

MR. DEPUTY CHAIRMAN : The hon. Minister has already replied. If you are asking any question, it is all right, but I am not going to allow you to make any speech.

DR. R. P. DUBE : When the Bill is sent for eliciting public opinion, is it the Bill as a whole which will be considered ? I want a ruling to that effect.

SHRI J. R. KAPOOR : The Bill as a whole or the original Act as a whole ?

DR. R. P. DUBE : The original Act as a whole. You do not allow me to make any speech and so I cannot tell you anything.

MR. DEPUTY CHAIRMAN : The question is :

That the Bill be circulated for the purpose of eliciting opinion thereon by the 31st October 1952.

The motion was adopted.

MR. DEPUTY CHAIRMAN : The Bill will be circulated for opinion.

RESOLUTION *RE* APPROVAL AND RATIFICATION OF THE BERNE CONVENTION

THE MINISTER FOR LAW AND MINORITY AFFAIRS (SHRI C. C. BISWAS) : Mr. Deputy Chairman, on behalf of the hon. Minister for Education I beg to move the following Resolution :

This Council approves of the Berne Convention for the protection of Literary and Artistic Works, as finally revised at Brussels on the 28th June, 1948, and signed by the representative of the Government of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India.

SHRI RAJAGOPAL NAIDU : Sir, the hon. Minister is not audible.

SHRI C. C. BISWAS : This is a formal matter. India is a Member-Country of the International Copyright Union and participated in the Berne convention for the protection

of literary and artistic works. The Convention was signed at Berne so far back as 9th September 1886. It was completed at Paris on the 4th May, 1896, revised at Berlin on the 13th November 1908, completed at Berne on the 20th March 1914 and revised at Rome on the 2nd June 1928. It was again revised at Brussels on the 26th June 1948 and India was one of the signatories to the revised convention.

Sir, in terms of the Convention, it has to be ratified by the Member-countries and the instrument of ratification is required to be deposited at Brussels by a specified date. In the case of India, the date was 1st July 1951. For some reason or other we did not get copies of the Convention and the instrument of ratification could not be ratified by that date. But there is provision for ratification at a later date. That is going to be done now. Ratification means that the Member-country which ratifies will have to undertake certain legislation in order to implement the Convention. So, we shall have to amend the Indian Copyright Act of 1914 in order to give effect to some of the provisions of the Convention as revised. The matter therefore will have to be brought before the House when the amendment of the Copyright Act comes up. In the meantime Government think that it will be right to obtain the approval of the House to the ratification. For that purpose I am moving this Resolution. The extracts from the Convention along with extracts of the text of 1928 were circulated to hon. Members some time back and it will be found that in certain respects the text of the original convention has been expanded and enlarged. For instance Cinematographic film has now been included in the definition of literary and artistic work and some other modifications have also been made. There is nothing very exciting about it. This will only involve an amendment of the Indian Copyright Act in order to extend the rights of authors over some additional works. Sir I move.

MR. DEPUTY CHAIRMAN :
Resolution moved :

This Council approves of the Berne Convention for the protection of Literary and Artistic works, as finally revised at Brussels on the 28th June 1948, and signed by the representative of the Government of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India.

PROF. DINKAR (Bihar) :

प्रो० दिनकर (बिहार) : श्रीमन, लेखक होने के नाते मैंने बर्न कन्वेंशन (Berne Convention) के मसविदे को ध्यान से पढ़ा है और मुझे लगता है कि यह मसविदा लेखकों के अधिकारों का मनीफेस्टो (manifesto) है। इसमें कोई शक नहीं कि ब्रुसेल्स कन्वेंशन (Brussels Convention) में जो लोग जुटे होंगे वे उन्नत देशों के नुम इन्दे रहे होंगे। वे ऐसे देशों के नुमाइन्दे रहे होंगे जहां की जनता सुशिक्षित है और जहां कलम के सहारे जीने का काम कुछ बहुत कठोर नहीं समझा जाता। मगर, यह समझने की बात है कि हमारा देश बहुत ही अशिक्षित है और चुकि हमारी जनता अशिक्षित है इसलिये हमारे यहां कलम के सहारे जीने का काम बड़ा ही कठिन होता है। इस देश में कलम घिस कर जो लोग जी रहे हैं वे किसी तरह से अपनी जिन्दगी को खेप रहे हैं। लेखकों की ऐसी हालत पर बर्न कन्वेंशन के प्रतिनिधियों को इष्टि नहीं गई अन्यथा वे अपने निर्णय में ऐसी शर्त भी जरूर रखते जिस से यहां के लेखकों का उपकार हो सकता है। इसलिये, यद्यपि मैं इस मसविदे का पूर्ण रूप से समर्थन करता हू मगर सरकार के सामने अपने दो चार सुझाव भी रख देना चाहता हूं। ये सुझाव मैं इसलिये रखना चाहता हूं कि जब सरकार इस कन्वेंशन के मसविदे के अनुसार कापी राइट एक्ट (Copyright Act) में तरमीम करने के लिये बिल (Bill) लाये तो बिल लाने के पहले उन सारी सामग्रियों को इकट्ठा कर

ले, जिनकी जानकारी के बिना इस देश के लेखकों और कलाकारों के अधिकारों की रक्षा नहीं की जा सकती।

जहां तक इस मसविदे का सवाल है, मैं सिर्फ तीन चार शर्तों पर सरकार का ध्यान आकर्षित करना चाहता हू। आर्टिकल (article) ६ के पहिले पैराग्राफ (paragraph) में जो कुछ लिखा गया है, उस से मालूम होता है कि कन्वेंशन वाले लोग इस चिन्ता में ग्रस्त थे कि लेखक प्रकाशकों के जुल्म से किस तरह बचाये जायें। इसलिये शायद उन्होंने यह शर्त रखी कि :

“Independently of the authors copyright, and even after the transfer of the said copyright, the author shall have the right during his lifetime, to claim authorship of the work and to object to any distortion, mutilation or other alteration thereof, or any other action in modification of the said work which would be prejudicial to his honour or reputation”.

श्रीमन, शिक्षित देशों में समाज जागरूक होता है लेकिन अपने यहां अशिक्षा के कारण जनता प्रकाशकों के द्वारा किये जाने वाले जुल्मों को नहीं समझा सकती। जो लेखक अपने कापी राइट को प्रकाशकों के हाथों में बेच चुके हैं और अगर उनकी प्रकाशकों से न पटी तो प्रकाशक उनकी किताब छापना बन्द कर देते हैं। इससे तो प्रकाशकों को थोड़ा ही नुकसान होता है, लेकिन गरीब लेखक का गला कट जाता है। इसलिये मेरा खयाल है कि तरमीम वाले बिल (Bill) में यह शर्त रखी जाय कि जिन लेखकों की किताबें प्रकाशक छापकर बाजारी में न रखें, वे लेखक अपनी किताबें दूसरी जगह छपवा सकते हैं।

इसी तरह से आर्टिकल १० के अन्दर उसके दूसरे पैराग्राफ में जो लिखा हुआ है उसका एक यह भी अर्थ हो सकता है कि अगर कोई शिक्षा संस्था यह चाहे कि वह किसी खाम लेखक की रचना को अपने यहां कोर्स

(course) में निर्धारित करे, तो वह उस लेखक को विवश कर सकती है कि वह अपनी रचना को उस संस्था को दे दे, चाहे वह लेखक भले ही यह चाहता हो कि उसकी रचना, जब तक वह जीवित है, किसी भी शिक्षा-संस्था में न पढाई जाय। इसका एक भावनात्मक कारण है और एक व्यापारिक कारण भी है। बहुत लोगों का ख्याल है कि जिस लेखक की दो-एक रचनाये कोर्स में पढाई जाती हैं, उसकी अन्य रचनाओं की ओर छात्र प्रवृत्त नहीं होते। अक्सर उनकी तृष्णा शान्त हो जाती है। इसलिये जब सरकार बिल (Bill) लावे, तो उसमें एक शर्त डाल दे कि लेखक की इजाजत के बिना उसकी चीजें ले लेना हर हालत में जुर्म समझा जायगा।

दूसरी बात यह है कि इस समय देश में स्थिति ऐसी है कि प्रकाशक लेखकों को पूछते भी नहीं हैं। वे छोटे लेखकों की ही उपेक्षा नहीं करते, बल्कि बड़े बड़े लेखकों की भी उपेक्षा करते हैं। असल में प्रकाशकीय अत्याचारों के शिकार बड़े लेखक भी होते हैं और छोटे लेखक भी। इस विषय को लेकर साहित्य-संसार में एक आन्दोलन सा छिड़ गया है और हर जगह लोग चिन्तित हो रहे हैं कि इस दुरवस्था का खात्मा कैसे किया जाय। लेखकों का पूरी तरह से शोषण हो रहा है और यह शोषण बहुत दिनों से होता चला आ रहा है, जिसका नतीजा यह हुआ है कि लेखक अनेकों प्रकार के कष्ट झेल रहे हैं।

कन्वन्शन के आर्टिकल ११ के दूसरे पैरा (para) में एक जगह यह कहा गया है कि :

“in any circumstances be prejudicial to the moral right of the author or to his right to obtain just remuneration which, in the absence of agreement shall be fixed by competent authority.”

इसका मंशा यह मालूम होता है कि कापी-राइट कानून लेखकों के पक्ष में prejudiced होना चाहिये और जहां रैम्युनरेशन (remuneration) के बारे में रज़ामन्दी नहीं हो, वहां पंचायत का फ़ैसला मान्य होना चाहिये। मेरा सुझाव है कि सरकार जो अगला बिल लावे

उसमें एक शर्त यह जोड़ दे कि पिछले ५० वर्षों के भीतर जो कापीराइट ट्रान्सफर (copyright transfer) हुए हैं, उनकी शर्तों से अगर लेखको को असंतोष हो तो ऐसे जीवन लेखक अथवा उनके वारिस अपने हक का मुकदमा अदालत के सामने ले जा सकते हैं। अच्छा हो कि यह बिल लाने के पहिले सरकार इस बात की जांच करवा ले कि प्रकाशकों ने पिछले ३०-४० वर्षों के भीतर लेखकों का किस तरह से शोषण किया है। असल में शोषण के पिछले कारणों का सुधार किये बिना लेखक अपने हक को नहीं पा सकेंगे। कानून में कोई न कोई ऐसी धारा होनी ही चाहिये, जिससे धोखे या छल के द्वारा अथवा नाम मात्र के रैम्युनरेशन पर बिका हुआ कापी-राइट उचित बंधन के साथ लेखकों को वापस मिल जाय।

लोग कहेंगे कि यह मांग अनैतिक है। चूकि जब लेखक एक बार अपना कापीराइट ट्रान्सफर कर चुका है, तो अब उसको इसके लिये मौका नहीं मिलेगा कि अपने कापीराइट को वापिस करे। मैं कहता हूँ कि ऐसा कहना ही अनैतिकता है। आप इस बात की पहले जांच कीजिये कि किन हालतों में लेखकों का कापी राइट प्रकाशकों के हाथ में चला गया है। यदि सरकार इसके लिये जांच कमीशन नियुक्त करे तो बहुत ही अच्छी बात है। परन्तु यदि सरकार जांच कमीशन नियुक्त नहीं करे, तो मेरा यह कहना है कि कम से कम सरकार अखबारों में इतना प्रकाशित करवा दे कि जिन लेखकों को अपने कापीराइट के सम्बन्ध में कोई शिकायत हो, वे अपनी कहानी सरकार के पास लिख भेजें, तो मैं समझता हूँ कि तब भी इसानियत और ऊंची इन्सानियत के खिलाफ किये गये हैरतआमेज़ जुर्मों की कहानियों का उसके सामने अम्बार लग जायगा। तब सरकार को मालूम होगा कि जिन किताबों के दस-दस, बारह बारह संस्करण बिके हैं उनका कापीराइट सिर्फ़ सौ-पचास रुपयों में खरीदा गया था। तब सरकार को पता चलेगा

[Prof. Dinkar.]

कि ६०-६०, ७०-७० किताबों के लेखक इस देश में भूखों मर रहे हैं। तब सरकार यह जान पायेगी कि लेखक और पत्रकार होकर जीने का काम इस देश में कितना मुश्किल है और मुसीबत से भरा हुआ है।

हमारे एक हिन्दी के महाकवि हैं, जिन्होंने हिन्दी कविता में इन्कलाब किया, जिन्होंने हिन्दी को नये छन्द और नये भाव दिये, जिन्होंने हिन्दी पर अपने व्यक्तित्व की मुहर लगाई, बल्कि जिन्होंने वर्तमान पीढ़ी पर अपने व्यक्तित्व की छाप लगा दी है वे महाकवि आज रुपये के अभाव में गरीब से गरीब जीवन व्यतीत कर रहे हैं। यहां तक कि उनकी बीमारी में भी उनके पास रुपये नहीं होते।

SHRI R. BISWASROY (Orissa) :

श्री आर० विश्वासराय (उड़ीसा) : उनका क्या नाम है ?

PROF. DINKAR :

प्रो० दिनकर : मैं समझता हूँ कि जिन्होंने पूछा है, वह उनका नाम जानते हैं। इसी तरह के और भी बहुत से किस्से हैं। जहाँ जाइये, हर शहर में आपको ऐसे लेखक मिलेंगे, जिन्होंने जिन्दगी भर लिखा, लेकिन लिखने का फल नहीं पाया। यह भी नहीं कि उनकी रचनायें बिकी नहीं, बल्कि बहुत से ऐसे लोग हैं, जिनकी रचनायें बाजार में आज भी चल रही हैं; मगर अपनी रची हुई पुस्तकों का लाभ उन्हें नहीं मिल रहा है। कारण यह है कि भयानक गरीबी के दबाव में पड़ कर उन्होंने प्रकाशकों के यहां हाथ पसारे और प्रकाशकों ने जो दस-बीस रुपये उन्हें दिये, उन्हीं के बदले उन्हें अपना कापीराइट बेच देना पड़ा। जिस रोज उन्हें अपना कापीराइट बेचना पड़ा, उस रोज शायद बच्चे के इलाज के लिये उन्हें पैसों की जरूरत आ पड़ी थी, शायद उनके घर में खाना नहीं था, शायद मालिक मकान कड़ाई से किराये के लिये तक्राज कर रहा था। गरीबी पेट बांध कर उचित मूल्य

का इन्तजार नहीं कर सकती। इसलिये प्रकाशकों की बन आती है और लेखक मारे जाते हैं।

कन्वेंशन के निर्णय के आधार पर सरकार जब नया कापीराइट कानून बनायेगी, तब लेखकों के हक मारे नहीं जायेंगे। लेकिन उन लेखकों का क्या होगा, जो अपना कापीराइट यों ही गंवा चुके हैं। कानून के बन जाने पर अगर लेखक सचाई के कारण धोखा खायेगा, तो यह उसकी जिम्मेवारी होगी, मगर कानून की कड़ाई के अभाव में जो लेखक छले जा चुके हैं, उनके उपकार के लिये भी कोई न कोई धारा बनायी जानी चाहिये। मजदूरों और किसानों के हकों की हिफाजत के लिये इस देश में कानून बनाये जा रहे हैं, जिनका हक छिन गया है, उनका हक दिलवाया जा रहा है। मैंने बिहार में देखा कि बहुत से किसानों की जमीन जमींदारों ने नीलाम करवा ली थी और यह समस्या बढ़ते बढ़ते एक आन्दोलन बन गई। नतीजा यह हुआ कि बिहार सरकार को "बकाश्त रिस्टोरेशन एक्ट" (Bakast Restoration Act) बनाना पड़ा, जिस एक्ट के अनुसार उन सभी किसानों को उनकी जमीने वापस मिल गई हैं, जो जमीनें छल करके, धोखा दे करके जमींदार के अमलों के द्वारा उनसे छीन ली गई थीं। इसी प्रकार छोटा नागपुर में "ताना भगत" नाम के कुछ आदिवासी हैं। उन्होंने सन् ३० के आन्दोलन में भाग लिया था। परिणामतः उनकी जमीन बीसों उपायों से छीन ली गई थी। परन्तु बिहार सरकार ने 'ताना भगत' को जमीन वापस दिलाने के लिये कानून बनाया और कानून बना कर उनकी जमीनें उन्हें वापस दिला दीं। तो मेरे रानिवेदन यह है कि ये जो छले हुए लेखक हैं, जो अपने अधिकार से वंचित हो गये हैं, वे भी बिहार के किसानों के समान रक्षणीय हैं और उनके लाभ के लिये भी कापीराइट रोस्टोरेशन एक्ट (Copyright Restoration Act) बनाया जाना जरूरी है। नया एक्ट हो या पुराने में सुधार, इससे मुझे अधिक बहस

नहीं है। असल में कानून में कहीं न कहीं यह शर्त डाल दी जानी चाहिये, जिससे असन्तुष्ट या क्षतिग्रस्त लेखक और कलाकार अदालत के सामने मुकदमा ले जा सकें।

[For English translation. see Appendix II, Annexure No. 83.]

SHRI RAMA RAO (Madras) : Mr. Deputy Chairman, the Resolution which has been moved by the Law Minister and the speech which he has made give us to hope that at a very early date the Government of India will bring in legislation to amend our copyright law. I am very happy to hear the announcement, because amendment of the Copyright Act is long overdue. Everyone of us, be he author, publisher or journalist, has suffered in this country as a result of the very weak and defective law of copyright we now have. May I point out to the Law Minister that while it is our duty to support the Resolution which he has brought before us, we do so in the hope that this is an earnest of greater things to come for the protection of the rights of honest men who ply their pen not only for the sake of a living, but also for the enlightenment of posterity?

I would stress one or two things which must be borne in mind while we are passing this Resolution. I should like to be corrected if I am wrong. What is the American Law with regard to copyright? I am told, and I think it is true, that I (an author) must get any book of mine separately copyrighted in America also, otherwise there can be any amount of piracy in America and I am helpless. If that is right, if what I am saying is correct, then America must be told that consistently with her "global strategy", she must fall in line with us; for there cannot be two copyright laws in the world. You will remember, Mr. Deputy Chairman, Macaulay's incessant complaints against piracy of his speeches by the Americans. They were stolen and in the process, enormous mistakes were committed. Pandits of Banaras became "pandects" because the publisher knew something about the Pandits of Banaras. In

England the copyright law was discussed at great length years ago, and a speech delivered by Macaulay in the House of Commons is regarded as one of the classic pieces of English oratory, and is also described as one of the two speeches in the history of British eloquence that turned votes in a House where generally votes are not easily turned. Subsequently we adopted, I think in 1914, the British law of copyright. The British law had been just amended and we, as usual, prepared a carbon copy of it in India. But that is not enough today. It is time that literature was made a lucrative profession like law, like medicine, by protecting authors and publishers.

Sir, I would raise another point in this connection. When Rabindranath Tagore's books were the rage in the country and the world, a lot of complaints were made to him by his countrymen that most of his books were not available to them, as they are poor people and Tagore insisted with his publishers that there should be cheaper Indian editions of his works. I do not know whether this Convention which we are being asked to ratify makes any such allowance for the conditions that are obtaining in India. I would insist upon it, because we cannot afford to pay dollars and pounds when we think in terms of a depreciated rupee. I also remember that Bernard Shaw's Collected Works were issued in one volume in this country. I was probably one of the few men who rushed to a Bombay bookshop and collected a copy. Two months after, my brother, who was editing a daily paper at Karachi, wrote to me a frantic letter asking for a copy of Shaw's Collected Works. It was not available. It was out of the market, for the reason that it did not pay the publishers to issue a collected edition at a cheap price. They could sell each copy of his Play for more money than a collected edition could have fetched. I think that a matter of this kind should also be brought up when we amend our Copyright Act.

[Shri Rama Rao.]

There is the question of translations. Translations in my opinion, are as important as original works. If we are going to have a common culture in this country between race and race, sub-nationality and sub-nationality, we have got to understand one another's literature. I remember, Sir, when Tagore's *Geetanjali* came out, many unauthorised translations appeared in the various Indian languages and people asked, what about copyright? Tagore said, 'I do not bother about it.' Let that spirit be enshrined in some of the legislation we are going to put forth. Nevertheless, translations must be protected like all original works, because it is necessary that the translator should be considered an author by himself. It is said that the value of English literature consists not only in its intrinsic merit, but also in its being a gateway to European literature. It thus becomes necessary that we should protect those who undertake to translate books of European or American origin. That must be borne in mind when we undertake amending legislation.

Sir, it is not necessary for me to describe the absolute necessity of enlarging the rights of authors as they are at present because authorship must not only be made to pay, but literature must be made a powerful force in the making of our nation. It has been said that the greatest unifying force of the Hindi-speaking words is *Tulsidas*. In my own part of the country, the writers of the *Andhara Mahabharata* have been the greatest unifying force. What are we going to do in future to unify our country through the medium of literature? It is an important question. I put it down in a long Resolution I gave notice of for this session but it has been crowded out. We are worried about copyright for a hundred reasons. I can give you the case of a very distinguished Telugu writer who wrote novels, plays and essays, and edited humorous magazines. I mean *Chilakamarthy Lakshmi Narasimham Pantulu*. Believe me

Mr. Deputy Chairman, it is a sad tragedy of contemporary Indian literature and a sidelight on the deplorable plight in which authorship is today that he died poor, penniless and almost in disgrace. I will never forgive my Andhra friends for the manner in which they treated that great and distinguished man. He was also one of the men who wrote extraordinarily fine lyrics to inspire his countrymen to the height of great argument and to fight the English out of India.

May I put in a word, Sir, on behalf of the poor journalist? At a conference of the A.I.N.E.C. in Calcutta some years ago I got a Resolution moved that the feature articles of journalist appearing in newspapers must be protected. But will you believe it if I say that the Resolution was overwhelmingly defeated? I asked what the matter was. The answer was simple, and it came mostly from the editors of Indian language papers. They said: "If we do not steal we cannot live." It was a time when I was down and out and I had to make my living by my pen. The Defence of India Rules were there, I could not edit a paper and I had to make a living by writing for the press. Several editors were good enough to accept my articles, but out of every hundred only ten paid me and the remaining 90 did not. When they are going to pay me, I do not know. This is the condition of the Indian journalists who have got to make a living from their writings. I would suggest to the hon. the Law Minister, when he brings in his legislation, to consider another point that I am going to make. It is this: Will it be impossible for the Law Minister to make infringement of copyright a cognizable offence. Copyright deals with property. If you take another man's property, it is regarded as theft; therefore, by parity of reasoning, one should admit that, if copyright is infringed, the criminal must be caught not only by the author but by the police. Bring in that element into legislation which you want to place before us, and it would then be possible for us to protect

ourselves. Take a playwright. He writes a drama and then without his knowing, people put it on boards. The manager of the company who puts it on boards gets all the money. The dramatis personae—I mean the cast—make money, but the author gets nothing out of it. I would suggest that authors should be protected by the police at least in the early stages that is, so long as we do not develop an honest, decent, reasonable national conscience in this matter.

Regarding publishers, I have heard my hon. friend, Mr. Dinkar, who is a distinguished poet, making mention of them. I have also been following the fortunes of that unfortunate tribe of authors, because it is a business of us—editors—to receive all sorts of visitors, most of them poor, miserable authors. "Somebody has stolen my book. Some company has not paid me. Can you do something about it?" Publishers of India—God bless their souls!—most of them are *thugs*, I can tell you the case of a distinguished author whose name I dare not mention in this House : For the first time in his life, he gave a book of his to an Indian publisher. The publisher printed 10,000 copies and gave an account for only 5,000. Sir, it is our duty and responsibility, to make publishing a fine art, as fine as calligraphy was in medieval times. I recall a passage in Moreley's Recollections where he pays a great tribute to the famous MacMillan and Co. The services of Longmans, Bodley Head and MacMillans are as famous as the British Empire. It is our duty therefore soon to amend the Copyright Act in order to make authorship more lucrative and worthwhile. It is an old story how since the days of Homer authors have had to suffer. Still they are suffering. I recollect two lines which my Professor quoted in my class years ago :

"Seven wealthy towns contend for Homer dead through which the living Homer begged his bread."

KAKA SAHEBKALELKAR (Nominated)

काका साहेब कालेलकर (नाम निर्देशित) :
श्रीमन्, कापीराइट एक्ट द्वारा ग्रन्थकारों को

जो रक्षा मिलनी चाहिये वह नहीं मिलती है, यह शिकायत बहुत ही ठीक है। साथ ही साथ यह भी देखना चाहिये कि ग्रन्थ के बारे में तीन व्यक्तियों का सम्बन्ध आता है। एक है लेखक, दूसरा प्रकाशक और तीसरा है पढ़ने वाले पाठक। इन पाठकों का भी एक अधिकार होता है। इसके बारे में कापीराइट

SHRI C. C. BISWAS: On a point of order. We are discussing the question whether we should ratify the Berne Convention. We are not discussing the question of Copyright or what provision has been made in the Copyright laws of the country. But the speeches are directed to that point. Is it quite relevant to the present Resolution to talk about these general things? The question is whether we should ratify the Convention. If we do, then we shall have to introduce legislation for the purpose of giving effect to the recommendations contained in that Convention. That is the only question.

KAKA SAHEB KALELKAR :

काका साहेब कालेलकर : हम यह बर्न कन्वेंशन (Berne Convention) मंजूर करने जा रहे हैं। इसके साथ हम अपना कापीराइट एक्ट (Copyright Act) भी बदलना है। क्योंकि हमारा कापीराइट एक्ट स्वतन्त्र रह नहीं सकता। हम दुनिया के साथ बंधे हुए हैं। इस तरह से बंधे रहना अच्छा ही है।

जब हमें अपना कापीराइट एक्ट बदलना ही है तब हम एक नई बात सोचें। आज तक हम कापीराइट एक्ट के जरिये लेखकों के अधिकार की रक्षा करते आये। ग्रन्थकारों को रक्षा मिलनी ही चाहिये। लेकिन सवाल सिर्फ ग्रन्थकार और प्रकाशक का नहीं। पाठकों का भी ख्याल रखना चाहिये। पाठक किस माहित्य कृति को पसन्द करते हैं? तभी तो साहित्य की कीमत बढ़ती है और प्रकाशक-लेखकों को मुनाफ़ा मिलता है।

[Kaka saheb Kalelkar.]

आज की हालत में लेखक की मृत्यु के बाद उसका कापीराइट पचास वर्ष तक चलता है । इसलिये आम जनता को पचास बरस तक साहित्य सस्ते में नहीं मिल सकता । ग्रंथकार की मृत्यु के बाद उसका अधिकार १५ या २० बरस तक रखा तो बहुत हुआ । कापीराइट एक्ट के कारण जनता को अच्छा साहित्य सस्ते में नहीं मिलता और ज्ञान प्रचार में बाधा आती है ।

अभी अभी बम्बई सरकार ने महाराष्ट्र के संत कवि तुकाराम के ग्रंथ का मुद्रण करके वह पांच रुपये में दे दिया । किताब देखते देखते बिक गई और बम्बई सरकार को एक पाई का भी नुकसान नहीं हुआ । वही किताब प्रकाशक २० या ३० रुपये से कम में नहीं बेचते । हमारे कापीराइट एक्ट में चंद त्रुटियां रह गई है । बम्बई में अगर कोई ग्रंथकार प्रकाशक के खिलाफ नालिश करने जाये तो उसे हाईकोर्ट (High Court) में जाना पड़ता है । और हाई कोर्ट में तो सोलिसिटर (solicitor) के जरिये ही जाया जाता है । बम्बई के एक उच्च कोर्ट के नाटककार मुझे लिखते हैं कि प्रकाशक और नाटक कम्पनियां उन्हें जब रायल्टी (royalty) नहीं देते तब सोलिसिटर का खर्चा नहीं दे सकने के कारण वे नालिश नहीं कर सकते । ऐसी सब कठिनाइयां दूर होनी चाहियें । हम अपना कापीराइट सुधार दें और उसके अनुसार दुनिया के कापीराइट एक्ट में भी तददीली करवा लें ।

[For English translation, see Appendix II, Annexure No. 84.]

DR. S. K. BHUYAN (Assam) : Mr. Deputy Chairman, I rise to say that this Berne Convention should be ratified because the object of this Convention is to give full protection to authors, and it appears to me that of all the people in this earth, the authors have been most exploited. Their brains are sucked by all kinds of people. Not only the authors, but their descendants and grand descen-

dants are exploited as well. You have heard the instance of Homer cited by Shri Rama Rao Homer, when he lived, had to beg for bread and when he begged for bread, he was given only stone, but when Homer died seven cities claimed to be his birthplace. I am an author and if I have to narrate my own experiences, in this direction, then they will constitute an interesting tale of plagiarisms and exploitation and pilferings from my work. I felt that other people take away stories from our books, and in many cases the sources are never mentioned. In these and many other ways the authors are exploited and the sources are not known to the world. People make money out of the copyright publication, and authors are not sufficiently recompensed. I know also of dramas out of which films have been produced and authors derive proportionately little benefit from them. Therefore, I feel that of all people, the authors are the most exploited

Unfortunately, authors are a meek and mild people and they have no power in their hands. They simply go on writing just as their creative urge or love or impulse makes them write. They are not out for revenge or vindictiveness, and therefore they cannot stop being exploited. Neither have they the time to seek remedies for the ills they suffer.

I am, therefore, very glad that this Convention has been established in order to give protection to authors and artists. A very comprehensive Resolution embodying all the necessary provisions for giving aid and relief to authors was to have been moved by my hon. friend Shri Rama Rao, but it was crowded out from the present session ; but I hope it will come in during the next session of the Council. I understand that the Act on copyright is going to be amended with a view to adjusting it to the requirements of the Berne Convention. I hope the whole Copyright Act will have to be revised with a view to give protection to the authors not only poets, dramatists, artists

and painters and singers, but all producers of creative and artistic works.

With these few words, I support the motion that this Convention be ratified by this Council and the necessary consequential laws introduced to ensure full implementation to the Berne Convention.

SHRI RAJAGOPAL NAIDU : Sir, I rise to speak lest the Opposition should remain unrepresented in this debate.

SHRI GOVINDA REDDY : We take it for granted.

SHRI RAJAGOPAL NAIDU : I am neither an artist, nor have I any literary talents. But I feel there is one great art which does not find a place in the literary and artistic works that are mentioned here. I carefully went through the Draft Convention and from what is mentioned in paragraph 1 on page 2, I did not find anywhere the art of dancing included in the artistic and literary works. You know, Sir, that our country is very famous.

SHRI C. C. BISWAS : Can dancing be reduced to writing?

SHRI T. V. KAMALASWAMY (Madras) : There are musical compositions.

SHRI C. C. BISWAS : How can dancing be brought under copyright?

SHRI RAJAGOPAL NAIDU : In that case, I am afraid I will take some of hon. Minister's time. Can chorographic works be brought under the definition of literary and artistic works?

SHRI K. B. LALL : Do you mean literature on dancing?

SHRI C. C. BISWAS : The songs can be said to be a matter for copyright.

MR. DEPUTY CHAIRMAN : You may go on.

SHRI RAJAGOPAL NAIDU : Dancing being so famous in our country, I thought it should have been mentioned. It is up to us to take up the matter and see that it is also included.

There is one more thing. I find unimportant things as plastic works, sketches, etc., mentioned. There are many other things, the meaning of which I am unable to know. Can plastic works be termed as literary, and artistic works? I feel that dancing should be mentioned.

This has been agreed to in the year 1948 at Brussels and India was one of the signatories to the Convention. I just want to know what this Government has been doing for the last five years without getting this ratified.

MR. DEPUTY CHAIRMAN : Please address the Chair.

SHRI RAJAGOPAL NAIDU : While addressing the Chair, Sir, I had turned to that side. When I am saying 'Sir', I am addressing the Chair.

I want to know, Sir, what this Government has been doing for the last five years without getting this ratified? It is only that thing that I want to ask.

MR. DEPUTY CHAIRMAN : The hon. Minister for Law.

(*Shri C. C. Biswas stood up.*)

Order, order. She wants to speak.

SHRI C. C. BISWAS : Are you going to speak about dancing?

SHRIMATI SAVITRY NIGAM (Uttar Pradesh) : No, no.

श्रीमती सावित्री निगम (उत्तर प्रदेश) : महोदय, इस समय मैं इस विषय पर कोई स्पीच (speech) देने के लिये नहीं खड़ी हुई हूँ। मेरे यहां पर बोलने का केवलमात्र तात्पर्य यह है कि इस विषय पर बोलने वाले पूर्ववर्ती वक्ताओं जिनमें विशेष रूप से श्री दिनकर जी और काका साहब जी ने जो बातें कही हैं मैं उनका समर्थन

[Shrimati Savitry Nigam.]

करना चाहती हूँ। भारत में सचमुच सरस्वती के पुत्रों के साथ इतनी ज्यादाती हो रही है जिसका कि कोई ठिकाना नहीं है और उसका वर्णन करना इतने थोड़े समय में सम्भव नहीं है। सरकार को इस समय इस ओर अवश्य ध्यान देना चाहिये और किसी न किसी प्रकार यहां के लेखकों, साहित्यकों और पत्रकारों के अधिकारों की रक्षा करनी चाहिये। प्रकाशकों के लेखकों पर होने वाले अत्याचार इतने बढ़ गये हैं और बहुत जमाने से बढ़े हुए हैं, कि उसकी तुलना हम जमींदारों के द्वारा होने वाले किसानों के अत्याचारों के साथ बड़ी सरलतापूर्वक कर सकते हैं। प्रकाशक लेखकों की तरह तरह के धोखे देकर ठगते रहते हैं। वह लेखकों से कॉपीराइट (copyright) हथियाने के लिये हजारों प्रकार की तिकड़मबाजी करते रहते हैं।

मैं इस विषय में अपनी ही पुस्तक "बृहत्स्थाजली" का हाल बताती हूँ। इस पुस्तक के अभी तक १० और १२ एडिशन (edit on) छप चुके हैं। इस पुस्तक द्वारा प्रकाशक हजारों रुपया कमा चुके हैं। इस पुस्तक की २० हजार प्रतियां बिक चुकी हैं और यह पुस्तक केवल १२० रुपये में खरीदी गई थी। प्रकाशकों को जब इसके बारे में पत्र लिखे जाते हैं तो वह किसी भी पत्र का उत्तर ही नहीं देते हैं। इस तरह से हजारों लेखक इन प्रकाशकों के पंजों में फंसे हुए हैं और वे उन्हें तरह तरह से एक्सप्लॉइट (exploit) कर रहे हैं। जब तक लेखकों के अधिकारों की रक्षा न होगी और उनको जीने की सुविधा न दी जायेगी तब तक वे देश के निर्माण के कार्य में किसी प्रकार का सहयोग कैसे दे सकेंगे। देश के विकास में लेखकों का बहुत बड़ा हाथ होता है। यदि हमने इन साहित्यकारों की रक्षा न की तो हमारे देश के विकास में बहुत बड़ी बाधा पड़ जायेगी। जहां अन्य सब वस्तुओं की आवश्यकता है वहां अच्छे स्वस्थ साहित्य

की भी आवश्यकता होती है। शिक्षा के प्रसार में लेखकों और साहित्यकारों का बहुत बड़ा हाथ होता है।

भारतीय पत्रकारों की भी दशा बहुत ही गिरी हुई है। मैं इम कन्वेंशन (convention) का समर्थन करती हूँ और साथ ही साथ सरकार से प्रार्थना करती हूँ कि वह शीघ्र ही ऐसा कानून बनाये जिससे कॉपीराइट का हक लेखकों को मिल सके। सभी लेखकों, साहित्यकारों और पत्रकारों की सुविधाओं की रक्षा हो सके, उनको कम से कम इतनी सुविधा तो मिल सके जिससे वे सुविधापूर्वक जीवनयापन करके नये साहित्य का निर्माण कर सकें। वह साहित्य को इस प्रकार से प्रसारित कर सकें कि जिससे वह जनता तक अच्छी तरह से पहुंच सके और जनता उसका अच्छी तरह से लाभ उठा सके।

[For English translation, see Appendix II, Annexure No. 85]

SHRI T. V. KAMALASWAMY : Mr. Deputy Chairman, now that the question of dance has come, I should like to say a few words. Although I am not a dancer myself, I have been the Secretary of a Music Society in Madras which has done very much for the propagation of Carnatic music as well as dancing. Sir, there are things known as dancing dramas which are called *kuravanji* in the South. There is a place called Panthanallur where people come from all over India, from Punjab, from Bengal, and there is one Panthanallur Meenakshisundaram Pillay, who is the greatest exponent of this art. Even Uday Shankar has shifted his headquarters to Madras because he wanted to take part in these dance dramas. When this choriography, i.e., chorus singing, when these things can find a place in this Agreement, I do not think it would be too much to say that dancing should find a place. Sir, these dance dramas, for example the *Sarabhoja Bhoopala Kuravanji* is performed only in the Tanjore temple every year and the copyright is held by the Prince of Tanjore. The dance, movement and everything is picturised in a very beautiful manner.

Sir, Indian dancing has spread all over the world—even in the United States. Uday Shankar, Ram Gopal, Ragini Devi, Menaka and a host of people have gone and tried to popularise the art of Bharata Natyam, Mainpuri, Kathakali, etc. It will therefore be very good if the science of dancing is also included in this Agreement.

MR. DEPUTY CHAIRMAN : You have to wait till the next Convention.

SHRI T. V. KAMALASWAMY : I only wanted to explain this, Sir.

SHRI C. C. BISWAS : I confess I am not a copyright expert and my knowledge of the Indian Copyright Act is also very limited because I have had very few opportunities of taking up any cases either at the Bar or on the Bench dealing with copyright. I thought, Sir, that this was a simple Resolution which I was moving on behalf of the hon. Minister for Education, but it is my misfortune that even if—I touch a simple thing, it becomes complicated.

MR. DEPUTY CHAIRMAN : They are suggestions from hon. Members when you bring in the next amendment to the Copyright Act.

SHRI C. C. BISWAS : If I am asked to take charge of the next Copyright Act, before I come to the House I shall take very good care to prepare myself as thoroughly as I can, because I know what I shall have to face. To be taken by surprise like this as if I was here to be questioned on every point relating copyright, well, I had not bargained for it. Many of my friends here—certainly Mr. Rama Rao knows very much more about it than I can claim to know.

So far as dancing is concerned, I may at once deal with it. Suppose there is a dance by Uday Shankar and if my hon. friends imitate it, will he be guilty of breach of copyright? He will not. So far as copy-

right is concerned, if there was a cinematograph film or a photographic picture, then, of course, that will be very rightly the subject of copyright. How could dancing itself be the subject of copyright, I could not understand. I may be wrong, but commonsense tells me that you cannot have copyright for dancing, gymnastics and things like that. They may be artistic performances, but here we are concerned with artistic productions and artistic publications and not with artistic performances of every kind. And that is all that I can say.

Sir, the object of asking for the approval of the House to the ratification is this. If this is ratified, that means we shall have to promote legislation for the purpose of giving effect to the Convention. Now, in deciding whether Government should ratify the Convention or not, we should have regard to the new points which have been included in this revised Convention. India has been a member country of the International Copyright Union ever since the year 1886 when the first Berne Convention was passed. And every time there has been a Convention, that has been ratified by all the member-countries including India and legislation has had to be undertaken. The last Copyright Act of 1914—I have not verified it—might have embodied the terms of some Convention which had been ratified by India before that year.

Now we are concerned with the Convention which was revised only on the 26th June 1948. The instrument of ratification should have been deposited by us at Brussels before the 1st July 1951. That could not be done, and I need not go into the reasons. Article 28 provides for the deposit of instruments of ratification after the due date. Therefore, the only point with which we are concerned is whether the modifications which have been introduced—and they are all being introduced for the benefit of authors and their representatives—whether they are such that we shall be prepared to undertake legislation in respect thereof. If the House

[Shri C. C. Biswas.]
thinks there are some provisions which are not acceptable to us, then of course we would not ratify the Convention. But if we ratify the Convention, then we accept the liability and the responsibility for giving effect to all these points through legislation.

The papers which were circulated to hon. Members gave a comparative statement of the terms of the last Convention which it is sought to ratify and the terms of the Convention of 1928. That will show in what respects there has been an advance upon the past Convention. You will find now, for the first time I believe, certain works of art included which were not there. Cinematograph works, works produced by a process analogous to cinematograph works, and so on—all these things were not there before. They have now been introduced and consequential amendments have been made in other articles of the Convention.

As regards some of the general questions which were raised, regarding the provisions made in the Convention, you will find that these provisions were there before. The other questions which were raised are also answered here. For instance, as regards works produced in this country, what will be the rights of the authors in respect of copyright so far as member-countries are concerned? It is agreed that the works mentioned here shall enjoy protection in all the countries of the Union. In respect of certain matters which are specified, it will be for each member-country to have domestic legislation about them. The Convention mentions in what respects domestic legislation should be undertaken. But there are certain matters in respect of which general provisions have been made. For example if protection is enjoyed in the country of origin, protection will be given in other member-countries as well. Common laws of copyright in regard to some fundamental matters are accepted for all member-countries of the International Union. But there

are certain matters in respect of which each country is to make its own legislation. If hon. Members want it, I could give some illustrations.

Then for instance my hon. friend was complaining of lifting stories, other writings and books, and so on without acknowledgment, or even putting the dramas on boards without the authority of the writer and so on. A suggestion was made that if there is a breach of copyright, then the person who commits such breach ought to be treated as an offender and the offence should be treated as a cognizable offence. That is a different question. Certainly if there are infringements of the Copyright Act, in that case whether such offences should be treated as cognizable offences, that is a simple matter which does not depend upon the terms of the Convention, nor does ratification of the Convention depend upon that. That is always a matter for us to consider. If such provision is not there that can always be included if it is thought fit and proper. That is a different matter.

I cannot say that I have gone through each of the articles of the Convention as revised very carefully and compared them with the corresponding articles as they stood before this. I have not done that. I have just glanced through it, as I did not expect that I shall have to face so many questions here. But I submit with confidence that this is a Convention which we may ratify with advantage to ourselves. So I move.

MR. DEPUTY CHAIRMAN : The Resolution is:

That this Council approves of the Berne Convention for the protection of Literary and Artistic Works, as finally revised at Brussels on the 28th June 1948, and signed by the representative of the Government of India and of the Governments of certain other countries, and is of the opinion that the said Convention should be ratified by the Government of India.

The Resolution was adopted.

SHRI H. P. SAKSENA : May I know, Sir, the name of the Indian representative in the Convention 1948?

SHRI C. C. BISWAS : The Deputy High Commissioner of India in London Mr. R.S. Mani, I.C.S., represented India at the Conference.

PRESENTATION OF PETITIONS
ON THE PREVENTIVE DETENTION
(SECOND AMENDMENT)
BILL, 1952

SHRI P. C. BHANJ DEO (Orissa): May I crave your kind permission, Sir, for presenting 94 petitions signed

by 740 petitioners regarding the Preventive Detention (Second Amendment) Bill, to the Council?

MR. DEPUTY CHAIRMAN : The hon. Member can hand them over to the Secretary. They will be handed over to the Petition Committee.

The House stands adjourned till 8.15 a.m. tomorrow.

The Council then adjourned till a quarter past eight of the clock on Friday, the 8th August 1952.