

Sayeed, Shri P.M. (Lakshadweep)
 Selja, Kumari (Sirsa)
 Sharma, Shri Chiranjil Lal (Karnal)
 Shastri, Shri Rajnath Sonkar (Saidpur)
 Shivappa, Shri K.G. (Shimoga)
 Shukla, Shri Vidyacharan (Raipur)
 Shukla, Shri S.B. (Belgaum)
 Singh Deo, Shri K.P. (Dhenkanal)
 Singla, Shri Sant Ram (Patiala)
 Sodi, Shri Manku Ram (Bastar)
 Solanki, Shri Surajbhanu (Dhar)
 Sukhbans Kaur, Shrimati (Gurdaspur)

Tara Singh, Shri (Kurukshetra)
 Thakur, Shri Mahendra Kumar Singh (Khandwa)
 Thorat, Shri Sandipan Bhagwan (Pandharpur)
 Tindivanam, Shri K. Ramamurthee (Tindivanam)
 Tiriya, Kumari Sushila (Mayurbhanj)
 Topno, Kumari Frida (Sundargarh)
 Upadhyay, Shri Swarup (Tejpur)
 Urs, Shrimati Chandra Prabha (Mysore)
 Verma, Shri Bhawani Lal (Janjgir)
 Verma, Kumari Vimla (Seoni)
 Wasnik, Shri Mukul (Buldana)
 Williams, Maj. Gen. R.G. (Nominated Anglo-Indian)

SHRI SOBHANADREESWARA RAO VADDE (Vijayawada): The votes have not been recorded properly. The voting machine is not working properly.

MR. SPEAKER: Subject to correction the result of the division is:

Ayes: 112

Noes: 109

The motion was adopted.

16.10 hrs.

STATUTORY RESOLUTION RE: DISAPPROVAL OF THE PATENTS (AMENDMENTS) ORDINANCE (NEGATIVED) AND

PATENTS (AMENDMENT) BILL—CONTD.

MR. SPEAKER: The Minister may now speak.

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY (DEPARTMENT OF SMALL SCALE INDUSTRIES AND AGRO AND RURAL INDUSTRIES) (SHRI M. ARUNACHALAM): Sir, in continuation of my reply yesterday I would say this.

One of the obligations under the TRIPS agreement was to provide means for filing of applications for product patents in the areas of pharmaceuticals and agricultural chemicals with effect from 1st January, 1995, and on fulfilling certain conditions, grant exclusive marketing rights till the expiry of a period of five years or until the patent is granted or rejected, whichever is shorter.

Coming to the Patents Act, 1970, this Act does not provide for grant of product patents in the above mentioned areas. As per the TRIPS agreement, we have time till 2005 to amend the Act for grant of such patents. Therefore, we are required to make the arrangement in the intervening period.

The Amendment has been made to provide a statutory provision for filing of applications for product patents in the field of agricultural, chemicals and pharmaceuticals. The Amendment also provides for grant of exclusive marketing rights for the applicants after a set of conditions have been fulfilled. In order to be eligible for grant of these rights subsequent to 1st January, 1995: the applicant has to file an application in India for grant of patent; secondly, he has to file an application and obtain patent for identical inventions in any Convention country; thirdly he has to obtain marketing approvals from the same Convention countries and fourthly he has to obtain marketing approvals from the appropriate authority in India. However, for inventions made in India, the applicant does not have to

necessarily obtain a product patent and marketing approvals in some other countries. He has to option of obtaining a process patent for an identical invention in our country. This measure has been taken to provide an incentive for inventions to be made in the country.

It has always been our endeavour to encourage research and development activities in the country and to provide incentives to inventors. It is expected that this step will provide a boost to setting up research and development facilities within the country. The Government has also taken care to ensure that the facility is not used to extend the life of existing patents. obtaining in other countries which are non-patentable under the Act. It is for this reason that Section 24A (1) (2) of the Bill provides for a Controller of Patents to examine the applications before grant of exclusive marketing rights to ascertain whether there was a *prima facie* violation under the relevant Sections of the Patents Act.

We have given sufficient safeguards while making these Amendments. We have also incorporated several provisions to protect the public interest. They are: (1) in the event that the existence of exclusive marketing rights is against public interest or in any other circumstances of extreme urgency the Government may either on its own or through any other authorised person exercise the said rights;

(2) The Government may, in the public interest and for reasons to be stated in writing, direct any substance which is the subject of an exclusive marketing right to be sold at a price, to be determined by an appropriate authority designated by it; and (3) The provisions of compulsory licensing under the Patent Act with appropriate modifications have been extended to exclusive marketing rights also.

There is an amendment which is made to facilitate the inventors resident in India. We have also taken this opportunity to delete a provision in the Act which places restrictions on applications made by persons resident in India. Under Section 39 of the Indian Patents Act, no person resident in India could make an application outside the country for grant of a patent unless an application for a patent for the same invention was made in India, not less than six weeks before it was made outside India. The applicant could, however, obtain prior permission of the Government to get a waiver of this condition. It would be seen that this Section was a handicap for persons resident

in India as they could not file a patent application outside the country, without either filing the same within the country and waiting for specified period or obtaining prior approvals of the Government. Such a delay was liable to affect the priority accorded to the application. With the amendment now made to delete this Section, inventors resident in India can make an application outside the country for grant of a patent without any restrictions. This is bound to encourage inventors in India to get their patents registered abroad.

The main issue which many hon. Members including Shri Ram Kapse have raised while discussing this Bill is about the impact which the amendments will have on the drugs currently marketed in India or anywhere in the world. I would like to clarify that all the drugs which are presently marketed either in India or anywhere in the world will not be affected by the Agreement. The domestic industry will continue to be able to manufacture and market such drugs. The provisions of the Agreement will affect only those drugs which are invented after the 1st January 1995 and for which patents are obtained after the 1st January 1995. Further these drugs will have an impact in the market in India only if they are granted exclusive marketing rights on fulfilment of the conditions. However, even for such drugs several safeguards have been provided in the Bill to control practices which will affect the interests of the consumers. This also includes directions to sell the drugs at a price to be determined by specified authority.

Some of our hon. Members have raised certain issues and I would like to deal with them. Shri Ram Kapse has said that corruption in patent office would prevail. I would say that measures are being taken to strengthen and modernise the offices. However, as patent rights are restricted to geographical borders of the country, a person will have to obtain patent in some other country, if he wants protection over here. He has also raised a point about the rise in prices of medicines. I have just now replied to that. He has also said that we may be succumbed to world pressure. There is no question of succumbing to world pressure. We have accepted the World Trade Organisation Agreement, as it is in our interest and as has been discussed at length in this House earlier. He has also expressed a point that knowledge is freely available and it should not be patented.

Technology should also be available everywhere.

Patents are granted for inventions and not for the discoveries. With the grant of patent, the patentee has exclusive right to make use, sell or distribute the invention. However, with the grant of such rights, the patentee is obliged to reap the fruits of the inventions available to the public on reasonable terms within a reasonable time. Patent rights are, therefore, bestowed on the patentee to encourage him to put the knowledge available with him to the use of the people.

Providing protection to the inventions through patents also facilitates transfer of technology. Therefore, patents are concerned only with applied knowledge and not time.

My distinguished friend, Mr. Chavan has suggested

many things. One of his suggestions is deletion of Section 39. The Government will not be aware of inventions relating to Defence, Atomic Energy, etc., as the information will be sent outside the country. This Section has been deleted in order to remove restrictions on applications made by persons resident in India. It is not that with such a deletion, it will be possible to pass on classified information to other countries. This can still be prevented under the provisions of law. I also thank Mr. Chavan for his valuable suggestions.

My hon. friend, Mr. Lodha, said that with these amendments, foreign companies will be able to come to India and obtain patents on our seeds. I would like to tell him that the Bill does not cover patenting of seeds. Plant varieties are not patentable under Patents Act, 1970 and the position remains unchanged even with the amendments.

Shri Rasa Singh Rawat has raised a question whether patenting of *Neem* will be compulsory. This Bill does not make any change which would enable companies to obtain patents for *Neem* etc. *Neem* is a constituent of plants. Therefore, it will not come under patents. Farmers' rights are not being affected and the seeds, etc., used by them are not being brought within the scope of patents. The same issue has been raised by other hon. Members like, Dr. Ramkrishna Kusmaria, Mr. Ashok Anandrao Deshmukh, Dr. Laxminarayan Pandeya and Mr. Vijay Kumar Yadav.

The hon. Member, Mr. Pratap Singh, has talked about reciprocity and asked whether foreign products are going to be tested in India. Yes, of course, marketing approvals are required in India before the product enters a market. This applies in the case of both indigenous as well as imported products. The amendments proposed in the Bill do not affect our interests adversely. The TRIPs Agreement has provided us with a transition period of ten years to amend the Patents Act, 1970, to provide for product patents in areas of technology not covered so far. During this period, we expect that Indian companies will step up their research and development activities and upgrade the facilities available with them for development. It is imperative that we make our efforts to ensure that we obtain the latest technology available on the subject in the world.

The technology will be made available to us only after protection is offered. It is with this view that we have initiated an exercise to amend our laws to make them more responsive to the dynamics of change. While making these changes in the law, we are also seized of the fact that the administrative machinery available with us is also strengthened and streamlined. The project is already under way to modernise our patent information services. We are also taking steps separately to strengthen our offices.

To conclude, I would like to reiterate that the Bill attempts to strike a balance between two objectives, that is, fulfilment of our obligations and protection of our interests.

These objectives have been met with and I would urge

upon the hon. Members to extend their support for passing the Bill.

SHRI TARIT BARAN TOPDAR (Barrackpore): Sir, in brief, I would like to submit that the Minister did not explain any of the vital points raised in the course of discussion despite the pipeline protection which had been mentioned yesterday which is very much there in the GATT Agreement. The Government, in a hurry, brought this Bill and prior to that, the Ordinance. I do not find any reason as to why this was found to be imperative on the part of the Government in spite of this protection given in the main body of the Agreement. Sir, we have seen the budgets one after another. We have seen the budget suddenly opted to suit the GATT obligations before the GATT Agreement was signed and the other four successive budgets to adapt to the WTO requirements. The Finance Minister, in his splendour of diction in his speech, could not conceal the fact of price rise, inflation and only dependence in the interdependent economy. It has been said 'interdependent economy in the world'. But for our country, it is meant only dependence, destroying the beat of self-reliance which the country could achieve over the years. It has been told by the Finance Minister on the floor of the House that there is nothing against India in WTO as if all other countries strove for eight years only for the well-being of India and not for their well-being. America or the European countries put their heads together only for the well-being of India and not for their well-being although Mr. Peter Sutherland, the Secretary-General told just the day after the Agreement was signed that we are entering an era of trade war.

16.29 hrs.

[SHRI TARA SINGH in the Chair.]

In this era of trade war—it has been said by the Finance Minister and all other Ministers here—that there is nothing against India in WTO.

I want to know whether the Finance Minister, his colleagues and his supporters in his actions want to say that by this, all the member—countries have surrendered their interest to the interest of India. It sounds that they are more American than the Americans themselves. Our erstwhile Secretary, Commerce, Shri Anwarul Hoda gave sermons that stealing of technology is not dignified. Then, Japan is a very undignified nation. Yesterday, some of our friends from that side also echoed their voice. I do not know whether Shri Anwarul Hoda has obtained the *eenam* by getting the service in WTO. What the other people will get, I do not know. You are saying that we must go against all protections. Patent itself is a protection. So, in the garb of the slogan of liberalisation, product patenting is the broadest protection given to a company or a person or a country. In the course of reply, Mr. Minister only mentioned that discoveries are not patentable, and inventions are patentable. Yes, there is a certain difference between discoveries and inventions. But I want to know whether DNA is a discovery or an invention. As far as my knowledge goes regarding science, DNA, is not an invention but it is a discovery. Then how DNA—it is the name of some acid—is going to be patented? The hon.

Minister says that this is not included just now in the Bill. This is an interim arrangement. The Bill is just an interim arrangement. Can the Minister say, this is once for all, and no more change of Patent Act will be made within 10 years or 15 years to come? No, because this is the interim arrangement which the Bill seeks to do.

Before the Patents Act is changed, instead of products patenting they sold marketing right. Sold marketing rights are given to them instead of product patenting. It is somewhat like that of product patenting.

Now, the protection made by this patent, product patent is actually equivalent to patenting of knowledge. Patenting of Science cannot be done. Yesterday, I made this point that Science can never be patented. Technological aspects, methods and devices can be patented for the time being. But the theory of knowledge the development of knowledge, the development of society through knowledge, brushes aside all these barriers.

Nobody can put a barrier when it comes to access of people to knowledge, whether it be science or technology. Therefore, as far as science is concerned, there is nothing to be patented; whereas for technology, it can be patented for certain period. But for that it cannot be maintained. That is why it has to be patented for some time. Because of this reasons only, it has got a time period.

Therefore, in the course of enacting a law on this aspect, we must take into consideration the natural laws concerning the development of society and the natural laws concerning the development of knowledge and the theory of knowledge itself.

Now, charging the Opposition has become a common refrain of the Government. These charges are always and almost frivolous. The entire Opposition is opposed to this Bill. I also understand that a good number of Congress people as well as opposed to this Bill. In order to maintain their Government with the slender majority that it has, they are not coming out in the open to oppose the Bill.

Sir, within a very short time, elections are going to be held. Elections are due within less than a year. Till that time, this type of change is not necessary and in my view it should not be done. There is nothing imperative on the part of our country to enact such a law in respect of product patenting instead of process patenting in such a manner and so hurriedly. Provisions mentioned in Chapter 16 regarding compulsory licensing have been diluted in this amendment. The articles, paragraphs, sections and subsections providing for compulsory licensing were meant for stoppage of misuse of patenting and stoppage of misuse of permission obtained. By way of diluting the provisions in this manner, the Government wants the patent. Under these provisions, they have got authority only to sell, distribute, etc. This amendment will have great scope for wrecking havoc and causing incalculable damage to our interests.

Therefore, without further elaborating, I want to conclude with these remarks.

Sir, our good friends have made a claim that the

prices of medicines will not be increased. Yesterday I submitted, how process patenting helped India to be a little bit self-reliant in the field of pharmaceuticals and pesticides. The scientists of CSIR have developed nearly 50 pesticides which helped India not only in becoming a self-reliant country in the field of pesticides but also a member of the exporting community in this field of pesticides. However, I do not want to elaborate on this because the Government is not ready to accede to any suggestions; they are not ready to discuss anything; they do not pay any heed to the suggestions of the Parliamentary Committees and they will also not accede to any suggestion made on the floor of the House howsoever justified it might be.

Sir, regarding the claim that the Members of the other side made yesterday with regard to prices, I want to cite a few examples. I have got many examples with me, but I would cite only two or three examples.

In the field of antibiotics, today four tablets of Cephalixin costs Rs. 11.98 in India, Rs. 55.63 in America and Rs. 16.50 in England. Four tablets of Norphlocloasin costs Rs. 15.20 in India, Rs. 30.08 in Pakistan and Rs. 99.14 in America. This is the present difference when product patent is allowed, then we can very well understand what would happen when sole marketing rights would be allowed!

Again, take for example a cardiovascular drug, namely, Niphodipin. Today, 10 tablets of this drug costs Rs. 3.88 in India, Rs. 38.50 in Pakistan Rs. 60.38 in America and Rs. 31.20 in England. There are others also. We can give a chart of 100 of such medicines.

Therefore, this is totally against the poor people of our country; this is totally against the interest of our country; this is totally against the sovereignty of our country. Therefore, I cannot withdraw the Statutory Resolution moved by me.

SHRI BASUDEB ACHARIA (BANKURA): Sir, how could you expect that he will withdraw it?

MR. CHAIRMAN: The question is:

"That this House disapproves of the Patents (Amendment) Ordinance, 1994 (No. 13 of 1994) promulgated by the President on December 31, 1994."

SOME HON. MEMBERS: We want a division.

MR. CHAIRMAN: Let the Lobbies be cleared.

15.45 hrs.

[MR. SPEAKER in the chair]

MR. SPEAKER: Lobbies are now cleared.

Shuklaji, have you got something to say?

THE MINISTER OF WATER RESOURCES AND MINISTER OF PARLIAMENTARY AFFAIRS (SHRI VIDYACHARAN SHUKLA): Sir, we were amidst a meeting with you in your Committee Room when the Division Bill rang up. I only wish to submit, let us complete our deliberations in the Committee Room and then we can have the voting here.

This is my submission. If it is agreeable, it is all right, otherwise, you can hold the Division now. (Interruptions)

MR. SPEAKER: It seems that this machine is not working properly or we are not pressing the buttons as we should. Both the things may be there. So, if you agree, we can take the vote by slips.

SEVERAL HON. MEMBERS: Yes. (Interruptions)

MR. SPEAKER: Now, the Lobbies have been cleared.

The question is:

"That this House disapproves of the Patents (Amendment) Ordinance, 1994 (No. 13 of 1994) promulgated by the President on December 31, 1994."

Let the slips be distributed, collected, counted and the information given to me.

The Lok Sabha divided:

Division No. 3]

[17.00 hrs.

Abedya Nath, Mahant (Gorakhpur)
Acharia, Shri Basudeb (Bankura)
Agnihotri, Shri Rajendra (Jhansi)
Amar Pal Singh, Shri (Meerut)
Anjalose, Shri Thayil John (Alleppey)
Asokaraj, Shri A. (Perambalur)
Bala, Dr. Asim (Nabadwip)
Baliyan, Shri N.K. (Muzaffarnagar)
Barman, Shri Palas (Balurghat)
Barman, Shri Uddhab (Barpeta)
Basu, Shri Anil (Arambagh)
Basu, Shri Chitta (Barasat)
Berwa, Shri Ram Narain (Tonk)
Bhandari, Shrimati Dil Kumari (Sikkim)
Bhargava, Shri Girdhari Lal (Jaipur)
Bhattacharya, Shrimati Malini (Jadavpur)
Chakraborty, Prof. Susanta (Howrah)

AYES

Chaudhary, Shri Rudrasen (Bahraich)
Chauhan, Shri Chetan P.S. (Amroha)
Chauhan, Shri Shivraj Singh (Vidisha)
Chavda, Shri Harisingh (Banaskantha)
Chhatwal, Shri Sartaj Singh (Hoshangabad)
Chhotey Lal, Shri (Mohanlalgaon)
Chikhliia, Shrimati Bhavna (Junagarh)
Choudhary, Shri Ram Tahal (Ranchi)
Choudhury, Shri Lokanath (Jagatsinghpur)
Choudhury, Shri Saifudding (Katwa)
Das, Shri Dwaraka Nath (Karimganj)
Das, Shri Jitendra Nath (Jalpaiguri)
Datta, Shri Amal (Diamond Harbour)
Deshmukh, Shri Chandubhai (Bharuch)
Dhumal, Prof. Prem (Hamirpur)
Dikshit, Shri Shreesh Chandra (Varanasi)
Dome, Dr. Ram Chandra (Birbhum)

Drona, Sri Jagat Vir Singh (Kanpur)
 Dubey, Shrimati Saroj (Allahabad)
 Gangwar, Dr. P.R. (Pilibhit)
 Gangwar, Shri Santosh Kumar (Bareilly)
 Ghangare, Shri Ramchandra Marotrao (Wardha)
 Giri, Shri Sudhir (Contai)
 Gupta, Shri Indrajit (Midnapore)
 Hossain, Shri Syed Masudal (Murshidabad)
 Janarthanan, Shri M.R. Kadambur (Tirunneveli)
 Jaswant Singh, Shri (Chittorgarh)
 Jena, Shri Srikanta (Cuttack)
 Jeswani, Dr. K.D. (Kheda)
 Joshi, Shri Anna (Pune)
 Joshi, Shri Dau Dayal (Kota)
 Kalka Das, Shri (Karolbagh)
 Kashwan, Shri Ram Singh (Churu)
 Keshri Lal, Shri (Ghatampur)
 Khan, Shri Sukhendu (Vishnupur)
 Khanduri, Maj. Gen. (Retd.) Bhuwan Chandra (Garhwal)
 Khanna, Shri Rajesh (New Delhi)
 Khanoria, Major D.D. (Kangra)
 Koli, Shri Ganga Ram (Bayana)
 Krishnendra Kaur (Deepa), Shrimati (Bharatpur)
 Kumar, Shri V. Dhannanjaya (Mangalore)
 Kusmaria, Dr. Ramkrishna (Damoh)
 Lodha, Shri Guman Mal (Pali)
 Mahajan, Shrimati Sumitra (Indore)
 Mahato, Shri Bir Singh (Purulia)
 Mahendra Kumari, Shrimati (Alwar)
 Malik, Shri Purna Chandra (Durgapur)
 Mallikarjunaiah, Shri S. (Tumkur)
 Mandal, Shri Brahmanand (Monghyr)
 Mandal, Shri Sanat Kumar (Joynagar)
 Mishra, Shri Ram Nagina (Padrauna)
 Misra, Shri Janardan (Sitapur)
 Misra, Shri Satyagopal (Tamluk)
 Mollah, Shri Hannan (Uluberia)
 Mukherjee, Shrimati Geeta (Panskura)
 Mukherjee, Shri Pramothes (Berhampore)
 Mukherjee, Shri Subrata (Raiganj)
 Mukhopadhyay, Shri Ajoy (Krishnagar)
 Murmu, Shri Rup Chand (Jhargram)
 Murthy, Shri M.V.V.S. (Visakhapatnam)
 Naik, Shri Ram (Bombay North)
 Narayanan, Shri P.G. (Gobichettipalayam)
 Oraon, Shri Lalit (Lohardaga)
 Pal, Shri Rupechand (Hooghly)
 Pandeya, Dr. Laxminarayan (Mandsaur)
 Passi, Shri Balraj (Nainital)
 Patel, Dr. Amrit Lal Kalidas (Mehsana)

Ahmed, Shri Kamaluddin (Hanamkonda)
 Aiyar, Shri Mani Shankar (Mayiladuturai)
 Ajit Singh, Shri (Baghpat)
 Akber Pasha, Shri B. (Vellore)
 Anbarasu, Shri R. (Madras Central)
 Arunachalam, Shri M. (Tenkasi)
 Ayub Khan, Shri (Jhunjhunu)
 Bhadana, Shri Avtar Singh (Faridabad)
 Bhagat, Shri Vishweshwar (Balaghat)
 Bhardwaj, Shri Paras Ram (Sarangarh)

Patel, Shri Chandresh (Jamnagar)
 Pathak, Shri Harin (Ahmedabad)
 Prakash, Shri Shashi (Chail)
 Prem, Shri B.L. Sharma (East Delhi)
 Premi, Shri Mangal Ram (Bijnor)
 Ram Singh, Shri (Haridwar)
 Ramdew Ram, Shri (Palamau)
 Rao, Shri D. Venkateswara (Bapatla)
 Rawal, Dr. Lal Bahadur (Hathras)
 Rawale, Shri Mohan (Bombay—South Central)
 Rawat, Prof. Rasa Singh (Ajmer)
 Ray, Shri Rabi (Kendrapada)
 Raychaudhuri, Shri Sudarsan (Serampore)
 Rongpi, Dr. Jayanta (Autonomous District)
 Saikia, Shri Muhi Ram (Nowgong)
 Saraswati, Shri Yoganand (Bhind)
 Sarode, Dr. Guntant Rambhau (Jalgaon)
 Shah, Shri Manabendra (Tehri Garhwal)
 Shakya, Dr. Mahadeepak Singh (Etah)
 Sharma, Shri Rajendra Kumar (Rampur)
 Sharma, Shri V.N. (Hamirpur)
 Shastri, Acharya Vishwanath Das (Sultanpur)
 Shastri, Shri Vishwanath (Gazipur)
 Singh, Shri Brijbhushan Sharan (Gonda)
 Singh, Dr. Chattrapal (Bulandshahr)
 Singh, Shri Devi Bux (Unnao)
 Singh, Shri Mohan (Deoria)
 Singh, Shri Pratap (Banka)
 Singh, Shri Rajveer (Aonla)
 Singh, Shri Satya Deo (Balrampur)
 Sivaraman, Shri S. (Ottapalam)
 Soren, Shri Shibu (Dumka)
 Sreenivaasan, Shri C. (Dindigul)
 Sur, Shri Monoranjan (Basirhat)
 Swami, Shri Chinmayanand (Badaun)
 Swami, Shri Sureshanand (Jalesar)
 Syed Shahabuddin, Shri (Kishanganj)
 Thakore, Shri Gabhaji Mangaji (Kadwadwani)
 Tirkey, Shri Pius (Alipurduars)
 Tomar, Dr. Ramesh Chand (Hapur)
 Topdar, Shri Tarit Baran (Barrackpore)
 Trivedi, Shri Arvind (Sabarkantha)
 Vadde, Shri Sobhanadreeswara Rao (Vijayawada)
 Vajpayee, Shri Atal Bihari (Lucknow)
 Vekaria, Shri Shivalal Nagjibhai (Rajkot)
 Virendra Singh, Shri (Mirzapur)
 Yadav, Shri Sharad (Madhepura)
 Yumnam, Shri Yaima Singh (Inner Manipur)
 Zainal Abedin, Shri (Jangipur)

NOES

Bhatia, Shri Raghunandan Lal (Amritsar)
 Bhoi, Dr. Krupasindhu (Sambalpur)
 Bhonsle, Shri Prataprao B. (Satara)
 Bhuria, Shri Dileep Singh (Jhabua)
 Birbal, Shri (Ganganagar)
 Brohmo Chaudhury, Shri Satyendra Nath (Kokrajhar)
 Buta Singh, Shri (Jalore)
 Chaliha, Shri Kirip (Guwahati)
 Chaudhary, Sqn. Ldr. Kamal (Hoshiarpur)

- Chaudhri, Shri Narain Singh (Hissar)
 Chavan, Shri Prithviraj D. (Karad)
 Chavda, Shri Ishwarbhai Khodabhai (Anand)
 Chidambaram, Shri P. (Sivaganga)
 Chowdary, Dr. K.V.R. (Rajahmundry)
 Chowdhary, Shrimati Santosh (Phillaur)
 Dadahoor, Shri Gurcharan Singh (Sangrur)
 Dalbir Singh, Shri (Shahdol)
 Damor, Shri Somjibhai (Dohad)
 Das, Shri Anadi Charan (Jaipur)
 Deka, Shri Probin (Mangaldoi)
 Delkar, Shri Mohan S. (Dadra and Nagar Haveli)
 Dennis, Shri N. (Nagercoil)
 Deshmukh, Shri Ashok Anandrao (Parbhani)
 Dev, Shri Sontosh Mohan (Tripura West)
 Devi, Shrimati Bibhu Kumari (Tripura East)
 Dighe, Shri Sharad (Bombay North Central)
 Diwan, Shri Pawan (Mahasamund)
 Faleiro, Shri Eduardo (Mormugao)
 Fernandes, Shri Oscar (Udupi)
 Gajapathi, Shri Gopi Nath (Berhampur)
 Ghatowar, Shri Paban Singh (Dibrugarh)
 Giriappa, Shri C.P. Mudala (Chitradurga)
 Gogoi, Shri Tarun (Kaliabor)
 Gudadinni, Shri B.K. (Bijapur)
 Gundewar, Shri Vilasrao Nagnathrao (Hingoli)
 Handique, Shri Bijoy Krishna (Jorhat)
 Harchand Singh, Shri (Ropar)
 Hooda, Shri Bhupinder Singh (Rohtak)
 Inderjit, Shri (Darjeeling)
 Islam, Shri Nurul (Dhubri)
 Jaffer Sharief, Shri C.K. (Bangalore North)
 Jakhar, Shri Balram (Sikar)
 Jangbir Singh, Shri (Bhiwani)
 Jangde, Shri Khelan Ram (Vilaspur)
 Kale, Shri Shankarrao D. (Kopergaon)
 Kamble, Shri Arvind Tulshiram (Osmanabad)
 Kanithi, Dr. Vishwanatham (Srikakulam)
 Kaul, Shrimati Sheila (Rae Bareilly)
 Khursheed, Shri Salman (Farrukhabad)
 Krishnaswamy, Shri M. (Vandavasi)
 Kuli, Shri Balin (Lakhimpur)
 Kumaramangalam, Shri Rangarajan (Salem)
 Kuppuswamy, Shri C.K. (Coimbatore)
 Lakshmanan, Prof. Savithri (Mukundapuram)
 Malik, Shri Dharampal Singh (Sonapat)
 Mallikarjun, Shri (Mahbubnagar)
 Mallu, Dr. R. (Nagar Kurnool)
 Mariphoool Singh, Shri (Bikaner)
 Marbaniang, Shri Peter G. (Shillong)
 Mathur, Shri Shiv Charan (Bhilwara)
 Meena, Shri Bheru Lal (Salumbar)
 Meghe, Shri Datta (Nagpur)
 Mujahid, Shri B.M. (Dharwad South)
 Muniyappa, Shri K.H. (Kolar)
 Murthy, Shri M.V.V.S. (Visakhapatnam)
 Naik, Shri A. Venkatesh (Raichur)
 Naik, Shri G. Devaraya (Kanara)
 Nandi, Shri Yellaiah (Siddipet)
 Nawale, Shri Vidura Vithoba (Khed)
 Nayak, Shri Mrutyunjaya (Phulbani)
 Nayak, Shri Subash Chandra (Kalahandi)
 Netam, Shri Arvind (Kanker)
 Odeyar, Shri Channaiah (Davangere)
 Padma, Dr. (Shrimati) (Nagapattinam)
 Palacholla, Shri V.R. Naidu (Khammam)
 Panigrahi, Shri Sriballav (Deogarh)
 Panja, Shri Ajit (Calcutta North-East)
 Patel, Shri Praful (Bhandara)
 Patel, Shri Uttambhai Harjibhai (Bulsar)
 Patil, Shrimati Pratibha Devisingh (Amravati)
 Patil, Shrimati Surya Kanta (Nanded)
 Patil, Shri Uttamrao Deorao (Yavatmal)
 Patra, Dr. Kartikeswar (Balasore)
 Pattanayak, Shri Sarat (Bolangir)
 Pawar, Dr. Vasant Niwruiti (Nasik)
 Pilot, Shri Rajesh (Dausa)
 Potdukhe, Shri Shantaram (Chandrapur)
 Prabhu Zantye, Shri Harish Narayan (Panaji)
 Pradhani, Shri K. (Nowrangpur)
 Rahi, Shri Ram Lal (Misrikh)
 Rai, Shri Kalp Nath (Ghosi)
 Rai, Shri Ram Nihor (Robertsganj)
 Rajeshwaran, Dr. V. (Ramnathapuram)
 Ram Babu, Shri A.G.S. (Madurai)
 Ram Badan, Shri (Lalganj)
 Rao, Shri J. Chokka (Karimnagar)
 Rao, Shri P.V. Narasimha (Nandyal)
 Rao Ram Singh, Col. (Mahindergarh)
 Reddaiah Yadav, Shri K.P. (Machilipatnam)
 Reddy, Shri M. Baga (Medak)
 Reddy, Shri Magunta Subbarama (Ongole)
 Sai, Shri A. Prathap (Rajampet)
 Sangma, Shri Purno A. (Tura)
 Sayeed, Shri P.M. (Lakshadweep)
 Scindia, Shri Madhavrao (Gwalior)
 Selja, Kumari (Sirsar)
 Sharma, Shri Chiranjil Lal (Karnal)
 Sharma, Capt. Satish Kumar (Amethi)
 Shastri, Shri Rajnath Sonkar (Saidpur)
 Shivappa, Shri K.G. (Shimoga)
 Shukla, Shri Vidyacharan (Raipur)
 Sidnal, Shri S.B. (Belgaum)
 Silvera, Dr. C. (Mizoram)
 Singh, Shri S.B. (Rajnandgaon)
 Singh Deo, Shri K.P. (Dhenkanal)
 Singla, Shri Sant Ram (Patiala)
 Sodi, Shri Manku Ram (Bastar)
 Solanki, Shri Surajbhanu (Dhar)
 Sukhbans Kaur, Shrimati (Gurdaspur)
 Swamy, Shri G. Venkat (Padapalli)
 Tara Singh, Shri (Kurukshetra)
 Thakur, Shri Mahendra Kumar Singh (Khandwa)
 Thangka Balu, Shri K.V. (Dharmapuri)
 Thorat, Shri Sandipan Bhagwan (Pandharpur)
 Thungon, Shri P.K. (Arunachal West)
 Tindivanam, Shri K. Ramamurthee (Tindivanam)
 Tiriya, Kumari Sushila (Mayurbhanj)
 Topno, Kumari Frida (Sundargarh)
 Upadhyay, Shri Swarup (Tejpur)

Vandayar, Shri K.T. (Thanjavur)
 Verma, Shri Bhawani Lal (Janjgir)
 Verma, Kumari Vimla (Seoni)
 Vyas, Dr. Girija (Udaipur)

MR. SPEAKER: Subject to correction the result of the division is:

Ayes : 132

Noes : 146

The motion was negatived.

MR. SPEAKER: Now I will put the motion for consideration of the Bill to the vote of the House.

The question is:

"That the Bill further to amend the Patents Act, 1970, be taken into consideration".

The motion was adopted.

MR. SPEAKER: Now, we take up Clause by Clause consideration of the Bill.

MR. SPEAKER: The question is:

"That Clauses 2 to 8 stand part of the Bill."

The motion was adopted.

Clauses 2 to 8 were added to the Bill.

MR. SPEAKER: The question is:

"That Clause 1, the Enacting Formula, the Preamble and the long title stand part of the Bill."

The motion was adopted.

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

MR. SPEAKER: Now the Minister may move that the Bill be passed.

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY (DEPARTMENT OF SMALL SCALE INDUSTRIES AND AGRO AND RURAL INDUSTRIES) (SHRI M. ARUNACHALAM): Sir, I beg to move:

"That the Bill be passed."

MR. SPEAKER: Motion moved:

"That the Bill be passed."

Shri Syed Shahabuddin may speak.

SHRI SYED SHAHABUDDIN (Kishanganj): Mr. Speaker, Sir, with your permission I would like to draw your attention to the Statement of Objects and Reasons of the Bill. The last sentence of the first paragraph says:

"With a view to meeting India's obligations under the TRIPs Agreement, it has become necessary to amend the Patents Act, 1970."

In fact, Mr. Speaker, Sir, the opinion of the entire Opposition, the public opinion and the intellectual and academic opinion in the country had been one of opposition to our accession to the GATT 1995 and our participation in the proposed WTO precisely on the ground that this would necessitate a change in our Patents law, which had been in operation to the best interest of the

Wasnik, Shri Mukul (Buldana)
 Williams, Maj. Gen. R.G. (Nominated Anglo-Indian)
 Yadav, Shri Satya Pal Singh (Shahjahanpur)

country for the last 20 to 25 years. Now it says that it has become necessary to amend the Patents Act. I would like to know from the hon. Minister whether there was a deadline, by which ... (Interruptions)

MR. SPEAKER: Shri Shahabuddin, let me bring the procedural side of the discussion on the Third Reading of the Bill to your notice. You shall have to say why it should be passed or why it should not be passed.

SHRI SYED SHAHABUDDIN: Sir, this is precisely my point. I am not asking for a *de novo* discussion. I am only saying that the Government have based their case for passing this Bill today with this sense of urgency only on the ground that it has become necessary to amend the Patents Act. I am not aware of any clause in the GATT Agreement 1995 which makes it so imperative that it must be passed today. In fact, Sir, to the best of my knowledge many countries which signed the agreement have not even ratified it. In our case we have ratified it. Now I would like to know from the hon. Minister which clause in the GATT Agreement 1995 makes it imperative — that this Patents Act must be amended by this deadline as of today or as of the 31st March, which made it necessary for the Government even to issue an Ordinance in this respect? And similarly, Sir, I come to paragraph-4 of the Objects and Reasons. It says, "In terms of commitment in the TRIPs agreement..". Again I would like the hon. Minister to enlighten the House on this point. Where exactly in the TRIPs agreement there is a commitment that these measures, which grant these exclusive marketing rights to the pharmaceutical products for a period of five years be brought into force from the very day of our accession to in the GATT Agreement 1995? This is what I wanted to know because the entire case the Government have made out for passing the Ordinance as well as for bringing this Bill before the House is based on a show of urgency. I say, this is as assumed sense of urgency. This is misleading the House and, therefore, I would like the hon. Minister to clarify this point. That is all.

MR. SPEAKER: You could have asked the clarification in the First Reading itself.

SHRI SYED SHAHABUDDIN: Sir, unfortunately I was not present here.

MR. SPEAKER: That is not the reason you should be allowed to make this point now.

SHRI SYED SHAHABUDDIN: Since the Government's case is based on urgency, the Government have to answer this point. What is this urgency which is propelling them in this direction or, if I may say so, of compromising with the national sovereignty and almost forcing this Bill through the Parliament without discussion and without consultation? They themselves say that they need more time for consultation. They themselves say that the Bill is not a final

product, that the Bill is a half-baked product. Why could they not have had more time? That is the point. If they had more time, they could have more consultation and a well-considered Bill could have been brought before the House, that could have been passed by the consensus of the nation. After all we have entered into an international agreement and I do appreciate its sanctity. Having entered into an international agreement, certain consequences follow. But I do not understand this point made by the Government that there was such an urgency that something has to be done by the 31st of January and therefore, this Bill has to be passed. Sir, I would like to know whether the Government to enlighten this House on this point.

MR. SPEAKER: Thank you. You were very brief.

I will read the relevant provision:

"The discussion on a motion that the Bill or the Bill as amended, as the case may be, be passed shall be confined to the submission of arguments either in support of the Bill or for the rejection of the bill. In making his speech a member shall not refer to the details of the Bill further than is necessary for the purpose of his arguments which shall be of a general character."

SHRI SOBHANADREESWARA RAO VADDE (Vijayawada): Thank you. I will abide by your ruling and I will confine myself to the rules.

I would only stress two points as to why this Amendment Bill should be rejected. I am very happy that the hon. Prime Minister is also here in the House. I would like to draw his attention to the question as to why this Bill should be rejected. I want to lay stress on two points.

One is, by bringing this Bill the Government is giving an opportunity to the foreign multi-national companies which have product patent to register their products in our country which, as things stand today, as per the Patent Act, 1970, are not eligible to do so. Only a process patent can be registered but not a product patent. Given that scope, the Government is also giving the opportunity to these foreign companies to stand first in the queue when actually our Government gives the product patent this protection.

The second thing is, the Government also, through this Bill is giving the opportunity for those companies to have exclusive marketing rights in the field of pharmaceuticals and agro-chemicals which they do not have them at present today. We have been given a transition period of five to ten years as per the hon. Prime Minister's reply very recently on 14th December, 1994 to an Unstarred Question No. 1092. However, India has a transition period up to January 1, 2000 to oppose the provisions of the TRIPS Agreement relating to patent protection and up to January 1, 2005 to introduce product patent protection to areas of technology not protected so far. This transition period will enable our scientists, our officials in the patent offices and the

scientists in our universities to acquaint themselves with the emanating changes that have to be taken in the near future and also it will enable our scientists and our industries to come to such a situation to meet the requirement. By doing this The Government is denying those things and actually our research efforts and our indigenous industry will adversely be affected because of this Bill.

The last point which I want to stress is that in the Indian Patent Act, 1970, compulsory licensing provision is there under which the patent holder has to compulsorily manufacture the product in our country. But now in this Amendment Bill on page 4, in sub-clause (d) there is a provision.

MR. SPEAKER: We do not go into the details. It is not necessary.

SHRI SOBHANADREESWARA RAO VADDE: I am only reading what is important.

MR. SPEAKER: You tell us why it should not be passed.

SHRI SOBHANADREESWARA RAO VADDE: On page 4, sub-clause (d) says:

"Clauses (d) and (e) of section 90 shall be omitted."

That means, the Government is giving a go-by to this provision, that is, importation cannot be substituted for compulsory licensing. Now, instead of manufacturing in our country those patent holders will import their products and they will market them here and our country is not going to benefit by it. So, this amendment Bill will only help those foreign multi national companies and not our indigenous industry people or technology.

I request the Government, even at this eleventh hour to think over and withdraw this Bill. It is not at all in the interests of this country. The Government is only doing it to serve the interests of the multi-national companies. With all humility I would say it; I may be excused to say that the reality is that the people of this country are going to loss very heavily and pay a very heavy price in the form of higher prices for medicines and pharmaceuticals and the farmers of this country are going to suffer. In general, the domestic industry is going to suffer.

MR SPEAKER: Shri Basudeo Acharia, you know the rules of the game. You follow them.

SHRI BASUDEB ACHARIA (Bankura): Sir, I will be very brief. I have heard what you have quoted from the rules. So, I will abide by the rules to the extent possible and practicable. Why do we want that this Bill should not be passed by this House? It is because this particular Bill will adversely affect our indigenous industry and our scientific research. I want to know from the Government as to whose interests will be served by passing this Bill, amending the Patents Act of 1970. When this amendment is made, there will be automatic licensing in place of compulsory licensing, to which we are objecting to. There will be automatic licensing and the licence of right shall be incorporated as granted in Section 87 of the parent Act. As

the licensing of right in respect of selling, distribution, import and manufacture pertaining to pharmaceuticals will be automatic, it will serve the national interests. Also the manufacturer through the method discovered should be allowed to licence of right. The public interest petition against the hazardous substances should be allowed and pharmaceutical substances should be banned, and as it is being done in other countries it should be allowed to be contested through public interest petition. This aspect is very important. That is why, we want that at least at this stage wisdom will prevail upon the Government and they will listen to what we have suggested. Why is there so much of hurry? When the Government wanted consultation, they should consult the Opposition Parties and they should not pass this Bill as this Bill will adversely affect our indigenous industry and our scientific research.

So, at this stage also, I will urge upon the Government that they should withdraw this Bill and this Bill be referred to the Parliamentary Standing Committee for an in-depth study of the Bill, By incorporating the suggestions made by the Members, they can come forward with a fresh Bill.

SHRIMATI MALINI BHATTACHARYA (Jadavpur): Sir, I would like to submit here that we oppose the passing of this Bill for a number of reasons. But the most important among them is that this Ordinance and then the Bill have been brought not out of a sense of legal obligations but out of certain political compulsions, from which the Government suffers.

In other words, certain pressures are exerted on them by the agencies outside India. I would like to state, first of all, the urgency which seems to have dictated the promulgation of this Ordinance, I agree entirely with Shahabuddinji that this urgency is purely a political urgency and this unseemly haste in bringing this Ordinance might have been avoided. In Article 27, Section 3(B) of the Agreement on Intellectual Property Rights, there is a clause that patent may be conferred on micro organisms and non-biological and micro biological processes for the production of plants and animals. Now, all the countries which have signed the GATT Treaty and entered the W.T.O. have to abide by this clause. However, we find that on March 1, 1995, after the World Trade Organisation has been installed, the European Parliament has vetoed a controversial legislation on this very issue. This was a legislation which allowed for the patenting of genetically engineered plants and animals and for inventions based on human genes and other body parts. If the European Parliament can come to this kind of a crucial and positive verdict against the commercial exploitation of farms supply, then what was the compulsion that the Indian Government had to bring this black Ordinance in this hole-and-corner manner.

Sir, we have to ask whether other countries — which have signed this treaty — have also already brought Ordinances in their countries to change their laws. Has the U.S.A. done this? Have others done it? Then where is this great urgency which forces to bring this Ordinance? This is my first point.

Then Sir, I would also like to say that the amendment deletes clauses D and E of Section 19.

MR. SPEAKER: This is not a point while reading this Bill for the third time. These points could have been made at the time of first reading itself. This is not a second opportunity given to make the same points.

SHRIMATI MALINI BHATTACHARYA: Sir, I just want to make the point that initially there have been certain circumstances when the reasonable requirements of the public for a patented product might have been considered not to be satisfied by the patent holder thus making it possible for the Government to breakthrough any possibility of monopolistic stranglehold on the market. But now, by bringing this amendment, the Government is encouraging monopolies through the deletion of these clauses. So, this is the other reason for objecting to this.

Thirdly, again I will come back to this point of urgency. In the Agreement on the Intellectual Property Rights, there is Section 2 of Article 27 which allows the exclusion from patentability for inventions, the commercial exploitation of which may injure public order or morality or human or animal or plant life or health, etc. Now, I would like to say that if the Government had that political will, they might have avoided this Ordinance, by using this clause they might have avoided this kind of unseemly haste with which they have brought forward this Ordinance.

In a poor country like ours, is not human life and health being jeopardised if no protection is allowed from monopolists' unbounded greed for profit? But the Government chooses not to take this way out.

I will not go into the other details, but these are some of the points on which we feel that national interest is going to be seriously hampered if this Bill is made into an Act and therefore we totally oppose it.

SHRIMATI GEETA MUKHERJEE (Panskura): Hon. Speaker, Sir, we have been opposing this idea from the very beginning and I would like to point out to the Ruling Party that they should take a lesson from the recent defeats that they had suffered. This Patent Bill was also a very important question in the minds of the agriculturalists, in the minds of the ordinary women, particularly in the minds of those people in our country who are poor and have to go for treatment which is beyond their capacity. That is the reality. Everybody knows that this Bill is going to lead to a tremendous increase in the medicinal prices; nobody has any illusion about it. Secondly, Sir, the Europeans are taking over our Ayurvedic system. Actually, this Bill wants to take away that great treasure of our country. So, it is a submission to the order of these foreign imperialists.

I am sorry to say that even now the Ruling Party is not seeing the writing on the wall. Again, I urge upon them to remember the verdict of the people and immediately withdraw this Bill for which there was no urgency at all to bring at the present moment.

[Translation]

SHRI RABI RAY (Kendrapada): Mr. Speaker, Sir, today, when this Bill has been passed, I find that several Members from Congress Party also feel that it will be berved as a block day in the history.

In 1970, when Patent Law was enacted, a, high-powered Committee was constituted during the regime of Jawaharlal ji, which continued for 15 years even during the Prime Minister-ship of Shrimati Indira Gandhi. It was also sent to Select Committee. I mean to say that the discretion of the whole country had been used in formulating the Patents' Law of 1970 and it was based on national consensus, above partisan consideration.

Today in Parliament we can say that we had a legacy, a legacy of freedom movement. We had tried our best to achieve self-reliance. Prime Minister is also present here who said that a moderate approach would be adopted. By passing this Bill we are acting against that legacy and our path of self-reliance. We are all of a sudden once negating judicious efforts put in by people in enacting the Patent Law of 1970.

I would like to remind the Parliament and the Prime Minister that a committee was constituted under the Chairmanship of Justic Ayengar, who had opined that Patent Law should not be changed. That Committee also included jurists. By changing the Patents Law of 1970, we are doing a considerable harm to the country. The second thing is that section 39 of the Constitution of India envisages that there should not be concentration of wealth. But now it is being violated. Multinationals are being invited here and in this way we are eroding the sovereignty of the country. I would like to say that this law should be changed in public interest. Third thing is that it will hamper the industrial development in the country. It will ruin our indigenous industry but even then we are running towards this mirage. I request the hon. Prime Minister to read the slogans written on walls, not only the common poor people but the people from Congress party are also trying to avoid it. I would like to say that this law is anti-poor, anti-farmers, anti-middle class and anti-women, then how you will serve people by enacting such a law. The Government has not given any supporting argument for it. It will ruin our industrial and agricultural development. We all accept that this will increase the prices of allopathic medicines and hon. Minister is not opposing this. Some people say that price of drugs will increase by 100 percent, some people say 150 percent and some say 200 percent. In view of all these consequences I would like to say that this Bill should not be passed.

[English]

SHRI SUDARSAN RAYCHAUDHURI (Serampore): I suggest that at this stage we should confine ourselves only to register our support or opposition to the Bill.

In the Statement of Objects and Reasons, it has been stated that:—

"With a view to meet India's obligations under

the TRIPS Agreement, it has become necessary to amend the Patents Act, 1970."

It appears that all the countries who are signatories to the Agreement and Members of WTO are also required to make such Patent Act amended as is being done here.

Now I would like to know from the hon. Minister whether all the Members of the WTO have done this.

MR. SPEAKER: That is not allowed. This is not a question and answer session. Moreover, you could have asked that question earlier.

SHRI SUDARSAN RAYCHAUDHURI: Thank you. It has been reported that not all the Members of the WTO have amended their Patent Acts as dictated by WTO and TRIPS and it is also not a fact that all the points covered by the TRIPS and GATT have already been passed and accepted. Certain points are still there unresolved and debate and discussion is continuing on tying of social Clauses, child labour, human rights issue with trade and India is reportedly opposed to such linkage.

Thus, it is not a fact that the scope for discussion and debate is not there. So, we can always go on discussing and debating on this particular issue. It is everybody's knowledge that all the signatory nations of the WTO have not amended all their domestic laws as part of WTO Agreement like the United States. They have not amended their omnibus Trade Act where there are clauses like Special 301 or Super 301.

This is still there, So, it is not a fact that we are compelled to have this Act amended by 1st January.

Then, in the Financial Memorandum, it has been stated that we have to strengthen the office of the Controller General of Patents, Designs and Trade Marks in terms of additional manpower etc. Now, as per the Patents Act, 1970, regarding the powers of the Controller to examine the application, it has been stated, as per clause 12a, "whether the application and the specification relating thereto are in accordance with the requirements of this Act and of any rules made thereunder..." So, the Controller General of Patents, Designs and Trade Marks has enormous powers regarding consideration of patent application. Also, in the GATT, it was found that there is a clause of cross-retaliation and of things like that. It should be judged whether the Patent right has been infringed or not. First, it would, no doubt, be judged by the domestic court, the High Court of India or the Supreme Court of India or the Controller General of Patents, Designs etc. But then there is some sort of a supra-judicial body of WTO. If it is so, then is it not a fact that this will further jeopardise our standpoint, jeopardise our sovereignty?

Then, there is one more thing. It has been stated in the Agreement that the WTO is required to act in close collaboration with the International Monetary Fund and the World Bank. It has been stated there. Now, we have not mentioned anything in this Bill whether we are going

to abide by the WTO Agreement in a manner which would make us defenceless against the IMF diktat and World Bank diktat. If that be so, then, this Act will go a long way in eroding our sovereignty. Therefore, I would like to stress these two points, and reject the Bill.

SHRI M. ARUNACHALM: Sir, hon. Members are aware that as per India's obligation under the TRIPS Agreement, it became necessary to amend the Patents Act, 1970 in conformity with the obligations under the Agreement. One of the obligations under the TRIPS agreement—as per Article 70—is for Member countries to provide, with effect from 1st January, 1995, means for filing of applications for patents in the areas of pharmaceuticals and agricultural chemicals, and, on fulfilling certain conditions by such applicants, grant exclusive marketing rights till the expiry of a period of five years or until the patent is granted or rejected, whichever is earlier. Since the Patents Act, 1970 does not provide for product patents for these items and a transition period is available to make provisions in this regard, arrangements were to be made to provide for exclusive marketing rights in these areas in order to assume obligations with effect from 1st January, 1995. Amendments made are to be made only in respect of those changes which are to be made before 1.1.1995. The Bill does not provide for grant of patents. It only provides for receipt of applications for patents in two fields, that is, pharmaceuticals and agricultural chemicals. The Bill provides for grant of exclusive marketing right which is a right different from patent rights. Exclusive marketing rights provide exclusive rights only to sell and distribute the products. There are no exclusive rights for manufacture of the products. The Indian Patents Act does not provide for patenting of life forms. This position does not change with the amendment.

Shrimati Malini Bhattacharaya has raised the point about other countries. The USA is already granting patent rights. Therefore, that question does not arise. So, I request the Members to support the Bill and pass the Bill.

SHRI SUDARSAN RAYCHAUDHURI: He has not answered our question.

SHRI BASUDEB ACHARIA: He has not replied to the questions raised by us. *(Interruptions)*

MR. SPEAKER: It is not a Question-Answer Session.

Now the question is:

"That the Bill be passed."

...(Interruptions)

MR. SPEAKER: Let the Lobbies be cleared.—

Now the Lobbies have been cleared.

[Translation]

SHRI ATAL BIHARI VAJPAYEE (Lucknow): Mr. Speaker, sir, we are bycotting the Business Proceedings to express our protest.

17.55 hrs.

(Shri Atal Bihari Vajpayee and some other hon. Members then left the House).

MR. SPEAKER: The question is:

"That the Bill be passed."

The motion was adopted

MR. SPEAKER: Now the House stands adjourned to meet again on 22nd March, 1995.

17.56 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Wednesday, March 22, 1995/Chaitra 1, 1917 (Saka).