

श्री मधु लिमये : मैं विधेयक को पेश करता हूँ ।

16.10 hrs.

INDIAN PENAL CODE (AMENDMENT) BILL—contd.

(Amendment of sections 292, 293, etc.)

MR. DEPUTY-SPEAKER: The House will now take up further consideration of the Indian Penal Code (Amendment) Bill, as passed by the Rajya Sabha. Shri D. C. Sharma will continue his speech. He has already taken two minutes. The time allotted for this Bill is one hour and thirty minutes.

श्री मधु लिमये (मूंगेर) मेरी एक प्रार्थना है । ये दोनों राज्य सभा के विधेयक हैं । मेरा जो विधेयक है और जो इन दोनों के बाद है और जो ट्रेड यूनियन के सम्बन्ध में है उसको रखने के लिए मुझे ग्राधा मिनट दे दिया जाए । कम से कम विचारार्थ तो वह पेश हो जाए । वह बहुत महत्वपूर्ण विधेयक है । खुद हाथी साहब ने मुझ से कहा था कि वह इस पर बहस चाहते हैं ।

MR. DEPUTY-SPEAKER: Let us see, it depends upon the time.

SHRI D. C. SHARMA (Gurdaspur): Mr. Deputy-Speaker, Sir, I have been asked to pilot a Bill, the Indian Penal Code (Amendment) Bill, 1967 by Diwan Chaman Lall, M.P., as passed by the Rajya Sabha on the 15th December, 1967.

I have the great privilege to pilot a Bill in this House which was sponsored by Diwan Chaman Lall in the Rajya Sabha and which was also passed by the Rajya Sabha. I may submit very respectfully that when I went to the first sitting of the Indian National Congress in 1920, in Calcutta, it was my privilege to hear Diwan

Chaman Lall. What a wonderful and eloquent speech he made at that time! Since then, he has been the champion of Indian nationalism. He has been in the vanguard of Indian patriots and he has served the Indian nation in many ways. I think India can be proud of a great son like Diwan Chaman Lall.

Now, Diwan Chaman Lall moved this Bill on the 3rd May, 1963 and this Bill was circulated for eliciting public opinion on the 26th February, 1965. After the public opinion had been obtained and the public opinion went, by and large, in favour of the Bill, it was referred to a Select Committee on the 19th August, 1967 and the Select Committee consisted of several Members. If you like, I can read their names.

Then, the Select Committee invited some expert witnesses to give evidence before it. One of those witnesses was our ex-Attorney General, Shri M. C. Setalvad. Then, Shri A. P. Chari who is a very eminent jurist appeared before the Select Committee. Even some artistes were called before the Select Committee to give evidence. One of the artistes that was called was Shri Prithvi Raj Kapoor who is well-known all over India and all over the world. One of the witnesses that was called was also—she is well-known and, I think, Shri Madhu Limaye may be knowing her—Shrimati Leela Chitnis.

AN HON. MEMBER: What is the implication?

SHRI D. C. SHARMA: She comes from Maharashtra. I know her. What is the harm in that?

Then, there was also an eminent lawyer, Shri G. S. Pathak, who became the Minister of Law for some-time but, unfortunately, he did not continue as the Minister of Law. Now he is a Governor of one of the States of India.

Now, this Bill says that the definition of 'obscenity' should be, in the first place, extended and, in the second place, should be delimited. It should be extended if it affects public morals. It should be extended so that our younger generation and even our old persons are not exposed to those influences which degrade the moral character of a person, and so that we can have a nation which is free from these depraving influences.

You may be knowing that on the pavements of these big cities, like, Bombay, Madras, Delhi and Calcutta, you find such stuff as very very dangerous for the consumption of the youth of this country. I know the old man are not subject to these temptations . . .

AN HON. MEMBER: Why?

SHRI D. C. SHARMA: Because they have had their day. But the matter is that the sale of these obscene books, magazines, pamphlets, etc. which give nude pictures, obscene pictures, which are very very immoral should be done away with.

AN HON. MEMBER: What is obscene?

MR. DEPUTY-SPEAKER: It is better you define it.

SHRI D. C. SHARMA: The hon. Member asks me what is obscene. I should say that anything that appeals to our crude instincts, anything that excites lascivious feelings in us, anything that promotes a desire for sexual indulgence of a very questionable kind, anything like that, is obscene.

SHRI NAMBIAR (Tiruchirappalli): He is a Professor and he can explain it very well.

SHRI D. C. SHARMA: Now, anything that tries to bring down the moral tone of a person, young or old, or of a nation, newly born or old, is to be banned and banished.

Formerly, the conviction was only for a few months, for three months, and the fine was also of a smaller amount. Now, under this Bill, the conviction has been extended to two years with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years and also with fine which may extend to five thousand rupees.

What I am doing is not something very unusual.

SHRI J. B. KRIPALANI (Guna): Whom are you going to fine for Konarak?

SHRI D. C. SHARMA: I am coming to that. Why are you becoming so impatient? I shall submit very respectfully that any one of us who had read, 'In a Tunisian Oasis' by Aldous Huxley, will know how things such as books, pamphlets, pictures and all those kinds of things are shown in some of the cities of the world and how they are finding their way to the other parts of the world also. It is our duty to protect the younger generation and also the older generation from these things.

Now I will come to Konarak as demanded by my elder brother, Acharya Kripalani. Here it is said:

"the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of science . . ."

Konarak's pictures are in the interest science . . .

SHRI MADHU LIMAYE: What science?

SHRI D. C. SHARMA: They are the combination of art and sciences . . .

श्री मधु लिमये : क्या मैं माननीय सदस्य की जानकारी के लिए एक संस्कृत श्लोक कहूँ ?

**SHRI D. C. SHARMA:** You do not know as much of Sanskrit as I do.

I was submitting that these Konarak pictures promote the interests of creation, of science, and also give us a visual representation of that act of creation of which Lord Brahma was the chief exponent. Those things are beyond the purview of this Bill. Faithful representations and figures in the interest of science, literature and art are excluded. You will find such pictures in any modern art gallery—abstract art, imagist art and expressionist art and all that. Therefore, these things are there.

Then there are certain things which are kept or used *bona fide* for religious purposes. Somebody may put a question about the Madurai temple. They are for *bona fide* religious purposes; people go there to worship; they do not go there to learn any corrupt practices. Therefore, such things should not be covered by this Bill.

Then:

"any representation sculptured, engraved, painted or otherwise represented on or in—

any ancient monument . . ."  
Konarak is an ancient monument.

" . . . any ancient monument within the meaning of the ancient Monuments and Archaeological Sites and Remains Act, 1958, or

"any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose."

Therefore, this Bill does not include in its purview these things, which I have said, which are used for any religious purposes.

**SHRI DHIRESWAR KALITA** (Gauhati): What do you say about Vastraapaharan by Gopi Krishna?

**SHRI D. C. SHARMA:** Gopi Krishna is a symbol of divine love,

mystic love; it represents love which transcends the human domain.

Here also, there is some kind of punishment. Of course, the punishment has been enhanced in this case also, namely:

"on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years and also with fine which may extend to five thousand rupees . . .".

The idea is to ban obscenity wherever it is found excepting for art, religion and the other things which I have just stated, and I do not think that any sane person will object to this kind of thing.

Now it is said,

"in sub-section (1) of section 99A—

for the words "seditious matter", the words "seditious or obscene matter . . .".

shall be substituted."

Sedition is bad; sedition is something that is subversive. Sometimes a seditious person becomes . . . . . (Interruptions):

**SHRI UMANATH** (Pudukkothal): Why do you bring 'sedition' with obscenity?

**SHRI D. C. SHARMA:** I will come to that.

Sometimes seditious persons become rivers become monarchs, become the architects of the destinies of the nation. That is what happens. But no person who has tried to bring forward obscene pictures or books has ever attained the calibre

of those who have been rebels. What were these Congressmen? They were rebels at one time. I do not know how many times Acharya Kripalani went to jail for preaching sedition? I do not know how many times Pandit Jawaharlal Nehru went to jail for this. I think, he spent thirteen years in jail for preaching sedition. Therefore, I feel that sedition can be pardoned, because sometimes the persons who preach sedition become the rulers of the country. But when you come to obscenity, you must understand, and you all know very well, that you cannot detect it. Sedition may lie on the surface, it may be detected, it may be found out, it may be dealt with properly, but obscenity is something which goes underground, which is an undertone of a section of the society somewhere. Therefore, we have got to plug that loophole. As you know very well, we are living in very difficult times. I do not want to bring to your notice what is happening in some countries in the West, what is happening in some countries in Europe, Asia and America. But you must know that one thing which is sapping the morality of the people of those countries is that this obscenity is becoming an obsession with some persons and they have no law there to deal with it. Our Indian people have been trained in the tenets preached by the Vedas, the beloved Geetha. Our Indians have been trained in the doctrine preached by the Holy Koran; our Indians have been trained in the principles which have been enunciated in the Holy Bible. Our Indians have been trained in those noble principles which have been enshrined in the ancient books of wisdom.... (Interruptions).

MR. DEPUTY-SPEAKER: The hon. Member must conclude now.

SHRI D. C. SHARMA: Therefore, Mr. Chaman Lal has done a national service by bringing forward this Bill, and I am sure that this Bill, which

has been passed by the Rajya Sabha, will be passed by this House also.

MR. DEPUTY-SPEAKER: Motion moved:

"That the Bill further to amend the Indian Penal Code and to provide for matters incidental thereto, as passed by Rajya Sabha, be taken into consideration."

Now as the Elders have passed it and as an elder has started the debate here, I will now call, Acharya Kripalaniji to come forward and speak.

SHRI J. B. KRIPALANI (Guna): I have only to say that such a Bill which has very serious consequences should not be discussed in a House that is empty, almost empty. I think this Bill requires very great consideration before it is passed into law. So I have nothing . . .

MR. DEPUTY-SPEAKER: On the subject of the Bill you do not want to make any observation?

SHRI J. B. KRIPALANI: No observation, Sir, the Bill is too complicated to be discussed like this. However, when we are taking upon ourselves a responsibility, it should be taken after great consideration. This is not such a Bill which as the Professor says is an innocent Bill. We have in our ancient literature and in our own ancient sculptures, art, architecture and temples many things that the present generation might consider to be obscene. It is a fact that except the educated, all these pictures are not seen by the devout. The devout go to the temple for one and one purpose only, to have the 'darshan' of God and to be a little more human than they would otherwise be. These pictures are seen and examined by the educated or by the foreigner. If a Bill of this nature is to be passed in such a hurry, I feel it is dangerous. It requires a thorough examination and it may be sent, if

[Shri J. B. Kripalani]

you think it proper, to a Select Committee, not of puritans but of people who live in this world and know what is happening in the world. And people are not so much influenced by only what is produced here. Many of our people go outside India. Who is going to check them and those who go outside India, as the Professor may not be knowing, bring with them foreign fashions and foreign morals also. How is he going to check them? To-day foreign travel has become so common that if you have anything to do with a government, you can at once go to foreign countries. So many people go for education and for other purposes like trade and industry. Therefore, all that I have to say is that this Bill should not be passed in any hurry. It must be thoroughly examined by a Select Committee of experts who know something about these things.

SHRI S. KANDAPPAN (Mettur): It is surprising for me that Prof. Sharma should have accepted and taken on him the job of piloting this kind of a Bill in this House.

AN HON. MEMBER: Not piloting but following it up.

SHRI S. KANDAPPAN: That is even worse. I have been listening to Prof. Sharma's speech on many an occasion in this House and never before he sounded so apologetic as he had today. And practically he was unable to make any point whatsoever to convince the House as to the necessity of such a kind of a measure to-day in the prevailing situation in this country or elsewhere in the world.

Sir, I would like to submit, as our Acharyaji has said, there are many ramifications that we have to go into before we can come to any kind of a conclusion. But I would like to make a few observations on the face of the Bill as it appears. It looks

very absurd, it is very hypocritical and it has a sort of duplicity writ large on the face of it.

AN HON. MEMBER: The Bill itself is obscene.

SHRI S. KANDAPPAN: In a way it can be called 'obscene' also. They tried to exempt art, science and our religious monuments and all that. I think it is possible to keep away science from this. To some extent it may be practicable to keep away science, particularly, medical science from the public and all that. But, with regard to art and religion, I am afraid how are they going to have a different code for that and at the same time prevent and proscribe books of other kind? For example, I do not know whether they could prescribe the KAMASUTRA of Vatsyayana or if it is going to be termed as a science, I do not know whether there could be any other book which could be more obscene than Vatsyayana's KAMASUTRA.

ACHARYA KRIPALANI: Or Gita Govindam.

MR. DEPUTY-SPEAKER: There is nothing obscene because you have not defined what is 'obscene'. You are borrowing a word or a phrase.

श्री मधु लिमये : इंडियन पीनल कोड में तो होगी उस की व्याख्या ?

MR. DEPUTY-SPEAKER: You first define. Without defining, do not stamp any book or any art treasure with obscenity. First define what is 'obscenity'.

SHRI S. M. BANERJEE (Kanpur): Sir, there is that beautiful verse of Lord Byron—'Confession of a Bride'. You please read it, Sir.

SHRI S. KANDAPPAN: So, even on the face of it, the task seems to be an impossible task. In religion, as

Acharyaji has rightly pointed out, all people are not devout and move only on a high philosophical plane. There are many common people who go there, common people who are rather very keen to look around our temple cars and other inscriptions and other sculptures. There are obscene things. Even the love acts are depicted in many of the cars in the temples that we find. So, when once you are going to permit this kind of things, it is a duplicity and it is hypocrisy to try to prevent and prescribe other kinds of books dubbing them as obscene. This is the basic thing that we have to go into.

I have a very important point here. In Madras in the thirties and forties a sort of movement was started to purify Hinduism and they have been rather very vociferous and they were attacking all kinds of obscenities that we find in our Itihasas and some of our Puranas and for that they were dubbed as atheists and actually the Party to which I belong, our leader, Mr. Annadurai was dubbed as an atheist because he criticised some of our ancient scriptures and all that on the ground that they are purely pornographic and that kind of argument was advanced. So at that time some thinking people did feel that there was a ground to purify our own religion. Actually he wrote a dialogue for a cinema and it was made into a picture. It was called 'Servant Maid' in Tamil. There was a hue and cry in Tamilnad that that film should be prohibited and banned. Then some elder statesmen thought that they should see the film before banning it. They saw the film and they said, 'If this can be termed as atheism, we are afraid that the definition is something different. So, they said that it is very well and they did not wish the banning of the film. So, like that we had some experience with regard to this kind of activities. So I would be glad if, as Acharyaji has suggested, the Bill is referred to a Select Committee. If that is not possible and if we have to take that burden, then I am afraid we are taking a drastic measure. In that case, pro-

bably, those religious minded people may not like it.

Coming to the question of obscenity itself, as you have rightly pointed out, it is not defined. It is not well-defined.

MR. DEPUTY-SPEAKER: It is not a question of puritanism. Prudery and puritanism must be distinguished.

श्री रवि राय (पुरी): कहां खत्म होता है कहां शुरू होता है ।

SHRI S. KANDAPPAN: It is very difficult to define because it is very subjective. It all depends upon how a man feels. A normal person may not consider certain books as obscene whereas an abnormal man may consider them as very obscene. So, I do not know how we are going to judge these things.

That I would like very much to stress is this that this question arises not only with regard to books but even with regard to our cinemas, censoring etc. For example, time and again there has been a demand in this House that the censoring with regard to our regional films etc. should be more strict and so on.

SHRI J. B. KRIPALANI: And also the radio.

SHRI S. KANDAPPAN: At the same time, with regard to the foreign films they say that it does not matter much. After all, it is horrifying and very much revolting we see that our Indian boys and girls are kissing in our Indian films, but when it comes to the case of foreign films, they can even go further and do anything they like and we do not feel much about it because we think that it is all right since it is their culture. There are many posters, and there are many kinds of pictures which are intended for adults only. All kinds of posters are appearing on the walls and on the streets where the students and the younger generation and the adolescents have a chance to

[Shri S. Kandapan]

look at them. I do not know how this kind of duplicity can be permitted in this land.

So, when we think of this measure we have to take into cognizance all the aspects of the matters before we arrive at a conclusion. It seems that Government are going to have this Bill passed, but I would like to plead with them very much that it is not good and it will create a lot of complication in this country with regard to various kinds of literature in Hindi, Sanskrit and in Tamil etc. For example, in Tamil literature, before the Pallava age, that is, before the 2nd century AD there was no quarrel with regard to these obscenities; and the literature was very much above this kind of level, but in the Pallava age and during the Chola period, there was a lot of copying from Sanskrit and quite a good number of such works are considered to be the best of literature by some people there; though I may not agree with them, there are others who consider them as very good literature.

So, this will lead to a lot of complications. It would also be very difficult to define what is art and what is strictly not art, and what is somewhat related to religion and what is not related to religion. Everything can be explained as being related to religion. It is quite possible. Similarly, everything can be explained as related to science. These days, we talk of sex science or sexology. This is a developing science nowadays. I do not know how Shri D. C. Sharma is going to boycott that science.

**SHRI S. M. BANERJEE:** Shri D. C. Sharma cannot develop it now.

**SHRI S. KANDAPPAN:** These are all matters which are very logical. So, let us not pass this Bill in a very light-hearted way. That is my appeal to Government.

**MR. DEPUTY-SPEAKER:** Shri Dattatraya Kunte,

**SHRI DATTATRAYA KUNTE** (Kolaba): I am not speaking.

**AN HON. MEMBER:** Is Shri Dattatraya Kunte linked with obscenity?

**SHRI NAMBIAR:** Let the older generation speak first, and then I would like to speak.

**MR. DEPUTY-SPEAKER:** Does Shri Nambiar consider himself to be old I do not think so.

**SHRI NAMBIAR:** After the old generation has finished, I would speak.

**SHRI J. B. KRIPALANI:** For the edification of the House, may I give the definition of the term 'puritan'? A puritan is one who not only denies the good things of the world to himself but wants others to be denied of the legitimate things also.

**SHRI RANE** (Buldana): I rise to oppose the Bill.

**SHRI S. KANDAPPAN:** He is of the younger generation.

**SHRI RANE:** My main reason for doing so is this. If this Bill is passed, even our ancient Sanskrit literature and some books belonging to our ancient literature will come under its mischief.

Besides, as my hon. friend has pointed out, some objects of art which are denigrated in our temples standing for hundreds of years will also be brought within the mischief of this.

**SHRI S. KANDAPPAN:** There will be new temples erected around the colleges and universities.

**SHRI RANE:** I am speaking about the old temples. If we read clause 2(a) (i) of this Bill we find that everything will come within its mischief. My submission is that we should not be so touchy on this subject.

Two or three days ago, I read a news item in the Press that in Britain a

course on sexology was going to be introduced in the schools there. When others nations are considering whether sex as a subject or sex knowledge should be given to the pupils, why should we be so touchy about these things? They are thinking over the question whether sex knowledge should be introduced at an early stage or at a later stage. So, why should we be touchy about these matters?

It is said that the books are there. I would submit that they are mostly imported ones. My submission is that prevention is better than cure. If Government want to prevent these things, then let them proscribe the books at the import stage itself when they are coming into our country. Therefore, why should they have this Bill to prescribe everything? They can proscribe everything at the stage of import itself.

I find that the punishment also has been increased to a very large extent. I do not think that that is justified. There are so many pavement book-sellers. Are we going to prosecute them all? Is it possible? I do not think that that is possible.

SHRI D. C. SHARMA: Are we going to prosecute every smuggler and every bootlegger?

SHRI RANE: He cannot bring in the question of smugglers here. After all, the books are available.

I personally feel that Government should consult the States also. These are all detailed questions for the State Governments. I do not know whether Government have consulted the State Governments or not.

SHRI D. C. SHARMA: They have been consulted.

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS (SHRI VIDYA CHARAN SHUKLA): The Bill has already been circulated.

SHRI RANE: What are the views of the State Governments?

SHRI VIDYA CHARAN SHUKLA: They are all mostly in favour of this.

SHRI RANE: Even if the States have given their opinion in favour of this, I am against it. The provision in the Bill covers a picture, a pamphlet, paper, writing, drawing painting and so on. So, my submission is that it would be a source of harassment for the sellers, and, therefore, I oppose this Bill.

SHRI D. C. SHARMA: He has not read the exception.

SHRI J. B. KRIPALANI: What will he do with the radio?

श्री मधु लिम्बे : (मुँघेर) : उपाध्यक्ष महोदय अफमोस है कि इस विधेयक का मुझे घोर विरोध करना पड़ रहा है। मैं सब से पहले तो यह कहूँगा कि यह जो विधेयक राज्य-सभा से पारित हो कर यहाँ आया है इस के पीछे उद्देश्य क्या है—यह हमारी समझ में नहीं आता है क्योंकि स्टेटमेन्ट ग्राफ़ आर्जैक्ट्स एण्ड रीज़न्ज़ इस के साथ नहीं हैं। शायद राज्य सभा में रहे होंगे लेकिन शर्मा जी को यहाँ भी रखना चाहिये था कि किस लिये यह विधेयक लाये हैं?

मैं एक सवाल पूछना चाहता हूँ कि हम किस तरह का सभाज किस तरह की संस्कृति का निर्माण इस देश में करना चाहते हैं। क्या संकीर्णता, कट्टरता और डोंगीपन के प्राधार पर हम समाज को बनाना चाहते हैं या हम समाज को उदारता के प्राधार पर संगठित करना चाहते हैं?

श्री जी० भा० कृपाशर्मा : यह डोंगी लोगों का ही तो देश है।

श्री मधु लिम्बे : प्रायः सब चाहते हैं कि कम किया जाय तो हम भी चाहते हैं कि डोंग कम किया जाये। पूरे तौर से तो डोंग खत्म होगा नहीं हिन्दुस्तान में।



[श्री अशुलिमये]

तो अध्यक्ष महोदय आज इंग्लिस्तान में भी जिसके बारे में कहा जाता था कि बड़े ढोंगी लोग हैं जीर्ण मतवादी लोग हैं उनके यहां भी आप देखिए कि एमार्शन, ब्राबसीनिटी, ड्रिफिंग लाज, होमो-सेक्सुअलिटी, (गर्भपात, अश्लीलता, मदिरापान तथा समलिंग संबंध)—और भी मैं नाम गिना सकता हूँ—इन चार-पांच चीजों के बारे में हाउस आफ कामन्स में लगातार आन्दोलन चल रहा है कि ब्रिटेन के कानूनों में ऐसे परिवर्तन किये जायें जिनसे वह अधिक उदार बनें . . . . (अवधान) . . . .

MR. DEPUTY-SPEAKER: Parliament has legislated on this.

श्री अशुलिमये : अध्यक्ष महोदय के बारे में कहा भी शाह सलत का पमेड बैठे हैं।

तो मैं कहना चाहता था कि यह असल में सावल उदारवादी और संकीर्णता, बटुगता, ढोंगपन के बीच वाला है। इसलिए हिन्दुस्तान की परम्पराओं को मद्दे-नजर रखते हुए मैं प्रोफेसर साहब से दखीस्त कल्ला कि वे अपने प्रस्ताव को वापिस लें।

कवि कालिदास के बारे में मैं ने सुना है बहुत सारी बातें ऐसी हैं जिनके प्रमाण नहीं मिलते—कि कालिदास जब कुमारसम्भव की रचना करते थे तो ऐसा माना जाता है कि उसमें शिव और पार्वती की लीलाओं के बारे में वे जो लिख रहे थे उससे उस समय का जो जीर्ण मतवादी समाज था या जो समाज के नेता थे वे इतना नाराज हो गए कि कालिदास को अपना कार्य अधूरा छोड़ना पड़ा। वह भी एक भावना है। वही हुआ गलत, इसके बारे में इतिहास में इस तरह की किंवदन्तियाँ हैं। कवि प्रचलित हैं। मैं कहना चाहता हूँ कि इन्होंने अपने विषयक द्वारा क्या प्रमाण एकत्रित बताये हैं। इन्होंने उसमें :

'any' Ancient monument within the meaning of the Ancient Monuments and Archaeological Sites and Remains Act, 1958.

का उल्लेख किया है। तो इसमें प्राचीन साहित्य भी नहीं बचता। इमारतों की बात तो साफ हो गई।

दूसरी बात यह है कि जो प्राचीन है वह किसी न किसी जमाने में आधुनिक रहा होगा। तो मैं जानना चाहता हूँ कि क्या आप नहीं चाहते हैं कि हिन्दुस्तान में फिर नये खजुराहो नये कोणार्क नये सोमनाथ पुरम आदि शिल्प जो प्रायः कम हैं वह आइन्दा फिर उत्पन्न हों ? जो पहले था वही सिर्फ रहे ? वह नया नहीं चाहते उसके लिए कोई संरक्षण नहीं है। मैं इसको पसन्द नहीं करता। प्राचीन साहित्य के लिए कोई संरक्षण नहीं है नये साहित्य के लिए नये शिल्प के लिए कोई प्रोत्साहन प्रोटेक्शन नहीं है। साथ ही साथ में यह भी मैं पूछना चाहता हूँ कि अदालत में जाकर हम लोग गवाित करें कि फलां फलां वस्तु कला-वस्तु है या साहित्य है या विज्ञान है और लोक कल्याणकारी है इसकी क्या जरूरत है ? इसलिए इनको जो एक्सेप्शन है उसमें जबरदस्त तब्दीली होनी चाहिए। इन्होंने जो कहा है

Exception—which is proved to be justified.

तो आन्सनिटी की व्याख्या भी नहीं बनाई है।

'section 292 shall be re-numbered as section 920 thereof and before sub-section 920, as so re-numbered, the following sub-section shall be inserted.'

हां, इसमें व्याख्या है। अश्लीलता आन्सनिटी क्या है यह बताया है। इस पर भी हमें सोचना पड़ेगा। इसपर बहुत जबरदस्त झगड़ा होगा।

MR. DEPUTY-SPEAKER: Here also it is subjective in a sense. For

a decision, an objective definition is called for. Here it has been stated:

'lascivious or appeals to the prurient interest...'

Appeals in what sense? I take it is subjective.

श्री मधु लिमये : तो मैं आपसे यह कहना चाहता हूँ कि न्यायालय में जो फैसला होता है वह भी समाज में जो मान्यताएं प्रचलित हैं उसी के आधार पर होता है। अमरीका का उदाहरण लीजिये। नोग्रोस के बारे में 60-70 साल पहले सुप्रीम-कोर्ट का फैसला था समान परन्तु, अलग, इक्वल बट सेप्रेट, लेकिन 70 साल के बाद उर्मी सुप्रीम कोर्ट का फैसला हुआ कि ग्रेट कैं नाट बो इक्वल, अलग समान हो ही नहीं सकता। इसी प्रकार से मैं डी०एच० लारेन्स की किताब के बारे में कहना चाहता हूँ। "लेडी चैटलोज़ लवर" के बारे में इंग्लैंड में पहले क्या फैसला था और अब क्या फैसला है? तो न्यायालयों के फैसले भी जो समाज में मान्यताएं प्रचलित होती हैं उनके आधार पर बदलते रहते हैं। इस लिये मैं यह अधिकार न्यायालयों को देना नहीं चाहता हूँ। अगर आप इस तरह से परिवर्तन करें कि जो एक्सपेंशन में दिया हुआ है।

'the publication of which is proved to be justified as being...'

उसको जगह पर सिर्फ :

'any book, pamphlet, paper, writing, drawing, painting representation or figure is in the nature of science, literature, art or learning or other objects of general concern'.

रखें तो मैं उस पर सोचने के लिए तैयार हूँ।

एक बात मैं यह कहना चाहता हूँ कि खुद हमारे संस्कृत साहित्य में एक श्लोक है, 38 (Ai) LSD—10.

अगर उसमें बखान किया हुआ, उस तरह का समाज हमको बनाना है तो मुझे कुछ नहीं कहना है। प्रोफेसर साहब स्वयं जानते हैं :

"साहित्य संगीत कला विहीनः

साक्षात् पशु पुच्छ विषाणहीनः ।

तृणं न खादनपि जीवमानः

तद् भाग धेयं परमं पशुणाम् ॥

तो अध्यक्ष महोदय, ऐसा समाज बन जायेगा जिनमें न साहित्य पनपेगा और न कला पनपेगी और न विज्ञान पनपेगा। पशुओं का समाज बन जायेगा, हाल कि उनकी दुम नहीं रहेगी, न सींग रहेंगे और शायद प्राणी बास भी नहीं खायेंगे, लेकिन बाकी मातों में शायद पशुओं का ही वह समाज बन जायेगा। आप इस तरह का समाज पैदा करने की बात न करें और इसलिये आप इसको वापिस लें। यहाँ पर जो चर्चा उठाई गई वह बहुत अच्छा किया। लेकिन प्रस्ताव को वापस लो, विवेक अधिक उदार बनाओ।

DR. RANEN SEN (Barasat): I very strongly oppose this Bill because it is absolutely a reactionary piece of legislation. If you look through this Bill, you will find that the police is made the judge. First of all, he has to say which piece of literature or art or whatever it is obscene, because in the definition of 'obscenity', we find mentioned 'if it is lascivious or appeals to the prurient interest, etc.' That means the policeman becomes the judge.

SHRI D. C. SHARMA: No, no.

DR. RANEN SEN: Yes, exactly.

Secondly, the police magistrate or district judge who generally repre-

[Dr. Ranen Sen]

sents the very backward section of people, backward in the sense not only political but social also, with a very obsolete outlook and ideas in regard to these matters, becomes the authority to decide.

Let us try to understand our social progress. I have got plenty of grey hair. I am nearly 60. 50 years ago in our State, Bengal, a book was proscribed as obscene. It was titled *Model Behen*, 50 years—that was nearly 1916 or 1918. But during the civil disobedience movement days, that book was not considered obscene. Social outlook, ideas change; it is bound to change. If through Bills of this kind you try to reduce obscenity, then you are apparently wanting to control the progress of society. You cannot do that. It says here: "...any publication which is proved to be justified as being for the public good on the ground and in the interest of science, literature, etc..." Somebody was quoting a Sanskrit sloka. We have read Vidyapathi. If this Bill were to become an Act, then we have to give proof that it is literature...

17 hrs.

SHRI D. C. SHARMA: No, no.

DR. RANEN SEN: Why no? Where have you said that ancient literature is exempt from the application of this Bill. In Vidyapathi, there is one famous poem:

"Aji Mujhu Shubh Din Vela,  
Kamini Pekhanu Sina nake Vela.."

He goes on to describing what he saw in the woman who was taking bath and you can understand. All this piece of literature will be subject to harassment. Nowhere is it written that such ancient literature will be spared by the police or judiciary. Social progress is taking place, along

with a political progress. In Calcutta or in other cities about fifty years ago there would be few married girls who were not veiled; that was considered to be immoral. Now, what is the position in the cities, or even villages? The position has changed. I shall give you one single instance. In Denmark there was an obscenity law. I do not exactly remember the name. Pornographic or obscene literature was banned. Statistics were collected by the Danish Government about the readers of such literature. It was found that a majority of the readers, 85 per cent were people who had grey hair just like Shri Sharma and myself. You, Sir, do not have any hair and so you belong to a separate category; younger people constituted only 15 per cent of the readers of pornographic and obscene literature. The Danish Government abolished the law. The year before last I had been to Denmark and I got this story from the people who are responsible, direct. It was found that within a year of the abolition of that law, the number of so-called obscene literature came down; the sale of such books was going down. How did they do it? Not by increasing police measures. This sort of measure to control social progress will be very bad. I do not know how our elders have passed it.

The main source of corruption or social crime grows out of poverty; it is because man exploits man. That is the root cause of all the social crimes, vulgarity and immorality and the degradation of the nation. This Government, instead of tackling those things, tries to do these things. Is it not known that in Delhi there are plenty of street walkers, in all the cities of India? Is it not due to poverty and similar reasons that women sell their body? That does not affect our Government or the elders? Poverty is at the root of social degradation. Two or three days back.

there was a piece of news in Delhi papers. Since it was published, I say this in this House. They produced a film in Sweden in which there was the actual picture of sexual intercourse.... (Interruptions). The news item was there in the newspapers and I think many of us must have read it. It is a fact. The Film censor board decided to cut that scene. We are Members of Parliament and these are questions that come up. The decision of the board was rescinded by the Government. I do not want our Government to go to that extent but let not the Government try to put the clock back. Therefore, I oppose this Bill and I agree with the hon. Members who have said that serious attention should be given to this Bill and further discussions should be held before we consider it and pass it.

MR. DEPUTY-SPEAKER: A number of Members want to speak. They say it is too serious a matter; it is not a party question. Our time was an hour and a half. If I am to stick to that time, I will have to call the Minister now. What is the pleasure of the House?

श्री मधु लिमये : उपाध्यक्ष महोदय, मेरा एक मुझाव है कि इसके बाद जो दूसरा बिल है उस सम्बन्धी प्रस्ताव इस सदन चर्चा के पास कर दें और इस मौजूदा बिल पर और चर्चा चलाने का मौका दें। अतः मैं जो मेरा बिल उन्हीं मुझे पेश करने का मौका दे।

MR. DEPUTY-SPEAKER: I want to take the sense of the House. At 6.30 there is half an hour discussion and Shri Limaye should get some time to introduce his Bill. There is another Bill of Shri D. C. Sharma for reference of the Bill to the Select Committee. We shall have to keep five minutes for them.

SHRI VIDYA CHARAN SHUKLA: Before you take the sense of the House, I want to say that the provisions of this Bill which had been

moved by the hon. Member need some explanation because it appears after hearing the hon. Members that the provisions had been misread. Actually the Bill seeks to make liberal the provisions of the Act. Every hon. Member has been asking for it, as if it is going to make it more prudish; it is not so; it is going to make it more liberal. If you so desire, I shall intervene earlier and explain the provisions.

MR. DEPUTY-SPEAKER: I shall conclude the debate if you want to offer some explanations. It is a matter in which every Member is concerned. Because it had been passed by the elders, we should not take it as if they had given enough thought. As Acharya Kripalani has said, we must give serious consideration to this. If you want to intervene at this stage, before I call other hon. Members, I am prepared to give you an opportunity.

SHRI S. KANDAPPAN: Law by its very nature should be well-defined.

MR. DEPUTY-SPEAKER: I will fix a time-limit of three minutes.

SHRI A. T. SARMA (Bhanjanagar): I strongly oppose this Bill, because it goes dead against the culture, religion and the ancient literature of our country. I am going to explain it now. Even in Rig Veda we have many samvadas such as Yama Yami Samvad and Sarma Samivao which are full of obscenity. Then, all the Shaiva Puranas deal with the lingam which is also obscene. All the entire Tantra literature should be proscribed because they also deal with lingam. Then, the Sanskrit literature is full of what you call obscene passages. It is impossible to define obscenity. In our daily life we use Bhagini and Bhagavathi etc.

[Shri A. T. Sharma]

What is the meaning of Bhagini and Bhagavathi? Should these be treated as obscene words? If anybody goes to court and says "he has used the words Bhagini and Bhagavathi, which are obscene" and the court punishes such a person, it will create a difficult situation. In our Alangar Shastra they have defined Ashleela. That language which is in use, that cannot be said to be Ashleela. That is why Shiva Linga, Bhagini and Bhagavathi are used because they are not obscene. That is why I say that this Bill is against our culture.

Then, in my State, all the temples are full of picture of obscene poses, all sorts of bandhas. Outside the temples we can see so many pictures which are obscene. That is the peculiarity of Orissa temples. Outside the temple we see that type of pictures and then we go and worship God inside the temple. All the walls of our temples depict people in various poses. So, our culture, our literature, our ancient books permit them: In the Naishada Mahakavya there is one complete sarga (cavit) describing the private parts of the woman. In all the languages of India there are certain books which describe certain private parts of man and women and they are full of obscene passages. Should we proscribe those books, especially when our religion, our traditions and our culture permit them? So, this Bill should not at all be passed. I strongly oppose it.

SHRI J. B. KRIPALANI: Our society is more puritanical than any other society. I think it should be left untouched.

SHRI NAMBIAR (Tiruchivappalli): As Shri Shukla has stated, there is a lot of confusion about this measure. This measure is meant for liberalisation. So, we should not oppose the Bill as such. . . . . (Interruptions) Kindly bear with me.

SHRI MADHU LIMAYE: Throw it out. . .

SHRI NAMBIAR: After all, it is an amendment to the Indian Penal Code.

SHRI MADHU LIMAYE: Which is rotten.

SHRI NAMBIAR: This is an amendment to section 292 of the Indian Penal Code, which defines what obscenity is and prescribes a punishment of three months. What Dewan Chaman Lal has done is that he has altered the scope of obscenity in such a manner that, if this Bill is accepted, hereafter, certain items do not become obscene, they go out of the list of obscenity but, then, for those which continue to remain obscene he increases the punishment from three months to two years. My objection to the Bill is only towards that portion which increases the punishment.

AN HON. MEMBER: It is not liberal enough.

SHRI NAMBIAR: My contention is that even for those exempted items the punishment should not be increased from three months to two years or three years. Section 292 says:

"Whoever—

- (a) sells, lets to hire, distributes publicly exhibits or in any manner puts into circulation, or for purposes of sale, hire, distribution. . . . ."

In general terms obscenity is explained here. The amendment says:

"(1) For the purposes of subsection (2), a book, a pamphlet, paper, writing, drawing, painting, representation, figure or any other object, shall be deemed to be obscene if it is lascivious or appeals to the prurient interest or if its effect, or (where it comprises two or more distinct items) the effect of any one of its items, is, if taken as a whole, such as to tend to deprave and corrupt

persons who are likely having regard to all relevant circumstances, to read, see or hear the matter contained or embodied in it.”;

Something will become obscene only if these tests are satisfied.

SHRI MADHU LIMAYE: Who decides this?

SHRI NAMBIAR: Therefore, he has sought to change the definition of obscenity given in section 292 IPC.

MR. DEPUTY-SPEAKER: This is a subjective judgement which you have to pass. That is the main problem.

SHRI NAMBIAR: This is the Indian Penal Code, not a procedural code. When the question of punishment comes, the judge will have to decide on the basis of this test. The whole thing came out of the prosecution of Shri Karanjia in *Blitz* case. In that case, the judge interpreted section 292 IPC in a very narrow sense and he held that that particular photo which appeared in the *Blitz* was obscene.

MR. DEPUTY-SPEAKER: The appellate court has revised that decision.

SHRI NAMBIAR: That is true. In the Lower Court what the magistrate said was that section 292 IPC can be invoked for punishing Shri Karanjia because the description given in the section is sufficient to bring him within its mischief. Then the case went to the High Court which gave a liberal interpretation of the definition of the section and let Shri Karanjia out.

MR. DEPUTY-SPEAKER: It was the Sessions Judge; not the High Court.

SHRI NAMBIAR: It was after this case came up in the Nagpur Court that Diwan Chaman Lal wanted to remove the narrowness on the ques-

tion of obscenity so that the discretion given to the Judge to punish Shri Karanjia could be withdrawn. That was the purpose for which it was brought.

I would have accepted this amending Bill in its entirety but for the fact that while liberalising the definition of obscenity for those extra items he has increased the punishment. The amending Bill says:

“(b) in sub-section (2) of section 292, as so-renumbered,—

(i) for the words “with imprisonment of either description for a term which may extend to three months, or with fine, or with both”, the words “on first conviction with imprisonment of either description for a term which may extend to two years and with fine which may extend to two thousand rupees, and in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years and also with fine which may extend to five thousand rupees” shall be substituted;”

This is the portion for which objection is taken by us. If the punishment which is originally mentioned in section 292 of the Indian Penal Code, namely:

“imprisonment of either description for a term which may extend to three months, or with fine, or with both”

had been retained, we would have accepted the amending Bill.

Now obscenity has been narrowed down. All and sundry do not become obscene. A judge cannot interpret obscenity as he likes. The definition has been given. Then, the punishment should also have been less. But, unfortunately in his enthusiasm

[Shri Nambiar]

for liberalising the definition of obscenity, he has committed the mistake of increasing the punishment, which has created all this confusion. If the hon. Minister can explain that this increased punishment will not be insisted, I will accept this Bill.

MR. DEPUTY SPEAKER; The hon. Minister will intervene now. We will continue the debate. Let him explain the background. I will try to accommodate all Members.

SHRI VIDYA CHARAN SHUKLA; Mr. Deputy-Speaker, Sir, while we are considering this Bill moved by the hon. Member, Shri D.C. Sharma, I would request the hon. Members to consider the present provisions in the Indian Penal Code regarding obscenity.

There are two Sections of the Indian Penal Code which are relevant to the present Bill. Those Sections are 292 and 293. I would just, briefly say what those provisions are. These provisions are about the sale, hire, distribution, public circulation of any objectionable or obscene object, production or possession of any obscene object, import or export of such things or advertisement of any such obscene object, etc. etc.

The present Bill that has been moved here seeks to exclude the applicability of these two penal Sections to various things that have been explained in this Bill. I will read it out:

"This section does not extend to—

(a) any book, pamphlet, paper, writing, drawing, painting, representation or figure—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing, painting, representation or figure is in the interest of

science, literature, art or learning or other objects of general concern, or

(ii) which is kept or used *bona-fide* for religious purposes;

"(b) any representation sculptured, engraved, painted or otherwise represented on or in—

(i) any ancient monument within the meaning of the Ancient Monuments....."

etc. etc.

I would request the hon. Members to consider this matter. This is, firstly, to exclude the possibility of any objection being raised on ancient monument, literature, etc....

श्री मधुलिनये : एजेंट इन्ट्रिचर नहीं है।  
बतइये।

SHRI VIDYA CHARAN SHUKLA: which could be done under the present panel provisions which are very narrow and, I would say, which are very conservative. The hon. Member who has moved this Bill has provided in the Bill that this conservative definition should be changed and it should be liberalised. I thought that was the intention of the hon. Members who spoke and who, unfortunately, opposed this Bill.

Secondly, the other provision that is made in this Bill is for creation of new objects. Now, apart from excluding the applicability of these narrow provisions, the new objects that might be created, work of art, science and other things, even those things could not be brought into the narrow penal provisions of the existing Act. This is going to be liberalised. I thought that was the intention of the hon. Members.

Here also, Mr. Nambiar made a very useful contribution to the deliberations and he pointed out the Blitz case. That is a typical case, in this matter, how a very conservative application of the penal provisions can suffocate or can stop a normally good expression of art and science.

The hon. Members must remember that this Bill was brought forward by Diwan Chaman Lal, originally, in 1925 before the Central Legislature. It went on for several years. Then, he was involved in freedom struggle and he was, probably, not a Member and then, again, after he came to Rajya Sabha, he brought forward this Bill in 1963 and, in 1963, when it was introduced in the Rajya Sabha, it met with a lot of misunderstanding. The purpose of the Bill was not understood properly. There was opposition to it. Then, it was explained in the Rajya Sabha and it was circulated for eliciting public opinion. After that, the Bill was referred to the Select Committee which considered it and after it was considered by the Select Committee, it was considered by the Rajya Sabha and they passed it without any amendments.

17.25 hrs.

[SHRI G. S. DHILLON in the Chair]

Another thing that I want to say here is that there is a standard by which the present law courts go and the standard that they apply these days is based on a British case which is known as Hecklin's case and that Hecklin's definition of obscenity which was given several years back is applied for many cases which are decided today in Indian courts. I am only expressing my personal opinion here that this Hecklin's definition of obscenity which is given in this case is not satisfactory. That is why the hon. Member, Shri D. C. Sharma, has tried to put a particular definition for obscenity, defining what obscenity is.

I must say, with all humility, that this is one of the things which cannot, really, be properly defined. It will always leave out something or include something which will have to be dependent on a judicial judgment of the person who considers a particular matter whenever it is brought to a court of law.

Another good feature of this Bill which has been brought before the

hon. House is that it provides that the cases under this Act will be tried by the District Court, that is, by the Sessions Judge. The jurisdiction of the lower courts has been excluded. I would again recall the *Blitz* case. In the *Blitz* case, a lower First-Class Magistrate had punished the Editor for violating the provisions of the Indian Penal Code. But the Session Judge, while considering it, acquitted the Editor of the paper when it went to his court. So, I think, it would not be disputed by any hon. Member that whenever such cases on obscenity are brought up, it is better that they are considered right away at the District Court level rather than at a lower level where there could be some difficulty about trying such cases.

Then, Shri Nambiar, mentioned the provision of making the punishment or fine more rigorous. Having made the definition liberal, having made the penal provisions very liberal, then, after that, if certain objects and certain matters are adjudged as obscene or down-right obscene, would he not support the rigorous punishment for such people who promote pornography or promote obscene objects and literature? Even after the definition and the provisions have been made so liberal and if a District Judge or a High Court comes to the conclusion that a particular object or a particular piece of literature is obscene, then there should be some deterrent punishment. So, these two things, in my opinion, go very well together.

SHRI NAMBIAR: From three months to five years? Would it go up so much?

SHRI VIDYA CHARAN SHUKLA: That is the maximum punishment. It is not necessary that everybody who violates the provisions will be given that much punishment. That is the maximum. Every punishment will be given by the court by the judicial officers, according to the gravity of the offences, committed. They can give the punishment for six months; they can give the punishment for two or three



[Shri Vidya Charan Shukla]

years; they can go upto five years. But that would be in a very extreme case. It is only an enabling provision. Whenever such cases are brought forward depending upon the gravity of the offence, the judges will give the punishment.

Most of the hon. Members who spoke said that we should form liberal society; we should promote liberal society or liberal laws. This is what this Bill intends to do.

SHRI MADHU LIMAYE: Not enough.

SHRI VIDYA CHARAN SHUKLA: I would request the hon. Member to bring forward his own Bill making it more liberal. Just because it makes an improvement which may not be enough; I agree it may not be enough; you may require more—when it is improving the present situation. I think, the hon. Members should not oppose this little bit of improvement also. If there is need for more improvement or more advancement, let the hon. Members do it. I don't mind. But when a small bit of improvement is being made, why should that be opposed or stalled in this House?

SHRI NAMBIAR: Section 293, when it is amended, is still worse. I would only request the Government to consider this point. I just ask for a clarification. Here it is said:

"...in section 293, for the words, "with imprisonment of either description for a term which may extend to six months, or with fine, or with both", the words "on first conviction with imprisonment of either description for a term which may extend to three years and with fine which may extend to two thousand rupees, and, in the event of a second or subsequent conviction, with imprisonment of either description for a term which may extend to seven years....".

It has been increased so much! Is such an enhancement necessary? I

can understand your increasing it from three months to one year, or from six months to three years. But why should it be increased to seven years?

SHRI VIDYA CHARAN SHUKLA: Section 293 relates to persons who are below 20 years of age. That is the distinction made. As I said earlier, it is not that they would be punished in all cases with an imprisonment for a term of seven years. In some extreme cases, the courts may consider giving that much of punishment. But you would agree that, whenever any person is found responsible for giving or pushing pornographic literature into the hands of girls and boys who are below 20 years of age, there should be a deterrent punishment for such people prescribed in law.

SHRI S. KANDAPPAN: One thing is not clear to me, and that is about these exemptions given. How to distinguish between this art, literature and all that and the obscene literature? That is my difficulty. I would like the hon. Minister to explain this a little elaborately. For example, in Tamilnad, there was this tradition of Devdasis, i.e., the female devotees in temples. Even young girls from high families, from royal families used to devote themselves for this; they used to be in the temples as servants of God. Now in Tamil, 'Dasi' means a prostitute. It has degenerated from religion to this level. It is possible, also in literature, you can stretch it to any level. I am afraid, how they are going to distinguish the literature concerned with religion and art and the obscene literature. It is not possible....

SHRI VIDYA CHARAN SHUKLA  
rose—

MR. CHAIRMAN: How many times would he get up like this? Let them finish.

SHRI M. L. SONDHI (New Delhi): The problem as it appears after this discussion is perhaps that the revolutionaries of the 1920s have become the reactionaries of the 1960s, because

May I ask the hon. Minister whether, a half measure sometimes is more harmful than no measure at all. We must go into the background of the matter and, I think, Mr. Madhu Limaye today provided us with the context in which we must think out this issue. While making his own views manifest on this point, he had considered the background, the revolution in the history of art, which Anandacoomaraswamy has brought about, the studies on the Tantra Shastras which were initiated here long ago but which had to be reclaimed by the Englishman, John Woodroffe, under the pseudo of Arthur, Avlone, I believe. Has he considered the geographical proximity of India? What is the law in our neighbouring countries? What happens in Burma? What happens in Cambodia? What happens in Thailand? What happens in Japan? That is the world to which we belong. Here we find references at the most to the Karanjia case or Lady Chatterley's Lover. Have we not right to think out these problems independently? Do we not feel that we have a different world view, a dependently? Do we not feel that which we have to return? We in this country never fear this; we are never prudish about sex; we have regarded sex as the manifestation of the will to live, to propagate and to flourish as a civilisation. Even Swami Vivekananda, who was a man, a celibate, said, "Oh Mother of Strength! Take away my weakness; make me a man" and that sense was communicated by his able disciple, Sister Nivedita, who wrote so much on art. Those are the works which the Minister must consult. But I am afraid his advisers at the most read probably the Times literary supplement and just find out what has happened in England, and that is the range which we have. We aspire here to make our mind free, we aspire to unite that spirit which was in our classical culture. I belong to a party which takes a stand on culture, and sometimes our friends accuse it of being reactionary or revivalists.

Speaking very seriously, I would say that culture had no meaning if it is not manifested in the modern context. We want to be leaders of the world. We want to set the pace for the world. Therefore, we can trust our young men and women. We can have a feeling that they can take to the problems of life, the challenges of life, realistically. What is it that sustains life? It is the dance, the eternal dance of Shiva or the dance which Krishna dances in the company of Radha. This is the context of our appreciation; these are the very aesthetic norms which are ahead of what has been achieved elsewhere. Therefore, the problem is we will talk in terms of worship, in terms of temples. I am glad that even the Tamil agitation in the South has taken the form of enshrining Tamil as a Goddess. That is the way in which our mind works. We delight in colour, we delight in form, we delight in the play of Siva and Sakthi. If that is the case—and I think that is the context—the Bill must be withdrawn. It is an insult to this House in the sense that here is a Minister who claims to know what is necessary for reform and he does not have the courage to go ahead with the reform. What is this? Half-hearted reformers are worse than those who do not want reforms.

SHRI VIDYA CHARAN SHUKLA:  
This is not my Bill.

SHRI M. L. SONDHI: I know, this is Mr. Chaman Lal's Bill. As I said, he is in 1920s; that is the sort of thinking that he has. Since you lent your association, it gets a sort of imprint. That is why I said it.

I would say that what we require is an analysis, a very detailed analysis of what was the role of erotic poetry in Sanskrit literature, and then, in our various other national languages, how we have treated this subject. This is very important. You allow 'sculpture' 'representation' and all that, but you do not talk about literature. Literature has a profound

[Shri M. L. Sondhi]

influence on man and the shaping of his ideals. Therefore, I would say that if we want to have an association with our neighbouring countries, we should do this. They are already in advance of us—the Cambodians, the Thais, the Japanese. It is a fashion here to draw inspiration from the Middle East or West Asia. I do not mind it in political matters, but in the desert civilisation there was a certain danger inherent in free mixing of men and women; there was a certain struggle for life. But ours is a tropical, a luscious civilisation, full of wealth, full of affluence. If only the Ministerial Benches would run the country better, we can have a high standard of living and then we would have the ideal of Nagrika, a person who got up in the morning, rested and got up at leisure and then his wife or whoever he has for a friend would bring him in a very beautifully decorated tray with refreshments, betelnuts and so on. Then he would recite poetry, he would sing songs, and there would be this pleasant fragrance with which India is associated. In place of all these, what we are getting from the hon. Minister is a little concession; almost, I would say, a tiny sort of thing or gift which we give to small children—we cannot show them Cinema and so we buy a small toy which they turn round, then get frustrated and then throw it down. I would say this. Let the old law continue because it is wretched and at least we know that it is. But you are giving promise of life. What you are giving with one hand, you are taking away with the other, because you do not cover literature, because you do not cover the full dimension of social life. . .

**SHRI VIDYA CHARAN SHUKLA:** I am very sorry, the hon. Member is speaking in this manner. I will invite his attention to the main clause of this Bill. In Clause 2(b) it is said:

that the exceptions will cover:

“(a) any book, pamphlet, paper, writing, drawing, painting, representation or figure—

(i) the publication of which is proved to be justified as being for the public good on the ground that such book, pamphlet, paper, writing, drawing.”

Law courts will do this.

“...paper, writing, drawing, painting, representation or figure is in the interest of science, literature, art or learning or other objects of general concern.....” etc. etc.

So, what I mean to say is that the modern literature is included. Of course, the decision as to what is obscene, what is within the law and what is outside the law, will have to be left to the judgment of the courts and care has been taken by the hon. Member to provide that it will not be the lower courts which will make the judgment, but it will be the senior courts, i.e. the District Courts, onwards that will make the judgment whether a particular subject will come under these exceptions. These exceptions are, in my opinion, so wise that they will cover almost everything and the whole law is made so liberal that whatever the hon. Member is saying has been provided for already in this Bill.

**SHRI M. L. SONDHI:** Sir, I will now conclude. I will refer for example to the KAMASUTRA. It is acknowledged today that it is a work which has sanity in it, it answers the challenges of modern living. (Interruptions). But as the hon. Minister has pointed out today, after all he is putting power into the hands of these Judges. How are they competent in the sense unless there is a certain social direction provided for? I am not pleading for what may be called as ‘obscene’. I am pleading for the fullest expression, social, creative and artistic expression in consonance

with our own values and then as a matter of fact if it is to be allowed, it will reduce the law and order problem because it will be a position where we will find that there will be in our society a certain fullness and comprehension of the ideals of all human life.

**SHRI S. KANDAPPAN:** It will help family planning.

**SHRI M. L. SONDDHI:** I know. The hon. Minister has given thought to the matter and he is determined probably influence us in this matter without perhaps even himself believing in it, because I feel here he let the cat out of the bag. This is an old hobby horse with Diwan Chaman Lall who had certain thoughts and ideas of 1920s. But the world has moved since then. We have discovered chapters of our civilization, we have discovered so much that was unknown earlier. Let the Parliament put the clock back and let it go into this matter without fullness—and what Mr. Nambiar has said, can be disposed of also and he also has not gone into the implications of this proposal—what will then actually happen? He is looking simply at the technicalities of the law. What will be the pattern of decisions in the lower courts? How will they be guided? Are we giving any new frontiers for our courts? No, we are not. We are only creating again the old atmosphere and, a person so progressive and radical in his thinking should not oppose this Bill? It passes my comprehension.

I will conclude by saying that this is a challenge which we must take up. On this depends art and literature and our very cultural civilisation. I know this Government sometimes misuses the name of Mahatma Gandhi. But I have made a thorough study of the works of Mahatma Gandhi and I think Mahatma Gandhi towards the end of his life was deeply attracted by the teachings of the Tantras and he went into that matter—this is what Pyarelal expresses in his book. Gandhiji felt so sorry that the

works of Tantras—which are also translated in so many languages—did not come to his notice earlier. I have also gone into the writings of Netaji while in the Mandalay jail. He tried very much to get those works and got them with difficulty. Sir, we can imagine that. The impression of the National Movement and the National Struggle is different. They had a certain view, but today we want India to be a free country. We want India to be united.

**SHRI VIDYA CHARAN SHUKLA:** May I ask a question? Which provisions of this Bill take away that freedom? It only liberalises the whole thing. It liberalises the law so much. It does not restrict and the present Bill makes it very liberal. I would like you to point out to the House these provisions in the Bill which restrict the freedom.

**SHRI M. L. SONDDHI:** For example, when you are giving these exceptions, why do you mention only 'ancient monuments' at one place?

**SHRI VIDYA CHARAN SHUKLA:** You please read (a) of the Exceptions.

**SHRI M. L. SONDDHI:** I have read it. You are hedging it. You are not giving a certain lead in the matter. We are keeping here ideas.

**SHRI D. C. SHARMA:** You cannot allow him so much time.

**SHRI M. L. SONDDHI:** This is very important, Sir. As I said earlier, once we must think of reform, we must think of reform in keeping with our values. We must not tinker with our laws. Therefore, in conclusion, I would say that we must throw out this Bill.

**SHRI K. NARAYANA RAO (Bobbili):** Mr. Chairman, Sir, the present Bill, if I may say so, is presenting us a problem. We had a picture in Telugu which has been shown to Members of Parliament also where the social evils, psychological evils of the obscene literature have been

[Shri K. Narayana Rao]

beautifully portrayed. But I think while appreciating the problems in the society arising out of these obscene literature, we have to see whether this Bill is really a remedy at all. For one thing I share the sentiments of Kripalaniji when he stated that the problem is there, it is complicated, complicated because it has psychological factors, it has temporal factors, it has so many internal and external factors. And in view of these things even the very subject of obscenity is defying clarification. It is not a full definition, it is only a partial definition and a presumption, that is most important. Why I say that, is here mark the words 'shall be deemed'. The most important thing is: if it is taken as a whole tends to deprave and corrupt persons'. Sir, here is a partial definition of what 'obscenity' is and also a partial presumption of what 'obscenity' is. Therefore, I submit, Sir, so far as this particular 'obscenity' clause is concerned, we have added it in 1925 in consequence of a convention of something like 'Trading in obscene literature'. From that time onwards till today—I do not know, many people have spoken about Kalidasa, etc.—these works are there and the temples were also there and did they pose any such problem then? No man was prosecuted for that. Therefore, Sir, I think whether the so-called liberalisation is liberalisation at all. One thing that I want to bring to your notice, Sir, about this obscenity is that there is only one case that went to the Supreme Court. viz., *Ranjit D. Udeshi v. The State of Maharashtra*. The present Chief Justice, Mr. Hidayatullah, stated very clearly that the word 'obscenity' has not been defined in the Indian Penal Code and in the very nature it cannot be defined. Ultimately the matter has been left to the courts and the courts also said, as one of my friends pointed out correctly, that what is obscene must depend from time to time, from society to society, from age group to age group.

Similarly, take for instance the KAMASUTRA. It is a historical factor. Even if free copies of KAMASUTRA are sold in the market, they do not bring about the emotional outbursts in the individual. Similarly take the temples. If you look at the Simhachalam or any other temple, they do not evoke in any one the puerile feelings. But if you repeat them in the modern age, they will definitely be considered obscene. Mr. Chairman, I may tell you, take the old temples and also the poor imitation in the Birla temples. Do you get the serene feelings in the latter? No, because the historical factor is not there. Here is a temporal factor which is also most important here. Therefore, my submission is: here is an important factor which we have to bear in mind, that is the freedom of speech and freedom of profession. I also personally feel that the fuller implications of those various rights have to be taken into account. So far as the Indian Penal Code is concerned, they have not been fully enunciated in that Code. Even the Courts, as I submitted, did not judge the issue. They judged the issue, obscenity only from the point of view of freedom of speech but not tested from the point of freedom of possession or trade. But if you look into the IPC, it deals with what is called 'freedom to trade', 'freedom of possession'. Anybody who advertises will also come within the scope of this provision. Therefore I would submit that let us view the problem in all its aspects.

My submission is that the concept of obscenity is ever changing. Secondly, the degree of obscenity from subject to subject is also ever changing. Therefore, a uniform pattern of definition of obscenity is not going to help. Thirdly, I would submit that literature which has been produced in our country, films which have been produced in our country must be treated differently from those which are imported from outside. So far as the literature imported from other countries is concerned, no right of any-

body is affected. Therefore, we are at greater liberty and we can with greater impunity prohibit obscene literature imported from foreign countries. But when it comes to Indian literature, various rights and various freedoms of the people here are involved. Therefore, we have to adopt an outlook and approach which are different from those in the case of the imported books etc.

Under this Bill, any person can be arrested. The phrase used here suggests that *prima facie* the person shall be deemed to have committed an offence. Who is to judge about these things? Suppose I am in possession of a particular book. The police officer can be empowered to arrest me without a warrant. Is he the final authority? Am I to submit to his judgment? I submit that this should not be the position. For, as I shall show presently from the judgment itself, different people will have differing views in regard to what constitutes obscenity. For instance,

"Lawrence thought James Joyce's Ulysses to be an obscene book deserving suppression but it was legalised, and he considered Jane Lyre to be pornographic but very few people will agree with him."

So, depending upon the social status, the evaluation by different people will also vary. Hence, it is very dangerous to leave such vast powers in the hands of the police officers to arrest any person on the ground that such things tend to deprave society.

I would also submit that there are certain objects which are obscene *per se*, but there are also certain objects which may not be obscene *per se* and whose evaluation would depend upon the values of some individual, and which have to be judged in a particular context and against the background of certain things.

In view of these various ramifications, I feel that the Bill requires greater consideration, and a blanket provision like this is not going to improve matters or in any way serves a social purpose.

MR. CHAIRMAN: Shri Madhu Limaye has just handed over to me the text of an amendment. He has told me that the hon. Mover of the Bill has already agreed to it. The amendment reads as follows:

For section 2 (b) (a) substitute—

"any book, pamphlet, paper, writing, drawing, paintings, representation or figure in the nature of science, literature, art or learning or other objects of general concern or";

Should I accept it at this stage?

SHRI MADHU LIMAYE: At the end of the debate.

SHRI K. NARAYANA RAO: It may be circulated to the Members also.

MR. CHAIRMAN: After the general discussion is over, we may take up this amendment. Meanwhile, the hon. Minister may also see it.

SHRI MADHU LIMAYE: I shall explain it to the hon. Minister also.

श्री रवि राय (पुरी) : चेयरमैन साहब, मैं इस बिल का विरोध करता हूँ। यद्यपि इस बिल को दीवान चन्द शर्मा जी ने पेश किया, परन्तु कांग्रेस दल के दो बुजुर्ग सदस्य श्री अनन्त त्रिपाठी शर्मा और श्री राने साहब ने इस का विरोध किया। मैं शर्मा जी और राने साहब को धन्यवाद देना चाहता हूँ कि उनके दिमाग में कुछ प्राधुनिकतापन है, जिसके चलते उन्होंने इसका विरोध किया।

मुझे एक डर है, यदि हम इस बिल को इस तरह से पास करेंगे तो फिर कोई भी क्रिपेटिव

[श्री रवि राय]

घाट, जिसको हम स्रजनात्मक कला कहते हैं, का विकास इस देश में नहीं हो सकेगा। सवाल यह है कि असल में यह चीज क्या है? आप जानते हैं, सभापति जी, हमारी संस्कृति में एक रस है, जिसका नाम विभत्स रस है, औबसीन का अर्थ विभत्स है, जिसमें लोग आनन्द लेते हैं। तो जो हमारे पुराने हिन्दुस्तान को अच्छी तरह से समझते हैं, प्रोफेसर शर्मा की तरह से नहीं, वे उसकी जो अच्छी चीजें हैं, उस को अपनायें और उसके द्वारा आधुनिक हिन्दुस्तान की संस्कृति को बनायें।

आप जानते हैं कि कुछ साल पहले इंग्लिस्तान में ओस्कर वाइल्ड जैसे लेखक को होमोसेक्सुएल्टी के मिलरिले में जेल हुई थी लेकिन अब नहीं होगा अब हाउस आफ कामन्स ने उसको उदार बना दिया है और उसमें बहुत से परिवर्तन कर दिये हैं। हम को तो ऐसा लगता है कि प्रो० शर्मा जैसे आदमी, जो इसको पेश कर रहे हैं, वे घर में जाकर गुप्त रूप से मोखे में पढ़ेंगे, आनन्द लेंगे, लेकिन यहाँ विरोध करेंगे। यह हमारे देश, हमारे समाज में एक बड़ा विचित्र सवाल है। आप देखेंगे कि पाश्चात्य सभ्यता में इतना ढंग या इतनी हिपाक्रेसी नहीं है—ऐसा क्यों है? क्योंकि हम जो भाषण देते हैं, जो वाक्य बोलते हैं, हमारी बोली में कुछ प्योरिटीनिज्म कम है, लेकिन कर्म में रूढ़िवादिता ज्यादा है। जो लोग पुराने हिन्दुस्तान को जानते हैं—उस में आप देखेंगे कि इन दोनों चीजों में संघर्ष चलता रहा है, अभी भी चल रहा है। उदारवादी हिन्दू और कट्टरपन्थी हिन्दू—दोनों में सदियों से संघर्ष चल रहा है और यदि इस संघर्ष को प्रोफेसर साहब जैसे लोग और शुक्ला जी जैसे लोग समझ जायें कि यह संघर्ष क्यों चलता था, उदारवादी हिन्दू औरत के बारे में, शुद्र के बारे में, सम्पत्ति के बारे में उदार होता है, लेकिन पुराने हिन्दुस्तानी जो कट्टरपन्थी हिन्दुस्तानी हैं,

सनातनी हिन्दुस्तानी हैं, वे औरत के मसले को लेकर, शुद्र के मसले को लेकर, सम्पत्ति के मसले को लेकर ज्यादा कट्टरपन्थी होते हैं, दकियानूसी होते हैं—इस चीज को समझना चाहिये।

इसी सिलसिले में मैं एक किताब का जिक्र करूंगा फ्रांस की एक बड़ी लेखिका हैं मैडम सीमैनडावर उनकी किताब का नाम है— दी सैकेन्ड सैक्स मर्द और औरत की समानता को लेकर बहुत अच्छी चीजें इस किताब में लिखी गई हैं। मैं चाहता हूँ इस "सैकेन्ड सैक्स" किताब को शुक्ला जी और प्रो० शर्मा पढ़ें। यह किताब इतनी आबजैक्टिव और साइन्टिफिक किताब है कि उस के पढ़ने से कुछ उदारता उन के दिमाग में आ जाएगी और फिर वे इस समाज को उदारता के आधार पर बनाने का कोशिश करेंगे।

राने साहब ने एक अच्छा प्रश्न किया। उन्होंने कहा कि कोई पुलिस आफिसर या सब इंस्पेक्टर या कांस्टेबल कैसे तय करेगा कि क्या अभलील है और क्या अभलील नहीं है इस लिये मधु लिमये साहब ने जैसा कहा है कि इस में सब साहित्य, सब कला सब स्कूपचर को स्थान देना चाहिये। साहित्य और कला के खिलाफ इस तरह की कार्यवाही नहीं होनी चाहिये।

आखिर में मैं एक किस्सा आपको सुनाना चाहता हूँ हमारे गुशादन्द टाऊन प्रोक समा के सदस्य विहार से हैं, उन के स्थान का नाम "महिषी" है, वहाँ शंकरा-चाय जो गये थे।

सारे देश में जिद करके गये। वहाँ जो मंडन मिश्र की पत्नी पारती थीं, उन दोनों में शास्त्र को लेकर बितर्क हुआ।

भारती जी का शंकराचार्य जी को कहना वा कि बिला शक आप बहुत बड़े पंडित हैं लेकिन कामशास्त्र के बारे में आप को कोई अनुभव नहीं है और परिणामतः शंकराचार्य हार कर वहाँ से चले आये। इस-लिये जैसा बहुत से वक्ताओं ने कहा है हमें अपने देश को पूरे एक आधुनिक और गैर दकियानुसी ढंग से बनाना चाहिये और इसलिये मैं समझता हूँ कि शुक्ला जी और शर्मा जी श्री मधुलिमये का जो इस क. संबंध में संशोधन है उस को वह मान लें ताकि यह एक अच्छा और उचित प्रस्ताव बन जाय।

18 hrs.

SHRI NAMBIAR (Hiruchirappalli): As regards the point that the parent Act on this subject requires liberalisation, more and more of it, there is almost unanimity, no difference of opinion, and whatever amendments that come towards that end are welcome. But the main point where I disagree with the Mover is this. The Mover supposes that by bringing forward this amendment, the problem can be substantially tackled. The problem is deeper. It has invaded our culture. At present, there are degenerating aspects fast entering into our culture. Obscenity is manifestation of that. He thinks that by this five-year sentence or two year sentence, these degenerating aspects entering into our cultural life can be removed.

Where from on these aspects come. He is trying to fight the manifestation and leave the root untouched. It has got external and internal sources. The external source is represented by the western culture which is fast coming into our country in the cultural life of boys and girls. Just as our economy is in crisis, just as we have a political crisis, there is this crisis in our culture also. The degeneration setting in is from American and British culture. So they affect our culture also.

Take the question of the dresses of boys and girls. Where to draw the

line between obscenity and correct dress?

Then there is the American style of business.

SHRI S. KANDAPPAN: Ball dancing in films in the north is considered to be obscene in the south.

SHRI UMANATH: In order to advance their business interests, the Americans press into service models and put them on platforms in such a way that people are attracted. The same thing is being imported into our country by big businessmen to sell their wares.

Then there is the other thing, night clubs. Is it part of Indian culture? It is there in America as part of their degenerating culture. But we find night clubs are expanding in the capital here.

As long as the Mover does not look into this question invasion of our culture by western culture, and also as long as he does not take into account, the internal factors, this problem cannot be tackled.

As regards obscene literature, does Shri Sharma know that big business circles in this country have got their own arrangements to publish all sorts of rotten, obscene books, photographs and other things. It is being done in an organised way. Capital is invested in it. It is used by various circles in their so-called clubs. These clubs are in our country where boys and girls go in thousands and millions.

So liberalisation is all right. But this question of degeneration of our culture brought about by the factors I have narrated has to be tackled. Unless it is done, we cannot achieve our objective.

MR. CHAIRMAN: The Mover is brooding over it.



**SHRI S. KANDAPPAN:** Gymkhana club parties were once isolated parties, not so now.

श्री हेमराज (कांगडा) : सभापति महोदय, जो बिल शर्मा जी ने पेश किया है उस के संबंध में यहां पर तीन चार विचार आये हैं। एक तरफ से यह खयाल प्रकट किया जा रहा है कि यह संकुचित करता है, दूसरी तरफ से यह कहा जा रहा है कि हमारी जो पुरानी सभ्यता है उस को यह खत्म कर देगा और तीसरी तरफ से यह कहा जा रहा है कि यह जो बिल है इस में जो डेफिनेशन दी गई है वह मूकम्मिल नहीं है यह और सिनिटी की डेफिनेशन की अदालतों के ऊपर छंड़ देना चाहिये।

मैं समझता हूँ कि यह जो बिल है यह एक पहली कोशिश है इस बात के लिये कि और सिनिटी की डेफिनेशन इस में करने की कोशिश की गई है। हमारे इंडियन पिनल कोड के त्रिं दो सेक्शन 292 और 293 है उन में इस को डिफाइन नहीं किया गया है या इस बिल में और सिनिटी की जो डेफिनेशन दी गई है उस में साफ तौर पर लिखा हुआ है और जहां तक हिन्दुस्तान की संस्कृति का सवाल है उस में यह लिखा हुआ है :

"Having regard to all relevant circumstances to read or hear the matter contained or emodied in it."

18.08 hrs.

[Mr. Deputy-Speaker in the Chair]

मैं समझता हूँ कि जिस समय कोई बिल पेश होता है उस वक्त अगर यह दोनों सेक्शंस भी उस के साथ दे दिये होती तो हाउस में इतनी गलतफहमी नहीं होती। आज पहली मर्तबा जो डेफिनेशन दी गई है उसका एक शब्दों में बोधा जा रहा है जिसके साथ यह भी उस में रख दिया गया है कि अदालत उस पर एकस्पर्ट की राय लेना चाह तो

ले सकती है अदालत एकस्पर्ट की राय ले सकती है कि क्या यह धार्मिक, क्लिचर या साइंस के लिहज से यह प्रीडोमिनेन्सी होने की वजह से और सिनिटी की डेफिनेशन में आता है या नहीं चाहे वह पिक्चर हो या पेंटिंग हो ? मैं समझता हूँ कि पहली मर्तबा यह एटैम्प्ट की गई है जो चमन लाल जी ने यह बिल हाउस के सामने पेश किया है लेकिन उस के साथ साथ मैं एक बात जरूरी समझता हूँ कि जहां इस को कौगनीजेबूल औरिंस बनाया गया है यह एक बहुत आगे चला गया है क्योंकि इस से यह खतरा पैदा हो सकता है कि हर एक को पुलिस तंग कर सकती है।

मैं एक क्लैरिफिकेशन चाहता हूँ और वह यह है कि जो लोग खजूराहो, कौनाक और जाम्नाथपुरी में जाते हैं वह पूजा के अलावा वहां की फोटो लेते हैं, इरोटिक सींस जोकि मंदिर के बाहर होते हैं उन की वह फोटो लेत हैं और उन को वह बेचते हैं या डोल अगेरह बनाते हैं, वहां की पोर्बेज बना कर उनको पब्लिक में बेचते हैं क्या ऐसे लोग भी इस में आ जाते हैं या नहीं अगर वह इस के अंदर आ जाता है तब तो ठीक है और वह प्रचार बंद हो जायगा वरना मैं समझता हूँ कि यह कानून पूरा नहीं है और लोगों के ऊपर बुरा असर पड़ सकता है।

मैं समझता हूँ कि मौजूदा सुरत में जो कानून है वह पहले से लिबरलाइज हुआ है। सिलेक्ट केमेटी कं रिपोर्ट में भी ये शब्द लिखे हैं :

"With a view to making the existing law more definite, the Committee thought it advisable to define the concept of obscenity based on certain standards and principles laid down by the law courts during all these years. The Committee has, however, inserted in the Bill itself a provision which

explains the connotation of the expression 'obscenity'".

म समझता हूँ कि यह बिल दुस्त तोर पर पेश किया गया है और न उसका सपोर्ट करता हूँ।

SHRI LOBO PRABHU (Udipi): I have only one word to say. This Bill strikes me—I have been in courts—as being very indefinite. It is a matter of exercise of discretion of courts. My good friends have already told you what they really object to. What we are really objecting is commercialisation of sex. There is nothing wrong in sex, since it is in art, in religion and other things. But there is everything wrong in sex when it is used to make money. I agree with my friend Mr. Umanath. We have imported certain aspects of this from abroad. I shall confine myself to one single point. Let us have a Bill that penalises commercialisation of what is obscene. But then this cannot be done within the time now available for the House. Therefore, I suggest that the Bill be carried over to some other day or sent to a Select Committee.

SHRI VIDHYA CHARAN SHUKLA: What the hon. Member Mr. Lobo Prabhu just now referred to is the specific object of this Bill. I request hon. Members to read through the provisions of this Bill. It makes exception for several matters which are enumerated in the Bill. It does not make exception for commercialisation of sex Commercialisation of any kind will be kept under the penal provisions of the Indian Penal Code. If a publication is proved to be in the interest of science, literature, art or learning, it is provided for in this Bill. We have not included commerce in this. What you say is correct and we agree with you.

SHRI LOBO PRABHU: Let us define it and make it clear. Why should it be left to inference?

38 (A) LSD—11.

SHRI VIDYA CHARAN SHUKLA: As you very well know, everything cannot be defined or included in a law. There are two penal provisions in the Indian Penal Code and this Bill only seeks to provide for exceptions.... (Interruptions.) The courts will have to interpret what is obscene and what is not obscene. There is no other way. If a particular matter is challenged as being obscene, adjudication will have to be done by the court.

SHRI S. KANDAPPAN: Under rule 109, I move that the discussion on this Bill be postponed.

What is the urgency for adopting this Bill?

श्री मधु लिनये : इस से फायदा यह होगा कि यह बिल मरेगा नहीं । यह राज्य सभा का बिल है, जांबित रह्या ।

SHRI VIDYA CHARAN SHUKLA. I do not object to more time being given to hon. Members Government does not stand on prestige. It is the Bill of a private Member and if more time is given to hon. Members we do not mind it. It is not our intention to hustle through this Bill. Members can have as much time as the House can give.

But the point I want to make clear is that this Bill provides for what the hon. Members have been asking in this very debate. Most of the hon. Members have not carefully gone through the provisions of this Bill and that is why all kinds of objections are raised.

MR. DEPUTY-SPEAKER: Hon. Member quoted a rule. After nearly two hours of discussion, if this motion is made it is not incumbent on the Chair to accept it. I shall take into consideration the debate that has preceded. Unless the Government wants to get it passed it can be taken

[Mr. Deputy-Speaker]

up later. If Mr. D. C. Sharma agrees for postponement of this Bill, there will be no reply now.

SHRI D. C. SHARMA: I want to reply to the debate. Let it be finished today, one way or the other.

SHRI S. KANDAPPAN: Why not defer the discussion?

श्री मधु लिमये : शर्मा जी, इस को जीवित रखिये । अगर अभी जवाब देंगे तो यह मर जायेगा ।

MR. DEPUTY-SPEAKER If you feel that further consideration is necessary, let the debate on this Bill be postponed. You will get another opportunity—he has agreed. With the concurrence of the House the debate on this Bill is postponed to the next day of the private Members' Bills.

SHRI D. C. SHARMA: Will it come up on the next day?

MR. DEPUTY-SPEAKER: That will be done according to the rules.

SHRI D. C. SHARMA: If you say to me that this Bill will not be put on the agenda when Bills come up for consideration next time, what am I agreeing to? Let me finish it one way or the other.

MR. DEPUTY-SPEAKER: I cannot say anything just now.

SHRI D. C. SHARMA: You consult the Deputy Secretary?

MR. DEPUTY-SPEAKER: He has to apply his mind; I have to apply my mind. That has been agreed to now. It has been postponed.

SHRI D. C. SHARMA: How can it be postponed?

MR. DEPUTY-SPEAKER: You should move your next Bill. We have postponed the first Bill.

18.14 hrs.

### DELHI RENT CONTROL (AMENDMENT) BILL

(Amendment of sections 14, 23, etc.)  
by Shri M. P. Bhargava, Rajya Sabha Member

SHRI D. C. SHARMA (Gurdaspur): I beg to move:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill further to amend the Delhi Rent Control Act, 1958 by Shri M. P. Bhargava, made in the motion adopted by Rajya Sabha at its sitting held on the 15th December, 1967, and communicated to this House on the 16th December, 1967 and resolves that the following twenty members of Lok Sabha be nominated to serve on the said Joint Committee, namely:—

- (1) Shri Bashweshwar Nath Bhargava.
- (2) Shri Maharaj Singh Bharti.
- (3) Chowdhry Brahm Parkash.
- (4) Shri Krishna Kumar Chatterji.
- (5) Shri Benoy Krishna Daschowdhury.
- (6) Shri Hardayal Devgun.
- (7) Shri C. T. Dhandapani.
- (8) Shri Hari Krishna.
- (9) Sardar Iqbal Singh.
- (10) Shri Lakhana Lal Kapoor.
- (11) Shri Bhanudas Ramchandra Kavade.
- (12) Shri Latafat Ali Khan.
- (13) Shrimati Sucheta Kripalani.
- (14) Shri Bakar Ali Mirza.
- (15) Dr. Sushila Nayar.
- (16) Shri Jaganath Rao.
- (17) Shri P. G. Sen.
- (18) Shri Satya Narain Singh.
- (19) Shri S. Xavier.
- (20) Shri Diwan Chand Sharma."

MR. DEPUTY-SPEAKER: The 18.16 hrs.  
question is:—

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on the Bill further to amend the Delhi Rent Control Act, 1958 by Shri M. P. Bhargava, made in the motion adopted by Rajya Sabha at its sitting held on the 15th December, 1967, and communicated to this House on the 16th December, 1967 and resolves that the following twenty members of Lok Sabha be nominated to serve on the said Joint Committee, namely—

- (1) Shri Bashweshwar Nath Bhargava.
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  - (14) Shri Bakar Ali Mirza.
  - (15) Dr. Sushila Nayar.
  - (16) Shri Jaganath Rao.
  - (17) Shri P. G. Sen.
  - (18) Shri Satya Narain Singh.
  - (19) Shri S. Xavier.
  - (20) Shri Diwan Chand Sharma."
- (The motion was adopted).

## RECOGNITION OF TRADE UNIONS BILL

By Shri Madhu Limaye

श्री मधु लिमये : (मुंगेर) : उपाध्यक्ष महोदय, मैं प्रस्ताव करता हूँ :

"कि कर्मचारियों में कामिक संघ के कार्य को प्रोत्साहन देने तथा मालिकों और कर्मचारियों के प्रतिनिधि कामिक संघों के बीच सामुहिक सौदाकारी की व्यवस्था करने वाले विधेयक पर विचार किया जाये।"

SHRI K. NARAYANA RAO (Bobbili): On a point of order. The Bill carries a financial memorandum which says that an expenditure of about Rs. 2 lakhs per year will be incurred on the trade union authority envisaged under this Bill. Now, I draw your attention to article 117(3) which says that if a Bill which if passed and brought into operation would involve expenditure from the Consolidated Fund of India shall not be passed by either House of Parliament unless the President has recommended to this House consideration of the Bill. Now I will draw your attention to rule 65(2) of the Rules of Procedure, which says:

"If the Bill is a Bill which under the Constitution cannot be introduced without the previous sanction or recommendation of the President, the member shall annex to the notice such sanction or recommendation conveyed through a Minister, and the notice shall not be valid until this requirement is complied with."

This Bill does not annex such a notice to the effect that the President has given his assent to such a Bill. The rule specifically mentions that the sanction of the President must be obtained and it should be annexed to the Bill. This Bill does not annex such a recommendation. Therefore,