

MR. CHAIRMAN: The question is:

"That First to Tenth Schedules stand part of the Bill."

The motion was adopted.

First to Tenth Schedule were added to the Bill.

MR. CHAIRMAN: The question is:

"That Clause 1, the Enacting Formula and the long Title stand part of the Bill."

The motion was adopted.

Clause 1, the Enacting Formula and the Long Title were added to the Bill.

MR. CHAIRMAN: The Minister may now move that the Bill, as amended, be passed.

SHRI S.B. CHAVAN: I beg to move:

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

MR. CHAIRMAN: The question is:

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

The motion was adopted.

20.35 hrs.

[English]

TRANSPLANTATION OF HUMAN ORGANS BILL - Contd.

As passed by Rajya Sabha, and as reported by the Select Committee

MR. CHAIRMAN: Now, we will go to Item No. 19. Further consideration of the

following motion moved by Shri Paban Singh Ghatowar on the 23rd December, 1993 namely:

"That the Bill to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for matters connected therewith or incidental thereto, as passed by Rajya Sabha and as reported by the Select Committee, be taken into consideration.."

We were discussing this Bill. The total time allotted was two hours. We have already taken half-an-hour. Now, the time left is only one hour and thirty minutes.

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): We can pass it without any discussion.

MR. CHAIRMAN: Let us pass this Bill within half-an-hour's time.

[Translation]

DR. LAXMINARAYAN PANDEYA (Mandsaur): Mr. Chairman, Sir, there is no problem if the Government accepts the report of the Select Committee as such and then we have no objection in accepting it.

[English]

MR. CHAIRMAN: This is not the procedure.

DR. K.D. JESWANI (Kheda): The Report of the Select Committee is already

[Dr. K.D. Jeswani]

with the Government. If they are accepting it, then we need not discuss it. We can just pass it.

SHRI GOPI NATH GAJAPATHI (Berhampur): Mr. Chairman, Sir, the Transplantation of the Human Organs Bill, 1993 as passed by the Rajya Sabha has indeed deep ramifications as far as the medical profession, the hospitals conducting the transplantations, the donors, the recipients as well as the middlemen or profiteers involved in this activity or trade are concerned. In this connection, nothing would be more revealing than recalling the personal experience of the first cadaver kidney transplant patient at the All India Institute of Medical Sciences, New Delhi. I quote:

"It is my fervent desire that readers, especially, those suffering from renal failure, are freed from the clutches of taboos concerning kidney transplants from cadavers. I have experienced death follow me like a shadow and suffered what seemed like interminable agony. So, now that I am back among all of you, alive and rearing to go for my second life, I feel completely indebted to the persons whose kidney I carry, to his relatives for overcoming the ties of tradition and allowing the transplant to take place, and to the operating team, whose members were on their toes for three days and three nights. Today, I know what it feels like being out of death's clutches, thanks to all of them. During the days before the transplant, I had seen how patients suffer an unending trauma. The conventional treatment of the disease is quite unaffordable for most Indians. So, a

number of renal failure patients die either due to the non-availability of a related donor or because they cannot afford dialysis and the related medication."

Death, therefore, is the fate of 80,000-1,00,000 renal failure patients, who are condemned every year in India. Transplants from cadavers represent the best available alternative in this scenario.

A number of persons so sadly die every day in road accidents all over the country. The cause of death in these cases, in the final analysis, is the irreversible cessation of brain function - that is, brain death or clinical death. Brain death, ultimately, is bound to lead to cardiac death within a period of seven days. In these circumstances, the victims are dead clinically even before their heart finally stops to function. So, these relatives must take the lead to allow doctors to take out vital organs that could save the lives of others on the threshold of death.

The prospect of the transplanted organ helping dying patients return from the jaws of death is enhanced greatly if it is removed from the donor's body immediately after brain death.

In a developing society like ours, where expensive medical facilities are beyond the reach of most people and where there are not enough Government funds going around to equip public hospitals with latest gadgetry, poor patients of chronic organ failure are condemned to die because they simply cannot afford the treatment.

Organ transplants from cadavers, therefore, offer a feasible alternative as well as the prospect of an end to the illegal organ trade, which is synonymous

with the exploitation of the economically deprived by profiteers.

Hence, from the above observation, the Government, while enacting a Bill of this grave but vitally important nature, must bear in mind that in its objective to render invaluable medical service to mankind, it should side by side ensure that exploitation of the economically deprived by middlemen or profiteers is severely dealt with, to halt its recurrence permanently. In this context, mention must be made of the laudable efforts of "Ganadarpan" of West Bengal, a voluntary organisation, which is rendering yeomen services in this field. They are worthy of all possible Government help to pursue their noble cause with greater zeal in future. Further, the Report of the Select Committee presented to Parliament on 21st December, 1993 is partly fit for implementation, as it has made a fairly exhaustive analysis of the various aspects on this subject.

I welcome this Bill with humanitarian objectives introduced by the Union Minister, hon. Shri Paban Singh Ghatowar and I wholeheartedly lend my support to it.

DR. AMRIT LAL KALIDAS PATEL (Mehsana): Mr. Chairman, Sir, I rise here to support the Human Organs Transplantation Bill, which is brought to this House by the hon. Health Minister. I would say that this is the most unlucky Bill because for the last three sessions it is brought on the last day, at the last minute of the session and because of that it is not well discussed and due importance is not given to this Bill.

The title of the Bill given here is 'Transportation of Human Organs Bill' which is a grave mistake. I think, instead of 'Transplantation' it is misprinted as 'Transportation'. It should be corrected.

This transplantation of the organs should include the word 'tissue' because in some surgery or transplantation, only part of the organ is being utilised, especially in pancreas and liver where only lobe of the liver is transplanted and this is considered in the category of tissues. That is why I request the hon. Health Minister to add the word tissue to the 'Transplantation of Human Organs Bill'.

I would say that this transplantation is a latest gift of the modern science to the mankind and it should be well utilised. Unluckily, in our country, we do not have sufficient infrastructure and because of this the surgery is not performed to the extent it should be.

In other countries where the infrastructure is available cadaver organs are considered to be best organs for transplantation and in our country also the ultimate aim should be the cadaveric organs for transplantation.

This Bill was brought to the House at the request of some States only, especially, Maharashtra, Goa and Himachal Pradesh. If this Bill is passed here and if the other States do not accept it or if the Bill is not passed in the other States and if the Act is not there, then the wrong-doers will go to the States where this Act is not there. So, I request the hon. Health Minister to take into confidence the other States also so that this Bill is of use all over the country.

A Joint Select Committee was appointed and the Joint Select Committee, consisting of about 11 doctors suggested that the donor's list should be enlarged and its utilisation in surgery also. The word 'donor' should include the emotional relatives, especially the in laws,

[Dr. Amritlal Kalidas Patel]

the brother-in-law, sister-in-law and mother-in-law that they are better donors than the professional donors.

Lastly, the Consumer Protection Act should not be applicable to the surgeons who perform the surgery. because, after all, it is a natural process and sometimes the organs are not accepted by the body and in case of failure or acceptance of the organs the doctor should not be held responsible. Therefore, the Consumers' Protection Act should not be applicable to them.

That is all, I want to say on this Bill.

[*Translation*]

SHRI RAJESH KUMAR (Gaya): Mr. Chairman, Sir, this Human Organs Transplantation Bill is worth welcoming but we must be careful in the wake of the current transplantations being done in Delhi and other big cities. It is defective in many ways. The Government should bring some changes in it. The process of transplantation is costly enough and the poor are deprived of this facility and they lose their lives. Therefore, the Government should make arrangements to make the transplantation cheaper and this facility should not be available everywhere except in authorised Government hospitals only. In the case of the poor donors their kidneys should be removed in the presence of at least two witnesses instead of one and the witnesses too should be the close relatives of the donors. The donor should not face any problem in any case.

This Bill is quiet useful but it should not be misused in the market. I would like to cite an example. The Family Planning Programme launched by the Government

was nice for controlling population explosion and for the development of the country but we are the sufferers and we know how it was misused during emergency and even the bachelor boys and girls were sterilized. Therefore, the Government should make such provisions in the Bill that it may not be misused. Transplantation should be done in Government hospitals under the supervision of expert doctors and it should not be too costly to be borne by the common and the poor people. It should not be privilege of the rich people only and the poor should not be deprived of this facility. There should be an overall control on human organs and arrangements should be made to make these available at a reasonable price.

My submission to the Government is that the suggestions of the hon. Members should be taken into consideration and necessary changes should be made in it so that the weaker sections can also take advantage of it. With these words I conclude and support the Bill.

[*English*]

DR. K.D. JESWANI (Kheda): Mr. Chairman, Sir, I have already welcomed this Bill long ago. But at the same time, I would like to give some words of caution.

I show my serious concern over the behaviour of the Government towards the neglect of the whole process of transplantation of the human organs going on in our country for the last more than two and a half decades. Now it is only since last one year the Government has been pressing to hurry up the Bill. And in hurrying up the Bill, they have left out some of the good provisions while discussing in the Rajya Sabha. After the

discussion in the Lok Sabha, it was felt that the Bill needs still some of the ramifications and that was the reason why, it was referred back to the Select Committee. And this had taken a lot of time. Being a doctor and a surgeon by profession, I know the anguish of the doctors, the practitioners and the institutions, who have been involved in the transplantation surgery. And particularly since this Bill has appeared in both the Houses, there is a lot of apprehension in the mind of the institutions and the surgeons as well.

For the last two and a half decades, the surgery of transplantation was very well going on in our country. I would say that for the last ten years, this surgery of transplantation, particularly the renal transplantation and the hepatic transplantation, has come into being. Even the heart transplantation is not that far in the hands of the Indian surgeons, who have brought in the technology from the foreign countries. But the Health Department of the Government of India have not realised the seriousness of the whole situation. It was only when some of the incidents of wrongdoings in the commercial dealings of the human organs were found and they appeared in the newspapers, some sections of the community roused against this and then and there, the Government came out with this plea. Even at present, I see that the Government is only looking from this angle that in the international world, when we go out in the international fora, the people there just discuss about our wrong doings, selling of human organs and trading and all that. And that is the only fear in the mind of the Government. And that is the reason why, I feel, they are bringing this law. In fact, after bringing this legislation, the Government has thought of creating public opinion. Actually

speaking, the public opinion should have been created earlier because this legislation, enactment of this legislation, would involve proper definition of the brain stem death, the cadaveric donor and the storage of the organs and other infrastructural facilities for transporting these organs.

Now, we lack a lot of transporting the serious patients to the trauma centres. There is hardly any awareness of the brain stem death in the public. Now, before creating this type of public awareness in the masses, we have suddenly brought in this enactment of the Human Organs Transplantation Bill and, I think, that is going to go against it. I was talking of the public opinion. Actually speaking only three States - Maharashtra, Goa and Himachal Pradesh - already had the State legislations in this regard for a number of years. Even then the Government has come out with this Bill just one year before. Only last year it was brought to Rajya Sabha. Then for one year it was pending, it was tossing from Session to Session, as Dr. Patel has said. Today also, I would say, fortunately, we have brought in at the last moment of this Session. Otherwise, it would have tossed for two more months. Only these three States had enacted legislations and this Bill will be directly applicable to these three States only. Now, the Government have to say that after the enactment of this law, we will create the public opinion, we will use the constitutional provisions under Article 1 to 252 of the Constitution and then we will request the other States to adopt this law. I think, this is not going to be an easy task. But, at the same time, I would not wish that only for lengthening these processes, we should lengthen the enactment of this law. This legislation should have come earlier. But still we have suggested in the Joint Select

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Committee to enlarge the definition of the near relatives. Now, at present, the whole practice is going on with the near relatives along with which more than fifty to sixty per cent of the practice is going on with the professional donors. You must have read in the periodicals also that in some of the States in the south, In Madras and Roundabout, there is a different public opinion about it. A number of people from the villages who have donated their kidneys have created a good opinion unfortunately a good opinion - about this type of transaction of their kidney organs to the donors. Now, this public opinion is going to work otherwise. I would not like to protect this type of public opinion. It is quite wrong. But then we have been actually faulty in creating a good public opinion. As against that, this type of a shabby public opinion has already erupted in the masses and in the classes. So, on this account only we wanted to request the Government to enlarge the definition of the near relatives. We have not said that you allow the people to buy the organs from the market. But then you have some of the relatives who are emotionally attached. For example, married sisters. Now, married sisters would hardly ever come forward - we have been practising this in our day-to-day life - for the donation of their kidneys. Now, even after so many years, we have not been able to curb the evil of professional blood donation, which is far less serious than this. How are we going to curb the whole evil of the wrong dealings in the donation of the organs?

So, these are some of the points against which I would like to caution the Government. I would again like to request the Government and the hon. Health Minister that rest of the things also we can accept. But I would request the

Government to accept these suggestions of the Select Committee about widening the area of the near relatives including the near relatives in the form of relatives who are emotionally attached like mother-in-law, father-in-law, sister-in-law and spouse.

These are some of the observations which I wanted to make.

With these words, I thank you very much for giving me an opportunity to speak.

21.00 hrs.

DR. MUMTAZ ANSARI (Kodarma):
Mr. Chairman, Sir, this is a very important Bill which has been brought before the House, that is, the Transplantation of Human Organs Bill, 1993. The Bill has already been passed by the Rajya Sabha. It has just been moved in this House and it will be passed here also. We praise this Bill.

There are certain important provisions in this Bill which must be taken into consideration. India was considered to be a big market for the sale of all human organs. This was bringing a black name to our country. One doctor in USA cited the example that you go to India and you will find people lining up before the hospitals for selling their organs. So, this is a good Bill and it must be aimed at regulating such type of market which is illegally functioning because people are suffering from starvation. Because people are suffering from shortage of food and shortage of all other necessities of life, they are selling their organs, and in order to regulate this type of a market, there must be important provisions in the Bill.

This Bill has been brought very late. It should have been brought much earlier

because for the last many years this type of sale of human organs has been going on in our country. In Delhi itself, one example was cited. It was published in many leading Papers of the country that one Pradeep Kumar's organ was extracted by a doctor. Because he was in the habit of purchasing smack, so in order to purchase smack, he sold his kidney. Certain medicines were administered and he was made senseless, and then his kidney was extracted. Afterwards, cases were filed and police help was also sought by the poor parents of that child. So, such type of human organs bazaars are going on, which are bringing a bad name to our country. People from USA, from some Arabian countries and also from other foreign countries, are coming here to purchase human organs because they know that if they come to India, such type of important and vital human organs are selling here at a very lower price of Rs. 50,000, or Rs. 70,000 or for a slightly higher amount of money. They are coming here with large amount of money and are purchasing human organs. So, I would like to say that the people who are suffering from poverty and starvation, are under compulsion to sell such type of important human organs. This should not happen.

Similarly, some children are kidnapped by criminals and miscreants who are also indulging in such type of trade which is being run in a very clandestine manner, which is being run underground. That is why I would say that a befitting fine should also be provided for in the Bill. Whoever they may be, whatever the nature of their profession may be and whatever the nature of their business may be, once they are found guilty of extracting the human organs from the body of any person and commercialising them by such type of

sale of organs, heavy fine and heavy punishment should be inflicted upon such persons in order to discourage such type of business which is going on in our country.

In our country, lot of accidents are taking place and nearly fifty-five thousand people die in such accidents every year. Once there is a provision that human organs, especially kidney, liver and heart which are very vital, can be extracted from the bodies of the dying persons who are involved in some accident, that will be more than sufficient to meet the demand for human organs. Then there will be no need for any sort of smuggling or for selling such type of human organs in the clandestine market. As you know, Sir, there are two kidneys in the body of a human being and one can work with one kidney also. He can walk and go to any place and live any length of life. So, the poor people are under compulsion to sell one kidney to earn food for themselves.

They are selling one kidney to others for the sake of getting petty amount of money, that is, Rs. 50,000/- because food is very much necessary. That is why, such type of things must be regulated. Similarly, in the case of accidents there must be some provision which has not been provided in the present Bill and this has been just defined as transportation of human organs; 'transplantation' is the correct word and this must be rectified. If you go to Denmark, France, Austria and other countries you can see that when accidents take place the doctors will come there and they will extract live heart, live liver and other human organs. That will be considered as 'presumed consent'.

Here, there is a good provision that if there is any donor and if he is making

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any sort of dying declaration, if he is on the verge of death, he can just donate important organs. There must be two witnesses for that. One will be a 'near relative'. I would like to emphasize on this point that it should not be defined as 'near relative'; rather it must be 'blood relative' like wife, husband, sons, daughters etc. They are very important relatives and they can stand eye witness because anybody can become 'near relative' and they can also sell their human organs to anybody. So, this is a delicate and important issue. That is why, if you say only 'near relative' some unwanted things will be done in a clandestine manner. Suppose some mafia is there, some vested interest will develop and they will pose to be 'near relative'. They will say that they are standing as eye witnesses and ask the doctors to extract any number of organs like kidney, eye etc. So, this will create some confusion and the confusion will be worse confounded once you just make a provision that there will be only one eye witness who is a 'near relative'. There must be two blood relatives and they must stand eye witnesses when human organs are extracted. If a patient is alive and if he is in his senses, they can take his organs. That is alright. But once his brain is dead and only the heart is functioning, in that case you can just take the help from two blood relatives like sons, daughters, husband, wife etc.

SHRI INDER JIT (Darjeeling): Wife is not a blood relative.

DR. MUMTAZ ANSARI: I know that. In the law it has not been defined, but in the present conditions wife is more than a blood relative. There may be partition or division between the blood relatives also. But wife is also known as 'better half'. So, she is more than a blood relative these days.

So, Sir, these are the things which must be taken into consideration. Similarly, irrespective of what our friends have told, I would like to say that there must be regularisation of prices also. As the whole economy has been liberalised and globalised, naturally the price hike will be there and the human organs will be available only to certain sections of the society who can afford and to those who can spend some crores of rupees. In that situation, where will the poor people go? Then, I would like reservations for harijans and backward classes who cannot afford huge amount of money. The human organs should be supplied free of cost to them and to the persons who is very poor and holding a high position in the society and rendering service to the society.

On that ground, it may be supplied free of cost.

Mr. Chairman, Sir, similarly, if there is any extraction of such human organs also, this must be done by a registered hospital, registered surgeon, registered medical practitioner, not by quacks as it happened in the Emergency period. During that time, a person who had already been operated upon was again operated. A person who was unmarried was also just operated upon.

MR. CHAIRMAN: There is sufficient provision in the Bill for that.

DR. MUMTAZ ANSARI: With these words, I conclude.

[Translation]

SHRI TEJ NARAYAN SINGH (Buxar): Mr. Chairman, Sir, I rise to support the Transplantation of Human Organs Bill. It is an important Bill and I

think that it should have been passed quite earlier. Although it has been delayed but now it should be passed. This Bill has provisions which were really essential. I would like to point out that this Bill includes the names of only two-three States whereas it should be implemented throughout the country so that all the people could be benefited by it.

With regard to donors, I would like to say that there should be no division. Any person who wants to donate any part of his body should be free to do so. There should be no discrimination in it. I would like to make my humble submission that many people in our country have adopted kidnapping as their profession. They kidnap a person and give some medicine and under the influence of that medicine take out organs of their body. I would like to suggest that provision for stringent punishment should be made for such crimes under this Bill. There should be provision to restrict all other persons, other than the medical practitioner to take out any organ of the body of a person. No other person should be given permission for doing it. This should be made an essential provision in this Bill.

Apart from it, various other provisions have been made in this Bill. I am not going to discuss all those but I would like to say that some restrictions have been imposed in it which should be removed.

With regard to the provision made in this Bill, that in the case of an unclaimed dead body, any part of that body can be removed within 24 hours with the consent of a medical practitioner. I would like to say that even after giving consent by a doctor, no organ of an unclaimed dead body should be

removed because people of our country practice different religions and religious rites. It may happen that some relations would like to see the dead body of their relative and they may be late to come to see the dead body due to some unavoidable reasons. Therefore, I would like to request and suggest that without identification of a dead body, no organ should be removed even after seeking concurrence of a medical practitioner or any authority. I would like to point out one more thing that no human organ should be removed from a human body without proper investigation about the disease he suffered because the organ removed from a patient and transplanted to the other needy person will infect his body. Therefore no organ should be removed for transplantation without medical investigation of the body.

This Bill will benefit a large number of people in the country because a lot of people die for want of kidneys. This Bill will increase the availability of kidneys in the country and thus I support this Bill.

[English]

KUMARI MAMATA BANERJEE
(Calcutta South): Sir, I rise to support the Transplantation of Human Organs Bill, 1993. This Bill has already been passed in the Rajya Sabha and the Select Committee has already given the recommendation also. The earlier speakers have raised some points. But I think this Bill is a comprehensive one. This Bill has covered every point that Members have raised.

I want to mention only two points here because the time at my disposal is very limited.

Firstly, we have said that the Authorised Committee or Authorised

[Kumari Mamata Banerjee]

persons who hand over the kidney should identify the kidney. But in the Bill itself it is mentioned that "appropriate Committee" means the appropriate Authority appointed under Section 13. The Bill clearly mentions the punishment for removal of human organs without authority, punishment for commercial dealings in human organs and punishment for contravention of any other provision under the Act. Everything is covered in the Bill.

Regarding near relatives, some Members have said that there must be mention of some names like daughter-in-law or sister-in-law. But I oppose this suggestion because you will appreciate that now-a-days, on the one side, they may support by saying that "Yes, she is the better half. She may be giving kidney for husband or near relative." We have to appreciate that in our country the dowry debt is increasing day by day. Even in a particular family, for the money, some people can enforce their demand to give kidney for commercial purpose. I think after the Rajya Sabha has passed the Bill, if we want to make any new point, we cannot include it here. That is why, we have to think over this matter also. The Government has the provision. If anybody voluntarily donates the kidney, there is a provision. They can donate it. There is an authorised Committee. So, they will recognise the thing with blood or other thing. They have to see it from the point of view of medical grounds also. That is why, I oppose this. Near relatives means whatever the Bill has mentioned. I think Government should accept it. Voluntarily anybody can give. There is no harm.

My second point is, now-a-days it is a fact that kidney transplantation is very much expensive. At least Rs. 1,25,000/- or

Rs. 80,000/- is needed for this. I know doctors are doing very well, specially in Kerala, Madras and in Calcutta also we have started. But for poor people, it is a big problem. The Government should think over the matter as to who are the poor people. I know the Prime Minister is giving Rs. 20,000/- from his Relief Fund. But if one particular person is working in a private factory and his monthly income is Rs.700/-. I know the Prime Minister gives Rs.10,000/- and the Governor gives Rs. 4,000/- and the Chief Minister gives Rs.4,000/- from National Relief Fund. But from where will he collect the balance? That is why, we have to encourage voluntary organisations also so that they should come up and help these people. The voluntary organisation which really wants to do good work should be exempted from income-tax so that it can come up in a good manner. Government should encourage it.

My third point is, we do not have any system now for the preservation of human organs. I know some particular cases in my State. Some people wanted to donate their bodies after death. But there is no such infrastructure for the preservation of human organs. I would like to request the hon. Minister that the Government should look into this matter very seriously because this is a very good Bill. I welcome this Bill.

At the same time, Government should also seriously consider this matter.

With these words, I welcome this Bill. I request all the members to support this Bill because we should not have a political outlook in this matter. On humanitarian grounds, we have to support this Bill.

DR. KRUPASINDHU BHOI (Sambalpur): Mr. Chairman, Sir, in the Select Committee, this amendment was given notice of by Dr. Laxminarayan Pandeya. So, in order to remind his about this. I want to say that there are three categories of donors - the deceased person, the brain-stem death person and the living person. For the living person only, we have got an objection. Dr. Laxminarayan Pandeya has given notice of an amendment. As far as the deceased person and the brain-stem death person are concerned, there will be lakhs of people who will donate the organs of such people. So, there will be no scarcity for organs like kidney, liver, heart, lungs, pancreas etc. Dr. Laxminarayan Pandeya knows better that a brain-stem death person's liver, heart or lungs can be transplanted easily. During this February, I alongwith my colleague Dr. Pawar as also the other Members, attended the International Medical Parliamentarians' Forum in Bangkok. There, we have come across the definition of the term 'near relative' which has been recognised by the WHO. That is the international standard. As per the definition given by the hon. Minister Shri Shankaranand when he introduced the Bill in the Rajya Sabha, near relatives for a living person are spouse, son, daughter, father, mother, brother or sister. Except the spouse, all the others are to be genetically related. So, the definition of near relative - except the spouse who is better half - has been discussed and deliberated upon and all others have to be genetically related. So, I would request the hon. Member Dr. Laxminarayan Pandeya to realise the difficulties. I want to know whether we should depart from the international standard or we should stick to our Course of action. This is my question. There is no other question. As I said already, in the Select Committee, the amendment was given notice of by Dr. Laxminarayan

Pandeya. He is himself a doctor. He himself realises the difficulties in respect of what is genetically related. So, I would urge upon Dr. Laxminarayan Pandeya to agree to this and withdraw this amendment which he has moved.

THE DEPUTY MINISTER IN THE MINISTRY OF HEALTH AND FAMILY WELFARE (SHRI PABAN SINGH GHATOWAR): Sir, I am grateful to all the hon. Members who have participated in this discussion. Fifteen hon. Members have taken part in the discussion on this Bill. While introducing the Bill, I have explained about the purpose of the Bill. I have explained, in detail, about the various sections of this Bill. There has been a persistent demand from various national bodies, medical, legal and social experts and they have been advocating the need to bring forward a comprehensive legislation to regulate the removal and the transplantation of the human organs from the deceased and the living persons. This has particularly been emphasised in the context of the disturbing report about the sale of human organs especially in respect of kidney and other organs which have been transplanted in our country.

While taking part in the discussion on this Bill, some of the Members have expressed their views regarding the various sections of the Bill. This legislation has been well-drafted. It has been drafted after the Singhvi Committee gave its report. Basing on the report of the Singhvi Committee, this Bill has been drafted. They have consulted a wide range of medical experts of this country. They have taken note of what is happening in the other parts of the world also.

Sir, there are many views. Some Members have expressed that the

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Government wants to get this Bill passed hurriedly. It is not a fact.

I can tell you that this Bill was introduced in Rajya Sabha on 20.8.92 and passed on 5.5.93. And this Bill was introduced in this House on 11.5.93 and there was a discussion on it. That was sent to the Select Committee on 11.12.93. The Select Committee presented the Report on 21.12.93. There was wide-ranging deliberation in both the Houses and in the Select Committee and almost on all the points, hon. Members agreed. But there is only one point of disagreement about the definition of near relatives. As Dr. Bhoi has rightly pointed out, in this definition, only the genetically related near relatives are included besides spouses. Inclusion of spouse is not directly genetically related relative but on account of very close and special relationship between the husband and wife. The enlargement of this definition by inclusion of in-laws, father-in-law, daughter-in-law, mother-in-law, sister-in-law etc., should not be accepted because in-laws are not genetically related. And in the existing society, as Kumari Mamata Banerjee rightly stated that in-laws could be pressurised to donate their organ and that would lead to the abuse of the system permitted by law.

21.26 hrs.

[MR. SPEAKER *in the Chair*]

About the donor, there is a misgiving in the minds of many hon. Members that only the genetically related people can donate. It is mentioned in Section 9, sub-section 4 (a) and (b), that in case where a living donor authorises transplantation of his organ into the recipient other than his near relative, as is specified by the donor by reasons of affection or attachment towards the recipient or for any other special reason, such donor can donate with the prior

permission of the authorised committee. That is already mentioned in Section 9, sub-section 4(a)(b) of the main Act. So, there will be no difficulty of other people donating the organ. But to satisfy that they are not donating this organ under pressure of their family members of any other consideration, prior permissions of the authorised committee is required. That is clearly covered in the Act.

Some Members mentioned that only three States of our country have passed the resolution. But when we pass this Bill in our Parliament, this will create a public opinion. And with the pressure of the public opinion created, other States will also adopt this. Centre will also urge the States to do so as early as possible.

In case of hospitals and other things, it is very clearly mentioned here where they can do this transplantation, where the institution has to be registered and so on. They will get registered when expert and other facilities are available in these hospitals. With these few words, I request all the hon. Members to pass this Bill as passed by the Rajya Sabha and as reported by the Select Committee.

MR. SPEAKER: The question is:

"That the Bill to provide for the regulation of removal, storage and transplantation of human organs for therapeutic purposes and for the prevention of commercial dealings in human organs and for matters connected therewith or incidental thereto, as passed by Rajya Sabha and as reported by the Select Committee, be taken into consideration."

The motion was adopted.

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

Clause 2 — Definitions

SHRI PABAN SINGH GHATOWAR:
Sir, I beg to move:

Page 4, —

for lines 36 to 38, *substitute*

'(i) "near relative" means spouse, son, daughter, father, mother, brother or sister",

MR. SPEAKER: Dr. Pandeya, are you moving your amendment to this amendment?

DR. LAXMINARAYAN PANDEYA (Mandsaur): I want to move my amendment, Sir.

MR. SPEAKER: You want to make a submission also. But is it necessary at this late hour.

[*Translation*]

DR. LAXMINARAYAN PANDEYA:
Hon. Mr. Speaker, Sir, I would like to make an amendment in the amendment moved by the hon. Minister.

I beg to move:

"That in the Amendment proposed by Shri Paban Singh Ghatowar and Printed as S.No. 3 in the List No. 1 of Amendments.

add after "sister"

"Son-in-law, mother-in-law and brother-in-law" (5)

I would like to say that hon. Minister has tried to mislead the House.

[*English*]

"If any donor authorises the removal of any human organ before his death..."

[*Translation*]

If someone donates his body after death he can authorise someone to do that. But hon. Minister is telling that definition of donor relative is different and definition of near-relative is different. He is inter-mingling the definitions of near relative and donor relative. I would like to make my humble submission that Select Committee has given its unanimous report on it after a comprehensive discussion.

[*English*]

"The Committee feel that the definition of the term "near relative" as given in the sub-clause is very restrictive as it includes only the spouse, son, daughter, father, mother, brother or sister. They are of the view that the scope of the term "near relative" should be enlarged so as to include son-in-law, father-in-law, mother-in-law and brother-in-law as well. The sub-clause has been amended accordingly."

[*Translation*]

It is a unanimous report. Select Committee has made several amendments into the Bill passed by Rajya Sabha and we have accepted that. Now hon. Minister says that it should be passed in the same manner as was

[Dr. Laxminarayan Pandeya]

passed by the Rajya Sabha. Hon. Minister has not given amendment to the amendments made by the Select Committee. Therefore I would like to say that the unanimous report given by the Select Committee should be passed. We are in favour of this Bill and I wish that it should be passed immediately but before passing this Bill the unanimous report given by the Select Committee should be passed by this House.

Hon. Minister has given one or two amendments and I am presenting my amendments for this Bill that should be accepted.

[English]

SHRI PABAN SINGH GHATOWAR: Sir, I will request Dr. Pandeya not to press for the amendment. I will request that the Bill be passed as passed by Rajya Sabha. I have already moved an amendment to the Select Committee Report. *(Interruptions)*

[Translation]

DR. LAXMINARAYAN PANDEYA: Hon. Mr. Speaker, Sir, I have mentioned earlier also that several amendments have been made in the Bill passed by Rajya Sabha.

[English]

SHRI PABAN SINGH GHATOWAR: About the enlargement of the definition of "near relative", I have already explained that there is a provision in the Act, according to which, when a person desires to donate his organ, he can very easily donate but he has to take the prior permission of the Authorised Committee because the Authorised Committee will examine whether person is donating

under pressure or under any other consideration.

[Translation]

DR. LAXMINARAYAN PANDEYA: Mr. Speaker, Sir, I would like to draw the attention of the House towards the amendments made in the Bill passed by Rajya Sabha. Hon. Minister has accepted all these amendments. Now hon. Minister says that it should be passed in the same manner as was passed by the Rajya Sabha, then what will happen to amendments made in it. No amendment has been made to the report given by Select Committee. Therefore, I request to accept my amendment regarding "near relative" and it should be accepted with the amendments made by Select Committee in the Bill passed by Rajya Sabha.

[English]

MR. SPEAKER: I shall now put Amendment No. 5, moved by Dr. Laxminarayan Pandeya to Amendment No. 3 moved by Shri Paban Singh Ghatowar to the vote of the House.

Amendment No. 5 was put and negatived.

MR. SPEAKER: I shall now put Amendment No. 3 moved by Shri Paban Singh Ghatowar to the vote of the House.

The question is:

Page 4, —

for lines 36 to 38, *substitute*

(i) "near relative" means spouse, son, daughter, father, mother, brother or sister"; (3)

The motion was adopted.

Amendment made:

Enacting Formula

Page 5, —

Amendment made:

(i) line 7 omit "or";

"Page 3, line 1, - for 'Forty-fourth' substitute 'Forty-fifth'.

(ii) Omit lines 8 and 9. (4)

(Shri Paban Singh Ghatowar)

(Shri Paban Singh Ghatowar)

MR. SPEAKER: The question is:

MR. SPEAKER: The question is:

"That clause 2, as amended, stand part of the Bill."

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

*The motion was adopted.**The motion was adopted.**Clause 2, as amended, was added to the Bill.**The Enacting Formula, as amended, was added to the Bill.**Clauses 3 to 25 were added to the Bill.*

MR. SPEAKER: The question is:

Clause 1 — Short Title, Application and Commencement

"That the Preamble and the Long Title stand part of the Bill"

Amendment made:

The Preamble and the Title were added to the Bill.

"Page 3, line 6, — for '1993' substitute '1994'

SHRI PABAN SINGH GHATOWAR:

(Shri Paban Singh Ghatowar)

I beg to move:

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

MR. SPEAKER: The question is:

MR. SPEAKER: The question is:

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

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

*The motion was adopted.**The motion was adopted.**Clause 1, as amended, was added to the Bill.*KUMARI MAMATA BANERJEE
(Calcutta South): It is only Transplantation of Human Organs Bill and not

[Kumari Mamata Banerjee]

by Rajya Sabha, be taken into consideration."

Transportation of Human Organs Bill as is printed at one place.

and

MR. SPEAKER: It will be rectified, I suppose.

"That the Bill further to amend the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982, as passed by Rajya Sabha, be taken into consideration."

MR. SPEAKER: Now what is the wish of the House? Is it to adjourn the House *sine die*.

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): There are two Bills belonging to the Civil Aviation Ministry. They could be passed without discussion because they have been gone into thoroughly by the Standing Committees. There should be no problem in getting these Bills through. They have been passed by the Rajya Sabha already.

MR. SPEAKER: Okay. The Minister, please.

The Governemnt had enacted two Acts namely Anti-hijacking Act and Suppression of Unlawful acts against Safety of Civil Aviation Act in 1982 to deal with offences relating to the hijacking of the aircraft and to give effect to the convention on suppression of unlawful seizure of aircraft signed on 16th December 1970 at The Hague. As is widely accepted, hijacking is an international crime, which, apart from heavy financial losses, also causes traumatic experience to the passengers, crew members and their kith and kin, even when such act is committed without use of lethal weapons. A number of incidents took place particularly last year were in fact the handiwork of amateurs. Although the existing Acts provide for a minimum punishment of life imprisonment and fine, it has been the experience that their deterrent effect is diluted by the time consuming process of investigation and trial.

21.38 hrs

**ANTI-HIJACKING (AMENDMENT)
BILL**

As Passed By Rajya Sabha

AND

**SUPPRESSION OF UNLAWFUL
ACTS AGAINST SAFETY OF CIVIL
AVIATION (AMENDMENT) BILL**

THE MINISTER OF CIVIL AVIATION AND TOURISM (SHRI GULAM NABI AZAD): I beg to move:

Considering the gravity of hijacking offences and the consequential disruption it causes, the Government have considered it necessary to review the provision of the Anti-hijacking Act, 1982, and the Suppression of Unlawful Acts against Safety of Civil Aviation Act, 1982 to incorporate suitable changes in these Acts to provide for prompt and professionally oriented investigation,

"That the Bill further to amend the Anti-Hijacking Act, 1982, as passed