

[Mr. Speaker]

the law relating to sales tax as in force in the Union territory of Delhi during a past period and to validate taxes on the sale or purchase of certain goods during such period."

The motion was adopted.

SHRI K. RAGHU RAMAIAH: Sir, I introduce† the Bill.

11.50 hrs.

TERRITORIAL WATERS, CONTINENTAL SHELF, EXCLUSIVE ECONOMIC ZONE AND OTHER MARITIME ZONES BILL—contd.

MR. SPEAKER: The House will now take up further consideration of the following motion moved by Sri H. R. Gokhale on the 16th August, 1976, namely:—

"That the Bill to provide for certain matters relating to the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India, as passed by Rajya Sabha, be taken into consideration."

The time taken was 25 minutes. Shri Jagannath Rao may now continue his speech,

SHRI JAGANNATH RAO (Chattrapur): Mr. Speaker, Sir, I was submitting yesterday how, at the United Nations Conference on the Law of the Sea a broad consensus was arrived at regarding the territorial waters, its extent, continental shelf and maritime zones which are synonymous with the exclusive economic zone and, to this extent, the sovereign rights of the coastal States over these areas. What would remain to be decided by that international body was about the exploration and exploitation of the deep sea bed resources and how that body should be constituted, its powers and functions and so on. But, that does not deter us from proceeding with the

admitted areas, that is, the territorial waters, the continental shelf and maritime zones as admitted by a number of States. So, we need not wait for that.

We have got a long sea coast—the Bay of Bengal in the east, the Arabian Sea in the west and the Indian Ocean in the south. We have got vast resources. We found oil in the offshore and also other mineral resources within this area and we will have to exploit them at the earliest and we need not wait till a broad consensus or an agreement is arrived at at that Conference regarding the other matters which are still unresolved.

Sir, the international conferences go on unending; they do not arrive at decisions. That does not mean that we should sit idle as spectators and should wait till a final agreement is arrived at or it is signed. On such of those points as there are agreements—unanimous agreements—we should take them as decisions arrived at at the Conference and we shall have to take advantage of that and start exploiting the resources. We are exploring oil and we have exploited it and got good reserves and we shall have to intensify our efforts to find oils in the Bay of Bengal and also in other places in our country in the sea bed

Apart from that, as I said, we have got mineral resources such as manganese ore in the deep sea beds as also copper, nickel and other valuable metals. We have to take advantage of it. The sea contains valuable metals—precious stones and all that. I do not understand why we should wait till the treaty is signed or a final conclusion is arrived at on the points which are still unresolved. These are my respectful submissions firstly.

Secondly, as I said, we have no marine technology and we have not been able to apply our mind in that direction. That we will have to do immediately by taking the assistance of our friendly countries. The Soviet

Union has been helping us in several fields of our economic activities with whom we have to enter into an agreement for a period of ten, fifteen or twenty years and see that we get their technology for the exploitation of deep sea resources and to train our young men so that we can start forthwith and we should not wait for the future date. The international conferences are unending; they go on year after year. I have seen it because I happened to be a Member of the Indian Delegation in the United Nations Conference where the same subjects come every year and nothing is decided. Therefore, while we have full faith in the U.N. let us not wait for the final decision which, I am sure, will never be reached.

Apart from that, the first thing that we will have to see is about the sea pollution. Sea pollution is a problem which affects the living resources in the sea, that is, fish. It is said that four-fifth of sea pollution is caused by the land based sources and one-fourth by the ships which, by discharge of the oil, cause the sea pollution. Sir, this problem cannot be decided by the law of sea. It is outside its purview but I am sure in 1958 the inter-Governmental Maritime Consultative Organisation went into this question and suggested a broad spectrum which authorised the coastal States to make laws and regulations to control this pollution.

The shipping tonnage has increased in the last 25 years. It has gone upto 306 million GRT. Many nations depend on oil which has to be carried by bulk carriers and there is bound to be sea pollution. Therefore, this problem has to be tackled immediately since we have got a long sea coast.

Then, Sir, we have got valuable fishing fields in this continental shelf which have to be exploited but unfortunately our fishermen do not go beyond the territorial waters. We have the right to go beyond the territorial waters for fishing. In Kerala there are very good fishermen and they

are using Norwegian trawlers for catching fish. It is said Japan gets 50 per cent of its protein food value from fish. We can as well do that. The coastal States should be allowed to exploit these resources and Central Government should come to an agreement with the States and give them necessary help and need not wait till States come up individually to exploit these resources.

Then there is the problem of land-locked States. It is said that they are entitled to share the benefits of the living resources of the sea and not the non-living resources. Recently in an article written by Shri D. Sen, Secretary-General of Law of the Sea Conference it is said that land-locked States are entitled to share the living resources and not the mineral resources. The Minister may explain the position. In the other House the Minister stated that if Nepal and Bhutan want to exploit the resources of sea we will have to permit them. I want to know whether land-locked States are allowed to share the mineral resources.

Then I come to the point about historic waters. What are the historic waters which the hon. Minister has in mind. There is an interesting judgement of Justice T. R. Venkataraman Iyer of the Madras High Court in the year 1953 wherein he has explained that Palk Strait and the Gulf of Mannar cannot be said to be part of the sea. They are islands which have an opening into the inland waters and not the sea. They are part of the territory of India and the successive Sovereigns of India have exercised control over this area and it was acquiesced in by other States. Therefore, we have got that status—the sovereign status—over this area and these areas should be treated as part of the territory of India.

Then I want to know about the status of the Andaman and Nicobar Islands, the Lakshadweep and Amindiv Islands. What about Goa? Are you taking them as part of the territory of India or giving them a separate archipelago status?

SHRI INDRAJIT GUPTA (Alipore): Goa is in the mainland.

SHRI JAGANNATH RAO: It is also an island. It is connected by Karnataka.

SHRI B. V. NAIK (Kanara): Goa is a part of Indian territory.

SHRI JAGANNATH RAO: In all these cases, you have to measure the territorial waters and the continental shelf. Leave Goa alone. I would like to know about the Lakshadweep and Amindiv Islands and the Andaman and Nicobar Islands. Are they treated as part of India or are they given a separate status in which case the calculation of maritime zone would be different? This has to be made clear.

Then what about the maritime boundaries with neighbouring countries? We have neighbouring countries, perhaps not that friendly, which are less friendly, like Pakistan on the one side and Bangladesh on the other. Have any talks been carried on or started with these countries about the maritime boundaries between these countries and India? Have we got any dispute or tussle between Burma and India about maritime boundaries? I understand there was a maritime boundary settlement between Sri Lanka and India. All these matters have to be gone into and settled early and the necessary maps and charts have to be published. The maps are prepared and printed at Dehra Dun where we have got the Hydrological Survey of India manned by naval officers of the Government of India and the Security Press. In 1966 I happened to go there along with some MPs. They are doing a good job. Charts have to be prepared soon so that we know our boundaries.

Then I come to some clauses of the Bill. As I said yesterday, this B.N.I. is only an enabling Bill. It defines the geographical areas of the sea which belong to us. As regards clause 5

and 7, cl. 5 relates to the contiguous zone of India which is up to a distance of 24 nautical miles from the baseline. The continental shelf is 200 miles from the baseline. These clauses come into force on such dates or such different dates, as the Central Government may notify. I do not see the reason why different dates should be notified. Contiguous area is only 24 miles from the baseline or 12 miles from the outer edge of the territorial waters limit; continental shelf is 200 miles from the baseline or 188 miles from the edge of the territorial waters. These are universally admitted by all the world States as coming within the sovereignty of the concerned State. Should we not say that our sovereignty exists as soon as the Bill is passed and assented to by the President when the Act comes into force? I do not see the reason why different dates should be appointed. This is my submission.

My second submission is this. We have got power to extend any enactment to these areas. That means our sovereignty extends over these areas. That being so, where is the need for us to say 'as if they are part of India'? When we have the right to impose restrictions or control or make rules and regulations to control the various activities of other nations in these areas, why should we say 'as if it is a part of the territory of India'? I do not see the difference.

Another thing. In these clauses, right is given to the Government to alter any of these areas. By 'alter' is meant that we may increase the limit or decrease it depending on international agreements. Therefore, that is one reason why I say that our sovereignty straightway extends and applies to these areas specified in clauses 5 and 7 immediately from the date of the coming into force of this Act.

While replying to the debate in the other House, the Minister said:

"As I have said in my opening speech, there has been universal

acceptance and everyone has agreed that 200 miles should be the limit of the economic zone. It was also said that there our sovereignty prevails in respect of the exploitation and exploration of the living and non-living resources and in certain other matters like carrying out of research, control of pollution and things of that nature."

So, when it is an accepted principle, why should we be afraid of the international community? I am sure our friend, the Soviet Union, will stand by us in the international conferences. Let us not lose further time. Let us take advantage of what has been agreed to in the conference and start exploitation and scientific and technological research in the field of exploitation of deep sea-bed resources.

12 hrs.

You say that our sovereignty extends and is "deemed to have extended." As I said while speaking on the Constitution (Fortieth Amendment) Bill, the Presidential Proclamation of 1956 fixed the territorial limits at 6 nautical miles. In 1965, after article 297 was amended by the Constitution (Fifteenth Amendment) Act, the limit was increased to 100 nautical miles. So, how can you say "sovereignty is deemed to have existed"? If it is said like that because of international understanding, that is a different matter. That is one more reason why I say that the Bill should come into force immediately and the decisions arrived at the international conference on the Law of the Seas should be put into action immediately.

SHRI SAMAR MUKHERJEE (Howrah): Sir, we generally support this Bill. The non-aligned conference is going on now at Colombo. The non-aligned countries have raised these issues of control over the seas as well as the question of sovereignty for the exploitation of the sea-bed resources. Generally I think this Bill is in conformity

with those demands. It is a fact that the areas under sea and the natural resources have become issues of big conflicts of interests. As days pass by, these conflicts are being intensified. The history of the efforts made on an international plane to arrive at some solution gives the picture that up till now since 1958, the main issues have not yet been clinched, though some general consensus has emerged from the conferences. We know that the main conflict is between the big imperialist powers and the newly-developing or under-developed countries, which were deprived of the rights to utilize the sea resources for the development of their economies and for the benefit of their people.

The Minister in his statement in the other House said that there has been some general consensus and on the basis of this consensus this Bill has been drafted. On the other hand, he has also stated that the issues have not yet been clinched and he cannot say categorically when all these will be clinched. Here we have some apprehensions and reservations that if we go on unilaterally demarcating our own areas, specifying our own rights, whether it will solve the conflicts or will further intensify the conflicts. While the conflicts with the imperialist countries is of one category, that of the neighbouring or land locked countries is of a different nature.

The Minister has made it specifically clear that there is flexibility in the scope of the Bill and in the interpretation of the areas and if in the Conference some general consensus is arrived at, or some issue is clinched, we will adjust our law according to that decision. Still, there is some fear or apprehension because these areas are becoming centres of conflict. Already there is some conflict centering some of the islands like *Paracels* and *Spritley* with Philippines and some other countries. Since in these areas petroleum and some other rich mineral resources are available, there is every likelihood of conflict. These conflicts

[Shri Samar Mukherjee]

should be resolved through peaceful methods, by dialogue and negotiations.

One doubt is whether our unilateral action in the passing of this Bill will bar the possibility of adjustment with those neighbouring countries which are friendly with us. In fact, there is already arrangement with land-locked countries like Nepal and Bhutan for the exploitation of the territorial waters and they can set up some structures for maritime exploitation. The reaction of those countries to this Bill is not before us.

The Minister in his speech in the other House said that New Zealand has threatened that if any unilateral action is taken without clinching the issue in the international conference, then it will unilaterally pass a law, declaring 300 miles as its economic zone.

The Minister has mentioned that America and some other States have already passed laws, but what are those laws, are they in conflict with the interests of our country? There is no report before us about that. We do not know whether by passing this law unilaterally, we are creating obstacles for a settlement at an international conference or not but there is a report that the developed countries are opposing some of the proposals of the non-aligned countries.

These are some of the questions which require clarification. Otherwise, we think we must stand firmly by the proposals of the non-aligned countries about the 200 miles economic zone and the 24 miles contiguous zone. We must have proper control and utilisation of these areas and that is why we support this Bill, but these are the misapprehensions that I have mentioned.

I think that the imperialists will not easily go down if they think that this will generally throw them out of their old controls. So, must take a firm

stand against them, but towards the friendly and land-locked countries and our neighbours we must be much more flexible. Any wrong handling may give scope for reactionary forces to isolate India. I want to draw attention to the recent example of Bangla Desh propaganda regarding the Farakka waters. This has been raised unfortunately at Colombo also. So, the fear may gain ground among the small neighbouring countries that India is now developing herself as a boss and taking full advantage of this consensus at the international conference for exploiting the resources in the narrow interests of the people of India alone. If that happens, we will lose politically though there may be some economic gains. That is why particular care must be taken in the framing of this Bill and its execution, because the other countries are also searching for new resources. As sea resources have tremendous potentialities conflicts may flare up centering these resources unless sufficient avenues are kept open for them. That is why, while supporting the Bill we want Government to be particularly careful about dealing with the demands and interests of these countries.

SHRI K NARAYANA RAO (Bobil): Sir, I rise to support this Bill in the larger interests of the country not only of today, but in the light of the future prospects which it holds for the economic growth of the country. Hitherto till very recent times, the high seas have been seen mostly by the European navigational powers in the form of freedom of the high seas. But the recent technological developments have shown that there is much potential underneath the ocean and also a great future for the economic growth.

Even now, except in respect of two aspects, still the picture has not really come up clearly from all the discussions that have taken place in the international plane. The two things which have clearly emerged, as the hon. Minister has rightly said, are

about the territorial waters and also about the continental shelf. There also, there are qualitative differences. About the economic zone also, the international consensus is very clear, though about the content there are certain variables.

In the light of these things, I would like to confine myself, from the Constitutional point of view, to its implications and also to its international ramifications. From the Constitutional point of view, the recent amendment is very clear that the territorial waters cannot be claimed for whatever purposes by the respective States in the Indian Union. This has to be made clear because even today in several Federal Constitutions, the debate is going on whether the territorial waters belong to the federating units or to the Union Government. Judicial decisions are also confusing. They draw a distinction between the territorial waters for the purpose of international law and territorial waters for the purpose of exploitation of the economic resources underlying therein. Our position is very clear that, for all practical purposes, from international and Constitutional points of view, the territorial waters, the economic zone and all these things pertain to the Central Government and will be utilised for the Union purposes. Having said so, I only make a suggestion whether, in the resources exploitation, the concerned coastal States, the federating units, can be given some special concern. This is the basic issue. From the national point of view, it is true that every wealth that is drawn should go to the exchequer. But our claim for territorial waters and economic zone is based on geography in the international context; if that is our claim for a special concern about our coastal economic zone and all that, I think, the same concern may also enter into the calculations so far as the federating States, which are the maritime States, are concerned....

AN HON. MEMBER: Rights of coastal States for what?

SHRI K. NARAYANA RAO: I am not elaborating on that, it may be in the form of royalties or whatever it may be, I do not know. I am only floating an idea, I am not elaborating on that.

AN HON. MEMBER: Fisheries come under the State List.

SHRI K. NARAYANA RAO: They draw a distinction between inland fisheries and marine fisheries. So far as inland fisheries are concerned, it is a State subject, but about marine fisheries, it was not clear before, but now the recent Amendment has made it clear—all the living and non-living resources within the entire economic zone belong to the Centre and must be utilised for Union purposes. This is only by way of convention, if you can evolve in the future, that I was suggesting a special concern to the coastal States.

Now I come to Clause 2. There was some discussion about this in the international forum, whether the islands can be included for the purpose of calculation of the limit of the territorial waters, continental shelf, economic zone or any other maritime zone. We have calculated rightly not only the mainland of this country but also the islands that we have, that is to say, we have at least two offshore islands which are Union Territories recognised in the Constitution in article 1 read with Schedule 1—the Andaman and Nicobar Islands and the Laccadive, Minicoy and Trindivi Islands. In this context I have had occasion to look into the 1958 Convention on Territorial Waters. There, they draw a distinction between islands with low water tides and islands without low water tides. I quote, in this regard, 11(2) of the Geneva Convention on Territorial Sea and Contiguous Zone, 1958:

“Where a low-tide elevation is wholly situated at a distance exceeding the breadth of the territorial sea from the mainland or an

[Shri K. Narayana Rao]

island, it has no territorial sea of its own."

I do not know what is meant by a 'low-tide elevation'. Anyway these islands are away from the distances specified here. In the light of these things, perhaps there is a need for a change in the law in this regard. But this is not so far as the continental shelf is concerned. The Geneva Convention concedes the extension of the continental shelf even to the island itself.

Now, certain other things About the details the Bill has provided exhaustively One thing, I have a doubt about the two provisions. One is about the designated areas In the designated areas, so far as the contiguous zone is concerned, it is conceived in the context of physical reservation so that both in the economic zone concept as well as in the contiguous zone concept the government has reserved the right to designate a particular area for the purpose, *inter alia*, of physical reservation Whether this can be conceded in the future discussions is open to doubt because this concept is conceived in a different context for the length and sometimes the coincidence, for instance, of the economic zone and the continental shelf though they run parallel to each other. But these concepts have distinct hallmarks of their own. So far as our extension of physical reservation and designation of certain areas are concerned, whether they will be protected or not and whether the international community will also come round to this concept is still doubtful.

The next point I would submit is about the delineation of the coastline between two countries about these zones.

Clause 9 provides how to draw the line in this regard. I just do not know what happens because in the earlier conventions and the Sea Law Conference, they have used two diffe-

rent types of measure. One is for the purpose of the continental shelf. There they tried to distinguish between those states which are adjoining and those which are upward. There they have laid down two different criteria. In the Territorial Waters and the Contiguous Zone they have adopted a different zone and we just do not know what those points are and whether our provision conforms to those things or whether we have made any deviations from those positions and if so, in what regard and I wish all these the hon. Minister may kindly explain.

Now, the last point I wish to make is that in our Constitution, as recently amended, power has been given to Parliament to specify from time to time the limits of the territorial waters, the continental shelf, etc. Here, I concede that in the above concept of 'under the authority of law' probably the power is delegated as such. In this context, the Bill has provided that where there is a change in the international law and if the limit is to be altered in the case of territorial waters or the economic zone, the power is given to the Central Government to issue notifications, but care has been taken to see that no notification shall take effect without the approval of the Parliament. But this is not the position that has been taken with reference to agreements concluded with other countries with reference to the maritime boundaries between the two countries. Here, what they have stated is:

"Every agreement referred to in sub-section (1) shall as soon as may be after it is entered into, be published in the Official Gazette."

That means that it will have the effect of altering the limit provided in the Act itself. I do not know whether we have abdicated this power unconditionally and totally to the government....

SHRI JAGANNATH RAO: Like any other agreement entered into by

the Government, that will also come to the House and only with the approval of the Parliament it will be altered.

SHRI K. NARAYANA RAO: Not only that, clause 9(3) is very significant. It says:

"The provisions of sub-section (1) shall have effect notwithstanding anything contained in any other provision of this Act."

That means that it abrogates the very provisions of this law itself. This, I submit, is a type of vicious delegation which is not warranted. Therefore, I wish that every agreement altering the position taken here must be brought before the House and must be approved by the House. Then alone it will be in tune with the constitutional amendment that we have passed earlier stating that it will be for the Parliament to fix the limits of the continental shelf, the contiguous zone and the economic zone. I think this blanket power is not necessary. With these remarks I welcome this Bill.

SHRI INDRAJIT GUPTA (Alipore): Mr. Speaker, Sir, I welcome this Bill. But it gives rise to some very interesting implications and questions, which I hope the hon. Minister will clarify and reply to when he replies to the Debate.

To some extent the Bill is of course in conformity with the consensus which has been arrived at already, though not formal agreement, but consensus of agreement, on the question of territorial waters and particularly exclusive economic zones. But to some extent I see in this Bill—I don't disagree for that reason, but I see this—that this is a sort of preemptive measure. Because, as far as I have understood it, the conventions which were adopted at the previous conferences on the Law of the Sea in 1958 and 1960 have not yet been actually finalised. That is the reason why this conference is now taking

place. But it seems, as Mr. Jagannath Rao has pointed out that the matters are not so easy to reach agreement on and conference after conference is taking place on an issue which was become at the particular moment important, not only from the point of view of security. Considerations of security must be there and those considerations hold good always. But security considerations have now undoubtedly been overshadowed by the question of sovereignty. Science and technology has brought home to everybody the fact that beneath the waters of the ocean and on the sea-bed itself there are tremendous riches available in the form of raw materials, minerals and so on, not to mention oil. So, I agree with some speakers who have said that while we definitely should take this preemptive action in order to assert our sovereignty as we consider it very legitimate, so we should voluntarily place a limitation on it to that extent only that it should not in future, involve us in any kind of conflicts or disputes with that family of nations of which India is also a member.

I do not want to say that there are no disputes between non-aligned nations or between developing nations. There are some disputes as we know very well relating to the Law of the Sea. Such disputes may arise from time to time.

But more important than those disputes are the common interests of all the developing countries, the non-aligned countries, the countries which over the last 25 or 30 years have won their national independence from colonial powers. That should be the paramount consideration.

I think the concept of 200 mile territorial limit has been more or less accepted. But, it has not been finalised in terms of some specific treaty. Naturally, if such concepts of territorial limits, territorial systems, contiguous zones and exclusive eco-

[Shri Indrajit Gupta]

economic zones are accepted, eventually, to the extent that they are accepted it also implies a sort of shrinkage of the open seas. To that extent, the open seas will shrink and that shrinkage of the open seas has got further implications for certain countries and certain powers, of course, who may not like the idea at all. That is very obvious and, perhaps, this is one of the reasons which lie behind the conflict or the disagreements which are obviously surfacing between the developing and non-aligned countries on the one hand and the imperalist countries of the former colonial countries which were holding the colonial empires on the other, many of which are very powerful military powers which have got powerful naval forces at their command.

This exclusive economic zone is a concept which of course is vital now for the developing countries. There is no doubt about it. With that rider, I would like to ask that question which has been asked—how are the interests of the landlocked countries going to be safeguarded? We have got landlocked countries as our neighbours with whom we have got very good friendly relations. There is Afghanistan; there is Nepal; there is Bhutan and so on. We also know that by virtue of these being landlocked countries certain problems regarding transit of traffic and so on already exist between us and Nepal, for example, with which we have continuously been trying to have friendly negotiations and talks for some mutual amicable settlement. So, we have to bear in mind this one point; there must be some scope; some latitude must be there in whatever laws we frame to provide for the legitimate interests of those landlocked countries which are our neighbours and with whom we have and, with

which, we hope, to continue our friendly relations.

Sir, in this Bill, it has very correctly been stated that the right of innocent passage is the only thing which we can concede through these territorial waters which rules out of the concept of any free passage, particularly of course, in the case of warships of any kind, whether they are surface vessels or submarines or other under water vessels. For India, this is a matter of particular importance in view of what is happening in the Indian Ocean areas, I do not need to elaborate on this. Diego Garcia base has now become operational, we are told; we are reading in the papers every day and we remember what happened in 1971, during the Bangladesh Conflicts and so on. So, there can be no question of free passage. Though the rights of free passage are demanded by certain powers, in the interests of our own security, in the interests of our national defence, it is essential, as the Bill has made clear, that the only right that can be conceded is the right of an innocent passage and, to the extent that some powers insist on going on proliferating the military bases in the Indian Oceans or building up their navies, their naval strength, it becomes all the more important for us to emphasise this question of innocent passage as against a free passage right.

I would like to know from the Minister, because I was not able to ascertain quite conclusively, whether or not, it is a fact that the United Nations General Assembly, in 1968, has declared some sort of moratorium on the exploiting of sea bed resources, especially, minerals, whether that moratorium is still in force because the dispute over sea bed resources between technologically developed countries and undeveloped countries is really a matter of acute conflict of interests. And this probably could be the most difficult thing to solve. I think a Declaration was

made at the United Nations that the mineral wealth, particularly of the sea bed, should be treated as—the words used—a 'common heritage for mankind' and, therefore some sort of a Declaration was made about the moratorium on the exploitation of these minerals until a final agreement was arrived at.

A proposal was made about setting up a Sea Bed Authority. Now, what is the position regarding that? And what is the view of our Government regarding that? It seems that certain powers are anxious that even if such a sea bed authority comes into force, it should have minimal powers and not be invested with very many powers whereas other countries like ours or the developing countries would like perhaps such a sea bed authority to have adequate powers to ensure that no country unilaterally by virtue of its superior technology and resources is able to try to appropriate some of these sea bed resources for itself. What is now the position regarding the sea bed authority proposal? I would like to have some clarification from the Minister.

Then there is the question of right of other countries to carry on scientific research in the exclusive economic zone of another country—of course, with the permission of that country. There can be no question or doing that unilaterally. I do not know what is the thinking of our Government on this question. I would certainly not recommend very much that we should give permission easily to foreign powers to come into our exclusive economic zone on the plea of carrying on scientific research because these are methods and modalities by which nowadays all sorts of things are done and all sorts of dubious and doubtful operations are carried on by certain powers in the name of scientific research.

This 200 mile economic zone will impose naturally on any developing country including India, enormous problems also which

I hope the Government has fully considered. Here is our country with an enormous long coastline and once we have defined our position and given it a statutory form then the whole business of maintaining a mechanism for coastal vigilance in order to guard the inviolability of our economic zone means something which is really quite a stupendous task calling for tremendous resources which I do not know whether we have yet been able to acquire. This problem of maintaining vigilance along the coast also implies acquisition of sophisticated under-water technology for purposes of exploration and exploitation. Would not these aspects—the question of vigilance and the question of technological resources to exploit this economic zone—present problems which we have already had to encounter? We had some experience in regard to the question of checking the smuggling operations, particularly on our western coast. We all know the volume of smuggling which was taking place from Abu Dhabi. I have no doubt that it is still continuing but on a reduced scale. In between we were faced with the problem of acquiring a few hover-crafts. Even that had presented enormous problems of finding funds and foreign exchange for acquiring these hover-crafts and so on. Once we have stated before the world through statute that this is our 200 mile-economic zone, this question of vigilance will present a very big problem from the point of view of resources. As far as the technological capacity to exploit that economic zone for our own benefit is concerned, we are now actively engaged in offshore exploration and drilling for oil, and we are still at the stage where we have to rely to a great extent, on foreign technical assistance for this purpose, which we hope we will be able gradually to overcome.

You will recall that last year when there was a question of democratizing

[Shri Indrajit Gupta]

zones in the Bay of Bengal within which we would carry on our exploration or drilling work and Bangladesh wanted to carry on theirs also some difficulties and problems arose as to how to appropriate one part of the Bay of Bengal to them and one part to us for this purpose.

SHRI JAGANNATH RAO: Maritime boundaries.

SHRI INDRAJIT GUPTA: It is a question of maritime boundaries. All these questions are involved. So, I hope that when we are going in for all this, the implications will be properly considered and the obligations that follow from this in the interests of our own national security and development will not be avoided but will be boldly undertaken.

As far as pollution hazards go, Shri Jagannath Rao has spoken about it. Nowadays anti-pollution technology at sea has developed considerably and is developing very fast and we should have to insist that these anti-pollution technology standards and so on should be applied rigorously to all vessels which pass through our territorial waters, that means not only foreign ships but our Indian ships also: I do not know to what extent the Indian merchant marine fleet has reached a stage of development where it is able to utilise this latest anti-pollution technology. It is all very well for us to insist that foreign ships should take necessary precautions, but we must see to it that our own vessels also are not found lacking in this respect.

One clause in this Bill has provided for offences by companies which I think obviously refers to the question of pollution from land-based companies which very often discharge all sorts of effluents into the water causing pollution hazards. Penalties are prescribed for such offences and so on. 'Companies' means, I presume, any company which is doing business in

India, whether it is an Indian company or a foreign company or whatever it is. There is no distinction. So I take it, this covers everybody. But in the case of foreign governments which may violate any of these clauses or provisions of our statute, what will the position be? It is not international law yet—that is my point. This is not yet accepted universally as international law. Any breach of international law by any country is normally dealt with in a particular way. But when we are introducing our own statute and law and some other country chooses, for whatever reason, to violate our exclusive economic zone or territorial waters or anything like that, what sort of situation will we be confronted with and how do we propose to deal with it? From what I have understood also, there is this possibility even between the best of friends of disputes arising over the question of fishing rights. We know there are so many big disputes over fishing rights taking place in so many parts of the world.

SHRI JAGANNATH RAO: Tuna in Mexico.

SHRI INDRAJIT GUPTA: Mexico and Alaska, Newfoundland and so on. We know what has been happening. There are some countries which go in for largescale maritime fishing very near their own coasts. They are so situated with the geographic and climatic conditions that the bulk of the fish catch they make is very near to their own coastal waters. But there are other countries which are also leading maritime countries in the world which do not catch their fish very near their coasts but far out in the open seas, which rely mainly on long-distance fishing fleets equipped with what are called mother ships, factory ships and all that. They stay out in the open sea for months together and do their fishing. The catch is transferred to the mother ship, processed in the factory ship which stays out and then after a long period

these catches are brought back. This question, I think, has also given rise to certain variations in the attitudes of certain countries and powers towards these definitions from the point of view of their self-interest, whether their fishing wealth is located adjacent to their immediate coastal waters or they are countries who catch fish at longer distances. It is this which determines the varying attitudes of countries. It is very difficult sometimes to define these things because there are so many species of fish which have migratory habits. They may be feeding and breeding in the shallow waters adjacent to our coast, but they migrate seasonally and go out into the open seas, where anybody can catch them and you cannot say, "it is our fish". The fish move from one coast to another in a sort of lateral direction also. We have got such countries as our neighbours also round about, where this problem may arise.

The fact is that there is a tremendous potential lying untapped. In fact, our country is one of the most backward in this respect. We have not been able to tap the immense potential lying there. We should see that once we codify these definitions in our statute, it implies that we should try to make some good use of it. Actually fishing near the coastal waters of our country, for example, would not be a very attractive proposition to distant water fleets. They do not come near our coast; they catch fish in the open seas. But we should be on our guard. Nowadays technology is moving in such a direction that powers which usually indulge in distant water fish catching can, with the help of mother ship, factory ship, etc. come very close to the coastal waters of other countries and carry on fishing, specially when that country concerned is somewhat backward in its development of fishing capacity by modern means.

All these questions arise and they are very interesting. I have no

doubt that as time goes on, we will have to face new problems and adjust ourselves, and perhaps even adjust our laws accordingly. Mr. Jagannath Rao asked about historic waters. I had also noted it down. There is no definition of historic waters in law. There is mention of historic waters, but nothing has been said as to what is meant by it. You may not specify it in the Bill here, but the minister should tell the House what is his concept of historic waters.

It is probably a happy coincidence that Parliament is discussing this Bill at a time when the Colombo Conference is in session. I saw today in the papers that Mrs. Bandaranaike in her inaugural address also has referred to the fact that this historic gathering of the heads of non-aligned governments should also discuss this question of the law of the sea and attempt amongst themselves to come to some common ideas, some common outlook on this question. It is very important. I hope that at the Colombo Conference India also will take some initiative in the matter and try, for example, to evolve at least as far as the non-aligned community is concerned, some sort of mechanism for settlement of disputes which may arise out of the law of the sea between ourselves. There are friendly neighbouring countries, countries with a colonial past, with the common objective of independent economic development, which are faced with new threats and pressures exerted by neo-colonialists and imperialist forces. At least among themselves they should try to evolve some machinery for the settlement of disputes which may arise from time to time among themselves, arising out of the law of the sea. Also, I hope they will try to evolve some methods by which there will be better co-operation in the settling of these maritime boundaries. As I mentioned the case of Bangla Desh and India, there are so many others. These are ques-

[Shri. Indrajit Gupta]

tions which the non-aligned countries can settle very well among themselves without waiting for anybody else. They can evolve a machinery for the settlement of disputes arising out of this law of the sea, a machinery for co-operation among themselves for settling maritime boundaries and mutual co-operation, which of course will not fructify overnight, for the beneficial transfer of technology among themselves, which is most important because technologically most of these countries are still far, far behind the advanced countries, and that is where we are at a disadvantage, but we cannot always safeguard our interests simply by putting down laws on paper. Laws on paper have to be backed by resources and technology which will permit us to really assert our national sovereignty and our rights against the more powerful Powers. So, there should be some arrangement also for beneficial mutual transfer of technology among these non-aligned countries who, after all, have got such great identity among themselves which is bringing them together in this great conference which is taking place now.

With these words I support the Bill and hope that I will get replies to some of the questions which I have raised.

MR. SPEAKER: I think we have exceeded the time far too much, and still there are three speakers left.

SHRI B. V. NAIK (Kanara): While welcoming this Bill, I would like to draw the attention of the hon. Minister to fishing which is of great importance to us and to our fishermen.

Entry No. 57 of the Union List mentions fishing and fisheries beyond territorial waters as a subject to be dealt with by the Central Government, but Entry No. 21 puts fisheries as such within the State List. I pre-

sume, therefore, that as far as management of fishing and the profession of fishing is concerned, within twelve nautical miles it will be the responsibility of the State Government and their Directorate of Fisheries, and beyond twelve nautical miles it will be the responsibility of the Union Government. Besides the administrative absurdity in such a concept that after twelve miles the Central Government officials take care of fisheries and the fishing profession and that within twelve miles the State Government officials will do the same, I want to know from the hon. Minister of Law whether it is possible to identify one single agency for the purpose of administering and managing the fishing trade as such.

The point which I am making is very valid, with due apologies to Shrimati Parvathi Krishnan, because the right of fishing of Indian seamen within 200 nautical miles from the coast has never been protected and preserved as such. In defining the exclusive economic zone we have said, "exclusive jurisdiction to preserve and protect the marine environment and to prevent and control marine pollution." I looked into the definition of the "designated areas", and there the same thing continues, because it says: "In regard to the continental shelf, sovereign rights for the purpose of exploration, exploitation, conservation and management of all resources". May I know from the hon. Minister whether, since the continental shelf has been defined as including all resources, this includes the marine biological resources also.

यानी जो दरिया में जिन्दा चीजें रहती उस को बायोलॉजिकल रिसोर्सज कहते हैं।

अध्यक्ष महोदय : दरिया में नहीं, बल्कि समुद्र में।

श्री बी० वी० नायक : जी हाँ, आप ठीक कहते हैं। जिस को हम मछली कहते हैं।

This is of such vital importance to our fishermen along our coastline of 3,500 miles. In view of the encroachment of these areas by aliens with superior technology as well as trawlers, I think a categorical assurance would go a long way.

Already, in respect of coastal fishing, even today our fishermen with mechanised boats go beyond twelve nautical miles. The point that has been raised by Mr. Rao is very valid. Already, fishermen from my area are quarrelling with fishermen from Goa. Fishermen from South Kanara in Karnataka are having a battle royal, a running battle, with fishermen coming from Tamil Nadu. Already there is that fierce war. We have our own sort of cod or mackerel or sardine war. They are not able to see eye to eye. Therefore, when you have defined fishing within the territorial waters as the business of the State Governments, do we give the State Government the exclusive right to prevent other people from coming in the designated area? I hope I have registered this point and that the hon. Minister will kindly give a reply. This is a plain question, almost a fisherman's question asking you whether I as an Indian fisherman have the full right upto 200 miles—tell me yes or no—and nobody, Russian, Japanese, Chinese or Taiwanese, will come into our waters. If that is protected, it will have a tremendous impact on our fisheries trade and on the growth of our trawlers, and there will not be this dog fight between the big and small fishermen.

Within the area of the exclusive economic zone you want to put the designated area and the contiguous zone, but if I have understood aright, the area of territorial waters was purely on the basis of the international power situation. It was an area which could be said to be within the gunshot of your mainland canons. But now, with the missiles that have

been added to the armouries of the world, no area of the earth is protected against the missiles.

Therefore, the meaning of an economic zone today has a significance; it has an economic significance. We congratulate the Minister. I hope that...

MR. SPEAKER: The hon. Member will continue after Lunch.

We adjourn to meet again at 2.00 p.m.

13.00 hrs.

The Lok Sabha adjourned for Lunch till Fourteen of the Clock

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

[MR. DEPUTY-SPEAKER in the Chair]

TERRITORIAL WATERS CONTINENTAL SHELF, EXCLUSIVE ECONOMIC ZONE AND OTHER MARITIME ZONES BILL—Contd.

MR. DEPUTY-SPEAKER: Mr. B. V. Naik to continue his speech.

SHRI B. V. NAIK: Leaving aside the question of the fisheries in regard to the exclusive rights of our fishermen, the next issue is with regard to the territorial waters. Clause 3 of the Bill says clearly:

“The sovereignty of India extends and has always extended to the territorial waters of India (hereinafter referred to as the territorial waters) and to the seabed and subsoil underlying, and the air space over, such waters.”

All along our coast there are those coastal strips lying virtually at zero altitude. The zero altitude of a particular area usually puts it be-

[Shri B. V. Naik]

low the high water-tide mark and above the low water-tide mark. In some parts of our country in an area as long as 100 k.m. there will be 20 to 30 thousand acres of land. There are no clear-cut land records existing in the States regarding these lands. These are known as salt lands, khar lands or salt water lands. As to whose clear jurisdiction it is, whether of the Centre or of the States, has not defined. I wish that the jurisdiction of this thing should be defined and it should be completely taken over by the Centre.

There is already a controversy in respect of the Backbay Reclamation in Bombay. In regard to coastal waters of India, in regard to those lands which are below the zero altitude, there is dispute as to whose jurisdiction it is. There is dispute whether it belongs to the Corporation of Bombay, the State of Maharashtra or the Union of India, as a national asset. In regard to our big metropolitan areas land out of sea-bed may be reclaimed for the purpose of constructing costly buildings, apartments etc. There are other lands which can be reclaimed from the sea. The Central Government must come out with clear statement on the ownership and right in regard to the administration of such pieces of land. Already adequate discussion has taken place at the time of the Constitution Amendment Bill. There are international implications of this particular Bill. The only thing which I would like to suggest is this. There are land-locked countries tying themselves up together among the international communities, not identifying their interests with developing countries. They are trying to go along with Czechoslovakia and other land-locked countries.

MR. DEPUTY-SPEAKER: Do you want that also to be provided in this Bill?

SHRI B. V. NAIK. This Bill, in its assessment, and in its ultimate analysis, will have to prove its credibility on the basis of international acceptance. There are controversies in the forums of United Nations regarding the problems of the developed countries with coasts and developed countries without coasts.

MR. DEPUTY-SPEAKER: I think you are going of the limit of this Bill.

SHRI B. V. NAIK: Sir, I will try to confine myself within the 200 nautical mile limits. I welcome the Bill to the extent certain areas are defined. There is provision in this Bill that you can alter even the territorial limits of 12 k.m. Alter for what? Alter for further extension or for reduction or alter your adjacent areas? Therefore, if it is a question of an administrative order subsequently to be taken by the Government, without the sanction here. I think the word 'alter' should be curtailed. It may mean reduction or extension.

With these words, I support this Bill.

DR. HENRY AUSTIN (Ernakulam): Sir, I support, this Bill. In fact this Bill is a sequel to the Constitution Fortieth Amendment Act, 1976. Those who have followed the prophecies of the traditional geologists and demographers may have noted the cynicism or pessimism about our future. From the dawn of the century, they were saying that by 2,000 A. D. we will have exhausted all our resources and that the fate of mankind would be far from desirable; would be disastrous. But, fortunately, for us, scientists, particularly, those working in the field of marine biology and related sciences pertaining to the sea have come out with scheme offering great optimism for the future; they have said that inexhaustible resources are lying concealed under the sea and with accelerated pace of the studies

of the sea resources, the concealed marine wealth can be exploited for the use of mankind. It was in this context that great articulation had been initiated in various countries particularly developing countries for the study of marine science and for the exploration of the resources of the sea. Thanks to the consistent movement or agitation that was carried on in the developing countries, particularly, by the non-aligned countries, the U.N. was moved to hold the Conference on the law of the seas. As everyone knows four sessions of this conference were already held and the fifth one is now currently being held in New York.

Fortunately, the Conference has been able to arrive at broad consensus at least on some of the major issues. And this Bill seeks to incorporate achievements so far of the Conference on the law of the seas. I happened to be in New York when our esteemed Law Minister was attending that Conference, I knew how lively it was and how effective the advocacy our own Law Minister had been to achieve some of our national aspirations in this regard at that Conference.

As everyone knows, India has a long coast line of 4,000 miles; our country includes about 1,280 islands and islets including the archipelagos of Andaman and Nicobar Islands and the Lakshadweep. This naturally makes us very much concerned about what is happening in the seas—in the Bay of Bengal, Arabian Sea and in the Indian Ocean—where we had enormous mineral resources concealed under the seas. On the western coast, in the Arabian sea—in the Bombay High and Bassein, regions we have been able to prospect and exploit oil, consequent upon the studies made about the existence of hydro-carbon in that area. As early as the later half of the 18th century, great marine biologists dis-

covered a largest fishbreeding centre known as the Wadger Bank in the seas of Trivandrum. Naturally, our country should become concerned, therefore, about the Seas and it is this concern that is reflected in this Bill that has been brought forward before us by the esteemed Law Ministers.

The most significant achievement of the conference on the law of seas is the establishment of what is called an exclusive economic zone. The traditional view, about the jurisdiction and rights of countries in regard to the adjacent seas was limited to what was called territorial waters extending only a few nautical miles from their Coast lines. But today because of these discoveries of the existence of vast resources in the seas, the concept of an economic zone was developed. This Bill seeks to establish an exclusive economic zone extending from the appropriate base line deep into the sea upto 200 nautical miles where we will have exclusive rights over living and non-living resources and jurisdiction for certain other matters such as scientific experiments.

Perhaps, we are late in this field. Already the U.S., Canada, Mexico, and France and in our neighbourhood Bangladesh, and Sri Lanka have taken legislative steps to establish this economic zone. Perhaps, our Law Minister has taken time to introduce this Bill because he was expecting further favourable outcomes from the current session now being held in New York. It is also perhaps the reason why we are saying in this Bill that Government will at appropriate time notify the time when these provisions will come into effect.

With respect to this 200 nautical miles exclusive economic zone we will have absolute sovereign rights for exploitation of living and non-living resources. Further, we will have jurisdiction over other matters including putting artificial islands or other installations for purposes of drilling and prospecting of oil.

[Dr. Henry Austin]

With regard to continental shelf earlier there was no clear cut, universally accepted limitation. Till today this subject is mainly dealt with in our country by Presidential orders. With the passing of this Bill the continental shelf will be fairly defined. The continental shelf will be earmarked from the appropriate base line extending right upto 200 nautical miles, the area of exclusive economic zone.

MR DEPUTY SPEAKER It may even be longer.

DR. HENRY AUSTIN Yes Sir, this law will undoubtedly bring much satisfaction to us by the establishment of areas for economic exploitation, but then there should be some laws regarding the seas beyond the exclusive economic zone because I believe that the entire sea should be the common heritage of mankind. Merely because we are going to establish the economic zone it does not mean that the mighty powers will have exclusive powers to do whatever they want in the high Seas of the world. For instance the much disputed Diego Garcia islands are hardly 800 miles away from my constituency. It is there that some big powers are building up a nuclear armament depot. This is of great concern to us. Even as we are concerned and are trying to bring necessary legal framework for the purpose of scientific and economic exploitation of the Seas we have also to be concerned about the security problem in our oceans.

As regards the 24 mile contiguous zone contemplated in that bill, there is the right of innocent passage but if warships have to pass it has to be with prior permission. But what about the 200 mile zone? Just out of the contiguous zone and inside the economic zone, there is a build-up of naval armaments. Security problems will become very vital. I suggest that this matter may also be brought up at the Law of the Seas conference. Of course, it is a wider question. I do

not want to bring it within the ambit of this Bill. But it being a matter of urgent importance to the weaker nations, particularly the non-aligned countries, I refer to it. You may feel that I am bringing in something which is irrelevant to our debate now, but if you have seen the TV reports of the yesterday's proceedings of the Non Aligned Summit Conference in Colombo, almost every speech made in the morning session yesterday highlighted this point of the military build up in Diego Garcia and interference with other people's affairs. In that view this is also a matter of vital interest to us and germane to this Bill.

I am sure after the Bill comes into force our scientists and others will have a great opportunity to exploit the mineral and fishery resources of our coastal regions upto the limit of the 200 mile economic zone. This is a long overdue Bill and I heartily welcome it.

श्री श्री हरि सिंह (खुर्जा) : उपाध्यक्ष जी, स्टदन में जा बिल माननीय विधि मंत्री ने प्रस्तुत किया है मैं उस का स्वागत करता हूँ। यह बिल हमारे देश के लिये बहुत ही महत्वपूर्ण है। प्रसन्नता की बात है कि हमारे विधि मंत्री जी का विधि सचची बड़ा अनुभव है और सी ला का फरेतेज जो दुनिया में हुई तीनों में उन्होंने क्रियात्मक रूप से हिस्सा लिया। उसी के अनुभव में यह बिल धारा है। सत्तार की जो इस सचध में सर्वमान्य मान्यातायें हैं उन्हीं के आधार पर यह बिल धारधारित है। यह बिल देश की सुरक्षा के लिये बहुत ही महत्वपूर्ण है। इस बिल की धाराओं और उप-धाराओं के मात हो जाता है कि देश की सुरक्षा के लिये खास तौर पर ध्यान रखा गया है। कोई भी आपारिक या अन्य प्रकार के जहाज यासानी से धा जा सकते हैं, उन पर एक कृष्ण कल्प की कोई बात नहीं है।

केविक-केव की सुरक्षा को ध्यान में रखते हुए इस बिल में इस बात का प्रावधान किया गया है कि बार जिया, सबमैरिन्स आदि और जंडा लगाये और पहले से नोटिस दिये हुये हमारे वाटर्स में नडा या सकते ।

इस बिल को पढ़ने से पता चलता है कि हमारे विधि मंत्री जी ने न केवल सुरक्षा का ध्यान रखा है, बल्कि आर्थिक परिस्थितिया का भी ध्यान रखा है । आज न केवल धरत, से बल्कि समुद्र से भी बहुत से पदार्थ मानव की भलाई के लिये निकाले जाते हैं । दुनिया की आर्थिक स्थिति और आर्थिक सत्रा में समुद्र का बहुत बड़ा रोल है, में उन बातों की और जिस समय आप का ध्यान नहीं ले जाना चाहता । लेकिन जा समुद्र से पदार्थ निकलने हैं उन का भी बड़ा महत्व है । 200 मीन का जा इकानामिक ज्ञान प्रेस्काईब कर दिया गया है इ; से हमारे मछुप्रा को समुद्र से पाया जाने वाली हजारो किस्म की मछिनयां का पकडने में आसानी होा, और उस से देश को प्रोटीन की आवश्यकता पूरा होगी साथ ही मछिनयां का विदेशी में भेज कर करोड़ों का विदेशी मुद्रा कमाया जा सकनी है जिन से हमारी आर्थिक स्थिति सुधरेगी । हमारे समुद्र में एक तरह की मछना हाती है जिस का टेन्ट सिगाडे की तरह उबलने के बाद होता है । वह भीन जैनी लगती है हमारी मछुप्राए उन मछनों को पकड कर करोड़ों रुपये की विदेशी मुद्रा देश के लिये कमायेंगे ।

इस बिल से जो हमारे पड़ोसी राज्यों की सकार्यें भी बहु भी हूर हो गई है क्योंकि हम ने निश्चित रूप से कह दिया है कि हमारा किसी देश से झगडा नहीं है, और न करना है । मामलीय इनरी आस्टिन साइड में डीक ही कहा है कि हमारे

बैज्ञानिक लोग समुद्र से अन्य शक्तियों की खोज करेंगे जिस से देश में नये नये परिकल्पन आयेंगे । इसी प्तरह से जो पेट्रोल की समस्या है वह भी जल्दी ही हल हो जायगी क्यां कि हमारे बैज्ञानिको ने पेट्रोल की खोज मे काफ़ी चमस्कारी काम किया है जो तारीक के योग्य है और उस से हमारी भाषा और साहस बढ़ना जा रहा है कि हमारा देश जा पेट्रोल के सर्बत में दूसरों पर भाधारित था वह अब हम को अपने ही समुद्र में मिल जायगा और हम आत्म निर्भर हो जायेंगे । इन लिये इस दिशा में भी यह बिल विशेष रूप से सुरक्षा देता है । यह केवन टैरिटोरियल वाटर्स की समस्या के सर्बत में ही नहीं बल्कि आर्थिक तथा और दूसरो महत्वपूर्ण समस्याओं के सर्बत में अच्छ बिल है । एक के बाद एक उन्धाराये रख कर हमारे समुद्र के प्रज्ञानन का जा समस्या की उस का हल कर दिया गया है । यही नहीं जा जहाज या दूसरे आदमी हम तरह का काई काम करेगे जो हम कानून के मुताबिक नहा हागा उस के लिये इ; बिन मे सजा का भा; ब्यवस्था है और अन्य अपराधों के लिये जो जो सजायें है उन का भी जिक्र किया गया है ।

यह बिल सम्पूर्ण है और में समझता हू कि देश की खुशहाली के साथ साथ सुरक्षा भी प्रदान करेगा तथा पड़ोसियों के साथ अच्छे सम्बन्ध बनाने में भी सहायता करेगा । इन शब्दों के साथ हम बिल का स्वागत करना हूं ।

H.R. GOKHALE): Sir, I am very grateful to the House because there has been a very satisfying and good debate. In fact, the standard of the discussion on this Bill has been fairly high. Although every one supported the Bill, so many points were referred to to highlight the importance of some aspects affecting the law of the seas. That is as it should have been.

In my opening remarks, I had very briefly attempted to point out the broad consensus which has emerged on some of the points which have been under negotiation and discussion in the Law of the Sea Conferences which have been taking place for the last so many years. Unfortunately, the impression generally held seems to be that the only major point in the law of the seas is the economic zone. It is no doubt a major point but not the only major point. In fact, there are many other issues of equally great importance which are being negotiated and discussed in the law of the seas conference and had been discussed in the previous conferences. The Bill does not take care of all these issues. We are here concerned with the provision of our maritime zones. With regard to other matters which are outside the scope of defining our maritime zones, the Bill does not say anything. It was not expected that a Bill of this type would say anything about other matters which do not pertain to our maritime zones.

There has been a consensus on the extent of territorial sea. We started with three miles under a Presidential Notification and then extended it to 6 miles. In the Caracas Conference which I attended as a representative of this country. I first said, it should be 12 miles. That was said on the basis of what was noticed as a general consensus in the countries participating in that conference. Today we are in a position to say that a very large majority of the countries participating in the conference, including the developed countries, have agreed that the extent of territorial waters should

be 12 miles. Even here it is not as if different distances were not claimed. Some countries claimed upto 30 miles, some up to even 100 miles. But today the position has emerged that 12 miles has been regarded as a general consensus with regard to the extent of territorial waters.

The same thing applies to contiguous zones. It begins, of course, from the same base line from which the territorial zone begins, but extends up to 24 miles, which means about 12 miles further ahead of the limit at which the territorial waters come to an end. The jurisdiction in respect of this contiguous zone is in certain matters like customs, fiscal matters, immigration, sanitary and such other matters, where ordinarily outside our territorial waters the jurisdiction of our country would not have extended and our laws would not have been applicable. So, this idea of a contiguous zone is another matter in which I think I can say safely there has been a general consensus at the Conference.

The third is with regard to the economic zone, which is most spoken of, not only in this country but all over the world, because it is a new idea which has emerged in the recent past. In article 297 of our Constitution, before its amendment by the Fortieth Amendment, there was a reference to the continental shelf, although the extent of the continental shelf and its definition was not given. But, for the first time, after the Fortieth Amendment, when article 297 was amended, there is a reference to other zones. Like the economic zone, the territorial waters, the contiguous areas and the continental shelf, and power is taken under the Constitution so that Parliament can pass appropriate laws in order not only to lay down the limits of the maritime zone but also to provide for certain other matters, which are closely connected with the use to which these zones would be put by our country.

The economic zone, as I said is a recent concept, comparatively speak-

ing, and I think our country should take credit for it that for the first time it was raised by us, along with certain other countries, when we insisted that it was to the utmost advantage, particularly of the developing countries, that an exclusive economic zone of 200 miles should be available for the full exploitation and exploration of the living as well as non-living resources in the economic zone. When we say that India has complete sovereignty, or will have complete sovereignty over the economic zone....

SHRI N. K. P. SALVE (Betul): Will it be complete?

SHRI H. R. GOKHALE: No, I am coming to that. When we say that we have sovereignty, it is not to say that the economic zone will become a part of the territory of India. Someone said earlier that when you are saying for an economic zone you have complete sovereignty, certain laws can be extended and made applicable to that area, as if it is a part of the territory of India. It is not so. So far as territorial waters are concerned, of course, they are part of the territory of India, but not the economic zone.

In the economic zone one will have exclusive right to explore and exploit the living and non-living resources, which will of course take in the right of fisheries, which will also take in the right of deep sea mining such as exploitation of mineral resources, and all available evidence indicates that there are plenty of it not only in the economic zone which will come to us, but all over the world, in many countries which will come under the economic zone, such minerals as, for example, copper, cobalt or mineral nodules of different types, which are available at the bottom of the sea.

MR. DEPUTY-SPEAKER: What is the meaning of "the designated area"?

SHRI H. R. GOKHALE: I am coming to that. For example, in the exclusive economic zone, even though the sovereignty to explore and
1392 LS-8.

exploit is there, the right of navigation of the international community is not hampered. Now, if areas are allowed to be designated, ultimately when it is brought into force, we would have to protect our rights in respect of our installations. For example take the Bombay High, where we have got oil wells, which are dug in many places. They are well within the economic zone and certainly within the continental shelf. If the areas are designated and some places were called reserved areas, by designating the same as designated areas, the navigation of certain ships through those areas will be regulated, or sometimes prohibited, so that our security installations are safe or what we are doing or what we are not doing there is not known to outside forces.

SHRI N. K. P. SALVE: In this area, are you entitled to have defence installations? Because, you have limited jurisdiction. I will make myself clear. In the exclusive economic zone the sovereign rights are for exploration and exploitation and for conserving ocean wealth. Section 6(b) speaks only of safety and protection of artificial islands, off-shore installations etc. Does it give you the power to put defence installations? I am asking this question because we have seen the invaluable work done at the Bombay High. You know how open and how vulnerable it is. So, this question has some significance. Could you have defence installations to protect your interest in the exclusive economic zone?

SHRI H. R. GOKHALE: Firstly, the provisions relating to designated areas here do not anywhere talk of any defence installations. The second thing is, they talk of designated area for certain purposes, where certain installations are there. In the economic zone navigation is free. But if certain areas are designated in respect of those designated areas certain regulations or restrictions can be put on navigation, so that our installations, or whatever we have there in respect

[Shri H. R. Gokhale]

of exploration or exploitation can be protected from outside view or from destruction or such other things. So far as this Bill goes, that is the limited purpose of providing for areas to be designated under this Act. What I was saying was that here we have got this idea of the exclusive economic zone.

The additional thing which has emerged with regard to the various zones is this concept of the continental shelf. As has been evident from the provisions of this Bill, while the idea of the economic zone depends on a distance of 200 miles, the idea of a continental shelf is not dependent on distance. It has got a geographical or geo-physical connotation. It may be that in given circumstances it may be beyond the 200 mile limit, which is part of the economic zone. I do not want to say here that our continental shelf goes or does not go beyond the 200-mile limit, but theoretically it is possible that the area which is covered by the continental shelf can be beyond the 200 mile limit of the economic zone. In any case, the right in respect of exploration and exploitation will continue up to the 200-mile limit; it would not be less than 200 miles. But if the continental shelf is beyond the 200-mile limit, then it is subject to this restriction that while in the economic zone we have got all the rights of exploration and exploitation, we have even got the right to control pollution, we have got the right for marine research and so on and so forth, if the area extends outside the economic zone but it is still within the continental shelf, then we have got the right, so far as exploitation of the resources on the ocean floor, that is, the bed of the ocean is concerned. We will be entitled to fisheries, which is limited to what is known as sedentary fish, which we will be able to take, but the water column which is above the floor up to the surface is free, that is available for everyone.

DR. HENRY AUSTIN: Suppose the continental shelf extends beyond 200

nautical miles which is the exclusive economic zone, will we have any security right in respect of that area beyond the 200 miles, if it is within the continental shelf?

SHRI H.R. GOKHALE: In respect of the economic zone, there is no doubt that we have got the exclusive right for exploration and exploitation, both in respect of the resources in the water column and at the bottom of the sea, on the sea floor.

MR. DEPUTY-SPEAKER: Not even fishing, only sedentary fish.

SHRI H. R. GOKHALE: That is beyond the economic zone, where we are outside the economic zone, but still within the continental shelf area, where we have got the right of exploitation of the sea bed or the ocean floor. Sedentary fish is regarded as part of the ocean floor resources, which can be exploited by us within the continental shelf areas.

The definition of the continental shelf was first evolved in the Convention which was signed in 1958, which is called the Geneva Convention. Subsequently, no Convention as such has yet been signed. There, of course, there was a very general definition given, which would mean that 'continental shelf' would include the shelf plus the natural prolongation of the coastal territory which was taken, the slope and the rise upto the end of the margin; it will all be covered within the continental shelf concept; the sub-soil area, and the bed area will be there. That is what is generally accepted now as the concept of the continental shelf and which is now taken in the Bill as defining the continental shelf because it is thought—and I think rightly—that on this aspect of the matter, there is no difference. There is substantially no difference even between the developed countries and the developing countries with regard to these four concepts—if I may repeat very briefly, the concept of territorial waters, the concept of economic zone, the concept of contiguous

zone and the concept of continental shelf.

One question has been raised—I expected that it would be raised—and that is, why is it that the two clauses of the Bill, namely, Clause 5 and Clause 7, one dealing with contiguous zone and the other dealing with exclusive economic zone, these provisions, are not being made effective immediately after the Bill receives the assent of the President. I had said earlier—and it was rightly pointed out by hon. Member, Shri Indrajit Gupta, in the course of his speech and I fully agree with him—that there should be no attempt to give an impression that we want to take any unilateral action. The whole thing is being discussed at the international level. While it is true that there is a consensus in respect of some of the matters, it is equally true that that consensus is still a consensus, it has not matured into a treaty which can be regarded as part of the existing international law. I hope there will not be any difficulty so far as these concepts are concerned. When they come, nobody will be in a position to say that, by taking unilateral action, depending only on the consensus, we have, by legislation, in exercise of our sovereign powers, done this or done that.

A reference was made by hon. Member, Shri Samar Mukherjee, to the legislation passed in the United States. The Congress has passed a legislation and there, of course, as far as I have been able to gather, it is limited to the right to exploit fishery resources upto 200 miles. There also, the legislation is not made effective immediately; it is to come into effect from March 1977. The whole idea was made clear by Dr. Kissinger when he spoke in the meeting, to which he referred, in New York; he said that, first of all, there should be no unilateral action; the second thing was that this would lend a certain degree of urgency to the deliberations of the Conference; every one was greatly disappointed and had, in fact, become pessimistic that this Conference had

dragged on from year to year for years to come and nothing concrete was coming out, and unless something like a push was made applicable, no final conclusion would be reached. I do not want to comment on what Dr. Kissinger said and to what extent he was right or not. But the fact is that he had said this in the meeting in New York, to some businessmen whom he was addressing; in that meeting, he spoke extensively about the American point of view regarding the Law of the Sea question. We do not wish to give any impression that we are taking any unilateral action...

SHRI N. K. P. SALVE: Irrespective of what they say.

SHRI H. R. GOKHALE: Yes, irrespective of what they say. We have not said March 1977. All that we have said is that it will be when the Government will, by issuing a notification, bring them into effect. Therefore, our option is open, to decide on the appropriate time when these provisions should be brought into force. In fact, we really give effect to the idea that there will be no unilateral action. It is not perhaps that clear in respect of the American legislation because there is a sort of ultimatum in that, that is, upto March 1977; then their law will be passed and they will go ahead with the exploitation of the resources of 200 miles, whatever the International Conference on the Law of the Sea may or may not decide. It is true that these are not the four things which really are important to the Conference. There are many more things of very great importance on which there has been no understanding, where we are far away from consensus yet. One such thing was referred to and, very appropriately, by Mr. Indrajit Gupta in his speech. Of course, as he said, as you go on fixing the zones,—he used a very appropriate word,—the area of the open high seas gets contracted. I think he said there is a shrinkage of the open sea. That is what he said. It does happen. To the extent you give exclusive rights to the coastal States,

[Shri H. R. Gokhale]

that part of it goes out of what will be the open sea for exploitation. Therefore, the people who want to have everything for themselves do look upon these things with a certain degree of resistance.

Now, in the last Conference in New York, not this one which is going on now, an attempt was made by the United States of America to introduce this principle that even though these economic zones are acceptable, for the purposes of other reasons they can still be regarded as part of the high seas. Now it was a contradiction in terms and we have resisted it and ultimately, it has not gone through. But this supports the idea that the shrinkage of the high seas does not become very palatable to some of the countries. If you go to the high seas, that is where really a substantial area of disagreement particularly between the developing countries and the developed countries has arisen.

Now, who will exploit the areas which are on the high seas and which have been regarded as the common heritage of mankind? My friend, Mr. Gupta, was right that the United Nations had passed a resolution in 1971, if I am right, laying down a certain moratorium with regard to the exploitation of those areas until a final treaty was signed or an agreement reached. The United Nations resolution in this respect, as in other respects, is, of course, of great moral value, but nothing more than that.

While, I know, for the purpose of commercial exploitation, this moratorium has so far been adhered to, attempts are being made in the Law of the Seas Conference where there is an encroachment, there is an attempt at an encroachment for themselves alone to explore these areas of the high seas to the detriment of an international authority which is called the International Sea-bed Authority which is sought to be established. Most developing countries have supported the concept of the constitution of an International Sea-bed Authority. So also

India. But now the conflict there, the discussion there and the difference there which has emerged out of this is that the International Sea-bed Authority may do it in the high sea areas which are the common heritage of mankind; but as for countries and authorities which are developed, which have got the technology, which have got the resources and which have got the wherewithal for exploring these areas, why should they be prevented from exploring these areas even though an International Sea-bed Authority is established? Now, this is resisted very much by us and by other developing countries. One reason is that if such a thing is allowed, there is a great danger of the International Sea-bed Authority itself becoming, what you call, a non-starter. Therefore, if it is to be a matter fully under the control of an International authority such exploitation or exploration of these areas, in addition to the exploitation by the International Sea-bed Authority, becomes extremely dangerous for other countries which do not have the resources. All the resources will be pooled. In fact the resources of the International Sea-bed Authority also, to a certain extent, will come from the countries which have got the resources and the money, and when they do not have the incentive to build up the International Sea-bed authority and they have got a right to go on, on their own, exploring these areas, the International Sea-bed Authority will be a mere dream. An international regulation of exploitation of these resources of the high seas will act sufficiently to the detriment of the interests of the developed countries...

MR. DEPUTY SPEAKER: Is there a convergence of interests of big powers in this regard?

SHRI H. R. GOKHALE: There is, to a certain extent. The big powers have converged on this. The point is really the question of the haves and the have-nots. Those who have the technology, those who have the money, those who have everything else which

is needed to carry on this on their own want to do it irrespective of whether or not...

MR. DEPUTY SPEAKER: Cutting across ideological lines?

SHRI H. R. GOKHALE: Yes, cutting across even ideological lines. This has happened. We have been discussing this, and a delegation of the Americans—with their leader who was also the leader in the conference in New York—as well as the Soviet Delegation came here and we have had long discussions with regard to these points of view. So far we have only parted where we were; but we have not given up hopes. We think, with sufficient pressure being brought by developing countries, some reasonable way out would be found whereby those who are in a position to exploit these resources will not do it to the disadvantage of developing countries. Mr Indrajit Gupta referred in his speech to non-aligned nations and the conference in—Sri Lanka. I heard the speech of the Prime Minister of Sri Lanka, Mrs. Bandaranaike, in regard to law of the sea. Some time before, our Prime Minister had spoken with regard to the new colonialism coming out of these disputes relating to law of the sea and the necessity of the countries coming together with their technology and resources to develop these on the basis of collective efforts. Probably the non-aligned conference must be the appropriate forum to give a push to this idea. In all the conferences which I have attended so far, our delegations have been trying to work in close harmony and cooperation with the Group of 77, and the other developing countries. By and large, regarding these major issues, an attempt was made to pose the issue which is to the advantage of the developing countries.

A reference was made to the question of scientific research in the economic zone. I have said, so far as scientific research in the economic zone is concerned, with regard to pollution and scientific research the coastal

State will have the jurisdiction. Here they were saying that in respect of fundamental research they should have the power to carry on research not only in economic zone but in territorial waters. These are matters which are pending discussion and solution at the international level, in the international sea conference.

As to pollution, particularly, with reference to pollution by oil by navigation, a convention was signed sometime back. India had signed that convention with regard to pollution of the sea by oil coming out of the ships. Our Merchant Shipping Act was accordingly amended. A question was asked as to what happens when other country's ships go there. It is true that there are some international immunities and it may be that these matters will have to be settled through diplomatic channels, through certain legal regulations and so on. These are matters which have to be taken care of by having appropriate legislation in this country as a follow-up action in respect of the legislation which this House is considering just now. Now, some questions were raised.—I think, that discussion is a little out of place here—with regard to the inter-State relations between State and State and the Union Government, whether fisheries are a matter for the States or whether it is a matter for the Centre. All these discussions, if I may say so, with respect, are irrelevant. That is an internal matter and, I think, that by regulations or by discussions or by negotiations, those matters can be easily settled.

My hon. friend, Shri Naik, was, for example very much keen to know as to whether, after 200 mile economic zone is set up, our fishermen will be entitled to go and fish in that area exclusively in the sense that the fishermen from other countries will not be able to go there. The answer is obvious that it really the Indian fishermen who alone will be entitled to do so. And that is why you will notice

[Shri H. R. Gokhale]

that in clause 5, there is an injunction that "no person including a Foreign Government, shall except under and in accordance with the terms of any agreement of the Central Government, or by a licence or a letter of authority granted by the Central Government, explore or exploit any resources of the exclusive economic zone." There is a proviso that:

"Provided that nothing in the sub-section applies in relation to a citizen of India. ."

This does not apply to a citizen of India. So, my hon. friend, Mr. Naik, need have any anxiety any longer.

With regard to the maritime boundary, in some cases, that has been settled by negotiations. For example, with Sri Lanka they have been settled. They have also been settled with regard to Indonesia. Discussions are now in progress with the other countries and they are still in the process of negotiations and we hope that even with regard to the other neighbouring countries, solutions advantageous to both the countries will be found. In fact, an attempt has been made in this regard.

SHRI H. N. MUKERJEE (Calcutta North-East). What about Burma and Bangladesh?

SHRI H. R. GOKHALE: I am coming to that. As I said already with regard to Sri Lanka and Indonesia boundaries have been demarcated already. Negotiations are going on with Burma, Bangladesh and Maldives with regard to maritime boundaries. Efforts also have been made to enter into negotiations with Pakistan and Thailand for the demarcation. If and when these negotiations come to a stage when we can say that an agreement has been reached; naturally it will be published and it will be known to everyone. An attempt has been made to find a solution by negotiations rather than by unilateral

action. Other questions were raised which were very valid. They were with regard to the historical waters. It was said this Act does not define the historical waters. It does not define the historical rights. It is well understood that so far as historical waters are concerned, they are those over which the coastal states effectively, continuously and, over a substantial period of time, exercise the sovereign rights with the acquiescence of the community of States meaning thereby that irrespective of the zones which are the result of an international law or any other legislation, by force of historical circumstances, certain waters have been recognised as such by a community of States which were affected by them. In the historical waters, we have the right to exploit or explore the resources. They are recognised as historical waters.

So far as Sri Lanka is concerned, with regard to the Palk Straits, by an agreement, they have been accepted as our historical waters on our side. With regard to the other part, discussions are going on and may be, some solution will be found with regard to that also.

I think I have already said about the pollution. I said that any discussion with regard to the federating Unions of India may not be necessary and may not even be proper to be entered into. At this stage, when we are discussing this Bill, I have tried to clarify the position with regard to the international sea-bed authority and the exploitation of the resources underneath the high seas which are the common heritage of mankind. I have also said about the scientific research in the economic zone and such other allied matters which form the subject matter of this legislation which is before the House for consideration to-day. Sir, I am very much thankful to the hon. Members for having taken such keen interest and raised issues of great importance. In fact, I would have been very much

disappointed if these issues had not been raised in the course of this discussion. I once again thank all the hon. Members for participating in the discussion and propose that this Bill be taken into consideration.

15 hrs.

SHRI H. N. MUKERJEE: Since it is the idea that developing nations should move as closely together as possible, may I know how in relation to the idea not only of historic waters which seems to me somewhat intangible but also with regard to the more concretely defined economic zone whether we have had discussions with such countries as Burma and Bangladesh because this idea of the economic zone extending to 200 miles or so on the part of both Burma and Bangladesh might lead to certain purely geographical problems which would have economic and other repercussions and those problems would have repercussions on us also? Since this is a legislation which is going to strengthen our hands in the task of having an international understanding, may I know if in regard to our own neighbours—who are all developing countries—we have had discussions which gave us tangible idea of concretisation of the economic zone and similar other devices which are mentioned in this Bill so that we can proceed in a more optimistic manner?

SHRI H. R. GOKHALE. In fact, there are two important matters about which I forget to mention. One was the land-locked countries and the other is regarding the islands like Andaman and Nicobar. But before I do that I would refer to what Shri Mukerjee said. First of all, I said that so far as demarcation of the maritime boundaries between India and Sri Lanka and India and Indonesia are concerned, an agreement has been reached. So far as other countries like Burma, Bangladesh, etc. are concerned, discussions are in progress. We have tried to open

negotiations even with Pakistan. The approach has been to settle the matters by negotiation and the conflict which would otherwise arise would be sought to be avoided on respect of all these countries.

Coming to Andaman and Nicobar islands, that has been a point on which there has been a difference of opinion between the position which we took at the last Conference and the other countries. Of course, Andaman and Nicobar islands are part of the territory of India. They are not archipelago States in themselves as some other archipelago States are but still they have all the characteristics of an archipelago. They are a cluster of islands. They have got their own internal waters and for all practical purpose they may not be distinguished from the other archipelago States. But in spite of the benefits which these islands and their clusters should receive on the basis of the various zones which are sought to be established we had been saying that these should be regarded as archipelagos and they should have status which other archipelagos have. There are about thirty such archipelagos all over the world. The other countries where similar questions have arisen have taken this attitude that though part of the mainland, they are archipelagos geographically and for all other practical purposes should be given the same status as full-fledged archipelagos. This has been resisted by other countries particularly the powerful countries and I would not say that the whole question is closed because we have raised it over again in this Conference being held at New York and will continue to raise it in future. Even though they are not recognised as archipelagos, the 200-mile limit is going to apply even on the basis of their being mere islands. But the point is that there are various other issues which arise when they are regarded as archipelagos, the question of internal waters and so on and so forth. Therefore, we are not satisfied with a status

[Shri H. R. Gokhale]

which is less than an archipelagic status for these islands, which are part of the territory of India.

Then with regard to landlocked states, we had taken, according to my submission, a very reasonable attitude at the conference because we ourselves are concerned very closely with some landlocked states like Nepal and Bhutan. We wanted to take a reasonable attitude. We decided that we recognise that even though these landlocked states are disadvantaged because they are not on the coast, they should not be completely denied all the benefits of the resources of the sea. This is the position taken by some other countries also in respect of landlocked states, but there is certainly no unanimity, consensus or understanding yet. We have been saying that while they should have the benefit of exploiting the living resources of the sea, they will not have the right to exploit the non-living resources of the sea, but all this, we said, will depend on mutual understanding and negotiations, because even if Nepal has to come to the seashore for exploiting the living resources, they will have to pass through the territory of India and such matters as the right to have a route or, for example, to lay down pipes or whatever is necessary can only be determined by mutual negotiations between the landlocked state and our country. But generally our attitude has been of sympathy and understanding so far as the landlocked states are concerned. No solution has yet been reached, but I hope as days go by in this conference or, may be, in the next, some way out will be found.

MR. DEPUTY-SPEAKER : The question is:

"That the Bill to provide for certain matters relating to the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India, as passed

by Rajya Sabha, be taken into consideration."

The motion was adopted.

MR. DEPUTY-SPEAKER: We take up clause by clause consideration.

The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Sovereignty over, and limits of territorial waters).

SHRI B. V. NAIK : I move:

Page 2, line 6,—

for "alter" substitute "extend"
(5)

I only want to ask the hon. Minister whether 'alter by notification...' means rejection or does it mean only extension.

MR. DEPUTY-SPEAKER: May mean anything.

SHRI H. R. GOKHALE: It is very easy. Alteration is a much wider term than extension.

MR. DEPUTY-SPEAKER: The question is:

'Page 2, line 6,—

for "alter", substitute "extend"
(5)

The motion was negatived.

MR. DEPUTY-SPEAKER: The question is:

"That clause 3 stand part of the Bill".

The motion was adopted.

Clause 3 was added to the Bill.

MR. DEPUTY-SPEAKER: Clause 4. Amendment No. 1 by Shri K. Narayana Rao. He is absent. The question is:

"That clause 4 stand part of the Bill".

The motion was adopted.

Clause 4 was added to the Bill.

Clauses 5 to 8 were added to the Bill.

MR. DEPUTY-SPEAKER: Clause 9. Amendments by Shri K. Narayana Rao—he is absent. The question is:

"Clauses 9 to 16 stand part of the Bill".

The motion was adopted.

Clauses 9 to 16 were added to the Bill.

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

SHRI H. R. GOKHALE: I beg to move:

"That the Bill be passed".

MR. DEPUTY-SPEAKER: The question is:

"That the Bill be passed".

The motion was adopted.

15.10 hrs.

CONTINGENCY FUND OF INDIA (AMENDMENT) BILL

**THE DEPUTY-MINISTER IN THE
MINISTRY OF FINANCE (SHRIMATI
SUSHILA ROHATGI):** Mr. Deputy-
Speaker, I beg to move*:

"That the Bill further to amend
the Contingency Fund of India Act,
1959, be taken into consideration."

The Bill seeks to further amend the Contingency Fund of India Act, 1950, for the purpose of raising the corpus of the Contingency Fund of India Rs. 30 crores to Rs. 50 crores. The Contingency Fund of India was established under article 267(1) of the Constitution in 1950 with a corpus of Rs. 15 crores to enable advances to be made out of it for purposes of meeting unforeseen expenditure pending authorisation of such expenditure by Parliament by law under article 115 or article 116 of the Constitution. The corpus of the Fund was raised to Rs. 30 crores in 1970.

Of the total corpus of Rs. 30 crores, Rs 2 crores have currently been placed at the disposal of the Ministry of Railways and the balance of Rs. 28 crores is at the disposal of the Ministry of Finance to meet the requirements of unforeseen expenditure of Civil, Defence and P & T Departments.

The augmentation of the corpus of the Contingency Fund in 1970 followed the recommendation of the Administrative Reforms Commission that the corpus of the Fund should be enhanced to enable funds being found for urgent schemes and projects which could not be postponed till supply by Parliament. Another contributory factor was the convention then established in pursuance of the recommendations of the Public Accounts Committee that additional requirements for investments in or loans to public sector undertakings and private concerns, grants to private institutions and certain types of subsidies, in excess of certain limits, even where these could be met by reappropriation of savings should be treated as expenditure requiring specific parliamentary approval. This necessitates recourse in urgent cases, to the Contingency Fund, if adequate time to seek supplementary provisions from Parliament is not available. The corpus of the Fund was temporarily raised to Rs. 100 crores from 9th February to 30th

*Moved with the recommendation of the President.