

position, that no such ultimatum has been given, and the leaders of the locomen could come to Delhi and talk to the hon. Minister regarding their strike. I want a categorical reply from the hon. Minister on this point

SHRI S M BANERJEE (Kanpur): We are trying to contact those leaders who are either underground or who are far away from Delhi at places like Tiruchirappalli and Lumding in Assam. We have received telegrams also. This ultimatum of 48 hours would expire by 8 p.m. tomorrow. It will be difficult for them to come to Delhi within that period. So, I would request the hon. Deputy Minister to assure the House that this 48 hours' restriction or this lakshmanrekha will not be there so that those people could come to Delhi for negotiations.

श्री रामावतार शास्त्री (पटना) लोकोमैन की जो हड़ताल चल रही है उस पर हुई बहस के दौरान मंत्री जी ने कहा था कि किसी को गिरफ्तार नहीं किया जाएगा। मुझे खबर मिली है कि आज भी गिरफ्तारियां जारी हैं जोकि उनके आशवासन के विपरीत है। इसमें स्थिति सुधर रही नहीं, बिगड़ रही है। स्थिति को सुधारने के लिए यह आवश्यक है कि गिरफ्तारियों को बन्द किया जाए और जिन को गिरफ्तार किया गया है उनको छोड़ दिया जाए।

SHRI JYOTIRMOY BOSU: All this is going on record, Sir?

SHRI K. P. UNNIKRISHNAN (Badagara): Through your good self, Sir, I want to request the Minister of External Affairs to come out with a statement about the great bombing that is taking place against the civil population in Cambodia where a whole village has been raged to the ground.

SHRI S. M. BANERJEE: It is not by mistake that it has been bombed, but the Americans have done it deliberately.

श्री संकर बघात सिंह (चतरा). लोकोमैन की हड़ताल के कारण बड़ी अव्यवस्था है और बहुत कम गाड़ियां चल रही हैं और जो चल भी रही हैं वे समय पर नहीं चल रही हैं। कल शाम को दिल्ली एक्सप्रेस, अपर इंडिया एक्सप्रेस आदि महत्वपूर्ण गाड़ियां भी यहाँ से बन्द हो गई हैं जिन के कारण हम गरीबों को एम. पी.जे. है उनके घरों पर दस दस और बारह बारह लोग पड़े हुए हैं। मेरी विरोधी दलों के नेताओं में प्रार्थना है कि वे कृपया हड़ताल समाप्त करवाने में योगदान दें ताकि सरकार आगे बढ़ सके।

SHRI D. N. TIWARY (Gopalganj): Before I begin my speech on the Bill I have to make one submission. We have read in the papers that there is a run on the banks for exchange of Rs. 100 notes on the false plea that it may be demonetised or some such thing. I want that the Finance Minister should make a statement about this.

MR. DEPUTY-SPEAKER: I am told that a calling-attention for this has been admitted for tomorrow. But I really do not know what the hon. Member wants. Does he expect Government to come forward here with a statement that they are going to demonetise?

SHRI D. N. TIWARY: I do not know. But it has come in the papers.

SHRI DINEN BHATTACHARYA: What is the reply of the Minister?

MR. DEPUTY-SPEAKER: He will reply when he gets up to reply to the debate.

14.15 hrs.

INDIAN RAILWAYS (AMENDMENT) BILL—Contd.

MR. DEPUTY-SPEAKER: We now resume consideration of the following motion moved by Shri Mohd. Shafi

[Mr. Deputy-Speaker]

Qureshi on the 6th August 1973, namely:—

"That the Bill further to amend the Indian Railways Act, 1890, be taken into consideration", and the amendment thereon

Shri D N. Tiwary may continue his speech

श्री डी. एन. तिवारी (गोपालगंज)
उपाध्यक्ष महोदय, कल मध्याह्नक मैं कह रहा था कि कानून बनाने का कार्य मध्य होना चाहिये और जो मन्त्र्य एजेंडेट और आइजेक्ट एंड रीजन में दिया हुआ है उसमें साफ जाहिर है कि एक ही काम के लिए जो मूल एक्ट है उसको और एमेंड कर रहे हैं और वह यह है कि नाजायज तरीके से इन्होंने जो पैसा पट्टा में लिया है या बड़ा समय से लेते आ रहे हैं उसका वह लोग वाइज करना चाहते हैं। उनका निश्चिन्त रहना चाहिये इस मामले में क्योंकि कानून के पास गती कोई रमीड है ना कि वह लेम कर सकें और न कोई सबूत। इस मामले में तो होगा ही नहीं इसलिए आप एमेंड करें या न करें उसमें कोई फर्क नहीं पड़ता। आप स्वयं जानते हैं कि आप नाजायज तरीके से पचाव शतमें से ले रहे थे और इसलिए कानून में आप रिट्रीमैबिलिटी इफैक्ट दे रहे हैं। यह नहीं हाना चाहिये था, पैसा आप कानून के तहत नहीं टार्कि करवा बना कर ले रहे थे और उस पैसे का जायज साबित करने के लिए तार्कि किसी कोर्ट में जा कर तो स्लेमन करद और इस कानून का बना रहे हैं। मन्त्रालय कानून ना जायज तरीके से पैसा ले ले रहा उसका जायज करने के लिए कोर्ट कानून लागू ऐसा आज तक गुना नहीं गया है। मुद्दना न चले इस को गेफमेट करने के लिए कानून बनाया गया है। पैसा मारने के लिए गैमी बन पहले हुईं हों यह देखा नहीं गया है। पैसा बसुना भी नहीं हो सकता है क्योंकि वगुल करने के लिए क्लेम करना पड़ता है और क्लेम करने के लिए रसीद होनी चाहिए। अब उनके

पाम रसीद बगैर। ता कुछ है नहीं और न उसे कोई रखा है इस बारे में डरने की बात नहीं थी।

दूसरा आप चेन पुलिंग के लिए राजा बड़ा रहे हैं। हमने कभी नहीं देखा की मेल ट्रेन या एक्सप्रेस ट्रेन में चेन पुलिंग होता है। लोकल ट्रेन में होता है। विसी खास बजह से और बहुत ही नगण्य चेन पुलिंग मेल या एक्सप्रेस ट्रेन में होता है। मैं चाहता हूँ कि आप फिगरों को बताय कि कितने समय में कितनी बार मेल ट्रेफ में या डी लक्स ट्रेज में चेन पुलिंग हुआ है ? और जब चेन पुलिंग हुआ तो आपने कितने मुकदमे चलाए और कानून ने जो आपको अधिकार दे रखे हैं वे नाकाफा साबित हुए, इन एंडीक्वेस्ट साबित हुए ? कानून का उपयोग आपने नहीं किया तो और ज्यादा पावर लेने की जरूरत क्या है में नहीं समझता हूँ कि आपने एक्ट को काम में लाया है। अब भी ऐसा मालूम पड़ता है कि लोगों के दिलों में दहशत फैलाने के लिए इस कानून को लाना चाहते हैं और इम्पेगन करना नहीं चाहते। ऐसी स्थिति में आप क्यों नाइक बदनामी ले रहे हैं। और अपने प्रति लोगों के दिमागों में दुर्भावना पैदा कर रहे हैं। उस तरह का कानून बना कर आप ठीक नहीं कर रहे हैं। प्रगर प्रापर्टी को डेमेज किया जाता है या किसी का जान चली जाती है या उसकी खतरा पैदा होता है तो उसके लिए आप डैथ प्रोसेल्टी तक प्रोवाइड कर रहे हैं। अब डैथ प्रोसेल्टी कैम होगो ? कीन ट्राई करेगा ? किम दर्ज का मजिस्ट्रेट ट्राई करेगा ? मैशन कोर्ट में वह कैम जाणगा या नही इस सब का आपने कोई धोरा नहीं दिया है।

कानून एमेंड करने का कोर्ट को मन्त्रालय होना चाहिये। काम गुवास्ता में चले यह लक्ष्य होना चाहिये। केवल मात्र कानून बना दें और इन्फोमल न करें यह ठीक नहीं है। रेलें ठीक ग चलाने तार्कि देज की जनता को फायदा हो, यूजज को फायदा हो। किस तरह से इस तरह का कानून ला कर आप जनता का फायदा कर रहे हैं, यह हमें मालूम नहीं।

रेलवे की इस समय जो हालत है, लेंट रनिंग आफ ट्रेन्ज आदि जो उस में गड़बड़िया हैं उनको सुधारने के लिए कौनसा कानून सहायता करेगा मैं मोनपर स्टेशन क नजदीक का रहने वाला बहा पढ़ने डी० टी० एम० आफिस था, जो अब वहा से हटा लिया गया है। वहा कभी कंट्रोल काम नहीं करता है। स्टेशन पर हर समय यही कहा जाता है कि कंट्रोल आफ आर्डर है। समस्तीपुर में कंट्रोल नहीं हो पाता। गाड़िया चार छ घांट घण्टे लेट होती है। लोगों को स्टेशन पर खड़े रहना पड़ता है। वे घर भी नहीं जा सकते हैं कि कहीं ट्रेन न आ जाये। स्टेशन पर कोई इन्फर्मेशन नहीं दी जाती है। हम ने बहुत प्रयत्न किया की जहा डी० टी० एम० आफिस था, वहा एक ऐसा आफिस बना दिया जाए, जिस में लोगों को सुविधा हो सके। समस्तीपुर जान इतना बड़ा है कि वहा कंट्रोल नहीं होता है। वहा में निक आना नहीं है। गोरखपुर में कटिहार तक को इतनी बड़ी जनसंख्या को रेलवे ऐसी उपकरण में रखे हुए है कि उन लोगों को कभी ट्रेन की मूवमेंट का पता नहीं चलता है। क्या मंत्री महोदय ने कभी सोचा है कि वहा के लोग भी मनुष्य हैं और उनको भी घर का काम करना पड़ता है ?

अगर किसी मिल में स्ट्राइक होनी है, तो श्री उपनिर्भय बसु कहते हैं कि इनमें मैन-आवर्ज लान्ट हो गये हैं। लेकिन हम लोगों के कितने मैन-आवर्ज लास्ट होते हैं? रोज हजारों मैन-आवर्ज लास्ट होते हैं लेकिन इस बारे में न तो श्री बसु और न कोई दूसरा हल्ला करता है। उन को नो आर्गनाइज्ड लेबर से मतलब है। हम रैनेजर्ज तो अनआर्गनाइज्ड है हम में उनका बोर्ड मतलब नहीं है।

श्री राजाजितर श.स.श्री (पटना) हमारा मतलब है।

श्री डी० एन० सिंघारो माननीय सदस्य ने इस बारे में कोई हल्ला नहीं किया है।

क्या मंत्री महोदय ने कभी सोचा है कि ट्रेन्ज के ठीक टाईम पर न चलने से, या ट्रेन चलने की ठीक एनफ्रमेशन न मिलने से, कितने

मैन-आवर्ज लास्ट होते हैं ? अगर वह इस हालत की सुधारने का कोई तरीका इस कानून से लाते तो हमें प्रमत्ता होती।

जब हम कहते हैं कि ट्रेन में बत्तो नहीं हैं, तो मंत्री महोदय कहते हैं कि लोग चुग लेते हैं और स्टॉफ भी उसमें मिला रहता है। लेकिन वह ऐसा कानून कहा लाये हैं कि रेलवे स्टॉफ के जो लोग इस प्रकार की चोरी में मिले रहते हैं, उन को मजा हो, या अगर रेलवे स्ट्राइक की अगर कोई गलती हो तो उसको मजा हो ?

रेलवे प्रशासन में तीन बरिगट रेलवे अधिकारी रेलवेज का संचालन करने हैं मिनिस्टर, रेलवे बोर्ड और जेनेरेल मैनेजर्ज। कल मैं ने कहा की मंत्री महोदय को एक्स्ट्र-क्युरिकलर एक्टिविटीज में फुर्मान नहीं है। वह समय लगा नहीं सकते। वह तिकडम के काम में अधिक लगे रहते हैं। रेलवे बोर्ड में ट्रान्स्पोर्टेशन और ट्रेफिक आदि का काम देखने के लिए अलग अलग मम्बर हैं। वे क्या करने हैं? हमने बराबर मन्त्रियों की इस बात का विरोध किया है कि रेलवे बोर्ड व्हाइट एलिफेंट है, उसका एवान्गिशन होना चाहिए लेकिन श्री बंभना पड़ेगा कि वे ठीक थे और जायद मैं ही गलती करता था। रेलवे बोर्ड का एवान्गिशन होना चाहिए और सरकार कोई दूसरा सिस्टम लाये, जिस में रेलवे का एडमिनिस्ट्रेशन ठीक तरह से चल सके।

आखिर रेलवे एक पब्लिक यूटिलिटी सर्विस है, वह लोगों की सुविधा के लिए है। पब्लिक रेलवे को इमानिये पैसा नहीं देती कि आफिसर्ज मिर्फ फाइले देखने रहे। और नन-खवाह लेते रहें। पब्लिक को बहुत असुविधा होती है। न ठीक समय पर गाड़ी आती है न एनफ्रमेशन मिलती है और न माल ठीक तरह से जाता है। मंत्री महोदय बताये कि इस स्थिति में रेलवे बोर्ड से क्या फायदा होता है।

मंत्री महोदय के पास जो शिकायतें आती हैं, वह उन पर ध्यान दें। रेलवे बजट पर डिस्कशन के समय जो पायट्रम उठाये जाते हैं, श्री कुरैशी की तरफ से कभी कभी उन का जबाब

[श्री डी० ए० तिवारी]

आता है। उनका जवाब क्या होता है, यदि मैं बताऊँ तो सब माननीय सदस्य हर्षा हर्षा गिर जायेंगे। मैंने कहा कि रेलवे में घूसबारी को रोकने के लिए

MR DEPUTY-SPEAKER We are not talking about the Railway Board

SHRI D N TIWARY That is the amendment What can I do? This Bill seeks to amend certain sections of the Act for better functioning of the Railways and I have to point out to him how the Railways function

MR DEPUTY-SPEAKER It is not an amendment to improve the functioning of the Railways The amendment is to enhance the penalty for certain offences that is the most important part of the amending Bill Secondly it authorises recovery of certain cancellation charges These are the two main points, kindly confine yourself to these two points

SHRI D N TIWARY But to what purpose? To what end? If the purpose is to take power and terrorise the public I say God help us But if the object is for better management of the Railways so that the passengers the consumers may get better service then you must know what are the deficiencies so that they might be set right If he does not know the deficiencies but goes on making amendments after amendments without knowing how the law is working, what is the use?

MR DEPUTY-SPEAKER There should be another occasion for it

SHRI D N TIWARY He may as well palm off and not refund the money he has collected in the past without any law He wants to regularise it That is one amendment Why should he regularise it He has been taking it illegally from us for the last ten years or so He had enhanced the penalty for chainpulling a year or two before In how many cases has he used that power? If he

has not used that power, what is the purpose in taking fresh power and more power? If I am irrelevant in asking these questions, what can anybody speak? I request the hon Ministers once again to control the Railway Board and the General Managers and other supervisory officers and ask them to devote their whole time for the betterment of the Railways as it had gone to dogs If they indulge in extra-curricular activities, they will not be able to do this

Last evening there was a discussion about the loco strike After the speech of the Railway Minister what have we found? Important trains are not being run Some trains are being stopped at Tundla Kalka mail which reached here normally at 8 p.m. was stranded there from 5 p.m. till 8 a.m. The passengers were stranded there Nobody asked them what they required The station platform could not accommodate so many passengers Two persons who travelled by that train came to me at about 10.30 a.m. today after the train reached Delhi at about 10.00 a.m. If you want to abdicate your power abdicate But if you want to amend the railway working, you have to deal with a firm hand and with firm intentions

श्री रामावतार शास्त्री (पटना) उपाध्यक्ष महादय भारतीय रेल अधिनियम 1890 में बिये जा रहा मशवदा पर हम विचार कर रहे हैं। मंत्री महादय ने नए मशवदों के कारण पर प्रकाश डालते हुए चार बातें बतलाई हैं—पहली बात तो उद्घाटन यह बतलाई है कि आरक्षण के बाद जो टिकट लोग वापस करते हैं उनका पैसा अब देने की व्यवस्था करे। अब तक जैसा हमन सुना है वह पैसा आप बराबर हजम करने रहे हैं—लेकिन अब ऐसी व्यवस्था करने जा रहे हैं यह ठीक है। इसमें हम बात की भी चर्चा है कि रिजर्वेशन में सट्टेबाजी का बाजार गर्म है उसको इसके द्वारा रोकने की कोशिश करें—यह भी बड़ी अच्छी बात है। सट्टेबाजी जहाँ भी होती रही

है, सम्पूर्ण देश को तबल्लू करती रही है, इसलिये रेलब में इसको जल्द बन्द कीजिये, ताकि सही मायनों में यात्रियों को आरक्षण और जगह मिल जाय, टिकट मिल जाय और इस बीमारी से उनको मुक्ति मिले ।

दूसरी बात—आप कहते हैं कि लोग पायदान पर चढ़ कर यात्रा करते हैं, डिब्बों की छतों पर यात्रा करते हैं, खिड़किया खोल कर रखते हैं, जजीर खेंच देते हैं, विस्फोटक पदार्थ लेकर चलते हैं, जिससे खतरा पैदा हो सकता है—इन तमाम बातों को आप रोकना चाहते हैं—आपका इरादा बहुत नेक है । लेकिन जिन तरीके से आप इस काम को करते हैं, जिसकी चर्चा अभी पंडित जी ने की है, क्या उसी तरह से उन नेक इरादों को पूरा करेंगे । प्रश्न यह है कि लोग पायदान पर, छत पर चढ़ कर यात्रा क्यों करते हैं—इसलिये कि गाड़ियों में जगह नहीं है, उनके मामले परेशानी होती है, वह जाना चाहते हैं, इसलिये उनको इन स्थानों पर यात्रा करनी पड़ती है । आप गाड़ियों की तादाद बढ़ाइये, उनमें ज्यादा डिब्बे लगाइये । लेकिन डिब्बे लगाने के नाम पर तो आप भोजनालय या कन्टीन को ही हटा देना चाहते हैं, ताकि गाड़ी में जो खाना लोगों को मिलता है, वह न मिले, उमको जगह सदा हुआ खाना पैकटों के जरिये आप देना चाहते हैं । इस तरह की बात करेंगे तो कैसे काम चलेगा

श्री हरबारा सिंह (होजिबारपुर)
सदा हुआ खाना ?

श्री रामावतार शास्त्री मैं बतलाऊंगा,
कही कही ऐसा खाना मिलता है ।

मैं पूछता हूँ—कस्टमर क्लास की क्या जरूरत है, एक्स्प्रेस-कन्डीमनड की क्या जरूरत है ? समाजवादी समाज के नाम पर इसका आत्म्या भीजिये, इससे सीसरे दर्ज के डिब्बे बढ़ सकेंगे, गाड़ियाँ बढ़ सकेंगी । जब तक ऐसा नहीं करेंगे, आप चाहे जिसनी सजा दीजिये,

चाहे जितने कानून बनाइये, लोग छतों पर चढ़ेंगे, हमारे न चाहने पर भी भीड़-भाड़ बढ़ेगी ।

तीसरी बात—आपने कहा है कि दुर्घटना के सिलसिले में आप जिसको मुआवजा देते हैं, उसमें जल्दी होनी चाहिये—यह सही बात है, इसमें किसी को एतराज नहीं है ।

चौथी बात—आप कहते हैं कि जो लोग रेल सम्पत्ति की बरबादी करते हैं, रेलगाड़ियों को नुकसान पहुंचाते हैं, कोई भी आन्दोलन हिन्दुस्तान में होता है, उसका सबसे पहला टारगेट रेलवे होती है । रेलवे की सम्पत्ति को हम देश की सम्पत्ति मानते हैं, लेकिन सबसे पहले लोग उसी पर हमला करके नुकसान पहुंचाते हैं । इसको बचाया जाना चाहिये—इसमें किसी को मतभेद नहीं है, हमारा मतभेद तो तरीके पर है । अब तक तो ऐसी व्यवस्था थी कि यदि कोई रेलवे पर हमला करता था और उससे यात्रियों को नुकसान होता था, तब उसको सजा दी जाती थी, लेकिन अब ऐसी व्यवस्था करने जा रहे हैं कि यदि यात्री को नुकसान न भी हो, तो भी यदि कोई रेलवे की सम्पत्ति को नुकसान पहुंचाये तो सजा दी जा सके—यह सही बात है । लेकिन ये तमाम बातें कैसे होगी । मेरा आपमें निवेदन है कि आप इस काम में जनता का सहयोग लीजिये, केवल कानून बनाकर कानून को किताबों में बन्द न कीजिये, उनके अन्दर दहशत पैदा न कीजिये, इसको कैसे रोका जा सकता है—इस पर विचार कीजिये । इसमें आप मजदूरों का सहयोग लीजिये, मजदूर संगठनों का सहयोग लीजिये । लेकिन आप क्या करते हैं—आपको मालूम है कि लोको रनिंग स्टाफ की हड़ताल चल रही है, आपने बायपा किया, लेकिन फिर भी उनका दमन किया जा रहा है । अगर यही सहयोग की तरकीब होगी तो फिर आप इन बातों को करेंगे—सब्त सजा दी जाय, फांसी दे दी जाय । लेकिन साथ फिर भी नहीं मानेंगे, उनका सहयोग लेने से ही वे समझ सकेंगे कि यह हमारी सम्पत्ति है । हमने अभी तक उनके

[श्री रामाक्षतार साहूजी]

अन्दर यह भावना ही पैदा नहीं की है, इसीलिये ये समस्याएँ बनी हुई हैं। इन तमाम कामों में उनका सहयोग लीजिये, उनके विभागों को पलटिये कि वे आपकी इस सम्पत्ति को अपनी सम्पत्ति समझें। रेल मजदूरों के साथ ऐसा व्यवहार कीजिये कि वे समझें कि कहीं कोई गड़बड़ी कर रहा है तो इसकी हिफाजत करना हमारा कर्तव्य है। लेकिन ऐसा माहौल आपने पिछले 25 वर्षों में पैदा नहीं किया। अभी भी समय है, आप इन बातों की तरफ ध्यान दीजिये।

आपने रेलवे सुरक्षा बाहनी बना रखी है। किस लिये? इसलिये कि रेलवे की सम्पत्ति की कोई डेमैज न कर सके, लूट-पाट न करे। क्या आपने अभी उनके कामों का लेखा-जोखा लिया है, क्या वे आप के साथ सहयोग कर रहे हैं? आप हर साल 10 करोड़ रुपये उनके ऊपर खर्च करते हैं—इनको स्ट्रीम-लाइन कीजिये। वे लोग खुद चोरी करते हैं, लूट-पाट में सहयोग देते हैं। इसकी तरफ आप को ध्यान देना चाहिये—इनका इस्तेमाल ठीक से हो रहा है या नहीं?

हमारे रेल कर्मचारी पहाड़ों, जंगलों, खोहों से रेल ले जाते हैं, लुटेरे उनके ऊपर हमला करते हैं, आन्दोलनकारी हमला करते हैं—लेकिन उनकी सुरक्षा की कोई गारन्टी नहीं है। हम बिहार के बारे में जानते हैं—जहाँ से हमारे रेल मंत्री श्री ललित नारायण मिश्रा जी आते हैं—सहरसा जिला—वहाँ गाड़ियाँ चलती हैं, दिन-दहाड़े लूटपाट होती है, लेकिन बचारे एम्प्लाइज नहीं बोलते हैं, बोलते हैं तो पहले उनकी ही गर्दन साफ कर दी जाती है। मैंने बहा का उदाहरण इसलिये दिया कि रेल मंत्री जी वहाँ से आते हैं।

आन्ध्र में विभाजन का आन्दोलन चला, हमारे कैबिनेट-मैन की जान ली गई, उसको जला दिया गया। मेरा कहना है कि आप कर्मचारियों की सुरक्षा का बन्दोबस्त कीजिये। उन रेलवे एम्प्लाइज को, जो इस तरह का काम

करते हैं, आर्म्ड कीजिये, उनको हथियार दीजिये ताकि वे डकैतों का मुकाबला कर सकें, एन्टी सोशल एक्टिविस्ट्स का मुकाबला कर सकें, समाज विरोधी तत्वों का मुकाबला कर सकें। इससे आपकी सम्पत्ति की भी रक्षा होगी और साथ ही साथ उनके अन्दर विश्वास पैदा होगा, हमारी जान का ख्याल यह आला-हुकूमत करती है, यह सरकार करती है। अगर ऐसा नहीं करेंगे तो वे बेचारे क्या सहयोग करेंगे।

टिकटलेस ट्रेवलिंग बहुत है, हम इसकी रोकना चाहते हैं—लेकिन कैसे रोकें। कर्मचारियों से हम सहयोग नहीं लेते हैं। उनका सहयोग लेने के लिये उनकी समस्याओं का समाधान कीजिये, उनको हमलों से बचाने के लिए हथियार दीजिये ताकि वे अपने प्राणों की रक्षा कर सकें।

आपने कहा है कि ट्रेस-पास (अनाधिकार प्रवेश) रेलवे की सीमा के अन्दर रोकना है—यह बड़ी खतरनाक बात है, किमको पकड़ियेगा मेरे जैसे कई आदमी जायेंगे, जिनको मजदूरों का संगठन करने का काम करना है, उनको आप गिरफ्तार करके जेलों में भेजेंगे। यद्यपि हमको अधिकार है, सविधान के मुताबिक हम कहीं जा कर संगठन बनायें, शान्तिमय तरीके से आन्दोलन करें, लेकिन इस ट्रेस-पास के कानून में आप हमको पकड़ने की चेष्टा करेंगे। जो लफंगे हैं, गड़बड़ करने वाले हैं, उन को नदी पकड़ेंगे। उनके साथ आपके प्रारंभ १० पी० ए० ए० और पुलिस वाले मिले होंगे, लेकिन रेलवे यूनियन्स के कार्यकर्त्ताओं को पकड़ेंगे। अगर ऐसी बात हुई तो हम इसका डट कर मुकाबला करेंगे। आप की मशा में ऐसी बात है—ऐसा मेरा अन्दाजा है।

वैगर्स के लिये कई सदस्यों ने कहा है, उनको आप ठीक नहीं करना चाहते हैं। वे सब जगह घूमते हैं, कोई रोक नहीं है। अन-अथोराइज्ड हाकिम की बात कही गई है—बहु ठीक है, अनअथोराइज्ड हाकिम नहीं होना चाहिये। लेकिन आज देश की स्थिति क्या है?

इस स्थिति तो सब की जबाबदेही लीजिये, खाने-कपड़े का बन्दोबस्त कीजिये, लेकिन यदि आप ऐसा नहीं करते हैं तो वह बेचारा गरीब अगर कुछ बेच कर रोटी खाना चाहता है, तो उसकी आप रोकना चाहते हैं। जो रेल अधिकारियों को बस देकर लाइसेंस नहीं ले सकता है, अगर वह स्टेशन पर सामान बेचता है तो उस पर आप के वार हांगें, आपका हमला होगा, तो इस तरह से काम नहीं चलेगा। तो जो आपके उद्देश्य है उनकी पूर्ति सजा बढ़ाने से नहीं होगी, उनकी पूर्ति जनता के दिमाग में डर पैदा करने में नहीं होगी, बल्कि तमाम जनता के अन्दर यह भावना जागृत करनी होगी कि देश हमारा है, इसकी सम्पत्ति हमारी है, इसका इस्तेमाल जनता के हक में होगा। बड़े लोगों के हक में नहीं होगा। और आम जनता तथा मजदूरों का सहयोग लेकर इस सम्पत्ति का इस्तेमाल जनता की भलाई के लिये होगा। आप अभी इस तरह का वातावरण पैदा कर रहे हैं और अपनी सम्पत्ति की रक्षा कर सकते हैं, मूठवाजी को रोक सकते हैं और रेलवे में जो दूमंगे गड़बाड़िया हैं उनको रोक सकते हैं।

SHRI N. K. SANGHI (Jalore):
Mr. Deputy Speaker, Sir, we are today discussing the Indian Railways (Amendment) Bill to further amend the Indian Railways Act, 1890.

It has been said by the hon. Minister that this is a simple Bill, that it only tries to provide in the Act the provision regarding cancellation charges and that it will also provide a deterrent punishment for certain offences, like, travelling on foot-board, travelling on roof of the train and for doing such acts for wrecking of trains and such other things. I have been hearing the speeches of the hon. Members who have preceded me. There has been at least one opinion expressed by all the hon. Members, whether from our party or from the Opposition that whatever deterrent punishment that is being provided by

the Bill is not going to bring the climate that is desired.

The unfortunate thing is that the Railways have failed badly in providing adequate accommodation and basic amenities for the travelling public. The railways are the life-line of every individual's movement that exists in the country, whether he is an artist, an agriculturist a labourer, a politician, a businessman, an industrialist and so on. He has to travel for a purpose. Today, I do not think there is any person who would like to travel unless he has to travel. To travel by railways is not comfortable at all.

Before I speak on the provisions of the Bill, I would like to take this opportunity of congratulating the hon. Minister for finalising the location of the third terminal in Delhi. This matter has been hanging fire for years together. I am glad that the Members of the Railway Board physically moved out of their office to finalise the location. I am so glad and I congratulate the Members of the Railway Board and the hon. Minister that they have ultimately taken a decision. I would only request the hon. Minister that they should keep in view one thing. "New Delhi" terminal which was built about two decades ago has outgrown its capacity within a period of 20 years. You are going to spend crores of rupees on the construction of the third terminal. I am sure, you will keep in view that the third terminal is good enough for the next 50 years and that it does not become congested like New Delhi in a short span.

The hon. Minister has said that he has provided for recovery of cancellation charges in the Act because it has been advised by the Ministry that since it was not provided in the Act, they could not recover the cancellation charges. I agree. But there is one aspect. In the Library, I wanted to see whether the Rules for the cancellation charges have been laid on the Table of the House under the dele-

[Shri N. K. Sanghi]
gated power of the legislation. I have not been able to find them. I would request the hon. Minister to tell us whether the Rules for the cancellation charges framed under the Act have been laid on the Table of the House and whether, whenever any revision has been made in the cancellation charges, these Rules have been laid on the Table of the House. If they have not been laid on the Table of the House, I think, this is a matter of very serious lapse for which the Ministry can be reprimanded.

It has been said that before 1945, we did not have cancellation charges and that only after 1945 we introduced cancellation charges. What is the position regarding reservations since 1960? Before 1960, whenever we wanted to travel, we could buy a ticket and go. Today, you cannot travel unless you have a reservation, whether you are travelling by Third Class or Second Class or First Class or Air-Conditioned Class. You cannot travel unless you have a reservation. With growing economy, with increasing population, what is your planning for the next five or ten years? Unless you are able to provide adequate accommodation for the travelling public, you are not going to achieve your purpose. They are not going for a holiday or to any hill station. We do not want any concession. The people travel for a purpose. Unless you provide adequate accommodation for the travelling public, the idea of saying that you want to stop black-marketing, that you want to put a stop to speculative reservations by travel agents, will be a myth.

What is the position about reservations? For hours together, you have to wait for getting reservation and even then, sometimes, you do not get it. The other day, I had been to old Delhi Station. Believe me it was like a bedlam. There were hundreds of people hovering on the window and it was very difficult to get a ticket. I thought it was better to leave the job there.

Presently, there are fast trains to Madras, that is, G.T., Southern Express and Janta. I ask the hon. Minister: Can any person travel in these trains without any reservation? He cannot travel in these trains unless he has reserved a seat. Can we not have some compartments in these trains where persons will be able to travel without making advance reservation? A man who is in difficulty, who is in duress—somebody died or something happened and he has to travel, he has no time for making the reservation—should be in a position to buy the ticket and travel. This is important which Government should look into.

It has come to our notice that people who have reserved their accommodation and who have got the reservation tickets, on reaching the station at times find that their names are not in the list. In such a situation what do they do? If they do not travel on that day, they would be asked to pay the cancellation charges, and if they travel, it would be tantamount to trespass because there is no reservation.

Unfortunately, the railway administration is not geared up to meet the aspirations of the people; they have no public relations office to take care of such situations. Unfortunately the feeling that the railway employees have developed is that they are not to serve the people, they are employees of the railways only and there their job finishes. There is no courtesy, there is no understanding of service to the travelling people; there is no such feeling that they have to serve the people.

I come from Jodhpur where we have only one train to Delhi, the Jodhpur-Delhi Mail. Every day you find from the reservation office that for third class sleeper 50 to 75 persons are on the waiting list. If this is the situation, what are the people to do? They cannot come by alternative methods of transport like buses because no such services

are available. The only way is to travel by rail and every time you find that third class accommodation in the sleeper is missing for 50 to 75 persons. Unless this is rectified, unless things are improved, how do you expect the people to have any regard for the railways which is our biggest public sector undertaking?

Now what has happened to dieselisation of the Jodhpur-Delhi Mail? I have been meeting the Divisional Managers and I have been told that their recommendation for dieselisation has already been sent to Delhi and Railway Board. I do not know why dieselisation of Jodhpur-Delhi Mail has not yet taken place; if dieselisation takes place, then it can carry two extra coaches and they will also be able to run the train faster by a few hours and save people's valuable time. But the proposal goes there again and again and it lies in the archive of the Railway Board. Unless we have some political pressure, things are not done. This is the unfortunate situation. Unless we rectify these matters, unless we take stock of the things, I do not think the menace of reservation will go, and the poor people will continue to suffer.

Whenever a new Railway Minister takes charge, we find from reports in the papers that the hon. Minister was good enough to travel in a third class compartment *in cognito*. This happened with Shri Nanda, Shri Hanumanthaiya and Shri Pai. I am very glad that we have not heard this about Shri L. N. Mishra. What is the reaction of the people to such news? They feel that, if the Minister travels in a third class compartment to check up the difficulties of passengers, something will be done to solve the problem. But, unfortunately, no problem is solved. Nothing happens. People stay where they are, the railways stay where they are and the problems also remain where they are. It is high time that this gimmick is stopped....

MR. DEPUTY-SPEAKER: I hope you have in mind the time for the other parts of the Bill. You have spent almost ten minutes on this one aspect.

SHRI N. K. SANGHI: This is the unfortunate situation which is prevailing and which I have to point out.

Coming to participation of the people, it has been said that whenever there is any agitation, whether it is language agitation or regional agitation or political agitation, people destroy the properties of railways. Crores of rupees worth of railway properties, essential properties, have been destroyed.

Many arguments have been given. But we have to consider seriously why only the railway properties are being destroyed. There are other government properties, like State buses, collectorate offices, thanas and many other government properties. But why are railway properties generally singled out and destroyed? It is a matter which must be considered by this Ministry squarely and properly. It is because of the fact that 99 per cent of the travelling public travel today like animals—worse than animals. Even in a horse carriage, there are only four horses whereas in a third class compartment if there is seating capacity for 70 persons, more than 100 persons travel. Naturally the people are charged with bitter feelings towards the management of the railways. When does the expression burst out? It does not burst out in normal times. That is why, whenever there is any political trouble the first target is railways.

We are also told every time by the Railways that we are losing on the passenger services. I would like to ask the officers and the Minister to give a statement regarding this matter. The long distance trains have been proved by statistics that they are running at break-even economy or break-even costs. If the passenger

[Shri N. K. Sanghi]

trains are running at a break-even economy and when they are not running at loss today, it is time that they should plan for having more and faster trains and improve the facilities so that a time may come that 10 per cent of the seats go unoccupied. There should be something like unoccupancy in our trains also. We have to have a situation like that.

We are thinking of the participation by the people. We talk of so many things. We talk of socialism. What is happening? Whenever the Zonal Manager travels for inspection, he travels by special train. Hundreds of officers accompany him by the special train. They are not willing to stop the special train at a way-side station to receive a memorandum from the people. Some persons wanted to present a memorandum to the Zonal Manager. They would not stop the special train. But the people stopped the special train and presented the memorandum. The whole purpose is this, that when the General Manager is travelling he should not go by special trains. He is accompanied by a coterie of people and you cannot have even a chance of meeting him. If you want to see him, you should first pass through half a dozen officers and explain to them why you want to see the General Manager. If they go by special trains, will they be able to understand the problems of the people? Will they be able to understand the problems of the staff? I for one would like them travelling for inspection by special saloons and avoid going by special trains.

Now, coming to the Bill, Sec. 120 imposes penalty for trespass. I want to get a ticket but I am not able to get it. Then I enter the station and board the train. Then it is trespass and I am sent to jail.

Now, with regard to cancellation charges, I would like to ask the Minister one thing. The cancellation

charges for the Rajdhani express is 50 per cent. What is the rationale behind this 50 per cent cancellation charges? There is such a long waiting list that you can fill up the seats falling vacant in no time. Your cancellation charges should be somewhat reasonable.

With these few words, I would like to say that a lot is required to be done and unless we look into all these matters with a very very cool and patient mind, increasing of the punishment will not create the climate for which this Bill has been brought forward.

I am very happy to say that the Minister the other day....

MR. DEPUTY-SPEAKER: Please conclude. If you had been the only speaker from your Party, I could have allowed you all the time.

SHRI N. K. SANGHI: He was good enough to say that he will look after the interests of minorities, Scheduled Castes & Scheduled Tribes..

MR. DEPUTY-SPEAKER: Minorities do not come in this Bill

SHRI G. VISWANATHAN (Wandiwash): The Indian Railways (Amendment) Bill, 1973 is a shining example of the utter callousness and ignorance of the Railway administration whether it is the Bihari Badshah who occupies the ministerial throne or the Chota Nawab, his deputy, to the legal provisions of the Act and the general law in this country as also the conditions that prevail in this land.

This Bill seeks to validate some of the monstrous ministerial himalayan blunders committed by the Railway administration. It seeks to validate them. If it is only limited to the future, I can agree but if they want to give a retrospective effect not only for the wrong recoveries for which rules have been framed even though

there is no enabling provision, I cannot agree. I will quote what the Bill says:

"All charges levied and collected ...at any time before the commencement of this Act, shall be deemed to have been validly levied and collected in accordance with law and accordingly no suit or other proceeding shall be maintained in any court for the refund of any such charges."

Suppose there is a pending suit against the Railway administration in the court, what happens?

As soon as this Bill is passed the court has to throw out the cases which are pending before it. I want to know from the Minister about one thing. At that time when the Railway Administration wrongly recovered the amount from the concerned person it was without the provision in the Act. It was unlawful and illegal. What is wrong in getting back that amount from the Railway Administration? I would like the House to consider this position, namely, whether they should be given retrospective effect. As far as the future aspect is concerned they can have it. Certain wrong is committed, it has got to be rectified. I oppose this retrospective effect as far as this clause is concerned.

There is another provision about which I have to say certain things. When we speak about recovery of cancellation charges automatically, as other Members have pointed out, the reservation of the Railways has got to be considered as there is lot of black-marketing and corruption in reservation. It has already been dilated upon by other hon. Members. I only want the Railway Administration to wake up from its deep and long slumber and to clear its stable, namely, the reservation places which are nothing but places of blackmarketing and corruption.

They want to give interim relief to victims of railway accidents. All of us agree. Interim relief should be given

to the persons who are killed or injured at the time of railway accidents. I want to point out that it is not one accident, not even hundreds or thousands which take place. I want to quote the figures and say that from 1967-68 to 1971-72, in 5 years, the total number of accidents are 25,445,374 people have been killed. 1682 persons have been injured. Perhaps India ranks first in the whole world in the matter of railway accidents. I want to know from the Minister as to what they are doing about it, to curb, if not stop the rate of accidents. What are they doing to reduce the number of accidents in the Indian Railways? This is something which I hope the hon. Minister will refer to when he replies to the debate.

Then, what are the offences for which they want to increase the punishment? In Section 118 they want to increase the punishment. What are those offences? They are:

Entering or leaving the train in an unauthorised manner; Entering or leaving any carriage while the train is in motion.

Entering or leaving elsewhere than at the side of the carriage.

Open the side-door of any carriage while the train is in motion.

For these offences, according to the present Act the punishment is a fine of Rs. 20 but the present Railway Minister and the Railway Administration want to increase the punishment as imprisonment for one month or a fine of Rs. 50. If the Minister goes and tells the people that if somebody happens to open the door when it is in motion he will be sent to jail for a month, he will be beaten by them. This is somewhat absurd. Again when you come to the second sub-section what do you find? It says:

"If the passenger, after being warned by the Railway servant to desist in travelling on the roof, steps or foot-board of any carriage or on an engine."

[Shri G. Viswanathan]

Sir, nobody travels on an engine

or in any other part of the train not intended for the use of passengers he shall be punished with fine which may extend to Rs 50."

The present Act has imposed a fine of Rs 50 and they want to increase it to 3 months' imprisonment or a fine of Rs 150. How can you say, you will send a man to jail for 3 months if he travels on footboard? I agree with you provided you give enough space for him to travel inside. If you cannot provide that, why do you say you have to send him to jail? What authority have you got to send him to jail he travels on footboard?

15.00 hrs.

This is your failure again. They want to increase the punishment. Now it is only a fine. They want to send them to jail for six months. For trespassers, as has been pointed out rightly already, the fine seems to be Rs 20. Now they want to give one month's imprisonment or three months or Rs 50. If they persist in their crimes, then they will be given an imprisonment of three months or Rs 150 fine.

Again, Sir, for wrecking or attempt to wreck the train, according to the present Act, for the first offence, it is three years' imprisonment and for the second offence, it is seven years' imprisonment. The Railway Administration now wants to increase the sentence to imprisonment of life or a death sentence.

I want to know from them what is the use of having so much powers in their hands when they cannot make use of them. At the present moment, as has been already pointed out by previous speakers and other speakers

from the Congress Party—Ruling Party—when enough powers are in your hands, you are not making use of them. You have not been able to use them. For the last twenty-five years, there have been hundreds of cases in railways when people have been burnt. There have been cases that in the railways cabmen have been burnt to death in all sorts of agitations. What have you done? Can you tell what you will do with the mass agitation where thousands and thousands of people go and stop the trains? How are you going to face all these things? Take for instance the case of separate Andhra Pradesh. There was an agitation. What has been the result? The entire Guntur Station was blocked by thousands of people. The entire group of Raghuramaiah would have been sent to jail just as you have sent the entire contingent of people to jail if there were agitations. If this power is given, it is likely to be misused. So, I want the Government to reconsider the whole thing and let us know as to who is the person who is going to administer the justice on those convicted under the Railway Act.

Under Section 133 of the Indian Railways Act, no magistrate, other than the Presidency Magistrate or the Magistrate whose powers are not less than those of a magistrate of a second-class, shall try any offence. So, under this Act, only a second-class magistrate can try all these offences. What are the powers given under the Act to these Second-class Magistrates? According to the Code of Criminal

Procedure, Section 32 reads as follows:—

"(1) The Courts of Magistrates may pass the following sentences, namely:—

(a) Court of Presidency Magistrates
and of Magistrates of the first
class.

Imprisonment for a term not exceeding two
years, including such solitary confinement as
is authorised by law;

Fine not exceeding (two thousand) rupees;

(b) Courts of Magistrates of the
second-class.

Imprisonment for a term not exceeding six
months, including such solitary confinement
as is authorised by law;

Fine not exceeding (five hundred) rupees."

The powers given to second-class magistrate are in (b) above.

You have provided death sentence, imprisonment of life for a period of seven years or 10 years. How are you going to hand over these powers to a second-class magistrate? The death sentence should be given only by a sessions judge or an additional sessions judge. Even in that case, it has to be confirmed by the High Court. The whole thing is absurd. And it is high time the Government withdraws this Bill and they bring forward a comprehensive Bill. Sir, the Railway Act itself is 80 or 90 years old. In this country Southern and Northern Railways are functioning. You cannot distinguish between one and the other railway. It is time that the Government brings forward a comprehensive Bill. So many deletions have to be made and so many additions and alterations have to be made in the Act itself. And so, I say, it is high time that they withdraw this Bill from the House and bring forward a comprehensive Bill to enable this House to consider the Act as a whole. Now, I request the Government and this House to throw this Bill lock, stock and barrel and bring forward a comprehensive Bill.

MR. DEPUTY-SPEAKER: Shri Sukhdev Prasad. Only five minutes please.

श्री सुखदेव प्रसाद वर्मा (नवादा) :
उपाध्यक्ष महोदय, भारतीय रेल संशोधन विधेयक पर सदन में विचार किया जा रहा है। इसके संदर्भ में मैं भी अपने विचार आपके सामने रखते हुए यह निवेदन करना चाहता हूँ कि सचमुच में देश के सामने रेलों के सम्बन्ध में जो समस्याएँ हैं उनको अगर देखा जाए और इस बिल को देखा जाए तो यह आसानी से समझ में आ जाता है कि भारतीय रेल कानून में जितने व्यापक रूप से संशोधन करना चाहिये था प्रत्येक धारा का इतने छोटे से संशोधन विधेयक से रेलों की समस्याओं का समाधान सम्भव नहीं है।

देश में एक चीज ग्राम चर्चा का विषय हो गई है। गांवों में भी लोग कहते हैं कि आज हमारे देश में नून, खून और कानून बढ़ा सस्ता हो गया है, नून यानी साल्ट। जब जरूरत पड़ी तभी कानून बना दिया जाता है चाहे उसका कार्यान्वयन हो या न हो। कानून बनाते समय इस बात का ख्याल नहीं किया जाता कि जो कानून पहले से बने हुए हैं उनको इम्प्लेमेंट करने की शक्ति हम में है या नहीं है, जिन के माध्यम से हम लोग उन कानूनों को कार्यान्वित कराना चाहते हैं, उन में सलाहियत है या नहीं है। तथा उनका इरादा कार्यान्वित करने का है या नहीं और कानून जिस मकसद से हम बना रहे हैं उस मकसद तक पहुँचने में हम समर्थ होंगे या नहीं।

[श्री सुखदेव प्रसाद वर्मा]

रेलो के सम्बन्ध में माननीय तिवारी जी ने जो विचार व्यक्त किए हैं उनसे मैं सहमत नहीं हूँ। उन्होंने कहा कि जजोर खीचने की बहुत कम घटनाएँ होती हैं। मैं उनको बतलाना चाहता हूँ कि पटना से गया की दूरी 57 मील की है जिस को ढाई घंटे में तब किया जाना चाहिये लेकिन इस दूरी को तय करने में सात घंटे से कम कभी नहीं लगते हैं। इस से कम मैं एक भी गाड़ी नहीं पहुँच पाती है।

श्री डी० एन० तिवारी मैंने यह नहीं कहा। मैंने कहा था कि मेल और एक्सप्रेस में कम घटनाएँ होती हैं, लोकल ट्रेज में अधिक होती हैं।

श्री सुखदेव प्रसाद वर्मा सात घंटे क्यों लगते हैं? कारण यह है कि जिनने भी गांव पटना रेलवे स्टेशन से तारैगना स्टेशन तक रास्ते में पड़ते हैं सभी स्टेशन हो गए हैं। सभी गांवों के पास जजोर खीचकर गाड़ी रोक ली जाती है। ऐसी परिस्थिति में मैं तो इतने भी कड़ा कानून बनाने के पक्ष में हूँ। अधिकारियों की लापरवाही के कारण यात्रियों के समय की बर्बादी तो होती ही है लेकिन चेन्न पुलिंग के कारण भी यात्रियों के काफी समय की बर्बादी होती है। जब तारैगना से गाड़ी आगे बढ़ती है यात्रियों ने जिनसे जब गया जिन में प्रवेश करना है तो यात्रियों को प्रस्थान हो जाना है कि अब गया पहुँच जायेंगे। यही हालत गया कपूर की है।

हमारे शास्त्री जी ने कहा कि सहयोग लेना चाहिये। मैं उनको बतलाना चाहता हूँ कि पटना से गाड़ी खुलती है और तारैगना स्टेशन तक रास्ते में जितने भी गांव पड़ते हैं सभी स्टेशन बन गए हैं और सभी जगह चेन्न पुलिंग होती है। अगर कोई चेन्न पुलिंग करने से किसी को मना करता है तो गांव वाले मिल कर चेन्न पुलिंग करने वाले की मदद में पैसेजर्स पर रोड़े पथर आदि बरमाना शुरू कर देते

हैं तथा लाठी धीर घेसी का प्रहार होता है। जब गाड़ी बड़ी होती है तो जितने बिना टिकट के यात्री होते हैं सभी उतर जाते हैं। ऐसी स्थिति में चाकई सहयोग मांगा जाना चाहिये और सभी गांव जो स्टेशन बन गए हैं वहाँ के लोगों से सहयोग मांगना चाहिये। लेकिन साथ साथ मैं यह भी चाहता हूँ कि कानून में यह प्रावधान होना चाहिये कि जो अमहयोग करते हैं जैसे गांवों से सामाहिक धर्म दंड वसूल करना चाहिए। जब तक इस दृष्टि से कानून नहीं बनाया गया समय पर नहीं चल सकेगी और न पहुँच सकेंगे। बिना टिकट चलना बन्द नहीं होगा। बिना टिकट चलना गलत है। इसके लिए दंड बढ़ाया जरूरी था। लेकिन मुझे डर है कि यह इम्प्लेमेंट नहीं होगा। कौन इसको इम्प्लेमेंट करेगा? बिना टिकट यात्रा कैसे प्रारम्भ हुई? यह इनके कर्मचारियों की वजह से ही हुई है। पटना से गया इनके कर्मचारी शुरू शुरू में लोगों को ले जाया करते थे फर्स्ट क्लास में और एक रुपया उन से ले लेते थे, कहा करने से कि गया चलो, एक रुपया दो, फर्स्ट क्लास में बैठो। यह उनका धंधा था। कानून में सशोधन तो आप लाए हैं लेकिन लगता है कि देश की जनता को तो आपने गलत माना है लेकिन कर्मचारियों को दूध का घोंघा ठहराया है। कानून में कोई व्यवस्था नहीं है कि अगर हमको कोई इम्प्लेमेंट नहीं करेगा तो उसके खिलाफ आप क्या करेंगे? इस किस्म का वही कानून मैं सशोधन देख नहीं पड़ता है।

आपकी रेलें घाटे में चल रही हैं। कारण यह है कि चोरिया बहुत ज्यादा होती हैं। इन चोरियों में किन का हाथ रहता है? आर०पी०एफ०वालों का तथा आपके अधिकारियों का रहता है। आप कमेटी बनाए या स्वयं जा कर देखें कि बड़े बड़े स्टेशनों में, माल गाड़ियों के डिब्बों से जो सामान उतारा जाता है, चोरी किया जाता है, उस में आर० पी० एफ० के कर्मचारियों

का हाथ रहता है। इसके सम्बन्ध में कोई एम्बेडमेंट नहीं है। आपको सशोधन लाने के पूर्व बड़ी गम्भीरता से सारे रेलवे कानून का अध्ययन करना चाहिये या और देखना चाहिये या कि हर एक बिन्दु पर हम किस तरह से रेलवे की गड़बड़ी को सुधार सकते हैं और एक व्यापक बिल लाना चाहिये या। आपने ऐसा नहीं किया। सशोधन आप लाए हैं, ठीक है। लेकिन जल्दी आप मारे रेलवे कानून का अध्ययन करके सशोधनो का एक ड्राफ्ट तैयार करे और उसको सिलेक्ट कमेटी में ले जाए। सार्वजनिक क्षेत्र में अगर हम किसी को दोषी पाए तो उसको दंड देने की व्यवस्था करे। वहां दूसरी तरफ डम में यह भी व्यवस्था की जाये कि अगर रेलवे कर्मचारी इस को इम्प्लेमेंट न करे और उन को डिलाई हो, तो जो सच्चा ऐसे गलत काम करने वाले को दी जाये, वही सच्चा गाड़ी से चलने वाले अधि-कारी को भी दी जाये और दोरी रमचारियों को भी वही दंड दिया जाय।

जहां तक चैन खींचने, खिड़की या दर-बाजा खोलने और पायदान पर चढ़ कर यात्रा करने का सवाल है, कभी कभी आदर्श है। परिस्थितिवश भी ऐसा करना पड़ता है। अगर गाड़ी में न लाइट की व्यवस्था हो और न पंखे की, तो फर्स्ट क्लास में भी बाना-फाइडी पैसेंजर को हवा और रोशनी के लिए दरवाजा और खिड़की खोलनी पड़ती है। जहां तक पायदान पर चलने का सवाल है, बिना टिकट वाले ही अधिक पायदान पर चलते हैं, टिकट वाले बहुत कम चलते हैं। इस का कारण यह है कि गाड़ियों में जितनी जगह की जरूरत है, वह नहीं मिल पाती है। इस लिए जहां हम पायदान पर यात्रा करने के लिए सजा की व्यवस्था करते हैं, वहां गाड़ियों और डिब्बों को बढ़ाने की व्यवस्था भी करनी चाहिए। अगर हम ऐसा नहीं करेंगे, तो जिस तरह गाड़ी में लाइट और पंखे का प्रबन्ध न होने के कारण बोनाफाइडी पैसेंजर भी दरवाजा और खिड़की खोल देते हैं, उसी तरह बोनाफाइडी पैसेंजर डिब्बे में जगह न मिलने के कारण

पायदान पर चलने के लिए विवश हो जायेंगे और उन पर मुगदमा चलाया जायेगा यह उचित नहीं दीख पड़ता है।

जब हम इस तरह के कानून बनायें, तो उस से पहले हम अपने आप को तैयार कर लें कि हमारी व्यवस्था में जा लुटिया और कमिया हैं, उन को दूर किया जाये, जिस से लोगों को परेशानी न हो और कानून को कार्यान्वित करने वाले अधिकारी उन लोगों पर भी गलत ढंग से कानून लागू न कर दें, जिन पर वह लागू नहीं होना चाहिए। मंत्री महोदय को इन सब बातों पर विचार करना चाहिए।

यह भी देखा गया है कि कई बहुत बिज्जी लाइनें सिगल लाइन हैं, जिस के कारण गाड़ियां ट्रांसेमिटिवली डीले हो जाती हैं जैसे पटना-गया लाइन तथा गया-कथल लाइन। इस लिए उन लाइनों को डल बनाने की व्यवस्था करनी चाहिए। जिन कारणों से गाड़ियां समय पर नहीं पहुंच पाती हैं, उन के जांच करनी चाहिए। मेरा विचार है कि एक स्थायी कमेटी इन सारी बातों का अध्ययन करे और समय-समय पर अपनी रिपोर्टें दें। इस प्रकार प्रशासन और व्यवस्था में जो जो खगनिया पाई जाये, उन को दूर करने के लिए कानून में व्यापक रूप से एम्बेडमेंट दिये जाये और कानून का पूरी तरह से कार्यान्वित किया जाये।

श्री मधु लिमये (बाका) : उपाध्यक्ष महोदय इस विधेयक के द्वारा रेलों पर होने वाले अपराधों के लिए अधिक कड़ी सजा देने का प्रावधान किया गया है। मैं समझता हूँ कि आश जो दिक्कत है वह यह नहीं है कि कड़ी सजा का इन्तजाम नहीं है। दिक्कत यह है कि रेलवे का इन्तजाम इतना खराब हो गया है कि कानून के प्रावधानों पर बिल्कुल अमल नहीं होता है।

जहां तक रेल की टिकटों के आरक्षण का सवाल है, मेरा सुझाव है कि हर बड़े स्टेशन पर पहले से ही यह घोषणा की जाये कि किस ट्रेन में कितनी जगह खाली है, क्योंकि सरकारी

[श्री मधु लिमये]

कोटे होते हैं और जगह के बारे में पता नहीं चलता है। कई दफा मैंने यह अनुभव किया है कि जो लोग अस्तित्व में ही नहीं हैं, उन के नामों पर रिजर्वेशन होता है। इसलिए यदि हर एक बड़े स्टेशन पर यह ऐलान किया जायेगा कि इतनी जगहों को भरा गया है और इतनी जगहें खाली हैं, यदि हर दिन यह व्यौरा प्रकाशित किया जायेगा, तो मुसाफिरो को काफी सुविधा होगी।

इस कानून में मैंने एक विचित्र प्रावधान देखा है। स्वयं सरकार कहती है कि यह साफ नहीं है कि जो अपने भारक्षण को कैंसल करेगा, उस को जुर्माना किया जा सकता है या नहीं। इस विधेयक के उद्देश्यों और कारणों के विवरण में कहा गया है

"It has been found that the Indian Railways Act, 1890 has no provision authorising recovery of cancellation charges when reservations made for rail journeys are cancelled or tickets are otherwise returned for cancellation without being used"

धारा 2(2) में यह प्रावधान किया गया है कि अब तक जो जुर्माना किया गया है, उस को सही माना जायेगा। इस का मतलब है कि सरकार एक्स पोस्ट फैक्टो कानून बनाने जा रही है और अपराध सहिता के अनुसार यह सिद्धान्त अच्छा नहीं है। अमरीका में तो इस तरह के कानूनों पर सविधान में भी रोक है। किसी भी देश की अपराध सहिता देखिये। सब से पहला सिद्धान्त यह है कि हर एक को मालूम होना चाहिए कि कौन सा अपराध है और कौन सा नहीं है। जब स्वयं सरकार के मन में सदेह है कि चूक कानून का प्रावधान नहीं था, इस लिए कैंसलेशन के लिए जुर्माना नहीं किया जा सकता था। तो फिर क्या बचह है कि अब तक सरकार के द्वारा इस तरह के जो गलत और अनुचित काम हो गये हैं, उन को वह इस विधेयक में कानूनी

करार देना चाहती है? मंत्री महोदय से मेरी प्रार्थना है कि वह इस प्रावधान को हटा दें। भविष्य के लिए जुर्माना बढ़ाए वह रखें, लेकिन अब तक चूक कानून की निगाह में यह अपराध नहीं था, इस लिए उस के लिए बड़ देना मैं अनुचित समझता हूँ।

श्री नरेन्द्र कुमार साहू (बेनूस) : क्या डिक्लेरेटरी नहीं बन सकता है?

श्री मधु लिमये : मैंने कहा है कि यह अच्छा नहीं है। एक्स पोस्ट फैक्टो लाज नहीं बनाने चाहिए। अब तक जो जुर्माना हुआ है, मंत्री महोदय उस को वेलिडेट करना चाहते हैं। मैं समझता हूँ कि यह अच्छा नहीं है अगर वह इस को अपराध बनाना चाहते हैं, तो भविष्य के लिए बनाये। जब कानून में प्रावधान नहीं था, तो यह नहीं करना चाहिए इस से कोई बड़ी विपत्ति नहीं आने वाली है।

इस बारे में चेन पुलिंग वर्ग रह की चर्चा की गई है। मैं जनता हूँ कि कुछ इलाकों में यह बड़े पैमाने पर होता है। लेकिन खास तौर से मैं पश्चिमी रेलवे के बारे में कहना चाहता हूँ। बम्बई से सूरत की तरफ और खासकर के दमन तक बड़े पैमाने पर तस्करी करने वाले जो लोग हैं, वे रेलगाड़ियों का इस्तेमाल करते हैं। वे बीच में चेन खींच देते हैं और इस तरह सोना बगैर उतारा जाता है। अगर उन पर 50, 150 या 200 रुपया जुर्माना भी करे दें, और वे पकड़े भी जायें, तो उन का कोई नुकसान नहीं होने वाला है। लेकिन साधारण श्रामिकों को इस कानून की वजह से तकलीफ होने वाली है। चूक गाड़ियों का अभाव है और बहुत दफा जो मांग होती है कि फ्ला फ्ला जगह पर हॉल्ट रखा जाये या स्टेशन बनाया जाये, ऐसी मांगों को सरकार पूरा नहीं कर पाती है, वह लोकल ट्रेज का इन्तजाम नहीं कर पाती है, इस लिए बहुत दफा लोग चैन खींचते हैं। मुझे ऐसा लगता है कि साधारण लोगों को इस कानून से तबलीक होगी।

इस विधेयक की धारा 11 के द्वारा कुछ अपराधों के लिए आजीवन कारावास या मौत

का बंड देने का प्रावधान किया गया है। मुझे लगता है कि यह बहुत ही अमानवीय प्रावधान है और इस को वापस लेना चाहिए। हमें धीरे-धीरे जान बूझ कर इस का काम होना है और उस में कोई धादमी मर जाता है, तो उस के लिए अधिक सजा देने के बारे में सोचा जा सकता है। लेकिन जहां तक मौत की सजा का सवाल है, मैं बुनियाबी तौर पर इस के विरोध में हूँ। इस लिए मैं चाहता हूँ कि इस धारा में मौत वाले हिस्से को काट देना चाहिए।

उपाध्यक्ष महोदय, रेलवे के इन्तजाम के बारे में यहाँ बड़ी चर्चा की गई है। इन्होंने जो आंकड़े दिये हैं उन से पता चलता है कि बड़े पैमाने पर रेल की दुर्घटनाएँ होती हैं। 30 मई से लेकर 30 जून तक अकेले बम्बई के इलाके में 7 दुर्घटनाएँ पश्चिमी रेलवे पर हुईं, जिसमें चलते मुसाफिरो की बड़ी तकलीफ होती है और इन दुर्घटनाओं में जो लोग मरते हैं, आप ने जो आंकड़े दिये हैं, उन से पता चलता है कि औसत एक व्यक्ति के पीछे 2 हजार रुपये इन्होंने मुआवजा दिया है। यहाँ मेरे एक साथी ने कल कहा था कि हवाई जहाज में जो धादमी दुर्घटनाग्रस्त हो कर मरता है, उस को आप एक लाख रुपये देते हैं, लेकिन जो रेलगाड़ी की दुर्घटना में मरता है, उस को औसत में दो हजार रुपये देते हैं। इस में भी अगर पहले दर्जे के जो मुसाफिर हैं, उन का व्यौरा अगर आप देंगे तो पता चलेगा कि वास्तव में तीसरे दर्जे के धादमी को क्या मिलता है। तीसरे दर्जे के धादमी को तो वे इन्तजाम ही नहीं समझते हैं। इस लिये मेरा निवेदन है कि मुआवजों के बारे में आप को ऐसा इन्तजाम करना चाहिए कि जो मुआवजा आप हवाई जहाज की दुर्घटना के बारे में रखते हैं, वही मुआवजा रेल दुर्घटना के बारे में रखना चाहिये। तब जाकर आप लोग जिम्मेदारी के साथ रेल के प्रशासन को चलायेंगे।

एक बात मुझे यह निवेदन करनी है—अभी कुछ महीने पहले रेल मंत्री बम्बई आये

थे। महाराष्ट्र में अकाल की स्थिति थी, लेकिन बड़े आश्चर्य की बात है कि रेल मंत्री के लिये एक बड़ा खाना वहाँ पर आयोजित किया गया। . . .

SHRI G. VISWANATHAN: By whom?

श्री मधु लिमये : पता नहीं कौन, उस का नाम शायद नगदनारायण है या ललित नारायण है।

मैं यह जानना चाहता हूँ कि जब किसी सूबे में अकाल की स्थिति है तो क्या रेल मंत्री के लिये यह शोभा देता है कि बड़े पैमाने पर इस तरह के खाने का समारोह आयोजित किया जाय और रेलवे का पैसा बरबाद किया जाय। आप का पूरा इन्तजाम कैसा खराब हो गया है, मैंने उस का उदाहरण दिया है। रेल मंत्री दुर्घटना की जांच करने जाने के बजाय मोज-मस्ती, खाना-पीना यह सब करने यह और पूरे महाराष्ट्र में अकाल की स्थिति थी। इस के बारे में मंत्री महोदय खुलासा करें।

उपाध्यक्ष महोदय, मेरी यह मांग है कि अमानवीय ढंग से सजा को बढ़ाने का जो प्रयास है, वह बहुत निन्दनीय है, मंत्री महोदय इस को वापस ले और मेरे मित्र श्री विश्वनाथन जी ने जो सुझाव दिया है कि पूरे रेल एक्ट में सुधार की गुंजाइश है, उस के लिये कानून बना कर लाइये, उस को ज्वाइंट पार्लियामेन्ट्री कमेटी के पास भेजिये और सभी पहलुओं पर विचार करने के बाद उस को पास कीजिये। आप सोचते हैं कि इस तरह के कानून पास कर के आप लोग बहुत बड़ा काम कर रहे हैं, लेकिन आप न ट्रेनों में लाइट का इन्तजाम करते हैं, न फैन का इन्तजाम करते हैं, न पानी का इन्तजाम करते हैं, एक भी ट्रेन समय पर नहीं चलती है, नतीजा यह है कि जब तक बुनियाबी तौर पर रेल के प्रशासन को सुधारने का प्रयास नहीं करेंगे और यह जो ज्वाइंट एक्सीफेंट रेलवे-बोर्ड नाम का है, उस को बरखास्त नहीं करेंगे—तब तक कोई सुधार रेलवे में होने वाला नहीं है।

SHRI BISWANARAYAN SHASTRI (Lakhimpur): Sir, this Bill seeks to amend the Indian Railways Act, 1890. After 18 years, it is quite natural that the amendment is coming up. The scope of the Bill is very limited. Therefore, I shall confine myself to the provisions of the Bill only. There are only two things in the Bill, firstly to enhance the punishment for railway offences and secondly, to regularise the irregular recovery of money in the shape of cancellation charges. The statement of objects and reasons says:

"Such a provision authorising recovery of cancellation charges is essential, particularly to curb speculative reservations, which cause inconvenience to the general public."

Why is there speculative reservation? Is it not done with the connivance and cooperation of the reservation clerks in the booking office? What steps have the railway authorities taken to see that the railway employees in charge of reservation have no power in such speculative reservation?

So far as the enhancement of punishment in the shape of imprisonment and fine for this or that offence is concerned, it appears to me that the minister relies more and more on deterrent punishment. There are three methods—punitive, preventive and educative. The minister is depending more on punitive methods. There is death sentence for certain offences in the IPC but the crime has not decreased. Therefore, in my opinion, enhancement of punishment from a fine of Rs. 20 to 50 or imprisonment from 1 month to 2 months will not result in the offences decreasing. To decrease these offences or to prevent them, certain other methods would have to be taken. Firstly, the employees must be kept satisfied and their reasonable demands met. The vast majority of the public should be educated through mass media like cinemas. The railways spend so much on other things. Why cannot they

produce a number of documentaries to educate the public about the need for keeping away from these railway offences? I suggest they do that. The minister has suggested that there should be more punishment for an authorised hawking. But what about authorised hawking and the food-stuffs they serve? Is there any provision to check the foodstuffs like tea and snaks that are sold in certain stations where these are horrible?

Railway stations, platforms and the compartments are infested by beggars. Nobody prevents them from entering the compartments and disturbing the passengers. I think powers should have been taken to prevent beggars from entering into the compartments.

SHRI B. V. NAIK (Kanara): Sir, I welcome the Bill moved by Shri Qureshi except for the fact that it has come only in the year 1973. The figures of the railway accidents as given out by the spokesmen on behalf of the Research and Design Organisation of the railways shows that the total number of accidents in the year 1951-52 was 16142 and the total railway mileage was 300 million train km. During the year 1971-72 the total number of accidents has fallen very steeply to 4,949 for a total mileage of 475 million km. I would like to compliment the Railway Minister as well as his predecessors for this steep fall in the number of accidents during the last 20 years. Yet, I do appreciate the anxiety of the Railway Ministry to bring such a Bill in the light of the political agitations in this country, in Andhra Pradesh and other areas, and providing for stringent punishment. But I am afraid it is something like locking the stable after the horse has bolted. The provision for stringent punishment for the wrong-doers in respect of railway property is very welcome, because in the present political situation in our country the railway is being used as the Achilles' heels for the purpose of blackmailing the Central Government by some of the

political parties which can be called as political vested interests.

Here I would like to point out that provision for increased penalty for chain-pulling has been made by this Bill. For the last one and a half years I have been pressing my hon. friend the Railway Minister for a stop near Khanapur for some of the trains for two minutes in order to facilitate the travel of the boys and girls who have to go to their schools and colleges in Belgaum and return in the evening. I must admit that I have completely failed in my attempts to make the railways stop some of their trains for two minutes at this place even though I have been trying for it for the last one and a half years. Since there is some more time for this Bill to be passed, I would like to know whether it would be wrong in the eyes of law if I or some of my friends pull the alarm chain now. Because, the section says:

"Provided that in the absence of special and adequate reasons to the contrary mentioned in the judgment of the court, where a passenger, without reasonable and sufficient cause, makes use of the alarm chain provided by a railway administration, he shall be punished...."

I think there is an adequate reason, a justifiable reason and a moral reason. Under these circumstances, I would urge upon the Railway Minister once again not to push us to the extreme of pulling the alarm chain and thus commit an offence.

Coming to the Bill, for the cornering of seats and tickets as well as for pilferage of railway goods there is no provision in the Act which provides stringent punishment.

We are considering this Bill at the time of the railway strike. While our sympathies are with the genuine demands of the strikers, I am afraid in almost all the socialist countries

strikes have been banned. In the socialist countries of the world, I repeat, the strikes have been banned.

MR. DEPUTY-SPEAKER: Mr. Naik can you enlighten me what the strikes have got to do with this Bill? This Bill has nothing to do with strikes.

SHRI B. V. NAIK: Therefore, I would say, this amending Bill may be passed so that the hands of the Railway Ministry may be freed to deal with the problems of strikes in the Railways.

SHRI N. K. P. SALVE (Betul): Mr. Deputy-Speaker, Sir, I would very briefly participate in this debate on a very narrow point. While I do see the point made by Mr. Viswanathan, Mr. Limaye and others that there ought to be a comprehensive Bill amending the entire Indian Railways Act, 1890 which must by now have become utterly archaic and prehistoric, I am unable to understand their opposition, in principle, to this Bill as much which merely is taking power to make the penal provisions for the offences connected with the wanton destruction of railway properties more stringent and more deterrent. That is the dire need of the hour and that is what this Bill, is seeking to do. I only hope, it will not be taken as the be all and the end all to improve railway administration that needs considerable toning up. Unless that is done, pure jungle of law is never going to improve the lot of the people who have the misfortune to travel by the Indian railways.

Be that as it may, the point on which I want to seek the Minister's clarification is this. In the Statement of Objects and Reasons, the purposes have been spelt out which I consider are laudable because they do take care of the emergency which has arisen out of the growing tendency towards violence, lawlessness and destruction of properties. Clause 12

[Shri N. K. P. Salve]
contemplates punishment for certain offences. It contemplates insertion of Section 126A where, on damage being caused to railway properties and other properties, these have been very comprehensively defined as, "railway track, bridges, station buildings and installations, carriages or wagons, locomotives, signalling, telecommunication, electric traction...."

Here, the punishment is for a period of 10 years. Virtually, this particular clause will take care of the offences which have been provided for in two Sections of the Indian Penal Code, that is, Section 135 and Section 436. Now, so far as offences contemplated under Section 435 are concerned, the damage to any property above Rs. 100, they are well covered for because the punishment is likely to be 10 years' imprisonment and that is in consonance with the basic objects and reasons of the Bill that it seeks to make the punishment is likely to be 10 years' offences contemplated in Section 435 are concerned, it is really making it more deterrent, from 7 years to 10 years.

But as regards offences that are contemplated in Section 436 of the Indian Penal Code which include wanton destruction of property, such as human dwelling place or place of custody of property, there the punishment is imprisonment for life. Any destruction of godowns, goods sheds and the waiting rooms also will be covered. Whereas under Section 436, a person falling under this offence is liable to go in for a penalty of life imprisonment, under this it is only 10 years' imprisonment. And that, I find, is an anomaly which I hope the Minister will explain. That is one thing.

The only other point that I wish to make is this. Trial is put at the hands of the Second Class Magistrate, even in cases where the penalty is likely to be as much as death. That is there in the Bill itself. If that is so, then, I think, that needs drastic re-

looking into and at least a First Class Magistrate, if not a person of the status of Sessions Judge alone, should be given this authority to try these offences.

THE DEPUTY MINISTER IN THE MINISTRY OF RAILWAYS (SHRI MOHD. SHAFI QURESHI): Mr. Deputy-Speaker, Sir, although the scope of this Bill was rather limited, the debate has covered a wide range touching even issues which are beyond the scope of the Bill. (Interruptions) Some hon. Members have touched problems which pertain to improvement in the functioning of Indian railways, and they have made some suggestions about the improvements to be effected in various fields of our transport system. I will be very brief and I will touch only the points which have been raised by the hon. Members and which are relevant....

MR. DEPUTY SPEAKER: Brevity is the soul of wit.

SHRI MOHD. SHAFI QURESHI: Taking the first point raised by Shri N. K. P. Salve—I will first take the legal position—he says that under section 436 of the Indian Penal Code punishment is provided for 'mischief' and we could have brought a similar provision under section 126A. I have discussed this with him earlier. I would like to clarify that section 126 of the Railway Act deals with malicious wrecking of trains and provides for maximum punishment of imprisonment for life. We are adding to it a provision that, where this particular act is done with the intention of causing death or where the person knows that death will be caused, the penalty would be death. The point that he was trying to make was that we could have given a more deterrent punishment under section 126A. If he goes through the section, he will see that the wordings under section 435 are almost the same as under section 126A. It reads:

"Whoever commits mischief by fire or any explosive substance,

intending to cause, or knowing it to be likely that he will thereby cause, damage to any property to the amount of one hundred rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine."

Under section 436 of the Indian Penal Code, the wordings are entirely different, although mischief is defined under section 425. Section 436 reads:

"....the destruction of any building which is ordinarily used as a place of worship or as a human dwelling or as a place for the custody of property...."

Mr. Salve mentioned loco sheds and godowns. But he should know that railway property does not constitute of only godowns and loco sheds, there is a vast range of track extending from one corner of the country to another; there are a large number of signalling equipments, which come within the purview of railway property. So if we confine the description under Sec. 436 to only the buildings which are used for storage purposes and if any offence is committed in relation to such buildings, then what he says is relevant. Now, we are trying to cover the entire railway property. Therefore, we feel that Sec. 126A will serve the purpose fully.

Another important point that he tried to raise is that in the Railway Act itself Sec. 133 which provides that no Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of Second Class shall try an offence under this Act. Here, the misunderstanding which has been created in the mind of the hon. Member is that all the offences committed under this Act will be tried by a Magistrate of the Second Class. The only bar by this section is that there are offence under the Railway Act which can be tried by a Magistrate of the Third Class but we have barred that and we have said that no Magis-

trate of Third Class shall try offences under this Act. But that is not a bar upon a Magistrate of First Class or even the Sessions Judge trying cases under this Act. So, this point I want to make clear. If one tries to read the various provisions contained in Chapter IX of the Railways Act, one would notice that there are offences which come within the jurisdiction of the Third Class Magistrate. The propose underlying Sec. 133 is that such offences should also be tried by a Magistrate of Second Class. So, only the jurisdiction of Magistrates of Third Class is ousted and we say that any offence under this Act shall be tried by no less a person than the Magistrate of the Second Class. On the other hand there are various offences which are not only beyond the jurisdiction of a Magistrate of Second Class but are within the jurisdiction of the Sessions Judge. The object underlying Sec. 133 as it exists today in the Railways Act is certainly that a Magistrate of Second Class should try offences which come within his jurisdiction. If my friend remembers and I think his memory is very fresh, even in the Code of Criminal Procedure, if a Magistrate before whom a case comes up is of the opinion that the offence is such that he should refer the case to a person with higher jurisdiction to give a higher punishment for the particular offence, accordingly he can do so. So, there is no bar as such for any Magistrate to try any offence and when he is satisfied that the punishment is such that it is not within his jurisdiction, he can refer the case to the higher court.

SHRI DINESH CHANDRA GO-SWAMI (Gauhati): Do you mean to say that the Magistrate of Second Class will adjudicate cases when he feels that in such cases the punishment is beyond his jurisdiction?

SHRI MOHD. SHAFI OURESHI: Under the Code he will refer it to the particular Judge.... (Interruptions) I would try to explain. There are certain offences which cannot be tried by the Magistrates of a certain category.

[Shri Mohd. Shafi Qureshi]

But where an offence is triable by a Magistrate of Second Class and he feels that the offence demands much more deterrent punishment and he cannot do it, he will certainly refer it to the other person provided the Magistrate has jurisdiction over that. (Interruptions).

SHRI DINESH CHANDRA GO-SWAMI: A special procedure has been laid down in the Indian Railways Act and under the Criminal Procedure Code itself it is laid down that when there is a special procedure in a special enactment, it overrides the general provisions of the Criminal Procedure Code.

MR. DEPUTY-SPEAKER: It seems that many Members have got reservations. You better hear them briefly and give your reply to all of them, otherwise this heckling goes on. What do you want to say, Mr. Viswanathan?

SHRI G. VISWANATHAN: Indian Railways Act says, no less than a second class magistrate will try the offence. This is in respect of punishment including death sentence and imprisonment for life. These are administered by second class magistrate. How can he administer this Act because his power is only restricted to 6 months' imprisonment? How can he refer it to other judges because there is no enabling provision?

श्री आर० बी० बड़े (खरगोन) :
सेकंड क्लास मैजिस्ट्रेट को छ महीने तक ही सजा देने का अधिकार होता है। लेकिन आप ने लाइफ सेंटेंस और डेथ सेंटेंस के लिए इस में IIInd Class Magistrate का प्रावधान किया है। मैं कहना चाहता हूँ कि IIInd Class Magistrate की कोर्ट में इसके चालान भी पेश नहीं हो सकते हैं।

श्री डी० एन० तिवारी : जिस घरा में मरु दह या दस बरस की सजा है उस में गार्डन क्लास मैजिस्ट्रेट द्वाइ ही रिफर कर सकता

है। वह तो छ महीने से ज्यादा की सजा दे ही नहीं सकता है, उसको भ्रष्टाचार ही नहीं है। अगर आपका मशाल केवल कानून बनाना है और सजा को छ महीने तक ही आप सीमित रखना चाहते हैं तो कानून बनाने का मतलब ही क्या है? इस वास्ते रेलवे एक्ट की उस धारा को जिस में आपने सेकंड क्लास मैजिस्ट्रेट की बात कही है, आप बदल दें और कहें कि इट बिल भी द्राइव बाई ए सैमंज जज।

SHRI MOHD. SHAFI QURESHI:
Section 133 reads:

"No magistrate other than a presidency magistrate or a magistrate whose powers are not less than those of a magistrate of the second class shall try any offence under this Act."

A plain reading of the Act indicates that the only thing which has been done in this Act is that the offence cannot be tried by a magistrate of third class. We have said that. What has been barred is that any offence under this Act will be tried by no less a person than magistrate of the second class. That does not oust the jurisdiction of the other people.

SHRI SEZHIVAN (Kumbakonam): If he can refer it to higher court where the sentence is for more than six months, where is the provision for that in the Act itself? In that case where is the provision? How can he refer to higher court? Where is that provision?

MR. DEPUTY-SPEAKER: In order to help the discussion, I would like to seek this clarification from the Members and the Minister. The Act says:

"No magistrate other than a presidency magistrate or a magistrate whose powers are not less than those of a magistrate of the second class shall try any offence under this Act."

That is what the Act says. I would like to be clarified on one point. Does this provision prevent a magistrate of higher powers to try offences under the Act?

SHRI D. N. TIWARY: That is not the question. The question is: whether the death sentence as provided for can be awarded by a Second Class Magistrate or not? As it is, not even the First Class Magistrate can award that punishment.

MR. DEPUTY-SPEAKER: The crucial words here are 'not less'. I think that is the main point.

SHRI MOHD. SHAFI QURESHI: May I clarify it? I want to confine myself to section 133. This particular section does exclude the jurisdiction of the third class magistrate. The powers of a second-class magistrate are limited to award a maximum punishment of six months' imprisonment, as the hon. Members know. In the Act itself, there are offences for which punishment is imprisonment for life.

MR. DEPUTY-SPEAKER: Mr. Qureshi, why don't you give a straight answer to this question. Does this provision prevent a magistrate of higher powers to try the offences under this Act? I think the position is clear.

SHRI MOHD. SHAFI QURESHI: No, Sir. It is for the prosecution to select the proper court.

MR. DEPUTY-SPEAKER: I think the position is very clear. You carry on.

DR. KAILAS (Bombay-South): I want to understand how does that section 133 go against this clause in the Bill?

SHRI MOHD. SHAFI QURESHI: The hon. Member has this confusion in mind that I am seeking amendment to this clause. That is not in the amending Bill. This was referred to by Shri Goswami while he was arguing the point about Sections 435 and 436 of the IPC. He said that we have got bigger punishments to award for certain offences and that we should

confer the jurisdiction of punishment on certain magistrates. I say that it is for the prosecution to select the court.

MR. DEPUTY-SPEAKER: I think the point is very clear. You go ahead. I think that it is for the House to decide. As far as I understand, the position is clear that under the Bill, graver offences can be tried, upto a death penalty by higher courts. My point is that there is nothing to prevent under this Act for a competent magistrate with competent powers to try the offences which are within his powers.

SHRI DINESH CHANDRA GO-SWAMI: Please permit me to raise a query.

SHRI MOHD. SHAFI QURESHI: May I proceed?

SHRI G. VISWANATHAN: This Act says: 'No magistrate, other than the Presidency Magistrate, who is a First Class Magistrate or a Second-Class Magistrate, shall try these offences.'

MR. DEPUTY-SPEAKER: It means 'not less than'.

SHRI G. VISWANATHAN: Under this Act, no magistrate other than the Presidency Magistrate who is a First-Class or Second-Class Magistrate shall try the offences.

MR. DEPUTY-SPEAKER: I do not accept that the Magistrate whose powers are not less than those of a magistrate of the second class....Mr. Goswami, what else, do you want to say?

SHRI DINESH CHANDRA GO-SWAMI: The Railway Act is a special Act which ousts the jurisdiction of a general act. Therefore, there is special provision in the Railway Act. Under the Code of Criminal Procedure....

MR. DEPUTY-SPEAKER: Mr. Goswami, that is for the Court to decide.

SHRI DINESH CHANDRA GO-SWAMI: No, Sir. I am raising a point.

[Shri Dinesh Chandra Goswami] (Interruptions). Under the law of the land and under the Code of Criminal Procedure....

MR. DEPUTY-SPEAKER: Mr. Goswami, the main point is this. I have clarified the position that this provision speaks of a magistrate with powers not less than that of a second-class magistrate.

SHRI DINESH CHANDRA GOSWAMI: No, Sir.

MR. DEPUTY-SPEAKER: I will read it again. You will please sit down.

"No magistrate other than a presidency magistrate or a magistrate whose powers are not less than those of a magistrate of a second-class.."

Any magistrate, with powers higher than those of a second-class, can try any offence.

16.00 hrs.

SHRI VASANT SATHE (Akola): Excuse me, Sir. Please read it further. The words are 'shall try offences under this Act'. That means that no offence under this Act can be tried by any other court except a presidency magistrate or a second class magistrate.

MR. DEPUTY-SPEAKER: I do not accept this.

SHRI VASANT SATHE: They are ousting the jurisdiction of any other court under this Act. No other court can try any of the offences under this Act except a presidency magistrate or a magistrate of the second class.

MR. DEPUTY-SPEAKER: What is the use of going into this wrangling? It is no use wrangling over this. I would like Members to go and read these provisions again coolly and calmly. Personally I think that it does not prevent other courts whose powers are not less than those of a second class magistrate. Therefore, I had allowed this discussion. Now, it

is for the House to decide. Let us not wrangle over this.

SHRI H. M. PATEL (Dhandhuka): If you would kindly permit me, I would like to point out that where an offence is punishable with ten years or life, there no magistrate has the authority to pass this punishment, no magistrate of any kind including the magistrates mentioned here.

SHRI A. K. M. ISHAQUE (Basirhat): May I make a submission? I have got the copy of the Act with me. There is no section in this Act which prevents the general law of the land from taking its own course.

Section 133 of the Act reads thus:

"No magistrate other than a presidency magistrate or a magistrate whose powers are not less than those of a magistrate of the second class shall try any offence under this Act."

It does not prevent the sessions court from taking cognizance of any offence under this Act.

SHRI G. VISWANATHAN: It does not go to the sessions court at all.

SHRI A. K. M. ISHAQUE: There is no section in this Act which prevents the sessions court or any other court from taking cognizance of this.

MR. DEPUTY-SPEAKER: I think we are entering into this wrangling over a provision of....

SHRI VASANT SATHE: There is no wrangling, Sir.

MR. DEPUTY-SPEAKER: If this is not wrangling, then what is wrangling? I do not understand.

SHRI VASANT SATHE: You are trying to interpret the law. You are helping in interpretation of the law. That is the wrangling.

MR. DEPUTY-SPEAKER: I think we have heard both interpretations

about this. I personally do not accept the interpretation that a magistrate with more powers than those of a second class magistrate cannot try offences under this Act.

There are only two ways of going about this, because we are not going to reach anywhere otherwise. It is for Government to decide. The first is that we go on with the discussion and the hon. Minister does not accept this submission and it is for the House to decide. It is no use wrangling over it. Let the House decide it. There are two ways open. The first is that we go ahead with this and Government does not accept this interpretation, and that is the Government view, and the House will have to decide. I am concerned with the regulation of the proceedings of this House. I am trying to point out what are the ways out. The first is that if the Government does not accept this viewpoint which many hon. Members have put forward, then it is for the House to decide. That is one way. The other is that if the Government feels that there is something here which requires to be looked into deeper, then there is another way and that way is to postpone the discussion on this Bill. We have to decide one way or the other. These are the two ways open to me.

SHRI SEZHIYAN: I have already given a motion under rule 109.....

MR. DEPUTY-SPEAKER: I have got his motion. I shall call him later. Now, Shri Shyamnandan Mishra.

SHRI SHYAMNANDAN MISHRA (Begusarai): My submission is that under the scheme of the original Act, a certain category of offences were contemplated which could be tried by a first class magistrate or second class magistrate. That was a category of minor offences. Now new offences of a more serious and wider nature are being introduced. Whether the same section would be applicable to the trial of these offences is a matter to

be considered. Our submission is that the same officer cannot be expected to try those cases. In this matter, there is a difference of opinion and it should be resolved by.... (Interruptions).

MR. DEPUTY-SPEAKER: Order order. Mr. Sathe, you are an eminent member. Whenever you speak, you make a good contribution. I personally think so. Why do you want to spoil your image by ejaculating from your seat?

Since this seems to be a point which is exercising so many members—and they are legitimately exercised—I would request Mr. Qureshi to listen to their submissions. There are so many members who have stood up. Let him listen to them and then give his reply instead of replying to each member which becomes a cross-fire, a give and take, a sort of free-for-all in the House; it does not help the proceedings of the House.

SHRI MOHD. SHAFI QURESHI: I would make one submission because it is rather important. What we are discussing is sec. 133....

MR. DEPUTY-SPEAKER: Of the principal Act.

SHRI MOHD. SHAFI QURESHI: There is no clause in the Bill to amend sec. 133. What are they discussing?

MR. DEPUTY-SPEAKER: I will deal with that. That is true, that you are not seeking to amend sec. 133. But you are proposing to enhance the penalties upto the death penalty. The trial will have to be done under this provision. I think the submission of members is that you cannot enhance these penalties and bring them to trial under the present provision of the Act. It is a very valid point.

SHRI VIKRAM MAHAJAN: The point is that this amending statute enhances the penalties and imposes life and death sentences.

MR. DEPUTY-SPEAKER: We have not amended yet. We are only proposing

**SHRI VIKRAM MAHAJAN (Kan-
gra):** The proposal is before the House. According to the general law of the land, a death sentence, a life sentence or a sentence of 10 years can only be imposed by a court of sessions, not a magistrate of the first class nor second class. Under the general law of the land, even a second class magistrate is not given power to try a case and impose a three-year sentence of imprisonment, leave alone life sentence.

Now in the original section, the penalties were much less; therefore, under the original section, they had given the power to a magistrate. Now, what the amendment proposes to do is to impose a much higher penalty and under the powers given to him, the same magistrate will now try cases where a life sentence has to be imposed, because the statute says that all the offences under this section....

MR. DEPUTY-SPEAKER: Why not be brief and pointed?

SHRI VIKRAM MAHAJAN: The amendment says that these penalties will be imposed. The trial has to be done by a magistrate, presidency magistrate or magistrate of the second class. What is happening is that you are....

MR. DEPUTY-SPEAKER: Instead of using 2 sentences, you are using 25 sentences. The meaning is the same. Why don't you pinpoint what you want to say?

SHRI VIKRAM MAHAJAN: The submission I am making is that power is being given to the very class of officer who has never been given the power to try a death sentence case. As a matter of fact, the Act will be struck down by courts on the ground that there are two procedures prescribed. . .

MR. DEPUTY-SPEAKER: Order, order. If Members are going to be so longwinded over a simple point like this, I think we can never dispose it of

SHRI VIKRAM MAHAJAN: My submission is, this Act impinges on the powers of the court of sessions. It is the exclusive power of a court of sessions to try a case where a death sentence is to be imposed. So, my submission is that this particular section needs to be looked into, I request the hon. Minister to postpone the discussion on this subject and, if necessary, he should call the Attorney-General and if he doubts that the power is not inherent, I submit he must put in an amendment to section 133 also.

MR. DEPUTY-SPEAKER: You have made your point. Now, Mr. Sezhiyan.

SHRI SEZHIYAN: Mr Deputy-Speaker, Sir, my feeling is that the hon. Members on this side have raised very many points which are pertinent and which should be gone through. I do not want it to be hurried now, because we are enacting a statute which should stand the test of the courts. Therefore, under rule 109, I suggest that further debate on this Bill be adjourned till tomorrow or to a later date. (Interruptions). My submission is that the further debate on this Bill be adjourned under rule 109. I have given a motion.

SHRI S. M. BANERJEE (Kanpur): Sir, if you are going to take up that motion and place it—

MR. DEPUTY-SPEAKER: I have not said anything about this

SHRI S. M. BANERJEE: Sir, my only submission is this, when we are considering the punishment to be awarded. I know under section 302, when a case is going on in the court of law, a magistrate, even if he is a

first class magistrate, can only simply commit the case to the court of sessions. He has no power to pronounce a death sentence or award a punishment of life imprisonment. When the power is not inherent in him, I think there is something wrong, and I fully support Mr Mahajan, once in my life, that this should be referred to the Attorney-General

श्री मधु लिमय (बाबा) उपाध्यक्ष
महोदय, सेशन 133 के बारे में जिन तरह विवादों का निर्णय हो रहा है, उसी तरह मैंने एक्स-पोस्ट फैक्टो ला के बारे में भी यहाँ दलील की थी। आप इस के सेशन 2 को देखिये। इस में पहले जो अपराध नदी था, उस के लिये जो भजा हुआ है, उस को वैलिडेट करने का प्रावधान रखा गया है। अब, उपाध्यक्ष महोदय, यह बहुत ही अपराध सहिता के विपरीत है। एक्स-पोस्ट फैक्टो सिद्धान्तों के लाज की व्याख्या इस प्रकार है—

“An *ex-past facto* law is a law which imposes punishment for an act which was not punishable before the passing of the Act.”

इस दृष्टि से भी बड़ी जल्द-बाजी में यह इस को यहाँ लाये है। इस लिये सेशनियन साहब ने इस पर बहुत स्थगित करने का जो प्रस्ताव रखा है, उस की मैं तारीफ करता हूँ और अपने मित्रों से भी प्रार्थना करता हूँ कि वे भी इस को समर्थन करें। इस बहस को टाल दिया जाय और इस पर फिर से विचार किया जाय।

SHRI DINEN BHATTACHARYA.
Sir, we fully support the motion moved by Shri Sezhayan

MP, DEPUTY-SPEAKER. Shri
Ishaque. Please be very brief.

SHRI A. K. M. ISHAQUE: I will do it in a minute. There is the general law of the country which says that offences under section 302 which are punishable by death—the

capital punishment—can be finally decided by the sessions judge only; that only the sessions judge can award the capital punishment. Now, here is an Act which does not oust the jurisdiction of the general law of the country. It does not oust the general law of the country; it does not exclude it but it sets a minimum limit that a magistrate lower than a second class magistrate cannot try any offence under this Act. That does not mean that the general law of the country cannot take cognizance of the offence committed

SHRI N. K. SANGHI. Mr Deputy-Speaker Sir, my submission is that the Indian Railways Act, 1890, is a law by itself. There are certain offences and punishments provided in the Indian Railways Act, 1890. Similarly, the Indian Penal Code also provides different punishments for different offences. Naturally, when once we are discussing it, under the Indian Railways Act, there are certain offences calling for certain punishments. Also, there is a provision as to who shall try what offences. In that case, since amendments have not been brought, I think it may be just an inadvertent mistake on the part of the Law Ministry. I think the opinion of the Law Ministry should be called for and then the matter proceeded with.

SHRI JAGANNATH RAO (Chattrapur). Certain offences have been under the Indian Railways Act. punishments have been defined. Section 133 does not take away the powers of courts under the Criminal Procedure Code. Section 32 of the Criminal Procedure Code defines the powers of second class magistrates, first class magistrates, courts of sessions and so on. Where an offence under the amending Bill calls for a sentence which is more than that could be awarded by a second class magistrate he could not try that offence or award that sentence; it auto-

[Shri Jagannath Rao]

matically goes to the higher court.... (Interruptions). The Railway Act does not take away the powers of courts under the Criminal Procedure Code Section 133 only says that offences under the Indian Railways Act shall be tried by a magistrate not less than the second class magistrate. Where the offence is visited with a sentence which is more than the ordinary powers of the second class magistrate, it automatically goes to the higher magistrate. Therefore it need not be defined. No doubt such as the one that has arisen in the minds of the hon. Members need arise. The Criminal Procedure Code stands; the powers of magistrates are governed by that Code and jurisdiction is not taken away by this Bill.

SHRI DINESH CHANDRA GOSWAMI. Section 29 of the Criminal Procedure Code says

"Subject to the other provisions of this Code any offence under any other law shall, when any court is mentioned in this behalf in such law, be tried by such courts"

Therefore the general law is excluded by section 29. If the positive view is taken that certain courts have been mentioned under the Indian Railways Act, Section 29 says that whatever might be there in the Criminal Procedure Code, the court which has been mentioned in the Indian Railways Act will try the offence under that section (Interruptions).

SHRI MOHD SHAFI QURESHI. We are not seeking an amendment to section 133. It is beyond the purview of the Bill. (Interruptions). Section 133 is only a negative clause. It does not in any way bar the jurisdiction of the higher courts. Section 126 of the Act provides for punishment of imprisonment for life or for a term of ten years, and that offence can be tried only by a Sessions Judge. It has been there and offences under this section have been tried by the Sessions Judge. Under section 133

we did not seek to amend—the Criminal Procedure Code. What we say is that no magistrate lower than a second class magistrate will try any offence under this Act. It does not bar the offences being tried by higher courts with higher jurisdiction. What the hon. Members are reading is a positive clause. What he has stated from the Criminal Procedure Code does not apply to it at all, because it does not bar the jurisdiction of the higher courts. It is for the prosecution to select the court for prosecution. If the offence is such and if they feel it is to go to sessions court, first of all the lower courts will not accept and it will ultimately have to go to sessions court, and the offences under the particular section will be tried there. What the hon. Members are saying is, we have barred the jurisdiction of the Sessions and other higher courts and we have confined the jurisdiction to the lower courts. This is an untenable argument and extraneous to this Bill.

MR. DEPUTY-SPEAKER: There are two opinions. The opinion of a good number of members is that this provision bars the trial of higher offences and therefore, this portion of the amendment which seeks to enable the penalty would not stand the test of law or would be unconstitutional. The Minister says he is not seeking amendment of this particular section of the main Act. I am not here to decide a legal issue. It is not the duty of the Chair to decide a legal or constitutional question. I am to take note of what is going on in the House. I find there are two opinions, there are two ways of doing this. Either the House gets on to vote on this either way—it is their business—or if the House so likes, it can look a little deeper into this question. In this connection, I have got a notice of a motion from Mr. Sezhiyan under Rule 109 which says:

"At any stage of a Bill which is under discussion in the House, a motion that the debate on the Bill be adjourned may be moved with the consent of the Speaker".

I have not given my consent yet; I am only formulating the position. In view of the fact that many members in the House are exercised and this seems to cut across party lines—I find there are more Congress members who are exercised than the opposition members—in these circumstances, I will accept this motion. Shall I put it to the House? If the Minister does not want to accept it, I will have to put it to the House

SHRI K. LAKKAPPA (Tumkur): Kindly reconsider your decision

MR. DEPUTY-SPEAKER: I cannot do it now. I have given my consent to the motion. It is for the House to decide.

SHRI VASANT SATHE: I would humbly submit, let us not have a voting on it because once you put it to vote, certain limitations come in. This is a legal matter. Therefore, let us get the opinion of the Law Ministry. Even if it is taken up tomorrow, the heavens are not going to fall. Let there be a unanimous decision rather than taking a vote

SHRI S. M. BANERJEE: We shall be creating a very wrong precedent in this House if in this particular matter no decision is taken. There are no clear opinions and the House is divided on this question. Not only the members of the opposition but even among Congress members some of the legal luminaries are against proceeding with the Bill. Now even the Law Minister is not available here. I cannot take Shri Qureshi as the Law Minister; he is only a Railway Minister. So, let us obtain the opinion of the Attorney-General.

SHRI K. LAKKAPPA: In view of the honest difference of opinion in this House on this point, Sir, you should either revise your ruling or postpone the consideration for further clarification of this point.

MR. DEPUTY-SPEAKER: Even Shri Lakkappa has said that we may

postpone the issue. Shri Sathe has also said the same thing. Whatever I have got to do, I have to do under the rules. The submission is that without putting it to the House, the Chair itself should postpone the issue. I would like the members to help me by pointing out under what rule I can do that. Under the rules I can postpone *su motu* the consideration of a clause. But I cannot postpone the consideration of the whole Bill. If somebody can help me out, I shall hear him. I am not inviting any opinions; I am requesting members to point out to me the concerned rule

SHRI B. V. NAIK: Rule 111

MR. DEPUTY-SPEAKER: Read out that rule

SHRI B. V. NAIK: I am seeking your permission to make my submission under rule 111.

MR. DEPUTY-SPEAKER: Kindly sit down.

SHRI VIKRAM MAHAJAN: Under rule 89 the Speaker may postpone the consideration of any clause of a Bill

MR. DEPUTY-SPEAKER: I was talking about that.

SHRI VIKRAM MAHAJAN: You can postpone the consideration of a particular clause. Once you postpone the consideration of a clause, the Bill is automatically postponed.

श्री ब. व. नायक उपाध्यक्ष महोदय, हम लोगों के पास समय की तमी है और काम बहुत करना है। इस निम्ने आप समय बरबाद न करने हुए जो श्री सेजियन का प्रस्ताव है उस पर सदन की राय ले लीजिये और कार्य-सूची पर जो अगला आइटम है उस को ले लीजिये।

SHRI D. N. TIWARY: You have got a right to postpone any clause. You can postpone this clause...

MR. DEPUTY-SPEAKER: Which clause?

We are not considering clauses yet. We are now at the first stage. We are discussing the Bill as a whole. We are discussing the principles of the Bill. We have not yet come to the clauses.

SHRI BIRENDER SINGH RAO: Sir, you have given enough time to the Government to consider the proposition put by the Opposition....

MR. DEPUTY-SPEAKER: Not only the Opposition.

SHRI BIRENDER SINGH RAO: (Mahendragarh):and also the Members from the Treasury Benches. You yourself put the whole case in a nutshell to the Government and the Government has had enough time to consider everything that has been said in the House on this point. I do not understand, with all the legal advice available to the Government, the lawyers sitting on that side and their officers sitting in the Lobby, if the Government is adamant not to listen to what has been suggested, to them, how can we help and how can you help? The only way is to ask the Government again, to be nice to them, whether they want postponement of this Bill. If they do not want it, then let them go ahead with it.

SHRI S. A. SHAMIM (Srinagar): Sir, I want to ask the Government, through you: Why are they complicating a very simple matter? Why are they making it a prestige issue? This is not a censure motion. This is a pure and simple postponement of the Bill. I would ask the Government to tell us what are the difficulties in postponing the consideration of the Bill.

SHRI S. M. BANERJEE: Sir, under the Rule quoted by Mr. Mahajan,

you can postpone the consideration of a particular clause. Here, under clause II, Section 126 is being amended. If you read clause 11, it says:

"Section 126 of the principal Act shall be re-numbered as sub-section (1) thereof,"

The last sentence of clause 11 reads:

"he shall be punished with death or imprisonment for life."

The principal Act is being amended. Here, the principal Act is not before the House. The amending Bill is before the House. So, taking advantage of the Rule under which you can postpone the consideration of a particular clause, you can say that Section 126, clause 11 of the amending Bill, should be postponed....

MR. DEPUTY-SPEAKER: We can do that when we come to the clauses.

SHRI S. M. BANERJEE: Sir, the whole dispute arose over clause 11. This is about the principal Act that is being amended. The principal Act is not before the House. The amending Bill is before the House. You, Sir, in your wisdom, taking advantage of the Rule which empowers you to postpone the discussion, not the whole discussion but a part of it, that is a particular Section or a particular clause, can postpone it.

SHRI R. V. BADE: I do not agree with Mr. Banerjee. What you have said is correct. When we take up clause-by-clause consideration, then it can be adjourned. At this stage, let us take the sense of the House.

SHRI JYOTIRMOY BOSU (Diamond Harbour): The whole thing would have been much more simple if they did not make it a prestige issue and we had adopted Mr. Sezhiyan's motion unanimously and

postponed consideration of the Bill. Otherwise, there is a guideline here:

"At any stage of the Bill which is under consideration in the House, a motion that the debate on the Bill be adjourned can be moved with the consent of the Speaker..."

That has been done.

"The Speaker may withhold his consent..."

You have granted your consent.

"He may permit more than one member to oppose the motion for adjournment of the debate...."

To my mind, the only course left open is to know the mind of the House through voting and then when we come to clause-by-clause discussion stage, we postpone consideration

SHRI B V NAIK: To be fair to what the hon. Minister has stated, this Act or whatever is the defect which our lawyer friends here would like to point out, has been in existence for the last 84 years, since 1890; the relevant sections, have been operative; the railways have been running and the wrong-doers are being punished.

AN HON. MEMBER: It has withstood the test of the time.

SHRI B. V. NAIK: Unless the hon. members sitting in the Opposition, including Mr. Sezhiyan who has brought this motion under rule 109, want to get some more breathing time of 24 hours since the strike is going on. (Interruptions) there can be no other reason.

SHRI INDRAJIT GUPTA (Ah-pore): I understood you a little while ago saying that you would like the assistance of members of the House in showing you some rule or direction which might enable the Chair to take a *suo motu* decision on this matter. Because of that, observation, some members are trying to assist you now.

But, I think, the motion which has been moved by Shri Sezhiyan under rule 109....

MR. DEPUTY-SPEAKER: I have only given my consent. He has not moved it yet. I will ask him to move it and then take the sense of the House.

SHRI INDRAJIT GUPTA: My humble suggestion to you is: why should you take upon yourself this obligation of trying to find out some rule which will enable you to take a *suo motu* decision? It is not necessary because the rules are quite clear. Under rule 109 the Chair is not expected to take any *suo motu* decision. It is the power to give permission or leave to a member—in this case, Mr. Sezhiyan—to move his motion under rule 109 and then take the sense of the House. But we are now discussing the merits of Mr. Sezhiyan's motion.. (Interruptions) We find here that a large number of lawyer members, irrespective of party affiliations, have raised some very serious questions of doubt about the implications of this Bill and those provisions which have been referred to. So, we feel that the matter should be reconsidered and the Ministry should be given time, in the light of what has been said here, to reconsider it. When members are referring to making this a matter of prestige, they are referring entirely to the attitude of the Ministry/which is not prepared, apparently, to take a new look on this matter. I think, there is no point in having a rigid attitude like this. Please allow him to move his motion and then the sense of the House can be taken on that

SHRI JAGANNATHRAO JOSHI (Shajapur). rose—

SHRI SEZHIYAN: Sir, I will move the motion....

MR. DEPUTY-SPEAKER: I will call you to move it at the proper time.

श्री जगन्नाथ शिव जेठलाल : कानून के बारे में जब इतना सारा मतभेद खड़ा हो गया है और उधर से भी इसके बारे में काफी शंकाएँ व्यक्त की गई हैं तो विधि मंत्री सदन को आ कर बता क्यों नहीं देते हैं कि इसका अर्थ क्या है। इस में कौन सी कठिनाई की बात है? इस बहस को स्थगित करने में क्या आपत्ति हो सकती है, यह हम जानना चाहते हैं।

SHRI SHYAMNANDAN MISHRA: My submission is that now that much valuable time has been lost, the only question before the House is whether this motion should be accepted or not. Now, it is my respectful submission that Mr. Sezhiyan should be asked to move the motion. That is the only course open to the House now. It is a very reasonable demand. Not only that we want the Government to consider it but we would also like to consider it.

SHRI A. K. M. ISHAQUE: A very simple question is involved in this....
(Interruptions)

SHRI G. VISWANATHAN: If they accept the motion, let them accept it, or let them throw out the motion.

श्री राम घन (लालगंज) : यह जो विवाद खड़ा किया गया है यह बिल्कुल निरर्थक है। जो फौजदारी के मुकद्दमें चलते हैं वे जाँता फौजदारी कानून के तहत चलते हैं और जो बीवानी के चलते हैं वे जाबता बीवानी के तहत चलते हैं। इसलिए हमारे बोस्ती को निरर्थक परेशानी हो रही है। जो चीज बरसों से प्रचलित है उसके बारे में यों ही विवाद खड़ा कर दिया गया है—
(अवधान)

MR. DEPUTY-SPEAKER: Order, please. I think we have discussed enough... (Interruptions)

SHRI JYOTIRMOY BOSU: We want the House to express its opinion through casting its vote.

MR. DEPUTY-SPEAKER: I think Mr. Banerjee said something which to me appears to be very relevant and legitimate...

SHRI A. K. M. ISHAQUE: I was called upon to make my submission....

MR. DEPUTY-SPEAKER: You have made enough submission. Kindly sit down.

I have always recognised whenever any member makes any legitimate point. You have said that this is a very very important legal question. I think he said that the opinion of the Attorney-General should be asked for. Before I proceed further, I would like to know from Shri Raghu Ramaiah what he has got to say about this and when you want to hear the opinion of the Attorney-General will it not be to the advantage of the House to also hear the Law Minister on this?

THE MINISTER OF PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): You are perfectly right and I agree with you 200 per cent. The Law Minister is coming in a minute.

SHRI SHYAMNANDAN MISHRA: After the Chair has given consent to the motion, the Law Minister has no place.

MR. DEPUTY-SPEAKER: It is very correct that I have given my consent. But Mr. Sezhiyan has yet to move the motion.

Now, the Law Minister's opinion is important in order to enable Members to understand the issue. I think the Law Minister might have been briefed as to why he has been requested to come to the House.

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Sir, unfortunately I did not have the occasion to listen to the debate when the points were raised. In brief I have been told just now about this. *Prime facie* it appears to me that there is no difficulty, but, since legal opinion is involved, I would give my considered opinion after considering the points raised. I would not volunteer an opinion just now.

MR. DEPUTY-SPEAKER: Mr. Sezhiyan may please move the motion.

SHRI DINESH CHANDRA GOSWAMI: What is the point in moving the motion? (*Interruptions*).

MR. DEPUTY-SPEAKER: Order please. All of you may kindly sit down. Now, whatever I do, I can do only within the ambit of the rules. I cannot *suo motu* postpone the discussion.

AN HON. MEMBER: You can..

SHRI INDRAJIT GUPTA: He cannot do it.

MR. DEPUTY-SPEAKER: Therefore, it has to be done on a Motion. I have given my consent to Mr. Sezhiyan to move the Motion. The only thing that I can tell the House is, after the Motion is moved, there may not be a division on it, since the Law Minister himself has said that he would like to give his considered opinion.

SHRI SEZHIYAN: Under Rule 109, I move:

"That the debate on the Bill be adjourned."

MR. DEPUTY-SPEAKER: I shall put it to the vote of the House. The question is:

"That the debate on the Bill further to amend the Indian Railways Act, 1890, be adjourned."

SHRI K. LAKKAPPA: Postponed, not adjourned.

MR. DEPUTY-SPEAKER: The wording is this. According to the rule the wording is 'adjourned'. I am putting according to that. It comes to the same thing, Mr. Lakkappa. The question is:

"That the debate on the Bill be adjourned."

The motion was adopted.

16.48 hrs.

STATUTORY RESOLUTION RE. PROCLAMATION IN RELATION TO UTTAR PRADESH

MR. DEPUTY-SPEAKER: Now we take up the Statutory Resolution on the Presidential Proclamation relating to the State of Uttar Pradesh. Shri Uma Shankar Dikshit.

THE MINISTER OF HOME AFFAIRS (SHRI UMA SHANKAR DIKSHIT): Mr. Deputy-Speaker, Sir, I move:

"That this House approves the Proclamation issued by the President on the 13th June, 1973 under article 356 of the Constitution in relation to the State of Uttar Pradesh."

Copies of the Governor's report and of the resignation submitted by Shri Kamalapathi Tripathi, the then Chief Minister and his Council of Ministers, have been laid on the Table of the Lok Sabha.

Sir, the Governor's Report spelt out the reasons why he came to this conclusion that the situation has arisen in which Government of the State could not be carried on in accordance with the provisions of the Constitution. He has explained the circumstances in which he came to this conclusion. Shri Kamalapathi Tripathi, Chief Minister, gave detailed reasons for the serious situation in which the State was placed. The Chief Minister