

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Hindu Succession Act, 1956".

The motion was adopted.

Shri Easwara Iyer: I introduce the Bill.

INDIAN INCOME-TAX (AMENDMENT) BILL*

Shri Ram Krishan (Mahendergarh): I beg to move for leave to introduce a Bill further to amend the Income Tax Act, 1922.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Income Tax Act, 1922."

The motion was adopted.

Shri Ram Krishan: I introduce the Bill.

SALARIES AND ALLOWANCES OF MEMBERS OF PARLIAMENT (AMENDMENT) BILL*

Shri M. R. Masani (Ranchi—East): I beg to move for leave to introduce a Bill further to amend the Salaries and Allowances of Members of Parliament Act, 1954.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill further to amend the Salaries and Allowances of Members of Parliament Act, 1954".

The motion was adopted.

Shri M. R. Masani: I introduce the Bill.

DRAMATIC PERFORMANCES (AMENDMENT) BILL—contd.

Mr. Deputy-Speaker: The House will now resume further discussion of the motion moved by Shri V. P. Nayar on the 5th April, 1958, that the Bill further to amend the Dramatic Performances Act, 1878, be taken into consideration.

Out of 2½ hours allotted for discussion of the Bill, 58 minutes were taken up on the 5th April, 1958 and 1 hour and 32 minutes are still available.

Shri Easwara Iyer may now continue his speech.

Shri Easwara Iyer: Mr. Deputy-Speaker, Sir, I was submitting the other day, before this House, about the growth and development of the drama, both in the West and the East from being an idle pastime to a chastened freedom of expression of the social needs of the time. I do not want to dilate upon the merits and demerits of the drama in the West and in the East, but it is agreed, I believe, that so far as the Indian drama is concerned, it has done its part as a powerful medium of expression in the national movement of our country. So, the British imperialists, finding that this is a sort of an effective block against their rule in this country, might have thought about the Indian Dramatic Performances Act, and, as the hon. Mover of the Bill has pointed out, they have been using this enactment as an effective fetter or, if I may say so, a curb upon the spirit of nationalism that has been developed in this country. It is natural to expect that in the post-Independence period this enactment will be given the go-by by repealing the enactment. But unfortunately it has not happened. It is a regrettable and deplorable state of affairs that in so far as our Constitution has laid down the fundamental rights regarding freedom of expression, occupation and association, we should continue to have this enact-

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ment as something which will mar our statute-book.

In very solemn terms we have provided in article 19 of the Constitution that there must be fundamental rights regarding freedom of expression, and it is needless for me to point out that the fundamental right to freedom of expression will include any expression in visual or auditory form. Now, the Indian Dramatic Performances Act, as I could understand it and as I have understood it, is a clear negation of the freedom of expression that can be had for any citizen of India. A reading of this enactment will show that not only is a case of prohibition made regarding the right of the author or a dramatist to stage a drama, but there are ever so many restraints that have been put in. I find that so far as the Dramatic Performances Act is concerned, they are against the elementary principles of natural justice.

Now, the hon. Mover has rightly pointed out to this House that he is in a very difficult position to ask for or to plead for a repeal of this enactment and so he has come forward with an amending Bill, the provisions of the amending Bill would certainly show that he has been very, very moderate in his demands. He comes with a restraint. An examination of the provisions would show this. I shall read sub-section (3) of section 3 of the Dramatic Performances Act, 1876:

"Whenever the State Government is of opinion that any play, pantomime, or other drama performed or about to be performed in a public place is—

likely to deprave and corrupt persons present at the performance, the State Government, or outside the Presidency-towns the State Government or such Magistrate as it may empower in this behalf, may by order prohibit the performance".

So, it conceives a case where a drama has been staged and also a drama which is in the stage of being staged. Where a drama is staged and it is found to be of such a character as is likely to deprave young minds or old minds, it has to be prohibited. Where a drama is about to be performed, and is likely to deprave the minds of people, the magistrate is given the power to prohibit it.

The second part of the enactment would show that it is a case of preventing a crime. It may be argued on behalf of the Treasury Benches there and by Shri D. C. Sharma, who is not present now here, as to why we should allow defamatory dramas, why we should allow obscene dramas and why we should allow performances which are likely to deprave young or old minds. But the enactment has not followed the principle of audi altrum partem, i.e. "Let no man be condemned before being heard". The Act has not given the dramatist an opportunity to show cause against the opinion that may be arrived at. The officer empowered in this behalf under this section is taking the role not only of a detective, but also of the prosecutor and also the judge. He comes to the conclusion on his own subjective satisfaction that the drama is going to corrupt or deprave young minds.

This is a state of affairs which can no longer continue in a democratic State, particularly as it is against our Constitution. If the fundamental rights that have been enunciated in the Constitution have any value, this provision must be repealed. I would respectfully submit before the House that the hon. Member has only requested for a very reasonable provision to delete section 3(e) of the Act which says "likely to deprave or corrupt young minds." Who is to determine this? Is it the persons who profess themselves to be very learned and to be real exponents of art and culture, but moving about with lathis and in khakis that have to decide

[Shri Easwara Iyer]

whether a drama is going to deprave or corrupt young minds?

Here is a case. In a society where a drama advocates social reform like a Hindu widow's remarriage or preventing child marriage, a particular opinion may be entertained by any conservative mind that they would not be good. But in the present day, we have enacted the Child Marriage Restraint Act, the Hindu Widow's Remarriage Act and so on. Is it for these persons who, as the hon. Mover himself has said, masquerade themselves as real exponents of art and culture, to decide the quality and substantive value of those dramas? It is a case where there is no right of appeal. For all practical purposes, the magistrate will find no time to find out whether this drama is good or bad, because he has other work. He passes it on to his next subordinate, the D.S.P. who will find himself to be too busy to understand the potential value of the drama. He will pass it on to the head constable who will find it rather irksome because he may not know the language in which it is written. He may then seek the assistance of his better half, who is a better exponent of the drama, but who will be dedicated to domestic duties. So, ultimately it will be passed on back to the magistrate.

There is no right of appeal against the decision and therefore, the Hon. Mover of the Bill has rightly provided under section 5 of the amending Bill that:

"Any person aggrieved by any order passed or action taken against him by the Government under this Act may appeal to the High Court of the State concerned and the High Court may pass such orders or take such steps as it deems necessary."

I am not saying that our High Court people are great exponents of art and culture, but there is always a right to be heard and they will be

very patient in hearing. If a drama or any work is condemned as being something which is potentially dangerous or explosive, it is open to the author or the dramatist to come forward and say it is not and substantiate his point. Apart from that, the fundamental right, the right of natural justice, namely, of being heard before one is condemned, is not given. The restraint that is imposed by the Dramatic Performances Act, so far as dramas to be staged are concerned, is an unreasonable thing, if I may use a legal term. It is, of course, open to the Government to state that under article 19, the State can impose reasonable restrictions on the fundamental right of freedom of expression. It is not reasonable to deny the author or dramatist the opportunity to substantiate that his play is something worthy of being staged. When somebody translates or adapts the great works of Kalidasa or other great authors in his own language, either Bengali, Marathi, Malayalam, or Tamil, I cannot see eye to eye with the proposition that it should be subjected to the scrutiny of the D.S.P. or the District Magistrate and that these are the persons who are best suited to judge the quality or literary eminence of such works.

This is a regrettable state of affairs and I very strongly plead and implore the Minister-in-charge on the treasury benches who is dealing with it to see reason and light in this matter and to see that some justice is done to the dramatic talent of this country and not to retard their growth by imposing this restraint, which is already there imposed deliberately by the British imperialists for the purpose of carrying on their Government. Our young talents must bud and our dramas must become real classics in the future world. If that is to be so, these unreasonable, undemocratic, unconstitutional provisions must be given the go-by and this amendment must be accepted.

उपाध्यक्ष महोदय : श्री बजराम सिंह ।
माननीय सदस्य दस मिनट के अन्दर अन्दर
अपना भाषण कर लें ।

श्री नारायणन् कुट्टि मेनन (मुकुन्द-
पुरम्) : माननीय सदस्य कृपा कर के
अंग्रेजी में भाषण करें ।

श्री बजराम सिंह : हिन्दी सब समझ
लेते हैं ।

श्री नारायणन् कुट्टि मेनन : थोड़ी
सी समझते हैं ।

श्री बजराम सिंह : उपाध्यक्ष महोदय
जिस वक्त यह ड्रामेटिक परफार्मेंसिज एक्ट
बनाया गया था, उस वक्त राष्ट्र की जो परि-
स्थिति थी, उस का यदि हम आज अध्ययन
करना चाहें, विश्लेषण करना चाहें, तो हम
इस नतीजे पर पहुँचेंगे कि आज उसमें बहुत
ही भिन्न परिस्थिति पैदा हो गई है । १८५७
में हिन्दुस्तान में वह युद्ध हुआ, जिस को
अंग्रेज गदर कहते रहे और जिस को हम
आजादी की पहली लड़ाई कहते हैं । उस
के कुछ समय बाद, १८७६ में, वह एक्ट
बना था । उस वक्त मुक्त की परिस्थिति
यह थी कि हिन्दुस्तान की आजादी की पहली
सड़ाई के खरम हो जाने—असफल हो जाने के
बाद चारों ओर निराशा की भावना पैदा
हो गई थी और उस भावना का उद्गम
या प्रदर्शन होता या नाटकों के जरिये ।
बेदातों में और दूसरे स्वार्थों पर अपनी अपनी
आधारों और बोलियों में लोगों ने इस तरह के
नाटक बनाने शुरू किये और उन का प्रदर्शन
शुरू किया, जिससे उस वक्त की गवर्नमेंट
के खिलाफ असंतोष पैदा होता था । लेकिन
मुझे आश्चर्य होता है कि हिन्दुस्तान के आजाद
होने के ग्यारह साल बाद आज भी हमारी
कानून की आत्मा में इस तरह की किताब
कभी पड़े, जिस के अनुसार हम उस नाटक

का प्रदर्शन नहीं कर सकते, जो आज की
सरकार के खिलाफ असंतोष को व्यक्त
करता हो । मैं यह निवेदन करना चाहता
हूँ कि हिन्दुस्तान के विधान ने यह अधिकार
दिया है कि आप जिस वक्त भी चाहें, वक्त
की सरकार को गान्धिपूर्ण और अहिंसात्मक
तरीके से हटाने की कोशिश कर सकते हैं ।
न सिर्फ आप असंतोष पैदा कर सकते हैं,
बल्कि यदि मुक्त में असंतोष है, तो उस
असंतोष को बढ़ाने के लिये आप किन्हीं भी
तरीकों से कार्यवाही कर सकते हैं और
वह विधान की सीमाओं के अन्तर्गत है ।
लेकिन मुझे आश्चर्य होता है कि आज की
इन परिस्थितियों में भी यह कानून मौजूद
है, जिस में कहा गया है—

“likely to excite feelings of dis-
affection to the Government estab-
lished by law in India.”

अर्थात् हिन्दुस्तान में कानून के जरिये जो सरकार
बनाई गई है, उसके खिलाफ असंतोष की भावना
नहीं व्यक्त की जा सकती है और ऐसी
भावना व्यक्त करने वाले नाटक का प्रदर्शन
नहीं किया जा सकता है । मैं यह निवेदन
करना चाहता हूँ कि धारा ३ (बी) न
सिर्फ आज कल की परिस्थितियों के विशुद्ध
पड़ती है, वरन् हिन्दुस्तान के विधान की
भावना के खिलाफ है । हिन्दुस्तान के विधान
की भावना यह है कि हरेक को अपने विचार
व्यक्त करने का पूरा अधिकार है । जैसा
कि विधान के अनुच्छेद १६ में कहा गया है,
हरेक को पूर्ण अधिकार है कि वह जिस
तरह से चाहें अपने विचारों को व्यक्त करे
और सभी जानते हैं कि नाटक, हिन्दुस्तान
में ही नहीं, दुनिया भर में, अपने विचारों
को व्यक्त करने का एक बहुत बड़ा माध्यम
रहा है, जरिया रहा है—एक ऐसा जरिया
रहा है, जिसे कम से कम हिन्दुस्तान में तो
सब सुनते और देखते आ रहे हैं । इंग्लैंड
और दूसरे मुक्तों में भी यही स्थिति है ।

[श्री बजरंग सिंह]

का विचार के प्रकलन के जो प्रसिद्ध नाटक हैं जोकि व सिर्फ उन चौदह भाषाओं में हैं जिनका वरुण संविधान में किया गया है बल्कि उन तयाम भाषाओं में भी हैं जोकि लिखित नहीं जाते हैं और जिनमें नाटक का प्रदर्शन होता है और जिनके जरिये से वे लोग शिक्षा हैं ग्रहण नहीं करते हैं बल्कि अपना आमोद प्रमोद भी करते हैं, उन पर किस किस का प्रतिबन्ध लगाना में सम्भ्रता ई ठं क नहीं होगा। इस तरह से हिन्दुस्तान के सरकार के खिलाफ अगर कोई असंतोष व्यक्त करना चाहता है और आप उस पर प्रतिबन्ध लगा देते हैं तो मैं कहना चाहता हूँ कि यह हमारा जो संविधान है, उसकी भावना के खिलाफ होगा।

इस कानून में कहीं पर भी कोई व्यवस्था नहीं है कि मैजिस्ट्रेट जो हुकम देगा या पुलिस किसी के खिलाफ कोई कार्रवाई करेगी वह प्रादमी जिसके खिलाफ कार्रवाई की जा रही है उसके खिलाफ कहीं अपील भी कर सके। हम जानते हैं कि जहाँ तक विभागीय कार्रवाई होती है डिपार्टमेंटल प्रोसीडिंग्स होती हैं सरकारी कर्मचारियों के खिलाफ उसमें भी उस कर्मचारी को जिस के खिलाफ इन प्रोसीडिंग्स को शुरू किया जाता है जो काज नोटिस जारी किया जाता है कि वह कारण बतलावे कि क्यों न उसके खिलाफ कोई एकशन लिया जाये और यह चीज उसको लिखित रूप में दी जाती है। लेकिन इस नाटक के मामले में अगर कोई मैजिस्ट्रेट या मिनिस्टर यह सम्भ्रता है कि इस मामले का प्रदर्शन नहीं होना चाहिये कोई पुलिस अधिकारी यह सम्भ्रता है कि इसका प्रदर्शन नहीं होना चाहिये तो वह उसको बन्द करवा सकता है और दूसरे प्रादमी के पास कोई रेमेडी नहीं है कोई जरिया नहीं है उसको कानून की तरफ से कोई अधिकार प्राप्त नहीं है कि वह उसके खिलाफ कुछ कर

सके या उसके खिलाफ अपील कर सके। मैं कहना चाहता हूँ कि प्रस्तावक महोदय ने जो बिल पेश किया है उसकी जो धारा १२ है वह बहुत मुनासिब है और उसके मुताबिक यह अधिकार लोगों को दिया गया है कि वे हाई कोर्ट में जा सकते हैं अगर उनके खिलाफ मैजिस्ट्रेट या कोई दूसरा प्रादमी कोई हुकम जारी करता है और वहाँ पर वे यह कह सकते हैं कि यह हुकम गलत है इसको वापिस लिया जाना चाहिये। मैं सम्भ्रता हूँ कि अगर सरकार का यह विचार है कि इससे हाई कोर्टों में काम बढ़ जायेगा तो लोगों की भावना को देखते हुये यदि सरकार चाहे तो इस अपील को सुनने का अधिकार डिस्ट्रिक्ट और सैशंस जज को दे सकती है और वह यह देख सकता है कि जो आर्डर दिया गया है जो प्रादेश दिया गया है वह वैध है या नहीं है मुनासिब या नहीं। इस तरह की अपील की कोई व्यवस्था करना बहुत जरूरी है। जो मैजिस्ट्रेट प्रादेश देता है वह उचित है या अनुचित इसको देखने का अधिकार किसी ऐसे व्यक्ति को होना चाहिये जो ज्यूडिशियल माइंड का हो फिर चाहे वह हाई कोर्ट हो या वह डिस्ट्रिक्ट जज हो या कोई और व्यक्ति हो। यह देखना बहुत जरूरी है कि कहीं व्यक्तिगत दुश्मनी की वजह से या स्वामीभक्ति को भावना से प्रेरित हो कर इस किसम का प्रादेश तो नहीं दिया गया है और इस चीज को हाई कोर्ट का जज या डिस्ट्रिक्ट एंड सैशंस जज या कोई और निष्पक्ष व्यक्ति हो देख सकता है और इस पर विचार कर सकता है। इस लिये उस व्यक्ति को जिसके खिलाफ कोई प्रादेश जारी किया जाता है यह अधिकार प्राप्त होना चाहिये कि वह उस प्रादेश के खिलाफ अपील कर सके।

इसके साथ साथ मैं यह भी कहना चाहूँ कि जहाँ तक डिफ़ेन्शन का सम्बन्ध है इसके लिये धारा ० पी० डी० की धारा ५०० में

व्यवस्था की गई है और उसमें यह लिखा हुआ है कि बाई वर्ड्स स्पोकन थ्रू रिटन में किसी का डिफामेशन हो तो वह इस धारा के अन्तर्गत उस व्यक्ति के खिलाफ कार्रवाई कर सकता है जिस के द्वारा उसका डिफामेशन होता है। जिस व्यक्ति की मान-हानि होती है वह इस धारा के अन्तर्गत कार्रवाई कर सकता है। इन शब्दों का इस एक्ट में रहना ठीक नहीं है कि अगर कोई स्कैंडलस नेचर का हो या डिफामेटरी नेचर का हो तो उसे प्रदर्शित करने की इजाजत नहीं दी जायेगी। यहां पर भी और आई० पी० सी० में भी इन दोनों चीजों को रखना दो कानूनों का रखना है। मैं नहीं चाहता कि किसी का डिफामेशन हो किसी का अपमान हो और किसी भी ड्रामे के जरिये वह नहीं होना चाहिये लेकिन जब आई० पी० सी० में वह चीज मौजूद है आई० पी० सी० में उसकी व्यवस्था है कि ऐसी सूरत में अपमान करने वाले को सजा दी जा सकती है तो मेरी समझ में नहीं आता है कि इसको इस एक्ट में रखा गया है। इन शब्दों को भी ड्रामेटिक पर-फार्मेंसिस एक्ट में से निकाल दिया जाना चाहिये।

ऐसी स्थिति में जिन संशोधनों को करने का मुझ पर प्रस्तावक महोदय ने दिया है वे मैं समझता हूँ कि समय की मांग के मुताबिक हैं और उनको तुरन्त स्वीकार कर लिया जाना चाहिये। अगर उनको स्वीकार नहीं किया जाता है तो उस सूरत में उस तरह की भावना मूलक में फैल सकती है कि आज जो सरकार है वह ब्रिटिश साम्राज्य की भांति अपने-अपने खिलाफ किसी प्रकार के भी असन्तोष को व्यक्त करने वाले की बात को सुनना नहीं चाहती और न इसके लिये तैयार है और आज जो हमारे शासक हैं वे यही से बिपक रहना चाहते हैं। आज आपने यह अधिकार लोगों को दे रखा है कि वे अपने असन्तोष को प्रखबारों के जरिये से, अपने भाषणों में या दूसरे तरीकों

से व्यक्त कर सकते हैं लेकिन नाटक के जरिये से आप उनको अपने असन्तोष को व्यक्त करने का अधिकार क्यों नहीं देते हैं, यह मेरी समझ में नहीं आया है।

इमलिये में बड़े विनम्र शब्दों में इतना ही कहूंगा कि समय आ गया है कि सरकार तथा मिनिस्टर लोग यह सोचें कि क्या इस एक्ट में संशोधन करना आवश्यक नहीं हो गया है? इस पर आपको निष्पक्ष भावना से विचार करना चाहिये और यह नहीं सोचना चाहिये कि चूंकि इस संशोधन विधेयक को एक विरोधी सदस्य को तरफ से पेश किया गया है इमलिये इसको स्वीकार नहीं किया जाना चाहिये। आज जो विरोधी सदस्य है बल वे सरकार बना सकते हैं और आज जिन लोगों के सरकार है कल वे विरोधी बन में बदल सकते हैं। इस वार्ता हमको जो जनता की भावनायें हैं उनके अनुरूप चलना चाहिये और अपने इन भावनाओं को जनता नाटक के जरिये भी व्यक्त करनी है और इसका उसका पूरा अधिकार होना चाहिये। इस वार्ता में चाहूंगा कि इन संशोधनों को आवश्यक स्वीकार कर लिया जाये।

Shri Hem Barua (Gauhati): Mr. Deputy-Speaker, I find this Dramatic Performances Act of 1876 very obnoxious, because it was introduced at a time when the British rulers wanted to keep their empire safe in this country, and the conditions or rather the reasons that they had advanced to perpetuate it are no longer valid, because the occasions have changed in the context of freedom. So, I do not find any necessity for perpetuating this Act any more and that is why I support the amendment to this Act, moved by comrade V. P. Nayar.

Now, when I think of this Act, I am just reminded of an incident. It is a story, of course. Just as Lord Shiva is supposed to be the originator of dances, Lord Brahma is supposed to be the originator of drama. But those were hectic days for him because there was conflict between the forces

[Shri Hem Barua]

that he represented and the malignant forces of the demons. There was a constant conflict between these two forces and in the war the demons were defeated by the forces of Lord Brahma. As Lord Brahma has become victorious, he wanted the experiences of the battle to be enacted into a drama and performed on a stage for the sake of the Gods and demons. When this idea was put into operation and the performance was on, the demons attacked the venue of the performance, challenged them, tore away the scenery and even carried away some of the Apsaras from among the dancers.

This is how they tried to destroy it, this is how they demolished it. The demons are the enemies of art. The demons are the enemies of culture. The demons are the enemies of art and drama as well. I can understand the British rulers playing the part of the demons, because they wanted their empire to develop, because they wanted their empire to expand, because they wanted the empire to flourish and thrive, and that is why they played the role of the demons and tried to destroy the staging of dramatic performances. I can very well understand that. But when our own Government, in the context of freedom, tries to play the role of the demons, the enemy of art, the enemy of culture, the enemy of drama, I fail to understand it.

Now, I had the privilege of being in the Congress and those were the days when Congressmen were interested in art and culture. I know how they inveighed against this Act, the Dramatic Performances Act of 1876. Because, in the student times, I remember, when we wanted to have a performance during the worship of Saraswathi, we had to submit the drama for scrutiny before the police officer. And until the police officer passes his verdict, that could not be performed on the stage. That is what

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happened. I remember how those comrades of the olden days inveighed against this Dramatic Performances Act. They called it a black Act. They inveighed against it with as much vehemence with which they attacked Section 144 of the I.P.C. I want to know if the Dramatic Performances Act of 1876 could be bad under British hats, how could it be good under Congress caps? I cannot understand that. No art can flourish in an atmosphere of lack of freedom.

What about the history of drama—I mean the modern drama? The modern drama in India is not very old. It is about 150 years old. The modern drama in India was born under the impact of western culture and English education. When the Englishmen came, I remember how they instituted stages in Calcutta. They rather wrote certain dramas to be staged there in those theatres. They did it because they wanted to remember their home conditions. So, they brought up these tendencies and the Indians also tried to produce a dramatic enthusiasm in the country in the wake of it.

Then, what happened? It is quite natural, because the drama is a mighty weapon in the hands of the people and the nationalist movement was growing and there was a bitter feeling against British rule in India, since drama is treated as a representation on the stage of a slice of life they wanted to represent their nationalist feelings and national upsurge on the stage. That is why the British promulgated this Act of 1876. There was a very prominent clause in it:

“.....likely to excite feelings of disaffection to the Government established by law in India....”

That is what happened.

When we compare our past with British period, we find there is a great amount of difference. Some people

say Indian drama originated from the Vedas. Some say it originated from Asvaghosh. Whatever it be, we are sure and confident of one fact and that is that the past of Indian drama is glorious and rich. We had dramatists like Kalidasa, Bhasa and Sudrak because there was an atmosphere of freedom, there was an atmosphere of culture. They could even express the feelings of their heart and life's experiences as the birds sing. That is what they could do. But when we compare that period of our history with the British period we find that there was some enthusiasm created in Maharashtra, for instance. There was some enthusiasm created in Madras, in Andhra, in Bengal and in Gujerat. There was an enthusiasm created for the drama but at the same time this enthusiasm could not produce dramatic literature of a high order because of the fact that there was the iron hand of the policeman. There was the Damocles' sword hanging over the heads of the playwrights. That is why it could not blossom into a rich dramatic movement.

Now today in the context of freedom we want the dramatic movement to grow. We want culture to grow. We want people to give a natural expression to their creative urges so that we might progress. But until and unless this Act is repealed or annulled, there can be no progress. At the same time there can be an argument also that there might be some obscene scenes or vulgar scenes that might corrode in the morals of the people and might destroy the values of life. There might be an argument like that. For instance, I remember in Madras there was a drama based on the *Ramayana* and it was written by M. R. Radha. Because it lampooned the established values that the Indian people have cherished so long, there had been an agitation against that. In recent times there was a drama staged in Ceylon. The name of the drama is, "Killing of Rama" and there it is represented that when Rama went to Ceylon he had difficulty with the Sinhalese language.

He roamed about and rambled about and then he quarrelled with some traders because of the language difficulty. The traders thought that he was a thief and so they beat him to death. The gods took pity on him and he was revived. This is a drama staged in recent times in Ceylon. The drama focussed the language problem in it. If that drama is staged here, we would require that it should be prohibited because it is a misrepresentation of history. When there are dramas depicting obscene and vulgar life or misrepresenting history or misrepresenting facts there must be some provision, but at the same time I would say that this Act is not the right type of thing. This Act of 1876 promulgated under British rule under different conditions must be annulled and a new Bill, if necessary, be introduced in order to preserve the morals of the people. There also the task of preserving the moral of the people or the cultural value of the people must not be left in the hands of the policemen or half-backed magistrates. There must be a right of appeal given to the people. At the same time people who are really actual connoisseurs of art and culture must be associated with it or else the same history will be repeated. And when history repeats itself, it is always does so in a dangerous way.

Shri Achar (Mangalore): Sir, I beg to oppose the Bill as it is introduced. He would have been supported by congressmen if he had brought only a Bill to give some appellate jurisdiction to find out whether a particular drama is defamatory or objectionable in any other manner. But, as the Bill is now introduced, I must object to it.

Despite the poetry and the flights of imagination to which my hon. friend rose, let us see what is the provision of the old Act that we are having. It only prohibits scandalous or defamatory dramas or dramas which would excite feelings of disaffection to the Government and to decide as to whether it is defamatory or not, no doubt, I find that the powers are given to the

[Shri Achar]

State Government in the case of Presidency towns and so far as the mofussil is concerned the power is given to the magistrates.

Shri V. P. Nayar: You are satisfied?

Shri Achar: Why not have a little patience?

I can see that the power is given to the State Government and so far as mofussil is concerned the power is given to the magistrate who is authorised to decide as to whether it is defamatory or not.

Perhaps it may be that a drama has to be brought out very suddenly, even within two or three days. In such cases there may not be time enough to communicate with the State Government. So, the decision has to be arrived at immediately and on account of that power is given to the magistrate. All the same, the main object is to avoid a scandalous or defamatory drama or other dramas, the performance of which may be disruptive.

If the Bill had been introduced only to the fact that an appeal should lie to the decision of the State Government or of the magistrate, I would have welcomed such a Bill. But this Bill, if it is passed as introduced, will allow people to have dramas of a scandalous or defamatory nature. I do not think either the Mover or Shri Easwara Iyar or the other Members who supported this want scandalous or defamatory dramas to be enacted in this country or dramas of the nature mentioned in the other sub-section. If they agree to that extent, I hope they will have to agree to such a law as exists today. We do not want dramas to be enacted as it happened in Madras. I remember certain dramas were enacted, and how scandalous they were. Of course, Government had to take steps. Such dramas cannot be allowed. If they cannot be allowed, what is the remedy? Naturally, power has to be given to the State Government, and so far as the villages are concerned to

the magistrates. He has to decide on the spot and come to the conclusion whether it is in the interests of the country to allow such dramas. Arguments were put forward saying that the Act would go against classical dramas. I do not know whether any State Government would make such a rule or whether any magistrate would do it. The argument was put forward that this Act was there for the benefit of the British Government, why should we have it now. I would put it the other way. Government is an elected Government, peoples' own government. Will the peoples' government go against classical dramas? All the same, I would submit that even if such an abuse could be anticipated, some provision or some amendment of the law may be made that the decision arrived at by the Magistrate or by the State Government will be subject to an appeal or revision. Even probably that may not be necessary. That aspect I have not studied. Probably, even now as it is, a writ can be obtained. The High Court can be moved and a decision obtained as to whether a drama is objectionable, whether it is defamatory or not. From that point of view, I do not want to dilate on the argument of Shri Easwara Iyar that if power is given to a magistrate, he can leave it to a Sub-Inspector, or a constable or his better half. I do not know whether imagination would go higher than that. It is really imagining things which do not exist in the ordinary affairs of the world.

I submit that the Bill as introduced is certainly objectionable and so I oppose it.

Shri Khadilkar (Ahmednagar): Mr. Deputy-Speaker, the amending measure before the House is intended to serve a particular purpose and that purpose can be very clearly seen if we just try to understand how this Act was operated or used during the British regime. So far as Marathi theatre is concerned, I can point out

several instances when the Act was used to suppress not only a play and its performance, but as a result the whole growth of drama and the theatre in Maharashtra was stifled. The hon. Deputy Minister sitting opposite knows very well how in instance, the well-known drama in Marathi, *Keechak Vadh* was suppressed in 1905. Why was it suppressed? Because it has depicted and very effectively depicted the conflict that was raging in this country in Curzon's regime. She probably knows the writer of the drama, the ex-editor of the *Kesari*,—at that time editor of the *Kesari*—Shri Khadilkar, my uncle. The Government in the old Central Provinces and Berar, after the introduction of dyarchy, thought it fit that it would be their first act to lift the ban on this particular play that was imposed by the British regime.

I am giving you just one instance. Because, when we look at the drama, the drama essentially consists of a conflict and a strife. It is either a conflict or strife with reality of a political nature or a social nature. The effect of the whole art—it is a visual art—is brought out by the conflict inherent in the play in such a manner that every one, not only one who is acting, but the one who is watching, becomes a participant in the whole drama and ultimately the powerful impact on his mind is left behind. This purpose in our country, particularly I can claim so far as the Marathi dramatic tradition is concerned, has been throughout maintained. As we look at the development of the drama and the theatre, the Marathi stage in particular, we find that in the early stages, it was not only the political conflict, but every social conflict was depicted. Child marriage was depicted, widow marriage was depicted, untouchability was depicted. Every social injustice where there was a conflict, and power which had no justification for suppressing the weaker sections of society was being

exercised, was depicted. Therefore, the British Government in those old days thought that this legislation was absolutely essential, to effectively suppress social and political awakening.

I would like to submit one thing for the consideration of the Government. Was it not their duty after freedom to examine in what way the old legislation that is on the statute-book was abused and mis-used by the Britishers to suppress all social and political activity, creative activity in this land and to revise it at least? It is really a shame that this Government should maintain on the statute-book such laws.

Shri Achar: The Law Commission has been appointed.

Shri Khadilkar: I know that there will be a Commission. There were Commissions since you assumed power and I know what are the results.

So far as this piece of legislation is concerned, I do realise as the hon. Member has said, and the Mover also realised, that a certain legislative measure is necessary so that this powerful weapon in the hands of an artist is not abused. It should not be used to corrupt the morals of the people. It should not be used to defame somebody. I do admit that. But, the main thing is, take sub-section (b): It reads, "likely to excite feelings of disaffection to the Government established by law in India." We call ourselves a democracy and we have given right to the people to change the Government. When we go to the electorate, what do we do? We have got to say that these people who are occupying the Benches here for the last ten years, are the accused and you judge them. They are in the dock standing before you. These are their doings or undoings, commissions and omissions; you pass the verdict. That is the election. The election is a drama. If you use the word disaffection, you know how it is abused, or likely to be abused.

[Shri Khadilkar]

I will give you a recent instance. In the Bombay State, the question of the fate of Bombay became a very big question. The Congress party quarrelled amongst themselves. The Maharashtra Congress, the Bombay Congress and the Gujarat Congress could not agree upon a solution and they threw it as a bone of contention to the people and imposed a solution. An ordinary man, not a very literate worker of Bombay wrote a small piece known as '*Mumbai konachi*', "To whom Bombay belongs." It is not a regular drama. This is a sort of folk drama, as we call it, a tamasha or Lok Natya. It is so effective. No stage is necessary. It is staged just before a mass of people. Actors are few and the whole story unfolds itself in such a dramatic manner that everyone who is listening and participating, if he has a little conscience and that is alive, feels some sense of guilt dawning on his mind, feels that injustice has been done in this case.

What happened? Because of this section, this performance of *Mumbai Konachi* or *Whom Bombay belongs* to was banned. I would like to ask: in the name of democracy, in the name of the Constitution under which you are supposed to rule this country, is it justified?

It is not a question of a political issue. I am not looking at it from a narrow angle of Bombay belonging to this group or that group. I am looking at it from the point of view of giving artistic expression, creative and most powerful expression, to the present conflict in a particular region on a particular issue by an ordinary artist.

I will give you another instance. Suppose some good artist comes forward and translates the famous piece of Ibsen which many of you know, *Enemy of the People*. It is the name

of the drama, and it is a very simple thing. A man who used to have control over sources of water in a city used to pollute that water, and because he had a particular right, right to that property, he could not be checked, and on that theme the whole drama is written, a very powerful drama. If somebody today in our present social conflict and ideas about property that are transforming and about how conflicts rage, translates, for instance, Galsworthy's 'strife' or 'justice'. Suppose all these problems come on the stage how the present Government shall react? Here, I may point out that every Government is afflicted with a sense of what they call narcissism, a sort of morbid self-love. Everywhere they see their own reflection. That is the characteristic of every Government. I am not blaming only the Congress. That is the general characteristic. Naturally they see their own reflection, and when they see reality as depicted by the dramatist or playwright and acted on the theatre, immediately they come up with a ban. I am seeing every day in the morning in the mirror my own reflection, and I say to myself: "I am so and so. I am a democrat. I am the man who is born to rule over this country. Therefore, how is it that this creates a picture which is not to my liking, to my self-love." Then, naturally the ban comes.

Therefore, I would like to plead and very humbly plead to remove this Act from the statute book. If we want to develop our society in a very healthy and a democratic way, if our culture is to grow and flower in different aspects of life, if it is to remain alive without being affected by the growth of the mechanical devices of entertainment like the cinema or by the television of tomorrow, if human creative talent is to play its part in our development, would you subscribe to this legislation? I would like very earnestly to ask the Deputy Minister opposite sitting here just

now—because I know she has seen the drama which I just quoted. Perhaps the first thing after the ban was rejected in 1937 in Bombay City, where there was a ban, I would not have been surprised to find Mr. and Mrs. Alva standing in the queue just to secure their seats because it had such a powerful grip over the minds of people because it depicted most effectively the political conflict in the country.

The amended legislation may not be to the liking of the Government in its present form. Let them bring forward a suitable legislation, but let them make one thing very clear, that so far as expression is concerned, at no stage will it be suppressed either through the direct interference of a magistrate or police authority or through the indirect interference of somebody even much higher up. Let it grow and let the social conflicts, the political conflicts and other conflicts in society be properly brought out on our stage.

Unfortunately we in India have lost the art of laughing at ourselves. Gandhiji had it in abundance, but the inheritors of this tradition have not that sense of humour to look at the ridicule of themselves in a good way, in a healthy way. It is only when they have that healthy outlook of humour, of looking at oneself with a little sense of ridicule, not always looking at oneself as if one is all sublime, but realising that some spark of the ridiculous is also there, it is only when this healthy outlook is developed that at least some of the evils which the people feel that they are suffering from under the present regime might be slightly removed.

Therefore, in the end, I would submit that the motive behind this amending Bill must be grasped, and not only this particular Act but all such legislation affecting the different aspects of our social and political life must be reviewed in the light of the changed circumstances of today.

Shri Narayanankutty Memon (Mukandapuram): I know that my hon. friend Shri Achar is a very good lawyer, but sometimes people forget themselves because of the dope of party discipline, and that was exactly why my hon. friend was opposing this piece of amendment.

I want to point out only certain aspects of this piece of legislation which is sought to be amended. As Shri Khadilkar has said, the amendment had to conform to certain procedures prescribed by this House, and, therefore there are certain limitations in the amendment. The amendment in all cases may not be able to reflect the true intentions of the Mover of this Bill; anyhow, conforming to those procedures, certain amendments have been brought forward.

The most objectionable part has been pointed out by all the previous speakers to be the lack of an opportunity either for the writer of a drama or the producer of a drama to prove that his own creation will not either corrupt or defame any other person, and that before such an opportunity is given, the drama is being banned by the exercise of the powers under this particular section.

Shri Achar has pointed out that the State Government are doing it and not the policeman. But, in practice, he being a lawyer, ought to understand, and I believe, he understands it quite well, that this particular power is exercised by the police constable or the police inspector making a motion before the magistrate to ban the drama. If, as reflected in my hon. friend's argument, the power given under this Act is being exercised by the State Government through the Sangeet Natak Akadami, then certain-

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ly much objection would not have arisen. But, unfortunately, we know the limitations of the mental calibre and the cultural standards of the magistrate and the policemen, and, therefore, this will become a dangerous weapon in the hands of these people to deprive the writer of the drama and also the people from enjoying it

I fail to understand how the Deputy Home Minister could rise to oppose this amendment when two High Courts in India have already held that some of the important provisions of this Act are *ultra vires* the Constitution. About two years ago, the Rajasthan High Court had held that because there was a lack of provision for giving an opportunity before the drama was going to be banned, that particular provision of the Dramatic Performances Act was *ultra vires* the Constitution, and, therefore, void. Later on, the Lucknow Bench of the Allahabad High Court have similarly held that this piece of legislation is *ultra vires* article 19 of the Constitution, and, therefore, void. After two High Courts have successively held like this, I fail to understand how the Treasury Benches could rise to oppose this amendment. Speaking technically and generally, any act done or any power exercised under these sections will be a contempt of these two High Courts.

Usually, when a High Court holds that a particular provision of a certain enactment is void, Government immediately come forward to re-enact it, if it is so absolutely necessary, by retaining that part of the Act on the statute-book in such a manner as to conform to the decision of the High Court. But, as far as this Act is concerned, Government have not done anything so far in spite of the fact that the High Court has declared certain provisions *ultra vires*.

We would like to hear from the hon. Deputy Minister what is Government's attitude regarding these two decisions of High Courts, especially when Government have not chosen to go before the Supreme Court to get these two decisions reversed.

Before the Rajasthan High Court's decision, an elaborate discussion took place regarding the implications of this particular provision of the enactment, how far the executive and the legislature have got power to enact such a piece of legislation in the light of article 19 of the Constitution. After such a discussion, they have held that this particular provision is void. When the High Court has held it so and when Government have not taken up the matter to the Supreme Court, why should Government now feel shy of accepting this amendment or of coming forward with another amendment in which certain provisions of the Act may be retained and objectionable provisions removed.

The only other point I wish to stress is about the morality involved in this. Shri Achar asked: are we to allow defamatory and scandalous pieces of dramas to go on unheeded by the State? There should after all be power vested in the executive to prevent defamatory and scandalous pieces of dramas. Sir, Under the Indian Penal Code, there are ample provisions by which defamatory, scandalous and obscene matters would be prevented, and most effectively prevented. The only trouble is that if action is taken under the Indian Penal Code, those responsible for taking such action will have to substantiate the action before a court of law, and the accused or the person against whom this action is taken, gets an opportunity to prove that the piece of drama is quite all right, it is neither defamatory, nor scandalous, nor obscene. That is the only

difference between the powers that could be exercised under the Indian Penal Code and the powers which are sought to be exercised under the Indian Dramatic Performances Act.

Shri Achar: But that will be after the event, after the drama is staged.

Shri V. P. Nayar: Otherwise, defamation is prevented before. Is it?

Shri P. S. Daulta (Jhajjar): All crime is punished after the event.

Shri Narayanankuty Menon: In spite of the Indian Penal Code, in spite of the Indian Dramatic Performances Act, what is happening in the country today? As far as films are concerned, they have got the Censor Board. In the Censor Board responsible people, representing all shades of opinion, who are supposed to be well versed in culture, censor the films. Yet, when we go to the theatres today, what do we see? Are we finding there samples of a puritan outlook? Look at what is happening in the theatres today. If you go to any theatre in Delhi today, you will first of all see a piece of that part of the American cinema, which you might have not seen before, but which everybody has seen, which is called rock N'roll. We have seen in the papers that when for half an hour a rock N'roll cinema was shown, the entire audience in New York began to dance with each other in the hall itself. Such was the impression created upon them; such was the catch that has been caught upon them. That is going on.

Mr. Deputy-Speaker: Has the hon. Member seen it?

Shri Narayanankuty Menon: I have seen, but I did not dance.

Shri Hem Barua: What is the meaning of "rock N'roll"? You have to rock and roll?

Shri Narayanankuty Menon: All sorts of obscene matters which are contrary to our own accepted notions of morality and moral standards are going on. The Censor Board is unable to prevent them. Nobody is worried over them. The Government do not want to exercise their power to stop these things. But as far as drama is concerned, they want to retain the provision enacted in 1876.

In conclusion, I appeal to the Home Minister to see the purport the reason why the British Government enacted this piece of legislation. Were they interested in keeping the moral standards of the Indian people? Certainly not. The answer could not have been otherwise. The very same people who introduced in India rumba and the fox trot could not be accused certainly of being the custodians and guardians of the morality of the Indian people.

Therefore, we would very earnestly say that this piece of legislation was not enacted so that this morality of the Indian people should be safeguarded, but only with the intention that any political opposition to the British hold should be curtailed and their rule perpetuated. Do the present Government which has come to take the place of the British Government want to perpetuate the same? Certainly not.

Therefore, I say that this piece of legislation which has become outdated and moth-eaten should be amended and Government themselves should bring forward another piece of legislation with necessary safeguards taking away the objectionable

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parts of it. I hope that such a piece of legislation will be brought very soon.

पंडित ज्वा० प्र० ज्योतिषी (सागर) :
उपाध्यक्ष महोदय, मुझे दुःख है कि जो विधेयक इस समय सदन के सामने आया है उसका मुझे विरोध करना पड़ रहा है।

श्री खाडिलकर साहब ने जो विचार व्यक्त किये उनसे एक बड़ी सीमा तक मैं सहमत हूँ। अगर हम अपने राजनीतिक जीवन की और सामाजिक जीवन को ऊंचा उठाना चाहते हैं तो यह जरूरी है कि हम अपनी धारणाओं को बदलें। नाटक और दूसरी कला की वस्तुएँ जो हैं वे जीवन को उठाने के लिए ही हैं। वे जीवन का एक सही मोड़ देने के लिए हैं। तो यदि किमी ड्रामेटिक पीस के द्वारा हमारे सामने जीवन की कोई धारणा प्रस्तुत की जाती है तो हमारे मस्तिष्क में उसको रोकने की कल्पना नहीं आनी चाहिए। लेकिन यह जो विधेयक इस सदन में उपस्थित है उससे हमारे सामने यह बात आती है कि ऐसे किमी नाटक पर रोक न लगायी जाये जो कि समाज में मनोमालिन्य पैदा करता है या अशान्ति पैदा कर सकता है या जिससे किसी की निन्दा हो सकती है। इसकी जो धाराएँ हैं उनसे यह स्पष्ट है कि समाज में मनोमालिन्य फैले, समाज में किमी व्यक्ति के विषय में स्कैंडल चीजों को प्रस्तुत किया जा सके और इन चीजों पर रोक नहीं लगायी जानी चाहिए। इस प्रकार की चीजों पर हम को रोक लगानी चाहिए।

एक प्रासंगिक सवाल : स्कैंडल पर रोक नहीं है।

Shri Hem Barua: Who will judge the scandalous thing?

Pandit J. P. Jyotishi: There will be competent authorities to judge.

Shri Hem Barua: You agree with us then.

उपाध्यक्ष महोदय : जरा सुनिये तो।

Shri Thirumala Rao (Kakinada):
When you quoted about the Air Hostess the other day, getting by heart those four lines, who was there to judge?

Mr. Deputy-Speaker: Today we are concerned with actresses and not hostesses.

पंडित ज्वा० प्र० ज्योतिषी : कला जीवन में एकता स्थापित करने के लिए, प्रेम स्थापित करने के लिए है। और नाटक कला का सर्वोत्कृष्ट अंग है। किन्तु यदि वह व्यक्तिगत मनोमालिन्य को और हृदयगत गलत मनोविकारों को प्रश्रय देता है और उनको समाज में प्रसारित करता है तो उस पर हमको रोक लगाना चाहिए। ऐसी चीजों पर जो व्यक्तियों के विषय में या समाज के विषय में गलत भावनाओं को प्रसारित करती हैं रोक लगाना सरकार का कर्तव्य हो जाता है और अगर इन चीजों पर रोक नहीं लगानी तो वह अपने कर्तव्य से विमुख होती है।

इस विधेयक को रखते समय बहुत सी मारन्स की बात कही गयी। यह कहा गया था कि जिस गवर्नमेंट के जमाने में वह कानून बना उसको हमारे आचरण को उठाने में कोई बड़ी आस्था नहीं थी और इन्हींलिए अनैतिक प्रसारण करने वाले नाटकों पर कोई प्रतिबन्ध नहीं है। यदि हमारे मित्र के मन में नैतिकता के प्रसार की भावना होती तो वह ऐसे संशोधन लाते कि जिनके द्वारा अनैतिक नाटकों के प्रसारण पर रोक लगायी जा सकती। लेकिन उस तरफ उनका लक्ष्य नहीं गया। उनका लक्ष्य तो जैसा कि खाडिलकर साहब ने कहा यह है कि कुछ स्थानों में जहाँ राजनीतिक संघर्ष चल रहा है, वहाँ पर

एक विशेष प्रकार की भावनाओं को प्रसारित करने में वह रुकावट अनुभव करते हैं और इसलिए यह विधेयक लाये हैं कि उन भावनाओं का प्रकाशन किया जा सके ।

तो जहां तक कला के स्वतंत्र विकास का संबंध है मैं इस बात का हामी हूँ कि राजनीतिक दृष्टि से किसी कलात्मक नाटक पर प्रतिबन्ध न लगाया जाये । लेकिन इस के साथ ही साथ जहां राजनीतिक या वैयक्तिक मनोमालिन्य के कारण लोग गलत तरीका प्रस्तियार करके गलत काम करना चाहते हैं, वहां इस तरह की रोक लगाना जरूरी है । तो इस विधेयक का जो मंशा है उससे मैं सहमत नहीं हूँ । अगर यह नैतिकता के प्रसारण के लिए होता तो मैं इसका समर्थन करता । लेकिन यह विधेयक तो यह चाहता है कि जो मंलीशस खेल प्रसारित हों उन पर रोक न लगायी जाये और एक उत्तेजना के वातावरण में हम ऐसे खेल खेलने दें जिनसे समाज में अशांति पैदा हो जाये । मैं समझता हूँ कि इस प्रकार के खेलों की इजाजत देना बहुत गलत चीज होगी । तो इन दो दृष्टियों में मैं इस विधेयक का विरोध करता हूँ और मुझे विश्वास है कि सदन इसका विरोध करेगा ।

The Deputy Minister of Home Affairs (Shrimati Alva): Mr. Deputy-Speaker, Sir it is indeed refreshing that the hon. Mover should have thought of this subject to bring before this House. Drama and dramatic performances are as old as man himself and the hon. Shri Nayar, besides being a legislator, often becomes an actor. Therefore, it is just right and proper that he should have taken up this subject this afternoon. Unfortunately, being an actor he has forgotten to study the subject a little deeper. Otherwise he would not ask for so many deletions and then ask at the end of his Bill to include *Jatras*

and religious festivals and the rest. These are a contradiction in terms.

Now this measure has indeed been on the statute-book for a very long time from the days of the British, as the hon. Member's speeches from that side said and even cited me as one time patriot who looked like a wrong doer in the eyes of the old rulers. We have not that purpose to day even though this Act remains on the statute-book. I would have very much liked the hon. Mover to have studied article 372 of the Constitution. I am not going to read it here because it is known to the House. I do want to draw the attention of the House to the fact that only Madras and Andhra Pradesh have so far repealed the Dramatic Performances Act and enacted laws of their own. If that be so, there is another avenue where such a remedy has to be demanded.

Nevertheless, if we talk of the drama, we have to talk of the censorship, talk of the rock'n roll and so on. What has to be done? The rock'n roll has caught the world. The screen has censorship. The television is censored. The books are censored. In our country horror comics are banned. As long as there is a tendency to put on the stage distortions or scandalous matters or defamations, that social dilemma still remains and therefore, this measure is there. But as I said it is for the States to take it up and ask for its repeal.

Having said that, I will deal with this Bill and say that Parliament, even if we agree with Shri Nayar, can legislate only as far as Union Territories are concerned—Delhi and Manipur. It was not extended to Tripura and so it has remained out of it.

The drama, Sir, is very gripping. Whatever we do in life, in that lonesome hour or that moment of leisure, all of us go back to drama.

[Shrimati Alva]

Whether we stand before the mirror, and mimic, or we read Ibsen or Kalidasa or any other dramatist, or we go to a theatre and see, it is the most gripping type of recreation. In the words of Samuel Johnson you can say: "Drama's laws are, drama's audience gives". But the drama's audience must have a standard to give the laws of a drama, and this measure is not such a menace in the country that dramas are prohibited and banned. At any rate, occasions do arise when we have to use this enactment and prohibit the drama.

I would also, therefore, like to remind the House that since independence what has happened. Dramatists are not dead, creative talent is not crushed; in fact, it has just begun to flower. With all that the Opposition has to say today, they will have to admit that the drama and the stage has taken a new stand and standard, and it is only since this country has been able to breathe the fresh air of freedom that we have amidst us even legislators like Shri V. P. Nayar, who go on to the stage for recreation and also for the entertainment of others.

But the hon. Shri Khadilkar talked of Narcissus. Who is not a Narcissus? If that be so, then we are all Narcissus. It is very true. But, nevertheless, as long as social conflict exists and exists to an extent that, as we have found, it leads to disturbances in the country, we shall have to take recourse to some measure to prevent. Prevention, of course, is better than cure and, therefore, the prohibitory order precedes the seizure of documents, furniture, persons and what not, as provided in this measure.

Now, the judgments of some High Courts were quoted here, but not the whole of the judgments. The rest of the judgment that was not brought to the notice of the House also state that the spoken word is

more inflammable than the written word; that, as long as public order and security are the concern of the State and as long as the spoken word remains inflammable, and this social conflict or this sort of potential atmosphere which would burst into a social conflict remains, such measures will have to remain. Not this measure, because, as I have pointed out to you, Sir, article 372 puts this measure in the State List—it is No. 33 of the State List "Dramatic performance, cinemas and the rest". Therefore, it remains within the power of the State Government to act if it so desires.

Then, Sir, in Section 2, according to Shri V. P. Nayar's Bill, he wants to delete the words "or defamatory". Even though we have the clause of defamation in the other law, the common law of the country, what harm is there if this provision also remains?

An Hon. Member: Duplication.

Shrimati Alva: It is not exercised. I do not mind if it was properly thought of and placed before the House in a better draft. However, it is not so easy to rob a man of his good name and then try to replace it. It is better to prevent it rather than to cure it, as in Shakespeare's words which I am not able to recall now exactly:

"Reputation is better than all the gold".

And if that is at stake, then certainly a prohibitory order may come along.

Then I come to sections 7 and 8. The hon. Mover wants these powers to be exercised by the State Government and not by magistrates. But the hon. Mover also knows the administrative reasons that go behind for making certain provisions. Sometimes the law's delay and the administrative difficulties that stand in the way make for provisions to be

clarified and simplified. They talked of the police masquerading as professors. I do not know from where that idea gets along. The police do not masquerade as professors. The police know the law of defamation. The police know the common law of the land. I think this should be made not a specific right. You could always obtain a writ under this measure even though there may not be any specific right of appeal. The right to move for writs is there, as provided under article 22 of our Constitution.

Shri Easwara Iyer: That does not need your help.

Shrimati Alva: The Bill also says that it should be reduced to writing before the seizure is effected. I do not think that it is necessary especially when a prohibitory order is received, because, as I see, this is an enabling measure. This measure has been sparingly used. This specially falls within the State list. This is within article 372. As such, the arguments that were advanced by most of the hon. Members are not relevant.

Then we come to *jatras* and religious performances.

Shri Easwara Iyer: Without interrupting as such, may I ask the hon. Minister for a clarification? If this comes under the State list, under article 372, her position is that the State legislature can pass an enactment repealing this.

Shrimati Alva: Madras and Andhra Pradesh have done it.

Shri V. P. Nayar: That is their own Act.

Shri Easwara Iyer: That is not the Indian Dramatic Performances Act.

Shrimati Alva: We come to *jatras* and religious performances. The hon. Mover has asked for the repeal or the amendment of this measure and

wants *jatras* and religious performances to be included, which again sounds very strange, and it certainly does not sound very coherent. I do not know how *jatras* and religious performances in a country like India could be included in this measure of the hon. Member.

The drama will remain with us and the stage that was very weak in India is getting stronger. We need a powerful theatre and we are building up. That brings me also to this question; for I do want to talk very frankly and freely in this House, because this is a cultural subject and my attention has been drawn—I think the hon. Mover has drawn our attention—to the Sangeet Natak Akademi. The Sangeet Natak Akademi have also expressed their opinion on this enactment that stands in the statute-book. However, something must be done and we do believe in progressive measures, that this enactment must be studied anew, but not in the fashion that it has been studied and brought forth before this House this afternoon. We shall have to see that the various States think over this subject, but I do not want the House to forget that the censorship has come to stay. Some Hon. Members say that the screen has not been cleaned up. If some of them are regular cinema-goers, they will observe what an effort we have made and how different the screen is today than what it was ten years ago, even though it does not come or conform to our own standards of a Welfare State.

With these words, I would urge the hon. Mover to withdraw the measure. This measure as he has brought on the floor is certainly not acceptable and I shall, therefore, urge that he withdraws the measure.

Shri V. P. Nayar (Quilon): To some extent I can understand the helplessness of the hon. Deputy Minister. She reminded me of the days when I used to be an actor. I wish very much that she also was an actress, so that she could have imbibed the feeling of the drama.

Shrimati Alva: How does he know that I was not?

Shri Khadlikar (Ahmednagar): We must admit that she has played her part very well.

Mr. Deputy-Minister: That drama is not to be performed here.

Shri V. P. Nayar: I thought that she spoke through a brief which probably could have been given in those days of Mr. Hobhouse when he introduced this Legislation. I could have even understood the same speech coming from Mr. Biswas who at the time when I put in this Bill among the Acts to be repealed or amended, opposed my proposal with vehemence.

The hon. Deputy Minister said that Government are doing all that they can for promoting the drama and in fact in a way she referred to the proposal of the National Theatre. That the Government's view about the drama is completely wrong is very clear from the book which they have published. I wonder whether my hon. friend has seen it at all. It is *Indian Drama* published by the Information Ministry and which is an authentic version of what Government feel about the drama. Here I find to my surprise that the particular enactment to which I referred, has not even been mentioned once. Various portions discuss the growth and development of the drama in all the Indian languages. I was surprised to find what that book contained regarding the Malayalam drama, which I know more than the other dramas. I know that the Malayalam drama today can stand equal to almost any other language drama. But what do I find? Here it has been written that there have been only two writers, Mr. Kainikkara Padmanabha Pillai and Mr. Kainikkara Kumara Pillai. This is a book published in 1957 and I know that these authors were stooges of the feudal potentate who wrote dramas for birthday performances and came to limelight. It is these people who are praised in the

Government publication, while there is not even a single mention of the immortal E. V. Krishna Pillai. There is no mention of the theatre. There is no mention of the emergence of the K.P.A.C. as the organisation of the progressive dramatists which has revolutionised the entire stage in the Malayalam drama. The hon. Minister comes and says, the drama has come to stay and we are doing all that is possible. A very responsible person in the Government of India, no less a person than the Director General of the All-India Radio, Mr. J. C. Mathur, writes an article about Hindi drama and I find my esteemed friend, Mr. Seth Govind Das's name mentioned there. It is written there:

"In Seth Govind Das's problem plays, there is a naive indifference to technical perfection as also to the stage. There is also a danger that some of his characters are becoming types."

I am not worried whether some of his characters are becoming stale or not. But I submit that even such a highly placed officer, who claims to know more about the Indian drama than most of us has failed to mention, even once, of the influence, of the stifling influence, of the Dramatic Performances Act on the growth of Indian drama and the kind of muck that is given in this book is not worth mentioning. Still, Government comes forward and says: look at this, Government is doing everything for the growth of drama. I ask the hon. Minister.

17-00 hrs.

Shri Achar: On a point of order. The hon. Member was pleased to remark that it is a muck.

Shri Tangamani: That is very expressive.

Mr. Deputy-Speaker: I do not see anything objectionable. If the hon. Member has that view about the contents of a book, how can I prevent him from holding that view?

Shri Achar: Is it relevant to the discussion?

Shri V. P. Nayar: I have a dictionary with me and it will be profitable for my hon. friend to occasionally refer to it.

I was saying that with all this, the Government now takes the stand that Dramatic Performances Act needs no repeal. I may tell the hon. Minister, who was doubtful whether this particular enactment has been used on several occasions, that I gave a list the other day, a list which was not exhaustive but only illustrative, in which the plays of authors, who were considered to be immortal even today have been banned. The police of Lal Bazar wanted a copy of the "Gora". The police of Lal Bazar wanted copies of plays of Girish Chandra. I gave the names of so many plays. Can the Minister now get up and say that there is no such instance? I definitely and studiously used the term "police masquerading as professors of culture". They had done it and they do it in a most haughty manner. I know on several occasions how the police officers have treated the organisers of plays. So, Mr. Easwara Iyer was cent per cent true. The District Magistrate does not find any time to go into it. It is not even seen by the Inspector. It goes to the head constable and it is he who reads the script and it is he who is supposed to hold whether it is in order and so on.

Mr. Deputy-Speaker: Mr. Easwara Iyer went to the extreme.

Shri V. P. Nayar: Yes, he said "better halves".

Mr. Deputy-Speaker: Better halves are never public servants. A constable is a public servant.

Shri V. P. Nayar: They are asked to go through it. If they do not find time, they give it to their better halves also.

Mr. Deputy-Speaker: That should be avoided. We should not bring in better-halves.

Shri V. P. Nayar: I submit that the hon. Minister, unfortunately, did not have an idea of the shackle that this Dramatic Performances Act has placed on the Indian drama. And I wonder whether she has cared either to listen to my speech or read it, because I gave a list of such drama. Today she gets up and asks me: "How is it that you say it has been used in hundreds and thousands of cases and many dramas have been banned in India?" The instances are not one or two. Go to Punjab. Today all the folk songs have been banned. Why? Because it is not to the liking of the party in power.

Shri Thirumala Rao: They are all propaganda by one party.

Shri V. P. Nayar: What of it.

Shri Thirumala Rao: It is sheer propaganda.

Mr. Deputy-Speaker: I suppose some ban is necessary here.

Shri V. P. Nayar: He says it is for propaganda. I do agree, because drama is the most powerful expression, medium of expression. It can be used for propaganda. Why not? Does the hon. Member content that only speeches in Parliament can be used for propaganda? I say that along with speeches, you can use drama also for propaganda. If it were not the House, I should have acted and shown to you how it can be used for propaganda.

Mr. Deputy-Speaker: I would not allow that!

Shri V. P. Nayar: I said "if it were not the House". I submit that by the unjustified use of the provisions of this obnoxious legislation, Government has stifled the growth of Indian drama. Now the hon. Minister asks: "How is it that it has stifled the growth of Indian drama?"

If any student of the history of the Indian drama were to go into the details—and there is a mass of them he can easily find out how it has affected the growth of the Indian drama.

[Shri V. P. Nayar]

Imagine—I do not want to relate instances—a play of Kalidasa.....

The Deputy Minister of Home Affairs (Shrimati Alva): We are not a totalitarian State where dramas are ordered to be written and are written as ordered.

Shri V. P. Nayar: I perfectly appreciate the remarks of the hon. Minister but would only say that it is grossly misplaced here. This should have been more properly placed.

I was submitting that these professors of culture, as they pose to be, have a right today under the statute to call for the script of any book. Today, if Kalidasa's immortal play is rendered, is it not necessary under the existing enactment to take the permission of the Police because in an instance I will show you.....

Mr. Deputy-Speaker: He has said all that

Shri V. P. Nayar: I am coming to a new point. He said a spoken word, visible representation and everything. There is a famous sloka in Kalidasa's *Shakuntalam*. We all know that the *nataka* is the highest form,

काव्येषु नाटकं रम्यम् , तत्र रम्या शकुन्तला
The best of Indian drama is Shakuntala. If you take a particular sloka, it could be interpreted into so many meanings. I do not say that Kalidasa meant all that people attribute to him now but take for example a very famous sloka. I shall with your permission read that and close the argument. The place is when Dushyanta sees Shakuntala and he thinks about her body.

“सरसिर्न प्रनुविद्यम् , शौबलेनापिरम्यम्”

I do not find my hon. friend, Shri C. D. Pande here.

Mr. Deputy-Speaker: Shri C. D. Pande is here.

Shri V. P. Nayar:

“नलिनमपि द्विजायु लक्ष्मणेन तनोति”

My hon. friend Shri C. D. Pande knows it by heart let him say whether there is any bad meaning in it.

“इयमप्रधिकम् वनीका वनकलेनापि रम्या”

and the last line is:

“किमिहि मधुराणाम् मंडनम् नाकुत्तिनाम्”

What does it mean? He says that a lotus, which is surrounded by weeds in water, will not be affected in its beauty and a woman clothed also is the same. There can be a very subtle meaning as to why the woman should have clothes on her. But if the Police call to question the very motive of Kalidasa in describing this, then, I say, the right which is vested today in the Police should be opposed not merely by us in the House but by the entire country. If the hon. Minister has a chance let her consider it and if she does not know the history of the growth of development of Indian drama, let her acquaint herself with that. If she does not approve of my Bill, let her at least permit the treasure that we have—the treasure and tradition of Kalidasa, Bhasa, Rabindranath Tagore and others—to be preserved and let Government not fight shy of repealing this Act.

Mr. Deputy-Speaker: The question is:

“That the Bill further to amend the Dramatic Performances Act, 1876, be taken into consideration.”

The motion was negatived.

COMPANIES (AMENDMENT) BILL

Shri Naushir Bharucha (East Khadesh): Sir, I beg to move:

“That the Bill further to amend the Companies Act, 1956, be taken into consideration.”

Mr. Deputy-Speaker, Sir the object of this Bill is to forbid political con-