

Sir, on behalf of Shri A. C. Guha, I beg to lay on the Table, under subsection (2) of section 18 of the Rehabilitation Finance Administration Act, 1948, a copy of the Report of the Rehabilitation Finance Administration for the half-year ended the 30th June 1955. [Placed in Library. See No. S-7/56]

#### THE COPYRIGHT BILL, 1955

THE DEPUTY MINISTER FOR EDUCATION (DR. K. L. SHRIMALI) : Sir, I beg to move—

"That the Bill to amend and consolidate the law relating to copyright be referred to a Joint Committee of the Houses consisting of 45 members; 15 members from this House, namely,—

1. Shri Mohamed Valiulla,
2. Prof. R. D. Sinha Dinkar,
3. Prof. G. Ranga,
4. Shri Nawab Singh Chauhan,
5. Prof. Dr. Raghu Vira,
6. Shri Benarsi Das Chaturvedi,
7. Shrimati Lilavati Munshi,
8. Shri Raghavendrarao,
9. Dr. Raghbir Singh,
10. Shri Shyam Dhar Misra,
11. Kakasaheb Kalelkar,
12. Shri Abdur Rezzak Khan,
13. Shri N. B. Deshmukh,
14. Shri Rajendra Pratap Sinha, and
15. Dr. K. L. Shrimali as-mover, He mover.

and 30 members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee:

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply

with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 25th May, 1956."

MR. CHAIRMAN: The motion as originally put down has 10 Members from this House and 20 Members from the Lok Sabha. You have now-altered it to 15 and 30. Will you kindly ask the House to grant the permission for that?.

DR. K. L. SHRIMALI: Yes, Sir, I pray that the permission be granted.

MR. CHAIRMAN: Has he the leave of the House to make this alteration?

*(No hon. Member dissented.)*

MR. CHAIRMAN: So it is 15 Members instead of 10 from this House and 30 Members from the Lok Sabha instead of 20.

DR. K. L. SHRIMALI: Sir, in making this motion I should like to draw the attention of the House to the fact that the time has come when we should modify the Indian Copyright Act. The Indian Copyright Act is only a reproduction of the U.K. Copyright Act of 1911 and it became applicable to India by a Proclamation dated the 31st October 1912. The British Act expressly gave power to the legislatures of British possessions to which the Act extended to modify or add to any of the provisions of the Act

in its application to those possessions. Therefore the Government of India passed the Act known as the Indian Copyright Act, 1914. The Indian Copyright Act did not go very much beyond the British Copyright Act. Only slight modifications were made and the modifications made were very few. Since then there have been great changes in our society and also in the field of technology which necessitate certain changes in this Act.

The U.K. Act does not fit in with the changed constitutional status of India. After independence there is a growing consciousness about the rights and obligations of authors and readers. There have also been certain changes in the means of communications like broadcasting, television, lithography, etc. which demand amendments in the existing law.

In drafting this Bill we have consulted the different Ministries and State Governments and the Indian Universities. All their comments have been taken into account in drafting this Bill. Sir, at this stage the House would not like me to go into details with regard to the different clauses and I shall therefore confine my remarks only to the principles which underlie this Bill. As far as the principles underlying copyright are concerned, a very good statement was made by Blackstone in his commentaries in 1767 and I cannot do anything better than quote that statement of Blackstone. While discussing the fundamental principles of copyright, Blackstone says: "When a man by the exertion of his rational powers has produced an original work he seems to have clearly a right to dispose of that identical work as he pleases and any attempt to vary the disposition he had made of it appears to be an invasion of that right. Now, the identity of a literary composition consists entirely in the sentiment and the language. The same conception clothed in the same words must necessarily be the same composition and whatever method be

taken of exhibiting that composition to the ear or eye of another by recital, by writing or by printing, in any number of copies at any period of time, it is always the identical work of the author which is so exhibited and no other man can have the right to exhibit it especially for profit without the author's consent. This consent may perhaps be tacitly given to all mankind when the author offers his work to be published by another hand without any claim or reserve of right and without stamping on it any marks of ownership, it being taken then a present to the public like building a church or bridge or laying out a new highway." This statement contains the main principles which underlie the Copyright Act.

A question is often raised whether the writings of an author or the compositions of a poet or the creations of an artist should be considered as property. Is it correct to define the manifestation of human personality as property? There are different views on this point. There is nothing which can be called property in a better sense than the creation of an individual brain. Property really means what is one's own and nothing more is one's own than the thoughts made out of no material thing. The author only uses the material things for the manifestation of his personality and the best proof of ownership is that if a particular author had not written or an artist had not created a certain work, probably it would not have been done at all; that piece of work would not have existed in the society at all. But recently the whole conception of literary property has been abandoned. Most of the countries do not think of copyright as property; they only consider it as an intellectual right and it is believed that the authors' rights are incorrectly given the name of property. The copyright only gives those who are entitled to it an exclusive privilege of temporary exploitation.

[Dr. K. L. Shrimali.]

As far as the right of the author is concerned to the manuscript or to any copy which he may produce, there can be no dispute. The dispute arises only with regard to the right to multiply copies and the question is whether other people have a right to multiply copies. It is then that the theory of copyright arises and in this matter I think the authors do need protection. There are various kinds of physical means to protect the ordinary property but there is no way to protect the intellectual rights of an author because the very means by which he brings the production to the public endangers his intellectual rights and therefore there is no kind of property which is so dependent on the help of the law as the intellectual work of the author.

SHRI H. P. SAKSENA (Uttar Pradesh): Provided the protection is sought by the author.

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

Another question which has been raised with regard to copyright is whether copyright is an absolute right or it is only relative. Many of the German authors believe that copyright is an absolute right and it can be enforced against all the world. This question, I think, has to be examined carefully. Copyright is based on two things; firstly on the act of intellectual creation and secondly on the results of that act, that is, the product of the mind. Both these things—the act of intellectual creation and the product—must be clearly distinguished. Since the author's personality is expressed in his work, he has the prerogative and he should have the right to dispose of it in any way he likes and he can use any means of bringing it to the notice of the public. And since the work brings certain economic return, since there is an economic aspect, the author should have the right to deal with it for purposes of exploitation. Therefore the law should protect the individual author, the individual creator; whether it is a question of lines or

colours or sounds or works, the law should protect all kinds of collocations. The copyright should cover the speech put on a phonographic record, a dance minutely described in a scenario, a pantomime presented on a motion picture film. Keeping this point in view, clause 12 provides that the author should have the monopoly. It provides that copyright in relation to any work means the exclusive right to produce or reproduce the work or any substantial part thereof in any material form whatsoever. Any person who invades this right, this single monopoly, is an infringer and he should be punished.

The author has a right to the control of the channels through which his work or any fragment of his work reaches the market. We have provided a new clause to safeguard the rights of authors who on account of poverty or other reasons are forced to part with copyright in their works for a meagre amount and are thus deprived of the fruits of their intellectual labour. This is necessary. Due to stringent circumstances—authors, artists and creators very often part with the right of the copyright and assign it to somebody else for the time being. Clause 18 makes special provision that the author can claim the right again under certain conditions which are laid down in the clause.

Provision has also been made that protection should be international. Copyright law should facilitate the free flow of ideas and imaginative creations across national boundaries by giving protection to the author wherever he may be. We should not make any discrimination against foreigners. That is the generally accepted principle; but it should, of course, be on reciprocal basis. And, therefore, clause 42 provides on reciprocal basis for copyright in works published outside India.

So much with regard to the rights of the author. **Law** should do every-

thing that is possible to protect the rights of the author. But we must remember that the author has also certain obligations and duties towards the community of which he is a member. Keeping in view the indebtedness of the author to the community, it is necessary that certain restrictions should be placed on copyright both with regard to scope and its duration. We should take into account the interests of the wider society to which the author belongs. I do not think there can be any absolute right for anybody in a society like ours and, therefore, there are certain clauses which impose restrictions on the absolute nature of copyright in the interests of society. I should like to come to those limitations. Protection should not go substantially beyond the purposes of protection. Now, what are the purposes of protection? Who is to be benefited by protection? How much? At what expense? These are some of the relevant questions that must be raised when we think of copyright. We must remember that copyright is a monopoly after all and like all monopolies, it also raises certain objections. We must remember that copyright burdens, to some extent, the competitors and the public. The whole purpose of the copyright is to benefit the author and society must do its duty towards the authors, musicians and painters because they are the greatest benefactors of the human race and, therefore, we should do everything that is possible to protect them. But the difficulty is that this very act of protection creates certain difficulties for the public and prevents them from fully enjoying the work of creation because protection makes it more costly. And in this way copyright limits the possibility of that enjoyment by persons of slender purse. Now, very often this monopoly keeps away art pieces and works of great men from the common man. We must, therefore, make the law in such a way that the author is protected; but at the same time we must not impose the burden on the public- substantially greater than the

benefit it gives to the author. That ratio, that relationship has always to be considered. Therefore, clause 20 prescribes the general term of copyright which is to be the life of the author and a period of 25 years after his death. Formerly, it was fifty years which we have curtailed.

Then, there is also provision for certain compulsory licences in clause 29. This clause provides for the grant in the public interest of compulsory licences in respect of copyright in works both during the life time and after the death of the author. Now, I think I should read this clause in detail to make the whole position clear:

—  
 "If at any time during the term of copyright in any work which has been published or performed in public, a complaint is made to the Registrar of Copyrights that the owner of copyright in the work—

(a) has refused to republish or allow the republication of the work or has refused to allow the performance in public of the work, and by reason of such refusal the work is withheld from the public; or

(b) has refused to allow communication to the public by radio-diffusion of such work or in the case of a mechanical contrivance, the work reproduced in such contrivance, on terms which the complainant considers reasonable;"

I do not think anybody has a right to withhold information or withhold any work of literature or art from the public and if the society is satisfied that that is being done deliberately, that certain knowledge or invention, or discovery is withheld deliberately from the public, then society should intervene. And, therefore, there is this provision.

Then, again, in clause 30, there is power to issue licences for the making of mechanical contrivances of a

[Dr. K. L. Shrimali.] work if the demand for such contrivances is not being met by the owner of the copyright to an adequate extent or on reasonable terms. Now, that, again, is in the interests of the society. So, also, clause 33 which says: "a general or special licence for public performance of any literary, dramatic or musical work in which copyright subsists by means of a radio-receiving set or a mechanical contrivance". There is also power to issue a licence to the manager of a library to make or cause to be made one copy of any book in which the copyright subsists. Now, very often the copies are not easily available and research cannot be done without the books and, therefore, we have given power to the library to make a copy of the book for which the copyright subsists. Now, Sir, in discussing these points we have to consider the various persons who are involved in the whole matter of copyright. Of course, there are the conflicting interests of the authors and the readers and we have to bring about a balance between these conflicting interests. But there are two other interests which have to be considered in the copyright and which deserve attention. First of all, there is the author's surviving family. The question has been raised whether there is any justification for the prolongation of the benefit beyond the author's life? After all, the only thing that a society should do is to give benefit to the author, but why should the benefit go to his family? Well, we have made a provision, and rightly, that some benefit should go to the immediate family of the author—widow and children. Authors and

artists very often live in 12 NOON poverty and it will be a great pity if their families cannot take advantage of the benefit which was due to the author. At the same time, there are difficulties in giving unlimited rights to the surviving family. They may not be very competent and capable of controlling the monopoly. Under such circum-

stances, the benefit becomes of a very dubious nature and then the tax on the public is less justifiable. But provision has been made for giving immediate benefit to the author's family, —his widow and children—for a certain period.

Another beneficiary in copyright is the publisher. Very often it is found that neither the author nor his family owns the copyright. The copyright is owned by the publisher himself. He may own the copyright free and clear and take all the gross income or he may offer royalties and take most of the gross income; In any case, he gets more benefit if the book has been copyrighted than when it is subjected to open competition. Very often we hear people saying that publishers should be done away with. "Why should an intermediary come between the society and the author?" The view that we have taken is that publishers are necessary and they also need protection. Authors cannot be good publishers. If the authors do not "get the benefit of the copyright monopoly, it would be for the authors to find a publisher who can produce the books. Authors and artists would be helpless without publishers. Therefore, the protection of the publisher' also is necessary. It gives indirect benefit to the author. It enables him to get royalties or sell the manuscript for a reasonable price. Moreover the publisher should also get a return on his investment. When he invests some capital in producing a book there is no reason why he should not get a proper return. The publisher is a kind of gambler. Sometimes the author may get a return; sometimes he may not. George Bernard Shaw in writing an introduction to Thrings' "On the marketing of literary property" brings

out very clearly the difficulties and the disadvantages which both the authors and the publishers have to face. He says in that introduction: —

"Both parties must know their business and be reasonable. One of the author's disadvantages is that he has only one egg in his basket

while the publisher has a score The publisher's disadvantage is that nineteen out of the score may be bad eggs and at best a good many of them will be indifferent." There are good sellers; there are poor sellers. Out of a hundred books, sometimes a publisher may get a book on which he can get a good return and then he can compensate. And it has been found by experience that many of the publishers now do take their original output and therefore, copyright is necessary to make good publishers possible.

Zechariah Chafee, Jr. sums up the argument in "World Copyright" by saying that the burden which the monopoly imposes on readers and the publishers should be limited to what will produce three benefits. In the first place, as far as the author is concerned, there should be direct or indirect pecuniary return with an incentive to creation. He should also have control over the marketing of his creation. Then as for the surviving family, they must get a pecuniary return which can save them from destitution and impel the author to create. The family should not, however, abuse a prolonged monopoly. Then for the publisher we must give a continued pecuniary return which will indirectly benefit the author and allow to the publisher an equitable return on his investment, but which may not prevent the public from getting easy access to the creation after the author's death. And, therefore, all these three benefits have been kept in view in drafting this Bill. We have to bring about a balance between the various interests—the interests of the author, of the publisher and of the surviving family and the society.

There are one or two other points which have also been taken **into** account. We have seen that the protection given to a copyright owner should not stifle the independent creation of the author. I have already drawn attention to clauses 29, 30, 33 and 34. These provisions are such that the authors or the artists cannot withhold

information from the public if it is in the public interest.

Then, we have made a provision in this Bill for the establishment of a Copyright Office and a Copyright-Board. I think that it is very important that the law should operate in such a way that it should not create difficulties in the way of the authors or artists. Very often a genuine artist is indifferent to commercial transactions; he is indifferent to money. And a publisher is a man of business; he is insensible to any other consideration except that he should make as much money as possible and, therefore, some kind of agency is necessary which would examine the books carefully and with that view, we have made a provision for the setting up of a Copyright Office and a Copyright Board.

The Copyright Office shall be under the immediate control of the Registrar of Copyrights who shall act under the superintendence and direction of the Central Government and the Copyright Board shall perform certain statutory functions assigned to it in the Bill.

These are the main considerations which have led the Government to amend this law which has been existing for such a long time. In fact, there have been various suggestions by the UNESCO and U. K. itself had appointed a Committee to go into the whole question. In view of the changed circumstances in our country and in view of the growing consciousness among our readers and authors, artists, painters and various kinds of people who are dealing with creative work, it is necessary that we should amend this law. The whole purpose of the Bill is to release the creative energies of the artists and authors and with that view to give all necessary protection and, at the same time, not to give the monopoly in such a way that the wider interests of society may suffer. In fact, as I said, there was nothing like an absolute right for anybody in our society. We have to reconcile the various interests **anc**

[Dr. K. L. Shrimali.] we have made an attempt to recon- eile those interests.

I think that the House will not . expect me ,to go into the details of the clauses because the Bill is being referred to a Joint 9elect Committee, where we shall have an opportunity to examine the whole Bill very carefully.

Therefore, with these remarks, I .move this motion.

MR. CHAIRMAN: Motion moved:

"That the Bill to amend and consolidate the law relating to copyright be referred to a Joint Committee of the Houses consisting of 45 Members; 15 Members from this House, namely: —

1. Shri Mohamed Valiulla.
  2. Prof. R. D. Sinha Dinker,
  3. Prof. G. Ranga,
  4. Shri Nawab Singh Chauhan.
  5. Prof. Dr. Raghu Vira,
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  7. Shrimati Lilavati Munshi,
  8. 9hri Raghavendrarao,
  9. Dr. Raghbir Sinh,
  10. Shri Shyam Dhar Misra,
  11. Kakasaheb Kalelkar,
  12. Shri Abdur Rezzak Khan,
  13. Shri N. B. Deshmukh.
  14. Shri Rajendra Pratap Sinha,
  15. Dr. K. L. Shrimali as mover,
- and 30 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of members of the Joint Committee;

that in other respects, the Rules t:f Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make;

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of members to be appointed

by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 25th May 1956."

SHRI KISHEN CHAND (Hyderabad): Mr. Chairman, the hon. Minister in a very lucid speech has explained some of the important items in this Bill, but I beg to submit that he has not drawn the attention of the House to one very important factor.

[MR. DEPUTY CHAIRMAN in the Chair.]

You are aware that in all scientific research, there is no copyright, in all medical research there is no copyright. People who devote their entire lives to scientific, medical and engineering research do not get any copyright. They devote their lives to the progress and advancement of science, and they do not get any return. The hon. Minister in his very lucid speech tried to point out that the author had an intellectual right. I submit that he has an intellectual right, but it needs **very** careful control, guidance and restrictions. This Bill, the way it has been drafted, is a bit too liberal to the authors, and when it is being considered by the Joint Committee, it needs to be modified in such a way that the rights of the authors are controlled to some extent. I do not submit that as in the case of the scientists and research workers, there should be no copyright in their case, but that the copyright should be restricted is a foregone conclusion. I may point out that in the ease of property, we do not permit people to charge any rent they like; in the case of any industry, we do not permit the industrialists to make any profit they like. We restrict them. In society, the right of every individual is restricted, and likewise, I would like that the rights of the authors, the rights of the painters, the rights of the artists and the rights of the musicians should be restricted. The question is: Does this Bill go far

enough in the matter of restriction or does it not go far enough? There cannot be anything absolute. It is all relative, and we have got to see what restrictions have been placed in the other sectors of society and whether similar restrictions have been placed in this Bill or not. To my mind, there is over-liberalism in the case of authors, artists, painters and musicians and other producers of original works. The hon. Minister said that in the matter of publication, the publisher takes a risk, that only ten out of hundred books may become popular and may bring profits to the publisher, and he very rightly pointed out that some impecunious authors sell their books at very cheap prices. You know, Sir, that Goldsmith sold all his books at very low rates, because he was always in need of money. His 'Traveller' and 'Deserted Village' fetched him only £ 10, but they brought hundreds of pounds to the publishers. Sir, in this Bill, I feel that there are not enough restrictions placed on the publisher.

Now, I will come to certain particular items in this Bill. First of all I do not see any reason why there should be no time limit on the period for which copyright should continue. The limit has been fixed at twenty-five years after the death of the author. It is quite possible that one author may live for a very long time, while another may die soon after the publication of his work. I submit that there should be an outer limit of 30 years in any case. It should be twenty-five years after the death of the author subject to a maximum period of thirty years, because it is quite possible that the author may live for fifty or sixty years after writing his work, and then if you add another twenty-five years after that, it means a period of eighty-five years, while in the other case the author may die a few months after writing his work and then his descendants will get the benefit only for twenty-five years. So, I think that in the interests of society, in the interests of the reading public and also in the

interests of the public which enjoys works of art and music, the copyright period should have a maximum period prescribed to it, and in my humble opinion, that maximum period should be thirty years. As you know very well, during the first edition of a book, it is generally priced very high. There is no control, no restriction, on the price of the first edition. You know that novels of 200 pages in English are brought out in the first edition at £-12/6 or £-9/6. We do not have that amount of publishing in India, and therefore I have to take the example of the U.K. The same books, when they are brought out after copy, right are priced £-1/- or £-1/6, and then they reach the large mass of the public. Does this Bill safeguard the rights of the reading public? Does it want that for thirty years the books should continue to sell at £-9/6 and the benefit of the book should be denied to the large mass of the reading public? Therefore, when that matter is being considered by the Joint Committee, I would request the Joint Committee to carefully examine whether we should not control the price of books as we do in the case of newspapers. In the case of the newspapers, we are going to have a price control; similarly, we can introduce a sort of price control in the case of the books. You know, Sir, that text books in our country have been priced heavily. There are certain text books which have been prescribed and their authors get lakhs and lakhs of rupees. You know Chakravarti's Arithmetic had been translated into many languages and thousands and thousands of copies were sold and it brought plenty of money to the author. The price of the book was kept high. My contention is that there should be some regulation of the price of books, and there should be a certain percentage of profits fixed for the author as well as for the publisher, because otherwise, the price of books will become exorbitant and the reading public will not be able to afford them. Similarly in the case of works of art. A

tShri Kishen Chand.] painting after all is just one painting and it can only be in one particular art gallery. How is the general public going to enjoy that work of art? It can be only by reproduction. If no control is placed on the price of the reproductions of works of art, the result will be that human beings will be deprived of the pleasure of seeing a work of art. You know that in foreign countries people go to art galleries and copy the original paintings but of course that can be only after the copyright period is over. That cannot be during the period of the copyright. Some restriction should have been placed in this Bill. There is a clause to that effect, but I do not think that it is sufficiently wide and it needs more extension to control the profiteering motive of the author, so that works of art could be reproduced at cheap rates in the form of postcards and other things, and the general public may be able to enjoy those works of art. In the matter of music and architecture, in our country there is hardly a right but in foreign countries, music plays a very important part and there, in those countries, it is a well-known fact that writers of music charge a very heavy price and a very heavy premium. If those things are going to be copied in our country and if we are not going to place any restriction on it, our countrymen will be deprived of the benefits of those music productions. In the matter of architecture, the definition, I submit, is not very clear. It says:

" 'architectural work of art\* means any building or structure having an artistic character or design, or any model for such building or structure".

Our country is very rich in architecture and this thing particularly applies to our country. Therefore, I would like that this definition is made more precise, more accurate and defines exactly what copyright occurs in the matter of the design or archi-

tecture and works of art. This loose definition does not cover up all the points.

As I said, I welcome this Bill but I feel that the Select Committee should carefully consider the various items and put restrictions on the rights of authors both about the duration and about the profits that they are going to get.

"Three other members, of whom two shall be persons who have special

श्रीमती शारदा भार्गव (राजस्थान): उपाध्यक्ष महोदय, मैं इस विधेयक का स्वागत करती हूँ यह कहना चाहती हूँ कि जब मैंने इस विधेयक को पढ़ा तो मुझे ऐसा मालूम हुआ कि इसमें काफी संशोधनों की आवश्यकता है। पहला बुलीटिन मंर पास आया था कि आज ही इसको पास करना है और इसलिए मैंने इसमें कुछ संशोधन भेजने का प्रयत्न किया था। पर मुझे बड़ी प्रसन्नता है कि यह सेलेक्ट कमेटी को जा रहा है। और सेलेक्ट कमेटी इसमें संशोधन करके इसके दोषों को सही कर दूंगी। कुछ संशोधन शायद मैं सेलेक्ट कमेटी को भी दे सकूंगी, पर कुछ खास बातें मैं यहाँ कह देना चाहती हूँ ताकि सेलेक्ट कमेटी उन पर विचार कर ले।

पहली बात यह है कि धारा १० में कॉपीराइट बोर्ड बनाने की जो विधि दी है उसमें मेम्बरों की जो क्वालिफिकेशन लिखी है, उसके बार् में एक संशोधन करना चाहती हूँ। धारा १० की उपधारा (बी) में लिखा है कि :

knowledge of literature or art or who have had experience of the cinematograph industry or any industry manufacturing mechanical contrivances."

इस सम्बन्ध में मैं यह कहना चाहती हूँ कि पहले तो तीन सदस्यों में से दो की ही क्वालिफिकेशन दी गई है और तीसरे के बार्

में कुछ नहीं कहा गया है कि वह किस प्रकार का व्यक्ति होगा। इसके अलावा मैं चाहती थी कि इसमें दो व्यक्ति वह हों चाहियें थे जो आथर और पब्लिशर के रिप्रेजेंटेटिव हों। इस प्रकार का एक संशोधन मैं चाहती थी कि इसमें दो मंत्र बड़ा दिये जायें, ताकि कापीराइट बिल में आथर और पब्लिशर, वें जो दो खास व्यक्ति हैं, इनको भी फायदा हो और वे भी अपनी बात कह सकें। इसलिए मंत्र सुझाव है कि बोर्ड में इन दोनों व्यक्तियों को भी बड़ा देना चाहिए।

धारा १८ के बार् में भी मुझे कुछ कहना है। मुझे बड़ी प्रसन्नता है कि सरकार ने जो यह बिल रखा है, इसमें यह ध्यान रखा गया है कि लेखक को बहुत कुछ फायदा हो और उसको जो नुकसान होता है वह दूर हो जाय। यह बड़ी प्रशंसा की बात है कि लेखकों की बहवृद्धि के लिए हमारी सरकार सोच रही है, लेकिन मेरा खयाल यह है कि लेखक की तो जरूर इसमें बहवृद्धि होगी, परन्तु साथ ही जो साहित्य समाज में आता है, उसमें थोड़ा नुकसान हो जाने का डर है। कारण यह है कि धारा १८ की चौथी लाइन में कहा गया है :

“To him by the assignee at any time not earlier than seven years and not later than ten years.”

इसके माने यह है कि कोई भी लेखक जिसने किसी पब्लिशर को अपनी कृति का कापीराइट दे दिया है, वह ७ वर्ष बाद उस कापीराइट को वापस लेकर अपनी कृति को ले सकता है। मुझे पब्लिशर्स के बार् में थोड़ा ज्ञान है, इसलिए मैं कह देना चाहती हूँ कि पब्लिशर्स बहुत सारी पुस्तकें पब्लिश करते हैं और बहुत सारा रिस्क लेते हैं। और यह भी मुझे मालूम है कि उन पुस्तकों में १० या २० प्रतिशत एंसी पुस्तकें होती हैं, जिनमें सचमुच में उनको फायदा होता है और बहुत

सी पुस्तकों में उनको नुकसान भी उठाना पड़ता है। इसके माने यह है कि रिस्क लेकर ही किताबों से फायदा उठाते हैं। लेखक को तो सन्देह रहता है कि मेरी किताब पब्लिश होगी तो पैसा मिल सकेगा या नहीं, इसलिए वह रिस्क स्वयं न उठाकर पब्लिशर को उसे दे देता है। पर, मान लीजिए कि लेखक की पुस्तक एंसी है जो सबसे ज्यादा फायदा देने वाली है या सबसे ज्यादा पढ़ी जाने वाली है, तो सात वर्ष बाद वह लेखक सोचेंगा कि क्यों न मैं इसको वापस ले लूँ ताकि पब्लिशर जो फायदा ले रहे हैं, वह मैं उठा लूँ। इसका नतीजा यह होगा कि पब्लिशर, जिसको सचमुच में उस पुस्तक की बजह से दूसरी किताबों के नुकसान के बदले में फायदा आता है और वह उस नुकसान को सह सकता है, तो फिर उस किताब को वापस देने के बाद जो नुकसान उसको होगा उसके लिए वह क्या करेगा? या तो दूसरी तरफ से फायदा उठाने का वह प्रयत्न करेगा या दूसरी पुस्तकों का मूल्य बढ़ा देगा। दूसरी पुस्तकों का मूल्य बढ़ा देने से समाज की हानि होगी। मैं इस बात से सहमत हूँ कि लेखकों को, क्योंकि उनकी कृतियां होती हैं, जो कि उनके मस्तिष्क की उपज होती हैं, फायदा पहुंचाया जाय और ऐसे गरीब लेखकों को जो गरीबी की बजह से थोड़े दाम में अपनी कृति को बेच देते हैं, बचाने की बहुत आवश्यकता है। परन्तु साथ ही साथ अगर सात वर्ष की सीमा हम रख देंगे तो लेखक शायद हमेशा यह सोचेंगा कि क्योंकि उसकी पुस्तक से फायदा होने वाला है, इसलिए मैं उसको वापस ले लूँ। इसलिए मेरा कहना है कि सात वर्ष की अवधि को बढ़ा कर ज्यादा कर दिया जाय या फिर दूसरी चीज यह कर दी जाय कि जब कापीराइट वापस करने का मामला कापीराइट बोर्ड के पास जाय, तो उस समय लेखक से यह भी कहा जाय कि जो कुछ उस से नुकसान होने वाला है उसका भी बदला चुकाये तो वह कापीराइट वापस ले सकता है अन्वथा नहीं। हमको लेखक के बार् में सोचना जरूरी है परन्तु लेखक से भी ज्यादा

[श्रीमती शारदा भार्गव]  
समाज के लिए सांचना आवश्यक हैं। कोई भी विधेयक या कोई भी प्रस्ताव जब हम स्वीकार करते हैं तो यह देखते हैं कि समाज में उससे क्या नुकसान या हानि होने वाली है। व्यक्ति को, वह पब्लिशर हो या लेखक हो, नहीं सांचना है पर समाज के बार् में अवश्य सांचना है। इसलिए मेरा कहना है कि जिस प्रकार यह धारा बनाई गई है उसमें लेखक का पूरा खयाल रखते हुए भी जब तक परिवर्तन नहीं किया जायगा, समाज का नुकसान होने का डर है। इससे अधिक इसमें कुछ कहने की बात नहीं है। यदि आवश्यक हुआ तो मैं अपने सुभाष सेलैक्ट कमेटी में लिखकर भेज दूंगी।

आगे मुझे धारा २९ के बार् में कुछ कहना है। पैज १३ पर धारा २९ की उपधारा (२) दी हुई है जिसमें लिखा है (यह ट्रांसलेशन के बार् में है):

"Every applicant for a licence under this section shall along with his application deposit with the Registrar of Copyrights an amount equal to not less than ten per cent, of the proposed retail selling price of one thousand copies of the translation of the work or one thousand rupees, whichever is greater."

यहां पर मुझे यह कहना है कि इससे तो मैं सहमत हूँ कि उससे १० प्रतिशत रुपया ले लिया जाय, परन्तु जहां १,००० रु० जमा करने की बात कही गई है, ऐसा भी हो सकता है कि कुछ पुस्तकों एक, एक रुपये वाली हों और अगर एक हजार पुस्तकों के मूल्य का १० प्रतिशत लेना है, तो उस हिसाब से १०० प्रतिशत देना पड़ जाता है। इस प्रकार उसे एक हजार रुपये डिपॉजिट कराने में बहुत कठिनाई होगी जब कि पुस्तक का मूल्य बहुत कम है। चूंकि वह पुस्तक समाज के लिए उपयोगी है इसलिए उसका ट्रांसलेशन तो किया जायगा मगर इस प्रकार का नुकसान उठाकर या १०० प्रतिशत देकर कोई व्यक्ति ट्रांसलेशन करने में

असमर्थ होगा। इसलिए इस रकम को ५०० रु० या २५० रु० कर दिया जाय या फिर सिर्फ "टैन पर सेन्ट आफ दी प्रोपोज्ड रीटल सॉलिंग प्राइस" ही रहने दिया जाय क्योंकि कमी कमी जो टैन पर सेन्ट आफ दी प्रोपोज्ड सॉलिंग प्राइस होगा वह १,००० से बहुत कम भी हो सकता है। एंसी हालत में एक हजार रुपये देना पब्लिशर के लिए बहुत दिक्कत का काम होगा।

इसी धारा की उपधारा (५) के (ए) में कहा गया है कि :

"A translation of the work in such language 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."

इसमें 'आऊट आफ प्रिन्ट' के बार् में कोई समय की सीमा नहीं दी गई है। इसके माने यह है कि अगर कोई किताब ६ महीने से आऊट आफ प्रिन्ट होगी तो आप दूसरों को कॉपीराइट दे सकते हैं। इसीलिये मेरा सुभाष है कि इसमें आऊट आफ प्रिन्ट के आगे पीरियड दे दिया जाय। मैं यह सुभाष देती हूँ कि दो वर्ष का समय इसमें दे दिया जायगा तो समय और सीमा बनने के बाद हर एक को मालूम होगा कि हमें इस टाइम के अंदर इसको आऊट कर देना है, अन्यथा कोई टाइम लिमिट न रहने से दो महीने भी आऊट आफ प्रिन्ट रहने से लाइसेंस खत्म किया जा सकता है और ४ वर्ष तक भी वह वैसे ही पड़ा रहे तो भी उस पर कोई जोर नहीं जमाया जा सकता। इसलिए इसमें समय की सीमा देना बहुत आवश्यक है।

धारा २२ की उपधारा ३ में, पैज नम्बर २६ में यह लिखा है कि :

"Notwithstanding anything contained in the General Clauses Act, 1897 where any person immediately before the commencement of this.

Act is entitled to copyright in any work or to any interest in such right, he shall, as from the date of such commencement, be entitled."

इस धारा की तीसरी लाइन में जो "कापीराइट" का शब्द लिखा है, वहाँ पर थोड़ा सा इसमें यह जोड़ देने की आवश्यकता है कि: "आइवर होलली आर पारशली" क्योंकि कापीराइट के माने तो ट्रांसलेशन भी होता है, फिल्म प्रोड्यूसिंग भी होता है, सब कुछ होता है। इस लिए अगर आप ये शब्द "आइवर होलली आर पारशली" जोड़ देते हैं तो उसके माने यह हो जाते हैं कि जो ट्रांसलेशन या इसी प्रकार का कार्य है, उस पर बुरा असर न पड़े। इस लिए मैं चाहती हूँ ये शब्द इस धारा में एड कर दिये जायें। ट्रांसलेशन की धारा में भी काफी परिवर्तन होने की आवश्यकता है क्योंकि यह धारा पब्लिशर और आथर दोनों के ही लिए कोई लाभप्रद नहीं मालूम पड़ती है। इसलिए इस धारा में जो संशोधन हैं उन को मैं मंत्री महोदय को दे दूंगी और उसमें जिस प्रकार सेलेक्ट कमेटी उचित समझे उस प्रकार उसमें संशोधन करके सही कर दें।

इस बिल के सम्बन्ध में अधिक बोलना आवश्यक नहीं है क्योंकि अभी यह बिल सेलेक्ट कमेटी में जा रहा है। मेरे जो सुझाव हैं, आशा है, सेलेक्ट कमेटी उन पर विचार करेगी और उनको स्वीकार कर लेगी।

SHRI M. GOVINDA REDDY (Mysore): Mr. Deputy Chairman, I have very great pleasure in supporting this Bill, which in my opinion, has come none too early. The law relating to copyright is now regulated by the Indian Copyright Act of 1914. This Act itself was based on the U.K. Copyright Act which is 40 years older. As the hon. Minister pointed out in his very lucid speech, copyright is something which affects the livelihood of so many people of genius, people with creative abilities in them, and this is a matter which has been treat-

ed rather indifferently by our Government in the past. So it should have been well attended to by our Government at least after the attainment of independence. Apart from, the general importance that this subject should have attracted, there are certain anomalies which have arisen on account of the change in the political status of our country. In the U.K. Act and in the corresponding Indian Copyright Act of 1914 there are words and phrases which are inconsistent with our present political Republican status. I may point out some of the anomalies which still exist on account of our having based our Act on the U.K. Act. We have words like "His Majesty's Dominions and Provinces", "Judicial Committee of Council", "The Crown", "His Majesty" and so on in the Indian Copyright Act of 1914. Such words and phrases occur in the Copyright Act of the United Kingdom and they were necessarily copied by the Indian Act of 1914; and even after our attaining independence, these phrases which were anomalous have been continued without any thought being devoted to correcting them in this Act. There is in today's morning paper another curious parallel instance of such an anomaly that occurred in a court of law where a man who had to give something like an undertaking finds in the printed form that he has to undertake or is bound by his Majesty's instructions to do such and such a thing, something which is entirely anomalous under the independent status of the country. These show that these anomalies have to be attended to. I am, therefore, glad that at least after these seven years, the Government have come out with an amending Bill. There were also other disadvantages flowing from our not ratifying, changing or replacing the Indian Copyright Act of 1914; and these relate to our relations with other countries of the world, our international relations in the matter of copyrights and we were unable to ratify the Berne Copyright Convention which was revised at Brussels and the Universal Copyright Convention.

[Shri M. Govinda Reddy.] tion also was not ratified by us. I am glad that at last, all these anomalies will be corrected by this measure.

I consider this measure as a very well devised and a very well drafted measure. My hon. friend Mr. Kishen Chand in his speech was saying that the Government in this draft Bill have been over-solicitous for the rights of authors. At the same time, he was detailing the various disadvantages to which the author or the artist was subjected in the old days. Sir, it is a known fact that genius always lives or is always born in people who have not got financial strength. Genius is found always in the poor man and these poor men were never in a position to benefit by the works of their genius.

SHRI KISHEN CHAND: Lord Byron was not poor. Shelley was not poor.

SHRI M. GOVINDA REDDY: There may be exceptions here and there. But where there were million others, there was only one Byron or one Shelley. There were men like Charles Lamb too who were slaving for days on end just to eke out a hand-to-mouth living, although he was admittedly a man of genius. It is a fact that Dr. Johnson at least towards the end of his life saw brighter days. But there are scores and hundreds of authors and painters and gifted musicians who have died in poverty and who have died in prison for debt which they had to incur for their mere living. History is replete with such instances, of gifted author? whom we today admire and whose works have been placed today at the top of the list of creative works of art, but who were condemned to misery in their life-time. They all had to live a life of poverty and misery. Such instances can be multiplied. As I was pointing out, Mr. Kishen Chand recognised that the authors were unjustly treated in their day by the mercenary world. But still my hon. friend says that this Bill is over-liberal to them. In my opinion

this Bill is not at all over-liberal. This Bill only does justice by the author, by the publisher and by the public.

Sir, the author of a work, whether it be literature, painting, a composition, a drama or anything has to profit by his creative genius. Nobody can dispute that and, whether a publisher can exploit that to his own benefit and not to the benefit of the author is also a fact about which there can be no dispute. Mr. Kishen Chand, I am sure, recognises the right of the author to profit by his work and the right of the publisher— which he pleaded— also to profit by the investment he makes on the publication. This measure, while doing full justice and giving full scope for the author to benefit by the work of his art, does not prevent the publisher from enjoying the profits which are his due on account of the investment he has made on the work. It has done justice to both. This measure also has not deprived the public of its right although, in my opinion, the period fixed is too long.

I cannot now go into the details. That is not proper because we cannot amend this measure now. It should go to the Select Committee and then come back to us to enable us to table amendments but I would like, for the consideration of the Select Committee, to submit a few suggestions. It has been the precedent in all Government measures, wherever Statutory Boards are thought of, to suggest for at least the place of the Chairman, a serving or a retired Judge of High Court. This, in my humble opinion, has been over done. In matters which call for very high judicial discretion to be exercised in the discharge of the duties, a serving or a retired High Court Judge could be thought of. Even in this case, there is nothing wrong in having High Court Judge; it is all the better to have a High Court Judge but **the**

point is whether it is inevitable that we should have a High Court Judge considering the fact that there are not many High Court Judges in the country and also retired High Court Judges. That being so, would it be advisable to carry on this precedent in every Government, measure wherever a Statutory Board is thought of? This is a question which I should like this House and the Select Committee to consider. In the matter of the work of the Board of Copyrights thought of in this measure, I do not personally believe that a High Court Judge is indispensable. Any man with some knowledge of publication, some legal knowledge of an author's rights, would do well as Chairman provided he is a man of integrity and his antecedents are above board. Such a man would satisfy, according to me, the requirements. I would like the Select Committee, if they think fit, to accept this suggestion and change this clause accordingly.

I also support the suggestion made by the hon. Shrimati Bhargava that the publishers also should be represented on the Board because, as much as the authors, the publishers too have a living interest in the concern.

I was saying in my general remarks that society also should benefit by the works of authors whether they be artists, painters, composers of music or dramatists. If a copyright should subsist for a very long time, necessarily, as the hon. Mr. Kishen Chand pointed out, the wider benefit which society wants from the works cannot be had. The very process of getting a licence or permission either to translate the work or to comment upon any work—a very valuable right for the members of the public—will be a tedious and costly one. While I do not wish the publisher or the author to be deprived of this valuable right, I wish to say that the right of the author to cash his copyright and the right of the publisher to preserve it a

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close monopoly should be limited. If a book is valuable and precious, the value of that book will be commercially exploited by either the author or the publisher within the course of ten years. If a book is not at all liked by the public, if it cannot pay returns either to the author or the publisher, even if the copyright is extended for a hundred years after the death of the author it will not serve any purpose either for the author or for the publisher. Therefore, we can specify a range of time within which we can suppose that the author and the publisher would have received adequate returns on the work of art. After that, if the work of art is really precious, the public must be free to use it. Today, let us take the works of Shakespeare. If they are to be treated as a close preserve, we will be depriving the wide interested world from making use of such works. If a painting, as Mr. Kishen Chand pointed out, is a very good one and is the preserve and monopoly of a certain man, then the public will be deprived of the enjoyment of that work of art. Therefore, while assuring to the creator of that work a sufficiently long period of time which is calculated to give him sufficient returns for his labours, the work should then be kept free as the property of the public. Therefore, I personally think that 25 years after the death of the author is too long a period for any copyright to be allowed to continue to subsist. This can well be cut down to ten years. If the author has produced a really valuable work, he will have received all the return due to his work within ten years.

In the matter of definition, some works which should come under copyright are not included although the definition in this measure has been largely enlarged from the one in the Act of 1914. There are some works which should come under the definition. I hope the Select Com-

[Shri M. Govinda Reddy.] mme will give some attention to mis.

These are aii the suggestions that I wish to make at this stage. With these few words, I have very great pleasure in supporting this motion.

SHRI H. P. SAKSENA: Sir, I now need no proof that we are living in very degenerate times when authors and men of art, literature, science and wisdom require their production not for the benefit of mankind and of humanity in general but for their o:n personal ends. This Copyright Bill is an eye opener in regard to the things that are to come in the future.

This materialistic world is bringing us down to a very low level. Manu, Yagyavalkya and Panini never wanted any copyright for their invaluable productions, for the production of their literature and art. Goethe, Firdousi and Kalidas never wanted any copyright for their production. The immortal works of Kalidas have ravelled all the world over and are being translated in all the languages of the world, but now, . Sir, we are thjinking of copyright and keeping the strings .....

(Interruption.)

I would like my hon. friend Dr. Panjabrao Deshmukh to enlighten me what is it that is troubling him because if he only whispers to his next friend I am helpless.

SHRI M. GOVINDA REDDY: He is just prompting you.

SHRI H. P. SAKSENA: This copyright business has been adopted by other countries of the world. That goes without saying, so much so, as pointed out by my hon. friend Mr. Govinda Reddy, we are still copying even the phraseology and the language of the U.K. Act of Copyright. We have neglected this aspect of the matter so far and so long. At long last the Education Ministry of

the Indian Union, has awakened from its slumber and has thought it fit to bring thi j Copyright Bill in this House. I must congratulate the hon. sponsor of the Bill for his getting wide awake and doing a little bit of service to the authors, publishers and the readers in general. To my mind the only person who, under the proposed Copyright Bill, should be benefited, is the author. He is the greatest sufferer in the entire category of parties concerned with this affair. He is the greatest sufferer. He has, a.^ pointed out by the previous speakers, to sell his gems, his precious jewels for a song. Necessity compels him to give the exclusive right of publication to those hungry and greed-ridden publishers who hover around authors and persuade them to part with their pieces of art and skill for a very meagre sum of money and, as I pointed out, necessity drives them to enter into that transaction. So I do not think the period of 25 years which has been proposed in the Bill for the progeny of the author to profit by his productions is any too long a period. It should not have been cut down from 50 years to 25 years. In my opinion it should have been retained at least for half a century. But then there are the publishers who are the chief media for bringing the readers and the authors into close contact. Where there are no publishers, official, private or any other, most of the books and excellent works of the authors will remain unpublished, and it has happened in our ancient India in the case of many many very important pieces of literature which did not see the light of the day. Therefore, Sir, at this stage when the Bill is going to be referred to a Select Committee and when there is every likelihood of its being very properly thrashed, it is not proper and wise to be wasting the precious time of the House in discussing the clauses of *Qie* Bill which, I must admit, has been rather very carefully drafted and therefore I commend its being sent to the Joint Committee.

DR. P. V. KANE (Nominated): Mr. Deputy Chairman, in the beginning I did not think of speaking on this Bill but now I do so as those who have spoken have expressed various points of view and I do not know whether the speakers have themselves ever been authors\* except perhaps my hon. friend, Shri Kishen Chand. Sir, I represent the authors' point of view. I claim to have printed by this time at least 20,000 pages. I do not know whether *on* the Committee are men who have been authors or who are very much interested in the literary work by way of monetary gratification. The members were just now talking of Shakespeare and Kalidas, who flourished 400 years back and 2,000 years back, respectively. They are great men, but all authors are not Shakespeares and Kalidasas. There are several kinds of authors, first class authors, second class authors and third class authors. It takes some time for some works to come to public notice and if you fix the term at ten years, it may be that in ten years nobody recognises that an author has written something which is of very great importance. Therefore I think that those gentlemen who propose ten years have, most probably, never been authors.

SHRI M. GOVINDA REDDY: I have been an author but a small author.

DR. P. V. KANE: Anyway I do not want to say much at this stage, but look at the definition of "Ownership". I think that comes under clause 16 and there I want the Committee to take into very careful consideration that particular portion about the ownership of copyright. There it is said that "the author of a work shall be the first owner of the copyright therein." This is as it should be. But then there are the provisos and the first proviso is a very dangerous proviso. It says, "in the case of a work made for valuable consideration at the instance of any person, such person shall, in the absence of any agreement to the contrary, be the first owner of the copy-

right." Now the important words are "valuable consideration" and I know as an author what it is. If you write something you get ten rupees for it. You are a needy man. The Bill says, "such person shall, in the absence of any agreement to the contrary, be the first owner of the copyright." Being a needy man the poor author is not in a position *to* impose any contract on a publisher. Therefore these two things must be carefully gone into. Now what is the meaning of "valuable consideration"? "Gratis" one can understand but as regards "valuable consideration" the value may be ten rupees or five rupees or even less and the work may be of 100 or 200 pages. I know Johnson got ten pounds for his 'Rasselas' and that at a time when his mother had died. So the wording of the two phrases is very important. Saying merely "for valuable consideration" will not do. You must put it as "adequate valuable consideration" or something like that. That is important. Secondly I come to the phrase "in the absence of any agreement to the contrary". Now who is to prove it? Is the author to prove or the publisher to prove? The point is: The publisher may say, "There is no contract. I have paid him ten rupees and so the whole work is mine." You must say in this provision that the publisher should prove that there was no "agreement to the contrary"—not that the author has to produce the contract. It is the publisher who should prove that he has paid valuable consideration according to an agreement. They are not parties placed in equal positions. An author may be a poor man and may be starving, whereas a publisher is a rich man, and there are such rich men who employ poor people to get works done by them and those rich publishers have them published in their names. All these I know during the last 45 years. Therefore I am suggesting to the Committee to look at these particularly.

The other point is about the term of copyright. In the Bill it is put down as twenty-five years whereas formerly it was fifty years. One hon. Member

[Dr. P. V. Kane.] suggested that it should be brought down to ten years. I do not think the society can have any claim on an author's work and copyright after a certain period and if the period is so low as ten years a man may refuse to write and say, "Why should I bother my brain if you are going to give me copyright only for ten years?" An author benefits society. Originally I think the copyright was for a period of fifty years after the death of the author. Now my hon. friend, Mr. Kishen Chand, wants the maximum period of the copyright to be only thirty years, not even fifty years. But remember that the author has to live. Another friend just now was saying that Kalidas and others before him never bothered about copyright, but remember the present-day author has to live in these hard days. In my own life tkne I have seen that one could have food for five rupees a month in an inn. Now even Rs. 45 are not sufficient even for the worst inns in Bombay. Therefore I am saying he has to live. Otherwise he will not bother himself about writing. Then, as I said, there are different kinds of writing, the best, the middling and the worst. You need not care for the worst, but you must care for the best and the middling. Therefore this proviso should be very carefully looked into.

That is all that I want to say at present.

MR. DEPUTY CHAIRMAN: The House stands adjourned till 2-30.

The House then adjourned at one of the clock.

The House reassembled after lunch at half past two of the clock, MR. DEPUTY CHAIRMAN in the Chair.

श्री कन्हैयालाल दाँ० बॅण्डा (मध्य भारत):  
उपाध्यक्ष महोदय, जिस बिल के विषय में सदन में चर्चा हो रही है, में उसका समर्थन कर रहा हूँ। इस विषय में मुख्य रूप से मेरा

यह कहना है कि जिस प्रकार हमारा देश में गुलामी की स्थिति में सारा देश रहा और शोषण की व्यवस्था रही, उसी प्रकार इस देश के जो प्रकाशक हैं वे लेखकों के शोषक बन कर रहे हैं और वास्तव में लेखक को प्रकाशक से बहुत कुछ प्रोटेक्शन दिलाने की आवश्यकता है। कानून की सीमाओं में रह कर यदि हम इन लेखकों को कुछ रक्षण दिला सकें तो वह बड़ा अच्छा कार्य होगा। बहुत सी बातें ऐसी हैं, जिनके अन्तर्गत हम लेखक और प्रकाशक के बीच की व्यवस्था में सुधार कर सकते हैं और बहुत कुछ लेखकों के हितों को भी सुरक्षित कर सकते हैं। जो लेखक अपनी रचना को प्रकाशक को दे देते हैं और स्वयं उसको प्रकाशित करने की स्थिति में नहीं होते हैं, उनके लिए प्रकाशक लोग इस प्रकार की स्थितियों का निर्माण कर देते हैं, जिससे उनको वह लाभ जो कि उनको अधिकारपूर्वक मिलना चाहिए नहीं मिल पाता है। जहाँ तक कहा जाय, हमारा प्रधान मंत्री भी, जो कि उन महान् लेखकों में से हैं कि जिनकी कृतियाँ संसार के अन्दर बहुत ही आदर की दृष्टि से देखी जाती हैं, उनको भी अपनी कृतियों के विषय में यह अनुभव रहा है कि जहाँ तक स्वयं उनका भारतीय प्रकाशकों से काम पड़ा उनके पल्ले कुछ अधिक पैसा नहीं पड़ा। हाँ, यह बात ठीक है कि विदेशों से जरूर उनके प्रकाशनों पर उनको कुछ मिला, किन्तु भारतीय प्रकाशकों ने उनके साथ न्याय नहीं किया; यहाँ तक कि अनुचित रूप से उनके अनुवादों को प्रकाशित करके धन पैदा किया। हमारे प्रकाशकों का मूल उद्देश्य यह नहीं रहा है कि निजी और व्यक्तिगत रूप में राष्ट्र का हित करें, इस देश के अन्दर तो बहुत सारे ऐसे प्रकाशक हैं जो कि इस धंधे को निजी सम्पत्ति और निजी व्यवसाय के रूप में करते हैं और अनुचित लाभ उठाते हैं। जहाँ तक समाज की स्थिति है, हम एक नई व्यवस्था के अन्दर इस देश के सारे कामों को करने जा रहे हैं और स्वतंत्र भारत में तो हमें इस बात की अपेक्षा करने चाहिए कि जो लेखक लोग हैं, जिनका कि

कृतियों से शोषण होता आया है, उनको रक्षण दे। वास्तव में इस दश में ऐसे लेखक हैं और हां गए हैं जिन्होंने जन जागृति के लिए और स्वाधीनता प्राप्ति के लिए निरन्तर कार्य किया। लेकिन उन्होंने जो कुछ भी लिखा उसका जो उचित लाभ उनको मिलना चाहिए था वह उनको नहीं मिला और न उसके लिए कोई व्यवस्था ही थी। इस प्रकार उनका जीवन हमेशा ही दुःख और दरिद्रता का जीवन रहा है और अब भी बहुत से लेखक इस दश के अंदर बहुत दुर्दशा और गरीबी में जीवन व्यतीत कर रहे हैं। ऐसे बहुत से लेखक हैं जिनकी कृतियाँ पूरे दश को गर्व हैं और जिनकी कृतियों का हमारा राष्ट्र के और संसार के साहित्य में उच्च स्थान प्राप्त है, वे भाँपड़ियों में पहुँचे हुए हैं और बीमारी और रोग की दशा में, अभाव से पीड़ित होकर, मौत के मुँह में जा रहे हैं और गए हैं। बहुत से ऐसे लेखकों को मैं जानता हूँ जो अकाल मृत्यु के शिकार हुए हैं। ये सब शोषण की व्यवस्था के कारण हैं जिससे इस दश के साहित्य की रचना करने वाले, उसका सृजन करने वाले, दश की जनता को जागृत करने वाले और दश को आगे बढ़ाने वाले जो कलाकार, जो साधक और जो साहित्यकार हुए हैं, उनको बहुत दुर्दशा का जीवन व्यतीत करना पड़ा है। जहाँ तक इस कानून का सम्बन्ध है, मैं जरूर यह आशा करूँगा कि इस की व्यवस्था से आज तक शोषण की जो व्यवस्था प्रकाशकों द्वारा चल रही थी उसमें कुछ फर्क आएगा और फर्क ही नहीं पड़ेगा बल्कि उन लेखकों को वास्तविक रक्षण प्राप्त होगा, जिन्होंने इस दश में स्वतन्त्रता के लिए एक ऐसे साहित्य का सृजन किया, जिस पर मानव जाति गौरव अनुभव कर सकती है और संसार का कल्याण हो सकता है। वे लोग हमेशा उन लोगों को उठाने के लिए जीवन में प्रयत्नशील रहे हैं जो कि कुजले हुए और शोषित हैं। जिन्होंने ऐसे प्रयत्नशील साहित्य का सृजन किया है उनके अधिकारों का रक्षण होना बहुत आवश्यक है।

इन शब्दों के साथ मैं इस बिल का समर्थन करता हूँ और आशा करता हूँ कि इसके द्वारा सरकार इस दिशा में वह कदम उठायेगी जिस से कि जो कृषितियाँ इस क्षेत्र में चली आ रही हैं, वे दूर हो जायें।

PROF. G. RANGA (Andhra):  
Sir .....

MR. DEPUTY CHAIRMAN: You are a member of the Select Committee.

PROF. G. RANGA: But if there is time I would like to speak.

MR. DEPUTY CHAIRMAN: But you are a member of the Select Committee.

PROF. G. RANGA: There is no bar on it.

SHRI M. GOVINDA REDDY: There are other members who have been permitted to speak in the past.

MR. DEPUTY CHAIRMAN: No, no. We have been observing that rule.

PROF. G. RANGA: We did not make any rule to that effect. It is not a rule first of all and we should not.....

MR. DEPUTY CHAIRMAN: We have been observing that convention, It was only on the Constitution (Amendment) Bill that it was permitted as a special case; in no other case.

SHRI KAILASH BIHARI LALL (Bihar): Sir, this convention is observed only when there are so many speakers. When there is no member wishing to speak, why cannot members of the Select Committee be allowed to speak? There should not be any hard and fast rule.

MR. DEPUTY CHAIRMAN: The motion for reference to Select Committee is to help the members of the Select Committee to take the suggestions made by other members into consideration.

PROF. G. RANGA: When you say that, I have got to offer some observations apart from this Bill. I have been here for a much longer period than your own good self.

MR. DEPUTY CHAIRMAN: So far as this House is concerned we began together.

PROF. G. RANGA: This question came up several times for discussion and we agreed in the end that so long as there were other members, who were not members of the Select Committee, anxious to speak and there was shortage of time also, then preference should be given to those who were not members of the Select Committee. At the same time we also came to this decision that when other members were not pressing for their privilege to speak and if there was time enough for members to express their views, then it was open to the members of the Select Committee also to speak.

The third point is that by the time the Select Committee meets there elapses some time and during that period if any member of the Select Committee wishes to place certain thoughts both for the consideration of other Members of the House and of the Government, then it should be open to him to give expression to some of his suggestions so that by the time the Select Committee meets the Minister concerned could be prepared with the necessary proposals if he thinks that there is substance in those suggestions or if he thinks that he can possibly accept any of the suggestions offered by any one of the members of the Select Committee.

MR. DEPUTY CHAIRMAN: We have been observing this convention in the past. I think it is better that we stick to it. Dr. Shrimali.

DR. K. L. SHRIMALI: Sir, I must express my gratitude to the hon. Members who took part in this debate. I am also grateful to them

for the support which they have given to this measure. I would like to assure them that the Joint Select Committee would give full consideration to the various suggestions that have been made by hon. Members.

There are, however, one or two points which I would like to deal with. My friend Mr. Kishen Chand, suggested that the Bill does not go far enough in curtailing the rights of authors regarding copyright. Now, Sir, the main purpose of the Copyright Bill is to protect the author. The authors very often have no means of livelihood.....

SHRI KISHEN CHAND: I feel too much protection has been given to the authors.

MR. DEPUTY CHAIRMAN: That is your view.

DR. K. L. SHRIMALI: The authors and artists and those who deal with work in the intellectual field very often have no other means of livelihood and if they are not protected, if they do not get any economic return for the work done by them, then I am afraid we shall stifle intellectual interests .....

SHRI AKBAR ALI KHAN (Hyderabad) : As a rule, they are at the border of starvation.

DR. K. L. SHRIMALI: Hon. Members have suggested that many authors in our country live in very poor conditions, they are almost on the verge of starvation. Now, Sir, there are various reasons for this state of affairs. I do not agree with my friend, Mr. Vaidya, that this is entirely due to the exploitation of the authors by publishers. In the first place, in order that authors, artists and painters and all those who deal with creative work may flourish, it is necessary that their works must be appreciated by the people. Sir, as we make progress in education, as we raise our cultural and aesthetic standards, the demand for books, the demand for pieces of art, and the

demand for creative work will increase. The condition of artists and writers, to some extent, can be improved only when the general cultural standard of the society is raised. Now, that I think is a very important point which we should bear in mind. I am afraid I do not agree with my hon. friend, Mr. Vaidya, that publishers are exploiting the authors. It may be that there may be some bad publishers, but there may be some bad authors also; but as a rule unless there are publishers and good publishers, the authors cannot be protected. For the very protection of the authors, we need good publishers and no publisher will come forward unless his interests to some extent are safeguarded. The publisher makes the investment; the publisher tries to find various ways and means by which the book can be marketed and can find a good sale and he puts all his resources. And I think it is only right that some return should go to the publisher also. It is true that the author is mostly responsible for the creative work and the copyright is primarily meant for the protection of the author, but the author himself does not become a publisher. There are very few authors who make successful publishers. Authors because they work in the realm of imagination, because they work mainly in the intellectual field, are not fully conversant with all the business transactions and, therefore, they do need some kind of persons who can help them in bringing their books and their creative work into the market. I think publishers also do render a great service.

My hon. friend, Mr. Kishen Chand, also said that the duration of the copyright after the death of the author is too long, that we have put it 25 years. He would like the period further reduced. Now, I was looking through the various copyright legislations in various countries. I do not know of any country which does not to some extent, protect the rights of

the author's family or children. A country like the U.S.S.R., which cares least for private and personal property, has laid down—this is the amended Bill of 1946—

"After the death of the author the copyright devolves on his heirs for a period of 15 years."

In most countries it is 25 years, but in the U.S.S.R., even after the death of the author the copyright devolves on his heirs for a period of 15 years. And

"The following persons are entitled to the estate of the deceased:

- (1) his children;
- (2) his surviving spouse and disabled parents;
- (3) disabled persons who were maintained by the deceased for at least one year before his death;
- (4) if nobody of the aforementioned categories of persons survives the *de cuius* his parents, even if able to work, are his next heirs; and if no parent is alive, the brothers and sisters of the *de cuius*.

The deceased may by will leave his estate or part of it to all or some of the legal heirs or to State or communal organisations. He may not, however, disinherit his minor children nor other incapacitated legal heirs."

Now, I would like to emphasise this aspect. Very often the author may have some children who are helpless, they may be disabled. The family may be in a very bad condition. In that case, that family will be a burden to the State or the society and I think if we really wish to release the creative urges of the genius, it is very important that he must be freed from financial worries and it is from that point of view, I think, it is important that the authors' rights should be fully protected. Of course, as I myself said in my introductory remarks we shall have to reconcile the

[Dr. K. L. Shrimali.] various conflicting interests. There is, for example, the author; then there is the publisher; then the surviving family; and, lastly, the society. Now, all these, I think, are interdependent. An individual finds the best expression only in the medium of society and, therefore, society has a right to share the creation of an individual artist. But it is also the duty of the society to create conditions in which the artists and writers will flourish. And if my hon. friends would look at this Copyright Bill carefully, they would find that the provisions that we have made safeguard the interests of everybody—the author, the publisher and the surviving family and lastly, the society.

We have also to take into account the pattern of society which we are building up. We have to build up socialistic pattern of society in this country. All our legislations as our planning have to be directed from that point of view. In a society like ours, it is not possible to give unrestricted rights to the authors and, therefore, in the Bill we have made certain provisions which put certain limitations on the rights of authors also. The author has no right to deny to the society the pleasures of his creation. That will defeat the very objective of the society as also of the individual creation.

Various suggestions have been made by hon. Members. Shri Govinda Reddy has made a suggestion that we need not have a High Court Judge as Chairman. Mr. Saksena also suggested that by bringing this Bill, we are only proving that our society is a degenerate society. Now, he is still thinking of the Utopia where authors could survive without having any means of subsistence. If we really want the creative work to be done properly by the artists and the writers it is very important that their material comforts should be safeguarded. After all, the spirit cannot **survive** if the body **perishes**. I do

not know how my hon. friend thinks that the gennis can create great things without taking care of the material comforts and the basic necessities of life. All that we are saying is that the basic necessities of life for the authors, the writers and the artists should be met.

SHRI H. P. SAKSENA: On a point of personal explanation, Sir. I will, present my friend, Dr. Shrimati, with a copy of my speech recorded as it is here tomorrow, so that he may correct his misunderstanding of what I said.

DR. K. L. SHRIMALI: Well, I am glad that he did not take that view. If that is his view, I am very glad; but I thought that by bringing this Bill, he said that it would only prove that our society had become degenerate, that Kalidasa never worked under protection and why should we bring in all this protection now.

With these remarks, I request the House that the Bill might be referred to a Joint Select Committee and it may accept my motion.

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill to amend and consolidate the law relating to it right be referred to a Joint Committee of the Houses consisting of 45 Members; 15 Members from this House, namely:—

1. Shri Mohamed Valiulla,
2. Prof. R. D. Sinha Dinkar,
3. Prof. G. Ranga,
4. Shri Nawab Singh Chauhan,
5. Prof. Dr. Raghu Vira,
6. Shri Benarsi Das Chaturvedi,
7. Shrimati Lilavati Munshi.
8. Shri Raghavendrarao,
9. Dr. Raghbir Singh,
10. Shri Shyam Dhar Misra,
11. Kakasaheb Kalelkar.
12. Shri Abdur Rezzak Khan,
13. Shri N. B. Deshmukh.
14. Shri Rajendra Pratap Sinha,
15. Dr. K. L. Shrimati, the **mover**,

and 30 Members from the Lok Sabha;

that in order to constitute a meeting of the Joint Committee the quorum shall be one-third of the total number of Members of the Joint Committee;

that in other respects, the Rules of Procedure of this House relating to Select Committees shall apply with such variations and modifications as the Chairman may make.

that this House recommends to the Lok Sabha that the Lok Sabha do join in the said Joint Committee and communicate to this House the names of Members to be appointed by the Lok Sabha to the Joint Committee; and

that the Committee shall make a report to this House by the 27th May, 1956."

The motion was adopted.

**"THE MULTI-UNIT CO-OPERATIVE SOCIETIES (AMENDMENT) BILL, 1955**

THE MINISTER FOR AGRICULTURE (DR. P. S. DESHMUKH): Sir, I move:

"That the Bill further to amend the Multi-Unit Co-operative Societies Act, 1942, be taken into consideration."

As the House must be aware, this is only a one-line Bill and the reason for this amendment has already been explained in the Statement of Objects and Reasons. Originally, there was a Central Act passed in the year 1912, but in 1919, there was Provincial Autonomy so far as the subject of cooperation was concerned and so, this Act was considered as if it was an Act passed by those provincial legislatures. Some of them had passed special Acts; the others merely adapt-

ed this Act and brought it into force. There were, however, certain societies which operated and wanted their objects not to be confined to only one State, but to be extended to more than one State. Therefore, the need arose of passing an enactment by the Government of India called the Multi-Unit Co-operative Societies Act in 1942.

Now, under the then existing circumstances, it was mentioned that it applied to the whole of India—India then being only British India and not all the States and all the parts. It is for this reason—that difficulties arose especially with respect to certain Part 'C' States—that we thought it necessary to bring in the amendment that is before this House. By this we will obviate the difficulty of the operation of the multi-unit co-operative societies in more than one State. The amendment seeks to extend the Act to the whole of India except the State of Jammu and Kashmir. The special feature about Jammu and Kashmir is well known to the House and we, therefore, have to except it because entry No. 44 of the Union List is not included in the Constitution (Application to Jammu and Kashmir) Order, 1954.

I do not propose to take more time of the House. We have, besides the Railway Co-operative Societies of which we have not got the full details of membership etc., about 39 Societies operating in more than one State. Their membership is 5,42,382. Of these, 1,20,626 are from the areas outside the State of registration. And the Railway Board also as well as such societies as the Post and Telegraphs, Railway Workers and the proposed National Co-operative Union of Railway Workers—all these societies will benefit from the amendment I am proposing.

I hope that my motion will be accepted by the House.