

*Copyright Act*

in Ottawa has started a theory that in all probability the British government will object because there are no license clauses in the British act. Now, I think it is within the knowledge of any man who has looked into the copyright question that there are hardly two nations in the world who belong to the Berne convention who have exactly similar copyright legislation. The English act differs from the Spanish act, and from the Holland act, and from the Canadian act: there are innumerable differences in all these acts. However, the nations mentioned are all members of the convention so that a citizen of a country which belongs to the Berne convention obtaining a copyright in one country automatically obtains copyright in all countries that are parties to the convention. Unfortunately the United States does not belong to the Berne convention. Unfortunately for Canadian authors the United States is probably the best market which they have. That is the difficulty. I do not think that we can get to the bottom of this question in a committee of this House sitting as we are here. I would suggest to the minister that a special committee be appointed to consider this bill and let the persons interested—authors, printers, and publishers—state their views before that committee. I have had communications as no doubt the minister has had, and probably every member of the committee, from printers, authors, the Canadian Manufacturers' Association, and from publishers. There is a great difference of opinion on the question but how are we going to come to a satisfactory agreement. These several parties did agree in 1921 and we carried that agreement into legislation. Now somebody has started the trouble over again and has intimated that the Berne convention will not accept this legislation. I doubt very much if the Berne convention has passed on it at all. If the minister has any formal objection from the officers of the International Copyright Bureau, or if he has any protests from the proper officials of the Imperial government, I would like very much if he would lay such before the committee, because the inference I draw from the information which has reached me is that no formal objection has been taken. If objection has been taken by the Imperial authorities I can only say they have objected before to our copyright legislation. However, their objections were found to have no foundation and subsequently were entirely waived by the Imperial government. It is quite possible that to-day there are publishers in Great Britain who do not like our present

[Mr. Guthrie.]

legislation. They did not like our copyright law in 1888 and 1889; they did not like it in 1910 when Mr. Fisher went over to London and carried his point before the British government. It is quite possible they may take objection now, but we want to examine into the validity, weight and force of the objections. We must not recede from our position simply because of the fact that the Imperial government object; it is quite possible that we have the constitutional right to pass our legislation notwithstanding the British government's objection. That was a point which was raised in 1889. I have before me Canadian Constitutional Studies in which this very question is dealt with. The point is this: The British parliament certainly has the legal right to pass such legislation as it may deem proper. It has the legal right to change our whole constitution if it wants to but constitutionally it cannot do so. Mr. Keith in referring to this very question as described in the work referred to says:

His (Sir John Thompson's) constitutional claim could not possibly have been resisted for a moment, if seriously examined. To insist that Canada should conform her copyright legislation to that of the United Kingdom, merely to please the publishers in the latter, was constitutionally a monstrous doctrine, nor can it be wondered that the minister described the state of the law as odious and unjust.

The Imperial parliament has the legal right to do as it pleases; constitutionally it has no right to do so. Therefore, I think if exception has been taken by the Imperial authorities to the act of 1921 the law officers of this government should look very carefully into the question to see if the act which we passed is not constitutionally within our rights. If it is then I think we should uphold it. In the meantime my suggestion to the minister in this matter would be, seeing the bill is going to raise a good deal of controversy upon very difficult points, to refer the measure to a small select committee, representative of the different parties in the House, and ask the authors, the publishers and the printers to state their respective claims before the committee. They did so before and they agreed. If they agree on the present occasion let us go ahead and let us test our constitutional rights in the matter.

Mr. ROBB: My hon. friend and I are agreed on the first principle that the author has rights in his work. My hon. friend has admitted that. The author, primarily, is the person who should determine what will be done with his or her property. Now, having started there I cannot very well see why my