

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-II (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 far 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."

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.”

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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."

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."

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.

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 Honourable member has himself tabled a resolution on the subject. In view of this, I cannot give my consent to the adjournment motion."

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”.

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 ununderstandable 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.

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.

**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.”

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.”

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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.

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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.

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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.”

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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.”

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.”

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 Minister, 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.”

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 things 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 Bande Ali Khan and the Honourable the Chief Minister have told you that the Government have not formed any opinion as to what it 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 honourable 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 now 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."

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.

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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.”

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

On 11th August, 1937, K. B. Allah Bakhsh 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.'

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- [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."

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.”

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.”

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.”

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."

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 honourable member Mr. G. M. Syed 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 VII, 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 of 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 VII. 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 give 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."

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."

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.”

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."

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.II (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 IV 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."

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. II (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.

**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".

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. II (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. II (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 which 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 spur of the moment, answer on the floor of the House. That is my request to the honourable members."

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 member who gave notice of the motion shall forthwith introduce the bill.

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."

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.

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."

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.

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.”

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.”

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.)

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, rose 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."

**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.”

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.

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.

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.”

**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. VI 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 know 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.”

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. If 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.

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."

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.

58. ADJOURNMENT MOTION: ADJOURNMENT MOTION NOT SUBJECT MATTER OF A RESOLUTION: MOTION DOES NOT SATISFY THE PROVISIONS OF THE LAW: MATTER 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."

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. III (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. III (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 inequitable 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.”

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.”

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.”

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.

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.

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-official 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.

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.

**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. III (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.

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 honourable 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 11 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.

**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 went 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 that I cannot help the honourable members if they bring to me a defective proposition, because I am bound both by the spirit 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 certainty to be of recent occurrence. I therefore rule this motion out of order.

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 inclined 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 bring a motion of censure against Government. On all these ground which I have just enumerated, I feel this motion is out of order.

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. III (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.

**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. III(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. III (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.

**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.”

**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. III (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. III (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. III (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.

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 WITHDRAWN 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. IV (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. IV (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 though 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.”

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.”

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.

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.”