

MR. SPEAKER : He is laying a supplementary statement on the flood situation. It may help the discussion this evening. [Placed in Library, see No.LT-1689/68.]

12.21 Hrs.

CONVICTION OF MEMBERS

MR. SPEAKER : I have to inform the House that I have received the following letter dated the 9th August, 1968 from the Magistrate, First Class, New Delhi :—

"I have the honour to inform you that Sarvashri P. Viswambaran, A Sreedharan, and G. P. Mangalathumadam, Members, Lok Sabha, were tried at the Parliament Street Courts before me on a charge under section 188 I.P.C. for defying the prohibitory orders U/s. 144 Cr.P.C. at the junction of Church Road and Brassey Avenue, New Delhi, at 11.10 A.M. today.

On the 9th August, 1968 after a trial lasting for today, I found them guilty U/s. 188 I.P.C. and sentenced them to imprisonment till the rising of the Court."

SHRI HEM BARUA (Mangaldai): May I know how long does this Government propose to maintain Delhi as a police State under section 144 ? (Interruptions).

MR. SPEAKER : Secretary.

MESSAGE FROM RAJYA SABHA

SECRETARY : Sir, I have to report the following message received from the Secretary of Rajya Sabha :—

"In accordance with the provisions of rule 111 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to enclose a copy of the University Grants Commission (Amendment) Bill, 1968, which has been passed by the Rajya Sabha at its sitting held on the 7th August, 1968."

UNIVERSITY GRANTS COMMISSION (AMENDMENT) BILL

AS PASSED BY RAJYA SABHA

SECRETARY : Sir, I lay on the Table of the House the University Grants Commission (Amendment) Bill, 1968, as passed by Rajya Sabha.

12.22 Hrs.

STATUTORY RESOLUTION RE : INDIAN PATENTS AND DESIGNS (AMENDMENT) ORDINANCE; INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL; AND PATENTS BILL—Contd.

MR. SPEAKER : The House will now resume further consideration of the Statutory Resolution moved by Shri Dandekar regarding the Indian Patents and Designs (Amendment) Ordinance, the Indian Patents and Designs (Amendment) Bill and the Patents Bill. We have already spent 55 minutes on it. We have still got 2 hours and 5 minutes. Shri Joshi.

श्री एस० एम० जोशी (पूना) : अव्यक्त महोदय, सदन के सामने पेटेंट के बारे में एक विधेयक प्रस्तुत है जो प्रवर समिति के सामने जा रहा है। मैं आशा करता हूँ कि प्रवर समिति इस पर गंभीरता से सोच विचार करेगी। मैं भी काफी दिनों से इस बारे में जानकारी हासिल कर रहा हूँ कि क्या हमारे देश के लिए यह फायदेमन्द है या नहीं? हर देश अपनी अपनी परिस्थिति के अनुसार इस बारे में निर्णय करते हैं।

12.23 Hrs.

[MR. DEPUTY-SPEAKER in the Chair]

हमारे देश में ब्रिटिश लोग जब आये तो 1856 से यह कानून चला। उम के बाद हम लोग आजाद हो गए। आजाद होने पर हम लोगों को भी यह सोचना चाहिए था और सोच रहे हैं कि क्या हुकूमत बर्तानिया ने हमारे ऊपर जो चोख लाद दी उसको हमें बदलित करना चाहिए या नहीं और आजादी के बाद जब यह सोच विचार शुरू हुआ तब से इस कानून में काफी तब्दीलियां होती जा रही हैं। मगर मैं देख रहा हूँ कि इस मामले को आहिस्ता, आहिस्ता टाला जा रहा है। मैं समझता हूँ कि पेटेंट का जो कानून है उसके बारे में कोई शाश्वत सिद्धांत हम नहीं दे सकते हैं। हमेशा के लिए किसी पेटेंट का कानून फायदेमन्द होगा ऐसा नहीं कहा जा सकता देश की जो आर्थिक, सामाजिक और तकनीकी अवस्था होगी उस के अनुसार हम लोगों को सोचना होगा जैसा

[श्री एस० एम० जोशी]

कि दुनिया के दूसरे देश भी इस सिलसिले में सोचते हैं। कई देशों में अभी भी यह पेटेंट का कानून नहीं है जैसा कि हम लोग ला रहे हैं। सोशलिस्ट देशों में, सोवियट रूस में भी बहुत दिनों तक यह पेटेंट का कानून नहीं रहा। जब उन लोगों को ऐसा लगा कि इस पेटेंट के कानून से उन्हें फायदा होगा तभी कहीं जा कर उन लोगों ने अपना यह कानून शुरू किया। तो सबाल उपाध्यक्ष महोदय, यह है कि क्या हमारे देश में आज वह अवस्था है, वह परिस्थिति है जहां इस तरह का पेटेंट का कानून जारी रहना जरूरी है? मैंने जहां तक सोचा, पढ़ा और सुना उस पर से मुझे तो ऐसा लगता है कि यह जो पेटेंट का कानून बना हुआ है वह हमारे देश की ग्राज की जो हालत है, उस में हमें कोई फायदा देने वाला नहीं है। इस के बारे में बहुत सारे लोगों ने विचार किया और इस को रपट गौरह हुई। मैंने एक रपट यह पढ़ी जस्टिस राजगोपाला आर्यंगर को। हुकूमत की तरफ से यह कमेटी मुकरंर थी और उन्होंने पहले इस बारे में सबाल उठाया है कि क्या हमारे देश के लिए ऐसा कानून अच्छा है या नहीं। पहले कुछ पन्नों में जो कुछ सबूत और एविडेंस दिए हुए हैं वह जब मैं पढ़ता गया तो मुझे ऐसा लगा कि यह जस्टिस महोदय, न्यायमूर्ति आर्यंगर साहब इस नतीजे पर आ रहे हैं कि हमारे देश के लिए इस कानून की आवश्यकता नहीं है और उन्होंने अपनी इस राय के लिए काफी उद्धरण पेश किए हैं। उस में एक उद्धरण यह है और यह हमारे देश के लोगों की लिखी हुई किताब में से नहीं है, विदेशी लोगों की लिखी हुई है, इसमें से मैं पढ़ कर सुनाता हूँ :

"No amount of talk about the 'economic unity of the world' can hide the fact that some countries with little export trade in industrial goods and few, if any, inventions for sale have nothing to gain from granting patents on inventions worked and patented abroad except the avoidance of unpleasant foreign retaliation in other directions."

अब इस तरह के और दूसरे लोगों के भी उद्धरण दिए हुए हैं और वह देखते ही मुझे ऐसा लगा कि अब यह न्यायमूर्ति महोदय इस पर आ जायेंगे कि हमारे देश के लिए इस को कोई जरूरत नहीं। मगर एक अजीब बात है कि यह सब सबूत देने के बाद आप ने सफा 118 पर लिखा है :

"Having made this appraisal of the effect of the Patent system in India, the next question is whether the system should be continued."

अब यह सबाल पूछते हैं। जितने सबूत हैं वह इस सिस्टम के खिलाफ देते हैं। जैसे कोई एक विकास-शील देश है तो उस में यह सिस्टम नहीं होना चाहिए, वह हमारे फायदे का नहीं है। इस में से बाहर के पेटेंट अगर नौ हैं तो एक हमारा है। तो इससे फायदा तो बाहर के लोगों को मिलता है। तो ऐसी हालत में हमारे लिए कोई जरूरत नहीं है।

मगर आखिर में उन्होंने क्या कहा—

"With all the handicaps that the system involved in its application to underdeveloped countries, there are no alternative methods of achieving better results".

यानी जो जारी है वह रखना चाहिए, जो ब्रिटिश लोगों ने चलाया है उसी को हमें चलाना चाहिये। इस का मतलब यह हुआ कि जस्टिस महोदय ने सब बातों को सुनने के बाद कह दिया कि इसका कोई विकल्प नहीं है, इसलिए कानून को बनाये रखना चाहिये। जज को चाहिये था कि वह इस नतीजे पर आने के कारण को दे देते। परन्तु आश्चर्य की बात है कि जज होते हुए भी उन्होंने बिना कारण बताये निर्णय दे दिया। आखिर ऐसा क्यों हुआ? इस लिये हुआ कि हम लोगों की स्टेटसको की आदत हो गई है, कोई भी संकल्प कर के आगे बढ़ने की कोशिश हम नहीं करते हैं, इस लिये कि हमारे पास कोई दूसरा विकल्प नहीं है। विकल्प क्यों नहीं है? नहीं है तो उसे खूब निकालना चाहिये, अगर हमारे देश के लिये कोई बोज़ अच्छी नहीं है तो उसको क्यों रखा जाये।

यह बिल प्रवर समिति के पास जा रहा है, यह बहुत अच्छी बात है, लेकिन मेरी अपनी राय में अभी तक हमारे सामने कोई ऐसा सुझाव नहीं है जिससे कि यह साबित हो कि हमारे देश को मौजूदा आर्थिक और तकनीकी हालत में इन पेटेन्ट्स को चालू रखना चाहिये। मैं पूछना चाहता हूँ कि कितने करोड़ रुपया विदेशी पेटेन्ट्स के नाम पर हमारे देश से लूट कर ले जा रहे हैं और उन की क्या जरूरत है, इन की इजाजत क्यों दी जाती है और कैसे दी जाती है। आज हमारे देश को ये लोग किस तरह ठग रहे हैं, अपनी चीजों के बड़े-बड़े इश्तिहारों में निकालते हैं अखबारों में विज्ञापन दिये जाते हैं और टूथ-पेस्ट जैसी चीजों के लिये जनता का ठगा जाता है।

मैंने इस के बारे में सो० एम० आइ० आर० के जागों से बातचीत की। मैंने उन से पूछा कि हमारी हुकूमत यह बोल रही है कि इस देश में इन्वेन्शन होना चाहिये, रिसर्च होनी चाहिये, इन्वन्टिमेंट पेटेंट की जरूरत है। मुझे उन वैज्ञानिकों ने बताया कि हम इसकी कोई खास जरूरत महसूस नहीं करते हैं। उन्होंने कहा कि जैसे बिनाका का पेटेन्ट है, इस की क्या जरूरत है, लेकिन यहां तो उसका भी पेटेंट रखा हुआ है जो यहां से करोड़ों रुपया लूट कर ले जा रहे हैं। इसी तरह से कुछ फुड स्टफ हैं, मैडिसिन्स हैं, ड्रग्स हैं, जिनके पेटेन्ट यहां पर दिये गये हैं। बाहर की कम्पनियों यहां पर आई हुई हैं जो बहुत दिनों से यहां पर काम कर रही हैं, यहां के लोगों को उनकी चीज का अनुभव हो गया है, करोड़ों रुपया वे यहां से कमा चुके हैं, फिर भी इस तरह के पेटेन्ट कानून को यहां पर रखने की क्या जरूरत है?

SHRI LOBO PRABHU (Udipi) : This point needs clarification, because I was present at the same meeting.

MR. DEPUTY-SPEAKER : What I would suggest is that the hon. Member may make his submission when he gets his chance.

श्री मधु लिम्बये (मुंगेर) : वह पूछना चाहते हैं, उन को पूछने दीजिये। यह अन्याय न कीजिये।

MR. DEPUTY-SPEAKER : No, I would not allow cross-questioning. It will mean that his time will be taken for this.

श्री एस० एम० जोशी : तो उन्होंने मुझको ऐसा नहीं बताया कि इसकी बहुत जरूरत है। मगर उन्होंने यह कहा कि अब हमारे देश की जो परिस्थिति है, हमारा इन्वेन्शन का जो ज्ञान है, वह काफी बढ़ा हुआ है, इसमें अब इन की ज्यादा जरूरत नहीं है, उदाहरण के तौर पर उन्होंने बिनाका की बात बतलाई। इस तरह के 9 पेटेन्ट बाहर के हैं और एक यहां का है—इस से आप अनुमान कर सकते हैं कि इसका फायदा किस को हो रहा है।

उपाध्यक्ष महोदय, एक बात मैं और बतलाना चाहता हूँ—हमारे देश में जो वैज्ञानिक प्रगति हो रही है, उस को दृष्टि में रखते हुए पेटेन्ट पर विचार करते समय क्या हमारे वैज्ञानिकों से पूछा जाता है? हमारे वैज्ञानिकों से पूछना चाहिये कि अमुक वस्तु के इन्वेन्शन के लिये, रिसर्च के लिये क्या इस पेटेन्ट की जरूरत है? इतने पेटेन्ट जो आज सरकार देती है, वे कैसे दिये जाते हैं, क्या उनकी जरूरत पर भी इन वैज्ञानिकों की राय ली गई है। उपाध्यक्ष महोदय, हम बातें तो बहुत करते हैं, लेकिन बातों से क्रांति नहीं होती है, अगर हम को क्रांति करनी है तो दूसरे देशों ने जैसे कदम उठाये हैं, अगर वैसे ही कदम हम उठाये तो तरक्की हो सकती है दूसरे देशों के पेटेन्ट लाने से हम उन से बंध जाते हैं, अपनी प्रगति नहीं कर पाते हैं, हमें उन पर निर्भर रहना पड़ता है—यह भी एक किस्म का इम्पीरियलिज्म है। मैं तो यह समझता हूँ कि हमें ऐसे कानून को हटा देना चाहिए। ऐसे कानून की कोई जरूरत नहीं है। कितने दिनों से ये यहां पर चल रहे हैं, उनकी मोनोपली अभी तक कायम रही है, अब इस विधेयक को प्रवर समिति को भेजा

[श्री एस० एम० जोशी]

जा रहा है। मैं चाहता हूँ कि प्रवर समिति इस बात की जांच करे कि कितना पैसा यहां से किन किन देशों को जाता है, कौसी चीजों के लिये पेटेन्ट दिया जाता है, कितने सालों के लिये दिया जाता है? क्या जरूरत है कि हर एक चीज के लिये पेटेन्ट दिया जाय। अगर आप को किसी चीज का पेटेन्ट देना भी है तो जो हमारे वैज्ञानिक हैं उन की कमेटी बैठा दीजिये और जब तक उनकी ओर से लाइन क्लियर नहीं आता है तब तक वह पेटेन्ट नहीं दिया जाना चाहिये। यदि आप इस तरह की व्यवस्था करें तब देश को इससे कुछ फायदा हो सकता है।

SHRIMATI SUCHETA KRIPALANI (Gonda) : Mr. Deputy-Speaker, Sir, we are discussing two Bills, the Indian Patents and Design (Amendment) Bill and the main Patents Bill. As far as the Amendment Bill is concerned, I not only welcome it but, I think, it is an overdelayed act. In the present situation there is a stalemate which is obtaining since 1962. This situation arose out of the Chinese aggression when under the D.I.R. Government took some powers to suspend or control patents.

In 1963 there was a thinking in the Government that perhaps the patent law was not necessary and that it should be abrogated. Some of our experts had gone to Russia and had come back with this thinking. Therefore this matter was kept suspended. But in 1964 when Shri Lal Bahadur Shastri visited the U.K., the thinking was changed. At that time it was decided that patents law should be there but in a certain modified form.

Therefore a new order was issued in September 1964 and the Controller was asked to examine the applications for patents, particularly for food and drugs, which had not been suspended but not to seal them. That was a very strange order. They could process an application up to a certain stage but not go to the logical conclusion. Therefore the result was that since 1964 no inventor has had any protection from imitation or infringement of his patent. No new application has been granted and therefore since 1962 or 1963 this position of stalemate has been continuing.

Under the present law an application can be sealed within the maximum period of 31 months. That means, an application pending for over 30 months will now be considered. There are now 6,000 such applications. I am glad that this has been done; in fact, this should have been done much earlier instead of creating this situation of a stalemate. If I may use one well known phrase of Shrimati Pandit—She said that Government was “prisoner of indecision”—if I can give a sister phrase to it, I will say that the Government is suffering from “paralysis of inaction.” (Why was it necessary to wait for so many years to bring forward this Bill? This might have been brought forward earlier. The emergency situation was over long ago. Why were 6,000 applications held over in this manner? Anyway, I am glad that this has been done and I welcome this measure.

Now I come to main Bill. It goes without saying that a change is needed in the patents law because our last Act is of 1911. 1911 is a period when this country was industrially not at all developed or very little developed. Therefore it is very necessary to see how our law should be modified in order that the patents law is not detrimental to consumer interest and is not prejudicial to the trade and industrial development of the country. If the law stands against these two, then it has to be changed. Therefore an attempt has been made to change the law.

This Bill has had a very chequered career. In 1948 an inquiry committee was appointed to go into it. After the report was submitted a Bill was brought before the House in 1953, but the Bill could not be passed. Again in 1957 a new inquiry committee under Shri Rajagopala Ayyangar, to which a reference was made by my hon. friend, Shri Joshi, was appointed. He was asked to examine the whole issue afresh, to review the patents, to make a comprehensive study and to give the necessary advice. A fairly big book has come out giving all that advice and the Bill on the whole accepts many of his recommendations, but the Bill deviates in certain important measures.

The representatives of commercial and industrial interests have said that these deviations would be harmful not only to the private sector but even to the public

sector and would be harmful to the interests of the country as a whole.

Why is a patent granted? A patent is granted in order to encourage inventors and to give them a reward; it encourages invention and work of research. The patents system gives protection, encouragement, security and immunity from competition to the patentees. Also, it is an inducement for working of inventions which needs money, a great deal of technical know how and a lot of dedicated work. That is why different countries have devised this method of giving inventors some incentive and some reward.

The patents system has been working in this country for a hundred years. It has had good effects as well as bad effects. There are two viewpoints: one is that the patents law should be a strong law so that it helps the inflow of patents know how and bringing in of latest techniques and capital. What should be our aim? Our aim should be to reduce our dependency on imports and to increase and foster exports. Therefore the law should be such that it helps us to reach towards this goal.

This Bill particularly applies to drugs and food industries. Let us examine the present position regarding the chemical and pharmaceutical industry. 15 years ago the pharmaceutical industry was merely doing processing. But there has been a considerable development in this regard. In 1954 the production came to Rs. 54 crores; now the production is Rs. 150 crores. So, if anybody says that there is stagnation and there has been no progress, that is not correct. There has been certain amount of progress however defective the patents law may have been.

Then, there has been a significant increase in the export of basic drugs and intermediates. One opinion is that if the patents law is very weak, it will first of all discourage bringing in know how and the results of latest research and will also encourage spurious and imitation products in the market. For India it is very significant because we are a developing country. We want to do a lot of research; we want to encourage our inventors; we want to see that nothing stands in the way of progress. Research, particularly medical research, is

such where you may have to spend a whole lot of money and years and years of labour. There are kinds and kinds of inventions. There may be a little invention. Somebody mentioned the Binaca tooth-paste, but there can be research for the cure of cancer. So we must see that while we protect the real inventors, we do not allow spurious or useless inventors the same kind of protection that we want to give to real inventors.

In most of the countries there are fairly strong patents laws. Just now Shri Joshi quoted from Shri Ayyangar's report. Shri Ayyangar had gone into the matter comprehensively and has made a thorough study. I think, he took a few years over it and the final conclusion which I was going to read has already been read out by Shri Joshi in another context. He feels that in spite of the handicaps which the system involves in its application to undeveloped countries, there is at the moment no alternative method for achieving better results. Secondly, he says that at present there is no country in the world which does not adopt the patents system for rewarding its inventors. Thirdly, even in the socialist countries the patents system obtains which is more or less on the lines of that of the Western countries. He has given the names of those countries—U.S.S.R., Czechoslovakia, Poland, Hungary and Yugoslavia. So he has said that the patents law is more or less universally accepted.

Therefore, some patent law is necessary. At this stage, we feel that patent law must be modified. It should not encourage monopolies but it should, at the same time....

MR. DEPUTY SPEAKER : The hon. Member may conclude now.

SHRIMATI SUCHETA KRIPALANI : I have not yet come to the Bill at all.

As far as the present Bill is concerned, mainly, there are criticisms against it for commercial interests. One criticism is this. Under clause 48, the Government says that it can use a patent or import something which infringes a patent without giving compensation provided it is used for charitable and other non-commercial purposes. There is no right of appeal in this. But this provision is applied not

[Shrimati Sucheta Kripalani]
merely to food and drugs but it is going to apply to all patents. I would like to understand why it should apply to all patents. The criticism against this is that this will operate against local industry and that it will hamper industrial progress and research and it will militate against fundamental rights (about which I am not very much bothered). This is an argument they give. But the more important argument that they give is that already, in clauses 99 and 100, there is a provision for the Government to use a patent and, in that case, the Government has to give a certain amount of compensation and appeal lies with the court. Why should the Government take away the right of appeal? Why should not a certain amount of compensation be given particularly when it is going to apply to all patents? It is not only for food and drugs. That is the argument they give.

Then, the other clauses which are agitating the minds of the people are clauses 87 and 88. These apply to compulsory licensing or "licensing rights". This is also rather strange. Under the new provision as soon as a patent is granted, it should be, automatically, endorsed by the words "Licences of rights". This means any person on application has a right to utilise a licence. The objection is this. Already there are certain provisions in the old Act (Section 22) where a compulsory licence can issue under certain limitations. Under the present Act, the Controller can go into the ability and capability and *bona fides* of the applicant. Here, as soon as an application comes, automatically, he gets the licence. Each and everybody can get it. Why should the Government want to divest itself of this discretionary power particularly when it applies to food and drugs. There is so much of adulteration in food and drugs and manufacture of spurious drugs. Why the Controller should not keep discretionary power to see whether the man who has applied is competent and whether his *bona fides* are Satisfactory. Therefore, I think, this is not going to help.

Then there is the matter regarding payment of compensation. It is now proposed to restrict it to 4 per cent. It is said that 4 per cent is not adequate and that it should be raised. They say there is no such pro-

vision in any other part of the world. The point is, as I just mentioned, if you have a compulsory licence for the manufacture of lipstick, there also you get 4 per cent whereas, if you want it for cancer research, there also it is 4 per cent. That is not right. It should be considered on merit. The patentee and the licensee can settle amongst themselves or the matter may be referred to the Controller and, finally, it may go to appeal. I know the Government's argument will be that it takes a very long time. If it takes a long time, there is some administrative defect. Your administrative machinery should be more effective. The remedy lies not in abolition of the right but making more effective administrative provisions.

My last point is about the time, the term, for which a patent is given. It is being reduced from 16 years to 10 years in the case of food and drugs and 14 years in the case of other patents. The Iyengar report says it should be 16 years. The average in all other countries is 16 to 17 years whereas U.N. has recommended 20 years. Therefore, what I say—I am not an expert on the subject—is that our objective should be not to pass a law which is going to hamper research, hamper inventions, but to pass a law which is going to achieve more and more self-sufficiency in drugs and medicines and to encourage our exports. I hope the Select Committee will give due consideration to all these objections which have been raised by the people who know something about it and are concerned by the measure.

SHRI S. KANDAPPAN (Mettur) : The fact that this Bill which has already been referred to a Select Committee is again going to be referred to another Select Committee is enough proof to show that this is a very complicated matter, and as the speeches of the Members have shown there are a lot of intricacies in this Bill which we have got to probe into thoroughly before we arrive at certain conclusion.

First, I would like to take up the matter referred to by Shri S. M. Joshi. Actually, I have been prompted to speak because of certain references made by him in the course of his speech.

SHRI RABI RAY (Puri) : He has provoked him.

SHRI S. KANDAPPAN : Not provoked, but stimulated. He was referring to the

Ayyanagar report and he said that there was no need for a patent law in the prevailing situation in our country. But I doubt very much whether we would be in a position then not only to encourage but to protect the new inventions that we now find here and there in our country.

SHRI S. M. JOSHI : We may do it for our country. But why do it for foreigners ?

SHRI S. KANDAPPAN : After all, the genius of India has not died. There were many even when we were under the yoke of the British rulers who invented fine things in our land and whose inventions were not being protected properly. I could recall one such case.

There is one living still in Tamil Nad at Coimbatore, namely Shri G. D. Naidu. He has invented many things, but unfortunately none of his things is patented here in our country. I am told that particularly one razor blade which he has invented is very popular in foreign countries, but it was not patented here. It was patented outside, I think, in Germany or the U.S.A. Similarly, there are other inventions of his which are still not patented. I am told that when he applied for licence, he was always refused the licence on the ground that he had not cleared the income-tax and other arrears. He is a sort of perverted genius. He never cared to pay his arrears. Some of these inventions have actually been given by him free of cost to outsiders. If people like him and their inventions are to benefit our country and our economy, then there should be some kinds of guidelines, and we should see that these inventions are properly encouraged.

Recently, I have come across a news item in the papers; of course, I have not gone to the place and verified it. But in a responsible paper it has been reported that at Tiruchirappalli, an electrician has invented an in built mechanism in the electric wiring so that when you touch a live wire there would not be any shock felt by you, but the live wire will become dead. I am told that that is being improved. If that electrician does not have any finances at his command and is not in a position to get the patronage of Government, I am afraid we may not benefit by his research.

There are many such people and many such inventions in our country. When we are regulating the law of patents we should see that we actually promote such research in our country through the patents law. That is my basic observation.

Now, coming to the Bill, I am told that— it is for Government to accept it or reject it—that Government are not going to do much with the Bill in the Select Committee and it is just a matter of form that they are complying with, and they have already made up their mind on the clauses and as to how they are going to operate the patents law in this country. I am afraid that that is just not possible, because there are many lacunae in the clauses, as has been pointed out by Shri N. Dandekar and other Members who have spoken before me, for example, in regard to the process patent and the product patent and the time-lag between the setting up of the industry by the applicant and the grant of licence to him so as to ensure that the applicants really benefit by them or that Government themselves take up the industry after giving the applicant some cash benefit for his research so that the product is produced within a reasonable time within our country.

So there are many points to be analysed in the Bill, and I would like to urge upon Government to see that sufficient time and care are taken in the Joint Committee and all kinds and shades of opinion are taken into consideration, and with a view to promote the cause of research in this country, we evolve a proper patent law for the country.

SHRI D. C. SHARMA (Gurdaspur) : I think the number of patents in a country is an index of the inventive genius of that country, and the larger the number of patents a country has, the more it shows how far its people can go forward in the fields of science, technology and other things.

I am told that 6,000 applications are pending here. What is the value of those applications if they have been pending all these years ? What is their use if they have not been processed all these years ? Moreover, what kind of patents do those applications imply or refer to ? These are questions that come to us.

[Shri D. C. Sharma]

I belong to that school of thought which thinks that literature should be free for all, the science should be free for all; I think patents should also be free for all. There should be no ban put on any kind of production of books in the form of copyright, on the production of new ways of processing things so far as food is concerned and on new methods for processing drugs and that kind of things. I think human genius should not be fettered; if it is fettered, it goes under, is paralysed and ceases to function.

Our human genius was kept in cold storage for so many years by the British Government. They did their level best to see that we Indians did not come forward with any new ideas or inventions. Now our great Government which has succeeded the British, but which is doing exactly the same thing which the British used to do, has come forward with a Patents Bill. Of course, I do not want to go into the details of this very ill-fated Bill.

It is a very ominous Bill, it is a very inauspicious Bill, and I think every time this Bill has come forward, something had happened to this country. When I think of this, I tremble lest something should again happen to put this Bill in cold storage. Therefore, I feel that Mr. Fakruddin Ahmed, who is a man of destiny and good luck, should not have brought forward this ill-omened, ill-foreboding, ill-forecasting Bill before the house, because I think that the very fact that time has been against it, circumstances have been against it, conditions have been against it, shows that you do not want any Bill of this kind, and you should not have a Bill of this kind.

My second objection is this. Patenting and licensing go together, and as soon as you bring in the element of licensing in anything, you introduce corruption, favouritism, nepotism, all those kinds of evils from which my great country is suffering. You give a long rope to bureaucracy to play with the people.

MR. DEPUTY SPEAKER : He may continue after Lunch.

13.00 Hrs.

(The Lok Sabha adjourned for Lunch till Two of the Clock)

(The Lok Sabha re-assembled after Lunch at five minutes past Fourteen of the Clock.)

[SHRI R. D. BHANDARE in the Chair.]

STATUTORY RESOLUTION RE. INDIAN PATENTS AND DESIGNS (AMENDMENT) ORDINANCE; INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL; AND PATENTS BILL—Contd.

MR. CHAIRMAN : Shri D. C. Sharma may continue his speech.

SHRI D. C. SHARMA : Mr. Chairman, I was submitting very respectfully that the licensing process is the meeting ground of corruption and in this Patents Bill licensing has been made the concomitant part. They both go together. I believe that this will not do any good to our country. I think it will make people more money-minded and it will make people more commercial minded.

It will turn our nation into a nation of blackmarketers, hoarders and the like. Therefore, I do not believe in licensing. But you will say nobody is going to accept that. I say that if licences go, the Ministers go. Therefore, I would say that this Bill should be called the Indian Patents (Encouragement and Atonement) Bill. If anybody invents something in respect of medicine or drug, his invention should be bought outright by the Government and the Government should try to establish a factory or a workshop or something else in order that the thing becomes a reality. It should not be thrown up to those sharks who exploit peoples' brain and inventions and everything. I therefore say that they should have a sliding scale of payment for the encouragement of those who can give us patents. This scale should be based upon the utility of the patent that is given. The Government should make atonement also for the men of genius who have languished and perished without having any patents.

There used to be in my State one gentleman who was known as Hanaraj Wireless. He invented a very simple system of wireless and we did not give him a chance. I think most of those ills from which our wireless system suffers would have gone overboard if we had given him a chance, but nobody gave him a chance. Then there is Sanjay Gandhi, the son of one of my dearest

friends, Feroz Gandhi. He is working in a dingy room in a lane of Sabzi Mandi and is trying to manufacture a small car. He will not be given any kind of encouragement. They would not give him encouragement because who wants this small car? They want to help some manufacturers in France or in Italy or some manufacturer somewhere else. Therefore, they will try to curb the inventive genius of those persons who are trying to give us small cars.

We have had a Sikh gentleman in my constituency, Dera Baba Nanak. If you look at him, you will find that he was a wonderful medicine-man. He could cure all the ills of humanity with the help of sharbats. But nobody could give him sugar to prepare those sharbats. I can assure you he had his own recipe, but he was a poor man and he could not get sugar and nobody gave him any; he could not pay for it.

Therefore, I say that this Bill should be called the Patents (Encouragement and Atonement) Bill, encouragement for those who are giving us patents and atonement for those who were not given patents and who died without the help or patronage of this blessed government in which I have also a part in some way.

My other point is this. We believe in one thing. Whatever Bill comes here, on the floor of the House, it only means one thing: it means the multiplication of officers: Secretaries, Additional Secretaries, Deputy Secretaries, Section Officers, Assistants and Lower Division Clerks. Of course, the poor Lower Division Clerks have not much say. For instance, take the Controller. The Controller has been given dictatorial powers in this Bill. He has all the residuary powers. The residuary powers mean a great deal. I think the man who drafted this Bill knows nothing of what residuary powers mean.

It means, the Controller will be the all-powerful God for all those persons who are trying to get any kind of licence. I think the powers of the Controller and Assistant Controller should be drastically reduced, so that they are not able to play with those persons who try get to a licence.

Take royalty. Injustice and inequity are writ large on this Bill, Patents Bill. Thy name is unfairness. If I invent a

razor, will get a royalty of 4 per cent. If I invent an aero-engine, about which we were putting so many questions two days before, I will get 4 per cent. It reminds me of a proverb in Hindi :

अंधेर नगरी चौपट राजा, टके सेर भाजी
टके सेर खाजा ।

One blanket rate of 4 per cent for all inventions, whether it be new pair of shoes or an engine which may be used in Chittaranjan Locomotive Works. This is the most inequitable thing that has been done.

I know whatever I may say the Minister, who is a good friend of mine, will not change his stand. This disparity between one type of patent, the second type of patent and the third type of patent must disappear. We believe in a socialist pattern of society. The more we believe in it, the more are the disparities we are creating. Even in this, we are creating disparities. For whom is food meant? It is meant for you, Mr. Chairman, when you grow old. It is meant for people like me and Mr. F. A. Ahmed. It is meant for those who are infirm, aged and superannuated. Of course, drugs are meant for everybody. The higher you go in office, the more the drugs you take. Drugs are life saviours for everybody. Medicines are the precious possession of all, because modern civilisation has produced more illnesses than it has cured. Instead of equalising the time for the grant of all patents, some kind of distinction has been introduced which will go against the interests of those who need these things more. I do not know what kind of brain has drafted the provision that people's food should have 16 years or 14 years and other things less. The same yardstick should be applied to all these concessions.

I must submit very respectfully that we have instituted in this country the search for science talent. We have introduced this country the search for histrionic talent. We have also provision in this country to make use of those persons who have any aptitude for poetic composition. I would say that one of the most important parts of this Bill should have been a search for inventive talent, talent of the kind which can discover things. You know, Sir, in Hollywood they have a search for histrionic

[Shri D. C. Sharma]

talent. They find those persons who can become good actors and actresses. I would say along with this Bill there should be a clause that we will make a very laudable attempt in order that we can look for those persons who can invent things.

It has been said that this Bill is modelled on U.K. and U.S.A. When shall we get rid of this borrowing mentality? Only the other day I was reading the proceedings of the CASTASIA Conference. There we were told that we have perfected many kinds of technical know-how, many kinds of technical processes and other countries should take advantage of our processes. Here is this Bill which is a negation of the speeches that have been made by the leader of our delegation and the Deputy Chairman of the Planning Commission. This Bill has been based upon U.K. model. When will you stop borrowing from U. K. and U.S.A? This Bill should have been Indian in its conception, Indian in its execution and Indian in its way of implementation. Unfortunately, it is an outlandish Bill couched in an outlandish language giving aims and suggestions in clauses and sections which smack too much of foreign origin. I think the Bill should be redrafted very very soon and it should undergo a drastic change.

SHRI K. NARAYANA RAO (Bobbili) : Sir, I rise to a point of order.

MR. CHAIRMAN : Under what rule is he raising this point of order?

SHRI K. NARAYANA RAO : Sir, I draw your attention to the List of Business for the day.

MR. CHAIRMAN : That point of order cannot be raised now. We are already in the midst of the discussion on a Bill. He should have raised his point of order when this was taken up.

SHRI K. NARAYANA RAO: Sir, you are assuming what I am going to say without listening to me. According to the List of Business we have to discuss the Indian Patents and Designs (Amendment) Bill first and pass it before taking up the Patents Bill.

The Patents Bill is for reference to the Joint Committee.

That cannot be taken up before we pass the earlier Bill.

SHRIMATI TARKESHWARI SINHA : (Barh) : It has been decided by the Speaker that they should be discussed together.

SHRI K. NARAYANA RAO : We should first consider and pass the Patents and Designs (Amendment) Bill and then take up the Patents Bill for reference to Joint Committee.

THE MINISTER OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS (SHRI F. A. AHMED): It is mentioned in the agenda "to be discussed together".

SHRI K. NARAYANA RAO : My submission is that thy cannot be discussed together, because one is for reference to Joint Committee.

SHRI TENNETI VISHWANATHAM : (Vishakhapatnam) : I think Shri Narayana Rao is right.

SHRI K. NARAYANA RAO : I want a ruling from the Chairman whether it is in order to take up the Patents Bill along with the earlier Bill.

MR. CHAIRMAN: I have heard the hon. Member. There are three motions before the House. They are to be discussed together. So, kindly resume your seat.

SHRI S. M. BANERJEE (Kanpur) : Sir, before you give your ruling may I submit...

MR. CHAIRMAN : I have already disposed of the point of order.

श्री क० मि० मधुकर (केसरिया) :
उपाध्यक्ष महोदय, यह पेटेंट बिल जो सदन के सामने पेश है सरकार की उस भावना की अभिव्यक्ति है जिस में मालूम पड़ता है कि सरकार को विदेश के पूंजीपतियों और अपने देश के बड़े-बड़े पूंजीपतियों से इतनी मुहब्बत है, उनके लिए इतना दर्द है दिल में कि उनके हकों की हिफाजत किए बगैर काम चलने वाला नहीं है। इसीलिए ऐसा बिल आया है। नहीं तो इसकी कोई आवश्यकता नहीं थी। पेटेंट के बारे में करीब 100 वर्ष से अधिक समय से कानून चल रहा है, 1911 में इस बारे में कानून बनाया गया और इसके

बाद इस कानून को अमल करने में जो कठिनाइयां हुईं उनके लिए सरकार की ओर से तरह-तरह की समितियां बनाई गईं, जिनके जरिए से जांच कराई गई कि यह बिल लागू होना चाहिए या नहीं लागू होना चाहिए। जैसा कि पूर्व वक्ता महोदय ने कहा है और मेरा भी कहना है कि इसके सम्बन्ध में मास्टर राजगोपाला आयंगर मद्रास हाईकोर्ट के जज ने अपनी रिपोर्ट में कहा है कि इस बिल की कोई आवश्यकता नहीं है, हालांकि इसके बाद उन्होंने आगे चल कर कहा है कि इसके सिवाय दूसरा कोई विकल्प नहीं है, लेकिन हम कहते हैं कि इस बिल की अभी हम को कोई आवश्यकता नहीं है क्योंकि इस देश में पेटेंट होल्डर्स हैं कौन? असलियत यह है कि जितने भी पेटेंट हैं वह दवाओं में हों या दूसरी चीजों में हों, तमाम के तमाम उनके होल्डर्स फारेन मोनोपलिस्टस लोग हैं या देश के बड़े बड़े पूंजीपति लोग हैं और उनके जरिए जनता की विभाल पैमाने पर लूट होती है। इसलिए यह बिल मेरी समझ से उस लूट को बरकरार रखने के लिए, विदेशी और देशी पूंजीपतियों की लूट को कायम रखने के लिए लाया गया है। अन्यथा इस बिल का उद्देश्य जो बताया गया है कि इसके जरिए हम देश में आविष्कारों को प्रोत्साहित करें, आविष्कर्ताओं को ऐसा मुआवजा मिले जिस से वह प्रोत्साहित हों। यह कोई उद्देश्य इससे पूरा नहीं हो पाया है और देखने में ऐसा आया है कि इस बिल के जरिए और जितने भी अन्य बिल इस सम्बन्ध में लागू किए गए हैं, उनके जरिए जो उद्देश्य है कहा गया है सरकार का वह पूरा नहीं हुआ है। इतना ही नहीं, आज यह सरकार समाजवाद की बात करती है तो क्या यह बिल उस दिशा में है? क्या यह बिल इस बात की गारन्टी करता है कि इससे देश की जनता का शोषण बन्द होगा जो कि विदेशों के और इस देश के भी बड़े-बड़े पूंजीपति पेटेंट पर अधिकार कर के ब्राज कर रहे हैं और उस का माल उठा

कर जनता को लूट रहे हैं? क्या इसके जरिये उसमें कुछ कमी आई है या कमी आने की उम्मीद है? सच्चाई यह है कि कमी आने के बजाय और बढ़ोत्तरी हुई है। जब कि आम जनता दवाओं के लिए तरसती रहती है, उनको दवाएं सस्ते दामों में नहीं मिलती हैं, ऐसी हालत में पेटेंट होल्डर्स ऐसी दवाओं को और ऐसे सामानों को जैसे टयू पेस्ट, हार्लिंग्स है, या और दूसरे समान हैं, इनका पेटेंट कराकर मनमानी मुनाफा कमाते हैं। इन चीजों को जो पेटेंट में रख दिया गया है उसके चलते यह करोड़ों-करोड़ रुपये मुनाफे में लूटते हैं। स्थिति आज यह है कि विदेशों की बड़ी-बड़ी कम्पनियां हैं, रोचे हैं, फाइजर है, हाफकिन्स है, और देश के अन्दर भी साराभाई केमिकल्स हैं, इन बड़े-बड़े पूंजीपतियों के हाथ में यह पेटेंट हैं और उसके जरिए यह लूट करते हैं। इसलिए मैं समझता हूँ कि उनकी लूट के लिए और उनकी लूट की बढ़ोत्तरी के लिए यह बिल लाया गया है।

जहां तक इसका सम्बन्ध है कि देश में और नये-नये ईजाद हों, जिस में विज्ञान की तरक्की हो, यह नहीं हो रहा है क्योंकि व्यवहार यह बता रहा है कि ऐसा नहीं हो पाया है। मैं बताऊं आप को कि इस बिल में दो सवाल आये हैं—लोक हित और सुरक्षा। मैं समझता हूँ कि सरकार के लिए लोक की परिभाषा और सुरक्षा की परिभाषा दोनों बदल गई है। सरकार के लिए लोक का मतलब बड़े-बड़े पूंजीपति होता है और सुरक्षा का मतलब पूंजीपतियों की सुरक्षा होता है। इसलिए उन्होंने जो भी काम किए हैं उस से न तो लोक का ही हित हुआ है और न सुरक्षा ही हो पायी है। बहुत से ऐसे मौके आये हैं जिन मौकों पर देश की सुरक्षा के नाम पर जो भी काम सरकार ने किए हैं वह या तो जनता के अधिकारों को हनन करने के लिए किए हैं या सुरक्षा अगर उस से किसी की हुई है तो उन के अपने बँब की या उन के हितों की

श्री क० मि० मधुकर]

सुरक्षा हुई है। अभी हाल ही में बैंकिंग का कानून बना है और भी दूसरे बहुत से कानून बने हैं, उन तमाम कानूनों में सुरक्षा की बात कही गई है लेकिन सुरक्षा किस की होती है? उन वर्गों की सुरक्षा होती है जिसके जरिए देश में शोषण और लूट जारी है। असल में में यह कानून उन तमाम पेटेन्ट होल्डर्स की हिफाजत के लिए है जो जनता की जिन्दगी के साथ खिलवाड़ करते हैं जो उन को लूटते हैं। दूसरी कोई बात इस कानून से होने वाली नहीं है।

व्यवहार में देखा जाये तो कंट्रोलर को अधिकार देने की बात कही गई है। अभी पूर्व वक्ता ने बताया था कि कंट्रोलर को अधिकार देने का मतलब क्या होता है? उसका मतलब यही होता है कि कानून के जरिए हम ऐसे नौकरशाह को पूर्ण अधिकार दे रहे हैं जिस के जरिए हम सुरक्षा के बारे में निर्णय की बात सोच रहे हैं, और इन तमाम मसलों को हल करने का, उस के बारे में निर्णय देने का अधिकार एक आदमी के हाथ में देने जा रहे हैं। साफ बात यह है कि जब सरकार इस बात को हल नहीं कर पायी है कि यह चीज होनी चाहिए या नहीं होनी चाहिए तो ऐसी हालत में एक आदमी के हाथ में यह अधिकार देने का मतलब हो जाता है कि के जरिए और भी नौकरशाह को हम बढ़ावा दे रहे हैं और इतना ही नहीं बल्कि और उसके जरिए भ्रष्टाचार को बढ़ा रहे हैं क्योंकि जो कंट्रोलर होगा उसे आप जानते ही हैं, नौकरशाहों के कमाने खाने का घंघा, जारी रहेगा। उसके जरिए पैसा देने का, बूस और रिश्वत का, तमाम किस्म के सूपहोल्स निकल आयेंगे और इससे उस को इतने अधिकार मिल जायेंगे और जिससे कि नौकरशाही की प्रवृत्ति और बढ़ी और मजबूत होगी कमजोर नहीं होगी। इस दृष्टिकोण से यह बिल किसी काम का नहीं।

ऐसे ही इस सिलसिले में जो समय लिया

गया है कि 9 महीने में विधेयक की रिपोर्ट सरकार लायेगी और 12 महीने में उसका निर्णय हो जायगा, मैं समझता हूँ कि यह समय भी बहुत अधिक है। जब आप कहते हैं कि सुरक्षा का प्रश्न है और लोकाहित का प्रश्न है तो ऐसे प्रश्नों पर अगर सरकार को साल-साल भर लगाने का अधिकार रहेगा तो नतीजा क्या होगा कि उस के जरिए यह लोग बहुत दिनों तक समस्या को टालते रहेंगे, उस को हल नहीं करेंगे और तरह तरह की अटकलबाजियाँ इस बीच चलती रहेंगी जैसे कि अब तक चलती रही हैं। इसलिए मैं समझता हूँ कि इस बिल में जो यह निर्णय बनाया गया है यह नियम बिलकुल ही बेकार और गलत है।

ऐसे ही अपील का सवाल है। इस में ऐसा बताया गया है कि जो कंट्रोलर के डेसीशंस होंगे उन की कोई अपील नहीं होगी। अब बताइए इस देश में जनतंत्र की बात करते हैं, कई सवालों पर सुप्रीम कोर्ट तक अपील जा सकती है, ऐसी अवस्था में इस प्रश्न पर एक नौकरशाह के फैसले पर कोई अपील नहीं हो, यह बात समझ में नहीं आती है कि किस बुद्धि और विवेक से यह बिल पेश किया गया है। मैं समझता हूँ कि इस बिल को बनाने और ड्राफ्ट करने में जो इतना समय लगाया गया और जो उस में कागज खर्च किया गया वह सब कागज और मेहनत बिलकुल बेकार है। आप कहिएगा कि बहुत से समाजवादी देशों में भी पेटेन्ट कानून है। लेकिन वहाँ वह कानून कब बने? वहाँ वह कानून तब बने जब कि उन समाजवादी देशों में काफ़ी हद तक डेवलपमेन्ट हो चुका था। तब उनको इस कानून की जरूरत पड़ी। लेकिन अपने देश की आज क्या अवस्था है? अपने देश की जो अवस्था है उसमें इस बात को सोचना पड़ेगा कि क्या इस कानून के जरिए हम विदेशी पूँजीपतियों की जो लूट है उस को बंद करते हैं और क्या इस कानून के जरिए आम जनता को मेडिसिन फुड और दूसरी चीजें मुलभत्ता से मिलने वाली है? क्या इस कानून के जरिए

इस इन चीजों को अधिक बना सकते हैं या नहीं, आविष्कारों में प्रगति ला सकते हैं या नहीं, और आविष्कारकों को प्रोत्साहन दे सकते हैं या नहीं? यह हमें सोचना पड़ेगा। जहां तक आविष्कारकों को प्रोत्साहन देने का प्रश्न है अभी डी० एम० के० के एक माननीय सदस्य ने बताया कि उन के यहां किसी ने रेजर का आविष्कार किया और उसको जब यहां सुविधा नहीं मिल सकी तो उसने जर्मनी में जाकर उसको पेटेंट रजिस्टर करवाया। इससे पता चलता है कि यह कानून जो पेटेंट का है इसके जरिए जो बड़े बड़े प्रोत्साहित हैं उनकी हिफाजत होती है, साधारण लोग कोई आविष्कार करते हैं तो उन को कोई सुविधा नहीं मिल पाती है। उनको मजबूर हो कर अपने पेटेंट के लिये विदेशों में जाना पड़ता है और वहां उस को बेचना पड़ता है। यहां आम साधारण लोगों के लिये, आविष्कार करने वालों के लिये, मेडिसिन के मामलों में, और दूसरे मामलों में अबसर प्राप्त नहीं हैं कि वे लोग भी इस देश में पनप सकें, अपनी प्रतिभा को दिखा सकें। इसलिये ऐसे तीन-चार प्वाइंट्स ऐसे हैं जिन पर मन्थीरता से सोचना पड़ेगा और मैं समझता हूँ कि उन प्रश्नों की कसौटी पर यह बिल खरा नहीं उतरता है, इसलिये इस को रद्दी की टोकरी में डाल देना चाहिये, इसकी कोई जरूरत नहीं है क्योंकि इस देश में विज्ञान की प्रगति आम जनता के लिये पूंजीपतियों के जरिए बन्द नहीं होनी चाहिये। इस लिये मैं इस बिल का विरोध करता हूँ।

SHRIMATI TARKESHWARI SINHA (Barh) : Mr. Chairman, Sir, as the other hon. Members have pointed out this Bill has had a very chequered history, I do not think in the history of Parliament, after this country became independent, any Bill has suffered the duress of circumstances so badly as this Bill has suffered. But all the same, it does indicate the confused thinking of the Government of India. Really how to explain the situation? This Bill has been introduced again in the Fourth Lok Sabha. As the hon. Member, Prof. D.C. Sharma, pointed out, this Bill has assumed really a very peculiar character because, somehow or other, neither the Government nor the persons who have anything to do with the spirit of the Bill have been able to explain fully

as to what exactly they want to do with the patents in this country. This Bill was also introduced in the Third Lok Sabha but it could not be passed. It was always said that it was due to lack of time which prohibited this bill to be passed. The life of one Lok Sabha is five years. I am surprised that in the life of Second Lok Sabha it was not passed; in the life of Third Lok Sabha, it was not passed and it has now come in the Fourth Lok Sabha. Let us really expect that this Bill will see a better fate now.

It is not that there was any lack of material. As the hon. Member who just spoke before me pointed out, many committees were appointed. First of all, a committee was appointed by the Government of India to go into the entire law of patents. A Patents Enquiry Committee was appointed which went into the entire details of patents system and formulated proposals based on U. K. pattern. That was introduced in December, 1953 but it lapsed. I do not think that the Government can convince this country or outside that this piece of proposed legislation lapsed because of lack of time. We are not so innocent as all that that we could not find time for this important law when we require this law to be passed or to be given a shape because of the requirements of rapid technological developments in the country. Does it create a good impression? The whole world has been talking about our patents. In the last 12 to 13 years, we have not been able to do anything in regard to that. The Government has not come forward with its mind made up and it is really a great tragedy that this Bill is one of the many instances of how much confusion there is in the thinking of the Government vis-a-vis modern requirements of economic development. This is only one instance. There are many others. But this instance is a clear example of how much confusion there is in the Government thinking about the basic requirements of industrial growth and economic growth which can compensate for and which can really keep its pace with the economic development in other countries. I will not go beyond this. But I would, certainly say that I do not believe that destiny only has had its hand in restraining this Bill in one form or the other.

[Shrimati Tarkeshwari Sinha

Now, this Bill has come before the House. The recommendation is that the period of patents should be reduced from 16 years to 14 years in the case of drugs and chemicals and 10 years in the case of others. When we are discussing this matter, we should realise and accept our own limitations.

I may just give one instance of the Pimpri factory which is a public sector undertaking. This factory has invented two drugs. One of them is Heymycin. Many countries are wanting the patent and also wanting to manufacture the drug. On the other hand we have not been able to manufacture this drug yet and put it in the market. For, in practice, we have a very out-dated system of marketing. Our distribution system is not up-to-date. In other countries, for instance, in a country like Japan or America, they spend millions of dollars on research; and the moment the research is completed, they apply every strength and put all their resources into the drive to put that commodity in the market, as soon as the investigation is found to be fruitful. But they also have a capacity to withdraw the drug overnight or within a week or a fortnight in case it is found that the drug has not succeeded. I remember one such case, namely Thalidomide. I think it was original product of Germany, and it was given as a tranquilliser to women, especially convalescent and pregnant women. It was noticed that this drug had created some adverse effects on pregnant women and when the babies were born, they were found to be deformed. Immediately, the Drug Controller in the U.S.A. issued a notification that that drug should be withdrawn from the market, and I think that within a week or a fortnight this drug was withdrawn. There were only two or three exceptional cases where the effect of the drug was noticed after the Controller had issued orders for that drug to be withdrawn. Do we have that kind of system in our country. When we are talking in this Parliament about the feasibility of this proposal, let us realise the limiting conditions in our country. We in this Parliament are legislating not only for the present but for the past and the future also.

In this Bill I do not quite understand one peculiar thing which is there. In all other legislation we have the feeling that Government want to take more powers to themselves. But this is a piece of legislation where we have the impression that Government are trying to shed their powers. Who has deprived Government from reserving the right to themselves and saying that they can give a longer duration for a patent in deserving cases? But actually we find that they are prescribing a time-limit and saying that some patents will be feasible only for 14 years and in the case of food, drugs and medicines, it will be feasible for ten years. In this instance, Government are actually shedding their powers. In no other legislation which has been passed by this Parliament have Government been so willing to shed their powers. That being so, why should Government shed their powers in this Bill now? Why should Government not keep the reserve power to themselves to say that they will examine each case on merits and decide whether the patent should be extended or terminated?

Secondly, we must go by the experience of other countries. Some twenty years back, Japan had virtually no patent law. But in Japan and America, now they have the strongest patent system. Even the communist countries have started having some kind of patents for themselves. In those countries where the entire production in earlier years was under complete State control, probably they had not that kind of competition in the export market and they were not bothering about it. But today even the communist countries because they have to meet a very challenging export market which has become a buyers' market and not a sellers' market, are trying to have a strong patent system. Yet, we find that here is a country like India which does not go by the experience of other countries and wants to evolve a system for its own organisation which is not only weak, which is so inexperienced and which does not have the capacity to immediately direct the orientation of economic development as in other countries like the Soviet Union or even the U.S.A. Even when the U.S.A. has a private sector, its

economy is so well organised that it can immediately introduce a thing or take it out which we do not have in our country. The experience of other countries is, that the countries which have advanced technologically have had to build up a very strong patent system.

Take the case of Italy, for instance. They have also a strong patent system. Because of very intensive competition in the export market, there is now a uniform pattern in the patent laws all over the world. If we see the history of the patents in other countries we shall find that almost all the other countries are trying to bring themselves in conformity with international obligations. Suppose we have a patent of a very short duration, and suppose it comes in conflict with the patent laws operating in the country to which we send our exports, the importing country may very well be under an inhibition that their patent law might be different, sometimes more rigorous or more relaxed. In such a case, I feel that if our patent law does not match with the other laws in regard to the legality of the whole thing we are going to face umpteen difficulties in exporting our products.

Let us not always be enamoured of this that we are going to develop only at the mercy of foreign patents. We must remember that our own patents are coming up. There are enough scientists in our own country, and if they can get good opportunity and if they can get certain facilities, I am sure they have intelligence and foresight to conduct research which may be beneficial to the whole world. For example, our own scientists and technologists when they go abroad are able to conduct research successfully. So, we should not be guided by the consideration that the foreigners are coming and grabbing everything. This law will be applicable both ways. It will apply to our people and also to the foreigners. If a foreigner comes here with any patent and Government think that it is against our national interest, then we have got the foreign exchange laws and exchange control order under which we can always deprive the foreigner of that right and we can say that we do not want his products and he can go back with his patent.

But, here, we are creating an instrument which will act as a double-edged weapon, because it will not only deprive the foreigners but our own Indian scientists and technologists. Suppose an Indian scientist or technologist brings out a patent. We limit the period to ten years in one case and 14 years in another case. He may not have the facilities to develop his product and he may not be in a position to immediately set up an industry for processing it. So, naturally, he will go to Tatas, Birlas and others who are big people with this technical know-how and they will dictate terms to him. So, while depriving the foreigners, we are creating such a double-edged instrument by which our own people who would invent things and who would try to process it, whether it be a small medicine or a certain other article, will not be able to get advantage from those big people who have got all the facilities because those big people will say 'You give your things to us; and if you do not accept our condition, we shall not accept your patent and we shall not market it, and we shall not bring it into production.' Thus, we are putting the Indian scientists and technologists at the mercy of the big moneyed class in this country.

Moreover, we are compelling a further brain-drain from this country. In other countries, a scientist or a technologist gets a patent for 15 years or 16 years or 20 years but here we are reducing the period to ten years. So, our scientists would also think of going abroad and giving the advantage of their patent to other countries and not think of remaining here. Already we are having this problem. But now it will be accentuated further. All the under-developed countries have the problem of brain-drain. Even U.K. has been facing this problem of brain-drain. In fact, the U.N. is going to have a seminar in the near future to see how the brain-drain can be checked, because the best of the brains go to the U.S.A. not because of the fabulous salaries that they get there.

Thus, the result will be that we shall be restricting our own people who are doing research and investigation here and we shall be encouraging them to go abroad where they will have better facilities in regard to the patents and will also have

[Shrimati Terkeshwari Sinha]

better facilities for reserach and better protection for their patents.

Now, I come to the question of the ceiling on royalty. In the Bill, 4 per cent has been provided for. What will be the result of this? Suppose an American or British concern wants to give royalty to a concern like the Pimpri factory; by this Bill we are compelling them to pay a royalty of only 4 per cent to Pimpri which is our own public sector concern. That is the limitation. Why do not Government conserve and reserve to themselves the power to give royalty as they think fit? So I think in some respects it is a very contradictory bill.

Now I would come to cl. 48. On examination of the Bill, we see that this clause is very much contrary to the spirit of cl. 83. Cl. 83 deals with general principles applicable to working of patented inventions. It says that :

"patents are granted to encourage inventions and to secure that the inventions are worked in India on a commercial scale and to the fullest extent that is reasonably practicable without undue delay."

If clause 48 is enacted and incorporated in the Bill, it will subject indigenous industries to the laws of patented production over a wide field. In fact, it will amount to an invasion of his rights, of his personal prerogative. He would feel more safe without this clause. Therefore, I think the basic spirit which Government have tried to put in cl. 83 gets vitiated by the provision of cl. 48.

With these words, I would once again say that when they are taking this Bill to the Joint Committee, let them please examine these clauses with due respect to Indian interests also of today, tomorrow and the day after.

14-46 Hrs.

[MR. DEPUTY-SPEAKER *in the Chair*]

Do not be under this prejudice that everything that comes from a foreign country is fishy, is suspicious. Do not work with a suspicious mind. The government of any country does not get administered properly with a suspicious bias and a suspicious mind. Let the Joint Committee

be objective and go through all the pros and cons and present to us a report which is practical, which is feasible and which is for the national interest of today, tomorrow and the day after.

SHRI JYOTIRMOY BASU (Diamond Harbour) : I would first of all draw attention to the statement of objects and reasons. When one reads it, one is inclined to ask whether it is again the cackel story of sabotage of national interests for the last 20 years, and if so, under whose pressure did they allow this Bill to lapse twice over. Why did they do it? Are they hand in glove with foreign monopolists? Anybody who has a fair mind, anybody who is a right-thinking person will agree with me that the Government of India have tried to serve foreign monopoly interests in that they sabotaged the Patents Bill and allowed it to lapse twice during the last 20 years.

Coming to facts, I shall not use my own words but shall quote from books and proceedings written and edited by people who enjoy the trust and confidence of the people. The Report on Revision of Patent Law by Justice N. Rajagopala Ayyangar has this to say on page 9:

"It would not be an exaggeration to say that the industrial progress of a country is considerably stimulated or retarded by its patent system according as to whether the system is suited to it or not".

Then on page 10 :

"The patent systems are not created in the interest of the inventors but in the interest of national economy. The rules and regulations of the patent system are not governed by civil or commercial or common law but by political economy."

Further on page 11 :

"It is further obvious, however, that the system would not yield the same results when applied to underdeveloped countries....."

such as ours.

"I entirely agree with the views of the Patents Inquiry Committee that the Indian patent system has failed in its main purpose, namely, to stimulate invention amongst Indians and to en-

courage the development and exploitation of new inventions for industrial purposes in the country so as to secure the benefits thereof to the largest section of the public".

The Minister will kindly note these. Again on page 12, he has this to say :

"Patents are taken out in foreign countries by Americans for two main reasons. We are doing business abroad and we want to protect our article so that the German manufacturer or the British manufacturer is not able to copy it immediately and go into competition with us. In other words, it is a great selling point that our goods should have a protected inventive future and we have to keep ahead of the whole world in the export markets through the patent system".

Now I shall quote from the famous book, Michael Kidron's *Foreign Investment in India*. I suppose I am throwing pearls before swine, because the Government of India is fully aware of all these things. At page 211 he says :

"Drugs and pharmaceuticals present all the complexities of the chemical industry as a whole with the addition of a strong dose of hard political bargaining. . . The industry has been dominated by foreign firms from its inception : of the 1,600 registered units in 1954 there were only 93 large ones (including 11 government plants), 28 of which, producing two-fifths the value of finished drugs with one-tenth the labour force, were under foreign control."

The fact is that 92 per cent of the drug industry in India is foreign-owned today. Foreign patents held in India today are in the region of 89.38%, while in America, the much talked-about America, it is not more than 15.32%. The consumers must be protected from the monopolists. Even the last Tory Government in Britain overrode the patent law there, and brought in continental and socialist made antibiotics which were ten times cheaper than the U.S. products that were crowding the market. The only way to curtail drug prices lies in the abolition of patents. That was the finding of the Tory Government-appointed commission.

Messrs. Sarabhai Chemicals, Pharmaceutical Division of Karamchand Premchand (P) Ltd., was founded in 1943 with an authorised capital of Rs. 50 lakhs and paid-up capital of Rs. 7,73,000. In 1952, Rs. 8 lakhs was capitalised from the reserve fund by issuing 800 non-redeemable 4½% Preference shares of Rs. 1000 each. In March, 1966, Rs. 1,28,00,000 was capitalised out of reserve fund as bonus shares in the proportion of eight new equity shares for each existing equity share, and for that year Rs. 1,43,04,000 was disbursed as dividend plus bonus shares. Bursting with prosperity. In 1963-64 their gross sales amounted to about Rs. 9 crores. From Rs. 14 lakhs in 1951 it came to Rs. 11.7 crores in 1966-67. This is the outcome of patents in this country.

Coming back to Mr. Ayyangar's report; at page 13 he says :

"These patents are therefore taken not in the interests of the economy of the country granting the patent or with a view to manufacture there, but with the main object of protecting an export market from competition from rival manufacturers particularly those in other parts of the world."

"From the point of view of producers, this cost is simply the royalty payment made to foreign firms".

This is very much applicable to India. It says further.

"Most countries have little if anything to gain economically from granting patents to foreign firms; and they do so partly because the custom is old and firmly established, partly because of the pressures of vested interests."

This is a clear instance of how you have yielded to the pressure of the vested interests. The report says further :

"A well-known example under the first head where an invention is not patentable in the patentee's home country but is patented in India relates to patents for medicines and drugs taken out by Swiss nationals in India. Where the substance is new but the process by which it is produced is not new, no patent can be obtained in Switzerland, whereas a claim for a new product made by the process which is not novel

[Shri Jyotimoy Basu]

but is merely described in the specification may be patented in India".

You have allowed these things to continue for the last twenty years. Today you have come out beating the drum and making the noise about the Patent Bill. What is it that you are going to do? We have a few suggestions to make. The State should buy over all discoveries against rewards. The Health Ministry must have its own cost examining unit for each and every drug. Patents should not only be not allowed but drugs should also be sold under their generic names—One drug should not be sold under ten names at ten different prices—after approval of the Government. No patent should be granted to foreigners and no patent for drugs should be given to anyone in the private sector.

श्रीमती लक्ष्मीकान्तम्मा (खम्मम) :
उपाध्यक्ष महोदय, माननीय सदस्य श्री ज्योतिमय्य बसु ने अपने भाषण के दौरान "पर्स बिफोर स्वाइन" का प्रयोग किया है। स्वाइन शब्द का प्रयोग यहां पर अन-पार्लियामेंटरी है और उस को रिकार्ड से निकाल देना चाहिए।

MR. DEPUTY-SPEAKER : "Pearls before swine" is a well-known expression. There is nothing unparliamentary about it.

SHRI K. NARAYANA RAO (Bobbili) : I should like to confine my remarks to the Bill which seeks to amend the patent law which will be passed in a shortwhile. I do not want to discuss the wider issue of the whole patents law which will come before the House after the Select Committee deliberates on that. The basic objective of this particular amending Bill had been explained. The present Bill empowers the Controller to delay to an unlimited extent certain applications in the interest of defence. I cannot understand why you are empowering the controller with such wide powers because the Bill here says "anything which is relevant". In the rest of the Bill the word used is 'prejudicial'. Both have been used in an inconsistent manner. It is only a question of delaying or stopping or rejecting. It may be absolutely necessary to give a patent which must be taken exclusively by

the Government. A person may have invented something which may promote defence production. Instead of delaying it or rejecting it, power should be given to the Government to expropriate that particular patent and Government should see that a particularly beneficial patent is taken over by them.

I find to my surprise that such a provision is not there in the Bill, and I think it is a very serious omission. I hope and trust that the Government will look into this matter and see that such a positive and beneficial provision which is in the interests of defence production is also incorporated in the Bill.

*5 Hrs.

Secondly, I come to the question of governmental power. The Government has to issue directions : there are two types of directions which are mentioned in the Bill. One type is in relation to the applications; applications in respect of what? Applications relating to food, medicine, drugs and the different processes. The Government can issue a direction to the Controller to omit and delay; why and what is the reason? Merely because a particular application relates to a food matter or a drug matter, is it open to the Government to give him those powers, and what is the criterion for the Government to issue such directions? They are very wide powers which are given. After all, these are very important, and if you go through the Bill, you will find that most of the things in the entire Bill relate to the drugs. Government are taking the power to issue directions saying, "You, hereafter, do not issue anything until we give you directions." There again, why should the Government issue this particular direction? What are the reasons? About that we do not get any guidance from this Bill. It is a particularly all-embracing power which the Government want to be clothed with, without giving any guidance to us, to Parliament, to find out what is the basic reason and what is the basic idea. Merely because the application relates to medicine or drug or even food, it is open to the Government to issue directions to the Controller to see that "you delay it?" What is the nature of the delay and why is it to

be delayed? What further purpose is going to be served by this particular delay which is made or undertaken? Why is it rejected?

You will find that this particular application is subject to periodical *suo motu* review: that is to say, the applications for patents which relate to medicine or food. I do not think they have any periodical fluctuation. Medicines and such things are not subject to periodical fluctuations, but the Bill provides for a periodical review of this. There is something more in the Bill which is not very explicit. What I mean to submit is that this bill has some particular objects which have not been spelt out. Is it not the object of the Bill that any application which relates to medicine or drug is going to be covered by this Bill? There are going to be patent medicines; suppose there are some medicines which are dangerous and which are likely to bring about a repercussion in the body. Government should be in a position to examine all these things before they say, "stop this", before they decide whether a patent is to be given to that or not. They must give further examination to this matter. This matter is selective in approach. So far as the Bill is concerned, it is all-embracing.

My submission, therefore, is, first of all, let the Government come forward with reasons as to why and what exactly do they want this for, especially when they state here, "anything prejudicial or anything which relates to the food or drug." etc. Let them state why the Government has taken the power to issue directions. I do not understand why such power is necessary and what for do they want it. That must be made very clear. We know pretty well that anything which is catable, anything which relates to food, may sometimes be injurious to public health. If the Government feels that it is likely to be injurious to the health of the people or is likely to cause suffering for the people, when there is an application made, they can have such directions. But we have no guidance. I submit that the Government should come forward with a clear-cut programme and say what exactly do they want. These are very discretionary powers at the hands of the Government and at the hands of the Controller. It is open to the Controller

to see that these powers are exercised. He will sit on this and he may refer it to the Government also. Therefore, on these relevant things, let them be more explicit and specific. With these words, I submit that the Bill can be passed.

SHRI DINKAR DESAI (Kanara) : Sir, this Bill is going to the Joint Committee and therefore, I would not take much time of the House. I would just touch upon a few fundamental questions concerning this Bill. We know that the Ayyangar Committee appointed by the Government reported in 1957. It is clearly stated in the report that :

"It would not be an exaggeration to say that the industrial progress of the country is considerably stimulated or retarded by its patent system according as to whether the system is suited to it or not."

Nearly 11 years have elapsed since this report was made. What is the position today? Has the number of foreign patents decreased? No. I have got figures here to show that the number of foreign patents in this country has increased. According to the Ayyangar Committee, the number of foreign patents in this country was 21,177 in the period from 1949 to 1958. That means, an average of about 2117 patents per year. Last year, the number has increased, instead of decreasing. It was 3427. This figure was given by the hon. minister in the Rajya Sabha last week. What is the reason for this increase in the number of foreign patents? We say, India has progressed, our industry is doing very well and we are making new discoveries and inventions. This is a very important aspect of the question. Due to these foreign patents, our own discoveries and inventions are not encouraged and they are not getting their due.

I would like to give the instance of the famous case of the Haffkine Institute, Bombay. This institute was prevented under our law to find out a new product through its own process, because foreign monopoly was there. There is the case of Bengal Chemicals also. They said, the products may be the same, but the processes should be different. This is how foreign monopolists are blocking our progress. Therefore, we will have to reconsider the whole matter.

[Shri Dinkar Desai]

We think that today India is industrially in the same position as the western countries are. It is not so. Under these circumstances, we will have to think very seriously whether we should really protect these foreign patents in this country. This may look ridiculous to some of my friends on that side, particularly those who plead for foreign monopolists. During the first world war, the American Government confiscated the German patents and allowed American manufacturers to use them. Even at that time, America was much more industrially advanced than India is today. I do not say we should confiscate the foreign patents. What I mean to ask, is, whether we should protect them in our country. It was said here that Japan which is highly industrialised, did not even have a patent law a few years ago. I do not say we should not have a patent law, but it should be such that it encourages Indian industry and Indian discoveries and inventions. It should not just make our country a dumping ground for foreign patents.

Coming to the question of prices, our patent system should be such that the prices are reasonable, in the interests of the consumers. The real position is, foreign patent owners are making huge profits in this country.

Statistics have shown that the prices of drugs and other medicines in this country are more than the international prices. India's standard of living is the lowest. In spite of that our prices are very high I would like to quote from the Report of the Joint Committee on the Patents Bill in 1965. It is stated here :

"A witness stated that some time ago Liberium a tranquilizer—introduced in the Indian market by a Swiss firm, which was importing the same during the year 1963-64 at about Rs. 5555 per kilogram C.I.F., but the same material is said to have been imported by a firm in Delhi at C.I.F. price at about Rs. 312 per kilogram. Another firm in India has been charging in this country for Vitamin B 12 Rs. 230 per gram whereas the international price at which it is available in other countries is between Rs. 90 to 100 per gram. Similarly

another firm which holds the patent for DEXAMATHA-ZONE was charging Rs. 60,000 per kilogram. But when warned by the Import Controller it readily cut the price to Rs. 16000." There are more instances like this.

SHRI LOBO PRABHU : How do we export if our prices are so high ?

SHRI DINKAR DESAI : I can understand a little margin. When the Controller warned him he reduced the price from Rs. 60,000 to Rs. 16,000. If it had not been profitable he would not have reduced the price. If my hon. friend does not understand what is profiteering, I have no answer (*Interruptions*). I am not saying that we should completely stop foreign patents. At the same time, we must see to it when we protect foreign patents they must behave properly and the prices must be reasonable.

I would also suggest that these products must be manufactured in this country. Why should they be imported ? Many of the products covered by foreign patents can be manufactured in this country. The Government should put a condition that they must be manufactured in our country. Just producing them in our country will not do. More than 50 per cent of the capital should be Indian. The industries must be Indianised. We must try to see that as far as possible our indigenous material should be used. In India we have got vast natural resources. Our forests are very rich but we have not done sufficient research. We must also put this condition that as far as possible indigenous material should be used.

Then there is the question of time or period. That is one of the most important questions debated here. The present period is 16 years. It is now proposed to be reduced to ten years in the case of medicines, drugs and food. I support this ten year period. I know some of my friends are not satisfied. Shri Dandekar said that it should not be reduced. His argument is that if the period is reduced there will not be sufficient incentive. But we should not forget that India today is not what it was twenty years ago. Today the market in our country for these drugs is increasing.

It is a huge market. India is the second country in the whole world in population and the market for our drugs and medicines

is increasing every day. When the market is very big, certainly profit can be made within ten years. The sixteen year period should be reduced to ten years because the conditions have changed and our People are buying drugs in larger quantities. I think they can make sufficient profit in ten years.

Lastly, certain powers are given to the controller or government agencies with regard to certain orders to be passed under this Bill when it becomes an Act. It is very unfair to take such wide powers without giving the aggrieved party an opportunity to move the High Court for two reasons. Firstly, it may lead to corruption. After all, an officer may issue certain orders which are not proper which may give scope for corruption. Secondly, many government orders are issued in this country for various reasons some of which are political. To prevent such thing it is very essential that more and more powers and importance are given to our High Courts and Supreme Court. If there is no Supreme Court or High Courts, I shudder to think what will happen to our democracy, because they are our saviours. So, there must be some provision in the Act giving sufficient powers to the aggrieved party to move the High Court.

With these words, I hope that the Minister will see to it that we will have a proper type of patent system in this country which will encourage people to produce most of the things in our own country as a result of which prices of drugs will come down. Unless we have such a system, we will never succeed. I have done.

SHRI TANNETI VISWANATHAM (Visakhapatnam) : Mr. Deputy-Speaker, Sir in this government we always find one great difficulty. There is plenty of mixed thinking, mixed objectives, in fact, they require to be patented in the first instance. The objectives of the Government have no direction, the thinking is not clear and the policy on control and licence is not honestly implemented. This has been the history ever since independence came to our country. I trust hereafter there will be some ultimate power which will go to the hearts of those who are ruling the destinies of this nation and give them a proper direction, clear thinking and some honesty of purpose.

Our Constitution, whatever the conflicting opinions on other things may be is based on private property. You may impose restrictions but one cannot abolish private property. If you cannot abolish private property, you cannot expropriate it. But there is mixed thinking on this subject. That is why I said that this is a supreme example of mixed thinking. Government want to cater to a new process of thought that they have got the power to take away the inventions made by somebody. Then, let them stick to it. Why, then, introduce another clause, clause 102, where they say that compensation will be given? Let them stick to the one or the other. If you stick to the law of private property, then you should honestly implement it. What I would suggest is both at the stage of deciding what are to be given patents and at the stage of deciding the compensation, you may provide for an advisory council. In place of the present authorities mentioned in the Act, I would say that it would be more in the democratic spirit if you have an advisory council consisting of knowledgeable persons, persons who have got knowledge of industry, of science, of so many other things.

I do not agree with those who say that the law of patents should at once be abolished altogether. I find from some book—I do not know how far it is right—that even the U.S.S.R. has introduced some law regarding patents. If that is so, there is rethinking in the world. That is why I said that either we must have a law for private property or abolishing it altogether. But if you have it, have a strong law.

SHRI R. D. BHANDARE (Bombay Central) : It is the middle course.

SHRI TANNETI VISWANATHAM : It is not a middle course; it is a confused course. Here is one clause you say, "I will expropriate" and in another clause you say, "I will give compensation". This is what I call mixed thinking. We are a little new to parliamentary life and we are not accustomed to this kind of parliamentary middle course in our legislative life. We either understand one course or the other.

As Shri Narayana Rao has asked what are the guidelines for expropriating? You want to expropriate. Do not say, "expro-

[Shri Tanneti Viswanathan]
private"; by all means pay compensation and take it once you decide that it is useful for defence purposes or that it is in the national interest. What I would suggest is : Let the advisory council which I propose decide the compensation to be paid and take it at once. But if you do not want to do that, I would suggest to the Government to say that we do not believe in the law of private property; that we do not believe that a man has got a right to anything which he invents or which he thinks he has a right to. There is a process of thinking which says that man, after all, is a product of whatever has happened throughout centuries of civilisation and what he talks, delivers or does is only its product which belongs to other except himself. What I think belongs to everybody else; what I invent or what I write belongs to everybody else but not to me. That is one method of thinking. But if that is so, let us go in for it. I have no objection if the entire nation goes in for it in a non-violent way, but let us not have this kind of mixed thinking.

As I said in the beginning, our Constitution is based on the law of private property. Let us implement it. Let us have advisory council which will give us advice as regards the rate of compensation when the Government wants to take over an invention. Let it decide what inventions are to be taken over and at the time of granting them also. I do not suggest that anything and everything should be patented, but let there be an advisory council. Do not put it in the hands of these single authorities which, as our friends have said, will become dictators. In fact, instead of helping the people for whom the Government stands, these people may be tempted to help other who are against the people. That has been the history of these 20 years. That is why you have got this violent criticism against it.

These are my suggestions for the present. After it is considered by the Select Committee, we shall have a further discussion, I suppose.

MR. DEPUTY-SPEAKER : Shri Dandeker.

SHRI N. DANDEKER (Jamnagar) : How do I reply before the Minister ?

MR. DEPUTY-SPEAKER : He has stated his case.

SHRI N. DANDEKER : He has not replied to the problems connected with the Amendment Bill that I had raised. I told you in the beginning of this difficulty. I have moved a motion and I have given my reasons. The Minister has to reply to it. If he has no reply, I presume that he accepts what I said.

MR. DEPUTY-SPEAKER : Perhaps he convince you when he replies.

SHRI N. DANDEKER : I have moved the motion that the Ordinance be not approved. The Minister has made no reply to that proposition. Unless he makes a reply, I presume, there is no need for me to reply. I have nothing to reply.

SHRI P. K. DEO (Kalahandi) : He should reply; we expect a reply from him.

MR. DEPUTY-SPEAKER : All right. The hon. Minister.

THE MINISTER OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS (SHRI F. A. AHMED) : I was surprised when this novel procedure was adopted in taking up all the three motions at one and the same time. I realise the difficulty of my hon. friend there, but he should also appreciate my difficulty. Of course, so far as the Resolution to be moved by him is concerned, he is entitled to have the final reply after I have replied to the resolution. But so far as the other motions are concerned.....(Interruption).

SHRI N. DANDEKER : I will not touch upon the other matter.

SHRI F. A. AHMED : You want me to speak on all the three motions.

MR. DEPUTY-SPEAKER : Yes.

SHRI F. A. AHMED : Sir, I have with rapt attention listened to the observations made by the hon. Members with regard to all the three matters which are now before this House. I would like to point out that except Mr. Dandeker, no one has said anything in support or in opposition to the resolution that he has moved regarding the Ordinance. So far as the Bill to replace that Ordinance is concerned, apart from Mr. Dandeker, some observations have been

made by my hon. friend Mr. Narayana Rao. I would like to take these two matters together.

We have been accused that Defence of India Rules were misused and there was no justification for extending those Rules to the provisions of the Patents Act. May I point out that the purpose of Defence of India Rules was not only confined to the defence of territory but to many other subjects also? I would like to read the relevant Rule :

"If, in the opinion of the Central Government it is necessary to expedient for the defence of India and civil defence or the efficient conduct of military operations or the maintenance of supplies and services essential to the life of the community so to do, the Central Government may, notwithstanding anything contained in the Indian Patents and Designs Act, 1911 (2 of 1911) direct the Controller, with respect to any applications for the grant of patents for inventions of such nature as may be specified in the directions, to abstain from doing, or delay the doing of, anything which he would otherwise be required to do in relation to such applications and the Controller shall comply with such direction."

It is because of maintenance of supplies, essential for the people that action was taken. I would also submit that the very purpose for which my hon. friend is raising objection will be defeated if no protection to keep the petitions alive had been given under the Defence of India Rules. Now we want to give the same protection under the amending Bill.

As the hon. Member mentioned the late Prime Minister Shri Lal Bahadur Shastri, gave an understanding that applications received for patents which were then pending before the Government will be examined but no action will be taken on them till the Government had taken decision regarding the proposal for the amendment of the Act. All these applications have, therefore, been kept pending. The hon. Member is perhaps aware, the period during which these petitions can be disposed of is only three years.

The protection to keep them pending beyond this period had been given under the Defence of India Rules, then by an Ordinance and now is proposed to be done by an amending Act to all these applications. It is for that reason that soon after the Defence of India Rules ceased to have operation, an Ordinance was promulgated. We are now trying, through this amending Act, to replace that Ordinance so that these petitions may be kept pending and they are disposed of in the light of decision which Parliament will take about the new proposal which is before Parliament. I hope in view of this clarification the hon. Member will not press his resolution to vote.

Similarly, no one except Shri Rao has said anything so far as the amending Bill, to replace the Ordinance, is concerned. I would not like to take much time of the House with regard to this matter also. With regard to the main Bill which is being referred to the Joint Committee, I am very grateful for the observations made by various Members both supporting the measure and raising doubts about the utility of this measure. May I point out that no one in this House opposes the development of inventions relating to food, drugs, medicines or, in fact, any other thing. But the question before us is to consider whether any measure relating to inventions, development of inventions, should be detrimental to the interest of the country or should subordinate it merely because inventions, of an urge for, or for development of inventions, without taking into consideration the various other relevant facts also. Here, in this country.

MR. DEPUTY-SPEAKER : The hon. Minister may please resume on the next occasion.

SHRI N. DANDEKER : He has finished the Ordinance portion and now he is dealing with the Bill.

MR. DEPUTY-SPEAKER : There is no time now. Now we have to take up another discussion regarding flood situation. He will continue his reply tomorrow.

15.31 Hrs.

MOTION RE : FLOOD SITUATION IN THE COUNTRY

MR. DEPUTY-SPEAKER : Mr. Sreedharan.