

**Title:** Combined discussion on the disapproval of Patents (Amendment) Ordinance, 1999 and motion for consideration of the Patents (Amendment) Bill, 1998 moved by Shri Sikander Bakht on 9 March, 1999 (contd.-concluded).

13.03 hrs.

श्री रघुवंश प्रसाद सिंह (वैशाली): अध्यक्ष महोदय, दुनिया के विद्वानों और हिन्दुस्तान के जानकारों का भी कहना है कि इंडियन पेटेंट कानून, जो १९७० वाला एकट है, यह दुनिया भर में सबसे अच्छा है और देश हित में है, क्योंकि यह प्रोसीजर पेटेंट कानून है, प्रोडक्ट पेटेंट कानून नहीं है। लेकिन यह सरकार की तरफ से अभी अच्छे कानून को भी बिगाड़ने वाला संशोधन का जो विधेयक आया है, उसके उद्देश्य, हेतु को देखने से पता चलता है कि इन्होंने दावा नहीं किया है कि वह विधेयक देशहित में है और यहां की जनता के हित में है।

1304 hours (Mr. Deputy-Speaker in the Chair)

इन्होंने लाचारी दिखाई है कि डंकल प्रस्ताव, जिसका हम लोगों ने बड़ा भारी विरोध किया था, जिसमें वे एग्रीकल्चर को

GATT

के अधीन ले आये थे, फिर एक ट्रिप्स, जो ट्रेड रिलेटेड इंटरलैक्चुअल प्रॉपर्टी राइट्स और उसका एक पार्ट ट्रिप्स, ट्रेड रिलेटेड इन्वेस्टमेंट मैजर्स था, वह तो अभी किया है, अब तो देश पर और खतरा बढ़ेगा।

यह ट्रेड रिलेटेड इन्वेस्टमेंट लेगा। उसमें गेट्ट है,

General Agreement of Trade in services.

इसका मतलब यहां जो आधुनिक सेवाएं हैं उसी में आदान-प्रदान होगा। हिन्दुस्तान में जो ज्यादा बेरोजगार लोग हैं, लेबर, इंजीनियर, वकील और डाक्टर, इन सब का ट्रेड इन सर्वेसेस नहीं होगा, जिसमें हिन्दुस्तान पीछे होगा उसमें होगा। इस पर बाद में बहस होगी। ट्रिप्स के अधीन संशोधन का प्रस्ताव आया, उसमें सरकार ने दावा नहीं किया कि यह देश के हित में है, क्योंकि इनकी लाचारी है। इसके खिलाफ कहा गया है कि यह

WTO

के अधीन लोअर कोर्ट में गए थे। वहां इनका केस खारिज हो गया और फिर अपील में गए, वहां भी केस खारिज हो गया। १९ अप्रैल, १९९९ तक अगर इस कानून को यहां नहीं बना लेंगे तो इनको सजा हो जाएगी।

WTO

की लाचारी दिखाते हुए इसको इस सदन में लाए हैं। कल स्वामी जी बोल रहे थे, इनके मन आशंका है कि यह भी कानून बना दिया जाएगा तो इस सजा से बचेंगे या नहीं। यह अभी स्पष्ट नहीं है कि फिर

WTO

मानेगा या नहीं, लेकिन इस पर देश के बड़े-बड़े विद्वान, विचारकों ने राय दी है और सब लोगों का कहना है कि यह देश के हित में नहीं है। यह आर्थिक गुलामी पैदा करने वाला और देश को बाजार बनाने वाला कानून है। इससे सावरेनिटी पर खतरा है। उनके कहने के मुताबिक हम कानून को बदल लें, उनके सुझाव पर संशोधन कर लें, यह देश की सावरेनिटी पर प्रश्न-चिन्ह लग रहा है। उसके बाद हमने जानने की कोशिश की। ... (व्यवधान)

महोदय, हमने तो कुछ लोगों से सुन कर और जानकारी करके बोलने का काम किया है। जब बिहार पर बहस हो रही थी तो जार्ज फर्नांडीज, जो पुराने नेता हैं, समाजवादी होने का दावा करते हैं, उन्होंने १९९५ का पर्चा पढ़ा। जिसमें लालू सरकार के खिलाफ कांग्रेस पार्टी की तरफ से पर्चा था। हालांकि १९९५ में वोट हो गया था और वह पर्चा अप्रासंगिक हो गया था, उसको बड़े जोर से अंग्रेजी में पढ़ रहे थे। इंडियन पेटेंट कानून को बदलने के लिए लाए हैं। बख्त साहब, भले आदमी हैं, उनको उलझा दिया। यह तो कामर्स का विषय था, इनके द्वारा यह गलत काम कराया जा रहा है। वहां से यह बिल ले आए हैं। पर्चे में बड़े-बड़े लोगों का नाम हमने देखा है।

Forum of parliamentarians on intellectual property,

यह ट्रिप्स हैं,

Trade related intellectual property rights

के आधीन जो लोग इस कानून को बदलने के लिए, इंडियन पेटेंट कानून, उसमें जो आठ-नौ क्लॉज़

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है, उसमें जस्टिस कृष्णा अय्यर, डा. मुरली मनोहर जोशी, डा. अशोक मित्रा, श्री जयपालरेड्डी, इनको पुरस्कार मिला हुआ है, श्री जार्ज फर्नान्डीज़, श्री इन्द्रजीत गुप्त और फार्मर कमिश्नर हैं, इन सब बड़े-बड़े नेताओं के नाम हैं।

... (व्यवधान)

उपाध्यक्ष महोदय : आप क्या कोट कर रहे हैं ?

श्री मोहन सिंह (देवरिया) : महोदय, इनका कहना है कि जो लोग इसके विरोध में थे वही यह विधेयक लाए हैं।

श्री रघुवंश प्रसाद सिंह : पेटेंट कानून के संबंध में कुछ बड़े-बड़े लोगों की राय क्या है।

Sir, now I am quoting from the Forum of Parliamentarians on Intellectual Property. It has been stated:

"The meeting re-affirmed the country's sovereign and inalienable right to have an intellectual property regime which would promote public interest and ensure self-reliant development in social, economic and technological spheres. The meeting reiterated its strong opposition to the unequal and unacceptable Agreement on TRIPs incorporated in the New GATT/WTO and its resolve not to allow amendments to the Indian Patents Act, 1970 so as to make it conform to the regime visualised in the TRIPs Agreement."

They have taken this resolution. They have further stated and I quote:

"In this context, the meeting noted that according to U.S. Administration itself as many as 48 countries have yet to amend their patent laws and most of the developed and developing countries have not complied with their so called obligations under the TRIPs Agreement."

48 developing countries have not done it. Again I quote further:

"In addition, there are 45 other least developed countries who have clear 10 years to apply the provisions of the TRIPs Agreement. Thus there are 93 countries who have yet to amend their patent laws. In the circumstances, there was no justification whatsoever for any industrialised country to mount pressure on India in this regard."

इस स्टेटमेंट पर दस्तखत किनके हैं ? डा. मुरली मनोहर जोशी, श्री जार्ज फर्नान्डीज़, जो भारत सरकार के मंत्री हैं। बाकी नेता लोग हैं। अशोक मित्रा जी भी हैं। उपाध्यक्ष जी, हमारा प्रश्न यह है कि यह जो कागज पर बना रैजोलूशन इन्होंने रिजोल्व किया है और इनके दो मंत्रियों ने पर्चा पढ़ा था कि देश में मल्टी-नेशनल्स का जाल बिछा है, करोड़ों-अरबों का खर्चा हुआ है, जो लोग पहले पेटेंट कानून को बदलने के लिए बोल रहे थे वे अब क्यों उसका समर्थन कर रहे हैं। सरकार में बैठकर इसे पास क्यों किया, कितना लेनदेन मल्टी-नेशनल्स के साथ हुआ है, यह हम सवाल यहां उठाते हैं। पहले कहा कि देश हित में नहीं है, देश का बाजार बंद हो जाएगा। ... (व्यवधान)

श्री खारबेल स्वाई (बालासोर): इनको हर चीज में लेनदेन दिखाई पड़ता है क्योंकि इनको अभ्यास है।

... (व्यवधान)

कल जब मैं बोल रहा था तो इनकी रनिंग कमेंट्री चल रही थी।

... (व्यवधान)

श्रीमती जयाबहन भरतकुमार ठक्कर (वडोदरा): जब बिल पास हुआ था तब आप सब लोग कहा थे।

श्री रघुवंश प्रसाद सिंह : उपाध्यक्ष जी, कल श्री रूपचंद पाल जी गुमान मल लोढा के बारे में बोल रहे थे, जो १०वीं और ११वीं लोक सभा में यहां सदस्य थे। गुमान मल लोढा जी ने उस वक्त कहा था कि इसके पास होने से देश गुलाम हो जाएगा। फिर क्यों उसी पार्टी की सरकार और हुकूमत कह रही है कि इसे पास करा दिया जाए नहीं तो हमको सजा हो जाएगी।

इस पर बहुत बहस हुई। मुझे इस पर बहुत सी आशंकाएं हैं। मैं देख रहा हूँ कि मल्टी-नेशनल और पैसे में कितनी ताकत है? वह लोगों को चुप करा देता है और उल्टा-पुल्टा करा देता है। मैं इस बात की सफाई चाहता हूँ।

... (व्यवधान)

अगर इस पक्ष के आदमी मुझे चुनौती दे सकें तो मैं उसे स्वीकार करता हूँ। वह ईमानदारी सीख कर बताएं।

... (व्यवधान)

उपाध्यक्ष महोदय : आप मेरी तरफ देखकर भाषण दें। मैं उन्हें चुप रहने के लिए कह रहा हूँ। समय कम है। आप जल्दी समाप्त करें।

श्री रघुवंश प्रसाद सिंह : हिन्दुस्तान में पेटेंट कानून में बदलाव करने का जो प्रोसीजर है, वह अच्छा है। हम इसमें पांच से सात वर्षों के बाद पेटेंट से फ्री हो जाएंगे। उसके बदले में प्रोडक्ट पेटेंट कानून आएगा जो २० वर्षों तक रहेगा। इसमें बाद में प्रावधान होगा। आप जब तक डबल्यू.टी.ओ.के एग्रीमेंट के आर्टिकल ७०(८) और (९) में संशोधन नहीं करते तब तक एक्सक्लूसिव मार्किटिंग राइट का प्रावधान करें।

आजकल हैपेटाइस-बी बीमारी बहुत फैल रही है। इसकी एक सुई निकली है। इसकी एक सुई की कीमत ६०० रुपए है। एक महीने में इसके दाम बढ़ कर ८०० रुपए हो गए। यह बीमारी होने पर चार महीने तक दवाई लेनी पड़ती है। इसकी रोज दो सुईयां लगती हैं। इस पर १६०० रुपए खर्चा हो जाता है। मैंने जब पूछा कि सुई में कौन सी दवा है जिससे इसकी इतनी अधिक कीमत है। मुझ से कहा गया कि इसे मल्टीनेशनल बनाते हैं। इसका पेटेंट होने से शोषण होगा, दोहन होगा और मनमाने दाम वसूल किए जाएंगे। इसी तरह की कई दवाइयां हिन्दुस्तान में लाकर मल्टी नेशनल पेटेंट करा लेगी और बेचेगी। उसे खुली छूट मिल जाएगी। इससे दूसरे देशों की पेटेंट कम्पनियों को एक्सक्लूसिव मार्किटिंग राइट मिल जाएगा। इससे उनका बाजार बन जाएगा। इनको दवाइयां और एग्री कैमिकल्स मनमाने दाम पर बेचने की पूरी छूट रहेगी।

मैंने इस बारे में बहुत से कागज पत्र देखे। सभी विद्वान लोग इसके खिलाफ हैं। विद्वान लोगों का जो कहना है, मैं वह बताना चाहता हूँ।

I am quoting from the Report of Peoples' Commission on Intellectual Property Rights. The Members of the Commission are Justice V.R. Krishna Iyer, Prof. Yash Pal, Prof. Prabhat Patnaik and National Prof. S.K. Sinha.

"Thus in the considered view of this Commission, Parliament must never grant exclusive marketing rights (EMRs). An exclusive marketing right is more than just an automatic five-year patent. It is a grant of monopoly over the domestic market to an importer, without any scrutiny and on very dubious grounds. It is not surprising that most developing countries have chosen not to implement EMR provisions. Pakistan and two other small countries are perhaps the only countries to date that have introduced an EMR regime."

"What is clear however, and on this there is also near-unanimity among the experts we met, is that (i) the Government's reported move to introduce an EMR regime must be dropped; (ii) the introduction of product patents in drugs and pharmaceuticals and in agricultural chemicals must not be done in haste;...."

उपाध्यक्ष महोदय, यह सब विद्वानों का कहना है, मैं नहीं कह रहा हूँ। विद्वान लोग बड़ी मेहनत और जांच करके इस बात को कह रहे हैं। उन लोगों में बड़ी बड़ी बहस हुई है, लिट्रेचर तैयार किये हैं ताकि इस देश का अहित न हो लेकिन इस सरकार से यह अपेक्षा नहीं कर सकते क्योंकि वह देश का अहित करने वाली है। एक अच्छे मंत्री को यहां बुलाकर यह बिल पेश करवा दिया। इसमें फिर आगे कहा है:

"As stated earlier, the EMR route is certainly not in our national interest and it should not be adopted in India - a vast country having a strong pharma industry and health scenario being extremely low. Article 70.9 stipulates

that 'exclusive marketing rights shall be granted' to specific products after the occurrence of specified events and that there was nothing in these terms that suggested that such right must be obtained in the domestic laws. This interpretation of Article 70.9 by the WTO Panel makes the grant of EMR automatic after the events specified."

ये सब बातें विद्वानों ने कही हैं। इसमें और बातें भी लिखी हैं। पेटेंट कानून में इ.एम.आर. के खिलाफ संशोधन किये जाने के बारे में बहुत कहा है। फिर आगे कहा गया है:

"While the Forum of Parliamentarians on Intellectual Property has yet to take a stand on the pipeline protection issue, the National Working Group on the Patent Law has come out strongly against granting of EMRs in India.

This Group which has NGOs, scientists, former bureaucrats and technocrats as members wants the TRIPS Agreement to be reviewed as provided under the WTO Ministerial Declaration of May, 1998. It wants the applications for product patents filed with the Government since 1995 for EMR to be examined and process patents be issued under the current Act."

उपाध्यक्ष महोदय, ये सब बातें विद्वानों ने कही हैं। इसमें आगे कहा है:

"With the Indian masses' limited purchasing power what is needed most is to ensure supply of such drugs at affordable prices. It is this point that opponents of granting Exclusive Marketing Rights to patent holders (generally MNCs) are emphasising.

Prices of various drugs in India are lower than in most developing countries because of our existing patent regime under which product patent is not granted. Only a process is patented, that too for nearly half of the international period."

उपाध्यक्ष महोदय, अब आप बताइये कैसे इस बिल को पास कर दिया जाये? एक स्टैंजा और कहकर समाप्त करूंगा।

"Though the TRIPS Agreement is supposed to provide a transition period, the Government of India is required under the Agreement to amend the Indian Patents Act immediately, inter alia, to grant exclusive marketing rights for pharmaceutical and agricultural chemical products in favour of foreign patent-holders. Since, for all practical purposes, granting exclusive marketing rights will be as good as granting product patent protection, Parliament must defeat this Amendment."

उपाध्यक्ष महोदय : आप अब समाप्त कीजिये।

श्री रघुवंश प्रसाद सिंह : उपाध्यक्ष जी, विद्वानों ने पार्लियामेंट से अपेक्षा की है कि इस तरह के गुलामी पैदा करने वाले कानून, सार्वभौमिकता पर खतरा पैदा करने वाले इस कानून को पास न होने दें। बहुराष्ट्रीय कम्पनियों का हित करने के लिये और उनके इशारे पर यह बिल यहां लाया गया है। इस कानून को रद्द करें, यह अपेक्षा विद्वानों ने की है क्योंकि एक्सपर्ट लोगों ने इस पर काफी मेहनत की है।

इसलिए मैं भी सरकार से और आपसे प्रार्थना करता हूँ कि इस तरह का जो देश का अहित करने वाला बिल है इसको वापस लें। इससे दवा की कीमत बढ़ जाएगी और गरीब खरीद नहीं सकेंगे। मल्टीनेशनल का बोलबाला हो जाएगा। इसलिए मैं इस बिल का विरोध करता हूँ। एक कवि ने कहा है--

'हिन्दुस्तान को समझ लो यारो जैसे हो कोई बड़ी दुकान।

अपने अपने हिस्से का सब बेच रहे हैं हिन्दुस्तान।'

और फिर कवि भोपाल सिंह नेपाली ने कहा कि --

'बदनाम रहे बटमार मगर,



घर को रखवालों ने लूटा, घर को रखवालों ने लूटा।

ये लोग जो इस तरह से काला कानून ला रहे हैं और इसको लाचारी बता रहे हैं, इस कानून को रद्द किया जाना चाहिए, वापस होना चाहिए। हम लोग इसका घोर प्रतिक्रिया करते हैं।

श्री चन्द्रशेखर (बलिया) : उपाध्यक्ष जी, जो विधेयक आया है, मैं केवल कुछ शब्दों में इसका विरोध करने के लिए खड़ा हुआ हूँ। हमारे मित्र ने अभी जो बात की, जिन भावनाओं का उन्होंने इज़हार किया, उनसे मैं पूरी तरह सहमत हूँ। आज देश को किस रास्ते पर ले जाने की कोशिश हो रही है वह हमारे सामने साफ दिखाई पड़ रहा है, लेकिन दुख इस बात का होता है कि जो पार्टियाँ या पार्टी सरकार में है और जो पार्टी विरोध में है, इस सवाल पर एकमत हैं। मुझे यह देखकर भी आश्चर्य होता है जैसे उन्होंने कहा कि एक समिति बनी थी जिसमें मैं भी कभी-कभी जाता था। हमारे मित्र मुरली मनोहर जोशी जी उसके अध्यक्ष थे, जार्ज फर्नान्डीज़ सदस्य थे और जयपाल रेड्डी जी बैठे हैं, वह भी प्रमुख सदस्यों में थे। वह विस्तार से भाषण देंगे लेकिन मैं एक बात कांग्रेस के मित्रों को याद दिलाना चाहता हूँ। १९७० में जब पेटेंट्स कानून बना था, उस समय दुनिया के जितने पूँजीवादी देश या उद्योगपति देश थे, उन्होंने इसका बड़ा विरोध किया था। उस समय भी यह कहा गया था कि अगर भारत पेटेंट्स ऐक्ट १९७० को पास करेगा तो हम इनको सहायता नहीं देंगे, इनके ऊपर तरह तरह के प्रतिबंध लगाएंगे। उस समय की प्रधान मंत्री श्रीमती इंदिरा गांधी ने कहा था कि दुनिया के धनी देश जो चाहे करें, भारत अपने हितों की रक्षा के लिए जो समझौता, वह संसद में प्रस्ताव पेश करेगा और उसको स्वीकार करेगा। हमारे एक मित्र दो दिन पहले मुझे बता रहे थे कि अगर दुनिया में कहीं नहीं है तो हम क्या दुनिया को नेतृत्व नहीं दे सकते? उन मित्रों को मैं बहुत अदब से कहूँगा, शायद वह १९७० में कांग्रेस में नज़दीक भी नहीं थे। कहीं रहे होंगे तो दूर के इलाके में होंगे। आप उस समय के अखबार उठाकर देख लीजिए, १९७० में श्रीमती इंदिरा गांधी ने कहा था कि दुनिया की चुनौतियों को स्वीकार करने के लिए हम तैयार हैं, किसी के सामने हम झुकने को तैयार नहीं हैं और १९७० में वह पेटेंट्स ऐक्ट पास हुआ था। मैं कांग्रेस के मित्रों से कहूँगा कि उस समय भी कांग्रेस के प्रस्तावों में जनहित था। उस समय भी जनहित की बात सोची जाती थी। हमारे मित्र गुजराल जी बैठे हुए हैं। उस सरकार में वह भी थे। उस समय की सरकार भी गरीबों के बारे में सोचती थी। अब गरीबों के बारे में सोचने की एक नयी धारा निकल पड़ी है जिसका समर्थन कांग्रेस पार्टी भी कर रही है, जिसका समर्थन मेरे मित्र मुरली मनोहर जोशी और जार्ज फर्नान्डीज़ भी कर रहे हैं। मैं ऐसा समझता हूँ कि बदलते हुए रंग देश को नहीं बदल सकते। देश बरबादी की ओर जा रहा है, देश विनाश की ओर जा रहा है, देश आर्थिक दासता की ओर जा रहा है और यह केवल हमारा देश नहीं जा रहा है, दुनिया के दूसरे जो देश हैं, वह भी इस बरबादी का शिकार होने वाले हैं। एक ज़माना था जब हमने तीसरे विश्व के देशों का नेतृत्व किया था। मैं अपने उन मित्रों को याद दिलाना चाहता हूँ कि उस समय भारत में नेतृत्व करने की क्षमता थी। हमारे पास आज जैसा आर्थिक साधन भी नहीं था लेकिन हमारे पास साहस था, हमारे पास विश्व की कल्पना थी, उसका भविष्य बनाने की हमारे मन में आकांक्षा थी और उस समय हमने तीसरे विश्व के देशों को संगठित किया था। मैं विवरण में नहीं जाऊँगा क्योंकि आपसे मैंने निवेदन किया था कि पांच-सात मिनट ही बोलूँगा। उस समय भी बहुत जोर लगाए गए थे, जब विश्व व्यापार संगठन पर दस्तखत करने की बात चली थी। मैंने उसका विरोध किया था।

मैंने कहा कि हिंदुस्तान को बाजार मत बनाओ। हिंदुस्तान की जो परम्परा है, हिंदुस्तान की पांच हजार वर्षों से जो सभ्यता और संस्कृति है, जो यहां के लोगों का गावों तक फैला हुआ ज्ञान है, उसको धूमिल मत करो। हमारे यहां आज से नहीं हजारों वर्षों से जिन औषधियों का उपयोग होता रहा है, क्या उनको अमरीका में पेटेंट नहीं कराया जा रहा है, क्या उसके खिलाफ भारत की सरकार नहीं गई है। आज हल्दी और नीम पर भी अमरीका का बिज होना चाहता है। हमारे मित्र ने भी पढ़कर सुनाया कि केवल दो क्षेत्रों में दुनिया के उद्योगपतियों के जरिये काफी जोर दिया जा रहा है एक तो कृषि का क्षेत्र है और दूसरा दवा का क्षेत्र है। दवा के मामले में आप जानते हैं हमारे देश की क्या हालत है। कहां गई आयुर्वेद, कहां गई यूनानी दवाओं की पद्धति। अंग्रेजी दवा की आज जो पद्धति है, हमारे मित्र श्री सिकन्दर बख्त जी उसी परम्परा के एक सिपाही कहें या नेता कहें, जिस परम्परा में हमने गांधी जी के स्वदेशी के रास्ते को अपनाया था, आज सिकन्दर बख्त बदले हैं या नहीं बदले हैं, दिल से तो शायद नहीं बदले हैं, लेकिन जब बिल लेकर आते हैं तो मुझे मालूम होता है कि पुराने मित्रों के चेहरे भी बदल गये हैं, दिल तो शायद बदला हुआ नहीं है। लेकिन मैं आज आपसे कहता हूँ कि दवाएं महंगी होने वाली हैं, जो विवरण उन्होंने दिया, मैं उसमें नहीं जाऊँगा। जिस देश में गरीब को दवा की एक टिकिया नहीं मिलती, जीवन बचाने वाली औषधियाँ कितनी महंगी हो जायेंगी। आज दिल्ली के सरकारी अस्पतालों की क्या हालत है वहां दवा की एक टिकिया नहीं मिलती। गैर सरकारी अस्पतालों में जाने की बात गरीब सोच भी नहीं सकता। कृषि की परम्परागत पद्धति को तोड़ने के लिए तरह-तरह की साजिश हो रही है। मैं विशद विवरण में इसलिए नहीं जाना चाहता चूंकि मैंने आपसे समय भी कम मांगा है और मुझे एक जगह जरूरी जाना भी है।

उपाध्यक्ष महोदय, मैं आपसे निवेदन करना चाहता हूँ कि आज हमारे देश में क्या हो रहा है? आप खुद उस परम्परा के प्रतीक हो, मैं आपको याद दिलाकर किसी परेशानी में नहीं डालना चाहता। १९७० के जमाने में आपकी भी कुछ राय थी और उस राय से आप पूरी तरह से परिचित हैं, उस आंदोलन से भी पूरी तरह से परिचित हैं। कुछ सदस्य उठकर खड़े हो जाते हैं और हमें नये-नये सिद्धांत बताने लगते हैं, नयी-नयी रीतियाँ सिखाने लगते हैं, भारत को दुनिया का नेतृत्व करना चाहिए। यह सबक सिखाने वाले लोग पहले खुद भारत की रीतियों को सीख लें, तब दुनिया को नई रीतियाँ सिखाने की कोशिश करें। जो अपने देश की परम्परा पर अभिमान नहीं करता, जो अपने गौरव को नहीं जानता, वह दुनिया को गौरव का इतिहास नहीं पढ़ सकता, यह बात हमें याद रखनी चाहिए।

आज छोटे-छोटे सवाल पर कितनी लड़ाई हो रही है। पिछले सात दिनों से अखबारों के पन्ने भरे पड़े हैं कि केले के व्यापार पर यूरोप के लोग और अमरीका के लोग एक दूसरे के खिलाफ खड़े हैं। रोज-रोज बहस हो रही है, दुनिया तमाशा देख रही है। भारत का एक मंत्री भी उठकर अपनी चीजों के बारे में कहने के लिए तैयार नहीं है। मैं जानता हूँ एक बार दस्तखत हो गये, आप उससे बाहर नहीं निकल सकते। लेकिन क्या भारत के लोगों से कहने का काम वीरेन्द्र सिंह से ऊपर रहेगा, स्वदेशी जागरण मंच के ऊपर रहेगा कि अपने देश की वस्तुओं का इस्तेमाल करो, दूसरे देशों की वस्तुओं का इस्तेमाल मत करो। स्वदेशी मेला यह लगायेंगे और विदेशी वस्तुओं का आयात हमारे वाणिज्य मंत्री भाई रामकृष्ण हेगड़े जी करेंगे, जिन्होंने स्वतंत्रता संग्राम में हिस्सा लिया था। एक साथ दो सौ, तीन सौ वस्तुएं इस देश में मंगाने की इजाजत दी जाती है, इस नाम पर कि हमने ठौट का समझौता किया है, हम कोई रोक नहीं लगा सकते। दुनिया के दूसरे देश उस समझौते को दरकिनारा रखकर अपने हितों की रक्षा के लिए कोशिश कर रहे हैं। मैं नहीं कहता कि उसे नजरअंदाज कर दीजिए। लेकिन उपाध्यक्ष महोदय यह मन की दासता हमारे लिए और देश के लिए सबसे बड़ा संकट लाने वाली है। ऐसी स्थिति में अगर पेटेंट कानून पारित हो गया तो भारत कृषि के क्षेत्र में और औषधियों के क्षेत्र में बड़ा भुगतान भुगतने वाला है और इसका सबसे बड़ा असर गरीबों पर होगा। सामाजिक न्याय का पाठ वे लोग पढ़ाते हैं जिन्होंने सामाजिक न्याय के लिए कुछ नहीं किया है। कम से कम हमें तो सीख मत दो। हमने भी बहुत सामाजिक न्याय के आंदोलन देखे हैं। हमने बहुत से सामाजिक न्याय के प्रणालियों को पदों के लिए हमारे सामने ही लुढ़कते हुए देखा है, इसलिए मुझे शिक्षा देने की जरूरत नहीं है। लेकिन उपाध्यक्ष महोदय यह व्यक्तिगत सवाल नहीं है, यह राष्ट्र की अस्मिता और राष्ट्र के भविष्य का सवाल है। मैं भाई सिकन्दर बख्त जी से आपके जरिये निवेदन करना चाहता हूँ कि अगर पुरानी यादें आज भी कुछ ताजी हों, अगर आज भी गांधी जी की याद आती हो।

उपाध्यक्ष महोदय, आज भी मोरारजी भाई देसाई की यादें आती हों, आज भी उनकी वे बातें याद आती हों जो हमने और उन्होंने मिलकर साथ-साथ की हैं। मैं नहीं जानता वे बातें जॉर्ज फर्नान्डीज को और हमारे मित्र मुरली मनोहर जोशी को याद आती हैं कि नहीं, अकेले में तो मुझसे जब वे कहते हैं, तो वे बातें याद आती हैं, संसद में भले ही वे याद न आती हों। मैं उन्हें यह याद दिलाने के लिए यहां खड़ा हुआ हूँ और इस देश को यह कहना चाहता हूँ कि संसद जो भी प्रस्ताव पास करे, एक समय आ गया है जब देश के लोगों को यहां से कहना होगा, चाहे हमारी, रघुवंश प्रसाद सिंह, मोहन सिंह और जयपाल रेड्डी जैसे लोगों की अकेली आवाज हो कि देश को चलाने की जिम्मेदारी केवल आज की सरकार के ऊपर नहीं है, बल्कि इस देश को चलाने की जिम्मेदारी यहां के नवयुवक और नागरिकों के ऊपर है। यदि यह कानून यहां से पास होता है, तो इस कानून का उल्लंघन करने के लिए, इस कानून को तोड़ने के लिए देश के नौजवानों को तैयार होना चाहिए। विदेशी का बहिष्कार करना चाहिए। विदेशी कंपनियों को इस देश का बाजार बनाने से रोकने की हर कोशिश होगी।

उपाध्यक्ष महोदय, मैं आपके जरिए, देश के नौजवानों और देश के नागरिकों का आह्वान करता हूँ और मैं चाहता हूँ कि इस बिल का, इस प्रस्ताव का, इस विधेयक का, पूरी ताकत से विरोध होना चाहिए। धन्यवाद।

>SHRI SUDIP BANDYOPADHYAY (CALCUTTA NORTH-WEST): Sir, our party, Trinamul Congress extends our support to the Patents (Amendment) Bill.

In the Statement of Objects and Reasons, in Para 4, it has been very categorically mentioned that:

"As the Patents Act, 1970 does not provide for grant of product patents, inter alia, in the fields of agricultural, chemicals and pharmaceuticals and also for grant of Exclusive Marketing Rights (EMRs), the provisions of Articles 70.8 and 70.9 were applicable to India."

Sir, the Patents Bill is, of course, a Congress baby being look after by the present Central Government. When GATT Agreement was signed, and India being the founder member of WTO, certainly India cannot avoid its responsibility and cannot be shifted from its commitments. This Amendment Bill is to be passed by 19 April 1999. Why? This has also been mentioned in the Statement of Objects and Reasons.

"The United States of America raised a dispute against India at the WTO alleging non-fulfilment of India's obligations in this regard. A Panel set up by the Dispute Settlement Body (DSB) of WTO examined the allegations made by the USA and submissions made by India and ruled that India had not complied with its obligations. On an appeal made by India, the matter was considered by the Appellate Body of the WTO which also recommended that India take the necessary steps to comply with its obligations. It was subsequently determined that this be done by 19 April 1999. Failure to comply with these obligations within the stipulated period may entail action against India in terms of the Dispute Settlement understanding of the WTO Agreement."

So, within a stipulated time period of 19 April 1999, this Amendment has to be passed. But throughout the country, there is certainly an apprehension as to whether we are surrendering to the multinationals and the particular objection made by the United States of America have started people believing that this present Government is trying to amend and to pass it due to tremendous pressure coming from this particular country.

Sir, we must say that the Government should positively give some guarantee, after this amendment is adopted, that the public interest is preserved; price fixation would be controlled; national security of our country should not be affected; sovereignty should not be challenged; interest of the seed farmers should be totally protected; prices of urea and products patented in India are to be safeguarded; and the safeguards to the product patent would be used for our own economic progress.

Sir, many speakers have expressed their apprehensions and doubts as to whether the prices of drugs will go beyond control; whether our intellectual property rights are going to be challenged; whether our interests are being sold and the sovereignty of our country is also going to be affected. The Government's firm standpoint is to be clarified that due to certain international obligations and prestige of our country, as we signed the GATT agreement followed by the Dunkel proposals, have now to be fulfilled.

Sir, the TRIPS agreement of the WTO mainly cover nine categories of intellectual property, which are: copyright and related rights; trade marks including services mark; geographical indication; industrial design; layout designs of integrated circuits; state sector; patent; patenting of micro organism and new plant varieties, that is seeds and other propagating materials. Out of these nine categories, six are more or less protected. These

intellectual property rights are protected but so far as the other three -patent, patenting of micro organism and new plant varieties, that is seeds and other propagating materials -- are concerned, these have to be looked after with care.

Sir, apprehensions are there but it is also a fact that for introduction of a new drug, it takes eight to ten years of time. Even in the USA, it takes more than 12 years of time for introduction of a new patent. We apprehend that if proper checkups are not made, then, as Shri Prithviraj D.

Chavan was saying in his speech, the rejected group of medicines and other patents may take entry into our country by this Patents (Amendment) Bill.

Sir, yesterday it was discussed about the China's position several times. The hon. Member from the CPI(M) was telling whether China is still a member of the WTO. China has applied for its membership. It is still under consideration. Membership has not been provided to China. It is not that China is totally opposed to the GATT agreement or they are not keen or interested to take an entry into the WTO.

Sir, even the USA and China signed an agreement on copyrights in January 1992 itself. So, it is not true that China is not eager to become a member of the WTO. They are also keen to become a member of the GATT agreement.

Sir, we should take all efforts and protect our intellectual property rights to see that our country can be benefited by this amendment. If this is protected properly, then we certainly believe that so far as the international market is concerned, we can transparently take part into it.

We have our intellects. We have also got our own products on patents by which we can also take part in the other parts of the world and by which we can also earn our foreign money. So, when liberalised economic and industrial policies have already been adopted in our country, we cannot even fall behind from these sorts of ideas and outlooks in which the Patents Bill is one of them. So, Sir, on behalf of our Party, we support the Bill with an expectation that the Government should take all out efforts to see that our intellectual property rights are not affected and not challenged. The Government should see to it that the prices of medicine and other products do not go high.

>SHRI S. JAIPAL REDDY (MAHABUBNAGAR): Sir, I have not been too well since yesterday, yet I have been waiting patiently to enter my caveats on this occasion. Sir, I would like to know from the hon. Minister for whom I have great respect as to why the Ordinance was promulgated. This Bill was passed in Rajya Sabha during the Winter Session. For some reasons, it could not be taken up in this House. You have time, even according to the WTO dispute settlement mechanism, up to 19th of April. Where was the need for you to rush with this Ordinance? Mr. Deputy-Speaker, Sir, I have tried to find out the reasons from the statement circulated by the Minister explaining the reasons for the Ordinance. I would like to draw his attention to paragraph eight.

"The United States of America requested India to hold consultations with it on the provisions of the Patents (Amendment) Bill, 1998. It was felt that it would not be appropriate to have any discussions on the provisions of the Bill before it is enacted."

I am providing the answer for the Minister too. Now, Sir, what do we infer from such a frank, transparent confession? This Government does not have the political will and the moral stamina to discuss a Bill with the Government of the United States. Is this a sovereign Government? Does it represent our country? The reason given is really humiliating for the nation. This is one of the saddest days for the Indian Parliament. Why do I make this grave statement? This is a Bill to which all the sections of the House have been opposed by turns. The Congress, the BJP and, of course, other parties have all been opposed to this Bill all along. May I submit to you that in the history of Indian Parliament, no Bill was ever passed by Parliament to which all the sections of the House were opposed one may well assume? You may say that about BJP and . How do you say the same about Congress? Congress was in power in the whole of 1980s. It was a Congress Government which gave negotiating mandates to our teams at the GATT. Our teams took position against the entire TRIPs Treaty as it exists today.

Therefore, I do not charge any party with having betrayed the country at the negotiating table. They did take the correct positions. But they could not sustain those positions.

I would like to quote the statement made by Shri V.K. Ganesan, our Commerce Secretary at that time in his official capacity:

"We should make it very clear that regardless of whatever be the outcome, even if we sign the GATT we are not going to tread on those fronts. "

Please note.

That is, we would disobey. One is, importation does not amount to working a patent. It is Article 27.1. We have to add a footnote to that.

The second point is about the micro-organisms. Shri Ganesan stated it on record that even if such a treaty was passed, this country would muster up the courage and the strength to disobey it.

So, the Congress Party, for reasons best known to it, or even compulsions, went back. I do not have to narrate the story of the BJP at all. My friend Dr. Murli Manohar Joshi and I and a few others have been working for years on the Forum of Parliamentarians. I have fundamental philosophical differences with Dr. Murli Manohar Joshi. There is no person in this country with whom I differ more on many issues. But I worked with him on this. What happened? So, that is about the BJP.

So far as the Left Parties and we were concerned, we were always opposed to it. So, this is a Bill which is being enacted by the House against the heart of the House. Therefore, I can think of no other legislation in this country that has such a precedent or a parallel. We have enacted many controversial Bills over which the House was intellectually divided. But, now the House is ideologically unified and politically divided. None of these things that the TRIPs treaty represents a positive or some even a mixed package for us. It is almost an unmixed evil, it is an unmixed curse and we are prepared to swallow this bitter medicine as a nation. That is what is agonising. When the hon. Minister talks of provision of compulsory licensing, I would call this a piece of compulsory legislation. We are compelled to legislate. Can there be anything more humiliating than that?

Now, coming to the Bill itself, it has a very narrow focus. We are trying to say that we are complying with a certain legal requirement imposed on us by the world body.

I have heard Shri Prithviraj D. Chavan. He said that he supported the Bill. But all the points that he made in his speech were against the Bill! He had also been working with me. So, his heart was not in it. His mind was not in it. Only his mouth was in it!

There is a need to look at the whole issue in both historical and philosophical perspectives. Why are we making these speeches? Not because I believe that the Minister and the BJP can be converted at this stage but because we believe that this is an occasion on which we must go on record.

This is a speech meant for posterity, history and we are to be judged at the bar of history.

In 1970s when the original Patents Act was passed, the prices of drugs came down. The pharmaceutical industry flourished in India. Pakistan did not go in for process patent as we did. It went in for product patent. What happened? There is a huge difference in the price of ordinary drugs between India and Pakistan, not to speak of United States. I will come to United States a little later. This was considered an ideal piece of legislation in the world of 1970s. That was a bipolar world. We did not have one single super power dominating all of us. We could breath freely. We enacted that law. Today, we are going to dismantle that 1970 Act, not in one full stroke but in a piecemeal manner. I oppose this Bill because it smacks of a piecemeal approach. What is the perspective? Where is your integrated approach?

Yesterday I was listening to one of the Members of the B.J.P. I was more annoyed than amused when he began to support the patent regime. The validity of patent period has been extended from 15 years to 20 years. Nobody in the world believes that such a thing is good for consumers anywhere in the world including the consumers in the United States. The leading consumer activist of the United States Mr. Ralph Nader has been campaigning against this patent regime. I can understand the political compulsions, but if we submit to this, then it would be an epic example of egregious exploitation through technological tyranny. If we begin to justify it on philosophical grounds, it would be making an intellectual virtue of a political imperative. BJP has acquired an uncanny knack of converting its political compulsions into philosophical convictions. I am really upset about this.

Such of those who have been critical of the GATT (II) -- what we are having today is not GATT(I) -- have always been champions of GATT. Today we have GATT (II) under which the WTO has been set up. It is a supra national body. It is a defecto world Government in respect of commerce and trade.

Now, such of those who are opposed to GATT(II) are not opposed to liberalisation because liberalisation philosophy is based on free trade and patent philosophy believes in conferring monopoly which is opposed to free trade. Such of those that are supporting GATT(II) are against liberalisation. They are conferring 20 years monopoly and after 20 years there can be another spell of 20 years by way of process patent.

14.00 hrs.

In effect, there can be monopoly, theoretically speaking, for forty years. That is the kind of protection they seek for their inventions. We are not opposed to rewarding inventions; we are for rewarding inventions. But a balance needs to be struck between vital public concerns and the reward for the inventor.

1401 hours [Shri Raghuvansh Prasad Singh in the Chair]

In the report submitted by the World Health Organisation in 1977 - I am not quoting Indian experts, I am quoting a world body whose expertise in the matter and whose authority in the matter are universally acknowledged -

it is stated:

"In the pharmaceutical field, the logical consequence of this provision is that drugs will be sold at high prices, as is the case for the monopoly products. For a long period of time, the manufacturers of genetic products will have to wait longer before they can produce the drugs in question and sell it at a more accessible price."

This report of the WHO has been made after India signed the Marrakesh Treaty. There is no harmony between the perception of the WHO and the WTO on this. The United States has been marginalising all the bodies associated with the United Nations, be it UNICEF or WHO or, for that matter, the United Nations itself. It is setting up a parallel international authority. We will be now governed by a new international trinity comprising World Bank, IMF and WTO, and we are prepared to succumb to this kind of pressure.

Having said this, I must clarify that I am not amongst those who believe that we should quit the World Trade Organisation. I may here draw the attention of the House to the Committee headed by none other than northern Shri I.K. Gujral Ji. Our Parliamentary Committee made unanimous recommendations on two counts. On Dunkel proposals which were a prelude to the Marrakech Treaty, the Committee felt strongly and unequivocally that they should be rejected. Yet the Committee said that the bottom line was that we should not quit the world trading forum. So, I am not pleading for quitting the world trading forum at all.

This Bill relates to two issues. One is pharmaceuticals and the other is agriculture chemical. Agriculture and health are exclusively in the State's List. I would like to know as to how we are competent to pass this legislation. He may say that in the Constitution of India we have an overriding provision which enables the Government of India to enter into international treaties. This is no ordinary international treaty, Mr. Chairman. You cannot barter away the rights of the States. You cannot alter the basic structure of the Constitution of India. May I draw the attention of the Minister to what goes on in Germany?



Very few people in our country know that Germany is as federal as India, if not more. Whenever a matter relating to State List is to be legislated upon in the European Union, prior permission of the State Assemblies is taken. Unless the prior permission is taken, the Government of Germany cannot enter into an international treaty even in regard to European Union. So, how are we ignoring the States?

Now, I am told, Shri Jaipal Reddy, you may deliver any number of speeches, but you have to make a choice between the EMR route and the product patent route. I have to make a choice between the devil of EMR and the deep sea of the product patent route. I am not prepared to make a choice. That is a Hobson's choice. Now, we were told that we were given a grace period of ten years as a developing country. But what has happened? During the grace period of ten years, we have been compelled to grant the EMR, exclusive marketing rights, which is in fact a disgrace. It is not a grace period, it has become a disgrace period. What did we get in return? Are we in a position to export textiles to the United States without restriction on quotas. No. Restrictions on our textiles will continue right up to 2005. The United States, which is a poor country, needs protection!

Sir, our approach is fatalistic. We cannot do anything about it. That is what the Minister is going to say. It is defeatist, it is reactive. What is their pro-active approach? What is their positive approach? What is their pre-emptive approach? Do they have an approach at all?

Now, there is a provision in the WTO Act itself, the GATT-II for review. Are we preparing themselves as a nation? Are we, as the biggest developing nation in the world, preparing other countries to see that review of patent regime is fundamentally effected? They have the opportunity. What are they doing there? They go and deliver pre-drafted speeches there. That is all they do. They say one thing when they meet at the NAM and they become namby-pamby when they go to G-7. That is the problem.

Now, I would like to make one point which has not been made so far. The amendments which have been brought are very weak. The patent applications will be examined in terms of sections 3 and 4 of the 1970 Act. I can read out the Act also, but I do not think that I have enough time. It does not relate to patentable inventions. Section 4 relates to atomic energy which anyhow is not covered by WTO. So, what safeguards are they providing in the first place? Why do they not say that patent applications will be examined in terms of entire 1970 Act? This suggestion has been made by none other than Shri Ganeshan who is today advocating that we had better fight the WTO from within. Even he said that the amendment must refer to the entire Act and not to sections 3 and 4.

I would support the proposition of Shri Chavan. If you cannot bring in the entire Act, at least bring in Chapter IV and V so that the concerned authority can look at it in terms of triple criteria, whether it is in the public domain, whether it is really an innovative step and whether it is commercially useful, and people can complain. There is no provision for public complaint.

Having said this, let me contradict myself. It is not the privilege of BJP and the Congress alone to contradict themselves. These safeguards are not sustainable in terms of WTO law. There is no provision for compulsory licensing at all, when it comes to EMR. EMR, in that respect, is worse than product patent. Therefore, the United States has already lodged a complaint against you and this Bill. You are passing the Bill with a view to complying with the decision of the WTO, and the United States has already lodged a complaint. If I am to be impartial, I would see some merit in that because I do not see any legal scope for compulsory licensing through EMR route.

There are others in our country who think that the product patenting is better than EMR. I have not been able to appreciate that logic because even under the product patent, you cannot go in for compulsory licensing in the manner that has been provided for in the 1970 Act. In the 1970 Act, Sections 81 to 90 deal with the manner and circumstances in which compulsory licensing can be taken recourse to. Article 31 of the TRIPs Act does not permit you to do that. What it says is that only when there is a national emergency or circumstance of extreme urgency, you can go in for it and not otherwise. Moreover, the prospect is limited to public non-commercial use. You can go in for compulsory licensing without commercial exploitation. So, where is the scope under product patent also? You have been tied down to this. The way out is not compliance; the way out is defiance. We have lost in WTO and we must defy. Our people are raising the bogey of catastrophic consequences that will flow from non-compliance. I do not agree with that bogey. What will happen? The United States will, once again,

complain after 9th April. Then, the WTO will ask the United States, "Look! What is the injury caused to you?" The United States will be obliged to establish that it has suffered a specific injury, and even after it establishes a specific injury, it can take steps in the concerned sectors only. After that, it can take recourse to what are called 'cross retaliatory measures'. So, why are we in such a holy or unholy hurry to comply with these requirements?

Sir, everybody praises the virtues of WTO because we will have a non-discriminatory regime. Following the Pokhran explosion, the United States has unilaterally imposed embargo on 250 companies, or institutes, of our country. Have the Government raised a dispute in WTO? If the WTO ensures a non-discriminatory international trade regime, they should be able to file a complaint in the WTO. Why have they not done it? The Government of U.S.A. have done it on the ground that the technologies, which have been banned could lend themselves to dual use. Can that be the ground? Why should we not test waters of W.T.O.? Has the thought ever crossed the Government's mind? No, this thought cannot cross their mind because they are in a compliance mode, not in a defiance mode. That is the problem.

How many molecules are generally patented per year in a country like the United States? They say, a maximum of 60. In fact, I have a list which says that in four years they could only get patent right, full-fledged patent right, for only 39 molecules. But, I understand reliably that 3,000 applications have been received and the Minister is admitting that. Let him explain as to what those application are about. They could be about a change in the usage form. They could be flimsy applications. Do we have a right to examine them? My position is that you do not have a right to examine. I am taking this position, let the Minister contradict there is no problem because we are both going to be judged at the bar of history.

Everybody talked about banana. Banana is the western counterpart of our onion, apparently. A big trade war has broken out between the most like-minded allies, between the two biggest trade partners, the European Union and America. And it revolves round only 500 million dollars. It does not entail billions of dollars. The United States has not cared to go to WTO. It has unilaterally decided to impose sanctions against the European Union. The point I am trying to make is that when it comes to United States, WTO is helpless. Just as in political and military matters the United States overtakes the United Nations, in commercial matters the United States, overtakes the WTO.

Mr. Kentor, a US trade representative, told the US Congress, "According to GATT Section 102, when there is a trade dispute under GATT, the US law will precede over GATT in every case, not just in some cases, not just in most cases but in every case." I can quote a little more but I think I do not have time.

Now, some friends are saying that after all, there are only 250 widely used drugs. Only four retained their patent by 1995. Those four have also since elapsed.

Mr. Chairman, Sir, patients do not necessarily use essential drugs. They go by the prescription of physicians. I am reminded of a phrase which both Nehru and Galbraith used in the Sixties about the military factories in America. They called it 'Industrial military complex'. In India, we also have a 'physician pharmacists complex'. When a patient is suffering from a disease, he will go in for the latest and the costliest drugs prescribed by the physician, and there is a nexus between the practising physician and the pharmacists and the pharmaceutical companies. Therefore, to say, 'well, our essential drugs are not covered' is not correct.

Mr. Richard Sykes, Chairman of Glaxo Company said that they would take two patents from India for exclusive marketing rights, although they are both relating to changes in the dosage form. Mr. Sykes also says about Zantac. When Zantac was under patent in the U.S., the Indian price was about two per cent of the U.S. price, that is, fifty times less.

I was surprised when some patriotic Members of the BJP were complaining about the low drug prices in India. Whom are they pleading for, I do not know. If you say that it is a matter of compulsion, fine! But do not translate your compulsion into conviction. Do not get ideologically converted. Do not get brain washed.

SHRI KHARABELA SWAIN (BALASORE): Sir, I never complained about the low prices of the drugs.... (Interruptions)... He is imputing a motive on me on what I did not say. That is my complaint. I never said this.

SHRI S. JAIPAL REDDY (MAHABUBNAGAR): Well, I accept your explanation. I accept your clarification. But that is not the main point. The point is that the prices of drugs in India are the lowest in the world and when an Indian goes to the United States, he takes all his drugs from India as cannot afford it. I am afflicted by a number of chronic diseases. There is only one disease that I do not have, and that is B.P. That is why, I am able to speak properly. When I go to the United States, I carry my medicines from here because I cannot afford to buy the medicines in the United States. I do not think, Sikandarji will be able to afford them either.

Therefore, you must examine this from the angle of our poor people.

Sir, you have inserted an untenable provision of compulsory licencing with a view to deceiving us. I know that you are not deceiving yourself. It is a bogus safeguard, hocus-pocus safeguard, deceptive safeguard and untenable safeguard. Be that as it may.

You have given the right to sell or distribute, and not to manufacture. Why have you decided not to give the right to manufacture? Because, you know that the amendment you have inserted, is untenable. It is meant to be an eye wash and hogwash. Nothing more than that.

Sir, I was reading the first editorial of the prestigious journal The Economist of London sometime back. It appears that some break-throughs have been achieved in the matter of the AIDS. The Economist of London, which has been the champion of laissez faire economy for the last 150 years, wondered in its editorial as to how poor people in the Third World Countries would be able to afford this because the minimum cost of the AIDS treatment would be 10,000 dollars, that is, Rs. 4 lakh and more.

There are millions and millions of people in our country suffering from AIDS. It has become a fashion for some friends here to refer to the example of China. Let me state that I am no admirer of China. I have been a consistent social democrat. I am proud of the democratic path we took. But before you refer to China, you must remember the storm and rain and the storm and fire through which that nation has passed through over 50 years. You must remember that China is not a member of the WTO. It has to accede to the United States' demands to get the status of most-favoured nation every time by haggling and bargaining on the Capitol Hill. You are a member of the WTO. You do not do that.

May I raise another point? China has an accumulated trade surplus of 50 billion dollars with the United States. Do you have the strength of China? So, why do you refer to the example of China in an irrelevant manner?

In India, we have wonderful justice system. I am proud of that though it leads to dilatory justice. In China -- with due apology to China, I am no enemy or admirer of China -- there is no justice system like ours. Therefore, what is the point in having any accord with China when it cannot be implemented at all? There is no independent justice system in China.

I want to make the last point for the consumption and serious attention and immediate action of the hon. Minister. What is the preparation of our nation? How are you preparing the nation? USA has got 3,000 examiners to look into patents. As against that, there are only 13 examiners in India whose skills are of dubious nature. What is the infrastructural step that we are taking in this area?

Apart from this, we have to go in for sui generis system. What are the steps which we have taken? Have you consulted all of us? Do you want to consult us at all?

Then about Indian heritage about which all of us are proud, what are you doing to see that Ayurvedic prescriptions and Unani prescriptions are patented in a foolproof manner well before 2005? You have done nothing. That is my charge. We are very haphazard in this matter. This matter is being looked into by two Departments, Industries and Commerce. I do not mind if Commerce Department is given to my friend, Shri Sikander Bakht in addition to Industry. Let all the matters relating to WTO be brought under one Ministry. Even this elementary step has not so far been taken. In conclusion, this is not the end of the WTO. Industrialised countries have an unending agenda to unveil in course of time.



They are going to force you to let their investment flow in; they are going to force you to adopt their labour standards; they are going to force you to adopt their environmental standards. If you cannot discuss this Bill with the United States Government except through an Ordinance, how can we depend on you to oppose its agenda, which is totally disruptive of the developing world?

With these words, with all the emphasis at my command, I oppose this Bill.

... (Interruptions)

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श्री बालासाहिब विखे पाटील : सभापति जी, पेटेंट बिल के संबंध में लोगों के मन में जो शक हैं, वह मैं आपके माध्यम से सदन के सामने रखना चाहूंगा। मैं मंक्षी जी से उम्मीद करता हूँ कि वे अपने उत्तर में इस विषय पर स्पष्टीकरण देंगे। मेरा पहला सवाल है कि पेटेंट के कारण दवाइयों की कीमतें घटेंगी या बढ़ेंगी? इस पेटेंट के कारण हिन्दुस्तान में दवाइयों की संख्या साठ हजार तक है। मैं जानना चाहता हूँ कि यह संख्या और बढ़ेगी या कम होगी?

तीसरा सवाल यह है कि आयुर्वेदिक और होम्योपैथिक एक ही सस्ती दवाई है। इस पेटेंट लॉ के कारण हमारे जो आयुर्वेदिक और होम्योपैथिक मेडिकल ब्रांड चल रहे हैं, उन पर इसका क्या असर होगा? मैं समय की कमी के कारण ज्यादा समय नहीं लूंगा। जो एग्रीकल्चर इजटा नेचुरल रिसोर्स हैं, उनके ऊपर यह पेटेंट कानून लागू नहीं होना चाहिए लेकिन जब उसका जेनेटिक इंजीनियरिंग के बीच में कोई परिवर्तन होता है तब यह लागू होने की संभावना होगी।

बासमती का झगड़ा चल रहा है और तुलसी के आयुर्वेदिक जूस पर भी झगड़ा पैदा हो रहा है। हमारे मेडिकल प्लांट के बारे में भी पेटेंट में प्रोटेक्शन होना चाहिए, दूसरी बात आपको पता है कि किसान अनपढ़ है। जब हम विकसित देशों की बात करते हैं तो वहां पढ़े-लिखे लोग हैं लेकिन हमारे गांवों में कितनी लिट्टेसी है। आज किसान के बीज, बुवाई या कोई भी प्रैक्टिस हो, उन्होंने हजारों सालों से एग्रो-क्लाइमेटिक कंडीशन्स से अपने बीज का निर्माण किया है। डाउट एरिया में बासमती का बीज अलग है। उन्होंने जो ट्रेडीशन धान सुरक्षित रखा है, उसके बारे में भी उनको सिक्युरिटी मिलनी चाहिए क्योंकि उनको यह ज्ञान नहीं होगा कि हमें यह पेटेंट कैसे करना है, वैसे उद्योग जगत लोग जागरूक हैं। चाहे मल्टी नेशनल्स हों, हिन्दुस्तान की ज्वाइंट कम्पनीज हों या बीज परिवर्तन में संशोधन करने वाली कोई निजी संस्था हो, वे कर सकती हैं। हमारे यहां यह परम्परा रही है कि हम इस साल का बीज प्रोटेक्ट करते हैं और अगले साल बोते हैं। कुछ फसलों में आज ऐसा नहीं हो रहा है, आज किसान की कई ऐसी फसलें आ रही हैं जिसमें उस साल का बीज उसी साल खत्म हो जाता है और नया बीज खरीदना होता है। इसलिए हमारे पास जो ट्रेडीशनल नॉलेज है, चाहे प्लांट प्रोटेक्शन हो, हमें इस पर बहुत गहराई से सोचकर किसान को सिक्युरिटी देनी है। गांवों के जो छोटे कारीगर होते हैं, उनके पास भी काफी अच्छी टेक्नोलॉजी होती है। वह टेक्नोलॉजी भी पेटेंट दूसरी कम्पनी भी कर सकती है। मैं मंत्री महोदय से यह जानना चाहूंगा कि इसमें हमें कैसे संरक्षण मिलेगा।

नए इस निर्माण के लिये जनजागरण करना जरूरी है लेकिन किसान या किसी गांव वाले के लिए पेटेंट लॉ का परिणाम क्या होगा। जो पढ़ा-लिखा है, एक्सपर्ट है, जिनके पास काफी धनराशि है, इन्फ्रास्ट्रक्चर है, ऑफिस है, वे पेटेंट लॉ में कुछ न कुछ रजिस्टर कर लेंगे और हमारे गांव के किसान या मजदूर या कारीगर उससे वंचित रह जाएंगे, हमारे जो अधिकार हैं, जो ट्रेडीशनल राइट्स हैं, नैचुरल राइट्स हैं, उनमें क्या परिवर्तन होगा। यदि होगा तो उसमें हमें कैसे संरक्षण मिलेगा क्योंकि जो ३९, ४०, ६४ ओरीजनल क्लॉजिंग थे, वे ओमित कर दिए हैं। इसके कारण जो पेटेंट लॉ आएगा, उससे कारीगर, छोटे किसान और आर्टीजन्स कैसे प्रभावित होंगे। मैं जानना चाहूंगा कि जिस पेटेंट लॉ को आप पब्लिश करेंगे, किसान के बीज का पेटेंट हो रहा है, किसान की फसल है, जूस का पेटेंट हो रहा है, मेडिकल प्लांट का पेटेंट हो रहा है। जब आप उसमें यह पब्लिश नहीं करेंगे तो यह सब चलता रहेगा, गजट में आता रहेगा। जब किसान की जमीन चली जाती है, गजट में भी आ जाती है तो भी उनको पता नहीं होता। जो अनपढ़ लोग हैं, जिनका पेटेंट लॉ से ज्यादा संबंध रहेगा, वे इससे प्रभावित होंगे जानकारी नहीं है इंडस्ट्रियलिस्ट्स को इससे कोई आपत्ति नहीं होगी क्योंकि उनके पास काफी इन्फ्रास्ट्रक्चर है। किसान, मजदूर और खासकर आर्टीजन्स की बात अलग है। इस बारे में आप उनको कैसे प्रोटेक्शन देंगे। जैनेटिक इंजीनियरिंग में मुझे ज्यादा दिलचस्पी इसलिए है क्योंकि एग्रो-क्लाइमेटिक कंडीशन्स के कारण धीरे-धीरे बीज का उत्पादन और तरीका बदल रहा है। एग्रीकल्चरल, नैचुरल रिसोर्स होते हुए भी हमको उसमें कठिनाई पैदा हो रही है। इन्टेलैक्चुअल प्रॉपर्टी राइट के तहत आप हमें कैसे सुरक्षित रखेंगे जिसके कारण बाद में ऐसा न कहना पड़े कि किसान ने ऐप्लीकेशन नहीं दी। जो एग्रीकल्चर यूनीवर्सिटी या दूसरी संस्था है, कम से कम उन्हें इसकी जिम्मेदारी लेनी चाहिए कि एग्रो-क्लाइमेटिक कंडीशन के कारण से भी किसान ने कुछ पैदावार की है। चावल में काफी संशोधन हुआ है। संशोधन करने वाली जो समस्या हैं, जो विदेश आरक्षित आएंगे, मुझे पता है कि मामूली संशोधन कर देते हैं। और किसान तो काम में जुटा हुआ है, गांव के लोग गांव की भलाई के लिए उत्पादन में जुटे हुए हैं और ये लोग बाहर से आकर सिर्फ पैसा कमाने में जुटे हुए हैं।

इन बातों के बारे में मैं आपसे जानना चाहता हूँ, क्योंकि अमल के बारे में हमारी काफी रिजर्वेशन्स हैं।

किसान के दिल में भी रिजर्वेशन है, इसका आप जवाब के समय खाली स्पष्टीकरण दे दें तो देश के लिए भी ठीक होगा।

आखिर में, जैसा कि मैंने इनसे कहा कि रेडियो और टी.वी. के माध्यम से या और किसी माध्यम से जनजागरण या अवेयरनेस कैम्पेन चलाने की व्यवस्था करें। और पेटेंट कानून के बारे में सबको अवगत कराएं। तुरन्त इसको बीज के क्षेत्र में लागू करना, मेरे ख्याल से बहुत अन्याय होगा। मुझे यहीं कुछ सवाल आपसे पूछने थे।

आपने मुझे बोलने का मौका दिया, धन्यवाद।

>SHRI T.R. BAALU (MADRAS SOUTH): Sir, with all the emphasis at my command I oppose the Bill being brought before the House by my learned friend, Shri Sikander Bakht. My basic reason to oppose the Bill which has been brought before the House is, it is a blow on the Centre-State relationship. This Bill is very much against the principles of federal structure of our Constitution. What was the necessity to bring an amendment to the Patents Act, 1970? I would say, this Bill has originated out of the compulsion of the Americans. The Americans have gone to the WTO Dispute Settlement Board alleging that India has not fulfilled the obligation as per 70.8 and 70.9 of TRIPS Agreement. What will happen if we do not amend this Bill? Nothing will happen. Maybe, my friend Shri Sikander Bakht will say that we may be attracted by sanctions. Many of the Members who have already spoken on the Bill supporting the Government's stand on this issue, observed that if we do not pass this Bill sanctions will be imposed on us. I would like to ask them, what has happened after the Pokhran test? Though the sanctions are there, we have not gone round the world with a begging bowl for food, clothing or shelter. We are surviving. I charge that this Government succumbs to the pressure of the United States of America. I would like to briefly tell the House as to what has happened during 1940s.

In forties, there was a general economic recession in the United States itself. Because of this economic recession, the United States wanted to have a global market. They entered into a number of bilateral agreements. They caught hold of 23 countries and America as the head of those 23 countries held a meeting at Geneva. In that meeting they wanted to form an International Trade Organisation. But, unfortunately for America, those 23 countries did not come forward to compromise their national spirits. Because of this the International Trade Organisation did not take off. GATT came into existence. The principle of GATT is to rationalise the tax structure.

In the GATT Agreement, service sector and intellectual property have not been included. In WTO, the intellectual property and service sector have been included. Now, because of 70.8 and 70.9 of TRIPs Agreement, this Government has got an obligation to have amendment to the Patent Act, 1970. Sir, my point is that this Government is rushing through this Bill without even consulting the Chief Ministers of the States. You may ask as to why you should consult the State Chief Ministers. The reason is that the Bill which has been brought before this House is essentially to meet with the necessity...(Interruptions)

MR. CHAIRMAN: How many minutes more do you want?

belong to six-Member Party. A person belonging to three-Member Party was allowed to speak for a much longer time. I should also be given more time.

Sir, this Bill mainly deals with the provisions pertaining to chemicals and pharmaceuticals. Both the areas are in the domain of State Government. The Chief Ministers of Tamil Nadu, West Bengal, Andhra Pradesh, Orissa, Tripura, Karnataka and Kerala have requested the Prime Minister of India to convene a meeting of the National Development Council to discuss this particular matter threadbare so that things can be sorted out. A consensus could have been arrived at whether to pass a Bill or not to pass a Bill. But the hon. Prime Minister could not find time. Maybe, because of extraneous reasons as day-in-and-day-out they are trying to compromise with their allies. They are trying to assuage with their allies for extraneous reasons.

Sir, in the United Front Government my leader Shri Murasoli Maran, who was the then Minister of Industry had constituted a panel consisting of intellectuals, parliamentarians in which Dr. Murli Manohar Joshi, the great social scientist, Shri George Fernandes, the former revolutionary leader Shri Bardhan of CPI, Shri Ashok Mitra of CPI(M) and others were members. The panel had been convened many times by the then Minister of Industry. It had discussed this matter threadbare as to what will be the fallout and pros and cons of this issue. Day-in-and-day-out, messages had been sent to Geneva. The former Prime Ministers Shri Deve Gowda as well as Shri I.K. Gujral, met the panel. There was some interaction. But to my surprise, Shri Sikander Bakht, Minister of Industry did not have the strain of constituting and meeting the panel. He did not want to have the advantage of widespread think-tank. They want to rush through this Bill because they are succumbing to the pressure. Shri Shukla, Member, Planning Commission was the coordinator.

Sir, Dr. Joshi, the true swadeshi, opposed at the time when he was in the panel. During the discussion in the panel, the social scientist, Shri Fernandes, opposed it. Then, what necessitated them to bring this Bill now? They

opposed and there was a hue and cry in the panel. Since they are coming forward with this Bill now, it means something extraneous is there which I do not know. Probably, it may be due to the pressure exercised by the Americans.

I want to tell you one point regarding the field of pharmaceuticals. What is the quantum of Indian export in the field of pharmaceuticals?

What is the quantum of Indian export? In 1993-94, in the area of drugs and pharmaceuticals, our export performance was to the tune of Rs.2009 crore. What is the performance during 1997-98? It was Rs. 5228 crore against an import of Rs.809 crore in 1993-94 and Rs.1301 crore in 1997-98. If we pass this Bill, then what will happen? Definitely people who have got the patent right elsewhere beyond India will come forward with EMR for whom you are spreading a red carpet. They will pour in and since those people are having exclusive monetary right can import and Indian products cannot compete with foreign products, our industry will fall sick. And if our industries fall sick, there will be the problem of unemployment. What is the way out now? In the globalised scenario, India has integrated its economy with other countries. It is good. In this globalised scenario all over the world, there are possibilities of capital inflow but at the same time, is there any possibility of our labour export to any other country? Nobody has thought about it. Our labour cannot be exported.

I have to cite a very important point. When I speak about Shrimati Indira Gandhi, our friends on this side will support me. In the historic session of the World Health Assembly in Geneva on 6th May, 1981, the late lamented leader Madam Indira Gandhi had said:

"Affluent societies are spending vast sums of money understandably on the search for new products and processes to alleviate suffering and to prolong life. In the process, drug manufacturers have become a powerful industry."

She further reiterated saying:

My idea of a better aided world is one in which medical discoveries would be free of patents and there will be no profiteering from life or death."

She has said 'discoveries' but her intention was only 'invention' and not 'discovery'. Our people should not be misguided on this point. Her intention was 'invention'. I should emphasise that this Conference was held at Geneva in 1981. A Resolution was adopted there whose title was 'Strategy on Health for All.' Shri Prithviraj D. Chavan is not here now. If we pass this Bill, would our poor get the medicines for health?

Ten tablets of 150 mg dose Ranitidine Zantac costs Rs.7.16 in India. In Pakistan, it costs Rs.122.16. In the United Kingdom, it costs Rs.320.85. In the United States, these ten tablets cost Rs.730.60. I have converted the price in terms of Indian rupee. So, a tablet which is produced in India at a cost of Rs.7.16 costs Rs.730.60 in the United States. Who will be the beneficiary? Shall our poor Indian get at the prevailing price?

Before I conclude, I would like to remind the hon. Minister Shri Sikander Bakht that there is a Standing Committee Report on Commerce. Is it not there? Mr. Minister, my charge against you is that the Standing Committee Report on Commerce had warned you or advised you about this thing. It is a 45-Member Committee. The Committee unanimously decided that firstly before any Bill is presented to the two Houses, the Government should discuss the Report of the Standing Committee threadbare. The second recommendation is that the Government should consult the State Governments because pharmaceuticals as well as agro-chemicals with in their domain; thirdly, it has recommended that the Government should consult a wider body of experts, eminent men, Judges, Lawyers and Scientists before it tries to reach a decision. Now, decisions have been taken. Mr. Minister, have you consulted the State Governments? You have not consulted the State Governments. Have you taken the advice of the Standing Committee on Commerce? You have not taken it. You have not gone by the advice of a spectrum of experts and eminent men.

Mr. Minister, since you think as the master and the States as your slaves, I strongly condemn your attitude in bringing forward this Bill. I oppose this Bill. Mr. Minister, you are not only treating us as slaves and secondary

citizens but also you are very much against the Report of the Standing Committee on Commerce.

So, with these words, I oppose it. Thank you.

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प्रो. प्रेम सिंह चन्दूमाजरा (पटियाला) : चेयरमैन साहब, माननीय श्री सिकन्दर बख्तजी लाचारी में, मजबूरी में और अदालत में हार जाने के बाद पेटेंट बिल को सदन में लाये हैं। जहां तक सरकार की लाचारी और मजबूरी का सवाल है, उसमें हमारी पार्टी सरकार के साथ है लेकिन जहां तक इस बिल के संबंध में लोगों की आशंकाएँ व चर्चाएँ हैं, मैं समझता हूँ कि इसमें सच भी है। कृषि और दवा के क्षेत्र में गरीब लोगों पर जो बैड इफ़ैक्ट पड़ने वाले हैं, उसे दूर करने के लिये क्या उपाय किये जायें, इसको गंभीरता से लेना पड़ेगा और सोचना होगा।

सभापति महोदय, मैं एक सुझाव देना चाहता हूँ कि विश्व व्यापार संगठन का सदस्य बनने से पहले भारत सरकार को ऐसी शर्तें रखकर ही सिग्नेचर करने चाहिये थें जिससे देश का हित सुरक्षित रखा जा सकता, खासकर दवा तथा कृषि क्षेत्रों को प्रोटेक्शन मिल सकता।

विश्व की उदारीकरण और व्यापार वैश्वीकरण नीति के अंतर्गत विकसित देश बहुराष्ट्रीय कम्पनियों के सहारे बड़ी चतुराई से विकासशील देशों की इकौनोमी पर कब्जा करना चाहते हैं, यह चिन्ता की बात है। भारतवर्ष के लोगों के लिये यह विशेष महत्व इसलिये रखती है कि ४०० वर्ष पहले ईस्ट इंडिया कम्पनी ने पहले व्यापार पर कब्जा किया और फिर राजनीति पर कब्जा कर लिया। इसलिये मैं कहना चाहता हूँ कि इस बात को गंभीरता से लेना चाहिये और देश के हित में ऐसी शर्तें रखनी चाहिये।

15.00 hrs.

अगर ये अमेण्डमेंट बिल ऐसे ही लागू किया गया तो मैं समझता हूँ कि देश का जो रिसर्च वर्क है, उस पर भी चोट होगी। देश की टेक्नोलॉजी पर भी चोट होगी, देश के विकास पर भी चोट हो सकती है, देश के स्वदेशीपन पर भी चोट हो सकती है जिसके हम बहुत अलम्बरदार हैं। ये सब बातें सोचकर कर ही डब्ल्यू.टी.ओ. में जाना चाहिए, क्योंकि विकसित देश चतुराई से डंकल की रिपोर्ट को गैट के समझौते के ज़रिये डब्ल्यू.टी.ओ. में मनवाने की कोशिश कर रहे हैं। पहले भी बासमती का पेटेंट अमेरिका की कंपनी ने उठा लिया और उसके लिए जो तीन वर्ष की लिमिट है, उसके तहत हम केस कर पाए हैं या नहीं यह भी हम जानना चाहते हैं। बासमती जो हमारे देश का प्रोडक्ट है, उस पर पाकिस्तान को साथ लेकर हमने केस चलाने की सोची थी, उसका क्या हुआ? उस बारे में भी पता नहीं चला है। वह भी गंभीर मामला है। हमारा जो एग्रीकल्चर रिसर्च वर्क है, उस पर बहुत कम पैसा खर्च हो रहा है। जी.डी.पी. का ०.८१ परसेंट ही खर्च होता है। जहाँ रिसर्च वर्क की यह पोजीशन हो वहाँ की हमारी टेक्नोलॉजी आगे न बढ़ पाये, उसके लिए देश के लोगों में चिन्ता होनी जरूरी है। इसलिए इसको गंभीरता से लेना चाहिए। मैं माननीय मंत्री जी से निवेदन करूँगा कि सरकार की ओर से जे.पी.सी. बनाई जाए और डब्ल्यू.टी.ओ. के मैम्बर बनने के लिए दो शर्तें जिसमें सबसे ज्यादा शंका है और हम सोचते हैं कि खतरा भी हो सकता है उस बारे में विचार करें।

पहला है टर्मिनेटर जींस। कृषि क्षेत्र के लोगों को विशेष रूप से इससे खतरा बना हुआ है। इससे किसान मारा जायेगा। किसान की आर्थिक व्यवस्था पहले ही मंदहाली में है और वह खुदकुशी करने की राह पर तुला हुआ है। अगर वह अपने बीज तैयार न कर पाए तो फिर बहुत खतरा हो जाएगा। मैं समझता हूँ कि माननीय कृषि मंत्री जी ने राज्य सभा में एक बयान के द्वारा विश्वास दिलाया कि किसी भी कीमत पर टर्मिनेटर जींस को इंपोर्ट नहीं करने दिया जाएगा। बहुत ज़ोर से उन्होंने यह बात कही और विश्वास भी किया जा सकता है मगर जो अधिकारी हैं, बायो टेक्नोलॉजी के जो सैक्रेटरी हैं, श्री शर्मा जी और आई.सी.ए.आर. के जो डायरेक्टर जनरल हैं परौदा साहब, उन्होंने बहुत ज़ोर से कहा कि जब दूसरे देश आगे बढ़ रहे हैं तो हम कैसे पीछे रह सकते हैं और उन्होंने यह बात भी कही कि हमारे देश में कर्नाटक में ४० स्थान ऐसे हैं जहाँ इसका फील्ड ट्रायल हो रहा है। मैं समझता हूँ कि देश के लोग इस पर बहुत चिन्ता में हैं और सरकार शायद कनफ्यूज़न में है, सरकार भी इस पर स्पष्ट नहीं है। माननीय कृषि मंत्री जी बैठे हुए हैं। यह बात जो उनके द्वारा राज्य सभा में कही हुई है, अगर वह सही है तो जो अधिकारियों ने बयान दिया है वह कैसे दे दिया? जहाँ ये फील्ड ट्रायल हो रहा है उसको रोकना चाहिए और मैं समझता हूँ कि टर्मिनेटर जींस पर बहुत सख्ती से पाबंदी लगनी चाहिए। देश इनके साथ खड़ा होगा। अगर सीटीबीटी के मामले पर सारा देश एक हो सकता है तो डब्ल्यू.टी.ओ. के मेम्बर बनने की शर्तों पर एक क्यों नहीं हो सकता? इसलिए टर्मिनेटर जींस की शर्त और दूसरी सब्सिडी की शर्त सरकार को रखना चाहिए। सब्सिडी समाप्त करने के लिए जो शर्त उन्होंने रखी हुई है, वो नहीं माननी चाहिये पी.डी.एस. के रास्ते हम गरीबों की मदद देते हैं जो हमारे देश की आर्थिक व्यवस्था को ध्यान में रखना होगा आधी के करीब आबादी हमारे देश की ऐसी है जिनको खाने के लिए नहीं मिलता है, तन ढकने के लिए कपड़ा नहीं मिलता है, रहने के लिए मकान नहीं मिलता है। कृषि क्षेत्र में अंतर्राष्ट्रीय लागतों के मुकाबले हमारे देश में लागतें बहुत बढ़ी हैं और अगर ऐसे ही यह लागू होगया तो यूरिया के दाम बहुत बढ़ सकते हैं। हमारे देश की अर्थव्यवस्था को ध्यान में रखकर और हमारे देश के लोगों की पर्चेसिंग पावर को देखते हुए सब्सिडी खत्म करने की शर्त नहीं मान लेनी चाहिए। और भी कुछ बातें हैं मगर समय मुझे इजाज़त नहीं दे रहा है। मैं यही कहना चाहता हूँ कि कनसेन्सस से इसमें कुछ शर्तें ऐसी मनवानी चाहिए जिससे देश का विकास हो, देश के लोगों को लाभ पहुंच सके।

>SHRI PRAMOTHES MUKHERJEE (BERHAMPORE) (WB): Mr. Chairman, Sir, I thank you for the opportunity given to me to express my views on this important Bill. On behalf of my party, the R.S.P., I rise to oppose this Bill which is detrimental to the country's economic sovereignty. The object of this Patent (Amendment) Bill, 1998, as I understood, is to fulfil the obligations on the part of the Government of India about the acceptance of trade related intellectual property rights with special reference to pharmaceutical and agro-chemical patents. This is a binding upon the Government of India. This is a binding upon the developing

countries to carry out these obligations within a stipulated time-frame, that is, 19th April, 1999. These bindings are incorporated in Article 70.8 and Article 70.9 of the Marakkesh Treaty.

Sir, it is my first observation that fulfilling these obligations of the Marakkesh Treaty is nothing but to accept the foreign patent. It is a complete departure from the spirit and content of the Patents Act, 1970. What do we find in our Patent Act of 1970? We find a prerogative of India of not accepting any foreign patent which infringes upon the national rights of India. We have a right to ensure food security. We have a right to develop our own pharmaceutical and chemical patents and this is the important adjunct of the self-reliant economy of our country. So, today, to fulfil these obligations of the Marakkesh Treaty, in my opinion, is nothing but to subserve the imperialist economic interests of the trans-national corporations.

Sir, we are living in an age of super technology which is based on global economy. There is a need for international understanding. There is a need for international agreement on intellectual property rights; there is no doubt about it. But the reality says that the world is divided and the unequal nature of the world has adversely affected the interests of the developing countries. This has been done by the mishandling of the situation while signing the Marakkesh Treaty by the Executive, on behalf of the Indian Legislature. The whole country has been put in a very critical situation today, consequent upon the entry of India into the World Trade Organisation. We have arrived at the peak of the crisis when India lost the cases filed against India's non-compliance by United States of America and by the European Community.

Sir, there are two options that are left before us. One is to open the mail box system for receiving patent applications and the other is to grant Exclusive Marketing Rights to foreign patents. If the Government of India accepts these two options under the provisions of the Marakkesh Treaty, then what would be the fate of the Government of India and the people of India? It will destroy the indigenous process of research and development in the field of science and technology. It will ruin the interests of the poor farmers and the rising scientists. This is my second observation. It is a fact that it absolutely indicates the failure of the political leadership of the Government at that time. In support of my contention that it will ruin the interests of research and development in the field of science, I may quote from a very brilliant report of the People's Commission on Intellectual Property Rights. The hon. members of this Commission are, Justice V.R. Krishna Iyer, Prof. Yash Pal, Prof. Prabhat Patnaik and National Prof. S.K. Sinha. A seminar was held in the month of December, 1998 and, with your permission, I would like to quote from this report.

This is the concluding remark about granting of exclusive marketing rights to the foreign companies:

"Thus in the considered view of this Commission, Parliament must never grant exclusive marketing rights (EMRs). An exclusive marketing right is more than just an automatic five-year patent. It is a grant of monopoly over the domestic market to an importer, without any scrutiny and on very dubious grounds. It is not surprising that most developing countries have chosen not to implement EMR provisions. Pakistan and two other small countries are perhaps the only countries to date that have introduced an EMR regime."

This is for your kind information. I think, you know it very well.

While I am speaking about the failure of the political leadership of the Government at that time, it is sure that the executive must sign the international treaty on behalf of the Government and this is the verdict of the constitution. But WTO is not an ordinary treaty. The TRIPs is not an ordinary agreement.

With your kind permission, I beg to refer to the incident. Who is the gentleman negotiating India's cause with the WTO? Is it a fact that the gentleman negotiating India's cause with the WTO is now a Deputy Secretary with the WTO? I want to learn from the Ministry and from the Government whether that gentleman negotiating India's cause with the WTO has served the purpose of the Government of India or has served the purpose of any other nation.

There is a very close relationship between the Executive and the Legislature in our Constitution. It has to be judged whether the Executive has infringed upon the rights of the Parliament or not. Again, there is a very close relationship in our Constitution between the Centre and the States. We are living in an age of cooperative



federalism. The Ministry of Industry of this Parliament cannot give an absolute assurance for this Patents Act. It cannot be so. We are living in an age of cooperative federalism.

So far as the principle of cooperative federalism is concerned, this Ministry must have a duty to have consultations with the State Governments, with the Chief Ministers and with the Members of the National Development Council before it gives a final conclusion about this Patents (Amendment) Act.

I will refer to one incident. This Parliament has adopted a very good system, that is, the Committee system for giving some suggestions to the Government. Here is a Report of the Standing Committee on Commerce. They can remind that the Patents (Amendment) Bill is not under the absolute authority of that Industry Department only. It has to be in consultation with the Ministry of Commerce. It has to be in consultation with the other branches of the Ministry. So, I would appeal to the hon. Minister to please go through the Report of the Standing Committee on Commerce. That has made a very brilliant Report. I think, you have already gone through it. Here is a main recommendation under the Chairmanship of Dr. Ashok Mitra about what can be done in regard to the Patents (Amendment) Bill, 1998. With your kind permission, I quote from the recommendations of the Standing Committee on Commerce. There are three recommendations. I am quoting No. 1:

"Introducing legislation in conformity with the WTO's directive to amend country's patent legislation before April, 1999: thereby providing mailbox facilities and exclusive marketing rights to applicants for processing pharmaceutical and agrochemical products in the country".

If you follow this suggestion, then, it will be an absolute surrender to the dictates of the transnational corporations.

(ii) That to bypass the complications of Article 70.8 and 70.9 by agreeing straightaway to the general provisions on some product patent inscribed in the manifesto with the additional safeguard of retaining for the country the right for compulsory licensing in all the relevant cases."

Finally, this is a very good and a scientific suggestion for the Government to accept. This is to maintain a stance that the issue should be referred.

I emphasise that the issue be referred to the Ministerial Conference of the WTO scheduled to meet during 1999 for undertaking a general review of the organisational activities and experience in the course of the first four years of its existence.

So, Sir, unless all these recommendations, all these findings of the Standing Committee of Commerce are not taken into consideration how the Industry Ministry alone can go and set-forth this understanding of the WTO. So, it is my appeal to you and appeal to the Government that before you finalise this matter, you please go to the people, you please go to the different branches of the country and take their suggestions. There is a broad spectrum of opinion coming from the different strata of intellectuals of this country, you take the opinion from them into consideration and proceed before coming to the final conclusion.

With your kind permission, I would like to say only one thing. India can mobilise the world force against the imperialist block headed by America. and NAM countries, can bargain in the interest of the integrity and sovereignty of this country.

With these suggestions, I oppose this Patents (Amendment) Ordinance, 1999 and conclude my speech. I also offer my thanks again to the Chair for giving me an opportunity to speak.

Thank you.

>PROF. R.R. PRAMANIK (MATHURAPUR): Mr. Chairman, Sir, I rise to oppose this Indian Patents (Amendment) Bill, 1998.

Sir, this Bill is a black Bill. I also consider this day to be a black day, if it is passed in this House today. It is because if this Bill is passed, it has got the unprecedented and far-reaching consequence which may jeopardise not only our national and economic sovereignty but also the political sovereignty.

Why has this Bill been brought by the Government in this House? Why have they brought this Ordinance? Why are they in so much hurry?

Mr. Chairman, Sir, you know, GATT was there. Our country was the founder-member of the GATT in 1947. We are not against GATT. The world, as a community, live in a village. So, we are not against GATT. On 1st January, 1995, the WTO was formed. All the advanced countries have got the products but they have no markets. The Third-world countries have got the markets but they have no products. So, they have products, and we have markets. Therefore, they had decided to expand the scope of this GATT, and WTO was formed on 1st January, 1995. Now, at the instance of the advanced countries, industrialised countries with the United States of America at the helm, they have introduced Trade in Services, TRIPS, and TRIM into the world trade. They are new items. They were not there in the GATT. These items were included in the WTO.

There was a GATT Agreement. There was a Dunkel Draft. You know everything. The final Agreement was signed in 1994. Before signing that Agreement, our Government did not consider it proper to discuss this Bill in the House. They did not do it. But it was ratified by the Government. There is a provision under the TRIPS Agreement which comes under WTO agreement wherein only two items are there. Now, our hon. Minister has brought forward this Bill.

In the Statement of Objects and Reasons, everything has been stated, but the most important one is conspicuously being omitted; it is absent. What is the reason? Why so much of haste? Why only pharmaceuticals and agrochemicals are there?

Mr. Chairman Sir, in the TRIPS Agreement, only these two items -- pharmaceuticals which will produce the medicines and which is needed for all the human beings and agrochemicals which produces drugs meant for plants, pesticides, insecticides and fungicides -- have been provided. We have got two eyes, one for the human beings and the other for the plants. Those countries decided to see that there is no transition period for pharmaceuticals and agrochemicals.

In our Patents Act of 1970, there were nine items where the patent product is not permitted. These two items were selected by the United States of America. As you know the TATAs is known for steel, but now the TATAs have decided to produce salt and now they are known for salt because everybody has to take salt. Now, every human being is to take one or the other medicine and every plant requires herbicides, insecticides, fungicides, etc. So, those multinationals of the United States have decided to put these two items, viz. pharmaceutical and agrochemicals here. They have got no transition period.

Here everything has been mentioned but that the most important one is being omitted. These two items have got no transition period, so, after the signing of WTO in 1995, now it is obligatory under the International Agreement that either you have to give product patent to those items or to provide legal provisions for exclusive marketing rights. So, after signing of the WTO Agreement, the compulsion of International Agreement comes in. Under that compulsion, under the pressure from the United States and threats from the multinationals, this Government is bound to pass this Bill or to promulgate an Ordinance because it is under compulsion and under threat. So, already the political sovereignty is now jeopardised and we are under humiliation. If we do not pass this Bill, the Government has to promulgate the Ordinance. There is no other way out because the sanctions will come if we do not do that.

They are in such a haste that they omitted the main clause. There is no condition period. If there is no Ordinance and if there is no law because these two items are forbidden for the product patents, this Bill has been brought only to lift this barrier. Now the product patent can be obtained for pharmaceuticals and agrochemicals. Till it is not passed, the mail box is there and you have to receive it. There is no provision.

It is only for pharmaceuticals and agrochemicals products that there is no transition period and we have to accept patent applications from January 1, 1995 itself. So, we have to accept it unless and until it is passed. We have to provide for this exclusive marketing rights. So, for that reason it is being brought by the Government. They are in such a haste that they want to amend Section 5 of Patents Act, 1970.

I quote Section 5:

"(a) In the case of inventions claiming substances intended for use or capable of being used as food or as medicine or drug;

(b) relating to substances prepared or produced by chemical processes including alloys, optical glass, semi-conductors and inter-mechanic compounds, no patent shall be granted in respect of claims and substances themselves but claims for the methods of processes of manufacture shall be patentable.

Now, they include this to be as section 5(1) now and they insert section 5(2).

Section 5(2) of the Patents Act, 1970 (hereinafter referred to as the principal Act) shall be renumbered as subsection (1) thereof and after sub-section (1) as so renumbered, the following sub-section shall be inserted, namely:

"(2) Notwithstanding anything contained in sub-section (1), a claim for patent of an invention for a substance itself intended for use, or capable of being used, as medicine or drug, except the medicine or drug specified under sub-clause (v) of clause (1) of sub-section (1) of section 2, may be made and shall be dealt, without prejudice to the other provisions of this Act, in the manner provided in Chapter IVA."

Sir, in section 5, you have to delete 'as medicine or drug'. This has to be deleted. Unless and until you delete that portion in section 5, you cannot insert section 5(2). If you do that, then it will be a faulty Bill. If it is passed without deleting that portion in section 5, there will be loopholes and it will be challenged in the court of law.

First of all, you have to delete that portion in section 5 and then you can insert section 5(2). I think, the Minister is in haste. I want an answer from you as to why this has not been done first, that is deleting that portion, 'medicine and drug'. Unless and until you delete that, you cannot insert section 5(2). I do not know how he has done like this. Keeping that in tact in section 5(1), you cannot insert section 5(2). They are quite contradictory. You keep section 5(a), that is food, medicine and drug are not to be product patented. Keeping that in tact, you cannot insert section 5(2). So, I want an answer from the hon. Minister in this regard. Now, they are in haste.

I would like to tell the hon. Minister, through you, Sir, as to how it has been brought under compulsion. When the Treaty came up for authentication and subsequent ratification at a meeting of the Foreign Ministers at Marrakesh in Morocco on April 15, 1994, President Bill Clinton of the United States had remarked, "Today we have succeeded in opening the world market for the American products." This was said by Mr. Bill Clinton. So, this is opening the market to the multi-nationals, to rob the Indian people and to loot the Indian market.

In May, 1990, the then US President, Mr. George Bush said: "Our direction is to open markets, expanding trade and negotiating a set of clear and enforceable rules to govern the world trade." So, that is the design of the United States of America. That is the motive of the multinational to come in, to rob the Indian people in these two fields.

We all know how the East India Company came to India as traders and they became the rulers. Everybody knows about that. So, these multi-nationals in the name of WTO are now coming into these two fields, pharmaceuticals and agrochemicals, to loot the people and to jeopardise our economic sovereignty and political sovereignty.

Now to conclude, Mr. Chairman, Sir, I will not take much time. I have taken only 10 minutes. I will not take much time. Much has been said. I want to tell this House through you, tell the Gandhian people, our respected colleagues to my right, that now they are supporting this Bill. The ruling coalition has brought this Bill. So, I



will appeal to the Gandhians, our respected colleagues to the right. What has the Father of the Nation, Mahatma Gandhi told us? He said:

"If you are in a dilemma to decide what to do and what not to do, close your eyes and think of the poorest of the poor you know and ask your mind. If your mind says that by doing this, the poorest of the poor will be benefited, then do that. If you find that the poorest of the poor will not be benefited, then, do not do that."

Now, with this Bill, whom are we pleading for? Are we pleading for the multinationals in America or are we pleading for the teeming millions of poor in our country? Whom are we pleading for? The American lobby is very powerful. So, I will request all our hon. Members and colleagues here. (Interruptions)

MR. CHAIRMAN : Please conclude.

PROF. R.R. PRAMANIK (MATHURAPUR): Mr. Chairman, Sir, I have taken only 10 minutes. (Interruptions) Please allow me to say one sentence because I have seen that there are many people who are very much fond of Americans because it is a unipolar world. America is on top of it.

MR. CHAIRMAN: Please conclude now.

PROF. R.R. PRAMANIK : Please give me only one minute. I have quoted the Father of the Nation, Mahatma Gandhi. But nowadays, many people are very much fascinated about the Americans and the American way of life. I want to tell these things. There is a great saying of Abraham Lincoln. "The Government should be by the people, of the people and for the people." .. (Interruptions) So, it is the people who have to decide. Thank you.

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श्रीमती कैलाशो देवी (कुरुक्षेत्र): सभापति महोदय, इस पेटेंट बिल पर मेरे पूर्व वक्ताओं ने जो भी तथ्य रखे हैं या अपने विचार प्रकट किए हैं, मैं उन पर नहीं जाना चाहूंगी। मैं चंद अलफाज में इतना ही कहना चाहती हूँ कि पेटेंट बिल को पास करना सरासर हिन्दुस्तान को अंतरराष्ट्रीय व्यापार के मामले में एक ऐसे गहरे कुएं में धकेलने के समान है, जिसमें से निकलने के लिए हिन्दुस्तान छटपटाता रहेगा, मगर निकल नहीं सकेगा। बहुराष्ट्रीय कम्पनीज ईस्ट इंडिया कम्पनी की तर्ज पर हिन्दुस्तान की अर्थव्यवस्था पर काले नाग की तरह कुंडली मारकर उसे सामाजिक और राजनीतिक तौर पर भी गुलाम बना लेंगी। इसलिए सरकार को सूझबूझ से काम लेकर थोड़े से स्वार्थों को त्याग कर राष्ट्र हित में सोचते हुए, हिन्दुस्तानी लोकतंत्र पर मंडराने वाले खतरों के बादलों को छिन्न-भिन्न कर देना चाहिए।

कल तक स्वदेशी का राग अलापने वाली भारतीय जनता पार्टी आज क्यों दोहरी नीति खेलने लगी है। यदि आयुर्वेदिक और होम्योपैथिक दवाओं पर पेटेंट लागू किया जाता है, जो हमारे यहां की जड़ी-बूटियों से बनती हैं और जो भारत की विरासत हैं, जिनके कारण समूचे विश्व में सस्ती दवाएं मिलती हैं, यदि उन पर पेटेंट लागू किया गया तो जिस देश में ४० करोड़ लोग गरीबी रेखा से नीचे जीवन जीते हैं, उनके पेट पर लात मारने के बराबर होगा। गरीबी और बेरोजगारी का नाच जो अब भी हिन्दुस्तान में हो रहा है, लेकिन इसके बाद तो तांडव होगा, जिसको किसी भी प्रकार से रोका नहीं जा सकेगा। यदि चावल और गेहूँ के बीज तथा हल्दी और मिर्च पर पेटेंट लागू किया गया तो खुले बाजार में इन चीजों के दाम कई-कई गुना ज्यादा बढ़ जाएंगे और किसान को बीज के लिए अमेरिका के प्रभुत्व के नीचे दबकर रह जाना पड़ेगा।

जिस किसान ने अथक परिश्रम करके हिन्दुस्तान को अन्न के मामले में आत्मनिर्भर बनाया, दूसरे देशों के आगे हम भीख का कटोरा लेकर जाते थे, क्या हम आजादी के ५१ वर्ष के बाद फिर भीख का कटोरा ले जाते हुए अच्छे लगेंगे, यह एक गहन चिंतनीय विषय है और सोचने की बात है।

मैं अंत में इतना ही कहना चाहूंगी कि इस बिल को पास करना देशहित में नहीं होगा, जिसके लिए बड़ी से बड़ी सजा भी कम है। चंद निजी स्वार्थों की खातिर, राष्ट्रीय हितों को बलि नहीं चढ़ने देना चाहिए। शायद हम भूल गए हैं कि आजादी हासिल करने के लिए हिन्दुस्तान ने कितनी बड़ी कीमत चुकाई है।

यह तो देशहित में नहीं है और ऐसा लगता है कि कहीं हमने जंगे-आजादी में शहीदों की मुखालफत की है। मैं तो यहां तक कहूंगी कि पेटेंट विधेयक को पास करने के पक्ष में वे लोग हो सकते हैं जिन्होंने जंगे-आजादी में शहीदों के खिलाफ गवाहियां तक दी होंगी। धन्यवाद।

( ends )

>SHRI A.C. JOS (MUKUNDAPURAM): I am thankful to you for calling me to speak on this very important Bill. I feel proud and happy today because we are the only party in the whole House which has been consistent in this battle.

India became a member of the WTO not on all on a sudden. We have been a founder member of the GATT from 1946, reiterated in 1947. When it was established by 48 countries, India was one of those countries. So, we have been continuing in the GATT for the last 50 years and we had consciously entered into the negotiations with the full knowledge of the whole world of the two GATT Agreements and which produced the WTO. When we became a member of the WTO it is with all full knowledge that we became a member and the people on the other side in the Treasury Benches were against it. I am happy today that they are coming with a Bill which they have rejected once upon a time.

I am happy today that we have been able to pass a Bill which they brought out -- which they rejected earlier -- and are recommending that it be passed today. So, what I am saying is that we may ask, per se what is the danger in the WTO? Everybody is pointing a finger at the WTO and the Congress saying that we have entered into a very very dangerous thing. The WTO Every country in the international comity should be a member of the WTO. There are 180 member countries in it. even the very big China once upon a time was a member of the GATT. It went out of the GATT in 1950. Now they wanted to enter into the WTO. America is in a clandestine way, secretly helping them.

Secondly, what is there in being a member of the WTO? Nobody can compel this nation to be in the WTO. Now, if the people want to go out of it in six months, we can go out of the WTO. What is the danger in the WTO, per se? Not only India but several other countries are there. If the rubber prices go up, immediately the Congress is coming to put the country into the WTO. If there is anything seriously wrong, there is a faith in this country's eyes. It can come out of the WTO.

Everybody was speaking against the WTO and accusing the Congress. everybody wants it to be inside the WTO. Another point is that even by becoming members of the WTO many countries have safeguarded their interests. In Great Britain they have passed this law bringing them into the of the other forward countries safeguarding their position. So, it is not a question of entering into the WTO that we are compelled to take certain actions. I am not finding fault with this legislation per se.

In Kerala there is a story. Six people went to see an elephant. One man went and touched the legs of the elephant. He said that the elephant was like a pillar. Another fellow touched the tail of the elephant. He said that it was like a broom. Another fellow touched the ears and he said that it was like a fan. It is the same thing. everybody said the same thing. everybody said so many things. All are correct.

SHRI A.C. JOS : What I am submitting to this hon. august House is that we need a very elaborate study about it. Shri Baalu had referred to the Committee and the report brought out by Shri Murasoli Maran. I agree with him though he has just now criticised me.

We need an elaborate study about it, or a detailed study about it. This is a very big country, a vast country with a lot of bio-technological and other things in existence. We need a detailed study.

Dr. Subramaniam Swamy has put forward a suggestion that a special session of the Parliament should be held because this is very important. This is covenant with the future because we are tying our future generations. No other law is as important as this one. So, my request to the hon. Minister and to the Government is that we need a full-fledged session totally devoted to discuss about the patents and its ramifications.

I agree that the hon. Minister is tied up with certain other things. But what is the hurry of this ordinance? Even without ordinance we can as well discuss this matter and pass it before 19th of April. I do not understand what prompted you to bring this ordinance. Will this end it here? It will not. This Bill again has to go to the Rajya Sabha because you brought certain amendments though you can say that this is technical. According to me, once it is passed here, it again has to go to the Rajya Sabha.

Sir, in Section 24A of Chapter 4 of the amendment, an explanation is given. This explanation has come at the instance of my party. I am happy about it. However, in that explanation, the hon. Minister you have to be very careful, that is, that many of the arguments put forward here regarding the drugs and other things can be

safeguarded by an amendment in the Indian Medicines Central Council Act, 1970 because that amendment might safeguard many of the arguments.

What is the definition of the Indian medicine? The definition of the Indian medicine can be vary. So, an amendment in that Act will help us in safeguarding all our drugs produced here, patented here and from importing also.

So, my request to the hon. Minister is that Section E of sub-section(1) of Section 2 of the Indian Medicines Central Council Act, 1970 should be gone into and with slight modification or through an amendment, many of the infirmities which might come into can be remedied. I request the hon. Minister to consider it.

I feel proud that the Patents Act, 1970 is lauded by everybody. However, during those days it was criticised by everybody.

So, once again, I urge upon the Government to have a full session of the Parliament to discuss in detail about the patents regime as such by which many things can be brought in and can be safeguarded.

प्रो. जोगेन्द्र कवाडे (चिमूर) : सभापति महोदय, हम अपनी पार्टी आर.पी.आई. की तरफ से कहना चाहते हैं कि इस पेटेंट बिल के जरिये इस देश की गरीब जनता के हितों पर कोई आंच न आने पाये। इस देश के गरीब और मध्यम वर्ग के लोगों को दवा महंगी मिलेगी

... (व्यवधान)

..हमारे देश के दवा उद्योग बरबाद हो जायेंगे। ... (व्यवधान).. इस बिल में इस तरह का अमेंडमेंट होना चाहिये कि देश की सार्वभौमिकता सुरक्षित रहे।

... (व्यवधान)

सभापति महोदय : यह प्रोसीडिंग में नहीं जाएगा।

(व्यवधान) ... ।

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\* Not recorded

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उद्योग मंत्री (श्री सिकन्दर बख्त): सभापति जी, मैं सिर्फ रस्म पूरी करने की खातिर नहीं कह रहा हूँ, बल्कि कहना चाहता हूँ कि इस सदन में जो विषय ज़ेरे-बहस था, उस पर बेहद अच्छी तकरीर हुई है। मैंने उनसे बहुत कुछ सीखा है। बहुत सारी तकरीरें विषय से ताल्लुक रखती थीं और कुछ तकरीरें जज़बाती भी थीं। मैं सोच रहा था कि जज़बाती बातों को बला-ए-ताक रखकर विषय की बात मुख़तसर लफ़्ज़ों में करके अपनी बात ख़त्म करूँ। लेकिन मेरे मोहतरम दोस्त उम्र में छोटे मगर ओहदे में मुझसे बड़े रहे हैं। मैं जबकि एक मामूली सा कार्यकर्ता था, वह सदर रहे हैं मेरी ज़मात के। उन्होंने कुछ जज़बात के ऐसे तार छेड़ दिये कि मेरा तमाम वजूद ज़ेहनी तौर पर, दिमागी तौर पर माज़ी में चला गया। मैं उनकी कद्र करता था और आज भी कद्र करता हूँ और इस चीज़ पर नाज़ करता हूँ कि मैं और वो एक ही कश्ती में सवार थे।

मानव संसाधन विकास मंत्रालय में राज्य मंत्री (कुमारी उमा भारती): नाम भी बता दीजिए।

श्री सिकन्दर बख्त : नाम भी बता दूँ? क्या रखा है नाम में! कुछ लोगों का इसरार है कि जिन बुजुर्ग का मैं ज़िक्र कर रहा हूँ, मैं उन का नाम बता दूँ। वे नामी गिरामी चंद्रशेखर साहब हैं। मैं चन्द्रशेखर साहब की कही हुई बातों की मुख़ालिफ़त में कुछ कहना मुनासिब नहीं समझता हूँ, लेकिन एक शिकायत है और जिन जज़बात को उन्होंने अपना कहा है, वह जज़बात तो हमारे भी हो सकते हैं, आज भी हो सकते हैं। नुक्ता, ख़याल, किसी भी बात के बारे में राय का अलग-अलग होना इस चीज़ की निशान नहीं बनती कि हम अपने माज़ी से दूर जा चुके हैं। हमने भी उम्र गुज़ारी है सनमखाने में। हम उन्हीं जज़बात को आज भी अपनी गोद में सजाए बैठे हैं। फर्क इतना है कि यह कह देना मेरे नज़दीक से आसान है कि जो रास्ता हम अख़्तियार कर रहे हैं वह रास्ता गरीब का रास्ता नहीं है, वह रास्ता इस मुल्क के वकार का रास्ता नहीं है, वह रास्ता इस मुल्क को मल्टीनेशनल्स के हाथों में बेच देने का रास्ता है। वकार का जहां तक ताल्लुक है, पेटेण्ट बिल के लाने से वकार में बाल पड़ता है? मेरे एक मोहतरम दोस्त की बहुत अच्छी तकरीर हुई थी, वह यहां से चले गए हैं।

कुछ एक चंद जो विषय से संबंधित आला दर्जे की तकरीरें थी, मैं ईमानदारी से तसलीम करता हूँ कि मैं उनसे सीख रहा हूँ। चव्हाण, सुब्रहम्यम स्वामी, जयपाल रेड्डी साहब ने विषय से संबंधित बात की। लेकिन जिक्र इन अच्छी तकरीरों के करने वालों का यह था कि हम इसके बाहर नहीं आ सकते। जयपाल रेड्डी साहब का यही जिक्र था। लेकिन साथ ही साथ आई.एम.एफ. और वर्ल्ड बैंक का जिक्र था, जानना चाहता हूँ कि कब से उनके सामने बैगिंग बाउल को लिये हुए घूम रहे हैं? जितने वर्षों से हम वर्ल्ड बैंक और आई.एम.एफ. के सामने बोरो करके अपने मुल्क के कारोबार को चलाने की कोशिश में लगे हुए हैं। क्या हम इस मुल्क के वकार का फरोख्त कर रहे हैं या अमरीका में मुल्क के वकार को हम कंधे पर लिये हुए घूम रहे हैं। सैल्फ रिलायंस यकीनन मुल्क के वकार की बात है। रास्ता क्या है? क्या उन कंडीशंस में हम अपने नजरें मूंद सकते हैं? ढाई लाख करोड़ रूपया इस मुल्क की पब्लिक इंडस्ट्रीज में लगा हुआ है, जिनको अभी हमारे सम्माननीय नेता ने मॉडर्न टैम्पल्स ऑफ इंडिया कहा था, कितना रिटर्न आ रहा है, कितनी कंपनियां हैं, जो २३६ में से १०४ थीं, अब चंद दिनों में १०० रह गई हैं। सौ कंपनियां नुकसान में चल रही हैं। इसलिए यह करना चाहिए कि उनको अपने पैरों पर खड़ा करना चाहिए, इसलिए यह करना चाहिए कि अपने मुल्क के वकार को हमें प्रोडक्टिविटी के मानी समझने चाहिए, इसलिए यह करना चाहिए कि हमें अपने मुल्क को उस मुकाम पर लाना है जिससे कि हमें वर्ल्ड बैंक या अमरीका के सामने भीख का प्याला हाथ में लेकर जाना न पड़े, हमें यह करना चाहिए। सिर्फ टुकड़े-टुकड़े में सैक्शनल बात करना कि मैं यह बिल ला रहा हूँ, मैं तसलीम करता हूँ चव्हाण और स्वामी जी की बात पर कि हम इस वक्त हैसियत में ५० वर्षों में लाये गये हैं कि हम डब्ल्यू.टी.ओ. से बाहर नहीं आ सकते। मैं यह भी मानता हूँ कि रास्ता बेहद मुश्किल है। मैं यह भी यहां नहीं कहना चाहता हूँ कि इस रास्ते पर चलना शुरू कर देने के बाद मुश्किलात नहीं आयेंगी, मुश्किलात आयेंगी, कदम-कदम पर आयेंगी, लेकिन आपने जो कुछ खेल खेलना है, वह उसके मैदान में जाने के बाद ही खेला जा सकता है। १९४८ से आप उस मैदान में पहुंचे हुए हैं और उससे किनाराकशी करने की कोशिश कर रहे हैं, लेकिन आप नहीं कर सकते, मैं यह कहना चाहूंगा हां जां-व-ज़िया हमको भी तशवीश है लेकिन,

क्या कीजिए हर राह उधर को जाती है मक्तल से गुजरकर जाती है।

हमें मक्तल से गुजरकर जाना पड़ेगा और तब हिंदुस्तान के हुकूक की हिफाजत करनी पड़ेगी, दूसरा कोई रास्ता नहीं है। अभी मेरे आजिजों मैं कहना चाहता हूँ ... (व्यवधान)

DR. ASIM BALA (NABADWIP): Would you do it at the cost of the people, at the cost of the workers?

डा. शफीकुर्रहमान बर्क (मुरादाबाद) :

न इधर उधर की तू बात कर, ये बता कि काफिला क्यूं लुटा,

मुझे रहजनों से गरज नहीं, तेरी रहबरी का सवाल है।

श्री सिकन्दर बख्त: इसलिए लुटा क्योंकि ५० वर्षों से लूट के रास्ते पर यह चल रहे हैं

चेयरमैन साहब, हम एक एडमिनिस्ट्रेटर के तौर पर ऐसे दायरे में लाकर रख दिए गए हैं जिसमें हमें ताजा सोचने की फुर्सत कम मिलती है। क्या हो चुका है, वह हो चुकने के बाद हमको जो मिला है, उसमें से हमें वे सूरतें और वे राहें पैदा करनी हैं जिनके जरिए हम मक्तल से गुजरने के बाद भी हिन्दुस्तान को सबसे ऊंचे मकाम पर पहुंचाने की कोशिश करेंगे।

मेरे अजीजो, मैं बताना चाहता हूँ कि मैंने एक-एक सम्माननीय सदस्य के बहुत एक्सटेंसिव नोट्स लिए हैं। मैं शुक्र गुजार हूँ कि आपने बेहद जजबात के साथ, बहुत अच्छे जजबात के साथ, बहुत अच्छी-अच्छी तकरीरें की हैं और जैसा कि मैं तसलीम कर चुका हूँ कि मैंने उन तकरीरों से सचुमच में बहुत सीखा है और मैं मानता हूँ कि यह मामला बहुत नाजुक है।

इत्तफाक की बात यह है कि वे लोग भी, जो लोग इस पेटेंट बिल की हिमायत में बोल चुके हैं और हिमायत में जाने का इरादा है और वे लोग भी जो इसकी हिमायत में जाने का इरादा नहीं रखते, उन लोगों ने आर्डिनेंस का सवाल उठाया। आर्डिनेंस का सवाल जयपाल रेड्डी साहब ने भी उठाया। इस सवाल के बारे में बुनियादी तौर पर जो कुछ मुझे कहना था, उन्होंने कह दिया। मैं इसमें डायलेट भी कर सकता हूँ। डायलेट करना नहीं चाहता हूँ। अब ये नजर-नजर के चिराग हैं, कहीं जल गए, कहीं बुझ गए। उन्होंने सोचा कि मुल्क के वकार को फरोख्त किया और मैं कहता हूँ कि हमने इस रास्ते पर चलकर मुल्क के वकार को कायम रखा है। ये नजर-नजर के चिराग हैं जयपाल रेड्डी साहब। अगर यह न होता तो हम उन लोगों को मना नहीं कर देते कि अभी हम तुमसे बात करना पसंद नहीं करते और आर्डिनेंस के निकल जाने के बाद हमने कहा कि अब तुम हमसे बात करो और हम उनसे बात कर रहे हैं। हम आपको बताना चाहते हैं कि हम उनसे बात कर रहे हैं, लेकिन कमजोरी में पड़ कर बात नहीं कर रहे हैं। यह ही काफ़ी होना चाहिए, लेकिन आपने इसको इतनी सरसरी तौर पर कह दिया। मैं चौहान साहब को उनके बोलने से पहले ही बता चुका था कि मैं आर्डिनेंस लाने के लिए मजबूर इसलिए हो गया था कि जो बिल मैं लाया था वह लोक सभा से पारित नहीं हो सका और मैं नहीं चाहता कि उस बिल को अभी अमरीका के जेरे बहस लाऊं। जैसा किल मैंने कहा, मैं इस बात पर एक्सटेंसिवली दर्खास्त करूंगा कि इस सवाल को मेहरबानी करके यहां खत्म करें।

चेयरमैन साहब, दूसरी बात जो कही गई है वह यह है कि ई.एम.आर. का बिल बहुत लिमिटेड आब्जेक्टिव के साथ लाया गया है। हम जानते हैं कि हमें प्रोडक्ट पेटेंट अल्टीमेटली लाना है। हमारी कोशिश यह है कि जिन फार्मास्यूटीकल्स कंपनी का जिक्र यहां किया गया, जहां वे आज खड़ी हैं, वे तो एक चुटकी में बर्बाद हो सकती हैं। आपने तसलीम किया है कि ३००० एप्लीकेशंस पेटेंट की मौजूद हैं। जब तक मेल बॉक्स न खुले, तब तक आप जानते हैं कि उसके अंदर लिखा क्या है? वे सब एप्लीकेशंस पेटेंट के ऊपर हैं, वे एप्लीकेशंस ई.एम.आर. पर नहीं हैं। पेटेंट की एप्लीकेशंस को हम तब तक हाथ नहीं लगाना चाहते हैं जब तक कि हम उपयुक्त पाइंट पर न पहुंच जाएं। इस पेटेंट, डब्ल्यू.टी.ओ., ट्रिप्स के कानून के मातहत हमें इजाजत है। कोई मुल्क हमारे सामने आकर खड़ा नहीं हो सकता।

हम उसका फायदा उठा सकते हैं, उठाना चाहते हैं और अपने मुल्क की फार्मास्यूटीकल्स इंडस्ट्रीज को रीस्ट्रक्चर करने का मौका देना चाहते हैं। हम चाहते हैं कि हमारे यहां की पेटेंट आर्गनाइजेशन एक एफीशिएंट आर्गनाइजेशन बन जाए। हम चाहते हैं और हमने उसके लिए कदम उठा लिए हैं। हमने हिन्दुस्तान के बेहतरीन साइंटिस्ट की एक कमेटी बना रखी है जो पेटेंट के सिलसिले में हमें एडवाइज करती है। हम चाहते हैं कि हमारे यहां मॉडर्न पेटेंट ऑफिस विद आल दि मॉडर्न गैजेट फिटेड हो, हिन्दुस्तान में उसका निर्माण हो, लेकिन अब वे कोर्ट चले गए हैं स्टे आर्डर ले आए हैं।

16.00 hrs.

हमारी मजबूरियों का हल क्या पूछते हैं? आपने कहा कि फ्री रिजीम है। अमेरिका ने जापान पर दबाव डाला और जापान के लोगों ने कमाल करके दिखाया क्योंकि उनके पेटेंट आफिसेस बिल्कुल मॉडर्न हैं। चंद महीनों के हिसाब-किताब के बाद कितने हजार पेटेंट पास कर दिये। हम भी उतने हजार पेटेंट करने का इरादा रखते हैं लेकिन हमें वह नया दफ्तर खड़ा करने दीजिए ताकि हमारे किये गये पेटेंट पर दूसरे पार्टीसिपेंट्स हावी न हो सके, दूसरे मुल्क हावी न हो सकें। इसे किस तरह से बचायें, किसको बचायें, यह करने की कोशिश हम कर रहे हैं। हम सिर्फ इसका वक्त बचाना चाहते हैं। हम २००५ तक इस मुल्क को खैरियत के साथ ले जाना चाहते हैं-यह मामूली सी बात हम समझा नहीं पा रहे हैं। लिमिटेड ऑब्जेक्टिव्स तो सिर्फ यह हैं कि:

complying with the obligations under sections 78 and 79 of the TRIPS Agreement. Patents Bill does contain safeguards. They may be weak.

आपने जो कहा है, मैं उससे भी इख्तालाफ नहीं रखता हूँ।

But it does contain safeguards.

जैसा आपने कहा, इन सेफगार्ड्स में कमजोरियां हो सकती है। जिस दिन इस सिलसिले में कोई बात निकलेगी, हम उसी दिन प्रोडक्ट पेटेंट ला सकते हैं लेकिन हमारी कोशिश यह है कि प्रोडक्ट पेटेंट २००५ से पहले न आए। इसलिए हमने जो सेफगार्ड्स रखे हैं वे प्राइस फिक्सेशन हैं, उसमें एहतियात है और कम्पलसरी लाईसेंसिंग है, जिसकी आपने बात कही थी कि वह मजाक है, और

appropriation of the rights of the Government in public interest,

हमने इस बिल में ये तीन एहतियातें रखने की कोशिश की है। जहां तक बायो डायवर्सिटी और प्लांट वैरायटी का सवाल है, उसके लिए अब्बल तो, शायद आपने कहा था कि बहुत सारी मिनिस्ट्रीज से ताल्लुक है, मैं बिल्कुल मानता हूँ, जब कम्प्रीहेंसिव बिल आएगा तो उसमें इन सब चीजों की पूरी एहतियात होगी, वह प्रोडक्ट पेटेंट होगा। यदि हम आज प्रोडक्ट लाते हैं तो हमारे लिए नुकसानदेह है। मैं उस बात को बार-बार दोहराना नहीं चाहता। यहां हमारे बहुत से अजीज साथियों ने कहा कि ई.एम.आर. नहीं लाना चाहिए, वह तो भयानक है। ई.एम.आर. उसके मुकाबले में काफी कमजोर चीज है, इसमें कोई शक नहीं है। दूसरी मिनिस्ट्रीज का सिलसिला है लेकिन जहां तक बायो डायवर्सिटी और प्लांट वैरायटी का ताल्लुक है, हम उससे बाखबर हैं और दुनिया के किसी मुल्क को अपने यहां की बायो डायवर्सिटी और प्लांट वैरायटी के साथ खिलवाड़ नहीं करने देंगे, उसे बिल्कुल बाहर रखेंगे।

जैसा मैंने शुरू में अर्ज किया कि जो कंडीशन्स प्रीवेल कर रही हैं, वे हमें विरसे में मिली हैं और कल, परसों नहीं मिलीं, जो कुछ भी मिला है, वह पचास साल के बाद मिला है। हम लाख यू टर्न करने की कोशिश चाहें लेकिन यू टर्न करने का दुनिया का कोई तरीका नहीं है। लेकिन हमें डब्ल्यू.टी.ओ. के प्लेइंग फील्ड में जाना है, हमें ग्लोबल प्लेइंग फील्ड में जाकर हिन्दुस्तान के हकूक की हिफाजत करनी है। आप सबसे मशविरा करने के बाद हम वे रास्ते अख्तियार करेंगे। हमने तो यहां भी कोई कसर नहीं की थी और आईन्दा भी कहना चाहते हैं क्योंकि यह कोई पौलिटिक्स का मामला नहीं है बल्कि केवल हिन्दुस्तान और हिन्दुस्तान की दवाइयों के कारोबार को संभालने का मामला है, राष्ट्रीय सवाल है, पोलिटिकल अटकलबाजी का मामला नहीं है।

सदर साहब, जज्बाती बातों का जिक्र करते हुए मैं एक बात दबे लव्जों में कहना चाहता हूँ और जब वह बात कहूंगा तो मुंह इधर फेर लूंगा। सदर साहब, यदि आप वहां बैठे होते तो मैं कहता कि मैं आपकी कद्र करता हूँ, आप बेहद ज़हीन हैं। मैंने यह भी दरखास्त की थी कि आप पार्लियामेंट में बहुत माकूल तकरीरें कर सकते हैं मगर आप अपनी तकरीर को अपनी आवाज़ से ज़िबा न किया कीजिए। आपने एक बहुत दुखती हुई बात कर दी, आपने कहा कि सिकन्दर जो आपकी खिदमत में यहां खड़ा है, सिकन्दर का नाम नहीं लिया था, आपकी मेहरबानी का शुकुगुजार हूँ लेकिन आपने कहा था कि यह मामला तो लेन-देन से ठीक हुआ है।

अब मैं मुंह फेर लेता हूँ और इस ओर मुंह करके बात करता हूँ।

इतनी न बढ़ा पाकी-ए-दामां की हिकायत

दामन को ज़रा देख, जरा बन्दे क्रबा देख।

बस इतना ही कहना है।

मेरे पास एक-एक तकरीर के ऐक्सटैन्सिव नोटस हैं। चन्द्र शेखर जी ने मुझसे कहा था कि अपनी तकरीर मुख्तसर रखिए। मैं अपना दिल तो निकालकर आपके सामने रख चुका हूँ। एक-एक अजीज़ साथी ने जो बात कही है, उन सबके नोटस मैंने लिए थे कि कुछ न कुछ कहना चाहूंगा लेकिन मैं समझता हूँ कि जितना कुछ मैंने इस वक्त कह दिया है, वह काफी है और मैं यह कहता हूँ,

Sir, I now move that the Bill be taken into consideration.

MR. CHAIRMAN :Now, Shri V.V. Raghavan.

... (Interruptions)

SHRI PRITHVIRAJ D. CHAVAN (KARAD): My point is about the WTO... (Interruptions)...Other countries have no safeguards. Why have you deleted Section 39?

SHRI SIKANDER BAKHT: Section 39 has been deleted only with the idea of making it possible to bring in the EMR route, and we extend a straight route.

MR. CHAIRMAN: Now, the Hon. Minister of Communications to make a Statement.

>16.07 hrs.

SHRI V.V. RAGHAVAN (TRICHUR): Mr. Chairman, Sir, I have been very carefully following all the arguments put in defence of the amendments including the very emotional and touching remarks of our hon. Minister of Industries. Many hon. Members have spoken from the Treasury Benches also. But none of them have touched upon the dangers of granting EMR. That is my contention.

In my humble opinion and as far as I have studied the clauses of the WTO and TRIPS, we are not -- I repeat 'not' -- obliged to grant EMR to companies who have patented their produce outside India. That is my contention. That is the danger we are facing now. We are only obliged to amend our Patents Act to allow pharmaceutical and agricultural chemicals patentable and allow for applications. We have the right to scrutinise and decide upon those applications. Beyond that, granting exclusive marketing rights for those products to those companies who have patented their produce elsewhere, you have not touched upon. That is the main contention. That is the main opposition to the Amendment Act. Nobody touched upon that.

Sir, when we are discussing the Trade-Related Intellectual Property Rights, we must not inflict wounds to our intellectual honesty also.

I appeal to your intellectual honesty. My humble request is this. Are we granting exclusive marketing rights of drugs produced and patented elsewhere to those Videsi companies?

It is true that America went to WTO and had pleaded that "We must allow EMR just now." That is true. But what right have they to ask us to do something? I have quoted in my speech that America has enacted a law stating that as far as America is concerned. If there is a conflict between the American law and the WTO Clause and TRIPs Clause, American law will prevail. That is the law they have passed and I have quoted it also. That country is dictating us to give EMR. Hon. Industries Minister says it is a very minor thing. If it is a very minor thing, why this mighty United States of America compel us to grant EMR? Why are they compelling us if it is a minor thing? No. It is not a minor thing. Not at all. You cannot restructure our pharmaceutical industry. I am not forecasting. You will have to pay a very heavy price, especially BJP who have campaigned for Swadeshi. You are allowing the Videsi companies to sell their drugs. They are importing drugs and the prices will go up. It is not the onion damage in drugs is going to be inflicted on us, poor people, a thousand times more than onion. You have no control at all. Control is in drugs, but not in TRIPs Clauses and WTO Clauses will prevail.

So, my contention was that as far as TRIPs Clauses and WTO Clauses are concerned, we have to examine it and we have to adopt it considering the primary interest of our country. America and Europe did it... (Interruptions)



It is up to us to educate ourselves if there is time and to argue and to bargain with them. Under American pressure, do not open up our market for those multinational companies. Any manipulation can be done. Any drug can be patented anywhere in Philippines, in America or any other State and they come here and say "These are patented drugs and we have got them EMRs." They will sell those drugs at the price they decide. We have no control. We say we can control. How? Examples have been shown here. Medicines which are selling at Rs.5/- here is being sold at Rs.500/- in the U.S. (Interruptions) I can understand your intolerance. (Interruptions)

>SHRI SOMNATH CHATTERJEE (BOLPUR): They are forced to bring this Bill because of WTO. Otherwise, they have been opposing it throughout. Will you not allow us to mention about these issues? (Interruptions) They are not allowing him to speak. Is it such a simple matter? (Interruptions)

सभापति महोदय : इस प्रस्ताव पर बोलने का उनका अधिकार है, कृपया शान्त रहें।

... (Interruptions)

SHRI V.V. RAGHAVAN : I am the mover of the resolution.

... (Interruptions)

SHRI KHARABELA SWAIN :When I was speaking, all of them were disturbing me. How can they expect my cooperation now?

respond to the debate. ... (Interruptions)

SHRI SOMNATH CHATTERJEE (BOLPUR): We shall press every amendment now. ... (Interruptions)

SHRI V.V. RAGHAVAN : All right, I am concluding. ... (Interruptions)

SHRI M. SELVARASU (NAGAPATTINAM): Why are you disturbing him unnecessarily? ... (Interruptions) Why are you disturbing?

SHRI V.V. RAGHAVAN : I obey your directions.

Considering the danger involved in this amending Bill, I had to say a few words. I am concluding shortly. My only contention is that we are not bound or obliged to grant Exclusive Marketing Rights to drugs patented elsewhere. That is our contention. We are not obliged. We have time to bargain.

I appeal to hon. Members, I appeal to their intellectual honesty to disapprove this Bill because it allows EMR to videshi companies. So, I press my Resolution.

उद्योग मंत्री (श्री सिकन्दर बख्त): मैं ऑनरेबल मेम्बर की पहली तकरीर की दाद दे चुका हूँ, दूसरी तकरीर की भी दाद देता हूँ और उनसे मौदबाना दरख्वास्त करता हूँ कि वे अपना मोशन वापस ले लें।

1617 hours [Mr. Speaker in the Chair]

SHRI V.V. RAGHAVAN : Mr. Speaker, Sir, with high consideration to the hon. Minister of Industry, I have to say that on a principled stand, I press my Resolution.

MR. SPEAKER: The question is:

"That this House disapproves of the Patents (Amendment) Ordinance, 1999 (No.3 of 1999) promulgated by the President on 8th January, 1999."

The motion was negatived.

MR. SPEAKER: The question is:

"That the Bill further to amend the Patents Act, 1970, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. SPEAKER: The House shall now take up clause-by-clause consideration of this Bill.

Clause 2

MR. SPEAKER: Amendment No.4, Shri Suresh Kurup - not present. Shri Basu Deb Acharia.

SHRI BASU DEB ACHARIA (BANKURA): I move my amendment.

I beg to move:

"Page 1,-

for lines 8 to 13 substitute-

"(2) Notwithstanding anything contained in sub-section (1), a claim for patent of an invention for a substance itself intended for use, or capable of being used as medicine or drug, except the medicine or drug specified under sub-clause (v) of clause (1) of sub-section (1) of section 2, and except also the medicine or drug where substitutes are considered to be not available as of date, may be made and shall be dealt, without prejudice to the provisions of this Act, in the manner provided in Chapter IVA." (4)

MR. SPEAKER: I shall now put amendment No.4 to clause 2 moved by Shri Basu Deb Acharia to the vote of the House.

The amendment was put and negatived.

MR. SPEAKER: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3

SHRI BASU DEB ACHARIA (BANKURA): I beg to move:

Page 2--

for lines 5 to 19 substitute

`24A. (1) "Notwithstanding anything contained in sub-section (1) of section 12 of Chapter IV, the Controller shall not, under that sub-section, refer after examination an application in respect of a claim for a patent covered under sub-section (2) of section 5 for the grant of patent rights till the 31st day of December, 2004, and shall, where an application for grant of exclusive right to sell or distribute the article or substance in India has been made in the prescribed form and manner and on payment of prescribed fee, refer only the application for patent, to an examiner for making a report to him as to whether the invention is a patentable invention within the meaning of this Act in terms of Chapter IV and V and in terms of the sections 3 & 4 of Chapter II.



(2) Where the Controller, on receipt of a report under sub-section and after such other investigations as he may deem necessary, is satisfied that the invention is not a patentable invention within the meaning of this Act in terms of Chapter IV and of sections 3 & 4 of Chapter II, he shall reject the application for exclusive rights to sell or distribute the article or substance." (5)

Page 2--

after line 24, insert-

"(4) Notwithstanding anything contained in sub-section (1), an invention is not an invention under section 24A if the subject matter relates to-

(i) plants and animals other than micro-organisms, and essentially biological processes for the production of plants and animals other than non-biological and micro-biological processes.

(ii) Inventions which have been anticipated by previous publications by prior claim or by prior use.

Explanation: For the purpose of this sub-section, cell lines, gene constructs, gene fragments, plasmids, and any other naturally occurring substances shall not be considered as micro-organisms, and processes involving the above shall not be considered as micro-biological processes." (6)

Page 3, lines 14 and 15, --

for "selling or distributing"

substitute "selling, distributing or manufacturing" (7)

Page 3, lines 16 and 17, --

for "right to sell or distribute"

substitute "right to sell, distribute or manufacture" (8)

MR. SPEAKER: I shall now put amendment nos. 5 to 8 moved by Shri Basu Deb Acharia to Clause 3 of the Bill to the vote of the House.

The amendments were put and negatived.

SHRIMATI GEETA MUKHERJEE (PANSKURA): I beg to move:

Page 2, line 8,--

for "2004"

substitute "1999" (12)

Page 2, --

for lines 11 to 14, --

substitute "refer the application for patent, to an examiner for making a report to him as to whether the invention is not an invention or the invention is an invention for which no patent can be granted within the meaning of this Act." (13)

Page 2, lines 16 to 18, --

for "is satisfied that the invention is not an invention within the meaning of this Act in terms of section 3 or the invention is an invention for which no patent can be granted in terms of section 4"

substitute "is satisfied that the invention is not an invention or the invention is an invention for which no patent can be granted within the meaning of this Act". (14)

Page 2, --

after line 19, insert--

"Provided that no patent shall be granted under the sub-section (a) in respect of diagnostic, therapeutic and surgical methods for the treatment of humans or animals; and (b) to inventions, the prevention of commercial exploitation of which is necessary to protect public order or morality including protection of human, animal or plant life or health or to avoid serious prejudice to the environment.

Explanation-- The expression 'substance' in this sub-section shall not include plants or animals or any part thereof other than micro-organisms." (23)

Page 2,--

for lines 25 to 29, substitute--

"Explanation -- it is hereby clarified that for the purposes of this section, the exclusive right to sell or distribute any article or substance based on the system of Indian Medicine defined in clause (c) of sub-section (1) of section 2 of the Indian Medicine Central Council Act, 1970 and substances or articles and such other articles or substances where claims may be made for changes in dosage and usage forms or new combinations based on such basic drugs for which product patents in other Member countries might have been taken prior to 1.1.1995 as such article or substance is already in the public domain." (24)

Page 2, --

omit lines 51 to 55 (25)

Page 3, --

omit lines 1 to 6 (26)

Page 3, --

omit lines 14 and 15 (27)

Page 3, lines 34 and 35, --

for "sell or distribute the article or substance"

substitute "manufacture, sell or distribute the article or substance." (28)

Page 3, --

after line 40,

insert "This will apply to both indigenously produced or imported article or substance." (29)

MR. SPEAKER: I shall now put amendment nos. 21 to 29 moved by Shri Jaipal Reddy to clause 3 of the Bill to the vote of the House.

The amendments were put and negatived.

SHRI RUPCHAND PAL : I beg to move:

Page 2, line 14,

add at the end--

"and also strictly in accordance with Chapter IV of the Principal Act in order to determine novelty and public domain angle." (30)

Page 2, --

after line 29, insert

Provided that an exclusive right to sell or distribute will not be granted for an article or substance which is based on Indian system of medicine and also formulation where claims are based on changes in dosages form, usage form and combination and already in the public domain" (31)

Page 3, --

omit lines 14 and 15 (32)

Page 3, --

omit line 27 (33)

Page 3, line 34, --

for "sell or distribute"

substitute "manufacture, sell or distribute" (34)

MR. SPEAKER: I shall now put amendment nos. 30 to 34 moved by Shri Rupchand Pal to Clause 3 of the Bill to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: The question is:

"That clause 3 stand part of the Bill".

The motion was adopted.

Clause 3 was added to the Bill.

Clauses 4 to 7 were added to the Bill.

Clause 8

SHRI BASU DEB ACHARIA (BANKURA): I beg to move:

Page 4, --

after line 30, insert--

"(iv) relates to the pharmaceuticals for the amelioration of major communicable diseases.

(v) relates to the agro-chemicals for the treatment of diseases of and damages on account of pest attacks on the food crops.

(vi) relates to the protection of national interest as deemed to be defined under the constitutional obligations of the Government of India." (9)

Page 4,--

after line 30, insert--

"157B. Notwithstanding anything contained in this Act, the Central Government shall not grant any kind of rights arising from Chapter IV of this Act to the entities of those countries whose Governments have on their statutes the provisions of unilateral actions against the WTO convention countries." (10)

Page 4,--

after line 30, insert--

"157C. Notwithstanding anything contained in this Act, the Central Government shall not grant any kind of rights arising from this Act to the entities of those countries whose Governments have on their statutes the provisions for preventing its persons from transferring the so called 'dual use technologies' to the nationals of convention countries." (11)

MR. SPEAKER: I shall now put amendment nos. 9,10 and 11 moved by Shri Basu Deb Acharia to clause 8 of the Bill to the vote of the House.

The amendments were put and negatived.

MR. SPEAKER: Now, the House will have a Division on Clause 8.

SHRI RUPCHAND PAL : Sir, let me explain my amendment.

MR. SPEAKER: Your amendment is identical to Amendment No.10.

SHRI RUPCHAND PAL : No, Sir, it is not identical. You may go through it....(Interruptions) Sir, please allow me to explain my amendment.

MR. SPEAKER: You cannot explain because it is identical to Amendment No.10.

SHRI RUPCHAND PAL : Sir, please allow me to explain it.

....(Interruptions)

MR. SPEAKER: Shri Pal, please understand, it is identical.

SHRI RUPCHAND PAL : Please go through my amendment.

MR. SPEAKER: Hon. Members, please take your seats.

SHRI BASU DEB ACHARIA : Sir, we are pressing for a Division on Amendment No.10.... (Interruptions)

MR. SPEAKER: Shri Pal, please understand that your Amendment No.35 is identical to Amendment No.10 moved by Shri Basu Deb Acharia, which the House has just now negatived.

SHRI BASU DEB ACHARIA : Immediately after that I had pressed for a Division.

MR. SPEAKER: Shri Acharia, you should not complicate the issue. Just now the House has negatived Amendment No.10. Amendment No.35 is identical to Amendment No.10 which we have just now negatived.

SHRI BASU DEB ACHARIA : Sir, I have pressed for a Division on Amendment No.10... (Interruptions)

MR. SPEAKER: Nothing will go on record.

(Interruptions)\*

MR. SPEAKER: Amendment No.35 is identical to Amendment No.10. Now, Shri Basu Deb Acharia raised the objection and it was negatived.

... (Interruptions)

SHRI BASU DEB ACHARIA : Sir, I immediately pressed for division... (Interruptions).

SHRI RUPCHAND PAL : Sir, it is not identical. My amendment is different. I have every right to move it. This is my amendment. This has been admitted by you. I have moved it. I have every right to move it. I press for division... (Interruptions).

SHRI HARIN PATHAK (AHMEDABAD): It has already been negatived by voice vote... (Interruptions).

MR. SPEAKER: Once it is negatived, how can you raise it again. Do you want to create a new precedent? Just now you have raised your objection and it was negatived. Now, we will take up voting on clause 8 and not on Amendment No.35.

... (Interruptions)

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\* Not recorded

MR. SPEAKER: It has already been moved by you only.

... (Interruptions)

MR. SPEAKER: Once it was negatived, how can you move it again?

... (Interruptions)

MR. SPEAKER: It has already been negatived by the House.

... (Interruptions)

SHRI BASU DEB ACHARIA : Sir, I have asked for the division. You have to allow... (Interruptions).

SHRI S. JAIPAL REDDY : Sir, I am on a point of order.

MR. SPEAKER: What is your point of order? First of all, you must quote the rule under which you want to raise it.

SHRI S. JAIPAL REDDY : Sir, the Speaker is within his competence to play around the procedure, if he thinks fit. You can go back to amendment stage. It is within our competence to go back to amendment stage. We want to vote for the amendment and you are forcing us to vote against the clause. The Speaker is perfectly within his competence to go back to the amendment.

MR. SPEAKER: Shri Jaipal Reddy, you are a senior Member, how can you go back? Just now, the House has negated that amendment.

SHRI BASU DEB ACHARIA : Sir, I immediately asked for the division.

SHRI P. UPENDRA (VIJAYAWADA): Sir, if they demand for a division, you can agree to that... (Interruptions).

THE MINISTER OF STATE IN THE MINISTRY OF RAILWAYS, MINISTER OF STATE IN THE MINISTRY OF PARLIAMENTARY AFFAIRS AND MINISTER OF STATE IN THE MINISTRY OF PLANNING AND PROGRAMME IMPLEMENTATION (SHRI RAM NAIK): Sir, I would like to draw your attention to Rule 347. It very specifically says:

"The Speaker may put amendments in such order as he may think fit:

Provided that the Speaker may refuse to put an amendment which in his opinion is frivolous."

Sir, the amendment has already been put to vote and we have gone ahead. There is no provision to come back as Mr. Reddy has been saying. We cannot come back...(Interruptions)

SHRI PRITHVIRAJ D. CHAVAN : We have not gone ahead...(Interruptions)

SHRI RAM NAIK: We have gone ahead.

SHRI BASU DEB ACHARIA : We are in the same Clause.

MR. SPEAKER: Shri Basudeb Acharia's amendments were Nos. 9,10 and 11. That is all. Amendment No.35 is a separate one. The House has already negated amendments Nos. 9,10 and 11.

... (Interruptions)

SHRI BASU DEB ACHARIA : Immediately, I had asked for division...(Interruptions)

MR. SPEAKER: You are pressing for amendment No.10 which is identical to amendment No.35.

SHRI BASU DEB ACHARIA : No.

MR. SPEAKER: You may see that it is identical to amendment No.35.

SHRI BASU DEB ACHARIA : Immediately, I pressed for division. Then you went to Clause 8.

MR. SPEAKER: We can have division on amendment No.10 only and not on amendment No.35.

... (Interruptions)

THE MINISTER OF POWER, MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF NON-CONVENTIONAL ENERGY SOURCES (SHRI P.R. KUMARAMANGALAM): May I just explain the situation?

Unfortunately, when amendment Nos.9,10 and 11 were taken up together, they were negated by voice vote. Amendment No.35 is identical to amendment No.10 and a division was called for. Now a situation arises when an identical amendment has already been negated, can we again vote on it? ...(Interruptions)

SHRI BASU DEB ACHARIA : Immediately, I had asked for division. What is the difficulty now?... (Interruptions)

SHRI S. JAIPAL REDDY : I would like to answer this point...(Interruptions)

THE MINISTER OF HOME AFFAIRS (SHRI L.K. ADVANI): There is a specific rule covering this situation and it is sub-Rule 3 of Rule 344 which says:

"An amendment on a question shall not be inconsistent with a previous decision on the same question."

Now, the House has taken a certain decision, may be by voice vote, on this particular amendment standing in the name of Shri Basu Deb Acharia. At that point of time, you alone were saying that let there be a division and at that time, it was not pressed by your colleagues...(Interruptions) ...I have noted it.

SHRI P. UPENDRA : Then why is it again put to vote?

SHRI L.K. ADVANI: Therefore, the Speaker is correct when he says that having rejected a certain amendment, he cannot put an identical amendment again to the House. For instance, suppose this time the decision is different, it becomes inconsistent with the earlier decision. Therefore, this rule covers the position. But the purpose would be served fully if the clause is put to vote and you vote against it. We would leave it to the Chair to decide but the rules are clear....(Interruptions)

PROF. P.J. KURIEN : Rule 367 says:

"On the conclusion of a debate, the Speaker shall put the question and invite those who are in favour of the motion to say 'Aye' and those against the motion to say 'No'."

Any question which you have put for voice vote, it may be an amendment or a Bill or whatever it is, is rejected or otherwise, then you may allow division even if one Member asks for it. The rule says it. I do not want to waste the time by reading the rules.

There is a rule. If you want, I will read the rule...(Interruptions) Let me complete it. If he does not press it, then it is all right. But if he presses it, as a matter of procedure, kindly allow him. It is the right of the Member. What is wrong in it? Why should he not be allowed?...(Interruptions)

MR. SPEAKER: Shrimati Geeta Mukherjee, what is your submission?

SHRIMATI GEETA MUKHERJEE : Mr. Speaker, Sir, Shri Rupchand Pal has insisted on voting on the amendment. You asked us to vote on Clause 8. Nobody can vote against Clause 8, as a whole...(Interruptions) So, you want us to vote against our contention which is there in this amendment, which is actually an amendment to Clause 8, which is an insertion and not obliteration of Clause 8. Clause 8 has certain other features to which we do not object. That is the most important question. That is why, it has to be voted... (Interruptions)

MR. SPEAKER: Shri P.R. Kumaramangalam, what is your submission?

THE MINISTER OF POWER, MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF NON-CONVENTIONAL ENERGY SOURCES (SHRI P.R. KUMARAMANGALAM): We have no objection to it if there is a precedent...(Interruptions)

SHRI S. JAIPAL REDDY : Sir, I have to make a submission...(Interruptions)

MR. SPEAKER: If the House agrees, we can go back to amendment No.10.

... (Interruptions)

THE MINISTER OF HUMAN RESOURCE DEVELOPMENT, MINISTER OF SCIENCE AND TECHNOLOGY AND MINISTER OF DEPARTMENT OF OCEAN DEVELOPMENT (DR. MURLI MANOHAR JOSHI): Sir, this should not set a wrong precedent...(Interruptions) This should not be taken as a precedent. This is very important. If you rule it today as a special case, it is entirely a different thing. But it should not set a precedent...(Interruptions)

SHRI VAIKO (SIVAKASI): I want to make a submission. Of course, Shri Basu Deb Acharia has got every right to demand division. That is the rule. But, at that time, when he demanded a division, when the next item was taken up, everybody agreed to it including himself...(Interruptions)

SHRI BASU DEB ACHARIA : No.

SHRI VAIKO: Yes. Therefore, this should not be retraced and this should not form a wrong precedent... (Interruptions)

MR. SPEAKER: Now I seek the sense of the House. If the House agrees to it, we can go back to the amendment.

SEVERAL HON. MEMBERS: No.

SHRI S. JAIPAL REDDY : Sir, will you kindly hear my submission? I have to make a submission.

श्री सुरेन्द्र सिंह : अध्यक्ष महोदय, अब इसे रीकंसिडर करने की जरूरत नहीं है, आपने सैन्स ऑफ हाउस ले ली है।

MR. SPEAKER: Hon. Members, as the House has not given its sense, I am putting Clause 8 to the vote of the House.

SHRI BASU DEB ACHARIA : No...(Interruptions)

MR. SPEAKER: Let the Lobbies be cleared--

Now, the Lobbies have been cleared.

The question is:

"That Clause 8 stand part of the Bill."

... (Interruptions)

SHRI HANNAN MOLLAH (ULUBERIA): Sir, you are bulldozing it. You are denying the right of a Member... (Interruptions)

Clause 8

SHRI RUPCHAND PAL : Sir, I beg to move:

Page 4,-

after line 30, insert-

"157B notwithstanding anything contained in this Act, the Central Government shall not grant any kind of rights arising from Chapter IV of this Act to the entities of those countries whose Governments have on their statutes the provisions of unilateral action against the W.T.O. convention countries."(35)

... (Interruptions)

THE MINISTER OF POWER, MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF NON-CONVENTIONAL ENERGY SOURCES (SHRI P.R. KUMARAMANGALAM): Shri Santosh Kumar Gangwar, the Minister of State in the Ministry of Petroleum and Natural Gas and the Minister of State in the Ministry of Parliamentary Affairs may be permitted to leave the House to pilot the Salaries and Pensions Bill in Rajya Sabha. ... (Interruptions)

MR. SPEAKER: Now, we are taking up Amendments No.10 and 35.



... (Interruptions)

The Lobbies are already cleared.

I want to make an important announcement regarding voting procedure.

Before a division starts, every Member should occupy his/her own seat and operate the system from that seat only.

Voting process starts only when "red bulbs above display boards" glow on either side of my Chair.

Hon. Members, the following line is very important. Last time, many hon. Members have pressed the button before the sounding of the gong. So, please understand the procedure correctly.

Immediately after sounding of first gong, press the following two buttons simultaneously.

(i) One "red" button in front of the Member on the head phone plate and also

(ii) Any one of the following buttons on the table:

Ayes - Green colour

Noes - Red colour

Abstain - Orange colour

It is essential to keep both the buttons pressed till the second gong sound is heard and the red bulbs are "off".

Important: The hon. Members may please note that the vote will not be registered if

(i) the buttons are pressed before glowing of the red bulbs above the display boards; and

(ii) both buttons are not kept pressed simultaneously till the sounding of the second gong.

Members can actually "see" their vote on display board. In case vote is not registered, they may call for voting through slips.

I shall now put Amendment Nos.10 and 35 moved by Shri Basu Deb Acharia to the vote of the House.

The question is:

Page 4,--

after line 30, insert--

"157B. Notwithstanding anything contained in this Act, the Central Government shall not grant any kind of rights arising from Chapter IV of this Act to the entities of those countries whose governments have on their statutes the provisions of unilateral actions against the WTO convention countries." (10)

Page 4,--

after line 30, insert--

"157B notwithstanding anything contained in this Act, the Central Government shall not grant any kind of rights arising from Chapter IV of this Act to the entities of those countries whose Governments have on their statutes the provisions of unilateral action against the W.T.O. convention countries."(35)

The Lok Sabha divided:

MR. SPEAKER: Hon. Members, please take your seats. Subject to correction, the result of the division is:

Ayes: 54

Noes:231

The motion was negatived.

MR. SPEAKER: So, the amendments were negatived.

The question is:

"That clause 8 stand part of the Bill."

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9

Amendment made:

Page 4, -

Repeal for lines 31 to 39

and saving

Substitute "9.(1) The Patents(Amendment) Ord.3 of 1999

Ordinance 1999, is hereby

repealed.

(2) Notwithstanding such Ord.13 of 1994

repeal, anything done or any

action taken under the

principal Act, as amended by

the Patents (Amendment)

Ordinance, 1994, which ceased

to operate, or under the

Patents (Amendment) Ordinance,

1999, shall be deemed to have

been done or taken under the

corresponding provisions of Ord.3 of 1999

the principal Act as amended  
by this Act.

(3) All applications made in  
respect of claims for patent  
of invention specified under  
sub-section (2) of section 5  
of the principal Act, from  
the date of cesser of the  
Patents (Amendment)  
Ordinance, 1994 till the  
date on which this Act  
receives the assent of the  
President (both days Ord.13 of 1994  
inclusive) shall be deemed  
to have been validly made  
as if the provisions of  
the principal Act, as  
amended by this Act, had  
been in force at all  
material times." (3)

(Shri Sikander Bakht)

MR. SPEAKER: The question is:

"That clause 9, as amended, stand part of the Bill."

The motion was adopted.

Clause 9, as amended, was added to the Bill.

Clause 1

Amendment made:

Page 1, line 3,-

for "1998" substitute "1999" (2)

(Shri Sikander Bakht)

MR. SPEAKER: The question is:

"That clause 1, as amended, stand part of the Bill."

The motion was adopted.

Clause 1, as amended, was added to the Bill.

17.00 hrs.

MR. SPEAKER: Amendment No.1, Shri Sikander Bakht.

ENACTING FORMULA

Amendment made:

Page 1, line 1,--

for "Forty-ninth"

substitute "Fiftieth"

(Shri Sikander Bakht)

MR. SPEAKER: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

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SHRI SIKANDER BAKHT: I beg to move:

"That the Bill, as amended, be passed."

MR. SPEAKER: Motion moved:

"That the Bill, as amended, be passed."

SHRI SOMNATH CHATTERJEE : Now we have come to the last stage of consideration of the Bill.

THE MINISTER OF POWER, MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF NON-CONVENTIONAL ENERGY SOURCES (SHRI P.R. KUMARAMANGALAM): I just wanted the Lobbies to be opened so that I can go out. I am requesting that the Lobbies be opened.

SHRI SOMNATH CHATTERJEE : It is not your job. Please sit down. (Interruptions) I can take liberty with him. He knows that. (Interruptions)

Mr. Speaker, Sir, I earnestly request those of my friends on all sides of the House and I believe that everybody considers that this is an important piece of legislation and there is a difference of opinion both inside and outside

the House. (Interruptions)

MR. SPEAKER: You must have some patience.

... (Interruptions)

SHRI SOMNATH CHATTERJEE : And I cannot forget the very principled opposition which was made to this Bill by those friends who are now, by an accident of history, sitting on that side of the House today.

SHRI VAIKO : It is by the will of the people, by the mandate of the people. (Interruptions)

SHRI SOMNATH CHATTERJEE : There is no doubt, whatever may have been said, that this is a matter with which the country's future is involved, Intellectual Property Rights, the question of patent rights, the question of inventions, all these are concerned with this. Today we are conceding the rights to foreigners which will be detrimental to the interests of our nation. (Interruptions)

It is becoming very difficult in this House. It is becoming very difficult to speak even on very important matters. Then, Sir, tell us that we shall not participate in the House. Tell us so. Let us know whether they want the Opposition here or not. Then we will not trouble you. Let them carry on.

Let them carry on if this is the attitude.

Sir, this matter is treated with flippancy.

... (Interruptions)

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THE MINISTER OF INDUSTRY (SHRI SIKANDER BAKHT): I beg to move:

"That the Bill, as amended, be passed."

MR. SPEAKER: Motion moved:

"That the Bill, as amended, be passed."

SHRI SOMNATH CHATTERJEE (BOLPUR): Now we have come to the last stage of consideration of the Bill.

THE MINISTER OF POWER, MINISTER OF PARLIAMENTARY AFFAIRS AND MINISTER OF NON-CONVENTIONAL ENERGY SOURCES (SHRI P.R. KUMARAMANGALAM): I just wanted the Lobbies to be opened so that I can go out. I am requesting that the Lobbies be opened.

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SHRI SOMNATH CHATTERJEE (BOLPUR): And I cannot forget the very principled opposition which was made to this Bill by those friends who are now, by an accident of history, sitting on that side of the House today.

SHRI VAIKO (SIVAKASI): It is by the will of the people, by the mandate of the people. (Interruptions)

SHRI SOMNATH CHATTERJEE (BOLPUR): There is no doubt, whatever may have been said, that this is a matter with which the country's future is involved, Intellectual Property Rights, the question of patent rights, the question of inventions, all these are concerned with this. Today we are conceding the rights to foreigners which will be detrimental to the interests of our nation. (Interruptions)

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Let them carry on if this is the attitude.

Sir, this matter is treated with flippancy. ... (Interruptions)

MR. SPEAKER: No, no; please understand.

SHRI SOMNATH CHATTERJEE: We sincerely feel and request the hon. Prime Minister and all his colleagues - I do not doubt their patriotism - that this is a matter of a mistaken notion of their alleged obligation under WTO. They are pressing this legislation which will play havoc to this country. This is an anti-national legislation. It is contrary to the interests of the people of this country. Many many very well-read, highly educated and well-intentioned people in this country, who are not politically motivated and who do not belong to any political party, have been strongly opposing this legislation. ... (Interruptions)

I appeal to this Government that even at this stage to give a consideration to this. Try to see why an objection is being taken. Do not go under a mistaken notion of obligations under the WTO.

SHRI KRISHAN LAL SHARMA (OUTER DELHI): Shri Somnath Chatterjee, I did not think that you will use the word 'anti-national'. ... (Interruptions)

It is being adopted by the House. ... (Interruptions)

SHRI SOMNATH CHATTERJEE : I appeal to Shri Atal Bihari Vajpayee, Shri L.K. Advani, Dr. Murli Manohar Joshi and Shri Sikander Bakht who had all raised principled objections earlier. Kindly think about it once more before the final damage is done. ... (Interruptions)

I appeal to all of them that even now not to press this legislation any further.

THE MINISTER OF INDUSTRY (SHRI SIKANDER BAKHT): Shri Somnath Chatterjee, can you yield for a minute? I just request you to kindly take the word 'anti-national' back. This is too much. ... (Interruptions)

SHRI SOMNATH CHATTERJEE : Let me answer to that. ... (Interruptions) What is happening in this House? I have said that I am not doubting their patriotism. I honour your patriotism. But I said that you are misled and the result is an 'anti-national' Act. The result of this mistake is that it is against the interests of the nation. Therefore, I request that the Government should withdraw this Bill and keep it pending and not pursue it. ... (Interruptions)

MR. SPEAKER: Shri Somnath Chatterjee, you know the procedure. I need a notice.

... (Interruptions)

MR. SPEAKER: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.



SHRI SOMNATH CHATTERJEE : In protest, we walk out.

1708 hours

(At this stage, Shri Somnath Chatterjee and some other Members then left the House.)

श्री रघुवंश प्रसाद सिंह : यह देश के हित के खिलाफ है इसलिए हम सदन से वाकआउट करते हैं।

17.08 hrs.

(At this stage, Raghuvansh Prasad Singh and some other Members then left the House)

SHRI MADHUKAR SIRPOTDAR : Mr. Speaker, Sir, the word 'anti-national' should be expunged from the record. He is not supposed to make an allegation.

MR. SPEAKER: If it is objectionable, I will expunge it from the record.

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