

**Shri Kamath (Hoshangabad):** We can extend the duration of the sitting from next week onwards.

**Mr. Speaker:** We will carry on from 11 to 5 during the first week. We have enjoyed a holiday and therefore, in continuation of the holiday, one is not likely to enjoy sitting for a longer number of hours together. From next week, we will sit from 11 to 6.

**The Minister of Works, Housing and Supply (Sardar Swaran Singh):** We can sit from 10-30 to 5-30.

**Shri Dabhi (Kaira North):** We can sit from 11 to 6 so that some of us can finish the meals and come.

**Mr. Speaker:** Yes; I thought as much. So for the whole of this week, we will sit from 11 to 5 and try to finish off the work in order to take up the work that awaits us further. During this week, therefore, we will sit from 11 to 5 and from next week we will sit from 11 to 6.

**Shri U. M. Trivedi (Chittor):** You had promised last time that if a holiday occurs during a week, that will be made up by holding a sitting on the Saturday following. But supposing some more holidays creep in, that is to say, if an additional holiday is declared, what is the position?

**Mr. Speaker:** It has always been the practice to have a sitting on Saturday when a holiday intervenes in the course of any week. Otherwise, we do not sit on Saturdays.

**Shri U. M. Trivedi:** That is all right so far as the sittings which we have already fixed. But supposing there is a new holiday, say Tilak Jayanti, which is declared, and supposing that holiday occurs in a week where there is already a holiday, how will we have one day more to make up for such a holiday?

**Mr. Speaker:** We do not naturally have two Saturdays in a week. In a week, there can be only one Saturday. So, whatever be the number of holidays in a week, we can only sit on

the Saturday of the concerned week in lieu of the holidays.

#### COPYRIGHT BILL—contd.

**Dr. Rama Rao (Kakinada):** Mr. Speaker, Sir, I welcome this Bill because the intention is to protect the rights of writers on the one hand and of the reading public on the other. There are many defects in the Bill which I am sure the Joint Committee will remedy. I am going to point out only one or two of them. Meanwhile, I want to say that the writers belong to one of the most unfortunate sections of the public. Many people, with very few exceptions have to struggle hard in their lives.

The copyright has been mostly used for the benefit of the publishers and the poor writer very often sells out the copyright for a small sum. You know that the works of the famous Bengali writer, Sarat Chatterjee, have been translated into many languages; but, he has sold out his copyright for a very small amount.

The intention of the Bill is to protect the rights of writers, but I do not think it can serve that purpose unless the State comes into the picture in a bolder way. Since our object is to have a socialist pattern, I think the Central Government and the State Governments should take up the business of publication of books in the various languages. The State can give a decent royalty to the writer and publish books at reasonable prices. This will help the reading public also. In ancient days, there was no copyright. Education was free; publication was free; everything was free and writers were patronised by rulers. Now the State has to take up that business and publish books on its own. I hope the Government will extend its Publications Division so as to include some more languages and help the writers to have a decent living and encourage them in their work.

Secondly, it is a welcome sign to know that there will be a greater demand amongst the public for books.

[Dr. Rama Rao]

Unfortunately, our book industry at present is in a very poor and disorganised conditions. It requires to be organised much better, which in its turn requires more money. Therefore, State publications on a commercial scale will improve the organisation of the book industry. In my own language, Telugu, there is a great demand for children's books as well as adults' books; but, unfortunately, the general standard of books available is very low. So, the State should take up the publication of books to some extent at least, if not exclusively and supply decent books at fair prices. In this connection, I want to mention about text-books in particular. After the school final stage, all text-books must be the monopoly of the State Governments mostly and if necessary the Central Government also. It has now become a racket to pay something to the writers, publish books and sell them at exorbitant prices. They somehow manage to get permits—I do not want to go into that question—but, the fact remains that there is a racket all over the country and huge profits are made on this. So, the Central Government can show the way to the State Governments in publishing text-books. Even if books are written by officers in the employ of the State, suitable remuneration can be paid to them.

As regards royalties and other benefits to be given to the writers, my suggestion is that the final decision must be in the hands of the Government. It looks as though this is against the interests of the writers, but in ultimate analysis, it will be much better than the present position. The State should always protect the rights and privileges and also the remuneration of writers by publishing books and paying a decent percentage of royalty.

I will deal with one or two more points. In Chapter V, clause 20, the term of copyright is proposed to be fixed at 25 years from the death of the writer. I think that this period is too

long. I would like it to be 25 years from the time of the publication of the book. Secondly, I would suggest that when the beneficiary is a public institution, this limit must be done away with completely. You know that the famous Andhra social reformer Veeresalingam Pantulu wrote a number of books, which are the main sources of income for the institutions which he started. During his lifetime also he maintained the institutions which he started with the income from his books. At present institutions like the Widows' Home, Town Hall and a high school started by him run with the money got as copyright for his books. It is more than 38 years since he died, but still the copyright money is coming. If we limit the term of the copyright to 25 years, these institutions will suffer. I am sure it is not the intention of the Government to deprive public institutions of such benefits. Therefore, public institutions must be exempted from this provision.

Clause 31 deals with the fees to be paid for translation. I will read it:

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

I agree with the first portion that there must be a deposit of 10 per cent of the proposed price of 1,000 copies. But, to say that he should deposit Rs. 1,000 for translating a book is too much for our language publications to bear. For instance, if a man wants to translate a book from Marathi or Bengali into Tamil or Telugu, it is very difficult for him to deposit Rs. 1,000. The words "whichever is greater" show that the minimum deposit is Rs. 1,000. Unfortunately, the number of copies of books in the various languages sold at

present is still very low and a deposit of Rs. 1,000 is too much. I am sure the Committee will go into the matter and rectify this.

I welcome the clause which provides that in cases where a book is withdrawn from circulation, the Government have the authority to authorise its publication by somebody else. I know of a certain book published by an American author about China. It was written in 1937 and revised in 1947; but, that book was withdrawn from circulation because it spoke in good terms about the Chinese leaders. I would very much like that some Indian publisher should be enabled to publish that book.

Generally I welcome this Bill. But unless the Government takes much bolder steps by publishing text-books as well as general books in the various Indian languages, much good will not be done to the writers. I support the Bill as far as it goes.

**Shri N. C. Chatterjee** (Hooghly): Mr. Speaker, I welcome this Bill. As a matter of fact, the existing law relating to copyright in India is an anachronism. It is high time that in Independent India, we should put our law in proper order. You know, Sir, that the Indian Copyright Act of 1914 was only an amending Act. It was enacted at a time when India was a British possession. Under that Act, the British Copyright Act of 1911 as passed by the U.K. Parliament was made the law of India with certain modifications and adaptations. Therefore, the law today in India is practically the Imperial Copyright Act of 1911. It simply says that the Copyright Act in India shall be the British statute of Parliament of 1911 and that shall apply to India with certain modifications as specified in section 3. It is certainly a matter of regret that no attempt was made in the past four decades in India to bring our law into line with modern technical and scientific development. The law of Copyright is certainly overdue. We became a republic on 26th January, 1950. The

continued application of the Imperial statute of 1911 presented a curious anomaly that we have to acquire our copyright through a British statute. The British Act of 1911 applied to British Dominions and British possessions. Strictly speaking, according to section 1 sub-section (1) of the British Act of 1911, copyright subsisted throughout His Majesty's Dominions in the case of a work when that work was published within any part of His Majesty's Dominions. That section cannot fit in with our constitutional set up. Under that section, a work which was first published in the Republic of India is not entitled to copyright protection. It is a very peculiar position, though it would be entitled to such protection if it had been published before 26th January, 1950 when India was a British dependency or possession. That is an anomaly which was not contemplated. It must be ended.

Another amazing feature was, as the Republic is no longer a British Dominion, if an author wants to acquire copyright in the case of his unpublished work, he must be a resident of Pakistan or in some other British possession to which the British Copyright Act applies. That anachronism must be removed. I am happy that this Bill will once for all remove that anomaly.

There are certain features which, as my learned friend just now pointed out, are quite good. Particularly, I like the shortening of the period. I think that is an innovation which ought to be welcome. In the present law, it is the life time of the author plus 50 years thereafter. We are reducing that to the life time of the author plus 25 years except in certain cases. I think that is a good step. Shorter terms are provided for anonymous works, mechanical contrivances and so on. Possibly the list will have to be amplified. But, I welcome this Bill.

I also welcome the change in the law regarding translation. I also support my learned friend's suggestion that

[Shri N. C. Chatterjee]

there should not be this almost compulsory demand of Rs 1,000 in the case of a licence for translation. The draft Bill makes the right of translation so extensive with other rights to come out of copyright. That is also a proper provision.

There is one thing that I would ask the hon. Minister to carefully analyse and consider. I ask this Parliament to consider this matter. Are you legislating for the purpose of protecting the authors or are you legislating for the purpose of denying them protection? If you are trying to give protection, then you are making it illusory because you are putting in a provision which cuts at the very root of protection. I do not know if you have got the Statement of Objects and Reasons. It contains something which is a bold departure from our notions of the copyright law. In the Statement of Objects and Reasons signed by Maulana Azad, the following statement is found:

"In order to encourage registration of copyrights, provision is made that no proceeding regarding infringement of copyright shall be instituted unless the copyright is registered in the Copyright Office."

This is an amazing provision. I ask this Parliament seriously to consider whether there should be any such law. This is not like a patent. In a patent you have registration and unless you do that you cannot go to a court of law and say, my patent has been infringed, because some kind of inventive faculty had been actually employed. No person can have any monopoly of knowledge, no monopoly in ideas. As has been observed by Lord Atkinson in *Macmillan and Co. versus Cooper*, the law provided protection to the expression of ideas. He says:

"It is the product of the labour, skill and capital of one man which must not be appropriated by another, not the elements, the raw materials, if one may use the expression, upon which the labour

and skill and capital of the first have been expended.

It is a negative right to prevent the appropriation of the labours of one author by another person."

Supposing a college teacher or lecturer in Economics getting a poor salary of Rs. 150 or 200 in this country, publishes a book on Economics, say, in Madras or in Mysore and that book is pirated and put through by a rich publishing company in Delhi, Calcutta or Bombay, that poor teacher cannot go to a court of law and get any right. It is an amazing proposition. I would ask the hon. Minister seriously to consider this and tell us why he has put in this kind of thing.

Mr. Speaker: What is the meaning of copyright. Copyright is universal copyright and national copyright. Are they not registered?

Shri N. C. Chatterjee: What I am pointing out is that every author of a book has got a copyright in his book. If that book is pirated, he can go to a court of law and get damages or an injunction or an order of forfeiture of the pirated copies. He cannot do that now.

Mr. Speaker: Why is it registered?

Shri N. C. Chatterjee: I am saying that there should not be any law of compulsory registration. You should not make registration a condition precedent to the accrual of the right.

Mr. Speaker: What is the condition of registration?

Shri N. C. Chatterjee: You may say that there may be certain *prima facie* evidence. You need not prove that you are the author of the book. Possibly you may put in a thing like that. But, you should not make it absolutely compulsory in every case. If you look at Chapter XII, Civil Remedies, which is most important, clause 57 says:

"(1) Where copyright in any work has been infringed, the

owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damage, accounts and otherwise as are or may be conferred by law for the infringement of a right."

Today, if anybody writes a book and that book is pirated, or if a professor writes an article and contributes it to a paper and that paper is pirated, he can go to a court of law and sue for an injunction, or ask for damages or ask for accounts in respect of money made by the improper use or by the theft of the work and so on. Look at clause 65(2). I am respectfully pointing out for the consideration of my colleagues that this clause is making a provision which will be deterrent, which will really destroy the right. You are putting these poor authors under a great handicap. It says:

"No such suit or other proceeding regarding infringement of copyright in any work shall, after the commencement of this Act be entertained unless the copyright is registered with the Registrar of Copyrights under this Act."

Therefore, you are making it compulsory that unless you register, you cannot file any suit; you cannot file any action, you cannot institute any proceedings regarding infringement of copyright. So far as I know, this was the law in England under the copyright Act of 1843.

**Mr. Speaker:** What is the meaning of clause 65(1)? Can there be suits arising outside this chapter?

**Shri N. C. Chatterjee:** I do not think there can be any. The special procedure is prescribed, a suit to be filed in the district court.

**Mr. Speaker:** That is so far as matters for which provision is made in this Chapter. Sub-clause (2) relates to only such suits.

**Shri N. C. Chatterjee:** Or other proceedings.

**Mr. Speaker:** In sub-clause (1) "suit or other proceeding" will mean

only those which can be filed under this Chapter.

**Shri N. C. Chatterjee:** You can just imagine that the old Copyright Act has gone and this is the law with regard to copyright. Please look at clause 57. It says:

"Where copyright in any work has been infringed, the owner of the copyright shall, except as otherwise provided by this Act, be entitled to all such remedies by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right."

Then, they say in clause 65:

"Every suit or other civil proceeding arising under this Chapter in respect of the infringement of the copyright in any work or the infringement of any other right conferred by this Act shall be instituted in the district court having jurisdiction."

Therefore, as this is a special statute and confers special privilege on certain persons and indicates the special remedy in the case of infringement of that right, it also sets up or indicates a special forum under clause 65, and you know according to the cardinal principles of the law of interpretation of statutes, it shuts out all other remedies. It says:

"No such suit or other proceeding regarding infringement of copyright in any work shall, after the commencement of this Act, be entertained unless the copyright is registered with the Registrar of Copyrights under this Act."

And Maulana Azad in his Statement of Objects and Reasons makes this perfectly clear. He has clearly stated the intention of the Government in page 31:

"In order to encourage registration of copyrights, provision is made that no proceeding regarding infringement of copyright shall be instituted unless the copyright is registered in the Copyright Office."

[Shri N. C. Chatterjee]

Please also look at the notes on clauses, page 37 clauses 46 to 52, which are the clauses which deal with registration and so on. There, they are saying:

"Under the existing law there is no provision for the registration of copyright. A provision has now been made for optional registration of copyright. Such registration will furnish useful information to interested members of the public. In order to encourage voluntary registration of copyright, it has been provided that no proceedings for infringement of copyright shall be entertained unless the copyright is registered."

**Mr. Speaker:** It becomes compulsory.

**Shri N. C. Chatterjee:** It is really contradictory. You start by saying that you are making it optional, but you say that if you do not comply with that.

**Shri C. R. Narasimhan (Krishnagiri):** The word "voluntary" is almost a misnomer.

**Shri N. C. Chatterjee:** It is compulsory voluntary! It is said to be of law and cannot get damages or injunction or accounts or even a direction to have a forfeiture or confiscation of the pirated copies.

**Mr. Speaker:** Though it has been expressed this way—and if modification is made it will suit the purpose—possibly the intention was that a special kind of remedy is provided in case it is registered and the general law will apply in case it is not registered.

**Shri N. C. Chatterjee:** That would not be so objectionable, but so far as I can understand from the hon. Minister—I speak subject to correction—the authors of this draft statute want to make it compulsory. They will not allow any citizen or any author to go to a court of law and get any relief unless and until he can produce the registration certificate.

I am reading from the book "Copier on the law of Copyright" which is a standard book in the world. He has pointed out that this was an old, feudal, medieval method that unless you register you will not be allowed to go to a court of law. He has pointed out that law has been outmoded and has been put on a civilised basis:

"Under the Literary Copyright Act, 1842, it was necessary that the plaintiff should have registered his title at Stationers' Hall prior to issuing his writ."

In England they start action by issuing a writ and therefore they said you cannot go to a court of law unless and until there is a prior registration of your title as the author at the Stationers' Hall. He is pointing out there is no necessity for any registration under the present British Act, and it has been held that only if you are thinking of some right when the Literary Copyright Act was in operation you must produce the registration, otherwise not. And I think what England did was the proper thing to do. There may be some countries which may have got some law for compulsory registration, but I do not think we should have it. A large number of authors have approached us and pointed out that if you make it so, it will be very difficult for them.

**Shri Raghavachari (Penukonda):** Can it not be suggested that it is open to an author not to have any rights at all? Therefore, he need not have it registered. If he has no objection to anybody publishing it, there is no need for him to register at all. It is only when he wants to protect his right that registration is necessary and in such cases only he can go to a court.

**Mr. Speaker:** Shri Chatterjee is submitting to the House that it is an inherent right of every person who has spent labour and skill on a particular object that no other man should take advantage of it and try to copy it. It is a common law right. He does not want it to be restricted to those cases where it is registered.

**Shri Raghavachari:** Therefore, it is certainly open to a man who has invested labour and all that on the production to desire to register or not?

**Mr. Speaker:** All that he says is that it ought not to be obligatory on him to get it registered.

**Shri Raghavachari:** If he wants to make it free?

**Mr. Speaker:** I am afraid he is misunderstood. Merely because it is not registered, it does not mean he has no right. In England and other countries, and even under our present law, without registration he has got a right. Why do you take it away from him?

**Shri Tek Chand (Ambala-Simla):** It is his property.

**Shri N. C. Chatterjee:** I am respectfully pointing out that the moral basis on which the protective provision rests, I am quoting from an English text-book, is the Eighth Commandment: "Thou shall not steal". That is really the copyright law that thou shall not steal my property. I am submitting copyright is my property. If I have written a book on history or jurisprudence or whatever it is, I am the author. If you steal it, I need not register and yet say that I am the owner. Under this Bill before I can avail of the ordinary citizen's right to go to a court of law and get injunction, I must register the book or article.

What are you doing here? Under clause 47 you can register. There is provision for entries in the Register of Copyrights:

"The author or publisher of, or the owner of, or other person interested in, the copyright in any work may make an application in the prescribed form accompanied by the prescribed fee to the Registrar of Copyrights for entering particulars of the work in the Register of Copyrights.

(2) On receipt of an application in respect of any work under sub-section (1), the Registrar of Copyrights may, after holding such

inquiry as he may deem fit, enter the particulars of the work in the Register of Copyrights."

Therefore, he will hold some enquiry which will be entirely left to his option. I do not know how far it is desirable to leave it to his option without prescribing any standards or canons or any rules or any other conditions limiting his discretion. Then, if he refuses you have to go to a High Court. I am submitting this is all very difficult. In England they had something like this. They had repealed it. We are copying that English law. We should not put the hand of the clock back and go back to the 1842 statute of England or anything like that. So far as I know, the Canadian law does not make any such provision. They have prescribed the life of the author plus fifty years, but there is no question of registration. There, the author can go to a court of law without registration. The same is the position in other Dominions also.

With respect to our international obligations, I think that something should be done. I find that some provision has been made in order to square up our law in conformity with the conventions. I would like to have a little more information from the Minister regarding the latest Universal Rights Declaration or something like that under the UNESCO, where something has been done with regard to copyright, and on which there was a good deal of discussion. He has been good enough to supply us with a bibliography which is useful, and I find there is mention of this kind of convention there. I know there was the Berne Convention. There was the Rome Convention, and there has been recently some discussion with regard to that. The Minister also has referred to some convention.

I hope that these conventions are being taken into account and international copyright relations will be regulated by suitable provisions so as to conform to the general desire expressed in these international conventions.

[Shri N. C. Chatterjee]

That is all that I want to point out. I hope the Joint Committee will improve this Bill. But I am strongly objecting to this provision in the Bill which says that no proceedings regarding infringement of copyright shall be instituted in India unless the author or the person interested can produce a certificate of registration. This is a retrograde provision, and I submit that this will make the protection illusory and put undue impediment and handicap on poor authors and writers.

**Shri Tek Chand:** While welcoming this measure, I endorse all the arguments employed by the two distinguished speakers who preceded me, except that I do not find myself *ad idem* with those observations of the preceding speaker, wherein he says that the period of *post mortem* copyright is too long. I feel that the copyright, as we all know, is a species of property. It is a right of ownership. Just as one owns a tangible property, copyright is ownership over a right, over something intangible but nevertheless very valuable.

It is curious that in the case of an author, you tell him, 'You cease to be the owner of your property, or your issue ceases to be the owner of your property on the termination of 25 years from your death', but to anybody else, let us say, operating upon the stock exchange or let us say, gambling on the horse race turf, you say, 'whatever you obtain as a stroke of luck, as a result of some reckless gamble, is yours for all times to come, from generation to generation, subject to death duty, of course. But if a hard-working author who has been studying and labouring brings out, after the repeatedly denied recognitions, something whereby he can eke out an existence, or he can live in comfort, you tell him that 'So far as your property is concerned, it may be enjoyed by you during your lifetime, but the fruit of your labour will be denied to your children after 25 years of your death.' I feel that this

reduction of period from 50 years to 25 years after the death of the author is not a very good step, so long as you maintain complete ownership over all sorts of properties that may be the subject-matter of an individual acquisition.

There are unearned incomes, very often there are riches which one gets overnight, without any labour, without any contribution, without any study. But the author is a man who does hard work. And one never knows when he may receive recognition, at all. If towards the end of his years, he does receive some recognition, some work of his receives a belated public recognition, you tell him, 'Your days may be numbered, but your children or your children's children are going to receive the benefit of your efforts, intellectual efforts, for a stated period of 25 years and no more'. This is an anomaly, which to my mind is hardly comprehensible.

Regarding law of registration, the way it is worded is going to cause considerable hardship upon an author. It may be that an author, because of poverty, or because he himself considers that his work may not be of that merit, does not seek registration. Nevertheless, his work does not cease to be his. He does not cease to have *dominium* over his property; the property is his.

**Shri Veeraswamy** (Mayuram—Aeserved—Sch. Castes): On a point of order. There is no quorum in the House.

**Mr. Speaker:** It is now nearing one o'clock. Hon. Members have gone out for lunch. So, let us not be particular about quorum.

**Shri Tek Chand:** It is dejecting for an author that you compel him that he must get his work registered, and if he does not get his work registered, then you are sanctioning theft. That is to say, the principle of jurisprudence that you are honouring today is that theft in this country is justified, except in the case of an owner

of stolen property, who happens to have got himself registered. If a person owns a property—and copyright is a form of property—then the law of every civilised country gives protection to that owner against theft.

**Dr. M. M. Das:** But how is the property acquired?

**Shri Tek Chand:** So far as copyright is concerned, the acquisition lies in the parenthood. If my hon. friend the Minister writes a book, then that book is his intellectual child begotten by his brain, and there is no reason why he should be deprived of that child of his, on pain of not being registered or there being no *naam-samskar* of that author. It is a curious position. What you virtually say is this, namely that the law of copyright is no doubt a law against theft, it is a law against plagiarism—the law is that one must not plagiarise somebody else's intellectual goods—and thereby you extend protection, but you also compel him to register and say 'Our law will permit theft, unless of course you take the trouble of getting yourself registered or your work registered. I submit that it is an unjust law and a harsh law, unknown to any cardinal canons of jurisprudence.

1 P.M.

Then again, I can understand that if the work is registered, you might provide for such a person certain summary remedy. But registration of a copyright should be almost like registration of a will. Nobody is compelled to register his own will. Nevertheless, you may, with a view to avoid certain complications as to the identity of the testator, as to the identity of the attesting witnesses, provide for registration, a sort of optional, voluntary act whereby certain advantages may be secured. That sort of registration for purposes of copyright which the existing law today visualises is understandable. But placing further restrictions is a hardship which is not mitigated by any corresponding advantage.

Apart from this, there is one lacuna that I notice in the copyright law of

our country. Strictly perhaps that omission may be considered to be so deliberately because that is not exactly connected with the copyright law. What I wish to say is this, that the object of copyright law should also be to give a certain impetus and encouragement to the authors, and to the literate people to get book-minded in order to encourage the habit of book-reading. That is one of the principal objects, implied certainly, though not expressly, of copyright law. Therefore, copyright law or some allied piece of legislation will not conduce to encouragement of book-reading unless there is a provision that every author must make a present of three, four, five, six or eight copies to the Central Government. The result of that will be that if you provide such a provision today, that every author must make a present of half a dozen copies, you are laying down today the foundation of half a dozen libraries. The advantage of such a provision will be tremendous when visualised fifteen or twenty years from now.

**Dr. M. M. Das:** That provision is already there.

**Shri Tek Chand:** That is hardly effective. And where are those libraries? According to the existing provision, even something is to be contributed. Do those books that are contributed to the Centre provide food for the worms? Where are they? Where is the Central library wherefrom people can get a copy of the books which are supposed to be housed there? This is a provision—I am only making a suggestion—worthy of consideration and closer scrutiny.

This is a very welcome measure and I am happy that the Government have considered it appropriate to have a consolidated law for this country.

There were certain observations made regarding the text-book racket. I happen to be in agreement with those observations. What is happening in our educational institutions is that somebody who has some sort of pull or influence with the text-book committee of a particular University gets

[Shri Tek Chand]

his own book prescribed. Pray what is his own book? Not any particular authorship of his own, but, let us say, a selection of essays written by different people or a selection of poems composed by different people. Nevertheless there is a stamp of his fatherhood, because he happens to have selected them, whereby anybody else incorporating exactly the same sets of essays or poems is debarred because of the copyright. Therefore, you should see that copyright is recognised in works of original merit, to which the author has really made a genuine contribution and not where his contribution happens to be a mere collection of other people's works.

With these observations, I am very happy to associate myself with the motion for reference of this Bill to a Joint Committee.

**Shri Shree Narayan Das** (Darbhanga Central): The Bill which is going to be referred to a Joint Committee is a welcome measure. As Shri N. C. Chatterjee has said, nine years have passed since independence and we have not been able so far to have a separate, independent enactment for the regulation of copyright in our country. The existing Act is an Act passed by the U.K. Government, which has been adopted for our purpose for the time being. The comprehensive measure that has been brought forward and that is going to be referred to a Joint Committee, contains much that goes for improvement.

My hon. friends, Dr. Rama Rao and Shri N. C. Chatterjee, suggested that the provision reducing the term of the copyright from 50 to 25 years is welcome. I do not think so. Just as we have been in our country protecting physical property, in the form of land and other things, intellectual property has not been protected so far. In spite of the provisions of the Act that are applicable to our country, authors have been exploited by publishers in a very great measure. The poor authors are not themselves able to publish their books and they go from publisher to publisher. And the publisher

knowing full well that the work that has been put forward by the author is one that will bring forth income still bargains with him. Thereby, the publishers are not giving encouragement to the authors. Therefore, it is in the fitness of things that we sitting here as Members of Parliament should give adequate protection to the intellectuals who are able to produce valuable works of literature, art, music and other things, so that they may be encouraged to produce more valuable works. If sufficient protection is not given to such authors and artists, I think the society will lose because there will be no incentive for the authors to put in hard labour to produce good works.

While moving this Motion, the Deputy Minister did not point out the basis on which he was going to reduce the period of copyright from lifetime of the author plus 50 years to lifetime plus 25 years. In different countries, different standards have been set. But here in India, so far authors have been exploited, and are being exploited even now, by the publishers. Therefore, there must be some sound basis. I cannot put forward any scientific basis, but when the Deputy Minister was reducing this period from 50 years to 25 years, he should have indicated the basis of this reduction. I would suggest that we should not just now passing this measure reduce this period from 50 to 25 years. This should be allowed to remain as it is for the time being, and if after sometime necessity is felt for some reduction, it may be effected. I would like to point out that literary works and works of art are the property of society no doubt. And, in the socialist order that we are going to have, every property is social property and it should be utilised as such. But, so far, we have not been able to lay our hands on the different forms of property to be utilised for the good of society. So, there is no necessity to be in a hurry to reduce this period of 50 years in the case of works of art

and literature. I would, therefore, suggest to the Members of the Joint Committee to increase this period from 25 years to 50 years.

In clause 18 there is a provision for the reassignment of copyright to the author. It provides that after 7 years and not later than 10 years the author may, after making the necessary payment with interest, get back the copyright. That will happen after the passing of this Act. I would like to suggest that this right should accrue also to those persons who have already entered into agreements with some publishers. Supposing previous to the enforcement of this Act an author has entered into an agreement with a publisher and the book is valuable and the publisher has earned a huge amount, the author should be at liberty to cancel the assessment before 10 years. I would, therefore, suggest that the Joint Committee will bear this in mind and give retrospective effect to the provisions of this clause so that those who have already entered into an agreement also may benefit.

With regard to registration of assignment, clause 19 reads:

"No assignment or reassignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or the person making the reassignment, as the case may be, or by his duly authorised agent."

I would suggest that this assignment or reassignment should also be registered so that there may be no complication. Assignment is also a question of dispute.

It is said in clause 21, proviso:

"Provided that where the identity of the author in question is disclosed publicly by both the author and the publisher or is otherwise established to the satisfaction of the Copyright Board by that author, before the expiry of the said period, the term for which the copyright shall subsist shall be as provided in section 20."

Here it is said that the copyright will expire just after 25 years from the death of the first author. I would like to suggest that this term should be allowed to be in operation after the death of the last surviving author. I think that will be an improvement.

Then, with regard to registration itself in the Statement of Objects and Reasons it has been suggested that the provision of registration which was optional is going to be made compulsory. I think this provision, 65(2), should be modified suitably so that registration should not be made compulsory. There must be some provision to indicate that such registration will not be necessary in cases of suits and other proceedings regarding infringement of copyright.

After the passing of this Act there will be a Copyright Office, a Registrar and a Copyright Board. I think this is a welcome provision. But, with regard to the membership of the Board, I would like to suggest that as there are different types of works, literary etc., the number of members should be more than 4, including the Chairman, as is prescribed. The number of members should be at least 7 so that different subjects might be represented. As per clause 10, there will be one Chairman, 3 other members and one Registrar. I would like to suggest that there should be one Chairman, one Registrar *ex-officio* and 5 other members so that every subject may be represented.

These are some of my suggestions, which I would like the Joint Committee to take into consideration. This measure was long overdue and as much protection as possible should be given to the intellectual property which is acquired after hard labour, sometimes after years. Sometimes one author is able to produce only one important work throughout his life. That should be safeguarded in every possible way so that others may follow and produce good and valuable works.

With these words I support the motion

**Dr. M. M. Das:** During the short period of time that was allowed for the discussion of my motion, a number of speakers have spoken. Hon. Members who have taken part in this debate represent a fair cross-section of this House, representing as they do different political parties. Therefore it can be said without any fear of contradiction that from their speeches we have a fair idea of the direction in which the minds of the hon. Members are working about this measure.

Many important issues have been raised by hon. Members and some very valuable suggestions have been offered. I have not the slightest doubt in my mind that the Joint Committee to which this Bill is being referred, will give due and adequate consideration to the criticisms and suggestions that have been made on the floor of this House. There can be no doubt that the Joint Committee will be guided in their deliberations and their task will be made much easier by the suggestions offered by hon. Members on the floor of this House. The Bill about which the present motion has been moved is of great importance. The importance lies in the fact that the provisions of the Bill deal with the most powerful section of our community, namely, the writers and authors. The writers, the thinkers, the master minds that think ahead of the times and guide the nation in times of stress and strain have great influence upon the intellectual section of the community. The pen, they say, is mightier than the sword, and history tells us that the greatest revolutions of the world have been made by men not wielding the sword but by men wielding the pen. The greatest empires of the world have been built in the intellectual domain of mankind. They have been based on the moral supremacy or rather on the intellectual supremacy of nations and of persons and not upon brute force. The writers and thinkers and artists have got different approaches to the human mind. The writers and thinkers appeal to the intellect, whereas the artists and sculptors and musicians appeal to the finer and

softer sentiments of the man. The former appeals to the head while the latter appeals to the heart. Moreover, the honour and prestige of a nation and the rightful place that a nation can hope to occupy in the comity of nations is largely determined by her thinkers, writers, and artists. No nation or government therefore, can afford to neglect the rights and interests of her authors and artists without endangering her own position and without jeopardising her own cause.

The copyright laws seek to protect the interests of the writers and artists. The Joint Committee to which this Bill is sought to be referred will have a very tough job and a complex job to perform. The difficulty of the Joint Committee will be due to two reasons. Firstly, the Bill is important not only within the boundaries of this country but it is important outside also. The provisions of the Bill have to deal not only with authors and artists of India but also of foreign countries. Every year we import books worth more than a crore of rupees. Last year we imported books worth about Rs. 1,14,00,000. The authors of these books, who belong to foreign nations, are vitally interested in the copyright laws that are going to be passed. They are vitally concerned with this legislation. The second difficulty that the Joint Committee will have to face is due to the technical and complex nature of the Bill, due to the development in the technical field relating to copyright in recent years. The field and scope of copyright laws have been increased many times. A copyright legislation must be able to cover all the different fields of copyright. The necessity of copyright was first felt when the printing press was invented. The copyright laws were applied to written matters, I mean, printed matters only, but with the developments in the technical field, they are now applied to other fields, namely, radio, television, gramophone records and many other methods of mechanical reproduction. As has been pointed out by my hon. friend, Shri Chatterjee, the copyright law is based on two funda-

mental principles. One has been elaborated by the distinguished lawyer, Shri Chatterjee, namely, "thou shalt not steal others' property." There is another fundamental principle upon which copyright laws are based and that is the recognition of the intellectual property right of man.

Literature or a work of art is a product of the intellectual labour of its author, and the State should see that the author and the artist are not unduly deprived of the fruits of their labour. I may mention here one particular point. Copyright subsists not in the ideas but in the expressions. The ideas have got no copyright but the arrangement of words, and the exact language in which those ideas are expressed by the author have got copyright. In other words, the ideas can be stolen but not the language and the arrangement of words or the expression of the author.

I was trying to impress upon this honourable House the difficulties that the Joint Committee will have to face when considering the individual provisions of the Bill. I have said that the scope and field of the Copyright Laws have increased many times during recent years due to the development in the technical field. Copyright laws started with the sole purpose of preventing copying of books, but now they extend to many other fields. In addition to books and printed matter, copyright today extends to public performance of the work of authors such as the recitation of a poem or the performance of a dramatic work in a public place or amplifying the music of a record for the enjoyment of the general public, as we often see on festive occasions. Secondly, there is the translation of a work in other languages. Thirdly, the conversion of a novel into a drama and vice versa. Fourthly, the reproduction of a work in a material form, that is, through the media of hearing and vision, for instance, the preparation of gramophone records, the preparation of cinema films of novels, or a drama broadcast by radio and by television, which is coming shortly to our coun-

try. All these come within the field of copyright.

**Shri V. M. Trivedi:** Next year?

**Dr. M. M. Das:** Not next year. There is a provision for this in the next Five Year Plan, I think. The multiplicity of the media of communication through which the work of an author can be carried to the people, such as printing press, that is, books, cinemas, public performance, radio, television, etc., has made the copyright laws of the present day every complex, and I am afraid the Joint Committee will have to deal with all these complex problems.

Next I come to the vexed question of the protection period. I find that the hon. Members of this House who have taken part in this debate are divided in their opinion on the provision about the period of protection, made in this Bill. The first speaker, Dr. Rama Rao, wants that the protection period should be reduced further from what is provided now in the Bill, whereas the other speakers are not in favour of reduction but want the original period, given in the Act that is in force in our country today, to remain, that is, 50 years after the death of the author.

I might submit to this honourable House that this period of protection is an arbitrary one. There is no hard and fast rule by which we can determine the exact period of protection that is necessary for a particular country. In fact, the period of protection accorded to copyright differs from one country to another. There are countries in the world even today where copyright protection is eternal or perpetual, that is, the period of protection never ends. In countries like Portugal, this protection is perpetual. If Kalidasa was born in Portugal, perhaps he would be enjoying the copyright of his dramas even to this day. In certain countries like Spain, the copyright period extends to eighty years, PMA—that is, after the death of the author. There are other countries where the period is sixty years. In most of the Berne convention countries—in this

[Dr. M. M. Das]

are included India, Pakistan, U.K. and some others—this period is fifty years. In USA, the copyright extends to 28 years from the first publication of the work and if the author is alive he can extend the term to another 29 years at the end of the first period. In such cases, the total period comes to 56 years. The period is the shortest in USSR—fifteen years P.M.A. i.e. after the death of the author. In our country we propose to reduce the period from fifty to 25 years after the death of the author.

Ours is an educationally backward country and the period should be lessened. Unless it is reduced the price of popular books cannot be reduced. The price of a book depends upon the cost of production plus royalty, plus profit of the publisher. So long as an author holds a copy right, he has to engage a publisher of his own; there cannot be another publisher against his wish. The price may be fixed by him in consultation with the publisher and in most cases where copyright exists, the price is too much. As soon as copyright is extinct, there is competition in the market. All publishers are permitted to publish that work and it is possible to have popular books at competitive prices. That is why Government thinks that the period of protection should be brought down from fifty years to 25 years after the death of the author.

Anyway, I think it is premature as well as to some extent prejudicial for me to enter into a threadbare discussion on the provisions of the Bill. It is being referred to the Joint Committee and the Committee will deal with these questions and take an independent decision.

Shri U. M. Trivedi: The hon. Minister explained the various provisions at great length. In the chapter headed "Offences", provision is made for imprisonment extending to six months and three months whereas in the case of infringement of an ordinary trade mark of businessmen, sections

485 and 486 of the IPC provide for an imprisonment of three and five years. Why has the Government been so solicitous in this case?

Dr. M. M. Das: According to the hon. Member, the penalty provided here is not sufficient.

Shri U. M. Trivedi: Absolutely.

Dr. M. M. Das: We can consider that matter in the Joint Committee.

Shri U. M. Trivedi: I wanted to know the reason.

Mr. Speaker: The Government may not have referred to the other provision.

Shri U. M. Trivedi: That is possible; it may have overlooked it completely.

Dr. M. M. Das: The other important point raised by Shri Chatterjee is about registration. He is of the opinion that registration should not be made compulsory for filing a case in the law courts. The provision in the Bill does not make registration compulsory. It is optional but it is the desire of the Government that every author should register his work. It has got its own advantages. In order to encourage registration, they have made this provision so that every author may register his rights with the Copyright Registrar before he goes to a law court for enforcing his rights if there is an infringement. I do not think that any additional hardship will be caused to the author by registration. Moreover, there will be some document with the Government office which will facilitate proceedings in the court.

It has been said by Shri Chatterjee that certain authors like Copinger have said that it is equal to the denial of the right. But, registration of copyright is compulsory in many countries of the world. It is in USA, Argentine, Chile, China, Columbia, Costa Rica, Venezuela, etc. The UNESCO Convention on Copyright which met in 1952 also considered this

question. The main purpose of this Convention was to bring together the two Conventions, namely, the Berne Convention about which Shri Chatterjee has spoken and the Pan American Convention. According to this UNESCO Convention also, registration has not been completely done away with. They have changed it to a less hard job. A symbol or seal indicating that copyright is claimed together with the name of the author and the year of the first publication of the work has to be printed on the first page of the book.

I have explained to this House that different countries of the world have got different periods of protection. This difference gives rise to international problems. A book of real merit or universal appeal is sure to find a lucrative market in many other countries of the world. Especially, English books have got a flourishing market outside their own country. American books are also there. So far as books are concerned, we are not an exporting country; we import large quantities of books costing over a crore every year. For these reasons it is necessary for many countries of the world to give international copyright to their own authors. This necessity has given rise to several international conventions in the field of copyright. There are three Conventions in the world today. One is the Berne Convention; the other is the Pan American Convention and the third is the UNESCO Convention. The measure and basis of protection in these three Conventions are not identical and they differ from each other. Our Joint Committee has to find as to what is the best way of dealing with the foreign authors at the same time ensuring our own interests and the interests of our writers.

Now I come to the machinery that has been proposed to be set up to deal with matters relating to copyright. It has been provided in this Bill that a copyright register and a Copyright Board should be established. In the Act that is already in force in this

country—the Act of 1911 of the British Parliament which is in force in India—there is no provision for such a Copyright Board. But in this new Bill we have provided for it as we think it will be better for the management of our own affairs if such a Board exists in this country.

Hon. Members who have taken part in this debate have referred to some other points. I think it was Shri Tek Chand—I do not find him here who suggested that a few copies of every publication in this country should be given to the central libraries. I think my hon. friend is not fully acquainted with facts. About two or three years back we passed a Bill in this House called the Public Library Delivery of Books Bill. Under that Act it has been provided that every new book that will be published in India should be given to the four public libraries in this country. The National Library of Calcutta, then the Public Library—I think it is the Connemara Library—in Madras; the third one is the Bombay Town Hall Library and the fourth one is the library which is going to be established soon in Delhi. So, there is already a provision for sending books on the part of publishers free of cost to four of our public libraries. Again, in the Press and Registration Act of 1867—I may be wrong because I am speaking from memory—there is a provision for sending two or three copies of every publication to the State Government and the Central Government. Under that Act our Parliament Library most probably will be provided with copies. Therefore, provisions are already there and no new provision as suggested by my friend Shri Tek Chand is necessary. ●

The hon. Members who have taken part in this debate have made some criticism and offered some very valuable suggestions so far as the different provisions of this Bill are concerned. As I have said before, I have not the slightest doubt in my mind that all those criticisms and suggestions will guide the deliberations of the Joint Committee and the Joint Committee

[Dr. M. M. Das]

will give due consideration to the views that have been expressed on the floor of this House. Sir, as I have said, it is premature, and it is to some extent prejudicial, to entre into a threadbare discussion at this stage about the individual provisions of this Bill. I do not think the present occasion is opportune for that purpose. The Bill is being sent to the Joint Committee and the Joint Committee will examine in great detail the provisions contained in it, and will draw their own conclusions. The Joint Committee will consider the suggestions made by hon. Members and I have no doubt that the different provisions of this Bill, especially the controversial ones, will come through the Joint Committee in a much better and more acceptable form.

Sir, I commend this motion to the House for its acceptance.

**Mr. Speaker:** I will first put the amendments to the vote of the House. The question is:

That in the motion—

for "Shrimati Sucheta Kripalani" substitute "Shri Ramji Verma".

*The motion was adopted.*

**Mr. Speaker:** The question is:

That at the end of the motion the following be added:

"This House also recommends to the Rajya Sabha that the said Joint Committee be instructed to report on or before the 16th August, 1956."

*The motion was adopted.*

**Mr. Speaker:** The question is:

"That this House concurs in the recommendation of Rajya Sabha that the House do join in the Joint Committee of the Houses on Bill to amend and consolidate the law relating to Copyright made in the motion adopted by

Rajya Sabha at its sitting held on the 16th February, 1956 and communicated to this House on the 21st February, 1956 and resolves that the following members of Lok Sabha be nominated to serve on the said Joint Committee, namely, Shri B. S. Murthy, Shri N. C. Laskar, Shri Nageshwar Prasad Sinha, Shri Fulsinhji B. Dabhi, Shri Joachim Alva, Shri T. S. Avinashilingam Chettiar, Shri S. V. Ramaswamy, Shri Birakisor Ray, Shri D. C. Sharma, Shri S. C. Samanta, Shri Gurmukh Singh Musafir, Shri M. Hifzur Rahman, Dr. Suresh Chandra, Shri C. P. Mathew, Shrimati Tarkeshwari Sinha, Seth Govind Das, Shri Rohanlal Chaturvedi, Shri C. R. Basappa, Dr. Lanka Sundaram, Shri U. M. Trivedi, Shri V. G. Deshpande, Shri N. B. Chowdhury, Shri Sadhan Chandra Gupta, Shri Bahadur Singh, Shri Frank Anthony, Shri Ramji Verma, Shri M. S. Gurupadaswamy, Shri V. Veeraswamy, Dr. Mono Mohon Das and Maulana Abul Kalam Azad.

This House also recommends to the Rajya Sabha that the said Joint Committee be instructed to report on or before the 16th August, 1956."

*The motion was adopted.*

---

#### SECURITIES CONTRACTS (REGULATION) BILL

**The Minister of Revenue and Civil Expenditure (Shri M. C. Shah):** I beg to move:

"That the Bill to prevent undesirable transactions in securities by regulating the business of dealing therein, by prohibiting options and by providing for certain other matters connected therewith, as reported by the Joint Committee, be taken into consideration."