RULINGS OF THE CHAIR

(FIRST SINDH LEGISLATIVE ASSEMBLY)
27th April 1937 to 29th March 1945

1. BUDGET : NOTICE OF CUT MOTIONS: 2 DAYS NOTICE IS NECESSARY.

On 3rd August, 1937, After presentation of Budget for the year 1937-38, Mr. Speaker decided as follows:

"The voting of demands will be taken up on the 11th August. The notices for cuts in the demands have to be filed with the Secretary before or on the 8th of August. Two days notice is necessary.

Vol-ll (1937) Book No, 1, Page. 59 (3rd August 1937).

2. MISCELLANEOUS (BUSINESS OF ASSEMBLY): AGENDA DOES NOT FIX THE BUSINESS OF THE DAY.

On 3rd August, 1937, Mr. Ghanshyam Jethanand, MLA, drew attention to the chair regarding the agenda which has been supplied to us. Mr. Speaker remarked as follows:

"The agenda that has been sent to honorable members does not fix the business of the day. The agenda contains the subjects which are to be brought before the House. So for as the Questions and Answers and other subjects which are to be brought before the House, are concerned the order will be determined by the daily business sheet which will be placed in the pigeon hole of every member, and members will find it there every day before they enter the House."

Vol. ll (1937) Book No. 1, Page-60 (3rd August 1937)

3. QUESTIONS: LIST OF QUESTIONS TO BE SUPPLIED TO MEMBERS.

On 3rd August, 1937, Mr. Ghanshyam Jethanand, MLA, drew attention to the Speaker on the matter of Assembly questions and answers which has been supplied to members Mr. Speaker ruled as under:

"List of questions will be placed on member's table every day in the morning when office opens."

Vol-ll (1937) Book No. 1, Page-60 (3rd August 1937)

4. MISCELLANEOUS (ETIQUETTE): MEMBER TO SPEAK WHEN CALLED UPON BY THE CHAIR:

On 3rd August, 1937, the Honourable Sir Ghulam Hussain Hidayatullah Chief Minister Sindh, moved a motion regarding election of public Accounts Committee "House do proceed to elect 7 members to constitute with the Finance Minister the Public Accounts Committee for one year commencing from the date of the election." K. B. Allah Bux Soomro asked the question from the chair, the committee is for one year or to be for 5 years, During discussion on this matter some Honourable Members talk across the table. Mr. Speaker ruled:

"Members should not speak unless called upon by the chair to do so."

Vol-ll (1937) Book No. 1 Page 61-62 (3rd August 1937)

5. QUESTIONS: MEMBERS CAN NOT BE COMPELLED TO ASK QUESTIONS.

On 4th August, 1937, Mr. Ghanshyam Jethanand, MLA, put the questions regarding Companies, running Light Railways in Sindh. The Honorable Member Mukhi Gobindram Pritamdas pointed out that the subject "Railway" is not a matter for Provincial legislation and matter concerned with Federal. Mr. Speaker allowed the questions and ruled as under:

"No member is bound to answer any question. The Honourable member may take any steps against the Government if he wants. Beyond that, the House or I have no power to compel any one to answer."

Vol-ll (1937) Book No. 2, Page. 14 (4th August 1937)

6. QUESTIONS : QUESTIONS TO FOLLOW A COURSE OF ACTION DISALLOWED:

On 5th August, 1937, the Speaker called question criminal Investigation Department, the question was asked by Mr. R.K Sidhwa, MLA, whereupon the chief Minister concerned, the Honourable Sir Ghulam Hussain Hidayatullah, requested/told the chair as it would not be in the public interest to disclose the information asked for. Government regret they cannot supply it. Thereupon Mr. Speaker observed: It is not a question. It suggests a course of action. You want the Government to follow a course of the action which you can compel by a resolution, but not by a question.

Vol. ll (1937) Book No. 3, Page- 36 (5th August 1937)

7. ADJOURNMENT MOTION: MATTER NEITHER DEFINITE: NO SPECIFIC AREAS MENTIONED: PRINCIPLES APPLYING TO THE MOTION : CHAIR DID NOT GIVE ANY CONSENT: MOTION WAS RULED OUT.

On 5th August, 1937, Mr. Hassaram Sunderdas Pamnani MLA, gave notice of an adjournment motion on the matter of damage caused by seepage, due to barrage construction, to the lands and houses of Hindus and Muslims of the Sukkur District.

Mr. Speaker rules as under:-

"The adjournment motion is a procedure to interrupt the normal work of the Assembly. The rule is that such a motion provides an opportunity for members of the House to draw the attention of Government to a matter of recent occurrence which could not be otherwise discussed in the ordinary procedure of the House. It should, besides, be a definite matter and must be of recent occurrence. The loss by seepage is now a year old and is not therefore recent or urgent.

The motion is also not definite. It wishes the House to be adjourned to discuss the damage caused to lands and houses of Hindus and Muhammadans in the villages of the Sukkur district. No specific villages are mentioned, and no definite taluka or sub-division is specified, though I presume the Honourable Member has knowledge of those areas and is in possession of that information in order to enable him to put it definitely in the motion.

Another principle that applies to an adjournment motion is that it cannot anticipate any matter which is the subject matter of a resolution. The Honourble member has himself tabled a resolution on the subject. In view of this, I cannot give my consent to the adjournment motion."

Vol. ll (1937) Book No.3, Page 39-40 (5th August 1937)

8. MISCELLANEOUS (ETIQUETTE): MEMBERS SHOULD ADDRESS THE CHAIR.

On 5th August, 1937, during general discussion on annual budget for the year 1937-38 Mr. Speaker gave following ruling:

"I will not allow this kind of discussion across the table. All the honourable members must address the chair and not the honourable members opposite. They should not address the Treasury Benches in person, but as "Government".

Vol. ll (1937) Book No. 3, Page 49 (5th August 1937).

9. LANGUAGE OF THE HOUSE: LANGUAGE OF THE HOUSE IS ENGLISH: SPEAKER MAY PERMIT A MEMBER UNACQUAINTED WITH ENGLISH TO ADDRESS IN ANY VERNACULAR LANGUAGE:

On 6th August, 1937, a point of order was raised by G.H. Raschen, MLA, on the question of language to be used in the Assembly as required under section 85 of the Government of India Act, the Honourable Speaker was pleased to make the following remarks:

I undertook to make a statement as regards the language question. I have consulted the Honourable the leaders of the parties. I have also consulted even authorities-sources-beyond the Assembly. I have given considerable thought to the whole question. My ruling on the point is this:-

If any honourable member does not know English at all, he can speak in Sindhi. But if any member who knows English well and at the same time cares to speak in Sindhi, it is duty, if called upon by members who do not know any other language except English, to give the purport of his speech in English. It is hoped that the honourable members who know English and speak English well, will, so far as possible, on ordinary occasions, address the House in English and not in any other language. But if a member chooses to speak in Sindhi he will have to give a purport of his speech in English also, if desired by an honourable member who does not know Sindhi. I also wish to inform the Sindhi knowing honourable members that unless they hand over their translations in English, there is no immediate possibility of their speeches being reproduced in the printed proceedings of the Assembly. I have been searching for a Sindh shorthand writer, but I have not succeeded in finding a satisfactory one. The Secretary had employed last time one Sindhi shorthand writer lent by the Police, but his rendering of speeches of the honourable members who spoke in Sindhi was so disgraceful that the honourable members attacked me for the failure and not the shorthand writer. They sent back to me the

renderings in Sindhi sent to them, and I found that there was no semblance of the reproduction in them of the original speech. I agreed with the grievance of the honourable members, because when I saw my own few words spoken in Sindhi on the first day rendered in an un understandable way, I could easily realise that it was not possible for him to reproduce longer Sindhi speeches. I have been trying to discover an efficient Sindhi shorthand writer, but have not been able to find one yet. I do not know whether I will succeed at all. The last experiment I made with a Sindhi shorthand writer was unsuccessful. Honourable members speaking in Sindhi will have to send translations of their speeches in English according to rules, if they are anxious that their speeches should appear in the proceedings. That shall be the present arrangement.

Vol. ll (1937) Book No. 4, Page 47-48 (6th August 1937)

10. BILLS (AMENDMENT): AMENDMENT INVOLVING EXPENDITURE FROM PROVINCIAL REVENUES NOT TO BE MOVED WITHOUT RECOMMENDATION OF THE GOVERNOR:

On 6th August, 1937, The Sindh Famine Relief Fund Bill, 1937 was introduced and moved for first reading, the bill was introduced by the Honourable Mir Bandeh Ali Khan Talpur, Minister for revenue, Govt: of Sindh. Mr. Muhammad Hashim Gazdar, MLA, suggested whether Government would accept an amendment to raise the limit from 12 Lakhs to 15 Lakhs of rupees in the bill. Thereupon Mr. Speaker observed that as the Bill, if amended, will involve expenses from the revenue of the province and it shall not be passed by a chamber of this legislature unless the Governor recommends to the Government the consideration of that Bill.

Vol. ll (1937) Book. No. 4, Page 53, (6th August, 1937)

11. BILLS (AMENDMENT): AMENDMENT FOR DELETION OF WORD CAN BE MOVED NOT EFFECTING THE PRINCIPLE OF THE BILL:

On 6th August, 1937, Mr. Ghanshyam Jethanand, MLA, moved an Amendment in The Sindh Famine Relief Fund Bill, 1937 that the word "serious" should be removed from clause 1 of section 5. Mr. Speaker observed as under:

"The preamble of the bill defines "relief to the necessary". That is the principle of the bill. The seriousness or the degree of seriousness which the Government itself cannot define in particular Language is entirely the function of the executive. Therefore the principle of the bill, by the omission of the word 'serious' from the bill, is not interfered with."

Vol. ll (1937) Book No. 4, page 55 (6th August 1937)

12. QUESTIONS: PARLIAMENTARY SECRETARIES CAN ASK QUESTIONS.

On 6th August, 1937, Mr. Rustomji Khurshedji Sidhwa, MLA, wanted to know whether the Secretaries who belongs to treasury Benches can put a question? Mr. Speaker remarked as Secretaries belonging to Treasury benches can ask questions."

Vol. ll (1937) Book No. 4, Page-33 (6th August 1937)

13. QUESTIONS: GOVERNMENT NOT BOUND TO ANSWER QUESTIONS.

On 6th August, 1937, K.S. Allah Bakhsh Khudadad Khan Gabol, MLA, sought permission to put question. Are the Government not bound to reply? Mr. Speaker ruled as, No, the Parliamentary practice so far is clear. Government are not bound to answer questions.

Vol. ll (1937) Book No. 4, Page-34 (6th August 1937)

14. QUESTIONS: NO MOTIVES TO BE ATTRIBUTED:

On 6th August, 1937, Mr. Muhammad Hashim Gazdar, MLA, sought leave to put a question regarding establishment in public works department and wanted to know whether the motive of the Government in not replying to this question. Thereupon Mr. Speaker remarked: The honourable member cannot attribute motive and he cannot ask the motive of the Government.

Vol. ll (1937) Book No. 4, Page-32 (6th August 1937)

15. MISCELLANEOUS (ETIQUETTE): NEWSPAPER READING NOT ALLOWED.

On 6th August, 1937, Mr. Nihchaldas C. Vazirani, MLA, was seen reading a newspaper. Mr. Issardas Varindmal, MLA, want to knowing from the chair, is newspaper reading allowed in the Assembly? Mr. Speaker ruled as, Newspaper reading is not allowed in the Assembly."

Vol. ll (1937) Book No. 4, Page-59 (6th August 1937)

16. ADJOURNMENT MOTION: TIME TO HAND OVER MOTION TO THE SPEAKER WHEN THE ASSEMBLY IN SESSION.

On 7th August, 1937, Mr. Speaker informed the house that at 5 minutes, to 3, yesterday, the honourable member Pir Illahi Bakhsh came to me and placed in my hands a motion which reads thus:-

"That this House do adjourn to discuss a definite matter of public importance, i.e., partition of Palestine, and place on record their disapproval of the imperialistic policy in the eastern countries and condemn such injustice done to the Arabs." Mr. Speaker ruled as follows:-

"According to the ordinary rules of business, an adjournment motion is to be placed in the hands of the speaker in sufficient time to enable him to consider the matter. I would request the honourable members to deliver any such motion to me in future at least 2 hours before the House, so that I may be in a position to judge whether I can give permission for its introduction."

Vol. ll (1937) Book No. 5, page 27 (7th August 1937)

17. MISCELLANEOUS DEBATE: CATCHING SPEAKER'S EYE.

On 10th August, 1937, during debate on Revision of Assessment in Barrage Area. Khan Saheb Allah Bakhsh Khudadad khan Gabol, rose on a point of order. Are other members going to be shut out? The speaker observed :

"So for as catching my eye is concerned, that is not a matter to be questioned, and in this House it is for the speaker to determine what question is before the House, what light should be thrown on it and by whom. I am trying my best to give an opportunity to every honourable member to speak, and no protest of this kind should be raised, because I am expected to and do safeguard the interests of all the sections of the House."

Vol. ll (1937) Book No. 7, Page 21 (10th August 1937)

18. MISCELLANEOUS DEBATE: RIGHT OF REPLY ONLY BY MINISTER- IN- CHARGE.

On 10th August, 1937, during discussion on Revision of Assessment in Barrage Area. The Honourable Mir Bandehali Khan Talpur, the Revenue Minster, had placed before the House the consideration of the proposals for revision of Assessment in Barrage area. On the question of right of reply, the speaker ruled:

"Since the Honourable Mir Bandehali khan Talpur is the Minister-in-Charge, he will have the right of reply. The Honourable the chief Minister will have to address the House as an ordinary member. He has no right to reply. Any statement he makes will be in the same way as other members of the House do. The Government member is the Honourable Mir Bandehali Khan. If the Honourable Sir Ghulam Hussain wants to speak now, he may do so."

Vol. ll (1937) Book No.7, Page 42 (10th August, 1937)

19. RESOLUTIONS: CONSIDERATION OF GOVERNMENT REPORT OR SOME SUCH MATTER-PROCEDURE REGARDING RESOLUTION.

On 7th August, 1937, Honourable Member Mir Bandehali khan Mir Haji Muhammad Hassan Khan Talpur, moved the Government motion regarding Revision of Land Revenue Assessment in the Barrage area "That the reports of the settlement officers appointed to make proposals for the land revenue assessment rates in the Barrage talukas be taken in to consideration."

Mr. G. M. Syed stood on a point of information. Can we move a amendment to this motion? K. B. Allah Bukhsh Soomro and D. B. Hiranand Khemsingh tabled a definite resolution on the motion. Mr. Speaker said that there are two recommendations before the House one by K. B. Soomro and another by D. B. Khemsingh and I would be glad to hear the views of honourable members on them. After discussion & views by the Several Honourable members Mr. Speaker gave the following ruling on 10th August 1937.

The matter is one for the consideration of the House. There is no definite resolution by the Honourable the Minister for Revenue before us, except that the question of assessment is for consideration nothing substantive. Then on that question we have these substantive propositions, by way of recommendations, which these honourable members have made and moved, and after they were moved, they became the property of the House for consideration. In view of the fact that the Government have laid nothing substantive except that the question is for consideration, these resolution become substantive, and I hold that the movers of those resolutions have a right of reply to which the Government will also be entitled to final reply.

It is impossible for me to accept closure on a subject like this. The honourable leader of the Swaraj party should Know that this is a matter in which nobody should advise me to accept closure. I will sit overtime to finish this question and give opportunity to every member to discuss this matter. I do not think the honourable member is pressing his motion.

Now, coming to the question, it appears to me that there have been three thing which have come up prominently in the course of the discussion, namely, prices, outturn and classification of land. For fixing the prices the Settlement Officers have taken the last 10 years for fixing the average, because if they took 5 years before the last settlement and 5 years after, it would be difficult for them to arrive at a fair average; therefore by combining good and bad years they have brought out the average of prices.

Now, as regards outturn, I would refer to my answer which I had given to a question put by my honourable friend Mr. Ghanshyam. Now if we work on it, it will be seen that the average per acre is 9 maunds, but the Revenue Settlement Officers have fixed it at 8 maunds per acre as the average. Some of our friends contend that the average per acre is only 6 maunds. Now, Sir, I would ask them where this additional cotton came from. As regards classification, a long time ago Mr. Baker had attempted this sort of scheme, but then it did not seem practicable and was therefore abandoned. I may inform you, Sir, that it is not possible and practicable, it may take years, and years, the amount that would be involved would be simply enormous, and I do not think Sind is in a position to bear that burden.

Well, in the end I may say that I am very glad, and I thank the honourable members who have given us their views. Sir, I am a Zamindar myself and my sympathies are with you, and I must assure you that we will give good consideration to the views which have been expressed by the honourable members of this House.

The discussion that has continued for the last 3 days is over now. The Government placed the reports of the settlement Officers before this House for consideration. The honourable Mir Bandeh Ali Khan and the Honourable the Chief Minister have told you that the Government have not formed any opinion as to what is should do, whether to accept the report as a whole or to accept it in part or modify it. Government have invited the opinion “or suggestion” of this House. After having the opinion of this House and after receiving objections and after taking into consideration the discussion of this House final decision will be arrived at. Formerly, it was the general opinion that as the Barrage assessment came under the Governor’s special powers, the Settlement Officers, reports would be accepted

without consulting this House. That question does not arise now, because the Government have given 3 days to the Assembly to express its sense. There are two proposals before this Assembly; one by D. B. Hiranand to reject the Settlement Officer's Reports, and the other by K. B. Allah Bakhsh to revise the rates proposed by the Settlement Officers on the basis stated by him. Both these proposals are not against each other. The honourable member D. B. Hiranand says that prices have increased, that experiments have not been made and the grouping is not proper; whereas the honourbale member K. B. Allah Bakhsh said that there were certain suggestions which Government should consider. I would therefore request the Government members that, if they have formed any opinion on the reports of the settlement officers, they should make that opinion known to this House. If they have not formed any opinion, they should leave that job to the Assembly. I am personally of opinion that these proposals should be placed as a recommendation before the Government. I will take the sense of the Assembly whether it is unanimous in this suggestion or is divided. Since the Government have not formed any opinion, I am of opinion that these proposals should be placed before the Government as a recommendation.

This is not a matter in which I can take votes. I am communicating to the Government the opinion of the House, whether it be unanimous or by a majority, i.e., the general sense of the House. It will not be fair to take votes in this matter.

The Government having formed no opinion on the subject, these resolutions, with all the force behind them, will be placed before the Government as an expression of opinion of the House No voting will be necessary.

The Honourable member must know that there is no obligation upon me, neither on the Government, to bring it as a resolution. The matter was placed before the House for consideration in order to elicit their opinion. It was first intended to obtain an expression of opinion of each honourable member. I wished that expression of opinion should be formulated in the form of a recommendation. The whole question was therefore brought before the House in order to let the House discuss this matter on certain set principles. Those set principles have been discussed in the House. The Government which is constituted not by the presence of the Governor, but by the presence of three Ministers, is fully aware of the

opinions expressed by each honourable member. The Government cannot be blind to the fact that it is the opinion of the House that these recommendations should be adopted. We cannot expect the Government to say at any time that it is not the opinion of an overwhelming majority of the House.

It will be recorded as the expression of opinion of the members present, excepting the honourable member Mr. Jamshed, who has expressed his assent to this report.

The matter is for the consideration of the House and opinions of the honourable members have been expressed. The resolutions of the two honourable members are by way of recommendations on the subject discussed, which have been endorsed by the House, and therefore under the circumstances there is no necessity for voting. The Government having come to no decision, the views of the House were ascertained and therefore the resolutions put forward are by way of mere recommendations, on which discussion was based.

There are no rules which govern this particular matter. In the absence of a procedure formulated, it is in the discretion of the Speaker to lay down the procedure. I have studied all the rules, and I find there are no parallels to guide this particular matter. The original idea of the Government was to get the opinion of individual members of this House. I was not satisfied with that, and therefore informed them that I would be prepared to accept recommendations which may be formulated in the form of recommendations, and it is the formulated recommendations that will new adjourn and be sent to Government.

20. BUDGET: PROCEDURE FOR MOVING OF DEMANDS AND CUT MOTIONS.

On 11th August, 1937, before Government moved the demands for grants the Speaker explained the procedure in this connection and remarked:-

"It is necessary for me to inform the honourable members of the House of the procedure to be adopted when a Government Member makes a demand for grants and the House considers them. The Member of Government who makes the demand explains it and then resumes his seat. Thereafter, items of omissions or reduction will be taken up one by one. In these, motions for omissions come first before motions to reduce the demands.

On the conclusions of the debate, the Speaker puts the question for the whole grant minus reductions and omission, if any,. On cut motions of large amounts out of any head to effect economy, no policy can be discussed. The honourable member must show how the reduction or omission can be effected. In dealing with a particular item of the budget, policy cannot be discussed. If sanction is sought for the establishment of a new post, any honourable member can show that there is no necessity for the creation.

Then there are three kinds of cut motions for small amounts, Re. 1, Rs. 100 and Rs. 1,000 or more. Honourable member can raise a discussion of policy on these cuts. On a motion to cut Re. 1, Rs. 100 or Rs. 1,000 if proposed, it is to ventilate the grievances to be redressed by the Government. On such motions, members can severely criticise the department under discussion and all its officers. The House can discuss the whole question of policy of the Government or the mal-administration of a department or its officers. But the official conduct of a particular officer cannot be discussed on moving a reduction of the votable salary of a particular officer. One rupee cut is considered to be a censure motion. On moving such a motion, the policy of Government can also be criticised. If cuts are made from the whole demand, the policy of the whole department in all its aspects is open for discussion. If it is from a particular sub-head, the policy of administration of that sub-head can come under discussion.

So far as the order in which the items are to be taken up is concerned, I have gone through all the rulings of the President of the Bombay Legislative Council. The principle laid down clearly is that a reduction of a grant as a whole cannot be discussed unless motions for reducing the items are disposed of. First of all, separate items are taken up. The House makes up its mind as to what items should be reduced and which not. Reduction of particular items is first taken up. When all items have been dealt with, the whole demand is proposed. It is then time for ventilating grievances. So the last cut is always a general discussion cut.

That is the practice in the legislative Assembly of India also. A motion for reduction of each item in particular takes precedence to a motion dealing with the whole, the larger reduction coming first.

A cut motion to omit a whole grant is out of order, for it is the negative of a demand and can be discussed and voted for by 'nay' when the speaker, at the end of the debate on each department, puts the question to vote.

The Honourable member Mr. Gazdar drew my attention to the Bombay Council Debates of 1935, in which his cut of Re. 1 was taken up first. I do not find any question raised then and actually decided by the president as to the order in which cuts have to be moved. In other rulings which I have relied upon, the question have been raised and actually decided."

Vol. ll (1937) Book No. 8, Page 31-32 (11th August 1937)

21. BUDGET: CUT MOTION OF ONE RUPEE IS A CENSURE MOTION.

On 11th August, 1937, before discussion on demand for grants Mr. Speaker observed:

"Re-1 cut motion is a censure motion on which the policy and mal-administration of Government can be discussed.

Vol. ll (1937) Book No. 8, Page 31 (11th August 1937)

22. BUDGET: CUT MOTION OF RS. 100 OR 1000.

On 11th August, 1937, when demand for grants will come under discussion Honourable Speaker remarked:

"Government policy can be discussed and grievances ventilated for redress."

Vol. ll (1937) Book No. 8, Page-31 (11th August 1937).

23. BUDGET: DISCUSSION: TIME-LIMIT FOR DISCUSSION.

On 11th August, 1937, K. B. Allah Bakhash Soomro, MLA, a point of order raised regarding the procedure for budget discussion, The Honourable speaker ruled;

'The procedure for the discussion of the budget may take any form, and I am avoiding unnecessary discussion. The budget discussion is without time limit, and I am fixing no time Limit. Honourable members are expected to exercise their common sense and feel that by unnecessary discussion they are excluding other members from speaking. Every member is entitled to speak or suggest what he feels."

Vol. ll (1937) Book No. 8, Page- 46 (11th August 1937)

- [This ruling is based on old rules. Now, New Rule 127 (3) gives power to the Speaker, If he thinks fit, to prescribe time-Limit for Speeches.]

24. BUDGET: CLOSURE: NO CLOSURE WILL BE PERMITTED WHEN DEMAND FOR GRANT IS UNDER DISCUSSION.

On 12th August, 1937, Dr. Popatlal A. Bhoopatkar, MLA, wanted to move for the closure of discussion on Land Revenue-Cut Motion.

Mr. Speaker thereupon observed:-

"No closure can be moved, the time allotted exhausts the discussion automatically."

Vol. ll 1937) Book No. 9, Page-16 (12th August 1937)

25. BUDGET: CUT MOTION OF ONE RUPEE IS A CENSURE MOTION.

On 13th August, 1937, Cut motion as censure motion, the speaker observed:

"The principle about the cut motions is that if you press a cut motion to division and succeed in the division, then it is a censure motion. If you want it only for a discussion it can be allowed. It cannot be a censure motion unless it is passed on a division."

Vol. ll (1937) Book No. 10, Page – 23 (13th August 1937)

26. MISCELLANEOUS (B) DEBATE: SUSPENSION OF DEBATE WHEN NEITHER MINISTER NOR HIS SECRETARY PRESENT IN THE HOUSE.

On 13th August, 1937, during discussion on (Excise) demand for grant, absence of Minister or Parliamentary secretary from the House, thereupon Mr. speaker remarked:

"Either the Honourable the Minister-in-charge or his secretary should be in the house. I suspend the proceedings till one of them returns."

Vol. ll (1937) Book No. 10, Page -35 (13th August 1937)

27. BUDGET: RE. 1 CUT IS A CENSURE MOTION WHEN PRESSED TO A DIVISION, NOT OTHERWISE.

On 14th August, 1937, during discussion on Excise-cut Motions, the Speaker announced:

"In future I request the honourable member, when moving the one rupee cut motion, to make it clear in the beginning that they would demand a division so that the whole discussion might turn on these lines.

Re. 1 cut motion should, in order to make it a censure motion, be so moved as to make it clear at the outset that it would be pressed to a division."

Vol. ll (1937) Book No. 11, Page-46 (14th August 1937)

28. ADJOURNMENT MOTION: OBJECTION TO ADMISSIBILITY OF ADJOURNMENT MOTION-WHETHER REASONS MAY BE GIVEN FOR THE OBJECTION RAISED.

On 16th August, 1937, Mr. G. M. Syed stood up to move an adjournment motion regarding "that this House do adjourn to discuss a matter of urgent public importance, viz., undue interference by the revenue officers, the Collector and two Deputy Collectors of the Dadu District in the affairs of the District Local Board, Dadu, in the unjust, improper and summary removal of the chief officer of the District Local Board, Dadu, from his office."

The Honourable Sir Ghulam Hussain Hidayatullah raised the objection. Thereupon, Mr. Speaker observed:

"Ordinarily, I might prevent any member objecting from giving his reasons. The Honourable the leader of the House has placed in my hands a ruling of the Bombay Legislative Council, since I allowed the motion about the police, according to which the member who objects may briefly give the reasons of his objection. If the Honourable Minister wishes to make any statement of his reasons for objecting, briefly, I will consider the same before I give my consent or put the question to the House."

Vol. ll (1937) Book No. 12, Page-17 (16th August 1937)

29. ADJOURNMENT MOTION: DISCUSSION CAN TAKE PLACE WHILE OBJECTING TO THE CONSENT OF THE SPEAKER BEING GIVEN. OMISSION OF WORD "PUBLIC" WILL NOT MATTER IF THE MATTER IS OTHERWISE PUBLIC. INTERFERENCE OF GOVERNMENT OFFICERS IN THE DISTRICT LOCAL BOARD AFFAIRS IS A MATTER OF PUBLIC IMPORTANCE.

On 16th August, 1937, Mr. G. M. Syed gave notice of an adjournment motion on a matter of interference by Government servants in the Local Board affairs.

While objecting to the consent of the speaker being given, the Honourable Sir Ghulam Hussain, Leader of the House, contended that the Chair could not give consent on the following ground:-

(i) That the matter was not a public one as the word "public' did not appear in the motion.
(ii) That the matter was of an individual nature and not of public importance as an individual officer of the Local Board was dismissed.
(iii) That a resolution on the point could have been moved.

The Speaker ruled:-

"I have heard the Government Member on the motion before me. After having given full opportunity to the Honourable the Leader of the House and the Advocate-General, I may state that I give my consent to the motion being moved. I shall give my reasons for giving this permission, so that it may be a guide hereafter both for the honourable members and the members of the Government. It is necessary to give the history of this motion. The honourbale member Mr. G. M. Sayed handed over to me at about 2-10 p.m. on Saturday, the 14th August, a written statement of the

following motion in order to obtain my consent to the motion, which is as follows:-

"This House do adjourn to discuss a matter of urgent importance, namely, the undue interference of the Revenue officers, the Collector and the two Deputy Collectors of Dadu district in the affairs of the District Local Board, Dadu, which has resulted in unjust, improper and summary removal of the Chief Officer of the District Local Board, Dadu, from his office."

The House sat on Saturday at 10 a.m. and rose at 2 p.m. The House could not, therefore, adjourn to 4 p.m. that day as required by the rules, even if I and the House gave the requisite leave. In my view which is supported by two rulings of the Bombay Legislative Council, the honourable member should ask for leave to move it when both sides, he and the Government, are ready. I, therefore, sent a copy to the Honourable the Chief Minister on receipt by me of the above motion. The earliest date on which the honourable member could obtain my leave was to-day, the 16th August. The honourable member has sought my consent to it as required by Standing Order Vll, Rule 1. I am aware that no discussion can take place on an objection being taken or an enquiry as to whether the leave of the Assembly should be granted or not. But as the Honourable the leader of the House has brought to my notice an adjournment motion in the Bombay legislative Council in which the Government objected and was permitted to give briefly their reasons therefore, I have permitted the Honourable the Leader of the House to do so before asking the honourable members to rise in their places. I have also heard the honourable the advocate-General of Sind on this matter. I give my consent to the proposed motion. Before doing so, I have considered the possible view that the removal of the chief officer was entirely the function and act of the District Local Board. But it is not that act, that is sought to be brought under discussion. The main grievance lies in the alleged interference of Government District officers. The object of such a motion is

to call the attention of the House to some serious matter which has just taken place on the 8th and to give an opportunity to the Government to explain the alleged conduct of its officers. From that aspect it is a matter of public importance. Through the word 'public' seems to have been omitted in the motion, I condone the absence of that word, because the wording of the motion is very clear to make it a public matter: I hold that it is a matter or public importance. The incident is said to have taken place on the 8th August. It is definite. It is recent. The motion fulfils all the requirements of Rule 1 of standing Order Vll. As regards its being brought up before the House by a Resolution, I may state that 7th August was the last day on which I could accept resolutions. From 9th to 23rd August when resolutions are fixed to be moved, 8th being Sunday, there are only 13 days. The word 'clear' excludes from calculations both the 9th and 23rd. Therefore, excluding the 9th and 23rd and interpreting the word 'clear' according to legal interpretation, there remain only 13 days, not 15 days which is the requisite number of days required to given notice of a resolution. I have therefore given my consent to the honourable member Mr. G. M. Sayed's adjournment motion being brought before the Assembly. I shall ask the honourable members to rise in their places."

Vol.ll (1937) Book No. 12, Page. 19-20 (16th August 1937)

30. ADJOURNMENT MOTION: OMISSION OF THE WORD "PUBLIC" IN THE MOTION.

On 16th August, 1937, Mr. Speaker took up adjournment motion tabled by Mr. G. M. Syed and observed that omission of the word "public" in an adjournment motion is condoned if the wording of the motion is clear to make it a public matter."

Vol. ll (1937) Book No. 12, Page -20 (16th August 1937)

31 PRIVILEGE: PRIVILEGES OF MEMBER – HOW FAR CAN A MEMBER DEFAME AN OFFICER IN THE HOUSE.

On 16th August, 1937, an adjournment motion was being discussed in the House Mr. G.M. Syed made certain vague allegations and defamed the officers connected with the matter to which the Honourable Sir Ghulam Hussain objected. The Speaker remarked:-

"The Honourable the chief Minister must remember that absolute power is given to honourable members within this House to say what they like, even to defame any one on the floor of the House. But if an honourable defames anybody outside, he is liable for prosecution. Any statements made in the House cannot make an honourable member Liable for defamation. It is entirely for him to say what he wants to say."

Vol. ll(1937) Book No. 12, Page -39 (16th August 1937).

32. CLOSURE: REQUEST IS NOT TO BE ACCEPTED UNTIL THE RIGHT OF REASONABLE DEBATE HAS BEEN EXERCISED.

While an adjournment motion was being discussed in the House Mr. G.M. Syed rose to move for a closure on the ground that many speakers from all the parties had spoken on the debate.

The Speaker ruled:-

"I have already told the honourable members not to unnecessarily indulge themselves in talking. My business as Speaker is this. If at any time after a motion has been made, a member requests me to put the question and unless it appears to me that the requests is an abuse of the rules of the Assembly or an infringement of the rights of reasonable debate, after allowing such right of reply as I shall deem necessary, I shall have to put the question. Naturally I have to form my opinion as to whether the rights of reasonable debate in a matter of this kind have been exercised. It is not the Speaker's function to help one party or the other. If an honourable member moves for closure within two hours of the discussion very rarely the closure is accepted unless the members begin to repeat their arguments. In a case of this kind, Specially when there has been no repetition and when members of the House have attacked a Collector and Deputy Collector, I think the honourable member can see the relevancy of the whole question that not only is the Speaker bound to agree with what they wish to put down but that has to be the procedure to be followed in each case when members continue to rise."

Vol. ll (1937) Book No.12, Page- 52 (16th August 1937).

33. ADJOURNMENT MOTION: SUBJUDICE MATTERS: RULED THE MOTION OUT OF ORDER.

On 17th August, 1937, Mr. Ghanshyam Jethanand, MLA, gave notice of adjournment motion regarding a motion of adjournment of the business for the purpose of discussing a definite matter of urgent public importance, that is to say, the recent occurrence in Mithi, Tharparkar District, where policemen and their accomplices during the investigation in a case of theft, are alleged to have tortured 3 male sweepers and outraged the modesty of female sweepers by forcibly making them absolutely naked and committing rape on two of them.
The Speaker ruled:

"The Honourable Member handed over to me with the motion a cutting from "Hindu", dated 13th August 1937, and informed me that the victims of the alleged beating had sent a petition to the District Magistrate and that no reply to that petition had been received. He informed me to-day that it had been forwarded to the Sub-Divisional Magistrate who has taken statements. Obviously in that case until the application is disposed of, the matter becomes sub-judice, that is to say, a matter in which a judicial decision is pending. The motion, as worded, seeks to discuss the alleged high handed action of the police and their torture. In other words, it seeks to go into the merits of the allegations and therefore raises a question which is now pending before the Sub-Divisional magistrate of Tharparkar. The matter, being sub-judice, would prevent the merits of the case being discussed.

The Honourable Member drew my attention to rule 12, page 6 of the Rules, where the matter being sub-judice is not indicated as one of the restrictions upon the powers of an Honourable Member to move a motion of adjournment.

But it is a recognised practice of all the legislative Assemblies, including the Legislative Assembly of India and the Parliament, that sub-judice matters cannot be discussed. Though there is no express restriction in rule 12, Standing Order V, rule 7, clause (2) makes this clear by the use of the following words:-

"A member while speaking must not refer to any matter of fact on which a judicial decision is pending."

The effect of this provision is that even if I give permission now, as, on the motion moved, the Honourable Member will state that a petition is pending before the Sub-Divisional Magistrate. I shall have to stop any reference to his or by any other Honourable Member to the matter which forms the subject matter of inquiry before the District Magistrate. In other words, the proceedings will be at the very outset infructuous. In view of this, I am not able at present to give my consent. But this does not prevent the Honourable Member from repeating his motion, if he is disposed, after the matter pending before the District Magistrate is terminated. In my opinion it casts a duty on the Government to expedite the quick disposal of the matter by the District or Sub-Divisional Magistrate of Tharparkar before whom it is said to be pending. Under these circumstances, I disallow the motion."

Vol.ll (1937) Book No. 5, Page-21 (17th August 1937)

(Note :- Rule framed by the Assembly in 1939 however make a specific provision in sub-rule (V) of rule 110 that the motion shall not deal with any matter which is under adjudication by a court of law having jurisdiction in any part of His Majesty's dominions or which might prejudice a pending trial.)

34. BUDGET: GOVERNOR'S ALLOWANCE-DISCUSSION OF-

On 18th August, 1937, during discussion on demand for grant on General administration Dr. Popatlal A. Bhoopatkar, MLA, said that Now, Sir, I come to my own subject of the budget. Rupees three Lakhs are being spent on the Governor's expenses, including his salary and various other allowances.

On the contract allowances of His Excellency the Governor, I find Rs. 71,000 have been provided, whereas, Sir, under the schedule lV of the orders of council only a maximum amount of Rs. 59,000 is provided. I submit there being an excess provision of Rs. 12,000, this item which is otherwise not the subject matter of debate under the sections of Government of India Act, becomes debatable, the Speaker observed that "So far as the Governor's allowances are concerned, even if they exceed the amount provided under the order in Council, you cannot discuss it. If you like, go to a court of Law and say it is illegal, but so far as this House is concerned I am bound by the provisions of section 79 (1) of the Government of India Act."

Vol. ll (1937) Book No. 14. Page-29 (18th August 1937).

35. BUDGET: GOVERNMENT HOUSE GARDENS- DISCUSSION ON ITEM OF-

On 18th August, 1937, during discussion on demand for grant on General Administration K.B.M.A. Khuhro said Rs: 6000 are provided for maintenance of Government House gardens as a lump Sum, the speaker observed:

"If the Honourable Members wishes to speak on the item of Rs. 6000 which is for maintenance of Government House gardens, he may do so, but within certain limits to show how the expenditure is unauthorised."

Vol. ll (1937) Book No. 14, Page- 42 (18th August 1937).

36. GENERAL (GOVERNOR): BUDGET: GOVERNOR'S ALLOWANCES DISCUSSION OF-

On 18th August, 1937, during discussion on demand for grant on General Administration, Dr. Popatal A. Bhoopatkar, MLA, was speaking on budget. Rupees three lakhs are being spent on the Governor's expenses, including his salary and various other allowances, K.B. Allah Bakhsh Soomro, MLA, expressed the view that Sir may I understand that you are holding that even if you find that the provision in the budget exceeds the maximum provided by the order in council, still we cannot discuss. Thereupon the speaker observed:

'So for as the Governor's allowances are concerned, even if they exceed the amount provided under the order in council, you cannot discuss it. If you like, you may go to a court of law and say it is illegal, but so far as this House is concerned. I am bound by the provisions of section 79 (1) of the Government of India Act.

Vol. ll (1937) Book No. 14, Page -29 (18th August 1937)

37. PRIVILEGES: NO ASPERSION ON THE CONDUCT OF THE CHAIR WILL BE ALLOWED: LEGITIMATE CRITICISM OF THE SPEAKER'S RULING IS PERMISSIBLE. BUT THERE SHOULD BE NO ASPERSIONS CAST ON THE IMPARTIALITY OF THE CHAIR:

"The Speaker on the 16th August 1937 allowed an adjournment motion on a matter of interference by the Government Officers in the affairs of the District Local Board and allowed the motion to be talked out on the ground that the rights of reasonable debate had not been exercised. The 'Sind Observer' in its issue of 18th August made certain remarks on the ruling of the Speaker. On 19th August the Speaker observed:

"The attention of the Speaker has been drawn to a letter in the 'Sind Observer's' issue of 18th August, signed by Hiranand Khemsing, presumably the honourable member of this House. In this letter there is no doubt there are statements that convey insinuations of partiality against the Chair and publication of such insinuation is a grave breach of the privilege of the House. The Press must know that no suggestion of partiality, however remote, directed against the Chair, will be tolerated. At the same time the Press is fully entitled to criticise the conduct of the Chair without casting aspersions or suggesting any reflection on his impartiality. The Speaker must guard and maintain his reputation and he cannot do so if he allows such suggestions or insinuation to pass unnoticed.

This letter by containing the expressions 'No Speaker who permits the debate to go on to the last minute after the division is demanded is worth his name' and 'his action on Monday is liable to be construed in a manner which is rather painful to contemplate' certainly contains insinuation which are reprehensible. It pains me still further that it should be a member of this Honourable House who should have committed this breach of privilege by commenting upon the Speaker's conduct in the Chair in a newspaper.

In the House of Parliament such aspersions have been considered to be a serious breach of privilege and severely dealt with by the House and have been always condemned by the House.

It lay within my jurisdiction to take action against the paper by cancelling the pass permission to occupy the press gallery-- but as this is the first occasion on which this breach has been committed, I do not intend to take any severe action against the paper; but at the same time I give a warning that repetition of such breach will have to be severely dealt with by me. I mention this matter in the House, because it is a breach of privilege of the House and I expect that every member in the House will co-operate with me in maintaining the prestige of the House.

Legitimate criticism of the Speaker's ruling is allowed. But it should not cast aspersions upon the impartiality of the Chair. Such aspersions are not legitimate comments. They are legitimate comments so long as they do not throw aspersion on the conduct of the Chair".

Vol. ll (1937) Book No.15, Page-3-4(19th August 1937)

38. MISCELLANEOUS (ETIQUETTE): QUOTATIONS FROM NEWSPAPERS NOT ALLOWED.

On 19th August, 1937, when demand for grant General Administration under discussion Dr. Heman R. Wadhwani, MLA, quoted some arguments from "Sindh Observer" newspaper. Mr. Speaker ruled:

"Newspaper quotations are not allowed in Assembly."

Vol. ll (1937) Book No. 15, Page-23 (19th August 1937)

39. MISCELLANEOUS (ETIQUETTE) : UNPARLIAMENTARY EXPRESSIONS NOT TO BE USED.

On 19th August, 1937, during the general discussion on Budget-demand for grant-General Administration – a member used the word "false" for a minister. The Speaker declared "False" is absolutely unparliamentary word and should not be used.

Vol. ll (1937) Book No. 15, Page-41 (19th August 1937).

40. QUESTIONS: MEMBERS NOT LIABLE IN RESPECT OF QUESTIONS OF DEFAMATORY NATURE.

On 20th August, 1937, during the question hour, Mr. G.H.Raschen, MLA, raised a point by whish he wanted to know whether it was in conformity with the dignity of the House to put ceaseless questions of a defamatory nature in respect of an officer who was unable to defend himself.

The Speaker ruled:-

"I do not know. A point of order has been raised and I must express my regret at the large number of questions that have been asked. At the same time I may state that fortunately or unfortunately honourable members here can ask any number of questions, even defamatory, because they are not in any way liable for the questions they ask. As long as I do not hold any question as irrelevant, the honourable members can ask any number of questions, but I will appeal to the honourable members themselves to see the time of the House is utilised in asking questions which they expect the Honourable Minister to know and not those questions which by no stretch of imagination can the Honourable Minister, on the super of the moment, answer on the floor of the House. That is my request to the honourable members."

Vol. ll (1937) Book No. 16, Page-24 (20th August 1937)

41. BILLS: BILLS - PROCEDURE FOR INTRODUCING BILLS.

On 20th August, 1937, Mr. Speaker proposed that the procedure for asking leave to introduce a Bill is that on the motion for leave to introduce a bill, the mover may make a brief explanatory statement. If the motion is opposed, the Speaker may permit a brief explanatory statement from the member who opposes, and a brief reply from the mover. He may then without further debate put the question thereon. If the leave to introduce the bill is granted, the number who gave notice of the motion shall forthwith introduce the bill.

Vol. ll (1937) Book No. 16, Page 28 (20th August 1937)

42. BILLS: CONVENTION : NO LEAVE TO BE REFUSED FOR INTRODUCTION OF A BILL.

On 20th August, 1937, Mr. M.H. Gazdar sought leave to introduce a bill to amend the law relating to alienation of land in Sindh, the Speaker observed: "The practice is not to refuse leave to introduce a bill."

Vol. ll (1937) Book No. 16, Page -32 (20th August 1937)

43. RESOLUTIONS: ISSUES RAISED IN RESOLUTION: TWO DISTINCT ISSUES SHOULD NOT BE RAISED IN ONE RESOLUTION.

On 23rd August, 1937, K.S. Pir Rasul Bakhsh Shah Mehbub Shah, MLA, had given notice of resolution on "in view of recent interest shown by His Excellency the viceroy in the cattle improvement, this Assembly recommends to the Government that grazing fees for cattle be abolished from the forest as well as from Revenue areas."

The Honourable sir Ghulam Hussain Hidayatullayh, leader of the House, objected to the resolution being taken up on the ground that this resolution raises two issues: one is grazing fees from forests, and the other is grazing fees from revenue areas. Standing order x clearly lays down that every resolution ought to raise one definite issue only. The Speaker ruled:-

" It is for me to decide. The Honourble the chief Minister has raised an objection that there are two definite matters included in this resolution, namely, grazing fees for cattle form for forests as well as grazing fees from revenue areas which the honourable members Mr. Rasul Bakhsh Shah recommends should be abolished. When admitting the resolution, I had considered the matter carefully. I may add that I have amended many resolutions of that kind. When this resolution was before me, I took it, and still consider it, to be one definite matter, and that is, the remission of grazing fees, though it may be in different areas. I therefore, rule that the resolution contains one definite matter and that it may be proceeded with.

Vol.ll (1937) Book No. 17, Pages 47-48 (23rd August 1937).

44: RESOLUTIONS: PROCEDURE REGARDING MOVING OF RESOLUTION STANDING IN THE NAME OF SEVERAL MEMBERS.

On 23rd August, 1937, The Honourable the Speaker gave the following ruling on procedure regarding moving resolution.

"The procedure as regards resolutions in this. There may be more than one honorable member who has given notice of the same kind of resolution. Taking as an illustration, the resolution as regards the Government bringing legislation for the purpose of members receiving salaries and allowances, over 5 to 6 honorable members have given notice of this resolution. If one such resolution is moved by an honorable member, that resolution cannot be moved by others who follow because the resolution has been once considered. They certainly can discuss it during the pendency of the one moved but cannot move it again.

The Second point is that those honorable members, Whose first resolution has been moved by another honorable member previously, will be entitled to move their second resolution on the list.

I had requested the honorable members to send the order of precedence about the resolutions standing in their name, and the order of precedence has been fixed accordingly. In response to my request some honorable members did send their replies and so the resolutions appear according to that order. It is unfortunate that the some members did not do so, and so the resolutions are arranged according to the members."

Vol. ll (1937) Book No.17, Pages 23-24 (23rd August 1937).

45: RESOLUTIONS: NO NOTICE OF AMENDMENT TO A RESOLUTION IS NECESSARY.

On 23rd August, 1937, Mr. Jamshed N.R. Mehta, MLA, moved a resolution to appoint, at an early date, a committee with a non-official Chairman, expert in co-operation, from outside Sindh. K.B. Ghulam Nabi Shah, MLA, opposed Mr. Jamshed's proposal as I find it is detrimental to the co-operator's interest. Mr. Nihchaldas C. Vazirani, MLA, wanted little modification.

Mr. Speaker gave the following ruling amendments to resolutions:-

"Honorable members may want to know the rules as regards amendments to resolutions. No notice of amendment to a resolution is necessary. But if Honourable Member for Government wants notice after an amendment moved, then the Speaker has no other option but to postpone it to the next day. If he does not object, then no notice is necessary under rule 7, Page 36.

Vol. ll(1937) Book No.17, Page. 33 (23rd August 1937).

46: RESOLUTIONS: SHOULD CONTAIN ONE DEFINITE ISSUE TWO ISSUES CAPABLE OF BEING COMBINED IN ONE BILL CANNOT FORM SUBJECT MATTER OF ONE RESOLUTION.

On 24th August, 1937, K.S. Pir Rasul Bakhsh Mehbub Shah, MLA, and 9 others had given notice of a resolution asking Government to bring a Bill for determining salaries and allowances of the Members of the Assembly and to define their privileges under section 71 and 72 of the Government of India Act 1935.

The Honorable Sir Ghulam Hussain Hidayatullah, leader of the House, objected to the resolution being taken up on the ground that it contained more than one definite issues. The Speaker ruled:-

"A point of order has been raised by the Honourable the Chief Minister that the resolution standing in the name of the honourable member Khan Sahib Rasul Bakhsh Shah and 9 others asks the Government to bring in a bill fixing salaries, travelling and daily allowances to which the honourable members are entitled under section 72 of the Act; and, secondly to define privileges of the honourable members under section 71 of the Government of India Act. The Honourable the Chief Minister raises a point of order, that the resolution does not contain one definite issue but contains two definite issues.

I have read sections 71 and 72 of the Government of India Act. They are distinct section; so are the privileges distinct from salaries and allowances. They are not cognate subjects. The fact that one Bill may include both the subjects does not enable a member to bring two in one resolution. I hold that there are two distinct issues. I will therefore permit the honourable members to elect either one or the other part, whichever they choose, and the discussion to proceed on that subject."

Vol.ll (1937) Book No. 18, Pages, 45-46 (24th August 1937)

47: RESOLUTIONS: PROCEDURE REGARDING MOVING OF RESOLUTION STANDING IN THE NAME OF SEVERAL MEMBERS.

On 24th August, 1937, Mr. Nihchaldas C. Vazirani, MLA, raised a point of order that several honourable members have tabled the resolution May I know, Sir, if one honourable member can choose one part and the other honourable member another part? Thereupon Mr. Speaker ruled.

"Option to move one or the other part of a resolution standing in the names of several members containing more issues than one is given to the mover of the resolution."

Vol. ll (1937) Book No. 18, Page, 46 (24th August 1937)

48: RESOLUTIONS: MOVING OF SUBSEQUENT RESOLUTION IN PREFERENCE TO A PRIOR ONE.

On 25th August, 1937, It was pointed out to the chair that the resolution by K.B. Ghulam Nabi Shah, MLA, about Rassai and Lappo Committee. The Honourable member asked me whether, if he did not move this resolution, he would be permitted to move the other resolution instead. Mr. Speaker, thereupon observed:

Some honourable members have enquired from me in my chambers if they can abandon the 1st resolution standing in their name on the Agenda and proceed to move the one standing next or even lower in the list.

I explained on the 23rd to the House as regards the order and procedure in which resolutions could be moved. If one is moved by one honourable member, other honourable members who have given notice of a resolution of the same or similar kind can discuss it during the pendency of the first, but cannot move it. If the first resolution of these last honourable members is thus disposed of, they are entitled to move the 2nd on the list.

But in any other case, if any honourable member wishes to abandon the prior one standing in his name, which he has the right to move, and wishes to move a subsequent one, then he cannot be permitted to do so, without obtaining the consent of the Government Member concerned, for members on Government Benches are entitled to know in sufficient time that a particular resolution is to be moved. It is after that, that the consent of the Speaker is to be obtained.

The matter was so decided in the Bombay Legislative Council in 1929 (Vol. 26. p. 1446).

(Dose the honourable member K. B. Ghulam Nabi Shah want to move his first resolution? Chair asked from the mover of the Resolution and mover was agreed to move the first Resolution.)

Vol.ll (1937) Book No. 19. Page, 68 (25th August 1937).

49. DEBATE: REGULATING OF DEBATE ON RESOLUTION.

On 25th August, 1937, khan Bahadur Syed Ghulam Nabi Shah, MLA, gave the notice of Resolution to appoint a committee of Seven members of this House on Rasai, Lapo and Bribery committee. When discussion resumed 26th August, 1937, on the Resolution Dr. Popatlal A. Bhoopatkar, MLA, rise to a point of order, the point of order in connection with the regulation of the proceedings that are before this Honourable House. The Government have already appointed a committee on Rasai, Lapo and Bribery. I cannot understand what will be the function of that committee if the House wishes to discuss the present resolution I am one with the honourable members in their desire to discuss the subject here. If the Committee already appointed is also to function. I am unable to reconcile the proceedings on which we are devoting our time, Thereupon the Speaker observed:

"I am unable to commit myself to anything except that it is my duty to regulate discussion, not to stop it. That is my duty. I won't go any further. I have only to see whether the discussion is relevant or not. If it is relevant. It is entirely left to common sense, to the good sense, of the House to shorten or Lengthen the discussion. I am not prepared to stifle discussion on any account because I feel that the subject requires little discussion. My own feeling does not come in the matter. It is entirely left to the House whether to lengthen or shorten the discussion. My power is in respect of accepting the closure. Even in accepting the closure, I do not want to exclude discussion simply because the matter is before another Committee."

Vol. ll (1937) Book No. 20, Page-35 (26th August 1937)

50: POINT OF ORDER: IF MEMBER WANTS WITHDRAW HIS RESOLUTION, CHAIR HAS NO POWER TO REFUSE: IT PUT BEFORE THE HOUSE: IF HOUSE AGREES BY A MAJORITY THEN WITHDRAW HIS RESOLUTION:

On 26th August, 1937, Shiakh Abdul Majid rising on a point of order stated that in matters in which a resolution or any question has to be withdrawn by the leave of the Honourable House and if there is any single member who does not agree to the withdrawal, the resolution has not be withdrawn. As far as I know, when the whole House agrees to the withdrawal of a certain matter, then that matter has to be withdrawn; otherwise it has to be discussed. The chair thereupon observed as follows:

"He has placed a point of order before me and unless I call upon any one, no one can reply. Discipline must be maintained. It is the duty of the speaker to decide a point of order. If any member wants to withdraw his own resolution, it is not in my power to refuse it. I have to put it before the House and if the House agrees by a majority, then he can withdraw his resolution. The procedure is correct."

Vol. ll (1937) Book No. 20, Page, 38 (26th August 1937).

51. QUESTIONS: GOVERNMENT NOT BOUND TO ANSWER QUESTIONS IF THEY CLAIM NOTICE.

On 27th August, 1937, Mr. M.H.Gazdar, MLA, put a supplementary question regarding Regulator on Dhoro Naro-water supply to lands. He also asked the Minister concerned the length of this Dhoro Naro-water supply to lands between Paksiri and Farish. Minister wanted notice. Thereupon Mr. Speaker observed that If the Minister claims notice , I cannot compel him to give a reply.

Vol-ll (1937) Book No. 21, Page-10 (27th August 1937)

52. ADJOURNMENT MOTION: MOTION FOR DISCUSSING THE ACTION OF GOVERNOR, AND NOT OF GOVERNMENT, CANNOT BE ADMITTED: DISSATISFACTION WITH GOVERNOR'S RULE UNDER SECTION 84 OF THE GOVERNMENT OF INDIA ACT CANNOT BE EXPRESSED THROUGH AN ADJOURNMENT MOTION BUT BY A REPRESENTATION THROUGH THE SPEAKER:

On 30th August, 1937, An Adjournment motion for the adjournment of the Assembly tabled by Mr. R.K.Sidhwa, MLA, on the matter of Governor rule for the conduct of the Assembly Viz:- "Framing and Publication in the Sindh Government Gazette of 26th August 1937 of Governor's Rules of legislative Assembly of Sindh which are not in the interests of the satisfactory business by the Assembly on such an important subject as the budget." Mr. Speaker thereupon observed:

According to section 84 of the Government of India Act, the Governor in his individual capacity has to frame certain rules for the Assembly in consultation with Speaker. There are other rules which this House has to frame for which a special Committee has been appointed and has been elected by the House and it will sit to frame those rules within three months. Thus, according to section 84 of the Government of India Act there is a distinct system of framing rules:

(i) by the Governor individually, that is to say, in his individual capacity to frame certain rules in his discretion; and
(ii) rules which are to be framed by this Assembly.

The Governor has published the rules in the Sind Government Gazette. These rules he has framed for the conduct of the Assembly under section 84 of the Act. They are in his individual capacity and, as such, he is not controlled by the Assembly.

There is a qualification in the section, and that is that he has to frame the rules in consultation with the speaker. Now if there is any dissatisfaction with those rules, the only method to approach the Governor is through the speaker. If there is any inconvenience caused by the rules, or there is any difference of opinion or any thing that may serve to give more convenience to this House, I am perfectly sure, if any suggestion is made to him, properly, the Governor is always disposed to consider it, (hear, hear), as far as possible, for the benefit of the Assembly. But so far as the adjournment motion is concerned, rule 22 appearing at page 11 of the Rules, makes it very clear that the Governor, acting in his discretion, may at any time, before a resolution is moved, inform the Speaker that he disallows the

resolution or any part of the resolution on the ground that it relates to or affects the discharge of any of the functions of the Governor in so far as he is by or under the Act required to act in his discretion or exercise his individual judgment, and if he does so, the resolution or part of the resolution shall not be placed on the List of Business, or if it has been placed on the List of Business, It shall not be moved. That is to say, so far as any matter in which the Governor acts in his individual capacity, that matter is not cognisable for discussion before this Assembly.

Then, so far as adjournment motions are concerned, rule 12 appearing at page 6 of the Rules makes it clear that the right to move the adjournment of the Assembly for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions; the last restriction No. (v) states that the motion must not deal with a matter on which a resolution could not be moved. Now, on this matter a resolution could not be moved and therefore an adjournment motion too cannot be moved. Therefore, while sympathising with the honourable member, Mr. Sidhwa, who has given me notice of this motion, I am showing him the way in which to approach the Governor, because after all in the framing of these rules; according to section 84 of the Act, the Speaker has to be consulted. The speaker no doubt has been consulted. But if there is any further inconvenience or any further representation to be made, it should be made through the speaker who is the elected head of this Assembly and I am sure that it will receive due consideration from His Excellency.

But so far as the adjournment motion is concerned, we can only discuss the action of the Government: but here the action of the Governor is sought to be discussed. The Government itself has nothing to do with this matter. According to rule 12, such an adjournment motion cannot be moved. On that ground alone, without going into the merits of the inconvenience, I cannot admit this motion.

Vol-ll (1937) Book No. 22, Page-29-31 (30th August 1937).

53. QUESTIONS: SPEAKER SOLE AUTHORITY TO JUDGE MERITS OF QUESTION.

On 1st September, 1937, Mr. R.K. Sidhwa, MLA, asked the question regarding Karachi Brothels Segregation and further asked a supplementary question is it a fact that the Karachi Municipality wanted the removal of these brothels from the Napier Road to the other places in the city of Karachi, absolute removal as opposed to segregation. The honourable Sir Ghulam Hussain Hidayatullah (Chief Minister) answered, the question is being considered,. We cannot specify the stage. Minister Concerned (Syed Miran Muhammad Shah) said If Member gives me notice, I will tell him exactly how the matter stands. Chief Minister further said In the first place it is an absurd question. Mr. speaker with the following observation.

"Merits of a question are to be judged solely by the Speaker."

VoI. II (1937) Book No. 24, Page -38 (1st September 1937).

54. AGENDA: IF NOT MOVED WILL REMAIN ON THE AGENDA, BUT IF WITHDRAWN WILL BE REMOVED FROM THE AGENDA.

On 1st September, 1937, Bill No. Vl of 1937 (A Bill to amend Bombay Irrigation Act of 1897) was to be duly moved in the House by Honourable Mukhi Gobindram Pritamdas, Minister-in-charge of the Bill for the first reading. He stated that he did not propose to move the Bill. Some member wanted to known whether the Bill was not moved or withdrawn.

Mr. Speaker remarked:-

"If the Government or any member does not want to move a Bill, it will remain on the Agenda till the Government or any other member moves it. Otherwise it cannot be considered in the House. If any other bill is brought amending this Bill, that will be published in the Sindh Government Gazette and after it is published, according to Rule 13 after the original Bill is withdrawn, they can move the Latter Bill."

VoI. II (1937) Book No. 24, Page 44-45 (1st September 1937).

55. WITHDRAWAL OF CANDIDATURE: ONCE A PROPOSAL IS BEFORE THE HOUSE, IT IS PROPERTY OF THE HOUSE. CHAIR LEAVE THE MATTER ENTIRELY TO THE HOUSE FOR THEIR DECISION.

On 26th February, 1938, Mr. Dialmal Doulatram, MLA, was the candidate for the election of Speakership and his name was proposed by the Honourable Member Mr. Nihchaldas C. Vazirani and seconded by the Honourable Member Mr. R.S. Gokaldas, Mewaldas, MLA,

Mr. Dialmal Doulatram found that the election of the Honourable Speaker is being decided to-day on communal basis. Mr. Doulatram presented application for withdrawal of my candidature. Sir Ghulam Hussain Hidayatullah, Chief Minister Sindh, said some words as I think the Honourable Member has made un warranted aspersion. We have a candidate here before us who can hold his own against any one in the House. It was my honourable friends, the congress members, who were standing for merit. Here is merit. Can any body come up to the standard of our candidate? He knows Law and has experience of legislative work. Where is the point in now bringing forward the communal bogey? I may point out that the honourable member cannot withdraw his candidature at this stage. It is illegal. I am surprised that the honourable member who wanted to occupy the Speaker's chair does not Know the elementary procedure that a candidate set up for Speakership cannot withdraw.

Mr. H.S. Pamnani, MLA, pointed out that leader of the House said that the honourable member Mr. Dialmal cannot withdraw but the rule and the authority by which he can do so there is a precedent in this House: On the Last occasion of the Honourable Speaker there was a withdrawal by a candidate. (VoL. 1, Pages 60, dated 28th April, 1937). After hearing from both the sides. Mr. Deputy Speaker gave the following ruling.

" The Honourable Member Mr. M.H. Pamnani has not pointed out to me the rule or the clause under Which the withdrawal is permissible, and I think, as a senior member of the Karachi Municipal Corporation, Dr. PopatLal should know that once a proposal is before the House, it is the property of the House. I shall have, therefore, to leave the matter entirely to the House for their decision. It they allow honourable member Mr. Dialmal to withdraw, let them do so. If they refuse, let them do so too. That is my ruling,."

Leave to withdraw of candidature of speakership not granted by the House.

Vol. lll (1938) Book No. 2, Page-5 (26th February 1938).

56. DISQUALIFICATION: SUCH DISQUALIFICATION SHALL NOT TAKE EFFECT UNTIL THE EXPIRATION OF ONE MONTH FROM THE DATE BY WHICH THE RETURN OUGHT TO HAVE BEEN LODGED. SPEAKER IS BOUND BY THE DECISION OF GOVERNOR. NEITHER THE SPEAKER NOR THIS HOUSE HAS THE POWER TO DECLARE K.B. KHUHRO'S SEAT TO BE VACANT.

On 26th February 1938, Mr. Ghanshyam Jethanand, MLA, raised a point of order and referred to section 68 and 69 of the Government of India Act in connection with the disqualification of honourable member Khan Bahadur Muhammad Ayub Khuhro. Sir Ghulam Hussain Hadayatullah, leader of the House, stated that there is nothing in the point of order raised by Honourable Member. In the first place, under what law has he raised that point? Is there any thing under the Rules or the Standing orders? Secondly, Sir, the Governor has exercised his discretion, and has decided the matter. I am afraid, Sir, you have no authority to sit in judgment on the decision of the Governor. Therefore you will be pleased to rule this point out of order. Mr. Speaker heard professor Ghanshyam Jethanand and also the Honourable Chief Minister, then Mr. Deputy Speaker Observed as follows:-

"My opinion on the points raised by the Honourable Mr. Nihchaldas C. Vazirani in his letter dated 16th February, 1938 to the Honourable the Speaker of the Sindh legislative Assembly is as follows:-

The Honourable Member Mr. Nihchaldas C.Vazirani has raised a point of order that the honourable member K.B. Khuhro's seat having fallen vacant, he cannot sit or take part in the proceeding of this Honourable House.

Khan Bahadur Muhammad Ayub Khuhro having been nominated as a candidate for election to the Sindh Legislative Assembly from the Dadu North Muhammadan Rural Constituency, failed to lodge the return of expenses in respect of the said nomination with in the time required by rule 51 of the Sindh Legislative Assembly Electoral (Elections and election Petitions) Rules, 1936, and there by became disqualified for being chosen as and for being a member of the Sindh Legislative Assembly under clause (f) of subsection (1) of section 69 of the Government of Indian Act, 1935.

Whereas it was enacted in the proviso to that sub-section that such disqualification shall not take effect until the expiration of one month from the date by which the return ought to have been Lodged or of such longer period as the Governor, acting in his discretion, may allow, His Excellency was pleased to make an order extending up to 31st January 1938 the period within which the said disqualification shall not take effect and in exercise of the power conferred on him by clause (f) of subsection (1) of section 69 of the said Act was pleased to remove the said disqualification.

Then it would appear that the seat of K.B. Khuhro was not declared to have fallen vacant. The Speaker is bound by the decision of the Governor, and neither under the Act nor under any rule of procedure of this House has the power to sit in judgment over decision of the Governor in his individual discretion.

The only power given to the speaker or the Honourable House to declare a seat vacant is by clause 4 of section 68 of the Government of India Act which provides that if for 60 days a member of a chamber is without the permission of the chamber absent from all meetings thereof, the chamber may declare his seat vacant.

It is this clear that neither the Speaker nor this House has the power to declare K.B. Khuhro's seat to be vacant."

Vol. lll (1938) Book No. 2, Page 6-8 (26th February 1938)

57. ADJOURNMENT MOTION : MOTION NOT IN PROPER FORM AND NOT SATISFY THE REQUIREMENTS BY LAW AND IN THE FORM OF RECOMMENDATION WHICH COULD BE SENT IN THE FORM OF RESOLUTION: MATTER NOT OF RECENT OCCURRENCE AND NOT OF URGENT: RULED OUT OF ORDER:

On 2nd March, 1938, Mr. R.K. Sidhwa gave notice of an adjournment motion "that owing to the deteriorated condition of health of political prisoner Hansraj Who is detained in Hyderabad central prison and who has assured that he has eschewed violence and he has already undergone more than half the period of sentence, this Assembly recommends to the Government to release him forthwith."

Mr. Speaker ruled as follows:-

"I am afraid I shall have to rule this adjournment motion out of order. Firstly, it is not proper form does not satisfy the requirements as Laid down by law. This motion is in the form of recommendation which could be sent in the form of Resolution, Whereas an adjournment motion, according to rules and standing orders, is to be a definite matter for discussion and often for censuring Government. Secondly, this motion does not raise a matter of recent occurrence. The prisoner in question has long been there in Jail, and there have been many representations made for his release and there have been questions raised in this Assembly too. Therefore it is not a matter of recent occurrence, so it can not be held to be urgent. On all these grounds Mr. Speaker disallow this adjournment motion.

Vol. lll (1938) Book No. 4, Page- 45 (2nd March 1938).

58. ADJOURNMENT MOTION: ADJOURNMENT MOTION NOT SUBJECT MATTER OF A RESOLUTION: MOTION DOES NOT SATISFY THE PROVISIONS OF THE LAW: MATTE`R NEITHER OF RECENT OCCURRENCE AND NOR OF URGENT PUBLIC IMPORTANCE: RULED OUT OF ORDER:

On 3rd March, 1938, Mr. Rustomji Khurshedji Sidhwa, MLA, gave notice of adjournment Motion "That the House do now adjourn to discuss a definite matter of urgent public importance, namely, the failure of the Government to release Mr. Hansraj, a political prisoner in the Hyderabad central prison whose health is in danger, for he has eschewed violence." Mr. Speaker, thereupon, observed:-

"I am afraid this adjournment motion is substantially the same as the one which was moved by the honourable member yesterday, except that he has changed its form. Yesterday it was in the form of a recommendation and to-day he has framed the motion for the purpose of discussion, but it does not satisfy the provisions of the Law because it is neither of recent occurrence, nor is it a of public importance, since the honourable member had ample opportunity to move a resolution with regard to it . It is very old question. I therefore disallow the motion. I do not think any explanation or discussion is called for, because I had considered this question thoroughly yesterday. There is, therefore, no room for further discussion and I rule it out of order."

Vol. lll (1938) Book No.5, Page- 33 (3rd March 1938).

59. QUESTIONS : PROCEDURE FOR PUTTING A QUESTION.

On 3rd March, 1938, on the query of an honourable Member the Speaker observed:

"The procedure to put a question in the House is for the secretary to call out the name of the member in whose name the question appears and then it is for the member to call out the serial number of each question."

Vol. lll (1938) Book No. .5, Page- 10 (3rd March 1938).

60. AMENDMENT: SHOULD NOT GO BEYOND THE SCOPE OF THE BILL.

On 3rd March, 1938, During the discussion on the Tobacco Bill Mr. Ghanshyaam Jethanand moved an amendment by which he wanted to alter the principle of the Bill by changing the flat rate of taxation into a graded one.

Mr. Speaker ruled:-

"The amendment is out of order as it goes outside the scope of the Bill. The principle of the Bill is to lay down flat rates. That has been clearly Laid down in the statement of objects and Reasons."

Vol. lll (1938) Book No. 5, Page-51 (3rd March, 1938).

61. AMENDMENT: NOT TO BE DISALLOWED MERELY BECAUSE OF ITS IMPROPRIETY OR INEQUITY.

On 4th March, 1938, during the discussion on the Tobacco Bill, Mr. Nihchaldas C.Vazirani, MLA, opposed an amendment on the ground that the increased License fee was not contemplated in the preamble or the Statement of objects and Reasons and as such it was improper and in equitable to put such amendments to the House.
The Speaker ruled:-

"No amendment is to be disallowed merely because of its impropriety or inequity. It must be illegal, i.e., not permissible under the Government of India Act or the rules of the Assembly."

Vol. lll (1938) Book No. 6, Page-35 (4th March 1938)

62. AMENDMENT: NOT ILLEGAL MERELY BECAUSE IT IS INCONSISTENT WITH THE STATEMENT OF OBJECTS AND REASONS.

On 4th March, 1938, During the discussion of the Tobacco Bill, Mr. Dialmal Doulatram contended that an amendment is illegal if it is inconsistent with the statement of objects an Reasons.

The Speaker ruled:-

"The amendment is illegal if it is not permissible under any Law. The Statement of objects and Reasons is not law."

Vol. lll (1938) Book No. 6, Page- 37 (4th March 1938)

63. BILLS: SHOULD NOT THROWN OUT ON A VERY INSIGNIFICANT TECHNICAL ERROR.

On 4th March, 1938, in Mr. Gazdar's Bill to amend the city of Karachi Municipal Act, an omission of a word was made by the press when publishing the Bill. Mr. Sidhwa contended that the Bill was incomplete and defective and should be republished before it could be taken up for consideration.

The Speaker ruled:-

"There is nothing in the Assembly Rules to suggest that if there is an error the Bill should be republished. Moreover, technical mistake does not count unless it prejudices the case. Since the honourable member has not convinced me that he or the House has been prejudiced by reason of this error, I do not think on a technical ground, and a very insignificant technical ground, I can uphold the point of order."

Vol. lll (1938) Book No. 6, Page-40 (4th March 1938).

64. BILLS: WHEN THE ENABLING SECTION IS AMENDED NECESSITATING CONSEQUENTIAL AMENDMENT IN THE RULES, THE POWER IS LEFT TO THE AUTHORITY CONCERNED TO MAKE THE CONSEQUENTIAL AMENDMENTS IN THE RULES.

On 4th March, 1938, While city of Karachi Municipal (Amendment) Bill 1938, was under consideration Mr. R.K. Sidhwa, MLA, raised a point of order that The honourable the mover of this Bill was given notice to amend section 9, but he has omitted to amend this section and until he has given notice to this section, the bill, according to me, is incomplete and defective, because if you amend section 9 and allow this section to remain as it is, there will be an inconsistency and the Bill cannot be operative, the honourable Speaker was pleased to observe as under:-

"Mr. R.K Sidhewa as seats that if this bill is passed, section 9 will be inconsistent with the rules. The legal position is that as against the section of the Act, the rules will be inoperative. If this clause 9 is amended as proposed by this Bill, the rules will remain inoperative and this power is left to the Corporation to make the consequential amendments under the rules. I do not agree with some honourable members who said that consequential amendments can be made by this House now. Therefore I rule the point out of order.

Vol. lll (1938) Book No. 6, Page – 44 (4th March 1938)

65. BILLS: PROVISO MILITATING AGAINST THE SPIRIT OF THE ACT OR THE SCHEDULE IS OUT OF ORDER.

On 4th March, 1938, When second reading of Tobacco Bill, 1938, was in consideration, Mr. Nihchaldas C. Vazirani, MLA, wanted to insert the following proviso.

"Provided further that the whole sale license shall not be required to take out a separate retail License if he sells both whole-sale and retail".

The Speaker, thereupon, observed:

"A proviso which militates against the spirit of an Act or of schedule thereto already panel is out of order. The only remedy for a member in such a case is to bring in an amending Bill.

Vol. lll (1938) Book No. 6, Page-31 (4th March 1938).

66. BUSINESS OF ASSEMBLY: PRECEDENCE CAN BE GIVEN BY GOVERNMENT TO A PRIVATE BILL OVER GOVERNMENT BUSINESS:

On 4th March, 1938, Mr. R.K. Sidhwa, MLA, raised a point of order during the consideration of Bill, namely, the city of Karachi Municipal (Amendment) Bill, 1938, that the consent of the Government, priority has been given to the honourable member Mr. Gazdar's Bill. I do not know the urgency of this. The Governor has laid down days for the business of the House, and Government have not made out a case why they have allowed priority to be given to a no-nofficial Bill on an official day. Mr. Speaker then quoted rule 6-A of the Sindh legislative Assembly Rules and observed that it is within the province of Government to give precedence to any members private bill over Government business. The speaker can himself give priority only with in the days allotted for private business.

Vol. lll (1938) Book No. 6, Page- 49 (4th March 1938)

67. BUDGET: PROCEDURE FOR MOVING OF DEMANDS AND CUT MOTIONS.

On 7th March, 1938, When demand for grants under head-7 Land Revenue were under discussion, Mr. Speaker gave the ruling on procedure regarding cut motions.

"Now for the information of the honourble members I have noted down certain rules for their guidance. Re. 1 cut motion is a vote of censure on that Government. Discussing of policy will also be permissible on that cut motion. On Rs. 100 cut motion you can raise a general discussion of policy and ventilation of grievances of the Department concerned. Further I am going to permit general discussion on with regard to all cuts ranging, between Rs. 100 and Rs. 1000.

Vol. lll (1938) Book No. 8, Page-65 (7th March 1938)

68. BUDGET: CUT MOTION FOR REDUCTION OR OMISSION OF INDIVIDUAL ITEM NOT ALLOWED.

On 7th March, 1938, During the course of discussion and voting on demands for grants, the Honourable Sir, Ghulam Hussain Hidayatullah raised a point of order that there are cut motions proposed in regard to several items which compose this grant, and such motions are not allowed under the new constitution, though they were allowed under the old constitution thereupon, the chair observed that, No cut motion should be made for the reduction or omission of on individual item of a demand for grant.

Vol. lll (1938) Book No. 8, Page- 28 (7th March 1938)

- (Vote- This decision was under the old rules. Now, rule 130 (4) allows motion for omission or reduction of definite items within the grant.)

69. BUDGET: MOVER OF CUT MOTION.

On 7th March, 1938, Mr. Ghanshyam Jethanand, MLA, rose on a point of order, If the honourable member moves a cut motion of Rs. 24,400, it does not say "Omit any specific item." It is a cut on the total voted demand. Therefore we can discuss the whole department. It does not prevent us from discussing the whole department. The point of order was raised on the two cut motions of Pir Illahi Bakhsh, MLA, one is of Rs, 100, cut motions No. 5, and the other is of Rs.24, 400, cut motion No. 4(a) I want to drop the one and move the other. I want to move my motion for Rs. 24,400. Mr. Speaker thereupon observed:

"The mover of a cut motion must explain what item his cut relates to.

Vol. lll (1938) Book No. 8. Page- 32 (7th March 1938)

70. ADJOURNMENT MOTION :TWO MOTIONS OF THE SAME NATURE RAISING SAME ISSUES CAN NOT BE MOVED. THE EARLIER OF THE MOTIONS IS TO BE PREFERRED FOR DISCUSSION. AFTER DISCUSSION MOTION WAS RULED OUT OF ORDER.

On 8th March, 1938, two adjournment motions were received from the honourable member Mr. R.K. Sidhwa and the honourable member Dr. Popat Lal A. Bhoopatkar. First motion of Mr. R.K. Sidwa's as follows:-

"That the House do now adjourn to discuss a definite matter of urgent public importance, namely, the issue of Government Resolution Home Department No. 702-H (38) dated the 3rd February 1938, which if adopted would deprive one thousand persons in Sukkur and Shikarpur of their Livelihood and also cause a lot of financial loss to the owners of motor buses. And second motion of Dr. Popat Lal as follows:-

"That the House do adjourn to discuss a definite matter of urgent public importance , viz. the Government's proposed new rule whereby the Government will be empowered to grant traffic monopolies to individuals or to private accompanies to ply taxis and buses along specified roads in Sindh."

Mr. Speaker considered both the motions. They are of the same nature, raising the same issue so that both of them cannot be moved. At the same time the one which received from Mr. Sidhwa being the earlier of the two, considered fit to be discussed . After some discussion Mr. Speaker ruled out the motion on the ground that there is a tendency of all democratic bodies to put more and more restrictions on this sort of motions, and therefore the Chair has to weigh the question of urgency very minutely. I have considered this question from every point of view. I have referred at the out-set to the objection that the honourable members have had ample opportunity to move a resolution, though it might be asked as to how could do it because they might not get an opportunity to move the resolution in time . such objection have been raised in various other Legislatures, and recently in the Bombay Legislative Assembly also; and the Honourable the Speaker of the Bombay Legislative Assembly replied that if the matter was really of urgent public and importance it must be expected that every section of the public and the representatives of the public in the must be interested in that and they would give convenience to the honourable member by giving him priority to move it. That is a convention that has to be taken into consideration and the honourable members must not forget the fact that these democratic institutions are ruled by majority. It

is clear that the honourble member had an opportunity of moving a resolution which he has failed to do.

The second point is that the honourable members must not forget the fact that these adjournment motions are invariably censure motions. If they are carried, they are motion censuring the policy of the Government, and that seems to be the intention of the honourable members which they have indicated in their remarks.

Now have the Government taken any definite step in that direction to give shape to their policy? This is merely an initiation of an idea and they have invited the public opinion. Under section ll of the Motor vehicles Act they are bound to take into consideration these objections which they have invited. When they take such action on these objections as is contrary or prejudicial to the public interests, naturally the honourable members will have then reason and occasion to move a censure motion against such a policy. For the present it is enough that the honourable members have moved such a sort of motion and have brought to bear the resentment of a section of this House on the subject, but at the same time I cannot permit the ordinary business of the day to be interrupted in this manner. Therefore I rule this motion out of order.

Vol. lll (1938) Book No. 9, Page- 21-28 (8th March 1938)

71. ADJOURNMENT MOTION: MOTION NOT DEFINITE IN ITS PRESENT FORM : MOTION INTENDS TO CENSURE GOVERNMENT POLICY: MATTER CERTAINLY NOT OF RECENT OCCURRENCE: MOTION TO BE DISALLOWED IF IT IS TECHNICALLY DEFECTIVE: RULED OUT OF ORDER:

On 10th March, 1938, Mr. H. S. Pamnani, MLA, gave notice of Adjournment Motion "That the House do now adjourn to discuss a definite matter of urgent public importance, namely, the policy of Government regarding recovery of fines from persons convicted in the last civil Disobedience Movement. Mr. Hundraj lachiram, a political prisoner of Rohri, was convicted and sentenced to rigorous imprisonment for 12 months and a fine of Rs. 100. He want through his jail period, but Government so far did not recover the fine, as it did not think it advisable to do so. This fine has now been forcibly recovered from him only day before yesterday." After some discussion Mr. speaker observed:

"I have sufficiently heard the arguments of honourable members, and I am still of opinion than I cannot help the honourable members if they bring to me a defective proposition, because I am bound both by the sprits as well as by the letter of the law. The honourable member who has just spoken is himself a legal man. He knows that many claims involving very heavy sums are rejected in court on technical grounds. One is liable even for a technical offence. I have to be technical because I have to interpret Law. According to me the motion in its present form is not definite. The honourable member by this motion intends to censure Government policy on this matter. When it is started and how long it has been in force is not indicated in the motion. It might have been in force for a long time. The matter, therefore, cannot be said with certainly to be of recent occurrence.
I therefore rule this motion out of order.

Vol. lll (1938) Book No. ll, Page- 28 (10th March 1938).

72. ADJOURNMENT MOTION: ORDER OF LAW OF A COURT IF PERVERSE AND OF PUBLIC IMPORTANCE CAN BE DISCUSSED ON THE FLOOR OF THE HOUSE: THE URGENCY OF THE MATTER LIES WHEN ALL THE RESOURCES AT THE DISPOSAL OF THE HOUSE HAVE BEEN EXHAUSTED, AND THE ONLY REMEDY LIES IS TO SEEK ON THE FLOOR OF THE HOUSE AN INTERRUPTION OF THE ORDINARY COURSE OF BUSINESS: MOTION RULED OUT OF ORDER:

On 11th March, 1938, Mr. H.S. Pamnani, MLA, gave notice of Adjournment Motion, Which is in amended form, as compared to the one he moved yesterday, the motion as follows:-

"That the House do adjourn to discuss a definite matter of public importance, namely, the forcible and unjustified recovery of fine of Rs:100 on 8th March 1938 from Mr. Hoondraj Lachiram, a political ex-convict of Rohri, who has already undergone a sentence of imprisonment in default of the payment of the fine inflicted on him in 1932."

The motion was opposed by the Honourable Sir Ghulam Hussain Hidayatullah, (Chief Minister) on the ground that the matter to which this motion relates is no doubt a definite matter and also a matter of recent occurrence. But two further conditions must be satisfied, namely, that it should be urgent and of "public importance". The matter is not in any sense urgent because the honourable the mover has stated that the fine has been already recovered, and it is now open to him to adopt such remedy as the Law allows him . It is not a matter of public importance either. Motions have also been ruled out of order when it appeared that the administrative responsibility of the Government was not involved. After hearing both the sides, Mr. Speaker observed:

I think I have given sufficient indulgence to honourable members to have their say, and I have heard every point of view. The honourable the mover of the motion rightly emphasised the two main ingredients which the Honourable the Leader of the House also emphasised and which I have also considered. They are:

(1) Whether the matter is urgent, and
(2) Whether it is of public importance.

It is, as honourable members know, in consequence of the decision of a court of law that this fine has been recovered. It may be that it may have been recovered by

a policeman, for whose action this Government is responsible. But the point is whether this Government is responsible for the action `of a court of law. The decision having been given by a court of law, whether it is in accordance with the provisions of law or not, this House is not concerned with. The Chair is not concerned with that. But the question is, whether it is in accordance with the decision of the court or not that the fine has been recovered. Presumably it is so .

A perverse of a court can be discussed in Assembly.

The second point is: how can this Government be made responsible for the action of a court of law? I am, however, not going to establish a theory here whether or not this House has got power to interfere with a decision of a court of law. I cannot agree with the Honourable the Chief Minister on that point. Certainly, if the court's order is perverse and if it is of public importance, that issue could be raised on the floor of this House, though it may be a decision of a court of law. But the question is whether Government is responsible for the decision which the honourable member seeks to censure in this House. The Honourable the Leader of the House has in so many words denied his knowledge as to the order, in execution of which this fine is being recovered. It is a solitary instance. The other instances have not been brought to his knowledge. This is the first instance of its kind.

Then if it had been, as the honourable mover of the motion says, the declared policy of this Government to show clemency to political prisoners, he ought to have directed his motion towards censuring that policy of the Government. So far as I have heard the Honourable the Leader of the House, he said he had not laid down any definite policy with regard to releasing political prisoners or remission of fine or restoration of property of political prisoners. He may have shown clemency in one direction, but that does not mean that he is bound to show clemency in every direction. The honourable member must elicit a declaration of a policy, by some proper and suitable action from him, get it laid down, and if there is any breach or departure from that policy, then and then alone the honourable member can bring an adjournment motion censuring the Government.

Now, the Honourable the Leader of the House, who is responsible for law and order, has denied knowledge of this matter. He has quoted the ruling of the Central Legislative Assembly on the point that the subject matter of an adjournment motion should not only be definite, but it should also be urgent and of public importance. The urgency of the matter lies when all the resources at the disposal of this House have been exhausted, and this is the only remedy that lies with them to

seek on the floor of the House by an interruption of the ordinary course of business. I am inclines to agree with this ruling as well as the ruling of the British Parliament which he has quoted from page 248 of May's Parliamentary Practice, under which similar motion have been ruled out of order. In regard to the question of administrative responsibility of the Government, the finding is that they are not involved. There has been no departure from the ordinary administration of the law, so that this Government is not responsible administratively, because they have not issued any order in this direction or in connection with any other political prisoners so far as recovery of the fine is concerned.

It is only a question of recovery of fine, but recovery of fine in this case has been effected when the sentence in default or failure to pay the fine has also been served. So it boils down to this: What policy have the Government declared in regard to political prisoners and what order have been issued? The Government have not issued any orders.

Secondly, the point is: Has there been any departure in the administration of the law from the ordinary procedure?
The law of the land has been administered as usual and the court has given a decision. There is remedy by filing a revision application or appeal. There is a further remedy to approach the honourable Chief Minister for refunding that fine and making a declaration of policy that such fine hereafter shall not be recovered, and, then, if he fails to carry out that policy, having once given the declaration, then certainly the honourable member can bering a motion of censure against Government. On all these ground which I have just enumerated, I feel this motion is out of ordr.

Vol. lll (1938) Book No. 12, Pages, 25-27 (11th March 1938).

73. DEBATE: RIGHT OF REPLY.

On 12th March, Mr. Speaker ruled:-

A member should not raise a new point in his to the debate.

Vol. lll (1938) Book No. 13, Page- 20 (12th March 1938)

74. MISCELLANEOUS (ETIQUETTE): DENIAL BY A MINISTER MUST NOT BE CHALLENGED:

On 17th March, 1938, Mr. R. K. Sidhwa, MLA, drew attention of the Speaker to the grievance No.5 about the Honourable Minister and Parliamentary Secretaries. I hope the honourable the Chief Minister will hear me patiently and will not take everything as personal. He must remember that I am mentioning all these things in the interest of the province and in the interest of the Government. Therefore he must not consider that I am mentioning any thing personally. Sir, there are no hours fixed for the Honourable Minister. They generally come hear barring the Honourable Minister for P.W.D only for two hours, The Honourable Sir Ghulam Hussain Hidayatullah said, may I correct the honourable member? Whenever we have no meeting. I generally come to O'clock, when even the liftman is not there. I stay here up to 2 O'clock, whereupon Mr. Speaker observed:

"The etiquette requires that when there is any charge against the Honourable Chief Minister and when he contradicts it, it must be believed. That is the etiquette of the House and it should not be challenged.

Vol. lll (1938) Book No. 14, Page -27 (17th March 1938)

75. MISCELLANEOUS (ETIQUETTE): ACCUSATION: NO ACCUSATION AT EACH OTHER:

On 17th March, 1938, during discussion on the Budget (Demand for Grant-General Administration) Mr. Speaker announced that the Honourable Members to main the etiquette of the House. Members should not go on hurling accusation at each other.

Vol. lll(1938) Book No. 14. Page- 35 (17th March 1938)

76. MISCELLANEOUS (ETIQUETTE): REPETITION SHOULD BE AVOIDED.

On 17th March, 1938, during discussion on the Budget (Demand for Grant-General Administration) Mr. R. K. Sidhwa's, MLA, grievance was regarding on the political prisoner Mr. Hansraj. The matter of Mr. Hansraj was earlier discussed in the running Session through an adjournment motion dated 10th & 11th March, 1938. Mr. Speaker informed the House that Members should avoid repetition.

Vol. lll (1938) Book No. 14, Page-40 (17th March, 1938)

77. MISCELLANEOUS (ETIQUETTE): MOTIVES: NO IMPUTATION OF MOTIVES.

On 17th March, 1938, during discussion on Budget (Demand for Grant-General Administration) Mr. R.K. Sidhwa was on the floor. Mr. Speaker, who was then presiding, observed: Members should not impute motive to anyone.

Vol. lll (1938) Book No. 14, Page- 46 (17th March 1938)

78. MISCELLANEOUS (DEBATE): A STATEMENT BY A PARLIAMENTARY SECRETARY AS SUCH IS A STATEMENT BY GOVERNMENT:

On 18th March, 1938, during General discussion on the Budget. When Sheikh Abdul Majeed, MLA, (Parliamentary Secretary on Education) gave statement on Government Policy. Mr. R.K. Sidhwa, MLA, from opposition asked from the chair, whether he is speaking on behalf of the Government. Thereupon Mr. Speaker observed:

"Unless the Parliamentary Secretary get up and says that he is making a statement in his personal capacity. It should be understood that he is making a statement on behalf of the Government."

Vol. lll (1938) Book No. 15, Page -34 (18th March 1938).

79. BUDGET DEMANDS: MINISTER'S PRESENCE IN THE ASSEMBLY WHEN CUT MOTIONS ARE DISCUSSED.

On 18th March, 1938, The Speaker ruled "So Long the Parliamentary Secretary to the Minister is present when the department-in-charge of the Minister is being discussed in the Assembly, the Minister's presence is not strictly necessary."

Vol. lll (1938) Book No, 15, Page-42 (18th March 1938).

80. MISCELLANEOUS(ETIQUETTE): INTERRUPTIONS: NO INTERRUPTION WHILE MEMBER IS ON HIS LEGS:

On 18th March, 1938, during the discussion on Budget Miss Jethi T. Sipahimalani would Like to know. Thereupon Mr. Speaker ruled as follows:

"Will the honourable member Miss Jethi please sit down? When ever my honourable member wishes to interrupt the honourable member speaking, then he or she should address the chair on a point of information. Honourable member cannot go on interrupting the honourable speaking."

Vol. lll (1938) Book No. 15, Page-46 (18th March 1938).

81. ADJOURNMENT: ADJOURNMENT OF THE HOUSE.

On 19th March, 1938, The Honourable Sir Ghulam Hussain Hidayatullah was wish to make a statement. In view of what happened yesterday, I think it will be better if the various parties talk over the whole matter. Therefore, I would request you to adjourn the House today. I am entirely in your hands and in the hands of the House. After some discussion the speaker observed as fellows:

"Adjournment of the House is for the Assembly to decide."

Vol. lll (1938) Book No. 16, Page 2-4 (19th March 1938).

Fourth Session (25th to 31st March 1938)

82. QUESTION: THE FACT THAT A MEMBER ONCE DID NOT WANT TO ASK QUESTIONS DOES NOT MEAN THAT HE DOES NOT WANT TO DO SO AGAIN.

On 25th March, 1938, Dr. Popatlal A. Bhoopatkar, MLA, raised a point of order enquiring from the chair that Mr. Gazdar, MLA, had given notice that he would not ask his questions and that they might therefore be allowed to lapse. The Honourable the Speaker, with the consent of the Honourable House, had then decide that all the questions of which notice was given by that honourable members should be allowed to Lapse. The question therefore having lapsed, I fail to see how the honourable member Mr. Gazdar can put his questions now. Mr. Gazdar informed the House, I have given notice that I will ask all my questions.

The Speaker hereupon observed:

"It has not come to my notice yet. On one occasion the Secretary called out the honourable member Mr. Gazdar's name, and Mr. Gazdar said that he did not want to ask questions. That does not mean that he does not want to ask questions now. He is at Liberty to do so.

Vol. lV (1938) Book No. 1, Page-11 (25th March 1938).

83. ADJOURNMENT MOTION: ADJOURNMENT MOTION IN RESPECT OF A SATISFACTORY STATEMENT/REPLY GIVEN BY A LEADER OF THE HOUSE/CHIEF MINISTER TO A QUESTION COULD BE WITH DRAWN BY MOVER:

On 25th March, 1938, Mr. R.K.Sidhwa, MLA, gave notice of a fresh adjournment motion "that the House do now adjourn to discuss a definite matter of urgent public importance, namely, the interference and personal canvassing by Government Servants in the Assembly and outside the Assembly on the 18th instant, during the debate and thereafter."

Chair admitted the adjournment motion to be in order. I will now ask the House if any body has any objection. If none has any objection. I shall fix the time for discussion. I would like to know if there is any objection to the adjournment motion being moved.

K.B. Allah Bakhsh Soomro, leader of the House said that I am entirely at one with the mover of the House and consider it not only most improper for the members of the permanent services to interfere in political matters, but also a gross and reprehensible interference their individual Judgment.

In dealing with the officers, who may have been guilty of such conduct, I, however, wish to guard myself against being charged with political bias. I, therefore, propose to bring the case, which may be brought to my notice, to the attention of the heads of department and to leave them to take appropriate action against those concerned.

I trust that I shall have the approval of the House in this course of action and whatever the result of such action, I am sure our purpose will have been achieved, namely, that the permanent officers will be made to understand that it is their duty to serve loyally whatever may be the Government of the day, and it is no part of their duty to meddle in the affairs of the political parties. In view of the this statement, I hope the mover will not press the motion.

The mover of the motion further stated that the Honourable the leader of the House, and in view of the reply that he given, which according to me is very satisfactory, I do not desire to press for consideration of my adjournment motion in view of the statement made by the leader of the House. I withdraw the motion. Thereupon, the speaker observed:

I have heard all the section of the House, and excepting one or two honourable members there is a consensus of opinion that a convention should be established to be a guide for the Chair for the future that when a stage is reached when leave has been asked and the House has not yet granted the leave, and if at that stage a Member of the Government rises and makes a statement which is satisfactory to the mover of the motion and if the mover of the motion, in view of that statement, begs leave of the Chair, to withdraw his motion, then leave should be granted to him to do so, and in further leave shall be granted. The motion is not put to the House. The mover of the motion has only handed his motion to the Chair and the Chair has held it to be in order. No further proceedings have taken place. As soon as it is put to the House and the House grants leave to the honourable member to move his motion, then he cannot withdraw it. I am only establishing a practice that when the sense of the House has not been taken whether to grant leave for the motion or not, at that stage if a Member of the Government makes a statement which is satisfactory to the mover and the honourable mover wishes to withdraw it, I shall permit the withdrawal only in these circumstance. Since the honourable member Mr. Sidhwa sticks to his request to be allowed to withdraw his motion, I am going to permit him to do so.

84. MISCELLANEOUS (ETIQUETTE): UNPARLIAMENTARY EXPRESSIONS NOT BE USED:

On 30th March, 1938, Mr. Muhammad Hashim Gazdar, MLA, moved cut motion on supplementary grant under "25-General Administration" When Mr. Gazdar was Speaking on cut motion, used unparliamentary word "Conspiracy", Whereupon Mr. Speaker observed:

"The word "conspiracy" is an unparliamentary word and should not be used."

Vol. lV (1938) Book No. 3, Page- 27(30th March 1938).

85. MISCELLANEOUS (ETIQUETTE): UNPARLIAMENTARY EXPRESSIONS NOT BE USED:

On 30th March, 1938, Mr. Muhammad Hashim Gazdar, MLA, moved cut motion on supplementary grant under "25-General Administration, "When Mr. Gazdar was speaking on cut motion, used unparliamentary word "Stupid", Whereupon Mr. Speaker observed:

"The word "Stupid" is unwarranted and should not be used."

Vol. lV (1938) Book No.3, Page-31 (30th March 1938)

86. QUESTION: TIME ALLOWED FOR QUESTIONS, CANNOT BE EXTENDED:

On 31st March,1938, The Honorable K.B. Allah Bakhsh Soomro, Chief Minister, was proposed that thought the time allotted to question is one hour, yet as there is no other Business today, I request that the present List of questions may be finished.

Mr. Speaker observed:

"Time allowed for asking questions cannot be extended in order to finish the list of questions."

Vol. lV (1938) Book No. 4, Page-36 (31st March 1938)

Fifth Session (19th May to 2nd June 1938)

87. ADJOURNMENT MOTION: MOTION RAISING MORE THAN ONE MATTER AND SUBJECT MATTER OF A RESOLUTION: ADJOURNMENT MOTION NOT TO BE ALLOWED IF THE MOVER HAD AN OPPORTUNITY TO MOVE A RESOLUTION: RULED THE MOTION OUT OF ORDER:

On 19th May, 1938, Mr. Speaker took upon adjournment motion tabled by Mr. M.H. Gazdar, MLA, regarding "That this House do adjourn for the purpose of discussing a definite matter of urgent public importance, namely, the action of Government with regard to superseding two Executive Engineer in Public works Department, deconfirming certain Magistrates and transfer of some officers in Police Department which has caused discontent in services and cut the root of good administration." The Honourable K.B. Allah Bakhsh Soomro (Chief Minister) opposed the motion and said motion is neither definite, nor urgent, nor recent, nor of public importance. On all these ground the motion is out of order. Mr. Speaker thereupon observed as follows:

"I hold the motion out of order because it does not raise one matter. It refers to various departments. I agree with the Honourable the leader of the] House that if the honourable member chose to pursue this question he could framed a resolution and sent it on. The question of the resolution not having the chance of being discussed in this House is immaterial. The point is that he had an opportunity to table a resolution if he wanted to pursue that matter. Therefore on this ground I rule the motion out of order."

Vol. V (1938) Book No. 1, Pages 32-34(19th May 1938)

88. POINT OF ORDER: WHETHER DEPUTY SPEAKER CAN DRAW TWO SALARIES AT ONE AND THE SAME TIME: POINT OF ORDER RAISED BY THE HONOURABLE MEMBER: CHAIR RULED THE POINT OF ORDER OUT OF ORDER:

On 19th May, 1938, during the course of discussion on the Bill No. V of 1938- The salaries and Allowances of Members of the Sindh Legislative Assembly. Dr. Popatlal A. Bhoopatkar, MLA, rose on a point of order to state whether Deputy Speaker can draw two salaries at one and the same time. It is a technical question which I am raising. I was just referring to Bill No. 11 of 1937. Clause 3 thereof definitely determines the salary of the Speaker. It says there will be paid to the Deputy Speaker of the Sindh Legislative Assembly in respect of any period during which he is engaged in the work connected with the business of the Sindh Legislative Assembly a salary at the rate of Rs. 300 per mensem. That provision is there. May I know if unless and until this clause of Act No. 11 of 1937 is amended in a regular manner, an amendment to an other Bill can over-ride the provisions of a Bill which is already part of the statutes of this province? My Submission is his. If a salary of the Deputy speaker has to be revised, a regular modification of the amendment of clause 3 of Act No. 11, should be discussed and carried out. Mr. Speaker want to like the opinion of the Advocate-General on this point, because even under the Government of India Act, the salary of the Deputy Speaker has to be fixed.

The advocate-general argued that, on a careful consideration of clause 4 of section 65, I am of opinion that the language used therein does not necessarily mean that it should be fixed only by one Act. Salary may be fixed in different ways by different Acts. It is true the proposal in effect would enhance the salary of the Deputy Speaker and thereby indirectly amend the Deputy Speaker's Salary Bill, but there is nothing in the present Bill which is inconsistent with clause 4 of section 65, with the result that it is in order.

If you refer to clause I of section 65, you will find that the Deputy Speaker and the Speaker are also members of the Assembly and they continue to be members of the Assembly. Provision is now being made under section 72 for the

salary and allowances of members, but certain members are being excluded from the meaning of the word "member" If they were not excluded, Ministers, the Speaker and the Deputy Speaker would also be entitled to the salary fixed as they do not cease to be members. But Government wish to exclude certain persons from this Bill so that they should not be given the salary like other members. If the House desires that the Deputy Speaker should not come in the exclusion, it is perfectly within the right of the House to take away the words "Deputy Speaker" from the Bill, and the Deputy Speaker can then in addition to his salary as Deputy Speaker, get salary as a member. There would be no inconsistency in the previous and the present Act on that account.

I am inclined to agree with the Honourable the Advocate-General. For the satisfaction of the honourable member Dr. Popatlal, I would like to explain the point further to him. As the Advocate-General said, suppose these words "Minister, Speaker and Deputy Speaker" did not appear in clause 2 then the effect of this Bill would be that both the Ministers and the Speaker as also the Deputy Speaker would draw, besides their salary, salary and allowances provided by this Bill. Government therefore, taking into consideration the salary of the Honourable the Deputy Speaker, wish to exclude the Deputy Speaker from this clause. They consider that the remuneration fixed by Act No. 11 of 1937 is not adequate for the Deputy Speaker. Therefore they do not want to exclude the Deputy Speaker. But they to exclude the Speaker and Minister. If they do not do that, then we are at liberty to draw this allowance and salary as well. It does not preclude the Honourable the Leader of the House from excluding the Deputy Speaker though it may be overlapping with the previous salary, but still they have a power to exclude him. Therefore I think the point raised is out of order.

Vol. V (1938) Book No. 1, Pages, 53-54 (19th May 1938)

89. BILLS: (AMENDMENT TO AMENDMENT): AMENDMENT WHEN CARRIED IS A SUBSTANTIVE PROPOSITION.

On 19th May, 1938, while discussing the procedure of taking up amendments to a particular clause, the speaker observed:-

"An amendment which is carried in the House becomes a substantive proposition and other amendments can be moved only as amendments to that substantive proposition."

Vol. V (1938) Book No. 1, Page 58 (19th May 1938)

90. BILLS: AMENDMENT REGARDING EXTENT, PERIOD, FORM OR MANNER:

On 19th May, 1938, Government moved a Bill to provide for the salaries and allowances of members of the Assembly. There were Several amendments dealing with the extent, period, form and manner: the speaker ruled as:

"The principle underlying the Bill is to fix monthly salary of the honourable members with some daily allowance. Up to what extent, from what period and in what form or manner, are all matters of detail. I will permit all the amendments as amendments of detail."

Vol. V (1938) Book No. 1 , Page-35 (19th May 1938)

91. BILLS: ANY AMENDMENT WHICH HAS BEEN CARRIED IN THE HOUSE IS A SUBSTANTIVE PROPOSITION:

On 19th May, 1938, the Salaries and allowances of members of the Assembly was moved for consideration. Dr. Popatlal Bhoopatkar, MLA, from the Opposition Benches point out that, there are two amendments to be put together. I would ask you to take votes twice. Thereupon Mr. Speaker observed:

"When ever amendments are carried, they become part and pared of the clause sought to be amended"

Vol. V (1938) Book No.1, Page-62 (19th May 1938)

92. BILLS: (AMENDMENTS) INSERTION OF NEW CLAUSE NOT ADMISSIBLE.

On 20th May, 1938, While discussing the legislative Assembly Members Salary Bill, Mr. M.H. Gazdar, moved an amendment to insert a proviso to a clause in the Bill. The leader of the House objected to its being put as a proviso and suggested that a new clause be inserted.

The Speaker ruled:-

"The leader of the House cannot be permitted to insert a new clause by way of amendment. He can put it as amendment to amendment of Mr. Gazdar."

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Vol. V (1938) Book No. 2, Page-54 (20th May 1938)

93. BILLS: (AMENDMENT) AMENDMENT WHICH IS DIFFERENT IN FORM BUT IDENTICAL IN PURPOSE TO AN AMENDMENT ALREADY DISPOSED OF CANNOT BE ALLOWED:

On 20th May, 1938, While discussing the Legislative Assembly Members Salary Bill, Mr. Gazdar moved an amendment which though different in form was substantially identical with the one on which the Assembly had arrived at a decision at a decision at the same sitting.

Mr. Speaker in disallowing amendment ruled:-

"The amendment which contains the same principle as another amendment which has been disposed of by the House is out of order, even if it be different in form provided it is identical in purpose."

Vol .V (1938) Book No. 2, Page -61 (20th May 1938)

94. BILLS: VARIATION OF SALARY OF MINISTER: APPLICATION OF PROVISO TO SUB-SECTION (3) OF SECTION 51 OF GOVERNMENT OF INDIA ACT, 1935.

On 21st May, 1938, during discussion on first reading of the Sindh Minister's Salaries Bill, 1938, Mr. J. Fraser raised a point of order that section 51, clause (3), Last paragraph of Government of India Act, 1935 (page 35) says that the Salary of a minister shall not be varied during his term of office. So, I think this Bill is unnecessary. Mr. Speaker observed that "Proviso to Section 51 (3) of the Government of India Act relates only to variation of salary of Minister already fixed but does not apply to new Ministers whose salary has yet to be determined.

Vol. V (1938) Book No.3, Page 39-40 (21st May 1938)

95. BILLS: DISCUSSION OF PRINCIPLE OF THE BILL.

On 21st May, 1938, during discussion on first reading of the Sindh Minister's Salary Bill, 1938, Mr. Nihchaldas C. Vazirani raised a point of order that the principle of the Bill to be discussed at the first reading of the bill. Mr. Speaker observed that at the first reading only the principle of the Bill should be discussed but not the details.

Vol. V (1938) Book. No. 3, Pages -41-57 (21st May 1938)

96. MISCELLANEOUS (ETIQUETTE): CROSSING OF THE FLOOR OF THE ASSEMBLY NOT ALLOWED.

On 21st May, 1938, When Dr. Popatlal A. Bhoopatkar, MLA was speaking on the Sindh Minister's salary Bill, 1938. Mr. C.T. Valeecha, the honourable member cross the floor of the House. The Speaker asked the member, the honourable member must know that member should not cross between the member Speaking and the Speaker.

Vol. V (1938) Book No. 3, Page-56 (21st May 1938)

97. MISCELLANEOUS(ETIQUETTE):UNPARLIAMENTARY EXPRESSION NOT TO BE USED.

On 21st May, 1938, during discussion on the Sindh Minister's Salary Bill, 1938, a member used the word "Cheap notoriety" for a Minister. The Speaker declared the word cheap notoriety is an unparliamentary term**.**

Vol. V (1938) Book No. 3. Page-58 (21st May 1938)

98. MISCELLANEOUS(ETIQUETTE):UNPARLIAMENTARY EXPRESSION NOT TO BE USED.

On 21st May, 1938, during discussion on the Sindh Minister's salary Bill, 1938, a member used the word "boosted" for a Minister the Speaker declared the word boosted is not to be used and the honourable must use parliamentary language.

Vol. V (1938) Book No. 3, Page-39(21st May 1938)

99. BILLS:TIME LIMIT FOR MINISTERS AND LEADER OF PARTIES.

On 23rd May, 1938, during discussion on first reading of the Minister's Salary Bill, 1938, Shaikh Abdul Majid, MLA, asked from the Chair that is there any time limit for speeches?
Mr. Speaker observed as follows:-

"I don't want to choke any body. I shall allow reasonable debate. There is no time limit for speeches imposed in the case of Ministers and leaders of Parties".

Vol. V (1938) Book No. 4, Pages- 42-44 (23rd May 1938)

100. BILLS: A NEGATIVE AMENDMENT OUT OF ORDER.

On 24th May, 1938, an amendment to clause 3 of the Bombay Local Boards Act, 1923, was moved by Mr. H.S. Pamnani, MLA, which is that the word "Not" be added after the word "deemed". The clause will then read "Nothing contained in this Act shall be deemed not to revive any proceeding which would be barred if this Act had not been passed". Mr. Speaker thereupon clarified that it is a negative amendment. I therefore rule it out of order.

Vol. V (1938) Book No. 5, Page-83(24th May 1938)

101. BILLS: AMENDMENT EXTENDING SCOPE OF THE BILL NOT ALLOWED.

On 24th May, 1938, an amend to clause 3 of the Bombay local Boards Act, 1923, was moved by Mr. H.S. Pamnani, MLA, which retrospective effect to the present Bill, So that those persons who have already escaped may be prosecuted. Mr. Speaker told the members that An Amendment which seeks to extend the scope of the Bill will not be allowed.

Vol. V (1938) Book No.5, Page-83 (24th May 1938)

102. MISCELLANEOUS (DEBATE): PRIVILEGES OF THE CHAIR: SPEAKER CANNOT REVISE THE RULING OF THE DEPUTY SPEAKER:

On 25th May, 1938, during debate on the second reading of the Bill No. xiv of 1938, a Bill further to amend the Bombay District Municipal Act, 1901, the Bombay Local Board Act, 1923, and the Bombay Municipal Boroughs Act, 1925, in their application to Sindh. Lt. Col. W.B. Hossack, MLA, gave notice of amendment for sub-clause (2) of clause (1) the following may be substituted:-

"(2) The provision of this Act shall come into force on and from 1st April 1940, or from 1st April 1940, or from the date of the expiry of the present term of Municipality or a local Board as the case may be, whichever may be earlier." Mr. H.S. Pamnani suggested that the amendment put by Mr. Hossack is not in order. It consists of two amendments. The Honourable Deputy Speaker enquired from the Advocate-General and Advocate-General said two amendments are combined into one Mr. Deputy Speaker agreed with the Advocate-General that the amendment upto the portion ending with the words "1st April 1940" is in order. I think the Honourable Speaker will decide the point. (At this stage the Honourable Deputy Speaker vacated the chair, which was occupied by the Honourable the Speaker.) After some debate Mr. Speaker observed as follows:-

"I understand that the Honourable the leader of the House wants my decision on this point whether the amendment that stand in the name of the honourable member Col. Hossack is in order or whether I also agree with the Honourable Deputy Speaker that it contains two other principles and therefore one part of it could be applicable but not the other. My position is rather difficult. The Honourable the Deputy Speaker was in the chair. He was the authority to give his decision on the point of order, and he has partly given a decision on the amendment, namely that this amendment as it is contains two principles, It is defective in form and out of order. I think that is correct. Is that not so (addressing the Honourable Deputy Speaker)? I am not prepared to over rule the decision of the Honourable Deputy Speaker.

Vol. V (1938) Book No.6, Page-62 (25th May 1938)

103. BILLS: CIRCULATION OF THE BILL: SECOND READING:

On 26th May, 1938, during the second reading of the Bill No. XIV of 1938 (A Bill further to amend the Bombay District Municipal Act, 1901, the Bombay Local Boards Act 1923, and the Bombay Municipal Boroughs Act, 1925, in their application to Sindh.) in the Legislative Assembly of Sindh, when K.S.A.K. Gabol, was speaking on the Bill, the honourable Speaker was pleased to observe as under.

"The proper time for asking the Bill to be circulated for public opinion is immediately after the first reading is passed or even before that but not Later."

Vol. V (1938) Book No. 7, Page-45(26th May 1938)

104. BILLS: SHOULD A MEMBER STATE AT THE OUT SET WHETHER HE SUPPORTS OR OPPOSES THE PRINCIPLE OF THE BILL:

On 27th May, 1938, during the first reading of the Bill No. Xll of 1938, a Bill to impose a tax on certain forms of betting. Mr. M.H. Gazdar, MLA, raised a point of order that an any honourable member speak on a motion without stating first whether he supports or opposes the motion?
Thereupon Mr. Speaker observed:

"No hard and fast rule can be Laid down to compel a member to indicate at the very commencement his exact attitude towards a Bill. If he indulges in vague generalisations or irrelevancies, then the chair will, if it considers necessary, put him the question in order to elicit the Line of action he is pursuing."

VOl. V (1938) Book No. 8 Page-54 (27th May 1938)

105. BILLS: MOTION FOR SELECT COMMITTEE:

On 27th May, 1938, Bill No. Xll of 1938-A Bill to impose a tax on certain forms of betting was carried and read for the first time Sir Ghulam Hussain Hidayatullah (leader of the opposition) moved a motion that the Bill be referred to a select committee, and the report be received with in 3 months K.B.Allah Bakhsh Soomro (Chief Minister) opposed the motion that no useful purpose will be served by referring it to a select Committee. No principle is involved and no reason have been assigned by the Honourable the leader of the opposition for referring the Bill to a select Committee.

Thereupon Mr. Speaker ruled:

"A motion for reference to select Committee can be made only after the motion for second reading of the Bill."

Vol V. (1938) Book No. 8, Page -66 (27th May 1938).

106. ADJOURNMENT MOTION: NOT TO ADMITTED IF THE EXISTENCE OF THE MAIN AND PRINCIPLE FACTS UNDERLYING SUCH MOTION ARE DENIED BY GOVERNMENT.

On 28th May, 1938, Where an adjournment motion on the situation which had arisen in the Tando Division on account of unrest as a result of khatedars being asked by Government to pay the entire Land revenue demand for the current year before finally disposing of their representation for grant of special rebate on account of low prices, depended mainly on the determination of the existence of unrest and the existence of such unrest was denied by the leader of the House.

The Speaker ruled:-

"In the beginning, I should like to state that as I can understand it, the only principle underlying the motion is the existence of unrest. But since the Honourable the leader of the House, Who is the proper person to judge whether unrest exists or not, has categorically denied the existence of such unrest, I feel there is no ground to hold that the adjournment motion is in order; I therefore rule the motion out of order."

Vol. V (1938) Book No. 9, Page-31(28th May 1938)

107. BILLS: REJECTION OF A CLAUSE IN THE BILL CONTAINING THE PRINCIPLE IS NOT REJECTION OF A BILL SO AS TO OPERATE AS BAR TO A SUBSEQUENT BILL IN THE SAME SESSION.

On 28th May, 1938**,** While discussing the Karachi Municipal Bill to provide for removal of nomination, Mr. Gazdar, objected that the Bill could not be discussed as the Assembly had rejected a clause in the Bill containing the same principle brought before the Assembly some time ago and that Six month had not yet elapsed. He relied on standing order Vlll (3) in support of his argument and contended that the clause containing the principle of abolition of nominations having been rejected by the Assembly another Bill containing the same principle could not be brought. The rejection of a clause containing the principle is to be considered as rejection of the Bill itself.

The Speaker ruled:-

"The rejection of a clause of a Bill is rejection of a motion and not of the Bill, even though that clause contains a principle. I hold that the rejection of a clause is not the rejection of the Bill and as such not governed by standing order VIII(3)."

VOl V. (1938) Book no. 9, Page-48 (28th May 1938)

108. RESOLUTION: AMENDMENT TO RESOLUTION RAISING TWO DIFFERENT ISSUES IS OUT OF ORDER.

On 30th May, 1938, Mr. Muhammad Amin Khoso, MLA sought Leave to move a resolution to adoption by the House, the resolution as under:

"This Assembly very strongly recommends to the Government to immediately start a Government High School in the Lyari Quarter of the city of Karachi to impart secondary education to the poor inhabitants of that quarter."

Shaikh Abdul Majid wanted to move a amendment in the resolution that to insert the word "free" between the words "impart" and secondary in the Last line. The Honourable K.B. Allah Bakhsh Soomro (leader of the House) rose on a point of order and opposed the amendment and feel that the amendment is ruled out of order because it (amendment) goes beyond the scope of the resolution. After some discussion the speaker ruled:

"If the amendment of the honourable mover of the resolution is carried, then the resolution passed finally as amended will contain two definite issues. One will be the question of imparting secondary education through high schools on the present basis, and the second a controversial question which aggravates the situation from the point of view of the honourable mover himself, whether it should be free education, that is, whether the education should be free or whether it should be charged. Therefore if the amendment is carried it will make the situation more difficult and two issues will be debated upon. Therefore I think it is out of order.

Vol. V (1938) Book No. 10, Page-43(30th May 1938)

109. BUDGET: CHARGED ITEM SHOULD ONLY BE PLACED BEFORE THE HOUSE FOR DISCUSSION NOT VOTING.

On 31st May, 1938, the Speaker during the voting of demand (supplementary statements of Expenditure for 1936-37 and 1937-38) announced that A "charged" item is to be placed before the Assembly for discussion and not for voting.

Vol. V (1938) Book No. 11, Page -38 (31st May 1938)

110. MISCELLANEOUS (DEBATE): SPEECHES AFTER THE TIME FOR CLOSING THE SESSION.

On 31st June, 1938, Mr. Ghanshyam Jethanand, MLA, wanted to know from the chair that whether you can allow speeches after the time for closing the Session. The Speaker thereupon observed that the chair is not bound to allow speeches after the time for closing the session but if the majority of the members wish to sit longer, the chair can have no objection.

Vol. V (1938) Book No.12, Page-76 (1st June 1938)

111. GENERAL (CONVENTIONS) :- CONDOLENCE RESOLUTION TO PRECEDE THE BUSINESS OF THE DAY.

On 4th January, 1939, two motion were tabled by Mr. Muhammad Hashim Gazdar, MLA. The Honourable Khan Bahadur Allah Bakhsh inquired from the chair, is the motion to be taken up before the question hour, Mr. Speaker ruled:

"Yes. The Condolence resolution, and the convention is that before the business of the day is entered upon, the condolence resolution is to be taken up.

Vol. Vl (1939) Book No. 1, Page- 4 (4th January 1939)

112. BILLS: LAST AMENDMENT CARRIED BECOMES SUBSTANTIVE PROPOSITION.

On 5th January, 1939, When clause 4 of a bill to amend the Bombay Land Revenue code, 1879, was taken up in the Assembly. Mr. C.T. Valeecha, MLA moved an amendment. "In Sub-clause (a) of clause 4, delete the words 'and the first proviso thereto'." Mr. Dialmal Doultram proposed to move an amendment to amendment. Mr. Speaker observed as follows:

" The procedure will be that amendments will be disposed of, until there remains one amendment to a Substantive proposition. Now the amendment becomes a substantive proposition before the House, and the clause does not become substantive until the one amendment is disposed of. The House had the amendment of honourable member Mr. Pamnani as a substantive proposition, and to that the amendment of honourable member Mr. Dialmal came in Until this is disposed on, No other amendment to the amendment shall be moved."

Vol. Vl (1939) Book No. 2, Page- 61 (5th January 1939)

113. AMENDMENT : WHETHER INSERTING LIMITATIONS ON THE CLAUSE CONTAINING THE PRINCIPLE BY WAY OF AMENDMENT WASPERMISSIBLE AT THE SECOND READING:

On 5th January, 1939, In the Bill to amend the Land Revenue Code, the principle was that the tenant whether in possession or not should not be in more favorable position than the person in possession who might be an owner or partner. Mr. Ghanshyam Jethanand moved an amendment by which he wanted to provide that if a person in possession had left the lease and had finished the term of his contract, and if he can prove to the satisfaction of the Collector that under the terms of his lease he was not liable for land revenue then the land revenue should not be demanded from him. Mr. Abdul Sattar Pirzadara raised a point of order whether amendment of kind could be allowed at the time of second reading when it affects the principle of the Bill itself. Mr. Ghanshyam's contention was that his amendment did not affect the principle at all. He merely wanted to put certain limitations on the clause.

The Speaker ruled:-

"Amendment of Mr. Ghanshyam does not militate against the principle of the Bill. By this amendment the clause itself is not affected. Only certain persons are to be excluded from the operation of the clause under certain conditions, i.e., certain limitations are put on the clause. This is perfectly in order. I, therefore, hold that it is not inconsistent with the principle of the Bill. The principle of the Bill is not affected by this amendment."

114. BILLS: AMENDMENT TO AN AMENDMENT TO AMENDMENT NOT ALLOWED:

On 5th January, 1939, in the second reading of the bill No. XX of 1938, a Bill to amend the Bombay village sanitation Act, 1889, in its application to the province of Sindh. Mr. C.T. Valecha, MLA, moved an amendment in sub-clause (a) of clause 2 of the above Bill the following shall be added after the words "the Collector in this behalf".

Such rules shall be Liable at any time to be rescinded, amended or added to by the resolution of the Sindh Legislative. Assembly."

An other honourable member Mr. Dialmal Doulatram, moved an other amendment "in sub-clause (a) to clause 2 of the above Bill. An amendment, namely, the substitution of the word "Government" for "Collector"

After some discussions on (amendment of village sanitation Act) Mr. Speaker gave the ruling on 6th January, 1939.

"No amendment to an amendment to amendment can be moved".

Vol. Vl (1939) Book No. 2, Page- 61 (5th January 1939)

115. MISCELLANEOUS (ETIQUETTE): INTERRUPTIONS: NO INTERRUPTION WHILE MEMBER IS ON HIS LEG:

On 9th January, 1939, While Bill No. XXV of 1938 (Bombay Local Boards (Amendment Act) was under Consideration and many Honourable members was Speaking on the Bill together, the Honourable the Speaker was pleased to observe as under:-

" I might explain to the honourable members that according to the convention of a Parliamentary House, nobody is to be interrupted in between, while he is on his legs except on two grounds: one when an honourable member has to rise to a point of order, and other when he rises to a point of information in which case only if the honourable member speaking yields; otherwise not. Honourable members should also address the Chair. They should not go on speaking to the member directly. This speaking across the table. If they go on doing like that, then there will be no order in the House. If any honourable member wants any information, he must rise on a point of information and if the Honourable the Chief Minister yields, he will get the information. If he does not yield, I cannot force him. Then the honourable member will have to sit down."

Vol. Vl (1939) Book No. 4, Page-85(9th January 1939)

116. MISCELLANEOUS (DEBATE): DECISION OF SPEAKER ON MATTER NOT PROVIDED BY RULES IS FINAL:

On 10th January, 1939, Mr. G.M. Syed moved no-confidence motion against Honourable khan Bahadur Allah Bakhsh " That this Assembly expresses its want of confidence in the policy of the Honourable Khan Bahadur Allah Bakhsh Muhammad Umer Chief Minister , Government of Sindh."

House discussed the time limit of speeches for Honourable members, to speak on the motion. Some Members quoted the rulings given by predecessor on this point, there should not be fixed any time limit for speeches. After some discussion Mr. Speaker ruled:

"The Speaker shall have power to conduct the business of the Assembly in all matters not provided under the Act, rules or standing orders."

Vol. Vl (1939) Book No. 5, Page-64 (10th January 1939).

117. MISCELLANEOUS (DEBATE): PRESS RESPONSIBLE FOR PUBLISHING LIBELOUS WORD.

On 11th January, 1939, during discussion on no-confidence Motion against Honourable Khan Bahadur Allah Bakhsh Muhammad Umer, Chief Minister, Government of Sindh. Mr. G. Syed pointed out that there is some grievance about the Gallery. I have learnt that the Sub-Inspector of Police in-charge of the affairs to discourteous to visitors. One prominent person has complained to me against him. I think it will be only fair that this person is changed and some one else placed. I do not want to give the names. He complained that even your chit which the gentleman had taken was refused. He is a most prominent person. It such prominent persons are also ill-treated, I don't know what will be the case with others. After some discussion on Mr. G.M. Syed's grievance about police Inspector Mr. speaker thereupon, observed as follows:-

Publication of Proceedings: Speaker's hint to the press.

"I would like to bring one point to the notice of the press to-day. This motion, as I said at the very outset, is an extraordinary motion. Naturally there is a certain amount of laxity allowed in the case of speeches, and certain remarks emanate from the mouths of several speaker in the fit of emotion or passion. But the press must be very careful while publishing the reports, because very serious allegations have been made against certain members of the Cabint, and they should be very discreet publishing those. Even though a libelous word is uttered at anytime in this House, the press must be aware that if it is published in a newspaper for circulation amongst the public, then the press could be held liable. At the same time it has been brought by the Honourable the leader of the House to my notice that the press must be very careful in publishing reports. All of a sudden this point has been sprung upon me One ruling has been quoted of the House of commons, and I have yet to study it. But I may inform the press that they should be very careful in publishing the reports."

Vol. Vl(1939) Book No. 6, Page, 109 (11th January 1939)

118. MISCELLANEOUS (DEBATE): DIVISION: WHETHER COULD BE CLAIMED BY THE PARTY IN ORDER TO GET THE NAMES RECORDED:

On 12th January, 1939, on a confidence motion against the Ministry by Mr. G.M. Syed being put, the Speaker declared the motion lost. A minister claimed a division with the sole object of getting the names of the members recorded. K. B. Khuhro objected to this procedure saying that only those members who hold an opinion contrary to the provisional decision by the chair could claim a division. The speaker ruled:-

" The ruled provide that any member, if he so desires, may claim a division."

Vol. Vl (1939) book No. 7, Page – 96 (12th January 1939).

119. MISCELLANEOUS (ETIQUETTE): DISCLOSURE OF NAME OF AN OFFICER NOT ALLOWED.

On 12th January, 1939, Mr. M. H. Gazdae, MLA, rising on a point of order stated that I want to know whether it is proper for an Honourable members of the cabinet make allegations against an official of Government against when they asked for an explanation. Is it fair and right that on the floor of this Honourable House- without calling for his explanation, without making any allegation against him and without giving him any charge sheet incorporating all these allegations that he has got murders committed and dacoities committed-the Honourable Minister should make these allegations?

The honourable K. B. Allah Bakhash (Chief Minister Sindh) informed the chair that there is no doubt that there are complaints against the Inspector in question. Unfortunately it so happened that government also have received certain complaints that the inspector was not so good moral character. He had a weak character and that his company--- I know my honourable friend is his friend--------- I hope he will not mind because he has challenged the allegations made by my honourable colleague. These allegation were enquired into and it was found that there was no truth in those allegations . My honourable friend has stated yesterday that perhaps he was a spy or was not useful to the Ministry, and therefore he was transferred. My colleague has said that certain allegations were made against the man. If those allegations would have been proved, he would certainly certainly have been challenged.

The honurable speaker was pleased to make the following advice/announcement:-

“You cannot ask any question. This is a point of order. If the honourable member had risen on a point of information he would have asked that, but he know that the Honourable Minister would not yield and therefore he rose on a point of order.

I think this is a point which ought to be considered whether the names of particular officers should be disclosed for the purpose of debate or not. I am not very specific about that. But as far as my memory goes, my experience in the Bombay Council is and possibly there were certain rulings which emanated from the Chair, that the names of officers should not be introduced in the debate unless it was absolutely necessary or when it was insisted upon that the names of the officers should be disclosed. I myself had been involved in one such instance when I had made allegations against an Executive Engineer. They insisted that I should disclose his name. I disclosed his name with the result that that Executive Engineer suffered. But the president gave a ruling that names should not be disclosed and it should not be insisted upon that the name should be disclosed because that officer is not before the House to defend himself. It is more the Government to raise the objection if any honourable member disclose the name of official in the debate because they are not here to defend themselves. It is not for the honourable member to raise such an objection. The officer are the subordinates of Government. Unless a member raises an objection and insists on the disclosure of the name of an Officer, his name should not be disclosed. Certain procedure must be observed, and I request the honourable Minister also not to give names. Of course he did it in reply and when he was challenged by the honourable member. It is his right to do so. But it is advisable that he should not indulge in disclosing the names of officers because it is the Government who should object to the disclosure of names. I only just five advice. No ruling is given. It is an etiquette which ought to be observed by the honourable members in future.

. Vol. Vl (1939) Book No.7, Page- 59(12th January 1939)

120. BILL (AMENDMENT): DIRECTION TO ADMIT OR NOT TO ADMIT AMENDMENTS IN SPECIAL CIRCUMSTANCES VESTS WITH THE CHAIR.

On 16th January, 1939, the Honourable Speaker was please to make the following remarks:-

The honourable members are aware what I told them on Friday last. I told them that I had received notice of various amendments from Government compiled in about 17 pages of foolscap paper. I expressed that it was a surprise to me. Prior to that, other honourable members had also given notice of their amendments to the report issued by the Sub-Committee. I rejected some of those amendments as there would otherwise be no finality. Therefore no amendment was allowed. The Honourable the P.W.D. Minister argued the other day that there were many amendments which he had borrowed from the rules passed by the Bombay Legislature, and that many of them were very salutary and would not introduce new principles but would improve upon the present ones. Many of them are mere verbal amendments and change the phraseology or supply missing link which are very necessary to establish the procedure which this House will have to adopt hereafter. So after considering every aspect of the question, I have decided to admit as matter of course all amendments which are merely verbal and change the phraseology or make the language of the provisions happier and more explicit. All other amendments, which raise a substantially new principle, I will consider on their own merits.

I have not admitted any amendment of Honourable Minister P.W.D. so far. Therefore unfortunately under these circumstances I have not given notice of those amendments to honourable members. Now every amendment will be moved, and if I feel that it is necessary for the purpose of the procedure, then I will admit it. If I don't think it is necessary and it open the whole field of the rules, then I will not admit it. So every amendment will be considered on its own merits.

Vol. Vl(1939) Book No. 9, Page- 70 (16th January 1939)

121. BILL (AMENDMENT): CHAIR'S POWER TO SELECT OR REJECT ANY AMENDMENT.

On 16th January, 1939, the Honourable Speaker was please to make the following remarks:-

The Chair has absolute power to select any amendment of which even notice has been given at any time, and if any honourable member has got any doubt, I can quote chapter and verse on it to the Honourable the Leader of the House. The Chair can even reject amendments of which due notice has been given, but these amendments I should take as having been given notice of.

But this much I would impress upon the honourable members that I will not allow them to rise up all of a sudden in their seats and raise controversial amendments of which I shall be able neither to understand the import, nor to explain it to the House. This is simply just as a matter of facility. They should kindly give notice and hand over to my Secretary all such amendments as they wish to move, so that I will sort them for my own purpose in order to be able to put them before the House. Instead of all rising in their seats all of a sudden and putting in amendments, we will be able to go through them if they put them in writing. I take it that all those amendments which were rejected by me or which have so far been handed over to me are left entirely for my decision. If any honourable members wish to move any fresh amendments, they should give notice of the same before the close of the day. They should not brood overnight and flood me to-morrow with so many amendments. I admit all amendments so far given notice of. But fresh amendments it will be difficult for me to consider unless they are of minor consequence. I trust I have made the position very clear.

Vol. Vl (1939) Book No. 9, page- 73 (16th January 1939)

122. QUESTIONS: AUTHORITY FOR PUTTING QUESTION VALID FOR DAYS THE MEMBER REMAINS ABSENT.

On 17th January, 1939, Mr. Secretary called upon Mr. Nur Muhammad shah to put a question. He was not present in the House. An other members (Dr. Popat Lal A. Bhoopatkar) desired, on a point of information. Is the authority given by an honourable member valid for the whole session? Thereupon, the Speaker observed:

"The authority given by an absence member to another member is valid only for the days he intends remaining absent".

Vol. Vl (1939) Book No. 10, Page-31 (17th January 1939)

123. OATH OF ALLEGIANCE IF NOT TAKEN PROPERLY OR WITH MENTAL RESERVATION WHAT WILL BE ITS CONSTITUTIONAL IMPLICATIONS.

While the Rules for the Conduct of the Business of the Assembly were being made by the Assembly, Government proposed that the rule be adopted by which a member while speaking may not be permitted to upper reasonable words or use defamatory expressions Mr. G.M. Syed proposed to delete the word "reasonable". In support of the amendment Dr. Chorithram spoke on the independence of India and contended that "treason" meant to overthrow Government. He further said that India was a slave country under the foreign rule and it was the duty of every patriotic India to see that the present foreign Government was overthrown and instead established his own Government. The Honourable K.B. Allah Bakhsh, the Leader of the House, thereupon reminded the member that he had before taking the seat in the Assembly subscribed before the speaker to an oath of allegiance to the Crown and that whatever the member bad said was not in keeping with that oath of allegiance. Dr. Choithram thereupon replied that he had taken the oath with a 'mental reservation'.

K.B.A.K. Gabol, the Deputy speaker, raised a point whether the oath taken with a mental reservation was a proper one and whether the member could under the circumstances sit in the Assembly as member.

The speaker ruled:-

"The House is a were that I had reserved my ruling in connection with the incident that arose on the 18th January while the debate was going on regarding the word 'treason' in the rule framed for the conduct of the business of this House. During the course of the debate, as the House is aware, honourable member Dr. Choithram uttered the words 'mental reservation' in respect of his oath of allegiance in reply to a query put by the honourable the chief Minister. A point of order in this connection was raised by the Honourable the Deputy Speaker urging that the words 'mental reservation' emanating from the mouth of honourable member Dr. Choithram rendered his oath of allegiance ineffective and in consequence thereof he had no right to sit and participate in the proceeding of the

House. I had reserved my ruling and had invited the remarks of several honourable members to guide me to arrive at a decision. Being a point of great importance and unique in itself so far as Indian Legistrates are concerned, I gave a certain amount of latitude to honourable members to opine whether or not the point of order raised was sustainable under the present law in force and had application to this case under the procedure of this House. So far as I could gather from the arguments of both sides for and against the point raised, they resolve themselves into three categories:-

Firstly, it was urged by some honourable members that the point raised by the honourable the Deputy Speaker is no point of order at all, meaning thereby that the objection raised by the Honourable the Deputy Speaker was not a matter on which the decision of the Chair could be sought.

Secondly, it was urged by other honourable members that even if the objection raised by the Honourable the Deputy Speaker, namely, that the honourble member Dr. Choithram could not sit in the House on account of his having uttered the words 'mental reservation' with regard to his oath of allegiance, was upheld, the Chair had no power under the existing law to give such a ruling as to render the latter disqualified from being a member of the Assembly or to disentitle him from sitting in the House and participating in its proceedings.

Thirdly, it had been argued that if the Chair held the above mentioned two points in the affirmative, the words ' mental reservation' did not connote any repudiation of the oath of allegiance, nor did they effect the solemnity of the same, meaning thereby that the point of order raised by the Honourable the Deputy Speaker be ruled out of order.

Now, so far as the first aspect of the point of order is concerned, honourable members are aware of the meaning of a point of order, which means an objection taken by an honourable member made or done on the floor of the part of another honourable member to any expression or action on the part of another honourable member made or done on the floor of the House, Which the member objecting thereto considers to be contrary to the law and rules governing the powers and the procedure of this House. In this case an objection was raised by the Honourable the Deputy speaker, which, according to him, was a breach of the oath

of allegiance as laid down by section 67 of the Government of India Act. That objection no doubt constitutes a point of order. This view is supported by the ruling given by the President of the Bombay legislative Council in 1921 and is printed on page 122 of the Digest of Rulings of the Presidents of the Bombay Legislative Council. It reads as follows:-

'A point of order means that something is going on and a member objects to it.'

Further rule 15 of the Sindh Legislative Assembly Rules lays down that the speaker shall decide all points of order which may arise and his decision shall be final. Therefore, it cannot be doubted that the objection raised by the Honourable the Deputy Speaker in connection with this incident does constitute a point of order calling for a decision of the Chair.

As to the second aspect of the order, it was urged that the Chair had no power to give any ruling of this matter. In this connection several rulings have been quoted from May's Parliamentary Practice and from Professor Keith's Constitutional law of England.' The first ruling in this connection to which my attention was drawn appears in a foot note in May's Parliamentary Practice at page 161. In that foot note a case has been cited where a member of parliament having taken the prescribed from of oath made certain statements elsewhere, that is, outside the House of Parliament, alleged by the objector to a amount to a repudiation of the path of allegiance. In my opinion this ruling has no application to this case, inasmuch as the statement objected to here was made on the floor of this House. There fore it falls within the cognisance and jurisdiction of the Chair to entertain and give a decision thereon. Another ruling has been quoted in support of this view which is published on pages 166 and 167 of May's parliamentary Practice, where on 13th January 1886, after the opening of the new Parliament, one Mr. Bradlaugh sought to take the prescribed from of oath and sit in the House. An objection was taken that as he had no belief in the existence of God, the oath will not be binding on his conscience and therefore merely going through the prescribed from would amount to not taking the oath. Hence he could not be permitted to take an oath and consequently sit in the House of parliament. The Speaker thereupon ruled that he had no power to prevent any member duly elected by his constituency and willing to take the prescribed oath from taking such an oath and sitting in the House. The circumstances of this case obviously are not

identical with the present case inasmuch as the honourable member Dr. Choithram did take the prescribed from of oath and also that it has never been alleged at any time that he does not believe in the Supreme Deity. A further ruling has been quoted in support of the contention that the chair has a power to give a decision on the point of order raised, and that is published on page 162 of May's Parliamentary Practice, 13th Edition. That ruling was given in connection with the case of Mr. Alderman Solomon in 1851 when he omitted certain words from the prescribed from of the oath. An objection was subsequently taken and the Speaker ruled that Mr. Solomon could not sit in the House and take part in the proceedings. This decision of the speaker of the House of Commons was confirmed by a resolution of the House, also declaring that Mr. Solomon was not entitled to sit or vote in the House.The legal validity of the resolution was after wards established beyond further question by judgments in the Court of Exchequer Chamber. It therefore appears to me that the Chair has a power to give a decision on account of the point of order raised and has been entertained by it. It has been in a general way remarked by some honourable member that as the Government of India Act and the rules do not make any provision empowering the chair to interpret or analyse the requirements of an oath, the Chair has no power to entertain any point challenging the validity of an oath taken by an honourable member in accordance with the prescribed from and set forth in the Fourth Schedule to the Government of India Act. The only reply to this objection, which is in a negative form, could be this, that since the Speaker has been empowered by His Excellency the Governor to administer an oath of allegiance to every honourable member seeking to occupy a seat in this House, it certainly imposes a duty upon the Chair to see that the oath offered is complete in itself and also that it is not spurious but a genuine one. If the Speaker has the power to see that no member of the House could sit in the House except by taking the oath of allegiance as prescribed by the Fourth Schedule, it would certainly be argued as a natural corollary to that, that such an oath must also be attested by the Speaker to be a complete and genuine one.

The only other authority which could be presumed to put any oath to such a test will be His Excellency the Governor who delegated to me the power of administering an oath. Since His Excellency could not be present in the House and listen to the form of the oath taken, he could not be expected to give a decision with regard to the integrity or the genuineness of such an oath. The next authority after His Excellency the Governor can surely be no one but the Speaker of this

House. Therefore I hold that the Chair has got a power to pronounce its decision with regard to the point of order raised by the Honourable the Deputy Speaker.

Now I can to the third aspect of the point of order, namely, whether the words 'mental reservation' uttered by honourable member Dr. Choithram amount to a breach of the oath or breach of the solemnity of the oath. In this connection, taking guidance from the various rulings of the Speakers of the House of Commons and the principles of constitutional law enunciated by eminent persons like Professor Keith, Mr. James Bryce and Sir Erskine May I feel that this question could be resolved into 4 categories:

Firstly, whether a member duly elected by his constituency is willing to take the prescribed from of oath or not;

Secondly, whether he believes in the Supreme Deity whose oath shall be binding upon his conscience or not;

Thirdly, whether he has omitted some words out of the prescribed from of oath; and

Fourthly, whether, after going through the prescribed form, he as repudiated or subtracted from the oath already taken.

By applying the words uttered by honourable member Dr. Choithram to these four criteria, it will be possible to come to a definite decision, for I find that these four categories include all the incidents that have occurred in connection with the oath-taking ceremony in the British House of Commons as well as in the Parliamentary House of the British dominions.

Taking the first criterion, I have now no doubt, and I am sure no honourable member of this House could entertain any doubt as regards the fact that honourable member dr. Choithram was willing and did voluntarily take the oath according to the prescribed form set out in the fourth schedule on the 4th January; it was certainly the duty of the Chair to administer the prescribed oath to an honourable member who is willing and comes forward to take such an oath. This view is supported by the ruling of the Speaker of the House, of Commons in 1886, in case of Mr. Bradlaugh when he was permitted by the former to take the oath in spite of an objection raised by an honourable member of the House of Parliament that he could not take the oath in view of previous decisions of the House of Commons and the Court of Exchequer, holding that an oath had no binding force on his conscience, he being an atheist.

Coming to the second criterion, I must confess that I personally have got no knowledge to the effect that honourable member Dr. Choithram does not believe in the Supreme Deity. Nor has any honourable member of this House made any allegation of that sort here, so that any objection on that count cannot hold water against him.

Coming to the third criterion, it is obvious that honourable member Dr. Choithram went through the entire prescribed form of oath as laid down in the Fourth Schedule of the Act. Hence it could not be urged that he has subtracted from that oath so as to affect its integrity. So no objection could be sustainable on this count.

Finally, coming to the fourth criterion, I must say that it has been urged by the Honourable the Deputy Speaker and those of his way of thing that the words 'mental reservation' as uttered by the honourable member Dr. Choithram amount either to repudiation of the oath of allegiance or subtraction there from so as to materially change the integrity of the oath as well as violate the sanctity of the same. Entertaining some doubts on this count, I asked the honourable member to explain the meaning and the import of the words 'mental reservation' uttered by him. In response to this direction, he submitted a lengthy explanation with regard to these words which runs as follows:-

'With reference to the query addressed to me by the Honourable the Speaker of the House as to what I intended to convey by the use of the words 'mental reservation' I have the pleasure to publicly state what I thought was sufficiently clear.

The Indian National Congress to which I have the proud privilege to owe allegiance has adopted the attainment of Purna Swarajya as its goal. For the attainment of this ideal it has wedded itself to all legitimate and peaceful methods. The Congress Members of the Legislative Assembly are pledged to carry on the programme of Indian national Congress both within and without this House. The congress, M.L.A,s. throughout India at a convention called in Delhi on 19th March 1937, took the following primary oath of allegiance administered to them by the then President of the Indian national Congress Pandit Jawaharilal Nahru:-

'I, a member of this All-India Convention, pledge myself to the service of India and to work in the legislatures and outside for the independence of India and the ending of the exploitation and poverty of her people. I pledge myself to work

under the discipline of the Congress ideals and objectives to the end that India may be free and independent and her millions freed from the heavy burdens they suffer from.'

Every Congress M.L.A including Honourable Ministers in the Congress Government Provinces, is under duty to work in the Assembly subject to the terms of this solemn oath and subject to the creed of the Indian national Congress.

By ' mental reservation' I meant nothing more and nothing less than the mental reservation of every congress man including the Honourable Congress Minister in Congress Government Provinces under which the Congress have accepted office.

In response to my further direction, he explained that by 'mental reservation' he meant nothing more and nothing less than the Congress pledge which he had taken at Delhi before the Congress President, previous to his taking the oath of allegiance to His Majesty the King-Emperor according to the prescribed from before me. It has been argued on his behalf that I cannot entertain or enter into the phychological analysis of the intentions entertained by the honourable member at the time of going through the process of taking the oath of allegiance. I agree with this point of view and, therefore, I am not attempting to analyse the intentions, but the words uttered by honourable member, the interpretation whereof could be the task of no one else but the Chair. Perusing the first statement, I feel that it boils down to this that the honourable member along with those professing the Congress creed have taken a pledge binding themselves to work for Purna Swarajya as required by the convention established by the Indian national Congress. Presumably it has been done on the analogy of other dominions constituting the British Common wealth of Nations. In the first instance the words Purna Swarajya to my mind do not definitely can note severance of connections with the British Crown. At some time during the course of the struggle by the Congress on behalf of Indian people it had been explained that Purna Swarajya means the substance of independence, which obviously in itself cannot be construed to amount to complete severance with the British Crown. It might mean independence so far as the administration of the affairs of the Indian Continent is concerned. It is common knowledge that a demand has several times been made on behalf of the Indian people for the conferring of dominion status on India, so that the words Purna Swarajya or even independence cannot at this stage be faithfully construed as

amounting to complete severance with the British Crown or profession of disloyalty to the same. This view has been supported by an eminent author, Professor Keith, in his book named 'Responsible Government in the Dominions, Volume ll, page 1254, which reads as follows:-

'It has long been argued that there was nothing incompatible in taking the oath while continuing to work for complete independence. In the Union of South Africa Nationalist members and Ministers have never hesitated to regard their oaths as quite compatible with working openly for independence. This view now prevails.'

Again in the first volume at page 389 Professor keith states as follows:-

'It is an essential feature of all Parliaments, that the members are required to take an oath of allegiance to the Crown as a condition of taking their seats. In the case of Irish Free state the oath is primarily one of the true faith and allegiance to the Irish Free State Constitution but also to the King, his heirs and successors by law, in virtue of the common citizenship of Ireland with Great Britain, and adherence to, and membership of, the Group of Nations forming the British Commonwealth of Nations.'

It is thus established beyond the shadow of doubt that an oath of allegiance to work for the independence of one's own country cannot be said to be incompatible with the oath of allegiance to His Majesty the King-Emperor who is the binding link between the various self-governing institutions constituting the great British Common wealth of Nations. This is the ambition of the Indian people, and the worker of the Indian National Congress including the Minister professing the same creed and working in the responsible posts of Ministers to their representative of His Majesty the King Emperor have made no secret of such an intention and have openly declared this intention in the very sphere of their activities inside and outside the Legislatures. Consequently if the honourable member Dr. Choithram had in his mind, and the time of going through the prescribed from of the oath of allegiance to His majesty the King-Emperor, the oath that he had taken before the Congress President at Delhi that he will work faithfully for the independence of this country, that is India, he cannot be said to have meant any breach of his oath of allegiance in this Legislature or to subtract there from, thereby affecting its integrity and genuineness. He has asserted in his final statement that by the words 'mental reservation' he meant nothing more and

nothing less than this pledge to the Indian national Congress. I, therefore hold that honourable member Dr. Choithram has said nothing which is either at variance with the oath of allegiance or in any way affects the solemnity or integrity of his oath taken before me. Consequently, I overrule the objection raised by the Honourable the Deputy Speaker and maintain that honourable member Dr. Choithram can sit in this House and participate in its proceedings."

Vol. Vl (1939) Book. No. 14 Pages-44-50(23rd January 1939)

124. MISCELLANEOUS (DEBATE): POINT OF ORDER-DEFINITION OF-

On 23rd January, 1939, the Honoruable Speaker made the following announcement:-

"A point of order means an objection taken by an honourable member to any expression or action on the part of another honourable member made or done on the floor of the House, which the member objecting there to considers to be contrary to the Law and rules governing the powers and procedure of this House."

Vol. Vl (1939) Book No.14, Page-45(23rd January 1939)

125. PARLIAMENTARY SECRETARY: CAN PARLIAMENTARY SECRETARY MAKE SPEECH AGAINST THE GOVERNMENT.

While the assessment proposals of Land Revenue in the Barrage Zone were being discussed in the House, R.S. Gokaldas instead of supporting the Government proposals pointed out the grievances and wanted the same to be redressed. Dr. Choithram rose on a point of information whether the Parliamentary Secretary being the part of the Government machinery could do so. The Speaker ruled.

"I do not know what distinction I should draw or what line I should lay down. The convention should be between the Ministers and their Parliamentary Secretaries as to how far they should allow them to ventilate their grievances. It is not the function of the Chair to lay down the duties and responsibilities between the Ministers and their Parliamentary Secretaries. When I was parliamentary Secretary I was not allowed even to ask questions or make a speech against Government. I do not know whether the Ministers want to make a departure from this convention. But it is not the function of the Chair to lay down any line. It is purely a question between the Ministers and their Parliamentary secretaries."

Vol. Vl (1939) Book No. 15, Page 87 (24th January 1939)

126. ADJOURNMENT MOTION: A MOTION ANTICIPATING THE ACTION OF GOVERNMENT IS OUT IS OUT OF ORDER.

On 23th January, 1939, Mr. R.K. Sidhwa, MLA, gave notice of an adjournment motion:-

That this House do adjourn to discuss a definite matter of urgent public importance, viz., the failure of Government to implement the policy of stopping the sale of charash from 1st April 1939, which failure is clear from the Government Notification E-168 of 14th January 1939."

The motion was opposed by the Honourable K.B.Allah Bakhsh, (leader of the House) on the ground that the matter, proposed to be discussed, is not of urgent that should be brought by way of an adjournment motion. I do not know why the honourable member wishes to bring an adjournment motion for this matter. I see no urgency about it. In any case the House will meet in the month of February and there is sufficient time for the House to discuss the policy of Government with regard to this matter by means of resolution, if the honourable member wishes to do so. The actions will continue till March and I see no urgency about it. After hearing both the sides the Speaker postponed the matter for one day, en next day House discussed on adjournment motion after consideration Mr. Speaker said that adjournment motion no doubt is of public importance and is also definite. The only question for me to consider for the purpose of admission is whether it is urgent. Now, this motion regarding the prohibition of charash has been brought on the basis of a declaration made by the Honourable Sir Ghulam Hussain Hidayatullah when he was the Chief Minister in March Last.

On January 24, 1939, Mr. Speaker gave the following ruling:-

"I am considering the question of urgency' Whether the decision has actually arrived when the Government could be Legitimately censured. Government have made the position very clear that the report has been handed to then only a week ago and they are asking the Finance Committee to examine the proposals. The are actually implementing and bringing the matter into Fruition.

Some honourable members queried me Whether there will be any occasion to censure Government. There is the budget discussion At that time one rupee cut can be brought and Government can be censured. The Honourable the Chief

Minister has replied that they have issued orders to the Revenue Commissioner not to sanction the auctions. They are thus deviating from the ordinary procedure that has been adopted be far. This step they have taken with some intention in order that they can impose some condition if Government adopt prohibition policy during the year they will cancel the License. In these circumstances I think that this motion is anticipating the action of Government and therefore I rule it out of order".

Vol. Vl (1939)Book No. 15, Page-49(24th January 1939).

127. RESOLUTIONS: IF THE MOVER OF A RESOLUTION IS SATISFIED WITH THE STATEMENT OF THE HONOURABLE MINISTER THE RESOLUTION MUST BE WITHDRAWN AND NO DIVISION WOULD BE ALLOWED THEREON.

On 26th January, 1939, K.B. Haji Ghulam Nabi Shah, MLA, moved a resolution for the recommendation of the Assembly "whereas the economic condition of the non-Barrage Talukas of Hyderabad District has grown worse since the advent of the Sukkur Barrage and whereas the prices of paddy, on which the settlement was made in 1913, have fallen from Rs. 1-14-0 per maund to Rs. 1-8-0 per maund i.e. by about 20 percent, and where the outturn has also been reduced from 16 maunds, calculated at the time of settlement, to about 9 maunds i, e, by about 44 percent this House recommends to the Government to grant a proportionate rebate in assessment to the aforesaid Talukas." K.B.Allah Bakhsh (Chief Minister) opposed the resolution and gave assurance to the mover of the Resolution that if any such difficulties arise in future, I will seek advice of my party members and if there is any such taluka, I will grant remission according to the graded scale. For the present year, it can not be done. Mr. Speaker asked from the mover that are you prepared to withdraw the resolution?

Mover said this resolution is in the form of only a recommendation to Government and the Honourable the Chief Minister should have no objection to accept it. However if he has got any objection, I am not prepared to with draw my resolution, the Speaker ruled as follows:

All the honourable members should understand this point and it will be a precedent for the future. It is a convention in Bombay Council or other places that when the mover of a resolution is satisfied with the statement that an Honourable Minster make, than the resolution is to be withdrawn. If the mover is not satisfied, then the division is claimed. Here also the same procedure should be followed. As far I have understood the mover of this resolution, he has not shown any dissatisfaction, He has explained that this is a sort of recommendation and even if it is passed, its result will not be bed. I might inform the honourable members that in future if any honourable member is satisfied with the statement of the

Honourable the Chief Minister he must withdraw his resolution and no division will be permitted in such a case . A division will be permitted only when the honourable the mover is not satisfied with the statement of the Honourable the Chief Minister. Does the honourable member wish to withdraw his resolution?"

Resolution was not with withdrawn by the mover and Mr. Speaker put the resolution to vote. The result stand, the resolution was Lost.

Vol. Vl (1939) Book No. 17, Page-62 (26 January 1939)

128. RULES AND STANDING ORDERS – CAN BE SUSPENDED BY THE UNANIMOUS DESIRE OF THE HOUSE.

On 27th January 1939, The last day of the session was fixes for non-official Bills. In the list of Bills pending before the Assembly there were 20 Bills for the first reading and 69 for leave to introduce. Under the rules, the motion for first reading of a Bill had precedence over motion for leave to introduce as Bill. As it was feared that no member might get a chance to make a motion for leave to introduce his Bill, Dr. Popatlal requested the Chair to give priority to the Bills to be introduced over Bills introduced. The speaker ruled:-

"I will explain the legal difficulty. So far as our rules are concerned, as they stand at present and are in force, I do not think the Chair has got the power to suspend the operation of the rule. But I have got one precedent which I have been able to explore in connection with the proceeding of the Central Legislature. Once this question arose there and the President at that time gave a ruling that by the unanimous conduct of the House, operation of a particular rule can be suspended".

Vol. Vl (1939) Book No. 18, Page- 58 (27th January 1939)

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13 February 1939 to 28 February 1939
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129. COMMITTEES: PROCEEDINGS OF A COMMITTEE NOT TO BE DISCLOSED: PARLIAMENTARY CONVENTION:

On 13th February, 1939, when the Resolution by Mr. Sitaldas Perumal to adopt the report of the Anti-corruption Committee was being discussed in the Assembly Mr. R.K. Sidhwa made references to certain matters which had happened in the Committee.

The Speaker thereupon ruled:-

"I want to tell the honourable members that the convention of the Parliament is that whatever transpires in a Committee, either appointed by this House or by Government, should not be disclosed here on the floor of the House or used as an argument in support in this House. That convention should be followed in this House. Otherwise there would be so many contradictions, statements after statements and counter statements that there would be no end to them."

Vol. Vll (1939) Book No. 1, Page-61 (13th February 1939)

130. RESOLUTION: MOVER OF THE RESOLUTION AND THE MINISTER-IN-CHARGE OF THE DEPARTMENT TO WHICH IT RELATES OR HIS REPRESENTATIVE MUST BE PRESENT WHILE THE RESOLUTION IS BEING DISCUSSED.

On 13th February, 1939, When the resolution by Sitaldas Perumal, MLA, to adopt the report of the Anti-corruption Committee was being discussed in the House, the leader of this House, who was the Chairman of the committee, was absent.

The Speaker ruled:-

"I wish to make an observation that an honourable member who moves any motion in this House and the Honourable Minister-in-charge of the department or his representative must be present in the House When that motion is being discussed. That is the convention and etiquette of the House."

Vol. Vll (1939) Book No. 1, Pages 85-86(13th February 1939)

131. SELECT COMMITTEE PERSONNEL: INCLUSION OF MEMBERS OF OTHER COMMUNITIES IN THE SELECT COMMITTEE ON A SOCIAL BILL AFFECTING ONE PARTICULAR COMMUNITY.

On 14th February, 1939, In the motion made by Dr. Hemandas R. Wadhwani, MLA, to refer the deti Leti Bill to the Select Committee, the members of the Select Committee were all from one community affected by the Bill.

The Speaker ruled:-

"I might point out that there has been a convention in various Legislation that when any Social Legislation affecting one Particular community comes Forward, the members of the other community also express their opinion and with their Support the Legislation is Passed. Therefore on the select committee as well a sprinkling of that community is also put lest it might be taken as a Precedent. I am not going to push the issue. I am merely Painting out to the Hindu Members. Even in the central Assembly recently there was Mr. Kazmi's Bill affecting Muslim community alone-But the Hindus also Participated in the discussion. It will be a wholesale Practice if we can put a few member of the opposite community on the select committee lest if might be taken as a Precedent for Future occasions when a Social Legislation is brought by the opposite community to which no Hindu member might be appointed, and they might quate this Precedent.'

Vol. Vll (1039) Book No. 2, page-90(14th February 1939)

132. BUDGET: (GENERAL): BUDGET BOOKS NOT TO BE QUOTED BEFORE PRESENTATION.

On 15th February, 1939, Sir Ghulam Hussain Hidayatullah, MLA, raised a point of order, the Budget Book that have been circulated to the members are marked "confidential." Can a reference be made to then? K.B. Muhammad Ayub Khuhro informed the House they are not confidential from honourble members of this House. All the honourable members have been supplied with the budget books and every honourable member is supposed to have read them. Thereupon Mr. Speaker intervened and ruled:-

"When budget books circulated among members are marked "confidential" they cannot be quoted before presentation."

Vol .Vll (1939) Book No. 3, Page-56 (15th February 1939)

133. BUDGET: COPIES OF BUDGET SPEECH ARE TO BE DISTRIBUTED BEFORE THE SPEECH IS MADE.

On 18th February, 1939, on eve of the presentation of Budget for the financial year 1939-40 Mr. R.K. Sidhwa, MLA, requested the chair that we have not received a copy of the budget speech. All along on the last two occasions was were supplied with the budget speech before it was read by the Honourable Minister. I don't know why it is not supplied to day.

K.B. Allah Bakhsh (leader of House) informed the House that the copies of the speech will be distributed after I finish the speech, not before.

Thereupon Mr. Speaker ruled:-

"I do not know how far I can help the honourable members. I have pointed out to the Honourabl members. I have pointed out to the Honourable leader of the House the precedent and the procedure of last two occasions. I again remind him that even in the Bombay Council the copies of the speech were delivered to the members in the morning before the speech was actually made in the House. There might be particular difficulty which I do not know. But the precedent has been that the copy is distributed before the speech is actually made. I think he has got no serious objection to it. But it seems since he has adopted one procedure he wants to stick to it."

Vol. Vll (1939) Book No. 5, Page- 27 (18th February 1939)

134. MISCELLANEOUS (DEBATE): METHOD OF ELECTION OF ASSEMBLY REPRESENTATIVE TO LOCAL RAILWAY ADVISORY COMMITTEE:

On 21st February, 1939, the Speaker made the following announcement before starting the General discussion on Budget for the financial year 1939-40.

"Election of assembly representative to local Railway Advisory committee will be by Single vote and by ballot when there are only two candidates.'

Vol. Vll(1939) Book. No. 7, Page- 38 (1st February 1939)

135. BUDGET: (DEMANDS): WHETHER THE CUT MOTIONS FOR ITEMS UNDER A DEMAND ARE PERMISSIBLE.

On 22nd February, 1939, When the rules for the conduct of the Business of the Assembly under sub-section (1) of section 34 of the Government of India Act, it was proposed to adopt the following rule with regard to cut motions on the Budget demands:-

"When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the Budget.

No motion shall be made for the reduction of the total grant under any specifies head or heads until all motions for the remission or reduction of definite items within that grant have been disposed of."

The Honouable Mr. Nihchaldas C. Vazirani, Minister-in-Charge, objected to the rule being adopted on the ground that it was ultra vires of section 79 of the Government of India Act. He contended that it was permissible under the old Government of India Act to move for a reduction or omission of any of the items of whish the grant is composed, but not under section 79 of the present Act, Which makes a departure from section 74 of the old Act, in this respect. The Speaker ruled:-

" I have come across the proceeding of the Conference of Presidents and Speaker held in 1938. Of course I was not present at the Conference, but my predecessor attended it and a similar question was raised there. It is published on page 23 of the Minutes of the Conference. The Speaker of the Assam Assembly raised the question 'Does the provision of section 79 (2) of the Government of India Act, 1935, allow a motion for reduction or omission of expenditure allotted for an item composing a grant?
The points as enumerated are as follows:-

Point No. 1 says: 'Section 79 (2) provides the estimates of expenditure therein referred to shall be submitted in the form of grants and the Provincial Legislative Assembly shall have power to assent, or to refuse to assent to any

demand, or to assent to a demand subject to reduction of the amount specified therein.'

The second point is; 'The question is that where a demand for grant is divided into items, is it permissible under section 79 (2) to move for a reduction or omission of any of the items of which the grant is composed. The answer appears to be in the affirmative, inasmuch as such a motion in substance amounts to a reduction of the amount specified in the grant .'

Further 'The above interpretation is in conformity with the procedure in the Central Assembly (L.A. Debates, 9th March 1927, at pages 1911-1914) and the procedure of the House of Commons.'

Then again 'Reference may be made to the Central Legislative Assembly Debates, 23rd February 1927, pages 119-1 197 regarding the interpretation of section 67(6) of the old Government of India Act, which is set out in the Ninth Schedule of the Government of India act of 1935 and still governs "the Central Assembly during the 'transitial period'." Also see section 72D (2), Government of India Act of 1919, relating to provinces. The relevant sentence of the section is as follows:-

'The Council may assent, or refuse to assent , to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed.'

It is obvious that the language of section 72 D (2) was quite explicit on the point under discussion. It would, however, appear that, although the language of the new section 79(2) of the Act of 1935 is more condensed, this section is also susceptible of the same interpretation as the old section 72D (2), which expressed the idea in an expanded form.

So it amounts to this that while this new section 79-(2) of the Government of India Act is in a condensed form the was more explicit, but that does not mean that it precludes any honourable member from moving a further motion for reduction of a particular item of a grant. Other Assemblies have also passed this rule. For instance, the North West frontier Province Rule says:-

'No motion shall be made for the omission of the demand for a grant as a whole until all motions for the reduction of the amount specified therein have been discussed.'

This is analogous to our sub-rule (3).

The Assam Assembly has also passed this rule in this form:-

'When several motion for substantial reduction relating to the same demand are offered, they shall be discussed in the order in which the head to which they relate appear in the budget. Ordinarily the largest reduction under a grant or an item of a grant will be taken up first and the smallest reduction last.'

The Orissa Assembly has also passed a similar Rules as under:-

'No motion shall be made for the omission of a demand for a grant as a whole until all motion for the reduction of the amount specified therein have been discussed.'

Then we come to the Punjab Assembly Rule which is as follows:-

'After a question has been proposed from the Chair for omitting or reducing any item, no motion may be made or debate allowed upon any preceding item'……

It will thus be seen that several of the Assembly have adopted this rules and in view of the very considered view of the Presidents and Speakers, I rule that this rule could be passed and is in order."

Vol. Vll (1939) Book No.8, Pages 77-79 (22nd February 1939)

136. BILL: PREVIOUS SANCTION IS THE SPEAKER BOUND TO REFER THE BILL TO THE GOVERNOR WHEN A QUESTION ARISES THAT THE BILL REQUIRES PREVIOUS SANCTION OF THE GOVERNOR.

On 24th February, 1939, when Mr. G.M. Syed rose to move his Bill to make certain provisions for the relief of Agricultural Indebtedness in the Province of Sindh for the first reading the Honourable K.B. Allah Bakhsh, the leader of the House, raised an objection that the bill was not in order. He contended that the Bill affected the mortgagers rights. A mortgage constitutes an interest in immoveable property. The Bill modified these rights, that is to say, it modified the rights in the land within the meaning of sub-section (3) of section 299 of the Government of India Act, 1935, and as such it could not be introduced or moved in the Chamber of the Provincial Legislature without the previous sanction of the Governor in his discretion. Under rule 8 of the Governor.
The speaker ruled:-

"Yesterday a point of order was raised by the Honourable the Leader of the House that the honourable member Mr. G.M. Sayed's Bill which has not got the sanction of His Excellency the Governor could not be moved, and it was contended here that a Bill of that nature fell under the purview of section 299 (3) of the Government of India Act and that therefore the previous sanction of His Excellency the Governor was necessary for moving such a Bill. The preliminary issue that was raised was that objection had been raised under Governor's Rule 8, part (2) which in our consolidated rules which we have adopted appears as G. 132, sub-rule 2, and it was contended that if any question arises whether a Bill or amendment is or is not a Bill or amendment which cannot be introduced or moved are with previous sanction, the question shall be referred to the authority which would have power to grant the previous sanction if it were necessary, and the decision of that authority on the question shall be final. One point was raised under this sub-rule, and another point was of course raised on the merit of the Bill under section 299 (3) of the Government of India Act.

First I have to dispose of the preliminary issue whether or not the Chair has got the power to withhold the passage or the discussion of a Bill where an objection has been raised. Now the contention of the Honourable the Chief Minister was that the Chair has got no power to permit the passage of the Bill or the discussion thereof when at any time an objection has been raised, because the sub-rule is peremptory –the word 'shall' appears there –and that the Chair can take up only three positions.

If the speaker under sub-rule (1) is of opinion that any Bill or an amendment requires previous sanction of the Governor, then he shall refer it to the Governor, and it will not be permitted to appear on the list of business With regard to this sub-rule (1) applies. That means the Bill has to be referred to His Excellency the Governor.

The second position will be where the Speaker is in doubt whether or not the Bill requires the previous sanction of His Excellency the Governor, and the third position will be when the Chair has no doubt and is convinced that a particular Bill does not require the previous sanction.

The contention of the Honourable the leader of the House, as supported by the Advocate-General, was that as soon as an objection has been raised whether any particular Bill requires the previous sanction of His Excellency the Governor or not, it is only His Excellency the Governor who can decide whether or not it requires his sanction, so that, if it is necessary, he will accord his sanction. If he is not inclined on any grounds best know to him, then he will refuse it.

I have first to hold whether I am of opinion that this is a Bill which requires the previous sanction of the Governor. I must admit and hold that I am not in a position to say and I cannot say that I am of opinion that it requires the previous sanction of the Governor.

Then the second position is whether it creates any doubt in my mind, that is, whether I am undecided whether or not this Bill requires the previous sanction of, the Governor. On this point I must admit that I have given great latitude to both sides of the House to enlighten me, because this is the first of its kind that has

arisen and I cannot get any guidance from any ruling of any legislature in India. This is a new Act which has only just been envolved, so that there is no guidance on the point. I have gone through the Parliamentary proceedings and the Reports of the Joint Parliamentary Committee and the annotations. But I can find no guidance from any of them on this point. Therefore up to the last moment when I entered the hall I have not been able to make up my mind. This clearly proves that I am in doubt, and I really am in doubt. I do realise the importance of this agrarian piece of legislation. I also realise the anxiety of the honourable members to have this legislation passed. I am myself anxious about it, because I also represent agriculture. But I must admit that I have not been able to make up my mind whether the Bill requires the previous sanction of the Governor.

This in itself shown that I am not clear in my mind on the point. That being the case, sub-rule (2) of rule G-132 applies and therefore I must refer this Bill to His Excellence the Governor.

As to what I shall do in the third contingency I have not decided and given a ruling. I think I might wait until it does arise. Meanwhile I might get guidance from some ruling. If I were to give a ruling now, it might be prejudicial to this side of the House of that side of it. Therefore I think I should not be pressed to commit myself one way or the other."

Vol. Vll(1939) Book No. 10, Pages 18-22 (24th February 1939)

137. BILLS: WHENEVER HONOURABLE MEMBERS WANT TO BRING IN ANY BILL THEY MUST PROVIDE ALL THE CONSEQUENTIAL AMENDMENTS IN THE BILL, AND NO CONSEQUENTIAL AMENDMENTS WILL BE ALLOWED IN THE RELEVANT PORTION OF THE ACT UNLESS IT IS PROVIDED IN THE BILL ITSELF.

On 24th February, 1939, Mr. Naraindas A Bechar, MLA, moved Bill No. XlV of 1937, a Bill to amend Karachi Municipal Act, 1933, a Bill was moved for first reading Mr. R.K. Sidhwa, MLA, raised appoint of order in clause 2(6)

" In Sub-section (g) of the said section 8 (1) Substitute the figure (7) for (8)and delete the words "of when I shall be appointed to represent the Laboring classes."

Mr. Speaker asked from advocate General for Legal position and Mr. Advocate General argued that there are 56 seats at present in the corporation. They are all distributed and out of 56. One seat is given to Labour. The remaining 55 seats are given to others. If this clause is passed, then the seats being the same, there will be no seat for the new member. The clause will be entirely inconstant with the provisions of the original section. Therefore the clause cannot be amended. There should be simultaneous amendment to raise the member of councilors from 56 to 57 before making a provision for additional representation to Labour. As its is , this clause is entirely inconsistent with the original section and is out of order.

K.B Allah Bukhsh (leader of the House) explained that if consequential amendment could have been made, when the Government brought the last Bill, They would not have provided for all sections. The Government did not amend one section only. The amended section 8, section 9, section 280 and also the necessary consequential amendments to all those sections were made. That being so, if one section is amended and it has got consequential effect, then, those other sections must also be brought in the Bill, not that it should be presumed that they are automatically amended. After all once the principle is accepted, then the consequential effect of that amendment must affect all the relevant sections, and they must be specified in the Bill.

Thereupon Mr. Speaker observed:

Mr. C.T. Valecha and dr. Popatlal A. Bhoopatkar, MLAs contended as the consequential changes do not go beyond the scope of the Bill before us they can be permitted, but we can not make any other consequential changes to the Act it self unless as expressly stated by virtue of the provisions in the Bill and during the days of Sir Ghulam Hussain Hidayatullah, (leader of the House) my honourable friend Mr. M.H. Gazdar moved his Bill extending the life of the corporation from 3 to 5 years. At that time we brought to your notice that it entailed many consequential charges which where not provided in the Bill, but then it was held by the Advocate-General that if a particular section was amended, it would have the effect of making the consequential amendments in the relevant section of the Act respectively whether clause (b) could be moved or not. I rule it cannot be moved and that all the rest of the clauses can moved.

Now the second point is as regards the provision of two elected members instead of one, thereby increasing the total figure for the entire Corporation. Now the contention of the honourable members on the other side, sympathizing with the honourable member in charge, is that consequential amendment can be made in the Act, though it is not specifically provided in the Bill. I regret I cannot agree with that view. Any consequential changes, as stated by my honourable friend Mr. Valecha, have to be within the scope of the Bill, and anything that is beyond the scope of the Bill is irrelevant and beside the point at issue. The point at issue is the provision in the Bill. If I now allow such latitude, the honourable members might bring any number of amendments which would in effect be beyond the scope of the Bill itself. Now, the analogy that was drawn by the honourable member Dr. Popatlal was that at the time Mr. Gazdar's Bill was discussed, the Honourable Advocate-general gave the opinion that if the Bill was passed, the consequential amendments will have their own effect. So far as I member, and the honourable members might correct me if I am wrong , in that case it was the question of certain provisions in a schedule, which was to be passed by the corporation. The Honourable Advocate-General's contention was that the provision in the Act supervened or rendered inoperative the provisions of the Corporation which they could modify form time to time and change the schedule. So that point was irrelevant. I maintain that now this Bill also is out of order on that ground, because it is inconsistent with the main Act. For future guidance of the honourable members, I shall lay down that whenever they want to bring in any Bill they must

provide all the consequential amendments in the Bill, and no consequential amendments will be allowed in the relevant portion of the Act unless it is provided in the Bill itself."

Vol. Vll (1939) Book No. 10, pages 28-29 (24th February 1939)

138. BILLS: PARLIAMENTARY SECRETARY NOT TO SPEAK ON HIS OWN BEHALF ON A BILL.

On 24th February, 1939, during discussion on the first reading of the Bill No. XV of 1937, a Bill to amend the Karachi Small causes court Act,(Bombay Act, IV of 1929) the bill was moved by Mr. R.K. Sidhwa, a member (Mr. Jamshed Nusserwanjee) raised a point of information and want to know whether honourable member K.B.Gabol (Parliamentary Secretary)can Speak on his own behalf, that is personally, or on behalf of Government. Thereupon the Speaker observed:

"Parliamentary Secretary cannot Speak on his own behalf on any Bill unless it is legislation of a social character/nature.

Vol. Vll (1939) Book No. 10, Page-36 (24th February 1939)

139. MISCELLANEOUS (DEMAND): AN HONOURABLE WHO HAS VOTED UNDER A MISAPPREHENSION CAN CORRECT HIS VOTE IF HE BRINGS IT TO THE NOTICE OF THE CHAIR BEFORE THE DIVISION IS CLOSED.

On 25th February, 1939, when demand No. 8 relating to head Provincial Excise was moved, demand was made for a supplementary grant of Rs. 126000/= under head 8- Provincial Excise for District Executive Establishment. Mr. H.S. Pamnani, MLA moved cut motion, reduce by Rs. 100-c-cost of opium supplied to provincial Excise department total voted demand –Rs.26,000. Was under discussion after some discussion Chair put the motion to vote and motion was negative. Dr. Popatlal A. Bhoopatkar, MLA, clamied division. Thereupon, Mr. Speaker observed:-

Wrong Voting: Speaker's Ruling.

Now before the result of the division is declared I would like to read this ruling. "On a point of order being raised that a member had voted on the wrong side, and that there was misapprehension, the President ruled that the member who voted under misapprehension is entitled to have his vote corrected if he brought it to the notice of the Chair before the division was closed. In this case lobby in which the honourable member had voted was closed, and therefore the list had been taken away (just as the Honourable Mir Bandehali Khan Talpur want and looked at the lobby and found that the lobby had been closed). It raises an awkward question, because the transfer of a vote would mean that one side will win and another side will lose. It was a very critical position, whereas if the division was allowed to stand the votes would be equal . It is purely a parliamentary practice that an honourable member voting under a misapprehension is allowed to correct his mistake provided he has brought it to the notice of the Chair before the division is closed. In this case the honourable member is entitled to have his vote transferred."

Vol. Vll(1939) Book No. 11, Page 58 (25th February 1939)

140. Miscellaneous (Demand): Right to Claim Division: Procedure-

On 25th February, 1939, when supplementary grant of Rs. 91000 under head 29-Police was put before the House. The motion stand negative. K.B. Allah Bakhsh (leader of the House) claimed division. 35 notes for the Ayes and 14 for the Noer.

So the grant was made. Thereupon, Mr. Speaker ruled:-

"It should be the right of the opposition to demand a division on any grant proposed by the Government Benches. If there is any voice, whether the voice might be high or Low, to Whichever side the proposal emanates, I will say the proposal is carried. If the proposal is from the Government. I always will decide in favour of the Government unless a division is demanded by the opposition side if the proposal is from the opposition side then it will be the right and privilege of the Government to demand a division."

Vol. Vll (1939) Book No. 11 Pages. 64-65 (25th February 1939)

141. MISCELLANEOUS (ETIQUETTE): CASTING VOTE OF THE CHAIR : CHAIR IS BOUND TO EXERCISE CASTING VOTE IN CASE OF EQUALITY OF VOTES. IN CASE OF ELECTION, CHAIR SHOULD LOOK TO THE MERITS OF THE CANDIDATES.

On 25th February, 1939, In the election for the post of Deputy Speaker in the Assembly two candidates –Miss Jethibai Sipahimalani and Mukhi Gobindram Pritamdas-secured equal number of votes. The point arose whether the chair should exercise a casting vote or should decide the issue by drawing of lots. It was contended that under section 66 of the Government of India Act every question in the Assembly is to be determine by a majority of votes of the members present and voting other that Speaker, President or persons acting as suchand the Speaker President or person action as such shall not vote in first instance but shall have and exercise a casting vote in the case of equality of votes.

The Speaker ruled:-

"Wherever the law is silent, "it is for the presiding authority to give the decision. That is the general practice. The rule which has been quoted is very ambiguous. That is no fault of mine. I should therefore like to act under section 66 of the Government of India Act. That will supervene all the rules. If the rule had been definite, I should have acted under them. But since the rules are ambiguous, I must decide according to the provision of section 66 of the act, and accordingly I cast my casting vote in favour of honourable member Miss Jethibi Sipahimalani considering the merits of the two candidates."

Vol. Vll (1939) Book No. 11, Page-75 (25th February 1939)

142. PARLIAMENTARY SECRETARY: PARLIAMENTARY SECRETARY IS THE SPOKESMAN OF GOVERNMENT AND HE CANNOT EXPRESS HIS PERSONAL VIEWS.

On 27th February, 1939, the Honourable Speaker made the following ruling:- I wish to make one point clear once and for all. Unfortunately, the Honourable the Leader of the House is not here. I wish he were here. However, through his colleagues I wish to convey to him this for the information of Government. I want the Honourable Ministers to make up their minds as to what will be the duty of the parliamentary Secretary and to which Honourable Minister each Parliamentary Secretary is attached. The Honourable member K.B. Gabol has now made a speech as if he was an independent man. He wanted to defend the theory of repudiation of debts and said the there was no provision in the Government of India Act for confiscating their lands and that therefore there was no harm in raising certain loans and repudiating them and again raising fresh loans. He was starting a theory to which I think the Government is not going to commit itself. The honourable member is a responsible officer. Therefore I want the Honourable Ministers to be very careful and instruct their Parliamentary secretaries as to what they should say and what they should avoid. The honourable member K.B. Gabol also made a certain suggestion that an officer should be appointed to mange, the lands of the Jagirdars and Zamindars who cannot manage their lands. Now this is a suggestion which may be take to commit the Government. It is a very serious matter as the honourable members in the Opposition might make use of it, because I have laid down that a Parliamentary Secretary is the spokesman of Government and he cannot express his personal views. I am not going to permit parliamentary Secretaries to express their own personal view unless it is upon some social measure and that also with the permission of the Honourable Ministers to whom they are attached. There should be a uniform practice in this matter. It is in the interest of government that I am stating this and I shall see that this rule is observed for the future after the adjournment of this session, and then I shall insist upon this rule being observed. For the time being I am not going to enforce this, but as I said, after the adjournment of this session I shall see that this practice is adhered to.

Vol. Vll (1939) Book No. 13, Pages. 07-71(27th February 1939).

143. BILL: IF PREVIOUS SANCTION BY THE GOVERNOR IS DECLINED COULD A MEMBER APPEAL AGAINST THE ORDER TO THE FEDERAL COURT.

On 17th March, 1939, Mr. G.M. Syed's Bill to provide for the relief of agricultural indebtedness was referred to the Governor under Sub-section (3) of section 299 of Government of India Act and the Governor in his discretion declined to give such sanction. Mr. Syed on a point of information wanted to know from the chair Whether he could prefer an appeal against the order of the Governor.

The Speaker observed:-

"It is not for me to say that. It is for the law to give the right of appeal to the federal Court."

Vol. Vlll (1939) Book No. 1, Page. 26, (17th March, 1939).

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144. Parliamentary Secretary: Parliamentary Secretaries get up and make certain statements on behalf of Government.

On 17th March , 1939, the Honourable speaker made the following observation:-

I have noticed in the course of discussion to-day and I had expressed even on the last occasion when we adjourned that the Parliamentary Secretaries make certain statements. These statement give rise to certain doubts and suspicions is my minds well as in the minds of honourable members of this House. Several times I have noticed that the Parliamentary Secretaries get up and make certain statements. But we do not know whether the parliamentary Secretaries have got the sanction of Government and whether the statement made by the Parliamentary secretaries are authoritative and binding on the Government. I have requested the Honourable the Chief Minister to tell me whether what the parliamentary Secretaries state is to be taken as from Government and is binding on the Government. This has confused me often times and I would request the Honourable the Chief Minister to at least convey to me as to what is the position. What portfolios are allotted to the Parliamentary Secretaries? We do not know what portfolios are allotted to the parliamentary Secretaries. I would request the Honorable the Chief Minister to make up his mind and allot some portfolios to the Parliamentary Secretaries.

There was another confusion to-day when the Parliamentary Secretary during the course of his speech made a certain statement about a certain number of charsh shop being ordered to be a closed down and had the Honourable the public Works Department Minister not nodded and confirmed the statement of the Parliamentary Secretary, I would not have allowed the statement of the Parliamentary Secretary.

Vol. Vlll (1939) Book No. 1, Page- 59 (17th March, 1939).

145. Adjournment Motion: An insult not matter of public importance and definite, ruled out of order:

On 20th March, 1939, Mr. Speaker took up adjournment motion tabled by Shaikh Abdul Majid, MLA, that "This House do adjourn to discuss a definite and urgent matter of public importance and urgent matter of public importance and of recent occurrence, namely, the harassment and insult of K.B. Ghulam Muhammad Isran , a member of the opposition by the District Magistrate of Larkana perhaps with a view to coerce him to join Government Party."

Mr. G. M. Syed pointed one thing, more than one month back I relived a litter from honourable member Mr. Isran that was sent by the collector, asked him indirectly that should join the Ministerial Party and clearly written in that letter his Licensed might be cancelled.

K.B. Allah Baksh (leader of the House) contended that what the Mr. G.M. Syed has said which is something quite serious. The matter of coercin of K.B. Isran, I think Mr. Isran Should himself make a statement, When he present in the House, whether the district Magistrate, either directly or indirectly gave him a hint that he should join the Ministerial Party and if that is so, I shall be perfectly prepared to consider the whole matter. As far as I am concerned, or as far as Government are concerned, we have no knowledge of this matter. But I am perfectly prepared if the House so wishes to institute a departmental enquiry to satisfy the House. After leader of the House K.B Ghulam Mahummad Isran said in the statement that the conversation between myself and collector.

The statement was recorded on 25th January 1939 before the collector, where we all the brothers were present. It is because of that statement only that my licenses have been forfeited. He always used to commence his conversation with the information of the Assembly; after he always used to turn to debts.

After some discussion Mr. Speaker ruled:

Now I have heard the discussion on the point of this adjournment motion and the discussion has not removed any doubts from my mind that this adjournment motion is of public importance specially with regard to the word 'insult.'

If the hournorable members are making out that the cancellation of the gun license a matter of insult, then I am inclined to believe that this is not the correct position to make because that does not amount to insult. That may be hardship, that may be harassment, but that is not an insult. An insult is of graver nature than harassment.

And, there fore since no other specific matter has been pointed out and even from the statement of Khan Bahadur Isran it is not clear that the District magistrate directly told him to join the party, I really cannot make out whether it will from the basis of an adjournment motion.

I do not think it is matter which is definite and even of public importance. Therefore I rule it out of order.

Vol. Vlll (1939) Book No. 3, pages .33-34 (20th March, 1939)

146. ADJOURNMENT MOTION: EVEN ON ACCOUNT OF ON DAY'S DELAY WHEN THE ASSEMBLY IN SESSION, MOTION RULED OUT OF ORDER:

On 20th March, 1939, Mr. Muhammad Amin Khoso, MLA, moved an adjournment motion, as follows:-

"That this Assembly do now adjourn to discuss a definite and urgent matter of public importance and of recent occurrence, namely, the assaulting and slapping of Mr. Abdul Gafoor Khoso, Vice President, congress Committee, Sanwan khan Gabol by the Deputy Commissioner, upper Sindh Frontier, at Tangwani, on 17th February 1939, when the former lead a deputation of hairs to complain against their being made to work on forced Labour for cleansing his stables."

A member requested that an adjournment motion can only be disallowed on the ground of time. If there was sufficient time to send a resolution during the present Session, which has started from the 4th January, 1939. Thereupon, Mr. Speaker ruled:-

"No, the whole matter is different. The contention of the honourable member, who spoke last, was that there was no time for moving a resolution, and because this is a matter of urgent public importance it has been brought in the form of an adjournment motion. Now on the question of urgency, there are the rulings of the President, Central Assembly and the Bombay Council that as soon as an incident occurs, it should be brought at the earliest opportune moment if the Assembly is in Session-Even on account of one day's delay when the Assembly is in Session, motion have been ruled out of order. That is an important point that I simply cannot get over.

Vol. Vlll (1939) Book No. 3, Pages. 35-36 (20th March , 1939)

147. MISCELLANEOUS (ETIQUETTE): (UN PARLIAMENTARY EXPRESSION): WORD "CHEEK" HELD UNPARLIAMENTARILY / UNPARLIAMENTARILY EXPRESSION NOT TO BE USED.

On 23rd March, 1939, When demand No.25 for grant in respect of General Administration was to be moved by K.B Allah Baksh, a member Mr. R.K Sidhwa used the word "Cheek" for a previous Ministry. The Speaker declared the word to be unparliamentarily.

Vol. Vlll (1939) Book No. 4, Page. 45 (23rd March 1939)

148. MISCELLANEOUS (ETIQUETTE) UNPARLIAMENTARY EXPRESSIONS NOT TO BE USED.

On 23rd March, 1939, when demand for grant in respect of General Administration was to be moved by K.B Allah Bakhsh, a member Mr. R.K Sidhwa used the word “wretched” for a previous Ministry. The Speaker declared the word wretched is not a parliamentary word.

Vol. Vlll (1939) Book No. 4, Page- 67 (23rd March 1939)

149. Budget (Cut Motion): Cut motion of one rupee is a censure motion.

On 23rd March, 1939, during the course of discussion on cut motion of one rupee on General Administration, a cut motion was moved by Mr. R. K. Sdhwa, Mr. R.K Sidhwa, Mr. Jamshed Nusserwanjee, MLA, raised a point order that The Honourable member Mr. Sidhwa has moved a cut motion which in other words is a censure motion. How does the terms of party and a Minister can come in this cut motion? The terms of contract between the congress party and the Honourable Chief Minister do not at all pertain to Honourable House. How is the Honourable House responsible to hear what happened between the Honourable Minister and the congress party before they came in office. We are talking of the cut motion which is a censure motion under the head general administration. What has the faithfulness or the faithlessness of the respective parties to do with general administration. Mr. Speaker observed that The Honourable member has raised a point of order. I would like to draw to draw his attention of part (g) of head 'general administration' Where in the salaries of the Ministers are Budgeted. This includes everything. In fact you can go to the very foundation of the Ministry. Their policy, their programmer etc., are all included in this.

I was not sleeping over it and I would not have permitted the discussion. These are things which are relevant to the cut motion and not irrelevant at all.

Vol. Vlll (1939) Book No.4, Page-80 (23rd March 1939)

150. Miscellaneous (Etiquette): Unparliamentary expressions not be used.

On 23rd March, 1939, when demand for grant in respect of General Administration was to be moved by K.B. Allah Bakhsh, a member Mr. R.K. Sidhwa used the word “dhandhoro bajavo” (in Hindustani) (refers to Parliamentary Secretaries). The Speaker declared the word “Dhandhoro” is a bad word in Sindh: It should not have been used.

Vol. Vlll (1939) Book No. 4, page-82 (23rd March, !939).

151. ADJOURNMENT MOTION: GOVERNMENT- STATEMENT EMANATING FROM GOVERNMENT : RULE THE MOTION OUT OF ORDER.

On 24th March, 1939, Mr. speaker took up adjournment motion tabled by honourable member Mr. C.T Valeecha, "That this Assembly do now adjourn to discuss a definite matter of urgent public importance and of recent occurrence, namely, the unsatisfactory nature of the statement made by the Honourable the Chief Minister on the 20th March, 1939, on the floor of this Assembly regarding the high-handed conduct of the Police in executing distress warrants against silk merchants at Sukkur"

K.B. Allah Bakhsh (leader of the House) argued that Mr. Valecha has stated that the enquiry conducted by Government was not satisfactory and dissatisfaction is expressed on the findings of Government. That being the case, the honourable member would be Well-advised to bring a No-confidence motion but he cannot bring an adjournment motion.

Mr. Speaker did not agree with the mover and ruled as follows:

"Un satisfactory statements emanating from the Government are of ordinary occurrence. After such unsatisfactory statements are pronounced, and if the are to be permitted to form the subject matter of adjournment motions, the most important business of Government or of this House will be interrupted every now and then and I do not think we will be able to carry on with our business. I would therefore rule the motion out of order."

Vol. Vlll (1939) Book No. 5, Page-8 (24th March 1939)

152. BUDGET: (DISCUSSION ON GRANT): NO ALLOWANCE FOR TIME TAKEN UP ON DISCUSSION OF ADJOURNMENT MOTION WILL BE ALLOWED.

On 24th March, 1939, the Speaker, during the general discussion on the Budget (grant) announced that "Allowance cannot be made for time taken up in discussing an adjournment motion when a demand for grant is under discussion."

Vol. Vlll (1939) Book No. 5, Page -55 (24th March 1939)

153. MINISTER: A MINISTER WHO HAS TENDERED HIS RESIGNATION CAN FUNCTION AS A MINISTER TILL HIS RESIGNATION HAS BEEN ACCEPTED.

The Honourable Mr. Nihcaldas on some issue tendered his resignation to the Governor. At the sometime till his resignation was accepted he acted as Minister and took part in the proceedings of the Assembly as a Minister. Mr. sidwa to know from the Chair whether he could in the fact of the resignation which was due to the difference with the rest of the Ministers, still act as a Minister, sit and occupy the Ministerial Chair. He contended that once he tendered his resignation he cased to be Minister and the question of acceptance of resignation by the Governor did not arise.

The Speaker ruled:-

"I think the honourable member sought a ruling from the Chair. I don't think a ruling is called for because it is purely within the discretion of His Excellency the Governor to appoint somebody to act as an Adviser in the capacity of a Minister or to continue the some Minister. Therefore it is not the function of the Chair to give a ruling. The function of the chair will be whether or not a member is qualified to sit in the Assembly, and naturally I don't think the honourable member wants to raise any objection with regard to the sitting of the Honourable Minister in this House.

If The Honourable Minister has even tendered the resignation then I opined yesterday too that as along as the resignation has not been accepted by His Excellency the Governor, he continues as such and holds that portfolio, I don't think there is any necessity of reiterating the some.

As regards his functioning to-day, because to-morrow is a holiday, and whether he can act as a Minister and hold his portfolio, reply to the questions and take part in other debate, the honourable member are aware that there is a provision in the rules where the definition of a Member-in-charge has been laid

down. I will draw the attention of the honourable member to the 1st page where it is said “Member acting” means in case of a Government Bill, any member acting on behalf of the Government.” As long as the Government or His Excellency the Governor, who is the head of the Cabinet, asks the Honourable Minister to continue as such and acts on behalf of Government, he continues to be the Minister and continues to act as such and can reply on behalf of the Government. I cannot intervene or stop the Honourable Minister from acting as such.

Vol. Vlll (1939) Book No. 6, Page-5 (25th March, 1939)

154. NO CONFIDENCE MOTION AGAINST THE MINISTRY CAN BE ADMITTED IF A MOTION AGAINST A PARTICULAR MINISTER HAS BEEN DEFEATED IN THE SAME SESSION IF IT IS DIFFERENT IN FROM AND SUBSTANCE. DECISION ON A CENSURE CUT DURING THE BUDGET DEMAND IS NO BAR TO A SUBSEQUENT NO-CONFIDENCE MOTION IN THE SAME SESSION.

Dr. Hemandas R.Wadhwani gave notice of a no-confidence motion against the Ministry. In the same session the House had already disposed of one no-confidence motion against the Chief Minister ad two one rupee cut motion on the budget demands. The Leader of the House objected to its admissibility on the ground that the decision on the no-confidence motion against the Chief Minister having been arrived at, this motion would have been against the remaining Ministers excluding the Chief Minister. The motion having been against the Ministry included the Chief Minister as well and as such the motion tried to change the decision at which the Assembly had arrived in the same session, which was not permissible under Standing Order V(3). He also contended that the motion meant to revive the decision of the Assembly obtained during the cut motion on the budget demands. K.B. Khuhro, Leader of the Opposition, contended that the previous motion was different in from and substance from the last one. The Minister were different, points for discussion were different and the very situation was different. So far the other ground, he contended that if a one rupee cut could be a bar to a subsequent no-confidence motion on the ground that one-rupee cut motion was in effect a no-confidence motion, then one rupee cut on one demand could be considered as bar to subsequent one-rupee cut motion on other demands, which was not the position.

The Advocate-General contended that pervious no-confidence motion against the Chief Minister amounted to a no-confidence against the Ministry and if carried the whole Ministry would have resigned and not the Chief Minister alone. Therefore he contended that the motion of the kind having been already disposed of the subsequent motion having the same could effect could not be moved.

The Speaker ruled:-

"Now I have to give my decision. I have heard every side. What I was looking for was procedure that I could lay my hands on, in the Indian Legislatures after Provincial Autonomy. Of course for that I have two examples and two precedents-one of Assam Legislature and another of Bengal. In the Assam Legislative Assembly, a no-confidence motion was moved against the whole Ministry while in Bengal the no-confidence motion was tabled against each individual Minister. One was moved by Mr. Dhananjoy Rao against Honourable Mahraj Sris Chandra Nandy in the following words:-

"That this House expresses its want of confidence in the Honourable Maharj Sris Chandra Nandy, of Cossimbazar, Minister of Irrigation, Communication and Works'.

That was moved and it was lost. Then again subsequent another was moved by Mr. Promtha Rajan Thakur against Honourable Mr. Makunda Mullick which was as under:-

"That this Assembly expresses want of confidence in the Honourable Mr. Mukhnda behary, Minister for Co-operative Credit and Rural Indebtedness'.

So that in the same session one was moved by one member against one Minister on the 8th and the other was moved a different member against the different Minister on the 10th. Therefore the precedents go against the procedure that I am advised to adopt here.

So far as the procedure in the House of Commons is concerned, at page 295 of May's Parliamentary Practice although it is not very clear, still the interpretation would be rather contrary to what has been urged on the side of Government. The relevant portion reads thus:-

'It is possible ho were, so far to very the character of a motion as to withdraw it from operation of the rule. Thus in the session of 1845, no less than 5 distinct motions were made upon the subject of opening letters at the post office under warrants from the Secretary of State. They all varied in from and matter, so

far as to place them beyond the restriction but in purpose they were the same and the debates raised upon them embraced the same matters.'

The Honourable the Advocate-General argued that since no-confidence in the Honourable Chief Minister in effect was no-confidence against the whole Ministry, therefore in substance this motion is also the same, because it would result in the resignation of the whole Ministry. But the provisions relating to this question, the traditions and the procedure are laid down in May's parliamentary practice referring to the House of Parliament. So far as rule 12 (b) is concerned, there is nothing definite as to whether one motion or several motion can be brought.

It is merely by interpretation that anybody can come to a conclusion. No definite provision has been made. The general procedure to which my attention has been drawn, viz, Standing Order V, rule 3, is couched in general terms. But for motions of no-confidence, adjournment motion and cut motions, specific procedure has been laid down and if the legislature intended to preclude the repetition of such motions they should have laid down such procedure. Since there is no such procedure laid down and I have got the precedents of the two Provinces before me and also the procedure and the decision of the Speaker of the House of Commons, I feel the motion is in order. This Ministry has changed its composition since the last motion was decided upon, and the motion that is now proposed is different both in form and in substance. There froe I rule it to be in order ".(PP. 47-48, 27th March 1939).

Vol. Vlll (1939) Book. No. 7 pages, 47-48(27th March 1939)

155. BILLS: CHIEF MINISTER CAN BRING ANY BILL OR MOTION STANDING IN THE NAME OF OTHER MINISTER.

On 27th March, 1939, Dr. Popatlal A. Bhoopatkar, MLA, enquiring procedure from the chair that before the leader of the House takes up the bill. As the Minister-in –charge of the Bill, the Honourable Minister Mr. Nihchaldas has resigned; What is the procedure ? Mr. Speaker ruled

"The Chief Minister can present any Bill and can bring any motion standing in the name of any Minister."

VOL .Vlll (1939) BOOK NO. 7, PAGE- 69 (27TH MARCH 1939)

156. BILLS: AMENDMENTS TO CLAUSE OF A BILL PASSED BY A SELECT COMMITTEE CAN BE MOVED BY ANY HONORABLE MEMBER INCLUDING A MINISTER.

On 27th March, 1939, When report of the Select Committee with regard to Bill No. XXXlll of 1938, a Bill to provide for the registration and better training of nurses, midwives , etc. be taken into consideration was moved by the Honourable Mr. Nihchaldas C.Vazirzni, MLA. It was objected to be Mr. R.K. Sidhwa, MLA, on the ground that Bill was sent to the select Committee and that Committee has made its report. It you will please refer to page 18, you will find the members have put their signatures to the report and on behalf of Government, the Honourable Mr. Nihchaldas has signed it, subject to minute of dissent. The minute of dissent reads:-

"I do not agree to the amendment to sub-clause (4) of section 3. I am of the opinion that this sub-clause should remain as it."

This is the only Objection. The objection which he raised in the Select Committee, is it proper for Government to put it in the from of an amendment of which the House was not a ware? Certainly it is not fair for Government to bring in amendments on behalf of some other members. Is it proper for Government to bring amendments here when they themselves refused to consider the matter? The object of the Committee was to consider whether to accept or reject the amendments. Now, therefore all amendments should be sent back to the Committee for re-consideration. Thereupon Mr. Speaker Observed that it is to pen to any honourable member, including The honourable Minister, to move any amendment to the clauses of a Bill passed by the Select Committee. It does not, therefore, debar the Minister-in-charge from putting in a minute of dissent and he is perfectly entitled to do so. The Honourable member is aware that after the rules were passed by the Select Committee. The honourable Minister put in a plethora of amendments and they were all taken into consideration by the honourable members. I hold that the honourable members objection to this sort of procedure is not right, because proper time was given. With the mutual co-operation and without raising any un-reasonable objection, the House adopted some and rejected others.

Vol. lll (1939) Book No.7, Page 71 (27th March 1939).

157. MISCELLANEOUS (ETIQUETTE): WHEN CHAIR IS ON HIS LEGS NONE SHOULD STAND UP.

On 30th March, 1939, the Honourable Speaker was pleased to make following remarks:

"When the chair is on his legs no one from the gallery should stand. If any one stands his name will be noted and he will not be allowed to come into the gallery in future."

Vol. Vlll (1939) Book No.9, Page-83(30th March 1939).

158. BILLS: WHERE EVER SECTION 299 (3) OF THE GOVERNMENT OF INDIA ACT IS APPLICABLE, THE PREVIOUS SANCTION OF HIS EXCELLENCY THE GOVERNOR IS REQUIRED TO A BILL, WHETHER PRIVATE OR OFFICIAL.

On 31st March, 1939, Mr. M.H. Gazdar, MLA, was moved Bill No. ix of 1937, a Bill to amend the law relating to alienation of Land in Sindh for first reading. A point was raised by the Honourable K.B Allah Bakhsh, (leader of the House) that the Bill is not in order under section 299 (3) of the Government of India Act. There has been sufficient discussion, as you are a were, sir, on a similar Bill introduced by the Honourable member G.M. Syed. The same principle applies in this case also. Chair asked from leader of the House, How? K.B. Allah Bux further clarified that under section 299 (3) of the Government of India Act, the Bill requires the previous sanction of the Governor. After some discussion, Mr. Speaker observed:

"A point of order has been raised by the Honourable the leader of the House as the admissibility of this Bill at this stage. Now the objection has been rasied on two counts. One thing is that a question has arisen whether or not this Bill requires the previous sanction of His Excellency, and secondly whether or not this Bill is one which falls within falls within the purview of section 299, part 3, of the Government of India Act.

While deciding the first point, it will not be necessary for me to go into the merits of the case to see whether or not the Bill of fends against the provisions of section 299 (3) of the Government of India Act. The preliminary point for consideration is whether my hands are tied under rule 8, para 2, of Governor's Rules when a question has a risen whether I have got any power to go into the merits of the Bill and to decide whether or not it requires the sanction of His Excellency the Governor under section 299 (3) of the government of India Act. Now, I considered this question at the time of honourable member Mr. G.M. Sayed,s Debt Conciliation Bill. The also there were doubts in my mind whether that Bill required the previous sanction or not, and therefore I referred it to His Excellency the Governor for his sanction. In the present case a passage from the

proceeding of the presidents and Deputy Presidents of Provincial Legislative Councils held in 1928 has been brought to my notice, the heading whereof is "Has the President the right to give a ruling on the question as to whether a Bill requires previous sanction ? what is his position regarding amendments to Bills which may require sanction?" We are concerned with the first part of the question which relates to Bills, and not with the second part which concerns amendments to Bills, at present. The not reads as follows:-

"Bills which require sanction-The Chairman thought that the president had no right to give such a ruling as his decision cannot be final. Any such ruling which the President might give could be only provisional. The rules empower the Governor-General or the Governor, as the case may be, to give a final decision on the Governor, as the case may be, to give a final decision on the question whether a measure does or does not require sanction and if at any stage the question arises it is the clear duty of the President to refer the matter for such decision……"

"The President of the Bombay Council agreed that the onus of referring the Bill to the Governor or Governor-General, as the case may be, rested on the President. This view was agreed to."

MR. C.T.VALECHA. raised point that Suppose there is a type of Bill which demonstrably is not covered by this section of the Government of India Act. Merely because an honourable member gets up and raises an objection by asking that the Bill requires the sanction of the Governor, does it mean that the Honourable the Speaker will refer it to the Governor? Mr. Speaker Further said in the ruling that I am not prepared at this stage to go into the point raised by honourable member Mr. Valecha whether in the case of a Bill which does not refer to any immovable property if any honourable member raises an objection that it requires the sanction of the Government, the Chair at that stage will be constrained to refer that measure to the Governor. It is a hypothetical question. I think everybody should be considered as being endowed with a little grain of common sense, and that no frivolous point of order of that nature will be raised. At least I do not expect that. If such a point arises at all, I think the Chair will be entitled to go into the merits of the question also and see whether or not prima facie the Bill falls within the purview of section 299 (3) of the Government of India Act.

This, of course, is a Bill which refers to the interests in connection with immovable property. I think there is no dispute about that. It does refer to land. But the contention of honourable member sheikh Abdul Majid and other honnourable members who have supported him in his view is that the land as occurring in part (3) of section 299 refers to land for public purposes.

The point is very clear that this Bill affects the modification of right in the land, and I think sub-section (3), part 2 of section 299 is quite clear as pointed out by honourable member Mr. Nihchalds when he said that to a particular extent the owner of the land shall not alienate it expect with the permission of the Collector. So to that extent it is going to restrict and modify the right in the land. Now the question is whether section 299 (3) applies in this case, whether it do affect the interests in the land. Prima facie it is so obvious that it does. And in this connection the honourable member Mr. Nihchaldas has brought to my notice several Bills sponsored by the Government of Bombay which as the honourable members are aware, is a Congress Government which is very jealous of public interests and rights and will never allow any question of public interest to be decided on the criterion of the special powers of the Governor. He referred to the small Landholder' Bill, Bill No. Xlll of 1939, a Bill to provide for the relief of agricultural debtors in the province of Bombay and also another Bill, Bill of 1939, where also the sanction of the Governor of Bombay was obtained.

In all case, whether they are private or official bills, wherever section 299 (3) of the Government of India Act is applicable, the Governor's sanction is compulsory. Whenever any interest in the land is affected to the slightest degree, then the sanction of His Excellency the Governor of the Province has to be obtained. I quite realise that this is a very important measure which will go a long way to ameliorate the condition and the rights of the landed classes in Sindh. But at the same time my hands are tied both under Rule 8, para 2 of the Governor's Rules as well as under section 299 (3) of the Government of India Act. Therefore I hold that this Bill requires the previous sanction of His Excellency the Governor and I shall refer it to him.

Vol. Vlll (1939) Book No. 10 Pages-78-81 (31st March, 1939)

159. BILLS: AMENDMENT OF PRINCIPLE COULD BE REFERRED TO SELECT COMMITTEE BY CONVENTION.

On 1st April, 1939, on a point of information a member wanted to know whether the amendment of principle instead of being discussed at the first reading could be referred along with the Bill to the Select Committee. The speaker ruled:-

"It has been the convention that when an honourable member brings for ward an amendment which affects the principle of the Bill it could be referred to the Select Committee for consideration. The honourable member has been a member of the Bombay Council and knows procedure. So far as my experience goes, it was permitted by convention."

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160. BILLS: ORDER OF THE DAY: CHAIR MAY ALLOW A BILL NOT ON THE ORDER OF THE DAY.

On 1st April, 1939, When Bill a No. LXVi of 1939 (a bill further to amend the Bombay Entertainments duty act, 1923) was introduced in the House by the Secretary Sindh Legislative Assembly then Mr. R.K. Sidhwa, MLA rose on point of order that sir the above Bill is not on the agenda for today. Chair informed the House that the Bill mentioned in the supplementary agenda. An other member Mr. C.T.Valeecha, MLA said that it is not on the order of the day. Thereupon Mr. observed:

"it is within the discretion of the chair to allow the Bill to be brought up if it is not shown on the order proper."

VOl. Vlll(1939) Book No.11, Page-60, (1st April 1939)