

**SPEAKER OF THE PARLIAMENT (Nikolaos Katsaros):** Dear colleagues, we shall begin with today's agenda on

### **THE LEGISLATIVE WORK**

Resumption of discussion on draft law "Copyright and Related Rights", by articles and as a whole, submitted by the Ministry of Culture.

Mr. Konstantopoulos has the floor. He is absent, deleted.

Mrs. Iatropoulou has the floor. She is absent, deleted.

Mr. Karamarios has the floor. He is absent, deleted.

There are no other names registered for first speeches.

Mrs. Minister has the floor.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** Mr. Chairman, if there are any replications, perhaps it would be best to listen to them first and then I can reply on all matters. The Parliamentary Delegates will either way respond later.

**SPEAKER OF THE PARLIAMENT (Nikolaos Katsaros):** Mrs. Minister, would you like to have the floor now? Usually, the Minister has the floor once the first speeches are completed.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** Then, I'll take the floor now, Mr. Chairman.

**SPEAKER OF THE PARLIAMENT (Nikolaos Katsaros):** Unless you don't want to speak at all.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** It's just that I've noticed Mrs. Merkouri is missing and I would like to wait a little in case she comes.

**SPEAKER OF THE PARLIAMENT (Nikolaos Katsaros):** We cannot wait any longer. We have waited enough.

**STAVROS BENOS:** I would like to inform you, Mr. Chairman, that Mrs. Merkouri will not be coming today.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** Alright. I only said that out of interest for having a dialogue. There was no other reason.

Dear colleagues, the bill discussed today in the Parliament, and which we hope will soon be passed, is indeed a landmark for our country's history. It is a historical event, from a legislative, social and cultural aspect. Unfortunately, so far we were "privileged" to be the last to adapt our legislation and accordingly the principles existing in the intellectual property management; the last in the European scene. We have of course a legislation dated since 1920, which has only undergone fragmented and extremely deficient interventions, in order to be adapted to the rapid developments of the elements consisting the whole we call intellectual creation. Revisory attempts began in 1938 and after a very long period of inactivity, just two years ago, when we took over the country's governance and in particular the Ministry of Culture, serious revisory work began, which led us to today's bill.

The only important step made in the legislative history of our country, in regards to copyright, was a statute passed again under the governance of Nea Dimokratia, which is no more than the enforcement of the last revised Berne Convention, in 1975.

The next important step was taken only a few months ago, when we all unanimously enforced the Rome Convention on related rights. And now, we take one final step, with the discussion of this fundamental law, as well as with the enforcement of the

Geneva Convention, which will be discussed tomorrow at the Standing Parliamentary Committee.

I said that we were sadly “privileged” to be the last, and indeed, that is the sad reality. Since in Spain they’ve already had a revised law by 1987, in Great Britain by 1988. In Germany, the revisions of the 1985 law were completed by 1990, and the same happened in the United States by the same year.

Throughout these years, a country that has a rich intellectual production, full of vivid people in intellect and arts, only had an obsolete legislative product, good for its times in 1920, and some fragmented expressions.

This is the reason that the bill we’re discussing today is a historical event. A work of historical importance which certainly cannot be affected by any oppositional pettiness. And I’m saying that, because I believe that the characterizations, criticism and exaggeration we’ve heard in this Room and also supplied by the media, can only be described as petty and bearing oppositional blinders.

Studying the introductions, apart from lengthy and beautiful orations, impact, platitude enriched with convenient doses of feeling, due to the object, and the corresponding lyricism, I could not detect any accusations that could be founded on real criticism on specific regulations.

Thus, dear colleagues from the opposition, instead of saluting the bill with all your heart – you did salute it, but only half-heartedly – instead of saluting such an important historic event, you just expressed accusations and allusions, which I find to be unfair at the very least, regarding the quality and content of this statute.

What has the government of PASOK done, with the administration of the Ministry of culture, for eight whole years, for the reality and the problems faced by people of intellect, people of literature, for the problems of artists? Nothing but retaining the Rome Convention and Geneva Convention without enforcing them, and thus exposing us to the judgment of the international opinion.

Mrs. Merkouri criticized us regarding the bill, that, as she said, contains lots of technical aspects, but little imagination and inexistent sensitivity.

My question is then, has all this imagination and sensitivity that existed during the previous 8 years, led to anything in regards with the facing of real problems in the intellectual world, the people of literature and arts?

Of course, I’m sure you will reply by mentioning the great and impressive events held, cultural capitals, international campaigns, which I honor and praise, because we need those as well, and I am not opposed to them.

But beyond all that, dear colleagues, who has sat and held negotiations with the multitude of people creating our country’s intellectual world, to see their problems face to face and experience their disputes first-hand?

I believe that Mrs. Merkouri has tried to do that and it is to her honor, because she comes from the artistic world as well, and thus she can have direct communication and experience of the problems. But did she come to any conclusion? No, she didn’t.

What we have done in 1,5 years, through our intense contacts and negotiations, both my own and from the whole political leadership of the Ministry of Culture and mainly through the tireless work, insistence and self-denial of the Legislative Committee which has been created just for this aim, we have reached certain results.

I consider it my obligation and duty and I am glad to use this floor and thank from the bottom of my heart, all the members of the Legislative Committee who have worked with such self-denial, as I said, for this law. I should particularly belaud the contribution of the Legislative Committee’s President, my colleague and professor Mr. Georgios Koumantos, an expert on issues regarding intellectual property, but also

other younger colleagues from the Law University, Mr. Hiotelis and Mrs. Kallinikos, who stand by our side right until this very minute in this Parliamentary Room, for the work they have created.

Thus, we arrive to today's result, which has been praised by you as well – I'm sure there are hidden oppositional motives behind this, but still, I am pleased. But how can you talk about illiberality, ridicule, confusion, entanglement and the alleged subjection to business interests?

Where can you discern a subjection to business interests in this statute? What are the points that exhibit that? Is it that for the first time ever we establish, legislate and protect the author's moral right over his intellectual work? And indeed with two very important regulations for the moral right, the recession right and the non-transfer option, that is, the complete personal connection of the right to the author. Do you consider a subjection to business interests, the right to monitor the work given to a visual artist, so that he can control and receive earnings from all the consequential transfers of his visual artwork?

Do you consider it an unimportant protection for the intellectual author, when we have written an obligatory formula established for the compilation of legal transactions regarding copyright and additionally, the improvement already distributed, that the invalidity from the written formula can only be invoked by the intellectual author?

After all, what kind of subjection to business interests do we have here, when producers and importers of machinery suitable for the reproduction of intellectual works (tapes, videotapes, personal computers, and photocopiers) are all obliged to submit a percentage which is allocated among the intellectual authors?

Also, we establish for the very first time an obligatory fee percentage for authors and translators further to a particular number of thousands of copies, which is of course the weakest part in the whole procedure of intellectual creation in regards with the way it is rewarded.

We also establish the obligatory consent of the intellectual author in regards to satellite broadcasts. That is, the organizers of such satellite broadcasts are obliged to receive the license of the intellectual author, something that was not valid in the past.

Do you consider all these a submission of intellectual authors to business interests? Of course this wording you use cannot be based on any part of this law and it mainly derives from the collecting societies chapter, on which you have paid such attention during the discussion of this bill, that we are now at risk of giving the impression as a Body and whole, that what interests us more on intellectual creation is the collection, how and who will collect the rights, as if the intellectual author's sole interest is his material remuneration.

This apotheosis of collection, as depicted in your orations, has of course a certain excuse. That indeed, it is unacceptable for the intellectual author, artist or performer to be exploited, that his hard work and production cannot become the objects of a third party's gains.

But even in this point – in which I will return dear colleagues – instead of being praised, since we reached, if not to the point you had requested, to ban completely the free commercial modification of collecting societies, at least we put certain limitations. Dear colleagues from PASOK, didn't you have for 8 years the same commercial collecting societies, which you blame now for leeching on the blood of intellectual authors? What have you done in those 8 years? Why didn't you impose any limitations? And if the best form of administration, according to your views, is the non-profit organizations, why didn't you protect them and establish them with

effective statutes which would also be constitutional? You have only issued one decree, based on some law from the '80s and this decree was declared unconstitutional in the Council of State.

So instead of being praised for imposing certain limitations to commercial organizations and instead of being praised for setting a path for non-profit organizations, we are blamed for subjecting intellectual operators to the business interests of certain individuals and opening the doors to lawlessness.

Dear colleagues, the bill which is introduced, apart from its historic importance, has very considerable substantial importance. A country's cultural levels are reflected and defined by the degree of protection provided to the intellectual creation. And the protection of intellectual creation has two aspects. The first is the way the intellectual author's right is protected on the work itself and on the other hand, how the prerequisites for the exercise and exploitation of this right, by himself or third parties to which it is entrusted, are ensured.

Today, conditions of intellectual creation have underwent thorough changes. There are modernistic elements, revolutionary changes that also change our positioning as well as the activities of intellectual authors.

First of all, we have the dashing advance of technology. Technology in all its forms, serves intellectual creation immensely today, since it provides the means to spread the intellectual product towards any direction, easily and with ways that we couldn't even imagine only a few years back.

At the same time, this technology exposes the intellectual products to certain risks, since it comes between the author and the result, and there is sometimes the risk of cutting the bonds of authors with their creations. That is, this intervention can pose risks of distortion and estrangement, even the ultimate loss of the object.

(At this point, the presidential chair is taken by the Parliament's Fifth Deputy Chairman, Mr. **MANOLIS DRETTAKIS**)

But technology itself is an intellectual product. And it needs to be protected and assured. Thus, this phenomenon that creates new operating conditions and intellectual work attribution, is at the same time an intellectual product itself, and the need to protect it raises important and specialized demands.

On the other hand, we have the "commercialization" of intellectual products and their introduction to the market economy. This is unavoidable. The times where writers used oil lamps for light when writing their manuscripts, and they made them known only to a limited circle of scholars, are long past. With this intrusion of technology and the change of market conditions, with the transformation of the intellectual product to a market product as well, new problems are created. Mainly, we have the need to balance interests between the authors and those undertaking the exploitation of their work. Producers, publishers and other such factors of intellectual work exploitation and distribution, are subjects who also have demands and need the protection of their interests. Thus, with this statute, we stand among conflicting groups of interests that need to be balanced in the best possible way, and with the utmost respect for the intellectual product's value.

After all, intellectual authors have also expanded substantially. Until recently, intellectual authors were considered to be writers, musical composers, painters and visual artists. But at the same time, intellectual authors who also need equal protection, are those undertaking the performance and execution of the intellectual work, the performing artists, those who have the alleged related rights.

Thus, there is an expansion of the author field. These individuals need protection and thus new problems and new interest balancing needs manifest.

Next, collection can no longer be done by isolated authors only. Once, a writer could offer his book by himself, and the same was true for musical composers, performing artists and performers, who could demand their fees for themselves. Today's life's complexity cannot allow this any longer. Thus, we have the need for collecting societies and dealing with the problems we spent so much time on.

I could also mention the criminality that has found new forms in the field of intellectual creation and demands a new way of dealing with, new sanctions and new measures for its prevention and suppression.

Finally, this issue is internationalized and there's the need for international protection, which has also led to all these international conventions, directives and suggestions by the European Community.

All these necessitate the creation of a modern law regarding intellectual property. We are proud and glad that we have brought this law for discussion in the Parliament and it's on its way to be passed.

But let us take a look at the basic principles of this statute, which at the same time, serve as a response towards the criticism we have received from the Opposition.

First, we aspired – and I think we have achieved that to a satisfactory degree – for this law to be a balancing law, a law that will objectively face, by keeping equal distances and above all with a correct sense of reality, all those who contribute to the creation and distribution of intellectual products. From its source, that is the intellectual author, through its evaluation by the performing artists / performers, and to the subjects undertaking the exploitation and distribution of the intellectual product, in all forms manifested.

As I said before, copyright in this law is dealt with fundamentally from its property aspect, but at the same time we also establish the moral aspect of the right, establishing the reversion right and the non-transfer option mentioned earlier.

Regarding the property aspects of intellectual authorship, we are glad, because this statute includes regulations protecting the intellectual author and at the same time wisely formulated, so that they do not create unsurpassable barriers or become a hindrance for the work's exploitation and distribution which, as said, is undertaken by those entities – producers, publishers etc. – who are responsible for its exploitation.

Thus, we achieve a certain balance among all those factors, by establishing protective regulations for authors, which retain this balance. I have previously mentioned the monitoring right, in article 5, of visual artists. Also important is the issue of relationships between the intellectual author as an employee and the individual that undertakes the exploitation of the copyright. I am referring to the final regulations of article 8 and article 32, regarding the audiovisual convention, which is a specialized application of article 8, according to which the contracting party is transferred only with the certain authorities deriving from the copyright, which are necessary for the right's final exercise, and regarding the audiovisual convention, only further to the final editing by the intellectual author.

We have included regulations, according to your suggestions, in the last modifications for the prohibition of the transfer of all future works.

I had also explained, dear colleagues, during the Standing Parliamentary Committee, where we had discussed this before, that this provision is unnecessary. There are the general regulations of the Civil Code and particularly article 179, which could and can be enforced in such a convention that would prevent the total exclusion of the intellectual author from all his future works. Despite the fact that this issue is fully covered by article 179, and in order to avoid, according to your depiction, an intentional exclusion or inadequate protection of the intellectual author, we have

included this prohibition as well, along with the prohibition of transferring unknown uses when the contract is signed.

I have referred to printed Press previously.

I have also referred to the fee collected by importers and producers of reproduction machinery, in favor of intellectual authors.

The protection duration was until now 50 years. It is changed to 70 years, according to the international suggestions as well.

You have blamed us, however, that we have not included definitions of certain conventions in this law. That we do not provide the definition of the audiovisual convention. That we do not provide the definition of the publishing convention. That we do not give the definition of radio / television broadcast or public performance. But, dear colleagues, there is no exhaustive regulation or consensus on the definition and content of these conventions on an international level either. Some legislations include definitions, others don't.

I would like to pose a question: What are definitions good for? Us legal practitioners know that definitions bind beyond measure the case-law and its enforcement. And in the sector of intellectual production, which is under constant evolution and rapid transformations, where new ways to exercise rights are presented due to the reasons I explained before, what good would an isolated definition do in this law, a definition that would prohibit any expansible interpretation by the courts, any introduction of new forms of technology? What kind of reassurance would it provide?

We believe that it is to the bill's merit that it does not include certain definitions, as you mentioned them, since it includes regulations for the conventions which are reassuring for intellectual authors.

I will once again refer to article 32, for the transfer of limited authorities and further to its final modification, I will refer to article 32 with the new formulation, which I will distribute, regarding the protection of writers and translators, the intellectual authors' license for satellite broadcast and several other regulations, which will be discussed along with the articles.

So, what would some definitions add, which would only result to limiting the formative role of the court case-law?

Now I will enter a different chapter, the one Mrs. Faradouri spoke extensively about, and particularly the chapter regarding related rights.

Dear colleagues, performers, artists, performing artists, a large section of intellectual individuals, have had an international protecting measure, the Rome Convention since 1961 on an international level. But our country never provided any sort of protection. Why? Not because it was difficult to have a convention and have it enforced, but because that wouldn't be enough. In order to enforce the Rome convention, the rights of Greek artists, performers and performing artists should also be enforced. Otherwise, we would be in the disadvantaged position of having enforced a convention protecting the rights of foreign artists in our country, and leaving our own artists unprotected.

Thus, a simple solution was found, not to enforce the convention until we created our own legislation, protecting performers, performing artists and artists in general, and until that came true, leaving them all unprotected.

Hence we made the decision and took the first step. First we unanimously enforced the Rome convention, a little before the summer. We enforced this, because this statute includes a chapter on related rights, which provides rights to performers, performing artists or artists who protect and ensure their artistic creations. Certainly, this has created a new dispute, among the various existing in this bill and regarding

conflicts of interest, a new dispute among the intellectual authors and performing artists, performers, artists which also finds a perfectly balanced solution in the bill.

The rights provided by the statute to performers, performing artists and artists are important, particularly the right to allow or prohibit recording and subsequent execution.

Additionally, further to the right of allowing or prohibiting illegal recording and subsequent execution, for the case of legitimate rebroadcasts, we now provide the right of reasonable fee, so performers, performing artists and artists can stop listening or watching their performance rebroadcast or becoming an object of all sorts of exploitation, without the right to prohibit this or receive a fee. The statute provides the reasonable fee right. Performers, performing artists and artists are entitled to a moral right, such as intellectual authors, and of course a protection right from their performance's distortion. This is a response to Mr. Ledakis, since he mentioned something during his speech, without obviously having seen this particularly article that establishes the performers', performing artists' and actors' moral right from distorting his performance and execution. The written form is also valid here. Thus, according to today's data, we provide an absolutely satisfactory protection of the beneficiaries of the alleged related rights, which shall be enhanced even more in light of the Community Directive, which as we heard yesterday has been enforced by the Ministers Council of foreign market in the Community and which we must adapt to until 1994. But until we reach these articles, if there are new articles and elements which are finalized by the Community Directive, and which can be embodied, we shall make an attempt to integrate those as well.

Thus, dear colleagues, we have a statute in our hands that provides for everything. It solves lingering problems that have been afflicting the intellectual world for decades. It also creates prerequisites for discussion, converse and approach of all bodies of conflicting interests, so that the intellectual product, from its author to its final recipient, does not encounter any illegal exploitation or barriers that prevent its distribution.

Degenerations exist in all societies. There may be some certain gaps, but this statute provides a tool for intellectual authors, so that untrammelled and with the law's protection to the extent possible, they can provide their valuable work to society.

And now, I would like to say a few words, dear colleagues, for those collecting societies, which seem to be the main interest of the Opposition and on which all critical comments for the rest of the bill are based.

Dear colleagues from PASOK, since you had the authority for 8 years, I will repeat my previous question: What have you done to contain the lawlessness and shut down those – as you seem to believe – unhesitating exploiters that leech the blood off helpless authors? Have you done anything? Shutting them down would be difficult. You did not proceed to that decision. You asked us to do it for you. But have you at least established any containing measure of this lawlessness, as you described it? You didn't even issue a decree, not even a fundamental legislative document, not just for the limitation of commercial organizations, but nor for the parallel establishment of non-profit ones.

You have only tried to compile one decree and that was declared anticonstitutional by the Council of State, because of course, you did not have a correct legislative basis, since you never established it.

Thus, how can you criticize us and blame us for institutionalizing or establishing commercial collecting societies, when you had them operating without any limiting measure? All the more, when we are establishing some limiting regulations today.

You have asked us to ban commercial organizations and establish non-profit ones. Why, dear colleagues? The market is free, authors are free, artists and beneficiaries of related rights can select their own actions, either they want commercial organizations or creating non-profit ones. I suppose you are suggesting this in the spirit of your ideology, which is more etatistic, wanting to set barriers, as we have heard, to the operation – the uncontrolled operation, as you said – of the market. But allow me to express one question, since from your introducer's comments I could not make out your position. At first you said and blamed us for being liberal in this bill, and leaving it all to the freedom of conventions, that we do not set limitations to the market's operation regarding copyright, and on the other hand, at some point, you accused us of being etatistic, of introducing the state in the operation of intellectual creation, that the Ministry of Culture – Mrs. Merkouri said “the Minister of Culture” – and perhaps the Party, can control everything. Anyway, what are you accusing us of and what are you suggesting?

Do you wish for wider freedom or wider state intervention? If you wish this, then why not abolish non-profit organizations when you had the authority, why not abolish the operation of the market regarding its collecting aspects and only leave the so-called “self-management” ones?

Dear colleagues, we do not use such limitations. We shall enforce the rules created, which are the rules set to the possible extent by Justice and the limitation of competition.

So in these commercial companies that you didn't use any limitation on, we are imposing important limitations.

In article 54, in order to establish a commercial organization – the existing ones are subject to the transitional regulation of course – individuals need to submit a statement to the Ministry of Culture as well as a regulation with the elements described in the law, and all that must be submitted to the Ministry of Culture in order to be checked. The Ministry of Culture can order an administrative fine in cases of serious violations of the regulation. Also, the Ministry of Culture, that controls the Organization with the statement and regulation, can order administrative fines in cases of serious violations or repeated violations of the regulation.

The funny thing is, that among your remarks, I have heard you expressing objections now for the “serious violation” against which we have ordered administrative fines. You are wondering what a serious violation means and who will be controlling that. Dear colleagues, can you at last tell us what you wish? Do you wish for a state control over these organizations or not?

We also establish controls by Sworn Accountants, which would have been easy for you to have implemented, that is to use Sworn Accountants in the incorporated companies collecting rights. Still, you haven't.

We also include several other regulations limiting the operation of these organizations in the bill, but we also do something else as well. As I said the day before yesterday, and I had already promised that to the Parliamentary Committee, we shall provide a legal framework for non-profit organizations, that could one way or another operate, since there are no barriers for their establishment. But if there was or could be a barrier, since they will be non-profit, but will exercise some financial activity, we shall provide the ability of establishing civil partnerships for the collection of copyrights. There you go then, non-profit, self-managing organizations.

So instead of being pleased with that and tell us that we have taken an important step, you unleash an attack against us accusing us of establishing lawlessness, that we supposedly open the doors for private entrepreneurs to exploit copyright.

I believe, dear colleagues, that your criticism is unfair. In the articles we shall discuss, you shall see, and we all shall see, that these regulations are the best possible for this point of time.

Certainly, in the end we also provide, finally, effective sanctions for the particular and uncontrollable criminality that has manifested in the field of intellectual creation, with illegal reproductions, tape piracy and illegal deforcement of intellectual creation, either of the authors themselves or the performers or performing artists.

We believe that the chapter of sanctions shall provide an effective prevention and suppression of these phenomena.

Dear colleagues, I will not continue supporting this bill, because I think what I have said so far have contradicted the most important points of the criticism exercised by the Opposition. I would like to reassure you that the will to negotiate, discuss and improve the bill which we have expressed so far – and I assure you Mr. Sevastakis – is not a manifestation of the intolerable pressure we have suffered by social bodies and you. I have not given the impression that I succumb to any pressure, but I have shown that I am acceptable to discourse and when there's an opportunity for improvement, I take advantage of that.

I would like to reassure you that we have good knowledge of this object and we want to regulate it in the best possible manner. We are willing to cooperate and I would like to wish and I hope that all Wings of the Parliament will display the same will, because indeed, when we pass a new law on intellectual authorship, we will have set a new foundation in the building that is called Greek culture.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Dear colleagues, I would like to please ask Mrs. Minister, before we proceed to declaring the redrafts of articles distributed. There's an extra page on article 20. Mrs. Minister I think you should declare these and submit them to the Minutes, in order to be available, for order reasons. The document is as distributed, and thus there's no problem. I believe you don't need to read them, because we will lose time.

**ANNA BENAКИ-PSAROUDA (Minister of Culture):** Yes Mr. Chairman. I will just mention that I have distributed the redraft of articles 8, 13 par. 5 and 6, 14, 15 par. 4 and 5, 18 par. 3, 20 par. 1 and 3, which was recently distributed and article 32 par. 1. Of course, if there are other comments during the discussion, we can proceed to further improvements. Mr. Chairman I will also bring some redrafts of other articles which I announced yesterday. I will submit now the redrafts of articles mentioned for the minutes.

(At this point the Minister of Culture Mrs. A. BENAКИ-PSAROUDA submits for the Minutes the aforementioned redrafted articles, which are as follows:

MINISTRY OF CULTURE

THE MINISTER

Athens 11.11.1992

## Redrafts of Articles

### Article 8

#### Works of employees

Regarding works created by employees during the execution of an employment contract, the initial beneficiary of the property and moral right is the author. Unless a contrary agreement exists, the authorities deriving from the property right, which are

necessary for the impletion of the contract's aim, are by law transferred to the employer.

#### Article 13

Paragraphs 5 and 6 are added, which are as follows:

5. The contract or license cannot include the totality of the creator's future works and cannot be interpreted to refer to ways of exploitation that were not known when the relative legal transactions were completed.

6. The rights of the parties undertaking the exploitation or requesting the ability of exploitation cannot be transferred among living without the author's approval.

#### Article 14

##### Type of legal transactions

Legal transactions regarding the transfer of authorities deriving from the property right, exploitation assignment or license and the exercise of the moral right, are considered invalid, unless they are compiled in writing. The aforementioned invalidity can only be invoked by the intellectual author.

#### Article 15

Paragraph 4 is modified and paragraph 5 is added.

4. Unless the extent and exploitation means for which the transfer is made are determined or an exploitation or exploitation license is agreed, it is considered that they regard the extent and means, which are necessary to fulfill the contract or license object.

5. In all cases of property right transfer or provision of an exclusive exploitation license, the individual receiving the right or license, is obliged, within reasonable time, to provide public access to the work, in the right way of exploitation.

#### Article 18

Paragraph 3 is redrafted as follows:

3. In case material entities are used for the work's free reproduction, such as the devices for recording audio or video or both audio and video, magnetic tapes or other photocopying machines, special photocopying paper or personal computers, a reasonable fee is owed to the work's author and the beneficiaries of related rights. This fee is determined to be 6% of the value of audio or video or both audio and video recording devices and magnetic tapes or other material entities, 4% of the value of photocopying machines and special paper and 2% of the value of personal computers. In all cases, the calculation takes place further to the importation or the distribution from the factory or wholesale or retail. The fee is paid by the producers or importers or traders of these objects and is collected by collecting societies, representing each corresponding category of beneficiaries. The fee collected by the production or importation or sale of photocopying machines with special paper and personal computers, is distributed by half between the intellectual authors and the publishers. The fee collected by the production or importation or sale of audio and video recording devices as well as magnetic tapes, is allocated by 55% to intellectual authors, 25% to performers or performing artists and 20% to producers of recorded magnetic tapes or other recorded material entities of audio or video or both audio and video. The details of the payment and distribution to beneficiaries can be determined by a presidential decree, issued further to a suggestion by the Minister of Culture. This decree can also provide the allocation of part of the collected amounts, no larger

than twenty per cent, for social or cultural purposes, covering the needs of the interested beneficiaries, in which case it shall be issued further to a suggestion by the Ministers of Culture and Health, Welfare and Social Insurance.

Redrafts of articles

#### Article 20

Paragraphs 1 and 3 are redrafted as follows:

1. It is allowed, without the author's permit and without a given fee, to reproduce literary works of one or more authors, which have been legally published and consist a small part of the total creation of each of them, in school books, which are used as teaching books in primary and secondary educational institutes and are approved by the Ministry of National Education or by any other ministry according to the official detailed schedule.

3. The reproduction, as defined in the previous paragraphs, should not encumber the usual exploitation of the work from which texts are taken and should be accompanied by a statement of the source and the names of the author and publisher, if these names are shown in the source.

#### Article 32

Regulations regarding the audiovisual production convention

Paragraph 1 is redrafted as follows:

1. The contract for the creation of an audiovisual work, signed between the work's producer and the work's intellectual author, procures, unless a contrary agreement exists, the transfer of the property right authorities which are necessary for the exploitation of the audiovisual work, to the producer. This transfer is enforced further to the completion of the work's final processing by the intellectual author.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Mrs. Minister, you said yesterday and you have repeated so today, that you have some additions to make regarding collecting societies. Will these be used as well?

**ANNA BENAKI-PSAROUDA (Minister of Culture):** Certainly, as well as article 33 regarding the relations of authors.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** We are not going to discuss those tomorrow.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** I'm not certain we have enough time for those tomorrow.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Very well. Now it would best for all colleagues to know of the way we shall discuss the sections.

We suggest that these sections are as follows: Chapters A', B', C', articles 1 to 17 are section one. Chapters D', E', F', articles 18 to 39 are section two. Chapters G', H', I', articles 40 to 58 are section three. Chapters J', K', L', articles 59 to 72 and the amendments regarding this bill are section four. Do all colleagues agree?

**STAVROS BENOS:** We agree Mr. Chairman, with just a remark that was also made during the beginning of the procedure. Each section should be given one day of discussion and we can select important articles apart from the sections, to be discussed separately. We have spoken about this yesterday with the Chairman.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Yes. As you said, I think that Mrs. Minister has also agreed, regarding the exception of certain articles which we shall discuss separately from the section.

Mr. Benos, I would say that this should best be mentioned in the beginning of each session. If you allow me, from the experience I have, perhaps it would be best to start the discussion with these specific articles and the remaining ones, which according to you, are less important, can be discussed once we finish with the articles on which you want the discussion to focus. In this way we can provide exactly what you wish.

**STAVROS BENOS:** We fully agree.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** There you go Mrs. Minister, you have the floor.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** I do not disagree with adapting to any kind of discussion the Opposition would like to have. I would like to say that regarding section one, which as you said comprises of articles 1-17, perhaps these are too few. The first articles, with a few exceptions, do not contain many issues. I would suggest we extended section one to article 31, because the important issues are from article 32 onwards. Please consider this Mr. Benos, because I don't think we should spend a whole day on articles 1-17.

**STAVROS BENOS:** Let us leave this aside for the time being, so that we can talk about it until today's procedure is completed and make a decision. Let us not agree right now, perhaps we can consider it for a while.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Before the session is completed, we must decide on this, so that we know what we shall discuss tomorrow. Mr. Giannaros, what's your opinion?

**GRIGORIS GIANNAROS:** We agree, Mr. Chairman.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Do you also agree with the procedure I mentioned previously, so we're clear on what to do?

**GRIGORIS GIANNAROS:** Certainly.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Mr. Benos, PASOK's Parliamentary Delegate, has the floor.

**STAVROS BENOS:** Mr. Chairman, Mr. Minister, dear colleagues, today we're in some way the victims of another part of the Ministry of Culture, Sports, due to soccer. I mean, regarding who's present in the Room.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** This unfortunately is a permanent problem of all Ministries, Mr. Benos, when the Parliament discusses a bill.

**STAVROS BENOS:** Dear colleagues, I will try to respond to all said by Mrs. Minister, in the most composed way but also with an in-depth discussion. After all, I believe that such a discussion is worthy of this very important issue that we are discoursing. As worthy as the people of intellect and art, who this important bill is all about, since it's all about the Greek society indirectly as well.

It is a fact that Mrs. Minister has proceeded to certain recessions, yesterday and today. I would not like to characterize or judge them right now. Let us judge them, after we analyze and consider them from all aspects. I would only like to make a comment and state my personal view, on the reason why those recessions were made. I believe, Mrs. Minister, that all this time you have been literally besieged by all intellectual authors' bodies, by all the political bodies of this country, by the movements of society extending beyond our country's borders, but mainly by the European communities and the recent conclusion of the scientific committee. If you allow me to say, I hope that you have also been besieged by your own consciousness.

Thus, we had all these recessions, which we will consider and analyze one by one right now. However, dear colleagues, before I enter my speech's main object, it is worth making a comment on the most important matters raised by Mrs. Minister. In the beginning of her oration – and I will certainly follow the succession of her

arguments – she said that the submission and discussion of this bill is a historical event. We have never denied this. And it's not just the wording aspect of it, it's the essence it carries.

However, Mrs. Minister, unless you evaluate this historical conjunction and the movements of society, then instead of going forward you'll end up in the back. Instead of progress, you'll find regression. And we believe that we've seen no progress so far.

You have also said that you could not find any accusations or suggestions by us. But this is all we do! During the Parliamentary Committee we literally bombarded you with suggestions. And already, the whole Culture Sector, PASOK's Culture Works Parliamentary Sector, headed by Mrs. Merkouri, has submitted 35 amendments, which are the fruit of months of work, in collaboration with cultural bodies, and which of course we shall discuss during the articles' discussion.

You also mentioned – and this has become a standard refrain of this Government – the 8 years of PASOK governance. We have no reason to deny our bad past. And as you've heard, Mrs. Merkouri proceeded to a very serious self-criticism yesterday.

But I am addressing you and asking you Mrs. Minister: How long will you continue to compare yourselves with the errors and bad days of PASOK? Why don't you do the opposite? To compare yourselves to our good days? And we had plenty of those in the Ministry of Culture. Melina Merkouri had plenty of good days and very good moments for this country and nation, for Hellenism.

She didn't have time to complete this particular bill and you are fully aware of the basic reason behind this. It's all the conflicts among authors and Melina's known sensitivity, since she wanted to solve these conflicts by having discussions. Alright, she couldn't make it. And this Presidential decree you have spoken about, which came from the Council of State, was because indeed it contained some very forward and progressive provisions. Despite all that, we do not deny our responsibility, and Mrs. Merkouri spoke about it herself yesterday.

You have also said that you felt bad that we used certain descriptions for this bill, meaning that it's confused in various regulations, that it enslaves authors in other regulations, that it is an entanglement. I will stop here, because I don't like using attributive adjectives. We shall have the chance – when I will state my view later on – to really see if this is the case or not. That is, I will support all the characterizations mentioned by our introducer yesterday.

You have also said that you have established a percentile fee for authors for the very first time, and we praise you for that. The question that is in need of an answer is: why can't this percentage be established for all authors, and particularly for audiovisual works? This is a question I will return to and I demand you give me an answer, all the more since in your original document you used this regulation and further on you excluded it.

You have spent an important part of your oration talking about collecting societies. And you said, trying to express our own views and positions, that this is the base of an oppositional attitude that we have exalted to be the greatest issue. Certainly this is one of the greater issues of this bill. But we have never said that it was the most important one.

And after making your favorite referral on our 8 years of governance once again, you defended – although, I have to admit, in a more delicate way than during the sessions of the Parliamentary Committee where you were rather emphatic – the economy of the market to which intellectual struggle will unavoidably be introduced to.

Mrs. Minister, yes, we are categorically opposed to this thing. We are categorically opposed to having commercial collecting societies of intellectual struggle. It is not a matter of attitude and ideology, as you have imputed. It is not a matter of socialistic ideas and alleged apostasy or apposition to your ideological considerations and schemes.

And to prove this, I will submit to the Parliament's Minutes, three recent laws, which you have invoked yourself:

The law of Spain, dear colleagues – provided in its original and translated form – that explicitly states in article 32 that collecting societies are not allowed to be commercial.

(At this point, Member of the Parliament, Mr. Stavros Benos, submits to the Parliament's Minutes, the aforementioned law which is retained in the Stenography Service archive and is at the disposal of all interested parties).

I also have an abstract from the French law, which mentions forms of civil companies, the members of which must be authors, performers or performing artists. That is, self-management organizations to collect the authors' rights.

(At this point, Member of the Parliament, Mr. Stavros Benos, submits to the Parliament's Minutes, the relative abstract of the French law, which is retained at the Stenography Service archives and is at the disposal of all interested parties).

I also have Switzerland's law. Is Switzerland a socialistic country? Correct me if I'm wrong. This is the text of a new law that is to be passed and it says that "organizations should not pursue personal gain". What is your answer on all these Mrs. Minister? And these are just the most recent laws.

(At this point, Member of the Parliament, Mr. Stavros Benos, submits to the Parliament's Minutes, the relative Swiss law, which is retained at the Stenography Service archive and is at the disposal of all interested parties).

The society's movements, Europe's movements are in favor of non-profit organizations, in regards to the exploitation of intellectual struggle.

Speaking about other parts of your law, you have mentioned that this law is balanced. Our categorical answer is that it obviously isn't. And I shall prove this right now. You have said that it contains protective regulations, wisely – and that is a very refined expression – formed. I would say that they are legalistically formed, and if we try to dig in a little, we shall see that in reality they are against authors and in favor of those exploiting their work.

You have also said and insisted in giving definitions and presented a whole juridical rationale on the reasons why these definitions must be given. Regardless of that, we are more interested in substance.

You have been exposed, Mrs. Minister, because in article 32, instead of making a reference on the audiovisual convention, do you know what the title is? "Audiovisual work producer rights". This definition exposes the government's intention, which is to defend the rights of producers, not authors.

Finally, regarding your reference on related rights, which I have to confess was rather self-criticizing, you have a very large responsibility Mrs. Minister. Please hear this, dear colleagues. For a long time, the Community has been discussing the directive on related rights. The discussion was completed during the previous days. Our delegate has brought us the law today. Mrs. Minister says: "We are given a deadline until June 1994 to correct it". But I'm asking you honestly: is this a serious exercise of politics? And beyond this very serious issue exposed, regarding the substantial matters – I will speak about related rights later on – regarding the related rights, you had nothing to mention during these two days as a correction.

Regarding the substantial matters now, dear colleagues. Since we're talking about art and culture, let us have a flashback. Let us take things in order and view them like watching a documentary.

As I said, Mrs. Minister was more reserved today. Please listen – I will be reading abstracts from the Standing Committee – at what she said during the first session. “What is a fact is that from the introducers of the bill” – that is from their side – “we are starting having as a fact the modern regulation and formation of social and financial life, which is based on free competition and freedom of conventions”. What does that mean in simple Greek? It means that neoliberalism is established in the rules of market and the sector of culture and intellectual struggle.

Further on, during the same session, she says: “I will remind you that his law is active in a state of free transactions and free market”. This is the government's philosophy about this particular bill.

I have gathered certain views of the authors' representatives, as heard during the Standing Committee, and I have tried to include a vast array and multitude of these authors.

Mr. Axelos, representative of GAU (Greek Actors Union) says: “In the status of a free market, intellectual products cannot be dealt with as other products”. And later on: “We believe that this bill should be protecting intellectual creators, who due to their position are weak in negotiations and disadvantaged in relation with other sectors, in this, precisely free market”.

Mr. Sfetsas, representative of composers: “Our basic disagreement regards the limitless application of the principle of free conventions in the sector of intellectual authorship. You essentially lead us to recession contracts. We either accept the terms and sign, or we don't sign”.

Mr. Papakyriakopoulos, representative of directors said – and I will return to that – that the audiovisual industry turnover is the third largest one internationally during our century.

The most colorful of all, Mr. Perlegas from ΠΟΑ said, dear colleagues: “authors and video and audio performers are deeply disappointed by the content and rationale of this bill. Our common ascertainment is that the committee which prepared it, under the leadership of Mr. Koumandos, did not consider at all the protection of the artists' interests, but on the contrary, it has tried to turn artists into instruments of third parties' interests. It is sad that a state cannot embrace with the necessary nurture the people that through their work retain their country's identity in the international current affairs. I hope it is understood that we cannot be proud as a state of the oranges and apples we export, but of the works of our musicians, our directors, our writers, our painters”. And he concluded: “This family demanded love from the state, which this bill refuses to give”.

Further on, Mr. Katsaros, representing Hellenic Network of Informatics Technology Professionals, surprised us by saying in a part of his speech: “We are interested in the certain and prompt payment by a sole self-managing organization that can guarantee an effective management”. And do you know what followed this statement by Mr. Katsaros, dear colleagues? Mr. Xanthopoulos, AEPI's legal advisor and managing director, threatened him inside the Parliament and told him that from the very next day he would delete him and their cooperation would cease.

To understand what AEPI means, I have brought two documents which I will submit to the Parliament. The one is a decision by the Council of State on AEPI's frauds and it said that AEPI did not record collected amounts from author beneficiaries and that it created a virtual company, in which it placde employees – this company was non-

existent – transferring resources of authors to that. There is a conviction by the Council of State.

What is more telling though is an abstract from an English document, containing the collection of English authors from all countries of the world. Please listen, dear colleagues, what they collected from countries equivalent to our own. Austria, collection of 1 million pounds. Denmark, collection of 776.000 pounds. How much do you think Greece's collection was? Two thousand and eight hundred pounds. As you see, AEPI does not only steal money from Greek authors, but also from foreign ones. This I think is rather revelatory and is the most important answer one can give for the need to establish only non-profit management organizations.

(At this point, Member of the Parliament Mr. S. Benos submits the aforementioned documents, which are retained in the Stenography Service archive and are at the disposal of all interested parties).

These documents from the Parliamentary Committee Minutes, have given us the tone of where the Government is and where the bodies are.

And it's not just that. Further on, we have the legislation by the EEC, the national legislations of the states of the EEC, some of which I have submitted a while earlier. In these legislations, one very important issue is the establishment of a percentile fee in the audiovisual work that as I said, is a matter where you have to provide an answer Mrs. Minister.

Then we have the community legislation that follows different patterns than the Greek one, and on a parallel timeframe. I will mention a few things from what you said, and which consist an unprecedented confession on your behalf, Mrs. Minister, that you did not have the time to study them. Then, the person representing the Community, did not represent your own views? The Ministry of Culture is unaware of what was passed in the Community for performers and performing artists?

We can say that on basic matters, there is a large distance from what we have the time to study today and there's a very serious matter, because the directive provides a reasonable fee for authors and performers renting or lending their works. This bill is silent on this very important regulation. The most important thing you mention, as an alleged achievement and a positive part of your bill, is that the directive provides – please pay attention Mrs. Minister – the right to reproduce and distribute to the public, in favor of performers, without the serious limitations posed in this bill. Essentially, this bill does not allow performers – performing artists to reproduce their own work or distribute it. This is the way these regulations are formulated. On the other hand, the directive not only allows this, but enforces it.

Another revelatory part is the report of the Scientific Committee and the most interesting one is the chapter with the remarks of Comparative Law. As you know, the Scientific Committee uses a hard to understand language, which is many times diplomatic. If one tries to analyze its comments, he does arrive to some very useful conclusions.

Mrs. Minister, in page 6 there is a reference on the French law. It says that this law provides an explicit and separate reference on the assignment acts. We would like a response on this issue.

Further on, it contains the percentile fee for the audiovisual work. It also sets prerequisites of edition for future works. From what we know, there's no such regulation in the convention you will suggest.

On page 11, in the Spanish law, authors are obligatorily participating in the collections from public presentation. What can you say about this regulation Mrs.

Minister that exists in foreign laws and is called to attention by the Scientific Committee?

And it's not just that, there are certain alchemies in this bill and to be clearer, I will ask your attention on page 15, where the French law in article 15/30 provides a compensation right, that is a reasonable fee according to our article 49, when recordings in special sound and video or video and sound carriers – please pay attention dear colleagues – are published for commercial purposes. What does Mrs. Minister's regulation provide? Authors are entitled to a reasonable fee when works are distributed commercially. It is supposed to be a related regulation. The difference though is immense, since productions for performing artists and performers are internal ones, made by the channels and do not circulate in the market, while they are provided for commercial reasons. Thus, the reasonable fee is detached from performers – performing artists.

We would like an answer, because the Scientific Committee also makes an allusion to this very important issue.

Now, regarding the changes we have seen these days, I will make a brief comment. In article 8, we agree that the exclusion of the property right transfer in the cases of work contracts is an important step. The question is why this was limited to authors and not expanded to performers – performing artists as well, and was retained as was in article 46, par. 3.

You owe us an answer on this issue as well.

Article 13, which includes positive regulations, contains regulations created by our own suggestions. And I would like to point this out, as well as article 15, since you said that we didn't provide any suggestions.

In article 18, the regulation is inadequate, because one of its formulations says that the fee is submitted by the producers or importers or traders of these objects and collected by collecting societies representing them. What is the meaning of "representing"? In case several bodies participate in a collecting organization, the rights will be collected by one that is the most representative? And who will be the judge of that? This is an inaccurate regulation which raises many questions and must be deleted. And in the end, it provides for the deduction of 20% for cultural and social purposes. We are struggling to ensure some fragments for authors with our one hand, while with the other we are trying to take the same away? The authors' request is to completely delete this regulation and we are waiting to hear your answer on that.

In regards to article 32, and I will insist on that, because this may be the most important one of the whole bill, since it regulates the audiovisual convention, and when we're talking about the audio industry, as I've told you, it's the third largest one internationally and to understand its importance, when President Bush visited Greece, the first issue in his agenda was this. And if I'm lying, I'm asking Mrs. Benakis to contradict me. Because America distributes 80% of audio and video internationally and it is immediately concerned about what's going on with American authors' copyrights. Yesterday we thought we had a positive regulation. In the previous article, there was an automatic transfer of the author's property right, that is the director's, to the producer and we had the redraft by Mrs. Minister as follows: That unless a contrary agreement exists, only the authorities that are necessary for the audiovisual work's exploitation and derive from the property right are transferred to the producer. This is not an important change, Mrs. Minister, and I am addressing your legal advisors, because when we speak of the audiovisual work's exploitation, we mean all forms of exploitation that we want to avoid. The right regulation that could replace the one you suggested is the following: instead of providing for the audiovisual

work's exploitation, it should provide for the aims of the contract. Because a director can sign an agreement with a producer for a movie. He will sign the agreement for the reproduction, public execution, distribution, subtitling of this movie in cinemas. If this movie reaches some private channel, becomes a video and is broadcast, this is a different right that should not be transferred automatically. If the movie is rented or lent through the videos that are prospering in our country and are on a constant rise, this is a different right as well, that he needs to collect. So it shouldn't be transferred automatically. If you're willing to deal with this issue, you will accept this regulation, which we have suggested in our pertinent amendment.

In article 32, the core of the audiovisual convention is the author's fee. Here is the essence of the problem and in order to have an author's fee, there has to be a special fee for each side and aspect of the property right, and certainly a percentile fee, and that is not just a thought we're having by itself. I am submitting copies of the French and Spanish laws, which have been invoked by Mrs. Minister and state word by word. French law: the author's fee is granted for every form of exploitation and the author's fee is percentile. The Spanish law says that it is granted separately for each of the allowed forms of exploitation and raises to a percent over earnings from this public projection. I am submitting the copies of these two laws to the minutes and we would want an answer from you on this issue, Mrs. Minister.

(At this point, Member of the Parliament Mr. S. Benos submits the copies of the two laws for the Minutes, which are retained in the Stenography Service archive and are at the disposal of all interested parties).

Now for the conclusions, dear colleagues. It is obvious, and you said it yourself, that our country is undergoing a rough period. It is even more obvious that our greatest ally and the greatest shield for this country are its history and culture. This bill could really play an important role. What could this bill do? It practically offers a well-owned double title to intellectual people. A title of honor, which is the moral right, and a title of survival, which is the property right. But how are those titles given? I think that the bodies that presented here have responded to this for me, and we have all heard them.

It is then obvious that this law, as I have explained, does not favor the weaker side that is the people it was supposedly made for. But unfortunately it surrenders the authors – yes Mrs. Minister! – bound to those exploiting their own work. And I will tell you what this bill does in essence, but first we shall see the regulation you brought us for partnerships, because we haven't considered this yet and with this chance, I would also like to ask for you not to wait until the final moment to bring this. Let us see it now, because it is an important matter and we need to study it to see what position we shall have. You had promised this during the Parliamentary Committee.

The way things are now, collective bodies for the management of property rights of authors, are a snapshot of the AEPI. We shall see your intentions, because they are not evident yet, when you give us the particular document. There is a very serious problem with work contracts, for performers and performing artists, regarding the related right. There's also the large issue of percentile fees, mainly in the audiovisual work, for which you should give us an answer. You must give an answer because you used this regulation and then removed it, Mrs. Minister. I'm talking about article 38 of the first draft you distributed. You also have to give us an answer on why you do not establish the explicit and express reference on assignation acts for the authors' property right.

Regarding related rights, there was the prohibition right, which was correct. This was included in the previous article 46 on the original draft and said, word by word, dear

colleagues: “Until the fee that has been agreed or determined as paid, it is prohibited to use the material entity for radio / television shows or public presentation”. This meant, that the performer or performing artist should be paid first, and then the work could be played. Now you have removed this, Mrs. Minister. I wonder what kinds of interests have pushed you to do so. Why did you remove this? You owe us an explanation.

Thus, instead of the minor and partial corrections you have made – and it is obvious you made them succumbing to certain pressures – this bill is still an international innovation. It moves under the auspices of neoliberalism, and unfortunately, instead of following our neighboring history and the experience of European countries, it works conversely. It’s detaching itself from Europe. There was only one positive point, that after decades, this bill managed to gather all authors, performers, performing artists, exactly because it was so against them, that they forgot all their lesser disputes.

Closing, I regret to say that the Ministry of Culture and its leadership manifests an extreme ardency in enforcing the governmental policy. A policy that in all aspects is harsh, unfair, often blind and unfortunately, several times, dangerous. If in the sectors of other employees this policy is painful, enforcing it in the sector of people of intellect and art, dear colleagues, also manifests lack of sensitivity. I am sorry to say this, but the Ministry of Culture, which should be the leader and bastion, to be a pillar of pluralistic ideas, sensitivity, transparency and democracy, does not do all that. Unfortunately, this is also manifested in this bill.

For clarification, I shall read one of its regulations.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Please finish your oration.

**STAVROS BENOS:** I will be through in two minutes, Mr. Chairman.

Article 63, dear colleagues, speaks of the works projected publicly and it says: “When a public performance of a theatrical or cinema or musical work is about to be made, the according police authorities are obliged to forbid this act, further to a request by the author”. “Further to the author’s request” is alright. But this regulation also adds “or independently”. Where does this regulation take us back to?

Closing, I need to say that during these two days there were some hesitant steps taken. Steps which were positive, but in no case do they negate or invert the basic principles of this bill, its basic rationale, which is against authors. Steps that is very little for the people of intellect, art and our culture.

There is still a great distance to go Mrs. Minister, in order to arrive to an acceptable bill. We need to discuss the articles. We shall see if you will act this way, we shall see if you will dare to take the distance. But in the form the bill is presented today, we are obliged to vote in the negative. Thank you.

(Claps from the Wing of PASOK).

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** The Parliamentary Delegate of Sinaspismos tis Aristeras kai tis Proodou, Mr. Giannaros, has the floor.

**GRIGORIS GIANNAROS:** Dear colleagues, the quality of our discussions during these two days is reversely proportional to the consistency of the Room.

I believe that the discussion we are having is very important and I think that Mrs. Minister, when attributing the criticism over the bill to an oppositional prejudice, was unfair to this discussion but also to herself.

There was also some blame in Mrs. Minister’s oration about the tone of the speakers. Alas, if the authors could not speak passionately here or with this tone. It would be a sad spectacle.

I am perhaps privileged, among you all, to have heard Maria Faradouri singing for the very first time. She was a little girl wearing her school uniform. Those were difficult and dark days for Greece. And let me tell you, she managed to charm and overwhelm 4.000 people who were gathered in a field to protest during those hours. I am talking about the end of the summer of 1963, a transitional period. Several artists were singing there, but Maria Faradouri mesmerized them. And I was thrilled as well by the way she was performing.

Now, imagine Maria Faradouri coming here and speaking in such a wimp way, like I do. It would be sad to watch.

What do you expect from Mrs. Merkouri, the same Merkouris that I have seen in London, during the difficult years of the dictatorship, overwhelming England and the cold-blooded English people, charming and captivating Hyde Park? What did you expect?

I have marveled at her heroism, Mrs. Minister, her triple heroism, of coming here, accepting her responsibilities and framing, with such clarity, high ideals.

Perhaps you weren't touched by her tone, and I understand that. But forget her tone for just a while and please, sit down at night and read calmly the ideals existing in her speech. Those are grand.

And I would like to say the same for Mr. Sevastakis as well. He has reminded us all of Papadiamantis. What did you expect Mr. Sevastakis to remind us of? Companies? He is the author who has lived in such circumstances and has created. He spoke with this passion and we should consider this experience. That's what I would like to say firstly.

Secondly, I would like to stress that the bill we are discussing today is suitable for serious considerations, dear colleagues, ideological, theoretical, social and political.

Allow me to frame a few thoughts firstly. A law obviously includes practical regulations. But behind these matter-of-fact practical regulations, there are social choices, often brutal ones. I think we should mention those.

Dear colleagues, I am opposed to the thought that art has been industrialized in our times. On the contrary, I believe that artistic and intellectual creation were never entered into mass production and were not industrialized, and thus are very different today from the production of goods, since they are based on the authors' creative initiative. Production of goods used to be this way at sometime. It was also an artistic creation, before it turned into mass, before the industrial production. When the producer of goods was also a creator. We no longer have that, since it was regimentalized, turning into an industrial product and following the rules not of the free market, Mr. Benos, but the capitalistic production – and we should see that – and the capitalistic production is the negation of private ownership, when the individual producer was estranged and submitted to a larger industry, producing a new element, mass production by industrialists.

This evolution did not take place in the artistic and intellectual creation and this is an important issue that shows that precisely due to this non-induction, today's societies are defending it from being inducted now.

Thus, the bill discussed today and the pertinent regulations existing abroad, are essentially trying to establish provisions that shall protect intellectual and artistic creation from the flattening effect society has on other sectors, and particularly the financial organization manner. And that is why right protection laws exist.

Mr. Benos, I completely disagree with the idea that this bill enters a neoliberalism perception, because if we left everything to the free market, we would even have a certain logic in these issues. We do not interfere. Be it as it may. Let the producers

defend themselves. But this is not what I am about. Here – and for that, Mrs. Minister, you shouldn't be surprised when listening to isolated comments that there is a state intervention here – there is a regulation and we must discuss the essence and social aspect of this regulation.

Regarding what Mr. Sevastakis said yesterday, that the material regulated by this bill is artistic creation and the intervention of the exploited intellectual creation author and the user, we shall see, in favor of whom this intervention is made. And when from all Wings of the Opposition you heard the ascertainment that the interventions made are in favor of the interests of those mediating to exploit the artist's work, I believe you should take this into serious consideration and not reject it. This is not an oppositional prejudice.

And since I would like to speak more specifically, I'd like to say that we consider that the bill's intervention is essentially limiting for the author and in favor of the interests that have to do with the work's exploitation and distribution.

Regarding the last point, on users, I don't believe you have touched this issue. And this is a very serious omission. It will perhaps be the object of another discussion. I believe that in our times, the use of an artistic work and creation is a critical issue, since we're heading towards a society where free time will be more and there will be greater margins for artistic development and the refinement of human personality. This is not referred to in this bill. I'm just noting it. Let us focus on two other matters. And let us start with the first. The bill, as Mrs. Minister said, is a revolution because for the first time it regulates, etc., etc. The status we had so far, was unacceptable. And we have to admit that we are all responsible for that. PASOK has been responsible for 8 years, Sinaspismos is responsible because so far it has not submitted any specific and clear suggestions and it did not use the 3 months of having their own delegate in the Ministry of Culture to create a bold bill that would regard the issues discussed today. Artists are responsible, because they dispute over special and fragmented interests and are not gathered to consider these issues. Greek society as a whole is responsible. But this can set a precedent to reward the content's bill, whatever that is.

Thus, let us admit that there is an attempt made here to have a modern law in Greece and let us see the essence of the regulations existing.

We would like to focus our criticism on three issues. The first is that in other bills you have mentioned, Mrs. Minister – when you said that there are modern laws in France, also in Spain, in Switzerland etc. and in England – (the definitions are lacking, we did not speak of definitions and we are not interested in them), where conventions appearing with the largest frequency practically are determined. There are contract templates, protecting authors. I am not speaking of definitions, but of the definition of contracts. Since we're referring to the Spanish law quite often, I would like to invoke it on one certain issue. I will state beforehand that I am not expert on this and I am not a legal practitioner. I have tried, however, in favor of this discussion, to read some material. And I had a look at the Spanish and French laws.

Article 60, for instance, in the Spanish law, determines 7 different matters that must be explicitly regulated and in each case in the publishing convention: the exclusive or not right, this should be mentioned if the publisher already has the exclusive right. Also, the geographic region where it is valid, Greece is a small country but that is not important. Additionally, the course of the copies, the author's fees and the way they are paid, the time of the first edition etc. Further on there are other articles, such as 62 or 64 etc. determining the publisher's obligations. This is a very explicit framework. This is what we're talking about, not the definition of the publishing contract. We're

talking about the contract's template. And our society, as well as any neoliberal society, head towards that direction. And you can see that against large monopolies, e.g. to protect the consumer there is the convention template. And everywhere around the world, where there are laws for consumers, they say that the DEI convention, the contract signing the energy monopoly or SIEMENS even have to have some elements regarding the client's protection, because today's clients are weaker and correspondingly I think we should have the description and regulation of various types of contracts, including some minimum requirements to protect the artist.

These were our first remarks. We lack the contracts often encountered practically, while in other corresponding legislative regulations of different countries, these types of contracts are explicitly defined, protecting the artist.

The second issue I would like to discuss, my second round of remarks, is that in our bill we establish a series of explanatory regulations within the law itself, that under a blatant coincidence are in favor of the artistic work's exploiters and against the authors. And to be more specific, I would like to say this. Article 12 rightly says that the moral right is non-transferable. And this is an undisputable progress, there's no doubt about it. However, we then have article 16 that to me is something incomprehensible. It says: The author's consent for acts or omissions that would consist an infringement of his moral right is a way of exercising his right and binds the author. Please pay attention, all legal practitioners. Can this document be considered a legal document, is it founded on any legal principle?

**ANNA BENAKI-PSAROUDA (Minister of Culture):** It is in favor of the author. I shall explain.

**GRIGORIS GIANNAROS:** Please do. But in any case, I believe that this part, since it has encountered the objections and reservations of many here, not just mine, should be taken into consideration by you. Because it means that if I stipulate and consent with my execution, anyone out in the streets can kill me, because in that way no rights are infringed.

Apart from that. Transfer of property rights in written. Contracts should be written. That's right. It's article 14. From then on, dear colleagues, there is article 8 establishing the exact opposites, in part 2: "Unless a contrary agreement exists, the authorities deriving from the property rights, which are necessary for the fulfillment... as is defined... are transferred to the employee by law" etc. And you shall see this. It is presumed. By law, this and that are transferred and thus it is determined that this right can only be transferred in written. This is my second remark.

Would you like to discuss these? Remove all that "by law" definitions. You have removed the "presumed" which is coincidentally a presumption in favor of the contracting parties, not the author.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** Where do you refer to?

**GRIGORIOS GIANNAROS:** I am referring to article 8, second part, article 15, par. 4. Would you like me to read them out? If the extent and means of exploitation are not determined, for which the transfer is made, or the transfer or exploitation license is agreed, it is considered that they regard the extent and the means necessary to fulfill the contract's or permit's aim..." etc. Everything else, the written part, etc. is eliminated. And everyone can take what they want, from that point onwards.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** Mr. Konstantopoulos will be better suited to answer that.

**GRIGORIS GIANNAROS:** I would like him to.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Mr. Konstantopoulos cannot substitute you, Mrs. Minister.

**GRIGORIS GIANNAROS:** And the same for article 32, article 54 and article 57.

We believe that here explanatory rules are determined, which end up always in favor not of the author, but of the contracting party.

The same can be said about related rights as well. There we have indeed a replicate of the Rome convention, where it says that a fee is provided only in case the objects are exposed commercially. And certainly, the Rome Convention speaks of commercial circumstances because it refers to records. But here we speak of internal productions broadcast and rebroadcast again. They are impossible to be commercially available and you certainly understand in favor of whom this works.

In any case, during the discussion of the articles we will have the opportunity to say more. I would like to close my oration here, along with the final round of remarks regarding collecting societies.

Mrs. Minister said that the Opposition likes to deify collection and spoke of the entrappment of a larger issue in the minor ones.

Firstly, I believe that Mrs. Minister herself spent a large amount of time on this issue – as you may have noticed, there was an annulment of this first remark, because she considered it her obligation to speak in detail for this – and she did rightly, because this is a crucial issue.

Secondly, when wealth is produced by the artistic and intellectual creation, the way this wealth is distributed does not regard just the collection and the minor issues, but we're dealing here with a serious social problem that needs to be considered.

Secondly, the material terms of the author in order to be able to continue his creation are an important matter as well. Because we know that in Greece and the world authors usually find themselves in very difficult positions. Thus, this issue discussed now is not less important. And I believe that indeed the most crucial issue in the bill is the chapter that regards collecting societies.

Dear colleagues, our disagreement is fundamental. I'm not sure of what progress can be made when we reach the discussion of the articles. And I would like to ask Mrs. Minister to think about it one more time, because there's a deviation here as Mr. Benos said and proved a little while ago, from all European legislation. While in Europe, e.g. they specifically determine 3 things: that the collecting societies are civil companies, to which authors obligatorily participate, in Greece this is an issue completely overridden. The law does not regulate it.

It considers that these organizations exist and that the author reports to them and allocates them the management of his rights. They are not or are not obliged to be part of them.

Secondly, while all around the world these organizations are strictly described and in Spain their regulation is also strictly limited by certain rules, the way the decisions are being made, the way earnings are allocated etc. here this issue is bypassed. There's only a license that I'm guessing its provision is easier than the corresponding license of the most painless cultural or other kind of union existing in Athens. Anyone can be granted this license. There's no other rule of operation. And the third issue regards the terms of allocation of the authors' rights protection to these organizations and the extent the latter have in the management of these rights.

These are three major issues, which is obvious that disadvantage the author, create a depressing relation with him, this is a leonine convention, we do not have the protection of the author, but his compression and the question posed here and which really interests me, beyond ideology, is this: Where is this principle based on, that in Greece there is artistic creation and intellectual creation large enough that there are certain barriers in its distribution, and thus we had to intervene to facilitate it? That

the author in Greece has a monopolizing position in a social structure that we had to limit his rights, to facilitate the distribution of his work? I cannot see this. On the contrary, I'm saying that in these difficult circumstances, and above all in the circumstances of general crisis, which also extends to artistic creation and all expressions of social life, we shall go through a period which will be a long, transitional phase for artistic production as well and our induction in the Common Market shall have various consequences. Our defense on a cultural level will be quite harsh, amongst the new circumstances being created. Thus, the opposite should have been done.

Emphasis should have been given to the support of the author, the support of creative initiative, the support of artistic initiative and creation, and not vice versa.

I can see that the bill is characterized by a different perception, as if it considers that we have a wealth of rich creation in the hands of the producers, that is not distributed, and this right should be limited and facilitate its distribution in other ways. This is not just an ideological mistake or a wrong choice, it is also a wrong evaluation. Thus, we insist on these Mrs. Minister and I would honestly like to recommend of keeping this level, discussing the essence since we only have three days left, and we could not agree in the previous phase in the Committee, there are certain issues we need to see and improve. And I will agree that this is an open file, in which we need to be cautious and sensitive and if you're willing to take a bolder step, we shall use the corresponding regulations from the Spanish law. I would suggest this. It is signed by a great legislator, Sebrun, who is not part of the socialistic party and went there to be used in the Ministry of Culture and he has made an important work.

Sebrun has been through many adventures and has lived in concentration camps in Germany, but also had the advantage of living in all cultural capitals. And due to his great mind, he managed to integrate not just the culture of all the countries in which he lived, but even in regulations existing and developed by him.

I believe this is the most progressive bill ever made in the world. Let us consider the pertinent regulations here as well, and not play smart, let us integrate this bill, enrich it, and do it not just more progressive, but more substantial.

This is the suggestion I wanted to make.

(Claps from the Opposition)

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Mr. Kosionis has the floor.

**PANAGIOTIS KOSIONIS:** Mr. Chairman, since I spoke about the principle, I will only express some remarks on Mrs. Minister's oration. Because once again, we were given the impression that in regards to the bill, there was nothing new in her oration.

Firstly, regarding the general reproach of the Opposition, which is allegedly characterized by oppositional attitudes only and a trend to exaggerate. What the Minister says, that Opposition makes opposition just for its own merit, is said to hide in fact the essence of the problem, which is that not one of the bodies representing those affected by this bill, agree with the bill. Its is not just an oppositional issue. It is a general perception issue of all bodies, having expressed themselves so far.

Secondly, regarding the exaggeration trends. She used specific words stated by the Opposition: enslavement, exploitation etc.

If, dear colleagues, one looks back to the history of recent years – and I would say, the last three years – in regards with the requests of the contending movement in general and the expressions of fears as deriving from that – and I am not just talking about this specific sector, intellectual property etc., but for other sectors where really there was apprehension, if there was a maximalism\*in requests or if you wish in the

expression of fears – in the manifestation of the policy techniques later, it was evident that the expressed fears were lesser than what the reality has proven to be.

Thus, we do not exaggerate when speaking of enslavement and exploitation of the authors and intellectual people, because indeed, this is where we're heading.

The second remark is on what has been said about the positive regulations, by Mrs. Minister. Indeed, this is the case. But I don't remember any bill that has been passed recently and that didn't include any positive regulations. What defines, though, the final document, what comes out as a law, is its rationale and certain nodal, one would say, regulations that also define its further course.

In that sense, we believe and have said so, that the collecting societies are a nodal point. And the accusation that the Opposition is overwhelmed with the collecting societies issue was an oversimplification and a little dangerous one as well, that is that commercial mechanisms follow a collecting manner and others, belonging to intellectual people, and these, follow a collecting principle.

There is one substantial difference: While commercial organizations rip the struggle of the intellectual individual, the artist, from his own hard work and agony, those recommended by the Opposition and even by the bodies, all that is requested is that throughout the work's course, from the production and distribution to its consummation, there should be a material reward, that dear colleagues, will only be their reward and not the struggle of third parties. That is, to allow them to exploit their own value themselves, and not let others take advantage of their worth.

I too believe that it would not be that difficult for Mrs. Minister to acknowledge this and mainly this article is established according to the Government's rationale, of free competition, free market, that if non-profit organizations were to be created, they wouldn't be able to exist in this awful competition framework that exists.

Thus I believe that the bill's rationale has not changed at all, despite separate regulations that aren't going to be implemented, since there is the regulation regarding collecting societies.

Thank you.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Mr. Kaklamanis, Parliamentary Delegate of Nea Dimokratia, has the floor:

**NIKITAS KAKLAMANIS:** Usually, when we speak about national matters in this country, we impose a certain limitation to ourselves, considering only issues of foreign politics or defense as national matters, either due to the current affairs or because this is the way we have been taught.

Many of you as well as myself have said in this Room that national matters include a vast array of issues. And amongst those is the culture of this country and anything that derives from it.

Thus, I expected that in this particular bill, which is directly linked to a national matter, at least for me, there would be a different perception and that we could at least agree on the principle and then disagree on separate issues.

But once again, we shall disagree on the principle and agree on separate issues.

Certainly the levels of discussion are completely different than in previous ones – there is no doubt about that – in content, level and tone, to the better. But that is not enough.

And before I say a few things, because I need to explain that Mrs. Minister provided us with answers to questions we had with her oration, but she also covered very well all the issues with which we agreed from the start and there's no reason for me to speak at length. But I do have to answer on two things.

I was surprised that in this field we were accused of lack of sensitivity, particularly since the accusation came from my colleague Mr. Stavros Benos.

Dear colleague, you're following a dangerous path of thinking in regards with sensitivity. Sensitivity cannot be counted with bills, but with the lifestyles of each and everyone of us in regards with all daily problems. I could never doubt your sensitivity, but please, do not force us to prohibit you from doubting ours. This is a very dangerous path. And I repeat, I was unpleasantly surprised, since this came from a certain colleague that I care for and respect.

The second thing I have to say is that Mrs. Minister laid no blame against what Mrs. Merkouri or Mrs. Faradouri said, neither for their tone, nor their content. She just wondered if certain expressions are suitable, according to her and our views, to the content of this bill. And I am the last to question Mrs. Merkouris' passion for art, because I have seen Mrs. Merkouri in moments where she used all of her passion for art, over her passion for life. And that's saying a lot to me and to all of us. No-one can doubt it.

Certainly, you must have noticed Mr. Giannaros, that Mrs. Faradouri, who is equally passionate for a different form of art – not theater – made a very short mention to the collecting part of this bill, because this is not what mainly interests her. She's mainly interested in art. If she wasn't, then she would be among the famous divas of the notorious beach clubs, something that Mrs. Faradouri has not done and I hope she will never do.

But you have also noticed towards the end, Mr. Giannaros, as well as Mr. Kosionis, the slippery road you had taken while speaking – and I mean the colleagues from the Opposition – in this Room, focusing by 90% on collecting rights and talking about reinforcing authors. Yes, that's where the main issue is! But when we're speaking about reinforcing authors, do we start from the collecting part? Certainly, I am not among those who believe that it was fair for Avlonitis to die a poor man or Vasiliadou to die like that, or that today Chatzihristos should live in poverty. Quite the opposite! It is shameful for our country to witness this happening, and there's no doubt about that, but we have reached the exact opposite point.

I mean, that today I expected to hear suggestions by the Opposition, about how the state will support smaller or lesser known artists of all kinds – and that, to me, is the main disadvantage of this bill. How the state can take an obscure painter – by institutions, not just depending on the good mood of any Minister or General Secretary or on certain funds from LOTTO – and give him an exhibition. How the committee working in the Ministry can take a new poet and publish his poems, how it can promote a new singer, not once he's famous, how it will collect his money for him.

But you do honestly think this is where the problem lies? Do you honestly think that e.g. Mrs. Marinella or any other artist of this caliber has a problem collecting his fees? They have no problem, both Greeks and foreign artists.

I expected in this bill – I'm not very knowledgeable of this issue, but I'm putting it as an idea, since I've been reading about it often in the newspapers, either by a correct or false interpretation of the law regarding censorship and the interventions of the District Attorney – and in the approximately 70 amendments that have been submitted, to include a suggestion to correct the article on censorship.

**STAVROS BENOS:** There is one, Mr. Kaklamanis.

**NIKITAS KAKLAMANIS:** If there really is, then perhaps I didn't notice it. I didn't hear you speaking about the protection of copyright, which is what we should be mainly discussing about, and then we could end up talking about the other issue as

well, which is of course substantial, where certainly there is a problem, and which had not been taken care of, neither by your, nor by us before you and not even by any other government.

And what do we have now? This Government dared taking care of this problem. Of course, there's always something better, there's no doubt about that. But the Government dared to introduce some rules into the game, which even you did not find them all useless, judging from your orations, and certainly they are not all useless. Can some be better, can they be improved? We'll see about that.

Personally, and regarding for example the renowned private company, I have certain objections as well and when the time comes I will express them and request an explanation by Mrs. Minister. But if one has been through the two days of discussions here, he would think that this bill was created randomly or only for certain private individuals, to fill their pockets with money. This is not so, dear colleagues. That is why I said we should have agreed on the principle and then disagree on separate issues.

In my initial oration, that is all I would like to state. I believe that in the controversial and not-controversial parts we shall encounter during our discussions – and with the break of one week – it would be wise to consider what we can add, outside from the particular ones, and make this into a correct bill, not just to give praise to Mrs. Benakis.

Mr. Benos, we do not constantly compare the work of this Government with what you've done wrong during your period. We also compare our work to what you've done right. And we have repeatedly praised you for those, which some consider to be a few and others more, this is not important, it is not a matter of quantity. But you should come forward and say that we have done some things right as well, because so far, in the 2,5 years I've been in this Room, I've almost never heard you saying anything like that.

So let's use this time to consider the improvements we can make. Mrs. Minister was open to all those issues. Apart from specific suggestions, that you have accepted as improving the bill, she also said that we can consider and discuss any other issue. From that point onwards, you wanting the adoption of all views, is I think an exaggeration. Not adopting any of them would be an exaggeration towards the opposite direction, which is against any government.

Thus, I do believe we can find some common ground on the bill as it is and another two-there points that are possibly not included and that for the time being are in your thoughts or ours. I said one or two, but I'm certain you have another one or two which we can include, so this bill can become the high horse on which we can promote and improve issues of culture tomorrow and under a different government, by a different Minister, because persons and governments are not important, as long as there is a will and consensus. And it is very painless, although it is also very important – and we can see that now – that when we speak about culture, we don't know what we're talking about in this country. It has so many facets, so many expressions, from the historical, to the intellectual aspect and even to the environment.

And when we're talking about the protection of the environment, we only refer to the protection of natural environment, having forsaken our monuments or the cultural environment. We have thrown those in the waste bin and of course then we're forced to pay for this choice. Because we could have turned to account all those we have established for years now, even with omissions and imperfections, and not cry for 40 years for the known case and not just that.

I would like to make an appeal to you and to our Minister. Perhaps it is needless, because I think that there is good will from your part and also expressed by Mrs. Minister. In the time remaining, we should consider how this bill, which is good for us, can become even better.

(Claps from the Wing of Nea Dimokratia).

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** And now we shall begin the replications.

Mr. Giannelis has the floor.

**IOANNIS GIANNELIS-THEODOSIADIS:** Mr. Chairman, I would like to express some thoughts and views over the discussed bill, a bill that indeed regards a national matter, since culture, as Mr. Kaklamanis said, is a national matter.

I would like to shortly refer to what has been expressed by the Opposition. I feel bitter to say that the voices heard by all Opposition, the Leading Oppositional Party and the remaining ones, the voices of negation were louder than the voices and views on this very difficult issue, on the issue of intellectual property and protecting the rights of intellectual authors.

And I feel bitter in saying that, because although there have been some certain positions, at large there was only negation showing an oppositional attitude. And this does not help us in order to create a law that would enjoy mutual acceptance.

I would like to remind us all of this: Indeed, for 70 whole years – and I agree with Mr. Giannaros on this – the State was inactive and did not want or could not protect the rights of intellectual authors. We are all responsible for this issue, regardless of the party in which we belong.

The State is responsible in the aggregate, because from 1920 when the first attempts were made and onwards, for 70 whole years, there were world wars, there were civil wars in our country, we had a dictatorship, we had the establishment of democracy and despite all that, the State did not manage to protect the rights of intellectual authors.

The 8 years of PASOK governance passed as well. And I was the first, from the Majority introducer position yesterday, to praise Mrs. Merkouris' work from that position. Indeed, she did a fantastic job in those 8 years in the Ministry of Culture. I also praised her for her attempt to create a law to protect intellectual authors. She did not manage to pull this through. And this is not meant to be interpreted as a blame, because all of us in this Room have seen, while studying this bill, also during the Standing Committee of Educational Issues, the difficulties it presents.

We have to find the golden mean in conflicting interests. And where we have financial interests, there are the corresponding difficulties. Mrs. Merkouri just did not manage – and all this Room should honor her work – to create a law protecting copyright.

She's not responsible for this, because there were possible inherent difficulties and problems. Nea Dimokratia has been given the governance for one and a half year, and yet we managed to do what has not been done in the 70 previous years. Instead of receiving praises for this, all we receive is blame. Instead of all of us praising Mrs. Minister's work, who with her academic experience has managed – and I don't believe any other Minister could have done this – to bring such a bill and have it passed in this Room. If she didn't have that academic experience, perhaps we wouldn't be able to have this bill today.

It may be imperfect and it may have gaps. But I said yesterday in my oration that although there may be gaps, most of them are deliberate because a law should not regulate everything. What a law does, is put in place certain "safety valves" to protect

the weaker side, and that is what we've done with this bill. We believe that we protect intellectual authors. And where we're wrong, we're ready to accept your suggestions, as we have done during the Standing Committee of Educational Issues, where we accepted many amendments. I believe that Mrs. Minister will accept more suggestions as well, if we are all convinced that they are made to the right direction.

I believe that in such a national matter, all oppositional attitudes should be absent, as I've noticed now at the end of this discussion.

Now, I would like to say that the principle of free conventions, for which previous speakers have said that because of it the intellectual author is suffocated, this is not a neoliberalism principle. And any legal practitioners inside this Room should know that from the beginning of our civil code, from 1946 onwards, if there is one principle that is fundamental to our civil law, then this is the principle of free conventions. How can we annul or invalidate this principle inside this bill? Thus, this has nothing to do with our ideology or any other ideology.

Finally, I will conclude with one or two remarks. You said that this law creates escape doors for judges. There is no law that does not do that, so that the judge can be the one to decide what must be decided, and that cannot always be provided by a legislator. A legislator introduces the general principles. This is what we have done in this bill, and that is why we cannot regulate everything under it.

Mr. Giannaros is absent at the moment. I do however wish to provide an answer to one of this remarks on article 8. I would like to say that his remark was made either due to his insufficient information – not by his intention – or to the lack of legal knowledge. Because, what he said, about the suffocation of the intellectual author, does not happen – the exact opposite is true. It is the part that protects the intellectual author.

**GRIGORIS GIANNAROS:** I was watching you dear colleague, so I came back.

**IOANNIS GIANNELIS-THEODOSIADIS:** I am very glad Mr. Giannaros, and I will repeat for courtesy, what I have just said. You said that article 8 suffocates intellectual authors. And I said that your remark was not made intentionally, but is perhaps due to insufficient information or the lack of legal knowledge on this issue.

**GRIGORIS GIANNAROS:** Complete lack of legal knowledge.

**IOANNIS GIANNELIS-THEODOSIADIS:** I am very glad, because this proves that there was no intention. What you said, about “if there's no contrary agreement, all authorities deriving from the property right that are necessary for the fulfillment of this contract's aim are transferred by law to the employer” is what protects the intellectual author. I will use a simple example so that everyone understands it.

Say there's a journalist, having signed an employment contract with a newspaper publisher, and he's writing an article for that newspaper.

Until now, when we didn't have this law, and this specific article that you wish to be deleted, the publisher had the option of making a compilation of articles by the specific journalist, connected to him with an employment contract, take these articles, make a book and publish them, thrusting aside the intellectual author.

With par. 2 introduced in article 8 now, not all these authorities and options are transferred to the publisher, since they belong solely to the intellectual author. This means, that apart from the article published in a newspaper, only the intellectual author can make a book of his articles and publish it. His article will need the intellectual author's license in order to be translated to any other language or be heard on the television. Thus, this article protects the intellectual author.

I believe that Mrs. Minister's intention as well as the intentions of all of us in this Room, are to protect the intellectual author, something that none of us had done, as I

said, although we're responsible to this country. And if something goes wrong on the cultural plane, we're all responsible for having a State being idle for so many years, and not offering real protection to the intellectual authors. We are all responsible. But now is the time to set a stable foundation in this issue called protection of intellectual creation, and this foundation is set with this very bill.

I believe that from our side, we really do want to protect intellectual authors. There are conflicting interests and we are called to find the golden mean. We all know – and I think you also mentioned it previously Mr. Giannaros – that there is AEPI and certain scandals have been known. Another colleague said there have been scandals and possibly we may need the District Attorney's intervention.

I completely agree with that. If what has been described is true, the District Attorney should indeed intervene. But that is no reason why we shouldn't allow the existence of non-profit organizations. If we were to follow this way of thinking, just because we hear certain things about public organizations, such as OTE or PAGESES, just because there are scandals going on in there as well and poaching, we should annul the principle of an organization.

Thus, we believe that these organizations need to be created. And if there are scandals, I believe we'll be the first to call the District Attorney and let justice take its course.

I believe that in this Room there is the will to protect intellectual creation, to protect the struggle of intellectual authors. And indeed, I am surprised by the tone of our discussion. I would say it is remarkable. All colleagues, from all parties, and introducers, as well as Parliamentary Delegates, especially towards the end of our discussion, have exceeded themselves – I would say – and we held this discussion beyond certain oppositional attitudes, which are permissible to a certain degree. We kept a very high level.

I believe that with this good will over the possible imperfections of this bill, we can find the golden mean. And we have shown this already, because where we encountered conflicted interests, as for example on the publishers' interests, contrary to the authors' interests, we found certain solutions. And where the two conflicting sides found a consensus, we were willing to hear these sides.

So when the conflicting sides find a consensus, there's no difficulty from any side of this Room. Where there are difficulties, we want to find the golden mean.

Please help us in this and I'm sure of everyone's intentions to find this golden mean and create a statute worthy of this Room. Thank you.

**SPEAKER OF THE PARLIAMENT (Manolis Drettakis):** Mr. Sevastakis has the floor.

**ALEXIOS SEVASTAKIS:** Mr. Chairman, the passion expressed in the first orations of the Opposition speakers yesterday, as well as the collectedness and mild attitude today, are really worthy and suitable for the discussion of this major issue, this "constitutional" issue on copyright and related rights. Yes, Mr. Chairman, passion and discussion, because metals only derive from collisions and we can have good results from a discussion in this Room.

Mrs. Minister said that this bill is of historical importance. But the point is not the bill's historical importance, the point is if the bill responds to urgent requests and serious problems of our times and this era of terrifying change and immense reversals in which we live. This is the point. And Mrs. Minister will allow me to make certain remarks here.

I wonder Mrs. Minister, aren't things mature enough to have a perfect bill under discussion here, and not the bill that the Majority introducer and the Majority

Parliamentary Delegate accept with a discount? It is not perfect, it has gaps. It's not what it could be, but something is better than nothing – that's the philosophical conclusion.

No, Mr. Chairman, no, Mrs. Minister. Mrs. Minister, you did have all the facts and all the data necessary to compile a bill that would not stretch far from the sediments, deductions and conclusions used legislatively by culturally advanced societies, such as Spain, France and Germany. Even in the Anglo-Saxon law, you could bear some ripe fruit.

But what did you do? You ignored the times' demands, ignored the suffocation created to the efflorescence and circulation of the fruits of cultural wealth, you ignored advanced legislations and you introduced an imperfect bill, full of gaps, that we should look in some country of Africa if we were to find an equivalent one. This bill is so original and unprecedented, that we need to think of certain powers, be it ideological, obsessive, financial, social or all else that acted in order for it to be presented as it is and to be attacked, not just by the oppositional attitude, but by the anguish we all share in establishing, passing and accepting a perfect and accomplished bill on copyright and related rights.

And certainly, Mrs. Minister, there has been a flagrant injustice – I will use these words – against us. You said that the Opposition did not show creative attitudes, that suggestions were not made, and no more no less, you accused us of pettiness, party and negation attitudes.

I will have to remind to the body that for five days and many hours, the Body has worked in the Standing Committee and that there we heard specific suggestions by all representatives of collective unions regarding the fields of art, artistry and literature. This mass of material, Mrs. Minister, that was submitted to the Standing Committee for five days in a row, by us and by the representatives of artistic organizations, will be set aside as is; it will be entombed with your saying that we were negative from the start, due to pettiness and oppositional attitude, against this bill.

(At this point, the presidential chair is taken by the Parliament's Second Deputy Chairman, Mr. **ATHANASIOS XARHAS**).

I did not think you would put us in such a position Mrs. Chairman. And I demanded that you acknowledge explicitly and categorically, that indeed during the processing of this bill, the contribution by the Parties of Opposition and social organizations was decisive. And how do we prove this, first and foremost? You brought a series of amendments and redrafts. Why did you bring those? Because it was your way of accepting that the work of the Legislating Committees, which you have praised so much, was not perfect. This work, this structure was attacked and you were forced to bring reconditioning, or, in your view, improving suggestions and redrafts.

If indeed, Mrs. Minister, you thought from the start that you had a perfect and accomplished bill in your hands, there would be no reason for you to succumb in such important parts and ask by the National Delegation to approve of these new perceptions.

I would like to note here – and we shall discuss it particularly during the articles' discussion – that with the redrafts made, you cannot detach yourselves from your bill's direction. You cannot reframe your thoughts and your state will.

In article 18, par. 3 is redrafted as follows, and I will only speak of the last part: "The details of the allocation and distribution to beneficiaries can be determined by a presidential decree, issued further to a suggestion by the Minister of Culture. This Decree can also determine the allocation of part of the collected amounts, no larger than 20%, for social or cultural purposes, that serve the needs of the interested

beneficiaries, and ordered further to suggestion by the Minister of Culture and Health, Welfare and Social Insurance”. The Minister of Commerce is excluded!

So what do you do here Mrs. Minister? You intervene in the allocation of money that belongs to the beneficiaries. You intervene with a presidential decree. Thus, you detach a percentage of 20% - you detach this – of money that does not belong to you, money that belongs to the authors, so that the Ministry of Culture and its Minister can exercise different sorts of politics. And we know what kind of politics authority exercises, all sorts of authority.

I was also impressed – and I’m saying this since you are an expert in the Civil Law field – by your aphorisms against “definitions”.

The history of legal science, and especially penal one, is a history of definitions. How can you revert your own base, your thought, the science which you serve, both theoretically and practically, by aphorizing definitions and saying that all definitions are limiting and therefore hinder the ability to cover new needs, and new data? This is not true, and you know it better than I do. There hasn’t been one definition ever, not even the prohibition of Tribonian to interpret the corpus juris civilis, was defiant to the needs of society, the needs of life, the needs of history.

You said, Mrs. Minister, that things in related rights are perfect as they are and they provide unprecedented protection to performers and performing artists. Yes, I can accept that for the time being, this is the situation. But I have made a suggestion and I’m surprised that you reject it or circumnavigate it. This “reasonable fee”, this indefinite “reasonable fee” – who will judge it, with what criteria will it be judged if its reasonable, when it s reasonable, and when it is not – should be determined before use. It is so simple. Before the use, we should determine the reasonable fee, so that there’s no need to appeal to court judgment, either by injunction or in regular court and create this commotion, agony and stress or for weak authors to lower their head over the situation. You did not accept this. It is so simple, and yet you refuse to accept it.

I expected Mrs. Minister, that you would offer some serious and overwhelming arguments to support this grey creation of, as I said, the structure of Collecting Societies. We have repeated what you supported from the start. Your thought was not fertilized by the serious and documented criticism exercised by the Opposition. Your thought was not changed by the opposition encountered by all social organizations that regard literature and art. Your perceptions and ideas did not change, they remained infertile by the fact that, as you know, these matters are handled with sensitivity and experience and almost perfectly by the recent legislation in Europe, to which we are supposedly converge, and towards which we supposedly have the intention of accepting all good and serious and positive steps taken.

Thus, you ignore and circumnavigate the Spanish, French and German laws. Where do you depend? On which legislative model? None. You use a notion metaphysical, of your own. But this notion is not metaphysical. It is, to put it plainly, a material notion, because it regards these things we are living, our experiences, those about to happen, with the existing AEPI. I described it yesterday as an “artist-eater” and I will repeat that. So I think that these prerequisites which you supported here to convince us that the organization will be making deposits to the Minister – is that important? So what? A deposit is made – or controls shall be in place by sworn accountants, did not convince us. We’re heading to create new incorporated companies – you should say that – beyond the virtual AEPI, with this activity about which colleague Mr. Benos spoke yesterday.

You did not even accept my suggestion to at least – since you insist – have registered shares, so that we know who hide behind these incorporated companies, so the artistic world knows at least that. You did not accept it. You left everything in the dark, in intransparency, essentially without any controls, without effective interventions, without reaching out strongly, as is needed, in this case, by the political authority, to create transparency and essential control and protection of authors and artists and repulse of the power acquired by the collecting societies, which will be liable – Mr. Koumantos says that in his book – to abusing authority, having a monopoly perception in – you will allow this expression – immolation of the rights of authors.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Please, dear Colleague, conclude.

**ALEXIOS SEVASTAKIS:** When there's the example, Mrs. Minister, that AEPI deducts 37% off collections belonging to authors, and this percentage can be freely increased to 40% - after all, AEPI has slaves and subjects – or to 50%, when we have these data, you cannot come here and support this solution before us. It would be absurd, it would be against the nature for us not to be opposed to this regulation or to agree, as Mr. Kaklamanis has urged us to do so, on the principle of the bill, to praise this regulation you have made and hope that in time authority will be corrected and in the future this bill will be improved.

For all these reasons, we are opposite on this principle, we are – I will not use the word downright, because I do not like it – completely opposite to the principle of this bill, and hence we vote in the negative.

(Claps from the Opposition Wing).

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Mr. Ledakis has the floor.

**ANDREAS LEDAKIS:** Mr. Chairman, indeed the discussion held in this Room had a certain quality and level which are enforced by the issue itself and the Ministry. When we discuss on issues of culture, it is imperative that the discussion is held in a civilized way. Any other way would be a dissonance.

What I would like to stress is where our own disagreement lies. I heard very carefully the Parliamentary Delegate of Nea Dimokratia, Mr. Kaklamanis, who has made a very interesting and positive intervention. I'm saying positive and interesting, because he stressed certain points that need to be stressed indeed.

He stressed that there is large responsibility on this filed from all past governments, for the fact that they did not bring a bill that should have been brought for the protection of copyright and intellectual property.

Since the change-over, Nea Dimokratia has governed for 7 whole years and could not deliver the needed law. The same was done by PASOK for 8 years. Indeed, I think today's Government must be praised for the fact that it brought a bill, because after all it could have chosen not to and we would have remained with the law of 1920 and have separate regulations trying to patch things up.

Thus, we have a bold action, of bringing such a bill which considers a very complex issue, the issue of copyrights and the rapid developments in technology and science which have constituted it even more complex, regarding the phenomenon of piracy as well as the parties interested in this field.

Indeed, we have a very important problem that we need to solve. Intellectual work has been transformed into a commercial product. That is not bad. I would say that since the breakdown of the feudal system and the appearance of capitalism, works of art were unbarred because we no longer had enslavement or dependence relations that blossomed from the feudal system.

Artists used to have the need of a Maecenas who was interested in arts, or it was the royal court or church that gave orders to artists, and as a result the artwork was limited in regards to its distribution as well as the artist's composition. From the moment this relation was abolished, the artist was set free and he could select his subject freely and appeal to a free market. These had all sorts of consequences that I will not discuss now.

Indeed, artwork and intellectual products have become commercial products, and this is positive in the sense that they enjoy wider distribution, limitless, especially with modern communication means and a work can take multiple forms and be turned into a movie, theatrical play, book or painting etc.

I will now refer to what Mr. Kaklamanis said when asking "why do you disagree on the principle, while you will pass separate articles. It should be the opposite; you should disagree on separate articles, but pass the bill's principle". I would like to stress where the disagreement lies, regarding this bill's principle. The bill's rationale should be the protection of authors, because these are the weaker contracting parties. In the case of intellectual creation, we have two contracting parties, since this is a financial act relation. Mr. Kaklamanis, you were wrong to refer to the way authors should be supported. This is the subject of a different bill. It is a different cultural way of politics that should have been covered indeed, but have not, in our country, for many years now. In this case, we are focusing on intellectual property and related rights. The fact that the issue has to do with collecting should not be considered degrading, nor should the fact that we're using financial criteria. When the author is supported, intellectual creation is also supported. So we're discussing about this particular issue and how to develop the cultural politics is a whole other matter. We need a new bill to discuss that.

The introductory report of this particular bill, mentions that most developed countries have also revised their legislation. Our country should have followed their steps as well. This is a serious argument. Then there's a referral to a series of countries, that in Spain the law has been valid since 1987, in the United Kingdom since 1988, in France since 1957 and revised in 1985. The report stresses that during the bill's compilation, all these different legislations were taken into consideration. Also taken into account were the existing trends of future developments in intellectual property. It also says that the works of EEC experts were considered as well. And then we have the confession that despite all that, this bill does not follow any foreign model, but is a completely new and innovative bill etc. It says that there are other legislations, but we decided to follow our own path and I don't understand why we should innovate on this field.

Hence, we should have taken into account what the Spanish, French and other legislations say and particularly, we should know what the EEC said. After all, we had a Governmental Delegate, and he expressed the views, suggestions, ideas and philosophy of the Ministry of Culture.

In particular, Mr. Niotis has brought these data yesterday, the correspondence he had with the delegate of Nea Dimokratia, its Member of the European Parliament, who said different things than the ones mentioned in this bill. Other things were approved there, and already Mrs. Minister, being in a difficult position, has claimed that we legislate and that this status is valid until 1994 and further to that year, we will proceed to modifications. So we're declaring already that we're going to change this bill. What we're creating now is not that stable, we are not obliged to use it now, and I doubt that, because I believe that most of it is valid from 1/1/93. Mr. Benos spoke about that as well, but on the other hand, Mrs. Minister, in her document introduction,

especially in regards to the philosophy of the whole issue at hand, has not replied on what will happen and why we did not take EEC into consideration. Weren't we aware of the discussions held there?

And if we were, why couldn't we postpone it even for a few days, since after all it is being passed now by the EEC and we're not aware of the final document. But we supposedly were aware of the draft. We supposedly knew our own suggestions as well.

Hence, now that you are aware of the EEC's passed document, you have every right to proceed to modifications, at least on the articles. Then indeed you will have our agreement on many points, perhaps in all the bill as well, if there was that intention on your behalf.

Why do we disagree? Our Parliamentary Delegate, Mr. Giannaros talked about that, as well as Mr. Benos. Our basic disagreement is in one point, but one which is the foundation of the whole bill. I said it during my first oration as well. The red line, the thread that runs through and keeps this bill together and its articles, is just one specific point. We have two contracting parties. These are the producers of the intellectual and artistic work on the one hand, the producers of the work. And on the other hand, those who exploit and distribute it to the public, since they have the necessary means and assets. In this contract between the two parties, there's a strong and a weak party. The strong one is the one exploiting the work and the weak one, is unfortunately the producer of the artistic and intellectual work. What does this bill do? It is, as I said during my first oration, a leonine convention. And there may have been some positive regulations, for example those regarding authors and publishers, but the main issue is the audiovisual means. As we say, there is no business like the show business. Those are the large sharks with the immense interests, this is where we encounter the related rights, this is where we have smaller producers or contributors, but without those smaller contributors, a work is not considered complete. It's not just one person that produces it and can negotiate over it. The issue is more complex here and Mrs. Kaklamanis and your introducer were right to stress that, that there are conflicting interests. Consequently, if we have a right balance, if we provide solutions acceptable by both, this is welcome, but when the suggestions are not acceptable by both, where does the balance fall, this is where we disagree. Our disagreement is that the balance tends to be with the stronger parties' side, not the authors.

I will refer to one more point and then I will conclude, Mr. Chairman. Our Parliamentary Delegate has stressed this exact point, in a rather dramatic way. In article 16 it says: "The author's consent for acts or omissions that would otherwise consist an infringement of the moral right is a way of exercising this right, binding the author". In simple Greek, this means that when the author makes mistakes, and doesn't know how to protect his rights in the best way, he got what he bargained for. He should have been more careful. Here, we're picking sides against the author, because it is certain that the one who will exploit him knows how to protect his rights and thus has all the options of setting terms which will express this leonine convention. This is where we disagree, and I would like for you to reply Mrs. Minister, to this point and particularly to the questions posed by Mr. Niotis and repeated today by Mr. Benos, in regards to the European Convention which you ignored here, while there was a delegate of your party to support your positions there.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Mr. Brakatsoulas has the floor.

**VASILIS BRAKATSOULAS:** Mr. Chairman, firstly I find this discussion on copyright very positive. I also consider it very positive that we approach such a major

issue that regards our culture and since we've heard from all sides and speakers orations filled with ideas and suggestions. I would also like to note, at first, that this bill does not approach correctly the issues with which the intellectual world and authors are concerned, specially since it arrives after a lengthy period of 70 years since 1920's first law. This is not due to the non-existence of scientists or material. We do have great scientists and the Committee Chairman is eminent in this field, and we also have a multitude of other scientists as well.

There are also bodies with material submitted to the Ministry and to the committee that convened and tended to this issue. Of course, we also have the models of foreign countries, which include recent legislations as correctly stressed and which could - at least certain parts of those - be introduced to our own bill as well.

Very few steps have certainly been taken during these last 70 years. We have very casually dealt with certain urgent situations, regarding intellectual authors. Of course the responsibility bears on all past governments, but we have to say that there were also immense interconflicting and interweaved interests - lots of immense interests - that unfortunately did not allow for a smooth collective formation of a correct document.

I think, however, in light of all that, in light of the immense technological developments in our country and other countries as well, particularly on the field of electronic means, but all other fields too, that the time is ripe to introduce a complete bill, covering in the best possible way all issues of our culture and particularly offering the ability and convenience as well as ease to all intellectual authors to really create.

I was given the impression, Mr. Chairman, that this bill, both in its general principles as well as its direction, is an unbalanced one. It grants more rights to exploiters and those in the commercial and industrial scenes, while authors walk alone in this hard road, trying to create and enforcing their creations in society.

I would also add, Mr. Chairman, that the protection of the Greek author is a major national matter. Let us not forget our unique origins, but also our language. That means that we address a limited audience, readers or listeners, who will conceive or assimilate the notions of the intellectual work. This also translates to smaller circulation or, in any case, distribution of the intellectual work, as well as lesser participation in any sort of distribution and the financial results.

Mr. Chairman, a work that is perhaps heard or written in the English language, addresses an audience of over 500 million people. While a Greek work, addresses no more than 10-15 million people, along with the foreigners that live in other countries.

As a consequence of that, motivation should be stronger in favor of the author and his protection must be more thorough. I will not continue expressing other views and aspects, as my fellow colleagues did, to avoid repeating the same issues. But I will refer, Mr. Chairman, to 2-3 points which I think are understandable in today's reality. How can the creator of a literary work surface, for example? Should he be able to establish himself only by mere coincidence, Mr. Chairman? These days you can find the autobiography of Samarakis in a known newspaper. If it hadn't been for Papanoutsos who published by chance one good review for his work in VIMA, Samarakis might not have been known today, or it would have taken him much more time.

Because he took his first book in the hand and spoke with various publishers who taunted and sneered at him.

Let us not forget that had it not been for Palamas, Kavafis, Xenopoulos and so many others would not have been known.

So what's going on then? Authors are alone, solitary and unprotected, Mr. Chairman. They need to be supported by established ones, to be able to float and present themselves to society, while the State should have an organization, a committee or body that could judge and control and present worthy works, either literary or visual, or of any other form and importance.

Is it so necessary Mr. Chairman to fund with LOTTO money soccer players and soccer tams, that we cannot create one mutual fund dealing with publications of certain important and correct works, visual works or anything else?

Haven't we ever considered creating such an institution in this country?

But let me stress two points in this bill. Mr. Chairman, while the State remains idle in any movements in favor of the author, it intervenes with this bill in cases infringing his rights. Not just in article 18, which was redrafted by Mrs. Minister, who has the right to redistribute and allocate the rights of authors as she wishes, by Decrees, but also with a series of other exploitations of even exhibitions, private ones as well, without any fees.

Articles 11 to 28 are such regulations, providing no fee for the author and the deforcement, I will use this word, of the authors' rights.

There is regulation in the bill, Mr. Chairman, in article 40 according to which an employer that has created certain conceptions or creations in personal computers, does not have the right to own his work. This is contrary, as is known, to a fundamental regulation of the Civil Code, where authors are granted certain rights.

Mr. Chairman, I do not have any more time to speak. Certainly, Mr. Kaklamanis was right to point out that the author should first be interested in creation. Indeed, in the classical era, Plato, Aristotle or anyone else would never consider financial gain. After all, as we all know, Plato accused and blamed sophists for receiving money from the teaching they provided. Plato says in Menon that a poet is possessed by a divine mania and thus, should only abide to the will of that.

However, the classics had slaves working for them. Today, authors need financial gain in order to survive. In this case, protection is not provided by this bill, but unfortunately it also infringes their important rights.

These are the reasons why, Mr. Chairman, we are opposed to this bill and its principle, not due to an oppositional attitude. The attitudes of all Wings should be the resultant of producing a correct and serious bill, protecting our intellectual and cultural heritage, protecting our rights, as a Nation and as a State. Thank you.

(Claps from the PASOK Wing).

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Mr. Niotis has the floor.

**GRIGORIS NIOTIS:** Mr. Chairman, we have heard the complaints by Mrs. Minister and the main Parliamentary Delegate of Nea Dimokratia, that we did not praise from the seats of the Opposition, the very important and positive, according to them, fact, that finally, further to a long delay, a bill has been submitted, that the government of PASOK could not submit for 8 years. I would however, like to advise Mrs. Minister and the main Parliamentary Delegate of Nea Dimokratia, not to feast just for the submission of this bill. Perhaps because the reason why the government of PASOK had not submitted it for 8 years, was that we did not want in any case to submit such a bad bill, a bill that does not protect intellectual authors, but organized financial and entrepreneur interests and that it essentially corners in a much worse than an abstract way, with a multitude of statues, that during the last 30 years there was a separate protection for intellectual authors, while certainly we did not have any important move in the beneficiaries of related rights.

Thus, it is not so important to bring a bill. What's important is its content and what we heard yesterday by Mrs. Minister herself, who confessed that this bill was submitted and is discussed to be passed and within a few months it will be brought to discussion again, because there was not enough time for it to be adapted according to the community's legislation, since the community directive was not taken into consideration, nor was the framework of the common positions of the Commission and the European Parliament, which, with an introducer of your own member of the European Parliament, Mr. K. Anastasopoulos, has approved the mutual position, but of course the document has not been completed yet, although we do have a version in our hands. I do hope the Ministry has it as well. This is a very serious issue. I read in the Greek document of the European Parliament's and Commission's common position, about the protection of related rights, which is an obligatory law for Greece as well, according to this common position, this directive, that further to a second reading because a common position, four balancing factors are established. The balance between the protection of artistic and intellectual authors' rights, but also the widest possible distribution of their work. Is Mrs. Minister certain that this bill ensures this balance too? The balance between the intellectual and artistic authors and the financial powers that can ascertain the best possible exploitation of intellectual and artistic works. Is there such a balance? We have used dozens of arguments to prove that this bill is one-sided and does not redress any balance, but reinforces the entrepreneur commercial organization and certainly establishes, by a worldwide innovation, and infringes the spirit and rationale of the common position of the European Union, the principle of free conventions, that is not valid anywhere else in Europe, since there are obligatory regulations, which negate the principle of free convention, since they have accepted all over Europe, but also in America, that there is a special public interest for the protection of the author, and here the principle of free conventions is negated even in neoliberal countries, since we need to protect the author and through him, culture. Culture is not an assignable property right, that can be entered in the rules of competition or a free market or, if you wish, free conventions.

Balance in the protection of the rights of initial beneficiaries contributing to the creation of a complex and collective work. Are you sure that this bill, and according to what I'm reading, ensures balance on a complex and collective work?

Just yesterday, Mrs. Minister, and after suffering the bombardment of the Opposition's arguments, as well as those of the authors' bodies, has granted the final cut to the director who participates in a collective work. But she granted it in a way that we shall explain tomorrow, how impractical it is and how it leads nowhere, since it substantially negates what it tries to provide, because the legislation is created hastily and in circumstances without any logic or composition in the structure of the statute.

Of course the fourth balance between the provisions of the Anglo-Saxon and German law does not interest us that much, but I can say that with another reading one ascertains certain regulations in the directive that are non-existent or provided contrary. For example, in article 1, par. 2 and 3 of the common position directive, the principles of renting and public lending are defined. In our bill there's no such thing. The directive provides that the right of renting and lending is inexhaustible. We provide no regulation.

It also provides a reasonable fee of authors, performers and performing artists, in case the rental and lending right has been transferred to the producer. The reasonable fee

right, as regulated in the directive, is unassignable. There is no such provision in our bill.

Cable distributors of programmes are excluded, according to the directive, from related rights of radio / TV organizations in case a programme is rebroadcast. Article 6, par. 3 of the common position of Commission – European Parliament. In article 48 you say different things. We shall see those tomorrow.

So, how can you be talking about harmonization, even in the week after the next when we will convene? We have a total structural opposition and contradiction of this bill with the balance provided and legislated by the Commission and particularly the European Parliament, a mutual position that the Minister Council has approved yesterday November 10. And it is not a sufficient argument, if you had a deadline for 1.1.93 to amend it or for March 1994. How credible can a bill be when there are so many oppositions and contradictions towards the EEC framework, which we have repeatedly analyzed? And certainly we will try in these articles to show the imbalances and disharmonies which exist in sheer contradiction with the four balances, which I read and which are manifested by the common position. For example, the major issue of the collecting societies. Mr. Benos provided certain data yesterday – and I did that too, during my first oration – that there is no direction of private commercial organizations and there's the thought that this is not a matter where monopoly of authors can be transferred to a commercial monopoly. What do non-profit organizations beseem, why does the public interest wish for the protection of the author through the protection of his right, especially the property but the moral right as well, as a burning issue of the culture's values, and we cannot transfer these values to commercial private sections. The terms of the culture's production and distribution cannot be regulated by AEPI and Mr. Xanthopoulos. Mr. Benos said that the company only attributes 2000 pounds for foreign authors' rights.

So the issue at hand has to do with a different rationale. The private commercial unit essentially proceeds to collective negotiations for authors. Are you aware of any regulation in the Greek law, until now in the labor's law, where employees allocate to a private commercial unity to proceed to collective negotiations with employers, in this case, with users?

It is unheard of that you consider this an innovation that can earn you praise, to promote a modern creation. In no case can we agree with these general principles. We certainly insist on considering this bill negative. We agree that in separate issues there is the will to make some borderline useful corrections. We shall set the tone in such a partnership, but we will not stop dictating and stating that this bill is negative and outside the direction things are headed, outside the common position of the Commission and the European Parliament. As Mrs. Minister has confessed, it needs to be redrafted and we hope it will not be redrafted by you. Very soon we shall have a different government which will use a different rationale to proceed to a substantial reconstitution of this bill.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Dear colleagues, the list of registered speakers for replications is completed.

Mrs. Minister, you have the floor.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** Dear colleagues, most of the remarks stated referred to articles and thus I will avoid giving certain answers, since during the discussion of the articles, we shall frame the same suggestions and give the pertinent answers. All the more when many of these remarks were made due to a misinterpretation. Already, for article 8, as Mr. Giannaros understood it, there was a response given in detail by Mr. Giannelis.

Article 16 regarding the moral right was also not understood, as he interpreted it as harming the intellectual author. The exact opposite is true. It grants intellectual author the right, when he decides to abrogate his moral right, to be able to do this and for it to be considered an exercise of right. Here's a simple example: An author who has written a theatrical play, poem or ballad, decides at some point, for his own reasons, to allow its parody, mockery or ridicule or any such thing, in any way, the distortion of his creation. This is a right of the author and this is protected Mr. Giannaros. That is a regulation in favor of the intellectual author, granting him the freedom to distribute his moral right. Not the opposite, as you interpreted it.

The other remark made by Mr. Sevastakis regarding the material entity distributed in the trade, we all mean the same thing Mr. Sevastakis, the material entity that has been legitimately recorded. And I will have no objection when we arrive to...

**ALEXIOS SEVASTAKIS:** We have suggested this, but you did not accept it.

**ANNA BENAKI-PSAROUDA (Minister of Culture):** But this is not a major issue, Mr. Sevastakis. We agreed that we both mean the same thing. When it's time to discuss the regulation and if we still disagree – I imagine we shall agree – we can correct this.

We turn into major objects of discussion things that we have already analyzed in the Parliamentary Committee. I have shown that I accept objections in the sense that I understand them and consider them. And issues that I have spoken about and I have said that we will discuss during the plenum, you turn them into major disagreements.

I would also like to express a complaint or rather a question about the way my answer was interpreted by Mr. Giannaros, in regards to the relation with introducers Mrs. Merkouri and Mr. Sevastakis. Who said anything Mr. Giannaros, about the passion and ethos of Mrs. Merkouri and Mr. Sevastakis? You may have expected that I would have unleashed an attack against Mrs. Merkouri and you had prepared to say what you said. But you did not notice that I did not make such an attack. I just protested because the content – and not the tone of those said – was not corresponded to the essence of the bill, nor the spirit of cooperation we had during the Parliamentary Committee.

That is, while during the Parliamentary Committee, despite of all our differences, we managed to find a certain level of negotiations and the results are evident now in the plenum with the improvements made, the introducers of the Opposition, obviously due to mass media, TV media, should follow some principles, dealt with the bill with judgments – I said – and characterizations that are unfair. I referred neither to their passion, nor their tone. And we're not interested in that Mr. Giannaros, since we're discussing a bill. We're not analyzing a novel or trying to shoot a film, for which any intellectual author can bring his passion and his own tone. When we speak with regulations and laws and analyze a bill, we are forced to speak with the content and not with the passion and tone.

And after all, I acknowledged and continue to acknowledge the work done by Mrs. Merkouri. In the sections in which she worked, she had a great performance and offered a great work, in spite of the fact that the work was not supported by her party. And certainly I have every right to blame her for the fields in which she presented no work. These are all normal and legitimate moves in the parliamentary procedure.

I would also like to comment 1-2 general remarks that do not refer to particular articles, but are general questions and perhaps accusations. You have asked why we did not follow the Spanish or French laws. And Mr. Giannaros said "you were right not to provide definitions, but at least the Spanish law has a certain type of publishing convention described".

We do not agree with this, Mr. Giannaros and it is a conscious selection. It is not ignorance. You said it yourself – although you removed Sebrun from the Socialistic party – that this is a law of socialistic status law and it is indeed very binding, directional or prefabricated for intellectual authors. We do not wish this thing. A publishing convention can be made in several types and not just one described by the law. And the intellectual author can select the type of publishing convention and the content that interests him and he shall agree on. Why should we impose binding types?

And regarding the definitions you said, Mr. Sevastakis, and you referred to the Civil Law, if we were dealing with a clear Civil Law statute, I would be the first to say that we need clear descriptions and clear regulations. Because this regards personal freedom and not the section of the immense private sphere and initiative, where there has to be freedom, elasticity and ability to evolve the case-law.

The Anglo-Saxon law don't even provide established rules of law. They use the case-law of courts. And you are asking us to describe even the types of conventions in the law? It is a perception, an ideological direction, or political one, call it as you may. But it is a direction we do not share. And we do not believe it reassures. On the contrary, it sets limitations.

Another issue that emerges often is the issue of related rights and the EEC directive. It was posed by Mr. Ledakis and mentioned again by Mr. Niotis.

We need to clear things out and see what this is all about. Because I think that this issue has taken dimensions that it does not have, because this is not the point. For a long time now, the Community has started dealing not just with related rights in general, but with specific sections of those and particularly the right of rental and lending.

Several suggestions have been framed, but have not been finalized yet. The last one, given a day before yesterday, is not the final one either. It will also be developed further by the European Parliament.

What Mr. Anastasopoulos wrote to Mr. Niotis are indeed what are happening.

This directive addressed legislations recent and modernized, such as those mentioned, which have provided for protection of related rights a while ago. We stand naked, totally naked, in the issue of related rights. I have said during my first oration as well – and better than me, this was developed by Mrs. Faradouri – that since 1961 the International Rome Convention is not enforced. And we're here without any regulations in favor of artists and performers until today.

You are saying now that we need to wait until the Community is through with its suggestions for just the section of related rights, and then provide for this whole category of intellectual authors, the fundamental rights they're entitled to? That we should delay even longer?

After all, our bill had already been submitted months ago when the Community Directive was being drafted.

We even had a delegate in the Community – and it is the same person working at the Committee now, Mrs. Kalinikos – so that the committee could monitor even the last stage of progress in the EEC's work.

Thus, what are you asking for? That we should delay even longer this unacceptable condition of complete lack of protection for artists, performers and performing artists, until the Community finishes regulating a part of this issue.

However, the Community follows its own rhythm and after all, it addresses regulations already providing the fundamental protection in this category of

intellectual authors. It does not address regulations in zero development, such as ours has been so far.

In the regulations we have, we took into consideration all data and predictions about what would happen in the European Community during the year when the bill was finalized, and also bearing in mind the room provided by the Directive for the adaptation of all legislations within reasonable time. If we need to further improve and adapt the bill, we can do that. After all, I already said that since we have the room for adaptations and improvements, according to the latest information, we can do that even during the day when we will be discussing the articles on related rights.

Consequently, you will allow me to express my complaint that instead of being praised, for not searching for excuses to delay this bill and say that we're waiting for the Community to complete a little part of the related rights at which it is working on, we rushed, with all the data we had in our hands, to create these regulations. Yet you blame us. Perhaps it is due to an inadequate evaluation of the available data. Or perhaps due to a different reason.

But things are the way they are. And I assure you that this is the status today and these are our intentions for the future.

Finally, KKE's Delegate wondered why nobody – as he said – agrees with this bill. You will allow me to dare say that the proof that this bill is balanced is that no one agrees with it 100%. If anyone agreed 100% with this bill, that would mean that it was one-sided. It is, as I said, a balanced bill.

It takes some things, it provides other things and it tries to maintain this game of competition, that exists in the field of intellectual property as well, because that is the way our society and our economy are structured and these are the principles that the Greek economy and society have been founded on for years now.

You also want us to abolish commercial organizations and only introduce non-profit ones, like the Spanish law which you have invoked provides, or like the French law does. But this is not something new in the French law, it was always there. In intellectual creation, there were never commercial organizations in Spain or France, and I think in Germany either. Here we have had commercial organizations for decades, everyone tolerated them and so they became a status quo. How can we abolish now an established situation, that after all is not that unprecedented and non un-controllable, in favor of a different system that we should have been provident enough to establish much earlier?

These changes you are asking, dear colleagues, which mean the sheer abolishment of some and establishment of others, cannot be completed. What can be done and is done and will be done even better if there's enough room, is that all interested parties can operate freely and within certain limiting regulations ensuring transparency and the ability to control them. In the end, non-profit organizations will also be included in some legal form in the bill, and if they are indeed (as they may be) the most proper and best system of collection, they will impose themselves, favored by the intellectual authors', performers' and performing artists' preference, and the preference of everyone in need of a collecting society's intervention.

And with that, dear colleagues I shall conclude, stating once again that we are not influenced by pressure, hues and cries or anything else. What does influence us though, is the good will of cooperation manifested during the Parliamentary Committee and its results are already evident. Under the same spirit, we shall continue this bill and I hope we shall result to generally accepted solutions in their essence, even if for some reasons some need to appear that they disagree.

(Claps from the Nea Dimokratia Wing)

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Mr. Benos, Parliamentary Delegate of PASOK, has the floor.

**STAVROS BENOS:** Mr. Chairman, following Mrs. Minister's oration, I think we should be feeling worried.

Dear Mr. Kaklamanis, in regards with all the very important things you have said in your oration, I would like to answer to you using the words of Mrs. Minister, who has come back stronger in her today's replication and brought out all her ideological arguments.

She speaks of political dabbling – since we do not use a Room with projection – and change of position since the Parliamentary Committee, while our position has never changed essentially and we are the same as then, that is with responsibility and suggestions to make. The proof is that any changes brought by Mrs. Minister tonight, derived from our own suggestions, but also our criticism, so far as this bill's rationale does not change. Mr. Kaklamanis, this rationale has not changed at all. It has not changed radically, since you accused me of lack of sensitivity. Do you know how much I weighed this and how burdened I felt about saying this phrase, since I consider it so serious?

How can there be sensitivity on your part, when you hear all these bodies speaking of lack of sensitivity and love towards them with the establishment of this bill's rules? How can there be sensitivity, when we watch modern countries invoked by Mrs. Minister? Did you hear her statement a while ago? She said "how can I impose a socialistic status bill?". This is the phrase she used. What is absurd – Mrs. Minister admitted and it probably slipped her tongue – is that Mrs. Minister said, dear colleagues and dear Mr. Kaklamanis – and you accused us of saying this phrase – that she had Mrs. Kallinikos as mutual delegate in the bill and the directive. Can you please then explain to me how can we reach to two different results with one mutual delegate? And regarding what you said about delays, do you know what the directive says here? That the discussion shall be completed under the British presidency. When does the British presidency finish? In 1,5 months, Mrs. Minister. And what you're saying, that you will change the bill if you have to. You're not making anyone any favors. You are obliged to change it before July 1994.

Is this considered an act of serious politics? You confessed tonight that the delegate is the same person in the directive and the bill. These are important changes made, Mr. Kaklamanis. I don't have the time to analyze them. In the related rights, you shall be able to see for yourself the radical changes from one direction to the other.

I would also like to talk about the collecting societies that Mrs. Minister is using dangerous ideological schemes to try to divide us to socialists and capitalists, while the real issue here – and we have proven this – is how we can defend the rights of authors.

I will submit a document for collecting societies. Please listen what it says: "Collecting societies should be operating as non-profit organizations, as is customary in most European countries. If that is not acceptable, the shares of these organizations should be registered, as happens in the Press, in order to provide the necessary transparency. Secondly, the amount of the percentage deducted by the Organization to cover administrative expenses, should not be determined arbitrarily but controlled buy the Ministry of Culture". Today, AEPI uses a 37%.

"The regulation of these organizations should not just be submitted to the Ministry of Culture, but should also be approved by it.

Fourth, the distribution of rights to the authors once a year – article 57 par. 9 – is not a fair solution, especially since the distributed amounts are not interest-bearing". Who

has submitted this document? The Athens Daily Newspaper Publishers Association. Is it perhaps full of socialistic ideas that suggest what we're suggesting as well? We're just saying that finally, intellectual struggle should not be the object of this market's mechanisms. And we're trying to support this view with this ideological scheme.

Other points have been mentioned as well. Mr. Kaklamanis, you said that we should have agreed on the principle and maintain our disagreement for the few points where these exists. I would like to assure you and this Room, that we shall do this and we will be ready to do this immediately, as soon as we have substantial changes. And I need to say that these substantial changes must be enforced. I repeat it, because Mrs. Minister chose not to reply to any of our points, with the argument that we shall discuss these during the articles. I can say what we will discuss during the articles, because we're ready with suggestions and good and noble intentions. We're waiting to see your position.

I will repeat the main issues that unless certain recessions take place, all the other things done are just condiments. There is no substantial point whatsoever.

And these points are the following: The determination of a percentage for all categories of authors, particularly in the audiovisual work. We state this explicitly.

The second part is the explicit and separate transfer of rights. A right cannot be transferred in the aggregate. The changes made brought a few regulations regarding a very small portion. I referred on this during the audiovisual work discussion, we shall discuss it longer during the articles.

Regarding the conventions, please do not try to bypass this issue, Mrs. Minister, by saying that allegedly we the socialists are trying to ensure only the one side. Quite the contrary.

We exist in this balancing mood and we have proven this, with the discussion held in the Committee and that shall be repeated during the articles.

However, with the suggestion you brought in the audiovisual work, as I explained during my first oration, no substantial choice is made. And I would like to stress now that in the publishing convention – since we had our discussions with publishers as well – we heard a suggestion buy the publishers themselves and asked them to present it to you, but they didn't.

We are informing you about that now, so that you can be prepared. We need to define the literary work and exclude it from any limit. It is unacceptable to use limits in literary works. I'm saying it now so you can consider it. The publishing convention is completely unbalanced. And this agreement has not derived from an original and balanced, dynamic discussion, since many bodies representing authors are in void at this moment, they don't have any administration. This document does not have the complete value it would have. And there are the other sides in the publishing conventions, that need to ensure the side of authors and don't. But we will discuss about that in detail later.

Consequently, for us the audiovisual contract issue has two crucial points, the non-automatic transfer of the whole property right, which has not been changed much with the revisions you made, and the insurance of a percentage for authors regarding public execution. Those are unsurpassable limits, and there needs to be a balance in the field of audiovisual contracts and operation. Because I said it again, this is a very important part of this bill. We're heading towards technology and audiovisual production. And we need to give extra attention to the issue of related rights. The related rights field is where we find the most contradictions and changes by the directive. In essence, these people are totally unprotected. I will only say one thing, Mr. Kaklamanis, since it is obvious that you're not aware of it.

When we speak of related rights, what exactly do we refer to? Well, actors and singers. So we need regulations allowing and prohibiting certain actions. Where are these established? In article 46 par. 1, there's only the recording. The recording of a song or a theatrical play or anything.

For all other rights, advertisements, lending, reproduction, there are such negative regulations, that in essence it is contrary to the directive.

Further on, in par. 3 of this article. It says that when the performing artists, performer or beneficiary of a related right has an employment or project contract, it is considered that he has transferred all of his property rights. Do you honestly accept this? In Greek reality, is there even one singer or actor that doesn't have a project contract?

So what is the point of this regulation, that we supposedly provide performers and contributors with property rights? But Mrs. Minister has provided a regulation in article 8 for original authors and excluded project contracts. Please pay attention, these are not so important for authors. Because original authors rarely have project contracts. These are more important for performing artists. But this issue has not been touched. In the remark I made, I received no answer, as well as a in all others after all. I also mentioned the report of the Scientific Committee. It says "entitled to a reasonable fee". When are they entitled to this reasonable fee? When their work circulates in the market. But most of these works never circulate in the market. They are internal productions. What happens with a television production, broadcast by a television channel and then rerun after some time? Isn't that circulated in the market? What do the European laws provide? They say, regarding commercial purposes. Mrs. Minister has not responded to that. She left this issue open.

So when we have such issues remaining open, when in all issues pointed by the Leading Opposition Party, you didn't comment or touch any of them Mrs. Minister, we honestly should be worried. What I said, that we have made a tiny step and we have a long way to go still, was really prophetic.

I'm expressing the hope that things will change substantially and not verbally, in the discussion starting tomorrow on the articles. Otherwise you should know – and this has nothing to do with oppositional purposes, and we state this explicitly – you will meet with our complete opposition if this bill remains as is, because we have a historical responsibility before our country's history and before the intellectual world. Finally, I cannot refrain from commenting on something you said. I don't know if I understood that right, but at some point you said Mrs. Minister that this is not a step and we're not shooting a film. Were you referring to Mrs. Merkouri? Do you mean then that Mrs. Merkouri showed up here yesterday to give a performance? Is that what you meant?

**ANNA BENAКИ-PSAROUDA (Minister of Culture):** I was responding to Mr. Giannaros.

**STAVROS BENOS:** To Mr. Giannaros, but you were referring to Mrs. Merkouri.

**ANNA BENAКИ-PSAROUDA (Minister of Culture):** I wasn't referring to Mrs. Merkouri.

**STAVROS BENOS:** Well then, by saying that we're not shooting a film, what did you mean? Do you think Mrs. Merkouri would need to come here and appear in front of the television cameras? Do you think that's her problem? This is a problem other people have. And I would like to ask you, if you did say this thing, to please recall it.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Dear colleague, this is a free podium. You cannot apply censorship. Mrs. Minister, like all of us, has the right to freely express her opinions.

**STAVROS BENOS:** Is she free to say that Mrs. Merkouri showed up here to shoot a film?

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** If this is considered a personal issue for Mrs. Merkouri, then Mrs. Merkouri can ask the floor according to the regulation. We cannot have censorship in this Parliament, at least while I am the chairman.

**STAVROS BENOS:** We shall examine Mrs. Minister's statement and judge it, Mr. Chairman.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Mr. Giannaros has the floor.

**GRIGORIS GIANNAROS:** If you were referring to me, Mrs. Minister, I'm not starring in any film. So it's not relevant.

I have to say though that if your first oration was like your replication, I would have spoken differently. And I will explain myself. I never act in bad faith and if you would like to clarify what you said, I will accept it. But do you know what you said? I will read the minutes, so that you can see you referred to the tones. "...apart from lengthy and beautiful orations, impact, platitude enriched with convenient doses of feeling, due to the object, and the corresponding lyricism, I could not find accusations that could be founded on real criticism on specific regulations". This regards tones. I responded to this. If it's not the case, then this is how I interpreted it and how I answered.

From then on, my speech was structured on one of your references, saying that "I believe that the characterizations, criticism and exaggeration we've heard... can only be described as petty and bearing oppositional blinders". So now you admit there are different choices. I assure you that if you had set the issue like that from the start, that it regards different choices of yours and us, I would have spoken differently.

And since I do not want to exhaust my 15 minutes of time, since we will be given another chance to discuss about that, I would like to mention two of these choices. The first regards collective management. I would like to ask you, Mrs. Minister, further to what you said towards the end, can you please explain why you call it collective management? The term "collective management" has certain social roots and is founded on a collective character. You have said that in Greece we do not have the collective form of management for historical reasons and because we were late. We agree. Hence, we have a reality in which private organizations were developed and we can no longer control them. Then why do you call them collecting societies?

In any case, our great choice now is this: What shall we do now, since we ascertain that there was a particular historical route and now in Greece we have this situation, a unique situation in Europe that is not adapted to what's going on there? Are we to leave the situation uncontrollable and let it develop or try to control it? I'm saying that we should control it and that means to me that first all authors should participate in organizations.

Secondly, there should be a specific operation regulation and decision making regulation, a particular way to allocate gains and a specific operation regulation of these organizations regarding their control. As I realized from your oration, such an attempt to control these organizations does not exist. There will be some parallel measures taken against the giants that march freely.

In any case, what I meant to say is that we should agree that our disagreements are not due to the fact that we are using oppositional blinders. That was your phrasing, Mrs. Minister. Here are the Minutes. Please read them again. We have different choices.

Secondly, I also said and repeated the conventions mentioned there analytically for one reason, because you thought that our reference on conventions regarded definitions. I said that we're not talking about the definitions. In laws of other countries, conventions are determined., there are convention types, those appearing more frequently are also determined. You call that an intervention in the free market. I heard it said by Mr. Giannelis, that dear gentlemen of the ruling party, yes, we call this an intervention, which is necessary and should be established. You do not disagree with us, we just have different perceptions. These are not blinders – it is an essential matter.

On this issue, I would also like to give the following answer. I have little legal knowledge. The late Fourkiotis used to teach us Civil Law in ASOE where I studied many years ago and I am only aware of what I learnt then. From that point on wards, I have to say that it is not my knowledge that has led me to the following. I consulted various, not just one or two, renowned legal practitioners. And when I left the podium, I wanted to confirm what I had said with Mr. Konstantopoulos, and he said I was right. I do not doubt that it is possible somewhere with article 16 to favor some author. But I'm talking about the way article 16 will be enforced against authors, and this risk is rather large.

I can see the indefiniteness too. Since I don't understand legal aspects, it can be considered an issue of ignorance. But I have spoken to legal practitioners. Mr. Kaklamanis, you can ask the opinion of such a practitioner. Don't say this is about a law. Just copy what this regulation says and ask his opinion on what we will pass tomorrow morning.

Everybody has told me that this is a grotesque formulation that includes everything and can prove to be very dangerous. If it is expanded as a law regulation, what it says, with the consent against the right and principle, you cannot imagine the extensions it may take if it is abolished.

In any case, if all this is due to a misunderstanding, please reframe this regulation in a better way. We have different perceptions and different attitudes. I will also say something else, having served as a newspaper manager for 10 years. When one of my manuscripts would reach the editor and he would ask me, what do you mean Mr. Giannaros, I would tell him, send it back up. Since the first reader had some doubt, that meant that I had not written my article right. So I'd tell him to send it back and I would edit it myself. That's what the editor did. So let me say that if this is a misunderstanding, you should formulate it in a way that does not lead to misinterpretations, at least among legal practitioners. Because can lead not just to misinterpretations, but also to large problems, if it is expanded as a law regulation, which is extremely dangerous. And please, dear colleagues from Nea Dimokratia, consult any legal practitioner you know.

And one last remark about Mr. Giannelis. Certainly, I have said from the start that I am not a legal practitioner. I consider though law to be a par excellence static view of things. I used to quiver hearing Fourkiotis saying you shouldn't dig into legal matters much. That this is the way they are and we should just enforce them. But beyond this dispute among scientific social studies and legal studies, we should also consider tis, that in the legal science things evolve.

Mr. Gianellis, I agree, there is the Civil Law and the freedom of transactions. But have you ever heard anything about the protection of consumers? The protection of consumers is a large intervention right on the limitation of the freedom of transactions, when ascertained by all parties, including neoliberals, that there was a monopoly formed in today's society, from which consumers need to be protected.

The limitation of free conventions, provided by the Civil Law, is the large movement developing now. We had a discussion with Mr. Xarhas, when the bill regarding the protection of consumers was passed. I was upset, Mr. Xarhas was talking to me about the Civil Law and then after a while, when Mr. Xarhas left the Minister, the godfather of neoliberalism in Greece, Mr. Andrianopoulos adopted what we're talking about here. So don't think that all matters regard an ideology.

There is an immense development right at this minute, and this is the intervention on the freedom of conventions. This is a social intervention, to reestablish necessary balance in a society regulated and dominated by civil laws, by the free competition which leads to exaggeration.

Thus I say that what we stated about conventions and the publishing convention, we really consider it an intervention on transactions in favor of authors. And this is in favor of creation, not in favor of interests.

I don't know what Mr. Kaklamanis meant when he mentioned slipping to aspiring direction and then I corrected it. I started my speech and I finish my replication with an anxiety. What is left by the mass production and industrialization is art, the authors. They're left as individual cases of wider exaltation and personal creation. All over the world now, neoliberals, Reagan, Thatcher etc. want to defend and support this. Because if they endured all this regimentation it means it's the only way to have art and creation. We should also support this in Greece.

Mrs. Minister has mentioned 4 modern laws. Excuse me, but I thought your reference was positive. All 4 laws you have referred to provide such regulations to protect authors. These are political choices. I agree. It doesn't have to do with one particular party. And Sebrun is not a person that can be bound by dogma and bias. I said that he's a person who has created great works in politics and literature, as a Minister and as a great European. I would respect his considerations, but in any case, leave Sebrun out of it and take a look at what's going on in England under Thatcher's governance. We should defend creation and see that the author is protected, ensuring not just special terms, but others objective terms, to provide him freedom in his creative work. We start and finish with this anxiety in our conclusions, but I would also like you to amid, Mrs. Minister, that this is not an anxiety, it is a consideration, it is a political and social analysis, it is a political choice that has nothing to do with blinders.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** The discussion on the principle of the bill "Copyright and related rights" is considered completed and the Body is asked if the bill is accepted on its principle.

**SEVERAL MEMBERS OF THE PARLIAMENT:** Acceptable, acceptable.

**STAVROS BENOS:** By majority.

**ALEXIOS SEVASTAKIS:** By majority.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Thus, the "copyright and related rights" bill is accepted in its principle by majority.

Dear colleagues, as I am informed, the Presidency has a proposal to make for the discussion of the bill's articles in sections, which you have asked to consider and reply now. Do you agree with the Presidency's proposal?

**STAVROS BENOS:** Mr. Chairman, we shall begin according to the original agreement and say that if the discussion's flow is such that the first section until article 17 is finished early on, we can continue and proceed to the next section.

Let us see this tomorrow, according to the way the discussion is held. We cannot predetermine that now, because according to our estimation, we need the first day for articles 1 to 17 as originally agreed. In spite of that, if within the reasonable time – to

use a term of this bill – where the Parliament usually operates we have enough time, we can enter the next section as well.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** We agree. As I see and from what I've been told, we won't be needed a day for each section. We shall just agree on the sections.

**STAVROS BENOS:** No, we have made this clear. We have said that we need one day for each section.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** I see. Well, we remain with this proposal and with your addition, if we finish with section one we shall continue with section two and onwards.

Do you have anything to add Mrs. Minister?

**ANNA BENAKI-PSAROUDA (Minister of Culture):** Mr. Chairman, I believe that articles 1 to 17 are too few for the first section. We should discuss the following ones until article 31 as well, as I said earlier. Because article 32 and on is where we have very serious matters, that will certainly take more of our time.

So it would be better to spend the first day with articles up to 31 – call this one or two sections, I don't know, as you like – to have plenty of time during the other two meetings and discuss from article 32 onwards. Otherwise, if we stop on article 17, shall we begin with the next ones as one section? How are we going to do this? Shall we include articles 32, 33, 34? Those need a lot of discussion and cannot be attached to tomorrow's time.

**STAVROS BENOS:** Mr. Chairman, I think I was clear.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** If we finish with section up to article 17, the Body shall continue with the next section. In any case, do you agree or shall we leave it up to the Regulation?

**STAVROS BENOS:** Mr. Chairman, I was being clear. If there's enough time left after the discussion of the first section, we shall proceed to the next one.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Thus, we shall use this decision first and if we finish we shall proceed to section two.

**NIKITAS KAKLAMANIS:** Within this section, Mr. Chairman, is there an article to be discussed separately? I'm saying it to facilitate tomorrow's discussion.

**STAVROS BENOS:** There are some, and we shall suggest them tomorrow.

**NIKITAS KAKLAMANIS:** You should inform the Chairman about that though. Because when we say we will exhaust this section and we have agreed that one, two or three articles shall be discussed separately, then the suggestion made by Mrs. Benakis is rather positive, since in this way we will save time not just for article 32 but for other articles as well.

If you haven't selected those articles yet tonight, please say that we should agree on them tomorrow morning. But don't reject this suggestion. I'm saying it for the sake of discussion. I'm not interested if we hold it one way or another. I just remember that we had said that certain articles would be a section and since we want to discuss them so much, that's why I'm making this intervention. You can't say tomorrow that we don't have enough time to discuss article 9 e.g. for much time.

**STAVROS BENOS:** Mr. Chairman, we have taken all that into consideration.

**SPEAKER OF THE PARLIAMENT (Athanasios Xarhas):** Thus, we are clear for the time being. It's the 4 sections and if we complete the first, we shall proceed to the next one in the same meeting.

Dear colleagues, do you agree to complete this session now?

**SEVERAL MEMBERS OF THE PARLIAMENT:** Yes, yes.

With the Body's consent and at 00.07 this session is completed, today, Thursday, November 12<sup>th</sup> 1992 and t 10.30 with the object of the Body's work:

a) Parliamentary control

Questions to the Prime Minister by President of Sinaspismos tis Aristeras kai tis Proodou, Mrs. Maria Damanakis and President of KKE's Parliamentary Team, Mr. D. Kostopoulos and then references and questions by the Ministry of Health, Welfare and Social Insurance

b) Legislative work

Resumption of the discussion on articles and the totality of the bill "Copyright and related rights"

**THE CHAIRMAN**

**THE SECRETARIES**