

SHRI SAMAR MUKHERJEE (Howrah): I met the Minister in the morning. Unless he makes a statement today, it will have no effect on the situation. They have sent a telegram and asked the Minister to make a statement on the floor of the House regarding the assurance and other things. That is why I requested him to do so and he agreed that he was prepared to make a statement in the House.

SHRI S. M. BANERJEE: Can I speak now, Sir?

MR. DEPUTY-SPEAKER: No speech. You can make only a submission.

SHRI S. M. BANERJEE: Yes.

MR. DEPUTY-SPEAKER: With all that sheaf of papers!! If you want to speak on the strike situation, there will be another occasion for that.

SHRI S. M. BANERJEE: I want to add a sentence only. The Speaker agreed that either there should be a Calling Attention Notice or a short discussion. The Calling Attention Notice will actually come up only tomorrow. Now, after yesterday's declaration by the hon. Minister, the situation has come to a particular position where it is possible that...

MR. DEPUTY-SPEAKER: You have started making a speech now.

SHRI S. M. BANERJEE: You are younger to me...

MR. DEPUTY SPEAKER: I know. But my responsibility is for older people like you and to regulate the proceedings. (*Interruptions*).

SHRI S. M. BANERJEE: The Calling Attention Notice will be only tomorrow. Again, 24 hours will be lost. I would request you to ask the Minister if certain clarifications could be given in the House.

It can be done now.

MR. DEPUTY-SPEAKER: He cannot do it just now.

SHRI S. M. BANERJEE: This particular discussion may be held over and the other discussion can be started. Once a favourable condition is created...

MR. DEPUTY-SPEAKER: That is being done at the moment. Please wait for some time. Have some patience. Some announcement will be made in the House very soon.

SHRI DINEN BHATTACHARYYA (Serampore): What is the decision, Sir? Will there be a discussion on that particular matter now?

MR. DEPUTY-SPEAKER: I have said just now that the Speaker is at the moment ascertaining from the senior Railway Minister and an announcement will be made in the House shortly.

The Minister please.

15.30 hrs.

INDIAN RAILWAYS (AMENDMENT) Bill

THE DEPUTY MINISTER IN THE MINISTRY OF RAILWAYS (SHRI MOHD. SHAFI QURESHI): On behalf of Shri L. N. Mishra, I beg to move*:

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

Mr. Deputy-Speaker, Sir, in the course of working of the railways, we sometimes run up against certain deficiencies or inadequacies in the Indian Railways Act. The Bill that was introduced in March last is intended to make good some of them.

*Moved with the recommendation of the President.

I would briefly describe what requirements the respective provisions of the Bill are designed to fulfil. To, first, take up the amendment of section 47, I may explain that until 1945 passengers who had made advance reservation of train accommodation could surrender the ticket and obtain a refund of the fare paid, without forfeiting any part of it. This encouraged certain unhealthy practices. Some persons would make an investment and corner accommodation on important trains and then pass it on to *bona fide* passengers at a premium. To place some check on such speculative reservations, the Railways decided to make a deduction. As hon. members would certainly know, the deduction is graded, varying with how far in advance of the time of departure of the train the ticket is surrendered. The Ministry of Railways have been advised that such deductions cannot be made under rules framed by them in exercise of the statutory powers, and if it is proposed to continue making such deductions, provision for them should be made in the statute itself. We are now making such a provision.

And while making this provision, we are saving from attack deductions hitherto made on the authority of departmental rules.

An important provision in the Bill relates to compensation paid to victims of railway accidents. The procedure followed by Claims Commissioners approximates to the procedure of courts and is rather slow-moving. To make more prompt assistance available to the victims or, in the event of death, to their families, the railways propose to assume powers for making *ad hoc* and interim payment of compensation. Of course, the institution of Claims Commissioners will continue. The amount paid *ad hoc* by the railway administration will be taken into account by the Claims Commissioner when he finally settles a case.

Provisions in the Act relating to certain types of offences have, in our experience, been found somewhat mild and not deterrent enough. For instance, a considerable proportion of fires on the railways is caused by carelessness on the part of passengers or others on railway premises, smoking or having an open light or fire in places where this is forbidden. There is a rule providing against this, framed in exercise of the powers conferred on the Central Government by section 47 of the Act. But, for violation of any rules framed under it, section 47 lays down a maximum penalty of fifty rupees. We propose to raise it to a hundred and fifty rupees.

As hon. members are fully aware, unjustified, sometimes wanton, alarm chain pulling has become a real problem, causing, as it does, serious dislocation of train services. As it is, the Act prescribes a punishment of imprisonment for a term which may extend to three months or five which may extend to two hundred and fifty rupees or both. But, in practice, the punishment awarded by courts is sometimes nominal.

Section 118 makes an offence of a passenger entering or leaving a carriage while the train is in motion and of travelling on the roof or the footboard of a carriage. The punishment prescribed for the former is fine which may extend to twenty rupees and for the latter, fine which may extend to fifty rupees. The incidence of such offences has been causing concern to the railways. We propose to raise the punishment, respectively, to imprisonment upto one month or fine upto fifty rupees or both, and imprisonment for a term upto three months or fine upto one hundred and fifty rupees or both.

For trespassing the Act prescribes fine which may extend to twenty rupees and for refusing to leave when requested to do so, fine which may extend to fifty rupees. We propose to enhance the former to imprisonment

[Shri Mohd. Shafi Qureshi]

up to one month or fine which may extend to fifty rupees or both and the latter to imprisonment upto three months or fine which may extend to one hundred and fifty rupees or both.

The punishment prescribed for unauthorized hawking on the railways is fine which may extend to two hundred and fifty rupees. In practice, courts have sometimes let off offenders very lightly. It is proposed to prescribe a minimum fine of fifty rupees. I hardly need mention that such unauthorized hawking may be a hazard to public health.

An important amendment proposed in the Bill is to section 126. It deals with a person tampering with the track or otherwise wilfully wrecking or attempting to wreck a train. Apart from the loss caused to the railways, such train wrecking has sometimes taken a heavy toll of life. The Act prescribe a punishment of imprisonment for life or rigorous imprisonment for a term which may extend to ten years. We have, after giving the matter a great deal of thought, decided to provide for some extra penalty of death where as a result of such acts of destruction deaths have occurred or where the person committing such acts should know that they are likely to occur.

Unfortunately the railways have become the target of attack in say sort of agitation and the result is large scale destruction of railway property. As it is, commission of acts which may result in destruction of railway property and equipment is punishable only when it endangers or is likely to endanger the safety of any person travelling or being upon the railway. There is no provision making destruction of railway property as such an offence. For instance, if someone were to set fire to a goods shed, while it is locked, it would not be an offence under the Indian Railways Act. We propose to make good this palpable deficiency by inserting a

new Section.

I would say, Sir, in conclusion that the proposals contained in the Bill are so eminently reasonable and justified that I hope the House will have no difficulty in accepting them.

MR. DEPUTY-SPEAKER: There is an amendment by Dr. Laxminarain Pandeya for reference of the Bill to the Select Committee. Are you moving it?

DR. LAXMINARAIN PANDEYA (Mandsaur): Yes, I am moving.

I beg to move:

'That the Bill further to amend the Indian Railways Act, 1890, be referred to a Select Committee consisting of 10 members, namely:—

Shri Bhagirath Bhanwar, Shri M C. Daga, Shri Prasannbhai Mehta, Shri L. N. Mishra, Shri Dhan Shah Pradhan, Shri M S. Purty, Shri Ramkarwar, Shri Rana Bahadur Singh, Shri G. P. Yadav, and Dr. Laxminarain Pandeya with instructions to report by the last day of the third week of the next session'. (1).

*SHRI KRISHNA CHANDRA HALDER (Ausgram): Mr. Deputy Speaker, Sir, even though you have said it at the outset that while discussing the provisions of the Indian Railways (Amendment) Bill, 1973 references should not be made about the strike of the loco running staff and even though I am aware of the fact that a discussion on the subject will take place after a short period, yet I cannot but say just a few words about the strike because it is the most burning issue that the country is facing at the moment. (Interruption) Sir, despite an assurance given by the Railway Minister in the month of May, the legitimate demands of the railway loco workers have not accepted by the Government yet. Railways are the biggest public sector undertaking and

*The original speech was delivered in Bengali.

It is but proper that the Government which profess socialism, talk about the down-trodden masses and about Garibi Hatao should not make it a prestige issue and refrain from talking to the striking loco workers. I would demand, Sir that the Government should release all those who have been arrested in connection with this strike and Government should enter into a dialogue with the striking workers and their leaders and agree to accept their legitimate demands. They should also be assured that they will not be subjected to any victimisation nor they will be arrested.

Coming to the provisions of the Bill, the hon. Deputy Minister has said that the amending legislation seeks to provide for payment of interim compensation to the railway accident victims—a provision that is not there in the parent Act of 1890. The present Bill also has provides provisions for punishing offences like chain pulling and destruction of railway property. The Government have also tried to seek powers to make enabling provisions authorising rule making powers for recovery of cancellation charges when reservations made for rail journeys are cancelled or tickets returned. Though those new provisions the Government are trying to amend the 83-year old Bill which was passed in 1890 and I feel that the parent Act has become wholly obsolete and instead of repairing the decayed body by bits and patches, it is time that a comprehensive bill should be introduced which can take care of the new problems and developments that have taken place during all these years.

Functioning under this old Act, which is a legacy of the British, the big wigs of the Railway Administration—the Railway Board Members Zonal Manager and other high officials continue to function in the same manner as they did during the British regime. Their relation and behaviour towards the subordinates is nothing better than a Master-servant relation. These officials continue to enjoy the benefits of the use of saloons and

many such facilities which the Britishers had created for themselves. When the Government are talking about Socialism would it not be proper that such legacies of the British are ended?

Some time back, 18 employees of the South Eastern Railway were sacked and even though the Zonal Manager was inclined to take back the sacked employees, he could not do it because no clearance was forth-coming from the Ministerial level. I would therefore urge the Hon. Deputy Minister that he may please look into the matter and see that all the employees who had been sacked are taken back.

The Railway Convention Committee looks into the budgetary provisions of the railways and it is an expensive Committee. I would suggest that this Committee should be reconstituted and brought within the scope of this Bill. Necessary amendments may be introduced in this Bill to give effect to it.

After the Madhupur railway accident, it was published in the newspapers that the Government have taken a decision or contemplating to give 50,000 to each victim of a railway accident. I would like to know from the Railway Minister whether the news item is true and if so, I would like to suggest that all those cases of railway accidents, where compensation has not been paid so far, should be given the present benefit of Rs. 50,000 each.

Now, I would like to draw the attention of the hon. Minister to the provision of sub-section (c) and (d) of Section 82C of the original Act. Reading both the provisions, one would find that while under sub-section (c) the guardian of a minor involved in a railway accident can apply for payment of compensation, the same provisions is not clearly provided for in sub-section (d) i.e., it is not clear as to what happens when the dependent of the deceased is a minor and whether in such a case his guardian should have the right to claim compensation

[Shri Krishna Chandra Halder]

on behalf of the deceased needs to be clarified in very clear terms as has been done in sub-section (e) and unless this is done. I am afraid in such cases complication may arise and cause hardship to the family. This is an important matter and demand that this should be included in the amending Act.

While taking about compensation for railway accident victims, I would like to stress upon the Railway authorities that they should carefully probe and analyse the causes, apart from those arising from human failure, that lead to such accidents and take suitable measure to see that accidents are minimised.

In this Bill punishment for chain pulling is sought to be enhanced. While indiscriminate chain pulling cannot be supported I would like to tell the hon. Minister that under some compelling circumstances resort to chain pulling becomes absolutely necessary. A journey between Sealdah and Naihati at night is extremely hazardous for women and many incidents of attack on women have been reported. Similar is the situation prevailing between Howrah-Burdwan line particularly at Mogra station. When women folk are attacked, it is but necessary that the chain should be pulled to bring the culprit to book and punish him. I hope while enforcing the new provisions Government should think of such cases also and make suitable provisions. So that people in genuine cases are not put to difficulty. Efforts should also be made to see that such cases do not occur in railways.

Sir, the punishment for roof-top travel is also being increased. Such a travel is being made punishable. But where is the accommodation? Do we not see every day that passengers travel on foot boards clinging precariously to the door handles. Thus the steps are taken to enhance punishment, will find a good justification if

Government taking adequate steps to increase the number of trains for the travelling public simultaneously. To cite an example I would like to point out that in the Asansol-Raniganj-Durgapur area, which is known as the *Rhur* of India, the number of trains is utterly inadequate to meet the needs of the travelling people. Important industrial units like the IISCO, Durgapur Steel Plant and 94 coal mines are located in this area and the number of trains are not at all adequate. I have repeatedly raised the difficulties of the people of this area and even I have personally talked to the Railway Minister to apprise him of the difficulties but nothing has been done so far. Sir, the whole area really puts up a cosmopolitan look for the people from Kerala to Kashmir (Mr. Qureshi—you are from Kashmir and many Kashmiris are working in this area too) come here to work. Many foreign experts are also working in these industrial projects. A better network of railways will create a better communication link between Bihar, U.P., Orissa and the West Bengal. In view of the importance of the area and the growing needs of the travelling people, I would suggest that the Burdwan-Asansol Section should be declared a suburban section. This will augment the railway income and will reduce ticketless travel.

I would now voice the difficulties of passengers coming from thickly populated areas. In Burdwan, the population has gone up from 40,000 in 1939 to 1½ lakhs at present. The number of booking offices are not at all adequate. It takes a long time before one can get a ticket from the Station booking window and as a result the passengers have to make a desperate dash to catch the train and very often they have to catch a moving train. Obviously, under such circumstances, accidents do take place and such accidents can be avoided if more city booking agencies are opened. In such cities and particularly in Burdwan if we are genuinely interested to bring down the number of railway accidents. Added to this, I feel, that fencing

between the lines should be improved as it will stop the tendency of the people to take a short cut route which in effect is the cause of many unfortunate accidents.

Sir, many demands for opening flag stations in various areas of West Bengal have been made but in most cases, they have not been conceded. Sir, these flag stations, apart from giving the desired benefit to the people of that area will also be very helpful in curbing the menace of wagon breaking. It is known to all, and more so to the railway authorities that wagon breaking is very rampant between Dum Dum and Noapara. It is also known that the passengers get down from the train in between these two stations, may be by pulling chain because a demand for a flag station has not been met by the railway authorities. If a flag station is constructed, it will not only give immense facilities to the people but because of the presence of the people at this station, wagon breaking cannot be done as freely as it is being done now. For similar reasons, there should be a flag station between Gangpur and Burdwan.

Sir, it has also been suggested that doors of the railway coaches should be kept closed and any violation will be met with punishment. While agreeing to the desirability of this measure, I would like to point out that in the suburban trains in West Bengal doors of EMU coaches remain open and this will have to be taken note of while applying this amended provisions there.

I would now conclude my speech by urging upon the Government that the case of the hawkers, deserve sympathetic consideration. In West Bengal most of the hawkers are the refugees who have come from the erstwhile East Pakistan or our brethren from Bihar and U.P. They are poor people and have no other means of livelihood and their case deserves to be considered very sympathetically before

punishment is inflicted upon them. And finally I will reiterate that the Government should bring forward a comprehensive Bill because such piecemeal approach will in no way be helpful to solve the problems of the railways. With these words, Sir, I conclude.

श्री मूल बन्धु डागा (पाली) : उपाध्यक्ष महोदय, रेलवे मंत्रालय की तरफ से एक बहुत बड़ी हिम्मत की बात आई है—हिन्दुस्तान को एक नई बात मालूम होगी कि आज कल जो ज्यादा गुनाह करेंगे, उन को ज्यादा सजा मिलने लग जायगी। लेकिन मैं सब से पहले यह पूछना चाहता हूँ, जिन्होंने 1972 में ऐसे गुनाह किये, उन में से कितनों को आपने सजा दी है। मैं ज्यादा बातें प्वाइन्ट-आउट नहीं करना चाहता—मैं तो सिर्फ दो-चार बातें पूछना चाहता हूँ—जहाँ तक कानून बनाने का सवाल है, आप चाहे जितना सख्त कानून बनाएं, लेकिन उन को प्रमत्ती रूप कौन देता है, उस की पालना कौन करता है। आप की लिस्ट में लिखा है :—

List of serious incidents on the Indian Railways during 1972 p. 4:

"The Tamil Nadu Agriculturists' Association, protesting against the policy adopted by the DMK Government of Tamil Nadu towards the agriculturists observed Band on 6th July 1972 throughout the State. In Madras, Olavakkot and Mysore Divisions trains were stopped by placing boulders on the track, squatting on the track and cutting signal wires. Consequently almost all the train services in Madurai, Olavakkot and Mysore Divisions were seriously affected and disrupted due to heavy detentions".

Has anybody ever been convicted?

क्या आपने किसी को सजा दी है ?

"Students in Ramanathapuram and Madurai District protesting against the arrest of graduate teachers who resorted to relay hunger fast in

[Shri Krishna Chandra Haider]

front of the Secretariat, Madras on 6th March 1972 stopped trains in sections between Madurai and Dindigul."

Has anybody been arrested?

[SHRI S. A. KADAR in the Chair].

On page 14, it is said:

"...The miscreants suddenly attacked passengers and snatched away cash amounting to Rs. 10,200 and gold valued at about Rs. 2,175 from them. Then the dacoits pulled the alarm chain and decamped with the booty.

So many incidents have been quoted. Has anybody been arrested or anybody has been punished? I am putting the question.

आप रेलवे के अन्दर जितनी मखनी करना चाहते हैं, आप मुझे बतलाइये जिन लोगों ने 1972 में एलार्म-चैन पुन की, उन में से कितनों को सजा दी थी ?

कानून बनाने के पहले मैं चाहता था कि यह देखा जाय कि कानून का अमल कौन कराता है। आप ने ऐसा कानून बनाने के लिये क्यों फैमला किया, क्या आप के मैजिस्ट्रेट्स ने आप को कहा कि हम ने इतने लोगों को सजा दी है, जो काम है। आप यह रेलवे का अमेडमेट बिल ला रहे है, क्या इस के लाने के पहले आप ने सोचा था कि इस के लाने से यह लाभ होगा। मैं समझता हूँ कि आप के यहा कानून का इम्प्लीमेंटेशन नहीं है। न एलार्म खीचनेवाला के खिलाफ कोई इम्प्लीमेंटेशन है और न तुकमान पहुँचाने वालों के खिलाफ कोई इम्प्लीमेंटेशन है, किसी को कोई डर नहीं है। आप की रेलवे किस तरह से काम करनी है—आप की गस्तियों के लिये आप के खिलाफ कोई दावा करे तो क्या ऐसा दावा हो सकता है। एक अदमी रिजर्वेशन के लिये जाय, दो बंटे बहात खा रहा रहे, तो क्या वह आप से कम्पेन्सेशन माग सकता है। आखिर इस की रेमिडी क्या है ?

आज किसी चीज की सुरक्षा नहीं है—मेरी जान भी चली जाय, तो क्या मैं आप के खिलाफ दावा कर सकता हूँ? जान की सुरक्षा नहीं है, माल की सुरक्षा नहीं है और न ही वह आप के खिलाफ दावा कर सकता है। लेकिन अपनी चीजों के लिये आप कहते हैं कि हम उस से जुर्माना लेगे। मैं कहता हूँ आप को ऐसा जुर्माना लेने का कोई अधिकार नहीं है, क्योंकि रेलवे अभी तक पर्याप्त व्यवस्था नहीं कर पाई है और जब व्यवस्था नहीं कर पाई है तो उसे जुर्माना लेने का भी कोई अधिकार नहीं है।

"The Railways have paid compensation on missing private coal wagons to the tune of Rs. 90.11 lakhs during 1970-71."

90 लाख रुपये कोयले की वैगन्ज में चला गया।

"The Railways have paid compensation on missing private coal wagons to the tune of Rs. 90.11 lakhs.. The Committee expect that there ought to be a thorough check of the position in this regard."

मैं यह सब इस लिये कह रहा हूँ कि रेलवे कोई कदम उठाने से पहले देखे कि हम क्या काम उठाना चाहते हैं।

आप को रेलवे कम्पेन्सन कमेटी ने जो रिपोर्ट दी है, मैं उम् में आप को अवगत करना चाहता हूँ —

"While commending the steps taken by the Ministry to curb the evil of ticketless travellers during the last three years, the Committee consider that there is no room for complacency on this account, as even by present estimates the extent of ticketless travel is between 3 and 4 per cent. Reckoned on the basis of passenger earnings during 1971-72, the loss would still be of the order of about Rs. 13 crores."

12 करोड़ का टिकटलैस डेविल है। यह रेलवे कंवेन कमेटी की 1971 की रिपोर्ट है।

This is from the report of the Railway Convention Committee 1971; this comes under the heading 'booking and reservation facilities'.

"In a number of memoranda submitted to the Committee by eminent non-officials and organisations of long public standing, mention had been made of the hardships faced by Third Class Passengers due to inadequacy of booking and reservation facilities which gives rise to malpractices by unscrupulous elements amongst the railway staff. Non-receipt of reservation advices in time by long distance passengers requiring train connections *en route* is also a general complaint....The Ministry have informed them (the Committee) that the question of providing adequate facilities for booking and reservation, particularly for third class passengers, has been engaging the constant attention of the Railway Administration."

आप कानून जा लाना चाहते हैं उस के पहले की बैकग्राउन्ड में बताना चाहता हूँ कि आप के ऐक्युन्स क्या हैं। करोड़ों रुपया कम्पेंशन वा देते हैं, लाखों रुपया बर्तियों को देते हैं, खोरी हाती है, टिकटलप ट्रिबल है और आप के ऐमन्सिज को कोई सजा नहीं है सिवाय चांसेरीट और वार्निंग के। मैं जानना चाहता हूँ कि आप ने कितने अधिकारियों को रंगे हाथ पकड़ा और उन को जेल भजा ?

श्री एम० रामगोपाल रेड्डी (निजामाबाद) : अफसर चोगे नहीं करते।

श्री मूल सचिव डा. बा. : आप तो रेलवे की दलाली करते हैं। कब से शुरू किया है यह काम ?

"One aspect of the matter to which the Committee would like to draw attention of the Ministry is

that the reservation charts for Third Class Passengers are mostly written in hand and are not, therefore, quite legible. This leads to avoidable confusion at the last moment which is sometimes taken advantage of by unscrupulous elements amongst the staff to harass the passengers and indulge in malpractices."

यह इस में लिखा है कि स्टाफ खून कर काम करता है, कोई डर नहीं है। आप कानून तो बहुत सख्त लाये, लेकिन इस को इमप्लीमेंट कौन करेगा ? मुझे यह डर है कि आप का कानून किताबों में जरूर होगा लेकिन उस पर प्रमल नहीं हो सकेगा। आप यह बताइये कि कितने लोगों का आप ने बालान किया जिन्होंने चेन पुल की 1972 में और किताबों को सजा मिली ? हज-गों की तादाद में चेन पुल हुई लेकिन सजा किमी को नहीं। तो कानून पास करने से ही काम नहीं चलेगा।

रिजर्वेशन की ही बात लीजिये। हम लोगों से, एम० पी० में रिजर्वेशन का एक ६० बर्तों लिया जाता है, यह मेरी समझ में नहीं आता। बुकिंग आफिस में एक रुपया लेते हैं। मान गीय दरवारा मिह घर से फोन कर देते हैं तो उनका रिजर्वेशन बिना एक ६० दिये हो जाता है, लेकिन बुकिंग आफिस में जा कर रिजर्वेशन कराये तो एक ६० लेते हैं।

SHRI DARBARA SINGH (Hoshiarpur): He has named me; It is altogether wrong, what he has said.

श्री मूल सचिव डा. बा. : रेलवे उप-मंत्री क मैं कि आप को मुविष्ठा दी जाती है इसलिए एक रुपया लिया जाता है। तो मैं जानना चाहता हूँ कि फिर फोन पर रिजर्वेशन कराने पर एक रुपया क्यों नहीं लिया जाता है।

ला बनने के बाद आपने डेनीगेशन किया है। उस के रूल्स कहा बने हैं। सेक्शन 47 में आप संशोधन लाये हैं जिस के प्रामार आप

भी मूल बन्द बागा]

हमारे सिविल कोर्ट के राइट को छीना चाहते हैं, और रेट्रोस्पेक्टिव इफेक्ट से लेना चाहते हैं। मैं जानना चाहता हूँ कि कितना बचका आप ने लोगों से लिया है? जो पैसा आप ने लिया है उस के लिये हम कोर्ट आफ ला नहो जा सकते।

Whether it is wrongly taken or rightly taken, once taken it is taken; you cannot go to any court of law.

यह खूब रही साहब।

"All charges levied and collected, or purported to have been levied and collected under the principal Act for cancellation of tickets (whether with reservation of accommodation or not) 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"

Once you have taken our money without any law, without any rule. Now we want to go to a court of law. You say: no. What have we done? Why should it be retrospective?

क्या आप हमारे गड़ग को खनम करना चाहते हैं? कितना काम आप ने हम से ले लिया इन्व्हीशनी, अनकम्प्लेंट्स अनली?

"All charges levied and collected or purported to have been levied and collected under the principal Act for cancellation of tickets.... shall be deemed to have been validly levied and collected and no suit or other proceedings shall be maintained in any court for the refund of any such charges".

You cannot go to any court for recovery of that amount.

तो एक तो आप यह प्रमेंडमेंट लाये हैं।

"Where on receipt of an application under sub-section 2A of section 82C and after making such enquiry as it may deem fit, the railway administration is satisfied that circumstances exist which require relief to be afforded...."

Why do you want to make an enquiry? What would be the procedure?

आप इंटरियु कम्प्लेन्शन देना चाहते हैं घटना होने पर। तो आप इनक्वायरी करना चाहते हैं।

And you say here 'making such enquiries'. What is 'such enquiry'? Is it such enquiry as suits the claims officer? Either you say 'enquiry as may be prescribed according to the rules'; or you say that an enquiry will he make an enquiry. If at all manner.

इनक्वायरी क्लेम ऑफिसर इनक्वायरी करेगा। क्या जाँदेगा।

The claims officer will make an enquiry he likes without any guidelines. How will he make the enquiry? Why will he make an enquiry. If at all he makes an enquiry, under what rules will he make the enquiry?

Section 108 of the principal Act is mentioned here.

"(a) in the case of conviction for the first offence, with fine which shall not be less than twenty-five rupees; and

(b) in the case of conviction for the second or subsequent offence, with imprisonment for a term which shall not be less than one month."

108 में आपने तीन महीने तक की सजा रखी है :

"3 months simple imprisonment or with fine up to Rs. 250".

अब आपने 250 रुपये बित्तियम कर दिया है।

For the second offence, he shall be sentenced to 1 month and no fine, whether it is simple or rigorous. He has caused economic loss to the railway.

आप तो कानून को सक्त बनाना चाहते थे ।
रिक्वैरी का तो आपने कुछ लिखा ही नहीं ।

Clause 8 says:

In section 118 of the principal Act, in sub-section (2) for the words "with fine which may extend to fifty rupees" the words "with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred and fifty rupees, or with both" shall be substituted"

यहां पर यह कहते हैं कि पचास—रुपये और
पहले यह रहे हैं केवल मात्र एक महीने की ।

What is the logic and reasoning behind it?

रेलवे तो बहुत बड़ा पब्लिक अट्रैक्टिव है, कमर्शियल प्रॉपर्टी है । घाटा हुआ है उमरा पैसा नेता ही नहीं चाहते हैं ।

"Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court such fine shall not be less than fifty rupees"

पचास रुपये तो कम ने कम रख दिया गया है लेकिन इन्प्रिजनमेंट का होगा ? मे मिर्क एक बात कहना चाहता हूँ ।

Clause 12 seeks to insert a new section 126A.

I have moved an amendment to that also. Section 126A(1) says:

"imprisonment for a term which may extend to ten years."

This is a mischief under section 436, Indian Penal Code Now what is

section 425? The definition of mischief is:

"Whoever, with intent to cause or knowing that he is likely to cause wrongly loss or damage to the public or to any person, cause destruction of any property or any such change in the property or in the situation thereof...."

The offences of section 436 you have incorporated here. You say here.

"Whoever commits mischief with fire or explosive substances.. thereby cause destruction of any building which is ordinarily used as a place of worship or human dwelling or as a place .. shall be punished with imprisonment for life or with imprisonment of either description which may extend to ten years and also be liable to fine".

What is property, ' You have defined it?

"The property of a Railway referred to sub-Section (1) are railway station buildings, carriages, wagons, locomotives . "

This is the definition. After all, the mischief is caused by a particular person and the Railway incurs a loss of so much amount. Why not make a recovery? So, I have suggested an amendment saying:

"for imprisonment for a term which may extend to ten years"

substitute 'life imprisonment or imprisonment for term which may extend to ten years and shall also be liable to a fine not exceeding five thousand rupees;

Provided that in no case, the punishment shall be less than three years of imprisonment and a fine of less than one thousand rupees"

आध में झगड़े हुए और उन नें रेलवे प्रॉपर्टी को निशाना बनाया गया, उसको नुकसान

[श्री मूल मन्त्र बाना]

पहुँचाया गया। मूवमेंट जो भी होती है उस में रेलवे प्रापर्टी को ही निगामा बनाया जाता है, उसी का नुक्सान किया जाता है। यह राफ्ट की, देश की सम्पत्ति है, खुद की दौलत है। 436 को धापने रखा है। सभी सैकण्ड के अन्दर कापेसेशन है। इस बास्ते धाप मेरी एमेडमेंट को भी मानने की कृपा करे। 436 में जब प्रापर्टी को नुक्सान हो गया तो सजा से बचा होगा। रिक्वैरी क्यों नहीं। कैंड के बारे में भी धापने यहा प्रावधान किया है। सब म किया धौर कहा है कि मिनिमम यह होगी। इस में धाप चुप क्यों है।

Those who do such mischief will be punished and they will get punishment not less then three years.

मेरी प्रार्थना है कि थोडा सा धाप इस पर धौर सोके। जब एमेडमेंट मूव करने का वकत धापेगा तब मैं इसको मूव करूंगा धौर इस पर बोलूंगा भी। धाप कानून बनाते हैं, इस पर किसी को एतराज नहीं है। लेकिन ठीक तरह से धौर मधौर सोच विचार के बाद तो धाप बनाए।

डा० लक्ष्मीनारायण पांडेय . मंत्री महोदय ने बताया है कि सामान्य से सशोधन करने के लिए इस विधेयक को लाया जा रहा है। लेकिन बास्तब में इन संशोधनों के द्वारा कई प्रकार की सजाएं बढ़ाई गई हैं, जहां बीस रुपया जुर्माना था वहां 250 रुपया कर दिया गया है धौर जहा एक महीने के कारावास की सजा भी उसको आजीवन कारावास तक में बदला जा रहा है। इस बास्ते इसको साधारण विधेयक नहीं कहा जा सकता है। इसीलिए मैंने एक सशोधन अस्तावित किया है इस विधेयक को जिस में आजीवन कारावास तक की सजा की व्यवस्था की गई है, एक प्रवर समिति को जिसके सदस्यों के नाम भी मैंने प्रस्तुत किए हैं, सौंप दिया जा।

यह सही है कि रेलवे में कई प्रकार की गड़बड़ियां होती है। सनब असमय जंजीर को भी खींचा जाता है जिससे गड़बड़ी पैदा हो जाती है। इन कारण सजा का प्रावधान नितान्त आवश्यक है धौर उस को बढ़ाने का भीचित्य भी हो सकता है, लेकिन यह देखना आवश्यक है कि सजा किस हद तक हो। पिछले चार महीनों में 176 रेल दुर्घटनाएँ हुई है धौर रेल मंत्रालय का कहना है कि उन में से अधिकांश रेल कर्मचारियों की असावधानी के कारण हुई है।

MR. CHAIRMAN: This is to inform the House that, at 5.00 p.m., we shall take up the discussion on the current strike situation in the Railways.

डा० लक्ष्मीनारायण पांडेय इस विधेयक में व्यवस्था की गई है कि धगर कोई य.डी पिछले दरवाजे से गाडी में घुसेगा, या गतिमान गाडी में घुसना चाहेगा, भले ही उस के पास टिकट हो, तो उस के लिए दंड का प्रावधान किया गया है। इस में वह नहीं कहा गया है कि यदि किस यात्री के पास टिकट है धौर वह सामान्य रूप से प्लेटफार्म में खाना खा रहा है, तो उस पर दंड नहीं होगा—उस को भी दंडित किया जायेगा। सरकार ने यात्रियों के लिए अधिकतम दंड का—यहा तक कि आजीवन कारावास की सजा का—प्रावधान किया है, लेकिन यात्रियों की सुरक्षा, सुख-सुविधा धौर उनकी कठिनाइयों को दूर करने की दृष्टि से जो प्रावधान किये जाने चाहिए, वे नहीं किये गये हैं। इस लिए मैंने जो सशोधन दिया है, वह अत्यावश्यक हो जाता है। सरकार द्वारा दुर्घटनाओं के कारण भी विचित्र दिये जाते हैं। 30 जुलाई के नवभारत डाइम्स में प्रकाशित एक समाचार में बताया गया है कि "प्रारम्भिक जांच के अनुसार पश्चिम रेलवे के मल्हारगढ़ धौर हरकियावाल स्टेशनों के बीच इस वर्ष 4 जून को हुई

रेल दुर्घटना प्रचानक घोर तेज तूफान के कारण हुई थी।" रेलवे बोर्ड की तरफ से दिये गये वक्तव्य में बताया गया कि गाड़ी थोड़ी चली थी कि तेज हवा से डिब्बे उलट गये और दो यात्रियों की मृत्यु हो गई। अब हवा से रेल-गाड़ियां उलटने लगी हैं। अभी तक इस बात का खंडन नहीं किया गया है। दूसरी दुर्घटनाओं के बारे में भी सरकार को जो चिन्ता या दुख होना चाहिये, वह नहीं है।

मैं कह रहा था कि रेलों में यात्रियों की मुख-सुविधा का कोई प्रबन्ध नहीं किया जाता है। मैं उन बातों को नहीं दोहराना चाहता हूँ, जो कई बार यहाँ कही गई हैं, कि किनी डिब्बे में बिजली नहीं है और किसी डिब्बे में पानी की व्यवस्था नहीं है।

अब मैं प्रस्तुत विधेयक की कुछ धाराओं पर विशेष रूप से कहना चाहता हूँ। इस विधेयक में यह प्रावधान किया गया है कि अगर कोई यात्री अपने आरक्षण को रद्द करता है, तो उस में कम्पेन्सेशन चाजिज वसूल किये जायेंगे। अगर रेलवे की ओर से गलती से या किसी वृष्टि से पैसा बसूल कर लिया गया हो, जिस की राशि लाखों रुपयों तक हो सकती है, तो सम्बद्ध व्यक्ति किसी कोर्ट में जा कर उस को क्लेम न कर सके, इस के लिए सम्बन्धित प्रावधान को भूतकालिक प्रभाव—'रेट्रोस्पेक्टिव इफेक्ट'—दे दिया गया है। रेलवे नियमों के अनुसार जो पैसा बसूल नहीं कर सकती है, अगर उस ने वह बसूल कर लिया हो, तो अब सरकार उस प्रावधान को भूतकालिक प्रभाव दे कर उस को तर्कमगत या विधिसगत बनाना चाहती है। जिन आधारों को ले कर सरकार धारों के लिए व्यवस्था करने जा रही है, उन्हें ठीक कहा जा सकता है, लेकिन जो पैसा गलत ढंग से बसूल कर लिया गया है, इस व्यवस्था को भूतकालिक प्रभाव दे कर वह उस पैसे को रीकवर करने के अधिकार को छीनना चाहती है।

जहाँ तक दुर्घटनाओं का सम्बन्ध है,

मैंने मंत्री महोदय का एक वक्तव्य पढ़ा है, जिसमें कहा गया है कि पाच पैसे एकस्ट्रा लेना चाहते हैं, ताकि रेल दुर्घटना में मृत व्यक्ति के परिवार को पचास हजार रुपये मुआवजा दिया जा सके। वह एक बीमा योजना लागू करना चाहते हैं, ताकि यदि कोई रेल दुर्घटना में मारा जाए, तो उसको धनिकरण मुआवजा दिया जा सके। यह कब होगा? कैसे होगा? विवरण मंत्री ज. वतावें किन्तु आप समाजवादी मन्त्रालय, बान करने वाली इस सरकार को यह व्यवस्था है कि यदि किसी व्यक्ति की हवाई जहाज की दुर्घटना में मृत्यु हो जाती है, तो एक लाख रुपया मुआवजा दिया जाता है, लेकिन यदि कोई व्यक्ति रेल दुर्घटना में मारा जाता है, तो केवल पाच सौ रुपये मुआवजा दिया जाता है। इस समाजवादी सरकार की दृष्टि में जीवन के दो मूल्य हैं आवागमन में यात्रा करने वाले के जीवन का और एक लाख रुपया और रेल में चलने वाले के जीवन का मूल्य पाच सौ रुपया। मैं समझता हूँ कि आकाश-मार्ग पर चलने वाले काफी सम्पन्न और धनी वर्ग के लोग होते हैं और रेल गाड़ी पर चलने वाले सामान्य लोग होते हैं। इसीलिए इस सरकार के लिये सामान्य व्यक्ति के जीवन का कोई मूल्य नहीं है और रेलवे ने उसके जीवन की कीमत केवल पाच सौ रुपया धाकी है।

इस विधेयक में यह व्यवस्था भी की गई है कि रेल दुर्घटना के शिकार व्यक्तियों को अन्तर्निम राहत किस प्रकार और कब दी जायेगी। इस विधेयक में बिना किसी विज्ञापन कारण के संचार साधनों का उपयोग करने पर दण्ड का प्रावधान किया गया है। इसमें यह स्पष्ट नहीं किया गया है कि अगर किसी को जान खतरे में हो, या अगर किसी को छुआ दिखाया जा रहा हो, तो क्या वह संचार साधन का उपयोग कर सकेगा या नहीं। पिछले दिनों की बात है कि एक सज्जन अपने परिवार के साथ रेल गाड़ी में बैठ हुये थे कि पाच सात सप्ताह तक तो वे रिवास्तुर

[श्री लक्ष्मी नारायण पाण्डेय]

दिखा कर मारे परिवार की सम्पत्ति ले ली। शायद रेलवे प्रशासन कहेगा कि उस स्थिति में भी जजों की जांच की आवश्यकता नहीं थी। हम आये दिन महिलाओं के साथ भ्रमर व्यवहार की भी शिकायतें सुनते हैं। उस समय क्या जजों का उपयोग नहीं होगा ?

अगर कोई व्यक्ति रेल के डिब्बे की छत पर या फुटबोर्ड पर चढ़ कर यात्रा करे, तो उसके लिये सजा का प्रावधान किया गया है। लेकिन क्या मंत्री महोदय ने कभी उन वाग्गो की जांच की है, जिनके कारण ऐसी परिस्थिति पैदा होती है ? मैं निरंजन करना चाहता हूँ कि यात्रियों को मजबूर हो कर डिब्बों की छत पर या फुटबोर्ड पर यात्रा करनी पड़ती है। इसका कारण यह है कि यह जानकारी होंगे हुये भी कि अमूक अमूक सेक्सन्स पर गाड़ियाँ चलनी चाहिये शटल्ज चलनी चाहिये या अमूक अमूक गाड़ियों के साथ अतिरिक्त डिब्बे लगाये जाने चाहिये, रेलवे प्रशासन इसकी व्यवस्था नहीं करता है। हमारे देश में दूसरी सवाग्गो की गुलामी में रेलों यात्रा का अधिक सम्ना साधन है। कोई यात्री अपने जीवन को खतरे में नहीं डालना चाहता है, लेकिन कई बार मजबूर होकर उनको इस प्रकार की यात्रा करनी पड़ती है। जहाँ सरकार डिब्बों की छत पर या फुटबोर्ड पर यात्रा करने के लिये दण्ड का प्रावधान करने जा रही है, वहाँ उसको इस तरह भी ध्यान देना चाहिये कि जहाँ आवश्यकता है, वहाँ अतिरिक्त गाड़ियाँ चलाई जायें, या अतिरिक्त डिब्बे लगाये जायें और जिन स्थानों पर रेलों आदि का आयोजन होता है, वहाँ जाने वाले यात्रियों के लिये उचित व्यवस्था की जाये।

यह बात भी सर्व विदित है कि रेलवे प्रशासन अपने कर्मचारियों की आवश्यकताओं का भी ध्यान नहीं रखता है। लोको रनिंग स्टॉक की हड़ताल के कारण 500 गाड़ियाँ रद्द की गई हैं, जिससे लाखों यात्रियों को

परेशानी हुई है। सरकार लोको कर्मचारियों की कठिनाइयों को हल करे। गाड़ियाँ न चलने के कारण अजमेर में साढ़, डेढ़ साढ़ यात्री रुके पड़ हैं। ऐसे दूसरे स्थानों पर भी यही स्थिति है। वहाँ के लिये अतिरिक्त गाड़ियाँ नहीं चलाई जाती हैं। रेलवेज की तरफ से कहा जाता है कि हमारे पास डिब्बे नहीं हैं, स्टॉफ नहीं है। मैं समझता हूँ कि जब सरकार इस विधेयक में सजाओं का प्रावधान कर रही है, तो इसके साथ यह भी उचित है और आवश्यक है कि वह यात्रियों की सुविधाओं की तरफ भी ध्यान दे। लेकिन स्थिति यह है कि उनमें यात्रियों की सुविधाओं की ओर कोई ध्यान नहीं दिया है।

जहाँ तो ड-फोड और विस्फोटक पदार्थों का सम्बन्ध है, जिसमें बग्गो रूपों की हानि होती है, उसके लिये सजा का जो प्रावधान किया गया है, वह उचित है और हम उसका पालन करते हैं। लेकिन सरकार को एक तरफ काम नहीं करना चाहिये। सरकार को लोको कर्मचारियों की आवश्यकताओं का भी ध्यान रखना चाहिये। बहुत पहले जब स्टेशन मास्टर्स ने हड़ताल की थी, तो सरकार ने यह आश्वासन दिया था कि वह उनके प्रति किसी प्रकार के बदले की भावना नहीं रखेगी। मैं बंस्टन रेलवे के ग्लोबल डिबीजन में गया था। वहाँ कई स्टेशन मास्टर्स को नोटिस दिये गये हैं कि उनको अलग क्यों न कर दिया जाये, उनकी सर्विसिज डिस्कांटीन्यू क्यों न कर दी जायें। उनकी छुट्टियाँ रद्द क्यों न की जायें ?

उन्हे कहा गया है कि वे किसी प्राइवेट मेडिकल प्रैक्टिशनर का सर्टिफिकेट प्रोड्यूस नहीं कर सकते, वह मान्य नहीं होगा। रेलवेज का काम रेल कर्मचारियों के सहयोग से ही सुचारु रूप से चल सकता है। अगर रेलवे प्रशासन उन पर इस प्रकार के बंधन लगायेगा, तो हमने जो कठिनाइयाँ पैदा होंगी, उनके लिये वह स्वयं उत्तरदायी होगा।

मैं चाहता हूँ कि रेल मंत्री स्टेशन मास्टर्स को दिये गये अपने आश्वासन की पूर्ति करे। स्टेशन मास्टर्स सहयोग की बात करते हैं। वे सरकार को कठिनाई में डालना नहीं चाहते उनकी अपनी तरफ से कोई ऐसी बात नहीं है। इन सारी परिस्थितियों में स्टेशन मास्टर्स की कठिनाइयाँ हो सकती हैं, गार्डस की कठिनाइयाँ हो सकती हैं, रेलवे रॉज कर्मचारियों की कठिनाइयाँ हो सकती हैं, उनकी स्थिति को भी, ध्यान में रखना आवश्यक है। जनता की कठिनाइयाँ भी आप ध्यान में रखें उन्हें दूर करें।

यह बात सही है कि आप भी कुछ कठिनाइयाँ हो सकती हैं। पार्सिंग कमीशन ने आप की योजना को सम करने की बात कही है, लेकिन उस के बाद भी बहुत सारी ऐसी लाइनें हैं जिन को आप ठीक कर सकते हैं। विशेष रूप से मैंने पिछली रात जब रेलवे विभाग पर बर्चा हुई थी प्रोमिस-ब्रण्डवा मैक्शन के बारे में उल्लेख किया था। उस लाइन पर तीन-चार सीमेंट फैक्टरीज हैं—लेकिन केवल दो ही गाड़ियाँ चलती हैं बागों को हटवा के ऊपर और फ्लो-बॉर्ड पर चढ़कर जाना पड़ता है इन उस खण्ड पर एक और रेल गाड़ी चलाएँ। जिस के लिए आप दण्ड की व्यवस्था करने जा रहे हैं। जब हमारे पास अतिरिक्त गाड़ियाँ नहीं हैं, कीचेंड नहीं है, इन सारी परिस्थितियों में मैं समझता हूँ कि एक प्रचारकों दण्ड व्यवस्था करना उचित नहीं है।

इस में कहा गया है —

122. (1) यदि कोई व्यक्ति विधि विरुद्ध रेल में प्रवेश करेगा तो वह ज़ुमनि से जो बीम रुपये तक का हो सकेगा दण्डित किया जायेगा।

(2) यदि ऐसे प्रवेश करने वाला कोई व्यक्ति किसी रेल सेबक द्वारा या रेल प्रशासन की ओर से किसी अन्य व्यक्ति द्वारा ऐसे करने

की प्रार्थना किये जाने पर रेल में से उतरने से इंकार करेगा तो वह ज़ुमनि से जो पचास रुपये तक का हो सकेगा, दण्डित किया जायेगा और ऐसे सेबक या अन्य व्यक्ति द्वारा रेल में डटाया जा सकेगा। मैं चाहता हूँ कि इन समस्याओं की जड़ को ममसों और रेल गाड़ियाँ उठा चलाने की मांग हो, चलायें। किसी विशेष बात पर आगे चल कर आप ने हम में ऐसा प्रावधान किया है कि दोषी व्यक्तियों को मृत्यु या प्राजीवन कारावास का भी दण्ड दिया जा सकता है। इस प्रकार का प्रावधान कोई ग्राधारण प्रावधान नहीं है। हम निर्भय कहना है कि इस विधेयक को प्रवर गमिति को भेजा जाय, तभी यह युक्तियुक्त होगा, तभी रेल प्रशासन में जो भारी खाँमियाँ पैदा हो गई हैं, वे दूर हो सकेगी।

जटा आने पराश्रय का लेकर कुछ नये प्रावधान किये हैं और दण्ड व्यवस्था की है—पराश्रय की जो कठिनाइयाँ हैं, उन पर भी विचार करना चाहिए। 10-15 दिन पहले जा कर भी; पराश्रय नहीं हो पाना है। इस लिए रेल में पाना है—विश्वान को कमी है, को भी है। इन सारी कठिनाइयाँ के हों हूँ इस प्रकार का प्रावधान कहा तक —सार्थक हो सकता है।

अन्य में इन सारी परिस्थितियों को ध्यान में रखने हूँ ये पल यही दोहराया है कि आप इस विधेयक को प्रवर गमिति को भेजें। क्योंकि यह विधेयक साधारण नहीं है। इसमें सांविधिक न्यायिक स्वतन्त्रता का गारन्टी का भी हानन सम्मिलित है। सरकार मेरे मुँह पर गभीरता से विचार करे एक सदन में भी प्रार्थना है कि वह इसे स्वीकार करे।

MR. CHAIRMAN: Shri Dinesh Chandra Goswami.

SHRI D. N. TIWARI (Gopalganj): I sent my name on the very first day I do not know why this discrimination.

SHRI N. K. SANGHI (Jafore): I also sent my name on the very first day.

SHRI D. N. TIWARI: Why should I be called later when I sent my name first?

MR. CHAIRMAN: I do not know

श्री डी० एन० तिवारी आप के प्राप्ति का यह रकबा अच्छा नहीं है। जब मैंने नाम पहले भेजा है, तो पहले बुनाए जायें।

Either you should go according to the member catching your eyes or you should go according to the time the members sent in their slips.

आप किसी को प्रियम दोजिय—यह आप का राइट है।

SHRI N. K. SANGHI: To put the records straight I also sent my name last Thursday.

श्री डी० एन० तिवारी पार्टी ने कौन नाम नहीं दिया है, मैंने पहले दिन मिनट में भेजा है। या तो मिनट से बुलाइये या जा राईट है न कर उम को बुलाइये।

स.प.ति सह.वच मैं आप का नाम लिख लेता हूँ।

SHRI DINESH CHANDRA GOSWAMI (Gauhati): I take my stand to support this Bill. But, at the same time, I feel that this step of *ad hoc* amendments to the Railway Act is not very proper because the Railway Act is a very important Act. We see a tendency on the part of the Railway administration to bring in *ad hoc* amendments without bringing forward a comprehensive amending Bill to the whole Railway Act. I want to bring home to the Railway Minister and the Railway administration that even with the sections now being sought to be amended, there are still many flaws.

Section 47 is the first section which you want to amend. This is necessary because such rule-making power was not given to the administration

to frame rules, for levying charges for cancellation of tickets. You have sought for amendment of Section 47 and you have asked for these rules. But, if you look to any of the Central Acts, what do you find? You will find that normally, general rule-making power is given. You can see Section 82J of the original Act. It says:

"In particular and without prejudice to the generality of the foregoing power such rules may provide for "

In Section 47 the general power is not there. I do not know why the general power was not given to the Railways. The general power was not given to the Administration. Generally speaking in all Central Acts such original powers are given and upto now I have not been able to find any adequate reasons why this general power should not be given to the Railway Administration to frame rules in such matters in which rule may become necessary. While amending Section 47, why do you not acquire this general power also. This is my first point. Will you come before Parliament every time. You want to frame rules by introducing and amendment? So, what I feel is that this bill has been brought without proper application of mind and as such I feel that a proper and comprehensive amendment of the Railway Act should be introduced. (Interruption) Such general power is not there in Section 47. That is why I plead that this power ought to be brought in. Section 47 reads:

"The Central Government or in the case of a Railway administered by a Railway Company the Railway Company shall make general rules consistent, with this Act."

Such general power has not been brought in and this should be provided for. This is my first submission.

Secondly, with regard to the retrospective power, I do not want to go into a controversy whether it is desirable or not, but I have got my own doubts when it is challenged in a court of law what would be the outcome of it.

I welcome the idea of framing rules for levying charges for the cancellation of tickets. We know that it is a common thing which is being noticed that some unscrupulous persons corner tickets and genuine passengers are suffering. But we should remember that the administration can't get over this problem of overcrowding by simply framing this rule for which you have acquired the power or levying charge for cancellations. We should go deeper into this matter. In some cases the Administration has not at all fixed the priorities in such matters. There is a very large demand from all sections, from this House and elsewhere, for Rajdhani and super-fast trains. I feel that the demand of the country should not be for Rajdhani or super-fast trains, because they affect the slow-moving goods trains and ordinary passenger and mail trains. The Administration should remember that for one Rajdhani express they have to sacrifice a number of slow-moving trains and goods trains. The moment you run a super-fast train, without having large number of stoppages, you are making a number of goods trains to wait at the wayside stations. If you do not run such fast trains you would be able to run number of passenger trains or number of mail trains. What should be the given priority? Should the priority be for those persons who get the utmost benefit, denying the comfort to large sections of the people? This should not be the case. We should try to see that largest number of passengers are given the facilities of movement; we should see that largest quantum of goods are carried by the Railways.

Let us take the case of and the

priority: Today we run air conditioned coaches. But why should we run such a coach catering for the needs of 50-60 passengers when in the same compartment we can accommodate many more passengers. After all those persons who can afford to go in air-conditioned coach can also afford to travel by air when there is so much of overcrowding in the railway compartments. Will you provide this concession to those 25 persons who travel in this coach or you will provide amenities to 100 passengers who travel by the third-class compartments? What is the priority of the Railways in this regard? Will you provide this priority to 100 passengers who are capable of travelling in third-class or only to those 25 passengers who travel by air-conditioned coach? I feel that if you make the calculations, the cost of travel by a first-class coach is much more than the third-class travel. I welcome of course the amendment made to this Act but if the Administration feels that the problem can be tackled only by amending the Act—well I disagree. I feel that the time has now come for fixing up the priority.

Now, let us come to the other sections. You have made a very important change in Section 82H of the main Act by which the Administration has acquired the power to grant interim relief. With great respect feel—this is my personal view that it would have been better if the Administration has not acquired this power because this may create a difficulty. To-day we have got the Railway Claims Tribunals who have given the powers to the Claims Commissioners to grant interim relief. That relief has to be given forthwith. Please look at Section 82E(1) of the Indian Railways Act, 1890. It says:—

“Where, in the opinion of the Claims Commissioner, circumstances exist which require relief to be afforded to an applicant for com-

[Shri Dinesh Chandra Goswami]

compensation immediately, he may, pending determination of the actual amount of compensation payable, direct the railway administration to deposit with him forthwith such sum as he considers reasonable for affording such relief."

The word 'forthwith' in the legal jargon means 'immediately.' Why should the Railway Administration secure an additional power? What enquiry will be made in this regard? Suppose a person claims a certain amount as interim relief. And he gets away with that. Afterwards, when it is found that he was not entitled to it, will the Administration take action to see that it gets back from him the amount paid to him unauthorisedly? I feel that, if this power is exercised, it will create a lot of complication. Can you show me an instance where the Claims Commissioner did pay the amount forthwith or in proper time on the company. There are many cases which were not settled in time by the Administration itself. You took a certain time in filing your own case or your own statement. Again, in this amending section it has not been rightly pointed out as to what will be the nature or scope of inquiry. If you look to the power of the Claims Commissioner, under Section 82(E) (1), he can grant the interim relief subject to the fulfilment of three conditions. The three conditions are:—

"(i) no grounds exist for doubting the correctness of the facts stated by the applicant;

(ii) on the facts so stated, if proved, the applicant should be entitled to compensation; and

(iii) the amount of compensation directed to be paid under this section is not likely to exceed the actual amount of compensation that may ultimately become payable."

Unfortunately, you have not made these conditions precedent to the exercise of the power under Section 82(H) (H). I personally feel that the Administration should not have been given the power of Section 82(H) (H) which is sought to be given under Section 82(H). The power should be left to the Claims Commissioners because there will not be a provision by which the powers can be either curtailed or restrained. If the Administration is given this power, my own doubt is that this may create a lot of complications. And this may be one source of corruption because an application will be made under that section and interim relief will be granted. The man will go away and afterwards there will not be any proof as to whom this relief was granted.

Section 82F(2) reads as under:—

"Any person aggrieved by a decision of the Claims Commissioner refusing to grant compensation, or as to the amount of compensation granted to him, may prefer an appeal to the High Court having jurisdiction in the place where the accident occurred."

According to my own knowledge of law, I feel that, under the Indian Railway Act, he has got the right to challenge the decision of the Railway Claims Commissioner under 82(F) (2).

Even where the law did not permit the grant of such a compensation, if the same was granted in a very arbitrary manner, you have no power, under the Railways Act to prove it has got the power to prefer a claim against the Claims Commissioner. I feel that, to that extent, the amendment of the Act is also necessary.

Now look at some of the other sections which are sought to be amended.

In this Bill, an attempt has been made to enhance the sentence on individuals tampering with railway property. But I feel that the sentence relating to the railway employees, especially in matters concerning the comfort of the passengers, should also be enhanced. For example, hawkers are punishable, and the punishment for hawking in the trains unauthorisedly has been enhanced. But the greatest problem today while moving in a train is not the problem of the hawkers but it is the problem of the beggars. Why should begging not be made an offence? Why should begging in the railway station or the railway train or the railway platform not be made an offence? If you go to any important station you will find that this is the greatest problem that we are facing. In fact, it is a social menace today. Instead of trying to come down upon the hawkers, why not make begging an offence in the railway premises or on railway trains?

Then, take section 108. The punishment under this section has been enhanced. But when a railway servant is in a state of intoxication while on duty, the punishment provided for him is only a fine of Rs. 50. Why should this punishment not be increased? While they want to punish others with enhanced punishments, why does the hon. Minister want to shield his own railway employees? The punishment under the different sections starting from section 99 have been enhanced, but Government have not touched those sections which concern the people in their own railway administration who may be found guilty. When a person is in a state of intoxication while on duty, a fine of Rs. 50 is considered sufficient. This is the type of attitude on the part of the railways, which I decry and which the House has always decried. In matters where the members of their own administration are involved, they do not want to touch them.

Again, they want to make blocking of tickets by a person punishable. But what about the railway staff in the railway booking office who in collusion with other people indulge in blackmarketing of the ticket? Why should they not also be punished? They are not going to be punished, because the Administration wants to protect its own employees. This is an unfortunate trend which we have not been able to appreciate.

Again, look at section 107. I am referring to these sections just to point out the contradictions of the amendments sought to be made by Government. Under section 107, if a person carries or takes with him any dangerous or offensive or explosive substance in contravention of section 59, then he shall be punished with a fine of Rs. 500. But if as a result of the explosive substance that he carried the train is blasted, then a punishment for ten years has been prescribed. Does not the hon. Minister think that the punishment for carrying an explosive substance should also be enhanced? Should not the attempt to carry an explosive substance which may lead to a blasting of the train also be made punishable to a greater extent?

I am pointing out these provisions just to draw your attention to the fact that Government have not applied their mind properly to the amendment of the various sections.

I feel that there should have been the sentence of imprisonment for violation of section 107 also. There are many other sections also which I feel ought not to be here. Again, take for instance, section 102, which say that if a particular train is full to its capacity which is shown in the chart, and a railway servant compels or attempts to compel or influences any passenger to enter into a compartment which already contains the maximum number of passenger as exhibited in the chart, he shall be

[Shri Dinesh Chandra Goswami]

punished with a fine which may extend up to Rs. 20. You know, Sir, that in the third class compartment, the capacity of the compartment to generally 75. Suppose 75 of us are sitting in a third class compartment, and we obstruct anybody else from coming in, and suppose a railway servant lets other passengers to get into that compartment, then he will be punished with Rs. 20.

I would like to ask the hon. Minister whether if he enforces this section properly, the railways will be able to run? For, there is another power which is given to obstruct, when the compartment is full to its capacity. Suppose the number of passengers in the compartment is already what is written on the railway carriage, I can restrain other persons from coming in, and if the railway servant tries to force somebody in into that compartment, then he will be punishable with Rs. 20. If section 102 is enforced properly, then I am afraid that the railways will not be able to run at all.

I conclude by saying that there is a very serious lacuna which you have forgotten. You have given the power of even sentence of death in exceptional cases—sentence of death as well as sentence to life imprisonment. But who are the magistrates who are to try these offences? Look at section 133. You have not cared to look into it.

"No Magistrate other than a Presidency Magistrate or a Magistrate whose powers are not less than those of a Magistrate of the Second Class can try these offences".

Under Cr. P.C. it is the Sessions Judge who tries offences punishable with death. I cannot comprehend trial of cases where the penalty is death or life imprisonment by a Second Class Magistrate. Can you, comprehend a Magistrate of less than First Class trying these offences? You have not even cared to look at section 133.

You have given the power. You have not provided a safeguard to see that the right of the accused to get a proper trial is protected.

My main objection to these provisions is that these are very ad hoc amendments brought in a haphazard manner. Therefore, I personally feel, though I support the Bill, that there is some justification for the motion that it may be referred to a Select Committee. Or at least the Railway Ministry should try and bring forward a total, comprehensive Bill because there are many sections, particularly with regard to claims, which also require amendment.

With these observations, I support the Bill.

श्री डी० एन० तिवारी सभापति महोदय रेलवे के काम को मुचार्क रूप में चलाने के लिये गवर्नमेंट ने जो भी पावर गि है, इस हाउस ने उन पावरज को प्रदान करने में कभी कोताही नहीं की है। लेकिन हाउस यह जानना चाहता था कि अभी जो आपके प्रखत्यागत है, उसका प्रदान करने के लिए क्या है? इसके बारे में आपको स्टेटिमेटिकम देने चाहिये थे। जब आप कानून बदलना चाहते हैं और गजाओ को बढ़ाना चाहते हैं तो आपको स्टेटिमेटिकम तो देने चाहिये थे। कानून में कौन सी इनएडीक्वैसी थी और जिमकी ब्रज में गजा नहीं हो सकी या कम गजा हाँकी गजा में कौनों कुछ अंतर नहीं हुआ, इसके बारे में विस्तार में, आपको बताना चाहिये था? जब आप ऐसा नहीं करते हैं तो क्या मैं यह समझूँ कि लोगों में केवल मात्र आतक फैलाने के लिये — कानून का इस्तेमाल करने के लिये नहीं — आप इस कानून को स्टैबूट बुक पर ला रहे हैं? अगर यह सही है तो यह—सबोवृति ठीक नहीं है। कुछ पावरज बोके दिल हुए ली गई थी बिना टिकट बाजा करने वालों पर इस कथना सुमाना करने की बात लेकिन ऐसा

मनता है कि इस पावर का भी इस्तेमाल नहीं किया गया है। लोग चक्कले में बिना टिकट चलते हैं। जो ईमानदार होते हैं और टिकट बनवाने वाले होते हैं उन में तो दस रुपया जुर्माना ले लिया जाता है लेकिन जो कुछ रुपया दे दे देते हैं उन में न तो जुर्माना वसूल होता है और न ही टिकट के पैसों आपको मिलते हैं। मैं जानना चाहता हूँ कि बिना टिकट चलने वालों से आपने कितना धन वसूल किया है। उस कानून के अनुसार इनका आपके पास कोई हिसाब है ?

श्री श्री हामारे गोस्वामी जी ने कहा है कि आप कानून बनाते जा रहे हैं लेकिन रेलवे एक्ट को पढ़ते भी नहीं है। उस में क्या क्या लैकने है इसको देखते नहीं है और कानून ले कर आ जाते हैं। आपने डेथ सेंटेंस इस में प्रोवाइड किया है। अब यह पता नहीं लगता है कि कौन मैजिस्ट्रेट ट्राई करेगा। मैजिस्ट्रेट क्लाम करेगा या कौन करेगा ? किम तरह में डेथ सेंटेंस दी जा सकेगी ? वास्तव में रेलवे एक्ट को बिना पढ़े हुए जो कोई कुछ बह देता है उसको आप लेकर आ जाते हैं और पावर को मागने लग जाते हैं। मैं समझता हूँ कि रेलवे के कामों में आपका ज्यादा समय न लग कर दूसरे कामों में ज्यादा समय लगता है। यह बड़ी मुसीबत की बात है। आप एक्सट्रा करीकुलर एक्टिविटीज कम करे तभी आप रेलवे में लिये ज्यादा समय दे सकेंगे। इसके बिना कैसे काम चल सकेगा। रेलवे बोर्ड भी रेलवे एक्ट का अध्ययन नहीं करता है —

एक श्रीमन्नीय सबरथ एक्सट्रा करीकुलर एक्टिविटीज क्या है ?

श्री डी० एन० सिवारी - आपने स्कूलों में देखा होगा कि पढाई के अलावा खेल कूद आदि जो होती हैं वे एक्सट्रा करीकुलर एक्टिविटीज कहलाती हैं। यहाँ भी जिस मिनिस्टर को जिस काम के लिए नियुक्त किया जाता है उस काम में बाधा पहुँचा कर भी वह ऐसे काम करता है जिससे जनता को हानि पहुँचती है, पार्टी को

हानि पहुँचती है। इसमें ज्यादा दिमाग लगाने की जरूरत नहीं है और यह जानने की जरूरत नहीं है कि एक्सट्रा करीकुलर एक्टिविटीज क्या होती हैं। रेलवे एक्ट का ठीक प्रकार में आपको भी और रेलवे बोर्ड को भी अध्ययन करना चाहिये। हाउस में रेलवे बोर्ड को एनालिस करने के बारे में अनेक बार सवाल पेश हुए हैं। मैं ने इनका बराबर विरोध किया है। लेकिन अब मुझे भी मालूम देने लग गया है कि शायद ऐसी बात होनी चाहिये। रेलवे बोर्ड में डर काम के लिए अलग अलग डायरेक्टर है, मैम्बर है। कोई ट्रांसपोर्ट के लिए है, कोई फाइनेंशियल डायरेक्टर है, कोई पैसेन्जर्स एग्जिक्यूटिव को देखने वाला है। लेकिन आज स्थिति क्या है ? मैं उन बातों में नहीं जानना चाहता जो हाउस के सामने रख दी गई हैं। 6-6 और 8-8 घंटे गाइडिंग लेट चलती हैं। पूछा जाता है कि गाड़ी कहाँ है तो कह दिया जाता है कि कंट्रोल फोन है। एक फील्ड में लंबा डिस्प्यूट होता है, स्ट्राइक होती है तो मालूम हो जाता है कि कितने हजार मैन आबर लास्ट हुए हैं। लेकिन हिन्दुस्तान की जनता के कितने करोड़ आवाजें बेस्ट हांते हैं रेलवे की बजह से इसका कोई हिसाब ही नहीं है। यह समय वह प्रोडक्टिव कामों में लगा सकती है। कितने हूँ यूम्न आवाजें बेस्ट होते हैं, आपकी बजह से, आपके कर्मचारियों की बजह से और रेलवे बोर्ड की बजह से यह कहना कठिन है। जनता का अगर यह समय बेस्ट न होता तो वह घर पहुँच कर प्रोडक्टिव कामों में इस समय को लगा सकती थी। आपने हिन्दुस्तान के पैसेजर्स को छोड़े, बकरिया, जानवर और मवेशी समझ रखा है। उनकी कोई बिन्ना ही नहीं होती है। ओरिजिनेटिंग स्टेशन में ही अगर देखा जाए तो गाड़ी लेट चलती है। पाच बजे चलना होता है तो किसी को पता ही नहीं होता है कि कब चलेगी ? वहाँ कैसे लेट हो जाती है समझ में नहीं आता है। बीच में लेट हो जाए तो समझ में बात आ सकती है लेकिन वहाँ लेट हो जाए यह बात समझ में नहीं आती है। गाड़ी अगर आ भी जाती है तो देखा गया

[श्री डॉ० एम० तिवारी]

है कि 45-45 और 50-50 मिनट तक मिगनल पर खड़ी रहती है। जो बिना टिकट यात्री होते हैं वे तो वहाँ उतर ही जाते हैं। दूसरे लोग जब उनको पता होता है कि इस में एम पी वीएन कोई नहीं बैठा है तो थोड़ी बहुत गाँविया रेलवे स्टाफ को देखते हैं लेकिन अगर एम पी बैठा होता है तो इतनी गाँविया देने है कि एम पी को मुह नीचे झुका लेना पड़ता है। वह कहा जाए, क्या बरे? आराम में मन लगाए, रेलवे बोर्ड काम में मन लगाए तभी काम चल सकेगा। वहाँ चलेगा कैसे? क्या होगा?

ट्रेन में पानी नहीं रहना है बिजली नहीं रहती है। परसों मैं कालका में से गयी गया हूँ। फर्स्ट क्लास के डिब्बे में लाइट नहीं थी। इलहाबाद में मुगल नगर तक कार्ड ला - नहीं थी। कार्ड हम लाय जानवर तो है नहीं कि इन तह में आप व्यवस्था करे। यह एक इम्पार्टेंट मेल ट्रेन की जाना थी खाना बिना लाइट के खाए तो कैसे खाए। बहुत से लोगों ने खाना नहीं खाया। प्लेटफार्म पर बैठ कर उसकी लाइट में क्या खाना खाया जा सकता है। क्या लाइट नहीं हो सकती ट्रेन में? आप कहते हैं कि कभी कभी ऐसा हो जाता है। लेकिन मेरा गाँव तो अकरपर ऐसा होता है। शायद मैं ऐसा बदकिस्मत हूँ जिस के साथ ऐसा होना है।

समाप्ति सहोदय आप मंगली दफा अपना भाषण जारी रखे।

17.00 hrs

DISCUSSION RE. CURRENT STRIKE SITUATION IN RAILWAYS

MR. CHAIRMAN We will now take up the discussion under Rule 183 I would like to know how much time the House would like to devote to this discussion.

SHRI SAMAR MUKHERJEE (Howrah): This morning we insisted that the Minister should make a fresh statement. He has issued some appeal but the leaders of the All India Loco Running Association want him to make an announcement on the floor of the House so that it is binding, so, we request the minister to make a fresh statement

SHRI S M BANERJEE (Kanpur) I support what Mr. Mukherjee has said Twice this morning, once before the Speaker and again before the Deputy Minister we have pleaded that the minister should make the announcement on the floor of the House. Yesterday he made an announcement over the All India Radio There is a fear lurking in the minds of the leaders of the All India Loco Running Staff Association One or two of them have been arrested and arrest warrants under the DIR are pending against the others The minister should make an announcement here that the leaders of this Association or the members of their action committee will not be arrested if they come here to Delhi for a negotiated settlement

SHRI NARSINGH NARAIN PANDEY (Gorakhpur) If the Railway Minister makes a statement, will Mr Banerjee agree that there is no need for any further discussion?

SHRI DINEN BHATTACHARYYA (Serampore) We will speak in support or against the statement

MR CHAIRMAN If the Minister makes a statement of course there will be no scope for a discussion

SHRI SHYAMNANDAN MISHRA (Begusarai) This discussion is to take place on the statement made by the Minister on 3rd August. The House is quite in order to ask the minister whether he wants to add something so that his statement may be up to date because the situation is developing.