. However, 288 single room low cost houses were constructed by the CDA in Sector I-10/4 from its own resources, the proprietary rights of which were subsequently transferred to CDA employees in 1984 on actual cost basis.

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

LEAVE OF ABSENCE

جناب چیئرمین : جناب شاد محمد خان اپنی مصروفیات کی بنا پر ایوان میں ۱۴ جولائی کو شرکت نہیں کر سکے اس لیے انہوں نے ایوان سے اس تاریخ کے لیے رخصت کی درخواست کی ہے کیا آپ ان کی یہ درخواست منظور فرماتے ہیں -

(رخصت منظور کی گئی)

جناب چیئرمین : جناب ارباب نور محمد خان صاحب اپنی علالت کی بنا پر ایوان میں ۱۲ تا ۱۵ جولائی تک شرکت نہیں کر سکے اس لیے انہوں نے ایوان سے ان تاریخوں کے لیے رخصت کی درخواست کی ہے کیا آپ ان کی یہ درخواست منظور فرماتے ہیں -

(رخصت منظور کی گئی)

جناب چیئرمین : الحاج پیر سید محمد شاہ جیلانی نے چند ناگزیر وجوہات کی بنا پر ایوان سے ۱۹ جولائی تک رخصت کی درخواست کی ہے کیا آپ ان کی یہ درخواست منظور فرماتے ہیں -

(رخصت منظور کی گئی)

جناب چیئرمین = سید ذوالفقار علی شاہ جاموٹ صاحب نے چند ناگزیر وجوہات کی بنا پر ایوان سے ۱۷ تا ۲۶ جولائی تک رخصت کی درخواست کی ہے کیا آپ ان کی یہ درخواست منظور فرماتے ہیں۔
(رخصت منظور کی گئی)

جناب چیئرمین = میر غلام حیدر تالپور صاحب نے ناگزیر وجوہات کی بنا پر ایوان سے ۱۷ تا ۲۱ جولائی تک رخصت کی درخواست کی ہے کیا آپ انکی یہ درخواست منظور فرماتے ہیں۔
(رخصت منظور کی گئی)

جناب چیئرمین = سید افتخار علی بخاری نے ذاتی مصروفیات کی بنا پر ایوان سے ۱۹ اور ۲۰ جولائی کے لیے رخصت کی درخواست کی ہے کیا آپ انکی یہ درخواست منظور فرماتے ہیں۔
(رخصت منظور کی گئی)

PRIVILEGE MOTION RE: DISSOLUTION OF THE NATIONAL ASSEMBLY

Mr. Chairman : I think we resume the discussion on the three motions— which have been debated for the last several days but I hope today we can conclude this discussion.

جناب محمد طارق چوہدری = پوائنٹ آف آرڈر، جناب چیئرمین! آپ نے متعدد دفعہ اس مسئلے پر رولنگز دی ہیں کہ ہاؤس کے اندر جو statement دی جاتی ہے اس کے بارے میں تو آپ نے نیت اور نیک نیتی کے بارے میں متعدد دفعہ فرمایا ہے لیکن ہاؤس کے اندر جو واضح یقین دہانی کرائی جاتی ہے یعنی ایک مسئلے پر یقین دلایا جاتا ہے کہ یہ کام اس طرح کر دیا جائے گا یہ جو یقین دہانی کرائی جاتی ہے ضروری نہیں ہے کہ اس پر ممبران سینیٹ تحریک استحقاق لائیں۔ پریس کریں تو اس کے

[Mr. Muhammad Tariq Chaudhri]

بعد ہی اس کا کوئی جواب آئے۔ اس ایوان میں اور سہارے مشترکہ اجلاس میں حکومت کی طرف سے واضح طور پر یہ یقین دہانی کرائی گئی تھی کہ او جڑی کیمپ کے بارے میں فوری طور پر تفتیش کی جائے گی اور اس کی رپورٹ تیار ہونے ہی ایوان میں پیش کر دی جائے گی اب او جڑی کیمپ کا واقعہ بالکل بھولی داستان کی طرح ہوتا جا رہا ہے کیا او جڑی کیمپ پر ابھی تک رپورٹ تیار نہیں ہوئی ہے اگر نہیں ہوئی تو کیوں؟ اگر وہ رپورٹ تیار ہو گئی ہے تو اب تک اس کو ایوان میں پیش نہیں کیا گیا ضروری نہیں ہے کہ اس پر privilege motion آئے تب ہی اس پر کوئی قدم اٹھایا جائے۔ یہ ایوان کے سامنے بالکل واضح طور پر یقین دہانی کروائی گئی ہے اور اس پر عملدرآمد بالکل نہیں ہوا ہے۔

جناب چیئرمین = جہاں تک یقین دہانیوں کا تعلق ہے جو floor of the House پر رد کیا جاتی ہیں یا floor of the House پر ریزولیشن

پاس کئے جاتے ہیں ان کے بارے میں بہت تفصیلی رولنگز Decisions of the Chair میں موجود ہیں جہاں تک آپ کے موجودہ issue کا تعلق ہے یہ آپ سوال اٹھائیں سوال کا نوٹس دیں۔ آپ کو جواب حکومت والے دیں گے۔

جناب محمد طارق چوہدری = آپ خود ہی ان کو موقع فراہم کر دیتے ہیں ان کی کہہ مکر نیاں پہلے ہی بہت زیادہ ہیں آپ کم از کم ان کو موقع نہ دیں۔
جناب چیئرمین = جی سن لیا وہ بھی۔

Mr. Muhammad Mohsin Siddiqui : I have given a call attention notice.

Mr. Chairman : Well, that would come much later. It is on the agenda but it would come later after we dispose of the privilege motions.

Mr. Muhammad Mohsin Siddiqui : But my submission was that that will take almost the whole day, therefore, if it is not to be taken today, then when it will be taken ?

Mr. Chairman : I think, the business has to be arranged according to certain order and the business has been arranged according to the rules and formalities. We will come to that. We will take it up today, don't worry about this.

Resuming the discussion on the three privilege motions I have four Members on the list. I would request you to be brief. **Mr. Muhammad Mukhtar Ahmad Khan.**

Mr. Muhammad Mukhtar Ahmad Khan : I wish to submit a few words to your honour and this august House that democracy is a panacea for the society and peoples' problems. Some people say democracy is a farce but the experience have confirmed that kingship, dictatorship, or Martial Law are not wanted.

جناب چیئرمین = میرے خیال میں اس طرح کی لکھی ہوئی تقریر کی اجازت ایوان میں نہیں دی جا سکتی۔ اب اگر کچھ زبانی ارشاد فرمانا چاہیں تو فرمائیں اور مختصر بھی ہو۔

Mr. Muhammad Mukhtar Ahmad Khan : Sir, this is my first time if you give me this opportunity.

Mr. Chairman : Right, go ahead.

Mr. Muhammad Mukhtar Ahmad Khan : But the experiences have confirmed that kingship, dictatorship or Martial Law are not wanted where the people for whom that system of government is imposed because the public has no approach to that authority and also that kind of government does not have the solution of the people's problems. Now speckless democracy is rarely found any where in the World that may be India, U.K. or U.S.A. It is being improved every day, every time with process and practice. It is fully concluded that now-a-days in the present world only and only democracy is the needful and right-ful solution for the people of the world and is a suitable system of governance.

With this idea I proceed with main problem of the day before the honourable assemblage of this majestic House.

The President of Pakistan using his constitutional powers took action on May 29th, 1988, dissolving the National Assembly and Provincial Assemblies referring certain weaknesses, discrepancies or whatever regarding plots etc. It is a legal action taken by the President of Pakistan in his discretion under Article 58.

Some of our honourable Members have debated against this action. This honourable House is not ignorant, they know all the bricks of their home. All the honourable Members of Senate are experienced, brain and cream of the

[Mr. Muhammad Mukhtar Ahmad Khan]

nation. So, I request them to put some strain on their brains that if we comment adversely what will be the outcome; a privilege motion. Then, what will be the effects on the nation and the country. Contrary to that we should create a congenial atmosphere in the House and also give good impression to the public and should remove the terrors from the hearts of the people. Because the people think we are in a *Daldal*. Although we are not, as the elections are to be held in the near future. We are entrusted with certain responsibilities so we should act in a positive manner.

Sir, I consider that there are two things before us, one is action and another is intention. Now the President of Pakistan has taken action to dissolve the National Assembly but along with that he has clearly and repeatedly shown his intentions to hold the elections which I believe he would.

This is not a frolic situation but is a time for everyone of us to step forward which should be fully gauged and sensed for the sake of the country, for the betterment of the nation. We should think, work and pave the way to achieve the goal of election. Goal is not beyond Cancasia. Goal is near to us within the reach of short period if we move to do constructive work for our nation which is of course our duty, we should do it perfectly and sincerely.

Sir, all Members in this august House know all about the 41 years of Pakistan. No need to go in details. We have to see present and future and we can not afford changes of adverse nature. I repeat again we can not afford changes of adverse nature.

The President has given us invitation for suggestions, consultation etc. If this august House can be of any help to this country and nation in bringing into existence the new National Assembly by election. I am sure that you will always be remembered in the history of Pakistan that we pulled out our country from most precarious situation and when the elections are held smoothly no matter who wins. So, when our new Assembly comes into existence this august House will be considered more powerful pillar for the institution of democracy in Pakistan.

I have full confidence in our President that he will hold elections.

Now it is the time to do what I am saying in simple and plain words which will lead us to the early elections. And if we go back to the dissolution of National Assembly and move privilege motions. I do not think we are going to get anything but if we see forward and work on constructive lines we can have the maximum achievements.

I am not persuading any one in favour of some one. I am only trying to make you realize the tense and delicate situation in which we are these days. Instead of going in the privilege motions we should move for the cause of the election which President of Pakistan has promised.

Please also observe this fact that by dissolving the National Assembly, President has favoured the political parties of the country and also the people of Pakistan as they had been demanding from the government to hold elections since long and this honourable House also knows very well that previous government had repeatedly been answering that the elections will be held in 1990 and not at all before that.

One honourable Member of this House said that we have gone 10 years back while I think that President is fulfilling the demands of the people of Pakistan. Some of our honourable Members have said that one leg has been broken and how can we walk further but I would say that half portion of the House has been dismantled to reconstruct a new one in its place to live in a better way.

Sir, I would like to explain a few references from the Practice and Procedure of Parliament by M. N. Kaul, I quote from page 177 first para.

Mr. Chairman : I think, they have been repeated several times, you can kindly skip them because we are all aware of them. For the last four years we have been working on them.

Mr. Muhammad Mukhtar Ahmad Khan : There are really very important things, Sir, anyhow, this is a fact that National Assembly has been dissolved within the framework of the Constitution by the President and this is also a fact that the same Assembly had passed Eighth Amendment Bill.

In its support I quote page 160 of the same book, second last para — "Anything said or done during the existence of a House cannot be raised as privilege issue after that House has been dissolved". Further I quote page 155. The dissolution of Lok Sabha before the completion of its full term is not unconstitutional. For instance, second Lok Sabha was dissolved on 31st March, 1962 before the completion of full term. Sir, this is a fact that India is the biggest democratic country (Interruption)

قاضی عبداللطیف : جناب والا! پوائنٹ آف آرڈر، ترجمہ نہیں ہو رہا ہے۔

جناب چیئرمین : کیا وجہ ہے ؟

Mr. Mukhtar Ahmad Khan : Should I start, Sir ?

Mr. Chairman : Just a minute.

جناب چیئرمین : کیا اب ترجمہ ہو رہا ہے ؟

اخونزادہ بہرہ درسعید : پوائنٹ آف آرڈر۔

جناب چیئرمین : پہلے پوائنٹ آف آرڈر کا فیصلہ ہو جائے تو آپ

اپنا پوائنٹ آف آرڈر اٹھائیے۔ کیا اردو کا ترجمہ ہو رہا ہے یا نہیں ہو رہا ہے

قاضی صاحب، کیا ترجمہ ہو رہا ہے ؟

جناب جاوید جبار : جناب! اس وقت کوئی معزز رکن بول نہیں ہو رہا

ہے اس لیے ترجمہ کیسے ہو سکتا ہے۔

Mr. Mukhtar Ahmad Khan : This is a fact that India is the biggest democratic country.....

قاضی عبداللطیف = جی ترجمہ ہو رہا ہے۔

جناب چیئرمین = بہرہ ور سعید صاحب۔

اخونزادہ بہرہ ور سعید = مقرر صاحب، اپنی تقریر پڑھ رہے ہیں،

وہ اپنی طرف سے، زبانی کچھ کہنے کی کوشش نہیں کر رہے ہیں۔

جناب چیئرمین = میں نے ان کی توجہ اس طرف مبذول کرائی ہے یہ

چونکہ ان کی پہلی substantial تقریر ہے، اس لیے میں ان کو موقع دیتا ہوں اور آئندہ کے لیے ایسا نہیں ہونا چاہیے۔

Mr. Mukhtar Ahmad Khan : Thank you, Sir. This is a fact that India is the biggest democratic country and its Lok Sabha was dissolved quite a few times. I quote page 158—"On 20th December, 1970, Lok Sabha was dissolved one year and 79 days before the completion of full term."

I also wish to explain that this is a part of democratic and political process in the country because no Martial Law has been imposed; no emergency has been declared and the Constitution has not been thus suspended and, moreover, this dissolution does not discontinue the institution of Parliament. I quote page 945 from the same book—"That the dissolution of Lok Sabha does not imply discontinuity of the institution of Parliament."

To my mind in the light of the above facts stated I have to say that the President is establishing a tradition in the country that if the political circumstances so require elections can be held even before time and with due respect to my senior and learned Members I am sorry to say that I cannot favour the admissibility of the privilege motions. Thank you, Sir.

جناب چیئرمین = Next سید عباس شاہ صاحب،

(نہیں ہیں) جناب اعجاز علی جتوئی صاحب۔

جناب اعجاز علی خان جتوئی : شکریہ، جناب چیئرمین آج

یہ جو Privilege motions discuss ہو رہے ہیں وہ صدر صاحب نے

اپنے آئینی اختیارات استعمال کرتے ہوئے، اسمبلیوں کو جو Dissolve کیا

ہے اس سلسلے میں پیش ہوئے ہیں۔

ہم ۲۹ مئی کے اس Event کو ذرا پیچھے لے جاتے ہیں۔

یہ جو ۱۹۸۵ میں ایک process چلا تھا، یہ Democratic Process میں شاید یہ system چلانے کے اہل نہیں تھے کیونکہ سندھ میں جو حالات تھے، ۱۹۸۳ میں جو ایم آر ڈی کی Movements ہوئیں، اس کے بعد ۱۹۸۵ میں الیکشن ہوئے ان کے بعد بھی سندھ میں حالات بدستور وہی رہے۔ ۱۹۸۵ میں جب یہ set up بنا، اس وقت ہم چلا رہے کہ جناب سندھ میں حالات ٹھیک نہیں ہیں، وہاں پھر ایک الیا چیف منسٹر بٹھایا گیا جس نے کرپشن کو institutions میں لا کر اتنا مضبوط کیا کہ کہ Top to bottom institutions corrupt ہو گئے۔

میں چونکہ Democratic آدمی ہوں، میں ایک Political آدمی ہوں، اس لیے میں اس حوالے سے اس کو Condemn کرتا ہوں کہ یہ چیز پاکستان کے Political Structure کے لیے اچھی نہیں ہے۔ کچھ بھی ہو کیسی بھی گورنمنٹ ہو زیادہ بہتر یہ تھا کہ اس کو Democratic طریقے سے اتارا جاتا بجائے اس کے کہ پورے کے پورے Houses Dissolve کر دیئے گئے۔ Provincial Assemblies Dissolve کر دی گئی۔ اور ایک جو Process

چل پڑا تھا، جو Process ہمیں خیرات میں ملا تھا، وہ خیرات ہم سے واپس چھینی گئی۔

جناب والا! اب بات یہ ہے کہ لوگ مایوس ہیں کیونکہ اگر محمد خان جو نیچو جیسا مرید بھی یہاں گورنمنٹ نہیں چلا سکا تو پھر کون سا ایسا آدمی یہاں آئے گا جو یہاں پر حکومت چلا سکے گا۔ میں سمجھتا ہوں کہ لوگ اب

[Mr. Aijaz Ali Khan Jatoi]

اتنے مایوس ہو گئے ہیں کہ شاید آگے چل کر کوئی بھی اسمبلی، کوئی بھی سسٹم نہ چل سکے گا جو کہ کسی کو پسند ہو یا ناپسند ہو۔

جناب والا! اگر آپ پیچھے چلیں تو آپ دیکھیں گے کہ پاکستان میں ابھی تک کوئی ایسا set up قائم نہیں ہو سکا جو کامیاب ہو۔ اگر آپ ۱۹۴۰ کے ریزولوشن کے حساب سے دیکھیں تو مختلف ملکوں کا مختلف قوموں کا جو Agreement تھا، اس کے تحت یہاں پر ایک strong democratic set up

چلانا تھا۔ یہاں پر Independent Sovereign State رکھنی تھی۔ اس Agreement

کو جناب غلام محسن نے وار کر کے ختم کیا اور اس

ملک میں Constitutionally ایک عجیب Crisis پیدا ہوئے ان Constitutional

Crisis کو ہم آج ختم نہیں کر سکے ہیں۔ اس کو Overcome نہیں کر

سکے۔ آج ملک میں جو Constitutional Position ہے، اس کے پیش نظر

ہم اس دوراہے پر کھڑے ہیں کہ جہاں سے راستہ خطرناک جگہوں کی طرف جاتا ہے۔

جہاں راستہ کوئی اچھی جگہوں کی طرف نہیں جاتا ہے۔

جناب میں Constitution کی بات کرتا ہوں۔ ایک Constitution

۱۹۷۳ میں بنا۔ میں سمجھتا ہوں کہ اس کو بھی کافی لوگوں نے نامنظور کیا

تھا، اس وقت بھی اسمبلیوں میں یہی پوزیشن تھی۔ یہ آئین ملک میں نافذ

تھا، اس کو ۱۹۷۷ میں یہ کہہ کر ہٹایا گیا کہ یہاں پر ملک میں مختلف آرگنائزیشنز

اور مختلف پارٹیاں، اس پارٹی کو یعنی پیپلز پارٹی جو اس وقت پاور

میں تھی، پسند نہیں کرتی، میں کیوں کہ اس نے الیکشن میں Rigging کرائی ہے

اس کے پیش نظر اس پارٹی کو ہٹایا گیا مگر Constitution موجود رہا۔ بہر حال

میں ایک چیز Indicate کرتا جاؤں کہ جناب صدر نے جب ۷ اپریل کو
 مشترکہ سیشن میں تقریر کی تھی، اس میں واضح طور پر اس گورنمنٹ کو
 جو اس وقت ہاؤس میں برسرِ اقتدار تھی Warn کیا
 تھا کہ حالات صحیح نہیں۔ کرپشن جڑ پکڑ چکی ہے۔ کرپشن بہت زیادہ خطرناک
 حد تک پہنچ چکی ہے۔ اس لیے آپ حالات کو ٹھیک کریں۔ بات یہ ہے کہ
 یہ جو مسلم لیگ بنی، اس سلسلے میں عرض کرتا ہوں کہ پارٹیاں پہلے بنتی ہیں اور
 اقتدار بعد میں ان کو ملتا ہے لیکن یہاں پارٹی بعد میں بنی اور اقتدار پہلے
 اس کو ملا۔ پہلے تو Concept ہی Wrong تھا بلڈنگ اوپر سے نیچے کو نہیں
 بنتی، نیچے سے اوپر کو بنتی ہے۔ پارٹیوں کے لیے پہلے ورکرز تیار ہوتے
 ہیں پھر آدمی Politicalization کرتا ہے۔ اپنی پارٹی کا پروگرام لے کر
 آتا ہے، لوگ، ان کے ساتھ Committed ہوتے ہیں یہاں تو Independent
 Elections ہوئے اور اس کے بعد جناب ہوا یہ کہ لوگوں کے ساتھ
 بھی Cheating ہوئی۔ کیونکہ ووٹروں نے جو ووٹ دیا تھا وہ اس بنا
 پر دیا تھا کہ آپ Non-political parties میں رہیں گے اور Independent
 رہیں گے۔ مگر انہوں نے اپنے ووٹروں کے ساتھ بھی کی اور
 یہاں آکر پولیٹیکل پارٹی بنائی۔ جناب اگر پولیٹیکل پارٹی بنائی تھی تو
 اصولاً جمہوری طریقہ یہ تھا کہ وہ یہاں سے مستعفی ہو کر واپس اپنے ووٹرز
 کے پاس جاتے اور پھر Political Parties basis پر الیکشن کراتے اور
 اگر جیت جاتے تو حکومت میں آ جاتے۔ لیکن جناب اس کے ساتھ ساتھ
 یہ چیز بھی چلتی رہی کہ صرف اور صرف مسلم لیگ ہر جگہ پر Project بھی ہو
 رہی تھی، اس کے اراکین کو پلاٹ بھی دیئے جا رہے تھے اور کرپشن

[Mr. Aijaz Ali Khan Jatoi]

کی یہ حالت تھی اور سندھ میں تو حالات یہ تھے کہ وہاں پر لوگ خودکشی کے مقام پر پہنچ چکے تھے دیگر صوبوں کے حالات کا تو مجھے پتہ نہیں۔ میں نے اپنی پہلی تقریر میں بھی یہ کہا تھا کہ وہاں پر ہر چیز کی پالسی لگی ہوئی ہے، وہاں پر ظلم ہو رہا ہے، زیادتی ہو رہی ہے۔ وہاں کے ایک چیف منسٹر کو تبدیل کر کے دوسرا چیف منسٹر لایا گیا لیکن حالات اسی طرف ہی جاتے رہے۔۔۔۔۔

اس کے بعد جناب جب مسلم لیگ گورنمنٹ پہ یہ الزام تھا کہ یہ rigging میں corruption میں involve ہے۔ تو پھر میں سمجھتا ہوں کہ ان کے سارے steps ہی غلط تھے۔ پھر میں واضح طور پر یہ اپیل کرنا چاہتا ہوں کہ جو لوکل باڈیز کے الیکشن ہوئے تھے وہ بھی اسی مسلم لیگ نے کرائے تھے۔ میرے پاس ثبوت موجود ہیں کہ صرف میرے ضلع میں ۲/۲ پولنگ اسٹیشنوں کو راتوں رات تبدیل کر کے صبح شامیانے اور ٹینٹ لگا کر پولنگ کروایا۔ تو اس طرح ہمیں یہ واضح طور پر مثال بنانی پڑے گی کہ یہاں corrupt لوگوں کو آنے سے منع کیا جائے۔ یہاں corrupt لوگوں کو باقاعدہ sabotage کیا جائے۔ میرے پاس ثبوت موجود ہیں کہ کراچی میں وزیر اعلیٰ ایک اہم شخصیت کو ہر ماہ تقریباً ساٹھ پلاٹس دیتا تھا to continue as Chief Minister اسی طرح اس پارٹی کے ورکرز تک کو پلاٹس دیئے گئے۔ رشوتیں عجیب طرح سے چلائی گئیں۔ نوکریاں بھی گئیں۔

اس کے بعد جناب عجیب قسم کی uprising ہوئی جو آج ہمیں بولا جا رہا ہے کہ سندھ کے لوگ غدار ہیں۔ میں سمجھتا ہوں کہ سندھ

کے لوگ اتنے ہی محب وطن ہیں جتنا کسی اور صوبے کے محب وطن ہیں۔ میں claim کرتا ہوں کہ پاکستان ہم سب نے بنایا تھا، یہ ہم سب کا گھر ہے، اور ہم سب کی ملکیت ہے۔ مجھے کسی کی وفاداری کے سرٹیفیکیٹ کی ضرورت نہیں کہ میں پاکستانی ہوں۔ بات یہ ہے کہ مجھے provoke کیا گیا ہے وہاں پر جو حالات ہیں ہر نوجوان یہ سوال پوچھتا ہے سندھ کا نوجوان یہ بولتا ہے کہ ہمیں سندھو دیش بنانا ہے۔ بلوچستان کا نوجوان یہ بولتا ہے کہ ہمیں آزاد بلوچستان بنانا ہے۔ پنجتوتان کا نوجوان بولتا ہے کہ ہمیں آزاد پنجتوتان بنانا ہے۔ جناب اس سوال کو بجائے اس کے کہ ہم investigate کریں، ان سے پوچھیں ان کے Problems سنیں۔۔۔۔

اخونزادہ بہرہ ور سعید: آپ ڈیمانڈ کریں۔

میر اعجاز علی خان جتوئی: جناب میں ڈیمانڈ کی بات نہیں کر رہا ہوں۔ عرض کر رہا ہوں کہ آپ اس کے problems میں جائیں۔ آپ اسکے مسائل پر توجہ نہ دیں اور صرف یہ سرٹیفیکیٹ دے دیں کہ غدار ہیں میں سمجھتا ہوں یہ مناسب نہیں ہے زیادتی ہوگی۔ چونکہ پاکستان پہ سب کا حق ہے سب قومیتوں کا حق ہے۔ وہ بائیں حق ہیں وہ آپ کو solve کرنا پڑیں گی۔ کیوں کہ یہ ایک گھر کی مثال ہے چار بھائی اگر ایک گھر میں رہتے ہیں تو ان میں differences ہوتے ہیں تو وہ بلیٹھ کر آپس میں ملے کرتے ہیں۔ یہ تو نہیں کہ ایک بڑا بھائی اٹھ کر کہے کہ یہ غدار ہے یہ مناسب نہیں ہے۔ اس کے ساتھ ساتھ یہاں پر جناب! مثالیں تو بہت ہیں۔ ہمارے پاس تو سینٹ کی سیٹ بھی ڈیڑھ کروڑ میں بکی۔ کتنے شرم کی بات ہے ہمارے

[Mr. Aijaz Ali Khan Jatoi]

سندھ کے باعزت جو MPA's ہیں انہوں نے ڈیڑھ کروڑ روپیہ لے کر ووٹ دیا۔ نہ صرف یہ بلکہ اور بھی کافی پیسے involve تھے جو مختلف تنظیموں نے ان کو دیئے اور Candidates تھے انکو bribe کیا۔ اس کے بعد جو سینٹرل جیل سکھر ٹوٹا ہے تو اس میں بھی involvement اسی حساب کی ہے۔ میں سمجھتا ہوں کہ اس قید سے ۸۰ قیدی ایسے ایسے بھاگے جن کو پکڑنے میں پولیس اور آرمی کو سالہا سال لگے تھے۔ وہ جیل اس وقت کے چیف منسٹر نے ۷۰ لاکھ روپے لیکر نرطوالیؔ میں وہ بالکل Claim کرتا ہوں۔ اس حساب سے جناب دیکھیں کہ یہ کرپشن، یہ چیزیں ہمیں کہاں لے جا رہی ہیں کوئی اچھی چیز تو ہمیں واپسی میں نہیں مل رہی ہے۔ آج کم از کم ہم یہاں سینیٹ میں بیٹھ کر بجائے اس کے یہ سوچیں کہ کیا ہوا۔ بلکہ سوچنا یہ ہے کہ in future ہمیں کوئی strong democratic set-up ملے اس کے لیے اور الیکشن کے لیے پریشر ڈالنا چاہیئے۔ اور الیکشن کا پروسس جاری رکھنا چاہیئے۔ میں ان منسٹرز صاحبان سے عرض کرتا ہوں کہ جو وہاں جا کر صدر صاحب کو مشورے دیتے ہیں کہ الیکشن کی کوئی ضرورت نہیں ہے ہمیں الیکشن نہیں چاہئیں جناب آپ غلط ہیں۔ الیکشن کی ضرورت ہے الیکشن کا پروسس جاری رہنا چاہیئے۔ الیکشن ایسی چیز ہے کہ جب مختلف علاقوں سے یہاں ممبرز آتے ہیں تو وہ تعلقہ اور ڈسٹرکٹ لیول تک کے آپ کو problems بتاتے ہیں اپنے grievances بتاتے ہیں۔ تو اس کے لیے ایک کمیٹی بنانی چاہیئے اور سینیٹرز صدر صاحب سے ملیں اور ان سے عرض کریں کہ الیکشن ضروری ہیں۔ اور آئین کے تقاضوں کے اندر رہتے ہوئے الیکشن کرانے چاہئیں۔

اس کے بعد جناب اس موشن کے سلسلے میں ایک گزارش تھی کہ یہاں
 پر ایک فیڈرل منسٹر نے حیدرآباد میں جا کر ایک عجیب قسم کی statement
 دی کہ سندھ کو four zones میں divides کریں یہ فیڈرل گورنمنٹ
 کی ذمہ داری ہے کہ وہ ایسی چیزوں کو روکے

جناب چیئرمین : بات پر یونج موشن پہ ہو رہی ہے میرے خیال میں
 اسی پر زیادہ توجہ دیں تو زیادہ بہتر ہو گا۔

میرا عجاز علی خان جتوئی : جی ہاں ! ساتھ ساتھ اس موشن کی
 اس لیے بھی بنتی ہے کہ جس طرح کی بھی ڈیموکریسی تھی importance
 اس کو ڈیموکریٹک طریقے سے ہٹانا چاہیے تھا اس چیز کو میں wind up کرنے
 سے پہلے یہ عرض کر دوں کہ ڈیموکریسی یا پولیٹیکل پروسیس اس ملک کے
 لیے بہت ضروری ہے چونکہ یہ multi-national country ہے۔ اس لیے
 ہمیں اسے continue کرنا پڑے گا۔ شکریہ !

Mr. Chairman : Mr. Ahmed Mian Soomro, and he is going to be the last
 speaker before I request the Ministers to reply or wind up the debate.

Mr. Javed Jabbar : Sir, I have a right of reply.

Mr. Chairman : After the Minister has spoken or before that.

Mr. Javed Jabbar : After the Minister has spoken the mover of the motion has
 the right of reply.

Prof. Khurshid Ahmed : We have to respond to what the Minister has to say.

Mr. Chairman : Right.

Mr. Ahmed Mian Soomro : Sir, there is no doubt that the matter before the
 Senate for the last two/three days that we have been discussing is of very great
 public importance. It has been moved and debated on a motion of breach of
 privilege. Sir, we in this Upper House have to consider every thing coolly and
 not sentimentally. My learned brothers who moved the motion, it is very clear,
 had laboured a lot and on this aspect had given very good arguments and I commend
 the efforts put in by them. But as I submitted let us coolly consider
 whether that the President did is in accordance with the Constitution or other-
 wise. If on broad principles we can see that the President acted within the power

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given to him under the Constitution then unless there are other circumstances to be proved, it would not amount to a breach of privilege. Sir, while going to that aspect first I would go to Article 58 of the Constitution under which the President has acted. He has obviously acted under clause (2) (b) of Article 58 which says :

“Notwithstanding any thing contained in clause (2) of Article 48 the President may dissolve the National Assembly in his discretion where in his opinion a situation has arisen in which the Government of the Federation cannot be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary”.

Now, Sir, under Article 48. clause (2) it says :

“Notwithstanding any thing contained in clause (1) the President shall act in his discretion in respect of any matter in respect of which he is empowered by the Constitution to do so and the validity of any thing done by the President in his discretion shall not be called in question on any ground whatsoever”.

So, Sir, when the president acts in his discretion and that he can only act in those cases where the Constitution specifically empowers him to act in his discretion and when he does so where he is empowered to do so that can not be called in question on any ground whatsoever. So, Sir, here it is obvious that having acted under Article 58 (2) (b) where he had the power to act in his discretion it can not be called in question. It is a different question whether we agree or not that he should have so acted or not but the fact is that he had the constitutional right which he exercised and which we can not question.

Then Sir, to see why he acted, a brief history of the events leading to that would have to be taken into consideration. At least I would say about the Province of Sind which I have the privilege and honour to represent here. During the past three years there was a complete breakdown of the administrative machinery and in this very august House a few of us who maintained an independent character or an opposition character to the then government repeatedly pointed out that the administrative machinery had completely broken down during the Chief Ministership of Syed Gous Ali Shah who belonged to the majority party which was ruling not only the Central government but all the Provinces. We pointed out that we could not move on roads even during the day on the highways. It is an open secret how much disorder there was and I need not go in detail into this. The famous or I would say notorious Jail break of Sukkur and the consequential results thereof showed that there was no government functioning in Sind. Corruption had reached its height in Sind. In this very Senate, though, our voices were a voice in the wilderness, we demanded a change of the government there but for three years it fell on deaf ears. Going still further as my friend Senator Aijaz Ali Khan Jatoi pointed out and as I had also pointed out in the Senate when the Political Parties Act was being passed I remember I have even appealed to the members in the name of Almighty, please don't pass this Act, it will be suicidal. I pointed out that we have no right to form a party. We pointed out to the ruling party that they had got a mandate, they were elected on a partyless basis and if they wanted to form any party, the correct moral and political decision would have been that they should have resigned, gone to the electorate and sought a verdict from them and if they were elected on that Party ticket then they had the right to continue as such.

Sir, the very basis of the elections as I have pointed out was shattered. The foundation was shattered. A structure was built on something which had no foundation and naturally what happened, it collapsed. Then, again going to the aspects of the Constitution and the Rules Sir, here, I would like to draw the attention of the House to Rules 62 of the Rules of Procedure and Conduct of Business, in the Senate, 1988. In the case of a privilege motion it shall be governed by the following conditions and the relevant one would be Sir, clauses (3) and (4) of Rule 62 which say :—

(iii) "The matter shall be such as requires the intervention of the Senate; and

(iv) the question shall not reflect on the personal conduct of the President."

Now Sir, clause (3) particularly I would say, in what manner we — the Senate can interfere when they are prohibited by the Article 48 (2) of the Constitution? Can the Senate set aside that order? It can not. The Senate can not interfere in the order of dissolution of the President and therefore, Rule 62 (3) would come into play. What we could point out is that this action of the President was demanded by almost all the parties outside the Parliament. They all wanted mid-term elections on party basis which on the 29th May, the President announced. That is why we find not a single party who condemned the action of dissolution. All they demanded was fixation of an early date for elections. So, the President's action of dissolving the Assembly which actually is in-question here in these privilege motions also satisfied the demand of almost all the political parties outside the then ruling party. Not only that Sir, the honourable *ex-Prime Minister*, Mr. Muhammad Khan Junejo who I feel is a gentleman and I have respect for him, even he admitted that the President acted according to the Constitution. He was the most aggrieved party. His statement as reported in the Press also was that the President had acted in accordance with the Constitution. The aspect now left for us Sir, to consider while acting under Article 58 and while being governed under Article 48 (5) which says "where the President dissolves the National Assembly, he shall in his discretion appoint a date not later than 90 days from the date of the dissolution for the holding of general election to the Assembly and appoint a caretaker Cabinet."

Now Sir, my respectful submission is that the President has to fix a date. It can not be construed that he has to fix a date within ninety days because the Constitution has to be read as a whole. We can not say for example in our Shariat: نماز نہ پڑھو جب نشے میں ہو So, we must read this along with Article 224 which is very unambiguous and has been provided to remove an ambiguity that may arise in the case of Article 48 (5) and it says:

224. (2) When the National Assembly or a Provincial Assembly is dissolved, a general election to the Assembly shall be held within a period of ninety days, after the dissolution, and the results of the election shall be declared not later than 14 days after the conclusion of the polls". Sir, Article 224 very clearly

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specifies the period within which the election is to be held. Certain quarters were trying to take cover under Article 254 which says Sir :

254. "When any act or thing is required by the Constitution to be done within a particular period and it is not done within that period, the doing of the act or thing shall not be invalid or otherwise ineffective by reason only that it was not done within that period".

Sir, this Article does not give power to the Government to violate Article 224. This merely is a cover-up. If, for any reasons, may be reasons beyond the control of the relevant authority, the election is not held within 90 days, it is held a few days after that or a few months after that or whatever the position may be, it does not mean that merely because it is held after that period, it becomes ineffective or invalid that otherwise would amount to this that if it is not held in 90 days that means it can never be held. Sir, just to cover up that situation, Article 254 was put in there.

1. Now the question of breach of privilege, *prima facie*, does not arise because the President has acted perfectly in accordance with the Constitution and the other part about fixing the date of election, within the 90 days, has not yet been implemented, because there are also decisions that once the election process starts, if today he announces a date or tomorrow he announces a date; within that period he announces a date for election to be held soon, the process has started and that part shall be deemed to have been complied with according to the rules. Therefore, Sir, at this stage, *prima facie* we find that he has committed nothing unconstitutional. He has exercised his powers perfectly in accordance with the Constitution. We have no right to question that; we have no right at this stage to say that he would not comply with the remaining part of the Constitution, unless there is actually a breach of it.

So, Sir, I respectfully would say that there has been no breach of the Constitution; the action has been perfectly in accordance with the Constitution; Rule 62 comes into play; Article 48 (2) comes into play and as far as the role of the Parliament is concerned, the President in the last two Addresses had repeatedly advised that this Senate should have the committee system. It was a very correct advice but it was not heeded to. I would like to point out that such situations probably would not have arisen if we have had regular elections. Even now the remedy is only democracy and the democracy alone, and regular elections that is only what can save this country.

Here, Sir, as a representative of Sind, I would like to point out, why is that only in Sind you have no Chief Minister; why this differential treatment to Sind? You ... have Chief Ministers in all the other three Provinces? Is there no resident of Sind; no member from Sind; no citizen of Sind fit enough to run its own Province? I would, therefore, Sir, request the authorities not to please create such situations. We have in Sind only 'Governor's Raj' and that also an Acting Governor. Make him a full Governor why Acting Governor? Appoint Sir, in Sind also a Chief Minister. You have seen the situation in Sind. In spite of the best efforts of the Governor, I have nothing against the man as such, but in principle, I would certainly ask why this differential treatment to Sind which is a very sensitive Province; where you find that for four or five years or at least since the last three and a half years the administration has

completely collapsed. Give the people a chance; have early elections ; meanwhile have a Chief Minister as you have got in other Provinces. Let them run their affairs and with these few submissions, Sir, I thank you for having given me this opportunity.

Mr. Chairman : Thank you very much.

Syed Abbas Shah : If I am allowed, Sir....

Mr. Chairman : Your name was called and you were not present.

Syed Abbas Shah : Sir, I was in the Muslim League meeting and I requested through Mr. Muhammad Ali Khan to ask the Secretary, if I am given the opportunity...(interruptions) :

Mr. Chairman : Well, I can give you just five minutes because your name was there on the list. We have to wind it up and to finish this today.

Syed Abbas Shah : Sir, I will take care of that.

Sir I draw your attention and through the Chair, of the PTV Corporation that my name is Syed Abbas Shah and not Pir Muhammad Abbas Shah. After three and a half years, they are still naming us wrongly. So, I draw your attention to that.

Mr. Chairman : Right. Please be very brief.

Syed Abbas Shah : Sir, I will be brief.

A question of privilege of the House has been raised by our three Members and in my opinion with quite good reasoning with full force, they have proved that the privilege of this House has been breached, I endorse their views. According to the Constitution, this Parliament consists of three limbs—the National Assembly, the Senate and the President. If the National Assembly is alive, they have the right, they have the capability to defend themselves and they can take care of breach of their privilege themselves but today, the only part of the Parliament which can defend the privilege of the Parliament which has been breached by the action of the President, is the responsibility of this House.

Sir, as you told me to be brief, I will not repeat and go to those reasonings which have been put forth but those are really very strong reasons—that the President of Pakistan, in no way, was empowered to take this action for which there was a provision. Sir, today, we are passing through a history and democracy has been introduced in this country for which the President claims that “میں نے یہ پروا لگایا ہے اور اس کی فتوایا میری ذمہ داری ہے” Sir, today, you are the

[Syed Abbas Shah]

Chairman, of the Senate, a decision has to be taken, it is not for persons, the democracy is—for the people, for the country and history has to be written, Sir. Unfortunately, a decision was taken by a superior court in 1954 which was a black spot in the political history of Pakistan. The democracy was destroyed when the court gave its verdict on the doctrine of necessity. Sir, the effect of that decision was that the whole nation had suffered and even today when this action has been taken and the courts are open for us to go there but because of the doctrine of necessity, the people of Pakistan are reluctant to go to the court against the impugned action which in the opinion of whole nation is incorrect, Sir. Sir, I ask you and I ask this House that we should not take a decision which should bring future misfortune to the nation because then the history will hold that we were the responsible people who had taken a decision, taken a step which had destroyed the basis and the very roots of democracy in this country. Sir, I assure you that this was the first opportunity of nascent democracy and with your characteristics, with your quality of judgement, I am sure that you will give proper decision. We are not against persons, we are not against the Chair. We say that a decision from this House should go out that the nation should be proud of, that democracy should be proud of because this democracy has to run.

Sir, to be brief I say that the Constitution has been wilfully abrogated and I draw your attention to Article 6 of the Constitution so that when you are taking a decision, Sir, it should be in your notes. I refer only to the relevant portion which says :

“or by other un-constitutional means shall be guilty of high treason”.

Sir, apart from this while considering the privilege of the House and the privilege of the parliament, I will also ask you to take note of the speeches made by certain members of the House outside the House. I will refer to the budget speech of our worthy Finance Minister ; (Part I section 8) :

“ Did we take any steps during the last two years to meet this financial crisis”?

Then, he has charged that government to which he was a part. He was a part of that government. Sir, it has been a straight charge made against the government, and he has to prove it.

Then again, Sir, I will refer you to his speech in which he has said on page 5:

“This was not my personal commitment but the commitment of the government. It is regrettable that most of the members of the parliament obtained plots for themselves and then sold them at windfall-profits and the low income employees for whom parliament had approved the provision in the budget and so on.....”

and then he has charged the parliament members, Sir. If he has any charges he should go to the court against those members but he should not degrade the members of the parliament as a whole. It is an institution. You can bring charges

against certain people. There may be corrupt people, there may be people who may have taken advances, money, loans, etc., but Sir, there he is charging an institution.

Sir, while deciding the issue of privilege, you should take note of the speech of Sardar Abdul Qayum Khan the President of Azad Kashmir. He has charged the parliament, he has charged the government, although it is a well-known fact that he is running a corrupt government and it has been proved that he has done rigging in his area during elections. Sir, it is very much necessary to raise this point that that Government (of Azad Kashmir) should also go to the public for election. That Assembly requires dissolution but that has nothing to do with us. However, I had to raise this point but his statement should be taken into consideration, in considering the privilege of this House which he has also breached.

Sir, I once again repeat that the charges levelled against this government or the National Assembly does not justify the action to dissolve the Assembly. Sir, there is one charge of delay in enforcement of Shariah. Sir, this parliament has worked for Shariat. Shariat Bill has come through the members. We were following certain procedure and nobody can stop us from that because it is the right of the قانون (legislature) to continue that system of procedures and we were advancing in that direction. I am sure and some of my friends who have presented this Shariat Bill will agree with me that the government which was dissolved was prepared to give more in the Shariat Bill rather than what has been given in the Ordinance which has now been presented as an eye wash. Sir, if the parliament has been dissolved on this issue then the fact is that the parliament was not elected on that basis. Of course, it is the responsibility of the parliament to protect the Quran and Sunnah according to the Constitution but it was not the enforceable duty of the parliament. It was the President of Pakistan who had taken a verdict and his election was on the basis of Shariah i.e. the Shariah will be enforced in this country. Sir, today he has passed an Ordinance. He could pass the Ordinance four years before, three years before or two years before, he could bring all these issues but today his term is closing, Sir. This is no excuse. He is equally responsible with this parliament because he is part of the parliament. He is equally responsible for non-enforcement or delay in the passage of the Shariat Bill.

Sir, we once again reiterate that it was the will of the parliament, of the both Houses and the Muslim League Government to enforce Shariah according to the wishes of the people of Pakistan. As a member of the Working Committee of the Muslim League even today I reiterate that we are strong believers of Islam. Pakistan was created by Muslim League on this very mandate that Shariat will be enforced in this country and Shariat will be the supreme power in the country. (Insha Allah.)

Thank you very much, Sir.

قاضی عبداللطیف : جناب والا! میں بھی بولنا چاہتا ہوں۔
 جناب چیئرمین : قاضی صاحب وہ لسٹ تو کسی دنوں سے فائل ہو
 چکی ہے ٹائم بہت کم ہے اور میری درخواست ہوگی اگر آپ نے بہت کوئی.....

قاضی عبداللطیف = میرے خیال میں تین چار دن پہلے ہی سے میں نے درخواست دی ہوئی ہے۔

جناب چیئرمین = میرے پاس جوسٹ ہے اس میں آپ کا نام نہیں ہے۔
قاضی عبداللطیف = یہ تو پھر آپ کے سیکریٹریٹ کا کام ہے میں نے ان کو نام دیا تھا۔

جناب چیئرمین : میرے خیال میں اگر بہت ضروری نہیں ہے تو آپ نہ بولیں اور اگر بہت ضروری سمجھتے ہیں تو ۵ منٹ آپ بھی لے لیں۔

جناب جاوید جبار = جناب بظاہر لگتا ہے کہ وقت اس میں بہت لگ گیا ہے۔

But, Sir, please look in the fact that in the whole week actually we had only three sittings.

(interruptions)

Mr. Chairman : I think enough time has been taken on this motion and the rest of the business is falling into default. We have to take care of that also.

Yes please.

قاضی عبداللطیف = جی اگر اجازت ہو تو میں
جناب چیئرمین = اگر بہت ضروری سمجھتے ہیں تو میری درخواست ہے کہ آپ صرف ۵ منٹ لے لیں۔

قاضی عبداللطیف = بہت اچھی بات ہے۔ جناب والا! گزارش یہ ہے
 شب تاریک بیم موج و گردابے چنین حاصل
 کجا دانشدہ حال ماسک ساران ساحل ہا

اس موشن کی اہمیت مسئلے کی اہمیت کی بنیاد پر ہے میں یہ نہیں کہتا کہ میرا کہنا زیادہ

اہم ہو گا اتنی بات میں ضرور گزارش کروں گا چونکہ یہ مسئلہ اتنا اہم ہے اگر اس پر سارے ہاؤس کو بھی اظہار خیال کا موقع دیا جائے تو یہ بے جا نہیں ہو گا جہاں ہم تحریکات پر بڑا بڑا وقت خرچ کرتے ہیں تو اس اہم مسئلے پر بھی ایوان کو موقع ملنا چاہیے میں مہتید کے بغیر اتنی گزارش کروں گا کہ جہاں تک اس اقدام کا آئین سے تعلق ہے وہ تقریباً ساری کی ساری دنیا تسلیم کر چکی ہے کہ یہ آئین کے مطابق تھا سوال یہ ہے کہ اگر حالات ایسے تھے یا نہیں۔ ان حالات کے اندر یہ اقدام ہونا چاہیے تھا یا نہیں اور اس سے ملک کی جمہوریت کو نقصان پہنچا ہے یا نہیں یہ ایسی چیزیں ہیں جو قیاسی ہیں اور جس پر قیاس کیا جا سکتا ہے۔

ع فکر ہر کس بقدر ہمت اوست

ہر شخص اپنی فکر کے مطابق سوچتا ہے کہ اس میں کیا ہونا چاہیے تھا اور کیا نہیں ہونا چاہیے تھا۔ جہاں تک سابق وزیراعظم کی شرافت، اس کے حوصلہ اور تدبیر کا تعلق ہے ہم یقیناً اس پر ان کو داد بخشنے پیش کریں گے کہ انہوں نے تین سال تک حکومت کو بڑے حوصلہ اور تدبیر سے چلایا ہے۔ ان حالات میں اسی تدبیر اور حوصلہ کی ضرورت تھی البتہ میں اتنا کہوں گا کہ بعض چیزیں ان میں سے تاریخ کا حصہ بن چکی ہیں اور ان کو تاریخ سے مٹایا نہیں جا سکتا میں شاید ان کی زیادہ تفصیل تو بیان نہ کر سکوں، اتنی گزارش کروں گا کہ شریعت بل کا تذکرہ بار بار کیا جا رہا ہے، میں افسوس سے کہوں گا کہ تین سال تک اس میں پیش رفت نہیں ہوئی، یہ ایک حقیقت ہے میں سینٹ کا ممنون ہوں، سینٹ اس سلسلے میں اپنا پورا فریضہ ادا کر چکا ہے۔ اپنی پارٹی ٹینگ

[Qazi Abdul Latif]

میں بھی سینٹ کے مسلم لیگی اراکین نے اس طرف انکی توجہ مبذول کرائی تھی لیکن اس کے باوجود بھی اس سلسلے میں کوئی پیش رفت نہیں ہوئی اور اسے ایک کمیٹی کے حوالے کر دیا گیا۔

نویں ترمیمی بل کو سینٹ نے بڑی جرات سے اور ایمانداری کا ثبوت دیتے ہوئے پاس کر دیا تھا لیکن قومی اسمبلی میں جا کر وہ بھی اٹک گیا تھا، آج تک وہ بھی معلق پڑا ہوا ہے۔ یہ ایک ایسی چیز ہے جس کو کہ تاریخ کے صفحات سے مٹا نہیں سکتے۔

اسی طریقے سے سندھ کی بد امنی کا بار بار تذکرہ کیا گیا ہے۔ بد امنی ہوتی ہے، جرائم ہوتے ہیں لیکن وہاں پر جو کیفیت پیدا کی گئی ہے اس پر تمام وزراء اور تمام ہاؤس شاہد ہے۔ حتمی کہ اس کی طرف ایک دفعہ ہمارے وزیر داخلہ صاحب نے بھی اشارہ کیا تھا کہ سندھ کی حکومت کیا کر رہی ہے؟ غوث علی شاہ نے جو کردار ادا کیا ہے، اور آج جو آگ بھڑک رہی ہے، ہم سمجھتے ہیں کہ یہ اسی کا نتیجہ ہے۔ ہم جو نیچو صاحب کو اس کا ذمہ دار نہ سمجھتے اگر اقبال احمد خان کا یہ بیان نہ آتا کہ ہمیں غوث علی شاہ پر فخر ہے جب اس کو غوث علی شاہ پر فخر تھا تو اس کا مقصد یہ ہے کہ ان کے تمام کارناموں کو انہوں نے اپنے ہی ذمہ لے لیا ہے اور اپنے آپ کو انہوں نے بلا وجہ اس کے اندر شریک کر لیا لہذا میں سمجھتا ہوں کہ مسلم لیگ کے نام پر یہ بدنامی اقبال احمد خان کے اس بیان سے آئی ہے کہ ”غوث علی شاہ کے کارناموں پر ہمیں فخر ہے۔“ میں سمجھتا ہوں کہ آج جتنی آگ وہاں بھڑک رہی ہے، وہ اسی کا نتیجہ ہے۔

اسی طریقے سے میری گزارش ہوگی کہ ملک کے اندر امن و امان کا جو

مسئلہ ہے یہ علیحدہ بات ہے انتظامیہ کا فرض ہوتا ہے کہ وہ امن وامان قائم کرے لیکن یہ کہاں کی جمہوریت ہے اور یہ جمہوریت کا کون سا مفہوم ہے کہ جو ملک کو توڑنے والے ہیں ، اور ملک کے دشمن ہیں ! جو جغرافیائی سرحدات کو تسلیم نہیں کرتے ، جو نظریاتی سرحدات کو تسلیم نہیں کرتے ان کی حوصلہ افزائی کی جائے اور ان کو اعزازات دیئے جائیں اور ان کے ساتھ نرمی کا رویہ اختیار کیا جائے حتیٰ کہ یہاں ایک بڑی حکومت ، ایک سپر طاقت کا سفير کچھ پارٹیوں کو بلا کر ان کو منظم کرتا ہے اور حکومت کے اندر انتی جرات نہیں ہے کہ ان سے باز پرس کرے کہ آپ یہ کیا کر رہے ہیں ۔ اس طریقے سے یہاں کتنا میں لکھی جا رہی ہیں اور کہا جا رہا ہے کہ اب پاکستان کو توڑنا چاہیے ، ٹوٹ جانا چاہیے ، لیکن ان باتوں پر آج تک مواخذہ نہیں ہوا اسی کا نتیجہ ہم آج بھگت رہے ہیں ۔ سندھ کے اندر آج جو کچھ ہو رہا ہے وہ اسی کا نتیجہ ہے اور اسی کی بنیاد پر یہ سب کچھ کرایا جا رہا ہے ۔ تو میں گزارش کروں گا کہ یہ تاریخ کا ایک حصہ ہے جسے ہم تاریخ سے مٹا نہیں سکتے ۔

جمہوریت کے معنی یہ نہیں ہیں کہ ملک کی سرحدات اور ملک کے نظریات کے ساتھ کھینچا جائے ۔ کہیں سے بھی آپ یہ ثابت نہیں کر سکیں گے کہ کسی ملک کی جمہوریت کا یہ مطلب لیا گیا ہو کہ اس ملک کی سرحدات اور اس ملک کی سلامتی کو اس سے خطرہ لاحق ہو جائے اور پھر بھی اس پر دست اندازی نہ کی جائے ۔ یہاں یہ ایک انوکھا معاملہ تھا کہ جمہوریت کے متعلق یہ کہا جا رہا تھا کہ ہم نے آزادی دی ہوئی ہے ۔ آزادی کی جناب والا ، کچھ حدود ہوتی ہیں ، اور ان حدود کو متعین کرنا چاہیے ۔

[Qazi Abdul Latif]

پانچویں چیز جس کے بارے میں ، میں گزارش کروں گا وہ جینیوا معاہدہ ہے جو تاریخ کا بدترین معاہدہ ہے اگرچہ میں سمجھتا ہوں کہ ایک مسلمان کی حیثیت سے ہمیں اس کا احترام کرنا ہوگا اور ہم اس کا احترام کر رہے ہیں لیکن جس شکل میں یہ معاہدہ ہمارے سامنے آیا ہے اس کے معنی یہ ہیں کہ گویا کہ افغانستان کی جنگ کو ہم نے کھینچ کر اپنے سر پر خود ہی مسلط کر لیا ہے ۔ یہ بڑی انسوس ناک بات ہے ۔ بہر حال یہ ایسے واقعات ہیں کہ جن سے چشم پوشی نہیں کی جاسکتی اور جن کو تاریخ کے صفحات سے مٹایا نہیں جاسکتا ان حالات کے اندر اگر یہ اقدام کیا گیا ہے تو میں یہ نہیں کہوں گا کہ وہ غیر جمہوری یا ناجائز تھا البتہ اتنی بات ضروری ہے کہ اس کے ساتھ یہ ہونا چاہیئے کہ جس وقت یہ اسمبلیاں ختم کی گئی ہوں اسی وقت ہی فوراً انتخابات کا اعلان کیا جاتا ۔ سینیٹ کی کارکردگی اگر اس وقت متاثر ہے اور ہم قانون ساز ادارہ ہونے کے باوجود بھی قانون سازی نہیں کر سکتے تو اس کے معنی یہ ہیں کہ ہمارے آئین کے اندر کچھ خامیاں ہیں ، ان کو نکالنا چاہیئے اور اس وقت اس کمی کو پورا کرنے کے لیے اور اس کی تلافی کے لیے ضروری ہے کہ انتخابات جلد از جلد کرائے جائیں ۔ بس میں اتنی ہی گزارش کرنا چاہتا ہوں ۔

Mr. Chairman : Who is going to speak on behalf of the Government.

Mr. Wasim Sajjad : Sir, Mr. Muhammad Aslam Khan Khattak would be saying something and then I will wind up on behalf of the Government, then Attorney-General if you want Sir, on legal question.

Mr. Chairman : Well, it is entirely up to you.

Mr. Wasim Sajjad : I think, Mr. Aslam Khan Khattak would first speak and then I will wind up.

Mr. Chairman : Alright. Mr. Muhammad Aslam Khan Khattak.

Mr. Muhammad Aslam Khan Khattak : Mr. Chairman Sir, I did not want to partake in this debate and I thought that I would leave it at that but some friends raised certain points and I felt that I should say something about that in fact

مقصود ہے گزارش احوال واقعی ۔

Sir, the President's recent action has been the subject of great criticism. Even some people have gone to the extent that he has murdered the democratic institutions. All I would say, let us go back for a little into the history with your permission Sir. Who brought in the first Martial Law? How it came? Who brought it? On whose advice it came? I will not comment. For the simple reason that it would lead to a controversy. Let the historians decide whether General Zia-ul-Haq willingly, happily brought this Material Law or whether it was under the advice of some friends, let the history decide it. Then, the ninety days elections were postponed. I would not go into the details of those, for having been inside this House I know some coverts. I would like to leave that aside also for the historians to determine, to decide as to who were responsible for the postponement of those elections for which he had promised that he would do it in ninety days. However, Sir, then the rule of Martial Law came and in that Martial Law Government, some of the most illustrious members of this House were members of the Cabinet Sir. So, any action that has been taken in those times, I think the honourable members today who were in that Cabinet, I don't think, it is justice, it is fair play that they should criticise those actions.

I would also, while speaking on this subject Sir, remind another illustrious friend for whom I have great respect and he is one of the most powerful speakers that he was equally in support of that government. Some unkind friends went to the extent describing his party as the B team of the Martial Law. They may be very unkind but Sir, they were in full support of the government of that time. Today Sir, some of the illustrious members of that party are discussing economic policies. I would not go in to that, I would leave it to my learned Finance Minister. But Sir, to me they appear of a Communistic time not even the Socialistic time because there are no Jagirdars in Pakistan today. I don't know where is a Jagirdar. My father had a jagir, I don't know, I got it for two months or three months and that was vanished then. Today, there are no Jagirdars but there are people, rich people, in Pakistan but riches as such is not condemned by Islam.

حلال کی روزی کما تو عین عبادت ہے ۔ اگر ایک آدمی حلال کی روزی سے

دولت سرمایا بناتا ہے تو اس کو آپ کیسے condemn کرتے ہیں ۔ ہاں

لَنْ تَنَالُوا الْبِرَّ حَتَّى تُنْفِقُوا اس کے خرح پر آپ کہیں کہ وہ بیشک اخراجات اس قسم کے کرے جو روح شریعت کے مطابق ہوں یا جو اسلام کی

[Mr. Muhammad Aslam Khan Khattak]

خدمت میں ہوں۔ کیا حضرت محمد ﷺ نے نہیں فرمایا کہ اگر حضرت عثمان غنیؓ کی دولت نہ ہوتی تو میں اتنی خدمت نہیں کر سکتا تھا۔ حضرت عثمانؓ کی دولت نے میری بہت مدد کی۔ لہذا میں محترم پروفیسر صاحب سے کہوں گا کہ اپنے چند ایک جذباتی لیڈروں کو، مجھے پروفیسر خورشید صاحب پر بڑا اعتبار اور اعتماد ہے، کہیں کہ مہربانی کر کے

Don't preach Communism today or Communistic ideology today.

جناب چیئرمین۔ میرے خیال سے جو کچھ ہاؤس سے باہر ہو رہا ہے اس کے ساتھ اس موشن کے context میں ہمارا تعلق نہیں ہے.....
 جناب محمد اسلم خان خٹک = جناب والا! مجھے ان چیزوں کو کہنے کی اجازت دیں جو اس ہاؤس میں اٹھائی گئی ہیں۔ باقی رہا سوال کہ اگر صدر صاحب اس رول کو perpetuate کرنا چاہتے تھے تو کون سی مکھی نے اس کو کاٹا تھا کہ اس نے الیکشن کرائے۔ کس نے اس کو مجبور کیا۔ کون سی نوپیں چلی بیٹھیں۔ کون سی سڑکوں پہ لوگ نکلے تھے۔ از خود یا ممکن ہے ہمارے دوست کی پارٹی کی advice سے انہوں نے غیر جماعتی الیکشن کرایا غیر جماعتی الیکشن انہوں نے کیوں کرایا۔ کیوں کہ ان کو کہا گیا کہ اسلام میں ایک اللہ کی پارٹی ہوتی ہے۔ دوسری پارٹی کی گنجائش نہیں ہوتی۔ لہذا ان کی advice کو قبول کرتے ہوئے غیر جماعتی الیکشن انہوں نے کرایا اور ہم سب کو معلوم ہے کہ کن مشکلات، سنگلاخ زمینوں اور ریگستانوں سے گزر کر ہم نیشنل اسمبلی کے ممبر چنے گئے۔

اس کے بعد جناب والا! صدر صاحب کو کس نے مجبور کیا تھا جس کسی شخص کے سر پر بھی وہ ٹوپی رکھتے وہ پرآم منظر ہوتا۔ انہوں نے

محمد خان جونیجو کو چُنا اور ان کو کہا کہ یہ وزیراعظم ہے۔ اس وقت جناب والا کئی
 ممبران اسمبلی اس پر ناخوش تھے اور وہ چاہتے تھے کہ ایک alternate
 آدمی کو تجویز کریں اور انہوں نے کہا کہ بیلٹ بکس میں جس آدمی کا ہم نام لکھیں
 گے لیکن ہم نے متفقہ طور پر ازروئے exigencies of the time ہم نے قبول
 کیا کہ محمد خان جونیجو سے بہتر آدمی نہیں ہوگا اور اس کو ہم نے اپنا سربراہ تسلیم
 کر لیا۔ پھر جناب پرائم منسٹر نے صدر صاحب کی سات آٹھ سال کی فلاسفی کہ
 Non-party ایوان ہو کہ اسلام میں جماعتیں نہیں ہیں نظر انداز کر کے
 یہ فیصلہ کیا کہ میں سیاسی حکومت بنانا ہوں میں پولیٹیکل پارٹی بنانا ہوں۔
 تو صدر صاحب نے اس کو بھی قبول کر لیا اور اپنے اصول سے منحرف ہو کر
 جونیجو صاحب کی بات کو قبول کیا۔ اور وہ پولیٹیکل پارٹی کو لے آئے۔ اس
 پر بھی ہمارے بڑے ممبران نالاں تھے۔ ابھی ابھی ایک معزز ممبر نے کہا کہ اگر
 سیاسی پارٹی بنتی تھی تو ممبران کو چاہیئے تھا کہ چوں کہ وہ غیر جماعتی طور پر الیکٹ
 ہوئے تھے۔ وہ اپنی سیٹوں سے استعفیٰ دے کر کے دوبارہ منتخب ہونے بہر
 صورت I leave that - باقی رہا جناب والا! ہم جو کابینٹ کے اندر تھے
 خدا شاہد ہے کہ میں کسی کی خوشامد نہیں کرتا ان تین سوائتین سالوں میں
 صدر صاحب نے بطریق احسن جونیجو صاحب کے ساتھ تعاون کیا۔ اور جونیجو
 صاحب خود اس کو deny نہیں کر سکتے۔ یعنی تمام powers انہوں
 نے جونیجو صاحب کو دیئے تھے۔ باقی رہا سوال کہ کیا ہوا کیا اس کے نتائج نکلے
 اس کے متعلق بہت کچھ بیان ہو چکا ہے لیکن میں اتنا ضرور کہوں گا کہ جس وقت
 انہوں نے مشترکہ اجلاس سے خطاب کیا تو وہ ایک عنصم زدہ دل تھا ایک
 مجروح دل تھا۔ ایک الیا دل جس میں کچھ چیز اُبل رہی تھی یعنی جو نظام بنایا

[Mr. Muhammad Aslam Khan Khattak]

تھا وہ گڑھے اور تباہی کی طرف جا رہا ہے اس سے بھی اگر ہم سبق نہیں لیتے تو میں کیا کہوں۔ لیکن ہم لوگ تو سمجھ گئے کہ صدر صاحب کن حالات کو بیان کر رہے ہیں۔ انہوں نے کسی کے اوپر attack نہیں کیا۔ لیکن انہوں نے وزیراعظم سے گزارشات کی ہیں کہ جناب یہ حالات ملک میں ہو رہے ہیں اور اس کا کیا تدارک کیا جا رہا ہے۔ یعنی یہ دکھے دل کی آواز تھی۔

باقی رہا allegations وغیرہ، اب اگر میں کہوں گا کہ ایک خاندان میں ایک آدمی بھی خراب ہو تو لوگ اس سارے خاندان کو برا بھلا کہتے ہیں اس میں کوئی شک نہیں کہ ہم لوگوں نے وزیراعظم کو مستورہ دیا کہ جناب آپ یہ پلاسٹس وغیرہ ممبران نیشنل اسمبلی کو نہ دیں۔ میں گلاسگو میں گیا۔ وہاں پاکستانی کمیونٹی بڑی دولت مند اور برسر روزگار ہے۔ ان کے پاس دیگر چیزوں کے علاوہ بڑی بڑی کاریں ہیں۔ انہوں نے میری دعوت کی۔ اس دعوت میں انہوں نے کہا کہ جناب خشک صاحب آپ گورنمنٹ کے ساتھ بڑی مدت سے منسلک ہیں اور بڑے ملطراق سے آپ دعویٰ کرتے ہیں کہ کرپشن کو مٹائیں گے اور ملیامیٹ کرینگے۔ کیا یہ حقیقت ہے؟ تو میں نے کہا کہ جناب یہ حقیقت ہی نہیں یہ ہمارا absolutely جزو ایمان ہے۔ کہنے لگے خشک صاحب کہ اگر آپ ایک سرکاری نوکر کو کوئی چیز دیں تو یہ انعام ہے لیکن اگر آپ کا کسی نجج کے پاس کوئی مقدمہ ہو اور آپ اس کو کوئی چیز دے دیں تو وہ رشوت ہوگی کہ نہیں تو میں نے کہا کہ ہوگی۔ تو کہنے لگے آپ یہ جو وزیراعظم اور وزیر بنے ہیں کیا یہ MNA کے دوٹوں سے بنے ہیں یا نہیں۔ میں نے کہا ہاں۔ تو کہنے لگے تو پھر اب جب ان کو پلاسٹس دیتے ہیں اس کا کیا مطلب ہے آپ ان کو خرید رہے ہیں، یا ان کے صمبر کو خرید رہے ہیں۔ جناب والا! اس کا میرے پاس کوئی جواب نہیں تھا۔ لیکن اسنوس

کی بات یہ ہے کہ ہم سب apply کر سکتے تھے لیکن ایسے لوگ جو کروڑ پتی ہیں جو سونا اگل رہے ہیں۔ انہوں نے بھی apply کیا اور وزیراعظم سے گلا کیا کہ فلاں کو اتنا بڑا پلاٹ ملا اور مجھے کیوں نہیں ملا۔ تو ان لوگوں سے میں قوم کی خاطر اپیل کرتا ہوں کہ وہ خود قیمت مقرر کر کے دس پندرہ بیس کم کر کے باقی پیسے قوم کے خزانے میں دے دیں۔

جناب والا! باقی میں صدر صاحب کی طرف سے اتنا کہہ سکتا ہوں، میں ان کے ساتھ مشیر رہا ہوں خدا حافظ و ناظر ہے جتنی عزت وہ اراکین نیشنل اسمبلی، سینیٹرز، اپوزیشن والوں کی کرتے ہیں وہ آپ کو بھی معلوم ہے اور اس ہاؤس کو میں یقین دلاتا ہوں کہ ان کے دل میں قطعاً یہ نہیں ہے کہ اس ہاؤس کے اوپر وہ کسی قسم کا الزام لگائیں۔ لیکن انہوں نے جو جذباتی فریاد کی وہ یہ تھی کہ اس موضوع کے اوپر ہزاروں تار ان کے پاس آئے۔ ایک صاحب نے کہا کہ بھائی کس نے صدر صاحب کو مستورہ دیا ہے کہ آپ یہ کام کریں۔ ان صاحب کو کہتا ہوں کہ اگر روئے سخن ہماری طرف ہے تو ہم لوگ سب سے زیادہ loss میں ہیں ہمارے تو تین سال گئے، اب ہماری کیا حیثیت ہے؟ اب تو ہم مشیر ہیں یا منسٹر ہیں۔ ان کی مرضی پر ہیں۔ ہماری بلیئر کیا

ہیں۔ Our basis is nothing it is on his goodwill.

لیکن جس وقت ہم نیشنل اسمبلی کے ممبر تھے ہمارے تو دو تین سال اور باقی تھے۔ سب سے زیادہ نقصان تو ہمیں پہنچا ہے ہم اپنے پاؤں پر کیوں کلہاڑی مارتے؟ وہ کیا حالات ہوں گے۔ آخر صدر صاحب کا دستور ایک یہ بھی رہا ہے کہ جب وہ عمل کرتے ہیں تو تین تین چار چار راتیں استخارہ کرتے رہتے ہیں۔ آپ بھی ان کو جانتے ہیں۔ اب جو ان کا عمل تھا۔ کس لئے کیا؟ کیوں

[Mr. Muhammad Aslam Khan Khattak]

کیا، - جو کچھ جتنوی صاحب نے اور انہوں نے کہا اب میں اس کے بارے میں کیا کہوں انہوں نے خود وہ بیانات دیئے کہ کیا کیا حالات ہو رہے تھے۔

(مداخلت)

جناب چیئرمین = میرے خیال میں باری آجائے گی۔ ان کو کہنے دیں۔

(مداخلت)

جناب محمد اسلم خان خٹک = جناب میں نے تو آپ کو کبھی

disturb

نہیں کیا تو مجھے بھی disturb نہ کر س۔

جناب چیئرمین = آپ جاری رکھیں۔

جناب محمد اسلم خان خٹک : Let me confess to you one thing as a member of the Cabinet

کمی باری میں نے پرائم منسٹر صاحب کو کہا - وہ موجود ہیں زندہ

ہیں آپ ان سے پوچھیں - برائے خدا، آپ کے درمیان اور صدر صاحب کے

درمیان شیطان اور مفسد لوگ ایک قسم کی عداوت ایک قسم کی

differences

create کر رہے ہیں اور برائے خدا آپ دونوں ایک ٹیم بن کر چلیں۔

پرائم منسٹر صاحب یہ فرمادیتے تھے کہ نہیں ایسی کوئی بات نہیں - لیکن کمی باری میں

نے ان کو کہا کہ بھی - what we see is that we are being driven imperceptibly towards

an abyss باقی رہا سوال جی کہ ہمارے کسی دوست نے یہ فرمایا کہ صدر صاحب نے اگر

corruption کا charge لگایا ہے اگر یہ Corrupt Minister تھے تو ان میں سے دوبارہ وہی کیوں

منسٹر لیے گئے - میں تو یہاں باد صحر کھڑا ہوں - کلمہ پڑھ کر کہتا ہوں جس دن سے سروں

میں آیا اس دن سے لیکر آج دن تک ایسے ایسے محکموں میں رہا ہوں کہ سونے کے دریا

بہتے تھے اگر میں نے ایک پیسہ لیا ہو حرام کا تو پشتو میں کہتے ہیں ایک دو نین۔ اگر اس کی کسی کو سمجھ نہیں آتی تو کسی پٹھان سے پوچھو۔ اور یہ میں کہتا ہوں کہ جو Minister corrupt ہے اس کو سنگسار کرو اس کو پھانسی چڑھاؤ لیکن یہ کہنا کہ منسٹر کرپٹ ہیں میرا ایمان ہے کہ جو میرے colleagues ہیں یہاں پر خدا کے فضل سے اگر دامن پھوڑ دیں تو فرشتے وضو کریں۔
(مداخلت)

میں نے جو قرآن اٹھایا ہے وہ آپ بھی اٹھالیں۔ پھر واہ واہ کریں۔ پھر جناب والا! ایک بری چیز کی بھی قرآن نے جو برائی بیان کی ہے تو اس کی تشریف بھی کی ہے۔ کہہ ہے کہ اس میں یہ یہ خوبیاں بھی ہیں لیکن اس کی برائیاں اس سے زیادہ ہیں۔ پریزیڈنٹ صاحب کے آئین کے عمل کے بارے میں میرے learned Law Minister

کہیں گے۔ لیکن کسی رکن نے اس طرف رخ نہیں کیا کہ اس مرد مجاہد نے آٹھ نو سال تن تنہا دنیا کی تمام سپر پاورز کی کوششوں کے باوجود افغانستان میں اپنا مستحکم لائحہ عمل قائم رکھا۔ ان کو ہر طرف سے threats ملے۔ East سے ملے West سے ملے دوستوں سے ملے اندرونی سے ملے اور I am very happy کہ میرے پروفیسر صاحب کی پارٹی ان کے ساتھ باقاعدہ شریک عمل تھی اور آج دن تک وہاں پر ان کے ساتھ شریک عمل ہے۔ تو کیا یہ ان کا کارنامہ نہیں تھا۔ خاص کر ہمارے لیے کہ ایک اسلامی مملکت کو ایک افغان سلطنت کو ایک لادینی ملحد حکومت کے پنجے سے نجات دلانے کی کوشش کی۔ خدا حاضر و ناظر ہے ہمیں کسی کی پرواہ نہیں، یہ کرسیاں آج ہیں اور کل نہیں ہوں گی۔ لیکن جو role حزب فیما الحق نے play کیا ہے۔ اگر اس کی ہم تشریف نہ کریں تو جناب والا! اور کچھ نہیں کہوں گا لیکن یہ بے حد نا انصافی ہے۔ دنیا کی اور قومیں، سینیٹرز، وہ تو کہتے ہیں۔

[Mr. Muhammad Aslam Khan Khattak]

The role of Ziaul-Haq is such that we nominate him for Nobel prize

لیکن یہاں پر اس illustrious House میں کسی نے بھی اس عمل کا ذکر نہیں کیا۔ جناب والا! یہ کچھ فوجی تھے ہمارے ایریا میں اور کچھ دوسرے لوگ تھے جنہوں نے ہمیں تار دیا کہ بھٹی خدا کے لئے بتائیے کہ مرحوم فیلڈ مارشل ایوب کو کتنی خدمات کے سلسلے میں آپ لوگوں نے فیلڈ مارشل بنایا۔ میرے پاس جنرل اعظم آئے ہیں نے جنرل اعظم سے پوچھا کہ یہ فیلڈ مارشل ایوب خان کو کس نے فیلڈ مارشل بنایا؟ میں نے سنا ہے اعظم خان یہ تم نے کیا۔ اس نے کہا نہیں نہیں یہ بھٹو مرحوم نے suggest کیا تھا کیبنٹ کو کہ جناب یہ ایک عظیم ہستی ہیں اس کو فیلڈ مارشل بناؤ۔ ادھر سے یہ تاریں تھیں آرہی ہیں کہ آپ لوگ کم از کم ضیاء الحق کی سیاسیات سے اختلاف کریں۔ لیکن اسلامی قوم کی ملت کی اور امت کی اس نے جو خدمت کی افغانستان میں کی اور ایک ملحد قوم کو، وہاں سے باہر لے جا رہے ہیں تو کیا آپ لوگوں میں اتنی عزت نہیں ہے کہ اس کو بھی فیلڈ مارشل بنادیں۔ یہ میرے پاس سیکڑوں تاریں فوجیوں کی آئی ہیں۔

جناب والا! مزید ایک راز ہے۔ جب یہ Geneva Agreement کا موقع آیا تو جناب بڑے طمطراق سے کہا گیا کہ اس پر دستخط کرو۔ دستخط کرو آپ کو معلوم ہے جناب چیئرمین صاحب! کہ یہ واحد شخص تھا جس نے کہا دستخط مت کرو۔ کہا گیا جناب! آسمان لٹٹنے لگا ہے روس خفا ہو گا امریکہ خفا ہو گا انگریز خفا ہو رہا ہے فلاں خفا ہو رہا ہے۔ یہ پریذیڈنٹ صاحب کا سٹینڈ تھا کہ دینا ہل جائے آپ دستخط نہ کریں۔ بالکل دستخط نہ کریں تا وقتیکہ جو ہماری demands ہیں وہ قبول نہ ہو جائیں۔ پھر جناب جب پرائم منسٹر صاحب نے زور دیا تو جناب پریذیڈنٹ صاحب نے بادل نخواستہ agree کیا لیکن اگر ہم ایک مہینہ پندرہ

بیس دن اور اڑے رہتے تو آج افغانستان میں interim government بھی بن جاتی۔ یہ میں آپ کو راز اندرون خانہ کہہ رہا ہوں۔

اب میں جناب والا! اپنے illustrious Professor صاحب سے اپیل کرتا ہوں کہ کیا آج آپ ان پارٹیوں سے تعاون کریں گے جو جا کر روس سے immediately contract کرنا چاہتی ہیں اور کیا آپ چاہتے ہیں کہ جو آپ کے دس پندرہ بیس لاکھ مجاہدین شہید ہوئے ہیں ان کے خون کو رائیگاں جانے دیا جائے۔ آج آپ کس پارٹی سے مل رہے ہیں۔ ان کی فارن پالیسی کیا ہے ان کی فارن پالیسی یہ ہے کہ immediately for negotiations with the government today established

تو پروفیسر صاحب! برائے خدا آپ کم از کم اپنی پارٹی کو تو مجبور کریں کہ اس چیز میں تو وہ پریذیڈنٹ کا اور پاکستان کا ساتھ دیں۔ ایک اسلامی سلطنت کی حیات اور ممت کا سوال ہے۔ جناب والا! اس illustrious

House سے میں اپیل کروں گا کہ ہم دشوار مراحل سے گزر رہے

ہیں لہذا President wants the restoration of democracy. He wants an Islami Foundation of the State based on the Islamic Ideology and the State should be based on Islamic principles.

اگر یہ آئیڈیا ہے تو جناب والا میں اس ہاؤس سے اپیل کروں گا کہ پریذیڈنٹ صاحب کے ساتھ تعاون کریں اس کی امداد کریں تاکہ اس کا راستہ آسان ہو اور بہت جلد جو الیکشن وغیرہ وہ کرانا چاہتے ہیں وہ بطریق احسن ہو جائیں۔ میں جناب آپ کا شکریہ ادا کرتا ہوں اور اگر کسی کی میں نے دل آزاری کی ہو تو اس سے معافی کا خواستگار ہوں۔ لیکن یہ میرے بھی جذبات تھے جس طرح انہوں نے اپنے جذبات کا اظہار کیا ہے تو مجھے بھی معافی دے دیں کہ میں نے اپنے جذبات کا اظہار کیا ہے۔

Mr. Chairman : Mr. Wasim Sajjad.

Mr. Wasim Sajjad : Mr. Chairman, I am most grateful to you for giving me this opportunity and I rise with an extreme sense of diffidence because we have heard some very good speeches made by the honourable members of this House. Some of the speeches have been very emotional, others have been analytical, some have been practical. Many of the members have expressed grief at the passing away of the National Assembly. I can assure the honourable members that this was a matter of grief for many of us also. The National Assembly was an institution which was set up after great efforts after the elections of 1985. It was a sappling which was planted by the President himself. It was an Institution which was created through the efforts of the President. The passing away of the National Assembly was therefore, a matter of grief for the President also. It is not an action which he took with happiness. It is an action which he took with great concern and with full responsibility because he felt the national interest so demanded.

Mr. Chairman, the precise question before this honourable House today is whether there has been a breach of privilege of the members or of this House. In this context may I again refer to those passages which I have had the occasion to refer earlier also which define the scope of privilege as understood in parliamentary traditions. On page 171 of Kaul's book Sir, it is said that while interpreting privileges regard must be had to the general principle that the privileges of Parliament are granted to members in order that they may be able to perform their duties in Parliament without let or hindrance. They apply to individual members only in so far as they are necessary in order that the House may freely perform its functions. They do not discharge the member from the obligation to society which apply to him as much and perhaps more closely in that capacity as they apply to other subjects. Privileges of Parliament do not place a member of Parliament on a footing different from that of an ordinary citizen in the matter of the application of laws, and to that of course Sir, I would add, the Constitution. If Sir, it can be established that the dissolution of Parliament by the President in exercise of powers conferred upon him by the Constitution has in any way hampered this honourable House in the performance of its functions that this honourable House is no longer capable of doing its functions which otherwise it was capable of doing. If this action can be interpreted to place a hindrance then Sir, perhaps it can be said that there has been a breach of privilege of this honourable House. But if Sir, this honourable House can perform its functions in exactly the same manner as it could do earlier. If it is in no way concerned with the functions of this honourable House. If the function or the status of this honourable House as a permanent institution under the Constitution has been maintained, then I would submit Sir, with great respect that no breach of privilege has taken place. Today, this honourable House can perform the same functions under the Constitution as it was able to do prior to the act of 29th of May. It can debate any resolutions, it can pass any laws, it can reject any Bills, it can debate any matter which under the law and the Constitution it is able to do.

It is said Sir, and I will come to that in more detail later on that we are unable now to pass a law because the other part of the Parliament is not in session or not in existence. I will come to that in more detail but Sir, even earlier the Senate could pass a law, it may be rejected by the National Assembly, the Senate

may pass a law, it may not even be considered by the other House. The Senate may pass a law, the other House may sit on it and not take any notice of it. Sir, as far as we are concerned we are today in a position where we can do anything we were able to do under the Constitution and the Rules of this House before the action of the 29th of May. The very fact that this House is in session and performing its functions and debating national matters is proof of the fact that the functioning of this House is not in any way affected by the action of the President taken on the 29th of May this year.

Mr. Chairman, one argument which has been advanced was that we have lost the half of the Parliament and therefore, the work of the Senate has been impeded. Very vehemently it was argued that we can not pass any law, any longer because our power was contingent on the passage of that law by the National Assembly and since the National Assembly is not in existence, therefore, it is a breach of privilege.

Mr. Chairman, with your permission I would like to refer to the various provisions of the Constitution, there are, I believe and understand, four kinds of dissolutions of the National Assembly which can take place under the Constitution. The first kind of dissolution is that which is contemplated by Article 52 of the Constitution which says :

“ That the National Assembly shall, unless sooner dissolved, continue for a term of five years from the day of its first meeting and shall stand dissolved at the expiration of its term ”.

So, that is the first kind of dissolution which takes place by the naturally flux of time, by the expiry of the period for which the body has been elected. The second kind of dissolution Sir, is mentioned in Article 58 which contemplates dissolution on the advice of the Prime Minister. I am sure Sir, most honourable members of the House would recognize that this is a perfectly valid right of the Prime Minister and the dissolution consequential thereto is a perfectly understandable legitimate dissolution under the parliamentary procedures.

The third kind of dissolution contemplated by the Constitution is when a vote of no confidence is passed against the Prime Minister and that is under Article 58 (2) (a). This also Sir, is a recognized system by which the House is dissolved when a vote of no confidence having been passed against the Prime Minister, no other person is available to command the confidence of the majority of the House and then Sir, we come to this Article under which the action of 29th May was taken i.e. Article 58 (2) (b); where in his the President discretion, in his opinion, a situation has arisen in which the Government of the Federation can not be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary. So, therefore, Sir, the Constitution contemplates four kinds of dissolutions. Each one of this dissolution would have the affect of rendering a part of the Parliament ineffective for a certain period, whether that period is ninety days or eighty nine days or ninety one days I do not want to enter into that controversy. The important fact is Sir, that even on those matters on which there can be no dispute that the Assembly shall be dissolved, there has to be hiatus, there has to be a period of time during which the Assembly will not be functioning and therefore, the Parliament would be only half complete as the honourable members have been arguing in this House. If that be so Sir, and if this amounts to a breach of privilege then whether the dissolution takes

[Mr. Wasim Sajjad]

place under Article 52, whether it takes place because the Prime Minister has so advised, whether it takes place because there is no Prime Minister who can command the confidence of the House, each of these situations should amount to a breach of privilege.

I would submit Sir, that the constitutional thinking, the parliamentary practices or experience with the Constitutions all over the world indicate very clearly that this does not amount to breach of privilege. It is the right of the sovereign to dissolve the House under certain circumstances. It is the right of the Prime Minister to advise the President to dissolve the House under certain circumstances and the Parliament or the National Assembly will naturally come to an end after the elux of a certain period of time. Therefore, Sir, this can not be used as an argument to submit that this would amount to a breach of privilege of this honourable House.

It is argued Sir, that it is a breach of privilege because having dissolved the National Assembly, the President appointed a caretaker Cabinet without the Prime Minister at its head. Sir, as in many legal questions of complexity, arguments can be given to support a certain proposition but we have to see whether the existing caretaker Cabinet, the formation of a Cabinet in the circumstances in which it has been done in any way violates the language or the spirit of the Constitution. Again Sir, I would submit that in the Constitution I find that the word 'Cabinet' has been used as far as the Federal Government is concerned in three places. First of all in Article 48, it is stated :

48 (1) "In the exercise of his functions, the President shall act in accordance with the advice of the Cabinet of the Prime Minister....".

This is one situation Sir. Then in Article 91 there is a mention that :

"There shall be a Cabinet with the Prime Minister at its head.....".

And then Sir, there is mention of the word 'caretaker Cabinet' in Article 58.

Now Sir, the arguments of the honourable members who have dealt with this aspect to the question have been if I understand correctly, deriving their strength from Article 91; it is being argued that the word 'Cabinet' itself includes the concept of a Prime Minister. As far as the dictionary meaning of the word 'Cabinet' are concerned, before I go to the constitutional concept it has been variously described. Black's Law Dictionary describes it as the Advisory Board or Council of the Chief Executive. Then Sir, in 'Mitra's A Manual of Law terms and phrases where words and phrases have been judicially defined—Cabinet is a private and confidential assembly of the most considerable members of the State. Then Sir, Bellentine Law Dictionary A body of officials forming an Advisory Council, a Council of Ministers is collectively responsible for the policy of the government. Now, none of these definitions talks of the Prime Minister is essential being a Member of the Cabinet. Even in an ordinary language we talk of Mr. Junejo's Cabinet, we talk of Mrs. Thatcher's Cabinet, we talk of Prime Minister presiding over the meeting of his Cabinet. Therefore, Sir, in an ordinary language also, the term 'Cabinet' sometimes is used as distinct from the Prime Minister.

Now Article 91 says :

"There shall be a Cabinet with the Prime Minister at its head".

If Sir, the concept of the Prime Minister was included in the word 'Cabinet', there was no need to say, "there shall be a Prime Minister at its head". Because then the word 'Prime Minister' would be included in the word 'Cabinet'. If we take the other side Sir, that 'no' we had to define it, expand it, then why is it that when we come to Article 48 where the concept of the Caretaker Cabinet is included they don't say—there shall be a caretaker Cabinet with the Prime Minister at its head. The distinction is very obvious. Then Sir, in Article 48, it is said—

"The President shall act on the advice of the Prime Minister or the Cabinet"

If the words Prime Minister or the office of the Prime Minister is included in the concept of the word 'Cabinet', then why did we have to say—"Prime Minister or the Cabinet"? Why is it that throughout the Constitution the concept of the Cabinet and the concept to the Prime Minister or the office of the Prime Minister has been separately dealt with?

Sir, I wouldn't say that although I do not say that this is exclusively one interpretation, no, what I am saying is Sir, that this is a possible interpretation; it is an interpretation which is meaningful in the context that a Caretaker Administration is in office; the purpose of the Caretaker Administration is only caretaking; it is for a temporary period and during this temporary period it was envisaged by the Constitution that the President would have a Caretaker Cabinet and I would say Sir, this is probably also in accord with the demands which the Political Parties have been making from time to time. I would like to refer to the PNA and PPP accord, during which it was demanded that during the time that the assemblies are dissolved there should be no government of a political nature and there should be a Caretaker Cabinet so that the elections can be held. So, Sir, I am submitting only this that keeping in view the background and the history of Pakistan, this is a possible interpretation that the Caretaker Cabinet which is the concept of Article 48 was a concept in which the President could appoint a Caretaker Cabinet without having the office of the Prime Minister and if we examine the Constitution as a whole and read the various provisions then this concept emerges very clearly.

Sir, the honourable Members have also taken umbrage over the alleged accusations which they said have been made in the speech of the President and that the Parliament as an institution and the Members as a whole have been damaged. May I say so Sir, that the speech of the President, I believe, has been read out of context. As the honourable Senior Minister has pointed out, the President has great respect for the members of this House and also the National Assembly which matter was referred to in the speech also and which was quoted by my honourable colleague Mr. Behrawar Saeed. In the meeting the other day where he addressed the Senators, the President clarified the situation further. It is not that he is saying that each Member of Parliament is corrupt. No, Sir. What he said was that the system which was in operation lent itself to the possibility that it may have been abused. He further said Sir, and the indication that he gave was that certain Members may have misused their privilege as Members of Parliament. Therefore, I would like to state that this is misunderstanding, or misquoting or misconstruing the speech of the President. If it is being understood and believed that the intention of the President was to blacken the entire Parliament and the members of this House it was not so, Sir, and the matter has already been clarified.

[Mr. Wasim Sajjad]

Sir, coming to the dissolution itself which was made by the President under Article 58 (2) (b) of the Constitution. On this, several arguments have been raised but I think by and large most of the honourable members have stated that this is a power which is conferred by the Constitution and since it is a power conferred by the Constitution I may submit that no objection can be taken to the exercise of that power even if we do not agree or disagree with the reasons for that particular action. As far as the reasons are concerned certain members have said that we do not agree with the reasons; certain members have differed with those reasons. The question is not Sir, whether an honourable Member differs or does not differ. In fact, it is the privilege, it is the power conferred on the President itself and this power has been affirmed by this honourable House and the National Assembly by virtue of the Eighth Amendment Bill. Article 58 (2) says: "Notwithstanding anything contained in clause (2) of Article 48, the President may also dissolve the National Assembly in his discretion where, in his opinion,—(b) a situation has arisen in which the Government of the Federation cannot be carried out in accordance with the provisions of the Constitution". So, two phrases have been used where he shall dissolve the National Assembly in his discretion. And as far as the reasoning is concerned it is said where 'in his opinion' certain situation follows. As far as the discretionary powers are concerned, as already explained by an honourable Member, it has been specifically stated in Article 48 (2) of the Constitution that —"Notwithstanding anything contained in clause (1), the President shall act in his discretion in respect of any matter; in respect of which he is empowered by the Constitution to do so and the validity of anything done by the President in his discretion shall not be called in question in any court on any ground whatsoever."

Even the word 'court' has been used. Therefore, Sir, this is all-embracing exclusion. It is an exercise of discretionary power. Sir, the very word 'discretion' means that the Constitution vests that authority in the Head of the State. The Head of the State is also, by the Constitution, an elected person. The Head of the State also has a power, a responsibility which he bears. In fact, Sir, you will recall that in Australia although there was no expressed power in the Constitution to do so, nevertheless, when the Head of the State felt that it was essential, necessary in the public interest that the dissolution order be passed, he passed the dissolution order which led to a lot of Constitutional wrangles but nevertheless that exercise of power was accepted as being a part of the powers of the Head of the State, a power that he exercises with the responsibility which is conferred upon him and he is answerable, he is accountable only for the exercise of that power. He has to give the reasoning. It is his opinion which matters; it is a power vested in him by the Constitution given to him by the people of Pakistan and he is responsible for the exercise of that power. The Constitution very clearly says that it cannot be questioned because otherwise Sir, in many matters we will make them all issues. We can differ with that. Some person may say, "I don't agree with your reasoning", but the answer can be provided by the people of Pakistan and the machinery is there for getting the answer of the people of Pakistan. Therefore, I would submit that if the President has acted according to the Constitution, if the Constitution vests in him with a discretion to exercise that power; if the reasoning for that action is, 'in his opinion' and therefore, excluded from the jurisdiction of any authority then Sir, we have no right to say that there has been a breach of privilege of the honourable members of this House.

Sir, a lot has been said about the timings of holding of the elections. The President has made it very clear that elections will be held and they will be held

according to the Constitution. There is a controversy going on whether it should be 90 days or 91 days or 89 days. I do not wish to enter into that controversy. I think, it is not relevant. The President has decided that elections shall be held and they shall be held according to the Constitution and I can assure this honourable House that a decision by the President is not too far away. He will take the people into confidence and he will inform them what steps are being taken to bring representative Assemblies in Pakistan into session once again. Therefore, there should not be a matter of concern for the honourable members of this House. The President has taken the action because he felt it was in the public interest to do so. Several parties had been demanding that such action should be taken. There are people who will differ with that. There are people who will not agree with the reasoning but we cannot deny the fact that this is a responsibility conferred on the President. It is his right, it is his privilege and he has taken that action. That being so, Sir, I would submit with respect that no breach of privilege of the honourable members or of the Senate has taken place. The President holds this House in the highest esteem and the highest respect.

Thank you, Sir.

Mr. Chairman : Thank you very much.

If the movers wish to exercise their right of reply I would give an opportunity for that but please be brief and do not repeat the arguments which have already been advanced.

Prof. Khurshid Ahmed : Sir, is the Attorney-General not speaking ?

Mr. Chairman : I do not know.

(interruption)

Mr. Chairman : After the Minister has spoken I do not think it is really necessary unless the Attorney-General himself wants to speak.

Prof. Khurshid Ahmed : May be he might also suggest some bright ideas.

Mr. Chairman : I think we have heard the Law Minister and I think that is sufficient.

Yes Mr. Tariq Chaudhry.

جناب محمد طارق چوہدری : جناب میں اپنی تحریک کا دفاع کرتا ہوں
بڑے واضح اور صاف لفظوں میں اگلے بیچوں کی طرف سے اٹھنے والوں
سوالوں کا مختصر جواب دیتا ہوں۔ اس تحریک کو پیش کرنے میں کم از کم
میرا خیال ہے کہ میرے دوستوں کا بھی مقصد کسی طرح بھی باہر کی.....

Mr. Javed Jabbar : Point of Order. Sir, if the Minister for Justice is unable to share his precious time with us then I think it would not be appropriate.

Mr. Chairman : I think he is coming back.

Mr. Javed Jabbar : I hope so, Sir.

Mr. Chairman : He is coming back.

Mr. Wasim Sajjad : Sir, I have to go for an important meeting. The Attorney-General is here, the Senior Minister is here, my Cabinet colleagues are here.

Mr. Chairman : I think frankly that would not be fair. You are the Minister Incharge and the Minister for Parliamentary Affairs. Since they are replying to the debate and you wound up the debate, you should be sitting here till the end of the debate.

Yes Mr. Tariq Chaudhary.

جناب محمد طارق چوہدری : ہمارا مقصد باہر کی آوازوں میں آواز ملانا ہرگز نہیں ہے اور میں خشک صاحب ان کی باتوں کا جواب دیتا ہوں کہ میرے دوست ، اگرچہ یہاں نام لینا مناسب نہیں ہوتا، لیکن دروغ بر گردن راوی ، میرے دوست جاوید ہاشمی صاحب نے ایک دن پرائم منسٹر محمد خان جوینجو صاحب کو مخاطب کر کے کہا تھا کہ جناب پرائم منسٹر صاحب! یہ سٹر اسلم خشک اور یہ مسٹر نسیم آہیر جو آپ کے ساتھ اگلے بچوں پر بیٹھے ہیں یہ اسی طرح مسٹر بھٹو کے ساتھ بھی بیٹھے تھے ۔

جناب چیئرمین : میرے خیال میں یہ پرسنل باتیں ہیں ، اور وہ موجود نہیں ہیں ، آپ ان باتوں کو میچ میں نہ لائیں ۔

جناب محمد طارق چوہدری : میں کسی دوسرے آدمی کی بات دہرا رہا ہوں ۔

ملک نسیم احمد آہیر : میں شدید احتجاج کرتا ہوں ۔ بھٹو صاحب کے ساتھ میں کبھی front benches پر نہیں بیٹھا اور آپ یہ غلط بات کہہ رہے ہیں اور آپ بات کو personalise نہ کیا کریں ۔

(مداخلت)

میں آپ کو (جناب محمد طارق چوہدری) دوبارہ کہہ رہا ہوں، جناب چیئرمین، اس دن بھی یہ ”گلی ڈنڈے“ کی بات کرتے رہے ہیں۔ ان کو سمجھائیے۔ یہ قابل احترام فورم ہے۔۔۔۔۔

جناب چیئرمین : آپ صحیح فرما رہے ہیں کہ پرسنل نام اور پرسنل چیزیں آپ نہ لائیں۔

جناب محمد طارق چوہدری : میں اس کو چھوڑ رہا ہوں۔

جناب چیئرمین : اس کو آپ چھوڑیں اور دوسری بات کریں۔

جناب محمد اسلم خٹک : میں نے پرسنل جواب دیا ہے۔ (بیٹھ ہوئے)

جناب محمد طارق چوہدری : جناب، جواب دینے کا آپ کو حق ہے۔
(مداخلت)

Mr. Chairman : I think this is not how the House should behave ?

Mr. Muhammad Aslam Khan Khattak : Why does he behave like that ?

(interruptions)

Mr. Muhammad Aslam Khan Khattak : Then we should be given the opportunity to reply to him.

Mr. Chairman : He has been told not to bring in personalities and not to bring in personal names.

جناب محمد طارق چوہدری : میں جناب ان کے سامنے موچی دروازے جلنے کے لیے تیار ہوں۔

ملک نسیم احمد آہیر : ہم بھی جہاں آپ کہیں گے جانے کو تیار ہیں۔

جناب چیئرمین : جی فرمائیے۔

جناب محمد طارق چوہدری : ہمارا مقصد، میں پھر یہ دہرانا ہوں کہ باہر کی آوازوں میں آواز ملانا ہرگز نہیں ہے اور میں یہاں واضح طور اس ہاؤس کے

[Mr. Muhammad Tariq Chaudhry]

سامنے کہتا ہوں کہ آج اس وقت ، باہر کی پارٹیوں کے ساتھ ، پہلے بھی واضح طور پر اختلاف تھا ، اب بھی ہے اور اگر ان کو اقتدار کبھی سونپ بھی دیا جائے تو کم از کم جن کے ساتھ ہم نے اصول اختلاف کیا تھا ، ہم اپنا اختلاف ہمیشہ جاری رکھیں گے اور پھر انہی بنچوں پر ہمیشہ بیٹھنا پسند کریں گے ۔ اس لیے یہ ہماری تحریک جو ہے یہ خالصتاً political مسئلہ ہے بلکہ میری تحریک تو شاید ٹیکنیکل بھی نہیں ہے ، زیادہ تر political ہے ۔

جناب والا! ہمارے پیش نظر ۲۹ مئی کا اقدام ہے اور اس کے نتیجے میں پیدا ہونے والی complications ہیں ۔ اس وقت جناب چیئرمین! میں اور آپ اس ہاؤس میں بیٹھے ہیں ۔ ہماری نینتیں لفظوں کی صورت میں ریکارڈ ہو رہی ہیں ، ہم تاریخ کے لمحوں کے سامنے اپنی سچائیوں کے ساتھ کھڑے ہیں ۔ اسمبلی ٹوٹنے کے بارے میں مابین باتیں کہی گئی ہیں ۔ (۱) کرپشن ، ہمیں اس کا اعتراف ہے ۔ (۲) امن وامان ... ہم اس خرابی کو تسلیم کرتے ہیں ۔ لیکن آج اور اس وقت جو کچھ کراچی اور حیدرآباد میں ہو رہا ہے ، اس کے اوپر بھی میں چاہوں گا کہ ان کے سینوں پر تختے لگا دیئے جائیں ۔

(۳) نااہلی ... ہمیں اس سے انکار نہیں ہے ، لیکن نااہلی فرد کی نااہلی نہیں تھی ، یہ اجتماعی نااہلی کی بات ہے ، اور اس نااہلی کا بڑا ٹکڑا اب بھی اپنی مکمل نااہلیوں کے ساتھ یہاں موجود ہے ۔ اگر نااہلی اور کرپشن کی بات آئے گی جناب ، امن وامان کی بات آئے گی تو پھر جنرل عباسی کے دور کا جلتا ہوا سندھ بھی یاد آئے گا ، اگر کرپشن کی بات آئے گی تو ایف ۱۶ کی deal بھی آئے گی ، کرپشن کی بات آئے گی تو آر پی کے لیے مرسیڈیز ٹرکوں کی deal کا معاملہ بھی آئے گا ۔ صرف یہ چھوٹی چھوٹی باتیں جو ہیں وہی اس کے لیے کافی نہیں ہیں ۔

جناب چیئرمین : یہ سب باتیں پہلے ہو چکی ہیں اور یہ اس جواب سے نہیں ہوتی ہیں ، جی فرمائیے ۔ arise

جناب محمد طارق چوہدری = میری تحریک استحقاق بہت سادہ اور مختصر ہے ، میں نے آرٹیکل ۶ کی خلاف ورزی کی بات کی ہے نہ میں نے ۴۸ - (۵) (۷) اور (بی) کی بات کی ہے نہ میں نے ۵۸ - (۲) - (بی) کا حوالہ دیا ہے ، نہ ۹۱ اور ۹۲ پر بحث کی ہے ۔ میرا سوال بہت سادہ ہے ۔ میں تو کہتا ہوں کہ ہم سہل طلب کون سے فرما دیتے لیکن اب شہر میں تیرے کوئی ہم سا بھی کہاں ہے

ہمارے کردار پر اجتماعی الزام تراشی کی گئی ہے ۔ میں اس کا تو ہمین عدالت کی طرز پر حوالہ دیتا ہوں ، ایک مثال دیتا ہوں ۔ فرض کیجئے گا کہ میں اس ایوان سے باہر کھڑے ہو کر کسی عدالت کے سامنے یہ کہتا ہوں کہ عدلیہ جو ہے نا اہل ، کرپٹ اور جاہل ہے ، تو اس پر مجھے تو ہمین عدالت کا نوٹس جاری ہو گا اور میں تو ہمین عدالت کا مزملک ہوا ہوں ۔ سوائے اس کے کہ میں ان لوگوں کی نشاندہی کروں اور اپنے الزامات کو پہلے ثابت کر دوں ، یہاں پر پورے کے پورے ممبران کے اوپر ایک گند اچھالا گیا ہے اور ان میں سے ایسے کرتوت کرنے والے ممبران کو الگ سے کیوں نہیں دکھایا گیا ، اور نہ اب تک اس کی طرف پیش رفت نظر آتی ہے لفظوں کی credibility دم توڑتی جا رہی ہے ۔ جنیوا سمجھوتہ افغان پالیسی ، ہمیں اس کا اعتراف ہے ، یہاں ریکارڈ پر موجود ہے کہ میں نے کہا تھا کہ جنیوا سمجھوتہ پر دستخط نہ کیئے جائیں ، یہ ہمارا مقصد پورا نہیں کرتا ہے ۔ اور ضیاء الحق صاحب کو اس قوم نے اس کا کریڈٹ دیا ہے ، گیارہ برس سے وہ ملک کے اعلیٰ ترین عہدے پر بیٹھ ہوئے ہیں ۔ اس سے زیادہ یہ قوم اور کسی

[Mr. Muhammad Tariq Chaudhry]

کو کچھ نہیں دے سکتی، اس کے پاس اور ہے کیا۔۔۔ سوال یہ ہے کہ جنیوا سمجھوتہ کا کریڈٹ اتنا نہ لے لیا جائے۔۔۔ کہ ہماری باقی پوری قوم کے پاس کچھ بھی نہ بچے اور وہ اپنا کریڈٹ لیکر پھرتے رہیں۔ ہم اس بات کا اعتراف کرتے ہیں اور آئندہ بھی ہم اس مسئلے میں ان کا ساتھ دیتے ہیں۔ لیکن جو کچھ پارلیمنٹ توڑتے وقت کہا گیا ہے۔ اور دوسری باتیں جو اندرون ملک کا حوالہ رکھتی ہیں وہاں آکر میں کہتا ہوں کہ credibility جو ہے وہ minus ہوتی جا رہی ہے ٹی۔ وی پر بیٹھ کر اس دن صدر صاحب نے فرمایا کہ میں سب سے پہلے اپنے گوشوارے داخل کرتا ہوں لیکن ہمیں تو آج تک اس کا علم نہیں ہے۔ کہاں ہیں وہ گوشوارے۔ یعنی یہ اس سے متعلق نہیں لیکن بہر حال میں کہتا ہوں کہ ہاؤس کو اسمبلی کو توڑتے وقت جو کچھ کہا گیا ہے اگر اس کو الگ سے بیان نہیں کیا جاتا ہے ان ممبروں کی طرف اور واضح طور پر ان کے نام لیکر ان کے کرتوت قوم کے سامنے نہیں رکھے جاتے تو وہ سیاہی جو پھیلائی گئی ہے وہ خود ہمارے چہروں کو بھی داغدار کر رہی ہے خٹک صاحب نے تو بہت جذباتی ہو کر کہا کہ انہوں نے کوئی کرپشن نہیں کی ہے۔ اور اللہ کے فضل سے اس ایوان میں ۸۰ فیصد لوگ ایسے موجود ہیں جنہوں نے کوئی کرپشن نہیں کی ہے اور کم از کم ۲۰ فیصد ایسے لوگ ہیں جنہوں نے کوئی پلاٹ بھی نہیں لیا ہے لہذا ان لوگوں کو سفید سے سیاہ کو اور سیاہ کو سفید سے الگ کر کے بے دکھانا ہمارا breach of privilege ہے اس بارے میں ہم ہر چیز دودھ اور پانی کو الگ دیکھنا چاہتے ہیں۔ میں technical issue کے reference سے بات ہی نہیں کرتا۔ میں تو یہ کہتا ہوں کہ ہمارے کردار کو مشکوک بنایا گیا ہے۔ اور ہمارے رول کو محدود کیا گیا ہے۔ یہ میری تحریک ہے اور اسی پہ میں Stress کرتا ہوں۔

جناب چیئرمین : بہت بہت شکریہ ۔ جناب جاوید جبار صاحب ۔

Mr. Javed Jabbar : Thank you Mr. Chairman, for allowing such a full discussion on the moving of our privilege motions and I would also like to thank my honourable colleagues for participating in this debate to determine admissibility. Mr. Chairman, I am conscious of the fact of timing in your references to brevity but with great respect I would submit that the average citizens of this country works eight hours a day and the Senate meets only thrice a week. Once for a private member's day, twice for official business and actual working time constitutes less than four hours per day — three days a week which, I think, is a gross injustice to the purposes for which Parliament is elected and simply because it may be a lunch hour or tea break can not justify imposing an arbitrary or subjective limit on the duration of a debate that concerns a very fundamental issue. So, while I shall strive to be as relevant as possible and not repetitive I request you not to apply the guillotine of brevity.

Mr. Chairman, in raising issues today, I will concentrate on those points that have emerged as a result of the debate that took place after we moved our motions and try to focus on issues that need to be responded to. After all we are in a very unique situation rarely does the term used in the English language that you don't throw out the baby with the bath water apply more lucidly and precisely that it does to today's situation.

Mr. Chairman, there are at least four basic concerns that are relevant to determining admissibility. The first of these in my view is the term discretion. The second is the term 'dissolution'. The third is something that you referred to in your preliminary remarks when this issue was raised, which I describe as being legislative jurisdiction to interpret violations of the Constitution and number four 'the concept of privilege'.

Mr. Chairman, I refer your attention to the legal and constitutional meaning of the term 'discretion' and I invite your attention to a dictionary published 'Batovers' an acknowledged work on this subject, on Page 82 Mr. Chairman, discretion in the context of the Constitution is defined as follows :

- (1) It has been held in this court in the references to Australia, in a series of cases that a discretion over power to grant a licence though conferred in very general terms does not entitle the authority to which the discretion is granted or upon which the power is conferred to take into account what have been described as extraneous conditions and if the concept is that this refers only to a licence granting discretion, later on it becomes very specific, it says that the discretion must be used and the power exercised *bonafide* and with the view of achieving ends or objects not outside the purpose for which the direction of power is conferred.
- (2) In the case of Canada, in public regulation of this sort, there is no such thing as absolute and untrammelled discretion; and this is specifically in response to the point made by the honourable Minister for Justice. There is no such thing as absolute and untrammelled discretion *i.e.* that action can be taken on any ground or for any reason that can be suggested to the mind of the administrator.

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Mr. Chairman, this is simply one source that I have quoted; the libraries will provide you with many additional sources. So, I now come to the term 'dissolution' and I invite your attention to the first Constitution of Pakistan, 1956 where this dreaded term 'dissolution' first entered our political and constitutional history. Article 50 of the 1956 Constitution says simply :—

“The President may summon, prorogue or dissolve the National Assembly and shall when summoning the Assembly fix the time and place of the meeting....”.

And that is all the rest to it.

In one of the Constitutions that is controversially regarded as an authoritarian Constitution. In 1962 Mr. Chairman, the 1962 Constitution which was formulated under what we now describe refers to the dissolution of the National Assembly under Article 23 and it simply states the following :—

“Subject to this Article, the President may at any time dissolve the National Assembly”.

Curiously it does not go on to specify the very strange, elaborate, verbiage that constitutes the 1985, an amendment to the 1973 Constitution. The 1973 Constitution itself Mr. Chairman, the original 1973 Constitution, Article 58 states the following :—

“The President shall dissolve the National Assembly if so advised by the Prime Minister”.

And so on and so forth. It is in the 1985 Constitution that the additional powers were conferred. But Mr. Chairman, my submission is that in determining the term 'dissolution' partly we have to be guided by the reality of Pakistan and by the Constitutions of Pakistan, partly we have to take recourse to precedents that exist in other parts of the world because no Parliament and no country functions in isolation. On the one hand if we seek to deny precedent from the United States of America we are the same country that is willing to put this nation into mortal death into the United States of America's clutches when it comes to borrowing excessively against our limited economic resources. Mr. Chairman, I would therefore, request your attention on the matter that Harold J. Laski a wellknown authority on political interpretation has stated very clearly that in any Parliamentary democracy, it is the Prime Minister alone who has a personal right to ask for dissolution. It is also true that members of the Cabinet in a Parliamentary democracy can also ask for dissolution. But there is no reference to the power of the Head of State to act on dissolution at his own discretion.

I would now quote a specific instance from the world's oldest parliamentary democracy—the United Kingdom. In the United Kingdom, Mr. Chairman, the House of Lords to which the Senate could be equated does not meet whenever the House of Commons stands dissolved. It simply does not meet because it would be absurd for one half of Parliament to function when the other half does not function. It is only the Lords of Appeal, because in that case the legislative function also has the judicial function. The Lords of Appeal meet to

determine appeals made to the House of Lords. But no legislative action is undertaken by the House of Lords. It does not even meet. Indeed, Mr. Chairman, the proclamation of dissolution of the House of Commons contains within it the date and the place for the meeting of the next House of Commons, and this is in the world's oldest parliamentary democracy.

I will now move to the world's largest parliamentary democracy, next door to us, and there the act of dissolution is under Article 85 (2) and there it says :

“ The President may from time to time—

(a) prorogue the Houses or either House;

(b) dissolve the House of the People.”

No explanation, no clarification. Indeed in India, we have the curious example that elections to the next House of the People, the Lok Sabha, have been held while the previous Lok Sabha continuous to exist, and the first example I quote is from March-April, 1957 the second Lok Sabha was still in existence when elections were held to constitute the next Lok Sabha so that the second Lok Sabha was actually dissolved after the new Parliament came into existence. And that, Mr. Chairman, was, mind you, at the very start of the Indian democratic parliamentary process.

I now refer your attention to S.S. Moore—‘Practice and Procedure of the Indian Parliament’. I would like you to take note Mr. Chairman, if you wish to the references contained therein about both the acts of prorogation and the conditions in which dissolution can be undertaken which very clearly state that unless the elected government of the day advises upon dissolution, the Head of State does not retain any personal or public power to arbitrarily or of his own accord exercise that very power.

Sir, we have a unique example from Canada where in 1926, the then Prime Minister approached the Governor-General to dissolve Parliament and the Governor-General giving the totality of the situation in Canada refused to dissolve the Canadian Parliament, which is a rare act but which shows the grave nature of the power of dissolution that is conferred upon the Head of the State where the Head of the State refused to exercise the power.

I now turn, Mr. Chairman, to what may be a most controversial element of our presentation which is the third element.—Legislative jurisdiction—to determine whether the violation of the Constitution can be debated in this House and determined by this House or whether it should be left to the judiciary. My contention, Mr. Chairman, is that even though this has become part of political mythology and practice that the judiciary alone exercises the right to interpret the Constitution, when you examine the basis on which this right has been formulated, you find very curiously that it is based on very insubstantial grounds and I refer you to the Book ‘Modes of Constitutional Interpretation’, by Crake Dukut who very ably lists the background by which this power to interpret the Constitution, was in the memorable words of Prof. Karvin who wrote the doctrine of judicial review and he said that the power owes its existence to an act of

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sheer usurpation—repeat ‘usurpation’ by the Supreme Court itself, in the decision of *Maubary V/s Madison* and this case Mr. Chairman, *Maubary V/s Madison* took place in 1803 in the United States of America where an outgoing administration of President Adams wanted to complete the appointment of certain judicial officers before President Jaffersin took over, and in order to prevent President Jaffersin from filling up those posts of Judges with his own appointees, President Adams acted in haste and in order to challenge the validity of those appointments, an historic case came about called ‘*Maubary V/s Madison*’. My contention is that in the peculiar circumstances of Pakistan in the reference to the very basis of the courts’ right to determine what legislation means and what the Constitution means, we must give greater credence to the elected representatives of the people without detracting from the individual ability or the integrity of the Supreme Court or the High Courts. I believe that the Constitution represents the will of the people and therefore, the elected representatives alone can determine a very delicate matter, a very nebulous matter where you have to determine whether institutional privilege has been breached or otherwise because they alone reflect the peculiar conditions in which a nation exists.

Mr. Chairman, I then turn to the fact that in terms of privilege which is the fourth ground to determine admissibility of this privilege motion, there has been said that the term privilege has become synonymous with personal benefit and yet again to my disappointment the Federal Minister for Justice, so competent and honourable as he is, has chosen to begin his arguments with references to personal privilege. We are not talking about personal or individual privilege. In our view, the word ‘privilege’ in Pakistan today has come to represent simply an other word for the word ‘principle’. Privilege in this context is another word for the word ‘democracy’; privilege in this context is an other word for the rights of the people; privilege is a word that must be constantly interpreted and defined in the peculiar circumstances in which it is raised. So, therefore, in determining the admissibility of breach of privilege, please do not go only by the conventional definitions of privilege.

Mr. Chairman, it has been said that dissolution was something that was being asked for by everyone. Now, Sir, if dissolution had been undertaken as a result of a national reconciliation, if like on Geneva Accords a Round Table Conference of all other parties had been called and everyone had agreed that there was a need for mid-term elections then certainly we would have supported this act of dissolution because it would have had a formal national consensus. One is not impressed by the fact that all the political parties have welcomed dissolution; one is not going to be swayed simply because the mob is shouting something or the crowd dictates something. We who raised this privilege motion do so because of our conscience and even if we are only three left or one left and everyone says that that act is right, if in our view, it is wrong, we will say it is wrong. So, please do not try to impress us by numbers. If we had been impressed by numbers then in 1985 at least Mr. Tariq Chaudhry and myself who are individually independents would have chosen to join the majority, Mr. Khurshid Ahmed, of course, belongs to a separate political party.

Mr. Chairman, about privilege again it has been said that the President did not act on his own that he was advised to act. This Mr. Chairman; is a very amusing escape clause which some people find for the actions of certain individuals. Who are those advisors? If we are to accept this thesis the advisors are in place

because the President wants them to be his advisors. Any public official is responsible for his actions individually. You cannot pass the buck as it is well said the buck stops there at the table and at the office of the Chief Executive. So, let us not try to deflect the onus of responsibility by talking about advisors.

Mr. Chairman, it is also said that some body planted the sappling of democracy in this country. Without any disrespect to the office of the Head of State because as a Pakistani I would like the office of the Head of State to be above controversy but I do not agree with this contention. I think, the sappling of democracy was planted by the people of Pakistan in 1947 in the very act of creating Pakistan. No single individual, however, brilliant or powerful he may be, can claim the credit for planting the sappling of democracy. Democracy is the right of the people of Pakistan. It is a right gifted to them by Allah and not by any one individual or any one political party. So, let us not give credit or discredit where it is due or undue.

Mr. Chairman, an honourable member and colleague has taken recourse to Rule 62 of the Rules of Procedure and I am at a loss to understand how he could quote clause (4) of Rule 62 which says that a privilege motion shall not refer to the personal conduct of the President.

Sir, we are not talking about the personal conduct of the President, if there is any such thing left once you occupy that high office every action becomes part of the public interest. We talk about an action that is relevant to his public capacity, to his official capacity as President of Pakistan. Here, Mr. Chairman, one must reflect on the curious nebulousness that has entered in Pakistan. For the first time one has heard of someone taking office in the Cabinet in his personal capacity. I am at a loss to understand whether any example can be given to us from other parliamentary democracies where you continue to be a member of a political party that has been ousted from government, that has been charged with incompetence and then suddenly overnight you shift into another gear—third gear and you become personal and then you go back to the public as a Minister. So, if this riddle can be solved during the delivery of your ruling on this motion, I will be grateful.

Mr. Chairman, it has also been suggested that the person most affected by this action has called it constitutional. My submission is, one is not impressed by what the previous Prime Minister says necessarily on this issue. One disagreed with the previous Prime Minister throughout his tenure virtually even though we in the interest of democracy moved a vote of confidence for the previous Prime Minister. So, simply because the previous Prime Minister now says something is not going to affect one's own views on this issue.

Finally, Mr. Chairman, I come to the point about whether there is any point in making speeches like this. You know it has become a fashion to criticise politicians and parliamentarians. It is a part of the grand design to discredit politics in Pakistan by saying, "all you can do is to make speeches". Often whenever one leaves the Chamber, every one says, "yes very good speech Mr. Jabbar" and you know the rest will, of course, be another story. I find this demeaning and degrading. I think the act of making a speech in parliament is an act that we do

[Mr. Javed Jabbar]

on behalf of the people of Pakistan and if you disrespect what is said in this House, you disrespect the people of Pakistan. Speeches in my view are sets of words. Words are embodiments of thoughts, words are embodiments of ideals and principles. The day that we begin devaluing speeches we devalue principles and thoughts. As long as speeches are relevant and direct must be respected and whether it is the President or whether his Cabinet or other cynics at large in this country who do not think that speeches are going to make any difference, let me refer them to history. It is always speeches that have changed the course of history. It is always through speeches that you communicate with each other what you think and what you believe in. Whenever the President wishes, he switches on Television and Radio and addresses the nation using speech as the form of communication but simply because his speech is backed by the force of the Armed Forces does not mean that his speech is more substantive or real or valid than someone's speech who does not have the Armed Forces behind him. So, let us not devalue discussion and debate in parliament. This is the supreme form of communication and debate in Pakistan, and in determining the admissibility of this privilege motion Mr. Chairman, reflect if you wish, please do not be in haste; even though I am not perhaps qualified to say that you deliver judgements in haste; by the act of holding these motions admissible, it will not lead to anarchy, it will not lead to chaos rather it will be a supreme check and balance upon the exercise of executive power in a country which for forty years has seen the untrammelled use of executive power or mis-use of executive power; and the President, as he claims to be a God fearing Muslim will welcome this act that holds a certain action to be against the principles of democracy and the Constitution.

Thank you Mr. Chairman.

Mr. Chairman : Next Prof. Khurshid Ahmed.

پروفیسر خورشید احمد : بسم اللہ الرحمن الرحیم ، جناب چیئرمین ! میں سب سے پہلے تو آپ کا شکریہ ادا کرتا ہوں۔ کہ اس اہم قرار داد پر آپ نے اس ایوان میں ہم سب کو اپنے خیالات کے اظہار کا پورا پورا موقع دیا اور میں بلا تکلف یہ بات کہنا چاہتا ہوں کہ آج پوری قوم کی نگاہ اس ایوان پر اور اس قرار داد پر لگی ہوئی ہے آپ ایک تاریخی لمحے سے ہمکنار ہیں اور جمہوریت ، آزادی ، پارلیمنٹ کی sovereignty اس کی عزت اس کے وقار کے مستقبل کا بڑا انحصار اس پر ہوگا کہ اس قرار داد پر ہم کیا رویہ اختیار کرتے ہیں۔ جناب والا ! جن محترم اراکین سینیٹ نے اس پر اظہار خیال کیا ہے اگر وہ اس ایوان کی رائے کی عکاسی کرتا ہے تو آپ اس سے اتفاق کریں گے کہ بولنے والوں میں سے دو تہائی سے زیادہ نے اس موقف کو اختیار کیا ہے کہ پارلیمنٹ کا استحقاق مجروح ہوا ہے ، دستور نے جو اختیار

صدر محترم کو دیا تھا وہ صحیح صحیح استعمال نہیں ہوا اور اس نے ایک ایسی صورت حال پیدا کر دی ہے کہ سینیٹ کو اس مسئلے کے اوپر اپنے جذبات کا اظہار کرنا چاہیے اور وہ احتساب کرنا چاہیے جو جمہوریت کی روح ہے، جناب والا! میں اپنی احتسابی گذارشات کو ان نکات تک محدود رکھوں گا جو اٹھائے گئے ہیں یا آپ کی توجہ ان نکات کی طرف مبذول کراؤں گا جن کے بارے میں ایک مؤقف اختیار کرنا ضروری تھا لیکن نہ معلوم کیوں محترم سینیئر وزیر اور محترم وزیر عدل جن کی صلاحیت جن کے مطالعہ اور تجربے کے ہم سب قائل ہیں انہوں نے ان کو نظر انداز کرنا بہتر سمجھا۔

جناب والا! میری نگاہ میں سب سے پہلا مسئلہ یہ ہے کہ ہم نے جس بنیاد پر استحقاق کی یہ تحریک پیش کی ہے جیسا کہ جاوید جبار صاحب نے کہا اس کا تعلق اس وقت کسی رکن کے ذاتی استحقاق سے نہیں ہے ہم نے یہ دلیل بھی نہیں دی Kaul کا جو قول یہاں پیش کیا گیا ہے وہ شاید مرعوب کرنے کے لیے ہو، repetition کا ایک خاص حربہ ہے لیکن اس کا کوئی تعلق اس دلیل سے نہیں تھا جو اس ایوان میں پیش کی گئی ہے۔ یہاں ہماری دلیل یہ تھی۔ بحیثیت پارلیمنٹ اس کی عزت اس کا وقار اس کے تمام ارکان بحیثیت مجموعی اگر کوئی چیز ان کے خلاف کہی جاتی ہے تو یہ پارلیمنٹ کی ایک contempt میں نے اس سلسلے میں دنیا کے گیارہ دساتیر سے مثالیں پیش کیں تھیں کہ ان دساتیر میں، روایات میں، پارلیمنٹ کو as a whole لیا گیا ہے اور پارلیمنٹ کے ارکان کو بحیثیت مجموعی مطعون کیا گیا ہے جس کے نتیجے کے طور پر پارلیمنٹ in disrepute آتی ہے منتخب ادارے in disrepute آتے ہیں تو یہ بھی دراصل پارلیمنٹ کے استحقاق کو مجروح کرنے کے مترادف ہے لیکن اس

[Prof. Khurshid Ahmed]

کے بارے میں کوئی بات نہیں کی گئی۔ اس بات کا سہارا ڈھونڈا گیا ہے، کہ ایک عام آدمی اور ایک پارلیمنٹ کا ممبر برابر ہے ہم نے کب اس بات سے انکار کیا ہے ہمارا تو تعلق اپنی عوام سے ہے لیکن یہاں جو بات زیر بحث ہے وہ اس سے مختلف ہے اس لیے پہلی یہ بنیادی چیز تھی لیکن اس کے لئے کوئی دلیل کوئی مثال نہیں دی گئی ہے۔

دوسری بات جناب والا ! یہ کہی گئی ہے کہ privileges کے سلسلے میں رولز یہ کہتے ہیں کہ صدر کے ذاتی conduct کو زیر بحث نہیں لایا جاسکتا میں سمجھتا ہوں کہ یہ بات بہت صحیح ہے اور ہم سب ان قواعد کے پابند ہیں لیکن جناب والا ! میں آپ کی توجہ اس طرف مبذول کراؤں گا کہ رولز میں اس بات کو واضح کر دیا ہے کہ صدر کا personal conduct زیر بحث نہیں آسکتا مجھے جاوید جبار صاحب کی اس بات سے اتفاق ہے کہ اس اہم منصب پر آنے کے بعد ذاتی اور سرکاری مناصب الگ الگ نہیں رہتے اور اسلامی تاریخ ان مثالوں سے بھری پڑی ہے کہ سربراہ مملکت ہی نہیں بنی پاک صلی اللہ علیہ وسلم نے خود اپنے آپ کو احتساب کے لیے پیش کیا ہے اور اس دنیا سے رخصت ہونے سے پہلے یہ کہا اگر کسی کا کوئی حق مجھ پر تھا اور جو ادا نہیں ہوا یا کسی کو مجھ سے کوئی تکلیف پہنچی ہے تو آؤ مجھ سے اس کا بدلہ لے لو اور ایک نو جوان صحابی کھڑے ہو گئے اور انہوں نے کہا کہ یا رسول اللہ صلی اللہ علیہ وسلم ایک مرتبہ میں جا رہا تھا کہ آپ کی چھڑی میرے لگ گئی حضورؐ نے فرمایا کہ آؤ تم مجھ سے بدلہ لے لو اس نے کہا کہ جس وقت آپ کی چھڑی میرے بدن پر لگی ہے تو میرے جسم پر کپڑا نہیں تھا آپ نے کہا کہ لو میں چادر ہٹا دیتا ہوں اور تم چھڑی سے بدلہ لے لو اس نے آگے بڑھ کر حضور کے کندھے

پر بوسہ دیا۔ جناب والا! یہ ہے وہ مثال۔ لیکن میں دلیل کے لیے مان لیتا ہوں کہ آپ کے قانون میں یہ الفاظ لکھے ہوئے ہیں لیکن کیا اس کے یہ معنی نہیں ہیں کہ صدر کے public conduct کو صدر کے اس conduct کو جو دستور میں دیئے ہوئے اختیارات اور ذمہ داریوں کو انجام دیتا ہے زیر بحث لایا جاسکتا ہے غور فرمائیے exclusion کا معنی یہ ہے کہ جس چیز کو exclude کیا گیا ہے اس کی باقی چیزیں included ہیں اور اس بنیاد پر میں اسی دفعہ سے argue کرتا ہوں اس دفعہ کی بنیاد پر مجھے اس بات کا حق ہے اس ایوان کو اس بات کا حق ہے کہ non-personal conduct پر وہ بحث کرے اور ہم اسی نوعیت کی گفتگو کر رہے ہیں اس سے ہٹ کر کوئی بات نہیں کر رہے۔

جناب چیئرمین = میرے خیال میں اس نکتے پر زیادہ اصرار اس لیے نہیں کرنا چاہیے کہ ہم صدر کا public conduct discuss کر رہے ہیں۔ تو یہ سب debate اسی پر ہو رہی ہے۔

پروفیسر خورشید احمد، جناب والا! اگلی چیز میں یہ کہنا چاہتا ہوں کہ discretion کی بحث کو بھی یہاں بہت ہی سہل انگاری کے ساتھ لیا گیا ہے discretion, absolute, untrammelled نہیں ہو سکتا۔ لیکن میں نے اس سے آگے بڑھ کر یہ بات عرض کی تھی اور میں اس کا اعادہ کرتا ہوں جہاں تک آرٹیکل ۵۸ (۲) (بی) کا تعلق ہے اس میں دو واضح دلائل دے دیئے گئے ہیں صرف ایسی situation میں discretion استعمال ہوگا دوسرے الفاظ میں یہ ثابت کرنا پڑے گا کہ وہ صورت حال تھی ایک شکل یہ کہ پارلیمنٹ میں بار بار انتخاب ہو رہا ہے اور وزیراعظم vote of confidence

[Prof. Khurshid Ahmed]

dissolve

نہیں بے سکتا یہ ایک بالکل واضح چیز ہے اس صورتحال میں صدر کر سکتا ہے دوسری صورت یہ ہے کہ آئینی مشینری ناکام ہو گئی ہے یعنی حکومت کے لیے آئین کے مطابق کام کرنا ممکن نہیں رہا لیکن یہ بات نہ وزیر عدلیہ ثابت کر سکے ہیں نہ سینیئر منسٹر ثابت کر سکے ہیں نہ کوئی اور ممبر اس کی طرف کوئی ثبوت دے سکا ہے اور خود صدر صاحب کی یہ تقریر سہارے پاس موجود ہے اور اس کے ایک ایک حرف کو میں نے بار بار پڑھا ہے ہمیں اس وقت ان پر کوئی ذاتی اعتراض نہیں ہے ہم یہ کہتے ہیں کہ جو دلائل انہوں نے تقریر میں دیئے ہیں ان میں سے کسی سے یہ بات ثابت نہیں ہوتی کہ ملک کی آئینی مشینری فیل ہو گئی تھی اور فیڈریشن دستور کے مطابق کام کرنے کی پوزیشن میں نہیں تھی جن پروگراموں کا انہوں نے اعلان کیا ہے کہ اسلام کا آنا، معاشی ترقی، لارائیڈ آرڈر کرپشن کو دور کرنا۔ یہ چاروں چیزیں تو life long work ہیں اور پھر

معلوم ہونا چاہیے کہ ۵۸ (۲) (بی) میں صاف الفاظ میں کہا گیا ہے کہ لوگوں سے نیا سیٹڈٹ لینے کے لیے، اس لیے نہیں ہے کہ آپ توڑ دیں اور پھر انتظار کریں اگر اس discretion کا استعمال ہو بھی سکتا تھا تو پھر لازمی تھا کہ اس discretion کے استعمال کے ساتھ ساتھ نئے انتخابات کی تاریخ کا تعین کیا جاتا اس لیے کہ dissolve کرنے کا مقصد صرف ایک

تھا یہ نہیں کہ کرپشن دور کی جائے گی یہ نہیں کہ Law and order situation کی جائے گی دستور کے تحت کوئی گنجائش اس بات improve

کی نہیں ہے کہ ان کاموں کے لیے اسمبلی کو توڑا جاسکے۔ گورنمنٹ کو dismiss کیا جاسکے وہ صرف ایک ہی مقصد ہو سکتا ہے اور وہ یہ ہے کہ فی الفور انتخابات کرائے جائیں لیکن چونکہ اس اعلان میں فی الفور انتخابات کی تاریخ کا تعین نہیں

کیا گیا اس لیے ہم یہ بات کہنے پر مجبور ہیں کہ وہ اقدام arbitrary اور اس اقدام کو malafide قرار دیا جاسکتا ہے اور یہ عجیب بات ہے کہ جو دلائل دیئے گئے ہیں ان کے بارے میں بھی آج ۵۰ دن گزر چکے ہیں لیکن کوئی عملی اقدام نہیں ہوا اگر فی الحقیقت ایسے ہی corrupt لوگ تھے ذرا ان کی فہرستیں سامنے آئیں ان کے خلاف اقدام کیا جاتا ان کے خلاف مقدمات دائر کئے جاتے جو فہرستیں اس وقت تک شائع ہوئی ہیں اور ابھی کراچی کے ایک ہفت روزہ نے سپیڈ پارٹی کے زمانے میں مارشل لار کے زمانے میں اور جو نیچو صاحب کے زمانے میں پلاٹ حاصل کرنے والوں کے وہ نام شائع کیئے ہیں جو اس سے پہلے اسمبلیوں کے ریکارڈ پر آئے ہیں اور اس میں اس زمانے میں آنے والے ۵۷ نام دیئے گئے ہیں جس میں کچھ سینیٹ کے لوگوں کے نام بھی شامل ہیں کچھ اسمبلی کے بھی شامل ہیں کچھ وہ لوگ بھی شامل ہیں جو اس وقت حکومت میں ہیں۔ اور کچھ وہ بھی ہیں جو حکومت میں نہیں ہیں لیکن میں یہ بات صاف کہتا ہوں۔ لیکن جہاں کہیں کوئی کرپٹ ہے اس کے خلاف آپ اقدام کیجیے لیکن ۵۰ دن گزر جاتے ہیں آپ نے اس بارے میں کوئی اقدام نہیں کیا لیکن جو اقدام سب سے پہلے کیا جانا چاہیئے تھا یعنی انتخابی تاریخ کا لغتین وہ آج تک نہیں ہوا اگر انتخابی تاریخ کا لغتین بھی اس اعلان میں صاف ہو جاتا جس طریقے سے دنیا کی باقی تمام پارلیمنٹس میں dissolution کے وقت ہوا کرتا ہے تو پھر ہمیں غالباً اس پروتلیج موشن کے لانے کی ضرورت نہ پڑتی لیکن چونکہ ان دونوں کے درمیان فرق کر دیا گیا ہے۔ dissolution جس کا مقصد دستور پر کہنا تھا کہ آپ لوگوں سے رائے لیں۔

“A situation has arisen in which the Government of the Federation can not be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary”.

[Prof. Khurshid Ahmed]

یہ appeal to the electorate جو اصل چیز تھی وہ تو موجود نہیں ہے پھر آخر ہم یہ کیسے نہ سمجھیں کہ یہ ایکشن arbitrary بھی ہے اور یہ ایکشن malafide بھی اور ان دونوں بنیادوں کے اوپر discretion پر گفتگو ہو سکتی ہے اور ہونی چاہیے۔

جناب والا! میں یہ بات بھی عرض کرنا چاہتا ہوں کہ سینیٹ کو دستور جو اختیارات دیتا ہے ان میں سے ایک impeachment بھی ہے اور impeachment کی جو تین بنیادیں دستور میں لکھی ہوئی ہیں ان میں ایک violation of the Constitution بھی ہے۔ دوسرے الفاظ میں اس ایوان کا یہ حق ہے۔ اور ضروری نہیں ہے کہ انسان Impeachment نہک جائے، اس ایوان کو اس بات کا اختیار بھی ہے کہ ان Issues کے اوپر جن پر Impeach کر سکتا ہے، ان پر اپنے اعتراف کا اظہار کرے، ان پر احتساب کرے، ان پر یہ گرفت کرے، ہم جو بات کر رہے ہیں وہ اس فریم ورک کے اندر ہے جو ہمیں دستور نے دیا ہے۔

جناب والا! یہ بات بھی کہی گئی ہے کہ dissolution کی چار شکلیں آئین کے اندر رکھی ہوئی ہیں اور جب بھی قومی اسمبلی dissolve ہو، تو فطری طور پر صرف ایک ایوان اپنے سارے فرائض انجام نہیں دے سکتا۔ مجھے اس بات پر اتفاق ہے دستور میں چاروں شکلیں دی ہوئی ہیں، لیکن آپ یہ دیکھئے کہ ان چاروں شکلوں کا تقاضا یہ ہے کہ اگر کسی موقع کے اوپر اسمبلی dissolve ہوتی ہے تو جلد از جلد دوبارہ اسمبلی وجود میں آجائے تاکہ ملک کا نظام elective ادارہ کے بغیر موجود نہ رہے۔ اگر ایک سیٹ خالی ہو جاتی ہے تو آپ کا دستور کہتا ہے کہ تیس دن کے اندر اندر اس کے لیے

انتخاب کرا دو۔ اگر اسمبلی اپنی طبعی عمر پوری کر لیتی ہے تو آپ کا دستور کہتا ہے کہ ساٹھ دن کے اندر اندر انتخاب کرائیں۔ اگر اسمبلی dissolve ہوتی ہے، جس کی وہ تینوں شکلیں بیان کی گئی ہیں مثلاً وزیراعظم کے کہنے پر، وزیراعظم کے Vote of Confidence نہ لینے پر، اور صدر کے آئینی اختیارات کے استعمال کرنے پر ان تینوں شکلوں میں ۹۰ دن کے اندر انتخابات کرائیں۔ اور حقیقت یہ ہے کہ اس زمانے میں سینیٹ اکیلا، اپنے وظائف انجام نہیں دے سکتا۔ یہ بات درست نہیں کہی گئی ہے کہ سینیٹ کے لیے ممکن ہے کہ وہ سوالات کر لے ممبران تقریر کر لیں اور ریزولوشن سنس پاس کر لیں۔ حقیقت یہ ہے کہ سینیٹ اسی وقت effective ہو سکتا ہے، جب دوسرا ادارہ بھی موجود ہو، تو اس بنا پر دستور کا مزاج یہ ہے کہ اسمبلی dissolve جب بھی ہو، فوراً نیا ادارہ وجود میں آ جائے لیکن ہم جو کچھ دیکھ رہے ہیں وہ یہ ہے کہ نہ صرف یہ کہ نیا ادارہ وجود میں نہیں آ رہا بلکہ جو دلائل دیئے جا رہے ہیں، جو زبانیں استعمال کی جا رہی ہیں، جو بولیاں بولی جا رہی ہیں، ان سب میں یہ چیز ہے کہ گویا ۹۰ دن کوئی مقدس چیز نہیں ہے۔ آرٹیکل ۲۵۴ میں اس بات کی گنجائش موجود ہے کہ جب چاہیں انتخاب کرائیں۔ صدر صاحب بڑے مخلص آدمی ہیں، انہوں نے بڑی عنایت کی تھی کہ اسمبلی کو وجود میں لائے، انتخاب کرایا، اس لیے ہرگز ہمیں یہ بات نہیں کہنی چاہیے کہ وقت پر انتخاب کراؤ۔

جناب والا! یہ بات درست ہے کہ صدر صاحب نے ۱۹۸۵ میں انتخابات کرائے، اور قوم نے اس سلسلے میں انہیں ہدیہ تبریک بھی پیش کیا۔ لیکن میں صاف کہنا چاہتا ہوں کہ یہ انتخابات یا جمہوریت کسی کا ذاتی عطیہ نہیں ہیں، کسی کا تحفہ نہیں ہیں۔ یہ ملک کسی کی جائگر نہیں ہے۔ کسی نے اس

[Prof. Khurshid Ahmed]

ملک کو فتح نہیں کیا ، کہ آکر ہمیں یہ کہے کہ لو۔۔۔ میں تمہیں خیرات کے طور پر جمہوریت دے رہا ہوں۔ جمہوریت ہمارا بنیادی حق ہے ، اگر جمہوریت سے ہم محروم رہے ، تو وہ ایک تاریکی تھی ، ایک ناخوشگوار عمل تھا ، اور ہم نے اس سے نکلنے کی کوشش کی ، اور بالآخر ہم اس سے نکل آئے ، اس کے بعد ہماری کوشش یہی تھی کہ یہ نظام آگے چلے ، لیکن مجھے افسوس سے یہ بات کہنا پڑتی ہے ، کہ خود انہوں نے ، جنہوں نے اس نظام کو بنانے میں ایک بڑا ادا کیا تھا ، اپنے ہاتھوں اس بچے کا گلہ گھونٹا ہے مجھے اس پر وہ مثال یاد آرہی ہے ، کہ ایک شخص نے پہلے اپنے والدین کو قتل کر دیا۔ جب مقدمہ چلا تو مجسٹریٹ کے سامنے دہائی دی کہ میں یتیم ہوں جناب والا ! اس ادارہ کو آپ اپنے ہاتھوں تباہ کرتے ہیں اور پھر آپ کہتے ہیں کہ دیکھو ، میں ہی اس کو لگانے والا تھا ، مجھ سے تم یہ کیوں توقع رکھتے ہو میں سمجھتا ہوں کہ یہ درست نہیں ہے۔ عوام کے حقوق ، منبرک حقوق ہیں ، ہم سب approach

کو ان کا پاس کرنا ہے۔ ہم صدر محترم کا احترام کرتے ہیں ، لیکن ان کے لیے لازم ہے کہ وہ اس ملک کے عوام کا احترام کریں ان کے لیے لازم ہے کہ وہ جمہوری عمل کا احترام کریں ، یہ احترام mutual ہے اور اسی طرح یہ مستحکم ہو سکتا ہے ، اس طرح نہیں کہ آپ arbitrarily ایسے اقدام کریں جس کے نتیجے کے طور پر چلتی ہوئی گارڈی پٹری سے اتر جائے اور یہ ملک نئے بحرانوں کا شکار ہو جائے۔

جناب والا ! یہ بات بھی کہی گئی ہے کہ اس ملک میں کچھ افراد نے مارشل لا کے سلسلے میں مشورے دیئے ، یہ وہ کھیل ہے ، جو ایک مدت سے کھیلا جا رہا ہے اگر فی الحقیقت اس ملک کے حکمران ایسے ہی ”بھولے شاہ“ ہیں

کہ جو کوئی بھی آکر ان کے کان میں مشورہ دیتا ہے ، وہ اس پر عمل شروع کر دیتے ، تو پھر وہ اس اہم منصب کے اہل نہیں ہیں ۔ مشورے ، ہر طرف سے ملتے ہیں لیکن جو شخص in authority ہو ، فیصلہ کرنا اس کا کام ہوتا ہے ۔ اگر ایک شخص اپنے فیصلہ کی ذمہ داری قبول نہیں کر سکتا تو یہ اخلاقی جرات کی کمی ہے ۔

جناب والا میں یہ بات بھی کہنا چاہتا ہوں کہ غیر جماعتی بنیادوں پر انتخاب اس ملک میں ایک نہایت ہی مکروہ اور نا کام تجربہ ہے ۔ یہ تصور کہ اسلام میں سیاسی پارٹیاں نہیں ہیں ، کچھ افراد ہیں ، جو یہ بات کہہ رہے ہیں ۔ اگر چند اہل علم کی یہ رائے بر بنائے دلیل ہے تو میں انکی رائے کا احترام کرتا ہوں لیکن اس کے مقابلے میں ہزار ہا دوسرے اہل علم وہ ہیں جو یہ رائے رکھتے ہیں کہ اسلام میں سیاسی پارٹیوں کے لیے کام کرنے کا پورا پورا موقع ہے ، میں نے خود اس مسئلہ کے اوپر آج نہیں ، تیس سال سے لکھا ہے ، مارشل لا کے زمانے میں بھی لکھا ہے ۔ اس بات پر میں نے شدید تنقید کی تھی کہ صدر محترم کا یہ موقف کہ اسلام میں پولیٹیکل پارٹیز نہیں ہیں یا انصاری کمیشن کا یہ اشارہ کہ یہ اصولی طور پر minority کا فیصلہ تھا جس سے majority نے اختلاف کیا تھا ۔ یہ باتیں درست نہیں ہیں اور اس کے جواب میں ، میں نے دلائل کے ساتھ بتلایا تھا کہ کس طرح ہر دور میں سیاسی پارٹیاں ، یا وہ گروہ جسے سیاسی پارٹی کہا جاسکے ، مسلمانوں کی تاریخ کے اندر موجود رہے ہیں اور پاکستان میں تمام علماء و جہوں نے دستور بنانے میں Role play کیا ہے ، اسلامی ریاست کے بنیادی اصول مرتب کئے ہیں ، ان سے سب نے اتفاق کیا ہے ۔ جو پارٹیاں

[Prof. Khurshid Ahmed]

اس ملک میں دینی بنیادوں پر قائم ہوئے ہیں، انہوں نے الیکشن میں حصہ لیا ہے نہ صرف آج سے حصہ لیا ہے بلکہ پاکستان کے بننے کے بعد سے حصہ لیا ہے۔ اس لیے یہ ایک Irrelevant بحث میں الجھایا جاتا ہے اور اگر اس پر الزام کسی کو دیا جاتا ہے تو یہ درست نہیں ہے۔ غیر جماعتی انتخاب کے نتیجے کے طور پر، یہ ملک چھوٹے چھوٹے گروہوں میں بٹ گیا ہے۔ اس کے نتیجے کے طور پر برادری، عصبیت، لسانی اور زنجیل بنیادوں پر انتخابات ہوئے ہیں اور یہی وجہ ہے کہ ملک میں صحیح طریقہ پر جمہوری روایات پنپ نہیں رہی ہیں۔ آج کے دور میں سیاسی پارٹی وہ ذریعہ ہے، جس سے کہ ملک گیر پیمانے پر سیاسی contact ہوتا ہے، عوام کو اپنی رائے کے اظہار کا موقع ملتا ہے لیڈر شپ کے انتخاب کا موقع ملتا ہے، اور سب سے اہم بات یہ ہے کہ ایک ملک گیر پروگرام اور ملک گیر Interest وجود میں آتا ہے۔ ورنہ Petty اور Regional Interest ہے جس کے نتیجے کے طور پر ملک میں تباہی مچتی ہے۔ یہ تجربہ ناکام رہا ہے ہرگز اسے repeat نہیں ہونا چاہیئے، اور اس ملک میں جماعتی انتخاب ہی دراصل ہمارے نزدیک اس عبوری دور سے نکلنے کا واحد حل اور راستہ ہے۔ جناب والا! مجھے احساس ہے کہ آپ وقت کی طرف دیکھ رہے ہیں اور میں خود بھی بات کو لمبا نہیں کرنا چاہتا، حالانکہ بہت سارے ایسے نکات تھے، جن کو مزید لیا جاسکتا تھا۔ لیکن میں اپنی گفتگو کو محدود کرنے ہوئے آخر میں ایک بار پھر یہ بات کہوں گا کہ اس Privilege Motion میں جن بنیادی سوالات کو اٹھایا گیا ہے، انہیں ہمیں Face کرنا چاہیئے، ان کا تعلق انفرادی Privilege سے نہیں ہے۔ اجتماعی Privilege سے

ہے Discretion کا جو Arbitrary اور Malafide استعمال ہے اگر
 کیا جاتا ہے تو وہ لازماً Privilege کے Violation کے زمرے میں
 آئے گا اور اس پر discussion ہوگی۔ اور اس Theme پر غور ہونا
 چاہیئے۔ میں نے یہ بھی آپ کی خدمت میں عرض کیا تھا جو دلائل دیئے
 گئے اور جو باتیں کی گئی ہیں وہ تمام Irrelevant ہیں اور اگر ان کو صحیح
 مان لیا جائے تو اس کے معنی یہ ہیں کہ تین مہینے نہیں بلکہ یہ تیس سال کی
 آمریت کا دروازہ کھولا جائے گا جس کے لئے کوئی جواز نہیں ہو سکتا۔
 اس لئے میں ان الفاظ کے ساتھ آپ کی خدمت میں عرض کر دوں گا کہ اس
 Privilege Motion کو آپ قبول کریں اور اس ایوان کو موقع دیں
 کہ جو اس کے ساتھ زیادتی ہوئی ہے، اس کا تدارک کرنے کے لئے
 کوئی نہ کوئی راستہ نکالا جائے۔
 جناب چیئرمین: بہت بہت شکریہ۔

Mr. Wasim Sajjad : Sir, May I just reply to some of these....

Mr. Chairman : I don't think there is any provision for a reply to a reply.

Mr. Wasim Sajjad : Sir, there are new points....

Mr. Chairman : Well. New points would arise. You say something, they are going to reply to that. This would go indefinitely. Please leave it to me. I have heard the debate.

Mr. Mohammad Aslam Khan Khattak : On personal explanation; Sir, I am not replying to...

Mr. Chairman : Yes Please.

Mr. Mohammad Aslam Khan Khattak : All I want to say here Sir, is that I pay a great tribute to Mr. Javed Jabbar and Prof. Khurshid Ahmed.

جاوید جبار میں جو علمیت، قابلیت اور تجسس ہے۔ انہوں نے بڑی اچھی تقریر کی ہے۔ پروفیسر صاحب نے بھی۔

[Mr. Mohammad Aslam Khan Khattak]

We may not agree with their point of view but let me congratulate them on the excellent performance of their point of view.

لیکن جناب والا! ایک آنریبل ممبر نے ہمارے نام لیئے میں صرف ذات کی بات کرتا ہوں آج دن تک میں نے کسی پارٹی کے ٹکٹ پر الیکشن نہیں لڑا، ہمیشہ آزاد ٹکٹ پر لڑا ہوں اور آزاد ٹکٹ پر مجھے اپنے لوگوں نے منتخب کیا ہے۔ باقی رہا سوال بھٹو صاحب کا، میں بھٹو صاحب مرحوم و معذور کا بڑا احترام کرتا ہوں، اللہ ان کو جنت نصیب فرمائے۔ میرے بڑے دوست تھے، لیکن ہم اس کی اپوزیشن میں تھے، ہمارا اپوزیشن میں یونائیٹڈ فرنٹ تھا۔ اس لئے ہم اپوزیشن میں تھے اس گورنمنٹ کو بھٹو صاحب نے کر دیا۔ خاص حالات میں مجھ کو کہا کہ تم صوبے کے گورنر بنو disland تو میں گورنر بن گیا، جن وجوہات پر ہوا، وہ علیحدہ ہیں۔ لیکن جس دن ان کا اور میرا ایک معاملے پر اختلاف ہوا، اسی وقت میں گورنری سے استعفیٰ دے کر جناب والا! وہاں سے نکل گیا۔ لہذا میں اب بھی ان کا احترام کرتا ہوں اور میرا خیال ہے کہ میں اس بات پر جادوں گا نہیں کہ کیا وجوہات تھیں یہ علیحدہ معاملہ ہے لیکن آنریبل ممبر کو یہ کہوں گا کہ جناب والا اصول کی بنا پر اگر ہم ان سے علیحدہ ہوئے، ہیں اور آج اصول کی بنا پر ہم یہاں بیٹھے ہیں۔ مارشل لاء کے زمانے میں شاید ہم بھی وزیر بن جاتے لیکن مارشل لاء میں ہم وزیر نہیں بنے۔

Mr. Chairman : Thank you, I think it is now my turn.

In the three motions moved by Mr. Mohammad Tariq Chaudhary, Mr. Javed Jabbar and Prof. Khurshid Ahmed, the debate on whose admissibility has just concluded, it is alleged that arising out of the order of the President of 29th May, 1988, dissolving the National Assembly, followed by the dissolution with the approval of the President, of the four Provincial Assemblies by the respective Provincial Governors there has been a breach of privilege of the Senate and its members. This is the **لب لباب** (gist) of the three motions.

The motions no doubt, raise serious questions of great public interest and constitutional import which during the course of the debate generated at times a great deal of emotional, and even if irrelevant, excitement as well and we have witnessed some of that even today. But the essential point with which we are concerned in the frame of reference of these motions, is not to come to a value judgement on the action of the President, its wisdom, its merit or demerit, or its expediency or otherwise but simply to determine (and this was the point which I think was stressed by the Minister for Justice and Parliamentary Affairs) in the light of the contentions of the movers and the arguments advanced for and against the admissibility of the motions whether there has in fact occurred, as a result of the impugned action of the President, a breach of any specific privilege of the House or its members and I am laying stress on the specific privilege such as may have been conferred on them either by the Constitution or law, or as is commonly recognized as such, privilege in Parliamentary practice and usage. The answer to this question hinges almost exclusively on whether the Constitution empowers the President to act in the manner he has done and whether in taking the action to dissolve the Assemblies he has complied with what was required of him by the Constitution or in other words acted in a legally valid constitutional manner. If he has, there can be no question of infringement of any parliamentary privilege no matter what its impact on individuals or institutions might be.

Before attempting to answer this question, however, some procedural issues raised in regard to the evolving concept of parliamentary privileges, some of them were repeated even today, need to be settled.

It was urged at the start of the discussion on admissibility that in its application to the three motions the concept of privilege needs to be looked at in the specific reality of Pakistan, I am using the words of Mr. Javed Jabbar, and its political history characterised as it is by "the lack of parliamentary continuity", and that since the questions raised in the motions were concerned not with just the ordinary, common place privilege of Parliament but "with moral privilege, with constitutional privilege and with the full legal implications of privilege" they deserved to be judged differently than on the basis of precedents established in previous decisions on privileges. The Senate, it was stated, that even though now left "an orphan of the democratic process" by the demise of the parent bodies that gave birth to it, was still the sole arbiter of its own privilege, and privileges being not codified it could establish new traditions and precedents of its own without being overly influenced by past decisions or the decisions of other Parliaments in these matters.

It was also stressed that the Parliament of Pakistan was an "organic whole" that the two Houses have a congenital (or what I would call consanguine) unity and the constitutional structure is such that one cannot function effectively in the absence of the other, and even though the Assembly can be dissolved it must be done in a manner that the "continuity" of a democratic regime and representative government is not destroyed.

Tracing the history of development of Parliamentary privileges over the centuries and their scope and concept as reflected in the Constitution of various countries—some democratic and others not so democratic, it was also urged that in line with the modern trend the world over the House should place increasingly liberal interpretation on the concept of privilege and apart from the privileges

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conferred by the Constitution or the statutes or the Rules of Business or those based on conventions and precedents, now concepts of privilege (this was Prof. Khurshid's theory) should be deduced and established from general democratic principles for which there may be no specific law and no existing precedent. In this connection it was stated that any act that would bring the Parliament as an institution into disrespect in the eyes of the public and undermine the confidence necessary for it to carry on its activities, or any act or omission which obstructs or impedes the House in the performance of its functions or any member in the discharge of his duty or has a tendency directly or indirectly to produce such result must be treated as a contempt of the Parliament and violation of its privilege.

This is not the first time that the plea to give a more dynamic interpretation to the concept of privilege has been made. Starting with the debate on admissibility of a motion alleging a breach of privilege because of the President's failure to summon and address a joint sitting of Parliament at the commencement of the parliamentary year in 1986, the 'six hundred' years old history of the law of Privileges, its genesis, scope and application in different contexts and different situations with a view to safeguarding the freedom, authority and dignity of the Parliament and ensuring the effective and unimpeded exercise of the powers and functions entrusted to its members has been brought to the notice of this House on more than one occasion. The last such occasion, if I may remind the House was when it received particular attention in the context of the admissibility debate in February, 1987 on two questions of breach of privileges arising from the alleged illegal arrest and detention of the Mayor of Karachi and the dissolution, on the basis of some lame excuses of a premier democratic institution, namely, the Karachi Metropolitan Corporation. Similarly, as I call it the theory that the Senate as an integral part of the Federal Parliamentary structure was mandated to protect the rights of the members of the Parliament, that the Parliament of Pakistan was a singular indivisible whole, that the two Houses were congenitally joined together, and even though functioning as separate entities had a moral unity and what happened to one (body) was relevant to the other, had also been propounded and advanced in the context of discussion on a question of breach of privilege raised in connection with the arrest and incarceration of Mr. Afaq Shahid, a Member, of the National Assembly from Karachi, as far back as July, 1986.

Now, these issues have already been comprehensively dealt with and pronounced upon and the relevant rulings can be seen in the printed "Decision of the Chair—1985—87". Their further elaboration is, therefore, hardly necessary. Considering the somewhat different context, however, in which they have been raised this time, I might add for the benefit of the House that while I concede the need for placing a dynamic interpretation on the concept of privilege according to the changing notions and exigencies of society and while I also agree that each substantial breach must be judged on its own merit and in the light of its own circumstances, a total break with the past precedents and established traditions, even if possible, would not be prudent.

Each House of Parliament is no doubt the sole judge of its own privilege, but a Parliamentary privilege since its breach is punishable as a breach of the Law of Parliament needs to be as widely known and its scope and extent as objectively and easily ascertainable as that of the ordinary law. This is necessary so that both members and non-members know with a reasonable degree of certainty the rights, powers, privileges and immunities of each House and its members and what acts would, in which circumstances, ordinarily constitute their breach. This is also necessary from the point of view of courts, which continue to claim in the

age long controversy jurisdiction over matters of privilege affecting the rights of persons exercisable outside Parliament. A substantial disregard of these benchmarks and the mile stones reached in the march of parliamentary democracy will amount to dangerous free-wheeling, making the determination of the questions of privilege dependent on whims and fancies, moods and rhetoric of the moment making their outcome thoroughly unpredictable.

This also appears to be the intention and requirements of Article 66 of the Constitution. The Article reads :

“66. (1) Subject to the Constitution and to the rules of procedure of Majlis-e-Shoora (Parliament), there shall be freedom of speech in Majlis-e-Shoora (Parliament) and no member shall be liable to any proceedings in any court in respect of anything said or any vote given by him in Majlis-e-Shoora (Parliament), and no person shall be so liable in respect of the publication by or under the authority of Majlis-e-Shoora (Parliament) of any report, paper, votes or proceedings”.

Now, these are the specific privileges conferred on the House and the members by the Constitution itself. Then, the Constitution proceeds to say :

“(2) In other respects, the powers, immunities and privileges of Majlis-e-Shoora (Parliament), and the immunities and privileges of the members of Majlis-e-Shoora (Parliament), shall be such as may from time to time be defined by law and, until so defined, shall be such as were, immediately before the commencing day, enjoyed by the National Assembly of Pakistan and the committees thereof and its members.”

Now, you would note that the Article recognizes only those privileges which are conferred by the Constitution and the Rules of Procedure and in other respects limits them,—in fact freezes them, to be such “as were immediately before the commencing day (of the Constitution) enjoyed by the National Assembly and its members”, or, in their application to the future ‘as may from time to time be defined by law’. Now, in seeking to enlarge the extent and scope of privilege these constitutional and legal limitations will have to be kept in mind and this is what I have done.

Now, coming to the substance of the motions, the President according to the announcement of May 29, 1988, has acted in exercise of the powers conferred on him by clause (2)(b) of Article 58 of the Constitution. Now, the relevant portion of this Article reads :

“Notwithstanding anything contained in Clause (2) of Article 48, the President may also dissolve the National Assembly in his discretion where, in his opinion, (b) “a situation has arisen in which the Government of the Federation can not be carried on in accordance with the provisions of the Constitution and an appeal to the electorate is necessary”.

Now, the plain reading of the above provision makes it clear that the Constitution empowers the President to act and that too in his sole discretion (بلا مشورت) (عینہ) not on the advice of the Prime Minister, whenever he comes to form the opinion that a situation has arisen in which the Government of the Federation can not be carried on in accordance with the Constitution, and an appeal to the

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electorate is necessary. These are wide powers which the Constitution confers on the President making him the sole judge of the existence or otherwise of conditions necessary, in his opinion for action under the aforesaid provision. It is of course understood that considering the position of extreme trust which the President holds as the Head of the State and the dignity that goes with the highest office in the land, the power will be used with great care and circumspection and recourse to it had as a last resort when the supreme interest of the country makes it imperative to do so. But the point to note is that the Constitution itself does not lay down any objective standards the observance of which would explicitly limit the exercise of the President's discretion in this respect, nor does the Constitution provide any other yardstick on which the President must base his opinion in regard to the prevailing situation. Thus, what the Constitution requires, (and it may be a defect, a deficiency, a flaw), is what may be called the subjective satisfaction of the President as to the existence of circumstances in their totality rendering it appropriate in his judgement to take action in accordance with clause (2) (b) of the said Article.

Now, it has been urged during the discussion that the Constitution envisages the exercise of these extraordinary powers by the President not whimsically, arbitrarily and capriciously but "in the rarest and the gravest of circumstances and only in a situation in which the Government of the Federation cannot, in the physical sense as I have understood it, be carried on in accordance with the provision of the Constitution, as, for example, was the case in 1977 before the imposition of Martial Law when there was wide scale civil commotion, or when there was a serious breakdown of the constitutional machinery, and since these were not the conditions prevalent in the country at the time the impugned action was taken, the President had acted *malafide* in an unconstitutional manner.

I do not think it would be correct to read such a narrow meaning into the language of the relevant Article and restrict its application only to the situations of physical breakdown of the constitutional apparatus or of physical inability of government, because of civil commotion or insurrection or to enforce its writ. The reason is that the constitutional provisions cover and extend to the whole gamut or range and scope of government business—from the principles and provisions set out in the objectives Resolution, to the protection of the integrity and ideology of Pakistan, observance and enforcement of the Fundamental Rights and Principles of State policy, to the promotion of Islamic way of life, to the security of person and property and honour of individuals and to the maintenance of law and order generally, to the dispensation of inexpensive and expeditious justice and to the promotion of the social and economic well-being of the people, among a whole host of other matters.

The President in his Order of 29th May, 1988, has given his own reasons on the basis of which he had come to the judgement that the government could not be carried on in accordance with the provisions of the Constitution. His reasons are that the object and purpose for which the National Assembly was elected has not been fulfilled, that the law and order in the country had broken down to an alarming extent resulting in loss of innumerable lives and valuable property, that the honour and security of the citizens had been rendered totally unsafe, that public morality had deteriorated to unprecedented level and the integrity and ideology of the country was seriously endangered. All these matters fall, without question, within the purview of the provisions of the Constitution and if the Presi-

dent, taking an overall view of the acts of omission and commission of the government and in realization of his own constitutional responsibility and the discretion confined in him had come to the conclusion and formed an opinion that this state of affairs represented a situation in which the government of the country could not be carried on in accordance with the provisions of the Constitution i.e., the provision and purpose of the Constitution as a whole his action, in my opinion, cannot be assailed as arbitrary and unconstitutional even if in the judgement of some members, it was, as argued, neither politically wise, nor morally justified nor in the best traditions of democracy. Notions of justice, equity and good conscious can differ from individual to individual. One may also honestly disagree with the analysis of the situation and the reasons given by the President in support of his action. But where the Constitution vests the authority to pronounce final verdict in a matter in the President acting in his discretion, his judgement, on the analogy of the decision of a court of final jurisdiction taken in good faith, even if erroneous, must be accepted. We cannot substitute our own discretion or judgement for that of the authority in which the Constitution confides such discretion.

This is particularly so when regard is had to the provisions of Articles 48(2) which specifically lays down; the validity of any thing done by the President in his discretion shall not be called in question on any ground whatsoever". This House has repeatedly held that under the constitutional scheme of checks and balances the interpretation of the Constitution and the determination of the constitutionality and legality of a government action taken ostensibly under a valid law is the exclusive prerogative of the judiciary and cannot be questioned or determined in the forum of the Senate. The provision just quoted would appear, however, to spell out the absolute ouster of the jurisdiction even of the superior courts to examine the validity or vires of any such thing done by the President in his discretion, which the Constitution empowers him to do in his discretion. And if the Constitution ousts the jurisdiction of the judiciary to question the validity of the exercise of discretionary powers of the President—(and here I am not referring—having no competency—to whatever powers the courts might have or claim to be available to them as part of their function of judicial review)—it would be in my opinion wrong on the part of the Senate to arrogate to itself a power or authority to transgress into the forbidden territory and thereby flout the constitutional mandate.

It would, therefore, be difficult for us to conclude that the President had acted in violation of the Constitution either in terms of Article 47(1)—which can lead, as Prof. Khurshid pointed out to impeachment or in terms of Article 6 which as Syed Abbas Shah stated, would be an act of high treason. I am strengthened in this belief by the fact that not one so far out of the 743 members of the National and Provincial Assemblies directly affected by the Order or for that matter any of the numerous political parties interested in the maintenance of constitutional rule in the country has questioned the President's action in a court of competent jurisdiction. And once we come to the conclusion that *prima facie* there has been no violation of the Constitution, there can be no question of the Senate having been brought into disrepute or any of its privileges or that of its members having been infringed, for the simple reason that no question of breach of privilege can conceivably be founded on any thing done by the President or for that matter any competent authority, within the power and in exercise of the discretion available to him under the Constitution. And here I would like to add with respect that the examples quoted from other Constitutions by Mr. Javed Jabbar and Prof. Khurshid Ahmed that the discretion vesting in the President is not absolute and untrammelled,

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do not apply in our condition for the simple reason that the Constitutions of the countries quoted do not—to the best of my knowledge—confide in the Head of State the type of powers and discretion including the provision of total ouster of jurisdiction to call such discretion in question on any ground whatsoever—which the Constitution of Pakistan rightly or wrongly, justifiedly or unjustifiedly vests in the President of Pakistan.

In this connection, two other points were also made. Relying on Article 48(5) it was stressed during the debate that simultaneously with dissolution of the Assemblies the President should have announced the date for the holding of the election to the Assemblies and also appointed a caretaker Cabinet and failure on his part to appoint the date as also to induct a Cabinet—of the type and in the matter envisaged in Articles 91, 92 and 94 of the Constitution, the latter to maintain continuity of a democratic regime, is violation of the Constitution. The relevant Articles provide that when the President dissolves the Assembly he shall 'in his discretion' appoint a date, not later than 90 days from the date of the dissolution for the holding of a general election to the Assembly. This Article nowhere provides and does not obligate the President to fix a date for the holding of the election *simultaneously* with the dissolution of the Assembly. "زور کس پر ہوا" 'Simultaneously' The only obligation that this Article places on the President is that he shall in his discretion appoint a date for the holding of election within 90 days from the date of dissolution. One of the considerations on which the act of dissolution is predicated in Article 58(2)(b) being that 'an appeal to the electorate is necessary' the holding of election within the period stipulated by the Constitution is imperative but it will not amount to violation of the constitutional provision if the date for such election is not announced simultaneously with the announcement of the dissolution itself. The legality of the composition of the Cabinet and the manner in which it was constituted are also constitutional issues outside the purview of Senate's intervention and this refers to the rule which was quoted by the Minister for Justice and has little to do with privilege.

The second point is based on the argument that the impugned action impedes and obstructs the Senate in the performance of its legislative functions under the Constitution because of the dissolution of its related Federal Legislature i.e., the National Assembly. This argument again is not tenable. Article 76 refers to the consequences arising from the dissolution of the National Assembly as far as the legislative powers of the Senate are concerned, clause (2) of Article 76 states that a Bill pending in the Senate which has not been passed by the National Assembly shall not lapse on the dissolution of the National Assembly, which means that the Senate is not prevented from passing such a Bill. Clause (3) of the said Article, however, provides that a Bill pending in the National Assembly, or a Bill which has been passed by the National Assembly and is pending in the Senate shall lapse on the dissolution of the National Assembly. The Senate's legislative powers to pass certain Bills are, to that extent, therefore, affected but that by itself would not amount to constituting a breach of any parliamentary privilege of the Senate or its members because the Constitution itself spells out the curtailment of legislative powers of the Senate, whenever the Assembly is dissolved under the Constitution, whether on the advice of the Prime Minister or in the circumstances to which the Minister of Justice referred or again in consequences of an action taken by the President under Article 58(2)(a)(b). That being so a question of breach of privilege based on alleged curtailment of legislative powers of the Senate is not sustainable.

Finally, I come to the question raised by Senator Muhammad Tariq Chaudhry. Just now he read out his 'استحقاق' somewhat differently but in his original motion

he contends that as the National Assembly and Provincial Assemblies constitute electoral college of the members of the Senate their dissolution has affected and rendered as dubious and questionable. I quote his words 'the role and character of the Senate'. This argument appears to be rather fanciful and presumptive. How can the dissolution of Provincial Assemblies, which no doubt constitute electoral college of the members of the Senate, affect the constitutional role of the Senate, or the powers and duties entrusted to its members? The only consequence that flows from these dissolutions is that a casual vacancy of a member occurring in the Senate cannot be filled during the interim and until the Provincial Assemblies are reconstituted but that again in no way affects the status and role of the Senate or the powers and duties of its sitting members.

To conclude, the President in dissolving the Assemblies has ostensibly and to the extent that it is for the Senate to determine, acted in exercise of the powers and discretion which the Constitution vests in him and since no question of breach of privilege in its recognized sense either of the Senate or of its members can conceivably be based on the consequences arising out of a legally valid act done by a constitutionally competent authority all the three motions, I am afraid, are held inadmissible.

Thank you.

Mr. Javed Jabbar : Mr. Chairman the Rules of Procedure prevent me from commenting on a ruling delivered by the honourable Chairman but the substance of the motion being so great I must register my protest and I walk out as a form of protest.

Mr. Chairman : You are free to do that any time.

Mr. Aijaz Ali Khan Jatoi : Sir, I had moved a motion regarding the situation in Hyderabad.

وہاں کرنیو کے دوران لوگ مارے گئے ہیں۔

privilege motions

جناب چیئرمین = وہ بعد میں آئے گی پہلے

ختم ہوتی ہیں پھر اگر آپ اس کے بعد جاری رکھنا چاہتے ہیں تو

I am ready.

Mr. Aijaz Ali Khan Jatoi : We should continue. It is a matter of human lives.

جناب چیئرمین = زیادہ تر وہ معاملہ صوبائی ہے۔ کل اس کو دیکھ لیں گے۔

[Mr. Chairman]

جناب اعجاز علی خان جتوئی : وہ کافی اہم ہے۔ کیونکہ وہاں کل کرفیو کے دوران املاک جلائی گئی ہیں وہاں کل کافی لوگ مارے گئے ہیں۔ جناب چیئرمین = تو وہی صوبائی لاء اینڈ آرڈر کا مسئلہ ہے۔ جناب اعجاز علی خان جتوئی : پاکستان کا سوال ہے سنٹر کا کوئی چین ہے جناب چیئرمین = میرے خیال میں جب وہ وقت آئے گا اس پر اور بھی ہیں۔ کراچی کے متعلق ہے، حیدر آباد کے متعلق ہے کئی اور ہیں۔ اب آگے آپ نے چلانا ہے یا ختم کرنا ہے۔ متعدد معزز اراکین = بالکل چلانا ہے۔

Mr. Chairman : The Minister of Interior is not here. They require a notice. It can be done only that way.

(Interruptions)

Mr. Chairman : I have just received a message that the President has desired that he would like to address the Senate tomorrow at 10.00 a.m.

This sitting is adjourned and we meet tomorrow at 10.00 a.m.

(Interruptions)

Mr. Wasim Sajjad : Sir, tomorrow the only business would be the Address of the President.

Mr. Chairman : Yes, the only business will be the Address of the President. This sitting is adjourned.

(The House then adjourned to meet again at ten of the clock in the morning on Wednesday, the 20th July, 1988).