121 Incident of refusal MAGHA 10, 1901 (SAKA) of entry to Shri

R. Chandra by British Govt. (St.)

As regards the other point raised by the hon. Member, as far as we have considered it necessary, we have conveyed our views and our dismay. Beyond that what could be done is a matter which will have to be examined further because technically what they have done cannot be challenged. That happens to be the position.

I would also inform the House that when Lord Carrington, their Foreign Secretary, came here we did have a discussion on some of the aspects of the Immigration Act and how it was being implemented. Now at this stage, I think that there is a chance of further discussions on these matters and, therefore....

SHRI INDRAJIT GUPTA: This has nothing to do with immigration.

SHRI P. V. NARASIMHA RAO: I have already stated that it has nothing to de with immigration. But action has been taken under a provision contained in the Immigration Act.

SHRI INDRAJIT GUPTA: That is precisely what you should protest about.

SHRI P. VENKATASUBBAIAH: Normally when a statement is made, no questions are allowed but because of the seriousness of the matter, you have allowed questions....

MR SPEAKER: Yes, it is not done, but as an exception I permitted.

SHRI ATAL BIHARI VAJPAYEE: My question has not been replied.

MR. SPEAKER: Whatever he has done, he has done. He has replied and if you are not satisfied, that is another question.

Now, Mr. P. Sivasankar.

SHRI ATAL BIHARI VAJPAYEE: Sir, in diplomacy there is something like lodging a protest....* MR. SPEAKER: Nothing will be recorded that I do not allow.... He has already said what he has got to say. Mr. Sivasankar.

12.44 hrs.

STATEMENT RE. REVIVAL OF BHARAT RATNA AND PADMA AWARDS

THE MINISTER OF LAW, JUS-COMPANY AFFAIRS TICE AND (SHRI P. SHIV SHANKAR): Mr. Speaker, Sir, The recent decision of the Government to revive the Bharat Ratna and Padma Awards has caused misgivings in some sections of the House and a doubt has been expressed in some quarters that this is not in conformity with the Constitution and in particular Article 18 thereof.

At the outset, I would state that the Government yields to none in its respect for the Constitution and its determination to see that the Constitution is observed not only in letter but also in spirit. But it is necessary to see what exactly is the nature of the prohibition contained in Article 18. Article 18 is one of the several Articles dealing with the right to equality. If states that no title, not being a military or academic distinction, shall be conferred by the State.

In order to understand the scope of this prohibition, it is necessary not only to ascertain the meaning of the word 'title', but also to have regard to the circumstances in which this Article was adopted by the Constitution-makers had before them the provisions of other Constitutions prohibiting the grant of titles of nobility. Our Constitution-makers did intend to go further than this, and to prohibit the conferment of titles which

*Not Recorded.

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[Shri P. Sivasankar]

during the pre-Independence had. days, become a symbol to some extent of subordination to a foreign power. Thus, not only were hereditary titles of nobility banned, but even titles like 'Diwan Bahadur' which were expressly referred to by Shri T. T. Krishnamachari while this Article was being discussed.

It is clear from a reference to the proceedings of the Advisory Committee on Fundamental Rights that there was a cleavage of opinion on this point and that originally it was intended to prohibit only hereditary titles. However, it was decided to delete the word 'hereditary' and to abolish titles.

Nevertheless, it is significant that while proposing the deletion of the epithet 'heritable', the mover of the amendment, Shri Masani, made it very clear that it may be "possible for the Union to honour some of its citizens who distinguish themselves in several walks of life, like science and the arts, with other kinds of honours not amounting to titles; the idea of a man putting something before or after his name as a reward for service rendered will not be possible in a Free India"

Thus, what the Constitution-makers intended to prohibit was what in common parlance is described as a prefix or an addition to the name.

The expression "title" has several meanings. According to well-known Lexicons in the context, it would mean an appellation attached to an individual or family in virtue of rank, function, office or attainment.

The award of Bharat Ratna as well as Padma awards are not appellations. The Constitution in letter and spirit alike prohibits the State from enabling an individual to set himself apart from others by virtue merely of a grant from the State. There is nothing therein which forbids the State from honouring a distinguished citizen for services rendered by him to the cause of the community. Ίt for this purpose that these was Awards were conceived of by the very same persons who played an active role in the framing of the Constitution. In reply to a Question in this House itself, the late Shri Jawaharlal Nehru made it very clear on August 25, 1954 that the Awards have no relation to titles and are merely honours conferred for distinguished service of a high order and that any comparison of these with titles would not be correct.

In this connection, it may be mentioned that this is not the first occasion when the House had to consider the constitutionality of the National Awards. In 1969, a very senior and respected Member, Acharya Kriplani, introduced a Bill entitled. The Conferment of Decorations on Persons (Abolition) Bill, seeking to abolish the Bharat Ratna and Padma Awards on the ground that by such Awards, titles were sought to be brought in by back-door methods. During the debate on the Bill, the constitutionality of these Awards was exhaustively dealt with. It was pointed out that when the matter was first considered in 1948 by a Committee headed by that eminent jurist Sir B. N. Rau, it came to the conclusion. "The expression 'title' does not necessarily include all honours and decorations".

It was pointed out that the basic assumption made by the mover of the Bill that the awards of these decorations violate the provisions of the Constitution was not correct. No convincing reply was given to this point and the Bill itself was negatived.

In this connection, it is relevant that the system of instituting Awards in 1954 was evolved and approved at a time when the deliberations of the Constituent Assembly were fresh in the minds of the people and by the very same individuals who had played an active part in the framing of and were fully imbued with the spirit of the Constitution.

The meetings of the Cabinet wherein this proposal was discussed were presided over by Shri Jawahar Lal Nehru who had an abiding faith in the principles of democracy, socialism and equality and had played an active role in the framing of the Constitution. It would be of interest to mention that at least four meetings of the Cabinet, which went into this question, were attended by Shri T. T. Krishnamachari, who was one of the members of the Drafting Committee

My Hon'ble friend on the opposite side, Shri Jagjivan Ram was present at six of the meetings of the Cabinet which discussed this issue, and was himself a member of the Government which decided to institute these Awards.

of the Constitution.

In his statement made on the 13th July, 1977 announcing the discontinuance of these Awards the former Prime Minister, Shri Morarji Desai, had stated that this was on the basis of the opinion of the Attorney General who had held that Bharat Ratna and the Padma Awards would fall within the prohibition of grant of titles.

In view of the esteem due to the then holder of the high office of Attorney General, I have gone through his opinion with interest and respect but am unable to share his conclusion. In his opinion, the Counsel recognised that the expression 'title' has a variety of meanings and that the meaning of the word must necessarily depend on the context in which it occurs. But proceeded to singularly enough, he construe it without recourse to the back-ground or genesis of what was being done by the Government in the past or its legislative history. It would seem that the proceedings of the Advisory Committe on Fundamental Rights prior to the debates in the Constituent Assembly, were in fact not considered by the Counsel though this legislative history sheds considerable light on the true intention of the Constitution_makers.

It was recognised in the very opinion that there are verious distinctions in the shape of decorations, medals etc. which are given by any State, even a democratic State, in recognition of merit in verious fields. The Counsel himself expressed a doubt as to whether it could have been the intention that the State should not recognise merit in various fields in customary fashion. This doubt would seem to have arisen from the fact that military and academic titles are expressly exempted from the prohibition contained in Article 18(1).

It would not, however, appear to be logical to conclude from the fact that because the State could at а future time grant an academic title like Maha Mahopadhyay (which possibility was referred to by Shri T. T. Krishnamachari in the Constituent Assembly) that no other form of recognition of distinguished service was possible. The express exceptions to the grant of a title can hardly be regarded as a basis for enlarging the scope of the original prohibition imposed by the Article on the meaning of the word title. As a matter of fact, the Counsel himself recognised the anomalies which would flow from his opinion by expanding the scope of the exception and giving to the word 'academic' occurring the Article a wide meaning so as to cover any recognition in the field of art, law, literature and science generally. In fact, in the concluding portion of his opinion, the Counsel had observed :

"It would not include recognition of meritorious public service or public civil services. This must be regarded as a lacuna wholly accidental."

One should not lightly infer the existence of a lacuna in the Constitution by reading it without reference t_0 the pre-existing position and the practice in other democratic countries. Having regard to the history and object of the Article, there is no warrant for coming to the conclusion [Shri P. Sivasankar]

that the Constitution-makers wanted to deny to the State in India the right or-rather the duty--which other democratic States possess, namely, to recognise and to honour its most distinguished citizens.

Having given the matter the most careful consideration, the position which emerges is that there is no room for doubt that the Constitution, a_s it stands, does not prevent the State from granting recognition to a distinguished son of Mother India. An Award, decoration or a Medal to such a person is not a title which the Constitution-makers sought to interdict.

13.54 hrs.

BUSINESS ADVISORY COMMITTEE

FIRST REPORT

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS AND IN THE DEPARTMENT OF PARLIA-MENTARY AFFAIRS (SHRI P. VENKATASUBBAIAH): Sir, I beg to move the following:

"That this House do agree with the First Report of the Business Advisory Committee presented to the House on the 29th January, 1980."

SHRI CHINTAMANI PANIGRAHI (Bhubaneswar): Sir, I just wanted to bring to the notice of the hon'ble Minister and you, Sir, that in this House—though it was a short Session —we had discussed almost all the issue^S concerning our country and other countries. Drought has affected almost 17 States in the country. Orissa has been seriously affected by drought. Therefore, Sir, from the very beginning, we are trying to get Calling Attention Notices admitted. We have also sought a Short Duration Discussion but nothing has been done. At least 2 hours may be given for this. Let the drought situation be discussed in the House. I request you kindly to extend the time of the House on any day by two hours, say, between 6 to 8, so that we may discuss this most important thing.

MR. SPEAKER: We have already discussed enough about drought.

SHRI CHINTAMANI PANIGRAHI: It i_s a very serious thing and should be discussed.

SHRI P. VENKATASUBBAIAH: All these points have been discussed. We had a meeting of the Business Advisory Committee in which the opposition leaders were also there and we have explained the position;—we have a tight schedule in fact, we are ourselves very anxious

MR SPEAKER: The question is:

'That this House do agree with the first Report of the Business Advisory Committee presented to the House on the 29th January, 1980.'

The motion was adopted.

MR. SPEAKER: Prime Minister.

SHRI G. M. BANATWALLA (Ponnani): Sir, I have a submission to make. We have not had a full discussion. The Mus!im League has been totally shut out from the discussion. This is the first time.

MR. SPEAKER: We had allotted 8 hours time; but we have taken 9 hours.

SHRI G. M. BANATWALLA: But why should the Muslim League be shut out of the discussion: That has never been the practice; at least the groups should be allowed.

PROF. MADHU DANDAVATE (Rajapur): I have been informed that some Rule 377 notices have been admitted.

MR. SPEAKER: All right. We can give you time. First I will take up