

LEAVE OF ABSENCE TO SHRIMATI MAYA DEVI CHETTRY

MR. CHAIRMAN: I have received the following letter from Shrimati Maya Devi Chetty:

"I had to come back home from Delhi due to my ill-health which deteriorated there during the last session of the Rajya Sabha. I have not yet improved my health properly and am under medical treatment. Considering the condition of my health my physicians do not permit me to move from my place, nor can I venture myself to do so. In the circumstances I request your goodness and the honourable Members kindly to grant me leave of absence from all sittings of this session of the Rajya Sabha."

Is it the pleasure of the House that permission be granted to Shrimati Maya Devi Chetty for remaining absent from all meetings of the House during the current session?

(No hon. Member dissented.)

MR. CHAIRMAN: Permission to remain absent is granted.

PETITION RE HINDU MARRIAGE AND DIVORCE BILL

SECRETARY: I have to report to the House that a petition relating to the Hindu Marriage and Divorce Bill, 1952, pending before this House has been received by me.

PAPERS LAID ON THE TABLE

MINISTRY OF TRANSPORT NOTIFICATION PUBLISHING AN AMENDMENT TO THE DELHI ROAD TRANSPORT AUTHORITY (ADVISORY COUNCIL) RULES, 1951.

THE DEPUTY MINISTER FOR RAILWAYS AND TRANSPORT (SHRI O. V. ALAGESAN): Sir, I beg to lay on the Table, under sub-section (3) of section

52 of the Delhi Road Transport Authority Act, 1950, a copy of the Ministry of Transport Notification No. 18-TAG (20)/54, dated the 19th October 1954, publishing an amendment to the Delhi Road Transport Authority (Advisory Council) Rules, 1951. [Placed in the Library. See No. S-429/54.]

I. THE TELEGRAPH WIRES (PERMISSION FOR SALE AND PURCHASE) RULES, 1954.

II. RULES FOR THE PREVENTION OF UNLAWFUL POSSESSION OF TELEGRAPH WIRES.

THE MINISTER FOR COMMUNICATIONS (SHRI JAGJIVAN RAM): Sir, I beg to lay on the Table a copy each of the following Rules framed under section 8 of the Telegraph Wires (Unlawful Possession) Act, 1950:—

(i) The Telegraph Wires (Permission for Sale and Purchase) Rules, 1954. [Placed in the Library. See No. S-450/54.]

(ii) Rules for the prevention of unlawful possession of Telegraph Wires. [Placed in the Library. See No. S-451/54.]

MINISTRY OF COMMUNICATIONS NOTIFICATION PUBLISHING THE AIR CORPORATIONS RULES, 1954

THE MINISTER FOR COMMUNICATIONS (SHRI JAGJIVAN RAM): Sir, I beg to lay on the Table under sub-section (3) of section 44 of the Air Corporations Act, 1953, the Ministry of Communications Notification No. 14-CAG(15)/53, dated the 26th November, 1954, publishing the Air Corporations Rules, 1954. [Placed in the Library. See No. S-452/54.]

QUESTION OF PRIVILEGE RE. ISSUE OF A NOTICE BY LOK SABHA FOR INTRODUCING THE ANDHRA BILL.

SHRI B. GUPTA (West Bengal): Sir, we had given notice of a question of privilege yesterday and I understand that the Andhra Bill is coming up

before the other House at 5-00 p.m. today. Sir, our contention was that it amounted to a contempt of this House and breach of privilege because the Lok Sabha Secretariat had issued a notice saying that the Andhra Bill would be introduced in that House, even before the Proclamation had been discussed in and endorsed by this House. The Constitution makes it clear that this Proclamation has to be endorsed, under certain limitations, by both Houses of Parliament. Now, Sir, we feel that the Lok Sabha Secretariat has anticipated the decision of this House. They should have waited till the verdict of this House on the question of Proclamation was known to them. Therefore I submit that this notice has operated to the prejudice of the House and the hon. Minister had no business to assume that this House would endorse the Proclamation issued under article 356 with regard to the State of Andhra. Therefore I would request you to place this whole matter before the Committee of Privileges and until this House also has given its verdict on this particular Proclamation the Lok Sabha Secretariat be kindly requested to postpone discussion on that particular Bill.

It only shows with what scant respect the hon. Minister treats this House. He had no business to assume. He may have a majority but that does not exist so far as the rules of procedure are concerned. He may assume it inside his party but he had no business to anticipate the verdict of this House on the proclamation until we had discussed this matter and voted on the subject. If he thought that he had a majority and he would carry this thing through, he should have kept it to himself and waited till that was established here by vote. Now, Sir, it is most regrettable that the party in power should have acted in this manner and should not have given liberty to the Members to express their opinion freely on a matter of such importance. We take it as if he wants to tell this House that the Government is determined to pass this and introduce the Bill. Why should he think in that manner before

we have discussed it? It is a method of prejudicing this House and compelling certain sections of the House to vote in favour of the Proclamation in the way the Government would like them to vote. Now, Sir, on these very important grounds we treat it as a question of privilege and I hope that you will be good enough to refer the whole matter to the Privileges Committee as it warrants consideration by such a body and since we think it is a definite breach of privilege of the House, a breach which the governing party should never have committed.

MR. CHAIRMAN: I have looked into this matter because notice was given yesterday evening. Every Proclamation issued under clause (1) of article 356 has to be approved by both Houses of Parliament, but the Bill in question is sought to be introduced in the Lok Sabha in pursuance of the provision contained in article 357(1). This article says: "Where by a Proclamation issued under clause (1) of article 356....."—it does not say, 'Where by a Proclamation issued by the President and approved by the two Houses'. It merely says: "Where by a Proclamation issued under clause (1) of article 356, it has been declared that the powers of the Legislature of the State shall be exercisable by or under the authority of Parliament, it shall be competent for Parliament to confer on the President the power of the Legislature of the State to make laws etc., etc." It will be seen from this article that the approval of the Proclamation by Parliament is not a necessary prerequisite to the conferring of the legislative power on the President. This is further apparent from the fact that a Proclamation may remain in force under article 356 (3) of the Constitution for two months even without the approval by Parliament. The Proclamation was issued on November 15, and so till January 15 it can be held in force even without the approval of Parliament, and the right to confer power to legislate may be exercised even though the approval of the Legislature to the Proclamation has not been obtained during this

[Mr. Chairman.] period. Thus there is no violation of the Constitution when this Bill is proposed to be introduced in Parliament even before the approval of the Proclamation by both Houses. All the same, it may be argued that though it is legal, it may not be expedient, and a convention could be set up. It may be said that it will be constitutionally more appropriate to wait until the Proclamation has been approved and then introduce the Bill contemplated. I do not think that even of this constitutional propriety there has been a violation.

I sent for the notice of the Lok Sabha. It does not specify the hour when it is to be introduced. It is out of consideration for the Resolution approving the Proclamation to be passed by this House that the hour has not been specified. So, what the Home Minister proposes to do is to move for leave to introduce the Bill today in the fond hope and expectation that he had that our House would get the Resolution through as soon as possible and not have a very long and elaborate discussion. But we always take a long time. All the same, he has not specified the hour when it is to be introduced there.

Therefore I feel that the motion for the introduction of the Bill included in the List of Business of the Lok Sabha does not involve any disrespect to the Rajya Sabha, and there is no violation of the Constitution and no violation of any propriety in the matter. He merely waits for the passing of the Resolution approving the Proclamation in this House before introducing the Bill in the other House and so no question of privilege is involved.

SHRI B. GUPTA: May I rise on a question of constitutional propriety? Sir, you seem to have acquitted them of the charge of violating constitutional propriety.

SHRI S. C. KARAYALAR (Travancore-Cochin): Sir, on a point of order,

is a ruling of the Chair open to discussion?

SHRI B. GUPTA: May I, Sir, draw your attention to the fact that he could not assume that the Resolution would be passed?

MR. CHAIRMAN: Nobody is assuming.

SHRI B. GUPTA: Now, the Business Advisory Committee has not fixed any time-limit. It may be that we shall continue discussion for two or three days. The hon. Home Minister had no business to assume that it would be passed today, by a certain time, so that it could be introduced in the other House. Therefore, on that score the constitutional propriety has not been conformed to.

SHRI AKBAR ALI KHAN (Hyderabad): Sir, is it open to any Member to speak after a ruling has been given on the subject?

MR. CHAIRMAN: We pass on to the discussion of the Resolution. This is over now, the storm has blown over.

RESOLUTION RE. PRESIDENT'S PROCLAMATION ON ANDHRA— *continued*

MR. CHAIRMAN: There are three speakers who have given notice: Dr. Raghu Vira, Shri Kishen Chand and Shri Venkataramana.

SHRI B. GUPTA (West Bengal): But we also want to speak.....

MR. CHAIRMAN: Yes, I know. I have seen that the important representatives of the different parties have had their say. Mr. Sundarayya took an hour and a half.

SHRI B. C. GHOSE (West Bengal): Sir, we did not take much time.

MR. CHAIRMAN: You did not take such a long time. Mr. Mahanty has spoken. Mr. Ghose has spoken. Mr. Venkataramana represents the Krishikar Lok Party and I propose to give