

THE MINISTER OF STATE IN THE
MINISTRY OF EDUCATION AND
SCIENTIFIC RESEARCH (DR. K. L.
SHRIMALI) : Sir, I beg to move the following
Resolution :

"This House approves the Universal Copyright Convention and the Protocols thereto as adopted at Geneva on the 6th September, 1952, and recommends that the said Convention and Protocols be ratified by the Government of India."

Sir, in moving this Resolution I should briefly like to say a few words with regard to its origin and its special features. The House is probably aware that there has been a desire on the part of all the countries to have some kind of universal convention under which all the countries might come together and disseminate works of art, literature and science. We are living in a world where there is a good deal of misunderstanding and conflict, and one of the ways in which this misunderstanding and conflict can be removed is to disseminate knowledge of works of art, literature and science more widely. The more the dissemination of knowledge, the less the chances of misunderstanding between one country and another. It was with that view that the Berne Convention was adopted as early as 1887, but that did not go very far, because a large number of countries, American and Latin American countries, were not signatories to this Convention. For the last twenty years continuous efforts were being made to bring all the countries together and at last at an inter-Governmental Conference which was convened under the auspices of the UNESCO in 1952, the Universal Copyright Convention was adopted. My feeling is that this *is* a step forward for knitting the world together. The difficulty in the past has been that there was no connecting link -between the

Berne countries and the American and Latin American countries, and the Berne countries, if they wanted to enter into any agreement with the non-Berne countries, they had to sign a special agreement, which led to lots of difficulties. With the adoption of this Convention, the communication and dissemination of knowledge of works of art, literature, etc. between the Berne countries and American countries becomes easy.

I should like to inform the House that it is not the function of the Universal Copyright Convention to supersede the Berne Convention. In fact, the countries which are signatories to the Berne Convention will continue to be guided by the Berne Convention. The only thing that this Convention does is to establish a connection, a relationship between the Berne countries and the non-Berne countries. It serves as a kind of bridge between these two blocs. Another advantage is that once we ratify this Convention, we do not have to enter into separate agreements with non-Berne countries. The copyright relationship between us **and** these other countries will be guided by the provisions of the Universal Copyright Convention. Similarly, non-Berne countries will claim protection in the Berne countries under the Universal Copyright Convention without any special agreement.

Sir, the House is aware that India was a signatory to the Berne Convention, and since 1887 we had to enter into special agreements with the U.S.A. for establishing copyright relationship. As far as India is concerned, by ratifying this convention, there is no substantial change; we only reaffirm our relationship with the U.S.A. Of course, we are already bound by the Berne Convention, but the advantage is that we enter into relationship with non-Berne countries also. The fundamental principle which governs this Convention is that our authors, after the ratification of this Convention will get protection in foreign countries in the same way in

[Dr. K. L. Shrimali] which the nationals of those countries will get protection, both for published and unpublished works. Similarly we shall have to give protection to the foreign authors the same kind of protection as we give to our own authors in this country. That is the main advantage in ratifying this Convention. Another advantage is that, as hon. Members are aware, in some of the countries there are various kinds of formalities through which people have to go through, before they can acquire copyright. Now, according to this Convention, if we ratify this Convention, all these formalities are dispensed with, and all that authors will have to do is to mark the symbol "C" in a circle which will be accompanied by the name of the copyright proprietor and the year of publication. Indian works hereafter need not go through all these complicated formalities which create all kinds of difficulties for the authors particularly in foreign countries. The matter is very simple. All that they have to do is to mark "C" and put a circle round it and put the name of the copyright proprietor and the year of publication, and they get their copyright.

Now, though this Convention was passed as early as 1952, it was not possible for us to ratify it, as under the previous Act we could not have put this Convention into operation. It was only after the Copyright Act was passed that we could implement the ratification of this Convention, and it is now time that we ratify this Convention.

SHRI H. P. SAKSENA (Uttar Pradesh) : I could not understand why we could not do it earlier.

DR. K. L. SHRIMALI: There was no provision under the previous Act.

SHRI H. P. SAKSENA: How have you got this provision now?

DR. K. L. SHRIMALI: We have made a provision in the new Act for ratifying international agreements.

SHRI H. P. SAKSENA: I see. Sir, some of the countries which have already ratified the Convention are U.S.A., U.K., Japan, France, Switzerland, Mexico, Germany, Italy, Spain, Argentina and Brazil. Countries like Soviet Russia and some others have not yet signed the Convention and ratified it but I hope that in course of time they would also come under this agreement. There are three protocols, one which provides for the assimilation of Stateless personnel and refugees having habitual residence in a State. Of course there is no problem for India but we have a few people who are refugees, who have made India as a permanent home and have not yet acquired Indian citizenship. Now, by adopting that protocols, one which provides for the vantage. Protocol 2 is aimed at extending protection in accordance with the Convention to all works of the United Nations and the specialised agencies associated with it like the UNESCO etc. Protocol 3 reserves to the State ratifying the Convention the right to notify that the ratification shall not take effect unless a specified country also ratified the convention. We have no intention at present to notify any country but I would recommend to the House that we may gratify this Convention. India has always taken a leading part in all such agreements which bring the world together. It is one of those conventions which aims at dissemination of knowledge, which aims to cut down the barriers which exist between one country and another, which aims at creating better world understanding through dissemination of knowledge through art and science and it is only proper that the Convention to which we were signatories may now be ratified by this House. I therefore request the House to adopt this Resolution.

MR. DEPUTY CHAIRMAN: Motion moved:

"That this House approves the Universal Copyright Convention and the Protocols thereto as adopted at Geneva on the 6th September, 1932

and recommends that the said Convention and Protocols be ratified by the Government of India."

DR. NIHAR RANJAN RAY: (West Bengal): Mr. Deputy Chairman, it is a formal proposal that has been placed before us and I don't think there is anybody in this House who would oppose recommendation **for** ratification of this very important Convention.

These Conventions have a history that goes back to at least 60 or 70 years, if not more, but the present Convention, the Universal Copyright Convention, is much more comprehensive than all the previous Conventions in this regard. I have not very much to say about this Convention. Dr. Shrimali has explained the objectives of this Convention and the benefits that would accrue from it. It is a very healthy sign of the times that despite occasional joltings, we do certain things that go to the cohesion of the various nation-States of the world. There is one important step in that direction. Especially in matters of culture, we are trying to get nearer to each other and bring ourselves under obligations that are common and reciprocal. I have only one or two words to offer by way of comments.

It is a pity that two important segments of the world are not yet signatories to this pact, the Soviet Bloc and China, and so long as these two very important areas of the world do not come within this Convention, cannot expect the best out of it. The importance of this Convention is all the more so because India will very shortly be participating in one of the major projects initiated by the Unesco, the project of East-West cultural exchange relations, a proposal that was accepted at the last General Conference of the Unesco held at New Delhi. This programme envisages that translations of some of the most important works from Asian and African countries will be exchanged with similar translations of works of Western origin for our mutual benefit. We are

going to participate in that major project and this Convention will be a very useful safeguard in that respect. As years roll on, more and more Indian authors are being translated in various languages of the world and these books are becoming more and more popular. It is only mete and proper that our authors get the copyright protection—which they will now do at home on the strength of the Act that we passed in May last,—abroad in those countries that are contracting parties on the strength of this Convention.

It is a pity that this Convention has been adopted in three major languages, English, French and Spanish and three other languages have also been recognised for the dissemination of the text of this Convention. These languages are, I believe, German, Italian and Portuguese. I regret somewhat that we could not have our national language included in this list. In fact whenever the question comes up for recording and propagating international contracts, the claim of the Indian national language is **not** recognised. I do not know whether the case is not pressed or whether it just goes by default.

On the other hand it is a matter of congratulation that India is a member of the 12-Member International Committee, the first committee which will be set up in respect of this Convention.

I agree with Dr. Shrimali when he says, that by and by some of the countries that are not yet signatories to this Convention will eventually come within this Convention and be signatories to this and also achieve the ratification that is necessary for the purpose. It is the most obvious thing to do, and I hope, this House will recommend its ratification without any demand.

DR. RAGHUBIR: SINH (Madhya Pradesh): Mr. Deputy Chairman, the Motion for ratification has not come a day too soon. Those of us who had to work on the Select Committee

[Dr. Raghurajsinh.] on the Copyright Bill have had to scan the provisions of this Convention and we benefited a great deal by studying the provisions of this Convention and we also tried to secure the best advantage of our language writers in this respect. Now, Sir, today by ratifying this Convention, it is obviously clear that we are undertaking a very important international commitment. It has been said, I believe, in the other House that in this respect, with its long and ancient cultural heritage, its great past literature in the ancient languages, India will have much to give and, therefore, India stands to gain. But, Sir, one aspect of the thing which is not generally probably realised is that today the Indian languages are on the eve of a very major development. We have accepted Hindi as our national language; the regional languages as well are going to be developed in a very large before long way. The major problem today is of technical books and, as such, we will have very much to take from as many as three countries, from the literature of three countries who are not parties to the Berne Convention but have joined the Universal Copyright Convention, namely, the German Federal Republic, Japan and the United States of America. We have entered into certain relationship with the United States of America and with this ratification we regularise the same. But it also brings us closer to these two other countries from where we have got much to translate and I am hoping, Sir, that the ratification of this Convention will open out a new vista and will ease the process by which we will be able to translate and take much of their technical literature for enriching our literature thus providing much technical know-how for our people in the regional and the national language. As such, I strongly support the Motion moved by my hon. friend, Dr. Shrimati, but, Sir, there is one thing on which I would like the hon. Minister to give an explanation to this House and that is this. He has pointed out that this could not be

ratified before the Copyright Bill was passed. Now, Sir, the Copyright Bill was passed on May 27, 1957. Every Ministry knows that at the beginning of the Session especially, this House has not much work to do. I hope, Sir, that the Ministries will awake and will get rid of their lethargy and that such Motions which should not be hurried through at the fag end of the Session will be brought forward early in the Session. Sufficient notice should have been given to us. There is another important point. Notice of this Motion was given only two days back. Since the passing of the Copyright Bill, this House has got as many as twenty-five new Members. So, the notice should have been given much earlier so that many eminent men, men like Shri Purushotham Das Tandon who have lately come into the House, would have been able to give us their views on this vital matter of national as well as international importance.

This is all that I had to say and I hope the hon. Minister will be able to throw some light on this, Sir.

SHRI H. P. SAKSENA: Mr. Deputy Chairman, consistently with the ancient traditions of our ancient land, I have no hesitation in supporting the ratification proposal put forward by my hon. friend, Dr. Shrimati. Ours has been a land of the Universities of Nalanda and Ujjain and the land of rishis and saints. Our main purpose in life has been not only the dissemination of knowledge connected with arts, science and literature but we have also been the pioneers of the diffusion of knowledge in various aspects of human life. We have been the torch bearers of peace in all ages and have avoided and despised strife and war.

As was pointed out by my friend, Dr. Ray, it is very surprising that our ancient language, Sanskrit—or, call it by any name you please, you may also call it Hindi—does not find a place in the three languages that

he mentioned and which have been adopted as the languages of ratification like English, French and Spanish. I would very much commend this proposal to the hon. Dr. Shrimali and request him to exert his level best at the opportune time to get our language also recognised as one of the languages of the protocol. So far as this ratification is concerned, I repeat that it should have come earlier but, since it has been delayed, it is high time that we ratify it without any delay. Sir, we not only spread out education to the rest of the world but also made the world of our times, of our ages and, in all old periods of our history, civilisation-minded. We are the pioneers of all that goes with the term "ancient" and, in fairness to the rest of the world, I am glad that that title of ours is universally recognised and I hope that we will continue to prove ourselves worthy of that title.

SHRI BHUPESH GUPTA (West Bengal): Mr. Deputy Chairman, there is hardly anything to say on this Motion at length because the proposition which is before us is a very simple one but, in this connection, I would like to make a few observations. Now, Sir, as far as the high—not high but contracting—parties to this Convention are concerned, it has been pointed out by Prof. Ray that a number of countries are not included and yet, the works of art, science and literature of those countries are coming out in large numbers and our contacts with those countries have also developed in the course of the past few years. It is of some importance, therefore, to come to some kind of understanding with China, the Soviet Union and the rest of the Socialist world as to Where we stand with regard to this matter. I hope, Sir, that even if it is not possible to come to an understanding through agencies like the UNESCO—the international agencies — it might be possible for our Government to enter into agreements and understandings on reciprocal basis mutually through consultations and 60 RSD—3.

discussions between the parties directly concerned. Therefore, Sir, this is a matter for the Government to consider now. The other point that I would like to make here is the approach in regard to such matters. Copyright, as we know, is something under cover of which it is not often the writers and authors who benefit but it is the publishers who benefit. This is what has been happening in our own country and it is not uncommon that many of the authors who have produced very great works of art or science do not enjoy the benefits of their work, I am speaking economically. The protection that is given to them becomes a fiction as far as they are concerned. These rights are sold like any other commodity and the benefits accrue to the publishers who monopolise these publications. In England, for instance, today there has developed big publishing houses which, shall we say, deal in this kind of thing with a view not so much as giving benefit to the authors but to enrich of fetch more profits for themselves. That is how things are going on and, in our own country too, the same thing is happening. Obviously, in an international Convention of this kind, it is not possible to deal in detail with the national laws or the Municipal Laws, as it is called, and we know that in a reciprocal agreement of this nature, we do what we would expect others to do in their own world, that is to say, the treatment is on the same footing in various countries.

I give protection to an author in my land expecting that our authors would be given the same treatment as they are enjoying in another country. That is how reciprocal arrangements are arrived at but that does not often take into account the actual Municipal Laws prevailing in the various countries. What an Indian author would get by way of protection, shall we say, in the U.K. is very much dependent on the protection that is given to the authors in the U.K. itself by their own Gov-

ernment. Therefore, it is essential that we have a better idea of the existing laws in various countries with regard to this matter as otherwise we would not be in a position exactly to know what we are giving and what we are going to get. That is the point. Some questions of privileges are also involved in a matter like this. It is understandable that the author or those who immediately follow him in his family, sons and daughters, should be entitled to the economic benefits of the work of art or the work of science, but this should not be carried too far. Sometimes, there is a tendency to take it too far, say fifty years post mortem. Now, it might be that an author produces a book at the age of 25 years, lives for another fifty years or sixty years. During that period, he would be getting protection and, even after his death, the members of his family would count on this protection and will be getting them, shall we say, for another fifty years. This protection would thus run to a century or so. Sometimes, not in all cases, such a contingency is conceivable. Some kind of vested interest begins to develop at a later stage which is something which may not be always helpful to the dissemination of culture, to the cultural dissemination and intercourse between the various countries. This should develop by mutual contacts in the field of literature, arts and technology. Barriers will arise under the new Copyright laws of various countries. That is one factor one has to take into account because it is not merely by signing this convention that we develop cultural relations with other countries. Retification of this Convention will not take us very far; it undoubtedly creates better understanding, mutual accord and creates a climate where such cultural contacts could be developed but what is of great importance here is how we treat the literature of other countries and how our literature and works of art and science are treated in other countries. That is very important. Therefore,

Sir, let us not have exaggerated ideas as to the importance of this convention. I am not at all denying the importance of it, but sometimes, in speeches it is made out as if these things by themselves would take us very far. Such convention existed for a long time; I think from the end of the 19th century such conventions began to develop with regard to very many points of contacts between the nation States and they have not taken us very far, as we know. What is important today is to develop good-will in practical life and contacts between the various countries. In that context, naturally, translation work is of great importance. Our literary works should be translated in other countries and we should translate the literary work of other countries. As you know, in many countries, there are private authors—authors are not always private but they attach to themselves a kind of proprietary rights—and translation becomes very difficult. Questions of royalty and other things come in and sometimes they are carried to the extreme so much so that one does not find the situation very favourable for translating or developing it that way. This is a point one should take into account. Personally, if you ask me, works of great literary men like Rabindranath Tagore, are not considered by me to be the property of one individual or one individual institution at all. They are the assets of mankind; they are the treasure of mankind. (*Time bell rings*). Such work should naturally be kept apart; even contemporary works, either from the point of literature or from the point of science, should be similarly treated. What I would like to see is that there should be free inter-flow of such work without barriers, without restrictions, without being inhibited too much by personal or private right. Although I am all in favour of extending to the authors and their immediate successors such right as is possible from the point of view of economics, I would like to press upon the House that the protection to the various authors lies not so much in giving this kind of

right but in other activities and policies of the Government. I do not wish to go into that aspect at this stage. All that I would like to stress upon the House and emphasise in this context is that today, more than ever, it is essential that there develops contacts between the various countries in the field of science, literature and art and thereby understanding is developed enriching civilisation as a whole. Whereas I would like the authors to be given every possible protection, at the same time, I should also be interested in ensuring that because of certain private rights, because of certain narrow private interests, because of certain narrow prejudices from the point of view of an individual or a single Nation state, we do not deny all this free flow of culture, flow of civilisation which is carried in these works of art, literature and science. That is how I would view the matter and I hope that the Government would take these points into account and in its future dealings over such matters with other countries it should keep in view the urgency and importance in the world of today of having easy and free contacts and intercourse in the field of culture art and science between the countries of the world.

SHRI KISHEN CHAND (Andhra Pradesh): Mr. Deputy Chairman, the Government is more or less committed to this Convention and probably this House will agree to it. But when we were discussing the Copyright Bill, I drew the attention of the hon. Minister to the fact that the Indian languages are developing and that we want the development of Indian languages. Many Universities are thinking of adopting the Indian languages as the medium of instruction. Sir, scientific books, medical books and technical books are being published in large numbers in foreign countries and some time to come we shall have to go on translating these books if we want our local languages to be adopted as medium of instruction in the universities. I would like to know from the hon. Minister whether, if he

signs this Convention, it will be possible for Indian authors to translate books on scientific, technical and medical subjects written in foreign languages. You know, Sir, that often foreign authors are not interested in the translation of their works if they feel that the copyright on the translation will not bring them substantial amount of money and if they are not interested they may not give permission for translation of their works, or they may insist upon a minimum guarantee to be paid to them for translating their works. In either case the question of enriching our languages with translations of technical books will be retarded, but it is most essential that we translate such works. Now, in the Osmania University we tried this experiment of writing of original works and naturally that work was entrusted to the Professors who were lecturing in the University. The result was that often books written by the professors were not of the calibre or quality that we have been obtaining by translating foreign books. If by this Convention we stop or discourage or make the translation of books of foreign authors expensive, the result will be that our authors will be writing on modern scientific and technical subjects in the local languages and you know the value of a book is determined by its sales in competition. In foreign countries a very large number of books are written on any one particular subject. I know even on one particular branch of, say, Physics or Chemistry hundreds of books will be written while in our country if we do not go in for translation but only go in for writing of original works probably there will be only one or two books on any particular branch of that subject written by an author selected by a committee appointed by Government. The result will be that we will not have the same calibre of books in our languages as would be easily obtained by translating foreign books. So, is it possible for us under this Convention to get special concession about translations? In the Osmania University the Government had adopted the

[Shri Kishen Chand.] rule of giving ten per cent, royalty on the sale price of every book that was sold. I would commend to the hon. Minister that some similar provision or a qualifying clause may be added to this Copyright Convention when we agree to it. We may agree to the Convention but we may also ask for some special treatment with regard to translation in local languages. Likewise we may give a similar concession to them for translation of books which are copyrighted in our country. If it is on reciprocal basis there should be no grievance and no cause for hardship. Sir, I have spoken about books only. About other works of art, the question does not arise and I fully support this motion.

DR. NIHAR RANJAN RAY: This is the usual practice, I believe. Even if this Convention was not there, the usual practice is to give a kind of royalty to the original author in whichever country the book is published. That has always been the practice.

SHRI KISHEN CHAND: According to this Convention, it is not correct. We may adopt any practice. If we agree to a Convention, sign it and get it passed by Parliament, it is our bounden duty to abide by it. To agree to this Convention and then keep some mental reservation saying that there is a practice of translating the books and giving them 10 per cent., is not correct. That is not the right procedure. And I would request the hon. Minister to make that alteration in the Convention if possible.

DR. K. L. SHRIMATI: Sir, I should like to thank the hon. Members for the support which they have given to this Resolution. As I said in my opening remarks this Resolution is a step forward in creating better understanding between the different countries and since India has always welcomed such opportunities I am glad that the House has given its support to this Resolution,

With regard to the question which was raised about Indian languages, as to why Indian languages are not being recognised for international purposes, normally, the practice, as far as I understand, is that in International Conventions only those languages are considered which are spoken in more than one country. I do hope that, as time passes, as we develop our languages, which we are bound to do, and as more and more creative energy is released in our own country, our languages also will receive due recognition. But I must say that we have to make an effort in this direction and effort can be made by those people who through their creative work make a contribution to the languages and enrich them.

Sir, my hon. friend, Mr. Bhupesh Gupta, spoke at length about the necessity of limiting the duration of copyright. That point was so very thoroughly considered by the Select Committee when drafting our own Act. As he is aware, the Government had originally limited that right but later on the period was increased to 50 years in the interest of authors. I am afraid that it will not be possible to reopen that question at this stage.

My friend, Shri Kishen Chand, asked me if there was provision for translation of works. In fact, by adopting this Convention we facilitate the translation of original works of foreign authors. I would draw his attention to Article V which specifically lays down:

"If after the expiration of a period of seven years from the date of the first publication of such a writing a translation of such writing has not been published in the national language or languages as the case may be, of the contracting State by the owner of the right of translation, or with his authorisation, any national of such contracting State may obtain a non-exclusive licence from the competent authority thereof to translate the work and publish the work or translate it in any of the national languages in which it has not been published."

Of course, according to international standards payment will have to be made, compensation will have to be given to the authors. Sir, I have nothing more to add to the remarks which I have already made and I request the House to adopt the Resolution.

MR. DEPUTY CHAIRMAN: The question is:

"That this House approves the Universal Copyright Convention and the Protocols thereto as adopted at Geneva on the 6th September 1952 and recommends that the said Convention and Protocols be ratified by the Government of India."

The motion was adopted.

THE LEGISLATIVE COUNCILS BILL, 1957

THE MINISTER OF LAW (SHRI A. K. SEN): Mr. Deputy Chan-man, I move:

"That the Bill to provide for the creation of a Legislative Council for the State of Andhra Pradesh and the increasing of the strength of the Legislative Councils of the States having such Councils and for matters connected therewith, as passed by the Lok Sabha, be taken into consideration."

In moving this motion it is not very necessary to elaborate the reasons which have compelled us to undertake this measure. Hon. Members will recollect that as a result of the States Reorganisation Act, major changes were wrought on the old States of Bombay, Mysore and Madhya Pradesh and also the Punjab. The States Reorganisation Act provided that so far as the States of Mysore, Bombay and the Punjab are concerned, new Legislative Councils should be constituted first and then they should be re-constituted again after the general elections held after the reorganisation of those States. So far as the State of Madhya Pradesh was concerned, the States Reorganisation

Act did not contemplate an interim constitution and a final re-constitution, but provided for a new Council consisting of 72 members. These territorial changes, vast as they were, had the effect of making the Legislative Councils—which originally prevailed in the States of Mysore, Bombay, Punjab and also the other States of Madras—rather obsolete. The entire State of Andhra Pradesh was carved out of a large portion of territory taken from the old State of Madras, the old State of Hyderabad, and possibly a little of the territory coming from the old State of Madhya Pradesh

DR. R. B. GOUR (Andhra Pradesh): No.

SHRI A. K. SEN: Possibly not. Mysore also underwent very significant transformation. Bombay, as you know, became quite different. Punjab did not become quite so different, but certainly it underwent territorial reorganisation. Now, so far as the Upper Chambers are concerned, the Councils in those States have had to be reorganised. So far as the State of Andhra Pradesh was concerned, we may say that a new Council had to be set up. The old State of Madras had a Council. The new State of Andhra Pradesh, which was carved out of a large portion of the territory which originally formed part of the old State of Madras did not continue to enjoy a Second Chamber, after the creation of that new State. Now, the Andhra Pradesh Legislative Assembly passed a Resolution recommending the creation of a Legislative Council for that State. In the meantime, the Seventh Amendment of the Constitution was passed which provided that the membership of the Legislative Council of a particular State should not exceed one-third of the membership of the Legislative Assembly of that particular State. The original limit was one-fourth. It was contemplated at the time the amendment was adopted by Parliament, as also the States concerned, that as a result of the reorganisation of various States which had Councils, various new