

DEMAND No. 13—APPROPRIATION TO  
DEVELOPMENT FUND

"That a supplementary sum not exceeding Rs. 1,43,06,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1955, in respect of 'Appropriation to Development Fund'."

DEMAND No. 15—CONSTRUCTION OF  
NEW LINES

"That a supplementary sum not exceeding Rs. 1,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1955, in respect of 'Construction of New Lines'."

DEMAND No. 18—OPEN LINE WORKS—  
DEVELOPMENT FUND

"That a supplementary sum not exceeding Rs. 1,55,96,000 be granted to the President to defray the charges which will come in course of payment during the year ending the 31st day of March, 1955, in respect of 'Open Line Works—Development Fund'."

APPROPRIATION (RAILWAYS)  
No. 2 BILL

The Deputy Minister of Railways and Transport (Shri Alagesan): I beg to move for leave to introduce a Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1954-55 for the purposes of Railways.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1954-55 for the purposes of Railways".

*The motion was adopted.*

Shri Alagesan: I introduce\* the Bill and beg to move\*:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1954-55 for the purposes of Railways, be taken into consideration".

Mr. Deputy-Speaker: The question is:

"That the Bill to authorise payment and appropriation of certain further sums from and out of the Consolidated Fund of India for the service of the financial year 1954-55 for the purposes of Railways, be taken into consideration".

*The motion was adopted,  
Clauses 1 to 3, the Schedule, the Title and the Enacting Formula, were added to the Bill.*

Shri Alagesan: I beg to move:

"That the Bill be passed."

Mr. Deputy-Speaker: The question is:

"That the Bill be passed."

*The motion was adopted.*

RAILWAY STORES (UNLAWFUL  
POSSESSION) BILL

Mr. Deputy-Speaker: We now take up the further consideration of the motion moved by Shri Alagesan in respect of the Railway Stores (Unlawful Possession) Bill.

Pandit Thakur Das Bhargava (Gurgaon): I sent in an amendment proposing reference of the Bill to a Select Committee.

Mr. Deputy-Speaker: Has it been placed before the House?

Pandit Thakur Das Bhargava: I move it now.

I beg to move:

"That the Bill be referred to a Select Committee consisting of Shri Ganesh Sadashiv Altekar, Shri K. Ananda Nambiar, Sardar Hukum

\*Introduced and moved with the recommendation of the President.

[Pandit Thakur Das Bhargava]

Singh, Shri N. C. Chatterjee, Shri B. Ramachandra Reddi, Shri Tek Chand, Shri U. M. Trivedi, Shri Nemi Chandra Kasliwal, Shri S. V. Ramaswamy, Shri K. S. Raghavachari, Shri P. R. Kanavade Patil, Shri R. Venkataraman, Shri Fulsinghji B. Dabhi, Shri C. R. Narsimhan, Shri Kamal Kumar Basu, Shri Mulchand Dube, Dr. Lanka Sundaram, Shri Hari Vinayak Pataskar, Shri O. V. Alagesan and the Mover, with instructions to report by the 31st March, 1955."

**Mr. Deputy-Speaker:** Was there not a similar Bill regarding the position with respect to the Posts and Telegraphs?

**Pandit Thakur Das Bhargava:** We passed that.

**Shri Alagesan:** My name being there should not be construed as my acceptance of the motion of the hon. Member.

**Pandit Thakur Das Bhargava:** By courtesy.

**Mr. Deputy-Speaker:** I understand that his consent means only this: In case the hon. Minister cannot definitely say that the motion can be accepted or not, and in case the motion is accepted by the House, the hon. Minister does not want to stay out of the Committee. That is what he means.

**Shri V. G. Deshpande (Guna):** Will he be allowed to speak?

**Mr. Deputy-Speaker:** Yes. There are exceptions.

**Shri K. K. Basu (Diamond Harbour):** Then the exception is to be made to all the Members.

**Pandit Thakur Das Bhargava:** Sir, as you have been pleased to remark, it is quite true that this House has accepted the principle involved in this Bill with regard to another Bill relating to the Posts and Telegraphs Department. In that Bill copper wires and other articles were said to be manufactured for that Department and the possession of those things were sought to be penalised. I was one of those who supported that mea-

sure and I submitted at that time that that measure was certainly due and anyone would support it. I am also ready to accord support to that kind of a measure even now and therefore, it is not that I am opposing this measure. I have sent in notice of certain amendments to this Bill as well as an amendment for its reference to the Select Committee.

I think, since the Bill is a complicated one, it is desirable that it should go to a Select Committee so that all the provisions may be thrashed out there. You will be pleased to see that in 1944 an Ordinance was passed, a copy of which appears as a part of this Bill. There it is stated:

"Whereas an emergency has arisen which renders it necessary to make special provision for the punishment of the offence of unlawful possession of railway stores; etc. etc."

At present, unfortunately or fortunately—I should say fortunately—there is no emergency whatever. This emergency legislation of 1944 is sought to be extended to Part B States today. On account of a certain Act of the Parliament this Ordinance exists in that part of India which is known as the old British India. But in Part B States it has got no force today and this Bill is designed to extend the provisions of the Ordinance to Part B States. That is why this Bill has been brought. But, I have taken this occasion to submit to the House for its consideration, that since we are enacting this Bill, we should place on the statute book, a good measure, a valid measure, a measure which will be of some use to the country.

Now, hon. Members will kindly look at the name of the Bill. The name of the Bill is Railway Stores (Unlawful Possession) Bill. "Railway stores" has been defined in clause 2 which says "Railway stores' includes any article used or intended to be used in the construction, operation or maintenance of a railway". My humble submission is this. I do not know of any penal law which makes the

mere possession of a certain article penal. In our Penal Code, theft is an offence and under section 411, receiving of stolen property or retaining stolen property is an offence. Incidentally, in section 114 of the Evidence Act we find a provision saying for instance that recent possession of stolen property gives rise to certain presumptions such as of theft or receiving or keeping stolen property. But, mere possession as such is not penal. This is an exceptional kind of law for a particular kind of emergency. Mere possession can never be penal and certainly the possession for a long time or the possession extending over a very long period will, according to ordinary principles of the Indian Evidence Act, not make such possession penal and give rise to no presumptions.

**Shri Nand Lal Sharma (Sikar):** But, "unlawful possession"?

**Pandit Thakur Das Bhargava:** I want to know what is "unlawful possession". That term has not been defined. Possession becomes unlawful if you pass this Bill; otherwise all possession is lawful. Therefore there is nothing like unlawful possession. Even in the Penal Code there is no offence like "unlawful possession". Nowhere else "unlawful possession" by itself has been regarded as an offence unless "unlawful" is defined in a particular way. Then, what about "railway stores"? There is no definition of "railway stores". The only thing said is: "it also includes any article used or intended to be used...." Now, what is this intention? Whose intention? Intention at what time? Today you may intend that a particular material may be used and tomorrow your experts may declare that it is not of any use. What would happen then? Who is to determine this "intention"? When will the intention be cancelled? All these things we do not know. Again, it has only been defined "it includes certain kind of stores". You have not defined "railway stores".

**Mr. Deputy-Speaker:** Are not stores sold from time to time as surplus articles in the railways?

**Shri Alagesan:** Such of those articles as are not wanted, like scrap etc., are being sold.

**Mr. Deputy-Speaker:** What about sleepers?

**Pandit Thakur Das Bhargava:** They are also sold.

**Shri Alagesan:** Yes. But, anybody who comes in possession of railway materials other than by such purchases will be considered as being in unlawful possession.

**Mr. Deputy-Speaker:** He might have purchased the material ten years before. Is he bound to prove that? There is no period of time.

**Shri Alagesan:** All that can be verified.

**Pandit Thakur Das Bhargava:** What is railway property? I think it includes all property belonging to the railways. It is worth crores of rupees. It includes all kinds of things like chairs, tables, bulbs, fittings etc. It includes sleepers also. Food also is included because that is also stored by railways. Every kind of thing is a railway property. There is no brand of "railway property". In respect of the Posts and Telegraphs Department, Shri Raj Bahadur had a very good case. He told us that he could say conclusively that a particular kind of property belonged to the Posts and Telegraphs Department. Now, if Shri Alagesan is able to say in respect of any property conclusively that it is railway property, and there is no question of old property being sold to anyone, I would readily agree to this measure. I am anxious as the Minister himself or any other Member in this House to protect railway property. I do not want that theft of any public property or even private property should be committed. At the same time, this is public property and therefore, sacred. I want that the punishment may be five years instead of three years as we have already provided in the ordinary Act. But, I am afraid, if we have got a law like this, after all your police machinery and your

[Pandit Thakur Das Bhargava]

courts are all the same, for all kinds of laws. Your police being the same I know how this Act can be used to the detriment of innocent people. Now supposing as you were pleased to point out.....

**Shri M. S. Gurupadaswamy (Mysore):** Are you opposing this Bill?

**Pandit Thakur Das Bhargava:** No. I have given amendments which will improve the Bill and bring it on the same lines as the Bill relating to the Posts and Telegraphs Department. I have stated in one amendment that if you manufacture and brand any article, which after disposal or otherwise could not be found in the market, then I can understand, in respect of that article you may be allowed to say that any person in possession of it must be in possession by way of theft. But, if you are yourself disposing of these articles after some time and people are purchasing them, then even after hundred years after the sale you can claim those articles to be yours. You can say that a person, even though he might have purchased the article, is in possession of it by unlawful means and you can see that he is challanned. I am rather surprised to see the wording of the operative clause which reads like this:

"Whoever is found, or is proved to have been, in possession of any article of railway stores shall, if the court sees reasonable grounds for believing such article to be or to have been the property of any railway administration, unless he proves that the article came into his possession lawfully, be punishable with imprisonment for a term which may extend to five years, or with fine, or with both."

What is the meaning of these words? So far as "reasonable grounds for believing such article to be or to have been the property of any railway administration" is concerned, this is a net too wide which will en-

mesh within its tentacles each and every person including all railway servants. The railway administration may say at any time that you are in unlawful possession of railway property even though you might have paid for it. It need not be railway property. If there are reasonable grounds for believing that it was once the railway property, then you are liable for punishment. What are the reasonable grounds for believing like that? Ordinarily in a case of theft the claimant has to prove that the property is his. If he cannot prove it to be his property, then there is no theft. In this case the property need not belong to the railway. The only point is that there must be some grounds to believe that it belongs to the railway. I should, therefore, think that there is no case made out at all for our agreeing to this enlargement of the rights of the railways. The property need not belong to the railways. If there are grounds for believing...

**Shri Heda (Nizamabad):** The words are "have been", not "had been".

**Shri Nand Lal Sharma:** Reasonable grounds.

**Pandit Thakur Das Bhargava:** If the words "had been" were to be there, should it be "for believing such article to be or had been...?"

**Shri Heda:** Your argument is as if the words are "had been".

**Pandit Thakur Das Bhargava:** That in the past the property belonged to the railways. At what time? According to me, even if twenty years ago the property belonged to them, and after being disposed of, it had changed hands three times, still the words should be "have been". The words are rightly used. For the purpose of the clause the words "had been" could not have been used here grammatically.

**Mr. Deputy-Speaker:** Is the hon. Member concluding?

**Shri K. K. Basu:** He has just begun.

**Mr. Deputy-Speaker:** I am not trying to hustle him. He may continue his speech tomorrow. Now we will take up the other business.

COMMITTEE ON PRIVATE MEMBERS' BILLS AND RESOLUTIONS

TWENTY-SECOND REPORT

**Shri Altekar (North Satara):** I beg to move:

"That this House agrees with the Twenty-second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 7th March, 1955."

It is a simple report, only allotting time for the resolutions coming here for discussion today, and the time is stated in the report. I commend it for the acceptance of the House.

**Mr. Deputy-Speaker:** The question is:

"That this House agrees with the Twenty-second Report of the Committee on Private Members' Bills and Resolutions presented to the House on the 7th March, 1955."

*The motion was adopted.*

RESOLUTION RE. CORPORATION  
FOR BROADCASTING

**Mr. Deputy-Speaker:** Now, regarding the resolution moved by Thakur Jugal Kishore Sinha on the 25th February, the discussion had concluded and just when he was called upon to reply there was no time and the House was adjourned on that day. Now he will reply to the debate.

**The Minister of Information and Broadcasting (Dr. Keskar):** The discussion on this motion ended as the Prime Minister was going to speak on that day in reply to the debate on the President's Address. If with the permission of the Mover I might be allowed to take a couple of minutes now, I shall be grateful.

**Mr. Deputy-Speaker:** There is no question of the Mover. The Mover

has no option in the matter. I will allow the hon. Minister.

**Shri Altekar (North Satara):** I may be allowed to clarify the position. Fifteen minutes are allowed for it because the hon. Minister stated that he would require three or four minutes, and ten minutes were left for the Mover to reply.

**Mr. Deputy-Speaker:** I am not able to follow. When does the hon. Minister want to speak?

**Dr. Keskar:** I might clarify. I was speaking on the previous day when the discussion concluded, and at that time the Prime Minister was to reply to the debate on the President's Address. Suddenly we concluded, we thought voting would take place immediately. But as time was being given to the Mover to reply, it was said that it would be postponed. Now, since there is time, I want to clarify one or two matters.

**Mr. Deputy-Speaker:** Yes, he may go on.

**Dr. Keskar:** I do not want to take much time and take away the time which my hon. friend would like to have to give his reply.

I could not reply then to the point made by Shri S. N. Das who unfortunately is not here in the House. The position is this. The All India Radio at present is a government department. Parliament has a machinery for examining and for going into the working of all the departments of Government. And if certainly the Estimates Committee, which is the Parliament's organ for going regularly into the accounts and the working of these departments, finds that there is something wrong or the working is not good, it is entitled to and it does recommend things to be done. And I think it is not possible, neither is it desirable in my opinion, to have a sort of committee that he suggests for doing this work. The particular work would have been done by the Estimates Committee. And hon. Members had the benefit of