

THE BUDGET (GENERAL)

MR. CHAIRMAN: The Budget will be laid at 6 P.M. and not at 5-30 P.M.

**THE COPYRIGHT BILL, 1955—
*continued.***

PROF. A. R. WADIA (Nominated): Mr. Chairman, as I have already been saying, we welcome this Copyright Bill in the interest of the authors. But, Sir, there is one aspect which has been more or less completely neglected in the Bill as it has emerged from the Joint Committee. We are all aware that authors are sometimes hard pressed. It may be, sometimes they are ignorant of their own rights. In either of these circumstances an author for his immediate needs sells his copyright outright for a very paltry amount. Just this morning, Sir, I was told by a distinguished Marathi author that a Marathi work was sold for Rs. 40, and yet that work was so good that it has gone into twenty editions. Evidently the publishers have made profit out of it. But the author has suffered. What is the remedy for this, Sir? I see no remedy in the Bill itself. I find that clause 18 of the original Bill, as was drafted by the Government, provided for reviewing such one-sided contracts. But unfortunately I find that in the Select Committee this clause has been practically dropped. On enquiry I learn that this had been dropped at the instance of the authors themselves who were the members of the Joint Committee. I feel very much surprised, Sir, at the attitude taken up by the authors. I understand their argument was that if such a right is given, the publishers would be negligent about pushing the sales. I am afraid the authors have not been quite fair to themselves, because if the work is good and it has been selling well, it is in the interest of the publishers themselves to continue pushing the sale of that work, and it is but fair that the author should get a fair share

of it. That is why, Sir, it seems to me that there should be some provision whereby the inequity of these outright sales should be checked.

Now, Sir, there are two ways of doing it. One possible way is that all these literary contracts should be for a limited period only, for it often happens that neither the author nor the publisher knows the potential value of his work. Take for instance a work like Mrs. Henry Wood's "East Lynne". I believe seven publishers refused it, and when it was published, it became a very great success. And this is not an isolated instance. We have the same story of so many other works which have been refused by publisher after publisher, because the publisher could not gauge their value. But once a book was published, it had a tremendous sale, and the publishers made their fortune and perhaps the authors also made their fortune. Therefore it is very desirable that all literary contracts should be only for a limited period. In other words, no absolute right should be given to the publishers to exploit the poverty of the authors indefinitely. If this is not considered desirable, there is a second method possible, and that is that all contracts should be reviewable by a responsible body like the Copyright Board which is sought to be established under this Bill. My friend, Dr. Kane, was complaining yesterday that the functions of this Copyright Board are very nebulous. Nothing very definite is stated as to what the functions of this Board will be. Now it seems to me that if the Board is assigned this task of reviewing contracts, may be at the instance of the authors affected, it would be in the interest of the authors and in the interest of literature generally. I do wish, Sir, that the Government would seriously consider the possibility of overcoming this conspicuous lacuna in the Bill.

Just one point more, Sir, and that is with reference to the amendment which is sought to be moved by Dr. Kane and myself to amend, clause 17

[Prof. A. R. Wadia.]
(c) on page 11. We are suggesting that after the word 'contract' the words, 'in writing' should be inserted. Now here too there is a tendency for the poor writer to be exploited. Some body may be in the service of a publishing company or of a newspaper, and it will be part of his duty to write articles. Usually such articles may not be worth much, may happen to be only of an ephemeral interest, but occasionally it may be that such an article is of a very great value, and it may be that it may have such a high literary quality that it may be sought to be included in an anthology. In all such cases, the right of copy right goes to the proprietor of the press, not to the author. That also seems to me to be unfair. That is why we are insisting

THE MINISTER OF STATE for THE
MINISTRY OF EDUCATION AND
SCIENTIFIC RESEARCH (DR. K. L.
SHRIMALI) : For a limited purpose, to
newspapers and magazines only.

PROF. A. R. WADIA: Even a newspaper article may occasionally have literary value; occasionally it may be included in a future work or published in an anthology. Therefore it seems to us but fair that this contract should be definitely in writing, even if the author gives up his right completely, though it would be unfair.

Well, Sir, on the whole, I must congratulate the hon. Minister as well as the Committee on the excellent work that they have done in introducing an Act which will really in the long run benefit the authors, not fully in the form in which it is now before us, but if some of the amendments which have been given notice of are accepted by the Government. I think the Government have earned the gratitude of the authors and the composers of musical pieces.

SHRI P. N. SAPRU (Uttar Pradesh): Sir, first of all, I would like to express my general appreciation of the work that the Joint Committee has done in connection with this Bill. It has performed this task in an able and efficient manner. Having said this, I would like also to say that the House is indebted to the hon. Minister for indicating that he has open mind on certain matters connected with this Bill.

We had some very able speeches yesterday. I was particularly interested in the speech of our great Hindi poet, Mr. 'Dinkar'. We had also a speech of considerable merit from Mr. Nihar Ranjan Roy from Bengal. I largely agree with the point of view which was presented on a matter of controversy in this Bill by Mr. 'Dinkar'. Let me say, Mr. Chairman, that I am one of those who would not like our social institutions to be based upon the acquisitive instinct in life. I have very little of the acquisitive instinct myself, and I certainly am not an admirer of what is called the institution of property, but I would certainly like our society and our social laws to give encouragement in every possible way to what may be called the creative instinct in life. I think that the writer, when he is writing some great work, does not think only of the pound, shilling and pence that he will get, of the rupees, annas and pies in terms of the old paisa or new paisa that he will get; he is only expressing his own unique personality; he is creating something for himself. He has an urge in him to write. There is no one in this Parliament who has greater experience of writing than you, Sir; you are yourself one of the most distinguished writers and thinkers of the age, and I am certain that, when you wrote those two volumes on Indian Philosophy, when you wrote your other numerous works which it has been our privilege to read, you were not thinking of the money that you would get out of your writing those books. You could not help expressing yourself in that way. It

was a joy which you could not deny to yourself. It was your creative instinct which asserted itself. Shakespeare, when he was writing "Cymbeline" or the "Merchant of Venice" or "Othello", was not thinking in terms of the money that he would get. He was only expressing his own personality. Now, this is all right, but the publisher, when he publishes a book, is not expressing his personality and he should not be in a position to exploit the urge which someone feels to do creative work by taking unnecessary profits for himself. Therefore, I think that there is in this Bill a case for treating copyright as a special kind of property. Mr. Roy was correct in saying that there are no absolute standards or absolute tests of what a property right is. There is a relativity about this matter. Therefore, I think that this right should be respected more than other rights, and even in the Soviet Union of which our friends from Kerala are such great admirers—I do not say wrongly; I wish they had as much admiration for their own country as they have for a foreign country; that is my only grievance against them—even in the Soviet Union, the artists, the men of letters the authors, the playwrights and the actors get very heavily paid, because they do not exploit the labour of others. The author is creating something and being a creator, he should not be allowed to be exploited by others. Therefore, there is on broader ethical grounds a very strong case for a good Copyright Bill. I personally am not ashamed of saying that, though the Berne Convention may be a Convention which was agreed to by the Western Powers, I find much wisdom in the Berne Convention. I am therefore for retaining the period of fifty years. I am personally for retaining the period of fifty years after the death of the author, and the copyright should not be allowed to be infringed for that period. But what about translations? What is the logical justification for making a distinction between an original work and a translation in an Indian language?

age of a book printed in an Indian language? I can see no justification for it.

As a matter of fact, by allowing unfettered right to translate a work of art or of literature or of science after ten years in an Indian language, we may be inflicting grave spiritual injury upon the author of the work himself. He may find that his work has been translated in hideous language and that the spirit of the work is not to be found in the translation at all. He may genuinely feel that he has literally been massacred in the literary sense. Now, that is a spiritual dissatisfaction which every normal writer may well feel if he finds that his translation is hideous. Mr. Chairman, in my own humble way, I have done some bit of journalistic writing and when I read an article written by me for some paper and I find that words have been mis-spelt, that 'a' has been used where 'the' should have been used by the staff editing it or some such editorial mistakes are there I feel greatly pained. It gives me mental pain and I say to myself that they ought really to have been more careful. Well, in a big way, a writer of distinction may well feel that an unauthorised translation of a work should not appear after ten years. It may have been done by a fellow who takes it into his head to translate a work without understanding the spirit of it. The translation may be of such a character which inflicts real pain on the author. I think we should respect human personality in this respect. I am not putting it on grounds of property rights; that is perhaps a feeble ground to put one's case against this clause. I am putting it on this broader non-material consideration, on this broader spiritual consideration. I am not surprised that our Communist friends, with their background in matters pertaining to the non-material sphere of life have nothing very much to say against a provision of this character but those, Mr. Chairman, who value democracy,

[Shri P. N. Sapru.] who value the free way of life, who value certain spiritual values, cannot but deplore that a clause of the nature which is to be found in section 51 should have been inserted. There are some amendments by Mr. Rajendra Pratap Sinha who made a very good speech yesterday on this point and I would like the Education Minister to view the question raised by it with an open mind. I would like him to accept those amendments because, by doing so he will be encouraging real literary work of a meritorious character in this country,

Mr. Chairman, we know that we have a limited reading public in this country and it takes years for a book to get known here and the writer is not able to get much by writing these books. There are no purchasers here. The difficulty here is that you cannot get men to devote themselves to literary pursuits because by doing so they feel that they will not be able to make a decent living. The difficulty is that there is no reading public and there is no public which purchases books. I have had some experience of that. I know that a book purchased by one person is read by ten persons; people go on borrowing books and the books pass on from one hand to the other and finally the purchaser of the books finds that the books are lost in transit. This is an experience which will be borne out by those who have private libraries or by those who are working in public libraries. Therefore I think, Mr. Chairman, the question of shortening the period so far as Indian languages are concerned will be of an inconsiderable character. That will not mean very much. If a book is written in Bengali I do not think that Marathi or Gujarati or Tamil literature will very much benefit by the fact that after ten years the Bengali book can be translated into any of the other Indian languages. While the gain to the community from this will be of a negligible character, the spiritual discontent which the writer will feel may be of a consider-

able character. The incentive to effort may suffer and in our stage of cultural development we do not want incentives to cultural and scientific effort to suffer in this country. Therefore, Mr. Chairman, this aspect of the Bill has to be given considerable thought and the view which has been put forward by Mr. Dinkar is the right view and I would like to support it. Mr. Rajendra Pratap Sinha has pointed out that more or less this view is accepted by the Universal Copyright Convention. The hon. Minister made an excellent start by assuring us that he would not be like other Ministers and that he would not say that as the Select Committee had done its work, he was not going to interfere in this matter. He has made an excellent start and he said that he will consider the suggestions on their merits and I do hope, Mr. Chairman, that he will consider this aspect of the matter on the merits of the case and accept the amendments or some of the amendments which have been proposed by Mr. Dinkar and Mr. Rajendra Pratap Sinha.

Thank you very much.

श्रीमती शारदा भार्गव (राजस्थान) :
माननीय अध्यक्ष महोदय, सबसे पहले मैं मंत्री महोदय को और प्रवर समिति को बधाई देना चाहती हूँ कि उन्होंने इस विधेयक में अपनी सलाह के बाद बहुत कुछ परिवर्तन जो किये हैं वे समाज के लिये हितकारी हैं। जब पहले पहल यहाँ पर यह विधेयक आया था तो मैंने भी कुछ सुझाव रखे थे, मुझे बड़ी प्रसन्नता है कि प्रवर समिति से इसके आने के बाद जब मैंने रिपोर्ट पढ़ी तो मैंने पाया कि उसमें वे सभी सुझाव आ गये हैं। साथ ही पहले लेखकों के बारे में इसमें जो कॉपीराइट का समय २५ वर्ष दिया गया था बड़ी प्रसन्नता की बात है कि प्रवर समिति से आने के बाद इसमें उसे ५० वर्ष कर दिया गया है। हम जानते हैं कि हमारे देश में लेखकों की बड़ी दयनीय दशा है और उनकी आर्थिक दशा बहुत

खराब रहती है तो उन्हें कापीराइट का, उनकी कृति पर उन्हें पूरा अधिकार क्यों न दिया जाय ? मेरी समझ में नहीं आता है कि जब दूसरे व्यक्ति जोकि धन उत्पन्न करते हैं या जो कोई भी चीज उत्पन्न करते हैं उसका मूल्य ले सकते हैं, तो लेखक 12 NOON. जोकि अपने दिमाग की उपज से कोई कृति उत्पन्न करता है, उसका फायदा वह क्यों न उठावे। इसलिये यह जो समय अधिक कर दिया गया है इसके लिये मैं प्रवर समिति को बहुत बहुत धन्यवाद देना चाहती हूँ।

और भी बहुत सी बातें हमारे अन्य बन्धुओं ने कही हैं, उन को दोहराने का, मैं समझती हूँ, मेरा कोई काम नहीं है। परन्तु एक बात जो कि इस प्रवर समिति की रिपोर्ट में रह गई है, उस के बारे में मैं कहना चाहती हूँ।

२६ पेज पर धारा ५१ में जो (p) उपधारा दी गई है उसमें लिखा है :

"the production, reproduction, performance or publication of a translation any Indian language of an Indian work after the expiry of a period of ten years from the date of the first publication of the work".

ट्रांसलेशन दस वर्ष बाद ही इसके बारे में बहुत कुछ कहा जा चुका है और मैं भी इससे सहमत हूँ कि समय दस वर्ष रखा जाय, परन्तु दस वर्ष बाद भी अगर ट्रांसलेशन के बारे में लेखक से सलाह ले कर के या किसी प्रकार का लाइसेंस ले कर और कुछ उसका आर्थिक बदला दे कर के ट्रांसलेशन किया जाय तो ज्यादा सही है। परन्तु इस बात पर मेरा अधिक जोर नहीं है, अन्य बन्धुओं ने इस विषय में जो कहा है उससे मैं सहमत हूँ।

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एक खास बात यह है कि इस के अन्दर जो "इंडियन वर्क" की परिभाषा दी गई है वह चाहे इस स्थान पर रखा जाय या जिस रूपमें मंत्री महोदय ने संशोधन रखा है उस में, मैं समझती हूँ उससे कोई अन्तर नहीं पड़ता है, चाहे कहाँ रखा जाय। परन्तु "Indian work" की परिभाषा यह है कि—literary, dramatic or musical work published in India हो, जबकि दूसरे पेज पर आर्टिस्टिक वर्क की परिभाषा में कहा गया है कि—

"artistic work" means a painting, a sculpture a drawing (including a diagram, map, chart or plan),....."

मेरा कहना यह है कि बहुत सी पुस्तकें, यदि वे इतिहास या कहानी हों, उनके अन्दर तो केवल लिखित ही चीजें आयेंगी जिनको कि आप कह सकते हैं लिटरेरी या ड्रामेटिक। मगर कुछ पुस्तकें जो बड़ी आवश्यक होती हैं, समाज के उपयोग की होती हैं, उनके अन्दर बहुत से आर्टिस्टिक वर्क्स भी आते हैं, जैसे किसी पुस्तक को आप देखिए, उसके अन्दर ड्राइंग अकसर बीच बीच में आती हैं—ड्राइंग्स में मैप्स भी आते हैं, चार्ट्स भी आते हैं और डाइग्राम्स भी आते हैं—तो जिस समय उस पुस्तक का ट्रांसलेशन किया जायगा तो वह "ड्राइंग का वर्क" आर्टिस्टिक वर्क में होने से वह भी कापीराइट में आ जाता है और इसलिये किसी भी पुस्तक का ट्रांसलेशन पूरी तरह से नहीं किया जा सकता है। यदि ट्रांसलेशन के समय चार्ट्स और डाइग्राम्स बदल दिये जायें तो भी पुस्तक के लेखक को एक इस प्रकार का ऑब्जेक्शन हो सकता है कि मेरी किताब का ट्रांसलेशन सही नहीं किया गया है क्योंकि मैंने डाइग्राम्स जो दिये थे या जो मैंने मैप्स दिये थे उन को बदल कर दूसरे दे दिये हैं इसलिये यह सही ट्रांसलेशन नहीं है, शलत हो गया है

[श्रीमती शारदा भागवत]

और पढ़ने वालों की समझ में अच्छी तरह नहीं आयेगा। इसलिये जब तक हम ट्रांसलेशन के अन्दर आर्टिस्टिक वर्क भी इन्क्लूड नहीं करेंगे तब तक किसी अच्छी पुस्तक का सही ट्रांसलेशन नहीं हो सकेगा। पुस्तक के अन्दर सिवाय लिटरेचर के और भी आर्टिस्टिक वर्क हो सकते हैं। तो मेरा सुझाव है, और मैंने इस सम्बन्ध में एमेंडमेंट भी दिया है और उस वक्त मैं विस्तार से कहूंगी कि इस तरह के जो लिटरेरी वर्क हैं, अगर उसमें कोई आर्टिस्टिक वर्क भी आता हो तो उस जगह पर इम्फ्रिमेंट किया जा सकता है ताकि किसी भी किताब के ट्रांसलेशन में बाधा न पड़वे और अच्छी पुस्तकों का ट्रांसलेशन हो कर पब्लिक के काम आ सके। यह मेरा एक सुझाव है जो इस में आ ही जाना चाहिये, अन्यथा झगड़े रोज होंगे, लिटिगेशन रोज होंगे और कोई भी पुस्तक का ट्रांसलेशन पूरी तरह नहीं हो सकता है। पुस्तक के अन्दर केवल लिखित वस्तु के अलावा और भी ड्राइंग होंगे। तो मेरा यह सुझाव अवश्य ही मंत्री महोदय को मानना चाहिये क्योंकि इसमें जो कमी रह गई है वह इससे पूरी हो जायगी।

इसके अतिरिक्त ट्रांसलेशन के बारे में जो यह कहा गया कि दस वर्ष या २० वर्ष या २५ वर्ष तक लेखक को जितना अधिकार उसकी कृति पर हो उतना ही ट्रांसलेशन पर भी हो, चाहे कुछ अंश तक, यह सही है क्योंकि ट्रांसलेशन भी उसी कृति का होगा। परन्तु, मैं समझती हूँ कि जब दस वर्ष की अवधि रख दी गई है तो हर एक लेखक को यह मालूम होना चाहिये कि दस वर्ष के बाद पब्लिक को ट्रांसलेशन का अधिकार मिल जायगा। इसलिये यदि लेखक समझता है कि समाज में इसके ट्रांसलेशन की कोई वैल्यू हो सकती है या समाज इसका ट्रांसलेशन किसी भाषा में चाहता है तो दस वर्ष के अन्दर या तो वह स्वयं ट्रांसलेशन

करे या किसी पब्लिशर या लेखक द्वारा उसका ट्रांसलेशन करा सकता है। इसलिये यदि दस वर्ष तक वह नहीं ट्रांसलेशन कराता है और जनता को उसकी आवश्यकता है, यानी दूसरी भाषा में उस पुस्तक का मूल्य है दूसरी भाषाओं में पढ़ी जा सकती है और जनता के लिये उपयोगी हो सकती है तो उसका ट्रांसलेशन होना अनिवार्य है। उस दशा में कोई भी व्यक्ति जो यह समझता है कि इसका ट्रांसलेशन होना चाहिये उस को अधिकार मिलना चाहिये कि वह ट्रांसलेशन करा सके। हाँ, उसके अन्दर कोई भी शर्त ऐसी रखी जा सकती है कि उस ट्रांसलेशन के कराने के पहले बोर्ड से किसी प्रकार की इजाजत ले और दूसरे, यदि बोर्ड यह कहे कि उसमें रेम्युनेशन लेखक को देना चाहिये तो वह लेखक को दे दिया जाय। यही मेरा सुझाव है। आशा है मेरे इन सुझावों को मंत्री महोदय स्वीकार करेंगे और इसके साथ मैं सेलेक्ट कमेटी की रिपोर्ट का समर्थन करती हूँ।

श्रीमती चन्नावती लखनपाल (उत्तर प्रदेश) : माननीय सभापति महोदय, कापी-राइट जैसे आवश्यक विधेयक पर कल से काफ़ी वादविवाद और चर्चा चल रही है, किन्तु इतने विचार संयन के पश्चात् भी इस विधेयक का एक आवश्यक पहलू हमारे गम्भीर विचारों की परिधि के अन्तर्गत उस रूप में नहीं आता जिस रूप में कि आना चाहिये था। श्री मन्, इस विधेयक ने लेखकों, कलाकारों तथा अन्य ग्रन्थकारों पर, उनकी रचनाओं और उस पर उनके स्वामित्व के ऊपर प्रतिबन्ध लगा कर उनके मूल भूत अधिकारों का एक महत्वपूर्ण प्रश्न खड़ा कर दिया है।

सबसे बड़ी शिकायत की बात जो है वह यह है कि इस प्रश्न को उठा कर उसका समाधान, कोई उचित समाधान नहीं किया गया। जो समाधान किया गया वह अप्रत्यक्ष देश भारतवर्ष की वर्तमान परिस्थितियों के

साथ मेल नहीं खाता, हमारी जो परिस्थितियाँ हैं उनके अनुकूल नहीं बैठता । इस विधेयक के द्वारा लेखकों और कलाकारों को अपनी रचनाओं पर मृत्यु के पश्चात् ५० साल तक स्वामित्व रहेगा और ५० साल के बाद उनका अपने ग्रन्थों पर, अपनी रचनाओं पर कोई अधिकार न रहेगा । श्रीमन्, मैं मंत्री महोदय से यह पूछना चाहती हूँ कि उन्होंने लेखकों के इस संकुचित क्षेत्र में प्रवेश करने से पहले क्या यह भी चिन्ता की कि जो दूसरे क्षेत्र हैं, प्राप्ति के, जायदाद और सम्पत्ति इत्यादि के क्षेत्र हैं, उन पर भी वे अपनी नज़र डालें । आज अपने देश के अंदर मकान हैं, मकान बनने के लिये प्लॉट्स और जमीनें हैं, मोना चांदी हैं, जेवरों और जवाहिरात हैं और कल और कारखाने, फर्म और कम्पनियाँ हैं । क्या उनके मालिकों पर, उनके स्वामित्व पर भी कोई प्रतिबन्ध लगाने वाला कानून अपने देश के अंदर मौजूद है । और यदि नहीं तो मैं मंत्री महोदय से पूछना चाहूँगी कि उन्होंने लेखकों और कलाकारों से ही शुरुआत क्यों की, उनके ऊपर ही प्रतिबंध क्यों लगाया । यह तो ऐसा ही है जैसा कि आप यह कह दें कि आज का मकान मालिक जो है, उसके उत्तराधिकारियों का ५० साल के बाद उसके मकान पर कोई कब्जा नहीं रहेगा और ५० साल के बाद उसका मकान एक धर्मशाला बन जायेगा । जिसकी मर्जी होगी उस मकान पर काबू कर लेगा । या हम कोई ऐसा कानून बना दें कि हमारे जो जेवर हैं हमारी जो और सम्पत्ति है, हमारी मृत्यु के बाद या ५० साल के बाद उन पर उत्तराधिकारियों का हक़ नहीं रहेगा, कोई अधिकार नहीं रहेगा । श्रीमन्, यदि इस प्रकार का कानून बना दिया जाय और बन भी जायेगा, क्योंकि हम जानते हैं कि हमारे आँखों के सामने जो समाजवादी समाज का सुनहरा स्वप्न नाच रहा है, उस स्वप्न को साकार करने के लिये हमें इस प्रकार के कानून भी अवश्य बनाने होंगे । लेकिन साथ ही मुझे जो कठिनाई दीखती है

यह है कि हमें प्राथमिकता किस क्षेत्र को देनी चाहिए । यदि आज मंत्री महोदय इस प्रकार का कानून इस सदन के अंदर ले आते हैं कि जिससे मकान मालिकों के ऊपर, कारखानेदारों के ऊपर, प्लॉट्स के मालिकों के ऊपर, इस प्रकार का प्रबंध लगा देते जैसा कि इस विधेयक के द्वारा लेखकों के ऊपर लगाया जा रहा है तो मैं सबसे पहली होती जो उनकी प्रशंसा करती, उनकी दाद देती । लेकिन सब से आवश्यक प्रश्न तो प्रायरीटीज़ का है, किस चीज़ को प्राथमिकता दी जानी चाहिये और किस समय दी जानी चाहिये? अगर हम गलत प्रायरीटीज़ को ले कर चलते हैं तो हम गलत नतीजों पर पहुँच सकते हैं ।

मेरे कहने का अर्थ यह है कि यहाँ पर भी हमने यही भूल की है । हमने आज प्रायरीटीज़ पर प्रतिबन्ध लगाने का जो प्रारम्भ किया है, जो शुरुआत की है, जो प्राथमिकता दी है, जो प्रायरीटी बनाई है, उसके अनुसार हमने लेखकों और कलाकारों को ही अपना निशाना बनाया है, जो एक गलत चीज़ है । मैं इस चीज़ से सहमत नहीं हूँ ।

श्रीमन् इतना सब कुछ सुन लेने के बाद आज मैं अपने आपको मंत्री महोदय के साथ समत होने में असमर्थ पा रही हूँ । उसका कारण है । उसका कारण यह है कि लेखक तो अपने देश में हैं वे वह व्यक्ति जिस का कोई भविष्य नहीं है जो पहले से ही मरा हुआ है । फिर मरे हुए को मारना वह कहाँ का न्याय है ? श्रीमन् लेखकों के ऊपर प्रतिबंध लगाने ठीक ऐसा ही है जैसा कि जो अपने आप ही पहले से मरा हुआ है, जो पहले से ही निर्जीव है, उसको ही मारने का प्रयत्न करना ।

श्रीमन्, जो विधेयक हमारे सामने लाया गया है उसको बनाते समय मेरा ख्याल है हमारे सामने यू० एस० ए०, यू० के० और फ्रांस इत्यादि जैसे देशों का नक्शा रहा है । लेकिन मैं यह विनम्र निवेदन किया चाहती

[श्रीमती चन्द्रावती लखनपाल]

हूँ कि हमारे देश की परिस्थितियाँ, जहाँ तक लेखक का सम्बन्ध है और जहाँ तक कलाकारों का सम्बन्ध है, वे पाश्चात्य देशों, जैसे यू० एस० ए०, यू० के० और रूस आदि से बहुत भिन्न हैं, उन के अनुभव के आधार पर यहाँ पर भी कानून बना देना मुझे बहुत ज्यादा उचित नहीं प्रतीत होता। श्रीमन्, वहाँ की और यहाँ की परिस्थितियों में जमीन आसमान का भेद है। वहाँ की शिक्षा का स्तर कितना ऊँचा है। वहाँ पर १०० में से ६० आदमी पूर्ण शिक्षित हैं। किन्तु हमारे यहाँ साक्षरता ही इतनी नीची है कि मुश्किल से शायद १०० में से १० आदमी ऐसे होंगे जिनको हम साक्षर कह सकते हैं। हमारे देश में पुस्तक पढ़ने वालों की संख्या तो और भी कम है। इस के अतिरिक्त विदेशों में लेखकों की किताबें जो छपती हैं वह लाखों की तादाद में छपती हैं और लाखों की तादाद में बिकती भी हैं। वहाँ पर जो पुस्तक लिखने वाले हैं उनमें से आपको कितने ही मिलिओनियर, लखपति मिलेंगे। लेकिन मैं यहाँ आप से पूछना चाहती हूँ कि यहाँ के जो लेखक हैं उनमें से आप क्या बतला सकते हैं कि कोई ऐसा भी है जो लखपति या करोड़पति कहा जा सकता है? यहाँ के लेखकों की हालत जितनी बयनीय है, जैसी उनकी दुर्दशा है, उनके बारे में कुछ कहना बेकार सा लगता है। श्रीमन्, हमारे देश के विख्यात उपन्यासकार श्री प्रेमचन्द जी अगर किसी दूसरे देश में होते तो वे वहाँ पर लखपति हो गये होते। किन्तु वह दुर्भाग्य की बात है कि वे अपने ही देश में भूख मरते रहे। निराला जैसे प्रभावशाली कवि का स्वास्थ्य बराबर गिरता ही जा रहा है और उसको सम्भालने के लिये उन के अनुयायी इस चिन्ता में लगे हुए हैं कि उन्हें सरकार से किसी प्रकार की सहायता या स्कालरशिप दिया जा सके।

श्री रामचारी सिंह "बिनकर" (बिहार):
केन्द्रीय सरकार दे रही है।

श्रीमती चन्द्रावती लखनपाल : हाँ, यह खुशी की बात है कि केन्द्रीय सरकार भी देने लगी है। जब मैं इलाहाबाद गई थी तो मुझे पता लगा कि इस प्रकार का प्रयत्न हो रहा है। श्रीमन्, यही हालत प्रभावशाली अगर बड़े बड़े लेखकों की है। उनकी जब यह हालत है तो साधारण लेखक और कलाकारों की तो बात ही क्या? श्रीमन्, मैं सिर्फ यही आपके सामने निवेदन करना चाहती हूँ कि जो आपके देश की वर्तमान परिस्थिति है, जो वर्तमान अवस्था लेखकों की है, उनके ग्रंथों की है, उनको बेचकर आय प्राप्त करने के सम्बन्ध में है, वह ऐसी नहीं है कि गवर्नमेंट आज इस प्रकार का विधेयक लाये, ऐसी मर्यादाएँ और ऐसा प्रतिबन्ध लेखकों और कलाकारों के ऊपर लगावे। समस्या तो यूरोप की है, समस्या तो पाश्चात्य देशों की है और उसका समाधान हम यहाँ पर इस विधेयक को लाकर कर रहे हैं। मैं तो यह कहना चाहती हूँ कि आज अपने देश में लेखकों के द्वारा जनता का किसी प्रकार भी एक्सप्लोइटेशन नहीं किया जा रहा। हमारे समाज के अन्दर जो लेखक हैं वे जनता का शोषण नहीं कर रहे हैं बल्कि खुद, अपने आप शोषित हैं और अपने आप शोषण के शिकार बने हैं। श्रीमन्, ऐसी दशा में इस प्रकार का बिल लाना जिससे कि हम ऐसी व्यवस्था बना रहे हैं, ऐसी कुछ मर्यादाएँ और प्रतिबन्ध लगा रहे हैं जिसे लेखक पसन्द नहीं कर सकता, यह कोई माने नहीं रखता। यह चीज प्रजातंत्र के विपरीत है और वर्तमान परिस्थितियों के साथ यह मेल नहीं खाती।

कल मंत्री महोदय ने एक बात कही। उन्होंने डा० बालिगे के प्रश्न के उत्तर में स्पष्टीकरण करते हुए बतलाया था। वह कहते हैं कि किताबें प्रापटी हैं लेकिन वह दूसरी प्रकार की प्रापटीज जैसे जमीन है, मकान है, कलकारखाने हैं, सोना चांदी हैं, इस प्रकार की जो प्रापटी हैं, उससे भिन्न

है। उन्होंने इसका कारण बतते हुए कहा कि "बुक्स" जो प्रापर्टी है उसका एक अपना सोशल आस्पेक्ट और ह्यूमन आस्पेक्ट है और उसका एक सामाजिक पहलू है। श्रीमन्, मैं उनकी इस बात से सहमत हूँ। लेकिन मैं पूछना चाहती हूँ कि किताबों के अलावा और दूसरी जों प्रापर्टीज हैं, जो दूसरी सम्पत्ति और जायदाद हैं, क्या उनका सोशल पहलू, क्या उनका ह्यूमन आस्पेक्ट नहीं है? हर एक प्रकार की जितनी प्रापर्टीज है, हर एक का ह्यूमन आस्पेक्ट है और हर एक का प्रभाव समाज पर पड़ता है। अपने देश में किसी एक व्यक्ति के पास मकान ही मकानों का संचय होता चला जाय तो क्या उसका असर दूसरे लोगों पर नहीं पड़ता? खास तौर पर अपने देश में जहां कि इतनी गरीबी और बेकारी है। अगर १० में से एक व्यक्ति के पास १० मकान हों तो क्या उसका प्रभाव समाज पर नहीं पड़ेगा? दूसरे ९ आदमी बिना मकान के रह जायेंगे। यदि १० में से एक व्यक्ति के पास १० लाख रुपया हो तो क्या उसका प्रभाव दूसरों पर नहीं पड़ता। ९ व्यक्ति ऐसे हो जायेंगे जिनके पास रुपया कम रहेगा।

श्रीमन्, अभी तीन चार दिन की बात है कि जंगपुरा के अन्दर प्लाट्स नीलाम हो रहे थे, ऑक्शन हो रहे थे। वहां मैं भी एक दर्शक के रूप में थी। मैंने देखा कि एक छोटा सा दो सौ गज का प्लाट है। गवर्नमेंट ने जब उन प्लाट्स को बेचा था, जब रेफ्यूजीज को एसाइन किया था, तब उसकी कीमत मुश्किल से पांच हजार थी और ज्यादा से ज्यादा कीमत लगा दी जाय तो दस हजार होगी। लेकिन रुपये वालों ने इकट्ठे हो कर उसकी कीमत बोली बोल कर ४०, ५० हजार तक कर दी। इस प्रकार जो गरीब लोग थे, जिनको प्लाट की जरूरत थी वे उस प्लाट को लेने से वंचित हो गये और उसका परिणाम यह हुआ कि जिन के पास दसियों प्लाट थे उनके पास एक

प्लाट और आ गया। श्रीमन्, मैं यह कहना चाहती हूँ कि जहां भी, रुपये का, जमीन का, धन का, दौलत का, जेवर का, सोने और चांदी का संचय हो, वहां पर जरूर उसका ऐस्पेक्ट ह्यूमन ऐस्पेक्ट बन जाता है क्योंकि उसका सोसाइटी पर, समाज पर प्रभाव पड़ता है। इसलिये मैं तो इसके द्वारा सिर्फ यही कहना चाहती थी कि हम बेशक प्रतिबन्ध लगायें, हर एक प्रापर्टी पर लगायें, लेकिन किताबों को ही पहले समाजवादी समाज की रचना की तोप का निशाना बनाना, लेखकों को ही उसका शिकार बनाना, यह बात मेरी समझ में नहीं आती। आप पहले मकानों पर प्रतिबन्ध लगाइये, मकान मालिकों पर प्रतिबन्ध लगाइये, कारखाने के मालिकों पर प्रतिबन्ध लगाइये और फिर लेखक पर अपनी तोप दागिये। मैंने जैसा पहले आपको बतलाया कि हमारे देश में लेखक की इतनी दुर्दशा है और हमारे देश में शिक्षा का स्तर इतना नीचा है कि उसके लिये आगे बढ़ने की कोई गुंजायश ही नहीं है। उसे आगे बढ़ाना, प्रोटेक्शन देना और उसके हितों का संरक्षण करना इस विधेयक का ध्येय था, लेकिन जब आप विधेयक के द्वारा अनजाने ही लेखकों पर एक के बाद दूसरा तीव्र प्रहार करते चले जा रहे हैं। तो, श्रीमन्, मैं आपसे यह निवेदन करना चाहती हूँ कि प्रायरिटीज के चुनने में गलती नहीं होनी चाहिये। फ्रस्टं थिंग फ्रस्टं। जहां पहले प्रतिबन्ध लगना चाहिये, निश्चित ही वह क्षेत्र लेखक नहीं है, पुस्तक नहीं है। उससे पहले मकानों पर, प्रापर्टी पर, सोना चांदी जमा करने वालों पर प्रतिबन्ध लगाइये।

इसके अतिरिक्त एक दूसरी बात और कहना चाहती हूँ। श्रीमन्, ट्रांसलेशन, अनुवाद, करने की जो दस साल की मियाद लगाई गई है, उसके द्वारा एक तीव्र प्रहार मंत्री महोदय ने लेखक पर कर दिया है और ट्रांसलेशन करने की जो कंडीशन है, जो

[श्रीमती चन्द्रावती लखनपाल]

शर्त है, वह ऐसी है कि उसमें न बेचारा लेखक पूछा जायेगा, न उसकी राय ली जायेगी और न ही उसे कंसेशन के तौर पर या पारिश्रमिक के तौर पर कुछ दिया जायगा। इससे ज्यादा और अन्याय लेखक के प्रति क्या हो सकता है? मुझे यह जान कर प्रसन्नता हुई है कि मंत्री महोदय इस दिशा में सोच रहे हैं और अनुकूल दृष्टि से सोच रहे हैं। मैं इस पर और ज्यादा नहीं कहूंगी क्योंकि इस पर मुझ से पहले माननीय सदस्य दिनकर जी और श्री राजेन्द्र प्रताप सिन्हा ने बहुत कुछ कहा है और मैं उनके विचारों से बहुत कुछ सहमत हूँ।

श्रीमती सावित्री निगम (उत्तर प्रदेश) : अध्यक्ष महोदय, मेरे विचार से यह विधेयक लेखकों और साहित्यकारों आदि को एक प्रकार से संरक्षण और उत्साह देने वाला है। मेरा विश्वास है कि आज का दिन भारतीय साहित्य के इतिहास में चिरस्मरणीय दिन रहेगा। सदियों के बाद सौभाग्य से आज यह दिन आया है जब सरस्वती के उन वरद पुत्रों, दरिद्रता जिनकी चिर संगिनी रही है, शोषण जिनके दरवाजे पर हमेशा फेरे किया करता था, उनके बचाव और उन की राहत के लिये एक प्रकार से सरकारी प्रयास हो रहा है। इसलिये मैं इसका हार्दिक स्वागत करती हूँ और शिक्षा मंत्री महोदय को हार्दिक बधाइयाँ देती हूँ।

इसमें सन्देह नहीं है कि जैसा अभी चन्द्रावती बहन जी ने कहा, लेखकों का इतिहास एक अशुभ लिखित इतिहास रहा है। मैं समझती हूँ कि इस सदन में शायद ही कोई ऐसा सदस्य हो, जिसे भारतीय साहित्य और साहित्यकार का कुछ भी पता हो और उसका हृदय लेखकों और साहित्यकारों की आर्थिक कठिनाई और क्षोभजनक स्थिति से द्रवित न हुआ हो। हाँ, एक भाग ऐसे लोगों को छोड़ दीजिये जिन्होंने शैक्सपीयर और सौमरसेट आदि

की मनोरंजक जीवनियाँ पढ़ कर उनकी सम्पन्नता से चक्काचीध हो कर, आज जब भारतीय लेखक को थोड़े अधिकार मिलने जा रहे हैं, तो उनको कुछ ईर्ष्या हुई हो। श्रीमन्, उनकी भी कोई गलती नहीं है। बात यह है कि अपने विचार में उन्होंने कौन की कितने छपवा करके दो के आठ बनाने वालों को, दो चार हजार रुपया इधर उधर खर्च करके उन किताबों को कोर्स में लगवाने वालों को साहित्यकार समझा है जोकि हजारों की सम्पत्ति उपाजित कर लेते हैं। ऐसे व्यक्तियों को साहित्यकारों की पंक्ति में बिठाना साहित्यकारों का अपमान करना है और साहित्य को कलंकित करना है। जामेट्री, एलजबरा या चक्रवर्ती की किताबें, जिनकी चर्चा श्री कृष्णचन्द्र जी ने की, मैं उनसे नम्रतापूर्वक कहना चाहती हूँ कि ये क्रियेटिव साहित्य की पंक्ति में नहीं रखी जा सकती।

श्री किशन चन्द (आन्ध्र प्रदेश) : क्या डिटेक्टिव नावल्स भी लिटरेचर हैं?

श्रीमती सावित्री निगम : उन्होंने यह भी कहा कि जासूसी और रोमांटिक कहानियों की बड़ी अच्छी बिक्री है। मैं समझती हूँ कि केवल अच्छी बिक्री के कारण ऐसी किताबों को कभी भी साहित्य की पंक्ति में नहीं रखा जा सकता। ऐसी किताबों को तुरन्त समाज की रक्षा के लिये बन्द किया जाना चाहिये। उनकी बिक्री से उपाजित किया हुआ धन पाप की कमाई है, पुण्य की कमाई नहीं है और उसे कोई सच्चा साहित्यकार लेना पसन्द नहीं करेगा। इसलिये श्री कृष्णचन्द्र जी ने साहित्यकारों को जो अमीर बताया है, उसके लिये मुझे बहुत ही खेद है और क्षोभ है।

श्रीमन्, इस विधेयक का जो अर्थ रूप है, यह पहले से बहुत ही इम्प्रूव्ड है। इसे देख कर हमें बड़ा ही संतोष होता है। इस के लिये मैं माननीय श्रीमान साहू का

और उन सब साहित्यकारों को, जिन्होंने प्रयत्न करके इसको यह रूप दिया, हार्दिक धन्यवाद देती हूँ ।

एक बात और यह कही गई कि बर्न कनवेंशन और ब्रसेल्स कनवेंशन से यदि हम अलग हो जायें तो हमें क्या नुकसान होगा । हमने जब विश्व को कुटुम्ब माना है और यही ध्येय लेकर हमने पंच-शील के सिद्धांतों को अपनाया है जिससे आज सारी दुनिया के देश हमारे देश को अपना नेतृत्व सौंपने को तैयार हैं और हमारे प्राइम मिनिस्टर को वे शांति का अग्रदूत माने हुए हैं, ऐसे समय इस प्रकार के आर्गुमेंट देना नितान्त अशोभनीय है । अगर हम थोड़े से लालच में पड़ कर मनमाना विदेशी लेखकों की पुस्तकों का अनुवाद कर लेंगे तो थोड़े से लालच के लिये हम अपने को उन सिद्धांतों से दूर कर देंगे जिनकी प्रतिष्ठा के लिये हमने बहुत त्याग और तपस्या की है । एक छोटा सा मामला ले लीजिये । जब स्वेज का मामला चला तो यह स्पष्ट था कि उसमें हमारी दखलन्दाजी का बहुत बड़ा मूल्य चुकाना पड़ेगा और उन लोगों की मित्रता, जिनकी मित्रता हमारे देश के लिये आर्थिक दृष्टि से और अन्य सब दृष्टियों से बहुत बहुमूल्य थी, उसको हमने नैतिकता, सत्य और अहिंसा की रक्षा के लिये खतरे में डाला और हमने ईजिप्ट का साथ दिया । जब हमारे देश के महान नेता नैतिकता की रक्षा के लिये, सत्य की रक्षा के लिये इतने बड़े बड़े त्याग करने के लिये, इतना बड़ा मूल्य चुकाने के लिये तैयार रहते हैं, तब हमारा यह दलील देना कि हम भी उन के साहित्य का मनमाना अनुवाद कर लेंगे कहां तक उचित है । इस थोड़े से लाभ के लिये हम इस प्रकार की बातें रखें या लालच में पड़ कर अपने सिद्धान्तों को छोड़ दें, यह हमारे लिये ही नहीं बल्कि पूरे देश के लिये बड़ी दुर्भाग्य की बात होगी । यह तो दलील बिलकुल उसी तरह हुई कि अगर हम मनमानी करना चाहें तो हम यूनाइटेड नेशन्स

से अलग रहें । यह मैं मानती हूँ कि इस तरह की दलील से कोई भी कभी सहमत नहीं होगा । हमें यह नहीं भूलना चाहिये कि एक अनैतिकता हजार अनैतिकताओं को जन्म देती है । फिर क्रिएटिव आर्ट चाहे किसी देश का हो, लेखक और साहित्यकार चाहे किसी भी देश के हों, सरस्वती के भक्त उनको समान दृष्टि से देखते हैं । किसी भी देश के लेखक का या साहित्यकार का शोषण एक भी साहित्य से प्रेम करने वाला व्यक्ति स्वप्न में भी देखना पसन्द नहीं करेगा । बर्न कनवेंशन के साथ गठबन्धन केवल इसलिये किया गया था कि साहित्य ऊंचा उठे और साहित्यकारों और लेखकों को रक्षण मिले । इसलिये उससे अलग होने की बात सर्वथा अनुचित है ।

श्रीमन्, इस विधेयक का मुख्य उद्देश्य है लोगों की सृजनात्मक शक्तियों की रक्षा करने और उन्हें उत्साहित करने के लिये सरस्वती के वरद पुत्रों को जीने योग्य सुविधायें देना ताकि वे साहित्य सृजन सुविधा और शान्तिपूर्वक कर सकें ।

इसके साथ ही साथ एक चीज और भी है । जो चिरकाल से साहित्यकारों का शोषण हो रहा है उसको भी किसी न किसी तरह से बन्द किया जाय । सदियों से अब तक बराबर यह होता आया है कि अपनी समस्त विद्वता, योग्यता और क्रिएटिव शक्ति लगा कर लेखक जो भी साहित्य सृजन करता था, उसको, जीवन की साधारण जरूरतों को पूरा करने के लिये उसे मजदूरी देते उन लोगों के हाथों बेचना पड़ता था । वह की मजदूरी से बड़ा फायदा उठा कर लिये हमेशा तैयार रहते थे । औरों का मैं क्या कहूँ, मुझे स्वयं सन् ४२ के विश्व इंडिया आंदोलन में अपनी गृहस्थांजलि नामक पुस्तक को प्रयाग महिला विद्यापीठ को केवल १२० रुपये में बेचना पड़ा । उस पुस्तक को उन्होंने बाद में हाई स्कूल और

[श्रीमती सावित्री निगम]

बिद्या विनोदिनी आदि कोसों में चलाया और उससे हजारों लाखों रुपया कमाया। रायलिटी वगैरह की बात जाने दीजिये, उन्होंने उसकी बह ५० प्रतिशत, जो उन्होंने मुझे बसे ही देने को कही थीं, अब तक नहीं दीं।

श्रीमन्, जब एक बार हमने यह स्वीकार कर लिया है और इसी आधार पर तमाम लेखकों को संरक्षण मिल रहा है, उनको ५० वर्ष तक कापीराइट का अधिकार हम दे रहे हैं तो फिर ट्रांसलेशन के लिये उसका १० वर्ष किया जाना कितना अनुचित है और मैं जानती हूँ, मेरा विश्वास है कि इसका सरकारी तौर से अर्पेडमेंट करने के लिये श्रीमाली जी जो कि कितने विचारशील हैं अवश्य ही कुछ न कुछ कोशिश करेंगे। श्रीमन्, एक बहुत बड़ा मुकसान १० वर्ष रखने से हमें और होगा और वह यह कि हमने कापीराइट बिल को बन संवैधान से सामंजस्य करने के लिये ५० वर्ष रख कर बनाया है तो फिर इस १० वर्ष को रखने से उसमें एकरूपता नहीं आने पायेगी। यदि आप चाहते हैं कि किताबों का जो ट्रांसलेशन हो वह सुन्दर, स्वस्थ और सही हो तो यह आवश्यक हो जाता है कि किसी पुस्तक का अनुवाद होते समय लेखक और अनुवादक दोनों की सहमति हो, दोनों का सहयोग हो और सामूहिक प्रयास हो और सभी किसी पुस्तक का एक उचित रूप से सही सही ट्रांसलेशन हो सकता है। यदि इस विषयक को इसी तरह से रहने दिया गया तो क्या होगा? होगा यह कि जो भी अनुवादक अंधाधुन्ध जिस तरह से भीतोड़ मरोड़ कर पुस्तकों का अनुवाद करना चाहेंगे वह करेंगे और लेखक को, जिसकी कि किताबें बिकेंगी, उस बेचारे को एक पैसा भी नहीं मिलेगा। मैं यह भी बता देना चाहती हूँ कि ऐसे लेखक जिनकी पुस्तकों का बारह बारह और तेरह तेरह भाषाओं में अनुवाद हुआ है वे भूखों मरते हैं। उनमें से एक नाटककार को मैंने अपनी आंखों से भूखें मरते हुए देखा है

जिनके नाटकों का सात या आठ भाषाओं में अनुवाद हो चुका था, उनकी ऐसी दयनीय दशा थी।

भारतीय साहित्यकार जिसका जीवन सदा त्याग और तपस्या पर निर्भर रहा है, वह पैसे की उतनी परवाह भी नहीं करता और वह भूखे रह कर भी मां सरस्वती की आराधना करने के लिये प्रस्तुत रहा है और रहेगा और इस मॉनिटरी कंसीडरेशन को अभी छोड़ दें तो भी इस अनैतिकता के अंधार पर जो ट्रांसलेशन होगा वह कैसा होगा इसको भी आप सोचें, मूल कृति की कितनी तोड़ मरोड़ उसमें की जायेगी इसका भी अनुमान आप लगायें। पैसे की लेखक कभी परवाह नहीं करते लेकिन जब वे अपनी मूल कृति की तोड़ मरोड़ होते देखेंगे तो उनका हृदय टूट जायगा और उनकी आत्मा बिल्कुल कुबल जायगी। इसके अतिरिक्त उन के नाम का जो एक्सप्लायटेशन होगा, जो शोषण होगा और उनके नाम पर अनुवादक की लिखी हुई पुस्तक जो बिकेगी वह समाज और जनता को कितना धोका देने वाली होगी। मान लीजिये कि कोई व्यक्ति प्रेमचन्द जी के नाम को जानता है, उनके नाम को सुना है और कोई अन्य भाषाभाषी उनकी पुस्तक को लेना चाहता है और यदि उसे उनके बजाय अनुवादक का पागलपन और प्रलाप बढ़ने को मिले तो उसे कितना बड़ा धोखा हो जायगा। इस लिये हम लोग ट्रांसलेशन की धुन में पागल से हो कर ऐसा गलत कदम न उठायें जिससे कि लोगों को सही सही अनुवाद ही पढ़ने को न मिल सके। इसलिये मैं श्रीमाली जीसे फिर प्रार्थना करती हूँ कि जिस तरह से उन्होंने कापीराइट का अधिकार दिया है उसी तरह से ट्रांसलेशन के लिये भी ५० वर्ष कर दें, अगर वह कहते हैं कि इससे ट्रांसलेशन होने में असुविधा होगी, कठिनाइयां होंगी तो मैं उनसे कहना चाहती हूँ कि वह किसी भी लेखक से बात करके देख लें। किसी भी लेखक के लिये यह बड़े गौरव, गर्व और सुख

की बा होती है कि उस की पुस्तक का उस की रचना का, ट्रांसलेशन दूसरी भाषा में हो इसलिये कभी भी कोई लेखक अगर उचित टर्म्स उसके सामने रखे जायें तो यह चाहेगा ही नहीं कि उसकी पुस्तक का अनुवाद न हो और कभी भी वह उसमें रुकावट डालेगा ही नहीं। फर्ज कीजिये कि अगर कभी कोई ऐसा अविज्ञेकी व्यक्ति मिल ही जाय तो फिर आपके पास अधिकार है, कापीराइट बोर्ड के पास अधिकार है वह उसको जबरदस्ती करा ले। इसलिये उसको उचित पारिश्रमिक मिले और उसकी सहमति हो, इन दो बातों का अमेंडमेंट जरूर लाया जाना चाहिये और उसको अवश्य स्वीकार किया जाना चाहिये।

श्रीमन्, दो शब्द मैं रजिस्ट्रेशन के विषय में भी कहना चाहती हूँ। मेरा मानना है कि रजिस्ट्रेशन से लेखकों को लाभ ही हो सकता है, मगर हाँ, उससे उत्पन्न होने वाली कठिनाइयों के बारे में मुझे भी चिन्ता है। मेरा कहना है कि उसे आटोमैटिक बना दिया जाय, जैसे ही कोई पुस्तक प्रेस में आयें वैसे ही उसका आटोमैटिक सा रजिस्ट्रेशन हो जाय और प्रकाशक पर ही, जो कि सुविधा सम्पन्न होता है, यह जिम्मेदारी डाली जाय कि वह किताब का रजिस्ट्रेशन करा दे, तो बड़ा अच्छा होगा। इसके अतिरिक्त एक माननीय सदस्य ने यह सुझाव भी दिया था कि रजिस्ट्रेशन की फीस दो आना कर दी जाय, यह भी एक बड़ी अच्छी बात है। जो तीन चार सजेशंस इस सदन में दिये गये हैं उन्हें तो आपको स्वीकार कर ही लेना चाहिये क्योंकि बिना इनके स्वीकार किये जो बिल की खूबी है, विशेषता है वह अधूरी ही रह जायगी।

श्रीमन्, एक बात और है। जैसा कि माननीय दिनकर जी ने कहा यदि आप चाहते हैं कि देश में स्वस्थ साहित्य का

सृजन हो तो साहित्यकार को पूरी स्वतंत्रता, आर्थिक, बौद्धिक और हर प्रकार की स्वतंत्रता दीजिये और यह बात भी बिल्कुल सच है, मैं यह बात चेलेंज दे कर कह सकती हूँ कि जिन देशों में लेखकों पर बन्धन लगाये गये हैं उन देशों के लेखक, लेखक नहीं चारण बन कर रह गये हैं, वे केवल सरकार की गुण-गाथा गाने वाले चारण बन कर रह गये हैं। रूस जैसे सर्वोन्नत देश में इन पिछले २० वर्षों में लिखी गई एक भी ऐसी पुस्तक नहीं मिली जिसको कि भारतीय विचारकों ने इस योग्य समझा हो कि उसका हिन्दी में अनुवाद किया जाय। जिन सदस्यों ने यह कहा कि किसी देश का सेट-अप, पोलिटिकल सेट-अप, राजनीतिक ढांचा, किसी प्रकार का क्यों न हो लेकिन लेखकों पर उसका कोई असर नहीं पड़ता है यह उन का बिल्कुल विभ्रम है। उसका असर पड़ता है। रूस की जो मिसाल मैंने दी वह उसका जीता जागता सबूत है।

श्रीमन्, एक बात मैं और कहना चाहती हूँ। इसमें जो १० वर्ष के एडिशन की अवधि लगाई गई है वह साफ़ नहीं मालूम होती है। इसमें यह साफ़ नहीं किया गया है कि १० वर्ष जो गिना जायगा वह प्रथम एडिशन के बाद गिना जायगा या द्वितीय एडिशन के बाद गिना जायगा। अगर प्रथम एडिशन के बाद गिना जायगा तो यदि ६ वर्ष के बाद दूसरे संस्करण में लेखक उस किताब को बिल्कुल बदल दे या उस को दुगना कर दे तब ऐसी हालत में एक साल के बाद ही कोई अनुवादक उसका अनुवाद कर सकता है और इस तरह से लेखकों का शोषण होगा और एक बड़ा जबरदस्त शोषण होगा। यह बड़ी खतरनाक बात है। इस को साफ़ किया जाना चाहिये। मैं समझती हूँ कि अगर दूसरे संस्करण के बाद से गिना जाय तो अच्छा होगा यों तो मेरा अनुमान है कि १० वर्ष की जगह ५० वर्ष अवश्य ही मान लिया जायगा।

[श्रीमती सावित्री निगम]

अन्त में, श्रीमन्, मैं इतना और कहना चाहती हूँ कि जहाँ माननीय श्रीमाली जी ने इतना किया है, लेखकों को राहत पहुंचाने का इतना प्रयत्न किया है वहाँ इन छोटे छोटे संशोधनों को भी अवश्य स्वीकार कर लें, जैसे कि सिन्हा साहब ने १० वर्ष की अवधि जो ट्रांसलेशन के बारे में है उसके लिये संशोधन जो रखा है उसको स्वीकार कर लें, दूसरे यह एडिशन के बारे में और तीसरे रजिस्ट्रेशन के बारे में जो संशोधन हैं, सुझाव हैं उनको स्वीकार कर लें। मैं सोचती हूँ कि अगर उन्होंने उनको स्वीकार कर लिया तो यह विषयक सर्वांगपूर्ण बन जायगा और साहित्यिक परम्परा में एक नवीन, सुखद एवं कल्याणकारी क्रान्ति लाने का श्रेय माननीय श्रीमाली जी को अवश्य मिलेगा। धन्यवाद।

MR. CHAIRMAN: Shrimati Lilavati Munshi, I think you will be the last speaker, and Dr. Shrimali will reply. We must complete all stages of this Bill before this evening.

[MR. DEPUTY CHAIRMAN in the Chair]

श्रीमती लीलाती मुंशी (राजस्थान) :
उपाध्यक्ष महोदय, मैं आज जब यहाँ आई तब इस बिल पर बोलने का मेरा कोई इरादा नहीं था मगर मैं कापीराइट बिल की समिति की एक सदस्य थी और यहाँ जो एक दो चीजें रखी गई हैं उनके लिये एक, दो शब्द बहुत संक्षेप में कहने के लिये मैं खड़ी हुई हूँ।

यहाँ बड़ी जोशीली तकरीरें एक-दो बातों पर ज्यादातर हुए। एक तो जो ५० साल का कापीराइट लेखक को दिया उसके बारे में और एक इस बारे में कि सिर्फ १० साल का भाषान्तर के बारे में कापीराइट है। उसमें दो विचारधाराएँ हैं। एक विचारधारा ऐसी है कि ५० साल की अवधि कम करनी चाहिये क्योंकि हमेशा के लिये पुस्तकें

प्राइवेट प्रॉपर्टी के रूप में न हों। मैंने किशन चन्द जी के भाषण को तो नहीं सुना लेकिन ऐसी विचारधारा किसी किसी की होगी। इसी रीति से समिति में भी रखा गया था। दूसरी विचारधारा यह है कि ५० साल भी क्यों हों, जैसे दूसरी जायदाद लोगों को मिलती है उसी रीति से लेखक को भी हमेशा के लिये कापीराइट का अधिकार होना चाहिये। तो इसके लिये मैं पहले यह कहना चाहती हूँ कि मैं ५० साल के पक्ष में हूँ जोकि ठुआ है क्योंकि पहले जो बिल रखा गया था वह २५ साल के लिये था मगर सबका खयाल यह हुआ कि उसको बढ़ाना चाहिये क्योंकि जैसाकि श्रीमती चन्द्र बती लखनपाल ने बताया कि दूसरों को जब अपनी सम्पत्ति पर अधिकार है और अपनी सम्पत्ति को अपनी बीबी बच्चों के लिये रखने का अधिकार है तब सिर्फ लेखकों को अपने बीबी बच्चों के लिये कुछ प्रबन्ध करने न देना ठीक नहीं है। वह सिर्फ अन्याय होगा। लेखक में और दूसरी जायदाद वाले में एक फर्क होता है। जैसे कि किसी का मकान है, किन्नी के पास जेवर है, तो उसका असर दूसरों पर नहीं पड़ता, वह तो अपने घर और रिश्तेदारों के ऊपर पड़ता है। मगर जो पुस्तक होती है, उसमें जो विचार होता है, कल्पना होती है उसका असर संसार पर और सारे समाज पर पड़ता है, जेवर को आप बन्द रख सकते हैं, मगर आइडियाज़ के बारे में कहा जाता है : Ideas have wings. अगर आप विंग्स को हमेशा के लिये बन्द कर देंगे तो उसका फायदा समाज को नहीं पहुंचेगा। आप यह समझिये कि अगर एक लेखक मर गया, उसके बाद अगर मृत्यु के समय उसका लड़का एक साल का भी हो तो ५० साल की उम्र तक वह ठीक से रह सकता है, उसकी रचनाओं से उनके बीबी बच्चों को फायदा मिलता रहेगा।

हमारा देश किससे बड़ा है ? अपनी पुस्तकों से। रामायण, महाभारत, भागवत

ग्रन्थ बहुत पुराने समय से हमारे यहां हैं। आप कहेंगे कि उस जमाने में हमेशा के लिये लेखक को कापीराइट नहीं मिला था। अगर आज किसी ने वैसे ग्रन्थ लिखे तो उनका कापीराइट हो जायगा। तो दो प्रकार की विचारधाराएँ हैं और दोनों में तथ्य है। एक यह कि लेखकों को अपने बीबी बच्चों के लिये कुछ बंदोबस्त करने का अधिकार होना चाहिये। यह ठीक बात है। लेकिन जो चीख विगड़ वाली होती है उसको हम हमेशा के लिये बांध कर नहीं रख सकते हैं, नहीं तो हो सकता है उसको चुरा कर दूसरे लोग दूसरे स्वरूप में रख देंगे। ऐसी हालत में यह ठीक ही है कि ५० साल बाद किसी पुस्तक का कापीराइट न रहे। दूसरा यह है कि समय बहुत कम रखा गया तो इसकी वजह से बहुत दिक्कत होगी क्योंकि हमारे यहां पुस्तक लोकप्रिय होने में बहुत समय लगता है। जिस पुस्तक का कापीराइट न हो उसके लिये अपने वाला मिलना भी मुश्किल होता है। मैं समझती हूँ कि समिति ने जो यह निर्णय किया है कि ५० साल का समय रहे वह सोच समझ कर ही किया है और उसे कायम रहना चाहिये।

दूसरी एक विचारधारा है भाषान्तर के बारे में। भाषान्तर के लिये दस साल क्यों रखा गया, इसको भी ५० साल क्यों नहीं बढ़ाया? इसमें एक बड़ी दिक्कत हमारे सामने आती है। हिन्दुस्तान में १४ भाषाएँ हैं और हर एक भाषा की प्रगति के सम्पर्क में आना दूसरी भाषा के लिये और देश की एकता के लिये बहुत जरूरी है। हमारे देश की विचारधारा बहुत पुराने समय से बनती चली आ रही है। मगर आज हमारा समाज नये ढाँचे में बदल रहा है। ऐसी अवस्था में कोई नये विचार अगर हिन्दी में हो या किसी और भाषा में हों वे गुजराती में या मराठी और देश की अन्य भाषाओं में जा जायेंगे तो उससे एक दूसरे

की प्रगति में समानता होगी। अगर आप किसी लेखक की रचना को ५० साल तक एक ही भाषा के अन्दर बन्द रखेंगे तो देश उस विचारधारा से वंचित रह जायगा और सम्भव है ५० साल बाद वह पुस्तक भुला दी जाय, या शायद उसका भाषान्तर करने वाला भी कोई न मिले। शायद कोई ही लेखक इतना प्रख्यात हो जिसे दूसरी दूसरी भाषाओं का ज्ञान हो और उन भाषाओं के लेखकों को जानता हो और उनकी भाषा को समझ सकता हो, लेकिन बहुत से लेखक ऐसे हैं जिनको मालूम नहीं है कि दूसरी भाषा वाले कहाँ तक पहुँच गये हैं क्योंकि वे अन्य भाषाओं को नहीं समझते हैं वे अपनी पुस्तक का ट्रांसलेशन कराने से वंचित रह जायेंगे। यदि आप कहें कि ५० साल के लिये उनकी पुस्तकें बन्धी रहें और तब तक लेखक जिन्दा हो न हो तो यह ठीक बात नहीं रहेगी। अगर हमें सारे देश के दृष्टिकोण से देखना है तो मैं यह मानती हूँ कि दोनों चीजें जो समिति ने बनाई हैं वह ठीक उसी अंश में कायम रहनी चाहियें। इसलिये आपने जो यह कानून बनाया है उसको मैं ठीक समझती हूँ और इस बिल का समर्थन करती हूँ।

THE MINISTER OF STATE IN THE MINISTRY OF EDUCATION AND SCIENTIFIC RESEARCH (DR. K. L. SHRIMALI): Mr. Deputy Chairman, I am grateful to hon. Members for the appreciation which they have shown for the changes that have been made by the Joint Select Committee in this Bill. There are, however, two points which have aroused some controversy. I am, however, not surprised because even in the British Parliament, long debates have taken place on this subject. This is a Bill in which every aspect arouses a great deal of controversy. Now, the question has been raised whether the book is a property or not; whether the creation of an author or of an artist should be classed with

[Dr. K. L. Shrimali] other kinds of work, such as that of landed property. Sir, I am prepared to concede that the fruit of the brain is a property. Nobody should deny this. The author should have a full right over his creation. Just as a person "who, through manual or mechanical labour, produces something and owns it as a property, the author through his intellectual labour should certainly have a right over his intellectual creation. But the point at dispute is whether it is a natural right or a right entirely dependent upon Statute. Now, this question was discussed in the British Parliament several years back. The question came before the House of Lords in the famous case of *Donaldson vs. Becket* and judges were directed to attend that case. It was held by the majority of the judges that the common law right which an author had to copyright in his works became merged in the statutory right conferred by the Copyright Act then in force (8 Anne, c. 19) upon publication. Sir, from time to time, this question has been raised, but the decision on this case finally decided that there is nothing like a perpetual right in the matter of copyright and that after publication, an author has to base his claim for protection upon the statutory right. It is no more a natural right.

Now, Sir, in this connection since a great controversy has been raised, I should like to read some extracts from the Report of the Copyright Committee which was presented to the British Parliament in October, 1952. The Report says:

"The argument that a continuing right should subsist in property which is the product of the author's own brain is one which cannot fail to make an appeal, even if only for reasons of sentiment. It can be argued with force that property in the product of a man's brain deserves as much protection as property in the product

of his hands and that, unprotected, it is more open to subsequent mutilation, with possible reactions on his reputation. Nevertheless, the principle of perpetual copyright in published works is one which has been foreign to our law for at least 200 years, and it is quite contrary to the tendency of the times for the State to grant an unlimited right of the kind sought. The public at large has an overwhelming interest in the reproduction of literary, dramatic and musical works, and we are satisfied that it would be quite impossible to justify a right in perpetuity."

Sir, I raise this specific point because I think it was Dr. Barlingay who said that this right should be perpetual. Now when we say that it should be perpetual, we forget that the public is vitally interested in the creation of the author. And the Report goes on to say that "It may be added that we are satisfied that the difficulties of establishing who is the true owner of a copyright work after a period of years are so substantial as to render the proposal impracticable, even if it were desirable in principle." Now, Sir, some of the other countries like France have gone a step forward by changing this very conception of property.

"The Court of Cassation had put an end to the hesitancy of judicial practice by declaring (*Chambre des Requetes*, July 25, 1887, *DALLOZ*, 1888, 1,5) that the author's rights are whether in common parlance or in legal parlance incorrectly given the name of property; that, far from constituting property such as the Code Civil has defined and regulated for movables and immovables, it only gives those who are entitled to it an exclusive privilege of temporary exploitation."

Now, Sir, it will be clear from this that there is nothing like an absolute right as far as writings or crea-

tions of intellectual people are concerned. The very fact that the public is vitally interested in the creation of an author puts certain limitations on it. I do wish to respect the rights of the author, and I think the Bill which is before Parliament has accepted the principle. In fact, by extending the period to 50 years we have gone in line with most of the countries in the world who are the signatories to the Berne Convention. I must say I was rather surprised that many Members of Parliament felt that this Bill would destroy the rights of the authors and would discourage all creative work. Sir, as far as protection of property is concerned, we will have to take into account different kinds of property and we will have to understand what the scope of protection for each kind of property is and whom it is going to affect. We have also to take into account what its nature is and the appropriate benefits and burdens caused by private ownership. We must remember that this intellectual property is a kind of monopoly. Yesterday I pointed out that it imposes some burdens *on* readers and competing publishers. In defining the scope of protection for this property we will have to take into account three factors. Firstly, the author must be supplied direct or indirect pecuniary return as an incentive to creation and he must have control over the marketing of his creation. There can be no denying this fact. As far as the author is concerned, for his full lifetime he will enjoy the fruits of his creation. I am also in sympathy with those Members of Parliament who said that since the family was dependent on the authors, we would have to take that also into account. So, for the surviving family there will be a period of 50 years when they can enjoy the fruits of creation. Of course, if there is a prolonged monopoly, then it will be an abuse on the part of the family, and it is for that reason that we do not wish to give unlimited monopoly in this matter. We have also to take into

account the publisher and we must also see that the publisher continues to get a proper pecuniary return for the investment which he makes. The publisher gives birth to the author's work. The author gives birth to his creation but he is dependent on publishers. If there are no good publishers, then it will be difficult for the authors to survive. When we are considering the interests of the authors, we should not ignore the interests of the publishers. Sir, as I said, these various interests will have to be taken into account when we are considering this question of the intellectual property. And to my mind, the present Bill tries to meet the various conflicting interests and it attempts to harmonise them.

Then, Sir, another point has been raised with regard to the translations of the works of the authors. According to the present Report of the Joint Select Committee, after a period of 10 years the works of the authors go in public domain. The authors have an opportunity to translate their works if they so choose for a period of 10 years. Now, why is it that we do not want to make it co-extensive with the terms of the copyright of the original work? Sir, our country is a multi-lingual country. It is not a unilingual country and we should not do anything which would stop the dissemination of knowledge from one part of the country to another. In fact, we should create an atmosphere in which the translations of works from one language to another may take place more quickly and more speedily so that our culture might unify and we might have a united country.

SHRI J. S. BISHT (Uttar Pradesh): But it should be compensated in some form or other.

DR. K. L. SHRIMALI: I am coming to that.

MR. DEPUTY CHAIRMAN: I think you will take some more time.

DR. K. L. SHRIMALI: Yes, Sir.

MR. DEPUTY CHAIRMAN: Then you can continue after lunch.

The House stands adjourned till 2-30 P.M.

The House adjourned for lunch at one of the clock.

The House re-assembled after lunch at Half past two of the clock, Mr. DEPUTY CHAIRMAN in the Chair,

DR. K. L. SHRIMALI: Sir, I was referring to the clause which relates to the translation of works. As I said, the main purpose which motivated the Joint Committee to make this provision was that opportunities should be given to people to take advantage of the works written in various languages. It is only through translations that culture can be disseminated in this country. Ours is not a unilingual country. It is a multi-lingual country, and if we put restrictions in the way of translating works, we put restrictions in the way of the advancement of knowledge itself. It is therefore necessary to make the process of translating works from one language to another an easy one. It was with that purpose that this provision was made. I must say that I do see the force of the arguments which have been advanced against this provision. It does create some hardship for the authors, because they are deprived to some extent of their rights after a period of ten years. I am, however, willing to accept the amendment which has been proposed by my friend, Mr. Sinha, with slight alterations. There is some advantage in it. The amendment which has been moved by Mr. Sinha is on the lines of the Universal Copyright Convention to which India is a signatory. Some Members have suggested that the right of translation should be coextensive with the copyright for original work, i.e. for a period of fifty years. If we accept that suggestion, It would mean that it would not be

possible for us to translate the works of foreign authors for a period of fifty years, because they will enjoy the same privileges as our own authors enjoy in this country. Now, we know that Indian languages and Indian literature have to go a long way to enrich themselves. We have to produce not only original works in our own languages, but we have to translate many works from foreign languages. If we make this right of translation co-extensive with copyright, it may mean that we shall not be able to translate the works of foreign authors, and I am quite sure that the House would not like to put that barrier in the path of intellectual advancement. That the best alternative under the circumstances is to accept the amendment which has been very ably and thoughtfully moved by my hon. friend, Mr. Sinha. It would bring us in line with the countries which have signed the Universal Copyright Convention. It will also enable us to translate works after a period of seven years. The authors will not be able to stand in the way of translations. It is for the Copyright Board to determine whether a work should be translated or not, after a period of seven years. As I said at an earlier stage, when we are considering this Bill, we have to consider the various interests concerned. I have every sympathy with the authors, who in this country live under very difficult circumstances, but we have also to consider the interests of posterity, the future generations. We must consider the interests of our society in general. If we think of the authors only and make this right co-extensive with the term of the copyright, what would be the result? Probably the authors may gain—again that is a doubtful gain—but it will be detrimental to the general interests of society. I am therefore satisfied with the amendment which has been moved by my friend, Mr. Sinha. It meets the interests of the authors; it also meets the interests of the general public. We have to reconcile these conflicting interests.

Now, Prof. Wadia raised an interesting point, with regard to the reassignment of the copyright of a publication. It is quite true that in this country authors under very difficult circumstances sometimes part with their works for practically nothing. They are being exploited by the publishers. There is no denying that fact, and it was with this in view in the original Bill the Government put forward a proposal that after a period of seven years the author could get back the copyright. This question was very thoroughly examined in the Joint Committee, and there were representatives in it of the various interests including the authors themselves.

SHRI B. V. (MAMA) WAREKAR
(Nominated): Who was the author there?

DR. K. L. SHRIMALI: Mr. 'Din-kar' was there. I will explain.

The Committee felt that if this provision for the re-assignment of the copyright to the author was accepted, it would work against the interests of the authors themselves. The argument was that the publisher in the earlier stages makes an investment. He spends some money on advertisement. When a book is published, in order to capture the market, the publisher has to spend some money for two or three years, and just when it becomes popular and brings him a good return, the author will come to him and say, "Look here, will you please return this book to me?" If the publisher is so uncertain about the future of the book, if the publisher is always uncertain about his publication, and if he knows that after a period of seven years he is not going to get any return on the investment he has made, do you think that any publisher would take any interest in pushing that book in the market?

After all, business is business and publishing is a business and we should not ignore this hard reality. As I said, I have my full sympathies

with the authors but, at the same time, we must remember that without the help of the publishers, the interests of authors will not be promoted. It is true that there are publishers who exploit the authors but it is also true that there are able publishers who bring the authors in public limelight. They are both inter-dependent to some extent. If we kill the goose that lays the golden egg, there will be no goose to lay the eggs. If we destroy the publishers, I am afraid we may not enjoy big fruits of intellectual creation. Sir, this is the point which has to be borne in mind. In the original Bill Government had made this provision but I myself felt that this would probably work against the interests of the authors themselves and, therefore, this was deleted by the Joint Select Committee.

Another point which was raised by Prof. Kane was with regard to the limits which we have put on the authors when they are employed by newspaper proprietors or agencies. Again, Sir, it is a question of conflicting interests. We may always say, if we have to choose between authors and publishers that we are on the side of the authors; if we have to choose between a composer and a gramophone company we can always say that we are on the side of the composer; if we have to choose between an artist and a manufacturing society we can say that we are on the side of the artist. Our sympathies naturally go to people who create new things in life but we have to remember that we have to reconcile to some extent the conflicting interests which are, to some extent, inter-dependent and, therefore, though I have my full sympathies for the authors, I think that we must also give a fair opportunity to the newspaper proprietors. The author writes an article when he is in the service of the newspaper proprietor and it is, therefore, natural that he should have full rights as far as the publication of that article in the magazines and

TDr. K. L. Shrimali: Newspapers is concerned. We have, of course, made a provision that when the author wants to produce a book, then certainly he will have his copyright. We have split this right into two parts and that again was done with a view to reconciling the conflicting interests.

There was another point raised by Prof. Kane with regard to new editions. He said that new editions should get the copyright and I think he has also moved an amendment to that effect. Now, Sir, I have examined the Bill very carefully and I find that new editions will be covered by this Bill.

DR. P. V. KANE (Nominated): Suppose a work is called "The History of India" and a new edition comes after ten years. Could this be covered?

DR. K. L. SHRIMALI: New edition is a new work.

DR. P. V. KANE: My point is that this must be made clear in the Bill itself.

DR. K. L. SHRIMALI: I am making it clear. I have got it examined and it was not considered necessary. I got it examined by the Law Ministry and they thought that it was not necessary if the new edition is a complete reproduction of the past edition.

MR. DEPUTY CHAIRMAN: He will have to get a fresh copyright.

DR. K. L. SHRIMALI: He gets the copyright in the new edition.

DR. P. V. KANE: There is nothing expressly provided in this Bill itself. The wording is "work" and a new edition may be of several hundred new pages.

SHRI NIHAR RANJAN ROY (West Bengal): New edition is a new book.

DR. K. L. SHRIMALI: That is what I have said.

DR. P. V. KANE: Is it so given in the definition?

DR. K. L. SHRIMALI: Then, Sir, there was another point.

SHRI H. D. RAJAH (Madras): There is no answer to this question.

DR. K. L. SHRIMALI: I have already said that the new editions will get copyright as soon as the book is published.

With regard to Parliamentary proceedings, a point was raised, I think, by Mr. Nair. He saw no reason for putting any restriction on them. Now, article 105 (2) of the Constitution* expressly provides that no person shall be liable to any proceedings in respect of the publication by or under the authority of either House of Parliament or of any report, paper, votes or proceedings. Publication of Parliamentary proceedings has all along been treated as a matter of privilege by Parliament. Now, article 105 (3) does no doubt enable Parliament to make laws defining or re-defining privileges but, Sir, in my humble opinion, the Copyright Bill is not the proper place for touching upon the privileges of Parliament. Publication of Parliamentary proceedings does enjoy copyright but it has always been up to the House concerned to permit publication or republication thereof. This position need not be altered at least by the provisions of the Copyright Bill.

Well, Sir, these are the main points that were raised in the course of the debate and, as I have said, I am certainly in full sympathy with the authors but they must take into account the various other interests that are affected and the most important interest is that of the society in general. The author does not exist in a vacuum. The individuality of the genius does not express itself in isolation. In protecting the interests of the authors, we should not forget the interests of the society in general. That is all that I have to submit. Thank you, Sir.

SHRI PERATH NARAYANAN NAIR (Kerala): I did not have the question of privilege in my mind. I just wanted to know whether I would be infringing the copyright if I reproduced the speeches of hon. Members of Parliament, in so far as it affects the copyright law. I think exemptions have been given in clause 51A; we have also to take into account the definition of "Government work" given in clause 2(k). I think there was some talk about it.

DR. K. L. SHRIMALI: Publication of parliamentary proceedings is a matter of privilege and you can publish them only with the permission of Parliament.

PROF. R. D. SINHA "DINKAR": We are all very glad that the hon. Minister has agreed to accept the amendment of Mr. Sinha. Now as a result of that I think sub-clause (b) of clause 50 . . .

MR. DEPUTY CHAIRMAN: You may make your remarks when we take up the particular clause. Only if you want any clarification you may ask for it now. So I will put the question to the House.

The question is:

"That the Bill to amend and consolidate the law relating to copyright, as reported by the Joint Committee of the Houses, be taken into consideration."

The motion was adopted.

MR. DEPUTY CHAIRMAN: We shall now take up clause by clause consideration of the Bill.

Clause 2—Interpretation

MR. DEPUTY CHAIRMAN: There are two amendments.

Sura PERATH NARAYANAN NAIR: I move:

3. "That at page 1, line 10, for the word 'means' the word 'includes' be substituted."

15 RSD.—3.

DR. K. L. SHRIMALI: I move:

4. "That at page 3, after line 2[^] the following be inserted, namely: —

'(kk) 'Indian work' means a literary, dramatic or musical work, the author of which is a citizen of India;'. "

MR. DEPUTY CHAIRMAN: Any remarks?

SHRI PERATH NARAYANAN NAIR: Sir, mine is quite a non-controversial and, I think, a very necessary amendment. Here "adaptation" means in relation to a dramatic work, the conversion of the work into a non-dramatic work and in relation to a literary work or an artistic work, the conversion of the work into a dramatic work by way of performance in public or otherwise. Of course it does mean all those things. But my point is that "adaptation" should mean something more. The definition as given here is, to my mind, rather restrictive and definitive. Suppose a dramatic work is converted into an opera, that also should come under "adaptation" but I am not sure. Under this definition, because it is so restrictive, it may not come within the orbit of "adaptation". So I want the word "means" to be substituted by the word "includes" so that the definition can be a little more exhaustive.

DR. K. L. SHRIMALI: Sir, I do not accept that amendment because, if we accept it, the definition would rather become vague and what is excluded would not be clear. I therefore oppose this amendment.

SHRI PERATH NARAYANAN NAIR: But where is the actual difficulty which you feel?

MR. DEPUTY CHAIRMAN: The question is:

3. "That at page 1, line 10, for the word 'means' the word 'includes' be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

4. "That at page 3, after line 20, the following be inserted, name-ly:-

'(kk) "Indian work" means a literary, dramatic or musical work, the author of which is a citizen of India;'

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 2, as amended, stand part of the Bill."

The motion was adopted.

Clause 2, as amended, was added to the Bill.

Clauses 3 to 11 were added to the Bill.

Clause 12—*Powers and Procedure of Copyright Board*

MR. DEPUTY CHAIRMAN: What about your amendment, No. 32, Mr. Dinkar?

PROF. R. D. SINHA "DINKAR": Sir, my amendment reads as follows:

"That at page 7, line 14, after the word 'Act' the word 'usually' be inserted."

I do not want to move this amendment, Sir, but I do want to know from the hon. Minister whether this relates only to hearing of cases of its own zone or even of a branch office.

DR. K. L. SHRIMALI: Sir, the hon. Member is probably aware that the Copyright Board will work through various branches in different zones, and the zones are the same as we have accepted them in the States Reorganisation Act. I am quite willing to accept the amendment provided he moves it substituting the word "ordinarily" for the word "usually" proposed by him, and that will make it more precise.

PROF. R. D. SINHA "DINKAR": Yes, Sir, I am prepared to accept the \

change proposed by the hon. Minister and I move:

32. "That at page 7, line 14, after the word 'Act' the word 'ordinarily' be inserted."

MR. DEPUTY CHAIRMAN: The question is:

32. "That at page 7, line 14, after the word 'Act' the word 'ordinarily' be inserted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 12, as amended, stand part of the Bill."

The motion was adopted.

Clause 12, as amended, was added to the Bill.

Clause 13—*Works in which copyright subsists*

MR. DEPUTY CHAIRMAN: There is one amendment of Dr. Shrimali.

DR. K. L. SHRIMALI: I move:

5. "That at page 9, for lines 1 to 3, the following be substituted, namely: —

'(3) Copyright shall not subsist in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;

(b) in any record made in respect of a literary, dramatic or musical work, if in making the record copyright in such work has been infringed."

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

SHRI RAJENDRA PRATAP SINHA (Bihar): Sir, I would like to oppose this amendment. I draw your attention to the fact that by this amendment the present sub-clause (3) is

sought to be substituted. The present sub-clause (3) is at page 9 of the Bill and it reads: "Copyright shall not subsist in any cinematograph film or record if in making such film or record the copyright in any other work has been infringed." Now this is being changed. As the sub-clause stands at present, if any infringement takes place, the film is supposed to have infringed the copyright law. Now what is proposed to be done here is this that if a substantial part of the film infringes the copyright in some other work, then only the film will be regarded as having infringed the copyright; not otherwise. Now, I would like hon. Members to appreciate one point in this respect. Now the film producers are very powerful, both financially and organisationally. Now they may not come to terms with regard to any work which they want to reproduce in their film. They will ignore the composer or the author and force him to go to law courts if he thinks that his work has been infringed. Now there are cases in which one sentence, one couplet or one stanza makes or mars the box office success of a film, and the instances can be multiplied. Now the film producers will borrow certain portions, will take them in their film and will refuse to pay anything to the composers, particularly the song composers, or the story waiters or others and will refuse to have anything to do with the author of those songs or of writings. Professor Dinkar has an amendment by which he wants to define the short passages and to specify that two such passages should not exceed twelve lines, and he said that page after page was being borrowed now. Now if we say "a substantial part", a good portion of a whole song or a good part of a story may be taken up by the producers and they will fight out any case instituted, and prove that it is not an infringement of the copyright since a substantial part of the film has not been borrowed from someone else's. I know of a film "New Delhi", which was put on the screen here and which was produced by some of the Bombay producers, and now the poor author is fighting out a case here in the

I Supreme Court and the other courts.

I There is no law to protect the authors in such an event. Therefore I maintain that the amendment proposed is not in the interests of the composers and the writers and the authors. We discussed this point very effectively in the Joint Select Committee itself. The question was examined and we came to the conclusion that if we put in the words "substantial part of the film", then the film producers will always go scot-free and the poor authors and composers will be put to great loss. Now there may be cases of hardship—I understand that—but if we have the sub-clause in the Bill replaced by the proposed amendment, then it will not be a question of hardship but it will be giving free licence for piracy and for abuse.

3 P.M.

In this connection I would like to draw your attention to the note of dissent of Shri Avinashilingam at page XV. Now he is also of the same opinion that cases of hardship should be provided for and he has suggested that there must be some method by which hard cases should be looked into and relief provided to the film producers but he has also said that we should not give a free licence for piracy which is what we are actually doing if we accept this amendment. Therefore I oppose it.

DR. K. L. SHRIMALI: Sir, I am sorry I have to make one correction in clause 12. The word 'ordinarily' should be inserted after the word 'shall' in line 13 and not after the word 'Act' in line 14.

MR. DEPUTY CHAIRMAN: You want it before the word "hear"? You can do that after we finish all the clauses.

DR. K. L. SHRIMALI: With regard to clause 13, if the House accepts the clause as it stands, it will mean that we will be denying absolutely copyright for the entire cinematograph film even if a small portion of the film infringes copyright in any other work. When a film producer is pro-

[Dr. K. L. Shrimali.] during a film, it is quite likely that j unawares he might insert something about the copyright of which he is not fully aware. If he inserts such a thing, then he will have to forego copyright for the whole film. Sir, we know what a colossal amount the producers have to invest and for a small infringement they may have to sacrifice enormous amounts of money. Certainly I would like to respect the rights of the composers but at the same time let us not forget that sometimes insertions may be made unawares and it is with that in view this amendment has been moved. Of course, if there is an infringement, the persons concerned can always claim damages or get injunctions in the ordinary course. There is nothing to prevent them from taking such action. I would therefore suggest that this amendment may kindly be accepted.

MR. DEPUTY CHAIRMAN: The question is:

5. "That at page 9, for lines 1 to 3, the following be substituted, namely: —

'(3) Copyright shall not subsist—

- (a) in any cinematograph film if a substantial part of the film is an infringement of the copyright in any other work;
- (b) in any record made in respect of a literary, dramatic or musical work, if in making the record copyright in such work has been infringed."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 13, as amended, stand part of the Bill."

The motion was adopted.

Clause 13, as amended, was added to the Bill.

Clause 14—Meaning of copyright

DR. RADHA KUMUD MOOKERJEE (Nominated): Sir, I move:

45. "That at page 9, at the end of line 18, after the word 'work' the words 'or publish a revised edition of the work' be inserted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are before the House.

DR. RADHA KUMUD MOOKERJEE: Sir, I would like.....

MR. DEPUTY CHAIRMAN: He has explained already.

DR. RADHA KUMUD MOOKERJEE: I understand that he is sympathetic towards this amendment but I do not know yet whether this amendment is accepted by him.

MR. DEPUTY CHAIRMAN: He feels that it is not necessary. He said so earlier while replying to the general debate.

DR. RADHA KUMUD MOOKERJEE: In that case I have to say something. Sir, this amendment has been really suggested by me from my own personal experience as an author. I felt I was about to expire as an author till I have been saved by the merciful provision of this Bill. My first work was published as far back as 1912 in London and it is now 45 years old. At that time the publishers in London thought that they might ask me to bring out a revised edition of the book. I have already agreed and this revised edition of the book is about to be published. Now I want to have a clarification of my position as an author under this Copyright Bill as to whether this revised edition will count as a new book or whether he will tag it on to the old edition.

DR. K. L. SHRIMALI: The new edition will be counted as a new book.

DR. RADHA KUMUD MOOKERJEE: I am very glad to hear that.

Now, Sir, my hon. friend Mr. Kishen Chand has been always thinking in terms of the limitations of the rights of property that should apply to the author. In that connection I should say that perhaps he is making a very ungenerous differentiation between the two forms of property. I wish to remind him of his old days in Cambridge when he was wedded to science and mathematics and probably believed more in the value of intellectual and spiritual property, but subsequently he has turned his attention towards the more material and mundane forms of property

SHRI M. SATYANARAYANA (Nominated): He has become more liberal now.

DR. RADHA KUMUD MOOKERJEE: I wish to know how he can differentiate between the intellectual property of the author and the ordinary mundane and material property. I should think that the same rights of property should hold in both cases and any idea of limitation of rights to property of the poor authors is not fair. The poor author is universalised no doubt but you must not forget that he must earn his living from his object of creation. Shakespeare may have been universalised but you don't allow Shakespeare's wife to go into starvation as she really did. So I do not at all know why my friend has changed his point of view so much. He began very well as a devoted student of mathematics and

SHRI KISHEN CHAND (Andhra Pradesh): The hon. Minister himself is definite that there is a difference in the property rights and the Supreme Court judgment is also there. Why should my friend select me only as the target of his attack? I can certainly answer him but

DR. RADHA KUMUD MOOKERJEE: Since fundamental questions are being freely discussed I thought it was my duty here to point out the other side of the picture. Why should the author's right in his work of creation be limited and why should not the same property rights be allowed to the author?

MR. DEPUTY CHAIRMAN: Anyway there is no amendment by Mr. Kishen Chand to this clause.

DR. RADHA KUMUD MOOKERJEE: No; he has threatened that he will have the limitation placed.

SHRI KISHEN CHAND: Later when I move my amendment he can answer that.

DR. RADHA KUMUD MOOKERJEE: I thought I should anticipate him and cut the ground under his feet or take the wind out of his sails.

However, I want to know from the Minister whether we should not specifically add these words 'or publish a revised edition of the work.' Why should you be harsh on the poor author? Why should you leave him in doubt as to whether a revised edition would be counted a new book or not. For instance, in the book that I mentioned earlier I have brought in new statistics and figures about the position of Indian shipping in these days and those facts and figures are very necessary in order to bring the book quite up to date. So I do not see any reason why the Minister should not be pleased to accept this small amendment.

DR. K. L. SHRIMALI: If you would kindly permit, I would read an extract from "Copinger's Copyright". He explains the whole position. He says: "It is thought that the position with regard" (Interruption.) It explains our point of view.

MR. DEPUTY CHAIRMAN-- His fear is that if you accept the principle, why don't you specifically put it in the Bill?

DR. K. L. SHRIMALI: It is unnecessary. After all, you can go on expanding it. I have fully examined it. It is quite unnecessary.

SHRI R. C. GUPTA (Uttar Pradesh): It is not unnecessary. In order to put this beyond doubt, it is necessary that Dr. Mookerjee's amendment should be

[Shri R. C. Gupta.] accepted. Otherwise, there would be a lot of litigation with regard to the interpretation of the wording.

MR. DEPUTY CHAIRMAN (*looking to Dr. K. L. Shrimali*): Yes, same reply, not acceptable. Do you want me to put it to vote, Dr. Mookerjee?

DR. RADHA KUMUD MOOKERJEE: I want to know definitely whether it is included in this.

MR. DEPUTY CHAIRMAN: Yes, he said so. It is included.

SHRI RAJENDRA PRATAP SINHA: Will the hon. Minister kindly read out the extract which he has been reading out?

DR. RADHA KUMUD MOOKERJEE: If it is included in the proposal, why not . . .

MR. DEPUTY CHAIRMAN: He says it is unnecessary and your fears are unfounded.

DR. RADHA KUMUD MOOKERJEE: Supposing we as authors fear, I think that we should be allowed to be judges of our work better than those who are not authors.

DR. K. L. SHRIMALI: This has been fully examined by the Law Ministry. If you would permit me, it reads as follows:—

"It is thought that the position with regard to new editions of existing works is not quite the same since the commencement of the Copyright Act, 1911, as it was before. Under the Act of 1842, no action could be brought in respect of infringement of copyright in a book, unless the book was duly registered at Stationers' Hall. Consequently, if a new edition were registered, and the date of publication entered as the date of publication of the new edition, it has to be considered whether the new edition, regarded as a whole, was a new book or not. If it were a new book,

the registration was correct; if it were only the old book with slight variations, then the registration was invalid.

But it would appear that such considerations are not now of importance. The Court has not to consider whether a work has been properly registered, but whether there has been any infringement of any original work done by the editor of the new edition. Such original work may consist of additions or alterations of the text which, if they are not merely trivial, will, it is though, be protected in the same way as any other original literary work, whether they form a substantial part of the complete work or not; or they may consist of new arrangement of the existing subject-matter. With regard to the latter, it would seem that the same considerations arise as in the case of alterations of any other existing subject-matter. For instance, in the case of *Blacklock v. Pearson*, it was held that the index to a new edition of Bradshaw was an original work. Joyce, J., said: 'A book which consists of a specification of the conditions at the present moment of a constantly changing subject-matter is a new work even though some of the particulars given may not have altered from what they were, and were stated to be, at some prior date, perhaps years before'."

It is quite clear as far as I am concerned.

DR. RADHA KUMUD MOOKERJEE: Sir, I still think that in order to avoid litigation and the depressing doubts in the minds of the authors. . .

MR. DEPUTY CHAIRMAN: Yes, I will put it to vote.

DR. RADHA KUMUD MOOKERJEE:why not it be made clear?

MR. DEPUTY CHAIRMAN: After the Minister's reply you cannot have another reply from him. I am putting the amendment to vote. We cannot go on at this rate.

MR. DEPUTY CHAIRMAN: The question is:

45. 'That at page 9, at the end of line 18, after the word 'work' the words 'or publish a revised edition of the work' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 14 stand part of the Bill."

The motion was adopted.

Clause 14 was added to the Bill.

Clauses 15 and 16 were added to the Bill.

Clause 17—*First owner of copyright*

SHRI PERATH NARAYANAN NAIR: Sir, I move:

6. "That at page 11, for the existing clause 17, the following be substituted, namely:—

'17. *First owner of copyright*.— The author of work shall, in the absence of a contract to the contrary, be the first owner of the copyright therein'."

DR. P. V. KANE: Sir, I move:

33. "That at page 11, line 25, after the word 'contract' the words 'in writing' be inserted."

{The amendment also stood in the name of Prof. A. R. Wadia.}

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI PERATH NARAYANAN NAIR: With regard to amendment No. 6, the Bill concedes the principle that ordinarily the ownership of the copyright must vest in the author and under this clause 17, exceptions are made. Exceptions are made in the case of productions of journalists and authors who are employed, where in the absence of a contract to the contrary, the ownership will vest with the proprietor. In the course of my general

remarks I have had occasion to point out the manifest injustice involved in this. First, a question of principle is involved. Now, when you make an exception in the case of a principle, ordinarily it will be better if you do it by specific agreement. That is not so provided for under this clause. Again, the hon. Minister himself was good enough to say that if he were to choose between the weaker party and the stronger party in any contract, he would always side the weaker party. And it is obvious that as between the employee journalist and the author on the one side and the proprietor on the other side, naturally the weightage must be in favour of the employee and not against him. Now, according to my amendment, I simply reverse the position. It is not my point that the author's ownership must in no case be restricted. I concede that in certain circumstances it can be made alienable also. But when a provision is made to that effect, if the proprietor has the responsibility to contract into that new right, it means, in effect, that the employee journalist and author will get adequate compensation for that. My whole point is from the point of view of social justice, the employee must not be placed in a position of having to contract into a right as against the proprietor. Now, the ownership of the copyright vests in the proprietor not only in the case of reproduction in his own journals, in his own magazines, but in any other journal and this is quite unfair. So, I say, if this first ownership is taken away from the employee journalist and author, then it must be done by specific agreement. The proprietor must have the responsibility to contract into that new right. And my only point is that in such cases, where it may be found necessary, the journalist—the actual producer—must get adequate compensation. I think it is very reasonable and I trust the hon. Minister would accept it.

DR. P. V. KANE: I only want that the contract should be in writing. Now, if the hon. Minister-in-charge will look at clause 19, he will find that

[Dr. P. V. Kane.] in the case of assignment of a copyright, it must be 'in writing'. It reads:—

"No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor.....".

Why not the same be applied to this contract? Here somebody is engaged in a contract of service and he writes something useful. Here the contract orally may be proved, but if he assigns, then it must be in writing. Why is this difference? I do not see any justification. Why not make the contract 'in writing' here also? I have already explained that the writer generally is a needy man and the capitalist generally can sit tight upon his money. Therefore, they are not well balanced. This law helps those who are rich. Those who are needy can be dominated. Therefore, a contract 'in writing' will give a greater safeguard than mere 'contract'. I do not want to dilate more on this. You have yourself agreed that assignment must be in writing. Why not the original contract for his work be given in writing. I see no logical reason for any difference between the two.

SHRI RAJENDRA PRATAP SINHA: Sir, you will find that this clause 17 is a great improvement upon the original clause 16. This question was very thoroughly examined in the Joint Select Committee. This proviso (a) was introduced in the interests of good journalism in India. You will also find, Sir, that such a clause is being provided in the U.K. Act. Why? It is in the interests of good journalism. You know, Sir, that in order that the correspondents or the working journalists can produce good work, a lot of money has to be spent over them. For example, a journalist or any employee under a newspaper or magazine has to be sent abroad, has to be sent all over India to collect facts and to give a first-hand report and materials. Now a newspaper establishment may have to incur large sums as

expenditure in order that the journalist may produce a first rate work. If that is reproduced only in one journal or paper, probably the cost of getting that work produced will not be covered. Therefore, it has been thought that a newspaper establishment should have the right so that they can sell these articles or writings to other newspapers, and thus one journalist is writing for more than one newspaper although his cost is met by one and then subsequently recovered from others. That is how it is being done in European and American countries. That is why the standard of journalism in those countries is higher.

Now, we are interested not only in our journalists but we are interested in improving the standard of journalism of our journals and newspapers. With that end in view this has been done. You will find, Sir, that this clause has been introduced with all the safeguards for the authors. I would like you to appreciate that only the authors under the employment of newspaper establishments, magazines and journals are affected, and that too for a limited purpose. The writer retains all aspects of the copyright except one, and that is, production in that particular journal or its reproduction in other journals. The newspaper proprietor cannot compile that into a book.

SHRI PERATH NARAYANAN NAIR: Why in other journals?

SHRI RAJENDRA PRATAP SINHA: It has been explained. It is not possible to cover all the cost that has to be incurred today to produce a first class article. With that end in view that has been provided. Therefore, I submit that my hon. friend will consider this question in the interests of journalism. The other countries also have adopted this procedure. Therefore I submit that this amendment may not be accepted.

DR. K. L. SHRIMALI: Sir, I do not think that I have to add anything more to what Mr. Sinha has pointed out. I would only say that law must

have a moral basis. While the journalists are in the service of the newspaper proprietors and when they are getting remuneration for the work they are doing, it is only proper that they should surrender their rights to some extent. This only recognizes the right that newspapers have a right to print it in their own journals and allied journals. As far as the right of the author is concerned, he still has the right to produce a book if he likes.

I would therefore suggest that the amendments be not pressed.

MR. DEPUTY CHAIRMAN: The question is:

6. "That at page 11, for the existing clause 17, the following be substituted, namely:—

'17. *First owner of copyright.*— The author of work shall, in the absence of a contract to the contrary, be the first owner of the copyright therein.'

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

33. "That at page 11, line 25, after the word 'contract' the words 'in writing' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 17 stand part of the Bill."

The motion was adopted.

Clause 17 was added to the Bill.

Clauses 18 to 20 were added to the Bill.

New Clause 20A.—Right of author to relinquish copyright.

DR. K. L. SHRIMALI: Sir, I move:

7. "That at page 12, after line 23, the following new clause 20A be inserted, namely:—

'20A. *Right of author to relinquish, copyright.*—(1) The author of a work may relinquish all or any of the rights comprised in the copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights and thereupon such rights shall, subject to the provisions of sub-section (3), cease to exist from the date of the notice.

(2) On receipt of a notice under sub-section (1), the Registrar of Copyrights shall cause it to be published in the Official Gazette and in such other manner as he may deem fit.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in sub-section (1)."

MR. DEPUTY CHAIRMAN: Amendment No. 7 is before the House.

DR. K. L. SHRIMALI: It is not necessary for me to say much on this. We are only giving a right to the author to relinquish his right of the copyright. There may be some generous minded authors who might like to relinquish their rights for the sake of the society, for the benefit of the society. It is only to make provision for that purpose that this clause has been introduced.

MR. DEPUTY CHAIRMAN: The question is:

7. "That at page 12, after line 23, the following new clause 20A be inserted, namely:—

'20A. *Right of author to relinquish copyright.*— (1) The author of a work may relinquish all or any of the rights comprised in the copyright in the work by giving notice in the prescribed form to the Registrar of Copyrights and'

[Mr. Deputy Chairman.] thereupon such rights shall, subject to the provisions of subsection (3), cease to exist from the date of the notice.

(2) On receipt of a notice under subsection (1), the Registrar of Copyrights shall cause it to be published in the Official Gazette and in such other manner as he may deem fit.

(3) The relinquishment of all or any of the rights comprised in the copyright in a work shall not affect any rights subsisting in favour of any person on the date of the notice referred to in subsection (1)."

The motion was adopted.

New clause 20A was added to the Bill.

Clause 21—Term of copyright in published literary, dramatic, musical and artistic works.

SHRI PERATH NARAYANAN NAIR: Sir, I move:

8. "That at page 12, for lines 26 to 30, the following be substituted, namely: —

'21. Except as hereinafter otherwise provided, copyright shall subsist in any literary, dramatic, musical or artistic work—

- (a) if the author of the work lives for ninety years or more, during the life-time of the author; and
- (b) in any other case, until the date on which the author of the work, if living, would have been ninety years of age;

Provided that in no case shall the period be less than twenty years from the first day of the calendar year next following the year in which the work was first published'."

SHRI KISHEN CHAND: Sir, I move:

34. "That at page 12, lines 29-30, for the words 'fifty years from the beginning of the calendar year next following the year in which the author dies' the words 'thirty years from the date of publication or the death of the author whichever is later' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI PERATH NARAYANAN NAIR: Clause 21 relates to the term of copyright. As provided for in the Bill, this copyright subsists for the lifetime of the author and fifty years thereafter. I want to substitute that provision by my amendment. My amendment is to the effect that copyright shall subsist in case the author lives up to ninety years and more; copyright shall subsist for the lifetime of the author. In any other case it shall subsist until that date on which the author, if living, would have attained ninety years of age.

DR. K. L. SHRIMALI: Is there any special reason why the hon. Member fixed ninety years?

SHRI PERATH NARAYANAN NAIR: Yes, I will have to explain that. Of course the hon. Minister himself has said that the monopoly rights of the author have to be restricted. Some limit has to be put in the interests of the reading public, in the interests of the community generally. Having accepted that principle, the question is where we should put that limit. The lifetime of the author and fifty years thereafter have been provided for in the Bill. The purpose of my amendment is clear. I do not want to be hard on the author or the first generation of his children or even the second generation. Ordinarily according to Hindu concepts a person is considered to have lived a full life if he lives up to ninety years. By about sixty the first generation of his sons and daughters would have

settled in life. Ninety means second generation. So, for the full period of ninety years he gets it—the author, as also his sons and even grandsons. So, two generations from the father get the benefit. So, there is no point in saying that I am trying to be hard on the authors. No. I have put ninety years. According to the Hindu conception, the full course of life is about a thousand *puṇimas*—100 *varshiya* or something like that. I need not go into it. It is essentially of Sanskrit concept. Anyway, ninety years are taken to be sufficient for that full period. This may be given and this will be the limit. In these 25 or 30 or 50 years, there is something arbitrary. Here, you take the man's full life, provide for his son, his son's son

DR. K. L. SHRIMALI: What about the third generation?

SHEI PERATH NARAYANAN NAIR: Third generation? I consider it far too removed to benefit from the ancestors, three generations removed. To that extent, I put the limit there. The hon. Minister has thought it necessary that it must be restricted. So the limit that I would put is ninety years so that there is nothing arbitrary in it. It is very reasonable and I think the hon. Minister will find his way to accept it.

SHRI KISHEN CHAND: Mr. Deputy Chairman, I think the confusion has arisen from the fact that several hon. Members when they spoke, referred always to literature and science and they were all the time talking possibly of some extraordinary creation of a real genius. But, Sir, this copyright applies to all books that are printed. It applies to text-books whether they are for the primary class or for the M.A. class and it applies to all books on travel, adventure, history and science. Nearly three per cent, of the books that are published are scientific and medical books. I realise that in certain cases, there may be a hardship if we restrict the period of copyright to what

I have suggested. Certain great literary giants have been quoted by Prof. Dinkar—Tagore and some such authors. They are great authors. In their case, it will be a great hardship. But the hon. Minister and several hon. Members, tried to ridicule text-books. You yourself, Sir, did not include the text-book in literature. I suppose you are quite right. Several hon. Members thought that scientific books are not literature and probably, they are quite right. Scientific books are not literature, but they are going to get benefit from this Copyright Bill. In this Copyright Bill, I am trying to understand what they mean by literature. Several Members have taken up a negative attitude—"This is not literature." And if you substract everything possible, one in a thousand will be left over and that will be literature and in the case, there will be a hardship. An hon. lady Member today said that no book is a literary work except the one which she has written. Probably, it was published and she got only Rs. 150 and the publisher made lakhs of rupees by prescribing it as a text-book. Opinions differ. People have different ideas about literature. I personally consider Somerset Maugham to be one of the finest literary authors of the present day. Some do not consider him to be a great literary author. When we are giving a copyright, the only criterion should be the greatest good of the greatest number. In our social life, there is no other criterion except the greatest good of the greatest number. When we come to that, I agree that in the case of those great writers who have really produced works of art, who have really created a fine book which will be one in a thousand, there may be a hardship. That may not be recognised in 30 years. It may be recognised after a hundred years and his children may starve. But in the case of 999 books, it will be just one such work. Anybody sits down and writes a book. I suppose every Member of this House can write a story, get it published. It may not sell, but he can certainly

write a story and get it published.

[Shri Kishen Chand.] So, the criterion is not the writing of a book or the publication of it, but its subsequent popularity or unpopularity. Therefore, my contention is that, when this Copyright Bill applies to all the books whether they are text-books or scientific books or, as signified by some hon. Members, literary creations, there we should see that 999 persons are going to take unfair advantage of the society and will keep the price of the book very high and thereby prevent the society from taking advantage of that literature, of reading that book. If you keep the price of a text-book very high, you are depriving young boys and girls who are going to school from reading that book and taking advantage of that. Therefore, my concrete proposal is that the copyright should be for the lifetime of the author or for 30 years whichever is longer. Why I have prescribed 30 years is that it is sufficiently a long period. Of course, if the author lives for fifty years after writing the book, he will have the copyright and enjoy it for these 50 years. The hon. Minister will be satisfied with two generations living on the fruits of that book because even if you assume 25 years to be one generation, then, if the author lives for 50 or 60 years after writing the book, his two generations would be satisfied. If the author dies soon after writing a book, according to my suggestion at least the copyright will continue for 30 years. So, I am trying to satisfy that the society gets the fullest benefit and yet, the author or his progeny is not deprived of its benefits. After all, 50 years after the death of an author is an arbitrary figure and so is my suggestion of 30 years an arbitrary figure. I do not say there is anything sacrosanct in 30 or in 50 years after the death of the author. The object is to reduce the period as far as possible and to permit the society to take the greatest benefit from it, specially in the matter of translation. When that clause comes up, I will give more examples. But, especially in the case of translations, it is very essential

I that in our country, when we want to enrich our literature, when we want to increase the spread of knowledge of our languages, we translate foreign books. And if we are going to put restrictions and obstacles in the matter of translation of foreign literature, well, our languages will never be able to develop. I know, Sir, that in the Osmania University, they established; a convention in those days superseding the Berne Convention. In the Osmania University, we have a rule that all foreign books can be translated in the Urdu language. We were only paying 10 per cent, of the selling price of the book to the author irrespective of the time of publication. Even after one month after the publication of the book, it was translated! into Urdu. I ask, specially in the matter of text-books, is it possible to produce them? We want to make Hindi the medium of instruction in our universities. We want every regional language to be the medium of instruction in our universities-You are not going to produce textbooks if you are going to restrict the copyright in such a way that you give to the authors 50 years after their life-time, give them copyright for a hundred years, you will not be able to produce any text-books on higher scientific subjects, higher mathematical subjects, until and unless you go in for the translation of foreign books. Therefore, let us not be led away by too much sympathy for really creative artists. Let us look at this Bill from the point of view of the larger number of people who are going to benefit from it.

DR. K. L. SHRIMALI: Sir, I have to choose a happy medium between the two extremes, one suggested by Shri Perath Narayanan Nair and another by Shri Kishen Chand. I think the happy medium is 50 years, and I hope the House will generally agree with that.

MR. DEPUTY CHAIRMAN: The question is:

8. "That at page 12, for lines 26 to > 30, the following be substituted, namely:

—

21. Except as hereinafter other- I wise provided, copyright shall subsist in any literary, dramatic, musical or artistic work—

(a) if the author of the work lives for ninety years or more, during the life-time of the author; and

(b) in any other case, until the date on which the author of the work, if living, would have been ninety years of age;

Provided that in no case shall the period be less than twenty years from the first day of the calendar year next following the year in which the work was first published'."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

34. "That at page 12, lines 29-30, for the words 'fifty years from the beginning of the calendar year next following the year in which the author dies' the words 'thirty years from the date of publication or the death of the author whichever is later, be substituted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 21 stand part of the Bill"

The motion was adopted. Clause 21 was added to the Bill. Clause 22 was added to the Bill.

Clause 23—Term of copyright in posthumous works

MR. DEPUTY CHAIRMAN: There are two amendments, Nos. 9 and 37. No. 37 of Shri Kishen Chand is barred.

DR. K. L. SHRIMALI: Sir, I move:

9. "That at page 13,—

(i) in lines 33-34, the words 'or an adaptation of any such work' be deleted;

(ii) in line 37, after the words 'but which' the words 'or any adaptation of which' be inserted; and

(iii) at the end of line 40, after the words 'first published' the words 'or' where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year' be inserted."

Sir, this is merely an amendment of drafting nature.

MR. DEPUTY CHAIRMAN: The question is:

9. "That at page 13,—

(i) in lines 33-34, the words 'or an adaptation of any such work' be deleted;

(ii) in line 37, after the words 'but which' the words 'or any adaptation of which' be inserted; and

(iii) at the end of line 40, after the words 'first published' the words 'or' where an adaptation of the work is published in any earlier year, from the beginning of the calendar year next following that year' be inserted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 23, as amended, stand part of the Bill."

The motion was adopted.

Clause 23, as amended, was added to the Bill.

Clause 24 was added to the Bill.

Clause 25—Term of copyright in cinematograph films

DR. K. L. SHRIMALI: Sir, I move:

10. "That at page 14, lines 11-12, for the words 'a certificate for public exhibition in respect of the film is granted under section 4 of the cinematograph Act, 1952' the words 'the film is published' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

DR. K. L. SHRIMALI: I might just explain that the clause, as it stands, applies only to films in respect of which such certificates are given. This clause is silent about the copyright in films in respect of certificates either not granted or not applied for, and this amendment merely attempts to remove that lacuna.

MR. DEPUTY CHAIRMAN: The question is:

10. "That at page 14, lines 11-12, for the words 'a certificate for public exhibition in respect of the film is granted under section 4 of the Cinematograph Act, 1952' the words 'the film is published' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 25, as amended, stand part of the Bill."

The motion was adopted.

Clause 25, as amended, was added to the Bill.

Clauses 26 to 29 were added to the Bill.

Clause 30—Compulsory licence in works withheld from public

DR. K. L. SHRIMALI: Sir, I move:

11. "That at page 15,—

(i) in line 1, for the words 'any work' the words 'any Indian work' be substituted;

(ii) in line 16, for the words 'It is in the interests of the general public so to do' the words 'the grounds for such refusal are not reasonable' be substituted; and

(iii) for lines 25 to 27, the following be substituted, namely:—

'Explanation.—In this subsection, the expression 'Indian work' includes—

(i) an artistic work, the author of which is a citizen of India; and

(ii) a cinematograph film or a record made or manufactured in India'."

SHRI KISHEN CHAND: Sir, I move:

38. "That at page 15, line 20, after the words 'such compensation' the words 'subject to a maximum of ten per cent of the sale price' be inserted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are now before the House.

SHRI KISHEN CHAND: Sir, this really refers to a book. Where the author is not publishing a book or allowing its republication, there the matter is referred to the Board, and if anybody applies for a licence, the Copyright Board can give that book to the person applying for licence for publication purposes, and then the Board has got to decide what percentage of the proceeds should be given as remuneration to the author. That thing is left entirely vague and is left at the mercy of the Board. The Board can fix any percentage as a share for the author. Naturally, the author is not permitted the republication of his book in order to earn a large amount

of money. And therefore if we keep it vague, the Copyright Board may give a higher percentage from the proceeds of the books as the share of the author. The whole object of my amendment is to keep down the prices of books, and naturally if you keep the share of the author at the maximum level of 10 per cent., the price of the book will be lower. So, I have suggested here that the maximum percentage which can be given to the author shall be 10 per cent, of the sale price of every copy that is sold. I gave you an example that in the Osmania University we used to publish translations of foreign books. Supposing the price of a book was Rs. 10. For every book that was sold the author got one rupee and every month the account was settled. So you will have to prescribe some such method. In every case this 10 per cent, of the sale price of the book should be the share of the author. That is my suggestion.

SHRI RAJENDRA PRATAP SINHA: Sir, I want to oppose the amendment moved by Dr. Shrimali.

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): May I submit, Sir, that before any hon. Member is called upon to oppose this amendment by Dr. Shrimali, will he be pleased to enlighten us as to what are the real implications of his amendment?

DR. K. L. SHRIMALI: Sir, the main purpose of this amendment is this. As it is, the clause is contrary to the provisions of the Berne Convention in so far as it relates to public performance. Now when we are making an order under clause 39, we shall have to exclude the operation of this clause in regard to foreign works because we are signatories to the Berne Convention. It would mean that this clause has to be given effect to only in respect of the Indian works, and it is much better to make this position clear here rather than making the modification under clause 39.

SHRI JASPAT ROY KAPOOR: Am I right, Sir, in presuming that we are dealing with clause 30 and the hon. Minister is referring to amendment No. 11?

DR. K. L. SHRIMALI: Yes, that is the position.

DR. K. L. SHRIMALI: Then, the proviso, as it is, will make the whole clause completely ineffective. The whole purpose of this clause is that the authors should not have the right to refuse to republish or allow the republication of the work. If we accept the proviso as it is, then there can be no question of compulsory licence. In order to remove these difficulties and to make the granting of compulsory licences, easy, these amendments have been made. The proviso will be substituted by the new explanation.

SHRI RAJENDRA PRATAP SINHA: As has been pointed out, this deals with the compulsory licensing of works. It has been very rightly pointed out by the hon. Minister that this would only deal with Indian works. So far as amendments (i) and (ii) are concerned, I am in perfect agreement with him. They are necessary, but I oppose the deletion of the proviso. „

DR. K. L. SHRIMALI: The proviso as it is?

SHRI RAJENDRA PRATAP SINHA: You can add the explanation, but I would like the retention of the proviso.

DR. K. L. SHRIMALI: Would not the proviso make the entire clause ineffective?

SHRI RAJENDRA PRATAP SINHA: I will explain my position. I would like hon. Members to appreciate that, when an application has been made to the Copyright Board, the Copyright Board has to examine the whole question, and there are certain limitations placed upon the Copyright Board in granting a compulsory licence. One of them is that the man who wants the

[Shri Rajendra Pratap Sinha.]
 licence must pay compensation to the author. Now, there is a further limitation on the grant of such licences and it is this: It is what is provided for in the proviso:

"Provided that no such licence shall be granted in respect of any work if the owner of the copyright in the work has withdrawn the work from further circulation."

I do not think that this proviso is against the Berne Convention. It is the moral right of an author to withdraw his work from circulation. He may have changed his ideas. There are several cases where authors have withdrawn their works from circulation and they are entitled to it. It is the moral right of the author to withdraw any of his works from circulation. What does this proviso say? It says that if a work has been withdrawn from circulation by the owner of the copyright, no compulsory licence shall be given. This clause merely deals with the production and the performance of a work which has been withheld from the public for one reason or the other. Now, the Copyright Board will have to examine whether it is meet and proper for such a licence to be given or not. These things are dealt with in the main body of the clause itself. It has been specifically provided here that in case a work has been withdrawn from circulation, the Copyright Board has no power to grant such a licence. It is the moral right of the author to withdraw any work from circulation, and we must respect that right. Nowhere in the Berne Convention or in the Universal Copyright Convention have I come across any provision by which this moral right of the author is defied. The Copyright Board has the right, after proper examination and scrutiny, to give a licence for its publication or performance, but in no case and under no circumstances should the Board be empowered to take away this moral right of the author. This will go against the Berne Convention and the Universal Copy-

right Convention. The position is contrary to what the hon. Minister has said. The Berne Convention and the Universal Copyright Convention do not contemplate the forcing of an author to allow his work to be published or performed if even for good reasons or bad reasons he has withdrawn the work from circulation. They recognise this right which we should also recognise. I do not object to the addition of this explanation. We may add this explanation but we should retain the proviso.

SHRI JASPAT ROY KAPOOR: Sir, the amendment suggested by the Hon. Minister splits itself into three parts. So far as part one is concerned, I have nothing to say. I am in agreement with it. So far as part two is concerned, I have something to submit and I hope that the hon. Minister, on reconsideration of the subject, will find that the original phraseology of this clause, particularly that part of the clause which he now seeks to amend by (ii) of his amendment, was a much better one. I will read only the operative portion of the clause.

"If at any time during the term of copyright in any work

'in any Indian work' as is now proposed to be amended by the hon. Minister—

"..... which has been published or performed in public, a complaint is made to the Copyright Board that the owner of the copyright in the work—

(a) has refused to republish or allow the republication of the work....." etc.

At the moment, we are concerned with only these words "has refused to republish or allow the republication of the work". Then, what happens?

".....the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied.....

The following are the words which are now sought to be amended.

"..... if it is satisfied that it is in the interests of the general public so to do....."

Now, these words are now sought to be substituted by the words "if it is satisfied that the grounds for such refusal are not reasonable". Originally it was in the positive form. Now it is in the negative form. Originally, what was intended was that, if the Board were satisfied that the granting of a licence was necessary in the interests of the general public, then a licence should be granted. That is the proper thing to do. The only criterion should be the interests of the general public. Now, for these words, it is proposed that these words should be substituted:

"the grounds for such refusal are not reasonable".

Now, Sir, a person may have refused to republish his work because of financial exigencies. Suppose an author or the copyright holder has not the necessary finances to republish his book, then such a ground for refusal to republish would be a reasonable one. No Board can hold that if a publisher or copyright holder does not have the necessary finance to republish his work, such a ground for refusal to republish it is unreasonable. It is perfectly reasonable. So, I submit that the original wording might be retained so that, if it is in the interests of the general public to republish a book, a licence to another person may be granted to publish it, even if the original copyright holder has not the necessary finance or wherewithal with him. So much for this, 4 PM. Sir, I hope the hon. Minister will reconsider his position in this respect.

Now, Sir, with regard to the third part, it would have been, of course, much better if it had been clearly told to us in advance that the proviso is sought to be deleted altogether and that a new explanation is sought to be added. That would have been a much

15 BSD.—4.

better and a fairer way of putting the amendment but then, as it is, I am almost entirely in agreement with the idea that the proviso as it stands should go; if it is to be retained, then, as suggested by my friend, Mr. Sinha, it must be certainly in an entirely different form. My hon. friend, Mr. Sinha, has argued a little too much on the basis of some morality or immorality involved in respect of this proviso. He says that it is the moral right of every author to withdraw any publication and further says that the grounds may be reasonable or unreasonable. Sir, I fail to understand as to how there can be any moral right vested in anybody to do anything on unreasonable grounds. The proviso is a much wider one than Mr. Sinha thinks it to be. He has all the time been saying that it is the moral right of the author but this proviso gives the right not only to the author but to the owner of the copyright fifty years after the death of the author so that this is not a limited proviso but one of a very wide implication. I, therefore, hope that the hon. Minister will not submit to the opposition of Mr. Sinha. I do not know how his mind is working but if feels anything like that, if his moral conscience has been roused by Mr. Sinha's appeal, I hope he will let me suggest something more. I hope he is not inclined to retain it.

DR. K. L. SHRIMALI: Sir, my moral conscience has not been roused.

MR. DEPUTY CHAIRMAN: Mr. Dinkar wants to say something.

PROF. R. D. SINHA DINKAR: I have a very small suggestion to make. It was after great consideration that we put in this proviso in the Joint Committee. There was some discussion about this question and instances were cited before the Committee that great authors have, from time to time, withdrawn their compositions. So I think this proviso should be left there. I do not disagree with any of the other amendments brought in by the hon. Minister; I only want that the proviso and the explanation should both be there.

DR. K. L. SHRIMALI: Sir, my conscience has not been awakened either by the entreaties of my hon. friend, Mr. Jaspat Roy Kapoor.....

SHRI JASPAT ROY KAPOOR: I never attempted that.

DR. K. L. SHRIMALI:or my friend, Mr. Sinha. The whole purpose of this clause is that we must make provision for not allowing any author to withhold any work of public importance from the public. If in the opinion of the Copyright Board a work is found to be of public importance, then the public should have a right of access to that work. Now, Sir, ordinarily such a thing may not happen. Ordinarily authors will be too glad to circulate the works but we may have a case where for certain reasons, selfish or otherwise, an author may like to withhold that work. If we keep the proviso as it is, it makes the whole clause ineffective and it will defeat the very purpose of the whole clause. Therefore, I would like to press the amendment which I have moved.

MR. DEPUTY CHAIRMAN: What about the other amendment?

DR. K. L. SHRIMALI: I am not accepting.

SHRI JASPAT ROY KAPOOR: What about part II of the amendment? The original wording was very much better. Things should be done in public interest irrespective of the fact whether the publisher was justified or not in refusing it. On personal grounds he may not be able to republish the book. Let it be published by the Board.

DR. K. L. SHRIMALI: In my opinion the phrase as amended is better than the previous wording.

SHRI JASPAT ROY KAPOOR: But the case that, I have cited.....

MR. DEPUTY CHAIRMAN: You cannot go on repeating your arguments. He is not accepting your suggestion. I am putting the amendment.

SHRI JASPAT ROY KAPOOR: Let it be split into three parts, Sir.

MR. DEPUTY CHAIRMAN: No.

The question is:

11. "That at page 15,—

(i) in line 1, for the words 'any work' the words 'any Indian work' be substituted:

(ii) in line 16, for the words 'it is in the interests of the general public so to do the words 'the grounds for such refusal are not reasonable' be substituted: and

(iii) for lines 25 to 27, the following be substituted; namely:—

"*Explanation.*—In this subsection, the expression 'Indian work' includes—

(i) an artistic work, the author of which is a citizen of India; and

(ii) a cinematograph film or a record made or manufactured in India".

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

38. "That at page 15, line 20, after the words 'such compensation' the words 'subject to a maximum of ten per cent, of the sale price' be inserted."

The motion was negatived.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 30, as amended, stand part of the Bill."

The motion was adopted.

Clause 30, as amended was added to the Bill.

Clause 31—Licences for public performance.

DR. K. L. SHRIMALI: Sir, clause 31, as it stands, is repugnant to the Berne Convention. I am, therefore, going to propose that the clause should be deleted.

SHRI RAJENDRA PRATAP SINHA: If the clause is to be deleted, I do not want to move my amendment number 13.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 31 stand part of the Bill."

The motion was negatived. *New clause 31A*

MR. DEPUTY CHAIRMAN: This has been accepted by Dr. Shrimali.

DR. K. L. SHRIMALI: I have some slight modifications, Sir.

SHRI RAJENDRA PRATAP SINHA: They have been incorporated.

SHRI JASPAT ROY KAPOOR: Is it not the same as we have got?

SHRI RAJENDRA PRATAP SINHA: There are some slight verbal changes. That is all.

MR. DEPUTY CHAIRMAN: I shall read it.

SHRI RAJENDRA PRATAP SINHA: Sir, I beg to move:

14. "That at age 16, after line 10, the following new clause 31A be inserted, namely:

'31 A. (1) Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

(3) Every applicant for a licence under this section shall,

along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

(4) Where an application is made to the Copyright Board under this section, it may, after holding such enquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the language mentioned in the application, on condition that the applicant shall pay to the owner of the copyright in the work royalties in respect of copies of the translation of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner:

Provided that no such licence shall be granted, unless—

- (a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work or any person authorised by him, within seven years of the first publication of the work, or if a translation has been so published, it has been out of print,
- (b) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copyright to produce or publish such translation, or that he was unable to find the owner of the copyright;
- (c) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation to the publisher whose name appears from the work, not less than two months before the application for the licence;

[Shri Rajendra Pratap Sinha.]

- (d) the Copyright Board is satisfied that the applicant is competent to produce and publish a correct translation of the work, and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;
- (e) the author has not withdrawn from circulation copies of the work, and
- (f) an opportunity of being heard is given, wherever practicable, to the owner of the copyright in the work'."

MR. DEPUTY CHAIRMAN: The amendment is before the House.

SHRI JASPAT ROY KAPOOR: Just a word at this stage, Sir, I have to draw the hon. Minister's attention to part (e) of this amendment, which runs counter to the principle enunciated and the decision already arrived at with respect to the proviso to clause 30. The principle enunciated by the hon. Minister with which I was in agreement was that even if the author has withdrawn anything from circulation, even then, it should be open to the Board to grant licence for its republication. Now this part (e) of the amendment runs counter to that and says: "Provided that no such licence shall be granted unless the author has not withdrawn from circulation copies of the work." It is rather an involved way of putting a thing, but the obvious implication or rather the involved implication of this part of the amendment is that it shall be open to the author to withdraw any publication from circulation, and in that case its translation shall not be permitted. I suggest that this part (e) should be deleted to bring it in consonance with the principle already accepted by the deletion of the proviso, and I have particularly in my mind some cases which I need not refer to. It is just because the very cases are in my mind I have been waiting to speak. Otherwise I would have kept mum over it. I have in my mind certain

cases—I would not mention those cases—where certain authors or copyright holders do not publish the book because of certain malicious reasons. I would not mention those instances for obvious reasons, but then there have been such cases; it is not a mere imaginary thing. But what I suggest is that it should be absolutely open to the Board to consider the advisability or otherwise of permitting a translation being published even if the author has withdrawn a particular thing from circulation for reasons which may appear to the Board to be unreasonable, malicious and against public interest. Anyway, Sir, I would only want that we should be consistent with regard to "this principle.

SHRI RAJENDRA PRATAP SINHA: I have not had any chance to speak. Sir.

MR. DEPUTY CHAIRMAN: Then let us sit beyond 5 o'clock, up to 6 o'clock even, and finish this Bill. You please be brief.

SHRI RAJENDRA PRATAP SINHA: I shall be very brief, Sir. Now, I have moved this amendment, Sir,

MR. DEPUTY CHAIRMAN: It is accepted by the hon. Minister.

SHRI RAJENDRA PRATAP SINHA: I have moved this amendment, Sir, to meet the various viewpoints expressed on allowing a translation and at the same time giving the authors the necessary compensation. I shall not dilate on this point. I shall only speak on the point raised by my hon. friend, Mr. Kapoor. Now, he has objected to sub-clause (e) of New Clause 31A.

MR. DEPUTY CHAIRMAN: 'Translation' does not come in the previous clause at all. It is only for republication, performance and radio-diffusion. Translation does not come under that clause at all.

SHRI JASPAT ROY KAPOOR: Translation does not come under the previous clause, but the principle is the same. The previous clause related to the publication of the book in original.

MR. DEPUTY CHAIRMAN: It is Republication, performance and radio-diffusion; translation is not covered by that clause. So the principle does not apply to this clause.

SHRI JASPAT ROY KAPOOR: I was not unmindful of this difference, Sir. Otherwise the whole proposed clause 31A would have been redundant. My point is this that so far as the principle is concerned, the withdrawal of any publication is immaterial, and that is the one principle that I am concerned with at the moment. Withdrawal of the publication was considered to be of no consequence, was absolutely immaterial so far as republication of the original book is concerned. Now I submit the same principle should apply with regard to translation also. There, although it is withdrawn, the withdrawal is of no consequence. So also the withdrawal of the original work should be of no consequence while considering the question of granting permission for the publication of the translation. You should only meet his point. I am not asking anything else.

MR. DEPUTY CHAIRMAN: That all right. Yes, Mr. Sinha. Please be brief. You need not dilate on this point.

SHRI RAJENDRA PRATAP SINHA: Well, Sir, as was very right-pointed out by you, the House is in a position to accept sub-clause (b) of the proposed New Clause 31A because this sub-clause is quite a different clause, different from the one in clause 30. The reason why we have proposed this New Clause V is this. We have got to always keep in view the Berne Convention and the Universal Copyright Convention which we are members of. We cannot go against them. It has probably escaped the attention of my hon. friend Mr. Kapoor, that we have amended clause 30 in order that the amendment may only affect the Indian originals. Now is it the view of my friend that we should be debarred from translating the works of foreign authors. No; I take it it is

not his view. Now the Universal Copyright Convention says that there should be national treatment of the works, that the same treatment should be meted out to foreign authors the treatment that we mete out to our own national authors. Now that is the essence of the Universal Copyright Convention. Now if we adopt this clause as it is, I maintain that we shall be in a position to translate even the works of foreign authors, which is more important than translating the works of the Indian authors. Now, if we accept the suggestion of Mr. Kapoor, then we shall have to bring another amendment different from the one before the House and because we are signatories to the Berne Convention and the Universal Copyright Convention we have got to be guided by them in respect of giving rights and of protecting the rights of the foreign authors in this land.

SHRI JASPAT ROY KAPOOR: I am afraid I have been misunderstood. My simple proposition is that even if a book has been withdrawn from circulation it should be of no consequence while considering the question of granting permission to its translation.

MR. DEPUTY CHAIRMAN: You have spoken, Mr. Kapoor; you cannot speak again.

SHRI JASPAT ROY KAPOOR: What I am saying is that I do not want to be misquoted.

SHRI RAJENDRA PRATAP SINHA: I do not want to quote him, Sir, but the whole purpose of having this clause is to enable us to translate even the works of the foreign authors without in any way infringing the provisions of the Berne Convention or the Universal Copyright Convention.

DR. P. V. KANE: It is only "Indian work"; I do not see any "foreign-work"

SHRI RAJENDRA PRATAP SINHA: How does the work of foreign authors

DR. P. V. KANE: It is here "a translation of a literary or dramatic work in India in any of the languages specified in the Eighth Schedule to the Constitution."

SHRI RAJENDRA PRATAP SINHA: Where are the words "in India" in the proposed clause 31A?

DR. P. V. KANE: Where is the word 'foreign' there?

SHRI RAJENDRA PRATAP SINHA: Sub-clause (1) of my amendment, that is of New Clause 31A says: "Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language."

DR. P. V. KANE: Where are the words "in India" gone? Where is the "Indian Work"?

SHRI JASPAT ROY KAPOOR: In our copy of the amendment the words "in India" are there.

SHRI RAJENDRA PRATAP SINHA: I am very sorry. I have since changed the wording. It is in the form in which I read out just now. So if we retain this clause then we have the very great benefit of translating the work of the foreign authors as well, and if we delete the clause as suggested by him, then we lose that right, because under those Conventions which I have referred to, if a work is withdrawn from circulation—it is the moral right of the authors to withdraw their works—then you cannot translate it. Now it is more important that we should be in a position to translate the books of the foreign authors than those of our own authors and therefore we should retain this clause so that we are in a position to translate their work as well.

DR. P. V. KANE: Are you omitting the words 'in India' and so on here?

SHRI RAJENDRA PRATAP SINHA: Yes.

DR. K. L. SHRIMALI: Sir, I think I have already drawn the attention of the House to the fact that this clause is in accordance with the Universal Copyright Convention to which India is already a signatory and we cannot go contrary to that. I think my friend Mr. Kapoor is mixing up this clause with the previous clause which we have already passed. The previous clause refers to refuse republication of any work. Here it is only a question of withdrawing from circulation copies of the work and there is no reference to republishing in this case. So I do not think this clause is contrary to what we have already passed.

SHRI JASPAT ROY KAPOOR: It is a question of granting licence for publishing the translating and not

MR. DEPUTY CHAIRMAN: Mr. Kapoor, I am putting the amendment to the House.

SHRI JASPAT ROY KAPOOR: If I will permit, I would only like to point out to the hon. Minister that we have not been properly understood. My simple question to which I would like to have a simple answer whether a book which has been withdrawn by the author should be permitted to be translated and the translation thereof published or not. You say that if it is withdrawn translation should be permitted then it is all right and it can remain as it is. But if you think that if the book is withdrawn its translation may be permitted to be published, then part (e) should go. If the simple proposition, and the Minister has to make up his mind.

SHRI KISHEN CHAND: May I ask one question? According to section 30 you permit even a book which has been withdrawn by the author to be published. You say that a licence can be granted to publish that. So you permit the publication.

book even though it is withdrawn but you will not permit the translation of a book which has been withdrawn. According to clause 30 the Copyright Board can give permission to print such a book but according to clause 31A the Copyright Board cannot give permission to translate that book. That means you can publish the original book but not translate it.

SHRI RAJENDRA PRATAP SINHA: The point on which we should make up our mind is whether we want the translation of the foreign works or not and

MR. DEPUTY CHAIRMAN: Order, order. Mr. Sinha, you are harping on one point and their point is entirely different. Dr. Shrimali will reply.

DR. K. L. SHRIMALI: Sir, I cannot accept the suggestion made by Mr. Kapoor. Here the author has not withdrawn from circulation copies of his work.

SHRI JASPAT ROY KAPOOR: That is so. Part (e) says: 'the author has not withdrawn circulation of copies of the work'. The words 'unless' and 'not' cancel each other which means that if a book has been withdrawn from circulation, then its translation shall not be permitted. So the position will be this. The original book though withdrawn will be permitted to be published under clause 30 but under this clause as proposed its translation will not be permitted. The original will be in circulation but its translation will be refused. Obviously it is a very anomalous position. If necessary, this may be held over for some time so that it can be examined.

MR. DEPUTY CHAIRMAN: He has perfectly understood you, Mr. Kapoor. Please hear his reply now.

-DR. K. L. SHRIMALI: I only wanted to tell my friend Mr. Kapoor that there is a difference between the pro-

vision that has been made in this clause the provision that we have made in the previous clause that has been passed. The previous clause refers to cases where republication is involved. Here it is only a case of withdrawing from circulation copies of the work. My only submission is that there is no contradiction between the two as has been suggested by my friend Mr. Kapoor, and no difficulties would arise in the application of this clause.

This is a provision which is also made in the Universal Copyright Convention to which we have already agreed.

MR. DEPUTY CHAIRMAN I think their doubt is this. If any person makes an application to the Copyright Board, in spite of the fact that the author has withdrawn his work, if it is in public interest the Copyright Board can give permission to republish, enact or televise. That is, under clause 30 you allow republication but under clause 31, if the author has withdrawn from circulation a particular work, then nobody can be allowed to translate it. One is contradicting the other. That is their doubt.

DR. K. L. SHRIMALI: Sir, I do not want to press this. I am quite prepared for the deletion of this. My reason why I wanted it to be retained was that this is in accordance with the Universal Copyright Convention.

SHRI JASPAT ROY KAPOOR: We want not the deletion of the whole clause but only Part (e) thereof.

MR. DEPUTY CHAIRMAN: So I will put this

SHRI JASPAT ROY KAPOOR: Sir, may I request you to put part (e) of the proviso separately because I would

[Shri Jaspal Roy Kapoor.] like that to be deleted and I think the hon. Minister agrees to the deletion of Part (e).

MR. DEPUTY CHAIRMAN: No, no. He is not willing.

SHRI JASPAT ROY KAPOOR: If he is not willing, then I would submit.....

MR. DEPUTY CHAIRMAN: You may vote against the clause.

The question is:

14 "That at page 16, after line 10, the following new clause 31A be inserted, namely: —

'31 A. (1) Any person may apply to the Copyright Board for a licence to produce and publish a translation of a literary or dramatic work in any language.

(2) Every such application shall be made in such form as may be prescribed and shall state the proposed retail price of a copy of the translation of the work.

13) Every applicant for a licence under this section shall, along with his application, deposit with the Registrar of Copyrights such fee as may be prescribed.

<4) Where an application is made to the Copyright Board under this section, it may, after holding such inquiry as may be prescribed, grant to the applicant a licence, not being an exclusive licence, to produce and publish a translation of the work in the 'anguage mentioned in the application, on condition that the applicant shall pay to 'he owner of the copyright in the work royalties in respect of copies of the transla-

tion of the work sold to the public, calculated at such rate as the Copyright Board may, in the circumstances of each case, determine in the prescribed manner:

Provided that no such licence shall be granted, unless—

- (a) a translation of the work in the language mentioned in the application has not been published by the owner of the copyright in the work of any person authorised by him, within seven years of the first publication of the work, or if a translation has been so published, it has been out of print;
- (b) the applicant has proved to the satisfaction of the Copyright Board that he had requested and had been denied authorisation by the owner of the copy right to produce and publish such translation or that he was unable to find the owner of the copyright;
- (c) where the applicant was unable to find the owner of the copyright, he had sent a copy of his request for such authorisation to the publisher whose name appears from the work, not less than two months before the application for the licence;
- (d) the Copyright Board is satisfied that the applicant is competent to produce and publish a correct translation of the work and possesses the means to pay to the owner of the copyright the royalties payable to him under this section;
- (e) the author has not withdrawn from circulation copies of the work: and

(/) an opportunity of being heard
is given, wherever
practicable, to the owner of
the copyright in the work"

The motion was adopted.

New Clause 31A was added to the Bill.

DR. R. B. GOUR (Andhra Pradesh):
I am sorry to have to interfere. The
point is, there is no water here in the
House. When Members want to go
and take water

MR. DEPUTY CHAIRMAN: You will
have it. The water supply in the whole
building has failed.

We will now take up clause 32.

Clauses 32 to 36 were added to the Bill.

*Clause 37—Other provisions of this Act
to apply to broadcast reproduction rights*

DR. K. L. SHRIMALI: Sir, I move:

17. "That at page 18, lines 26-27, for
the words 'Section 18, section 29 and
section 54 (which relate to assignments
and licences and civil remedies for
infringement) shall' the words 'Sections
18, 19, 29, 52, 54, 57, 63, 64 and 65
shall' be substituted."

MR. DEPUTY CHAIRMAN: The clause
and the amendment are before the House.

DR. K. L. SHRIMALI: Sir, there is
nothing special here. Some more sections
have also to be applied and they are 19, 52,
57, 63, 64 and 65. That is all.

MR. DEPUTY CHAIRMAN: The
question is:

17. "That at page 18, lines 26-27, for
the words 'Section 18, section 29 and
section 54 (which relate to assignments
and licences and civil remedies for
infringement) shall' the words 'Sections
18, 19, 29, 52, 54, 57, 63, 64 and 65
shall' be substituted.

The motion was adopted.

MR. DEPUTY CHAIRMAN: The
question is:

"That clause 37, as amended,
stand part of the Bill."

The motion was adopted.

Clause 37, as amended, was added to the
Bill.

Clause 38—*other rights not affected*

SHRI RAJENDRA PRATAP SINHA: Sir,
I move:

18. "That at page 19, line 4, after the
word 'dramatic' the word 'artistic' be
inserted."

MR. DEPUTY CHAIRMAN: The clause
and the amendment are before the House.

SHRI RAJENDRA PRATAP SINHA: This
relates to rights of broadcasting authorities
and clause 38 on page 19 says that the other
rights will not be affected.

[THE VICE-CHAIRMAN (SHRIMATI
SHARDA BHARGAVA) in the Chair.]

That clause says: "For the removal of
doubts, it is hereby declared that the
broadcast reproduction right conferred
upon a broadcasting authority under
this Chapter shall not affect the copy
right (a) in any literary dramatic or
musical work which is broadcast by
that authority....."

I would merely say that we can add here
also the 'artistic' work, because we have
provided for dramatic and musical work. Even
artistic work should be protected, because we
should not forget that there will be greater and
greater use of television in which case the
word 'artistic' will have a particular
significance and importance and we should
not deprive the artistes of the just and right
compensation which they could get from the
broadcasting authorities. Of course, so far as
the radio is concerned, the word has

[Shri Jaspat Koy Kapoor.] no significance. But I am sure that we are not legislating for one or two years but for a number of years to come. It is only once in half a century that the Copyright Bill is amended and by that time television, I am sure, will have developed in this country, when this word 'artistic' will have a great value.

DR. K. L. SHRIMALI: At present there is no television in India and I do not think it is necessary to make this provision. The Bill will be suitably amended when we have television.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): Do you want to press your amendment No. 18?

SHRI RAJENDRA PRATAP SINHA: I do not want to press it, if the hon. Minister does not accept it.

♦Amendment No. 18 was, by leave, withdrawn.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The Question is:

"That clause 38 stand part of the Bill."

The motion was adopted.

Clause 38 was added to the Bill.

Clauses 39 to 48 were added to the Bill.

Clause 49—Rectification of register by courts

DR. K. L. SHRIMALI: I am not moving amendment No. 19.

"Madam, I move: 47.

"That—

(i) at page 22, lone 27, for the word '(1) The High Court' the words 'The Copyright Board' be substituted; and

•For text of amendment *vide* coL 278 *supra*..

(ii) at pages 22 and 23, lines 35—36 and 1—2, respectively, be deleted."

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The clause and the amendment are before the House.

DR. K. L. SHRIMALI: The purport of this amendment is to substitute the words "Copyright Board" for the words "High Court" in clause 49 (1). The intention of this clause is that the party should not be required to go to the High Court to obtain rectification of the Register of Copyrights, but may approach the Copyright Board. Of course, an appeal will lie to the High Court against the Board under clause 71(2). In view of the amendment to clause 49(1) and 49(2) amendment No. 19 would be unnecessary and would have to be omitted.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The question is:

47."That—

(i) at page 22, line 27, for the words '(1) The High Court' the words "The Copyright Board' be substituted; and

(ii) at pages 22 and 23, lines 35—36 and 1—2, respectively, be deleted."

The motion was adopted.

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA): The Question is:

"That clause 49, as amended, stand part of the Bill."

The motion was adopted.

Clause 49, as amended, was added to the Bill.

Clause 50—When copyright infringed

DR. K. L. SHRIMALI: Sir, I move:

20. "That at page 23, line 15, after the words 'copyright in the work' the words 'unless he was not aware and had no reasonable ground *Jar* believing that such performance would be an infringement of copyright' be inserted.**

21. "That at page 23, line 24, for the words 'private or domestic' the words 'private and domestic' be substituted."

SHRI JASPAT ROY KAPOOR: Sir, I move:

41. "That at page 23, line 29, after the word 'film' the words 'or the production, without the permission of such authority as may be prescribed, of "Key", "Guide" or "Notes" on works approved for any examination recognised by a State Government, the Central Government or any university" be inserted."

THE VICE-CHAIRMAN (SHRIMATI SHARDA BHARGAVA) : The clause and the amendments are before the House.

DR. K. L. SHRIMALI: The clause as originally drafted provided that the person permitting for profit any place to be used for the performance of the work in public would not be infringing copyright if he had no reason to believe or he had no knowledge that such party had infringed the copyright. Through an oversight this mistake was made therefore this correction has to be made. This amendment seeks to rectify that mistake.

SHRI JASPAT ROY KAPOOR: Madam, the amendment that stands in my name is No. 41, given on page 3, of List No. 2. Now, this amendment relates to the 'Explanation' of clause 50.

[MR. DEPUTY CHAIRMAN in the Chair.]

Clause 50 runs thus: —

"Copyright in a work shall be deemed to be infringed.....".

I leave the other portions of it and come straight to "Explanation". It says: —

"For the purposes of this section, the reproduction of a literary, dramatic, musical or artistic work in the form of a cinematograph film.....",

—and then I propose to add these words: —

"or the production, without the permission of such authority as may be prescribed, of 'Key', 'Guide' or 'Notes' on works approved for any examination recognised by a State Government, the Central Government or any university".

—"shall be deemed to be an 'infringing copy'."

At the outset, I might submit Madam Chairman that my amendment has certain limitations and the limitation is that it relates only to textbooks—and only to keys, guides or notes of textbooks which have been prescribed for any recognised examination either by the State Government or the Central Government or any university. The object, Madam, is two-fold.

HON. MEMBERS: There is no 'Madam'. Mr. Deputy Chairman is in the Chair.

SHRI JASPAT ROY KAPOOR: I am sorry, Sir. But then 'he' includes 'she'. Reciprocally 'she' might as well include 'he', and probably more appropriately. Sir, the object is two-fold. Firstly, it is to protect the right of the textbook writers; and, secondly, it is to do away with the evil which is becoming more prevalent, that is, students rather than purchasing and reading the original textbooks study the keys, guides or notes, ignoring the original textbooks altogether. So, if keys, guides or notes are to be published at all, they should be published with the previous authority, not of the authors themselves, but of some authority prescribed by rules in this behalf by the Government itself. So, there will be no question of the authors taking undue advantage of this provision. The Registrar of the University or the Secretary of the Intermediate Board or some such authority could be prescribed whose permission should be obtained before any key, guide or notes could be published. This authority will of course look into the proposed key.

[Shri Jaspat Roy Kapoor.] guide or notes and see whether they are of use to the students. Only a few notes here and there are added, and it is given the designation of key, and the right is thus infringed.

In this connection I would draw your attention to the memorandum which was submitted to the Joint Select Committee by the All-India Publishers Association, Allahabad— pages 22 to 25. I would only read a few lines. This is what they have suggested:

"Clauses of Chapter XI relating to the infringement of copyright should include a provision under which permission of the holder of copyright may be required when "keys", "notes" or "guides" may be sought to be published of a particular work. Such a provision while safeguarding the interests of the copyright-holders will discourage the publication of cheap help books which are vitiating the present-day school and college education in our country." They "have suggested that permission should be obtained from the author or the publisher. I would rather suggest that permission should be sought not from the author or the publisher but from the prescribed authority. In this connection the representatives of the authors of this memorandum were examined at certain length in the Select Committee, and their evidence is at page 55 of the copy which has been given to us. For want of time I do not propose to go through the whole of it, but they were very emphatic, and that for very weighty reasons, that some such provision must be embodied in order to safeguard the interests of the copyright-holders and also to protect the interests of the students themselves. This widely prevalent abuse must be put a stop to, and I hope that the great educationist, Dr. Shrimali, will seriously consider this question.

SHRI RAJENDRA PRATAP SINHA:
"Sir

MR. DEPUTY CHAIRMAN: We have to finish this Bill.

SHRI RAJENDRA PRATAP SINHA: We are sitting till 6 o'clock. I would like to say a few words.

MR. DEPUTY CHAIRMAN: All right. One or two sentences.

SHRI RAJENDRA PRATAP SINHA: I am rather surprised, Sir, that such an amendment has come from such an eminent lawyer as Mr. Kapoor.

MR. DEPUTY CHAIRMAN: Probably some of the publishers must be his clients.

SHRI RAJENDRA PRATAP SINHA: I do not know that, Sir. But he is always very technical and correct and he knows the procedure.

SHRI JASPAT ROY KAPOOR: Not only the publishers came, but the interests of the students also haunt me.

SHRI RAJENDRA PRATAP SINHA: Firstly, we do not know what these words signify—"key", "guide" and "notes". We cannot just import.....

MR. DEPUTY CHAIRMAN: When you were a student, probably you had no "key".

SHRI RAJENDRA PRATAP SINHA: I would like to say that these words must be defined before they can be imported into this important legislation. This is my first objection.

My second objection is that this is not the appropriate place where such a restriction could be placed. This is a copyright legislation dealing with the rights of authors, publishers and others. I am possibly in agreement, in sympathy with what he says. My whole difficulty is this that this is not the right place to bring these things. The best thing for him is to go and move the Registrars in Universities or authorities whoever they may be. This is not the right place. In spite of all my sympathies for him I cannot be a party to allow this amendment to creep into this copyright law.

DR. P. V. KANE: Sir, the original author is nowhere in the picture. Some third authority is brought in. This is one thing. The original author himself may not like these keys and other things. He is not to be consulted in this connection but some authority appointed by the Government. That, I suppose, is an infringement not of the copyright but the author's position as an author.

SHRI J ASP AT ROY KAPOOR: Have the author then. I do not mind.

DR. P. V. KANE: Does it apply to keys that have been published? This applies to the future. Every law applies to the future. It is not retrospective. Suppose there is a book like Kenilworth. Already a key exists. It was printed fifty years back. Whether this law applies to such a key or not is not clear.

DR. K. L. SHRIMALI: Sir^ however sympathetic I may be with the sentiments expressed by my friend Mr. Kapoor, I do not think we can make any provision in this Bill. If these keys and guides reproduce substantially the parts of the original work, naturally there will be an infringement. If they do not do that, then I do not think we can call it an infringement. Some people had made representations to the Joint Select Committee, they were fully considered, and it was not possible to make any~provi-sion in this Bill. I am afraid I cannot accept that amendment.

MR. DEPUTY CHAIRMAN: The question is: *m*

20. "That at page 23, line 15, after the words 'copyright in the work' the words 'unless he was not aware and had no reasonable ground for believing that such performance would be an infringement of copyright' be inserted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

21. "That at page 23, line 24, for the words 'private or domestic' the words 'private and domestic' be substituted."

The motion was adopted.

SHRI JASPAT ROY KAPOOR: Sir, I would prefer to content myself with the sympathy expressed and I would not press my amendment. I beg leave to withdraw my amendment.

'Amendment No. 41 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 50, as amended, stand pan of the Bill."

The motion was adopted.

Clause 50, as amended, was added to the Bill.

Clause 51—*Certain acts not to be infringement of copyright.*

DR. K. L. SHRIMALI: Sir, I move:

22. "That at page 24, line 1, for the words 'or musical work' the words 'musical or artistic work' be substituted."

23. "That at page 25, after line 24, the following be inserted, namely: —

'(jj) the causing of a recording embodied in a record to be heard in public by utilising the record,—

(i) at any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or

(ii) as part of the activities of a club, society or other organisation which is not established or conducted for profit;."

*For text of amendment *vide* cols. 281-282 *supra*.

[Dr. K. L. Shrimali.]

24. "That at page 25, lines 25-26, for the words 'a literary, dramatic or musical work' the words 'an Indian work' be substituted."

SHRI RAJENDRA PRATAP SINHA: Sir, I move:

25. "That at page 25, line 28, the words 'or charitable' be deleted.

26. "That at page 26, lines 13 to 29 be deleted."

DR. K. L. SHRIMALI: Sir, I move;

27. "That at page 26, lines 22 to 25, the words 'means a literary, dramatic or musical work published in India, and includes a work published outside India if the author of the work is a citizen of India or is domiciled in India, but' be deleted."

28. "That at page 27, for lines 27 to 29, the following be substituted, namely: —

'(i) any artistic work permanently situate in a public place or any premises to which the public has access; or'."

29. "That at page 28, line 12, after the words 'and clauses' the brackets and letter '(d)' be inserted."

SHRIMATI SHARDA BHARGAVA: Sir, I move:

44. "That at page 26, after line 29, the following be inserted, namely: —

'(pp) the production, reproduction, performance or publication of an artistic work, where it constitutes a part of an Indian work, in connection with a translation of such Indian work into any Indian language;

Explanation.—In this clause, the expression 'Indian work' shall have the same meaning as in clause (p)."

£>R. P. V. KANE: Sir, I move:

46. "That at page 26, line 15, for the words 'ten years' the words 'fifty years' be substituted."

SHRI JASPAT ROY KAPOOR: Sir, I move:

48. "That at page 26, line 18, the word 'reproduced' be deleted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are before the House.

SHRI RAJENDRA PRATAP SINHA: Sir, I have moved my amendment No. 25 in respect of clause 51 (k) on page 25. You will find that we have given certain exemptions with regard to the performance of literary, dramatic and musical work without in any way infringing the copyright. In this is included "if the performance is given to a non-paying audience." Then it will not be an infringement of the copyright. It is quite right and should be given. Or if the performance is given for the benefit of a religious institution, this is also quite right and this should be provided in the law. It also says that, if the performance is given for a charitable institution, then also it should not infringe the copyright law. Here is my objection. I would like to drop these words "or charitable" because I have found that there are several instances and cases and there have been various copyright cases on this issue, on this word 'charitable' which was in existence in the copyright laws of other countries. Now, what happens is that anybody can have a club or institution and he may perform any music or drama; collect money not by the sale of tickets for admission to such drama or music performance, but by other ways, by charging as a restaurant, that is, making money by the sale of food. They will give a portion of their total profits in charity and thus escape the provisions of the Copyright law and they may be paying fancy, handsome and exorbitant salaries to their staff or their manager or director. This is how they compensate the dividends that they expect from running such institutions. Such cases are to be found and therefore, if we drop the words "or charitable", nothing will be lost; we will, at the same time, be curbing

the abusive use of this provision.

MR. DEPUTY CHAIRMAN (*To Dr. K. L. Shrimali*): Have you got to say anything about your amendment?

DR. K. L. SHRIMALI: Sir, I would not like to press amendment No. 27.

SHRI RAJENDRA PRATAP SINHA: Does he not want to press it?

PROF. R. D. SINHA DINKAR: What about amendment No. 26 of Mr. Sinha?'

SHRI RAJENDRA PRATAP SINHA: I am very grateful to Prof. Dinkar. I have already moved this. This is very important in view of the fact that we have accepted the important amendment (New Clause 31A) which deals with translation rights. Now, as a matter of fact, automatically the hon. Minister should accept it; otherwise these two provisions are contradictory to each other.

DR. K. L. SHRIMALI: Sir, I am accepting amendments Nos. 25 and 26.

SHRI RAJENDRA PRATAP SINHA: Then it is all right.

MR. DEPUTY CHAIRMAN: You are accepting? Then it is all right.

SHRIMATI SHARD A BHARGAVA: Sir, my amendment reads:

"That at page 26, after line 29, the the following be inserted, namely—

(pp) the production, reproduction, performance or publication of an artistic work, where it constitutes a part of an Indian work, in connection with a translation of such Indian work into any Indian language;

Explanation.— In this clause, the expression 'Indian work' shall have the same meaning as in clause (p)'"

पेज २६ पर धार ५१ की उपधारा (पी) में लिखा हुआ है कि :

"(p) the production, reproduction, performance or publication of a translation in any Indian language of an Indian work after the expiry of a period of ten years from the date of the first publication of the work:"

इंडियन वर्क की परिभाषा इस प्रकार दी हुई है :

"the expression 'Indian work' means a literary, dramatic or musical work published in India...."

MR. DEPUTY CHAIRMAN: He is accepting deletion of this.

SHRIMATI SHARD A BHARGAVA: I am adding something.

यहां पर, जो परिभाषा दी हुई है उससे कोई भी कृति पूरी नहीं होती अर्थात् कोई भी पुस्तक पूरी नहीं होती। हर एक अच्छी पुस्तक में किसी न किसी तरह का आर्टिस्टिक वर्क जरूर होता है। बच्चों की पुस्तकों में डाइग्रामस, चार्ट्स और मैप्स जरूर होते हैं और इनको हमने "आर्टिस्टिक वर्क" में रखा है। अब हम एक तरफ ट्रांसलेशन का राइट १० वर्ष के बाद हर एक को दे देते हैं दूसरी तरफ आर्टिस्टिक वर्क का भी (copyright) रख देते हैं। इसके माने यह हैं कि कोई भी किताब का जिसमें आर्टिस्टिक वर्क भी सम्मिलित है ट्रांसलेशन नहीं हो सकेगा और ट्रांसलेशन होगा तो लिटिंगेशन होगा और मुझे मालूम है कुछ जगह लिटिंगेशन हो रहे हैं। यदि चार्ट्स और डाइग्राम को ट्रांसलेशन के वक्त (reproduce) किया जाता था तो यह प्रश्न आता है कि जो मैटर है उसमें लिटरेचर और ड्रामा का ट्रांसलेशन तो कर सकते थे लेकिन चार्ट जो लिटरेचर में नहीं है और आर्टिस्टिक वर्क में आते हैं उन पर कापीराइट है अतः वह ट्रांसलेशन के समय (reproduce) नहीं किया जा सकते हैं। पर यदि वही चार्ट्स आदि ट्रांस-

[Shrimati Sharda Bhargava.]

लेशन के समय बदल दिये जाते हैं तो वह सही ट्रांसलेशन नहीं माना जाता अर्थात् दूसरे चार्ट रख देने से कहते हैं कि इसका मतलब खराब हो गया। लेकिन मैंने जो संशोधन दिया है वह सिर्फ इस तरह के इंडियन वर्क में "आर्टिस्टिक वर्क" एड करने के लिये दिया है। मेरा एमंडमेंट स्वीकार कर लेने से मेरा खयाल यह है कि ट्रांसलेशन के समय बीच में जो बाधा आती है वे दूर हो जायेंगी और इससे हम लोगों को ट्रांसलेशन का पूरा फायदा मिल सकेगा और बच्चों की किताबों में ट्रांसलेशन में डाइग्राम के साथ, चार्ट के (reproduce) करने में आसानी होगी। यह बड़ा इन्फोसेंट एमंडमेंट है और आशा है मंत्री महोदय इसको स्वीकार कर लेंगे और लिटिगेशन द्वारा नेशनल बेंच को दूर करेंगे। एक सीधा सा क्लेरिफिकेशन हो जायगा और धारा बिलकुल साफ हो जायगी। इसलिये मैं प्रार्थना करूंगी कि यह जो छोटा सा एमंडमेंट है और बहुत जरूरी है इसको मंत्री महोदय स्वीकार करें।

DR. K. L. SHRIMALI: Does it survive after amendment No. 14 is accepted and sub-clause (p) of clause 51 omitted in consequence?

SHRIMATI SHARDA BHARGAVA: Yes, that does, because the definition of an Indian work given in another chapter remains the same. So only when you add 'artistic' to the 'Indian work', it would be clear.

SHRI JASPAT ROY KAPOOR: Sir, finding the hon. Minister to be in an accepting mood this time, I venture

DR. K. L. SHRIMALI: I am not in an accepting mood.

SHRI JASPAT ROY KAPOOR: I thought you have already accepted amendments Nos. 25 and 26.

DR. K. L. SHRIMALI: That is true; i have accepted amendments Nos. 25 and 26. About No. 44, I am not sure that this amendment will survive after amendment No. 14 is accepted.

MR. DEPUTY CHAIRMAN: Let them all finish their speeches; you can reply afterwards collectively.

SHRI J ASP AT ROY KAPOOR: I only wanted that the hon. Minister might proceed on the same good lines by accepting my amendment. What I am suggesting is that at page 26, line 18, the word 'reproduced' be deleted and the proviso should run thus:

"Provided that no translation of such work in that language has been produced " the word 'reproduced' now being deleted" performed or published....."

and so on. Not only is this word 'reproduced' here redundant, but is likely to lead to considerable mischief. What does the retention of this word 'reproduced' here lead to? It will mean that even though a translation has been published by the author or the copyright-holder, if it has not been, in addition to being produced, reproduced during the ten years, then anybody else can publish another translation thereof.

DR. K. L. SHRIMALI: Which is that amendment, Sir?

SHRI JASPAT ROY KAPOOR: My amendment is No. 48. It is only to set things right; otherwise, it gives us an entirely different meaning than what is previously intended. It will give a new right altogether to a person to publish a translation even though the original translation may have been published by the author or the copy right-holder, but if it has not been reproduced

MR. DEPUTY CHAIRMAN: Mr. Kapoor, the line to which you are moving an amendment is going to be deleted. The hon. Minister is accept-

ing amendment No. 26. So, all these lines will be deleted. You need not labour. Your amendment is to line 18 on page 26. Is it not?

SHRI J. ASPAT ROY KAPOOR: Sir, he is accepting something more than what I wanted. So, everything goes off. Splendid, Sir.

DR. P. V. KANE: Sir, I do not press my amendment because he has accepted amendment No. 26.

MR. DEPUTY CHAIRMAN: You do not press the amendment?

DR. P. V. KANE: No, Sir, I do not.

DR. K. L. SHRIMALI: I am accepting amendments Nos. 25 and 26. I am not pressing amendments Nos. 24 and 27.

SHRIMATI SHARDA BHARGAVA: Sir, he has not replied to my amendment No. 44.

MR. DEPUTY CHAIRMAN: What about No. 22? Only No. 24 you are not pressing.

DR. K. L. SHRIMALI: I am not pressing Nos. 24 and 27. I am accepting Nos. 25 and 26.

5 P.M.

आनरेबल मेम्बर ने जो मेरे पीछे बैठी हुई हैं—मिसेज शारदा भार्गव—तर्जुमा करते समय कला या चित्र के कापीराइट का प्रश्न उठाया है। मेरा सिर्फ निवेदन यह है कि जब तर्जुमे का अधिकार किसी को मिलता है तो उसके साथ उन चित्रों का भी अधिकार होता है। जहां तक मुझे मालूम है, इस तरह का केस कोई हुआ नहीं। आप कहती हैं, हुआ है लेकिन मुझे मालूम नहीं है। मेरा खयाल है कि जो तर्जुमे का हक किसी लेखक को मिलता है वह पूरी पुस्तक के लिये मिलता है, किसी चित्र या नक्शे के लिये अलग नहीं मिलता है। मैं यही निवेदन करना चाहता हूं। इसलिये उनका एमेंडमेंट मुझे स्वीकार नहीं है।

15 RSD.—5

SHRIMATI SHARDA BHARGAVA: But, Sir, I may inform the hon. Minister that there is one case in which

MR. DEPUTY CHAIRMAN: Their* cannot be arguments and counter arguments now.

SHRIMATI SHARDA BHARGAVA: Sir, he says that there is no case like that. But I am saying that there is one such case where the Sessions Court has given the decision that only the matter can be translated and not this artistic work. The translating party has appealed to the High Court and this is a fact. So, there is such a case there.

DR. K. L. SHRIMALI: Sir, before I accept the amendment, I must have the decision of the High Court. In the absence of any decision I am afraid I cannot accept this amendment.

SHRI M. SATYANARAYANA: On a point of information, Sir. The hon. Minister seems to have accepted the amendment moved by my friend that the word 'charitable' be deleted, and he has given certain reasons. I know that the charitable institutions are governed under the Charitable Institutions Act. But the same arguments will be applicable to the word 'religious' also. Therefore, will it not be better that we should remove both the words 'religious' as well as 'charitable'?

DR. K. L. SHRIMALI: There is no amendment.

MR. DEPUTY CHAIRMAN: So, you are agreeable to delete the word 'charitable'?

DR. K. L. SHRIMALI: Yes, Sir.

SHRIMATI SHARDA BHARGAVA: Only one sentence. If the hon. Minister is so confident about the decision of the High Court, I would request him to give me an assurance that he will amend the law with retrospective effect, and then I shall withdraw my amendment.

MR. DEPUTY CHAIRMAN: How can he give that assurance? It is a hypothetical question. Let the High Court decision come first. He will certainly examine it.

SHRIMATI SHARDA BHARGAVA: Sir, only one sentence.

MR. DEPUTY CHAIRMAN: Order, order. I am putting the amendments to the House now.

The question is:

22. "That at page 24, line 1, for the words 'or musical work' the words 'musical or artistic work' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

23. "That at page 25, after line 24, the following be inserted, namely: —

"(jj) the causing of a recording embodied in a record to be heard in public by utilising the record,—

(i) at any premises where persons reside, as part of the amenities provided exclusively or mainly for residents therein, or

(ii) as part of the activities of a club, society or other organisation which is not established or conducted for profit;."

" The motion was adopted.

DR. K. L. SHRIMALI: Sir, I beg leave to withdraw my amendment.

"Amendment No. 24 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

25. "That at page 25 line 28. the words 'or charitable' be deleted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"For text of amendments *vide* cols. 287-288 *supra*.

No. 26. "That at page 26, lines 18? to 29 be deleted."

The motion was adopted'.

DR. K. L. SHRIMALI; Sir, I beg leave to withdraw my amendment.

"Amendment No. 27 was, by leave, withdrawn.

MR. DEPUTY CHAIRMAN: The question is:

28. "That at page 27, for lines 27 to 29, the following be substituted, namely:

'(i) any artistic work permanently situate in a public place or any premises to which the public has access: or'"

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

29. "That at page 28, line 12; after the words 'and clauses' the brackets and letter '(d)' be inserted."

The motion was adopted.

DR. P. V. KANE: Sir. I beg leave to withdraw my amendment.

"Amendment No. 46 was, by leave, withdrawn.

SHRIMATI SHARDA BHARGAVA: Sir, I hope that the Minister will take some steps after the decision of the High Court. Therefore I beg leave to withdraw my amendment.

"Amendment No. 44 was, by leave,, withdrawn.

MR. DEPUTY CHAIRMAN: Mr. Kapoor, your "amendment No. 48 falls through.

The question is:

"That clause 51, as amended stand part of the Bill."

The motion was adopted.

Clause 51. as amended, was addwi to the Bill.

Clauses 52 and 53 were added to the Bill.

Clause 54—Civil remedies for infringement of copyright.

DR. K. L. SHRIMALI: Sir, I move:

30. "That at page 30, line 3. for the word 'proceedings' the word 'proceeding' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendments are now before the House.

DR. K. L. SHRIMALI: Sir, this is only a formal amendment correcting a printing error.

MR. DEPUTY CHAIRMAN: The question is:

30. "That at page 30, line 3, for the word 'proceedings' the word 'proceeding' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 54, as amended, stand part of the Bill."

The motion was adopted.

Clause 54, as amended, was added to the Bill.

Clauses 55 to 57 were added to the Bill.

Clause 58—Restriction on remedies in the case of works of architecture

DR. K. L. SHRIMALI: Sir I move:

31. "That at page 31, line 9, for the word 'Order*' the words 'to order' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

DR. K. L. SHRIMALI: Sir, this is a formal amendment correcting a printing error.

MR. DEPUTY CHAIRMAN: The question is:

31. "That at page 31, line 9, for the words 'order' the words 'to order' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 58, as amended, stand part of the Bill."

The motion was adopted.

Clause 58, as amended, was added to the Bill.

Clauses 59 to 78 were added to the Bill.

Clause 1—Short title, extent and commencement.

DR. K. L. SHRIMALI: Sir, I move:

2. "That at page 1 line 5, for the figure '1956' the figure '1957' be substituted."

MR. DEPUTY CHAIRMAN: The clause and the amendment are now before the House.

DR. K. L. SHRIMALI: Sir, this is also a formal amendment.

MR. DEPUTY CHAIRMAN: The question is:

2. "That at page 1, line 5, for the figure '1956, the figure '1957, be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That clause 1, as amended, stand part of the Bill"

The motion was adopted.

Clause 1, as amended, was added to the Bill.

The Enacting Formula DR. K. L.

SHRIMALI: Sir, I move:

1. "That at page 1, line 1, for the word 'Seventh' the word 'Eighth' be substituted."

MR. DEPUTY CHAIRMAN: The Enacting Formula and the amendment are now before the House.

DR. K. L. SHRIMALI: Sir, this is also a formal amendment.

MR. DEPUTY CHAIRMAN: The question is:

1. "That at page 1, line 1, for the word 'Seventh' the word 'Eighth*' be substituted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That the Enacting Formula, as amended, stand part of the Bill."

The motion was adopted.

The Enacting Formula, as amended, was added to the Bill.

The Title was added to the Bill.

DR. K. L. SHRIMALI: Sir, I move:

"That the Bill, as amended, be passed."

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill, as amended, be passed."

DR. K. L. SHRIMALI: There is a slight amendment. Sir, I move:

"That at page 7,—

(i) in line 13, after the word 'shall' the word 'ordinarily' be inserted;

(ii) in line 14, the word 'ordinarily' be deleted."

MR. DEPUTY CHAIRMAN: In clause 12, the word "ordinarily" should have been included after "shall", but it has been included after "Act". This amendment is only putting it in the proper place. It is formal amendment.

SHRI JASPAT ROY KAPOOR: A little shunting.

MR. DEPUTY CHAIRMAN: The question is:

"That at page 7,—

(i) in line 13, after the word 'shall' the word 'ordinarily' be inserted;

(ii) in line 14, the word 'ordinarily' be deleted."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The motion that the Bill, as amended, be passed is now before the House.

SHRI RAJENDRA PRATAP SINHA: Mr. Deputy Chairman, ever since the dawn of civilisation the rulers of society of all ages and of all land! have recognised the special privileges, honour and economic protection that should be given to authors, artists, thinkers and philosophers and they had taken care to provide these. The forms of the privileges and protection may have changed but the essence has remained during the course of history. These privileges and protection which were afforded to men of letters were not for their own benefit but for sustaining human civilisation itself. It is good that this august House has today largely accepted the recommendations of the Joint Committee; not only that, it has improved upon the provisions in order to give further protection and privileges to men of letters. We find that even in ancient India the Princely order, the old rulers of this country, gave special privileges, gave special gifts, to men of letters, philosophers and thinkers so that they could carry on their work in affluence so to say. Such is the case today in Communist countries. Our friends have already told us that there the authors as a class are a privileged class and that they enjoy very many facilities and concessions which give them great economic strength which the other classes of people are not.

entitled to. Therefore, it is right that we have given the maximum protection not only to our own men of letters and authors but to the authors of the whole world, because these provisions have been based upon different International Conventions. If we had failed to recognise and to afford economic protection to our authors or the authors of the world, we would have done that not to the peril of the authors but to the peril of human civilisation itself. If the human being is denied the fruits of the mind, then his spiritual and moral fabric will collapse, and humanity will slip into the positions of biological animals. Sir, there is an interesting sentence in the International Convention for the protection of cultural property in the event of armed conflict. I am tempted to quote it. It says:

"Damage to cultural property results in the spiritual impoverishment for the whole of mankind."

One could hardly cause greater damage to intellectual property than by ignoring or vitiating the copyright law. I am very proud to say that this House has taken the copyright law in its proper perspective and has passed this law in a shape and form which, I am sure, will be a guide for various other countries which are in the process of evolving their copyright law.

Before I resume my seat, I would also like to offer my grateful thanks to the hon. Minister for taking a very liberal view of things and for always looking upon this law as a law which is primarily meant to give protection to men of letters and at the same time without jeopardising the interests of society. I am very grateful to him for accepting some of my amendments which will go a long way to help and protect the authors of this country and of other countries and at the same time enrich the

various languages in this country.

I offer my congratulations to him for having completed this task of passing this Bill in this House and I wish him every success in the other House.

SHRI M. SATYANARAYANA: Mr. Deputy Chairman, I heartily congratulate the hon. Minister in charge of this Bill who has successfully piloted this Bill and who has given a good assurance as well as protection to those authors who have been raising for a long time a great cry that they are being exploited by the publishers and that the exploitations must stop and further that they should be given statutory protection. This is long overdue. We have fulfilled a very great need and there has been an endless dispute during the last two or three decades between the authors and the publishers. The authors have always been found to be in a helpless position and they have been cheated often by the publishers. The publishers, according to the popular opinion are supposed to be the worst type of criminals who have always found their easy victims as the authors are helpless; they are unable to print their books or publish them and sell them. There has been more or less a kind of fight between the producer and the distributor. The producer, in any line, is a hard working man and when he is not able to get sufficient protection, it is common that he sells away his product at a very cheap price. Now, the producer in the form of an author can dictate and ask for the protection of the Government in case he is cheated. The producer and the distributor, both of them, have been treated very justly and they squarely within the ambit of the law and we have seen that nobody gets cheated at the hands of the other to ensure which we have brought the Government, the judiciary and the Copyright Board in between. In addition to the producer and the distributor, there is another section, a large section, of the people-

[Shri M. Satyanarayana.] who will either be benefitted or who will very heavily lose in this bargain. That section is the consumer, in other words, the reading population. The reading population belongs to the society and they have got a right to expect from the distributor as well as the producer the just rights of theirs and I am afraid this aspect of the matter has not been taken sufficiently into consideration. When we discussed this point, I found that at every stage people were asking for a longer period so far as the copyright was concerned; some said 20 years and some said 10 while yet others said fifty years and ninety years. I do not know at what age the author produces a book and for how many years after his production he would have his right maintained. Not only for himself but for his future progeny also. What will happen to the large number of people in the society that has enabled this man to produce the book. After all, whatever is produced—whether it may be intellectual property or spiritual property or material property—it belongs to the society in the sense that society has enabled this man to produce that property; otherwise, he cannot produce. A man living alone cannot produce anything; if he produces, it will be exclusively for himself and it will not be useful for the whole of society. Therefore, the consumer class should have been taken into consideration. It would have been better if we had taken the income derived from a particular book instead of fixing a period. If we had taken into consideration the number of books that have been sold, the total amount that has been earned by the distributor and by the publisher as well as by the producer and then had fixed a proportion of it, it would have been much better; otherwise, there is danger. If a man produces a book, quite a cheap and a popular one, and *if* his aim is only that he should *get* more money and for that purpose he produces books, then his intelligence and the inspiration and the incentive for the production of larger number

of books is completely killed and he will not think of earning more money. It is not for the purpose of earning money alone that he does this; if it is for the purposes of earning money he will not be able to produce more. Therefore, it could be stopped at once on stage that the money incentive alone is not the real incentive. It is the incentive of real art that he has produced and the work that he has done and the popularity that he has gained and, therefore, the money value should have been minimised and ought to have said that the right will cease once a lakh of copies had been printed or fifty thousand copies had been printed and that, after that, it will not be within the purview of the Copyright Act. That would have been certainly of great advantage to the whole society. If a quarrel continues between the distributor and the producer, society will lose because the book is stopped from being published and not made available to the general public and the advantages of intellectual work done by a particular author will certainly be stopped. There does not seem to be any provision under which Government will come in and take charge of the book when there is a dispute between the author and the distributor. In such circumstances, Government should publish the book and must say that if it is not published within minimum fixed period all rights will accrue to the Government. Government which represents society must undertake this job; it cannot adopt a complacent attitude because the author and the distributor are unable to agree. I know as a matter of fact that the real authors who have produced books did not at all produce them for sale. Authorship of a book is a self-expression; a man who has got the genius to express himself would never think of having to set for money purposes and he never does it. Several Members have quoted great authors like Rabindra Na Tagore. I do not for a moment think that when he wrote his poems, when he wrote his novels, when he wrote his huge literature. Rabindra Na'

Tagore thought that they were going to fetch money. I do not suppose he wrote them for purposes of getting money. It is an insult to the intelligence of the great authors who want to express themselves through their own language to say that they expect money in return for their works. If once a book is produced, if it fetches money and if the flow of money is continued from generation to generation, you will also be killing the incentive of the next generations to produce something which is useful to the society. Therefore, it is not at all a good argument to say that the Copyright Act should continue for forty, fifty or hundred years. It may continue only in order to see that people do not exploit these things for their exclusive benefit; if it is exploited for the benefit of society, it should be allowed. I know of many authors who even do not know that their books would sell but when they see that other people are gaining a lot of money under the protection of this Bill, they may not even come to sell their copyrights at reasonable and good royalty rates. One does not know what exactly one is going to get unless and until the book is put on the market; unless the test is made and its popularity is found out, it is not possible to arrive at an estimate. Some of those authors who have got an over-estimate about themselves and about the popularity of their book and the likely sale value or the income that they may get may be prevented from doing like others by an innocent measure like this. Therefore, all these factors should have been taken into consideration. I am sure that when this measure comes to be administered by the Copyright Board these points will be fully taken note of. It would have been better if we had also given certain directions to the Copyright Board in regard to the lines on which the Copyright Board should function for the benefit of the general society and not exclusively for the benefit of the author or the distributor or for agreement between these two parties.

Sir, I cannot claim to have studied very minutely the whole of copyright but yet, it is a matter of congratulation that at least one section, that is the authors' section, has been completely satisfied as I find from the attitude of Mr. Sinha and others. If that section is satisfied, it is up to them to see that whatever they write, whatever they exhibit or whatever they produce is done for the benefit of the society. We should also see that the society gets the maximum benefit and that the distributor, the intermediary, does not exploit the people.

With these words, Sir, I support the Bill.

SHRI KISHEN CHAND: Mr. Deputy Chairman, Sir, I am very glad that this Copyright Bill is being passed. We all welcome that a man who gives intellectual food, food for the mind of the people of any country, should be fairly rewarded, and it is fair and right that he should get his due share out of the proceeds of his work. An impression might have been created, Sir, that I have been a little harsh on the authors. My whole effort has been to point out, when we are passing this Bill, that there are three parties involved. It is not only the author and the publisher, but there is also the reading public. We have been, during the discussion of this Bill, continuously talking about the author and the publisher. Only these two interests have been considered as if there is a tussle going on between the two.

SHRI AKBAR ALI KITAN (Andhra Pradesh): We have considered the public also.

SHRI KISHEN CHAND: I have very seldom heard, Sir, during the last two days, of the interests of the public being safeguarded. It was always a discussion that the publisher takes away the cream of the thing and why should not the author get what percentage should go to the author and what percentage should

[Shri Kishen Chand.] go to the publisher. We were all thinking in that light and we were not thinking of the reading public. Then we have the easy way of saying that the publishers make lakhs and lakhs of rupees. I am surprised, Sir, that some people have a very queer notion about lakhs of rupees. May I point out, Sir, that if a book in an Indian language is published and the book is sold for Rs. 1-8-0; possibly the profit on that book will be four annas, and even if one lakh copies are sold, the maximum profit can be only Rs. 25,000. Then how is it that everybody, when he was making a speech in this House, was telling that the publishers were making lakhs and lakhs of rupees on every book published? In this way they are giving a wrong impression. What I am trying to point out is that we have been thinking only of the publisher and the author. The author is depicted as a very poor man, who has really created a work of art, a work of genius, and the publisher

SHRI RAJENDRA PRATAP SINHA: Is it not a fact?

SHRI KISHEN CHAND: I do not want to repeat again and again that not even 1 per cent of the work produced is work of art. The majority of people write books definitely for the purpose of earning money. 99 per cent of the books are written with the sole purpose of earning money. They are text-books, they are notes, they are travel books, they are cheap novels, sensational novels 99 per cent of everything that is written is for the sake of getting money out of it. Only 1 per cent books may be written with the intention of really creating literature. As I said, Sir, we are passing this Bill, but I am sure the hon. Minister will find by his experience that he has ignored the rights of the reading public very largely in this Bill, and I am sure in due course he will have to come up with an amendment and give some more weight to the reading public.

Much was made of the Berne Convention or the Brussels text. You know, Sir, that 50 per cent of the world's population is not under the Berne Convention. It is only the rest of the 50 per cent. And even in such matters, after all, some country may suggest a change. Why should we always follow the Convention or Agreement whether it is good bad or indifferent? We should always think independently. We are a big nation. We are a country with a very large population. We are a large country with a reading public. At present it may not be a large reading public, but it is slowly and gradually growing, and it will in course of time become a very large reading public, and if we create healthy conventions and we make healthy laws, naturally we can set an example to even other countries. We are simply following their convention, and because there is the Berne Convention of 'fifty years after the author's death' we have accepted it. The hon. Minister, at the second reading stage, laughingly said: "Oh, one Member says 90 years; another Member says 30 years, and so 50 years is more or less in between." He did not go into the merits of the case. That is not the way of looking at things. Anyhow the majority will of the House is going to pass this Bill, but I submit Sir, that the time will come when the Berne Convention will be altered. The world is moving in the direction of restricting the rights of such people and when their right is restricted our hon. Minister will come forward and say: Well, the Berne Convention is altered from fifty to thirty years; we must also reduce the period from fifty to thirty years. He will not go into the merits of the case. Simply because the other countries have adopted thirty years—we should also have thirty years.

Then, Sir, during discussion various other irrelevant matters were also-brought in. Whenever in an argument there is no reason left, people begin to attack personalities. Some people say: Well, you are creating property

rights in favour of house property; you prefer house property but you don't want to give equal rights to these people, these intellectual giants who have created works of art and really served and are serving the society. I admit and agree, Sir, that human mind requires intellectual food, more than physical food. The human being requires more intellectual food than even physical food, and I do not want to minimise these services that the authors are rendering to society but, as I said, there are bad books; there are cheap books, and when cheap books have been written, this Copyright Bill does not put any control on and does not really restrict that in any way and therefore I submit, Sir, that the hon. Minister will try to keep an open mind and think over these problems very carefully and later on he may be convinced of the need for an alteration of the Berne Convention or the Brussels text of which much has been made by certain hon. Members. In a country like ours, which is extremely poor, which is backward and in which education is slowly and gradually rising, you know, Sir, what is the pay of a teacher. Our hon. Members were very careful about the authors, but they did not realise the fate of the poor teacher. After all, if there are no proper teachers, how can education spread? And unless education spreads, where will you find the readers for these books? So I submit, Sir, that Dr. Shrimali, who is in charge of education should realise that, in this Copyright Bill, by trying to safeguard the interests of the authors, he is making the cost of books very high, and in a poor country where the spread of education is very essential, where the teacher is very poorly paid, where a school boy or a school girl has not got any money to purchase books, any money to pay for the fees, to make books dear by this Copyright Bill which has for its purpose the solving of the struggle between the author and the publisher, is not a right step; it is not a step in the right direction. I submit Sir, that though we are passing this Bill

in its present form, the need for a change will come soon and the hon. Minister will then have to accept it.

श्री रामधारी सिंह 'दिनकर' : श्रीमान, मैं बोलना नहीं चाहता था। लेकिन किशन चंद जी को कुछ यह शिकायत थी कि कुछ वैयक्तिक बातें हुई हैं। मुझे पता नहीं कि उनके विषय में क्या वैयक्तिक बातें इस सदन में हुई। अगर मैंने नाम लिया तो मैं उनके रूप को जानता हूँ, और उनके बारे में मुझे कोई जानकारी नहीं है।

एक बात है कि प्रवर समिति में और यहां भी यह मत बार-बार लाया गया कि अगर लेखकों का कॉपीराइट अधिकार सीमित कर दिया जाये तो जनता को किताबें सस्ती मिलेंगी। जहां तक टेक्स्ट बुक की बातें बोल रहे हैं किशन चंद जी.....

श्री किशन चंद : वह भी कॉपीराइट में है।

श्री रामधारी सिंह 'दिनकर' : वह तो सब ठीक है, मैं मानता हूँ जो आप कहते हैं। लेकिन आपको इन समस्याओं का ज्ञान ही नहीं है—गुस्तकों की जो समस्या है, साहित्य की जो समस्या है, कॉपीराइट की जो समस्या है, उसका ज्ञान नहीं है। आप हर दिन बोल रहे हैं टेक्स्ट बुक, टेक्स्ट बुक। आपको मालूम है कि जब टेक्स्ट बुक मंजूर किया जाता है तो बोर्ड उस टेक्स्ट बुक की कीमत फ़िक्स करता है। इसलिये टेक्स्ट बुक जो भी होती है, मंहगी नहीं बिकती है।

श्री किशन चंद : मैं प्राइमरी जमातों की टेक्स्ट बुक के बारे में कह रहा था।

श्री रामधारी सिंह 'दिनकर' : टेक्स्ट बुक हर दो साल में बदली जाती है, ज्यादा से ज्यादा पांच साल चल जाती है। दो, चार, दस, पांच किताबें ऐसी हैं जो चलती हैं लेकिन बाकी किताबें तुरन्त बदल जाती हैं। उनके लिये कानून बनायें तो बाह, बाह न बनाये तो बाह, बाह। लेकिन यह प्रश्न

[श्री रामधारी सिंह 'दिनकर']

विचारणीय है कि लेखकों का कापीराइट अगर सीमित हो जाय तो किताबें सस्ती होंगी या नहीं। इस सम्बन्ध में मैं पहली बात तो यह कहना चाहता हूँ कि अंगरेजी की तुलना में भारतीय भाषाओं की किताबें अभी भी बहुत सस्ती हैं। भारतवर्ष की भाषाओं में अच्छे से अच्छे लेखक की किताब अगर पांच रुपये को बिकती है तो वही किताब अगर अंगरेजी में तैयार हो और देश से बाहर छपे तो १२ रु० उसके दाम होते हैं।

श्री किशन चन्द : पाकेट एडिशन एक शिल्प का होता है।

श्री रामधारी सिंह 'दिनकर' : वं कुछ जो ऊंचे लोग हैं, जिनका नीचे के लोगों से ताल्लुक नहीं है, उन लोगों के लिये है। जिस तरह से विदेशों में पेलिकन सिरीज और वेंविन सिरीज सस्ते दामों में चलती हैं, इस देश में भी कई प्रकाशकों ने यह प्रयोग शुरू किया कि आठ आने में किताबें निकलें, बारह आने में निकलें। हिन्दी में इंडियन प्रेस ने यह प्रयोग बीस वर्ष पहले आरम्भ किया और वह सब गंवा कर बैठ गये। उनका प्रयोग नहीं चल सका कारण इसका यह है कि—कागज तो इधर इस देश में बनने लगा है लेकिन अभी भी कागज पतला हमारे देश में नहीं बनता। दुर्भाग्यवश, भारतीय भाषाओं के टाइप छोटे नहीं बन पाये हैं कि छोटी या थोड़ी सी जगह पर ज्यादा मटर हम दे सकें, लेकिन जो पुस्तक व्यापारी है, जिसका टैक्स्ट बुक से सम्बन्ध नहीं है, टैक्स्ट बुक जो प्रकाशित करता है, अगर किशन चन्द जी को अनुभव हो तो जानते होंगे, उसको क्या पर्वाह? वह क्यों जायेगा गली गली फिरने? वह तो घर में बैठता है। घर में आकर लोग उसकी किताब लूट ले जाते हैं। हम लोग

जो गीत, कविता, उपन्यास, कहानी, निबन्ध, यात्रा-विवरण लिखते हैं, हमारी पुस्तकों की खपत में दिक्कत होती है। टैक्स्ट बुक जो प्रकाशित करता है वह खुद लुटेरा है, वह हमें लूट कर प्रकाशित करता है। आज तक इस देश में कापीराइट कानून में यह इजाजत दी हुई है कि दो पैसेज किसी भी कापीराइट मंटर से एक स्कूल के लिये निःशुल्क ले सकते हैं। इसका अर्थ प्रकाशकों ने और टैक्स्ट बुक वालों ने यह लगा लिया कि २० पन्ने खींच लो, १० पन्ने खींच लो, ८ पन्ने खींच लो, वही दो पैसेज में। अब कापीराइट बोर्ड ईश्वर की कृपा से बन जाय और दो मुकद्दमें हो जायें तो देश के प्रकाशकों को यह सूचना हो जायगी कि गलत काम है। लेकिन किताबें जो मंहगी बिक रही हैं इस बात पर विचार करना चाहिये और मैं समझता हूँ कापीराइट तो उसका श्रेय नहीं था, लेकिन कुछ है समझने लायक बात। सबसे बड़ी बात यह है कि भारतवर्ष में प्रकाशक और दुकानदार पाठक नहीं। पाठक तो दूर हैं। प्रकाशक और दुकानदार के बीच बिचवां एजेंट निकल रहे हैं, यूरोप की नकल पर। उनको खिलाने के लिये किताब की कीमत बहुत रखी जाती है। अभी एक प्रकाशक को मैंने देखा। वह १५ रु० दाम रख कर एक किताब मुझे प्रेजेंट करने आया। मेरी भी किताब उसी दिन छप कर आई थी। मैंने भी उसके सामने अपना किताब रख दी। कहा कि यह मेरे जीवन भर की कमाई है, इतना बढ़िया कागज, इतना अच्छी छपाई, फिर भी दाम रखा है दस रुपया। पांच, सात रुपया हम बिचवां को कमीशन देते हैं और कमीशन खिलाने के कारण भारतवर्ष में किताब मंहगी चल रही है। पढ़ने वालों की संख्या कम है, इससे किताबों की खपत नहीं हो सकती है और सरकार बहादुर की भी कुछ कृपा ही है जिसकी ओर पार्लियामेंट के सदस्यों का ध्यान जाना चाहिए। तीन वर्षों से मेटेज की दर इतनी ऊंची कर दी गई कि

अब बी० पी० पी० से किताबों की खरीद नहीं होती है। शहर में जो पाठक ह वे तो फिर भी शहर की दुकानों से किताब खरीद लेते हैं लेकिन गांवों में जो पाठक हैं वे चिट्ठी लिख कर किताब मंगा नहीं सकते क्योंकि ऐसा हो गया है कि किसी किसी समय लंदन से यदि किताब मंगाई जाय दिल्ली में तो वह सस्ती पड़ेगी, बम्बई से मंगाया तो मंहगी पड़ जायगी। सरकार ने इतनी जोर की वह पोस्टेज की दर बढ़ा दी है कि सारी जगह पुस्तकों की बिक्री ठप है।

श्री जसपत राय कपर : आपने ही बढ़ाई है।

श्री रामधारी सिंह 'बैनकर' : हां, हमने बढ़ाई। एक और विचित्र बात देश में हो रही है। उस ओर हम लोगों का ध्यान जाना चाहिये। वह यह है कि बहुत कृपा करके प्रांतीय सरकारें आजकल किताबें खरीद कर अपने पुस्तकालयों को दिया करती हैं और इसमें मैं समझता हूं कि लाखों की खरीद होती है। यह बहुत बड़ा प्रोत्साहन होता है पुस्तक व्यापार के लिये। लेकिन कहीं कहीं सुना है कि किताबों का टेंडर मांगते हैं, जैसे किताब आलू हो। कौन सस्ते दे सकते हैं? दो लाख का आर्डर कौन देगा और कौन सस्ता से सस्ता देगा? तो सस्ती से सस्ती जिन किताबों का नाम अभी किशन चन्द जी ले रहे हैं, वे सस्ती निकलती हैं—उनके लेखकों का पता नहीं कहीं से लूट लिया, कहीं से नकल कर ली। लोग अपने ट्रैन में बैठे उनको पढ़ रहे हैं। बहुत सी हजारों किताबें छपती हैं और उन किताबों का टेंडर भर देते हैं और सारा देश गंदा बनाया जा रहा है। चंद जगहों पर पढ़ने कुछ कहा भी लोगों से। जो अधिकारी हैं वे भी घबराते हैं कि ऐसा क्यों हो रहा है लेकिन कोई देख नहीं पाता। तो यह पुस्तक व्यापार के बड़े बड़े किस्से हैं, उन किस्मों को अगर समझना है तो भाई किशन चन्द जी और हम मिल करके

एक आध प्रस्ताव ऐसा पास करें कि जिससे श्रीमाली जी का हाथ मजबूत हो और ये भी अपनी सरकार में कह सकें कि कुछ न कुछ करना जरूरी है। बाकी जो काम हुआ है अच्छा हुआ है और इसके लिये मैं श्रीमाली जी को धन्यवाद देता हूं यद्यपि पूरा धन्यवाद तभी देता जब बहुत से संशोधन स्वीकार हो जाते।

DR. K. L. SHRIMALI: Sir, I would not like to take the time of the House for a longer period, but I would like to express my sense of appreciation of the co-operation which hon. Members have extended in passing this Bill. It is quite true that this Bill has aroused controversies. The Bill is of such a nature * there are bound to be different points of view. As you will recall, when I introduced the Bill the Government had made provision for copyright for the life of § uthor and 25 years. Our whole approach to this Bill has been one of openmindedness. Our main purpose is to restore the authors, the creative genius in their true position. We are building up a new society and in this new society authors have to play a very important role. They give us light; they give us inspiration; they help us in advancing knowledge and in extending the frontiers of knowledge. No society can nourish which does not release the creative energy of the authors. If this measures can to some extent help in releasing the creative energies of the authors, the Government would be greatly satisfied. It is quite true that we have to take into account, being a welfare State, the interests of the society also.

But very often when we talk of the rights of authors, we forget that authors are also part of the society, that authors do not work and live separately from society. If society progresses, the authors must also advance. If the authors cannot contribute anything new to the advancement of knowledge, naturally the society also begins to retard and degenerate. It is, essential to under-

[Dr. K. L. Shrimali.] stand the close interdependence of creative genius and the society. *K* is from that point of view that we have brought this measure. When it was felt by hon. Members that a period of twenty-five years would be too small, that it would affect the interests of the authors adversely, we accepted the amendment. When we felt that by bringing the work into the public domain by allowing translation after a period of ten years the rights of the authors would be affected, we also accepted necessary amendments. At the same time, continuously we do keep in mind the interests of the society and I think the type of measure that has emerged is a very happy compromise between an individualistic society and totalitarian society. The individual has been given his due rights. At the same time, his rights are not unrestricted. They are limited, since he has to function in a certain social framework. The individual and the society are both interdependent. If there is one thing which has been constantly borne in mind in piloting this measure, it is this principle. The author lives for the society and the society lives for the author. It is with that view that this measure has been brought forward and the amendments which have been accepted have been accepted from that point of view.

Sir, I would like to say one word more. We have most of the time given our attention to the rights of the authors. This Bill will also promote dissemination of knowledge through radio, gramophone and other mechanical contrivances. Our society is fast changing. We are now using all kinds of means of communication in order to disseminate knowledge. In that sphere also we have to protect the creative genius and also promote the interests of the society. This measure will help in that direction also.

I would like to thank the hon. Members, once again, for their kind co-operation which they have given me in piloting this Bill. Thank you.

MB. DEPUTY CHAIRMAN: The question is:

"That the Bill, as amended, be passed."

The motion was adopted.

THE RAILWAY PROTECTION FORCE BILL, 1956

MR. DEPUTY CHAIRMAN: Mr. Shahnawaz Khan, please just begin and stop at six o'clock.

SHRI KISHEN CHAND (Andhra Pradesh): It is already extended time. Formerly you had kept it at 5-30 P.M., but because the Budget was delayed and it is being got now.

MR. DEPUTY CHAIRMAN: We cannot adjourn at 5 minutes to six. He will just begin. (*Interruption*). The Chairman announced that it would be presented at six o'clock. I do not want to go back.

THE DEPUTY MINISTER FOR RAILWAYS (SHRI SHAH NAWAZ KHAN) : Sir, I beg to move:

"That the Bill to provide for the constitution and regulation of a Force called the Railway Protection Force for the better protection and security of railway property be taken into consideration."

As the Sabha are aware, Railways have their own Watch and Ward Departments for safeguarding their property and the goods entrusted to them for carriage. The Watch and Ward Departments functioning on the Railways have hitherto been handicapped by lack of adequate powers and well defined status as also of a proper sense of discipline to fulfil their primary functions of protecting Railway property and of property entrusted to Railways for transport. The Railways have during these years incurred heavy losses on account of theft and pilferage of railway property and of payment of quite a large number of compensation claims preferred against them.