

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 do 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, JUSTICE AND COMPANY AFFAIRS (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

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had, during the pre-Independence 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. It was for this purpose that these 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 where-  
in 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 ac-  
tive role in the framing of the Con-  
stitution. 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  
of the Constitution.

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.

In his statement made on the 13th  
July, 1977 announcing the discontin-  
uance of these Awards, the former  
Prime Minister, Shri Morarji Desai,  
had stated that this was on the basis  
of the opinion of the Attorney Gen-  
eral 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 At-  
torney 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 varie-  
ty of meanings and that the meaning  
of the word must necessarily depend  
on the context in which it occurs. But  
singularly enough, he proceeded to  
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 Advi-  
sory Committee on Fundamental Rights  
prior to the debates in the Consti-  
tuent Assembly, were in fact not con-  
sidered by the Counsel though this  
legislative history sheds considerable  
light on the true intention of the Con-  
stitution-makers.

It was recognised in the very opin-  
ion that there are various distinctions  
in the shape of decorations, medals  
etc. which are given by any State,  
even a democratic State, in recog-  
nition of merit in various 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 prohi-  
bition contained in Article 18(1).

It would not, however, appear to  
be logical to conclude from the fact  
that because the State could at a  
future time grant an academic title  
like Maha Mahopadhyay (which pos-  
sibility was referred to by Shri T. T.  
Krishnamachari in the Constituent  
Assembly) that no other form of re-  
cognition of distinguished service was  
possible. The express exceptions to  
the grant of a title can hardly be re-  
garded as a basis for enlarging the  
scope of the original prohibition im-  
posed 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 in 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 obser-  
ved :

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

One should not lightly infer the  
existence of a lacuna in the Constitu-  
tion by reading it without reference  
to the pre-existing position and the  
practice in other democratic countries.  
Having regard to the history and  
object of the Article, there is no war-  
rant for coming to the conclusion

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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, as 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 PARLIAMENTARY 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 issues 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 is 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 Muslim 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