

SHRI BHUPESH GUPTA: But we do not know when the hon. Minister.....

MR. DEPUTY CHAIRMAN: You will be intimated what has happened to the papers.

SHRI BHUPESH GUPTA: It is very important, Sir. As you have seen in the papers, the Government's rejection of the findings has created a general dissatisfaction.....

MR. DEPUTY CHAIRMAN: The House has laid down certain Rules and Standing Orders according to which we proceed and in the midst of the session, you cannot spring surprises. You have given notice. (*Interruptions.*) It will be sent to the Government and immediately a reply is received, you will be intimated.

Mr. Jagjivan Ram.

THE BUDGET (RAILWAYS), 1957-58

THE MINISTER FOR RAILWAYS (SHRI JAGJIVAN RAM): Sir.....

DR. R. B. GOUR: Sir, before he starts, I would like to say that the time for laying the Budget was fixed at 1 O'clock.

MR. DEPUTY CHAIRMAN: I think the Government should make proper arrangements to see that the papers are laid at the proper time.

SHRI JAGJIVAN RAM: Sir, I was myself going to express my regret to the House that I could not be present at one O'clock here. The reason was, Sir,—it will not be out of place to mention—that the Budget there started rather late. Instead of my starting at twelve O'clock, I started at forty minutes past twelve because a statement on the food situation in the country was being read. I was free from there at a quarter past one. Immediately I rushed here, but I learnt in the Central Hall that the House had risen.

MR. DEPUTY CHAIRMAN: But I kept the House waiting by about two or three minutes.

SHRI JAGJIVAN RAM: I am sorry for that, Sir, and I think the House will excuse me for it.

MR. DEPUTY CHAIRMAN: I hope that such things will be avoided in the future.

SHRI JAGJIVAN RAM: Well, Sir, sometimes it becomes out of our control, but I will see that one of us—somebody—remains here at that time.

Sir, I beg to lay on the Table a statement of the estimated receipts and expenditure of the Government of India for the year 1957-58 in respect of Railways.

THE COPYRIGHT BILL, 1955—continued.

SHRI RAJENDRA PRATAP SINHA: Sir, I was making out a point that objections have been raised from some quarters that a period of 50 years *post mortem* is too long a period and that it should be curtailed. Often, the works of authors are compared with other works and with other modes of property. Sir, I shall beg of you to consider one point that a man in any other profession—whether it is the legal profession or the medical profession or business—by his endeavours collects much larger sums and vaster property than what even a good author could ever think of amassing. Now, if I am in any other profession I am at liberty to amass any amount of wealth and to enjoy it in perpetuity. I shall enjoy it for years whereas I find that the authors are more maganimous and have voluntarily agreed to limit the period of protection to 50 years after death. That is one of the farms of the Berne Convention.

Another point to be noted is that income-tax laws or Death Duty laws do not make any discrimination

[Shri Rajendra Pratap Sinha.]
between the methods and sources of our earning. The earnings and the wealth of authors are subjected to taxation—to income-tax and Death Duty—in the same manner as wealth or income derived from other sources is taxed. Therefore, if you are prone to equate it with the property right, if you want to equate copyright with the property right, then you will find that authors are more socialistic in their approach and attitude. Now, the only advantage which may be claimed by a shorter period of *post mortem* is that you can have cheaper editions of authors' publications. One argument advanced by the protagonists of a shorter term of copyright is that it will enable books to be made available to the public more cheaply. The remarks of the British Board of Trade Copyright Committee on this point are illuminating:—

"We have received evidence, which we see no reason to challenge that as a matter of general practice publishers do not wait for 25 years from the date of publication, let alone for 25 years after the death of the author, before they issue a cheap edition of works in popular demand."

So, that is the experience in England, one of the biggest publishing countries in the world. In our evidence also, which we could collect in the Joint Committee, it was stated that you could not produce the works of the authors more cheaply than the usual popular cheap editions.

The other view is that authors should have a perpetual copyright, and that copyright should be treated just like any other property right. I know, Sir, that in Portugal, they have a perpetual copyright. But a perpetual copyright of this type would not be in the interests of civilization and hence, the authors have voluntarily agreed to limit this period of protection and they are not motivated by any acquisitive hunger for amassing

wealth by the product of their intellectual endeavour. The enjoyment of these rights must necessarily be by compromise. Therefore I have already said that the whole system of copyright has to be viewed as a harmonising system between the different rights of the author and the society. As you will find, Sir, there has been a tendency now to bring up the *post mortem* period in all the countries of the Berne Convention to fifty years to which we also have now adhered. In Brazil the period is 60 years. In the case of Bulgaria it is the life of the author and the life of the surviving spouse until the children complete 18 years of age. Then there is another country, Liechtenstein, where they have revised from 30 years to 50 years. Sweden and Switzerland have also revised from 30 years to 50 years. Now all those countries are revising their laws in order to bring it to 50 years. Therefore I hope that the House will accept this proposition that the *post mortem* period should be 50 years.

Now, Sir, there is another point that I would like to dilate upon here, and that is, Sir, in regard to clause 17. Now, Sir, some of the people.....

MR. DEPUTY CHAIRMAN: You were a Member of the Select Committee and you have considered all these things.

SHRI RAJENDRA PRATAP SINHA: I have seen some amendments. Sir, there is an amendment.....

MR. DEPUTY CHAIRMAN: If there is any criticism, I can understand the Members of the Select Committee getting up and replying. I think there is a large number of speakers.

SHRI RAJENDRA PRATAP SINHA: Then, Sir, I would like to confine myself to only two points that I would like to raise before I sit down. They pertain to double taxation and transfer of royalties.

I would like to submit, Sir, that the hon. Minister should take up this

question in all the international gatherings in respect of copyright questions. What I mean to say is this. An author's income today is taxed in more than one country. If I am an Indian author and if I derive some income, say, from the United States, then I am taxed both in the United States and in India. This kind of double taxation hampers all literary production. Now, Sir, there is a move on the international plane to come to some agreement by which this double taxation could be avoided. Sir, as far as my information goes, there are two such bilateral agreements. One is between the United Kingdom and France and the other is between France and Belgium. Now under the terms of such a bilateral agreement a British author deriving his income in France from his royalties is not taxed in France but is only taxed in England. Similarly a French author's income from his royalties in the United Kingdom is taxed only in France and not in the United Kingdom. Now for encouraging the works of the author it is very important that such bilateral or multilateral agreements should be arrived at in order to avoid such double taxation. The Government of India should take a lead in this matter at all international conferences and conventions. They should plead for such reliefs in the matter of double taxation. Sir, there is already a move in various countries for having such bilateral or multilateral agreements. What I want is that the hon. Minister and his Ministry should take up this question with other countries so that we may be able to have some relief in the matter of double taxation. Sir, what happens is that this question of double taxation is taken up as a whole with all kinds of income, and the income from literary works, from royalties, is a very insignificant income. If we look at it from the national point of view, the income from business and other sources is very much more than the income from royalties. Therefore this taxation of royalties is lost sight of. The copyright administration in this country should take up this question

independently of the question of double taxation as a whole.

Then, Sir, there should also be similar agreements with regard to the transfer of royalties from one country to another. Oftentimes difficulties are placed in respect of the transfer of such royalties. And here also I would like the Government of India to take a lead in this respect in sponsoring such agreements between the different nations.

Now, Sir, there is one other point which I would like to impress upon the hon. Minister, and that is with regard to the formation of authors' societies. I have seen, Sir, that in many European countries Governments have taken a lead in the matter of formation of authors' societies. I do not mean that the Government should dominate over such societies, but they should give all possible help and assistance for the creation of such societies, because it is such societies alone which can give some meaning and content to the copyright law that we are enacting today. Many of our authors are ignorant of their own rights and they are not in a position to exercise those rights even if they know them. Therefore, Sir, if we set up such societies, they will protect the interests of the authors. Sir, my hon. friend, Dr. Shrimali, is a man of very great vision and ideas. And I request him to examine this question as to how these authors' societies have been organised in other countries and whether it will not be feasible to organise such societies under his aegis in this country. Thank you very much, Sir.

DR. W. S. BARLINGAY: Mr. Deputy Chairman, I am raising with regard to this Bill certain fundamental points, and I shall also with all respect suggest to this House a point of view from which we are to look at this Bill.

Sir, if there is any class of people which has been economically back-

[Dr. W. S. Barlingay.]

ward because it has never received any support either from the Government or from the public, that is, Sir, the class of authors. If we want to look at this Bill properly, we must look at it from this point of view, namely, whether this Bill enhances the economic interests of the authors whose intellectual gifts to the country are really invaluable. That is the proper point of view from which to look at things. Now it seems to me that we are making too much of the so-called socialistic pattern. In a way it is quite true that we owe our all to the society. We derive our inspiration from the society—that is true. But then, after all, a proper balance has got to be maintained between the interests of the individual and the interests of the society and I regret that this balance has not been observed, according to me, so far as this Bill is concerned. I would draw your attention especially to two provisions namely, the provision with regard to translation and the provision with regard to the right of the author or his heirs in the work produced by the author concerned. In the one case the period is 10 years after the publication of the work—that is in respect of translation. That is to say, if a work is published to-day, then after 10 years, neither the author nor anybody else can control the publication of its translation in any manner whatever. The author particularly has no right whatever about that matter.

SHRI KISHEN CHAND (Andhra Pradesh): Only if it is translated and published. If there is no translation done or published, then only he loses but if within a period of 10 years the author translates it and gets it published, he has full right for the said period.

DR. W. S. BARLINGAY: I grant that, I was not referring to that. But my point is this. After all this right to get his work translated is, according to me, a piece of property.

SHRI KISHEN CHAND: You cannot always keep your house empty.

DR. W. S. BARLINGAY: I hope I will be allowed to go on. Now the same is true of every original literary work. In point of fact if there is any piece of property which you can call rather intimately the author's own, then it is this literary work of his. A house, for instance, he may inherit from his ancestors. So far as land is concerned, he usually inherits that from his father or some other ancestors. But so far as literary works are concerned, they are peculiarly and intimately his own. They are his own work or product and therefore he ought to be able to enjoy the fruits of his labour to the fullest possible extent.

Now I would urge that we look at this matter from the point of view of fundamental legal principles which lie at the root of our Constitution. Take article 44 of the Constitution which reads like this:

“The State shall endeavour to secure for the citizens a uniform civil code throughout the territory of India.”

Now I am not suggesting that this particular article will apply literally to this particular problem that we have now before the House. I am not suggesting that but I do suggest that as far as possible, where you are concerned with a particular piece of legislation, you have to see that it is brought in line with other pieces of legislation with regard to the same matter. Now there is not the slightest doubt that the right to get a work translated or the right to get a work published is a purely personal right—a right to property. It is a sort of property. Now if, for instance, I own a house, my son, my grand-son or any other heir inherits my property as laid down in the Hindu Succession Act or the Indian Succession Act or some other Act in force for the time being. When, for instance, my pro-

perty so far as the property is in respect of land or any other movable or immovable property, is heritable according to the law of the land, I don't see the slightest reason why a distinction should be made so far as this particular property is concerned.

DR. K. L. SHRIMALI: I want to know whether the hon. Member is advocating the principle of perpetual copyright?

DR. W. S. BARLINGAY: Well, all that I am advocating is the uniformity of law—that is all. If for instance, I have got a perpetual right in my house and my heirs are entitled to inherit it, then I don't see the slightest reason why the same right should not exist in my own works, or in the translation of my works. I don't see any reason whatever; unless of course there is some very valid reason for making a distinction between these two kinds of property. I do not think, with all respect to the hon. Minister, that he has succeeded in making a distinction between these two kinds of property. If he does, I will withdraw this objection immediately because I am not wedded to a particular view in this matter but so long as you regard this as a piece of property—whether it is movable or immovable makes no difference in the world—then I suggest strongly that we should have a uniform law for all these various kinds of property and we cannot make an exception in the case of original works or translations.

As I said in the beginning, I want to look at this whole matter from the point of view of the authors. I want to benefit them as much as possible. As a matter of fact they are the poorest people in our society. They are the worst paid, and it does seem to me that the dictum:

अजापुत्र बलिं दद्यात् देवो दुर्बलघातकः
should not apply in the case of authors. If the authors are encouraged properly, if their rights to property are not taken away, then I suggest they will do very very useful work for the

society and they will add to the glory of our society and the country. Thank you.

SHRI PERATH NARAYANAN NAIR (Kerala): Mr. Deputy Chairman, I agree that in certain important respects, this Bill has come out of the Joint Committee is a very much improved form.

3 P.M.

Some of the modifications which have been made in the Bill by the Joint Committee have been referred to by the hon. Minister. Some of them are quite welcome but there are certain modifications made by the Joint Committee in this Bill which are unacceptable from my point of view. I refer to the modifications made in clause 21 relating to the term copyright. The provision relating to first ownership of copyright, I think, requires modification and the definition of the term "Government copyright" also requires modification but before I refer to some of these things, I think, in a general way I must make some reference to the fundamental objections raised by the two previous speakers. Now, this copyright law deals with private property rights, sort of exclusive monopoly rights, and in enacting pieces of legislation in regard to such property rights, we have to be guided by certain considerations. We must realise that we have been rather lie-surely in our efforts to amend the law relating to these subjects. Concepts of property go on changing. At the time when the Berne Convention was there, a certain concept of property prevailed and the Brussels text has undergone revision according to the concepts prevailing in 1947 and the concepts of private property prevailing in 1947 are not the concepts prevailing in the modern world. If that is so in regard to other property rights, then it must be so in relation to the property rights dealing with copyright also. Especially in the matter of rights relating to the literary works,

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dramatic works, etc., which go a long way to raise the cultural level of our people, it is absolutely necessary for the proper dissemination of knowledge in our country that there should be some sort of restriction on private property rights. My friend, the previous speaker, was saying, "Is there any distinction made between property relating to copyright and property relating to others?" It is quite clear in my mind that these gifted men, musicians, dramatists, authors, etc., must during their lifetime—and their heirs and successors after them—be allowed to share the advantages accruing to them from out of their works. There is no doubt about that but will you put obstacles in the way of the dissemination of public knowledge, will you place any handicaps in raising the cultural standards of our country? So, in approaching this problem, I think, we must broadly take into consideration the common interests which are involved in this thing. The hon. Minister himself was good enough to explain the interests of the public. Besides, the vital interests of the authors are there, so also the rights of the publishers and the rights of the heirs and successors. We have to strike a golden mean in arriving at a proper settlement or definition of property rights in regard to copyright. I think that the original provision under which copyright would exist for the lifetime of the author and for twentyfive years thereafter was quite reasonable. Especially regarding property rights, we need not take our lessons from Portugal and Britain. Even as my friend the previous speaker had occasion to bring to our notice, concepts are changing and in regard to these changes, I think the modifications suggested by the Joint Committee give overmuch consideration to the interests of the authors and do not give the consideration it deserves to the interests of the general public. For his lifetime, an author must have unfettered rights. There is no question about that but will you extend

those rights to three generations or four generations of heirs and successors? According to Hindu concepts, Varshanthara is twelve years and if it is twentyfive years, it will be two Varshantharas, two generations of heirs and successors, who will get the benefit of the property. If after twentyfive years these literary works are pushed on to the domain of public knowledge, if society would gain so much from it, would we not consider that this twentyfive-year period is good enough and that this fifty-year period is not warranted by circumstances? We are told that this Brussels Convention has fixed this fifty-year *post-mortem* period and that if we do not accept that, there is this possibility that we may have to stay away from that convention. I think the apprehensions are quite without foundation because, if I am informed correctly, the provisions in the Brussels Convention are that they do make provision for different countries to make their own laws in regard to copyrights of their own national authors and I am sure that by the time we are in a position to place this enactment on the Statute Book, the signatories to the Brussels Convention would be thinking of revising the convention because there is such a change occurring in the concept of property throughout the world so that if we fix this period of twentyfive years now, the possibilities are that the other countries of the world would come to our line of thinking. After all, the curtailment of private rights and the enlargement of the public domain has come to be the rule of law and so I have given notice of an amendment that this term of copyright.....

DR. RADHA KUMUD MOOKERJI (Nominated): Is it the Communist view that the limit of property should be twentyfive years?

SHRI PERATH NARAYANAN NAIR: Limit of property according to the Communist view is not what I

am dilating upon now. We know the conditions in India, the conditions of the authors, the position in which they are placed and we also know the position of law in this country as well as in some other countries. We are only contemplating to strike a golden mean and I am suggesting this twenty-five-year period not as an absolute concept of property right held by the Communists.

DR. W. S. BARLINGAY: Why should not that apply to immovable property? I am prepared to agree to that but why should it not apply to immovable property?

SHRI PERATH NARAYANAN NAIR: I would understand his taking objection to the socialist pattern of society but.....

DR. W. S. BARLINGAY: First of all you want to start with the authors and then go on to immovable property. Why not do it the other way about?

SHRI PERATH NARAYANAN NAIR: We have to take action in certain other ways also. When Death Duty comes, we try to increase it and we do it in the case of Income Tax also. It is not that just one fine morning we begin with the authors and their copyrights and curtail them. It is not so. It is inherent in the concept of social status; in all modern democratic concepts private property rights are restricted, fettered to a certain extent. We realise the position of the authors in India at present; they require ample protection, the fullest protection, to enjoy the fruits of their labour and their immediate heirs and successors also must be guaranteed the protection. We only say that the period may not be fifty years after the death of the author but the lifetime of the author and for twenty-five years after that. We make a distinction. That is all. In legislation

relating to private property rights and others, we have to take into consideration the prevailing opinions. We just take a step forward and it is no use calling into question absolute concepts of property of the Communists and all that. That is not the point at issue. Anyway, my own point is that the authors will get ample protection over their works to which they are entitled, if the House will be pleased to accept the amendment which I have given notice of. When I actually move it, I will have occasion to dilate on it again.

The other point I want to refer to is the one that relates to ownership rights. In clause 17 it is laid down that insofar as the employee journalist authors are concerned, unless there be a contract to the contrary, the ownership of the copyright will vest in the proprietor. I think that is not fair to the employee journalists or to the other authors in employ. I do not say that the ownership of the author or of the employee journalist or others must be unrestricted. No, but, under the provision as it stands in clause 17 of the Bill, the proprietor will have unfettered right of reproduction and reprinting, not only in his own paper and in his own magazines but in any other newspaper or in any other magazine. It is not called for and it is ever so difficult for an employee to contract into a right. Now if the position is reversed in that particular clause, if the first ownership is vested in the author and the journalist and if the proprietor is enabled to contract into a right, it would be easier for him because in our present-day employer-employee relations naturally the employees have to depend on their proprietors for so many things and thus they cannot afford to incur the displeasure, even in the slightest measure, of the proprietor. So it would be ever so difficult for him to contract into a new obligation. Now, if it is made the other way about, if the proprietor is to contract into a new right, he can do it, and the employee will

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benefit to the extent that adequate compensation will be paid to him. In my opinion clause 17 requires modification in that respect.

Again in regard to Government works, the definition of 'Government work' is given in clause 2 (k). I think it must be enlarged. All works of any department including the Houses and the secretariat of the Houses and the Legislatures, all come under that and enjoy this copyright. Now in these days of democracy, especially relating to proceedings of the Legislatures I want the Minister to clarify the position. Is the right to reproduce the speeches of the hon. Members of Legislatures here and in the States, the right to reproduction of their speeches from the public records, fettered in any way by this measure because, in any proper functioning of democracy, the people, the community at large must know how the representatives conduct themselves in Parliament? They have a right to full knowledge of how they conduct themselves in Parliament, what they speak there, and it is only fair that full right of reproduction without infringing on any copyright must be given to public proceedings in the Legislatures. Again the term of copyright in Government works is also fixed at fifty years. After all Government are not just sellers. They must be more interested in dissemination of knowledge and in the setting of higher standards of culture for the people, and this fifty-year period for Government works, in my opinion, is too great. There are certain minor changes in regard to this fifty-year period in the matter of copyright for some cinematograph films and photographs. What property right will ensue in any ordinary photograph after twenty-five years passes my comprehension. I think even there twenty-five years would be a proper limit.

There are one or two comparatively less important amendments relating to Definitions and other things, and I think I will get an opportunity when we come to the clauses of the Bill. Altogether I welcome this Bill. Only in these vital aspects relating to the period of copyright and relating to the first ownership of copyright so far as the employee journalists and owners are concerned and in regard to the term of copyright in Government works it would be good if the hon. Minister agreed to modify the present provisions. Thank you.

श्री रामधारी सिंह 'दिनकर' (बिहार) :

श्रीमान्, यह विधेयक जब पहले-पहल इस सदन में रखा गया था तो इसकी कई शर्तें बहुत भयानक थीं और वर्तमान कापीराइट कानून में लेखकों का जो ५० साल मरने के बाद तक का कापीराइट है इसको घटा कर उसमें जब २५ वर्ष कर दिया गया तो सारे देश के लेखकों और लेखकों की संस्थाओं में हाहाकार मच गया। प्रायः प्रत्येक अखबार ने विधेयक की निन्दा लिखी, प्रायः प्रत्येक नगर में लेखकों की सभायें हुई और सभा करके लेखकों ने सरकार से अनुरोध किया कि यह अन्याय मत करिये। पी० ई० एन० जो देश की इतनी प्रतिष्ठित संस्था है—देश के सभी बड़े बड़े लेखक और कवि उसके सदस्य हैं—उसने जोरों का विरोध किया और जब देश में बहुत अधिक कोलाहल मचा तो हम लोगों ने साहित्य एकाडमी के तत्वावधान में इस पर विचार किया और हम कुछ लेखक, कुछ संसद सदस्य मौलाना साहब के पास गये, लेकिन जो काम बाहर इतना कठिन मालूम होता था मौलाना साहब के समीप जाने पर वह आसान हो गया। उनको दो मिनट भी नहीं लगे यह ताड़ने में कि देश के लेखक क्या चाहते हैं और उन्होंने कहा कि ऐसा करो कि एकाडमी के अन्दर हम एक

कमेटी बना देते हैं और तुम लोग इसकी छानबीन करके एक छोटी सी रिपोर्ट दे दो। हम उसी में से विचार करके जो रखने लायक शक्तें होंगी रख लगे। उसी दिन एक कमेटी बनी जिसमें गुजराती के लेखक जोशी थे, मामा साहब वरेरकर थे, हुमायूँ कबीर साहब थे, कृपलानी साहब थे और स्वर्गीय मिस्टर लाड थे और इन सभी लोगों ने सारे विरोधों पर ध्यान रखते हुये और जो हम लोगों की जानकारी में दूसरे देशों के कापीराइट कानून हैं उनकी जानकारी रखते हुये—हम लोगों ने—एक छोटी सी फेहरिस्त तैयार की और वह मौलाना साहब के पास भेजी गई, उसके आधार पर इसमें संशोधन आये और उन संशोधनों से देश में आज इस विधेयक के पक्ष में अच्छा वातावरण है। इस विधेयक में दोष तो अभी दो, एक है लेकिन यह विधेयक पहले के विधेयक की अपेक्षा अधिक उत्तम है। मेरा खयाल है इस विधेयक को नमक और तेल का कानून नहीं मानना चाहिये। यह बहुत ही पेचीदा बिल है। इसका बहुत दूर तक असर पड़ने वाला है। इसका सम्बन्ध अब इस बात से समझिये कि प्रवर समिति ने १३ अधिवेशन किये, देश की बड़ी बड़ी संस्थाएँ, साहित्य की, गवाही देने को आई, देश के बाहर से लोग इस बिल के सम्बन्ध में गवाही देने को आये और बहुत ही शांतचित्त हो कर विचार करके इसका संशोधन हुआ है। लेकिन फिर भी अब चूँकि यह विधेयक संसद के सामने है इसलिये एक बात की ओर मैं ध्यान दिलाना चाहता हूँ। चूँकि इसका सम्बन्ध लेखकों, कवियों, कलाकारों, सिनेमा के व्यवसायियों, अभिनेताओं आदि के साथ है इसलिये इस पर बहुत गम्भीरता से विचार किया जाना चाहिये और सबसे बड़ी बात यह है कि ऐसे कानून बनाने के समय हम सरकार से यह जानना चाहेंगे और सरकार को इसका ध्यान रखना चाहिये कि वह देश को कहां लिये जा रही है। लेखक कहां रखे जायेंगे, कवि कहां रखे जायेंगे, कलाकार

कहां रखे जायेंगे ? सिर्फ यह नहीं है कि इस पार्टी के सदस्य ने एक धक्का दिया तो कुछ उसकी बात मंजूर हो गई और उस पार्टी ने एक धक्का दिया तो कुछ उसकी बात मंजूर हो गई। यह बात नहीं है। यह तो सारा प्रश्न है कि हम किस तरह का भारतवर्ष बनाने जा रहे हैं। अगर हमारे मन में यह खोत हो कि साहब जो अधिनायकवादी देश हैं, कम्युनिस्ट देश हैं उनकी परम्परा अच्छी है तो फिर मैं कहूँगा कि यह विधेयक किसी काम का नहीं है क्योंकि यह प्रजातन्त्रवादी देश का विधेयक है और जो पिछले भाई कह रहे थे वह शायद बात ठीक हो क्योंकि मैंने देखा है कि कम्युनिस्ट देशों में कापीराइट की अवधि थोड़ी रखी जाती है। मगर जानते हैं कि उस थोड़ी अवधि का क्या परिणाम है। किसी भी कम्युनिस्ट देश में चले जाइये, आपको दो, तीन दिन के भीतर यह अहसास होने लगेगा कि उस देश में सबसे सुखी लोग वे हैं जो कविता करते हैं, जो नाचते हैं, जो गाते हैं, जो लिखते हैं, जो अनुसंधान और आविष्कार करते हैं क्योंकि उनके साथ सारे राज्य की बहुत सी रियायतें हैं। उन्हें यह जानने में कि वे पैसे का क्या करें, कठिनाई होती है। पिछली बार जब रूस का आन्दोलन उठा कि आत्म-निरीक्षण करो तो लेखकों के ऊपर उन्होंने यह दोष लगाया कि तुम्हारे पास रुपया इतना है कि समुद्र के किनारे मकान रखते हो, विलास की जिदगी बिताते हो और जनता से तुम्हारा सम्पर्क टूट गया है। मेरा खयाल है, इस देश के लेखकों के अथवा किसी भी परिस्थिति के देश के लेखकों के ऊपर यह चार्ज नहीं लगाया जा सकता। और यह भी देखिये कि हमारे अपने देश के लेखक बहुत ललचाते हैं कि यहां भी कम्युनिस्ट देशों वाली बातें हो जायें। पच्चीस वर्ष तो कौन कहे, आज ही से, जिस दिन से हमारी रचना प्रकाशित हो, वह मा० डाक्टर श्रीमाली के कब्जे में चली जाये। हमको उसका एक पैसा नहीं

[श्री रामधारी सिंह 'दिनकर']

चाहिये । हमको कापीराइट लेकर क्या करना है ! हम जानते हैं कि हमको वह लोभ नहीं करना चाहिये । कम्युनिस्ट देशों के लेखकों और कवियों ने पाया तो क्या पाया ? शारीरिक सुख और रुपया तो बहुत पाया, आराम तो उनको सबसे अधिक है; उनके साथ इनकम टैक्स की दरों में रियायतें रखी जाती हैं, लेकिन बदले में उनको देना क्या पड़ा है ? देना यह पड़ा है कि अपनी स्वाधीनता का हनन करना पड़ा है, रेजिमेंटेशन को स्वीकार करना पड़ा है । भाई राज गौड़ हुं रहे हैं । वे समझ रहे हैं मैं शायद अति-रंजन कर रहा हूं । मैं आपसे पूछता हूं कि क्रांति हुये इतने दिन हुये हैं, तो डास्टा-व्स्की, टर्जनीव्ह, जेकोव्ह, टालस्टाय और गोर्की के समान लेखक क्यों नहीं पैदा हुये कम्युनिज्म में । फिर पैदा नहीं हो सकते ।

DR. R. B. GOUR: That could be said of all countries.

श्री रामधारी सिंह 'दिनकर': किसी प्रकार से पैदा नहीं हो सकते । मनुष्य की आत्मा को जहां स्वाधीनता नहीं है वहां सच्चा साहित्य, सच्ची कविता, सच्ची कला कभी पैदा नहीं हो सकती है । मैं अपना एक उदाहरण दूं, मैंने एक अनुभव पाया । एक साम्यवादी देश में मैं गया हुआ था, मैं नाम नहीं लूंगा, कई जगह वहां लेखकों से बातें हुई । हमने कहा कि भाई तुम्हारे रेजिमेंटेशन का क्या हाल है, तुम्हारे मन के चारों ओर लक्षण रेखा खिंच गई या नहीं । तो उस देश के कुछ लेखक थे स्वाधीन चिंतक । खुल कर, जता कर उन्होंने कहा, प्राइवेट डिस्कशन में कहा कि जब यहां क्रांति हुई, यहां भी कोशिश की गई कि हम सरकारी उद्देश्यों के अनुसार साहित्य की रचना करें और हमने भी उत्साह में आकर रचना की । लेकिन, उस रचना को किसी भी वर्कर ने, किसी

भी मजदूर ने या दूसरे आदमी ने, नागरिकों ने, पढ़ना न चाहा । उस समय रोमांटिक कविता तो लोकप्रिय हो गई, क्लासिक्स का बहुत प्रचार हो गया । हमारी सरकार ने इससे संकेत ले लिया है और संकेत लेकर उसने ढील दे दी है और अब हम फिर स्वतन्त्र पैटर्न पर लौट रहे हैं । उसके बाद कुछ और बात हुई जिन से मालूम हुआ कि बाद को उन्होंने सोचा और कहा कि क्यों पैटर्न बदला । इसलिये मैं कहता हूं कि इस कानून का समर्थन करने या विरोध करने से पहले हमको सोच लेना चाहिये कि हम लेखकों को स्वावलम्बी रखना चाहते हैं या परावलम्बी रखना चाहते हैं । यह तो जरूर है कि समाजवादी ढांचा जो हम तैयार कर रहे हैं, उसमें लेखक उपेक्षित नहीं रहेंगे । लेकिन, आपको मालूम है कि लेखकों का मिजाज क्या होता है ?

अभी इस देश में सरकार न लेखकों के लिये कुछ नहीं किया है । कुछ थोड़े से लेखक रेडियो में आये हैं और जहां तहां प्रांतीय सरकारों के प्रचार विभाग में आये हैं, कुछ शिक्षा विभाग में आये हैं और संयोग कुछ ऐसा हुआ है कि हममें से कुछ अनेक खिड़कियों में से कूद कर संसद् में चले आये हैं । परिणाम इसका यह हुआ है कि साहित्य क्षेत्र में सरकारी साहित्यकार का नारा लग रहा है । यद्यपि मैं जानता हूं कि इस नारे में सच्चाई अभी नहीं है । रेडियो में जो साहित्यिक आये हैं उनमें से दो एक को मैं अच्छी तरह जानता हूं और यह भी देखता हूं कि सरकार के यहां नौकरी —नौकर तो उनको नहीं कह सकते आप, लेकिन सरकार के यहां वे काम कर रहे हैं और सरकार की आलोचना भी कस कर लिख रहे हैं और सरकार की ओर से उनको कोई तन्वीह नहीं की गई है । यह बहुत अच्छी बात है जो इस बात की सूचक है कि यह सरकार लेखकों की स्वतन्त्रता में हस्तक्षेप नहीं करने

वाली है। लेकिन, जितना कुछ हुआ है उसमें जो आन्दोलन देश में चल रहा है सरकारी साहित्यकार का, उससे आप समझिये एक शंका तो है ही कि अगर लेखक अपना कुछ स्वाभिमान न रखे और सरकार के ऊपर अवलम्बित हो जाय, तो उसकी हालत तो वही होगी जो किसी भी रेजिमेंटेड लेखक की होती है। उसका स्वाधीन चिंतन रुकेगा और धीरे धीरे उसमें वह ताजगी नहीं रहेगी, उसमें वह चिन्मारी नहीं रहेगी जो सरकार को पसंद नहीं आती हो। तो अगर हम प्रजा-सत्ता चलाना चाहते हैं सच्चे मन से, तो पहला काम यह होना चाहिये कि लेखकों को और अखबारों को अधिक से अधिक स्वाधीनता दी जाय और उचित रूप से वे जिसकी पगड़ी चाहें उछाल सके, जिसकी आलोचना चाहें कर सकें। तब तो प्रजा सत्ता बढ़ेगी। और यदि कहीं हमने एक तरफ लेखकों के कापी-राइट पर आघात किया और दूसरी तरफ रोटी बढ़ाई कि अच्छा, जो उधर घटा है इधर ले लो, तो फिर यह प्रतिभा को खरीदने का काम है। पैसे को लेकर इस दुनिया में लोभ मरे है, इस देश के लेखक भी इस तरह की जिदगी बिताने की अपेक्षा, जहां अपनी रोटी के लिये सरकार और सरकारी आफिसों के मातहत रहना पड़े, समुद्र में जा कर डूब मरेंगे। नौकरी में ज्यादा शान नहीं है। इस भ्रम में मैं नहीं हूँ, चाहे कितना ही लोग चिल्ला-चिल्ला कर कहें। मैंने रेजीमेंटेड देश के साहित्य को देखा है। कहीं कुछ नहीं है। स्वाधीन आत्मा की जो बात है, वह सर्वत्र गायब हो चुकी है। इसलिये हम भारतवर्ष के लोग इस भ्रम में क्यों पड़ें? यह सरकार प्रजातंत्री सरकार है, हम सब लोग प्रजातन्त्र का समर्थन चाहते हैं और इसलिये उचित है कि लेखकों का कानून इस दृष्टि से बनाया जाय कि लेखकों को अधिक से अधिक स्वाधीनता रह सके। सबसे बड़ी स्वाधीनता रुपये पैसे की स्वाधीनता होती है, दूसरी स्वाधीनता नहीं होती।

मंत्री महोदय ने अभी कहा था कि अमेरिका में किसी जज ने यह फैसला दिया कि लेखकों की किताबें जनता पर मुनहसिर होती हैं, इसलिये लेखक का उन पर सर्वाधिकार नहीं हो सकता। पता नहीं, उन्होंने ठीक बात कही या नहीं। लेकिन, जैसी भी बात हो, मुझे सुनकर बहुत हैरत हुई है। घर हम बनाते हैं और दूसरा आदमी किराया लेता है, दूसरे पर हम इनहिसार रखते हैं, लेकिन कहा यह जाता है कि घर पर हमारा अधिकार है। जमीन हम जुतवाने पर लगायें तब भी जमीन पर हमारा अधिकार है, कपड़ा सारा देश खरीदे और सेठ साहब की मिल बनी रहे लेकिन लेखक की पुस्तक सबसे अधिक कांटे की तरह आंख खटकती है। पता नहीं पं० जवाहरलाल नेहरू ऐसे लेखक कितने हैं। एकमात्र लेखक हैं और डा० राधाकृष्णन् ऐसे लेखक कितने हैं, लेकिन लाखों ऐसे हैं जिनकी मरने के बाद तलाशी ली जाय कि क्या छोड़ कर मरे हैं, तो कुछ भी नहीं मिलेगा। यहां तक कि अपनी सम्पत्ति से उनको खाना तक नहीं मिलता है। एक प्याली चाय पी कर धोती बड़िया पहिन ली और एक सिगरेट फूँकी, यह उनकी क्रिएटिव हैविट है। इस तरह की क्रिएटिव लाइफ लीड करके वह रहते हैं। देखिये मैं क्या कहूँ, मैं कहना तो नहीं चाहता था, १५० श्रेष्ठ नाटकों के लेखक मामा साहब यहां बैठे हुये हैं। मुझसे एक रोज कह रहे थे—मेरा कलेजा फट गया कि बस, जीवन में पहले पहल स्वाधीन मैं तब हुआ जब पार्लियामेंट में आया। अधिकार है उस देश को, जिस देश में डेढ़ सौ में से प्रत्येक नाटक उनका खेला गया, ऐसा न हुआ कि नाटक कहीं छिपा रहे, डेढ़ सौ में से प्रत्येक नाटक खेला गया और वे लेखक साहब सारी जिदगी कष्ट झेलते रहे हैं। उस कथा को छोड़िये, भावना में जाने की जरूरत नहीं है। हम मूल अवस्था में आए, है क्या? मैंने अभी कहा हम लोगों ने मौलाना साहब से जो

[श्री रामधारी सिंह 'दिनकर']

प्रार्थनाएं कीं उनमें से अधिकांश प्रार्थनाओं को उन्होंने स्वीकार कर लिया, वे तो दया के सागर हैं। उन्हें एक क्षण भी विलम्ब नहीं लगा। लेकिन एक चीज रह गई है अनुवाद की। अनुवाद के बारे में दो मत हैं। एक मत यह है कि अनुवाद पर मे बंधन अगर हम हटा न दें, उसे स्वतंत्र न कर दें, तो अपने देश में हमारे साहित्य का आदान प्रदान नहीं हो सकेगा। इसमें भी कुछ दम है, ऐसी बात नहीं है कि इस को हम नजर अन्दाज कर दें। एक सिद्धांत तो यह है। दूसरा सिद्धांत हमको यह देखना चाहिये कि अनुवाद से भी लेखक को अगर पैसे मिलें तो क्या बुरा है। उदाहरण मैं आपको देना चाहता हूं। अपने देश में आज जो कानून है, जो अंगरेजों के समय से आ रहा है, उसके अनुसार प्रकाशन के दस वर्ष तक ही अनुवाद का अधिकार लेखक के जिम्मे रहता है, दस वर्ष बीतने के बाद नहीं रहता है। नतीजा क्या हुआ ? शरतचन्द्र चटर्जी देश में जब लोक प्रिय हुए, तो हिन्दी के प्रकाशक टूट पड़े और उनकी प्रत्येक पुस्तक का अच्छे से अच्छा अनुवाद प्रकाशित करके, मैं समझता हूं ५० हजार प्रतियां प्रत्येक पुस्तक की बेची होंगी और शरतचन्द्र जो को एक पैसा नहीं मिला क्योंकि कानून प्रकाशक के पक्ष में था। गुरुदेव की भी यही हालत थी। गुरुदेव के जीवन-काल में उनकी पुस्तकों का अनुवाद हिन्दी में हुआ। आप जानते हैं कि हिन्दी बड़ा भारी जंगल है, इसने कुछ न होता हो तब भी और भाषाओं से अधिक हो जाता है। गुरुदेव की भी पुस्तकें हिन्दी में बिकती रहीं और कोई रोक नहीं हो सकी।

सबसे बड़ी दुःख की बात यह है कि गुरुदेव का कहना था कि मेरी कविताओं का अनुवाद किसी को दूसरी भाषा की कविता में न करने दिया जाय कारण कि एक भाषा

का पद्य दूसरी भाषा के पद्य में ठीक ठीक उत्तरेगा यह संदिग्ध विषय है। हो सकता है कि रवीन्द्र खुद इस काम को बाद में कराने वाले थे लेकिन उनकी इस इच्छा की पूर्ति नहीं हुई। वे जीवित बैठे रहे और उनकी कविताओं का तरह तरह का अनुवाद भारत की सभी भाषाओं में चलता रहा। इसको देखने हुये क्या शिक्षा मिलती है ? शिक्षा यह मिलती है कि अगर रुपये पैसे को अलग रख दें तो सिर्फ लेखक के भाव के कारण, लेखक के सेंटिमेंट की रक्षा के कारण इतना सरकार का धर्म है कि वह इंतजाम कर दे कि जिस अनुवाद को वह न चाहता हो वह अनुवाद न छेड़ें। फिर वही बात हो जाती है कि कम से कम अनुवाद पर उसका अधिकार सारे जीवन भर रहना चाहिये, जब तक वह जीवित है तब तक उसको किसी रचना का अनुवाद स्वतन्त्र रूप से उसकी इच्छा के विरुद्ध कोई न कर सके। और सच पूछिये तो इस विधेयक में जहां क्लॉज ३० है, जहां पर यह है कि अगर कोई लेखक किसी रचना को ब्राडकास्ट होने न देता हो, नाटक में न जाने देता हो, तो उसको हम लाचार कर सकते हैं। वहां भी हमने यह दबाव रख दिया है कि जिस रचना को लेखक न जाने देना चाहे अपने सुयश के होने के लिये, उसके लिये उसको लाचार नहीं करना चाहिये। उसी की समानता पर मैं समझता हूं कि अनुवाद का अधिकार लेखकों को जीवन पर्यन्त तो अवश्य रहना चाहिये।

अब अगर मैं यह कहूं कि लेखक मर जाय और तब जिसका जी चाहे अनुवाद कर ले तो छोटे लेखकों को तो कोई नुकसान नहीं है, लेकिन बड़े लेखक को जहर दिया जा सकता है। न जाने कौन प्रकाशक किस कोने में आंख लगाये बैठा हो कि कब यह मरे और इसकी चीजों को लूटें। तो यह भी एक चीज सामने आ सकती है और इसलिये मैंने एक संशोधन दिया है कि

ऐसा इतिजाम कर दिया जाय कि अनुवाद भी लेखक की इच्छा के विरुद्ध उसके जीवन भर में न हों और यह अधिकार उसके मरने के दस वर्ष बाद तक चलता रहे। लेकिन, सिन्हा साहब, (राजेन्द्र प्रताप जी) ने जो संशोधन दिया है उसको भी मैंने देखा। मान्य होता है कि उन्होंने सरकार की कठिनाई, जनमत की कठिनाई, सारी कठनाइयों को देख कर बड़ी छानबीन के बाद अपना मसविदा तैयार किया है। उनकी लाइसेन्स की पद्धति है जिसमें लेखक की अनुपति भी आवश्यक है और लेखक को थोड़ा बहुत पारिश्रमिक भी मिल जायगा। तो अगर सरकार को यह अच्छा लगे और स्वीकार्य हो तो हम अपना संशोधन वापिस ले लेंगे, नहीं तो हम अपने संशोधन को बहुत उचित संशोधन समझते हैं।

अभी दो, तीन बातें छोटी छोटी और हैं। कानून की दृष्टि से, जैसा कि सिन्हा साहब ने कहा, मुझे भी लगता है कि बर्न कंवेशन के बारे में हम लोग किसी न किसी हद तक अपने वचन दे चुके हैं कि उस पर हम हस्ताक्षर करेंगे, उसके साथ हम रहेंगे। बर्न कंवेशन में सिर्फ चार देश ऐसे हैं जिनके यहां अनुवाद की अवधि दस वर्ष है वे हैं, ग्रीस, आइर्लैंड, आयरलैंड, और जापान। लेकिन मेरा ख्याल है कि इन देशों में भी जो कापीराइट कानून हैं, उन कानूनों का जब संशोधन होने लगे तो फिर उनको भी बर्न कंवेशन के साथ ही आना पड़ेगा क्योंकि वह कवेशन मुख्यतः अनुवाद के लिए है, एक देश से दूसरे देश में अनुवाद कराना, इसके लिए है। उसकी मुख्य धारा को हम अगर बिफल कर दें तो हम उसके सदस्य नहीं रह सकते।

दूसरी बात यह है कि जब हमारे यहां यह कापीराइट का संशोधन चल रहा है तो कई वर्षों से ब्रिटिश पार्लियामेंट भी अपने यहां के कापीराइट कानून के संशोधन के

पक्ष की तैयारी कर रही है और उन्होंने जल्दबाजी नहीं की है। जल्दबाजी तो हमने भी नहीं की। हमको याद आता है कि यह बर्न कंवेशन का प्रस्ताव लेकर इस सदन में बिस्वास साहब आये थे। उस समय हम लोगों ने कुछ ऐसी बात कही थी कि कापीराइट कानून का संशोधन होना चाहिये और उसमें शिक्षा मंत्रालय की तरफ से हम लोगों को आश्वासन भी मिला था कि हम उसे शीघ्र लायेंगे। उसी समय से तैयारी होने लगी यह विधेयक अब हमारे सामने आया है। जल्दबाजी तो हमने भी नहीं की है। तो ब्रिटेन में १९५२ में एक कमेटी बनायी, पार्लियामेंट की कापीराइट कमेटी। उस कमेटी ने भी मिफ्रिश की है कि हमको कहीं भी बर्न कंवेशन के खिलाफ नहीं जाना है और यह जान कर के हम अपना नया मसविदा तैयार करें। निश्चय ब्रिटेन में भी जो भिन्नता होगी, वह भिन्नता बहुत शीघ्र दूर होने जा रही है।

फिर यह भी लगता है कि हमारी रचनाओं का तो अनुवाद बाहर वाले कर लेगे क्योंकि हमारा कानून तो उनके विपक्ष में नहीं है। सिर्फ हमने इतना किया है कि अपने देश की भाषाओं में, एक भाषा से दूसरी भाषाओं में अनुवाद करने पर कोई प्रतिबन्ध नहीं रखा, दस साल के बाद अगर उसका फायदा उठा कर हमारी रचनाओं का अनुवाद कराना चाहे तो नहीं कर सकेंगे। तो एक तरफ यह बात हो सकती है।

दो, तीन छोटी छोटी बातें और हैं। एक तो है अनुच्छेद ५१ में, जहां कि कहा गया है कि क्या क्या काम ऐसे हैं जिनको इन्फ्रिजमेंट आफ कापीराइट नहीं कहा जायगा; कापीराइट का जिसे हनन नहीं होता है ऐसी कौन कौन सी बातें हैं। उसमें एक बात की ओर मैं आपका ध्यान दिलाता हूँ, वह है पाठ्य पुस्तकों के बारे में। ब्रिटेन में जो किताबें छपती हैं या जो ब्रिटिश कम्पनियां भारतवर्ष में काम करती हैं,

[श्री रामधारी सिंह 'दिनकर']

उनकी किताबों में आपने देखा होगा "एकना-लेजमेंट" का वह एक पन्ना देते हैं और इसके लिये उसमें धन्यवाद देते हैं कि फलों के आभारी हैं। लेकिन भारतवर्ष का कोई प्रकाशक इसकी आवश्यकता नहीं मानता है। आपके बच्चे पढ़ते होंगे, कहीं से उनकी टेक्स्ट बुक उठा कर देख लीजिये। कहीं किसी से पूछने की बात ही नहीं है। पहले से हमारे कानून है कि दो पैसेजेज पाठ्य पुस्तकों में ले लिये जाय तो कापीराइट का कोई अपराध न हुआ। इसका परिणाम यह हुआ कि एक पैसेज २५ पन्नों का, दूसरा पैसेज दस पन्नों का, ३५ पन्नें ले लीजिये... अब मैं और कुछ नहीं कहना चाहता। पिछली बार प्रवर समिति के सामने मैं कुछ सेलेक्शन ले गया था जिसमें एक एक लेखक के दस दस पन्ने, बीस बीस पन्नें ले लिये गये, "दू पैसेजेज" के नाम पर। इसके लिये मैं समझता हूँ कि इसे बोर्ड के ऊपर नहीं छोड़ना चाहिये। कापीराइट बोर्ड बन जायगा तो वह लेखकों को इनलिस्ट करेगा और मैं यह विचारधारा रखना चाहता हूँ कि पैसेज की कुछ परिभाषा रख दी जाय कि १२ लाइन, १५ लाइन या दस पंक्तियों से अधिक नहीं होना चाहिये, ऐसा कुछ लप्ता देना चाहिये कि लोगों को मालूम हो जाय कि लूटने का उनको अधिकार नहीं है। जुलाहा एक गज कपड़ा बुनता है, वह उसका है, वह अपनी बेटी को दे दे या बेच दे। लेकिन मामा साहब एक नाटक लिखें, और वह सारी दुनिया का हो, यह बड़ी शर्म की चीज है। ऐसी चीज से लेखकों को बचाना है। यह लूट बहुत बड़ी लूट है। मैं तो कहता हूँ, मामूली चीज २५ ६० पैसेज भी अगर वह दे दें लेखकों को, तो ऐसे लेखकों को जो प्रसिद्ध हो गये हैं, बड़े हो गये हैं, काफी आय हो जायगी।

दूसरी बात है रजिस्ट्रेशन के बारे में। जब कागज हम लोगों के पास भेजा गया

था तो बिहार के गवर्नर महोदय ने मौलाना साहब को एक पत्र लिखा था कि ये रजिस्ट्री वाले मजबूत आप ले रहे हैं तो लेखक घबड़ा जायंगे। मंत्री महोदय ने कहा कि यह अनिवार्य नहीं है, वैकल्पिक होगा, कम्पलसरी नहीं होगा, आप्शनल होगा। आप्शनल होता है या नहीं, मुझे ठीक पता नहीं। आप्शनल के माने यह है कि जो लेखक रजिस्टर करा लेंगे वे बोर्ड का फायदा उठावेंगे, रजिस्ट्री का फायदा उठावेंगे। जो लेखक रजिस्टर नहीं करायेंगे, उनके लिये शायद सिविल कोर्ट का या दूसरा रास्ता कोई होगा। तो मैं चाहता था कि कोई ऐसा उपाय होता कि रजिस्ट्री आप से आप हो जाती। पुस्तक चली जाय कापीराइट बोर्ड के सामने उसके आधार पर रजिस्ट्री हो जाय। दूसरी कठिनाई मुझे यह मालूम होती है कि शहरों में रहने वाले लोग तो रजिस्ट्री करा लेंगे, लेकिन जो गांवों में रहते हैं उनकी रजिस्ट्री का क्या होगा। लेखक तो घोर रूप से अव्यावहारिक होता है। जिस मात्रा में व्यवहार कुशलता उसके भीतर चलती है उसी मात्रा में उसकी प्रतिभा कुंठित होती है। तो व्यवहार कुशलता उसमें जगाने के लिये कौन जिम्मेदार होते हैं, लेखक का यह सब काम हम कर देंगे? यहां तो बैठें बैठें हम लोग सोचते हैं अरे, पांच ६० फीस रखेंगे, क्या पांच ६० लेखक के पास रजिस्ट्री कराने के लिये नहीं होंगे? कैसे समझावें, हालत इतनी गरीबी की है और दिल्ली इतनी ऊंची जगह है कि यहां से नज़र डालने पर पता ही नहीं चलता है, जैसे काश्मीर के मार्ग में चलिये तो खाई के तल का पता नहीं लगता है। तो यह मुश्किल है। इस दरिद्र देश, बड़े ही अपाहिज देश के लेखक सारे दुर्दशा में पड़े हुये हैं और इससे उनकी कठिनाई बढ़ती है। मैं समझता हूँ कि बिहार के गवर्नर ने बहुत अच्छा काम किया कि मौलाना साहब के सामने यह बात रख दी कि लेखकों की कठिनाई इससे बढ़ेगी।

अब मैं एक बात रखूंगा जिसका इससे कोई खास सम्बन्ध नहीं है।

डा० के० एल० श्रीमाली : यह बात मैं साफ कर दूँ कि जो पुनरावृत्ति बिल की ज्वइंट सिलेक्ट कमेटी में हुई है उससे रजिस्ट्रेशन कराने या न कराने से कापीराइट पर कोई असर नहीं होगा।

श्री रामधारी सिंह 'दिनकर' : अच्छा, एक बात मैं और आपसे पूछ लूँ।

श्री अकबर अली खान : रजिस्ट्रेशन का फायदा क्या होगा ?

श्री रामधारी सिंह 'दिनकर' : रजिस्ट्रेशन अभी चलना चाहिये। बहुत सगड़े जो होते हैं वे नहीं होंगे। रजिस्ट्रेशन का फायदा जरूर है।

एक बात मैं और पूछना चाहता हूँ। प्राविजो टू क्लाज १२:१, लाइन १४, उसमें यह जो कहा गया है कि कापीराइट बोर्ड की शाखायें होंगी, तो वह शाखा क्या होगी? दो बातें हो सकती हैं। एक तो यह हो सकती है कि जब कोई मुकदमा हो तो कापीराइट बोर्ड के पंच विभिन्न ज़ोनों में जा करके पंचायती करें। एक दूसरी अवस्था यह हो सकती है कि सारे एग्जीक्यूटिव कामों के लिये वह अपनी कोई शाखा कायम करें प्रत्येक ज़ोन में। पांच ज़ोनों में पांच शाखायें काम करती हों।

(इंटरप्शन)

सिर्फ केसेज के लिये हैं? मैं समझता हूँ कि अगर सिर्फ केसेज के लिये हैं तब तो खैर ठीक ही है, उसमें कोई बात नहीं है, लेकिन अगर कहीं रजिस्ट्री करने के आफिस या बहियां रखने की जगहें हों, तब मैं कहूंगा

कि जोन जो एस० आर० ए० के बने हैं वही जोन हम नहीं मान लें। सरकार अपने हाथ में यह अधिकार रख ले कि वह किसी जगह का जोन बदल भी सकती है। धन्यवाद।

SHRI KISHEN CHAND: Mr. Deputy Chairman, I welcome this Bill. It is a very good Bill. I agree that there should be a Copyright Bill. But there are certain clauses in which the Joint Select Committee has gone to the other extreme and has been a little too liberal. I was trying to think what was the reason why the Joint Select Committee has made such drastic changes in this Bill, and the hon. Member who has spoken just before me let the cat out of the bag. He told us that the entire writing public, the authors of this country, rose up against the proposed Bill and they went on a deputation to the hon. Education Minister and persuaded him to accept the amendments proposed by them. Sir, if we are going to adopt legislation only on the basis of agitation carried on by persons involved in it, possibly the zamindars of this country also would have carried on their agitation and would have insisted that their rights in the property should be allowed to continue. But Parliament does not go by it.

The hon. Member asked another question as to what is the difference between the different types of property. I will try to point out the difference between the different types of property and explain why there should be a distinction in the case of literary works. Sir, in so far as the landed property was used by the zamindars for only collecting the rent, Government has come forward and taken away those rights. In so far as land to the extent of 30 acres which is cultivated by the owner himself is concerned the fruit that he derives from that land is entirely due to his labour and what he gets from owning this land is very insignificant. The entire produce that comes out of it is due

[Shri Kishen Chand.]
to his labour and that land is only a tool. There is a distinction between zamindari and ownership of a few acres of land, and the same distinction comes in here. The author has written his book. He is entitled to certain benefits. He gets some benefits and he ought to get them. But to say that those rights should be eternal, that they should go on continuing for ever because rights in other properties continue for ever, and that the two rights are similar, is incorrect argumentation. I may point out, Sir, that in the case of industries, we have the Industries Regulation Act. It is not the right of anybody to keep any factory idle. You cannot simply say that a man owes a big factory and that he will run it when likes.

PROF. R. D. SINHA "DINKAR":
You make a law that every poet will be writing something every day.

SHRI KISHEN CHAND: The hon. Member has tried to divert my attention by raising an irrelevant question. An author produces, say, one book a year. He may write for ten days only and remain idle for 355 days. Does he get enough remuneration for the work he has put in and for the quality of his work? That is the main question. We do not want that authors should suffer. Sir, he said why was it that in Russia they were not producing such great authors like Tolstoy. I would like to know from him why we are not producing a poet like Kalidass.

PROF. R. D. SINHA "DINKAR":
We have produced poets like Tagore.

SHRI KISHEN CHAND: I will take the case of another country. Have they produced a Shakespeare in England of today? Have they produced a Milton?

AN. HON. MEMBER: Shaw.

SHRI KISHEN CHAND: Opinions differ. To put Bernard Shaw in the same class as Shakespeare, will be a negation of truth, because they are not of the same class. Similarly, are we

producing any Milton these days? Well, examples can be given *ad infinitum*.

डॉ० आर० बी० गौड़ : गालिब कहाँ हैं ?

श्री रामधारी सिंह "दिनकर" :
गालिब नहीं हैं, जोश तो हैं।

SHRI KISHEN CHAND: It is not fair comparison. Simply to say that because the political life of a country is of a particular nature poets are not being produced there is a fallacy, is wrong argumentation. Because an hon. Member suggested that poets are not being produced on account of the political form of government I have tried to point out that this argumentation is false, that there is no relationship between the type of government and the literature that is produced. There are cycles of civilisation and in that cycle certain great authors are produced, and when the cycle turns, a period comes in the history of a nation when no great author is produced. You cannot blame any structure of society or a political organisation for not producing a great author.

Sir, even in trade matters the poets are always badly remunerated. You will find that other forms of literature earn much larger amounts of money than poetry, in all ages.

SHRI V. K. DHAGE (Bombay):
Edgar Wallace earns much more.

SHRI KISHEN CHAND: He does not write poetry. Milton never earned much out of his poetry, though he is one of the greatest poets the world has ever produced.

Edgar Wallace wrote many novels. Agatha Christie writes a novel in about seven days and she is writing any number of novels. I think she has written about a hundred novels.

SHRI P. N. SAPRU: Who?

SHRI KISHEN CHAND: Agatha Christie. She writes detective novels. I can give you any number of examples of detective novels which are very popular.

MR. DEPUTY CHAIRMAN: Mostly murders.

SHRI KISHEN CHAND: And there are authors earning any amount of money. Hon. Members have mentioned about George Bernard Shaw, H.G. Wells and Somerset Maugham. They are earning a large amount of money. But just saying in this House that our authors are very poor and our poets are not earning anything and trying to gain hon. Members' sympathy is not fair, because in our country, we have been backward in education. Now, that freedom has come to us, our Government is paying full attention to the problem of literacy by introducing compulsory education and adult education and the public is getting more and more educated. You will see that even now, writers of Urdu and Hindi novels—romantic novels in particular—have a very good sale and are earning a fair amount of money. People who can write for the cinema earn a lot of money. I know of several authors who are charging Rs. 10,000 for each play they write for the cinema, and they get that much of money. Simply quoting some third-rate authors in our country and saying that they do not sell more than a thousand copies and therefore, they get only about a hundred rupees a year out of their books and concluding that on account of that, we should be very liberal in our Copyright Bill and give them special privileges which we are denying to other property-holders in this country is most unfair. I submit that education is spreading and in the near future, the Hindi market will become very wide. There will be nearly two hundred million people who will be reading, writing and understanding Hindi and books of value written in Hindi will have a wide circulation.

DR. R. B. GOUR: Proper Hindi.

PROF. R. D. SINHA "DINKAR:" I agree.

SHRI KISHEN CHAND: I do not know what the hon. Member means by 'proper Hindi'. Probably, he means Hindustani. Some hon. Members will think of Sanskritised Hindi as the most popular language because people speaking any of the Indian languages can understand it better. That is a matter of opinion. But, anyhow, at least Hindi has great prospects and to introduce a Bill at this time based on our experience in the past when there was not so much of a reading public and when the authors were not able to sell their books to the same extent as is now, is not fair. We have got to see that in future, these authors are going to have a fairly good sale of their works.

MR. DEPUTY CHAIRMAN: We are not making a law only for Hindi writers.

SHRI KISHEN CHAND: Well, Sir, 'with the right of translation,' it applies to all languages. I was going to add that, with the right of translation in Hindi, every author who is writing in any other Indian language can have his work translated into Hindi and then, he will have exactly the same rights and privileges and the same sphere as for Hindi writers. I agree with you that people writing in certain dialects or in uncommon languages will be at a disadvantage and it is not a fact that books written in every language have a sale.

MR. DEPUTY CHAIRMAN: But you have to protect their rights also.

SHRI KISHEN CHAND: Literature written in the English language has a quick sale. Why is it so? Because the English reading public numbers nearly 300 million and we are very glad that in our country, we can have three hundred million reading public for books written in any of the Indian languages, provided they are translated in the other Indian languages.

[Shri Kishen Chand.]

I will come to the main subject—what should be the duration of this copyright? That has been the biggest bone of contention. I maintain that it is possible that an author may have written a book when he was only 30 years of age because between 30 and 40 is the prime of youth and generally, the best works are produced in this period. If an author produces a book at the age of about 30 and he lives up to the age of 80, he will have 50 years and according to this Bill, another 50 years after his lifetime; that means a period of one hundred years. I would have no objection in giving him a copy-right not for 100 years, but even for two hundred years, but there is the other party involved—the reading public. Now, why do we want to put any restriction in this Copyright Bill? Sir, you will see that when the book comes out as a first edition, its price is very high. I can say that about English books. Any ordinary novel, when it is first printed in England, generally comes out first at 12sh. 6d.

PROF. R. D. SINHA "DINKAR": Has he come across a book in any Indian language whose copyright has expired, which is selling at a lower price than a book of a modern or living author?

SHRI KISHEN CHAND: Sir, the hon. Member has asked me a question. I will require some time to gather the facts for the answer. I suppose there are any number of authors like that. But I am saying about the English practice. The English practice is that the first edition comes out in an expensive form; then the second edition comes out at a slightly cheaper price. I can give the example, for instance, of a text book. You know about Chakravarty's Arithmetic. I do not know whether in your parts Chakravarty's Arithmetic is popular, but in North India, Chakravarty's Arithmetic is very popular. When it was first printed, it came out in a Rs. 3-8-0 edition and it was sold by thousands.

MR. DEPUTY CHAIRMAN: From novels, they have become text-books now.

SHRI KISHEN CHAND: I am answering the hon. Member's query.

Then, subsequently, it came out in a cheaper edition. Now, the result will be that if you give copy-right to a popular author there will be sharper differences between the earnings of a popular author and a non-popular author. A popular author will price his book very high and naturally, he will derive a big share out of it. (*Interruption.*) I could not follow what the hon. Member says.

MR. DEPUTY CHAIRMAN: It is the publishers who fix the price, not the author.

SHRI KISHEN CHAND: Well, the author is the copyright-holder and there are two types of book publishers. One is that the book is brought out entirely at the expense of the author. The other type of publication is where there is a 50-50 sharing of the cost of publication.

MR. DEPUTY CHAIRMAN: I may tell you that hardly any author can afford to do it.

SHRI KISHEN CHAND: I humbly submit, Sir, that I have also been an author myself. I have had several books published. I know exactly the various arrangements about publication. One is that the author bears the entire expenditure. There is another type where 50-50 basis.....

PROF. R. D. SINHA "DINKAR": There are school books.....

(*Interruptions.*)

SHRI KISHEN CHAND: Yes, certainly. But probably, the hon. Member refers to certain third-rate books which nobody wants to read.

(*Interruptions.*)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI KISHEN CHAND: I mean literature, not all literature, but some books written by certain authors. I am trying to make out a distinction that, where the literature is good, there is a good demand for it and there is a good sale and where the book is not good.....

DR. R. B. GOUR: Chakravarty's Arithmetic is not literature.

SHRI KISHEN CHAND: The hon. Member wanted to have an example of a book where the author can fix a high price. Subsequently, when it comes into the open market, the price comes down. I am only trying to show that the natural tendency of an author is.....

MR. DEPUTY CHAIRMAN: You were talking of creative works of art. When he mentioned that, you came down to arithmetic. The textbook has always a sure market. The student has to buy it.

SHRI KISHEN CHAND: Well, I come to scientific books. After all, copyright applies to all books. It applies to scientific books also. In the matter of scientific books, the author naturally cannot expect to get any money. Suppose he writes a book on Higher Physics. Naturally, he will not have a very big sale and the Copyright Bill will apply to it also, as it applies to any other.

DR. R. B. GOUR: Even if a book on science is priced Rs. 20, 30, 40 or 50, a person is obliged to purchase it, whereas in the ordinary literature, you cannot do it; that obligation is not there.

SHRI KISHEN CHAND: It is not a question of obligation.

MR. DEPUTY CHAIRMAN: Analogies do not hold good always; only to a certain extent, they hold good.

SHRI KISHEN CHAND: I am only trying to place before you that in the market, there are good books—whether they are scientific books or non-scientific books—and there are bad books. And we have got to come to the basic ideas in evolving the rules. The basic idea is that the reading public should get the maximum benefit and the interests of the reading public should not be sacrificed. In order to attain that object we want to give a fair period to the author. Sir, in my amendment I have suggested that the period of 100 years, as it will work out under the present rules, is too long a period. It should be either the lifetime of the author or 30 years, whichever is more. Supposing an author writes a book and dies after one year, in that case his children will get 29 years. So, in order to make it uniform I would like to suggest that it should be a period of 30 years or the lifetime of the author whichever is later.

Sir, some objection has been raised with regard to this right of translation. I think the Committee has done it very wisely in adopting the formula that the author will have the right of translating the book within a period of ten years. If he exercises that right of translation and prints it, then he has got the fullest right as applicable to any other book, that means his lifetime plus 50 years. That is the present practice. But if the author does not permit anybody to translate it, nor does he translate it himself or publish it himself, and if he wants to have that right eternally in his possession, I think it will not be fair. It means he is indirectly depriving the people who do not know the language in which the book has been written of enjoying the benefits of that book. If he cannot translate it himself, he can get it translated and get it published. He has got the fullest possible rights, but what right has he got to deprive the public of enjoying the benefits of that book or to deprive the literateurs by not translating that book.....

DR. W. S. BARLINGAY: The State should purchase it.

SHRI KISHEN CHAND: In that case there will be the question of bargaining. The author will say "I will not sell it". (*Interruption.*) Certain amendments have been sent. I suppose some such thing can be fixed that if it is published after ten years, about 10 per cent. of the sale price will be given to the author for a limited number of years, say, about 20 years. That type of suggestion can be made, and I think the hon. Minister may consider it, but I personally think that if the author is really keen to enjoy the benefit from it, he should get it translated and published. There will be no harm in that.

Then, Sir, I come to the question of Berne Convention. An hon. Member laid very great stress on the Brussels Convention or the Brussels Agreement and the Berne Convention. Other countries in the world have different ideas about property. They have got a different outlook on economic matters. They consider that private property is sacrosanct. In our country we are passing legislation for controlling property; we are putting all sorts of restrictions on property. I have pointed out to you, Sir, that zamindari has been abolished. We do not permit that a man may go on owning thousands of acres of land and collecting rent from it. We have taken away that right. Similarly Sir, if in our country we set up a healthy convention by restricting the period to a smaller one, and in the matter of translation in particular, if we do not sign the Brussels Convention or the agreement, it will cut both ways. Our books may not enjoy copyright in other countries and likewise other countries' books will not enjoy copyright in our country. And supposing there is a very good book in Spanish language. The author of that book may not be interested in its translation in an Indian language, and even if some small reward is offered to him, he may not consider it worth while. By not signing the Brus-

sels Convention we will be at liberty to translate other works in our language. I realise that some of our countrymen may lose money, but on the whole our countrymen will benefit by the translations of books in foreign countries and by publishing the books by foreign authors in our language at cheap prices and thus making them available to our reading public. It cuts both ways. If we do not sign the Brussels Convention, we are not going to be losers in both ways. In certain things certain authors may lose money, but on the whole it will be in our interest. So, to offer that as an argument, that because a few years back this House of Parliament has approved the Berne Convention, we should not go back upon it, will not be proper. I do not see any harm there. We passed certain laws in 1948. Now we are revising them and we are changing them. So, that is no argument. The argument should be based on certain fundamental concepts of our society, and as far as our concept of society is concerned, we are fully wedded to the policy of controlling industrial production, factories and housing property. If somebody wants to own ten houses, it cannot be done. (*Interruption.*) In the literary sphere if a man keeps his books unused or if he does not publish them or publishes them at a higher price, he will be depriving the reading public of the benefits of those books.

SHRI J. S. BISHT (Uttar Pradesh): Nobody wanted to read.....

MR. DEPUTY CHAIRMAN: Mr. Bisht, let him finish.

SHRI J. S. BISHT: How does he know that he is depriving.....

MR. DEPUTY CHAIRMAN: Order, order.

SHRI KISHEN CHAND: Sir, this is no argument that Shakespeare was found only by Germans; because the Germans began to admire Shakespeare, therefore Shakespeare became popular in England. It is this type of argument that the hon. Member

wants to advance. It takes some time for literary works to become popular. I do not believe for one moment, that Dr. Rabindranath Tagore became popular because he was a Nobel laureate. There are so many hundreds of authors who never become Nobel laureates and whose books are very popular. Therefore we should not draw the inference that if a person becomes a Nobel laureate, his books will become popular. That does not necessarily follow. There are certain Nobel laureates whose books have never become popular. Therefore it is a wrong argument. (*Interruption.*) The hon. Member just now gave the example of Bankim Chandra Chatterji who never became Nobel laureate and yet Bankim's books have become very popular all over India. They have been translated in Hindi.

(*Interruption.*)

MR. DEPUTY CHAIRMAN: Order, order.

SHRI KISHEN CHAND: Anyhow, Sir, I was trying to point out that in this Bill the period of 25 years has been unnecessarily extended to 50 years. In the original Bill, as it went to the Joint Select Committee, there was only a period of 25 years after the death of the author. That should have been further curtailed to 10 years after the death of the author. Instead of that it has been enhanced to 50 years after the death of the author.

PROF. R. D. SINHA "DINKAR": I am in favour of abolishing all rights provided all the rights of factories are abolished.

MR. DEPUTY CHAIRMAN: Have you finished, Mr. Kishen Chand?

SHRI KISHEN CHAND: Sir, I will say so many things when the amendments come in. But I think when anything touches the pockets of the hon. Members, they immediately start arguing that because something is not done elsewhere, it should not be done here. When a Bill for depriving owners of property comes in, this House will have the fullest right to

express its views and the hon. Members can vote for it. But simply because that Bill is not being brought forward and only this Bill is being brought forward and so it should not be considered on its merits, is not right. If we consider it on its merits under a socialistic pattern of society and in the interest of advancement of knowledge, especially when our country is going to have compulsory education and adult education and the literary public is going to increase in large numbers, it is very essential that we try to bring down the prices of books and restrict the profits of the authors

DR. NIHAR RANJAN RAY (West Bengal): Mr. Deputy Chairman, I am very much new to this House and am not initiated into the mysteries of parliamentary behaviour. Certain fundamental questions of principle have been raised by one or two speakers so far as this motion is concerned. One of them at least referred to the fact that the hon. Minister's Bill does not make any distinction or it has not been able to make the distinction clear between heritable property—movable and immovable—and property brought into existence by the intellect and imagination. I do not know the philosophical or legalistic difference between different kinds of property but so far as creative and intellectual works are concerned, this question of property or proprietary rights of the author or creator is a new conception in history. Until the invention of the printing press, in fact, not until more recent times personal proprietary and property rights in creative and intellectual works were ever recognised. So far as India is concerned, until the end of the eighteenth century most of our authors were anonymous. The artists of Ajanta, for example, are anonymous. Many of our mediaeval ballads, a large segment of our early and mediaeval literature belong to persons whose names we do not know. In fact we in this world go by certain accepted values and it is too late in the day to ask for proofs, legalistic or

[Dr. Nihar Ranjan Ray.]

otherwise, for defining any differences between property and property. I do not know of other properties but of this property I know—of intellectual and creative property. There is a certain value attached to such property, and throughout the world proprietary rights to such property have only relative significance. Not only those conceptions of property change but the relative value of proprietary rights to intellectual and creative works have also been changing from age to age.

It is a very curious thing in history that since the middle of the nineteenth century, the more the world has been moving left, towards non-recognition of personal proprietary rights to solid material properties—movable and immovable—the more the world has been moving towards right, earning more and more proprietary rights for authors. Fortunately or unfortunately, human beings have to function within the limitations of certain accepted values of contemporary times and we have come to accept the limitations on the recognition of proprietary rights of intellectual and creative works. So when we make certain concessions so far as intellectual and creative works are concerned, these concessions can only have relative value. There can be no absolute rights. I do recognise that there is scope for improvement in this Bill and most of these have been covered by the amendments to which we shall come in due course. I am not going to speak on them at this stage but so far as the basic principle is concerned, since the question has been raised, I felt like addressing these words to you, Sir. To me, it is clear that this is not a question of basic principle, but one of attitudes and of values.

We here, functioning as Members of the Indian Parliament, go—and should go I believe—by Indian values and even though I happen to be a very humble author I do not recognise any

absolute right for authors. They cannot claim any absolute rights and if this Bill gives proprietary rights to them for 25 years after death, that is, for more than one generation after his death, on principle, I do not think, there is anything to quarrel about. The plea of the Berne Convention, the Brussels text, has been raised. It is a very logical plea. The plea of the Universal Copyright Convention has also been raised. That is also a very admissible plea. But to raise it from 25 years to 50 years is a question of detail on which I do believe that the Ministry keeps an open mind. But at the same time let us remember that more than one-third of the world is not signatory to the Berne Convention. The whole of South East Asia is exempt from that. They have not signed the Berne Convention. The Soviet Russia has not signed the Berne Convention nor the Universal Copyright Convention and I do not know of China.

Again as a humble author, I have the experience of my works being translated in Russian without my permission being taken. I read in a Tass agency news that such and such work is being translated in Russian. Nobody cared to take my permission because they are not signatories to the Berne Convention and I cannot question their right. Even if I am deprived or even if I do not derive any benefit, I cannot question it. I know of other authors too whose works have been translated into Russian. They have not got a farthing. I know also of Indian authors whose works have been translated into Burmese and the Indonesian language. They have not been getting a farthing.....

(Interruptions.)

SHRI J. S. BISHT: But that is international brigandage.....

DR. NIHAR RANJAN RAY: I know but whatever hard words you may use, that would not cut ice. I am only stating the facts. So, what I wanted to point out to the House is this that let us not make too much of the Berne

Convention or of the Universal Copyright Convention. I do admit that the rights of authors should be protected and we should protect them to certain reasonable limits. Personally I do feel that one generation after the death of the author is a good enough limit, but if the House do believe that it should be extended for two or three generations, we might admit it. I keep an open mind on that.

There are also certain other things that have been placed before the House but they are all covered by amendments to which we will come in due course. For instance, let us take the rights of translation works. There is no logic and I do not see why such rights should not be co-extensive with those of original authorship. Chaos prevails in India so far as translation is concerned. My friend over there, our well-known poet, Dinkar, has mentioned as to how the works of Sarat Chandra Chatterjee and Rabindranath Tagore were being translated in Hindi and in other Indian languages with the authors and their inheritors knowing nothing. I could cite at least a dozen Bengali authors whose works were translated in Hindi, Marathi and Gujarati without the authors knowing anything about them for two, three, four or five years. Nobody goes out of his way to quarrel with it, knowing that we have been functioning in a very chaotic state up to this moment. But here, perhaps for the first time, a systematic attempt is being made by the Ministry of Education to regularise the whole thing. There might be, as I said, differences of opinion in regard to questions of detail but so far as the fundamental principle is concerned. I do not think we have anything to quarrel with.

Thank you, Sir.

SHRI R. C. GUPTA (Uttar Pradesh): Sir, copyright is a very valuable right to the authors and it is necessary that the rights of the authors should be protected. This piece of legislation does go to protect their rights. The original Bill, to my mind, was not

very satisfactory but the Bill has been amended in a very suitable form by the Joint Select Committee. After examining quite a large number of distinguished persons, the Committee had come to some very important conclusions and these conclusions have been embodied in the amended clauses. I think that in the present form, it is a distinct improvement. It is equally true that the condition of our authors and poets—so far as their financial position is concerned—is really very pitiable. They are victims of all sorts of machinations of the publishers, pirates and so on. This Bill will certainly protect them to a certain extent. I feel that this Bill does not go far enough in protecting the interests of the authors from the publishers and unlimited powers have been given under this Bill to publishers for getting assignments from the authors. It is really the disparity in the financial position of the authors and the publishers that is responsible for the chaotic conditions. The authors do not receive what they ought to receive for the work that they have produced and even undue advantage has been taken at times, by the publishers. This aspect has not been given due consideration so far as the provisions of this Bill are concerned.

Now, a point has been contested here that the rights so far as copyright is concerned are the same as the rights in property. This position cannot be denied but certainly rights differ from property to property and, in my opinion, there should be some distinction in regard to creative or intellectual rights as opposed to rights in other property. Here, the author does produce a work not for himself, not only for making money but for doing good to the general community as well. Therefore, the right of an author in the property (of his work) is certainly of a different variety from a right in property. Therefore, certain limits are necessary and I think that they have been wisely put. The law as it stands today grants copyright for

[Shri R. C. Gupta.]
the lifetime of the author plus fifty years thereafter. The same proposal has been made in this Bill by the Joint Select Committee. I think that this is a happy compromise between the two extreme views.

DR. W. S. BARLINGAY: In this Bill, are we not concerned mainly with the economic value of the copyright?

SHRI R. C. GUPTA: I do not think it is merely the economic value which should be taken into consideration. Government should take into consideration all kinds of interests. There are three interests involved in the production of a work, the interests of the author, the interests of the publisher and the interests of the society. There must be a happy combination of all the interests and some *via media* should be found out so that all interests are satisfied and, to my mind, the provisions of this Bill only put the authors to a little disadvantage so far as their relationship with the publishers is concerned; otherwise, I think it is a very happy compromise that this right should be extended for the lifetime of the author and for fifty years thereafter.

Now, Sir, so far as translation is concerned, I agree with the provisions as they have been embodied in the Bill. I would certainly not have any objection if the power is given to the Copyright Board that in cases where the author is willing to have his works translated into any other language, the Copyright Board should award certain remuneration to the author and this should come from the publisher who wants to translate it.

PROF. R. D. SINHA "DINKAR": That is supporting the amendment of Mr. R. P. SINHA,

SHRI R. C. GUPTA: Yes, to a certain extent. I would certainly not extend the period beyond ten years. My reason is this: If the book produced by the author is worth anything, he

would himself go in for its translation. Either he will induce the publishers or the publishers would go to him for getting permission for translation into other languages. Now, if there is a book which has not been translated or the author has not considered it proper or worthwhile to get it translated in ten years, then it is high time that the dissemination of knowledge should not be prevented further. The publishers should be permitted to translate the particular work of the author into various other languages.

Something has been said with regard to the Berne Convention. I do not know whether we should follow the Berne Convention blindly because, the case of India is entirely different from other countries. Here are hundreds of languages and if the work is produced in one language and is not permitted to be translated into other languages, persons knowing other languages will be deprived of the knowledge which they would have got from the translation of that particular work. The Copyright Act was passed in the year 1914. The objects and reasons which were given in that Bill seem to be very pertinent even now. This particular point has been discussed in sections 1 and 3 of the English Act of 1911. It is said: "The term for which the copyright subsists in translation is the life of the author and a period of fifty years after his death." That was the time prescribed then. "The special linguistic conditions of India render desirable a substantial relaxation of this provision. The languages spoken in India are so numerous and differ so widely that the conditions which prevail cannot be compared with those in most European countries and vernacular translations from English and from one vernacular to another are not only common but serve the usual purpose of disseminating knowledge. Accordingly, translations of works first published in British India are permitted after the expiry of ten years from the date of first publication. However, if within this period of ten years the author himself publishes a translation

of the work in any particular language, the limitation upon copyright prescribed by this section shall not apply to translation into that particular language. This provision is in accordance with the provisions of the Berne Convention."

So my submission is that, so far as the question of translation is concerned, the present provision made in the Bill is quite good and I would not have the slightest objection if certain remuneration is allowed to the author even after ten years on certain conditions by which a licence may be granted to the translator under some provision of this Bill.

Then I would like to say something with regard to clause 19—Mode of assignment. The idea was that no assignment, unless it is registered, should be recognised. Sir, copyright is a right in property and it is intangible property. If the value of an intangible property is hundred rupees or more, then registration under the Registration Act is compulsory. I do not know why this provision has been amended so as to drop the registration for assignment. This will not work in the interests of the author. This will go against the interests of the author because I have come across many cases in which the authors were put to a great disadvantage because, for one reason or another, under the stress of financial difficulties they gave away their writings for a very small amount for which their works otherwise. If registration is made compulsory, the only question that has to be considered is who would pay the cost—this cost may be enormous. Sir, registration can be made in two ways. Either it can be registered by the Registrar under this measure or you may prescribe that no fee would be charged. I mean, every assignment of the copyright shall be registered with the Registrar without payment of any fee. That is one way to do it. Another way is this that under the Registration Act no fee may be charged. There is a precedent for this

position in an Act of U.P. The ~~Arri-~~cultural Relief Act has been enacted in U.P. and there it has been laid down that only two annas or so will be charged as registration fee.

SHRI AKBAR ALI KHAN: Nominal.

SHRI R. C. GUPTA: Absolutely nominal. So either of these two courses may be adopted and provision made accordingly, but the registration should be made compulsory. It would work in the interests of the author; it will not go against the interests of the author and.....

MR. DEPUTY CHAIRMAN: How will registration alone work in the interests of the author?

SHRI R. C. GUPTA: Registration would so work because he will not be subjected to the sharp practices of the publishers which authors are generally subjected to at the time when they are faced with financial difficulties, immediate financial difficulties, and there are not one or two such cases but many. There are dozens of such cases and Mr. Dinkar pointed out one such case. Shri Narela sold his copyright for five rupees.

SHRI AKBAR ALI KHAN: What the Deputy Chairman wants to know is how registration will save the author.

SHRI R. C. GUPTA: It is because registration takes time. The man gets some time to ponder over. It goes to the registration office. It is just as the cases of ordinary bonds without registration and registered bonds; there is a lot of difference between the two. The sharp practices are not so very common in the case of registered documents as they are in the case of unregistered documents. It is human experience, Sir.

Then I would like to point out one thing more with regard to clauses 55 and 60. In clause 55 provision has been made for protection of separate rights. Here it is laid down that a person who possesses a right in a copyright partially will have the right to file a suit

Shri R. C. Gupta.]

and he will not have to make the owner of any other right in that copyright a party to such suit. In clause 60 you will find it laid down: "In every civil suit or other proceeding regarding infringement of copyright instituted by an exclusive licensee, the owner of the copyright shall, unless the court otherwise directs, be made a defendant and where such owner is made a defendant, he shall have the right to dispute the claim of the exclusive licensee." Now here in clause 55 you don't want that any person interested in that copyright should be made a party whereas here in clause 60 you make it compulsory that such person should be made a party. Of course the two cases are different. But the idea is similar, practically the same. So I submit that in clause 55 we must have a provision under which it should be made compulsory that all persons interested in a copyright shall be made parties to a suit so that all interested may be heard together without giving room to a multiplicity of suits and the rights of all persons may be decided once for all, at least in the presence of all interested persons, just as in a mortgage suit all persons interested in a mortgage security are made parties. Here it should not be necessary that they should go before the court and contest, if they want to contest. They should appear in court and finish with the litigation altogether once for all. So these words "without making the owner of any other right a party to such suit, action or proceeding" may be deleted and they may be replaced by some such language as we find in clause 60 to the effect that all other persons having an interest in the copyright shall be made parties. This in another suggestion, Sir, which I wished to make.

Thank you.

DR. P. V. KANE (Nominated): Mr. Deputy Chairman, I shall speak generally now. I have given notice of some amendments and when they come up I shall speak at length. A

great deal has been said by numerous speakers on copyright. Now why do you want this Copyright Act? It is because you think that a man has some right in the work he has produced. Here three courses are possible. Either anybody may plagiarize anybody else's work. There is no such Act in India. At least there was no Act before the British came and I may mention for the information of certain people at least that there being no copyright, people used to plagiarize their predecessors' work and produce it as their own. I can just cite one example that comes to my mind. A famous writer of Bengal called Bhavadeo Bhatta about the tenth or eleventh century A. D. writes in one of his works: "I know there are thieves round about, but if anybody takes anything from my book, I shall become a *Paisacha* and seize him." That is what he has stated. So that was the only remedy left in those days. So that is one way—anybody may take anybody's work. That was how Shakespeare's works were plagiarized and published in America and other places. Then there was no copyright Act, there is also another extreme. Production of literary work is something perpetual. These are the two extremes and between the two, I think all are agreed—most at least—that there must be a Copyright Act putting some restriction on the unrestricted right to plagiarize and giving certain rights to the author, because the State is interested in inducing people to use their brains and turn out good literary work. But that cannot be done unless those who turn out such work are protected in some form or other. Therefore a Copyright Act was required. We borrowed it from the British in 1914 and now that we are independent we are going to have an independent Act. All the conflicts of views arise really about what restrictions we shall put against plagiarism or against anybody multiplying—I would not use that bad word 'plagiarism'—without permission other's works and about what benefits we shall confer upon them.

Now, here again generally no books are translated unless they become famous after a number of years. I may tell you from my personal knowledge. I began to write in 1910 and now it is 47 years and I have written about 25,000 pages. Till last year nobody bothered about translating any of my books but now I have received applications asking for permission to translate some of them into Hindi, Marathi and other languages and even in Sinhalese. They have not yet come to know that there is such a Bill restricting the right of translation for ten years. Now they have to wait only for this being passed and they can at once translate all my works without permission. So that aspect must be looked into. A man may get no benefit at all for years. Someone was talking about scientific books. Even scientific books like Eddington and Jean's etc. have been selling by thousands. That depends on what style you adopt. But apart from that my point is that the real conflict of views is only in respect of two points—what would be the utmost extent of copyright, number of years or generations whatever you call it and what should be the restriction against reproduction in original language or any language. These are really the two important points. Being an author myself, it is likely that my motives in speaking might be misunderstood. I may tell you that by writing for about 30 years I have not gained even one-tenth of what I got as a lawyer. In India I do not know, but in England or in America the best seller gives you millions. Just now Agatha Christie's name was mentioned. I read two or three of her books and become so much disappointed that I never read her books again, but her books are sold in millions. So it is not necessarily the best books that become best sellers.

DR. RADHA KUMUD MOOKERJEE: You write on difficult and unpopular topics.

DR. P. V. KANE: So what I am driving at is, do not rob Paul to pay Peter. You are robbing the men of intellect, and there are not many,

remember. Generally nobody wants to write unless he can publish it free. He will send it to some newspaper, magazine etc. because printing these days is very costly. You may have no idea. I have printed a thousand pages and I had to put in Rs. 11,000 for printing and binding only. The State is interested that the publishers should come forward and take up this, but nowadays the publishing trade is also bad. None of my books is being taken up by any publisher. They say, 'we have no money'. It is in the interests of the State that the authors should come forward and publish their works and for that the author should get some protection. If you say that translation could be done after ten years into fourteen Indian languages, that means, not a pie will be paid to the author. After ten years nothing is to be paid and no permission is to be taken. At present they apply for permission. I myself have got requests but I have not given permission. But when this is passed no permission is necessary. Therefore I suggest that as regards translation, some period should be put down, whatever it might be. My hon. friend, Shri Kishen Chand said, thirty years should be allowed for copyright. I am not agreeable to this period of ten years, because nobody would write anything. Someone may write, if he has the enthusiasm, even without taking anything but that is very rare. Therefore we must strike a mean between the two extremes of no protection and absolute protection. Between the two I am suggesting that fifty years would be the proper thing. That is one point which I want to place before the House. Ten years is too short a time. Books do not get known even within that time, particularly if they are not on subjects like drama, novels or short stories. Nowadays they have become very popular. Other books do not get known for ten years or even more. Even now there are people in Delhi who do not know that I have written four volumes of the History of Dharma Sastra. They ask, 'how many volumes have you got? One?' When I say four, they are surprised. Therefore what I say

[Dr. P. V. Kane.]

is, do not be harsh on the author or his product. Why do you deprive him positively? At present you are depriving him positively by saying ten years here. Once I had asked somebody to send me two pages of the translation of my book saying 'I wish to see your calibre, to see whether you are fit'. But then he did not proceed. Now, they think it is worth while and therefore they have applied for permission but I have not given the permission yet. Therefore what I say is, do not rob a man who has worked with his brain for years and years. As regards translation in ten years he is nowhere and in 30 years also he will be nowhere. You say 30 years after his death. Suppose a man writes something just about the time of his death and the protection is there only for 30 years and then that is also a short period. While legislating you must be liberal; then only people will get encouragement.

Another point I have is this. So far I do not find any provision in regard to this point; I am subject to correction. Suppose I write a book today. There is copyright. But I revise that book some years later and come forward with a new edition. Can a man after ten years translate this second edition, this revised edition? There is no provision here. This aspect is not made clear here. My book will be called the same—History of Dharma Sastra, History of Alankara—but it may be a new edition and I may have added 500 pages. What is the position then? There must therefore be a definition that the copyright includes published work or the revised edition of the work. Otherwise there is no protection. I would like to draw the attention of the hon. Minister to this aspect and I would like him to add the words 'publish the work or a revised edition of the work'. That will have to be made clear.

There is another point that has occurred to me. In clause 17 the word 'contract' is used. Now, it is said that

this is a right of property. My point is this. If I have to make a gift or mortgage of an immovable property worth one hundred rupees or more, then it must be registered in writing. Here you say simply 'contract of service'. It may be oral. You find in sub-clause (a):

"in the case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service....."

There is nothing in writing. I say whenever you use the word 'agreement' or 'contract' here, you must say agreement or contract in writing. It must be there. I have given notice of an amendment here, but everywhere that should be the case. We have employees and employers, the employees think that the employers are the worst people in the country. The employers think that the employees are only out for money, they do not know their own responsibilities. Landlords think that the tenants are bad and the law presumes that all landlords are bad. You will find that in the legislation in Bombay, in regard to landlord and tenant, particularly, in regard to house rent, generally they suppose that the landlord is a rich man and a bad man and the tenant is a 'sadhu'. In that way they do it. Do not suppose that. Here if a man enters service—I know but I do not want to give names—big men, generally bind down their servant by taking an agreement in writing from him. And there is a footnote below which says, this does not come into force until both sides have signed it. They never sign it and keep it in the safe. Only the man employed, because he is a needy fellow, signs it while the boss keeps it in the safe. He would say, I have never signed it. So, you go away now after one month's notice. Therefore, you must have the contract in writing. That is another point I want to make.

Then there is one more point. I think I have dealt with the two points

that I wanted to make. One more point is, you have created here under this Bill the Copyright Board. I do not see what the Copyright Board is going to do. I would like to know from the hon. Minister what particular duties are entrusted to them. I have not been able to find out exactly what particular duties the Board is expected to discharge. I had one suggestion, but that amendment has lapsed on account of Parliament having been dissolved. I have suggested an amendment that the Board should have the power to certify that in its opinion an undue advantage has been taken by an employer or publisher with reference to a contract or an agreement. If it is certified, then a suit may be brought in spite of the law of limitation. That is what I had suggested. Now, I forgot to again give it and, therefore, I am only suggesting whether the Minister-in-charge will look into it. What is the Board there for—only to register things? That is unnecessary. The man gets copyright by the very fact of publication. It is not necessary that the book should be registered. So, if the Board is to do any useful work, something must be entrusted to it and it should do such things. That is what I have been suggesting.

PROF. A. R. WADIA (Nominated): Mr. Deputy Chairman, I have listened to several speakers, some with very great surprise and some with great admiration. I am one of those who believe that a person who produces something out of his own inner genius has a right to the fruits of it. It is no use saying that the other people benefit and, therefore, the other people can have full right to it. I think that would be terribly unfair. Our ideas of property may be changing, but it is interesting to note that, even in communistic countries, especially in Russia—and I say it to their credit—full encouragement is given to the authors and even though they talk of the equalisation of the incomes, so far as the authors are concerned there is no limit placed on their incomes and it is

a fact that the authors in Russia are very well paid. They almost become the wealthiest people in the community because private industries are abolished.

DR. RADHA KUMUD MOOKERJEE: They do not pay income-tax

PROF. A. R. WADIA: Exactly. So, they become all the more rich.

SHRI RAJENDRA PRATAP SINHA: There the right is for fifteen years *post mortem*.

PROF. A. R. WADIA: Well, Sir, that shows that even in a communistic country there is a certain preference given to the products of the intellect and the writers and it is but fair that this should be done. I cannot quite understand the enthusiasm of Mr. Kishen Chand to limit his right only to a period of thirty years. It is much too short. I think that right should be extended. As my friend, Dr. Kane, has pointed out and as the Bill put before us recognizes that right should extend to the life of the author plus fifty years after his death and I think it is a very reasonable thing.

I also entirely agree with Dr. Kane that the right of translation after ten years is much too short. As has been very well pointed out, a book does not become famous in ten years—not necessarily. Very often the authors have to wait very long and it is but fair that they should get some benefit out of it. There is no reason why the book should be translated into other languages and he should not get any benefit out of it. It is a sort of intellectual loot, which should not be permitted by a civilised country. And, therefore, it seems to me that the right of translation should also extend to the period of the author's life-time plus fifty years. If the book is really worth publishing and if the society is going to benefit by it, there is no reason why people who want the translation in a particular language

[Prof. A. R. Wadia.] .
should not pay for it. Tagore's works are translated or Bankim Chandra Chatterjee's works are translated into other Indian languages because they know that there is a market for it, because they know that these translations will sell. And if the translations sell, why should not a part of the profit go to the author himself? It stands to reason.

Another little thing is this. I find that an exception is made in the case of extracts being made, or the performance of a drama or an opera for the benefit of a charitable institutions. Well, Sir, I do not see any reason why the poor author should suffer for it. Sometimes it happens that an author is very poor, the work is good and a college dramatic society performs it, makes some money out of it—may be for a charitable purpose. But it seems to me that charity should begin at home. If the poor author is starving or semi-starving, it is but reasonable that the performer, even for a good purpose, even for a charitable purpose, should give the benefit of it to the author also. Furthermore, now-a-days—especially in India—books that sell most are the text books and these text books are often composed of long passages taken from the authors

concerned. Why should not the authors get the benefit of that? The publishers know their business. And the general public might say that the passages or the quotations are meant for the children and our children are going to have the benefit. If a passage is included in a book, why should not the author get the credit for it or get some payment in addition? Well Sir, it seems to me that every author has a right to get the remuneration. If the passage is worth including in a text book, it is also worth paying for it.

MR. DEPUTY CHAIRMAN: Will you take some more time?

PROF. A. R. WADIA: I shall take five or ten minutes.

MR. DEPUTY CHAIRMAN: The you can continue tomorrow morning.

The House stands adjourned till A.M. tomorrow.

The House then adjourns at five of the clock till eleven of the clock on Wednesday the 15th May 1957.