

MR. CHAIRMAN: There are no amendments. The question is:

"That Clauses 2 to 7, Clause 1, the Enacting Formula and the Title stand part of the Bill".

The motion was adopted.

Clauses 2 to 7, Clause 1, the Enacting Formula and the Title were added to the Bill.

DR. V. A. SEYID MUHAMMAD:
Sir, I beg to move:

"That the Bill be passed."

MR. CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

17.35 hrs.

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

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): I beg to move:*

"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."

This Bill is a sequel to the Constitution (40th Amendment) Act, 1976 which was passed by Parliament on 27th May, 1976. It provides for the limits of India's maritime zones and defines the nature, scope and extent

of India's rights, jurisdiction and control in relation to various maritime zones. It also provides for a general legal framework pertaining to which separate legislation dealing in greater detail with the regulation of exploration and exploitation of particular resources or particular groups of resources such as petroleum, natural gas, mineral and fishery resources may be adopted.

This Bill, I need hardly emphasise, is of considerable importance to our national interests. Hon. Members are aware that India has a long coastline of over 4000 miles. The Bay of Bengal on the east, the Arabian Sea on the west and the Indian Ocean in the South wash the shores of our peninsula. We have over 1280 islands and islets, about half of which constitute the Archipelagos of the Andaman and Nicobar Islands on the one hand and the Lakshadweep on the other. Our continental shelf, slope and the rise, together known as the continental margin, extend beneath large areas of the Bay of Bengal and the Arabian Sea. The seabed of the Bay of Bengal has unique characteristics and has thick piles of sediments which promise rich mineral and other resources. We have already located petroleum resources underneath some portions of our continental shelf. The concept of continental shelf is therefore of national interest to us as it will contribute to India's economic development at a faster pace.

India's off-shore areas are also rich in fishery resources. There is good scope to increase and improve our fish catch, which will give a higher satisfaction to our fishermen, supply cheaper protein food to our people, increase our exports, and provide additional employment in related industries and facilities. A 200-mile economic zone is therefore in our national interest as well as of all developing countries.

* Moved with the recommendation of the President.

The concept of the exclusive economic zone, promoted initially by the developing countries for a rational distribution of the resources of the sea, has gained universal acceptance as is evident from the deliberations in the UN Conference on the Law of the Sea since 1973. The Conference has by now held four sessions and the fifth session is currently being held in New York and among its important achievements is the establishment of the economic zone, extending to 200 nautical miles from the coast which gives to a coastal state sovereign rights over its living and non-living resources and exclusive jurisdiction over some other matters, including the conduct of scientific research and the control of maritime pollution. Several States, including the USA, Mexico, Canada and France and our neighbours Bangladesh and Sri Lanka have already taken legislative and other steps to establish their jurisdiction in their zones.

The broad consensus of the conference on the Law of the Sea may be summed up as follows: (1) A coastal state may establish a territorial sea of upto 12 nautical miles measured from the appropriate baselines; within the territorial sea a coastal state enjoys sovereignty and ensures innocent passage to foreign ships; (2) a coastal state may also establish a contiguous zone, adjacent to its territorial sea, upto 24 nautical miles measured from the appropriate baselines, wherein it has control over customs, fiscal, immigration, sanitary and other matters; (3) a coastal State may establish an economic zone of up to 200 nautical miles from the baselines from which its territorial sea is measured. Within this zone, the coastal State has sovereign rights and exclusive jurisdiction in the matters referred to by me a little earlier; and (4) a coastal State, in addition, has sovereign rights over the seabed and ocean floor beyond

its territorial sea up to the outer edge of the continental margin, or up to 200 nautical miles where such outer edge does not extend up to that distance. These rights pertain to petroleum, gas and other mineral resources, the sedentary fishery resources, the establishment of islands and installations and in respect of drilling.

Bearing in mind the above conclusions and the steps taken by other States in protecting their national interest, we have reflected over our position concerning the law of the sea. Outer limits of the territorial sea and the regime of the continental shelf are at present regulated by Presidential Proclamations. We needed a legislative cover for petroleum operations on the continental shelf. While preparing a comprehensive legislation on the law of the sea, we could not ignore the developments which have taken place in the field during the past decade.

Accordingly, article 297 of our Constitution has been recently amended by Parliament. The Constitution (40th Amendment) Act, 1976 whereby all lands, minerals and other things of value underlying the ocean within the territorial waters or the continental shelf or the exclusive economic zone vest in the Union and are held for the purposes of the Union. This article also provides that the limits of the territorial waters, continental shelf, exclusive economic zone and other maritime zones of India shall be such as may be specified, from time to time, by or under any law made by Parliament. Thus, the concept of the exclusive economic zone which has been generally accepted at the Law of the Sea Conference and in emerging State practice has been included in the Constitution and the resources of this zone vest in the Union of India.

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The salient features of the Bill now before this House, which consists of 16 clauses are as follows:

(i) Section 3(2) extends the territorial waters of India 12 nautical miles measured from the appropriate baselines.

India has sovereignty over the territorial waters. However, according to section 4, while foreign merchant ships are given the right of innocent passage, foreign warships, submarines and other under-water vehicles are required to give prior notification before they traverse the territorial sea.

(ii) Section 5 provides for the contiguous zone, which is an area beyond and adjacent to the territorial waters, but extends to 24 miles from the baselines from which the limits of the territorial waters are measured. In this zone, India will have jurisdiction with respect to security, immigration, sanitation, customs and other fiscal matters.

(iii) The continental shelf of India has been defined under section 6 to comprise the seabed and subsoil of the submarine areas that extend beyond the limits of its territorial waters throughout the natural prolongation of its land territory up to the outer edge of the continental margin or to a distance of 200 nautical miles from the baselines from which the limits of territorial waters are measured where the outer edge of the continental margin does not extend up to that distance.

(iv) Section 7 deals with the exclusive economic zone of India which is defined to extend to 200 nautical miles from the appropriate baseline along the coast. Within the exclusive economic zone, India will have sovereign rights for the exploitation of the resources, both living and non-living, and exclusive rights and

jurisdiction in certain other matters specified in section 7(4), such as the establishment of artificial islands, installations and other structures, conduct of scientific research and control of marine pollution.

It will thus be observed that while the limits of continental shelf are defined in terms of geomorphological features, the limits of the exclusive economic zone are defined in terms of distance from the coast. Further, whereas jurisdiction within the economic zone will be comprehensive, the jurisdiction in the continental shelf beyond 200 miles will be restricted to the seabed and its resources. The resources of the water column beyond 200 miles will be free.

(v) Provisions have also been made in the Bill for specifying the limits of historic waters over which India has sovereignty, such as those in Palk Bay and Gulf of Manasar between India and Sri Lanka, for demarcation of maritime boundary between India and the other States concerned whose coasts are opposite or adjacent to those of India; for the publication of charts, for offences and trial, and for making rules under the Act and the removal of difficulties in giving effect to this Act or of any other enactment which may be extended to the maritime zones of India.

Hon. Members may please note that under Section 2, the provisions of the Bill concerning the continuous zone and the exclusive economic zone will come into force on such date or on such different dates as the Central Government may, by notification in the Official Gazette, appoint. This will give us an opportunity to further assess the outcome of the discussions at the U.N. Conference on the Law of the Sea concerning the contiguous zone and the exclusive economic zone. The other provisions of the Bill will come into force as soon as the Bill has been

passed by both the Houses of Parliament and has received the assent of the President of India.

I now, therefore, commend the Territorial waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Bill, 1976 for the consideration and passing by this hon. House.

MR. CHAIRMAN: Motion moved:

"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."

SHRI JAGANNATH RAO (Chattrapur): Mr. Chairman, Sir, I support the Bill. While doing so, I wish to make some general observations. When the Constitution's 40th amendment was discussed, I took part in the debate and referred to Article 297 which was substituted for the old article. The old Article 297 in the 1950 Constitution did not contain any reference to the continental shelf which was now included. Much water has flown after 1950 in international law and the international community about the extent and limit of the territorial waters, the continental shelf, i.e. the exclusive economic zone, the maritime zone and so on. I am glad that this Bill has now been brought forward describing the extent of various maritime zones concerning India which are very important to us in our economic development and for peace of the country.

As the hon. Mover of the Bill has pointed out that clauses 5 and 7 will come into force on such date as the Central Government, by notification in the official gazette, appoint. Continental shelf is an area which is 200 miles beyond the limit of the territorial waters i.e. 12 plus 188 in other words, 200 miles from the base line

of the coast. I do not know why it should be postponed to a future date to be notified by the Central Government in official gazette. The exclusive economic zone which is synonymous with continental shelf, is extended beyond 200 miles. It is called continental margin which extends beyond 200 nautical miles with a depth of 200 metres and it can go beyond that area till the point where the depth is 200 metres and capable of exploitation. That is understood in international law. If this clause does not come into force though the Bill defines the extent of this area, the only advantage we may have by passing the Bill is to establish our right to these areas and the power that is given to us, is notified to general public and international community. I still call this Bill as an enabling Bill because clauses 5 and 7 will come into force later. I understand some difficulties in regard to this because the international community may misunderstand us, thinking that we have taken a particular action unilaterally. But my submission in this regard is that there is a consensus in the international community, in the International Conference on the Law of the Seas, about these two things: the territorial waters and their limits, the continental shelf and the exclusive economic zone extend to 200 nautical miles and beyond. There is no difference of opinion on these points. The difference is on the other points, to which I will come later. I do not think we will be annoying or displeasing any friendly country by saying that these two clauses also will come into force on the day the Bill receives the assent of the President. Whatever it is, this is my personal submission.

If you look to international law, you will find that it is practically based on conventions and usages. The whole trouble started in 1945

[Shri Jagannath Rao]

when the U.S. President Mr. Truman unilaterally declared the sovereignty of the United States over the sea and the sea-bed upto 200 nautical miles beyond the territorial waters. Soon followed other countries: Chile, Ecuador and Peru who also extended even their fishing rights upto 200 nautical miles. Therefore, when this trouble started, every country wanted to exercise its nationalist claims; naturally, every coastal State. Therefore, in 1958 when the United Nations Conference on the Law of the Seas met, the following positions were clearly put before the international community:

- (1) a 12-mile limit of territorial waters;
- (2) freedom of navigation on the High Seas, over-flights and laying of submarine pipes and cables;
- (3) permission to the coastal States to regulate fishing around and even beyond 12 nautical miles; and
- (4) provision for the national exploration and exploitation of the continental shelf resources.

This was the position agreed to from 1958; but still the 1958 conference, could not come to an agreement. In the second conference held in 1960, they could not come to an agreement. In the third conference in 1973—which spilled over to 1974, i.e. the Caracas conference—the position was somewhat clear. In that first Conference on the Laws of the Seas, it was also provided that the States have sovereign rights to the sea-beds and the sub-soil, the submarine area adjacent to the ocean to a depth of 200 metres or beyond that limit to where the depth of the superjacent waters admits of the exploitation of the natural resources of the said area.

From then on started, naturally, the claims of every State, to extend their sovereignty and the rights and control over the areas where exploration and exploitation were possible for natural resources.

Then in the conference which was held in New York in April, 1976.

AN HON. MEMBER: It is still being held.

SHRI JAGANNATH RAO: Our Indian delegation was led by Mr. Gokhale. There was a large consensus on these matters of territorial waters, continental shelf and the exclusive economic zone. This has been agreed to. I came across a statement by Dr. Henry Kissinger made at a luncheon meeting in New York on 8th April 1976,—I had occasion to refer to this when I spoke on the last Constitution (Amendment) Bill—where he mentioned these things, viz. that such-and-such was the broad consensus that was arrived at. But what remains to be done is more important than what we have been able to achieve. If we do not come to an agreement, it will be a still-born child. What remains to be decided, first, is about the marine environment, exploitation of deep sea bed, scientific resources etc.

Who is to control marine environment, how to control it, whether the coastal States should be given the exclusive power, or the international community, should have also a share in it or they should have an international control authority for the purpose, all these questions are yet to be decided.

The most important thing is how to exploit the sea bed resources, both organic and inorganic resources, and who should exploit it, whether the coastal States should be given the exclusive powers, or there should be an international sea bed resources authority, consisting of representa-

tives of the member-States, how should they do it, what should be its composition, what should be its powers, how to control the exploitation provision and how to settle disputes. This is a very ticklish question which is pending, and unless this is settled there can be no exploitation by the coastal States.

A third important question is marine research. We do not have practically any marine technology in our country except some technology, may be, about fisheries. Regarding the exploitation of the deep sea bed for mineral resources we have not got the technology. On this point also the international community is very much worried. There are two views. One is whether the consent of the coastal State should be obtained, if necessary, or they can do it themselves, without obtaining a letter of authority or permission. On that they have not decided.

There is also a further distinction between marine research and fundamental research. These are all questions which are pending before the Conference, which is currently going on, and unless these questions are settled, exploitation of the deep sea bed would not be feasible.

Meanwhile, what I suggest is that we should develop our own technology regarding marine sea bed exploration and exploitation, so that we can ourselves proceed on that.

The deep sea bed beyond the continental shelf or the continental margin is supposed to contain manganese nodules like baked potatoes which contain manganese, copper, nickel, cobalt and so many other valuable metals. So, further exploitation of that region is very important. Only two or three countries in the world, USA, USSR and perhaps Japan have the necessary technology. I was surprised to find that the United States is also interested in an international resources authority to be appointed so that the benefits of this research could be shared by the entire world community, including countries with small coastlines and small zones. There are 20 countries with small zones, there are 30 land-locked countries and 20 more countries with small zones. Even the land-locked countries want a share in this exploitation.

MR. CHAIRMAN: Would the hon. Member like to continue his speech the next day?

SHRI JAGANNATH RAO: Yes.

MR. CHAIRMAN: He might continue his speech tomorrow. The House stands adjourned to meet again at 11 a.m. tomorrow.

18.00 hrs

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, August 17, 1976/Sravana 26, 1898 (Saka).