

with respect to the use of eyes of deceased persons for therapeutic purposes."

The motion was adopted.

श्री नवल प्रभाकर : मैं इस बिल को पेश करता हूँ ।

INDIAN PENAL CODE (AMENDMENT) BILL*

(Amendment of sections 324 and 326 and insertion of new sections 324A and 326A) by Shri C. K. Bhattacharyya.

Shri C. K. Bhattacharyya (Rai-ganj): Sir, I beg to move for leave to introduce a Bill further to amend the Indian Penal Code, 1860.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Indian Penal Code, 1860."

The motion was adopted.

Shri C. K. Bhattacharyya: I introduce the Bill.

GOVERNMENT SERVANTS (BAN ON SERVICE AFTER RETIREMENT) BILL*

by Shri R. G. Dubey

Shri R. G. Dubey (Bijapur North): Sir, I beg to move for leave to introduce a Bill to enforce ban on employees of the Government of India from entering into service in private undertakings after their retirement.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to enforce ban on employees of the Government of India from entering into service in private undertakings after their retirement."

The motion was adopted.

Shi R. G. Dubey: I introduce the Bill.

Dr. Ranen Sen (Calcutta East): Do not withdraw it now!

14-33 hrs.

DELIVERY OF BOOKS AND NEWSPAPERS (PUBLIC LIBRARIES) AMENDMENT BILL

(Amendment of section 2) by Shri C. K. Bhattacharyya.

Mr. Deputy-Speaker: The House will now proceed with the further consideration of the following motion moved by Shri C. K. Bhattacharyya on the 3rd May, 1963:—

"That the Bill further to amend the Delivery of Books and Newspapers (Public Libraries) Act, 1954 be taken into consideration."

The time allotted was one hour. There are still fifty-five minutes left; five minutes have been taken.

Shri C. K. Bhattacharyya: Sir, let me recapitulate briefly what I had said. This Bill is intended to amend the Delivery of Books and Newspapers Act. Under that Act the publishers of newspapers and books are under an obligation to submit to the Government certain number of copies of what they publish. What I want is

[Shri C. K. Bhattacharyya]

to include gramophone records in the list so that the makers of gramophone records are put under a compulsion to submit a certain number of them to the Government. In the Act, 'book' has been defined as "including" every sheet of music, map, chart or plan separately printed or lithographed". I beg to submit that gramophone records may well be taken along with music sheets which are required to be submitted to the Government under the compulsion of the law.

My object in bringing forward this Bill is to create in the mind of the public a sense of awareness of the colossal loss of national treasure that has taken place due to the non-preservation of records of Indian masters and to create in the mind of the Government and urge to collect and preserve them. Had I the time, Sir, I would have made an all-India review to bring out what the amount of that loss has been. Since I have not that time I may refer only to my experience of one State and to a certain number of persons.

The phonograph machine was discovered by Edison in 1861. It was perfected by Bel and Tainter in 1881. It took some years before that machine reached India. And the machine was imported into India by private initiative. Recording began from that time and the Gramophone Company came into the field. So the recording in India began at a very late stage. But even of the records so made at large number has been lost due to the lack of arrangement for collection and preservation. The Gramophone Company which made these records were actuated only by commercial motives. As soon as a particular record ceased to have sufficient demand in the market they stopped reproduction. They not only stopped reproduction, but they did something more which was very reprehensible; they destroyed the original. And it is there that I want to come in.

Invaluable cultural and national treasures that would have been preserved had some such provision as is proposed in my Bill been in existence, have been lost. And I suggest that this provision be made now so that such things may not happen in the future.

This loss has happened not only in relation to old masters; it has happened in relation to living masters as well. Some time back I wanted to get from the Gramophone Company a record of D. L. Roy's well-known song

पतितोद्धारिणि गंगे

sung by his son Shri Dilip Kumar Roy who is himself an illustrious musician. But I was told that the record cannot be had and that no reproduction can be made because the original had been destroyed. This has happened not only with one or two well-known masters in the field; it has happened with a large number of distinguished characters in the field of music and drama about whom I made enquiries. I was told that neither there is any chance of getting nor was there any chance of reproduction because the originals have been destroyed. Unless the Government takes some such step as is proposed in my Bill today, this continued destruction of voice records of Indian masters will go on. That is where my submission is that my Bill should be accepted by the Government.

Sir, recently we have been holding centenary celebrations of two of the greatest Indians, Swami Vivekananda and Rabindranath Tagore. Both are world figures and both had a world audience of their own. Tagore was well known not only in the field of musical composition but was also well known as a musician of his own songs. He had a divinely gifted voice, given to few in the world. All his voice records, all those youthful voice records of Rabindranath Tagore are

lost because there has been no arrangement for preserving the records as is proposed in my Bill today. To Swamiji's oratory the world stood in awful submission when he preached his spiritual messages to the world. Sir, what a treasure it would have been today if we could hear how Swamiji Vivekananda spoke. There is a publication by one of the Ramakrishna Mission ashrams in Bengal on the occasion of Swamiji's Centenary. There in it is stated that the late Maharaja of Mysore had recorded Swamiji's voice on his phonograph machine and a disc was made. It is also stated in that publication that the disc may still be found in the Mysore palace.

My question is: Why should not the Government move to collect and preserve those discs for the Indian people so that we and the people of the later generations may have an idea how Swami Vivekanand spoke, what was the quality of his voice which just held people spellbound not only in India but all over the world? My suggestion to the Government is to come to the help of the people.

Regarding the records of Tagore I have a very distressing tale to tell. Many of the earlier records when the youthful Tagore sang his own youthful songs are irrevocably lost. Recently, the Rabindra Bharati University made an attempt at collection of those records and from a report published in the *Amrita Bazar Patrika* I find—

"Old records are hardly available now and many discs of the songs which the Poet himself recorded for the gramophone company are no longer in existence."

Why should this be so? Why should not something be done at least now so that such things may not happen in future?

As I find from the report, the voice of Rabindranath Tagore was first recorded on the old cylinder sys-

tem as far back as in 1891. The Poet was 30 years of age at that time. The first song that he sang for the record was:

“सार्थक जनमो ग्रामार जन्मेछि एइ देशे
सार्थक जनमो मागो तोमाय भालो वेशे ।”

“Blessed am I to have been born in this land and blessed am I, my mother, that I have loved thee.”

The record of this inimitable song is lost because no one took care to preserve the original.

It may be interesting to note that the first recording of Tagore was done by H. Bose and Company the proprietor of which, Shri Hemendramohan Bose, was a friend of Tagore himself. It was he who first imported the phonograph machine into India and after importing the machine he approached his friend for recording his voice. Songs and recitations poured in streams and a large number of records were made on the cylinder system prevailing at that time. Later, on, Shri H. Bose arranged with 'Pathe' in France to have those cylinders transferred into discs. Some of the Cylinders were really transferred into discs but a large consignment consisting, I believe, of at least 46 records which was sent to France for being so recorded on discs was lost in France and lost to humanity. So, we have no chance of hearing now how youthful Tagore sang his own songs and what was pleasure to hear him at that time. But those who had heard the recordings of his voice known how he had thrilled audiences by the pitch and extraordinary range of his voice combined with the sweetest and captivating melody. I just imagine what pleasure it would have been to us today if we could hear his songs sung by himself, songs like—

“आजि बसन्त जाग्रत द्वारे
तव अवगुण्डित कुण्डित जोवने कोरो ना
विडम्बित तारे ।”

[Shri C. K. Bhattacharyya]

Or

‘मम यौवने निकुंजे गाहे पाखि
सखि जागो, सखि जागो, सखि जागो ।’

Shri Hari Vishnu Kamath: Please give us the full song.

Shri C. K. Bhattacharyya: I do not have the time. Or, take another,

‘श्रावण गगने घोर घन घटा निशीथ यामिनीरे
कुंज वने सखि कैसे जाग्रो अब अबला कामिनी रे’

If we could hear those songs which the Poet himself sang for records! These are lost.

In this connection I may refer to an incident. Professor Thompson when he saw Tagore in the later years of his life told him that he could not believe that the Poet of Gitanjali was the same man who composed the youthful songs. The reply of the Poet was, “Excuse me, for I too was young.” Those youthful songs sung by the Poet are lost because there was no provision in the law that at least some original copy should be preserved somewhere in India. Not to speak of the earlier records, even later records of Tagore are not available in the original. I tried to get an original of “Karna-Kunti Samvad”, the immortal poem that he wrote from Mahabharata. It could be recited here and people could hear the ennobling message that he gave therein.

“राज्यलोभे यशोलोभे जयलोभे अद्
वीरेर कर्तव्यहोते भ्रष्ट नाहि त्ई ।”

That is the message. But that is lost. The original has not been preserved. So, when there was a public demand for it, what the Gramophone Company did was that they secured an old and much used record and from that reproduced another copy. But in that second-hand copy the quality of Tagore's voice is not preserved.

I may remind the House here that the ‘Bande Mataram’ song was first sung in the Congress session by Tagore himself. At that time there was neither the microphone nor the loudspeaker. The Poet had to depend on his own voice to make himself heard throughout the *pandal* and it is in public records that the entire audience from one end of the *panda* to the other heard the “Bande Mataram” song sung by the Poet distinctly.

Shri S. M. Banerjee: Because people were more orderly then.

Shri C. K. Bhattacharyya: Yes, there was no opposition. I wish that that record had been kept and preserved for ourselves and for the world. Unless an attempt is made now, everything will be lost. I understand that a copy of the “Bande Mataram” record sung by the Poet is preserved in the family of H. Bose of H. Bose and sons which first recorded his songs. But unless somebody moves to secure that copy and make a reproduction, I am afraid, that record will also be lost either today or tomorrow.

I may mention another incident here. In a function in which Sir Surendranath Banerjee met Shrimati Sarojini Naidu, he told Shrimati Naidu, “Yourself and myself are Bengal's gifts to India.” What did he mean? He meant the cultured voice that they had which captivated lakhs of people and which enthralled the audiences. But is there any chance of hearing the oceanroll oratory of Surendranath Banerjee or the musical eloquence of Sarojini Naidu which earned for her the name of Indian Bulbul from Mahatma Gandhi? There is none.

To bring my point home I have referred only to some illustrious sons of India. I could have referred to a host of others, particularly in the field of drama and music. I wish, a collection could be made all over India as to

the number of records that were made and that have been lost. But that requires time and I leave it to the Ministry of Scientific Research and Cultural Affairs to do that. What valuable treasures of voice recordings have been lost because there has been no legal provision for compulsory collection of records! It would have been in the fitness of things if the Government itself had sponsored a Bill like the one that I am moving today. These are national treasures and these should be preserved. Why should the Ministry of Scientific Research and Cultural Affairs not take upon themselves the task of collection of these treasures as one of their important functions?

It is not my purpose to ask them to keep a collection of all the records that are produced everywhere in India. They might make a periodical sifting and preserve those worth preserving and cast away the others. But unless they get copies of all the records that are produced in India by compulsion under the law how are they to know what are the records that have been lost, what are the fine records that should be preserved and are lost because there is no arrangement for collection of records? The question of space need not worry the Government. These are the days of tape-recordings. If tape-recordings are made, quite a large amount of material could be accommodated in a comparatively small area of space. Even if they preserve all the records that are produced in India, they could find the space. I would like that all the records are preserved because there is no knowing which record will be required at what time, which figure will come up as a prominent figure of music and culture and at what time. Even about some of the well-known musicians whom we heard only the other day, the records cannot be had because they were not preserved.

I now make one or two suggestions to the Government. Let them

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accept the provisions of the Bill. They should make it compulsory for the producers of gramophone records to submit a copy to the Government. At the same time, let them issue an appeal to the public that those who might have the old recordings should give them to the Government for their use so that tape-recordings might be made of them and that the records will be returned to them. These are the two suggestions that I make to the Government and I request the Government to accept them.

Mr. Deputy Speaker: Motion moved:

“That the Bill further to amend the Delivery of Books and Newspapers (Public Libraries) Act, 1954 be taken into consideration.”

We have still got half an hour left.

Shri Hari Vishnu Kamath: Let 5 to 7 minutes be given to each Member.

Mr. Deputy Speaker: All right; 5 minutes to each Member. The Minister must also be given some time.

Shri Prabhat Kar (Hooghly): Mr. Deputy-Speaker, Sir, so far the Bill is concerned, the suggestions made by Mr. Bhattacharyya, the purpose of it, I am quite sure they cannot be objected to by the hon. Minister. The point that he has raised today is that because the whole recordings were in the hands of the private sector and they were moving only out of the profit motive, and as you know today the whole thing goes by the Box-Office hit, the records were not maintained. Naturally, when it was found that a particular record was asked by the customers, they had not kept a record of those discs and as a result many of the sounds of the old masters or the speeches of the old masters have gone out circulation and also the originals have been destroyed. Today it is admitted on all hands that because of the better scientific technological

[Shri Prabhat Kar]

apparatus, we are in a position to keep recorded speeches of various musicians. It is a tragedy that the old records are not available. Today, we find our artists like Sarodist? All Akbar Khan and Ravi Shanker are going round the world and proving how melodious our music is. But so far as the masters of the old days are concerned, their records are today to be found and naturally it is being felt that these records should have been kept at least by the Government to tell the world that these are the disciples of the old masters who perhaps had given rather a better recital of music. We find today there is none. I am quite certain that the present-day musicians will be lucky enough to have all their records kept in order. We would like to know what efforts are being made in this direction. I know about one of the old families, as was referred to by Shri Bhattacharyya about the Bose family, who are already very much connected with the film world. Many of their present generation members are film directors in Bombay and in Calcutta. One for example is the famous Director Satyajit Ray who comes from that family. I am quite sure if the hon. Minister tries, he will be able to get hold of all those records and get tape recorded and have them kept in the National Archives.

I was just discussing with him about the various old records, about the acting of the great actor Amrendranath Dutta or Dani Babu who was a giant of the Bengal stage. We have heard the records, but now they are not being found out. What we suggest now is that hence forward efforts should be made to preserve all the records. We do not know exactly which of the records, which of our artists will become world famous. If the records are given to the Ministry of Scientific Research and Cultural Affairs, they will be able to keep the recordings and whenever required, they can play back to the nation. I welcome that sugges-

tion and I am quite sure, knowing fully well the hon. Minister has love for Indian art and culture he cannot disagree with his suggestion. Technically, I do not know whether this Act can be amended in this manner. That is a completely different thing. But about the purpose with which Mr. Bhattacharyya has moved this Bill, there cannot be any difference of opinion and I hope it will be accepted by the Government.

With these words, I welcome the Bill.

Shri S. M. Banerjee: (Kanpur): Mr. Deputy-Speaker, Sir, I welcome this Bill from the very core of my heart. In the Statement of Objects and Reasons, my hon. friend Shri Bhattacharyya has mentioned the old records of recitations, speeches and music by Rebindranath Tagore, Mahatma Gandhi, Faiz Khan, R. C. Boral and others. He has mentioned certain recitations by the great poet Tagore himself. It is true those records are not available from any gramophone company. They are not available. At that time, when the great poet sang the song of love and devotion, there was no tape-recording. It is high time that these records should be tape-recorded so that we are able to maintain them for our future generation also.

I take this opportunity in mentioning the other names who are supposed to be the pillars of classical music: Ustad Faiaz Khan and his record is still available; then Abdul Karim, that great musician and his songs are not available to us. What about Karamat Khan who used to sing Drupad and Dhumar? His record is not available. What about the gramophone record of that Vichitra-veena by Abdul Aziz Khan? Few records are available. It is very difficult to get those records.

An Hon. Member: Saigal.

Shri S. M. Banerjee: Saigal came late. I am talking of music which

is purely Indian music. The Tagore music is our own, is our country's music. Tagore sang for the tolling millions and also for those people who believe in devotion and love.

Of course, among Tagore's songs, there were revolutionary songs also. He gave food for everyone in this country.

Dr. Ranen Sen: The National Anthem is Tagore's.

Shri S. M. Banerjee: Apart from the National Anthem, I feel that
 15 hrs.

Tagore has given everything to this country, and that is entirely ours, and we have given it to the world.

In exactly the same way, there are also those great songs of Abdul Karim Khan, Ustad Faiyaz Khan and also that great musician Vishnu Digambar who used to sing all *ragas* and *raginis* only in one *dhun*, namely, *Raghupati-rahava raja ram, pateeta pavana Sitaram*. I have been him sing those songs; I was so young at that time, and I was in Lucknow when he used to teach his son Paluskar all *ragas* and *raginis* and by reciting only one line, namely *Raghupati-rahava raja ram, Pateeta pavana Sitaram*. Where are those records today? Those records are not available to us. It is a tragedy in this country that we are unable to preserve our treasures well. We are now switching over to the other things, such as folk songs etc. But what about our treasures? What about those things of which we feel so proud?

I wish that our Minister who really as a love for literature, or songs and for other things and who has really got an aesthetic sense will kindly rise to the occasion and accept this suggestion and this amending Bill of Shri C. K. Bhattacharyya, and I hope that he will not take shelter under any technical objection. Those speeches and those recitations should

be preserved for our future generations. And I am sure that this Bill which has been brought forward by Shri C. K. Bhattacharyya will be passed unanimously by this House without any amendment and without any contradiction or controversy.

Shri Hari Vishnu Kamath (Hosangabad): I have great pleasure in supporting the Bill moved by my hon. friend Shri C. K. Bhattacharyya, and I have no doubt whatsoever in my mind that the Minister in charge, namely the Minister of Scientific Research and Cultural Affairs, combining in himself as he does the sensitive mind of Humayun and the poetic soul of Kabir, will see his way to accepting the Bill in principle and bringing forward a Bill of his own, if this Bill does not satisfy the requirements of the situation, in good time, sooner rather than later.

May I add just one little suggestion of mine to what Shri C. K. Bhattacharyya and hon. friends from this side of the House have said? And it is this. Many names, great and famous in our millennial history have been mentioned on the floor of the House. We have a shining galaxy of great men, great in every field, philosophy, literature, music, culture, poetry, mysticism and also politics, and also those great ones, those great leaders who along with Mahatma Gandhi and others have lifted politics to a higher plane, as a result of which politics has almost been sanctified and spiritualised. Among that galaxy, I am sure all my colleagues here would racken the names of Lokmanya Bal Gangadhar Tilak and Netaji Subhas Chandra Bose. It would ill become us who have reaped the harvest of freedom to forget those two great leaders who have fought so well and so truly, so gloriously and so valiantly for the freedom of our country. I would, therefore, appeal in all sincerity and with all earnestness, to the Minister and to my colleagues on both sides of the House, to add their voices to the voices that have already gone before, and make a supreme and

[Shri Hari Vishnu Kamath]

vigorous appeal to the Minister and to Government to ensure the preservation of the records of the speeches, the great orations, the inspiring orations delivered by Lokmanya Bal Gangadhara Tilak and Netaji Subhas Chandra Bose, if they had been recorded in the past. I am sure that Netaji Subhas Chandra Bose's orations have been recorded. I am not quite sure about Lokmanya Bal Gangadhara Tilak's, but about Netaji Subhas Chandra Bose's speeches and orations I should like to say a few words.

This question was raised in the First Lok Sabha more than once. Dr. Keskar, the then Minister of Information and Broadcasting, told the House that attempts were being made to secure the recorded speeches of Netaji Subhas Chandra Bose when he was Congress President as well as when he was the president of the *Arzi Hukumat-e-Azad-Hind* and the supreme commander of the *Azad Hind Fauj* in South-East Asia and till that day, when after liberating a part of our sacred soil from foreign occupation he had to retreat unfortunately from the field of battle. During that heroic period, many speeches were made in India when he was president of the Congress. A gramophone company, I think, Young India Gramophone Co. or some other company, sent me two records of his speeches, made by him when he was Congress president; that was last year or about two years ago. They showed me those records and also played them. I wonder whether Government have got them in their archives and have taken the necessary steps to preserve them.

Also, there have been many orations, many speeches, heart-inspiring speeches and heart-warming speeches, made by him when he was in Berlin as well as when he was in South-East Asia, and I have no doubt that almost all those speeches were recorded, and they were heard also in our own country. The least that Govern-

ment can do is to preserve the memory of such a great hero and great leader of *Bharatvarsh*, would be to obtain those records. Dr. Keskar assured us that some records had been obtained. I would like the hon. Minister to tell us what records were obtained, and how many had been obtained of the speeches made by Netaji Subhas Chandra Bose, and what attempts have been made by Government or are being made by Government to obtain the other records of the speeches made by him in Germany and in South-East Asia, and what attempts are being made by Government to preserve them for posterity and for history.

Shri Sarjoo Pandey (Rasra) rose—

Mr. Deputy-Speaker: I am sorry. There is no time. I am calling the hon. Minister now. If there is time, I shall give him an opportunity.

The Minister of Scientific Research and Cultural Affairs (Shri Humayun Kabir): I am sure that every Member of this House will have sympathy with the objects of this Bill. The purpose is one which can be accepted without any hesitation, and not only so, but one which has already been accepted. In fact, we have in the last few years been taking action in this direction. But it is an entirely different matter, so far as the Bill is concerned, and I am afraid that with regret I have to oppose this Bill on both legal, administrative and practical grounds.

In our view, this Bill is bad in law, and administratively it is unpractical and further, it is unnecessary, and I hope to convince the House on all these three points.

Legally, it is not a Bill which can be considered by Parliament for the reason that production of gramophone records clearly relate to entry 27 of the State List, and as such it cannot be a subject for legislation in Parliament; it is a purely State subject.

if the articles covered by entry 27, exempted by entry 33 of Concurrent List can alone come before Parliament, Parliament has not enacted, nor has there been ever any suggestion that the manufacture of records should be brought under entry 33 of List III.

The object of this Bill as has been enunciated by my hon. friend Shri C. K. Bhattacharyya is to require every manufacturer of gramophone records to deliver a number of copies of every record to specified public libraries. In other words, this will have a direct bearing on the production, supply and distribution of goods as defined in the State List, and this, as I mentioned just now, is not in entry 33 of the Concurrent List. Therefore, this is a Bill which relates to a subject which is within the exclusive competence of the State Legislature.

That is not the only legal defect in the Bill. Shri Bhattacharyya seeks to circumvent this by saying that gramophone records are books. He read the definition of 'book' in which certainly sheets, lithograph sheets, are included, but by no stretch of imagination can we refer to a gramophone record as a book. The gramophone record may be of a speech, or of music or of any kind of noise. There are records of sounds of birds, there are records of animal noises in the forests, all kinds of things. To regard these as books would completely violate the spirit of language. You will remember that the Supreme Court has again and again held that while we should give a liberal interpretation to a word, it should not be such as to attract the epithet 'fantastic'. To describe gramophone records of every type as books would, I think, come within the mischief of that description or the Supreme Court.

Then again, Shri Bhattacharyya wants that the manufacturer of a gramophone record should be described as a publisher. Here again I think it is isolation of language. By no stretch of imagination, can you say that the manufacturer of a record is the publisher of book. For these reasons, on legal grounds this Bill has to be opposed completely.

It is also both unpractical and unnecessary. In his objects and reasons, he has said that he wants that the voices of eminent personalities should be preserved including great masters of music. Under the Bill as he has drafted, six copies of every single record will have to be submitted. What are you going to do with these? We find that in 1961 and 1962, there were about 4 million records issued each year, perhaps four or five thousand titles. We have not gone into the list of titles. Many of them are quite frivolous things—film music and various types of things which will not last beyond one season, let alone anything else. Therefore, to require libraries in different parts to the country to clutter up their space with all these things this kind of what I may be permitted to call rubbish would be quite undesirable. Whatever is valuable is being preserved. Therefore, in a way, the object of the Bill is already served.

We have passed a Bill requiring that books should be sent to libraries. Already the libraries are finding it very difficult. Nevertheless, we are pursuing with it. Till that position has been consolidated, to undertake something additional would be undesirable.

Then I would submit the Bill is unnecessary because already action has been taken. I mentioned earlier that the Sangeet Natak Akademi has been engaged in the last 3 years in preserving these things. So far as things which have already disappeared are concerned, nothing can be done. This Bill is not going to bring us the music of Tansen or the music of the great

[Shri Humayun Kabir]

masters who lived before the gramophone records or taperecording was known. That applies to every country. Shri S. M. Banerjee said that unfortunately it is only India's loss. I do not know where he got that information, because this applies to all countries of the world. Every country has lost the music of its great musicians in the past. But as I said, the Sangeet Natak Akadami is now going all out to arrange for special programmes for recording and we are building up an archive of taperecords to preserve whatever is worth preserving. We also consulted the Ministry of Information and Broadcasting. Shri Kamath himself mentioned that Dr. Keskar gave an assurance that whatever was possible would be recorded and kept. We have received form that Ministry a report that they are proceeding with that; they are collecting whatever is feasible. This is what they have said:

"All India Radio is at present doing whatever is possible to collect, process and preserve recordings of eminent personalities and old masters".

It has therefore to be selected. In this, we will do all that is necessary. I think that any compulsion in this will be unnecessary and undesirable. Compulsion means getting everything. Then who is going to select?

Shri Hari Vishnu Kamath: Appoint a Committee.

Shri Humayun Kabir: Then that Committee will have nothing to do except to listen to records, because 4 million records are produced every year and the number of speeches in India is legion. If we excel in any one trade, perhaps it is the trade of making speeches.

Shri Hari Vishnu Kamath: Let it be a parliamentary committee with the Minister as Chairman.

Shri Humayun Kabir: We have already set up machinery. All India Radio and the Sangeet Natak Akadami are trying to preserve whatever is worth preserving.

I shall be most grateful to Members if they bring anything they come across to our notice. For example, I am grateful to Shri Bhattacharyya for mentioning the records which exist with Messrs. H. Bose and Sons. He also mentioned about some records which are with the Mysore family. Shri Kamath mentioned about some records available with Young India company. We shall try and see that whatever is worth preserving will be preserved by AIR and the Sangeet Natak Akadami.

Therefore, this draft Bill is bad in law, as it encroaches into the preserve of the State legislature. It is administratively unpractical as it involves cluttering up libraries with all kinds of records. It is also unnecessary because the work is already being done. I can assure you that we shall make every effort to see that nothing of value which is worth preserving is lost. In these circumstances, I regretfully oppose the Bill.

Some Hon. Members: Do not withdraw the Bill.

Shri C. K. Bhattacharyya: The hon. Minister has mentioned that the Bill is unpractical, unnecessary and not within our competence. All these 'uns' I have heard, but he has not given me that particular assurance I wanted. What is he doing to prevent the destruction of records?

Shri Humayun Kabir: I have already said we are taking every step. If my language is not understood, I am very sorry. I said more than once that the Sangeet Natak Akadami and AIR are making every effort to collect, preserve and to process wherever necessary, whatever is available.

Shri Umanath: That is a standing declaration.

Shri C. K. Bhattacharyya: That is all voluntary. There is nothing in the land to prevent a gramophone company from destroying the original of 'Shri Humayun Kabir's records tomorrow.

Shri Humayun Kabir: Let them do it.

Shri C. K. Bhattacharyya: As to his argument that it is bad in law, my contention is this. He has objected to the connotation of 'book', that I extended the meaning of 'book' beyond reasonable connotation. My contention is that it is the business of legislation to define the terms covered by the Act. I hold that the interpretation of the term 'book' as given in my amending Bill is perfectly correct and in order and within the scope of the Constitution and therefore, within the legislative competence of Parliament. The second objection is that it relates to the State List and the Centre cannot come in. To that my reply is this. If the provisions of the Bill, when enacted and brought into operation, become relatable to entry 33 in List II, the same must also have happened in the case of the parent Act. The Bill merely provides that gramophone records must be supplied to certain libraries. The provisions of the Bill do not interfere in any way with the States' rights over theatres, and dramatic performances, cinemas subject to the provisions of entry 60 of list I, sports, entertainments and amusements—that is the description given in item 33—otherwise, the same might have been said of books meant for dramatic performances or musical entertainment, etc. The Central Government demands books to be delivered to them even though books of dramatic performances may also come under item 33 because they relate to theatres. So, records do not come under the item when they relate to "Theatres etc.", books do not come when they relate to "Theatres, etc."

Shri Humayun Kabir: He is forgetting the provision of item 39 in the Concurrent List which specifically mentions newspapers, books and printing presses.

Shri S. M. Banerjee: Let us hear the Attorney-General on this. Shri Kabir is not a legal expert.

Shri C. K. Bhattacharyya: Therefore, the interpretation put on the provisions of the Bill is too far-fetched to be real. If the provisions of the Bill become relatable to entry 12 in the State List, what about the principal Act? Provision is there for delivery of books to public libraries. Does it not then contravene the provisions of the Constitution. If it can be provided for delivery of books to public libraries, it can also be provided for delivery of gramophone records to public libraries. These are also national treasures. That is my contention. That is where I want the Minister of Culture to come in.

Mr. Deputy-Speaker: Does he wish to withdraw the Bill?

Shri C. K. Bhattacharyya: I do not want to have it put to vote. I withdraw it with your permission....

Some Hon. Members: No, no.

Shri C. K. Bhattacharyya: ...with this assurance that I am bringing it again obviating the objections that the Minister has raised. I shall take note of his objections and bring it again in a form to which he cannot take any objection.

Mr. Deputy-Speaker: Has he the leave of the House to withdraw his Bill?

Some Hon. Members: No.

Mr. Deputy-Speaker: Then I put the motion to the House.

The question is:

"That the Bill further to amend the Delivery of Books and Newspapers (Public Libraries) Act, 1954 be taken into consideration."

[Mr. Deputy-Speaker]

Those in favour will please say "Aye".

Some Hon. Members: Aye.

Mr. Deputy-Speaker: Those against will please say "No".

Some Hon. Members: No.

Mr. Deputy-Speaker: The Noes have it.

Some Hon. Members: The Ayes have it.

Mr. Deputy-Speaker: Those in favour will please stand up.

Shri S. M. Banerjee: It is the usual practice to take a vote. Our people are not here.

Some Hon. Members stood in their seats.

Shri Hari Vishnu Kamath: No whip. You may also stand up.

Mr. Deputy-Speaker: No canvassing on the floor of the House. There are 17 Members in favour. Those against may now please stand up.

Some Hon. Members stood in their seats.

Mr. Deputy-Speaker: The House is overwhelmingly against the motion. It is lost.

The motion was negatived.

15.22 hrs.

CONSTITUTION (AMENDMENT)
BILL (Amendment of article 368)
by Shri Hari Vishnu Kamath

Shri Hari Vishnu Kamath (Hosangabad): I beg to move:

"That the Bill further to amend the Constitution of India be taken into consideration."

My Bill, Bill No. 14 of 1963, seeks to so amend the Constitution that future

amendments to the Constitution will be possible only when they are necessary in the national interest, and not for partisan ends. I have said in my Statement of Objects and Reasons:

"While the Constitution need not be regarded as a rigid, sacrosanct document, yet its amendment should not be resorted to lightly. Any amendment of the Constitution should subserve not narrow partisan ends, but genuine national interests and social justice."

If this fundamental basis for amendment of the Constitution is accepted, as I have no doubt it will be accepted by my colleagues on either side of the House, then I fail to see why my colleagues here should not lend their wholehearted support to the Bill before them.

May I submit that the relevant article 368 falls into two parts: one relating to the procedure for passing a Bill amending the Constitution and the other dealing with certain further requirements before it can finally become law? It is too late in the day to remind my colleagues that the Constitution is the basic law of the land, not an ordinary statutory law, and therefore it is in the fitness of things and absolutely essential that it should not be tinkered with, tampered with or amended in a lighthearted manner to subserve party ends only, and such danger at the hands of the ruling party is all the more now when an organised opposition is emerging in the country, an organised opposition which I hope, and I am confident, will serve as an effective challenge to the ruling party in the very near future. There is the danger that with the majority that they have got today, a bare two-thirds majority or four or five Members more than that perhaps, they may in the next four years try to amend the Constitution so as to subserve their party ends when any provisions of the Constitu-