



Decisions From the Chair

Decisions given by Hon. The Speaker in the
Gujarat Legislative Assembly during 1985 to March, 2002

Published under the authority of
Gujarat Legislative Assembly.

Gujarat Legislature Secretariat
Viththalbhai Patel Bhavan.

Sector -10, Gandhinagar-382010

2004

Decisions from the Chair

Decisions given by Hon. The Speaker in the
Gujarat Legislative Assembly
during 1985 to March, 2002

Published under the authority of
Gujarat Legislative Assembly.

Gujarat Legislature Secretariat
Viththalbhai Patel Bhavan.
Sector -10, Gandhinagar-382010

2004

PREFACE

We all are well aware about the role of the Speaker in Parliamentary Democracy. He is the guardian of the powers, prestige and dignity of the House. While presiding, the Speaker regulates the business of the Legislature. It is his primary duty to maintain order in the House and to see that the business of the House is conducted in consonance with the rules and precedents of the House. In order to maintain order in the house he derives all powers from the rules of procedure of the House.

Each House has its own rules and precedents for conducting the business of the House and yet there is no basic difference in the underlying parliamentary principles involved in framing those rules. India has adopted the West Minister model of parliamentary democracy and as such the rules of procedure of the Parliament and various State Legislatures are more or less based on the rules of procedure of the House of Commons of England. Since the Legislature is the living institution, the rules framed by the Legislature are not exhaustive in them. With the enormous growth of the State administration and all round development of the State, the traditional role of the Legislature for according sanction to the legislative as well as financial proposals of the executive is considerably shifted towards ensuring accountability of the executive by accommodating new procedures and devices. In the changed scenario, new issues are cropped up before the Legislature during its business. If anything is found wanting in the provision of the rules in the context of new issues and changed circumstances or if the policy adopted earlier in some matters is found to be illogical in the changed situation/circumstance and as a result when disturbances are created in

the House at any time or if the rules of procedure are found to have been violated, the member seeks guidance from the Speaker by raising a point of order in that regard and the Speaker by his rulings on the point of order gives the true interpretation of rules or gives better understanding of the rules or at times, makes changes in the past precedents or create a new precedent. By passage of time, these decisions are incorporated in the rules of procedure of Legislature.

In all 687 decisions were pronounced by different Speakers during the period from 1960 to March, 2002 in the course of conducting the business of the House. These decisions were compiled and published in Two Volumes. In the First Volume, there are 589 rulings for the period from 1960 to 1984 whereas in the Second Volume there are 98 such rulings for the period from 1985 to March, 2002.

After the formation of the State of Gujarat and since the inception of the Gujarat legislative Assembly, the business of the House is conducted in Gujarati and hence most of its publications are in Gujarati Language. The Decisions from the Chair (Rulings) have also been published in Gujarati language. For matters raised during the conduct of the business in the House, every legislature seeks guidance from the rules and the past decisions of the Speaker by mutually exchanging the Decisions from the Chair to the other legislatures. The All India Presiding Officers Conference has also recommended for supplying these rulings to all the State Legislatures for guidance. The Rules of Procedure of Gujarat Legislative Assembly are published in both English and Gujarati languages while the decisions from the Chair are published in Gujarati language only. As a result when the demands for the decisions from the Chair are received from the other State Legislatures or any other persons interested therein, their demands cannot be satisfied. As an important publication like the Decisions from the Chair is published in Gujarati, its use is very limited. The situation, in which such an important publication like this cannot be widely utilized, irked the present

Speaker Prof. Mangalbai Patel and in order to bring an end to this situation, Hon'ble the Speaker Prof. Mangalbai Patel decided to translate the Gujarati version of the Decisions from the Chair for the period from 1985 to 2002 in to English and the work of translation was entrusted to Shri N.A. Jethalputia, a retired Supervisor of this Secretariat. Shri Jethalpuria had willingly accepted this translation work and completed it within a very short time. As a result of which, the publication of this book "Decisions from the Chair" in English language has been materialized. I am thankful to Hon'ble the Speaker Prof. Mangalbai Patel in inspiring us to prepare this book in English. I am also thankful to Shri N.A. Jethalpuria for completing the translation work in time and also to Shri Mahendra Parmar, Deputy Secretary and Shri Dipakbhai Parmar, Section Officer and other Staff of the Table Branch of this Secretariat for being helpful in this work and also to the Government Central press for printing and publishing this book

I hope the English translation of "Decisions from the Chair" will be useful to other State Legislatures, Publishers, Institutions and persons interested in the literature of parliamentary nature.

GANDHINAGAR
Dt.21.12.2004

D.M. Patel
Secretary
Gujarat Legislature Secretariat.

CONTENTS

Subject	Decision No.	Page No.
Admission Pass for the Officers' Gallery:-		
--Point of Order	1	
Notification:-		
--Delay in laying the notification on the Table of the House	2	
Hon. Speaker:-		
--Election of the Speaker.	3	
Speaker's Gallery:-		
--Pass for the Speaker's Gallery.	4	
Budget:-		
--Action on the Budget of the Previous Government	5	
--On Budget Literature.	6	
--Cut Motion	7	
--Performance Budget	8	
--Corrigendum	9	
--Right of the Government.	10	
Breach of Propriety:-		
--Publicity in the News Papers	11	
--Important Announcement	12	
--Prior Notice	13	
--Announcement of Policy Matter	14-15	
--Permission	16	

--Publication of the Report of the Commission	17
--Announcement made by the Hon. the Chief Minister	18
--Building of the Legislative Assembly Exhibition	19
Debates:-	
--Prior Permission of the Speaker	20
--Unparliamentary words and Expressions	21-29
--Matter concerning the Central Government	30
--Absent Person	31-32
--Literature to be given to the Press Reporters	33
--Speech	34
--Minister's Right	35
--Absence of the Minister	36
--News Papers	37
--Appeal for Peace and Co-operation	38
--Intervention in General Discussion	39
No-Day-Yet- Named Motions:-	
--Time Limit of the Notice	40
Zero Hour:-	
--Decision of the Speaker	41
--Permission and Consent	42
--Point of Order	43
Order of the Day :-	
--Items not Included in the Order	44
Dress:-	45
Calling Attention Notice :-	
--Serious Matter	46

--Public Interest 47

--Admissibility 48

Point of Order:-

--Office of the Chief Minister 49

Questions :-

--Information not Authorized 50

--Questions pertaining to Business 51

--Minister's Note on the Letter 52

--Supplementary Questions 53

--Raising Point of Order 54

--Care to be taken by the Minister 55

--Etiquette 56

--Absence of Member 57

--Suggesting Member's name as Minister 58

--Standards to be maintained by Members 59

--Point for Clarification 60

Motion:-

--Statutory Motion 61

Private Member's Resolutions:

--Voting 62

Minister:-

--Statement to be made by the Minister 63

--Resignation of a Minister (Rule – 107) 64

Hon. the Governor:-

--On Conduct 65

Governor's Address:-

Motion of Thanks:-

--Distribution of Copies of the Address 66

--Nature of the Motion 67

--Absence of Ministers	68
--Conduct of a Minister	69
--Precedent of the House	70
--General Discussion	71

Ordinance:-

--Amendments on Ordinance	72
---------------------------	----

Legislature Secretariat:-

--Pigeon Holes	73
----------------	----

Bills:-

--Allegations	74
--Enacting Formula	75
--Statement Showing Objects and Reasons.	76
--Scope for Discussion	77
--Third Reading	78
--Admissibility	79
--Recommendations made by 'Paage Committee'	80
--Motion to Read the Bill for the First Time	81
--Time Limit for first Reading	82
--Absence of Members of Council of Ministers	83
--Right of the Minister	84
--Competency of Legislature	85

Questions of Breach of Privileges:-

--Wrongful Information	86
------------------------	----

Discipline:-

--Announcement of New Council of Ministers	87
---	----

Condolatory Reference:-

--Etiquette	88-89
-------------	-------

Session:-

--Summoning the Session 90

House:-

--Demonstration 91

--Right to Decide the Time of the Sitting 92

--Entry in the Lobby and the Lounge 93

--Sitting of the House 94

Hon. Member:-

--Information received by Member himself 95

--Conduct of Member 96

Committee:-

--Assigning Investigation to another
Committee 97

Cellular Phone:-

--Point of Order 98

Index

Admission Pass for the Officers' gallery---

Point of Order---

1. (1) It is not advisable for a Chairman of a Board to ask for an entry pass to the Officers' gallery in the House.

(2) There is no objection in issuing entry pass to the Officers' gallery to a Chairman of a Board if he is helpful in providing advice, suggestion, guidance or information to a Minister.

The Chairman of Gujarat Pollution Control Board, Shri Jayantilal Ravjibhai Patel was sitting in the Officers' gallery of the House on 11th February 1991. Hon. the Member Shri Ashok Bhatt had raised a Point of Order on this matter and requested Hon. The Speaker to give his decision as to whether any person other than the Officer directly associated with the business of the House can sit in the Officers' gallery.

Hon. the Speaker gave his decision on the above matter on 22nd February 1991.

"Rules have been framed under rule 282 of the Gujarat Legislative Assembly Rules for issuing admission passes for the Officers' gallery of the House and passes can be issued to Officers of the statutory Bodies under these Rules. In the instant case, a request was received by my Secretariat from the concerned department i.e. Forest and Environment Department to issue entry pass to Shri Jayantilal Ravjibhai Patel, Chairman, Gujarat Pollution Control Board, and a pass for the Officers' gallery was issued to him by my secretariat. So it was not

proper to say that he had entered the House without any authority. So the question of punishing him did not arise. Moreover, the Chief Minister does not issue passes for the Officers' gallery, so the question of issuing passes by him freely also does not arise. During the last session, different departments of the government had made demands for more than 900 passes. When demands for such a large number of passes were received, it was not possible to scrutinize them at the last moment. Therefore, it is my feeling that the department should not request for issuing passes for Officers gallery for any other persons except those who are directly associated with the business of the House. However, I feel that Officers of this Secretariat had not taken due care while issuing the pass and hence, they are also responsible in this case and I accept it. I have instructed my Secretariat to take due care to follow the rules while issuing passes for the Officers' gallery. The Officers' gallery is generally meant for the Officers who are directly associated with the business of the House.

There cannot be any objection in issuing passes for the Officers' gallery to the Chief Administrative Officers of the Public Undertakings or Corporations of the Government on a particular day, but permanent passes cannot be issued to them. Moreover, it is not fair to ask for pass for the Officers' gallery for a person like Chairman of a Board. However, if the Department of the Government feels that the Chairman of the Board is helpful to the Minister in providing advice, suggestion, guidance or information, denial of issuing pass for him to the Officers' gallery is also not proper. Therefore, in this case, presence of the Chairman of Gujarat Pollution Control Board in the Officers' gallery was not unauthorized and therefore, question of taking action against him does not arise. However, as there was no business of Pollution Control Board in the House on that particular day, I feel that it would have been better if he had not remained present in the Officers' gallery.

(G.L.A. Debates Book 62: 1183-84)

Notification:-**2. 1. Delay in laying the notification on the Table of the House.****2. Laying the Notification on the Table of the House cannot be denied simply because delay has taken place in laying it on the Table of the House.**

When minister for Social Welfare Department (State Level) Dr Sushilaben K. Sheth rose on 28th January 1986 to lay on the Table of the House the notification of the Social Welfare Department No. GH/24/SIT/1079/45091/83/PH dated the 18th February 1985 framing Suppression of Immoral Traffic in Women and Girls (Gujarat) Rules 1985, member Shri Sureshchandra R. Mehta raised a Point of Order and said that though two sessions had passed after the notification framing the said Rules was published, the same had not been laid on the Table of the House and under the provisions of the law such notification should have been laid on the Table of the House soon after the rules had been framed. Thus, as the notification had not been laid on the Table of the House in time, the same should not be permitted to be laid on the Table of the House. Member Shri Ashok Bhatt also supported the point raised by Shri Mehta. Hon the Speaker postponed his decision to a later date.

On 30th January 1986 Hon the Speaker gave his following decision which was postponed earlier.

“When minister of State for Social Welfare tried to place on the Table of the House, the Rules framed under Section 23 of Suppression of Immoral Traffic in Women and Girls Act 1956, Shri Sureshchandra Mehta raised a Point of Order and contended that as there was considerable

delay in laying the Rules on the Table of the House, the Minister should not be allowed to lay the Rules on the Table of the House. In support of his contention, he referred to observations made in Practice and Procedure of Parliament by Kaul and Shakdher at page 457. Shri Ashok Bhatt supporting the contention, referred to Rule 208 from the Rules of the Assembly. Both suggested that the Speaker should not allow the Minister to lay the Rules on the table of the House."

"In this session somehow or other, on nearly four occasions such a demand is made. Therefore, it is necessary for me to consider the implications of acceptance of such demand. While doing so, I tried to inquire from Shri Mehta whether he can show me any authority or any legal provision suggesting that the Speaker is authorized to prevent the Government from laying such papers on the Table of the House. Shri Mehta could not support his contention and tried to rely on the observations made by Kaul and Shakdher in Practice and Procedure of Parliament as mentioned above. The said observations have nothing to say on the issue on which I tried to inquire from Shri Mehta and therefore, I do not think it necessary to consider the same. The same is the case with Rule 208 of the Assembly Rules. The question, which arises here, is why the framers of the Rules of the Assembly did not consider it necessary to authorize the Speaker to prevent the government from laying such Rules on the Table of the House. I think the reasons are quite obvious. The provisions in different Acts do suggest that after the Rules or notifications are laid on the Table of the House, the House is in a position to rescind the Rules, to modify the Rules or to make alterations in the Rules so long as they are not placed on the Table of the House, the House is not in a position to exercise this right. Therefore, it is necessary that the Rules be laid on the Table of the House; rather say it is a must and if I accept the contention of Shri Mehta and trying to prevent the Government from laying the Rules on the Table of the House, the only implication will be that this House will be deprived of exercising its right to rescind, modify or alter the rules. I think that is not desirable and that is why no such rule was framed by those who

framed the Rules of the House. It is in the interest of the House that the Rules are laid on the Table of the House so that the House gets an opportunity to exercise its authority for amending or modifying the Rules.

“ It is now necessary to consider the effect of not placing such Rules on the Table of the House as far as the Government is concerned. I think it is interesting to note that Government loses nothing because by the provisions of the Acts as they are framed in different Acts, the position is clear in the sense that Rules come into effect as soon as they are framed and therefore, whether they lay or don't lay before the House, the rules are already operating or effective. Thus, if they don't lay them on the Table of the House, the Government loses nothing; it is the House that loses. I think, therefore, even if I accept the contention of Shri Mehta, the position will be that the benefits will go to the Government and the loss will come to the House. I don't think Shri Mehta intended to face such a situation or give such a benefit to the government.”

“ If you look at the Section in the Act, Subsection (4) of Section 23 reads as under:

“All rules made under this Act shall, as soon as may be, after they are made, be laid before the State Legislature.”

“So again here the government is trying to take shelter under the words 'as soon as may be', I have already expressed earlier in my ruling that it is not a healthy practice and the Government should try to come to the House as early as possible, the Government loses nothing as the Rules become effective either on the day they are framed or on the day they are notified in the Gazette. To that extent, it is pertinent to note the observations made by the Calcutta High Court. I am referring to the Book titled “ Delegated Legislation in India”. The relevant remarks are at page 158. I quote: ‘Now what the laying provision

requires is that Rules shall be laid as soon as possible, after they are made. Obviously, the old position that Rules may come into effect on their notification seems to remain unchanged. No doubt Rules are directed to be subjected to such modification as Parliament may make within the prescribed period after their laying but this direction does not affect the validity of the Rules prior to passing of such modifications if any'."

" It is interesting to note that to get over the difficulties implicit in the observation of the Supreme Court in Kerala Education Bill, the Central Government, after consulting the committee on Subordinate Legislation, changed the laying clause in such a way that the Rules required to be laid before Parliament would be operative *ab initio*."

" That means since the Rules become operative on the day when they are framed, to prevent the government from laying them on the Table of the House gives benefit to the Government and not to the House. I think, even though it is necessary or it is incumbent on the part of the Government to lay such Rules on the Table of the House as soon as may be, it is very difficult to accept the proposal that in case of delay the Government should not be allowed to place such rules on the Table of the House and because of this, I reject the Point of Order raised by Shri Mehta. I do hope that since I have made it very clear about the loss and benefit both, further Point of Order on this very issue will not be raised".

After the decision of the Speaker, minister of State for Social Welfare Department Dr. Sushilaben Sheth laid the notification on the table of the House.

(G.L.A. Debates Vol. 2, Book –10, Column –326-341 and 1074-1079)

Hon. Speaker----

Election of the Speaker---

3. The other business of the House should be taken up only after the Election of the Speaker —

Before the business of the House could start on the 19th January, 1990, member Shri Sureshchandra Mehta, drawing the attention of Hon. the Speaker to Rule 71 of Gujarat Legislative Assembly Rules, stated that there is a provision in the Rules to give priority to the questions, so it would be more proper to take up the questions first and the election of the Speaker thereafter. Minister for Parliamentary Affairs Prof. Hasmukh Patel, giving his opinion, stated that the business of the House is carried out as it has been decided in the Business Advisory Committee. The Chief Minister Shri Madhavsinh Solanki, giving his opinion stated that the Order of the Day is decided with the consent of the Speaker. As the general rule is that the election of the Speaker is the most important matter and the precedent is that the other business is taken up thereafter, the Acting Speaker (Dr. Karsandas Soneri) gave his decision as under.

“It is the general precedent that the Election of the Speaker must be held first.”

(G.L.A. Debates Vol. 2, Book-51 Pages 139 to 142)

Speaker's Gallery-

Pass for the Speaker's gallery-

4. (1) Members should keep due control and vigilance while recommending Pass for the Speaker's Gallery.

(2) While recommending pass to a person, it is necessary to scrutinize the intention of the person seeking pass for watching the proceedings of the House.

On 17th February ,1992, when a minor child shouted slogans and threw leaflets from the Speaker's gallery, the Point of Inquiry was raised as to how that child got the pass for the Speaker's gallery. After examining the matter, the Speaker gave his following decision on 3rd March 1992:-

“On examining the incident of shouting slogans and throwing leaflets from the Speaker's gallery, it was found that the name of the said student was Mahipal Sadia, and his age was stated to be 10 years. Children below the age of 10 years are not admitted to the galleries of the House. So it is possible that the age of the child is stated to be 10 years but in fact he may be less than 10 years age. The request to issue pass to this student was made to the Speakers' office by the member Shri Maganbhai Ranva. The Speaker can issue pass to any person as per the provivisons of the rules. Generally passes for this gallery are issued to the guests of the Speaker or high dignitaries but demands to issue pass for this gallery come to me from many Members and in order to facillitate the students and the people coming from a long distance to watch the proceedings of the House, passes are liberally issued from my office, but while demanding the pass for the Speaker's gallery, the members should understand the seriousness and the responsibility of it. No incident of shouting slogans and throwing leaflets from Speakers

gallery has occurred in the past. So it is necessary that the members should understand their responsibility. If proper scrutiny is not made about the genuineness of the person to watch the proceedings before recommending pass to any person, I fear that such incidents may be repeated and I will have to exercise strict restraint in issuing passes for the Speaker's gallery.

" The student staging demonstration in the Speaker's gallery, had threw the leaflet written as "Declare the Oppressed Migrants-Jamnagar Migration day-33" and his name at the back of it. As the student was a minor, the House also adopted a liberal approach and decided not to punish him. He was allowed to go after giving him a warning."

"The incidents of throwing leaflets and shouting slogans from different galleries of the House are increasing. In the last session, three such incidents took place on the same day and during the current session also three such incidents have taken place so far. Therefore, it is very necessary that the business of the House is conducted without outside interference and thereby, the dignity and decorum of the house is maintained. In this case, the Legislature Secretariat opined to inflict strict punishment to a person lowering the dignity of the House by shouting slogans and throwing leaflets from the galleries of the House. So I consulted leaders of different parties and they were of the view that punishment to persons undermining the dignity of the House should be considered after reviewing the merits of the incidents. It is not at all desirable if the problems of any class or group of society are expressed in this way by staging demonstration in the galleries of the House and I believe that the dignity and decorum of the parliamentary system is not strengthened by such demonstration. I also believe that if we put more restrictions on such incidents, the proceeding of the House can be conducted in a better way. So personally I do not believe in exercising generous attitude towards persons staging such

demonstration. However, I have my own limitation and therefore, I believe that it is necessary for the representatives of all the parties sitting in this House to think seriously in this matter."

"So far as the incident of throwing leaflets from the Speaker's gallery is concerned, I request the Members to observe due care and vigilance before recommending to issue pass for Speaker's gallery so that such incidents can be avoided."

(G.L.A. Debates Book-73, Column :142 to 144)

Budget-

Action on the Budget of the Previous Government-

5. If there is change in the Council of Ministers after presentation of the Budget, the new Council of Ministers can proceed further in the House after accepting the old Budget.

Before the general discussion on the Budget on 8th July 1985, Finance Minister Shri Arvindhbai Sanghavi made a statement that "the new State Government accepts the modified Budget of 1985-86 presented by the Finance Minister of the Previous Government in the House on 2nd July 1985 and the new government accepts the speech and the proposals made by the former Finance Minister. Therefore, the item of General discussion on the Budget shown in the Order of the day should be retained." At this stage, the member Shri Sureshchandra Mehta raised a point of order that " it is a different matter if the Minister has not made a statement but when the Minister has made the statement, a constitutional point arises that the new government has considered the Budget presented by the previous government as its own policy Budget. He has accepted the Budget, which in fact was that of the previous government. So today, it becomes the first

statement of the Financial Year. This is not the day fixed by the Governor for that". Citing Art. 202 of the Constitution of India and Rule 220 of the Gujarat Legislative Assembly Rules, he stated, "the Governor has not fixed this day for the presentation of the Budget. So, Finance Minister cannot present the Budget of the previous government today."

Thereafter, several Members expressed their views on this matter.

Then, Finance Minister Shri Arvindbhai Sanghvi gave an explanation "if the statement made by me is read carefully, I have never made any statement of presenting the budget. I have merely stated about giving assent to the Budget presented by the previous government so that the discussion on the business of the Agenda continues." In support of this, he referred to pages 775 and 873 of the Book "Practice and Procedure of Parliament"- by Kaul and Shakhder, Vol- II, 2nd Edition and further said that " even though there is a change in the previous Council of Ministers or any particular Minister is changed, the position of the Bill remains *status -quo*."

After hearing the submissions made by the Chief Minister Shri Amarsingh Chaudhary and other Members, the Speaker (Shri Natwarlal Shah) disallowed the Point of Order raised and reserved his ruling. Thereafter, the Speaker gave his ruling on the 12th July, 1985.

"The modified Budget for the year 1985-86 was presented in the House on 2nd July 1985, the day fixed by the Governor. Chief Minister Shri Madhavsingh Solanki had resigned before the general discussion on the Budget, and Shri Amarsingh Chaudhary, on being sworn in as the Chief Minister on the 6th July 1985 at 0930 hours, formed a new Ministry. Finance Minister Shri Arvindbhai Sanghvi, under Rule 44, made a statement in the House on 8th July 1985 accepting the modified Budget

of the previous government by the new government and continuing the general discussion on the business of the House.

Shri Sureshchandra Mehta raised a Point of Order on the above statement and said, "As the former Chief Minister has resigned and Shri Amarsingh Chaudhary has become the new Chief Minister, the new government should first present the Budget and the Governor should fix the day for the presentation of the Budget. This has not happened in the present case and therefore, no general discussion on the Budget can take place."

Before I discuss the point of Shri Sureshbhai , it is necessary to throw a glance on similar occasions that have occurred in the past in the Legislative Assembly. After the statement of supplementary demand for the year 1963-64 was presented in the House on 6th September 1963, the then Ministry resigned on 12th September 1963 and the new Ministry came into existence on the 19th September 1963. Two days, i.e. the 30th September 1963 and 1st October 1963 were allotted for the discussions on the supplementary demands presented in the House on the 6th September 1963 and the House passed the Gujarat (Second Supplementary) Appropriation Bill on 4th October 1963.

In the year 1965, the Chief Minister Shri Balwantraji Mehta presented the Budget on the 25th February, 1965 but Hon the Finance Minister Shri Odedara gave the first information of the new tax proposals to the House by making a statement in the House on the 15th November 1965.

" If we take up one more case, on the chief Minister resigning on the 9th February, 1974, the Fourth Gujarat Legislative Assembly was dissolved and there was Presidential Rule from 9th February 1974 to 18th June, 1975. The Fifth Legislative Assembly was constituted on the 18th

June 1975 and Shri Babubhai J Patel was the Chief Minister and held the portfolio of the Finance Department. The Budget for the year 1975-76 was presented in the Parliament on the 5th March 1975 and Vote on Account was obtained for the period of five months ending on the 31st August 1975. On the 30th June 1975 the Chief Minister (Finance) laid on the Table of the House the Budget presented before the Parliament and also laid other publications on the Table of the House. In these publications, the Budget estimates were the same as were presented before the Parliament. Only detailed information was given in these publications. While doing so, the Chief Minister, made a statement in the House under Rule 44 on the 30th June 1975 adopting the Budget presented in the Parliament on the 5th March 1975 and further action was taken up on the Budget.

“If we look at the proceedings on the Legislative Assembly in the past it is clearly proved that on account of the change in the Ministry after the Budget was presented before the House, the House had discussed the Budget and adopted it.

“ Shri Sureshbhai has argued that as the previous Chief Minister has resigned and as the new government headed by Chief Minister Shri Amarsinhbhai Chaudhari has come into existence, it must present the new Budget. I think that this argument is not proper. It is the right of the Ministry whether to present the new Budget or adopt the Budget presented by the previous ministry on the day fixed by the Governor. In exercising this right, when the new Ministry has decided to accept the Budget presented by the old ministry as its own, it exercises its right and when by virtue of its right it accepts the Budget so presented, the argument that the new budget should be presented afresh on the day fixed by the governor is not acceptable. When the new Ministry adopts the existing Budget, no change takes place in the financial position of the government. In these circumstances as per the statement under

Rule 44, the decision to adopt the budget and to continue the discussion on it made by the new Ministry is proper.

“The Finance Minister, in his defence, taking support of the discussion on page 773 of vol. ii of the Practice and Procedure of Parliament, has tried to establish that once the Bill has been presented in the House, the Bill presented by the outgoing ministry is legal and its discussion continues. There is weight in his argument.

“I think that if there is no change in the status of the Bill after the Ministry is changed and the discussion on the bill continues, why such thing cannot happen in the case of the Budget. The Budget on which the discussion is going on at present, was presented on the day fixed by the Governor under Rule 220 and the new Ministry, considering that Budget as its own, has accepted to continue its discussion, the argument of Hon. Member Shri Sureshbhai Mehta is not tenable and therefore, I reject the same”

(G.L.A. Debated Vol. II, Book-5. Column 102 to 112 and 993 to 997)

Budget-

On Budget Literature-

- 6.(1) When the literature on the Budget is delivered to the Secretary, it is deemed to have been laid on the Table of the House.**
- (2) When the signature of the Secretary of the Department is printed on the Budget literature, that document on Budget can be laid on the table of the House.**

After the Finance Minister delivered his Budget Speech on the 20th February, 1986, Hon. Member Shri Sureshchandra Mehta, on 21st February 1986 raised the Point of Order on the following points.

- (1) "Annual Financial Statement has not been presented immediately after the Budget speech was over.
- (2) The Finance Minister has not signed the Financial Statement presented in the House and delivered to the Members thereafter.
- (3) On account of point (1) and (2), it cannot be said that Budget has been presented and therefore, the government must present the new Budget".

Speaker (Shri Natwarlal Shah) gave his following decision on the above points on 25th February 1986:-

"While considering these points, it is necessary to understand the system of distributing the Budget literature now. After the Finance Minister concludes reading of Part-B of his budget speech, the Officers of the Finance Department handover the sets of Budget literature to the Officers of Legislative Assembly and the Secretary of the Legislative Assembly distributes these sets among the Members and the News Paper Reporters. The Members who are not willing to carry their sets, have to give in writing to send the sets to their rooms in the MLA Hostel. This time also 94 Members had asked to send their sets of the Budget literature to their rooms and accordingly the arrangement was made to send their sets to their rooms."

"Thus, the literature is given to the Secretary and he takes the responsibility of distributing it. As soon as the speech of the Finance Minister was over, the officer of the Finance Department gave 200 sets at about 2.30 p.m. Therefore, the Legislature Secretariat had asked to give 275 sets as per past precedent. At last, when 235 sets were delivered to Legislature Secretariat at 4.30 p.m., the same were put in the Secretary's office. It must be noted that since the previous day the Budget literature was in the building of the Legislative Assembly in a room allotted to the Finance Department."

“Under Rule–60 of Gujarat Legislative Assembly Rules, the papers are deemed to be laid on the Table of the House as soon as they are given to the Secretary. The Budget Literature is never distributed in the House. Only after the Budget speech is completed by the Minister in the House, this literature is either distributed outside the House or sent to the Members’ rooms in the Hostel. In Lok Sabha also the Budget Literature is given to the Secretary and he arranges its distribution.”

“Under Rule–60 of Gujarat Legislative Assembly Rules, the documents which are required to be laid on the Table of the House must be given to the Secretary. The Secretary has to notify the Members in this regard. The Member desiring to examine the document or papers may approach to the Secretary's chamber and examine it there. Thus, when the Budget Papers are given to the Secretary, they are deemed to have been laid on the Table of the house. Due to this provision in the Rules, the Budget Literature is not distributed in the Legislative Assembly or even in the Lok Sabha. It is given to the Secretary, and he arranges for its distribution.”

“These facts prove that the Budget Literature is deemed to have been laid on the Table of the House as soon as it is received by the Secretary. The literature is distributed either on the same day or on the next working day of the House. After the Budget Speech of the Minister is over, the House adjourns for that day as per precedent and therefore, the Budget Literature is distributed not in the House but outside the House.”

“Thus, if we consider the first point of the member Shri Sureshchandra Mehta, and believe his statement, the Budget was placed on the Table of the House after two hours from the completion of Minister's speech. Is it such a serious mistake that the minister is required to present the Budget again in the House? The

demand to present the Budget, which has been presented earlier, is in no way fare. Serious repercussions would arise if we treat this Budget as not presented earlier. It must be kept in mind that the Finance Department used to give sets of Budget literature immediately after the Budget Speech was over, but as stated earlier, a demand for more sets was made as the number of sets received was less. In these circumstances, I cannot accept the argument made by member Shri Sureshbhai to treat the Budget as not presented."

"Shri Mehta has raised another point that the signature of the Finance minister is necessary on the financial statement. There is no such provision in clause(1) of Article-202 of the Constitution of India. The provision is to present the financial statement and that has been presented. The signature of the Secretary of the Finance Department has been printed. It has been specifically stated in direction 12(B) of Hon. the Speaker that if an Officer has signed the document, which is to be presented by the Minister, that document must be accepted. As per direction 12(A), even if the signature of the Secretary is printed on the paper concerning the Budget, that document can be laid on the Table of the House. Thus, there is no *iota* of truth in the argument of Shri Mehta."

"I cannot accept the point raised by Shri Mehta and therefore, reject his point of order."

(G.L.A. Debates Vol. II Book-II, Column 1303-1312 and Book -12 Column 383-386)

Budget—**Cut Motion-****Right to Speak-**

- 7. If a Member presents a Cut Motion, he does not get a right to speak. This right can be decided by the whip of the party.**

During the discussion on demand for grant of Agriculture and rural Development Department on 15th July 1985, when member Shri Dilipbhai Sanghani completed his speech and took his seat, some members rose to speak. At this stage, the Speaker (Shri Natwarlal Shah) gave his following decision—

“It is not that all those who present the cut motion get a chance to speak. All may not get the chance. I have to give chance to others. If you study on presenting cut motions, you will come to know that presenting the cut motion does not entitle you to speak. That right should be decided by the whip of your party. Instead of allowing the lead speakers to speak, he should give chance to all by turn.”

(G.L.A. Debate Vol.2, Book-6, column 175-176)

Budget—**Performance Budget—**

- 8(1) The copies of performance budget should be given to the Members before the demands are presented in the House.**
- (2) Complete details of the programme of the government and the performance of the government should be given in the performance budget.**

When the demand pertaining to Ports was presented for discussion in the House on the 6th March, 1992, member Shri Manoharsinhji Jadeja raised a Point of Order for not getting in time the copies of the Performance Budget pertaining to the Ports Department and for giving the information about the ports department in one page instead of giving detailed information and represented that the discussion on the demand be postponed.

Speaker heard the views of other members and the Minister for Laws and Industries Department Shri Shashikant Lakhani on the above matter and gave his following decision:-

“The point raised by Shri Manoharsinhji is very proper and logical. I have also seen the 9th and the 25th report of the Estimates committee today. As per the 9th report, the performance Budget was required to be given along with the Budget, but looking to the printing and other difficulties, the Committee in its 25th report, recommended to give it before two days, four days, or eight days, of the presentation of the demand. The truth in what the Law Minister has said is only that the details given on page 199 of the performance report touches the performance budget to a good extent. At the some time the Maritime Board has also come into existence and the Board is minding its constructive activities on behalf of the government. I feel that whatever information is given on page 199 is adequate for the Members for discussion. The question is that it would have been better if all the details had been given in the performance budget since it is the recommendation of the Estimates Committee; my feeling is that complete details on this should be given in future. I will only say that government take sufficient care in this regard. There is no question of stalling this demand.”

(G.L.A. Debates Book-64 Col. 740-751)

Budget—**Corrigendum —**

- *9. The corrigendum of the Budget Publication should be sent to the Legislature Secretariat three days prior to the day on which the demand for the relevant department is to be taken up.**

When the Demand No.38 pertaining to the Health and Family Welfare Department came before the House for discussion on the 18th July 1995, the corrigendum relating to the New Services and the Old services of the amended Budget Publication No. 11 concerning the above department was distributed to the members on 17th July 1995 i.e. on the day before the day on which the discussion on the Demand was to be taken up. Citing the reference of the time-limit in providing corrigendum of the budget publications referred to in the paragraphs on Corrigendum in the book "Legislative control on Public Expenditure", member Shri Shaktisinh Gohil raised a Point of Order and requested the Speaker to give his decision to ascertain that the Corrigendum on budget is provided to the Members three days prior to the day on which the demand is to be taken up for discussion in the House.

Hon. the Speaker allowed the Point of Order of the member Shri Shaktisinh Gohil and gave his decision as under—

"I agree with the view contained in the book of Shri Panchal that the corrigendum should be made available to the members

three days in advance. Drawing the attention of the government, I inform the concerned departments of the government to see that the corrigendum is received three days in advance in future and I wish that you will take all the care to see that the members receive the corrigendum three days in advance."

(G.L.A. Debates, Vol. II, Book 7(1) Columns 378 to 385)

* (Along with the above decision, the decision No-23 at page 22 of the Book - Decisions from the Chair, 1960-85 may also be referred)

Budget—

Right of the Government —

10. When to present the Budget is a matter of pleasure of the government.

When Minister for Parliamentary Affairs moved a motion on 25th June 1985 to agree with the 4th Report of the Business Advisory Committee, the member Shri Ashok Bhatt insisted that the Budget be presented on the date fixed earlier. At that time the Speaker (Shri Natwarlal Shah) gave his following decision—

"When to present the Budget is a matter of pleasure of the government. The Budget will be presented on the Second, the day fixed for it by Governor and so far as the House is concerned, the Members will get adequate scope for the discussion."

(GLA Debates, Vol. II, Book -3, Column -226)

Breach of Propriety—

Publicity in the News Papers—

- 11. The point that the details of a Report have been published in newspapers – cannot be raised before the Report is presented in the House.**

Before the Minister for Social Welfare laid the Report of Rane Commission on the Table of the House, member Shri Ashok Bhatt, raising the Point of Order on the 18th March 1985 and referring to the decisions given by the Speaker on incidents that had occurred in the past, stated that proper care to maintain secrecy had not been taken as the details were published in the newspapers prior to its presentation in the House. Thus, the contempt of the House had taken place. Hence the question of Breach of Propriety arose, and therefore, he requested the Speaker to give the decision.

The Speaker (Shri Natwarlal Shah) gave his decision as under:-

“The only thing I have to say about the Point of Breach of Propriety raised by member Shri Ashok Bhatt is that the report has not been presented in the House yet. Until the report is presented in the House, it cannot be said whether the details of the report have been published prior to its presentation in the House. In this case, as the report has not been presented in the House, there is no question of considering it.”

(G.L.A. Debates, Vol. II Book 1 Column-60)

Breach of Propriety—

Important announcement—

- 12. When the House is in session, the government should make the important announcement in the House first instead of giving it to**

the press.

Raising the Point of Breach of Propriety on 15th February 1988, Leader of the Opposition Shri Chimanbhai Patel stated that the Officer inquiring the case of Rafaleshwar Cattle Camp, had committed the Breach of Propriety of the House by giving the details of the inquiry to the press in a personal interview before they were presented in the House.

The Chief Minister had made several necessary clarifications in this regard. After that, the Leader of the House had stated in the House that he would send the details that were published in the newspapers to the Speaker and the decision be taken after verifying it.

After sending along with his letter dated the 2nd March 1988 the excerpts of the Indian Express dated the 15th February 1988 in which the said details were published, the Leader of the Opposition had stated that in the matter of the number of Cattle, the Officer inquiring the case of Rafaleshwar Cattle Camp, had given wrong details to the press by taking the case of the government in his hand and by giving figures in the government's defense and though neither the government nor the Collector of Rajkot had made any counting of cattle, an impression of giving wrong figures willfully had generated. Moreover, the officer should not have published the matter prior to its submission in the House. Moreover, the report on Pariej has also been disclosed to the Press prior to its presentation in the House and thus, that Officer had committed the Breach of Propriety of the House. Further, he had stated that as the House was in session, if the Chief Minister or the Revenue Minister had presented the said details before the House instead of disclosing those details before the press by the Officer on Inquiry Committee appointed by the government, the dignity and the decorum of the House would have been maintained.

On being inquired by the Speaker as to what the Hon. the Chief Minister had to say in this matter, the the Chief Minister had, by his letter dated the 5th May 1988, stated that the Officer inquiring the Rfaleshwar Cattle Camp being appointed as the Secretary of Information and Broadcasting and Tourism, he had taken over the charge of the new post on 4th February 1988 and as Secretary of the Information Department had casually visited the reporters on 12th February 1988 in the press-room of the Legislative Assembly, and when the questions on Rfaleshwar Cattle Camp were asked by the reporters, the details given by him had appeared in the newspapers of the 15th February 1988 and in this way, that officer had not given any statement before the press with a view to defending the government. He had further stated that as regards the number of cattle of Morbi Cattle Camp, controversial details have been appearing in the press in one way or the other frequently since November 1987. The information as to the number of Cattle was mentioned in it and the information as to the number of cattle at Rfaleshwar Cattle Camp were given in reply to Starred Question No. 16682 presented before the House on 10th February 1988. The information given by that officer had been given from the information published in the press and the information given in the House of which all were aware. Moreover, he had stated that the inquiry officer had given the limitations of the method given by the Collector of Rajkot for counting the cattle and the report as to the lacuna in the method of counting cattle had appeared in the press and the circular issued on 12th January 1988 by the Inquiry Officer as to the counting of cattle at Pariaj had also been published. Moreover the report published in The Indian Express dated 15th February 1988 included the interview of the Director of Gujarat State Relief Committee and other persons in addition to the information given by that officer. Thus, it becomes clear from the above facts that the details published in the issue of The Indian Express in the name of the said officer had already been published under various names in

different newspapers and those details had already been given in the House.

After taking into consideration the explanations given by Hon. the Leader of the Opposition and the Chief Minister on the above subject, the Speaker (Shri Natwarlal Shah) gave his decision as under—

“So far as the propriety of the House is concerned, as per the established practice, when the House is in Session or is to meet in a day or two, all the policy matters of the government and the matters of public importance must first be announced in the House so that the house can give its opinion on it and can give proper guidance to the government and can provide an opportunity to make changes or may show its opposition and by doing so, the government can rethink about its policy decision. Keeping this yardstick before mind, it is necessary to think whether there is any announcement of any important policy decision of the government in the details published in the present case and whether it is published by the government.”

“I have carefully studied the point raised by the leader of the Opposition Shri Chimanbhai Patel and the explanation given by the Chief Minister and I feel that the figures and facts as to the number of cattle at Rafaleshwar Cattle camp and the so called malpractices had been frequently published in the newspapers of October 1987 though there might be some difference in the details. A Starred Question no 16682 was asked in the House on 10th February 1988 and supplementary questions were also asked on it. Moreover, the question of the so called malpractice at Rafaleshwar Cattle Camp had become the subject of discussion since October 1987 and an announcement of appointing an officer by the government to inquire into the details of it had also been made. Therefore, neither the question of any policy decision by the government nor any announcement of any important decision by the government is

involved in this matter. So, howsoever improper this matter may be in any other respect, it is not at all associated with the Point of Breach of Propriety, because neither the government itself have said anything outside the House publicly nor caused it to be published through any other officer any matter of public policy or matter of public importance which should have been informed before the House. Moreover, the details which have been published have not been published for the first time but have been presented before the House by way of reply to the starred question or in any other way, and that officer has not made announcement of any policy matter or matter of public importance before the press. So, I don't feel that any Breach of Propriety has occurred in this case and, therefore, I cannot accept the Point of Breach of Propriety of the House raised by the Leader of Opposition Shri Chimanbhai Patel."

(G.L.A. Debates, Vol. II, Book No.35 Column 279-282)

*(Decision No 33 on page no 29 of the book Important Decisions of the Speaker, 1960-84 may be considered with the above decision)

Breach of Propriety—

Prior Notice—

13. Notice of Breach of Propriety or Breach of Privilege must be given first.

Raising the Point of Breach of Propriety of the House, the Member Shri Jayantilal B. Kalaria stated on Friday the 7th March 1986 that when the discussion on demands was going on in this House, the Member Shri Jaspalsingh rose to speak and raising his voice aggressively, his time was expired and another Member was allowed to speak. So the Member Shri Jaspalsingh left the House. In the newspaper

that day Shri Jaspalsingh had made such a statement that he had left the House because the speaker had not allowed him to speak and was prevented from speaking. He requested the Speaker that he wanted to raise the Point of Breach of Propriety of the House.

Citing Rule-252 of Gujarat Legislative Assembly Rules in the support of the point, he stated that if the speaker was satisfied about the urgency of the matter, he might allow a question of privilege to be raised at any time during the course of a sitting after the disposal of questions.

Making a remark to the Member, when the Speaker asked the Member if he considered breach of privilege and breach of propriety to be one, the member replied that the notice is required to be given under Rule 249 and 250. When the Speaker asked him if he had given such a notice? The Member stated that he had read it in the newspaper only in the morning that day and as the House was to meet in the morning, he did not get any time to give notice and, therefore, he had raised the point in the House at that time and had asked for his permission.

The Speaker (Shri Natwarlal Shah) said, "Written notice should be given in this regard and decision can be taken only after receiving the notice. This is not the point to be raised to day only by rising in the House."

(G.L.A. Debates, Vol. II, Book 13, Columns 1119-1124)

Breach of Propriety—

Announcement of policy matter—

14. Making changes in the present policy is a policy matter and it must first be announced in the House:

The Government had issued a General Resolution to raise income limit and age limit for giving assistance to the orphan, widow, deserted and divorced women and it was published in the newspapers of 5th June 1988. The Member Shri Dinsha Patel, raising the point of Breach of Propriety, said that when the House was in session, Breach of Propriety had taken place by making announcement outside the House on policy matters, and therefore, he had requested the Speaker to give his ruling on that matter.

Hon. the Minister for Social Welfare Shri Dolatbhai Parmar clarified that the general Resolution published referred to the policy of the state government and the scheme that was in force and the amendment to this general resolution was made keeping in mind the feelings and demands of the Members. The state government had not made any changes in its policy. It has issued this government Resolution keeping in mind its original policy. It had been categorically stated in this Government Resolution that a change had been made as to the age limit and income limit in this scheme. Thus it was not his intention and it cannot be his intention to commit any Breach of Propriety of the House.

After that, the Leader of the Opposition and the Minister for Parliamentary Affairs expressed their views on this subject. At the end, Hon the speaker gave his ruling on the matter as under;

“The Social Welfare Department of the government of Gujarat, by issuing a Government Resolution on Economic assistance scheme for rehabilitation of orphan, widow, deserted and divorced women, has made changes in the age limit and limit on annual individual income. It has made this change by issuing G.R. No. 1088/4879(87)-Chh. Raising the Point of Order Shri Dinsha said that the Government

should have announced the change in the House and they had not done so, a Breach of Propriety had taken place.”

“The Minister said that he had made changes in this as demanded by the Members. He also said that there should be no hesitation in coming before the House. He also expressed his regret and then said that, that was not the policy decision but it was a change in the policy decision taken previously. So there was no need to come before the House”.

“Shri Chimanbhai, Shri Nalinbhai etc. expressed their views. It is unfortunate that this is for the third time that the Breach of Propriety has been raised in a week. So the fact that the points of Breach of Propriety are raised frequently in such a short time and I have to accept them, is not a good situation for anyone and it is especially not good for the Government.”

“It was said that this was a policy decision and changes were made as desired by the Members. As only the changes were made in it and as it was not a policy decision, there was no need to come before the House. For further clarifications of the Members, I would like to draw the attention of the Members to Page No. 339 of the book “Practice and Procedure of Parliament” by Kaul and Shaktiher. It is stated therein that—

“The Speaker has however observed that where statement is made outside the House, even clarifying the policy already enunciated, the Minister should also make a statement about that in the House at the earliest opportunity.”

“If you look at the Government Resolution, it is a clarification of the old G.R. by issuing the new G.R. it has modified or improved upon its old G.R. giving benefit to more number of people, increasing the

number of beneficiaries so that larger number of people can get benefit of Government help. When it is stated clearly that just a clarification is required to announce in the House, it equally applies to the modification and improvement. I would say, so far as improvement and modification are concerned, it is much stronger case for coming before the House. I am sorry that the Minister has not thought it fit to come before the House for such an important modification, which was made in the original policy for which the Government should have taken credit. But unfortunately, Government has not done so. Therefore, if you look at the observation made by Kaul and Shakhder, the present issue falls within the ambit of the observation made by Kaul and Shakhder in as much as it is not only a clarification, but the new Government Resolution amounts to modification of old Government Resolution and hence I accept the point of Breach of Propriety raised by Hon. Member Shri Dinsha Patel. Hon. Minister made certain statements that how are it possible for us to come everyday before the House because number of notifications are issued and all that. I think it is the duty cast on the Government not only to respect the House, but also to allow the Members of the House to know what is happening and what the government is doing.

“I think one of my predecessors has stated in clear terms that if you come to the House, Member get an opportunity not only to know what you are doing, but if you think so, they can contribute in impressing upon what the Government is doing. They have a chance to participate in the thinking process of the Government. I think so far as this case is concerned, let the Government not come out with such statement as has been done by the Hon. Minister for Parliamentary Affairs that we have in Parliament 56 departments, we have so many Departments, we cannot come everyday. I would like to remind the Member in the House that issues of Breach of Propriety come very rarely before the House. It is not quite often. Unfortunately, only in this week three issues, one after another, have come before the House. In

all the three cases, I have to decide against the Government. I am sure, Government will be more cautious in future and try to see, in view of this decision, to come before the House before it makes any new policy statement or any modification in the existing policy statement.”

(GLA Debates vol. II, Book No. 37, Pages 75-81)

Breach of Propriety—

Announcement of Policy Decision—

- 15. When the House is in session, any announcement for bringing changes in its present policy or framing a new policy must first be made in the House. It would otherwise amount to Breach of Propriety.**

When the Member Shri Babubhai Vasawala raised a Point on the 4th July 1988 that though the House was in Session, the Minister, instead of making an announcement of allotment of land in Gandhinagar in the House, had directly announced it to the Press, a Point of Breach of Propriety had occurred. The Speaker gave his following decision :-

“Member Shri Babubhai Vasawala has raised a Point that by not making before the House an announcement of policy decision about the allotment of land in Gandhinagar, the Government has committed a Breach of Propriety. The Member Shri Ashok Bhatt and Member Shri Dinsha Patel have supported it. Minister for Public Works Department said that there was no new policy or anything new. It was announced as a policy by linking it to the old policy, so Breach of Propriety did not take place. They had not made any announcement of it but had issued a General Resolution. It was very clear in the General Resolution that instead of existing policy of the government, a new comprehensive policy was framed. When questioned more on this

policy, it was found that before framing the comprehensive policy and issuing a General Resolution about the same, it was discussed at Cabinet Level and after that the General Resolution was issued. The Minister has said that he has not made any announcement but issued a General Resolution. I feel that by saying 'announcement has not been made but have issued a General Resolution', the status does not change, because General Resolution is also a kind of notification as to different policies of the Government and by this notification, the new policy comes into effect. At last, one thing must be clearly understood that if the Government has changed its policy, it must first be announced in the House. This has been frequently discussed. The questions asked on the policy are whether there is any change in the policy, it is desirable for the Government to take the House into confidence when it issues Government Resolution on new policy so that this House can give suggestions in this matter if it so desires, but the government has not done so. This is very unfortunate. It has been said in the previous ruling and I have to say it again that when the House is in session, and there is a question of making changes in Government's existing policy or framing a new policy, it must first be announced in the House. The Government must always keep this in mind from this viewpoint, I feel that here also the Breach of Propriety has taken place".

(GLA Debates Vol. II, Book No. 36 column 515-516)

Breach of Propriety—

Permission—

16. Speaker should be informed before raising a point of Breach of Propriety.

When Member Shri C.D. Patel sought permission on 22nd March 1990 to raise a Point of Breach of Propriety in the matter of Sutrapada

Hooch Tragedy, the Chief Minister Shri Chimanbhai Patel raised a Point of Order that the Notice under Rule 116 had been admitted in the above matter and prior permission had not been sought, the point of Breach of Propriety could not be raised in the House.

The speaker upheld the Point of Order raised by the Chief Minister Shri Chimanbhai Patel and gave his following decision :-

“As the Leader of the Opposition, you also know the precedent that if you want to raise the Point of Breach of Propriety, you should intimate to me in my chamber in writing and without that this point cannot be raised”

(GLA debates Book No. 53, Col. 28-30.)

Breach of Propriety-

Publication of the Report of the Commission---

- 17. Contempt of the House takes place by publishing in the newspaper the letter of the Chairman of the Commission printed in the Report of Rane Commission before it is presented before the House.**

Raising the Point of Breach of Propriety on the publication of the Report of the Rane Commission, the member Shri Ashok Bhatt stated on 21st March 1985 “the Government has made an announcement to present before the House the Report of Rane Commission. The letter of Justice Shri Rane printed in that Report had been published in Loksatta dated the 18th March 1985. The Letter of Justice Rane contained in the Report has got publicity in the newspaper before it is presented in the House and thereby, Government has committed contempt of the House and breach of Propriety of the House.”

Hon, the Minister for Parliamentary Affairs Shri Navinbhai Shastri stated in the reply that the Report was not the part of the proceedings of the House and therefore, if the letter contained in the Report was published in the newspaper before the Report was presented in the House, it did not become a breach of Propriety. He also said that the Constitution of this Commission was made by the Government through administrative orders. This point was discussed at length in the House. The Speaker reserved his decision.

On 26th July 1985, the Speaker (Shri Natwarlal Shah) gave his following decision on the above matter.

“ Raising the Point of Breach of Propriety on 21st March 1985, Member Shri Ashok Bhatt stated that the Government had made an announcement to present the Report of Rane Commission before the House. The letter printed in the Report of Justice Rane was printed in the Loksatta of 18th March 1985. He had also stated that the Report containing the letter of Justice Rane had been published in the newspaper before the Report was presented before the House and thereby Government had committed contempt of the House and Breach of Propriety of the House.

The Minister for Parliamentary Affairs stated that the report was not a part of the proceedings of the House, publication in the Press before it was presented in the House did not cause breach of propriety. He also stated that the constitution of this Commission had been made by the government through administrative orders.

This point was discussed at length in the House. Other Members including the Chief Minister Shri Madhavsinh Solanki took part in it.

Before I decide this issue, it is essential to see the discussion that took place in the past. Member Shri Budhaji presented a resolution on

21st August 1980. Replying to the discussion on this resolution, the Minister stated that "The government has decided to set up a Commission so that the people of the classes covered under Bakshi Commission may get an opportunity to present their grievances". After the reply of the Minister, the Member sought permission of the House to withdraw the resolution saying that he was satisfied by the assurance of the Minister and the resolution was withdrawn. Thereafter, the Member Shri Ranchhodbhai Solanki had presented another resolution motion on this issue in the Second Session of the 6th Gujarat Legislative Assembly and relying on the assurance given by the Minister it was withdrawn."

"On 3rd April 1981, in order to implement the assurances given during the discussion on both these resolutions, the then Minister Shri Vanvi made statement in the House under Rule – 44, announced the constitution of Rane Commission. The names of Justice Rane (Chairman) and other Members of this Commission were also declared. The jurisdiction of this commission was also declared in this statement. Thus, the argument of the Minister for Parliamentary Affairs Shri Shastri that "As the announcement of Rane Commission and the declaration of its jurisdiction were made in the House, the report of the Commission does not become a part of the proceedings of the House" is not acceptable to me. I clearly believe that the Minister gives assurances twice in the House and declares in the House the constitution of the Commission and its jurisdiction, it does become the part of the proceedings of the House."

"During the discussion the Chief Minister Shri Madhavsinh Solanki had represented that the letter of Justice Shri Rane could not be considered a part of the Report and hence, its publication did not amount to breach of Propriety."

"While presenting the Report of the commission, Justice Rane had insisted to publish his letter along with the Report. On reading the

letter, I have felt that this is not an ordinary type of letter "presenting the Report". In the letter, the recommendations of the Commission have been put in nutshell. Not only this, the Chairman of the Rane Commission has expressed his views on the recommendations. In this way, this is an important letter and therefore, Justice Shri Rane insisted to publish this letter along with the Report. Government accepted his demand and printed this letter in the Report. Looking to the importance of the letter and that the government has published it with the Report, it does become the part of the Report. I can not accept the contention of Chief Minister Shri Madhavsinh Solanki that the letter is not a part of the report and is a separate matter."

"Thus, I believe that this Report is a part of the proceedings of the House and the letter of the Chairman of this Commission is a part of the Report."

"I come to the conclusion that due to publication in the newspaper the letter of the Chairman of the commission, which is a part of this report, a Breach of Propriety has taken place."

"The publication of the letter in the newspaper on the day on which Report is to be presented shows negligence of the Department. I hope that the Government will take due care to see that this does not happen in future".

(GLA Debates Vol. II, Book No. 8, Col. 533-535.)

Breach of Propriety—

Announcement made by Hon. the Chief Minister-

- 18. An announcement made by the Chief Minister in the meeting of the Ruling Party cannot be treated as a Breach of Propriety.**

In the meeting of the Congress Party that met on 3rd March 1992, the Chief Minister had announced that on receipt of the demand from Local Self-governing Institutions, Co-operative Institutions and Social Institutions from drought affected areas of the state, permission will be given to open cattle-farms limited to 1000 cattle.

In connection with the above announcement, Member Shri Ashok Bhatt had raised a point of Breach of Propriety in the House and he represented that when the House was in Session, the Minister should have made such statements in the House.

The Chief Minister, while making clarifications on the above point, said, "while replying to the debate on Governor's Address, it was announced that when the drought situation aggravates, cattle farms will be started as and when required. So in this context, the question of making statement outside the House without the knowledge of the House does not arise."

On 10th March 1992, Hon. the Speaker gave his following decision in the above matter :-

"I have carefully gone through the representation made by Member Shri Ashok Bhatt on the point raised by him, the clarification made by the Chief Minister and the representations made by other Members. With regard to the point raised by him, Member Shri Ashok Bhatt, has never said that the Ministers had made announcement of the policy decision for publication. Of course, he has said that in the meeting of the MLAs of the Congress Party, the Chief Minister and the Revenue Minister remained present and they had made this announcement."

“In the Parliamentary Democracy run by party system if the political parties discuss freely in their meetings, and if it is the ruling party, the ministers take part in it and make announcement of the policy of the Government, it is considered as a part of party proceedings. This is the prime requisite of the government machinery run by party system. The Chief Minister and the Revenue Minister had not made any announcement for publicity but information was given during the discussion in their party meeting. It is clearly stated in the news published in the daily Gujarat Samachar dated the 6th that the Chief Minister had announced in the meeting of the members of the Congress Party. Another thing is that by making announcement of mere policy decision does not create Breach of Propriety but if that decision is found very important in a special way as a part of some new policies, and if the announcement of such an important decision is made outside the house when the house is in session, then and then only it is considered as Breach of Propriety. In the present case, reference of giving assistance for cattle farm has been made in the Governor’s Address. I have also gone through the Resolution of the Revenue Department given to me by the Chief Minister. I don’t think that this resolution issued under Gujarat Relief Manual contains any announcement of new or important policy matter. In fact, in the meeting of the party members supporting his government, the Chief Minister had talked about the resolution issued on the 4th March and as I have stated earlier, any announcement made by Ministers in the meeting of the political party is not considered as a Breach of Propriety and taking into account all these facts I cannot accept the point of Breach of Propriety raised by Member Shri Ashok Bhatt.”

(GLA Debates book –74 Col. 596-599)

Breach of Propriety—

Building of the Legislative Assembly—

Exhibition—

19. It is not proper if the Legislative Assembly building or any part thereof is used as a means of exhibition.

Raising the point of Breach of Propriety on the 13th March 1986, member Shri Ashok Bhatt said, " A publicity banner has been hung by the social welfare department of the state government on the entrance of the Assembly House. On the banner 'Rashtriya Kutumb Kalyan Zumbesh, Gaarvi Gujarat Mari, Jai Jai Garvi Gujarat, Lakshyank: nasbandhi 1 lakh, aankdi 1 lakh' (National Family Welfare Drive, My Magnificent Gujarat, Victory to magnificent Gujarat, target: IUCD 1 lakh, loop 1 lakh) is written. The banner has been put right above the entrance. About this House - the House of Commons - on page 86 of Chapter seven of Kaul and Shakti, edition 1948, it is written as follows:

"The all important conventional and ceremonial head of Lok Sabha is the Speaker within the walls of the House. His authority is Supreme."

"You are the Head of this Assembly House and the whole building. You know that what kind of situation will be created if the banners of Government Advertisement begin to be set up without your permission. If different Departments of the State begin to put up their banners here, an impression of this building as a government Building will be knowingly or unknowingly created." He further said, "Permission of Speaker should have been taken before putting up the banner at this place. The government has not taken any such permission and straight away hung this banner. The Government has tried to give a blow to the propriety and impartiality of the House knowingly or unknowingly and today government has put up the banner of Family Welfare, tomorrow there will be an advertisement of

twenty-point programme of the government and then what if the advertisement with the photograph of the Chief Minister comes? Where will it stop? Therefore, I seek your clear direction and I clearly believe that whichever department has put up this banner has committed a Breach of Propriety."

Thereafter citing the provisions of rule 250 and 251 of Gujarat Legislative Assembly Rules, member Shri Jayantilal Kalaria stated that contempt of House does not take place by the point raised."

Thereafter, the Minister for Parliamentary affairs (State Level) Shri Nalinbhai Patel, the Leader of the Opposition Shri Chimanbhai Patel and Member, Shri Khodidan Zula also expressed their views. Giving his decision the Speaker (Shri Natswerlal Shah) said " in the Point of Breach of Propriety raised by Shri Ashokbhai, Shri Kalaria in reply, reiterated the same arguments which he had made earlier on similar point that the Member Shri Ashokbhai has not acted under rule 251 pertaining to the privilege, so he cannot be allowed to raise such point. Rule 251 pertains to the privilege and the procedure mentioned in it, can only be applied if there is a question of privilege and not otherwise."

"The point under discussion is that of a Breach of Propriety. Member Shri Ashokbhai has asked that the banner put up on the gate of the Assembly House is proper or not. Shri Ahokbhai has raised this point. There are other points and the last point raised is whether it falls within the powers of the Speaker? If we read Rule 282 properly, I feel that the jurisdiction of the powers of the Speaker applies to the whole building. We should understand the difference between the 'estate' and the 'precincts'. In 'precincts', it is the duty of the Speaker to maintain order and security in the Assembly. As for the outside area, it is not proper to say that the responsibility of the 'estate' does not fall within his jurisdiction simply because the

Speaker does not look after the security arrangement when the session is going on. In fact, the position is very clear in Rule – 282."

"The admission to the precincts of the House and its estates during the sitting of the House or otherwise shall be regulated in accordance with the regulations or order made by the Speaker.' So the jurisdiction of the powers of the Speaker applies to the whole House. The banner hung is on a part of the building. It is true that the object with which the banner is hung is very noble, but howsoever noble the object may be, the use of Assembly Building or any part thereof as a means of exhibition is not proper under any circumstances."

"I believe that whatever has been done in this case is not proper and I instruct the authority which has done this to remove this banner immediately."

(GLA Debates Vol. II, Book 14, col. 936 – 944).

Debate –

Prior Permission of the Speaker –

20. Before raising any point in the House after the Question Hour, prior permission of the Speaker should have been taken.

During supplementary questions and answers on matter of urgent public importance under Rule – 116, on "Strike by Junior Doctors of Civil Hospital" on 2nd April 1985, when Member Shri Babubhai Vasanwala tried to raise the point on the reference of the Chief Minister in Mrugesh Chapter in Parliament of Delhi, the Speaker (Shri Natwarlal Shah) Observed as under: -

“We have a general rule here that I should have been told before raising any point in the House and after discussing with me, if I permit, you may move it. But you have not told me.”

As per the established practice, the Member was not allowed to present his point in the House.

(GLA Debates, Vol. II, Book No. 2, Col. 667-668.)

Debate –

Unparliamentary words and expressions.

21. The word ‘Hero’ for any Member is unparliamentary.

During the discussion on 21st January 1986 on a Motion of Thanks for the Governor’s Address, the Member Shri Hariprasad Shukla at one stage said, “the story – ‘this Government is sitting on a volcano, the position of the Government is very serious, communal riots and quarrels are taking place’ –which the Member has said in his speech is merely for becoming a ‘Hero’. This is established from his speech.”

At this stage Member Shri Ashok Bhatt raising the Point of Order, asked the Speaker how far it was fair to say that he was giving speech to become a Hero, the Speaker (Shri Natwarlal Shah) said that the word ‘Hero’ was not proper for any Member and it was unfair to use the word ‘Hero’.

At this stage the Member Shri Shukla withdrew his word.

(GLA Debates Vol. II Book No. 9, Col. 773-774.)

Debate—**Unparliamentary words and expressions-****22. The words “People are creating terror under the cloak of elected Members”—cannot be used.**

During the discussion of Gujarat Prevention of Anti-Social Activities Bill, 1985 on 26th July 1985, member Shri Bholabhai Patel, in his speech, used the words “such people are creating terror under the cloak of members sitting here and nothing is done against them”. At that time member Shri Jayantibhai B. Kalaria, raising the point of Order, wished to know whether a member can say “such activities are going on under the cover of the House ?”

The Deputy Speaker (Prof. Karsandas Soneri) gave his decision that “When a member is elected to this House, it is an insult of the member of this House to say about him that an activity is going on under his cloak. Such words cannot be used. Therefore, the member should withdraw these words”. Thereafter, member Shri Bholabhai Patel withdrew those words.

(GLA Debates Vol. II, Book No. 8 Col. 554)

Debates---**Unparliamentary words and expressions-****23. The word “bullies” is not unparliamentary.**

On 22nd January 1990, during the discussion of a Short Notice Question No. 860 of member Shri Babubhai Vasanwala pertaining to

releasing from jail the persons caught under the Terrorist Act, he asked whether this Government wanted to release the drunkards and the smugglers? Whether it wanted to release the “bullies” also? At that time, member Shri Dinkarbai Desai and Shri Jashpalsing objected to the use of word “bullies” and said that, that word was unparliamentary and should be withdrawn. The Speaker (Shri Barjorji Pardiwala) gave his decision as under :-

“It is parliamentary. Looking to the context in which it is used, it is not unparliamentary”.

(GLA Debates Vol. II, Book No 11, Col. 236)

Debate ---

Unparliamentary words and expressions—

24. The usage of the words “senseless and unholy effort” is not proper.

During the discussion of Supplementary Demands on 26th March 1985, member Shri Digantkumar D. Oza, comparing the members of the Opposition with Yagnavalkya, said, “they are ‘making senseless and unholy effort’ of creating a mirage that everything is worthless without their administration”.

When the Leader of Opposition Shri Chimanbhai Patel drew the attention of the Speaker towards the representation made by the

member, the Chairperson (Shri Shantilal P. Patel) gave his decision to withdraw both the words spoken by the member.

Accordingly, the Member withdrew his words.

(GLA Debates Vol. II, Book No. 2, Col.77)

Debate—

Unparliamentary words and Expressions-

25. The usage of the words “caused disreputation” is not proper.

During the discussion on the Motion of Thanks on Governor's address on 21st March 1985, when the member Shri Babubhai Vasawala made use of the words “caused disreputation” for the financial provision made by the Government for Mid-day meal Scheme, the Chairperson observed that “the circumstances in which the words ‘caused disreputation’ are used in this House, as I have understood them, are not proper. You first withdraw those words”.

The member withdrew those words.

(GLA Debates Vol. II, Book No. 1, Col. 340 – 341)

Debate –

Unparliamentary words and expressions—

26. The word “dice” is unparliamentary.

On 17th January 1986, while taking part in the discussion of Gujarat Tax on Transport of Goods (amendment) Bill, 1986, Member Shri Ashok Bhatt said, "the way in which the Chief Minister has come is the chess arranged by someone else. He has come to play the game on the chess arranged by others. Today, he finds difficulty because the game is not arranged by him. All the Ministers have been placed in their respective departments and the Chief Minister has come to play. Now, he finds difficulty in removing a single "dice".

At that time, when the Minister Shri Amarsinh Vaghela raised a point of order that the word "dice" is unparliamentary, the member cannot use it. The Speaker (Shri Natwarlal Shah) gave the decision that the word "dice" is unparliamentary. Then the member Shri Ashok Bhatt withdrew that word.

(GLA Debates Vol. II, Book No. 9, Col. 382)

Debates—

Unparliamentary words and expressions—

27. The words not in consonance with refined taste cannot be used in the speech.

While speaking on general discussion on Budget on 26th February 1986, member Shri Karamshibhai Makwana, drawing the attention of the House to justice and the courts, said that by enacting the law for open courts and by executing it, the state government had freed the poor people of some villages from the tyranny of the Courts.

While taking objection against the above statement made by member Shri Karamshibhai Makwana, member Shri Jayantibhai Kalaria said, "to say that 'freed from the tyranny of the courts' is an insult of the courts. The words should be expunged from the record."

The Chairperson gave the following decision on this –

“Shri Karamshibhai, these words are not in consonance with the refined taste, so withdraw these words”.

Then the Member withdrew the words, which were not in consonance with the refined taste.

(GLA Debates Vol. II Book – 12, Col. 599-600)

Debate –

Unparliamentary words and expressions—

28. Proverbs aimed at injuring the feelings of others cannot be used in the House.

While participating the discussion on the Motion of Thanks on the Governor's Address on 20th March 1985, member Shri Manubhai Parmar made use of the proverb “Dog's tail always remains curved” in his speech. At this stage, as these words were unparliamentary, member Shri Manubhai Kotadia requested the Speaker to cause them to be withdrawn. When the Minister for Education Shri Hasmukhbhai Patel (State Level) said that it was unnecessary to put on the cap that fitted him, the Speaker (Shri Natwarlal Shah) gave his decision as follows.

“Shri Hasmukhbhai, what you said can be applicable only when the person to whom it is addressed is not clear. But here, the object is quite clear and to whom it is aimed is also clear. So there is no question of putting on the fitting cap. It is very natural that the feelings of the members to whom it is aimed at may get hurt. Even though it is a proverb, it cannot be used in this House. So Shri Manubhai, withdraw your words”.

The member withdrew his words accordingly.

(GLA Debates Vol. II, Book – 1, Col. 162-164)

Debate –

Unparliamentary words and expressions—

29. The words “The exorcist is swaying his head” are unparliamentary.

During the discussion of supplementary demands of the Agriculture and Rural Development Department on 15th July 1985, after many members including member Shri Ashok Bhatt having participated in the debate, the Minister for Agriculture stated in reply that “when an issue comes in the hands of member Shri Ashok Bhatt, he is raising hue and cry.” At this time, the member Shri Manubhai Kotadia sought Speaker’s guidance as to whether it was proper to say that he was raising hue and cry when he made representation here. The Minister for Agriculture Shri Mahant Vijaydasji told the Speaker that to make representation is one thing and to talk looking at the exorcist swaying his head in the village is another thing. At this time, when the Member Shri Shantibhai Patel objected to the use of the words “exorcist swaying his head”, the Speaker gave his decision as under:-

“The Minister, you committed the mistake in zest once but you committed still greater mistake the second time. So withdraw both these words.”

The Minister for Agriculture withdrew his words.

(GLA Debates Vol. II, Book – 6, Col. 181)

Debate—**Matter concerning the Central Government—****30. The matter concerning the Central Government cannot be discussed in the House.**

During the discussion on the demands of the Finance Minister on the 12th March 1986, the member Shri Popatbhai Sorathia said, "The commercial banks hesitate in going to the villages. The approach of the Central government and State Government is to take the banks to the villages. Its aim to reach the banks to the farmers and farm labourers does not materialize."

At this stage, the Speaker (Shri Natwarlal Shah) said that the discussion on the banks' approach cannot be made in the House. As it falls under the supervision of the Central Government, we cannot discuss it.

(GLA Debates Vol. II, Book – 14, Col. 851-852)

Debate--**Absent Person—****31. Even though the Member is absent, reply to his speech can be given.**

During the discussion on the Motion of Thanks on the Governor's Address on 20th March 1985, member Shri Jayantilal Kalaria said in his speech, "Certain forces in the nation are trying to spread discordant note, this discordant note can be seen in the member Shri Ashokbhai". Member Shri Sureshchandra Mehta raised a Point of Order that "As member Shri Ashokbhai is not present, can anyone speak about him

and can discordant note be played? At that time, Speaker (Shri Natwarlal Shah) gave his decision as under :-

“It is the duty of a Member who makes a speech in the House, to remain present. That Member has left taking my permission. But it cannot be that the reply to his speech cannot be given. Discordant note can be spoken.”

(GLA Debates Vol. II, Book – 1, Col. 235-236)

Debate –

Absent Person—

*** 32. Personal criticism of a Member cannot be made in his absence.**

During the discussion on the Motion of Thanks on the Governor's Address on 20th March 1985, member Shri Amarshibhai R. Patel told in his speech that during the election campaign of Shihor constituency, two companions caught under MISA at the time of emergency of 1977 were walking with the Leader of the Opposition. At that time, the Speaker (Shri Natwarlal Shah) gave His decision as under :-

“Criticism of a party can be made but personal criticism of any person cannot be made, and especially, criticism of a person who is not present in this House cannot be made. Therefore, you withdraw your words. No example will do.”

The member withdrew his words accordingly.

(GLA Debates Vol. II, Book – 1, Col. 275-276)

Debate—**Literature to be given to Press Reporters: -****33. Obtaining Member's signatures for Personal Business**

When the member Shri Ashok Bhatt sought Speaker's guidance on the arrest of the Secretary of the party while distributing literature to the Reporters by going near the gallery on 28th June 1985 and when member Shri Prakashchandra Brahmbhatt also represented that a Leader of the Congress Party Shri Arjunsinh Rathwa obtained signatures in favour of reservations from the distribution center just as Members do at the time of obtaining Assembly Literature, the Speaker (Shri Natwarlal Shah) gave his following decision :-

"Literature to be given to the reporters must be given in the Reporters' Room. Leaflets cannot be distributed near the gallery. Members' signature cannot be obtained on the distribution center for personal business."

(GLA Debates Vol. II, Book – 3, Col. 535-538)

Debates-**Speech -****34. It is unfair to use the words based on presumption which may cause contempt of the House.**

During the discussion of Home Department on 11th July 1988, member Shri Babubhai Vasanwala used following words in the House.

“and the installments which are taken in the police stations, God knows how far they travel, but.....” saying this, he used words of allegations. The Speaker (Shri Natwarlal Shah) announcing in the House on 14th February 1989, decided to expunge the words of allegation under Rule 36(1) of Gujarat Legislative Assembly Rules and observed as follows.

“To expunge the words is technical, but my request is that it is unfair for anybody to use the words in zest by which contempt of the House may result. When a Member alleges the House, he must have clear information. Not only this, he must have such information that a particular member is responsible so that the Member can give his explanation or the person alleging must make explanation or must be ready to face the consequences. If his allegation is based on presumptions, it is dangerous for us. It is not dangerous for any individual but it is dangerous for us all. I urge you not to use these words”

(GLA Debates Vol. II, Book – 45, Col. 60-61)

Debates—

Minister's Right—

*** 35. The Minister has a right to read the statement in the House.**

“When the Minister for Irrigation Shri Maganbhai B. Solanki was giving reply to the discussion on the Motion of Thanks on the Governor's Address on 22nd March 1985, member Shri Ashok Bhatt drew the attention of the Speaker and said that though the Minister was senior, he was reading his whole speech. At this stage, Hon. the speaker (Shri Natwarlal Shah) gave his decision that—

“You have forgotten that a Minister has a right to read the Statement”

(GLA Debates Vol. II, Book – 1, Col. 595).

* (Along with the above decision, the decision no. 229 on page 143 of the Book Decisions from The Chair 1960-1984 may be referred)

Debate-

Absence of Minister-

36. During the discussion on Demands, the concerned Minister should remain present in the House.

When member Shri Gunvantbhai Makwana rose to take part in the discussion on Demands on 21st March 2002 presented by the Minister for Education and the Minister for Civil Supplies, the Minister for Civil Supplies was found absent from the House, so Member Shri Narhari Amin raised the Point of Order with regard to the absence of the concerned Minister during the discussion on Demands and sought guidance of the Speaker. After hearing the other speakers on the above subject, the Chairperson gave his following decision from the Chair.

“What Shri Narharibhai has said is true. The Minister whose demands are being discussed must remain present in the House, but he has gone out just for two minutes and has conveyed it to his Senior Minister and it is my clear instruction to all Ministers. I instruct the Ministers of the concerned Department to remain present when their demands are being discussed.”

(GLA Debates Vol. II, Book – 87Col. 437-438)

Debate—**Newspapers—****37. It is not proper to say about a Member that he is speaking with an intent of achieving political mileage or publicity in the press.**

During the discussion on Gujarat Closed Textile Mills (Textile undertakings)(Nationalization) Bill, member Shri Surendra Rajput said on 30th January, 1986 that the members were speaking with an intent of achieving publicity in the press. Taking objection against such utterances, the member Shri Ashok Bhatt raised a Point of Order and asked if such words could be uttered in the House ? Giving his explanation to this, member Shri Surendra Rajput said that his intention in saying was only that it created lack of confidence among the people and talks were made for achieving political mileage only on this account, discussions had often taken place previously.

Deputy Speaker (Shri Karsandas Soneri) gave his following decision from the Chair.

“Shri Rajput, there is no question of achieving any political mileage. It is not proper to say that speeches are made with an intent to achieve publicity in the Press. Whatever member speaks or represents before the House is to the advantage of all. You have spoken very nicely and it seems that a very great impression of your speech has been created on the Chief Minister. Withdraw your statements that speeches are made with an intent to achieve publicity in the press and to achieve political mileage”.

Thereafter, Hon. the Member withdrew his words.

Debates—**Appeal for peace and Co-operation****38. Silence cannot be observed at the end of Motion for Peace and Co-Operation.**

At the end of a discussion on 24th June 1985, when the Speaker put to vote the motion to receive co-operation and assistance from the people in an effort to establish peace and normalcy with a view to giving relief to the family members affected by violence, disruption of peace and firing in Gujarat and especially in Ahmedabad city, the leaders of the Opposition Parties suggested to observe silence as a mark of respect to the deceased. At that time, the Speaker gave his decision as under: -

"I have no knowledge about any other discussion that may have taken place, but nothing has been discussed about condolatory motion or condolatory reference to the deceased. The only fact is to move this motion and to support it by the leaders of both the parties. The motion has come, and all have expressed their feelings. It is a motion and not a condolatory reference. There is a difference between them. If it were a condolatory reference, the matter of observing silence would come. It is a different matter. But, the feelings are expressed in this case."

(GLA Debates Vol. II, Book – 2 Col. 45)

Debates-**Intervention in General Discussions-****39. On the first day of the general discussions on Budget, the Minister should not intervene in the discussions.**

Member Shri Manoharsinhji Jadeja raised a Point of Order in the House on 25th February 1993 on the intervention made by the Minister for Industries Shri Shashikant Lakhani on the first day of General discussion on Budget on 24th February 1993 and sought guidance from the Speaker for such intervention by the Minister. Member Shri Pravinsinhji Jadeja supported the Point of Order raised by Member Shri Manoharsinhji Jadeja. Expressing his views, Member Shri Shaktisinh Gohil said that "No Breach of Precedent takes place if any Member of the Council of Ministers intervenes in the discussions on the first day."

" I accept the point raised by Shri Manoharsinhji as a point. The Members of the Council of Ministers are basically the Members of this House. I think that even Shri Manoharsinhji has no dispute about it. So whenever there is a chance to participate in the discussion and the Speaker permits him, every Minister enjoys the same right on any matter as other Members enjoy. There is no doubt about it. But during the general discussion on Budget or during the discussion on the Motion of Thanks, when the discussion is going on especially on these two occasions, there is a responsibility on the Speaker to allot time keeping in view the number of Members of the Ruling Party, the number of Members of the Opposition and the number of members of the independents and the consolidated strength of the House. In these circumstances and considering all these aspects, if the Ministers of this House want to say something by intervening on any subject, the situation demands thinking from other view point, because to welcome the budget as a Member is one thing and to support the Motion of Thanks as a Member is another thing. But when a Member in the capacity of a Minister rises and tries to intervene by giving description on any new subject of his Department or on any matter presented in the Budget, I think I shall have to accept the contention of Shri Manoharsinhji. It would be better if wider discussion from all points takes place first when some Members desire to give their views on Budget or on Motion of Thanks on Governor's Address in which some policy

matters of the Government are mentioned and then the effort to intervene is made. It would be better as precedent. It does not become a matter of course. Sometimes it may become an exceptional situation. I have seen that last year also, Shri Shashikantbhai, if I have not forgotten it, the then Minister for Industries had tried to intervene and had intervened also. But it was the second day of the discussion and as I have seen the past records, I have felt it and I have come to a definite conclusion that the Ministers never intervene on the first day. They generally intervene on the second or third day. I feel that if we think this to be a good precedent, there is nothing wrong if a good precedent is set in that way. Therefore, I don't agree with the view of Shri Shaktisinhji that this does not become a law or a rule but as a good precedent, it is welcomed. Therefore, I accept the point of Shri Manoharsinhji with the supporting views of Shri Pravinsinhji."

(GLA Debates Vol. II, Book – 83 Col. 839-843)

No Day Yet-named Motion—

Time limit of the notice—

40. Speaker has powers to relax the time-limit of the notice of a motion.

On 1st November 1990, the member Shri Sureshchandra Mehta raised a Point of Order regarding the time-limit and the legality of the notice of the motion "Expressing confidence in the present council of ministers" moved under Rule 101 (Motion for which no day has been named yet) by the Chief Minister Shri Chimanbhai Patel that "this is such a motion for which no day has been fixed for discussion. Motions for which the day has not been fixed fall under Rule 101, but the Governor has said that fix it for today. Therefore, as the day has been

fixed for it, it does not fall under rule 101.” Member Shri Vajubhai Vala supported the views of member Shri Sureshchandra Mehta and drew the attention towards the time limit for giving the notice.

The Speaker heard the views of member Shri Sureshchandra Mehta, Shri Vajubhai Vala and the Chief Minister Shri Chimanbhai Patel and then gave following decision.

“The discussion of both Shri Sureshbhai and Shri Vajubhai Vala are irrelevant because the Governor has not asked to take up this motion on the first. He has talked of summoning the assembly session only. The governor has issued summons to call the Assembly Session on the first and thus, this session is summoned as per the Governor’s Order. Speaker has full authority to give relaxation in the time limit of the motion whenever it is required. Under that authority, the notice has been admitted. Therefore, your Point of Order does not sustain”

(GLA Debates Vol. II, Book – 60 Col. 212-217))

Zero Hour—

Decision of the Speaker—

- 41. Even though the concerned Hon. Minister has given his consent to raise the point on longtime pending demand, the same cannot be raised in the zero hour.**

On the 9th March 1989, after question hour, member Shri F.M. Baloch, stated that he had obtained the consent of the Minister for Law and Judiciary to raise a point. Accordingly, he submitted that for the last some timehave to go to Junagadh.

The speaker (Shri Natwarlal shah) gave his decision on this as under :-

“From what Mr. Baloch spoke, I only understand that this is not a question of recent occurrence. And this is your long-standing demand which cannot be taken in zero hour.”

(GLA Debates Vol. II, Book – 46 Col. 90-91)

Zero Hour—

Permission and consent—

42. Permission of the Speaker and consent of the Minister are necessary to raise the point in Zero Hour.

When member Shri Udesinh Baria was not given consent by the concerned Minister to raise the issue in the zero hour on 11th July 1990, the member Shri Baria sought guidance from the Speaker as when a question can be raised in the zero hour, the Speaker gave his decision as under.

“There is no provision about zero hour in our rules but when the matter is of general importance, the Minister gives his consent and the question is raised in the zero hour. But there is no such provision in our rule. Generally Speaker’s permission should be taken in this, Hon. Minister’s consent should be taken and the issue also should be of public importance. When the matter is not of public importance, the speaker may not allow it”.

(GLA Debates Vol. II, Book – 56 Col. 797)

Zero Hour—**Point of Order—****43. Raising important questions in Zero Hour.**

Raising the Point of Order after the question hour on 22nd January 1990, member Shri Ashok Bhatt said, "If the Minister gives consent on an urgent matter which does not fall either under short notice question or under important notice and if it receives the permission of the speaker, that question can be raised in the zero hour. When such question arises, it receives the consent from the Speaker. Therefore, many incidents have happened when the members of the Opposition also have asked for such consent and the Members of the Council of Ministers have not given consent. Therefore, the member requested the Speaker to give his decision to regularize the zero hour. After knowing the views of the Minister for Parliamentary Affairs Prof. Hasmukh Patel, the Speaker (Shri Barjorji Pardiwala) gave his decision as under: -

"The question must arise instantaneously. If the question has arisen instantaneously and is presented today, it is allowed".

(GLA Debates Vol. II, Book – 5 Col. 293-294)

Order of the Day—**Items not included in the Order—***** 44. Discussion cannot be made without the consent of the Speaker on Items not included in the Order of the Day.**

On 24th June 1985, the Leader of the Opposition Shri Chimanbhai Patel had, by moving a motion to pay homage to those killed in

recent violence, proposed to adjourn the business of the House. At this stage, the Speaker clarified at length the precedent of the House on condolatory motion. However, when Member Shri Manubhai Kotadia emphatically represented to know the views of Hon. the Chief Minister, Hon. the Speaker (Shri Natwarlal Shah) gave his decision as under :-

“The motion is not included in the Order of the Day and the matter not included in the Order of the Day cannot be discussed or included without the consent of the Speaker. I cannot give consent to discuss this motion until consensus is arrived”.

(GLA Debates Vol. II, Book – 3 Col. 3)

* (Alongwith the above decision, decision Nos. 258and260 on pages 168 and 171 of the Book “Decisions from the Chair 1960-84” may be referred)

Dress –

45. (1) Dress put on for the purpose other than ceremony can be considered as exhibition.

(2) Dress worn permanently cannot be classified as exhibition.

On 27th March 1991, the members of the Bharatiya Janta Party had taken their seats in the House with a piece of cloth (Khes) round their shoulders. On this dress, there was a Party symbol on the cloth (Khes). Member Shri Popatbhai Patel raised a Point of Order on this issue and sought guidance of the Speaker in this regard.

After hearing the views of Hon. Member Shri Shaktisinh Gohil, the Speaker gave his decision as under:-

“The point raised by member Shri Popatbhai is an important point. Even if we look at the previous decisions and precedents, it is always improper for any member to do any sort of exhibition or make gestures by showing something or a newspaper with a view to drawing the attention of others. Keeping the viewpoint of the fancy dress before our eyes, it is true that if any member wears any dress permanently, it does not come under the definition of exhibition. If we look at what the members are doing here, if they put on the cap permanently, there can be nothing wrong in it. But when the Members on this side took their seats in this House, there were “Khes” (long cloths) on their shoulders and the symbol on those “Khes” which was not proper. It is very good that those members have removed those “Khes” on their own. If this is not to be their permanent dress in future, I inform you that, any act of putting on different fancy dress cannot be tolerated”

(GLA Debates Vol. II, Book – 67, Col. 511 – 515)

Calling Attention Notice —

Serious Matter—

46. When the police is involved in robbery, the matter of public importance becomes urgent and serious.

Dr. Vasantbhai Sanghvi, under Rule 116, drew the attention of the House on the matter of public importance for the robbery committed by the customs inspector and police constables in the Village Lakhtar in Jodia taluka. During the question answers on the statement made by the Minister on the above subject, when the government tried to take the written reply lightly. The Speaker (Shri Natwarlal Shah) observed as follows:-

“ This is a very serious issue, because when the policemen themselves are involved in the robbery, there cannot be more serious matter than this”.

(GLA Debates Vol. II, Book – 2, Col. 176)

Calling Attention Notice —

Public Interest—

Government's Right—

47. It is the Minister's right whether to give or not to give any information in the public interest.

On a matter of urgent public importance raised under Rule 116 by Hon'ble Member Shri Babubhai Vasanwala on 26th June, 1985 regarding setting fire to a building by anti-social elements in Ahmedabad in which 8 persons were burnt to death, Hon'ble Member Shri Ghabhaji Thakore raised a supplementary question by stating that there is a difference in the oral reply and the statement made by the Minister and asked the Minister to ascertain from the details of the Panchnama whether the building was shut from outside when these 8 persons were burnt to death? The Chief Minister clarified that as the investigation of the whole incident was going on, no details could be given in the public interest. After hearing the Leader of the Opposition Shri Chimanbhai Patel and other Members, the Speaker (Shri Natwarlal Shah) gave his decision as under ;-

“As per the established precedent, the Chief Minister has the right. He can also say that 'I don't want to give any reply in this matter' and if he refuses, the Speaker has no right to compel him to do so. His only duty is that he should give reply as much as possible and while discharging his duty if he says, “the investigation is going on and there is some sensitive information and I cannot give it”. In that eventuality cannot compel him that he should give information”.

(GLA Debates Vol. II, Book – 3, Col. 295)

Calling Attention Notice —**Admissibility—****48. When the notice is at the stage of admission in the House, no point as to its admissibility can be raised in the House.**

Under Rule 116 of the Gujarat Legislative Assembly Rules, member Shri Usmangani Devdiwala drawing the attention of the Health Minister Shri Sureshchandra Mehta on the matter of urgent public importance seeking “the action taken or proposed to be taken by the Government against the person showing negligence at such an important matter as human life in a case in which the blood collected during the blood donation camp held at Irwin Hospital of Jamnagar was transfused without testing to the child suffering from Thalesemia and as the blood contained HIV + virus, a great danger has arisen against the life of the child”, got the notice admitted and it was shown in the Order of the Day of the 6th August 2001. Before this notice was taken up for discussion in the House, the Minister for Health Shri Sureshchandra Mehta, seeking guidance of the the Speaker , raised a Point that the news that had appeared in the press and the incidence on which the member had relied, was an old incident and this matter could have been raised earlier. As the matter was old, it was not urgent. He further stated, “while presenting the notice Calling Attention of the House, two important points have to be kept in mind. One is that there must be an element of urgency in it and the second is that it must be of public importance.

While representing on this point, member Shri Subhashchandra Shelat said that as the matter had been admitted by the Speaker, no objection could be taken against it and the rights of the member could not be infringed. Taking part in the discussion, the Minister Shri Sureshchandra Mehta said that he had not said anything about the Speaker but only sought his guidance and narrated the facts. During

the discussion, member Shri Jaspalsing also supported the point raised by the Minister Shri Sureshchandra Mehta. Taking part in the discussion, member Shri Udesinh Baria, Shri Nareshkumar Raval etc. stated that if the matter had been old, the minister could have intervened and got the notice disallowed. It was not at all proper to raise the point at this stage. The member in charge of the notice Shri Usmangani Devdiwala said that due to AIDS , that thirteen year old child was not getting any treatment in any hospital in Jamnagar, his guardians were in trouble, nobody was prepared to accept them, therefore he wanted to present that matter. At this point of time, the Minister Shri Sureshchandra Mehta informed that he had got the answer ready but he had sought clarifications only in respect of the point raised.

The Speaker announced in the House to differ his decision to a later date so that proper guidance could be made available as to the point raised by the Minister and the decision could be arrived at after examining all the references.

After looking to the positions of the rules and the decisions given by the former Speakers from time to time, the Speaker has come to the conclusion that notice under rule 116 can be admitted only when the matter is very urgent and it is of public importance. The words 'urgent' and 'public importance' used in the rule cannot be defined in a specific framework. It has to be defined with reference to the circumstances of the case and the situation created. Generally under Rule 116, the standard of one notice for one sitting has been established but when more than one notice is received from many members for one sitting, the notice of the matter, which is very urgent, and of more public importance is admitted. When no specific definition about urgent matter is given in the rules of the Gujarat Legislative Assembly whether the matter is urgent and of public importance is decided keeping in mind the matter presented and the evidences given in support of it. As per the decisions given by the

former Speakers, howsoever old the matter may be, if people continue to experience hardships and the matter is of public importance, it can be admitted under Rule 116. After admitting the notice, when it was sent by the Legislature Secretariat to the department, the concerned Minister could have drawn the attention of the speaker as to its admissibility or could have requested to disallow the notice. But when the notice is lying before the House for discussion, the Speaker feels that no point as to the admissibility of the notice can be raised in the house. The Speaker has requested the members to refrain from raising such points in the House.

[File No T/5 (83)/2001-02]

Point of Order.

Office of the Chief Minister-

49. Even though a person is not a Member of the House, he can act as a Chief Minister under Article 177 of the Constitution.

Raising the Point of Order on the 18th January 1990, member Shri Sureshchandra Mehta said that after the Chief Minister got elected to the Assembly seat he was also elected to the Rajya Sabha seat, so he vacated the Assembly seat. Thereafter he took oath as the Chief Minister but did not opt to vacate the seat of Rajya Sabha. Citing reference of Article 101 of the Constitution in this regard, he said, " The idea behind the constitution is that no person can hold the membership at both the places. So far as the executive aspect is concerned, I have nothing to say about the Governor administering the oath to the Chief Minister but so far as the legislative aspect is concerned, both these things have been shown separately. In executive aspect, after taking charge as the Chief Minister if the Chief Minister does not get himself elected as a member of the House, his

membership is automatically terminated. If any person of this House does not take oath as a member of this House in consonance with the procedure of the House, he cannot be a member of this House. If a Person sits in the House though he is not a member of the House, there is a provision of fine for Rs. 500/-. This becomes a criminal act. It has been clearly specified in Article 188 and 189 of the constitution that the member has to sign the Certificate of Oath for sitting as a member in this House and then only he can sit in the House or can take part in the proceedings of the House. A general impression can be created in our mind that after becoming the chief Minister, he can *suo motu* take part in the proceedings of the House. But, the Constitution does not support this. If he directly takes part in the proceedings of the house by virtue of his being the Chief Minister, the Article of the Constitution is violated. Thus, as he is disqualified, Shri Madhavsinh Solanki cannot act as the Chief Minister, and cannot take part in any proceedings of the House."

Thereafter, member Shri Dinkarbhai Desai, giving his opinion said "it is clear in sub-clause (4) of Article 164 of the Constitution that-

"A Minister, who is not a member of the legislature of the state for a period of six consecutive months, ceased to be a minister at the expiration of the said period." That means he has to respect the said provision of the Constitution. Moreover, the judgment of Allahabad High Court is clear in this matter. The following point was raised in the present case :

"Suppose a Member and then Chief Minister of a particular state is a Member of either of the House of Parliament, i.e. Lok Sabha or Rajya Sabha can he lead the House or can he lead a House as a Chief Minister of a particular State?"

The Judges of the Supreme Court have very clearly stated in this matter that –

“Appointment of a person as a Chief Minister cannot be challenged on the ground that he is not a Member of the legislature at the time of appointment.”

“We should respect the decision of the Supreme Court discretely. Moreover this is a precedent in the House. Just as Shri Ghanshyambhai Oza was a member of Parliament in 1972, it is Shri Madhavsinh Solanki is there In this House today.”

Leader of the Opposition Shri Chimanbhai Patel also expressed his opinion. Thereafter, expressing his views, Finance Minister, Shri Arvindbhai Sanghvi said, “Article 101 of the constitution pertains to an ordinary member. According to Article 101 --

‘No person at any time shall be a member of both the Parliament and Legislature of a State. He cannot sit as a Member of the House but he can sit as a Chief Minister’

“If a person has contested elections from two places and has got elected from both these places and wants to continue as a member from both these places, restriction of Art. 101 would come in the way. Shri Madhavsinh has not contested elections from any other place, so Art. 101 is quite irrelevant. It applies to a person who wants to sit as ordinary Member only. It cannot be applied in the case of Shri Madhavsinhbhai, otherwise any central Minister who is an official candidate and Member of the Rajya Sabha cannot represent in the Lok Sabha and the Prime Minister from Lok Sabha cannot come and sit in the Rajya Sabha. Moreover, if art. 164(4) is read with Art. 177, it becomes clear that though he is not a Member, he can remain as a Minister and attend the House and can speak and take part in the proceedings of the House for six months.”

Thereafter, the Chief Minister clarified that “There is a provision in the House that though he is not a Member of the House and got elected as a Member and has not even taken oath as Member, he can attend and speak in the House and he has also the right to address the House. The Advocate General and the Comptroller and Auditor General, though not the Members of the House, have a right to speak and represent in the House because it is the privilege of the House. The Chief Minister comes here to do his duties not as a Member of the House, but as a Member of the Council of Ministers and he has to remain present to do those duties. He is bound to give the necessary explanation to the points raised. In order that he may do his duties properly, he has a right to take part in the proceedings of the House. Of course, the Member who is not elected has no right to vote. The High court has given its decision in this regard. I tell you this thing because Shri Jaychandrasinhji was a Member of Rajya Sabha from Manipur and thereafter, he was selected as the Chief Minister. His functioning also began as the Chief Minister and then an occasion came when there was a voting in Rajya Sabha and he came and exercised his vote. However, no Constitutional point was raised either at that time or subsequently.

Giving his opinion, member Shri Ashok Bhatt said “The essence of Parliamentary Precedent is to invite as a Leader a person who is not a Member of this House, and to administer oath—the whole thing is against the system. Kaul and Shakhder has said the same thing on page 896 of his book.

‘Inviting a person who is not a Member of the Legislature, or a nominated Member, to form a Government is open to criticism, of being against the spirit of the Parliamentary system.’ ”

Citing example, Shri Bhatt said that “Shri Omprakash Chautala was the Member of Rajya Sabha along with this Chief Minister and both

became Chief Ministers at the same time. Shri Chautala resigned from the Membership of Rajya Sabha as soon as he took over as the Chief Minister and then he took oath. The Chief Minister could have set this precedent here also”.

Clarifying further, member Shri Sureshchandra Mehta said “I have to say only this that when it comes to the functioning of the House, this House has maintained its serious posture. Under Art. 193, if a person though not qualified, sits in the House, he becomes qualified only if he takes oath; if he does not take the oath, he does not become qualified and what happens if he is not qualified as provided in Art. 193. Accordingly, if a person is not qualified and sits in the House, there is also a provision of fine of Rs. 500/- per day. The constitution has given a penalty clause also. Therefore, in this situation, my point is that this does not pertain to executive function or Legislative function, the Chief Minister has no right.”

Thereafter, the Chief Minister clarifying further, said “Member Shri Ashokbhai has asked to see at the spirit, and when the spirit is not clear, law should be referred. Kaul and Shakhder may show any spirit, but when there is clear enactment in the constitution, the spirit should be read in the language of the law and this is clear in the law. Under Art. 177,--

“Every Minister and Advocate General for a State shall have the right to speak in, and otherwise to take part in the proceedings of the Legislative Assembly of the State or in the case of a State having a Legislative Council, both Houses, to speak in, and otherwise to take part in the proceedings of any committee of the Legislature of which he may be named a member, but shall not, by virtue of Article, entitled to vote”.

“It means he cannot vote but he can take part in all the proceedings of the House. He can take part in the committees also, he can address it also.”

After hearing the Chief Minister, the Leader of the Opposition, the Minister for Parliamentary Affairs, the Finance Minister and other Members, the Acting Speaker (Shri Karsandas Soneri) gave his decision under.

“The Governor has appointed Shri Solanki as the Chief Minister under Art. 164. He is sitting in the House not as a Member but as the Chief Minister. Under Art. 177, he can take part in the proceedings of the House. Shri Ghanshyambhai Oza was not the Member of the House, yet he was the Chief Minister and he participated in the proceedings of the House. Looking to all these circumstances, I reject the Point of Order raised by Shri Sureshbhai Mehta.”

(GLA Debates Vol. II, Book -51, Pages 59-78)

Questions—

Information not authorized—

- 50. With a view to giving as much information as possible to the House, if the Minister gives unauthorized information before the House, there is nothing wrong in it.**

“The point of the Member was that the Minister for Industries in reply to the starred question on 11th March 1991, gave details of the reduction in the recession of the diamond industries. In this regard, Member Shri Manoharsinhji Jadeja raised a Point of Order on 12th March 1991 that it Was not proper to give unauthorized information to the House. The speaker gave his decision on this point on 19th March 1991 :-

“The point of member was that in reply to a starred question on 11th March 1991, the Minister for Industries gave the details of reduction in recession of the diamond industries saying that it is not authorized. At that time, the member stated that it was not proper to give unauthorized information to the House and the Minister should give information to the House only if the information is authorized. I have gone through the proceedings of the House dated 11th March 1991 and the Minister for Industries gave the information that the diamond industry is gradually coming out of it. Out of the 40% of the closed mills, as per the authorized information, he has got, 15 to 20 % have become functional again. Thus, the Minister for Industries has given information which is unauthorized. If the Minister for Industries has obtained in hurry the estimate of the mills of the diamond industry that have become functional again, and if he gives it in the reply to the question, he is not misleading the House. I understand that if he had clarified that the information given by him was not authorized, the member of this House would weigh it accordingly. Therefore, when the Minister for Industries has honestly tried to give the House whatever the information he has. There is nothing improper in it because the House is not misled by it in any way.”

(GLA Debates Book – 56, Col. 388-389)

Questions—

Questions pertaining to Business—

51. Member associated with any business or occupation cannot ask questions for his personal interest in that business.

On the 7th August 2001, during the question answers on Starred Question No.1501 of member Shri Jitsinh Parmar on “Arrangement

made for support prices for the farmers", member Shri Khumanksinh Chauhan raised a supplementary question stating that he was a farmer and had done farming of tobacco and he had to suffer a loss as his tobacco was not sold. After the question answers, the Minister for Small and Medium Irrigation Shri Nitinbhai Patel raised a point of Order and sought clarification of the speaker as to whether a member can ask questions on his personal gain or loss instead of asking questions in the House in the interest of the people or the interest of the farmers of his constituency. After hearing member Shri Khumansinh Chauhan, the Speaker (Shri Dhirubhai Shah) gave his decision as under :-

"Owing to your problem, you have repeatedly insisted, you told only one thing that you are a farmer and you have incurred a loss. You have repeatedly said that the Minister may give his reply on this. You went on saying these details and for that he has raised a Point of Order. It would be proper if you were telling about other things. But I believe that when anyone is associated with any business or occupation, it is not proper to insist for answer or try to get answer during the discussions in the House. I allow the Point of Order. It is to be kept in mind that it does not happen in future".

(GLA Debates Vol. II, Book -77, Pages 475 - 479, 586-588)

Questions—

Minister's Note on the Letter—

52. Any note made by the Minister on the letter cannot be made public.

During the question hour on 26th June 1990, a member Shri Manoharsinh Jadeja raised a Point of Order and sought the decision

from the speaker as to whether a Minister can make public any note that he has made on the letter received by him ?

After hearing the member Shri Manoharsinh Jadeja, the Chief Minister and the Minister for Parliamentary Affairs, the Speaker gave his decision as under:-

“Raising a Point of Order on a question during the question hour, member Shri Manoharsinhji said that a Minister should not generally read any note made by him on a letter received by him. The Chief Minister has also supported this view. Generally, when a Minister makes a note on a letter, it is a privileged document. But in the question raised here, member Smt. Chandrikababen has insisted on what the note in this letter is? In its reply (Disturbance)...I know it very well. You cannot challenge. The Minister, State Level, has said on this. Therefore, my request is that the member also should not insist on the action taken on this by the Minister. Such an internal note should not be made public.”

(GLA Debates Vol. II , Book -55, Pages 59-78)

Questions :

Supplementary Questions –

***53. Supplementary question should be asked without giving examples.**

On 26th February 1986, during the question answers on Starred Question No. 5338 of member Shri Khodidas Thakker on starting Nehru Youth Centers, while member Shri Hariprasad Shukla was asking question, he began giving example of a camp. At that time the Speaker (Shri Natwarlal Shah)stopped him and gave his decision as under:-

“There cannot be an example in asking a question, question should be asked straight away.”

(GLA Debates Vol. II, Book –12, Col. 482)

*(Along with the above decision, the Decision No. 364 on Page 249 of the Book Decisions From the Chair, 1960-84 may be referred).

Questions—

Raising Point of Order—

54. Point of Order Inconsistent with Rules and Precedents cannot be raised.

In Government's reply to a starred question on expenditure incurred after giving advertisements to newspapers, when Member Shri Udesinh Baria tried to raise the Point of Order on 20th February 1991, the speaker gave his ruling that “This is not a Point of Order”. In connection with this ruling, the member said that the member's right to get reply was attacked by such type of reply and so he requested the Speaker to listen to the rest of the members and not make any haste in giving the decision. The Speaker gave his following decision on the Point of Order raised by the Member Shri Udesinh Baria and the submission made by the member Shri Vajubhai Vala.

“When any member raises a Point of Order in this House, the Speaker has to decide the Point of Order in the light of the Rules and the Precedents. Before giving his decision on the Point of Order, if the Speaker thinks that it is necessary to know the views of other Members

on the Point of Order, he has a right to allow that Member to speak and if the Speaker thinks that it is not necessary to obtain the views or any other information, the Point of Order can be decided even without knowing it, the speaker has a right to give that decision. Therefore, the question of attacking the right of the Members and not hearing them does not arise."

(GLA Debates Vol. II Book –62, Col.793-795)]

Questions—

Care to be taken by the Minister—

- 55. (1) Ministers should take care while giving replies during Question Hour.**
- (2) Members/Ministers should not comment during Question Hour.**

On 8th January 1993, member Shri Nalin Bhatt raised a Point of Order in connection with the wastage of time caused by the replies given by the Minister without adequate preparation during the question hour and sought the Speaker's guidance in this regard.

The Member Shri Nalin Bhatt and the other members expressed their views. The member Shri C. D. Patel also referred to the Speaker's decision No. 280 on "Unsatisfactory replies of the Questions". After hearing the views, the Speaker gave his decision as under:

"The decision that member Shri C.D. Patel was reading, is not relevant in this case, because the ground on which the Point of Order is

allowed is that the Question Hour is the most important hour for all the members of this House and when the situation arises in which frequent corrections are required to be made in the replies given by the ministers, it has not been submitted that this happens for all the time, but when such a situation arises, time is wasted in it. There is no dispute as to the right to amend. The fundamental issue raised through this Point of Order is that if we consider the Question Hour as most precious, it is essential that more and more questions are taken up. When a question is being discussed, if the member asking the question insists to seek information by asking short questions in the supplementary questions, some two or four more questions can be taken up. This is a matter of common understanding, but sometimes, the members give the background so elaborately that much time is wasted and as a result the minister would naturally try to give elaborate reply to the question that has been asked elaborately and it becomes difficult for me to stop him. From this situation, the third question that arises is that when comments are passed either from this side or from that side during the supplementary question, my difficulty is aggravated. I feel that at a time the situation had reached a stage when I felt that I adjourn the House for half an hour, but if I create such a situation by half an hour adjournment, some questions will be left out and the rights of the member asking the question will be jeopardized. Therefore, my effort is to tolerate it and go ahead with it, but it should not mean that I hesitate on taking any stern actions and if in that way, I am dragged to the extent to which I am compelled to cross the limits of my tolerance, that is also not good. I say this keeping both the parties before my eyes and not any single party. In these circumstances, I certainly hope that the members of this House will pay attention to my these three points and behave accordingly henceforth."

(GLA Debates Book –81, Col.894-899)

Questions –

Etiquette-

56. Other Members of the Opposition Party should not rise when the Leader of the Opposition is asking questions.

On 26th July 1985, during the question hour, when the Leader of the Opposition was asking questions on previously postponed Question No. 2003 of member Smt. Kusumben Khambholja regarding deficit in primary teachers of Kheda District, member Shri Ashok Bhatt and other Members of the Opposition parties rose in the middle to ask supplementary questions. At that time, the Speaker (Shri Natwarlal Shah) observed as follows.:-

“Shri Ashokbhai, it is not proper for you to rise when the Leader of the Opposition is asking questions and it is also not proper to rise for all of you belonging to his party.”

(GLA Debates Vol. II, Book –8, Col.463)

Questions—

Absence of Members--

Public Interest—

57. (1) Even though a Member is absent, if the Minister thinks that it is in the public interest to give information of that Member's questions to the House, he may do so.

(2) No Member can transfer his right to ask question to other Member.

On 27th June 1985, when member Shri Dinsha Patel requested the Speaker to allow him to ask Starred Question No. 246 on jaundice for the member remaining absent, the Speaker observed that no proxy would work in this House. As similar questions of his own was coming behind, Shri Dinsha again requested to let him ask question. The Speaker heard the members Shri Ashok Bhatt and the health minister Shri Vallabhbhai Patel and gave his decision as under :-

“Shri Ashokbhai, understanding between you and the Minister will not do. The minister should make an offer of his own. The Member is not present here but I want to give reply in the public interest, but you say and he agrees -- that will not do.”

(GLA Debates Vol, II Book -3, Col.409)

Questions—

Suggesting a Member's name as Minister:

58. It is not proper to suggest in the House the name of a Member to be included in the Council of Ministers.

During the question Hour on 18th July 1985, when the Minister for Health Shri Vallabhbhai Patel was giving reply to starred Question No. 1217 of member Shri Manubhai Kotadia, the speaker commented that there is much aggression of Amreli district in the Assembly this time. At this time member Shri Manbhaai Kotadia said “ Sir, we are trying hard for that because there is no one to look after Amreli District. There is no Minister of Amreli district this time, so it would be better if Shri Khodabhai Nakoom is taken up”. At this stage, the Speaker (Shri Natwarlal Shah) gave his decision as under.

“Shri Manubhai Kotadia, it is not fair for you to talk in this way. It is not fair. You cannot talk like this. Why do you tell anybody's name? You say that ‘take someone in the Ministry from Amreli.’

(GLA Debates Vol. II Book –6, Col.791-792)

Questions—

Standards to be maintained by Members –

- 59. It is not proper for a Member to ask question as soon as a person approaches and makes representations before him. It must be completely examined.**

On the 18th July, 1985 during the Question Hour, name of the member in Charge of Starred Question No. 1348 was called out but the member asking the question was absent. With reference to this question, at this time the minister for Health and Family Welfare stated that this day also, five questions of one employee were given. At this stage, the Speaker (Shri Natwarlal Shah) observed that: --

“I had told you last time and I tell you again today, an employee goes to different MLAs and gives the same information to them and gets the question asked, the Member should ask him whether he has approached any other person. Has he got the question asked through any other Member? The Member should examine the fact, shouldn't he? Isn't it his duty as an MLA? We accept the fact that whatever the MLAs speak in this House, they speak with responsibility. So believing him to be true, the Minister should take action on it. We have established this principle, and it is the custom also. At the time of asking questions, the members should examine it thoroughly as to how much

truth and how much false is there in the information given. It is not a right method to ask question as soon as a person approaches him."

(GLA Debates Vol. II Book -6, Col.780)

Question—

Point of Clarification—

Liability to collect information—

60. While giving reply, the Minister cannot say that "the government has got many works to do."

During the discussion on starred question No. 22209 of member Shri Hargovindbhai Upadhyaya on illegal construction in the Court Complex, in reply to a question asked by the Speaker as to "How many days would the Minister require in obtaining information," the minister for construction Shri Dolatbhai Parmar stated that the government was not possessed with that single question only, the Department had got many other questions. In reference to the reply given by the Minister, the Leader of the Opposition Shri Chimanbhai raised a Point of Clarification and said "While replying, the minister has made such a statement that the government is not possessed with this question only. It implies that the Government has got many questions and as it has to pay attention to many questions, it is not paying attention to this question. I have to draw the attention of the Chief Minister that let the entire question be dealt with in a democratic way, but the question hour in the House is such a period that all the members will ask whatever he wants to and get the relevant information and opportunity to understand the view point of the government. Now, in such circumstances, if the Minister comes unprepared and, at that time, without keeping before eyes the supremacy of the House, says

that the Government is not possessed with this question only, such an observation by him irks us and my request is that this should not happen”.

The Speaker (Shri Natwarlal Shah) gave his decision as follows:-

“Shri Chimanbhai, there is one thing true in the point raised by you that when a question is asked to a Minister, he is expected to give reply limited to this question only and when a limited expectation is kept, it is the duty of that Minister to collect complete information within that limit and the Minister cannot shirk from that liability. It is his duty to give reply. When a question comes before this House in the Question Hour, and if the information is to be gathered on that question, and if any Minister says that “the Government has got many other works to do”, this is not fair in any circumstances. I feel that no responsible Minister can make such a statement, and therefore, I have said your reply is wrong and you might have heard that such a reply cannot do. I wish that the Minister would keep this in mind and the Chief Minister, must instruct the Ministers that while giving replies, they do not give such reply that the Government has got many work. At the time of giving reply, everybody knows that the Government has many works to do. After leaving your work for an hour, you remain present here. In giving account of what work you are doing, if you hesitate or give excuses, it is not fair in any circumstances. This is the responsibility of the Ministers and the Ministers should be fully prepared to take up that responsibility. It is their primary duty. I think that the Ministers will keep in mind what Shri Chimanbhai has said and what I have said and will refrain from giving such reply in future.”

(GLA Debates Vol. II, Book – 36, Col. 334-335 and 369-370)

Motion-**Statutory Motion-****Motion brought without giving Notice—****61. Speaker has powers to reduce the notice period or to waive it.**

On 13th February 1991, the Law Minister brought without giving any notice the motion for agreeing with the Rules Disqualifying Members of the Legislative Assembly for Defection. In this regard, member Shri Manoharsinhji Jadeja raised a point on 14th February 1991 that “in order to sanction the Rules, notice of motion should be given in the prescribed form. In the Rules, powers have been given to the Speaker to reduce the notice period but as per Rules, notice cannot be waived.”

The Speaker gave his following decision on the above point on 19th March 1991:-

“Before deciding the point raised by member Shri Manoharsinhji, it is necessary to study the background of it. The Rules prescribing the Disqualification of Members for Defection, 1990 were placed on the Table of the House on the 13th February 1991. These Rules were framed under para 8 of the Tenth Schedule of the Constitution of India. As provided in Para 8(2), these rules have to be placed on the Table of the House for 30 days and before completing those 30 days if these Rules are neither approved nor disapproved with or without any amendment, they become effective at the end of 30 days and if they are approved earlier, they become effective from the date of approval. Thus, as the provision has been made in the Constitution to approve the Rules framed under the said paragraph 8, I believe that the procedure prescribed under Gujarat Legislative Assembly Rules must be followed to approve the said Rules and such motion is called a Statutory Motion under Rule 2 (U) of the Legislative Assembly Rules,

and, therefore, the provision under Rule 100 is applicable. Accordingly, 7 days notice is required to bring such motion."

"It is true that the Law Minister had not brought the motion to approve the Disqualification of Members on grounds of Defection Rules by giving 7 days notice under Rule 100, but he had sent a letter requesting to obtain my consent to present such motion on the day the Rules were placed on the Table of the House. If such a Motion had not been brought in haste, the Member would have got the opportunity to give their mature thinking, but to say that the procedure adopted is not in consonance with the Rules is not proper. Rule 53 gives powers to Speaker to reduce the time limit prescribed for bringing any motion and to do away with the notice. Therefore, when the Law Minister sought my permission to present the motion for approving the Rules, and I gave the permission, it is to be presumed that I have given the permission under the powers received under Rule 53. However, on 14th February 1991, when member Shri Manoharsinhji Jadeja raised a point of Breach of Propriety of the House for bringing without any notice the motion to approve the Rules, and as the point was just, the Members of the House agreed with the suggestion of the Chief Minister to assign the said issue to the Business Advisory Committee to find some way out and accordingly, the matter was assigned to the Business Advisory committee."

"AS the motion to approve the Rules Disqualifying Members for Defection was presented in the House and passed also, the Rules have to be presented again for the approval of the House after considering the point of Breach of Propriety. Then the proceedings that took place in the House on 13th February 1991 for approving the said Rules have to be cancelled. This point could not be decided in 2-3 sittings of the Business Advisory Committee. At last the decision taken in the meeting of Business Advisory committee dated the 6th March 1991 was

intimated to the House through its 14th Report of which this House is aware.”

“The Rules disqualifying the Members on grounds of defection approved by the House on 13th February 1991 and the Rules were not published in the Gazette by the Legislature Secretariat till the decision to reconsider the Rules was pending before the Business Advisory Committee. The said Rules were sent to the Government Press for publication in the Gazette on the same day on which they were approved by the House, but as it seemed that if the decision taken in the House is changed, the situation may arise by which the said Rules would become effective from a later date, the publication of the Rules was stalled. At last, when the Business Advisory Committee took the final decision not to change the decision of the House, as per provisions of the Constitution of India, the rules become effective on the day on which they were approved by the House and accordingly, these Rules have become effective from 13th February 1991. I hope that by this decision, the dispute regarding the enforceability of the rules will come to an end.”

“The Minister has not stated to have been given the notice of the Motion to approve the rules prescribing Disqualification of Members on grounds of Defection but he has asked permission in writing and after obtaining the permission he has presented this motion. As I have stated earlier, under Rule 53 of Gujarat Legislative Assembly Rules, the Speaker has right to allow the motion without notice, the point that the notice for any motion must be given cannot be accepted in view of the provisions made in the Rule 53.”

“This House knows that when any visitor sitting in the gallery of the House shouts slogans, motion to punish him for the contempt of the House is brought in the House immediately and no notice is required for it. Similarly, when any member is named in the House, the motion to

keep him away from the services of the House is brought without giving notice. Motion to extend the time of the House is also brought without giving notice, but if there is a provision to give notice for bringing the motion, provision has been made in the Rules to reduce the time limit of the notice or to do away with the notice according to the circumstances. Therefore, in the present case also, as the motion to approve the Rules Disqualifying the Members of the Assembly on grounds of Defection was presented in the House with my permission, and as the Members present had insisted to move the motion after giving notice as required by the Rules, the Motion brought by the Law Minister is not against the provisions of the rules and the permission given to move the motion is to be treated as had been given under my powers to do away without notice under Rule 53."

(GLA Debates Book – 66, Col. 389-393)

Private Member's Resolutions—

Voting---

- *62. Member giving his vote by sitting on somebody else's seat, that vote shall not be treated as valid.**

After the discussion on Private Member's Resolution was over on 30th January 1986, the resolution was put to vote and voting by division was taken. When member Shri Hariprasad Shukla gave his vote from somebody else's seat, member Shri Ashok Bhatt raised a Point of Order and stated that member Shri Shukla was not sitting in his seat and so vote exercised by him could not be taken into consideration.

The Speaker (Shri Natwarlal Shah) gave his decision as under:

“Member Shri Shukla was not in his seat, so his vote cannot be considered as valid.”

(GLA Debates Vol. II, Book – 10, Col. 1253-1254)

* (Decision No. 461 on Page No. 321 of the Book Decisions From the Chair, 1960-84 may be referred along with the above decision).

Minister—

Statement to be made by the Minister —

63. The statement to be made by the Minister under rule 44 on Matters of Public Importance should be generally limited to Policy matters. It should not be in the form of details published earlier in the newspapers.

Under rule 44 of Gujarat Legislative Assembly Rules, the Minister for Education Prof. Hasmukh Patel made a statement in the House on 10th March 1987 on the reservation issue in the B.Ed. College. In reference to it, member Shri Sureshchandra Mehta, Shri Ashok Bhatt and the Leader of the Opposition Shri Chimanbhai Patel raised such a point that there was nothing new in the Statement and it was merely the repetition of the statement published in the press.

The Speaker (Shri Natwarlal Shah) gave his decision. “When the discussion on Budget is going on and especially on the budget of a Department, it is expected from the Government that it should ask for making statement only if it is a policy matter. When the Assembly session is going on, no statement of any kind on policy matter can be made without taking the House into confidence. There is nothing like policy matter in the statement he was reading, he has talked about old policies. A feeling has been expressed that just as he has talked about the old policies in the newspapers, he could have done the same by

giving an explanation of doing it second time. I think that the feeling has been rightly expressed. Now the statement has been read out and presented before the House nothing further remains to be done in this matter.”

(GLA Debates Vol. II, Book – 26, Col. 439-444)

Minister—

Resignation of a Minister (Rule – 107)—

- 64. (1) In a statement giving explanation for his resignation, the Minister resigning can mention the work he has done.**
- (2) In the statement to be made under Rule-107, matter of Cabinet secret or of national interest should not be included.**

Member Shri Ashok Bhatt, who resigned from the Ministry on 1st November 1990, in his statement giving explanation for his resignation under Rule 107 of Gujarat Legislative Assembly Rules, included the details of the work done by him during his tenure as minister. In this regard, member Shri Manoharsinhji Jadeja raised a Point of Order for referring the statement giving explanation for resigning from the ministry and the work he had done during that period and asked the Speaker to give his decision.

After hearing the views of other members, the Speaker gave his decision as under.

“When the member Shri Ashok Bhatt was reading the statement made under Rule 107, member Shri Manohaarsinhji Jadeja raised a Point of Order and demanded that Shri Ashokbhai should not be allowed to give a statement in which he had referred to the work he

had done during the period in which he was the Civil Supplies Minister. I have given matured thinking to this and I have also gone through the decisions of different previous Speakers. I have also gone through the Kaul and Shakti. Only the matter which is a cabinet secret or which is of national interest cannot be included in that statement. The matters other than this, his explanations and the work done by him, and its result and the reasons for resigning are shown in the statement. The whole statement was given to me and I have given consent to it, so the Point of Order is irrelevant"

(GLA Debates Book – 60, Col. 202-204)

Hon. the Governor—

On conduct—

65. No discussion on Governor's conduct can be made in the House.

On 21st February 1986, after the Question Hour, when member Shri Dinsha Patel raised a Point of Order regarding the signing of the Pension Bill by the Governor, Member Shri Karamshibhai asked the Speaker that if at the end of the discussion, the House passes a Bill and is sent to the Governor for his approval by the government, and the Bill remains pending with the Governor for a long time, whether it amounts to respect or disrespect of Democracy ?

In reply to the question of member Shri Karamshibhai Makwana, the Speaker (Shri Natwarlal Shah) said "No discussion can be made in the House which may be disrespectful to the Governor."

(GLA Debates Vol. II, Book – 11, Col. 1302-1303)

Governor's Address—**Motion of Thanks—****Distribution of copies of the address--**

- 66. Distribution of copies of Governor's address can be made only after the Governor's Address is complete, and is signed and laid on the Table of the House.**

During the discussion on the Motion of Thanks on the Governor's Address, member Dr. Indira George Solanki said, "I welcome the address given by the Governor, but my one request is that it would have been better if we had received the copies of the address when the speech was going on, so that we might have got more time to read and could have understood it better."

At this stage the Speaker (Shri Natwarlal Shah) said, "The Legislature Secretariat does not have the possession of the copies of the Address until the Governor completes his speech, signs it and the speech is laid on the Table of the House".

(GLA Debates Vol. II, Book – 9, Col. 810)

Governor's Address—**Motion of Thanks—****Nature of the Motion--**

- 67. (1) The Governor's Address should contain the reasons for summoning the Assembly Session, but if it has not so happened, it cannot be established that the address is unconstitutional or does not deserve the Motion of Thanks. Moreover, there is no harm in discussing and passing of the budget even though there is no mention of it in the Governor's Address.**
- (2) The nature of the Motion of Thanks on the Governor's Address cannot be different from that provided in the Rules.**

On Governor's Address on the 13th February 1989 in the beginning of the discussion of the Motion of Thanks, the Member Shri Sureshbhai Mehta had raised the Point of Order on the following two points and had asked for the Speaker's direction.

His first point is that under the provisions of Art. 176 of the Constitution, the reasons for summoning the Assembly must be given in the Governor's Address. Though this session was summoned mainly for the discussion of the Budget, the same has not been mentioned in the Address. In these circumstances, whether this Address is Constitutional or not? Whether this Address deserves the Motion of Thanks and whether the Budget can be passed or not ?

The second point is that in the Motion of Thanks on the Governor's Address, there should be the words "Written Address" instead of "Address made", because the Governor has not read the Address before the House.

The Speaker (Shri Natwarlal Shah), while giving his decision on the 28th March 1989 with respect to the first point of member Shri Mehta, said that "Under Art. 176(1) of the Constitution of India, it has been provided that 'in the beginning of the first session of the Legislative Assembly after each general election, and in the beginning of the first session of every year thereafter, the Governor shall Address the Legislative Assembly and shall intimate the causes of its summons.' As per this provision, the first session of the Legislative Assembly begins with the Address of the Governor every year. As stated earlier, the causes for summoning the Legislative Assembly by the Governor must be mentioned in his Address. The words "causes of its summons" have been made for this in the Articles of the constitution. There is no mention in the constitution as to the nature of details in the Address."

“In order to understand the meaning of this, I went through the discussion that took place in the Constituent Assembly with regard to this Article. It appears from this that the usage of the words “causes of its summons” have been included in our Constitution from the precedents of the House of Commons. In the Constituent Assembly, section 71 pertained to the President's address. When this was being discussed, in order to clarify the use of the words “causes of its summons”, Prof. K.T. Shah brought the amendment that “The President will inform the Parliament about the General Condition of the Center including the financial Proposals and Important matters of Policy” but Dr. Ambedkar stated that what Prof. K.T. Shah wanted to mention was implied in the causes of its summons. After this clarification, the amendment was not accepted. It implies from this that in the causes of summoning the Session, the Budget or other financial matters on which the discussion is to take place during the session should be mentioned in the Address of the President or the Governor. Practically also, in the relevant addresses in the House of Commons, in the Parliament and in Gujarat Legislative Assembly and in the previous address of the Governor, budget has been mentioned. But this time, in the governor's Address, in showing the causes of summoning the Assembly nothing has been mentioned about budget. This lacuna has remained. But due to this reason, the point—whether the Address is constitutional or not ? Whether the Address is worthy of Motion of Thanks or whether the budget can be passed or not—is irrelevant”.

“The Governor has addressed the House keeping in view the provisions of the Constitution. Moreover, as provided in Art. 202 of the Constitution, the Governor has to fulfill his duty to see that the Budget is presented before the House in every financial year. Thus, in case of Budget also, it is Constitutional responsibility. Therefore, if it is so interpreted that, as there is no mention of Budget in the Governor's Address, it cannot be passed, he cannot fulfill his duty laid down in Art.

202 of the Constitution. Due to the minor mistake that crept in inadvertently in the Address, it cannot be held unconstitutional. Moreover, it cannot be held that it does not deserve the Motion of Thanks. As you all know, this Motion of Thanks is a mere formality and because of this, the member of the House gets an opportunity to discuss various matters of the administration of the State Government. No inference can be made either from the provisions of the Constitution or Gujarat Legislative Assembly Rules that the House cannot discuss the matters which have not been mentioned in the Governor's Address and therefore, the point that the Budget cannot be passed also not tenable. There is a provision in the Constitution to show in the Governor's Address the causes for summoning the Legislative Assembly. It provides guidance as to the nature of the Address and the same has been followed also. As I told you earlier, this is mentioned in the Address of the Queen in England, in the Address of the President in India and in the Address of the Governor in our State. As the main business to be taken up during this session is the budget and either financial matter, it can be considered as the main reason for summoning the Assembly session, and therefore, the same should be mentioned in the Governor's Address. But, this fact has gone out of sight this time. I hope that the Council of Ministers will take due care in future to see that such mistakes are avoided."

Giving his decision on 30th March 1989 with regard to the second point raised by member Shri Mehta, the Speaker (Shri Natwarlal Shah) said "The specific form of the words to be used in the Motion of Thanks on the Governor's Address is given in Rule 64(a)(1) of the Gujarat Legislative Assembly Rules. Thus, the form of Motion of Thanks has been decided by Rules and the motion moved by member Shri Laxmanbhai Patni was in consonance with the provisions of the Rules."

(GLA Debates Vol. II, Book – 48, Col. 338-341 and 816-817)

*(Decision No.487 on page 341 of the Book Decisions from the Chair, 1960 – 84 may be referred along with the above decision)

Governor's Address—

Motion of Thanks—

Absence of Ministers—

- 68. (1) Even after having been warned once, the Ministers remain absent and they have to be summoned – this is not at all fair. House is the most important institution. They should express regret humbly.**
- (2) When the Speaker is speaking, no Minister or a Member should take his seat on entering the House.**

On 21st January 1986, the Motion of Thanks on the Governor's Address was going on. Though the sitting of the House began immediately after the recess, as no Member of the Council of Ministers was present in the House, member Shri Ashok Bhatt raised a Point of Order and suggested to postpone the discussion till a member of the Council of Ministers remain present in the House.

The Deputy Speaker (Shri Karsandas Soneri) from the Chair said that it was not necessary to raise a Point of Order for that. He further stated that even yesterday, the Government was instructed to keep one of the members of the Council of Ministers present when the discussion is going on in the House but even after such instructions, the situation arises when the Ministers have to be called for.

At this stage, the Finance Minister Shri Arvindbhai Sanghvi entered the House and took his seat. Completing his observation, the Deputy Speaker said that at least one Minister should remain present in the House and it looks very bad when not a single Minister is present.

At this stage, member Shri Gabhaji Thakore raised such a Point of Order that whether a Member or a Minister can take his seat when the the speaker is on his legs ?

Allowing the Point of Order, the Deputy Speaker said that "No Member can take his seat or can leave the House when the speaker is speaking but the Finance Minister was in haste and as no Minister was present in the House, with an intent to reach the House urgently he might have erred." After that, the Finance Minister accepted that he should not have taken his seat in the House.

Thereafter, when the Chief Minister Shri Amarsinh Chaudhary entered the House and took his seat, with reference to his original Point of Order, member Shri Ashokl Bhatt submitted that "For the last two days, no Member of the Council of Ministers was remaining present in the House during the discussion on Governor's Address and they have to be called for or informed. The Members of the Council of Ministers also should co-operate in maintaining the dignity of the House. It is the joint responsibility of the Council of Ministers, so all the Ministers may not remain present but at least one Minister should remain present."

At this stage, the Speaker took his seat. After that, the Member Shri Ashok Bhatt repeated his Point of Order and requested to pass on necessary orders so that the situation does not arise when Ministers are required to be called for.

The Chief Minister Shri Amarsinh Chaudhary submitted as under :

"Generally, there is such a great rush of the members during the recess that one gets late in coming out. Otherwise, neither I nor any of the members of the Council of Ministers have any such intention. When I was rising and coming over here, I was stopped. Otherwise, I would have come earlier, so probably it will not happen henceforth".

The speaker (Shri Natwarlal Shah) observed as under in the present case:-

“ The Chief Minister, I can understand your difficulty. Neither the Minister for Parliamentary Affairs is present, nor the Chief Whip is present. Even after the Deputy Speaker drew the attention, he is not present. It is his duty. At least he must remain present and say that the situation is like this or it is his duty to call the Minister. But the fact that none of them remained present cannot be understood. Even after drawing the attention once, he did not remain present, this, I think is not at all fair. General precedent is that when a Minister is required to be called for in such a situation, not only he must come immediately but also express regret before the House, because ultimately, the House is the most important institution. We should act humbly before the House. This is our responsibility and this has not happened. It did not happen yesterday and has not happened even today. I feel that it is not fair at all.”

Thereafter, the Chief Minister assured that specific care would be taken thenceforth.

(GLA Debates Vol. II, Book – 9, Col. 763 – 769)

Governor's Address—

Motion of Thanks—

Conduct of a Minister—

69. It is not desirable if a comment is made from the Council of Ministers when any Member is speaking.

During the discussion on Motion of Thanks on the Governor's Address, when the Member Shri Babubhai Vasanwala was speaking on 22nd January 1990, Minister Shri Vijaydasji Mahant was commenting on

a certain issue. Observing this, the Chairperson Shri Dilipbhai Sanghani ruled as under :-

“ Generally, when we are addressing the House, members give out their comments from their seats, but when such a comment comes from the Council of Ministers, it is not desirable. I wish this should not happen again”.

(GLA Debates Vol. II, Book – 51, Page 334)

Governor’s Address—

Motion of Thanks—

Precedent of the House—

70. Each House has its own precedents and each House enjoys freedom in it.

As soon as member Shri Manunhai Parmar rose to move the Motion of Thanks on the Governor’s address on 5th February 1988, member Shri Sureshchandra R. Mehta raised a Point of Order and said, “the photographers and TV Cameramen came at the time of Governor’s Address. It is prohibited. There is clear prohibition in the Parliament also. In Parliament also there is no such procedure. The photographers and TV Cameramen are not allowed even in Central Hall also. We should also have such precedent. Let us bear with it this time but this must be stopped from next time.”

Speaker (Shri Natwarlal Shah) gave his following decision in this matter.

“Each House has its own precedents. Lok Sabha also has its own precedents. No House is bound to observe or follow the precedents of any other House. This is an undoubted fact. Each House enjoys the

freedom in its own way and works on its own precedents. The precedent in this Legislative Assembly is that at the time of the Governor's Address, when the Governor is addressing the House, the TV Cameramen and photographers are permitted. In pursuant to this precedent, it has happened even today and there is no need to bring about any change in this precedent."

(GLA Debates Vol. II, Book – 31, Col. 41)

Governor's Address—

Motion of Thanks—

General Discussion—

- 71. As the discussion on Governor's Address is of general nature, a member can take part in it even if he has not given any amendment.**

In the beginning of the discussion of the Motion of Thanks on the Governor's Address on 20th March 1985, the member Shri Vajubhai Vala said, "There is a provision under Rule 97(1) to give notice of amendment on the Governor's Address but we don't get two days time to give notice. We are newly elected members. We may not be knowing the procedure and precedents". Therefore, when he raised a Point of Order to give one more opportunity, to suggest amendments up to 5.00 p.m. that day, the Speaker (Shri Natwarlal Shah) gave his following decision.

"Shri Vala, in the discussion that is going on, it is not that only a member giving an amendment can take part in it and others cannot. This is a general discussion and in the general discussion, even though you have given no amendments, when you rise to speak, you can say with pleasure whatever you want to say. There is no objection in it. And objection cannot be taken also. Therefore, I feel that there is no harm

to you. When you rise to speak, you can say with pleasure whatever points you have in mind."

(GLA Debates Vol. II, Book – 1, Col. 150 – 151)

Ordinance—

Amendments on Ordinance—

72. Adequate care should be taken by the Government before putting the corrigendum on Ordinance on the Table of the House.

Raising the point of Order on 22nd September 1989, member Shri Sureshchandra R. Mehta submitted that " after the Governor had published under his signature an Ordinance in English on 3rd August 1989, one Gujarati text was published in the Gazette of 10th August 1989 without the knowledge and consent of the Governor. Considering the Gujarati text as the base, the English Ordinance was translated and considering this as the base, to show that there was discrepancy in it, the original ordinance was amended again. When an Ordinance was published in the name and order and under the signature of the Governor, the amended ordinance was not signed by the Governor but was issued under the signature of a Deputy Secretary which was constitutionally improper." Expressing his views on the Point of Order, the Minister for Parliamentary Affairs Shri Nalin Patel said that only Ordinance is laid on the Table of the House, amendment cannot be brought before this House, and if it is brought before this House, the amendment would be null and void legally. Therefore, as the Minister for Panchayats has said, permission is given to lay on the Table of the House only the Ordinance. The Law Minister Shri Arvindbhai Sanghavi, expressing his views on the Point of Order said that "as the ordinance has not been laid on the Table of the house by the minister, the Point

of Order does not arise." After that, the speaker (Shri Natwarlal Shah) gave his decision as under:-

"The way in which the corrigendum is made is very bad. How did the Department make such a great mistake and why it did not come to the notice of the minister. I think that this is a very grave mistake and especially when the Bill is presented, the Department and the Minister should act very carefully in this matter."

(GLA Debates Vol. II, Book – 49, Col. 963 - 969)

Legislature Secretariat—

Pigeon Holes—

73. The Legislature Secretariat does not read the Members letters that are put in the pigeon holes.

With the permission of the Speaker, the member Shri Digant Oza raised a Point of Order on the 14th February 1989 that they received from the pigeonholes in the House letters threatening to kill. Leaflets of member's character assassination are distributed and attempts are made to give mental torture to members. He drew the attention of the speaker in this regard. This was supported by Shri Ashok Bhatt, Shri Prabodhkant D. Pandya, Shri Dinsha Patel, Shri Narendra M. Raval, Shri Ramesh R. Thakore etc. Member Shri Ramlal Ruplal again raised this point in the zero hour on 15th February 1989 and requested to help in stopping such activity.

Hon. the Speaker (Shri Natwarlal Shah) observed as follows :-

"It is true that the 'Pigeon holes' falls under my jurisdiction. But when any stamped envelope or letter for any Member comes, my office does not read it. When a card or any envelope is received, it is to be put in the pigeonholes. Then, it is the member's business to open

it and read it. If a cyclostyled or printed leaflets are received, my office reads it, but if there is any post, the some has to be put in the pigeon holes. Whatever happens outside this House is solely a member's concern and he has to make any arrangement or find a way out of it."

(GLA Debates Vol. II, Book – 42, Col. 601 – 606, 801 – 802)

Bills –

Allegation—

74. It is not proper to say that the Member has brought the Bill for publicity.

While taking part in the discussion of Gujarat Bill No. 28 of 1985 – Gujarat Workers House Rent Allowance Bill, 1985 member Shri Dilipbhai N. Sanghani said on 6th March 1986, " I request Smt. Mahashwetabahen that if her intention behind bringing this Bill is good, don't withdraw the Bill let there be a voting on it, but if the motive behind bringing this Bill is publicity only, I have nothing to say on it".

At this stage, the Speaker (Shri Natwarlal Shah) said that it was not proper to say about a Member that he had brought that Bill for publicity. At that time, member Shri Dilipbhai N. Sanghani expressed his regret for this.

(GLA Debates Vol. II, Book – 13, Col.973)

Bills--**Enacting Formula--****Introducing—**

75. (1) **As amendment making inclusion of enacting formula in the amendment Bill is obviously for rectifying the mistake, the same can be presented.**
- (2) **Permission to publish the Government Bill in the Gazette before it is introduced should be sought in exceptional cases only.**

When the second reading of Bill No, 9 of 1987, Bhavnagar University Amendment Bill and further proceedings there on were taken up on 11th February 1987, the House passed the motion of Second reading of the Bill. Thereafter, clausewise consideration of the Bill was taken up by the House and the House passed clauses 2 to 21. After that member Shri Jayantibhai Kalaria presented an amendment introducing enacting formula in the Bill. After the member presented the amendment, member Shri Sureshchandra Mehta raised a Point of Order and referring to the provisions made in Rule 138 of Gujarat Legislative Assembly Rules, submitted that amendment of introducing enacting formula in the amending Bill cannot be moved. After hearing the views of some members, the Speaker rejected the Point of Order and postponed the detailed decision on it. However, the amendment introducing the enacting formula was accepted by the House and the Bill containing this amendment was read for the third time and was passed and the Speaker had rejected the Point of Order at that time but as he had told the House to give detailed decision later on, the Speaker (Shri Natwarlal Shah) gave his decision as under :

“The position with respect to the Bhavnagar University Bill is that when my permission for the prior publication of the Bill was sought on 5th February 1987, there was no enacting formula in the English copy of

the Bill attached with the letter. After the permission was given, the enacting formula was not printed in the English copies of the Bill sent to Legislature Secretariat. It is further to be stated that when the Gujarati copies of the Bill were sent to Legislature Secretariat, the enacting formula was printed in it.”

“Under the provisions of Gujarat State Language Act, English copy is treated as authentic, so it appears that by moving an amendment in the House it must have been thought desirable to introduce the enacting formula in the English copy.”

“ 2. Raising his Point of Order member Shri Sureshbhai Mehta stated that such an amendment cannot be made under Rule 138 of Gujarat Legislative Assembly Rules, because an amendment on an Amending Bill must be limited to the scope of the Original Act that were sought to be amended by Amending Bill. His submission was that the amendment of member Shri Kalaria to introduce the enacting formula has no relation with any sections of the original Act that were thought to be amended by Amending Bill, and hence it is out of the scope. With regard to the Point of Order raised by member Shri Sureshbhai Mehta, Minister for Parliamentary Affairs clarified that when an amendment is brought with respect to certain section, one has to take recourse to Rule 138 to see whether the amendment is in consonance with the section that was thought to be amended. In short, what he meant to say--that in order to decide whether an amendment is within its scope or not, one has to take recourse of Rule 138 but in the present case, the amendment for including an enacting formula is not an amendment on any section of the Act, Rule 138 will not be applicable because the scope of Rule 138 is restricted.”

“ 3. What should be the nature of amendment on the Amending Bill has been specifically provided in Rule 138 of Gujarat Legislative Assembly rules. This provision is so clear that the amendment shall be

limited to those sections of the original Act, which have been sought to be amended by the Amending Bill. Therefore, the clarification given by the Minister Shri Nalinbhai Patel is proper that the amendment to introduce enacting formula in the Bill does not pertain to any sections of the Original Act which have been sought to be amended. As provided in Rule 139, before an enacting formula is put to vote, the amendment can be moved at a proper stage as provided in Rule 139. Thus, the enacting formula is a part of the Bill and if that has not been included in the bill, it is necessary to do so. It has been stated on Page 454 of the book of Kaul and Shakhder as follows :

“A few days later on an amendment formally moved in and adopted by the House, the words “The Republic of India” were substituted for the words ‘Our Republic’ occurring in the enacting formula of the Himachal Pradesh and Bilaspur (New State) Bill, 1954.”

“It will be clear from the above case that cases have occurred in the Lok Sabha also to amend the enacting formula. Thus the amendment of introducing enacting formula moved by member Shri Kalaria does not fall within the scope of Rule 138 but this amendment is in consonance with the general provisions of the Gujarat Legislative assembly Rules. Thus, in the above circumstances, the Point of Order raised by taking recourse to Rule 138 is not tenable.”

“ 4. It has been provided in the rule 142 of Gujarat Legislative Assembly Rules that when the Legislative Assembly passes a Bill, the Speaker has a right to amend the obvious mistakes and to do any other changes resulting from the amendments adopted by the Legislative Assembly. It is a fact that the enacting formula does not contain any such provision, but it is a part of the Form of the Bill. There are no instances when courts of law have referred to the enacting formula in the interpretation of the Law. If the Bill can pass without the enacting formula and if the Minister or the Law Department had drawn

my attention later on, I believe that under the provisions of this rule, I can introduce the enacting formula before certifying the Bill.”

“ 5. The Point of Order has been rejected looking to the merits and demerits of it. But it is a fact that the Legal Department of the Government has not paid any attention to it. If it is there in the Gujarati copy and the same is not found in the English copy, it is nothing but negligence. The reason behind all these mistakes is that the Bill is brought in great haste. It appears that when there is no session of the Legislative Assembly, no basic work is done in the Legal Department; the drafting of the Bills is taken up only after the summons is issued. It has recently come to the notice that the Legal Department, delays much in bringing Ordinance replacing bills and asks permission for prior publication of the Bill at the last moment. As per the provisions made in the Rules, permission for prior publication should be asked for only in exceptional cases but treating this exception in a rule, prior permission is asked. It is very essential that the Legal Department and the Government will take adequate care in future in bringing the Bills.”

(GLA Debates Vol. II, Book – 28, Col. 1518 – 1524)

Bills --

Statement showing Objects and Reasons—

76. Objects and Reasons for bringing the Bill must be given in the statement completely and clearly.

The revenue Minister Shri Dalsukhbhai Godhani, on 25th July 1990, moved a motion in the House to read the Bombay Stamp (Gujarat Amendment) Bill 1990 for the first time. During the discussion of this motion, member Shri C. D. Patel submitted that “in the Statement of Objects and Reasons attached with the Bill, the Objects and Reasons

for bringing the Bill before the House are not self-explanatory and the details given are not adequate" and he sought guidance of the Speaker in this regard.

After hearing the views of other members and the ministers in the above matter, the Speaker gave his decision as under :-

"During the discussion on Bombay Stamp (Gujarat Amendment) Bill, the Leader of the Opposition Shri C.D. Patel raised a Point of Order that in the statement of Objects and Reasons of this Bill, the Finance Minister in his budget speech, has referred to make some provisions and this Bill has been brought in pursuant to it." Only this thing has been mentioned. Detailed Objects and Reasons are not given in it. Member Shri Manoharsinhji Jadeja, Minister Shri Sureshbhai, Shri Harischandrabhai, Shri Babubhai Jashbhai Patel and other members gave their views and I also felt one point important because the statement of Objects and Reasons must be self-explanatory. This provision is there because the members of the House can understand the objects of the Bill properly from this. Therefore, whether the reasons can be provided by merely saying that it has been mentioned in the budget and this is an ancillary Bill, this is a very important question and therefore I allowed detailed discussion on it. The Minister Shri Sureshbhai agreed with the fact that the detailed reasons should be there. But it is not true to say that since the detailed reasons are not given, the Bill is affected by it. What Shri Harischandrabhai has said and what the Leader of the Opposition Shri C.D. Patel has said that due to this, the courts are put to difficulties. I do not see this also. In the third edition of 'Kaul and Shakhder,' it has been clearly stated that :-

"It has been the uniform practices since 1862 to append to every Bill a statement of Objects and Reasons, briefly explaining the purpose of the proposed legislation. The statement is explanatory of the contents and objects of a Bill and helps in understanding the necessity

and scope of the Bill but the courts cannot rely on it in construing an act for the reason that it refers to the Bill as introduced and the Bill may undergo considerable alteration before it is passed. The meaning of the Legislation must be deduced from the language. It has, therefore, to be excluded from consideration when construing an Act."

"The statement of Objects and Reasons has to be framed in non-technical language. It should not be unduly long, nor should it contain anything of an argumentative character and it can be revised if the Speaker so desires. More over, it is to be signed by the member in Charge of the Bill."

"This is an established convention and practice. They should be as mentioned in the third edition of "Practice and Procedure of Parliament " by Kaul and Shakhder. Its description should not be long but brief. The Finance Minister has referred it in his budget speech and this Bill is ancillary to it ---- mere this thing will not do. As the minister has accepted the fact, whichever Bill comes in future, there should be a brief description of it and the objects stated therein must be such that the members can understand them. From this established practice, it has been felt that there will not be any effect on the Bill. So there is nothing to be said with respect to this Bill, and it is my personal view that such attention should be given In future and I hope that the Government will pay attention to this".

GLA Debates Book – 59, Col. 124 – 131)

Bills—

Scope for Discussion—

- 77. When a Bill is brought before the House with specific purposes, the debate on the Bill should be restricted to those purposes only.**

On 1st April 1985, when the Leader of the Opposition was expressing his views on a motion to read for the first time Gujarat Sales Tax on Electricity Bill 1985, imposing tax on sale of electricity, he included in his speech the point of loss of income by the State due to abolition of Excise duty, probable income due to new taxation, non-efficient administration of the Electricity Board, reluctance in sanctioning the Central Government Projects, the question of disposal of waste residue of Koyali Refinery Project and using R.F.O. as Gas fuel in Dhuvaran. At that time, the Speaker (Shri Natwarlal Shah) observed as follows—

“ The Minister has read the speech of the Central Minister in which he has specifically said “We are stopping this, so you will not be able to get that amount. You should think out the ways of getting that amount.” He has thought out the ways and they are his Objects and the Bill is for this purpose only. But on the contrary, it appears that the whole electricity Board is being discussed.”

(GLA Debates Vol. II, Book – 2, Col. 608)

Bills—

Third Reading—

78. No question can be asked after the motion to read the Bill for the third time is moved.

After minister for Panchayats Shri Mohansinh Rathwa moved a motion to read for the third time “Gujarat Panchayats (Amendment) Bill, 1990 on 22nd June 1990, member Shri Manubhai Parmar tried to ask a question pertaining to the Bill. At that time, the minister for Parliamentary Affairs submitted that no question can be asked after

the motion to read the Bill for the third time is moved and those words should be removed from the record."

On the above matter, the Speaker gave his decision as under :

"What the minister for Parliamentary Affairs has said and what the member Shri Manubhai has said after the motion to read the Bill for the third time was moved, I felt that he must be willing to raise the Point of Order, so I allowed him, but Shri Manubhai asked a question to the minister. Generally, as per rules and precedents, questions can be asked after the motion to read the Bill for the first time is moved. No question can be asked after the motion to read the Bill for the third time is moved and the question that has been asked is objectionable also. We decide to remove from the record what Shri Manubhai spoke after the motion to read the Bill for the third time is moved ".

(GLA Debates Book – 54 Col. 669 – 670)

Bills—

Admissibility—

79. A Government Bill not mentioned in the Governor's Address cannot be stalled from introducing in the House.

When the Chief Minister Shri Amarsinh Chaudhary moved a motion on 31st January 1986 seeking permission to introduce in the House "Gujarat Industrial Development (Amendment) Bill, 1986, member Shri Sureshchandra R. Mehta raised a Point of Order, "In the address delivered by the Governor on 16th January 1986, he has given the programme for the whole year in which this Bill has not been included and so, this Bill cannot be presented".

After a long discussion, the speaker (Shri Natwarlal Shah) gave his following decision –

“Member Shri Sureshchandra R. Mehta read the quotations from page 164 of Kaul and Shakdher in which it is shown that ----

“ If a legislature meets and transacts legislative business, without the preliminary of an address by the Governor, when required under Article 176 its proceedings are illegal and invalid and may be questioned in a court of law.’

“The paragraph read by Shri Mehta is with regard to the duty cast on the Governor to address the House under article 176 and it says in terms that the address is a must and if the Governor does not deliver the address before the House then the entire proceedings of the House will be treated as illegal and invalid.”

“It puts emphasis on the necessity of the Governor to address the House and nothing further. Reading further on the observation contained on the same page, Mr. Mehta read the following observation :-

“The Governor’s Address should enumerate with precision all the legislative and other important business that the Government proposes to bring before the House during the year. No legislation not listed in the Governor’s Address should be allowed to be brought forward without the express consent of the House on the advice of the Business Advisory Committee.”

“Reading the paragraph, Mr. Mehta insisted that no legislation not listed in the Governor’s Address should be allowed to be brought

before the House. Therefore, the Chief Minister should not be allowed to introduce the Bill as he is trying to do."

"I think thereby, Shri Mehta wanted to convey that only bills listed in the Governor's Address should be allowed to be moved in the House or introduced in the House. If any bill is tried to be introduced and if it is not mentioned in the Governor's Address, then such a bill should not be allowed to be introduced. The system as it is, the Governor's Address is the reflection or the view of the further work that the Government wanted to bring before the House. The Governor in fact speaks on behalf of the Government and it has been accepted that his address is that of the Government. Therefore, the Government may have not elaborated on a certain aspect of the work or of the proceedings that may take place in the session. Just because they have not said it, it cannot be said that nothing can be done except that which has been enumerated in the Governor's Address. To that point Mr. Mehta failed to read earlier paragraph on the same page: —

"Being a statement of policy of the Government, the Address is drafted by the Government. It is not the President but the Government who are responsible for the contents of the Address. It contains the review of the activities and achievements of the Government during the previous year and its policy with regard to important internal and current international problems."

"It also contains a brief account of the programmes of Government business for the session. It, however, does not cover the entire probable legislative business to be transacted during the session. Therefore, after the Address, a separate paragraph giving details of the government business expected to be taken up during the session is published in the Bulletin."

“ So, what is conveyed is very clear that Governor's Address is not the last word so far as the Government business is concerned. Government, through the Governor, informs the House about the business that is to be conducted in the days to come during the session. But still if the Government thinks certain items are left out, certain issues are left out, the Government may bring them before the House and take the consent of the House. But so far as the Bills are concerned, the observation very clearly says that it does not cover the entire probable legislative business. But at the same time it is said that it is the duty of the Government to mention in a separate paragraph, the details of the probable legislative business that the Government wants to bring before the House. Unfortunately, this has not been done in this case. But the question is, whether if something is asked for by the committee, then just because it is not enumerated in the Governor's Address or no separate paragraph is placed before the House, should it not be allowed to be introduced?”

“In any case whatever may be the position in the Committee, the issue, before us at the moment is just because the formalities are not observed by the Government, the Government should be prevented from introducing the bill before the House. I think it will not be proper for me not to allow the Government to introduce the bill so far as the observations in Kaul and Shakhder are concerned, they are a guiding factor and of course, there also they have mentioned that it can be brought before the Business Advisory Committee and if the Business Advisory Committee agrees it can be brought before the House, even though it is not mentioned in the Governor's Address. That being so, if it can be brought before the House through Business Advisory Committee, I do not think it makes much difference, if the Government comes directly before the House. The Bill is just for introduction and not for discussion or first reading or second reading and getting it passed before the House. Therefore, I do not think it proper for me to refuse the Government to introduce the Bill and

hence I allow the Government to introduce the Bill and reject the Point of Order raised by Shri Mehta.”

“ In future, the Government should take care to bring such a legislation before the Business Advisory committee rather than bringing it before the House directly.”

(GLS Debates Vol. II, Book – 10, Col. 1594 – 1605.)

Bills—

Recommendations made by Paage Committee—

- 80. If there is no mention of any Bill in the Address of the Governor and the government wants to introduce it in the House, it should take into consideration the recommendations made by Paage Committee.**

When the Minister in charge Shri Nalinbhai K. Patel sought permission of the House on 15th February 1988 to introduce Gujarat Sales Tax on Electricity (Amendment) Bill 1988 amending Gujarat Sales Tax on Electricity Act 1985, member Shri Sureshchandra Mehta raised a Point of Order that “the Governor has stated in his address on 5th February, 1988 that the House will take up the Bills that could not be taken up for want of time during the last session and new Bills and the Bills replacing Ordinances. It means that the Governor has not given in his address the names or a list of Bills to be taken up for consideration in the House. As there is no reference in the Governor’s address to the Bill presented by the Minister in Charge, this Bill on the Act cannot be brought before the House.” In support of that, he has cited the following extracts from Page 164 (Edition 1979) of Practice and Procedure of Parliament by Kaul and Shakdher.

“The Governor’s address, should enumerate with precision all the Legislative and other important business that the government proposes to bring before the House during the year.” “No Legislation not listed in the Governor’s address should be allowed to be brought forward without the express consent of the House on the advice of the Business Advisory Committee”.

Minister in Charge Shri Nalinbhai K. Patel, while expressing his views, cited the quotation from page 19 of the Governor’s Address and said that –

“The House will be taking up the Bills which could not be taken up for want of time in the last session” and citing the quotation from the Book Practice and Procedure of Parliament by Kaul and Shakhder, said that,

“It also contains a brief account of the programmes of government business for the session. It, however, does not cover the entire probable legislative business to be transacted during the session.”

The Chief Minister Shri Amarsingh Chaudhari, expressing his views on the Point of Order, cited a paragraph from the Governor’s Address.

“The House will be taking up the Bills which could not be taken up for want of time in the last session as well as fresh bills and bills to replace Ordinance”.

After detailed discussion on the Point of Order, when the Leader of the Opposition shri Chimanbhai Patel insisted on the Speaker’s ruling, the Speaker (Shri Natwarlal Shah) gave his decision as follows:

When the minister Shri Nalinbhai moved a motion to introduce Sales Tax on Electricity (Amendment) Bill 1988, member Shri Sureshbhai raised Point of Order and said that "there is no mention of Sales Tax on Electricity Bill in the Governor's Address and, therefore, the Bill that finds no reference in the Governor's address cannot be presented here." He also said, "We don't deny if the Bill which has not found its place in the Governor's Address is presented here, but it should publish the list of Bills or they should be introduced in the House only after it is presented before the Business Advisory Committee". The Chief Minister and the minister for Energy took support of the last but one paragraph of the Governor's Address on Page 20 and said that "the Governor has clarified in his address that the Bills that could not be taken up for want of time during the last session and the fresh Bills and Bills to replace Ordinances can be taken up." Relying on this, the Chief Minister and the Minister for Energy, both said that from this paragraph of the Governor's Address, they get the right to present the Bill which has not been mentioned in the Governor's Address. According to me, this question is very narrow and it is only this --Whether the ministers have got the right by this paragraph to present the Bill without going before the Business Advisory Committee? Second point is whether it is necessary to present the list of Bills other than those mentioned in the Governor's Address? It has also been said that the Bills have come in this House in the past and have been introduced. The Minister for Energy has also said that it has been the convention of this House that there is no prohibition in the Rules in presenting the Bill. When the discussion took place, member Shri Sureshchandra Mehta took support of some extracts from page No. 164 of Kaus and Shakhder which are as follows:-

"Being a Statement of policy of the government, the address is drafted by the Government, it is not the President but the Government who are responsible for the contents of the address. It contains a brief review of the activities and achievements of the Government during

the previous year and its policy with regard to important internal and current international problems. It also contains a brief account of the programmes of Government business for the session. It, however, does not cover the entire probable legislative business to be transacted during the session. Therefore, after the address, a separate paragraph giving details of the Government business expected to be taken up during the session is published in the bulletin."

"The point therefore for consideration is, accepting that the Governor's Address does not mention anything about this Bill, whether it is imperative on the part of the Government to give the details of the Government business in a separate paragraph or not. Looking to the tradition of this House, I do not think it is imperative on the part of the Government to publish the list. It may be necessary, and it would have been wise on the part of the Government if it has published such a statement before coming to the House. But simply because it has not done so, I do not think I can come to the conclusion that the bill should not be allowed to be introduced."

"Second part on which the Mr. Mehta has relied upon is observation made in the Kaul and Shakhder on the same page. The observations contain the observations made by Paage Committee Report and these observations are not compulsory, but recommendatory and it recommended. :

"The Governor's address, should enumerate with precision all the Legislative and other important business that the government proposes to bring before the House during the year." No Legislation not listed in the Governor's address should be allowed to be brought forward without the express consent of the House on the advice of the Business Advisory Committee".

“ I do not doubt the wisdom which made the Paage Committee to make such a statement. It is always better that the Government comes before the Business Advisory Committee first before taking a new legislation not mentioned in the Governor's Address and then introduced it after the consent is given by the Business Advisory Committee. Unfortunately, in this case the government has not done so. But simply it has not done so and looking to the fact that the Paage Committee's observations are recommendatory, I do not think the Government can be stopped from introducing the Bill. Having said so I would like to advise the Government that even after introducing the Bill, the bill should be produced or it should be a part of the agenda of the Business Advisory Committee. The Business Advisory Committee should be given enough opportunity to discuss the programmes with regard to the Bill and Government should take care in future to follow the observation made by Paage Committee as mentioned on page 164 of “Kaul and Shakdher”.

“With these observations, I reject the Point of Order and allow the Government to introduce the Bill.”

(GLA Debates Vol. II, Book – 32, Col. 332-345)

Bills—

Motion to read the Bill for the first time.

81. When a Bill has been introduced by one Minister, another Minister can move the Motion to read it for the first time.

On 19th February 1986, when the Minister for Industries Shri Nalin Patel , instead of the Chief Minister moved a motion to read for the first time Bill No. 32 of 1985, Gujarat Industrial Development (Amendment) Bill of 1986, . Member Shri Sureshchandra Mehta raised a Point of Order

and said that the motion to read the Bill for the first time cannot be moved by any Minister other than the Minister in Charge. In support of his point, the member cited the provision of Rule 125 of Gujarat Legislative Assembly Rules and page No. 469 of Practice and Procedure of Parliament, Part II, 3rd Edition by Kaul and Shaktiher and said that the principle laid down in the above paragraph applies more to the first reading of the Bill.

“On the day appointed for introduction of the Bill, the Speaker calls the Minister in Charge who moves the motion for leave to introduce the Bill. After the Speaker has put the question and the motion is adopted, the Bill is introduced by the minister. At the introduction stage, the Minister who has given notice for leave to introduce a Bill can alone introduce it, unless he has previously written to the Speaker to allow another Minister to move for leave to introduce the Bill on his behalf.”

Since the minister in whose name India Tariff (Amendment) Bill, 1969 stood was not present in the House and had not previously written to the Speaker, the Deputy Minister concerned was not permitted to introduce the Bill on behalf of the Minister.

After hearing the submission made by the minister Shri Nalin Patel and some other members of the House the Speaker (Shri Natwarlal Shah) gave his following decision :-

“The minister for Energy Shri Nalinbhai Patel, when tried to start the debate on Gujarat Bill No. 32 of 1986 titled as Gujarat Industrial Development (Amendment) Bill, 1986, a Point of Order was raised and it was said that as the Bill was originally introduced by the Chief Minister, the Minister for Energy cannot initiate the debate on the first reading of the said Bill. It was also contended that it was not proper for the Minister to initiate debate on the Bill without giving any explanation

as to why he was doing so. The Minister in his reply stated that the Bill was originally introduced by the Chief Minister, but as he is out of station and that he has written a letter to the Speaker and sought permission of the Speaker to allow me to initiate the debate on the first reading of the Bill, I am doing so. Mr. Suresh Mehta, who raised the Point of Order, first tried to rely on Rule No. 125 and then he referred to the observations made in Practice and Procedure of Parliament by Kaul and Shakhder at page No. 469 and said that even in the case of introduction of the Bill, if the Speaker did not allow substitution of the Minister, same principles should be applied here and the Minister for Energy Shri Patel should not be allowed to initiate the debate on the first reading of the Bill instead of the Chief Minister, firstly, the Rule no. 125 on which Shri Mehta has relied on is not applicable to this Bill or rather to say, Rule 125 does not support his contention. So far as the observation made by Kaul and Shakhder in their book at page no. 469 is concerned, it only refers to what can be done at the stage of introduction of the Bill and nothing further. So that observations also are not useful while considering the Point of Order raised by Shri Mehta.

“While considering this Point of order one has to look to sub-clause (K) of Rule 2, sub-clause (k) reads as under: -

“Member in Charge of the Bill” means a member who has introduced the Bill and any Minister in the case of the government Bill.”

“ So sub-clause (k) which forms part of defining rule namely Rule 2 very clearly suggests that Government Bill can be moved by any Minister other than who has introduced the Bill, but the Chief Minister who has introduced the Bill has taken enough precaution to take permission of the Speaker to allow the other Minister to move the Bill. Now that being so, there is nothing wrong in the Minister Shri Patel moving the present Bill namely Gujarat Industrial Development (Amendment) Bill 1986 and as he is entitled to move it, he is permitted

to do so and hence I do not accept the contention raised by Shri Mehta and reject his Point of Order”.

(GLA Debates Vol. II, Book-11, Col. 1025 – 1030)

Bills –

Time Limit for First Reading—

82. While taking part in the discussion on Bills, the Members should think of their fellow members in matters of time.

The Minister for Co-operation Shri Manubhai Parmar had presented Gujarat Agricultural Produce Market (Amendment) Bill 1989 on 22nd February 1989. When the discussion on its first reading was going on and the time limit for discussion of the Bill was to expire at 5.15 p.m. and the reply was yet to be given by the Minister, the Whip asked for permission to extend the time of the House by forty minutes and the permission was granted by the House.

At that time, member Shri Dilipbhai Sanghani requested the Speaker that he wanted to speak on the Bill and his turn had not come.

At this stage, the Speaker said, “Your leader has clearly accepted that the discussion of the Bill will go on till 5.15 and the minister will give reply from 5.15 and I have heard these words very well and so the discussion ends now.”

When member Shri Dilipbhai Sanghani sought Speaker’s protection against this decision, the Speaker (Shri Natwarlal Shah) observed as follows :-

"There cannot be protection in this. The fact is, when the discussion on any Bill is going on, members have to think of their fellow members. If a member does not think of his fellow members and takes away much time, no time would be left for the remaining members. One thing that you all have to understand is that the great difference between the parliamentary system of Britain and America is that there was no filibuster system in Britain to see that the Bill remains incomplete. In America, filibuster system is there in which the Bill is not allowed to get completed by entering into long discussions. We are not following that system, so certain limits automatically comes on us, so there is no opportunity on this."

(GLA Debates Vol. II, Book – 43, Col. 880)

Bills –

Absence of Members of Council of Ministers—

83. There should be such a co-ordination that atleast one of the Members of the Council of Ministers remains present during the discussion in the House.

Before the member Shri Dinkar B. Desai begins his speech on Gujarat Closed Textile Mills (Textile Undertakings)(Nationalization) Bill on 29th January 1986 after the recess, member Shri Manubhai Kotadia raised a Point of Order and said that "no member of the Council of Ministers is present now. The Chief Minister is also not present and there is no quorum. The Government is not adhering to the strong instructions frequently given by the Speaker for remaining present in the House." Member Shri Ghabhaji Thakore also joined him and demanded to adjourn the House. In the meantime, the Chief Minister Shri Amarsingh Chaudhari entered the House and told the Speaker that he had come. He submitted that it took time for him to walk.

The Deputy Speaker (Shri Karsandas Soneri) giving his decision on the Chief Minister's explanation said, "you should arrange such a co-ordination that one of the members of the Council of Ministers remains present in the House. Strict instructions in this regard have been issued in this House twice or thrice previously. However, instructions are not carried out. You may take some more time but your colleagues should be asked to remain present in the House."

(GLA Debates Vol. II, Book – 10, Col. 835 – 836)

Bills—

Right of the Minister—

84. It is the right of the Minister to decide what information should be given to the House during the speech on the first reading of the Bill.

During the first reading of Gujarat Legislative Assembly Members' (Removal of Disqualification)(Amendment) Bill 1985, when the minister for Parliamentary affairs, State Level Shri Navinchandra Shashtri was explaining before the House on 2nd April, 1985, the object of bringing the Bill, member Shri Babubhai Vasanwala commented in the middle and asked "whether he is reading printed matter or has he anything else to say?" At this time, the Speaker (Shri Natwarlal Shah) observed as follows.

"Have you any objection if he reads printed matter? The Minister has a right to decide what to say and what not to say. He does not seek your advice for what kind of speech the Minister should make in support of his Bill."

Bills—**Competency of Legislature—**

- * 85. According to the established precedents, Speaker does not decide whether the Legislative Assembly is competent to pass the Bill.**

On 4th March, 1986, after the Revenue Minister Shri Harisinh Mahida rose to introduce in the House, the Bill on Prohibition of Transfer of Property, member Shri Sureshchandra R. Mehta raised a Point of Order. Shri Mehta stated that "if there is conflict between certain provisions of the present Bill and the Transfer of Property Act of the Center, such a Bill is likely to be annulled in the court." The Member raised the Point of Order that "under the provisions of the Rule 125, the Gujarat Legislative Assembly is not competent to pass the Bill."

The minister in charge of the Bill Shri Harisinh Mahida submitted on the Point of Order that "Before the Bill was presented before the House, the Ordinance was issued and before issuing the Ordinance, it was sent to the President and he has given his consent. So there can be no hindrance in bringing the Bill to replace the Ordinance."

The Minister for Parliamentary Affairs Shri Nalinbhai Patel drawing attention to page 469 of the Book "Practice and Procedure of Parliament" by Kaul and Shakhder, cited following extraction on the above point.

"By convention the motion for introduction is not opposed, but there have been occasions when motions for introduction of Government Bills were opposed in the House. The Member who wishes to oppose must write in advance (before the commencement of the

sitting) to the Secretary General and if two or more Members write, the Speaker calls the Members whose intimation was first received in point of time”.

The Minister Shri Nalinbhai Patel also submitted that “after the present Bill is passed, it will be reserved for consideration of the President under Art. 245(2) of the Constitution and if it receives the assent of the President, the law will come into force.”

After that, the Speaker (Shri Natwarlal Shah) gave his following decision on the Point of Order.

“When the Minister Shri Mahida moved the motion to introduce Bill No. 33 of 1986, member Shri Sureshchandra Mehta raised a Point of Order and said that—

“ There is a dispute regarding the legislative competence of the Bill as presented before the House, the Bill should not be admitted and in support of the contention, he relied on Rule 125 of the Rules of the Assembly. Now the proviso to Rule 125 of the Rules of the Assembly reads as under :-

“Provided that where a motion is opposed on the ground that the Bill initiates Legislation outside the Legislative competence of the House, the Speaker may permit a full discussion thereon.”

In this, there is a convention of this House and there is also a convention of Parliament that when attention is drawn to the Constitutional aspect, the Speaker does not give his ruling. When the objection is taken on the Constitutional aspect and on the Legislative competence that this Bill is outside the purview of this House, and when the Speaker is giving his ruling on the Constitutional aspect, one specific provision has been included and some liberty is given in it that when a Constitutional point is raised or when an objection as to the

constitutionality is raised, thorough discussion on that point, should be allowed. The discussion has taken place accordingly. Member Shri Sureshbhai raised his point and the minister gave his reply. So—

“Where there is an accepted system both in Parliament and in Assembly, that the Speaker does not give ruling on the Point of Order raised with regard to Legislative competence of a particular Bill, it is not proper for me to give any ruling on the Point of Order. The debate has already taken place and whatever the consequences of such a Bill, will have to be decided by the Court before whom the matter may go. One does not know whether it will go or it will not go, but what is understood by non-intervention of the Speaker in the Point of Order based on the provision of the Constitution is quite clear. The Speaker does not give a ruling in view of the fact that such points are to be decided by the court. The Point of Order raised by Shri Sureshchandra Mehrtta with regard to Legislative competence of the House can be argued in the Court and decided by the Court and hence I reject the Point of Order”.

(GLA Debates Vol. II, Book – 13, Col. 527 – 532)

*(Decision No. 521 on Page 373 of the Book Decisions from the Chair, 1960 – 1984 may be referred along with the above decision)

Question of Breach of Privilege—

Wrongful Information—

- 86. (1) If a Member or a Minister gives wrongful information willfully, the breach of Privilege of the House takes place.**
- (2) When a clarification on the Point of Breach of Privilege is sought by the Speaker, the Chief Minister or any other person concerned must give such clarification without delay.**

On 13th July 1987, the Leader of the Opposition Shri Chimanbhai Patel and member shri Ashok Bhatt raised the Point of Breach of Privilege of the House against the Chief Minister and the Chief Minister gave his clarification on both the points. Thereafter, the Speaker postponed his decision.

Hon. the Speaker (Shri Natwarlal Shah) gave following decisions on 3rd August 1988, which were postponed earlier: -

The information given to the House by the Chief Minister on 13th March 1987 in respect of the arrest of Shri Dhirubhai Patel a candidate for the election of the Modasa constituency, being misleading the House, the Leader of the Opposition Shri Chimanbhai Patel raised the question of Breach of Privilege of the House. On studying the point raised by him, it appears that three things are covered by it. One thing is that why was the arrest of Shri Dhirubhai Patel made by the Chief Minister by isolating him from six co-accused. The submission made by the Chief Minister that the court had refused to give bail due to the reason of his involvement in one other case is far from truth because Shri Dhirubhai himself had refused to go on bail and the third thing is the information given by the Chief Minister that Shri Dhirubhai, catching hold of the collar of the Collector, had threatened to see him later on, was also not correct. Of these three things, the first thing is a matter of fact and has no relevance with either the privileges or wrongful information. In case of the second and third thing, the Chief Minister gave an explanation that he had given the information to the House with the good intention of providing immediate information to the House, that he had received without any instructions on telephone or in any other way. As per information given by him in the complaint lodged by the collector, it has been stated that he was pushed. He has further clarified that in the minute book of the meeting of the district Panchayats, details of the proceedings till the end of the meeting are written. As the facts of catching hold of the collar and threatening to

see later-on have happened after the meeting was over, it has not been mentioned in the minute book. After submitting these facts, the Chief Minister said that a new system had developed to provide immediate the information to the Members under which he had tried to give the information to the House, which he could get immediately on the phone. He had no intention either to mislead the House or to gain any political advantage of it. He had only given the primary information to the House."

"I have to bring to the notice of the House one thing that the question of breach of Privilege does not arise merely by giving wrongful information to the House. If a member or a minister knowingly or intentionally gives the wrongful information to the House, the question of Breach of Privilege arises. In this, the words "knowingly, intentionally" are very important.

" Taking into consideration the written information given by Leader of the Opposition in his notice and the information that he gave while raising the point and the written information given by the Chief Minister and the clarification made by him in the House, it is not proved that the Chief Minister has knowingly given wrongful information to the House. Therefore, nothing further is required to be done in this matter".

"With regard to the second point raised by member Shri Ashok Bhatt, the Chief Minister has clarified in the House that as there was one person having two names, the figure five has been given instead of four in the House. It was not his intention to knowingly mislead the House. He has stated in writing that on account of getting information urgently on the point that may arise in the House, the factual error has resulted and therefore misunderstanding must have occurred. Thus, as the Chief Minister has accepted the factual error, nothing further remains to be done in this matter."

“Thus, I don't accept both the points of Breach of Privileges but I have to bring it to the notice of the House that after the members had given me written notices on these points, I had decided to ask for the the Chief Minister's explanation before taking any decision in this regard. Even after sending many reminders, I had not received his explanation and therefore, I gave permission to raise these points in the House. I must say that the delay made by the Chief Minister in sending his explanations is not proper. Such a situation should be avoided. I am compelled to make observation at this stage that the persons concerned will take care in this regard in future.”

“ I have to bring one more thing to the notice of House that the convention of raising the matter of urgent public importance on a recent occurring without giving any sort of notice in writing, has been developed here due to mutual understanding between the members of the House and the Ministers, so that Members get the opportunity to bring the matter before the notice of the House. Similarly, the Minister, though compelled to give information, also gets the opportunity to give clarification before the House. When a Minister agrees to give information urgently, he has to obtain the information either on telephone or by wireless or by any other mode, so it is all likely that the factual error may occur. The matter of factual error should not be taken seriously because the whole matter is dependant on mutual understanding. The ministers also get ready to give information to the House urgently. In a way, this is a welcoming attitude but the ministers should not do undue haste in giving information. If information is given after thorough scrutiny, such questions will not arise later on. I believe that if the ministers and the members keep necessary understanding in this regard, there will be no difficulty in executing this convention.

(GLA Debates Vol. II, Book – 40, Col. 801-804).

Discipline—**Announcement of New Council of Ministers—****87. At the time of announcement of New Council of Ministers, the Ministers should remain present in the House.**

When the Chief Minister Shri Amarsinh Chaudhari was announcing the names of ministers included in the new Council of Ministers and the departments allocated to them on 8th July 1985, in respect of the absence of Ministers in the House, the Speaker (Shri Natwarlal Shah) observed as follows :-

“The Chief Minister, I would like to draw your attention to one thing that when you are announcing the names of new ministers in your Ministry and Departments allocated to them, it does not seem proper that the ministers do not remain present in the House. The Ministers should remain present on the first day. They should be modest towards the House.”

(GLA Debates Vol. II, Book – 5, Col. 3).

Condolatory Reference—**Etiquette—****88. The Members or the officers of the Government should not leave their seats at the time of Condolatory Reference.**

When the matter of Condolatory reference on the demise of Ex-Army Chief General Arunkumar Vaidya began in the House on the 13th August 1986, a member of the House and some Officers seated in the Officer's gallery in the House rose from their seats and were leaving the

House. At that time the Speaker observed that no Member or any of the Officers in the Officer's gallery should rise from their seats."

(GLA Debates Vol. II, Book – 18, Col. 677-678)

Condolatory Reference—

Etiquette—

89. Members should not leave the House during the discussion on Condolatory refecence.

“ When the Leader of the Opposition Party was speaking on the Condolatory Motion, the Chief Whip Shri Hasmukhbhai Patel left the House, member Shri Ashok Bhatt raised a Point of Order about it on 25th June 1985 and sought the Speaker's ruling for the guidance of the House, the Speaker (Shri Natwarlal Shah) gave his decision as under: -

“ It has been the practice accepted by all that when the discussion on a condolatory motion is going on in the House, the member will generally not leave their place or take their seats to maintain the modesty, dignity and decorum of the House. It is our duty to show courtesy to whom we are paying our homage. In order to maintain the dignity of the House we all have accepted this tradition. It is not proper for a member to break this tradition. If my attention has not been attracted to this previously, the same cannot be raised as Point of Order. At the most, it can be said that disrespect has been shown towards the House and I hope that Shri Hasmukhbhai also will not repeat this mistake.”

(GLA Debates Vol. II, Book – 3, Col. 121-122).

*(Along with the above decision, the decision Nos. 553, 554 and 556 on page no. 402-404 of the Book Decisions from the Chair 1960-84 also should be referred)

Session—

Summoning the Session—

90. Session can be summoned at Short Notice by intimating the Members on their Official Addresses.

For summoning the Legislative Assembly at short notice, member Shri Sureshchandra Mehta raised a point of Order on 1st Nov. 1990 and represented that some members are not in Gujarat, they have gone outside Gujarat (for Kar Seva) in Uttar Pradesh. So announcement regarding it should have been made in the news papers of Uttar Pradesh as a special case but such announcement was not made in any of the newspapers of Uttar Pradesh". He requested the Speaker to give his decision in this regard.

The Speaker gave his following decision on the above matter.

"BY raising the Point of Order member Shri Sureshbhai Mehta has sought the guidance whether the summons issued is reasonable or not. The Rules, established procedure and the provisions are very clear that when the session is to meet at a short notice, instead of sending the summons to individual members, the members are informed of the summons of the Legislative Assembly by announcing it through newspapers, radio and television and if possible by telegrams. Thus, according to the provisions of the Rules, when the session was summoned, there was a gap of five days during which there were three holidays. Accordingly, the intimation was made through all the newspapers, radio and television. There is no provision in the Rules to

make direct announcement through newspapers, television and radio, but this is an established practice and in the third edition of Kaul and Shakhder, this has been clearly stated. The Sixth session of Lok Sabha was summoned at a short notice of two days. On the 23rd, the President decided to summon the Parliament and the session of Lok Sabha met on the 25th. The Members of Parliament were informed at their addresses in Delhi and thus the session was held. So I decided that this session has met properly."

(GLA Debates Book – 60, Col. 165 – 167).

House –

Demonstration—

*** 91. No sort of demonstration can be made in the House.**

On the 13th July 1987 the Leader of the Opposition Shri Chimanbhai Patel had raised a Point of Breach of Privilege in the House on the matter of information supplied by the Chief Minister about the arrest of the candidate contesting election from Modasa Assembly Constituency. Replying to this point and addressing to the Speaker, the Chief Minister Shri Chaudhary had stated as under :-

"Speaker, Sir, in the question of Breach of Privilege raised by the Leader of the Opposition, he has talked first about collar in the letter referred to by him and in his speech, the Leader of the Opposition has said that the Collector has lodged a complaint in which he has stated that mike was snatched away from him, table cloth was snatched and he was pushed. While pushing, he may push in any manner (At this stage the Chief Minister caught hold of the collar of the minister Shri Vijaydasji Mahant sitting beside him and showed how one can push). I

am not pushing Mahant Saheb, but I am demonstrating. It can be done in this way also”.

At this stage, the Speaker (Shri Natwarlal Shah) told the Chief Minister that demonstration in this House is prohibited.

(GLA Debates Vol. II, Book – 24, Col. 369).

*(Decision No. 211 to 214 and 216 on page Nos. 134 –136 of the Book Decisions from the Chair 1960-1984 may be referred along with the above decision).

House—

Right to decide the Time of the sitting –

*** 92. It is the right of the Speaker to decide the time of the sitting of the House.**

The Member Shri Sureshchandra Mehta raised a Point of Order on 10th August 1987 for the change in the time of the sitting of the House dated the 9th August 1987. While raising the point, he cited Rule No. 193 and 195 of the Gujarat Legislative Assembly Rules and said “After the report of the Business Advisory Committee is presented before the House and the House accepts the recommendations made in the report, the recommendations of the report becomes the Order of the House and no change in the Order of the House as recommended by the Committee can be made except that the House makes changes in it by passing a motion. Therefore, instead of calling the House to meet at 1.00 p.m. on 9th August 1987 as recommended by the Committee, it was called to meet at 8.30 p.m. at night. Therefore, that sitting be declared as unlawful.”

Minister for Parliamentary Affairs, the Leader of the Opposition, the Law Minister and other members expressed their views on this point. After hearing the representations made on this point in this House, the Speaker (Shri Natwarlal Shah) reserved his decision on this point. Thereafter, the Speaker gave his following decision on the above point on 23rd June 1986.

“The Business Advisory Committee that met on 21st July 1987 had made the recommendation in its 32nd Report that the sitting of the House be kept on Sunday the 9th August 1987 at 1.00 p.m. and take up the motion to be presented by the Government on account of 40th Anniversary of Independence. This 32nd Report of the Business Advisory Committee was presented in the House on 22nd July 1987 and the House accepted the recommendations made in it. Thereafter, the Chief Minister and the Leader of the Opposition had, by their letters dated 27th July, requested me to make changes in the time of the sittings of the House scheduled for 9th August 1987 and after considering their request, I have decided to hold the sitting of the House at 8.30 p.m. instead of 1.00 p.m. on the 9th August 1987 and accordingly the House met at 8.30 p.m. on 9th August 1987, I have to clarify further that I have merely made changes in the timings of the sitting only. I have not made any changes either in the day of the sitting or the agenda of the sitting.”

“If recommendations made in the 32nd Report of the Business Advisory Committee are read carefully, three things are involved in it--

1. To hold the sitting of the House on Sunday, the 9th August 1987.
2. The sitting of the House be kept at 1.00 p.m.
3. The motion to be presented by the government on account of 40th Anniversary of Independence be taken up.

“ Thus, what should be the time of the sitting was also mentioned in this recommendation. Generally, the House meets at 12.00 a.m. in the noon but instead, the committee decided to meet the House at 1.00 p.m. So, this was also mentioned in the recommendations, which in fact was not really necessary. The fact that the time of the sitting of the House is not mentioned in the recommendations because under Rule 4 (2), I have been given powers to make changes in the time of the sittings of the House and under that provision, looking to the feelings of the members of the Committee or of the House, I can decide suitable time of the sitting. In the past also, though the Committee had suggested to make changes in the time of the sitting of the House, it was not used to be mentioned in the recommendations. However as the time of the sitting of the House was mentioned in the meeting, and as it was accepted by the House, it became the decision of the House and as a result, under the provision of Rule – 195, either the Leader of the House or in his absence any other minister, after taking my permission, has to bring a motion to make changes in the House, the present decision can be changed only after the Motion is accepted by the House. Thus, technically, the Point of Order raised by member Shri Sureshbhai Mehta is proper in view of the provisions of the rules, but the House knows that it was not possible to bring a motion under Rule 195 to make changes in the decision made as to the sitting of the House dated 9th August 1987, because the recommendations of the Committee were accepted in the House on 22nd July 1987 and there was no sitting of the House after that till 9th August 1987. The provision of Rule 4(2) was not kept in abeyance at any stage by the House, so taking into consideration the demand made by the Leader of the House, the time of the sitting of the House dated 9th August 1987 was changed. As it was not possible to follow the procedure laid down in Rule 195, and as the Speaker has the basic inherent right to make changes in the sitting of the House, the rules have to be interpreted accordingly. Therefore, the sitting of the House

dated 9th August 1987 cannot be held unlawful on account of the changes made in the time of the sitting."

"It would have been better for the Member Shri Sureshbhai Mehta if he had raised the point confined to the procedure to be followed for bringing changes in the decision of the House. But, going further, he had asked my ruling as to whether the said sitting was unlawful or not. But as I have told you earlier, I cannot accept his point of Order to treat this sitting as unlawful".

(GLA Debates Vol. II, Book – 35, Col. 145 – 148)

* (Decision No. 563 on page No. 413 of the Book Decisions from the Chair, 1960 – 1984 may be referred along with the above decision.)

House—

Entry in the Lobby and the Lounge—

***93. No one has a right to enter without permission the lobby and prohibited area.**

Member Shri Shantibhai Patel drew the attention of the Speaker on 14th July 1987 that "there is a great rush of unauthorized persons coming from outside in the lobby of the House and that the members experience great difficulties in coming to the House.

Other members including minister Shri Mahant Vijaydasji and the Leader of the Opposition Shri Chimanbhai Patel expressed their views.

After that, the Speaker (Shri Natwarlal Shah) gave his decision as under—

“One thing that all the members should clearly understand is that the area up to Lounge – Both the Gates – the gate on this side and the gate on that side – all this area is a prohibited area. Nobody has a right to enter it without permission. In case of Lounge also, this House has taken clear decision last time that no one has a right to enter the Lounge except the Members of the Legislative Assembly. This House has taken this decision. If anyone commits breach of this decision of the House, he is liable for breach of privilege of the House. We all should understand this thing clearly. The reason why this resolution was issued is that despite my clear instructions, the breach used to take place many times. As a result, the security personnel were finding difficulties. The Members were carrying their accompanying persons forcibly in the Lounge. Therefore, this decision had to be taken. Anyone who commits a breach of it shall incur great liability. The member should understand this clearly. No member will have any relief in this. Any attempt to contravene the decision of the House will not be tolerated in any circumstances. Strict enforcement will begin from today itself.”

(GLA Debates Vol. II, Book – 29, Col. 513 – 516)

*(Decision No. 569 on Page No. 416 of the Book Decisions from the Chair – 1960 – 84 may also be referred along with the above decision)

House –

Sitting of the House—

When the sitting of the House is considered duly constituted.

- 94. Though the time to adjourn has elapsed, the sitting of the House is considered duly constituted until the announcement that “The sitting of the House is adjourned” is made from the Chair.**

During the discussion on the Motion presented before the House on 21st March 2001 with regard to "The Earthquake Devastation in the State and the Existing Draught situation in the State", when the Leader of the Opposition Shri Amarsingh Chaudhary levelled allegations against the Minister and Members for misappropriation of valuable goods received from foreign countries for the people affected by the earthquake, the minister for Legislative and Parliamentary Affairs Shri Sureshchandra Mehta raised a Point of Order before the Deputy speaker (Shri Upendra Trivedi) in the Chair, to ask the Leader of the Opposition to withdraw the words spoken by him. At this stage, as the commotion took place in the House, the House was adjourned for ten minutes at 4.30 p.m. When the House reassembled at 4.45 p.m., at the end of allegations and counter allegation, the Deputy Speaker informed the House that he will decide after examining the record and then invited the Minister for Parliamentary Affairs Shri Sureshchandra Mehta and the Leader of the Opposition Shri Amarsingh Chaudhary to come to the Speaker's chamber to examine the record and adjourned the House for ten minutes and went in the Speaker's Chamber. When the House reassembled at 5.04 p.m. and Shri Dolatrai Desai, a Member on the Panel of Chairmen was in the Chair, interruptions continued to occur. So, the Chairperson adjourned the sitting of the House for 15 minutes. When the House reassembled at 5.19 p.m., the Deputy Speaker had occupied the Chair. Even at that time, as the interruptions continued, the House was adjourned for ten minutes. When the House reassembled at 5.37 p.m. , on the basis of the record examined by him, the Deputy Speaker from the Chair asked the Leader of the Opposition to express regret for contempt of the members. The business of the House being over, the House was adjourned at 5.40 p.m.

As the Leader of the Opposition Shri Amarsingh Chaudhary had not expressed his regret, the minister for Parliamentary Affairs Shri Sureshchandra Mehta raised a Point of Order on the second day i.e. on 22nd March, 2001, for defying the Order of the Speaker and asked

for the guidance of the Speaker. Expressing his views on this matter, the Leader of the Opposition Shri Amarsingh Chaudhari said that as the time of the House was over at 5.15 p.m. on the 21st March 2001, and as there was no motion from the Ruling Party to extend the time of the House, any order given after the time of the House was over, stands "null and void". The arguments & counter arguments continued on this matter. On the basis of the observations of the arguments & counter arguments made about the legality of the business of the House that took place after 5.15 p.m. on 21st March 2001, the Speaker (Shri Dhirubhai Shah) raised the following points :

"(1). When the Deputy speaker was in the Chair on 21st March 2001 and when the Member on the Panel of Chairman Shri Dolatbhai was in the Chair, whether the extended time of the House was lawful or not ?

(2). Whether the Ruling given by Hon. the Speaker was lawful or not?

(3). Whether the Point of Order can be raised on that matter today?

(4). If that point is allowed to raise, what is its ultimate order?

Hon. the Speaker (Shri Dhirubhai Shah) gave his decision on the above points as under :

"As for points (1), (2), and (3) I say 'Yes' and for point (4) I give my decision as under.

"As per point (1), when the House reassembled at 5.05 p.m. yesterday, under Rule 5 of the Gujarat Legislative Assembly Rules, Shri Dolatbhai Desai, a member on the Panel of Chairman was in the Chair.

As the member on the Panel of Chairmen was in the Chair under Rule 5 of the Gujarat Legislative Assembly Rules, I hold the sitting of the House as duly constituted. As it was impossible for him to conduct the business of the House at this stage, he had adjourned the sitting of the House for fifteen minutes. It was his decision.”

“The business of the House was over for the day and there was no announcement about the time when the House would meet on next day. Therefore, I hold the extension of the House for 15 minutes as lawful and within the powers of the Speaker. So when the House reassembled at 5.20 p.m., the Deputy Speaker was in the Chair. At this stage also, when he found it impossible to conduct the House, he again adjourned the House for ten minutes and when the House reassembled at 5.37 p.m., the Leader of the Opposition was asked to express regret before the business of the House was over, but as the Leader of the Opposition had not expressed his regret before the business of the House was over, the Point of Order has been raised today. The House that met yesterday was under Rule 4 of the Gujarat Legislative Assembly Rules and as stated on page 240 of the Book Practice and Procedure of Parliament, the Speaker has a right to extend the House and not only this but until the Speaker says anything about the adjournment of the House and until he announces as to when it would meet again, the House is deemed to have been extended for that day. Moreover, following observation has been made on page 399 of the fifth edition of “Practice and Procedure of Parliament” by Kaul Shakdher –

“Unless the Speaker otherwise directs, sitting of the House on any day ordinarily concludes at 18 Hours. the sitting does not, however, conclude automatically nor is any motion adopted for its conclusion. The House stands adjourned and the sitting on a day is terminated only when the Presiding Officer makes the announcement in the House to that effect”.

“ Therefore, I hold the decision given by the speaker yesterday as the decision given during the period of the House. As the decision, which was required to be enforced, was not enforced, so the point that has been raised is equivalent to the contempt of the Order of the Speaker and thereby, contempt of the House is committed. Therefore, I also hold that this point can be raised today because this matter is directly connected with the business of the House. Thus, I accept the Point of Order raised by the Minister for Parliamentary Affairs Shri Sureshchandra Mehta and ask him to move the motion”.

Following this decision, the minister for Parliamentary affairs moved a motion to suspend the Leader of the Opposition Party Shri Amarsinhbhai Chaudhary for the rest of the period of the session for contempt of the Order of the Speaker. It was seconded by the Finance Minister Shri Vajubhai Vala. As the motion was carried by the House, respecting the Order of the Speaker, the Leader of the Opposition Shri Amarsinh Chaudhari left the House.”

(GLA Debates, Book-71 page no. 118 to 179)

Hon. Member—

Information received by the Member himself.

95. When the Member has received the information personally, and gives it to the Minister, the concerned Minister should get the matter examined.

Member Shri Jay Narayan Vyas raised a point of Order on 31 March 1992 that though the member try to get reply to the question by

getting information personally, the ministers are not taking note of it seriously and he sought the Speaker's guidance in this regard.

On the above subject, the Speaker gave his decision as follows :

“What Shri Jay Narayanbhai has said is true. When any Member gives any information to the minister or to the Government or to the House, it is necessary that it is scrutinized by the Government or the concerned minister. The Ministers should take serious note of this. I accept the point”.

(GLA Debates, Book78, ol.135 - 136)

Hon. the Member—

Conduct of Member.

96. Members should refrain from using inappropriate language while sitting on their seats.

On the 13th March, 1992, as member Shri Kantibhai Kachoria and member Shri Harjivanbhai Patel left the House in protest and exchange of hot words took place between Member Shri Fakirbhai Vaghela and the Labour Minister Shri Ramsinh Parmar, member Shri Manubhai Parmar raised a Point of Order in that respect.

Member Shri Manubhai Parmar and a few other members gave their views on the above point. In this connection, the speaker gave his following decision on 24th March, 1992 for the exchange of hot words that took place between the member Shri Fakirbhai Vaghela and the Labour Minister Shri Ramsinh Parmar.:-

“Many of the members must be knowing that during the question hour of that day, a demand was made by member Shri Fakirbhai

Vaghela to give reply to a question of a member who was absent and at that time, while seated in his seat, he spoke certain words addressed to the minister and the minister, while seated in his seat, spoke threatening utterances. They are not reported in the proceedings. So, in the absence of any note in that behalf as to the words spoken or language used by the member or the minister, nothing can be decided.”

“Concerted efforts are required to conduct the business of the House smoothly and to maintain the dignity and decorum of the House. If all the members of this House respect the rules and precedents of the House and exercise restraint, the business of this House can be conducted smoothly and the dignity and decorum can be maintained. Therefore, I wish that the members and the ministers keep restraint even in the cases of provocations also and keep tolerance towards their mutual views. It is my request to all the members of this House that they keep restraint in using inappropriate language while seated in their seats”.

(GLA Debates Book – 76, Col. 673 – 674)

Committee—

Assigning investigation to another Committee.

97. A matter given for investigation to a Committee cannot be assigned to another Committee.

During the discussion of a Starred Question No. 15932 presented in the House on 31st March 1992, when the minister for Narmada Development, by raising his hands at the member asking the question, tried to make him to seat, member Shri Ashok Bhatt raised a Point of Order after question hour. During the discussion on the Point of Order, member Shri Manoharsinhji Jadeja suggested that “the investigation of

the Point raised in respect of the sale of Machinery imported for the Narmada Project from abroad may be assigned to the Public Undertakings Committee and its Report may be submitted before the House."

After hearing the views of member Shri Manoharsinhji, member Shri Ashok Bhatt, minister for Narmada Development and the Chief Minister, the Speaker gave his following decision on 2nd April 1992.

"In the Audit Report of the Comptroller and Auditor General of India for the year 1974-75, there was a paragraph pertaining to the purchase and use of the machinery in the construction of Ukai Dam. The Public Accounts Committee had carried out detailed investigation of it. After the investigation, the Committee had, in its Third Report of the Sixth Gujarat Legislative Assembly, recommended that "As the Government has to take up on hand the work of Narmada Project which is bigger than the Ukai Project, great care shall have to be taken so that lacunae found in the purchase and storage system of the machinery and the spares are not repeated in the Narmada Project. During the scrutiny of the actions taken by the government on the recommendations of the Committee, detailed information was asked for in respect of the machinery of this scheme, purchase of its spares, storage, use, value, rent charged, sale, disposal etc. Moreover, the committee had also organized a tour to inspect the machinery lying at the site and collected all the information and additional information and after completion of the tour, the committee, in its 14th Report, had made recommendations to plug the loop-holes of all these and take immediate steps to remove the lacunae in the purchase system. The Public Accounts committee of the House has made detailed examination in this regard. When one committee of the House has carried out investigation on a subject, if another committee does investigation on the same subject, the work will not only be doubled thereby, but there will not be any uniformity in the decisions of these

committees and as a result, a situation, which I believe is not desirable, will arise whereby there will be an embarrassment in taking decisions on the basis of different recommendations and in these circumstances, I do not accept the suggestion to assign the work in respect of the machinery of the Narmada project to the Public Undertakings Committee as suggested by member Shri Manoharsinhji .”

(GLA Debates B00k – 78, Col. 661 – 662.)

Cellular Phone—

Point of Order—

98. Cellular Phone should not be brought in the house.

On 20th March 1998, during the Calling Attention Notice given under Rule 116, when a cellular phone rang up in the House, member Shri Jashubhai Barad, raising the Point of Order in this regard drew the attention of the Speaker. The speaker (Shri Dhirubhai Shah) drew the attention to Bulletin Part – 2 issued by the Legislature Secretariat on 20th March 1998 requesting the Members not to keep pager or mobile phone in the House and gave his following decision :-

“Hon'ble Member, Bulletin Part – 2 has been issued for cellular phone. Yesterday, I felt so, I had also heard a ring of Cellular Phone from Chair, so Bulletin Part – 2 has already been issued. At this stage, I would request all the members and ministers not to bring Cellular phones in this House.”

(GLA Debates Vol. II Book No. 31, Pages 76 and 68).

INDEX	Decision No.	Page No
<p>Admission Pass for the Officers' Gallery:-</p> <p>--Point of Order</p> <p>(1) It is not advisable for a Chairman of a Board to ask for an entry pass to the Officers' gallery in the House</p> <p>(2) There is no objection in issuing entry pass to the Officers' gallery to a Chairman of a Board if he is helpful in providing advice, suggestion, guidance or information to a Minister.</p>	1	
<p>Notification:-</p> <p>(1) Delay in laying the notification on the Table of the House.</p> <p>(2) laying the Notification on the Table of the House cannot be denied simply because delay has taken place in laying it on the Table of the House.</p>	2	
<p>Hon. Speaker:-</p> <p>--Election of the Speaker.</p> <p>The other business of the House should be taken up only after the Election of the Speaker.</p>	3	

<p>Speaker's Gallery:-</p> <p>--Pass for the Speaker's Gallery.</p> <p>(1) Members should keep due control and vigilance while recommending Pass for the Speaker's Gallery.</p> <p>(2) While recommending pass to a person, it is necessary to scrutinize the intention of the person seeking pass for watching the proceedings of the House.</p>	4	
<p>Budget:-</p> <p>--Action on the Budget of the Previous Government</p> <p>If there is change in the Council of Ministers after presentation of the Budget, the new Council of Ministers can proceed further in the House after accepting the old Budget.</p>	5	
<p>--On Budget Literature.</p> <p>(1) When the literature on the Budget is delivered to the Secretary, it is deemed to have been laid on the Table of the House.</p> <p>(2) When the signature of the Secretary of the Department is printed on the Budget literature, that document on Budget can be laid on the table of the House.</p>	6	
<p>--Cut Motion</p> <p>Right to Speak-</p>	7	

<p> 4) ལྷན་ཚོགས་ཀྱི་འཕྲོད་འཇུག་ལ་ལོ་འཇུག་གི་འཕྲོད་འཇུག་ ལྷན་ཚོགས་ལ་ལོ་འཇུག་ ལྷན་ཚོགས་ལ་ལོ་འཇུག་ ལྷན་ཚོགས་ལ་ལོ་འཇུག་ ལྷན་ཚོགས་ལ་ལོ་འཇུག་ </p> <p> does not get a right </p> <p> ལྷན་ཚོགས་ལ་ལོ་འཇུག་ ལྷན་ཚོགས་ལ་ལོ་འཇུག་ ལྷན་ཚོགས་ལ་ལོ་འཇུག་ ལྷན་ཚོགས་ལ་ལོ་འཇུག་ </p>		
<p>-- Performance Budget</p> <p>(1) The copies of performance budget should be given to the Members before the demands are presented in the House.</p>	8	
<p>(2) Complete details of the programme of the government and the performance of the government should be given in the performance budget.</p>	9	
<p>--Corrigendum.</p> <p>The corrigendum of the Budget Publication should be sent to the Legislature Secretariat three days prior to the day on which the demand for the relevant department is to be taken up.</p>	10	
<p>--Right of the Government.</p> <p>When to present the Budget is a matter of pleasure of the government.</p>	11	
<p>Breach of Propriety:-</p>	12	
<p>--Publicity in the News Papers.</p> <p>The point that the details of a Report have been published in newspapers – cannot be Raised before the</p>	13	

Report is presented in the House.		
--Important Announcement.		
When the House is in session, the government should	14	
make the important announcement in the House first		
instead of giving it to the press.		
--Prior Notice.	15	
Notice of Breach of Propriety or Breach of Privilege must		
be given first.		
--Announcement of Policy Matter.	16	
- Making changes in the present policy is a policy matter		
and it must first be announced in the House:	17	
- When the House is in session, any announcement for		
bringing changes in its present policy or framing a new		
policy must first be made in the House. It would otherwise amount to Breach of Propriety.	18	
--Permission.		
Speaker should be informed before raising a point of	19	
Breach of Propriety		
--Publication of the Report of the Commission.		

Contempt of the House takes place by publishing in the newspaper the letter of the Chairman of the Commission printed in the Report of Rane Commission before it is presented before the House	20	
--Announcement made by the Hon. Chief Minister. An announcement made by the Chief Minister in the meeting of the Ruling Party cannot be treated as a Breach of Propriety.	21	
	22	
	23	
--Building of the Legislative Assembly. - Exhibition. It is not proper if the Legislative Assembly building or any part thereof is used as a means of exhibition	24	
	25	
Debates:-	26	
--Prior Permission of the Speaker Before raising any point in the House after the Question Hour, prior permission of the Speaker should have been taken.	27	
	28	
--Unparliamentary words and Expressions. -The word 'Hero' for any Member is unparliamentary.	29	
	30	

<p>-The words "People are creating terror under the cloak of elected Members"—cannot be used.</p>		
<p>-The word "bullies" is not unparliamentary.</p>	31	
<p>-The usage of the words "senseless and unholy effort" is not proper.</p>	32	
<p>-The usage of the words "caused disreputation" is not proper.</p>	33	
<p>-The word "dice" is unparliamentary.</p>	34	
<p>-The words not in consonance with refined taste cannot be used in the speech.</p>	35	
<p>-Proverbs aimed at injuring the feelings of others cannot be used in the House.</p>	36	
<p>-The words "The exorcist is swaying his head" are unparliamentary.</p>		
<p>--Matter concerning the Central Government The matter concerning the Central Government cannot be discussed in the House.</p>	37	
<p>--Absent Person Even though the Member is absent, reply to his speech</p>	38	

can be given.		
Personal criticism of a Member cannot be made in his absence.	39	
--Literature to be given to the Press Reporters Obtaining Member's signatures for Personal Business	40	
--Speech It is unfair to use the words based on presumption which may cause contempt of the House.	41	
--Minister's Right The Minister has a right to read the statement in the House.	42	
--Absence of the Minister During the discussion on Demands, the concerned Minister should remain present in the House.	,३	
--News Papers It is not proper to say about a Member that he is speaking with an intent of achieving political milage of publicity in the press	44	
--Appeal for Peace and Co-operation. Silence cannot be observed at the end of	45	

<p>Motion for Peace and Co-Operation.</p> <p>--Intervention in General Discussion. On the first day of the general discussions on Budget, the Minister should not intervene in the discussions.</p>	46	
<p>No-Day-Yet Named Motions:-</p> <p>--Time Limit of the Notice Speaker has powers to relax the time-limit of the notice of a motion.</p>	47	
<p>Zero Hour:-</p> <p>--Decision of the Speaker Even though the concerned Hon. Minister has given his consent to raise the point on longtime pending demand, the same cannot be raised in the zero hour.</p>	48	
<p>--Permission and Consent Permission of the Speaker and consent of the Minister are necessary to raise the point in Zero Hour.</p>	49	
<p>ଶିକ୍ଷଣ :) ଶିକ୍ଷଣ</p> <p>Raising important questions in Zero Hour.</p>	50	
<p>Order of the Day :-</p> <p>--Items not Included in the Order</p>		

Discussion can not be made without the consent of Hon.	51	
the Speaker on Items not included in the Order of the		
Day.	52	
Dress:-		
(1) Dress put on for the purpose other than ceremony		
can be considered as exhibition.	53	
(2) Dress worn permanently cannot be classified as		
exhibition.	54	
Calling Attention Notice:-		
--Serious Matter		
When the police is involved in robbery, the matter of	55	
public importance becomes urgent and serious.		
ढढ.गुडुडुडु डुडुडुडुडुडु		
नः-रुडुडुडुडुडुडुडुडुडुडुडुडु		
It is the Minister's right whether to give or not to give	56	
any information in the public interest.		
--Admissibility	57	
When the notice is at the stage of admission in the		
House, no point as to its admissibility can be raised in the		

House.		
Point of Order:-		
--Office of the Chief Minister		
Even though a person is not a Member of the House, he	58	
can act as a Chief Minister under Article 177 of the		
Constitution.	59	
Questions :-		
--Information not Authorized		
With a view to giving as much information as possible to		
the House, if the Minister gives unauthorized information before the House, there is nothing wrong	60	
in it.		
--Questions pertaining to Business	61	
Member associated with any business or occupation		
cannot ask questions for his personal interest in that		
business.	62	
--Minister's Note on the Letter		
Any note made by the Minister on the letter cannot be	63	
made public.		
--Supplementary Questions		
Supplementary question should be asked		

without giving examples.	64	
--Raising Point of Order Point of Order Inconsistent with Rules and Precedents cannot be raised.		
--Care to be taken by the Minister (1) Ministers should take care while giving replies during Question Hour. (2) Members/Ministers should not comment during Question Hour.	65	
ಬೆಂಗಳೂರು Other Members of the Opposition Party should not rise when the Leader of the Opposition is asking questions.	66	
--Absence of Member Public Interest (1) Even though a Member is absent, if the Minister thinks that it is in the public interest to give information of that Member's questions to the House, he may do so. (2) No Member can transfer his right to ask question to other Member.	67	
--Suggesting Member's name as Minister	68	

<p>It is not proper to suggest in the House the name of a Member to be included in the council of Ministers.</p>		
<p>--Standards to be maintained by Members. It is not proper for a Member to ask question as soon as a person approaches and makes representations before him. it must be completely examined.</p>	69	
<p>--Point for Clarification Liability to collect information</p>	70	
<p>While giving reply, the Minister cannot say that "the government has got many works to do."</p>	71	
<p>Motion:- --Statutory Motion Motion brought without giving notice. Speaker has powers to reduce the notice period or to waive it.</p>	72	
<p>Private Member's Resolutions: --Voting Member giving his vote by sitting on somebody else's seat, that vote shall not be treated as valid.</p>	73	
<p>Minister:- --Statement to be made by the Minister The statement to be made by the Minister under</p>	74	

rule 44		
on Matters of Public Importance should be generally	75	
limited to Policy matters. It should not be in the form of		
details published earlier in the newspapers.		
--Resignation of a Minister (Rule – 107)		
(1) In a statement giving explanation for his resignation, the Minister resigning can mention the work he has done.	76	
(2) In the statement to be made under Rule-107, matter of Cabinet secret or of national interest should not be included.		
	77	
Hon. the Governor:-		
--On Conduct		
No discussion on Governor's conduct can be made in		
the House.		
	78	
Governor's Address:-		
Motion of Thanks:-		
⌘Distribution of Copies of the Address		
Distribution of copies of Governor's address can be	79	
made only after the Governor's Address is complete		
and is signed and laid on the Table of the House.	80	
--Nature of the Motion		
(1) The Governor's Address should contain the		

<p>reasons for summoning the Assembly Session, but if it has not so happened, it cannot be established that the address is unconstitutional or does not deserve the Motion of Thanks. Moreover, there is no harm in</p>	81	
<p>discussing and passing of the budget even though</p>	82	
<p>there is no mention of it in the Governor's Address.</p>		
<p>(2) The nature of the Motion of Thanks on the Governor's Address cannot be different from that provided in the Rules.</p>	83	
<p>--Absence of Ministers</p>		
<p>(1) Even after having been warned once, the Ministers remain absent and they have to be summoned – this is not at all fair. House is the most important institution. They should express regret humbly.</p>	84	
<p>(2) When the Speaker is speaking, no Minister or a Member should take his seat on entering the House.</p>	85	
<p>--Conduct of a Minister</p>		
<p>It is not desirable if a comment is made from the Council</p>		
<p>of Ministers when any Member is speaking.</p>	86	
<p>--Precedent of the House</p>		
<p>Each House has its own precedents and each House</p>		
<p>enjoys freedom in it.</p>		
<p>--General Discussion</p>		

<p>As the discussion on Governor's Address is of general nature, a member can take part in it even if he has not given any amendment.</p>	87	
<p>Ordinance:- --Amendments on Ordinance Adequate care should be taken by the Government before putting the corrigandum on Ordinance on the table of the House.</p>	88	
<p>Legislature Secretariat:- --Pigeon Holes The Legislature Secretariat does not read the Members letters that are put in the pigeon holes.</p>	89 90	
<p>Bills:- --Allegations It is not proper to say that the Member has brought the Bill for publicity.</p>	91	
<p>--Enacting Formula Introducing—</p>	92	
<p>(1)As amendment making inclusion of enacting formula in the amendment Bill is obviously for rectifying the mistake, the same can be presented.</p>	93	
<p>(2)Permission to publish the Government Bill in</p>		

<p>the Gazette before it is introduced should be sought in exceptional cases only.</p> <p>--Statement Showing Objects and Reasons.</p> <p>Objects and Reasons for bringing the Bill must be given</p> <p>in the statement completely and clearly.</p> <p>--Scope for Discussion</p> <p>When a Bill is brought before the House with specific</p> <p>purposes, the debate on the Bill should be restricted to</p> <p>those purposes only.</p> <p>--Third Reading</p> <p>No question can be asked after the motion to read the</p> <p>Bill for the third time is moved</p> <p>--Admissibility</p> <p>A Government bill not mentioned in the Governor's</p> <p>address cannot be stalled from introducing in the House.</p> <p>--Recommendations made by 'Paage Committee'.</p> <p>If there is no mention of any Bill in the Address of the</p> <p>Governor and the government wants to introduce it in</p> <p>the House, it should take into consideration the recommendations made by Paage Committee.</p>	<p>94</p> <p>95</p> <p>96</p> <p>97</p> <p>98</p>	
---	---	--

--Motion to Read the Bill for the First Time.

When a Bill has been introduced by one Minister, another Minister can move the Motion to read it for the first time.

--Time Limit for first Reading.

While taking part in the discussion on Bills, the Members should think of their fellow members in matters of time.

--Absence of Members of Council of Ministers.

There should be such a co-ordination that at least one of the Members of the Council of Ministers remain present during the discussion in the House.

--Right of the Minister .

It is the right of the Minister to decide what information should be given to the House during the speech on the first reading of the Bill.

--Competency of Legislature.

According to the established precedents Speaker does not decide whether the Legislative Assembly is competent to pass the Bill.

Questions of Breach of Privileges:-

--Wrongful Information

(1) If a Member or a Minister gives wrongful information willfully, the breach of Privilege of the House takes place.

(2) When a clarification on the Point of Breach of privilege is sought by the Speaker, the Chief Minister or any other person concerned must give such clarification without delay.

Discipline:-

--Announcement of New Council of Ministers

At the time of announcement of New Council of Ministers, the Ministers should remain present in the House.

Condolatory Reference:-

--Etiquette

The Members or the officers of the Government should not leave their seats at the time of Condolatory Reference.

Members should not leave the House during the discussion on Condolatory Reference.

Session:-

--Summoning the Session

Session can be summoned at Short Notice by intimating the Members on their Official Addresses.

House:-**--Demonstration**

No sort of demonstration can be made in the House.

--Right to Decide the Time of the Sitting

It is the right of the Speaker to decide the time of the sitting of the House.

--Entry in the Lobby and the Lounge

No one has a right to enter without permission the lobby and prohibited area.

--Sitting of the House

When the sitting of the House is considered duly constituted.

Though the time to adjourn has elapsed, the sitting of the House is considered duly constituted until the announcement that "The sitting of the House is adjourned" is made from the Chair.

Member:-**--Information received by Member himself**

When the Member has received the information personally, and gives it to the Minister, the concerned

Minister should get the matter examined.

<p>--Conduct of Member.</p> <p>Members should refrain from using inappropriate language while sitting on their seats.</p> <p>Committee:-</p> <p>--Assigning Investigation to another Committee.</p> <p>A matter given for investigation to a Committee cannot</p> <p>be assigned to another committee.</p> <p>Cellular Phone:-</p> <p>--Point of Order</p> <p>Cellular Phone should not be brought in the House.</p>		
--	--	--
