

## RAJYA SABHA

Thursday, the 3rd July, 1980/the 12th  
Asadha, 1902 (Saka)

The House met at eleven of the  
Clock, Mr. Chairman in the Chair.

### MEMBERS SWORN

1. Shri Akshay Panda (Orissa)
2. Shri Jagdish Jani (Orissa).
3. Shri M. S. Ramachandran (Tamil Nadu)
4. Shri R. Ramakrishnan (Tamil Nadu)

### RULING BY CHAIRMAN RE. COMPETENCE OF THE HOUSE OF STATE LEGISLATURES

MR. CHAIRMAN: I have a ruling to deliver.

I admitted on 2nd July, 1980, a Special Mention tabled by Shri L. K. Advani and Shri Bhupesh Gupta which they had worded thus:

"Situation arising out of failure to discharge constitutional responsibility under Article 178 to elect Speakers of Legislative Assemblies of U.P. and Rajasthan."

I had earlier rejected a request for a Calling Attention Motion on the same subject because the election of the Speakers of the Legislative Assemblies is not ordinarily a concern of this House and, therefore, a Calling Attention Motion which requires explanations from the Treasury Benches was not appropriate.

Objection was taken yesterday to the jurisdiction of this House to discuss this matter and incidentally, a question was also raised about the propriety of admitting such a Motion. My colleague, Shri Dinesh Goswami, has reserved the point for my consideration.

Although the Hon'ble the Leader of the House seemed to concede that it was the exclusive prerogative of the Chairman to admit a Special Mention Motion, I do not wish to shelter myself behind this assurance. I have never considered that any office is above law and the Constitution. I, therefore, proceed to give my ruling. As the matter is delicate, I would beg of the Hon'ble Members to bear patiently with me.

The objections may be summarized so that they may all be considered. They are:

(1) That this House is not competent to discuss the functioning of a State Legislature as the Constitution confers no such powers on this House;

(2) Rule of Procedure and Conduct of Business in the Lok Sabha preclude a State matter to be discussed;

(3) Motions should not be admitted on matters not primarily the concern of the Government of India;

(4) A *pro tem* Speaker has been appointed under article 180 pending the election for which a date has been fixed.

These points were raised by Shri Shyamal Yadav. In the speeches supporting his point of order, Shri Salve repelled the claim of Shri Advani and Shri Bhupesh Gupta that article 355 of the Constitution covers the Motion. Shri Salve referred to the last 20 words of that article and said that they refer to the Government of the State, that is to say, the Executive, and not the Legislature of the State. To this, Shri Bhandare added that article 355 is in Part XVIII which are Emergency provisions.

The subject divides itself into two parts: (a) the propriety of the Motion; and (b) the constitutionality