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*The sign + marked above the name of a Member indicates that the question was actually asked on the floor of the House by him.

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LOK SABHA

Monday, September 5, 1966/Bhadra
14, 1888 (Saka)

*The Lok Sabha met at Eleven of
the Clock*

[MR. SPEAKER in the Chair]

OBITUARY REFERENCE

Mr. Speaker: I have to inform the House of the sad demise of Shri Murli Manohar who passed away at New Delhi on the 4th September, 1966 at the age of 71.

Shri Murli Manohar was a sitting Member of this House from the Ballia constituency of Uttar Pradesh. He was also a Member of the First Lok Sabha during the years 1952 to 1957.

We deeply mourn the loss of this friend and I am sure the House will join me in conveying our condolences to the bereaved family.

The Leader of the House (Shri Satya Narayan Sinha): Mr. Speaker, Sir, I and Members of this House learnt with great shock and sorrow about the sad and sudden demise of a Member of our House, Shri Murli Manohar. Shri Murli Manohar was one of those persons who had been drawn into the freedom struggle from the earliest times. His holy pilgrimages to prison in the cause of fight for freedom started in 1921. He participated in all other freedom movements and went through all the sufferings cheerfully. As you know, Sir, he represented Ballia Constituency in the Lok Sabha. Ballia is normally regarded as one of

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the backward districts of Uttar Pradesh in matters of education etc. However, during the struggle for freedom in 1942-43, the anti-foreign rule sentiments reached white heat in the district. This was all mainly because of the solid work done by Shri Murli Manohar and his other patriot friends. Shri Murli Manohar will be long remembered in his area for his constructive work as Chairman of the Municipal Board of Ballia and in various other uplift activities. Sir, I pay my respectful homage to the memory of this stalwart fighter for freedom and I hope the House will join me in offering condolences to the bereaved family.

Shri U. M. Trivedi (Mandsaur): Mr. Speaker, Sir, yesterday morning I heard the very sad news about the demise of Shri Murli Manohar, a very unassuming gentleman, an old man of 72 years, who never made himself very conspicuous in the House but whose activities of a constructive nature were well known to many. He leaves behind him a mourning family of relatives. I and my party join in the sentiments expressed by Shri Satya Narayan Sinha, the Leader of the House, and I request that our sentiments may be conveyed to the bereaved family.

श्री सरजू पाण्डेय (रमड़ा) : अध्यक्ष महोदय, बाबू मुरली मनोहर के निधन का समाचार सुन कर हम सभी लोगों को भारी शोक हुआ है। यही नहीं कि वे स्वतंत्रता-संग्राम के योद्धा थे, बल्कि वह पूर्वी उत्तर प्रदेश के एक बहुत अच्छे वकील भी थे और उन्होंने अपने जीवन काल में जुड़िहरी की बहुत बड़ी सेवा की। इसके साथ ही वह बहुत बड़े सामाजिक वर्कर थे और उन्होंने अपने जीवन-काल में कई स्कूल और अन्य संस्थाएँ चलाई।

वह प्रथम लोक सभा के सदस्य थे और तीसरी लोक सभा में भी चुन कर आए थे। वह एक जनप्रिय नेता थे और कांग्रेसी मेम्बर होते हुए भी उन्होंने विरोधियों का हमेशा ख्याल रखा और उनके साथ सम्पर्क बनाए रखा। मैं अपनी ओर से और अपने दल की ओर से उनके दुःखित परिवार के प्रति अपनी संवेदना प्रकट करता हूँ।

श्री रघुनाथ सिंह (वाराणसी) : अध्यक्ष महोदय, श्री मुरली मनोहर काशी विश्वविद्यालय के स्नातक थे। उसके बाद वह सरकारी वकील बने। जब महात्मा गांधी ने आन्दोलन आरम्भ किया, तो उन्होंने सरकारी वकील का पद त्याग दिया। वह 1921, 1930, 1932, 1939 और 1942 में जेल गए। कम से कम तीन बार वह हमारे साथ जेल में थे। वह सफल वकील थे। ईस्टर्न यू० पी० में इतना बड़ा माल वकील दूसरा नहीं हुआ है। फिर भी उन्होंने जो कुछ अर्जन किया, वह सब एजुकेशन के लिए दे दिया उन्होंने अपने पास एक पैसा भी नहीं रखा। उनका जीवन 1921 से लेकर अब तक देश प्रीति से ओतप्रोत था, क्योंकि उन्होंने जो कुछ अर्जन किया, वह देश के लिए दे दिया। मैं इस महान् आत्मा के प्रति अपनी श्रद्धांजलि अर्पित करता हूँ।

श्री प्रिय गुप्त (कटिहार) : अध्यक्ष महोदय, मैं इस अवसर पर प्रजा सोशलिस्ट पार्टी की तरफ से श्री मुरली मनोहर के प्रति अपनी श्रद्धांजलि अर्पित करता हूँ और उनके परिवार के प्रति अपनी संवेदना प्रकट करता हूँ। उनके साथ मेरी पर्सनल जानकारी थी। इस लोक सभा के आने से पहले ही मैं बहुत दिनों से उनसे परिचित था। वह बलिया के एक प्रतिष्ठित नेता थे। उन्होंने वहां पर सोशल कार्य में बहुत बड़ा योगदान दिया वह वहां की म्यूनिसिपैलिटी वगैरह में और एजुकेशनल इंस्टीट्यूशन में भी बहुत दिल-चस्पी लेते थे। उन्होंने कई स्कूल और कालेज चलाए हैं। उनसे मिलने पर पता चलता था

कि उन पर किसी पार्टी का कोई असर नहीं था। वह हर एक व्यक्ति से खुले दिल से मिलते थे और उसके अभाव अभियोगों को सुनकर उनको दूर करने का प्रयत्न करते थे। मैं आपके जरिये से अपनी, अपने दल और लोक सभा की तरफ से उनको श्रद्धांजलि अर्पित करता हूँ।

Shri Ranga (Chittoor): I associate myself with the sentiments that have been expressed by my colleagues. I was told by my friends from Uttar Pradesh that he was one of their best comrades. He was a patriot. Though he was not a very active member of this House, he was one of the leaders of the Bar where he was practising. We are all extremely sorry that he passed away so suddenly. I join others in mourning the death of this very dear friend.

श्री रामसेवक यादव : (बाराबंकी) : अध्यक्ष महोदय, स्वर्गीय बाबू मुरली मनोहर एक देशभक्त और सामाजिक कार्यकर्ता थे। उन के निधन से बलिया के लोगों और हम सभी को बहुत शोक है। बाबू मुरली मनोहर अपनी सामाजिक सेवाओं के लिए सदैव याद किये जायेंगे। उन का स्थान शायद ही पूरा हो सके। जिन मदद्यों ने उन के प्रति अपनी श्रद्धांजलि अर्पित की है, मैं भी उन के साथ हूँ। मैं भी अपने दल की ओर से उन के प्रति श्रद्धांजलि अर्पित करता हूँ और ईश्वर से प्रार्थना करता हूँ कि वह उन की आत्मा को शान्ति दे।

Shri Nambiar (Tiruchirapalli): I associate myself with the sentiments expressed here on the sad demise of Shri Murli Manohar. He was one of the oldest members of this House and he had to his credit much sacrifice and suffering for the cause of the freedom of this country. We all feel very sad at his demise.

Mr. Speaker: The House may stand in silence for a short while to express its sorrow.

The Members then stood in silence for a short while.

11.11 hrs.

ORAL ANSWERS TO QUESTIONS
SHORT NOTICE QUESTIONS

Sale of Forged Railway Tickets

+

S.N.Q. 27. **Shri Vishwa Nath Pandey:**
Shri Ram Harkh Yadav:
Shri Brij Basi Lal:
Shri Tula Ram:
Shri Baswant:
Shri D. C. Sharma:

Will the Minister of Railways be pleased to state:

(a) whether it is a fact that the vigilance cell of the Railway Board has unearthed a gang responsible for selling forged railway tickets in the various parts of the country; and

(b) if so, the reaction of Government thereto?

The Minister of State in the Ministry of Railways (Dr. Ram Subhag Singh): (a) It is a fact that a gang suspected of selling forged railway tickets for various destinations in the country, has been unearthed in Calcutta. The entire operation connected therewith was undertaken by the Detective Department of the Calcutta Police with the assistance of the Vigilance Cell of the Railway Board.

(b) The case is under investigation by the Police.

श्री विश्वनाथ पाण्डेय: अभी मंत्री महोदय ने बताया है कि सतर्का सेल ने इस देश के विभिन्न भागों में रेलवे के जाली टिकट बेचने वाले गिरोह का पता लगाया है। मैं इस के संदर्भ में जानना चाहता हूँ कि क्या कलकत्ता के एन धर्मा-मानी व्यक्ति हैं, जो इस गिरोह को आर्थिक सहायता देते हैं और यह

कार्य दो वरस से चल रहा है। मैं यह भी जानना चाहता हूँ कि उस व्यक्ति का क्या नाम है, जो इस गिरोह को आर्थिक सहायता दे रहा है।

डा० राम सुभग सिंह: यह अन्दाज है — क्योंकि फाइनल रिपोर्ट पुलिस की जांच के बाद आयेगी — कि जिन्होंने आर्थिक सहायता दी है अब तक और जो रिंग लीडर और फिनांशर माने जाते हैं, उनका नाम रमणकुमार मैती है। वह नौ और आदमियों के साथ एरेस्ट हुए हैं।

श्री विश्वनाथ पाण्डेय: मैं जानना चाहता हूँ कि क्या सेल के इन्वेस्टीगेटर्स ने उन छापेखानों का भी पता लगाया है, जहाँ ये जाली टिकट छापे जाते हैं।

डा० राम सुभग सिंह: एक न्यू बंगाल प्रिंटिंग वर्क्स, प्राइवेट प्रैस है। उस पर भी रेड किया गया। वहाँ पर एक मशीन मिली, एक आटोमैटिक एन्युमरेटिंग मशीन और और तीन चार अन्य चीजें मिली हैं। और ब्लाक वर्गरह भी मिले, राक प्रूफ भी मिला।

श्री रामसेवक यादव: क्या यह बात सही है कि बहुत अरसे से जाली टिकट की तिजारत हमारे मुल्क में चल रही थी और बहुत से मुकदमे फौजदारी के बहुत से लोगों के ऊपर चलाए गए रेलवे ऐक्ट के तहत में और ताजीरात हिन्द के तहत में, तो सरकार को बाजे तरीके से इस जाली टिकट के रोजगार का कब पता चला और उसके लिए सरकार क्या कार्यवाही कर रही है?

डा० राम सुभग सिंह: यह सही है कि समय समय पर सेसी बातों का पता लगता आया है और उसका विस्तृत व्यौरा मैं अलग से दे सकूंगा। लेकिन इस वक्त जिस षडयंत्र का पता चला, तो वहाँ जैसा कि मैंने पहले कहा दस आदमियों की गिरफ्तारियां हुई हैं, उनके सारे सामान मिले हैं और विस्तृत जांच की जा रही है।

Shri Brij Basi Lal: May I know whether some railway workers are also connected with this gang?

Dr. Ram Subhag Singh: Yes, Sir, the packer and *khalasi* respectively of the Eastern Railway Printing Works, Howrah. These two persons were also arrested.

श्री प्रकाशबीर शास्त्री : कुछ दिन पहले श्रीमन्, मुरादाबाद में इसी प्रकार के गिरोह का पता लगा था और रेल मंत्रालय ने बताया था कि वह प्रैस भी पकड़ा गया है और कुछ व्यक्ति भी पकड़े गए हैं, तो मैं जानना चाहूंगा कि जिस गिरोह का मुरादाबाद में पता लगा था, उनको क्या सजा दी गई और भविष्य में यह कार्य मुरादाबाद में नहीं हो रहा है, इस बात की जानकारी ली है क्या ?

डा० राम सुभग सिंह : सजा की सूचना मैं बाद में दूंगा। और जानकारी बराबर ली जाती रही है कि इसकी रोकथाम की जाय।

श्री प्रकाशबीर शास्त्री : यह विभिन्न भागों में लिखा हुआ है

डा० राम सुभग सिंह : जी हां, उसकी तो जानकारी मैं बाद में दूंगा।

श्री क० ना० तिवारी : किन-किन रेलवे में इस तरह के जाली टिकट बेचने का पता लगा है और इससे कितने रुपये का नुकसान अब तक हुआ है ?

डा० राम सुभग सिंह : यह जाली टिकट का बम्बई में, सेंट्रल रेलवे में भी पता चला है और नुकसान का ऐसा है कि 800 टिकट मिले थे उसमें कुछ फिनिशड फार्म में थे, कुछ अनफिनिशड फार्म में थे, कुछ ब्लैंक टिकट थे, कुल मिलाकर 800 टिकट हावड़ा से लुधियाना, धर्मपुर और रोहतक बगैरह के थे, इस तरह के वह 800 टिकट बिकते तो उससे ग्रन्दाज आता कि कितना रेल को घाटा लगा।

Shri Tridib Kumar Chaudhuri: Is it a fact that the Eastern Railway Administration, particularly those connected with the administration of Howrah Station, turned a sort of blind eye to the various reports that were made available to them and then it needed the open letter to be published in several of the Calcutta dailies to make the Vigilance Cell active and that, so far as the Howrah Railway Station administration is concerned, they initially did nothing much in this matter?

Dr. Ram Subhag Singh: There is no question of turning a blind eye because the Vigilance Cell has been working quite effectively even before the time when this was detected. In Howrah, much before this thing was discovered, several other irregularities were noticed regarding illegal sale of tickets. It has been vigorously trying to detect all the involved persons, including those of the railways. There is constant watch and the Vigilance Cell is trying to extend its activities on all the railways throughout the country.

Shri Tridib Kumar Chaudhuri: My point is whether in this station, which is one of the very big terminal stations in the country, the station administration as such has been more or less inactive and it required the Vigilance Cell to go there and find out the irregularity. Is it a fact that, so far as the station administration is concerned, it did practically nothing in this matter?

Dr. Ram Subhag Singh: Actually, nobody can expect the station staff to go and detect Mr. Maiti, who was staying in the house of a dancing girl. Can any Station Superintendent go there unless and until.....

Shri Hem Barua: What is the harm?

Mr. Speaker: There may be harm for some; there may not be any harm for others.

Shri Hem Barua: A Station Superintendent cannot go to a dancing girl's house?

Shri A. P. Sharma: May I know whether the Vigilance Cell of the Railway Board is also investigating at other places like Bombay, Madras and other terminal stations of the railways to find out whether such things are going on in those places, also?

Dr. Ram Subhag Singh: I have already said about Bombay. It is operating everywhere on the Railways but it will be known only when the cases are detected.

Shri S. M. Banerjee: I would like to know whether it is a fact that this particular gang which is having its network throughout the country is giving these tickets to some out-agencies and that certain out-agencies who have been given contract by the Railway administration are responsible for selling these tickets to the poor villagers who cannot distinguish between a genuine ticket and a forged ticket.

Dr. Ram Subhag Singh: There is some doubt about this thing because it may be that out-agencies also might be at fault. The whole thing is being gone into by the Vigilance Cell as well as the Calcutta detective staff and only after getting the report we will take action.

श्री भागवत झा आजाद : अध्यक्ष महोदय, माननीय मंत्री ने बताया कि समय-समय पर ऐसे गिरोहों का पता लगा है, मैं जानना चाहता हूँ कि ऐसे गिरोहों का पता लगने के बाद और विजिलेंस ने जो प्रयत्न किये हैं उनसे क्या यह पता चला है कि यह गिरोह स्वतंत्र इकाई के रूप में कार्य करते हैं या इनका अखिल भारतीय स्तर पर कोई षडयंत्र का स्वरूप है?

डा० राम सुभग सिंह : कुछ तो इनका अखिल भारतीय स्तर इस तरह से है कि दो

आदमी पटना में एरेस्ट हुए और कुछ लोगों की गिरफ्तारी श्रीरामपुर में हुई क्योंकि वहां जो ईंट बनाने का काम करते थे, उनको 11 मजदूरों को 11 टिकट मिले, तो यह श्रीरामपुर जो हावड़ा के पास है, वहां हुआ, कुछ बम्बई में मिले, इससे पता चलता है कि यह जगह जगह भेज देते हैं और चारों ओर इनका गिरोह फैला है।

श्री बड़े : इसमें यह बताया है, इन डिफरेंट पार्ट्स आफ दी कंट्री, विभिन्न भागों में जाली टिकट बेचने का पता लगा है तो आप केवल कलकत्ता का ही क्यों लेते हैं? क्या और भी सेंट्रल रेलवे में, वेस्टर्न रेलवे में या सदर्न रेलवे में या बिहार में यह चीजें मिली हैं?

डा० राम सुभग सिंह : असल में जो प्रश्न था उसका जवाब मैंने दिया है।

Shri Bade: In the question, it is mentioned 'in the various parts of the country'.

अध्यक्ष महोदय : आप अपने इलाके में क्यों ले जाना चाहते हैं ऐसी बातों को?

Shrimati Savitri Nigam: From time to time, the Railways always had clues that these sort of gangs are functioning everywhere. I would like to know what action has been taken against those people who were caught in Moradabad and other places previously and how far it is correct that because of the negligence of the authorities, these gangs have been prospering and why strong action has not been taken against the culprits.

Dr. Ram Subhag Singh: Actually, when the cases are detected, it is the trying magistrate and other superior magistracies that take action. In reply to hon. Member, Shri Prakash Vir Shastri supplementary, I said that I will place that information regarding Moradabad on the Table of the House later on. It is not with-

in the competence of the Railways to take action because the entire case goes to the court and action is taken there.

Shri D. C. Sharma: Obviously, it is an all-India conspiracy and whatever the Minister of State may say, there is no doubt that the gang is to be found everywhere. Therefore, may I know if the trial of these persons will be conducted like the trial of a conspiracy case or the trial will be conducted in a routine fashion so that most of them get off?

Dr. Ram Subhag Singh: This will be more than a routine trial.

श्री सरजू पाण्डेय : मैं यह जानना चाहता हूँ कि ऐसे यह जाली टिकट बेचने वाले जो देश भर में हैं, इनकी संख्या का पता कुछ लगाया गया है और क्या इसमें रेलवे के जो नौकर हैं उनका भी हाथ है या नहीं ?

डा० राम सुभग सिंह : इसमें मैंने पहले बताया दो के बारे में, दो के बारे में तो प्रश्न के संदर्भ में सूचना दी और एक पटना में बुकिंग क्लर्क गिरफ्तार हुआ, इस तरह से और जगहों में रेल के लोग भी शामिल हैं।

श्री रामसेवक यादव : अध्यक्ष महोदय, खंवी महोदय ने बताया कि 800 टिकट पकड़े गये, मैं जानना चाहता हूँ कि क्या कुछ ऐसे टिकट भी पकड़े गये, जो बिक चुके हों और जिनका इस्तेमाल हुआ हो तथा यह जो भ्रष्टाचार फैल रहा है, क्या उसका यह कारण है कि रेलवे प्रशासन में इस तरह की ढिलाई आ गई है कि वे एक-दूसरे के अपराधों को बचाते हैं और भ्रष्टाचार इस तरह से बराबर पनपता चला जा रहा है तथा इसको रोकने के लिये क्या कोई विशेष कदम उठाये जा रहे हैं ?

डा० राम सुभग सिंह : माननीय सदस्य ने जैसे किसी को पीलिया रोग की बीमारी होती है तो उसको सारी दुनिया पीली ही पीली

नजर आती है, इस तरह की बात कही है। जहाँ तक रेलवे प्रशासन की बात वह कहते हैं, शायद यह उनका अपना अनुभव हो। जो 11 आदमी श्रीरामपुर में पकड़े गये, वे स्टेशन से डिब्बे में घुसते वक्त पकड़े गये, इसलिये इस गिरफ्तारी से आपको अन्दाज मिलना चाहिये कि वह एडमिनिस्ट्रेशन की इन-एफेक्टिवनेस नहीं थी।

श्री राम सेवक यादव : आपको आचार्य कृपलानी की रिपोर्ट पढ़नी चाहिये कि कितना भ्रष्टाचार आपकी रेलवे में सारे हिन्दुस्तान में है तथा हमको पीलिया की बीमारी नहीं है, पीलिया की बीमारी आपको है।

डा० राम सुभग सिंह : श्रीमन, माननीय सदस्य जैसा अपने हैं, वैसा ही सबको समझते हैं।

अध्यक्ष महोदय : ऐसी बातें नहीं करनी चाहिये। *Personal remarks need not be made.*

Shri Tyagi: May I know what was the *modus operandi* of this conspiracy? Were these tickets sold regularly through the booking window of the booking office or were they privately sold somewhere else? Was any railway clerk or anybody in the booking office in collusion with them or were these tickets sold independently?

Dr. Ram Subhag Singh: At Patna it was sold through the booking office as far as the report goes, but still the matter is being looked into.

In Rampur it was not sold at the booking office; it was given to those labourers outside the booking office.

In Bombay, perhaps, it might be, as Mr. Banerjee said, that the out-agency might have come into the picture.

Shri Tyagi: There is one small matter. I want to know whether

those persons arrested were passengers with fake tickets or whether they were persons who were party to the conspiracy of selling those tickets.

Dr. Ram Subhag Singh: They were innocent passengers. The real culprits also have been apprehended; the clerk and others are there.

Prices of Rubber

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S.N.Q. 28. **Shri Buta Singh:**
Shri P. K. Deo:
Shri Gulshan:
Shri P. K. Ghosh:

Will the Minister of Commerce be pleased to state:

(a) the minimum statutory prices per ton of the natural rubber, and the prices being actually charged from the consumers by the Rubber Planters;

(b) whether the prices actually being charged from the consumers are higher than the minimum statutory prices and if so, the impact which the charging of the exorbitant prices is having on the rubber industry as well as in the country and whether this has, in any way, affected our exports and if so, the details thereof; and

(c) the action, if any, taken by Government to stop this exploitation on the part of the Planters?

The Deputy Minister in the Ministry of Commerce (Shri Shafi Qureshi): (a) to (c). A statement is placed on the Table of the House.

Statement

(a) and (b). The statutory control of prices of natural rubber has been abolished from 16th December 1963. However, the minimum price for Grade I rubber was retained at Rs. 3230 per tonne. The present market price at Kottayam is about Rs. 6500 per tonne. It has been estimated that an increase of Rs. 100 per tonne in the price of natural rubber will in-

crease the cost of tyres by about 0.5%. Prices of other goods will be similarly affected in varying degree depending on the proportion of rubber used in their manufacture.

The rise in prices of raw rubber has had no adverse effect on exports. The total value of exports of rubber goods increased to Rs. 2.19 crores in 1965-66 from Rs. 1.68 crores in 1964-65 and Rs. 90 lakhs in 1963-64.

(c) (i) For the licensing period April 1965—March, 1966, arrangements have been made for importing a total quantity of 12700 tonnes of rubber.

(ii) It is proposed to allow immediately import of 7500 tonnes of natural rubber for the first six months of 1966-67 and an equal quantity during the second half of the year.

(iii) The rubber tyre manufacturing industry, which accounts for about two-thirds of all rubber consumed in the country, has been included among the priority industries entitled to the benefit of the liberalised import policy announced following devaluation.

The above measures will bring down the prices of indigenous rubber to reasonable levels.

Shri Buta Singh: I want to know what is the lag between home production and home consumption of rubber in this country.

The Minister of Commerce (Shri Manubhai Shah): 17,000 tonnes.

Shri Buta Singh: What steps are being taken by the Government to bridge this lag?

Shri Manubhai Shah: 10,000 tonnes are expected to be imported in the next three months and another licence for 15,000 tonnes is being issued.

Shri Buta Singh: What special incentives are being given to the local producers?

Shri Shafi Qureshi: There will be a payment of a replanting subsidy at the rate of Rs. 1000/- per acre. There will be grant of loans at the rate of Rs. 750/- per acre to small growers to increase their acreage. Maintenance loans at the rate of Rs. 475/- per acre are sanctioned to small growers. The Rubber Board is rendering technical assistance to the Plantation Corporation of Kerala set up by the Government of Kerala. The Rubber Board is maintaining regional nurseries which will provide help to the new planters. At the instance of the Rubber Board, the Agricultural Refinance Corporation has agreed to advance loans through the Scheduled Banks at the rate of Rs. 2,100 to estates and Rs. 1,600 to individuals for new-plantation of rubber. The Rubber Board is exploring the possibilities of utilisation of new areas for rubber cultivation. An additional area of 85,000 acres will be brought under rubber in the Fourth Plan.

Shri Indrajit Gupta: I find from the statement that while the minimum price of rubber is Rs. 3230 per tonne, the actual market price is Rs. 6500 per tonne. I want to know, in view of this tremendous gap between the two, what is the practical significance or real significance at all in keeping this artificial minimum price which has no bearing on the actual market conditions.

Shri Manubhai Shah: It is protection to the growers as a support price. There is no ceiling price for natural rubber. But the mechanism of import or filling in the gap between the local demand and the local supply is keeping the price intact.

Shri Indrajit Gupta: Minimum price.

Shri Manubhai Shah: The minimum price is to see that at no time the planter or grower of rubber gets a price less than that.

Shrimati Ramdulari Sinha: What was the basis on which the statutory

price of rubber was fixed and what percentage of return is ensured to the manufacturers on their investment?

Shri Manubhai Shah: There are two parts of the question. One is the grower of the natural rubber and the other, as the hon. lady Member says, the manufacturer of rubber products. . . .

Shrimati Ramdulari Sinha: What is the percentage of return?

Shri Manubhai Shah: The percentage of return to the planter should be 10 to 12 per cent to be fair, and the same to the manufacturer also.

Shri S. Kandappan: May I know whether there is any proposal with Government to encourage rubber plantations in the Andamans and whether any action has been initiated on that, and if so, the total acreage that is going to be covered?

Shri Shafi Qureshi: The Department of Rehabilitation are finalising a project for rubber plantation in the Andaman and Nicobar Islands, which will provide employment to about 2000 people and will bring under cultivation about 6000 acres of land.

Shrimati Renuka Ray: From the statement it appears that the only possible step that Government are visualising to bring down the exorbitant price of rubber is the liberalisation of imports. In view of the devaluation, may I know what the price of the imported rubber would be and how much higher it would be after devaluation and whether that will have a sufficient impact on the bringing down of the price of indigenous rubber?

Shri Manubhai Shah: The landed cost of rubber at the Indian port is about Rs. 4500 a tonne. So, we do believe that the difference between the landed cost of imported rubber and the local price is such that reasonably the local price can be brought down.

Shri P. Venkatasubbaiah: May I know whether apart from a few selected places where rubber is grown, Government are contemplating to make a survey to find out the potentialities for growing rubber in other parts of the country so that we may not have to spend more foreign exchange on imports?

Shri Shafi Qureshi: The Fourth Plan proposals for development of rubber envisage the bringing in of an additional area of 85,000 acres under rubber as shown below:—

Kerala—50,000 acres
Mysore—10,000 acres
Madras—5,000 acres
Assam & Tripura—5,000 acres
The Andaman & Nicobar Islands—
15,000 acres.

Shri Ranga: What about Andhra Pradesh? What about the Arakku valley?

Shri Shafi Qureshi: If land is available, and the State Government make it available to us, we shall look into it.

Shri Vasudevan Nair: Large numbers of people have taken to rubber cultivation in the rubber-growing States like my State of Kerala, for instance, because they thought that this cultivation would really benefit them and they would get reasonable prices. May I know whether now there is a trend of thinking among governmental circles that they should bring down the prices and there should be a slump in the price of natural rubber and for that purpose largescale imports are necessary, and if so, whether Government will assure the indigenous cultivator of a reasonable and fair price?

Shri Manubhai Shah: That was exactly the point which I was trying to explain in answer to a previous supplementary question. The floor price is a price which is for the protection of the planters.

Shri Ranga: It is too low.

Shri Manubhai Shah: If the prices are so high as they are now, I am sure the hon. Member will agree that we should bring it down to a reasonable level.

Shri Maniyanagan: In view of the abnormal increase in the cost of production of natural rubber from what it was at the time the minimum price was fixed and also the fact that a vast majority of the producers are small holders owning only a few acres of land, will Government revise the minimum price so as to assure the agriculturists of a reasonable price?

Shri Manubhai Shah: That situation has not arisen, during the last several years. I must congratulate the natural planters of this country that within three years the production has gone up from 37,000 tonnes to about 50,000 tonnes.

Mr. Speaker: Next question.

Shri Joachim Alva: May I ask one question?

Mr. Speaker: I am sorry. I have passed on to the next question.

Shri Joachim Alva: The Opposition gets away every time with the opportunity; we must also have a chance to put some relevant questions. It is but fair that you should please look at this side also.

Mr. Speaker: SNQ No. 29. Shri Madhu Limaye.

श्री मधु लिमये : शार्ट नोटिस प्रश्न सं० 29.

श्री सिद्धेश्वर प्रसाद : इस प्रश्न के बारे में मेरा एक व्यवस्था का प्रश्न है इस प्रश्न के खण्ड (घ) में लिखा है —

"if so, the legal position in the matter?"

प्रश्न पूछने के बारे में जो नियम है —
नियम सं० 41 (बी) — उसमें लिखा हुआ
है कि —

"it shall not ask for an expression
of opinion or the solution of
an abstract legal question...."

यदि ओपीनियन पूछी जाती है, तो इस
प्रश्न को कैसे स्वीकार किया गया ?

अध्यक्ष महोदय : ओपीनियन नहीं,
फैक्ट्स पूछे गये हैं ।

**Restrictions on Members of Parlia-
ment**

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S.N.Q. 29. Shri Madhu Limaye:
Shri S. M. Banerjee:
Shri A. K. Gopalan:
Shrimati Renu
Chakaravartty:
Shri Umanath:
Shri Mohammed Koya:
Shri Maurya:
Shri Sarjoo Pandey:
Shri Daji:
Shri Tridib Kumar
Chaudhuri:
Shri Bagri:
Shri S. Kandappan:
Shri Indrajit Gupta:
Shri Narasimha Reddy:
Shri Surendranath
Dwivedi:
Dr. Ranen Sen:
Shri Kolla Venkalah:
Shri Ram Sewak Yadav:
Shri Imbichibava:
Shri J. B. Singh:
Smt. Vimla Devi:
Shri Kishen Pattanayak:

Will the Minister of Home Affairs be
pleased to state:

(a) whether Government's atten-
tion has been drawn to the blatant
manner in which the police are sha-
dowing Shri A. K. Gopalan and other
Members of Parliament, censoring
their letters and tapping their tele-
phones;

(b) if so, the legal position in the
matter;

(c) whether it is permissible to
carry this shadowing/censoring/taping

to the point of frightening away peo-
ple or constituents from meeting and
associating with the said Members of
Parliament and creating obstruction,
hindrance or impediment in the per-
formance by them of their parliamen-
tary duties; and

(d) if not the action taken or pro-
posed to be taken by Government?

The Minister of Home Affairs (Shri Nanda): (a) to (d). I have had de-
tailed inquiries made in this connec-
tion from the concerned authorities
and am in a position to say that alle-
gations of harassment to Members or
their visitors, tapping of telephones
or shadowing are totally incorrect.
There are legal provisions in the
Indian Post Office Act empowering the
Central and State Governments to in-
tercept, detain or in any other manner
dispose of postal articles in the inte-
rests of public safety or tranquility.
In all cases of action under section 26
of the Indian Postal Act, the proce-
dure followed ensures expeditious
clearance of mail for delivery, and
this is normally done within two-
three hours.

Shri S. M. Banerjee: I rise on a
point of order.

अध्यक्ष महोदय : उन्हें क्वेश्चन पूछने
दीजिये ।

श्री मधु लिमये : मंत्री जी का जवाब
बिल्कुल सुनाई नहीं दिया । मैं उसे बिल्कुल
नहीं समझ पाया । अच्छा होगा अगर फिर से
उसे पढ़ दिया जाये ।

श्री मौर्य : मेरी समझ में भी वह नहीं
आया ।

Shri Nanda: I will read the state-
ment again.

Shri S. M. Banerjee: I rise on a
point of order.

अध्यक्ष महोदय : अभी चलने दीजिये ।

श्री सं० मो० बनर्जी : जी नहीं, प्वाइंट
ऑफ आर्डर सुन लीजिये ।

Previously a similar question was asked of the Minister of Parliamentary Affairs and Communications I remember in the last session. and he said that though there are provisions under the Indian Postal Act, instructions are issued by the Home Ministry. At that time also we demanded that both the Ministers should reply. It is shirking responsibility. I would only ask you that the Minister of Parliamentary Affairs and Communications—Shri Jaganatha Rao is here—should also throw some light. Otherwise, again this question will be shifted from the Home Ministry to Communications.

Mr. Speaker: There is no point of order.

श्री मधु लिमये : अध्यक्ष महोदय, मेरे प्रश्न का जो पहला हिस्सा था उस में पूछा गया था कि क्या शैडोइंग, सैंसरिंग ग्रीफ लेटर्स और टैपिंग ग्रीफ टेलीफोन्स हो रहा है, या नहीं, मैं मंत्री महोदय से जानना चाहता हूँ कि संसद् के जितने सदस्य हैं क्या उन में से किसी का टेलीफोन टैप किया जाता है, पत्र खोले जाते हैं या उनका पीछा आप के पुलिस वाले करते हैं ?

श्री नन्दा : मैं ने सारी बातों का जवाब दे दिया है।

श्री मधु लिमये : आप ने हैरिसमेंट के बारे में कहा है जबकि मेरा प्रश्न बिल्कुल निश्चित है कि उन की शैडोइंग भी की गई है, टैपिंग भी की गई है लेकिन मंत्री जी ने उनके बारे में न कह कर सिर्फ हैरिसमेंट की बात कही है

अध्यक्ष महोदय : शैडोइंग और टैपिंग ग्रीफ टेलीफोन्स के लिए भी उन्होंने कहा है।

श्री मधु लिमये : सवाल तो यह है कि यह शैडोइंग, सैंसरिंग और टैपिंग किन्हीं का होता है या नहीं ?

श्री नन्दा : यह तीनों शैडोइंग, सैंसरिंग और टैपिंग ग्रीफ टेलीफोन्स किसी की नहीं होती है। (व्यवधान)

श्री मौर्य : यह बिल्कुल झूठ बात है।

श्री नन्दा : माननीय सदस्य “झूठ” कह रहे हैं यह प्रनुचित है और वह ऐसा क्यों कह रहे हैं।

Shri Indrajit Gupta: What is the meaning of his reply?

श्री मौर्य : यह बिल्कुल झूठ बात है।

अध्यक्ष महोदय : मेम्बर साहब को यह पता नहीं है कि क्या इस तरह से झूठ कहना गलत बात है वह इस शब्द को वापिस लें।

श्री मौर्य : हमारे टेलीफोन्स टैप हो रहे हैं क्योंकि हम भुक्तभोगी हैं और हम ने पूछा है कि क्या उन्हें इस टैपिंग के बारे में कोई जानकारी है

अध्यक्ष महोदय : यह दूसरा सवाल है।

श्री मौर्य : जो उन्होंने कहा है वह सत्य से बहुत दूर है।

अध्यक्ष महोदय : मैंने कहा है कि माननीय सदस्य अपने उन शब्दों को वापिस ले।

श्री मौर्य : जो उन्होंने कहा है वह सत्य से बहुत दूर है।

अध्यक्ष महोदय : मैंने कहा कि आप अपने अल्फाज वापिस लीजिये।

श्री मौर्य : मैंने कहा कि मैं दुःखस्त कर रहा हूँ क्योंकि जो उन्होंने कहा है वह सत्य से बहुत परे है।

अध्यक्ष महोदय : दुःखस्ती का जाने दीजिये आप अपने लफ्ज वापिस लीजिये।

Shri Nanda: This should be withdrawn.

Shri Maurya: He is not telling the truth.

अध्यक्ष महोदय : माननीय सदस्य से मैं फिर कहता हूँ कि वह अपने शब्द वापिस लें ।

Shri Maurya: He is not supposed to tell a lie in the House. He is doing it.

Mr. Speaker: Now I will ask him to withdraw that word.

The Deputy Minister in the Ministry of Home Affairs (Shri Vidya Charan Shukla): He must withdraw that.

Mr. Speaker: I am asking him to withdraw it.

श्री मौर्य : हाउस के सामने मंत्री जी ने असत्य बात कही है ।

Mr. Speaker: I am asking him to withdraw that word.

श्री मौर्य : आप बहुत जोर दे रहे हैं इसलिए मैं अपने अल्फाब वापिस लेता हूँ ।

श्री मधु लिमये : आपके सामने जब गुट नेताओं की बैठक हुई उसमें श्री गोपालन ने आपके सामने वह पत्र दिखाया जो कि सेंसर हुए थे । और मंत्री महोदय कह रहे हैं कि पत्रों को खोला नहीं जाता है ।

अध्यक्ष महोदय : इंडियन पोस्ट आफिस ऐक्ट के मातहत यह पोस्टल आर्टिकल्स को खोला आदि जाता है ।

श्री मधु लिमये : उन्होंने कहा कि नहीं खोला जाता है ।

श्री नन्दा : मैंने यह नहीं कहा है ।

श्री मधु लिमये : खोला जाता है । बहुत प्रच्छन्न ।

मेरा दूसरा प्रश्न यह है कि भारत सुरक्षा कानून के जो नियम बनाये गये हैं उन नियमों की संख्या 22 (2) और 22 (3) के ऊपर मैं मंत्री महोदय का ध्यान दिलाना चाहता हूँ :

The Central Government may by general or special order either generally or with reference to any particular place within or without India prohibit, regulate, restrict or impose conditions upon the receipt or transmission and/or despatch from India of any postal article of any class or description.

आगे है :

Any order made under sub-rule (2) may with a view to securing compliance thereof provide for the interception retention examination of the contents of any postal articles by such authorities in such circumstances as may be specified in the order.

मैं जानना चाहता हूँ कि क्या इस किस्म का कोई हुक्म जारी किया गया है इस नियम के के मातहत, यदि है तो क्या वे इसे सदन की टेबल पर रखने के लिए तैयार हैं ?

श्री नन्दा : जो कुछ हो रहा है वह मैंने बतला दिया कि पोस्ट आफिस ऐक्ट के अधीन हो रहा है उसके अलावा और कोई आर्डर इश्यू नहीं किया गया है ।

अध्यक्ष महोदय : वह उसे टेबल पर रखने के लिए तैयार है ?

श्री नन्दा : मैंने कहा कि और कोई आर्डर नहीं है ।

श्री रामसेवक यादव : मैं इस पर व्यवस्था का प्रश्न उठाना चाहता हूँ । मैं इस पर आप से मार्ग दर्शन चाहूंगा । मंत्री महोदय ने नहीं में उत्तर दिया लेकिन गोपालन साहब अपने आरोप पर कायम हैं तो मैं आपसे जानना चाहूंगा कि क्या एक सदस्य अगर कोई बात कहता है जो कि भुक्तभोगी है और उसका

टेलीफोन टैप होता है और उसकी शीडोइंग होती है तो उसके बयान की क्या कोई कीमत नहीं होगी? जब हमारे ऊपर...

अध्यक्ष महोदय : मैं समझ गया।

श्री रामसेवक यादव : मैं भी भुक्तभोगी हूँ। हमारे ऊपर और उनके ऊपर अत्याचार होता है जब कहते हैं कि उसकी अधिकारियों से जांच करवायें तो इंकार कर दिया जाता है तो इस तरह से कैसे काम चलेगा?

अध्यक्ष महोदय : इसमें व्यवस्था की क्या बात हुई? असल बात तो यह है कि उसमें तहकीकात की जरूरत होगी तो तहकीकात करायी जायगी।

Shri A. K. Gopalan: Mr. Speaker, Sir, I am surprised at the answer given by the Home Minister. Many of the Members of this House have actually seen half a dozen CIDs being posted in front of my house at the gate. Many of the journalists also who have come there, parliamentary reporters, also have not only seen them but the number of their cars and other things were noted and with cycles and car posted with the CIDs they are following me. I want to know whether he is denying this fact.

Shri Nanda: Knowing the importance of the hon. Member... (Interruptions.) I took special care to check up on my own and I paid four visits to the hon. Member's house; I did not enter it and I went there on three separate days and at different hours. I can say that the hon. Member in his innocence might be thinking that some innocent passersby who might be loitering roundabout there. (Interruptions.) I can say that on the first day when I visited the place, I found that there was one person on one side of the road.

Shri Vasudevan Nair: Did you give previous notice?

Shri Nanda: I did not go by the staff car; I did not go in my car. I took a friends car so that nobody might notice and I can say that nobody knew at all, in my office also, as to where I was going. I saw there one person. I can give this information. There was nobody nearabout except a machineman of the tubewell just in front of the residence and an old man across the road and on enquiry it was found that the old man was the sewerage man of the Municipal Committee. Similarly, on another occasion I went at the back side and then also there was nobody there.

Shri A. K. Gopalan: I just want to make one submission; please allow me. Please permit me and then you can see whether what I say is correct or what the Home Minister says is correct. The Home Minister goes there, after the privilege notice was given I know the policemen because when I had been coming here for the case they had been following me. I know personally who are the CIDs here, because several times when I came to the Supreme Court here they were following me. Not only that. When the privilege motion was given here, after that, instead of staying there, they were just moving about. I want to know whether the Home Minister has gone and seen after I gave the notice of privilege motion. I want to say that there are many hon. Members who know it; Shri Dwivedy, for example. I have shown to him in the bus when I was coming, I had shown them. (Interruption).

Mr. Speaker: Order, order. I can tell you that he has gone after that notice, because I had asked him to just see. (Interruption). Order, order. Shri Mukherjee.

Shri H. N. Mukherjee (Calcutta Central): In view of the obvious contradiction between what the Minister says and what Shri Gopalan is apparently in a position to establish as the truth, one or the other Member is misleading the House. This is a point

of fact which has got to be established. May I know, in view of this contradiction having come up in the course of answers to supplementaries to this question, if this matter would be referred to a relevant agency, for example, the Committee of Privileges, in order to ascertain the facts, because we cannot go out of this House with a feeling that Shri Gopalan is in a position to substantiate the allegation and other Members are also in a position to do so, and members of the press can be brought in to give evidence, while the Minister's information is exactly contrary to that; we ought to know the position.

Mr. Speaker: After the supplementaries we will see.

श्री मौर्य : गृह मंत्री जी ने यहां पर बतलाया कि वह गोपालन साहब के

अध्यक्ष महोदय : बहुत मेहरबानी होगी अगर मेम्बर साहबान सिर्फ सवाल करें।

श्री मौर्य : एक बात मेरी समझ में नहीं आती। सारे लोग तो पांच पांच मिनट बोल कर तब सवाल करते हैं और मुझ को ठीक से सवाल भी नहीं करते दिया जाता।

अध्यक्ष महोदय : अच्छा आप जिस तरह सवाल करना चाहते हैं कीजिये।

श्री मौर्य : गृह मंत्री जी ने यह बयान दिया कि वह स्वयम् ही श्री गोपालन की कोठी पर गये थे और वहां उन्होंने पुलिस का कोई आदमी नहीं देखा। मैं स्वयम् भी श्री गोपालन की कोठी के सामने से एक दो बार नहीं, आज से एक हफ्ते पहले दस बारह बार गुजरा हूं, और मैंने अपनी आंखों से देखा है, मैं सी० आई० डी० के लोगों को भी जानता हूं, पुलिस वालों को भी जानता हूं, उनसे मुलाकात ही नहीं व्यक्तिगत जान पहचान है। मैंने स्वयम् अपनी आंखों से देखा है कि आज से एक हफ्ते पहले वहां पुलिस के लोग बैठे हुए थे और वहां पर बड़े कुछ नोट भी करते हैं कि कौन गया और

कौन निकला। मैं जानना चाहूंगा कि गृह मंत्री जी आज से एक हफ्ते पहले गये थे या दो बार दिन पहले गये थे। अगर वह दो बार दिन पहले गये थे, एक हफ्ते पहले नहीं गये थे, तो वह जिन पुलिस के लोगों को मैंने अपनी आंखों से देखा है, और दो बार बार नहीं, दस बारह बार देखा है, वह किसके दृक् से वहां गये थे।

Shri Nanda: There may be some other persons interested in the hon. Member. My agency, and other organisations, have told me definitely and specifically that they made no such arrangements. There may be other persons.

एक माननीय सदस्य : मंत्री महोदय ने इस बात का जवाब नहीं दिया कि वह कब गये थे।

श्री नन्दा : मेरे पास एक तारीख 29 अगस्त की है, एक 3 सितम्बर की है और एक और दिन है जिसका नोट मेरे पास नहीं है।

श्री प्रिय गुप्त : प्वाइंट आफ आर्डर।

अध्यक्ष महोदय : प्वाइंट आफ आर्डर पर ज्यादा बक्त न लगा कर सवाल किया जाये तो ज्यादा मुफ़्त होगा।

Shri Priya Gupta: It is an important point of order which arises out of this.

Mr. Speaker: It may not arise out of this; only the time of the House is wasted.

श्री प्रिय गुप्त : गृह मंत्री जी ने कहा कि वहां पर कोई आदमी न निगरानी रखने के लिये गया और न मेम्बरों का हाल चाल लेने के लिये गया। मैं जानना चाहता हूं कि अगर कोई आदमी हमारी कम्पाउंड के अन्दर जाये तो क्या हम उसको धक्के मार कर निकाल सकते हैं।

अध्यक्ष महोदय : मैं अपोजीशन वालों से दखलस्त करूंगा कि कई दफे ऐसी बातें उठा दी जाती हैं जिनकी जरूरत नहीं होती। कुछ

वह अपने ऊपर सेल्फ रिस्टेंट करें। प्वाइंट आफ ऑर्डर पर बहुत टाइम जाया होता है। वह इस तरह से न किया करें।

Shrimati Renu Chakravartty: All of us know that there are from time to time watches in front of our houses, whatever the Minister may say. May we take it that those who are kept as watches—when there is anybody on a cycle or in a car—they are there illegally and in an unauthorised manner and that if we can get hold of them, then the Home Minister will punish them and state in this House that he has punished them?

Shri Nanda: If anybody commits any illegal act and a complaint is made certainly necessary punishment will follow. As I said, I have just received reports from these organisations that there is nobody being deputed or assigned any such duties. Regarding, Members of Parliament, there are definite instructions.... (Interruptions).

Mr. Speaker: Order, order. All the Members shall sit down when I am standing.

होम मिनिस्टर साहब ने कहा है कि अगर कोई और जा रहा हो तो उनको पता नहीं। जब मेम्बर साहबान इतने इन्सिस्टेंट हैं तो उनको बतला दिया जाये कि होम मिनिस्टर से बाहर कोई और भी एजेंसी है जो उनको देख सकती है।

श्री नन्दा : सिवा गवर्नमेंट के कोई और एजेंसी नहीं है।

I have enquired from all the agencies concerned and they have stated categorically and definitely that there is nothing being done on their behalf. (Interruptions).

अध्यक्ष महोदय : इस तरह से तो नहीं चलेगा।

एक माननीय सदस्य : अध्यक्ष महोदय (Interruptions). ***

अध्यक्ष महोदय : यह रिकार्ड नहीं होगा। (Interruptions). **

Shri Nanda: The hon. member said something.

Mr. Speaker: That has not gone on record. (Interruptions).

Shri P. Kunhan: It is a lie.

Mr. Speaker: This cannot be tolerated. He will have to withdraw it.

Shri P. Kunhan: I withdraw it.

Shri J. B. Kripalani: I hope it will not be out of place to say that twice or thrice in the days of our first Prime Minister of sacred memory, I had said in this House that my telephone was tapped and my letters were opened and when I went to the station, even if I had to travel a short distance, my tickets were examined. I made this complaint. I do not see why my friends make such complaints. Every Government does these things. We have got to live with it, Mr. Gopal.

Shri Daji: I would like to ask Mr. Nanda, in the Western Court, where a number of M.Ps. are staying, there are different CIDs—one Sardarji for myself and Mr. Indrajit Gupta and a Punjabi for Mr. Kamath. They come to the reception office regularly, and note down the names of all our visitors. They stand in the lawn after we return from Parliament and even accost some of our visitors. May I ask Mr. Nanda, next time I find that Sardarji, because he is unauthorised, am I entitled to beat him and bring him to the house of the Minister? (Interruptions).

Mr. Speaker: That is no question. He cannot do that. He is seeking permission of the Home Minister to beat somebody.

Shri Daji: Should I bring him to his house and show him?

Mr. Speaker: There ought to be something plausible.

Shri Daji: This is very plausible *(Interruptions)*.

Shri Hari Vishnu Kamath (Hoshangabad): If he has no orders to be there, then he is an intruder.

Mr. Speaker: That is to be seen.

Shri Tyagi: Sir, at the time of the Chinese invasion, it is in my knowledge, all those persons who were either Communists or known to be Communists, their houses were guarded and security police was posted there to see that nobody did any harm to them. I want to know whether those orders have been withdrawn or they are still doing it.

Shri Nanda: I will answer the limited question. I have given information to the House with respect to the question that has been asked, and that information, I repeat, I reiterate, is absolutely correct. I must add, Sir, that so far as the privileges of the hon. Members are concerned they should be preserved and protected to the fullest extent but, beyond that, where the interests of the security of the nation are concerned, they transcend all other considerations come. *(Interruptions.)***

Shri Daji: What does it mean, Sir? If this is not being done, Sir, the latter part becomes redundant.

Mr. Speaker: Order order. The should allow me to proceed now *(Interruptions)*.

Shri Hari Vishnu Kamath: He has already admitted it.

Shri S. M. Banerjee: Sir from the various replies of the Home Minister, it appears that the letters are not censored, telephones are not tapped, nobody is shadowing anybody and all is well under his regime. But in re-

ply to the pointed question by Shri Tyagi he has neither contradicted it nor accepted it. I would like to know whether it is a fact that there are standing instructions, whether under the Postal Act or under instructions of the Ministry of Home Affairs, that all letters where the postal department has suspicion are to be opened, and sometimes even postal stamps are not put on them just to give a feeling that they do not know when those letters came? I want to know whether such instructions exist or not, and if such instructions exist in the Postal Department, may I know what are those specific instructions, and how many Members of Parliament are there whose letters are censored and telephones are tapped?

Shri Nanda: The hon. Member misunderstood my answer. I never said that letters are not being censored. I only explained the procedure and that is under the Act. I am not going to give any information as to how the postal authorities, under the provisions of a certain Act, are carrying on their duties.

Shri S. M. Banerjee: Sir, May I seek one clarification from you? This is not the first time that I have put this question. When this question was answered by Shri Nanda, I immediately rose on a point of order, because when a similar question was put to Shri Satya Naryan Sinha, he said that under the Act they had to do certain things, but the instructions, if I am correct and if my memory is not failing me, came from the Ministry of Home Affairs and they have been doing it under instructions from the Home Ministry. Otherwise, why should the postal people censor our letters. Not only that, I can tell you, Sir, there are 16 Opposition Members whose names are with the Intelligence people whose letters are regularly censored. I can prove it. Let him deny it.

Shri H. N. Mukherjee: Sir, I rise to a point of privilege. Under Rule 227....

Mr. Speaker: That is a different thing. He will have to give notice.

Shri H. N. Mukerjee: Sir, Rule 227 is very clear. Instead of asking for a request in writing you are in a position, in special circumstances, to have a matter referred to a Committee of Privileges, if you think it right.

It is in your discretion. My submission is—please consider it—that the Home Minister has all but admitted that whatever his decision—that is a different matter—he does have a check for reasons of, what he considers to be paramount national security and he does have an apparatus to check the activities of some of us—right or wrong, it is a different matter. This requires investigation on a proper level. There are statements which are capable of being proved on one side or the other. If during the pendency of a session of Parliament Members of Parliament of whichever party on the ground that they are, according to the judgement of somebody in the Home Ministry, acting against the paramount interest of national security, are having their liberties to function as Members of Parliament consistently and persistently impeded, if that is so—on the question of facts it remains to be determined as to what exactly has been happening and the Minister's reply, in so far as it is a negative reply, refers it seems to things which happened after the matter of privilege was brought out—in view of that, a very clear case having been established, you can, if you choose to exercise your discretion, refer this matter immediately to the Committee of Privileges. I submit that it is a fit case to do that.

Shri S. M. Banerjee: If you want a motion....

Mr. Speaker: Members cannot move a motion like this.

Shri H. N. Mukerjee: If you tell me that you will consider this matter....

Mr. Speaker: Now that he has told me I will see if it is proper for me to do that *suo motu*.

Shri S. Kandappan: The Minister is repeatedly asserting that no one from his department is deputed or posted at the residence of Shri Gopalan; on the other hand, he says that it might be somebody else or some other agency. That means, it may be the CIA or somebody else. Then it is more serious. Shri Gopalan is talking on some facts and has represented them to the House. I think, he should be given an opportunity to substantiate the allegations or charges that he has brought before the House. I would like to know from the Government whether the Government is prepared to probe into this matter thoroughly.

Shri Nanda: I have said that we have probed it thoroughly. No agency connected with the Government has had anything to do with that. When I said, "somebody", it may be one party as against another party.

Shri Hem Barua: The hon. Home Minister has, by implication, rather admitted that security arrangements are made for certain Members. May I submit in this connection that he will like those Members to die rather than provide for their security arrangements and all that? Whatever that might be, even letters are opened. Here is a letter addressed to Shri A. K. Gopalan.

Mr. Speaker: He has shown that. He might put the question.

Shri Hem Barua: I am putting the question. During the British days also letters were opened but they were neatly opened and neatly gummed. Now-a-days, what happens often is that they send letters like that, without gumming them... (*Interruption*). or they put a lot of gum so that you cannot open them... (*Interruption*). On the basis of what Shri Mukerjee has said this matter, because of the contradiction in the statement of the Home Minister, should go to the Privileges Committee. You can do it because it

was only last week that you invoked rule 227 on your own. I think, you will come forward and invoke rule 227 and send this matter to the Privileges Committee.

12 hrs.

Shri U. M. Trivedi : The Home Minister has agreed that letters of some Members of Parliament are opened in the post office under the provisions of the Post Offices Act. I have been a victim of it for the last 16 or 17 years. I would like to know what are the criteria by which it is judged that the letters of Members should be opened. In my particular instance—I do not know whether others also have suffered—letters which pertain to my professional work and engagements are kept back and delivered only when the date of the engagement is past. This results in serious pecuniary loss to me. I will, therefore, request that some criteria may be indicated; or, we may write on plain postcards so that they might be read and read very clearly.

Shri Hem Barua : May I submit that my letters from my wife are also censored ... (Interruption).

श्री रघुनाथ सिंह : मैं यह जानना चाहता हूँ कि अगर किसी आदमी पर एस्पियोनेज का सन्देह है और इस लिए उसका टेलीफोन टेप किया जाता है और चिट्ठियाँ खोली जाती हैं, अगर वह आदमी किसी एम० पी० को फोन करे, तो क्या वह टेप किया जायेगा या नहीं।

अध्यक्ष महोदय : यह एक हायपोथेटिकल क्वेस्टन है।

श्री त्यागी : मिनिस्टर साहब ने इसका जवाब नहीं दिया है। जरूर होगा।

Shri Indrajit Gupta : Does the hon. Minister remember that about two or three months ago I had occasion to write to him directly requesting him to ask whoever is responsible to see that all my letters, which were coming

to me in an open condition without the flap stuck down, are at least dealt with in a manner which is decent and not repugnant to the ordinary eye? After that I find that all the letters subsequently came closed. Can I not deduce from this that as a result of the letter that I wrote to Shri Nanda and the subsequent action that was taken, it is on the instructions of his authorities and his Ministry that this thing is being done?

Shri Nanda : That has no bearing on it.

श्री राम सेवक यादव : मैं मंत्री महोदय से यह जानना चाहूँगा कि मुनील दास की गिरफ्तारी के बाद क्या श्री अतुल्य घोष का टेलीफोन टेप किया जाता है और उनकी चिट्ठियाँ सेंसर की जाती हैं।

अध्यक्ष महोदय : श्री बड़े।

श्री राम सेवक यादव : अध्यक्ष महोदय, इस सवाल का जवाब आना चाहिए। यह इसी से सम्बन्धित प्रश्न है।

श्री मधु लिमये : इसका जवाब आना चाहिए। यह प्रश्न मूल प्रश्न के भाग (ए) से सम्बन्धित है, जिसमें श्री ए० के० गोपालन और अन्य संसद् सदस्यों के बारे में पूछा गया है।

अध्यक्ष महोदय : एक एक मेम्बर के बारे में नहीं पूछा जा सकता है।

श्री राम सेवक यादव : यह इसी से सम्बन्धित प्रश्न है।

श्री मधु लिमये : इसका जवाब आना चाहिए।

श्री बड़े : क्या सरकार के पास हर एक प्रदेश से, जैसे मध्य प्रदेश, उत्तर प्रदेश और महाराष्ट्र से, सी० आई० डी० की तरफ से अनडेजायरेबल पर्सन की लिस्ट

आती है, जिसमें कोड नेम दिये जाते हैं, जैसे मेरा कोड नेम "19 एम० पी०" है और श्री कछवाय का कोड नेम "23 एम० पी०" है ? क्या इस तरह के वायरलेस सन्देश भी आते हैं कि "वाच 19 एम० पी० कमिंग" और "वाच 23 एम० पी० कमिंग" ? क्या उसके बाद होम मिनिस्ट्री की तरफ से यह आदेश दिया जाता है कि उन लोगों के टेलीफोन को टैप किया जाये, उन की चिट्ठियों को सेंसर किया जाये, उन पर वाच रखी जाये और क्या उनके घरों के सामने सिक्युरिटी सैकशन की पुलिस खड़ी रहती है ?

श्री नन्दा : इस वक्त मध्य प्रदेश का सवाल नहीं उठता है। हमारी डायरेक्शन यह है कि पार्लियामेंट के मेम्बरज पर कोई सरवेलेंस न हो।

अध्यक्ष महोदय : श्री बागड़ी।

श्री राम सेवक यादव : अध्यक्ष महोदय, आप मेरा निवेदन सुन लें कि मेरे प्रश्न का उत्तर नहीं दिया गया है। इस प्रश्न में जिस प्रकार श्री गोपालन और कई अन्य सदस्यों के बारे में पूछा गया है, उसी तरह से मेरा स्पेसिफिक क्वेस्चन एक माननीय सदस्य के बारे में है। उस प्रश्न का उत्तर दिया जाना चाहिए।

अध्यक्ष महोदय : मैंने उसकी इजाजत नहीं दी है।—श्री बागड़ी।

श्री बागड़ी : दस दिन के करीब हुए कि मैं श्री गोपालन के मकान पर गया था और वहां पर एक दो नहीं, बल्कि पांच छः पुलिस के कर्मचारी देखे थे। हो सकता है कि वे गश्त के लिए खड़े हों और हो सकता है कि वे उन के लिए पहरा दे रहे हों। हो सकता है कि...

अध्यक्ष महोदय : माननीय सदस्य सवाल करें।

श्री बागड़ी : मेरा निवेदन यह है कि कई माननीय सदस्यों ने खुद वहां पर सरकारी

कर्मचारियों, पुलिस वालों को देखा है और माननीय घर मन्त्री महोदय इस से इंकार करते हैं। तो क्या बाकायदा तौर पर इस बात की एन्क्वायरी कराई जायेगी और अगर पुलिस गृह मन्त्री के आदेश के बगैर इस तरीके से मेम्बरज को हैरास करती है, तो जिसने ऐसा काम किया है, उसके खिलाफ क्या एक्शन लिया जायेगा ?

श्री नन्दा : मैंने पुलिस एथोरिटीज से पूछा है। वे कहते हैं कि वे नहीं भ्रज रहे हैं।

श्री राम सेवक यादव : अध्यक्ष महोदय प्रश्न का उत्तर ही नहीं आता है।

अध्यक्ष महोदय : आप इस तरह से नहीं पूछ सकते हैं।

श्री राम सेवक यादव : मेरा निवेदन यह है कि आखिर उत्तर और जानकारी के लिए ही प्रश्न पूछे जाते हैं।

अध्यक्ष महोदय : अगर मैं किसी सवाल की इजाजत नहीं देता हूं, तो उसका जवाब देने की जरूरत नहीं है।

श्री राम सेवक यादव : आपने उस प्रश्न की इजाजत दी थी। मैं अपने प्रश्न के बारे में नहीं कह रहा हूं। मैं श्री बागड़ी के प्रश्न के बारे में कह रहा हूं। मैंने श्री अनुल्य घोष के बारे में जो प्रश्न पूछा है, मैं उसके बारे में नहीं कह रहा हूं। माननीय सदस्य, श्री बागड़ी, ने यह प्रश्न पूछा है कि इस सदन के कई माननीय सदस्य, जैसे श्री गोपालन, श्री मंत्र्य, खुद श्री बागड़ी, श्री पीटर अल्वारेज और कई दूसरे माननीय सदस्य कहते हैं कि यह हो रहा है और माननीय गृह मन्त्री इससे इंकार करते हैं, तो क्या गृह मन्त्री इस की जांच करवायेंगे ? उस प्रश्न का उत्तर नहीं दिया गया है।

अध्यक्ष महोदय : उसका जवाब दे दिया गया है।

श्री राम सेवक यादव : नहीं दिया है।

श्री मधु लिमये : क्या उत्तर है ?

अध्यक्ष महोदय : उन्होंने उत्तर दिया है कि उनकी जितनी एजेन्सीज हैं, उन से उन्होंने दर्याफ्त करके इस सवाल का जवाब दिया है, इस लिए उन्हीं एजेन्सीज से वह और एन्क्वायरी क्या करा सकते हैं।

Shri H. N. Mukerjee: I want to make a submission which arises out of this. Are we to function in a parliamentary system or not? If it is the former, then it is not permissible to differentiate between party and party and between Member and Member and apply special administrative processes to certain parties or certain Members during the pendency of Parliament. I can understand the law of the land operating so that certain parties are pushed out of the picture or certain Members are pushed out from normal life.

Sir, it is most mortifying to hear Government saying openly that there are considerations of national security—that is how they put it—which authorise Government to differentiate between Member and Member and between party and party and apply certain very special administrative processes against certain Members and certain parties. If that is so, certain basic questions regarding the very functioning of parliamentary system arise. I beg of you to consider it. We are at the fag end of the session and in this session, so many incidents have taken place and pandemonium has become the order of the day, largely because of Government behaving in a manner which suggests as if we do not have an existence of parliamentary system. The answers to the questions

which have been given show that. In so far as the possible continuation of parliamentary system is concerned, some of them may be behaving as if we are not very much in favour of the parliamentary system. But that is a different matter. The parliamentary system is being subverted by the kind of action which the Government is initiating and it is openly stated in Parliament. Where do we stand? Mr. Nanda says that on account of paramount national consideration, certain Members who are functioning here on equal right with everybody, are being subjected to certain administrative processes, which Sir, is not dignified for the parliamentary system. Where do we stand? That would mean goodbye to parliamentary system. I beg of you, Sir, who are representing symbolically the entire parliamentary system of the country to consider it. We should not be at the mercy of a majority that might be in Parliament at a particular point of time.

Shri Nanda: I question the assumptions made by the hon. Member. He attributes to me a statement as if some distinction is being made or some discrimination is being made between Members of one party and another party. It is not so. When I said that national safety and security is paramount. I said first the privileges of the Members, and then beyond that, I made that distinction. So far as this question is concerned, nothing is done which impedes the work of the hon. Member and beyond that, whatever is needed in the interest of the national security, certainly it has to be done.

श्री हुकम चन्द कछवाय : जो अंग्रेजी अच्छा बोलते हैं, उन को आप तीन तीन, चार चार मिनट तक मौका दे देते हैं, तीन बार हीरेन्द्र मुखर्जी साहब को बुलाया....
(व्यवधान)

अध्यक्ष महोदय : तीन बार भी मुझे बुलाना पड़ेगा किसी वक्त।

Shri Ranga: Are we to understand from what the hon. Home Minister has just now said that no distinction is being made between one member and another and between the ruling party and the other parties? If that is so, how is it that out of these 370 Congress members... (*Interruptions*).

An hon. Member: No one is arrested under D.I.R.

Shri Ranga: ... apart from the Council of Ministers, not even one-tenth of them are being subjected to the kind of indignities that we are subjected to? Let me say this in illustration of that. In regard to postal mail, the letters of no less a person than one who is accepted here by them also as a national leader and who was the first Governor-General of this country and who is my Leader today, Rajaji, are being censored. My letters are also being censored. I am supposed to be one of the few senior-most amongst the whole lot of members here and I have suffered just as much as many of these members, if not more. The same is the case with my Deputy Leader here. Every one of his letters is censored so much so my hon. friend has informed the House that the letters even from his house are being censored. Letters from my house, from my wife, have been censored for such a long time that in the recent past because of the inefficiency or, what you call, the idiotic behaviour of the postal authorities, the letters were mangled in such a manner that she has even ceased writing to me; she only gets my letters. All these things are happening. I can understand if my hon. friend says that in the interest of security of this country, certain things have got to be done; he regrets it, yet they have got to be done. But so far as Members of Parliament are concerned, the privileges are there; therefore, they are not to be tackled in this manner. So he owes an apology to Parliament as well as to the country for allowing that service to make this distinction between Congress members and non-Congress members in Parlia-

ment as well as outside. That is where the question of privilege comes in. So far as my question is concerned, where is this? Is it or is it not a fact that this distinction is being made and if so, why?

I am prepared to make one concession. There is a book called 'Kim' by Rudyard Kipling. There is another book, the report of Justice Warren Commission on Kennedy's murder. Therefore, the C.I.D. may be independent of this Home Minister and the Home Ministry. Let him make that confession that C.I.D. has to carry on its work.

Shri Hem Barua rose—

Shri U. M. Trivedi rose—

Mr. Speaker: We have had enough on this subject. I will request the hon. members to exercise restraint now.

So far as discharge of duties by Members of Parliament is concerned, I have to see that their duties are not impeded. If there is some harassment or impediment placed in the discharge of their duties certainly I will help every Member if any case is brought to me. This as the case Mr. A. K. Gopalan brought to me and I intervened in that immediately. If any other Member has that difficulty, then certainly I am prepared to help him. (*Interruptions*).

Shri S. M. Banerjee: Why don't you order an investigation into the matter?

Mr. Speaker: So far as the other administrative action is concerned, there I cannot interfere; it is not my job.

Now, we take up the call-attention notice. Mr. Ranga. (*Interruptions*).

Shri Hem Barua rose—

Mr. Speaker: Nothing further. I am not calling anybody.

Shri Hukam Chand Kachhaviya
rose—

Mr. Speaker: I am sorry, I cannot call him.

Mr. Ranga:

श्री हुकम चन्द कच्छवाय : मैं इतनी बार खड़ा हुआ। आप मुझे सबाल पूछने दें। अंग्रेजी वालों का यहां महत्व है, हिन्दी वालों का महत्व नहीं है... (व्यवधान) आप अंग्रेजी वालों को महत्व देते हैं, हिन्दी वालों को क्यों नहीं देते हैं ?

श्री रामेश्वरानन्द : आप हम लोगों को क्यों नहीं बुलाते ? मैं बीसों बार खड़ा हुआ, आपने मुझे बोलने का मौका नहीं दिया... (व्यवधान)

अध्यक्ष महोदय : मिस्टर रंगा।

12 16 hrs.

CALLING ATTENTION TO MATTER OF URGENT PUBLIC IMPORTANCE

REPORTED DAMAGE TO FOODGRAINS WHILE IN RAIL TRANSIT

Shri Ranga (Chittoor): I call the attention of the Minister of Railways to the following matter of urgent public importance and request that he may make a statement thereon:—

"The reported damage to foodgrains worth several lakhs of rupees when being carried in open railway wagons from Guntakal to various places in Cudappas and Chittoor districts of Andhra Pradesh."

The Minister of State in the Ministry of Railways (Dr. Ram Subhag Singh): The statement is two pages long. If you so like, I can place it on the Table of the House, or if you want, I can read it out.

Mr. Speaker: If it is a long statement, I can have it placed on the Table of the House and then I can have it circulated to the Members and then give hon. Members an opportunity to put questions later....

Shri Hari Vishnu Kamath (Hoshangabad): Tomorrow morning.

Dr. Ram Subhag Singh: I lay the statement on the Table of the House [Placed in Library. See No. LT-7020/66].

12.17½ hrs.

RE: CALLING-AGITATION-NOTICE (Query)

Shri Indrajit Gupta: (Calcutta South West): We had given a calling-attention-notice which you had disallowed. But can a statement be made on that, at any rate? That relates to the incident of lathi-charge on the students. The Home Minister should make a statement.

Shri S. M. Banerjee (Kanpur): About 150 students have been injured. Why should there not be a statement? I rise on a point of order....

Shri Tyagi (Dehra Dun): There should be nothing here beyond what is contained in the Order Paper.

Mr. Speaker: If there is anything that I have disallowed, I would not have it discussed here....

Shri S. M. Banerjee: I rise on a point of order....

श्री रामेश्वरानन्द (करनाल) : अध्यक्ष महोदय, ... अध्यक्ष महोदय, ...

श्री बागड़ी (हिसार) : अध्यक्ष महोदय, इसके ऊपर एक मिनट आप सुन लें।

अध्यक्ष महोदय : मिस्टर बागड़ी, मैंने कहा अब मैं नहीं सुन सकता।...

(व्यवधान) अब इस तरह से बोले चले जायेंगे, यह तो ठीक नहीं है। अब आप बैठ जाइए।

श्री रामेश्वरानन्द : मेरा प्वाइंट आफ़ आर्डर सुन लीजिए।

अध्यक्ष महोदय : बैठ जाइए स्वामी जी।

श्री स० मो० बनर्जी : डाई सी आदमी गिरफ्तार हुए हैं...

Shri Indrajit Gupta: He can make a statement.

अध्यक्ष महोदय : यह तो उन की मर्जी पर है, सुमो मोटो वह करना चाहें तो खुशी से करें।

श्री स० मो० बनर्जी : आप उनसे पूछिए। (व्यवधान) हमारा कोई अधिकार नहीं है, हम उनकी मर्जी पर चलें ?

अध्यक्ष महोदय : आपका अधिकार यह है कि आप जब चाहें अपना स्टेटमेंट शुरू कर दें ? यह अधिकार आपका पार्लियामेंट का है ? यह अधिकार नहीं हो सकता है। मेरे पास 90 नोटिसें थीं आज। तो 90 आदमी खड़े होकर उठाना चाहें तो क्या कार्यवाही चल सकती है ?

श्री स० मो० बनर्जी : अध्यक्ष महोदय, मेरा निवेदन सुन लें...

अध्यक्ष महोदय : मिस्टर बनर्जी, मैंने आपसे कहा कि मैं नहीं इजाजत दे रहा हूँ।

श्री रामेश्वरानन्द : अध्यक्ष महोदय, मेरी बात सुन लें...

अध्यक्ष महोदय : मैं, स्वामी जी, इजाजत नहीं दे रहा हूँ...

श्री रामेश्वरानन्द : मुझे सुनिए आ सुनैय नहीं ? कभी आप को सुनना

नहीं है ?... (व्यवधान)... मेरा एक व्यवस्था का प्रश्न है।

अध्यक्ष महोदय : इस समय कोई सवाल पेश नहीं है।

श्री रामेश्वरानन्द : मेरा 376(2) के आधार पर है।

अध्यक्ष महोदय : 376 कोई रूल नहीं है कि जिसके अन्दर प्वाइंट आफ़ आर्डर उठाया जा सकता है। 376 तो तरीका है, मैनर है। 376 कोई रूल नहीं है। बस एक 376 को जो मेम्बर उठते हैं ले लेते हैं। आर्डर, बैठ जाइए।

श्री रामेश्वरानन्द : 376 नहीं, 276 (2) के आधार पर...

अध्यक्ष महोदय : अब मैं इतनी देर खड़ा रहा, स्वामी जी बैठने के लिए तैयार नहीं हैं।... (व्यवधान) अब आप बैठ जाइए।

श्री रामेश्वरानन्द : मेरा व्यवस्था का प्रश्न है, आप नहीं सुनना चाहते। कोई मामला सवाल नहीं है, मेरा निवेदन सुन लें***

अध्यक्ष महोदय : यह कोई लिखा नहीं जायगा। बिल्कुल न लिखा जाय और प्रेस वालों को भी कहा जाय कि न लिखें।

श्री रामेश्वरानन्द : ***

अध्यक्ष महोदय : अब लिखा नहीं जायेगा।

श्री रामेश्वरानन्द : ***

अध्यक्ष महोदय : मैं आपसे कहूंगा कि आप बैठ जाइये।

श्री रामेश्वरानन्द : ***

अध्यक्ष महोदय : प्रेस वालों से भी जाय कि यह न लिखा जाय।

श्री रामेश्वरानन्द : ***

अध्यक्ष महोदय : अगर अपोजीशन से कोई भी इन को रोकने के लिये तैयार नहीं है, तो मुझे एक्शन लेना पड़ेगा। मैंने बहुत सबर किया है।

श्री रामेश्वरानन्द : ***

अध्यक्ष महोदय : स्वामी जी, आप बाहर चले जाइये।

श्री रामेश्वरानन्द : ***

अध्यक्ष महोदय : अब मैं स्वामी जी का नाम लेकर कहता हूँ कि वह इस हाउस की कार्यवाही में बिना वजह रुकावट डाल रहे हैं और मेरे अख्तियार की भी खिलाफ़ वजहें कर रहे हैं।

श्री रामेश्वरानन्द : ***

अध्यक्ष महोदय : मੈम्बर साहबान, देख लीजिये, वह मुझे चैलेंज कर रहे हैं कि निका-लिये। वह किसी की मानने के लिये तैयार नहीं हैं।

श्री रामेश्वरानन्द : ***

अध्यक्ष महोदय : मैं उनको नेम करता हूँ।

The Minister of Parliamentary Affairs and Communications (Shri Satya Narayan Sinha: I beg to move:—

"That Shri Rameshwaranand, a Member of the House, named by the Speaker, be suspended from the service of the House for the remainder of the session."

Mr. Speaker: The question is:

"That Shri Rameshwaranand, a Member of the House, named by the Speaker, be suspended from the service of the House for the remainder of the session"

The motion was adopted.

श्री बड़ै : अध्यक्ष महोदय, मेरा निवेदन है... (व्यवधान)

Mr. Speaker: In pursuance of this decision of the House....

श्री रामसेवक यादव (बाराबंकी) : मैं, अध्यक्ष महोदय, आपसे निवेदन करना चाहता हूँ, मेरा निवेदन सुन लें, शायद उससे मामला ठीक हो जाय। यह स्वामी जी के जीवन का सवाल है और भावनाओं से प्रेरित होकर उन्होंने ऐसा कहा है। यह प्रश्न उनकी ज़िन्दगी का मकसद रहा है। ... (व्यवधान) मेरी आपसे प्रार्थना है कि आप मारशल को न भेजें, 10 मिनट के लिये सदन की कार्यवाही स्थगित कर दें। मेरा निवेदन भान लें।

अध्यक्ष महोदय : मैं श्री रामसेवक यादव से कहता हूँ कि क्या इस तरह से कार्यवाही चल सकती है। कृपलानी जी उनके पास गये, उनके लीडर्स ने उनसे कहा, सबने उनको कहा, लेकिन उन्होंने किसी की बात को नहीं माना। इसलिए ऐसा नहीं होगा।

श्री रामसेवक यादव : जब भावना का सवाल होता है, तब ऐसा हो जाता है। केवल पांच मिनट की ही बात है, सब मामला ठीक हो जायेगा। जो निश्चय हुआ है, मैं उसका विरोध नहीं करता हूँ, आप मारशल को न भेजें, सदन की कार्यवाही को 10 मिनट के लिये स्थगित कर दें।

अध्यक्ष महोदय : मैं आधे घंटे के लिये हाउस को एडजर्न करता हूँ।

12.26 hrs.

(The Lok Sabha then adjourned till fifty-five minutes past twelve of the clock)

***Not recorded.

(The House re-assembled at fifty-five minutes past twelve of the clock)

[MR. SPEAKER in the Chair]

RE: QUESTION OF PRIVILEGE

Mr. Speaker: There was a notice of breach of privilege against Shri Atulya Ghosh given by Shrimati Renu Chakravarty and Shri Madhu Limaye. I had said that I would announce my decision or ruling today. There have been five points pinpointed by the hon. Members. The first is that he had said in his personal statement that he never knew this Mohit Chaudhuri and had never seen him in his life; that this is false. The second is that Shri Sunil Das was only one among the 105 employees and by that he has given the impression that this was an ordinary man and not an important member; that there was a proposal to appoint him as office secretary. Therefore, that also, what is alleged, is not true. Thirdly, the hon. Member has said that Shri Atulya Ghosh has denied that he exerted any influence either on the West Bengal Government or the Central Government. His assertion is that this also is wrong because of the fact that the investigation was transferred from the Special Bench to D.D., West Bengal and the hon. Member affirms that this was due mainly to the influence of Shri Atulya Ghosh. Fourthly, Shri Atulya Ghosh had said that when Sunil Das's house was searched, Shri Sunil Das came and reported to him and now he says that when interrogated this Sunil Das came. The fifth is that it was reported in the papers that jewellery and gold and ornaments were found and the allegation is that Shri Atulya Ghosh asked the police not to seize that.

Shrimati Renu Chakravarty (Barrackpore): The fourth point was a little different. What Shri Atulya Ghosh stated in the House was that Shri Atulya Ghosh met him after Shri Sunil Das's house was searched. This is the record. You had not per-

mitted the correction. So, now, the question of allowing the correction through a statement does not arise at all. That is the point.

Shri Hari Vishnu Kamath (Hoshangabad): You did not let him correct the record?

Mr. Speaker: Yes; in his explanation he has said—

Shri Hem Barua (Gauhati): When was the correction made? Would you please ascertain from the relevant sources whether the correction was made within the dates stipulated by the Editor of Debates or after that.

Mr. Speaker: Within the date; just the next day.

Shri Hari Vishnu Kamath: It was sought to be made?

Mr. Speaker: Yes; that was not permitted. I have made that clear earlier also.

Shri S. M. Banerjee (Kanpur): Many hon. Members have written to you just to get a copy of the confession statement.

Mr. Speaker: I have got what they have written.

श्री मधु लिमये (मुंगेर) : आपने प्राइम मनिस्टर से जानकारी मांगी ?

अध्यक्ष महोदय : अब और क्या जानकारी लेता ? मैंने परसों श्री कहा था कि यह जानकारी नहीं होती कि एक श्री चक्रवर्ती प्रीविलेज दिया और रोज उसमें ऐड करते हुए मेरे पास में चले जायें ।

Mr. Speaker: This cannot be allowed. As I said the other day, up to 10.30 also I have been getting communications and I have read them. This is not the manner of raising such things. When once a notice is given, when one goes on adding to it—(Interruption).

Shri S. M. Banerjee: When you have reserved your ruling for today then—
(Interruption).

Mr. Speaker: Then nothing new can be brought. All those points have no substance either. The only point is whether the hon. Member uttered a deliberate lie before this House or misled the House and whether that also is deliberate. The point is in regard to the two statements. One is that he never knew Mr. Mohit Chaudhuri; the second is that Shri Sunil Das came to him and he advised him to consult the lawyers and that the law shall have its course. These are the only two statements. In the first statement he said that Sunil Das came after the search has been made though he says that he realises the mistake and that he tried to correct it. But then, the only relevant portion is whether Shri Sunil Das came to him and he only said that he might consult the lawyer or did anything to just help him or to get him out of the clutches of the police. That is the only thing that is there. No proof has been brought before me. I have been asked that I should get the confessional statement before the police and not before the court. I cannot get confessional statement.....

Shri Daji (Indore): Before the magistrate, not before the police.

13 hrs.

Mr. Speaker: I have been told that I should get the confessional statement of Mr. Mohit Chaudhuri before the police. Be it before the police or before the court, it does not matter. The veracity of a Member's statement is not to be tested by the statement of an accused person, be it before the police or before the magistrate. I will have to rely on the statement of the Member first. Only this that the accused might have said something—which I do not know—before the police bringing in others also is not enough here, for the breach of privilege, to substantiate that the Member has said something wrong deliberately. Therefore, on both these things, I

have no material before me to hold that Mr. Atulya Ghosh has told a deliberate lie or misled the House. Therefore, I close it, there.

Shrimati Benu Chakravarty: Even in the British times, if the opposition asked for some documents, they were shown.

Mr. Speaker: I have said that even if I have it, that would not matter.

Papers to be laid on the Table.

Shri Daji: What about the Finance Minister's statement to be made today, Sir?

Mr. Speaker: Mr. Madhu Limaye had given another 12 questions and I have again sent them to the Minister. He will be making that statement after Question Hour day after tomorrow.

Shri Daji: Sir, you were not in the Chair the other day when a very important matter came up before the House. Under your direction, the Government has either to accept or refuse it or say that Government does not take any stand. Some stand must be taken. I am referring to the verified copy of the letter produced in the House by Dr. Lohia to the effect that Apeejay Lines Ltd. wrote to their captains how to smuggle rice, etc. Shri Patil was the Food Minister at that time.....

Mr. Speaker: I will see what it is.

डा० राम मनोहर लोहिया (फर्रुखाबाद):
अध्यक्ष महोदय, यह 6-7 दिन से मामला चल रहा है और जब यह मामला श्री दाजी ने उठा ही दिया है तो इसी प्रश्न को चलने दिया जाय।

अध्यक्ष महोदय: मुझे इसे देखने दीजिये।

डा० राम मनोहर लोहिया: यह चीज इस सदन में 6-7 दिन से चल रही है...

अध्यक्ष महोदय: मुझे देखने दीजिये, क्या है और क्या नहीं है।

डा० राम मनोहर लोहिया : वह चीज बिल्कुल साफ है...

अध्यक्ष महोदय : मुझे पहले देखने दीजिये । इस वक्त मैं उसे नहीं सुन सकता ।

डा० राम मनोहर लोहिया : मैं सिर्फ इस लिए कह रहा हूँ कि 6-7 दिन से यह मामला चल रहा है...

अध्यक्ष महोदय : मैं अभी जाकर देखूंगा ।

डा० राम मनोहर लोहिया : यह अन्न का मामला है । चावल के दाम क्यों बढ़ते रहते हैं ? करीब 1 जहाज पर 40,000 रुपये की चोरी हो गई है...

अध्यक्ष महोदय : डा० साहब अब आप बैठ जाइये । मैंने सब सुन लिया है ।

डा० राम मनोहर लोहिया : आप इस सवाल को लेंगे या नहीं ?

श्री मन्वु लिमये : क्या यह इस सेशन में आयेगा जरा इस स्पष्ट करें ।

अध्यक्ष महोदय : मुझे पहले देखने तो दीजिये ।

श्री रामसेवक यादव (बाराबंकी) : इसे इसी सेशन में लिया जाय क्योंकि यह...

अध्यक्ष महोदय : मैंने कहा मुझे देख लेने दीजिये लेकिन आप लोग हैं कि बोले ही चल जा रहे हैं ।

श्री मन्वु लिमये : अध्यक्ष महोदय, सिर्फ इतना ही निवेदन है कि यह प्रश्न बड़ा महत्वपूर्ण है । क्योंकि उस से एक तो पाटिल साहब का संबंध है और देश की काफ़ी नुकसान हो रहा है इसलिए इसे लिया जाये ।

The Minister of Railways (Shri S. K. Patil): I rise on a point of order, Sir. Until you see the papers and until I

get notice, mention of my name must be expunged from the proceedings. (Interruptions)

Shri Vasudevan Nair (Ambalapuzha) Is he a super-Member?

श्री मन्वु लिमये : इस का जिक्र पहले भी आ चुका है ।

डा० राम मनोहर लोहिया : अध्यक्ष महोदय...

अध्यक्ष महोदय : डा० साहब आप बैठ जाइये । मुझे देखने दीजिये कि क्या चीज है लेकिन आप लोग हैं कि बोले ही चले जा रहे हैं ।

डा० राम मनोहर लोहिया : सरकार को आत्मसम्मान नहीं रह गया है मालम होता है । सरकार के ऊपर साफ आरोप लगा है कि उस ने एक साजिश की कोशिश की...

अध्यक्ष महोदय : मुझे देखने दीजिये ।

डा० राम मनोहर लोहिया : 6 दिन से से यह मामला चल रहा है...

अध्यक्ष महोदय : मैं आज ही देखूंगा इस ।

डा० राम मनोहर लोहिया : हम क्या करें, आज छः दिन से मामला चल रहा है ।

अध्यक्ष महोदय : मैं आज ही देखूंगा ।

डा० राम मनोहर लोहिया : सरकार ने इस को क्यों नहीं देखा, मान लीजिये आप ने नहीं देखा तो ।

Shri S. K. Patil: Sir, what are your orders on my point of order? Under the rule, if any accusation is to be made against any Member of the House, he must get notice, you must get notice and you must permit it to be brought before the House. I do not know anything and yet my name

[Shri S. K. Patil]

is being used here, it goes to the Press and the damage is caused. Therefore, I want your ruling that this must be expunged, my name must be expunged from the proceedings.

श्री मधु लिमये : यह मामला पहले ही आ चुका है, डाक्टर साहब ने आप का नाम लिया था ।

डा० राम मनोहर लोहिया : यह सरकार का मामला है, अकेले पाटिल साहब का मामला नहीं है । यह मामला काफी गुजर चुका है । पूरी सरकार के सामने यह मामला आज छः सात दिन से है । इस को साजिश कर के छिपाया गया है । जो सरकार

Shri S. K. Patil: Whatever it is, I am talking for myself.

अध्यक्ष महोदय : अब आप बैठ जाइये । भले ही सरकार ने छिपाया हो, उन का जो ऐतराज है वह यह है कि किसी मेम्बर का, चाहे मिनिस्टर हो या दूसरा, नाम किसी इल्जाम में नहीं आना चाहिये जब तक उस को पहले उस की नोटिस न दी गई हो ।

श्री मधु लिमये : इस में कोई आरोप नहीं लगाया गया है । वह उस समय के मंत्री थे ।

डा० राम मनोहर लोहिया : वह मंत्री थे जब यह बात इतने दिनों से चल रही है तो उन का आत्म-सम्मान क्या नहीं जगना चाहिये कि वह इस मामले पर खुद कुछ कहे ।

अध्यक्ष महोदय : आर्डर, आर्डर ।

श्री रघुनाथ सिंह (वाराणसी) : आत्म-सम्मान अपोजिसन वालों में भी होना चाहिये ।

अध्यक्ष महोदय : क्या इस तरह से बहस चलती जायेगी । मैं बार बार कह रहा हूँ । आखिर कुछ तो सम्मान रहना चाहिये आपस में और इस सदन का ।

श्री सिद्धेश्वर प्रसाद (नालन्दा) : आप रूलिंग दे दीजिये ।

अध्यक्ष महोदय : इस में क्या रूलिंग दूँ । मैं देखने के बाद ही कह सकता हूँ कि कोई आरोप है या नहीं ।

श्रीमती सावित्री निगम (बांदा) : मेरा प्वाइंट आफ आर्डर है मैं बड़ी विनम्रतापूर्वक कहना चाहती हूँ कि जिस प्रकार पिछले कुछ दिनों से विपक्ष वाले तरह तरह के बहाने से

अध्यक्ष महोदय : इसको न छेड़िये । (व्यवधान)

एक माननीय सदस्य : हम सही मामले उठाते रहे हैं ।

अध्यक्ष महोदय : अगर इस तरह से मेम्बर एक दूसरे को कहते रहें तो यह ठीक नहीं है । श्रीमती निगम अब इस को यहाँ ही रहने दें । इस से कोई फायदा नहीं होगा ।

श्रीमती सावित्री निगम : जब तक मैं अपनी पूरी बात न कहूँ तब तक आप कैसे समझेंगे कि मैं क्या कह रही हूँ । मैं प्वाइंट आफ आर्डर नहीं उठाऊंगी, लेकिन मुझे कहने तो दीजिये ।

श्री रामसेवक यादव : मैं इस पर व्यवस्था का प्रश्न उठाना चाहता हूँ ।

श्रीमती सावित्री निगम : जिस प्रकार से पिछले कुछ दिनों से दलगत स्वर्थों से प्रेरित हो कर . . . (व्यवधान)

Shri Daji: Sir, she cannot cast reflection on us. These words must be expunged. Point of order cannot be used for casting reflection on the Opposition.

अध्यक्ष महोदय : मैं ने आप से कहा कि इस से कोई फायदा नहीं होगा। अगर आपस में ऐसी शिकायत हो तो इस से कोई फायदा नहीं होगा। इस को अब यहीं रहने दीजिये। डा० सुशीला नायर।

श्री रामसेवक यादव : मेरा ब्याख्या का प्रश्न है। . . (व्यवधान)

STATEMENT CORRECTING ANSWER TO UN-STARRED QUESTION No. 7 re. DALLIES IN KERALA

The Minister of Information and Broadcasting (Shri Raj Bahadur): Sir, I beg to lay a statement correcting the answer given on the 25th July, 1966 to Unstarred Question No. 7 by Shri V. Raghavan regarding dallies in Kerala.

[Placed in Library. See No. LT-7022/66]

13.09 hrs.

PAPERS LAID ON THE TABLE

KERALA MUNICIPALITIES (CONSTRUCTION OR ESTABLISHMENT OF FACTORIES OR INSTALLATION OF PLANTS OR MACHINERY RULES, 1966

The Minister of Health and Family Planning (Dr. Sushila Nayar): Sir, I beg to lay on the Table:—

- (1) A copy of the Kerala Municipalities (Construction or establishment of factories or installation of plants or machinery) Rules, 1966, published in Notification S.R.O. No. 176/66 in Kerala Gazette dated the 26th April, 1966, under sub-section (2) of section 345 of the Kerala Municipalities Act, 1960, read with clause (c) (iv) of the proclamation dated the 24th March, 1965, issued by the Vice-President, discharging the functions of the President, in relation to the State of Kerala.
- (2) A statement showing reasons for delay in laying the above Notification.

[Placed in Library. See No. LT-7021/66]

13.10 hrs.

COMMITTEE ON GOVERNMENT ASSURANCES

Minutes

Shri Siddananjappa (Hassan): Sir, I beg to lay on the Table the Minutes of the Twenty-sixth and Twenty-seventh Sitzings of the Committee on Government Assurances held on the 8th and 31st August, 1968.

Shri Hari Vishnu Kamath (Hoshangabad): Sir, I rise on a point of clarification, on this item, minutes of the meetings laid on the Table by the Chairman of the Committee on Government Assurances. May I invite your attention to the fact and remind you on this occasion, that this subject has been broached in this House, mooted by me, on more than four occasions in this session and also, I think, three or four times in the last session. I am loath to mention it again and again. The Minister of Parliamentary Affairs is an amicable gentleman, but we are concerned with him here not as Leader of the House but as Minister of Parliamentary Affairs. I raised this matter last week and you were pleased to say that you would have a talk with him that afternoon. The head and front of the offence or of the matter is that the Committee on Assurances in its last report has said categorically, definitely and unequivocally that the Minister wrote a letter to all ministries and departments—the Minister of Parliamentary Affairs—asking them not to send—I repeat the word ‘not’—any material that they ask for, in the interest of

[Shri Hari Vishnu Kamath:] their work, directly, but channelise it through the Department of Parliamentary Affairs. The Committee, in the interest of parliamentary efficiency, under Rule 210, which empowers every parliamentary committee to send for papers, persons or records—this is the wording of the rule—demanded a copy of the letter, which the Minister has sent to all ministries and departments forbidding them to send any communication to the Committee on Government Assurances direct, to be supplied to the Committee. Six months have elapsed since March and, as far as I am aware, that letter is still regarded as top secret—I hope it is not as top secret as the CBI Report on Orissa. It has been withheld from the Committee even to date. Last time, when I raised the matter, the Minister of Parliamentary Affairs said, if I heard him aright: "What is all this? Members are bringing up things against me without knowing what I have done. I have laid all the papers on the Table". Sir, I looked into all the papers; but this particular letter addressed by him to all the ministries and departments, which has resulted in making a parliamentary committee almost defunct, has been still withheld from the Committee on Government Assurances. I will read out only one sentence from the report. This is the concluding paragraph of their report. They have said:

"The Committee would also observe another thing, that the issue of the letter by the Minister of Parliamentary Affairs in contravention of rule 270 tended to bar the Committee from properly and efficiently discharging its functions as a parliamentary committee as envisaged in the Rules of Procedure."

Sir, you promised to give your ruling on the matter after consulting the Minister of Parliamentary Affairs. The House is vitally interested in this matter. Let parliamentary committees should become defunct, I request you to give your decision or your ruling on this matter as to whether he behaved properly.

Mr. Speaker: There is nothing improper.

Shri Daji (Indore): Sir, I seek your guidance on a particular point. Normally, when an assurance is given before the House, it goes to the Committee, and the reply comes to us within a certain period, sometimes it takes months and sometimes it takes even more than a year. I submit, Sir, there are some assurances which, by the very nature of them, require prompt replies. In such cases, either the Assurances Committee would take up the matter immediately or you take it up to protect our interests. I recall, Sir, one particular matter, the question of quotas of aluminium and steel given to Kashmir Ceramics, belonging to the firm Aminchand Pyarelal. Two ministers made their statements here during the Question Hour saying that the Kashmir Government had not replied.

Mr. Speaker: We are not concerned with any new assurances now . . .

Shri Daji: Sir, I am giving you an example. I never take up the time of the House like other hon. Members. One Minister said that a telephonic call had been made to the Government of Kashmir. When we shouted from this side, you intervened and said that as soon as the information is received from the Kashmir Government it will be laid before the House. It is a firm of Aminchand Pyarelal. They have taken quotas and they have not used them in Kashmir Ceramics. When shall we get the report of the Assurances Committee? After six months? The Minister said that a call to Kashmir is pending. Does the Minister say that a telephonic call to Kashmir takes more than 15 days to get through. Then the Minister of Communications should repair his telephone connection. If a reply has been received the House must be told before it disperses. What happened to the quota for Kashmir Ceramics? If facts have been suppressed from the House, why has it been suppressed? Is it because Aminchand Pyarelal has taken the quota and not used it for Kashmir Ceramics? Sir, you must protect us.

Shri S. M. Banerjee (Kanpur) : Sir, may I . . .

Mr. Speaker : This is not the occasion where assurances can be raised. Only the minutes are laid on the Table. It is not that all assurances that have been made before can be taken up now. This is not the occasion for that.

Shri S. M. Banerjee : Sir, I want to ask only one thing. We could have raised it if the Business of the House was announced earlier. An assurance was given in this House that a statement will be made on the Bonus Act and the Supreme Court Judgment. I only want to know whether, as per that assurance, some statement would be made by the Labour Minister before the House adjourns.

Mr. Speaker : I would request hon. Members to be strict, so far as the proceedings are concerned. They should take up only what is before the House and not other things. Now, Shri Kamath has been raising this point again and again.

श्री रामलेशक यादव (वाराणसी) : अध्यक्ष महोदय, भारत के क्षेत्रफल के बारे में आपने आश्वासन

अध्यक्ष महोदय : इस वक्त कुछ नहीं।

श्री रामलेशक यादव : आपने और मंत्री महोदय ने आश्वासन दिया था

श्री मधु लिनरे (मुंगेर) : आपने हिन्दुस्तान के क्षेत्रफल के बारे में कहा था कि इस सत्र में उत्तको प्राथमिकता दी जाएगी। अब दो दिन ही तो बचे हैं। कल प्रस्ताव आया या परसों आयेगा, कब आयेगा ?

अध्यक्ष महोदय : यह वक्त नहीं है।

श्री मधु लिनरे : आपका निर्णय है। आपने कहा था कि इस पर बहस होगी।

डा० राम मनोहर लोहिया (फर्रुखाबाद) : विशेषाधिकार का जब मामला आया था तो आपने कहा था कि इस पर बहस होगी . . .

अध्यक्ष महोदय : मैंने कहा हुआ है, और क्या कह सकता हूँ।

डा० राम मनोहर लोहिया : भारत के क्षेत्रफल के सम्बन्ध में मंत्री महोदय ने जो असत्य बातें कही हैं, क्या वे चलती जायेंगी ?

Mr. Speaker : Shri Kamath has raised the question about that letter which had not been produced by the Minister of Parliamentary Affairs. He has sent it on to me. I have seen that letter. I have had talks with the Minister as well. He has not intended to interfere with the flow of papers from the Ministries to the Committee. Because he is responsible to the House and he has to answer many queries here, therefore, he merely wants that he should also . . .

Shri Ranga (Chittoor) : How many queries do we make every day?

Mr. Speaker : When he makes the statement here, queries are made to him.

Shri Ranga : Sir, if he sitting there, abuses his position and it is permitted, Sir, you cannot regulate things from our side. That is our difficulty.

Mr. Speaker : I do not know what Shri Ranga is objecting to. I have only said . . .

Shri Ranga : The Minister should be taken to task for having issued that letter.

Mr. Speaker : I was explaining that I have seen the letter and it is with me. I have gone through it. There is no doubt that he has written to the Ministries that the communications should be routed through him, but he says that his only intention is to ensure that he knows everything, because he is answerable to the House. Otherwise, he might be unaware of what has happened between the Ministry and the Committee when questions are

[Mr. Speaker]

asked here, when he lays statements here, and he might make some mistakes. He had no intention of interrupting the flow of papers from the Ministries to the Committee and, therefore, there would be no impediment to the working of the Committee, so far as that letter is concerned.

Shri Ranga: Sir, I take very strong exception to this procedure for this reason. Routing is one thing and communicating is another thing. If he wants to be kept informed of what is happening, between the Committee on the one side and the departments concerned on the other, all that he should have asked for, all that he need have to ask for, all that you can permit him to ask for, is to send a copy of that communication to him so that he would know it. In fact, even there also, it is unnecessary interference, as far as I can see, because, after all, we are not taking the Leader of the House, or the Minister of Parliamentary Affairs, to task for each and every thing that is being done between the Committee and the Ministries. But, since we wish to be charitable to him, I am prepared to accept that. All that he could have asked for all that he would be justified in asking for is to let copies of those communications to be sent to him; not that they should be routed through him. I am very unhappy about it. That is my only point.

The Minister of Parliamentary Affairs and Communications (Shri Satya Narayan Sinha): rose—

Shri Ranga: Please resume your seat while I am speaking. I am not yielding. After all, you are seeing how difficult it is to maintain order and you would be able to maintain order and we would be expected to help you to maintain order when you create an impression in our minds that the scales are being held absolutely even. You find fault with us, when we go wrong. When they go wrong, then also you must find fault with them, so that an impression would be created on our side that you

are impartial. That is all that I can say.

Shri Tyagi (Dehra Dun): Is it not the duty of the Minister to ensure that evasive answers, or answers which are not satisfactory, are not given by the Ministries? It is his duty to do that. How could he discharge that duty unless all the communications are routed through him?

Shri Satya Narayan Sinha: Sir, you have already informed the House the gist of the talk I had with you when I placed the letter in your hand. I may make it perfectly clear that for the last ten or twelve years the Department of Parliamentary Affairs, under the Presidential Order, was charged with the responsibility of implementation of the assurances and that we had been doing it in co-ordination with all the Ministries. For the last 10 or 12 years this has been the convention, this has been the practice. Somehow, I do not know with what intention, the Committee wrote a letter to all the Ministries. On that, I requested the Ministries, this practice which you have been following all these ten years of sending letters to the Committee, let that be through the proper channel of the Department of Parliamentary Affairs. I never challenged the right of the Ministries to write letters to the Committee. It is their fundamental right. You have the right to walk on the road. But that does not mean that you can disregard the traffic rules and drive or walk on the middle of the road. You have to observe the rules. Therefore, I wanted the Ministries to write to the Committee through the proper channel. I have simply stated that instead of sending letters direct, they should be sent through the proper channel. The Department is put on the mat in the Committee. I am put on the mat in the Committee and in the House. So, I wanted to know what correspondence is taking place between the Committee and the Ministries. I wanted the proper channel to be observed in such correspondence. Nothing wrong has been done.

Shri H. N. Mukerjee (Calcutta Central): A Parliamentary Committee is so affected by this order that it has put it on record, quoting this letter. The Minister has just now given an impression which is different from what you have conveyed to us, and far from feeling any regret for having trodden on the corns of a Committee of Parliament, he now says that he did the right thing, while the Committee complains to us in its report that he did not do the right thing and that he stopped the flow of communication.... (*Interruptions*).

Mr. Speaker: I will see that the Committee is not impeded in its work.... (*Interruptions*).

Shri H. N. Mukerjee: What about him? He is the Leader of the House; he is the Minister of Parliamentary Affairs. If he talks in this fashion, if he says he did the right thing when the Parliamentary Committee says no, that he did not do the right thing, let him be reprimanded, let him be shown the place which he deserves..... (*Interruptions*).

Shri Tyagi: The Leader of the House has not only to give answers but he has also to see that the rights of the House are maintained. It is for that purpose that he ordered the Ministries to send the correspondence through him so that he might see.....

Shri Ranga: What for?

Shri Tyagi: So that he might see that evasive answers are not given and that the requirements of the Committee are satisfied. This letter is aimed to see that no Ministry sends any replies to the Committee which are evasive in nature, so that a Parliamentary Committee can function well. It was the duty of the Leader of the House to see that the requirements of the Committee are met by every Ministry. It was for that purpose that the Leader of the House issued that letter.

Mr. Speaker: I will have consultation with the Chairman of the Com-

mittee as well as the Leader of the House.

Shri Hari Vishnu Kamath: If the working of a Parliamentary Committee is impeded by the action of any Minister, or anybody else, if it is prevented from functioning in accordance with the Rules of Procedure because of the action of somebody, then, I submit in all humility, the action of the Minister of Parliamentary Affairs amounts to, is tantamount to a breach of privilege. Rule 270 of the Rules of Procedure says:

"A Committee shall have power to send for persons, papers and records."

There is no proviso here which suggests that these papers may be routed through any channel.

Mr. Speaker: I will look into it.

Shri Hari Vishnu Kamath: If necessary, copies of the letters addressed to the Committee may go to him.

Mr. Speaker: I will see that the Committee is not impeded in the discharge of its functions.... (*Interruptions*).

Shri Ranga: You must show your indulgence to us because I am not satisfied with the way in which this thing is being tackled. It must be stated quite clearly. The Committee is within its rights in writing to the ministries and obtaining their replies directly without having these replies routed through the Department of Parliamentary Affairs which, according to me, is an anachronism and is unnecessary. It was created for some purpose known only to the creator at that time. Anyhow, it is there; but it can only be entitled to receive a copy of these replies but they should never be sent through the Department of Parliament Affairs. If you are not prepared to agree with us, for God's sake take some time for yourself and assert the authority of this House.

Mr. Speaker: That is what I am saying and still Shri Ranga is reminding me. I will see that the work of the Committee, its functioning, is not impeded in any manner. I will consult the Chairman also as to what has been done, as well as the Leader of the House. They would be satisfied by the action that is taken, that there is nothing of the sort that impedes the Committee's work.... (Interruption).

Shri H. N. Mukerjee: The Minister by making that statement is guilty of contravention. You told us that the Minister expressed gracefully his regret, but the Minister now does exactly the opposite..... (Interruption).

Shrimati Renu Chakravartty (Bar-rackpore): We want a ruling from you whether the Minister has done the right thing by issuing that letter.

श्री रामसेवक यादव : अध्यक्ष महोदय, आप ने जो आश्वासन दिया था कि इसी सत्र में भारतीय क्षेत्र के बारे में बहस हो जायेगी, उस के बारे में इस प्रतिवेदन में कुछ नहीं कहा गया है। मैं आप से फिर जानना चाहूंगा कि कि इस सत्र के केवल दो दिन बाकी रह गए हैं, तो क्या इन दो दिनों में आप के उस आश्वासन की पूर्ति हो जायेगी।

अध्यक्ष महोदय : यह सवाल पहले भी उठाया जा चुका है। डाक्टर साहब ने भी उठाया, और दूसरों ने भी उठाया। मैंने उन को बन्द किया है, तो अब आप खड़े हो गए हैं। क्या यह सिलसिला एंडलेसली चलता जायेगा ?

श्री रामसेवक यादव : आप ने जो आश्वासन दिया था, उस का क्या हुआ ?

श्री मधु लिमये : आप ने आश्वासन दिया था, उस को कब पूरा किया जायेगा ?

श्री बड़े (खारगोल) : अध्यक्ष महोदय, मैं एक बात कहना चाहता हूँ। आप ने जो रुलिंग दिया है

अध्यक्ष महोदय : यह नहीं हो सकता है कि जो मेम्बर चाहे खड़ा हो जाये और अपनी बात कहता चला जाये। अखिर कोई हद होनी चाहिए।

श्री रामसेवक यादव : मेरे प्रश्न का उत्तर नहीं दिया गया है। जो जानकारी मांगी जाती है, उस का उत्तर मिलना चाहिए।

Mr. Speaker: Let me pass on to the next item. Endlessly it goes on. I cannot allow that.

श्री रामसेवक यादव : अध्यक्ष महोदय, ...

अध्यक्ष महोदय : अब बिलकुल न लिखा जाये।

*Interruptions***

अध्यक्ष महोदय : क्या मैं सब कार्यवाही को बन्द कर के इस का ले लूँ ? मैंने इस को एडमिट किया है। मिनिस्टर साहब ने कहा कि वह वक्त देंगे। अब वक्त तो गवर्नमेंट ने ही देना है। माननीय सदस्य चाहते हैं कि मैं कह दूँ कि इस को कब लिया जायेगा।

श्री मधु लिमये : क्या आप ने इस को स्वीकार कर लिया है ?

अध्यक्ष महोदय : मैं ने इस को एडमिट कर लिया है।

डा० राम मनोहर लोहिया : यह बात नहीं है कि भारतीय क्षेत्रफल में केवल हिसाब कागज़ या किताब की खराबी है। असलियत यह है कि भारतीय क्षेत्र का बहुत बड़ा हिस्सा बाहर चला गया है — अमली तौर से खत्म हो गया है। अगर उस बात पर यहाँ बहस नहीं होती है, तो जनता और देश का

कैसे पता चलेगा और कैसे यह मामला सामने आयेगा ? देश का क्षेत्रफल खत्म होता जा रहा है।

13.30 hrs.

MESSAGES FROM RAJYA SABHA

Secretary: Sir, I have to report the following messages received from the Secretary of Rajya Sabha:—

- (i) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 2nd September, 1966, agreed without any amendment to the Jayanti Shipping Company (Taking over of Management) Bill, 1966, which was passed by the Lok Sabha at its sitting held on the 25th August, 1966."
- (ii) "In accordance with the provisions of rule 127 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to inform the Lok Sabha that the Rajya Sabha, at its sitting held on the 3rd September, 1966, agreed without any amendment to the Essential Commodities (Amendment) Bill, 1966, which was passed by the Lok Sabha at its sitting held on the 31st August, 1966."

Shri Hari Vishnu Kamath (Hoshangabad): Sir, I am seeking to raise a point of order regarding the Jayanti Shipping Company (Taking over of Management) Bill, which has been returned by Rajya Sabha.

You will be pleased to see that under rule 128 this Bill is well on its way to the Rastrapati Bhavan for the

President's assent. Now, Sir, please have a look at rule 97 which says:—

"If a Bill other than a Money Bill passed by the House and transmitted to the Council is passed by the Council without amendment the message received from the Council to that effect shall be reported by the Secretary to the House."

That has been done. But what has happened in this is that the Bill, which is being submitted to the President for his assent and first of all presented to you under rule 128, has not—I repeat, not—been duly passed by this House at all.

Here is the record, but before I take the record please have a look at rules 93 and 94. You were not in the Chair at that time; so, I would crave your indulgence for a minute or so. Rules 93 and 94 deal with the last reading of a Bill, the third reading, and rule 94 is quite categorical and very clear. It says:—

"The discussion on a motion that the Bill or the Bill as amended, as the case may be, be passed shall be confined to the submission of arguments"—

I would not read the rest of it. The rule envisages that there shall be a third reading.

Now, what happened in the House on that day?

Mr. Speaker: Now that cannot be taken up.

Shri Hari Vishnu Kamath: Why not? I would only read out to you one single sentence. Myself, Shri Jaipal Singh and Shri Samanta—we all protested and the Deputy-Speaker said, "You can take whatever action you like against me".

Mr. Speaker: If something irregular has happened, that too cannot be taken up now.

Shri Priya Gupta (Katihar): It should be rectified.

Shri Hari Vishnu Kamath: For future guidance only I would like to know this. Is it your ruling finally that the Presiding Officer, whoever he may be, may let or allow a Bill to be passed even when Members are desirous of or keen on participating in the third reading and are not allowed, as my hon. friends, Shri Samanta and Shri Jaipal Singh, were on that occasion? He disregarded the entire House and said that day, "If you want to take action against me, you can do so". What is this attitude? Is it proper? For future guidance I would like to know. You have not done so, I know. Even on the Appropriation Bill that day you allowed Shri Banerjee to say something.

Mr. Speaker: He need not hammer it any further.

Shri Hari Vishnu Kamath: It is not hammering, but for future guidance I would like to know.

Mr. Speaker: Whenever the question arises, I will have to decide....

Shri Hari Vishnu Kamath: You were not in the Chair.

Mr. Speaker: I cannot sit in judgement over what he has done, whether he was right or wrong.

Shri Hari Vishnu Kamath: He should be guided by you. Under protest it was passed.

Mr. Speaker: It may be under protest or without protest, but the House has passed it.

Shri Tyagi (Dehra Dun): He did not allow it because there was no time.

Shri Hari Vishnu Kamath: We cannot be gagged in this fashion.

Mr. Speaker: I am not gagging.

Shri Hari Vishnu Kamath: Not you but somebody else. You have never

done it. But it is for you to guide the House.

Mr. Speaker: Mr. Samnani.

Shri Hari Vishnu Kamath: What is your ruling? What is your decision in this matter? You have not given your decision.

Mr. Speaker: Mr. Samnani.

13.34 hrs.

PETITION RE: CONSTITUTION (AMENDMENT) BILL

Shri Samnani (Jammu & Kashmir): Sir, I beg to present a petition signed by eleven petitioners relating to the Constitution (Amendment) Bill, 1966 (*Amendment of the Eighth Schedule*), by Shri Abdul Ghani Goni.

13.34½ hrs.

PUBLIC ACCOUNTS COMMITTEE FIFTY-SEVENTH REPORT

Shri Morarka (Jhunjhunu): Sir, I beg to present the Fifty-seventh Report of the Public Accounts Committee on the Expenditure incurred by the External Publicity Division of the Ministry of External Affairs.

13.35 hrs.

STATEMENT RE: FUTURE OF MANAGING AGENCY SYSTEM

The Minister of Law (Shri G. S. Pathak): Mr. Speaker, Sir, . . .

Mr. Speaker: He might lay it on the Table of the House.

Shri G. S. Pathak: I lay it on the Table of the House.

[Placed in Library. See No. LT-7024/66].

Shri S. M. Banerjee (Kanpur): I want to say something about this.

Mr. Speaker: After it has been circulated, I will allow it.

Shri S. M. Banerjee: I want to say something general on it.

Mr. Speaker: Not now. First I should allow the general thing and then again the special thing. No. After it has been circulated, I will allow an opportunity.

Shri S. M. Banerjee: Kidly tell us when, tomorrow or the day after?

Mr. Speaker: If it is circulated tomorrow, then I will allow it the day after.

13.36 hrs.

STATEMENT RE: ACCIDENT TO
IAC CARAVELLE NEAR SANTA
CRUZ

The Minister of State in the Ministry of Transport and Aviation (Shri C. M. Poonacha): I deeply regret to report that a Caravelle jet aircraft VT-DSB of the Indian Airlines Corporation, while on a training flight, with three pilots and a flight Engineer on board, crashed on a hill about 8½ miles from Thana, resulting in the total destruction of the aircraft and the death of all the crew. The plane took off on the training flight from Santa Cruz at 11.15 A.M. with Captain Jung, a very able, competent and Senior Pilot as Instructor. The last message received from the aircraft by the Flying Control at 11.25 A.M. was to the effect that it was coming in to land with one engine off, as part of the training programme. It was asked by the Flying Control to hold on and to follow a Viscount aircraft, operating a scheduled service from Calcutta and which was about to land. Thereafter, there was no further contact with the aircraft. The aircraft was seen on the Radar screen at 11.26 A.M. three miles south of the outer marker, 8 miles south-east of the airfield, on a bearing of 115 degrees. Thereafter it was lost to view.

Search action was initiated immediately. At about 1330 hours, on receipt of information that an aircraft was seen burning on Thana Belapur Road, 9 miles from Thana, Civil Aviation Department and Indian Airlines Corporation Rescue parties immediately left for the site of the accident. The D.S.P. and Civil Surgeon, Thana, also proceeded to the site of the accident.

Late in the afternoon, a helicopter belonging to the Cambatta Aviation Ltd. landed near the site of the accident and located the wreckage and three dead bodies.

The Rescue Party reached the scene of the accident late in the evening and brought back three badly-mutilated bodies. The fourth body could not be located. The aircraft was found to have split up into three parts.

The Director of Air Safety of the Civil Aviation Department left for Bombay yesterday evening and is proceeding to the scene of the accident this morning. I am awaiting his preliminary report on receipt of which we shall consider whether in the circumstances of the case a judicial inquiry will be necessary under Rule 75 of the Aircraft Rules.

I am sure the House would like its condolences and sympathies to be conveyed to the Corporation which has suffered such a grievous loss within seven months of two fatal accidents earlier in the year and to the bereaved families. The aircraft was fully insured for replacement value. It was the fourth Caravelle aircraft that the Corporation had purchased and which arrived in November, 1964. The loss of this aircraft will up-set the schedule of services but immediate action is being taken to ensure that there is a smooth changeover to the new schedule until a Caravelle is delivered in November and another in December next.

Shrimati Renu Chakravarty (Barra-ckpore): Sir, may I ask one question?

(Stt.)

[Shrimati Renu Chakravartty]

The papers say that the weather was very bad over that hillock. I would like to know, when it is a training aircraft, whether the trainers take the trouble to see that new trainees are not taken out when the weather is so bad. Are any such precautions taken?

Shri C. M. Poonacha: Yesterday, weather in Bombay was cloudy and it was raining but it was not too bad for landing. Here, the training is not imparted to new pilots. These are pilots with considerable experience who are co-pilots of Caravelle planes. They are being converted to command Caravelle planes which we are expecting. This is a conversion training given to our regular pilots who have long years of service to be converted to command the aircraft. They are given training in various types of landing and operation. This is a particular type of training so that they get the experience to meet situations under difficult conditions. This training is a regular feature that is being given to our pilots by the test pilots periodically and whenever they are required to be converted to command the aircraft. These are special exercises that are being undertaken. It is not a trainer aircraft. It is one of our regular aircraft.

Shri Joachim Alva (Kanara): May I remind the hon. Minister about two important impediments that came in the way in the past? One was in 1948 when the KLM plane disaster took place, when 50 valuable American lives of journalists, both men and women were lost, when the plane crashed on the hill around the Bombay airport. It is only three or four years back that the hill was levelled down.

Secondly, Mr. J.R.D. Tata repeatedly warned us in the Estimates Committee and outside about the Kamani tower right at the Bombay airport which was removed only last year because this magnate thought that it was a prestige to keep the tower going and would not yield until a substantial amount of compensation was given to him.

I want to know from the hon. Minister whether a survey of about 200 miles around the Bombay airport to find whether there are moderate sized hillocks which are a positive danger to the jets and the fast landing aircraft has been undertaken so that these hillocks can be levelled down and that there can be no danger for the public and the crew.

Shri C. M. Poonacha: As far as the difficulty that is presented roundabout Bombay for the faster type of aircraft landing is concerned, I would respectfully submit that with the modern landing facilities that we have the approach rader, the I.R.S. system and the other electronic devices, the difficulty is no more there. Here, there was a special practice for a special type of training with a single-engine operation landing. It is not as if the other engine failed. It was a deliberate single-engine operation landing. This was a special training. We are sorry that this accident has occurred. But this does not mean that the conditions of landing aids available in Santa Cruz airport are inadequate and the surroundings are not conducive to the high-speed jet landing. It is perfectly all right. It is scientifically tested that there is no such impediment as have been mentioned by the hon. Member.

Shri Daji (Indore): If it was only a bad weather landing training, we could have understood it. But it was a one-engine landing training, the other engine being cut off. Why such a training was risked at a time when visibility was absolutely blurred? Why this double risk of training one-engine landing when the visibility is bad? That is why this accident occurred. That is the main question which has not been clarified.

Shri C. M. Poonacha: On this, we are awaiting further particulars and information. Our officers have gone to the spot to find out as to what was the visibility, what was the control advice and the advice from the ground and the authorities concerned. These

particulars are being awaited. As soon as they are received, we will certainly take action.

Shri Ranga (Chittoor): Are you to depend merely on departmental reports? Should you not immediately appoint a commission of inquiry to go into the causes of the accident? Why should you have the privilege of deciding to appoint it or not?

Shri C. M. Poonacha: On the face of it, it calls for a formal inquiry because there is total loss of the aircraft and the loss of lives. It immediately calls for a formal inquiry. It think that will be ordered.

Shri Narendra Singh Mahida (Am- and): As one of the oldest surviving pilots in India, I consider Bombay as one of the most treacherous landing grounds during monsoon. I request the Ministry to consider Bombay as a hazardous landing ground in monsoon. We have had so many accidents. I, therefore, urge upon the Ministry to examine the question as to whether a new aerodrome near Bombay can be built and the Santa Cruz Airport be scrapped.

Shri Shivaji Rao S. Deshmukh (Parbhani): My question arises out of the plea raised by the hon. Members here because I am also informed that there are a series of technical opinions on record drawing particular attention of the I.A.T.A. authorities about air hazards both in landing and take-off stages at Santa Cruz Airport. Some air hazards have been removed on objection by certain authorities. Is the Minister in a position to make a definite statement that all that is possible to do to remove any removable air hazards to normal air traffic and jet traffic which will be taking off and landing at Santa Cruz Airport has been done and is complete, taking into account the inflow, radar control and other safety instrument facilities and certain modern equipment which only help for a technically sound landing but do not physically remove the air hazards?

Shri C. M. Poonacha: The points raised by my hon. friend are matters which are continuously engaging the attention of the Governments and the authorities concerned. Not only we, but even the international service operators are also very much concerned about the safety equipment and other facilities that are available at the Santa Cruz Airport because we are not the single operator there, there are also a number of other foreign line operators using this Airport. From their point of view, and the stipulations under the ICAO, experts periodically visit and conduct the inspection thus it is being cleared for the operation of fast jet-type of aircraft. But here and there mishaps do happen. As my hon. friend has pointed out, we shall further look into the matter and shall try to take the best advice from the experts concerned.

Shri Nambiar (Tiruchirapalli): In view of the fact that we lost two Caravelles recently, may I know whether the Caravelle service with Madras, Delhi, Bombay and Calcutta will continue or whether there will be any serious dislocation arising out of these losses?

Shri C. M. Poonacha: We shall have to re-schedule the Caravelle service which will be done. In that we shall try to see that as far as possible the convenience of the travelling public is met. We have Viscounts also which may be pressed into service in the place of Caravelles. So far as Caravelles are concerned, we shall have to re-schedule Caravelle Service according to the availability of the aircraft.

Shri A. P. Sharma (Buxar): It is reported that the plane took off at 11-18 a.m. and lost contact at 11-20 a.m. It is also reported that in spite of the day-long search carried out by the rescue party, the bodies of only three crew could be found. On the face of that, how does the hon. Minister say that the weather was not too bad. They were able to locate the bodies of three persons after a day-long search

[Shri A. P. Sharma]

because the weather was bad. But how does the Minister say that the weather was not bad?

Shri C. M. Poonacha : This was because of the delay in reaching the place. The rescue party could reach the place only in the late hours of the evening. At 1330 hrs. the helicopter could land alongside and locate them; the wreckage was there and three bodies were immediately located; one body was under the debris.

श्री श्रीकार लाल बेरवा (कोटा) : मैं यह जानना चाहूँगा कि जो मरे हैं उनको तत्कालीन सहायता क्या दी गई है सरकार की तरफ से ?

Shri C. M. Poonacha : For the families of the Pilots and the Flt. Engineer, the compensation and other things as laid down under the rules will be immediately arranged to be paid as soon as the formalities under the prescribed rules are complied with.

श्री श्रीकार लाल बेरवा : मैं तत्कालीन सहायता के लिये पूछ रहा हूँ। जो दी जायगी उसकी बात नहीं कर रहा हूँ। तत्कालीन क्या सहायता दी गई, इसका जवाब नहीं आया।

अध्यक्ष महोदय : मैं इससे ज्यादा और क्या कर सकता हूँ।

13.49 hrs.

CORRECTION OF ANSWER TO S. Q. NO. 361 RE. VIGYAN MANDIRS

The Deputy Minister in the Ministry of Education (Shrimati Soundaram Ramachandran : I rise to correct a small error that crept into my reply to the supplementary question put by Shrimati Savitri Nigam arising out of Starred Question No. 361 answered on 10th August, 1966.

A statement correcting the Answer is laid on the Table of the House. [Placed in Library, See No. LT-7025|66].

I had stated then that "Then, this was given to certain private institutio

also working in the rural areas having the rural training centres, etc." The correct position, however, is that it was considered to give Vijnan Mandirs to selected Rural Institutes—but this is still under consideration.

I regret that this correction could not be made earlier.

13.50 hrs.

RE: STATEMENT BY MEMBER UNDER DIRECTION 115 AND STATEMENT CORRECTION OF ANSWER TO S. Q. NO. 634 Re: DAS COMMISSION REPORT

अध्यक्ष महोदय : डा० राम मनोहर लोहिया।

डा० राम मनोहर लोहिया : (फर्खा-बाद) : अध्यक्ष महोदय, मुझे कोई बयान नहीं करना है। लेकिन शुक्रवार या शनिवार को करीब 12 लाख रुपये के चोरी के सोने की बात उठाई थी, लेकिन वह बात दबा दी गई। मुझे इजाजत दे, क्योंकि वह बहुत महत्व बात है।

अध्यक्ष महोदय : जो आर्टिकल में है, मैं आपको उसी की इजाजत दूँगा।

डा० राम मनोहर लोहिया : मैं ने उसकी रजामन्दी नहीं दी थी, मैंने वह नहीं करना है। लेकिन

अध्यक्ष महोदय : और मामले के लिये आप मुझे लिखिये।

डा० राम मनोहर लोहिया : जहाँ तक लिखने का प्रश्न है, अध्यक्ष महोदय, आप जानते हैं कितने मामले इस तरह से चलते रहते हैं।

अध्यक्ष महोदय : लेकिन इस तरह से मैं आपको इजाजत नहीं दूँगा।

डा० राम मनोहर लोहिया : एक बात मैं पूछूँ, जो भाषण दिये जाते हैं, उनके लिये भाषने प्रवक्ता कहा है कि जो मंत्री उसके

सम्बन्धित हों, वे उन पर अच्छी तरह से गौर करते हैं। यह भाषण हो चुका है। वह आदमी जो 12 लाख रुपये के सोने की चोरी के लिये जिम्मेदार है, उस पर उच्च न्यायालय राजस्थान ने फैसला दे दिया है।

अध्यक्ष महोदय : इस तरह से इसको नहीं उठाया जा सकता।

डा० राम मनोहर लोहिया : फिर किस तरह से उठाया जाय। मैं कह चुका हूँ कि यह भाषण हो चुका है।

अध्यक्ष महोदय : इस तरह से नहीं उठाया जा सकता।

डा० राम मनोहर लोहिया : इस मामले में उच्च न्यायालय का फैसला हो चुका है।

अध्यक्ष महोदय : डाक्टर साहब, इस तरह से कैसे ले सकता हूँ। जो चीज एजण्डे में न हो, उन को इस तरह से कैसे उठाने दे सकता हूँ।

डा० राज मनोहर लोहिया : मेरी मुसीबत है, किस तरह से उठाऊँ। इस पर भाषण हो चुका है लेकिन फिर भी कोई कार्यवाही नहीं हो सकती। 10-15 दिन बीत जाते हैं, नतीजा यह होता है, कि मेरे जैसा आदमी फिर कुछ थक भी जाता है।

Mr. Speaker : Mr. Madhu Limaye.

Shri Hari Vishnu Kamath (Hoshangabad): On a point of order. If I understand aright, I think the only inference on this is that there was some error in the answer given by the Minister to a supplementary question on the Starred Question concerning the Das Commission's report. It is obvious, as otherwise you would not have allowed this to appear on the order paper. An error has been made, a mistake has been committed, by the Minister in answer to the supplementary question. I do not know why Dr. Lohia has chosen not to make that statement under Direction 115. But

does it mean that the error which you have recognised after consulting both the Member and the Minister remains on the record? The Minister is not making any statement . . .

Mr. Speaker : If he wants to make a statement, he can.

Shri Hari Vishnu Kamath : But you called Mr. Limaye. It is there on the order paper that Shri Jai Sukh Lal Hathi is to make a statement in reply thereto.

Mr. Speaker : Yes.

The Deputy Minister in the Ministry of Home Affairs (Shri Vidya Charan Shukla): On behalf of Shri Jai Sukh Lal Hathi, I beg to lay on the Table of the House a statement correcting the answer given in reply to a supplementary question arising out of Starred Question No. 634 answered in the Lok Sabha on 24th August, 1966. [Placed in Library. See No. LT-7026/66].

13.54 hrs.

PERSONAL EXPLANATION BY
MEMBER UNDER RULE 357 Re. REFERENCE TO A SPEECH OF THE
MINISTER OF PARLIAMENTARY
AFFAIRS

श्री मधु लिमये (मंगर) : अध्यक्ष महोदय, संसद कार्य मंत्री ने 25 अगस्त को सदन में कहा कि बंगलौर में पांचवें सचेतक सम्मेलन में उनके द्वारा दिये गये भाषण में से मैंने जो उद्धरण दिया वह ठीक नहीं था, मैंने उस में से कुछ हिस्सा छोड़ दिया था। मंत्री महोदय ने यह भी कहा कि श्री मधु लिमये से उनको इससे अच्छे व्यवहार की उम्मीद थी।

मंत्री महोदय का कहना एकदम दुस्त है कि जब किसी व्यक्ति को उद्धृत करना हो तो ठीक तरह करना चाहिये, तोड़ मरोड़ कर नहीं। मैं भी मानता हूँ कि बौद्धिक ईमानदारी की यह न्यूनतम कसौटी है। जिनके पास तथ्यों की और दलीलों की कमी होती है वे लोग ही ऐसा काम करते हैं।

[मधु लिमये]

इस लिये मैं यह स्पष्ट करना चाहता हूँ कि 25 अगस्त को उनका मूल भाषण लायब्रेरी से प्राप्त करने को मैंने कैंशिश की थी। परन्तु चूँकि यह मेज पर नहीं रखा गया था, लायब्रेरी से मिल नहीं सका। लेकिन मुझे याद था कि उस का उल्लेख विधायिकाधिकार कमेटी की चतुर्थ रपट में है और इस लिये वह रपट मैंने मंगवाई और उससे मैंने ये जुमले शब्दशः उद्धृत किये। उसमें से कोई भी हिस्सा मैंने नहीं छोड़ा था। मुझे पता नहीं था कि प्रिविलेज कमेटी और उस के सदस्यों के बयानों में जो उद्धरण आते हैं वह पूरे नहीं होते हैं, अधूरे होते हैं, वरना मैं कभी उससे उद्धरण नहीं देता।

इसलिये इस मामले में मेरा कोई कसूर नहीं है। फिर भी चूँकि संसद कार्य मंत्री के दिल में प्रिविलेज कमेटी की चौथी रपट से उद्धृत किये जुमलों के कारण दर्द पैदा हुआ है, मैं उसके लिये अफसोस प्रकट करता हूँ।

साथ ही साथ अध्यक्ष महोदय, मैं आप के माफ़त उनसे नियम 368 के मातहत मांग करता हूँ कि चूँकि उन्होंने अपने बंगलीर के भाषण का एक हिस्सा पढ़ कर सुनाया है, वे अपना विचार परिष्कृत भाषण तथा सचेतक सम्मेलन के फ़सले सदस्यों की जानकारी के लिये मेज पर रखने की मेहरबानी करें।

संसद कार्य तथा संचार मंत्री (श्री सत्य नारायण सिंह) : मैं और कुछ नहीं कहना चाहता हूँ अपना भाषण सदन की मेज पर रखता हूँ।

I beg to lay on the Table a copy of the Presidential Address by me at the Fifth All-India Whips Conference, Bangalore, on the 4th January, 1966. [Placed in Library. See No. LT-7027/66].

13-57 hrs.

DETENTION OF MEMBERS
(Shri Dasaratha Deb and Shri Biren Dutta)

Mr. Speaker: I have to inform the House that I have received the follow-

ing telegrams dated the 3rd September, 1966 from the Sub-divisional Magistrate, Sadder, Agartala :—

(1) "I have the honour to inform you that I have found it my duty in exercise of my power under Section 167, Code of Criminal Procedure, to direct that Shri Dasaratha Deb, Member, Lok Sabha, arrested by the Kotwali Police Station under sections 147/149/364 read with 120B of the Indian Penal Code be detained in Agartala Central Jail till the 12th September, 1966 as he is alleged to have taken active part in abetting the Commission of offence of conspiring and inciting the mob in a planned way to resort to violence to do away with the life of the Chief Minister, Tripura."

(2) "I have the honour to inform you that I have found it my duty in exercise of my power under section 167, Code of Criminal Procedure, to direct that Shri Biren Dutta, Member, Lok Sabha, arrested by Kotwali Police Station under sections 147/149/364 read with 120B of Indian Penal Code be detained in Agartala Central Jail till 12th September, 1966, as he is alleged to have taken active part in abetting the commission of offence of conspiring and inciting the mob in a planned way to resort to violence to do away with the life of the Chief Minister, Tripura."

Shrimati Renu Chakravartty (Barackpore): That means that the charges under the DIR have been removed? I do not know what the correct position is.

Mr. Speaker: This is the information that I have got, and I could not add anything.

Shrimati Renu Chakravartty: These people were arrested under the DIR. Then, the question was raised in this House that when it was a question of manhandling, as was stated by the Home Ministry, it was a criminal offence, and as such criminal charges should have been framed. We want to

know what this statement today means. What is the situation there? We were told first that they were arrested under the DIR . . .

Mr. Speaker: If the hon. Minister has got any information, he may give it.

The Deputy Minister in the Ministry of Home Affairs (Shri Vidya Charan Shukla): As far as my information goes, he was arrested under DIR and all those sections of the Criminal Procedure Code which you have just now read out.

Shrimati Renu Chakravartty: That means that you have been misinformed . . .

Mr. Speaker: I have only to read out the telegram . . .

Shrimati Renu Chakravartty: You have been misinformed. That means that what he says now is . . .

Mr. Speaker: I shall find out whether the original arrest was under all those sections.

Shrimati Renu Chakravartty: You will only go by what you have been informed of. You had read out to us the other day that they were arrested under the DIR. Then, because we challenged the arrest under the DIR, much was said in this House. We want to know whether you were misinformed by the police or the Agartala Administration or else what the position is. They are trying to mislead us . . .

Mr. Speaker: I have read out both the telegrams that I had received the other day and also today . . .

Shri S. M. Banerjee (Kanpur): Kindly hear my submission. The other day when you read out the telegram, we got the clear idea that these two Members, namely Shri Dasaratha Deb and Shri Biren Dutta were arrested under the DIR, and then on the short notice question or the calling-attention notice which was replied to by Shri Vidya Charan Shukla, a number of questions were asked, and he was asked particularly whether . . .

14 hrs.

Shrimati Renu Chakravartty: Why were they arrested under the DIR first?

Shri S. M. Banerjee: . . . he was going by the report of the police administration or he had his own information. If you would kindly read the telegram once again you will find that the charges which have been levelled by Shri Vidya Charan Shukla against these two Members to justify their arrest have been repeated in this. What I am afraid of is this that after this question was raised here and after Shri Vidya Charan Shukla was subjected to a barrage of questions here by the Opposition, these charges are now being made against these two Members that they entered the Assembly Hall, they manhandled the Chief Minister and so on . . .

The Deputy Minister in the Ministry of Home Affairs (Shri P. S. Naskar): That is correct.

Shri S. M. Banerjee: My submission is only this that this telegram is only to justify that statement here which was resented by the House and in regard to which it was said that a question of breach of privilege of the Member had arisen and so on. This is a simply telegram intimating you about the remand and nothing else, but it is only to justify that statement here that so many sections of the code of Criminal Procedure have been mentioned there, only because of that. I should, therefore, like to request that there should be a thorough probe into this matter.

Shri Kapur Singh (Ludhiana): All of us seem to remember it very clearly that, the other day when this matter came up before the House, you read out a communication to us in which it was mentioned that these hon. Members had been arrested under the DIR, and the hon. Deputy Minister of Home Affairs also made a statement which concurred with that and which said that, they had been arrested under the

[Shri Kapur Singh]

DIR, for they had done this, that etc. Then, there was a reaction from this side of the House, and a strong exception was taken to the use or abuse of the DIR. On that occasion, there was no mention whatsoever of the other sections of the IPC under which they might have been arrested. But now the hon. Minister changes the position basically and fundamentally and he says that even then it was the case that they were arrested under these other sections . . .

Mr. Speaker : He does not say that it was stated here; he only says that they had been charged with these offences also at that time.

Shri Kapur Singh : In that case, this House would like to know whether the other offences, namely the offences other than those mentioned under the DIR, were applied to their case already or they have been applied subsequent to the proceedings in this House.

14 hrs.

Shri H. N. Mukerjee (Calcutta Central) : All this trouble arises because of this discrepancy appearing in the report to you, which is a very important matter. In substance, it may not be too terribly important, but in form it is absolutely important that the report to you is a truthful report. The report was that they were arrested under the DIR. Whether it was right or wrong is a different matter. We protested strongly. But that is a different matter.

Then, the Minister added certain other observations which made many of us protest that it appeared that the DIR had been used very wrongly, because if one wanted to arrest a man for assault and battery one did it otherwise. Now, the charges given there in the further communication to you are these other charges. The hon. Minister now says that the DIR charges as well as the other charges under the Criminal Procedure Code have been formulated against them. We want to know whether these charges were also made simultaneously or whether it is an after thought that these sections of the

Criminal Procedure Code are being applied. That is a matter which causes us suspicion. What happens is that after the discussion in Parliament, some fresh charges are brought against the Members of Parliament. Members of Parliament are held up under the DIR for God knows what reason. Then, certain other criminal charges are brought against them, and the hon. Minister says something which does not correspond with the report sent by the officer concerned to you. The officer concerned will never have the daring to send you a wrong report; so, what the Minister says now does not seem to be correct. This is the most unfortunate position.

Shri Bade (Khargone) : It is not a question of the Communists or the Jan Sangh Members, but it is a question of the rights of Members of Parliament. The question is whether the police or the magistrate has informed you that the offences under these section were involved or not. If they have not been mentioned, then I would submit that the Deputy Minister has made a greater mess of the whole thing.

Shri Vidya Charan Shukla : There was no question of quoting all these sections and imposing these charges on the two hon. Members after this matter was discussed in this House. This was done, to begin with. These Members were charged with these offences under the IPC that you have just mentioned here, at the time they were arrested, and this was also stated in the message that you received from the Government of Tripura that the Members had been arrested under this provision of the DIR plus these sections.

Shrimati Renu Chakravarty : The other sections which you have mentioned now, I do not think were mentioned earlier.

Shri Vidya Charan Shukla : I want to strongly repudiate the suggestion that anything was done subsequent to any discussion in this House.

Shri U. M. Trivedi (Mandsaur) : I want to make a submission because this is a very serious thing.

Mr. Speaker : It is not a question of any dispute or debate. It is a matter of record. We can see the original thing also and see whether these other sections have been mentioned there.

Shri Hari Vishnu Kamath (Hoshangabad) : As far as I remember, it was only DIR which was mentioned at that time.

Mr. Speaker : It reads:

"I have the honour to inform you that I have found it my duty in exercise of my power under section 167 of the Criminal Procedure Code . . .

Shri Nambiar (Tiruchirapalli) : That is all.

Mr. Speaker : I should sit down?

"...to direct that Shri Biren Dutta, Member, Lok Sabha, arrested by Kotwali Police Station under sub-rule (5) of rule 41 of the Defence of India Rules, 1962, be detained for nine days for subversive activities and action likely to endanger the safety and stability of the State and inciting agitations against public servants Shri Biren Dutta, Member, Lok Sabha, was accordingly taken into custody . . ."

Shri Kapur Singh : This is a very serious matter.

Mr. Speaker : One question arises that if these sections were already there and they were charged with them, was it not their duty to send that information also to me?

Shri Priya Gupta (Katihar) : Not only that.

Shri Vidya Charan Shukla : I shall find out why these other sections were not mentioned and I shall send the report to you.

Shrimati Renu Chakravartty : The Deputy Minister said they were mentioned.

Shri Nambiar : If we also failed, what would have happened?

Mr. Speaker : Let him submit the report and then we can see.

Shri Nambiar : Our memory is correct, not his memory.

Mr. Speaker : No question of memory, it is a question of record.

Shri Nambiar : Question of life and death.

Shri Priya Gupta : On a point of order.

Mr. Speaker : What is the point of order?

श्री प्रिय गुप्त : अध्यक्ष महोदय, मेरा व्हाइट आफ आर्डर है। उस दिन जब उनको पकड़ा गया और यह बताया गया कि डिफेंस आफ इंडिया रूलज के मातहत उनको पकड़ा गया है तो जो चाजिज उनके खिलाफ सरकार की तरफ से लाये गये हैं क्रिमिनल प्रोसीजर कोड के वे वही चाजिज हैं जिन के बारे में उस दिन मैम्बर साहिबान ने पूछा था। वे वही धाराये हैं जिन का जिक्र मैम्बर साहिबान ने उस दिन किया था। उस वक्त सरकार ने कुछ नहीं कहा कि इन संशकज के अन्दर क्रिमिनल प्रोसीजर कोड के उनको पकड़ा गया है। इनको याद होना चाहिये था यह सब कुछ।

अध्यक्ष महोदय : यह क्या व्हाइट आफ आर्डर हुआ और मैं क्या इस पर रूलिंग दूँ।

Shri Hari Vishnu Kamath : On a point of order under rule 229. If I heard the Minister aright, he just now said he was arrested under the DIR plus something. I do not know what that plus is. If he was arrested originally under the DIR and those criminal

[Shri Hari Vishnu Kamath]
charges, the rule is clear. What does the rule say? It obliges the executive authorities to act according to that rule. How does the rule read?

"When a Member is arrested on a criminal charge or for a criminal offence or is sentenced to imprisonment by a court or is detained under an executive order, the committing judge, magistrate or executive authority...

—the police also—

"...as the case may be, shall immediately intimate such fact to the Speaker indicating the reasons for the arrest, detention or conviction, as the case may be, as also the place of detention or imprisonment of the member in the appropriate form set out..."

If I heard him aright, and I am sure the other Members also heard him aright, he did say that he was arrested under DIR plus something—plus means other charges. Under this rule.....

Mr. Speaker: What have I said? This is the only thing I have said, that it was their duty to inform.

Shri Hari Vishnu Kamath: Then he is guilty, not the Minister but the executive authority.

Mr. Speaker: I will see. This is exactly what I have said. Mr. Kapur Singh.

Shri Hari Vishnu Kamath: He is liable. Let us have it in this session.

Shri Priya Gupta rose—

Mr. Speaker: I have called Mr. Kapur Singh.

Shri Kapur Singh: I am afraid that the real point which is agitating us is being missed by the procedure that is being missed by the procedure that is worrying us is this. You have called for a report from the Minister. What-

ever that report might be, whether the report says that these 'plus' charges were initially there or whether the report says that these 'plus' charges were subsequently added, the fact is already established that a wrong report was sent to you, and therefore a breach of privilege has already occurred. This is the point which is agitating us.

Shri Vidya Charan Shukla: May I clarify this a little bit more? When I answered the question on the calling attention notice I said the hon. Members had been arrested under such and such section of DIR and they have been charged with certain offences under the sections that you have mentioned. The arrest was made under DIR and they have been at the same moment also charged with offences under the sections.

Shri M. N. Swamy (Ongole): We are not concerned with what he has said, we are concerned with what you have received.

Shri Vidya Charan Shukla: As I have already promised, I shall find out why these sections were not mentioned when the initial message was sent to you, and I shall send the report to you.

Shri Nambiar: It is an afterthought.

Mr. Speaker: Bills to be introduced.

14.10 hrs.

DELHI PANCHAYAT SAMITIS AND
NYAYA PANCHAYATS BILL*

The Deputy Minister in the Ministry of Home Affairs (Shri Vidya Charan Shukla): On behalf of Mr. Nanda I beg to move for leave...

Shri J. B. Kripalani (Amroha): May I submit?

Mr. Speaker: After he has finished

Shri Vidya Charan Shukla:

"...to introduce a Bill to provide for the constitution of Panchayat Samitis and Nyaya pancha-

*Published in Gazette of India, Extraordinary Part II, Section 2, dated 5-9-66.

yats in the Union territory of Delhi and to make certain amendments in the Delhi Land Reforms Act, 1954, and the Delhi Panchayat Raj Act, 1954, and for matters incidental thereto."

Shri J. B. Kripalani: What I want to submit is this, that at first though they were charged under the Defence of India Act, afterwards they have been charged under the Criminal Procedure Code.

Shri P. K. Deo (Kalahandi): For the same offence.

Shri J. B. Kripalani: May be or may not be. They are being charged as the British used to do. When one law did not apply, they would arrest and say they are charged under the Criminal Procedure Code. This is the danger, that afterwards they are being charged by something which is more heinous and punishable than before. Under the Defence of India Act you can be detained for a few months and come out, but under these sections, they can be given life sentence. This, I submit, is an essential point. It is not a question of procedure it is a question of the liberty of the subject.

Mr. Speaker: If one is charged with one offence, and subsequently the investigation authorities charge him with different offences, they have to proceed under the law. If they commit anything irregular, then they will be punished or scrutinised by the higher courts and the higher authorities. My purpose here only is to get the correct information. If that has not been given, I am asking him why that has happened. So far as this is concerned, the business of the authorities was to give the information, correct information, to this House. This is all at present that I am concerned with, and I am asking him to get the information.

Shri Nambiar (Tiruchirpalli): There is one thing more.

Shri J. B. Kripalani: You are also concerned with seeing that justice is done.

Mr. Speaker: The question is:

"That leave be granted to introduce a Bill to provide for the constitution of Panchayat Samitis and Nyaya Panchayats in the Union territory of Delhi and to make certain amendments in the Delhi Land Reforms Act, 1954, and the Delhi Panchayat Raj Act, 1954, and for matters incidental thereto."

The motion was adopted.

Shri Vidya Charan Shukla: I introduce* the ill.

14.13 hrs.

RE: CALLING ATTENTION
NOTICE—contd.

(Query)

श्री याशपाल सिंह (कैराना): कालिग एजेंशन मैंने भी दिया था। आपने बूढ़े लोगों को तो मौका दे दिया है, वे खड़े होते गए और बोलते गए लेकिन नयों को आपने मौका नहीं दिया है। मैं बीसियों बार खड़ा हुआ हूँ लेकिन एक बार भी आपने मुझे अपनी बात आपके सामने रखने का मौका नहीं दिया है। बूढ़े कायदे के खिलाफ खड़े होते गए और बोलते गए.....

अध्यक्ष महोदय: मैं खुद बूढ़ा हूँ इसलिए बूढ़ों का लिहाज करना चाहिये।

श्री याशपाल सिंह: दिल्ली के छः लाख नागरिकों का सवाल है। कुछ पता तो चले कि उसको आपने एलाऊ किया है, डिसएलाऊ किया है। कुछ जवाब तो मिलना चाहिये, हां या न में जवाब तो मिलना चाहिये।

अध्यक्ष महोदय: स्वामी जी का असर कुछ ओरों पर भी चढ़ा है।

*Introduced with the recommendation of the President.

1641 (Ai) LSD—4.

14.14 hrs.

RAILWAY PROPERTY (UNLAWFUL POSSESSION) BILL—contd.

Mr. Speaker: Further consideration of Railway Property (Unlawful Possession) Bill. **Shri Rane.**

Shri Rane (Buldana): I stated yesterday that I support the Bill and do not agree with the Members who have opposed the Bill.

The hon. Minister has stated in his speech yesterday that the claims bill which was 29 million rupees in 1953-54 rose to 42 million in 1962-63.

14.15 hrs.

[**MR. DEPUTY-SPEAKER in the Chair**]

There must also be, I imagine, huge losses due to the destruction of property and the small and big thefts from wagons, etc. It is rather sad that the offences are increasing notwithstanding the creation of the railway protection force. I, suppose that this is due to want of power in the hands of the force. I, therefore, welcome this Bill as it seeks to invest the RPF with the necessary powers. Hon. Members **Shri Nambiar, Badi and A. P. Sharma** had expressed misgivings and apprehensions about the misuse of powers by the RPF. That argument can be advanced for the misuse of the power by the police also. So, there is no force in that. I feel that the present measure would not be adequate to meet the growing menace and increasing of offences. Now-a-days the tendency to destroy government and public property is growing. In broad daylight in West Bengal, Bombay and in Mysore the railway property had been destroyed recently and railway tracks are tampered with. In certain countries the destroyers of public property are regarded as enemies of the people; I have read this and this has been laid down in their constitutions and very heavy and severe punishments are prescribed in their Acts. Hon. Minister should give thought to this aspect of the question. The whole problem

should be studied in detail. If the railway authorities are not able to study these problems, I go to the length of saying that a committee should be formed to study in detail all these problems because the expenses are going up. All these problems should be studied and the committee should suggest ways and means to check the increase in offences.

I now come to my next point. There are some reasons which lead to this increasing of offences. Firstly, the railway authorities are not taking advantage of the existing penal provisions in the Railway Act.

श्री प्रिय गुप्त (कटिहार) : उपाध्यक्ष महोदय, इतना जरूरी बिल सदन के सामने है, भूतपूर्व सचेत बोल रहे हैं, पाटिल साहब हाउस में बैठे हैं, जो कि होम मिनिस्टर होने वाले हैं, लेकिन हाउस में कौरम नहीं है।

Mr. Deputy-Speaker: The Bell is being rung—there is now quorum.

Shri Rane: In the British days I had to defend a small boy of 12, a peasant's son who has thrown a stone at a running train; he was arrested then and there and prosecuted and I had to defend him in court in those days. Now-a-days we see offences of greater magnitude being committed but they do not take action. Secondly, I am told by several persons that some of these offences are taking place on account of the connivance and indirect participation of some railway servants. If it is probed into, there will be some check. In the whole of India, in many places, gangs of persons who steal railway property had come into existence. I think the police also know it. I do not know whether the railway authorities know it or not. There are also many receivers of stolen property from the members of that gang but they are not unearthed.

Mr. Deputy-Speaker: **Mr. Sarjoo Pandey.**

Shri U. M. Trivedi (Mandsaur): Sir, the time for this Bill may be extended.

Mr. Deputy-Speaker: At the suggestion of Mr. Kamath yesterday the time was already extended. He moved a motion and it was extended by one hour. We have now 1 hour and 35 minutes.

Shri U. M. Trivedi: That will not be enough; time will have to be further extended. This is a Bill which militates against the very principle of jurisprudence. Such a Bill where the very principle of jurisprudence has been attacked has not come forward in the history of India. I think this must be discussed thoroughly. Therefore, I am making a formal motion that the time for this Bill be further extended. I think the House will agree with me in view of the fact that very important points of law are involved.

Mr. Deputy-Speaker: I am sorry, Mr. Trivedi.

Shri U. M. Trivedi: This is not a personal question

Mr. Deputy-Speaker: There cannot be a motion again on the same subject. Mr. Kamath moved a motion yesterday and it had already been extended. The House assented to it and there must be some sanctity for the decisions of the House. You cannot move a second motion again. Mr. Pandey.

श्री सरजू पाण्डेय (रसड़ा) : उपाध्यक्ष महोदय, सदन के सामने जो विधेयक है, मैं उसका विरोध करने के लिए खड़ा हुआ हूँ। हमारी सरकार को कानून बनाने की बीमारी सी हो गई है। सबसे पहला बुनियादी सवाल यह है कि इस देश में अपराध होते ही क्यों

हैं। रेलवे की जायदाद और प्रापर्टी को नुकसान पहुंचाने वालों को रोकने के लिए रेलवे प्रोटेक्शन फ़ोर्स को अधिकार देने के लिए इस सदन में यह बिल लाया गया है। कई बार इस सदन में कहा गया है और मेरी खुद यह राय है, दुनिया के दंड शास्त्रियों की राय है कि अपराध तब तक नहीं रोके जा सकते जब तक कि अपराध के मूल कारण नहीं हटाये जाते। मुझे मालूम है कि इस तरह के छोटे छोटे लोगों को इतने ज्यादा अधिकार देकर सिवाय इस देश में भ्रष्टाचार बढ़ाने के और कुछ नहीं हो सकता। रेलवे के जो मामूली सिपाही हैं या और दूसरे कर्मचारी हैं,

टी० टी० आदि में और उनमें इसलिए झगड़ा होता है कि डब्ल्यू टी० जो मुसाफिर आते हैं, उनमें वह कहते हैं कि आधा पैसा हमको दो और वह मारपीट करते हैं। रेलवे में चोरी करने वाले जो हैं, जब से यह रेलवे प्रोटेक्शन फ़ोर्स बनी है, इसके ज्यादातर कर्मचारी चोरी में हिस्सा लेते हैं। कोयला और दूसरी चीजें भेजे वगैरह जो चोरी जाते हैं, वह सारा का सारा यही निकालते हैं। और इसके बदले में यह पुलिस कर्मचारी जिनके आप गीत गाते हैं, वह उन लोगों को बन्द करते हैं जो उनको घूस नहीं दे सकते। वही गरीब बन्द किये जाते हैं। मैं समझता हूँ कि रेलवे प्रापर्टी को नुकसान पहुंचाने वालों को सजा देने के लिए ऐसी धारारें मौजूद हैं जिनके जरिये से उनको सजा दी जा सकती है। फिर मैं नहीं समझता कि क्या इसकी आवश्यकता महसूस हुई कि सदन में यह बिल लाया गया और एक घंटे में इसको

[श्री सरजू पाण्डेय]

पास कराने की कोशिश की जा रही है। मैं सैकड़ों मिसालें दे सकता हूँ जहाँ इस तरह की चीजें होती हैं। अगर सरकार चाहती है कि दरअसल इस देश में अपराध हकें तो उसे अपराध की बुनियाद को मिटाना होगा। सरकार के सारे उसूल, सारे सिद्धांत, सारी बातें बिल्कुल पारब्रह्म की तरह हैं जिन पर अमल कभी नहीं होता है। यह चोरों को प्रोटेक्ट करेंगे। अगर कोई पकड़ा जायगा तो मिनिस्टर टेलीफोन करेंगे कि छोड़ दिया जाय।

एक माननीय सदस्य : गलत बात है।

श्री सरजू पाण्डेय : गलत नहीं, सही बात है। यहाँ के मिनिस्टर टेलीफोन करेंगे कि छोड़ दो। नौकरियों में सारे के सारे वही लोग रखे जायेंगे जो इन के नातेदार रिश्तेदार हैं... (व्यवधान)... मेरे पास सबूत है, आप जांच कोजिएगा क्या?... (व्यवधान)... पब्लिक सर्विस कमिशन भी आप का ही है। सारे का सारा आज रेलवे विभाग में मैं समझता हूँ कि सब से ज्यादा भ्रष्टाचार है। अगर इनके घरों की तलाशी ली जाय तो बहुत कुछ मिल सकता है। इस अवसर पर मुझे राज्य सभा में एक मेम्बर ने एक कहानी कही थी, वह याद आ गई। रणजीत सिंह के दर्बार में कोई आदमी गया इनाम मांगने, उस ने कहा कि मैं दाढ़ी पर हाथ फेरूंगा जितने बाल आयेंगे उतनी अशफियाँ दे दूंगा इस पर उस आदमी ने कहा कि दाढ़ी श्रीमान को हो और हाथ हमारा फिर

जितने बाल आयें उतनी अशफियाँ दें। इसी कहाना की मैं दोहराना चाहता हूँ। **फाइल** आपकी और हाथ हमारा हो तब आपके भ्रष्टाचार का पता चलेगा। इस देश के ही नहीं दुनिया के दण्ड शास्त्रियों की बात है, हाथ काटने के बदले हाथ काटे गए, सिर काटने के बदले सिर काटे गए, दांत तोड़ने के बदले दांत तोड़े गए, पिक पाकेटिंग के लिए फाँगी दी गई, मगर अपराध नहीं रुके। मुझे लन्दन का एक किस्सा याद है। जहाँ पिक पाकेटिंग के लिए मेन सड़क पर एक आदमी को फाँसी दी जा रही थी, वहाँ उसी जगह जो लोग यह देख रहे थे, उसी मजमे में एक आदमी पिक पाकेटिंग कर रहा था। तो मैं कहूँगा कि इस बिल को रेलवे मंत्री जो वापस ले लें। इससे सिवाय भ्रष्टाचार और घूसखोरी बढ़ने के और कुछ नहीं हो सकता। रेलवे में तो किसी की जान, लाइफ, प्रापर्टी कुछ भी सिक्शर नहीं है और यही पुलिस जाकर जिनको आप अधिकार देने जा रहे हैं, यह सब कराती है। मामूली गांव के लोग जिन को कहीं शरण नहीं मिलती है वह जाकर रेलवे प्रोटेक्शन फोर्स में भरती हो जाते हैं। जितने क्राइम करने वाले लोग गांवों के हैं जो गांवों में कंट्रोल में नहीं आते, उन को गांव वाले कहते हैं ले जाओ, पुलिस में भर्ती कर दो, यह गांव में कंट्रोल में नहीं रहते हैं। उन लोगों को यह अधिकार देना कतई तौर पर गलत है। इस लिए मैं मंत्री जी से प्रार्थना करूँगा कि इस बिल को वापस लें, वरना इस देश में इस का बेजा इस्तेमाल होगा और कर्प्शन और बढ़ेगा।

श्री विश्वनाथ पाण्डेय (सलेमपुर) : उपाध्यक्ष महोदय, मैं तो मंत्री महोदय को धन्यवाद देता हूँ कि वह इस तरीके का विधेयक इस सदन में प्रस्तुत किये हैं। इस विधेयक को तो मैं समझता था कि पहले ही आना चाहिए था लेकिन अब आया है तो भी अच्छा है क्योंकि रेलवे सम्पत्ति राष्ट्र की सम्पत्ति है और उस की रक्षा करना आवश्यक है। रेलवे का विस्तार सारे भारतवर्ष में है और इस का विस्तार-क्षेत्र बहुत बड़ा है और जिस तरीके से उन्होंने प्रोटेक्शन फोर्स बढ़ाया है उस का अभिप्राय यह है कि रेलवे की चोरी, भ्रष्टाचार, लूट और डकैती बन्द की जाय लेकिन देखने में यह आया है कि वाबजूद इस के यह रुक नहीं सकता। उस का खाम कारण यह था कि उन को पूर्ण अधिकार नहीं था और पूर्ण अधिकार लेने के लिए हमारे मंत्री महोदय इस विधेयक को ले आये हैं। जैसा कि देखा गया है कि जब तक कि कड़ा नियम नहीं बनाया जायगा, तब तक कि रेलवे के प्रशासन को ताकत नहीं दी जायगी, जो रक्षा करने वाली संस्था है रेलवे सम्पत्ति की उस को अधिक सजा करने की और मुकदमा करने की ताकत नहीं दी जायगी तब तक मैं समझता हूँ यह भ्रष्टाचार और चोरी कभी रेलवे प्रशासन में बन्द नहीं हो सकती। जैसा कि मंत्री महोदय ने बताया है 1953-54 में लोगों ने चोरी के माल के प्रति जो दावे किये वह 29 मिलियन के करीब था और 1962-63 में बढ़ कर के वह 42 मिलियन हो गया। मैं समझता हूँ कि शायद इससे भी अधिक होगा। जो आंकड़ा उन्होंने प्रस्तुत किया वह इससे भी कहीं अधिक होगा। मैं समझता हूँ कि यह तभी इस की रक्षा हो सकती है जब कि इस प्रोटेक्शन फोर्स को अधिक ताकत प्रदान की जाय। इस मकसद से यह बिल लाये हैं। इस मकसद से नहीं लाये हैं कि साधारण लोगों के हाथ में, जो प्रोटेक्शन फोर्स है, उस के हाथ में अधिक ताकत दी जाय इसलिए कि वह इस का दुरुपयोग

करे बल्कि इसलिए कि जो रेलवे सारे हिन्दुस्तान में फैली हुई है, जिस के कई जोन्स हैं उस में सामान की चोरी जो होती है, उसकी रूकावट हो। मैं तो समझता हूँ कि अगर इस तरीके का विधेयक स्वीकृत हुआ, और मैं तो यह समझता था कि सदन में इस तरह के विधेयक को सर्वसम्मति से लोग स्वीकार करेंगे, लेकिन विरोधी दल के लोगों ने जैसा कि कहा इस से भ्रष्टाचार नहीं मिट सकता, इससे बुराई नहीं मिट सकती, मुझे तो आश्चर्य होता है कि जब चोरी, भ्रष्टाचार और बुराई को मिटाने के लिए कोई बिल प्रस्तुत होता है तो उस की भी छीछालेदार की जाती है, और उसके ऊपर भी विवेचनात्मक आलोचना की जाती है। यह तो ऐसा विधेयक है कि इस को सर्वसम्मति समर्थन प्राप्त होना चाहिए।

मैं यह भी कहना चाहता हूँ कि इस के साथ साथ कि रेलवे के जो यात्री हैं, रेलवे में जो सामान बेचते हैं एक स्टेशन से दूसरे स्टेशन पर, वह नहीं समझ पाते हैं कि उनका सामान सही सलामत पहुंच पायेगा या नहीं पहुंच पायेगा। इस तरीके से जो अधिकार रेलवे मंत्री महोदय इस विधेयक के द्वारा प्राप्त करना चाहते हैं, प्रोटेक्शन फोर्स के लिए उससे रेलवे प्रशासन के प्रति, रेलवे मंत्री के प्रति, रेलवे प्रोटेक्शन फोर्स के प्रति लोगों की श्रद्धा बढ़ेगी, लोगों की भावना अधिक हो जायगी क्योंकि हिन्दुस्तान में माल ढोने के लिए भी सब से प्रमुख साधन रेलवे है और उस के द्वारा ही लोगों का कल्याण हो सकता है। मैं इस शब्दों के साथ जो विधेयक मंत्री महोदय ने प्रस्तुत किया है उसका समर्थन करता हूँ।

श्री श्रीकार लाल बेरवा (कोटा) : उपाध्यक्ष महोदय, जो यह बिल लाया गया है जिसके अन्दर कि रेलवे प्रोटेक्शन फोर्स को यह पावर दी जा रही है कि वह बैरर बारन्ट के पकड़ सकते हैं, तो यह तो एक

[श्री श्रीकार लाल बेरवा]

अप्टाचार का बड़ा अड्डा बनाने के लिए मंत्री महोदय सोच रहे हैं। इस से बड़ा अड्डा तो कहीं बनेगा भी नहीं क्योंकि पहले ही रेलवे में इतना अप्टाचार है, शायद 75 परसेंट समझ लो तो अब 90 परसेंट हो जायगा। मैंने दिल्ली में रेलवे स्टेशन का नजारा देखा है। वहाँ पर क्या होता है ? पहले यहाँ पर दावे 22 लाख रुपये के होते थे। आज मैंने देखा तो करीब 4 करोड़ के दावे हो रहे हैं। उस का कारण क्या है कि रेलवे प्रोटेक्शन फोर्स के यहाँ पर कम से कम 40 आदमी लगे हुए थे इन प्लेटफार्मों पर सामानों की निगहबानी करने के लिए। उन में से कुछ आदमी कम कर दिये गये। आदमी कम करने से क्या हुआ कि जो दागीन दिल्ली रेलवे स्टेशन पर उतरने वाले थे, यहाँ के कुछ क्लर्कों ने जो बदमाशी करते थे, उन्होंने उस के नम्बर मिटा कर के दिल्ली के बजाय मथुरा के लिए कर दिया और मथुरा में जा कर उन दागीनों को छुड़वा लिया और छुड़वाकर सीधे कोसी कला के ब्रेन मार्केट में ले जा कर बेच दिया। रंगे हाथों गिरफ्तार हुए हैं अभी आठ दिन पहले। अगर शिकायत की जाती है तो उस को दबा दिया जाता है और उल्टे यह शुद्धा करके कि इस क्लर्क ने शिकायत की है, उसका तबादला करा दिया जाता है उस से बदला लिया जाता है। इतना अप्टाचार है प्रोटेक्शन फोर्स के अन्दर। रेलवे कर्मचारी ऊपर का नम्बर मिटा कर दिल्ली के बजाय आगरा कर देते हैं। आगरा में जा कर उसी नाम से छुड़वा लेते हैं और बेच देते हैं।

मैं अपने यहाँ की बात बताऊँ गंगापुर स्टेशन की। इन्वारी किया तो स्टोर में 400 स्लीपर कम मिले। पी० डब्ल्यू० आई० ने क्या किया कि आग लगा दी और 300 और जला दिये यानी कुल 700 के जलने का रिकार्ड दे दिया कि 700 जल गये। इस लिए रेलवे की सम्पत्ति को न पहचाने के लिए जितने रेलवे

कर्मचारी जिम्मेदार हैं, बल्कि इस में जितना बड़े बड़े अफसरों का हाथ है, उतना छोटों का नहीं है।

मैंने रेलवे माल गोदाम, कोटा के लिए लिखा, वहाँ पर अच्छी अच्छी टैरिलीन का कपड़ा, टैरिलीन के सूट निकाल लिए गये और फिर आग लगा दी और कह दिया कि आग लग गई। हमारा रेलवे विभाग उनमें कोई जांच नहीं करता, बल्कि मामले को दबा कर और झूठी रिपोर्टों के आधार पर हमारे जैनरल मैनेजर बम्बई में बैठे हुए यह कह देते हैं कि आग लग गई, इस वजह से नुकसान हो गया, लेकिन उसकी जांच का कोई भी प्रमाण उनके पास नहीं होता है। अगर इस बिल के जरिये रेलवे प्रोटेक्शन फोर्स को और ज्यादा पावर्स दे दी गई तो अप्टाचार दिन दुगुनी और रात चौगुनी तरकी करता जायगा।

सवारियों का आज यह हाल है कि जो गाड़ियाँ या पारसल गाड़ियाँ स्टेशन पर खड़ी होती हैं, इन्स्पेक्टर साहब एक वाल्टी लेकर सिपाही को भेज देते हैं। उन में जो भैंसें बगैरह जा रही होती हैं, सिपाही वाल्टी लेकर जाता है और बह्ता है कि यह दीवान साहब की वाल्टी है और उस में दूध भरवा कर ले आता है। यह रोजाना हो रहा है और आप चैक कर सकते हैं। आप मेरे साथ भेजिये, मैं चैक करता हूँ, रोजाना वाल्टी की वाल्टी दूध ले जाते हैं। कोयला तो गरीब आदमी उठा कर ले जाता है, लेकिन चोरी वह है जहाँ गाँठों की गाँठें देखते देखते गायब हो जाती हैं। गंगापुर में कोयले की वैगन पूरी की पूरी गायब हो गई, 22 हजार रुपये की वैगन गायब हो गई, लेकिन उसकी कोई चिन्ता नहीं है। वहाँ पर इतने पुराने-पुराने अप्टाचारी बैठे हुए हैं कि वे पता नहीं लगने देते। वहाँ के ठेकेदार सेठ बने बैठे हैं, चाय बेचने वाले करोड़पति

बने बैठे हैं, लेकिन हमारे रेल मंत्री क्या करें जनरल मैनेजर के पास रिपोर्ट करें। तो कह देते हैं कि मिनिस्टर से बातचीत करो, मिनिस्टर साहब को लिखें तो वे जनरल मैनेजर से पूछ कर झूठा-सच्चा जवाब दे देते हैं, जैसा जनरल मैनेजर ने बताया, वैसा लिख दिया।

इस लिए, उपाध्यक्ष महोदय, अगर ये पावर्स दे दी गईं तो फिर यात्रियों का जो सामान है वह भी नहीं बचेगा। मैं आपको एक और उदाहरण दूँ। यात्रियों का सामान लोकरूम में रखा जाता है लेकिन कोई टोकन उन को नहीं दिया जाता और उनको बैठा दिया जाता है। मैंने कई दफा इस के लिए कहा कि सामान पर टोकन नम्बर होना चाहिए, एक यात्री को दे दिया जाय और एक वहाँ रहे लेकिन रोजाना प्रोटेक्शन फोर्स के जरिये सामान उतरवा दिया जाता है। दुम्बा नं० 21 पर बक्से को गिरवा दिया जाता है और बाद में वहाँ से उठाकर मंगवा लेते हैं। इस लिए मेरा यह कहना है कि अगर यह पावर्स इस भ्रष्टाचारी पुलिस को दे दी गईं तो अभी तो यह सामान जाता है, फिर बदन पर कपड़े भी नहीं रहेंगे, उन को भी उतरवा लिया जायगा।

Shri Himatsingka (Godda): Sir, in view of the fact that stealing and other offences have increased very considerably and there is considerable loss to railway property, additional powers are certainly necessary. But I have some misapprehensions about some clauses in the Bill.

Clause 5 says:

"Notwithstanding anything contained in the Code of Criminal Procedure, an offence under this Act shall not be cognizable".

That means no one can be arrested without a warrant. At the same time, the next clause gives power not only to the superior officers but even to a

member of the Force to arrest persons with a warrant. These are contradictory, according to my view.

Then the question arises whether the power now being given to the RPF is exclusive or this is in addition to the existing powers of the ordinary police under the present Act to take action for offences against railway property. Clause 14 says:

"The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force."

Does this take away the existing powers of the police and other officers under the Cr. P.C.? If that be so, as a result of this Bill, instead of any benefit accruing, there will be definitely a set-back in arrest, detention and prosecution of persons who commit these offences. This should be given careful consideration whether this is not a retrograde measure in this sense.

Then, I do not understand what is intended by clause 4:

"Any owner or occupier of land or building or any agent of such owner or occupier in charge of the management of that land or building, who wilfully connives...." etc.

Why should these words "any owner or occupier of land or building or any agent of such owner or occupier" be specified? Any person who connives at an offence against the provisions of this Act should be punishable. Why should there be this restriction that only the owner or occupier of land or building or any agent of such a person should be punished? Does it mean that any stolen property is retained in such building or land? Why is this provision introduced in this form? That needs explanation. I would like the Minister to clarify what is intended by this clause limiting it to the owner or occupier of land or building

[Shri Himatsingka]

or his agent, and not making it wider so as to apply to any person willfully connives at any offence against the provisions of the Act.

With these remarks, I request the Minister to make it clear whether this is an additional power given to the RPF or it will be an exclusive power given to the RPF, taking away the existing powers of the police authorities.

श्री रामसेवक यादव (बाराबंकी) :
उपाध्यक्ष महोदय, माननीय पाटिल साहब ने यह जो विधेयक रखा है रेलवे सम्पत्ति के बचाने के लिये, जब मैं उस पर विचार करता हूँ तो ऐसा ही लगता है जैसे कोई नगर-वधु पतिव्रत धारण करने का व्रत ले ।

श्रीमन्, इस सरकार के तरकश में इतने तीर हैं कि वे काफी हैं, अगर यह ईमानदारी से चाहे तो रेलवे सम्पत्ति या कोई अन्य सम्पत्ति को बचा सकती है । क्योंकि, श्रीमन्, ताजीराते हिन्दू जात्या फौजदारी को अगर देखें तो कोई भी ऐसा जुर्म नहीं है जो उसके अन्दर न आ जाता हो और उसके तेहत उस को सजा न मिलती हो । फिर उस के बाद यह प्रिवेन्टिव डिटेन्शन एक्ट, भारत रक्षा कानून के अन्तर्गत इतने अधिकार रखते हुए अगर माननीय पाटिल साहब रेलवे की सम्पत्ति की रक्षा नहीं कर सके, तो मैं साफ़ कहना चाहूंगा कि इस विधेयक के पारित होने के बाद रक्षा होना असम्भव है । हाँ, इस से एक बात जरूर हो जायगी, जो रेलवे प्रोटेक्शन फोर्स है, उसके हाथ में असीमित अधिकार आ जायेंगे और उस से लोगों को नाजायज़ ढंग से तंग करने का अधिकार उनको और मिल जायगा ।

मैं आपको इस का एक नमूना देना चाहता हूँ कि आर० पी० एफ० के आफिसर लोग क्या करते हैं । एक दिन बाराबंकी से पटना के लिये मेरा रिजर्वेशन था, आर० पी० एफ० के आफिसर साहब डबलरूमन्ती लखनऊ से उस में बैठ गये, उस गाड़ी के एक

हरिजन कण्डक्टर ने मना भी किया, लेकिन उसकी भी चिन्ता उन्होंने नहीं की । जब वहाँ गाड़ी पहुँचती है तो हम को जगह नहीं मिली, गाड़ी डिटेन हुई, मैंने कम्प्लेंट की लेकिन आज तक उस केस में कुछ नहीं हुआ, बल्कि उस हरिजन कण्डक्टर से जवाब तलब हो गया कि तुमने क्यों एलाट कर दिया । जिस फोर्स का यह हाल हो, जो रात दिन गांटों में कपड़ा और बोरों में चीजों को चुराती हो, उस के हाथ में इतना जबर्दस्त अधिकार दे दिया जाय तो मैं समझता हूँ उस का दुरुपयोग हो कर रहेगा ।

दूसरी चीज जो मैं कहना चाहता हूँ वह यह है कि जनतन्त्र में जवाबदेही होनी है मंत्री को । अगर देश में, और खास तौर से इस विभाग में, रेलवे में दुर्घटनायें हों तो किस से जवाब मांगा जायेगा । जनरल मैनेजर से नहीं बोर्ड के मेम्बरो से नहीं । वह माननीय मंत्री डा० राम सुभग सिंह या जो उन के बड़े अफसर हैं श्री पाटिल, उन से मांगा जायेगा । और अगर असफलतायें इतनी हों कि उन का जवाब न हो तो माननीय मंत्री महोदय का शर्म आनी चाहिये और अपनी असफलता को कबूल करना चाहिये । लेकिन माननीय पाटिल साहब क्या कहते हैं कि मैं कोई इतना हयादार नहीं हूँ कि इस्तीफा दे दूँ अपनी असफलताओं पर । जनतन्त्र में इस को कहा जाता है चोरी और सीनाजोरो । एक तरफ तो उसे रोक नहीं पाते हैं और उस के बाद इस तरह से कहते हैं ।

मैं कहना चाहूंगा कि आज मंत्री महोदय रेल विभाग के मंत्री हैं । कभी वह इस देश के छाछ मंत्री रह चुके हैं । यह आरोप भी लगाया गया इस सदन में कि बर्मा से जो चावल आता था उस में हजारों रुपयों का नुकसान हर जहाज पर होता था । वह मामला आज भी साफ सामने नहीं आया । यह प्रश्न उठ चुका है और मंत्री महोदय को इस पर सफाई देनी चाहिये थी, सरकार को देनी चाहिये थी, विदेश मंत्री को देनी चाहिये थी । वह बात

आज तक साफ नहीं हुई है। मंत्री महोदय रेलवे जायदाद को बचाने के लिये कानून पेश कर रहे हैं।

The Minister of Railways (Shri S. K. Patil): Sir, I rise to a point of order.

श्री रामसेवक यादव : मैं ईन्ट नहीं कर रहा हूँ।

Shri S. K. Patil: He will have to sit down. I am rising to a point of order.

Mr. Deputy-Speaker: Let me hear the point of order.

Shri S. K. Patil: Sir, my point of order is this. The hon. Member is doing something which the Speaker had disallowed earlier. He was raising some question which had no relevancy here, without giving me any notice, and my name was being used. Under Rule 353 of the Rules of Procedure I raised a point of order and he was stopped by the Speaker. In the guise of talking on this Railway Property (Unlawful Possession) Bill, he is referring to the same thing which relates to the Food Department. My point is that any reference to that now is irrelevant and must not be taken note of.

Mr. Deputy-Speaker: He should not say anything about that. He may speak on this Bill.

श्री रामसेवक यादव : मैं आप से निवेदन करूँ कि चूंकि उन्होंने संगत और असंगत का प्रश्न उठाया है, मैं जानना चाहूँगा कि वह मंत्री रेलवे को जायदाद बचाने के लिये यह कानून बना रहे हैं और यह विधेयक लाये हैं जिन के खिलाफ इस प्रकार का आरोप है कि उन्होंने देश की सम्पत्ति को रक्षा नहीं की, और मैंने उस के लिये यहां पर यह मिमाल दी है तब यह कैसे असंगत होता है।

Shri S. K. Patil: He is referring to the same thing disobeying your ruling.

श्री रामसेवक यादव : कोई रूलिंग नहीं है। मैं तो यह कहूँगा कि माननीय पाटिल...

Mr. Deputy-Speaker: I shall examine these remarks and see.

Shri S. K. Patil: All those remarks are to be expunged from the proceedings.

Mr. Deputy-Speaker: It is all irrelevant. You must give previous notice. It has nothing to do with this Bill.

श्री रामसेवक यादव : प्रोविडस नोटिस देने का मवाल नहीं है। यह सदन में आ चुका है। मैं श्री पाटिल से कहना चाहता हूँ कि वह अपने अधिकारों और अपने पद का दुरुयोग कर के उपाध्यक्ष महोदय पर दवाव न डालें।

Mr. Deputy-Speaker: There is no reason why you should raise it here. It is irrelevant.

Shri Nambiar (Tiruchirapalli): The hon. Minister need not be so touchy about it. The more he objects the more he speaks.

Mr. Deputy-Speaker: Anything and everything cannot be said while speaking on a Bill.

श्री रामसेवक यादव : जो आर० पी० ऑफ० है उस के ऊपर खुद इस प्रकार के आरोप हैं कि वह स्वयं रेलवे सम्पत्ति को नुकसान पहुंचाते हैं और अगर उस को यह जबरन अधिकार दिया जाये तो उस से कभी यह हो सकता है कि इस सदन के जो माननीय सदस्य रेलवे में बैठ कर सफर को उन के लिये वह कह दे कि यह पंखा खोल रहे थे। उन का चालान हो सकता है। इसी तरह से.....

श्री शिव चरण मायूर (भीलवाड़ा) : हम तो नहीं करेंगे लेकिन जब आप पावर में आयेंगे तब जरूर ऐसा करेंगे।

श्री रामसेवक यादव : हम तो इस तरह से इस का इस्तेमाल नहीं करेंगे लेकिन पाटिल साहब का इस तरह का रवैया होगा तो उसके लिये किया जा सकता है।

[श्री रामसेवक यादव]

मैं चाहूंगा कि मंत्री महोदय जरा इस बात पर ध्यान दें कि जो मौजूदा कानून है वह काफी है अगर वह चाहते हैं कि रेलवे की सम्पत्ति को बचाया जाये। अब इस से ज्यादा अधिकार उन को नहीं मिलने चाहियें। सदन से भी मेरा निवेदन है कि उन को वह ज्यादा अधिकार न दे।

इन शब्दों के साथ मैं इस विधेयक का विरोध करता हूँ।

Shri Muthiah (Tirunelveli): Mr. Deputy-Speaker, Sir, I rise to support this Bill. The Bill is essential and timely in view of large-scale thefts and pilferages occurring frequently in the Railways both in respect of properties owned by Railways and goods of the public transported by railways.

I submit, Sir, the people are becoming indifferent and irresponsible in the case of public property or government property including railway property. We find nowadays public property including railway property being destroyed by mob violence during demonstrations as was witnessed recently in Bombay and Calcutta. Railway properties in railway compartments and railway stations, in the goods sheds and goods trains, are being pilfered by anti-social and anti-national elements. Even nuts and bolts and crews are found missing in the railway compartments. Such thefts are a national disgrace and unworthy of a civilised nation.

Goods in goods trains are stolen frequently and on a large scale. With the increase in the quantum of goods traffic on the railways, thefts are also increasing. This is proved by the increasing claims bills. The claims bills rose from Rs. 29 million in 1953-54 to Rs. 42 million in 1963-64.

The amendment of the Indian Railways Act in 1961 has made it obligatory on the Railways to pay claims for losses, destruction, damages or deterioration or non-delivery of goods despatched. Because of this additional res-

pensibility, effective steps have to be taken to prevent heavy losses on the Railways and to reduce claims bills.

The Railway Stores (Unlawful Possession) Act, 1955, is applicable only to unlawful possession of railway property owned by the Railways and does not cover the offences relating to goods of the people entrusted to the Railways for transport. Again, till now, the offences under this Act, were investigated and enquired into by the State Police. Because of this, the Railway Protection Force is handicapped in effectively dealing with thefts and pilferages of railway property.

Shri Nambiar: Police cannot do the job?

Shri Muthiah: The jurisdiction of the State Police is limited to the State boundary. Therefore, it is difficult for the State Police to make thorough investigations into thefts of Railway property. The Railway Protection Force is not equipped with necessary powers of investigation and prosecution. Investigation and prosecution are now conducted only by the State Police. This is not helpful for effective dealing with the problem. Therefore, this comprehensive Bill has been brought: firstly, to include the unlawful possession of goods entrusted by people to the Railways for transport and, secondly, to give powers of investigation and prosecution of offences relating to railway property to the Railway Protection Force.

The existence of double jurisdiction, both by State Police and by Railway Protection Force, is a serious handicap. The railway Protection Force needs to be strengthened and to be given full powers to tackle thefts of railway property. The additional expenditure is estimated to be only 1.67 per cent of the present cost on the Railway Protection Force.

Severe punishment should be given to the offenders guilty of thefts of railway property. Provision should be

made in this Bill or subsequent amending Bill for awarding deterrent punishment for mob violence and mob destruction of railway property.

I come to the Bill. Clause 3 of the Bill provides punishment for unlawful possession of railway property either stolen or unlawfully obtained. The punishment is imprisonment or fine or both. Clause 4 speaks of penalty for those who connive at the theft of railway property. It is necessary that abettors are also punished. Section 6 gives power to the Railway Protection Force to arrest without warrant any person guilty of theft of railway property or suspected of theft. Here it is necessary to ensure that the power is not misused by the railway officials and innocent people are not arrested and harassed under mere suspicion.

Under section 10, the officer can get a search warrant from a magistrate to search any place suspected of having any stolen property, seize such property and produce it before a court, and the court, when it is convinced of the theft, can order forfeiture of the stolen property to the Government. The right to enter the premises of a suspected person is likely to lead to misuse of powers by the officers sometimes. This should not lead to harassment of innocent people by the railway officials.

Shri Priya Gupta: I rise to oppose the Railway Property (Unlawful Possession) Bill. This proposal was mooted in 1936. After conception for a period of ten years this embryo has been produced by the Railway Minister. The first conception was aborted by Shri Lal Bahadur Shastri when he was the Railway Minister. The attempt of the Ministry of Railways to bring forward a Bill was untimely aborted during Shri Lal Bahadur's time because the State Governments did not give in.

Shri Alvares (Panjim): All abortions are untimely.

Shri Priya Gupta: I want to say that this Bill is against the provisions of

the Constitution. If you look at the Seventh Schedule to the Constitution, in List II, the State List, item 2 reads "Police, including railway and village police". So, the State police will have jurisdiction over the railways also. Clause 8, sub-clause (2) of the Bill reads:

"For this purpose the officer of the Force may exercise the same powers and shall be subject to the same provisions as the officer in charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898, when investigating a cognizable case."

This can be done only when the relevant entry in the State List is amended so that the Centre can also have jurisdiction concurrently over the police. Otherwise, the passing of this clause will mean that the State police is being divested of the normal powers which it has under the Constitution. That can be done only when the States concerned give their approval to it and an amendment to the Constitution is adopted. So, Sir, on this very fundamental question, I would like your decision, the decision of the House and the wisdom of the Government.

Shri Alvares: Government have no wisdom.

Shri Priya Gupta: I want to know one thing. Suppose a RPF officer exercises police powers from UP to Bihar, Bihar to Assam and from Assam to Bengal. Now the Chief Security Officer will be different for different railways. Since each Railway passes through two or more States, under whose jurisdiction will he come? That is a fundamental question. Secondly, will this Bill preclude the regular police officers including GRP of the area from taking action for offences being committed?

Then, clause 3 of the Bill talks of first offence and second offence. Is the Railways going to maintain a chart of offenders and find out whether the particular persons is the first offender or the second offender? Already, the arrears of claims of railway employees

[Shri Priya Gupta]

cannot be paid because of paucity of staff. Will this extra work also be given to them?

Also, in clause 3(b) the punishment mentioned is too heavy. It is heavier than the gravity of the offence warrants. At least, it should be the same as is prescribed in the Indian Penal Code and the Code of Criminal Procedure.

Mr. Deputy-Speaker: He should conclude now.

Shri Priya Gupta: Sir, it is a very important matter.

Shri Alvares: He is the Secretary of the Railwaymen's Federation. He is speaking on behalf of several lakhs railwaymen.

Shri Priya Gupta: Coming to another point, what about the service conditions of the RPF employees? There is the RPF Act. Because of the change in their service conditions, they were promised by the Railway Ministry that whoever does not want to remain in the RPF will be absorbed in the open line works of the railways. That has not been done with the result that so many old people have been forced to continue in the RPF against their will, even though they have opted to go out of it. Now you are putting further restrictions on them. I think the railways are looking after their own interests and not the service conditions of the people who have entered the railway service.

15 hrs.

Then, the RPF was organised to ensure that the railway properties are safely kept. Now the RPF organisation has got a wing, bigger than the wing meant for the protection of railway property, called the intelligence wing to watch the trade union activities of the railway workers. The RPF was originally organised to protect railway property from theft. Now, there is a separate force, a

separate cadre, inside the RPF to watch the trade union activities of the railway employees. It is the TB cell of RPF. Now when this Bill is passed, the District Officer, Divisional Superintendent or the General Manager will harass those railway workers who are participating in trade union activities when RPF will have powers to arrest on the plea of some railway property being found in their possession. It will take many years for the employee to go to a court of law and clear himself. In the mean time, they will cow down the trade union work by harassing the union workers saying that they are found in possession of some railway property.

Do the Railway Ministry want to over-rule the Chief Ministers of States by this Bill? Because, it is very clear from the Constitution itself that the police being a State subject, will be under the State.

Coming to another point, the employees of RPF who have put in a number of years of service are not given promotions, because...

Mr. Deputy-Speaker: We are not concerned with promotions in this Bill. It is not relevant.

Shri Priya Gupta: Kindly hear me, Sir. The appeal rules in the RPF will also change in the context of this Bill. I have seen that even high officials of the RPF of the rank of DIG, AIG and sub-inspectors, they are superseded by the nominee of the Railway Ministry or the General Manager. I want to know whether it is the whimsical officers of the Railway Board or the whimsical Minister—excuse me, Sir, for saying so—who will decide whom to give promotions in the RPF?

These are some of the points which I want to place before the House for serious consideration, because they will have their repercussions not only on the railway employees but on the

people of India at large. So, in the end, I say that the whole intention is *mala fide* and this Bill is not meant to stop the theft of railway property. There are many other laws already in force under which the police can take action if the object is only to protect railway property. With these words, I oppose the Bill.

Mr. Deputy-Speaker: I will call the Minister at 3-10 p.m. Now, Shri Sinhasan Singh.

Shri U. M. Trivedi: Sir, you said that time cannot be extended because a motion was moved earlier. We have got precedents to show that a motion of this nature, for extension of time, is not held out if the House so desires.

Mr. Deputy-Speaker: Can you give me any one precedent when the House has extended time twice on the same Bill?

Shri U. M. Trivedi: Three times the House has extended the time for a Bill. I can give instances.

Mr. Deputy-Speaker: All right, you give me the precedent.

Shri Nambiar: Sir, formerly the time allotted was one hour and at our request you made it two hours. It is such an important Bill where the constitutional provisions are impinged.

Mr. Deputy-Speaker: If it is against the Constitution, how can I throw it out?

Shri Nambiar: But can it not be discussed also?

Mr. Deputy-Speaker: You show me the authority and I will put it to the House again.

Shri Alvares: Even if we want to throw it out, we have to convince the House.

Shri Nambiar: It is a very important piece of legislation.

Mr. Deputy-Speaker: If Shri Trivedi is able to show me any precedent when the House has extended the time a second time, I will put it to the House.

Shri S. K. Patil: I would give 10 minutes of my own time to Shri Trivedi.

Shri U. M. Trivedi: I will require only 7 minutes.

Shri Nambiar: Not only Shri Trivedi's points but this has to be thoroughly discussed.

Shri Bade (Khargone): Time was extended thrice on the Representation of the People (Amendment) Bill here in this House last week.

Mr. Deputy-Speaker: Only once. I extended it.

Shri Nambiar: It was extended again.

Shri U. M. Trivedi: If I get five minutes, that will be all right.

Shri Priya Gupta: Kindly extend the time. It is a very important Bill.

Mr. Deputy-Speaker: I am very sorry.

Shri Priya Gupta: We crave your indulgence. You wanted a precedent. We have quoted that.

Mr. Deputy-Speaker: Order, order. Shri Sinhasan Singh.

श्री निदास्त सिंह (गोरखपुर): उपाध्यक्ष महोदय, इस विधेयक को पढ़ने के बाद मैं इस नतीजे पर पहुँचा हूँ कि यह विधेयक रेलवे प्रापर्टी को रक्षा करने के बजाये कहीं गवर्नमेंट को झगड़ में न डाल दे। आज रेलवे में दो तरह की फ़ोर्स हैं : एक जी० आर० पी० और

[श्री सिंहासन सिंह]

दूसरी धारा ० पी० एफ० । एक दफा मैं ने रेलवेज कनसल्टेटिव कमेटी में मंत्री महोदय से कहा था कि एक जगह पर दो तरह की फ़ोर्स रहने के कारण, जिन में कोई को-ऑर्डिनेशन नहीं है, सही तरीके से काम होने के बजाये रेलवे प्रापर्टी की चोरी अधिक बढ़ गई है, जिस की जिम्मेदारी कोई नहीं लेता है । अब तक तो रेलवे की सम्पत्ति की चोरी को पकड़ने का अधिकार केवल जी० धारा ० पी० को था । इस विधेयक में हम धारा ० पी० एफ० को भी वह अधिकार दे रहे हैं । इस का अर्थ यह है कि एक ही विभाग की वस्तुओं की चोरी को पकड़ने के लिए दो समानान्तर अधिकारी बनाए जा रहे हैं । उन में से कौन सुपीरियर होगा और कौन इनफ़ीरियर होगा, इस बात को कहीं भी स्पष्ट नहीं किया गया है ।

इस बिल में एक बड़ा भारी लूपहोल है । इस की क्लॉज 6 और 10 में कोई मेल नहीं है । क्लॉज 10 में कहा गया है कि फ़ोर्स का अधिकारी किसी मैजिस्ट्रेट से वारंट ले कर किसी स्थान को संचं करेगा, जब कि क्लॉज 6 के मताबिक फ़ोर्स का कोई अधिकारी संचं से पहले ही किसी व्यक्ति को रेलवे की प्रापर्टी रखने के सन्देह में पकड़ सकता है । अगर फ़ोर्स के किसी अधिकारी को यह शुबहा है कि किसी घर में रेलवे की प्रापर्टी रखी हुई है, तो वह उस को गिरफ़्तार कर लेगा और उस के बाद संचं करने के लिए जायेगा । इन दोनों क्लॉजिज का परिणाम क्या होगा ? फ़ोर्स का कोई अधिकारी यह दरवास्त देता है कि अमुक व्यक्ति के यहां रेलवे प्रापर्टी होने का सन्देह है, इस लिए उस को संचं वारंट दिया जाये । वह मैजिस्ट्रेट उस अधिकारी की बात पर सीधे विश्वास न कर के इस बात की एन्वयारी करेगा कि संचं वारंट दिया जाये या नहीं । इस बीच में वह प्रापर्टी उस स्थान से हट जायेगी ।

मेरा कहना यह है कि ऐसा विधेयक बनाया जाना चाहिए, जो हर तरह से स्वतंत्र हो । इस विधेयक में परावलम्बन है, जिस के कारण चीतों के निकल जाने का अन्देशा है ।

इस विधेयक की क्लॉज 5 में कहा गया है कि इस विधेयक के अन्तर्गत जो अपराध होंगे, वे काम्नीजेबल नहीं होंगे । काम्नीजेबल और नान-काम्नीजेबल अपराध में अन्तर केवल यह है कि जिस अपराध को कोई पुलिस अधिकारी बगैर किसी वारंट के पकड़ सके, वह अपराध काम्नीजेबल है और जिस अपराध के सम्बन्ध में गिरफ़्तार करने की शक्ति सीमित है, जिस में बगैर मैजिस्ट्रेट या सुपीरियर आफ़िसर की इजाजत के गिरफ़्तारी न की जा सके, वह अपराध नान-काम्नीजेबल है । जैसा कि मैं ने कहा है, क्लॉज 5 में कहा गया है कि क्रिमिनल प्रोसिजर कोड के प्राविजन्ज के बावजूद इस विधेयक के अन्तर्गत सब अपराध नान-काम्नीजेबल होंगे । क्रिमिनल प्रोसिजर कोड में चोरी के सब अपराध काम्नीजेबल हैं । उस में धारा 411 के, चोरी का माल रखने या चोरी के जितने अपराध हैं, व सब काम्नीजेबल हैं । इस विधेयक की क्लॉज 3 में कहा गया है कि रेलवे की किसी सम्पत्ति को अपने अधिकार में रखना आफ़ेंस है, यानी वहां पर धारा 411 आ गई । किसी चोरी के माल को अपने घर में रखना धारा 411 हुआ । चोरी करते पकड़ा जाना काम्नीजेबल है । इस विधेयक में इन अपराधों को नान-काम्नीजेबल कर दिया गया है । इस की तुलना में बिना किसी वारंट के गिरफ़्तारी के इतने व्यापक अधिकार दे देना कैसे मेल खाता है । नान-काम्नीजेबल आफ़ेंस में बगैर वारंट के गिरफ़्तार नहीं किया जा सकता है, लेकिन इस विधेयक में अपराधों को नान-काम्नीजेबल भी कर दिया गया है

और बिना वारंट गिरफ्तारी के अधिकार भी दे दिये गए हैं।

जैसा कि मेरे मित्र ने कहा है, मुझे यह है कि कहीं आगे चल कर यह विधेयक कांस्टीट्यूशन के विरुद्ध करार न दे दिया जाय। इस पर विचार करने की जरूरत है कि ला एंड आर्डर एक स्टेट सबजेक्ट है। ला एंड आर्डर में चोरी में पकड़ना, गिरफ्तारी, जडिशल जस्टिस आते हैं और ला एंड आर्डर स्टेट सबजेक्ट है। इस विधेयक में उसको सट्रल सबजेक्ट कर दिया गया है और इस बारे में सट्रल गवर्नमेंट के अधिकारियों को अधिकार दे दिये गए हैं। इस प्रकार दो अधिकारियों में आपस में टकराव होगा। क्या गवर्नमेंट ने इस बारे में कानूनी राय ले ली है कि अगर कोई इस विधेयक को सुप्रीम कोर्ट में चेलेंज करे, तो यह टिक जायेगा या नहीं? मेरा अनुरोध है कि मंत्री महोदय ऐसा रास्ता निकालें कि रेलवे सम्पत्ति की रक्षा करने के लिए एक ही अधिकारी हो-यो तरह के अधिकारी न हों। इस समय एक तरफ जी० आर० पी० है, जो कि स्टेट की पुलिस है और दूसरी तरफ आर० पी० एफ० है, जो कि सेंट्रल गवर्नमेंट की पुलिस है। इन दोनों पुलिस फोर्सिज में जो संघर्ष चल रहा है, उस का परिणाम यह हुआ है कि चोरी कम होने के बजाये बढ़ गई है।

लेबर यूनियन्ज के लीडर मुझे यह कहने के लिए माफ़ करेंगे कि जब यूनियन के अधिकारी चोरी करते हुए पकड़े जाते हैं, तो कहा जाता है कि चूंकि वे यूनियन के कार्यकर्ता हैं, इस लिए उन को पकड़ लिया गया है, जिस से उन को कोई पनीशमेंट नहीं हो पाता है। यूनियन्ज के अधिकारी इस तरफ ध्यान दें। मुझे कभी कभी बड़ धर्म-संकट में पड़ना पड़ा कि किसी लेबर यूनियन के अधिकारी ने चोरी की हुई है, लेकिन यह ख्याल करना पड़ता था कि उस को बचाना चाहिए। माल निकलता था और आप जानते हैं कि रेलवे अधिकारियों के मिले हुए होने

के वगैर माल नहीं निकलता। वही माल निकालते हैं।

रेलवेज का माल हर लाइन पर इस तरह फैला हुआ है कि उस को चोरी करना बड़ा आसान है। कोई देखने वाला नहीं है, कोई प्रॉटेक्शन नहीं है। हर जगह रेलवे के स्लोपर और दूसरी सम्पत्ति पड़ी हुई है, जिस को बड़ी आसानी से उठाया जा सकता है। इन चीजों को डिस्पोज आफ करने की भी व्यवस्था करनी चाहिए, वरना घरों की रेलवेज की सम्पत्ति बर्बाद होती है और बर्बाद हो रही है और चोरी भी होती है। आवश्यकता इस बात की है कि रेलवे एडमिनिस्ट्रेशन को दक्ष और कुशल बनाया जाये। अगर हम कानून के जरिये चोरी को बन्द कर सकें, तो यह बड़ी खुशी की बात है। लेकिन कानून के जरिये कभी चोरी बन्द नहीं हुई है। कानून तो पहले से ही बहुत बने हुए हैं। चोरी बन्द होगी कानून को सही तोर पर लागू करने पर। कानून मौजूद है, लेकिन वह लागू नहीं हो रहा है। यह जो एडिशन की जा रही है, वह झगड़ा पैदा कर सकती है। गवर्नमेंट इस बारे में कानूनी राय हासिल कर ले कि कहीं यह बिल जी० आर० पी० के अधिकारों का अतिक्रमण तो नहीं करता है, जो कि स्टेट्स के अन्तर्गत है, क्योंकि इस विधेयक के द्वारा आर० पी० एफ० को समान अधिकार दिये जा रहे हैं।

Shri U. M. Trivedi: Mr. Deputy-Speaker, Sir, to me this law appears to be a hotch-potch of some half-baked lawyer making this law. Perhaps, the man who drafted it did not know what was jurisprudence, did not understand the meaning of the word 'cognizable', did not understand the meaning of the word 'enquire' and, did not know that the man who enquires into an offence cannot be the man who makes an accusation. All these things are hopelessly muddled up in this little piece of legislation that is there.

[Shri U. M. Trivedi]

Sir, I am at one with the Railway Ministry that thefts are taking place in the railways, that we are handicapped in making investigation, that we are handicapped in bringing these thieves to book and that the State police is not at all helpful. On the contrary, it sits on the throat of the poor railway employee and makes money out of it which is the primary concern that they have. Everyday, thefts are occurring and the thefts are occurring with the help of the police. But at the same time, I say that this is not a measure which can eradicate the evil which exists and which this Bill wants to remedy. This is not at all possible to be done with this measure. On the one hand, you are giving powers to the Railway Protection Force, the power of enquiry, the power of summoning witnesses, the power of taking oath and recording evidence and that it will be called a judicial proceeding. Such a thing has never been conceived of that the man who accuses anybody makes a judicial enquiry into the affairs. Such a thing has not been conceived of in law. Any person who has any knowledge of jurisprudence will agree with this.

On one hand, clause 5 says that the offence is not cognizable and immediately, on the other hand, clause 6 says that for a superior officer it is cognizable. What type of cognizance is it? It is not cognizable for one and the very next sentence says that it is cognizable for the other superior officer who can arrest the man. What type of cognizance is it? And that very man who can make arrest can have a search warrant issued but for that he has got to go to the magistrate and by the time the warrant is issued, that scoundrel will remove all the goods that are lying there and nothing will be found. What type of law will it be? How will it be adjusted? To what advantage will it be? The magistrate will make enquiries and issue the notice. Magistrates are not always above board. They

are also influenced by considerations of different types. He will have to issue the notice and by the time the notice is issued, the goods will disappear.

Now, if the power is to be given, let it be given properly. I would suggest one thing to the hon. Minister. Let the hon. Minister think of it and let him withdraw this Bill. Let him have a comprehensive Bill that for the whole of India, the Railway Police must be in the hands of the Union Government and that it should be maintained by the Union Government. Let the law be amended; let a proper law be made. Let every prosecution and every trial take place at the Centre either under the charge of Home Ministry or Railway Ministry. Then and then alone, we can come to this. Otherwise, there will be conflict between the Railway Police Force and the State Police and there will be a lot of fustle between them. Then, instead of one, there will be thieves entering into competition with each other in depriving the Railways of their railway property. That is there.

I, therefore, say, apart from the defects that can be pointed out at one stage or the other in the various provisions of this Bill, the very fundamentals of this Bill are wrong in principle, wrong in jurisprudence, and illegal and unconstitutional and the very conflict between the two sections will take place and that will create positions of *ultra vires* nature in this matter. I most emphatically submit to my hon. friend, Mr. Patil—all of them, are good and kind to me—and tell them let this Bill be withdrawn and let us come to the conclusion that this is not the law which is meant for removing the evil that is there.

Mr. Deputy-Speaker: Shri S. K. Patil.

श्री श्री लिंगरे (मुंगेर) : अध्यक्ष महोदय, मेरा व्यवस्था का प्रश्न है। 376 और 340 के अन्तर्गत मैं स्थगन प्रस्ताव पेश कर रहा हूँ। यह 340 नियम इस प्रकार है :

"At any time after a motion has been made, a member may move that the debate on the motion be adjourned."

अब इस वक्त सदन के सामने निम्न-लिखित प्रस्ताव है जो कि आर्डर पेपर 14वां आईटम है देख लीजिए :

"Further consideration of the following motion moved by Shri S. K. Patil on the 3rd September, 1966, namely:—

"That the Bill to consolidate and amend the law relating to unlawful possession of railway property, as passed by Rajya Sabha, be taken into consideration."

मैं स्थगन प्रस्ताव 340 नियम के मातहत इस लिए पेश कर रहा हूँ कि आज दोपहर ... (व्यवधान) ... आज दाजी साहब ने सवाल उठाया था, श्री चन्द प्यारे लाल कम्पनी का मामला और थिनिंग कम्पनी का मामला उठाया था।

Mr. Deputy-Speaker: This has nothing to do with that. I do not allow it.

श्री मन्त्रु लिंगरे : मैं आपको बता रहा हूँ।

Mr. Deputy-Speaker: I am sorry. I do not allow it.

श्री मन्त्रु लिंगरे : मैं एक मिनट से ज्यादा समय नहीं लूंगा ... (व्यवधान) ... यह रेलवे की जायदाद की रक्षा करने के लिए विधेयक लाया गया है। लेकिन हिन्दुस्तान को वित्तीय घाटे में डालने की जिम्मेदारी 1641 (A) LSD—5

जो मौजूदा रेल मंत्री हैं, उन पर है, जब वह खाद्य मंत्री थे उस जमाने में जो घाटा हुआ है और देश का जो नुकसान हुआ है, उन के बारे में तो मंत्री महोदय की सफाई आयी नहीं ...

Shri S. K. Patil: What you have not allowed, the hon. Member is bringing it again. It is thoroughly out of order.

श्री मन्त्रु लिंगरे : तो इसलिए 'अध्यक्ष महोदय, वह इस बिल पर कैसे बोल सकते हैं, यह मेरी समझ में नहीं आता। इसलिए चर्चा मेरा स्थगन का प्रस्ताव है, उस पर आप बहस करवाइए और वोट लीजिए।

Mr. Deputy-Speaker: Rule 340 does not apply to this. It has no relevance. I do not accept the motion. Shri Patil.

श्री मन्त्रु लिंगरे : स्थगन प्रस्ताव तो लीजिए।

Mr. Deputy-Speaker: I am not allowing it. Rule 340 does not apply here.

श्री मन्त्रु लिंगरे : स्थगन प्रस्ताव नहीं लेंगे ? रूल्स आफ प्रोसीजर का पालन नहीं होगा ? नियमों का तो पालन होना चाहिए। आप प्रस्ताव पर वोट लीजिए।

Shri S. K. Patil: Sir, in respect of this Bill that has been considered today, several amendments have been moved and several difficulties have been pointed out. I was very carefully listening to my hon. friend, Shri Trivedi, that there might be some difficulties arising out of this particular enactment when it is passed. So also there have been arguments made by people who I presume may have been lawyers sometimes in their lives but have completely forgotten their law that this is against the Constitution. If there is any Bill against the Constitution, even if this House passes it, then also it can go.

An hon. Member: You are not a lawyer.

Shri S. K. Patil: I am glad I am not a lawyer. It is much better not to be a lawyer than to be a lawyer of this type.

Shri Priya Gupta: Don't call us liar. . . (Interruption).

श्री राम सेवक यादव : अध्यक्ष महोदय, इस सदन में झूठ शब्द वापस लिया गया है। मेरा व्यवस्था का प्रश्न है, झूठ शब्द जो इस्तेमाल किया है वह वापस लिया जाये। . . . (व्यवधान) . . . अध्यक्ष महोदय, आप सुनते नहीं ?

Mr. Deputy-Speaker: There cannot be a point of order here. He is replying to the debate.

Shri Bade: Did he mean a lawyer or liar? There is a difference. . . (Interruption).

Shri Ram Sewak Yadav: He must withdraw that.

Shri Priya Gupta: He has called us a liar.

Shri S. K. Patil: I never said liar. I am never capable of saying that. . . (Interruption).

Mr. Deputy-Speaker: Order, order. I have heard him saying lawyer. The hon. Minister may continue.

Shri S. K. Patil: These points have been raised and the people have to shout loud when they have nothing to defend their case with. There are one or two very substantial things that have been suggested. To that also, I shall address myself. . . (Interruption).

Mr. Deputy-Speaker: There should be no running commentary.

Shri S. K. Patil: The constitutional position concerned is under Schedule

VII. This House and the Railways have got the competence to have a law of this nature. As to whether it will ultimately conflict with the G.R.P. and the Criminal Procedure Code, etc. is a point that is now raised by Shri Trivedi. Had he really done it a couple of days ago, I could have given further thought to that question—I do not find it myself; I am not doing it—but I can assure him of one thing. If it is found in the exercise of this enactment that any such thing is likely to occur, either I will come forward to amend it or to withdraw it if becomes necessary. With that assurance I am not withdrawing it.

Shri Nambiar: Is he postponing it?

Shri S. K. Patil: I am not even postponing it.

There have been questions as to why there should be two parallel authorities, why, when there are a Criminal Procedure Code and the Police of the State, should we do it? We have been doing it in many things e.g. in Customs and Excise. This is not the first time. We have got a much larger jurisdiction than the Customs and the Excise. And the only point, which is limited, is this: that under the R.P.F. Act, we have those powers, but we are wanting to extend them to take them to their logical sequence, namely, if they have got to be effective, then these powers of investigation and inquiry have got to be given. There is nothing beyond that that is intended. Therefore, there is no duplication of powers and to say that there is a duplication of powers, etc., is something which is not correct. (Interruptions).

Shri Priya Gupta: This is a wrong argument.

Mr. Deputy-Speaker: He must hear the argument. Please sit down. (Interruption). He should not shout like this.

Shri S. K. Patil: The hon. Member has to shout because there is no substance in what he says.

A point has been raised by Mr. Rane and also by many other members, but I find that that is not within the purview of this Bill. The object of the Bill is this: the R.P.F. is to protect the Railway property; they have to guard it, but they have no powers of investigation and inquiry; therefore, to give them those powers, this enactment has been brought. But the question which the hon. Member has raised—several other members have also raised it—is that there is so much of vandalism and there is so much of destruction of property of Railways for whatever reason. Let us remember that in very many cases, there are political reasons and not any other; they are not the ordinary dacoits, they are not the ordinary thieves; they are a very sophisticated type of dacoits and thieves who sometimes do this destruction and vandalism. There ought to be a remedy in order that the railway property, which is a national property, is protected. But the object of this Bill is not that. That is going far beyond this particular scope, which is a very limited one, i.e., the scope of this particular enactment is very limited. But something is necessary for that also because this trade goes on increasing day by day. When they have nothing else to do, they do this; they are not brave people; they do something which is immediately possible—set fire to it—because nobody looks at it, because there is no police nearby. Only cowards do such things; brave people do not do such things. (*Interruptions*).

Shri Nambiar rose—

15.29 hrs.

[**SHRI SHAM LAL SARAF in the Chair**]

Shri S. K. Patil: The hon. Member is not a coward. What I am saying is this. Because railway property is lying everywhere on our tracks which

are 50,000 kilometres and there is no Police everywhere to guard it, when these people, whom I have just described, have nothing else to do, they are doing this. How this railway property is to be protected against that kind of vandalism is a question that has been engaging my attention for a long time. During the last two years and a little more that I have been the Minister, property worth more than a couple of crores of rupees have been destroyed purely out of vandalism. That is not an act of bravery; I do not find any bravery in that. It is a property that belongs to the nation, including the members of the Opposition, including every member of every party, whether in this House or outside. It should be regarded as sacred because that does not justify anything, that does not prove anything—the destruction of property or anything like that. Therefore, this whole question has got to be investigated and proper laws made to stop this. There must be powers that if anybody is really trying to do it, he must be shot at sight; otherwise, these things will never disappear. But those powers are quite different from the one that we are thinking of having today because this particular Bill, this particular enactment, does not concern that. Its purview is very much limited, i.e., of investigation and inquiry of the cases that are ordinarily committed. It is a little extension of the same Act which is there. (*Interruptions*). Therefore, the Railway Ministry is thinking for a long time of appointing a high-powered committee—this is a pronouncement that I am making—to go into all aspects of the working of the Protection Force and the policing on the Railways. Some Members of Parliament—it is my desire—should also be associated with that inquiry. I am not naming the members of the Committee today because in due course such an announcement would be made. My colleague, Dr. Ram Subhag Singh will be the Chairman of this Committee. It is absolutely necessary in order to put a

[Shri S. K. Patil]

stop this, but that is something which is outside the purview, as I said, of this particular enactment.

All the amendments that have been moved are under a mistaken notion that this takes the place of G.R.P. or conflicts with G.R.P. Since it is not so, I am not accepting them.

There are others who asked why there should be such a punishment; they said that it was too severe a punishment. This is a different kind of offence; it is not an ordinary offence that you are dealing with. There are things which either belong to the Railways or are entrusted to the care of the Railways, and here are people who do not recognise this; while the train is running or while the train is stationary, the thefts are taking place. If for taking cognisance of the offences warrants are to be secured, then what would happen? Somebody who has taken it had already gone and you sit down, then go to the Magistrate, bring the warrant and do things like that. That is not exactly the purpose for which the legislation has been brought. If there are any anomalies, if there are any excesses as a consequence of the functioning of this enactment, surely this House will be able to amend it or annul it or do anything like that. What I am saying is this. If we really want that it should be a deterrent, it should be a deterrent. Do not call it a deterrent and then go on watering it down, so that the man can do it as much as he likes.

A question was raised by one of my hon. friends whether we keep a list of the offenders. May I tell him that in many laws, not only in this, there are provisions of this description; what should be the punishment for the first offence, what should be the punishment for the second offence and so on. Then surely somebody is making a list of it and it may sometimes escape the attention. The hon. Member need not be afraid that if

he commits the offence for the second time, he will be forgotten or forgiven about it.

Shri Nambiar: I rise on a point of order.

Mr. Chairman: There is no point of order now.

Shri S. K. Patil: There is no point here. I am quite sure that the hon. Member is good enough; he has been a railway servant for a long time; we are glad that there is some knowledgeable person sitting in this House who knows the Railways and possibly knows it on both the sides—the good points as well as the bad points of the Railways. So, it is something that I must treat him with respect and that is the respect I am giving.

Therefore, there will be a note of it and if a man commits the offence for the second time, he will be duly punished.

I do not want to take the time of the House. I am not accepting any amendment whatsoever. I commend this Bill.

Mr. Chairman: Mr. Priya Gupta.

Shri Nambiar: I rise on a point of order. During the course of his speech . . .

Mr. Chairman: I am calling Mr. Priya Gupta.

Shri Priya Gupta: When he presented the Bill, he said that it was for the purpose of . . .

Mr. Chairman: What is his point of order?

Shri Priya Gupta: Kindly allow me, Sir. (*Interruptions*).

Mr. Chairman: In case he has any point of order to raise under some rule, he can let me know and I will certainly allow him.

Shri Priya Gupta: May I submit in all humility one thing?

Mr. Chairman: He may submit without humility.

Shri Priya Gupta: My whole submission is this. When the Bill was presented, it was said that the purpose was to punish those who are in unlawful possession of railway property. Now he is talking about vandalism, destruction of railway property and attacks by others. It is not a question of possession of railway property; when a man comes and destroys a thing, he does not take it and go away. Vandalism is an act of destruction and he is giving the argument of vandalism, etc., just to carry the sentiments of this House and to get the Bill passed. Without any proper argument, he wants to get the Bill passed.

Shri Nambiar: My point of order is a very clear one. While the hon. Minister was replying, he mentioned that if the hon. Member who had spoken just then committed the offence for a second time it would be kept on record and proper punishment would be meted out. That was a sort of insinuation. In fact, it was not only an insinuation but a sort of threat against the Member who spoke against the Bill. Therefore, that remark must be either withdrawn or it should be expunged.

Mr. Chairman: Shri Priya Gupta has raised no point of order.

As far as Shri Nambiar's point is concerned, I myself had heard the hon. Minister when he was speaking, and I can say that the hon. Minister did not say so in the context in which the hon. Member is alleging now. The context in which he said it was quite in order. Therefore, there is no point of order.

Shri Priya Gupta: Your ruling is that it is not an insinuation?

Shri Bade: I want to put only one question to the hon. Minister. I thought that he would clear this point in his speech, because he attacked the profession of lawyers and he had said at the same time that he was not a lawyer himself. But he has not explained the difficulties felt by two or three eminent lawyers and which they have placed before him.

In clause 5, the offence is not made cognizable, whereas in clause 6 it is made cognizable, which means that even a superior officer can arrest the culprit. But in the case of offences which are not cognizable, even the highest officer of the State or the Central Government cannot arrest culprit. How can the hon. Minister reconcile these two provisions? That is my difficulty.

Mr. Chairman: The hon. Minister may keep this in mind now. He need not reply to it just now. When the clause is taken up, he may clear this point.

Shri Kapur Singh (Ludhiana): I just want to submit one thing on the point which was just now made by my hon. friend over there about certain remarks made by the hon. Minister of Railways.

Mr. Chairman: I have already given my ruling on that.

Shri Kapur Singh: What you have said does not amount to a complete vindication of the point which he has sought to make out.

Mr. Chairman: Let us leave it for a future time.

Shri Kapur Singh: It was certainly not in the best of tastes and it should not have been said. That is all that I want to say.

Shri Nambiar: Because the Chairman had given his ruling I had kept quiet. Otherwise, I also had my grievance.

Mr. Chairman: The question is.

"That the Bill to consolidate and amend the law relating to unlawful possession of railway property, as passed by Rajya Sabha, be taken into consideration."

The motion was adopted.

Mr. Chairman: We shall now take up the clauses.

Clause 2—(Definitions)

Shri Nambiar: I beg to move:

Page 2, line 8, add at the end:

"but not the tools, spare parts of no material value, and such other implements of day to day work by railwaymen." (1)

Shri U. M. Trivedi: I have also tabled some amendments.

Mr. Chairman: Under rule 79(1), the amendments that the hon Member Shri U. M. Trivedi has tabled have not been given proper notice of; the notice has not been in time. So, those amendments are not acceptable.

Shri U. M. Trivedi: I think they could be allowed.

Mr. Chairman: Under rule 79, they are not acceptable.

Shri U. M. Trivedi: Why are they not acceptable? There is no question of the rule here. These amendments can always be allowed by the Speaker or by the Chair as soon as they are tabled. I had given notice of them in the morning before the discussion had begun here, and, therefore, I must have the right to move my amendments. You can always waive that rule.

Mr. Chairman: Rule 79 (1) says.

"If notice of an amendment to a clause or schedule of the Bill has not been given one day before the day on which the Bill is to be considered, any member may object to the moving of the amendment, and such objection shall prevail, unless the Speaker allows the amendment to be moved."

My information is that the Speaker has not permitted them to be moved.

Shri U. M. Trivedi: It is not the Speaker that has to permit but the Chair.

Mr. Chairman: I am sorry. I have already given my ruling.

Shri U. M. Trivedi: If you do not want to allow those amendments, that is a different matter. But it is not a question of the Speaker giving some ruling in the abstract, but it is for the Chair to do so.

Mr. Chairman: Anyway, I have said what I have had to say on that, and, therefore, that should stand.

Now, Shri Nambiar has moved his amendment, and that amendment is now before the House.

Shri Nambiar: Clause 2 (d) defines 'railway property' as follows:

"railway property" includes any goods, money or valuable security or animal belonging to, or in the charge or possession of, a railway administration."

I want that the following words should be added at the end, namely:

"but not the tools, spare parts of no material value, and such other implements of day to day work by railwaymen."

Under the definition as it stands, railway property means any property of the railways. My difficulty is this. I am not arguing for argument's sake, but I am only pointing out the real difficulties which the working railwaymen would feel and which I suggest we should remove.

Now, a railway employee may take a tool after his work is over, to his house; he takes the tool and goes home after the work is over, at five o'clock or seven o'clock; he may not be able to deposit it in the tool-box or in the tool-room, and so he will have to take it home and he will have to keep it with him and bring it back with him the next day when he comes for work.

Shri Priya Gupta : Even spare parts.

Shri Nambiar : Now, that tool or spare part which he is taking home is railway property. Anybody who is not in good terms with that railway employee may go to the police station or to the Railway Protection Force and say 'Here is railway property which is in the possession of this railwayman, a gangman or whomsoever he may be', and get a police constable to have that man arrested.

Clause 6, which is the main provision or the king-pin of this Bill provides that:

"Any superior officer or member of the Force may, without an order from a Magistrate and without a warrant, arrest any person who has been concerned in an offence punishable under this Act or against whom a reasonable suspicion exists of his having been so concerned."

Under this clause, even a Railway Protection Force constable can arrest that man; he need not go to a magistrate for a warrant; he need not go to anybody for any help; he can himself arrest that person, because it is said that any superior officer or member of the Force can do so; it means that any constable is enough for the purpose, and he can straightway go and arrest this railwayman and put him under lock-up.

Dr. M. S. Aney (Nagpur) : The Railway property in his house is presumed to be stolen property.

Shri Nambiar : My point is that the term 'railway property' has not been defined properly. I want that it should be defined very clearly. Under this definition, 'railway property' can mean any of the things which can be considered as tools which are in day-to-day use by the railwaymen.

Dr. M. S. Aney : First, the Railway-tools are presumed to be stolen property; then only the man can be arrested.

Shri Nambiar : My point is this. The railway employees are doing work and they have to carry tools with them. Railways are not a factory within four walls. Railways are spread throughout the country.

Mr. Chairman : The hon. Member is repeating the same thing.

Shri Nambiar : The employees have to carry tools, sometimes, to their houses. Therefore, my submission is that the term 'railway property' has not been properly defined here.

Dr. M. S. Aney : They can take them home with the permission of the officer.

Shri Nambiar : I am bringing this point before the House because I know several cases out of my own personal experience where I have seen this kind of difficulty being experienced by railwaymen. Railway employees who go out of the workshop after their duty....

Mr. Chairman : He has made his point.

Shri Nambiar : It is not only tools that are involved in this. There are cases where when the railway employees return from their work in the workshop they carry their tiffin carrier with them. Anybody who wants to implicate a particular employee who carries his tiffin carrier may put a nut or a bolt inside the tiffin carrier. At the gate, these may be confiscated by the security staff and the man may be immediately arrested and kept under detention. Formerly, if the railway employee takes out a tool and is caught by the RPF, he has to be produced before a police officer and the police officer has to prosecute the case. Hereafter the necessity of taking him to the police officer is dispensed with. The RPF man himself can do the havoc. Therefore, it will be all the more possible for the RPF to humiliate and harass ordinary railwaymen on the plea of preventing thefts.

[Shri Nambiar]

Therefore, I say that the term 'railway property' has to be properly defined. This is lacking in the definition as it stands.

Shri S. K. Patil: I have nothing to add to what I have said. I oppose the amendment.

Mr. Chairman: The question is:

"Page 2, line 8,—add at the end—
"but not the tools, spare parts of
no material value, and such other
implements of day to day work by
railwaymen'." (1)

The Lok Sabha divided:

Division No. 31]

AYES

[15-51 hrs.

Bade, Shri
Bheel, Shri P. H.
Kandappa, Shri
Kapoor Singh, Shri
Laxmi Dass, Shri

Nambiar, Shri
Ramabadrán, Shri
Ranga, Shri
Sezhian, Shri
Trivedi, Shri U. M.

Umanath, Shri R.
Vishram Prasad, Shri
Warior, Shri
Yadav, Shri Ram Sevak
Yudhvir Singh, Shri

NOES

Akkamma Devi, Shrimati
Aney, Dr. M. S.
Azad, Shri Bhagwat Jha
Babunath Singh, Shri
Balkrishna Singh, Shri
Basappa, Shri
Baswant, Shri
Besra, Shri
Bhatkar, Shri
Chandrabhan Singh, Shri
Chaudhuri, Shri D. S.
Chaudhuri, Shrimati Kamala
Dafle, Shri
Daljit Singh, Shri
Das, Shri N. T.
Das, Shri Sudhansu
Dashmukh, Shri B. D.
Dixit, Shri G. N.
Elayaperumal Shri
Gowdh, Shri
Gupta, Shri Badahah
Hanada, Shri Subodh
Harvani, Shri Ansar
Hazarika, Shri J. N.
Hem Raj, Shri
Kisan Veer, Shri
Kureel, Shri B. N.
Lakshmikanthamma, Shrimati
Lalit Sen, Shri
Mali Mariyappa, Shri
Mallick, Shri Rama Chandra
Mandal, Dr. P.
Maniyagadan, Shri

Mantri, Shri D. D.
Marandi, Shri
Mehrotra, Shri Braj Bihari
Mehta, Shri Jaahvant
Mishra, Shri Bibhuti
Misra, Shri Mahesh Dutta
Misra, Shri Shyam Dhar
Mohanty, Shri Gokulananda
More, Shri K. L.
Munzini, Shri David
Muthiah, Shri
Nanda, Shri
Naskar, Shri P. S.
Pandey, Shri R. S.
Pant, Shri K. C.
Patel, Shri Rajeshwar
Patil, Shri M. B.
Patil, Shri S. B.
Patil, Shri S. K.
Patnaik, Shri B. C.
Pratap Singh, Shri
Puri, Shri D. D.
Rai, Shrimati Sahodra Bai
Rajdeo Singh, Shri
Raju, Shri D. B.
Ram Sevak, Shri
Ram Subhag Singh, Dr.
Ramanathan Chettiar, Shri R.
Rane, Shri
Ranjit Singh, Shri
Rao, Shri Muthyal
Rao, Shri Rajagopala

Rao, Shri Ramapathi
Rao, Shri Rameshwar
Rao, Shri Thirumala
Roy, Shri Bishwanath
Sadhu Ram, Shri
Saha, Dr. S. K.
Saigal, Shri A. S.
Samanta, Shri S. C.
Satyabhama Devi, Shrimati
Shah, Shrimati Jayaben
Sham Nath, Shri
Shankaraiya, Shri
Sharma, Shri A. P.
Sharma, Shri D. C.
Sbeo Narain, Shri
Shinde, Shri
Shree Narayan Dass, Shri
Shyam Kumari Devi, Shrimati
Siddananappa, Shri
Siddhanti, Shri Jagdev Singh
Siddheshwar Prasad, Shri
Soy, Shri H. C.
Swamy, Shri M. P.
Tiworthy, Shri D. N.
Tiworthy, Shri K. N.
Tula Ram, Shri
Tyagi, Shri
Upadhyaya, Shri Shiva Dutt
Vaishya, Shri M. B.
Veerabhasappa, Shri
Vidyalankar, Shri A. N.
Wadiwa, Shri

Mr. Chairman: The result of the
division is: Ayes 15; Noes 97.

The motion was negatived.

Mr. Chairman: The question is:

"That clause 2 stand part of the
Bill".

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3—(Penalty for unlawful possession of railway property)

Shri Nambiar : I beg to move.

- (i) Page 2, lines 18 and 19,—omit, "unless he proves that the railway property came into his possession lawfully," (2)

(ii) Page 2,

- (i) line 21,—for "five years" substitute "one year".

- (ii) lines 21 to 25,—omit—"and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees"(3)

(iii) Page 2—

- (i) line 27,—for "five" substitute "two".

- (ii) lines 28 to 31,—omit—"and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees".(4)

In order that my first amendment may be properly understood, I shall read out the first portion of the clause.

"Whoever is found, or is proved to have been, in possession of any railway property reasonably suspected of having been stolen or unlawfully obtained shall, unless he proves that the railway property came into his possession lawfully, be punishable . . ."

I seek the deletion of the phrase unless he proves that the railway property came into his possession lawfully'. Otherwise, it will be the responsibility of the accused to prove that he got the property lawfully. According to the normal law of the land, it should be the responsibility of the prosecution to prove that he unlawfully

possessed the property. I know railway properties are being sold in auction in the open market. They are available throughout the country and everybody who is connected with railways may purchase such property. Once such property is purchased, property such as scrap iron or rails or other items, the purchaser stocks it at a place and uses it. Subsequently, after two or three years, the RPF may come and charge the person with having stolen the property and say 'You prove that you came into possession of this property lawfully'. He cannot prove it after three or four years; the receipt may have been lost or not traceable; still all the property might not have been utilised by him. Therefore, when a prosecution is launched against him, the onus must lie on the prosecution to prove that he unlawfully possessed it. That is the normal law of the land. Why should this person who holds the property go to the court and prove that he purchased this property through lawful authority? Whatever provision is made here must be in consonance with the law of the land, the Criminal Procedure Code. Why should there be a different procedure in this case? Hence this amendment.

Shri Tyagi (Dehra Dun) : According to the hon. Member, if any stolen property is found out after three or four years, he must be allowed to keep it?

Shri Nambiar : My amendment only says that the onus of proof should lie on the prosecution. Otherwise, it will be putting the law in reverse order, making the so-called accused answer the charge and prove as to how he came into possession of it.

Prima facie it must be the responsibility on the side of the prosecutor to prove it.

Dr. M. S. Aney : I have one reply to give him. If he proves that it is railway property, he has proved everything.

Shri Nambiar : My next amendment is this.

Shri U. M. Trivedi: I wish to speak on his first amendment. The first amendment must be taken up first.

Mr. Chairman: There are four amendments. Let all these be taken together.

Shri U. M. Trivedi: It will not be possible. Moving is all right, but once we are taking of the onus of proof or burden of proof upon a particular person, that is a principle of law which is involved so far as this particular amendment is concerned, and I will apply my mind only to this.

I would have readily agreed even to this proposition that a presumption may be made against the accused on the ground that it is railway property, and if the railway property is marked then the presumption would have been easier, but what has happened in this case is this. The definition of railway property today has been widened and widened in this sense that railway property includes any goods, money or valuable security or animal belonging to, or in the charge or possession of, a railway administration. That is to say, any commodity, merchandise, passing on the railway and carried by the railway may have marks of a different variety, or may have no marks, it might be bulk. If it is such a bulk and if the presumption is drawn against a person that he is in unlawful possession of it, then difficulty will arise. It is quite true that this principle would have worked and would have applied if it related to railway property which is so identifiable, but where the railway property includes things which are being handled or are in the charge of the railways, the railways are trustees of that property, the railway as a carrier is in possession of the property, and if an offence is made out, the difficulty will be to establish that the person has come in possession of it by lawful means. That is not possible. Each one of us is likely to be involved.

We purchase some wheat and some railway officer comes and says this wheat must have come from the

godown of the railway, you prove it. It will be a very difficult problem for each one of us to meet this type of charge. Ordinarily, under the Evidence Act, the possession of a stolen property can be presumed against an accused person, but the possession of other property cannot be presumed to be that of stolen property.

I think the amendment of Mr. Nambiar requires proper consideration. This is a very important principle of law and this will create difficulties of an unprecedented nature in view of the fact that the railway property defined under this Act is not railway property identifiable by any marks.

Shri Bade: There is one more question. While not agreeing with Mr. Nambiar, and with due respect to my leader, I have got one difficulty. I want to ask the Railway Minister this question. While proving the offence in the court, you are to prove in the beginning that it is railway property, that is in charge of or in the possession of the railway administration, and once you prove that it is the property of or in charge of the railway administration or in railway possession, then the burden of proof is on the accused. If that is the meaning given here . . .

Shri Nambiar: That is not given.

Shri Bade: Then, of course, even my leader Mr. Trivedi, may not have any objection, but even that is not clear here. Is that the meaning? The Railway may clarify.

Shri Nambiar rose—

Mr. Chairman: Mr. Nambiar has spoken.

Shri Nambiar: I have to speak on the other amendments.

Mr. Chairman: Why did you not speak then?

16 hrs.

Shri Nambiar: Then objection came I do not have much argument except to explain.

In clause 3(a), for the first offence, for imprisonment of five years I have substituted one year. If a first offence has got any meaning, then five years should not come there, it must be one year. For the second offence, he again says five years. What is the distinction he makes between the first offence and second offence? Therefore, I have substituted one year for the first offence and two years for the second offence.

Clause 3(a) says:

"for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both. . .

then comes extraneous matter—

"... and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees."

This addition is a directive which is given to the Judge. We are now telling the Judge that he should not give any punishment which is less than one year, and if at all he is giving only one year's punishment, he must give reasons for that. Why should you feller the hands of a Judge, who is going to decide the case? This leaves a very bad taste, and is very bad in the sense that you are now dictating terms even to the Judge as to how he must write his judgment. If at all you mean to have rule of law, then have the rule of law. If you want to have the rule of Mr. Patil, as Mr. Patil's law, then let it come. With all respect to the hon. Minister, I can understand a particular codification or jurisprudence or law being enacted by Mr. Patil.

Mr. Chairman: Please speak strictly on the Bill.

Shri Nambiar: Therefore, you should remove this. After my amendment, the clause will read like this:

"(a) for the first offence, with imprisonment for a term which may extend to one year, or with fine, or with both;

(b) for the second or subsequent offence, with imprisonment for a term which may extend to two years and also with fine."

Do not dictate terms to the Judge, this is my point. This he can accept.

Shri U. M. Trivedi: Here also, although Mr. Nambiar's argument is a limited one, my point is very simple. I say that we have got the normal law. In the Criminal Procedure Code also there is a provision that the first offender cannot be sentenced to imprisonment if he is of a particular age. We have got another law, which is known as the Probation of Offenders Act. Under that law also, the first offender under a particular age and of a particular age cannot be sentenced. The general law of our land and the principle of interpretation of law is that a special law does not derogate from the general law. If that is the position, this provision of law is redundant and such redundancy must not be created in law. When it is an offence relating to property easily identifiable with sections 379 or 380 of the IPC, for identical offences making a discrimination without reasonable grounds and providing for the first offence and other offences different sentences of five years is illegal. This legislature should not make illegal laws which are illegal *ab initio*. The Home Minister is here and the Law Minister may also be called for and asked to submit his opinion whether such a law could be enacted in this House; we should not enact this law knowing that it is an illegality in itself. Therefore, I say that this sub-clause must be omitted and there must be a general provision where there should not be such a heavy fine. Our Cr.P.C. and I.P.C. say that if the offence is of a particular type the sentence can be such, the fine can go up to a particular amount. That is a very wise piece of legislation which had stood the test of time and it should not be interfered with simply some sentiments of ours come into conflict with the ideas of anti social activi-

[Shri U. M. Trivedi.]

ties of human beings. Anti-social activities exist; thieves are thieves and they will remain thieves for all times to come. Social activities will not change them; More deterrent punishments will not do and in the present stage of penology such sentences are not inflicted.

Shri D. C. Sharma (Gurdaspur) : Sir, I must admit that the gentlemen who had argued about this clause from the other side have taken into account a hypothetical case, a hypothetical person and a hypothetical court . . . (Interruptions.) They have also taken into account an imaginary person and some imaginary judge awarding an imaginary sentence to an imaginary criminal . . . (Interruptions.) have heard you patiently. Does a law deal with imagination or hypothesis or does it deal with facts? I think it deals with facts and if so, this clause is perfectly right.

The hon. Minister has said that this Bill is brought into act as a deterrent to anti social offences. If you accept the plea of Mr. Nambiar the very basis of this Bill is gone. If there is not to be deterrent punishment, it will become a namely pamby, woolly Bill. Do I want it to be like that— Certainly not.

They say that this Bill gives direction to the judge. Well, what is our IPC and Cr.P.C.? They are in the nature of directions That is all that is being done in this Bill. You can award a person five years imprisonment. You can also fine him Rs. 1,000. Or there can be both. If you do not give this punishment, and you give less, you can give reasons. What is wrong with it? I think we are giving the judge discretion and why should it be objected to?

It has been said that one year should be for the first offence and two years for the second offence. I do not think that this should be done. According to Mr. Nambiar, a very good friend of mine (An Hon Member: Not very good) this Bill should be withdrawn. But we have not withdrawn this Bill. I believe that the provisions contained in clause 3 of this Bill are very whole-

some and will serve a very useful purpose and the amendments proposed by Mr. Nambiar are the result of heated imagination and not of cool judgment and therefore these amendments should be withdrawn.

Shri S. K. Patil : I would first take up clause 3(a) and (b) and then I would reply to the other part The first amendment of Mr. Niambar says that five years is too much. Five years is the longest sentence; that is the farthest limit to which a judge can go. But so far as the first offence is concerned, the minimum punishment is one year and Rs. 1,000; for the second offence, 2 years and Rs. 2,000 rupees. Therefore, the five years need not create difficulty. So, it can remain as it is. If there is anything wrong, Acts are always amended. I am saying this to Mr. Trivedi for whose judicial knowledge I have got the greatest respect, that the maximum is the same but the minimum is different. If there is any lacuna it can be corrected. But five years is the farthest; it is the ceiling; more than five years could not be given. But the minimum is one year and Rs. 1,000 and then two years and Rs. 2,000.

So far as the other amendment is concerned, this clause reads: "Whoever is found or is proved to have been, in possession of any railway property reasonably suspected of having been stolen or unlawfully obtained shall . . . be punishable—" That is the onus of proving that it is railway property is on the railways. Shri Trivedi spoke and Shri Nambiar also spoke. The reply was given by Mr. Bade. I welcome his speech because he come to my rescue; it shows his legal talent. After the railways charge a man; they have to prove that it is railway property. It does not end with the railways; it is before a magistrate. It is not a kind of common property bought from some one man as has been said because all consignments have railway markings which are given at the time of consigning or booking. It is possible that criminals may remove those markings but in many cases the markings may be there, If they

are there, there is no difficulty to prove that it is railway property.

Shri Ranga: It must be stated then.

Shri S. K. Patil: It need not be stated. It is not like any property that any respectable citizen will possess. It has not happened and that cannot happen. It is railway's responsibility to prove that it is railway property when it goes to the magistrate. That cannot be changed by any law by us. I would appeal to them to give a chance for this enactment to operate and to find out whether there are any questions of this type which arise. I give this assurance on the floor of this House and if it is found to be there, I shall myself come forward to amend this enactment. I am unable to accept these amendments.

Mr. Chairman: You present your amendments 2, 3 and 4. I shall put all of them.

Shri Ranga (Chittoor): Put the first amendment first.

Mr. Chairman: I shall put the amendments one after the other. I shall put first amendment No. 2 to the vote.

Amendment No. 2 was put and negatived.

Mr. Chairman: I shall now put amendment No. 3 to the vote.

Amendment No. 3 was put and negatived.

Mr. Chairman: I shall now put amendment No. 4 to the vote.

Amendment No. 4 was put and negatived.

Mr. Chairman: Now, I shall put the clause to the vote. The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill.

Clause 4—Punishment for connivance offences)

Mr. Chairman: There are no amendments to this clause.

Shri Nambiar: I do not have any amendments to this clause but I have some remarks to make on this clause. If I bring an amendment, again this feeling of dejection or rather disapproval of whatever amendment that I bring, is expressed and the hon. Minister therefore does not want to agree to the amendments. Therefore, I have not brought in any amendment to this clause.

This clause is very ambiguous and is very badly worded. I shall read it:

"Any owner or occupier of land or building, or any agent of such owner or occupier in charge of the management of that land or building, who wilfully connives at an offence against the provisions of this Act, shall be punishable with imprisonment for a term which may extend to five years, or with fine, or with both."

This is very sweeping.

Mr. Chairman: Are you giving your own version of the clause? I am not suggesting any; I am just putting a question.

Shri Nambiar: I am opposing this clause. Now, not only "any owner or occupier of land or building" but "any agent of such owner or occupier" shall be punishable. All these people are covered in this provision. It is something like the hand or the tentacles of an octopus stretched all over the world or at least all over our country so that they can find fault at anybody at any corner and haul him up. And then who is to haul up such people? Not even an officer; any constable or any person of that rank in the RPF is enough to do that.

[Shri Nambiar]

He can enter the building and arrest anybody! This is something unknown. Why should such a sweeping provision be brought in? If there is theft, you must stop it and punish the thief. I can understand that. For that, you cannot make a law so comprehensive, so omnipotent and omnipresent. That is unknown, and it cannot be accepted. So, it will be graceful on the part of the hon. Minister if he brings an amendment and puts the clause in the normal way. As it is, it is an abnormal clause. Therefore, I humbly submit that the hon. Members, without considering party affiliations and realising that this is a clause which is so worded that it may be challenged in the courts tomorrow, will kindly make the hon. Minister bring in certain necessary amendments, or, if he does not do it, I would request hon. Members and the hon. House to reject this clause.

Shri Bade: With all respect, I disagree with my hon. friend Shri Nambiar, because, if the law is there it should be all pervading. It should be complete. There should be no lacuna. If there is a lacuna then there is no law. Here the words are "wilfully connives". It is very difficult to prove in the court that a person connives wilfully, as in so many cases and particularly the excise cases. This will defeat the provisions of clause 4. When I read this section, I thought it was a very good thing for the lawyer or the advocate to plead that this is such and such a thing and that the person has not wilfully connived. If you are asking the prosecution to prove it, the prosecution miserably fails when the onus is on them to prove that a person wilfully connives. I request Shri Nambiar that he should not be afraid in this case. On the contrary he should thank the hon. Minister Shri S. K. Patil for using the words "wilfully connives".

Shri Heda (Nizamabad): Sir, if you look into the conditions of the

country today, the fact remains that persons are present at the time when the offence takes place. Many times the people are present and they see that the offence is taking place before their eyes, but they do not want to interfere with it and they think that it is wise to remain aloof. This is very derogatory to the progress in any established society. From this angle, if the owner or the occupier of the land in whose presence the offence takes place connives at it and keeps quiet and does not help the law, it is just possible that there may be proceedings against him. This will be such a deterrent on him that he will not allow any offence to take place. This will be helpful not only to the proper conduct of the law but also to the people who feel that they can do anything they like. Therefore, this provision is good.

So far as the punishment is concerned, the person will not be punished unless he wilfully connives. It is not easy to prove, as Shri Bade said, wilful connivance. Therefore, this clause is nicely drafted and is necessary.

Shri U. M. Trivedi: When I look into clause 4, I feel that there is no necessity for this provision. The Indian Penal Code provides for abetment; if it is a question of abetment in taking away any stolen property, then the offence of abetment can be there.

Shri Heda: There is a difference between connivance and abetment.

Shri U. M. Trivedi: According to him there is; according to me, there is none. Whoever abets before or after any commission of offences, is as liable to punishment as the man who commits the offence. So, this provision appears to me to have been worded by somebody who was over-intelligent, and overintelligent in the sense that he wanted to save some

scoundrels in Sabarmati and in Ahmedabad, where they enter into this business of storing the stolen property of the railway, and the railway is entirely impotent to do anything with them. Their approach is so great that even if a report is made to the police, the Divisional Superintendents see to it that any station master who wants to enforce any provision of law against thieves gets an order of transfer within a month; ordinarily, a station master remains in his station for five years; but the moment that he takes into his head that stealing should not take place in the station and that the scoundrels should be caught hold of for keeping the stolen property of the Government, of the railways, and that they should be dealt with, then, those persons exert their influence and get the station master transferred. Therefore, the word "wilfully" is used. I therefore suggest that you should not give this protection of "wilfully connives". If you think that they have connived, they have connived; that is enough. In this case, I want to be a little harder than Shri S. K. Patil himself. I want that because this is an anti-social activity of such a grave nature which is causing serious loss to the railways—

Shri Ranga: Out Heroding Herod!

Shri U. M. Trivedi: Whether or not it is so, when you make the law you have to make the law which is substantially correct and logical. Otherwise, do not make it. If you want to make it, make it a correct law. And in making the law, it will be proper to see that this word "wilfully" is embodied, or, in the alternative, omit the whole provision, because the law of abatement is there. Either it is redundant, or it appears that these words "wilfully connives" have been wilfully put in.

Shri Priya Gupta: I have got two submissions regarding this clause. There are some lands or buildings in close proximity to the railway area

from where theft of railway property is possible. Suppose a man passes by that side carrying certain materials—switches, batteries or some conduit pipes—are not marked as railway property. Then, the man remaining in that land or building has got to ask everybody, whosoever is carrying such things,

"क्या लिये जा रहे हो, दिखलाओ"

That is one thing.

Secondly, as Mr. Trivedi said, there are gangs of hooligans. The Minister knows that when the wagons or coaches come out of the workshop, they are stripped of their fittings like switches, batteries, etc. by gangsters who sell them again to the railway contractors or railway stores. If somebody is forced, under threat of death or something like that, to conceal the fact and not divulge it, I want to know whether that is also tantamount to connivance or not.

I also feel that such a long-range clause embracing everybody without specifically making any provision is not good in law.

श्री ह० च० सोय (सिंहभूम) : सभापति महोदय, जहाँ मैं इस विधेयक का समर्थन करता हूँ, मैं एक बात मंत्री महोदय के विचार के लिये रखता हूँ। अभी जैसा नियम है परमानेंट वे इन्स्पेक्टर के जिम्मे लाखों रुपयों की प्रपर्टी रक्खी जाती है। अभी अपने काम के अलावा दूसरे दूसरे कामों का सुपरविजन उस के द्वारा पकिये जाने का भी नियम है और उस में उस को बड़ी दिक्कत होती है। उस की इयूट में यह होता है कि वह छः महीने पर इतने परसेन्ट का फिजिकल बेरिफिकेशन कराये। लेकिन फल यह होता है कि छः महीने के भीतर या एक साल के भीतर भी वह फल बेरिफिकेशन नहीं कर सकता है। जिस स्टोर की जिम्मेदारी उन को सौपी जाती है उस के बारे में उन को ठीक-ठीक पता नहीं होता कि

[श्री ह० च० सोय]

आखिर उन की जिम्मेदारी है क्या। इस के लिए कुछ इन्तजाम होता चाहिये। परमनेन्ट वे इन्स्पेक्टर के पास काफी काम होता है इसलिये मैं चाहता हूँ कि दूर वगैरह के सुपरांवेजन से उस को बरी किया जाये। नहीं तो ऐसा किया जाये कि एक अलग आदमी परमनेन्ट वे इन्स्पेक्टर रखा जाये जिस का काम सिर्फ स्टोर को देखने का हो, फिजिकल वेरिफिकेशन का हो। कई काम उस को नहीं दिये जाने चाहियें। अगर ऐसा नहीं किया जाता तो उस को पता ही नहीं रहता कि कितना सामान इश्यू होता है और कितना नहीं होता है। वह सिर्फ अन्दाज लगा लेते हैं कि शायद इतना सामान इश्यू हुआ होगा।

सभापति महोदय : इस कानून की जो दफा है आप उस के ऊपर बोलिये।

श्री ह० च० सोय : मैंने ध्यान खींचा है कि रेलवे मंत्री जी इस सम्बन्ध में कुछ विचार करें। वैसे मैं इस क्लोज का समर्थन करता हूँ।

Shri S. K. Patil: I am grateful to Mr. Bade for pointing out that if we want this to be a deterrent, this clause should be there. Mr. Trivedi asked why this word "wilfully" should remain here. Sometimes it may happen that a man has the railway property, but he does not know that it is stolen property. If a man is honest and if the property has come into his possession in the ordinary manner and he has not wilfully connived at it, he should not be punished, because he did not know that it was stolen property.

Mr. Chairman: The question is:

"That clause 4 stand part of the Bill."

The motion was adopted.

Clause 4 was added to the Bill.

Clause 5—(Offences under the Act not to be cognizable).

Shri U. M. Trivedi: This provision is inconsistent with the general provisions made in Cr. P.C. There is a provision in the Cr.P.C. which provides that any other offence which is punishable with imprisonment for more than 3 years becomes a cognizable offence. In this case, the punishment of imprisonment can extend upto 5 years. So, it passes my apprehension why this offence has been made non-cognizable.

For the purpose of argument, let me revert to clause 6 which says that any superior officer, as defined in clause 2(e) or a member of the Force, as defined in clause 2(b), may arrest any person without a warrant. That means, any constable can arrest. Why should there be this discrimination between a constable of the RPF and an ordinary police constable? Really this is a matter for deep consideration and it requires proper application of law. As I said before, I do feel that in framing this law, either there has been hurry or the person who did it has not got legal knowledge and has not understood the principles of law and the provisions of the Cr.P.C. and the Penal Code. I say this because although the offence is punishable with five years of rigorous imprisonment, yet it has been shown as non-cognizable. Why? It is not an offence of a peculiar nature under the Defence of India Act. It is an offence under an Act which is going to be on the permanent statute-book. So, this must be changed. It is not yet too late if my friend Mr. Patil agrees to omit this whole clause 5. Clause 5 may be deleted and clause 6 may remain as it is.

Shri Bade: This clause does create difficulties in the minds of lawyers. It is not cognizable; so, no police officer can take cognizance of it. But a superior officer or a member of the RPF can take cognizance of it. If a man commits an offence, he commits it under the Penal Code and under the Railway Act. Does the Minister want that this offence should not taken

cognizance of by the police under section 379 or section 411 of the I.P.C. and the police should not interfere? Is it his intention? If a member of the RPF can arrest the person without a warrant, it means it is cognizable, because under section 25 of the Evidence Act, any officer or chowkidar who can arrest anybody is called a police officer. So, the superior officer or member of the RPF is also a police officer. What is the meaning of this. I think there is some jumble in the mind of the hon. Minister's department or subordinates. They have not properly drafted this clause. Therefore, I request the hon. Minister to solve our difficulty.

Shri S. K. Patil: These are, Sir, legal difficulties that are pointed out. But there is a difference between the two. In clause 5 we have said:

"Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act shall not be cognizable."

This applies, as far as my understanding goes, to offences under the Bill and not I.P.C. offences. Therefore, there is no ambiguity. It is for those offences that this applies... (*Interruption*). I understand the hon. Member's difficulty. But we have gone further in clause 6 where we have said: "Any superior officer". Here it is not a constable or a rakshak. Then it says: "or a member of the force". A member of the force means, as hon. Member Shri Trivedi has pointed out, as given in (b) of clause 2, a person appointed to the force other than a superior officer. That distinction has been made here as cognizable procedure for non-cognizable cases as to ensure effective enforcement of the provisions in the Bill. The power of arrest without warrant is already there in the Railway Protection Force Act, 1957.

Mr. Chairman: The question is:

"That clause 5 stand part of the Bill."

1641 (A) LSD—6.

The motion was adopted.

Clause 5 was added to the Bill

Clause 6—(Power to arrest without warrant)

Mr. Chairman: Then we take up clause 6.

Shri Nambiar: I beg to move:

Page 3,—

(i) line 1,—

(a) omit "or member of the Force"

(b) for "without" substitute "with"

(ii) line 2,—

for "without" substitute with"
(5).

Clause 6, as I said, Sir, is the king-pin of the whole Bill. Clause 6 reads like this:

"Any superior officer or member of the Force may, without an order from a Magistrate and without a warrant, arrest, any person who has been concerned in an offence punishable under this Act or against whom a reasonable suspicion exists of his having been so concerned."

Here, arresting without warrant is done not by any superior officer because it is said: "by a member of the force" which is defined as a person appointed to the force other than a superior officer." It means a rakshak himself can be a member of the force. Then clause 6 reads like this:

"Any superior officer or a rakshak can arrest without an order from a Magistrate and without a warrant...."

Whom can he arrest? He can arrest a person who has been concerned in an offence. He need not be himself a culprit. It means that this becomes

[Shri Nambiar]

a cognizable offence according to clause 6. According to this clause its straightaway becomes a cognizable offence. We have just passed clause 5 which says that it is not cognizable. Clause 5 says:

"Notwithstanding anything contained in the Code of Criminal Procedure, 1898, an offence under this Act shall not be cognizable."

By this clause 6 you allow a rakshak or any member of the force to arrest a person, without an order from a Magistrate or without a warrant, who is concerned with the affair. It means it automatically becomes cognizable. Therefore, clause 5 and clause 6 are in juxtaposition, one is quite reverse to the other. This is absolutely wrong. If it goes to the Supreme Court—it need not go to the Supreme Court, even a High Court will finish it—they will finish with it and all our labours here, the several hours that have been spent on it which in terms of rupees will run into thousands, will all be wasted. This will become a dead letter. I cannot understand why the hon. Minister is so persistent in passing a legislation which will be of no value legally, because even a layman—no lawyer is required—can understand that clause 5 and clause 6 are opposite to each other. How can it be done? Therefore, in consonance with the provision that has already been passed—clause 5—I have moved my amendment No. 5 which says that the words "or member of the Force" be deleted." So that, the superior officer will get the right to do it. Since clause 5 makes it non-cognisable, I am moving my amendment so that there will be sanity between clauses 5 and 6 and there will also continuity. With my amendment, the clause will read "any superior officer, with an order from a Magistrate and with a warrant arrest any person who has been concerned in an offence..." Then, there will be connection and similarity between clauses 5 and 6. It is a simple thing and self-explanatory. I need

not elaborate it further. A person of the calibre of our Railway Minister can very easily understand it. So, I would request him, for Heaven's sake, if not for the sake of Lok Sabha, to accept my amendment.

Shri Bade: Clause 6 makes the offence cognisable. What is the meaning of cognizable? I would request the hon. Minister to explain what is cognizable. There should be no ignorance or vagueness in enactments. Here cognizable means a rakshak or a constable cannot arrest. Under the normal law "cognizable" means any constable can arrest without a warrant; if it is "non-cognizable", not even a high officer can arrest. But in this Bill the position is different. Why should it not be explained? It is just like the saying that a magistrate, new from college, said: if it is a warrant case, issue a warrant; if it is a summons case, issue a summons. Such colossal ignorance is sometimes shown in courts. But that should not find a place in our enactments. The definition of words should be clear and unambiguous.

Shri S. K. Patil: This clause has been drafted with full knowledge and "sanity", as mentioned by my hon. friend.

श्री जगदेव सिंह सिवान्ती (झज्जार) :
पंजाब विभागांनाइजेगन बिल क्या प्रस्तुत हो
गया है ?

सभापति महोदय : यह काम हो रहा
है। मैं कुछ नहीं कह सकता हूँ।

Shri Kapur Singh: Apart from the point which has already been made by my hon. friends against this clause, showing some kind of legal incompatibility between clauses 5 and 6, I have another objection to raise, and that objection, according to me, is even more serious.

Mr. Chairman: Clause 5 has already been passed. He need speak only on clause 6.

Shri Kapur Singh: In clause 6, there exists the word, "concerned", in the last line—"against whom a reasonable suspicion exists of his having been so concerned." This expression, "concerned", is incapable of judicial precision. It is not already part of the accepted repertoire of legal terminology and it is not capable of being so accepted. "concerned", in the ordinary dictionary sense, may have two meanings—one, he may be mentally seized of the fact of theft; if a person is mentally seized with the factum of theft, he may be 'concerned' with it. Another meaning of "concerned" might be, having any relation, subjective or objective, whatsoever with the factum of theft. These are the dictionary meanings by which this term, "concerned", is accepted. It is a very loose term and

its retention in this section is likely, not only to defeat its object, but to create a certain type of confusion and also inconvenience for the public. Therefore, either some more precise word should be introduced in this clause for, "concerned", or this clause should be dropped.

Shri S. K. Patil: I have nothing to add.

Mr. Chairman: I will now put amendment No. 5 of Shri Nambiar to the vote of the House.

Amendment No. 5 was put and negatived.

Mr. Chairman: The question is: "That clause 6 stand part of the Bill."

The Lok Sabha divided:

Division No. 32]

AYES

[16.50 hrs.]

Akkamma Devi, Shrimati
Alva, Shri A. S.
Aney, Dr. M. S.
Babunath Singh, Shri
Bajaj, Shri Kamalnayan
Balmiki, Shri
Basappa, Shri
Besta Shri
Bhanja Deo, Shri L. N.
Bhanu Prakash Singh, Shri
Boroosh, Shri P. C.
Chanda, Shrimati Jyotsna
Chandrabhan Singh, Shri
Chaudhry, Shri Chandramani Lal
Chaudhuri, Shrimati Kamala
Chavda, Shrimati Joraben
Daljit Singh, Shri
Das, Dr. M. M.
Das, Shri B. K.
Das, Shri N. T.
Dass, Shri C.
Deshmukh, Shri B. D.
Deshmukh, Shrimati
Vimalabai P
Elayaperumal, Shri
Gajraj Singh Rao, Shri
Ganga Devi, Shrimati
Gupta, Shri Badshah
Harvan, Shri Anwar
Hem Raj, Shri
Jadhav, Shri M. L.
Jadhav, Shri Tulashidasa
Jamunadevi, Shrimati
Joshi, Shrimati Subhadra
Khan Veer, Shri

Krishna, Shri M. R.
Lakshminikanthamma, Shrimati
Laakar, Shri N. R.
Laxmi Bai, Shrimati
Majithia, Shri
Malsichami, Shri
Malaviya, Shri K. D.
Mali Mariyappa, Shri
Mellick, Shri Rama Chandre
Maniyangadan, Shri
Marandi, Shri
Matcharaju, Shri
Mathur, Shri Shiv Charan
Mehrotra, Shri Braj Bihari
Mehta, Shri Jashwant
Minimata, Shrimati
Mirza, Shri Bakar Ali
Misra, Shri Mahesh Dutta
Mohanty, Shri Gokulananda
More, Shri K. L.
Muthiah, Shri
Nanda, Shri
Naskar, Shri P. S.
Pandey, Shri Vishwa Nath
Patil Shri M. B.
Patil, Shri S. K.
Pratap Singh, Shri
Puri, Shri D. D.
Rai, Shrimati Sabodra Bai
Raju, Shri D. B.
Ram Sewak, Shri
Ram Subhag Singh, Dr.
Ram Swarup, Shri
Rane, Shri

Ranjit Singh, Shri
Rao, Shri Jaganatha
Rao, Shri Muthyal
Rao, Shri Ramapathi
Reddi, Dr. B. Gopala
Reddy, Shri H. C. Linga
Roy, Shri Bishwanath
Sadhu Ram, Shri
Samanta, Shri S. C.
Satyabhama Devi, Shrimati
Sen, Shri A. K.
Shah, Shrimati Jayaben
Shankaraiya, Shri
Sharma, Shri A. P.
Sharma, Shri D. C.
Shashi Ranjan, Shri
Sheo, Narsin, Shri
Shinde, Shri
Shree Narayan Das, Shri
Siddanajappa, Shri
Siddhanti, Shri Jagdev Singh
Sinha, Shri Satya Narayan
Sinha, Shrimati Tarkeshwari
Snatak, Shri Nardeo
Soy, Shri H. C.
Swamy, Shri M. P.
Tiwary, Shri D. N.
Tula Ram, Shri
Ukey, Shri
Upadhyaya, Shri Shiva Dutt
Vajhsya, Shri M. B.
Venkatasubbajai, Shri P.
Wadiwa, Shri
Yadava, Shri B. P.

NOES

Alvares, Shri
Buta Singh, Shri
Chatterjee, Shri H. P.
Gopalan, Shri A. K.
Gupta, Shri Priya
Kachhavaiya, Shri H. C.

Kandapan, Shri
Kapoor Singh, Shri
Nambiar, Shri
Roy, Dr. Saradiah
Seahyan, Shri
Trivedi, Shri U. M.

Umanath, Shri
Vishram Prasad, Shri
Warior, Shri
Yashpal Singh, Shri
Yudhvir Singh, Shri

Shri Sidheswar Prasad (Nalanda):
I am for "Ayes".

Shri P. Kunhan (Palghat): I am
for "Noes".

Shri R. Barua (Jorhat): I am for
"Ayes".

Mr. Chairman: The result of the
division is:

Ayes	102.
Noes	17.

The motion is carried.

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7—(Disposal of persons
arrested.)

Shri Nambiar: Sir, I beg to move:—

Page 3, lines 8 and 9—

for "officer of the Force" substitute

"Police Station".

As per this clause—

"Every person arrested for an offence punishable under this Act shall, if the arrest was made by a person other than an officer of the Force, be forwarded without delay to the nearest officer of the Force." (6).

My amendment seeks that he must be forwarded without delay to the nearest Police Station. I am trying thereby to bring the normal Police Force of the State into operation. Here what is meant is that anybody, who is apprehended of conniving at or involved in the theft of railway property, can be arrested by a member of the Railway Protection Force

and it provides that that culprit must be produced before another officer of the Railway Protection Force. I do not think that can be correct. Whenever an offence is committed, according to the law of the land, one is to be produced at the Police Station before a Police officer who must prosecute and not a member of the Railway Protection Force. There is no law which prevents anybody from catching a thief. Even an ordinary citizen can do that. Thieves are not caught only by the Police. The police is not so big a force in the country that they can stop every theft. Theft is stopped or prevented or a thief is arrested or apprehended by a citizen. Every citizen has got a right to arrest or apprehend a person if he is found in the act of thieving. Therefore when a thief is apprehended, he must be brought before the police officer so that he can prosecute him under the law and the culprit will have the advantage of legal shelter and defending himself. He can move a writ petition before a magistrate, get bail and come out. He can arrange for his defence. This is required for normal prosecution and normal defence in any criminal proceedings. But here, if he is arrested and produced before an officer of the Force, what is the safety of the person so apprehended? What is the defence that he can arrange? Therefore, an ordinary citizen's fundamental right is in jeopardy. He is being handed over to a person who is not authorised at all. It is very clear. Supposing a person has committed an offence and he is produced before an illegal person, he may beat him, he may assault him and he may do anything to him. There is no defence for the other person. So he must be taken to the nearest police station and produced before a police

officer so that he can be dealt with under the law of the land and that the culprit will have every opportunity to defend himself and avail of the fundamental right that is guaranteed by the Constitution.

Mr. Chairman: Before we proceed further, may I take the sense of the House that we may sit for half-an-hour more today, that is, upto 6 O' Clock?

Several hon. Members: No, no.

Mr. Chairman: All right. Shri Bade.

Shri Bade: I have got an objection to this clause. It says:

"Every person arrested for an offence punishable under this Act shall, if the arrest was made by a person other than an officer of the Force....".

Now, suppose an arrest is made by a person, that is, by a constable or by a sepoy, is he compelled to produce him before an officer of the Force? It says, 'a person other than an officer of the Force' and that means an arrest or a seizure can be made by a private person or a constable of the town, the sub-station may be just near the town, and the nearest officer of the force may be far away from it. Under this clause, even the constable is compelled to take that man to the nearest officer of the Force. On the contrary, it ought to have been to take him to the police station. Instead of that, this provision compels the constable to go to the officer of the Force. That is something like creating double Government in the country. That is very objectionable. It will create anomaly and more hardship. Therefore, I have got objection to Clause 7.

Shri Kapur Singh: I had an objection to Clause 6 and so is my objection to Clause 7 also. It does not seem to have been screened by legally trained persons inasmuch as there occurs an expression, "...be forwarded without delay to the nearest officer of the Force".

"Without delay" is a loose expression and it is not capable of

judicial precision. "Without unreasonable delay" or "without undue delay" would be so capable, but "without delay" is not so. "Without delay" is only a subjective concept, while "without unreasonable delay", or "without undue delay", is an objective quantum. Therefore, the Clause as it stands, is not a judicially phrased Clause.

Mr. Chairman: Would the hon. Minister like to say anything?

Shri S. K. Patil: I have nothing to add.

Mr. Chairman: Clause 7, along with Amendment 6, is before the House.

I now put Amendment No. 6 to the vote of the House.

Amendment No. 6 was put and negatived.

Mr. Chairman: The question is:

"That Clause 7 stand part of the Bill."

The motion was adopted.

Clause 7 was added to the Bill

Clause 8.— *Inquiry hour to be made against arrested persons)*

Mr. Chairman: Now Clause 8 is before the House.

Shri Nambiar: I move:

(i) Page 3, lines 12 and 13,—

for "proceed to inquire into the charge against such person".

substitute

"handover the case to the nearest Police officer for investigation and prosecution." (7)

(ii) Page 3.—

Omit lines 14 to 31. (8)

My amendment No. 7 is this. Clause 8(1) read as follows:

"When any person is arrested by an officer of the Force for an offence punishable under this Act or is forwarded to him under

[Shri Nambiar]

section 7, he shall proceed to inquire into the charge against such person".

Instead of:

"..... he shall proceed to inquire into the charge against such person".

I want to introduce:

".... he shall handover the case to the nearest Police Officer for investigation and prosecution."

".... he shall proceed to inquire into the charge against such person" should be deleted.

I take strong objection to the handling of the case by the Railway Protection Force. They are not trained for that purpose. The culprit does not get the advantage of legal persons. It is also wrong because the Railway Protection Force is not, after all, a Police Station. What is the jurisdiction under which an officer of the Force can arrest the citizens? Unless and until a person is proved to be a culprit by a competent court, he continues to be not at fault. Fundamental rights are guaranteed to the citizens under the Constitution. But under this specific provision, he does not get the fundamental right. Whenever a person is arrested, according to the Constitution, he should be taken to the nearest Police Station and within 24 hours he must be produced before a Magistrate. Here all those provisions of fundamental rights do not exist. He can be produced before a Protection Force. What shall he do? All these are questions of fundamental rights, and fundamental rights cannot be deprived so soon or in so sweeping a manner as he wants. Therefore, I move that he must be handed over to the nearest Police officer for investigation and prosecution.

My next amendment is number 8, which reads:

"Page 3—

Omit lines 14 to 31."

Sub-Clause 2 and proviso (a) and (b)—the whole thing—should be omitted.

Mr. Chairman: Order, order. Under clause 8, his amendment is number 7. He may speak only on that. 17 hrs.

Shri Nambiar: Number 8 is also there. That is, according to my amendment 7, the Clause gets completed, namely,

"When any person is arrested by an officer of the Force for an offence punishable under this Act or is forwarded to him under section 7, he shall handover the case to the nearest Police officer for investigation and prosecution."

It is the police officer's job to investigate and prosecute. Therefore, all that is provided here namely that the officer of the Protection Force could investigate and prosecute etc., does away with that normal practice or normal procedure. So, my amendment No. 8 is in continuation of my amendment No. 7 which goes to show that the whole proviso should be removed. I have my argument against this proviso. Even a cursory reading of this provision will convince you. Sub-clause 2 says:

"For this purpose, the officer of the Force may exercise the same powers and shall be subject to the same provisions as the officer-in-charge of a police station may exercise and is subject to under the Code of Criminal Procedure, 1898, when investigating a cognizable case."

Under this provision, the moment a case is brought before the Protection Force, the officer concerned assumes all the powers of a police officer automatically and he is to be treated as a police officer under the Code of Criminal Procedure, 1898. The powers of the State police are taken over by him, and they are automatically handed over to him. That is an infringement of the Constitutional provision. Under the Constitution, the State police has got certain powers....

Mr. Chairman: The hon. Member is repeating his arguments.

Shri Nambiar: How can this provision automatically hand over all the powers of the State police to the railway protection force officer?

Mr. Chairman: He has made that argument also already.

Shri Nambiar: My submission is that this provision is against the Constitution. Powers cannot be automatically transferred in that manner. There must be an amendment to the Constitution before such a thing can be done.

Shri U. M. Trivedi: He may continue tomorrow.

Shri Buta Singh (Moga): Let him continue his speech tomorrow.

Shri Nambiar: Am I to continue tomorrow?

Mr. Chairman: The discussion on the clauses of the Bill will be resumed tomorrow. The hon. Member may continue his speech tomorrow.

17.03 hrs.

*GRIEVANCES OF CHS DOCTORS

Shri D. C. Sharma (Gurdaspur): I am going to raise this half-an-hour discussion not to embarrass the Union Minister of Health or the Union Government, but I am trying to say something on this point in view of a proverb—that proverb need not be taken literally—which is well known in the English language, namely that 'I appeal from Philip drunk to Philip sober'; that is to say, I appeal from the Union Health Minister to the lady doctor that she was and that she might be again.

The Minister of Health and Family Planning (Dr. Sushila Nayar): I have not ceased to be; I still am.

An Hon. Member: At present, she is a Minister.

Dr. Sushila Nayar: There is no question of 'might be'. I am a Minister I still am a doctor.

Shri Umanath (Pudkkottai): What the hon. Member means to say is that she may be a Minister today but tomorrow she may not be.

Dr. Sushila Nayar: In spite of being a Minister, I am a doctor and will remain a doctor till the end of my days.

Shri Umanath: There is no power of contract for her to be a Minister and yet be a practising doctor. That is what he wants to say.

Shri N. Sreekanatan Nair (Quilon): Nobody will go to her for being....

Shri Nambiar (Tiruchirapalli): She is an efficient doctor.

Dr. Sushila Nayar: Whether the hon. Member knows it or not I am a doctor still and they do come to consult me.

Shri D. C. Sharma: I would submit very respectfully that I want to appeal to her sense of justice, to her broad-based sympathies, and to her love of fair-play and to her love of the profession to which she belonged, to which she belongs and to which she might belong in the future.

But this is a very sorry state of affairs to which I am referring. The whole thing started in May 1963 and we are now in the month of September 1966. This thing has gone on like an Indian epic which has no end. It has gone on from one session to another without finding redress of the grievances of the doctors.

What has happened is that when the doctors have raised any question about their salary or emolument or promotion or transfer, the hon. Minister of Health has only one reply to give. Unfortunately that reply has been not very unequivocal and categorical. She has tried to postpone the thing from day to day.

*Half-An-Hour Discussion.

[Shri D. C. Sharma]

Now I must submit very respectfully that first of all, it was the Home Minister who came to her rescue. He listened to the discussion here and said 'I will look into it'. And he did a good piece of work. He was able to give some modicum of justice to the doctors who belong to the contributory health service....

Next time again there was trouble—because I think there is bound to be trouble in the Health Ministry as long as the affairs of the Health Ministry are run in the way they are being run—and the late Prime Minister, Shri Lal Bahadur Shastri, came to the rescue of us all. We are all interested in doctors. He said that Shri Dharma Vira who was the Cabinet Secretary at that time would look into the matter.

What I mean to say is that whenever there was any trouble, the question was taken from the purview of the Health Ministry and was handed over either to the Home Minister or to the Cabinet Secretary or to somebody else so that some justice would be done to them. What happened was this. Before any action could be taken, Shri Dharma Vira was transferred.

Ever since she has been Union Health Minister, I must say very sorrowfully that she has been making statements which sometimes contradict each other—because I think it is the virtue of Ministers, especially lady Ministers, to contradict themselves.

What do the doctors want? I submit very respectfully that they do not want anything much. They are a patriotic, law-abiding people who are prepared to go to rural areas, people who are prepared to do service in the Army, people who do not want that they should stick to the metropolis like some of us or like some persons whose names I do not want to mention. They are not that type of persons.

They want that two things should be guaranteed. The first is, that if they

are sent to a rural area—because three types of places have been classified, metropolitan area, rural areas and so on—if they are sent to a rural area, they should be sent by rotation, not at the whim of somebody in the secretariat, not at the whim of some official. They should be sent by rotation and there should be a regular roster of their rotation, that they should not be stuck in the mud, that they should go there for a specified period and they should then be allowed to come back and take over other work. It is not that you should divide up the doctors into three classes: one, first-class citizens who will stick to Delhi, second, second-class citizens who will go to the rural areas and the third class who will go to the army service or something like that. We all want that they should all be regarded as first-class citizens of the sovereign Republic of India. That is what they want.

Moreover, they want that they should be allowed to come back from their posts in far off places. I think all doctors are not virgins or unmarried persons. This is my misfortune. Suppose I am sent to some far-off place, I do not mind because I have nobody to look after. But these doctors have their children, their families. Their children are studying here. They have to look after their families. Therefore, they say 'When we are sent to some other place, our houses, our establishment here, should be kept intact', because given the emoluments they have today, it is very difficult for them to afford two establishments. They have their families here, they have to look after the education of their children and they have also to pay for themselves in the places where they are sent. They only want that they should be able to afford all these. No guarantee has been given to them so far as this thing is concerned.

Again, it is not a question of transfer. It is a question of promotion. I know, Mr. Chairman, how fair-minded you are. Having been a Minister....

(*Interruption*) for more than 15—20 years, you know where the shoe pinches so far as the employee is concerned. Now, in the case of promotions, I tell you our Government is the master of circumlocution, is the master of rigmarole, is the master of going round the subject without coming to the point. This is what has happened. Of course, this is not always applicable. But I submit very respectfully that so far as promotions are concerned these persons have come through the UPSC, no doubt, and they are there. But a certain date has been prescribed....

Shri Surendranath Dwivedy (Kendrapara): It is up-grading, no promotion.

Shri D. C. Sharma: Yes, I am very thankful to the hon. Member for the correction. Now those person who are there already upgraded will be there. The other persons will have to have a test and will have to go before the UPSC. It is like asking a man who has passed the MA examination, 'Since you are not able to get a job within two years, you will have again to sit for your MA examination and then you may become eligible for a job'. I think this is a preposterous nonsense that can be perpetrated, an administrative nonsense, a human nonsense,—all these kinds of things that are there. Therefore, I would say that this aspect of the question has got to be looked into. I would also say that this is a very important thing that has got to be set right.

Now, I want the Union Minister of Health also to do one thing. I know she has the love of the profession at heart. I know that very well. Of course, I have not had the good fortune of consulting her as a lady doctor, but I may have sometime to do so and then I will be very happy. I know she has the love of the profession at heart. Do I say that a non-doctor is much better as a person in charge of the Ministry of Health than a lady doctor? I do not believe

that. But this is the impression which everybody gets. Rajkumari Amrit Kaur was not a doctor. There was no trouble in her time. Shri Karmarkar was not a doctor; there was no trouble in her time.....

Mr. Chairman: Shri Karmarkar is not a lady doctor.

Shri D. C. Sharma: Fortunately, we have a lady doctor now in charge.

Shri Nambiar: Unfortunately.

Shri D. C. Sharma: Trouble has been brewing ever since she took charge. Therefore, I appeal to her to set to it that these persons are not again asked to sit for the examination, these persons are not asked to go before selection posts to difficult areas without getting due allowance. I would ask her to make a categorical statement about the grievances of the doctors, of which she knows more than I do. I say that the doctors have been in great trouble for the last two or three years, and I would ask her to have sympathy with them and not to give them more troubles than they have already had.

Shri S. C. Samanta (Tamluk): May I know from the hon. Minister how many M.D. doctors are at present rotting in CHS dispensaries on daily monotonous work, and whether it is a fact that when the CHS doctors serving in Delhi and its suburbs are transferred to other places in the country, they receive less total emoluments than they were drawing in Delhi?

Shri A. K. Gopalan (Kasergod): May I know whether it is a fact that though the posts were advertised in NEFA and Himachal Pradesh with higher emoluments, none came forward, and if so, whether the CHS doctors are asked to go there without any additional emoluments?

Shri Umanath: With regard to the promotions, so far the rules have been that doctors will be promoted to GDMO Class I provided they complete five years and provided they are recommended by UPSC. I would like to

[Shri Umanath]

know whether the CHS rules regarding these promotions have been changed to permit promotions even before five years are completed and even without selection of the UPSC, and if so, the reasons therefor.

Shri H. C. Linga Reddy (Chikballapur): May I know the reasons why the Central Health Service Rules have not been finalised and whether it is true that the interim allowance that the Government have announced works out to only Rs 8 to Rs. 16 and that it would benefit only about 150 doctors while the majority of them will not be benefited by this allowance at all?

Shri Sezhayan (Perambalur): May I know whether it is a fact that the Delhi Municipal Corporation pays a rural allowance to the doctors posted in rural areas as an incentive although the rural areas of Delhi stand little in comparison with areas like Manipur, Tripura and Himachal Pradesh where our Minister wants our CHS doctors to go? I also want to know, when they are transferred whether it is possible and appropriate that doctors posted in such like uncongenial places are compensated with rural allowance just to attract them and put them on a par with other doctors in the same profession.

Shri N. Sreekantan Nair: In view of the fact that the medical officers in Grade A have been selected with the concurrence of the Public Service Commission, and in view of the fact that those who have put in five years of service would automatically be transferred to Class I, may I know what prevents those doctors who have not yet completed five years and who are in service on the basis of being selected by the Public Service Commission from coming into Class I when they complete five years of service, and what is the basis of demanding that they must undergo another examination when they have already passed a medical examination and have passed the examination of the Public Service Commission?

Shri Buta Singh (Moga): I want to know how many posts of Assistant

Surgeons are outside Delhi and how many of them are already being manned by Assistant Surgeons. Is it necessary, desirable and beneficial for the already recruited doctors outside Delhi to be posted in Delhi?

Shri S. M. Banerjee (Kanpur): It is strongly apprehended that this transfer of CHS doctors is likely to promote corruption and favouritism. I would like to know whether, since either the Health Minister or the Deputy Minister does not command the confidence of the doctors in the matter of transfers, there is any proposal that a committee should be formed with the Director-General of Health Services and one of the representatives of the CHS Doctors' Association to see that the transfers are done with the least possible trouble to these doctors, that they are paid proper allowance, and that their total emoluments are not depleted when they are transferred outside.

Shri Bade (Khargone): I want to know: are there any rules, any pattern for transferring doctors from Delhi to outside mofussil areas and is there any criteria or any rules that the doctors who are sent will again be transferred or is it that there is favouritism in the matter of transfer of doctors from this place to other places?

Shri Daji (Indore): The CHS doctors have been having agitation and there is a legitimate fear that transfers may be used as an instrument of victimisation. Have some definite rules for transfer been made and what is the necessity of introducing transfers after 8-9 years of service had already been put in? If they are posted to difficult areas, will they be posted for a limited period and posted back to Delhi or are they being exiled?

श्री वा० ना० तिवारी (गोपालगंज): मैं मंत्री महोदय से जानना चाहता हूँ कि जो सी० एच० एस० के डाक्टरों की मांगें हैं, ऐसी सुविधायें सेंट्रल गवर्नमेंट के जो दूसरे डाक्टर हैं उन को हैं या नहीं, और यदि यह

मांगे स्वािकार की गई तो गवर्नमेंट का कितना व्यय बढ़ जायेगा ।

Shri B. K. Das (Contai): The areas have been defined into three categories. There is a rural area. May I know whether there is any proposal for giving a rural allowance to doctors as in the cities they are given city allowance?

Shri H. P. Chatterjee (Nabadwip): The doctors are agreeable for transfer but—they want—according to some rules. What is the difficulty of forming rules? If Government cannot, why not allow the doctors themselves to formulate rules?

श्री हुकम चन्द कछवाय (देवास) :
मैं जानना चाहता हूँ कि पिछले डार्ड सालों से जब सरकार उन के वेतन बढ़ाने का विचार कर रही है तो अभी तक अन्तिम निर्णय क्यों नहीं लिया गया । क्या कारण है कि यह डाक्टर देहात छोड़कर यहाँ आना चाहते हैं? उन को एसी कौन सी कठिनाई है? क्या सरकार के पास कोई ऐसा रेकार्ड है कि कितने डाक्टर यहाँ से बाहर नहीं जाना चाहते, और कितने सालों बाद वह फिर दिल्ली आ सकेंगे । क्या इस तरह का शर्त है कि कितने दिन डाक्टर बाहर रहेंगे और उस के बाद दिल्ली आ सकेंगे? इस के अतिरिक्त जो रूल बनाया जा रहा है कि डाक्टर चार साल मिलिटरी में रखे जायेंगे उस का क्या कारण है? जब इमर-जेंसी नहीं है तब क्या कारण है कि डाक्टरों को चार साल तक मिलिटरी में काम करने के लिए कहा जा रहा है?

Shri Surendranath Dwivedy: I would like to know whether the Government is following any fixed policy or principle in the matter of promotion or salaries or it is left to the whims of the present Health Minister to change them as she likes. Whether Government does not think it will be discriminatory and in some cases the persons concerned may use it vindictively if no specified period is fixed for the transfer of CHS doctors either to rural areas or to NEFA or any

other area to which they are all agreeable to go and that there should be a set pattern of transfer and that will facilitate matters. What is the difficulty in the way of Government?

Shrimati Renu Chakravartty (Barackpore): Is it a fact that the finalisation of the new rules has been outstanding for the last 2½ years and how much longer it will have to take in order to have proper rules to guarantee their promotion as class I officers?

Dr. Chandrabhan Singh (Bilaspur): There is a lot of misunderstanding going about. I want to know this. Is the Government considering the creation of a special cadre unique in history? Were the pattern of transfers and postings and other Service Conditions not very well defined from the very beginning?

Shri A. N. Vidyalkar (Hoshiarpur): I want to know whether all these CHS doctors were originally recruited for service in Delhi and, if they are now required to be transferred to rural areas and border areas, what extra compensation or emoluments are being offered to them.

श्री तुलसी दास जाधव (नांदेड़) :
ग्राजकल देहातों में जितनी डिसपेंसरीज़ हैं .

Dr. Sushila Nayar: Sir, would this not be going beyond 6 o'clock at this rate?

श्री हुकम चन्द कछवाय : इनको इसमें क्या आपत्ति है? जिन्होंने नोटिस दिया है उनको मवाल पूछने दिया जाए (व्यवधान)

सभापति सहोदय : आप बैठिये । मैं अर्ज वरूँगा कि मैं किस लिये बैठा हुआ हूँ? आपकी खिदमत करने के लिए ही तो मैं बैठा हुआ हूँ ।

Shri Tulsidas Jadhav: I want to know the reason why in the villages there are no doctors, and the dispensaries are lying without doctors; and

[Shri Tulsidas Jadhav]

doctors are doing their private work and they are conducting their own private dispensaries. Why do the Government not bring some such rules or some attractive measures so that the doctors will come into the Government services? Have the Government done any such trial so that the doctors will come in? What were the grievances of the doctors last time when they were on strike and how many grievances were redressed by the Government?

Mr. Chairman: As far as the last question is concerned, the hon. Minister may note the first part of that question before she proceeds to reply.

Shri Warrior (Trichur) rose—

Mr. Chairman: I am sorry; I did not see you at all here. He has come very late.

Shri Warrior: I was sitting here all the time.

Mr. Chairman: Anyway, please put the question.

Shri Warrior: I wish to know whether the Government had given any consideration to the memorandum submitted by the CHS doctors' association or their organisation, and whether after consideration, they were intimated of the decision and the reaction of the Government and, if so, what are the remaining points which the doctors are not satisfied with, and which are still pending consideration of the Government, and whether the Government is really considering them and the reply will be given in the immediate future.

Mr. Chairman: Before I call upon the hon. Minister to reply to the debate and the questions put, I might suggest that the main or the principal questions embodying the things that have happened and all that has been said may be replied to and she will try to satisfy the hon. Members. I think very many points have been referred to.

Dr. Sushila Nayar: Thank you, Sir. I shall try to answer the questions to

the best of my ability. First of all, so far as Prof. D. C. Sharma's remarks are concerned, he tried to put as much sting into his words as he could. May I tell him that at no stage either the Home Minister or the Prime Minister had anything to do with this question, and the Home Minister....

Shri Bade: It was at the Home Minister's suggestion that.....

Dr. Sushila Nayar: I have listened to them patiently, and so I want a patient hearing now.

Mr. Chairman: Order, order. I request all hon. Members to kindly listen to what is being said. Then, we must show at least some regard to the hon. lady Minister. Let us hear what she has got to say.

Dr. Sushila Nayar: May I say that the Home Minister might have said that he will look into the matter, but when he saw the whole thing, he saw that it was not necessary for him or anybody from his side to go into it and our officers were competent to look into the whole matter. So far as the point regarding the Cabinet Secretary is concerned, he only thought that as Government servants he could make them see that they had to observe the duties and conduct rules of Government servants and the Prime Minister has got nothing to do with it. May I say that so far as my statements are concerned, they are always consistent; there is no contradiction in anyone of them, and I challenge anyone to prove any contradiction. (Interruption).

Several hon. Members rose—

Shri Umanath: She said, she challenges. (Interruption).

Mr. Chairman: This question concerns very much everybody in the country, particularly those in Delhi. I would request hon. members to listen patiently to what she may have to say. If anything is left, I will see later.

Shri Surendranath Dwivedy: She is throwing a challenge. May I know

whether the UPSC itself has not challenged and said that what she said is not true?

Shri Umanath: I am prepared to accept the challenge of the Minister. What is the machinery through which this challenge has got to be decided?

Shri Buta Singh: She seems to be very much agitated. I want to make a humble submission through you to her. Let her not be vindictive in approaching this question.

Shri Namblar: We do not like to have challenging tones; we want some sort of smoothening process.

श्री हुकुम चन्द कछवाय : इनके चैलेंज को अगर एक्सेप्ट कर लें और यह गलत साबित हो जायें तो क्या यह त्यागपत्र दे देंगे ?

Mr. Chairman: As far as replying to this debate is concerned, I hope the hon. Minister will not mind my saying that certainly we should avoid heat. If we generate light, that will satisfy everybody. I would equally request my hon. friends: Let us forget heat for these few minutes and try to generate light particularly in order to help those who are suffering. (*Interruptions*).

Shri H. P. Chatterjee: It is quite unbecoming of her to challenge like that.

Dr. Sushila Nayar: I am afraid the whole tone has been set by the hon. members; I have for myself absolutely no wish to do or say anything to add to the controversy.

So far as the Health Ministry is concerned, Shri D. C. Sharma said, there was no trouble in Rajkumari Amrit Kaur's time and in Shri Karmarkar's time. May I say that the formation of the CHS was decided in Rajkumari Amrit Kaur's time; it was not taken up because it was a troublesome question. (*Interruptions*). In 1956, when Rajkumari Amrit Kaur was Minister, the decision on CHS was taken. Certain tentative thinking was done. There

were difficulties and it was also put off in Shri Karmarkar's time. I did make this mistake, if it is a mistake, that I felt that a decision which was taken in 1956 should be implemented. We tried to do our best to implement certain decisions that had been taken. As a result of that, certain representations were made by doctors. Certain demands were put forward. Because I am a doctor—as the hon. Member was good enough to say—and I have the love of the profession at heart, I thought we should try to give the best possible terms to the doctors. It is well-known how I personally went round from one Minister to another, from one office to another, to get the better terms accepted for them. It is well-known all over the country....

An Hon. Member: All over the world!

Dr. Sushila Nayar: ...and the world. that the revised terms that the CHS doctors are getting now....

Shri H. N. Mukerjee (Calcutta Central): Do the doctors know it?

Dr. Sushila Nayar: Yes; the doctors also admit—they have come to me and told me that they are not in two minds that the terms that have been offered to them are very good. (*Interruptions*). Sir, the States have complained that we are raising the Salaries etc. so much that we are causing complications for them. Be that as it may, we have done it.

Now, Sir, the demands are....

Mr. Chairman: I would request the hon. Minister to first clear two things: firstly, whether there are rules for recruitment and, secondly, whether there are rules for transfers. These are the two points that mainly agitate the minds of hon. Members.

Dr. Sushila Nayar: There are rules for transfers, there are rules for promotions. But they are as they are for all other services. We cannot have a separate set of rules for CHS doctors. Then, Sir, it is not possible for any Government to tell them that they will

[Dr. Sushila Nayar]

go out for two years and come back to the original station. When the service is formed, it is necessary for everyone to fall in line with the terms of that service. Therefore, those who do not like the terms of service—nothing prevents them from leaving the service.....(Interruptions).

Some hon. Members: Shame, shame.

Mr. Chairman: Order, order I take strong exception to hon. Members saying "shame", "shame"... (Interruptions). Again, I would request the hon. Minister to speak in positive terms and not in negative terms.

Shri S. N. Chaturvedi (Firozabad): What is wrong in her statement, Sir.... (Interruptions).

Mr. Chairman: Order, order.

Shri Surendranath Dwivedy: Sir, this sort of statement, like the one that the Health Minister has made today, is going to harm the entire country. We want more doctors, more engineers to enter government service. If she takes this attitude, if she asks the doctors to go out of service, it will harm the whole country. This is not the proper way. If she cannot serve the doctors, she should get out, and not the doctors.....(Interruptions).

Mr. Chairman: I would like to tell the hon. Minister one thing (Interruption). From all the questions that have been put from all sides of the House, it is clear that hon. Members are a bit agitated. Therefore, my submission would be that she should speak in positive terms... (Interruption).

Dr. Sushila Nayar: Sir, all that I am saying is, after all, services have certain rules and those rules have got to be observed. Whoever joins the service knows that there are certain rules and those rules have got to be observed. That is all that I am saying.

Then, Sir, somebody said that there are MD. doctors rotting in dispen-

saries. I take objection to the word "rotting". After all, in the dispensaries there are patients who are being looked after, and we have given opportunities to some of these doctors to specialise and become M.D's. by taking training while in Service and passing the examinations. We should they complain about being posted to dispensaries? If they want to go into different types of work, specialised work and so on, as and when there are vacancies they will have chance to go into those types of work. So there is no cause for any complaint.

Then, as for going to distant places like NEFA, Nagaland etc. is concerned, all those who are sent there get certain extra compensations. These doctors will also get it. There can be no question of anybody not getting these benefits.

Mr. Chairman: There is one question which Members have asked. Have you given any special terms to the doctors who are being posted to far off places like Nagaland or even in the case of Himachal Pradesh?

Dr. Sushila Nayar: All the Government servants who are posted outside to difficult places, get certain allowances. These doctors also will get them. It is not possible for us to continue to give them houses in Delhi. Sir, you know every day there are questions about houses. How many Government servants are provided with houses? So, how can we provide all of them with houses? All that I wish to say is that we have given them very fair terms, and that the two things that they want it is not possible for the Government to accept. I hope my good friends will use their good offices to persuade them to give up their agitation and put their whole heart into the work.

Shri Buta Singh: I have asked a specific question. How many posts of Assistant Surgeons are there outside Delhi and how many are being manned by Assistant Surgeons?

Dr. Sushila Nayar: All those who are outside Delhi, they also want to come to Delhi. How can I tell them that they should remain outside? I do not have the specific number with me at present.

श्री तुलशी दास जाबब : सभापति महोदय, मैं यह कहना चाहता हूँ कि मंत्री महोदय का उत्तर पुरा होने के बाद अगर ये सदस्य गड़बड़ करें, तो अच्छा होगा।

श्री हुकम चन्द कछवाय : जो डाक्टर दिल्ली से बाहर देहात में गए हुए हैं, उनको क्या कठिनाई है और वे क्यों दिल्ली वापस आना चाहते हैं ? सरकार उन का वेतन बढ़ाने के बारे में ढाई साल से विचार कर रही है। उस ने इस बारे में अभी तक अन्तिम निर्णय क्यों नहीं लिया है ? सरकार का कहना है कि डाक्टरों को चार साल तक मिलिटरी में सर्विस करनी चाहिए। जब इस समय इमर्जेंसी नहीं है, तो उन को चार साल तक मिलिटरी में सर्विस करने के लिए क्यों कहा जा रहा है ? उन डाक्टरों को दिल्ली से बाहर कितने साल तक रखा जायेगा ?

Shri S. M. Banerjee: I have asked a specific question whether a committee will be formed, consisting of the Director-General of Health Services and the representatives of the associations to settle the problem so that

there will not be any difficulty. The Minister has not given any reply. On the other hand, she said that they would leave. What is the objection to having that committee?

सभापति महोदय : जहाँ तक कछवाय साहब के सवाल का ताल्लुक है, कौन दिल्ली वापस नहीं आना चाहेगा ? वह कुदरती बात है।

As far as Shri Banerjee's question is concerned, there should be something specific so that a committee could go into it. Otherwise, it is not simply done in the Government departments.

Since a large number of questions were asked, it is not physically possible for the hon. Minister to cover all the points within the short time. So, if it is possible, a little note may be made....

Dr. Sushila Nayar: I have already given a note. I have given statements giving all the answers....(Interruptions).

Mr. Chairman: The House stands adjourned.

17.45 hours.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, September 6, 1966/Bhadra 15, 1888 (Saka).