

## COPYRIGHT BILL

**The Minister of State in the Ministry of Education and Scientific Research (Dr. K. L. Shrimall):** Sir, I beg to move\*:

"That the Bill to amend and consolidate the law relating to copyright, as passed by Rajya Sabha, be taken into consideration."

In making this motion I should like to make a few preliminary remarks with regard to the important changes that have been made by the Joint Committee and subsequently by the Rajya Sabha.

The House would remember that when the Bill was introduced, for the term of the copyright we had made the provision "the life of the author and a period of twenty-five years after his death". The main purpose of this provision was that after a period of twenty-five years the work should go into the public domain. We thought that the period of the life of the author and twenty-five years after his death was adequate to support the author and the next generation, that is his children.

This matter, naturally, aroused a great controversy in the country and there were sharp, conflicting views on this particular point regarding the term of the copyright. There was one section which believed that the copyright is, after all, a property and therefore even the author should not have unlimited rights. It is true that the author must have full share for his production. That was provided for in the Bill. It was also felt that the family of the author should receive support from the author's works, because very often the family has to depend on the parents, and since the only income for the author is through his works, naturally, the family is dependent on that income.

The main consideration which the Government had in view at that time was that this period should be adequate to provide for the author and

for his immediate dependents; after that period the work should go into the public domain. But there was a strong public opinion that this period of twenty-five years was not adequate. Authors in this country are not rich people, they have to work under very hard circumstances. We do not have many millionaires among authors, and since their family has to depend to a large extent on this income, at the second thought Government felt there was great force in that argument; and, therefore, in the Joint Committee I accepted that amendment and increased the period to fifty years.

**Mr. Speaker:** What if the copyright is sold away? Can it not be sold?

**Dr. K. L. Shrimall:** For the life of the author the copyright will be that of the author.

**Mr. Speaker:** If it is sold away, all this argument disappears—whether his children have to be provided for, etc.

**Dr. K. L. Shrimall:** It won't go into the public domain automatically.

**Mr. Speaker:** But it will go away to the publishers.

**Dr. K. L. Shrimall:** The author is free to give it away to the publisher.

**Mr. Speaker:** Therefore, all this argument that this is *parampara*, that the children will be protected, etc., all this disappears.

**Dr. K. L. Shrimall:** But the point is that the author must determine whether he wants to part with his work or wants to keep the copyright to himself.

**Mr. Speaker:** Most of the authors sell away.

**Dr. K. L. Shrimall:** This is a point which is coming up. I am taking it up.

Therefore, I willingly accepted the amendment. I hope, the House will generally welcome that change.

\*Moved with the recommendation of the President.

[Dr. K. L. Shrimali.]

Another amendment which has been made in the Rajya Sabha is with regard to translation. In the Bill, as it emerged from the Joint Committee, we had provided that, after a period of 10 years, if the author does not translate his work, the work will go into the public domain. The main purpose was, in our country, since we have so many languages, we should have regular interchange between one linguistic group and another. Therefore, we should facilitate this interchange of thought, and interchange of literature. It was felt in the Rajya Sabha that this provision may be a little hard for authors. Once it goes into the public domain, they get no royalty; they do not get any compensation. The period prescribed in the Bill was too short for that. It was, therefore, felt that the public should certainly have the right to translate after a minimum period, but the authors enjoy the compensation or royalty which may be determined by the Copyright Board. In this way, we have tried to meet the claims of the author on the one hand and the needs of the public on the other.

There was another provision which aroused great controversy in the Joint Committee and in the Rajya Sabha, namely, the author's right of re-assignment. Clause 18 in the original Bill gives the right to the author to secure on certain conditions re-assignment of the copyright previously assigned by him. Originally, it was our intention that after a certain period, if the author feels that he would like to have his work back from the publisher, he can get it. This matter was very thoroughly discussed in the Joint Committee and later on in Rajya Sabha. It was felt that though this provision was intended to guard the interest of the author, it would strike against the interest of the author himself. We have to remember that the publisher also is a party in the publication of the work. Without a publisher, a work does not come into existence. A publisher makes

investment of money, advertises the book, and during the first years, he has to make investment. After about seven or eight years, the author goes to him and tells him, I want my book back; though I have assigned the right to you, I want it back. In such circumstances, no publisher would be willing to invest money in the first few years. If a book has to succeed, it is the first few years which are most important. If the publisher always remained uncertain that after a certain period, the author would come back and claim the book, naturally, he would not have any interest in the book. We had to re-examine the whole proposal. In fact, the authors themselves suggested that the clause in the original Bill would not work in their interest. Therefore, we had to change it as in the revised Bill. This Bill, as it has emerged now, tries to meet the various conflicting interests. In the first place, the most important interest is that of the author. We must protect him. In protecting the author and composer and the creative genius, we protect the leaders of our society, who make contribution to our civilisation. The most important objective of this Bill is to protect the rights of the authors. As said even these rights of the authors are not unlimited. We must remember that copyright is after all some kind of property and there must be some restriction. The period we have now provided, that is, 50 years after the death of the author, I think, should be adequate not only to protect the rights of author and also to support his family.

We have to take into account the interests of society also. After all, the author lives in society. It is true that he makes contribution to society. He also has to depend on society for his work, to some extent. No individual can say that he is not indebted to society for the work that has been done whether he is an author or a mechanic or an engineer. Both the individual and society are

inter-dependent. The individual author and creative genius gives to society. But, he also draws from society. Therefore, we have to take into account the two conflicting interests and try to reconcile them. We have also to take into account the interests of the publisher. Very often, we believe that the publisher exploits the authors. That is the common belief. But, we must also remember that, without the publishers, authors will not come into existence. The publishers sometimes make the authors successful through their efforts, through their investment, through their skill. In our country, just as the authors are poor, the publishers are poor and there are not many millionaires among publishers. It is not for all the books that the publisher gets a good return. Occasionally, he comes across a book for which he gets return. Therefore, while safeguarding the interests of the authors, we have also to safeguard the interests of the publishers. All these interests, the interests of the author, the interests of the publishers, the family of the authors and the interests of society have been taken into account in the Bill which is now before the House. I am glad to say the Bill on the whole has received full measure of support. Of course, in the beginning there was a great deal of opposition but the Government had an open mind on this question and it was in that spirit that we worked in the Joint Committee, not in a party spirit. I willingly accepted the amendments which came from any quarter, amendments which would improve the Bill and safeguard the interests of the authors primarily, because I believe that in promoting the interests of the authors and their creative genius we promote the interests of our society. I do hope that this Bill will receive the full support of the House and will be passed.

**Shri M. R. Masani (Ranchi—East):** When this Bill was first introduced it aroused a fairly wide storm of protest

from the ranks of the authors and writers in the country. I recall that last year, when I was not a Member of this hon. House, I had occasion to appear before the Joint Select Committee as a witness along with some colleagues representing leading literary organisations in this country, including the All-India P.E.N. Centre which is the leading writers' organisation in India. We found that the Bill, which was devised for the protection of the rights of the authors, in fact made many inroads into those legitimate rights, and we were rather surprised that the Government, whose intentions we never doubted for a moment, should have brought a defective measure of this nature before the legislature. We pointed out these many defects in our evidence before the Joint Committee and these objections were backed by organisations of writers in many of the Indian languages.

One of the aspects that bothered us a great deal was that, if this Bill had been adhered to in its original form, India's membership of the international community of nations would have been jeopardised. As a signatory of the Berne Union, India had accepted certain broad liberal principles of copyright, and it appeared to us that apart from what it would do to the authors of India, our country was in danger of isolating itself from the world family on an issue where no such isolation was called for.

There were at least three aspects of the original Bill which offended against our international commitments. One was, as has been referred to by the hon. Minister, the truncating of the term of 50 years after the death of the author to one of 25. The second was the principle of the international conventions that no formalities or restrictions should be placed on the exercise of copyright and of suit, to prevent its infringement. And the third principle which was violated was that there should be no confiscation of the rights of an author.

[Shri M. R. Masani]

Various parts of the Bill offended against these very sound and salutary principles.

I am all the more happy, therefore, to be able today, with the support of those organisations, to lend my support to the Bill as it has now emerged from the Joint Committee and the Rajya Sabha. In doing so, may I, with all respect, pay a tribute to the spirit of sweet reasonableness in which the hon. Minister who is now piloting the Bill through this House received and met the point of view of the writers of this country, met it to the extent which in his view and the view of the Government and the Joint Committee was legitimate. It was in a spirit of sweet reasonableness that he met our objections and I am happy that the Bill has now been so modified that almost all of the objections that were originally raised by the writers have been met, and we can now join in welcoming this Bill as, by and large, a sound and good measure.

The question of property has been raised. Copyright is undoubtedly a form of property, but we feel that the right of a craftsman, of an artisan, of a painter, of a musician or writer in his work is certainly a form of property which needs to be protected and nursed rather than attacked even in a welfare society or Welfare State. The writers of India, as the hon. Minister had said, are not known to be among the richest sections of our community. In this land where learning and knowledge are supposed to be respected, I think it is fair to say that by and large authors are an under-privileged section of our community. There are not many millionaires among them. I doubt if there are any, or more than just a handful of people, who can afford to live simply by writing in this country. In that respect we are not as fortunately placed as the advanced countries of the West like the U.S.A., the U.K. or the countries of Western Europe. And therefore to attack

copyright as a form of property seems to be to get hold of the wrong end of the stick. If anything, the author's right to the fruits of his labour is something that needs to be safeguarded from whatever quarter the attack might come. We welcome therefore the restoration of the full period of 50 years after the death of the author, and also the change that the 50 years should start operating from the death of the last joint authors and not the first of joint authors of a book. There are many occasions when a very old and senior professor and a young research student, or a very eminent citizen and a novice join hands to write a book. I myself collaborated many years ago with the late Sir C. Y. Chintamani to write a book called *India's Constitution At Work*. It would be rather hard on my own family or heirs if my copyright were to lapse 50 years after the demise of the senior co-author.

The second respect in which the Bill was originally not acceptable but has now been improved is the relationship between the author and the publisher. We were rather surprised that the Bill in the first instance appeared to be somewhat loaded in favour of the publisher and the employer as against the author. It was stated that in the absence of a specific agreement to the contrary, the copyright would be with the employer or the person who commissioned the work. I am glad to see that to a large extent the position has been remedied and that the writer, musician and the painter now, by and large, have a fair deal. And here I may say that those who envisage a class war between authors and publishers are not being the best friends of the author either. The Minister was right in pointing out that a great measure of co-operation and interdependence exists between the writer and the publisher. It is true there are publishers who are rapacious and it may also be true that there are authors who are mercenary. I do

not think an author who expresses himself freely, who preaches certain values to the community, can claim that he is not a grown up person who can look after his legal rights. All that the Bill does is to protect his rights. It cannot ensure that the author exercises his right with wisdom and maturity. Certainly the author is not a child. He does not need legal protection more than other citizens. And these clauses which were in dispute have now shifted the onus. The author now is given parity in his rights *vis-a-vis* the publisher. I think that, in fairness to the publisher as well as the author, the provisions of the Bill as they now stand are not open to the objections which were originally raised.

The third part of the Bill which was originally unacceptable was that which made the registration of copyright compulsory. Originally the Bill laid it down that if an author's copyright was infringed he would be unable to assert that right in a court of law unless he had registered that book with the Registrar of Copyrights. In a sense, that provision would have violated a very important principle, a principle that in our own legislation and in our international commitments we had accepted, which was that the right to my work springs from the fact that it is my work, that my right in my book or my painting does not come from the fact that I go to a minion of the law or a limb of the bureaucracy and register my work. It is my work because I produced and created it as an artist or as a writer.

It seemed to us that to say that a man may not vindicate his inherent right in a court of law unless he had gone and registered it with a part of the governmental apparatus was a very important incursion on the right of the artist in his own creation. I am very happy that that offending clause, or that part of it which was offending, namely clause 65(2), has now been eliminated from the Bill, and the right of the artist and the

creative worker in his own product has been accepted.

Then again, the powers of compulsory licensing which appeared to us in the beginning to be altogether too wide have to a certain extent been limited.

Here, however, may I say that I am not altogether happy with the creation of the Copyright Board and the Registrar of Copyright? In the memorandum that was submitted to the Joint Committee by the PEN and other literary and cultural organisations, it had been urged:

"The Bill reflects the unfortunate tendency towards the proliferation of bureaucracy, which is to be found in much current legislation".

It was urged in that memorandum that the whole of chapter X creating these new organs should be deleted.

While I do not wish to move an amendment on those lines, in view of the fact that both the Joint Committee and the Rajya Sabha have in their wisdom found it desirable to create these organisations, I do feel that I must record my personal protest against this needless addition to the army of officers which we in the present phase of our national life are engaged in creating. When I listened to the Budget the other day...

**Dr. K. L. Shrimall:** Is the hon. Member referring to the Copyright Board?

**Shri M. R. Masani:** The Board and Registrar, but the Registrar and the Copyright Office in particular.

The Copyright Office and the Registrar of Copyrights will no doubt perform their functions with the best will in the world. But it struck me, when I listened to the Budget the other day, whether these were such an essential office and such an essential officer to create at a time when

[Shri M. R. Masani]

we are asking among the poorest sections of our community to do without certain necessities and comforts of life. I am not saying that a Registrar of Copyrights may or may not be a good thing to have in the abstract, but today when we are in this acute financial condition, when every additional job created means a further burden on the public revenues, it does appear to me that we could have very well carried on for at least another generation without any tragic happening without either a Registrar of Copyrights or a Copyright Board. The Copyright Board is really in substitution of the courts of law, and I think we could have allowed the courts of law to adjudicate in these matters and no great harm has come of that process.

Similarly, without our having the Registrar of Copyright, the heavens are not going to fall, and we, as authors, would have carried on with the assertion of our rights in the normal law courts. It does appear to me, therefore, that there is a tendency in these days to rush in with the creation of new State organs and new limbs of bureaucracy with which this country is in danger of being flooded.

Lastly, the Bill has now become one which is not in any way inconsistent with our obligations as members of the international community. I speak subject to correction, but I think I am right in saying that those parts of the original Bill which appeared to deviate from international principles of copyright have now been so modified that we may face our fellow-authors in the rest of the world with pride and say that our country has produced a Bill which can take its place among the enlightened laws of other enlightened nations.

That is the kind of approach which those of us who are identified with literary organisations take. I have very great pleasure in supporting the Bill as it has now emerged from the

Rajya Sabha and as it is placed before us now.

May I say that almost everything that fell from the lips of the Minister was imbued with the same spirit of reasonableness with which he functioned as chairman of the Joint Committee, and I find very little in those remarks with which we can possibly *dis*sen? I support the consideration of this Bill.

**Shri Sadhan Gupta** (Calcutta—East): While offering my genuine support to this Bill, I shall have to make a few remarks about certain aspects with which I disagree, and if necessary, I shall move amendments to those particular provisions of the Bill.

I must join Shri M. R. Masani in recording my satisfaction regarding some of the provisions which have been altered by the Joint Committee. The Bill as it was introduced was full of most obnoxious provisions, provisions obnoxious to the authors mainly, and those provisions have been removed by the Joint Committee, and the Bill has been very much improved as a result of the deliberations of the Joint Committee.

The Minister was quite right in saying that the Joint Committee did not go into the matter in a partisan manner. There were free exchanges of views, and many of us succeeded in convincing the Joint Committee as to the necessity of altering many of the provisions. Therefore, I have no quarrel with those provisions, except a few which have been altered by the Joint Committee, to which I shall come presently.

In particular, I must mention the provision regarding compulsory registration or rather practically compulsory registration, which the Joint Committee had altered. It was provided that unless an author had registered his copyright, any proceedings by him would be barred.

13.58 hrs.

[MR. DEPUTY-SPEAKER in the Chair.]

That was a grossly unfair thing, and it is very proper that the Joint Committee have taken out that provision.

In order, however, to evaluate the Bill, we should have some idea of the approach which a Bill of this description must have. This is a Bill which seeks to encourage the fruition and the flowering of culture in our country. It seeks obviously to ensure that literary, musical, dramatic, artistic and architectural works must flourish as much as possible in our country. The whole idea of the Bill is to create congenial conditions for it.

Now, it is not enough to make culture flower; it is not enough to say that artistic works are produced in large numbers; it must also be guaranteed that it comes to the public as freely as possible. Between these requirements, namely an incentive for the flowering of artistic works, literary works, or dramatic works, or musical works and the necessity of their free circulation among the public, a balance must be struck.

If we have to encourage the production of works of culture, whether they are literary or dramatic works, whether they are musical or artistic works, or architectural works, it goes without saying that we must give some incentive to the creator, a pecuniary incentive without which the creation may not be forthcoming. Therefore, we must ensure that the author must be in a position to exploit his work for his own benefit and for the benefit of his children. It would be a hideous injustice if the author was denied the right to exploit his work and if in spite of a valuable creation by the author, the children of the author were to languish in poverty.

14 hrs.

I remember it happened in China during the war that due to the vagaries of exchange there a professor, who had a Noble Prize, received only the equivalent of Rs. 750, although the prize was worth a lakh of rupees. That was due to the difficulties of exchange control. The professor and his whole family were languishing in poverty; even though he won a Noble Prize, it did not inure much to his benefit.

This kind of thing should not happen to any author in any country and certainly not to authors in our country. Therefore, ample provision must be made for giving the author security during his own lifetime and a reasonable chance to establish his children through the work. That must be provided for. On the other hand, it must also be provided that after the author has had a reasonable chance of exploiting the copyright for his own benefit or the benefit of his children, the public must have free use of it. The creation must ultimately go to the public domain so that it can be produced in a competitive market and that way the public are enabled to obtain it as cheaply as possible.

How to strike a balance between these two requirements? Has the Bill been able to strike that balance? That is the sole question which we have to consider, and it is on this particular point that I have to place on record some of my differences with the Bill. The Bill, as it was first introduced, provided a term of 25 years from the death of the author. Now it has been changed to a term of 50 years. I would say that both these periods are entirely unscientific. One author may die young; another may die at an advanced age. One might have produced his work at a comparatively early age and the other at a comparatively late age. The result will be that different works will enjoy copyright for different lengths of time, for lengths of

[Shri Sadhan Gupta ]

time which would, on the face of it, be patently absurd.

For instance, if the author had produced a valuable work at the age of 25 and dies, say, at the age of 90, his work would enjoy copyright for 115 years, whereas if the same author had produced another valuable work at the age of, say, 85, it would enjoy copyright only for 55 years. On the other hand, if an author, young or old, died just after completing a work and publishing it, that would enjoy copyright only for just a little over 50 years.

This shows the patent absurdity of fixing the limitation of the term of copyright with reference to the death of the author, because the death of the author is an uncertain thing in relation to the length of his life, in relation to the distance of time from the publication of his work. This was a very rough and ready calculation accepted by certain countries of the international community—not by all. Let me remind you that important countries do not accept this 50-year term. For instance, the United States has a different system: first a 28-year term of copyright after publication and thereafter, a copyright renewable for another 28 years. Then there is the case of the Soviet Union. It is 15 years after death. Whatever it is, some countries have accepted 50 years on no scientific basis. Therefore, this objection would be open to any term of year which you fix with relation to the life of the author, whether it was for 25 years or for 50 years or for any other term. Therefore, I should think that we should devise some other system which would be more scientific and which would be more equitable between author and author, and that way we should fix a reasonable term for the copyright.

Now, a plan is conceivable. For example, we can fix the copyright for the lifetime of the author, or if the author dies under a certain age, under

the age of 90, until the time when he would have been 90 years old and subject to a minimum of 30 years. So here we can make it as scientific as possible, so that it goes on for the lifetime of the author. That it should because the author should have full chance of exploiting his copyright while he is alive. No one would grudge him that. If the author has a comparatively short life, it is necessary that his children should be able to utilise this copyright to establish themselves.

Therefore, if you fix the author limit, till the author would have been 90, then all the children of the author would have been provided for. Now, even then, it may be that the period of the copyright may be uncertain. For example, an author may produce perhaps a valuable work, as I said, at 85. In that case, he would have only 5 years to go and no publisher would think it safe to buy the copyright from him. Under these circumstances, you can provide a minimum term of 30 years so that in any case the copyright would run for 30 years or whatever number of years may seem equitable and which would not run beyond a reasonable limit, which would not run so far into the author's posterity that it might encourage idleness in the author's posterity.

Now, in 50 years after the death of the author, I believe all the children of the author would die and it is the grand-children or perhaps still further on, perhaps some of the great-grand-children who would be enabled to live an idle life on the score of the work done by their grand-father or a great-grand-father. That is a very undesirable state of affairs. I could have understood even that. But the point is that this 50-year term, which is being provided, will in most cases, not be for the benefit of the author but will be for the benefit of the publishers.

That is even more undesirable and the creator of a valuable work of importance will be compelled to sell

it away to the publishers. As you have pointed out, the authors in our country are poor people and most of them will sell away their rights to the publishers. In these circumstances it is conceivable—perhaps it would so happen—that in most cases if the author lives sufficiently long, the publisher would have a full 100 years or so to exploit the work. That is unconscionable with a vengeance and I do not think we should countenance that kind of thing. If copyright is assured for 30 years, I believe, publisher would have a sufficient time to undertake the risks and thereby authors would gain, the publishers would gain and society also would gain, because after a period of 30 years or, perhaps, more if the author lives longer, the work would come to the public. Therefore I would earnestly appeal to Government to adopt this plan of fixing the term of the copyright.

I know that the Deputy Minister was at one time enamoured of this plan but now, of course, something has happened. That is the thing that I would press for in the interests of equity particularly as between the author and society. Because, after all society should not be denied the access to a valuable work for an unreasonable length of time. It has been sought to be justified—this 50 years' time—on the ground that authors are not rich people and, therefore, they should have this period of exploitation. I know authors are not rich people. But the point is, if the authors are not rich people, should we let the work to be exploited by his posterity. I can understand his children having the fruit of it if it is a good enough work. The children will be profited by it, will be able to establish themselves by exploiting it. But, why should we allow it to be utilised further into his posterity? Let us not forget, that if the authors are not rich people, that it is not they that are going to exploit the work; they are not going to hold on to the work; they are going to sell it away to others and those others will exploit it for this inordinate length of time. Therefore, I

would again request the Minister to adopt a different plan in relation to copyright.

Although this copyright has been lengthened in the case of the authors, one provision has been made which is seriously detrimental to the authors. I mean the provision made in clause 17 of the Bill regarding the first principle of copyright. I think it should be a cardinal principle of copyright that as a rule the creator of the work should have the copyright in his work. If any exception has to be grafted, it must be grafted not by law but by agreement between the creator and some other person in whose interest he might be creating the work.

For instance, a newspaper employs some correspondent to send in interesting stories which may have some value, interesting despatches which may receive wide circulation. If you pay the correspondent adequately there is no reason why the correspondent will not rescind his copyright for you. You can secure the copyright that way. I can understand that the newspaper, whose correspondent the author is, may enjoy the copyright to the extent of reproducing the despatches in the newspaper. But what is the meaning of enabling that newspaper to publish it in any other newspaper, magazine or periodical? I do not understand the meaning of it.

Similarly, it is provided that if an author is employed by someone else and produces a work under a contract of service, it is not the author that will be the first owner of the copyright but it will be the employer. Why? If the employer wants to be an owner of the copyright, if he wants to have the right of exploiting the copyright, let him have an agreement with the author. If he has an agreement with the author there is nothing to bar him from taking the copyright; but, why do you initially grant him the ownership of the copyright? This is not a difference in principle; only in practice it will be causing serious hardships to the authors.

[Shri Sadhan Gupta]

You know, in many cases, the authors may be commissioned by telephone to write for a newspaper. Somebody might telephone to you or to me and say: You write an article for us. I write the article. They publish it in the newspapers. Why should they have the right to publish it in any other newspaper, magazine or periodical? Their right should end by publishing it in the newspaper for which they get it written. If they want this further right, they should pay for it. But, if you provide by law that if you do a commissioned work, it is the person who commissions that will take the first ownership of the copyright, then, placed as the authors are in this country, they will never be able to have a contrary agreement. If the law stands like this, that the author *prima facie* will have the ownership of the copyright apart from the production in the newspaper concerned, then, he might bargain. He may say: Give me something more and I will give you the right. But if you put the law, the other way, if you want the employer to contract out, the author will be in a very unenviable position because he is not a person who can stand out or resist when an offer come to him.

Shri Masani said that he is a grown up person. It may be, he is grown up, but in the circumstances, he is so placed, that it would be very difficult for him to look after himself. Therefore, I would strongly recommend the changing of the scheme of section 17. I think the provisos are absolutely unnecessary. It is enough to provide that the author shall be the first owner of the copyright, subject, of course, to an agreement to the contrary. Whether it is the case of a government work or whether it is the case of other work, there is no difficulty in arriving at an agreement, provided you make sufficient payment. There is no difficulty in arriving at an agreement with the author, however, that he will not be first owner and that it will be the Government or the employer or the persons who claim it will be the first

owner of the copyright. It is only that way that you will strengthen the author's position in bargaining. And, if you put it the other way, the author will never be able to secure the ownership of the copyright from his employer. It is not unknown that in this country employers of this kind are often unscrupulous and they will exploit the advantage with a vengeance and make it impossible for the authors to get the ownership to copyright....

Dr. K. L. Shrimall: What is the suggestion of the hon. Member?

Shri Sadhan Gupta: My suggestion is to only retain the first part of clause 17 with this modification, that is to say, the author will be the first owner of the copyright in the absence of an agreement to the contrary. That is all and all the provisos should be done away with.

I have now a few remarks to make with regard to certain provisions. Regarding the definition of the word 'adaptation', I am very much opposed to defining 'adaptation' in a rigid manner, because 'adaptation' may be of such variety that it may not be possible to cover all kinds of 'adaptation' by rigid definition. For example, here, it has been defined in a certain way and I find that under the definition if any one turns the dramatic work into an opera, for example, it is not covered by 'adaptation'. Therefore, any person can take hold of a dramatic work and may turn it into an operatic work and that kind of piracy will not be covered by the word 'adaptation' and he is free to do it, although if he takes hold of a fiction and turns it into a drama or an opera, then, of course, it will be covered by the word 'adaptation' as defined here. We always prefer 'adaptation' to be understood in a popular sense. Very often in legislating we use popular expressions. They are much better because they are better understood and if we define 'adaptation' as not meaning certain things, but as including certain things concerning which there may be doubts, then, I think the definition of

'adaptation' will become popular and will enable the courts to do justice between authors and those who commit piracy of their copyrights.

The other remark I would offer is regarding the term of the 'broadcast' reproduction right. I believe the term of 25 years has been fixed for broadcast—reproduction right. I would say that it is hardly conceivable that a radio programme would retain its value for 25 years. Therefore, it is absolutely unnecessary to keep it away from the public for such a long time. I can understand 3, 4 or 5 years, but it is inconceivable that a radio programme will retain its value for so long.

Similarly regarding records of photographs, I think it is inconceivable that any record or any photograph and for the matter of that any cinematograph will retain any financial value for 25 or 50 years. So a lower term should be fixed in respect of these things.

I turn now to a very important provision which arise out of, I think, clause 52. A number of exemptions have been laid down which would not amount to an infringement of copyright. There, I do not find the reports of speeches made in the Legislature, for example. I am speaking in Parliament; it is being reported. Other Members will speak on various subjects. Those speeches will be reported; if we have to publish those speeches, not in a newspaper report, of course, but just publish those speeches otherwise, it would be an infringement of copyright. That is very undesirable. There may be a variety of reasons on account of which we might have to publish these reports; for instance, during an election campaign, there might be a candidate belonging to a rival party who had been in parliament and it may be necessary for another party or another candidate to show him up to the public by publishing his speeches or it might be

necessary for me, Sir, or for any other candidate who is facing the electorate in any election to show up what I have done in the Parliament and if I choose, I should surely be able to publish speeches which I have made or even the speeches which others have made in order to show up the party who is opposing me. I do not see why there should be any hindrances in the way of such publications. Speeches made in the Legislature should be most widely published; they are not very much of a financial value; they do not bring very great profit to the Government. On the other hand, every member of the public is interested in having access to them and every member of the public should have the free right to publish those speeches and to keep the public informed about it, even apart from contemporaneous newspaper reports. Therefore, I would appeal to the Government to accept the amendments which may be tabled later or to bring forward amendments themselves to exempt this category of literature from the rules regarding infringement of copyright.

Having said so much, I once again give my general support to the Bill because by and large it is a Bill which will be of assistance to the authors except for clause 17, of course, and if the Bill is amended, as I have suggested, it will be a valuable instrument in promoting the cultural development of our country.

**Shri D. C. Sharma** (Gurdaspur): Mr. Deputy-Speaker, this Bill has a three-fold purpose. In the first place, it is to protect the rights of authors, and in the second place, it is to protect the rights of those persons who are sometimes responsible for subsidizing these authors and in the third place, this Bill provides some safeguard so far as the social aspect of all literary and creative work is concerned. I believe that with regard to the rights of those concerned with money and who are in a position to commission the work of those authors, the Bill has erred on the side of excess. I think

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this Bill does not give one the impression of the socialistic concept of our society which we are trying to bring into being as fast as possible. I believe that the rights which have been given to these on account of their money, on account of their long purses and on account of their capital which are all there to purchase the work of some others, have been exaggerated. I feel that the ownership of the copyright as vested in these persons and vested also in a very pronounced way should not have happened. After all, so far as creative work is concerned, the money aspect of it is not as important as it is made out to be. The creative aspect of it should have been played up and the money aspect of it should have been played down but I find that in case of certain publications commissioned by newspapers or magazines or journals, this right has been overweighted in the case of proprietors and has not been given a due place so far as authors are concerned. That is the first thing which I wish to say. The second point is this.

**Dr. K. L. Shrimall:** Will the hon. Member let me know to which Clause he is referring which gives weightage to the proprietor?

**Shri D. C. Sharma:** Chapter IV entitled "Ownership of copyright and the rights of the owner". I am glad that the rights of the author are also going to be protected. I think this is the first time we are going to have a thing in this way. But I do not understand by what law of equity or of biology or of racial preservation, the framers of this Bill have arrived at the figure of 50 years. It is said that the copyright will vest in the author or his descendant or his heir for 50 years after his death. I think we should not ignore the social aspect of the authorship. We have to take into account the social context of our country and it is this. So far as literacy is concerned, ours is a backward country. Our cultural traditions are great. We have a great legacy behind

us. But taking into account the low incidence of literacy in this country and also the slow progress of free and universal education in this country as well as the fact that the cultural resources of our country are not available to the people at large, I would have thought that the period for which an author could enjoy the copyright after his death should have been equal to the average expectation of life of an individual. This means that you will give this copyright business to an author for about generations. It may be possible in other countries. It may be done in some of the countries of the west. I don't deny it. Perhaps our Minister has many examples of that. But I think it should be done only up to the average expectation of life of an Indian citizen, that is, 30 years or 35 years. From this point of view, I feel that the Bill is very unsatisfactory.

Again, Sir, I would say that this Bill suffers from a great deal of unnecessary verbosity. Of course, the Minister is entitled to ask me as to where the verbosity lies and where it could be found. If I had time, I would be able to point it out. I have been in the habit of condensing works of art and appreciating works of art. I have done works of that kind and I believe that a creative artists—whether he is a composer or a musician or a writer—whatever he may be, should not be saddled with so many legal subtleties and legal complications. This Bill, I believe, has placed a great deal of weight on the poor author. I think the author will now have one foot in the office of the man who pays him and the other foot in the office of the person who is going to interpret the laws of copyright. This Bill has been overweighted so far as legal complications go. I think there are many unnecessary repetitions here. There are many things here which should have been kept out. There is nothing like commonsense to be found anywhere. We have to explain everything when we define a thing. If you want to define a table, you have to define it in correct

terms and you cannot leave it to the imagination of the reader; so also you have to define what you mean by a chair. This has got to be defined. If I may express a term which now comes to my mind, this Bill is a very big 'legal conundrum.' This Bill is meant for the lawyer and for the interpreters of the law. I agree with what my friend Shri Masani said. I know that certain instructions are very necessary and I know also that the appointment of certain officers is very necessary—all that I know. It is now an integral part of the Bill, that we should create a new Board. That new board should have a chairman, members ranging from three to ten and other paraphernalia.

In India, creative writing is not to be found plentifully. It is not on a scale in which it is in some other countries. But, that is not the fault of India. Books are not published in such large numbers here as in other countries. I do not want to name those countries because you get into trouble when you name any other country on the floor of this House. I know that we are deficient so far as publishing is concerned. All that we publish is not to be designated as creative writing. I do not know why all this administrative apparatus is going to be brought into being. This could have as well been left to the High Courts concerned. The Punjab High Court will have done this work for Punjab; similar will be the case with regard to the other States.

We have developed a strange way of doing things during recent years. No Bill is complete and no work is fully done, we feel, unless we can produce for the delectation of the citizens of India, a board complete with all the paraphernalia which we associate with the board—chairman, registrar, deputy registrar and so on.

This Copyright Bill is useful. I do not deny it. But, I also say that the judicial element, if I may call it that way, has been brought into it to such an extent that if any creative artist or author reads this Bill, he will never

try to produce any creative work. This Bill will frighten him into doing nothing.

I am not very happy over the paraphernalia that has been brought into the Bill. We should have waited for sometime and the Minister could have come to us after some time. At that time, he may have said: "Now, this creative talent is diffused in a much larger degree." Then, we could have it.

The most difficult problem in this country is not the problem of copyright or the infringement of copyright but the problem of piracy. There may be all these problems.

**Mr. Deputy-Speaker:** Would not that be an infringement of copyright?

**Shri D. C. Sharma:** It is an infringement. Piracy is going on on a large scale in India...

**An Hon. Member:** Why in India alone?

**Shri D. C. Sharma:** You know about other countries and you can talk about other countries but I can talk about India.

I was connected with the University and I know that it has brought out some books. Those books have been pirated. It becomes very difficult, with all the paraphernalia of registrar and all that, to detect and publish those pirates. It is not only in the case of a university. I received a letter from a very respectable firm that their book had been pirated. This is very unwelcome. I do not know how this Bill is going to put an end to this piracy. You can even catch me if I bring out some book or somebody's work and give my name there; you can apprehend me if I do anything of that kind. But what do you think of these secret foes of creative writing? They are subterranean criminals who are making an assault on the rights of poor and needy authors. I do not think that this Bill does anything in that

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direction. Piracy is very much diffused in this country but it is not tackled here. Unless that is tackled, all these Bills will not lead us anywhere.

There is no doubt that Chapter XI, infringement of copyright, has been made very comprehensive. There are many clauses and sub-clauses. Here, I may give you a case. When I was at Lahore, I was called as a witness in a court of law on account of a copyright case. A gentleman produced a book and another gentleman tried to give a liberal and very free translation plus criticism plus appreciation of that very book in a modern Indian language. It was not a translation or abridgement. It had very little resemblance with the original and yet contained what was in the original. Was it an infringement of the copyright? That was the question. The gentleman who presided over that Court—he is now, I think, a Judge of the High Court in one of the countries of this world—said that that was not an infringement of the copyright. It was given there that the right of translation was reserved.

There are very subtle brains in our country who can circumvent the regulation and copyright by producing something which is like the original and yet not like that. It is a paradox. What is there in this Bill to safeguard the interests of these people? I appeared as a witness in that case because it was instituted by the Punjab University. It was the complainant and the defendant was publisher. He had done that and yet there was no remedy for it in the hands of law at that time. Nor does this Bill provide any remedy for that kind of infringement.

In every Bill we give rule making powers to the executive and that has been done in this case also. But, I would ask you one thing, Sir, is it not necessary that the rules should deal

with procedural things and not with basic and fundamental things? The basic and fundamental things should go into the body of the Bill itself. As a person who was a member of the Subordinate Legislation Committee during the last Parliament I can say that our executive very often exceeds the powers which are granted to it in a Bill so far as rule making is concerned.

**Dr. K. L. Shrimall:** May I refer the hon. Member to subclause (3) of clause 78 where it is stated:

“All rules made under this section shall, as soon as may be after they are made, be laid before both Houses of Parliament....”

They can then be modified.

**Shri D. C. Sharma:** Sir, I thank the hon. Minister. Like a school master the hon. Minister has tried to teach me a most obvious thing which is a part of every Bill that comes before the House.

**Mr. Deputy-Speaker:** Perhaps the hon. Minister thought just the same way, that the teacher was teaching him.

**Shri D. C. Sharma:** Exactly, and you are, Sir, the teacher of teachers and you are teaching both of us.

I wish to submit most respectfully that here the rules which are going to be made by the executive are such as deal with some of the fundamental things that should have formed a part of the Bill itself; for instance, the form of applications etc. When we were discussing some other Bill, I remember the form of complaint etc. were given there. In this case the procedure to be followed in connection with any proceeding before the Registrar is also left to the executive. From my experience in the Subordinate Legislation Committee I can say that the executive is not always very keen on preserving the spirit of the law, and also on keeping within

the four corners of the powers given. Very often they exceed their powers. If you look at the proceedings of the Subordinate Legislation Committee you will find how many times we have pointed this out. It may not happen in this case, but I must say that these things, which are the very spirit of this Bill, should have been given in the Bill itself by way of an Appendix so that we may know what they are.

Sir, this Copyright Bill is an advance on what exists at this time; there is no doubt about it. But, during the last five years I have found that after we have passed a Bill we bring in an amendment after six months or one year, because we find that the law that has been passed does not work as well as the framers had thought it to work. So my hope does not lie so much in the Bill that is being discussed on the floor of this House now, but in the amending Bill which will come after six or eight months. And I hope that in the amending Bill I will be in a position to bless more than I can do in the case of the present one.

**पंडित ठाकुर दास भागवत (हिसार) :**

इस बिल पर कई नुक्ते निगाह से इस हाउस में बहस हुई है। हमारे अग्नरबल मिनिस्टर साहब ने भी फरमाया था कि इस बिल को ज्वॉइंट सिलेक्ट कमेटी ने भी कई नुक्तेनिगाह से देखा है। इसके अन्दर खास तौर पर आथर्स के राइट्स का खयाल रखा गया है और पब्लिशर्स के राइट्स का खयाल रखा गया है और जो सबसे बड़ी चीज है, जिसको कि मिनिस्टर साहब ने बतलाया है, पब्लिक के राइट्स का भी खयाल रखा गया है।

सच तो यह है कि कापीराइट पब्लिक के राइट्स के बखिलाफ एक पहला कदम है। अगर कोई शरूस् एक किताब छाप दे या कोई और वर्क आफ आर्ट क्रियेट कर दे और उसको सिर्फ अपने ही फायदे के वास्ते रखे तो इसमें कोई शक नहीं कि वह पब्लिक के राइट्स के बखिलाफ एक ऐक्ट है। इस बिल के अन्दर जो बहुत बसीह राइट्स आथर्स को दिये गये

हैं यह तो दुस्त है कि ये इंटरनेशनल कनवेंशन के मातहत दिये गये हैं, और दूसरे मुल्कों में भी दिये जाते हैं, लेकिन यह कि उसको अपने मरने के पचास साल बाद तक राइट्स रहेंगे यह पब्लिक के हक्क के खमूमन बखिलाफ है। मैं यह समझ सकता हूँ कि एक शरूस् जिसने अपने दिमाग से कोई अच्छा काम निकाला है वह उसका फायदा अपने तक महदूद रखे। यह ठीक है कि वह उसका पूरा फायदा उठाये लेकिन मौजूदा बिल के मुताबिक तो यह फायदा करीब एक सदी तक पहुंच सकता है। यह फायदा एक आथर के वास्ते भी बहुत ज्यादा है। इस जमाने में जिसको कि सोशलिस्ट जमाना कहते हैं, हर एक शरूस् जो काम करता है वह मासिवा कि अपने वास्ते करता हो, विला शक व शुबह उसका फायदा और नुकसान पब्लिक को साथ साथ होता है। कोई शरूस् कई किताब लिखे या कोई अच्छी तसनीफ करे या और कोई भी अच्छा काम करे, तो वह एम्बोल्यूट गुड और एम्बोल्यूट बैड तो होता नहीं। हर एक किताब के अन्दर ऐसी चीजें भी मौजूद हैं कि जिनसे पब्लिक को नुकसान पहुंच सकता है और ऐसी चीजें भी होती हैं जिनसे पब्लिक को फायदा पहुंचता है। इस वास्ते इन सब चीजों को इस किस्म की मनापली बना देना कि सौ बरस तक राइट रहे मैं जायज नहीं समझता। लेकिन यह इंटरनेशनल कनवेंशन है और यह बिल राज्य सभा से पास हो कर आया, हमारे मिनिस्टर साहब ने इसकी बहुत तारीफ की और वह इसको बहुत अच्छा समझते हैं, इसलिये मैं इस बारे में अपनी नाकिस राय उन पर इम्पोज नहीं करना चाहता और मैं इस उमूल पर ज्यादा नुक्ताचीनी नहीं करना चाहता कि क्यों इसका अर्मा जो कि प्रोग्रिजनल बिल में २५ साल था बढ़ा कर ५० साल तक कर दिया गया है। कुछ मूर्तों में २५ साल भी बहुत ज्यादा हो जाता है। अगर कोई नौजवान तमनीफ करता है और वह बड़ी उम्र तक जिन्दा रहता है तो उसके सामने ही उमके कई जेनेरेशन बीत सकते

[पंडित ठाकुर दास भार्गव]

हैं। और उस सूरत में जब कि कोई शस्स सौ बरस तक जिन्दा रहे तो पब्लिक के वास्ते कोई राइट बचंगा इसमें मुझे शक है। इसकी यह एक आसपेक्ट है जिसको अर्ज किये वगैर में नहीं रह सकता था क्योंकि मुझ को यह इतना लम्बा अर्सा बहुत अनकांशनेबल मालूम होता है।

जहां तक आथर्स के राइट्स का सवाल है मैं खुश हूँ कि आथर्स को और दूसरे अशखास को जो अपनी तसनीफ या अपने लियाकत से ऐसा काम करते हैं जो आम तौर पब्लिक के भले के लिये होते हैं वे मुभावजे के हकदार हैं इसमें कोई शक नहीं है। और वह मुभावजा मुनासिब भी होना चाहिये। लेकिन आज इस कमशियल दुनियां में उनको वह मुभावजा पूरा तो क्या मिलेगा, बहुत कम हद तक मिलता है। जब मैं इस में तारीफ पढ़ता हूँ उस शस्स की जिसको कहना चाहिये आथर आफ दी कापीराइट या ओनर आफ दी कापीराइट तो मैं देखता हूँ कि ऐसी किसी चीज में जिस में वह वहाँसियत किसी शस्स के पास काम करता बतौर उसके मुलाजिम के उसके अन्दर उसकी जो पोजिशन है वह एक सर्वाइडनेट की बन जाती है और वह अपनी पावर्स को रैलिगेट कर देता है उस शस्स के हक में जिसके पास कि वह नौकर है। इसका यह मतलब हुआ कि नौकर तो उसको रख लिया गया और साथ ही साथ उसके दिमाग पर और उसकी जितनी दूसरी ताकतें हैं उन पर भी कब्जा कर लिया गया। इसमें कोई शक नहीं है कि उसके भी कुछ राइट्स हैं उस सूरत में जब कि वह किसी दूसरे के पास नौकरी करता है। लेकिन मैं श्री साधन गुप्त की इस क्रिटिसिज्म से सहमत हूँ कि वह आथर खुद ओनर आफ कापीराइट का होना चाहिये और अगर वह कोई आटिस्टिक वर्क बनाता है तो किसी सूरत में भी उसकी सैफिडरी पोजिशन नहीं होनी चाहिये। उसको सैफिडरी पोजिशन में रैलिगेट

नहीं किया जाना चाहिये क्योंकि आथर वही शस्स है जिस के दिमाग से वह चीज निकली है और उसी का, जो दूसरा शस्स है फायदा लेता है, महज इस वजह से कि वह उसकी सविस में है।

15 hrs.

अब मैं एक दूसरी ही चीज माननीय मंत्री जी की खिदमत में पेश करना चाहता हूँ। जब कि आदमी एक किताब को लिख देता है और उसको पब्लिश करवा देता है तो वह एक तरह से पब्लिक प्रापर्टी बन जाती है ख्वाह उसकी रिपब्लिकेशन का राइट या उसका लाइसेंस देने का हक उस आथर में ही रहे। जब एक बार कोई चीज पब्लिक में आ जाये और पब्लिक उससे फायदा उठा ले तो एक सेंस में पब्लिक को उसके फायदे से महरूम करना जायज नहीं है। हमारे हाउस में जब एक लैजिस्लेटर एक बिल पेश कर देता है या इंट्रोड्यूस कर देता है तो वह जो प्रापर्टी है वह हाउस की बन जाती है और उसको वह हाउस की मर्जी के बिना वापस नहीं ले सकता है। इंट्रोड्यूस करने के बाद वह उसका मालिक नहीं रहता बल्कि हाउस उसका मालिक हो जाता है। अगर कोई राइटर एक बार कोई काम कर दे और वह पब्लिक के सामने आ जाये तो बाद में कभी भी पब्लिक को उससे महरूम नहीं किया जाना चाहिये। अगर ऐसा होता है तो यह वाजिब नहीं है। आथर को उसका जो हक है वह मिलना चाहिये और जो मुनासिब हक है वह उसको दिया जाना चाहिये। मैं यह नहीं चाहता कि उसको उसके हक से महरूम कर दिया जाये। लेकिन मैं यह चाहता हूँ कि अगर यह पब्लिक इंटरिस्ट में हो कि उसको रिपब्लिश किया जाये तो इसका इस ऐक्ट के अन्दर उसको अख्तियार दिया जाना चाहिये कि वह इजाजत दे कि इसको रिपब्लिश कर दिया जाये। यह हो सकता है कि वह आथर इस काबिल न हो कि वह

खुद अपने द्वारा इस चीज को पब्लिश करवा सकता हो और ऐसी सूरत में अगर कोई शस्स उससे इजाजत चाहे, तो ऐसे हालात बन सकते हैं कि वह आथर उसको रिपब्लिश करने की इजाजत न दे और उसको कुछ एतराजात हो सकते हैं। ऐसी सूरत में उनको मानना पब्लिक इंटरिस्ट में नहीं है, पब्लिक इंटरिस्ट के खिलाफ है। मैं खुश हूँ कि हमारे आनरेबल मिनिस्टर साहब ने अपनी तकरीर में इस उसूल को तकरीबन तसलीम कर लिया है। उन्होंने कहा है कि सब से जरूरी चीज यह है कि हम रिपब्लिकेशन के राइट्स देना चाहते हैं और पब्लिक के जो राइट्स हैं और जो जायज राइट्स हैं उनसे उसको महरूम नहीं करना चाहते हैं। इस चीज को देखते हुए इस बिल में दफा ३१ जो रली है उसके चन्द अलफाज मैं आपको पढ़कर सुनाना चाहता हूँ जिन पर कि मुझ को एतराज है। इसमें लिखा है :—

“If at any time during the term of copyright in any Indian work which has been published or performed in public, a complaint is made to the Copyright Board that the owner of copyright in the work—

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

क्या करना होगा :—

“the Copyright Board, after giving to the owner of the copyright in the work a reasonable opportunity of being heard, and after holding such inquiry as it may deem necessary, may if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar of Copyrights to grant to the complainant a licence to republish” etc.

इसके जो ये अलफाज हैं

“if it is satisfied that the grounds for such refusal are not reasonable”.

ये पब्लिक इंटरिस्ट के खिलाफ हैं, यह चीज उसूलों तौर पर गलत है।

The heading is: “Compulsory licence in works withheld from Public”.

अगर एक शस्स की वजूहात ये हैं कि किसी शस्स ने उसे पैसा काफी नहीं दिया है, मुवावजा काफी नहीं दिया है, या यह वजूहात हैं कि उसके पास पैसा नहीं है और वह उसको रिपब्लिश नहीं करवा सकता है, तो ऐसी सूरतों में क्या यह कहा जा सकता है कि ये रीजनेबल वजूहात हैं अनरीजनेबल वजूहात नहीं हैं। एक आथर कहे कि मेरे पास पैसा नहीं है और मैं इसको रिप्रोड्यूस या रिपब्लिश नहीं करवा सकता हूँ तो इसमें कौन सी गलत बात है। ऐसी सूरत में बोर्ड उस शस्स को जो लाइसेंस चाहता है जो इसको पब्लिश करवाने का अधिकार चाहता है, हुकम दे कि इसके लिये वह आथर को मुवावजा दे। अगर कोई शस्स कापीराइट का अधिकार चाहता है तो उसे उस शस्स को इन आल फियरनेस, ईमानदारी से इसका मुवावजा देना चाहिये और आथर को इसका मुआवजा मिलना चाहिये। चुनावे यह इसके अन्दर प्राविजन है :—

“republish the work, perform the work in public or communicate the work to the public by radio-diffusion, as the case may be, subject to payment to the owner of the copyright of such compensation and subject to such other terms and conditions as the Copyright Board may determine; and thereupon the Registrar of Copyrights shall grant the licence to the complainant in accordance with the directions of the Copyright Board, on payment of such fee as may be prescribed”.

[पंडित ठाकुर दास भार्गव]

जहां तक उसूल का ताल्लुक है उसे मान लिया गया है और कहा गया है कि कापीराइट बोर्ड कम्पेंशन दिलाये आथर को और कापीराइट लाइसेंस दे दे। लेकिन अगर इसमें यह लिखा जाता और सीधे तौर से लिखा जाता कि अगर पब्लिक इंटरिस्ट में ऐंसा करना जरूरी हो तो कापीराइट बोर्ड इजाजत दे दे तो यह निहायत मुनासिब होता। अगर आथर कोई खास वजह देता है और चाहता है कि उसकी किताब को न छापा जाये तो भी मैं एतराज नहीं करूंगा। लेकिन यहां पर तो यह लिखा है।

"Grounds for such refusal are not reasonable.."

मैं अर्ज करता हूं कि ऐसी शूरत में पब्लिक इंटरिस्ट में और उसकी बिला वजह की रिप्यूजल में या रीजनेबल रिप्यूजल में, इन दोनों में क्लेश होता है। अगर उसकी रीजनेबल रिप्यूजल है और वह यह है कि उसके पास पैसा नहीं है, तो यह जो रिप्यूजल है यह अनरीजनेबल है क्योंकि उसको इसके लिये पब्लिक से पैसा दिलाया जा सकता है, कम्पेंशन दिलाया जा सकता है और इस तरह से पब्लिक के इंटरिस्ट को सेफगार्ड किया जा सकता है।

आनरेबल मिनिस्टर साहब एक कापीराइट बोर्ड बनाने जा रहे हैं जिसमें एक शायद सुप्रीम कोर्ट का जज होगा या हो सकता है और उसके अलावा तीन आदमी और होंगे। इस बोर्ड को इस तरह की पावर देने में माननीय मंत्री जी क्यों हिचकचाते हैं, यह मेरी समझ में नहीं आया। अगर यह चीज पब्लिक इंटरिस्ट में हो तो अगर बोर्ड चाहे तो इस चीज की इजाजत दे दे और इसको रिपब्लिश कर दिया जाये। यह एक मुनासिब बात है और यह पब्लिक का हक भी है। अगर न वह खुद छापता है और न दूसरों को छापने देता है, तो यह पब्लिक गूड में नहीं

है। हां उसको इसका मुद्रावजा अवश्य मिलना चाहिये। लेकिन इस सब चीज का बेस्ट जज कौन हो। इसका वेस्ट जज आथर नहीं है और न ही वह होना चाहिये। इसमें पब्लिक इंटरिस्ट को देखा जाना चाहिये। अगर उसके पास रुपये नहीं हैं और वह नहीं छापता है तो इसको आपको उसके ऊपर नहीं छोड़ना चाहिये। इसका अखत्यार पब्लिक को होना चाहिये, कापीराइट बोर्ड को होना चाहिये और पब्लिक यूटिलिटी को ध्यान में रख कर यह सब किया जाना चाहिये। अगर इस चीज का फैसला करने का अखत्यार आप खुद भी ले लें तो भी मुझे कोई एतराज नहीं है। अगर आप इस अखत्यार को कापीराइट बोर्ड को देना चाहते हैं तो उसको आप दे दें।

मैं चाहता हूं कि यह पार्लियामेंट जहां कि हाइएस्ट विजडम मौजूद है "Satisfied that grounds for such refusal are not reasonable".

इन लफ्जों के बजाय

"If in the opinion of this Copyright Board, it is in the interests of the general public, to allow such republication"

यह लफज रख दिये जाते।

मैं अदब से अर्ज करूंगा कि मुनासिब यही है कि इसके अन्दर जहां तक पब्लिक का सवाल है इसको इस हद तक दुरुस्त किया जाये ताकि पब्लिक को इसमें कोई शिकायत न रहे।

सके आगे अगला सैक्शन ३२ है जो ट्रांसलैन्स के मुताल्लिक है। उसके बार में जैसा कि हमारे आनरेबल मिनिस्टर ने कहा है उन्होंने इसको हमलिये रक्खा है चूंकि इंटरनेशनल कन्वेंशन यही है और वह इंटरनेशनल कन्वेंशन के खिलाफ नहीं जाना चाहते। मैं यह मानने को तैयार हूं कि

उनकी यह वजह नामाकूल नहीं है और चूंकि उन्होंने दीगर चीजों में जब इंटरनेशनल कन्वेंशन को माना है तो इसमें भी वे इंटरनेशनल कन्वेंशन के खिलाफ नहीं जा सकते थे।

जहां तक लोजिक की बात है मैं उनसे सहमत नहीं हूँ और मैं अभी भी अर्ज करूंगा कि लाजिकली यह पोजीशन दुरुस्त नहीं है। मैं मानने को तैयार हूँ कि उन्होंने जो यह वजह राज्य सभा में दी वह कुछ नामाकूल नहीं थी क्योंकि इंटरनेशनल कन्वेंशन हमारे वास्ते बाजिब ताजीम है। लेकिन मैं अदब से अर्ज करूंगा कि इंटरनेशनल कन्वेंशन एक चीज है और पब्लिक इंटररेस्ट और लाजिक दूसरी चीज है। मैं आपसे अदब से पूछना चाहता हूँ कि जब असली किताब के वास्ते तो आपने यह ला बनाया है तो किस लाजिक और किस बेसिस पर आप यह रवैया अस्तयार कर सकते हैं कि उसका ट्रांसलेशन करने की इजाजत आप कम्प्लेनेंट को न दें। दफा ३१ में आपने यह लिखा है कि हम कम्पलसरी लाइसेंस किसी इंडियन वर्क को देंगे जो कि विद्हेल्ड फ़्रोम पब्लिक हो। मैं पूछना चाहता हूँ कि ओरिजनल किताब से क्या उसका ट्रांसलेशन ज्यादा सैक्रोसेक्ट है? उसका "इ" हिस्सा रक्खे जाने के काबिल नहीं है।

इस बिल पर राज्य सभा में हुई प्रोसीडिंग्स को पढ़ने से यह मालूम हुआ कि वहाँ पर (इ) सेक्शन के ऊपर ऐतराज किया गया और उसके ऊपर बहस हुई।

एक मेम्बर साहब ने इस तरह फरमाया :

"May I also ask one question? According to clause 30, you permit even a book which has been withdrawn by the author to be published. You say that a licence can be granted to publish that book. So you permit the publication of a book even though it is withdrawn, but you will not permit the translation of a book which has been withdrawn. According to clause 30, the Copyright Board cannot give permission to translate that

book. That means you can publish the original book but not translate it".

यह आबजेक्शन था और वहाँ पर एक मेम्बर साहब ने फिर ऐतराज किया और इ तरह वहाँ :

"Part (e) says: 'that author has not withdrawn circulation of copies of the work'. The words 'unless' and not cancel each other, which means that if a book has been withdrawn from circulation, then its translation shall not be permitted. So, the position will be this. The original book, though withdrawn, will be permitted to be published under clause 30, but under this clause as proposed, its translation will not be permitted."

**Mr. Deputy-Speaker:** He might give these arguments on his own behalf. He need not refer to the speech of another Member of the Council.

**Pandit Thakur Das Bhargava:** I will not read out; you will excuse me. I want to read what the hon. Minister said at that time. The Minister made a reply which did not favour the acceptance of that amendment. On that the Deputy-Chairman said:

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

डिप्टी चैयरमैन ने आनरेबल मिनिस्टर को वहाँ इस तरह एक्सप्लेन किया।

Then Dr. Shrimali said, "I do not want to press this. I am quite prepared for the deletion of this."

**Dr. K. L. Shrivastava:** Read the whole thing.

**Pandit Thakur Das Bhargava:** I will read. The Minister said:

"My reason why I wanted it to be retained was that this is in accordance with the Universal Copyright Convention."

I do not say that the argument is bad, but at the same time, I say that whatever may be the Universal Copyright Convention, if a thing is illogical or is such that you ought not to accept it, you ought not to care for the convention also in particular matters. It may be a very small matter. This Member said, "I want the deletion of part (e)", but the Deputy-Chairman said, "No; I will put the whole clause".

**Mr. Deputy-Speaker:** The rule that we have framed on this point is Rule 354, which reads:

"No speech made in the Council shall be quoted in the House unless it is a definite statement of policy by a Minister:

Provided that the Speaker may, on a request being made to him in advance, give permission to a member to quote a speech or make reference to the proceedings in the Council, if the Speaker thinks that such a course is necessary in order to enable the member to develop a point of privilege or procedure."

**पंडित ठाकुर दास भार्गव :** मैं इस रूल से वाफिक था और इसी वजह से मैं ने किसी मेम्बर साहब का नाम नहीं पढ़ा लेकिन आनरेबुल मिनिस्टर और हाउस के सामने पूरी तरह से अपनी बात रखने के लिये और प्रार्जुमेंट के तौर पर अपनी बात समझाने के लिये यह जरूरी था कि बगैर किसी मेम्बर का नाम लिये वह प्रार्जुमेंट उसी तरीके से मैं यहाँ पर रखता जैसे कि डिप्टी चेअरमैन साहब ने उसे राज्य सभा में समझा था। मैं अपने अल्फाज में वह फोर्स नहीं ला सका था जिस तरह कि आनरेबुल मिनिस्टर ने

वहाँ पर फरमाया था और डिप्टी चेअरमैन ने जिस तरह से उसको समझा था . . . . .

**उपाध्यक्ष महोदय :** वहाँ की कार्यवाही को करना हमारे रूल के वरखिलाफ होगा। एक मेम्बर ने क्या कहा और दूसरे मेम्बर ने क्या कहा, उस सब का रेफेंस यहाँ डिप्लेव में देना वहाँ की कार्यवाही को कोट करना होगा जो कि हमारे रूल को प्रीफेंड करता है।

**पंडित ठाकुर दास भार्गव :** मेरी नाकिस राय यह है कि मैं ने रूल को बिलकुल प्रीफेंड नहीं किया। मैं उनको स्पीच को बतौर कोटेशन कोट नहीं करता। यह प्रार्जुमेंट था और यह जवाब दिया गया इस वास्ते इसे कोट करना नहीं माना जायगा। वहाँ पर मिनिस्टर महोदय ने फरमाया था :

"I am prepared to delete this; this will become meaningless."

यह कोई मानी नहीं रखता। मैं न तो उन्हीं मंत्री महोदय के अल्फाज को यहाँ पर कहा है . . . . .

**उपाध्यक्ष महोदय :** डिप्टी चेअरमैन ने क्या कहा या किन्हीं मेम्बर साहब ने क्या कहा, यह चीज कोट करना मना है और इसी और मैं ने आनरेबुल मेम्बर की तबज्जह दिलाई थी।

**पंडित ठाकुर दास भार्गव :** मैं अर्ज कर रहा था कि यह मैं ने माना कि इंटरनेशनल कन्वेंशन इस तरीके का है लेकिन मैं अदब से अर्ज करना चाहता हूँ कि वह इंटरनेशनल कन्वेंशन जब रूल ३१ बना दिया तो उसके साथ रूल ३२ में वह मेल नहीं खाती। अगर किसी असली चीज के पब्लिकेशन की प्राप इजाजत दे सकते हैं तो उसके ट्रांसलेशन की इजाजत रोकना मेरी नाकिस राय में वाजिब और मुनाबिस नहीं है और न ही वह लाजिबल है। जहाँ तक इंटरनेशनल कन्वेंशन के फोलो करने का सवाल है जैसा कि मिनिस्टर साहब

ने फरमाया है तो मेरी अबद से गुजारिषा यह है कि ऐसा करते वकत यह भी देखना चाहिये कि यह लाजिकल है या नहीं। और वह दूसरत है और मानने के काबिल है भी या नहीं।

जहाँ तक दफा ३१ का सवाल है पब्लिक को राइट है कि वह अपने पब्लिक राइट से महरूम न हो जाय और इसलिये पब्लिक इंटरैस्ट में यह दफा नहीं है और इसलिये मुनाफिस नहीं है। मैं आनरेबल मिनिस्टर की खिदमत में अर्ज करूंगा कि उन्हें इस अमेंडमेंट पर राजी हो जाना चाहिये बल्कि खुद अमेंडमेंट करना चाहिये।

उसके आगे जनाब वाला मुलाहिजा फरमायें। मैं खुश हूँ कि इंटरनेशनल कॉपीराइट के बारे में बिलकुल ठीक रवैया अख्यतार किया और रिसीप्रोसीटि के प्रिंसिपल्स को देखा गया।

इस के अन्दर एक सेक्शन ६० है जिस की तरफ मैं थोड़ी सी तबज्जह दिलाना चाहता हूँ : बजाय इस के कि आथर कॉपीराइट का ओनर मुद्दी हो कर आये, वह रिसॉर्षेण्ड बनता है। दफा ६० की शकल कुछ ऐसी बनी कि मानो यह किसी ऐसी जगह का कानून है जहाँ पर जो कॉपीराइट के ओनर्स हैं वह कुछ थॉटिंग ऐटिट्यूड अख्यतार करते हैं, वह घमकाते हैं दूसरों को कि अगर तुमने ऐसा कुछ किया तो हम तुम पर मुकद्दमा कर देंगे, यह कर देंगे, वह कर देंगे, तो ऐसे शरुस को, दि आब्जेक्ट्स आफ दोज थ्रूट्स को, कुछ राइट दिया गया है। ओनर आफ दी कॉपीराइट को अख्यतार दिया गया है कि अगर उसके राइट्स का इफिजमेंट होता है, वह कटेम्प्लेटेड हो, ऐप्रिहेंडेड हो, तो वह इंजेक्शन का दावा करे, यह तो अलग चीज है, यहाँ पर दूसरी शकल है कि अगर कोई शरुस ओनर आफ दि कॉपीराइट को थ्रूट दे कि हम तुम पर दावा करेंगे, तो एक थर्ड पर्सन

को खास तौर पर राइट दिया गया है, उस थ्रूट से बचने के वास्ते। मेरे ख्याल में यह किसी और जगह के लिये जरूरी हो सकता है, लेकिन हिन्दुस्तान के अन्दर अगर कोई मजलूम रहता है तो वह अंतर आफ दि कॉपीराइट है, उस के ऊपर हजारों मूलम होते हैं। लोग किताब छाप्ते हैं, थोड़े से अल्फाज में फर्क डाला कुछ पैराज में फर्क डाला, चैप्टर कुछ दूसरे कर के, दूसरे लोग उसे रिप्रोड्यूस कर लेते हैं, यहाँ तक तो वह ठीक रहता है। लेकिन यह चीज एक ऐसे मुल्क से इम्पोर्टेड है जहाँ पर हालात दूसरे हैं। वहाँ पर राइट दिया कि मुद्दी मुद्दालय बन कर फंसला करा ले। यह तो हमारे यहाँ इम्पोर्टेशन है, स्ट्रेन्ज इम्पोर्टेशन है।

इन हालात में मैं अर्ज करूंगा कि जहाँ तक इस कॉपीराइट बिल का सवाल है, मैं खुश हूँ कि हमारी सरकार ने और हमारी ज्वायंट कमेट्री ने, हमारी मिनिस्ट्री ने मेहनत कर के यह हुकूक देने की कोशिश की है। जैसा मेरे दोस्त श्री शर्मा ने फरमाया, इस बिल पर और अमेंडमेंट आयेंगे, लेकिन यह एक आउतु वर्क है, स्पेतु वर्क है, जिस पर हम आगे बढ़ेंगे। अब तक हम विसायत के सन् १९११ के ऐक्ट पर अमल करते चले आ रहे थे। अब हम उस झंझट से निकाल कर इस को एक बेसिस पर लाये हैं। अगर आइन्दा कोई अमंडमट होगा तो इस कानून का होगा। यह एक बड़ी भारी सविस् है जिसे मैं ऐप्रिशिएट करता हूँ, और मैं गुबारकबाद देता हूँ कि ज्वायंट कमेट्री और गवर्नमट को कि उस न हमारे सामने एक ऐसा खूबसूरत अमेंडमेंट इस बिल की शकल में पेश किया है। इस में कई जगहें एमी हैं जिस में आगे चल कर अमेंडमेंट हो सकता है, लेकिन उन्होंने हमें एक झगड़े से, जंगल से निकाल कर हमारे सामने एक खूबसूरत चीज पेश कर दी है, इसके लिये मैं उन का निहायत शुक्रागुजार हूँ।

**Shri Pattabhi Raman** (Kumbakonam): Sir, I wish briefly to refer to certain aspects of the copyright Act in view of the observations of my hon. friend Mr. Sharma and others.

The Act that was in force was the 1914 Indian Copyright Act, which was more or less linked to the Copyright Act of 1911 of England. Under the then law the Indian Copyright Act was related to the English Copyright Act, as could be seen from the number of expressions like 'His Majesty's Dominions', 'Executive Committee of the Council', 'the Crown' and all that. And finally the reference to His Majesty, under section 29 of the U.K. Act, providing for all the proclamations, made it incumbent on our having a separate Act. And we had, as was pointed out by Mr. Masani, to ratify the Berne Convention and the revised Brussels and Universal Copyrights Conventions. Hence the necessity for the Copyright Bill.

This Copyright Bill, as now brought before the House after its passage in the Rajya Sabha, if I may say so, is highly commendable. I will confine myself only to one or two remarks with regard to the translation aspect of it. But before I do so, it might be interesting for the House to know that under clause 20 of the Copyright Bill as it was placed before the Rajya Sabha, they proposed to fix a limit of 25 years for republication as well as for translation. Thereafter the Bill went before the Joint Committee, who after hearing representations from the affected people and after mature deliberation reverted to the existing period of fifty years for reproduction and ten years for translation. Then, in the Rajya Sabha the translation period was also raised to fifty years; that is to say, it was made coeval. The right of republication and the right of translation were both raised to fifty years. Of course, there was a provision for a licence in the case of works withheld from the public, referred to by my hon. friend Pandit Thakur Das Bhargava, under clause 31. If there is a

refusal to publish, or rather for the republication of the work, or if it is withheld without any sufficient reason, it is always open to the public to go to the Board and apply for licence.

As it then stood, the Joint Committee gave many reasons for keeping the period at ten years so far as translation is concerned. They referred to the various languages that are prevalent in India and how it was very necessary for important works to be translated and to be made available to the public, or, in other words, for important works to be thrown into the public domain, say, within ten years after its publication. That, I personally think, is too low a period. I am wondering whether it would not be possible to strike a medium between fifty as now passed by the Rajya Sabha and ten as recommended by the Joint Committee and confine it to a period of twenty-five years.

I am suggesting this for this purposes. Suppose a person who is alive after the publication of his book keeps quite for a period of ten, fifteen or twenty years without getting it translated—not that it is incumbent on him to translate it—but suppose he keeps quite. It should be open to another person to seek out the work, and to get it translated into other languages. After all, we have so many languages in India, and it may be very important for these works to be translated into other languages, without the translator having to go before the Board and going through the cumbersome process of getting a licence. If a period of twenty-five years is given for translation, I thought it would suffice. I have nothing more to say with reference to translation.

Some reference was made to the socialistic pattern of society and the author's rights. On that I wish to say that it is not an unearned income. The author works very hard to get the income. He may write only one book actually and where technical

books are concerned, he may live to see only one book published. The Income-tax law gives some concessions to authors of books. It is not as if it is a rule of thumb—taxation being made on the income of the first edition. Even that law envisages some sort of a concession to authors of books. And in Russia, my hon. friend will not be surprised to know that the people who live in great comfort, perhaps much more comfort than the ordinary people, are the authors and scientists and people who bring out books and treatises and brochures and publications. Therefore, to bring in the question of the socialistic pattern of society against the provision that for fifty years the properties should ensure in the author, is missing the point. After all, if a man who is a lawyer or a doctor can earn and get the benefit of that earned income, the author deserves it much more; because it means many hours spent by the candle light and work at all hours of the day. And it may even be that the author may not be able to see the worth of his work appreciated in his lifetime. Such being the case it is but meet and proper that his family and children, who depend on him should benefit by the work.

Therefore, confining myself only to the aspect of translation, I would commend this Bill for the acceptance of the House.

श्री ब्रजराज सिंह (फिरोजाबाद) :  
 उपाध्यक्ष महोदय, यह जो कापीराइट बिल मिनिस्टर महोदय ने मदन के सम्मुख रक्खा है, उस का मैं सम्मिश्रित भावना के साथ आदर करता हूँ। यदि इस तरह का कानून पहले रहा होता तो कम से कम हिन्दी भाषा के सम्बन्ध में मैं कह सकता हूँ कि प्रेम चन्द जैसे उपन्यासकार की संतति, उन के बच्चे कुछ समय तक भूखे न रहे होते। इस तरह से इस बिल का बहुत ही अच्छा भविष्य होगा और इस से हमारे लेखकों और दूसरे निर्माण कर्ताओं

का बहुत ही लाभ हो सकता है। लेकिन इस के साथ ही साथ इस में कुछ इस तरह की धारारें हैं जिन में कुछ सुधार की आवश्यकता है, कुछ संशोधनों की आवश्यकता है, खास तौर से मैं सरकार का ध्यान धारा १६ की तरफ दिलाना चाहूंगा। धारा १६ में कहा गया है :

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

जहां तक एसाइनमेंट का सवाल है, यह ठीक है कि वह राइटिंग में हो लेकिन सिर्फ राइटिंग में होना ही काफी नहीं है, उसकी रजिस्ट्री भी होनी चाहिये। जहां तक दूसरी जायदादों के क्रय विक्रय का सवाल है वह भी रजिस्ट्री द्वारा होता है। ऐसा हो सकता है कि किसी वक्त कोई लेखक बहुत मुसीबत में हो और इस वजह से उसके निर्माण कार्य के अधिकार की कोई पैसा वाला बहुत ही कम पैसा दे कर खरीद ले। तो इसकी रक्षा के लिये यह आवश्यक है कि एसाइनमेंट सिर्फ लिखित ही न हो बल्कि उसकी रजिस्ट्री भी होनी चाहिये। यदि यह संशोधन मान लिया जाये तो जिस उद्देश्य से यह बिल रखा गया है वह उद्देश्य अधिक पूरा हो सकेगा।

यहां पर कुछ मित्रों ने ऐसी बात कही जो कि कुछ प्रतिक्रियावादी सी मालूम होती है। उनका कहना है कि जनहित में यह जो पचास साल का समय रखा गया है वह ज्यादा है। लेकिन मैं निवेदन करना चाहूंगा कि इस अधिकार को पचास साल तक रखने के लिये दृष्टिकोण ही दूसरा है। जो निर्माण करते हैं, चाहे वे कवि हों, लेखक हों या कलाकार हों, वे पूंजीपति किस्म के आदमी नहीं होते। वे तो ऐसे लोग हैं कि जिनको मजदूर कहा जा सकता है, कोई कलम का मजदूर है, कोई मस्तिष्क का मजदूर है और कोई दूसरे प्रकार का मजदूर है। यह कहना कि उनको जो

[श्री ब्रजराज सिंह]

पचास साल के लिये कापीराइट दिया जाता है यह जनहित में नहीं होगा, मैं समझता हूँ कि यह गलत दृष्टिकोण है।

सरमायदारी प्रथा के अनुसार यह बात अच्छी लग सकती है कि यह बात जनहित में नहीं है कि यह अधिकार पचास साल के लिये दिया जाये, लेकिन यह भी तो देखना पड़ेगा कि यह अधिकार क्यों रखा जा रहा है। यह अधिकार उसको दिया जा रहा है जो पूंजीपति नहीं है बल्कि जो मजदूर तबके से आता है। मैं समझता हूँ कि यह जो पचास साल का समय रखा गया है इसे किसी तरह भी कम नहीं किया जाना चाहिये। लेकिन इसके साथ साथ मैं निवेदन करना चाहूँगा कि धारा २८ में यह लिखा है :—

"In the case of a Government work, where Government is the first owner of the copyright therein, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published."

जहाँ गवर्नमेंट स्वामी है वहाँ पर इस मियाद को कम किया जा सकता है और दस या बीस साल तक भी किया जा सकता है। इस मियाद को कम कर दिया जाये तो यह जनहित में होगा।

इसी तरह से धारा २९ में दिया गया है :—

"In the case of a work of an international organisation to which the provisions of section 41 apply, copyright shall subsist until fifty years from the beginning of the calendar year next following the year in which the work is first published."

अगर किसी अन्तर्राष्ट्रीय कानून के अनुसार हम इस मियाद को कम नहीं करते हैं तब तो दूसरी बात है, पर यदि कोई अन्तर्रा-

ष्ट्रीय कानून की बाधा न हो तो इसको भी कम कर दिया जाना चाहिये और ऐसा करना जनहित में होगा। ऐसा करने से जनहित की भावना और भी प्रबलतर हो जायेगी।

एक मित्र ने इसी सिलसिले में कहा है कि धारा ३१ में से निम्न लिखित शब्द निकाल दिये जायें :—

"...the Copyright Board, after giving to the owner of the Copyright in the work a reasonable opportunity of being heard and after holding such inquiry as it may deem necessary, may, if it is satisfied that the grounds for such refusal are not reasonable, direct the Registrar..."

मैं समझता हूँ कि इन शब्दों को हटाना जनहित में नहीं होगा : मैं समझता हूँ कि इन शब्दों का रहना इस बिल की भावना की रक्षा के लिये बहुत आवश्यक है। इस बिल का उद्देश्य यह मालूम होता है कि जो लेखक हैं या कवि हैं और जो समाज को नई चीज देते हैं उनकी इन चीजों की रक्षा की जानी चाहिये। तो यह कहना कि इन चीजों को जनहित में जबरदस्ती ले लिया जाये, यह उचित नहीं होगा। यह कहना कि इन शब्दों को निकाल दिया जाये उसी दृष्टिकोण का पोषक है कि एक कवि, लेखक या कलाकार भी एक सरमायेंदार की तरह ही उत्पादन करता है। परन्तु वास्तव में वह पूंजीपति नहीं है। इस बिल का दृष्टिकोण यह है कि वह व्यक्ति पैसा लगाकर कुछ पैदा नहीं करता बल्कि अपना मस्तिष्क या कलम लगाकर कुछ पैदा करता है। इसलिये इन शब्दों का रहना इस बिल की भावना की रक्षा के लिये आवश्यक है। मैं समझता हूँ कि इन शब्दों को इसमें से नहीं हटाया जाना चाहिये। जहाँ मैं इस बिल की भावनाओं का आदर करता हूँ वहाँ मैं अपने मित्र

श्री डी० सी० शर्मा की इस राय का स्वागत करता हूँ कि इस कानून को नौकरशाही द्वारा कार्यान्वित नहीं कराया जाना चाहिये। इसके लिये बोर्ड आदि बनाने की मैं आवश्यकता नहीं समझता। इसको कार्यान्वित करने का काम हम विभिन्न प्रदेशों के हाईकोर्टों पर छोड़ दें तो मैं समझता हूँ कि काम चल सकता है और बोर्ड आदि बनाने की आवश्यकता नहीं है।

साथ ही जो लेखक या कवि या कलाकार समाचारपत्रों में, दूसरी फर्मों में या संस्थाओं में बेतन पर काम करते हैं उनकी कृति का भी समाचार पत्र या फर्म या संस्था को स्वामी बना देना, मैं समझता हूँ कि कलाकार के साथ उचित न्याय करना नहीं होगा। मैं समझता हूँ कि इस बिल के द्वारा मिनिस्टर महोदय का यह उद्देश्य है कि लेखकों और कवियों आदि को अधिक से अधिक फायदा पहुंचाये। इस बिल की भावनाओं की उचित रूप से रक्षा तभी हो सकती है जब कि उसका प्रथम स्वामी हम समाचारपत्र, फर्म या संस्था को न बना कर लेखक, कवि या कलाकार को ही बनावें।

इन शब्दों के साथ मैं इस बिल का सम्मिश्रित भावना के साथ स्वागत करता हूँ और आशा करता हूँ कि मंत्री महोदय इन संशोधनों को स्वीकार कर लेंगे।

**Mr. Deputy-Speaker:** I have to inform the House that the recommendation of the President under Article 117(3) of the Constitution for the consideration of the Copyright Bill, 1957 by Lok Sabha has been received. This is the communication.

“The President, having been informed of the subject matter of the Copyright Bill, 1957, as passed by the Rajya Sabha, recommends, under Article 117(3) of the Constitution, the consideration of the said Bill by the Lok Sabha.”

**Dr. K. L. Shrimall:** I am very grateful to hon. Members for the general welcome they have given to this measure. As they said, Government have given very serious thought to this particular measure because, the releasing of creative energy in our country.....

**Shri Narasimhan (Krishnagiri):** Just on a point of order—I do not want to disturb—for the sake of strict procedure, are we to understand that this Bill was discussed by the Rajya Sabha without the President's recommendation?

**Mr. Deputy-Speaker:** No. That was a different recommendation by the President for consideration by the Rajya Sabha. Another is required for this House. That is what we have received.

**Dr. K. L. Shrimall:** I was saying that this Bill is of great significance because on the successful operation of this Bill will depend the measure of our success in protecting the rights of the authors, poets, painters, musicians, composers and various other persons who are engaged in creative work. It is very important to protect their rights because these are the people who raise the general intellectual and cultural standards of our society. I am personally very happy that the House as a whole has given general welcome to the changes that have been made by the Joint Committee and the Rajya Sabha. I shall now deal with some of the important points which have been raised by Members.

15.42 hrs.

[PANDIT THAKUR DAS BHARGAVA  
in the Chair]

The question was raised with regard to the terms of the copyright. That is a very controversial question, and it involves philosophical implications. Originally, as the House is aware, we did want to keep this period only for 25 years after the death of the author. I have explained to the House the reasons why, after hearing the arguments of the authors and the various

[Dr. K. L. Shrimali]

persons who are working in the field Government changed their mind. It is true that we are living in a socialist society and there must be restriction on the rights of property, whatever the property may be. And nobody will dispute or deny that copyright is a kind of property. That is accepted. But the point is we have to take into account the actual conditions under which authors are working. Are they in a position to engage themselves in creative activity and bear these restrictions at the same time? Can anybody be engaged in creative activity if all the time he is worried whether he is going to get his bread tomorrow or not and what is going to happen to his children? Authors are also human beings. They have also natural urges, they are also moved by natural instincts. They must also preserve themselves and preserve their families. For the majority of the authors, the only source of income is their writing. Therefore, I do not think we should grudge having extended this period to 50 years. As I said, originally my own view was that this should be restricted to 25 years, but I saw the force of the argument advanced by my friend Shri Masani and various organisations of authors who were interviewed by the Joint Committee.

There was another advantage in accepting the period of 50 years. As my friend, Shri Masani, has pointed out, we will fall in line with most of the countries which are signatories to the Berne Convention. If we keep 25 years and continue to remain signatories to the Berne Convention, it would mean making a discrimination against our own authors. We will, of course, have to give protection to foreign authors for a period of 50 years, but for our own authors the period would be reduced to 25 years and that would work against the interests of the authors in this country. Therefore, I hope the House would agree to this change that has been made. It will work in the general interests of the authors.

Another question has been raised with regard to the relationship between the authors and employers, and it has been said by hon. Members that the Bill is partial to employers, that it gives greater rights to the employers and denies fundamental rights to the authors. If I have to choose between the author and the employer, my sympathies are with the author; if I have to choose between the composer and the gramophone company, my sympathies are with the composer; if I have to choose between the author and the publisher, my sympathies are with the author. But we must remember the basic fact that they are interdependent. Unless we keep this in view, we shall be doing great harm to the authors themselves, to the people engaged in creative work. The author does not work in a vacuum. He has to depend on a publisher. He has sometimes to work with an employer. And after all, the law must have a moral basis. If the author is employed and during the course of his employment he writes an article and if the proprietor owns the copyright, I do not see any injustice in it. The author is already being paid for that work. Of course, if he wants to bring out a book, that is a different thing. These are questions where clash of interests comes—author *vs.* employer author *vs.* publisher etc. And we have to attempt to strike a balance between these varying conflicting interests. The main purpose of this Bill is to guard the interests of the author, but we cannot ignore all those agencies, publishers, employers and other companies which help these authors economically and otherwise in continuing their work of creation. My plea is that we should not do anything which may seem to be in the interests of the author but which will ultimately destroy the rights of the authors themselves. After all, the employer has some interest in engaging the author. He also gives some remuneration to the author. Why should he be denied his right? We have to see these various factors which are interdependent in judging this measure.

My friend Shri D. C. Sharma has pointed out that the Bill is full of verbosity. I know that it is a very long Bill and sometimes very tiring, but we had to take into account the various factors which are inter-related with regard to creative activities. I shall be very happy if he could point out how we can make it less verbose. I can only assure the House that I shall only be too happy to amend the Bill, when the opportunity arises, and I feel that the Bill needs some amendment. After all, we always learn by experience, and in this particular measure, I am most anxious that the creative genius must be protected. If we find at any stage that it is working against the interests of the creative genius, I shall come forward with an amendment, and I shall request the House to make the necessary changes.

A question has been raised with regard to the licensing of translation. It is true that in the original Bill, since the term of the copyright was 25 years, the translation was coterminous. The Joint Committee made it ten years, and suggested that after a period of ten years, the work would go into public domain. There was a good deal of criticism over this, and I found that there was some force in this criticism. By taking the work into public domain after a period of ten years, the author was completely denied of the right of all royalties and compensations. It is true that in our country we should not allow the authors to create barriers in the path of communication of thoughts and ideas. That would be wrong, particularly in our country, where we have so many languages.

In order that we might go into an integrated community, this kind of social intercourse through interchange and flow of ideas must continue regularly. It would be a great mistake if any author were allowed to say 'Since I am the author, this book could

not be translated'. So, we have made provision for compulsory licence. That is necessary in the interests of the public. That is necessary also in the interests of our society. But, at the same time, let the author have his compensation and royalties. It was with that view that we made that provision.

Sir, you yourself had drawn my attention to some points. But I do wish to submit that in this measure we have attempted to bring the provisions in line with the Berne Convention and the Universal Copyright Convention. Of course, wherever the situation needed some special changes, we did make those changes. But our main aim has been to bring this measure in line with the Berne Convention and the Universal Copyright Convention. We need social intercourse and communication of ideas between one part of the country and another in our own country, but we also need, for the sake of world peace, free flow of ideas and exchange of thoughts between one country and another, for communication of thought must continue if world peace has to be established.

So, we have to look at this measure with that broad perspective. My submission is that by making these changes and by making these amendments we have brought this in line with the Berne Convention and the Universal Copyright Convention.

I hope that the House will accept this Bill.

**Mr. Chairman:** The question is:

"That the Bill to amend and consolidate the law relating to copyright, as passed by Rajya Sabha, be taken into consideration."

*The motion was adopted.*

**Mr. Chairman:** We shall now take up the clauses. Only one amendment has been tabled so far, and that is to clause 65. There is no amendment to any of the other clauses. So I shall

[Mr. Chairman]

put clause 2 to 64 first to the vote of the House.

The question is:

"That clauses 2 to 64 stand part of the Bill".

*The motion was adopted.*

*Clauses 2 to 64 were added to the Bill*

**Mr. Chairman:** Now, I come to clause 65. There is an amendment to this clause, tabled by Shri Goray. But the hon. Member is not present in the House.

The question is:

"That clause 65 stand part of the Bill".

*The motion was adopted.*

Clause 65 was added to the Bill.

*Clauses 66 to 79 were added to the Bill.*

*Clause I, the Enacting Formula and the Title were added to the Bill.*

**Dr. K. L. Shrimali:** I would like to express my heartfelt gratitude to the House and to the Members who worked with me in the Joint Committee in preparing this measure. I am very grateful to the House for the co-operation and the warm welcome it has offered to us.

I beg to move:

"That the Bill be passed."

**Mr. Chairman:** The question is:

"That the Bill be passed."

*The motion was adopted.*

**Mr. Chairman:** The House will now stand adjourned and meet again at 11 a.m. tomorrow.

**Shri S. M. Banerjee:** What about the Central Sales Tax (Amendment) Bill?

**Mr. Chairman:** That will be coming up tomorrow.

15:58 hrs.

*The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, the 28th May, 1957.*