

THE PATENTS BILL, 1967

THE DEPUTY CHAIRMAN : Now we go on to the next Bills, the Patents Bill and the Indian Patents and Designs (Amendment) Bill. For both these Bills the Business Advisory Committee has allotted one hour. I seek your cooperation to finish them in one hour.

SHRI PITAMBER DAS (Uttai Pradesh) : I would like to suggest that since the Business Advisory Committee has allotted only one hour for both these Bills and as the first one namely, the Patents Bill, has to go to the Joint Select Committee, we now pass it on without discussion and discuss it later when the Report of the Committee comes. The other one we can discuss today.

THE DEPUTY CHAIRMAN : There is only one hour. I do not want to waste time.

SHRI BHUPESH GUPTA (West Bengal) : My friend will understand— this is a very important Bill. In fact, we should have discussed this much longer ago and sent to the Select Committee. For the last ten years this Bill has been pending. The Joint Select Committee will do the job. I submit to the decision of the Joint Select Committee. I am very sorry that because of the Government's attitude such an important Bill is being referred to the Joint Select Committee with one hour's discussion. Anybody would say that the Patents Bill is so important a matter that it calls for an initial discussion for a much longer time. Therefore, I say, there is no use on our getting agitated with the Business Advisory Committee's time. It is becoming a farce, the arrangement of business there. For ten years the Bill has been pending . . .

THE DEPUTY CHAIRMAN : Your party is represented.

SHRI BHUPESH GUPTA : I would ask you to waive that rule and allow it to be discussed longer. For the last 10 years, under the pressure of these foreign companies, the Bill has been sabotaged. Now it has come. It is good that it has come in the national interests. I think hon. Members from both Houses should be given a better chance of giving expert opinion or whatever opinion they have for the consideration of the Joint Select Committee. I am very sorry. You can deal with the Bill with-

in one hour. But this Bill is one which calls for a much more serious discussion. The Leader of the House would kindly note: He must treat Parliament seriously. Nowadays I find that the whole number of business is brought and thirty or ten minutes are given. Are we East Bengal refugees here that we are to be satisfied with the little doles?

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS (SHRI K. V. RAGHUNATHA REDDY): Madam Deputy Chairman, with your permission, I beg to move:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to amend and consolidate the law relating to patents and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee, namely :—

1. Shri S. K. Vaishampayan,
2. Shri Krishan Kant,
3. Shri R. P. Khaitan,
4. Shri Arjun Arora,
5. Shri T. V. Anandan,
6. Shri Om Mehta,
7. Shri K. V. Raghunatha Reddy,
8. Shri Pitamber Das,
9. Shri Dahyabhai V. Patel,
10. Shri Godey Murahari, and
11. Shri C. Acfiutha Menon." I also

beg. to move :

"Th*t the Bill further to amend the Indian Patents and Designs Act, 1911 . . ."

SHRI BHUPESH GUPTA: I object. This procedure is wrong. On a point of order, Madam. You sit down. I am on a point of order.

THE DEPUTY CHAIRMAN: You cannot ask him to sit down.

SHRI BHUPESH GUPTA : Through you. These are two separate Bills

[Shri Bhupesh Gupta.] by the name Patents, one is the Patents Bill and the other is the Indian Patents and Designs (Amendment) Bill. Never two Bills are taken up together. First, the first Bill has to be gone through and then the other will come. I am afraid gradually we are altering the rules merely for expediency's sake. I do not know what will be the fate of this Bill. The two discussions should not be mixed up at all. You have first to get through that particular Bill. You cannot move in the same speech two Bills. You cannot simply do that.

THE DEPUTY CHAIRMAN : Having said that, let Mr. Reddy carry on.

SHRI BHUPESH GUPTA: What is the ruling?

THE DEPUTY CHAIRMAN: We are taking up both together. Voting will be separate.

SHRI BHUPESH GUPTA : He cannot move the two Bills together. I am rising on a matter of principle. I would not normally object to it. But here I will not allow. I have to point out the rules of the House. I find that constantly we are playing ducks and drakes with the Rules of the House. I have not seen when two Bills are moved together of this nature. If two Appropriation Bills are there, sometimes they are moved together because they fall in the same category. These are two separate types of Bills.

THE DEPUTY CHAIRMAN : Read the second Bill carefully. Please understand the clauses in the first Bill. The clauses contained in the second Bill are contained in the first Bill.

SHRI BHUPESH GUPTA: It is nothing but two Bills.

THE DEPUTY CHAIRMAN : Mr. Gupta, please read it . . .

SHRI BHUPESH GUPTA : You just put down so that I can pursue it with the Chair. Show me the rules and then say that this is not the rule. Let it be properly recorded so that we can take it up with the Chair that the two Bills cannot be taken up together.

THE DEPUTY CHAIRMAN: I have given my reason.

SHRI BHUPESH GUPTA: Your reason is one thing. I submit not to your reason. I submit to your ruling. According to me the ruling is illegal.

THE DEPUTY CHAIRMAN : Mr. Reddy, will you continue now?

SHRI K. V. RAGHUNATHA REDDY : Madam Deputy Chairman, on behalf of Shri Fakhruddin Ali Ahmed, I beg to move :

"That the Bill further to amend the Indian Patents and Designs Act, 1911, as passed by the Lok Sabha, be taken into consideration."

Madam Deputy Chairman, as far as the Bill before the House, which is being referred to the Joint Committee, is concerned, the hon'ble Members of this House are fully aware of the fact that this Bill had been once previously referred to the Joint Committee but due to the dissolution of the Lok Sabha the Bill could not be passed at that time. I may also recall to the hon'ble Members a very short history of the Patents legislation sought to be introduced in Parliament.

Madam, the existing Act of 1911 is found to be out-dated and not in consonance with the needs of the economic development of this country and the various changes that have taken place either in the field of science and technology or the economic life of our country. Therefore, it was found to be necessary that a Patents law which would satisfy and serve the needs of the country would have to be introduced so that it should become the law of the land. For this purpose, Madam, in 1953 the Patents Bill was introduced on 7-12-1953 but it lapsed on the dissolution of the first Lok Sabha.

Then in 1957 the Government thought it necessary that experts should go into this problem, and for that purpose they appointed a committee under the Chairmanship of Justice Rajagopal Ayyanger to study the entire Law of Patents that was available in other countries of the world and also try to see in what manner the Patents Law of this country could be legislated.

Justice Ayyanear submitted his report on 15-9-1959. A Bill was introduced in the Lok Sabha in September

1965 and it was referred to the Joint Committee on the 25th November, 1965. The Bill was presented to the Lok Sabha on the 1st November, 1966 and this time also, perhaps by a historical accident, the Lok Sabha got dissolved and the Bill . . .

SHRI BHUPESH GUPTA: Not by historical accident but by constant pressure because foreign interests have seen to it that the Bill was sabotaged.

SHRI K. V. RAGHUNATHA REDDY : The hon'ble Shri Bhupesh Gupta will get his chance. He can then say what he likes to say. Now I am on my legs. I hope he would permit me to finish the speech so that enough time is available to the honourable Member. . .

SHRI BHUPESH GUPTA: Why are you not telling the truth?

SHRI K. V. RAGHUNATHA REDDY : The Joint Committee which was appointed by the previous Lok Sabha and the Rajya Sabha had gone into every aspect of the law and on the basis of the recommendations made by the Joint Committee, the present Bill before this House, which is again being referred to the Joint Committee, has been drafted. Therefore, I do not wish to take the time of this honourable House in trying to recall, explain and expound the various provisions that are contained in this Bill because most of the hon'ble Members are quite familiar with the provisions of this Bill. The Joint Committee had gone through the whole matter very elaborately for a long period.

Therefore, Madam, I commend to this hon'ble House to accept this resolution referring this Bill to the Joint Committee of both the Houses.

SHRI BHUPESH GUPTA: Is the other one also being referred to the Joint Committee?

SHRI K. V. RAGHUNATHA REDDY : No, Madam.

SHRI BHUPESH GUPTA: I still maintain that it is not being done properly. I still request you to call a meeting of all of us and we shall submit to you that it is irregular that it is patently irregular and against rules. 6—31 R.S./68

SHRI K. V. RAGHUNATHA REDDY : The Bill before this House which I have moved has already been passed by the Lok Sabha. The reasons for coming before this House for passing this legislation are briefly as follows:

The Bill which I have moved, Madam, for consideration is for the purpose of replacing the Indian Patents and Designs (Amendment) Ordinance, 1968, promulgated by the President. . .

SHRI M. M. DHARIA (Maharashtra) : Madam Deputy Chairman, I think the point of order raised by Mr. Bhupesh should be disposed of . . .

SHRI BHUPESH GUPTA: You cannot expect us to bear with this thing. We would like to know the rule. Is it just because the Secretary has told you something? Please tell us which rule applies . . .

THE DEPUTY CHAIRMAN: Please sit down. You must not get up as soon as any hon'ble Member gets up . . .

SHRI BHUPESH GUPTA: We obey you when you give your ruling. Tell us which rule. Madam . . .

THE DEPUTY CHAIRMAN: Mr. Gupta, please take your seat. Mr. Dharia has taken the floor and it is very wrong of you to stand up . . .

SHRI BHUPESH GUPTA: It is just because you want it? If the rules are not observed from the Chair, shall we violate the rules?

THE DEPUTY CHAIRMAN: Your behaviour is not commendable.

SHRI BHUPESH GUPTA: As if we do not know the Parliamentary procedure . . .

SHRI M. M. DHARIA: Madam Deputy Chairman, may I appeal to Mr. Bhupesh Gupta not to get excited. I am supporting his contention. I also feel that the point of order raised by Mr. Bhupesh Gupta has not been disposed of . . .

THE DEPUTY CHAIRMAN : I do not know whether you were there . . .

SHRI M. M. DHARIA: May I request you to reconsider the whole issue because we are creating a bad precedent which is not a proper precedent.

[Shri M. M. Dharia]

These are two different Bills, and if they are to be considered, naturally they should be separately considered. He has been urging upon you. I feel. Madam you please reconsider.

THE DEPUTY CHAIRMAN: If the House so desires, we shall take half an hour on each Bill because one hour is given to both the Bills.

SHRI BHUPESH GUPTA: That is not the point. The two Bills have to be taken up separately. He is moving the two together . . .

THE DEPUTY CHAIRMAN: I do not think we should behave this way. I am now accepting the suggestion. Since the House so desires and as one hour is allotted to the two Bills, the two Bills will have thirty minutes each. There will not be more than one hour.

SHRI M. M. DHARIA : I agree.

3 P.M.

THE DEPUTY CHAIRMAN : I shall very strictly apply the time limit.

SHRI BHUPESH GUPTA: But why did you give that ruling?

THE DEPUTY CHAIRMAN : My ruling was right. Mr. Bhupesh Gupta, you need not ask Mr. Govinda Reddy. He was in the Business Advisory Committee. Mr. Menon was also there. They decided that the two Bills should go together. Please listen to me, Mr. Bhupesh Gupta. It is the Business Advisory Committee that suggested this. Therefore, there is nothing wrong in taking the two together, but if the House does not want it . . .

SHRI BHUPESH GUPTA: The Business Advisory Committee cannot do that. I am not blaming you. The Business Advisory Committee's job is not that.

THE DEPUTY CHAIRMAN: Please sit down. The Business Advisory Committee has also intelligence and knows the rules of business. You please sit down. It is impossible if you go on with a running commentary . . .

SHRI BHUPESH GUPTA : No, Madam . .

THE DEPUTY CHAIRMAN : Please sit down. Now that the House does not want to accept the suggestion made by the Business Advisory Committee, personally I can say, there is nothing wrong because in the second Bill there are clauses which are contained in the first one. But if there is opinion on this side and that side that these two should be taken separately, there is one hour allotted to these two Bills, and I shall very strictly impose the time limit and give 30 minutes to the first and 30 minutes to the second, whichever way. It makes one hour. Now, I shall . . .

SHRI BHUPESH GUPTA: No, Madam, . .

THE DEPUTY CHAIRMAN : Please take your seat. Mr. Bhupesh Gupta, you are threatening every week like this.

SHRI BHUPESH GUPTA: I am very sorry. You are not to blame at all. The Government is to blame for it. The House and the Secretariat should cooperate with us. They should point out to the Government that this is like this. A free and reasonable discussion is not conceivable within half-an-hour's time.

THE DEPUTY CHAIRMAN: Please sit down. I don't want you to say anything, Mr. Bhupesh Gupta.

Motion moved:

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to amend and consolidate the law relating to patents and resolves that the following members of the Rajya Sabha be nominated to serve on the said Joint Committee, namely:—

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- 4 Shri Arjun Arora,
- 5 Shri T. V. Anandan,
- 6 Shri Om Mehta.
- 7 Shri K. V. Raghunatha Reddy,

8. Shri Pitambar Das,
9. Shri Dahyabhai V. Patel,
10. Shri Godey Murahari, and
11. Shri C. Achutha Menon."

Now we will begin discussion on the first Bill.

SHRI BHUPESH GUPTA: How many seconds has it got?

THE DEPUTY CHAIRMAN : Now, Mr. Chinai.

SHRI BABUBHAI M. CHINAI
<Maharashtra>: Madam, . . .

SHRI BHUPESH GUPTA: You are turning Parliament into a farce.

SHRI BABUBHAI M. CHINAI: Madam, the main object of the Bill is to encourage development and exploitation of new inventions for industrial progress in the country and the flow of technology from abroad into India. The question is whether the present Bill serves this purpose? An objective examination of the various provisions of the Bill discloses that while the Bill maintains the semblance of a legal patent structure, the changes it seeks to introduce—in such matters as the duration of patents, the grant of licences of right, and the Government use of inventions without compensation—will undermine the entire purpose in view. It will ultimately lead to a situation in which inventors will guard their inventions as secrets and will not seek protection through patents, and this will adversely affect research and technological development on which the progress of modern industries is so much dependent. Such a situation, moreover, will have both domestic and international repercussions.

As against this background I would like to deal with some of the important clauses. Let me first refer to clause 48 which allows the Central Government to import and use either for itself or in its behalf any patented machine, apparatus or article and to import either for itself or on its behalf for use and distribution in any dispensary, hospital or other medical institution any patented drug or medicine. No compensation is provided for such use and no appeal is open to the patent holder.

The provision grants unlimited powers to Government. It will enable the import of goods in circumstances of grossly unfair competition with home industry. In the field of drugs, particularly, the loss of patent protection over a wide field by placing the Government in a privileged position will completely dislocate the indigenous industry. It will cut into the rights of the patentee and also obliterate one of the purposes of the patent and the licensing provisions, namely, to encourage the home industry. The least that should be done is to compensate the patentee for any loss he may incur by Government importing patented goods. The compensation should be justiciable and there should be provision for appeal to the Court, on the lines of section 19 of the Canadian Patent Act, 1952, which is as under :

"The Government of Canada may at any time use any patented invention, paying to the patentee such a sum as the Commission reports to be a reasonable compensation for the use thereof, and any decision of the Commission under this section is subject to control of the Exchequer Court."

Then there is clause 53 which provides that for inventions claiming a process for the manufacture of food, medicines and drugs, the term of a patent will be ten years from the date of the patent (i.e., the date of filing the complete specification) and in respect of other classes of invention, the term shall be fourteen years from the date of the patent. A patent for food, medicine or drug, can be extended for a period of two years if the patent has not been exploited within a reasonable period from the date of the patent.

The present Act provides for a term of sixteen years for all patents and also that the term can be extended by a further period of five years and in exceptional cases even to ten years, if Government is satisfied that the patentee has not been sufficiently remunerated. The proposal to reduce the term of a patent to ten years in the case of patents relating to drugs and medicines is not realistic because the holder of a patent cannot derive benefit from the invention during a substantial portion of the term. When a new product is produced and patented, between the date of application for

[Shri Babubhai M. Chinai]

the patent and the introduction of the product in the Indian market, there is very considerable time lag because further tests, research and studies will be necessary to evaluate its efficiency, utility and adverse effects, if any. Clinical trials and tests are very time-consuming. Therefore, the term of a patent should be such as to enable the inventor to obtain a reasonable return for the expenses incurred by him on research, tests, clinical trials and commercial development. A relatively long term is justified in the case of developing countries. Mr. Justice Ayyangar had recommended that the term of every patent should be sixteen years from the date of the patent. Where-ever a patentee is able to make out a case that his patent has not been sufficiently remunerative, there must be a provision for extending the term of the patent by two periods of three years each.

Then come clauses 86 and 87 which discriminate between the two categories of patents. The period of three years which is to lapse before Government can apply for the endorsement of a patent with the words 'Licences of right' has been done away with in the case of inventions relating to food, medicines or drugs and the processes for the manufacture or production of chemical substances. A patent is aimed at safeguarding the interest of the inventor against the unjustified encroachment of his rights by third parties. In the case of 'Licences of right', the advantages accrue neither to the Government nor to the general public nor to the inventor, but only to third parties, who will be enabled to make unjustified profits, though they have not contributed towards the costs of research and industrial development. Once the short period of a patent protection ends, the subject matter of the invention becomes common property. If licences are issued indiscriminately and as a matter of right to several applicants, no one will be willing to invest and risk capital in working the invention. The discrimination should be done away with and as in the case of other inventions, inventions relating to food, medicines or drugs and the processes for the manufacture and production of chemical substances should be liable to endorsement with the words "Licences of right" on an application by the Central Government, only after

an initial period of three years from the date of sealing of the respective patents.

Finally, I would like to refer to Clause 88 which provides, *inter alia*, that the royalty and other remuneration payable under a licence shall not exceed 4 per cent of the net ex-factory sale price in bulk of the patented articles exclusive of taxes and commissions determined in the prescribed manner. Under the present Act, royalty is to be determined by the Controller who is directed to secure that food and medicines shall be available to the public at the lowest price consistent with the patentee's deriving reasonable advantage from the patent rights. Mr. Justice Ayyangar has stated in his report that it is not feasible to arrive at a uniform rate of royalty which would be reasonable for licences in respect of each and every invention and that it is not desirable to fix statutorily the maximum rate of allowable royalty. Royalty is intended to cover the expenses of research involved in the invention and also as a reasonable compensation to the inventor. It is not possible to fix a royalty rate under the law which will reasonably cover all cases. The proposed royalty of 4 per cent for the use of valuable patent rights on which vast sums would have been expended will not enable the patentee to recover even a part of his outlay, particularly in the pharmaceutical industry which is research-oriented, highly competitive and requires very heavy investment in equipment, men and material. Royalty has to be fixed having regard to the various factors including the nature of the invention and the expenditure incurred by the patentee in making the invention and developing it. Royalty should, therefore, be left to be determined in each case according to merit.

India's policy should be such as to encourage a steady flow of foreign capital and sophisticated technical knowledge and know-how. In fact, special efforts should be made in this direction. It is undesirable that India should be too far out of step with the general trend of patent legislation in other countries. Only recently when a Japanese delegation visited India, they pointed out how the Patent law in India had been a bottleneck in the way of larger and effective co-operation between Japan and India in the

economic field. Surely, the psychological impact of interference with the Patent law cannot remain confined to industries engaged in the production of food, medicines and drugs and the prospects of such curtailment of property rights have already aroused apprehensions among foreign investors. I, therefore, request the House to give a careful and considerate thought to the various provisions of the Bill so that India will not be at a disadvantage vis-a-vis other countries in getting foreign technical knowledge and know-how.

I would like also to request the hon. Minister to enlighten us as to what will happen to all those 6,000 applications which are pending before them for the last or seven years if this Bill is passed. Thank you.

SHRI LOKANATH MISRA (Orissa) : Madam Deputy Chairman, the provision of patents should be meant to be an encouragement to stimulate new inventions. But unfortunately in India, it is a source of great headache and discouragement. The system is very cumbersome. At times, many of the patentees have felt discouraged at the length of time for which they have to wait for getting the patents registered. So, the hon. Minister should examine and find out an easier process of getting patents registered. Every patentee is not a man of means and, therefore, in many cases it becomes very difficult for the patentee to wait indefinitely to get the sanction of the Government for the registration of the patents. Therefore, some of the new inventors feel very much frustrated with the patent policy of the Government and stay away from it.

Generally, in India we have buyers in favour of everything that is foreign. I see even many of our Ministers smoking the 555 State Express cigarettes. Their preference is in favour of anything that is foreign. They prefer it because they think that it must be better than any Indian product. That only goes to show our complex. Madam. It is because of our inferiority complex that even among Ministers, there are people who prefer things foreign to things Indian. In the case of patents, this particular bias gives a great amount of disincentive to the indigenous patentees. Whatever is invented in this country must be given serious attention and must be supported by the Government. They talk so

much of the public sector. In this case particularly, when these new inventions are going to do so much good to the country, I think it is the duty of the Government to come forward with public funds to support new inventions. But I find that they have put in a ten-year term for all patents in place of the 16 years as was previously provided. My friend who spoke before me did not refer to the Ayyanger's Report as far as this 16 year term is concerned. He referred to the other matters, but unfortunately he did not refer to the recommendation of the Ayyanger's Committee where it is said—I am quoting from the report—"Mr. Justice Ayyangar had recommended that the term of every patent should be 16 years from the date of the patent." This was a body that was set up by the Government to go into the matter of patents and recommend to the Government as to how the Government should proceed in the matter of patents. Having got his recommendations, one of which said that the period should be 16 years, I do not know how our ... I hope the Minister will kindly listen to me and not to Mr. Kulkarni; I am on my legs, not he. Madam, this is how the Ministers go wrong on the floor of the House. They do not listen to us, they talk on their own, speak anything from imagination and mislead the House. The Ministers must be advised to listen to Members who are speaking with all seriousness.

Now, Madam, I was talking about the 16 year term. The expert committee which went into this particular aspect recommended that it should be 16 years. Who was the greater expert in the Ministry, in the Company Law Administration, who advised that it should be 10 years? Who was it? Let us know who could be a better expert than the committee that was set up by the Government and which had recommended that it should be 16 years.

SHRI MULKA GOVINDA REDDY (Mysore): It was only a one-man commission.

SHRI LOKANATH MISRA: Whatever it was. Now, Madam, in support of the retention of the 16 year term, Mr. Justice Ayyangar has said that since the inventions need a lot of research work, and more so if it is medicine or food and other things,

[Shri Lokanath Misra]

three to four years are taken by the laboratories for the final report as to the efficacy of a certain invention. In the case of a medicine, the after-effects have to be studied. So many patients have to be administered that medicine before the final report could be submitted about the efficacy of that medicine, about the after-effects and about bad effects, if any. Therefore three to four years have to be taken for research in all these things before they could be put on the market. Therefore, it would be advisable for the Government to retain the same 16-year period—Now 4 per cent, has been recommended in another clause as the maximum royalty that can be paid. Madam, it is again the same laboratory thing that comes in the way of the patentee to put the thing on the market in a shorter period. If it is 4 per cent., it does not help him amply. Therefore, it should vary from item to item. There cannot be any hard and fast rule. I think Mr. Justice Ay-yangar has also recommended something in regard to this. According to his report, it is not feasible to arrive at a uniform rate of royalty which would be reasonable for licences in respect of each and every invention and it is not desirable to fix any statutory maximum rate of allowable royalty. Therefore, I would request the hon. Minister to keep in view a certain amount of concession in respect of those things that need much greater period to be tested in a laboratory before they are put on the market, when all the pros and cons of the new inventions are to be tested.

Madam, in other countries it is the universities that do the testing. It is regrettable that in India the universities are the hotbeds of politics. Of course, I cannot go to that extent to say that defeated Congressmen are rehabilitated in the universities; it has not come to that yet and because the Opposition is very watchful in respect of the public undertakings . . .

SHRI MULKA GOVINDA REDDY : In one case a dismissed Minister was appointed as Vice-Chancellor—Dr. Shrimali.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Not dismissed.

SHRI MULKA GOVINDA REDDY : More or less.

SHRI LOKANATH MISRA: But universities have become the hotbeds of politics and politicians are imported into universities according to the sweet will of the people in authority. If there is any friend left out anywhere, who could not get his way through, in Parliament, who could not become a Minister, then he is shunted somewhere as Vice-Chancellor of a university.

SHRI AKBAR ALI KHAN: Provided he is a capable person.

(Interruptions)

SHRI LOKANATH MISRA: If that is the deplorable state in which our universities are, how can we expect the universities to do this research work? In foreign countries the laboratories do a lot of research work and that helps new inventions and patents but here the CSIR is a defunct organisation against which we have set up a Committee. For the last 20 years I do not know what it is doing. Probably it was only a place for rehabilitating some confidants of the men in authority. Therefore, how can we expect that in this country we can have some progress regarding inventions?

Madam, now the last point. We have many indigenous things here which are exported and they make very important medicines out of them. So far as blood pressure is concerned, I am told there is something like *patal garur* which is plentifully available in Orissa. That is exported abroad and sent back to us as medicine probably at 10 to 15 times its cost price.

SHRI MULKA GOVINDA REDDY : First administer that medicine to your former Chief Minister, Mr. Biju Patnaik.

SHRI LOKANATH MISRA: They are taking it in bulk and sending it back to us in the shape of medicines. Nothing has been done either by the CSIR or by the universities so far as these things are concerned, which are being exported and turned into medicines and sold back to us. If about 6000 applications are pending because of the cumbersome process of the Patents Bill, then I cannot understand how the Government is going to help these new inventors and patentees. Something must be done so that these applications are disposed of soon.

The last point, Madam, which occurs to me now is that Bleeding Madras, a hondloom, is exported in bulk to Hong Kong and the South-East, also to America. It is in great demand in America and elsewhere. But since it is not patented, they are having their own things reprinted and sold as Bleeding Madras. The Government till today have done nothing—either the Commerce Ministry or the Ministry of Industrial Development and Company Affairs, such big names they carry that it is difficult even to remember—absolutely no work has been done. This item which is being exported in bulk to different countries is not protected under the patents law. Therefore there are fake Bleeding Madras items which are rampant in the South-East Asian countries. I hope the Minister, after this particular thing has been brought to his notice—he comes from Andhra and it might affect his election—will seriously look into it and do something about it.

Thank you.

DR. BHAI MAHAVIR (Delhi): Madam Deputy Chairman, while standing to support the proposal to refer the Bill to a Select Committee, I would like to say a few words before it is sent up for the Committee's consideration. The first thing has been brought out by the hon. Minister himself, when he narrated the dilatory manner in which the subject has been dealt with so far. A Bill which started with the 1948 Patents Enquiry Committee has been allowed to lapse in two consecutive Parliaments and even today we find it on the anvil of Parliament before it has taken any final shape. Is the matter so unimportant that it did not need any expeditious handling or is it because, as Mr. Bhupesh Gupta was alleging, there are some foreign pressures which have made us take this attitude of delaying things? It is not the second case, I hope; I hope it is the first case. But then I do not understand why matters should have been allowed to get delayed so much that even on the Minister's own admission there are something like 6,000 applications pending and we do not know what is happening to the applicants who wanted to have their designs patented.

Apart from this, on the question of the Patents Bill, I would like to urge the House, and particularly the Select Committee to which the Bill is being

referred, to try to look at the whole issue from the point of view of national interests. Just as things are, it appears that we are losing at both the ends. When we allow foreign patents in this country, we are probably paying heavily for the privilege which we are giving to foreigners. According to Mr. Justice Ayyangar's Report, between 1949 and 1958 there were something like 21,177 patents in India which had been taken by foreigners but he does not give any figures about the Indians having taken patents in other countries. What I fear or what I have been told is that the number is negligible, which means that if we were to consider it on the basis of reciprocity, there seems to be no reciprocity at all; we are only at the giving end and we will not virtually have anything at the receiving end. This is something which needs to be looked into from the point of view of national interest. If we just look at the prices we are having to pay for the imported drugs, some of the prices are so fantastic that a country, particularly a country which is poor, a country which has so much of disease and suffering and so little of income to fight those diseases and suffering, a country, having to pay all these heavy prices cannot afford. It appears that we are being fleeced by foreign interests for that pittance in the form of disease fighting drugs that we get from them.

The figures that I have been able to collect from some of the evidence tendered before the previous Select Committee and by other witnesses also are very astounding. For example, it has been said that there is one drug called Librium for which we are paying Rs. 5,555 per kg. I do not know what significance is attached to this figure of '5'. Probably for the sake of harmony or symmetry they fixed that amount but otherwise the same was imported by another firm at Rs. 312 per kg. A drug which was being sold to us at Rs. 5,555 was imported by another firm at Rs. 312. Vitamin B-12, a very commonly used medicine for general vitality was being sold at Rs. 230 per gram whereas the international price was Rs. 90 per gram. I am giving the figure which may not be relevant to day but which was correct 2 or 3 years back when the Bill was being examined by the Select Committee of the previous Lok Sabha. Similarly there is another drug—Dexamethazone for which Rs. 60,000 per

[Dr. Bhai Mahavir] kg. was charged. When the Import Controller merely gave a threat or tried to snub them, the exporter came down to Rs. 16,000. From Rs. 60,000 to Rs. 16,000 is a big jump and if this jump could be taken by them simply because of a little pressure, we have only to imagine how much more saving or foreign exchange or the poor man's hard-earned money can be made if we looked at the problem from the point of view of national interest. Our prices for these drugs are the highest in the world and the foreign drug manufacturers who control that manufacture are intent upon keeping us in a sub-servient stage so that we do not get the benefit of competition with them, or we are not able to produce them, on the same footing of equality with the result that we keep on depending on them for these goods. The situation therefore happens to be that we are losing crores and crores in the form of royalties and dividends through these concerns and they are holding the noose round our necks by denying our concerns the opportunity. I know of the case of the Bengal Pharmaceuticals who were not permitted to manufacture a drug because of monopoly considerations of the foreign manufacturers.

Do we need at all these patents protected in this country? That is a question which I would like the Select Committee to examine. Japan, an industrially advanced country, did not have a patents law. Justice Ayyangar himself has observed that industrial progress depends a lot on whether the patents system we had in a country is suited to the economic state, to the state of economic development which the country has reached or is not suited. If it is suited, it would serve as an impetus for economic growth. It would promote further addition to the industrial and technical progress but if it is not suited to the state of economic progress, we would have that country suffering and paying through its nose for the benefit of other nations. If this remark of Mr. Ayyangar were to be examined from the point of view of the state in which we find our country now, I would wish to submit that we would probably not be in favour of giving any protection for these patents to such foreign manufacturers who are supplying us these drugs. If the question is to be examined from

this angle and if reciprocity which might be the argument advanced in favour of pressing this protection, if that argument is to be examined on the basis of parity, I would submit that there is no parity between a country which is at the pinnacle of industrial progress and a country which is just struggling with the opening pangs of industrial advancement. In this situation probably it would not be in our interest to try to stand on the basis of equality with them and offer them the privilege of reciprocity, which they may be in a position to utilise or exploit while we are not in a position to exploit anything of that type.

With these words I suggest that the Select Committee would be well advised to go into the whole question from the point of view of the country's interest, how much drain it causes to us, how much sacrifice in the form of payment and sweat we have to undergo because of these heavy royalties to be paid, and what we gain in return for them. If it is not in the country's interest, let us not be blinded by any false notions of reciprocity or consideration of international prestige. Let us throw out the whole system lock, stock and barrel and see that the country gets the fullest freedom to develop till we reach the stage where we can stand on an equal footing with the others and then we can ask them to come and tell them: 'Let us evolve a system by which both can give reciprocal treatment to each other'. Till then let us provide a system which gives the best protection to our own talents, which we have not been able to utilise for carrying on research, for obvious reasons. In such a situation, let us provide free scope for all manufacturers of drugs. There are Indian drugs as our friend was referring to just now, which are being taken out and processed outside and refined and sent back to us and we pay for them at exorbitant rates. If these could be avoided and the country could be saved, we would not only have progress but we will relieve our economy also and there will be relief of crores of rupees in foreign exchange also.

श्री बालकृष्ण गुप्त (बिहार) : माननीया, इस बिल में श्री फखरुद्दीन अली अहमद ने एक भूमिका लिखी है जिसमें कहा गया है कि जब स्वतंत्रता प्राप्त हुई उसी के बाद

इस बिल की आवश्यकता महसूस हुई। 1948 में आवश्यकता थी, कई दफे यह बिल बना, कई दफे इधर आया और कई दफे लैप्स हो गया और अब 1968 में फिर ऐसे फार्म में आ रहा है जिसे देख कर हमको इस भारत सरकार पर दया आती है। 21 हजार विदेशियों की खुशी के लिए यह बिल बनाया गया है। इसमें एक क्लॉज है जिसमें लिखा है कि हिन्दुस्तान के रहने वाले बाहर के किसी भी पेटेंट की एप्लीकेशन बिना भारत सरकार की अनुमति के नहीं दे सकते। हम जानते हैं कि यहां के कंट्रोलर और डिपुटी डाइरेक्टर किस तरह लोगों को सताते हैं। 6 हजार दरखास्ते पड़ी हुई हैं, उनका अभी तक जवाब नहीं दिया गया है कि उनको अनुमति कब देंगे, यानी भारतवासी तो विदेश में अपना पेटेंट बिना इनकी अनुमति के रजिस्टर नहीं करा सकते और यहां 21 हजार सिग्रेट के, कोकाकोला के, लीवर ब्रदर्स की साबुन के पेटेंट, सब तरह के पेटेंट में हिन्दुस्तान का करोड़ों रुपया बाहर जा रहा है। हमारे माननीय स्वर्गीय जवाहरलाल नेहरू ने, जो बड़े विज्ञान विशेषज्ञ समझे जाते थे, हिन्दुस्तान में चारों ओर साइंस की संस्थाएँ खड़ी कर दीं जिनमें अरबों रुपया खर्च हो चुका है और उनमें से एक भी इनवेन्शन बाहर नहीं निकला जिसने हिन्दुस्तान की गरीबी को खत्म करने में किसी किस्म की मदद की हो या हिन्दुस्तान के उद्योगधंधों में कम कास्ट की चीज ईजाद की हो। हमको देखकर दया आती है कि यह गवर्नमेंट इतने बड़े बड़े कानूनों के, वकीलों के लिखे, टेढ़े-मेढ़े अक्षर हम लोगों के सिर पर थोपती है जो जजों की समझ में नहीं आते, एक साधारण नागरिक जो सदस्य बन कर आता है वह उसे कैसे समझ सकता है। इन टेड़ी-मढ़ी भूलभुलैया के अन्दर हिन्दुस्तान की आत्मा को दबाया जा रहा है और हिन्दुस्तान के जो नौजवान या वयोवृद्ध नागरिक इनवेन्शन करना चाहते हैं उनकी एप्लीकेशन्स सरकारी दफ्तरों के अन्दर धूल के नीचे दबी पड़ी हैं। जब तक

सरकार में कोई सुधार नहीं होता, तब तक सरकारी महकमों में यह बिल घूसखोरी का अड़्डा स्थापित करने वाला है। मैंने बार-बार निवेदन किया है कि दोनों सदनों की एक बैठक बुलाई जाय और जितने अनावश्यक बिल घूसखोरी का दरवाजा खोल देने का अधिकार बन गए हैं उनका रद्द कर दिया जाय। और फिर ये नये नये कानून हिन्दुस्तान की जनता पर, हिन्दुस्तान के विचारकों पर हिन्दुस्तान के वैज्ञानिकों पर लादे जाते हैं और तरह तरह के नौकरशाह और अफसर चारों ओर किलेबन्दी में बिठा दिये जाते हैं जिनकी मर्जी पर पेटेंट देना है या नहीं देना है। वह घूस मांगते हैं और बड़ी बड़ी रकमें मांगते हैं और फारेनर्स के पेटेंट्स कुछ दे दिला कर यहां पर रोजाना मंजूर होते जा रहे हैं। मैं भारत सरकार के माननीय मंत्री से पूछूंगा कि हमारे कितने पेटेंट रजिस्टर हुये हैं और विदेशियों के कितने पेटेंट रजिस्टर हुए हैं, बाहर में हमारे कितने पेटेंट रजिस्टर होने की अनुमति दी है और अभी तक कितने अफसरों के जूतों के नीचे पड़े हुए हैं? यह सब रोजाना देख कर के मेरा दिल तो बड़ा ही दुखी होता है। बड़े बड़े बिल लाये जाते हैं, बड़ी बड़ी बातें की जाती हैं, बड़ी बड़ी घोषणायें की जाती हैं और जनता को सताने के नये हथियार, वैज्ञानिकों को सताने के लिये, शिक्षाविदों को सताने के लिये नये हथियार निकलते हैं, नकली शिक्षाविद और नकली वैज्ञानिक बड़ी बड़ी तनख्वाहों में सरकारी दफ्तरों में भर्ती किये जाते हैं जो कि शासक पार्टी की मेहरबानी प्राप्त करके सफल हुए हैं, ऐसे एक साहब हुसैन जहीर थे जो बहुत दिन तक हिन्दुस्तान के ज्ञान-विज्ञान को नष्ट करते रहे और प्रधान मंत्री जवाहरलाल नेहरू की छत्रछाया में बैठ कर के उन्होंने साइंस के ऊपर वह काले बादल टाप दिये कि वह तो अलग हट गये लेकिन आज तक वह रिकवर नहीं कर सका है। ये सब बिल, ये सब चीजें और ये सब फाइव ईयर प्लान

[श्री बालकृष्ण गुप्त]

का रुपया का क्या होता है? कहां चला जाता है, किस गन्दी नाली में घुस जाता है?

श्री चित्त बसु (पश्चिमी बंगाल) : खा लेते हैं।

श्री बालकृष्ण गुप्त : हमको तो नहीं मिलता, आपको नहीं मिलता और न गरीबों को मिलता है, न वैज्ञानिकों को मिलता है। यूरोप और अमेरिका की गाथा सुनते हैं। वहां बेल टेलिफोन कम्पनी सब से बड़ी कम्पनी है, एडिसन साहब के बेटे करोड़पति बने बैठे हैं, मार्कोनी साहब के लोग अभी भी ऊंचे पद पर स्थापित हैं और उनके पास करोड़ों की सम्पत्ति है। अमेरिका की, विलायत की जर्मनी की, फ्रान्स की तब तक पेटेंट वालों की गाथायें पढ़ते हैं तो मन में बड़ा हर्ष होता है, बड़ा उल्लास जगता है, लेकिन किसी भारतीय का नाम उस लिस्ट में मझको आज तक नहीं दिखा।

(Time bell rings)

20 वर्ष इस देश को आजाद हुए हो गये, हमने सोचा था कि आजादी से इन्वेंशंस, ईजाद, फलेगी, फूलेगी, बहुत होंगी लेकिन इन नये नये विलों ने एक ऐसा तुषारापात सब चीजों पर कर दिया है कि अंग्रेजों के जमाने में जो कुछ होता था वह भी अब प्रायः लुप्त हो गया है।

(Time bell rings)

मैं क्या कहूँ, मुझे शर्म आती है यह बड़े बड़े बिल देख कर के जिसमें सो दो सौ पन्ने हैं, जो कि वकीलों के अड्डे और जजों के फंसले देने के स्थान बढ़ाते हैं और तरह तरह की चीजें करने के हथियार हैं, जो कि लोगों को मारने के और विदेशियों के लिये हिन्दुस्तान के मार्केट का द्वार खोल देने के हथियार-मात्र हैं।

(Time bell rings)

मुझे बड़ी शर्म आती है लेकिन मुझे मान-नीया जी टाइम नहीं दे रही हैं इसलिये मुझे बैठना पड़ रहा है।

SHRI MULKA GOVINDA REDDY : Madam Deputy Chairman, this Bill is a very important piece of legislation that the Government has now placed before this House. There seems to be no planning with regard to legislation work. The Statement of Objects and Reasons clearly shows that there is bankruptcy of planning with regard to the legislation. The Minister himself confessed that two times Bills with regard to patents lapsed as the Lok Sabha was dissolved. In 1948 there was an Enquiry Committee and again in 1957 the Rajagopala Ayyan-gar Commission was appointed and in 1959 that Commission submitted its report on patents law. But till 1966 the Patent Bill was not introduced in parliament. The report of the Joint Committee was presented to the Lok Sabha on 1st November, 1966, and if the Government was really serious and if there was proper planning with regard to the work of Parliament, in the 1966 November-December Session this Bill could have been passed. So many meetings were held and the Select Committee went into this question very thoroughly, and the Sub-Committee of the Select Committee visited some important places, hundreds of witnesses were called, a laborious process was adopted and all views were heard. Even the foreigners were allowed to depose evidence before the Joint Committee. All interests were consulted. But all that labour was lost because of the indifference or incompetence or incapacity of this Government to plan legislation work. Madam Deputy Chairman, it looks as though certain vested interests, both Indian and foreign, foreign mostly, have been pressurizing the Government to see that the existing Indian Patents and Designs Act of 1911 is not amended at all, or a new legislation in this respect is not passed by Parliament, because most of the patents that are there in India now are foreign; 90 per cent, of the patents that are now operating in India are owned by foreigners and they are interested in exploiting the backwardness of our country, in exploiting our country and enriching their country. And all the money, all the profit, sometimes 100 per cent., 200 per cent, that they make, is repatriated to

the foreign countries. So, when this matter is referred to the Select Committee, the Select Committee must see that the foreign interests, who practise their patent rights mostly in the foreign, countries, should do so here. They should be asked to make use of the trade practice, their patents and the patents law for the benefit of the common man; they should manufacture those patented drugs here so that they will be used for the benefit of this country, and they should not be allowed to repatriate the profits that they get, and if it is allowed, it should be a very small percentage that should be given to the foreigners who have their factories in India.

There are two important clauses which will attract the attention of this House, Madam Deputy Chairman. With regard to the period, Mr. Babubhai Chinai and Mr. Misra referred to the Ayyangar Commission's recommendation, and said that the sixteen-year period is the minimum that should be followed. The Bill seeks to cut down that period from sixteen years to ten years with regard to medicines, drugs, etc., and with regard to other things it is from sixteen to fourteen years. Madam Deputy Chairman, we are living in a nuclear age where science and technology are making very rapid progress. Within two or three years a patented medicine or a drug may become absolutely out of date because of the tremendous progress that we are making in the field of science and technology. Therefore, even this period of ten years may be too high; it may be necessary to have it reduced to seven or eight years. And with regard to the period that is allowed in other cases it may have to be reduced from 14 to 12 years.

Another point that is attracting attention is with regard to royalty. Four per cent royalty they say is too little. Dr. Mahavir just now read out from the Report of the Joint Select Committee and pointed out how higher prices are extracted from our people, people who cannot afford. This four per cent, royalty is much more than we can afford. It should not be the minimum; on the other hand, it should be the maximum royalty that is allowed in any particular case and the minimum should be about two per cent. So these are all matters which require careful attention. I agree with some of our friends that we should have had

more time to discuss this Bill before it is referred to the Select Committee, because this Bill is very voluminous with 163 clauses concerning very vital interests of the country. Therefore, if more time had been allotted it would have been better. These are important provisions which require a proper scrutiny at the hands of the Select Committee.

Another point I would like to stress, Madam Deputy Chairman, is that these concerns which have obtained patents are making huge profits. The Government should impose a condition that they should spend a certain percentage for research. Research is very important. Whatever our universities do or laboratories do will not be sufficient. The industry must be able to contribute a good percentage of their profits for development of research. The Government should also aid in the development of research in the universities, in the laboratories and also in the industrial concerns that the Government owns.

Mr. Loknath Misra pointed out that there are very important herbs in our country. We have a forest wealth; huge forests are there throughout the country and they should be properly exploited for preparing drugs and other medicines for the welfare of the people of this country.

Lastly, Madam Deputy Chairman, this piece of legislation is very important. For the last ten or twelve years they have toyed with this without any effort to get this passed. I hope when the Select Committee submits its Report now this Bill will be passed without much delay. In 1972 the Government should not come forward and say that the Bill was not passed because the Lok Sabha was dissolved.

Thank you.

SHRI A. G. KULKARNI (Maharashtra) : Madam Deputy Chairman, I am here to support the Bill but I am very sorry that the Government has taken a decision to refer this Bill to a Joint Committee. They should not at all have referred this Bill to a Joint Committee because it has been considered by various Committees and also by a Select Committee. They should have automatically passed this into law.

Madam, I would here like to explain the background to this patents law as I understand it and I think the

{Shri A. G. Kulkarni}

Select Committee will keep this in mind while their deliberations are going on. My friend, Dr. Mahavir, has rightly pointed out that research of all types is very important for any country to develop. If you go through the history of patents taken out in India you will find it is the foreigners who have benefited most; they have never been beneficial to the Indian scientists or Indian research workers. Here I would like to refer to a Report made in the U.S.A. where actually patents and research are highly sophisticated and where the technique has been highly developed. There was one Committee appointed under Senator Ke-fauver and that Committee has come to this conclusion. Our friends, Mr. Babubhai Chinai and Mr. Lokanath Misra, always take inspiration from those countries and they can see in that country also what conclusion they have arrived at. That Committee has come to the conclusion that in India which grants patents for drugs and other things, because the patents are for 16 years the prices of drugs like antibiotics etc. are the highest in the world. So I think it is not necessary for anyone to go into anything else except to study this Report of the American Senate Committee which has pointed out the correct position about patents in this country. As my colleague has also pointed out in the case of such things as Lebarium, Via-min B, Hexamine etc. we are being exploited because of the sheltered market in the country. Madam Deputy Chairman, three days back the Industrial Development Ministry has given us a very interesting note about the money being repatriated to foreign countries because of collaborations, patents, etc. I know there are about 27,000 patents and they have repatriated about Rs. 179 crores. I also speak subject to correction but I think it is Rs. 179 crores. I also know that the Indian Drugs Manufacturers Association is the villain of the piece in this regard and they are trying to prevent the Bill being enacted by Parliament. I have found that their representatives—I do not want to name them—are now in Delhi. They are the people connected with ICI, CIBA, Hoe-chest of Germany etc. and they have been exploiting the sheltered market of this country to the maximum extent possible. Madam, in this background I do not see why the Government has

kept this thing pending for so many years and I join all my friends here who are urging the Government to pass this Patents Bill immediately into law. Madam, while going through the various provisions I want to correct my friend, Mr. Lokanath Misra, who, I think, has not done his home work

sufficiently on this Patents Bill. 4

P.M. Patents are not taken on

"Pakodas". He was advising the Commerce Ministry and the Ministry of Industrial Development to take a patent on Bleeding Madras. As I have already stated, patents are not allowed on "Pakodas". Patents are taken on specifications, a higher type of research, which involves pains-taking effort on the part of the inventor to do the job, which will be in the ultimate interests of the community at large.

(Interruptions)

I will take very little time. As regards clause 48, as Mr. Babubhai Chinai has commented, the Government has been allowed to import certain drugs. Rightly so. We have got experience. The foreign drug manufacturers who have got patents in this country they have taken from the poor, from the suffering humanity here, fantastic rates. For example, in the case of antibiotics, they have charged very fantastic rates. Even if the Patents Bill is opposed, the Government in the interests of humanity and the people of this country can import anything for its own purpose and in the public interest.

Similarly, as regards clause 43, again, my friend said that it takes four years for research, and it is only six years. That also is wrong. A patent is obtained only after the research is completed, after all the trials are conducted. I do not understand where-from Mr. Lokanath Misra got the idea that out of ten years four years are taken for research and it is only six years. It is not so. Patent is patent and science is science and we have to study things.

Here also I say ten years they have taken. This has got an international context. As rightly pointed out by my friend, Dr. Bhai Mahavir, who quoted the case of Japan, I support his contention that there should be no patent at all. You should not earn any profit at all. It should be all free,

so that research will develop and industry will grow. Under clause 53 they get ten years. I can only suggest that in the subsequent period, they should be further reduced.

Again clause 86 is necessary. There was an objection raised by my hon. friend, Mr. Babubhai Chinai. It is stated:

"... for an order that the patent may be endorsed with the words 'Licences of right' on the ground that the reasonable requirements of the public with respect to the patented invention have not been satisfied or that the patented invention is not available to the public at a reasonable price."

This is one important provision in the Patents Bill which must be there. Actually we have seen Rs. 60,000 being charged for some medicine like Dexmethazone per kilogram. It has now been brought down to Rs. 16,000. When we see all these fantastic figures, I do think in the interests of the public that the Government should have got this right.

I want to reiterate again that the Patents Bill should not have been delayed for such a long time. There should not have been a Joint Committee at all. If we want to end the tyranny of the foreign exploiters, who are exploiting the sheltered market of this country, we must immediately do away with such laws which give shelter to foreigners to exploit humanity.

Thank you.

SHRI K. V. RAGHUNATHA REDDY : Madam Deputy Chairman, I am extremely grateful to all the hon. Members who have participated in this debate. As they have observed, this Bill has already gone through one Joint Committee and I share the view of Shri Kulkarni that the Joint Committee may take as little time as possible, to go through it clause by clause and make necessary suggestions for amending this Bill, so that we may bring this Bill, as early as possible, before Parliament for passing it.

I would only like to correct one point which Mr. Lokanath Misra raised. Though it is a very technical matter,

this Bill is neither drafted nor is it connected with the Department of Company Law Administration. This is part of the Ministry of Industrial Development and the Department of Company Law Administration has nothing to do with this Bill. As many things are misunderstood about the Company Law Administration, I would like to clear this matter.

The question of ten years or six years, or for what period the patent must be fixed, has been raised by Dr. Bhai Mahavir, Mr. Mulka Govinda Reddy and others. In fact, Mr. A. G. Kulkarni has said that there is no necessity for any patent law at all.

SHRI KRISHAN KANT (Haryana) : That is correct and it should be scrapped.

SHRI K. V. RAGHUNATHA REDDY : There is strong force in what Mr. Kulkarni has said. Having regard to considerations of international practice and having regard also to the fact that as far as technology is concerned—to borrow a phrase similar to the one used in international trade—the balance of technology in the whole world is in favour of the United States of America. It is not in favour of other countries, though it may differ from country to country. Having regard to the technological development, we have not yet reached that stage where we may be in a position to give up completely the law of patents. There is considerable force in what Mr. Kulkarni has said, but the patent law must be used as a very flexible and potent instrument which is essential in our armoury for achieving technological independence. In this direction the law of patents must be used, must be redrafted or modified, and I do hope that the Joint Committee will enable the Government to come forward with this Bill as early as possible.

THE DEPUTY CHAIRMAN : The question is :

"That this House concurs in the recommendation of the Lok Sabha that the Rajya Sabha do join in the Joint Committee of the Houses on the Bill to amend and consolidate the law relating to patents and resolves that the following Members of the Rajya Sabha be nominated to serve

[The Deputy Chairman] on the said Joint Committee, namely :— 1. Shri S. K. Vaishampayan,

2. Shri Krishan Kant,
3. Shri R. P. Khaitan,
4. Shri Arjun Arora,
5. Shri T. V. Anandan,
6. Shri Om Mehta,
7. Shri K. V. Raghunatha Reddy,
8. Shri Pitamber Das,
9. Shri Dahyabhai V. Patel,
10. Shri Godey Murahari, and
11. Shri C. Achutha Menon."

The motion was adopted.

THE INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL, 1968

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRIAL DEVELOPMENT AND COMPANY AFFAIRS (SHRI K. V. RAGHUNATHA REDDY) : Madam, I beg to move :—

"That the Bill further to amend the Indian Patents and Designs Act, 1911, as passed by the Lok Sabha, be taken into consideration."

Hon. Members have already spoken about the main provisions of this Bill, some of which have been incorporated in the Bill. I am seeking the consent of this hon. House to pass it into an Act. The Bill is to replace the Patents and Designs (Amendment) Ordinance, 1968 (8 of 1968) promulgated by the President on the 6th July, 1968.. The reasons for promulgating the Ordinance have been explained in the statement laid by the Government on the Table of the House on the 22nd July, 1968..

I would only request hon. Members to recall to their mind that the Defence of India Rules were amended. The Defence of India Rules, 1962 were amended in May 1963 vesting the Central Government with powers to give directions to the Controller of Patents

and Designs with regard to the action to be taken on applications for patents for inventions of any specified class. In exercise of these powers the Central Government directed the Controller to proceed with applications for patents for inventions relating to food, drugs and medicines only up to the stage of their acceptance and not to take any further action on them. The time-limits prescribed in the existing Act for taking different actions were extended by the Controller in exercise of the powers vested in him under the Defence of India Rules, 1962. There were over 5,600 applications for patents pending on the 1st July, 1968 which were subject to the directions given by the Government. The time-limits prescribed in the existing Act for the acceptance of most of these applications and sealing patents on them would have expired on the 10th July, 1968 and they would have become time-barred. It was, therefore, necessary to make provisions for granting extension of time to keep such applications alive. I may state that some of the provisions of this amending Bill are the provisions which are contained in the Bill which is being referred to the Joint Committee. Therefore, the spirit underlying clause 48 and other matters has been specifically accepted by the House when they have conceded to refer this matter to the Joint Committee. I hope the House would kindly excuse me if I do not propose to explain all the features for want of time.

The question was proposed.

SHRI BHUPESH GUPTA (West Bengal) : Madam, I wish to say a few words on this Bill. We had not spoken on the other Bill, but I wish we had a little more time because I believe hon. Members would have contributed quite a lot on the subject of patents. Only I would like to inform the Members of the House when the matter was mooted first some fifteen years ago, it was thought that in view of the activities of the foreign monopolists in the drugs industry, medicines, drugs, and so on, the law of the land should be altered, changed or amended, specially with a view to curbing the monopolists and helping the indigenous industries in our country both in the public and in the private sector.. Unfortunately in fifteen years we could not pass the Patents Bill. The hon. Minister need not give any proper explanation. He knows why it could not be passed, but