



सत्यमेव जयते

Government of Gujarat

IMPORTANT DECISIONS OF THE HON'BLE SPEAKER

IN THE GUJARAT LEGISLATIVE ASSEMBLY DURING
THE PERIOD FROM 1960 TO 2020
(COMPILED)



Published under the authority of the Gujarat Legislative Assembly
Gujarat Legislature Secretariat
Viththalbhai Patel Bhavan, Sector-10,
Gandhinagar-382010.





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The Chair of the Hon'ble Speaker



The Chair of the Hon'ble Speaker in the Gujarat Legislative Assembly has a Royal History. When the Saurashtra Legislative Assembly was constituted, the former Maharaja of Dhrangadhra State Shri Rajmehrajji (Mayurdhwaj Sinhji) presented a beautiful Chair befitting to the status of the Speaker, from his collection. Thereafter, when the Saurashtra State was merged with the Mumbai State in 1956, this Chair was handed over to the P.W.D. Thereafter, since the establishment of the Gujarat State in 1960, this Chair is being used as the Chair of the Hon'ble Speaker of the Gujarat Legislative Assembly.



Dr. Nimaben Acharya
Hon. Speaker, Gujarat Legislative Assembly

**Former Hon'ble Speakers of Gujarat Legislative
Assembly**



Shri Kalyanji V. Mehta
(Education : Teacher's Training Certificate, Third Year)
Dt. 01/05/1960 to 19/08/1960



Shri Mansinhji Rana
(Education : B.A., LL.B, at Law)
(Occupation : Lawyer)
Dt. 19/08/1960 to 19/03/1962



Shri Fatehali Palejwala
(Education : B.A., LL.B)
(Occupation : Mamlatdar, Deputy Collector and Lawyer)
Dt. 19/03/1962 to 17/03/1967



Shri Raghavji Leuva
(Education : B.Sc, LL.B)
(Occupation : Probationer Magistrate Civil Judge,
Judicial Officer, Advocate)
Dt. 17/03/1967 to 28/06/1975



Shri Kundanlal Dholakia

(Education : B.A., LL.B)

(Occupation : Lawyer)

Dt. 28/06/1975 to 28/03/1977 and Dt. 21/04/1977 to 20/06/1980



Shri Natwarlal Shah

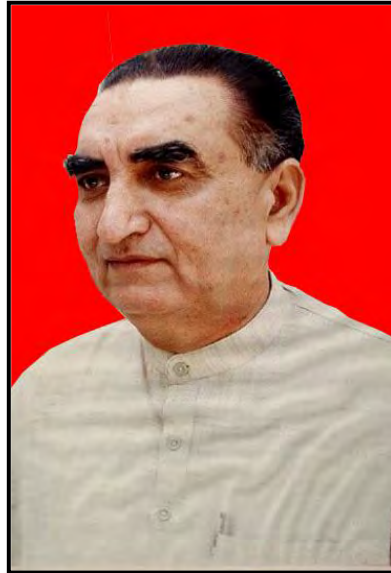
(Education : LL.B)

(Occupation : Visiting Professor of Labour Welfare Studies)

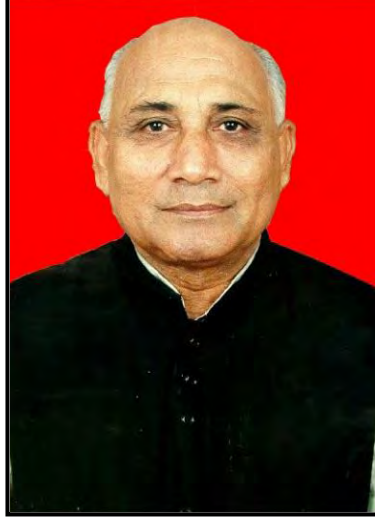
Dt. 20/06/1980 to 08/01/1990



Shri Barjorji Pardiwala
(Education : LL.B)
Dt. 19/01/1990 to 16/03/1990



Shri Shashikant Lakhani
(Education : LL.B)
Dt. 16/03/1990 to 12/11/1990



Shri Himatlal Mulani
(Education : B.A., LL.B Vinit (Hindi),
Sahitya Bhushan in Sanskrit)
Dt. 11/02/1991 to 21/03/1995



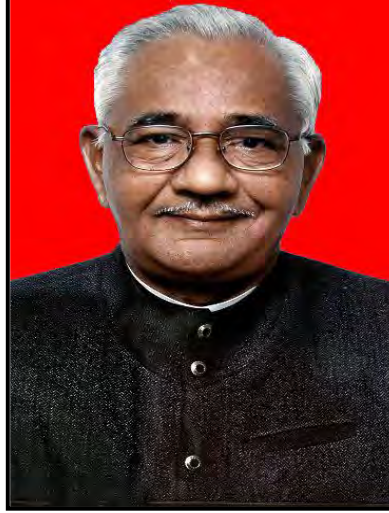
Shri Harishchandra Patel
Dt. 21/03/1995 to 16/09/1995
(Education : B.A., LL.B)
Occupation : Legal Practice



Shri Gumansinhji Vaghela
(Education : B.A., LL.B)
Dt. 19/10/1996 to 19/03/1998



Shri Dhirubhai Shah
(Education : B.Com., LL.B)
(Occupation : Visiting Professor of Management Studies)
Dt. 19/03/1998 to 27/12/2002



Prof. Mangalbai Patel
(Education : B.Sc (First Class), M.Sc (Botany)
(Occupation : Teaching)
Dt. 27/12/2002 to 17/01/2008
Dt. 30/09/2010 to 24/02/2011



Shri Ashok Bhatt
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Dt. 19/02/2018 to 16/09/2021



Dr. Nimaben Acharya
(Education : M.B.B.S., D.G.O., M.D. (Gynec & Obstetric))
(Occupation : Doctor)

PREFACE



In a Parliamentary Democracy, the Legislative Assembly occupies the highest position and it is a living institution. With the change of times, complex questions come up during the course of conduct of business of the House. Under Article 208 of the Constitution, the Gujarat Legislative Assembly Rules 1960 have been framed for conducting the proceedings of the House. After framing the rules, due to increase in the sphere of activities of the government administration, amendments have been made in the said rules with the changing needs in order to establish effective parliamentary control over the government administration. However, sometimes when new questions arise during the conduct of the proceedings of the House, the Speaker has to make decisions keeping in view the basic principles of Parliamentary Democracy in the absence of clear provision in the rules for such questions. Such decisions given by different Speakers from the Chair since the establishment of the Gujarat Legislative Assembly have been taken from the books of proceedings and printed periodically in book form for future guidance and use of those interested in the parliamentary field. As in the courts, the decisions of the Judges are followed, in the same way the decisions given by the Speakers in the House are also followed. Likewise, the decisions of the Speaker of the House of Commons in England are considered as an important source of parliamentary practice and procedure of the House, the decisions of the Speakers of the Indian Houses are also considered as an important source of parliamentary procedure of the Houses and are followed in future.

During the period from 1960 to 2020, i.e. from the First to Fourteenth Gujarat Legislative Assembly till its seventh session, 19 different ingenious Hon'ble Speakers gave important decisions in the House, which have been published in the form of four different books (1960 to 1984, 1985 to 2002, 2003 to 2007 and 2008 to 2012). Thereafter, the decisions given in the House during the period from 2013 to 2020 have also to be published which is a legacy of the rich parliamentary experience of all those Hon'ble Speakers. While some of the decisions from the Chair during the period from 1960 to 1984 have been incorporated in the rules from time to time, some of the decisions have become irrelevant due to changes in the procedure. Therefore, it has become necessary to cancel such decisions from the books. Moreover, to find out the decisions given by the Speakers on a particular subject of parliamentary procedure, one has to refer to four different books of rulings of Speakers which may not have the same indexes of decisions, making it difficult to find out a context for a decision on a particular subject and it becomes time consuming, especially while searching for an immediate reference to an issue arisen during the conduct of proceedings, which leads the Hon'ble Members to face more difficulties. In this respect, first of all, a representation was made before the then Hon'ble Speaker Shri Ramanlal Vora and he took a decision in October, 2017 to remove all the aforesaid irrelevant decisions and publish all the remaining decisions in the form of an integrated book. Meanwhile, with the dissolution of the Legislative Assembly and subsequent formation of the new 14th Gujarat Legislative Assembly, the Hon'ble Speaker Shri Rajendra Trivedi with an unprecedented determination took a unique decision and with his guidance and inspiration, the consolidation of the decisions during the period from 1960 to 2020 could be accomplished taking it as a campaign and as a result, this book could be published first in Gujarati. After the publication of the Book in Gujarati, the present Hon'ble Speaker Dr. Nimaben Acharya took a decision to publish the said book in English for mutual exchange of the decisions from the Chair among various Legislatures of India and also provided valuable guidance and inspiration in the preparation of the Book in English version.

In this book, after removing total number of 271 decisions, which have been either included in the G.L.A. Rules from time to time or decisions which have been included in the book of unparliamentary words, as well as the decisions in which the nature of subject matter is either similar or included in other decisions or contradictory to other decisions, the remaining 530 decisions have been included so that the reader can easily find out a reference to the ruling on a particular subject by looking at the index and making a comparative study of the decisions given under different contexts on that subject.

Mrs. Rita Mehta, Deputy Secretary holding the charge of Table Branch was given the whole responsibility of the Gujarati Version of this Book. The responsibility of publishing this book in English was entrusted to Mrs. Kavita Pancholi, Deputy Secretary and Ms. Dipti Munia, Under Secretary, holding the charge of Table Branch. They did their job sincerely with the co-operation of Mrs. Neha Suthar, Section Officer, Shri C.H. Malivad, Dy. Section Officer, Shri Divyarajsinh Vaghela, Office Assistant, Smt. Pooja A. Raval, Office Assistant, Table Branch and also the Translation Branch within a short period for which they deserve appreciation.

I wish this compilation of important decisions of the Hon'ble Speakers will be useful to the present and future generations of Gujarat. Hope, those who are interested in Parliamentary practice and procedures particularly, MLAs, Elected Representatives of Local Bodies, Experts in Political Science, Researchers, Students, etc. will find this compilation useful.

**Gujarat Legislature Secretariat,
Viththalbhai Patel Bhavan,
Sector - 10, Gandhinagar.
Dt. 20-04-2020.**

**D. M. Patel
Secretary
Gujarat Legislature Secretariat**

INDEX

<u>CHAPTER-1</u>		
<u>Summoning the session, oath by Members, seating arrangements for Members, election of the Speaker / Deputy Speaker, entry into precincts / lobby / galleries, powers of the Speaker, leader of the House.</u>		

RULING NO.	SUBJECT	PAGE NO.
1	2	3
1	<u>Summoning the Session</u> Session can be summoned at Short Notice by intimating the Members on their Official Addresses.	01
2	<u>Oath by Members</u> (1) Members must take oath or pledge before taking his or her seat in a newly formed State.	02
	(2) Procedure of oath must be taken up as per the prescribed chronology.	02
3	<u>Seating arrangements for Members</u> (1) No Member can make a change in the arrangement of seats made by the Speaker, without the consent of the Speaker.	03
	(2) Members must sit on the seats prescribed for them and rise to speak from there.	04
4	<u>Election of Speaker / Deputy Speaker</u> (1) The purpose of leading the Speaker-elect to the Chair of the Speaker.	04
	(2) Non-allotment of the post of Deputy Speaker to an Opposition Member does not amount to violation of any provisions of the Constitution, Practice or Assembly Rules.	05
	(3) Addressing the Member conducting the proceedings while presiding over the sitting of the House.	06
	(4) The other business of the House should be taken up only after the Election of the Speaker.	07

RULING NO.	SUBJECT	PAGE NO.
1	2	3
5	<u>Entry into the precincts / lobby / galleries of the House.</u>	07
	(1) No outsider can enter into the lobby of the House.	
	(2) The Officer belonging to the Police Department can also sit in Officers' Gallery.	08
	(3) No one has a right to enter into a lobby and restricted area of the House without the permission.	08
	(4) 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.	09
	(5) When the Speaker is speaking in the House, the Officers in the Officers' Gallery should not make any movement.	10
	(6) 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.	11
	(7) Policemen can visit / enter Legislative Assembly Building as a common citizen.	12
	(8) Police Officers cannot enter the precincts of the Legislative Assembly Building.	13
	(9) Defending creation of crowd in the jurisdiction of the House by the Members is not proper. The police has to take care in this regard.	13
	(10) Keeping in view the use of the entire new Legislative Assembly Building, until the Speaker decides the precincts of the new Assembly Building, any person or any organization cannot use it for public ceremony or any other function.	14
	(11) Nobody can hold a public meeting in the Legislative Assembly compound since the same is a part of the precincts of the House.	15

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(12) The Speaker cannot interfere in restricting or detaining the striking employees of the Legislature Secretariat from entering the premises because the Speaker is subject to the Law enacted by the Legislative Assembly.	15
6	<u>Powers of the Speaker.</u> <u>(A) Right to determine the timing of the sitting of the House</u>	16
	(1) The speaker can call a sitting of the House under the power conferred by rule-4, even though it was not decided in Business Advisory Committee.	
	(2) It is the right of the Speaker to determine the timing of the sitting of the House.	17
	(3) It is the right of the Speaker to decide the time of the sitting of the House.	18
	(4) Though the time to adjourn sitting of the House 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.	20
	<u>(B) Power to adjourn a sitting of the House.</u> The House should be adjourned when an item shown in the List of the Business for the Day does not exist.	22
	<u>(C) The right to arrange / modify business of the House.</u> (1) A prior permission of the Speaker has to be obtained if an item not shown in the List of Business for the Day is to be presented.	27
	(2) An issue regarding the item not shown in the List of Business can be raised with the permission of the Speaker.	27
	(3) Before taking up the bills as per the priority Nos. shown in the List of Business for the Day, the Govt. with the consent of the speaker, can give a priority to the bill replacing the ordinance for the discussion in the House by making changes in the priorities of the bills.	28

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(4) After the discussion and voting on demands other business can be taken up in the House with the permission of the Speaker.	28
	(5) Discussion cannot be made without the consent of the Speaker on Items not included in the Order of the Day.	29
	(6) The subject which is not there on the list of business cannot be discussed.	30
	<u>(D) Power to conduct the proceedings of the House.</u>	30
	(1) After the ruling of the Speaker, discussion cannot be made regarding the interpretation of a rule.	
	(2) It is the function of the Speaker, to restrict matters not falling within a rule.	31
	(3) Speaker has the right to decide the methodology for conducting the proceeding of the House.	31
	(4) Certain responsibilities have been assigned to the Speaker by rules of the House.	32
	(5) Before raising any point in the House after the Question Hour, prior permission of the Speaker should be taken.	32
7	<u>Leader of the House</u>	33
	(1) The Chief Minister, as the Leader of the House, has an important role in the smooth conduction of the proceedings of the House. He can intervene in the debate and guide the House.	
	(2) Even though a person is not a Member of the House, he can act as a Chief Minister under Article 177 of the Constitution.	34
	(3) As the Leader of the House, the Chief Minister can assign his responsibility to another Minister.	37

<p><u>CHAPTER-2</u></p> <p><u>General Rules of Procedure</u></p>
--

RULING NO.	SUBJECT	PAGE NO.
1	2	3
1	<p><u>Restrictions on utterances during discussion in the House:-</u></p> <p>(1) The Quotations of the press cannot be quoted from the book of compilation of extracts of the news published in the press.</p>	39
	<p>(2) When an information published in a newspaper is quoted in the House, the responsibility of its authenticity rests with the Member.</p>	39
	<p>(3) While quoting a quotation, the name of a book, the name of the author, page number etc., should be mentioned.</p>	40
	<p>(4) Any matter from a newspaper cannot be read out in the House.</p>	40
	<p>(5) Reference based on newspaper report cannot be spoken.</p>	40
	<p>(6) It is not proper to say about a Member that he is speaking with an intention of achieving political mileage or publicity in the press.</p>	41
	<p>(7) Social Media cannot be mentioned.</p>	41
	<p>(8) Before making criticism on the basis of a report of a newspaper, a Member should ensure its authenticity.</p>	42
	<p>(9) A provision in the Rule is that Members should make a primary inquiry and ascertain with regard to whatever statements they make in the House.</p>	43
	<p>(10) Proverbs aimed at hurting the feelings of others cannot be used in the House.</p>	43
	<p>(11) (A) Reference of a person's name who is not present in the House cannot be made. (B) Referring the names of some anti-social elements in the House is permissible.</p>	44

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(12) Talks of the party meeting cannot be mentioned in the House.	44
	(13) References cannot be made on the Secretary of Parliamentary Affairs Department sitting in the Officers' Gallery.	45
	(14) Mention of a person sitting in the gallery cannot be made.	46
	(15) Mention of an outsider cannot be made in the House.	46
	(16) No mention regarding the Canteen running under the administrative control of the Legislature Secretariat can be made in the House.	46
	(17) Utterances about an employee of the Legislature Secretariat cannot be made in the House.	47
	(18) It is not proper to state that the information given by the Minister is false.	47
	(19) A mention regarding the personal matter of the Speaker cannot be made.	48
	(20) "The Government is acting as if it is above the Judiciary" such kind of statement creates inferior impression of Executive than to Judiciary.	48
	(21) Members should refrain from raising the discussion of matters in the House which are under the jurisdiction of a constitutionally Autonomous Body like the Election Commission."	49
	(22) It is not proper if a Member makes an announcement regarding his intention, which is not related to the business of the House.	50
2	<u>An opportunity to participate in the debate.</u> (1) The Member who wishes to participate in the debate should remain present in the House to listen to the speeches made by the Members earlier.	51

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(2) The former Ministers are given priority over the Members in participating in the debates.	52
	(3) Any Minister including Parliamentary Secretary can participate in the debate.	52
	(4) Like Parliament, now onward Members of ruling party and opposition have to follow the standard of Pro-rata to take part in the discussion in the House.	52
3	<u>Reply to the debate.</u>	53
	(1) It is not a rule that all the issues raised during the debate are to be replied by the Ministers.	
	(2) A Minister is not bound to reply all the issues.	54
	(3) It is the Minister, who has to decide as to which issues are to be replied, out of the issues raised by the Members.	54
	(4) Despite a Minister being present in the House, a Deputy Minister may reply to the discussion.	54
	(5) No discussion can be made in the House with regard to the genuineness of the information provided by the Minister but in that regard one should meet the Speaker.	57
	(6) It is the Minister's right whether to give or not to give any information in the public interest.	57
4	<u>Repetition of the debate.</u> If a debate has been made on the comprehensive policy of the Government on a certain issue, then it cannot be taken up again.	58
5	<u>Interruption while Speaking.</u>	58
	(1) When a Member is speaking, no other Member can speak in the middle except for a point of order.	
	(2) When a Member is speaking, other Members can speak in the middle only after seeking either a point of information or a point of explanation.	59

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(3) A personal explanation can be made only after the discussion on the matter on hand is over.	59
	(4) A point of information regarding a motion can be raised only after the motion is moved in the House.	60
6	<u>An allegation during the debate.</u>	60
	(1) No allegation can be made by mentioning a name of an officer of the Government Department or any person.	
	(2) Allegations made on a political party during the debate are pardonable.	61
	(3) No allegation can be levelled against any Institution without giving prior notice to the speaker and the concerned Minister.	61
	(4) There is no custom to produce a letter as a part of evidence of allegations.	62
	(5) Removing personal indictment from the proceedings of the House and asking the Leader of the Opposition to apologize for making personal allegation against the Minister.	62
	(6) A notice should be given in advance to the Speaker and the Minister before making a mention involving an allegation with regard to a person, who is not able to appear in the House and defend himself.	63
	(7) Allegations against a Minister cannot be made without the permission of the Speaker even if the Minister is present in the House.	63
	(8) With regard to making an allegation, when any member of the House informs in advance the type of the allegation to another member against whom the allegation is to be made, there is no need to provide the details of the allegation as per Rule – 37.	64

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(9) A Member should come prepared to produce evidences with regard to the allegations made against the Council of Ministers in the House.	66
	(10) While making an allegation, the member should produce evidence in support of his allegation.	66
	(11) It is not proper to make allegations against the Prime Minister.	67
	(12) No allegation can be made against anyone by mentioning his name.	68
	(13) An allegation cannot be made against the Vigilance Commission.	68
7	<u>Criticism during the debate.</u>	68
	(1) Before making criticism in the House on the basis of a letter, a Member should ensure the authenticity of the letter.	
	(2) No criticism or mention of his name can be made with regard to a person who is not present in the House.	69
	(3) Personal criticism of a Member cannot be made in his absence.	70
	(4) An act done by the Government of other State cannot be criticized.	71
	(5) The Central Government cannot be criticized in the House.	71
	(6) The Central Government cannot be criticized.	71
	(7) The matter concerning the Central Government cannot be discussed in the House.	72
	(8) The Central Government cannot be criticized, but the information, which causes adverse effect to the interest of the State, can be given to the Members of the House by referring to the Central Government.	73

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(9) A mention can be made with regard to the Central Govt. when it is necessary to make such a mention and when there is a matter of fact or evaluation to be presented to the House. The Central Government cannot be criticized.	74
	(10) The Judgment of a Court can be quoted but cannot be criticized	75
	(11) Derogatory words for Judiciary should not be used by a Member while debating in the House.	76
	(12) Functioning of the Legislature Secretariat cannot be criticized.	76
	(13) Ruling of the Speaker can neither be discussed nor criticized.	77
	(14) No allegation or criticism can be made against the Speaker and the Legislature Secretariat.	78
	(15) The Prime Minister cannot be criticized.	78
	(16) Behaviour of the Governor cannot be criticized	78
	(17) No discussion on Governor's conduct can be made in the House.	79
	(18) Discussions cannot be made with regard to the personal views of the Governor.	80
8	<u>Sub-judice Matters</u>	80
	(1) Until the tenure of the inquiry commission expires, no discussion regarding the subject of the inquiry can be made in the House.	
	(2) Matter in respect of which a petition has been filed before the high court cannot be discussed.	81
	(3) A matter placed before a tribunal cannot be discussed in the House.	81
	(4) Supplementary questions can be asked with regard to the facts revealed by the Government regarding the sub-judice matter.	82

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(5) A name of a person should not be publicized until the matter of an offence goes to the court.	83
	(6) Matter of police enquiry cannot become sub-judice.	83
	(7) The House should not express its opinion on the matter which is pending before the Court of Law to enable it to reach its decision independently on the sub-judice matter.	84
	(8) Rule regarding the sub-judice matter is not applicable to the procedure of legislation	85
	(9) The rule of Sub-judice cannot be applied to the Legislative Procedure and to the matter of Law and Order to maintain peace in the State.	86
	(10) Sub-judice matter cannot be discussed in the House.	90
	(11) A matter cannot be considered as sub-judice until it is taken up for hearing by the court.	90
9	<u>List of Un-parliamentary words</u>	91
	(1) The expression "crocodile tears" is un-parliamentary. Yet there is no need to remove it from the proceedings.	
	(2) "Through the power of arrogant and obedient majority" such expression should be used judiciously.	92
	(3) Nothing is objectionable in the statement "Complete structure of those parties have not taken place."	93
	(4) The words "incorrect" or "utter lie" are not un-parliamentary when they are uttered by a Member on whom an allegation is levelled by another Member.	94
	(5) Usage of words "vulgar mentality" with reference to any person is un-parliamentary.	94

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(6) The proverb (As one's doom approaches, wisdom turns illogical") do not constitute an allegation.	95
10	<u>Removing words from the proceedings.</u> (1) In spite of Speaker's request, if a member continues his speech then the speech can be removed from the proceedings.	95
	(2) Making a statement by a member in the House without prior permission of the Speaker by giving a notice, cannot be a part of the proceedings.	95
	(3) Raising issue of walkout by the Deputy Speaker is merely presentation of fact without using any disrespectful words, there is no need to remove it from the proceedings.	96
11	<u>Voting on Motions/Resolutions/Amendments.</u> (1) When a question is decided with a voice vote, then those who are in the majority of the House, their voice vote will be considered as a majority vote.	96
	(2) Member giving his vote by sitting on somebody else's seat, that vote shall not be treated as valid.	97
	(3) Member moving a motion cannot be forced to remain present in the House at the time of taking vote on the motion.	97
	(4) The Tellers can also cast their vote when the division of lobby is sought.	98
	(5) Point of order cannot be raised during the course of division.	99
12	<u>Point of order</u> (1) Point of Order inconsistent with Rules and Precedents cannot be raised.	99
	(2) No point of order can be raised to seek information or legal opinion.	100

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(3) Once a point of order is decided, there cannot be another point of order.	100
	(4) When one point of order is under consideration, another member cannot raise a point of order.	101
	(5) The Member, on whom the point of order is raised, in respect of his behaviour, should be given an opportunity to give an explanation	101
	(6) The Rule meant for point of order should not be misused.	101
	(7) The right of a point of order cannot be misused by interrupting the discussion in the name of a point of order.	102
	(8) Interrupting discussion by raising point of order - Other member can draw attention of the Speaker.	102
	(9) It is not inappropriate, if a member or a minister demands time to express his views on the point of order.	103
	(10) The other member has a right to raise a Point of Order as to whether the speech of the Member, who raised the Point of Order is in order or not.	104
	(11) Before giving a Ruling on a Point of Order, another Point of Order cannot be raised.	104
	(12) A Point of Order cannot be raised with regard to a political speech of a political leader.	104
13	<u>Parliamentary Decorum/Etiquette.</u>	105
	(A) Presence of Members in the House and standards of behaviour.	
	(1) While replying a debate, the members who participate in the debate should remain present in the House.	
	(2) After participating in the discussion, a member should remain present in the House to listen to the reply to the discussion.	105

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(3) Members, who participate in the discussion, should remain present in the House to listen to the reply to the discussion.	106
	(4) A member who participate in the discussion should remain present in the House to listen to the reply to the discussion.	106
	(5) Members participating in the discussion, especially the members, who move the 'cut motion' should remain present in the House to listen to the reply of a minister.	107
	(6) The members-in-charge, who give points during discussion on supplementary appropriation Bill, should remain present in the House.	107
	(7) The members who participate in the discussion should remain present in the House, when the minister gives the reply.	108
	(8) When an item of a member has been shown in the List of the Business for the Day due to his notice, then he should remain present in the house at the time of taking up that item.	108
	(9) Even though the Member is absent, reply to his speech can be given.	109
	(10) No statement can be given to a minister during the discussion through the House.	109
	(11) 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.	109
	(12) A member, while speaking in the House, cannot demonstrate papers by holding them in the hands.	110
	(13) A member should wind up his speech soon after ringing of second warning bell.	110

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(14) After the business of the House is over, no member can sit in the House as a right.	111
	(15) After staging a walk-out, a member may come back in the House.	111
	(16) Having boycotted the House, the Members should not sign in the Attendance Register and should not claim the allowances on moral ground.	111
	(17) During the course of the Hon'ble Governor's address in the House, no member should take his seat in the House.	114
	(18) If a member delivers a speech without the permission of the Speaker, it amounts to contempt of the House.	114
	(19) Other Members of the Opposition Party should not rise when the Leader of the Opposition is asking questions.	115
	(20) Members should refrain from using inappropriate language while sitting on their seats.	115
	(21) If Members create pandemonium in the House and damage the properties, the members causing damages should compensate for such damages.	116
	(22) Clarification cannot be sought in the House with regard to the letter written to the Speaker	118
	(23) It is improper to ask the Speaker to inform as to which words have been expunged from the proceedings.	118
	(24) Everybody should uphold whatever the decision is taken by the Leaders of the Parties regarding the business of the House.	119
	(25) Once the House decides a matter, a member cannot make discussion on the same.	120
	(26) There is no need to express thanks to the Speaker for giving an opportunity to speak.	120

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(27) No document can be read in the House without showing the same to the Speaker in advance.	121
	(28) Even if the ruling given by the Hon'ble Speaker is erroneous, no Point of Order can be raised.	121
	(29) The Speaker cannot take note of whatever happens outside his jurisdiction.	122
	(30) The Speaker cannot intervene in the event happened out-side his purview.	122
	(31) The act of throwing a pincushion by a member in the House is considered to be a stigma.	123
	(32) Under Rule-51 the Speaker may remove a member who disregards the order of the Speaker from the proceedings of the House.	123
	(B) Standards for the Minister's presence and behaviour in the House.	125
	(1) It is not appropriate on the part of a Minister to remain absent in the House at the time of presenting the demands for grants of his department.	
	(2) Even after having warned once, if the Ministers remain absent and they have to be summoned which is not at all fair. - When the Speaker is speaking, no Minister or a Member should take his seat on entering the House.	125
	(3) There should be such a co-ordination that at least one of the Members of the Council of Ministers remains present during the discussion in the House.	127
	(4) At the time of announcement of New Council of Ministers, the Ministers should remain present in the House.	128
	(5) Ministers must be present in the House except important work.	128

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(6) During the discussion on Demands, the concerned Minister should remain present in the House.	129
	(7) In unavoidable circumstances, a Minister can remain absent with the permission of the Speaker during the discussion on a matter of his department.	129
	(8) A minister may remain absent from the House for a personal work as well.	130
	(9) Barring the files and the other literature relating to the business of the House and the files which are very necessary and need prompt disposal, the Minister should restrict seeing files in the House.	130
	(10) If seeing files is necessary, then Minister should first stand up then read the files.	133
	(11) It is not appropriate to demand again in the form of an application the same facts as said by Hon'ble member in the House.	133
	(12) When the Member has received the information personally, and gives it to the Minister, the concerned Minister should get the matter examined.	133
	(13) It is not proper to say that some member talked irresponsibly.	134
	(14) Ministers cannot converse with an officer in the Officers' Gallery.	134
	(C) General	135
	(1) Demonstration or display of any sort is prohibited in the House.	
	(2) No demonstration or gesture can be made in the House.	135
	(3) Dress put on for the purpose other than ceremony can be considered as exhibition. Dress worn permanently cannot be classified as exhibition.	136

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(4) Derogatory and Unparliamentarily utterances damage the dignity and decorum of the House	136
	(5) No one can speak “Jay Hind” at the end of a speech.	137
	(6) Cellular Phone should not be brought in the house.	137
	(7) Silence cannot be observed at the end of Motion for Peace and Co–Operation.	138
	(8) One should show respect towards the pictures which are like symbols of people’s faith and also pride of Gujarat.	138
	(9) Defying a Ruling given by the Speaker amounts to insulting the Chair of the Speaker.	140
	(10) Opinion cannot be expressed against the Ruling of the Speaker.	140
	(11) Incidents occurred within the premises under the authority of the Speaker should be brought to the notice of the Speaker in his chamber.	142
	(12) If the Speaker has, in his chamber, taken a decision to disapprove any notice, then the same matter can be raised in the House with the permission of the Speaker.	142
	(13) Any member may present or ask for further information on the ruling given by the Speaker.	143
	(14) The issues arising out of functioning of the Legislature Secretariat cannot be raised in the House.	144
	(15) No Point of Order can be raised in the House regarding the matter within the purview of the Legislature Secretariat	145
	(16) No photography can be taken in the House without the permission of the Speaker.	146

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(17) (A) It is the responsibility of the people's Representatives to protect the public property of Gujarat. (B) Demonstration in the House by wearing black cloths is prohibited. (C) Member standing in front of the Speaker showing his back is contempt of the House as well as that of the Chair.	147
	(18) Vidhansabha Bhavan should not be used for political disputes.	149
14	<u>The Audit Reports/Annual Reports/Accounts/Notifications/documents to be laid on the Table of the House.</u> (1) The Government should lay in the House the Annual Reports of statutory bodies, budget, Audited Accounts and the Audit Reports thereon on time as per the Rule.	150
	(2) Statements of information of the replies to the supplementary question given by the Ministers should be laid on the table of the House promptly.	151
	(3) Notifications should be laid on the Table of the House on time.	152
	(4) 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.	152
	(5) If the papers to be laid on the Table of the House are not laid on time, then the matter should be brought to the notice of Committee on Papers laid on the Table of the House.	155
	(6) There should be a custom of Tabling the C.A.Gs. Audit report in the week immediately after the presentation of the budget in the House.	156

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(7) Audit Reports should be laid on the Table of the House within a week of the presentation of Budget.	156
	(8) Delay in presenting the Audit Reports of the C.A.G. to the House does not violate any Rules or Practice.	157
	(9) Member cannot insist on laying on the table of the house any document which he himself has read.	158
	(10) Government files cannot be presented in the House from the point of view of public interest.	158
	(11) A Point of Order cannot be raised at the time of laying the papers on the Table of the House.	163
	(12) When the opinion of the Advocate General is laid on the Table of the House in a legal matter, it is not obligatory to call the Advocate General to make a clarification in the House.	164

CHAPTER-3

Governor's Address, Obituary References, Statement under Rule -44.

RULING NO.	SUBJECT	PAGE NO.
1	2	3
1	<u>Governor's Address: -</u>	165
	<u>A. Matters incorporated in the address: -</u> The Reasons for convening a session should be mentioned in the Address.	
	<u>B. Laying a copy of the Address on the table:-</u> The practice of laying a copy of Governor's Address on the table of the House was introduced.	166
	<u>C. The nature of the Motion of Thanks</u> The nature of the Motion of Thanks on the Governor's Address cannot be different from that provided in the Rules.	167
	<u>D. Official Address / Distribution of Copies:-</u> (1) Whatever the Governor has actually said in the House, is considered to be Official.	169
	(2) 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.	170
	<u>E. A Motion of Thanks on the Address and discussion on it.</u> (1) A Motion cannot be moved as an alternative to a Motion of Thanks.	170
	(2) Only a Member of the Ruling Party can move a Motion of Thanks for the Governor's Address.	171
	(3) It is not possible to pass the Motion of Thanks by incorporating the suggestions of the Members or to pass the Motion unanimously.	173
	(4) A policy of any party cannot be discussed during the debate on the Governor's Address.	173
	(5) During the discussion on the address, only broader policy questions can be discussed.	174
	<u>F. Amendments to the Motion of Thanks</u> (1) 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.	174

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(2) The Members who had given amendments to the 'Motion of Thanks' should remain present in the House.	174
	<u>G. General</u>	175
	(1) The Governor's Address is printed in the proceedings as per practice of the House of Commons.	
	(2) According to the custom, Speaker may say Order, Order, during the Governor's Address.	176
	(3) It is not proper for the Chief Minister to use the copy of the Address of the Governor, while the speech is being delivered, even if the Chief Minister is having the same.	177
	(4) Each House has its own precedents and each House enjoys freedom in it.	177
	(5) The Motion of Thanks for the Governor's Address may be shown in the List of Business for the day before the speech is delivered and may be moved in the House on the day the Governor Addresses the House.	178
2	<u>Condolatory Reference.</u>	179
	(1) Controversial or Political issues cannot be discussed on a motion of Condolatory Reference.	
	(2) Condolatory Reference can be made in the House only after the Legislature Secretariat ascertains the authenticity of the news of the death of the MLA.	180
	(3) The Members or the officers of the Government should not leave their seats at the time of Condolatory Reference.	180
	(4) Members should not leave the House during the discussion on Condolatory reference.	181
3	<u>Statement under Rule -44</u>	181
	(1) When the Legislative Assembly is in session and a Minister has to make an announcement of a long term scheme/project for the welfare of State, the Minister can make a statement with the prior permission of the Speaker.	

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(2) Objection cannot be taken against the Minister who has been permitted to make a statement in the House as a part of tradition of maintaining the dignity of the House.	182
	(3) Statement given under Rule-44 does not require to be on a Policy matter.	183
	(4) 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 repetition of details published earlier in the newspapers.	184
	(5) When the Minister gives an assurance under Rule 44 on a matter presented before the House, the Government should consider it seriously and comply with the same.	184

CHAPTER-4
QUESTION-ANSWER SESSION

RULING NO.	SUBJECT	PAGE NO.
1	2	3
1	<u>Question Hour:</u> With the consent of the House, the time consumed during the question hour for swearing it can be extended.	186
2	<u>Admissibility of Questions</u> (1) No issue could be raised in the House regarding the admissibility of a question	186
	(2) When a matter is Sub-judice, incidental questions can be asked by remaining within the judicial limits.	187
	(3) It is not proper to discuss in the House on a decision taken by an Officer regarding a departmental Inquiry.	188
	(4) Questions related to District Panchayats can be asked when the Panchayats get dissolved or superseded.	189
	(5) Questions can be asked on matters falling under the responsibility of the State Government regarding the works undertaken by the District Panchayats.	192
	(6) Before asking questions, the authenticity of the information should be ensured by Member.	192
	(7) Questions should not be asked on the basis of newspapers.	193
	(8) Question as to what is confidential cannot be asked if it is the Government's job to decide what can be confidential.	193
	(9) The Government is not bound to give reasons why it is not in public interest to disclose any matter and it cannot be compelled to do so.	194
	(10) Minister may decline to answer in order to keep certain matters secret in the public interest.	195
	(11) If the Government says that it is not in the public interest to disclose certain information, one should not persistently ask for the information.	196
	(12) Minister may seek protection for not laying a Report in the public interest although he has earlier promised to lay it.	196

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(13) Member should not persistently ask questions to a Minister about the matters which are not in the public interest.	197
	(14) Government has the right to decide whether to disclose the contents of Government correspondence.	198
	(15) The discussions made in the Cabinet are secret, a Member cannot ask about it.	199
	(16) Any note made by the Minister on the letter cannot be made public.	199
3	<u>Criticism on right to ask question/motive/intention:-</u> (A) As Chairman of a Corporation, a member cannot disclose the content of the confidential correspondence made with the Government in the House, but can ask a question about matters relating to administration in public interest.	200
	(B) The purpose of asking a question should be to elicit information from the Government, not to change the Government policy.	200
	(C) A question about amending an Act cannot be asked during the question Hour, information can only be elicited.	202
	(D) The intention of asking questions cannot be criticized.	202
	(E) Inability of a Member to present his Question once the Speaker calls out the question cannot be said to be breach of right of a Member to ask a question.	203
4	<u>Transfer of a question sent to the Department:-</u> The Government has a right to transfer a question.	204
5	<u>Publication of the answer to a question:-</u> (A) Regarding non-disclosure of the details of the outstanding amount from the MLAs for their stay in the Rest House at Ahmedabad as there is a scope for explanation.	205
	(B) The answers to the questions postponed by the Speaker due to absence of the Minister, cannot be made public until the answers thereof are given.	206

RULING NO.	SUBJECT	PAGE NO.
1	2	3
6	<u>List of Questions:-</u> (A) Priority of question is decided by the ballot.	206
	(B) Printing of number of statements along with Starred questions and their Answers	208
7	<u>Speaker's right in conducting the Question Hour:-</u> (A) It is not the function of the Speaker to decide whether the answer is in order or not.	209
	(B) Allowing a Member to ask a supplementary question does not depend upon the number of times he has risen.	209
	(C) Members belonging to the constituency for which the question is asked should be given priority to ask a supplementary question.	210
	(D) There is no curtailment on rights of other Members in the practice of giving priority to Members of the concerned district for asking supplementary questions.	210
8	<u>Personal pecuniary interest of a Member in asking questions:</u> (A) Member associated with any business or occupation cannot ask questions for his personal interest in that business.	211
	(B) A Member should refrain from asking question on matters in which he has personal interest.	211
9	<u>Absence of In-charge Member/Minister:-</u> (1) It is up to a Minister to decide whether to answer the question belonging to an absent Member.	213
	(2) Right to ask question of absent Member cannot be transferred to other Member	214
	(3) Right to ask question of absent Member cannot be transferred to other Member	214
	(4) With the consent of the concerned Minister and the permission of the Hon'ble Speaker any other Member can ask the question in the absence of the Member In-charge of the question and the Minister concerned can give the answer.	215

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(5) In the absence of a Member In-charge of a question, the concerned Minister can answer the question only with the permission of the Speaker. Rule 86 of the Gujarat Legislative Assembly Rules confers this right upon the Minister in public interest.	216
	(6) Questions postponed due to absence of a Minister may also be taken up on a convenient day extending the Question Hour by half an hour.	217
10	<u>Correction in the answer to the question:-</u>	218
	(1) Minister has a right to correct his earlier reply if it is not correct.	
	(2) If the printed reply is to be rectified, the Minister should do so at the outset.	218
	(3) Even if the Minister has corrected his mistake in the printed reply at any stage, the House should accept it.	218
	(4) If the answer is not proper, it should be corrected before commencement of proceedings in the House.	219
11	<u>Answers to the original questions:-</u>	219
	<u>(1) The answers should be in brief and precise.</u>	
	(A) Minister should give brief and precise answers.	
	(B) Starred questions and their answers must be short	220
	(C) Starred questions and their answers must be short	221
	<u>(2) Lengthy answer / information should be laid on the Table.</u>	222
	(A) Instead of reading out the lengthy list, it should be laid on the Table.	
	(B) When a Minister gives the answer mentioning any Governmental Document, he should lay the Document on the Table of the House.	222
	(C) When a Minister mentions about a Government resolution in his reply, either the summary thereof should be given in his reply or the document should be laid on the table of the House.	223
	<u>(3) Minister's responsibility to check the answers prepared by the Department.</u>	223
	(A) It is the Minister's responsibility to check the answers prepared by the Department whether it is proper or not.	

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(B) Minister should take care to avoid discrepancy of information given in the answers to identical questions.	224
	<u>(4) Written submission/demand of time for further information.</u> (A) It is not reasonable for the Minister to demand written statement on the matter which the Member has asked to be investigated through supplementary questions.	225
	(B) Demand for written submission	226
	(C) It is the responsibility of the Minister to provide relevant information to the original question.	227
	(D) If the application received by the Government has not come to the notice of the Minister, he should reply that he will investigate it and do the needful.	228
	(E) If any Member has written a letter to the Government, it is the Government's responsibility to call for and consider it.	230
	<u>(5) Questions seeking information relating to the Minister of the other Department.</u> (A) Except for the Department which the Minister is holding, the information of the other Department cannot be expected from him.	230
	(B) The Minister cannot be compelled to answer the supplementary questions regarding the Department which is not related to him.	231
	(C) The Minister is responsible only to give the information of the question regarding the Department he holds. For the information of the other Department a question should be asked to the Minister in-charge of that Department.	232
	<u>(6) Asking a new notice by a Minister for question seeking information which is not related to the main question.</u> (A) If the Minister does not have the information related to the supplementary question arising from the original question, he has a right to seek a notice.	233
	(B) Asking a notice by a Minister means, a Member should ask a new question.	233

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	<u>(7) Refusal by the Minister to answer the question.</u> (A) The Hon'ble Speaker cannot compel the Minister to give answer if he refuses to answer.	234
	(B) If a complaint made to the Government official has not come to the notice of the Minister and the Minister states in the House that the complaint has not been received, such reply cannot be considered as inappropriate.	238
	(C) After allowing to ask a supplementary question, if the Minister does not rise to answer, it should be understood that he does not want to answer.	239
	(D) Even if the details of a question that the Government has refused to answer have been published in the newspapers, the question should not be allowed to be asked.	240
	<u>(8) A Minister cannot be compelled by the Speaker to answer as per the Member's wish.</u> (A) Minister cannot be compelled to give reply to a question as expected by a Member.	240
	(B) A Minister cannot be guided as to the manner in which a question should be answered.	241
	(C) A Minister should not be expected to give the answer in a way that satisfies a Member.	242
	(D) No Member can impose his views on a Minister to answer the question.	242
	(E) How to give answer to a question does depend upon the Minister. It cannot be the subject of a Point of Order.	242
	(F) A Minister cannot be compelled to give an assurance.	242
	(G) The Speaker cannot compel a Minister to give information in a certain way.	243
	<u>(9) Discussion on the answer given by the Minister.</u> (A) A Minister's answer cannot be debated during the Question Hour.	243
	(B) Debate should be avoided as far as possible during the Question Hour.	244
	(C) Arguments or Debates cannot be allowed during the Question Hour.	244

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	<u>(10) Matter of giving unauthorised information in the answer to the question.</u> (A) With a view to giving as much information as possible to the House, if the Minister gives unauthorised information in the House, there is nothing wrong in it.	245
12	<u>Unsatisfactory answers to questions:-</u> (A) Any Member can complain regarding the unsatisfactory answers of the Ministers.	246
	(B) The Point of Order cannot be raised if answers to questions are not given properly.	246
	(C) If a Minister gives a wrong answer, such a complaint can be made in the Chamber of the Hon'ble Speaker.	247
	(D) If there is any contradiction in the reply given by the Government and the information available with the Member, the matter should be brought to the notice of the Speaker.	247
13	<u>Notice under Rule 92 regarding the discrepancies between the answers to the questions on same subject.</u> A notice of Half-an -hour discussion under Rule-92 cannot be admitted regarding the discrepancies of the information in the answers of questions on same subject.	248
14	<u>Supplementary Questions:-</u> <u>(1) Supplementary question should arise from the Original question.</u> (A) Supplementary questions should arise from the main question.	251
	(B) Supplementary Questions should be short and consistent with the original question.	252
	(C) There is no need to answer after a decision that the supplementary question does not arise from the original question.	253
	(D) When a specific information has been asked by a supplementary question that should only be given.	253
	<u>(2) Supplementary questions should be simple and short.</u> (A) Supplementary questions should be simple and short.	254

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(B) In a supplementary question, not more than one matter should be asked.	254
	(C) It is not appropriate for a Member to make a lengthy speech instead of asking a direct supplementary question.	255
	(D) When the question is of number of applications, separate questions should be asked for individual answers.	255
	(E) When the Terms of Reference is laid on the Table of the House, the relevant questions arising out of it may be asked.	255
	(F) If the original question applies to the entire State, supplementary questions cannot be asked for information of any single unit.	256
	(G) A general supplementary question about all the Units cannot be asked when the fact of any one Unit has been asked in the original question.	256
	<u>(3) Other restrictions with regard to asking Supplementary Question.</u>	257
	(A) During the question hour one should refrain from using expressions of Congratulation/greeting, epithet, ironical expression and criticism while raising supplementary questions.	
	(B) While asking a supplementary question, no letter can be produced in its support.	259
	(C) If a Minister clarifies the answer to a question later on any other day, supplementary questions cannot be asked on it.	259
	(D) Supplementary questions cannot be asked on personal explanations.	259
	(E) A question cannot be asked on the answers given in the Parliament.	260
	(F) Minister should have necessary information to answer supplementary questions.	260
	(G) Ministers should have the information on prospective supplementary questions.	261
	(H) Supplementary questions of cross-examination-type cannot be asked.	261

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	<u>(4) Supplementary Questions to the answer of the Questions with different Priority Numbers.</u> Supplementary Questions can be asked from the answer to the Questions with different Priority Nos.	262
	<u>(5) Time- limit to ask Supplementary Questions.</u> Practically it is difficult to adhere to the time-limit of five minutes to ask Supplementary Questions.	263
15	<u>When can a Question be presented in the House?</u> Until the Speaker calls a Member to ask a question, the question cannot be considered to be presented in the House, even though it is placed in the list.	264
16	<u>A Question cannot be withdrawn after it is presented in the House:-</u> A Question asked in the House becomes the property of the House. Therefore, it cannot be withdrawn after its presentation in the House.	265
17	<u>Raising a Point of Order during the Question Hour.</u> A Point of Order cannot be raised during the Question Hour.	265
18	<u>Matter of timely intimation of readiness of a Minister to answer a short notice question.</u> The Government should inform in time regarding inability to answer within a short time.	266

Chapter - 5

Zero Hour, Calling Attention Notices, Short Duration Discussion, Adjournment Motion, No Confidence Motion, Motion for Removal of Speaker or Deputy Speaker from the Office, Other Motions, Resolutions, Statement of a Member Resigning from the Office of the Minister (Rule - 107).

RULING NO.	SUBJECT	PAGE NO.
1	2	3
1	<u>Zero Hour</u> (1) The dignity of the House will be maintained in a better way by not introducing the practice of Zero hour.	267
	(2) (A) Permission cannot be granted for discussing a matter except the one included in the List of Business for the day. (B) There is no provision for Zero Hour in the Rules of Procedure of the Legislative Assembly and it is not advisable to include it in the Rules.	268
	(3) 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.	270
	(4) Permission of the Speaker and consent of the Minister are necessary to raise the point in Zero Hour.	270
	(5) Matters of recent occurrence can be raised in the Zero Hour.	270
	(6) The issue of clarification regarding the report of the committee constituted by the Central Government can be raised in Zero hour.	271
	(7) The permission of the Hon'ble Speaker and the consent of the concerned Hon'ble Minister is necessary to raise any sensitive matter in the House during Zero Hour.	272

RULING NO.	SUBJECT	PAGE NO.
1	2	3
2	<u>Calling Attention Notice</u> (1) When the notice is at the stage of admission in the House, no point as to its admissibility can be raised in the House.	274
	(2) Point of order cannot be raised against the decision of the Speaker, with regard to admissibility of a Calling Attention Notice.	275
	(3) Priority to ask a question should be given to the Member in whose name the notice has been introduced.	276
	(4) Except in unavoidable and accidental circumstances, the member-in-charge of the notice should remain present in the House at the time the notice being taken on hand.	276
3	<u>Short duration discussions</u> In Rule-114, as per the context "a Minister" means "Ministers".	278
4	<u>Motion for Adjournment of the House:</u> (1) Motion for Adjournment of the House on Hooch Tragedy cannot be admitted when a Notice under Rule-116 has been admitted on the subject of Hooch Tragedy.	279
	(2) While expressing sentiments towards sensitive matters, behavior should be restrained.	280
5	<u>No-Confidence Motion</u> (1) Debate on a Motion of no-confidence in the Council of Ministers - Speaker has the power to decide when to hold.	282
	(2) Declaration of reasons in the House for not allowing Motion of No Confidence.	283

RULING NO.	SUBJECT	PAGE NO.
1	2	3
6	<u>Motion for Removal of Speaker or Deputy Speaker from office.</u> (1) It is not necessary to mention reasons in the Motion for removal of the Speaker from his office.	286
	(2) In order to get the permission of the House for moving of a Motion of removal of Deputy Speaker from his office, first the Member should read the Motion in the House and then the Speaker should read it.	287
	(3) Only the days of the session of the assembly are to be considered while considering the time limit of seven days for holding discussion on the Motion for removal of Speaker.	288
7	<u>Other Motions.</u> (1) The Motion of conveying congratulation to the newly elected President cannot be moved in the House.	289
	(2) A Motion or a Resolution suggesting an amendment in the Rules framed by the State Government as per the power conferred under the Subordinate Legislation may be introduced.	289
	(3) Speaker has powers to reduce the notice period or to waive it.	290
8	<u>Private Members' Resolutions.</u> (1) With the consent of the House, the Speaker may make changes in the time allotted to the Resolutions by the Committee on Private Members business.	293
	(2) Since there is no provision to pass a resolution unanimously, it is not said to have been passed unanimously, but if there is no opposition at the time of voting, the resolution can be considered to have been passed unopposed.	294

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(3) No issue can be raised in the House regarding admissibility of a Resolution admitted by the Speaker.	294
9	<u>Resignation of a Minister (Rule – 107)</u> (1) In a statement giving explanation for his resignation, the Minister resigning can mention the work he has done.	296

CHAPTER - 6

BILLS

RULING NO.	SUBJECT	PAGE NO.
1	2	3
1	<u>Competency of the Legislative Assembly to legislate.</u> (1) No discussion can be made on the illegitimacy of the Bill, once it is passed in the House.	297
	(2) When a violation of rules relating to Legislative Procedure, Parliamentary Practice or Provisions of the Constitution takes place, a Point of Order can be raised that the Bill is out of order.	297
	(3) Neither the Speaker nor the House can decide whether the amendment on a Bill is constitutionally legal or not.	298
	(4) The Speaker does not decide as to whether the House has the right to pass a Bill.	299
	(5) The Speaker does not decide whether the State Legislative Assembly is competent to pass a Bill when the subject matter of the Bill falls within the purview of the Parliament.	300
	(6) According to the established practice, Speaker does not decide whether the Legislative Assembly is competent to pass the Bill.	301
	(7) No Bill can be presented from its introduction or consideration on the point of legislative competence of House.	303
	(8) The Speaker does not make any decision with regard to preventing a Bill either from being introduced or considered.	304
2	<u>Admissibility</u> (1) A Government Bill not mentioned in the Governor's Address cannot be stalled from introducing in the House.	306

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(2) 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.	308
	(3) The introduction and consideration of the Bill replacing the Ordinance cannot be prevented only because of the copies of the same Bill have not been given to the Members before 4 days.	311
	(4) Once a subject has been debated in the House through a Resolution and vote has been taken on it, there is no impediment in bringing a Bill on the same subject in the House.	312
3	<u>Governor's Recommendation</u> (1) If the Amendment to a bill causes additional burden on the consolidated fund, the Governor's prior permission under Article - 207 is to be sought for the Amendment to be introduced in the house.	313
	(2) Governor's recommendation is not required for consideration of such Bill where the question of incurring expenditure from the consolidated fund does not arise.	314
	(3) Since the Government has voluntarily accepted the responsibility to obtain the Governor's recommendation or prior sanction of the President for the Private Member's Bill, the Govt. should sincerely try to obtain the recommendation within the stipulated time.	315
4	<u>Prior-sanction of the President</u> (1) Prior-sanction of the President is required if restriction is to be imposed on the people other than those who have already been restricted by the President's sanction.	318

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(2) As per the provision of Article 255 of the Constitution, if the Speaker thinks a prior sanction of the President is not required for a Bill or an Amendment but if the President thinks that his prior sanction is required, then the article is applicable in such a case.	318
5	<u>Statement of Objects and Reasons.</u> (1) While moving a Bill, the Minister should present a thesis explaining the object of the Bill.	321
	(2) Objects and Reasons for bringing the Bill must be given in the statement completely and clearly.	322
6	<u>Financial Memorandum/Memorandum Regarding Delegated Legislation.</u> (1) There is no need to provide Financial Memorandum alongwith a Finance Bill unless there is any new burden on the consolidated fund.	323
7	<u>Errata/Printing mistake</u> (1) Adequate care should be taken by the Government before putting the corrigendum on Ordinance on the Table of the House.	324
	(2) Bill should be scrutinized properly before its introduction.	325
8	<u>Finance Bill</u> Even before voting for all the demands of the Budget, a Bill to amend the tax structure may be introduced.	325
9	<u>First Reading - Limitations of discussion</u> (1) Though the Ordinance has been challenged in the Court, the Bill thereon can be discussed in the House.	327
	(2) When any matter pertaining to the Ordinance has been challenged in the High Court, then a limited discussion confined to that matter can be made in the House.	329

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(3) While discussing on a Revision Bill / Amendment Bill, the discussion should only be made on the clauses included in the Bill and not on the general policy of the Government, the original Act or on any other matter.	331
	(4) Discussion on an Amendment Bill should be limited to an Amendment proposed to be made.	331
	(5) When a Bill is brought before the House with specific purposes, the debate on the Bill should be restricted to those purposes only.	334
	(6) Two Bills having the same subject but differ in their provisions cannot be debated simultaneously.	334
	(7) A matter once decided by the House, will not be decided again.	335
	(8) When a Bill has been introduced by one Minister, another Minister can move the Motion to read it for the first time.	335
	(9) When the Member-in-charge of the Private Member's Bill does not remain as Member of the House, the other Member of the House can move the subsequent motion regarding the same Bill.	337
	(10) A Member of Select Committee can participate in the discussion of a Bill as reported by the Committee within certain limits.	338
10	<u>Amendments to a Bill</u>	339
	(1) While speaking on the amendment to a Bill, no member can deliver a speech as if it is on the first reading.	
	(2) Government should draft a Bill examining all the important aspects to prevent introduction of last minute amendments	339
	(3) Amendment should be withdrawn only after discussion.	340

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(4) A member does not have right to reply on the debate of amendment to an amendment.	341
	(5) Detailed discussion cannot be made until the amendment is moved in the House	341
	(6) An amendment to the amendment should be moved immediately after the amendment is moved.	341
	(7) Amendments on the Bill repealing against the old Acts 1. Only negative amendment can be proposed on the old laws repealing Bill, which is, against the Rule. 2. No amendment can be proposed on the old Acts mentioned in the Schedule attached with the repealing Bill and old Acts cannot be published as annexures with the repealing Bill.	342
	(8) As amendment making inclusion of enacting formula in the amendment Bill is obviously for rectifying the mistake, the same can be presented.	343
	(9) The Point of Order that the amendment is out of order can be raised even after introduction of the amendment.	346
11	<u>Third Reading of a Bill and Passing it.</u> (1) Discussion on the third reading of a Bill should be adjourned when the Bill has been passed with amendments which are important, confusing, difficult to understand and changing the original form of the Bill.	346
	(2) The Bill is said to be passed by majority until it is known that a member is neutral.	347
12	<u>Reconsideration of Bill</u> As the Bill returned for reconsideration is not a new one, it is not necessary to include it in the Address of the Governor.	347

RULING NO.	SUBJECT	PAGE NO.
1	2	3
13	<u>Withdrawal of a Bill</u> (1) A Bill cannot be withdrawn subject to any condition.	351
	(2) The Bill returned by the Governor for the reconsideration can be withdrawn at any stage.	351
14	<u>Withdrawal of a Section of a Bill</u> A Section of a Bill cannot be withdrawn.	352
15	<u>Language of the Bill</u> Until the House passes the Bill, the Bill cannot be referred to as an Act and its Clause cannot be referred to as Section.	353
16	<u>Mention of headquarter of a University in the Bill setting up a University.</u> It is not necessary to mention The Headquarter of the University in the Bill.	354
17	<u>Bill based on the Report of a Committee.</u> It is not necessary to table the conclusion of the accepted and rejected recommendations in the Report of a Committee when a Bill is based on the Report of the Committee is moved in the House.	356

CHAPTER-7
Financial Business

RULING NO.	SUBJECT	PAGE NO.
1	2	3
1	<u>Budget</u> (1) Budget Literature - Providing the Budget Literature to the Secretary itself means laying it on the table of the House. - If the signature of Secretary of a Department is printed on papers relating to the Budget, then that document can be laid on the table of the House.	357
	(2) The details of contract contingency and non-contract contingency should be furnished separately and figures of previous year should be furnished.	358
	(3) The matters shown in the Budget Publications should be in both languages i.e. in Gujarati and English.	359
	(4) As per the provisions of the Gujarat Fiscal Responsibility Act, 2005, the voluntary disclosure relating to the Statements of Gross Domestic Product of the State are to be given at the current rates.	360
2	<u>Performance Budget</u> The copies of performance budget should be given to the Members before the demands are presented in the House.	363
3	<u>New Services</u> It is not necessary to give details of expenditure on New Services in the Department-wise Budget publication (White Book), if it is within the limit as laid down by the Estimate Committee.	363
4	<u>Corrigendum</u> (1) After the presentation of the Budget, the concerned Department should send the corrigendum of the Budget to the Legislature Secretariat immediately.	365

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(2) The practice of publication of corrigendum of the Budget Publication, three days prior to the day on which the discussions on demands of respective departments are taken up, should be maintained.	365
	(3) The relevant Errata must be given to Members before the matter concerned comes up in the House.	366
5	<u>Speech on Budget</u> Finance Minister can deliver his Budget Speech by sitting in his chair with the permission of the Speaker.	367
6	<u>Leak of Budget</u> (1) It cannot be said that Budget has been leaked if an employee other than an employee of the Finance Department comes to know about the content of the Budget.	368
	(2) It cannot be said that the Budget has been leaked due to the publication of the Performance Budget by any other person.	371
7	<u>Action on the Budget of the Previous Government-</u> (1) 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.	372
	(2) After Vote on Account, it is desirable to present a Revised Budget instead of submitting a Supplementary Demand.	375
	(3) Discussion on Vote on Account must be in General	376
8	<u>General discussion on the Budget</u> (1) Policy matters should be discussed during the general discussions.	377

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(2) General Discussion on the Budget should be made, keeping in mind the guidelines given by the Hon'ble Speaker on the first day of the discussions.	377
	(3) While participating in the General Discussion on the Budget Minister cannot deliver his written speech word to word.	378
	(4) On the first day of the general discussions on Budget, the Minister should not intervene in the discussions.	379
	(5) No rule is violated if a Minister participates in the first day of the General Discussion on the Budget.	380
	(6) It is not expected in the rules that Finance Minister has to reply the general discussion at the end of the discussions.	381
9	<u>Cut Motions on Budget Demands.</u>	382
	(1) It is up to Member-in-charge to decide whether to present the introduced cut-motion in the House.	
	(2) 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.	384
10	<u>Supplementary Demands.</u>	384
	(1) A Supplementary Demand can be presented to write off loans and advances which cannot be recovered without approaching the Public Accounts Committee.	
	(2) Except for the discussion on the content of the demands there should be no discussion on the efficiency of the Government Officials during the discussion on Supplementary Demands.	385
	(3) While discussing the Demands pertaining to Boards / Corporations, the administration of such Boards / Corporations can be discussed.	386

RULING NO.	SUBJECT	PAGE NO.
1	2	3
11	Limitation on the discussion on Appropriation Bill During the discussion on Appropriation Bill, only matters of public importance can be discussed and not the individual cases.	388
12	<u>Guillotine</u> (1) Other Business can be taken up after the Appropriation bill is passed by applying Guillotine.	388
	(2) Point of Order cannot be raised during the Guillotine.	390
	(3) Questions cannot be asked after application of Guillotine.	390
	(4) After guillotine is applied, the House has to sit until the amendments and other questions are put to vote.	390

<p><u>CHAPTER-8</u></p> <p><u>Committees of the House</u></p>

RULING NO.	SUBJECT	PAGE NO.
1	2	3
1	<p>1. <u>Business Advisory Committee</u> (1) The Business Advisory Committee has the right to recommend adjournment of the House for sine die.</p>	392
	<p>(2) If the Business Advisory Committee empowers the Speaker, the new Bills printed by the Government can be shown in the List of the Business for the day even in the absence of the recommendation of the Committee.</p>	394
	<p>(3) A Member of the Business Advisory Committee may raise an issue in the House for clarification on the Report.</p>	395
	<p>(4) The Government Bills which were not mentioned in the Governor's Address can also be taken into consideration on the recommendation of the Business Advisory Committee.</p>	396
	<p>(5) The Committee can recommend to take up Government bills for discussion and also to complete consideration of such bills within the stipulated time limit.</p>	397
	<p>(6) Business Advisory Committee can recommend extension of time of sitting of the House to complete the pending business before the House.</p>	397
	<p>(7) Proceedings of all the Committees including the Business Advisory Committee should be kept secret according to the established practice.</p>	399
2	<p><u>Public Accounts Committee.</u> (1) Purview of examination by the Public Accounts Committee. (2) General provisions pertaining to the Committees are subject to the special provisions made for the respective Committee.</p>	400

RULING NO.	SUBJECT	PAGE NO.
1	2	3
3	<u>Committee of Privileges</u> (1) A Member, on whom the Privileges Committee submitted its report, cannot remain present in the House during its discussion.	402
	(2) A Member of the Privileges Committee may speak against the Report in the House even if he does not attach a note of dissent along with the Report.	402
4	<u>Post of Chairman of Petition Committee</u> Appointment of Dy. Speaker as Chairman of Petition Committee as per the Rule.	403
5	<u>Rulings applicable to all Committees</u> (1) An allegation of intention cannot be made against the Committee of the House.	404
	(2) Even if the Government appoints a Committee for any purpose, a Motion can come up for appointing a Committee in the House.	404
	(3) It cannot be said for the Report of the Committee that "writing criticism for the sake of criticizing."	405
	(4) The discussion on the Report cannot be made, if the Committee has not submitted the Report in the House.	405
	(5) Before examining the Government's point of view if a Committee of the house submits its Report in the House, the Government can make a statement in the House to remove the misunderstanding without referring to the Report of the Committee.	405
	(6) A Report can be referred in the House even if it is not presented in the House and it is provided to the Members and published in the gazette.	407
	(7) During the discussion on the Report of the Committee, instead of repeating its recommendations, making suggestion of other good recommendations will make the discussions useful.	407

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(8) No allegation or imputation can be made against the Committee of the House.	408
	(9) It cannot be stated that the Committee has not given a neutral verdict."	409
	(10) No allegations can be made against a Committee.	409
	(11) Decision of any Committee of the Legislative Assembly cannot be criticized.	409
	(12) Functioning of the Committee cannot be criticized.	410
	(13) Allegation cannot be made against a Committee for the recommendations made in the Report.	410
	(14) Members, who are on the Committee, should not ask questions in the House on matters which are under consideration of the Committee.	411
	(15) A matter given for investigation to a Committee cannot be assigned to another Committee.	412

<p><u>CHAPTER-9</u></p> <p><u>Parliamentary Privileges</u></p>
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RULING NO.	SUBJECT	PAGE NO.
1	2	3
<u>Breach of Privilege</u>		
1	<p><u>Notice</u> Issue of Breach of Privilege cannot be raised without the written permission of the Speaker.</p>	414
2	<p><u>Permission</u> (1) No speech can be made against a permission to raise an issue of Privilege.</p>	414
	<p>(2) No reason can be given to oppose the permission of the House to raise a question of Privilege.</p>	415
3	<p><u>Referring a question to the Committee.</u> (A) (1) The Speaker may refer under Rule 263 a question of Privilege arising out of censoring the reports of proceedings of the Legislative Assembly to the Committee of Privileges without bringing the same before the House for its consideration. (2) Under Rule 263, the Speaker may refer the question of a Privilege to the Committee of Privileges without deciding that a Breach of Privilege is committed prima facie.</p>	416
	<p>(B) An announcement of the matter referring to the Privilege Committee under Rule 253(2) for inquiry on the issue of Breach of Privilege arising out of news published in the News-papers regarding Shri Shankarbhai Chaudhary watching the obscene pictures on his I-pad during the proceedings of the House.</p>	420
4	<p><u>Incidents of the Breach of Privilege/contempt before the House.</u> (1) When an incident of contempt of the whole House takes place and a motion is moved, the discussion on the motion should be given priority suspending the ongoing discussions in the House.</p>	421

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(2) If any Breach of a Privilege is committed before the House, the House may take punitive action without any motion.	421
5	<u>Acts of Breach of Privilege.</u> (1) Publicizing the words expunged from the proceedings amounts to Breach of Privilege of the House.	422
	(2) If a Minister or a Member knowingly and deliberately gives false information, then only it amounts to the Breach of Privilege.	422
	(3) The question of Privilege arises if a Minister instructs an Employee of the Legislature in an intimidating language.	425
6	<u>Mock Assembly</u> (1) Mock Assembly - Parallel Legislative Assembly damages the dignity of the House.	425
	(2) Planning of Mock Assembly should not be done to derogate the status of the Legislative Assembly.	427
7	<u>Power of the House regarding question of Breach of Privilege.</u> The House may also make a final decision on the decision taken by the Speaker regarding the question of Breach of Privilege.	431
<u>Contempt</u>		
	<u>Incidents of Contempt of House</u> (1) Staging walk-out against the ruling of the Speaker amounts to contempt of the House.	432
	(2) Defying the ruling given by the Speaker amounts to contempt of the House.	433
	(3) Staging walkout against the Speaker's Ruling amounts to Contempt of the House	433
	(4) Members of opposition were censured for shouting slogans against the ruling of the Speaker.	434

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(5) Shouting slogans or displaying banners during the course of the address by the Governor amounts to contempt of the House for which the House has the powers to punish.	435
	(6) Setting the copies of the Budget afire, taking out procession with slogan-shoutings and demonstrations in the Assembly Building are acts of contempt.	437
	(7) It is unfair to use the words based on presumption which may cause contempt of the House.	4440
	(8) Bringing Iron Rulers in the House and beating them on the table by the Opposition Members to express their protest amount to contempt of the House.	441
	(9) When a speech is being delivered in the house, if any member obstructs the functioning of the House for a long time, by chanting a dhoon, thumping on the benches or by any other way, he is considered to have insulted the House.	442
<u>Breach of Propriety</u>		
1	<u>Notice of Breach of Propriety</u>	443
	(1) The matter of notice should not be published in the newspapers before the Speaker admits the notice.	
	(2) Notice of Breach of Propriety or Breach of Privilege must be given first.	443
	(3) Speaker should be informed before raising a point of Breach of Propriety.	444
2	<u>Acts of Breach of Propriety</u>	444
	(1) When the House is in session, the Government should make important announcement first in the House instead of giving to the press.	
	(2) Government should announce policy decisions in the House while the House is in session.	445

RULING NO.	SUBJECT	PAGE NO.
1	2	3
	(3) When the sittings of House are adjourned for quite a long time with the consent of the entire House and the Ministers make policy announcements during the interim period, complaint of Breach of Propriety should not be made.	446
	(4) Making changes in the present policy is a policy matter and it must first be announced in the House.	447
	(5) 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.	449
	(6) Publishing in the newspaper, the Letter of Chairman contained in the Report of the Rane Commission before presenting it to the House amounts to Breach of Propriety.	450
	(7) The point of breach of Propriety on the publication of details of a Report in the newspaper cannot be raised before the Report is presented in the House.	451
	(8) Providing details of correspondence between the Speaker and a member to the Media is a Breach of Propriety.	452
	(9) A Breach of Propriety of the House arises by giving details/information contained in C.A.G. Reports to the media before it is presented in the House.	453
	(10) Breach of Propriety arises when the Legislative Assembly building or any part thereof is used as a means of exhibition.	454
	(11) Sitting in the Public Gallery by a Member of the Assembly amounts to Breach of propriety.	456

RULING NO.	SUBJECT	PAGE NO.
1	2	3
3	<u>Acts which cannot be considered as a Breach of Propriety</u> (1) While the House is in session, Minister cannot announce any decision of the Government outside the House.	457
	(2) When an inquiry is being conducted by the Inquiry Commission against an Officer regarding misinformation given to the House, a Breach of Propriety is not committed if the Government does not provide the specific information to the House until the inquiry is completed.	458
	(3) Since the Oath ceremony is not a part of proceedings of the House, if a Member taking the oath talks about the things other than the faith and allegiance to the constitution, it does not constitute a Breach of Propriety.	459
	(4) In the House, if a Minister mentions that he has not made such a statement, then the motion of a Breach of Propriety should be dropped accepting such an explanation.	460
	(5) Re-publishing of information which is once published in the Newspaper does not amount to Breach of Propriety.	460
	(6) An announcement made by the Chief Minister in the meeting of the Ruling Party cannot be treated as a Breach of Propriety.	463
	(7) When the House is in Session, announcement of administrative matter does not amount to Breach of Propriety.	464
	(8) Leaving his seat by the Chief Minister after the request from the Chair to all the Members to take their seats is not an issue of Breach of Propriety.	464

CHAPTER – 1

Summoning the session, oath by Members, seating arrangements for Members, election of the Speaker / Deputy Speaker, entry into precincts / lobby / galleries, powers of the Speaker, leader of the House.

1. Summoning the Session—

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

For summoning the Legislative Assembly at a short notice, Member Shri Sureshchandra Mehta raised a Point of Order on 1st November, 1990 and represented that some Members were not in Gujarat, they had 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 Honourable Speaker (Shri Himatlal Mulani) to give his decision in this regard.

The Honourable Speaker (Shri Himatlal Mulani) 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, the 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 public holidays. Therefore, 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 Vice President acting as 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 decide that this session has met properly.”

(G.L.A. Debates, Book – 60, Col. 165 – 167)

2. Oath by Members

(1) Members must take oath or pledge before taking his or her seat in a newly formed State.

After Gujarat came into existence as a new state on 18th August, 1960, when the Speaker was explaining the procedure of taking oath or pledge in the first sitting of the Legislative Assembly, a Member (Shri Brahmakumar Bhatt) raising a Point of Order stated that as per the Constitution of India and the scheme of the State Reorganization Act, the Members of this Legislative Assembly need not take oath. While making his arguments, Shri Bhatt referred to different sections of the State Reorganization Act and Article 188 of Indian Constitution and pointed the fact that the Members of the Maharashtra Legislative Assembly also did not take the oath. Thereafter, the Leader of opposition Shri Nagindas Gandhi, Minister of Law, Shri Hitendra Desai and Member Shri Mahendra Desai expressed their views.

Minister of Law, Shri Hitendra Desai referring to Article 188 of the Constitution of India, opined about the requirement of taking oath. He informed that as per the scheme of the State Reorganization Act, the old State of Mumbai continued as a State whereas Gujarat became a new State, the requirement of taking oath by the Members of new Gujarat State arisen.

The Hon'ble Speaker (Shri Kalyanji Mehta), after listening to the views expressed by the Members of the Legislative Assembly and the Minister of Law, gave his ruling as follows:--

"I have heard the points raised by the Members and also the points put forth by the Minister of Law. As per the provision of the Reorganization Bill, only allotment of Members of Gujarat has been made. Since the State of Maharashtra is a residuary State, it is evident that the Members of its Assembly are not required to take oath, whereas here in Gujarat, since the new state has come into existence, the oath by the Members is required."

(G.L.A. Debates, Part 2, Book 1, Column 2 to 7)

(2) Procedure of oath must be taken up as per the prescribed chronology.

The Hon'ble Speaker, while elucidating the Members about the practice to be followed with regard to taking oath on 17th March, 1962 stated that as per the practice, first of all Ministers, Deputy Ministers and Parliamentary Secretary of the Chief Minister should take oath and then the female Members and thereafter, the male Members should take oath in the alphabetical orders of

their names. Thereafter, the Secretary of the Legislative Assembly called out a name of Dr. Jivraj Mehta. At that time, Member Shri Brahmakumar Bhatt raising a Point of Order, stated that a provision for chronology of Members for taking oath had not been made either in the Rules of the Gujarat Legislative Assembly Rules or in the Article 188 of the Constitution of India. But as mentioned in May's Parliamentary Practice, priority is given to Members holding special status in the House and he quoted the following extract from the May's Parliamentary Practice:--

"The occupants of the Government front bench are the first to be sworn and after them the occupants of the opposition front bench. When these and any privy councilor not included among them have taken oath, the Speaker calls the other Members present bench by bench giving precedence to the various benchers at his discretion, but as a rule those on his right and those on his left alternatively."

Thereafter, he requested that immediately after Ministers and Deputy Ministers, invitation should be given to the Leaders of Opposition to take oath.

Chief Minister Dr. Jivraj Mehta stated that he had no objection if the procedure is followed as suggested by Member Shri Bhatt.

Thereafter, the Hon'ble Speaker (Shri Mansinhji Rana) gave his ruling as under:--

"In this matter, in India we do not follow all the practices of the House of Commons. In our Lok Sabha and Legislative assemblies changes are made as per our convenience. We have decided this order as per the practice in the Lok Sabha and the current practice in Mumbai and the practice prevailed last time. Yet as stated by the Hon'ble Chief Minister, let us allow these two leaders (Shri Bhailalbai Patel and Shri Ishvarbhai Desai) to take oath after the Ministers and the Deputy Ministers and thereafter conduct the oath taking in announced chronology. "

(G.L.A. Debates, Part 2, Book 5, Column 3)

3. Seating arrangements for Members

(1) No Member can make a change in the arrangement of seats made by the Speaker, without the consent of the Speaker.

On 16th June, 1970, Member Shri Dharmasinh Bhai Patel raising a Point of Order stated that the Whip of Congress Party Shri Indubhai Patel was changing the chits showing the names of the Members and he had removed the chits of Members Shri Narsinhdas Gondhiya and Shri Becharbhai Gajera and

placed them on other seats. He asked the Hon'ble Speaker if anybody had a right to make such a change in the arrangement made by the Speaker.

At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"No Member or Whip of any party should try to make a change in whatever arrangement made by the Speaker for the seats without the consent of the Speaker and, therefore, the chits must remain on the seats as they were. And if this is done by Hon'ble Indubhai without the permission of the Speaker, the same is not reasonable. Moreover, if Hon'ble Members wish to change the seats already decided, they must take the consent of the Speaker as per the practice of the House."

(G.L.A. Debates, Part 2, Book -28, Column 702)

(2) Members must sit on the seats prescribed for them and rise to speak from there.

On 13th July, 1962, the Minister-in-Charge made a statement regarding a matter of urgent public importance. Thereupon, Member Shri Natwarlal Patel raising a Point of Order asked if another Hon'ble Member could sit on the seat allotted to the Whip in the first row. At that time, the Hon'ble Speaker (Shri Fatehali Palajwala) gave his ruling as under:--

"There is no question of point of order in this matter. But it will be more proper if every Member sit always where they used to sit from the beginning and rise to speak from the same seat."

(G.L.A. Debates, Part 1, Book 6, Column 488)

4. Election of Speaker / Deputy Speaker

(1) The purpose of leading the Speaker-elect to the Chair of the Speaker.

On 21st March, 1972, as Shri Raghavji Leuva was unanimously elected as the Speaker of the House, the Chief Minister Shri Ghanshyambhai Oza and the Leader of Congress (Organization) - the Opposition Group in the House lead him (Shri Raghavji Leuva) to the Chair of the Speaker and thereafter congratulated him by the Chief Minister and the other Members and he thanked all the Members for electing him as the Speaker. Thereafter, Member Shri Manoharsinhji Jadeja sought a clarification as to when there was no Opposition Leader, the Chief Minister too was not an elected Member, the Speaker-elect should not have been lead to the Chair of the Speaker by the Chief Minister and Shri Manekalal Gandhi.

The Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"The practice adopted in our country is derived from the practice prevailing in England with modifications. As per the practice in England, the function of deciding the name of the Speaker rests, to a large extent, with the majority party in the House. And they inform the nominee for the post of the Speaker that they wish to elect him as the Speaker. In this situation, it is the right of the nominee for the post of Speaker to choose the Member who will move the motion for election of the Speaker. As per this right, he can suggest the names of Members who will move the motion and also suggest the name of other Member, who will second the motion. And it is the practice in the House of Commons to move the motion for this purpose as per the wish of the nominee for the post of the Speaker. He then chooses the names of such Members, who are his close friends, for the purpose. Therefore, such a question does not arise here.

Secondly, when the election has already been held, it is a practice there that the Members who has moved the motion and who has seconded it, lead the Speaker-elect to his chair. We have a modification here in India and the modification is that the Speaker enjoys the support of all the sections of this House. And to establish it, a leader of the party with a majority in the house and a senior Member from the opposite bench, be it a leader of the opposition or any other Member lead the Speaker-elect to his chair. This manifests that the Speaker is the person who has the confidence of the house and all the Members support the motion. In this way, now in our country, the leader of the opposition and the leader of the house lead the Speaker to his chair."

(G.L.A. Debates, Part II, Book-33, Column 31-32)

(2) Non-allotment of the post of Deputy Speaker to an Opposition Member does not amount to violation of any provisions of the Constitution, Practice or Assembly Rules.

During the Second Session of the Thirteenth Gujarat Legislative Assembly on 3rd October, 2013, Hon'ble the Minister Shri Nitinbhai Patel moved a motion to the effect that Shri Mangubhai Patel, a Member of the Assembly be elected as the Deputy Speaker of the House, which was seconded by the Minister of Parliamentary Affairs Shri Ganpatbhai Vasava. Thereupon, Shri Punjabhai Vansh, an Opposition Party Member also moved a motion to the effect that Shri Shaileshbhai Parmar, a Member of the Assembly be elected as the Deputy Speaker of the House, which was seconded by a Member from the Opposition Shri Mahendrasinh Baraiya.

When the first Motion was put to vote, the Whip of the Congress Party Shri Balwantsinh Rajput raising a Point of Order stated that as per the established tradition followed for years, the Deputy Speakers were selected from the Opposition Party. He added that out of the selection of Eleven Deputy Speakers, nine were from the Opposition and two from independents and, therefore, the selection of the Deputy Speaker must be made from the Opposition according to the established tradition. Thereupon, the Hon'ble Speaker asked the Opposition Whip to cite whether there existed any provision in the Constitution or in the Assembly Rules, but he could not do so. In this regard, Hon'ble Minister of Parliamentary Affairs also expressed his views. Thereafter, the Hon'ble Speaker gave his ruling stating that he had to conduct the business of the House according to the provisions of the Constitution or the established Rules of the House and there was no mention of following the practice or tradition, in the Rules of the Legislative Assembly. Thus, Hon'ble the Speaker rejected the Point of Order raised by the Opposition Whip, stating that non-allotment of the post of Deputy Speaker to an Opposition Member did not amount to violation of any provisions of the Constitution or Assembly Rules.

(G.L.A. Debates, Volume 4, Book:10, 2013)

(3) Addressing the Member conducting the proceedings while presiding over the sitting of the House.

On 8th March, 1978, the Hon'ble Deputy Speaker (Shri Manubhai Palkhiwala) clarified the ruling given on a Point of Order of Shri Arvind Maniyar with regard to addressing Deputy Speaker, when he was in the Chair during the discussion on Demands for Grants on 9th February 1978 and gave his revised ruling as under:--

"While delving deeply in the matter, I found that there is no clarification in rule-13 as to how to address a Member presiding over the sitting of the assembly instead of the Speaker. I have also gone through the provisions in the Rules of the House of Commons and the Lok Sabha. Regarding this, there is no clarification in them, too. There is no clarification in this regard in May's Parliamentary Practice and the Book written by Kaul and Shakhdar, as well. In this situation, the only source to look into as to how to address either Deputy Speaker or a Member of a Panel of Chairman, when he sits in the Speaker's Chair in the House of Commons and in the Lok Sabha is to go through the debates of the respective Houses. While going through the debates of the House of Commons and the Lok Sabha, I found the practice prevailing in the House of Commons, when the Speaker is in the Chair, He is

addressed as "the Honourable Speaker"; when Deputy Speaker is in the Chair, He is addressed as "Honourable Deputy Speaker". And in the Lok Sabha when the Speaker is in the Chair, he is addressed as "the Honourable Speaker" and when Deputy Speaker is in the Chair, he is addressed as "the Honourable Deputy Speaker", whereas when a Member of Panel of Chairman is in the Chair, he is addressed as "Sabhapatishri (Chairman)". Therefore, like the practice prevailing in the House of Common and in the Lok Sabha, it is appropriate to adopt here the practice of addressing Deputy Speaker as "the Honourable Deputy Speaker" and a Member of Panel of Chairman as "the Honourable Sabhapatishri (Chairman)", when either Deputy Speaker or a Member of Panel of Chairman is in the Chair of the Speaker."

(G.L.A. Debates, Part II, Book-58, Column 683-684)

(4) 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 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 was carried out as it had been decided in the Business Advisory Committee. The Chief Minister Shri Madhavsinh Solanki, giving his opinion stated that the Order of the Day was 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 Honourable 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)

5. Entry into the precincts / lobby / galleries of the House.

(1) No outsider can enter into the lobby of the House.

On 16th June, 1970, when the discussion on the Motion of No-confidence in the Council of Ministers was going on, some Presidents of District Panchayats entered into the lobby of Members, Member Shri Jamubhai Bhatt raising a point of order demanded to know as to whether the Hon'ble

Speaker had given permission to the Presidents of the District Panchayats to enter into the Members' lobby?

The Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"I have given the instruction earlier too that an outsider - whoever he may be - is not allowed to enter the Members' Lounge.

If the force of Sergeant-at-Arms is not doing its functions, Sergeant-at-Arms is directed to go and inspect it and clear up all the lobbies."

(G.L.A. Debates, Part 2, Book 28, Column 712)

(2) The Officer belonging to the Police Department can also sit in Officers' Gallery.

During the discussions on the Motion on No-confidence in the Council of Ministers on 20th March, 1969, a Police Officer was sitting alongside other officers in the Officers' Gallery. At that time, Member Shri Martandrai Shashtri raising a point of order as to whether a Police Officer not helpful in the proceedings of the House could remain present in the House without the permission of the Speaker?

The Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"Mr. Chenoy is in the Officers' Gallery and every officer, whatever department he belongs to, has a right and as of right, he is entitled to sit in the Officers' Gallery. There is no encroachment in the House."

(G.L.A. Debates, Part 2, Book 22, Part-D, Column 3622)

(3) No one has a right to enter into a lobby and restricted area of the House without the permission.

On 14th July, 1987, Member Shri Shantibhai Patel while drawing the attention of the Hon'ble Speaker stated that there was such a large crowd of unauthorized persons in the lobby of the House that the Members were facing difficulty in entering into and going out of the House. Minister Shri Mahant Vijaydasaji and the Leader of Opposition Shri Chimanbhai Patel and other Members expressed their views on the matter.

Thereafter, the Hon'ble Speaker (Shri Natwarlal Shah) gave his ruling as under:--

"One thing, all the Members must very clearly understand that area up to the lounge - both gates - gate on this side and gate on that side - all this area is restricted area. Nobody has a right to enter that area without the permission.

Nobody except a Member has a right to enter into the lounge. This is a decision taken by this House and if anybody violates the decision of the House, he is liable for a breach of a privilege of the House. The resolution came to be made with a sole reason that despite my clear instruction, the decision was violated and the security men too had to face difficulties. The Members used to take their men into the lounge against the rule. Therefore, this decision was taken. If this decision is violated, there will be a big responsibility for that. The Members must understand this clearly. No Member shall have relaxation in that decision. Defying the decision taken by the House cannot be tolerated in any circumstances. The decision will be implemented strictly from today."

(G.L.A. Debates, Volume 2, Book 29, Column 513-516)

(4) 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 could sit in the Officers' gallery.

Hon. the Speaker (Shri Himatlal Mulani) 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. 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, 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. 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, it would have been better if he had not remained present in the Officers' gallery. ”

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

(5) When the Speaker is speaking in the House, the Officers in the Officers' Gallery should not make any movement.

On 27th March 1984, Member Shri Surendra Rajput raising a point of order stated that when the Speaker was making an announcement with regard to a breach of a privilege in the House, there were constant movements in the Officers' Gallery, and demanded to give his ruling on whether officers could make movements in the gallery, when the Speaker was on his leg and speaking in the House.

Thereafter, the Hon'ble Speaker (Shri Natwarlal Shah) rejected his point of order but at the same time he made the following observation:--

"There should be a courtesy on the part of the officers, not to make any movement in the Officers Gallery while the Speaker is on his legs and speaking in the House."

(G.L.A. Debates, Part 2, Volume 88, Column 167)

(6) 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 Hon'ble Speaker (Shri Himatlal Mulani) 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 provision 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 facilitate 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.

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 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 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 not be repeated."

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

(7) Policemen can visit / enter Legislative Assembly Building as a common citizen.

On 26th July, 1972, before commencement of the proceedings in the Legislative Assembly, Member Shri Batukray Vora raised a point of order as under:--

"Hon'ble Speaker Sir, as per my information, in the Legislative Assembly and at the first floor, which come under your authority, a good number of policemen in civil dress as well as in uniform can be seen. It is another thing, if you have permitted, otherwise you should ask the Home Department in this regard, because it is not proper that policemen are seen here in civil dress and in uniform."

With regard to the aforesaid point of order, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"The intention of deploying the Armed Policemen is for looking after the security of the Legislative Assembly Building and they are deployed for the same duty only. They are S.R.P. Men. The Police officers other than those may move in certain areas and there is no source to know as to how many of them have come and why they have come and whether they have come in uniform or not. But they help in allowing the visitors into the public gallery of the House. Except the security staff, nobody can enter any part other than the aforesaid area. If the policemen come in the other part of the Legislative Assembly Building, we should believe that they have come as citizens, same as other citizens come to visit the Legislative Assembly Building. But action can certainly be taken if their behavior is to create any hindrance to the Members in their functioning and if any specific complaint comes to the notice. Normally,

we have kept the policemen away from the functions related to the business and proceedings conducted inside the House. For the functions other than those inside the House, for example, the Policemen, who are deployed at the chambers of the Ministers, are outside my control because they are meant for controlling the public coming to see the Ministers. In the Canteen too, like other citizens, these policemen may take tea and refreshment but till there may not be any complaint, I don't have to take any action. If attention is drawn to any specific incident, action will be taken."

(G.L.A. Debates, Part 1, Book-35, Column 151 to 153)

(8) Police Officers cannot enter the precincts of the Legislative Assembly Building.

On 19th August, 1980, when the Question Hour was over, Member Shri Babubhai Vasanwala raising a point of order, stated that despite prevalence of the authority of the Speaker in the precincts of the Legislative Assembly Building, the police officers in uniform were moving in the Assembly Building and due to their movement, an atmosphere of fear was created and he requested to guide as to whether police officers could visit / enter the Assembly Building. The Hon'ble Speaker Shri Natwarlal Shah, while clarifying stated, "Your point is very serious, if it is genuine but so far as I believe, the chambers of the ministers are kept out of the authority of the House. The police are allowed to move there." He then gave his ruling as under:--

"The police officers cannot enter the area under my authority, such orders to that effect are clear. However, if the Members face any difficulty due to the movements of the police and it is brought to my notice, an arrangement in that regard will certainly be made."

(G.L.A. Debates, Part 1, Book 67, Column 96)

(9) Defending creation of crowd in the jurisdiction of the House by the Members is not proper. The police has to take care in this regard.

On 26th March 1984, after the presentation of reports of different committees, Member Shri Babubhai Vasanwala raising a point of order stated that despite the area of lift of the Legislative Assembly coming under your authority / jurisdiction, crowds of Dalit Panthers rushed to the lift of the Legislative Assembly shouting slogans and requested the Speaker to give a ruling on the reasonability of this act of the protesters.

When Ku. Shantaben Chavda and Smt. Shantaben Makwana tried to defend the protesters, the Hon'ble Speaker Shri Natwarlal Shah expressed his

surprise towards the behavior of both the women Members and gave his ruling as under:--

"In this matter, in any way, there is no need to defend wrongly. Nobody has a right to create crowding near the lift and defending it by the Members is in no way reasonable. There was a crowd when I came. The police should also take care so that such crowds may not proceed to the lift."

(G.L.A. Debates, Part 2, Book 88, Column 3)

(10) Keeping in view the use of the entire new Legislative Assembly Building, until the Speaker decides the precincts of the new Assembly Building, any person or any organization cannot use it for public ceremony or any other function.

On 21st July, 1982, after the Question Hour, Member Shri Ashok Bhatt raising a point of a breach of propriety with regard to holding public functions in the Legislative Assembly Building, stated that on 20th July 1982, a function was held by the Citizens' Council in the Cabinet Hall of the Legislative Assembly Building. By using the words of "Assembly House" clearly in the invitation of this Organization, an attempt was made to create an impression that the programme was held by the Legislative Assembly.

Moreover, while mentioning the practice in the Lok Sabha and Rule 2 of the Gujarat Legislative Assembly Rules, he opined that when the Speaker did not give any direction regarding the precincts of the House in the new Legislative Assembly Building, the entire Legislative Assembly Building is considered as a part of the House and sought the guidance of the Hon'ble Speaker.

In this regard, the Chief Minister made an explanation that as the arrangements were not completed in the new Building of the Legislative Assembly, this meeting could not be said to be objectionable. Moreover, there was no deliberate intention to defy the Assembly Rules. Citizen Council had mentioned about snacks in the invitation, which should not have been done by them and an instruction to that effect was also given to them.

Thereafter, having listened to the views expressed by some Members and the Minister of Health, Hon'ble the Speaker (Shri Natwarlal Shah) gave his ruling as under:--

"I don't want to go into the point of a breach of propriety raised by Hon'ble Member Shri Ashok Bhatt and the attempt made by the Minister Shri Baloch to reply it. Because, after the explanation made by the

Chief Minister, I think nothing remains to be done. But as the Chief Minister said we must keep one thing in the mind that within the precincts or outside the precincts, with the entire Assembly Building in mind, we must establish a practice of not holding any public ceremony or any other function. If we will not do so, there will be very serious consequences. Here the seriousness of the matter is limited to the fact that this incident took place without the knowledge of the Hon'ble Chief Minister. Hon'ble Chief Minister yesterday stated that he didn't know as to what has been written in the invitation. It was published without the knowledge of anybody. Accidentally, I happened to see it in a newspaper. It was in the form of an advertisement like other advertisements, which are published in everyday newspapers. As the Chief Minister said, I would request him to prevent this organization or any other organization, if they try to use the precincts of the Assembly House or any other part of the Legislative Assembly Building. And I believe this will not recur in future."

(G.L.A. Debates, Part 2, Book 79, Column 1145 to 1157)

(11) Nobody can hold a public meeting in the Legislative Assembly compound since the same is a part of the precincts of the House.

On 30th March, 1977, after the Question Hour, Hon'ble Acting Speaker (Shri Manubhai Palkhiwala), while making an announcement regarding control over entry into the three parts of the Legislative Assembly estate, made the following observation:--

"The Legislative Assembly compound is the third part of the Legislative Assembly estate. In order to maintain peace, security and order, a public meeting cannot be held and speeches cannot be made in the Legislative Assembly compound."

(G.L.A. Debates, Part 2, Book 52, Column 568)

(12) The Speaker cannot interfere in restricting or detaining the striking employees of the Legislature Secretariat from entering the premises because the Speaker is subject to the Law enacted by the Legislative Assembly.

On 31st December, 1972, during the ongoing discussion on a Report of the Panchayati Raj High Level Committee, Hon'ble Member Shri Lalsinh Rahevar raising an issue of strike of the employees of the Legislature Secretariat made a submission that it came to his notice that the police was engaged in highly oppressive activities on the employees who were on strike despite they were under the control of the Speaker. The police was also harassing the guest of the Members and their men and, therefore, the Speaker

must defend them. Thereafter, Minister of Parliamentary Affairs Shri Ratubhai Adani and Member Shri Narsinhdas Gondhiya also expressed their views on the aforesaid issue. Finally, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"The issue raised in the House pertains to and limited to the employees of the House only. As per the Article 187 of our Constitution, the Legislature Secretariat is independent and the House of the Legislative Assembly may enact a law on the conditions of service of employees of the Legislature Secretariat. The House has enacted a law yesterday and in that law (Essential Services Maintenance Law), the House has covered the employees of the Legislative Assembly House. The Hon'ble Members of the House, whose function was to explain as to whether it is appropriate to enact such a law in the House, have not helped the House in this regard. I feel sad to say that the Speaker is subject to the law enacted by this House. The Speaker is not an exception to the law made by the House. Hence, if this act empowers the Government to declare the strike illegal and if any employee goes on strike, it has a right to consider the strike as illegal.

Now coming to another point, it is the function of the Speaker to see that the people coming legally into the estate of the Legislative Assembly are not prevented but I will not be able to prevent the police who are barring the employees of the Secretariat, who are on strike and who are in the estate of the Legislative Assembly, because this House has empowered the Government to control it (disturbance). So if the Government removes the employees, who have joined the illegal activity of strike from here, it will be as per the law passed by this House. It is a different thing to raise issue and to discuss them in the House but the duty of the Speaker is limited to this only."

(G.L.A. Debates, Part 2, Book 39, Column 323-325)

6. Powers of the Speaker.

(A) Right to determine the timing of the sitting of the House

(1) The Speaker can call a sitting of the House under the power conferred by rule-4, even though it was not decided in the Business Advisory Committee.

On 15th March, 2008, (First Sitting), during the discussion on the Demand Nos. 92, 95 of Social Justice and Empowerment Department and Demand No. 98 of the Sports, Youth and Cultural Activities Department, Member Shri Arjunbhai Modhwadia raised a Point of Order drawing the attention of Hon'ble the Speaker to Rule-193 (4) of the Gujarat Legislative

Assembly Rules to the effect that when a motion with or without amendment is passed by the House, the recommendations of the Committee as approved by the House shall be the orders of the House. He added that when the Business Advisory Committee took a decision to fix a day for taking up the business, it could be changed only either by the House or by calling the Business Advisory Committee meeting. He further added that in the present case, the Business Advisory Committee did not take a decision to hold a sitting on that day (i.e. the 15th March, 2008) and yet it was held and, therefore, that day's sitting was invalid. Moreover, he quoted, the ruling No. 92 of Rulings by Hon'ble the Speaker (1985 to 2002) stating that in one incident the then Speaker had accepted that it was technically not proper to fix the time of sitting at 8.30 p.m. instead of at 1.00 p.m.

At that stage, the Hon'ble Speaker (Shri Ashok Bhatt) stated that both the whips of the House, had requested him in writing to change the day of the sitting of the House so that the Members could have continuous holidays and, therefore, it was decided to hold a sitting on 15th March. He also added that the Legislature Secretariat had informed all the Members about the change, in writing. Moreover, Hon'ble the Speaker referring to the Rule No. 4 and 56 of the Gujarat Legislative Assembly Rules stated that when he had directed to hold the sitting on 15th March, 2008, keeping in view the status of the business of the House and the feelings of all the Members of House, the Point of Order raised by Shri Arjunbhai Modhvadia was untimely and not proper and, therefore, he did not accept it.

(G.L.A. Debates, Book-135 : 2008)

(2) It is the right of the Speaker to determine the timing of the sitting of the House.

On 26th July, 1967, Hon'ble the Speaker made the following announcement with regard to determining the timing of the House on Friday:--

"As most of the Members of both the parties wish to change and fix the timing of the sitting of the House on Fridays from 8.30 AM to 12.30 PM instead of from 12.00 Noon to 5.00 PM, I have decided to have the timing of the sitting of the House from 8.30 AM to 12.30 PM excluding a recess."

Thereupon, some Members raised an objection against the said decision and Member Shri Manubhai Palkhiwala suggested to put the matter to vote. At that time Hon'ble the Speaker (Shri Raghavji Leuva) gave the Ruling as under:-

"So far as the sitting of House is concerned, the Speaker has the absolute authority to determine the timing of the House and under that authority, I am determining this timing of the House." "

(G.L.A. Debates, Part 2, Book 19, Column 1122)

(3) 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 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 1988.

"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, Hon'ble Chief Minister and the Leader of the House had, by his letter dated 27th July, requested me to make change in the time of the sittings of the House scheduled for 9th August 1987 and after considering his 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 change in the timings of the sitting only. I have not made any change 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 change 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 change 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 recommendations, 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 change in the time of 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 change 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. Moreover, power to make change in the time of sitting is conferred on me under the rule, 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 change 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 change 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 change 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 earlier, I cannot accept his point of Order to treat this sitting as unlawful”.

(G.L.A. Debates, Book – 35, Vol. II, Column 145 – 148)

(4) Though the time to adjourn sitting of the House 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 4.35 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 would 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 sitting of the House for ten minutes. When sitting of 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 yesterday 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. He had given final 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, (Gujarati-old edition), 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 449 of the fifth edition of "Practice and Procedure of Parliament" by Kaul Shakti –

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 defying 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 defying the Order of the Speaker. It was seconded by the Finance Minister Shri Vajubhai Vala. As the motion was adopted by the House, respecting the Order of the Speaker, the Leader of the Opposition Shri Amarsinh Chaudhari left the House."

(G.L.A. Debates, Book-71 page no. 118 to 179)

(B) Power to adjourn a sitting of the House.

The House should be adjourned when an item shown in the List of the Business for the Day does not exist.

On 11th April, 1977, while raising a Point of Order regarding the items shown in the List of Business for the Day, Member Shri Sanat Mehta stated that in the list of Business for the Day, Government business was mentioned. Moreover, while drawing the attention of the House towards the Rule 15(2)

and 2(I) of the Gujarat Legislative Assembly Rules, he stated that when the List of Business for the Day was circulated, the then Government and the then Leader of the House was in existence and that due to political situation, he was no longer the Leader of the House and there was a change in the Government formation, too, and hence the items shown in the List of Business for the Day was not in existence as well as while referring to the book written by Kaul and Shakhthar and quoting Articles 175 and 176 of the Constitution of India, in context to Motion of Thanks on Governor's Address he further stated that Governor's address was not an address by a person but it reflected the policies of the Government. Now, since the Government no longer existed, the motion of thanks, too, no longer existed. Then he asked whether the items shown in the List of Business for the Day existed or not and sought a ruling with regard to taking action in that respect.

In this regard after listening to Shri Pratap Shah and Shri Chiman Mehta, Hon'ble Acting Speaker (Shri Manubhai Palkhiwala) who was in the Chair of the Speaker gave his ruling as under:-

"One thing is clear that this is a unique occasion in the Commonwealth countries that when a motion of thanks on the Governor's address has been moved, but such an unforeseen situation has arisen in the House of the Legislative Assembly before the motion got passed. This is a very important occasion and the point of order is worth considering. Considering the observations made in the Commonwealth countries on such an important issue and also the opinions given by expert parliamentarians, I would like to make a statement and some observations before the House.

When the House was adjourned sine die on 31st March, 1977 as per Rule 9(1), the situation was somewhat different and on 1st April 1977 the then Leader of the House and the Chief Minister as per Rule - 9(2) wrote a letter to me and requested to reconvene the session which has been adjourned recently as some important business remains to be taken up and in the wake of the request I have circulated among all Hon'ble Members an instruction to the effect that the House will meet on 11th April, 1977 i.e. today. But in between, the situation took a turn and the then Chief Minister Shri Madhavsinh Solanki along with his Council of Ministers tendered his resignation and today i.e. 11th April, 1977 at 9.00 a.m. a new Council of Ministers under the leadership of Shri Babubahi Jashabhai sworn in and the new Government came into existence.

Thus, the circumstances in which the Session of the Legislative Assembly was convened has been completely changed today. The party in power at that time is in the opposition today and the Opposition Party has taken

the reins of power. The business before the House includes (1) Questions, (2) Motion of Thanks on Governor's address, and (3) If we consider tomorrow's business, an important bill (Act) moved by the then Government, as stated by Member Shri Sanat Mehta.

As regards the questions, if we look at Rule - 74, 75, 77, 78(3), we can see that questions are asked to the concerned minister of the respective department. And replies to those questions, if starred, along with their supplementary questions are to be given by the concerned Minister. Since the Madhavsinh Solanki Government has resigned and the new Government has taken the reins of the power, the business of questions cannot be taken up in the changed circumstances.

The important and critical issue is the motion of thanks on the Governor's address before the House and also tomorrow's Government bill. In this regard Hon'ble Shri Sanat Mehta has expressed certain views. I was contemplating in that regard for two days that in view of reactions of different dignitaries, important issues will arise from these circumstances and the House has to consider them. On Page No. 194 of the fourth edition of the book "An Encyclopedia of Parliament" written by Norman Wilding and Philip Laundy, it has clearly been mentioned that the speech from the Throne has been used to announce the programme of legislation for the session and to set forth the Government's policy. Now if this type of motion is moved, the motion reflects the policies of the respective Government. Hence this motion belongs to the Government of the Member who moved the motion.

While looking at Page No. 61 of second edition of Parliamentary Procedure in India written by A. R. Mukherjee, this point is confirmed more clearly. It is mentioned in the book that:--

“The debate generally falls into two parts, the first part consisting of a general discussion on the speech covering the whole field of Government policy, and the second a discussion on specific matters raised by the amendments. The motion of thanks is taken to be motion of confidence. An amendment in specific terms that the House has no confidence in the Ministers may also be proposed to the motion of thanks. If an amendment is carried, and the address in reply as amended is agreed to, is generally taken to be a motion of no confidence and the ministry resigns. In 1924 the Baldwin Ministry resigned after an amendment to the address in reply that the House had no confidence in His Majesty's Advisers, was passed by the House of Commons.”

May's Parliamentary Practice, too, confirms this contention. On Page No. 273 of its 19th edition, it has clearly been mentioned that:--

In the House of Commons in England

"When the Queens' speech has been read, an address in answer there to is moved in both the Houses. Two Members in each House are selected by the Administration for moving and seconding the address."

If we look at the Rule of our Legislative Assembly, we can clearly see this matter. Rule 64-A(1) says as under:-

Immediately after the authenticated copy of the Governor's Address has been laid on the Table of the House, any Member selected by the Chief Minister may move a motion expressing thanks to the Governor for his address in the following terms"

In the same Rule, it is further mentioned that:--

"The motion shall be seconded by another Member selected by the Chief Minister" and rule 64-A(2) reads as follows:

The notice of such motion will be signed by the mover and the seconder and shall be sent to the Secretary through the Minister of Parliamentary Affairs."

In this way, if the entire matter is evaluated, the motion of thanks on the Governor's address reflects the policies of the then Government and in the book, Parliamentary Procedure in India written by Shri Mukherjee, the motion of thanks has been regarded as a motion of confidence.

On 26th March, 1977, an incident of this type had occurred in Uttar Pradesh, too, which didn't reach this stage. The Chief Minister had stated in the House that if amendment on the motion of thanks to be considered on 30th March and 31st March are passed, I will resign. After this announcement, the motion of no-confidence in the Council of Ministers was moved in the House. And the motion was withdrawn by the Members, who had moved it, i.e. the motion of thanks is always considered as the motion of confidence in the Government. I don't think I have to say anything more than this.

If we look at the facts, we can see that when the motion of thanks was moved, it was moved by the Hon'ble Member selected by the then Chief Minister. Another Hon'ble Member selected by the then Chief Minister had seconded the same. And if we see in this way this motion becomes the motion of the then Government. which was in existence of that time.

If we look at the address made by Hon'ble Governor, in Paragraph 7 on Page No. 2 of his speech, it has clearly been stated by him that "my

Government has given the priority to the effective implementation of all the matters of this social economical development of the nation." And "my Government" means the then Government, which existed at that time, has given first priority to it. Similarly, there are mentions of "my government" at many places in 10th, 11th, 12th paragraphs. In Paragraph 10 on Page No. 4 "my Government" has decided to expedite the modernization of the police force by reforming communication infrastructure and by introducing computer-based system for crime record. While "Paragraph No. 11 refers to the matter of oil, in that the policy of "my Government will continue. My Government will make the drive more intensive against smugglers, profiteers, hoarders, black marketers, and economic criminals and anti-social elements and concrete and effective legal action will be taken against them." In Paragraph No. 12, it has been mentioned that my Government felt that as a result of voluntary price control adopted in open market, there was a great inequality between the market rates of Gujarat and the rates prevailing in other states." I won't go into more details but the speech which was delivered by Hon'ble Governor in this house, too, reflected the policies of the Government, which existed at that time.

The situation has changed today. The situation in this House has changed in such a manner that Hon'ble Members who were speaking in the opposition and who had opposed the motion of thanks are sitting on the power positions, and Hon'ble Members, who had supported the motion of thanks are sitting in the opposition. This type of situation has arisen. Considering this situation, I can clearly see that the purpose for which the session of this House was convened no longer exists. The Madhavsinh Solanki Government which has resigned now had presented the business and for that he had requested me to convene the adjourned sitting of the House under Rule 9(2). And for that purpose I have convened this House today at 12.00 noon. But in my view the purpose is departing. It no longer exists. So as per the point of order raised by Member Shri Sanat Mehta, the Business proposed before the House does not exist. So in this House the purpose of taking up the business doesn't seem to be served. In these circumstances, I uphold that point and under Rule 9(1) of the Legislative Assembly Rules, I adjourn the House sine die."

(G.L.A. Debates, Part 2, Book 52, Column 821)

(C) The right to arrange / modify business of the House.

(1) A prior permission of the Speaker has to be obtained if an item not shown in the List of Business for the Day is to be presented.

On 31st March, 1967, after laying the budget of Gujarat Industrial Development Corporation by the Finance Minister, when the Speaker was addressing the House and as one Member tried to raise a point of propriety, The Hon'ble Speaker (Shri Raghavji Leuva) stated as under:-

“When the Speaker is speaking, a point of propriety cannot be raised. I want to draw the attention of the Members that whatever items presented in this House is shown in the agenda. If a matter other than shown in the agenda is to be presented, a prior permission of the Speaker should be obtained. Without obtaining a prior permission, no item other than shown in the agenda can be presented. It is necessary to follow the rules for presenting other item without obtaining the prior permission of the Speaker.”

(G.L.A. Debates, Part 2, Book 18, Column 906)

(2) An issue regarding the item not shown in the List of Business can be raised with the permission of the Speaker.

On 23rd March, 1971, when Demand No. 96 pertaining to Civil Supply Department was presented, since the same was relating to new services and as the details as per requirement were not given, that demand was postponed. On the next day, i.e. 24th March, 1971, the Minister of Law Shri Vijaykumar Trivedi made a statement with required additional details by stating that the copies thereof were put into the pigeonholes of the Members and sought the permission to discuss that demand. This demand was not shown into the list of business for that day. Member Shri Martandrai Shashtri raising a point of order, stated that since Demand No. 96 was not shown in the list of business for the day, whether the Minister can demand to take that matter in the House?

The Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"First of all, I have to consider whether any Member can make a presentation in the House regarding a matter which is not there on the today's agenda? With the permission of the Speaker any Member can raise an issue regarding a matter not shown in the agenda. So Hon'ble Minister has raised this issue with my permission. So he has a right to raise that issue as I have given a prior permission."

(G.L.A. Debates, Part 2, Book 32, Column 23-54)

(3) Before taking up the bills as per the priority Nos. shown in the List of Business for the Day, the Govt. with the consent of the Speaker, can give a priority to the bill replacing the ordinance for the discussion in the House by making changes in the priorities of the bills.

On 14th February, 1979, immediately after the presentation of supplementary statement of the expenditure for the year 1978-79, Member Shri Narsinhbhai Makwana raising a point of order regarding the business of the House stated that the first reading of the Gujarat Motor Vehicle Bill was going on in the House on 6th February, 1979. In today's list its number was 6th and earlier Gujarat Minor Forest Produce Trade Nationalization Bill with 4th priority was placed ahead. He requested the Speaker to give his ruling as to whether the change made in the priorities of bills was appropriate or not. In this regard, after listening to the Leader of Opposition Shri Madhavsinh Solanki and other Members as well as Minister of Law, the Hon'ble Speaker (Shri Kundanlal Dholakiya) referred to Rule 15 of the Gujarat Legislative Assembly Rules and gave his ruling as under:-

"The question occurred to me too that the first item is incomplete. So on asking the Govt., they replied to me that first two bills will have to be completed in six weeks. Experience of the last year was that some ordinances had lapsed. This time the session has commenced on 22nd January and six weeks will be over by 3rd March. So the Govt. requested me to take this bill first. As per Rule - 15(2) if I had felt that this is not an ordinance, I would not have accepted the request of the Govt. Secondly, now the business regarding the budget will continue so there was a perplexity in my mind that --

"Provided that such an order of business shall not be varied unless the Speaker is satisfied that there is sufficient ground for such variation."

So actually that right is of that time when the Business Advisory Committee arranges the work. I am afraid, this may not be the right of the House. Yet I understand that this is a right of the Govt. and give my ruling accordingly."

(G.L.A. Debates, Part 2, Book 62, Column 190-194)

(4) After the discussion and voting on demands other business can be taken up in the House with the permission of the Speaker.

On 14th September, 1983, out of the supplementary demands for the year 1983-84, after passing the demands to be put to vote through guillotine, the short notice discussion under Rule - 112 presented by Member Shri Krishnavadan Pachchigar with regard to leaking the papers of examination by

the Gujarat Secondary Education Board was taken up. At that time, Member Shri Shashikant Lakhani referred to the Rule 230 of the Gujarat Legislative Assembly Rules and gave the reference of the practice of the House to the effect that no other business could be taken up on the day of voting for demands of grants and raised a point of order that when the Business Advisory Committee recommended certain business to be taken on certain days, the arrangement of the business should be as per the aforesaid rule.

The Hon'ble Speaker (Shri Natwarlal Shah) gave his ruling as under:--

“Hon'ble Member Shri Shashikant Lakhani while raising a point of order stated that as per Rule 230, after the voting on demands, no other business can be taken up. So, now the next two items on the agenda cannot be taken up. Out of two items, one is short notice discussion as per Rule 112 proposed by Shri Pachchigar and the other is half an hour discussion proposed by you. If the ruling is given in your favour and if the time permits, it can be taken on agenda. But at present the timings for the business have been set as per the time table. Moreover, Hon'ble Speaker stated that Rule 230 reads as under:--

"On a day allotted for the voting of demands for grants, no other business shall be taken up except with the consent of the Speaker. Provided that nothing in this rule shall be deemed to prohibit the asking and answering of questions during the time allowed under these rules."

So it has definitely been mentioned in the provision of this rule that if the Speaker permits, the discussions on matters other than demands can be taken up. In the first part of the Rule 230, it has clearly been mentioned that with the consent of the Speaker, other business can be taken up. And accordingly I give my consent to go ahead with the business as decided by the Business Advisory Committee and in this situation, I reject the point of order raised by Member Shri Lakhani."

(G.L.A. Debates, Part 2, Book 84, Column 841-842)

(5) 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 practice 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 which is not included in the proceedings of the House cannot be discussed or included without the consent of the Speaker. I cannot give consent to discuss this motion until consensus is arrived”.

(G.L.A. Debates, Book – 3, Vol. II, Col. 3)

(6) The subject which is not there on the list of business cannot be discussed.

On 22nd September, 1980, after the question hour, Member Shri Babubhai Vasanwala raised an issue of demands of employees of Civil Secretariat. At that stage, when Member Shri Ashok Bhatt raised an issue of deterioration of law and order in the state and as he tried to raise the matter of his constituency, the Hon'ble Speaker stopped him and gave his ruling as under:--

"We have no such subject on the agenda at all. And the matter which is not on the agenda cannot be discussed in the House."

(G.L.A. Debates, Part 2, Book 70, Column 578)

(D) Power to conduct the proceedings of the House.

(1) After the ruling of the Speaker, discussion cannot be made regarding the interpretation of a rule.

On 16th July, 1981, after the question hour, when the Speaker made an announcement regarding the business of the House, Member Shri Jashvantsinh Chauhan enquired as to whether the Business Advisory Committee had made any decision regarding the business of the statutory motions. The Speaker clarified that for want of time that matter could not be taken up. Yet, as the Member tried to make interpretation with regard to Rule 100 of Rules of Business of the House, the Hon'ble Speaker (Shri Natwarlal Shah) gave his ruling as under:--

"Hon'ble Shri Jashvantsinh, The discussion cannot be made with regard to the interpretation of rule.

I have already told you that in the wordings (of the Rule), words, "In consultation with the leader of the house" have clearly been mentioned and if the leader of the house cannot allot time, your motion cannot be taken up."

(G.L.A. Debates, Book 74, Part 2, Column 613-618)

(2) It is the function of the Speaker, to restrict matters not falling within a rule.

On 21st July, 1975, during the general discussion on the budget, when Member Shri Jashvantrai Mehta mentioned the advantages of the emergency, Member Shri Manilal Gandhi stated that if advantages of emergency were to be enumerated then talking about its disadvantages also ought to be allowed.

At that time, the Hon'ble Speaker (Shri Kundanal Dholakiya) gave his ruling as under:--

"It is the function of the Speaker to decide as to whether to allow raising the matter of advantages and disadvantages of the emergency. So what doesn't fall within the rules should be restricted, it should not be allowed. You may continue without referring to the emergency."

(G.L.A. Debates, Part 2, Volume 48, Column 17-18)

(3) Speaker has the right to decide the methodology for conducting the House.

On 16th March, 2010, after the discussion on calling attention to a matter of urgent public importance under Rule-116, the Leader of Opposition, drawing the attention of the Hon'ble Speaker towards Rule 28 of the Gujarat Legislative Assembly Rules, raised a Point of Order stating that the name of a Member belonging to the Ruling Party was called out on raising his hand once or even not at all raising. He also stated that it was not in consonance with the provision of our Rules as any Member, who wishes to speak on any matter, should be on his legs to draw the attention of the Hon'ble Speaker. The Members of the Ruling Party never took the trouble to be on their legs and simply raised one of their hands or a finger but the rule provides that "Member should be on legs".

After hearing the views of the Minister of Health Shri Jaynarayan Vyas, the Hon'ble Speaker while giving his ruling stated that the rule 28, to a major extent, provides for the procedure to be adopted by the Member who wishes to participate in the discussions, whereas the provision of rule 89 applies while asking supplementary questions during the question hour. He further stated that the issue was relating to the specific method to be adopted by the Speaker. During the question hour when a Member who wishes to ask a supplementary question under Rule 89 raises his hand or stands up, the Speaker jots down his or her name and gives such Members opportunity to ask question individually in rotation. As per the well-established parliamentary practice the issues regarding the methodology to be adopted by the Speaker could not be raised in

the House. Such issues should be discussed in the Chamber of the Speaker. Since the question was raised in the House, the Speaker was empowered to determine his method for the conduct of the House. The Hon'ble Speaker, therefore, ruled that the methodology adopted by him during the question hour was in accordance with the provisions laid down in rule-89.

(G.L.A. Debates, Book- 151 : 2010)

(4) Certain responsibilities have been assigned to the Speaker by rules of the house.

On 12th November 1973, at the beginning of the sitting of the House, Member Shri Narsinhdas Gondhiya raising a point of order submitted that such an important, regretful and shocking incident for Gujarat took place during the intervening period between the adjournment of the House on 12th October 1973 and it met again after a month, and for discussing that incident, the question hour should be suspended. Based on Rule 55, the Member wanted to get Rule 71 in respect of question hour suspended. He read out the provision in the rule 55, in which it was provided to move a motion with the consent of the Speaker for suspension of any rule for any matter of business before the house.

In that regard, the Speaker stated that he had not received any motion under rule 55 and that it should reach me before I grant permission. Therefore, Member Shri Gondhiya submitted that in the past, too, matters of urgent importance had been raised in the House suspending the relevant rule. So suspension of rule 71 regarding the question hour, permission should be granted for the matter to be raised by him. The Hon'ble Speaker (Shri Raghavji Leua), while giving his ruling stated that in the rules, powers have been conferred to the house, whereas responsibilities have been assigned to the Speaker. No power has been conferred to the Speaker in the rules. So the House should allow the Speaker to discharge his responsibility. The Speaker further stated that the Member, before discussing his core issue, should state as to which type of motion he wanted to bring.

(G.L.A. Debates, Part 2, Volume 46, Column 3)

(5) Before raising any point in the House after the Question Hour, prior permission of the Speaker should be 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 My permission should be taken before raising any point in the House and if, I permit then only any point can be moved. "In this matter My permission has not been taken by anybody."

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

(G.L.A. Debates, Book No. 2, Vol. II, Column 667-668.)

7. Leader of the House

(1) The Chief Minister, as the Leader of the House, has an important role in the smooth conduction of the proceedings of the House. He can intervene in the debate and guide the House.

At the conclusion of the Question - Answer Session on 5th March, 2007 and after the statement on the Notice Calling Attention of the Minister under Rule -116, the Leader of the Opposition raised a point of Order stating that in two incidents during this Session attempts were made to waste the time of the House, once by the Chief Minister and the second time, by a Minister.

After hearing the view of the Hon'ble Chief Minister and the Members on the said point of order, the Hon'ble Speaker had postponed his ruling.

On 13th March 2007, the Hon'ble Speaker ruled that the Chief Minister plays a vital role in the smooth conduct of the proceedings of the House. He can definitely intervene in the debate at any time and guide the House also. The Hon'ble Speaker, in support of his ruling brought to the notice of the House, the following extract from page No.139 and 140 of the Book 'Practice and Procedure of Parliament' by Kaul and Shakhder....

"Leader of the House is an important parliamentary functionary and he exercises direct influence on the course of Business. The whole policy of the government, especially so far as it is expressed in the inner life of the House and in measures dealing with the course of the business, is concentrated in his person. He is instrumental in setting the official business and *inter se* priority among various items of government business. He is the most influential figure in the entire legislative process. He advises the House in every difficulty as it arises. He shapes the course and content of the Legislation. He has the right to address the House whenever he likes. He is consulted by the speaker in regard to the arrangement of government business and allotment of time for discussion on various Parliamentary measures. He acts as the Spokesman or the representative of the whole House."

The Hon'ble Speaker also stated that notwithstanding the situation described above, it was the tendency of the Leader of the Opposition and its Members to oppose the Chief Minister whenever he stood up in the past to give more information or clarify any matter under discussion, which did not seem to be proper. Moreover, pointing out the provisions of Rule 37 of the Gujarat Legislative Assembly Rules, the Hon'ble Speaker stated that as the matter is very clear in the rules, being the Leader of the Opposition, he should have taken proper care to examine the facts properly before making allegations against any Member of the House, especially against the Chief Minister and provided all the evidences available in its support. The Hon'ble Speaker also expressed that the Leader of Opposition should take due care in this regard in future.

(G.L.A. Debates, Book 126 & 128: 2007)

(2) 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 Shri Madhavsinh Solanki 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 Dinkarbai 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.”

(G.L.A. Debates, Book –51, Vol. II, Pages 59-78)

(3) As the Leader of the House, the Chief Minister can assign his responsibility to another Minister.

On 17th February 1964, Hon’ble Chief Minister Shri Balwantrai Mehta made an announcement of appointment of Minister of Home Shri Hitendra Desai to perform the function of the Leader of House. In that connection, Shri

Prataprai Shah raised a point of order as to whether the Hon'ble Chief Minister could appoint any other minister as a leader of the house? He further stated that as per the parliamentary practice only the Chief Minister could perform the function as the Leader of the House and in the parliament the Prime Minister was performing this function. He also stated that since there was no provision in the rules too, assigning the function of the Leader of House to another person, in the presence of the Chief Minister, there arisen a question of propriety. In support of his statement he read out the extracts from the book - The Encyclopedia of Parliament and Commentary on the Constitution of India.

Minister of Home Shri Hitendra Desai stated that in the book quoted by the Member there was no mention that the Chief Minister could not assign the function of the leader of house to other Member of the house. He further read out some extracts from the book – “Government and Parliament” to show that different persons had been working as the Prime Minister and as the leader of House. He further clarified that in the Gujarat Legislative Assembly rules, too, there was a special indication.

In this regard, the Hon'ble Speaker (Shri FatehAli Palejwala) gave his ruling as under:--

"Normally the function of the Leader of the House is to decide as to how to arrange the Government business in the house, in how much time it should be completed, and the priorities of different items. Always, private Members work, and Government business come before the House and it is the function of the Chief Minister as to who can do that thing. Accordingly, he can do that work himself and or assigned to any other Member. In this respect, there is no restriction either in the Constitution or in our rules or in the extracts quoted by Shri Prataprai. In this way, recently in Madras also, the Chief Minister has appointed another Member as the Leader of the House. Under this situation, I reject the point of order raised by Member Shri Prataprai."

(G.L.A. Debates, Part 2, Volume 11, Column 58-59)

Chapter 2: General Rules of Procedure

1. Restrictions on utterances during discussion in the House :-

(1) The Quotations of the press cannot be quoted from the book of compilation of extracts of the news published in the press.

On 17th February 1982, while participating in the discussion on a motion rejecting Ordinance No. 11 of 1981 and on the discussion on the first reading of the Gujarat University Law (Amendment) Bill, further amending the Acts related to certain Universities of the State, as Member Shri Babubhai Vasanwala, during his speech, started reading opinions from the booklets compiling the opinions published in newspapers against the ordinance, the Speaker stopped him from doing so. At that time, Member Shri Dinsha Patel clarified that these opinions were published officially. At that time The Hon'ble Speaker (Shri Natwarlal Shah) gave his ruling as under:--

"Shri Dinsha, you cannot quote Quotations of the press from a book, carrying compiled extracts of the news published in the press because quoting press quotes is not allowed in our rules. Therefore, if you read it by saying that it has not been directly but indirectly published in a booklet, it amounts to the violation of a rule. If there is an opinion by a specific person and if an article is published in a newspaper, you may definitely refer it."

(G.L.A. Debates, Part-2, Book-76, Column 878)

(2) When an information published in a newspaper is quoted in the House, the responsibility of its authenticity rests with the Member.

On 28th March 1966, while participating in the discussion on the Appropriation Bill, Hon'ble Member Shri Narbheshankar Paneri stated that since big talks were made with regard to electricity and irrigation, he wanted to quote a quotation from "Navbharat".

At that stage Hon'ble Deputy Speaker (Shri Premjibhai Leuva) made the following observation:--

"Whatever information is published in the newspaper, the responsibility of its authenticity is of the Hon'ble Member himself."

(G.L.A. Debates, Part-2, Book-16, Column 1440)

(3) While quoting a quotation, the name of a book, the name of the author, page number etc., should be mentioned.

On 5th March 1965, during the course of general discussion on the budget, when Member Shri Ranjitrai Shastri was beginning to read a quotation from a Member's speech, the Hon'ble Speaker (Shri FatehAli Palejwala) made the following observation:--

"When a Member in the House wishes to quote quotations from the proceedings, he should first quote the year, month and the date of proceedings so that it will facilitate in taking verbatim proceedings smoothly here. Whenever a quotation is to be quoted from a book, I suggest the Hon'ble Members to quote the edition of the book and its author and then quote the quotation."

(G.L.A. Debates, Part-2, Book-13(A), Column 537)

(4) Any matter from a newspaper cannot be read out in the House.

On 17th March 1969, during the course of discussion on the demands of the department of Health, as Member Shri Kesar Dodia quoted some information published in "Phulchhab" dated 11th December 1968, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"Normally, an extract from a newspaper cannot be read out in the House. Hon'ble Member should ascertain the authenticity of whatever statement he makes. News Paper men may write whatever they wanted and it will not be proper to speak about it in the House. You should ascertain its authenticity."

(G.L.A. Debates, Part-2, Book-22, Column-3298)

(5) Reference based on newspaper report can not be spoken.

On 27th February 2008, at the beginning of the Second Day's Discussion on Vote of Thanks for the Governor's Address, while the Member Shri Pradipsinh Jadeja was expressing his views referring to the Pakistani Magazine "Dawn", the Leader of the Opposition Hon'ble Shri Shaktisinhji Gohil raised a Point of Order stating that a matter based on a newspaper could not be spoken.

At that time, the Hon'ble Speaker (Shri Ashok Bhatt) stated that reading a newspaper is a different matter. Adding that the Member was not speaking on a matter based on newspaper but was simply referring to the Newspaper.

(G.L.A. Debates, Book- 132: 2008)

(6) It is not proper to say about a Member that he is speaking with an intention 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 intention 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.

Hon'ble 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 for the advantage of all 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.

(G.L.A. Debates, Book – 10, Vol. II, Column 1206)

(7) Social Media cannot be mentioned.

Hon'ble Minister Shri Pradipsinh Jadeja had made a statement in the House with regard to the notice for drawing the attention of Hon'ble the Chief Minister (Home) (Under Rule - 116) to the matter of urgent public importance raised by Member Raghavjibhai Patel on 23rd August 2016 during the ninth session of the thirteenth Gujarat Legislative Assembly, with regard to the steps taken by the State Government to maintain law and order situation as some anti-social elements pelted stones at the Dalit Ekta Rally held at Una and replied to the points arising out of the statement. Especially, while replying to the point regarding the atrocities perpetrated on Dalit community, raised by the Member Shri Shaileshbhai Parmar, Hon. Minister stated that " this land of Mahatma Gandhi and Sardar Vallabhbhai Patel and the Government of the Bharatiya Janata Party is having compassion towards Dalits, an investigation is underway to find out as to who made phone calls to whom and on whose behest the conspiracies were made in the incident that took place." He further

stated that" the Government is not going to spare the elements, who played the politics in the name of Dalits and destabilized peace and security prevailing in Gujarat." By stating this, as he referred to the social media as an authentic evidence, Hon'ble Speaker (Shri Ramanlal Vora) had given the following decision at this stage:--

On the mention of the social media as an authentic evidence, while giving his ruling Hon'ble Speaker (Shri Ramanlal Vora) had stated that, "Hon'ble Minister, so far as the social media is concerned, I request not to take the same as a documentary evidence. I am also connected with the social media. The MLA of the area made as many as 300 calls to the sarpanch. A leader from Delhi did so and the photograph thereof gone viral. But I think that matter has nothing to do with the Legislative assembly House. So I request you to refrain from that matter.

Despite the time period for this discussions has been over, I allow you to speak, considering your feelings and demand as the matter is sensitive. Since you, Shaileshbhai are talking about Dalits, I allow you to speak without adhering to the time limit on the Government part. You may talk eloquently on the interests of the dalits."

(G.L.A. Debates, Book- 37: 2016, Vol-4)

(8) Before making criticism on the basis of a report of a newspaper, a Member should ensure its authenticity.

On 25th February 1969, the written reply on a Short Notice Question No. 17385 regarding brutally beating up a Harijan named Revabhai Vadilal was given in the negative. In that reference, when Member Shri Pratap Shah asked a supplementary question as to whether any Harijan was beaten up, Deputy Minister Shri Jayrambhai Patel replied in the affirmative and in replying other supplementary question, he stated that an incident of beating up of Harijan Revabhai Becharbhai took place. At that time, Member Shri H. M. Patel raised an issue stating that it was not proper to give incomplete information due to a change in the name despite the Minister was aware of the incident.

At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"It is the responsibility of Hon'ble Member too to this House to have attempted to ascertain carefully the truthfulness of a statement made in the House in any question. In this regard, it is a matter of regret that instead of taking as much care as expected, it is possible that such questions may have

been asked on the basis of hearsay or a report published in a newspaper. So the Members too, should make such statements only after making some enquiry into the matter and after ascertaining himself about the fact of the matter. I don't believe if such statements are made, the government is required to give such replies. So care should be taken on both the sides. It cannot be said that carelessness is only on the government side. You should ascertain before you speak. It is not proper to get ready to make a speech, as soon as something has come in a postal letter or appeared in a newspaper."

(G.L.A. Debates, Part-1, Book-21, Part B, Column 1910)

(9) A provision in the Rules is that Members should make a primary inquiry and ascertain with regard to whatever statements they make in the House.

On 28th February 1973, while asking supplementary questions on Starred Question No. 6633 of Member Shri Narsinhbhai Makwana pertaining to drinking water and other facilities on relief works, Member Shri Jashvantsinh Chauhan made a statement that in the arrangements of small sheds made for the labourers working on relief works, Harijan labourers were not allowed to sit there and asked a supplementary question as to whether the government received any complaint in this regard and if received, what action was taken? At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"In this House there is a provision in the Rules that whatever statement Hon'ble Member may make, he must have made a primary inquiry for the truthfulness of that statement and he must have ascertained regarding it. It will not be proper if a question is asked only on a speculation because it is a speculation as to who allows Harijans to sit with them while Harijans are not allowed to sit with them is a statement. In this regard it will be better if Hon'ble Members should take more care, otherwise the work of the House will increase."

(G.L.A. Debates, Part-1, Book-40, Column 284-285)

(10) Proverbs aimed at hurting 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 at 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.

(G.L.A. Debates, Book – 1, Vol. II, Column 162-164)

(11) (A) Reference of a person's name who is not present in the House cannot be made.

(B) Referring the names of some anti-social elements in the House is permissible.

During the discussion on a Private Member's Resolution on 28th February, 2003, the Member while moving the Resolution frequently made references to the names of certain anti-social elements who are associated with the Madresas. At this juncture, the Leader of Opposition raised a Point of Order about referring the name of a person who is not present in the House and requested Hon'ble the Speaker to remove such utterances from the record of the House. After hearing other Members, Hon'ble the Speaker (Pro. Mangaldas Patel) ruled as under:

"Naturally, one should not refer to the name of a person who is not present in the House, but here the reference is made towards the names of persons who are anti-socials and let us tolerate it. But the Members henceforth should take care that such utterances should not be made frequently."

(G.L.A. Debates, Book -93:2003)

(12) Talks of the party meeting cannot be mentioned in the House.

On 10th December 1965, during the course of the discussion on the Saurashtra University Bill, when Member Shri Narbheshankar Paneri stated in his speech that Members of the opposition party were terribly singing mournful

songs. The Hon'ble Speaker (Shri FatehAli Palejwala) made an observation as under:--

"Talks of the party meeting cannot be mentioned in the House".

(G.L.A. Debates, Part -2, Book-2, Column-971)

(13) References cannot be made on the Secretary of Parliamentary Affairs Department sitting in the Officers' Gallery.

On 28th February, 2012, Hon'ble the Minister of Parliamentary Affairs Shri Dilipbhai Sanghani raised a Point of Order and stated that the Leader of Opposition, during his speech on Vote of Thanks on the Governor's Address, had tried to encroach upon the rights solely vested in the Hon'ble Speaker. During his speech on vote of thanks, the Leader of Opposition stated that the Secretary of Parliamentary Affairs Department, who was sitting in the Officers' Gallery, was disturbing the proceedings of the House by sending chits to the Minister for which he had no right as he has been a re-appointee. In this matter, the Minister, therefore, sought the guidance of the Hon'ble Speaker by stating that the Officers, whose services are required by the Government, do sit in the Gallery with the permission of the Hon'ble Speaker. Hon'ble Speaker (Shri Ganpatsinh Vasava) postponed his ruling for the time-being.

On 29th February, 2012, the Hon'ble Speaker gave his postponed ruling by stating that "the regulation of entry to any Gallery of the House is exclusively within his domain. As per the provision of Rule-3 of the Rules for entry to any Gallery of the House, the entry passes are issued to the Deputy Secretaries and Officers beyond that rank. In addition to this, the Under Secretaries appointed as Liaison Officers are also issued passes to the officers' Gallery. Besides, those officers, who have requested for officer's gallery passes for particular sittings only, are also issued passes."

As regards disturbing the proceedings of the House by sending chits, by Shri H.D.Vyas, Secretary, Parliamentary Affairs Department, Hon'ble the Speaker ruled that "all the Officers sitting in the Officers' Gallery of the House have to perform their duties of providing latest information to the Ministers on the issues raised in the House relating to their Departments and it has been an established practice in this House. Shri H.D.Vyas, being the Secretary of Parliamentary Affairs Department, has performed his duties of providing information to his Minister. As such, it cannot be interpreted as disturbing the proceedings of the House and, therefore, such acts do not amount to breach of rules, practices or propriety of the House in any way." Hon'ble the Speaker further stated that "the matters falling under his purview could not be raised in

the House and asked the Leader of Opposition to take care of the same in future."

(G.L.A. Debates, Book-163: 2012)

(14) Mention of a person sitting in the gallery cannot be made.

On 16th March 1966, while participating in the discussion on the demands of Health Department, when Deputy Speaker Shri Manubhai wanted to draw the attention of a government officer sitting in the gallery to a certain matter, the Hon'ble Speaker (Shri FatehAli Palejwala) made an observation that "a mention of a person sitting in the gallery cannot be made in the discussion."

(G.L.A. Debates, Part -2, Book-16, Column 1036)

(15) Mention of an outsider cannot be made in the House.

On 23rd March 1977, when Member Shri Harihar Khambholja made a mention of the name of Shri Morarjibhai in his supplementary question during question hour on starred question No. 5504 of Member Shri G.G. Paradkar pertaining to political persons detained under MISA, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling as under:--

"It is not proper for you to mention the name of anyone. You can mention name of the party, not the name of any person."

(G.L.A. Debates, Part -1, Book-11, Column 255)

(16) No mention regarding the Canteen running under the administrative control of the Legislature Secretariat can be made in the House.

On 14th July 1975, when Member Shri Chhabildas Mehta, while participating in the discussion on the address made by the Governor and presenting his views on different points made a mention regarding the Canteen running under the administrative control of the Legislature Secretariat and stated that "it is the Canteen of this Legislature Secretariat which indulges in small scale black marketing." Hon'ble the Sabhapati (Chairman) (Shri Vijaykumar Trivedi) gave his ruling as under:--

"No mention regarding administration of the Legislature Secretariat can be made in the House. So the words used for the Canteen of the Legislature Secretariat are not proper."

(G.L.A. Debates, Part-2, Book-47, Column:436-437)

(17) Utterances about an employee of the Legislature Secretariat cannot be made in the House.

On 21st July 1967, while speaking in support of the Cut Motion on the demands of General Administration Department, Hon'ble Member Shri Chhabildas Mehta made certain utterances about the Secretary of the Legislature Secretariat. In that regard, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling on 26th July 1967 as under:--

"Hon'ble Member Shri Chhabildas Mehta, while speaking on his Cut Motion on the demands of the General Administration Department, made certain utterances about Secretary of the Legislature Secretariat. At the occasion when Secretary of the Legislature Secretariat retires after a long service, the utterances about his services are made by the Speaker, the Leader of the House and the Leader of the Opposition in the House. Barring this exception, no utterances are made regarding the staff of the Legislature Secretariat during the discussions because if it is allowed, knowingly or unknowingly there is a fear of making direct or indirect allegations regarding the functioning of the Speaker and hence it is not proper to make such utterances during the discussions. If such types of utterances may have been made unknowingly and if they continue to remain on the proceedings, it will not be suitable to the dignity of the House. Therefore, I have decided to remove the portion of the proceedings, limited to the utterances regarding the Secretary made by the Hon'ble Member Shri Chhabildas Mehta, from the proceedings of the House."

(G.L.A. Debates, Part-2, Book-19, Column 1123)

(18) It is not proper to state that the information given by the Minister is false.

On 25th March 1977, during the Question Hour regarding Question No. 5633 of Shri Kantibhai Patel pertaining to the shortage of fertilizer, when Member Shri Dhulabhai Gohil stated that the information of no shortage given by the Minister was false, the Hon'ble Speaker (Shri Kundanlal Dholakiya) ruled that as per the parliamentary procedure, once the Minister gave his reply, then one could not say it as false. But the Member should make the submission regarding the difficulties by narrating the experience in his district.

(G.L.A. Debates, Book-51, Part - 1, Column 608-609)

(19) A mention regarding the personal matter of the Speaker cannot be made.

On 22nd July 1977, when the Revenue Minister Shri Makrand Desai expressed his feeling of happiness over the health of the Hon'ble Speaker in the beginning of his speech for replying the Demands of Grants of the Revenue Department, the Hon'ble Speaker (Shri Kundanlal Dholakia) made the following observation:--

"Please don't refer to anything about the Speaker personally. He is impersonal in the House."

(G.L.A. Debates, Part - 2, Book-55, Column 590)

(20) "The Government is acting as if it is above the Judiciary" such kind of statement creates inferior impression of Executive than to Judiciary.

During the discussion on Demands for Grants on 21st March, 2003, a Member of the Opposition in his speech uttered, "The Government is acting as if it is above the Judiciary". On the utterance of this statement, a Member from the ruling party raised a Point of Order and objected to such utterances and also demanded removal of such objectionable utterances from the proceedings. The other prominent Members from both the sides expressed their views in favour and against such utterances.

The Hon'ble Speaker (Pro. Mangaldas Patel) while ordering for removal of such utterance from the proceedings, ruled as under:

"We all know that the three distinct Organs of the Democratic System the Executive, the Legislature and the Judiciary perform their functions independent of each other within their jurisdiction. They have to respect the powers and duties of one another. In a democratic system, the Legislature representing the popular will is at the apex. Legislature being the paramount body of people's representation performs most important functions of framing the policy of the State and enacting the Laws. The policies framed and the laws enacted are to be followed by the Executive i.e. the Government; Judiciary has the power to interpret the laws framed by the Legislature and is independent in this field. The words "Government is acting as if it is above Judiciary" spoken by the Hon'ble Member creates an impression of one organ of the State is

superior or inferior to other organ of the State, which is not fair in a democratic polity. Therefore, I order to expunge the words spoken by the Hon'ble Member from the proceedings of the House."

(G.L.A. Debates, Book-98 & 101:2003)

(21) Members should refrain from raising the discussion of matters in the House which are under the jurisdiction of a constitutionally Autonomous Body like the Election Commission."

While participating in the discussion on the demand of the General Administration Department on 12th March, 2003, certain Opposition Members, especially the Members of the Indian National Congress raised an issue of omissions of number of voters in the electoral rolls prepared at the time of the Assembly Elections, 2002. The Opposition Members highlighted the failure of the State Election Machinery in the preparation of electoral rolls and demanded necessary actions in this regard. While replying to the discussion, the Minister Shri Saurabhbhai Patel stated that the matters of preparation of electoral roll rest within the exclusive jurisdiction of the Election Commission of India and the State Government has no role to play. The Minister further added that the Members of the Opposition should write a letter to their Leaders at the Centre for suitable amendment to the Constitution. At this juncture, a Member of the Opposition Shri Dineshbhai Parmar raised a Point of Order against the statement and sought guidance from the Hon'ble Speaker regarding the jurisdiction and accountability of the State Government in the preparation of electoral rolls during the Assembly Elections.

Certain other Ministers as also some prominent Members from both the sides of the House had expressed their views on this matter. As the issue was of the jurisdiction and accountability of the State Government, the Hon'ble Speaker had withheld his ruling at that point of time.

After going through the relevant record Hon'ble Speaker (Professor Mangaldas Patel) ruled on 20th March, 2003 as under:

"The matters of preparation and modification of electoral rolls and the conduct of free and fair elections to the State Legislatures fall under the exclusive jurisdiction of Election Commission under Article 324 of the Constitution. Under the Constitution, a body like the Election Commission is autonomous in performing all the functions concerning the conduct of elections to the State Legislature. Of course as per the provision of the Representation of People Act, 1950 and 1951, the Election Commission has to obtain the services of the staff under the control of the State Government for all the

functions related to the elections. Under Section 13 AA (3) of the Representation of People Act, 1950, the Election Officer of every District, have been assigned the function of the election. The District Election Officer performs this function under the supervision and control of the Chief Electoral Officer of the State Government. Under Section 13 A (3) of the said Act, the Chief Election Officer is appointed by the Election Commission and he performs his duties under the direct supervision and control of the Election Commission for all matters concerning the elections. Though the work of preparation of electoral rolls is assigned to the staff under the control of the State Government, there is no control of the State Government over the staff engaged in this work. Under section 13CC of the Representation of People Act, 1950 and Section 28A of the Representation of People Act, 1951, the electoral staff engaged in the work of election is considered to be on deputation with the Election Commission and as such, the State Government is not primarily responsible for any omissions or lapses caused in the preparation of electoral rolls. If there is any error or omission in the electoral rolls, one has to make complaints/representations to the Election Commission. Since the issue involves the jurisdiction of the Election Commission, the references made by Hon'ble Members of Opposition in the discussion are irrelevant so far as the jurisdiction of the State Government is concerned. Therefore, the Hon'ble Minister of State was not required to respond to this matter in his reply. I feel that the reference made by the Hon'ble Minister in his reply seems to be in consonance with the provision of the Act and, therefore, I am unable to accept the Point of Order raised by the Opposition Member. At this stage, I want to draw the attention of all Members of the House that the matters, which are not within the primary jurisdiction of the State Government, should not be raised for discussion in the House. I also request all the Members to refrain from raising the matters, which are under the jurisdiction of a constitutionally Autonomous Body like the Election Commission."

(G.L.A. Debates, Book-97 & 98:2003)

(22) It is not proper if a Member makes an announcement regarding his intention, which is not related to the business of the House.

On 9th March 1970, after the discussion on the Condolatory References regarding the demise of former Member Shri Ramanbhai Ashabai Patel, Shri Martandrai Shastri made an announcement that the Government had shown unpardonable negligence with regard to price rise of oil in Gujarat and the Member himself was not able to be helpful to the people by participating in the proceedings of the House and, therefore, he would go on fast unto death if the Government would not make an announcement to provide oil to the people at

reduced prices within 15 days by making a specific policy regarding the prices of oil.

Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling in this regard as under:--

"I am very sorry that the approach adopted by the Member is not proper. In this House, if there is a matter related to the business of this House, it can be raised. But if any Member has an intention in his mind and it is not relevant to the business of the House, making an announcement thereof in the House is not proper."

Thereafter, Member Shri Trikamlal Patel inquired as to whether the announcement made by the Member would be removed from the proceedings of the House?

In that regard the Speaker gave his ruling as under:--

"I think if I remove the announcement of the Member from the proceedings of the House, I should also remove what I have said in the House and whatever guidance is to be received from the proceedings of the House in future will stop forever."

(G.L.A. Debates, Part-2, Book-26, Column 503)

2. An opportunity to participate in the debate.

(1) The Member who wishes to participate in the debate should remain present in the House to listen to the speeches made by the Members earlier.

On 12th March 1973, during the debate on demands for Grant Nos. 27, 64 - drought relief and for Grant Nos. 28, 71, other miscellaneous compensations and change of name, Member Shri Pratapsinh Patel expressed his views and concluded his speech, seeing some Members rising on their seats to participate in the debate, Hon'ble Speaker (Shri Raghavji Leuva) made the following observation:--

"A provision has been made in our Rules that any Member cannot read out his speech in the House. The reason is that the Members, who wish to participate in the debate, should remain present in the House to listen to the speeches made by the Members earlier. Because if they are allowed, they will speak what they want to speak and go away with no reference to earlier or following speech. This situation should be avoided. Every Member should remain present in the House."

(G.L.A. Debates, Part-2, Book-42, Column 63-64)

(2) The former Ministers are given priority over the Members in participating in the debates.

On 24th March 1972, after the speech of Member Shri Keshavbhai Patel in the ongoing debates on the motion for the Vote on Account presented by the Finance Minister, the Hon'ble Speaker (Shri Raghavji Leuva) made the following explanation:-

"There is a custom that former Ministers are given priority over sitting Members in the discussion."

(G.L.A. Debates, Part-2, Book-33, Column 186)

(3) Any Minister including Parliamentary Secretary can participate in the debate.

On 27th February 1979, during the general discussion on the budget, as the Parliamentary Secretary Shri Kasambhai Achhava rose to participate in the discussion and began his speech, Member Shri Popatlal Sorathiya, raised a point of order and while drawing the attention of the House to Rule – 221 stated that at the end of the general discussion on the budget, normally the Finance Minister had to reply. When he requested the Hon'ble Speaker to give his ruling as to whether in this way the Parliamentary Secretary could reply, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling as under:--

“Any Minister can intervene at any time. Minister includes Parliamentary Secretary also.”

(G.L.A. Debates, Part-2, Book-63, Column 204)

(4) Like Parliament, now onward Members of ruling party and opposition have to follow the standard of Pro-rata to take part in the discussion in the House.

On 26th February, 2007, at the stage of presentation of Government Bills, Shri Jitendra Sukhadia, Chief Whip of the Ruling Party drew the attention of the Speaker stating that according to the well-established parliamentary practice in the Parliament and other Legislatures, the Members of different parties are given opportunity to take part in the debate according to the strength of the party i.e. pro-rata basis in the House. Earlier, in the Gujarat Legislative Assembly also the same practice was followed. However, since quite some time, equal Members of both the ruling and opposition parties have been allowed to take part in the debate and as a result, the Members of the Ruling Party do not get enough opportunity according to its strength, which is really an injustice to the Members of the Ruling Party. The same matter was

also considered in the sitting of the Business Advisory Committee. Therefore, opportunity should henceforth be given to the Members of both the parties to participate in the debates as per pro-rata basis.

After hearing the views of the Whip of the Opposition, the Minister of State for Home, the Agriculture Minister and also the Leader of the Opposition on the aforesaid issue, the Hon'ble Speaker (Pro. Mangaldas Patel) gave the following ruling:-

"I am happy that I have conducted the House for four years in a manner that both the Ruling and Opposition parties get equal time and I am thankful to both the sides for accepting the same and co-operating me. However, it is now observed that the feeling of the Members of the Ruling Party is something different. Their demand is that they be allocated time for participating in the debates according to the strength of their party in the House, which I feel is just and, therefore, I have to accept it. However, I want to recall a point raised by Shri Balvantsinh that the pro rata time allocation must include the time allocated to the Ministers also. Therefore, the debates in the House will henceforth be conducted as per the pro rata time allocation."

(G.L.A. Debates, Book 125:2007)

3. Reply to the debate.

(1) It is not a rule that all the issues raised during the debate are to be replied by the Ministers.

On 10th March 1966, when the Hon'ble Chief Minister was replying on the discussion on demands, Member Shri Manoharsinhji Jadeja raised a point that explanations were not made regarding the issues raised in the discussion pertaining to the General Administration Department.

At this stage, the Hon'ble Speaker (Shri FatehAli Palejwala) gave his ruling as under:--

"There is no rule that every issue, be it small or big raised during the discussion should be replied. The Government makes explanation regarding the issues, which it thinks appropriate to be replied. The Hon'ble Minister cannot be compelled to reply any issue. Each Hon'ble Member says that all the matters presented by him are important and it is not appropriate to insist that all the matters should be replied."

(G.L.A. Debates, Part-2, Book-16 Column 793)

(2) A Minister is not bound to reply all the issues.

On 19th March 1964, when the Minister of Education Smt. Indumatibahen was replying on the discussion on the demands of the Education Department and when Member Shri Chhabildas P. Mehta insisted to reply certain issues, the Hon'ble Speaker (Shri Fateh Ali Palejwala) gave his ruling as under:--

"A Minister cannot be compelled by any Member in any way to reply an issue, which is to be replied at the end of the discussion. The Members can also not insist that all the issues raised here must be replied by Hon'ble the Minister."

(G.L.A. Debates, Part-2, Book-11 Column 1265)

(3) It is the Minister, who has to decide as to which issues are to be replied, out of the issues raised by the Members.

On 19th March 1965, after the discussion on the demands for grants pertaining to the Cooperation Department, Member Shri Babubhai Vaidya made a submission that a provision should be made that the issues raised during the discussion may be replied by the Minister.

The Hon'ble Speaker (Shri FatehAli Palejwala) made the following observation:--

"But it is for the Hon'ble Minister to decide. I am giving a definite ruling now on that. For the last two days, I have been giving opportunity to the Members to ask whatever things they wish to ask. But if each thing is asked by a Member, one by one, I think, we will not be able to satisfy all the Hon'ble Members, even if we sit for further two hours. It is the Hon. Minister to decide as to what point he should reply."

(G.L.A. Debates, Part-2, Book-13(b), Column 1084)

(4) Despite a Minister being present in the House, a Deputy Minister may reply to the discussion.

Whether a Deputy Minister can reply the discussion on any bill or a motion or can answer questions despite the concerned Minister present in the House? Since objections in this regard were raised from time to time, on 14th September 1968, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"On 10th September 1968, Hon'ble Deputy Minister for Agriculture gave reply on the discussion regarding resolution of distribution of fertilizers

pertaining to Member Shri Bhailalbai Patel. Hon'ble Member took an objection that it was the responsibility of a cabinet Minister to give reply on this question as he was present in the House and he was not happy to listen to the answer of the Deputy Minister. In reply to this objection, I had stated that when the government is working on the principle of collective responsibility and a Deputy Minister is included in the meaning of a Minister, he could not compel Hon'ble Minister of Agriculture by accepting the desire expressed by the Hon'ble Member.

On 12th September, 1968, Hon'ble Member Shri H.M. Patel sought my consent and stated that many a time in the past, during Question Hour and on other occasions, when the Hon'ble Minister of Agriculture and Cooperation was present in the House, he had given permission to his Deputy Minister to reply from the government side. Not only that, but when such answers were not satisfactory or otherwise too, the Senior Minister would have to intervene and satisfy the House, but they did not do so and by behaving in this way, they had shown disregard to the House.

Since such questions are raised from time to time in one or the other form in the House and what kind of behaviour is expected from a Minister and Deputy Minister towards the House and to maintain such kind of behaviour, what are my duties as the Speaker, for careful consideration of giving my ruling as to how much power is available to me to maintain such kind of behaviour which will facilitate smooth functioning of the proceedings of the House, I have permitted to raise such a question.

As a result, many Hon'ble Members have participated in this debate for nearly two hours and made many useful arguments and these arguments have been helpful to me in taking a decision in this matter.

Hon'ble Member Shri H. M. Patel had drawn my attention to the statements on Page No. 101 of First Edition of Practices and Procedure of Parliament - by Kaul and Shakhdar. Looking to that I found that when demands of any department are being discussed or general debate on the budget is going on, possibly a Finance Minister as well as a Minister who is looking after the department of which the demands are being discussed should remain present in the House.

While studying some of the debates of the years 1950, 1954, 1962 in the Lok Sabha, it can be seen that when for any department other Ministers have been appointed besides a Cabinet Minister and if the presence of only a Cabinet Minister is expected, it results into lessening of the usefulness of such additional Ministers without any reason.

Whenever an issue of the presence of a Minister is raised and the presence is insisted in the Lok Sabha, an expectation of the presence of any Minister of a department has been believed to be appropriate. Not only that when the Minister of a department is not present, the presence of the Minister of another department is considered to be sufficient and thereby the principle of collective responsibility of the government has been fulfilled.

Therefore, so far as the presence in the House is concerned, there is no reason to make a complaint against the behaviour of Hon'ble Minister for Agriculture and Cooperation. On the contrary, in an instance in the last session when he was late in reaching the House, he himself apologized to the House and he accepted his responsibility to remain present in the House without any hesitation, instead of stating that his Deputy Minister should have reached the House or he should have made an explanation for being late. Therefore, there is no scope for complaining that his behaviour lacks the courtesy towards the House.

Looking to the rules of the then Bombay Legislative Assembly, a parliamentary secretary had a liberty to use only those powers, available to him and each time there was an expectation to give such powers. The then Chief Minister Shri Balasaheb Khair himself had a doubt as to whether a Parliamentary Secretary instead of a Minister can reply discussions or questions. Hence he asked the question to the Speaker and sought his guidance. In his reply the Speaker Mavalankar had stated that:--

"The House of Commons Procedure is that the Parliamentary Secretary can answer questions even when the Minister is present. If his authority is challenged, it is enough if the Parliamentary Secretary makes a declaration that he has authority delegated to him by the Minister."

This matter was applied to all the subsequent discussions and a Parliamentary Secretary got the facility of replying in the presence of a Minister.

In our today's Rules, it has been provided that in the word "Minister" the words "Deputy Minister" and "Parliamentary Secretary" are included.

Thus, in the presence of a Minister, the concerned Deputy Minister himself can decide as to whether he is competent to discharge the duties of a Minister."

(G.L.A. Debates, Part-2, Book-21, Column 1631-1636)

(5) No discussion can be made in the House with regard to the genuineness of the information provided by the Minister but in that regard one should meet the Speaker.

On 4th March 1963, in the printed answer to question no. 1340, from the second starred list, pertaining to Tractors and boring machines to be given on rent to the farmers in Vadodara district, the Government had stated that there was no scheme in force for giving on rent tractors and boring machines to the farmers. Member Shri Chimanbhai Amin, who asked the question, stated that as per his information such machines were given on rent in the Vadodara Model Farm.

The Hon'ble Speaker (Shri FatehAli Palejwala) gave his ruling as under:--

"The replies given by the Ministers are believed to be true and there cannot be any discussion on that. If you have to say anything about its genuineness, come to me and tell me. If need be, I will make Hon'ble the Minister to explain but there can not be discussion on the given reply. The replies given in the house should be accepted and you can ask only supplementary questions arising out of them."

(G.L.A. Debates, Part 1, Book-7, Column No. 82)

(6) 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 Ahemedabad 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 practice, the 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 I cannot compel him that he should give information".

(G.L.A. Debates, Book – 3, Vol. II, Col. 295)

4. Repetition of the debate.

If a debate has been made on the comprehensive policy of the Government on a certain issue, then it cannot be taken up again.

On 3rd April 1984 after the discussions with regard to drawing the attention of the Minister to the matter of urgent public importance, with the prior permission of the Hon'ble Speaker and by taking the consent of the Minister, Member Shri Babubhai Vasanwala raised the issue of closing down of Abhay Mill of Ahmedabad. Hon'ble the Minister stated in his oral statement that as the Abhay Mill of Ahmedabad was closed down in the morning on 2nd April 1984, 1650 permanent workers and 350 temporary workers have been affected. This mill used to produce 77,000 meters of cloth per day and with closing down of this Mill, the Unions had filed petitions in the court to pay them Rs. 1 Crore 80 Lakhs for payments of salary, earned leave, retrenchment, gratuity, etc., and received the attachment of the property.

At that stage, when Member Shri Ashok Bhatt was about to raise an issue to seek the information regarding the comprehensive policy of the Government, if the State Government has received the report of the Committee of the Central Government for the Mills that have closed down, the Hon'ble Speaker (Shri Natwarlal Shah) made the following observation:--

"Hon'ble Ashokbhai, right now it has been allowed to raise the issue only for one Mill and the comprehensive policy of the Government has been discussed in this House many a time. Therefore, it cannot be discussed again. If you wish to ask a question with regard to this particular mill, you may ask it."

(G.L.A. Debates, Part 1, Volume 87(2), Column 878-879)

5. Interruption while Speaking.

(1) When a Member is speaking, no other Member can speak in the middle except for a point of order.

On 11th January 1978, when Revenue Minister Shri Keshavbhai Patel was replying on the discussion on a motion of first reading of the Bombay Tenancy and Agricultural Lands Act, 1948 (Gujarat Amendment) Bill, Member Shri Uttambhai Patel spoke certain words, so when Hon'ble the Revenue Minister replied that using certain words, the Hon'ble Speaker

directed to remove that portion from the proceedings. Even after that as the Member persisted in interfering, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling as under:--

"It is the practice of the House that when any Member is speaking, no Member can rise on his seat except for a point of order. If other Members rise on their seats to raise the point of order, then only the Member who is speaking has to sit down on his seat. But if the other Member has risen in his seat to seek an explanation or information and if the Member who is speaking does not sit down, I cannot compel him. You have spoken in the middle without my permission. That's why I have removed that portion from the proceedings."

(G.L.A. Debates, Part-2, Book-56, Column 290)

(2) When a Member is speaking, other Members can speak in the middle only after seeking either a point of information or a point of explanation.

On 23rd February 1966, when Hon'ble the Chief Minister was replying on the discussions on the address by the Governor, as Member Shri Bipinchandra Bhatt rose in his seat and started to speak in the middle, the Hon'ble Speaker (Shri FatehAli Palejwala) stated that "if any Member wish to say something in the middle, he should seek either a point of information or a point of explanation and when the Member, who is speaking, sits down, then only the Member can speak."

(G.L.A. Debates, Part 2, Book-16 Column 327)

(3) A personal explanation can be made only after the discussion on the matter on hand is over.

On 5th September 1968, during the question answer session it was decided to postpone a question and thereafter a Member asked the next question, when the Minister started to make an explanation regarding the question postponed earlier, Member Shri Ratilal Khushaldas raised an issue as to whether the Minister could make an explanation with regard to the matter of the earlier question after taking up the second question?

At that time the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"I think this is a correct point of order, that once any other matter has already been taken on hand, it would not be proper for any hon. Member even to get up for personal explanation. The hon'ble Member can get up for personal

explanation after that business of the House, that item of business that is the questions, are over."

(G.L.A. Debates, Part-1, Book-20, Column 1179)

(4) A point of information regarding a motion can be raised only after the motion is moved in the House.

On 7th April 1972, after Hon'ble the Chief Minister Shri Ghanshyambhai Oza moved a motion giving consent to the 25th Amendment to the Constitution Bill, passed by both the Houses of Parliament under the proviso to Article 368(2) of the Constitution of India, but before the Hon'ble Speaker moved that motion in the form of a question before the House, Shri Liladhar Patel tried to raise a point of information. At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"But there is nothing before the House, unless and until the Speaker gives the business to the House, no Member can rise and say something."

(G.L.A. Debates, Part-2, Book-33, Column 1158)

6. An allegation during the debate.

(1) No allegation can be made by mentioning a name of an officer of the Government Department or any person.

On 26th February 1972, during the discussion on the Supplementary Demands when Member Shri Maganbhai Barot made criticism involving an allegation by mentioning a name of a Government officer, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"It is one thing to criticize a department by mentioning a name of a person, to criticize a person is a different thing. No allegation can be made by mentioning a name of a person. These are very serious type of allegations. Before using the privilege of the House, Hon'ble the Member has to take all the responsibility of the allegations. Because --

This would amount to the breach of a privilege and the contempt of the House, if they are unfounded. Therefore, the rules have provided that a Member shall not make an allegation or charge in respect of an individual without informing the Speaker."

(G.L.A. Debates, Part-2, Book-41, Column 39 and 41)

(2) Allegations made on a political party during the debate are pardonable.

On 24th February 1973, during the discussion on the address by the Governor, Hon'ble the Chief Minister in his speech stated that when several persons, be it small or big started working during draught, only one political party was engaged in taking out processions dramatically. He further stated that (to say that) we would not eat once in a week is dramatic.

At that time, Member Shri Narsinhdas Gondhia raising a point of order stated that whatever did they do, did it dramatically only. This kind of allegation was inappropriate, which should be withdrawn.

In this regard, the Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"The allegation made during the discussion is not against any person or any Member. It is an allegation against a political party and an allegation against a political party is pardonable."

(G.L.A. Debates, Part-2, Book-40, Column 835)

(3) No allegation can be levelled against any Institution without giving prior notice to the speaker and the concerned Minister.

On 30th June, 1972, while discussion on the non-governmental resolution to nationalize the education sector, Member shri Manubhai Palkhiwala was making allegations against some institutions in his speech, so the Hon'ble speaker (Shri Raghavaji Leuva) while interpreting the provisions of the rule in this regards, gave the following ruling.

"The Honorable Member makes allegations against many Institutions. As shown in our Rule 37:-

"37: No allegation of a defamatory or incriminatory nature shall be made by a Member against any person:"

It is a question to consider whether the word 'person' is used in individual or in general term as the Minister and the speaker should be informed in advance when an allegation is made against a person and it is not appropriate not to inform when an allegation is made against an institution because the purpose behind it, is to be able to prepare in advance by getting information when time comes to reply by the Hon'ble Minister regarding the conduct of any Institution. If this is the intention in relation to any Individual person then the intention of our rule makers should also be in relation to the Institutions too, because ultimately an allegation is made in relation to the

Institution or person who can not appear here to defend themselves. If any allegation is made in this regard, it is the duty of the Speaker to stop the allegation and that is why in the word 'person', I include not only the Individual person but also the Institution."

(G.L.A. Debates, Part-2, Book-34, Column: 447-448)

(4) There is no custom to produce a letter as a part of evidence of allegations.

On 9th September 1960, during the discussions on the demands for grants, Member Shri Shivprasad Bhatt, while discussing interference from the Members of a political party in the administration, made a mention of the attempts made by the workers of the Congress Party to make changes in that site of the seed farm after it was decided to open a seed farm in Lunawada and stated that he would produce the evidences in this regard, if required. When the Member further expressed his desire to present a letter before the House, Hon'ble Deputy Speaker (Shri Ambalal Shah), who was in the Chair of the Speaker made the following observation:--

"You are requested to go to Hon'ble Minister with the letter, which you want to produce here. There is no custom to produce a letter in the House of the Legislative Assembly."

(G.L.A. Debates, Part-2, Book-1, Column 622)

(5) Removing personal indictment from the proceedings of the House and asking the Leader of the Opposition to apologize for making personal allegation against the Minister.

On 29th February 2012, Hon. the Minister of Parliamentary Affairs Shri Dilipbhai Sanghani raised a Point of Order and stated that while asking a supplementary question on Starred Question No. 25297, Hon. the Leader of Opposition had made a personal allegation on him by stating his partnership with certain companies. He also submitted that the Leader of Opposition should either prove the personal indictment made by him or tender his apology to the House. After hearing the views of the Leader of the Opposition and Minister of Urban Development Shri Nitinbhai Patel on the issue, Hon'ble the Speaker (Shri Ganpatsinh Vasava) stated that he would give his ruling after verifying the records of the proceedings.

After going through the records of proceedings of the House, Hon'ble Speaker, while giving his ruling, stated that "it is obvious from the reference on which the supplementary question was asked by the Leader of the Opposition that he had levelled a serious personal allegation against the Minister of

Parliamentary Affairs" and, therefore, the Hon'ble Speaker asked "the Leader of Opposition to apologize and ordered to remove the personal allegation from the proceedings of the House." He also drew the attention of all the Members of the House towards "the provisions of the Rule - 37 and advised them to refrain from making such personal indictment against any Member of the House in future so as to protect and preserve the highest standards of the Parliamentary Practices."

(G.L.A. Debates, Book- 164: 2012)

(6) A notice should be given in advance to the Speaker and the Minister before making a mention involving an allegation with regard to a person, who is not able to appear in the House and defend himself.

On 18th March 1971, during the discussion on the address by the Governor, as Member Shri Gordhandas Chokhawala mentioned the name of an outsider in his speech, Member Shri Indubhai Patel raised a point of order and stated that a mention involving an allegation should not be made with regard to a person, who was not present in the House.

At that time the Hon'ble Speaker (Shri Raghavaji Leuva) gave the following ruling:--

"As per the Rule of the House, if a mention involving an allegation is to be made with regard to a person, who is not able to appear in the House personally and defend himself, one thing is that a notice should be given in advance to the Speaker and if a Minister is related in the matter, a notice should be given to the Minister is another thing. Hon'ble Member can mention a person by giving a notice in advance so that the Minister has a chance to make an explanation in the House with regard to the person, when the time comes. Moreover, no allegation or discussion can be made against a person, who is not present in the House, which the Members are asked to bear in their minds."

(G.L.A. Debates, Part-2, Book-31, Column 273-274)

(7) Allegations against a Minister cannot be made without the permission of the Speaker even if the Minister is present in the House.

On 6th March 1979, during the discussion on the demands of grants for the Industries and Mines Department, when Member Shri Gokaldas Parmar was about to make an allegation in his speech with regard to a case of corruption in the Industries Department regarding Morbi vegetable products, the Hon'ble Speaker (Shri Kundanlal Dholakiya) stopped him from making an allegation and gave his ruling as under:-

"It is wrong on your part. You cannot criticize. It cannot be said. As per our rules, if we want to say something about any Member even if he is present here, my permission should be obtained and the purpose of this provision is that I can inform the Minister so that the Minister has the time to make inquiry with regard to that allegation. If we say off hand, he may not get time. So the decision thereof has been taken for the sake of principle of justice and on principle of justice and equality."

(G.L.A. Debates, Part-2, Book-63, Column 638-639)

(8) With regard to making an allegation, when any Member of the House informs in advance the type of the allegation to another Member against whom the allegation is to be made, there is no need to provide the details of the allegation as per Rule – 37.

On 25th February, 1983, during the discussion on the motion of thanks on the address by the Governor, Member Shri Ashok Bhatt stated that no standard of merit was maintained in the admission given by the Charutar Kelavani Mandal, in its Science College. It was his clear allegation that the Charutar Kelavani Mandal had misused its right to give admission on the seats allotted to its Science College by the Government, by giving an admission to son of the Chief Minister without a merit number. At that time, the Chief Minister Shri Madhavsinh Solanki raising a point of order stated that whenever a Member wanted to make an allegation, he should intimate the Speaker in advance by stating the details of allegation as well as he should inform the concerned Member or Minister by giving details thereof. The allegation was made with regard to the approach adopted by the Charutar Vidya Mandal. Therefore, Shri Madhavsinh Solanki further stated that the alleging Member by informing him that "he is going to make an allegation" was not sufficient and requested the Speaker to give his ruling.

In this regard, after listening to other Members the Hon'ble Speaker (Shri Natwarlal Shah) gave his ruling as under:--

"Hon'ble the Chief Minister stated that whatever the allegations have been made, are made against the Charutar Vidya Mandal. Since Charutar Vidya Mandal or any of its office bearers are not the Members of the House, before making any allegations Hon'ble Shri Ashok Bhatt should have informed me and Hon'ble the Chief Minister as also to the Minister of Education. The Chief Minister has made influence to get his son admitted in the Charutar Vidya Mandal. Clause 1 of the Rule 37 will not apply to this matter. The Chief Minister is a Member of this House. So when a Member makes an allegation

against him proviso of Rule 37 will apply. Accordingly the Member who wishes to make an allegation has to inform the Member against whom the allegation is to be made. One of the Rulings of my predecessor is that a Member can make an allegation against a Minister and in that there is no need to give an intimation or information. Since I do not completely agree with that Ruling, I have till today, insisted that when an allegation is to be made, a Member should take sufficient care and he should inform me and the Minister, who-so-ever the Minister is. As the Hon'ble Chief Minister says, before making allegations either evidence should be provided or the Member against whom there is a prima facie case should be convinced. Only after that such kind of allegations should be made. So I believe that in this Rule, there is no provision of convincing in that way. There is much difference in the words between the first clause of the Rule and the proviso. Accordingly a decision cannot be taken relying on the first clause of the rule. That clause applies only when an allegation is made against a person other than a Member. As I said, the allegation is not at all against an outsider. The allegation is directed at the Chief Minister only. The proviso reads that:-

"Provided further that, if allegations are to be made against a Member, previous intimation shall be given to such a Member."

It means that if a Member says that he wants to make an allegation, the matter is over there and we can say that the rule is followed. The Member against whom an allegation is made should have the opportunity to make preparation with regard to replying the allegation. If that type of opportunity is not provided to him, the Member cannot defend despite being present in the House. And if he cannot defend himself, the essence of the entire rule may not be followed. The basic principle on which the entire rule is based is principle of natural justice which demands that the person against whom an allegation is made, must have a fair chance to be defended and replied to the allegation. That basic rule may not be followed. There is also a debate regarding this allegation in the newspapers and in the memorandum. And there are many debates outside. But in the letter, which Shri Ashokbhai has written to me all he has written is he is going to make submission with regard to the malpractice in the admission process in the Engineering College in the Vallabh Vidyanagar University and he is to make an allegation against the son of the Chief Minister. A copy of this letter has been forwarded to the Chief Minister, so if he had given more details or complete details on what ground or what kind of malpractice is committed, it would have been better. But -

"I consider that when he has intimated to the Chief Minister regarding the allegations that he is going to make (an allegation) against him, the provision of the Rule is complied with and, therefore, I don't accept the point of order." "

(G.L.A. Debates, Part -2, Book-81, Column 564 to 582)

(9) A Member should come prepared to produce evidences with regard to the allegations made against the Council of Ministers in the House.

On 5th March 1982 during the discussion on the demands for grants pertaining to the Roads and Buildings Department, Member Shri Manubhai Kotadiya in his own speech stated that sons of some Ministers used to take the works on contracts and if the Officers take action against any malpractices committed by them, they were threatened with dire consequences. He also stated that in such circumstances, in order to avoid lowering the quality of construction of work, it would have been necessary to decide a certain code of conduct. At this stage, the Hon'ble Minister of irrigation Shri Amarsinh Chaudhari also raising a point of order stated that Hon'ble Member had made an allegation against the Ministers. At that time, Hon'ble Speaker gave his clarification that since the contract would have been taken by the sons of the Ministers, they might have been involved in it and naturally there might be some binding on the officers taking action against them. He also stated that in the present context, the Council of Ministers means the existing council of Ministers. So the Speaker sought for the Member's explanation or evidence, failing which he was asked to withdraw his allegations. Accordingly, Shri Kotadiya explained it as taken for granted from hearsay that the works were taken in others names. Thereupon, the Hon'ble Speaker (Shri Natvarlal Shah) gave the following ruling:-

"Hon'ble Manubhai, in the explanation, which you are making repeatedly, the same thing will appear. It doesn't make any difference. So as I said, either you show your readiness to furnish the evidences or withdraw your allegations. Other than that there is no scope for other discussions."

(G.L.A. Debates, Part-2, Book-77, Column 940)

(10) While making an allegation, the Member should produce evidence in support of his allegation.

On 9th March 2007, the Minister of Parliamentary Affairs Shri Ashok Bhatt raised a Point of Order with regard to the allegations made by Dr. C. J. Chavda while raising a supplementary to a Starred Question bearing No. 21266 on "relaxing the prohibition on the consumption of alcoholic drinks in the SEZ

area" and requested the Hon'ble Speaker to ask Shri Chavda to produce evidences if any, in support of his allegations.

On this Point of Order, the Finance Minister, the Minister of State for Home, the Leader of the Opposition, the Whip of the Opposition and the Members of both the sides expressed their views. After hearing all of them and relying on the Important Rulings No. 29, 31 and 298 by the past Speakers as well as the Provisions of Rule - 34 and 37 of the Gujarat Legislative Assembly Rules regarding the procedure of the House, the Hon'ble Speaker (Professor Mangalbai Patel) gave his ruling as under :-

"A Member must not make any defamatory or derogatory allegation against any Members or Ministers on the floor of the House. Even if he wanted to make any such allegation, he should give prior intimation to that effect to the concerned Minister or Member and the Speaker. Moreover, the Member should also produce evidence in support of his allegation. As per the general rules of the procedure of the House and the Parliamentary Practices, the Member is responsible for whatever he submits in the House. On hearsay matters, allegations cannot be made without any base or evidence. It is also the responsibility of the Member to prove the allegation made by him."

Giving this ruling, the Hon'ble Speaker had ordered to remove all the defamatory expressions uttered by Dr. C. J. Chavda and the other Members of Opposition from the records of the proceedings of the day.

(G.L.A. Debates, Book 128:2007)

(11) It is not proper to make allegations against the Prime Minister.

On 12th February 1981, during the discussion on the address by the Governor, Member Shri Shantilal Patel made a mention of Narmada project in his speech and criticized certain acts done by the Prime Minister. Thereupon, the Minister for Parliamentary Affairs Shri Prabodh Raval requested the Hon'ble Speaker to make the Member withdraw the words used with regard to the Prime Minister. At that time, the Hon'ble Speaker (Shri Natwarlal Shah) gave his ruling as under:-

"It is better you withdraw your words, otherwise I will have to remove them." As directed by the Speaker, the Member withdrew his words.

(G.L.A. Debates, Part-2, Book-71, Column 270-271)

(12) No allegation can be made against anyone by mentioning his name.

On 25th August 1969, during the question answer session on stated question no. 22739, when Member Shri Ramubhai Bhatia took the name of a certain person and made an explanation defaming that person, Member Shri Narendrasingh Zala raised a point of order that whether a Member could make an explanation despite not granting permission by the Speaker? At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:-

"He can neither make an explanation nor make an allegation by mentioning a name without giving a notice in advance. It would not have been objectionable if he had given the information or detail without mentioning any name but he cannot make an allegation mentioning a name."

(G.L.A. Debates, Part-1, Book-22, Part B, Column 1505)

(13) An allegation cannot be made against the Vigilance Commission.

On 11th February 1976, during the question answer session with regard to the question no. 1985 of Member Shri Narsinhbhai Makwana pertaining to the malpractice committed in the construction of Gandhinagar, Member Shri Manubhai Vyas tried to seek the information through a supplementary question whether the Government wanted to assign the enquiry to an impartial person or the judiciary, with regard to the Vigilance Commission, so that an enquiry could be made into the matter without any doubt, since Vigilance Commission being one of the departments of the Government.

At that time, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling as under:--

I would like to make one thing clear that no allegation can be made against the Commission.

(G.L.A. Debates, Part-1, Book-49, Column 443)

7. Criticism during the debate.**(1) Before making criticism in the House on the basis of a letter, a Member should ensure the authenticity of the letter.**

On 11th April 1964, the Hon'ble Speaker (Shri FatehAli Palejwala) made the following observation:-

"The House may recall that on 30th March 1964, while speaking on the discussion on Appropriation Bill, Hon'ble Member Shri Bipinchandra Bhatt had read out a letter in the House, which was written by an Advocate of Ahmedabad Shri Harishankar Lallubhai Trivedi addressed to Hon'ble Home

Minister Shri Hitendrabhai Desai and some other Hon'ble Members with regard to the recent appointment in the City Civil Court. Afterwards, Advocate Harishankar Lallubhai Trivedi written a letter to the Home Minister on 31st March 1964 and stated that he had not written any letter, addressed either to Home Minister or any MLA or any person, which is said to have been written by him and was read out in the House. Since the letter read out by Member Shri Bipinchandra Bhatt in the House was defaming an outsider and he has not written such letter addressed to anyone, the letter and the utterances thereof will be removed from the proceedings of the House of 30th April 1964 as per the Rule 271 of the Gujarat Legislative Assembly Rules.

I would like to request Hon'ble Members that while making a speech in the House relying on any paper, especially such a paper in which allegations are made against any officer or other person, it will be more appropriate if Hon'ble Member speaks after ascertaining the authenticity of the information or details in the letter."

(G.L.A. Debates, Part-2, Book-11, Column 2183)

(2) No criticism or mention of his name can be made with regard to a person who is not present in the House.

On 31st March 1967, during the discussion on the resolution of Member Shri Sanat Mehta, when Member Shri Narendrasinh Zala used critical words regarding the Prime Minister, Member Shri Gangaram Raval raising a point of order sought to know as to whether the criticism made with regard to the Prime Minister was relevant with the subject of the resolution. At that time, the Hon'ble Speaker ruled that a person who was not present in the House couldn't be criticized. Thereupon, Member Shri Narendrasinh Zala stated that what he said was said in the Parliament also. Member Shri Madhavsinh Solanki raising a point of order sought to know as to whether it was appropriate to make a mention of an allegation made in the Parliament, which couldn't be replied in the House nor withdrew the same. At that time, the Hon'ble Speaker directed the Member Shri Madhavsinh Solanki to show the Rule under which the Member could be compelled to withdraw his words. Thereupon, Shri Solanki drawing the attention to Rule 36 and 37 of the Gujarat Legislative Assembly Rules, stated that any statement defaming the Prime Minister of India could be removed from the proceedings of the House under Rule 36.

At that time, the Hon'ble Speaker stated that after seeing what the Member Shri Narendrasinh Zala had said in the Lok Sabha, he would decide as to whether the same should be removed from the proceedings of the House or not and he would declare it in the next session. Thereafter, in the subsequent

session on 20th July 1967, the Hon'ble Speaker (Shri Raghavji Leuva) gave the ruling as under:-

“The objective of the resolution was to get an inquiry conducted into the properties of Members of the Council of Ministers, MLAs, office bearers of statutory bodies established under the acts enacted by the state and their close family Members. Therefore, it is not relevant to make allegations on any other persons in the discussions. So it cannot be said that the mention made by Hon'ble Member was relevant.

Whatever words the Hon'ble Member had put in the Mouth of Dr. Lohiya's mouth could not be traced in the proceedings of the Lok Sabha. The purpose of the speeches made by him from time to time, seem to be like that but those words are never used. So it cannot be said that Hon'ble Member was reading the proceedings of the Lok Sabha. But even if he was actually reading such proceedings and if that extract was not relevant with the discussions of this House, then it is not appropriate to allow using it.

An important thing is that statements involving allegations cannot be made with regard to a person who is not present in the House or cannot make an explanation with regard to himself by remaining present.

The resolution which was under consideration before this House can only be implemented with regard to the persons under control of this state. And, therefore, with reference to the resolution, an act or behaviour of the Prime Minister cannot be the subject of the debate of this House. Even considering from this point of view that the words read by me above contained allegations, they were irrelevant and, therefore, its use in the House is not proper.

Considering the keenness of the House to sustain its dignity and decorum, I have decided to remove the aforesaid words from the proceedings of the House."

(G.L.A. Debates, Part-2, Book-10, Column 730-731)

(3) 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.

(G.L.A. Debates, Book – 1, Vol. II, Column 275-276)

(4) An act done by the Government of other State cannot be criticized.

On 23rd March 1967, during the discussion on the address by the Governor, as Member Shri Trikamlal Patel made a mention of firings on the procession by the Government of Orissa, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:-

"It is not appropriate to make criticism of an act done by the Government of other state in this House."

(G.L.A. Debates, Part 2, Book-18, Column 255)

(5) The Central Government cannot be criticized in the House.

On 16th February 1976, while participating in the discussions on the address by the Governor, Member Shri Babubhai Vasanwala mentioning the speech made by the Chief Minister stated that there was a ban on the radio throughout the nation on that day. The newspapers gave only one-sided news. There was a random use of MISA and the freedom of speech had vanished. At that time, Member Shri Maganbhai Barot raising a point of order stated that all the things stated by the Member were related to the Government of India. A mention of any matter or issue related to the Government of India should not be made here. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling as under:-

“One thing is very clear that we cannot criticize the other state Government or the Central Government. That is clear and I have given rulings in this respect from time to time. If there is a problem or a difficulty with regard to a state, that can be presented. You can't criticize the act of the Central Government. Let us be very clear about that.”

(G.L.A. Debates, Part 2, Volume 50, Column 443-444)

(6) The Central Government cannot be criticized.

On 26th February, 2008, while participating in the discussion on the Motion of Thanks for the Address of the Governor, the Member

Shri Kamabhai Rathod raised an issue of B.P.L. Card stating that while the Govt. wanted to take prompt actions for the welfare of the poor, the dalits, the exploited people and the tribal of the State of Gujarat, the rules framed by the Central Government with regard to the B.P.L.Card had caused an obstruction, which might be removed. On hearing the statement made by the Member Shri Kamabhai Rathod, the Leader of the Opposition Shri Shaktisinhji Gohil quoted Ruling given by the predecessor Speakers and raised a Point of Order with regard to the criticism of Central Government made by Shri Kamabhai Rathod in his speech and requested Hon'ble the Speaker to prevent the Member from criticizing the Central Govt. during the discussion in the House.

With regard to the aforesaid Point of Order, Hon'ble Speaker (Shri Ashok Bhatt) postponed his ruling for the time being and on 10th March, 2008, Hon'ble Speaker while giving his ruling stated that based on the spirit of Ruling-483 as quoted by Hon'ble Leader of the Opposition, "A person not present in the House cannot be criticized so that the cordial and harmonious relations between the Central and State Government can be maintained". With a view to maintaining good relationship between the Central Government and the State Govt., Hon'ble the Speaker accepted the noble spirit of the Point of Order raised by Hon'ble Leader of the Opposition and requested every Member of the House to refrain from criticizing the working of the Central Government as well as the State Governments of other States and focus on the matters, falling within the purview of the State Government.

(G.L.A. Debates, Book- 132: 2008)

(7) 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."

(G.L.A. Debates, Book – 14, Vol. II, Column 851-852)

(8) The Central Government cannot be criticized, but the information, which causes adverse effect to the interest of the State, can be given to the Members of the House by referring to the Central Government.

On 25th March, 2008, during the course of discussion on the demands for the year 2008-09 (Twelfth & Last day), the Minister of Energy and Petrochemicals while giving reply to the queries raised on the Cut Motion explaining the Members about the performance of the State in energy production during the 10th Five Year Plan, stated that at present the State would be in a position to produce 2100 MW electricity with the help of the Centre and the Corporate Sector. He further stated that since the State Government had made all preparations to set up three terminals, the Central Government ought to have co-operated with the State Government by making changes in its prevailing energy policy. But the prevailing policy of the Central Government had caused difficulties for the State and its people as the State had to bear the loss of Rs.2000 Crore.

At this point, the Hon'ble Leader of Opposition Shri Shaktisinhji Gohil raised a Point of Order seeking guidance of the Hon'ble Speaker for expunging some of the words uttered by the Minister, from the record. The Parliamentary Affairs Minister gave his opinion in this matter. At that Stage, the Hon'ble Speaker postponed his ruling stating that he would get the matter verified whether it was based on facts or not.

"In this regard, I go through the Rules of the House and the Rulings given by my predecessors. My predecessor Speaker ruled that the Central Government could not be criticized using specifically the words such as 'none of the State Government can criticize the Central Government but the difficulties of the State could be submitted'. Hon'ble Speaker also observed that the motive behind such a ruling was very clear taken for granted that any Minister or Member of the House could not criticize the Central Govt. in the House but they could refer to the Central Government if it was inevitable during presentation of any factual or evaluative matter in the House. He also observed that it was an undisputed matter that the relationship between the State Government and the Central Government should be harmonious and nobody had the right to criticize the Central Government but at the same time it should also be kept in mind that the Members of the House being the representatives of the people and the people of the State have every right to know about any matter which adversely affects the interest of the State, it is the moral duty of the Members of the House to have brought out the truth before the people of the State. And if they are prevented from doing so, it would amount to violation of the rights of the representatives and, therefore, they

could not be prevented. He also observed that by that ruling and by many other rulings like that also, direct criticism on the Central Government had been clearly prohibited. However, the Hon'ble Speaker expressed his feeling that it would not be justifiable to prohibit the Members or Ministers from referring to the Central Government in case where a discussion takes place in the House in connection with the evaluation of a state scheme or its development and the representatives of the people inform the House of any event which might have hampered the interest of the State by affecting the development adversely or hampered the development itself.

In the present case, the Hon'ble Speaker felt that the Hon'ble Minister, in his utterances, had not made any criticism on the Central Government but he had given importance to the object of informing the House about the situation in the State by giving factual figures.

So, at this stage, I clearly give ruling that there is no space for any criticism which affects adversely on the harmonious relationship and creates a dispute between the Central and a State Governments, but when any Minister or Member refers to the Central Government while making a statement purely based on facts, he or she should not be prevented from doing so."

(G.L.A. Debates, Book- 137: 2008)

(9) A mention can be made with regard to the Central Govt. when it is necessary to make such a mention and when there is a matter of fact or evaluation to be presented to the House, the Central Government cannot be criticized.

On 6th July 2009 i.e. on the first day of General Discussion on the Budget, when Member Shri Pradeepsinh Jadeja, while participating in the discussion, criticized the Central Government in his speech, the Hon'ble Leader of the Opposition raised a Point of Order stating that the Central Government could not be criticized and, therefore, utterances criticizing the Central Government made by Shri Jadeja in his speech should be removed from the record.

On this issue, the Hon'ble Speaker postponed his ruling saying that he would go through the proceedings of the day and give his ruling later on. Thereafter, on 10th July 2009, Hon'ble the Speaker (Shri Ashok Bhatt) gave his ruling as under:-

“According to Predecessor Speaker, ‘the Central Government cannot be criticized but when there is any problem related to the state, then it can be presented. **You can’t criticize the act of the Central Government**’ but one can express his views on certain decisions of the Central Government and it cannot be said to be improper. While participating in the discussion in the House, a Member can make a mention with regard to the Central Government when it is necessary and there is a matter of a fact or an evaluation to be presented in the House, but at the same time one should refrain from criticizing the Central Government. I would like to draw the attention of all of you to the Ruling given by me on this matter on 25th March 2009 during the Second Session. According to the Ruling, Members could mention the decisions of the Central Government affecting the administration of the state by refraining from criticism, allegations or taunt. I, therefore, order to remove the references made by the Member criticizing the Central Government from the proceedings of the House dated 6th July 2009.”

(G.L.A. Debates, Book- 143: 2009)

(10) The Judgment of a Court can be quoted but cannot be criticized.

On 4th March, 2011, while replying on the third and the last day discussion on the Motion of Thanks for the Governor's Address, the Hon'ble Minister of Social Justice and Empowerment criticized the Central Government by referring to a judgment of the Supreme Court and mentioning the Judges by their name. At this stage, the Hon'ble Leader of Opposition raised a Point of Order stating that a judgment of the Supreme Court could not be discussed in the House and any statement made by a person outside the House and/or any statement made by a person not present in the House could not be quoted in the House.

Thereafter, on hearing the views of the Hon'ble Finance Minister, in the matter, Hon'ble Speaker (Shri Ganpatsinh Vasava) quoting Rule 34(11) ruled that allegations could not be made on the conduct of either any judge or any court of law having jurisdiction in any part of India, while discharging his or her duties. Thereupon, all the Members of the opposition present in the House, including the Leader of Opposition staged a walk out from the House shouting slogans in protest.

Thereafter, Hon'ble Minister of Parliamentary Affairs requested the Hon'ble Speaker to give his further ruling on the act of demonstration and staging walkout by the Opposition against his ruling. The Minister of Health and the Minister of State for Parliamentary Affairs expressed their views in support of the Minister of Social Justice and Empowerment stating that the

Minister had quoted a judgment which was already given and he had not made any utterances on a sub-judice matter and, therefore, there did not arise any violation of Rule 34. Thereupon, the Hon'ble Speaker reiterated his earlier ruling that the judgment of a court of law could only be mentioned and/or referred to but could not be criticized.

(G.L.A. Debates, Book- 156: 2011)

(11) Derogatory words for Judiciary should not be used by a Member while debating in the House.

On 21st May, 2004, while participating in a discussion on "The Gujarat Public Authorities Seals Bill 2004", a Member of the Opposition Dr. Dinesh Parmar had made certain derogatory remarks on the working of the Judiciary. This was then objected by the Minister for Parliamentary Affairs and requested the Chair to remove those derogatory remarks from the proceeding. At that very moment the Speaker kept his decision pending. Later on, the Hon'ble Speaker (Professor Mangalbai Patel) ruled as under:

"I have gone through the proceeding so as to verify whether such derogatory remarks were made or not. It is now clear that the derogatory words used by the Member are inconsistent with the provision of Rule 34(11) of the Gujarat Legislative Assembly Rules. I, therefore, direct to remove such derogatory words from the proceeding. At this juncture, I bring to the notice of all the Members of this House to observe the guidelines and limitations imposed under Rule 34 of the Gujarat Legislative Assembly Rules. You all are well aware that the three organs of a State viz. the Legislature, the Judiciary and the Executive function independently. Each organ has to discharge its duties within the ambit of its Constitutional rights while responding to the rights of the other organs. In a democratic polity, the judiciary has a vital role to play. In order to maintain the dignity of the Judiciary, I request all the Members not to make such derogatory remarks on the working of judiciary while participating in the discussion in the House. I expect, Dr.Dineshbhai Parmar will be more careful in future."

(G.L.A. Debates, Book 104:2004)

(12) Functioning of the Legislature Secretariat cannot be criticized.

On 5th March 1970, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:-

When Member Shri Popatlal Kakkad was sitting as a Sabhapati (Chairman) in the Chair of the Speaker, Member Shri Purushottamdas Patel

spoke about the functioning of the Legislature Secretariat. "I would like to request Hon'ble Members that attempts should be made to resolve all type of issues regarding the Legislature Secretariat by meeting me in my chamber and such matters should not be raised or mentioned in the House. I hope all the Members will be helpful to me in maintaining such healthy practices in the House."

(G.L.A. Debates, Part-2, Book-26, Column 380)

(13) Ruling of the Speaker can neither be discussed nor criticized.

On 30th March, 2015, during the Sixth Session of the Thirteenth Gujarat Legislative Assembly, Hon'ble Member Shri Shaktisinh Gohil raised a point of order on the directions given by the Deputy Speaker with regard to an incident that took place during the second sitting on 26th March, 2015. In this regard, when Shri Gohil had made a submission criticizing the directions given by the Deputy Speaker, Hon'ble Speaker stopped him stating that the Deputy Speaker derived all the powers and authorities of the Speaker when he presided over the sitting of the House. Therefore, the ruling given by him could not be criticized. Thereupon, all the Members of the Congress Party staged a walkout from the House shouting slogans. Thereafter, the Hon'ble Minister Shri Nitinbhai Patel, while expressing his views against the Point of Order, stated that when the entire incident was discussed elaborately and the ruling was given, the entire speech of Hon'ble Member Shri Shaktisinh Gohil should be removed from the verbatim proceedings of the House. Hon'ble Minister Shri Ramanlal Vora also expressed his views on the point of order.

Hon'ble the Speaker (Shri Ganpatsinh Vasava), while giving his ruling on the point of order stated that he had given his ruling on 27th March, 2015, after studying all the aspects of the incident that had taken place on 26th March, 2015. He also stated that he had given an opportunity to the Member of Opposition to express his views after respecting their feelings. He also stated that the Deputy Speaker or any other Member of the Panel of Chairmen derived all the powers and authorities while presiding over a sitting of the House. He also stated that as per the Legislative Assembly rules, no criticism or discussion could be made in the House with regard to a direction or a ruling given by the Chair and if any Member wanted to discuss or criticize the direction or ruling given by the Speaker or the Deputy Speaker, he or she must move a substantive motion to that effect duly drafted in appropriate language and then the same could be discussed. It was also not proper to have raised the point of order especially when the ruling regarding the incident that had taken place on 26th March, 2015, was given on 27th March, 2015; the police

complaint was also lodged and the orders were issued for recovery of damages caused. In order to have a co-ordial atmosphere in the House, the Members of opposition were allowed to sit in the house by wearing black strips though it amounted to demonstration in the House. Therefore, he rejected the point of order raised by Hon'ble Member Shri Shaktisinh Gohil as the same was not according to the rules of the Legislative Assembly and directed to expunge the entire speech of Shri Shaktisinh Gohil from the proceedings of the House.

(G.L.A. Debates, Vol. IV, Book –26:2015)

(14) No allegation or criticism can be made against the Speaker and the Legislature Secretariat.

On 21st July 1977, during the discussion raised by Member Shri Chhabildas Mehta regarding the policy announcement by a Minister outside the House before making it inside the House, Shri Arvindbhai Maniyar drawing the attention of the House to Rule 18 (2) of the Gujarat Legislative Assembly Rules mentioned that such an important issue ought to have been mentioned in the list of business for the day and stated that bringing a matter in this way before the House amounted to contempt of the House. At that time, Hon'ble the Deputy Speaker (Shri Manubhai Palkhiwala) gave a ruling that no criticism or allegation could be made or a controversy could be raised with regard to Secretariat of the Legislative Assembly

(G.L.A. Debates, Part-2, Book-55, Column 373)

(15) The Prime Minister cannot be criticized.

On 12th April 1973, during the discussion on the Last Day motion regarding arbitration of the Narmada project, Member Shri Lalsinh Rahevar made some political criticism with regard to the Narmada project and about the formation of the Council of Ministers by the Prime Minister. At that time, the Hon'ble Speaker (Shri Raghavji Leuva) stopped the Member and gave his ruling as under:-

“It is proper so far as a political act of a political leader is criticized but as per rules, it is not proper to criticize the Prime Minister for his working as the Prime Minister.”

(G.L.A. Debates, Part-2, Book-44, Column 536)

(16) Behavior of the Governor cannot be criticized.

On 4th April 1972, during the discussion on the motion of thanks on the address by the Governor, Shri Jaideepsinhji, Shri Jashvant Chauhan and Shri

Lalsinhji Rahevar made indirect allegations with regard to the behaviour of the Governor.

Looking to the speeches of those Members in the proceedings, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling on 6th April 1972 as under:--

"On 14th April 1972, Member Shri Jashvant Chauhan in his speech, instead of making direct mention of the Governor, made his indirect mention, which amounts criticism with regard to his behaviour. While reading the proceedings entirely carefully, I found that as per our Rules, no improper criticism should be made with regard to the Governor or his behaviour. Since the criticism relates to his behaviour, I have decided to remove a part of the criticism i.e. the words from "I can see that" to the words "I would try to draw the kind attention of the House" from the proceedings of the House as per Rule 36 of our Rules.

Similarly, I also remove from the proceedings the personal allegations made by Members Shri Jaideepsinhji on the character of the Governor.

Moreover, in the same way, since the utterances made by Hon'ble Member Shri Lalsinh Rahevar with regard to the Governor are too clear and personal-like, I also remove his words from the proceedings."

(G.L.A. Debates, Part-2, Book-33, Column 1148 and 1151)

(17) 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 or his conduct."

(G.L.A. Debates, Book – 11, Vol. II, Column 1302-1303)

(18) Discussions cannot be made with regard to the personal views of the Governor.

On 25th February 1964, during the discussion on the address by the Governor, when Member Shri Brahmakumar Bhatt stated that the entire state of Gujarat knew as to what was the opinion of the Governor with regard to English, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:--

"Here in the House of the Legislative Assembly, the address made the by the Governor reflects the policy of the Government. Therefore, whatever may be the personal views of the Governor, we have no concern. All you have to discuss here is the policy of the Government and the matters or the issues arising from his address. Whatever may be the personal views of the Governor, we cannot discuss them in the House as per the rules."

(G.L.A. Debates, Part-2, Book-11, Column 313-314)

8. Sub judice Matters

(1) Until the tenure of the inquiry commission expires, no discussion regarding the subject of the inquiry can be made in the House.

In the Agenda of Budget Session of 1963, under Rule 90 of the Gujarat Legislative Assembly Rules, a matter of short duration discussion was proposed by Member Shri Brahmakumar Bhatt pertaining to the deaths caused by usage of glucose saline in Vadodara in the beginning of the year 1963. In the meantime, on 16th February 1963, the Government had appointed an inquiry commission to make inquiry into the matter.

On 28th February 1963 i.e. on the third day of the budget session, the Hon'ble Speaker (Shri Fatehali Palejwala) made the following announcement:-

"On 16th February 1963, the Government has appointed a commission of three Members to inquire into the matter by publishing a notification under Section 3 of Commissions of Inquiry Act, 1952. The Clauses (2), (4) and (5) of the Section 5 of the aforesaid Act have also been made applicable to the Commission. In these circumstances, the subject proposed by the notice of Hon'ble Member Shri Brahmakumar Bhatt becomes sub-judice. One of the issues on which the Commission is requested to present its report is:--

"Any irregularities or breaches of the Drug Rules, 1945 or any contraventions of the provisions of the Drugs Act, 1940 committed in relation to this manufacture."

Therefore, the Commission will make an inquiry as to whether any provisions with regard to manufacturing drugs have been violated and give its report. In view of all these things, it seems we will not be able to discuss the matter of the notice as of now.

As soon as the report of the commission is prepared, the House will be able to discuss the matter and I will inform the Government to provide copies of the report to Hon'ble Members."

(G.L.A. Debates, Part-2, Book-8, Column 74)

(2) Matter in respect of which a petition has been filed before the high court cannot be discussed.

On 15th July 1981, when Member Shri Krishnavadan Pachchigar raised a short duration discussion under Rule - 112 pertaining to the rising prices of milk, Minister for Agriculture Shri Vijaydasji Mahant pointed out that as the Consumer Education and Research Centre, Ahmedabad had filed a petition in the High Court, this matter became sub-judice and as a result he requested the Speaker not to allow any discussion in the matter. After hearing other Members also, the Hon'ble Speaker (Shri Natwarlal Shah) accepted the point of the Agriculture Minister and gave his ruling as under:--

"As the matter is sub judice, right now no discussion can be made on it."

(G.L.A. Debates, Part-2, Book-74, Column 519-521)

(3) A matter placed before a tribunal cannot be discussed in the House.

On 11th February 1976, during the question hour regarding question no. 1985 of Shri Narsinhbhai Makwana pertaining to malpractice in the construction of Gandhinagar, when Hon'ble Member himself asked a supplementary question as to which issues were assigned to the commission for the inquiry, Hon'ble Home Minister Shri Popatlal Vyas, while replying stated that an enquiry was assigned to investigate all the allegations mentioned in the question, including the malpractice in the construction.

At this stage, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling that "once the tribunal was constituted for an inquiry into the matter, discussion cannot be made on the matter as also its details."

(G.L.A. Debates, Part-1, Book-49, Column 442)

(4) Supplementary questions can be asked with regard to the facts revealed by the Government regarding the sub-judice matter.

On 30th January 1968, Minister of Law Shri Premjibhai Thakkar, besides replying as per the printed answer of the Question No. 3438 pertaining to removing Dr. Jivraj Mehta from the Maharaja Sayajirao Memorial Fund, stated that Dr. Jivrajbhai had filed a writ petition in the High Court and the entire matter was in the Court.

Thereafter, Member Shri Sanat Mehta asked a supplementary question in that regard.

At that time, Minister of Law Shri Premjibhai Thakkar stated that there is a clear provision in the Rule 78 that no question can be asked with regard to the matter, which is pending in a court of law.

Member Shri Martandrai Shastri stated that once the question was replied by the Minister, it was not proper to have taken an objection that supplementary questions could not be asked, since the matter was pending in a court of law.

At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

"We don't allow the questions regarding any matter, which is pending in any court. If a fact-based question regarding a stand taken by the Government is asked, then we do not hinder the court in taking its decision. Due to this, if the Government provides the information sought by a Member, there is no reason to believe that it will hinder the court in any way since the matter is pending.

The objection taken by Hon'ble Member Shri Shastri is that once the question is replied, it should have been replied in this way. But at any stage, any Member can take an objection with regard to the matter pending in a court. So I don't believe that Hon'ble Minister has done anything wrong in replying the question by saying "reply as printed". Thereafter, too, he has argued that this provision can be resorted to under the said rule. So we can't say that it is unreasonable or wrong. But as of now the fact on which the Government relies, is revealed by the Government. If any Member seeks information regarding

that fact, the Government may provide it. We don't believe that due to that the Government will face any difficulty in its case or the High Court will face any type of difficulty in delivering its decision. I believe that if the information sought by the Member is provided, there won't be any difficulty on account of the matter being sub-judice."

(G.L.A. Debates, Part-1, Book-19, Column 573-574)

(5) A name of a person should not be publicized until the matter of an offence goes to the court.

On 5th September 1968, during the question answer session regarding question no. 11194 pertaining to the investigation made by the Deputy Police Commissioner along with the police party in Jamalpur, Nadiawad at night, Member Shri Manubhai Palkhiwala asked a supplementary question as to where were the Bhathiyarkhanas (hotels, large kitchens) situate and who were their owners.

Thereupon, Hon'ble Speaker (Shri Raghavji Leuva) asked to inform as to where were they situate, it was not required as to whose Bhathiyarkhanas they were.

At that time, Member Shri Sanat Mehta raised a point of order as to what were the reasons for not giving the names? If he could not give names of persons, he could give the names of hotels, couldn't he?

Thereupon, the Hon'ble Speaker gave his ruling as under:-

"There may not be any reservation in giving the names of the hotels but the names of persons against whom an allegation is made or an issue of criminal or any other offence is revealed and generally until doesn't go to the Court, it is a courtesy that such type of things should not be publicized. We have always placed a restriction over revealing the names. However, if the names of Hotels are to be known, I don't think, I have stopped Hon'ble the Ministers from doing so."

(G.L.A. Debates, Part-1, Book-20, Column 1156-1157)

(6) Matter of police enquiry cannot become sub-judice.

On 13th November 1972, when the Chief Minister, while replying starred question no. 3430 of Shri harisinhji Gohil and two other Members, pertaining to the firing that took place at Parathampura village of Savli Taluka of Vadodara district, stated that the Government did not want to appoint a Commission to inquire into the firing. Thereupon, when Member Shri

Udesingh Vadodiya asked as to why the Government was refusing to get the matter inquired into, despite the demand of judicial inquiry from many associations, MLAs, activists, the Chief Minister stated that as this matter was to go to the Court, there was no need for a judicial inquiry. Shri Somalal Shiroia asked as to whether the violent mob on which the firing took place had gone in the morning or at night and whether a warning was given before resorting to firing. At that time, the Hon'ble Speaker (Shri Raghavji Leuva) stated that an issue of sub judice matter arisen. At that time, Member Shri Manoharsinhji Jadeja pointed out that only if the case was filed in the court, it became sub-judice and not otherwise. The Hon'ble Speaker stated that this matter could be decided after hearing the Chief Minister but in the meantime, other supplementary question was asked and when the Chief Minister replied it, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:--

“The question is different. I have to decide whether the matter is subjudice or not. While deciding it, there is a provision in our rules that a matter, which is pending before the court and when the stage comes to decide the matter by the Court, then the matter becomes subjudice. The matter of police inquiry does not become a subjudice. So, after knowing the nature of the complaint before the court right now, a restriction can be placed on the remaining question. So it will be convenient to place restriction after knowing the nature of the complaint.”

(G.L.A. Debates, Part-1, Book-37, Column 33-34)

(7) The House should not express its opinion on the matter which is pending before the Court of Law to enable it to reach its decision independently on the sub judice matter.

On 22nd November 1972, after Member Shri Fulsinhji Solanki presented a resolution with regard to appointing a Judicial Commission to make judicial inquiry into the justification of police firing at Parthampura Village of Savli Taluka, Member Shri Manoharsinhji Jadeja raising a point of order sought the ruling of the Speaker as to whether the matter of the resolution could be regarded as subjudice or not.

Taking into account the views expressed by the Members on the point of order and the information received, the Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under:-

“Here, what Hon’ble Member Shri Manoharsinhji Jadeja wanted to know, Hon'ble the Chief Minister has clearly stated that a private complaint has been filed in the court with regard to the murder of a person, who has been

killed as a result of a bullet fired during the firing. Therefore, it is up to the court to decide as to whether the person, who is killed is killed in firing or not, and if the person is killed in the firing, then who was the person who did that firing, whether the person or persons involved in the firing was or were among the accused or they were other persons and whether the firing was justifiable or not. All these questions are to be decided by the court. In such circumstances, suppose that we make a discussion here and after discussion, if a commission is appointed and if that Commission takes the testimony or give its opinion, the Commission itself would be guilty of the contempt of the court, it would be responsible for the offence of contempt of Court and it will not have the protection of this house as enjoyed by its Members. Therefore, this House should always adopt such an approach that in order to enable the Court to reach its decision independently, the House does not express any opinion. In this incident, an offence of rape/intercourse is involved, which is not related to today's matter of discussion. Similarly, so far as rioting by some people is concerned, it is also not related to today's matter as to who were involved in the rioting. Therefore, the complaints of that issue, which may be either in the police department or in the court, are not important for us as of now. The only thing, which is important, is the killing, which is committed in the firing at that time. That issue must be discussed even today. And the same issue must also be decided through an inquiry by an Authority, be it a judge or any other authority. So at a similar time two authorities, i.e. a court of law and authority for a judicial inquiry will not be able to reach a decision of a single matter. And if we insist for doing so, it will not be in accordance with our rules. Therefore, I feel that we will not be able to discuss this resolution."

(G.L.A. Debates, Part-2, Book-38, Column 30-46)

(8) Rule regarding the sub-judice matter is not applicable to the procedure of legislation.

On 30th March, 2010, Hon'ble the Minister for Urban Development while expressing his views in support of the first reading of a bill, mentioned about the development of the Kankaria Lake for recreation and picnic undertaken by the Ahmedabad Municipal Corporation, the Leader of the Opposition Shri Shaktisinji Gohil raised a Point of Order stating that the matter referred to by the Minister was pending before the High Court and a subjudice matter could not be discussed in the House as per the provision of the Gujarat Legislative Assembly Rules. Hence he sought the guidance of Hon'ble Speaker stating that the Bill could not be either discussed or passed in the House.

After hearing the views of the Minister of Parliamentary Affairs Shri Amit Shah, Minister for Health and Family Welfare Shri Jaynarayan Vyas and Member Shri Shailesh Parmar, Hon'ble the Speaker (Shri Ahok Bhatt) while giving his ruling observed that the parliamentary privileges under Article 194 of the Constitution of India are conferred upon the House and this House is also empowered to enact laws under Article 196. He also stated that the Minister in charge of the Bill had in the first reading of the Bill highlighted the intention behind the legislation and accordingly, the references on the subjudice matter of entry fee of Kankariya Lake should have been avoided as far as possible. Yet the discussion on that bill or its passage could not be prevented since the rule of subjudice is not applicable to the legislation and, therefore, the Point of Order raised by the Leader of the Opposition was rejected by the Hon'ble Speaker.

(G.L.A. Debates, Book- 153: 2010)

(9) The rule of Sub-judice cannot be applied to the Legislative Procedure and to the matter of Law and Order to maintain peace in the State.

On 26th September, 2008, when the Minister of State for Home Shri Amit Shah rose to move a Govt. Resolution with regard to getting the assent of the President to the GujCOC Bill, Opposition Member Shri Arjunbhai Modhvadia by quoting Rule – 34 of the Gujarat Legislative Assembly Rules and the details from Page No. 1066 of the book "Practice and Procedure in Parliament" by Kaul and Shakhder, raised a Point of Order against the discussion on a sub-judice matter which was pending before the High Court and sought the guidance of the Hon'ble Speaker.

The Hon'ble Speaker (Shri Ashok Bhatt), after hearing the opinions of the Health Minister Shri Jaynarayan Vyas, Minister of State for Parliamentary Affairs Shri Amit Shah and the Leader of Opposition Shri Shaktisinhji Gohil, on the Point of Order, rejected the same, quoting the opinion given by the Lok Sabha on the purview of the discussion on sub-judice matters, details from Page No. 453 of the book on Parliamentary Practice by May and Page No. 1066-67 of the book "Practice and Procedure of Parliament" by Kaul and Shakhder and the Article-194 of the Constitution as under:-

"Hon'ble Shri Arjunbhai raised the Point of Order in this House and Hon'ble Leader of the Opposition Shri Shaktisinhji Gohil supported it and the Hon'ble Ministers Shri Jaynarayan Vyas and Shri Amitbhai expressed their views on it. Shri Arjunbhai said that the matter of the resolution is subjudice and hence the same cannot be presented in the House. In support of his

statement, he also said that the discussion on a sub-judice matter of Narmada was taken place once because of its sentimental nature. In this respect, Shri Shaktisinhji wrote a letter to me on 16th September, 2008, and I took it seriously. Thereafter, I also wrote a letter to the Secretary General, Lok Sabha seeking his opinion on the matter. That's why I agreed with Shaktisinhji's question as to whether a sub-judice matter can be discussed or not. Moreover, I have also considered this question from the angle of long lasting effect if I give any ruling on it and my ruling may stand well for a long time. Here the book, by Kaul and Shakhder was referred to because it can give us proper guidance and two points emerge from it for us. The first and foremost point is whether this matter is subjudice or not and the second is which matter can be termed as subjudice. On page No.1066-67, it is mentioned whether the present matter is sub-judice or not and if it is sub-judice, whether it can be discussed or not - "a matter does not become subjudice, if a writ petition on the matter is pending before a court for admission". Now this is a petition bearing number S.C.A. 24923/06, which is pending before the Hon'ble High court for admission and I have asked for all the details of the petition. As you have mentioned, of course, the notice on the petition has been issued but the petition has not been admitted. I find a guiding point from the book by Kaul and Shakhder that the petition, which has not been admitted, can be discussed in the House. In the book it is clearly stated, "a matter is not subjudice until the legal proceedings have actually started. The question whether a particular matter is subjudice or not is decided by the Speaker on the merit of each case." Therefore, I took the initiative to proceed further with the matter and wrote a letter with full details to the Lok Sabha and the reply, which I received from the Lok Sabha Secretariat, is from Joint Secretary Shri V. K. Sharma vide letter No. 21/73/2008/L-1 dated the 19th September 2008. I don't read the entire letter but I read out the more relevant portion:-

The Government resolution giving notice of by the Minister, if passed, will be in the nature of a collective will of the Assembly to impress upon the Central Government to translate the legislative will of the Gujarat Legislative Assembly into legislative enactment by obtaining the assent of the president to the Bill. The resolution, therefore, is nothing but a continued effort and expression of will of the Legislative Assembly in the field of legislation, which began, with the introduction of the Bill in the Assembly. Therefore, even if the matter is subjudice, there appears to be no objection in admitting the resolution.

All of us know that the Lok Sabha is the only guiding institution for the Legislative Assemblies. I, therefore, sought the opinion of the Lok Sabha. But before applying this opinion, I want to refer to the significant word "sentiment"

which Shri Arjunbhai aptly used. What is “the sentiment” of the bill? I don't consider the sentiment of this resolution different from that of earlier discussion on Narmada issue as mentioned by Hon'ble Shri Amitbhai. Both these sentiments are the sentiments of the Legislative Assembly. When a resolution with such a sentiment is passed, the Lok Sabha Secretariat says that the resolution is a “continued effort and expression of will of the legislative assembly in the field of the legislation which began with the introduction of the GujCOC Bill in the Assembly”, Shri Arjunbhai, I want you to explain me one thing hereafter but right now, I would ask as to how a new bill can be introduced when the same kind of bill is pending for consideration before the Central Government for a long time. The Central Government has not taken any decision on the said bill for a longtime. Why the Central Government has not come to any decision is not the subject of my discussion. But what I want to understand is how far it is proper for the House to discuss to enact a new law when there is already one bill pending before the Government for decision. Kindly try to explain and make it clear to me some other time. But, I firmly believe that when there is already one bill pending before the Central Government undecided, a bill relating to the same rule cannot be brought but a resolution for the same can be brought and an appeal for the same can be made. In the same way, when the Leader of Opposition wrote a letter to me, I asked for the facts and informative details regarding the resolution from the Government and the Government informed me. I also asked the Government whether the said matter is subjudice or not. Having received the information from the Government, I referred to the book "Parliamentary Practice" written by Erskin May and on Page No. 453 of the Book the relevant portion reads:-

Where a ministerial decision is in question, or a case concerns issues of national importance such as the national economy, public order or the essentials of life, reference may be made at the discretion of the Leader of the House who must be satisfied that there is no real substantial danger of prejudice to the proceedings. I believe that this issue relates to the peace of the people of this Country and State and it is important for maintaining law and order and that's why I agree with the point mentioned in the book on the Parliamentary Practice and take it as a base. The same way there is a mention in the book which reads: The House has expressly resolved that the subjudice rule is qualified by the right of the House to legislate on any matter. Even though it is a subjudice matter, we can, as stated by Shri Jaynarayan Vyas, definitely discuss the subjudice matter. The Speaker has to decide whether the matter is subjudice or not. At this stage, he should take the Constitutional Rights of the House into his consideration before giving his decision. The State Legislative Assembly has been conferred upon the Right of Freedom of Speech

in the House by Article -194 of the Constitution. This right is subject to the restrictions imposed by the Legislative Assembly Rules. With regard to the Freedom of Speech of the Members of House in the Parliamentary Democracy, it is mentioned on the Page No. 1066 of the book written by Kaul - Shakhder, "It is the absolute privilege of the Legislatures and Members thereof to discuss and deliberate upon all matters pertaining to the governance of the country and its people. Freedom of speech on the floor of the House is the essence of parliamentary democracy. Certain restrictions on this freedom have, to a limited degree, been self-imposed. One such restriction is that the discussions on matter pending adjudication before courts of law should be avoided on the floor of the House, so that the courts function uninfluenced by anything said outside the ambit of trial in dealing with such matters. While applying the restrictions regarding the rule of subjudice, care has to be taken to see that the primary right of the freedom of speech is not unduly impaired to the prejudice of the Legislatures. And that's why today this House has the right to put forward its opinion and if it has such right, then I do feel that under this Right the definition of Rule-34 should be made clearer. Definitely, my preceding Speakers, so far have not given this kind of a decision in the booklet, "Decisions from the Chair" because no such question had come before them. And if they had, I think that whatever decision they would have given on the subjudice matter, it would have been based on the book by Kaul – Shakhder, the Parliamentary Practice of May and within the ambit of the subjudice matter and today I am doing the same. I am giving this Ruling under the Right of Freedom of Speech conferred upon by the Article 194 of the Constitution of India. The House is the supreme authority and the supreme authority has the Right to enact a law and this Right is considered to be conferred upon completely only when the process of enacting a Bill is over. Here, the bill has been passed and sent to the Central Government. Here the process of legislation is not over, therefore it is considered to be a Bill and not an Act and as a part of legislation, the Resolution, which has been moved in the House is also a part of the procedure and therefore it is a Constitutional Right of the House to debate thereon. The Leader of the Opposition is also a student of law. When the process of legislation is considered to be complete, when a bill is considered to be enacted, the House has greater power to take care and debate on the legislation, which is going on than any other judicial system. This is its Legislative Right. My preceding Speakers would have given the same decision, if the then Opposition Party had raised a Point of Subjudice matter during the debate on the Narmada Project. But the then Opposition party had not raised any such Point of Order during the debate on the Narmada Project. I have gone through all the Points of Order which have been raised earlier on the subjudice

matters, for the Point of Order raised by you and Shri Arjunbhai and come before me. Not a single issue is equivalent to the present issue and, therefore, I firmly believe that it is not proper to term the matter which is at the admission stage as sub-judice. I clearly believe that the Rule of sub-judice cannot be applicable to the matter, which is a part of the Legislative process, and in the house a debate can be held on the Government Resolution moved as a part of the legislative process under Rule-120."

(G.L.A. Debates, Book- 138: 2008)

(10) Sub-judice matter cannot be discussed in the House.

On 12th March, 2008, (First Sitting), while participating in the discussion on the Demands of Home Department, a Member of the Opposition Shri Arjunbhai Modhvadia referred to the murder of Former Minister Shri Haren Pandya. Thereupon the Minister of State for Parliamentary Affairs Shri Amit Shah raised a Point of Order stating that a matter which was sub-judice and pending in the High Court for its consideration and judgment could be discussed in the House.

After discussion and consideration, the Hon'ble Speaker (Shri Ashok Bhatt) accepted the Point of Order, which was raised by the Minister of State for Parliamentary Affairs and ruled that "the purpose of the rule for sub-judice matters is that the discussions in the House may not affect the cases pending in the Courts. Even if the matter is discussed by mentioning or not mentioning names of the persons associated with the case, it can be a clear violation of the said rule. It has always been a practice to follow the rule of the House. Hence, he ordered to expunge the utterances made by the Member Shri Arjunbhai Modhvadia from the record of the proceedings of the House so that the media also may maintain restraint before publishing the matter."

(G.L.A. Debates, Book-134: 2008)

(11) A matter cannot be considered as sub-judice until it is taken up for hearing by the court.

On 19th December, 2009, when Hon'ble the Minister for Social Justice and Empowerment Shri Fakirbhai Vaghela rose to move the Government Resolution urging benefits of reservation should not be given to the converted Dalits under Rule-120 of the Gujarat Legislative Assembly Rules, then the Leader of the Opposition Shri Shaktisinhji Gohil raised a point of order to the effect that the subject matter of the Government Resolution was pending before the Hon'ble Supreme Court, such subjudice matter could not be put before the House for raising discussion on it.

After hearing the views of Hon'ble the Minister of state for Parliamentary Affairs Shri Amitbhai Shah on the Point of Order, the Hon'ble Speaker (Shri Ashok Bhatt) gave the following ruling:

"A matter is not considered as sub-judice until it is taken up for hearing by a judicial organisation (authority), the apex court or the High Court. If the Supreme Court has issued a notice on the matter and initiated hearing on the matter, then the matter can be considered as Sub-judice. Moreover notwithstanding the matter being Sub-judice, this House is the supreme authority and the Lakshmanrekha of sub-judice has to be drawn by the House itself. It is not that the House cannot discuss sub-judice matters. We as the Members of the House, can definitely discuss such a matter. Moreover, the Report of the judicial commission has been submitted in the Parliament and the Lok Sabha is to discuss it. It is upto the Central Government to decide as to whether the Action Taken Report should be given or not as we don't have the information regarding when or how the report is presented. We, as the Member of the House, cannot compel the Central Government, for giving the Action Taken Report. So far as the Resolution under Rule-120 is concerned, I cannot prevent the Minister from exercising his right of moving such a Resolution. When a serious issue is being discussed, the Members cannot be prevented from exercising their right of expressing their views as well as knowing the views of other Members. And you have always been proponent of such right. You have always been advocating for the rights of the House as well as those of the Member of the House, especially the right of expressing one's views. So far as the matter raised by the Minister is concerned, it is a very serious one and you may have certain views on the matter whereas the other side may have the opponent views on the matter, As the Speaker of this House, I cannot prevent Members from expressing their views on a serious issue and I therefore, allow the Hon'ble Minister to move his Resolution. You are free to say anything on the issue." The Hon'ble Speaker then rejected the point of order."

(G.L.A. Debates, Book- 147: 2009)

9. List of Un-parliamentary words

(1) The expression "crocodile tears" is un-parliamentary. Yet there is no need to remove it from the proceedings.

On 20th March, 1969, when Member Shri Prabhulal Dave, in his speech on the Motion expressing No Confidence in the Council of Ministers, described the speeches delivered by Members of the Opposition Party as "crocodile tears", Hon'ble Member Shri Manoharsinhji Jadeja raising a Point of Order

stated that the expression "crocodile tears" was earlier held as un-parliamentary and asked as to how far it was reasonable to use those words again? In this regard, the Hon'ble Speaker (Shri Raghavji Leuva) gave the below mentioned Ruling on 2nd April 1969:-

"On 20th March, 1969, the Hon'ble Member Shri Prabhulal Dave while making his speech stated that:-

"When an allegation of misuse of people's money is levelled against the Government, then let me tell those Members that you have misused the people's money by extending the time period (of the Session) by two days. And for that you are shedding "Crocodile tears."

I am supposed to give my Ruling on the issue as to whether this type of an expression is un-parliamentary or not. As per the List of un-parliamentary words published by the Gujarat Legislature Secretariat, it is found that such an expression was held to be un-parliamentary in the Uttar Pradesh Legislative Assembly. Unfortunately, the original proceedings of that House is not available right now.

When the Hon'ble Members are talking about the wastage of public money and if such an expression is used to bring out a sense that they are talking this with hypocrisy then it will not be proper to call the expression parliamentary. It is not desirable to make this kind of allegation talking hypocritically for the Members discharging their duties in the House. Therefore, this expression has been treated as un-parliamentary at other places. I agree with this and hold the expression made here in the present context as un-parliamentary.

However, it is not necessary to remove all the words which are held un-parliamentary. Only the repetitions of such expressions should be prevented. Therefore, although I am holding these words as un-parliamentary, I am not deciding upon removal of these words from the proceedings."

(G.L.A. Debates, Part-2, Book-22, Part-D, Column 4416-4418)

(2) "Through the power of arrogant and obedient majority" such expression should be used judiciously.

On 23rd September, 1980, during the discussion on the first reading of the bill "Gujarat disturbed area (maintenance of public order)", the Member Shri Ashok Bhatt stated in his speech that the power was meant for the welfare of the people and used the words "the power of arrogant and obedient majority" in his speech. The Minister of Housing Shri Khodidan Zula raising a Point of

Order stated that such expression was an insult to the Hon'ble Members of the House. Thereupon, the Hon'ble Speaker (Shri Natvarlal Shah) gave the following ruling:-

"It is not to be seen in the House whether merely words are parliamentary or un-parliamentary. But it is our moral duty to use the words judiciously."

(G.L.A. Debates, Part-2, Book-70, Column 739-740)

(3) Nothing is objectionable in the statement "Complete structure of those parties have not taken place."

On 3rd April, 1964, while speaking during the discussion on the first reading of the bill pertaining to making provisions for pay and allowances as well as some other matters of the leader of opposition, Hon'ble Member Shri Gonsaibhai Patel stated that "the complete structure of the Opposition Party has not taken place". At that time, Member Shri Prataprai Shah raising a Point of Order asked whether it could be said that the Opposition Party did not have a complete structure for the party which was recognised by the election commission. The Hon'ble Speaker had postponed giving his ruling at that time.

The Hon'ble Speaker (Shri Fatehali Palejwala) delivered his Ruling on 10th April 1964 as mentioned below:--

"It seems from the speech of Gosaibhai that 'in our country the position of opposition party has not been sufficiently decisive so far and it has not been stable. Some Members of the opposition party in the Gujarat Legislative Assembly were elected at different elections separately and on different manifestos. In this sense, he was saying that 'the structure of Opposition Party has not taken place'. Despite the Election Commission has given recognition to the different opposition parties, I don't find anything objectionable in saying, "Complete structure of those Parties has not taken place."

In these circumstances, the Point of Order raised by the Member Shri Prataprai Shah is rejected."

(G.L.A. Debates, Part-2, Book-11, Column -2131)

(4) The words "incorrect" or "utter lie" are not un-parliamentary when they are uttered by a Member on whom an allegation is levelled by another Member.

On 16th November, 1972, during the debate on the motion meant for discussing the statement made by the Chief Minister regarding scarcity, Member Shri Lalsinh Rahevar levelled an allegation regarding the Aanavari of crops against the Hon'ble Chief Minister. The Hon'ble Chief Minister reacted to the allegation by calling it an utter lie. So Member Shri Liladhar Patel raising a Point of Order asked whether a language like "A Member is speaking a lie, an utter lie" could be used and whether the Hon'ble Chief Minister had a privilege to use those words.

The Hon'ble Speaker (Shri Raghavji Leuva) gave the Ruling as mentioned below:-

"It is not that special privileges are available to the Hon'ble Chief Minister. But at the same time, the Hon'ble Chief Minister has a right to defend himself. Any Member of the House has the right to defend himself in this House. When any statement is made in respect of the Hon'ble Chief Minister or any Hon'ble Member and it is not true, the Member can say that the statement made in respect of him is incorrect or completely untrue or an utter lie. While giving an abstract reply, the word "lie" cannot be used but when a Member is forced to say in a specific incident or a matter or to defend himself, then it can certainly be said that the allegation levelled against him or her is a utter lie, which is not un-parliamentary."

(G.L.A. Debates, Part-2, Book-38, Column 433-434)

(5) Usage of words "vulgar mentality" with reference to any person is un-parliamentary.

On 18th August, 1967, during the discussion on the resolution of introducing English as a compulsory subject from 5th standard in the state, the Member Shri Vadilal Mehta said that the administration of the State should not be run with the vulgar mentality that the pupils wishing to study English in the High School, would have to study Gujarati forcibly. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"The word "vulgar" is un-parliamentary. The words, "vulgar mentality" used by the Hon'ble Member, have been used for the group of individuals. So the said expression is un-parliamentary."

(G.L.A. Debates, Part-2, Book-19, Column -2723)

(6) The proverb (As one's doom approaches, wisdom turns illogical) do not constitute an allegation.

On 2nd August, 1962, during the discussion on the Gujarat Education Cess Bill, the Hon'ble Member Shri Ramanlal Patel criticising a provision made in the bill stated that the friends from the Congress party also had opposed the provision stating that "Vinash Kaale Vipareet Budhi". At that time, Member Shri Natwarlal Patel raising a "point of information" stated that such an allegation was not proper.

Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave his Ruling that aforesaid proverb did not constitute any allegation on anyone.

(G.L.A. Debates, Part-2, Book-6, Column -1339)

10. Removing words from the proceedings.

(1) In spite of Speaker's request, if a Member continues his speech then the speech can be removed from the proceedings.

On 17th December, 1965, when the clause-by-clause reading of the bill on Ayurved University started, the Hon'ble Speaker (Shri Fatehali Palejwala) repeatedly requested the Member Shri Babubhai Vaidya to move his amendment. Instead of doing so, the Member continued giving his speech. At that time, the Parliamentary Secretary Shri Kareemji Chhipa tried to raise a point of order but as the Member Shri Babubhai continued his speech, the Hon'ble Speaker ruled that the speech of the Member Shri Babubhai should not be taken in the official proceedings of the House.

(G.L.A. Debates, Part-2, Book-15, Column 1228-1229)

(2) Making a statement by a Member in the House without prior permission of the Speaker by giving a notice, cannot be a part of the proceedings.

On 18th August, 1980, after the question hour and the notice for calling attention, the Hon'ble Speaker gave permission to Hon'ble Member Shri Dinsha Patel to raise the matter of urgent public importance pertaining to price-rise in essential commodities in Ahmedabad City. At this stage, the Leader of the Opposition Shri Dalsukhbhai Godhani started reading a statement relating to an ordinance on the Gujarat disturbed Area. Thereupon, the Hon'ble Speaker (Shri Natwarlal Shah) gave the following Ruling:-

"It is not proper to get up and start reading a statement all of a sudden in this way without any notice, whatever Hon'ble Shri Dalsukhbhai spoke will not form a part of the proceedings of the House."

(G.L.A. Debates, Part-2, Book-68, Column -1)

(3) Raising issue of walkout by the Deputy Speaker is merely presentation of fact without using any disrespectful words, there is no need to remove it from the proceedings.

On 22nd January, 1968, Hon'ble Member Shri Indubhai Patel raising an issue of propriety on the walkout by the Deputy Speaker along with the Members of the Opposition Party from the House before commencement of the address of the Hon'ble Governor of Gujarat, asked as to whether the walkout by the Deputy Speaker along with the Members of the Opposition Party was in accordance with the democratic practice. Thereupon, the Hon'ble Speaker stated that it was not reasonable to discuss the said issue in the House. At this stage, Hon'ble Member Shri Narendrasinh Zala stated that the said matter should not remain on the record.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) postponed his Ruling and gave his Ruling on 30th March 1968 as under:-

"In respect of this matter, no clear provision has been made in the rules. Hence, we have to rely upon Rule 36. As the indecent words depict only the facts and no disrespectful words have been used in it, I don't find it appropriate to delete the words from the proceedings. Therefore, I cannot accept the demand of Shri Narendrasinhji Zala."

(G.L.A. Debates, Part-2, Book-20, Column -4577)

11. Voting on Motions/Resolutions/Amendments.

(1) When a question is decided with a voice vote, then those who are in the majority of the House, their voice vote will be considered as a majority vote.

On 13th September, 1968 when the Hon'ble Speaker declared amendments No. 6,7 and 8 on the "Bombay Electricity Tax (Amendment) Bill, as disapproved by voice vote, the Member Shri Gaurishankar Pathak stated that their majority was there that means, the majority of those who said "Yes". Thereupon, The Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

“When the decision is to be made through the voice vote, the voice vote of the party having majority in the House is considered as a majority vote. When numbers are counted, the declared majority is considered as voice.”

(G.L.A. Debates, Part-2, Book-21, Column -1425)

(2) 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.”

(G.L.A. Debates, Book – 10, Vol. II, Column 1253-1254)

(3) Member moving a motion cannot be forced to remain present in the House at the time of taking vote on the motion.

On 17th June, 1970, when the division was sought on the motion moved by Member Shri Naranbhai Patel, he left the House. At that time, Member Shri Martandrai Shastri raising a point of order asked whether leaving the House by a Member deliberately when a division was sought, would be a breach of propriety.

Thereupon, Member Shri Narendrasinh Zala suggested for calling the Member through his Whip.

The Hon'ble Speaker (Shri Raghavji Leuva) thereupon gave the following Ruling:-

"It is not an issue of order whether a Member is to be forced to remain present or not at the time of voting on the motion moved by him. Hence, this point does not sustain as a point of order. Now whether the Speaker can force him or not is a different issue. The Speaker cannot force any Member to remain present in the House. On the contrary, if the Members are not present in adequate number in the House, the Speaker has to give the instruction for ringing the bell and nobody can be compelled to remain present. If no adequate presence is achieved, the House has to be adjourned owing to the strength of

presence being non-quorum." Hence, no Member can be forced to remain present in the House. If any Member himself or herself moves a resolution in the House and at the time of voting, if the concerned Member remains absent, in such circumstance it is for the Member to think whether such absence is justifiable or not. The House has not made any rules for it. The House does not have any binding on it. This kind of incidents do take place not only in this House but also in many Houses of this country and no example of anybody being compelled in anyway seems to have been reported in this respect."

(G.L.A. Debates, Part-2, Book-28, Column 857-858)

(4) The Tellers can also cast their vote when the division of lobby is sought.

On 12th September, 1978, when the motion of Shri Narsinh Makwana to reject Ordinance No.6 of 1978, pertaining to the Gujarat Panchayat (Fourth Amendment) Bill, was put to vote, Shri Khodidan Zula made a demand for Lobby division, which was accepted. At the stage of declaring the result of the lobby division by the Hon'ble Speaker, the Hon'ble Leader of Opposition Shri Madhavsinh Solanki raised a point for consideration of the House that there is no restriction in the rules that the Members appointed as Tellers could not cast their votes and, therefore, requested to give ruling as to whether tellers could cast their votes.

After knowing the Chief Minister's opinion, the Hon'ble Speaker (Shri Kundanlal Dholakiya) quoting the following passage from May's "Parliamentary Practice" ruled that "it was the practice in Mumbai State and in the House of Commons that tellers refrained from voting. However, here in Gujarat Assembly since the Tellers can cast their votes, the tellers on "Ayes" side and "No" side can cast their votes:

"Tellers' voting - On one occasion one of the tellers voted in the No Lobby before acting as Teller. He reported the fact after the numbers had been reported by the tellers but before the result of the division has been declared. The Speaker directed his name to be struck from no's and declared the correct numbers, C.K. (1911) 400. On another occasion, on the tellers being called to the Table and before they had stated the numbers, a Member reported that one of the tellers had voted in the lobby before acting as a teller. The chairman thereupon directed the House to proceed again to a division C.J. (1968-69) 185".

Thereafter the tellers registered their votes in 'Aye' and 'No' List.

(G.L.A. Debates, Part-2, Book-60, Column -1666-1667).

(5) Point of order cannot be raised during the course of division.

On 22nd September, 1966, as Member Shri Narbheshankar Paneri tried to raise a point of order after the Hon'ble Speaker accepted the demand of Shri Babubhai Vaidya for a division at the time of voting during the clause-by-clause reading of the Mumbai Sales Tax (Amendment) Bill, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling:--

"No point of order can be allowed at the time of Division, please."

(G.L.A. Debates, Part-2, Book-17, Column -614)

12. Point of Order

(1) 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 (Shri Himmatlal Mulani) gave his ruling that "This is not a Point of Order". In connection with this ruling, the Member Shri Vajubhai Vala 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 on 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 his decision. Therefore, the question of attacking the right of the Members and not hearing them does not arise."

(G.L.A. Debates, Book -62, Column 793-795)

(2) No point of order can be raised to seek information or legal opinion.

On 10th April, 1963, during the discussion on the Third Report of the Committee on Privileges, when Member Shri Divyakant Nanavati stated that the Hon'ble Governor was also a Member of the House and the Advocate General too was a Member to an extent and certain houses had nominated Members as well, Member Shri Chhabildas Mehta raising a Point of Order asked if any house had elected as well as nominated Members, could both the category Members have the right to cast their vote?

In this regard, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following Ruling on 2nd September 1963:-

"As per the Rules of the House, uniform rights have been conferred to the elected as well as nominated Members in its proceedings. Accordingly, during the proceedings of the house whenever a question of casting a vote arises, the nominated Members too have the right to cast their votes. Hon'ble Member Shri Nanavati is also speaking on the same topic that only the elected Members have the right to cast their votes to elect the Members of Rajya Sabha, while the same right is not conferred upon the nominated Members. Therefore, the business transacted only by the elected Members cannot not be said to be the business transacted by the entire House. Thus, there is nothing wrong in his argument. And here I would like to bring to the notice of the House that the Member Shri Chhabildas Mehta had raised the Point of Order to seek either information or a legal opinion. A point of order cannot be raised to seek either information or a legal opinion.

(G.L.A. Debates, Part-2, Book-9, Column 12)

(3) Once a point of order is decided, there cannot be another point of order.

On 23rd March, 1967, during the Question hour on Short Notice Question No.45 of Member Shri Manubhai Palkhiwala regarding the Narmada Project, when Member Shri Manoharsinh Jadeja started arguing with regard to the Ruling given by the Hon'ble Speaker, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"On a point of order, there cannot be another point of order. Once a point of order is decided, it is decided finally."

(G.L.A. Debates, Part-1, Book-17, Column -5)

(4) When one point of order is under consideration, another Member cannot raise a point of order.

On 30th July, 1975, while participating in the discussion on the demand for the grant, when Member Shri Kantibhai Patel was delivering his speech, Member Shri Jinabhai Kansagra raising a point of order asked whether the Member was talking about the Budget or the Janata Morcha? At the same time other Members too rose from their seats together. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following Ruling:

"Hon'ble Members must know the rules. When one Member raises a point of order, other Members must not rise for raising point of order. It is not in accordance with the rules and it is not proper to give same instruction again and again."

(G.L.A. Debates, Part-2, Book-48, Column -857)

(5) The Member, on whom the point of order is raised, in respect of his behaviour, should be given an opportunity to give an explanation

On 19th February, 1970, during the Question hour pertaining to Question No. 27118, in reply to the supplementary question on Question No. 27118 of Member Shri Vasant Parikh, the Deputy Home Minister Jayrambhai Patel stated that the question asked by the Member was not proper.

Thereupon, Member Shri Martandrai Shastri raising a point of order asked as to whether the Minister could say that "the question is not proper?" and asked him to withdraw the words to which Deputy Minister showed his willingness. When he was going to speak about something, there spread chaos in the House. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"The Hon'ble Member, on whose behaviour the point of order is raised, should be given an opportunity to give an explanation. When the Hon'ble Member Shri Shastri has raised the point of order, the Hon'ble Minister should give the explanation and, thereafter, I can give my ruling. Opportunity should be given to make an explanation."

(G.L.A. Debates, Part-1, Book-24, Column -46)

(6) The Rule meant for point of order should not be misused.

On 13th July, 1977, during the half-an-hour discussion on Starred Question No. 6411 of Shri Narsinhbhai Makwana, the Hon'ble Revenue Minister Shri Makrandbhai Desai stated that "the Members of the Legislative Assembly being advocates generate heat when any law or fact is not with

them." Then when the Member Shri Maganbhai Barot took an objection against the said statement of the Minister, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following Ruling:-

"I don't want that the Hon'ble Member has a right to raise a point of order like this, you can't abuse the point of order."

(G.L.A. Debates, Part-1, Book-53, Column -737)

(7) The right of a point of order cannot be misused by interrupting the discussion in the name of a point of order.

On 5th March, 1979, when the Home Minister was replying with statistical information on the discussion on demands for grants of the Home Department, Member Shri Narsinhbhai Makwana raising a Point of Order asked the Minister to give reasons for deciding the year of 1951 as the base year for the statistical information. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following Ruling:-

"The issue raised by you is not a Point of Order. You have interrupted the proceedings of the House by interfering in it and by misusing the device in the name of a point of order despite knowing about this. Thus I declare that you have misused the point of order by intervening in the proceedings of the House."

(G.L.A. Debates, Part-2, Book-63, Column -535)

(8) Interrupting discussion by raising point of order - Other Member can draw attention of the Speaker.

On 30th June, 1972, when Member Shri Narendrasinh Zala was speaking during the discussion on Resolution pertaining to corruption in the purchase of cotton, Member Shri Lalsinh Rahevar raising a Point of Order drew the attention of the Speaker towards certain words used in the speech. Thereupon, the Hon'ble Minister of Parliamentary Affairs Shri Ratubhai Adani drawing the attention of the Hon'ble Speaker stated that the Member should be prevented from raising an irrelevant matter as point of order for wasting the time of House. Member Shri Lalsinh Rahewar pointed out that the Hon'ble Minister should not snatch his right to raise a point of order and requested the Hon'ble Speaker to give his Ruling in that regard.

The Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"I have to rule that there are two types of point of orders; one is genuine point of order with bona-fide intention and the other, which is not a point of order, is the frivolous intervention with an intention to disrupt the speech. Such an intervening Member rises up in the middle or if he wishes to rise up, he should not speak until the other Member stops speaking and sits down. However, before a Member says a point of order, he should seriously think whether the House is not functioning properly and, therefore, to request the Speaker to conduct the proceeding as per the Rules or provisions of the Constitution. Any Member can rise up and intervene in another Member's speech. If the other Member sits down, the intervening Member can speak otherwise to sit down. This is the parliamentary practice and procedure. If any Member unnecessarily raises a point of order, every Member of this House have right to request the Speaker to reprimand that Member. Hence, when the Hon'ble Minister says the Member is wasting the time of the House, all the Members should help for smooth functioning of the House."

(G.L.A. Debates, Part-2, Book-34, Column 389-390)

(9) It is not inappropriate, if a Member or a minister demands time to express his views on the point of order.

On 27th March, 1967, when the Hon'ble Speaker asked the Finance Minister to express his views on certain statements made by the Member Shri Chhabildas Mehta on 24th March, 1967, on the point of order raised by Member Shri Narendrasinh Zala, the Minister requested the Hon'ble Speaker to hold a discussion on it on the next day. Thereupon, the Member Shri Manoharsinhji Jadeja raised an issue that the Ruling on the Point of Order raised by any Member could be postponed but the demand to postpone the discussion on such point of order was not reasonable.

In this matter the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"If the Hon'ble Speaker seeks advice on any point of order from any Member of the House, it may happen that the Members of the House are not prepared on the spot. Therefore, I do not think it as inappropriate, if any Member or Law minister or anyone else says that he may be given some time to think over it."

(G.L.A. Debates, Part-2, Book-18, Column 450-451)

(10) The other Member has a right to raise a Point of Order as to whether the speech of the Member, who raised the Point of Order is in order or not.

On 24th of March, 1972, after the Hon'ble Finance Minister moved a motion for Vote on Account, Member Shri Maneklal Gandhi raising a Point of Order stated that in the Second Paragraph of Page No. 2 of the Budget Speech, the Hon'ble Finance Minister thanked the people for having their faith in the Congress Party and the Prime Minister and that those words should be removed from the proceedings. When Member Shri Lalsinh Rahevar was expressing his views on that point of order, Member Shri Narendrasinh Zala raised a Point of Order. Thereupon, Member Shri Lalsinh Rahevar stated that he was speaking on the Point of order only." At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"It is true that Hon'ble Member Shri Lalsinh Rahevar is speaking on the Point of Order. However, the Hon'ble Member has a right to raise a Point of Order whether whatever Member Shri Rahevar is speaking is in order or not. Now, after he has spoken if it is not found to be a Point of Order, then it will have to be disposed off first."

(G.L.A. Debates, Part-2, Book-33, Column 133-135)

(11) Before giving a Ruling on a Point of Order, another Point of Order cannot be raised.

On 18th December, 1963, when Member Shri Babubhai Vaidya was making a submission on his Point of Order, Member Shri Gangaram Raval raised another Point of Order. Thereupon, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling:-

"Shri Gangarambhai, when one point of order is already going on, there cannot be another point of order unless one point of order is decided."

(G.L.A. Debates, Part-2, Book-10, Column -320)

(12) A Point of Order cannot be raised with regard to a political speech of a political leader.

On 12th April, 1973, during the discussion on the last day motion on arbitration of Narmada project, Member Shri Lalsinh Rahevar, referring to the Prime Minister's visit to Gujarat stated that according to the Prime Minister if the people of Gujarat stood by the ruling Congress Party, all the pending problems of Gujarat would be solved. However, in a public gathering at Ahmedabad, the Prime Minister had tried to cheat the people of Gujarat by

making clarification with regard to the Narmada Project. At that time, the Minister Shri Narendrasinh Zala raising a Point of Order took objection against the aforesaid speech of the Member Shri Rahevar.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"I have to rule that there may be mistake in whatever the Prime Minister has said in his own speech but the decision on the question is that any political speech made by any political leader cannot be an issue for the reason of a Point of Order. The reason is political interest; whatever he has said himself is the consequence of cheating. The people gets cheated is the result."

(G.L.A. Debates, Part-2, Book-44, Column 531-533)

13. Parliamentary Decorum/Etiquette.

(A) Presence of Members in the House and standards of behaviour.

(1) While replying a debate, the Members participate in the debate should remain present in the House.

On 29th March, 1961, when the In-Charge Minister rose to reply the discussion held on the Report of the Inquiry Commission appointed to conduct the inquiry into the incident of police firing occurred at Dahod, certain Members who participated in the discussion were not found to be present in the House. Thereupon, the Hon'ble Deputy Speaker (Shri Ambalal Shah) made the following observation:-

"It is desirable that Members, who participated in the discussion should, remain present in the House when the debate is replied by the Hon'ble Minister."

(G.L.A. Debates, Part-2, Book-2, Part-B, Column -1149)

(2) After participating in the discussion, a Member should remain present in the House to listen to the reply to the discussion.

On 16th July, 1981, when the Hon'ble Finance Minister was replying the discussion on Gujarat (Second Supplementary) Appropriation Bill and giving elaborate information on the issue of training to be imparted to mid-wives in Panchmahals and Bharuch Districts raised by the Member Shri Manibhai Ranpara, the Hon'ble Speaker (Shri Natvarlal Shah) ruled that "the Government

may say that since the concerned Member is not present in the House, there is no need to give an answer."

(G.L.A. Debates, Book-74, Part-2, Column 657-658)

(3) Members, who participate in the discussion should remain present in the House to listen to the reply to the discussion.

On 2nd September, 1968, when the Minister rose to reply the discussion, some Members, who participated in the discussion, were found to be absent in the House. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the Ruling as mentioned below:--

"Some Hon'ble Members are very eager to participate in the discussion. It is a normal decorum that the Members, who participated in discussion, should remain present in the House to listen to the reply to the discussion. Many such Members have failed to remain present at the time of reply to the discussion. I have to declare with regret that I will have to bear in my mind the behaviour of such Members while allowing them to participate in the discussion in future."

(G.L.A. Debates, Part-2, Book-21, Column 471-472)

(4) A Member participate in the discussion should remain present in the House to listen to the reply to the discussion.

On 12th March, 1965, the Home Minister Shri Hitendra Desai, while replying the discussion on demands for grants, stated that "the Members of the Council of Ministers definitely expect that the Members, who participated in the discussion should always remain present in the House at the time of reply to the discussion."

At this stage, the Hon'ble Speaker (Shri Fatehali Palejwala) had made the following observation:-

"As the Hon'ble Minister has pointed out many a time, we see Members participate in the discussion on demands and they often criticise the Government. But when the time comes to reply the discussion, they don't remain present in the House. I think this is not proper. It is a practice that when we criticise the Government, we should remain present in the House to listen to the answer to the discussion. I believe that the Members, who participate in the discussion in future, will take care to remain present in the House to listen to the reply to the discussion."

(G.L.A. Debates, Part-2, Book-13(A), Column-845)

(5) Members participating in the discussion, especially the Members, who move the 'cut motion' should remain present in the House to listen to the reply of a minister.

On 24th March, 1964, when the Hon'ble Minister replied the discussion on Demands for Grants, a question was raised as to whether the cut motion was withdrawn or not. But the Member, who moved the cut motion, was found to be absent. Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following Ruling:-

"It is a parliamentary practice that the Members, who participate in the discussion, should remain present to listen to the reply to the discussion. Today, Hon'ble Member Shri Narandas Popat has moved a cut motion but he is not present in the House. This is utterly regretful and deplorable. I hope the Members, who move cut motions in future will keep this in mind."

(G.L.A. Debates, Part-2, Book-11, Column-1436)

(6) The Members-in-charge, who give points during discussion on supplementary appropriation Bill, should remain present in the House.

On 10th March, 2008, when some of the Members who raised points in the beginning of the discussion on (Supplementary) Appropriation Bill, left the House as soon as the discussion on those points started, Hon'ble the Speaker (Shri Ashok Bhatt) made an observation and stated that:-

"The Members-in-charge, who had earlier given their points for inclusion in the discussion, raised their points in the House and as soon as the discussions started they went out of the House. It is their right to go out of the House whenever they wish, but it is not proper to leave the House at the time of discussion on the points raised by them. Similarly, during the Question-Answer Session, some Members tended to leave the House when the question asked by them was taken up and they returned to the House as soon as the question hour was over. It is their right to leave the House whenever they wish. A Member's absence in the House is justified only if there is any pressing need or some more important work to attend. Otherwise such a behavior is not proper. I hope that there are sincere and studious Members in the House and in order to increase their participation, I expressly believe that it is not proper to leave the House at the time of presentation of points or questions and during the discussions thereon."

(G.L.A. Debates, Book- 134: 2008)

(7) The Members who have participated in the discussion should remain present in the House, when the minister gives the reply.

On 7th September, 1960, when the Hon'ble Deputy Minister Shri Premjibhai Thakker rose to reply the discussion on the demands for grants, the Hon'ble Deputy Speaker (Shri Ambalal Shah) in the Chair on finding the absence of many Members from the House, who had earlier participated in the discussion, gave the following Ruling.

"As per the common practice, the Members who have participated in the discussion should remain present in the House, when the Hon'ble Minister gives reply to the discussion. But as we see here, most of the Members, who have participated in the discussion remained absent from the House. Therefore, one thing I would like to draw the attention of Hon'ble Members is that the Members, who participate in the discussion in future, should remain present when the Hon'ble Minister gives his reply to the discussion."

(G.L.A. Debates, Part-2, Book-1, Column 523)

(8) When an item of a Member has been shown in the List of the Business for the Day due to his notice, then he should remain present in the house at the time of taking up that item.

On 14th December, 1972, as per serial number in the List of Business for the day, when the turn of Bill - 32 of 1972 of Member Shri Manoharsinji Jadeja came, the Secretary called his name. But as the Member In-charge was absent from the House, Member Shri Narsinhdas Gondhiya submitted that in spite of three Bills of Shri Manoharsinh Jadeja coming up in the House on that day and he attended the House, he remained absent from the House at the time of his bills and thereby wasted the time of the House. If he had refused to move his bills earlier, other bills could have been taken up. Shri Gondhiya further complained that the election of Shri Jadeja's party was going on, which spoiled work of Members of the House.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"The duty of the Hon'ble Speaker is to see that the business, which comes up in the House, is transacted smoothly. If any Member has got his item listed in the Business for the day, it is the responsibility of the Member to remain present in the House when the matter is taken up. However, whatever important may be his work, he must either remain present in the House abandoning his own work or not get his matter listed in the list of business for the day. I feel that this demand of the Opposition Party is not unreasonable. Of

course, no decision can be taken in it as a point of order. But it is a good etiquette that any Member, who gives a notice to transact a business and wishes this House to carry it out, should remain present in the House. This is also a matter of respect towards the House."

(G.L.A. Debates, Part-2, Book-39, Column 366-367)

(9) 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 "when Member Shri Ashokbhai is not present, can anyone speak about him and can it be said as discordant note?" 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."

(G.L.A. Debates, Book – 1, Vol. II, Column 235-236)

(10) No statement can be given to a minister during the discussion through the House.

On 21st March, 1967, while participating in the discussion on the address of the Hon'ble Governor, Member Shri Bhailalbai Patel had stated, "Today I am giving a statement to the Hon'ble Minister."

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"It is not proper to give such a statement through this House of the Legislative Assembly."

(G.L.A. Debates, Part-2, Book-18, Column 108)

(11) 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 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. Therefore, the Minister for Health and Family Welfare

stated that the, five questions of one employee were given, Today also at that 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 Member? 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.”

(G.L.A. Debates, Book –6, Vol. II, Column 780)

(12) A Member, while speaking in the House, cannot demonstrate papers by holding them in the hands.

On 27th June, 1980, during the discussion on the motion of Vote on Account, Member Shri Jashvantsinh Chauhan was giving a speech by showing some papers in his hands, Member Shri Keshubhai Patel raised a Point of Order that the Member, while speaking, could not demonstrate any papers by holding them in his hands.

Thereupon, the Hon'ble Speaker (Shri Natwarlal Shah) gave the following ruling:--

"The Point of Order raised by Hon'ble Member Shri Keshubhai Patel is reasonable and Jashwantbhai, you may quote whatever you want to, but you can not demonstrate papers in this way by holding them in your hands.”

(G.L.A. Debates, Part-2, Book-67, Column 236-237)

(13) A Member should wind up his speech soon after ringing of second warning bell.

On 28th March, 1977, during the discussion on the motion expressing No Confidence in the Council of Ministers, Hon'ble Member Shri Ashok Bhatt expressed his opinion. Thereafter, the Hon'ble Acting Speaker (Shri Manubhai Palkhiwala) made the following observation:-

"It is an instruction to all the Members not to insist on prolonging their speech after ringing the warning bell twice. If they insist otherwise, it will amount to doing injustice to other Members and the propriety of the House

cannot be maintained. It will be more appropriate for a Member if he winds up his speech soon after ringing the first bell and the second warning bell."

(G.L.A. Debates, Part-2, Book-52, Column-503)

(14) After the business of the House is over, no Member can sit in the House as a right.

On 25th of March, 1968, during the discussion on a Point of Order, when Member Shri Manabhai Bhambhi announced that he would observe fast in the House for indefinite time. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"What the Hon'ble Member has said is not a Point of Order. In a way, he has threatened the Speaker. The kind of threat is such that the Hon'ble Member wants to keep the possession of the House even after the Business of the House is over. I am afraid that if he really resorts to such an act, it will be against the law and in order to undertake a procedure to prevent such an unlawful act, I will have to instruct the Gujarat Legislature Secretariat. No Hon'ble Member can sit in the House after the business of the House is over by any kind of right."

(G.L.A. Debates, Part-2, Book-20, Column 4084-4085)

(15) After staging a walk-out, a Member may come back in the House.

On 3rd of August, 1962, after the First Reading of the Bill on Education Cess, some Members of the Opposition Party staged a walkout. Thereafter, within a few minutes when Member Shri Ranjitrai Shastri, who too had staged the walkout, re-entered the House, the Hon'ble Speaker asked him to move his Amendment. At that time, Member Shri Manubhai Patel raised a Point of Order that whether a Member could come back after staging the walkout.

Thereupon, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling:--

"Until we make an amendment in our Rules and introduce a new Rule in our Rules, I think we will have to allow him to enter the House."

(G.L.A. Debates, part -2, Book-6, Column 1386)

(16) Having boycotted the House, the Members should not sign in the Attendance Register and should not claim the allowances on the moral ground.

Under Rule -108 of the Gujarat Legislative Assembly Rules, Member of the Opposition Shri Arjunbhai Modhvadia on 8th July, 2009, and Dr.

Anilbhai Joshiyara on 9th July 2009 gave notices of Motion for Adjournment of the House. But as the same was not in accordance with the Rules, the Hon'ble Speaker did not give permission to seek the leave of the House.

Annoyed by the decision of the Hon'ble Speaker, on 8th July, 2009, some Members of the Opposition rushed to the well of the House, trying to obstruct the proceedings of the House. Hence, in compliance with the Rule - 51 of the Gujarat Legislative Assembly Rules, 14 Members of the Congress Party were withdrawn from proceedings of the House for a day.

On the second day i.e. 9th July, 2009, also, the Members of the Opposition continued to obstruct the proceedings of the House by shouting slogans from their seats. They also torn the papers and hurled it in the air. Thereupon, the Hon'ble Speaker, under Rule – 51, ordered the Members to leave the House but they defied the order and some of them even pulled out and wrecked the mike of their seats. Therefore, seven Members of the Congress Party, who had indulged in such extreme act of disruption of proceedings in the House, were suspended from the House till the end of the Session under rule-52.

Thereafter on 10th July, 2009, as the time of Question Hour started, the Members of the Opposition dressed in black clothes entered the House and started shouting slogans and some of them torn the papers and threw it in the air, while the others rushed into the well of the House. Eleven such Members of the Congress Party were suspended from the House for three days i.e. till 14th July 2009.

Annoyed by these events, rest of the Members of the Opposition boycotted the proceedings of the House. In spite of those boycotts, some Members signed the Attendance Register maintained under Rule - 279. On this, the Member Shri Pradeepsinh Jadeja raised a Point of Order on 15th July, 2009, stating that the Members of the Opposition had on the one hand boycotted the House and on the other hand signed the Attendance Register which they should not have done on the ground of morality. Thus, on the basis of the norm of "No work no pay" and also on the ground of morality, he sought the guidance of the Hon'ble Speaker and the Hon'ble Speaker (Shri Ashok Bhatt) gave his guidance as mentioned below:

"I will talk according to the Rules of the Gujarat Legislative Assembly. The number of Members who were not present in the House on 13th and yet signed the Attendance Register is 24. The number of Members who did not remain present in the House on 14th and yet signed the Attendance Register is 28. Let me inform the House that the Attendance Register is maintained as per

the provisions of Rule - 279 of the Gujarat Legislative Assembly Rules, which is supposed to be signed by all the Members other than the Speaker, Ministers, Deputy Ministers, and Parliamentary Secretaries on the day on which the Members remain present in the House. The Members will be deemed to be absent from the House for the day on which they fail to sign the Attendance Register. Thus, logically it is right to think that the Members who signed the Attendance Register were present on the specific day. Hence they are entitled to claim the allowances. But when the Members themselves declare that they have boycotted the House, they should have respected the moral bindings. When we are dedicated to the Gandhian school of thoughts and especially when we proudly say that "We belong to the Gujarat of Gandhiji", it should be our moral norm that we should not claim the allowances or remunerations for the days on which we have not attended but boycotted the House, means, observed one kind of Satyagrah (Insistence of Truth), then according to ethics it is not proper for those who believe in morality to claim for the allowances. Though as per the Gujarat Legislative Assembly Rules I am bound to sanction the allowances to the Members who have signed the Attendance Register, they should not claim such allowances if they have moral power and if they are bound by the moral norms. I surely believe that the Members who have signed the Attendance Register shall get allowances, admissible to them as per the Rule - 279 of the Gujarat Legislative Assembly Rules. The Members who were on Satyagraha by boycotting the House should not have signed the Attendance Register. It is up to them to take a suitable decision. So far as the Rules are concerned, the Members are deemed to be present for the day on which they sign the Attendance Register. When the Members have boycotted the proceedings of the House, they should not only abstain from the House but they should also not have signed the Attendance Register. But as they have signed, I am supposed to sanction their allowances. I, therefore, repeat that as per the Gandhian school of thoughts, if the Members want to claim the allowances, they should work. I had participated in the All India Whips Conference held in Hyderabad in which the same issue had been thoroughly discussed which ultimately led to the conclusion that Members should not claim allowances for the day on which they have not worked. Thus, the principle of "No work no pay" had been upheld which has yet not been converted into a rule. It is, therefore, difficult for me not to sanction the allowances of the Members boycotting the House. To avoid recurrence of such events, I will convene a meeting of the Rules Committee and put forth the issue for consideration."

(G.L.A. Debates, Book- 143: 2009)

(17) During the course of the Hon'ble Governor's address in the House, no Member should take his seat in the House.

On 15th January, 1982, after the Hon'ble Governor delivered his address in the House and when the House reassembled for its proceedings, Member Shri Ashok Bhatt referring to the Rules of the Gujarat Legislative Assembly raised a Point of Order that Member Shri Harishankar Pandya entered the House and took his seat during the course of the address of the Hon'ble Governor and had thus insulted the Hon'ble Governor. Further, Shri Ashok Bhatt requested the Hon'ble Speaker to give a Ruling in that regard. Thereupon, the Speaker (Shri Natwarlal Shah) gave the following Ruling:-

“I do not know if the Member Shri Harishankar Pandya came late and took his seat. In the Rules, it is clearly provided that no Member can enter the House and take his seat during the course of the speech of the Hon'ble Governor. I hope no Member will do this henceforth.”

(G.L.A. Debates, part -2, Book-75, Column 1)

(18) If a Member delivers a speech without the permission of the Speaker, it amounts to contempt of the House.

On 5th March, 1979, at the end of the discussion on the demands for grants of the Home Department, when the Hon'ble Deputy Speaker, who was in the Chair, suggested the Home Minister to reply the discussion, Member Shri Popatlal Sorathiya started his speech despite the disapproval of the Hon'ble Deputy Speaker and as he prevented him from doing so, the Member staged a walkout of the House in protest.

Thereupon, the Hon'ble Deputy Speaker (Shri Manubhai Palkhiwala) gave the following Ruling:-

“Whatever the Member Shri Sorathiya has said in his speech is expunged from the proceedings. Equality is observed so far as an opportunity of making a speech is concerned. It is not considered based on a district either from Gujarat or from Saurashtra. But when the Speaker is on his legs, the approach of continuing with one's own speech, which the House does not want to listen to, amounts to contempt of the House. I take serious note of the same.”

(G.L.A. Debates, part -2, Book-63, Column 555-556)

(19) 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 Hon'ble 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.”

(G.L.A. Debates, Book –8, Vol. II, Column 463)

(20) Members should refrain from using inappropriate language while sitting on their seats.

On 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 Hon'ble Speaker (Shri Himmatlal Mulani) 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”.

(G.L.A. Debates, Book – 76, Column 673 – 674)

(21) If Members create pandemonium in the House and damage the properties, the Members causing damages should compensate for such damages.

On 9th July, 2009, during the Question Hour, when the starred question at priority No.1 was going on, the Hon’ble Leader of Opposition stated that Member, Shri Arjunbhai’s Motion for adjournment of the House had been pending and more than 100 people had died on that same day in some new areas due to hooch consumption and sought to suspend the current proceedings of the House and allocate two hours for the discussion on the Hooch Tragedy and created disturbances by shouting slogans constantly. Despite the persuasion by the Speaker, behavior of the Members of the Congress Party including the Leader of the Opposition being severely turbulent, the Hon’ble Speaker (Shri Ashok Bhatt) directed them, under Rule - 51 of the Gujarat Legislative Assembly Rules to leave the House. In spite of that, when the Members of the Opposition Party started wrecking the property of the House, the Chief Whip moved a motion to get those Members who had broken the microphones of the House to compensate for the damage and to suspend them from the proceedings of the House for the entire remaining session. The Hon’ble Speaker under Rule - 52 of the Gujarat legislative assembly Rules named the Members who had damaged the public properties and suspended them for the entire remaining session and directed to compensate for the damage from those Members who had committed such an act and also made observation as given below:

“The Leader of the Opposition telephoned me to seek zero hour on 7th July, 2009, before commencement of the sitting of the House. As regards the permission to zero hour, we have an established practice that the matter cannot be raised until the concerned Minister gives his consent. Secondly, even in the Lok Sabha, the matter of the zero hour can be raised after the question. Thirdly, he said that the matter of motion for adjournment of the House was pending, which is not true. It has been cleared and a letter rejecting the motion of adjournment has also been sent to the concerned Member yesterday. As per Rule – 108, the notice of the motion for adjournment should have been given to

me one hour before the commencement of the sitting of the House, but the notice was given to me only five minutes prior to the sitting and, therefore, I did not give the consent. Today, the way in which the matter has been raised during the Question Hour by the Members including the Leader of the Opposition is not proper. So far as the incident of breaking the microphones is concerned, I will watch the visuals of this incident of breaking the microphones and take the decision accordingly. The charges for the broken microphones will be recovered from those Members who have broken the microphones and from whose benches the microphones have been broken.

As per one of the directives laid down in the Code of Conduct determined by the Conference of the Whips and by the Lok Sabha, whatever damage is caused in the Legislative Assembly, has to be recovered from the concerned Members. I cannot give the permission to raise the issue today as the situation is not suitable otherwise. Under rule - 34(2), "Any matter pending before any tribunal or authority appointed under any law to perform any judicial or quasi-judicial functions or before any commission or court of inquiry appointed to inquire into or investigate into any matter must not be mentioned." Despite having such insistence on the judiciary as also on the Parliamentary system, the Leader of the Opposition along with all the other Members of the Opposition have today displayed their unparliamentary attitude, which is really painful. I was not in a position even to permit the discussion on this matter under Rule - 34. Because it is very clear in Rule - 34 that the matter cannot be discussed if any Judicial Commission is appointed thereon. Yesterday, the Hon'ble Minister of State for Home announced in this House about the appointment of a Judicial Commission headed by Shri Kamal Mehta and the notification thereon has also been issued. Therefore, in such a circumstance, it is only open for any Member of this House or any citizen to approach the Judicial Commission and make a representation in this regard. Hence, Rule - 34 does not allow me to permit this matter to be discussed in this House. In such circumstances, it is not at all proper to have attempted to raise the matter untimely. Even when the matter was raised untimely and the Leader of the Opposition has deep knowledge of Parliamentary matters, he should have prevented his Members from breaking the microphones. They also should not have shouted such slogans. Since I have not permitted to take up the matter in the House, the words and phrases used in the slogans shouting in the House do not form part of the proceedings of the House and, therefore, I hereby direct not to consider the matter as part of the proceedings of the House. It is, therefore, very much necessary that this matter should not be published or broadcast or telecast by the media. Because any matter, which is not a part of the proceedings of this House, cannot be published or broadcast or telecast and,

therefore, I do not feel it worthwhile even to discuss or describe such scenes. I, therefore, repeat that today's scenes were useless and politically motivated and this platform is not for such scenes and discussions. Eventhough this matter was not falling under Rule - 44, it was discussed yesterday, considering the seriousness of the situation and the Hon'ble Home Minister had also given his reply with regard to the matter in detail. Since the Rules of this Legislative Assembly do not allow me to give permission again to discuss a matter, which has already been discussed in the House, I cannot give permission for discussing matter even under Rule - 34. I cannot allow the matter to be raised even during the Question Hour. Therefore, demonstrations in the House are not proper and inconsistent with the decorum of this House and also in violation of the established parliamentary practice and rules of the Gujarat Legislative Assembly.”

(G.L.A. Debates, Book- 143: 2009)

(22) Clarification cannot be sought in the House with regard to the letter written to the Speaker

On 23rd December, 1963, during the Question-Answer Session on Question No. 5116 of Member Shri Manoharsinhji Jadeja pertaining to the applications for loans by the Goldsmiths of Rajkot Division, the Hon'ble Deputy Minister for Industries asked for a notice for a certain supplementary question. Thereupon, Member Shri Babulal Vaidya demanded for postponing the question. However, when the Hon'ble Speaker refused to accept the demand, Member Shri Prataprai Shah addressing the Hon'ble Speaker said that he had written a letter to the Hon'ble Speaker with regard to the Question Hour narrating how questions are answered frequently.

Thereupon, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling:--

“Shri Pratap, if you have written a letter, then there is no need to give the information thereof here. As per the practice you should see me in my Chamber and ask me and discuss with me as to what you have written in the letter and what happened and what I did in that regard.”

(G.L.A. Debates, part-1, Book-9, Column -408)

(23) It is improper to ask the Speaker to inform as to which words have been expunged from the proceedings.

On 4th April, 1972, during the discussion on the address of the Hon'ble Governor, when the Hon'ble Speaker ruled to expunge some words used by

Member Shri Jashvant Chauhan, Shri Manoharsinhji Jadeja requested the Hon'ble Speaker to tell those words.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"I do not read the words which are to be deleted from the proceedings. I want to expunge the words because it is my responsibility. When 17 Members are present in the House, within the meaning of the Legislative Assembly it is assumed that 168 Members listen to whatever is said here. So, it is not appropriate to repeat it in order to make the absent Members listen to what was spoken in their absence. By expunging the words, the Speaker is discharging the responsibility imposed upon him by the Rules."

(G.L.A. Debates, part -2, Book-33, Column -1149)

(24) Everybody should uphold whatever the decision is taken by the Leaders of the Parties regarding the business of the House.

On 17th September, 1979, after expressing the views and feelings in respect of the condolatory references on the demises of Lord Mount Baton, the first Governor General of Independent India and other Members, the Hon'ble Speaker while making an announcement of adjournment of the House made a clarification that the Hon'ble Chief Minister, the Leader of the Opposition Party and other Members had met him together to express their feelings and pay their silent tribute to those who had died in Morbi, Maliya, Kutch as well as in other parts of Gujarat. After consideration, it was decided to adjourn the House by paying tribute to the deceased from the Chair after carrying out the work of Item No. 9 of the revised List of the Business for the Day since that day was earmarked by the Hon'ble Governor for the presentation of supplementary statement of expenditure.

At this point of time, Member Shri Narsinh Makwana raised an issue of presenting the condolatory resolution first by deferring the presentation of supplementary statement of expenditure to the next day.

Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) ruled that "by following the principle of decency of parliamentary democracy, everyone has to uphold whatever decision taken by the leaders of the parties."

Thereafter, the Speaker asked the Finance Minister to present the supplementary statement of expenditure.

(G.L.A. Debates, Part-2, Book-66, Column-32)

(25) Once the House has decided a matter, a Member cannot make discussion on the same.

On 3rd April, 1981, after the Question Hour, Member Shri Makrand Desai with the prior permission of the Hon'ble Speaker stated that the House had passed a resolution on 2nd April, 1981 and the elections of all the current committees except the newly constituted four committees had been postponed. Therefore, the right of the Members to be elected on those committees had been ceased. He further submitted that if the application of the rule was suspended then there was no significance of having the booklet of the rules of procedure in the House. At that stage, Member Shri Jashwantsinh Chauhan raising a Point of Order said that 'there was no significance of the rules of procedure in the House', amounted to the contempt of the whole House. Shri Makrand Desai made an explanation that there was a provision for suspension of the rule in the rules of our House but it could be used in an exceptional case. The process initiated for an election could be deferred only in case of death of a candidate in the meantime. But he expressed his feeling that it was not appropriate to defer the elections by bringing a resolution of suspension of the rule just one hour before withdrawal of the nominations.

Thereafter, listening to Shri Chimanbhai Patel, the Hon'ble Speaker (Shri Natwarlal Shah) gave the following Ruling:-

“In this matter, no one can challenge the decision taken by the House but everyone should be cautious that the feeling expressed here should be taken care of in future.

Once the House has decided, then not even discussion can be made on the same.”

(G.L.A. Debates, Part - 2, Book-73, Column 1235)

(26) There is no need to express thanks to the Speaker for giving an opportunity to speak.

On 22nd September, 1966, during the discussion on the Panchayat (Provisions for Grants to Villages) Bill when Member Shri Ramjibhai Chaudhari expressed thanks to the Hon'ble Speaker for giving him an opportunity to speak, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling:-

"No need to express thanks."

(G.L.A. Debates, Part - 2, Book-17, Column -635)

(27) No document can be read in the House without showing the same to the Speaker in advance.

On 21st March, 1967, while participating in the discussion on the address of the Hon'ble Governor, Member Shri Martandrai Shastri stated that he had received a letter". In that connection, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"The letter, which is not shown to the Speaker in advance, cannot be read in the House as per the Rules".

(G.L.A. Debates, Part - 2, Book-18, Column -150)

(28) Even if the ruling given by the Hon'ble Speaker is erroneous, no Point of Order can be raised.

On 8th June, 1970, Member Shri Manubhai Palkhiwala raising a Point of Order stated that the Hon'ble Speaker could not convene the session of the House, adjourned by a Motion passed in the House.

In this context, Shri Martandrai Shastri stated that the House was not got prorogued. Therefore, the Hon'ble Governor could not convene the session of the House and the Hon'ble Speaker had convened the House to complete the remaining works of the House, which was legitimate.

Thereupon, the Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"I am really thankful to the Hon'ble Member Shri Shastri for the speech he made. The first issue we have to consider is "Whether a Point of Order can be raised on the decision made by the Speaker?" I think no Point of Order can be raised on the decision made by the Speaker. Yet the Speaker is bound to make explanations for several things in this House. And in this matter also the Speaker is obliged to make an explanation. So when the House was adjourned as a result of the motion of the House and since there is no clear provision in our Rules in that regard, if the session of the House is to be convened, the norms/conventions /customs prevailing anywhere else have to be taken into consideration, if they are applicable in the similar matter/situation. And therefore, considering those norms/ conventions/customs and only after receiving the demand from the Government, I had decided to convene this sitting of the House. As a result, the Speaker has convened the House in view of the Business as provided in the Rule-4 and the Rule - 56 and by exercising the "Residuary Power" as provided in Rule-56. So even if the Speaker has made an error in whatever decision is taken to convene the House considering

these both ways, no Point of Order can be raised for the same. Yet it is my duty to make an explanation before the House and, therefore, I apprise the House."

(G.L.A. Debates, Part - 2, Book-28, Column 5-6)

(29) The Speaker cannot take note of whatever happens outside his jurisdiction.

On 26th March, 1968, during the discussion on the Appropriation Bill, Member Shri Manubhai Palkhiwala raising a Point of Order stated that as per the announcement of the Hon'ble Speaker either the Police Officers or the Police Constables other than those with the prescribed uniform could not move in the area coming under the jurisdiction of the Hon'ble Speaker. He further stated that despite that the police officers in Khaki uniform were found moving near the Chamber of the Hon'ble Chief Minister and asked as to whether they had taken the permission of the Speaker?

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"There are precincts in the House. The precinct limits have been determined and sign boards have been put up indicating from where the precinct limit starts and where it ends. Those who have seen those sign boards may have been assured that the Speaker has kept the Second Floor out of his jurisdiction. No protests can be staged in the area within the jurisdiction of the Speaker. The Speaker has been entrusted with the big responsibility of removing a person or even a Member of this House if he stages a protest. So actually I have to make an explanation if the House makes a complaint that I am not discharging my duties fulfilling the responsibility entrusted by the House. Therefore, actually since this area has not been kept within the jurisdiction of the Speaker himself, there is no control of the Speaker himself on whatever happens there. Therefore, since whatever happens there is outside the jurisdiction of the Speaker, I cannot take the note of the same."

(G.L.A. Debates, Part - 2, Volume-20, Column 4189-4190)

(30) The Speaker cannot intervene in the event happened out-side his purview.

On the 8th March, 2010, the Leader of Opposition Shri Shaktisinh Gohil raised a Point of Order regarding the journalists not remaining present in the Journalist Gallery of the Gujarat Legislative Assembly for 34 minutes during the Question Hour in protest of the Government Circular banning entry of the

Journalists in the Government Hospitals, Shri Gohil requested Hon'ble the Speaker to give his ruling in the matter.

Regarding the aforesaid matter the Hon'ble Speaker (Shri Ashok Bhatt) gave the following Ruling:-

“Normally we do not allow to raise a question with regard to the Journalists' Gallery or any other Gallery. Yet, today this type of question has been raised. An exclusive Gallery for the journalists has been arranged. It is totally up to the discretion of the journalists when to enter the Gallery and remain present or to remain out. This is a sole right of journalists. I do not have any authentic information regarding their absence or the reason of their absence. If you have been informed, it is your personal information. The Point of Order raised by Shri Shaktisinh Gohil does not pertain to the House. Thus, the event of their absence is out of my purview. Hence I cannot intervene with regard to the journalist as the matter does not fall into my purview.”

(G.L.A. Debates, Book- 150: 2010)

(31) The act of throwing a pincushion by a Member in the House is considered to be a stigma.

On 19th August, 1980, during the Question Hour on the Calling Attention Notice on a matter of Urgent Public Importance as a pincushion was thrown on the Opposition Party, Member Shri Nagindas Shah raising a Point of Order sought protection from the Speaker. He also stated that everyone had the right to speak in the House and the Opposition Party too had equal right to listen to. Yet, throwing pincushion on them was not at all proper for the Ruling Party having the majority.

Thereupon, the Hon'ble Speaker (Shri Natwarlal Shah) making an observation stated that if what Shri Naginbhai said was true, it would be a very serious matter. It was not at all reasonable to throw pincushions in that way. Requesting the Members, he further stated that doing such kind of act was a stigma for the House.

(G.L.A. Debates, Part 1, Book-67, Column 111)

(32) Under Rule-51 the Speaker may remove a Member who disregards the order of the Speaker from the proceedings of the House.

On 31st January, 1979, during the discussion on the Motion of Thanks for the Governor's Address, as Member Shri Liladhar Vaghela made some general allegations in his speech, the Hon'ble Deputy Speaker Shri Manubhai Palkhiwala in the Chair stopped him. At that time, Member Shri Karamshibhai

Makwana aiming at the Deputy Speaker said that he was interfering in his talk unduly and frequently. Thereupon, the Deputy Speaker asked the Member to withdraw his words otherwise he would be compelled to drive him out. At this stage, without withdrawing the words, the Member walked out of the House. Therefore, the Deputy Speaker ordered to remove the Member from the House for that day as he had insulted the House.

Thereafter, on 1st February, 1979, the Leader of Opposition referring to Rules - 51 and 52 with regard to the Ruling given by the Deputy Speaker on 31st January, 1979, raised a Point stating that a motion should be moved before the House to remove the Member, whom the Speaker may name, which did not happen in this case and requested the Speaker to reconsider the matter of his Ruling. After listening to the opinion of Hon'ble Minister of Law and the explanation made by the Member Shri Karamshibhai Makwana, the Hon'ble Speaker asked Shri Karamshibhai Makwana to submit his explanation to the Hon'ble Deputy Speaker.

Thereafter, during the debate on the Bill further to amend the Bombay Tenancy and Agricultural Lands Act, 1948 the Hon'ble Deputy Speaker (Shri Manubhai Palkhiwala) in the Chair, referred to the proceedings of the previous day regarding the matter of walkout of the Member from the House and expressed his opinion regarding Rule-51 and gave the following Ruling:--

"My impression was that Rule 51 and Rule 52 overlapped each other in some way. But, thereafter, on reading those wordings I don't find it overlapping because it is very clear in Rule - 51 that if the conduct of any Hon'ble Member is found to be grossly in disorder, the Hon'ble Speaker may order the Member to leave the House. And the second part of the Rule automatically follows the first one. As per the second part of Rule 51, Hon'ble Member has to be absent from the House for the proceedings of that day. As per the provision of Rule - 52 the Hon'ble Speaker doesn't have any power. Power means to name him and after naming, if any Member from the House may move a motion regarding that and voting is held on the motion and after voting, if the motion gets passed, the Member may be suspended for the period as mentioned in the motion. But I don't want to indulge in any dispute with regard to Rule - 51 or Rule - 52 and I have quoted the verbatim noting of the proceedings conducted in the House Yesterday, which has been taken by the reporters of this Secretariat. But I fully agree with the views expressed by the Leader of Opposition Party and the Hon'ble Minister with regard to Rule 52. There was an impression in my own mind that Rule 51 and Rule 52 overlap on each other. But according to me if any Member had seen that proceedings, he might have realised that there did not take place any overlapping. Hon'ble Madhavsinhbhai

had drawn my attention to the proceedings of the Lok Sabha. I agree that the Speaker is not the owner of the House but he is a servant of the House. In the House of the Legislature, insult of the Speaker amounts to an insult of the House of the Legislature because at the time of selection of the Speaker in the House of the Legislature, both the Leader of Opposition Party and the Hon'ble Leader of the House together wish the Speaker to take the Chair. But for that reason he doesn't become the owner of this House. But he is a servant of the House. Hence in order that the functioning of the House runs in order, he has to be careful and vigilant. Therefore, when the Hon'ble Speaker is or I am myself sitting in this Chair, I talk in a humble and polite way, whenever I have to say something to the House. Since ultimately the House is the owner and the supreme body, I fully agree with that. Shri Karamshibhai has expressed his regret for the incident that occurred yesterday. Taking into account his regret, I withdraw the order given by me yesterday.

(G.L.A. Debates, Part – 2, Book-61, Column 652-653, 720 - 735)

(B) Standards for the Minister's presence and behaviour in the House.

(1) It is not appropriate on the part of a Minister to remain absent in the House at the time of presenting the demands for grants of his department.

On 12th July 1977, at the time of presentation of demands of Agriculture and Public Works Department, as the Agriculture Minister was found to be absent in the House, Member Shri Sanat Mehta drew the attention of the Hon'ble Speaker about the absence of the Hon'ble Minister and inquired about his absence. He also submitted that if he had to move a cut motion and if he remained absent, his cut motion would be held void. Nobody in this house has a more special position than a Member. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following Ruling:-

"It is wrong on the part of the minister. He must remain present."

(G.L.A. Debates, Part - 2, Book-54, Column 672-673)

(2) Even after warning once, if the Ministers remain absent and they have to be summoned, – which is not at all fair.

- 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 was going on in the House but even after such instructions, the situation arisen when the Ministers were 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 looked very bad when not a single Minister was present.

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

Allowing the Point of Order, the Deputy Speaker said that “No Member could take his seat or leave the House when the speaker was 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 Ashok 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 had not arisen when Ministers were 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 Hon'ble 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 from now on.

(G.L.A. Debates, Book – 9, Vol. II, Column 763 – 767)

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

Before the Member Shri Dinkar B. Desai starting 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 Amarsinh Chaudhari entered the House and told the Speaker that he had come. He submitted that it took time for him to walk.

The Hon'ble 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."

(G.L.A. Debates, Book – 10, Vol. II, Column 835 – 836)

(4) 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 Hon'ble 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."

(G.L.A. Debates, Book – 5, Vol. II, Column 3)

(5) Ministers must be present in the House except important work.

During the Discussion on Motion of Thanks on the Governor's Address, on 4th March, 2003, Member Shri Bharatsinh Solanki raised a Point of Order on the absence of some Senior Ministers from the Treasury Bench. After hearing the Member, who raised the Point of Order and also some other prominent Members, Hon'ble the Speaker (Professor Mangalbhai Patel) ruled as under:

"There are four Ministers present here just now and they remained present in the House since raising of the Point of Order. The Member in-charge of the Motion of thanks is also present. The Chief Whip is also present. Therefore, there is no question of Point of Order. When the Ministers have some important work, they may remain absent from the House with the permission of the Chair. But if they have no such important work, all the Ministers should, as far as possible, remain present in the House."

(G.L.A. Debates, Book 94:2003)

(6) 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 (Shri Mahendrabhai Mashru) 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 that the Ministers of the concerned Department to remain present when their demands are being discussed.”

(G.L.A. Debates, Part - 1, Book – 87, Column 437-438)

(7) In unavoidable circumstances, a Minister can remain absent with the permission of the Speaker during the discussion on a matter of his department.

On 4th March, 1965, Member Shri Narbheshankar Paneri gave a notice of breach of propriety to the effect that the Minister for Panchayats and Cooperation Shri Vajubhai Shah did not prefer to remain present in the House on 3rd March, 1965, when the supplementary demands of his department were presented and at 5.30 p.m., the Minister had attended a function of Transport Corporation and delivered a speech and, therefore, the decorum of the House was not maintained.

Regarding the aforesaid issue, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling on 5th March 1965:-

"In this regard as per the parliamentary procedure when discussion of a Minister's department is going on, then he should cancel the appointments outside the House and remain present in the House. In unavoidable circumstances, the Minister may, with the permission of the Speaker, remain absent from the House. In the present case, the Minister has sought the permission for absence. So in this matter, no question of a breach of propriety arises."

(G.L.A. Debates, Part - 2, Book-13(a), Column 578)

(8) A minister may remain absent from the House for a personal work as well.

On 4th and last day of general discussion on the budget i.e. on 6th July, 1972, while taking the note of absence of Finance Minister and raising the Point of Order, Member Shri Batukrai Vora stated that the Finance Minister had to reply at the end of the discussion as per the Rules. He further stated that he replied the discussion one day in advance and went out for the party work and he did not remain present in the House. He further asked whether the conduct of the Minister was proper?

The Hon'ble Speaker (Shri Raghavji Leuva) reminding the Point of Order regarding the reply given by the Finance Minister one day in advance and the ruling on it, gave his ruling as under:-

"As per the ruling I gave Yesterday, every Hon'ble Member has the right to remain present or absent in the House. If any Member seeks permission of the Speaker that he has to go out of the House for certain reasons, then he can go. The same does not amount to an offence."

(G.L.A. Debates, Part - 2, Book-2, Column 808)

(9) Barring the files and the other literature relating to the business of the House and the files which are very necessary and need prompt disposal, the Minister should restrict seeing files in the House.

On 21st February, 1969, Member Shri Narendrasinh Zala raised a point that the Ministers were reading and disposing off the files which were not related to the business on hand. As a result, the Peons keep on moving in and out of the House, which causes interruption in the proceedings of the House. At other places, the Ministers did not do such work inside the House. Such practice prevailing in this House should also be stopped.

In this regard, the Hon'ble Speaker postponed his Ruling. The postponed Ruling was given on 28th March, 1969, by the Hon'ble Speaker (Shri Raghavji Leuva) which is mentioned below:-

"In this regard, by gathering the information of the practices prevailing elsewhere I declare the Ruling as mentioned below:-

Thereafter, again on 17th March, 1969, Hon'ble Member drawing my attention stated that I should give my decision on time.

Against this point, two Ministers and the Members of the House presented their main arguments as under:--

- (1). There is no restriction in our Rules that such kind of work cannot be done.
- (2). If prevented, the Ministers other than those, whose department's discussion is going on will not be able to remain present in the House.
- (3). The ministers do not bring the other files in the House except those which are more important.
- (4). Such kind of work neither caused interruption in the business of the House nor to a Member in his work or in his peacefulness.
- (5). No objection can be taken if a Minister does the work related to the House or disposes off the most important files.

Similar type of Rule has been laid down in Rule No. 349(1) of the Lok Sabha that:-

"While the House is sitting, a Member shall not read any book, News Paper or letter except in connection with the business of the House."

The similar kind of provision is found in the rules of the Legislatures of some States. But at the time of old Mumbai State, such rule was not in existence. And when that House adopted its new rules on 23rd August, 1960, no such rule was introduced in them. But in the manual published by the House for the guidance of the Members, there is an order as a convention. In this order, it has been mentioned, "Not to read News Papers or magazines."

Despite no clear provision in the rules, there is a restriction for Members on reading News Papers, etc. in the House and the Speaker draws the attention of the House to it, whenever necessary and the convention is followed.

Despite no such provision in rules, similar kind of issue was arisen in the Maharashtra Legislative Assembly in 1962 and the Speaker of that House gave the Ruling as under on the 3rd April 1964 by considering the different aspects of the matter:--

"As mentioned earlier, we have no specific rule on this subject and the convention also does not fully cover the Parliamentary Principles since it speaks of reading only news-papers and magazines. The Parliamentary Principle is what it is and the reasons thereof being also fairly obvious. I request the Minister not as a rule to attend the Departmental files or the Government work not connected with the business before the House."

In this context, the Hon'ble Speaker referred to Rule 349(1) of the Rules of the Lok Sabha, the issue raised in the Maharashtra Legislative Assembly and conventions of House of Commons and stated that "no rule should be required to be made on the matter which is clear in itself, established as a convention, and found appropriate, considering its merits and demerits.

The argument has been made hereinabove that if ministers are not allowed to dispose of the files inside the House, they have to remain absent in the House from time to time due to helplessness. One of the fundamentals of democracy is that it is expected from every Member present in the House that he should give full and undivided attention to the business transacted in the House. Following the said principle, reading of books, news-papers not related to the business of the House has been prohibited in the House. There may not be any problem, if Hon'ble Ministers see the files, documents, etc. related to the business of the House during the ongoing proceedings of the House. But it is not appropriate, if they attend the files not connected with the business of the House.

An argument was also made here that if a Member does not pay attention to the business of the House and behaves in such a manner that his behavior may not be in accordance with the business of the House, such behavior itself should be considered causing interruption. The files disposed off by the Ministers are taken away and the new files are brought in continuously. This very procedure is causing interruption. Presence of maximum number of Ministers in the House is an appreciable matter. But the mere physical presence of ministers in the House is not adequate. The purpose of presence of ministers may be to make them aware of the matters regarding the functioning of the Government which are submitted when they are present in the House. But it can seldom be said that the said purpose is served if they continue with their work inside the House.

Therefore, I would request the Hon'ble Ministers to restrict or limit as far as possible seeing the files barring those related to business of the House on hand or other literature and the files except those which are very necessary and need prompt disposal by sitting in the House. If this will be followed, unnecessary movements of persons other than the Members will be restricted and the attention of the Members of the house may be concentrated more effectively to the discussions in the House."

(G.L.A. Debates, Part - 2, Book-22, Column 285-290)

(10) If seeing files is necessary, then Minister should first stand up, then read the files.

On 5th April, 1965, during the Question-Answer Session on Starred Question No. 9853 of Bhanjibhai B. Patel pertaining to construction of a bridge on Dondi river located near Chhapra village on the way from Rajkot to Kalawad, as the Member asked a supplementary question, Deputy Minister Shri Bahadurbhai Patel did not stand up and continued seeing files sitting in his chair. Thereupon, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling:--

"The Hon'ble Minister should first stand up, then see the papers."

(G.L.A. Debates, Part - 1, Book-12, Column 1165)

(11) It is not appropriate to demand again in the form of an application the same facts as said by Hon'ble Member in the House.

On 28th November, 1969, during the Question-Answer Session on Question No. 22539 pertaining to malpractice in relief works in Sabarkantha District, in reply to one of the supplementary questions Deputy Minister stated that if the application was given, an inquiry would definitely be made.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"As I have stated earlier, it is not appropriate to demand again in the form of an application the same facts as said by any Hon'ble Member in the House. When the Member says either this is an allegation or I provide this fact to the minister and that this matter deserves to be inquired into, then if the minister is prepared, he should say yes or refuse to inquire."

(G.L.A. Debates, Part - 1, Book-23, Column 662-663)

(12) 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 31st March, 1992, that though the Member tried to get reply to the question by getting information personally, the ministers were not taking note of it seriously and he sought the Speaker's guidance in this regard. On the above subject, the Speaker (Shri Himmatlal Mulani) 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”.

(G.L.A. Debates, Book-78, Column 135 - 136)

(13) It is not proper to say that some Members talked irresponsibly.

On 16th July, 1982, during the discussion on the 'no day yet named motion' under Rule 101 moved by the Leader of opposition pertaining to the condition of law and order in the State, Minister of Agriculture Shri Mahant Vijaydasji used an expression, "Today when very responsible Hon'ble Members talked here on matters in an irresponsible way". Member Shri Manubhai Kotadia raised an objection against the said expression and sought the guidance of the Speaker.

Thereupon, the Hon'ble Speaker (Shri Natwarlal Shah) ruled that:

"Hon'ble the Minister, the opposition party has a right to level a charge but the Minister has no right to decide whether they are responsible or irresponsible and that if the charges are false, the minister must say so but he cannot say that the Members are irresponsible, he shall withdraw the said words."

(G.L.A. Debates, Part - 2, Book-79, Column 783)

(14) Ministers cannot converse with an officer in the Officers' Gallery.

On 15th November, 1965, during the discussion on the business of the Gujarat State Transport Corporation, Member Shri Babubhai Vaidya raising a Point of Order asked whether a minister could converse with either an outsider or an officer in the House when the proceedings of the House was going on.

Parliamentary Secretary Shri Karimji Chipa informed the House that the Hon'ble Minister was not conversing but he was drawing the attention of the General Manager of Gujarat State Transportation Corporation towards certain issues.

The Hon'ble Chairperson (Shri Ramniklal Maniyar), while giving his Ruling, stated that the Ministers and the Parliamentary Secretaries should seek the information required by them by sending a note to the officers instead of conversing with them in the House.

(G.L.A. Debates, Part - 2, Book-15, Column 17-18 and 1467-1468)

(C) General**(1) Demonstration or display of any sort is prohibited in the House.**

On 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 Hon'ble Speaker (Shri Natwarlal Shah) told the Chief Minister that demonstration or display of any sort of thing is prohibited in this House.

(G.L.A. Debates, Part-2, Book –31, Column 331)

(2) No demonstration or gesture can be made in the House.

On 28th March, 1979, during the short notice discussion on a matter of urgent public importance pertaining to giving an advertisement to newspapers, when the Deputy Speaker Shri Manubhai Palkhiwala was addressing the House, Member Shri Babubhai Vasanwala sitting in his chair indicated something by a gesture. Regarding that gesture Member Shri Liladhar Vaghela raising a Point of Order stated that Hon'ble Babubhai (showing the action of clapping) was clapping in that way. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following Ruling:-

“If any expression of words lowers the dignity of the House, such an expression should not be used, no gesture can be made and whatever is being done is not appropriate.”

(G.L.A. Debates, Part -2, Book-65, Column 271)

(3) Dress put on for the purpose other than ceremony can be considered as exhibition. 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 (Shri Himmatlal Mulani) 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”

(G.L.A. Debates, Book – 67, Vol. II, Column 511 – 515)

(4) Derogatory and unparliamentary utterances damage the dignity and decorum of the House

On 8th March, 2011(Second Sitting), during the question hour, in a starred question by the Hon’ble Member Shri Babubhai Shah, on 'the debt of the State Government and payment of Interest', the Hon’ble Member Shri Arjunbhai Modhvadia raised a Supplementary Question in an ironic backdrop. In this regard, the Hon’ble Minister of Parliamentary Affairs by raising a Point of Order stated that the Member had insulted the people of Gujarat by uttering unparliamentary words regarding the facilities provided to the people by the Government of Gujarat, which was not proper at all and the Member should apologize to the people of Gujarat. The Hon’ble Speaker (Shri Ganpatsinh Vasava) had postponed his Ruling at that time. After that he gave his Ruling as follows:-

"During the discussion on starred Question under priority No.4, Shri Arjunbhai Modhvadia had asked a twisted supplementary question in an ironic backdrop, making unparliamentary utterances instead of asking the supplementary directly. Since the utterances of Member was unparliamentary, I had expunged them from the record. After the Question Hour, the Minister of Parliamentary Affairs had raised a Point of Order submitting that the Member should apologize for his offensive utterances. I have heard the views expressed by the Leader of Opposition, the Minister of Finance, the Minister of Water Resources and the Minister of State for Parliamentary Affairs. As per the established practice of this House, derogatory and unparliamentary utterances cannot be made by any Member as they may hurt the feelings of others. Such utterances are not at all proper for the dignity and decorum of this House. It is evident from the record of the House that when I had asked the Members Shri Arjunbhai not to make such utterances, he had said that he would do it again. Thus, the Member has utterly violated the rules, established practices and the request from the Chair. It would have been in the right earnest, had Shri Arjunbhai expressed regret for his utterances. But the Member has not followed the established tradition of this House by not expressing regret. In the past, Members used to respect the established tradition of this House by expressing regrets on being asked from the Chair for their offensive utterances, if any. In this situation, it would have been proper, if the Member had preserved the dignity and decorum and the established traditions of this House."

(G.L.A. Debates, Book- 157: 2011)

(5) No one can speak "Jay Hind" at the end of a speech.

On 19th February, 1968, during the discussion on the business of Gujarat State Fertilizers Co. Ltd., Member Shri Narendrasinhji Zala uttered "Jay Hind" at the end of his speech. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"No to speak "Jay Hind"

(G.L.A. Debates, Part -2, Volume-20, Column 1703)

(6) 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 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.”

(G.L.A. Debates, Book No. 31, Vol. III [IV], Column 76)

(7) 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 (Shri Natvarlal Shah) gave his decision as under: -

“According to this discussion, no rule has been made about condolatory motion or condolatory reference. 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.”

(G.L.A. Debates, Book – 2, Vol. II, Column 45)

(8) One should show respect towards the pictures which are like symbols of people's faith and also pride of Gujarat.

In the Gujarat Legislative Assembly some pictures have been mounted on the inside walls of its building which are like the symbols of people's faith and pride of Gujarat. Among these pictures, there is a picture of the Jain temples of Palitana. As the picture of the holy place for the Jains as well as for those who are not Jains placed on a wall of the Assembly building was broken into pieces by a Member of the Opposition on 10th July, 2009, the Member Shri Mahendrasinh Sarvaiya raised a Point of Order on 13th July 2009 and sought the guidance of Hon'ble the Speaker on the above-mentioned matter. On this

issue, the Hon'ble Speaker (Shri Ashok Bhatt) after hearing the views of the Members Shri Rakesh Shah, Shri Rajnikant Patel and also the Hon'ble Minister, Shri Nitinbhai Patel, gave the following ruling:

“I had expressed my feelings towards the sad event in my ruling on the day on which the Point of Order regarding the event was raised by the Member Shri Mahendrasinh and supported by the Members Shri Rakeshbhai, Shri Rajnikantbhai and Hon'ble Minister Shri Nitinbhai. Today, once again I express my pain with some repetitions for the event. When we say that the democracy is of the people, for the people and by the people, it doesn't mean that all the people are actively involved in the process of the democracy. It is the representatives who represent the people in the House and actively participate in the process of the democracy. The people's representatives and the Legislative Assembly is the beauty of the democracy. The Parliament and the local self-government bodies are the beauty of democracy. This is a fact and it is the greatest beauty of Indian democracy. Do we want to destroy it? Every religion is respected and honored equally in Indian Constitution as well as in Indian culture. Therefore, I don't consider the picture as a picture of a temple of a particular religion but when I decided to put the pictures of cultural places of Gujarat and the Pilgrimage Department gave its consent to it, it is my responsibility to protect and preserve these pictures. When I preserved the pictures on the inside walls of the Assembly Building, the pictures which are the symbols of faith of the people and pride of Gujarat, I strongly believed that every Member and every citizen who visits the House would behold them with respect. Outside the House, we may demonstrate in any way but when we attack the centers of faith of the people of Gujarat and India and try to destroy them, I feel that any thinker advocating democratic philosophy would not approve such an act. When we proudly say that Gujarat is a guiding State in the Indian Democracy, how can we tolerate the destruction of the picture of a holy place which was not only a picture of a particular religion but also a symbol of faith of people of Gujarat and India. Those, who have attacked it, should apologize for the same. I know that the Jains and other people who believe in religion have been distressed due to this event. I am also distressed. I also associate myself with all those who have been distressed by the attack on the picture in the Legislative Assembly which is a symbol of faith. I appeal the people who are responsible for the destruction of the picture to apologize for the same as they must do so and if they don't apologize, then I apologize to the people of Gujarat.

(G.L.A. Debates, Book-144: 2009)

(9) Defying a Ruling given by the Speaker amounts to insulting the Chair of the Speaker.

On 12th November, 1973, Minister of State Shri Piyush Thakor moved a motion of the first reading of Bill No. 24 of 1973, i.e. the Bill further to amend the Indian Electricity Act, 1910 applicable to the State of Gujarat. While participating in the discussion of the said Bill, Member Shri Prataprai Shah made a representation that the Government should take over electricity companies by purchasing more than fifty percent of equity shares. Thereupon, the Hon'ble Speaker interrupting him stated that "such type of discussion of the basic principle is out of scope at the time of discussing an amendment bill. At the time of discussing an amendment bill, the discussion should be limited to the section which is proposed to be amended." But as the Member Shri Prataprai Shah made the arguments that his point might also be discussed at the time of an amendment bill, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

“Once the Speaker has decided a matter, continue speaking on the same is a big insult to the Chair of the Speaker and I cannot tolerate this.”

(G.L.A. Debates, Part -2, Book-46, Column 47)

(10) Opinion cannot be expressed against the Ruling of the Speaker.

On 24th November, 1972, Starred Question No. 4407 of Member Shri Narsinhdas Gondhiya pertaining to enacting a law by the Central Government in order to prevent the wastage of water on the rivers by the industries was asked. Out of the reply to the said question, on 20th December, 1972, Shri Gondhiya had raised half-an-hour discussion as per the Rule - 92. While raising the debate, Shri Gondhiya stated that in the Gujarat Legislative Assembly, after passing the resolution, two bills were moved in the House and that the Hon'ble Speaker too was of the opinion that the Legislative Assembly has the power to enact the law in this regard. Hence, the Minister should make a clarification with regard to his reply to the question that after the Legislative Assembly had given the power of enacting a law in this regard to the Parliament by passing a resolution, the Legislative Assembly was not empowered to enact the law. Shri Gondhiya further requested the Government to give the information as to which stage the bill was pending before the Select Committee in the Parliament.

Making an explanation in this regard, the Hon'ble Deputy Minister for Health Shri Jamnadas Vekariya stated that the Lok Sabha had passed the Bill and the Rajya Sabha had referred the Bill to the Select Committee. He further

stated that once the Bill was sent to the Parliament, the Government would not have any right on it and that no matter how keen the Government was about the Bill, it could not pressurize the Parliament to expedite the matter.

The Hon'ble Deputy Minister further stated that the earlier reply and the opinion that after passing the resolution in the Legislative Assembly, the bill for the same could not be brought in the Legislative Assembly was as per the opinion given by the Legal Department with reference to the judgment given by the Supreme Court. After some questions-answers, Shri Gondhiya again asked as to what was the Government's point of view in the matter whether the Legislative Assembly could enact a law on the same subject if the Parliament delayed in enacting a law. Thereupon, the Hon'ble Deputy Minister replied that when the Government is convinced that there was no need to introduce the Bill, the question of either going for discussion or taking a decision did not arise.

At this stage, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"Now there is no question of any discussion. But there is going to be a problem for me. The Member defying the orders of the Speaker has to be driven out of the House. If any Member says in this House that the ruling given by the Speaker is not appropriate, is incorrect, then he has to face the consequence of defying the order of the Speaker. When the Speaker has given the ruling that this House has the power, then saying in this House, even on the basis of any judgment of the Supreme Court that "This House does not have the power" cannot be tolerated. I have to think as to how to take a decision in this issue."

At this stage, the Hon'ble Chief Minister made an explanation that the Deputy Minister had only drawn the attention towards the judgment of the Supreme Court. He did not say that this House did not have the power.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"As I have stated earlier, before giving the opinion contrary to the ruling given by the Speaker of the House, the Government should have thought about it. It is a different matter if the Government does not want to bring the Bill. But to say that the Government cannot bring the Bill is completely contrary to the ruling of the Speaker and that is the trouble for me."

Then the Hon'ble Deputy Minister made an explanation that it was neither the intention of the Government nor of him to defy the ruling of the Hon'ble Speaker and that he had only mentioned the opinion as it had come. He

further stated that the Hon'ble Speaker's ruling was acceptable and binding on him even if it was contrary to the aforesaid opinion and that the Hon'ble Speaker's ruling was acceptable and binding on myself and the House too and he expressed his regret for that matter.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"The matter is confined to apply and enforce the Rules of the House only. As per the Rules of this House, a ruling once given by the Speaker has to be respected by the House. If the ruling given by the Speaker is erroneous, then it can be rectified by the Speaker. The Speaker always has the power to revise his ruling. But it does not seem to be proper to say that it is our recommendation contrary to the ruling of the Speaker that this House has not the power. If the Speaker says that the House has the power and if the Government says the House does not have the power, then I think that the ruling of the Speaker is defied."

(G.L.A. Debates, Part - 1, Book-38, Column 676-678)

(11) Incidents occurred within the premises under the authority of the Speaker should be brought to the notice of the Speaker in his chamber.

On 28th March, 1977, Member Shri Ashok Bhatt raising a Point of Order stated the S.R.P. and the uniformed police deployed within the premises of the Legislative Assembly check the Members and try to move them away by pushing them. The Member Shri Ashok Bhatt further requested the Speaker to give information with regard to deployment of the S.R.P. Thereupon, the Hon'ble Acting Speaker (Shri Manubhai Palkhiwala) gave the following Ruling:-

"This is not a Point of Order. If you have any complaint with regard to the matter falling within the premises under the authority of the Speaker, then I will take appropriate action if you send the same to me in my chamber."

(G.L.A. Debates, Part -2, Book-52, Column 456)

(12) If the Speaker has, in his chamber, taken a decision to disapprove any notice, then the same matter can be raised in the House with the permission of the Speaker.

On 3rd February 1969, the Hon'ble Speaker, in his chamber, had disapproved the notice given by Hon'ble Member Shri Manoharsinhji Jadeja on motion of thanks to the Address of the Hon'ble Governor. In that connection, when the Member Shri Manoharsinhji Jadeja raised an issue as to why

Members of the Opposition Party could not give such a notice, Member Shri Martandrai Shastri raised an issue to the effect that the discussion could be made on a disapproved notice since the said notice of the Member was disapproved by the Hon'ble Speaker?

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"The question is whether the matter of the notice can be raised in the House, regarding which the Speaker has made the decision of disapproving such a notice in his Chamber. In Rule No.48 of our Rules, it is clearly provided that with the permission of the Speaker such a matter can be raised in the House. And even if the Speaker has permitted the Member and he has made the decision in his Chamber, he is free to take a decision different from the said decision in the House, if he is convinced to do so, because ultimately the wish of the House is supreme. The Speaker may have his own personal decision or opinion but if he feels that after consideration he should come to another decision and that is real, then he can come to that decision. And therefore, a Member is granted permission at an appropriate time. The Member Shri Manoharsinji had come to me and sought such permission and I have given the consent to him. So he has raised this question with my consent and, therefore, it doesn't violate our Rules or derogate the dignity of the House."

(G.L.A. Debates, Part - 2, Book - 22, Part - A, Column 57-59)

(13) Any Member may present or ask for further information on the ruling given by the Speaker.

On 22nd November 1972, After the Hon'ble Speaker gave a ruling on the Point of Order raised regarding whether the resolution moved by Member Shri Fulsinh Solanki could be considered to be sub-judice, some Members made further representation. Hence Member Shri Lalsinh Rahevar, in order to put an end to further discussion, drawing the attention of the Speaker stated that the ruling had already been given on the Point of Order. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"If any Hon'ble Member either seeks or presents the information on the ruling given by the Speaker and if the Speaker gives the permission to do so, how can it be allowed if any Hon'ble Member of the House prevents the Speaker. The Speaker, if he finds it appropriate, may alter his ruling on the spot or afterwards. The Speaker may alter his ruling whenever he wishes to do so. Therefore, no Member can prevent the Speaker in the House."

(G.L.A. Debates, Part -2, Book-38, Column 937)

(14) The issues arising out of functioning of the Legislature Secretariat cannot be raised in the House.

On 4th March, 1970, the stated Question Hour pertaining to the departments under the Minister for Industries was to be taken up. Since one of the questions from this questionnaire was not relating to the Minister of Industries, the Legislature Secretariat had struck off the same and made a note to cancel the same from the questionnaire. On 4th March, 1970, when Member Shri Manoharsinhji Jadeja tried to raise the matter of this cancelled question in the House, the Hon'ble Speaker (Shri Raghavji Leuva) stated that:

"That is a matter which rests with the Speaker's Secretariat and can be raised at a convenient time."

After the Question Hour, the Leader of the Opposition raised a Point of Order in the matter and requested that the Minister of Parliamentary Affairs should clarify as to who could cancel the question in this way and how it could be cancelled.

The Hon'ble Speaker clarified that nobody except the Speaker could make explanation in the matter and he would inquire into the matter and apprise the House.

In connection with the aforesaid matter, the Speaker made an announcement on 5th March, 1970, as mentioned below:-

"The lists of questions get printed some days before the day on which the questions are to be asked and provided to the Members. As some questions in the lists on 3rd and 4th were relating to the other departments, they were transferred to the concerned department by the respective departments and as a result, places of those questions were there in the lists of the questions but they had to be removed from the lists of the questions because the day determined for replying the answers by the concerned minister was another.

In this way, whatever change made was made by the demand of the Government or owing to some other reasons but it was made by the Legislature Secretariat.

In this regard Hon'ble Shri Manoharsinhji came to me in my chamber and made a complaint, in response to which I promised him to do the needful after inquiring into the matter. After this, it was regretful that he tried to raise this matter in the House with some arguments. I tried to stop him but he insisted on raising the matter on the basis of having complaints against the

Government and it was also regretful that the Leader of Opposition too felt this matter to be raised in the House.

The questions arising out of the functioning of the Legislature Secretariat cannot be raised in the House. And they can be raised only in the Chamber of the Speaker. This is a healthy and well-established convention and leaving this convention will not possibly facilitate the transaction of business in the House. On the contrary, it may be feared that leaving the convention may lead to the tendency of raising either small or big issues in the House. Therefore, I had decided that I don't give reply to this matter in the House. In this matter, if the Member and the Leader of the Opposition meet me in my Chamber, I will try to satisfy them.

Thereafter, the Legislature Secretariat had, vide its Letter No. Q-4887 dated 7th March, 1970, drew the attention of the Government departments towards the delay caused and negligence shown in transferring questions. It was also informed to the departments that the decision of transferring the 'question' must be intimated to the Legislature Secretariat within 24 hours after receiving the question. It was also stated in the Letter that as per the Orders of the Speaker, if a Minister is unable to do himself the correspondence with regard to the questions due to any reason, it must be done by an officer not below the rank of a Secretary."

(G.L.A. Debates, Part - 1, Book-26, Column 379-380)

(15) No Point of Order can be raised in the House regarding the matter within the purview of the Legislature Secretariat

During the Sixth Session of the Thirteenth Gujarat Legislative Assembly, on 11th March, 2015, after the Question Hour, Hon'ble Member Shri Shaktisinh Gohil raised a Point of Order drawing the attention of the House to a printing mistake in the question at Priority no.73 that the name of the Member Shri Ashwinbhai Kotwal was printed as Shri Ashwinbhai Patel as mistake in printing and the mistake was also not included in the Errata. In support of his point of order, Shri Gohil also informed that there should not have been any error in the matters that came up in the house and if there occurred an error, it should have been indicated in the Errata duly rectified as soon as possible. He also made a remark that such types of errors remain unrectified, it meant that the concerned department did not go through the documents seriously.

Therefore, Hon'ble the Speaker (Shri Ganpatsinh Vasava) while informing that the matter fell within the purview of the Legislature Secretariat,

ruled that even there had been any mistake on the part of the Secretariat, the same should not have been raised in the House and in such matters the Member concerned could have seen him personally in his chamber and hence the Point of order raised by Shri Gohil did not sustain.

(G.L.A. Debates, Volume - 4, Book-22:2015)

(16) No photography can be taken in the House without the permission of the Speaker.

On 18th August, 1969, when the photograph of the Hon'ble Chief Minister Shri Hitendra Desai, who was delivering his speech during the discussion on the draft of Fourth Five Year Plan was taken, the Member Shri Manoharsinhji Jadeja raised a Point of Order and asked whether the permission for taking the photograph of the Hon'ble Chief Minister was taken?

Thereupon, the Hon'ble Speaker stated that until he came to the House, he did not see any file of this sort in his office but he would make inquiry in the matter.

After some time, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"In connection with the Point raised in the House by the Member Shri Manoharsinh Jadeja some time ago, I have received a letter later on from the Information Department. I have received the letter after the Point has been raised. Therefore, there is no question of granting the permission. I have instructed that the negative of any photograph that is taken may not be developed and the negative should be destroyed. Either the press representatives from the Information Department or other press representative without the special permission may not be allowed to enter the Press Gallery or other galleries. The Sergeant-at-Arms is instructed not to allow anybody in the gallery with the camera or similar instrument, so that such a trouble may not arise in future."

(G.L.A. Debates, Part-2, Book-23, Part-A, Column 411-412)

(17) (A) It is the responsibility of the people's Representatives to protect the public property of Gujarat.

(B) Demonstration in the House by wearing black cloths is prohibited.

(C) Member standing in front of the Speaker showing his back is contempt of the House as well as that of the Chair.

On 9th July, 2009, noisy and unruly scenes and pandemonium were created in the House by the Members of the Opposition & On 10th July 2009 the Members of the Opposition i.e. the Congress Party had held a demonstration in protest by wearing black dress. On this matter, Member Shri Pradeepsinh Jadeja raised a Point of Order on 13th July 2009 which was supported by the Member Shri Pragjibhai Patel. Shri Jadeja expressed his views on the behavior of the Leader of the Opposition while making representation to the Chair by showing his back to the Hon'ble Speaker during the demonstration. About this matter the Hon'ble Member Shri Jadeja read out in the House the Code of Conduct for the Parliament and the Legislatures framed on 25th November 2001 at New Delhi in the All India Conference of the Presiding Officers, Chief Ministers, the Ministers for Parliamentary Affairs, Leaders and the Whips of the Opposition Party and requested the Speaker to take the said matter seriously. Thereafter, Hon'ble the Speaker (Shri Ashok Bhatt) gave his ruling as under:

"As I stated Yesterday, I am repeating the same today that entering the well of the House is indiscipline. Yesterday, in my ruling, I had stated that when similar incidents had taken place in the past the issue raised by the Hon'ble Member Shri Pradeepsinh and supported by Shri Pragjibhai is regarding a demonstration held in protest by the opposition Members by wearing black dress. This House is a temple of democracy. According to the speech delivered by Smt. Sonia Gandhi, on 25th November, 2001, "To minimize the disruption, there must be absolute ban on entering the well of the House and automatic enforcement of strict disciplinary action in the event of this fundamental rules being breached. I strongly feel that any disturbance during President's Address should not be allowed." Therefore, entering the well of the House is strictly a breach of discipline. Yesterday, they broke the mikes in the House and today, the incident of breaking the glasses of the four main gates of the Legislative Assembly has taken place. That glasses were the public property, the property of the people of Gujarat. When we enter this House as People's representatives, it is our responsibility to take care of all this public property. As people's representatives, we are indoctrinated with the Gandhian

Philosophy, associated with the doctrine of Trusteeship too. Looking to these facts, when such Members are present in the House, their behavior is expected to be in a responsible manner. It is the responsibility of the people's representative to stop whosoever damages the public property. But when the representatives are themselves damaging the public property, then the matter is very serious and distressing. Yesterday, I gave the orders to recover the money to compensate the damage for breaking the microphones and again today, as I have received the information of breaking the glasses, I am directing the Secretary to look into the matter thoroughly. After receiving the report thereon from the Secretary, I will take necessary steps immediately. Since the Opposition is repeatedly trying to indulge in such incidents, I do appeal to the Opposition Members again that the proceedings of the House will go on, only if we maintain discipline with restraint and feelings and behave according to the highest traditions of Parliamentary decorum and the Rules of our Legislative Assembly. Today, a motion for taking action under Rule 52 is moved, which I am accepting. Here the point is that if we don't respect the office of the Speaker, then it not only amounts to contempt of the office of the Speaker, but it is also a contempt of the House as a whole. Whosoever might be the Speaker, the person is not important. Today Ashok Bhatt is the Speaker, tomorrow there might be someone else including the Members of the Opposition. The office of the Speaker has its own dignity and, therefore, insulting the Speaker amounts to contempt. To enter the House in black clothes is a demonstration in protest. And I observed that the decision to behave in such a manner was a collective one. It was not merely an accident or a coincident that suddenly so many Members of the Opposition only entered the House dressed in black clothes. In fact, on the day of the said demonstration, it was the birthday of a Member, yet he had to wear black cloth to register the protest. Some Members had an occasion of a marriage. They informed me that they were helpless as they had to wear the black cloth in spite of having the auspicious occasion like marriage at their place and invitation cards were also distributed. According to them, they were wearing the black clothes as it was an order of the party. Then I said, "I have taken your demonstration in protest by wearing black clothes seriously in other way. In the House, where even wearing a small black ribbon in protest is not permissible, the question of granting permission to wear black cloth does not arise, when all the Members here were totally in black cloth. "Thus, the House is not a place for demonstrating the protest in different ways. The House is the place where the Member can express his views. Therefore, I want neither to curtail the freedom of speech of any Member irrespective of his party affiliation nor to jeopardize his right of freedom of expression. But in the name of expression if a party or a

Member tries to hold the House to ransom, then such party or the Member, in doing so not only holds the House to ransom but also holds the democracy or rather the Parliamentary democracy to ransom as per my belief. Hence, I hope the same will not happen in the House. But it is improper for the Members and the Leader of the Opposition to give me guidance regarding the Parliamentary Practice when they themselves are demonstrating their protest by wearing black clothes before the Speaker. It is also not proper to turn their back towards the Speaker and repeatedly violate the parliamentary practice. I take it seriously. The Leader of the Opposition cannot talk to me looking at my eyes. Therefore, I accept the Point of Order raised by Shri Pradeepsinhji and give the ruling that no Member showing his back shall talk to the Speaker and if any Member behaves in such a manner, then it would be deemed to be contempt of the House."

(G.L.A. Debates, Book- 143: 2009)

(18) Vidhansabha Bhavan should not be used for political disputes.

On 11th March, 2008, after the discussion on the matter of urgent public importance, a Member Shri Ranjitbhai Gilitwala raised a Point of Order on an incident of tearing the copies of the Freedom of Religion Bill and slogan shouting in the lobby of the Assembly Building and requested the Hon'ble Speaker to see that no such kind of political activity is taken place within the premises under the control of the Hon'ble Speaker. A Member of the Opposition Shri Arjunbhai Modhvadiya opined that "there is no point of order since the incident was not occurred within the House." Hon'ble Finance Minister opined that "not only the Assembly House but also the entire Assembly building is under the control of the Hon'ble Speaker and that it was not in the past that the Point of Order regarding incidents occurred within the House only have been raised." At the end of the discussion, while giving his ruling on the Point of Order, the Hon'ble Speaker (Shri Ashok Bhatt) indicated "that the entire Legislative Assembly Building is considered to be within the purview and under the control of the Speaker. But as per the GLA Rules, the Speaker determines certain limits, which are considered to be the "precinct"; certain incidents are considered to be within the precincts and certain incidents are considered to be outside the precincts. Thus as per the rules, the Speaker can declare the entire building as within the precincts of the House. The lobbies and the galleries of the House fall within the purview of the Speaker."

Hon'ble Speaker further stated that "the issue raised by Shri Ranjitbhai indicates that first of all the House should adopt a new direction irrespective of any convention prevalent in the past and such direction might be followed by

the country and the same direction might serve as the guideline for the next generation." Giving the ruling on the Point of Order raised by Shri Ranjitbhai, Hon'ble the Speaker stated, "we all must decide one thing that the building should not be used for the purpose of political wrangles because we have come here to echo the voice of the people. What is to be done to register our protest is our responsibility. Both the ruling and the opposition parties have to sit together and determine their limit for registering the protest and fix the limit and accept the limit of protest upto shouting of slogans only and follow this limit. The Point of Order indicates the way in which we can represent the voice of our people. Let us ponder over this Point of Order and concern about it and raise the voice of the people in such a way so as to enhance our dignity, and, therefore, I accept today's point of order so as to provide all of us a suitable direction for setting new parliamentary traditions in the coming days and their concern is right."

(G.L.A. Debates, Book- 134: 2008)

14. The Audit Reports/ Annual Reports/ Accounts/ Notifications/ documents to be laid on the Table of the House.

(1) The Government should lay in the House the Annual Reports of statutory bodies, budget, Audited Accounts and the Audit Reports thereon on time as per the Rule.

On 7th April, 1964, when the Hon'ble Minister Shri Vajubhai Shah moved a motion to consider the business of Khadi Gramodhyog Board for the year 1963-64, Member Shri Chhabildas Mehta raised a Point of Order for the delay in laying the Annual Report of the Board on the Table. Thereupon, Hon'ble Speaker (Shri Fatehali Palejwala) gave the following Ruling:--

"The year of the Report tabled ends on 31st March 1963. Then as per the time available with the Government to send the report as mentioned in the section read out by the Member, the Report should be presented in the House by 31st July, 1963. And "at the earliest after the report reaches you" means at least within two months. If we go by that calculation, the report should have been presented in the House before the 31st October 1963 in any circumstances. Calculation on that line, the report has been delayed by minimum five months. As I have stated earlier if the cases are such, then the explanation of the Hon'ble Minister should be brought to the notice of the House at the time of documents are presented before the House initially or when presented for the discussions. That will facilitate the functioning and there will be no need to raise the issue of propriety and I too don't have to give the instructions frequently in the House. As has happened this time, if I pass an instruction

every time and points of order keep on arising, then I think it amounts to the contempt of not only the Speaker but also of the entire House. So be careful so that the same is not repeated in future.”

(G.L.A. Debates, Part - 2, Book-11, 33, Column 1904)

(2) Statements of information of the replies to the supplementary question given by the Ministers should be laid on the table of the House promptly.

On 24th September, 1980, before taking up the matter of the papers to be laid on the table of the House, the Hon'ble Speaker (Shri Natwarlal Shah) made the following observations with regard to the replies to supplementary questions given by the Ministers:--

"During the current session, at the time of the Question Hour in reply to supplementary questions, Hon'ble Ministers gave the following types of replies:-

1. I have the whole statement and I will lay it on the Table.
2. The village-wise statement will be laid on the Table.
3. If the Members wish, it will be placed in the Pigeon Holes of the Members."

When any minister gives a reply to that effect and if the minister has the required information ready, he should soon or immediately after the Question Hour forward it to the Secretary in the House itself. If the information is not ready, it should be sent to the Secretary as soon as possible or latest within seven days. During the Sessions up to 19th September 1980 at the time of Question Hour, many ministers have given such replies to the supplementary questions on different days. In this matter, despite the attention of the concerned ministers or the departments has been drawn twice or thrice informally, no Hon'ble Minister has laid such information or a statement on the Table of the House.

Therefore, the concerned Ministers are requested to send the required information or statement to the Secretary at the earliest in order to lay the same on the Table of the House. I hope the Ministers will be careful in this matter in future."

(G.L.A. Debates, Part - 2, Book - 70, Column 806-807)

(3) Notifications should be laid on the Table of the House on time.

On 29th September, 2008, after the Minister for Urban Development Shri Nitinbhai Patel had laid the notifications of Industries and Mines Department on the table of the House, the Leader of Opposition Shri Shaktisinh Gohil raised a Point of Order with regard to the Notification No. GHU-2007-(12)-GID-102006-3117-G, dated the 29th August 2007 stating that the said Notification dated 29/08/2007 was being laid on the Table on 29/08/2008, i.e. after a lapse of one year. According to the legal provisions, the Notifications framing the Rules should be laid on the Table of the House at the earliest. He, therefore, sought the guidance of Hon. the Speaker for laying the Notifications on the Table of the House in time in future.

Hon. Speaker (Shri Ashok Bhatt) accepted the Point of Order raised by the Leader of Opposition stating that the department will take due care in laying the Notifications on the Table in time in future and in this case, the Committee will examine the reasons for the delay.

(G.L.A. Debates, Book 138: 2008)

(4) 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 (Shri Natvarlal Shah) 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 Shakhder 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 Shakhder 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, Book –10, Vol. 2, Column 326-341 and 1074-1079)

(5) If the papers to be laid on the Table of the House are not laid on time, then the matter should be brought to the notice of Committee on Papers laid on the Table of the House.

Having noticed the delay in laying on the Table of the House the Reports shown against Sub-item No. 2 to 8 of Item No. 2 of the list of Business for the Day for 28th February, 2008, the Leader of the Opposition Shri Shaktisinhji Gohil drew the attention of the House to Ruling No. 548 (Page-398) of the "Important Rulings by the Speaker (1960-84)"_ quoting the recommendation of the First Report of the Committee on Papers laid on the Table of the House of the Seventh Gujarat Legislative Assembly as stated below and raised a Point of Order and sought the guidance of Hon'ble the Speaker :-

"A Company, Board or Corporation must complete its annual report within three months after the completion of its financial year and make available for audits. Thereafter, the report of audit and working of a Company, Board or Corporation must be presented before the Government and after completing all the procedures with regard to the printing of the report, it must be sent to the Legislature Secretariat for laying on the Table of the House at the end of the tenth month after the completion of its financial year."

Hon'ble the Minister of State for Parliamentary Affairs Shri Amit Shah expressed his views on the matter. Thereafter, Hon'ble the Speaker (Shri Ashok Bhatt) drew the attention of the House to the provision of Rule 218-E of the Gujarat Legislative Assembly Rules stating that "if any Member wishes to raise a question regarding the matter mentioned in Rule 218-D i.e. the matter regarding the Papers to be laid on The Table under the provisions of the Constitution, an act, a rule or a regulation, then he or she should bring such matter before the Committee on Papers laid on the Table of the House. This Committee has been in existence since 1987." Hon'ble the Speaker further stated that "as per Rule 218-D of the Gujarat Legislative Assembly Rules, the Committee examines all the papers, which are laid on the Table of the House."

Thereafter, the Hon'ble Speaker rejected the point of order stating that when the aforesaid Committee was examining the reasons for delay in laying the papers on the Table of the House and presenting its report before the House, the matter regarding the delay in laying the Reports on the Table of the House could not be raised in the House.

(G.L.A. Debates, Book- 133: 2008)

(6) There should be a custom of Tabling the C.A.Gs. Audit report in the week immediately after the presentation of the budget in the House.

On 17th March, 1970, when the Finance Minister Shri Jaswantraji Mehta sought permission for laying on the Table of the House, the Financial Accounts and the Appropriation Reports of the Government of Gujarat for the year 1968/69 and the Audit Reports thereon, the Member Shri Manoharsinhji Jadeja stated that although the Minister accepted the responsibility, no audit report was provided before starting the debate on the demands. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:--

"It can be suggested that the Minister may present the Report before the House in the week immediately after he presents the Budget."

(G.L.A. Debates, Part - 2, Book - 27, Column 128)

(7) Audit Reports should be laid on the Table of the House within a week of the presentation of Budget.

Reports of the Comptroller and Auditor General of India were shown in the papers to be laid on the Table of the House at Item No. 3 in the List of business for the day of 26th March, 2008, i.e the last day of the First Session of the Twelfth Gujarat Legislative Assembly. At the time of taking up this matter, the Leader of the Opposition Shri Shaktisinhji Gohil raised a Point of Order to the effect that Audit Reports should be laid on the table of the house within a week of the presentation of the Budget, instead of laying it on the last day of the session after all the discussion on the Budget such as the general discussions, department-wise discussion on demands were over.

Hon'ble the Minister Shri Jaynarayan Vyas opined that "in view of the word used in the earlier ruling this procedure should be adopted as a custom and not as mandatory. Once the audit report is laid on the Table of the House, it comes under the purview of the concerned Committee and when the Committee considers it, the Members can raise this issue through the Committee." After this opinion, Hon'ble the Speaker (Shri Ashok Bhatt), gave his ruling as follows:

"Hon'ble the Leader of the Opposition has raised a very serious question and I also agree with the opinion of Hon'ble the Minister. The word "suggestion" as used in the ruling of the former Speaker, a suggestion can be made to the Government and the phrase "can be made" is used in it. The Government should accept the ruling and its essence. A report can be presented in the first week of the Budget Session. Observations from the Audit Report of the CAG can be very useful in the discussions of the Budget. We take the Budget Session very seriously because we seriously and thoroughly discuss the plans of the State while passing the Budget of the State and, therefore, it is necessary that any literature regarding the Budget is made available to the Members within a week. In view of the previous ruling, the Government should submit such report within a week of the presentation of the Budget. While sustaining the previous ruling, I ask the Finance Department and the Government to submit the future Audit Reports within a week of presentation of Budget in the House so that they can be helpful in the budgetary discussions. Evaluations and reviews of the Audit Reports are made in the Committees of the House but it's a long-term procedure and the Committees do their work scrupulously. But still the presentation of Audit Reports in the House is very necessary for the studious Members of this House who want to make financial studies and present their observations in the House. Therefore, let us initiate the highest tradition of laying these reports on the table of the House within a week of the presentation of the Budget".

(G.L.A. Debates, Book- 137: 2008)

(8) Delay in presenting the Audit Reports of the C.A.G. to the House does not violate any Rules or Practice.

During the 4th Session of the Thirteenth Gujarat legislative Assembly, on 25th July, 2014, in its 2nd sitting, Hon'ble Member Shri Balvantsinh raised a Point of Order that "on the last day of the session it is not proper to present the Audit Reports of C.A.G. as mentioned at item no.1(a) to (g) of papers to be laid on the Table of the house in today's Order of the Day."

At this point Member Shri Shaktisinh Gohil stated that it was not fair, when Government had received the C.A.G. Reports before 31st March, it is being presented to the House in July, even on the last day of the Budget Session and due to this, the proper discussions could not be occurred. On replying to the Point of Order raised by Hon'ble Member Shri Balvantsinh Rajput and Supported by Hon'ble Member Shri Shaktisinhji Gohil, Hon'ble the Speaker (Shri Vajubhai Vala) stated that "the ruling given by the former Speaker is like a suggestion. When there is no provision in Gujarat Legislative

Assembly Rules or under the Constitution of India, the particular certain time limit for laying the Reports of the C.A.G. on the Table of the House, there is no breach or violation of any Rule or Practice in laying the Reports to the House, belatedly.

The Reports of C.A.G. are presented to the Governor under Article 151 of the Constitution and after that the Governor initiates the procedure of laying the C.A.G. Reports on the Table of the House. As per the well Established parliamentary practice, as soon as the C.A.G. Reports are laid on the Table of the House, they are deemed to have been referred to the Public Accounts Committee and then the Committee considers them and presents its report to the House. During this process, no discussions are held on the C.A.G. Reports in the House Therefore, your Point of Order does not stand."

(G.L.A. Debates, Book-18, 2014, Vol. IV)

(9) Member cannot insist on laying on the table of the house any document which he himself has read.

On 22nd November, 1972, as Member Shri Kantibhai Patel, at the beginning of the discussion on his private Member resolution pertaining to appointing a Commission to inquire into the corruption prevalent in the administration, during his speech, he read out some portion of the Report of the Committee appointed by a private institution to inquire into the corruption in the purchase of cotton by the Cotton Corporation. At that time, Member Shri Keshavbhai Patel inquired if the aforesaid Report would be provided to the Members. Therefore, Shri Kantibhai Patel laid the Report on the Table by saying that this is a private document. Thereupon, the Hon'ble Speaker gave the following Ruling:--

"The rule for such a matter is that when any Member reads any document in the House, it is the right of the opponent party to say for laying it on the Table of the House, so that they can read it. But the Member does not have the right to say 'no', he would lay it forcibly."

(G.L.A. Debates, Part - 2, Book-38, Column 992-993)

(10) Government files cannot be presented in the House from the point of view of public interest.

On 24th February, 1978, during the General Discussion on the Budget, Member Shri Vijaykumar Trivedi drawing the attention of the House to the matter of hike in the fare of State Transport buses suggested to reduce the fare. Member Shri Kashiram Rana incorporating the aforesaid issue in his speech

assumed that the previous Government might have prepared the proposal of hike in S.T. Bus fares and left it untouched due to change in power. Therefore, the former Transportation Minister clarified that the said assumption of the Member was incorrect. The previous Government had accepted no proposal of hike in the S.T. Bus fares.

Thereafter, the Transport Minister Shri Shankarbhai Vaghela clarified that the Finance Minister and the Transport Minister of the previous Government had stated that the hike in the tariff was necessary. The recent notification of hike in S.T. Bus fares was prepared in the regime of the previous Government. After this, the former Transportation Minister requested the Speaker to give the Ruling after seeing the file of the proposal for the hike in the fare.

As the aforesaid matter was raised in the House on 1st and 8th March 1978, the Speaker had stated that he would declare his Ruling later on after consultation with the concerned. Accordingly, on 15th March 1978 after the Question Hour, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his Ruling with regard to laying on the Table of the House the unpublished Government file pertaining to the rates of S.T. Buses fares, discussing different aspects as mentioned below:--

"On 24th and on 27th February, 1978, during the discussion made in the House regarding hike in the rate of S.T. bus fares, a dispute had arisen with regard to whether the previous Council of Ministers had suggested the proposed hike in rates of S.T. bus fares and in that regard the discussion of laying the concerned file on the Table of the House had also been made. At that time, I had stated that the present Minister of Transport and the former Minister of Transport should meet me in my chamber and then I will consider it and declare my ruling. Thereafter, on 1st March, 1978, Member Shri Nagindas Shah had raised the issue in this regard in the House after the Question Hour and made a representation requesting me to declare my ruling in the House in the matter as to whether the previous Council of Ministers had approved the proposal of hiking the rate of S.T. bus fares. In this regard, there took place moderate amount of discussion in the House and Member Shri Sanat Mehta had raised a substantial issue that the Hon'ble Speaker may take an appropriate decision with regard to this file. He further stated that presenting this type of files in the House for future guidance might harm the public interest and hence before granting permission to present the file in the House, Hon'ble Speaker should take the decision in the said matter after considering the issue of public interest. The Law Minister Shri Navinchandra Barot had also agreed to the issue of considering the issue of public interest. But at that time, with regard to

presenting the file in the House, the discussion, which I had to make with the Ministers and the leaders from the Opposition Party, had not been completed and all the aspects of this matter had not been taken into consideration. So I had postponed the ruling.

Thereafter, on 2nd March, 1978, Member Shri VasANJI Thakrar referring to Rule 59 of the GLA Rules, represented that the said file should be presented in the House. With regard to the point raised by Member Shri Thakrar, if the Member's attention had gone to the second Proviso of Rule - 59, he would not have required to raise this issue. In the second Proviso of Rule - 59 it has been stated that:--

"Further it has been laid down that if the Minister states in his own wordings such messages or summary of Government document, then it is no longer required to lay the document on the Table of the House."

In the present case, the Minister had not quoted any quotation from the concerned file but as he had said brief summary only in his words from the file, the Minister cannot be compelled to lay the aforesaid file on the Table of the House."

In connection with laying the file pertaining to hiking rates of S.T. bus fares on the Table of the House, considering the submission made by Member, especially Shri Sanat Mehta, I announce my Ruling as mentioned below:-

"As per Rule - 59, if the Minister has not presented before the House, the message of the state or Government document and if he quotes quotations from it, he should lay the relevant document on the Table of the House. In this, if the Minister has quoted any quotation from Government file, it is the duty of the Minister to lay that file on the Table of the House. However, as laid down in the second Proviso to the aforesaid Rule, if he has said the summary from file, there is no need to lay that document on the Table of the House. Yet if there is a demand from Members of the House, then too until that demand has the support of the Rule, the Minister cannot be compelled to lay the file on the Table of the House. In the present case, if the Minister has not quoted any quotation or read it, based on the demand of the Members, the Minister cannot be compelled to lay the file on the Table of the House.

The important issue is that when the Minister has made a statement in the House but has not quoted any quotation from it, in those circumstances in support of his statement if he wish to lay the same document, papers or file on the Table of the House, the Speaker may grant permission for that or not? In the present case, the question is of laying the file regarding the consideration of

hiking the S.T. bus fares in past or the decision taken at the end of the consideration. With regard to this question, I have gone through the Rules 59, 60 and 61 carefully. Moreover I have gone through the situation prevailing in the Parliament as mentioned in the book entitled "practice and procedure of parliament" by Kaul and Shakdhar and while going through Section 123, 124 and 162 of the Evidence Act and the Judgments of Courts in that reference, it is felt that if the Minister wishes to lay that file on the Table of the House, he cannot be prevented from doing so in any situation. As per Rule - 59 of our Rules, if the Minister had quoted any quotations from the file, it would have been his duty to lay the papers related to that file on the Table of the House. But if the Minister had presented the summary from the file, then the Minister had to think as to whether the relevant documents from the file have to be laid on the Table or not. Of course, here the situation is not like that the Speaker can compel him to lay those papers on the Table since it is not necessary to lay those papers on the Table.

As mentioned on Page No.831 of the book entitled "Practice and Procedure of the Parliament" by Kaul and Shakdhar, Second Edition:--

"There is nothing in the Constitution or the Rules of Procedure and Conduct of Business in the House or in the Evidence Act, which prohibits the Government from laying a paper or document on the Table including a plaint, written statement, affidavit or petition submitted before a Court of Law. However, if a Minister declines to lay it inconsistent with public interest, the speaker cannot compel the Minister to lay it on the Table (f)."

Therefore, as per the practice of the Parliament too, the Minister has to decide as to whether to lay the file on the Table of the House and there seems no situation, where the Speaker can prevent him. As mentioned on Page Nos. 431, 432 and 433 of the 19th Edition of "May's Parliamentary Practice", in the House of Common too, the situation is found as shown below:-

"Another rule or principle of debate may be added here. A Minister of the Crown is not at liberty to read or quote from a dispatch or other state paper not before the House, unless he is prepared to lay upon the table. The restraint is similar to the rule of evidence in courts of law, which prevents counsel from citing documents which have not been produced in evidence. The principle is so reasonable that it has not been contested and when the objection has been made in time, it has been generally acquiesced in. It has also been admitted that a document which has been cited, ought to be laid upon the Table of the House, it can be done without injury to the public interest (c) A minister who

summarizes a correspondence, but does not actually quote from it, is not bound to lay it upon the table(d)" (page-431-432)

"On 10th August 1973 the Speaker ruled that confidential documents or documents of private nature passing between the officers of a department and the department, cited in debate, are not necessarily laid on the Table of the House, especially Minister declares that they are of confidential nature (f)" (page 432)

It is the responsibility of the Government and not of the Chair to see that documents which may be relevant to debates are laid before the House and are available to the Members.(I)" (page 432-433)

Going through all these conditions, it appears that even in the House of Commons, the Speaker does not seem to have prevented the Minister with regard to laying any document on the Table. In this regard, the Minister himself has to decide as to whether to lay the documents on the Table or not, keeping in mind the nation's interests, public interests and private aspects.

In view of the Sections 123, 124 and 162 of the Evidence Act, it seems that nobody can be compelled to provide the evidences from the unpublished government documents, which are the "affairs of state" in respect of a state. So in such matters, the Head of a department may refuse before the court to provide either evidence from unpublished documents or submission of such documents by seeking a privilege and in view of the interests of the state. In this case, too, the Head of the department has to decide as to whether to produce the documents before the court or a privilege has to be claimed in that matter. The question of preventing from presenting such documents by the court does not arise.

In view of all the aforesaid situation in the present case, the Minister himself has to decide as to whether to lay the file on the Table of the House or not. If he wishes to lay the file or the documents on the Table, the Speaker doesn't seem to be able to prevent him from laying the documents on the Table by considering whether the said documents are not worth laying in the public interest or they are private by nature. The Minister has to take into consideration all these aspects such as whether it is advisable to lay any Government document on the Table of the House, whether the said document is private in nature, whether laying such a document may either jeopardize the public interest or may affect the situation of peace in the state or situation of law and order of the state. And he should take a decision in the matter of laying on the table of the House by considering all the aforesaid aspects. Of course, when the Minister seeks my permission to lay any Government document on

the Table of the House, he should anticipate its consequences. Because as per Rule 61 of the Gujarat Legislative Assembly Rules, the papers laid on the Table of the House become public documents and accordingly such documents have to be kept in the Legislative Assembly Library and the Members may examine the documents from the Library. After laying such documents on the Table of the House, they come into the possession of the Speaker and there may be difficulty in returning them to the Government. At the same time, as per the Rule - 61 since such documents become public, the consideration on any document in a file at different places and the views expressed by the officers-employees in the notes also become public. As a result, a situation may arise, where the Government employee and officers may hesitate in expressing their views freely in the files. But the Ministers have to take into consideration all these aspects. Therefore, if the Minister demands to lay the said document on the Table of the House, it may be difficult for me to prevent him from doing so.

As I have stated earlier, since the Transport Minister has not quoted any quotation from the Government document, he cannot be compelled to lay the said file on the Table of the House in view of the provision made in the Rule - 59. He did not make any demand to present the file in support of the statement made by him on the basis of the documents, which he is having. Therefore, it is no longer necessary at present to consider whether to allow the said file to be laid on the Table of the House or not."

(G.L.A. Debates, Part - 2, Volume - 59, Column 229-250)

(11) A Point of Order cannot be raised at the time of laying the papers on the Table of the House.

On 25th September, 2008, at the time of laying on the Table of the House, the First Part of the Report of the Inquiry Commission of Justice Nanavati and Justice Mehta, appointed to Inquire into the incident of burning of S-6 coach of Sabarmati Express Train, the Leader of the Opposition Shri Shaktisinhji Gohil, tried to raise a Point of Order relating to the appointment of the Nanavati Commission. The Hon'ble Speaker (Shri Ashok Bhatt) stopped him and stated that "According to the prevailing Parliamentary Practice, when the Papers are laid on the Table of the House, no point of order can be raised. It is also not proper to make any observations on the judicial system by raising a Point of Order on the method of appointing a Commission.

Observations / Statements making allegations / accusations on the Judiciary, Judicial Administration or Judicial Commissions cannot be made in

the House. Also if a Point of Order is to be raised, it should be mentioned that under which rule it is going to be raised. "

(G.L.A. Debates, Book- 138: 2008)

(12) When the opinion of the Advocate General is laid on the Table of the House in a legal matter, it is not obligatory to call the Advocate General to make a clarification in the House.

On 21st August, 1978, when the Hon'ble Deputy Speaker sitting in the Chair suggested to take up the matter of laying a copy of sub-item 15 of the item 5 of the papers to be laid on the Table of the House, i.e. the opinion of Advocate General and before the Hon'ble Chief Minister lays the Advocate General's opinion on the Table, Member Shri Sanat Mehta raised a Point of Order and quoted the Provision made in Article 177 of the Indian Constitution and requested the Speaker to make an arrangement to get the Advocate General of the State remain present in the House so as to enable the Members to seek explanations from the Advocate General with regard to the opinion given by him regarding the imported Palmolive oil. After knowing the opinion of the Minister for Parliamentary Affairs, the Hon'ble Deputy Speaker (Shri Manubhai Palkhiwala) gave the following ruling:-

"Taking into consideration the provision made in Article - 177 quoted by the Hon'ble Member Shri Sanat Mehta in a Point of Order raised by him, it is clear that the Advocate General is free to come before the House and express his opinion. If the Government thinks it appropriate to call the Advocate General, it is free to do so. But it is not obligatory on the part of the Government. The Point of Order raised in this matter is out of place. The Government may consider your demand, I don't deny that. The Government has made an explanation in this regard and keeping in mind the assurance given by the Hon'ble Chief Minister in the House in this regard, the Chief Minister is presenting in the House the opinion of the Advocate General in the matter. Now if the House or any Member finds a room for discussion in this matter, then the House or a Member may proceed further in this matter by resorting to any Rule from the Legislative Assembly Rules. But it is out of place at this stage. So I don't accept the issue of calling the Advocate General here."

(G.L.A. Debates, Part - 2, Book-60, Column 61)

Chapter: - 3

Governor's Address, Obituary References, Statement under Rule -44.

(1) Governor's Address: -

A. Matters incorporated in the address: -

The Reasons for convening a session should be mentioned in the Address.

On 24th February, 1970, Member Shri H.M.Patel raising a point of order stated that though according to the constitution, in the Governor's Address it was necessary to have mentioned the reasons for convening the session of the Legislative Assembly, the reasons were not mentioned and, therefore, the Hon'ble Speaker was requested to give a direction to do so.

After listening to some Members, Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as follows:-

"It is an important matter; it is expected that this important matter is complied with by the Government. The Hon'ble Law Minister and the Minister of Parliamentary Affairs have agreed with it and assured that henceforth, due care will be taken to incorporate the reasons in the Address. Though the policy of the Government is mentioned in the Address, it does not satisfy the provision of the constitution. In the Address, it is very important to include the Business to be carried out by the Government. Eventhough, the policy of Government which is issued by an executive order has been included in the Address. On the other hand, in the programme sent to Members through the Legislature Secretariat gives the information of the Business to be carried out in this session and because of that the Government does not choose to include that matter in the Address is not proper. It is, therefore, very important to mention it in the Address because as stated by Member Shri Manoharsinh, the Address is not limited to one session only but it is for the entire year. Since the Governor addresses the House only once in a year, the Members should get information about as to what type of business of laws are to be taken up or which are going to be passed during the entire year. Now that the Government has assured the House that whatever the programme or business is to be carried out by the House in future, it will be mentioned in the Governor's speech."

(G.L.A. Debates, Part-2, Book-25, Column 386-388)

B. Laying a copy of the Address on the table:-

The practice of laying a copy of Governor's Address on the table of the House was introduced.

On 6th February, 1969, before commencement of the discussion on the Motion of Thanks on the Governor's Address, Member Shri Narendrasinh Zala raised a point of order that since the address made by the Governor on 3rd February, 1969, was not laid on the table of the House, discussion could be made on it or not ?

The Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as under :-

"The issue has been raised by the Hon'ble Member keeping in mind the practice of the Lok Sabha and the House of Commons. It happens in the House of Commons that when the Monarch comes to the House of Lords and delivers his or her Address, the Speaker and other Members go there and stand before the bar of the House of Lords. Thus the House of Commons is not addressed. Those people, who listen the Address and came back to their house with a copy of the Address. When the business of the House Commons is going on, the Speaker stands up in the middle and says he went today and he was given this copy and we have to consider it now. Thus the Queen's speech is not delivered before the House of Commons.

This practice has been established in the Parliament because the President's Address is delivered during the joint session of both the Houses. After the speech, the Members of both the Houses return to their respective Houses."

At that time, the Secretary to Hon'ble the Speaker brought a copy of the President's address and laid it on the table of the House with the permission of the House.

"If the Hon'ble Members wish, I can order the Secretary of the Legislature Secretariat to lay a copy on the table. As a result of this order, there will be no problem in conducting any discussions. Of course, by issuing a summons, when all the Members of a single House have been addressed at the same place, since this is just a technical formality, the current custom has been prevailing for 8 to 9 years. It has not been introduced today." There is no ban or difficulty in creating a custom today. It will not take more time.

Accordingly, the Hon'ble Speaker gave the following Ruling:-

"I direct the Secretary of this Legislative Assembly to lay a copy of the Hon'ble Governor's speech on the table of this House."

Accordingly, the Secretary laid a copy on the table of the House.

(G.L.A. Debates, Part-2, Book-22, Part-A, Column 513-518)

C. The nature of the Motion of Thanks

The nature of the Motion of Thanks on the Governor's Address cannot be different from that provided in the Rules.

In the beginning of the discussion on the Motion of Thanks on Governor's Address on the 13th February, 1989, 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 session 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 Hon'ble Speaker (Shri Natwarlal Shah) while giving his decision on 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 used for this in the Article 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 Central Government 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 session 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 the Constitutional responsibility of Governor. 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 other financial matters, 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."

(G.L.A. Debates, Book – 48, Vol. II, Column 338-341 and 816-817)

D. Official Address / Distribution of Copies:-

(1) Whatever the Governor has actually said in the House, is considered to be official.

After the Governor's Address to the House, on 15th February, 1965, with regard to the issue of official copy of his address, on 22nd February, 1965, the Minister of Education, stated that the printed copy of the Address in Gujarati would be official. On that matter, Member Shri Manoharsinhji Jadeja with the permission of Hon'ble Speaker, raised a point of Propriety that if there occurred any difference in the draft in three versions (Gujarati, Hindi and English) of the Governor's Address, which version is considered to be official and whether we would like to adopt any practice in the House for the same.

On 16th March, 1965, Hon'ble Speaker (Shri FatehAli Palejwala) gave his Ruling as mentioned below: -

"Before I give my Ruling on merits and demerits of this question, I will clarify that such questions should be raised in the House at the time when the situation arises. Accordingly this question should have been raised on 22nd February, 1965, by Shri Manoharsinhji Jadeja. Such a question cannot be raised anytime later on. As an exception, I had allowed Shri Jadeja to raise this question on 9th March, 1965.

Now, regarding what should be considered official, I would like to say that the Hon'ble Governor had delivered his speech in Hindi, so the Hindi version of the speech should be considered official. In addition to this, I would

also like to bring to the notice of the House that while delivering a speech if the Hon'ble Governor makes any change at the last moment or if he does not utter any words from the printed speech or utters or adds the words that are not in the printed speech or he speaks by replacing the words in the printed speech, then the speech with the words he actually speaks is considered to be official speech and in such circumstances, a copy printed in the language in which the Governor has spoken is also considered to be official subject to the changes made by the Hon'ble Governor during his speech.

In these circumstances, the statement of the Hon'ble Education Minister that the "Gujarati (version) is authorized", is not appropriate."

(G.L.A. Debates, Part-2, Volume-13(a), Column 976)

(2) 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.

On 21st January, 1986, 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 Hon'ble 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 Hon'ble Governor completes his speech, signs it and the speech is laid on the Table of the House".

(G.L.A. Debates, Book – 9, Vol. II, Column 810)

E. A Motion of Thanks on the Address and discussion on it.

(1) A Motion cannot be moved as an alternative to a Motion of Thanks.

On 3rd February, 1969, when Member Shri Manoharsinhji Jadeja moved a Motion of Thanks as an alternative to a Motion of Thanks moved by Member Shri Indubhai Patel for the Governor's Address, Hon'ble Speaker stated that the Member should have given a notice of his Motion in advance. At that time, Member Shri Manoharsinhji had said that there was no time to give a notice in advance for the same. Thereupon, Hon'ble Speaker (Shri Raghvaji Leuva) gave his Ruling as follows: -

"There was no time to give a notice. So the notice was not given. Instead of this point, I want to reject it on another point. The point is that an

alternative or substitute Motion cannot be the Amendment of the Original Motion. Therefore, since it is a form of amending the original Motion, the Hon'ble Member can give an amendment at an appropriate time. I rule this to be out of order."

(G.L.A. Debates, Part-2, Volume-22, Part-A, Column 63-65)

(2) Only a Member of the Ruling Party can move a Motion of Thanks for the Governor's Address.

Hon'ble Speaker (Shri Raghavji Leuva) had rejected the notice given by Member Shri Manoharsinhji Jadeja to move a Motion of Thanks for the Governor's Address. In that connection, on 3rd February, 1969, Member Shri Manoharsinhji Jadeja raised a point of order that if it is the right of the Members of the Opposition Party to move an amendment on the Motion of Thanks for the Governor's Address, then why should not they have the right to move the Motion of Thanks? In this regard, drawing the attention to the provision of Rule 64 A(1) of the Gujarat Legislative Assembly Rules he stated that in view of the expression "One Member" in the Rule, a Member of any party can move such a Motion and hence rejection of his notice was inappropriate. Another Member Shri Markandrai Shahstri raised an issue as to whether the Members as per the names given by the Chief Minister could only move a Motion?

While expressing his views on the point of order, Law Minister Shri Premjibhai Thakkar quoting some extracts from page no. 292 of the Book - "Parliamentary Practice" by "May" and from page no. 151 of the Book - "Practice and Procedure" by Kaul and Shakhdar, stated that in the House of Commons and in the Lok Sabha, the names of the Members, who are to move and second the Motion of Thanks, are selected by the Government. He further stated that the Motion of Thanks is in a way a Motion of expressing confidence in the Government and, therefore, it could only be moved by a Member of the Ruling Party and hence Rule 64A(1) should be interpreted in that way.

Hon'ble the Speaker gave the following Ruling:

"As per the submission made by Hon'ble Member Shri Shastri, whether the Members, whose names were given by the Chief Minister could only move the Motion. Whether such names had been received from him or not? In that connection, it is to be stated that neither such names have had come from the Chief Minister nor were they received in the past. What I have to decide is that what is the true meaning of the expression used in Rule 64? If we read Rule 64 in Gujarati -

"Rule 64. On the allotted day after a Member of the Legislative Assembly moves a Motion of Thanks and after it is seconded by another Member, the discussions on the matters mentioned in the address can be commenced."

Therefore, before discussing the Governor's speech, the precondition is that, there should be a Motion from one Member supported by another Member. Normally, a Motion without the support cannot be moved and discussed in this House. When it is required by the rule that the Motion should be seconded before commencing the discussions, it is to be decided as to what situation was envisaged by the Framers of the Rule while writing an expression "one Member". When the Rule was framed, the framers of the rule envisaged the practice established in this regard. And while interpreting a Law, prevailing general custom is that the long established practice is in some circumstances, converted into a Law. Here, this practice has been converted into a law in England. In our country too, since it has been converted into a law, the word "Member" which is used here is in the same context of the law in which the word was used in England and in which the word has been used here in the past. Otherwise, it could have been written that "a Member of any party can do this" because the situation that a Member of a single party can do this, was before the Framers of the Rule. When the situation was prevailing that a Member of a single party can do this, there is no reason to believe that the framers of the Rule had an idea of changing the prevailing situation at that time. Therefore, the word used by those people was envisaged in view of the situation then prevailed with the notion that "a Member can do it". Accordingly, they had not envisaged "Members of the opposition party" but they had a notion that the "Members of the Ruling party can present this."

"According to the Hon'ble Law Minister, the Motion of Thanks is one type of a Confidence Motion for the House to express its confidence in the Government. Therefore, in this situation, the Framers of the Rule did not envisage that any Member other than a Member from the Ruling Party could also move such a Motion. The House can amend its own Rules. It can amend the Rules to include the words" a Member of any party" or "any Member". As of now, the situation is, a Member moves and other Member seconds. There is a condition that this Motion cannot be discussed without these two Members. There is no condition such as "any Member". Hence the aforesaid point of order is rejected."

(G.L.A. Debates, Part-2, Book-22, Column 39-59)

(3) It is not possible to pass the Motion of Thanks by incorporating the suggestions of the Members or to pass the Motion unanimously.

During the discussion on the Governor's Address, on 4th and 5th April, 1972, various Members made indirect mentions with regard to the Hon'ble Governor in their speeches and criticized his behaviour.

Later on, the Hon'ble Speaker decided to expunge some portions of the speeches of the Members from the proceedings as per rule 36 of the Rules. The House was notified of this decision on 6th April, 1972.

At that time, Shri Harisinhji Gohil suggested that the office of the Governor is respectful and, therefore, the suggestions made by the Members during the discussion on the Motion of Thanks should be incorporated in the Motion and the Motion should be passed unanimously.

Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as mentioned below: -

"Naturally, this does not happen because when amendments on the Motion of Thanks were presented, it means that the Hon'ble Governor has not been given as much importance in this House, as he should have been. Actually the Motion of Thanks to the Governor is a formal one. The Government presents its policy before the House through the mouth of Hon'ble Governor. The credit or the discredit for the good or bad policy of the Government goes to the Government. The Hon'ble Governor only presents its policy to this House. So it is a different thing that the Motion of Thanks for the Governor's Address can be passed unanimously. But that is not possible because Hon'ble Members have the right to discuss the Government policy."

(G.L.A. Debates, Part-2, Book-33, Column-1152)

(4) A policy of any party cannot be discussed during the debate on the Governor's Address.

On 23rd March, 1967, during the discussion on the Governor's Address, Member Shri Kantilal Ghiya pointed out that the people of Swatantra Party had attacked his party workers, and injured them". Thereupon, Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as follows: -

"Instead of talking about what one or the other party has done during the elections, the topic of the discussion should be how the Government managed to keep its administration efficient during the elections. The subject of the discussion cannot be the policy of the one or the other Member of a party. I hope that the Member will speak only on a policy of the Government."

(G.L.A. Debates, Part-2, Book-18, Column 205)

(5) During the discussion on the address, only broader policy questions can be discussed.

On 2nd March, 1963, Participating in the discussion on the Governor's Address, Member Smt. Shantaben Makwana stated that she wanted to speak about Roads, that too especially about her Taluka.

At that time Hon'ble Speaker (Shri Fatehali Palejwala) gave the following Ruling: -

"Talking about Taluka, etc. is not possible. From the beginning of the discussion in the House, I was telling that issues relating to our Districts and such other matters could be raised during the discussion on the demands. At present here only the issues relating to the policy matters of the Government should be discussed. So you can speak on the policies of the Government."

(G.L.A. Debates, Part-2, Book-8, Column 170)

F. Amendments to the Motion of Thanks

(1) 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 presented by Hon'ble Member Shri Manubhai Parmar 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 day 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."

(G.L.A. Debates, Part-2, Book-1, Column 150-151)

(2) The Members who had given amendments to the 'Motion of Thanks' should remain present in the House.

On 23rd February, 2004 (Second Sitting) on the 'Motion of Thanks for the Governor's Address, at the time of moving the amendments in the House, out of

26 Members, 5 Members only moved their amendments. Due to the absence of the other Members, their amendments could not be moved. On this matter the Hon'ble Speaker (Professor Mangalbai Patel) observed as under:

"I appreciate the efforts put by Hon'ble Members of the Opposition in tabling 26 amendments to the 'Motion of Thanks' but it is a grave matter to worry that only five Members had moved their amendments. I think that other Members who were absent had not taken their amendments seriously. This is not a good practice in any way. In future, I expect that the Members will take their amendments seriously and remain present in the House for moving their amendments."

(G.L.A. Debates, Book-103:2004)

G. General: -

(1) The Governor's Address is printed in the proceedings as per practice of the House of Commons.

After the Governor's Address on 3rd February, 1969, Member Shri Manoharsinhji Jadeja raised a point of order that though the reports, etc. were laid on the table of the House, they were not printed in the proceedings of the House. Then why the Governor's Address is printed in the proceedings?

Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as follows: -

"The point is that we print the Governor's Address in our proceedings, whereas any reports or any other items which are laid on the table of this House are not printed in the proceedings. What is the reason for not doing so? It is printed as per the long-standing practice. But it is true that when this is laid in the Lok Sabha by the Secretary, it is laid in the sense that it has been read in the House and, therefore, it can be considered as part of the proceedings and then a Motion can be moved on the Address. A Motion on the matter which has not become a part of the proceedings of the House cannot be moved. Thus, if a debate is to be held on the Address of the Governor, then the Address of the Governor should be a part of the proceedings of the House. As it becomes a part of the proceedings of the House, it should be printed in the proceedings. Since the Address is connected with the Motion to be moved later on, the practice is prevailing. When any report or other item is laid on the table of this House, it is not necessary to print all the reports separately in the proceedings, because some documents, as per the practice of the House of Commons, are command papers and they are laid on the table of the House by the command

of the Queen of United Kingdom and those are not printed as part of the proceedings, while the speech of the Queen is always printed. Some of our practices have been derived from the customs of the House of Commons. It does not mean that either the reports of the Public Accounts Committee or the Audit Reports of the Accountant General should be printed."

(G.L.A. Debates, Part-2, Book-22, Part-A, Column 26-38)

(2) According to the custom, Speaker may say Order, Order, during the Governor's Address.

On 3rd February, 1969, after the Governor's Address, when sitting of the House commenced, Member Shri Manoharsinhji Jadeja raised a point of order that, when the Members gather and meet during the Governor's Address, it is not considered to be a sitting of the house. Therefore, before the Governor's address, whether it is reasonable for Hon'ble Speaker to say Order, Order.

Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as mentioned below: -

"The point is whether it is fair for the Speaker to ask the Hon'ble Members to maintain order before the Hon'ble Governor starts his address? If any Member of this House is likely to misbehave in order to get attention towards the Governor, I think as the Speaker of this House I should bring the House in Order."

"There are some matters which are based on common sense, practicability and custom but nobody tries to find its root. It is an ongoing and established practice.

The attention of all the Hon'ble Members should be drawn to the Governor and as the Speaker it is my duty to do whatever is necessary to draw their attention. If any other convenient way is found to do so, I am definitely prepared to adopt the way to do that. I do not insist that only the words "order, order" should be used."

(G.L.A. Debates, Part-2, Book-22, Part-A, Column 27-28)

(3) It is not proper for the Chief Minister to use the copy of the Address of the Governor, while the speech is being delivered, even if the Chief Minister is having the same.

On 3rd February, 1969, after the Governor's Address, when the sitting of the House commenced, Member Shri Manoharsinhji Jadeja raised a point of order that when the Governor was Addressing the House, a copy of the speech was not provided to the Members whereas the Chief Minister was having the same. He further stated that copies of the speech should either be available with everyone or not with anyone and requested the Hon'ble Speaker to clarify in this regard.

Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as follows: -

"The only question is whether the copy of the speech being delivered by the Governor is available with the Ministers, as the Member of this House or the Government is having the copy as its owner. The speech belongs to the Government itself. It is delivered through the Governor. But the better way is that it is not read by the Members until it is read out in the House. And I think that is the courtesy that we can show positively towards this House and the Governor. So to have that copy, to possess that is one thing and to use that copy when the Governor is delivering his speech is a different thing."

(G.L.A. Debates, Part-2, Book-22, Part-A, Column 25-26)

(4) 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."

Hon'ble 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, the TV Cameramen and photographers are permitted. In pursuant to this precedent, the procedure has done even today and there is no need to bring about any change in this precedent."

(G.L.A. Debates, Book – 31, Vol. II, Column 41)

(5) The Motion of Thanks for the Governor's Address may be shown in the List of Business for the day before the speech is delivered and may be moved in the House on the day the Governor Addresses the House.

On 22nd January, 1968, before moving the Motion of Thanks for the Governor's Address in the House, Member Shri Manoharsinhji Jadeja raised a point of order that:-

"(1) The Motion of Thanks for the Governor's Address was shown in the list of Business for the day which was issued five days before the Governor's Address, whether it was appropriate and,

(2) Whether the practice of moving the Motion of Thanks on the day the Hon'ble Governor addresses the House was appropriate?"

In support of the point of order, the Member cited Rule 64 regarding the purview of discussion on the Governor's Address and Rule 24 about raising the discussion in advance. He further stated that the Motion of Thanks had not been moved on the day the Hon'ble President had addressed the Lok Sabha.

Member Shri Sanat Mehta, Hon'ble Parliamentary Minister Shri Chimanbhai Patel and Law Minister Shri Premjibhai Thakkar expressed their views on the point of order. When the Law Minister was expressing his views, Member Shri Manoharsinhji Jadeja stated that no clarification was made with regard to his first point.

Thereafter, Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as mentioned below: -

"Since the point of order raised has to be decided by the Hon'ble Speaker, it would not be right to assume that Hon'ble Members of the House, who express their views in order to help the Speaker to respond to someone. Two points have been raised in the point of order. One point is that before the Governor addresses the House, how the Speaker's Secretariat came to know about receiving such type of the Motion of Thanks and showing the same in the agenda of Business. In the House of commons, One Member comes wearing a Levy Dress on the day of the speech from the Throne. Still there prevails a

practice that the Member moving a Motion of Thanks has to come wearing a Levy Dress. He or she cannot come in his or her traditional dress. So he or she moves the Motion wearing a Levy Dress. So along with the matter of wearing a dress, it is accepted that the Motion of Thanks is to be moved definitely and invariably. The Minister of Parliamentary Affairs pointed out that even in the Constitution, its discussion is conducted only by accepting the Motion of Thanks. There has been no other difficulty in introducing or allowing Motion of Thanks which does not entail any controversial issue. Therefore, the practice has confirmed to prevail here in this House as per the practice prevailing in Mumbai. I don't think the practice is an evil in any way. Also, if we want to thank the Hon'ble Governor for his speech, I think it is appropriate to do so as early as possible, so it is equally right to move the Motion of Thanks sooner. So I believe that it is dignified only if the Motion of Thanks is moved in time. So the way this item has been shown in today's agenda of Business, I don't think it would cause any trouble in the House. Also it is the Speaker who has to decide the number of days and exact dates for the discussion of the matter by sitting with the Leader of the House.

As per the pre-decided Calendar of Sittings provided to the Hon'ble Members in advance, three days have been reserved for the discussion. So the Motion which has been moved, has not come up suddenly before the Members. Therefore, since the Members are not prepared for the discussion, they fear that they would not be able to give their services to the House properly, will not sustain. So whatever issues have been raised, I think the practice which we have adopted so far, is really right and proper. Accordingly, since both the issues are not sustainable, I reject them."

(G.L.A. Debates, Part-2, Book-20, Column 24-31)

2. Condolatory Reference.

(1) Controversial or Political issues cannot be discussed on a motion of Condolatory Reference.

On 20th June, 1980, on the Motion of Condolatory Reference when Member Shri Ashok Bhatt in his speech made some mentions about the murder of former Member Shri VasANJI Thakrar, Minister of Home Shri Prabodh Raval raising an objection stated that it would have been proper for the House, if mentions about some questions are made within its limits. At that time, Hon'ble Speaker (Shri Natwarlal Shah) gave the following Ruling: -

"Shri Ashokbhai, I would say again that this type of debate has its limitations. You are speaking on the Motion of condolatory reference. So no controversial or political issues can be discussed."

(G.L.A. Debates, Part-2, Book-67, Column 68-69)

(2) Condolatory Reference can be made in the House only after the Legislature Secretariat ascertains the authenticity of the news of the death of the MLA.

During the Condolatory References presented in the House on 23rd February, 2012, Hon'ble Member Shri Ashwinbhai Kotval of Khedbrahma Constituency, sent a chit about the death of ex-MLA Shri Maldevjibhai Dabhi to Hon. the Speaker, and drew his attention for making a Condolatory Reference in the House. The matter of Condolatory Reference of Ex-MLA Shri Maldevjibhai Dabhi was not included in the order of the day, yet Member Shri Kotval paid homage to Shri Maldevjibhai Dabhi along with other Late dignitaries.

In this regard, on 24th February 2012, Hon'ble the Speaker (Shri Ganpatsinh Vasava) made an announcement in the House that as per the established procedure, a Condolatory Reference could only be made after ascertaining the authenticity of the news of death of the Member by the Legislature Secretariat. Hence, the Hon'ble Speaker ruled that the Reference made by Shri Kotval was contrary to the established procedure and ordered to remove it from the proceedings of the House. He also requested the Members to be careful in this regard in future.

(G.L.A. Debates, Book-163 : 2012)

(3) 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 of the House rose from their seats and were leaving the House. At that time the Speaker (Shri Natvarlal Shah) observed that no Member or any of the Officers in the Officer's gallery should rise from their seats."

(G.L.A. Debates, Book – 18, Vol. II, Column 677-678)

(4) Members should not leave the House during the discussion on Condolatory reference.

When the Leader of the Opposition Party Shri Chimanbhai Patel was speaking on the Condolatory Motion, on 24th June, 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 prudentially 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. It is my request that during discussion on condolatory reference Hon'ble Members don't leave their place and keep the decorum and I hope that Shri Hasmukhbhai also will not repeat this mistake.”

(G.L.A. Debates, Book – 3, Vol. II, Column 121-122)

3. Statement under Rule -44

(1) When the Legislative Assembly is in session and a Minister has to make an announcement of a long term scheme/project for the welfare of State, the Minister can make a statement with the prior permission of the Speaker.

On 28th March, 2007, the Chief Minister made a statement under Rule - 44 of the Gujarat Legislative Assembly Rules and announced the Garib Samrudhdhi Yojna (Welfare Scheme for the Poor). At that stage, the Leader of the Opposition raised a Point of Order stating that the economic package announced by the Hon'ble Chief Minister had not been included in the Budget. He also stated that not only this, the Chief Minister has misled the House by merging various projects/schemes in the name of Chief Minister. He also stated that the economic package or project, which had not been included in the Budget Speech of the Finance Minister or the Speech of Hon'ble the Governor, could not be announced by a Statement in the House under Rule- 44 because it was not passed by the House. Such an economic package should have been

announced only after including it in the budget making necessary financial provisions.

The Minister of Parliamentary Affairs also expressed his views on the matter.

Thereupon, the Hon'ble Speaker while reserving his ruling for a detailed one, rejected the Point of Order. Thereafter, on 30th March, 2007, the Hon'ble Speaker (Prof. Mangalbai Patel) gave his detailed ruling as follows:

"Clear words have been used in the statement giving the project information that some amount would be spent during the next five years for specific objects under the project on the welfare of the poor. Generally, the Budget presented before the House includes the figures of income and expenditure estimated for that year and also the projects/schemes to be taken up during that year. However, if the Minister wanted to make an announcement of a long term project/scheme for the welfare of the poor during when the Legislative Assembly is in Session, then the Minister has to make a statement on such a policy matter of public importance in the House with the prior permission of the Speaker. Under the circumstances, if the Hon'ble Chief Minister had made an announcement of this project outside the House, it would have been a violation of the propriety of the House which has a privilege of being first informed and, therefore, the statement made by the Hon'ble Chief Minister under Rule -44 with my prior permission is in accordance with the Rules of the House and also with the well established parliamentary practice.

I had, therefore, rejected the Point of Order raised by the Leader of Opposition."

(G.L.A. Debates, Book – 128, Vol. II, 2007)

(2) Objection cannot be taken against the Minister who has been permitted to make a statement in the House as a part of tradition of maintaining the dignity of the House.

On Thursday, 26th February, 2009 at the second sitting, after obituary references, while the Minister of Energy Shri Saurabh Patel rose for making a statement under Rule 44 on the award received by the Electricity Companies of the State for their excellent work in the field of Energy, Member Shri Arjunbhai Modhvadiya raised a Point of Order seeking guidance of the Hon. Speaker as the matter of the Statement has already come in the answer to the question raised during the question hour of that day and that it was not a matter of public importance and it could have been made during the discussion on vote of thanks. In the present case, the matter is not new that the House should

be informed immediately. Making a separate statement in this way, is a wastage of time of the House.

The Parliamentary Affairs Minister expressed his opinion stating that the details of the statement were of the award dated 24th February, 2009. Thereafter; Hon'ble Speaker (Shri Ashok Bhatt) gave his ruling rejecting the point of order stating that "as per the well established parliamentary tradition for maintaining dignity of the House, when the Assembly is in session, a Minister has to make important policy announcements before the house and, therefore, it is the responsibility of the Speaker to permit a Minister to make a statement on a matter of public importance in the House and when the Minister makes the statement with the permission of the Speaker, objection cannot be taken."

(G.L.A. Debates, Book – 141: 2009, Vol. II)

(3) Statement given under Rule-44 does not require to be on a Policy matter.

On 25th March, 2015 during the Sixth Session of the Thirteenth Gujarat Legislative Assembly, after Hon'ble Energy Minister Shri Saurabhbhai Patel's statement, Hon'ble Member Shri Shaktisinh Gohil raised a point of order that a statement which was to be made by the Minister should be generally on the policy matter and not on the matters published in the Newspapers and, therefore, there was no need to make a statement in the House on a matter which was already published in the newspapers.

Thereupon, Hon'ble Minister for Law Shri Pradeepsinh Jadeja and Hon'ble Minister Shri Nitinbhai Patel, expressed their views against the point of order. Hon'ble Energy Minister Shri Saurabhai Patel himself submitted his views in favour of his statement mentioning that the matter of his statement was of public importance. At that stage, Hon'ble Shri Shankersinh Vaghela, the Leader of Opposition gave his views in favour of the point of order.

While giving his ruling on the point of order, Hon'ble the Speaker (Shri Ganpatsinh Vasava) stated that the Chair had the power to give permission to make a statement under Rule 44 as per the Assembly rules and decisions of my predecessor speakers. He also stated that as per the well-established parliamentary practice, the matters of Public Importance would have been announced first in the House, when the House was in session. Based on those practice, when the Minister was permitted by the Chair to make a statement in the House, a point of order could not be raised against the same. Moreover, as per the provision of Rule – 44, with prior permission of the Speaker, any Minister could make a statement on any matter of Public Importance.

Hon'ble Speaker asserting that there existed the wordings "any matter of Public Interest" in Rule 44, ruled that the matter of the statement might not be required to be a policy matter and rejected the point of order raised by Hon'ble Shri Shaktisinh Gohil.

(G.L.A. Debates, part-4, Book – 25: 2015, Vol. II)

(4) 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 repetition 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 by stating, "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."

(G.L.A. Debates, Book – 26, Vol. II, Column 439-444)

(5) When the Minister gives an assurance under Rule 44 on a matter presented before the House, the Government should consider it seriously and comply with the same.

On 9th July, 1982, while asking a question regarding a statement of Minister of Irrigation under rule 44 on the Narmada Project, Member Shri Chimanbhai Patel stated that earlier during a discussion on the Narmada Project, the Government had clearly assured that a meeting would be arranged with the top officials and Ministers associated with the Narmada Project. However, after giving such an assurance, keeping silent on the matter was not

reasonable even after reminders. Hon'ble The Chief Minister clarified that he had invited the Leaders of the opposition Party and also told the Member that the Government was prepared to hold a one-day debate on the Narmada Project. After hearing the Members of the Opposition Party, as well as the Minister of Irrigation, the Hon'ble Speaker (Shri Natwarlal Shah) gave his Ruling as follows: -

"Hon'ble Chief Minister, once the Minister has given an assurance in the House that we would meet and discuss the issue together, he should have taken it seriously and held a meeting immediately after the session is over and discussed it with those, whom he gave the assurance. It is unfortunate that the same has not happened. The point here is that there was a complaint that the assurance given in the House last time has not been complied with and the complaint is true. Therefore, the assurance given in this way would be taken seriously in future and complied with."

(G.L.A. Debates, Part-2, Book-79, Column-112)

CHAPTER: 4

1. Question Hour:

With the consent of the House, the time consumed during the question hour for swearing in can be extended.

On 20th June 1977, during the Question hour after the reply of the Home Minister to Starred Question No. 5840 raised by Shri Narsinh Makwana pertaining to the incidents of harassments of Harijans, it was observed by the Hon'ble Speaker (Shri Kundanlal Dholakiya) that since the house consumed 10 minutes for swearing during the question hour, the one hour question time was over at 1 P.M. Therefore, the question hour could be extended for 10 minutes more with the consent of the House.

Thereafter, with the consent of the House, the Question Hour was extended by 10 minutes.

(G.L.A. Debates, Part-1, Book -52, Column 40-41)

2. Admissibility of Questions

(1) No issue could be raised in the House regarding the admissibility of a question

On 17th March, 2011, after the question hour, the Hon'ble Leader of Opposition Shri Shaktisinh Gohil raised a point of order regarding the admissibility of similar questions on priority No. 86 and 158 by the same Member Shri Mansukh Bhuva and sought the guidance of the Hon'ble Speaker in the matter.

The Hon'ble Minister of Parliamentary Affairs Shri Dilipbhai Sanghani and the Health Minister Shri Jaynarayn Vyas expressed their views on the issue stating that "a matter pertaining to the working of the Legislature Secretariat could not be raised in the House. They further stated that as per the well-established parliamentary practice, such matters ought to have been brought to the notice of the Hon'ble Speaker in his chamber. They also stated that the management of the House was done according to the guidance of the Hon'ble Speaker and hence whether to admit any question or not is also a part of the management of the House and it is a matter falling within the exclusive jurisdiction of the Speaker. Any matter pertaining to his jurisdiction cannot be raised in the house and as per Rule 81 of the Gujarat Legislative Assembly Rules, whether to admit any question or any part there of is under his exclusive jurisdiction."

After listening to the views expressed by the Ministers, the Hon'ble Speaker (Shri Ganpatsinh Vasava) gave the following ruling:-

"It is clearly mentioned in the rules that the matters within the jurisdiction of the Speaker cannot be raised in the House. In spite of this, since the matter is raised in the House, let me clarify that when a Member has asked more than one starred questions of similar nature for a specific day, only one question is admitted and the other questions are disallowed. I accept this point and I request the Leader of the Opposition not to raise the matters under the jurisdiction of the Speaker, in the House in future."

After giving his ruling on 18th March 2011, the Hon'ble Speaker felt it necessary to clarify further his ruling and clarified as follows:

"As per the Provision of Rule - 81, pertaining to the admissibility of Legislative Assembly questions, whether any question or any part thereof should be admitted or not is a matter within the jurisdiction of the Speaker. As per the well established practice, when I have admitted both the questions of similar nature, no issue can be raised in the House. In this regard, number of rulings have also been given by my predecessor speakers and I have gone through those rulings. In spite of those rulings, the issue of Jurisdiction of Speaker was raised by Hon'ble Shri Shaktisinghji, which was in no way proper as the issue was challenging the power conferred upon the Speaker by Rule - 81. As per the rules of the Legislative Assembly, the Speaker is fully empowered to decide whether notice of any question or a bill or a motion should be admitted or not. Therefore, no issue could be raised in the House regarding the admissibility of any question. Had there been any oversight, it would have been better if the Leader of Opposition had shown the curtsey of seeing me in my chamber. In the present case, the Hon'ble Leader of the Opposition has not shown any curtsey which is not proper. Therefore, I request him to take care in not raising such matters which fall within the jurisdiction of the Speaker in future."

(G.L.A. Debates, Book-158:2011)

(2) When a matter is Sub judice, related questions can be asked by remaining within the judicial limits.

On 12th September 1984, Member Shri Jashvantsinh Chauhan, at the time of his short notice question No. 453 pertaining to the police firing at Garudi village, asked as to how many Police officers were present at the time of firing and what were the names of the officers who fired the guns? Hon'ble the Home Minister Shri Prabodh Raval replied that an Inquiry Commission

comprising of Shri Kamodiya, District and Sessions Judge, Mehsana had been appointed for this matter under the Commission of Inquiry Act, 1952. Two Officers were present at the time of firing. As regards his second question, the Hon'ble Speaker referring to Rule 34 had considered it to be outside the Rule. At that time, as the Member Shri Makarand Desai stated that the House was not yet aware of the issues assigned to the Inquiry Commission, the Speaker sought clarification from the Minister whether the issues assigned to the Inquiry Commission were distributed in the House or not and ordered the Minister to read them out before the House. Accordingly, the Hon'ble Home Minister read out the notification. After some discussions, the Hon'ble Home Minister mentioned that earlier whenever questions regarding the sub-judice matters were raised in the House, the limitations were put on the right to ask question by the Members and he requested the Hon'ble Speaker to give his decision as to what extent the Members should be allowed to ask questions. Thereupon the Hon'ble Speaker (Shri Natawarlal Shah) gave the following ruling:-

"It is also true that a sub-judice matter cannot be discussed. However, after putting such a limit as to asking question on related facts can be allowed. After putting such a limit, a question can be asked to that extent only, I have allowed Hon'ble Shri Jashvantsinh to ask one question and not the other. You should circulate the notification containing the issues assigned to the Inquiry Commission among the Members so that the matter will be over."

(G.L.A. Debates, Part-1, Book -88, Column 231 to 238)

(3) It is not proper to discuss in the House on a decision taken by an Officer regarding a departmental Inquiry.

On 11th July 1967, during the Question hour, on a supplementary question of Starred Question No. 9 pertaining to complaints received by the Department of Anti-corruption Bureau, the Minister In-charge Shri Jayrambhai Patel replied that the 23 officers, against whom the departmental inquiry had been carried out, were released. Thereupon, when Member Shri Chhabildas Mehta asked a supplementary question as to whether the complaints against those, who had been released, were considered to be true by the Anti-corruption Bureau? At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:--

"That question does not arise. It is not proper for us to discuss any decision taken by the Inquiry Officer regarding the Departmental Inquiry."

(G.L.A. Debates, Part-1, Book -18, Column 54)

(4) Questions related to District Panchayats can be asked when the Panchayats get dissolved or superseded.

On 29th July 1975, during the Question Hour, Member Shri Sanat Mehta expressing the feelings of House stated that the Hon'ble Speaker had to think about the manner in which the District Panchayat questions would be raised. Furthermore, drawing attention of the House towards Rule - 80 and Section 297(4) of the District Panchayats Act, 1961 he submitted that when there was no elected system to deal with the affairs of the Panchayats, information regarding the affairs of the Panchayats could not be obtained for want of such a system. He, therefore, requested the Speaker to give his ruling in this regard. After listening to the views of other Members, Hon'ble Speaker (Shri Kundanlal Dholakiya) had given his reserved ruling on 14th August 1975 as follows:-

On 29th July, 1975, a question was raised by the Hon'ble Member Shri Sanat Mehta and other Hon. Members regarding the admissibility of questions asked by the Members for obtaining information pertaining to the administration of the panchayats and it was urged that at least during supersession of the panchayats, the Government becomes responsible for the administration of the panchayats and the transfer questions requiring information pertaining to the administration of the panchayats should be admitted. Other Hon'ble Members had made their submissions in this matter. I have also consulted some of the leading Members on both the sides on this questions. It is true that when panchayats are functioning the Members of Legislature have an opportunity to ask questions in the panchayats as the associate Members. During the supersession of the panchayats, the Members of the Legislature are handicapped in asking questions pertaining to panchayats.

I have gone through the provisions of the panchayats Act. Section 303a(3)(b) provides that all powers of such panchayats, shall during the period when such notification is in force shall vest in the officer of the State Government as may be specified in that behalf. Thus, the officer specified by the Government exercises all the powers which the panchayat would have exercised, had there been no supersession. On a true construction of this provision, it appears to me that autonomous character of the panchayats, notwithstanding its supersession appears to be preserved and the extent of the control by the Government over the panchayat does not change on account of the supersession. No additional powers appear to have been vested in the Government on account of supersession and during the supersession, the officer specified by the Government steps into the shoes of the panchayats and exercises and performs all the powers and duties of the panchayats. It is true

that section 303A vests powers in the State Government to appoint officers to carry on the administration of the panchayats under certain circumstances but the State Government does not assume upon itself the powers and duties of such panchayats, which are to be exercised and performed by such officials.

However, looking to the scheme of the Act, it is also clear that the State, which gives grants to the panchayats has under section 11(2) power to exercise its control over panchayats either directly or through officers. Similarly, section 8 of the Act provides for subordination of panchayats amongst themselves and their powers, functions and duties and such exercise of power, functions and duties would also be subject to the control of the State Government as provided under section 8(3) and under section 8(4). Under section 287(2) panchayats have to perform their functions and duties so as to conform to the State policy in general and have also to give effect to general directions as may be issued by the State Government from time to time in respect of State F.Y.Ps. and National F.Y.Ps. Section 292-A also vests powers in officers authorised by the State Government to enter on and inspect immovable properties and records of the panchayats. Under Section 109(1) the audit of the accounts of the panchayats is also to be carried out by the State Government. The State Legislature has enacted the Examiner, Local Fund Account Act, 1963 under which the Legislature has conferred the powers of auditing the accounts of these panchayats on the Examiner, Local Fund Account and the Audit Report is presented to the Legislature and the Audit Report is examined by the Public Accounts Committee of the State Legislature. It may be stated that the Members of the Legislature have an opportunity to critically review the internal working and affairs of the panchayats through the Public Accounts Committee during the examination of the Audit Report of the Examiner, Local fund Accounts. Thus, the internal administration of the panchayats is subject to scrutiny by the Public Accounts Committee.

There is also another aspect involved in this matter. Under section 138-A, District panchayats are authorised to undertake the construction, maintenance and repairs of any work on behalf of Government. Thus, the panchayats have been executing large number of works particularly regarding construction of roads and buildings as agents of the State Government. It is, therefore, also to be considered that when the panchayats act as agents of the State Government, the panchayats are bound to be answerable to the State Government and the State Government would be entitled to issue directions or instructions to the panchayats in respect of the execution of work entrusted by the State Government to the panchayats. Under Section 145, the District panchayats are also required to forward their budget estimates to the competent

authority, which means the State Government Officer or authority as may be appointed by the State Government.

Under Section 304 of the panchayats Act, the State Government has also the power to cause an inquiry to be made in regard to any panchayat on matters concerning it. Under Section 305, the State Government has also the power to call for and examine the record of proceedings of the panchayats.

It is true that panchayat system is created for the purpose of democratic decentralisation and for realising the concept of gram swaraj and for granting as much autonomy as possible at the village, taluka and district levels. The panchayats are created under Section 7 of the act and through the two tyre system of democratic form of Government, the autonomous character of panchayats has got to be preserved and, therefore, the questions pertaining to the day to day administration and internal affairs of the panchayats cannot be allowed to be asked. However, Rule 80 of the Gujarat Legislative Assembly Rules specifically provides that questions on statutory body shall be restricted to the matters to which the Minister is responsible by the statute concerned. It, therefore, appears to me that the questions pertaining to the day to day administration and internal affairs of the panchayats cannot be admitted even when the panchayats are superseded because during the period of supersession, the autonomous character of the panchayat appears to have been preserved. But at the same time, wide powers appear to be vested in the State Government under various sections, some of which are referred to above to exercise supervision and control over the panchayat administration and therefore irrespective of the fact that as to whether panchayats are working or panchayats are under supersession, questions relating to matters in respect of which State Government has power to exercise supervision and control over the panchayat administration and to issue directions or instructions or to call for explanation for any acts done by panchayat should be admissible. I, therefore, hold that the question which involved major policy issues regarding implementation of five year plans, budgetary control or matters which by their nature are such as would require the State to intervene to exercise its supervision and control or to issue directions or instructions or call for explanations from the panchayat administration and question pertaining to the matters of the execution of works, which have been entrusted by the State Government to the panchayats on agency basis would be admissible. In other words, Members will be allowed to ask questions seeking information regarding any directions, instructions, supervision or control exercisable by the State Government under any of the provisions of the panchayats Act."

) G.L.A.. Debates, Part-2, Book-49, Column 1152-1157)

(5) Questions can be asked on matters falling under the responsibility of the State Government regarding the works undertaken by the District Panchayats.

On 16th February 1982, after the Question Hour, Member Shri Harisinh Chavda by mentioning Question No. 7689 pertaining to the roads in the Mehsana District asked whether any change in the Rule had taken place or not as generally replies to questions about the functions under the District Panchayats were not given and sought guidance of the Hon'ble Speaker in this regard. The Hon'ble Speaker (Shri Natwarlal Shah) delivered the following ruling:-

"In this, the only question arises is that questions on administrative matters falling under District Panchayat cannot be asked. Questions can be asked only on matters on which the Hon'ble Minister is responsible, e.g. tender for roads, maintenance of roads etc. One cannot go beyond that. Its limits are well known. If you think that this question is admitted and, therefore, you are allowed to ask any question about the Panchayats, don't be in such illusions. "

(G.L.A. Debates, Part-1, Book -75, Column 782)

(6) Before asking questions, the authenticity of the information should be ensured by Member.

On 18th March 1963, in his written reply to Question no. 1336 pertaining to Intensive Development Project for the Zariyawadi of Bharuch District, the Minister stated that the Project did not belong to the State Government. Member Shri Manmohandas Desai asked a supplementary question whether the present project belonged to the Central Government or the State Government. In reply, the Minister stated that perhaps it might be of the Khadi Board. When the Member stated that the Project was belonging to the Khadi Board, the State Government should have had the information about the project. Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"When we ask any question, we should have basic information before asking the question. Now that your question has been rejected, there should not be any "roving inquiry" i.e. no questions should be asked like if the project does not belong to the Khadi Board, then does it belong to the State Government or to which Government does it belong to. It is the responsibility of Members to ascertain about the basic information before asking a question. For the last 10 days, 11 to 12 lists have been made and in them I have been seeing many questions in which there is no basis. The answers thereof have

also been given. The Members have every right to ask questions, but at the same time, they themselves should ascertain about the basis thereof because, in giving the answers to the questions, much time of the Department is consumed and money too is wasted. I request all the Members to take this thing into consideration, especially at the time of crucial situation."

(G.L.A. Debates, Part-1, Book -7, Column 559)

(7) Questions should not be asked on the basis of newspapers.

On 18th December 1972, during the Question Hour, Member Shri Udesinh Vadodiya asked the Hon'ble Chief Minister a Starred Question bearing no. 5031 whether it was true that two people died of starvation in Pandwa village? Hon'ble Chief Minister replied that it was not true. Then another Member Shri Chhatrasinh Solanki drew the attention towards the news item published in a daily newspaper "Jansatta" and asked whether the Government had made any enquiry in this regard? As Hon'ble Deputy Minister (Revenue) was about to reply the question, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"There is a standard for asking question, which is to be followed. A question cannot be asked on the basis of the information published in a newspaper. For example, in this Question, the Hon'ble Member has stated that two persons had died of starvation in Pandwa village. He himself has to try to confirm the authenticity of the statement he made and asking a question without trying to confirm is not fair. There is a provision in our Rules that the Hon'ble Member should take responsibility of whatever statement made or a question asked by him. I feel that asking such questions on the basis of only the newspaper report is not fair. Otherwise, the information may turn to be wrong. One should also try to confirm the newspaper report. One should not ask a question relying only on the newspaper without trying to obtain authentic information"

(G.L.A. Debates, Part-1, Book -38, Column 523-524)

(8) Question as to what is confidential cannot be asked if it is the Government's job to decide what can be confidential.

On 19th July 1967, while replying Starred Question No. 531 pertaining to advertisements given to newspapers by the Information Department, the Deputy Minister of the Information Department, Shri Jayrambhai Patel stated that the information was not provided in public interest. At that time, Member Shri Vadilal Mehta raising a Point of Order asked as to what could be

confidential in this matter. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"If it is the job of the Government to decide what could be confidential, then it cannot be asked as to what is confidential. It itself is confidential."

(G.L.A. Debates, Part-1, Book -18, Column 475)

(9) The Government is not bound to give reasons why it is not in public interest to disclose any matter and it cannot be compelled to do so.

On 19th September 1960, while replying to the Question No. 298 pertaining to the standards for giving Government advertisements in the newspapers, the Home Minister Shri Rasiklal Parikh stated that the matter was considered to be confidential. Shri Brahmakumar Bhatt raising a Point of Order stated that considering generally the matters pertaining to the public safety or peace could be confidential, it is the right of the House to know as to how many advertisements were given to which newspaper. After hearing the Home Minister Shri Rasiklal Parikh, Hon'ble Speaker (Shri Mansinhji Rana) gave his following ruling:-

"A Ruling has been given in this regard in the Mumbai Legislative Assembly.

"On 19th March, 1958, during Question hour, in reply to a question regarding the principles formulated for giving Government advertisements to newspapers, the Government stated that the instructions issued in that regard were of secret nature and could not therefore, be divulged. The Member tabling the question sought protection of the Chair and wanted to Know why Government had decided to keep the instructions secret. Government declined to answer in public interest but the Member insisted on knowing what was the interest of the public that was served by keeping the principles secret."

The Speaker thereupon intervened and observed -

"It means that you want the Government to give reasons why it wants to keep it secret. I do not think that the Chair is in a position to compel the Government to give reasons."

After the question regarding this matter was admitted, this ruling has been given. So the Government cannot be compelled to provide information in this matter. The Government is not bound to provide the details as to why certain newspapers are given certain number of advertisements. The answer for

the principle followed has been given. Therefore, the Chair cannot compel to provide details of it too."

(G.L.A. Debates, Part-1, Book -1, Column 399)

(10) Minister may decline to answer in order to keep certain matters secret in the public interest.

On 20th March, 1970, in the written answer to question No. 28477, about stopping the Government advertisements given to "Jai Hind", a Gujarati Daily, it was stated that those details were considered to be confidential.

Member Shri Manubhai Palkhiwala in his supplementary question asked whether these circulars were also sent to the judiciary or not and if so, did the Government believe it as an interference in the Judiciary?

In reply to the above supplementary question, the Minister stated that he had read only the printed answer. At that time, Member Shri Sanat Mehta by reminding the Ruling given by the Hon'ble Speaker, raised an issue that whether the old ruling was applicable to the information sought by quoting any circular and by seeking its answer in "yes" or "No"?

At that time the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"This is a very important question; such a question was raised in the Lok Sabha in another context." A Hon'ble Member insisted upon placing on the Table of the House the Report of any other Government Department saying that it was of the same Department. The Government stated that they did not want to say whether it was right or wrong. The Speaker had to uphold that position. He permitted the Members to place that document on the Table of the House. But so far a Government is concerned, Government was not compelled to hold or withhold the information. So here the position is that they don't want to disclose whether the circular has been issued or not, it is a confidential matter. It is a different matter if anybody has read the circular. Here the Hon'ble Minister declines to give any information on it and I believe he may be right in doing so."

(G.L.A. Debates, Part-1, Book -26, Column 439-440)

(11) If the Government says that it is not in the public interest to disclose certain information, one should not persistently ask for the information.

On 21st March 1963, in Sub-question (2) of the Starred Question No. 710 of the Fifteenth List of Starred Questions pertaining to the first and second level contractors, Member Shri Ramanlal Patel asked the names of the contractors and the contracting firms, who were in the black-list. The Government answered in its printed reply that there were two firms in the black list. But their names were not mentioned in the reply. During the Question Hour, the Member insisted that the Government should declare their names and requested the Hon'ble Speaker to give his ruling on whether the House has right to know the names.

Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"Such a Question was raised earlier and the same type of answer was given. The Government replies in the same way in the matters of public interest and in the confidential matters.

It need not be reiterated what has already been said in this connection. Although, the House is supreme, the Hon'ble Member would realize that Government is also enjoying certain privileges. It is for the Government to decide what matters should be placed before the House. If Government says that disclosure of certain matters is not in the public interest, the Hon'ble Member should not persistently ask for the information."

(G.L.A. Debates, Part-1, Book -7, Column 715)

(12) Minister may seek protection for not laying a Report in the public interest although he has earlier promised to lay it.

On 12th July 1967, during the question hour regarding Starred Question No. 334 pertaining to the inquiry proceeding against an Assistant Director of Department of Archaeology, Minister Shri Gordhandas Chokhawala stated that the report prepared by the Anti-Corruption Bureau was under consideration of the Government. On asking about the details of the Report, he stated that the Report would be laid on the Table of the House, if required. Thereafter, on the demand of Member Shri Chhabildas Mehta, the Question was postponed. When this Question was again taken up on 18th July 1967, on the demand of Member Shri Manoharsinhji Jadeja to disclose the details of the Report, the Minister Shri Gordhandas Chokhawala stated that it was not in the public interest to disclose the details, because the Officer, against whom the inquiry was going on, would himself get adversely affected. Thereupon, Member Shri

Manoharsinhji Jadeja raising a point of order stated that in spite of the Minister's promise to lay the report in the House, it was not fair on his part to have said that it was against the public interest to lay the Report in the House. At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"Earlier the Minister had consented to lay the Report on the Table but at that time, he did not have the Report with him. Later on, if the Government feels that by laying the Report at this stage, the interest of officer against whom the inquiry is going on is likely to be adversely affected, the Government may seek protection even today. It is fair to give protection to the Government, until the Report is tabled and, therefore, I reject the objection raised by the Hon'ble Member."

(G.L.A. Debates, Part-1, Book -18, Column 399)

(13) Member should not persistently ask questions to a Minister about the matters which are not in the public interest.

On 27th September 1979, during the question hour regarding Starred Question No. 20690 by Member Shri Chimanbhai Mehta pertaining to the final judgment by the Narmada Tribunal, Member Shri Amarsinh Chaudhary asked a supplementary Question as to how much height did Madhya Pradesh claim for the Nava Gam Dam?. Hon'ble Irrigation Minister replied that as the matter was with the Tribunal, answering the question was not in public interest. At that stage, Member Shri Vijaykumar Trivedi submitted that the Tribunal was an open court and the submission made in the open court was published in the next day's newspapers. Since the newspapers of Gujarat did not publish the complete information and the Minister had the information, he was requested to give the same. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following ruling:-

"Once the Minister says that it is not in the public interest, the Speaker does not have the right to compel the Minister. The Minister has to decide what is to be considered as in public interest and what is not. There are many rulings given in the Lok Sabha as well as in the House of Commons. As per the compilation of important rulings given by the predecessor Speakers, the Government is not bound to give reasons of not disclosing any details regarding any matter in public interest and the Government cannot be compelled to do so. If the Government says that it is not in the public interest to disclose certain information, one should not insist for that information. Notwithstanding that the Minister may have promised to lay the Report in the House earlier, he may seek protection later on for not laying the Report in the

House for the sake of public interest. The Minister can keep certain matters secret or refuse to give answer for the sake of public interest. A number of similar rulings have been given in the books "Parliamentary Practice" by Erskine May and "Practice and Procedure of Parliament" by Kaul and Shakdhar. In this situation what the Minister has said is in the interest of Gujarat and so he has a right and it is fair."

(G.L.A. Debates, Part-1, Book -65, Column 1223-1224)

(14) Government has the right to decide whether to disclose the contents of Government correspondence.

On 19th February 1970, during the question hour regarding Question No. 27208 by Member Shri Manubhai Palkhiwala pertaining to the Memorandum given to the Prime Minister by the Chief Minister, Member Shri Manoharsinhji Jadeja asked as to why the information regarding official correspondence was given to various newspapers, when the same was refused in the House?

At that time, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"That is the privilege which can be claimed by the Government but the Government can disclose the contents of their own letters. The Government may claim privilege that they would not like to disclose the contents of a particular letter. So, if the Government chooses to disclose the content of a particular letter, the Government has that right."

Thereupon, Member Shri Manoharsinhji Jadeja stated that every time they were told that it was a matter of official correspondence. So if certain things which were not disclosed before this House, how could they be disclosed before the press. Sir? Members should have a better privilege than the Press.

Thereupon, the Hon'ble Speaker gave the following ruling:-

"Exactly, in the matter of Government correspondence it is the privilege which is vested in the Government and not vested in anybody else. The Government can say that we don't want to disclose it, but if the Government chooses to disclose, then the Government can disclose it. We cannot compel the Government in either way."

(G.L.A. Debates, Part-1, Book -24, Column 12)

(15) The discussions made in the Cabinet are secret, a Member cannot ask about it.

On 15th July 1981, during the second reading of the Maritime Board Bill, as Minister of State for Ports moved an amendment in the Section - 2 of the original Bill, Member Shri Ashok Bhatt asked whether he, being a Member of the Cabinet, had presented the amendment before the Cabinet? Thereupon, the Hon'ble Speaker (Shri Natwarlal Shah) gave the following ruling:-

"It is a Cabinet discussion. You cannot ask about that, Cabinet discussions are supposed to be secret, I do not allow it."

(G.L.A. Debates, Part-2, Book -74, Column 577)

(16) 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 (Shri Shahikant Lakhani) 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 Members also should not insist on the action taken on this by the Minister. Such an internal note should not be made public.”

(G.L.A. Debates, Book -55, Column 257 to 259)

3. Criticism on right to ask question/motive/intention:-

(A) As Chairman of a Corporation, a Member cannot disclose the content of the confidential correspondence made with the Government in the House, but can ask a question about matters relating to administration in public interest.

On 18th July 1967, during the question hour regarding Starred Question No. 924 pertaining to increase in S.T. Bus fares, when Member Shri Vadilal Mehta, the Ex-Chairman of the S.T. Corporation, was asking a supplementary question, Member Shri Prabhulal Dave raised a Point of Order saying that could Shri Vadilal Mehta, as a Member of Legislative Assembly now in the House, utilize the confidential correspondence made with the Government earlier in his capacity as Chairman of the State Transport Corporation?

The Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:

"As an Ex-Chairman of the State Road Transport Corporation any secret matter cannot be disclosed. But, if any matter related to public interest is asked in the House, it does not compromise the Government's secrecy."

(G.L.A. Debates, Part-1, Book-18, Column 425)

(B) The purpose of asking a question should be to elicit information from the Government, not to change the Government policy.

On 24th February 1970, during the Question Hour after many supplementary questions were asked on Question No. 27727 pertaining to the land given to the Vice President of Banaskantha District Congress Committee from Gauchar, when the Hon'ble Speaker asked to take up another question, Member Shri Sanat Mehta requested to allow supplementary questions pertaining to a policy, the Hon'ble Speaker (Shri Raghavaji Leuva) stated as follows:-

"I don't mind if the House decides to introduce not more than five questions, even if a whole hour is consumed for one question. But if we only decide that every Hon'ble Member himself can ask three questions every day and if majority of Hon'ble Members among them do not have a chance to ask a single question, in that case we should ask a question to ourselves that whether we are doing injustice to those Members. Therefore, if I want to serve this House, I should also take care of other Members. Many supplementary questions have been asked on this Question."

Thereafter, Shri H.M. Patel stated that the difficulty of the Opposition Members was that the Hon'ble Ministers always did not try to understand and give satisfactory answers to the Questions asked by the Opposition Members. In this case, the issue has been really emphasized about the specific policy of the Government and whether there was any scope for a change therein? But the Minister did not state what the Policy was.

Thereupon, the Hon'ble Speaker gave the Following ruling:-

"I appreciate the Hon'ble Members' difficulty. Let us understand the scope of questions. The scope of the questions cannot be extended to any extent of calling upon the Government to State or revise their policy. The scope of the question is to elicit information from the Government. The Government may say that this is our present policy. For changing or getting it amended, the House has different ways of doing things. But, if we were to say that Question Hour is also a weapon whereby we can change the policy of the Government, then I am afraid the question hour would be converted into an hour of debate, and question hour should never be allowed to be converted into an hour of debate. We must restrict to this extent that Question Hour is a Question Hour where information is asked and information is given. If the Members are not sufficiently satisfied, we have certain other provisions in the rules like Rule 92, whereby discussion can take place for half-an-hour once in a week if the House so desires, that can also be considered. But, let us not encroach upon the time of the Members, whose questions are following this question. My worry is just that. Every time, we are trying to reach as many questions as we can and to the great satisfaction of this House. In the entire country of India, probably our House is able to cover a good number of questions although these are not satisfactory as we would like. There are other places where so many questions are not being taken. Therefore, my anxiety is that we can do even better. I would not prevent Members from putting questions. For instance, yesterday, we had taken up the oil policy. We took it for a long time. Then I have received a notice under Rule 92 and I have also admitted that notice, because it is an issue which requires consideration and the House is entitled to have it fully threshed out if the rules permit. I would not come in the way of Members but shall we not be just and fair to the Members whose questions are following? That is my question. My worry is only that. My worry is not beyond that."

(G.L.A. Debates, Part-1, Book -24, Column 503-505)

(C) A question about amending an Act cannot be asked during the question Hour, information can only be elicited.

On 15th November 1972, in reply to Starred Question No. 3462 asked by Member Shri Narsinh Makwana pertaining to giving a priority of irrigation facility to the farmers having less land, Minister of Irrigation stated that water for irrigation is provided as per the Mumbai Irrigation Act, 1879 and the provisions of Gujarat Public Rules framed there-under. Thereupon, Member Shri Harisinh Gohil asked whether the Government would try to amend the Mumbai Irrigation Act, 1879 as it was very impractical, clumsy and troublesome for the farmers.

Then the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"A question for making amendment in any Act cannot be asked during the question Hour. Only information is sought during the question hour; there are many other ways to make amendment in the Act."

(G.L.A. Debates, Part-1, Book-37, Column 330)

(D) The intention of asking questions cannot be criticized

On Tuesday, 24th February 2009, during the discussion on motion for vote of Thanks on the Governor's Address, Member Shri Manibhai Patel while expressing his views stated that as per the question answer booklet 33 Members asked the same question on issuance of soil health cards to farmers for their benefits after testing their soil. Thereupon, the Minister for Water Supply Shri Nitinbhai Patel raised a Point of Order stating that no comments could be made with regard to the intention of Hon'ble the Speaker for admitting those questions. While accepting the point of Order of Shri Nitinbhai Patel Hon'ble Speaker (Shri Ashok Bhatt) gave his ruling as under:

"33 Members might have asked the same question as it is their right. To criticize the intention of admitting all those questions amounts to contempt of the House. Hence it is improper to criticize the Member's right to ask the question."

(G.L.A. Debates, Book-140:2009)

(E) Inability of a Member to present his Question once the Speaker calls out the question cannot be said to be breach of right of a Member to ask a question.

On 18th March, 2015, after the Question Hour, Hon'ble Member Shri Pareshbhai Dhanani raised a point of order and stated that when the Hon'ble Speaker had called out the name of In-charge Member Shri Babubhai Vaja for asking his question at priority No.2, he was not able to present his question though he stood up and tried to do so, due to disorder in the House and Switch off of the microphone. Thereby, the Member was deprived of his right to ask his question and hence Shri Dhanani sought protection from the Hon'ble Speaker.

Thereupon, Hon'ble Minister of Parliamentary Affairs Shri Bhupendrasinh Chudasma while expressing his opinion stated that in spite of the established rules as to how a Member should behave during question hour, the Opposition Members were staging demonstrations in violation of those rules and hence the Member could not present his question though the Hon'ble Speaker gave the Member ample opportunities and, therefore, the point of order raised by Shri Dhanani should be rejected.

Hon'ble Minister of State for Law Shri Pradeepsinh Jadeja also while expressing his opinion informed that in spite of giving ample opportunities to the Member by the Hon'ble Speaker by calling out his name thrice, Member Shri Vaja did not present his question and hence the point of order raised was out of order. Thereupon, Hon'ble Whip of Opposition Shri Balvantsinh Rajput expressed his opinion in support of the point of order that though Shri Vaja had stood up to present his question, he could not do so as his microphone was not switched on and that he must be permitted to ask his question because of his new Membership in the House. Thereupon Hon'ble Speaker (Shri Ganpatsinh Vasava) had informed that he would give his ruling after scrutinizing the entire matter.

On 20th March, 2015, Hon'ble Speaker (Shri Ganpatsinh Vasava) while giving his ruling stated that after going through the relevant verbatim proceedings and the video footage of proceeding of the House minutely, he had come to a conclusion that in between when the Opposition Members were standing from their seats and shouting slogans and making uproar constantly in the House in connection with the Question at priority No.1 and he was requesting all the Members of the Opposition to take their seats and let the House to run the question hour, he had given ample opportunities to the Hon'ble Member Shri Babubhai Vaja to ask his question by calling out his

name thrice. However, their turmoil continued, which was not at all proper according to the established practice of the House. Hon'ble Speaker also observed that amid constant slogan shouting when he had called out the question by the name of Hon'ble Member for the first time, the sensor light of his microphone was switched on for 31 seconds, the second time for 17 seconds and third time for 5 seconds and hence the allegation of non-working of the microphone was far from truth. Hon'ble Speaker had expressed his grief over the deprivation of the right of a newly elected Member to ask a question by his own party Members in spite of his presence in the House. Hon'ble Speaker, therefore, by rejecting the point of order raised by Hon'ble Member Shri Pareshbhai Dhanani, ruled that it was proved beyond doubt by the video footage that despite giving three chances to the Hon'ble Member Shri Babubhai Vaja by calling out his name, the Member did not present his question in the House.

(G.L.A. Debates, Book-23:2015, Volume -4)

4. Transfer of a question sent to the Department:-

The Government has a right to transfer a question.

On 4th February 1969 during the question hour regarding Starred Question No. 14961 asked by Member Shri Manubhai Palkhiwala pertaining to the Narmada Project, Shri Palkhiwala raised a Point of Order that notwithstanding the fact that the Hon'ble Speaker had a right to determine as to which Minister give the answer to a question, could the Government decide to transfer a question, which was asked to the Chief Minister, to the Minister for the Public Works Department?

The Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

Even after a Member addresses a Question to a Minister, whom he thinks fit for it and the Speaker of the Legislative Assembly admits it in the name of a Minister, whom he thinks fit for it, the Government has a right to transfer the question to the appropriate and concerned department. Since the Chief Minister was involved in the consideration, the question was asked in his name. As the question was in the name of the Chief Minister, the same was forwarded to him. The Chief Minister has to decide whether he has to answer the question or to transfer it to the Minister of the concerned department. In the House of Commons also, a question gets transferred at the Government level and they inform the office of the Speaker about the transfer of question to the concerned department. The Speaker's Secretariat does not have a final right to

select the Minister to give the answer. This right rest with the Government, because it is the Government which has to bear the responsibility of all the shocks and repercussions caused on the Government's reputation from the answers to the questions. Therefore, after the question is sent to the Government, if it feels that the question belongs to the department "X" instead of the department "Y", it has a full right to transfer the question to that particular department although apparently it seems that the question belongs to another Department and this right has always been enjoyed by the Government and I have to come to the conclusion that the Government will enjoy it."

(G.L.A. Debates, Part-1, Book-21, Part-A, Column 11-12)

5. Publication of the answer to a question:-

(A) Regarding non-disclosure of the details of the outstanding amount from the MLAs for their stay in the Rest House at Ahmedabad as there is a scope for explanation.

On 9th March 1976, during the question hour relating to Starred Question No. 3653 asked by Member Shri Bhavsinhji Zala pertaining to the outstanding amount from the MLAs for their stay in the Rest House at Ahmedabad, some Members stated that they had paid the outstanding amount but had not received the receipt for the same. Looking to the sentiments of the MLAs, Hon'ble Speaker stated that he would discuss the matter with the Hon'ble Chief Minister and the Hon'ble Leader of opposition Shri Madhavsinhbhai. At that stage Shri Madhavsinhbhai Solanki requesting the Hon'ble Speaker stated that the details presented were causing injustice and that as per the rule of the House, when a Member had a right to give a personal explanation and delve more into the matter, it was not appropriate to disclose the information where, there was no scope for an explanation and, therefore, he requested the Hon'ble Speaker to give an instruction not to disclose the details of the question.

Thereupon, Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following ruling:-

"I accept the request of Hon'ble Shri Madhavsinhbhai and the details of this question will not be disclosed."

(G.L.A. Debates, Part-1, Book -50, Column 1214-1215)

(B) The answers to the questions postponed by the Speaker due to absence of the Minister, cannot be made public until the answers thereof are given.

On 30th June 1977, during the question hour, due to absence of the Revenue Minister as certain questions of his Department were decided to be postponed and to be taken up in his turn on Thursday in the subsequent week, Member Shri Pratap Shah, by giving reference of the list of questions provided in the House, requested the Hon'ble Speaker to give a ruling that the questions and their answers should not be published in the newspapers.

Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the ruling that the list of questions presented in the House would not be published in the newspapers along with their answers.

(G.L.A. Debates, Part-1, Book -52, Column 61)

6. List of Questions:-

(A) Priority of question is decided by the ballot.

On 4th February, 1969, at the commencement of the question hour the Hon'ble Speaker called out for Question No. 1500 as also the name of Hon'ble Member Shri Madhubhai Desai. Thereafter, Member Shri Manoharsinhji Jadeja raising a Point of Order against the order of arranging questions in the list of the Starred Questions stated that the order in which the questions were received by the Legislature Secretariat was changed instead of arranging them in the order of the day they were received by it. Therefore, the questions received earlier could not get the answers earlier. By drawing the attention to the practice in the Lok Sabha, he further stated that as per the practice in the Lok Sabha, the questions used to be arranged in the order of the day, according to the receipt of notices by the Secretariat. In this respect he also draw the attention towards the following paragraph of page No.359 of the Book "Practice and Procedure" by Kaul and Shakhdar:-

"Admitted questions in the list of questions for written answers are arranged according to the time of receipt of the notice in the Secretariat."

The Hon'ble Speaker (Shri Raghavji Leuva) postponed his decision on that day. On 6th February, 1969, at the commencement of the question hour, the Hon'ble Speaker gave his ruling as under: "When Hon'ble Member was complaining about the list of the starred question, he cited the example of the list of unstarred questions in his support and, therefore, it seems that he had some misunderstanding.

If we read carefully the information given on the page no. 358 and 359 of the aforesaid book, we can understand that we have adopted the same practice for the starred question as adopted by the Lok Sabha.

It is necessary to clarify about the starred questions and therefore, I would like to present some principles before Hon'ble the Members.

The notices of starred questions have to be received by the Secretariat not before more than 28 days and not later than 21 days. Therefore, it can be said that all the notices received up to the notices for the 21st day have come in time. If we give importance to the notice received on 28th day, then the rule for the 21st day would be meaningless. Because even after sending the notice in time, a Member has to stay behind for the answer. In order to avoid this situation, the priority should be decided with the help of ballot. Now, through the ballot, the priorities of Members who are asking questions are to be decided and not the priorities of the questions, because the three rounds of questions are to be arranged keeping in view the Members and, therefore, it is justifiable only if priorities are decided by arranging a Ballot among the Members, whose questions are received by the 21st day since a method should be formulated in such a way that an equal opportunity is given to all the Members, who have given notices within the time-limit. I have sought the detailed information of the method in which the ballot is conducted in the Lok Sabha and gone through it and found that the same method adopted by us is in force there. But for the sake of conflict even if we assume that there is another method, the method we have adopted gives opportunity to all the Members as per the standards of justice. Therefore, I do not consider it appropriate to arrange the order of questions, the way Hon'ble Member suggests and, therefore, this method has been implemented after careful consideration. I hope that Hon'ble Members will have no reason to complain.

At the same time, let me draw your attention to another matter of logic. Hon'ble the Member has raised this issue as a Point of Order. Actually looking at the functions of the Secretariat being carried out as per the order of the Speaker are concerned, a point of seeking information, guidance or explanation may be raised and not a Point of Order. Therefore, I have given this ruling considering this was an attempt to seek information or guidance, and not a Point of Order."

(G.L.A. Debates, Part-1, Book -21, Part-A, Column 572-574)

(B) Printing of number of statements along with Starred questions and their Answers.

On 3rd July 2009, after the Question Hour, Member of the Opposition Shri Arjunbhai Modhvadiya raised a Point of Order stating that they were being deprived of the information which was very important for asking supplementary questions by printing a note in the printed book of questions that certain statements / annexures were available in the Office of the Secretary. He also stated that non-availability of original information in the book caused problems in asking supplementary questions and it was also difficult to obtain certain statements from Secretary's office. Therefore, it would be convenient for the Members if the statements are printed in the book itself or printed separately and distributed among the Members if the information is in detail.

After hearing the views of the Leader of Opposition, the Hon'ble Speaker (Shri Ashok Bhatt) while giving his ruling observed that:

"It has been our practice to discuss the matters relating to the Legislature Secretariat in the Chamber of the Speaker. Such matters do not relate to the Ministers and, therefore, the same cannot be discussed here in the House. However, while I take care of the same, I would like to inform that the Question Hour in the Assembly is very important for the House and the entire Parliamentary democracy. Therefore, when we are taking the Question Hour very seriously, all the Members are eager to have answers to their questions, especially supplementary questions. If the information relating to such questions is too detailed, the question is changed from starred to unstarred with a request from the Minister. As per the directives, it is laid down that the statements or annexures up to one page for starred questions and four pages for unstarred questions are printed along with the answers in the list of questions. The information more than that is not printed but it is being kept in the Office of the Secretary. But now If the question is having details of more than four pages, it is converted from starred to unstarred on a request from the Minister. Effort of giving answer containing extensively lengthy information even by taking the decision of keeping statements in the office of the Secretary is made so as to avoid conversion of a starred question into an unstarred one. As the statements / annexures are being printed in the list of questions according to the prevailing practice, the issue of Point of Order does not stand."

(G.L.A. Debates, Book-142:2009)

7. Speaker's right in conducting the Question Hour:-

(A) It is not the function of the Speaker to decide whether the answer is in order or not.

On 24th November, 1970, as the Members were not satisfied with the replies given by the Education Minister Shri Chokhawala to the supplementary questions asked by the different Members on the short notice question of Member Shri Manubhai Palkhiwala, pertaining to the termination of teachers of the D.J. Vaghela High School in village Koth of the Dholka District, Member Shri Sanat Mehta expressing his dissatisfaction stated that as the Members kept on asking the questions and the Ministers kept on giving evasive answers and as a result, passing the time unnecessarily and the Members did not get the time to ask further questions. Thereupon Minister Shri Chokhawala stated that Hon'ble the Member had alleged that the Hon'ble Speaker was allowing such evasive answers to the questions. Therefore, it was upto the Hon'ble Speaker to give his decision in the matter. Thereupon, The Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"Let me explain that my Primary duty is only to see whether a supplementary question has arisen from the original question or not. If a supplementary question is in order, it is not my function to decide whether the Minister's reply is in order or not. The House may take a decision on it."

(G.L.A. Debates, Part-1, Book-28, Column 822-823)

(B) Allowing a Member to ask a supplementary question does not depend upon the number of times he has risen.

On 24th November 1965 during the question hour, Hon'ble Member Shri Chhabildas Mehta complained to the Hon'ble Speaker for not giving him an opportunity to ask a supplementary question and that even though the original question was belonging to him and even after rising eight times, the Hon'ble Speaker did not call him again at all.

Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"Too many questions have been taken up. Calling out a Hon'ble Member does not depend upon the number of times he has risen."

(G.L.A. Debates, Part-1, Book -14, Column 456)

(C) Members belonging to the constituency for which the question is asked should be given priority to ask a supplementary question.

On 15th March 1970, during the Question Hour, after asking supplementary questions by some Members on Question No. 28603, Member Shri Martandrai Shastri raised a question as to whether there was any norm for giving an opportunity to a Member to ask a supplementary question.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"I would certainly clarify that position. There are certain questions which pertain to certain regions in which Members can have a special interest and those Members must necessarily get a better priority and better chance to put the questions. Because the questions pertain to their constituency and in that matter, the questions are preferably allowed to Members who are interested or must be deemed to be interested more in those questions."

(G.L.A. Debates, Part-1, Book -25, Column -533)

(D) There is no curtailment on rights of other Members in the practice of giving priority to Members of the concerned district for asking supplementary questions.

On 25th March, 2008, Hon'ble the Member Shri Ramsinh Parmar wanted to ask a supplementary question on Starred Question No. 1876 regarding "Allotment of 25 square meter plot in Umreth Town." But he didn't get a chance to do so. Therefore, he raised a Point of Order seeking the guidance of the Speaker and stated that it was a practice that on a question relating to a particular District, no Member other than the Member from the concerned District could ask a supplementary question which amounted to curtailment on the right of other Member of the Assembly as he is not only the representative of a particular area but also the entire State.

At that stage, Hon'ble the leader of the opposition Shri Shaktisinhji Gohil expressed his opinion.

On that point of order Hon'ble the Speaker (Shri Ashok Bhatt) had stated as under:

"There was a practice earlier that only the MLA of concerned District could ask a Question. This practice was followed strictly. The object behind this practice is that MLAs from the concerned District has more information and knowledge about his District while the other Members might not have enough details. Secondly, each MLA wants that his question gets discussed

during the time limit of one hour and actually it is a right of every Member and he or she desires that the question asked by him or her gets discussed in the House. Thus, my decision has proven to be beneficial for the House and has been successful for bringing maximum number of questions into the discussion and also for enabling maximum Members to ask questions. It is my responsibility to see how the question asked by a particular Member gets discussed; therefore it is also my responsibility to provide protection to a Member's right to ask a question. Therefore, I don't want to curtail the right of the MLA. But the practice of giving priority of asking supplementary questions to MLAs of that District only is appropriate."

(G.L.A. Debates, Book-137:2008)

8. Personal pecuniary interest of a Member in asking questions:

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

On 7th August 2001, during the question hour 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 hour, the Minister for Small and Medium Irrigation Shri Nitinbhai Patel raised a point of Order and sought guidance of the speaker as to whether a Member can ask questions on his personal gain or loss instead of asking questions 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 went on saying these details and for that he has raised a Point of Order. When any Member is associated with any business or occupation, it is not proper to insist for answer or try to get answer during the discussion in the House. I allow the Point of Order. It is to be kept in mind that it does not happen in future".

(G.L.A. Debates, Book -77, Vol. III, Pages 475 - 479, 586-588)

(B) A Member should refrain from asking question on matters in which he has personal interest.

On 28th February, 2005, during the question hour, the Education Minister, while giving reply to a supplementary question of a Member Shri

Kuvarji Bavalia, who had asked the original question No.9852 pertaining to giving sanction to B.Ed. & PTC colleges, had cast aspersions on the Member to the effect that the Member had some personal interest in the question and therefore, he had asked such a question. At this juncture, the other Member of the Opposition Smt. Chandrikaben chudasama raised a point of order for expunction of those derogatory utterances made by the Education Minister. The Leader of Opposition, while expressing his views on the matter, raised a separate point of order as to the intervention of the Chief Minister on question no.8262 of Member Shri Punjabhai Vansh pertaining to sales tax revenue on cooking gas cylinder during the question hour. The Leader of Opposition had submitted in his point of order that the Chief Minister while intervening the question of sales tax on revenue on cooking gas cylinders, had furnished irrelevant information to the House and thereby, the information furnished by the Chief Minister was misleading and not in consonance with the rules and traditions. After hearing both the sides, the Hon'ble Speaker postponed his decision.

Thereafter, on 10th March, 2005, (second sitting) the Hon'ble Speaker (Prof. Mangalbhai Patel) gave his following decision. "I advised all the Members of the House that they should refrain from asking such questions on the floor of the House in which they have some peculiar interest since the well Established parliamentary practice and traditions demand that the elected representative should have paramount public interest while representing the citizens on the floor of the Legislature. If in any matter, they have some sort of personal interest, they should always disclose it before the House while participating in the discussions. Observance of this highest standard of ethics on the floor of the Legislature is the pre-requisite for the elected representative in a parliamentary democracy. My predecessor speaker had also ruled that the Member associated with any business or occupation could not ask question for his personal interest in that business. Besides this when the All India high level conference of Presiding Officers held at New Delhi in 2001 also decided unanimously to refrain from asking questions by Members involving their personal interest. I hope, in future the Members should always bear this principle in their mind while asking questions on the floor of the House. I their for order for expunction of those derogatory utterances by the Education Minister from the proceedings of the House.

Secondly, I have gone through the proceeding pertaining to question No. 8262 regarding point of order raised by leader of opposition while asking supplementary question on original question of sales tax on cooking gas cylinder. Accordingly, Member Smt. chandrikaben chudasama has asked about

the relief being provided to the women by granting special subsidy and after the finance Minister's reply, Hon'ble Chief Minister with a view to providing more information to the house stated that there will not be any problem of providing gas cylinder to the women in near future by supplying gas through pipeline. I have allowed the supplementary questions of both the Members by extending the scope of original question because I felt that the additional information provided by the Chief Minister was in consonance with the supplementary questions raised by Members Smt. Chudasma and Shri Govabhai Rabari.

While I over rule the subsequent point of order raised by the Leader of Opposition, I rule that the Chief Minister, being the Head of the Council of Ministers or Head of the Government, has every right to intervene on any matter including the questions on the floor of the Legislature. So far as, the relevancy of the reply given by the Chief Minister on the question of sales tax on cooking gas cylinders, I also ruled that the supplementary question raised by the Member was not flowing from the original question since as per the rules of the procedure, a supplementary question must be within the ambit of the original question. As the supplementary question was not within the ambit of the original question, the reply tendered by the Chief Minister cannot be called irrelevant or misleading. Moreover, I hereby advise all the Members of the House that the point of order raised by the Leader of the Opposition was not in consonance with the rules of procedure of the House because there cannot be any new point of order during a point of order. I therefore bring to the notice of the House, the provision of Rule 47 of the Rules of Procedure of the Gujarat Legislative Assembly and I hope that in future during the discussion on a point of order, a new point of order cannot be raised by the Members."

(G.L.A. Debates, Book-110 & 113:2005)

9. Absence of In-charge Member/Minister:-

(1) It is up to a Minister to decide whether to answer the question belonging to an absent Member.

On 5th October 1961, as the Member, who had given the notice for the starred question No. 1014 was absent, Member Shri Jashvant Mehta requested to allow him to ask the same question. Thereupon, The Hon'ble Speaker gave his ruling that Hon'ble the Minister would give the answer. At that time, Member Shri Lallubhai Patel stated that if Hon'ble Minister agreed that the question was important and he was willing to give the answer, then only he would give the answer. At that point, Member Shri Nagindas Gandhi raised a Point of Order that whether Member Shri Lallubhai could take an objection

once the Hon'ble Speaker ruled that the Minister would give answer? Thereupon, Hon'ble Speaker (Shri Mansinhji Rana) gave the following ruling citing the Rule No. 86 of the Gujarat Legislative Assembly Rules:-

"The Member is absent now and in his absence, the Minister may state that whether he would like to answer the question? After that the other Members can ask questions."

(G.L.A. Debates, Part-1, Book -3, Column -163)

(2) Right to ask question of absent Member cannot be transferred 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 (Shri Natvarlal Shah) heard the Member Shri Ashok Bhatt and the health minister Shri Vallabhbai 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.”

(G.L.A. Debates, Book -3, Vol- II, Column 409)

(3) Right to ask question of absent Member cannot be transferred to other Member

On 20th July, 2009, during the question hour, when some Members expressed their desire to ask questions of the absentee Members in the House, the Hon'ble Speaker (Shri Ashok Bhatt) made the following observation:

"Some Members expressed their desire to ask questions of the absentee Members in the House but they are not given the permission because it may encourage the tendency of remaining absent in the House. Secondly, here, in Gujarat, it is important that the Member, who has asked the question himself, should get the answer to the question. If the proxy system is allowed, it does not seem proper that another Member asks a question on behalf of the absent Member, and it is not also proper in the democracy. Normally, the Question Hour is considered to be a paradise for the Members; it is considered to be the liveliest period of the parliamentary democracy and when we are considering it as lively time, it is not important as to which party the Member belongs. When

he has asked a question for his constituency as an elected representative and is very keen to get the answer, he should also be keen in listening to the answer to his question himself. If the Member who has asked a question remains absent, it becomes wastage of public money as the State Government has to spend a big amount of money to answer a question. It is difficult to assess this amount. The procedure of answering one question in Lok Sabha requires an expenditure of lakhs of rupees which may be in thousands in the State because the information required for preparing an answer to one question is obtained from District, Taluka and village levels. As per the Rule, the time of 21 days is given for getting the answer to a starred question and because of the Rules of the Legislative Assembly, we insist on submission of the answer before the Assembly within the time limit. Thus it is necessary for a Member who has asked the question by being present in the House to show his respect towards the effort put in by the Ministry for preparing the answer. It is also a part of his moral duty and, therefore, it is a vital aspect of our rules and traditions of a democracy. It is, therefore, not desirable and proper for a Member to remain absent from the House after asking the question. Therefore, all the Members are requested to remain present in the House at the time of taking up of their question and get their answer. I will not encourage the tendency of asking question through a proxy Member which is not justifiable in the Parliamentary Democracy.”

(G.L.A. Debates, Book- 145: 2009)

(4) With the consent of the concerned Minister and the permission of the Hon'ble Speaker any other Member can ask the question in the absence of the Member In-charge of the question and the Minister concerned can give the answer.

On 5th March 2008, at the time of Question Hour, when the Member Shri Pradipsinh Jadeja requested Hon'ble the Speaker to allow him to ask a question to the Minister on behalf of Member-in-Charge of the Question on Priority No. 14 of Shri Bharatbhai Barot, who was absent from the House, Hon'ble the Speaker asked the Member Shri Jadeja whether he was given the consent by the concerned Minister to ask such a question. In this regard the Member Shri Arjunbhai Modhvadia took an objection and the Leader of the Opposition also supported him.

Keeping in view the provision of Rule-86 regarding answering the question by the Minister in public interest in the event of absence of Member-in-charge of the question, the Hon'ble Speaker (Shri Ashok Bhatt) observed that "the Member who desires to ask such question in the public interest and

the Minister concerned should take the prior permission of the Speaker before the Question Hour and after getting the permission, they should inform that they have been given the permission." The Hon'ble Speaker further stated, "we should adopt the same method for question as has been adopted for the Zero Hour." "

(G.L.A. Debates, Book- 133: 2008)

(5) In the absence of a Member Incharge of a question, the concerned Minister can answer the question only with the permission of the Speaker. Rule 86 of the Gujarat Legislative Assembly Rules confers this right upon the Minister in public interest.

On 17th March 2015, during the Sixth Session of the Thirteenth Gujarat Legislative Assembly after the question hour, Member Shri Shaktisinh Gohil raised a point of order by quoting Rule 86 of the Gujarat Legislative Assembly Rules that his request for answering the question at priority No.8 by the concerned Minister in the absence of the Incharge Member in public interest was not accepted. He also informed that in past on several occasions, questions of absentee Members were answered in public interest and hence he sought the guidance of the Hon'ble Speaker in this respect.

Thereupon, Hon'ble Minister of Parliamentary and Legislative Affairs Shri Bhupendrasinh Chudasma, interpreting the Rule 86 informed that as per the provision of the said Rule, only the Minister concerned could seek permission from the Hon'ble Speaker to answer the question of the absentee Member in public interest and the Hon'ble Speaker, if allows him to do so then only the concerned Minister could answer the question in public interest. Expressing his views against the point of order, he added that there was no proxy system in the Gujarat Legislative Assembly. Hon'ble Minister of State for Law Shri Pradeepsinh Jadeja also expressed his opinion against the point of order stating that though the Hon'ble Speaker did not give permission to answer the question, it was not fair on the part of the Member Shri Gohil to repeatedly asking some questions to pressurize the Hon'ble Speaker. Thereupon, Hon'ble Speaker informed that he would give his ruling after going through all the aspects of the matter.

On 18th March 2015, Hon'ble Speaker (Shri Ganpatsinh Vasava) after going through the rulings of his predecessors and watching the video footage of the relevant proceedings, ruled that the aggressive and argumentative way in which Shri Gohil had made his demand by raising questions such as "Whether Hon'ble Minister concerned would like to answer the Question in the absence of the Incharge Member of the said question?" and "You ask the Minister as to

whether he wanted to answer the said question in public interest?", was evident from his body language and the same amounted to derogation to the dignity of the Chair. Hon'ble Speaker also observed that Shri Gohil's demand was not in accordance with the provision of Rule 86 and expressed his strong displeasure and warned him that in future if Shri Gohil would try to keep on giving any direction to the Chair as to how to conduct the House, he would be compelled to take punitive actions against him.

Moreover, Hon'ble Speaker warned those Members, who ask the questions and then remain absent from the House that it was not in line with the sound parliamentary practice and traditions to ask the questions and then remain absent. Hon'ble Speaker also stated that huge amount of money and hundreds of man hours were involved in the question-answer process and, therefore, those who ask the questions should remain present when the questions would come up in the House.

(G.L.A. Debates, Book- 23: 2015, Volume -3)

(6) Questions postponed due to absence of a Minister may also be taken up on a convenient day extending the Question Hour by half an hour.

On 30th June 1977, the Hon'ble Speaker announced in the House that with the consents of the Whips of both the Parties, some questions of the Revenue Department had been postponed due to the absence of the Minister of the Revenue Department.

At that time, Shri Sanat Mehta requested the Hon'ble Speaker to clarify as to what would happen to the above mentioned questions and when would they be presented in the House for question hour.

After listening to some Members on the above matter and interpreting Rule 87(b) of the Gujarat Legislative Assembly Rules, the Hon'ble Speaker (Shri Kundanlal Dholakiya) ruled that "the round of Hon'ble the Minister of Revenue Department would come on the next Thursday. Therefore, on that day the postponed questions would be taken up by extending the Question Hour by half an hour."

(G.L.A. Debates, Part-1, Book -427, Column 747-760)

10. Correction in the answer to the question:-

(1) Minister has a right to correct his earlier reply if it is not correct.

On 2nd December 1969, during the question hour regarding question no. 25984 pertaining to utilizing the sum of Panchayat for a private well in the village Dahegam Dol (Valod), a Member asked about the answer to a supplementary question as to whether he should consider the answer given earlier to be correct or the answer given now to be correct?

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"The Hon'ble Minister is entitled to correct his reply if he has given a reply which is not correct earlier. His present reply should be taken as correct."

(G.L.A. Debates, Part-1, Book -23, Column 829)

(2) If the printed reply is to be rectified, the Minister should do so at the outset.

On 16th February 1965, during the question hour regarding Starred question no. 7521 of Member Shri Manoharsinhji Jadeja pertaining to outstanding recovery of land revenue in ten districts excluding seven districts of the Rajkot Division, as Deputy Minister corrected the printed answer after replying the supplementary questions, Member Shri Babubhai Vaidya submitted that the Minister should have made the correction in the answer at the outset.

The Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"I do agree that Hon'ble Minister should have done it before supplementaries are put. The Minister may keep this fact in mind."

(G.L.A. Debates, Part-1, Book -12, Column 31)

(3) Even if the Minister has corrected his mistake in the printed reply at any stage, the House should accept it.

On 12th September 1968, during the question hour regarding starred question no. 9357 of Member Shri Kerar Bhagvan Dodiya pertaining to distribution of gram seeds in the District of Veraval, the Deputy Minister Shri Madhavlal Shah, instead of correcting the answer stated that "the reply as printed". He also stated that the correction was left to be done in the printed answer when Shri Dodiya asked a supplementary question on it. Thereupon,

Member Shri Sanat Mehta raised a Point of Order as to whether the Minister could make a correction in the answer after the question and its answer (printed) was presented.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"Any Member is entitled to correct any fact at any time after presentation of the fact and the Members include the Ministers too when the Minister has corrected his mistake, even if at whatever stage the correction has been made, the same should be accepted by the House."

(G.L.A. Debates, Part-1, Book -20, Column 1921-22)

(4) If the answer is not proper, it should be corrected before commencement of proceedings in the House.

On 6th July 1962, during the question hour regarding Starred Question no. 69 of Member Shri Uttambhai Patel, pertaining to Agriculture Experimental Centers in the State, after replying some supplementary questions, the Minister made a correction in the printed answer. Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"If the answers to the questions are not given properly, the attention of the Members of the House should be drawn before commencement of the proceedings of the House. After commencement of the proceedings, it is not at all proper to say that the answers given by the Departments were not proper. Therefore, I draw the attention of the Minister so that such a mistake is not made in the future."

(G.L.A. Debates, Part-1, Book -6, Column 122)

11. Answers to the original questions:-

(1) The answers should be in brief and precise.

(A) Minister should give brief and precise answers.

On 11th September 1963, during the question hour regarding starred question no. 4061 of Member Shri Bhanjibhai Patel pertaining to taking over the route of the private bus companies by the S.T. in Jamnagar District, Member Shri Narandas Popat asked a supplementary question as to whether S.T. had made any demand to handle the Jamnagar-Kalavad route? As Deputy Minister of Transport Department, Shri Manubhai Patel gave a lengthy reply, instead of giving the answer to that question in "yes" or "no", the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"The Hon'ble Minister Shri, I have requested so many times that if answers to the questions are given in brief and precise, the time of the House can be saved. The question asked was whether the permission was sought or not, The answer should have been given as "did not seek".

(G.L.A. Debates, Part-1, Book-8, Column 309)

On 31st March 1964, during the question hour regarding starred question No. 6957 of Member Shri Jadavji Morabiya pertaining to selling the stock of grass of Kutch district as manure, as the Deputy Minister of Agriculture Department gave very lengthy answers to the supplementary questions, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"The Principle of brevity is also applicable to the Hon'ble Ministers"

(G.L.A. Debates, Part-1, Book -10, Column 708)

(b) Starred questions and their answers must be short.

On Tuesday, 24th February, 2009 after the question hour, Opposition Member Shri Arjunbhai Modhvadiya raised a Point of Order seeking guidance from the Hon'ble the Speaker with regard to giving brief and precise answers by the Ministers stating that eventhough the questions on priority No. 1 & 4 and 3 & 5 of that day's question hour respectively were regarding an MOU in the Agriculture Sector and issuing soil health cards to the farmers and of the same nature, the ministers concerned took a long time to answer those questions and as a result only six questions could be discussed during the question hour.

On the aforesaid matter Hon'ble the Speaker (Shri Ashok Bhatt) gave his ruling as under:- "On the questions on MOU in the Agriculture Sector, more than seven Members and on the questions of issuing soil health cards to the farmers 12 Members from both the sides asked supplementaries, which has taken more time and as a result only 3 questions had taken long time. Had those questions asked by the Member were precise, brief and pinpointed, the minister would not have to give lengthy answers. To save the time, the Members are requested to ask their question and supplementary to the point, brief and precise so that the minister can give the answers in brief. However, if the Members seek detailed answers, the minister concerned is compelled to give detailed answers and as a result only few questions could be discussed during the Question Hour.

In order to discuss more questions, at the beginning of the 12th Assembly, two methods have been adopted; (1) To facilitate the participation of more Members of a District to which the question relates, the Members belonging to that particular District are allowed to ask supplementary and (2) The Members are expected to ask supplementary questions without forming the background.

It is not important as to who has asked the question but it is important as to whether the question asked is of brief or precise, then of course, the situation such as in the present case would not arise. We should aim at including more questions in the discussions instead of classifying and evaluating each and every question. This is possible only if the question and its supplementary asked by the Members are short and the answers given by the ministers are also short."

(G.L.A. Debates, Book- 140: 2009)

(C) Starred questions and their answers must be short.

On 19th March, 2010, after the question hour, the Member Shri Ramsinh Parmar raised a Point of Order and stated that "the questions being asked by the Members are for solving the problems of their constituencies but the Ministers give very lengthy answers and that if the Ministers give brief answers, more question could be taken up for discussion."

After hearing the views of the Leader of Opposition and also the Member Shri Arjunbhai Modhwadiya, Hon'ble Speaker (Shri Ashokbhai Bhatt) gave his ruling that "the question hour is meant for asking questions related to the problems of the people and it is the most important hour, for Democracy which is an accepted fact in parliamentary practice. Sometimes Members in charge of question ask more than three supplementary questions at a time and while answering the questions quite often the Ministers also make repetition of the details printed in the answer booklet. If supplementary questions as well as their answers are brief and precise, then an atmosphere of dialogue and harmony could be prevailed during the question hour and more questions could be discussed. The intention of giving such rulings by the Ex-Speakers was for time management so that more questions involving the problems of the people could be discussed on the floor of the House. If the Ministers adopt the method of giving brief and precise answers as the Ex-Chief Minister Late Shri Babubhai Patel did in the past and use the discretion of laying on the table of the House the lengthy information relating to the

answer, then more questions could be accommodated during the question hour."

(G.L.A. Debates, Book- 151: 2010)

(2) Lengthy answer / information should be laid on the Table.

(A) Instead of reading out the lengthy list, it should be laid on the Table.

On 27th December 1963, during the question hour regarding Starred question No. 1177 of Member Shri Ratibhai Patel pertaining to Gobar Gas Plant and smokeless chullah in the Junagadh District in reply to the Member's supplementary question, the Deputy Minister of Co-operation Department stated that the list thereof was with him and lengthy. Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:

"Lay it on the Table"

(G.L.A. Debates, Part-1, Book -9, Column 524)

(B) When a Minister gives the answer mentioning any Governmental Document, he should lay the Document on the Table of the House.

On 18th December 1972, during the question hour regarding starred question no. 4486 of Member Shri Ambalal Upadhyay pertaining to the rates of digging moram and hard moram at the scarcity works, Member Shri Bhavsinhji Zala asked a supplementary question as to what the Government wanted to do for the water bearers and tracers at the relief work sites, who got very low wages. Thereupon, the Deputy Minister of the Revenue Department Shri Ramjibhai Thakkar replied that the G.R. had been issued to pay them Rupees two or three. At this stage, when Shri Zala asked about the implementation of the G.R., the Deputy Revenue Minister said that the G.R. had already been implemented. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"I think that when any Hon'ble Minister gives the answer mentioning the Governmental document, the document should be laid on the Table of the House, so that the Members of this House can know all the aspects of the Document. Therefore, the G.R. referred to in the House today should be laid on the Table of the House and when such an occasion arises in future, Hon'ble Minister should make arrangements to lay the documents on the Table of the

House so that the Members get the information that this is the policy of the Government. Providing only the summary of Government orders is not sufficient.

(G.L.A. Debates, Part-2, Book-38, Column 505-506)

(C) When a Minister mentions about a Government resolution in his reply, either the summary thereof should be given in his reply or the document should be laid on the table of the House.

On 1st October 1963, during the question hour regarding starred question no. 1435 of Member Shri Prataprai Shah pertaining to handing over the Alfred High School and the Majiraj Girls School of Bhavnagar City to a private institution, Shri Prataprai Shah raised an issue that the Minister had in his written reply informed about the norms prescribed by the Education Department of the former Mumbai Government for handing over the government schools to the private institutes vide its Resolution No. I.N.S.1051-I, dated 23rd February 1960 and that since the details of the Resolution were not given in the reply, it was difficult for the Members to ask supplementary questions. Thereupon, the Minister said that he was laying the Resolution on the Table of the House. At that stage, Hon'ble Speaker (Shri FatehAli Palejwala) gave the following ruling:-

"If the document was to be laid on the table, it should have been mentioned in the reply. When you mention a document in your reply, its summary should be given in the reply or the document should be laid on the Table, so that Hon'ble Member may know that what and which supplementary questions could be asked.

(G.L.A. Debates, Part-1, Book - 8, Column 534)

(3) Minister's responsibility to check the answers prepared by the Department.

(A) It is the Minister's responsibility to check the answers prepared by the Department, whether it is proper or not.

On 10th September 1965, regarding Starred Question No. 11524 of Member Shri Dolajibhai Patel regarding applications for increasing the village areas of Gram Panchayats of Banaskantha District, Member Shri Ramanbhai Patel submitted that although specific questions were asked, the answers were given differently. At that time, the Deputy Minister of Revenue Department Shri Madhavsinh Solanki submitted that the question was not asked due to the absence of the Member who had asked the question. But if it had been asked,

he was to demand to postpone it for want of adequate information. He further stated that he himself was also not satisfied with the answer.

Thereupon, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following ruling:-

"If the answer given in this way does not seem to be satisfactory, I will not postpone the question on that basis even if the Government represents to do so. Sufficient care should be taken by the Department when the answers to such questions are prepared and it is the duty of the Hon'ble Minister to check what question is being asked and what answer is being given. In the current question, six sub-questions have been asked and four out of six sub-questions are not answered as expected. In sub-question (5), when it has been asked "Being delayed?", the Government should answer "not being delayed". But the Government answered that "the question does not arise." How can the question not arise? The question definitely arises and there the Government should say that "not delayed" or if delayed, the Government should say that there has been a negligible delay of one or two months. In such a situation, if the Government demands to postpone the question, it cannot be postponed. If the information is not available for the question, it can be postponed. But based on the reason that the question is not properly answered, it cannot be postponed and it would not be proper on the part of the Government to request for the same. Therefore, the Government is requested to take care of it in future."

(G.L.A. Debates, Part-1, Book- 13, Column 292)

(B) Minister should take care to avoid discrepancy of information given in the answers to the identical questions.

During the 6th Session of the Thirteenth Gujarat Legislative Assembly, on 12th March, 2015, after the Question Hour, Hon'ble Member Shri Shaktisinh Gohil raised a point of order regarding two different answers of two identical questions, which were given in the Question-answer book of 3rd and 11th March, 2015 and also the discrepancy in the information given in the answers of two identical questions at priority Nos.19 and 71 in the Question-answer book of 12th March, 2015. Thereupon, Hon'ble Speaker (Shri Ganpatsinh Vasava) informed that he would give his ruling in that matter after going through the details furnished by Shri Gohil.

On 17th March, 2015, Hon'ble Speaker (Shri Ganpatsinh Vasava) while giving his ruling on the point of order raised by Hon'ble Member Shri Shaktisinh Gohil stated that both the questions were asked by Hon'ble Member Shri Satishbhai Patel, one was at priority No.4 and the other was at priority

No.7 in the question-answer books of 3rd and the other of 11th March, 2015, which were on two different matters and as Clause (2) of both the questions were different from the perspective of time span, their answers were different and, therefore, he rejected the point of order raised by Hon'ble Shri Gohil ruling that both the questions should not have been considered as identical.

Regarding the second part of the Point of Order raised by Hon'ble Shri Gohil, Hon'ble the Speaker stated that one question at priority No.19 was asked by Hon'ble Member Shri Shaileshbhai Parmar and the other question at priority No.71 was asked by Hon'ble Shri Gyasuddin Shaikh, wherein information was sought for same time span of the same City and District but the figures regarding cases of diseases were different. Hon'ble Shri Parmar had asked for information about the registered cases of dengue, AIDS, swine flu and cancer in Ahmedabad City and District whereas Hon'ble Shri Shaikh had asked for swine flu, jaundice and dengue in Ahmedabad City and District. Hon'ble Speaker, therefore, ruled that both those starred questions, which were asked by two different Members should not have been considered apparently identical. In both the questions, the diseases of swine flu and dengue were common but the information given by the Hon'ble Minister regarding the diseases of swine flu and dengue were seemed to be in discrepancy. Therefore, he accepted the second part of the point of order, and directed that the Department concerned should take enough care in not committing such discrepancies in future.

(G.L.A. Debates, Book-23:2015, Volume - 4)

(4) Written submission / demand of time for further information.

(A) It is not reasonable for the Minister to demand written statement on the matter which the Member has asked to be investigated through supplementary questions.

On 21st March 1969, during the question hour regarding Short Notice question No. 19093 pertaining to disconnecting water connections of Harijans at the village Langhanaj, as Member Shri Palabhai Parmar did not find proper the written information provided by Shri Madhavlal Shah, Deputy Minister of Panchayat Department, Member Shri Palabhai Parmar presented before the House the facts he had witnessed during his visit to that place. Thereafter, Member Shri Chimanlal Shukla asked a supplementary question as to whether the Government would investigate the matter even after Member Shri Palabhai Parmar had submitted the details of his own information. At that time, the Deputy Minister replied that he would get the matter investigated, if he had the written statement for it. Thereupon, Member Shri H.M.Patel raised a Point of

Order saying that it was not proper to demand a written statement even after presentation of the facts, which he had witnessed, before the House.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"It is unnecessary to demand further written statement from any Hon'ble Member, once he has presented the information in this House. Whatever is said in this House should be valued more than any writing. If it is underestimated, I think it is as good as questioning the representation made by the Members, who responsibly represent their constituency. I think what the Hon'ble Member of this House speaks in the House is sufficient; there is no need for any writing from the Member. Because, the words spoken in this House enjoy more privilege and they do not need any written support."

(G.L.A. Debates, Part-1, Book- 21, Part- d, Column 3628)

(B) Demand for written submission.

On 4th March, 2010, after the question hour, the Leader of Opposition, Shri Shaktisinh Gohil by referring to Ruling No.348 of the Speaker's Rulings (1960-84) raised a Point of Order stating that it was unnecessary for the Minister to ask for written submission from his party Members for any additional information. He further asserted that when a Member had already made a submission on a matter in the House on behalf of his own constituency, it was unnecessary to demand written submission from the Member.

After hearing the views of the Minister of Health Shri Jaynarayan Vyas, Hon'ble Speaker (Shri Ashok Bhatt) gave his ruling that by demanding written submission from the Members, the intention of the Minister was not to make any delay in solving the problem of water. The intention of the Minister was to ask for the written list of the villages amongst which, the Member wishes to give priority out of 100 villages of a Taluka of a tribal area, where deepening of small or big ponds are required to be undertaken for solving the problem of water. Since the Minister did not ask for a written complaint as stated by the Leader of the Opposition and the ruling quoted by him had no relevance on the matter, Hon'ble Speaker did not accept the point of order raised by the Leader of Opposition.

(G.L.A. Debates, Book- 149: 2010)

(C) It is responsibility of the Minister to provide relevant information to the original Question.

During the question hour on 1st July, 1988, 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 Patel 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 is not proper 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."

(G.L.A. Debates, Book – 36, Vol. II, Column 334-335 and 369-370)

(D) If the application received by the Government has not come to the notice of the Minister, he should reply that he will investigate it and do the needful.

On 26th November 1970, during the question hour regarding Starred Question No. 32745 asked by Member Dr. Shri Vasantlal Parikh, when the Parliamentary Secretary to the Chief Minister Shri Vinodchandra Shah replied to one of the supplementary questions of the Members that "Appropriate investigation will be made regarding the facts presented by the Members". He further stated that "he presented the fact which he had regarding this matter." At that time Member Shri Sanat Mehta raised a point of Order saying that the supplementary questions asked by the Members were based on the copy of the application with the Members, which was addressed to the Registrar of the Co-operative Societies and yet the Minister replied saying that the "Investigation will be made", which was not fair. Member Shri Vasantlal Parikh said that the Harijans and the Tribals are the Members of the Co-operative societies and their problems were not being investigated properly and answers to their questions were either being avoided or much delay is made in solving them." Thereupon, the Hon'ble Speaker (Shri Raghvji Leuva) gave the following ruling:-

"We should assume that any Member makes whatever statement in the House, he or she normally makes it in his or her capability and within his or her limits and also he or she ascertains the genuineness of his or her statement by making proper investigation. To that extent, there is an element of truth in the complaint made by Hon'ble Members. Of course, if the Department of the Minister has provided any concrete information to the Minister against the statement of a Member, the Minister can present the information. It is possible that the person who has provided the information to Hon'ble Member might have been misguided and for which the House provides an opportunity to the Members to correct their mistakes and they should make reasonable use of this opportunity. By doing this, we would be able to avoid the atmosphere of heated arguments during the discussion on questions. Because as the complaint made by the Hon'ble Members with regard to the problems of Harijans and Tribals, our Government employees and some sections of the society do not have the sympathy towards these problems as expected. In such circumstances, most of the Members of this House can be satisfied, if Hon'ble Ministers become more

careful in this problem. Sometimes, the information received by Hon'ble Members may be misleading, but whatever information the Government may have and if the same is presented in a proper manner, there would be no problem. Thereafter, during further question-answer session, the Parliamentary Secretary Shri Vinodchandra Shah stated that the answers given by him were based on the information received from the Collector. He had not obtained any information from the Co-operative Department." Thereupon, the Hon'ble Speaker gave the following ruling:-

"The decision I have to take is about the principles. Accordingly, when the Hon'ble Minister accepts to answer to his own question, the business of the House in respect of that question presupposes that the Minister should obtain from the officers of his department the information relating to matters which may arise from that question. Now, if an officer of any department has not provided important information to Hon'ble Minister or provided misleading information and as a result the Minister is unable to provide relevant information to the House, he should take appropriate action as an administrator. For example, if the Minister says that he has given answer on the basis of the information received from the Collector and the question is pertaining to Agriculture and Co-operation Department, here we do not know, if the officers of the said Department have helped him or not. In these circumstances, we can say that the Minister has not accepted the responsibility towards this House, as is expected. The only instruction, which can be given to the Government, is that if any application received by the Department has not come to the notice of the Minister in-charge, while answering a question, he should inform the House that such an application, if given by anybody, has not come to his notice. But he should call for the application and make it investigated and do the needful and this is the best way. I think, this is the logical way and it is equitable and fair, too. Here, if the Member says that "No", it has been given at "X" office or if it has been given to your Minister, then there may be difficulty in giving instant reply. However, the Minister can say that he would get it investigated. But usually it is expected that if the Government's own officers do not brief the Government with sufficient information, the Government should take more steps than it is taking now to make its officers vigilant and nothing more than this can be said in this regard."

(G.L.A. Debates, Part-1, Book- 29, Column 147-154)

(E) If any Member has written a letter to the Government, it is the Government's responsibility to call for and consider it.

On 5th October, 1973, during the discussion on Starred Question No 9780 asked by Member Shri Bhavsinhji Jhala, Member Shri Narsinhdas Gondhiya informed the Hon'ble Speaker that though he had made a complaint to the Government by writing a letter regarding a wrong method of purchasing groundnuts by the Agro-Oil Enterprise only from a single broker of Amreli District Marketing Union, the Minister in his reply said that the Government had not received the complaint. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"If an Hon'ble Member of this House is saying that he has written such a letter to Hon'ble the Chief Minister and if the letter has not been received by the Department of Civil Supplies, Hon'ble Minister should accept the responsibility to call for and consider it. Otherwise, it would be assumed that whatever Hon'ble Members speak on the floor of this House is wrong, which would not be considered fair."

(G.L.A. Debates, Part-1, Book- 44, Column 782)

(5) Questions seeking information relating to the Minister of the other Department.

(A) Except for the Department which the Minister is holding, the information of the other Department cannot be expected from him.

On 1st April 1963, in the printed list of question-answers, to Starred Question No. 1268 pertaining to digging a public well on the way to Kunkavav from Village Anida, the Minister replied that no subsidy was given for the said road by the Development Unit. In response, Member Shri Babubhai Vaidya asked a supplementary Question as to whether any other Department had sanctioned subsidy for the well at the said village. At that time, the Minister of Co-operation Department Shri Ratubhai Adani asked for a separate notice.

Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"The Minister will provide the information of the Department he holds. It would be difficult if we expect information of all other Departments from him. That cannot be expected."

(G.L.A. Debates, Part-1, Book- 7, Column 1001)

On 16th February 1965, during the question-answer session regarding Starred Question No. 8223 asked by Member Shri Bhanjibhai Patel pertaining to Zinzudaran Reclamation Dam in Jamnagar District, Member Shri Babubhai Vaidya requested to postpone the question if the Minister did not have information regarding the other Department.

The Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"Reasons should be provided for the postponement of a question. If the question does not belong to his Department, the Minister may say that the question does not belong to his Department. Then Hon'ble Minister cannot be compelled to answer. Sub-questions may be asked if the answers are not satisfactory. Hon'ble Minister cannot be directed as to what he should say and what he should not say."

(G.L.A. Debates, Part-1, Book-12, Column 16)

(B) The Minister cannot be compelled to answer the supplementary questions regarding the Department which is not related to him.

On 15th July 1975, during the question hour on Starred Question No. 154 relating to implementation of the Labour Act on the labourers engaged in relief works in Panchmahals District, Member Shri Manubhai Palkhiwala said that a daily wage upto Rs.3/- was being paid to the labourers and asked a supplementary question as to whether the amount of Rs.3 was paid as the minimum or maximum daily wage. At that time, the Minister of the Labour Department Shri Navinchandra Barot informed that if it is asked to the Revenue Department, it can provide further information in this regard.

Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following ruling:-

"Before you ask a question, please listen. We have a convention that if the question is concerned with the other Hon'ble Minister, the same Hon'ble Minister cannot be asked that question

That means, if the question is related to a Department, other than the Department of the Minister, the same Minister should not be asked that question. He has given the answer. Even after giving answer, the Department, which is not responsible for it, will not be asked."

(G.L.A. Debates, Part-1, Book -46, Column 216-217)

(C) The Minister is responsible only to give the information of the question regarding the Department he holds. For the information of the other Department a question should be asked to the Minister in-charge of that Department.

On 25th February 1970, in reply to Starred Question No. 27620 asked by Member Shri Mahipatrai Mehta pertaining to number of deaths due to scarcity situation in Kachchh, it was stated that the Government had no information about such death. At that time, Member Shri Mahipatrai Mehta pointed out to the answer given by the Health Department containing different number of people died of different diseases and asked a supplementary question. Thereafter, Shri Sanat Mehta asked a supplementary question whether it was fair on the part of the Government to answer that no such death was known to the Government, even after the reply given by the Health Department regarding the deaths and whether the Minister wanted to say that deaths were not known to his Department or the whole Government.

Thereupon, the Minister of Revenue Department Shri Premjibhai Thakkar clarified that he meant that the Government means the Revenue Department. Then, Member Shri Sanat Mehta raised an issue that when it is replied that it was not known to the Government, should it be understood that it was not known to the concerned of Department?

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"So far as the ruling sought and the issue raised is concerned, the questions are asked to the Minister as per the practice adopted from the House of Commons. The Minister has also a right to transfer the question to an appropriate Department when he finds that the question asked does not relate to the Department he holds. It is an accepted procedure, which is obtaining in the House of Commons also about which I have read so many times. Even in the Lok Sabha also, it might be happening that during the question hour when a question is asked to any Minister, he should say that my friend should ask the question to so and so Minister and that means the Hon'ble Member should ask a new question to the concerned Minister. This is a common tradition. We have no such strict practice. Therefore, when Hon'ble Revenue Minister rose up in the middle, I did not mind because so far as the joint responsibility of the Government is concerned, here there is no question of the joint responsibility during the Question Hour because a question is asked by addressing a Minister as part of his duty by citing his department. Otherwise, the system would have been such where either the Member may ask the question to the Government or

the Government may select as to who will answer and how many will answer. Therefore, it is appropriate that the Minister, whom the question is asked, will reply only of his Department. If the Members want information of other Department, it is reasonable to ask the question to the Minister of that Department."

(G.L.A. Debates, Part-1, Book-24, Column 635-36)

(6) Asking a new notice by a Minister for question seeking information which is not related to the main question.

(A) If the Minister does not have the information related to the supplementary question arising from the original question, he has a right to seek a notice.

On 30th March 1967, during the question hour on Short Notice question of Member Shri Uttambhai Patel pertaining to terror of a man-eater tiger in his Taluka, Songadh, Member Shri Manoharsinhji Jadeja asked a supplementary question as to whether the tiger was declared as the man-eater? Thereupon, as the Deputy Minister sought a Notice for it, the Member said that it was not reasonable for the Minister to seek a Notice.

Thereupon, Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"Hon'ble the Minister must give information whether a leopard or a tiger, whatever it may be, declared as the Man-eater, as asked by Hon'ble Member. Usually that question arises from this, but if Hon'ble Minister does not have the immediate information, he has a right to ask for a Notice and we cannot withdraw that right."

(G.L.A. Debates, Part-1, Book -17, Column 22-25)

(B) Asking a notice by a Minister means, a Member should ask a new question.

On 17th March 1971, during the question hour on question No. 33611 when the Minister asked for a separate Notice in his reply to the Supplementary Question asked by Member Shri Martandray Shastri, he raised a point and asked as to whether it was appropriate to ask for a Notice even if the presentation was made with evidence?

In this regard the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"Hon'ble Member should keep in mind that during the Question Hour information is to be sought and discussion is not to be made. Now the question is, Hon'ble Minister has been asked as to whether he has got the entire Report published and unknowingly made available to anybody. It is the question of a fact and if Hon'ble Minister asks for information, the only purpose of demanding a Notice is to ask for another clear question on the issue so that Hon'ble Minister can collect the information. The present question is whether the report has been published or not. The Government says that not the entire report but a certain portion as a summary of the Report has been published. Now, if Hon'ble Member has any other evidence, brings it to the notice of Hon'ble Minister or the House in whatever manner he can, he may do so. It would not be included in the Question hour, but the time slots other than that of the question hour can be utilized for that."

At that time, the Member stated that it was not appropriate for the Minister to seek protection that a notice would be required instead of saying that he did not have the information.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"Our Rule also states that whenever a Notice is sought, it only means that Hon'ble Member should ask a new Question on that issue. Because it only means that the Minister does not have any information regarding that question. Otherwise, there is no new sanctity on insisting for a notice. Asking for Notice may stop all the work. Normally, the Minister may give such information during the Question-Answer Session. But here, in his opinion, if that information is not available, he may say that 'on a separate notice of a question he would furnish the information. That is the meaning of demanding a notice. No other meaning can be given to those words of demanding a notice."

(G.L.A. Debates, Part-1, Book-30, Column 14-15)

(7) Refusal by the Minister to answer the question.

(A) The Hon'ble Speaker cannot compel the Minister to give answer if he refuses to answer.

On 14th March 1968, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:

"On 29th February 1968, as the Hon'ble Deputy Minister did not rise up to give reply to a supplementary question asked by Hon'ble Member Shri Manoharsinhji Jadeja, he submitted that Hon'ble Deputy Minister cannot keep

sitting in his seat. If need be, he may seek a Notice for that. Since Shri Manoharsinhji has made this kind of representation, I give the following ruling:-

"Unfortunately, he can choose to sit down. That is the difficulty. We cannot compel him. The Speaker is not in a position to compel the Minister, so far as the Question Hour is concerned, to give a reply. If he wants to give a reply he can reply. It is for him to take the consequences."

Hon'ble Shri Manoharsinhji has demanded for a clarification on my decision because he believes that the Government Ministers do not have the right to refuse to respond. In this regard, some Members also expressed their views.

Thereafter, on 1st March 1968, another question arose as to what is the right of a Government Minister to seek Notice while answering a starred question and is there any limit for it and under what circumstances it is deemed appropriate for him to seek a Notice. As both these issues are related to each other, I declare my combined decision.

Three types of situations arise when it comes to answering a question:--

- (1). Refusing to answer a question by saying that it is not in public interest to answer;
- (2). Refusing to answer a question by saying that they are internal administrative matters of the organizations or the institutions established by a Law; and
- (3). Not to answer the question without giving any explanation despite the matter being related to the Government administration.

The position of question relating to first type has been quite clear and this right of the Government has been accepted. When the Minister says that the answer is not in the public interest, then it cannot be asked why it is not in the public interest. This practice is also established in the House of Commons and the decisions of the Parliament as also various Legislative Assemblies of our country also mean that and a corresponding provision has also been made in the Rule-74(17) of our Rules in this regard.

Right now, what I have to decide is regarding the third type of situation. There is no clear provision in our Rules in that regard. However, while reading the debates of the House of Commons, it is found that often Minister does not answer and immediately the next question is taken up. Looking to the nature of the unanswered question, many a time the question does not seem to be

answerable. It has also been found that no objection has been taken, even though the question is not answered, where it seems appropriate to be answered. So far as these type of questions are concerned, since the answers are unsatisfactory, the Member gives a Notice that he will raise the questions during the Half-an Hour discussion when the Motion of Adjournment of the House is moved after 10.00 pm. But in the recent past, I have seen two instances where the supplementary question has not been answered and a question has been raised by the concerned Member regarding the right of the Minister in this regard.

On 21st February, 1956, while answering a question Mr. Dicken Sandice, the Minister for Housing and Local Self Government stated that:-

"I deal with very fully this matter in a number of speeches during the passage of the Housing Subsidies Bill to which I have nothing to add."

Therefore, another question was asked that:-

"Is the Minister aware of the growing fears among building union leaders of serious unemployment in their industry next year? Will he give a reassurance on this behalf?"

As this question was not answered by the Minister, a Point of Order was raised that the Minister did not answer despite asking a clear question or did not even try to answer, therefore, the Speaker stated that:-

"I have no control over that. A Minister is not bound to reply."

The second example is of 20th February 1961. As a supplementary question to the main question whether the insurance scheme provided adequate protection against the damage caused by the adverse effects of the radio activity, it was asked as to whether legal protection was provided for the damage caused by the American stations at the Polaris Base. The Minister replied that that question should be asked to "The First Lord of the Admiralty". Thereupon, a Point of Order was raised that this question was first asked to the Prime Minister by the Member. But later on he was suggested to ask the same question to the Minister of Power, but now the Minister of Power refuses to answer, whether that was appropriate?

The Speaker said that:-

"Transfer, where transfer occurs and here it did-not is never a matter for the Chair nor it is within the power of the Chair to compel any Minister to answer a question, if he chooses to do so."

When the Member clarified this matter again, the Speaker stated again that:-

"I assure the Hon. Member that I have got the point. But it still remains the fact that I cannot compel a Minister to answer a question if he does not do so."

During the discussion on the attitude of the Ministers towards answering the questions regarding the Socialized Industries, the Speaker stated in 1948 that:-

"The Minister is always entitled on public grounds to refuse to give an answer. That is perfectly clear. If he refuses to give an answer, that is the Minister's responsibility, and it has nothing to do with me. Therefore, I cannot authorize the Table to go behind the Minister and insert a question second time. The Hon. Member's and the House's remedy is to put down a Motion of Censure on the Minister or something of that sort, for refusing to reply. That is outside my control."

In these decisions of the Speaker, one of the things I would like to bring to your notice is that as to what kind of a right does the Speaker has if the Minister refuses to answer. The Speaker has made a lot of clarification by using following words:-

"Minister is not bound to reply; I cannot compel him to answer a question, if he does not want to do so; the Chair cannot compel any Minister to answer a question, if he chooses not to do so."

Considering the whole situation, it seems to me that it is better if the Ministers and the Deputy Ministers are prepared to give informative answers regarding the Government's own administration to show their respect towards the House. This rule is usually followed. But an event like today may happen sometimes. After the question is admitted by the Speaker's Secretariat, when it goes to the Minister, he has to ascertain at his discretion as to what kind of supplementary questions will usually be asked. Therefore, sometimes when a supplementary question is allowed to be asked by the Speaker and the Minister thinks that he could not conceive the supplementary question and hence he does not have the information. So he has the right to ask for a new Notice, looking to the supplementary question and the Member should give a new notice if he really needs the information. It is difficult to make strict rule as to what extent such a demand can be made. There is a provision in our Rules to postpone a question, which is not in the Rules or the practices of the House of Commons.

As per the provision of Rule- 88, on the demand from a Minister or a Member or the Speaker with his own discretion may postpone any question. When the Speaker finds the supplementary questions important and to be arising out of the main question reasonably, but for one or the other reason, the information is not available with the Minister at that time, the question is usually decided to be postponed in such a manner and instead of agreeing with the Minister's demand for the new Notice for a new question, the Speaker makes such a decision. The less this rule is used, the more sweet and harmonious the relation between the House and the Minister. Sometimes, it may happen that the supplementary question is allowed to be asked by the Speaker and yet when it seems to go beyond the general limit of the original question, the Minister may draw the attention of the Speaker and demand to release him from the responsibility of answering the question. This is also considered as a demand for the Notice and on such occasion, it is not said that the Notice has been sought without sufficient reasons. Sometimes, minute and extensive information in detail is sought through the supplementary questions. At that time, even if supplementary question arises from the original question, the Speaker may give one more opportunity to the Minister by accepting his demand of postponing the question to seek a new Notice.

In the present case, it is unfortunate that Hon'ble the Deputy Minister did not rise to answer the question despite request of two Hon'ble Members and then, after a long time, he submitted in the House that he was ready to give the answer. If the Cabinet Minister of the Department had intervened during the question-answer session, this incident could have been avoided. In this way after studying the rules and practices and also available decisions relating to this case, I come to the decision that the Speaker does not have the power to compel the concerned Minister to answer the question, if he refuses to answer any question. But if the Minister is not unwilling to give the answer, the Speaker may give him one more opportunity by postponing the supplementary question to facilitate him to answer."

(G.L.A. Debates, Part-1, Book-19, Column 3131 to 3138)

(B) If a complaint made to the Government official has not come to the notice of the Minister and the Minister states in the House that the complaint has not been received, such reply cannot be considered as inappropriate.

On 20th July 1972, during the question hour regarding a question by Member Shri Manubhai Palkhiwala pertaining to the Notices issued for the dismissal of teachers of an educational institution in Ahmedabad, Member Shri

Palkhiwala asked a supplementary question that whether there was any complaint as to teachers in that Institution were asked to sign on a blank paper before employing them? In reply, the Deputy Minister, Education Department stated that complaints were received about the teachers getting less salary, but he was not aware of the complaints of taking signature in advance on a blank paper. Thereupon, Member Shri Manoharsinhji Jadeja submitted that the complaints should have been given to the concerned Government Officers and the same would have been considered to be made to the Government and therefore, the Minister should give the answer properly.

After listening to the Education Minister Shri Gordhandas Chokhawala, the Hon'ble Speaker (Shri Raghavji Leuva) gave the ruling as under:-

"Hon'ble Member said that if any responsible person has complained to the District Education Officer and the Minister says that he has not received it, whether that would be the answer. The question is when the Minister gives the answer, generally it is expected that the complaint received by any of the officers of his Department should have reached to the Minister. Even then the Minister's reply cannot be considered improper if he says that the complaint has not reached to him. But it can be said that the Minister should promise that if such a complaint has been received by the Officer of his Department, appropriate action will be taken. If any officer under his control has received any complaint, for which the Minister cannot be considered guilty in any way at the time of question hour."

(G.L.A. Debates, Part-1, Book -34, Column 611-612)

(C) After allowing to ask a supplementary question, if the Minister does not rise to answer, it should be understood that he does not want to answer.

On 5th October 1973, during the question hour regarding Starred Question No. 9780 asked by Member Shri Bhavsinhji Zala pertaining to groundnuts purchased by the Agro-oil Enterprise from the Amreli Centre, Member Shri Narsinhdas Gondhiya asked a supplementary question as to whether his written complaint in this regard to the Chief Minister was received. The Minister's reply was "No". At this stage, Member Shri Manoharsinhji stated that here Hon'ble Member Shri Narsinhbhai had stated specifically that an application was given in this regard and it was denied. Hon'ble Member said that he himself had made the complaint. A complaint received by any Officer or by the Chief Minister is considered as received by the Government. Therefore, it should now be clear as to how the practice would be adopted in

this regard in future. The Minister had not replied clearly. As Shri Manoharsinhji demanding the reply from the Minister as per practice, sought protection, The Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"I have certain limitations. I cannot compel a Hon'ble Minister to rise and give a reply. I have allowed the Hon'ble Member to put the question and if Hon'ble the Minister did not get up, it means he does not want to reply."

(G.L.A. Debates, Part-1, Book -44, Column 784)

(D) Even if the details of a question that the Government has refused to answer have been published in the newspapers, the question should not be allowed to be asked.

On 24th August 1967, while replying a supplementary question of Member Shri Sanat Mehta on Short Notice Question No. 2738 pertaining to black marketing of sugar and oil in Dhrol Taluka of Jamnagar District, the Deputy Minister Shri Jayrambhai Patel stated that he was not able to declare the details in that regard. At that time Member Shri Sanat Mehta stated that if the matter was published in the newspapers and if it is true, then there should not have been objection in disclosing it. Thereupon, Hon'ble Speaker (Shri Raghavaji Leuva) gave the following ruling:-

"The question should not be allowed to be asked on a matter which the Government has refused to answer even if it has been published in the newspaper."

(G.L.A. Debates, Part-1, Book -18, Column 2077)

(8) A Minister cannot be compelled by the Speaker to answer as per the Member's wish.

(A) Minister cannot be compelled to give reply to a question as expected by a Member.

On 14th March, 2016 during the Eighth Session of the 13th Gujarat Legislative Assembly, after the Question Hour, Hon'ble Member Shri Shaileshbhai Parmar raised a point of order stating that during the Question Hour, proper answers to the questions asked by the Opposition Members were not given by the Hon'ble Ministers. Thereupon, the Hon'ble Minister for Parliamentary Affairs, Shri Pradipsinh Jadeja stated that once the question was raised in the House, it became the property of the House irrespective of whether it was asked by a Member of the Opposition or Ruling Party.

Thereupon, Hon'ble Speaker, (Shri Ganpatsinh Vasava) rejected the point of order stating that as per the Rules of the Gujarat Legislative Assembly, the Member had the right to ask a question. Similarly the Minister had also the right as to how to answer the question of the Member. He also stated that in this regard it was clearly mentioned in the rulings given by his predecessors that a Minister could not be compelled to give the same answer as expected by the Member. Yet according to the prevailing practice, the Minister used to provide available information with him at that time to the Members irrespective of their party affiliation and that would not be taken to mean that importance was given to the Members of the Ruling party and not to the opposition.

(G.L.A. Debates, Book-33, 2016, Volume -4)

(B) A Minister cannot be guided as to the manner in which a question should be answered.

On 25th February 2009, after Question hour, Member Shri Arjunbhai Modhvadiya raised a Point of Order on the questions on Priority Nos. 39, 130, 152 and 155 regarding work done on "Nirogi Baal Varsh" stating that the written answers to the questions published in the booklet were very lengthy like an essay and requested the Hon'ble Speaker to guide the Treasury Bench so as to submit the written answers to the questions in brief and to the point as per the practice.

Hon'ble Speaker (Shri Ashok Bhatt) while not accepting the point of order gave his guidance on the matter stating that "when a question is admitted, the Legislature Secretariat cannot assess in advance as to how much information to the particular question will entail. If the written answer to a starred question entails detailed information and concerned Minister demands to convert that starred question into an unstarred one, it is accepted considering its eligibility." Moreover, Hon'ble the Speaker stated that "Ministers have to submit their answers within the limitations of the Rules. A Minister cannot be guided regarding the manner in which a question to be answered. However, as per the practice, if the annexure is up to one page with the written answer to a starred question, it is published in the Booklet of Starred Question - Answers and if the information exceeds than that, it is kept in the Office of the Secretary."

(G.L.A. Debates, Book- 140: 2009)

(C) A Minister should not be expected to give the answer in a way that satisfies a Member.

On 31st March 1964, during the question hour regarding starred question No. 6640 asked by Shri Prataprai Shah pertaining to the matter of providing subsidy to electricity consumers for agricultural consumption in the Ranghola Pond area of the Bhavnagar District, Shri Prataprai Shah was not satisfied with the answer to a supplementary question on his question and addressing the Hon'ble Speaker stated that he should get a satisfactory answer. Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"Hon'ble Minister has to give answers to the questions that are asked. It is not at all proper to expect from him to get the answer in a way that satisfy you and every one."

(G.L.A. Debates, Part-1, Book -10, Column 698)

(D) No Member can impose his views on a Minister to answer the question.

On 22nd March 1979, during the question hour regarding Starred Question No. 18936 asked by Member Shri Jethalal Jora pertaining to not using large stones in the construction of roads, Shri Jethalal Jora while clarifying his Supplementary question stated that if the roads could be strengthened by conducting technical inspection of large stones, did the Government want to make any exception in the present norm. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) made the following observation:-

"Minister has given answer. That is his theory. You cannot force upon your theory on the Minister. Nobody can force his theory on anybody."

(G.L.A. Debates, Part-1, Book -63, Column 846)

(E) How to give answer to a question does depend upon the Minister. It cannot be the subject of a Point of Order.

On 23rd March 1967, during the question hour on Short Notice Question No. 45 of Member Shri Manubhai Palkhiwala pertaining to Narmada Project, Member Shri Sanat Mehta asked a supplementary question as to how many times the negotiations were held with the Chief Minister of Madhya Pradesh after the recommendations of Khosla Committee, the Chief Minister Shri Hitendra Desai replied was "about three times". Thereupon, Member Shri Manoharsinhji Jadeja raised a Point of Order that instead of using the word "about" the Minister should have given a specific answer. So the Chief

Minister's reply using "about three times" was not proper. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"How to answer a question does depend upon the Minister, who gives the reply. It is not the subject of a Point of Order."

(G.L.A. Debates, Part-1, Book -17, Column 4)

(F) A Minister cannot be compelled to give an assurance.

On 12th August 1975, during the question hour regarding Starred question No. 760 asked by Member Shri Markhibhai Gorla pertaining to residential house allotted to the President of the Jamnagar District Panchayat, Member Shri Hematbhai Madam while asking a supplementary question stated that the Minister should give an assurance in this regard.

Thereupon, Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following ruling:-

"The Minister cannot be compelled to give an assurance."

(G.L.A. Debates, Part-1, Book-48, Column 475)

(G) The Speaker cannot compel a Minister to give information in a certain way.

On 23rd March 1977, during the question hour regarding Question No. 5684 asked by Shri Kashiram Rana pertaining to political detainees, the Minister of State informed that as it was confidential, the information could not be provided. However, the Leader of Opposition Shri Babubhai Patel insisted on getting information by giving the references of past Emergency and the changed circumstances. Thereupon, Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following ruling:-

"One thing is clear that once the Minister says that the information cannot be provided in the public interest, I cannot compel Hon'ble Minister to give the answer in a certain way."

(G.L.A. Debates, Part-1, Book -51, Column 259)

(9) Discussion on the answer given by the Minister.

(A) A Minister's answer cannot be debated during the Question Hour.

On 11th June 1970, during the question hour Members tried to debate on the replies of Question No. 30184, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"So far as question hour is concerned, the Hon'ble Member know that it is not a debate but it is a question for asking the information. Now whether the information given and the reasons given are sound or unsound, it is a matter of debate. It is not a matter of information. The Hon'ble Minister has said that one candidate has passed all his examinations at first trial and the other candidate has taken more trials. That is the information given to the House, whether it is a good or bad ground, that is for the House to judge. So far as the other point is concerned, at the time of appointment he was lacking by one day in his experience as Registrar, which is also an information. I personally feel that there should not be any debate on a question. Information can be asked by putting more supplementaries and if the Hon'ble Minister gives a reply, the Hon'ble Members can utilise that reply for whatever purpose they may desire. But I personally feel that it should not be converted into a debate. That distinction we shall have to bear in mind."

(G.L.A. Debates, Part-1, Book -27, Column 490-491)

(B) Debate should be avoided as far as possible during the Question Hour.

On 24th February 1970, in spite of asking many supplementary questions during the question hour regarding Question No. 27727 pertaining to allotment of grass land to the Vice-President of Banaskantha District Congress Committee without any satisfactory answers, many Members criticized and expressed their dissatisfaction in the way which the Minister gave the answer. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"In case of such questions, instead of asking too many supplementary questions, I would like to suggest Hon'ble Members to give Notice in the House under Rule 92. I would take note of it immediately. Every Wednesday a notice under Rule - 92 can be given to discuss on the matters to be found appropriate and genuinely important because the important matters should be discussed in the House. It is a common practice that a Point of Order cannot be raised during the Question Hour. Debate should be avoided as far as possible during the Question Hour."

(G.L.A. Debates, Part-1, Book -24, Column 511)

(C) Arguments or Debates cannot be allowed during the Question Hour.

On 7th July 1977, during the question hour regarding Question No. 6527, asked by Shri Karmshi Makwana, dissatisfied with the answers from the Minister, Member Shri Nagindas Shah and Shri Sanat Mehta made some

arguments as to how the questions should be answered and requested the Hon'ble Speaker to give a ruling on whether the answers given by the Minister were proper. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) while giving the ruling stated that generally arguments could not be made during the Question Hour, so arguments and debates could not be allowed.

(G.L.A. Debates, Part-1, Book -53, Column 260)

(10) Matter of giving unauthorized information in the answer to the question.

(A) With a view to giving as much information as possible to the House, if the Minister gives unauthorized information in 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 (Shri Himmatlal Mulani) 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 recession. Out of the 40% of the closed mills, as per the unauthorized 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.”

(G.L.A. Debates, Book – 66, Column 388-389)

(12) Unsatisfactory answers to questions:-**(A) Any Member can complain regarding the unsatisfactory answers of the Minister.**

On 8th February 1968, Member Shri Manoharsinhji Jadeja, while speaking on the Motion of expressing want of Confidence in the Council of Ministers stated that during the Question Hour instead of giving answers by the ministers in the House, Members were asked to meet them in their Chambers. Thereupon, Member Shri Pratap Shah raised a Point of Order that whether the answer given during the Question Hour could be criticized after its approval by the Hon'ble Speaker?

The Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"It is an accepted practice that the Government has certain rights with regard to answering the questions. It is the parliamentary practice that if the Government refuses to give the answer, the questioning Member has to be satisfied with it. No Hon'ble Minister can be compelled to give the answer. Therefore, if any Member has any complaint against the answer given by the Minister during the Question Hour, he can make a complaint."

(G.L.A. Debates, Part-2, Book -20, Column 1054-1055)

(B) The Point of Order cannot be raised if answers to questions are not given properly.

On 19th February 1976, Member Shri Sanat Mehta while raising a Point of Order stated that during the question hour pertaining to the Damanganga Project, Hon'ble Minister had stated that no such recommendations had come. All the conditions related to the project were at the primary level. Actually since the questioning Member was a Member of the Committee meant for the project, he knew all the recommendations for the project and yet no correct information was available from the Minister. In addition, he requested to guide as to how to obtain the correct information in this regard.

Thereupon, Hon'ble Deputy Speaker (Shri Manubhai Palkhiwala) gave the following ruling:-

"This is not a Point of Order. If any further action is to be taken for ascertaining whether the answer received was correct or not, there are

provisions in the Gujarat Legislative Assembly Rules. So, Hon'ble Member has an opportunity to use. There is no Point of Order in it and it is rejected."

(G.L.A. Debates, Part-2, Book-49, Column 2011)

(C) If a Minister gives a wrong answer, such a complaint can be made in the Chamber of the Hon'ble Speaker.

On 22nd February 1973, during the question hour regarding Question No. 6608, Member Shri Bhanjibhai Patel made a complaint that the Minister of Public Works Department had given him a wrong answer of his supplementary question without checking the details. At that time the Minister for Parliamentary Affairs Shri Ratubhai Adani while raising a Point of Order submitted that Hon'ble Speaker had, from time to time, given the ruling that the information given in the House cannot be considered as wrong and yet it was being neglected. Thereafter, another Member asked as to what other word the Member would use, if he did not say that he himself had received the wrong information.

Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"We have a provision in our rules that even if the answer given by the Minister is not correct, it has to be accepted, and thereafter, the Member who feels that the answer given by the Minister cannot withstand on any other basis, he can take the complaint to the Speaker in his Chamber. If the Minister wants to make an explanation, he may be given an opportunity to give an explanation. But if he does otherwise, all the remedies of the House including the Motion of Expressing Want of Confidence in the Cabinet can be moved."

(G.L.A. Debates, Part-1, Book - 39, Column 725)

(D) If there is any Contradiction in the reply given by the Government and the information available with the Member, the matter should be brought to the notice of the Speaker.

On 27th July, 1967, during the question hour regarding Starred Question No. 608, Member Shri Manoharsinhji Jadeja stated that there were many factual mistakes in the answer given by the Minister. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"If there is any Contradiction in the contents of the answer and the information available with the Member, the best way is to bring the matter to the notice of the Speaker. After listening to the views of Hon'ble Member and Hon'ble Minister we can think as to what can be done to prevent such a difficulty in the future and what steps can be taken in the matter. So, if Hon'ble

Member gives me all the information in the matter, I will get the matter inquired into and will do the needfull.

(G.L.A. Debates, Part-1, Book - 18, Column 920)

(13) Notice under Rule 92 regarding the discrepancies in the answers to the questions on same subject.

A notice of Half-an-hour discussion under Rule-92 cannot be admitted regarding the discrepancies of the information in the answers of questions on same subject.

After the Question hour 2nd March 2020, Hon'ble the Leader of the Opposition Shri Pareshbhai Dhanani had stated that there were discrepancies in the answers to the Starred Question No. 24275 (Priority No. 200) asked by Member Shri Himmatsinh Patel regarding the GIDC in Anmedabad and Amreli Districts and to the Starred Question No. 24353 (Priority No. 251) asked by Member Shri Vimalbhai Chudasama regarding the GIDC functioning in the Devbhoomi Dwaraka District and also to question on the same subject in the fourth unstarred List of the fourth session of the Fourteenth Legislative Assembly and raised a Point of Order in this regard to admit half-an-hour discussion under Rule 92. In this regrd, Hon'ble the Deputy Chief Minister Shri Nitinbhai Patel and Minister of State for Parliamentary Affairs Shri Pradipsinh Jadeja had expressed their views and stated that the half-an-hour discussion under Rule - 92 could not be granted through a Point of Order in the House. Hence the Point of Order raised by the Leader of the Opposition is irrelevant. In this regard the Hon'ble Speaker (Shri Rajendra Trivedi) gave his Ruling on 11th March 2020 in the House as under:-

"In this matter I have deeply studied the proceedings of the Question hour of 2nd March 2020, the Rules of the Legislative Assembly, Rulings of the former Speakers and regarding what the point of order is from "Parliamentary Practice" written by Erskine May "Practice and Procedure of Parliament" written by Kaul - Shakhder, "Encyclopaedia of Parliament" written by Norman Wilding and Philip Laundry and "Parliamentary Dictionary" written by Abraham and Hawtrey. Having studied all the aforesaid literature, I think I should inform the exact meaning of the Point of Order to the House.

The meaning of point of order from encyclopedia of parliament by Noraman wilding and Philip Laundry (4th Edition (page no. 565) "A point of order is the breach of order or transgression of written or unwritten law of the House, which the Chair (speaker) has not perceived. Any Member of the parliament can and should bring to the speaker's immediate notice any such

instance and he may also ask for the guidance and assistance of the Chair regarding any obscurities in procedure." A Member is entitled in such cases only, to interrupt a debate by raising and saying, "on a point of order Mr. Speaker and then to lay the point in question concisely before him." A Member speaking on a point of order must simply direct attention to the point complained of, and submit it to the decision of the speaker.

According to Practice and Procedure of Parliament by Kaul and Shakhder" A point of order is the breach of order or transgression of any law of the house written or unwritten, which the Chair has failed to perceive and he may also seek the guidance and assistance of the Chair in respect of any obscurities in procedure. A point of order should therefore relate to the interpretation or enforcement of the rules of procedure and conduct of business in the House or convention or such article of the constitution as regulate the business of the House and must raise a question which is within the cognizance of the speaker. The test of whether a point raised is a point of order or not is not whether the Chair can give any relief but whether it involves such interpretation or enforcement of the rules etc. and whether it raises a point which the speaker alone can decide. A point of order, when raised, has the effect of suspending the procedure before the house. It can be raised only in relation to the business before the house at the moment. The term "business before the house" means business included in the list of business for the day. If it relates to maintenance of order in or arrangement of business before the House, the speaker may permit it to be raised during the interval between the termination of one item of business and the commencement of another item of business.

Thus, as per the opinion of the experts when the House is not functioning as per the written or un-written rules, or as per the established practices, then it is believed that the proceedings in the House is not being conducted in order and hence the proceedings of the House is required to be brought in order. And for bringing the proceedings of the House in order, any Member of the House rises in his chair and raises the Point of Order. This procedure of drawing the attention of the speaker for bringing the proceedings in order is called the Point of Order. Detailed provisions have been made in the Rule - 47 of the Gujarat Legislative Assembly Rules with regard to the "point of order". Accordingly, the "point of order" may always be raised only with regard to the business being conducted at given point of time before the House. And while raising a point of order, a Member has to bring to the notice of the speaker in brief as to what provision of the Constitution or Rules or what

established practice is being violated. In short the "point of order" may be raised only with regard to the business being conducted at given point of time before the House subject to the limitations mentioned in the Rules. Since the "point of order" may be raised with regard to the business before the House as per Rule - 47, the Point of Order can not be raised until the matter mentioned in the Order of the Day (List of Business for the Day) comes up for consideration before the House. If any Member desires to raise a point of order in a matter other than one mentioned in the Order of the Day (List of Business for the Day), he should in advance make a representation in writing before me in that regard. And the point of order can be raised only after I give my permission in that regard after receiving the written representation from a Member.

If a point of order is pertaining to the arrangement of the business of the House then the permission for raising the point of order can be granted in the intervening period between the two items of the business, i.e., the current item concludes and the new item starts over. As mentioned earlier, while raising a point of order it should be informed as to which rule or practice has been violated. Other irrelevant matters should not be raised. No Member can raise a point of order either to seek information or clarification from another Member, who is delivering a speech at that time or to explain his own position. Thus, a point of order cannot be raised until a matter regarding a motion, bill, calling attention notice or papers to be laid on the table of the House comes before the House or a motion in that regard is presented before the House.

Hon'ble the Leader of the Opposition Shri Pareshbhai Dhanani had raised a Point of Order for granting a Half-an-Hour discussion with regard to discrepancy contained in the answers to the questions on the similar subject. A provision has been made in the Rule - 92 of the Legislative Assembly Rules for half-an-hour discussion, which can not be raised through a Point of Order. The time of the House is precious. It is desirable that each and every minute of the House is spent in the interest of the people of the state and for their well-being and the works of their welfare. Therefore it is very necessary that every Member of the House is aware of the Rules and practices of the Legislative Assembly and the proceedings going on in the House at the respective time. Thus, I have tried to give the detailed information to all the Members as to when to raise a Point of Order, so that the invaluable time of the House may not be wasted in future. I hope all the Members will keep this in mind.

Since the Point of Order raised by Hon'ble the Leader of the Opposition Shri Pareshbhai Dhanani is not acceptable in view of the facts mentioned above by me regarding the Rules and well-established practices of Legislative Assembly, I reject the Point of Order."

(G.L.A. Debates, Book –72:2020, Vol. IV)

(14) Supplementary Questions:-

(1) Supplementary question should arise from the Original question.

(A) Supplementary question should arise from the main question.

On 30th June, 2009, during the Question Hour, while asking a supplementary question on Starred Question No.6996 with regard to giving benefits of the Sixth Pay Commission to the employees working on fixed pay, Member Shri Arjunbhai Modhvadia sarcastically stated "While we are concerned about the security and education of the people, on the one hand we ask our constables to fight against terrorists and ask our teachers to fight against illiteracy by paying them a fixed pay of Rs.2500/- and on the other hand we pay them less than even the minimum wages and spend Rs.1 lakh everyday for air flights".

On this matter, after the Question Hour, the Hon'ble Speaker (Shri Ashok Bhatt) drawing the attention of the Members towards Rule 89, observed that "as per Rule - 89 after giving the answer to a starred question, any Member may, on calling his name, ask a supplementary question in order to get more clarification on the fact of the answer already given. However, the Speaker may reject a supplementary question if he feels that the nature of the supplementary question is like a cross examination or in violation of the rules for asking supplementary question." Therefore, while rejecting the supplementary question raised by Shri Arjunbhai, the Hon'ble Speaker directed "to expunge the sarcastic comment made by the Member from the proceedings of the House and expressed his hope that the Members would only ask the supplementary questions arising out of the original question and would not make any sarcastic comments while asking supplementary questions."

(G.L.A. Debates, Book- 142: 2009)

(B) Supplementary Questions should be short and consistent with the original question.

On 25th September, 2008, after the Question Hour, the Hon'ble Leader of Opposition Shri Shaktisinhji Gohil raised a Point of Order seeking protection from the Hon'ble Speaker by stating that an attempt was made to avoid discussion on the question having priority No.15 relating to High Court's direction to file F.I.R. against the responsible persons, by intentionally taking a more time on the discussion on Starred Question No. 3753 having Priority No.10 relating to the involvement of SIMI in the Bomb Blasts in Ahmedabad.

The Hon'ble Minister of State for Parliamentary Affairs Shri Amit Shah expressed his opinion on the matter.

After hearing the opinion of the Hon'ble Minister of State for Parliamentary Affairs, Hon Speaker (Shri Ashok Bhatt) while giving his ruling on the Point of Order asserted that "the question raised by Hon Shri Shaktisinhji Gohil was irrelevant as it was his responsibility to conduct the proceedings of the House and no question and its answer had taken 20 minutes time. While warning the Minister to refrain from making political observations, he also clarified that there were supplementary questions from both the sides. The Hon'ble Speaker also observed that" when a question is important and sensitive involving larger national interest, such question normally takes 5 to 6 minutes. The responsibility of time management of the House rests with him. However, when longer Supplementary Questions were asked that too with deviations, he normally would not like to create a situation of interrupting and stopping the Minister from giving replies to such questions. In the present case, the question asked by the Hon'ble Member Shri siddharthbhai was in connection with SIMI and in the supplementary, the Member deviated the matter to GujCOC stating that the question asked by him was germinated from the reply of the Hon'ble Minister. "

In view of this, the Hon'ble Speaker ruled that since the supplementary questions were arisen out of the reply given by the Hon'ble Minister and that too of sensitive nature, it would not be justifiable to have interrupted or stopped the Minister in the midst of giving answers to the questions and conclude the discussion within 5 minutes so as to reach upto the question having priority No.15.

(G.L.A. Debates, Book- 138: 2008)

(C) There is no need to answer after a decision that the supplementary question does not arise from the original question.

On 4th July 1962, during the question hour regarding Starred Question No. 110 of Member Shri Prataprai Shah pertaining to payment of provident fund to the workers of Digvijay Mill at Jamnagar, a supplementary question was asked by Member Shri Prataprai Shah, the Hon'ble Speaker gave his ruling that the question did not arise. Notwithstanding that, as the Minister tried to answer to the supplementary question, Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"When I said that the question which has been asked does not arise from this, then there is no question that you have to answer it."

(G.L.A. Debates, Part -1, Book -6, Column 54)

(D) When a specific information has been asked by a supplementary question, that should only be given.

On 3rd March 1970, during the question hour regarding Question No. 28501, when Member Dr. Vasant Parikh sought information pertaining to some villages through a supplementary question, the Minister instead of giving information about that villages, started giving other information in detail. At that time, Member Shri Martandrai Shastri raising a Point of Order asked as to whether it was proper on the part of the Minister to provide the information of complete procedures carried out by the Department, instead of giving specific answer, when a specific question is asked.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"In the supplementary questions, if any Hon'ble Member draws the attention and asks for the information on a particular matter, then attempting to provide information other than what is sought, is not considered to be in order. The Minister can say, "In my opinion this thing does not arise from this question. I would require a notice. That is a different matter." But if the Minister is asked about a village and he talks about another village, then I think that reply would not be in order."

(G.L.A. Debates, Part -1, Book -25, Column 101)

(2) Supplementary questions should be simple and short.

(A) Supplementary questions should be simple and short.

On 19th December 1963, during the question hour regarding Starred Question No. 4954 of Member Shri Prataprai Shah pertaining to non-PSC employees working in the General Administration Department and other Departments, he asked the following supplementary question:-

"Does the Hon'ble Minister know any example of the candidates who have been declared failed by the PSC are in service and the candidates who have been passed by the PSC are still jobless, because during the interim period of training the non-PSC candidates means the candidates declared failed by the PSC are in service while the successful candidates are being left jobless."

Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"The sub-question should be very simple and short. It should not have arguments or hypothetical elements in it."

(G.L.A. Debates, Part -1, Volume -9, Column 352)

(B) In a supplementary question, not more than one matter should be asked.

On 18th November 1965, during the question hour Member Shri Narbheshankar Paneri asked a supplementary question as to in which method, under what condition and at how much rent had the telephone been installed in the Kandorana Oil Mill at Junaghadh District? When the Minister replied of two, out of three sub-questions and when one of the Members reminded the Minister of the sub-question pertaining to the condition, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"When a question is asked to a Minister, question can be asked only on one matter, it is not proper to ask two or three matters together in one question."

(G.L.A. Debates, Part -1, Book -14, Column 214)

(C) It is not appropriate for a Member to make a lengthy speech instead of asking a direct supplementary question.

On 27th June 1980, during the question hour regarding Short Notice Question No.-16 asked by Member Shri Babubhai Meghajibhai Shah pertaining to superseding the Rajkot Municipal Corporation, Member Shri Keshubhai Patel, instead of asking a direct supplementary question, tried to give a lengthy speech. Thereupon, the Hon'ble Speaker (Shri Natwarlal Shah) gave the following ruling:-

"Under no circumstances, it is appropriate to give a lengthy speech instead of asking a direct question."

(G.L.A. Debates, Part -1, Book-66, Column 20)

(D) When the question is of number of applications, separate questions should be asked for individual answers.

On 27th June 1972, during the question hour regarding starred question No. 444 of Member Shri Jagannath Vyas, Member Shri Keshavbhai Patel asked a supplementary question to the Hon'ble Minister of Industries as to what point of time these 11 firms had applied during the last one year to set up more factories to produce caustic soda? Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"The question is regarding the number of applications. If the individual questions need to be answered, Hon'ble Member should ask 11 individual questions. Why should 11 questions be allowed in one question? So, a new question should be asked for that."

(G.L.A. Debates, Part -1, Book -33, Column 207-208)

(E) When the Terms of Reference is laid on the Table of the House, the relevant questions arising out of it may be asked.

On 30th June 1980, during the question hour regarding Short Notice Question No. 14 of Member Shri Babubhai Vasanvala pertaining to custodial death of an accused in the Dariyapur Police Station, the Hon'ble Home Minister declared a decision of judicial inquiry by the Government in this regard. The House expressed its eagerness about the points to be investigated and the Hon'ble Speaker asked Hon'ble Home Minister to lay the Terms of Reference on the Table of the House on the next day. Thereupon, Hon'ble the Member Shri Keshubhai Patel raised a Point of Order and requested the Hon'ble Speaker to guide about the right to ask supplementary Questions to that context in the House.

The Hon'ble Speaker (Shri Natwarlal Shah) gave the following ruling:-

"If the Terms of Reference is to be presented tomorrow, you will be able to discuss on the Terms of Reference and ask questions tomorrow. If you find anything left in the Terms of Reference, you can ask a question at that time."

With regard to the aforesaid matter, the Terms of Reference was laid on the Table of the House on 1st July 1980 and the question-answer was held thereon.

(G.L.A. Debates, Part -1, Book - 66, Column 41)

(F) If the original question applies to the entire State, supplementary questions cannot be asked for information of any single unit.

On 5th April 1963, during the question hour regarding starred question No. 646 asked by Member Shri Ramanlal Patel pertaining to Industrial Estate in the State, when Members were seeking detail information about some of the Units and the Minister was answering them, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"It is not appropriate to ask detailed questions regarding different industrial Estates when the information regarding the whole State is being asked. The main question is regarding the Industrial Estate and where these are and how many factories are there in each? Then, which loan is to be granted to each factory, how much to be granted, who sanctioned the loan and then what happened to it? I think we are going much beyond the scope of the whole question, the Hon'ble Minister is ready with all the material and he has been giving you all that information. I have been seeing all that."

(G.L.A. Debates, Part-1, Book-7, Column 1165)

(G) A general supplementary question about all the Units cannot be asked when the fact of any one Unit has been asked in the original question.

On 18th February 1964 during the question hour regarding starred question No. 3156 of Member Shri Brahmakumar Bhatt pertaining to the demand of Waghesara Gram Panchayat of Prantij Taluka about the area of the Village, Member Shri Juvansinh Thakor stated that many village panchayats had requested the Government to increase the area of their villages but since it was a clumsy process, the Government had not taken any active steps to increase the area of the villages, and asked whether the same was true? The Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"While this question belongs to one Gram Panchayat, another such question cannot be asked concerning all the Panchayats."

(G.L.A. Debates, Part -1, Book-10, Column 10)

(3) Other restrictions with regard to asking Supplementary Question.

(A) During the question hour one should refrain from using expressions of Congratulation/greeting, epithet, ironical expression and criticism while raising supplementary questions.

On 25th February, 2010, after the discussion on Calling attention to matters of urgent public importance under Rule-116, the Leader of Opposition Shri Shaktisinh Gohil raised a point of order stating that since the question hour is very important and time bound for all, in order to save time, a Minister or the Chief Minister or the Government, should not be congratulated while asking questions. He also stated that it was proper to convey congratulations in case of suitable occasions, at party meeting or a party programme, but it was not proper for the Members of the ruling party to convey congratulations quite often because of their high respect for the Chief Minister. He further stated that in the past there were directions from the Chair that congratulations are not allowed while raising questions or supplementary questions and sought the guidance of Hon'ble the Speaker.

After hearing the views of the Minister of Health Shri Jaynarayan Vyas and the Minister for Parliamentary Affairs Shri Amit Shah, Hon'ble the Speaker (Shri Ashok Bhatt) postponed his ruling and later on gave his ruling on 13th March, 2010 as under:-

"The question hour is a lively period in the parliamentary practice and the daily proceedings of the Assembly starts with it. During the question hour, Members by highlighting the grievances of their respective constituencies, solve the difficulties of the people as well as convey the feelings of the people towards the working of the government. It is their parliamentary duty and, therefore, the proceedings of the Legislatures and the Parliament start with the question hour. Such is the importance of the question hour and hence we all maintain its seriousness. By keeping this seriousness in view, we do not admit the questions having arguments, inferences, imputations, ironical expressions, epithets and defamatory statements as per the provisions of Rule-78(4) of the Assembly Rules. While admitting the original question, whether starred or unstarred, it must be free from epithets, ironical expressions, inferences and imputations. The above mentioned pre-condition of admitting a question is also

applicable at the time of discussions on them in the Assembly and, therefore, statements having epithets, ironical expressions, arguments, inferences and imputations cannot be made while asking supplementary questions also and it is a matter of our own understanding because when an individual becomes representative of the people, he is baptized with the parliamentary traits. After due consideration of the views expressed by Shri Jaynarayan Vyas and Shri Amitbhai Shah on the point of order raised by Hon'ble Shri Shaktisinhji, it has become very clear to me, that during question hour various forms of usages of epithets, ironical expressions, comments and welcome are being used at the time of putting supplementary questions and as a result such expressions are used by the Members of both the sides. We have only one hour's time for the questionnaire and time is being wasted in using epithets and ironical expressions. To avoid waste of time we should refrain from unnecessary expressions and, therefore, it seems to me that we will be able to justify the questions raised on behalf of the people only if we will raise brief, precise and logical supplementary questions during the question hour. We have ample opportunities to give way to our expressions during other discussions in the Assembly House and it is our right too, to express our views. Of course, it is necessary to express satisfaction, happiness and convey congratulations towards the administration. At the same time, it is also a moral duty of a watchful MLA to draw the attention of the administration towards its lacking and to criticize it and give constructive ideas. If I may quote the first Speaker of the Lok Sabha, Late Shri G. V. Mavalankar, "Every legislator has to reMember that he or she has to perform as a responsible Minister and his purview is not only limited to find lapses or lacking and make criticism but it also expands upto constructive suggestions, works."

Following this guidance of Dadasaheb we should use the question hour constructively. If we follow the advice of Dadasaheb Mavlankar by refraining from using expressions of epithets or ironical expressions then only we all will be able to establish the best parliamentary tradition and maximize the utilization of the question hour. Echoing the problems of the people is the essence of parliamentary democracy and that is why the question hour is an hour which reverberate the problems of the people in the House."

(G.L.A. Debates, Book- 148: 2010)

(B) While asking a supplementary question, no letter can be produced in its support.

On 22nd March 1963, during the question hour on regarding starred question no. 2789 Member Shri Muljibhai Thakkar produced a letter from the Gram Panchayat in support of supplementary question. Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"The question cannot be asked by putting a letter in support of it. Ask the question you want to ask, the letter is not needed."

(G.L.A. Debates, Part -1, Book-7, Column 759)

(C) If a Minister clarifies the answer to a question later on any other day, supplementary questions cannot be asked on it.

On 3rd September, 1965, when the Deputy Minister for Industries Shri Devendra Desai made a statement giving clarification on question No. 9308, which was asked on 2nd September 1965, Member Shri Babubhai Vaidya requested the Hon'ble Speaker to allow him to ask supplementary questions on it. Thereupon, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"The question that has been raised today is not in today's agenda. The Minister has clarified the information which was left to be given yesterday. If there are any questions on it, you can certainly ask but not today. You can ask an independent question. You can table another question."

(G.L.A. Debates, Part -1, Book-13, Column 89)

(D) Supplementary questions cannot be asked on personal explanations.

On 19th February 1968, during the question hour regarding Short Notice Question No. 8744 pertaining to arrest of pro-Pakistan suspects from Coastal areas of Kutchchh by the police, a supplementary question was asked whether it was true that before he became Minister, his driver had a connection with Pakistan.

When the Minister made a personal explanation in that regard, Member Shri Ratilal Khushaldas expressed his desire for further question. Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"On a personal Clarification, there cannot be any supplementary Question."

(G.L.A. Debates, Part -1, Book-19, Column 1503)

(E) A question cannot be asked on the answers given in the Parliament.

On 4th May 1965, during the question hour regarding starred question No. 10815 asked by Member Smt. Bhanubahen Patel pertaining to establishing a factory by Hindustan Machine Tools in the State, Member Shri Narbheshankar Paneri asked a supplementary question about the answer given in the Parliament.

The Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"A question may have been asked in this regard in the Parliament and the Minister may not be aware of it. How can it be expected that the Minister should be aware of everything what happens in the Parliament? If Hon'ble Minister knows, he would surely tell us, but since he did not know, he has denied."

(G.L.A. Debates, Part -1, Book-12, Column 1376)

(F) Minister should have necessary information to answer supplementary questions.

On 10th September, 1984, during the question hour regarding starred question no. 24091 asked by Member Shri Nathabhai Patel on the relief given from the Chief Minister's Relief Fund to the relatives of those who were killed in Garudi firing, Hon'ble Minister Shri Amarsinh Chaudhary while replying the supplementary Question of Member Shri Vadilal Kamdar, made an explanation that the money was given to four persons on 23rd and 31st and the money was deposited in the name of Late Jivibahen's children. But at present he did not have the information as to where it was deposited. At this stage, Member Shri Chimanbhai Patel raising an objection stated that when the Member said that the information given in the House through supplementary question was different from the fact, the Minister should either provide the supportive information about the dates on which the amount was paid to the persons by the Government or make a statement that he would inform the House after inquiring about the dates with details. The Minister did not even show such a courtesy. The Government should also take due care in this regard and respond accordingly. Hon'ble Minister Shri Amarsinh Chaudhary stated that since the children were minor, the Collector by issuing necessary orders had placed the money in charge of the District Development Officer and the other four persons had been paid Rs. 1000/- and Rs. 9000/- through the Taluka Development Officer on 23rd and 31st respectively. Thereupon, Hon'ble Speaker (Shri Natwarlal Shah) gave the following ruling:-

"As stated by the Minister, either the amounts have been paid on 23rd, 29th and 31st or the arrangements have been made for the children. The Collector has issued an order but has not given details as to where the money has been deposited. Today, the Hon'ble Minister has demanded from me voluntarily agreeing to give the answer to the question. You must be prepared for the reply and you must have all necessary information. The children's matter is very sensitive and, therefore, the details of the arrangements made for the fund given should be provided."

(G.L.A. Debates, Part - 1, Book-88, Column 33-37)

(G) Ministers should have the information on Prospective supplementary questions.

On 4th July 1962, while replying a supplementary question raised from starred question no. 79 of Member Shri Chimanlal Patel pertaining to the damage caused to the crops due to the cyclone and unseasonal rains in the state, the Deputy Minister had asked to give notice for a separate question. Thereupon, Member Shri Brahmakumar Bhatt stated that since the supplementary question had arisen from the original question, a question of asking a separate notice did not arise. At that time, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

"Arising supplementary from such a question is quite natural. Accordingly, if we also get ready with the prospective information, we can save the precious time of the House."

(G.L.A. Debates, Part -1, Book-6, Column 45)

(H) Supplementary questions of cross-examination-type cannot be asked.

On 26th March 1968, after asking supplementary questions for fifteen minutes on a postponed Question No. 2225 of Member Shri Chunilal Chudgar pertaining to contract for bringing food-grains in Surendranagar District, the Hon'ble Speaker ordered to take up the second question. Even then Member Shri Chunilal Chudgar rose to ask a further supplementary question and Member Shri Popatlal Vyas tried to raise a Point of Order. Thereupon, Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"I don't want to hear the Point of Order. For a deferred question, 15 minutes is a longer time. Even if the list of 35 questions is published, and if a Hon'ble Member takes 15 minutes once for one question and other 15 minutes for the second time, then I don't think it will work without changing the way of

our asking the questions. The other Members also want to raise the remaining questions for getting information. I also allow asking some questions in the form of cross examination but I think, I have to stop this. Cross examination cannot be done."

(G.L.A. Debates, Part -1, Book-19, Column 3657-3658)

(4) Supplementary Question based on the information submitted to the answer of the Questions with different Priority Numbers.

- Supplementary Question based on the information from the answer to the Questions with different Priority Nos. can be asked.

During the discussions on Question No. 24403 (Priority No. 2) during the Question hour on 2nd March 2020 regarding beef and cow breed seized from the Valsad and Navsari Districts and the City, when Member Shri Jitubhai Chaudhary, who was in charge of the original Question, and Member Shri Shaileshbhai Parmar and the Leader of the Opposition Shri Pareshbhai Dhanani, presented the figures by clubbing the answer of the same subject Question having lower priority in the Question Answer List of same day, Hon'ble Minister of State for Legislative and Parliamentary Affairs Shri Pradipsinh Jadeja raised a Point of Order and stated that "the Member is asking a question by clubbing the Question of Priority No. 2 with that of Priority No. 145, which is not proper." Hon'ble Deputy Chief Minister Shri Nitinbhai Patel and Hon'ble Minister for Parliamentary Affairs Shri Bhupendrasinh Chudasama expressed their views in the support of the Point of Order. In this regard, Hon'ble the Speaker (Shri Rajendra Trivedi) gave the following Ruling in the House on 11th March 2020:-

"As per the well-established practice of the Legislative Assembly, it is true that simultaneous consideration of two or more questions is not taken up. So to that extent, I agree with the submission made by Hon'ble Minister of State for Legislative and Parliamentary Affairs Shri Pradipsinh Jadeja.

While going through the proceedings of the House for that day as also the Rules, Practices, I think the Hon'ble the Leader of the Opposition Shri Pareshbhai Dhanani, Shri Jitubhai Chaudhary and Shri Shaileshbhai Parmar had presented, in the Question hour on 2nd March 2020, the figures by summarizing the information from the Answers of the Questions regarding the beef seized from different districts of the State. These figures belonged to the Question-Answer List of that day only. Moreover, the Members had not asked any supplementary question regarding the questions having lower priority no., but had started off with the sum of how much beef was seized. Many a time

during the Question-Answer Session, Members start off their submission using the literature published by the Govt. It is the personal responsibility of a Member for the truthfulness of whatever figures / reference of literature he quotes for asking a question.

Since the information of questions presented in the Legislative Assembly and reports or documents laid on the Table of the Legislative Assembly is considered to be public and authorized, the Members use this information during the discussions in the House and there is nothing wrong in doing so.

Therefore, it cannot be said that consideration of two or more questions has been taken up by asking a supplementary question based on the information presented in the Question Answer List.

At this point, the attention is drawn to the fact that the information was given by the three opposition Members by summarizing the figures of the question of the same subject. Those figures belonged to the Question-Answer List of the same day, which List is and has been given to all the Hon'ble Members of the Legislative Assembly and press-reporters. The List contained the figures published by the Govt. The Hon'ble Members had not asked any supplementary question out of the scope. Therefore, I reject the Point Of Order raised by Hon'ble the Minister Shri Pradipsinh Jadeja."

(G.L.A. Debates, Volume -4, Book-72:2020)

(5) Time- limit to ask Supplementary Questions.

- Practically it is difficult to adhere to the time-limit of five minutes to ask Supplementary Questions.

On 2nd March, 2007, while answering a supplementary to a Starred Question bearing No.18837 raised by a Member, Shri Jitendrakumar Vaghela on organizing a Lok Darbar in Ahmedabad District, the concerned Minister of State for Home Shri Amit Shah took some more time. Thereupon, the Member Shri Punjabhai Vansh raised a Point of Order stating that the Minister took almost 10 minutes for giving the answer to the supplementary by giving lengthy and irrelevant information instead of responding to the relevant queries, resulting into blockage of subsequent Questions by other Members and by doing so the Minister had encroached upon the rights of the Members.

After hearing the views of the concerned Minister and Members on the said Point of Order, the Hon'ble Speaker had postponed his ruling.

On 14th March, 2007, the Hon'ble Speaker (Prof. Mangalbai Patel) gave his ruling as under:

"It is practically difficult to restrict the discussion on starred questions to five minutes only as laid down in Rule-89. It depends on various aspects such as the nature of the question, various points and issues involved, scope of the supplementary, political observations and sarcastic utterances as well as the pretext formed by the Members and the Minister concerned while responding to the questions. Therefore, observance of time limit of 5 minutes as laid down under rule-89 is not possible in each case. Not only this, if the question involves any public interest, then also the time cannot be restricted to five minutes only and the rule does not expect restriction in all cases. In the past, on many occasions 15 to 30 minutes have been allocated for the discussions on important questions and questions involving public interest. Such incidents are on the record."

In addition to this, the Hon'ble Speaker stated that "the time limit of five minutes as required by the said rule could be followed to a large extent if the Members concerned ask supplementary questions in accordance with the provision of the rule and the Ministers follow the practice of presenting relevant and brief information before the House." He also brought to the notice of the Members that "the Speaker is empowered by rule 56 to allocate more than five minutes for discussions on important questions of larger public interest and any Member can't oppose it."

(G.L.A. Debates, Book 126 &128:2007)

15. When can a Question be presented in the House?

Until the Speaker calls a Member to ask a question, the question cannot be considered to be presented in the House, even though it is printed in the list.

On 13th September 1968, during the Question Hour, before the Member could ask Question No. 13391 pertaining to the implementation of recommendations made by the Pay Commission, Member Shri Sanat Mehta tried to raise a Point of Order. Thereupon, as the Hon'ble Speaker had stated that the item was not presented in the House, the Member argued that the whole list of questions was before the House and, therefore, all those questions were presented in the House.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"Until the Speaker calls the Member to ask a question, it cannot be considered to be presented in the House. Therefore, there is a restriction on all the Members that they cannot disclose the questions or the answers thereof until the questions are not asked in the House."

(G.L.A. Debates, Part -1, Book -20, Column 1995)

16. A Question cannot be withdrawn after it is presented in the House:-

A Question asked in the House becomes the property of the House. Therefore, it cannot be withdrawn after its presentation in the House.

On 15th March 1979, during Starred Question No. 18280 of Member Shri Kantibhai Patel pertaining to the time-limit for Secretaries to reply the letters received from the Members, the Member Shri Kantibhai Patel did not express his desire to ask a supplementary question. Thereupon, the Hon'ble Speaker clarified that the Member had withdrawn the question. At that time, Shri Karamshi Makwana expressed his desire to ask supplementary questions. Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following ruling:-

"You should give prior intimation, if you don't want to ask the question. Once the question is asked in the House, it becomes property of the House."

Thereafter, the other Members asked supplementary questions.

(G.L.A. Debates, Part -1, Book -63, Column 286)

17. Raising a Point of Order during the Question Hour.

- A Point of Order cannot be raised during the Question Hour.

On 21st June 1977, during the question hour regarding Short notice question No. 230 asked by Member Shri Narsinh Makwana pertaining to superseding the Junagadh District Panchayat, when Member Shri Vallabhabhai Patel tried to raise a Point of Order, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following ruling:-

"There can be no Point of order in question hour."

(G.L.A. Debates, Part -1, Book -52, Column 122)

On 31st July 1975, during the question hour while asking supplementary questions on Starred Question No. 578 of Member Shri Narsinhbhai Makwana pertaining to excess goods in the District Milk Producing Dairies, Member Shri

Nagindas Shah raising a Point of Order stated that since the Minister had said that the Question did not belong to his Department, why he was giving the answer?

Thereupon, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following ruling:-

"Point of Order cannot be raised during the Question Hour."

(G.L.A. Debates, Part -1, Book -47, Column 522)

(18) Matter of timely intimation of readiness of a Minister to answer a short notice question.

- The Government should inform in time regarding inability to answer within a short time.

On 5th March 1969, during the question hour regarding Short notice Question No. 18020, Member Shri Manoharsinhji Jadeja raising a Point of Order stated that as per the Rule 90 of GLA Rules, Government should give the answer to a Short Notice Question within seven days of receiving the same. In spite of that, the Government could not answer the above mentioned Question, which was admitted on 20th February 1969 and the intimation regarding the same was received on 1st March 1969 through the Legislature Secretariat. Hence by replying after seven days, the Government had violated the Rule.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"When should Hon'ble Minister inform the Speaker to the effect that since the answer is to be given within seven days, it cannot be replied as a Short Notice Question? If the reply to that effect is given in time, Hon'ble Members can find out some other way. So a letter of such inability should be written within two or three days."

(G.L.A. Debates, Part -1, Book -21, Part -b Column 2272)

Chapter - 5

Zero Hour, Calling Attention Notices, Short Duration Discussions, Adjournment Motion, No Confidence Motion, Motion for Removal of Speaker or Deputy Speaker from the Office, other Motions, Resolutions, Statement of a Member Resigning from the Office of the Minister (Rule - 107).

1. Zero Hour.

(1) The dignity of the House will be maintained in a better way by not introducing the practice of Zero hour.

On 23rd September, 1980, after the Question Hour, Member Shri Chimanbhai Patel while mentioning the rejection of Adjournment Motion on a demand of the employees of Civil Secretariat, submitted that during the previous regime, the Leader of the Opposition also tried to get some lee-way to present such urgent matters before the House. Therefore, he sought guidance of the Hon'ble Speaker as to how the MLAs could raise the grievances of the people in the House on the questions arising in public life from the functioning of the Government. At that time, Hon'ble Finance Minister Shri Sanat Mehta raising a point of order as to whether the decision of the Speaker could be discussed in the House when the Speaker had informed the Member about his decision on such a notice and requested the Hon Speaker to give a ruling as to whether such a convention is in accordance with the practice of the House.

Thereafter, the Hon'ble Chief Minister and the Minister of State for Finance, Shri Harihar Khambholja, clarified that in the past, on important occasions, issues were raised in the House as per rules and in some cases with the consent of the Hon'ble Speaker. However, the issue could not be raised if Hon'ble Speaker did not grant permission due to some reasons. Apart from this, after hearing some other Members, the Hon. Speaker (Shri Natwarlal Shah) gave a Ruling as follows: -

"The point of order is correct that the issue cannot be discussed on which I have already given a ruling. Once the decision is made, there should not be any discussion here on it, but the question that is often raised is to introduce the practice of Zero Hour. Different reasons are given for it but one thing is very clear that with regard to introduction of Zero Hour in this House, the former Speaker Shri Kundanlal Dholakia has given a very clear ruling that the practice of Zero Hour cannot be introduced. Even after hearing all these, I believe that there is no justification to change that Ruling. I want to make it

very clear that because of change of seats of Members or the Party in the House, if the Rulings given by the Hon'ble Speakers are altered, then I think it will be very difficult to maintain order in this House. There must be some consistency in the Ruling given by the Chair and that consistency must be maintained. The last thing that has been stated is regarding extraordinary circumstances. I do not see such extraordinary circumstances. So far as the exception on which Hon'ble Member Shri Chimanbhai talked, I would like to state that I had made an exception when the incident of Aslali had occurred. In that incident too, Member Shri Chimanbhai Patel had called me at 8.00 in the morning. Hon'ble Member Shri Chimanbhai had also spoken to the Hon'ble Minister. Thereafter, I also had talked to the Hon'ble Minister and considering the seriousness of the incident and since the Minister had also agreed to allow this question to be raised, I had granted permission to raise the question here. At the same time, I had clarified that it was an exception and all the Members should keep in mind that it may not be re-quoted as a Rule or a Practice in the future. Again, I would like to draw the attention of the Hon'ble Members that as stated by Hon'ble Chief Minister Shri Madhavsinhbhai and Hon'ble Minister Shri Khambholja, as per the old practice, if any serious question has arisen or if there is an urgent matter of public importance, it should be reported in such a way that there should be some time gap for conversation with the Hon'ble Minister in that regard and the Hon'ble Minister may come here prepared to answer. I think that if this practice is maintained, the dignity of the House will be maintained and the feelings of the Hon'ble Members will also be respected. So I request you not to raise the issue of Zero Hour anymore, in the interest of all of us and especially of the House."

(G.L.A. Debates, Part-2, Book-70, Column 685 to 702)

(2) (A) Permission cannot be granted for discussing a matter except the one included in the List of Business for the day.

(B) There is no provision for Zero Hour in the Rules of Procedure of the Legislative Assembly and it is not advisable to include it in the Rules.

On 22nd August, 1978, Member Shri Narasinh Makwana raised an issue on Question No. 12907 of dt. 22nd August, 1978 of Member Shri Chimanbhai Mehta pertaining to accumulation of molasses giving reference to the hot discussion that took place in the House on the previous day i.e. 21st September, 1978 regarding the issues raised in the letters written by Member Shri VasANJI Thakrar and the Health Minister to the Chief minister and stated that an impression was created that the Government wanted to hide something. He,

therefore, requested the Hon'ble Speaker to ask the Government to make clarification in the matter. Thereafter, other Members had raised the points with regard to laying the correspondence regarding molasses on the table of the House, protecting the Members in view of suspicion created in respect of them as they were allegedly involved in it and for ordering a judicial inquiry into the matter of bribe offered to the Minister. At that time, Member Shri Chhabildas Mehta raised a point of order as to the right to know the name of the Member alongwith whom a person who offered bribe to the Minister in the matter of molasses? Thereupon, Hon'ble Speaker clarified that a notice for a half an hour discussion was admitted under Rule 92 on that subject.

Thereupon, Member Shri Amarsinh Chaudhary rose to raise a point of order but the Hon'ble Speaker stopped him from doing so. As a result, after hearing the views of the Minister of Parliamentary Affairs, Leader of the Opposition, Minister of Law and other Members during the discussion in the House on the matters on which a point of order could be raised, the Hon'ble Speaker (Shri Kundanlal Dholakia) gave the following Rulings under Rule 47(1) (2) and (3) of the Gujarat Legislative Assembly Rules: -

"Point of order cannot be raised on matter which is not included in the business of the House. Hon'ble Speaker quoting Ruling No. 123 mentioned on page 89 of the book of important Rulings of the Speaker given in the House during the years 1960 to 1971, stated that prior permission of the Speaker should be sought, if the matter not mentioned in the List of Business for the day is to be presented."

Giving a Ruling on Zero Hour, the Hon'ble Speaker further stated that "there is no Zero Hour in the Rules of Lok Sabha. Referring to the bulletins distributed by the Lok Sabha Secretariat among the Members on 24th April, 1978 and 2nd August, 1978, he also stated that the Members wishing to raise the matters of wider public importance should give notice under the Rules for the respective matter.

There was neither any provision of Zero Hour in the Rules of the Gujarat Legislative Assembly, nor it was recognised by this House. In these circumstances, it was not advisable for the Members to raise different issues in the intervening period between the Question Hour and the Business taken up as per List of the Business for the Day and to interrupt the scheduled Business of the House and to spend time."

(G.L.A. Debates, Part-1, Book-59, Column 455-477)

(3) 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 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.”

(G.L.A. Debates, Book – 46 Page. 90-91, Vol. II)

(4) 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 to when a question could be raised in the zero hour, the Speaker (Shri Shashikant Lakhani) 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”.

(G.L.A. Debates, Book – 56, Vol. II, Column 797)

(5) Matters of recent occurrence can be raised in the 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 current matter which does not fall either under short notice question or under calling attention notice and if it receives the permission of the speaker, that matter can be raised in the zero hour. When such question arises, it receives the consent from the Speaker. 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, Hon'ble Speaker (Shri Barjorji Pardiwala) gave his decision as under: -

“The question must arise of recent occurrence. If the question has arisen of recent occurrence and is presented today, it is allowed”.

(G.L.A. Debates, Book – 5 Page. 293-294, Vol. II)

(6) The issue of clarification regarding the report of the committee constituted by the Central Government can be raised in Zero hour.

On Monday, 6th March, 2006, after the Question Hour, a Member of the ruling party, Shri Pradeepsinh Jadeja sought an information from the Home Minister during Zero Hour on the findings of the Banerjee Commission on the Godhra Carnage which were revealed at a Press Conference by Justice Banerjee. According to the Commission, it was an accident and not a pre-planned conspiracy. The Member wanted the Minister of State for Home to provide the details of the incident with necessary evidence before the House to assert that it was a pre-planned conspiracy. He also wanted to know about the FSL report on the incident and also the legality and propriety of formation of the Commission as the inquiry by the Nanavati Commission on the same matter was going on. On these contradictions, another Member Dr. Nimaben Acharya demanded the Minister of State for Home to enlighten the House. Thereupon, the Leader of the Opposition raised a point of order on (i) Zero Hour does not start until the proceedings regarding the Notice under Rule-116 is over and (ii) the discussion on a Report falling under the Commission of Inquiry Act is to be taken up only after it is tabled in the House. In the present case, the issue could not have been raised as the report of the Banerjee Commission has yet to be laid on the table of the Lok Sabha. The Parliamentary Affairs Minister intervened in the matter and clarified that though there is no specific rule for the Zero Hour, there is a convention to avail Zero Hour after the question hour and before the initiation of regular business of the House for the day. He also clarified that in the present case, the Member had obtained prior permission of the Minister and the matter was of an urgent nature. The Minister of State for Home also clarified that the Banerjee Committee was a High Level Committee and not a Commission and that the Member Shri Jadeja had obtained his consent before raising the matter in the House. He further pointed out that it was necessary to make a clarification on the prevailing conditions arising out of the press conference held by Justice Banerjee. Some other Members were also engaged in the discussion in support and against the point of order raised by the Leader of Opposition.

After the discussion, Hon'ble the Speaker (Prof. Mangalbai Patel) ruled out the point of order raised by the Leader of Opposition stating that a final ruling would be issued later on after studying all the aspects.

Accordingly, after going through the proceedings on the point of order, rules, parliamentary practices, Commission of Inquiry Act and the Notification of the Railway Ministry regarding the constitution of the Banerjee Commission, the following ruling was issued by the Hon'ble Speaker:

"Though there is no specific provision in the Gujarat Legislative Assembly Rules for the Zero Hour, an issue of Zero Hour on a matter of urgent nature concerning the interest of the entire State can be raised as per the well-established practice after the Question Hour and before taking up proceeding of the listed business of the House for the day, by any Member with the consent of the Minister concerned and the Speaker. On the propriety of the discussion in the House on a Report falling under the Commission of Inquiry Act before tabling it in the Parliament, as this information was sought during the Zero Hour after following the well-established practice of raising a matter at the Zero Hour as stated hereinabove and with a view to remove the misunderstanding, contradiction and doubts that may have arisen in the minds of the people of Gujarat due to the revelation of the findings of the Banerjee Commission on the Godhra Carnage in the media, both the points raised by the Leader of Opposition were disapproved at the time of discussion."

(G.L.A. Debates, Book 118 & 120:2006)

(7) The permission of the Hon'ble Speaker and the consent of the concerned Hon'ble Minister is necessary to raise any sensitive matter in the House during Zero Hour.

After the Question Hour, on 2nd March, 2017, during Tenth Session of the Gujarat Legislative Assembly, Hon'ble Member Shri Shaktisinhji Gohil, sought permission to raise a sensitive issue of killing of a Dalit Sarpanch in Amreli District. In this respect while accepting the issue as sensitive, Hon'ble Speaker ruled that since the Hon'ble Minister had not given his consent for raising the matter for discussion during Zero Hour as there is no provision in the GLA Rules and, therefore, there didn't exist any scope for discussion. He also stated that looking to the seriousness of the matter, he had accepted the notice of the Hon'ble Member Shri Shaileshbhai Parmar under Rule 116 and at that point of time the matter would be discussed. He also requested the Hon'ble Member Shri Gohil that he should not insist for discussion on the

matter during Zero Hour. At this juncture, Hon'ble Minister of Parliamentary Affairs Shri Bhupendrasinh Chudasma and Hon'ble Minister Shri Ganpatsinh Vasava also expressed their views in support of the Hon'ble Speaker.

Subsequently, all the Members of the Opposition present in the House staged a walkout shouting slogans. Thereupon Hon'ble Minister of State for Legislative and Parliamentary affairs Shri Pradipsinh Jadeja raised a point of order stating that there did not exist any provision for Zero Hour in the GLA Rules. However, if there was any important matter, the issue could not be raised unless the Hon'ble Minister concerned gives his consent. He also stated that though the Hon'ble Speaker and the Hon'ble Minister had not given their consent, the Hon'ble Chief Minister looking to the sensitivity of the matter stated that a detailed discussion could be made under Rule 116. He also stated that staging walkout and shouting slogans was a regular practice of the Opposition, especially when the Hon'ble Speaker delivered his ruling on the matter. Such behaviour of the Opposition amounted to contempt of the House.

In view of above, he requested the Hon'ble Speaker to issue a clear direction. Hon'ble Minister Shri Bhupendrasinh Chudasma also expressed his views in support of the Point of Order.

Thereupon, Hon'ble the Speaker (Shri Ramanlal Vora) gave his ruling accepting the Point of Order raised by Hon'ble the Minister and stated that the Rules of the House are self-explanatory and there is no practice of giving permission for discussion during Zero Hour. He also stated that the Hon'ble Minister also came to his chamber for holding discussion on this matter. He also stated that he did not want to talk on any matter based on any caste or religion in the August House as it was a matter associated with the sentiments of many people present in the House and the way in which it was raised with the intention of scoring political mileage rather than sentimental and therefore, he did not give permission. He also stated that the Hon'ble Chief Minister also stated that his Government was ready to discuss the issue. Yet, disregarding all those, what the Member Shri Gohil stated was inappropriate. Hon'ble Speaker also stated that he appreciated the sentiment and readiness shown by the Hon'ble Chief Minister in discussing the matter. He also expressed his faith and trust in the Government that the Government would take necessary action in the matter in the coming days and the right people would get justice. Lastly, accepting the point of order raised by the Minister, Hon'ble Speaker rejected the issue raised by the Opposition Party.

(G.L.A. Debates, Book – 39:2017, Vol. IV)

2. Calling Attention Notice

(1) 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 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 Jaspalsingh 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, and therefore he wanted to present this matter. At that 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 (Shri Dhirubhai Shah) came 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 was lying before the House for discussion, the Speaker felt that no point as to the admissibility of the notice could be raised in the house. The Speaker had requested the Members to refrain from raising such points in the House.

(G.L.A. Debates, Book – 77:2001, Vol. III)

(2) Point of order cannot be raised against the decision of the Speaker, with regard to admissibility of a Calling Attention Notice.

On 22nd March, 1973, while taking up the notice of Shri Chandrakant Parikh for Calling the Attention of the Minister towards the matter of urgent public importance in the House, Member Shri Liladhar P. Patel raised a point of order stating that, the Calling Attention Notice of Member of the Opposition Party Shri Hemantbhai Madam regarding shortage of coal in Jamnagar, was rejected, despite sending it to the office before time, whereas similar type of notice given by Member Shri Chandrakant Parikh regarding Vadodara was accepted. Member Shri Liladhar Patel demanded a clarification as to whether the Hon'ble Speaker's decision was appropriate. Therefore, Hon'ble Speaker

(Shri Raghavji Leuva) gave the ruling explaining the difference between the notices of Members Shri Hemantbhai Madam and Shri Chandrakant Parikh as follows: -

"Decision has been taken after going through both the notices. This is not a point of order right now. A point of order cannot be raised in the House against the decision of the Speaker. The Speaker's decision is final."

(G.L.A. Debates, Part-2, Book-42, Column 980-981)

(3) Priority to ask a question should be given to the Member in whose name the notice has been introduced.

On 23rd July, 1975, Member Shri Abdul Karim Kundiwala drawing the attention of the Minister to the matter of urgent public importance under Rule 116 regarding the robbery taking place on National Highways, asked supplementary questions about his statement. At that time, Member Shri Narsinhbhai Makwana also asked a supplementary question and the Home Minister gave the reply. Thereupon, Hon'ble Speaker (Shri Kundanlal Dholakia) gave the following Ruling: -

"My general instruction regarding such questions is that in the first round a Member should be given preference in whose name the matter has been introduced."

(G.L.A. Debates, Part-1, Book-47, Column 181-182)

(4) Except in unavoidable and accidental circumstances, the Member-in-charge of the notice should remain present in the House at the time the notice being taken on hand.

On 24th March, 2006, after the Question Hour, a matter under Rule 116 of Urgent Public Importance raised by the Members Shri Deepsinh Rathod and Shri Ranjitsinh Chavda was called out in the House for discussion. It was on an incident of misbehaviour and Lathicharge by the Police on the Farmers travelling to Ahmedabad on trucks loaded with vegetables. However, both the Incharge Members of the matter raised did not remain present in the House. Thereupon, the Leader of the Opposition raised a Point of Order stating that the Members should have remained present in the House when they themselves had given the Notice. He further pointed out that particularly when the priority was given to the said notice over the other matters of urgent public importance, it became the most urgent and important matter and no such other urgent matters could be taken up in the House in its place. Hence, he requested the Chair to warn the

Members who were absent from the House when the matter under their charge was taken up, keeping in mind the past rulings on such matters. Thereupon, the Minister for Parliamentary Affairs pointed out that the earlier rulings in this regard were very clear and the Members were bound to remain present in the House. However, due to some personal reasons, they could not have remained present in the House and hence there was no need to give a fresh ruling as the earlier rulings were very clear. Consequently, the Hon'ble Speaker (Prof. Mangalbai Patel) did not allow the Point of Order raised by the Leader of Opposition stating that he would give a ruling later on. Accordingly, he gave the following ruling:

"On going through the past rulings of my predecessors on such matters I have found that whenever a notice given by a Member has been admitted taking into consideration its importance and shown it in the list of the business of the House for the day, the Member Incharge of the notice should remain present in the House when it was called out in the House for discussion treating it as his moral duty to show respect to the House.

In the present case also, among the matters of public importance since the notices under rule - 116 of the Members Shri Deepsinh Rathod and Shri Ranjitsinh Chavda were found to be most urgent and important, they were admitted and shown in the list of business of the day. Not only that when the Government has toiled over the matter to collect the necessary information and the Minister himself has remained present with full details on the matter to present before the House, it is the moral duty of the Member Incharge of the notice to have remained present at the time when the matter is called out in the House except in an unavoidable and exceptional circumstance. I believe that the Members will surely take care in future. Of course, my predecessors have given rulings in this regard but there is no rule in the Gujarat Legislative Assembly Rules to compel a Member Incharge of a Notice under Rule 116 to remain present in the House when the matter is called out for discussion. I hope all the Members will bear this in mind as a moral responsibility. I do not find any requirement of giving new ruling since ruling on such matter was given previously and therefore, I had rejected the point of order raised by leader of Opposition on 24th March, 2006."

(G.L.A. Debates, Book 121 & 122:2006, Volume-III)

3. Short duration discussions.

In Rule-114, as per the context "a Minister" means "Ministers".

On 3rd September, 1969, during the short duration discussion under Rule 112 on the rising prices of oil and other essential commodities, when In-charge deputy minister Shri Jayarambhai Patel rose to speak, Member Shri Manubhai Palkhiwala raising a point of order stated that in view of the provision in Rule-114, a Minister should reply in brief and since the Deputy Minister is also a Minister, the Cabinet Minister should not have any right to speak after the Deputy Minister replies.

Speaking on the point of order, Member Shri Indubhai Patel stated that all the Ministers, whose Departments were referred to and mentioned in the discussion, could reply the discussion.

Speaking in support of the point of order, Member Shri Narendrasinhji Zala stated that the word "a Minister" was used in Rule 114 and not "Ministers" and, therefore, only one Minister could give a brief reply.

Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as follows: -

"I have to give a ruling by interpreting the Rules 112, 113 and 114 and even 115, i.e. the entire Part-XI of Rules 112 to 115. Two and half hour debate has been held. It has been mentioned in Rule 114 that a short statement will be made. So it will not take more than ten minutes in two short statements because anybody may interpret that a short statement means it is for five minutes. But it has been envisaged in the Rule or its entire part which has been framed that there is an important debate for two and half hours. Whereas, if Hon'ble Members who have given a notice and who oppose at present have given the notice pertaining to the Departments of different Ministers, it is inconsistent to argue that these Ministers have no right and even under "General Clauses Act" plural is implied as per the situation and with reference to the context, where singular is used and in the context of the situation one has to interpret that singular always includes plural and plural always includes singular. So today in view of the context in which the notice was received and the context in which the debate has taken place, if one side has spoken for about 2 hours to 2.15 hours in the debate of 2.30 hours and if the Ministers are allotted thirty to forty

minutes, I think it will not be against the spirit of the Rule-114. Therefore, I resolve that the word Minister used in the Rule 114 is used in the meaning of "singular includes plural."

(G.L.A. Debates, Part-2, Book-23, Part-B, Column 1840-1841)

4. Motion for Adjournment of the House.

(1) Motion for Adjournment of the House on Hooch Tragedy cannot be admitted when a Notice under Rule-116 has been admitted on the subject of Hooch Tragedy.

After the Question Hour on 14th March, 2012, Hon'ble the Minister of Parliamentary Affairs Shri Dilipbhai Sanghani by quoting Rule-108(5) of the Gujarat Legislative Assembly Rules raised a Point of Order and stated that the Notice of Adjournment Motion, which was given by Member Shri Sidhharthbhai Patel on the subject of Hooch tragedy under Rule-108, was not admissible since a Notice under Rule-116 of the Gujarat Legislative Assembly Rules had already been admitted on the subject of Hooch Tragedy. He also stated that even during the Zero Hour no issue could be raised on that Subject. Therefore, he sought the guidance of the Hon'ble Speaker by stating that it was not proper to obstruct the proceedings of the House by the Members of the Opposition on this issue. Shri Arjunbhai Modhvadia, Hon. the Minister of State for Parliamentary Affairs Shri Pradeepsinh Jadeja, Minister of Health Shri Jaynarayanbhai Vyas, Member Shri Iqbalbhai Patel and Member Shri Sidhharthbhai Patel expressed their views on the said issue.

Hon'ble the Speaker (Shri Ganpatsinh Vasava) after listening to the views, ruled as under:

“When such a sad incident occurs in the State, it is very natural that we are all concerned but we are all bound by the rules. Members Shri Sidhharthbhai Patel and Shri Iqbalbhai Patel approached me today at 11.50 A.M. for submitting a Notice under Rule-108, but it was not within the time limit. Further, when a Notice under Rule-116 on the subject of Hooch Tragedy has already been admitted, a Notice under Rule-108 on the same subject matter cannot be admitted. Moreover, as there is no provision regarding Zero Hour in the Gujarat Legislative Assembly Rules, it is not being practiced in the House. In the past also, whenever any attempt was made for raising issues in the Zero

Hour, the Member concerned had to seek permission of the Speaker after getting permission from the concerned Minister as per the practice established by my predecessor Speakers. In the present case, as the Hon. Members Shri Sidhdharthbhai Patel and Shri Iqbalbhai Patel have not obtained any such permission, this issue cannot be raised in the Zero Hour, too. Therefore, I request all the Hon. Members to discuss the issue under Rule-116.”

(G.L.A. Debates, Book- 166: 2012)

(2) While expressing sentiments towards sensitive matters, behavior should be restrained.

On 8th July, 2009, before the commencement of the sitting of the House, the Hon’ble Leader of Opposition along with some of his Members submitted a notice from Member Shri Arjunbhai Mdhvadiya under rule 108 of the Assembly Rules, for adjournment of Business of the House for holding a discussion on the Hooch Tragedy occurred in Ahmadabad. According to rule 108 such notice ought to have been submitted at least one hour before the commencement of the sitting but the Leader of Opposition submitted the notice before five minutes of the commencement of the sitting. However, since the Minister concerned was to make a statement under Rule 44, the Hon’ble Speaker informed the House that he would take a decision after going through the rules and past precedents and also the other aspects of the matter. Thereafter, before starting the question hour, the Hon’ble Leader of Opposition continued his demand for two hours discussion on the matter supported by the Members of the Opposition shouting slogans constantly and some Members even entered the well. This compelled the Hon’ble Speaker to order the Sergeant-at-Arms to take out the Members who entered the well and as the Sergeant-at-arms acted on the order, the Members of the Opposition left the House shouting slogans. At that moment, Hon’ble the Speaker (Shri Ashok Bhatt) made the following observations:

“The Leader of the Opposition along with some other Members of the Opposition came to me at five minutes to twelve and submitted the Motion for Adjournment of Business of the House. Since the decision to introduce the Adjournment Motion has to be taken according to the rules and past precedents, I told them that the Question Hour would start after twelve o’clock and after the Question Hour, the Hon’ble Minister would make a statement and, thereafter, I would take a decision on the notice of Adjournment Motion after going through the rules and past precedents. It is a fact that as per the rules, as any Member has a right to give a notice to introduce a motion for

adjournment of Business of the House or a no confidence motion so the Speaker also has the power to decide whether the motion should be introduced or not and if it is to be introduced, when to introduce, after going through the rules and the past precedents. Since the Opposition has given the notice two minutes before the sitting of the House, it is not possible for me to grant the leave to introduce the adjournment motion. Even if it is also not possible for any speaker and I am not prepared to establish new wrong tradition in the assembly by taking decision in a haste through such pressures. Eventhough there is no doubt that the incident which took place is serious and painfull. Yesterday, when Member Shri Sidhharthbhai Patel raised the question, the Hon'ble Minister of State for Home had stated that he would make a statement in that regard on the next day, which would be shown in to day's agenda as statement under Rule - 44. So it can definitely be said that the State Government was serious with regard to this question. Today, the Hon'ble Minister is going to make a statement in this regard. So far as the Motion for Adjournment of Business of the House is concerned, the Member, who wishes to introduce such a Motion for discussion on a specific matter of Urgent Public Importance, has to submit a written notice under Rule - 108, at least one hour before the sitting of the House. Though I received this notice five minutes before the commencement of the sitting of the House, I sent it to the Legislature Secretariat directing the Secretary to put up the notice after examining the provisions of the rule. When the Minister was to make a statement today with regard to the motion for adjournment of the House, the melee created by the Opposition in the House was really saddening. When a tragic incident occurs and when we are sensitive, I accept that the sentiments on the incident should be respected. But at the same time it is necessary that the notice for an adjournment of Business of the House for holding discussion on the incident is given according to the rules and the motion for discussion is introduced as per the rules. However, yesterday, their demand was accepted. Today, I would have given them an opportunity after the statement by the Minister, had they remained present during the discussion. Therefore, I feel that whatever may the intention, the matter is of deep concern for all of us in the House. Whenever, any serious incident occurs, the behavior should be restrained while expressing our feelings towards the same. Today, I am sad that the Opposition did not behave in a restrained manner.”

(G.L.A. Debates, Book- 143: 2009)

5. No-confidence Motion.

(1) Debate on a Motion of no-confidence in the Council of Ministers, Speaker has the power to decide when to hold.

On 24th March 1977, after the Question hour, the Leader of the House Shri Madhavsinh Solanki raised an issue as to when to take up the discussion on the Motion expressing want of confidence in the Council of Ministers moved by the Leader of the Opposition. Shri Babubhai Patel and Hon'ble the Leader of House referred to the conversation made in the chamber of the Hon'ble Speaker and requested to order the discussion on the Motion on the same day.

Leader of the Opposition, Shri Babubhai Patel drawing the attention of the House to Rule 106 of the Gujarat Legislative Assembly Rules requested to fix 30th March, 1977 for discussion on the motion, and also to allot two days for the same.

After hearing different Members in this regard, the Hon'ble Speaker (Shri Kundalal Dholakia) clarified about his meeting with the Hon'ble Chief Minister and some of his fellow Members, who had met him in his chamber the previous evening and expressed their readiness to the discussion on the Motion. Thereafter, the Hon'ble Speaker gave his Ruling as under: -

"Yesterday, when the Motion was moved in the House, with the consent of the House, the Leader of the House had not requested to take up the motion on priority and to hold discussion on it considering it as a government business. Therefore, as per the Rules, I had to decide a day which is not earlier than 3 days and not later than 7 days. This provision may provide sufficient time for both the parties to raise the issues in favour or against the Motion of no-confidence. In addition, the Rule 106 doesn't provide for appointing the same day as stated by the Leader of the House. But, as the words "the Speaker may" have been used in the Rule, the Speaker has to consider various aspects of the issue. If I allow taking up this matter for discussion today, it will be injustice to the House. It is the duty of the Speaker to see that sufficient time is available for the discussion in the House and, therefore, I rule that in these circumstances, as per the Rules, the discussion on the No-confidence Motion be held on 28th in the House."

(G.L.A. Debates, Part-2, Book-52, Column 165-168)

(2) Declaration of reasons in the House for not allowing Motion of no Confidence.

The Hon'ble Speaker had rejected the notice of a Motion expressing want of confidence in the Council of Ministers given by the Leader of Opposition Shri Jaydeepsinhji and other Members. Therefore, on 28th March, 1970, Shri Jaydeepsinhji requested the Hon'ble Speaker to give reasons for rejecting the notice in the House.

In that regard, the Hon'ble Speaker (Shri Raghavji Leuva) had stated as follows:-

"The custom is that the Hon'ble Member is informed of the decision. I have written a ruling in detail on this question where I have also directed to show the ruling to those Members who have given the notice in private. The problem is that the Speaker takes the departmental decisions. All the Departmental Decisions are "For Office use only" and are used for the official work. Due to this situation, they are not published. But since the decision relates to the Hon'ble Members, I have mentioned in it that the Hon'ble Members, who have given the notice, should be allowed to read my decision on one condition that it should not be publicised and it cannot be cited as an incident. Owing to such a situation, I am sorry that I cannot disclose the reasons in the House."

Then Member Shri H. M. Patel, Shri Kantilal Ghiya and some other Members insisted on seeking reasons for not admitting the notice for the Motion and Shri Kantilal Ghiya expressed a fear that if the reasons were not given, the Hon'ble Members and the public would be under the impression that the Hon'ble Speaker had not used his discretion properly. Thereupon, Hon'ble the Speaker read out his ruling as mentioned below: -

"The Hon'ble Leader of Opposition and Hon'ble Member Shri H. M. Patel on 27th March, 1970 at 3.05 p.m. and Hon'ble Members Shri Manoharsinhji, Shri Kantilal Ghiya, Shri Manubhai Palkhiwala, Shri Vadilal Lallubhai, Shri Ratilal Khushaldas, Shri Vasant Parikh and Shri Sanat Mehta had submitted before me at 3.25 p.m. the notice to move the No-confidence Motion as mentioned below: -

"This House expresses no confidence in the present Council of Ministers of the State of Gujarat."

Hon'ble Members have not given any reasons for moving such type of No-confidence Motion and they have no obligation to give reasons.

Considering the language of Rule 106 (2) of the Gujarat Legislative Assembly Rules, if the Hon'ble Speaker admits the Motion, the Member who has given the notice of the Motion has to seek the consent of the House to move the Motion within two days after its admission by the Speaker. Considering all these, it is up to me to decide whether to admit this Motion or not.

The Budget session of the Legislative Assembly is going on and the notice of this Motion has been given at the time when the discussion on the Appropriation Bill was going on. The discussion and voting on the demands of various Departments have taken place for a total of 13 days and even after receiving these notices, discussion and voting have taken place on the Appropriation Bill. During all these days, Hon'ble Members of the House have had an opportunity to discuss and criticize the vast administrative policy of the Government and other matters.

The Motion of no confidence is a very serious matter. Hence it is expected that it should be used judiciously and its importance should be taken into consideration while introducing the Motion.

It can be understood that the scope of discussion on the Motion becomes too wide when there is no mention of any specific policy or any lapse in the administrative machinery in the Motion.

I have gone through the brief resume of Business transacted by the Mumbai and Gujarat Legislative Assemblies of last few years and found that no such Motion was moved after discussion in detail and voting on the Budget demands and after passing the Appropriation bill. There occurred admission and discussions of such Motions before presentation of the Budget as well as during the days of ongoing discussions on the Budget demands.

In Maharashtra, in one incident, after discussion on the Motion of no-confidence on 17th December, 1957, the supplementary demands were taken up for discussion on 19th and 20th December, while in another incident, the supplementary demands were discussed on 15th and 16th November, 1967 and the Motion of no-confidence was discussed on 21st, 22nd and 23rd November and in both the cases there was a Motion for a Government policy on a specific issue. But no motion is found to be admitted after completion of discussion etc. on the main budget.

In Gujarat, a no-confidence Motion was discussed on 8th and 9th February 1968, before presentation of the budget on 16th February, 1968. While in another case, two days were allotted for discussion on a no-

confidence Motion during the days when the discussion and voting on demands were going on. But after starting the discussion on the Appropriation Bill, no such Motion is found to have been admitted.

In this matter, there does not seem to be available any direct base from England or from our country. But no incident is found where No-confidence motion has been introduced immediately after completion of the debate on the Budget and after discussion-criticism has already been made on all the Departments of the State Administration.

Some norms regarding repetition of the Motions have been laid down in Rule 97 of the Gujarat Legislative Assembly Rules, which reads as under: -

"It shall not revive discussion of a matter, which has been discussed in the same session." The principle of prohibiting repetition is accepted in Parliamentary democracy and Shri S.S. More has given few examples discussing that principle in the Book "Practice and Procedure in Indian Parliament".

On 12th April, 1946, a Member sought to move an adjournment Motion to discuss the question of an appointment of a European instead of an Indian as a Member of the Railway Board. The President, pointing out that the principle of Indianisation being discussed on the Railway Demands, ruled the Motion out of order. (Hop Deb. Vol V. 1946 (3905-10))"

The Second Example he has given is: -

On 25th March, 1955, a Member sought to move his resolution regarding imbalance in price structure when a point of order was raised contending that substantially the same question had earlier been debated at length during the discussion on the demands for grants in respect of the Ministry of Food and Agriculture and that certain cut motions moved on that subject had also been negatived by the House. The objection was upheld. (Hop. Deb. Vol. II (1955) 3993-99).

Discussing the matter, he stated that,

"No hard and fast rule can be laid down which can be a safe guide under all difficulties. But for proper application of the rule, it will have to be seen whether the latter motion is substantially the same as the former one and whether there is any "decision" by the House. Similar questions also face a Judge, who is called upon to decide an objection to a later proceeding on the ground of Res Judicate" (Practice and Procedure of Indian Parliament by S.S. More, Page 246)

The above mentioned examples apply to all types of Motions. But the resolutions under Rule 119 have been excluded from them, since a separate provision has been made for them.

After careful consideration of the entire situation, I have come to the conclusion that, since no reasons have been mentioned in this Motion, the Members have liberty to criticize the policy and performance of the Government on all matters of the State Administration. And since such discussion and criticism has been made recently and the House has taken a decision on it, if I introduce the Motion, the restriction on repetition gets violated, so I am very sorry that I cannot admit this Motion.

Hon'ble Member should be informed of my decision. If any Member desires to read my decision, there is no harm in allowing him or her to read this decision. But since the decision is to be used for Government Business only, the Members should be made aware that it can neither be published outside nor can be cited as an example. In this way, I have made this decision. Now that it has been declared in the House, there will be no restriction of publicity on it."

(G.L.A. Debates, Part-2, Book-27, Column 1237-1242)

6. Motion for Removal of Speaker or Deputy Speaker from office.

(1) It is not necessary to mention reasons in the Motion for removal of the Speaker from his office.

On 19th February, 1976, before moving a Motion to remove the Speaker from the office of the Speaker, Member Shri Ashok Bhatt raising a point of order stated that the Motion brought for removing the Speaker was vague and without any purpose. In support of his statement, he referred to the Ruling given on 18th December, 1954, in the Lok Sabha.

After hearing different Members, Hon'ble Speaker (Shri Manubhai Palkhiwala) gave his Ruling as mentioned below:-

"There is a fact in the Point of Order raised by Member Shri Ashok Bhatt. But reading Article 179 of the Constitution, it is very clearly mentioned that such a statutory Motion can be moved against the Speaker with a limitation of 14 days notice. This Article indicates only this much. But as per our Rule 103, two limitations have been imposed on it. As per one limitation mentioned in the Article 179 of the Constitution, 14 days' notice is required and as per the second limitation the Motion can be admitted only if 17 Hon'ble Members give their consent to the Motion. In addition, when this Motion has been admitted, Hon'ble Speaker has made complete consideration on different

aspects of it. It cannot be said that the Motion is vague. When such a Motion is moved, the Hon'ble Member may present relevant reasons in the House and then if any issue is to be raised on it, it may be raised. In view of the Article 179 and the Rule 103, it does not seem to be appropriate to reject this Motion for a technical reason. Therefore, I reject the point of order raised by Hon'ble Member Shri Ashok Bhatt.

(G.L.A. Debates, Part-1, Book-50, Column 732-733)

(2) In order to get the permission of the House for moving of a Motion of removal of Deputy Speaker from his office, first the Member should read the Motion in the House and then the Speaker should read it.

On 9th March, 1976, when Member Shri VasANJI Thakrar rose up to move the Motion to remove the Deputy Speaker from his office (Rule 103), the Minister of Parliamentary Affairs moved an amendment to adjourn the moving of Motion for seven days. With the consent of the House, when Hon'ble Speaker announced that the Motion was deferred for eight days, Member Shri Sanat Mehta raising a point of order drew the attention of the House towards Rule 103 of the Gujarat Legislative Assembly Rules and requested the Hon'ble Speaker to clarify the manner of moving the said Motion in the House.

Member Shri Arvind Maniar expressed his fear that as per the announcement of the Speaker, the Motion might not be discussed on the day it would have been taken up for discussion and requested for completing the procedure of the Motion within the prescribed time limit as per the provision of Rule 103. After hearing the views of some other Members, Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his Ruling as follows: -

"Such a Motion does not come under Rule 93. There is no restriction in the Constitution preventing a Member from moving a Motion. According to the decision taken in the Lok Sabha in 1954 and the details on columns 5316 and 5337 of the debate of the Lok Sabha in the year 1965, we should also follow the practices established by the Lok Sabha except in a situation where the practice is found to be inconsistent due to difference in our Rules. In the Lok Sabha, too, the Speaker seeks the permission after reading out such a Motion before the House. Therefore, the Member will have to read out the Motion and then the Speaker will also have to read out the Motion.

Moreover, there is no time limit in Rule 103 of the Gujarat Legislative Assembly Rules. I make it very clear that the provision of time limit of 14 days for giving the notice of Motion and the provision of appointing a day for discussion not later than seven days after the consent of the House to the

Motion under Article 179 of the Constitution has not been applied here. Therefore, the restriction of the time limit regarding the Motion does not arise and hence, I reject the point of order."

(G.L.A. Debates, Part-2, Book-51, Column 1138-1141)

(3) Only the days of the session of the assembly are to be considered while considering the time limit of seven days for holding discussion on the Motion for removal of Speaker.

On 20th July, 2007, when the Minister of State for Home Shri Amit Shah rose to present the Bill No. 31 - Mumbai Police (Gujarat amendment) Bill - 2007, the Leader of Opposition Shri Arjunbhai Modhvadia raised a Point of order and stated that the House had granted the leave to the motion of removal of Speaker on 28th March, 2007, and as per the rules after granting the leave, the discussion on the motion should take place not later than seven days. Instead of these 7 days, more than 70 days have elapsed since granting the leave to the motion, the same had not been included in the agenda of 19th July, 2007 for discussion and hence the provision of Rule - 103 had been violated.

Member Dr. Dinesh Parmar Parliamentary Minister Shri Ashok Bhatt, Social Justice Minister Shri Ramanlal Vora, Opposition Whip Shri Balvantsinh Rajput, Member Shri Paresh Dhanani & Finance Minister Shri Vajubhai Wala also expressed their views on that point of order.

After hearing the views of the Ministers and the Members, the Hon'ble Speaker (Prof. Mangalbhai Patel) drew the attention of the Members to the provision of rule - 103 of the Gujarat Legislative Assembly Rules and ruled as under:

"The Speaker has to fix a day for discussion on the motion after leave is granted by the House, Such day should not be later than 7 days from the day on which leave is granted. The intervening period of seven days should be the working days of the session and this requirement is not fulfilled in the present case. Therefore, the point of order raised by leader of opposition cannot be accepted."

(G.L.A.Debates, Book 131:2007)

7. Other Motions.

(1) The Motion of conveying congratulation to the newly elected President cannot be moved in the House.

On 22nd August, 1969, Hon'ble Speaker (Shri Raghavji Leuva) announced the following ruling on not giving consent to the moving of a Motion by Member Shri Sanat Mehta for conveying congratulation to the newly elected President:-

"A Motion signed by Member Shri Sanat Mehta was presented before me stating that, "This Legislative Assembly House congratulates Shri V.V. Giri, who has won the election of the President of India", but I cannot grant permission in this matter. I give my ruling in this matter before the House. There have been four presidential elections in the past and it can be seen from the previous proceedings that no felicitation motions for the success in the election were moved at any time in the House either at central or at any state yesterday, no incident of moving such a Motion seems to have taken place in the Lok Sabha or Rajya Sabha too. In the Lok Sabha, when slogans related to Shri Giri's victory were shouted, the Speaker had advised that such acts should not take place inside the House. Attempts were also made to introduce Motions in the Maharashtra and Mysore Legislative Assemblies but they did not get permission of the Speaker. As England is a monarchy, it is customary to felicitate the royal family and the king or the queen on auspicious occasions in their lives, but we should not allow such a thing in a parliamentary democracy. In general, the occasion of congratulating a person comes only on such extraordinary occasions, when he has done any significant service to the country or the nation or has done a special act of enhancing the pride of the nation. Today's incident is regarding success achieved by a person in the election. It does not seem to be good for the House of the Legislative Assembly to felicitate a person on such an occasion. Especially when other Legislative Assemblies and Bodies in the Country do not try to do so, it is unnecessary and likely to establish a new practice. Since it is not appropriate under Rule 101 to permit the Motion, I do not permit the Motion to be moved in the House."

(G.L.A. Debates, Part-2, Book-23, Part-A, Column 846-848)

(2) A Motion or a Resolution suggesting an amendment in the Rules framed by the State Government as per the power conferred under the Subordinate Legislation may be introduced.

On 18th February, 1969, after making an explanation by the Minister of Transport Shri Chimanbhai Patel with regard to the Motion moved by Member Shri Manubhai Palkhiwala under Rule 105 (other Motions), to amend Rule

47(3) of the Mumbai Motor Vehicle Rules of 1959 framed under the Motor Vehicle Act, 1939, to display letters or numbers displayed on plates of vehicles in Gujarati or Hindi instead of in English, the Member withdrew his Motion. Thereafter, Member Shri Manoharsinhji Jadeja stating that though the said Motion could have been introduced as a resolution, it would have been admitted as a Motion, sought a clarification from Hon'ble Speaker as to whether there was any criterion for their guidance in that regard?

At that time Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as follows: -

"If any rules are framed under the delegated legislation and if any amendment is to be made in it, it is convenient if the said Rules are laid on the table of the House within the stipulated time limit. After the time limit, though the House has the power relating to the delegated legislation and if that power is considered to be different from a general resolution, it can be discussed and considered separately in other free time. Therefore, if there is a demand for amendment in such a delegated legislation or in the rules, it was found to be realistic to accept such a demand under this Rule and, therefore, the permission is granted. It doesn't mean that the proposal cannot be presented as a Resolution."

(G.L.A. Debates, Part-2, Book-22, Part-B, Column 1171-1172)

(3) 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."

Hon'ble Speaker (Shri Himatlal Mulani) 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 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 conferred 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 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 power 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.”

(G.L.A. Debates, Book – 66, Column 389-393)

8. Private Members' Resolutions.

(1) With the consent of the House, the Speaker may make changes in the time allotted to the Resolutions by the Committee on Private Members business.

On 30th June, 1972, during a discussion on the resolution for nationalization in education sector, the Hon'ble Speaker, taking into account the time allotted to the Resolution by the Committee on Private Members' Business, stopped the discussion and asked the Minister in charge to reply. Thereupon, Member Shri Batukrai Vora raising a point of order stated that the discussion was allowed to continue for more than the allotted time on the first resolution and the recommendation of the Committee was not implemented. Therefore, the discussion on the resolution under the debate may be allowed to continue, otherwise, it would be treated as an injustice.

Hon'ble Speaker (Shri Raghavji Leuva) gave a Ruling on the point of order as follows: -

"Whatever the trouble the Hon'ble Member may have, the House ultimately functions according to its own decision. The Speaker also gets his rights only through the House. Therefore, for the first time, I knew the desire of the House as to what is to be done in the matter? Then the House wanted to carry on the discussion on the issue. So whatever changes made in the decision of the Committee on Private Members' Business was the right of the House. The Speaker himself does not at all introduce rules on his own. The Speaker insists on following the rules given by the House and, therefore, while obeying the order of the House, the Speaker has to consider the House as a whole and not just a single Member of the House. It is not appropriate for any Member to use a language of injustice done to him. Such a language cannot be used in respect of the Speaker in Parliamentary Systems. Hon'ble Member may not have tried to become more familiar with the Rules, but I draw his attention towards that matter.

(G.L.A. Debates, Part-2, Book-34, Column 464-465)

(2) Since there is no provision to pass a resolution unanimously, it is not said to have been passed unanimously, but if there is no opposition at the time of voting, the resolution can be considered to have been passed unopposed.

On 3rd April, 1972, a Private Member Resolution was presented by Member Shri Fulsinh Solanki to take immediate action for resolving the issue of Narmada Project without delay. Explaining the point of view of the Government, Hon'ble Minister of Public Works welcomed the resolution and expressed his feelings to pass the Resolution unanimously. Thereupon, Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling as follows: -

"One of the difficulties of parliamentary practice is that there is no provision for passing a resolution unanimously, because whether it has been passed unanimously could be decided by counting the votes and counting can take place when there is opposition. But if there is no opposition, then the votes cannot be counted. Therefore, there is no need to count votes if there is no opposition. However, there is another custom in the Parliaments of Europe and England; when there is no opposition, the resolution is considered to be passed unopposed.

Therefore, this resolution can be passed unopposed."

(G.L.A. Debates, Part-2, Book-33, Column 700)

(3) No issue can be raised in the House regarding admissibility of a Resolution admitted by the Speaker.

During the First Session of the Thirteenth Gujarat Legislative Assembly, on 14th March, 2013, at the stage of introducing a Private Member's Resolution, the Whip of the Opposition Party Shri Balvantsinh Rajput raised a Point of Order stating that as per Rules 34(4) and 94(2) of the Gujarat Legislative Assembly Rules, a Resolution criticizing the Central Government was not admissible and hence it could not be discussed in the House. On this point, the Leader of Opposition Hon'ble Shri Shankarsinh Vaghela and the Minister of State for Parliamentary Affairs Hon Shri Pradeepsinh Jadeja expressed their views. Hon'ble Speaker while rejecting the point of order stated that he would give his detailed ruling later on.

On 25th March, 2013, Hon'ble Speaker (Shri Vajubhai Vala) gave his ruling as under:-

"I have gone through the provisions of Rules 34(4), 94(2), 94(5) and 118(b) quoted in the Point of Order. As per the provisions of Rule 34(4), no offensive expressions can be used in the Resolution regarding the conduct of

proceedings of the Parliament or the Legislature of any State. Accordingly, the Private Member's Resolution of Member Shri Sanjaykumar Patel did not contain any such expressions. As per the provisions of Rules 94(2) and 118(b), a Resolution should not contain any arguments, inferences, ironical expressions and defamatory statements. In this respect, at the time of introduction of the Resolution, I had asked the Whip of the Opposition Party Shri Rajput to bring to my notice such expressions/statements, if any, in the Resolution, but he did not do so. As per the provision of Rule 94(5), the Resolution should not be pertaining to the matters mentioned in Clauses (i), (ii), (iii) (x) and (xi) of sub-rule (2) of Rule 34 and as per the provisions of clauses (i) and (ii) of sub-rule (2) of Rule 34, the Resolution should not contain any sub-judice matter. In the Resolution moved by Shri Sanjaykumar Patel, there was neither any mention of any sub-judice matter nor regarding the matters specified in clauses (iii), (x) and (xi) of sub-rule (2) of Rule 34. Moreover, the contention raised by Shri Rajput that the provisions of the Bills not passed by the Parliament should not have been mentioned in the Resolution or discussed in the House, is out of place. Because according to the Rules of Procedures, once the Bill is introduced in the House and published in the Gazette, the Bill become public through the media. The Rules of Procedure for passing the bill provides for referring the bill to a Select Committee for its mature consideration. Then this Committee seeks the opinions of persons/organizations/experts associated or concerned with the subject matter of the Bill. Moreover, the rules of procedure provides for circulation of the Bill for the purpose of eliciting public opinion on it and the Parliament or a State Legislature may seek public opinion on the provisions of the Bill. Thus, the intention of the Member, who moved the Resolution, is to appeal to the State Government to make effective representation before the Central Government for holding consultation with the other States regarding their autonomy related rights in respect of the Bill referred to in the Resolution. The essence of the Resolution was to appeal to the Central Government to hold consultations with the other States in respect of the rights of the State, which is in accordance with the constitutional right conferred upon this House and its Members by Article 194 of the Constitution. Thus, I did not accept the Point of Order earlier as the Resolution was in accordance with the Constitution and the Rules of procedure of the Legislative Assembly.

Here, I would like to draw the attention of all the Members towards the established practice and the rulings given by the previous Speakers that, no point of order could be raised in the House with regard to the admissibility of any notice when the same is admitted by the Speaker. Hence, I request all the Members to be careful about this matter in future.”

(G.L.A. Debates, Book-7, 2013, Vol-4)

9. 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.

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 and objected for referring the work he had done during that period and asked the Speaker to give his decision.

After hearing the views of other Members, Hon'ble Speaker (Shri Shashikant Lakhani) gave his decision as under.

“When the Member Shri Ashok Bhatt was reading the statement 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 Shakhder. 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”

(G.L.A. Debates, Book – 60, Column 202-204)

CHAPTER - 6

BILLS

1. Competency of the Legislative Assembly to legislate.

(1) No discussion can be made on the illegitimacy of the Bill, once it is passed in the House.

On 24th March, 1961, after passing the Gujarat University (Research) Bill, Member Shri Jayanti Dalal sought to draw attention of the House. Thereupon, the Law Minister Shri Hitendrabhai Desai raising a Point of Order stated that the Member could not express his views on the Bill after passing it. Thereupon, the Hon'ble Speaker ruled that after passing the Bill, there should not be any discussion on it. Even then, Member Shri Jayanti Dalal stated that he wanted to point out the illegitimacy of the Bill by drawing attention towards Rule - 138 of the Gujarat Legislative Assembly Rules. At that time, the Hon'ble Minister Shri Hitendrabhai Desai raised a Point Of Order that after giving a ruling by the Speaker, no discussion could be made.

Thereupon, the Hon'ble Speaker (Shri Mansinhji Rana) gave the following ruling:-

"Now no discussion can be made in this regard any more. However, if you think that it has been done illegally, you can represent before a Court. But in this respect now there will not be any discussion in this house.

(G.L.A. Debates, Part-2, Book-2, Part-B, Column 927)

(2) When a violation of rules relating to Legislative Procedure, Parliamentary Practice or Provisions of the Constitution takes place, a Point of Order can be raised that the Bill is out of order.

On 14th December, 1965, during introduction of the Ayurved University Bill by the Hon'ble Minister of Health Shri Mohanlal Vyas, Hon'ble Member Shri Manoharsinhji Jadeja raised a Point of Order that since the proposed Bill was completely silent about the important policy issues like teachers and the medium of examination, the Bill should be considered as out of order.

He further stated that with the Government's approach in the introduction of a Bill with incomplete information without mentioning substantial matter, it could not be said that the House adopted a good practice. He also stated that in certain provisions of the Bill, though there was a mention as to who would have how much power, there was no mention of the medium

at all in the Bill. One could not find any possibility of someone getting such a right spontaneously in the said Bill. Therefore, the Bill should be considered as out of order.

Thereupon, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following ruling:-

"In this connection, the Hon'ble Minister stated that the issue raised was important and necessary. However, there is a mention about the reasons as to why those things are not given in the Bill. But the problem is that such a Point of Order is to be raised when any practice or rule is violated. If there is a Bill from the Government on an issue for which the House does not have the right or the same is brought in violation of any Article of the Constitution, the question arises whether to consider the bill as out of order or not. The Bill can also be out of order only if the issue raised through the Point of Order should be very clear and there should not be any slightest doubt about it. In such a case also, the thing is that the Speaker will not indulge in a matter of Ultra-vires as there does not exist any such rule here. However, the Hon'ble Minister has also explained his difficulty. Therefore, the Point of Order which is raised here cannot be accepted. Hence the Point of Order is rejected."

(G.L.A. Debates, Part-2, Book-15, Column 1059-1061)

(3) Neither the Speaker nor the House can decide whether the amendment on a Bill is constitutionally legal or not.

On 26th February, 1981, when Member Shri Jashvantsinh Chauhan gave his views on the Amendment No. 6 among the Amendments moved on Section 6 of the Gujarat Panchayat (Amendment) Bill, Member Shri Makrand Desai raised a point as to whether the constitutional legality of the aforesaid Amendment was examined or not. Thereupon, Hon'ble Speaker (Shri Natwarlal Shah) gave the following Ruling:-

"When any constitutional point is raised in the House with regard to the vires or otherwise of a particular provision, normally the Speaker does not give a ruling on it. The House also cannot take any decision in this regard. The Courts have the right to take a decision in this regard. The House on its own approves any Bill or a provision that it may consider appropriate, in whatever way it may consider proper. Then it is for the court to decide as to whether it is constitutionally valid or whether it is ultra vires the constitution or otherwise. The House never decides those issues."

(G.L.A. Debates, Part-2, Book-72, Column 361-362)

(4) The Speaker does not decide as to whether the House has the right to pass a Bill.

On 12th April, 1963, when the Hon'ble Law Minister Shri Hitendra Desai moved a Bill for abolishing Gujarat's Remaining Alienations in the House, Member Shri Babubhai Vaidya raised a Point of Order that the Government did not have the right to bring the bill before the House. He also stated that the State Government could not bring any bill which would change the rights granted to the old states by the Government of India and the rights agreed upon between the Government of India and the old states.

The Hon'ble Speaker (Shri Fatehali Palejwala) gave the following Ruling after hearing the Hon'ble Law Minister Shri Hitendra Desai.

"The issue, which has been raised before this House, is whether this House has the right to pass the Bill which has been moved in the House? I think, the Hon'ble Member is well aware that so far the Speakers of various Assemblies and the Parliament have not taken upon the responsibility to give a ruling on this kind of issue which has been raised. Therefore, the Members may cast their votes when this Bill comes up before the House for passing, keeping in view all the arguments in their minds, which have been made by both the Parties here regarding whether the House has the right to pass the law and ultimately the right rests with the court. I am reading a decision given by the Lok Sabha in this matter so that you will be assured that the opinions I have expressed before you are fully supported by this decision of the Lok Sabha.

"On 9th May, 1953, when the House took up the Vindhya Pradesh Legislative Assembly Bill for consideration, a Point of Order raised by Shri Hitendra Nath Mukherjee that the Bill was outside the Legislative competence of the House and as such, out of order. After some discussions on the point, the Hon'ble Deputy Speaker observed:

In all these matters, the Speaker has never taken upon himself the responsibility of deciding this point of order whether it is constitutional or otherwise. It is for the House to take this also into consideration in voting down the Bill or accepting it.

The accepted practice of this House is, the Speaker never takes the responsibility for deciding this kind of point of order that the House has no jurisdiction. It is the duty of the House and it is the responsibility of the House to decide for itself. It is open to it. Under these circumstances, it is not necessary to go into this point of order.

And I give my ruling on this issue accordingly"

(G.L.A. Debates, Part-2, Book-8, Column 1817)

(5) The Speaker does not decide whether the State Legislative Assembly is competent to pass a Bill when the subject matter of the Bill falls within the purview of the Parliament.

On 22nd September, 1983, when Member Shri Shashikant Lakhani moved his motion for the first reading of the Gujarat Mines and Minerals Development through Mineral Labourers Bill, 1982, the Chief Minister Madhavsinhji Solanki raised a legal issue that the reading of that Bill had not been even started yet. He also expressed about the general practice in Gujarat Assembly that no objection is taken at an introduction stage of a Bill moved by the non-official Members. Even if there is any objection, at a consideration stage of a Bill, a point is raised. Referring Article - 246 of the Constitution and the Item - 54 of the Schedule - 1, he clarified the subject-matters on which the Legislative Assembly and the Lok Sabha are competent to make laws. If the Lok Sabha had enacted a law on the mines and minerals, the State Legislative Assembly had no power to legislate on the same. He reminded the House about such issues, which came up repeatedly in the Supreme Court on that matter and referred to the note mentioned in an important judgment relating to those issues. The Parliament had enacted the Mines and Minerals Regulation and Development Act, 1957. The powers have also been delegated in the Act to frame Rules for various provisions made in this Act. The provision made in the Bill of the Member Shri Lakhani restricts the power of the Lok Sabha to legislate on the States when a law enacted by the Centre is in force. Since the Legislative Assembly of a state does not have such a power, the Bill cannot be discussed.

At that time, Member Shri Shashikant Lakhani made an explanation that since the permission to introduce the Bill in the House had been obtained earlier under Rule - 125 of the Gujarat Legislative Assembly Rules, the objection taken by the Hon'ble Chief Minister did not sustain at that stage. Thereupon, the Hon'ble Speaker postponed his decision after hearing both the Members.

Hon'ble Speaker (Shri Natwarlal Shah) gave his postponed Ruling on 15th February, 1984, as follows:-

"During the last session on 22nd September, 1983, when the Hon'ble Member Shri Shashikant Lakhani moved a Motion for the first reading of his Bill - Gujarat Mines and Minerals Development through Mineral labourers Bill, the Hon'ble Chief Minister raised a question that according to the decision of the Supreme Court, the subject matter of the Bill was within the purview of the Parliament and, therefore, it was beyond the Legislative competence of the

State Legislature and the House was not competent to pass the Bill. No doubt, the Hon'ble Chief Minister had not specifically said that he was raising a Point of Order but in substance, he had raised a Point of Order. The Hon'ble Member Shri Shashikant Lakhani opposed the point of order on the ground that under rule 125, the Hon'ble Chief Minister should have opposed the Bill on the ground of legislative competence at the time of introduction of the Bill. Since he had not raised that point at that time, he could not raise that point at the time of first reading of the Bill. The Chief Minister had contended that as it involved a question of legislative competence of the House, he could raise such a question at any time. I had reserved my ruling on the question.

I have carefully examined the question. The long established practice in the Indian Parliaments as well as in the State Legislature is that the question whether a bill is ultra-vires or not is not decided by the Speaker. This, however, does not mean that the question -whether the bill is ultra-vires or not cannot be discussed by the House. It is open to any Member of the House to raise the question at any stage of the bill, at the introduction stage, at the first reading stage, or even at the third reading stage and oppose the bill on that ground, and it is open to House to reject it on that ground. Merely because the bill was not opposed on that ground at the introduction stage, it cannot be said that it cannot be opposed on that ground at a subsequent stage. In this connection, I would also like to point out that there is another convention that ordinarily the Bill should not be opposed at the introduction stage.

In these circumstances, as per the long established practice referred to above, I do not decide the question whether the Bill is ultra-vires or not. The Hon'ble Member Shri Shashikant Lakhani, therefore, can move the Motion for the first reading of the bill and it can be discussed. During the discussion, it is open to any Member to oppose the bill on the ground that it is against the provisions of the Constitution, and it is open to the House to reject it on that ground. Hon'ble Member Shri Shashikant Lakhani may, therefore, move the motion for the first reading of the bill if the recommendation of the Governor is received."

(G.L.A. Debates, Part-2, Book-85, Column 744-747)

(6) According to the established practice, 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 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”.

(G.L.A. Debates, Book – 13, Vol. II, Column 527 – 532)

(7) No Bill can be prevented from its introduction or consideration on the point of Legislative competence of House.

On 2nd July, 2009, when the Hon’ble Minister of Education rose to introduce the Gujarat Private University Bill, 2009, Member Shri Arjunbhai Modhvadiya raised a Point of Order stating that as the subject matter of the said Bill fell under the Concurrent List of the Constitution, Parliament had enacted the U.G.C Act to recognize a University under the powers conferred upon by the U.G.C. Act. He further stated that as certain provisions of the said Bill are inconsistent with the Act passed by the Parliament and that as certain provisions related to delegating certain powers of the House to the Executive, the Bill is unconstitutional and, therefore, this House could not pass such an Act.

After hearing the views of the Hon'ble Leader of Opposition and the Hon'ble Minister for the Parliamentary Affairs, the Hon'ble Speaker (Shri Ashok Bhatt) stated that "according to the guidance given by my predecessor speakers and well established parliamentary practice, the Speaker does not decide the Legislative competency of the House. He further stated that in the Parliament also the Speaker does not decide on such a matter and, therefore, he did not accept the Point of Order raised by Member Shri Arjunbhai Modhvadiya. "

(G.L.A. Debates, Book- 142: 2009)

(8) The Speaker does not make any decision with regard to preventing a Bill either from being introduced or considered.

On Wednesday, 23rd September, 2020, during the course of consideration of Bill No. 22, Gujarat Hooliganism and Anti-Social Activities (Prevention) Bill, the Hon'ble Leader of Opposition Shri Pareshbhai Dhanani raising a point of order stated that since the Bill provided for an imprisonment of more than seven years unlike the instructions of the Central Government and the Supreme Court as also the Bill had not got the prior approval of Hon'ble President as per Rule - 126 of the GLA Rules, the House could not pass the Bill. The Minister of State for Home Shri Pradipsinhji, who was also the in-charge Member of the Bill, Hon'ble Deputy Chief Minister Shri Nitinbhai and Hon'ble Minister of Parliamentary Affairs Shri Bhupendrasinhji also expressed their views on that point of order. Rejecting the point of order at that time, the Hon'ble Speaker stated, "Hon'ble the Speaker does not make any decision with regard to preventing the Bill either from being introduced or considered. I will announce the detailed Ruling in this regard later on."

Accordingly, on 24th September, 2020, Hon'ble Speaker (Shri Rajendra Trivedi), gave his ruling as follows:-

"I have gone through the Constitution, Rules of Gujarat Legislative Assembly, Practices, Rulings of former Speakers. In this regard, Rule 126 of the GLA Rules states that prior approval of the Hon'ble President is required for the matters mentioned in Article 304 of the Constitution. As per Article 304 of the Constitution, a bill regulating Trade, Commerce and Intercourse among states requires prior approval of the Hon'ble President. Since the aforesaid Bill does not relate to any of the matters mentioned in the Article 304 of the Constitution, rule 126 of the GLA Rules is not applicable to the aforesaid bill. Therefore, the prior approval of Hon'ble the President is not required.

In addition, the Leader of Opposition, in his point of order, had stated that as the provisions proposed to be made in the aforesaid Bill are contrary to the provisions of the existing Acts of the Central Government, it infringes Article 254 of the Constitution. Article 254 deals with the discrepancy between the Laws passed by the Parliament and the Laws passed by the State Legislatures. As per its provision, if a State Legislature has passed any law on a subject which has provisions which are inconsistent with the law enacted by the Central Government on the subjects mentioned in the Concurrent List and if such a Law has been assented to by Hon'ble the President, then the Law of a State having provisions inconsistent with the Act of the Central Government becomes enforceable up to that State only. Many such laws have been passed by the Assembly in the past. In addition, I would like to state that even in the past, whenever issues were raised with regard to the competence of the Assembly to enact a law, even my former Speakers have not prevented the Bill either from introducing or considering, because the Assembly has the right to make a Law in accordance with the constitutional provisions and the Speaker does not make any decision on that right as per the well established practice as the High Court/Supreme Court has the right to decide the constitutional legitimacy of the Law passed by the Assembly.

When the Minister Shri Mahida moved a Motion to introduce Bill No. 33 of 1986, the Member Shri Sureshbhai Mehta had raised a point of order. At that time, the Hon'ble Speaker Shri Natwarlal Shah had rejected the point of order and given the following Ruling: -

"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 with regard to Legislative competence of the House can be argued in the Court and decided by the Court and hence the point of order was rejected."

In view of all the aforesaid aspects, I reject the point of order of the Hon'ble Leader of Opposition Shri Pareshbhai Dhanani."

(G.L.A. Debates, Book- 75: 2020, Vol-IV)

2. Admissibility

(1) A Government Bill not mentioned in the Governor's Address cannot be prevented from introducing in the House.

When the Hon'ble Chief Minister Shri Amarsingh Chaudhary moved a motion on 31st January, 1986, seeking permission to introduce in the House "Gujarat Industrial Development (Amendment) Bill, 1986, Member Shri Sureshchandra 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 –

“ Hon'ble Member Shri Sureshchandra Mehta in support of his point read the quotations from page 164 of Kaul and Shakhder 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.”

(G.L.A. Debates, Book – 10, Vol. II, Column 1594 – 1605.)

(2) 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 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 had cited the following extracts from Page 164 (Edition 1979) of Practice and Procedure of Parliament by Kaul and Shakhder.

“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 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 be published in the list of Bills or they should be introduced in the House only after it is presented before the Business Advisory Committee”. The Hon'ble 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 Hon'ble 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 Kaul 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 placed 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 Shakhder".

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

(G.L.A. Debates, Book – 32, Vol. II, Column 332-345)

(3) The Introduction or consideration of the Bill replacing the Ordinance can not be prevented only because of the copies of the same Bill have not been given to the Members before 4 days.

On 18th January, 2008, at the time of introducing Bill No. 1 of 2008 - Gujarat Co-Operative Societies (Amendment) Bill, the Leader of the Opposition Hon'ble Shri Shaktisinhji Gohil raised a Point of Order and stating that the Members of the House had received the copies of the Bill replacing the Ordinance only on the previous day i.e. on 17th January, 2008 and hence the Members did not have the time to study even the provisions proposed in the Bill. He added that as per the rules, the copies of such Bills would be provided to the Members, at least four days in advance and that in the said case the copies were provided to the Members only on the previous day and hence the Bill could neither be introduced at that stage nor be taken up for consideration. Thereafter, having heard the opinion of Hon'ble the Minister for Parliamentary Affairs Shri Amit Shah in the matter, Hon'ble the Speaker (Shri Ashok Bhatt) gave his ruling as under: -

"This is a Bill replacing the Ordinance. As provided in Article - 213 of the Constitution, when there is no Session of the Legislative Assembly and the need arises to enact a law, the Governor is empowered to enact a law by issuing an Ordinance under Article-213 of the Constitution. In pursuance of the aforesaid provision, the Ordinance amending the Gujarat Co-operative Societies Act was issued.

If the amendment made through this Ordinance is to be kept in force then the Bill is to be introduced in the House. The objects and reasons for bringing the Bill indicate that the Bill is brought before the House with a view to giving a benefit of a special package to the cooperative societies in order to compensate their losses as per the recommendation made in the Report of the Vaidyanathan Committee. As provided in the proviso to Rule 127(A) of the Legislative Assembly Rules, the Speaker is empowered to allow the publication of the Bill in the Gazette before the Bill is introduced in the House even in the absence of a motion for introducing the Bill in the House. When the Speaker grants such permission under the proviso to Rule-127 (A), the introduction of the Bill before the House becomes merely formal and at such stage no objection is raised except the competence of the House to enact a law. The request for prior publication of the Bill made by the Minister for Co-operation was accepted by the then Speaker. Besides this, the then Speaker granted the leave to move the motion of first reading earlier as per Rule - 130(1). In the past also, motions of first reading have been made with short notice with the leave of the Speaker. In view of the aforesaid facts, the Point of Order raised by Hon'ble the Leader of the Opposition does not survive."

(G.L.A. Debates, Book- 132: 2008)

(4) Once a subject has been debated in the House through a Resolution and vote has been taken on it, there is no impediment in bringing a Bill on the same subject in the House.

On 2nd December, 1965, during the debate on the South Gujarat University Bill, when Member Shri Ranjitrai Shastri stated that he basically opposed the Bill, Member Shri Chhabildas Mehta, citing the basis of Rule - 43(2), 98 and 24, raised a Point of Order that whether the debate can be conducted in the House against the decision given by the House since the House had given its decision as to whether basically a university be established or not through voting on a Resolution a few days ago.

The Hon'ble Chief Minister stated that the scope of debate on a Resolution became limited under Rule 34(2), once the House had dismissed the Resolution.

The Hon'ble Speaker (Shri Fatehali Palejwala) gave the following Ruling:-

"Hon'ble the Member has quoted Rule - 43 and Rule - 98 while raising the Point. But looking to the Rules, it is seen that nowhere in the Rules it has been mentioned about the situation in which the Motion is moved first and then the Bill is introduced whereas the general thing is mentioned in the Rule, when a Resolution is moved.

It is generally with regard to the same thing.

Now, a Bill has been brought before the House containing so many things, how could it be stopped when the Resolution has been decided in one way or the other. Now, here, when the Resolution has been decided, no substantial thing can be brought before the House. So we can't put a Resolution and a Bill on one and the same footing. In view of this, I don't think there is anything in the Point of Order.

I would like to draw the attention of the Hon'ble Members on this point in May's 'Parliamentary Practice' which states as under:-

"Whether the rule That means the same rule about repetition, would apply as between a motion and a bill is a difficult matter to decide. But it is unlikely that substantially, the same question could be raised by a motion and a bill as a whole. A motion can be no more than to affirm the desirability of legislation in general terms ..."

Whereas here that was not the question. There was no issue as to whether a university may not be established or it may be established in a certain way in the Motion that was first moved in the House.

Whereas a bill is apt to contain qualifying provisions and conditions, generally sufficient to differentiate its subject matter from that of a motion.

In this situation, the Point of Order cannot be accepted and Hon'ble the Member has a right to oppose and while opposing, he can speak keeping in mind the thing, which the Hon'ble Chief Minister has pointed out." Point of order is disallowed."

(G.L.A. Debates, part -2, Book -15, Column 665-666)

3. Governor's Recommendation

(1) If the Amendment to a bill causes additional burden on the consolidated fund, the Governor's prior permission under Article - 207 is to be sought for the Amendment to be introduced in the house.

On 10th April, 1973, when the Hon'ble Member Shri Keshavbhai Patel moved his amendment on the Schedule to the Private Forest (acquisition) Bill, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"If the amendment suggested by Hon'ble Member Shri Keshavbhai Patel is accepted, then it will cause additional burden on the consolidated fund. Permission under Article - 207 has been obtained from the Governor for what has been sought in the Bill. But I have no communication regarding such permission for the amendment. It is a different thing if the Minister has the permission. The House will not be able to consider the Amendment until the permission is obtained."

(G.L.A. Debates, part -2, Book -44, Column 149-151)

(2) Governor's recommendation is not required for consideration of such Bill where the question of Incurring expenditure from the consolidated fund does not arise.

On 14th February, 1978, on a Motion by the Hon'ble Minister of Municipalities regarding the first reading of a Bill to further amend the Gujarat Municipality Act, 1963, Member Shri Gokalbhai Parmar drawing the attention of the House towards Rules - 123 and 127 of the Gujarat Legislative Assembly Rules and raised a Point of Order that the Motion of the first reading of the Bill, to which the provisions of the Section (3) of Article - 207 of the Constitution of India are applicable, could not be moved unless the concerned Minister intimates, in writing to the Secretary, the recommendation made by the Governor to consider the Bill. The Minister did not declare in the House that the recommendation for the consideration of the aforesaid Bill from the Governor was received.

He further stated that the bill was meant for revising the Voters' List of Municipalities, which required separate expenditure, and hence the procedure of drawing special attention towards the sections made for such expenditure by attaching the financial memorandum with the Bill and also providing estimates of recurring and non-recurring expenditure were not carried out. He, therefore, requested the Speaker to give a Ruling as to whether the Bill could be considered in the prevailing situation due to both these reasons.

Hon'ble Deputy Speaker (Shri Manubhai Palkhiwala) gave the following Ruling after listening to the opinions of the Hon'ble Minister of Law, Minister of Municipalities and Member Shri Sanat Mehta:-

"There is indeed much substance in the Section quoted by Shri Gokalbhai while raising a Point of Order. But after considering the entire debate, my opinion is very clear in the issue raised first under rule 127 that while moving such a Bill, if the subject of the Bill falls in the State List, then there is no requirement of sanction of the Governor with regard to that Bill,

which has been moved is at the fifth entry in the State list of the Constitution of India. So the first issue that has been raised has no place.

The second issue is very important. Some hypothetical questions have been raised in it. But the Minister has submitted clearly in this regard that so far the consolidated fund is concerned, the question of spending money from the fund does not arise at all. So, I cannot accept the point raised under both the rules 123 and 127. There is no requirement of Governor's recommendation in this."

(G.L.A. Debates, Part -2, Book -57, Column 183-184)

(3) Since the Government has voluntarily accepted the responsibility to obtain the Governor's recommendation or prior sanction of the President for the Private Member's Bill, the Govt. should sincerely try to obtain the recommendation within the stipulated time.

On 22nd September, 1983, when a Motion for the first reading of the Gujarat Development of Mines and Minerals through Mines Labourers Bill, 1982 was moved by Member Shri Shashikant Lakhani, the Hon'ble Chief Minister Shri Madhavsinh Solanki raising a legal point stated that the House did not have the power to pass the Bill under Article - 246 and the Seventh Schedule to the Constitution.

After hearing some Members on the issue, the Hon'ble Speaker postponed his ruling.

Thereafter, when the aforesaid Private Member's Bill was taken up by Shri Lakhani in the House for discussion on 15th February 1984, the Hon'ble Speaker after delivering his ruling (which was given separately) with regard to the constitutional issue raised by the Hon'ble Chief Minister, asked the Member to move the Motion for first reading of the Bill if he had obtained the recommendation of the Governor for the Bill.

Thereupon, the Hon'ble Member Shri Shashikant Lakhani stated that the Legal Department of the Government had not sent his Bill to the Governor and, therefore, the recommendation could not be obtained from the Governor. Referring to rules 126 and 127, he stated that it was the duty of the Government to obtain the recommendation from the Governor and sought guidance of the Speaker in this regard.

During the discussion on the aforesaid issue, the Hon'ble Health Minister Shri Manoharsinhji Jadeja supported the arguments of Member Shri Lakhani and submitted that in order to get the Government bill passed, the

Governor's sanction could be obtained, in case the Governor is out of station, by sending a messenger by plane or by train. However, if it is not possible to make such positive efforts to obtain the Governor's recommendation for a Private Member's Bill, he requested the Hon'ble Speaker to guide and establish a practice of high standard regarding the procedure to be adopted in the House in such circumstances.

The Hon'ble Speaker (Shri Natwarlal Shah) gave his postponed ruling on 23rd February, 1984 as follows:-

"On 22nd September, 1983, when a Motion for the first reading of the Gujarat Development of Mines and Minerals through Mines Labourers Bill, 1982 was moved by Member Shri Shashikant Lakhani, the Hon'ble Chief minister Shri Madhavsinh Solanki raising a constitutional point stated that looking to the Articles of the Constitution, the House did not have the power to pass the Bill. At that time, Shri Lakhani had categorically stated that while introducing the Bill a constitutional issue could be raised. He also submitted that such an issue could not be raised at the stage other than this. He had insisted on my Ruling on that issue and accordingly I had given my Ruling on 15th February, 1984.

When Shri Lakhani moved the Bill for the first reading, his Bill could not be taken up as the recommendation letter from the Hon'ble Governor had not been received. Thereafter, when I gave my Ruling on this issue, he submitted that it was not a Member's responsibility to obtain the recommendation of the Hon'ble Governor but it was the Government's responsibility to obtain the recommendation and sought my guidance in deciding whose responsibility is that. Hon'ble Health and Civil Supply Minister Shri Manoharsinh Jadeja also stated that the guidance sought by Shri Lakhani was necessary.

My predecessor Shri Leuva and once I have also given this kind of guidance. But reconsidering in this regard, studying further and looking to the importance of the circumstances, I have felt that it is very necessary to clarify the matter again.

From my experience, so far I have felt that whenever such a recommendation has been required for a private Member's bill or an amendment, the Government has tried to help in obtaining the sanction of the Hon'ble Governor. But as it has not been done so in the case of Shri Lakhani's Bill and, therefore, he is in trouble.

Whenever the requirement of sanction of the Hon'ble President arises, the State government has been entrusted with the responsibility of obtaining the sanction of His Excellency the President for a bill or an amendment under Section -126. Accordingly, as soon as the Bill or an Amendment requiring the President's sanction is received by the State Government, it should make an arrangement for sending it to the Hon'ble President. However, there is no such provision in rule 127, for a Bill which requires recommendation of the Governor. It can be interpreted to mean that it is not the responsibility of the State Government to obtain consent of the Hon'ble Governor when the responsibility of obtaining the sanction of the President has been clearly assigned to the State Government under rule 126 and there is no such provision in Rule 127 for the Governor's recommendation. However, in my view, this is not a reasonable interpretation.

This matter has been discussed in Sub-Para (3) of Para-48 on Page No. 22 of the Report which was laid on the Table of the House on 12th April, 1973 by the Rules Committee of the Fourth Gujarat Legislative Assembly. The Sub-Para (3) of Para-48 is as follows:-

"As per the practice prevailing in the Lok Sabha, the Member, who gives a Notice of a Bill, has to obtain himself the President's sanction through the concerned Ministry and a letter to that effect has to be attached with the Notice of the Bill. The Legislature Secretariat has suggested introducing this practice. At present, the practice is that when a Member gives a Notice of a Bill, the Legislature Secretariat scrutinizes the Bill. During the scrutiny if it is found that the recommendation of the Governor or the sanction of the President is required, the Secretary of the concerned Department is requested to obtain the required recommendation or the sanction. Generally, such a recommendation or a sanction is received before the Bill is included in the List of Business for the Day. But sometimes, it happens that such recommendation is received when the Bill is taken up and at that time, the concerned Minister reads out such recommendation before the House. After much consideration, the Committee finally came to a conclusion that if the current practice prevailing in the Lok Sabha is adopted, a private Member would be in difficulty and it would cause unnecessary delay. Moreover, the Members have to obtain such a recommendation before the Legislature Secretariat scrutinizes a Bill and after scrutinizing the Bill, if the Legislature Secretariat feels that another recommendation is still required, more delay is likely to occur. Therefore, the Committee has recommended that the current practice should be continued."

Thus, the Committee has not accepted the suggestion of the Legislature Secretariat to implement the practice prevailing in the Lok Sabha. Not only that, it has clearly stated that the current practice should be continued. Thus, as the Government has voluntarily accepted the responsibility to obtain the Governor's recommendation, the Committee felt that when the Government has accepted the practice voluntarily, it should be continued and, therefore, I think that such type of clarification regarding the Governor's recommendation has not been made in Rule - 127. Thus, as the Government was fulfilling its own responsibility, the Committee felt it worthwhile not to include any such clear provision in rule 127 and, therefore, it did not include in rule 127 meant for the Governor's recommendation, a provision like that in rule 126 meant for the President's sanction. The Government cannot say that it is not its responsibility to obtain Governor's recommendation as there is no such provision in rule 127. In fact, this responsibility should have been voluntarily accepted by the Government and, therefore, the Rules Committee has not felt it necessary to make any such provision in rule 127.

In these circumstances, I think the Government should accept the responsibility to obtain the Hon'ble Governor's recommendation and should try to obtain the recommendation sincerely within a stipulated time, looking to the understanding with which no clear provision has been made in rule 127 for the Hon'ble Governor's recommendation by the Rules Committee and the recommendation made by the Committee."

(G.L.A. Debates, Part-2, Book- 86, Column 272-276)

4. Prior-sanction of the President

(1) Prior-sanction of the President is required if restriction is to be imposed on the people other than those who have already been restricted by the President's sanction.

(2) As per the provision of Article 255 of the Constitution, if the Speaker thinks a prior sanction of the President is not required for a Bill or an Amendment but if the President thinks that his prior sanction is required, then the article is applicable in such a case.

On 4th August, 1972, after Clause 2 became the part of the Gujarat Vacant Lands in Urban Areas (Prohibition of Alienation) Act, 1972, the Hon'ble Speaker stated that nine amendments had been moved on Clause - 3 and the first of them was from Hon'ble Member Shri Batukrai Vora, which could not be allowed to be moved as he could not obtain the President's sanction on it. Eventhough, the Hon'ble Speaker said that he would decide after

hearing him. At that time, Shri Batukrai Vora demanded to know that though obviously the President's sanction could not be obtained in one day, what would be the scenario if the sanction is not obtained or obtained later on. Shri Manoharsinhji Jadeja, who had also given a notice for an amendment requiring the President's prior sanction, stated that so far no suggestion has been made that the Member had to obtain the Governor's recommendation or the President's prior sanction for an amendment and this procedure had been carried out by the Government itself. If the President's prior sanction had to be obtained within two or three days, the procedure should be carried out by the Government, and not by the Members. There is a very clear provision in Article 255 of the Constitution that no Bill shall be considered invalid for want of recommendation or the prior sanction of the Governor or the President. Therefore, when the prior sanction of the President had to be obtained and the procedure thereof had been started by the Government, in these circumstances, the Amendment should be allowed to be moved.

Member Shri Liladhar Patel, by drawing attention towards Rule - 126 of the Gujarat Legislative Assembly Rules, stated that as per the Rule, it was the Government's responsibility to send the Bill or the Amendment to the President for obtaining his prior sanction and there was a provision in the Rule that the notice shall not be included in the List of the Business for the Day until the intimation of the President's sanction is communicated to the Speaker and the further procedure of the Bill shall be postponed until the procedure for obtaining prior sanction of the President was completed.

After hearing other Members, the Hon'ble Speaker (Shri Raghavji Leuva) gave the Ruling as follows:-

"There are two questions before me. The first Amendment belongs to Hon'ble Shri Batukrai Vora, in which he demands restriction on holding four hundred meters of land instead of one thousand meters. There is a mention of reasonable restrictions on Trade and Commerce in Article 304-B of the Constitution. The President alone has a prima facie power to decide as to whether this restriction is reasonable and not either the Hon'ble Speaker or any Honorable Member. When the Minister-in-Charge approached the President for the permission, he told him that he wanted to impose restriction on those who are holding 1000 sq. meters of land. The number of people holding 400 sq. meters of land is greater. So, we have to approach the President again if restriction has to be imposed on the number of people other than those for which the President has given his permission to the Minister-in-Charge because prior permission is required to impose restriction on new number of people.

Now, so far as the second question is concerned, it is written in the Constitution that such kind of an Amendment or a Bill can neither be introduced nor discussed without obtaining the president's prior sanction. It means, if the Speaker thinks that this requires the President's permission, then his paramount duty to the Constitution is to prevent moving of a Bill or an Amendment. When the Speaker thinks that the President's permission is required, it cannot be said that there would be no problem when Article 255 is there. But if the Speaker thinks that no, the President's permission in the matter is not required and allows discussion, but when the Bill goes to the President for his assent and if the President says that the permission was required in it, then no Court can raise an objection that the House of the Legislative Assembly had discussed the Bill without obtaining the President's prior consent as mentioned in Article 304(b) of the Constitution and passed the Bill and, therefore, that law was invalid if the President signs it. Article 255 is meant for preventing the invalidity of the Law. That does not mean that the Speaker has got the power to go against the provisions of the Constitution. Therefore, it is the duty of the Speaker to act in accordance with the Constitution.

There is a provision in our rule - 126 that the Government should get the permission for a Member. This rule is made by the House. The House has also made a rule that, its discussion can be taken up in the House after seven days of giving the bill to the Members. If any Member wishes to move an amendment, it is the responsibility of that Member to see as to whether the Amendment he wanted to move goes against Article-304(b). In this, there is no responsibility either of the Speaker or the Speaker's Secretariat or that of the Government because whoever may face the difficulty should do that. Therefore, the Hon'ble Member himself should try to obtain the permission through the Government. Amendments to a Bill can be accepted 48 hours prior to its discussion. This only means that even if the Amendment is illegal, it cannot be acceptable because of the procedure. So obtaining the consent along with bringing the Amendment either through the Government or without the help of the Government is the responsibility of the Member himself who wishes to move an Amendment to the Bill. It is also clear from our rules that the amendment which can be brought is valid. An Amendment that can be discussed in the House of the Legislative Assembly can be brought. So it is the Member's responsibility who wants to move an amendment. I, therefore, cannot allow moving the Amendment No. 1 by Hon'ble Member Shri Batukrai Vora, Amendment No. 2 by Shri Manoharsinhji Jadeja and Amendment No. 3 and 4 by Shri Divyakant Nanavati."

(G.L.A. Debates, Part-2, Book- 36, Column 1050-1064)

5. Statement of Objects and Reasons.

(1) While moving a Bill, the Minister should present a thesis explaining the object of the Bill.

On 10th January, 1978, during the discussion on the motion of first reading of the Mumbai Provincial Municipal Corporation (Gujarat Amendment) Bill, since the Hon'ble Minister of Municipalities did not make any explanation with regard to the object of the Bill, Member Shri Sanat Mehta raising the issue of the thesis explaining the object of the Bill stated that whenever there arose interpretation of the law, it was a practice of referring the proceedings of the House to find out its objective to make a law. Hence, the concerned Minister should make a brief statement explaining the opinion of the Government while introducing a Bill in the House and requested the Hon'ble Speaker to bring the matter to the notice of the Government.

Thereafter, the Hon'ble Speaker (Shri Kundanlal Dholakiya) observed as follows:-

"It is true that in one or two Bills, any Minister did not rise when the matter came up for the first reading. I also did not like that. If there is an amendment in some Act, we assume that the amendment is very light and will be passed immediately and there is no scope for a discussion in it. Irrespective of the Amendment being big or small, we should understand that the laws we make are not just for today; they are not for one year and we are making them for generation to come. With regard to seemingly trivial laws or amendments, it is impossible to imagine as to what kind of a shape they would assume in future in terms of their importance and significance.

We can't foresee every time everything and at any moment. Hon'ble Members may have noticed that the lawyers had argued for many days inside the Supreme Court over the words of "Laws and Laws in force" in Article - 13 of the Constitution and on the judgment in the case of Golaknath and Keshavnanda Bharti. Even today, the Supreme Court Judges have to think extensively about the large thesis on the words of Laws and Laws in force. If the synonyms of the two words can be this much, then we need to pay more attention to this matter so that in future while interpreting the matter in the Court, what debate took place in the Legislature and what was the intention of the Legislature and what was the object can be known. This debate is very important. I would like to bring to the notice of this August House that in the constituent Assembly on some of the clauses there did not take place any discussion while framing the constitution, it became an impediment today. The point about which Hon'ble Member Shri Sanatbhai Mehta has stated, is

fundamentally very true. If the Members have read Daysi's Constitution and Laski's Grammar of Politics, in the Chapter of Legislation, in those Books, a lot has been written about the subject of Statement of objects. The Minister must explain the thesis while moving a Bill. If it is an original Bill, it may take time. Even in amendments, some facts should be presented and if it is argued that it is in the Statement of object then it is not a proper argument because the debate took place in the House in the matter is important. I request the Hon'ble Ministers that they must keep this matter in mind. Not only that, but if the Minister does not consider it appropriate to say anything like thesis while moving for the first reading, then while replying the discussion if he has not said the thesis, I will tell the Minister that he has done wrong. The Minister should foresee this thing. As the Hon'ble Chief Minister is not present, I do request the Hon'ble Minister of Parliamentary Affairs that henceforth, while moving every amendment, a brief and somewhat contemporary thesis on the Statement of Objects and Reasons may be delivered."

(G.L.A. Debates, Part-2, Book- 56, Column 137-148)

(2) 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 (Shri Shashikant Lakhani) 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 Harishchandrabhai, 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. 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. Moreover, 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 be in-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. There will not be any effect on the Bill. Such attention should be given in future and I hope that the Government will pay attention to this”.

(G.L.A. Debates, Book – 59, Column 124 – 131)

6. Financial Memorandum/Memorandum regarding Delegated Legislation.

(1) There is no need to provide Financial Memorandum alongwith a Finance Bill unless there is any new burden on the consolidated fund.

On 3rd September, 1968, when the Mumbai Electricity Tax (Amendment) Bill was taken up for the first reading, Member Shri Manubhai Palkhiwala drawing attention to rule 123 of the Gujarat Legislative Assembly Rules, raised a Point of Order stating that the expenditure was going to increase

since the machinery for collecting the tax was going to increase due to the bill. Yet, the financial memorandum was not provided along with the bill which should have been provided and, therefore, the first reading of the bill could not be conducted. In this regard, the Hon'ble Minister-in-Charge clarified that since no new staff was to be appointed due to the Bill and no new expenditure was to be incurred by the State, there was no need to provide any Financial Memorandum. Thereafter, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"Hon'ble Minister has clarified that no new machinery was required to collect new tax after this Act would come into force. They have expected to get this work done with the current machinery. If this is the case, there is no new burden on the Consolidated Fund and hence there is no need to provide Financial Memorandum. Therefore, I reject the Point of order raised by Member Shri Palkhiwala."

(G.L.A. Debates, Part -2, Book - 21, Column 484)

7. Errata/Printing mistake

(1) 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 Hon'ble 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.”

(G.L.A. Debates, Part-2, Book – 49, Column 963 - 969)

(2) Bill should be scrutinized properly before its introduction.

On 2nd March, 2010, when the Revenue Minister Smt. Anandiben Patel moved a motion for the first reading of “The Mumbai Land Revenue (Gujarat Amendment) Bill, 2010” and, thereafter, drew the attention of the House towards the remaining typographical mistakes such as the substitution of the word “OR” instead of “OF” in the Bill and requested to rectify them, the Leader of Opposition Shri Shaktisinh Gohil raised a Point of Order stating that it was not a typographical mistake as the word “OR” instead of “OF” might change the meaning of the whole sentence otherwise there was specific time period to put errata in the Bill which had also elapsed. He further stated that it is desirable that the Government should take due care to avoid such typographical mistakes in future and sought the guidance of the Hon’ble Speaker.

After hearing the views of the Chief Whip Shri Pradipsinh Jadeja, Hon’ble Speaker (Shri Ashok Bhatt) accepted the issue raised by the Leader of Opposition and gave his ruling as under:-

“The Bill should be scrutinized properly before its introduction in the House. Otherwise, wrong usage of such words “OF” instead of “OR” will change the meaning of the whole sentence when it is interpreted. Therefore, due care should be taken so as to avoid repetition of such mistakes in future.”

(G.L.A. Debates, Book- 149: 2010)

8. Finance Bill

Even before voting for all the demands of the Budget, a Bill to amend the tax structure may be introduced.

On 29th March, 1971, when the Hon'ble Minister-in-charge Shri Babubhai Patel moved a Motion for the first reading of the Mumbai Motor Vehicle (Passenger Tax) (Gujarat Amendment) Bill, Member Shri Manoharsinji Jadeja raised a Point of Order that the Finance Bill could not be considered until passing the Appropriation Bill on the Demands of the Budget and discussing all the demands of the Budget in detail. In support of his point,

he referred to Page No. 539 of the Book - Practice and Procedure of Parliament by Kaul and Shakdhar and mentioned the practice followed in the Lok Sabha that the Bill proposing annual tax could not be taken up unless there was information on the total expenditure and until the demands related to the expenditure were not voted on. Secondly, while referring to Page No. 451 of Practice and Procedure of Indian Parliament by S.S. More stated that a Finance Bill could be moved only after all the demands were voted on. Thereafter, supporting this, Member Shri Sanat Mehta and Shri Chhabildas Mehta stated that the Finance Bill could not be taken up before the debate on the current Vote on Account Bill was completed. The Hon'ble Minister of Law and Parliamentary Affairs Shri Vijaykumar Trivedi referring to Article - 207 (1) of the Constitution stated that there is no impediment to introduction and passage of the Bill in the Constitution and also no impediment in the Gujarat Legislative Assembly Rules. Also the quotations cited by Member Shri Jadeja from the book written by Kaul and Shakdhar and the book written by S.S. More did not pose any difficulty in moving the Bill. So in view of the constitutional provisions as well as the provisions of the Rules in totality, the issue raised by Member Shri Manoharsinhji Jadeja could not be called as a Point of Order.

The Hon'ble Revenue Minister Shri Premjibhai Thakkar referring to rule 47(2) of the Gujarat Legislative Assembly Rules stated that since he had not made any mention of violation of any rules or violation of any Article of the Constitution in support of the point of order raised by the Member, the issue raised by him could not be considered as a Point of Order. He also stated that the Taxation Bill being an independent bill could be moved during the budget or even at the time when there was no budget. Therefore, the proposed Bill was not in any way adverse to the Constitution, Rules or the Parliamentary Practice.

Thereafter, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling:-

"Demands of Grants would mean detailed demands, whereas Hon'ble Members Shri Sanat Mehta and Shri Chhabildas Mehta were on the point in respect of vote on account is passed and now before the Appropriation Bill is passed you have taken the Finance Bill. Then the grievance of Shri Sanat Mehta and Shri Chhabildas Mehta does not survive because the vote on account has been passed, only the Appropriation Bill remains. I would come to the fundamental issue. The fundamental issue is that the Hon'ble Minister for Revenue relied upon Rule - 47. But I would say that there is one thing more in the rule which says that whatever is within the cognizance of the Speaker, that is to say it shall relate to a question which is within the cognizance of the Speaker.

The matter, on which the Speaker has full authority to decide, should be raised and Hon'ble Member Shri Manoharsinji has relied on sub-rule 3. It relates to the procedure of its presentation and not upon its content. So there has been a practice that the discussions on the Finance Bill should be done after completion of the discussion on the Appropriation Bill because the House does not know how much money the Government really needs. And if the Government wants to raise more money through taxes than it needs, it should be stopped. It seems that for this purpose the Rule of Wisdom has arisen. After all, it is a rule of wisdom. It cannot be said to be a convention or precedent. No doubt, any Government would try to prefer to follow that rule, if the Government chooses otherwise, then whether in view of rule 16, I would be in a position to call upon to arrange the business according to the nature of information which the Speaker possesses? Here the rule says that the Government shall arrange it in the manner it deems fit. And that is the end of it. I cannot question that. If the Government wants to take it up, the House may reject the Bill. The consequences, the Government have to suffer. But so far as orderliness is concerned, I am called upon to decide the orderliness that this does not permit the Government. No rule of the House prevents it. On the contrary, the rule of this House says that the Government is the sole authority to determine the order in which they should conduct the business in this House. In all business, business includes notices of a Motion, Bills, Budget and whatever they would like to have. The only point is that they would have to see that they are safe. Therefore, whatever Shri Manoharsinhji Jadeja has raised is not a Point of Order.

No doubt, coming to the point of convention, so far as I am concerned, rule 16 which prevents me from calling upon the Government to change the order in which they want to take their business. That being so, I am unable to accept Shri Manoharsinhji's objection."

(G.L.A. Debates, Part -2, Book - 32, Column 530-532)

9. First Reading - Limitations of discussion

(1) Though the Ordinance has been challenged in the Court, the Bill thereon can be discussed in the House.

On 17th February, 1982, Member Shri Ramanikbhai Dharni, while participating in the debate on the Motion disapproving Ordinance No. 11 of 1982 and on the first reading of the Gujarat University Laws (Amendment) Bill amending the Acts pertaining to some Universities of the State, stated that a writ petition had been filed in the Gujarat High Court challenging the Ordinance and the High Court had issued a notice to the Govt. in this regard.

He raised a Point of Order asking whether discussions could take place in the House in such circumstances and requested the Hon'ble Speaker to give his Ruling in the matter. At this stage, while supporting this matter, Member Shri Ashok Bhatt stated that any matter affecting the decision of the Court in any way could not be discussed in the House.

Thereupon, the Hon'ble Minister-in-Charge and the Hon'ble Chief Minister mentioning that earlier in this Legislative Assembly a Panchayat Bill had been passed even though a matter regarding the employees of Panchayat was pending in the Supreme Court, submitted that the point raised by the Member was irrelevant. After listening to other Members also, Hon'ble Speaker (Shri Natwarlal Shah) gave the following Ruling:-

"A Point of Order has been raised by Hon. Member Shri Dhama contending that as the Ordinance has been challenged in the High Court, the discussion in this House on this Bill should be considered to be sub-judice and therefore, the discussion is to be stopped till the decision is taken by the High Court on the issue - particularly on the issue of the Ordinance. The Hon'ble Members, including the Minister-in-Charge of the Bill and the Chief Minister both objected to this contention by saying that the principles enunciated in the rule do not apply to the discussion of the Bill in the House.

In support of the contention, Shri Ashok Bhatt relied on two ruling given by the past Speakers and suggested that there cannot be any discussion in this House on a matter, which is sub-judice, I am sorry, I do not agree with this contention on the ground that the ruling given in this two cases were pertaining to either a question asked on a matter which was sub-judice or a resolution moved on a matter which was sub-judice. It is undoubtedly true that we have provided in our rules that a matter which is sub-judice should not be discussed. But that provision in the rules is self-imposed and it is not something which is in consonance with the provision of the Constitution. In the interest of maintenance of the independence of the judiciary and maintenance of dignity and respect of the judiciary, we have imposed this condition on ourselves. But one has to bear in mind that this condition which has been imposed by the House in our rules or while framing the rules does not apply to a discussion on the Bill. When I say this, I am supported by a number of observations made by Mr. Kaul and Mr. Shakhdar in their book "Practice and Procedure of Parliament" (Third revised edition) certain passages have already been referred to, I would like to quote them.

Firstly, I would read what has been observed at page 911 which is as follows:-

"A matter does not become sub-judice if a writ petition for admission is pending before a court"

The other observations at page 913 are as follows:-

"A Bill seeking to replace an Ordinance can be discussed in the House notwithstanding the fact that the Ordinance has been challenged in a Court of law and the court has issued rule to the Government."

"A Point of Order was raised in the House that the Resolution which had been moved disapproving of the Essential Services Maintenance Ordinance, 1968, could not be discussed as the Ordinance was pending adjudication before courts of law. The Point of Order was ruled out on the ground that "the rule of sub-judice does not apply to legislation and the Resolution to disapprove the Ordinance is in the nature of legislation because all it seeks to do is to disapprove the Ordinance i.e. to repeal the legislation which is in force and that an Ordinance has the same force as a law of Parliament." It was held that "Parliament is supreme and sovereign in the exercise of its legislative powers and cannot be paralyzed by reason only of the fact that a writ petition against the constitutionality of the existing legislation is pending in a court of law."

Looking to these observations I disagree with the contentions raised in support of the Point of Order raised by Hon'ble Member Shri Dhama. I, therefore, reject the same."

(G.L.A. Debates, Part -2, Book - 76, Column 757-760)

(2) When any matter pertaining to the Ordinance has been challenged in the High Court, then a limited discussion confined to that matter can be made in the House.

On 21st February, 1983, while participating in the debate on the Gujarat Municipality (Amendment) Bill, Hon'ble Member Shri Lekhraj Bachani referred to a case of the Navsari Municipality, which was pending in the Court. Thereupon, Member Shri Mohammad Husain Barejia raised a Point of Order as to whether the matter which was pending for decision in the High Court could be discussed. At this stage, Shri Amarsinh Vaghela, who was in the Chair observed that it would be appropriate for the Member to raise the Point of Order after the recess. After the recess time, Member Shri Mohammad Husain Barejia raising a Point of Order and stated that when the issue of reorganization of Municipal wards was pending before the High Court for its decision, discussion could not be made in the House on the issue. Presenting his view on the Point of Order, Hon'ble Member Shri Shashikant Lakhani stated that when

the Ordinance was issued, some Municipalities had filed writ petitions in the High Court and therefore, Administrators could not be appointed in such Municipalities. With regard to the discussion on the Bill based on the Ordinance, if the Hon'ble Speaker ruled that the Ordinance could not be discussed as it had been challenged in the High Court, the ruling would be interpreted to mean that the debate on the Ordinance based Bill could not be held. It was not proper that only the High court would decide about the Ordinance, but the House had also right to determine its legality. After hearing Shri Ashok Bhatt and Shri Dinkar Desai, Hon'ble Speaker (Shri Natwarlal Shah) gave the following ruling:-

"By making reference to the stay order obtained by Navsari Municipality against the Ordinance issued by the Government for which the Bill is presented today, Mr. Barejia raised a point of order and contended that no reference should be made in the House when the matter is pending before the Court. Reading Rule 34, as it reads --

"A Member while speaking must not refer to any matter which is under adjudication by a Court of Law having jurisdiction in any part of India."

I think the Rule is quite clear and it very clearly lays down that a matter which is pending before the Court cannot be referred in the House.

With regard to the contention made by Shri Lakhani that if such a reference cannot be made in the House then no ordinance can be discussed in the House when the Ordinance has been challenged by any party in the Court of Law. I think that the contention will not be taken in the sense that it is open to the House to discuss on the Ordinance which has been issued by the Government. It has been very clearly stated in "Practice and Procedure of Parliament" by Kaul and Shakhthar at page 913. I quote, it:

"A bill seeking to replace an Ordinance can be discussed in the House notwithstanding the fact that Ordinance has been challenged in the Court of Law and the Court has issued rule nisi to the Government."

Not this being the position, it is clear that Ordinance can be discussed in the House, but on a limited issue which has been raised by Mr. Barejia. I rule that it was wrong on the part of Mr. Dinkar Desai to refer to the case of Navsari Municipality, which is pending in the Court."

(G.L.A. Debates, Part -2, Book - 81, Column 191-224)

(3) While discussing on a Revision Bill/Amendment Bill, the discussion should only be made on the clauses included in the Bill and not on the general policy of the Government, the original Act or on any other matter.

On 19th February, 1964, when Member Shri Gosaibhai Patel was speaking on the Child Marriage Prohibition (Gujarat Amendment) Bill, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following ruling:-

“Hon'ble Member will keep one thing in mind that the Bill which the House is currently discussing is an Amendment Bill. The entire original bill has already been passed. So, now it is not appropriate to discuss its objectives and all other things. The discussion should be confined to the amendment in the clause for which the Government has moved this Bill. It is not appropriate to discuss why this Bill was passed, etc.”

(G.L.A. Debates, Part -2, Book - 11, Column 73-74)

(4) Discussion on an Amendment Bill should be limited to an Amendment proposed to be made.

On 22nd September, 2020, during the discussion on the first reading of the Gujarat Prevention of Anti-Social Activities (Amendment) Bill, 2020, the Hon'ble Chief Whip Shri Pankajbhai Desai, in his representation, stated that since the Leader of Opposition and other Members were giving speeches outside the scope of the Amendment Bill, the Hon'ble Speaker should stop them. At that time, the Hon'ble Speaker asked the Hon'ble Leader of the Opposition and other Members to deliver the speech within the scope of the Amendment Bill.

Thereafter, on 25th September, 2020, during the discussion on the first reading of the Gujarat Agricultural Produce Market (Amendment) Bill, 2020, the Hon'ble Deputy Chief Minister Shri Nitinbhai Patel raising a point of order stated that the Hon'ble Leader of Opposition was giving his speech on the issues such as Farmer's debts, not getting affordable prices of farm produces, drought, bearing financial burden due to unseasonal rains, farmers' suicides, harassment of land mafias, not getting crop insurance money, expensive electricity, demands for seeds and fertilizer at concessional rates, etc. and that his speech was out of the scope of the Amendment Bill and inconsistent with the Rules. The Hon'ble Parliamentary Affairs Minister Shri Bhupendrasinh Chudasama also supported the point of order. At that time, the Hon'ble Speaker asked the Hon'ble Leader of Opposition to give the speech on the issues contained in the Amendment bill and also stated that he will give his ruling on the matter later on.

Thereafter, the Hon'ble Speaker (Shri Rajendra Trivedi) gave his ruling as follows:-

"I have studied the proceedings of the House of these two days, Rule 130 of the GLA Rules with regard to the discussion on the first reading of the Bill, Rule 75 of the Lok Sabha Rules, the Ruling given by my former Speakers in this regard and the Parliamentary Practices etc. The provisions of Rule 130 of the GLA Rules and Rule 75 of the Lok Sabha Rules are identical to a great extent. As per the provisions of these Rules, only the principles of such a Bill and its general provisions can be discussed during the first reading of the Bill. In the present case, since both these bills are for amending the existing laws, it is natural that the discussion can be made limited to the principles/objectives on the basis of which, the Amendment Bills have been introduced suggesting the amendments. When there is no existence of a Law on a subject and a new Law has to be enacted then the scope of the Bills on that subject is as shown in the statement explaining the objective and reasons for introducing the Bill attached with it. It means, it is natural that the scope of discussion of the first reading of a Bill on a new subject is greater than that of an Amendment Bill.

In the present case, the amendment was introduced to add offences such as money lending offences, sexual offences and cyber-crimes into the scope of the prevailing Gujarat Prevention of Anti-Social Activities Act, 1985. But the Minister In-charge of the Bill, Shri Pradipsinh Jadeja, in his introductory speech had also spoken about the issues such as Economic Development of Gujarat, GDP, Financial discipline, Employment, Fiscal Deficit, Agricultural Development Programmes, Industrial Production and Development and Coastal Security, which were out of the scope of the Amendment Bill. The speeches given on that day by the Members of the Ruling Party and the Opposition Party were out of the purview of the Amendment Bill. The entire debate on the Bill was held on other Departments in addition to the Home Department. Similarly, on 25th September, 2020, matters such as representation of farmers in the market Committee, issuance of unified license, exemption from payment of market fee by the farmers, farmers consumer yard, private farmers market yard, e-trading of farm products etc. were covered in the Amendment Bill amending the existing Gujarat Agricultural Produce Market Act, 1963. During the discussion on the first reading of this Bill, the Leader of Opposition Shri Dhanani and the Deputy Chief Minister gave their speeches outside the scope of the Amendment Bill as mentioned earlier. On that day also, speeches were given by Members of the Ruling Party and of the Opposition Party on the matters related to the entire Agriculture Department.

With regard to the scope of discussion on the original Bill and the Amendment Bill, it has been clearly mentioned on page No. 625 of the book of "Practice and Procedure of Parliament" by Kaul and Shakdar that, "When the motion 'that the Bill be taken into consideration' is moved or on any subsequent day to which the discussion thereof is postponed, the principle of the Bill and its provisions are discussed generally, but the details of the Bill are not discussed further than is necessary to explain its principles. In the case of amending Bills, the discussion is confined to the provisions of the amending Bill, and other substantive provisions of the principal Act are not touched upon unless the clauses of the amending Bill necessarily lead to the Amendment or modification of any other section of the parent Act."

My preceding Speaker had also given a clear Ruling on 1st April, 1985, regarding the scope of discussion on the first reading of the Bill stating that the scope of discussion on the Bill brought for a specific purpose shall remain confined to that purpose. While giving the Ruling, he had stated that issues such as inefficient administration of the Electricity Board, hesitation of the Central Government in approving projects, and disposal of waste of Koyali Refinery, etc., which were outside the scope of the Bill could not be discussed during the debate on the Bill for levying tax on selling of Electricity. The rules as mentioned above are also very clear in this regard. There is no further Ruling from the former Speakers on this matter. But when the Rule itself is self-evident, everyone must abide by it.

In the present case, as I stated earlier the Minister In-charge of the Bill had given his introductory speech out of the scope of the provisions of the Amendment Bill and due to that the speeches of the Members were also within the extended scope. If the Minister In-charge of the Bill gives his introductory speech within the scope of the Bill, other Members may also be asked to confine their speeches within the scope. But as stated earlier in the present case, when the Minister In-charge has given an introductory speech going beyond the scope of the Amendment Bill, the Speaker from his Chair cannot prevent other Members from speaking out of the scope as per the principle of equal justice. As per the provisions of the Rules, the discussion on the Amendment Bill should be confined to the proposed Amendment to the Act. I order all the Hon'ble Members of the Ruling Party and the Opposition Party as well as the Ministers to be careful in future in this regard and give their speeches within the scope of the Amendment Bill.

Finally, I would like to say one thing: -

"Opposition should have its say." The Opposition Party should have the right to what they want to say and "Government should have its way." The Government should have a way to do what it has to do."

(G.L.A. Debates, Book – 75:2020, Vol. 4)

(5) 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 “Centre will stop that amount so you will not be able to get that amount and 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.” So, it will be proper if we do discussion within the scope of the Bill.

(G.L.A. Debates, Book – 2, Vol. II, Column 608)

(6) Two Bills having the same subject but differ in their provisions cannot be debated simultaneously.

On 27th February, 1973, after introduction of his Gujarat Public Library Bill, 1972 in the House, Member Shri Manoharsinhji Jadeja submitted that it would be welcomed if, as an exception, his Bill had been taken up simultaneously with Member Shri Maneklal Gandhi's "the Gujarat Public Library Bill", which was to be discussed in the House on the same day as it was similar to his Bill except minor differences. He also sought leave to move required Motion to suspend the relevant Rule in order to discuss both the Bills simultaneously.

Hon'ble Speaker (Shri Raghavji Leuva) gave the following Ruling on the demand of Member Shri Manoharsinhji Jadeja:-

"Any matter similar or identical to the matter once decided by the House cannot be presented before the House again. Hon'ble Member's Bill was allowed to be presented before the House because the provisions of his Bill, to some extent, differ from those of the Bill introduced earlier. Therefore, it had been allowed to be presented before the House to seek the leave for its introduction. Now if this Bill is different from the other Bill, simultaneous discussion of both the Bills cannot take place. If a discussion is to be made in any case, whatever amendments are desired to be moved can be moved after the procedure of first reading is over. After moving the Amendments, the bill may or may not be passed and if Hon'ble the Member's Bill comes before the House again, then it is objected that it cannot be discussed within a certain time limit as the House has earlier taken a decision in this matter. Therefore, both these bills cannot be taken up simultaneously."

(G.L.A. Debates, Part -2, Book - 41, Column 110-111)

(7) A matter once decided by the House, will not be decided again.

On 14th December, 1972, the Bill of Hon'ble Member Shri Manubhai Palkhiwala to further amend the Bombay Industrial Relations Act was shown for the first, second and the third reading. But when the turn of the Bill came, he was not present. However, the Minister-in-Charge of the Bill, in order to seek the Speaker's guidance in respect of the Bill, submitted that the first part of the aforesaid Bill was enacted and since that part got repeated in Member Shri Palkhiwala's Bill except for literal changes, he sought to know whether the House would decide in that regard.

The Hon'ble Speaker (Shri Raghavji Leuva) made a clarification with regard to the aforesaid situation.

"There is a clear provision in our Rules that the matter, once decided by the House cannot be presented again for consideration. Therefore, when this matter is brought before the House, the decided part should be excluded and the remaining part can be taken up for discussion and the House may take a decision thereon. The same matter will not be decided over and over again.

(G.L.A. Debates, Part -2, Book - 39, Column 368-369)

(8) 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 could not 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 Shakhder and said that the principle laid down in the above paragraph applied 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”.

(G.L.A. Debates, Book-11, Vol. II, Column 1025 – 1030)

(9) When the Member-in-charge of the Private Member's Bill does not remain as Member of the House, the other Member of the House can move the subsequent motion regarding the same Bill.

On 15th March, 2012, at the time of undertaking discussion on the Private Member's bill, Hon'ble Minister of State for Parliamentary Affairs Shri Pradeepsinh Jadeja, by quoting Rule No. 140(a) of the Gujarat Legislative Assembly Rules, stated that the Bill No. 5 had been introduced in the House by the then Member Shri Kunvarjibhai Bavaliya in 2008. Thereafter, since he had got elected to the Parliament and had resigned from the Legislative Assembly consequently, he is no longer a Member of the House. Former Member Shri Kunvarjibhai Bavaliya was the Member in-charge of that Bill, whereas Hon'ble Shri Arjunbhai Modhvadiya was not the Member in-charge of that Bill. Yet, the name of Hon'ble Member Shri Arjunbhai Modhvadiya had been mentioned for moving the Motions of First, Second and third reading of this Bill. When the Member in-charge of the bill was no more a Member of this House, how could the other Member of the House be authorized to move the subsequent motions on the Bill? The Minister of State for Parliamentary Affairs sought the guidance of Hon'ble the Speaker on the issue raised by him.

After taking into account the views expressed by the Member Shri Arjunbhai Modhvadiya, the Minister for Parliamentary Affairs Hon'ble Shri Dilipbhai Sanghani and Member Shri Iqbalbhai Patel, Hon'ble the Speaker gave his ruling and informed that the Rule 140(a) of the Gujarat Legislative Assembly Rules is clear. As the Bill was introduced by the former Member Shri Kunwarjibhai Bawalia, the said Bill became the property of the House as per Article - 196(3) of the Constitution of India. Despite the former Member Shri Kunwarjibhai Bawalia ceased to be the Member of this House, the Bill continued to remain in his name as per the provision of Rule 140 (a) of the Gujarat Legislative Assembly Rules. Hon'ble Member Shri Arjunbhai Modhvadiya had given the notice of introduction of the same Bill to the Legislature Secretariat. As per the provision of Gujarat Legislative Assembly Rules, notice was not admitted since the substantially similar Bill of the former Member Kunwarjibhai Bawalia was pending before the House under Article 196(3) of the Constitution. But, thereafter, Member Shri Arjunbhai Modhvadiya sought the permission of Hon'ble the Speaker for moving the motion of first reading of the said bill, which was granted by Hon'ble the Speaker under Rule – 140 (a). Thus, the Bill was introduced in the House and it was pending before the House as per the constitutional provision. In spite of the Member in charge of the Bill was not being the Member of the House, the bill in his name was pending before the House and as such, the permission given to Member Shri Arjunbhai Modhvadiya by Hon'ble the Speaker to move the Motion of First Reading was in consonance with the provision made in Rule – 140(a). Therefore, Hon'ble the Chair person (Shri Mahendrabhai Mashru) had not accepted the point of order raised by the Hon'ble Minister of Parliamentary Affairs.

(G.L.A. Debates, Book-166: 2012)

(10) A Member of Select Committee can participate in the discussion of a Bill as reported by the Committee within certain limits.

On 17th September, 1964, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following ruling on the second day before continuing the discussion further on the Municipality Bill as reported by the Select Committee:--

"I would like to make an announcement before commencing the remaining discussion of the Bill. Yesterday, a Point of Order was raised as to whether the Members appointed on the Select Committee can participate in the discussion of a Bill reported by the Select Committee. The general parliamentary convention is that the Members of the Select Committee

normally do not participate in the discussion unless they submit a minute of dissent. However, if any Member of the Select Committee wants to participate in the discussion, he can make a representation in support of the amendments and modifications made by the Select Committee. He cannot speak against it. In the same way, the Members who have submitted the minutes of dissent can also participate in the discussion by remaining within the limits of the subject matter for which they have submitted the minute of dissent. After this clarification, Member Shri Kakkad, who stopped his speech yesterday, can also say whatever he wanted to say as per the above clarification. But he can submit whatever he wanted to submit in support of the amendments made by the Select Committee and by remaining within the limits therein."

(G.L.A. Debates, Part -2, Book - 12, Column 629-630)

10. Amendments to a Bill

(1) While speaking on the amendment to a Bill, no Member can deliver a speech as if it is on the first reading.

On 13th July, 1981, during the second reading of the Bombay Land Revenue (Gujarat Amendment) Bill Member Shri Jashvantsinh Chauhan gave a speech explaining the essence of his amendment. Thereafter, when Shri Ramanikbhai Dhami was expressing his views, the Hon'ble Speaker (Shri Natwarlal Shah) observed as follows:-

"While speaking on an Amendment, a speech cannot be made as if it is on the first reading. One can speak only in support of or against an amendment."

(G.L.A. Debates, Part -2, Book - 74, Column 376)

(2) Government should draft a Bill examining all the important aspects to prevent introduction of last minute amendments

On 15th July, 1981, during the second reading of the Maritime Board's Bill, the Hon'ble Speaker permitted Member Shri Rasikbhai Shah to introduce his Amendment on Amendment No. 12 proposed by Member Shri Shashikant Lakhani. At that time, Member Shri Shantilal Patel stated that Shri Shashikant Lakhani had introduced Amendment nos. 4, 5 and 12 simultaneously and that even the Hon'ble Minister and the Members were not clear about the amendment of the Bill since there was a flaw somewhere in the basic work of the Legal Department, entrusted with drafting the bill. Therefore, the Members were not aware of what was going on in the House regarding the Bill and the Amendments to it. As this was a very serious matter, he sought protection from

the Speaker through the Minister by directing the officers of the department to be alert while drafting a Bill and its amendments. After hearing the Minister for Parliamentary Affairs and the Minister for Health, the Hon'ble Speaker (Shri Natwarlal Shah) gave the following ruling:--

"When the Government brings such an important Bill, it should come up after studying and considering all its aspects so that it does not have to introduce amendments at the last moment. It is naturally not proper to propose an amendment at the last minute."

(G.L.A. Debates, Part -2, Book - 74, Column 584-586)

(3) Amendment should be withdrawn only after it has been discussed.

On 20th November, 1970, during clause by clause reading of the Bombay Tenancy and Agriculture Land (Amendment) Bill, when the Parliamentary Secretary to the Chief Minister was asked to move his amendment to Clause 3, he stated that he did not want to move it and therefore, the amendment was dropped. Thereupon, after presenting all the amendments and amendments to the proposed amendments, the combined discussion about all the amendments was started. During the discussion, Member Shri H. M. Patel raised a question that the general discussion on a Bill was made keeping in mind the amendments to be moved by the Government and it was a practice that when the Government proposes certain amendments, the discussion was made assuming that it was supposed to be moved. However, after such a discussion, denial to move the amendment on the part of the government was for misleading the House.

Thereupon, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"I agree. I realize that position. But unfortunately now that is over. But it is always proper that even if Government wants to withdraw such an amendment, the proper course for the Government should have been that the amendment should have been moved. The amendment should have been allowed to be discussed and then with the permission of the House, the amendment should have been withdrawn. That would have been a proper course under the circumstances. I am really sorry for myself that this fineness did not attract my attention also. Otherwise, I would have insisted upon this procedure which is the correct procedure for the Government."

(G.L.A. Debates, Part -2, Volume - 29, Column 554-555)

(4) A Member does not have right to reply on the debate of amendment to an amendment.

On 20th November, 1970, during the discussion on the amendment to the Bombay Tenancy and Agriculture Land (Amendment) Bill moved by the Parliamentary Secretary and also on the amendments thereon moved by Hon'ble Members Shri Gangaram Raval and Shri H. M. Patel, the Hon'ble Minister of Revenue stated that the amendment moved by the Parliamentary Secretary was acceptable to him but the amendments moved thereon by the Members were not acceptable. At that time, Member Shri H. M. Patel tried to seek an explanation from the Minister of Revenue Department and in that way he tried to reply the discussion on his own amendments to the amendment.

At this stage, the Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"May I draw the attention of Hon'ble Member and also of the House? I was under the impression that Hon'ble Member wanted some clarification from Hon'ble Minister. As such, the Hon'ble Member has tried to explain his point of view vis-à-vis the point raised by the Hon'ble Minister. So far as amendments to amendments to the original clauses are concerned, there is no right of reply."

(G.L.A. Debates, Part -2, Book - 29, Column 563)

(5) Detailed discussion cannot be made until the amendment is moved in the House.

On 17th September, 1964, during the second reading of the Municipality Bill as reported by the Select Committee, when Member Shri Chhabildas Mehta started speaking about the amendment to be moved during the clause by clause reading, the Hon'ble Speaker (Shri Premji Leuva) gave the following Ruling:-

"Shri Chhabildas Mehta, you will be able to discuss this when this clause comes up. Right now, the House does not know whether Hon'ble Member would move his amendment or not. So there is no point to discuss it in detail until the amendment gets moved in the House."

(G.L.A. Debates, Part -2, Book - 12, Column 633)

(6) An amendment to the amendment should be moved immediately after the amendment is moved.

On 26th March, 1965, after completion of the discussion on the amendment to the Agriculture Produce Markets (Amendment) Bill moved by Member Shri Ranjitrai Shastri, as Shri Karimji Chhipa, Parliamentary

Secretary to the Chief Minister, rose to move an amendment to the aforesaid amendment, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling:-

"You cannot get in. Now the doors are closed. You should have moved at the time when the Hon'ble Member moved an amendment so that both the amendment and the amendment to amendment could have been taken."

(G.L.A. Debates, Part -2, Book-13(B), Column 1330)

(7) Amendments on the Bill repealing the old Acts.

- 1. Only negative amendment can be proposed on the old laws repealing Bill, which is, against the Rule.**
- 2. No amendment can be proposed on the old Acts mentioned in the Schedule attached with the repealing Bill and old Acts cannot be published as annexures with the repealing Bill.**

On 1st July, 2009, when the Revenue Minister was moving Bill No. 10 of 2009, i.e. The Gujarat Repealing Bill, 2009, Member Shri Arjunbhai Modhvadiya raised a Point of Order stating that the Acts mentioned in the schedule were not published in the form of annexure to the Bill and, therefore, the Members could not get an opportunity to study and suggest amendments. He further stated that the copies of the Report of the Law Commission were kept in the Library after he made a representation and the laws in the library were also not up-to-date. He also stated that since the Members had the right to propose amendments and if they didn't get a copy of the original act and a copy of the Report of the Law Commission, the Members could not participate in the discussions adequately and, therefore, made a suggestion to postpone the introduction of the Bill and the discussions until the necessary literature is distributed to the Members.

After hearing the views of the Leader of the Opposition, the Minister for Parliamentary Affairs and the Minister for Health, the Hon'ble Speaker (Shri Ashok Bhatt) gave his ruling as under:

“ The Members were informed in advance by Bulletin Part - 2 dated 26th June 2009, that the five copies of the Second Report of the State Law Commission mentioned in the Statement of Objects and Reasons of Bill No. 10 of 2009, i.e. the Gujarat Repealing Bill, 2009 were kept in the Library. The Legislature Secretariat has carried out its procedure according to the directions and rulings of the Speaker. Now, the second question is related to an amendment. If we look at our Parliamentary Practice and Procedure, in the case of an Original

Bill, the amendments can be proposed within the scope of the Bill and in the case of an amending Bill, the amendments thereon can be proposed within the scope of those sections of the main Act, which are sought to be amended by the amending Bill. Whereas since the scope of the repealing Bill is very limited, only negative amendments can be proposed on that. According to the well-established Parliamentary Practice and Procedure, if any amendment is negative or if it gives negative result, such amendment cannot be admitted. Under the Rules of Procedure, negative amendments can not be admitted. There is no scope to propose amendments on the repealing Bill as the scope of the said bill is very limited. As per Rule - 139 (2) of the Gujarat Legislatives Assembly Rules, the provisions of Rule - 97 are applied to the amendments on the Bill. As per Rule - 97 (2) and (3), an amendment must be relevant to and within the scope of the original Bill and negative amendment cannot be proposed. As mentioned on Page - 532 of Parliamentary Practice and Procedure Part – 2, negative amendments are considered to be against the Rule. The only option available to the Members is to vote against such clauses. An amendment suggesting deletion of certain words in a clause, has the effect of deletion of an entire clause is also against the rule. Hence on the basis of this practice, I state that the Point raised by Shri Arjunbhai is not proper. Moreover, the old Acts mentioned in the schedule and attached with the Repealing Bill cannot be published in the form of annexures. In such circumstances, I reject the Point of Order raised by the Member Shri Arjunbhai and grant the leave to introduce the Bill.”

(G.L.A. Debates, Book- 142: 2009)

(8) As amendment making inclusion of enacting formula in the amendment Bill is obviously for rectifying the mistake, the same can be presented.

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, clause wise 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 the 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 on 27th March, 1987, 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 could not 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 sections 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 had no relation with any sections of the original Act that were sought 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 sections, one has to take recourse to Rule 138 to see whether the amendment is in consonance with the section that was sought 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 introducing 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 be passed 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.”

(G.L.A. Debates, Book – 28, Vol. II, Column 1518 – 1524)

(9) The Point of Order that the amendment is out of order can be raised even after the introduction of the amendment.

On 3rd August, 1962, during the discussion on the clause by clause reading of a Bill regarding Levying Tax on Goods to be transported in Motor Vehicles in the State of Gujarat, when Member Shri Ranjitrai Shastri moved an amendment in Paragraph "b" of Section 3 of the Bill, the Hon'ble Chief Minister Dr. Jivraj Mehta raised a Point of Order as to whether the question could be raised that the amendment was not in "order", after it was circulated by the Legislature Secretariat. Thereupon, the Hon'ble Speaker (Shri FatehAli Palejwala) gave the following Ruling:-

"There can be no restriction on raising a Point of Order after introduction of an amendment. A Point of order can be raised at any time. It concerns the procedural matter."

(G.L.A. Debates, Part -2, Book - 6, Column 1416)

11. Third Reading of a Bill and Passing it.

(1) Discussion on the third reading of a Bill should be adjourned when the Bill has been passed with amendments which are important, confusing, difficult to understand and changing the original form of the Bill.

On 10th December, 1965, after completion of clause by clause reading of the Saurashtra University Bill, Member Shri Ratibhai Patel moved a Motion under Rule - 132(1)(a) of the Gujarat Legislative Assembly Rules that the third reading of the Bill should not be taken on the same day. He further added that some important Amendments had also been passed in that Bill.

Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling:-

”As a provision in our Rules has been laid down, while doing a clause-by-clause reading of a bill, if very important amendments are made and even those amendments are very confusing to such an extent that we do not know how the form of a Bill would turn out to be or Whether such a situation

has arisen as a result of the amendments which are made in the Bill while doing the clause-by-clause reading? If the Hon'ble Member would see it carefully, he would find that some amendments were moved by the Opposition and they have also been accepted and the amendments moved by the Government, too have been accepted. So, these are not a kind of amendments, which have caused any difficulty or confusion in understanding the Bill and because of which we need to adjourn its third reading now. Given this situation, in exercise of the powers conferred on me, I rule to undertake the third reading of the Bill now."

(G.L.A. Debates, Part -2, Book - 15, Column 1007-1009)

(2) The Bill is said to be passed by majority until it is known that a Member is neutral.

On 27th March, 1961, during the clause-by-clause reading of the Bill for setting up Civil and Criminal Courts for the city of Ahmedabad, when Hon'ble Deputy Speaker, after taking vote on clause 1, Preamble and the Long Title, announced that there was a majority of those who were saying "yes". Member Shri Madhavsinh Solanki drawing the attention of the Speaker demanded to know whether the Bill might be considered as passed unanimously since no Member of the opposition party was present in the House. Thereupon, Hon'ble the Deputy Speaker (Shri Ambalal Shah) gave the following Ruling:-

"It is a custom of saying that the Bill is passed by a majority until it is known that a Member is neutral. And following that custom it is stated that the Bill is passed by a majority."

(G.L.A. Debates, Part -2, Book - 2, Part-B, Column 1009)

12. Reconsideration of Bill

As the Bill returned for reconsideration is not a new one, it is not necessary to include it in the Address of the Governor.

In the Fifth Session of the 11th Gujarat Legislative Assembly during the First Reading of Bill No. 30 of 2003, the Gujarat Organised Crime Control Bill, 2003 Shri Arjunbhai Modhvadia, Whip of the Opposition on 2nd June, 2004, raised a Point of Order and stated that as the Bill had not been referred to in the Address by the Governor and the same had not been presented before the Business Advisory Committee and it was, therefore, not in order, it should not be taken up for passage. The Whip of Opposition quoted some references in support of his contention.

After a detailed discussions on the above issue, the Hon'ble Speaker rejected the issue of the Point of Order raised by the Member and stated that he would give his detailed ruling lateron.

The Hon'ble Speaker (Prof. Mangalbhai Patel) gave his detailed ruling on 10th June 2004 (Second Session) as under:-

"As per the message of H.E the President of India, dated the 16th March 2004, while taking up the Gujarat Bill No. 30 - Gujarat Organized Crime Control Bill, 2003 for reconsideration, the whip of the Opposition raised a Point of Order and insisted that no leave be granted to take up the bill today.

In support of his contention Shri Modhvadia quoted the following paragraphs from the M. N. Kaul and S.L.Shakdher's book: "Practice and Procedure of Parliament", from Page No. 197.

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

In the State, it is the Governor who delivers the address to the State Legislature informing it "of the reasons of its summons". If the Governor is incapacitated from delivering the Address, the President may make other provisions for performance of the function of the Governor. This provision is mandatory. In this connection, the Calcutta High court observed:-

"If the Legislature meets and transacts any Legislative business, prior to the Opening address by the Governor required under article 176, its proceedings are illegal and invalid and may be challenged in a Court of Law."

Moreover, he also quoted the following recommendations of the Page Committee.

"The Governor's address should enumerate with precision all the legislative and other important business that the Government propose to bring before the House during the Year. No legislation not listed in the Governor's Address should be allowed to be brought before the House without the consent of the House on the advice of the Business Advisory Committee:"

Based on the above-mentioned points, Shri Modhavdia emphatically stated that the bill was not included in the Governor's Address and it was also not placed before the Business Advisory Committee. Therefore, the present Bill could not be taken up before the House.

Shri Modhavdia further advanced his contention by quoting the ruling by the Speaker given on 31st January, 1986 in which Shri Sureshchandra Mehta, a Member of the Opposition had raised a Point of Order that there being no mention in the Governor's Address to bring the Gujarat Industrial Development (Amendment) Bill 1986 in that session, the said Bill should not be allowed to be introduced.

He further submitted that the opposition Members were not given sufficient time to move amendments to the bill, as such, the bill should not be taken up today.

Speaking on the Point of Order, the Minister of Parliamentary Affairs and some other Members from the ruling party emphatically stated that the bill had been brought before the House for its reconsideration in accordance with the direction of the President to reconsider it and make necessary amendments in the Bill. The Government is duty-bound to honour the directions of the President at an earliest opportunity. They further submitted that the present legislation is not a new one and it came to be passed by the House on 26th March, 2003. Today, the House has to reconsider it as per the directions of President and, therefore, the scope of discussion is also limited.

After hearing the views expressed from both the sides, I reject the Point of Order raised by Shri Arjunbhai Modhvadia at that time and declared that the ruling on the Point of Order would be given later on. Accordingly, for the issue raised before me, I have gone through the discussions of the Point of Order, the Judgment of Calcutta High Court, Rules of Procedure, Practice and Procedure in the Parliament and Provisions of the Constitution of India. After the study of all these, my ruling on the point of order is as under :-

"The President of India had returned the bill to the Assembly with a message to reconsider it and delete Clauses 14 to 16 of the Bill. On receipt of the message, I duly endorsed the message on the Bill and got printed sufficient copies of Bill for communication of the message to the Assembly under the provisions of Rule 147 of the Gujarat Legislative Assembly Rules. At the time of the communication of message to the Assembly, I had also announced that the further consideration in regard to this bill would take place as per the provision of Rule 147. As per the provision of Rule 147(1), after the communication of the message, any Member of the House can make a motion for its consideration i.e.

motion for its first reading. In this case, the Minister in charge of the Bill had given a written notice to me about his intention to move the motion for the consideration on 2nd June, 2004 under the proviso of Rule 130. As I had already announced before the House that the further procedure in regard to this Bill will take place as per the provisions of Rule 147 and as the Rule 147(2) provides, that the ordinary procedure of the Assembly in regard to bills, shall, so far as such procedure is not inconsistent with the provisions of Rule 147, apply. Since the Bill came to be passed by the House on 26th March, 2003 during the second session and since the Rule 147(2) provides for such motion and the applicability of ordinary procedure of bills in consonance with the provision of Rule 147, I thought it proper to permit the Minister to move the motion for consideration earlier under the proviso to Rule 130 (1) of the Gujarat Legislative Assembly Rules.

With regard to the contention of Shri Modhvardia regarding the non-inclusion of the Bill in the Governor's Address and with regard to his observation regarding Calcutta High Court, I must say that Mr. Modhvardia was misconceived in quoting the references. These utterances/references are relating to the requirements of the Governor's address in the first session of each year and for informing the House of the reasons of its summons. The judgment reiterates that the Governor's Address under Article 176 is a mandatory requirement for the first session in each year, In 2004, the preceding session i.e. the fourth session had already commenced with the Address by the Head of the State and as such, the question of legislature's proceedings resulting into invalid and illegal one does not arise. At this juncture, I also want to draw the attention of the House to the quotation at Page No. 197 of the "Practice and Procedure in Parliament" which states that the Government can take up legislative business not covered up in the Governor's Address. Moreover, the present bill has been referred back to the Assembly on 16th March, 2004, by the President for its reconsideration and as such, it is not a new legislation to be included in the list of legislative business proposals during the year. The quotations, the decision of the Chair and the observations referred to by Shri Modhvardia are, therefore, not relevant in this case.

I also want to bring to the notice of the House that the reconsideration of the present bill is the first occasion in the history of Gujarat Legislative Assembly. The present Bill is not a new one and it has already been introduced in the House earlier. The Assembly has to advance this Bill from the consideration stage. The provisions of the Bill are quite known to the Members.

With regard to the objection of not giving sufficient time to move the amendments to the bill, I want to inform the House that I had directed my

Secretariat to accept the notices of amendments but not a single Member has submitted his amendment. If any Member had given a notice of an amendment, I would have allowed him to move his amendment at the time of clause-by-clause consideration of the Bill. Therefore, the above contention is also not acceptable.

Looking to the practice and procedure obtained in Parliament, the provisions of the rules of the Gujarat Legislative Assembly and the provisions of the Constitution of India, I rejected the Point of Order raised by Shri Arjunbhai Modhvia on 2nd June, 2004."

(G.L.A. Debates, Book 106 & 107:2004)

13 Withdrawal of a Bill

(1) A Bill cannot be withdrawn subject to any condition.

On 22nd November, 1965, at the end of the discussion on the Bill regarding Prohibition on Sacrifice of Animals, seeking leave to withdraw the Bill, Member Shri Nagjibhai Arya stated that :-

"The Government is considering it. So in view of the assurance given by the Government to bring such a Bill, I seek a leave to withdraw my Bill. Thereupon, "the Hon'ble Speaker (Shri FatehAli Palejwala) gave his Ruling that "no condition can be placed while withdrawing the Bill."

(G.L.A. Debates, Part -2, Book - 15, Column 275)

(2) The Bill returned by the Governor for the reconsideration can be withdrawn at any stage.

On 10th March, 2008, after the announcement of the message of the Governor for reconsideration of the Bill No. 30 of 2006, the Gujarat Religious Freedom (Amendment) Bill by the Hon'ble Speaker, the Hon'ble Minister of State for Parliamentary Affairs rose to move a motion for withdrawal of the Bill. Thereupon, the Leader of Opposition, Shri Shaktisinhji Gohil raised a Point of Order by quoting Rule-147 and 148 of the Gujarat Legislative Assembly Rules and the details on page-585 of "Practice and Procedure of Parliament" by Kaul and Shakhder. He also stated that this was the first time in the history of Gujarat Assembly that this type of work had come. He further stated that the Bill had passed through all the stages in the previous Assembly and the same had been returned from His Excellency the Governor with the message. Hence the newly elected Legislative Assembly would give the permission to withdraw the Bill. Moreover, he drew the attention of the House to the details on Page-584 of the Book by Kaul and Shakhder stating that when a Bill had to be withdrawn, the Minister-in-charge of such a Bill should

provide the Members in advance a statement showing the reasons for its withdrawal, which was not done. Hon'ble Leader of the Opposition further stated that when a motion to withdraw the Bill was opposed, the Hon'ble Speaker if he thinks it proper allows the Minister or Member who moved the motion to withdraw the Bill and the Member who opposed such a motion to make a brief statement. He finally, stated that as he opposed the motion, there was scope for discussion on the motion. After gathering the opinions of the Minister of State for Parliamentary Affairs, Shri Amitbhai Shah, the Minister of Health and Family Welfare Shri Jaynarayan Vyas and the Member of the Opposition Shri Arjunhahi Modhvadiya on the matter, Hon'ble the Speaker (Shri Ashok Bhatt) gave his ruling as under: -

"Earlier, never there occurred an incident of withdrawal of a Bill, which was returned by His Excellency the Governor for reconsideration of the House. In past, the House has reconsidered & passed such Bills by incorporating the amendments suggested by the Governor. This is a first incident that the Minister has given a notice of motion to withdraw a Bill, which is at the stage of reconsideration. We have to respect the book "Practice and Procedure of the Parliament", written by Kaul and Shakhder, as it gives the country, guidance and direction on various parliamentary practices & conventions but we have to give more importance to following our own rules. Keeping all these in mind and based on Rule-148 of the Gujarat Legislative Assembly Rules, I give this ruling, which is binding upon all the Members of this House. As per Rule-148(1), a Bill can be withdrawn at any stage. The reconsideration of a Bill is also a part of the procedure of passing a Bill and besides this, as per Rule - 148(2), a discussion cannot be held on a motion seeking permission for withdrawal of a Bill.

In these circumstances, I permit the Hon'ble Minister to move the motion to withdraw the Bill."

(G.L.A. Debates, Book- 134: 2008)

14. Withdrawal of a Section of a Bill

A Section of a Bill cannot be withdrawn.

On 27th December, 1963, before moving Section - 2 of The Panchayats (Third Amendment) Bill in the House, the Hon'ble Speaker asked the Minister-in-Charge as to whether he wanted to move the Section - 2. At that time, a Member informed that Section - 2 had been withdrawn. Thereupon, The Hon'ble Speaker (Shri FatehAli Palejwala) gave the following ruling:-

“Now there is no question of withdrawing the Section. The entire Bill is before the House after it is introduced. If the Minister-in-Charge wishes to withdraw the Section - 2 of the Bill, it is not possible at this stage now. The common procedure for withdrawing a Section of the Bill is to put the Section before the House for vote and the House has to disapprove that Section. Legally, I should put the Amendments before the House that have been moved. I cannot reject the Amendment, if you say not to introduce it. So, I will put the Section - 2 before the House for vote.”

(G.L.A. Debates, Part -2, Book - 10, Column 771)

15. Language of the Bill

Until the House passes the Bill, the Bill cannot be referred to as an Act and its Clause cannot be referred to as Section.

On 2nd December, 1965, when the Hon'ble Education Minister Smt. Indumati Chimanlal introduced the South Gujarat University Bill, Member Shri Babubhai Vaidya raised a Point of Order against the introduction of the Bill and stated that:-

(1) As long as a Bill is in the form of a Bill, it was not appropriate to refer to it as an Act and its Clauses as its Sections.

(2) Any Bill takes the form of a law i.e. an Act only when the Legislative Assembly approves it.

Thereafter, the Member, in support of his statement, read out regarding the difference between a Bill and an Act from the book by Sir Alison Russell and stated at the end that the Bill could not be introduced in the House as the House did not follow the above mentioned practice.

The Hon'ble Education Minister Smt. Indumati Chimanlal and the Hon'ble Chief Minister Shri Hitendra Desai stated that the language used in the Bill was as per the established practice. Furthermore, the Hon'ble Chief Minister stated that if the word “Bill” is used instead of “Act” and the word “Clause” is used instead of “Section”, then another amendment should have to be brought in the House to incorporate the amendment suggested by the Member in the bill already passed. As the Point of Order did not contain any issue, the Hon'ble Speaker should reject it.

Hon'ble the Deputy Speaker (Shri Premjibhai Leuva) gave the following ruling:-

"The content of the Point of Order is that the mention of a Clause as a Section or mention of a Bill as an Act in the different parts of the Bill is out of the Rules until this House passes any Bill. It is not laid down in our Rules that different parts in the Bill may be called a section or a clause.

The second objection, which has been raised, is that until this Legislative Assembly passes this Bill, it cannot be called an Act and in any Section of the Bill, no mention of "Act" can be made with reference to "the Bill". Constitutionally, a Bill cannot become an Act and it cannot be enforced until it is assented to by the Hon'ble Governor or His Excellency the President after passing it. The usage of the term Clause and the term Section is made for the sake of convenience only and till the stage of passing a Bill, it is only for the sake of distinguishing it, a "section" is called a "clause" instead of using a term "section" for a "section". As the Hon'ble Chief Minister has stated that if the usage of the term "Clause" is made instead of the term "Section" and the term "Bill" instead of "Act" is made, then the Bill is required to be amended by bringing an amending Bill after it is approved or assented to by the Hon'ble Governor or His Excellency the President. Thus, this is not a substantial issue or goes against any rule. Therefore, this Point of Order is rejected."

(G.L.A. Debates, Part -2, Book - 15, Column 653)

16. Mention of headquarter of a University in the Bill setting up a University.

(1) It is not necessary to mention The Headquarter of the University in the Bill.

On 7th December, 1965, when the Hon'ble Education Minister Smt. Indumati Chimanlal was introducing the Saurashtra University Bill, Member Shri Manoharsinhji Jadeja raised a Point of Order that there was a serious omission in the Bill as the Government had violated orders given under Rule 124 of the Gujarat Legislative Assembly Rules. He further stated that when a proposal for delegation of a legislative power is made, the type of power, the graph of the scope of power and whether the power is of normal or exceptional character should completely be explained in the Memorandum of Delegated Legislation. He further stated that the memorandum along with the Bill did not clarify the Government's policy of setting up of University's headquarters, nor did it clarify as to who would select the Headquarter. He further added that the Speaker should give his Ruling in that regard as the proposed Bill was violating Rule - 124 of the Gujarat Legislative Assembly Rules, for the aforesaid reasons.

Hon'ble Speaker (Shri Fatehali Palejwala) gave the following Ruling:-

"Now the question here is that Rule - 124 is not complied with while presenting this Bill and that there is a serious omission of not mentioning the location of the headquarters of the university and that for those two reasons, Hon'ble Minister should not be allowed to move this Bill and if moved, it should not be allowed to be discussed. These are the two points. Now, we read Rule No. 124 of the Gujarat legislative Assembly Rules, it reads.

"A Bill involving proposals for the delegation of legislative power shall further be accompanied by a memorandum explaining such proposal and drawing attention to their scope and stating also whether they are of normal or exceptional character."

The words "involving proposals" pre-support that this particular section must be there in the bill but nothing is mentioned.

This is the bill where if the Government has not delegated the power as to where the headquarter of the University may be set up, if the Government has not made such a mention and if the Government has not given the clarification as to whom the power is to be delegated, then we could have said that the Rule No. 124 has been violated.

There is another issue of omission in it. Nowhere in our Rules and even in any other Rules, it is mentioned that when a Bill on a University is introduced, the Government should decide in advance the location, where the University will be set up and mention it in the Bill and if this is not done, the Bill becomes illegal. In connection with this fact, the Hon'ble Minister has just stated that when the other Acts like the Karnataka University Act, the Gujarat University Act were enacted, no such mention was made in it. Explaining why it was not mentioned in the Gujarat University Act, Hon'ble Shri Jadeja stated that the current Section - 124 was not in existence at that time. Even if Section - 124 was not there in our Rules at that time, had it been required to mention the location in the University Bill, they should have mentioned it. The Section - 124, which has been inserted later here, only means that as per the Section - 124, if the power to determine the location is delegated to someone, the Government should disclose it over here. But considering both these things, I assume that nowhere in our Rules, it is mentioned that the Bill becomes illegal if such a fact is not mentioned in the Bill and it should not be allowed to be introduced. Therefore, I reject the Point of Order raised by Hon'ble Shri Manoharsinhji Jadeja."

(G.L.A. Debates, Part -2, Book - 15, Column 813-819)

17. Bill based on the Report of a Committee.

It is not necessary to table the conclusion of the accepted and rejected recommendations in the Report of a Committee when a Bill is based on the Report of the Committee is moved in the House.

On 26th March, 1979, when the Finance Minister moved a Motion for the first reading of the Gujarat Sales Tax (Amendment) Bill, Member Shri Sanat Mehta raised a Point of Order referring to the Gujarat Legislative Assembly Rules that the Bill was based on the Report of the Gangopadhyay Committee which was laid on the table of this House earlier. He stated that after the Minister had confirmed in his Budget speech that some recommendations of the said Report were accepted by the Government, the Members should get the list of the accepted and rejected recommendations. Demanding the said list, he sought the guidance of the Hon'ble Speaker in this regard. After hearing the views of the Hon'ble Finance Minister and the Minister for Law, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave the following Ruling:-

"I do not accept the Point of Order raised by the Hon'ble Member. The Point of Order raised by Hon'ble Shri Sanatbhai would have been valid if the Report of the Gangopadhyay Committee had not been laid. But this Bill is based on the Report by the Gangopadhyay Committee and it has been laid so that is sufficient. Now it is appropriate that the Government accepts some of these recommendations and does not accept some of them. That is the Government's conclusion about it. It is good to do something more than the legal requirement but even if there is a legal requirement here and it is not done despite provision in the law, then according to me, the Minister has an opportunity to speak during the first reading and the law has given an opportunity to understand the steps on which the planning has been made. According to my opinion Hon'ble Shri Sanatbhai would get adequate opportunity and that is sufficient for the direction. The Point of Order does not survive."

(G.L.A. Debates, Part -2, Book - 65, Column 19-26)

Chapter -7

Financial Business

1. Budget

(1) Budget Literature

- **Providing the Budget Literature to the Secretary itself means laying it on the table of the House.**
- **If the signature of Secretary of a Department is printed on papers relating to the Budget, then that document can be laid on the table of the House.**

After the Budget speech of the Finance Minister on 20th February, 1986, on the second day i.e. on 21st February, 1986, Member Shri Sureshchandra Mehta raised a Point of Order on the following issues: -

- "(1) The Minister has not presented the Annual Financial Statement, immediately after concluding his Budget speech.
- (2) The Finance Minister has not signed the Financial Statement presented later on and distributed among the MLAs'.
- (3) Owing to issue no.1 and 2, the Budget cannot be considered to be presented and therefore the Government should present a new Budget."

On 25th February, 1986, Hon Speaker (Shri Natvarlal Shah) gave his ruling on the above mentioned issues as under:

"When the Minister concludes reading of Part-B of the Budget Speech, the sets of the Budget literature are handed over to the Officers of the Legislative Assembly by the Official of the Finance Department and the Secretary of the Legislative Assembly distributes these sets among the Members. Thus the literature is given to the Secretary and he takes the responsibility of distributing it. At this time, as soon as the speech by Financial Minister concluded, i.e. at about 2.30 p.m., an Officer of the financial Department gave the Budget set and the same was placed in the office of the Secretary. It is also to be noted that the Budget literature was kept in a room allotted to the Finance Department for that purpose in the legislative Assembly building since the previous day.

As per the rule-60 of the Rules of the Legislative Assembly as soon as the papers to be laid on the table of the Legislative Assembly are handed over to the Secretary, they are considered to be laid on the table of the House. The

Budget literature is never distributed in the House. After the Finance Minister concludes his speech on the Budget in the House, the Budget literature is distributed outside the House, i.e. delivered to the Members at their rooms at the MLAs' Hostel. In the Lok Sabha too, the Budget is given to the Secretary and he arranges 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. This literature is distributed on the same day or the following working day. As soon as the Minister's speech on the Budget is over, the work of the House is adjourned for the day as per the practice and that is why the literature on the Budget is distributed outside the House and not in the House. While considering the first issue raised by Member Shri Sureshchandra Mehta even if we accept his point, the Budget was laid on the table of the House two hours after concluding the reading of the Budget speech by the Minister. Is this such a serious mistake that the Minister has to re-present the Budget again in the House? The demand to represent the Budget which has been presented earlier is reasonable under any circumstances in no way.

Shri Mehta has raised the issue that the signature of Finance Minister is necessary on the Financial Statement. There is no such provision in clause (1) of Article 202 of the Constitution. There is a provision that the financial statement must be presented and it has been presented, on which the signature of the Secretary of the Finance Department is printed. In the direction 12 (2) of the Speaker, it is clearly mentioned that if an officer has signed the document which is to be presented by the Minister, that document must be accepted. As per the direction 12(1), even if the signature of the Secretary is printed on the budget literature, that document of the Budget literature can be laid on the table of the House. I reject the Point of order raised by Member Shri Mehta."

(G.L.A. Debates, Series-2, Volume-II, Column 1303-1312 and Book -12, Column 383 - 386)

(2) The details of contract contingency and non-contract contingency should be furnished separately and figures of previous year should be furnished.

During the discussion on the demands of the Department of Education on 2nd august, 1967, Member Shri Manoharsinh Jadeja raising a Point of Order stated that despite the recommendation of the Estimates Committee: -

(1) The separate figures of the expenditure relating to contract contingency and non- contract contingency were not furnished.

(2) Details of the expenditure incurred under sub-head of the contract contingency and non-contract contingency were not furnished.

The Hon. Speaker postponed his ruling. After the recess, the Hon. Speaker (Shri Raghavji Leuva) after listening the Minister-in-charge, Shri Chokhawala, gave the following ruling:

"Hon. Member Shri Manoharsinh Jadeja stated that when the Estimates Committee made its recommendation, the objective was to reduce the size of the Budget publication i.e. by giving less information instead of more information could make things easier. At that time, it was decided that figures should be furnished on those two items. Combined sum of contract contingency and non-contract contingency is given on many pages of the Budget publication. This was the issue of complaint by him. The other complaint was that at some places details of expenditures of the contract contingency and non-contract contingency if incurred in earlier years, are not furnished. The precision of obtaining details expected from the Finance Department in this respect is not maintained. Therefore, henceforth, if the Budget makers are more careful in this regard, then there will be no scope for such a complaint in the future as made by Hon. Member Shri Manoharsinhji.

In the details of the contract contingency, details of every item, such as stationery or other thing is not to be furnished. Those details can be obtained from the Department, if Hon. Member wants. The change is to that extent only. It means that in the figures that have been furnished, the figures of contract contingency and non-contract contingency should be furnished separately. From such details we can understand the reason of increase or decrease in the amount of contingency which we cannot understand from today's publication of Budget. So the Departments of the Government must take sufficient care in future on the issue raised by Hon. Member Shri Manoharsinhji."

(G.L.A. Debates, Part-2, Book-19, Column 1694-1699)

(3) The matters shown in the Budget Publications should be in both the languages i.e. in Gujarati and English.

On 24th March, 2008, during the discussion on the Demands of the Urban Development & Urban Housing, Shri Arjunbhai Modhwadia, a Member of the opposition raised a Point of Order regarding the Budget Publication No. 26 of the Department and stated that on Page No. 43, 48 and 69 of the above publication, the phrase 'Garib Samruddhi Yojna' had not been translated in English and the English translation of phrase - Sagarkhedu Sarvangi Vikas Yojna on page no 42 - was incorrect and that both the schemes were Centrally

Sponsored Schemes. He further stated that the reason behind not translating the details of the Scheme into English was that it is to be read by the Officials of the CAG, while the Gujarati version is to be read by the MLAs. He also added that the people of Gujarat would think that it was a scheme for welfare of the poor. C.A.G which is an Independent Agency of the Central Government would consider it as the Jawaharlal Nehru National Urban Renewal Mission Scheme and in that way the misleading phrases had been used in the publication. Shri Modhwadia stated that the phrases 'Garib Samruddhi Yojna' and 'the Sagar Khedu Yojna' - should expressly be clarified, otherwise it would not be possible to get the expenditure sanctioned if that discrepancy came to the notice of the officials of the CAG. He further stated that the State Government had used the incorrect words in the Budget Publication and the words had no connection with the scheme and that the state Govt. should not have done that and changed the name of the scheme.

After listening to the Point of Order raised by Shri Arjunbhai Modhwadia, the Hon'ble Speaker (Shri Ashok Bhatt) rejected the Point of Order and stated as under:-

"The State Government has the right to give a name to its Scheme. Secondly, the Centrally Sponsored Scheme has been mentioned in the Publication in both Gujarati and English languages and the third and the very unfortunate point is that the conclusion, that the Gujarati version in the Publication is for the MLAs and the English version is for the C.A.G. is not proper."

(G.L.A. Debates, Book- 136 : 2008)

(4) As per the provisions of the Gujarat Fiscal Responsibility Act, 2005, the voluntary disclosure relating to the Statements of Gross Domestic Product of the State are to be given at the current rates.

Page No.7 of the Budget Publication No.30, which was presented to the House on 25th February, 2010, under the Gujarat Fiscal Responsibility Act, 2005, discloses Major Head-wise Gross Domestic Product of the State for the year 2010-11 at the current rate only. In this respect, during the first day of the general discussion on the Budget on 9th March, 2010, Member Shri Arjunbhai Modhwadiya raised a Point of Order stating that in the previous years, the details relating to the Major Head-wise Gross Domestic Product of the State were given both at the "current rate" as well as at the "stable rate". The true financial position of the State could only be ascertained at the "stable rate". The true financial picture of the state could be ascertained by giving such statements at both the rates. In past, such statements were given at both the rates.

In support of his argument, Shri Modhwadiya cited the example of Parliament and the Central Government and stated that the statements given in Publication No.30 were against the F.R.B.M. Act and that the provisions of the Act/Rules for giving such information at the “current rate” as well as at the “stable rate” were not followed and sought the guidance from the Hon’ble Speaker (Shri Ashok Bhatt).

After hearing the views of the Leader of Opposition Shri Shaktisinh Gohil and the Finance Minister Shri Vajubhai Vala on aforesaid issue, Hon’ble Speaker (Shri Ashok Bhatt) had postponed his ruling and later on, on 25th March, 2010, he gave the ruling as under.

“As the point raised by Shri Arjunbhai Modhwadiya is related to the Budget and the budgetary and financial control of the Assembly House over the State Government, I have examined the provisions of Fiscal Responsibility Act, 2005 and the Fiscal Responsibility Rules-2006 framed under the said Act before arriving at a decision on the matter. In addition, I have also studied the medium term fiscal statements presented along with Budget of the Central Government and the report of Thirteenth Finance Commission presented in the Lok Sabha recently. As per Section-3 of the Gujarat Fiscal Responsibility Act, at the time of presenting the Budget in every financial year, the State Government has to submit medium term fiscal statement and fiscal strategy statement in the forms prescribed under Rule 4 and 5 of the Rules framed under the said Act. As per the provision, the statements have been presented in the prescribed proforma on Page Nos.16 and 23 of Publication No.30 along with the Budget for the Financial Year 2010-11 and there is no change in them. Whereas as per Section 6 of the Act, to bring transparency in the budgetary process, the State government has to minimize the matters that are to be kept secret while preparing the budget and declare the information specified under that Section in the statements of prescribed proforma while presenting the budget and accordingly under Rule 7, the State Government has declared the information in prescribed proforma B-1 to B-9 on Page Nos. 27 to 32 of the Budget Publication No. 30. Thus, the Finance Department has declared the information in the prescribed proforma under the Fiscal Responsibility Act and Rules and provisions of the Act and Rules have been followed in it. Therefore, the Point raised by Shri Modhwadiya with regard to not following the Provisions of the Act does not sustain.

The second point Shri Arjunbhai Modhwadiya raised in his Point of Order is that in the previous years, the Statements No.3.1 and 3.2 on Page No. 7 of the Budget Publication No. 30 regarding the Gross Domestic Product of the State were given at both the “current rate” as well as the “stable rate”. As

per Rule 2(d) of the Fiscal Responsibility Rules, the Gross Domestic Product of State means the Gross Domestic Product of State at a current rate. Therefore, the submission of Shri Arjunbhai Modhwadiya that the provisions of the Act or the Rules framed there-under or the restrictions laid down there-under are violated is not supported by the Act or the Rules and, therefore, I cannot accept that point also.

In support of the Point raised by Shri Arjunbhai Modhwadiya, he had mentioned that the Statements on Page No. 5 and 6 of the Budget Publication No. 28 of last year i.e. the year 2009-10 have been given considering both the “stable rate” as well as the “current rate”. This information given by him is true. The Statements regarding the Gross Domestic Product of the state published in the Budget Publication No. 28 for the year 2009-10 were given considering both the “stable rate” as well as the “current rate”, but those statements were not required to be given at the “stable rate” as per the provision of Rule 2(d) of the Gujarat Fiscal Responsibility Rules-2006. As per the provisions of Rule 2(d), the Statements regarding the Gross Domestic Product of the State have to be given at a current rate; which are given in Budget Publication No. 30 by the Finance Department and, therefore, the provisions of the rules have been followed. In the same way, I have gone through the statements of Medium Term Fiscal Policy presented along with the Budget presented in the Lok Sabha by the Central Government and those statements are also given considering the current rate. In addition, the Statements regarding the Gross Domestic Product of the State have been given at the current rate in the Report of the 13th Finance Commission. Therefore, after examining in detail, the Point raised by Hon’ble Member, it has been found that the Statements, referred to by Shri Arjunbhai Modhwadia in the Budget Publication No. 30, presented along with the Budget for the year 2010-11, are according to the Provisions of the Act.

The Leader of Opposition Shri Shaktisinhji has quoted reference from a Book “Control of Legislative Assembly over Public Expenditure” and submitted that the Member should be facilitated with maximum information regarding the financial matters. I cannot agree with the submission made by Shri Shaktisinhji because the information to be provided under the Fiscal Responsibility Act and Rules can be submitted according to that Act and Rules only. Any literature submitted along with the budget should be supported by the provisions of the Act and hence, the literature presented by the Finance department is in accordance with the Provisions of the Act and the Rules and, therefore, the reference quoted by Shri Shaktisinhji from the above stated

Book are irrelevant as the literature submitted along with the Budget is as per the Fiscal Responsibility Act and Rules and, therefore, I reject the Point raised by Hon'ble Member Shri Modhwadiya."

(G.L.A. Debates, Book- 148 : 2010)

2. Performance Budget

The copies of performance budget should be given to the Members before the demands are presented in the House.

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.

Hon'ble Speaker (Shri Himatlal Mulani) 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. As per the 9th report of Estimate Committee, 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 Budget touches the performance budget to a good extent. At the same time the Maritime Board has also come into existence and the Board is minding its constructive activities on behalf of the government. Whatever information is given on page 199 is adequate for the Members for discussion. 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; Complete details on this should be given in future and Government will also take sufficient care in this regard. ”

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

3. New Services

It is not necessary to give details of expenditure on New Services in the Department-wise Budget publication (White Book), if it is within the limit as laid down by the Estimate Committee.

On 18th March, 2016, during the Eighth Session of the 13th Gujarat Legislative Assembly, while introducing the demand No.60, Administration of Judiciary pertaining to the Legal Dept., Hon'ble Member Shri Shaktisinh Gohil,

quoting the Rulings of former Speakers reference, on page No.49 from the Book "Control over Public Expenditure by Legislative Assembly" of Shri K. M. Panchal, Ex-Secretary, GLA and also the provisions of Rule 224 of the GLA Rules, stated that out of New Services shown at Srl.Nos.1 to 15 on page Nos.77 and 78 of the Budget publication No.16, the details of New Services shown at Srl. Nos. 1 to 10 were given on page Nos.83 to 96 while the details of New Services shown at Srl. Nos.11 to 15 were neither given nor issued any errata by the Department. Raising a point of order, he also stated that as per Rule 224, all important details relating to New Services should have been furnished three days in advance prior to introducing the demands and sought the guidance of the Hon'ble Speaker.

Hon'ble Minister for Parliamentary Affairs Shri Pradipsinh Jadeja opposed the point of order stating that the errata would have to be provided three days in advance prior to introducing the demands as per the provision of rule 224, but when the demand was introduced with the permission of the Hon'ble Speaker, the point of order did not survive. Thereupon, Hon'ble Speaker (Shri Ganpatsinh Vasava) intervened stating that he would declare his Ruling in this matter after complete study as it might be of far-reaching effect.

On 22nd March, 2016, the Hon'ble Speaker gave his ruling in the matter as under:

"In this matter I have gone through minutely the provision of Rule 224 of the GLA Rules, the Rulings of former Speakers, the book written by the former Secretary Shri K.M. Panchal and also the reports of the Estimate Committee of the House laying down the limits regarding providing details of expenditure on new services/items to be included in the budget publications and observed that it is necessary to give details of expenditure on New Services/Items in the Budget Publications, if the expenditure exceeds the limit laid down by the Estimate Committee.

In the present case, the details of expenditure on New Services relating to plan and non-plan of Section-II appearing for the first time before this House are mentioned on page Nos.73 to78 of the Budget Publication No.16. On page No.73, there are 3 non-plan items and on page Nos.77-78, items of new services 1 to 15 of Section-II relating to plan have been mentioned while on page No.81 items of new services Nos.1 to 10 relating to plan of Section-I have been mentioned. All the important details of which are given on page Nos.83 to 96 as per Rule 224. However, I think, while raising his point of order, Hon'ble Member has referred to items No.1 to 15 of Section-II relating to plan by misunderstanding.

As mentioned above, since the expenditure relating to all the items of new services of plan and non-plan expenditure appearing at Srl. No.1 to 15 of Section -II is within the limits put down by the Estimate Committee of the 13th GLA in its 4th Report, the details thereof are not required to be published in the Budget Publication No.16 as per the provisions of Rule 224. So far as items No.1 to 10 relating to plan expenditure of Section-1 are concerned, the details are given on page Nos.83 to 96 because they exceed the limit laid down by the Estimate Committee. Thus, the details of new services published in the budget publication No.16 relating to Legal Department is properly published and thereby, there did not happen any violation of the provisions of Rule 224 of the GLA Rules in the present matter. Hence I reject the Point of Order raised by Hon'ble Shri Shaktisinh Gohil."

(G.L.A. Debates, Book-35, 2016, Volume-4)

4. Corrigendum

(1) After the presentation of the Budget, the concerned Department should send the corrigendum of the Budget to the Legislature Secretariat immediately.

When the Minister of Public Works Shri Babubhai Patel presented the demand No. 64 in the House on 13th March, 1970, Member Shri Manoharsinh Jadeja pointed out some of the errors in the figures on page 362 of the white book. When Minister-in-charge Shri Babubhai Patel admitted that what should be in the second column was written in the third column whereas the details of the third column was written in the second column, the Hon. Speaker (Shri Raghavji Leuva) gave his ruling as follows: -

"Hon. Minister says that there was a printing error. After the presentation of the Budget in the House, it should be the major responsibility of Secretary of every Department. He cannot say that it is printed in the Finance Department. If the corrigendum is not furnished to the Legislature Secretariat immediately by him, I have to direct the Minister on behalf of the House to punish an Officer in the Rank not lower than that of Secretary of the Department. "

(G.L.A. Debates, Part-2, Book-26, Column 1103)

(2) The practice of publication of corrigendum of the Budget Publication, three days prior to the day on which the discussions on demands of respective departments are taken up, should be maintained.

On 9th July, 2014, at the time of General Discussions on the Budget(the third day), Hon'ble Member Shri Shaktisinhji Gohil raised a Point Of Order with regard to the Speaker's Ruling dated 1st March 1979 and stated that there

must not be any error in the Budget, yet if we believe that human errors cannot be avoided, then also the corrigendum should be presented within the three days immediately after presenting the budget. He further submitted it is not fair that when numbers of MLAs have already participated in the general discussion on the budget, the corrigendum is presented now after such a long delay."

At that time Hon'ble the Speaker accepted the Point of Order and stated further that as the legislative assembly exercises a control over the public expenditure, there must not be any error in the budget. Yet if there are any errors, the corrigendum must be presented within three days immediately after presenting the budget. In this regard Hon'ble the Speaker asked the Finance Minister to issue clear instructions to the department.

At the end of proceedings of the House, Hon'ble the Finance Minister replied that "as per the instruction given vide the Gujarat Legislature Secretariat Circular dated 23rd June, 2014, the corrigendum has to be presented three days prior to the day on which the demands of the concerned departments are taken up for discussion and in this context, the department has presented corrigendum within the stipulated time limit."

At this stage Hon'ble the Speaker (Shri Vajubhai Vala) gave the following ruling:

“ There are two different rulings of former Speakers with regard to when the corrigendum should be presented. As per the Ruling dated 1st March, 1979, quoted by Hon'ble Member Shri Shaktisinhji Gohil, the corrigendum has to be presented within three days after the presentation of the budget, but thereafter as per the Ruling given on 18th July, 1995, the corrigendum to the budget publications has to be presented three days prior to the day on which the demands of the concerned departments are taken up for discussions and this Ruling is proper. In future, not within three days after the presentation of the Budget, but the practice of publication of corrigendum of the budget publication three days prior to the day on which demands of the concerned departments are taken up for discussion should be maintained."

(G.L.A. Debates, Book- 14: 2014, Vol.-IV)

(3) The relevant Errata must be given to Members before the matter concerned comes up in the House.

During the Sixth Session of the Thirteenth Gujarat Legislative Assembly on 9th March, 2015, after the Question Hour, Hon'ble Member Shri Shaktisinh Gohil raised a point of order in connection with late receipt of Errata on the Hon'ble Governor's Address by quoting an earlier decision dated

2nd March, 2010, of the Chair on the same matter. He demanded that the errata should have been given to the Members at least before the matter came up in the House for discussion and in the present case, the errata was given to the Members on conclusion of the discussion and voting on the motion of thanks. Thereupon, Hon'ble the Speaker (Shri Ganpatsinh Vasava) informed the House that he would declare his ruling after going through the records as to when the Errata was received by his Secretariat.

On 10th March, 2015, Hon'ble Speaker (Shri Ganpatsinh Vasava), while giving his ruling, observed that the errata was received in his Secretariat on 3rd march, which came to be the third and the last day of the discussion on the Governor's Address and that the discussion on the motion of thanks was to take place three days after the Governor's Address. Hence he ruled that in fact, the delay had occurred in spite of having enough time with the Department concerned in between to have had rectified the printing mistake if any and, therefore, he gave a direction to the Department concerned that they should be carefull not to repeat committing such delay in future.

(G.L.A. Debates, Book- 22: 2015, Vol.-IV)

5. Speech on Budget

Finance Minister can deliver his Budget Speech by sitting in his chair with the permission of the Speaker.

On 25th February, 2010, when the Finance Minister was delivering his Budget speech by sitting in his chair after obtaining the permission from the Hon'ble Speaker due to his ill health under rule 29 of the Gujarat Legislative Assembly Rules, the Leader of Opposition Shri Shaktisinh Gohil raised a Point of Order stating that "the Finance Minister is committing contempt of the House by delivering the Budget speech by sitting. He cited an example of the past when the then Finance Minister Shri Manoharsinhji Jadeja was granted permission to deliver the Budget speech by sitting due to his ill health, but he politely declined the permission and decided to get the Budget Speech delivered by the Minister of State for Finance by standing on his legs in the House." Therefore, the Leader of opposition demanded that the Finance Minister Shri Vajubhai Vala should also deliver the Budget Speech by standing on his legs. But the Hon'ble Speaker did not agree with the said demand of the Leader of Opposition and he said that he gave him permission for that. This led the Members of the Opposition staging a walk-out from the House shouting slogans and setting fire to the copies of the Budget speech. They also held demonstrations and took out procession within the premises of the Assembly Building.

In this regard, the Chief Whip Shri Pradeepsinh Jadeja made a representation before the Speaker by his letter dated 2nd March, 2010. The Speaker, therefore, wrote a letter to the Leader Opposition for his clarification on the matter. The Leader of Opposition, in his reply dated 4th March, 2010, wrote a letter to him.

After considering the submission made by the Chief Whip Shri Pradipsinh Jadeja and the written clarification of the Leader of the Opposition, Hon'ble Speaker (Shri Ashok Bhatt), gave his ruling on 30th March, 2010, as under :

"We consider the Legislative Assembly as the temple of democracy. In a parliamentary democracy, the constitutional rights conferred on us are subjected to the Rules of the Legislative Assembly and Parliamentary Practices. It is not only my responsibility but also the responsibility of all the Members of the House to protect the highest dignity, decorum and traditions of the parliamentary democracy. Considering the issue raised by the Chief Whip and the clarification given by the Leader of the Opposition together, this House believes that Gujarat has become a glittering example of the proud parliamentary practices and it is our goal. I seriously condemn the incident of setting fire to the copies of Budget speech in the Assembly building because the Finance Minister had sought my permission to deliver his speech by sitting in his chair and I had allowed him to do so in exercise of the power conferred upon me under Rule 29 of the Assembly Rules."

(G.L.A. Debates, Book- 148: 2010)

6. Leak of Budget

(1) It cannot be said that Budget has been leaked if an employee other than an employee of the Finance Department comes to know about the content of the Budget.

On 24th February, 1970, Member Shri Manubhai Palkhiwala raising a Point of Order stated that there were clear indications that the Budget had been leaked before the Finance Minister presented the same in the House. He further requested the Speaker to give a ruling as to whether the details of the Budget could be considered to have been leaked or not since the details of the Budget speech were provided to the Information Department in advance for its publicity.

Member Shri Sanat Mehta demanded to know as to whether the permission of the Speaker or the Legislature Secretariat was sought before distributing the aforesaid literature in the Press Gallery.

In that Context, Member Shri Manoharsinhji Jadeja stated that it was difficult to consider it as a Point of Order. But it could be considered as an issue of breach of propriety and if a brief information of the Budget speech was distributed by any Department of the Government among the journalist within the precincts of the House without the permission of the Speaker, an issue of privilege would also arise. He requested the Hon. Speaker to make an inquiry in the matter and to initiate the proceedings under breach of privilege if found any truth in the complaint.

After hearing the submissions of different Members in that regard, Hon. Speaker (Shri Raghavji Leuva) stated that the papers on which Member Shri Manubhai Palkhiwala had relied upon to raise the Point of Order must be sent to the table branch. The Speaker further stated that the matter would be inquired into considering as to what time, where and by whom the papers were actually distributed and the matter would be presented in the House to decide the proper course of procedure.

After making necessary inquiry, Hon. Speaker gave the following ruling on 18th March, 1970: -

"In this matter, I asked the Secretary of the Legislative Assembly to inquire into the following issues: -

- (1) Did anyone distribute in the Press Gallery, the documents presented by Hon. Member Shri Manubhai Palkhiwala in the House?
- (2) If Yes, then Who did so?
- (3) When did the paper distribute? whether the Hon'ble Finance Minister on or before reading his speech Part 'A' or on or after reading Part 'B'.

In this regard, the Secretary stated that he had recorded the replies and statements of Member Shri Manubhai and other persons, who would have the information.

On asking the two representatives of the press who had given the documents to Hon. Member Shri Manubhai about the same, they confirmed that the documents were not given to them in the press gallery but were distributed during the press conference called by the Finance Minister after his speech. Hon. Member Shri Manubhai could not produce any evidence confirming his statement. Not only that, but the statements of the press representatives and other employees do not establish that any of the two documents have been distributed in the press gallery. Therefore, there is no scope for the issue of privilege of the House raised by Member Shri

Manoharsinhji. Moreover, as far as the House is concerned, there is prima facie no reason to assume that any person who is not a Government employee has been provided information or he has received in advance any information on any part of the Budget.

The Hon. Members have made an argument that no Government employee other than those of the Finance Department should be allowed to know about any portion of the part "B" of the Hon. Finance Minister's Budget speech, as it would be considered as leaking the Budget. Such an argument is not confirmed in any way. In England, in the cases of leaking the Budget, the instances of the Finance Minister taking any Government employee in his help, the employee knowing something about the budget have not been considered as leaking the Budget. In England as well as in our country, in such instances when information has been shared to a person other than a Government employee, then only the Budget is considered to have been leaked. Therefore, it cannot be said that the Budget has been leaked if the Finance Minister has taken assistance from anyone in preparing the documents presented in this work.

Moreover, the practice of taking adequate care in keeping the Budget secret has a very long history. However, when the Budget is leaked, it is never considered as a breach of any privilege. But if Hon. Finance Minister himself has revealed the Budget proposals, then it can be said that he has not shown adequate courtesy towards the House by revealing those things to others, that should have been informed to the House first, but he cannot be considered guilty for a breach of privilege.

After the inquiry into the present matter, I have come to the conclusion that the Finance Minister can enlist the assistance from any government employee in preparing the Budget proposals and there is no limitation on him to seek the assistance from the Finance Department employees only.

The documents, which were presented by the Member while raising the point, were the same documents which were presented by the Finance Minister during his press conference after presentation of the Budget in the House. Hence they were neither distributed in the press gallery nor in the precincts of the House nor before delivering the speech by the Minister.

(G.L.A. Debates, Part-2, Book-27, Column-254-258)

(2) It cannot be said that the Budget has been leaked due to the publication of the Performance Budget by any other person.

On 24th February, 1983, before presentation of the Budget by the Hon. Finance Minister, Member Shri Shantilal Patel raising a Point of Order stated that before the Hon. Finance Minister presenting the Budget in the House, the same was leaked and then given a copy of the Performance Budget of Panchayats, Housing and Urban Development Department for the year 1983-84 to the Hon Speaker in the House. He then referring to the incident of the Finance Minister of England stated that the seriousness of the Budget was not maintained and requested the Hon'ble Speaker to give the ruling.

In this regard, the Finance Minister explained that the publication presented by Shantibhai was relating to Performance Budget of the Panchayats, Housing and Urban Development Department for the year 1983-84. It is the function of the concerned Department to get the Performance Budget printed and not by the Finance Department. He had further stated that after listening to his Budget speech, if the Performance Budget seemed to have been included in the Budget, then it could be said that the Budget was leaked. The Hon. Speaker (Shri Natwarlal Shah) had postponed the ruling for time being and after the question hour on 24th March, 1983, he announced the postponed ruling in the House as follows: -

"The Performance Budget has been provided to the Members along with the Budget since the year 1976-77. Earlier such Department-wise Performance Budgets were not provided along with the Budget. The practice of providing detailed Performance Budget has been introduced in order to evaluate the Performance of the Government. The responsibility of preparing such Budgets and getting them printed rests with the concerned Department and not with the Finance Department. The Twenty-fifth Report of the Estimates Committee stated that such Performance Budgets are distributed after the presentation of the Budget in the Parliament. As per the information received by the Committee with regard to the position prevailing in different states, such Budgets are distributed amongst the Members immediately after the presentation of the Budget or within two to seven days after the presentation of the Budget. It is clear from these facts that Departmental Performance Budgets are not considered as part of the Budget and hence the Performance Budget of Panchayats, Housing and Urban Development Department presented by Shri Shantibhai cannot be considered as part of the Budget. And if the Member receives any information that is not part of the

Budget before the Budget presentation, it cannot be said that the Budget has been leaked.

While presenting the Budget, the speech of the Finance Minister is divided into two parts (A) and (B). In Part A, the Minister of Finance outlines the socio-economic scenario of the States and projects of the Government whereas in Part B he presents the proposals of taxes before the House. If anyone gets to know about these tax proposals in advance, they may take advantage of them and, therefore, much more care is taken to keep the tax proposals confidential. If any such proposal is known to any person or class of people before it is presented, it can be said that the Budget has been leaked. The Performance Budget of the Panchayats, Housing and Urban Development Department for the year 1983-84 presented by Shri Shantibhai does not reveal any information regarding proposed tax and, therefore, the question of leak of the Budget does not arise.

Since the details of the case of England quoted by Hon. Member Shri Shantilal Patel and the details of this case are different, his Point of Order cannot be accepted and, therefore, I reject the same."

(G.L.A. Debates, Part-2, Book-83, Column 517-519)

7. Action on the Budget of the Previous Government-

(1) 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 Arvindbhai 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".

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 pending Bill remains *status quo*."

After hearing the submissions made by the Chief Minister Shri Amarsinh Chaudhary and other Members, Hon'ble the Speaker (Shri Natwarlal Shah) disallowed the Point of Order raised and reserved his ruling. Thereafter, the Speaker gave his pending 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 Hon'ble Governor. Chief Minister Shri Madhavsinh Solanki had resigned before the general discussion on the Budget, scheduled to be held on 8th July, 1985 and Shri Amarsinh Chaudhary, on being sworn in as the Chief Minister on Saturday 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 had resigned and Shri Amarsinh Chaudhary became the new Chief Minister, the new government should first present the Budget and the Hon'ble Governor should fix the day for the presentation of the Budget. This did not happen in the present case and therefore, no general discussion on the Budget could take place.

In past 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.

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 Patel was the Chief Minister and held the portfolio of the Finance Department also. 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 presenting the Budget before the House, the House had discussed the Budget and adopted it.

The argument made by mehta is not proper because 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 Hon'ble Governor is not acceptable. When Hon'ble Governor 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 873 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 Hon'ble Governor under Rule 220 and the new Ministry, considering that Budget as its own, has accepted to continue its discussion. Therefore I reject Shri Sureshbhai Mehta's point of order.

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

(2) After Vote on Account, it is desirable to present a Revised Budget instead of submitting a Supplementary Demand.

After the Chief Minister Dr. Jivraj Mehta had presented Supplementary Demand for the year 1962-63 on 2nd July, 1962, Hon. Speaker (Shri Fatehali Palejwala) made an observation as follows: -

"The Supplementary Demands have been presented before the House today. In such a matter, there is a common practice that the stage of presenting supplementary Demands comes after the original Budget has been passed. However, there are no Rules or Constitutional provisions in this regard. There is an example that in the House of Commons too, supplementary Demands were discussed and passed before the Budget was approved. But this is an exception. This problem has been arisen since we adopted the constitutional way of presenting the "Vote on Account". It is our experience that this situation usually arises every five years after elections.

The Budget presented at the time of "Vote on Account" is mostly just a Budget of standing charges. In this vote on account, the proposal may not be as per requirement of the new Government either for the expenditure or for the income to meet all those expenses. In order to meet all such expenses, the Budget with the Standing Charges has to be revised or increased later.

In doing so, the new services are introduced to such an extent by supplementary demands that it becomes as good as Revised Budget. Moreover, the old Budget which has been presented to the House once and has been debated makes no sense to be re-discussed especially when the same composition of Legislative Assembly has to reconsider it. In fact, in doing so, there arise circumstances of direct or indirect discussion on the Budget and supplementary demands simultaneously. As per the Rule, if the discussions on the new services proposed in the supplementary demands are allowed, there will be less time to make discussions on the supplementary demands.

I think to get rid of this problem, the Lok Sabha and most other State Legislative Assemblies have adopted the system of presenting "Modified Budget". I think that this all procedure will be easier if we adopt the system of

"Modified Budget". The system that we have continued is the one adopted in the old Mumbai State after 1952 but the State of Maharashtra has discontinued this system from the current session. The system we have adopted is not bound by any Rules or the constitution. That's ok, but it does not maintain adequate decorum of a management system. Therefore, henceforth I suggest the Government to take appropriate steps as mentioned above."

(G.L.A. Debates, Part-2, Book-6, Column 55-56)

(3) Discussion on Vote on Account must be in General nature.

During the discussion on Vote on Account Motion moved by the Finance Minister on 24th February, 2004, the Hon'ble Member Deputy Leader of Opposition Shri Bharatbhai Solanki raised a point of order as to the legality and propriety of certain policy announcements by the Finance Minister while presenting his budget Speech for the financial year 2004-05 on 20th February, 2004, and requested Hon'ble Speaker to remove such policy announcements from the record. After hearing other Members of the House, the Hon'ble Speaker (Prof. Mangalbhai Patel) ruled as under:

"Rule 236(1) of the Gujarat Legislative Assembly Rules, provides that on any day subsequent to the presentation of the budget, a motion may be made for any grant in advance in respect of the estimated expenditure for a part of any financial year. Further, rule 236(4) provides that a discussion of a general nature shall be allowed on the motion but the details of the grant shall not be discussed further than is necessary to develop the general points. Thus it is clear from the above rule that the government has to present the budget to the House before obtaining vote on account and while presenting the Budget, the finance Minister can make his Budget speech. In past, whenever vote on accounts were taken, the government had invariably presented the budgets before the House. At the time of presentation of the budget, the Finance Minister had made certain policy announcements in his budget speech. In this situation, I disallow the point of order raised by the Hon'ble Member, the Deputy Leader of the Opposition Mr. Bharatbhai Solanki.

Here, I have to draw the attention of this House that during the Budget Session, there will be wide opportunity for discussion on the announcement and speech which was delivered by the Finance Minister. At this stage there is limitations for discussion because the Finance Minister has moved the motion for vote on account and it contain only standing charges to run the administration. No new item is included in this budget. So, I request all Members of this house to restrict discussion within the purview of this motion."

(G.L.A. Debates, Book 103:2004, Volume-3)

8. General discussion on the Budget

(1) Policy matters should be discussed during the general discussion.

On 5th July, 1962, during the general discussion on the Budget, when Member Shri Ramjibhai Chaudhary was about to mention a local matter pertaining to Surat District, Hon. Speaker (Shri Fatehali Palejawala) gave his ruling as follows: -

"When there is a general discussion on the Budget, we should speak about the policy matters and discussion on the local issues can be made when demands of the Department are presented. Issues pertaining to talukas or individuals can be discussed during the discussion on the demands of a concerned Department."

(G.L.A. Debates, Part-2, Book-6, Column 220)

(2) General Discussion on the Budget should be made, keeping in mind the guidelines given by the Hon'ble Speaker on the first day of the discussion.

On the Third Day of the General Discussion on the Budget on 10th March, 2010, the Leader of Opposition Shri Shaktisinh Gohil stated that the references made by Shri Fakirbhai Vaghela the Minister of Social Justice and Empowerment, on the Vajpayee Government and the laws then prevailing would, in no circumstances, have come under the purview of General Discussion on the Budget as announced by the Hon'ble Speaker prior to the commencement of the General Discussion since such references were irrelevant and inconsistent with the scope of the General discussion on the Budget and sought the guidance of the Hon'ble Speaker.

After hearing the views of the Water Supply Minister Shri Nitinbhai Patel, Finance Minister Shri Vajubhai Vala, the Member Shri Atmarambhai Patel and the Member Shri Arjunbhai Modhwadia on the matter, the Hon'ble Speaker (Shri Ashok Bhatt) gave his Ruling as under :-

"This issue is of that kind, which requires guidelines for long term house management. We can find such guidance from Speaker's Rulings and also from the parliamentary practices. Such guidelines are mainly based on the Legislative Assembly Rules. At the commencement of the General Discussion on the Budget in the House, guidelines based on the rules, are announced by speaker in the House. These guidelines serve as the Code of Conduct for both the Parties in the House. It has been unambiguously provided in Rule 221 that on the days appointed for the General Discussion on the Budget, the discussion

on the entire budget or the discussion on the principles of the budget is permissible in the House and at this stage no motion shall be moved nor the Budget shall be put to vote in the Assembly. In the general discussion of Budget, we can also discuss whether proper allocation of grant according to the importance of service on different sectors is made or not. The taxation policy and the budget speech delivered by the Finance Minister can also be discussed. But the minor departmental issues or the local problems cannot be discussed at the time of General Discussion on the Budget, but such matters can be discussed at the time of discussion on the Demands for Grants. In the Budget, The issues related to the poor, the dalits, which are the issues of principles will be left aside. The strategy of discussing important issues will be brushed aside and another kind of issues will crop up for the discussion if, we led our discussion to the principles involved in the budget by confining ourselves to the scope of analysis of such principles and guidelines of principles, then there will be no dispute. In current session, maximum number of Members could express their views. The Members of both the parties produced very informative details in the House, as also the Members have been able to raised the level of the discussion. The direction of discussion is set and the parliamentary direction is very clear. If every Member moves ahead in that direction, it is the only guidance from me."

(G.L.A. Debates, Book- 150 : 2010)

(3) While participating in the General Discussion on the Budget Minister cannot deliver his written speech word to word

During the third day of the General Discussion on the Budget on 10th March, 2010, when the Minister of Social Justice and Empowerment Shri Fakirbhai Vaghela was giving his speech, by reading Member Shri Arjunbhai Modhwadiya raised a Point of Order stating that the Minister Shri Fakirbhai Vaghela is a senior Minister and being a senior Minister, he should speak extempore instead of reading his written speech. Moreover, he was delivering a speech as a Member.

Thereupon, the Minister of Social Justice and Empowerment quoting the Ruling of previous speaker's stated that the Minister had a right to deliver his written speech. After hearing the views of Shri pradeepsinh Jadeja the Chief Whip and Shri Shaktisinh Gohil, the Leader of the Opposition, Hon'ble the Speaker (Shri Ashok Bhatt) gave the following ruling:

"First of all it is to be decided whether the Minister is making a statement or giving a speech. If the Minister is making a Statement, then he can deliver his Statement by reading as per Rule - 38, but if he is delivering a

speech, then he cannot deliver the written speech. Here, the Minister is participating in the general discussion on the Budget as a Member and barring the exceptions laid down in Rule -38, neither a Minister nor a Member can deliver his written speech."

(G.L.A. Debates, Book-150 : 2010)

(4) On the first day of the General Discussion on Budget, the Minister should not intervene in the discussion.

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 Shaktisinhji Gohil said that "No Breach of Precedent takes place if any Member of the Council of Ministers intervenes in the discussion on the first day."

On the above point of order Hon'ble Speaker (Shri Himatlal Mulani) gave his ruling as under:

" The point raised by Shri Manoharsinhji is proper. The Members of the Council of Ministers are basically the Members of this House. 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, 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 as a Member 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.”

(G.L.A. Debates, Book – 83, Vol. II, Column 839-843)

(5) No rule is violated if a Minister participates in the first day of the General Discussion on the Budget.

On 3rd March, 2016, during the Eighth Session of the Gujarat Legislative Assembly, when Hon'ble Minister of State Prof. Vasuben Trivedi rose to make a speech during the General Discussion on the Budget, Hon'ble Member Shri Shaktisinh Gohil raised a Point of Order with regard to taking part by a Minister in the General Discussion on the Budget on the first day of such discussion, quoting a reference from a Book "Control Over Public Expenditure by Legislature", page 28, published by the Gujarat Legislative Assembly. He also drew the attention towards the ruling given by a former speaker on 24th February, 1993. He also stated that a Minister could not participate in the General Discussion on the Budget on the first day. At this stage, Hon'ble Minister of State Shri Pradipsinh Jadeja, Chief Whip Shri Pankajbhai Desai and Member Shri Jitendra Sukhadia expressed their views against the point of order. Thereupon, Hon'ble Deputy Speaker, (Shri Atmaram Parmar) stated that he would study the rulings given by the former Speaker and declare a detailed ruling later on.

Hon'ble Deputy Speaker, (Shri Aatmaram Parmar) on 14th March, 2016, while giving his postponed ruling stated that he had gone through the ruling given by the former Speaker and the book quoted by the Member. As per the ruling given by the Former Speaker on 24th February, 1993, no rule was violated had a Minister taken part in the General Discussion on the Budget or discussion on the vote of thanks on the first day of such discussion. He also stated that as per the practice, it would have been better, had a Minister taken part in such discussion after somewhat detailed discussion. Prior to 1992, no

Minister used to intervene in such discussion on the first day, but it was observed that they used to take part on the second or third day. In view of the situation, after the ruling given by the Former Speaker on 24th February, 1993, no Member had objected to participation of a Minister as a Member in the General Discussion on the budget and the discussions on the vote of thanks on the first day of such discussion. During the year 1993, 1994 & 1995, Minister had participated in the general discussion on the budget on the first day. Hence it became a practice to participate in the discussion on the first day by a Minister. Since such a practice was going on, the point of order raised by the Hon'ble Member was irrelevant and hence the Hon'ble Dy. Speaker rejected the point of order raised by the Hon'ble Member.

(G.L.A. Debates, Book-33:2016, Volume-IV)

(6) It is not expected in the rules that Finance Minister has to reply the General Discussion at the end of the discussion.

As per the schedule of the business of the House, four days were allotted for the general discussion on the Budget. On the third day of the discussion, i.e. on the 5th June, 1972, when the Finance Minister rose to reply the discussion, Member Shri Liladharbhai Patel raised a Point of Order and while interpreting Rule-221 regarding the Right of the Finance Minister to reply the discussion, submitted that the Finance Minister could reply only at the end of the discussion according to the rules. Moreover, as a general rule, no Member has a right to speak twice on the same matter. The Rule-221 gives Minister of Finance a Right to reply, but at the same time the duty of Finance Minister to reply is implied in the Rule. Rather, the acquired right is conditional. It means that the reply can be given only at the end of the discussion.

The Hon. Speaker (Shri Raghavji Leuva) after hearing the Finance Minister regarding the Point of Order besides clarifying some other issues, gave his ruling regarding the aforesaid Point of Order as mentioned below: -

"As per the argument made by Hon. Member Shri Liladharbhai, as per the rule-221, the right of Finance Minister is not only a right but it is also an obligation. The language used in the rule is of his right, and not an obligation. Therefore, if Hon. Finance Minister replies in the middle of the discussion, it is not expected in the rule to interpret that he has to reply at the end of the discussion. What would happen if, any Finance Minister, after listening to the Members in the discussion, refuses to reply the discussion since no voting is to take place.

There is no obligation on the Finance Minister to reply. He has all the right to reply.

Since he has spoken once, if he wishes to speak again, it is a right of reply. He has to decide or choose as to whether he wishes to speak in the middle of the discussion or at the end."

(G.L.A. Debates, Part-2, Book-34, Column 767-768)

9. Cut Motions on Budget Demands.

(1) It is up to Member-in-charge to decide whether to present the introduced cut-motion in the House.

On 15th march, 1984, after the Minister of Education presented the demand No.9 in the House for the grant pertaining to services regarding the Education Department, when the Secretary called out the name of the Member-in-Charge Shri Shashikant Lakhani for the cut motion pertaining to failure on the part of the Government to remove the policy of appointing teachers at a low salary in primary education, he sought the guidance of Hon. Speaker and stated that the performance budget was presented as per the recommendation made in the paragraph 12 of the ninth report of the Estimates Committee of the fifth Gujarat Legislative Assembly and it was considered to be a supplementary to the original Budget. He also stated that his cut motion was on a policy matter and in accordance with Rule-227 (1) (a). Thus, the information in the original budget and the performance budget were contradictory. Due to that contradiction, he said he was in dilemma in presenting his cut motion pertaining to appointing teachers on fixed pay. Then he requested Hon'ble the Speaker to guide and help in deciding as to whether to present his cut motion regarding a policy matter. He also requested to give ruling with regard to the steps that should be taken by the Government to provide similar detail in both the publications of the Budget as per the report of the Estimates Committee.

The Education Minister explained that in addition to full pay teachers, apprenticeship based teachers with a fixed pay of Rs. 325/- were also to be appointed and the figures were shown accordingly. After hearing the explanations of the Member and the Minister of Education, Hon'ble the Speaker (Shri Natwarlal Shah) gave the following ruling: -

"If the argument of Hon Member Shri Lakhani is accepted, as per the Ninth Report of the Estimate Committee, the performance budget is considered to be a part of the Budget and if it is accepted then there is a contradiction between the provisions made in the performance budget and the provisions of the original budget. And due to the contradiction, it is difficult to understand

as to what demand the Government actually wants to get approved by this House. It was mentioned in paragraph no. 5 on the page no. 6 of the twenty fifth report of the Committee that the main purpose of the performance budget was not to state as to how much the State Government spends on certain matters but the purpose of the Government is to state as to whether the services as per the ultimate goal could be made available by the expenditure, which the Government incurs to provide those services. Thus, the performance budget is helpful for information on the expenditure incurred by the Government and the targets achieved against it. The information of the expenditure and provisions given in the performance budget is to be given on the basis of the books of the main budget, i.e. this statistical information is required to be identical in the main budget and the performance budget. The Performance Budget is not part of the main budget but it is published to help the Members to understand the functioning and performance of the Government. According to the custom, the performance budget used to be published along with the budget, but as per the report of the Estimates Committee, this publication was published separately. It was separated from the budget and each Department was entrusted with the responsibility of presenting the performance budget. So it was an accepted fact that the performance budget is not a part of the budget. The information of other States is also provided in the report. Different methods are adopted for these Budgets in different States and the Lok Sabha and in England while at some places it is provided with the budget, at some places it is given two or four days after the Budget presentation. So it is certain that it is not a part of the budget. So as you say on the basis of the report of an old Committee that it was a part of the Budget and that being the part of the Budget, it is likely to be contradictory. But in my view, there is no possibility, as such. When the Government, especially Hon. Minister has clarified that 1000 teachers were to be appointed on regular basis and the rest of the teachers were to be appointed on fixed pay of Rs. 325 /- and, therefore, both the items are different from each other. So it is up to you to decide to move the cut motion. I don't think there is any confusion after the clarification from the Hon. Minister. After accepting that the performance budget should not be considered to be a part of the budget and also after clearly mentioning in my ruling pertaining to wheather the budget has been leaked, it definitely becomes a separate part of the budget. But due to that its significance is not reduced at all, as its ultimate purpose is to provide information to the Members and to explain them. And Hon. Minister should give an instruction to his Department to the effect that the details in the documents provided to give information to Members and to explain them, should be given after complete scrutiny."

(G.L.A. Debates, Part-2, Book-87, Column 281-295)

(2) 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 main speakers to speak, he should give chance to all by turn.”

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

10. Supplementary Demands.

(1) A Supplementary Demand can be presented to write off loans and advances which cannot be recovered without approaching the Public Accounts Committee.

On 27th February, 1970, Member Shri Manoharsinhji Jadeja had raised a Point of Order stating that when dues were to be written off and the amount of dues were more than Rs.5000/-, the Government should have approached first the Public Accounts Committee and, therefore, no supplementary demand could be presented for writing off non-recoverable loans and advances. Hence demand no. 18 of the Public works was not presented properly and it could not be put to vote.

Regarding the Point of Order raised by Member Shri Manoharsinhji Jadeja during the presentation of the supplementary demands, Hon. Minister for Public Works Shri Babubhai Patel while clarifying, stated that the Accountant General vide his letter dated 24th December, 1969, had drawn the attention of the State Government and suggested to write off the irrecoverable loans and advances and also to obtain similar amount through the supplementary demands. The amount to be written off as suggested by him was presented as a demand of an expenditure. Taking into account the clarification made by the Hon. Minister of Public Works, the Hon. Speaker (Shri Raghavji Leuva) gave his ruling as under:-

"As per the constitutional provision, since the Legislative Assembly has the power to approve expenditure for a particular service or purpose, the amount of non-recoverable loan or advance has to be presented to the

Legislative Assembly at the first instance in the form of a demand for expenditure under the respective head of the budget. After the Assembly approves the demand for expenditure and the Accountant General examines the accounts of the expenditure and presents its Report before the Legislative Assembly, then only the reports of the Accountant General are considered to be assigned to the Public Accounts Committee of the Legislative Assembly, as per the constitutional practice. The Public Accounts Committee after receiving the reports from the Accountant General seeks the explanations from the concerned departments with regard to the cases of writing off the amounts contained in the Report. Thereafter, by examining the merits or demerits of such cases, the Public Accounts Committee presents its report to the Legislative Assembly. As per the recommendation made by the Public Accounts Committee of this House in its report of a previous year, the Departments do not have to make explanations before the Committee with regard to the cases of writing off an amount less than Rs. 5000 /-. But after the Departments make the explanations with regard to the cases of writing off dues exceeding Rs. 5000 /-, the committee presents its report to the House, after examining the merits/demerits of such cases of writing off dues, the Government has presented the amounts of writing off non-recoverable loan/advance as a supplementary demand for the approval of the Legislative Assembly. As this is in consonance with the constitutional provisions, I reject the Point of Order raised by Hon. Member Shri Manoharsinhji Jadeja."

(G.L.A. Debates, Part-1, Book-25, Column 828 & 829)

(2) Except for the discussion on the content of the demands there should be no discussion on the efficiency of the Government Officials during the discussion on Supplementary Demands.

On 20th November, 1972, on the first day of the discussion on the supplementary demand, Member Shri Hasmukhlal Vora, while speaking on the demand for the drought relief, he criticised the efficiency of Government Officials. Thereupon, Hon. Speaker (Shri Raghavji Leuva) stopped him and made his observation as mentioned below: -

"As told to Hon'ble Members earlier, the matter of discussion right now is of supplementary demands, in which what we have to consider is whether the amount demanded for the work should be sanctioned or not? Here the question for consideration is whether we have to approve the amount for the work for which it is demanded and not the efficiency of Government Officials."

(G.L.A. Debates, Part-2, Book-38, Column 700)

(3) While discussing the Demands pertaining to Boards/Corporations, the administration of such Boards / Corporations can be discussed.

On 3rd March, 2008, during the discussion on Supplementary Demand No. 74, when the Leader of the Opposition referred to the number of buses run on the roads during the year 1994-95, the number of buses run on the roads during the regime of the former Chief Ministers and the number of the buses running on the roads at present, the Finance Minister Shri Vajubhai Vala raised a Point of Order stating that detailed discussion could be held on that at the time of presentation of the reports of Boards / Corporations in the House. He further stated that the aforesaid matter did neither fall within the purview of the state administration nor part of the state administration. The Finance Minister also stated that it was not necessary to mention as to how many buses the Corporation had and that the issue of number of buses could be discussed only if it fell within the purview of the state administration. In this regard, the Leader of Opposition opined that when the Demand No. 74 relating to the Transport Department was brought for discussion for the purpose of allocation of funds to the Corporation to purchase new buses, the matters relating to the administration of the Corporation could be discussed. He added that in the past also the matters relating to the administration of the respective Corporation were discussed during the discussion on demands. Postponing his ruling on the matter for time being, Hon'ble the Speaker (Shri Ashok Bhatt) gave his ruling on 17th March 2008, as mentioned below:

"On Monday, the 3rd March, 2008, during the discussion on the Supplementary Demands, the Leader of Opposition Shri Shaktisinhji Gohil in his speech made some observations with regard to the demands on Transport and Ports Department. At that stage, Hon'ble the Finance Minister Shri Vajubhai Vala raised a Point of Order stating that the State Transport Corporation is a separate Corporation; the State Government simply allocates funds to it and hence Hon'ble Leader of the opposition should not discuss the matters pertaining to its administration. Hon'ble Leader of the Opposition argued that the Supplementary Demand brought by the Hon'ble Finance Minister was relating to the allocation of funds to G.S.R.T.C. and, therefore, he could discuss those matters.

Before giving the ruling on the Point of Order raised by the Hon'ble Finance Minister, the three points as mentioned below call for the detailed consideration: -

- (1) Up to what extent a Board or a Corporation is autonomous?

- (2) Discussion on which matters of autonomous Board / Corporation are taken up in the Legislative Assembly?
- (3) Up to what extent the control of the Legislature over the Executive is justified?

As per the provision of Rule 234(3) of the Gujarat Legislative Assembly Rules, the discussion on a supplementary grant will be confined to the items constituting the grant and at that time, no discussion can be held on original grants or on the policy underlying these grants. In this regard, it has been clearly stated on page No. 668 of the book "Parliamentary Practice and Procedure."

Our constitution has significantly emphasized the control of the Legislature over the Executive. During the course of discussion on the demands of different departments, while discussing the demands related to the allocation of funds to the Boards / Corporations, the matters pertaining to the administration of the Boards / Corporations were discussed in the past. The Supplementary Demand No. 74 is relating to the allocation of funds to G.S.R.T.C. for purchasing new buses. At the time of discussion on this demand, Hon'ble the Leader of the Opposition referred to the number of buses in the year 1994-95, its schedules, etc. and the point of achieving development in the affairs of the Corporation at the rate of 10% every year after its formation. This matter cannot be separated from the Supplementary Demands and it cannot be considered as part of its day-to-day administration. It seems to me that if, at this stage, Hon'ble the Leader of the Opposition is not allowed to raise this point then it would amount to an obstruction in the absolute right of control of Legislature over the Boards / Corporations and that way, the right conferred upon the Legislature by the Constitution might be curtailed. The Boards / Corporations are autonomous in their day-to-day administration, yet restrictions can also be imposed on such kind of autonomy whenever the need arises. No questions relating to the day-to-day administration of Boards / Corporations is allowed. Though we have accepted this limitation of disallowing questions in the Rules, there is no restriction on discussion on any other matters relating to the administration of Boards / Corporations except the questions. In the past such matters have been discussed in the House. It is very necessary for the Legislative Assembly to have its control over the administration of Boards / Corporations and that is why their annual reports and accounts are laid on the Table of the House, which are examined by the Committee on Public Undertakings and presents its report before the House. This clearly indicates that despite the Boards / Corporations being autonomous in their day-to-day administration, they are not free from the control of the Legislative Assembly. In

view of the powers conferred upon the Legislative Assembly by the Constitution and the prevailing parliamentary practice, it is clear that the Legislature is supreme in the democracy and hence the powers of the House are absolute and unlimited unless otherwise provided in the Constitution. Thus, in view of the overall situation, I feel that Hon'ble the Leader of the Opposition was participating in the discussion within the limits of the rules. I, therefore, reject the Point of the Order raised by the Hon'ble Finance Minister."

(G.L.A. Debates, Book- 133 : 2008)

11. During the discussion on the Appropriation Bill, only matters of public importance can be discussed and not the individual cases.

When the Finance Minister presented the motion of first reading of Gujarat Appropriation (Vote on Account) Bill, 1972, the Hon. Speaker (Shri Raghavji Leuva) clarified as follows: -

"Now according to our Rules, some Members have given points, which they themselves wanted to discuss, out of which many of them have already been discussed in this House and therefore, such issues cannot be taken up for discussion. In the same way, number of Members has given number of points, which are not general type. For example, Hon. Member Shri Ghanshyam Pandit stated that "despite the minimum wages act in force, the labourers of stone metal quarry situated in thasra taluka are not given minimum wages." Another such issue is pertaining to "naming the roads of the Capital". The issues discussed during the Vote on Account or the Appropriation Bill should be of a general nature. No such personal or individual case can be discussed at this time. The provision of this Rule is that the issue is allowed to be discussed only if it is of sufficient public importance. Therefore, I request Hon. Members to stop raising issues that are not of sufficient public importance, before I have to disallow such issues."

(G.L.A. Debates, Part-2, Book-33, Column 582-583)

12. Guillotine

(1) Other Business can be taken up after the Appropriation bill is passed by applying Guillotine.

On 1st March, 1969, Hon. Speaker (Shri Raghavji Leuva) had rejected an objection raised by Member Shri Manoharsinhji Jadeja that after passing the motion of supplementary Appropriation Bill, no other business could be taken up and at the request of the Member for further clarification in that regard, before commencing the discussions on demands on 6th March, 1969, Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as follows: -

"On 1st March, 1969, at the conclusion of discussion on the Appropriation Bill (at the time of applying guillotine) and after the Bill was passed and as the remaining business as shown in the list of the business for the day was taken up, Hon. Member Shri Manoharsinhji raised an objection stating that no business could be taken up after passing the Bill by applying the Guillotine. I rejected the objection and the remaining Business was taken up. After that Hon'ble Member once again brought the matter to my notice and requested for more clarification in my direction. Drawing my attention to a statement on page 555 of the book " Practice and Procedure" written by Kaul and Shakhdar, he stated that if the debates on the matters are over before time to conclude the discussion comes, then the other business can be taken up in the intervening period. But no reference is found on which we can rely that no business can be taken up after applying the guillotine. Thereupon, I postponed my ruling. Hon. Member would have no problem, had he gone through the Debates of the Lok Sabha on the basis of which Kaul and Shakhdar have made thier statement in their book. After applying the Guillotine in the Lok Sabha and after completing that Business there is a practice of taking up other business. The decision of the Lok Sabha shown by the Hon'ble Member merely indicates that the guillotine cannot be applied before the fixed time and, therefore, the intervening time between the time of the discussion and the time of guillotine can be utilized in other ways. The House of Commons also has such a system and there is a mention in that regard on page 753 of the seventeenth edition of its parliamentary practice as follows: -

"A motion is usually made at the commencement of public business on the days referred to in this and the three preceding paragraphs to enable other business to be taken before ten O'clock as soon as supply is concluded. On the last allotted day, other business can be taken without any such order, if all the reports of supply are agreed to before ten O'clock. "

It is clear from this that new business can be taken up after the demands are approved and if a bill is passed. Moreover, in the present case, the House has accepted the recommendation of the Business Advisory Committee to take up two new items of business after completion of the procedure of Appropriation bill. There is no restriction on the House for not accepting such recommendations. Therefore, if the matter decided by the House is taken up on those days, this House has the right to do so even if there prevail different systems at other places. "

(G.L.A. Debates, Part-2, Book-22, Part-A, Column 2266-2267)

(2) Point of Order cannot be raised during the Guillotine.

On 20th March, 1979, the last day of discussion on demands for grants, when the demands of the Department of Roads and buildings were being put to vote through Guillotine, Member Shri Popatlal Sorathiya tried to raise a point of order mentioning Rule 228.

At that time, Hon. Speaker (Shri Kundanlal Dholakia), explaining the interpretation of Rule 228 stated that the interpretation made by the Member was not proper and gave his ruling as follows: -

"A point of order cannot be raised during the Guillotine."

(G.L.A. Debates, Part-2, Book-64, Column 639-644)

(3) Questions cannot be asked after application of Guillotine.

On 14th July, 1981, after the Finance Minister gave his reply to the discussion on supplementary demands for grants (first and last day) and after the guillotine was applied, some Members of the Opposition sought the permission from the Hon'ble Speaker for asking their questions. Thereupon, the Hon. Speaker (Shri Natwarlal Shah) gave his ruling as follows:

"According to the Rule, since the guillotine applies an hour before the discussion comes to an end, permission to ask questions cannot be granted."

(G.L.A. Debates, Part-2, Book-74, Column 504-505)

(4) After guillotine is applied, the House has to sit until the amendments and other questions are put to vote.

During the discussion on the South Gujarat University bill on 6th December, 1965, Member Shri Chhabildas Mehta raising a point of order stated that, as per Rules of the Legislative Assembly, at the appointed time and as per the arrangement of time for completing a certain stage of a bill, the Speaker should immediately put to vote every question necessary for disposing off all the remaining issues relating to that stage of the Bill. Moreover, quoting the following ruling of Deputy Speaker, Lok Sabha on 24th November, 1954, he drew the attention of the House towards its decision to complete the third reading of the aforesaid Bill by the evening of 6th December, 1965:-

"On the 24th November, 1954, during the clause by clause consideration of the Rubber (Production and Marketing) Amendment Bill, when the time allotted to the Bill according to the Time Allocation Order of the House was

about to expire, the Deputy Speaker who, was in the Chair applied the Guillotine to the indisposed Amendments. The Minister of Commerce and Industry, who was the Member-in-charge of the Bill, drew the attention of the Chair to the fact that there was also a Government Amendment pending for disposal. Thereupon, the Deputy Speaker observed that Guillotine will not apply to the Government Amendments. "

Thereafter, Hon. Speaker (Shri Fatehali Palejwala) gave his ruling as follows: -

"In my opinion this question will arise when the discussion will not be completed by 5 p.m.. Now we have to wait for the discussion to end by five O' clock. Thereafter the discussion will be stopped at the point, where we will have reached. Then I will put to vote amendment one by one, because in the process of guillotine, too, normally the timing of four o'clock is determined and at that time the debate is stopped, whatever point it may have reached and a demand is put to vote one by one before the House. So now the Government amendment are due for voting, therefore the question of Hon. Member will not arise. The amendments as many as due for voting will be put to vote one by one without the discussion and the House will sit for the time required to complete the business with us and the House is requested to co-operate.

(G.L.A. Debates, Part-2, Book-15, Column 792 & 793)

Chapter - 8

1. Business Advisory Committee

(1) The Business Advisory Committee has the right to recommend adjournment of the House for sine die.

On 28th March, 1970, when the Minister of Parliamentary Affairs, Shri Chimanbhai Patel, moved a motion in the House to uphold the recommendations made by the Business Advisory Committee to adjourn the House sine die, Member Shri Manoharsinhji Jadeja raised a Point of Order that: -

- "(1) since the Speaker alone has the right to adjourn the House sine die, neither the Committee nor the House itself can exercise the right;
- (2) The power to recommend does not fall within the purview of the Business Advisory Committee; and
- (3) The Fundamental Rights of the Members will be encroached upon, if such a motion is accepted."

After hearing Shri Manoharsinhji Jadeja and many other Members, the Hon'ble Speaker (Shri Raghavji Leuva) gave the ruling as follows: -

"Hon'ble Member Shri Manoharsinhji has raised three main points.

In support of the first point, he had drawn the attention to the Rights narrated on pages 216 to 219 of Moray's book on Practice and Procedure in India and also drawn my attention to our Rule 9 and also to the statements made by the Hon'ble Speaker of Lok Sabha on 7th September, 1962 when he had stated that,

"Then as far as the rights of a private Member are concerned, certainly I must see that within the duration of the session they get their proper share in the forms that are followed by the Rules of Procedure as well as by the Constitution."

The words "duration of the session" are important in this statement and if any other person decides the duration of the session, then the duty of the Speaker ends there. Based on the views expressed by the Hon Speaker of Lok Sabha in the discussion on that day, it appears that the Government has many rights regarding its own business.

The essence of the arguments of most of the Hon'ble Members was that it is a different thing if the Speaker had assigned the Committee with the work of making recommendation for the adjournment of the sitting under rule 191

(2). However, if it is not explicitly assigned by the Speaker, then the Committee cannot enjoy such rights. Neither my predecessors nor have I assigned any such right explicitly to the Committee. However, the Committee has been recommending more than what described in the rules. The Hon'ble Law Minister and other Members have made an argument that since the Speaker has not stopped the Committee from doing so, it is taken for granted that the Speaker has assigned that work to the Committee, but that does not mean that the Speaker should assign the work in this way for every sitting of the Committee. In fact, when the work is going on in the Committee or in the House, it becomes so natural that nobody gets, at all, an idea of assigning a work in this way. It is true that as long as the Committee makes decisions unanimously, there will be no objection, but as per the prevailing practice, when it comes to making a decision by a majority, the idea of applying a different norm is not proper. In this situation, it would not be realistic to assume that the way the Committee has been conducting the proceedings from time to time is against the Rules.

Another argument was that the Committee could perform the function of allotting time to Government Business only. This is true to some extent and the Committee on Private Members' Business functions in that way. It is a fact that for a long time this Committee has been taking up various matters and it is difficult to say that it is against the Rules in view of the language of Rule 191 (2).

One argument is that if this Committee starts controlling the sittings of the House, the other Committees would do the same. Looking to the formation and scope of work of the other Committees, I think such a fear is out of place.

Another argument is that this Committee is not a super Committee. This is also true. Each Committee has to work within the limits of the Rules and the House has to decide with regard to its recommendations. Therefore, the fear that the Committee will get any supremacy is out of place.

Shri H. M. Patel submitted that the aforesaid recommendation was out of the purview of the Committee, i.e. ultra virus.

Pursuant to rule -15, it is the duty of the Speaker to allocate days for the Private Members Business and to ensure that those allotted days are to be used by the Private Members. This is true but this can happen only within the duration of the session as stated by Hon'ble Speaker of the Lok Sabha. If the sitting is adjourned in any case, this work will not be done. Therefore, only the right to adjourn the sitting is to be considered. Such right is conferred on the Speaker by the Rule and, therefore, the Committee in this way cannot snatch

away his Rights indirectly. It is true that the Rights cannot be enjoyed. The House itself has conferred these rights on the Speaker.

The argument was that instead of getting it done by the Committee, any Member could make such a demand by moving a motion of appropriate nature, but in doing so, the values of Democracy are disregarded. However, if I conclude that the Business Advisory Committee can make such a recommendation, then it will not hinder other options, if they are open.

As long as all the parties agreed on this matter, even if the Business Advisory Committee enjoyed more Rights than it had, it cannot enjoy such Rights when a majority has taken a decision. However, in a democracy, where the majority has the liberty to take decisions, it will not be appropriate to do so by making narrow interpretation of the Rules. Such a narrow interpretation would not be appropriate.

Hon'ble Member Shri Chhabildas Mehta made an important point that as Speaker, I should consider giving the surety of days for Private Members' Business. However, that would not be possible in case of adjournment or closure of the House for any reason. If the Business Advisory Committee deems to have such rights, it also gets the right to call the House, because the explicit Rights will always be available to the concerned entities. The Hon'ble Law Minister argued that the Government proposal of adjourning the sitting of the House is a Government Business, but considering the construction of our rules, such an interpretation would not be realistic as such proposal cannot be considered as a Government Business. It is a different thing for the Committee to consider it as another matter. Thus, considering the overall situation, I conclude that the recommendation made by the Committee was a part of Right available to it."

(G.L.A. Debates, Part-2, Book-27, Column 1331-1336)

(2) If the Business Advisory Committee empowers the Speaker, the new Bills printed by the Government can be shown in the List of the Business for the day even in the absence of the recommendation of the Committee.

On 10th April, 1973, the Minister of Panchayats, Shri Harisinh Mahida moved a motion of first reading of Gujarat Bill No. 11 of 1973, to further amend the Gujarat Panchayat Act 1961. Thereupon, Dr. Keshavbhai Patel stated that since the business of the House was conducted as per the recommendation of the Business Advisory Committee and Bill No.11 was not recommended, it should not have been taken up for discussion. Moreover, as

per the opinion of the Member, since the bill was very important and it suggested far-reaching changes, it required time for the study and preparation and, therefore, the bill should be taken up later on a day when the Committee recommends it.

Hon'ble Speaker (Shri Raghavji Leuva) gave a ruling as follows: -

"The sentence from the Report of the Business Advisory Committee, which was approved by the House, seems to have been left unread by the Member. I read that sentence.

"Meanwhile, if a new Government Bill comes for its introduction, the Speaker will allocate reasonable time on an appropriate day as he finds suitable."

This was the recommendation. The House has accepted that recommendation. This means, the Speaker should act as per the recommendation. The House has assigned such a responsibility. As per the rule, it should be taken into consideration whether seven days' notice is given or not. I do not remember right now as to when this bill was published and when it was distributed among the Members. But there may be a shortfall of one day in the notice period, i.e. it has come on 3rd, it can be taken up on 11th, instead of that, it is being taken up on 10th. That is the only difference. It is possible that by mistake many Members would have received the same from the Pigeon Holes belatedly. However, as per the information provided to me by the Office, the Bill was placed in the slots of the Members at the Pigeon Holes as soon as it was received. In view of the usefulness of this bill, it is necessary that the affairs of Panchayats are dealt with in the timeframe, because the content of this bill is limited to elections, no other important matters are involved. Moreover, the Report based on which the bill, has been introduced has been well discussed by the House for three consecutive days. Therefore, it cannot be complained that the bill has been suddenly introduced before the House. As per the Rule, I have waived the notice period of the Bill for one day."

(G.L.A. Debates, Part-2, Book-44, Column 201-203)

(3) A Member of the Business Advisory Committee may raise an issue in the House for clarification on the Report.

On 27th July, 1977, after the Minister of Parliamentary Affairs moved a motion that the House would agree with the Seventeenth Report of the Business Advisory Committee, Member Shri Sanat Mehta requested the Hon'ble Speaker to clarify the position regarding the Rules for moving Amendments on some Government Bills. At this stage, Parliamentary Affairs

Minister Shri Bhailalbai Contractor raised a Point of Order that When Shri Sanat Mehta being a Member of the Committee did not remain present, how could he raise that issue?

At that time, Hon'ble Deputy Speaker (Shri Manubhai Palkhiwala) gave a ruling that the Members of the Business Advisory Committee also have the right to raise a Point of Order.

(G.L.A. Debates, Part-2, Book-55, Column 766-767)

(4) The Government Bills which were not mentioned in the Governor's Address can also be taken into consideration on the recommendation of the Business Advisory Committee.

On 29th March, 2007, (First Sitting) while the Minister of Water Resources, Shri Narottambhai Patel moving a motion of first reading of Bill No. 24 - Gujarat Water Users Participatory Irrigation Management Bill, 2007, the Leader of Opposition Shri Arjunbhai Modhvadiya raised a Point of Order stating that there were six Bills which were mentioned in the Governor's Address. There was no mention of this bill in the Governor's Address. While if government wanted to bring other bills which were not related with the Budget proposals, it should have been mentioned in the Governor's Address & this practice is well established.

In support of his claim, he quoted an extract from page No.180 of the Book Practice & Procedure of Parliament by Kaul & Shakhder and submitted that the Page Committee had recommended to include all such Bills in the Governor's Address. If any such bill, which were not mentioned in the Governor's Address, should not be allowed to be moved as well as taken up for consideration in the House. The Ministers of Parliamentary Affairs and Finance also expressed their views on the matter. After hearing all of them, the Hon'ble Speaker Shri (Prof. Mangalbai Patel) ruled as under:

"The Bills which were not mentioned in the Governor's Address can also be taken into consideration on the recommendation of the Business Advisory Committee. There is no restriction in the Constitution or Rules on introducing or considering such bills, which were not mentioned in the Governor's Address. Since I have given the consent for pre-publication of this bill under the provisions of Rule- 127(a), I do not accept the Point of Order against admissibility or consideration of the bills."

(G.L.A. Debates, Book 130:2007)

(5) The Committee can recommend to take up Government bills for discussion and also to complete consideration of such bills within the stipulated time limit.

On 22th February, 2007, on presentation of the 14th Report of the Business Advisory Committee by the Speaker, the Whip of the Opposition Shri Balwantsinh Rajput raised a Point of Order stating that the Business Advisory Committee could not determine the time-limit to consider the Government Bills. He further stated that though the Business Advisory Committee was empowered to recommend taking up the Bills for consideration, it was not conferred with any power to recommend the time-limit within which the process of considering such bills were to be completed.

The Members of Opposition Shri Punjabhai Vansh, Shri Govabhai Rabari and the Minister of Parliamentary Affairs Shri Ashok Bhatt and Minister of Finance Shri Vajubhai Vala also expressed their views on this issue.

The Hon'ble Speaker, (Prof. Mangalbhaj Patel) relying on the provision made under the Rule-191 of the Gujarat Legislative Assembly Rules and the prevailing practice, ruled as under:

"The Committee is empowered by the rules to recommend how much time is to be allocated for discussing the bills at various stages of the process of considering the bills many times in past also the Committee had recommended to take up Govt. Bills and to complete its consideration. Therefore, I reject the Point of Order raised by the Whip of Opposition Shri Balwantsinh Rajput.

(G.L.A. Debates, Book 125:2007)

(6) Business Advisory Committee can recommend extension of time of sitting of the House to complete the pending business before the House.

On 17th March, 2005, at the time of consideration of the 8th Report of the Business Advisory Committee, the Leader of Opposition Shri Arjunbhai Modhwadiya's raised a point of order as to the jurisdiction of the Business Advisory Committee regarding curtailment of days of sittings of the Session which were already fixed from 17th Feb. 2005 to 18th March, 2005 as per the tentative calendar of sittings issued by the Legislature Secretariat. Accordingly, 18th March, 2005 is shown as the last day of sitting. While the recommendation of Business Advisory committee in its present Report submitted here had changed the date of last day i.e. 17th March, 2005. He further submitted that the Business Advisory Committee had no right to change the prescribed date for the last day of session. As per rules, last day motion was presented on the last day of session. As per the calendar of sittings, the last day

motion was to be taken up on 18th March, 2005 and the Member who had given notice of last day motion remained absent today presuming that the motion would be taken up on last day as per calendar of sitting. Therefore, last day motion should be taken up on tomorrow i.e. on 18th March, 2005 as per sitting of calendar. In Support of his point of order, the Leader of Opposition Submitted that as per the rules of procedure, the Business Advisory Committee had no jurisdiction to change the prescribed date for the last day of session.

The Parliamentary Affairs Minister Shri Ashok Bhatt, the Agricultural Minister Shri Bhupendrabhai Chudasama, Finance minister Shri Vajubhai Vala and some other prominent Members of the Opposition have also expressed their views on the point.

At that time, Hon'ble speaker had rejected the point of order and stated that, he would give his detail ruling later on.

Later on, the Hon'ble Speaker (Prof. Mangalbai Patel) after going through the rules of procedure, past precedents and the views expressed before him, ruled as under:

"As per the provisions of Rule 15 of the Gujarat Legislative Assembly Rules, the Government has the prerogative to decide the order of Government Business. After summoning the Assembly by the Governor under Article 174 of the Constitution, the tentative calendar of sittings for the days of the session is prepared by the Government in exercise of the prerogative granted to the Government under Rule 15 of the Rules of Procedure. The Legislature Secretariat circulates the calendar of sittings to the Members after making formal scrutiny as per the rules of procedure. Under Rule 191 of the Rules of Procedure, the Business Advisory Committee has jurisdiction to recommend the days on which and the order in which the Government Business, subject to the provisions of rule 15, should be transacted. The Committee has also jurisdiction to allot time for Government Bills and other items of Government Business. Moreover, the Committee has jurisdiction to discharge such other functions as may be assigned to it by the Speaker from time to time. Looking to the provision of rule 191 and the past practice and precedent, the Committee has every jurisdiction to recommend either curtailment of days of sittings or to extend the days of sittings of the Session looking to the quantum of business pending before the House. In past also, the Committee has on number of occasions made such recommendations. I cannot, therefore, accept the contention advanced by the Leader of Opposition that the Committee has no jurisdiction to make curtailment of days of sittings of the Session. Moreover,

at the time of consideration of Government Bills, the Parliamentary Affairs Minister had made a proposal for extending the scheduled time for today's sitting for taking up all the listed business of today's Agenda. Since the Opposition Members opposed the said proposal, I have ordered for placing the issue before the Business Advisory Committee. Therefore, in terms of Rule 191(2) of Rules of Procedure, I have specifically referred the said matter to the Business Advisory Committee and in that respect, the issue under dispute is well within the jurisdiction of the Business Advisory Committee.

In view of the above, the contention advanced by the Leader of Opposition is not acceptable and therefore, I reject the point of order raised by the Hon'ble Leader of Opposition".

(G.L.A. Debates, Book 114:2005)

(7) Proceedings of all the Committees including the Business Advisory Committee should be kept secret according to the established practice.

A sitting of the Business Advisory Committee was held on 16th July 2009. The Hon'ble Leader of the Opposition Shri Shaktisinh Gohil had written a letter to the Hon'ble Speaker regarding his absence in the sitting. The copies of the letter were distributed among the media before it reaches to the Hon'ble Speaker. On 17th July 2009, with the prior permission of the Speaker, the Hon'ble Minister for Parliamentary Affairs Shri Amit Shah raised an issue on this matter stating that as a Member of the Business Advisory Committee and the Leader of the Opposition, to provide the contents and the points of his correspondence with the Speaker to the press and to try to get it published in the press was against our parliamentary practices. So it was not worth establishing such type of new practice. Finally, he requested the Hon'ble Speaker to guide the House, keeping in mind the Legislative Assembly Rules and Parliamentary Practices.

While giving the guidance on the above-mentioned issue, the Hon'ble Speaker (Shri Ashok Bhatt) said that "the Letter written by the Leader of the Opposition (Shri Shaktisinh Gohil) on 16th July 2009, which was addressed to the Hon'ble Speaker, was received by him through press before it directly reaches to him. According to general practice, the correspondence between the Speaker and Members is not given to the press; if it is given, it is not proper and uncalled for. After receipt of the letter of the Legislature Secretariat dated 15th July 2009 regarding the sitting of the Business Advisory Committee, he had written a letter in reply to the same on 16th July 2009. It means that he was present in Gandhinagar. Two points were raised in his letter: (1) It is a practice to convene a sitting only on Wednesday and (2) the sitting of the Committee

was convened to cut-short the Session. As regards the first point, I have gone through the previous records of the sittings of the Committee and as per the records, I came to know that the sittings of the Business Advisory Committee were convened on other days except Wednesdays. Therefore, there was no practice to convene a sitting of the Business Advisory Committee only on Wednesday. Secondly, I had taken due care so that he can remain present in the sitting. Generally, for the sitting of the Business Advisory Committee, my Secretariat sends a letter to the Office of the Opposition Party, but this time I had informed him through an SMS and a Telegram also. It is necessary for the Leader of the Opposition and all the Members of the Committee to be present in the sitting of the Business Advisory Committee, irrespective of the Members belonging to the Ruling or Opposition Party and, therefore, he should have made it convenient to remain present. As regards the second point i.e. the point of curtailing the session, the Report of the Business Advisory Committee which was presented before the House and approved by the House Yesterday only. As per the Report, the session of the House has been prolonged. Therefore, the controversy created by the letter doesn't seem proper and is uncalled for and the Members of the Committee are, therefore, requested to raise their issue by remaining present in the sitting of the Committee and that will be proper. According to the established parliamentary practice and procedure, proceedings transacted in the sittings of all the Committees including the Business Advisory Committee are kept secret and we do not disclose the same to the press. Moreover, it will be more proper that the Leader of the Opposition does not tell me through media the things which he can tell me directly and I request him to take care of the same in future."

(G.L.A. Debates, Book- 144 : 2009)

2. Public Accounts Committee.

(1) Purview of examination by the Public Accounts Committee.

(2) General provisions pertaining to the Committees are subject to the special provisions made for the respective Committee.

On 14th March, 2007, while taking part in the discussion on the Demands for grant of Narmada, Water Resources, Water Supply and Kalpsar Departments, the Minister of State for Home Shri Amit Shah stated that the Rules of the Public Accounts Committee had been framed wherein its purview of examination was well defined and the Committee should function as per the Rules. He also stated that in those Rules it was clearly mentioned that the Committee could consider the matter on which the Comptroller and Auditor

General of India had presented his report. He also stated that eventhough the Sujalam Sufalam Project was still going on and the relevant accounts of the same had neither been audited nor submitted any audit para by the Comptroller and Auditor General of India, the Committee had started considering the matter beforehand and hence he demanded to know as to whether the Committee functions as per the Rules or with a political intention.

Thereupon, drawing the attention to the Provision of presenting "special reports" under Rule - 174 of the General Rules regarding the business of all Committees, Member Shri Punjabhai Vansh raised a Point of Order stating that it was not important as to what was there in the C.A.G Report. He also stated that if any matter not contained in the Audit Report of the CAG comes to the notice of the Committee during the course of its examination, it could prepare a special report on the matter despite the matter not falling under its purview. The Former Chairperson of the PAC, Dr. Chandrikaben Chudasama had prepared a special report as per the provision of Rule - 174 and submitted it to the Hon'ble Speaker for tabling it in the House.

On being sought the guidance by the Member by stating as above, the Hon'ble Speaker, (Prof. Maganbhai Patel) after taking into consideration the views expressed by the Minister Shri Ashok Bhatt and the Leader of the Opposition Shri Arjunbhai Modhwadiya, ruled as under:

"The provision of Rule- 174 deals with a special report. This provision is under the General Rules of business for every Committee. The power to prepare a special report under the provision of Rule - 174 is subject to the special provisions made in respect of any Committee as per the provision of Rule- 186. Hence the power of preparing special report conferred upon the Committee by Rule - 174 is subject to the special provision made for the PAC under Rule- 197 and, therefore, the PAC can prepare its special report subject to the provision under Rule- 197 only. As the Report of the CAG for the year 1993-94 contained no para with regard to the Sujalam Sufalam Project and the report prepared by the Committee has not been approved since the examination undertaken by the Committee and also the special report presented on it does not fall under the purview of the Committee, the Point of Order raised by the Member can not be accepted. In Rule - 197, special provisions have been made with regard to the purview of the Committee. As per the provisions of Rule - 197, the PAC can examine only the matters of audit paragraphs contained in the Audit Report by the CAG."

(G.L.A..Debates, Book 128:2007)

3. Committee of Privileges

(1) A Member, on whom the Privileges Committee submitted its report, cannot remain present in the House during its discussion.

On 31st July, 1972, the Hon'ble Minister of Parliamentary Affairs, Shri Ratubhai Adani moved a motion that the House would agree with the decision of the Privileges Committee that there was no need to take action against Shri Madhavlal Shah, who made a statement in the House on 17th July, 1967, as it was neither wrong nor intended to mislead the House deliberately and no breach of privilege was involved. At that time, Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling: -

"Right now Hon'ble Member Shri Madhavlalbai is present in the House. While discussing any Report of the Privileges Committee in the House about any Member, even if the recommendation made by the Committee is in his favour, it is the duty of the Member to leave the House after making such an argument as if not made by the Committee in support of its recommendation. Hon'ble Member Shri Madhavlalbai has an opportunity to make such an argument, as if not made by the Committee to support its Report and leave the House and, thereafter, the House will discuss on the Report. "

(G.L.A. Debates, Part-2, Book-36, Column 584-585)

(2) A Member of the Privileges Committee may speak against the Report in the House even if he does not attach a note of dissent along with the Report.

On 26th March, 1969, while moving an amendment to the motion for consideration of the Fourth Report of the Privileges Committee, Member Shri Manoharsinhji Jadeja stated that the issue should be referred back to the Privileges Committee for its reconsideration. At that time, Shri Indubhai Patel raised a point of order that despite being a Member of the Privileges Committee, Shri Manoharsinhji Jadeja had not attached his note of dissent with the Report. Therefore, he had no right to speak against the Report. Hon'ble Speaker (Shri Raghavji Leuva) gave his Ruling in this regard as follows: -

"Any Member of the Privileges Committee has the right to give a note of dissent. The question is if the note of dissent is not attached with the Report, whether he has any right to speak against the Report. The Committee should take its decisions by majority as per the norms laid down in our Rules regarding the functioning of the Committees. If any Committee has not disclosed in its Report that its decisions were taken by a majority or unanimously and any Member, who has not given a note of dissent, do not

agree with all those decisions of the Committees, it is not obligatory for a Member to have given a note of dissent in those Committees, where the Members have liberty to give a note of dissent. Therefore, it does not appear in our Rules that a Member, who has not given a note of dissent, cannot disagree with any aspect of a Report. The Committee does not show in its Report as to how a Member has expressed his opinion in a different way if he has not given a note of dissent. However, in our Rules, it is mentioned that the Committee has to take its decision by a majority. That means, if a majority took the decisions and if any Member has a dissenting view in respect of a Report, then, it would not be proper to say that dissenting Member could not express his dissenting views in the house especially in case of committees, where dissent note is not allowed. Hence, I have allowed the Member to introduce the Amendment."

(G.L.A. Debates, Part-2, Book-22, Part-D, Column 4170-4171)

4. Post of Chairman of Petition Committee

Appointment of Dy. Speaker as Chairman of Petition Committee as per the Rule.

On the 26th September, 2008, after presentation of a petition by the Member Shri Chandubhai Dabhi for controlling the pollution caused by draining the polluted water of the chemical factories of Nandesari area into the Mini river, the Hon'ble Leader of Opposition Shri Shaktisinh Gohil raised a Point of Order, requesting the Hon'ble Speaker to pressurise the Government for filling the office of the Deputy Speaker stating that as per Rule No. 247 of the Gujarat Legislative Assembly Rules, the Committee on Petitions was to be chaired by the Deputy Speaker and that the Post of the Deputy Speaker was vacant since long.

At that stage, while expressing his opinion, the Hon'ble Minister Shri Jaynarayan Vyas stated that the Leader of Opposition could not pressurise the Speaker to hold the election for the office of the Deputy Speaker and that it would not be the responsibility of the Hon'ble Speaker to fill up the office of the Deputy Speaker.

The Hon'ble Speaker (Shri Ashok Bhatt), while giving his ruling on the Point of Order stated that the Committee on Petitions was constituted after the First session of the 12th Gujarat Legislative Assembly and as per the powers conferred on him by the rules, Shri Naranbhai Patel was appointed by him as the Chairperson of the said Committee. He also stated that the Committee on Petitions is in existence and functional. Therefore, the Hon'ble Speaker rejected

the Point of Order raised by the Leader of Opposition, informing not to fall in any controversy as to why the office of the Deputy Speaker remained vacant."

(G.L.A. Debates, Book- 138: 2008)

5. Rulings applicable to all Committees

(1) An allegation of intention cannot be made against the Committee of the House.

On 26th March, 1969, during the discussion on the Third Report of the Privileges Committee, Member Shri Narendrasinh Zala while criticizing the Committee stated that he had nothing to do with what the Privileges Committee did deliberately or unknowingly. At that time, when Member Shri Madhavasinh Solanki raised a point of order that whether a Member can criticize the Committee making an allegation of intention, Hon'ble Speaker (Shri Raghavji Leuva) gave his ruling as follows: -

"Making an allegation of intention is said to be purely "improper". Hon'ble Member should withdraw those words."

The Member withdrew his words.

(G.L.A. Debates, Part-2, book-22, Part-6, Column-4135)

(2) Even if the Government appoints a Committee for any purpose, a Motion can come up for appointing a Committee in the House.

On 30th July, 1962, when a motion of Shri Manubhai Palkhiwala was moved to appoint a Committee for removing the shortcomings of the grant-in-aid code, Shri Badruddin Blue raised a point of order that when the Government appoints a Committee, could a motion be moved to appoint a Committee of the House for the same purpose?

At that time, Hon'ble Speaker (Shri FatehAli Palejwala) gave a ruling as follows: -

"We have 278 clauses in our Rules. There is no mention in any of the clauses that once the Government appoints a Committee for any purpose, further suggestion cannot be made to appoint another Committee of the House for the same purpose. Therefore, there is no point of order in the matter."

(G.L.A. Debates, Part-2, Book-6, Column 1157)

(3) It cannot be said for the Report of the Committee that "writing criticism for the sake of criticizing."

On 14th September, 1966, during the discussion on the Thirteenth Report of the Committee on Estimates, Member Shri Narandas Popat referring

to the note made by the Committee regarding purchase of machinery and spare parts stated that the Committee made "the criticism for the sake of criticizing". Thereupon, Member Shri Manoharsinhji Jadeja raised a point of order that could the words "for the sake of criticizing, Committee has made the criticism" be used for the Committee on Estimates?

Hon'ble Speaker (Shri FatehAli Palejwala) gave a ruling that, such words cannot be used for the Committee.

(G.L.A. Debates, Part-2, Book-17, Column 274)

(4) The discussion on the Report cannot be made, if the Committee has not submitted the Report in the House.

On 27th March, 1973, while asking supplementary questions on starred question no. 8463 of Member Shri Manoharsinhji Jadeja, pertaining to allotment of land to Kaivalyanagar Co-op. Housing Society limited, Member Shri Jadeja had delved into some old details. Therefore, the Speaker advised that it would be better to have asked for a device of half-an-hour discussion under Rule 92. Therefore, the Member stated that since the Assurance Committee had held discussions in the matter in detail, the question of Rule 92 would not arise. Thereupon, Hon'ble Speaker (Shri Raghavji Leuva) gave the following ruling:-

"If the Committee has considered the matter and the Report of the Assurance Committee has been laid in the House, then it doesn't matter. If it is not so, the questions cannot be asked and if the Report has come to the House, it can be discussed at any time."

(G.L.A. Debates, Part-2, Book - 42, Column 153-154)

(5) Before examining the Government's point of view if a Committee of the house submits its Report in the House, the Government can make a statement in the House to remove the misunderstanding without referring to the Report of the Committee.

On 2nd April, 1983, the Chief Minister made a statement in accordance with Rule -44 of the rules of the Gujarat Legislative Assembly regarding the recommendations pertaining to Girnar Scooter Project made by the Committee on Public Undertakings of the 6th Gujarat Legislative Assembly. Thereupon, Member Shri Shashikant Lakhani raising a point of order stated that according to the parliamentary practice and procedure, the Government had to submit the statements of action taken before the Committee, by stating whether the Government had accepted the recommendations of the Committee and if not accepted, the reasons thereof. However, in our Rules, there is no mention of the Government having the right to make a statement on the recommendation

of the Committee in the house. In support of his argument, he referring to pages 653 and 654 of the book "Practice and Procedure of Parliament (Kaul and Shakhdar)" stated that even if the Government disagreed with the Report of the Committee, the Government could not make a statement on the recommendation made by the Committee. In the above circumstances, he requested Hon'ble Speaker to give a ruling, whether the Chief Minister could make a statement under Rule - 44 on the recommendation contained in the Eighteenth Report of the Committee on Public Undertakings.

The Chief Minister had clarified that as the Committee on Public Undertakings examined the action taken statements on the recommendations made in its Third Report on the Girnar Scooter Project, the Committee had some doubt with regard to the viability of the Project and, therefore, the Government was asked to furnish by 31st March 1983 its latest position. Without waiting for time limit and for the Government's reply, the Committee had submitted its Report before the House. Since the Report was published in the press, it gave an impression of wastage of public money after that Project. In order to facilitate the Members to understand the current position of the Project, it was felt necessary to make a statement in the public interest and Rule 44 gives a right to the Government to make a statement in such circumstances in the public interest at any time without referring to the Report of the Committee. Thereupon, Hon'ble Speaker (Shri Natvarlal Shah) gave a ruling as follows: -

"While the Chief Minister was trying to present a statement to the House under Rule 44, Shri Shashikant Lakhani, raising a point of order contested that the statement should have been presented before the Committee and not in the House directly. He also said that looking to the observation made at page 654, in "Practice and Procedure of Parliament by Kaul and Shakhder", such Reports were not thought proper by the then Speaker of the Lok Sabha and the Speaker also said that before presenting such Reports in the House, Government should have presented that Statement before the Committee. However, reading the observation made in the said book, at page 654, on which Shri Lakhani has relied upon, I would like to draw the attention of the House to the first three lines, which are very important for deciding the issue, which is now in the House. "In the case of the Fourth Report of the Public Accounts Committee, 1952-53, the Government, deviated from this procedure and laid a statement on the Table on 11th August, 1953 without placing the views. "I repeat, "Without placing the views before the Committee at the first instance."

Now, as represented by Shri Solanki that the Committee gave them time to present the statement before a particular date, but before that date, the

Committee submitted the Report and produced in the House. Therefore, it seems that the Government had no opportunity to present its views in the Committee before presentation of the Report. To my mind, the Committee should have waited until that date before presenting its Report in the House or refrained from presenting the Report, until presentation of such statement before the Committee. Now the Committee, somehow or other thought it proper to present the Report in the House before that date so fixed by the Committee, and thereby the Government was prevented from presenting its views before the Committee before presentation of the Report. In view of these facts, as they are I think the Chief Minister is entitled to make a statement under Rule 44, of course, without making any comment, on the Report, which he has now agreed. Hence, I reject the point of order."

(G.L.A. Debates, Part-2, Volume-83, Column 1217-1229)

(6) A Report can be referred in the House even if it is not presented in the House and it is provided to the Members and published in the gazette.

On 12th December, 1961, during the discussion on the motion of second reading of the Gujarat Panchayat Bill, 1961, bill No. 45 as Reported by the Select Committee, when Member Shri Nagindas Gandhi started drawing attention of the House towards the amendments suggested by the Select Committee in the Co-operative Societies Bill, other Member Shri Lallubhai Patel raising a point of order stated that the Report of the Select Committee on Co-operative Societies Bill could not be cited in the House as it was not presented before the House.

Hon'ble Dy. Speaker (Shri Ambalal Shah) gave the following ruling: -

"The Report of the Select Committee on Co-operative Societies Bill has been distributed among the Members. Not only that, it has been published in the Gazette. Therefore, its reference is not objectionable."

(G.L.A. Debates, Part-2, Book-3, Column 27)

(7) During the discussion on the Report of the Committee, instead of repeating its recommendations, making suggestion of other good recommendations will make the discussions useful.

"On 13th December, 1972, the second day of the discussion on the Report of the High Level Panchayati Raj Committee, after hearing the speeches of some Members and Member Shri Karshanbhai Chaudhary, the Hon'ble Speaker (Shri Raghavji Leuva) made an observation as follows: -

"The recommendations made by the Committee are before the Government. Now, it should be the main purpose to draw the attention of the

Government towards the weak recommendations out of the recommendations made by the Committee and also to make other useful suggestions, which can be used while preparing a bill. Instead of that if the Members keeps repeating what is stated in the Report, then the time of House will be wasted and we will not be able to provide an opportunity, which the Government had sought to find a new way. Therefore, it is a request to the Members not to discuss the recommendations made by the Committee with which the Members agreed. Instead of that, they are requested to make suggestions to the Government that are more useful than the recommendations, so that the Minister and the Government Officers can take note of it and when the Bill comes to us it will come in an appropriate format. Keeping in mind this purpose, if the discussion is made, I think the discussion will be proved useful."

(G.L.A. Debates, Part-2, Book-39, Column 287-288)

(8) No allegation or imputation can be made against the Committee of the House.

On 2nd April, 1965, during the discussion on the Fifth Report of the Public Accounts Committee, Member Shri Manoharsinhji Jadeja stated that he wanted to make an allegation against the Committee, Hon'ble Chairperson (Sabhapati) (Shri Chandrashankar Bhatt) gave the following decision: -

"The Committee cannot be criticized. You can discuss the Report."

Thereafter, when Member Shri Manoharsinhji Jadeja proceeding with his speech, made an allegation against the Committee, Member Shri Madhavasinh Solanki raised the following point of order: -

"The Public Accounts Committee is a Committee consisted of representatives appointed by this House and its status is as dignified as that of the House and can a motive be imputed that whatever it has done has been done by it to tamper with a certain motive?"

Then after some arguments between the Chairperson (Sabhapati) and the Member, the Chairperson gave the following ruling: -

"You cannot impute any motive."

(G.L.A. Debates, Part-2, Book-13(B), Column 1534)

(9) It cannot be stated that, "the Committee has not given a neutral verdict."

On 10th April, 1963, during the discussion on the Reports of the Committee on Privileges, Member Shri Babubhai Vaidya stated that the whole issue was being considered in other way instead of being considered neutrally.

At that moment, Hon'ble Deputy Speaker (Shri Premjibhai Leuva) gave a ruling as follows: -

"A Member cannot make a statement that the verdict given by the Committee was not given impartially but they can say that they do not agree with the decision."

(G.L.A. Debates, Part-2, Book-8, Column 1713-1714)

(10) No allegations can be made against a Committee.

On 28th November, 1969, during the discussion on the Fourth Report of the Committee on Privileges, Member Shri Narendrasinhji Zala, made an allegation on the intention of the Committee on Privilege. Thereupon, Hon'ble Speaker (Shri Raghavji Leuva) gave a ruling as follows: -

"It is not reasonable to make an allegation on a Committee, when the Committee submits its Report in the House. Making allegation against the Committee will result into making it on ourselves. Therefore, we should examine the things stated by the Committee objectively. Instead of alleging that the Committee has done this and not done this, if we argue that this to be done by the House, then we would not hinder the Members of the Committee in their functions. Otherwise, without thinking about the future, when we have to work in the Committee, we will hinder those, who work with the confidence that they are not likely to be criticized in the House. Therefore, when we discuss the Report of the Committees, if we keep restraint on our language, we will make it easier for the Members of the Committee in their function. "

(G.L.A. Debates, Part-2, Book-24(A), Column 471-472)

(11) Decision of any Committee of the Legislative Assembly cannot be criticized.

On 15th July, 1981, at the beginning of the discussion on the Report of the Committee on Private Members Business, Member Shri Jashvantsinh Chauhan raised an issue regarding his motion under Rule - 101, pertaining to a serious problem arisen before the Government as a result of the verdict of the High Court to quash the decision taken by Government to wind up the commission, which was appointed to conduct an inquiry regarding the Machchu Dam.

The Hon'ble Speaker thereupon clarified that as decided by the Subcommittee of the Business Advisory Committee, that motion could not be taken up looking to the Business on hand in the present circumstances. Moreover, while the time was to be allocated to the motion, out of the time

allocated to the Government Business, his issue was irrelevant since the subject of the present discussion was on the Report of the Committee on Private Members' Business. Yet Member Shri Jashvantsinh Chauhan insisted on making submission on the decision of Sub-committee of the Business Advisory Committee.

At this stage, Member Shri Virjibhai Munia raising a point of order requested the Hon'ble Speaker to give a ruling as to whether a decision of any Committee can be criticized or not. Thereupon, Hon'ble Speaker (Shri Natwarlal Shah) gave the following ruling: -

"The point raised by Hon'ble Member Shri Muniya is right, a decision of the Committee cannot be criticized."

(G.L.A. Debates, Part-2, Book-74, Column 513-517)

(12) Functioning of the Committee cannot be criticized.

On 26th November, 1965, during the discussion on the recommendations of the Committee on Assurances, when Member Shri Narbheshankar Paneri stated that the Report of the Committee would have been three times bulkier if a Member of the Opposition Party had been the Chairman of the Committee. Thereupon, Hon'ble Deputy Speaker (Shri Premjibhai Leuva) gave a ruling as follows: -

"The functioning of the Committee cannot be criticized. Making a statement that had a Member of the Opposition Party been the Chairman of the Committee, the Report of the Committee would have been stricter than this one, amounts to an allegation against the current Committee and its Chairman."

(G.L.A. Debates, Part-2, Book-15, Column 458)

(13) Allegation cannot be made against a Committee for the recommendations made in the Report.

On 13th November, 1972, while participating in the discussion on the First Report of the Committee on Public Accounts, Member Shri Dinkar Rai Desai made the following utterances during the speech: -

"In this matter, I have to mention that though the Committee had made the recommendations and Hon'ble Members reminded of the responsibility of the Government to implement the recommendations completely. However, I think that the committee had made the recommendations fearfully by hiding something without suggesting any remedy."

In this matter, Member Shri Narsinhdas Gondhiya drawing attention of the Hon'ble Speaker stated that the Hon'ble Member was making an allegation against the Committee.

In this regard, Hon Speaker (Shri Raghavji Leuva) gave a ruling as follows: -

"The Committees of this House are appointed by the House itself. Those Committees are accustomed to use a dignified language. Therefore, whenever the Committee wanted to criticise, it chooses the most dignified language. That does not mean that the Committee is doing or not doing something out of fear and alleging which amounts to making criticism against the Committee."

(G.L.A. Debates, Part-2, Book-38, Column 112-113)

(14) Members, who are on the Committee, should not ask questions in the House on matters which are under consideration of the Committee.

On 9th March, 1978, during the Question hour on Starred Question number 11233 of Member Shri Karamshibhai Makwana pertaining to Sarvodaya Evaluation Committee, the Member Shri Makwana asked a supplementary question as to what steps were taken by the Government in the matter of increasing the salaries of Sarvodaya workers. The Hon'ble Minister replied that since that matter was a part of the recommendation, it could be considered while considering the recommendation. At that stage, Hon'ble Speaker (Shri Kundanlal Dholakia) gave a ruling as follows: -

"Hon'ble Members have to follow certain norms. A Member, who is associated with and has an interest in a body or an entity, who is a Member of any Committee or Commission should not ask a question relating to those bodies. The reason is that he has every right to take part in the proceedings of the Committee, where all such issues might have been taken up. Therefore, there must be some norms as to a Member of a Committee cannot ask questions relating to the Committee in the House. If such Members do not indulge in such matters, it will help enhancing the decorum of the House. "

(G.L.A. Debates, Part-1, Book-57, Column 581)

(15) A matter given for investigation to a Committee cannot be assigned to another Committee.

During the discussion on Starred Question No. 15932 presented in the House on 31st March, 1992, when the Minister for Narmada Development, Shri Babubhai Patel 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 Hon'ble Speaker (Shri Himmatlal Mulani) 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 project, 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 .”

(G.L.A. Debates, Book – 78, Column 661 – 662.)

CHAPTER-9

Parliamentary Privileges

1. Notice

- Issue of Breach of Privilege cannot be raised without the written permission of the Speaker.

On 28th September, 1979, after the Question Hour, Member Shri Narasinhbhai Gondhiya raising a point of order stated that since he had submitted a notice on an issue of Breach of Privilege to the Speaker, he should be given an opportunity to make his representation. At that time, Hon'ble Speaker (Shri Kundanlal Dholakia) gave the following ruling: -

"Right now I cannot allow you to raise the issue of a breach of Privilege. I have not given you the permission. You can raise the issue in the House only after I decide to admit the notice given by you as notice of Breach of Privilege and the issue cannot be raised in the House without my written permission."

(G.L.A. Debates, Part-2, Book-66, Column 915)

2. Permission

(1) No speech can be made against a permission to raise an issue of Privilege.

On 6th March, 1968, when Member Shri Haribhai Doria sought the permission of the House to raise an issue of Privilege regarding a Report published in the weekly "Tamanna" with regard to some MLAs, Member Shri Virji Dafda started his speech opposing it. At that time, Member Shri Manoharsinhji Jadeja quoting Rule 252 of the Gujarat Legislative Assembly Rules, stated that the speech of Member Shri Dafda was against the Rule and, therefore, it should have been removed from the proceedings. Thereupon, the Hon'ble Speaker stated that the right to oppose was not the important issue; but it was whether he could make a speech in support of his opposition. Member Shri Martandrai Shastri then stated that whether it could be removed from the proceedings or not. Thereupon, the Hon'ble Speaker stated that he would announce his ruling later on as to whether a speech could be made and whether it could be removed from the proceedings. Thereafter, on 28th March, 1968, Hon'ble Speaker (Shri Raghavji Leuva) gave the ruling as follows: -

"Looking to the composition of the rule 252 of the Gujarat Legislative Assembly rules; it seems that: -

- (1) At first the Member has to seek a leave to raise a question;
- (2) Thereafter, the Speaker has to ask the House whether the House grants such a leave;
- (3) While asking in this way, if anybody objects it; and
- (4) The Speaker has to request the Members who are in favour of a leave being granted to rise from their seats.

Looking to these four stages of the process, the Rule makers do not seem to have envisaged supporting a speech against granting permission to raise an issue of privilege. Such a leave shall require the support of only six percent of the Members of the House and that there is no situation for any kind of speech at this stage. Therefore, it was unnecessary.

Now the question for consideration is whether an un-necessary speech can be expunged from the proceedings or not? Under Rule 36, a norm has been prescribed for the words to be expunged from the proceedings, under which an order may be given to expunge any defamatory, indecent, un-parliamentary and improper words. If a Member continues to speak disregarding the order of the Speaker, then the Speaker may rule that his speech is not a part of the proceedings and in such circumstances, he may even order non-inclusion of such speeches in the verbatim proceedings. Accordingly, I accept a part of the point raised by Hon'ble Member Shri Manoharishnji but I cannot accept the later part. I, therefore, rule that it is not improper to continue whatever spoken as a part of proceedings of the House and hence, I do not order to remove the speech of Hon'ble Member Shri Dafda from the proceedings."

(G.L.A. Debates, Part-2, Book-20, Column 4410-4412)

- (2) No reason can be given to oppose the permission of the House to raise a question of Privilege.**

On 28th September, 1970, Shri Chhabildas Mehta, Member of the Legislative Assembly, sought permission of the House to raise a question of Privilege. As Hon'ble Speaker demanded to know whether the House permitted him to raise the question, Member Shri Purushottamdas Patel, rose from his seat. At that time, Member Shri Manoharsinhji raised an objection as to whether the Member could speak at that stage.

Hon'ble Speaker (Shri Raghavaji Leuva) gave a ruling as follows: -

"I would decide that point. Even in the past, when any Member had opposed to give permission for raising an issue of Breach of privilege, I did not allow him to give reasons for opposing the same. It is sufficient to protest."

(G.L.A. Debates, Part-2, Book-30, Column 406)

3. Referring a question to the Committee.

(A) (1) The Speaker may refer under Rule 263 a question of Privilege arising out of censoring the reports of proceedings of the Legislative Assembly to the Committee of Privileges without bringing the same before the House for its consideration.

(2) Under Rule 263, the Speaker may refer the question of a Privilege to the Committee of Privileges without deciding that a Breach of Privilege is committed prima facie.

During the imposition of emergency in the Country, as the Censor Officer of the Government of India had issued a circular that the Parliamentary/Legislative proceedings and decisions are also required to be censored before publishing them in the newspapers, Shri Ashok Bhatt and Shri Arvind Maniyar gave notices of Breach of Privilege on 25th July, 1975.

On 14th August, 1975, Hon'ble Speaker (Shri Kundalal Dholakia) referred the said issue to the Committee of Privileges and announced his decision in this regard in the House as follows: -

"Shri Ashok Bhatt had given a notice of breach of a privilege on the 25th July, 1975. Hon'ble Member Shri Arvind Maniyar also gave identical notice.

In their notices, the Members have complained that the Government of India has declared emergency from the 26th June, 1975 and, thereafter, have issued censorship orders under rule 48 of the Defence of India Rules, 1971, which require certain categories of writings to be submitted to the Censor Officer appointed for the purpose of pre-censorship. They have further said that the Censor Officer of the Government of India for Gujarat Shri H.D. Mehta had issued a circular on 21st July, 1975, which inter-alia says that "pre-censorship is mandatory on the part of the Editors, Correspondents and News Agencies in regard to editorials, reports, comments or features relating to any parliamentary or legislative proceedings and decisions." They have contended that under this order, the Censor Officer would have power to suppress any Members' speech or any decision of the House and that a declaration that such Officer had such power is in itself defamatory to the House and that circular itself constitutes a breach of privilege of the House and contempt of the House. They have further submitted that the circular amounted to interference in the proceedings of the House and, therefore, directly and indirectly interferes with the rights of the Members of the House in the discharge of their duties. They had however, not given any instance.

In continuation of this first notice, on 8th August, 1975, Hon'ble Shri Ashok Bhatt gave further notice Inter-alia giving an example of breach of privilege due to censorship. In that letter, the example given was relating to the question asked by Hon'ble Shri Shantilal Patel to the Hon'ble Chief Minister on 7th August, 1975, in connection with the expenditure incurred on the Prime Minister's visit of Gujarat during election. The Hon'ble Member Shri Ashok Bhatt has stated that the whole proceedings was relating to that question and answer thereto and the same was censored by the Censor Officer except the Heading, which is as follows.

"An approximate expenditure of Rs. 54, 09,943 was incurred due to the visit of the Prime Minister during the elections in Gujarat."

It appears that no report whatsoever has appeared in any of the newspapers regarding the above proceedings of the House. I would like to point out here that Hon'ble Shri Ramanbhai Nagjibhai Patel had also given notice for raising discussion for short duration under rule 112 on the issue of censorship but I had disallowed the notice.

Here, the privilege involved is the privilege of freedom of speech. One of the attributes of this privilege of freedom of speech is that the House has a right to forbid publication of its proceedings. In the House of Commons in practice, this privilege is waived. A press gallery has been provided with all facilities to the Newspaper Reporters to take down verbatim proceedings of the House and to publish them. In theory, it is still maintained that orders of the House of Commons forbidding the publication of debates or other proceedings of their House are still in force and whenever occasion arises, they are enforced. Thus, it is true that, in practice, the House of Commons has waived this privilege so long as, the debates are correctly and faithfully reported. If however, the reports of debates or proceedings of the House are false or perverted or partial and injurious, they are treated as contempt of the House. Similarly, suppressing the speeches of particular Member is also treated as contempt of the House.

While considering this case, all these aspects of the privilege of freedom of speech have to be borne in mind. At the same time, other aspects are also ought to be taken into consideration. The object of having a press gallery and giving facilities to newspaper reporters to take down verbatim proceedings of the House is to ensure that the views expressed by the Members of the House on various problems facing the State or the country are published in the newspapers, which helps in creating and moulding public opinion. At the same time, the public also know the views expressed by their representatives in

the House. If the publication of proceedings of the House is not allowed and even if it is allowed in a truncated form or partially or certain speeches are completely suppressed, it is obvious that the privilege of freedom of speech granted to the Members will be frustrated. It has also to be considered as to whether ordering omission of certain parts of the proceedings of the House or part of the speeches of the Members in the House would amount to distortion and perversion of the proceedings.

It has been brought to my notice that during the Second World War on 2nd December, 1942, in an answer to a question in the House of Commons, U.K. about censoring parliamentary criticism, the Minister of Information had said that "the messages correctly reporting statements made in Parliament whether or not they contain criticism of Members of the Government or of anyone else were not censored." On 8th December 1942, the Minister had further said, "there was no question of censoring speeches made in the House. He had further said, "No speech had ever been censored, and unless some Member, through some aberration of the intellect for which he was not physically responsible, said something about military operations in which case the House would be taken into consultation, There would never be a question of censoring faithfully reported speeches by Members in the House." It is worth mentioning that even in midst of the Second World War, there was no censorship even on foreign correspondent sending messages relating to parliamentary proceedings to their countries.

Thus, this question has to be looked into from both these angles. No doubt, it is difficult to say whether there is a Prima facie case of breach of privilege. I have, therefore, not given my consent to Hon'ble Sarvashri Ashok Bhatt and Arvind Maniar to raise the question of breach of privilege in the House. At the same time, as stated earlier, this question has to be seen from other angle also. It has, therefore, to be considered as to whether the Members as elected representatives of the people would not be entitled to see that the views expressed by them in the House reach the people and whether there should be any obstruction by any authority in that behalf and whether such obstructions would constitute a breach of privilege.

Rule 263 provides that notwithstanding anything contained in those rules, the Speaker may refer any question of privilege to the committee of Privileges for examination, investigation or report. Under this rule, without coming to any conclusion that there is a prima facie case of breach of contempt in any given case, the Speaker has the power to refer such case to the committee of privileges. Under this rule, I, therefore, refer this whole matter to the committee of privileges for examination, investigation and report.

This question involves complicated question of Constitutional law, the law of privileges, the question of powers, privileges and immunities of the House. It also involves the powers of the Government of India under the constitution in an emergency, particularly the powers relating to censorship of parliamentary proceedings. Therefore, I think that it will be better if the Committee takes the assistance of the Advocate General. If the assistance of the Advocate General is necessary, then the proper course will be to name him as a Member of the Committee. I, therefore, name him as Member of the Committee in addition to the Members appointed under Rule 254.

As this question involves complicated question of Constitutional law and the law of privileges, I also direct the Committee to obtain the opinion of the constitutional experts like, Shri H.M. Seervai, Ex-Advocate General, Maharashtra State, who is considered to be an authority on the constitutional law and the law of privileges."

At that stage, the Leader of the Opposition Shri Madhavsinh Solanki, submitted that the House had not got the time to consider the details presented. Therefore, the House should have an opportunity to consider whether prima facie the Breach of a privilege was committed or not and, thereafter, it would be appropriate if the Speaker made a decision. Thereupon the Hon'ble Speaker drawing the attention of the House to Rule 263 stated that the Speaker had the power to refer any issue of a privilege to the Committee of Privileges irrespective of whatever had been laid down in the Rules. At this stage, Shri Madhavsinh Solanki mentioned about the special power conferred to the Speaker in Rule 263 in special circumstances only when there is no provision in other Rules. Thereupon, the Labour Minister Shri Navinchandra Barot submitted that Rule 263 has a non-obstante clause and hence it has an overriding effect. Thereupon, Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling stating that he had previously stated that it is an omnibus. There is no disabling clause in it. There is no extraordinary circumstances or conditions in it and he had referred this matter to the Privilege Committee under Rule 263."

(G.L.A. Debates, Part-2, Book-49, Column 1138-1151)

(B) An announcement of the matter referring to the Privilege Committee under Rule 253(2) for inquiry on the issue of Breach of Privilege arising out of news published in the News-Papers regarding Shri Shankarbhai Chaudhary watching the obscene pictures on his I-pad during the proceedings of the House.

Shri Shankarbhai Chaudhary made a personal explanation under Rule- 45 regarding the news published in the News-Papers of 21st March 2012 for his

watching the obscene pictures on his I-pad during the proceedings of the House and stated that certain interested elements had deliberately tried to defame him and that he had never seen such obscene pictures on his I-pad. He showed his willingness to submit his I-pad to the Secretary of the Gujarat Legislative Assembly for scientific examination and demanded that the inquiry of the entire matter would be made by the Privilege Committee.

Hon'ble Speaker (Shri Ganpatsinh Vasava) made an announcement to the effect that the matter would be referred to the Privilege Committee under rule 253(2) for inquiry and report and also ruled that the scientific examination of Shri Chaudhary's I-pad would be made by Forensic Science Laboratory, Gandhinagar. The proceedings of the House was adjourned frequently on 21st and 22nd March 2012 in the wake of raising the issue of viewing obscene pictures on I-pad in the House. Shri Chaudhary's I-Pad was deposited with the Forensic Science Laboratory, Gandhinagar on the same day for scientific examination. As the Forensic Science Laboratory, Gandhinagar, submitted its Report of scientific examination of the I-pad to the Hon'ble Speaker on 23rd March 2012, Hon'ble the Speaker had announced conclusions of the Report of the Forensic Science Laboratory, Gandhinagar on the same day and also made an announcement of referring the Report alongwith three parcels, received in the sealed envelopes to the Privilege Committee.

(G.L.A. Debates, Book- 168: 2012)

4. Incidents of the Breach of Privilege/contempt before the House.

(1) When an incident of contempt of the whole House takes place and a motion is moved, the discussion on the motion should be given priority suspending the ongoing discussion in the House.

On 7th July, 1981, while Shri Jashwantsinh Chauhan was expressing his views on the recommendations contained in the Fourteenth Report of the Business Advisory Committee, some persons from the public gallery of the Legislative Assembly throwing leaflets shouted slogans in the House. Thereafter, the Parliamentary Affairs Minister, moved a motion regarding the contempt of the House, proposing to keep the wrongdoers in the custody till the proceedings of the House ends, which was passed by the House unopposed. At that stage, Shri Jashwantsinh Chauhan raising a point of procedure of the House asked whether before taking a decision on the first motion, the other motion could be moved in the House. Thereupon, the Hon'ble Speaker (Shri Natwarlal Shah) gave a ruling as follows: -

"When somebody insults the whole House, it takes priority over everything else and you must understand the seriousness of it, rather than that you are taking otherwise."

(G.L.A. Debates, Part-2, Book-74, Column 42-44)

(2) If any Breach of a Privilege is committed before the House, the House may take punitive action without any motion.

On 18th September, 1979, during the question Answer, on a notice pertaining to the price rise of essential commodities under Rule 116, some of the visitors from the gallery throwing leaflets shouted slogans. Therefore, Minister of Parliamentary Affairs requested the Speaker to inquire as to which Member's recommendation the protesters were allowed to enter the Visitor's Gallery and to take necessary action. At that time, when Member Shri Narasinha Makwana stood up and tried to make a representation, the Hon'ble Speaker observed that there should be a regret that leaflets were thrown at the Members of the House.

Thereupon, the Minister of Parliamentary Affairs, moving a motion for keeping the protestors in the custody till the end of the sitting of the House, stated that a full day discussion could be held on 25th September, 1979 on the situation arising out of inflation and price rise of commodities. He then requested the Hon'ble Speaker to announce a decision of the House on it. After hearing the Minister of Parliamentary Affairs and the Leader of the Opposition in this matter, Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling as follows: -

"Rule 249 is very clear. Its proviso states that if a Breach of Privilege or contempt is committed in the actual view of the House, the House may take action without anyone formally bringing the matter to the notice of the House. In the very presence of all the Members in the House, protests have been made committing Breach of Privilege of the House. Therefore, the House can take action in this regard without any motion."

The motion was put to vote and passed unopposed.

(G.L.A. Debates, Part-1, Book-65, Column 481)

5. Acts of Breach of Privilege

(1) Publicizing the words expunged from the proceedings amounts to Breach of Privilege of the House.

On 16th July, 1962, a direction was given by the Chair to expunge the words from the proceedings of the House. In spite of that as the words were published in some newspapers, it amounted to Breach of Privilege of the

House. Therefore, on 3rd August, 1962, the Hon'ble Speaker (Shri Fatehali Palejwala) gave the following ruling: -

"The House is aware that on 16th July, 1962, a direction to expunge certain words from the proceedings of the House was given from the Chair. However, those expunged words, were published in two Gujarati dailies i.e. "Jansatta" and "Prabhat" in their Ahmedabad Edition on 17th July, 1962. Since it amounted to Breach of Privilege of the House, the Editors of the Dailies were asked to make explanation in this regard. The editors expressed their regret over the matter. Therefore, I think, no further action is required to be taken in this matter. Publicizing the words, which are directed to be expunged from the proceedings of the House, amounted to the Breach of Privilege of the House. I hope that all the concerned will take note of this and will take due care so that it does not recur in future."

(G.L.A. Debates, Part-2, Book-6, Column 1398)

(2) If a Minister or a Member knowingly and deliberately gives false information, then only it amounts to the Breach of Privilege.

On 13th July, 1987, Hon'ble the Leader of Opposition Shri Chimanbhai Patel and Member Shri Ashok Bhatt raised issues of Breach of Privilege of the House against the Hon'ble Chief Minister and after the clarification of the Hon'ble Chief Minister regarding both the issues, Hon'ble Speaker postponed his rulings.

Hon'ble Speaker (Shri Natwarlal Shah) gave his postponed rulings on 3rd August, 1988, as under: -

"Hon'ble the Leader of Opposition, Shri Chimanbhai Patel had raised the issue of Breach of Privilege of the House as the information given by the Hon'ble Chief minister to the House on 13th March, 1987 regarding the arrest of Shri Dirubhai Patel, a candidate from Modasa constituency was misleading. While studying the issue raised by him, I found three points seem to be involved in it. One is that why Shri Dhirubhai Patel was arrested isolating him from six accused persons. The second point is that the court had denied his bail due to another case, which was far from the truth as Shri Dhirubhai himself refused to be released on bail. Thirdly, Shri Dhirubhai had grabbed the Collector's collar and threatened to see him as stated by the Chief Minister to the House, was also not correct. Since the first of the three points is a fact, it has nothing to do with a Privilege or misinformation. As regards the second and third points, the Hon'ble Chief Minister explained in the House that for providing information immediately, he informed the House based of

information received over telephone and in other ways without any notice. As stated by him, in the Collector's complaint it has been mentioned that he was pushed. He further clarified that in the minute's book of the District Panchayat the details up to the end of the proceedings of the meeting were recorded, while the point of grabbing the collar and threatening to see him were related to the incident occurred after the meeting ended. Therefore, the same has not been mentioned in the minute's book of the District Panchayat. Having informed these facts, the Chief Minister stated that he had tried to provide the information immediately to the House, which was received over the telephone in pursuance of the new practice evolved for the purpose of giving immediate information to the Members. He had no intention of either misleading the House or taking any political benefit out of it. Only the primary information was provided to the House.

I would like to bring to the notice of the House that just giving false information to the House does not amount to a case of the Breach of Privilege of the House. It arises only if a Minister or a Member knowingly and deliberately gives false information. The point "knowingly and deliberately" is very important in this matter.

Considering the written information given by the Hon'ble Leader of Opposition Party in his notice and the information given by him in the House while raising the issue and the written information given by the Hon'ble Chief Minister and the clarification made by him in the House, it appears that the Hon'ble Chief Minister has not deliberately given false information. Therefore, no further action is to be taken in this matter.

As regards the second issue raised by the Member Shri Ashok Bhatt, the Hon'ble Chief Minister has clarified in the House that the figure of five instead of four was given in the House because there was one person with two names. He does not intend to mislead the House deliberately. He also stated in writing that since the information was to be obtained immediately with regard to the issues to be raised, there has been a factual mistake in the information provided to the House, and therefore, there may have been a misunderstanding. Thus, since the Chief Minister has admitted the factual mistake, no further action is to be taken in this matter. "

Thus, I do not accept both the issues of Privilege. However, I am bringing it to the notice of the House that after the Members gave me written notices regarding these issues, I had decided to seek the explanation from the Hon'ble Chief Minister before taking any decision in the matter. Despite

sending several reminders, I did not receive an explanation in this regard and so I consented to raise both the issues in the House. The delay made by the Chief Minister in sending the explanation is not proper. Such a situation should be avoided. Now I am compelled to make an observation that all the concerned will take due care in such matter in future.

I would also like to draw the attention of this House to another matter that the practice of raising a matter of urgent public importance pertaining to a recent incident without any written notice has been evolved by the consensus among the Members and Ministers of this House. By this practice, a Member has the opportunity to bring the matter to the notice of the House. In the same way, besides a Minister is also compelled to provide information, he has the opportunity to make a clarification before the House. When a Minister agrees to give information immediately, there is a likelihood of having mistaken since he has to get the information over a telephone or a wireless or any other means. Such a factual mistake should not be taken seriously because ultimately the whole thing is based on a consensus. Ministers are also ready to provide immediate information to the House. As such, it is a welcome approach. However, Ministers should not make haste unnecessarily in providing information. If the information is given after making sufficient scrutiny, no such question will arise later on. In such matters, if the Ministers and Members show the required understanding, we will not have any difficulty in implementing this evolving practice."

(G.L.A. Debates, Volume-2, Book-40, Column 801-804)

(3) The question of Privilege arises if a Minister instructs an Employee of the Legislature in an intimidating language.

On 14th August, 1972, as the Hon'ble Speaker came to know about an instruction given by a Minister to an employee of the Legislature by sending a chit in the House using intimidating language, after the laying of consented bills by the Governor, the Hon'ble Speaker (Shri Raghavji Leuva) made the criticism as follows: -

"I have to make an announcement that the employees working in this House also have some Privileges. It seems to me that some Hon'ble Ministers are not aware of these Privileges and one such Hon'ble Minister has given an instruction in an intimidating language to such an employee of this House, which is really a serious matter and it cannot be accepted under any circumstances. I urge all the Hon'ble Members of this House to take note that the Privileges of the employees of the Legislature are even more important than those of the Members of the House.

Another thing is that any communication through chits in any matter inside the House can only be done between the Speaker and the Members. It will not be allowed otherwise or in any other way. Therefore, from today, I have ordered all the peons working inside the House not to give any chit of any Member to anybody else except to the Speaker. The Hon'ble Ministers will understand their responsibilities and behave in this House in an appropriate manner so that this House may not need to resort to serious action because this House will have to be very strict so far as compliance of its Privileges is concerned."

(G.L.A. Debates, Part-2, Book-37, Column 754-755)

6. Mock Assembly

(1) Mock Assembly - Parallel Legislative Assembly damages the dignity of the House.

On 14th July 2009, a Mock Assembly was held by the Members of the Opposition Party on the 4th Floor of the Legislative Assembly building. Therefore, the Minister of State for Legislative and Parliamentary Affairs raised on the same day an issue of a breach of propriety and privilege regarding the Mock Assembly held in the precincts of the Assembly Building under the authority of the Speaker and sought his guidance. On this issue, the Hon'ble Speaker (Shri Ashok Bhatt) ruled as follows:

“Shri Amitbhai Shah, the Hon'ble Minister for Parliamentary Affairs has raised a matter of a breach of propriety and privilege with regard to the Parallel Legislative Assembly or the Mock Assembly held in the precincts of the Assembly Building. Same type of matter was raised in the previous years also. On 14th September 2005, i.e. the last day of the Eighth Session of the Assembly, the opposition Members demanded for a discussion in the Zero Hour, which was rejected by the former speaker. On the refusal of the demand, a parallel Legislative Assembly was held on the 2nd floor of the Building which the then Speaker had taken it with similar seriousness. There are two reasons for it. First of all, we all are People's Representatives irrespective of the party we belong and we all have to maintain the dignity of the Democracy for which I would like once again to remind Hon'ble Sonia Gandhi's words. While participating in the All India Conference for maintaining discipline and decorum in the Parliament and the State Legislatures, she had said "Democracy is the single most important achievement of independent India. India is a political miracle. We are among few countries who have translated independence in our country into the freedom for our people. Parliament is the symbol of miracle. Parliament is the ultimate guarantor of constitution and the

strengthening of our democracy.” Considering this matter we should most proudly accept our democracy and behave accordingly. There are very few countries, where the democracy system has sustained. India is the largest democratic country in the world. It is a matter of pride for Gujarat that the democracy originated in Gujarat first of all in the whole world. Furthermore, it is also a matter of pride for Gujarat that late Shri Viththalbhai Patel and late Shri Dadasaheb Mavlankar were like a pioneer and father of the Parliamentary democracy in the country. They belonged to Gujarat and were respectable for us. Therefore, for the people's representative, it would be a lifelong resolution that he or she knowingly or unknowingly would not cause damage to the Democratic Institution. This institution is our Assembly. We should maintain its dignity and decorum. There may be difference of opinion in the Legislative Assembly; there may be different opinions regarding whether the opportunity for discussions be given. If we do not restrain ourselves in expressing our opinions, I am afraid, we are definitely making mistake somewhere. Therefore, last time when such type of matter had been raised on 14th September, 2005, the whole matter was referred to the Committee of Privileges. In the earlier ruling also when the Parallel Legislative Assembly was held in the Town Hall, the then Speaker had referred the matter to the Committee of Privileges for examination and report under Rule - 263. I again, under the same Rule decide to refer the matter to the Committee of Privileges for examination and report, considering the matter raised by the Hon’ble Minister of Parliamentary Affairs as a breach of privilege. As both the matters of parallel Assemblies are pending with the Committee, I urge the Committee of Privileges to convene its meeting immediately and take a decision on the matters and submit the report thereon.”

(G.L.A. Debates, Book- 144: 2009)

(2) Planning of Mock Assembly should not be done to derogate the status of the Legislative Assembly.

On 28th July, 2009, at the second sitting, after passing Bill No.21 of 2009, the Children’s University Bill of 2009 - the Chief Whip of the Ruling Party, Shri R.C. Faldu raised a Point of Order stating that the Opposition had damage the dignity of the House by continuously holding Mock Assemblies in different cities and towns of the State, which was very unfortunate & sad matter and sought the guidance of the Hon’ble Speaker. On this Point of Order after hearing the views of the Hon’ble Minister of Urban Development Shri Nitinbhai Patel, the Hon’ble Speaker (Shri Ashok Bhatt) reserved his ruling at that time and thereafter on 29th July, 2009 gave his ruling as under:

“Today, I hereby declare my ruling with a deep sense of sorrow caused by the efforts of the Opposition inside and outside the House in the later part of the Fourth Session of the 12th Legislative Assembly to denigrate and disgrace the dignity and decorum of the House and the Parliamentary democracy of the State of Gujarat.

As Members of the House and also as the representatives of the people, it is our moral responsibility to uphold the dignity and decorum of the House. Making mockery and fun of the temple of democracy is definitely not only a serious matter of contempt of the House but also an attack on the Parliamentary Democracy. And as servants or representatives of the people, if we display intolerance, disrespect and cruelty through our conduct in the House as well as outside the House and behave against accepted norms of ethics and discipline, it is entirely against the spirit of democracy. Not only that, but I also firmly believe that such kind of behavior is a blow to the faith of the people in the democracy. Thus, the Opposition has made mockery of the parliamentary democracy itself and denigrated the dignity and decorum of the Legislature by holding the so called Mock Assemblies.

I do believe that incidents of disruption, unparliamentarily slogan shouting, breaking of microphones, rushing into the well of the House, etc. should never become the traditions of our Legislatures. Since the incidents of protests staged by the Opposition in the House on 9th and 10th July was unleashed before the people of Gujarat by the Media by telecasting and publishing, Being the Speaker of the House, I had no other option but to resort to punitive action and suspension of the agitating Members on both the days. On 9th July, the House suspended seven Members for the entire session, out of them three were for breaking the microphones and on 10th July, 11 Members were suspended for three days. However, it was for the Members, who have behaved in such a manner, to have expressed the feeling of maintaining the decorum of the House and rendered their apology after introspection.

Here, it is pertinent to go through the incidents of denigration of parliamentary democracy before coming to the conclusion on the point raised by the Chief Whip.

The Mock Assembly, which started in the Legislative Assembly premises on 10th July, continued till 28th of July, 2009, by holding it one after another in Junagadh, Rajkot, Patan, Mehsana, Vadodara, Surat, Ahmedabad and Gandhinagar. In fact, it is not proper to call them Mock Assemblies but they should be rather called as street plays that too by the elected Members themselves making mockery of the parliamentary democracy in Gujarat, which

is very shocking and, therefore, I tried to find out whether there occurred any parallel incidents in the history of India but nowhere I could find any such incidents. Therefore, I feel very much pained that in Late Shri Vitthalbhai Patel's and Late Shri Dadasaheb Mavalankar's Gujarat, the Opposition has, by holding the so called Mock Assemblies, giving statements/interviews in the press and mass-media and calling on the Court of Delhi High Command, resorted to telling lies and untruths to support their action of denigration, which is really painful. Therefore, I feel it is worthwhile to reveal the truths before the people of Gujarat.

(1) In the past, on 18th February, 1981, a Mock Assembly was held by the then Leader of the Opposition Shri Dalsukhbhai Patel, Ex-Chief Minister Shri Chimanbhai Patel, the present Union Minister Shri Dinsha Patel, Late Shri Makrand Desai and myself when there was neither any dramatical scenes, nor any jokes or fun or usage of abusive languages as occurred in the present case. The present Members, Shri Mohansinh Rathwa and Shri Babubhai Shah had also participated in that Mock Assembly in the past. It was not at all organized with an intention to tarnish the image of the Assembly in the eyes of the people but to educate the people that too for a day. Whereas, today, I feel that the way in which the Mock Assemblies arranged in the aforesaid towns and cities are with an intention to damage the dignity and decorum of the Assembly, which is not only a contempt of the House but also a mediocre attempt to lower the dignity of this apex democratic institution of the State. And if we do not stop such kind of activity, I believe that it would be a serious blow to the faith of the people in their elected representatives and also in the democracy.

(2) Not allowing discussion on the Hooch Tragedy.

Of course, the Lakshman-rekha of my action in the Assembly is restricted by the Constitution, particularly the rules framed under Article 208, which I cannot trespass. On 7th July, Shri Siddharthbhai Patel sought to raise this matter in the House during the Zero Hour which I allowed. However, on the same day, Hon. Shri Amitbhai Shah, the Minister of State for Home assured the House to make a statement on the next day under Rule 44.

On 8th July at 11.55 A.M., Opposition Member, Shri Arjunbhai Modhvadia alongwith some other Members came to my Chamber with a notice of adjournment motion when I told them that under Rule 108 of the GLA Rules, the notice of such motion should have been given not later than one hour before the commencement of the sitting, in which such motion is to be brought. Since I could not ignore the provision of the rule as there was not a single example of introduction of such a motion by my predecessors, where the notice had come

less than one hour before the commencement of the sitting of the House, I did not give leave to move the motion. However, on that day, the Minister of State for Home, Shri Amitbhai Shah, as per his earlier assurance, made the Statement in the House under Rule 44 which is on the record of the House.

Furthermore, since the Hooch Tragedy was a very serious matter, I allowed the Leader of Opposition Shri Shaktisinhji Gohil and Shri Siddharthbhai Patel, Shri Arjunbhai Modhvadia and Shri Sabirbhai Khedawala to express their views on the matter in the House even though there was no provision for such a discussion after the statement under Rule 44.

However, on 9th July, 2009, when the Member Shri Anilbhai Joshiyara's motion for adjournment came up again on the same matter, after going through the precedents and Rules, I decided not to admit the motion as the matter is sub-judice.

In fact, I was compelled to reject the notice of adjournment motion made by Shri Joshiyara as per the provisions of Rule 108 and 34, as in the history of the Gujarat Assembly, out of all the rejected adjournment motions, the following five motions were rejected due to appointment of Judicial Inquiry Commissions on the matters.

1. Motion on the situation arisen out of police firing on 12th March, 1962 at Sanada, Taluka Chhota Udepur.
2. Motion on the matter of mishap of Boat-capsize in the river of Tapi on 14th January, 1963.
3. Motion on the situation arisen out of police firing in Ahmedabad on 5th August, 1964.
4. Motion on the deaths of seven people at the time of ceremony of immersion of idols of Lord Ganesha in Surat on 28th September, 1999.
5. Motion on the incident of burning the train at Godhra.

Thereafter, I gave my ruling regarding the incidents of protests staged by the Opposition in the House for two days i.e. on 9th and 10th July, 2009, which I am not mentioning here for the sake of avoiding repetition. However, due to extreme misconduct of those seven Members, the House suspended them till the prorogation of the House and the other eleven Members were suspended only for three days.

Normally, when such incidents occur, if the leader of the opposition apologizes before the House, the suspension of the Members is withdrawn. To find a solution to this dilemma, on 14th July, 2009, I held a combined meeting

of the leaders of both the ruling as well as the opposition parties wherein though the Opposition Leader made a suggestion of one hour extension of the business of the House for discussion on the Hooch Tragedy, the Minister of Parliamentary Affairs gave his consent for two hours extension with a suggestion for an apology by the Opposition Leader on behalf of the suspended Members as per the practice of Gujarat Legislative Assembly, to which the Opposition did not agree and my attempt for a compromise did not materialize. At that time I also suggested that if interested, a non-official resolution could be moved in the name of Opposition Member Shri Farooqbhai Shaikh on the appointed day for non-official business since the said Member had got priority in the ballot held for the purpose. In this respect I made a statement in the House.

Thus the Opposition boycotted the proceedings of the House alleging that they were not allowed to have discussion on the matter and that they have been suspended from the House, which is far away from the facts and truths of the entire matter. Moreover, the Opposition was aware that this matter could be discussed while participating in the discussion on the demands for grants of the Home Department or Health Department. Instead, the Opposition continued their boycott from the House holding outside the so called Mock Assemblies, which is very sad and against all parliamentary ethics.

During this period, 93 starred questions, five matters of urgent public importance under Rule 116, one private Members' resolution and two private Members' bills introduced by the Opposition Members could not be discussed resulting into non-presentation of the grievances of the people of their respective constituencies. Not only this, by not participating in the discussions on the most important Prohibition Amendment Bill brought into the House for preventing recurrence of such Hooch Tragedies in future, the Opposition lost the opportunity to express the views of the public on it. Thus, the Opposition has damaged the dignity of the temple of democracy of Gujarat by adopting undemocratic ways as described above.

So far as the Point of Order raised by the Chief Whip Shri R.C. Faldu is concerned, I follow the rulings given by my predecessors on the incidents occurred in 1981 and 2005. Accordingly, considering the so called Mock Assembly held from 10th to 28th July, 2009 by the opposition as a mockery and contempt of the legislative Assembly. I entrust this matter to the Committee of Privileges of the Gujarat Legislative Assembly for an in depth inquiry and report under rule 263 of the Gujarat Legislative Assembly Rules.”

(G.L.A. Debates, Book- 146: 2009)

7. Power of the House regarding question of Breach of a Privilege.

(1) The House may also make a final decision on the decision taken by the Speaker regarding the question of Breach of Privilege.

On 26th July, 1977, Member Shri Prahaladbhai Patel raised the issue of Breach of a Privilege in the House regarding publication of a write up in a Weekly "Jai Raj", from Kadi. Thereupon, the Hon'ble Speaker drew the attention of this House to his statement that he would take up the matter with the House by deciding whether to refer the matter to the Privileges Committee. On 7th February, 1979, the Hon'ble Speaker clarified that the editor of "Jai Raj" had regretted and apologized in his explanation and, therefore, there is no need to do anything in this matter.

At that stage, the Leader of Opposition, Shri Madhavsinh Solanki, raised an issue as to whether it was reasonable for the Speaker to have taken a decision instead of presenting the matter to the House for its consideration. After hearing the views of the Law Minister, Deputy Speaker and other Members, the Hon'ble Speaker (Shri Kundanlal Dholakiya) gave his ruling as follows: -

"This essential issue contains two questions: -

- (1) To what extent can the position prevailing in the Lok Sabha be helpful to this House on the issues of a Breach of Privilege; and
- (2) Which of the two can decide this matter, the Speaker or the House."

Clarifying these questions in detail, the Speaker stated that rule 26 pertaining to the question of the Breach of a Privilege in the Lok Sabha is different from our Rule 253. The provision in the Rule in the Lok Sabha is not similar to the provision in GLA Rule. As per the Rule in the Lok Sabha, only the House has the power to decide, while GLA Rule has three alternatives.

Comparing both the Rules, in support of his ruling, the Speaker stated that he had taken into account earlier decisions on the questions of the Breach of Privilege arisen on 11th May, 1961, 20th December, 1963, 22nd September, 1966 and 14th July, 1975. The Hon'ble Speaker quoting the observation made by the Hon'ble Speaker of Lok Sabha, as mentioned on page 259 of the book "Practice and Procedure of Parliament" by Kaul and Shakhthar, stated that though there is no Rule in the Lok Sabha, the matter of taking a decision by the Speaker had been decided. The said situation in the Lok Sabha should also be taken into consideration, while making a decision.

Referring to Rule 253 of the GLA Rules, in order to maintain the dignity of the House without hampering the above decision, the Hon'ble Speaker upheld his decision based on the power conferred to him in the rule. He then ruled that the House had the absolute power to make the final decision on a decision of the Speaker."

(G.L.A. Debates, Part-2, Book-56, Column 615-638)

Contempt

Incidents of Contempt of House

(1) Staging walk-out against the Ruling of the Speaker amounts to contempt of the House.

On 17th November, 1965, the Hon'ble Speaker (Shri Fatehali Palejwala) gave a ruling on the issue of walk-out as follows:-

"To stage a walk-out of the House and leave the House against the Speaker's ruling amounts to a contempt of the House. I also request the Hon'ble Member not to repeat it in future."

(G.L.A. Debates, Part-2, Book -15, Column 112)

(2) Defying the ruling given by the Speaker amounts to contempt of the House.

During the Question Hour, on 29th February 2012, Hon'ble the Leader of the Opposition made a personal allegation against Hon'ble the Minister of Parliamentary Affairs. Hence the Minister raised a Point of Order and stated that Hon'ble the Leader of the Opposition should apologize to the House for levelling personal allegation against him. During the discussions on the said Point of Order, Hon'ble the Leader of Opposition informed that if he had made any personal allegation against the Minister, the recordings of the proceedings of that time could be examined, and if it was proved he would be ready to render his apology to the House. At that time, the Hon'ble Speaker informed that he would give his ruling after examining the records of proceedings himself.

Thereafter, the Hon'ble Speaker examined the records of the proceedings and gave his ruling that the Leader of Opposition had made a personal allegation against the Minister of Parliamentary Affairs. Therefore, the Leader of Opposition was asked to apologize to the House. But, he adhered to his stand of refusing to apologize to the House.

In this connection, on 2nd March 2012, the Minister of State for Parliamentary Affairs raised an issue of Contempt of the House by stating that Hon'ble the Leader of Opposition had committed a Contempt of the House by defying the ruling given by the Hon'ble Speaker to apologize before the House and moved a motion to suspend the Leader of the Opposition from the proceedings of the House, until he apologises to the House or upto the end of the Session of the House. The said Motion was seconded by the Hon'ble Minister of Forests. Hon'ble the Speaker (Shri Ganpatsinh Vasava) put the said Motion to the vote of House and it was passed by the House. Accordingly, Hon'ble the Leader of Opposition was suspended from the proceedings of the House upto the end of the Session.

(G.L.A. Debates, Book- 164: 2012)

(3) Staging walkout against the Speaker's ruling amounts to Contempt of the House

On 7th March, 2011, during the discussions on the supplementary demands, the Hon'ble Minister of State for Energy Shri Saurabhbhai Patel made clarifications on the references made by the Hon'ble Opposition Leader about the Solar Park in his speech. After his speech, the Leader of Opposition raised a Point of Order as to his right to ask question to the Minister. But the Hon'ble Speaker did not allow him to ask question as the Minister of Finance Shri Vajubhai Vala was to give his reply to the debate. Thereupon, all the Members of the Opposition including the Leader of Opposition staged a walkout from the House, shouting slogans. Thereafter, when the Minister of Parliamentary Affairs raised a Point of Order on the Walk out of the Opposition against the ruling of the Speaker, the Hon'ble Speaker (Shri Ganpatsinh Vasava) did not give his ruling then, but gave it on 14th March, 2011, which is as under:

"The Hon'ble Leader of Opposition had sought my permission to ask a question to the Minister after his speech since the Hon'ble Minister of State for Energy had made clarifications on the references made by him about the Solar Park. The permission was granted to the Hon'ble Leader of Opposition under his right to question a Minister as it was a matter arising out of the reply of the Hon'ble Minister. However, in the meanwhile, the Hon'ble Finance Minister had clarified that he has to give his reply to the debate and that the issue of Right to Question would arise only after his reply. But the Leader of Opposition had insisted upon his right to put questions to the Energy Minister as the Energy Minister had intervened in the debate. Considering the views expressed by the Finance Minister and the Minister of State for Parliamentary Affairs, I told the Leader of the Opposition to ask question only after the

Finance Minister replies to the debate. Being annoyed by this, the Leader of the Opposition along with all the Members of the opposition had made a walkout by shouting slogans. Thereupon, the Minister for Parliamentary Affairs raised a Point of Order, expressing his feelings and requested to deprecate the attitude of the Opposition.

In this respect, I have gone through the Assembly rules, the established Practices and the rulings of former speakers, and found to leave the House or to stage a walkout against the Speaker's ruling amounts to contempt of the House. In view of this ruling, the walkout staged by all the opposition Members against my ruling was inappropriate and I regard it as an insult not only to me but to this august House also and, therefore, I hereby warn the Opposition Members to take care to avoid recurrence of such incidents in future"

(G.L.A. Debates, Book- 156: 2011)

(4) Members of opposition were censured for shouting slogans against the ruling of the Speaker.

On 18th March, 2011, during the discussion on demands for grants, the Hon'ble Member Shri Arjunbhai Modhwadia sought the guidance of the Hon'ble Speaker about the Point of Order raised with regard to preventing the farmers affected by the Nirma Plant from visiting the Legislative Assembly and for providing them protection.

In this respect, after hearing the views of the Hon'ble Minister of Parliamentary and Legislative Affairs, Shri Dilipbhai Sanghani, the Hon'ble Speaker, while denying the point raised by Shri Arjunbhai, stated that the incident occurred out-side the House had nothing to do with the proceedings of the House. At this stage, as the Members of the Opposition started slogan-shouting constantly, the Minister of Parliamentary Affairs, Shri Dilipbhai Sanghani raised a Point of Order to indict the Members of the Opposition for interrupting the proceedings of the House, stating that the business of the House runs in accordance with the rules of the Legislative Assembly and also with the established practice and procedure. He also stated that it was a prerogative vested in the Hon'ble Speaker as to which Member should or should not be allowed to speak and that the Whips of the Legislature Parties would have to give the Hon'ble Speaker a List of their Members alongwith the allocation of time for their Members to participate in the debate. He also asserted that even if the Whip of the Ruling Party do not intimate the Speaker in advance about the participation of its Member on a particular debate and the Member himself seek the permission to speak, the Hon'ble Speaker has the discretion to allow him to speak or not to speak and hence it was not proper on

the part of the Opposition Members to disrupt the proceedings of the House by shouting slogans on the issue of allowing particular ruling party Member to speak and he requested the Hon'ble Speaker to reprimand the Opposition Members severely.

Hon'ble the Speaker (Shri Ganpatbhai Vasava) gave the following ruling:

"Ruling party Member Shri Kanubhai Kalsariya and other Opposition Members have violated the rules / traditions of the House by shouting slogans against the ruling given by the Speaker, which is not at all befitting to the dignity and decorum of the House. Hence they are censured for the same."

(G.L.A. Debates, Book-159: 2011)

(5) Shouting slogans or displaying banners during the course of the address by the Governor amounts to contempt of the House for which the House has the powers to punish.

On the 17th February 2009, during the Governor's address, the Opposition Members interrupted address by shouting slogans and displaying banners, which led him to cut-short his address. Since the act of the Opposition Members amounted to contempt of the House, Hon'ble Minister of Legislative and Parliamentary Affairs Shri Amit Shah, on 18th February, 2009, with the permission of the Hon'ble the Speaker moved a motion naming 16 Members of the Opposition and the motion was seconded by Finance Minister.

The Minister of Health expressed his views that all the Members should behave in such a way so as to maintain the highest parliamentary traditions during the course of the address by the Governor. Thereupon the Leader of the Opposition Shri Shaktisinh Gohil contented that inspite of committing more serious acts in the past, no issue was raised with regard to taking action for the contempt of the House and that only the Governor could take action in the previous day's incident, and not the House. Member Shri Arjunbhai Modhvadiya also seconded the contention.

After listening both the sides, Hon'ble the Speaker (Shri Ashok Bhatt) gave the following ruling:

"We all are committed to the Parliamentary Democracy. We should accept that whatever happened yesterday is of an insult to the Governor. All the Members ought to have listened to the Governor peacefully & respectfully when he was addressing the House as the Constitutional Head of the State keeping in view the highest parliamentary traditions and practice. According to the Books

"Practice and Procedure of Parliament by Kaul and Shaktidhar" and "Code of conduct for the Legislators during the President's Address" by Shri C.K. Jain, behavior interrupting the Governor while he is pursuing his constitutional duty cannot be considered proper in any way as there is a constitutional provision of commencing the first session of the year with the address by the Governor. It is equivalent to contempt of the House. As stated in the Book by Kaul and Shaktidhar, the Governor is in charge of the proceedings during his address. Hence naturally the power of taking actions for indecent behaviour lies with him, but the argument that as Hon'ble the Governor has not taken any action, the House does not have powers to take action is not acceptable.

It is stated in the book "Code of Conduct for the Legislators during the President's address" written by Shri C. K. Jain as follows:-

'When the president addresses either house of parliament or both houses of parliament assembled together under article 86 or article 87 of the Constitution, he delivers his address in his capacity of the Head of the state and as part of the parliament and in pursuance of his constitutional duty. It is as much a constitutional obligation on the part of the Members to listen to the President's address with solemnity, dignity and decorum as it is on the part of the President to address the Members of parliament. Therefore, observance of solemnity, dignity and decorum by each and every Member or any other person present on the occasion of the President's address is of utmost importance.

Any action on part of a Member or any other person which mars in any form or manner the dignity or solemnity of the occasion of the President's address or creates disturbances shall be tantamount to an act of discourtesy and disrespect to the President as well as contempt of the Houses.'

The incident that took place yesterday amounts to the contempt of the Governor and the House. Previously in 2000 punishment was inflicted in the similar incident. Moreover, accusatory utterances or displays are not acceptable in parliamentary practice in any country around the globe. We all should apologize to the House for such displays and accept whatever actions are being taken as per our rules.

With a view to adopting this approach in the 12th Legislative Assembly and upholding my responsibility to maintain the system established under the powers conferred upon the House by the Constitution, I accept the motion moved by the Minister for Parliamentary and Legislative Affairs and rule that the 16 Members of the Opposition named in the motion be suspended till the end of the session."

Total 16 Members of the Congress Party mentioned in the motion were suspended till the end of the session on acceptance of the motion.

(G.L.A. Debates, Book- 139: 2009)

(6) Setting the copies of the Budget afire, taking out procession with slogan-shoutings and demonstrations in the Assembly Building are acts of contempt.

On 25th February, 2010, when the Finance Minister was delivering his Budget speech by sitting in his chair after obtaining the permission from the Hon'ble Speaker due to his ill health under rule 29 of the Gujarat Legislative Assembly Rules, the Leader of Opposition Shri Shaktisinh Gohil raised a Point of Order stating that the Finance Minister is committing contempt of the House by delivering the Budget speech by sitting. He cited an example of the past when the then Finance Minister Shri Manoharsinhji Jadeja was granted permission to deliver the Budget speech by sitting due to his ill health, but he politely declined the permission and decided to get the Budget Speech delivered by the Minister of State for Finance by standing on his legs in the House. Therefore, the Leader of opposition demanded that the Finance Minister Shri Vajubhai Vala should also deliver the Budget Speech by standing on his legs. But the Hon'ble Speaker did not agree with the said demand of the Leader of Opposition. This led the Members of the Opposition staging a walk-out from the House shouting slogans and setting fire to the copies of the Budget speech. They also held demonstrations and took out procession within the premises of the Assembly Building.

In this regard, the Chief Whip Shri Pradeepsinh Jadeja made a representation before the Speaker by his letter dated 2nd March, 2010 stating that the Opposition had not only tarnished the dignity and decorum of the House by burning the copies of Budget Speech of Finance Minister but also devalued the important public document. And this act of the Opposition had not only tarnished the image of Members of the House but also lowered the dignity and decorum of the House in the eyes of the people of the State. He also stated that such deliberate act within the premises of the Assembly Building by the Members of the Congress Party amounted to interrupting the proceedings of the House and thereby amounted contempt of the House. He, therefore, requested the Speaker to give permission to raise the issue of contempt of the House.

The Speaker, (Shri Ashok Bhatt) therefore, wrote a letter to the Leader Opposition for his clarification on the matter. The Leader of Opposition, in his reply dated 4th March, 2010, stating the allegations made by the Chief Whip,

submitted that the Members had got the right of drawing the attention of Hon'ble the Speaker with regard to various proceedings taking place in the House by raising Point of Orders or by other means under the Legislative Assembly Rules. He asserted that it had always been a healthy tradition across the country, State Legislative Assemblies and Gujarat Legislative Assembly to demonstrate protest regarding the working of the Government or Minister or the Legislative Assembly in parliamentary democracy. He also submitted that if one looked back to the history of Parliament of India and the Gujarat Legislative Assembly, it could be found that similar events of slogan shootings, staging walk-outs or staging demonstrations had taken place. Such events were but natural and expected in parliamentary democracy and the same would continue to occur in future. Moreover, he stated that since the Members of the Legislative Assembly got certain rights in the form of privileges, such incidents could not be treated as interrupting the proceedings of the house or contempt of the House and, therefore, the notice of the Chief Whip did not deserve for any action and on the contrary, it was the feeling of the Opposition that since the Chief Whip had tried to curtail the privileges available to the Members in a parliamentary democracy, the Leader of Opposition could have requested the Hon'ble Speaker to take action against the Chief Whip for his attempt to curtail the privileges available to the Members but they did refrain themselves from doing so. He also stated that though it was always their earnest desire to honour dignity and decorum of the House, aggression was quite natural as the role of the opposition was to give voice to the problems of the people. He also stated that in the past also there were occurrences of such trivial incidents when the Bharatiya Janata Party was in the opposition and nobody, then had thought or even tried to consider such events as a breach of privilege and demanded for closing the issue based on his explanation.

After considering the submission made by the Chief Whip and the written clarification of the Leader of the Opposition, Hon'ble Speaker (Shri Ashok Bhatt), gave his ruling on 30th March, 2010 as under :

“We consider the Legislative Assembly as the temple of democracy. In a parliamentary democracy, the constitutional rights conferred on us are subjected to the Rules of the Legislative Assembly and Parliamentary Practices. It is not only my responsibility but also the responsibility of all the Members of the House to protect the highest dignity, decorum and traditions of the parliamentary democracy. Considering the issue raised by the Chief Whip and the clarification given by the Leader of the Opposition together, this House believes that Gujarat has become a glittering example of the proud parliamentary practices and it is our goal. It is also our goal to uphold the

dignity and decorum of the Gujarat Legislative Assembly and to become torch bearers of democracy in the entire nation by establishing highest traditions. If we all wholeheartedly accept and adopt this goal, I take very seriously the demonstration and the act of setting fire to the copies of the Budget speech outside the House by the Congress Party on 25th February, 2010. Any kind of procession, demonstration or slogan-shouting in the Gujarat Legislative Assembly building by the ruling or any other party is not only an act of contempt of the House but also derogation of the parliamentary practice and procedure. Because we all have unanimously accepted that the Legislative Assembly Building is the temple of democracy and when we all consider this Assembly House as the temple of Democracy, we all have to unite and worship the democracy and recite the songs of democracy in one voice. It is not proper to hold demonstration, slogan shouting or setting fire to the copies of the Budget speech. The Leader of Opposition, in his reply dated 4th March, 2010 has not even mentioned the incident of making demonstrations by setting fire to the copies of the Budget speech. I am saddened as to why the Leader of Opposition is not accepting the truth. The Opposition has a right to constructive protest in a democracy. In the past, the then Leaders of the Opposition had expressed their feelings of regrets in the House for the incidents that occurred outside the House. I do not repeat the past but when we all have great faith in the parliamentary democracy, I do not agree with the views of the Leader of Opposition that it is the right of the Opposition to set fire to the copies of the Budget speech in the Assembly Building. I seriously condemn this incident because the Finance Minister had sought my permission to deliver his speech by sitting in his chair and I had allowed him to do so in exercise of the power conferred upon me under Rule 29 of the Assembly Rules. Therefore, all the demonstrations including the incident of setting fire to the copies of the Budget speech amount to contempt and disregard towards the decision of the Chair. Incidents like shouting slogans, staging demonstrations, setting fire to the copies of the budget speech cannot, by any means, be considered as parliamentary democratic incidents, but I consider them as political demonstrations held by the Congress Party and, therefore, no party has any right to stage political demonstrations in the Assembly Building and hence I do not agree with the views of the Leader of the Opposition that such incidents do happen and have happened in democracy and parliamentary system and it is but natural and expected. I have gone through all the incidents that have had happened in the Gujarat Legislative Assembly Building so far. I am sure, political parties might have shouted slogans or staged protests in the Assembly Building after 1960, but no incident similar to this one of setting the copies of Budget Speech a fire might have occurred. If all of us are not

concerned for this and keep quiet, incidents like burning effigies of political leaders which usually take place in streets, shall take place in the Assembly Building and its precincts. I, therefore, take the incident of 25th February, 2010 very seriously and firmly believe that it is not only a contempt of the House, but it is a matter of great concern and shock to all those who have faith in the parliamentary democracy. We should keep the memories of the glorious past. We will be able to uphold and preserve the parliamentary traditions only if we keep our eyes on inspiring incidents of the past. I hope such incidents will not recur and when we have considered the Assembly as the temple of democracy, we should feel sorry for such indecorous incident.”

(G.L.A. Debates, Book- 148 : 2010)

(7) 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. I urge you not to use these words”

(G.L.A. Debates, Vol. II, Book – 42, Column 609-610)

(8) Bringing Iron Rulers in the House and beating them on the table by the Opposition Members to express their protest amount to contempt of the House.

During the Eighth Session of the Thirteenth Gujarat Legislative Assembly, on 29th March, 2016, at the time of Question Hour, the Members of the Opposition were engaged in persistently shouting slogans by beating iron rulers on the table of the House in spite of repeated request from the Chair to

allow the question hour to pass on peacefully. Thereupon, Hon'ble Speaker was compelled to order removal of all the Opposition Members present in the House from the proceedings of the House under the provisions of Rule 51 of the Gujarat Legislative Assembly Rules.

Whereupon Hon'ble Health Minister Shri Nitinbhai Patel, while justifying the removal of the Opposition Members from the House, raised a point of order bringing the attention of the Chair to the gravity and seriousness of the situation of brandishing iron rulers and beating them on the table of the House. Perhaps, any Member, in anger, might cause, injury to any other Member or to any officer of the Secretariat. In fact, in GLA, keeping the dignity and respect for the Members, the security staff never check them while they enter the House. However, in order to prevent such situations in future, Hon'ble Minister sought the guidance of the Hon'ble Speaker for adopting some separate procedure in this regard.

Thereupon Hon'ble Speaker (Shri Ganpatsinh Vasava), while accepting the Point of Order expressed his views that every Members were aware of the rules, practice and procedure of the House. According to the provisions of Rule -57 of GLA Rules, bringing in an umbrella or a stick is not permitted in the House. As per provision of Rule 57(8), even water cannot be brought in the House without the permission of the Speaker. In spite of all that, Members of the Opposition were engaged in disrupting the proceedings of the House persistently by slogan shouting, bringing in iron rulers and beating them on the table of the House particularly during important question hour and thereby committed a contempt of the House. On the previous day also, in spite of his order, the Opposition Members were indulged in showing play cards. Such repeated incidents of disturbing the proceedings of the House were matters of serious concern. He also stated the importance of the question hour not only for the Members but for the public at large and obstructing it became an act of injustice to the public at large and wastage of public money. Hon'ble Speaker thereupon ruled that such acts of the Members of the Opposition were very serious and unbecoming and had admonished them for the same.

(G.L.A. Debates, Book -35, 2016, Vol. 4)

(9) When a speech is being delivered in the house, if any Member obstructs the functioning of the House for a long time, by chanting a dhoon, thumping on the benches or by any other way, he is considered to have insulted the House.

On 17th February, 1981, after presentation of the budget for the year 1981-82, Member Shri Jashwantsinh Chauhan raising a point of order stated

that when the Finance Minister was delivering his speech, the Opposition Members had insulted the House by chanting Ram-dhoon, thumping on the benches and obstructing the functioning of the House for a long time. He also submitted that in a parliamentary democracy, different parties had the right to express different opinions. However, for effective functioning of the democratic system, it was the duty of all the Members to listen to one another peacefully. He further stated that if the situation could not be maintained, then the dignity of the House would be marred and there would be many difficulties in its functioning. Moreover, to bring the House in order, the House might be compelled to take direct action with the consent of the Speaker against the Members, who had disrespected the House or refer the issue to the Committee of Privileges. He then moved a motion on the contempt of House under Rule 249 of the Rules of the House. After hearing the other Members and the Minister of Parliamentary Affairs moving a motion and getting it passed for suspending the Members from the sitting of the House against contempt of the House, the Hon'ble Speaker (Shri Natwarlal Shah) gave a Ruling as follows:-

"As per the motion, which has been passed, except the Deputy Speaker, all the Members of the Opposition Party, who were involved in chanting the dhoon and thumping on the benches, are suspended from taking part in the proceedings of the House till the last day of this week."

(G.L.A. Debates, Part-2, Book -71, Column 572-580)

Breach of Propriety

1. Notice of Breach of Propriety

(1) The matter of notice should not be published in newspapers before the Speaker admits the notice.

On 19th February, 1976, raising a point of order, Member Shri Thavardas Lagharam Khubchandani stated that as per the news published in the newspapers here on 6th February, Member Shri Chhabildas Mehta had informed the journalists that he would move a motion pertaining to removal of the Speaker and the same would be introduced in the House on 19th. He further asked how did the Member come to know about the issue and stated that there occurred a Breach of Propriety in giving the information to newspapers and, therefore, sought a ruling from Hon'ble Speaker.

Member Shri Babubhai Vasanwala quoted Rule-22 (a) and supported the issue raised by Member Shri Khubchandani pertaining to the Breach of

Propriety. After hearing the Members, the Hon'ble Deputy Speaker (Shri Manubhai Palkhiwala) gave a Ruling as follows: -

"The point raised by Hon'ble Member Shri Khubchandani is not a point of order but it is an issue of Breach of Propriety. Our Rules are very clear in this regard and considering the Rulings of the Lok Sabha many a time in this regard, publishing the matter of Notice in the daily newspapers before admitting the notice amounts to a Breach of Propriety and the Hon'ble Member should refrain from this kind of Breach of Propriety."

(G.L.A. Debates, Part-2, Book-50, Column 734-735)

(2) 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 that on Friday the 7th March 1986, 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 was 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 today only by rising in the House."

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

(3) 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 (Shri Shashikant Lakhani) 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”

(G.L.A. Debates, Book. 53, Column 28-30.)

2. Acts of Breach of Propriety

(1) When the House is in session, the Government should make important announcement first in the House instead of giving to the press.

On 21st February, 1961, Member Shri Jashwant Mehta while raising a question of Parliamentary Propriety Pertaining to publication of the report of the Inquiry Commission in connection with the issue of firing in Dahod, stated that when the House was in session, the Government had made an announcement about the acceptance of the Inquiry Commission's Report in the Press instead of announcing it in the House. He further stated that such a policy announcement should have been made in the House instead of giving the same to the press. Therefore, there occurred a Breach of Parliamentary Propriety.

Hon'ble Speaker (Shri Mansinhji Rana) drawing the attention towards observation No. 247, the Lok Sabha Observation from the Chair, January 1952 to 1957 page 148-149 and gave his Ruling as mentioned below: -

"Generally our practice is that such publications are first presented before the House. But the Report has been released by the General Administration Department and its copy also reached to the press yesterday. But it should have been presented before the House. So, it is desirable that the practice of presenting such publications relating to public interest before the House first is to be followed instead of providing them to the press."

(G.L.A. Debates, Part-2, Book-2, Part-A, Column 60)

(2) Government should announce policy decisions in the House while the House is in session.

On 28th March, 1970, the Assembly session was adjourned sine die as per the motion passed by the House. The adjourned sitting was subsequently reconvened on 8th June, 1970 by order of the Speaker. In the mean time, the Government had made announcements in the newspapers on the subjects as mentioned below: -

- (1). Increase in the Dearness Allowance of Government Employees;
- (2). Relocating the capital to Gandhinagar; and
- (3). Appointment of High Level Committee to maintain Departmental balance.

On 11th June, 1970, with regard to the aforesaid announcements, Member Shri Chhabildas Mehta raising a question of Breach of Propriety stated that when the House was in session or it was to meet, the Government should have made the announcements of such important policy matters in the House instead of outside the House. It was an accepted practice adopted by the Parliament in the country and also in Britain and everywhere. The Government had violated the practice without maintaining the dignity and decorum of the House and committed a Breach of Propriety. In support of the issue, the Member further stated that when the Speaker had called for a sitting of the Assembly on 8th June, 1970, it was not appropriate to have made such important announcements outside the House on or before 6th June, 1970.

Taking into consideration the clarification made by the Government in this regard and the arguments made by other Members, the Hon'ble Speaker (Shri Raghavji Leuva) gave the Ruling as mentioned below: -

"The Government should make all important announcements within the House and one should not make a narrow meaning of this practice that its only purpose is to show respect towards the House. The main purpose behind this is that when the House is in session and when the Government presents any such important decision before the House, the House may present its views and get the Government to make appropriate revision or change in its decision. The House has and it should get such opportunities from time to time. With this point of view, when the question of a Breach of Propriety has arisen, the majority of Members of the House got a chance to recall the adjourned House, when they thought of adjourning the House. Had the Governor prorogued the session, it might take time to issue summons, but that was not the issue. The issue was in the hands of the Government itself. So it cannot be said that the

House was not in session. Assembly can be considered to be in session. From whatever decisions announced, the decisions that can be called policy related decisions should have been announced within the sitting of House because that is consistent with the Parliamentary democracy. We are not aware of any such incidents of adjournment of the House sine die in the past and that, for want of proper guidance to the Government from its advisors, this mistake is likely to have occurred. The Government will be alert in this regard, when such an incident takes place in future. "

(G.L.A. Debates, Part-2, Book-28, Column 284-286)

(3) When the sittings of House are adjourned for quite a long time with the consent of the entire House and the Ministers make policy announcements during the interim period, complaint of Breach of Propriety should not be made.

On 12th October, 1973, after the debate on the floods occurred in the state, when the Hon'ble Speaker, with the consent of the House, made an announcement about the adjournment of the House from 13th October, 1973 to 11th November, 1973, Hon'ble Speaker (Shri Raghavji Leuva) made the following observation: -

"The Business of today's sitting is over. As decided earlier, the House will meet on Monday, 12th November, 1973 at 12:00 noon. In the meantime, as this session of the House is considered to be going on and if the Hon'ble Ministers make any policy statements, I hope no Member will make a complaint about the Breach of Propriety in the sitting of the House, to be held on 12th November."

(G.L.A. Debates, Part-2, Book-45, Column 1196)

(4) 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. The Government had issued this resolution keeping in mind its original policy. It was categorically stated in this Government Resolution that a change had been made as to the age limit and income limit in that scheme. Thus it was not 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 (Shri Natvarlal Shah) gave his ruling on the matter as under;

“The Minister said that he had made changes in this Govt. Resolution on the demand of 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 the book “Practice and Procedure of Parliament” by Kaul and Shakhder. 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.”

(G.L.A. Debates, Book- 37, Vol. II, Pages 75-81)

(5) 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 Vasanwala 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 (Shri Natvarlal Shah) gave his following decision :-

“Member Shri Babubhai Vasanwala 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. 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".

(G.L.A. Debates, Vol. II, Book – 36, Column 515-516)

(6) Publishing in the newspaper, the letter of the Chairman Contained in the Report of the Rane Commission before presenting it to the House amounts to Breach of Privilege.

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 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.

"According to 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 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”.

(G.L.A. Debates, Book - 8, Vol. II, Column 533-535)

(7) The point of breach of Propriety on the publication of details of Report in the news papers 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, Book 1, Vol. II, Column 60)

(8) Providing details of correspondence between the Speaker and a Member to the Media is a Breach of Propriety.

On 23rd March, 2015 during the Sixth Session of the 13th Gujarat Legislative Assembly after the question hour, Hon’ble Minister for Law Shri Pradeepsinh Jadeja, while raising a Point of Order stated that Shri Shaktisinh Gohil had disclosed to the Press the details of a letter written by Shri Gohil

himself to the Hon'ble Speaker even after elaborate discussion on the point of order raised by Shri Gohil regarding Hon'ble Shri Dharmendrasinh Jadeja's question at priority No.9 and such a practice, which was intended to pressurize the Hon'ble Speaker to take a decision, amounted to breach of the highest parliamentary practice of the August House. Hon'ble Member Shri Paresh Dhanani and the Leader of Opposition Shri Shankarsinh Vaghela also expressed their views against the point of order. Thereupon, the Deputy Speaker, (Shri Atmaram Parmar), who was on the Chair, stated that he would declare his ruling after going through the newspapers, the letter written by the Hon'ble Member and the rulings given by former Speakers.

While giving his ruling on 25th March, 2015, Hon'ble Deputy Speaker (Shri Atmaram Parmar), stated that despite giving adequate opportunities to Shri Gohil for making elaborate submission on the point of order raised by him regarding Hon'ble Member Shri Dharmendrasinh Jadeja's question at priority No.9 in the House, Shri Gohil had written a letter to the Chair in support of the point of order raised by him on 20th March, 2015 and got its details published in the newspapers. Thus, Shri Gohil had breached the propriety, which was against the highest parliamentary practice of the August House. The Chair observed that according to ruling of the former Speaker after raising a point of order by a Member and then making correspondence with the Speaker on the same subject was also against the highest parliamentary practice of the House. The Chair also observed that providing to the press, the details of the letter written by Shri Gohil was a serious matter amounting to breach of propriety. The Chair, therefore, accepted the point of order raised by the Law Minister while directing Shri Gohil that care should be taken for not indulging in such activities in future.

(G.L.A. Debates, Book -25: 2015, Vol. IV)

(9) A Breach of Propriety of the House arises by giving details/information contained in C.A.G. Reports to the media before presentation of the Reports in the House.

On 28th March 2012, Hon'ble the Minister of Parliamentary Affairs Shri Dilipbhai Sanghani, quoting Article 151(2) of the Constitution of India and Rule 173(2) of the Gujarat Legislative Assembly Rules stated that the delay in laying the C.A.G. Reports on the Table of the House did not violate any provision of the Constitution or Rules. In this regard, the Ruling given by the former Speaker was also on the indication of request for laying the reports within a week after presentation of the Budget. When there is no provision regarding the time-limit for laying the Reports of the C.A.G. on the Table of

the House under the Gujarat Legislative Assembly Rules or the Constitution, the Leader of Opposition by convening a Press Conference disclosing certain details contained in the C.A.G. Report before the media, had damaged the dignity of the House and also Breached the propriety of the House. The Opposition Members by shouting slogans and staging demonstration inside and outside the House, the area which falls exclusively under the Hon'ble Speaker's jurisdiction, had also damaged the dignity of the House and breached the Propriety of the House. In order to prevent such type of activities in future and preserve the dignity of the House, Hon'ble the Speaker was requested to give his ruling. In the aforesaid issue, the Hon'ble Minister of State for Parliamentary Affairs, while expressing his views stated that the Deputy Leader of Opposition had also breached the Propriety of the House by disclosing the contents of letter boycotting the sitting of BAC held on 26-3-12 to the media. At that time, the Hon'ble Speaker (Shri Ganpatsinh Vasava) stated that he would give his ruling on both the issues after making a complete study of the matter.

"While giving his postponed ruling, Hon'ble the Speaker stated that the Reports of C.A.G. are presented to the Governor under Article 151 of the Constitution. The Governor initiates the procedure of laying the C.A.G. Reports on the Table of the House. As per the well- established practice, as soon as the C.A.G. Reports are laid on the Table of the Legislative Assembly, they are deemed to have been referred to the Public Accounts Committee and then the Public Accounts Committee considers them and presents its report to the House. During this process, no discussions are held on the C.A.G. Reports in the House. Hon'ble Speaker further stated that the Ruling of Ex-Speaker is like a suggestion. As there is no provision in the Constitution or in the Gujarat Legislative Assembly Rules regarding the time limit within which time frame the C.A.G. Reports are to be laid on the Table of the House, Hon'ble the Speaker accepted the Point raised by the Minister of Parliamentary Affairs and also ruled that there is no violation of any Rule or Parliamentary Practice in laying the reports before the House belatedly.

Moreover, Hon'ble the Speaker, while giving his ruling on the issue of breach of propriety, stated that the Leader of the Opposition, by disclosing certain details contained in the CAG Reports to the media before they are laid on the table of the House, had breached the Propriety of the House. As per the Rulings given by Ex-Speakers, any report becomes public document after it is laid on the Table of the House as per Rule - 61 of the Gujarat Legislative Assembly Rules. In the present case, making the details of the C.A.G. reports

public through the media before laying the reports on the Table of the House amounted to Breach of Propriety. Hon'ble the Speaker further ruled that the Deputy Leader of the Opposition had also breached the Propriety of the House by disclosing verbatim contents of his letter boycotting the sitting of BAC to the Media. While accepting the Point of Order and the issue of Breach of Propriety raised by the Hon'ble Minister of Parliamentary Affairs, Hon'ble the Speaker warned the Leader of Opposition and the Deputy Leader of Opposition to be careful about such matters in future."

(G.L.A. Debates, Book- 169: 2012)

(10) Breach of Propriety arises, when 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 I lakh, aankdi 1 lakh' [(National Family Welfare Drive, My Magnificent Gujarat, Victory to magnificent Gujarat, target: I lakh, loop 1 lakh)] is written. The banner has been put right above the entrance. About this House, on page 86 of Chapter seven of Kaul and Shakhder, edition 1984, 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 that whether 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 did 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 Natwarlal 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. 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 instruct to remove this banner immediately.”

(G.L.A. Debates, Book 14, Vol. II, Column 936 – 944)

(11) Sitting in the Public Gallery by a Member of the Assembly amounts to Breach of propriety.

On 28th March, 1984, Member Shri Dinsha Patel, raising an issue of Breach of Propriety, stated that a while back, Shri Vijaydasji Mahant was sitting in the public gallery with Shri Butasinh and sought the guidance from the Hon'ble Speaker as to whether any Member could sit in the public gallery while the sitting of the House was going on.

After hearing other Members, Chief Minister Shri Madhavsinh Solanki clarified that it is a practice that the Members of the House should not sit in the Public Gallery. Being a new Member, he might not be aware of this practice and this might have happened mistakenly. Then, after hearing some Members, including the Leader of Opposition, the Hon'ble Speaker (Shri Natwarlal Shah) gave the following Ruling: -

"Member Shri Dinasha Patel while raising the issue of Breach of Propriety stated that one of the Member of this House, Shri Vijaydasji Mahant was sitting in the public gallery and as it was not proper for him to sit in the public gallery as a Member of this Assembly, it amounts to a Breach of Propriety.

The Hon'ble Chief Minister also admitted that it was a practice accepted generally that the Members should not sit in the gallery. This matter was discussed earlier and the then Speaker has also expressed his opinion.

With regard to Hon'ble Shri Vijaydasji Mahant, it cannot be said that he is a new Member of this House and he was perhaps sitting there by mistake. He is a very senior and responsible person. When we are sitting in this House as Members, it is our duty to attend this House and should not sit in the gallery of the House. From this point of view, Shri Vijaydasji Mahant should not have gone to the gallery and that way his behaviour is not justified. But considering the explanation made by the Chief Minister, there is nothing else to be done in this regard."

(G.L.A. Debates, Part-2, Book-88, Column 305-308)

3. Acts which cannot be considered as a Breach of Propriety.

(1) While the House is in session, Minister cannot announce any decision of the Government outside the House.

On 4th March, 1965, Member Shri Ranjitrai Shastri, raising an issue of Breach of Propriety stated that Hon'ble Minister Shri Vajubhai Shah had declared at the 4th Annual Day function of the State Transport Corporation on 3rd March, 1965, that the question of setting up a road corporation for construction of roads in the State of Gujarat was under Government's consideration and if implemented, the work of roads would be easier. The

Member further stated that the Minister had breached the Propriety of the House by making such an important announcement outside the House while the session was going on.

Hon'ble Speaker (Shri Fatehali Palejwala) gave a Ruling on 5th March, 1965 in this regard as mentioned below: -

"As per the practice, no Minister should make any policy statement outside the House while the House is in session. If the Minister has announced the decision of the Government on any important matter, it can be said that the Minister has made a policy statement. But in this case, the Member himself states that the Minister has only stated that the issue is under consideration of the Government, so it is obvious that the Minister has not announced any decision of the Government. Hence a question of Breach of Propriety of the House does not arise."

(G.L.A. Debates, Part-2, Book-13(A), Column 579)

(2) When an inquiry is being conducted by the Inquiry Commission against an Officer regarding misinformation given to the House, a Breach of Propriety is not committed if the Government does not provide the specific information to the House until the inquiry is completed.

On 1st September, 1965, Hon'ble Member Shri Manoharsinhji Jadeja raising an issue of Breach of Propriety stated that the Government of Gujarat had purchased some horses in the year 1961 and presented the details of purchase which was far from truth in the House and by doing so, the Government had misled the House. After hearing the Home Minister Shri Hitendrabhai Desai, the Speaker postponed his decision in this regard.

On 6th September, 1965, Hon'ble Speaker (Shri Fatehali Palejwala) gave his Ruling as mentioned below: -

"On 1st September, 1965, Member Shri Manoharsinhji Jadeja had raised an issue of a Breach of Propriety. He had stated that in the year 1961 the Government had purchased some horses and in that connection, Member Shri Chhabildas Mehta had asked a question in the House. The details which were given by the Government in its reply were far from truth. In such a situation, instead of clarifying about the fact, the Government has confessed its mistake before the Diwan Panch and in so doing, it has committed a Breach of Propriety of the House.

In this respect, I have examined this question minutely. The Government should have first made clarification in the House when it felt that the information which was given to the House was not true. But in this case, the Hon'ble Home Minister has stated that the Government has not taken any final decision. At this stage, there was an allegation against the concerned official of the Government that he had given false information to the Government. One of the issues in the charge sheet filed by the Government against this bureaucrat was that he had given false information to the Government and made the Government to give the false information to the Legislative Assembly. Thus, the final decision whether the information provided by the official to the Government was true or false has not been made yet. It is still pending before the commission. Thus, at this stage, the information given by the officer cannot be exactly said to be true or false and, therefore, it is not possible for the Government to give any exact information to the House at this stage. In these circumstances, I do not think that a Breach of Propriety is committed by not providing information to the House at this stage."

(G.L.A. Debates, Part-2, Book-14, Column 56 & 190)

(3) Since the Oath ceremony is not a part of proceedings of the House, if a Member taking the oath talks about the things other than the faith and allegiance to the constitution, it does not constitute a Breach of Propriety.

On 19th June, 1980, during the oath ceremony, Member Shri Ashok Bhatt had sworn in by speaking some words other than the words written in the prescribed oath form. Thereafter, on 20th June, 1980, Member Shri Laxmanbhai Patni, raising a point of order stated that Member Shri Ashok Bhatt had added some special words in addition to the prescribed oath format during the oath ceremony in the House and sought a Ruling from Hon'ble Speaker as to whether it constitutes a Breach of Privilege or not. Thereafter, Minister Shri Manoharsinhji Jadeja, while expressing his views, stated that using the words other than those in the constitutional pledge while taking an oath did not maintain the dignity of the House. He further stated that although the address of the Governor / President was not considered to be the part of the proceedings of the House, there should have been some decorum and in this way, the matter became an issue of a Breach of Propriety and not a Privilege. After hearing the views of other Members and Hon'ble Chief Minister in this regard, Hon'ble Speaker (Shri Natwarlal Shah) gave a ruling as mentioned below: -

"The main question raised in the issue of Propriety is whether the person taking oath, may not speak on the item other than or speak words other than loyalty and allegiance to the constitution as written in the format or not and if he or she does so, can it constitute a Breach of Propriety or not. Moreover, the question is whether the procedure of oath is a part of the proceedings of the House or not. And when the procedure of oath is not a part of the proceedings, the issue of a Breach of Propriety does not arise. Whatever has been done during the procedure of oath, it has also been stated on it that even if it is not considered to be a part of the proceedings, Members of this House should behave in a dignified way during the procedure of oath as expected from them to maintain the dignity and the decorum of the House and must take oath as per the prescribed procedure for the oath. I believe that the procedure of oath is not a part of proceedings of the House. So the issue of a Breach of Propriety does not arise. Yet, since the procedure of oath is a very sacred event, when the Members go to take the oath, they should take oath honestly and as per the prescribed procedure and without having any reservation and I hope that Members who will take oath in future will keep this in their minds and will try to take oath honestly and without resorting to any controversial issues and as per the procedure of oath prescribed in the constitution."

(G.L.A. Debates, Part-2, Book-67, Column 80-95)

(4) In the House, if a Minister mentions that he has not made such a statement, then the motion of a Breach of Propriety should be dropped accepting such an explanation.

On 9th March, 1981, after the Question Hour, with prior permission of the Speaker, Shri Ashok Bhatt raising an issue of Breach of Propriety regarding the press report published in the daily, Gujarat Samachar on 2nd March, 1981 about the Panchayat Minister pertaining to Vadodara Municipal Corporation, stated that during his visit to Vadodara, the Panchayat Minister had stated that the State Government would supersede the Vadodara Municipal Corporation if its newly elected Members would not be able to resolve the statutory issue raised, in the interest of the city. He further stated that by not making a policy statement inside the House when the House was in session, the Minister had committed contempt of the House and Shri Bhatt requested the Speaker to give a Ruling in this regard.

The Panchayat Minister quoted some paragraphs from another newspaper and stated that he had not made any policy announcement or statement but made explanation that the Government would take action as per

legal advice only. After hearing other Members, the Hon'ble Speaker (Shri Natwarlal Shah) gave the following Ruling: -

"Hon'ble Ashokbhai has raised the issue of a Breach of Propriety on the basis of a statement of a newspaper. Hon'ble Minister stated that he had not given any statement and in his support he had also cited some quotations from other newspapers. But instead of going into its details, I believe that an issue of a Breach of Propriety arises only if it is cleared that the Minister had made such a statement or not and when the Minister himself states that he had not made any such policy statement and if he makes an explanation, then I think we should accept the explanation. Considering this, I do not think he had any intention to dishonour the House and, therefore, the proposal of a Breach of Propriety does not sustain."

(G.L.A. Debates, Part-2, Book-72, Column 695-704)

(5) Republishing of information which is once published in Newspaper does not amount to Breach of Propriety.

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 Opposition 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 Rafaleshwar 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 Rafaleshwar 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 Rafaleshwar 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 in 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, Book -35, Vol. II, Column 279-282)

(6) 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 (Shri Himmatlal Mulani) 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."

(G.L.A. Debates, book -74 Column 596-599)

(7) When the House is in Session, announcement of Administrative matter does not amount to Breach of Propriety.

On 12th March, 2008, at the second sitting, after the statement amending the answer to the Starred Question by the Hon'ble Minister, a point (Breach of Propriety) was raised by a Member of the Opposition Shri Arjunbhai Modhvadia, with the permission of the Hon'ble Speaker, stating that the registration of the Sale Deeds of the Houses of the Gujarat Housing Board, which were sold by Power of Attorneys would have to be done upto 31st March, 2008. Shri Modhvadia further stated that in order to avoid the difficulties arising out of the specified time limit, the Minister made the announcement of extending the time limit outside the House instead of during the course of his speech on the Motion of Thanks for Governor's Address or during the course of general discussion on the Budget and by doing so, he had committed a Breach of Propriety and Shri Modhvadia, therefore, requested the Hon'ble Speaker (Shri Ashok Bhatt) to give his decision on this point.

In support of the above-mentioned point, the Leader of Opposition Shri Shaktisinhji Gohil stated that it is an important matter and directly affecting the dignity of the House. Had this important decision been announced in the House, the House could have altered the Government's decision by expressing its views. But making such announcements outside the House for publicity purpose when the House is in session, which could not be taken lightly.

Hon'ble Minister for Parliamentary Affairs Shri Amit Shah and Hon'ble Minister of Health Shri Jaynarayan Vyas also expressed their views on the matters, whereas Minister for Urban Development Shri Nitinbhai Patel clarified that it was an administrative decision which was taken to extend the time limit by 15 days following the complaints of the MLAs due to difficulties faced by the people/beneficiaries in regularizing the documents of Gujarat

Housing Board houses sold by Power of Attorneys. He further added that the question of altering the policy/rules or disregarding the House did not arise.

At that stage Hon'ble the Speaker (Shri Ashok Bhatt) stated that "so far as the Breach of Propriety of the House is concerned, according to the established practice the announcements of all the policy matters and the matters of public importance should first be made in the House when the House is in session or is to be convened within a couple of days." He further added that "as the matter in question is of Administrative nature and not of public importance, it would not be proper to consider it as a policy matter and so he did not accept the Point of Breach of Propriety."

(G.L.A. Debates, Book- 134: 2008)

(8) Leaving his seat by the Chief Minister after the request from the Chair to all the Members to take their seats is not an issue of Breach of Propriety.


Hon. the Leader of Opposition raised an issue of Breach of Propriety of the House on 29th February, 2012 in the Tenth Session of the Twelfth Gujarat Legislative Assembly and stated that the Chief Minister had left the House while Hon. the Speaker was addressing the House. He also stated that as per Rule - 30(2) of the Gujarat Legislative Assembly Rules, no Member can take or leave his seat in the House while the Speaker is addressing the House. Hon'ble the Chief Minister, by leaving his seat, had breached the Propriety of the House. He, therefore, sought the guidance of the Hon'ble Speaker on the matter. In this matter, after hearing the views of Hon. the Minister of Parliamentary Affairs Shri Dilipbhai Sanghani and Minister for Finance Shri Vajubhai Vala and Member Shri Arjunbhai Modhvadia, Hon'ble the Speaker (Shri Ganpatsinh Vasava) postponed his ruling for the time-being.

Thereafter, while giving his postponed ruling, Hon'ble the Speaker ruled that the Leader of the House had left the House only after all the Members took their seats upon the request from the Chair and as such, he disallowed the issue of breach of propriety raised by the Leader of Opposition.

(G.L.A. Debates, Book- 164: 2012)



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Spouse and Children : Dr. Bhaveshbhai Acharya (Ex.Chairman, Red Cross Society, Gujarat), two sons.
Occupation : Doctor

Parliamentary Career

- ✦ Chairman, Mahila Arthik Vikas Nigam (Women Economic Development Corporation), 1990-95
- ✦ Member, Abdasa Constituency, 1995 to 1998
- ✦ Member, Anjar Constituency, 2002 to 2007 & 2007 to 2012
- ✦ Member, Bhuj Constituency, 2012 to 2017
- ✦ Member, Bhuj Constituency, 2017 to cont...
- ✦ Protem Speaker, Gujarat Legislative Assembly (3 times)
- ✦ Speaker, Gujarat Legislative Assembly since 2021 (First women Speaker in the history of Gujarat)

Political Services

- ✦ Chairman of Assurance Committee, Estimates Committee and Public Undertakings Committee of Gujarat Legislative Assembly
- ✦ Secretary, Gujarat Legislative Assembly Bharatiya Janata Party
- ✦ Member, Gujarat State Women Security Committee
- ✦ Member, Gujarat Family Council

Social Activities

- ✦ President, Akhil Kutch Mahila Utkarsh Mandal - management of Mahila Utkarsh Mandals throughout the District
- ✦ President, Manav Seva Trust - management of Shelter Complex for 80 Earthquake-affected Orphans
- ✦ Has been running a Women Training Centre for last twenty-five years.
- ✦ Has been running a Govt. approved Family Consultation Centre, for last twenty-five years.



Dr. Nimabhen Acharya, Speaker welcoming the Hon'ble President of India for addressing the House.