

14.04 hrs.

**RE: STATUTORY RESOLUTION DISAPPROVING
PATENTS (AMENDMENT) ORDINANCE**

**AND
PATENTS (AMENDMENT) BILL, 2005**

MR. DEPUTY-SPEAKER : The House will now take up item nos. 25 and 26 together. I have received a request from hon. Member Shri Bachhi Singh Rawat that in his place Prof. Vijay Kumar Malhotra may be allowed to speak. So, I request Prof. Malhotra to speak now.

श्री लाल कृष्ण आडवाणी (गांधीनगर) : डिसएप्रूवल सम्बन्धी रिजौल्यूशन तो बाद में आयेगा।

उपाध्यक्ष महोदय, मुझे सबमीशन करना है कि जो आज पेटेण्ट्स बिल आया है, जिसके बारे में सरकार ने आर्डिनेंस इश्यू किया और जिस पर हम बिल के रूप में विचार करने वाले हैं, बहुत महत्वपूर्ण है। अगर इसको कार्यान्वित किया गया तो उसके क्या परिणाम होंगे, इस पर डब्लू.एच.ओ. ने भी बहुत सी आशंकाएं प्रकट की हैं। डब्लू.एच.ओ. about its impact particularly on life-saving drugs

लाइफ सेविंग ड्रग्स की कीमत पर इसका क्या असर पड़ेगा, उन्होंने उस पर बड़ी चिन्ता प्रकट की है। स्पेसिफिक केसेज़ आये हैं कि जहां पर एण्टी कैंसर ड्रग, जो आज कम से कम भारत में बहुत सस्ती मिलती है, उसकी कीमत एक हजार रुपये पर पिल हो जायेगी। डब्लू.एच.ओ. का लैटर भी मैंने देखा है।

लेकिन हमें जो बात कहनी है, वह दूसरी है। विगत दिनों में मंत्री जी आये थे, मुझसे मिले थे और कहा था कि पेटेण्ट्स बिल के बारे में एन.डी.ए. का सहयोग चाहिए और खासकर इसलिए, क्योंकि यह पेटेण्ट्स बिल वही है, जो आपकी सरकार ने प्रस्तुत किया था और उसको ही हम एक प्रकार से स्वीकार कर रहे हैं। उसमें मामूली सा परिवर्तन है, वह भी आपकी ही इच्छा से, आपके मंत्री जी ने सुझाया, उसे हमने इसमें शामिल कर दिया। उसके बाद हम बैठे थे। हमारे प्रमुख साथी

और सहयोगी बैठे और श्री कमलनाथ जी भी बैठे थे। एक घन्टे चर्चा हुई और उस चर्चा में यह बात भी समझायी गई कि जब एनडीए की सरकार ने यह बिल प्रस्तुत किया था और वह जिस रूप में प्रस्तुत किया गया था, हम उससे बहुत संतुष्ट नहीं थे। लेकिन हमारे मन में यह था कि हम सन् 2003 के अंत में प्रस्तुत कर रहे हैं, हमारे लिए समय की जो सीमा है, वह 1 जनवरी 2005 है और हम इसको स्थायी समिति में भेज देंगे तो स्थायी समिति में सब पहलू आ जाएंगे और जो फार्मास्यूटिकल कंसर्न्स हैं, उनके पहलू आ जाएंगे या जो कृषि से संबंधित लोग हैं, उनके भी पहलू आ जाएंगे और कुल मिलाकर के एक अच्छा परिष्कृत रूप इसको मिल जाएगा। खैर, वह इसलिए नहीं हो पाया कि उसके थोड़े ही समय बाद सरकार ने यह निर्णय कर लिया कि हाउस डिसोल्व करके चुनाव करवा लिया जाए। इसलिए वह स्थायी समिति को नहीं जा पाया। आपकी सरकार आने के बाद, 1 जनवरी 2005 में भी काफी समय था। यदि उस समय आप लाते तो वह स्थायी समिति को चला जाता। लेकिन आप उस समय नहीं लाए। आपने दिसम्बर के अंत में एक आर्डिनेन्स इश्यू कर दिया। मुझे याद है कि दिसम्बर के अंत में एक आर्डिनेन्स कर जारी कर दिया गया। हमारी संसदीय पार्टी ने सार्वजनिक रूप से कहा है कि इसको आर्डिनेन्स के माध्यम से नहीं करना चाहिए। इसको बाकायदा विचार-विमर्श करके करना चाहिए। आज जो स्थिति है उसमें हमारी तरफ से सुझाव दिया गया कि कॉमर्स की जो स्थायी समिति है उसके अध्यक्ष डॉ. मुरली मनोरह जोशी स्वयं वहां बैठे थे और उन्होंने कहा कि अगर इस सत्र में पारित भी करना है तो भी यदि एक बार स्थायी समिति को चला जाएगा तो मैं डे-टू-डे बेसिस पर उस पर चर्चा करके रिपोर्ट दे दूंगा और कम-से-कम जो चिंता के पहलू हैं उनको हम डील कर लेंगे। जितनी चर्चा हुई उसमें मैं स्वीकार करूंगा कि मंत्री जी ने यह कमिटमेंट नहीं किया। लेकिन लगभग लगता था कि वह इस बात से सहमत हो गए हैं और उन्होंने कहा कि मैं अपने साथियों से बात करके फिर आपसे बात करूंगा। When I am speaking today, he has not come back to me or to

anyone of my colleagues. He just spoke to me now and I recounted the whole episode and told him that this is not fair. इस बीच में आपके लेफ्ट के मित्रों से बात हुई । लेफ्ट तो पेटेंट के हमारे से भी ज्यादा खिलाफ है । उन्होंने कुछ सुझाव दिए हैं । उन्हें आपने स्वीकार भी किया है । हम को उन्हें देखने का भी अवसर नहीं मिला है कि वे कौन-कौन से सुझाव हैं और क्या हैं । मेरा निवेदन है कि आप इस पर चर्चा आज न कराएं और कल तक के लिए स्थगित कर दें । उसके बाद हम अपना निर्णय देंगे, मेरा इतना ही अनुरोध है ।

श्री रामजीलाल सुमन (फ़िरोज़ाबाद) : उपाध्यक्ष महोदय, 1994 में डब्ल्यूटीओ के तहत हमने इस पर हस्ताक्षर किए थे और उस समय से ले कर आज तक कितना वक्त गुजर गया है । इस पर जो विचार-विमर्श होना चाहिए था, वह नहीं हो पाया है । यह देश के हित का सवाल है । यह बहुत गंभीर मामला है और मैं समझता हूं कि इसमें जल्दबाजी करना राष्ट्र के हित में नहीं है । इसलिए इस पर व्यापक विचार-विमर्श की आवश्यकता है । इसे स्थायी समिति को भिजवा दिया जाए । इसके बाद फिर यह सदन कमेटी की रिपोर्ट पर विचार करेगा । मेरा आपसे आग्रह है कि इस पर किसी और दिन चर्चा करवाई जाए । आज इसकी आवश्यकता नहीं है । इस पर पूरे देश को तथा सदन को विश्वास में लेने की आवश्यकता है । इस पर व्यापक चर्चा होनी चाहिए । भारत के हितों का ख्याल रखा जाए । मैं आपके माध्यम से सरकार से आग्रह करता हूं कि कम-से-कम इस सवाल पर आज चर्चा नहीं होनी चाहिए ।

SHRI KINJARAPU YERRANNAIDU (SRIKAKULAM): Mr. Deputy-Speaker, Sir, hon. Minister, Shri Kamal Nath has presented the Patents (Amendment) Bill, 2005 before Parliament which seeks to replace the Patents (Amendment) Ordinance, 2004. Again, they have amended the present Bill with some amendments from the Government side. We have just received. . (Interruptions)

PROF. VIJAY KUMAR MALHOTRA (SOUTH DELHI): We have not received. . (Interruptions)

SHRI KINJARAPU YERRANNAIDU : I have received it just now. A lot of discussion is required on this Bill. That is why, today the Bill has to be referred to the Standing Committee on Commerce for further discussion. Anyhow, the Chairman of the Standing Committee on Commerce has given a promise to the Minister that they will discuss the Bill on day-to-day basis and submit a Report to the Parliament. Otherwise, you defer it to tomorrow.

In the meanwhile, we will read all the provisions, implications and everything else. Not only the Parliament, other organisations are also working on this area. So, we have to take the advice and opinion of other bodies also. Then only, everybody will appreciate it. We are not opposing this Bill. On the basis of consensus, we have to approve this Bill. So, I would request that we may defer this Bill.

SHRI VARKALA RADHAKRISHNAN (CHIRAYINKIL): Sir, if a discussion is held on this issue, then we are prepared for it. We will have our own say in the matter, but we need time to speak on it.

MR. DEPUTY-SPEAKER: Mr. Varkala Radhakrishnan, I will allow you to express your views on this issue.

SHRI VARKALA RADHAKRISHNAN : The Leader of Opposition has raised an issue, but we will have our own say in the matter. We will definitely be expressing our opinion in this matter.

श्री प्रभुनाथ सिंह (महाराजगंज, बिहार) : उपाध्यक्ष महोदय, विपक्ष के नेता माननीय आडवाणी जी ने जैसा कहा है, मैं अपने आपको उससे सम्बद्ध करते हुए, अलग से एक निवेदन करना चाहता हूँ कि यह मामला बहुत ही संवेदनशील और गंभीर है। इस देश का कोई भी वर्ग ऐसा नहीं है जो इससे प्रभावित नहीं होगा। ऐसी स्थिति में इसे स्टैंडिंग कमेटी में तो भेजा ही जाए, लेकिन ऐसे सवालों पर इस देश में राष्ट्रीय बहस भी चलानी चाहिए और देश की भावना जाननी चाहिए कि देश के लोग क्या चाहते हैं। बिना पूर्ण बहस करवाए हुए, इसे सदन में लाना किसी भी दृष्टि से उचित नहीं होगा, यह मेरा सुझाव है। हम आपके माध्यम से आग्रह करना चाहेंगे कि आज कम से कम इस बहस को जरूर रोका जाए।

कुमारी ममता बैनर्जी (कलकत्ता दक्षिण) : Thank you, Sir. उपाध्यक्ष महोदय, यह बिल बहुत इम्पार्टेंट है लेकिन सैनसिटिव भी है। हमारे देश में वैसे ही मेडीसन्स के भाव बढ़ते जा रहे हैं। The prices of medicines for Thalassemia patients, cancer patients, and even the life-saving drugs are increasing day-by-day, and after passage of this Bill, the prices will reach sky-high. Can the Government assure the House that they will not increase? It cannot do so.

अभी पेटेंट बिल के अंतर्गत पीएमआर में आप हमारे देश की फार्मास्यूटीकल्स कम्पनियों को राइट टू रिप्रेजेंटेशन दे रहे हैं, लेकिन राइट टू ऑब्जेक्ट नहीं दे रहे हैं। इससे उनको नुकसान हो सकता है। देश में मेडीसन्स के भाव इतने बढ़ गए हैं कि गरीबों को सरकारी अस्पतालों में जैलुसिल भी नहीं मिल रही है। पूरा प्राईवेटाइज़ हो गया है। इसलिए हम भी चाहेंगे कि माननीय आडवाणी जी ने जो राय दी है that it should be discussed in the Standing Committee. We should have taken into confidence the people from the pharmaceutical field, etc. as we want to address their views also. Hence, we have to take into confidence those people, and then discuss this matter. I do not think that we should hurriedly pass a Bill, which will harm the country. I would request the Minister to consider these aspects of the matter.

SHRI VARKALA RADHAKRISHNAN : Sir, now, it is not the proper time to refer it to a Standing Committee or a Select Committee. It is another matter, which the Leader of Opposition has expressed here. If a discussion is allowed, then we will give our opinion on this issue. I am not expressing any opinion about the views expressed by the Opposition. So far as we are concerned, we have certain objections in the Bill, and, if possible, we will try to sort out those objections in the Bill. This is the present position on this issue. . (*Interruptions*)

MAJ. GEN. (RETD.) B. C. KHANDURI (GARHWAL): Have you read the amendments?

SHRI VARKALA RADHAKRISHNAN : We have certain objections with regard to certain provisions in the Bill, especially, with regard to drugs, and especially with regard to the chemicals used in the drugs. We require a detailed discussion on all these matters.

It is for the Government to decide whether it should be referred to a Standing Committee or it should be passed. As far as we are concerned, we are making our position explicitly clear.

SHRIMATI MANEKA GANDHI (PILIBHIT): Sir, even if this were a Bill, which affects only India, still it would be an extremely important one. But it is a Bill, which affects most parts of the world. We are supplying 50 per cent of the cheapest drugs in the world to places like Papua New Guinea, Laos, Kenya, Africa, etc. All these countries have complained to the WHO about this Bill.

The two biggest international health organisations in the world, namely, WHO, and Medicines Sans Frontiers have written to the Government saying that this is a very very serious matter. This has been the subject of editorials all over the world right from America onwards to every country from Bangladesh, Cambodia, China, Indonesia, Nairobi, Korea, Laos, Thailand, Vietnam, etc. All of them have complained about our Bill. It is a Bill that affects so many parts of the world. Do you not think that we should have a slightly more serious discussion on it, rather than attempting to pass it through?

There is a belief that we are late on this issue. Perhaps, we are late, but the UK is also late. They have said that even their small country, with little

medicines want a full-fledged discussion on it before they pass it. As a result of that they have delayed it. In that case, we -- who affect the rest of the world -- should think about it.

SHRI BRAJA KISHORE TRIPATHY (PURI): Hon. Deputy-Speaker, Sir, this has very serious implications. 200 कंट्रीज हमारे बिल पर नजर रखे हुए है। यहां जो पेटेंट बिल आया है, इसके कारण 200 कंट्रीज पर इम्पैक्ट पड़ेगा। विश्व के गरीब देश भारत पर नजर रखे हुए हैं कि पेटेंट बिल कैसे पार्लियामेंट में पारित होता है। 'न्यूयार्क टाइम्स' अखबार में जो कुछ निकला है, यह बहुत सीरियस मैटर है। इसके कारण करोड़ों लोग अफैक्ट होंगे। जो ड्रग्स और केमिकल्स पेटेंट होने जा रहा है, मैं उसकी मैरिट में नहीं जाना चाहता। (व्यवधान)

MR. DEPUTY-SPEAKER: Mr. Ilyas Azmi, I will give you time to speak only if you go to your own seat.

श्री ब्रज किशोर त्रिपाठी : मेरा अनुरोध है कि सरकार को जल्दबाजी में यह बिल पारित नहीं करना चाहिए। अभी आदरणीय आडवाणी जी ने सुझाव दिया है कि इस बिल को पहले स्टैंडिंग कमेटी में भेजा जाये, जहां इस पर सीरियसली डिस्कशन होना चाहिए। मैं पूछना चाहता हूं कि गरीब जनता पर इसका क्या असर पड़ेगा? जब मेडिसिन्स के प्राइज बढ़ जायेंगे तो आम जनता कैसे मेडिसिन्स खरीद पाएगी, यह सोचना चाहिए। जब हम आम जनता के बारे में नहीं सोचेंगे तो फिर हम पार्लियामेंट में क्यों आये हैं? मेरा कहना है कि पेटेंट बिल जल्दबाजी में पास नहीं होना चाहिए। अगर यह बिल आज पास नहीं होगा तो कोई आकाश नहीं गिर जायेगा। वैसे भी इसमें अभी छः महीने का टाइम है। 4 अप्रैल तक पास नहीं होने से भारत के स्वाभिमान में, हमारी इंडिपेंडेंस में कोई आंच नहीं आयेगी। ब्रिटेन ने भी इस पर टाइम लिया है और दूसरे देश भी टाइम ले रहे हैं इसलिए हमें भी इस पर ज्यादा टाइम लेना चाहिए। स्टैंडिंग कमेटी के चेयरमैन का भी कमिटमेंट आया है कि He is interested in completing it during the inter-Session

period. उन्हें समय देना चाहिए, टाइम से भेजा जाना चाहिए। मैं सरकार से अनुरोध करूंगा कि इसे जल्दबाजी में पास नहीं करना चाहिए।

श्री इलियास आजमी (शाहाबाद) : उपाध्यक्ष महोदय, यह बहुत ही संवेदनशील मामला है। यह गरीबों की जेबों पर पूंजीपतियों द्वारा डाका डालने के समान है। मैं खासकर अपने कांग्रेस के साथियों से कहूंगा कि वे अधिनायकवादी रास्ते पर न बढ़ें और अपने सहयोगियों का, जो लोग सरकार चला रहे हैं, उनकी भावनाओं का भी ध्यान रखें। आप एकदम ऐसा न समझ लें कि आपकी अकेले की सरकार हो गयी है, इसलिए गरीबों को जितना चाहें प्रताड़ित करते रहें। मैं कहूंगा कि सरकार सदन का इस्तेमाल न करके खुद प्रस्ताव करके इसे स्टैंडिंग कमेटी के हवाले कर दे और व्यापक बहस के लिए लम्बा समय दे। धन्यवाद।

SHRI SURESH KURUP (KOTTAYAM): Widespread apprehensions have been expressed about this Bill because of certain controversial provisions. I would like to know, taking into consideration the criticism expressed both inside and outside the House, whether the Government is moving some amendments. If at all the Government is moving some amendments, we have not received copies of those amendments. Therefore, we need time to study those amendments.

MR. DEPUTY-SPEAKER: Shri Ram Kripal Yadav, first of all, you have to go to your seat. Otherwise, you will not get the chance to speak.

श्री राम कृपाल यादव (पटना) : उपाध्यक्ष महोदय, मैं आपके माध्यम से मंत्री जी से निवेदन करना चाहूंगा कि यह विधेयक बहुत ही संवेदनशील है। इसलिए जल्दी में कुछ भी निर्णय लेना जनहित में ठीक नहीं होगा। यह बिल जैसा माननीय श्री आडवाणी जी ने कहा कि उनके माध्यम से यह बिल लाया गया था, दो बार लाया गया था। हमारी पार्टी का स्पष्ट मत है, हम शुरू से पैटेंट बिल के खिलाफ रहे हैं तथा हम इसका विरोध करते रहे हैं। हमारा कोई नया स्टैंड नहीं है। मैं चाहूंगा कि इस बिल पर गंभीरता पूर्वक विचार करने का अवसर प्रदान किया जाये और सोच समझकर कोई निर्णय लिया जाये। आपने सदन की भावना देखी होगी। चारों तरफ से यही कहा गया है कि मंत्री जी जिद न करें और इस बिल को वापस स्टैंडिंग कमेटी में भेजें, इस पर तत्काल

कोई निर्णय न लें और हमारे वामपंथी साथियों द्वारा जो संशोधन आये हैं, उन पर स्टडी करने का मौका दें।

आप चाहें तो कल ही इसे सदन में लाएं। मैं समझता हूँ कि एनडीए, जो आज इसका विरोध कर रही है, एनडीए को पहले ही इसका विरोध करना चाहिए था, इसलिए आज उन्हे इसका विरोध करने का कोई मौलिक अधिकार नहीं है। यह बिल तो उन्हीं का है। माननीय मंत्री जी, आपको इस बिल पर कभी मुहर नहीं लगानी चाहिए थी। आप लगाने का काम कर रहे हैं, यह गलत काम कर रहे हैं। यह जनता के हित में नहीं है। इसलिए मैं निवेदन करूंगा कि आज इस पर बहस नहीं हो और इस पूरे मामले पर गंभीरता से विचार करने का अवसर दिया जाए ताकि सोच-समझकर हम लोग निर्णय लें और इस बिल का जो इम्प्लीकेशन होने वाला है, उससे हम जनता को बचाने का काम करें, अन्यथा बड़ा जुल्म होगा। इसलिए मैं निवेदन करूंगा कि इसे कल ही यहां लाएं।.(व्यवधान)

उपाध्यक्ष महोदय : अब आप बैठिए। आपको जो कहना था, वह आपने कह दिया है।

.(व्यवधान)

MR. DEPUTY-SPEAKER: Not to be recorded.

(Interruptions) .*

श्री प्रभुनाथ सिंह : आप इस पर खड़े होकर बोलिए न। बोलते क्यों नहीं हैं? .(व्यवधान) आप देश को चलाना चाहते हैं या बेचना चाहते हैं ?.(व्यवधान)

SHRI KHARABELA SWAIN (BALASORE): Sir, I will put a single question to the hon. Minister. I am going to speak on behalf of my party. I was a member of the Joint Select Committee on Patents Bill. We worked very hard for one year in that Committee. Even though I am going to speak on this issue, till now I have not received the amendments moved by the Government. Should I go on appealing to the Minister for them? Should I not have the right to go through the amendments that have been proposed by the Minister? Without even going

through them, how can I participate in the debate? So, I appeal to the hon. Minister that we should not have the debate today. As the hon. Leader of Opposition has already requested, it should be deferred at least till tomorrow. That is my appeal.

SHRI GURUDAS DASGUPTA (PANSKURA): Sir, the issue is complicated, undoubtedly. It involves the future of the peasantry, future of scientific research, future of economic development in this country. I understand that there is a predicament for the Government because they have to issue an Ordinance. It is true that discussions have been going on between some of the parties which are supporting the Government. But it is also true that the discussions have not been

* Not Recorded.

conclusive. Considering the seriousness of the whole thing and considering the far-reaching implications involved in the Patents Law which we are supposed to pass because the Government wants us to ratify the Ordinance, I believe it would be better if there is a little more deliberation on that. Let the Government try to find out a method through which more consultation can be done and misgivings can be cleared. After all, this issue is a by-product of the policy of the earlier Government. Let us not take pride in saying, देश को बेचना चाहते हो। देश को तो आप भी बेचना चाहते थे। You also wanted to sell the country at that point of time. Such consultations did not take place. . (*Interruptions*)

SHRI RAJIV RANJAN SINGH 'LALAN' (BEGUSARAI): Who signed the WTO Agreement?

SHRI GURUDAS DASGUPTA : You followed it. It is the Congress Government which signed it. . (*Interruptions*) We opposed it but the BJP carried forward their flag. . (*Interruptions*)

Let the Opposition not try to score a point because it has no point. While they were in the Government, they did not look for a change; while they were in the Government they only followed the footsteps of the earlier Government. During the earlier Government, they had no occasion to consult other parties. At least Shri Kamal Nath is too generous to have some consultation. Either fruitful or fruitless, he is having some consultations, some facade of consultations. But you did not do it at that time. Anyway, that is not the issue. The issue is, it is having serious implications. Considering the serious implications, let us not bulldoze the Parliament. कमलनाथ जी, कृपया पार्लियामेंट को बुलडोज मत करिए। Let us consult. All of us are committed for the betterment of peasantry and agriculture. Please give that opportunity. इतनी जल्दबाजी करने की कोई जरूरत नहीं है। Let there be a Committee and within a specific period let that Committee give the verdict.

SHRI PAWAN KUMAR BANSAL (CHANDIGARH): Mr. Deputy-Speaker, Sir, this amendment Bill is the third in the series of initiatives that the Government of India had to take. The Government of India run by any party had to take this initiative to meet the obligations arising out of the Trade-Related aspects of Intellectual Properties Rights on joining the WTO. Before joining the WTO, the matter did come up before the Standing Committee - the Standing Committee was then chaired by Shri I.K. Gujral - and there was a unanimous Report of the Standing Committee supporting the Government's move and the necessity of the country to join the WTO. After having joined the WTO, the NDA Government brought about two amendments in that series. This is the third one, which is necessary to meet those obligations. . (*Interruptions*) The WTO did not thrust its membership on us. It was we who sought it. Then all things go together in a package - either you take it or leave it. The only important thing is, the Government of a sovereign country reserves the right to protect its interests. After the reading of this Bill, I can say that all the concerns which the hon. Members here have expressed are met by this Bill. All the concerns are met. Kindly see the amendments which have been circulated. . (*Interruptions*) All that I wish to say is, I am for a debate, an elaborate discussion on the Bill. Every Member should get an opportunity to discuss and that we can do only if we start discussing it right now. We can discuss the whole day today and we can discuss it the whole day tomorrow.

A point was made that a lot of time has elapsed between the fall of the last Government and the bringing of the Ordinance by the present Government. I do not want to recapitulate the circumstances which, in fact, stymied the efforts of this Government to carry out any business during the last three Sessions. How much time did we have at our disposal to have this? Therefore, I stress, finally there is a point that I have to make - there is an Ordinance and according to the provisions of the Constitution, the Ordinance would lapse after about a fortnight's time. The Parliament is adjourning. We are rising for the meetings of the Standing Committees only after four days. Otherwise, there will have to be a promulgation of another Ordinance. Then, you will say that we are bringing

about Ordinances. There is a legal vacuum. . (*Interruptions*) Sir, kindly, let me make my point. If the Bill is not passed, if the Ordinance is not replaced by this Bill, there will be a legal vacuum which will create greater problems for us than what we are thinking of now. All these concerns have been addressed and there is nothing stopping us from airing this here and then trying to find a solution to this.

All that I would like to urge upon is, we begin with the discussion today. We carry out the discussion today, we carry out the discussion even tomorrow. That will give us more time. Why are we running away from that?

Coming to the Standing Committee, the Standing Committee system was started by the Congress Government. We all know it. We have always asked for it. But then, occasions do arise. Our friends from the other side know how many legislations were passed by them through the Ordinance route. Occasions do arise where Ordinance is the only alternative left. Given the obligations, given the international obligations which we are duty-bound to fulfil, as I said, arising out of the TRIPS, by joining the WTO, this Bill has to be taken up for discussion. Let us discuss this for two days. Why do we stop discussion on it?

SHRI RUPCHAND PAL (HOOGHLY): Sir, we are opposed to the method of Ordinance route on such an important Bill. We could have discussed it, all the sections of the House could have discussed it. We know that the BJP has no moral right because it is their Bill. It is their child.. (*Interruptions*)

SHRI HANNAN MOLLAH (ULUBERIA): Are you calling your child an illegitimate one?. (*Interruptions*)

SHRI KHARABELA SWAIN : Were you not a member of that Committee?. (*Interruptions*)

SHRI RUPCHAND PAL : I am not yielding.. (*Interruptions*) This is a very important Bill. We have given very important amendments. We have given very important suggestions. In the amendments that have come, we find that some of the important amendments are there. . (*Interruptions*)

प्रो. रासा सिंह रावत (अजमेर) : लगता है आपकी उनसे मिलीभगत हो गई है। . (*Interruptions*)

SHRI RUPCHAND PAL : It has come from various sources, through the media and others. . (*Interruptions*) We do not know the mind of the Government.. (*Interruptions*)

MAJ. GEN. (RETD.) B. C. KHANDURI : We do not have the amendments. How do we know that?. (*Interruptions*)

SHRI RUPCHAND PAL (HOOGHLY): You also do not know; we also do not know.. (*Interruptions*)

SHRI HARIN PATHAK (AHMEDABAD): That is not the procedure. You are not the Minister. It is my right to get the amendments.. (*Interruptions*)

MR. DEPUTY-SPEAKER: Shri Rupchand Pal, please address the Chair.

. (*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing will go on record except what Shri Rupchand Pal speaks.

(*Interruptions*) . *

SHRI RUPCHAND PAL : From the reading of the situation, I do not know the mind of the Government. But I know their mind. It is their child.. (*Interruptions*) What I suggest is that, we want some time to read between the lines. Heavens will not fall if it is deferred for a few hours and within this session, we can take it up again. . (*Interruptions*)

THE MINISTER OF COMMERCE AND INDUSTRY (SHRI KAMAL NATH): Have we started a debate?. (*Interruptions*)

* **Not Recorded.**

श्री देवेन्द्र प्रसाद यादव (झंझारपुर) : उपाध्यक्ष महोदय, यह विधेयक ही विवादास्पद है। मैं बताना चाहता हूँ कि एनडीए के शासनकाल में दो बार इस विधेयक को लाने का प्रयास किया गया था। आज यह सदन में आया है। निश्चित रूप से इस पर काफी विस्तृत चर्चा की आवश्यकता है और पूरे सदन को विश्वास में लेने की जरूरत है। यह विधेयक न केवल जीवन रक्षक दवाओं की कीमतों से जुड़ा हुआ है, बल्कि जो हमारा भारतीय औषध उद्योग है, उसमें आत्मनिर्भरता का सवाल भी इससे जुड़ा हुआ है। इसलिए मैं आपके माध्यम से निवेदन करना चाहता हूँ कि इस विधेयक पर विस्तृत चर्चा की आवश्यकता है। जल्दबादी में इस विधेयक को पास नहीं करना चाहिए। यह हमारे राष्ट्रीय हितों का सवाल है। इसलिए आज किसी भी हालत में इस विधेयक को नहीं लिया जाना चाहिए।

MR. DEPUTY-SPEAKER: Shri Kamal Nath.

. (*Interruptions*)

PROF. VIJAY KUMAR MALHOTRA (SOUTH DELHI): Sir, ten Members have spoken from their side including the CPI and the CPM. Please allow him only for two minutes.. (*Interruptions*)

SHRI UDAY SINGH (PURNEA): Sir. I want to say a very few things. From personal experience, I know that it is difficult to explain to the Congress party any other point of view than their own because they think that they know everything. And they unfortunately, now have friends who keep vacillating from this end to the others, busy cursing parties. They do not know where they stand. (*Interruptions*)

Now, the manner in which this Bill has been introduced is objectionable. What the Bill contains -- as we know what it contains -- is objectionable. What the Government wants us to do and what the Government wants this House to do, namely, pass it, is objectionable.

Mr. Deputy-Speaker, Sir, you have seen the general consensus in the House. Not even one single Member should be left dissatisfied. I would only request that it should be sent to the Standing Committee. In the Standing Committee, the Chairman has promised to send it back within one week. So, it must be sent to the Standing Committee. Thank you.

SHRI KAMAL NATH : Sir, three issues have been made out -- one, by the hon. Leader of the Opposition, on the discussion I had; second, that there is an effort to bulldoze the Bill, and the contents are not known and so on and so forth; and third, that it is better dealt with by being deferred.

Sir, just to inform the House -- I am happy that Advaniji raised this issue -- our Government came in at the end of the May, 2004 and we all knew that this was an international obligation.

प्रो. विजय कुमार मल्होत्रा : आप नौ महीनों तक क्या करते रहे?

श्री कमल नाथ : वही तो बता रहा हूँ। It was not known as an international obligation only in June. In 1995, it was known that we would have this international obligation. It is not that suddenly it has become an international obligation. *(Interruptions)*

SHRI M.P. VEERENDRA KUMAR (CALICUT): It was in the Parliament in 1994. *(Interruptions)*

SHRI KAMAL NATH: Sir, about this Patents(Amendment) Bill, what I am merely doing for the benefit of the Members is carrying the process forward of the amendments.

In March, 1999 was the first amendment. In June, 2002 was the second amendment. So, I am not doing anything new; I am only carrying forward that process. *(Interruptions)*

AN. HON. MEMBER: That was the wrong process. *(Interruptions)*

SHRI KAMAL NATH: Fine!. (*Interruptions*)

So, Sir, the process was started by them. It was our commitment. Now, why did we give in to this commitment? That is a larger issue whether we were right to accede to the WTO. As part of our accession to the WTO, we were required to have this TRIPS agreement, and the Multifibre agreement

So, when I say that there is an international commitment, this international commitment is not in isolation. It is not with regard to TRIPS only. This international commitment is along with other international commitments, which others have made. We said that we would do this, they said that they would do that. What did they say? They said that the Multifibre agreement would also be at the end of 31st December, 2004, and from 1st January, 2005, the quota regime will be over. This was decided in 1995, and not now. It has not been done when we came into the Government.

So, Sir, when we came into the Government, there was a Bill presented. There was a Bill brought on the floor of the House. But it could not be proceeded with because the Lok Sabha got dissolved. What was I to do? I had tried to understand the Bill. I had widespread consultations. On what Bill? On the Bill, that they had brought. I saw from the records which are there today, that before they brought in the Bill, they had held consultations. I am not saying that they did not hold consultations. They held consultations, they held meetings; they talked to various interest groups, and then they had brought the Bill. I presume that when any Government brings the Bill, brings a well-considered Bill.

Saying that we brought the Bill to evoke a national debate, I think, would be very incorrect. (*Interruptions*) Let me finish. It would be very unfair. (*Interruptions*) I did not interrupt when you were talking.. (*Interruptions*) Let me finish.

So, they had brought the Bill.. (*Interruptions*)

SHRI ANIL BASU (ARAMBAGH): Even they withdrew the quantitative restrictions.. (*Interruptions*)

MR. DEPUTY-SPEAKER: Nothing will go on record except what the hon. Minister says.

*(Interruptions) . **

SHRI KAMAL NATH: They consciously brought this Bill in December 2003. No Government bringing a Bill would say that it is open-ended, we will see. As regards Standing Committee, I understand that the Standing Committee would have gone into it. We would have also taken it to the Standing Committee. I will take that up later. Then what happened is this. When I had this, I wrote to every political party in November. I wrote to the hon. Leader of the Opposition saying that there is a Bill. I wrote it in the month of November, not now, to all the political parties asking them that there was this Bill. We have this international commitment. Can we please meet for your suggestions? I am for the consultations on this. The BJP met me and I told them this was their own Bill. They suggested to me one amendment. They said that they think the Bill should be like this. Then, other parties came. They understood the import of the Bill, the necessity of the Bill. यह संवेदनशील और गम्भीर बिल है जिसे कोई अस्वीकर नहीं कर सकता। मैं उसे अस्वीकर नहीं करना चाहता हूँ, लेकिन हमने बहुत सोच-समझ कर यह तय किया कि अगर एक समझौते के तहत अन्तर्राष्ट्रीय मजबूरी हैं तो हम इसके एक-एक पहलू को, एक-एक सैक्शन को और एक-एक प्रावधान को बड़ी बारीकी से समझें। भारतीय जनता पार्टी ने जो सुझाव दिया, हमने उनका सुझाव सुना। यह नवम्बर के आखिर की बात है, लेकिन मुझे डेट ठीक याद नहीं है, मैंने फॉर्मली चिट्ठी लिखी थी, हर पार्टी को चिट्ठी लिखी। My friends of the Left parties, Samajwadi Party and other parties came and talked to me. I had consultations with them.

Sir, the Lok Sabha in December, because of disturbances, did not function very satisfactorily. My cut-off date was 31st December. So, what I had to do! I had no choice before me. Either I have to default. Okay, I will do it. The Multi-Fibre Agreement was ending on 31st; the Quota Regime was ending. There were

* Not Recorded.

thousands of crores of textile exports, which had positioned themselves to occupy the space, the space which would be open in the international market because of the end of the quota regime. So, we had no choice but to bring in this Ordinance. What do we do in the Ordinance? I accepted the BJP's suggestion on their own Bill- their limited suggestion.

प्रो. विजय कुमार मल्होत्रा : पहली दिसम्बर से यहां कोई डिस्टर्बेंस नहीं हुआ। यह सदन पूरे 14 दिन तक चला था। एक दिन भी डिस्टर्बेंस नहीं हुआ। आप गलत स्टेटमेंट मत दें कि बीजेपी ने राइटिंग में अमेंडमेंट दिया और आपने मान लिया हो .(व्यवधान)

श्री कमलनाथ: आप सब अधिकारियों के सामने फॉर्मल चर्चा में आए।

प्रो. विजय कुमार मल्होत्रा : मैं नहीं आया।

श्री कमलनाथ: आपकी पार्टी की बात कर रहा हूं। मेरे एक फॉर्मल पत्र पर आपके लोग आए थे। मैंने सब अधिकारियों को बुलाया। शायद उनको फिर से समझाने की आवश्यकता थी, क्योंकि मैंने सोचा था कि बहुत सोच-समझ कर बिल लाए हैं, फिर भी मैंने उनसे चर्चा की। उन्होंने सुझाव दिया और सब ने सुझाव दिए। मैंने कुछ सुझाव और भारतीय जनता पार्टी के जो सुझाव थे, उन्हें स्वीकार किया, जिन्हें अध्यादेश के माध्यम से लेकर आया। इस पर जब बहस चलेगी और बिल पर चर्चा होगी तब बताऊंगा। मैं अभी सबस्टैंटिव इशू पर नहीं आना चाहता हूं लेकिन स्वीपिंग स्टेटमेंट दिया जा रहा है as if this is an irresponsible Government, as if we are very irresponsibly doing something. I take very serious objection to it. This is not being done casually. Please do not politicise this.

The next point, that will be made, is that we are bulldozing this. Let me say this. An Ordinance has its own compulsions. The very fact that we had to meet the deadline of 31st December and the choice was that either we violated our own international commitments or had an Ordinance. So, we had an Ordinance and then in six weeks, we are required to approve this.

Then, what did the Leader of the Opposition say? I called up the Leader of the Opposition. I was talking to all political parties. I accepted their suggestions. I

called up the Leader of the Opposition. He had very kindly fixed a meeting; it was a serious meeting in which I did point out that these are my compulsions. It was suggested in the meeting that this should go to the Standing Committee and that the Standing Committee will finish this job by the end of the recess, that is by the 18th of April, or whatever it is. I then said that I would go back and discuss it; it was fair enough. I did say that I would go back and discuss it.

We considered it within ourselves to see whether it is possible to do it, since Budget discussion will be there, and whether it would be possible for the Standing Committee to finish this job in 5-10 days' time. There was a JPC constituted in the case of the Second Amendment to this Bill. The JPC of this House took two years to give a report. So, it is not something which has been done casually. The JPC considered it. I am being told that it had held 40 sittings; they took two years. The JPC has gone conceptually into this concept of 'patent'. Why? It is because we knew in 1995, what we were required to do on 1st January 2005. It is not something which happened only when we came to Government. We realised this at that point of time. So, there is no effort to bulldoze this.

I am willing and I am confident - I may be wrong, but I am confident - that all the apprehensions which have been expressed by the hon. Members will be addressed. One hon. Member said that UK had not done this. I must point out that UK has product patent for a long time. I must say this. In fact - it is a question of fact and it is not a question of opinion - it was mentioned that UK also did not have it. But it is not correct.

They expressed other concerns like prices will shoot up. When we get on to the discussions, it will be my effort to convince you. After all, as a responsible Government, we have looked into the facts, like whether the prices would shoot up, what would be the implications of this Bill, etc.

SHRI UDAY SINGH : What is your answer if the prices shoot up?

SHRI KAMAL NATH: Are we starting the discussion now? It will obviously not shoot up. Otherwise, we would not bring forward a Bill to ensure that the prices shoot up! . (*Interruptions*)

Listen to me. If you were here in the previous Lok Sabha, you would have known what that Bill was about. But unfortunately you were not.

Anyway, we are not getting on to the discussions. The moment we start this, we would convince you.

Sir, are you permitting me to start the discussions now? Should we start it now?

MR. DEPUTY-SPEAKER: No. I do not know how we should start it.

SHRI KAMAL NATH: On the issue of whether this should be deferred from today, the Leader of the House will make some comments.

THE MINISTER OF DEFENCE (SHRI PRANAB MUKHERJEE): Sir, most respectfully I would like to submit this. I listened to the Leader of the Opposition. I expected that he would extend support. My mind went back to 1999; and I expected that the Leader of the Opposition would extend support of his Party to this Bill. Why am I saying this? It is because it is me who signed the agreement on WTO in April, 1994 which came into operation from the 1st January, 1995. The country had the obligations to provide Exclusive Marketing Rights for a period of five years, with effect from 01.01.1995. We obtained by bargain - it was not given to us on a platter - ten years' time to amend the Patents Act of 1970, which provided product patents in all areas, except three items, namely, drugs and pharmaceuticals, agriculture and chemicals, and certain food items. We said that we would require time. So, ten years' time was given to us through negotiations. But we had one obligation.

We were told that we would get ten years' time to amend the Patents Act of 1970, but we were to provide exclusive marketing rights from 1.1.1995. Lok Sabha passed that amendment. We could not do it because of opposition from the then Opposition Party, BJP. So far as the Left is concerned, from day one, they are opposing this Bill, but I am talking of BJP particularly and why I expected the support from BJP. Thereafter the matter went to the Disputes Settlement. We lost twice. Then a situation arose in 1999 that the country was to pay heavily on some of them, even to the extent of hearing that we may go out of the WTO. The then Government thought that it shall have to amend the Act to give it a

retrospective effect. Please remember, in 1999, we shall have to amend the Act and give retrospective effect to provide exclusive marketing rights from 1.1.1995. They did not have the majority in Rajya Sabha. As we have the majority in Lok Sabha, they also had the majority in the Lok Sabha. They got it passed. Some of my colleagues, even abused me in our Party meetings. I commented by saying that mere accident of change of seats need not necessarily be a change in the policy. If I brought a Bill to provide exclusive marketing rights and failed to do so, and if some other political party occupying the Treasury Benches wants to fulfil the obligation, the international commitment, we should extend our support. We extended our support and most respectfully I would like to submit that even maintaining our distance, many of our Left friends, who were there in Rajya Sabha at that time - I think Prof. Malhotra was also in Rajya Sabha at that time - voted against them but we voted in favour of it because it is a question of principle. It is a question of fulfilling an international obligation. Why it could not be brought through the Standing Committee? Even the very first Bill was studied by the Standing Committee. A JPC sat for two years, in 40 sessions and studied every aspect as to why the Patents Act should be amended.

Therefore, let us go into the whole gamut of it. The Leader of the Opposition has given some suggestions. Most respectfully, on behalf of the Government, I am accepting his suggestions. It is fair and legitimate that the amendments which the Government has proposed yesterday and which have been circulated today, let the Members study them. We will bring this Bill tomorrow and we can take it up then. I request you, Sir, and the hon. Parliamentary Affairs Minister to organise other business for the day. Most respectfully I may submit to the Leader of the Opposition to consider this piece of legislation. He might have considered it before. Please allow me to say that even if we debate for 20 years on these issues, on some of the points we can never agree because there are vital interests concerned. There is the problem of our having all the bargaining powers and there is the problem of those countries who do not have any bargaining power. Therefore, we shall have to try to find

out a way. Simply, because you are sitting on the other side, you cannot play the role of an irresponsible Opposition. This is my most respectful submission.

श्री लाल कृष्ण आडवाणी (गांधीनगर) :उपाध्यक्ष जी, सदन के नेता ने जो बात अभी कही है, मैं उसके बारे में बहुत अच्छी तरह से परिचित हूँ कि देश की जो जवाबदारियाँ रहती हैं, सरकारों के बदल जाने के कारण, उनके बारे में कोई दूसरा पक्ष, क्योंकि वह विपक्ष में चला गया, इसलिये उपेक्षा नहीं करता। श्री कमल नाथ यहां बैठे हैं। उन्हें स्मरण होगा कि इस विषय पर घंटाभर चर्चा हुई, उस दिन किसी ने भी यह बात नहीं कही कि हम पेटेंट बिल के खिलाफ हैं। सब लोग मानकर चलते थे कि हमारा इंटरनेशनल ऑब्लिंगेशन है, जिसे हमें पूरा करना है।

सब लोग मानकर चलते थे कि हमारे कुछ इंटरनेशनल ऑब्लिंगेशंस हैं, जिन्हें हमें पूरा करना है और साथ ही साथ यह भी समझते थे, जैसे आपका यह कहना कि पेटेंट बिल हम लोग विचार करके लाये थे, यह सही है कि विचार करके लाने के बाद भी, मन में यह था कि इसे स्टैंडिंग कमेटी को भेजा जाय और समय भी था। हमारी शिकायत आपसे प्रमुख रूप से यह थी कि सचमुच में तो इसे शुरू में ही आना चाहिए था। आखिर में भी ऑर्डिनैन्स के प्रोसेस के थ्रू लाते हैं, इसीलिए कठिनाइयाँ पैदा हुई हैं। उन्हें हल करने के लिए जो स्टैंडिंग कमेटी ऑन कॉमर्स के अध्यक्ष थे, जो उस चर्चा में उपस्थित थे, उन्होंने कहा कि मैं आपको विश्वास दिलाता हूँ कि इसे प्रतिदिन करवाकर आठ दिन में फाइनेलाइज करवा दूंगा। क्योंकि हमारे पास उस समय कोई चारा नहीं था। So, even the compulsions that the Ordinance path did create for the Government were taken into cognizance. मेरी शिकायत यह थी कि उसके बाद हमें जानकारी ही नहीं मिली कि क्या हुआ। कमलनाथ जी ने किससे सलाह की, किस निष्कर्ष पर पहुंचे - हमें केवल इतना पता लगा कि मंत्री जी इसे आज पास कराने वाले हैं। इसीलिए हमने कहा कि आज पास मत कराइये। मैंने आपसे इसीलिए निवेदन किया और मुझे खुशी है कि आपने उसे स्वीकार किया है कि इसे आज पास नहीं करेंगे। लेकिन मैं फिर से इस बात को दोहराऊंगा कि उस

दिन जो हमारा प्रपोजल था कि यह मामला स्टैंडिंग कमेटी को भेजा जाए, जब आठ तारीख को इसका ऑर्डिनैन्स लैप्स होगा, उसके बावजूद जब भी सदन फिर से मिलेगा, तब तक सारी चर्चा पूरी हो चुकी होगी। उसमें हमारे लैफ्ट मित्रों के भी विचार आ जायेंगे और हमारे विचार भी आ जायेंगे। हमारे जो उस समय जो कॉमर्स मिनिस्टर थे, वह स्टैंडिंग कमेटी के स्वयं मैम्बर हैं, इसीलिए वह सब पहलुओं से अच्छी तरह से परिचित हैं। उनकी भी कमपल्शंस हैं। इसलिए कोई दिक्कत नहीं होगी। मैं उसे फिर से दोहराऊंगा कि आज कम से कम इस चर्चा को स्थगित करके, कल फोर्मली लाकर, इसे स्टैंडिंग कमेटी को रैफर कर दीजिए, यही मेरा निवेदन होगा।

MR. DEPUTY-SPEAKER: If the House agrees, the discussion on item Nos. 25 and 26 may be deferred for tomorrow.

SEVERAL HON. MEMBERS: Yes.
