

be a terrorist movement. Things are going on in such a way that there is every fear of the situation degenerating into the same kind of situation that one finds in Indo-China or even in Malaya. Therefore, before things become too bad, I would like the Prime Minister to consider the situation and take this House as well as the other House into his confidence on some suitable occasion before the session comes to an end.

SHRI B. GUPTA (West Bengal) : I object, Sir, to the reflection that has been cast on the struggle of the peoples of Malaya and Indo-China.

PROF. G. RANGA : No reflection has been cast on anybody.

THE PRIME MINISTER AND MINISTER FOR EXTERNAL AFFAIRS (SHRI JAWAHARLAL NEHRU) : The question that the hon. Member has raised is a matter of grave concern not only to Government but to large numbers of people who are interested, that is, the question of possible developments in Africa which may lead to grave trouble all round. Our policy in Africa, as I have repeatedly stated, has been to co-operate with the Africans there, and we have advised our people in Africa not to seek any right or privilege against the Africans which may injure the African interests. We are not there to exploit Africa ; we are there to live there, to help and co-operate with the Africans.

It is not possible for me now, or perhaps even later, to go into the details of the situation there. We really do not know much more than what the House knows. We know some more details, but they do not throw any greater light. But quite apart from the origins of all these, and as to who is more to blame and who is less to blame, it is obvious that the situation that has arisen there is very unfortunate for the future of Africa and for the good relations of Africans with other people. So, we have been interested. But when the hon. Mem-

ber suggests that something can be done in relation to this question at the Commonwealth Conference, I demur for a variety of reasons. First of all, I think this House should realise what the Commonwealth is. It is not our habit to raise any question in the Commonwealth affecting our interests or affecting the interests of any other country in relation to us. For instance, there is the South African issue. South Africa is an independent country. We are an independent country. We are naturally interested in what is happening there. We are prepared to raise it, and we have raised it, in the United Nations and elsewhere. We do not propose to raise in the Commonwealth Conference that or any other issue between countries, because we do not consider this Commonwealth Conference as a supernational body to which we can go and appeal or which can issue any kind of direction or even advice. This conference meets for specific objects. We meet together and discuss those matters, but do not issue any directions to each other. Now, the present conference that is being held there is on the economic plane, and our Finance Minister is attending it. I might as well say for the information of the House that in this conference or in any other no decisions are taken binding any country. There is only exchange of information and of viewpoints, and then it is for each Government to consider what it will do in its own sphere. Therefore, we do not consider it right or proper to bring any question of this type formally before the Commonwealth Conference, because that would be a bad precedent for us.

#### THE INDIAN PATENTS AND DESIGNS (AMENDMENT) BILL, 1952

THE MINISTER FOR COMMERCE (SHRI D. P. KARMARKAR) :  
Sir, I beg to move:

That the Bill further to amend the Indian Patents and Designs Act, 1911, as passed by the House of the People be taken into consideration.

Sir, I think this is a pleasant duty, because I believe that this measure

[Shri D. P. Karmarkar.] will prove to be a fairly non-contentious one. The law of patents in any country is actuated by two considerations. One is that the patentee's rights should be safeguarded for a reasonable amount of time, and, secondly, while safeguarding such rights, we should see that the national interests do not suffer. As hon. Members are doubtless aware, prior to the amendment of the patents law in 1950, the position was that no patent could be opened before the lapse of 16 years from the time that it was registered. By the amendment of 1950 it was made possible in suitable cases to disturb the rights of the patentee in the national interest to the following extent. For instance, it was provided by that amendment that at any time after the expiration of three years from the date of the sealing of a patent, any person interested may apply to the Controller to open it on any one or more of the grounds specified in that particular section as amended: firstly, that the patented invention capable of being commercially worked in India, has not been commercially worked therein, or is not being worked to the fullest extent that is reasonably practicable; secondly, that the demand for the patented article in India is not being met to an adequate extent or on reasonable terms, or is being met to a substantial extent by the importation of the patented article; and thirdly, that the commercial working of the invention in India is being prevented or hindered by the importation of the patented article from other countries.

In order to make an exhaustive review of the patents law from the national point of view, Government appointed what is known now as the Committee for the Revision of the Patents Law, and that Committee submitted an interim report during 1950 making its recommendations. One of the recommendations was that in suitable cases where the country's interests might be handicapped by the patentee rights not being open to public use, power should be taken to open the patent earlier than the 16

years as originally provided. We carried out that recommendation by a suitable amendment made in 1950. There was, however, one subject which was also from our point of view very important, and that was regarding the rights of the patentee *vis-a-vis* articles such as food, drugs and medicines and curative devices. Obviously, Sir, if we were to keep quiet for three years under the law before we could disturb the patentee right *vis-a-vis* such articles, we felt that it would not be conducive to national interests. So, after careful consideration of the whole question, pending our bringing before the Legislature as early as possible—in fact we hope to introduce that measure before the end of this Session, if all goes well—consequent upon the various useful recommendations of the Patents Inquiry Committee, we thought it proper that we need not wait for any longer time in respect of this very important consideration in respect of food, drugs and medicines and curative appliances and the like.

Sir, the precise effect of this amendment of our present law would be that at any time after the patent is sealed it would be open to any one to come up to Government and say, "Give me freedom to manufacture this particular product in the specified manner, though the rights of the patentee are there." Now, in effect, it would mean this. Supposing there is a patent granted to a foreign company which is manufacturing drugs and medicines of an essential character, under the present law we have to see that the three conditions which I have mentioned are fulfilled, and we have to wait for three years. Now, when this amendment is incorporated in our present law, it would be open, the very next day after the patent is registered, for any one to come up to Government and say, "This is an essential drug. I should be allowed to manufacture it under the process that has been patented." Hardly any argument is needed, I think, to convince hon. Members of this House that in the case of medicines

or drugs or curative appliances, especially at a time when some of the foreign articles are selling at such high prices, - it is desirable to have this amendment speedily incorporated in our present law. It is important because in the past a large number of patents have been given to foreign patentees. It makes it all the more urgent because in our present conditions we do want to see in respect of food articles, medicines and drugs, and curative appliances, that we do not have any handicap in the way of our internal consumers by resting quiet for three years before we could open up the question. I do not want to weary hon. Members with a long speech at this stage, but if any points are raised during the course of the debate I shall be happy to reply.

MR. CHAIRMAN : Motion moved :

That the Bill further to amend the Indian Patents and Designs Act, 1911, as Passed by the House of the People, be taken into consideration.

SHRI RAMA RAO (Madras) : Will the hon. Minister let us have some clarification? By virtue of this enactment it has been made possible for patents to be opened up without waiting for years and that licences should be granted. Would this lead to any abuses when giving licences? Have the Government made sure that no such abuses would result by this procedure?

SHRI D. P. KARMARKAR : The Government will take the greatest possible care about it. I might here mention that we have carefully considered the provisions of the patents law in the United Kingdom also. I think in that particular aspect, so far as the U. K. Legislation is concerned it is very satisfactory, and it does satisfy the purpose.

MR. CHAIRMAN : No one wishes to speak. So, the question is :

That the Bill further to amend the Indian Patents and Designs Act, 1911, as passed by the House of the People be taken into consideration.

The motion was adopted.

Clauses 2, 3, 4 and 5 were added to the Bill.

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

SHRI D. P. KARMARKAR : Sir, I beg to move :

That the Bill be passed.

MR. CHAIRMAN : Any remarks.

SHRI D. P. KARMARKAR : I would like to make a few observations with regard to the Bill, to invite the attention of the House, because this measure is coming before this House, to the relative portion of the Patents Enquiry Committee Report regarding the importance of having this matter considered, regarding the compulsory licensing, regarding the precise connotation of the word. Hon. Members will doubtless appreciate that in all cases, wherever we consider a request for opening up a patent we first see whether it is feasible, we will then issue what is called a compulsory licence, and we shall go on to see that the licensee uses it properly. Sir, in fact, since we require the co-operation of the House, and the public also in this measure, I would request the House to give their fullest consideration to this, as in all important matters, and certainly in all such important matters Government will necessarily welcome vigilance. One of our handicaps in the past has been this—that public opinion must be very strong if Government were to succeed in carrying out any measure, of any kind. We have had similar experience in respect of the import control policy, for instance. That is a point in parity. It has been my experience that when reviewing a policy, suggestions come too late. My hon. friend, Prof. Ranga, also knows that sometimes he has come with his suggestions too late. That is because, public opinion has not been educated in respect of the proper method of bringing their suggestions to the attention of the Government. And then later complaints are being made. I can give you a case, for instance, where two types of bottles of

[Shri D. P. Karmarkar.]

Gripe Water were placed before me and I was asked which was the right one and which was the wrong one. Having never taken Gripe Water myself, I was unable to say which was the spurious drug. So there is this question of adulteration of drugs etc. It is most important that our consumers, the people who are sick, get the right type of medicines, the right type of curative appliances. One of the principal objects of the present Bill is to see that things are made available to consumers at a reasonable cost. So many of these things cost so much as a result of the import duty. Sometimes the import duty is sixty per cent. Over and above the import duty you have to have a margin for the wholesaler, a margin for the retailer, and so on. The other day, I found that the medicine was costing three times its price in England. This is due mainly to the fact that the importer has to pay duty, and there are also the incidental expenses to be added. So the present Bill has been made with a view to eliminating these importation costs so that the indigenous manufacturer might open up a patent in the case of food articles, curative appliances, drugs, medicines, etc. This is an aspect of the question which we very often forget. Therefore, Sir, I ask the co-operation of this House and the public. Unless public co-operation is mobilised in a constructive way in respect of articles like food, drugs, medicines, curative appliances, etc., I think we would be failing in our duty, as a Government of the people, if we do not enlist the co-operation of the public in an effort like this. Sir, I move that the Bill be passed.

SHRI RAMA RAO : Sir, by virtue of this enactment, do Government reserve to themselves the powers to see that proper prices do prevail ?

SHRI D. P. KARMARKAR : Sir, as my hon. friend is doubtless aware, regulation of prices is done by another Act, but so far as the object of this Bill is concerned, it is not only to make things available within the

country, but also to see that they are available at proper prices. That is one of the cardinal objects.

SHRI RAMA RAO : May I ask whether, by granting licences under this Act, Government have powers to insist upon certain prices being kept. Have the Government any control before they issue the licences to regulate prices ?

SHRI D. P. KARMARKAR : In respect of this, the Tariff Commission will go into the question of prices. This matter also comes with in the purview of the Industries Development Bill to see that proper prices are fixed. But we cannot fix the prices of articles under the Patents Law. It will however be a matter for anxious consideration of the Government to see that prices are one of the criteria in the administration of the law.

SHRI K. C. GEORGE (Travancore-Cochin) : Is there any arrangement, made under the law, for checking the quality of the goods, before licences are issued ?

SHRI D. P. KARMARKAR : That is regulated by the present Act and the Health Act is doing its best for quality control. But in spite of that measure, I want that before a licence is given, certainly, Government should weigh all factors, their financial position, their reputation and so it will be always the anxiety of the Government that qualities are maintained under the law.

MR. CHAIRMAN : The question is :

That the Bill further to amend the Indian Patents and Designs Act, 1911, as passed by the House of the People, be passed.

The motion was adopted.

#### THE MYSORE HIGH COURT (EXTENSION OF JURISDICTION TO COORG) BILL, 1952

THE MINISTER FOR HOME  
AFFAIRS AND STATES (DR. K. N.  
KATJU) : Sir, I beg to move :

That the Bill to extend the jurisdiction of the High Court of Mysore to the State of Coorg and to provide for matters connected therewith, as passed by the House of the People, be taken into consideration.