

**3435 Bill Passed by Rajya Sabha 15 JULY 1957 Railway Protection Force Bill 3436
Laid on the Table**

[Secretary]

- (2) The Copyright Bill, 1957
- (3) The Appropriation (No. 3) Bill, 1957
- (4) The Central Sales Tax (Amendment) Bill, 1957

I also lay on the Table copies, duly authenticated by the Secretary of Rajya Sabha, of the following six Bills passed by the Houses of Parliament during the First Session of Second Lok Sabha and assented to by the President since a report was last made to the House on the 13th May, 1957 —

- (1) The Essential Commodities (Amendment) Bill, 1957
- (2) The Life Insurance Corporation (Amendment) Bill, 1957
- (3) The Industrial Disputes (Amendment) Bill, 1957
- (4) The Reserve Bank of India (Amendment) Bill, 1957
- (5) The Coal Bearing Areas (Acquisition and Development) Bill, 1957
- (6) The State Bank of India (Amendment) Bill, 1957

MESSAGE FROM RAJYA SABHA

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

"In accordance with the provisions of rule 97 of the Rules of Procedure and Conduct of Business in the Rajya Sabha, I am directed to enclose a copy of the Railway Protection Force Bill, 1957, which has been passed by the Rajya Sabha at its sitting held on the 29th May, 1957."

**BILL PASSED BY RAJYA SABHA
LAID ON THE TABLE**

Secretary: Sir, I lay the Railway Protection Force Bill, 1957, as passed by Rajya Sabha, on the Table of the House

RESIGNATION OF MEMBER

Mr. Speaker: I have to inform the House that Shri R Venkataraman, has resigned his seat in Lok Sabha with effect from the 9th July, 1957

**RAILWAY PROTECTION FORCE
BILL**

The Deputy Minister of Railways (Shri Shah Nawaz Khan): I beg to move*

"That the Bill to provide for the constitution and regulation of a Force called the Railway Protection Force for the better protection and security of railway property be taken into consideration"

As Members are aware, Railways have their own Watch and Ward Departments for safeguarding their property and the goods entrusted to them for carriage. The Watch and Ward Departments functioning on the Railways have hitherto been handicapped by lack of adequate powers and well defined status as also of a proper sense of discipline to fulfil their primary functions of protecting Railway property and of property entrusted to Railways for transport. The Railways have during these years incurred heavy losses on account of theft and pilferage of Railway property and of payment of quite a large number of compensation claims preferred against them.

The proposed legislation is designed to bring about a radical change in the functioning of this Department, which is being re-designated as the Railway Protection Force, so as to achieve quick and effective results. It enables the personnel of the Force to be brought under a special set of disciplinary rules and confers on them, under certain conditions, powers of arrest and search without warrant. Moreover, the Railway Protection Force thus re-organised could provide, in times of need, suitable assistance to

*Moved with the recommendation of the President.

the Government Railway Police who are charged mainly with the responsibility for overall maintenance of law and order in Railway premises

The total strength of the Force, including officers, as it stood on 1st April 1956, numbered 36,630 for all the Railways and the total expenditure incurred amounts to Rs 2 37 crores, per annum. The Bill by itself will not result in any additional expenditure being incurred on the maintenance of the force, as the intention of the proposed legislation is primarily to give the Force an improved status so that it can function more efficiently.

The Bill was taken up for consideration in the Rajya Sabha on 29th May 1957 and passed with some minor modifications.

Shri Mohamed Imam (Chitaldrug): May I seek a clarification? The hon. Minister was pleased to say that this Bill does not result in any extra expenditure. But according to the Bill a number of posts are going to be created including an Inspector General of forces. Do not all these appointments come under the item 'Expenditure'? What I want to know is, are fresh appointments going to be created under the Bill?

Shri Shah Nawaz Khan: These officers are already there. As I said, we are going to carry out a large scale re-organization. It may be that we will reduce the strength in certain places but all these will be covered by the re-organization.

Mr. Speaker: What he says is this: This Bill has got the effect of incurring some expenditure from the Consolidated Fund and a statement to that effect ought to be made to the House. A statement of the financial effect and what its implications are and so on ought to be given. The classes of officers are there. The House cannot vote without having a knowledge of what exactly the amount will be that has to be spent. Otherwise, they may feel that it is not necessary to have so many classes of officers and so on.

Shri A. C. Guha (Barasat): In the Financial Memorandum of the Bill as presented in the Rajya Sabha, we find that in addition to the expenditure being incurred on the watch and ward staff, there is proposal to provide for buildings of the Force on an average Rs 10 lakhs on each Railway and I think there are now 6 or 7 Railways. For the next five years for the buildings of the Force it would cost Rs 60 or 70 lakhs.

The Minister of Railways (Shri Jagjivan Ram): That does not arise out of this Bill. What has been mentioned is this that the men are already there, and the House has already sanctioned the expenditure for that. The security forces have been continuing for the last 3 or 4 years. So the expenditure that we are claiming on that has already been sanctioned by the House and it is already there.

Shri A. C. Guha: If you provide Rs 10 lakhs for building the force in each Railway, it would come to Rs 70 lakhs. That is a new item.

Shri Jagjivan Ram: That does not arise out of this Bill. That is my point. The Force is already there. We are incurring expenditure over the force which also has got the sanction of Parliament. Both have been sanctioned.

Shri C. R. Narasimhan (Krishnagiri): So then that requirement is fulfilled.

Mr. Speaker: I am informed that the Financial Statement was submitted to the other House along with the Bill. In all such cases, the financial Statement has to be appended to the Bill when it is circulated to the Members of this House. I am calling for the Bill as was introduced in the other House. Hereafter this will be done. I am sure the financial statement will be needed for verification. I shall make the original Bill, as was introduced in the Rajya Sabha also available to all Members. I believe that as soon as a Bill is introduced in the other House, copies of that Bill

[Mr. Speaker]

are circulated to Members of both the Houses

Shri C. R. Narasimhan: I think it will be a better procedure

Mr. Speaker: Of course it is not that they should treat them indifferently I shall see that as soon as a Bill is introduced in the other House, when it comes to this House, the original along with the Bill as passed by the Rajya Sabha will both be circulated Hon Members may know what changes have been effected here and so on

Shri C. R. Narasimhan: Is it proposed to dispense with it now here?

Mr. Speaker: Anyhow, I shall consider that When a Bill comes here from the other House, we do not insist upon these formalities The difficulty can be obviated by circulating copies of the Bill as introduced in the other House That will be the best method I shall place the Motion before the House for consideration

Shri A. C. Guha: I would like to mention here about the timelag between the Bill being introduced in one House and its being taken up for consideration in the other House is sometimes very considerable it may be 6 or 8 months or even more So it would be better that when the Bill comes from the other House, the financial memorandum and the statement of Objects and Reasons should also be printed in the Bill as placed in this House for consideration

I hope you will consider this suggestion In this case, the time-lag is so big just a year Sometimes, it takes even a year A Bill may be introduced in one House it is not possible to keep for one year a copy for reference when the Bill comes up for discussion in this House

I give my general support to the purpose of this Bill From the available literature that I could get from the Parliament library, I find that the expenditure incurred by the Railway department on compensation

of claims has been increasing year after year The House will recollect that there was a Railway Corruption Enquiry Committee According to the report of that Committee, the amount paid for claims and compensation in 1938 was only a little over four lakhs of rupees In 1953-54, it has gone up to nearly three crores Some may say that the gross earnings of the railways had also gone up I shall refer them the increase in percentage In 1938-39 the percentage of the amount paid is 0.04 of the gross earnings while in 1953-54 the percentage has gone up to 1.06 The percentage increase is about 26 times So it is a serious matter

I quite agree with the Railway Minister that his department is quite conscious of the seriousness of the situation Recently, there have been three enquiries connected more or less with this matter One was the enquiry by Shri Mullick, another, by Shri Brown and yet another by Shri Ramasami Ayyar The Railway Corruption Enquiry Committee has also dealt with these matters So, there have been four enquiries in recent times

I have not been able to get a copy of the Mullick's report That Committee was copiously quoted in the course of the debates in the Rajya Sabha I wrote to you also about it

Mr. Speaker: Is a copy available in the library?

Shri Jagjivan Ram: May I intervene? Perhaps it will cut short the argument This work was entrusted to Shri Mullick, Director of the Intelligence Bureau in the Home Ministry The report was only for official use It is a secret document Therefore, when the hon Member wrote to the Railway Ministry, we said that we could not give a copy I do not know how a Member of the Rajya Sabha quoted from it

Shri A. C. Guha: Not only a Member of the Rajya Sabha quoted from it The Railway Corruption Enquiry Committee also has referred to that report, on about a dozen occasions.

Mr. Speaker: Is it not necessary that the documents referred to in reports which are made public should also be made available to the Members of Parliament? If there is no reference, that is a different matter. But, when it is referred to, one should know whether any particular recommendation is wrongly based upon that report or whether the report has been misread. The hon. Railway Minister says that it is a secret document. Then, it ought not to have been placed before a Committee for one purpose.

Shri A. C. Guha: That report was also available to the Members of the Estimates Committee and in its 26th report there are references to this report.

Mr. Speaker: The hon. Minister will kindly enquire and find out.

Shri Jagjivan Ram: I will look into it. If excerpts have been quoted by the Corruption Enquiry Committee or the Estimates Committee, I shall consider whether copies should not be made available to the Members of Parliament.

Shri H. C. Mathur (Pal): It has not only been quoted. It has been stated clearly that the entire Bill is based on Shri Mulhek's report and that as a matter of fact he prepared a draft of the Bill and that this is just *verbatim* copy of that Bill. This has been stated by an hon. Member who had access to that report.

Shri A. C. Guha: That is what I was also going to refer. The report was also available to the Railway Corruption Enquiry Committee and the Estimates Committee. For the last six or seven days, I have been trying to get a copy. The Parliament Library has written to them. They have not given any written reply but on the phone they have said that it is a secret document. I do not want to block the discussion on this Bill on this account. I place this matter before you for your consideration so that at least in future such reports may be made available

in sufficient numbers for reference by Members of Parliament.

As I have said, the railway department is quite aware of the seriousness of the situation and four enquiries were made into more or less the same matter by four different committees. But, this Bill may not quite meet the purpose for which it is meant. There are already four departments working in the railways for checking corruption and other things: the Government railway police, the watch and ward, the investigation organisation and the special police establishment. The last one may not be a railway department but it is also working in the railway department. In spite of their working, the claims and compensations have been increasing. Almost everybody has suggested that there should be some strict discipline enforced. This Bill is inadequate for the purpose.

I find one passage in the Brown Committee's report. It said that there should be some drastic punishment in the case of corruption or connivance at or collusion with corrupt acts. The report says:

Stoppage of passes or increments means little or nothing to them. They refer to such punishment almost with contempt."

That is the language used in that report. So, the Committee suggested that there should be some drastic punishment in case anyone was found engaged in corrupt practices. The Railway Corruption Enquiry Committee—the Kripalani Committee—also suggested that the punishment should be deterrent, but here we find in some clauses that the punishment proposed is only three months simple imprisonment, which I think is quite inadequate for the purpose.

By this Bill they are simply transforming the watch and ward department into the Railway Protection Force. The quality of the watch and ward department should also be examined in this connection. If the watch and ward department as it exists now has been condemned

[Shri A C Guha]

repeatedly by different enquiry committees as unsuitable for the purpose, simply by giving them a new name or giving them some added power I do not think the real objective would be served. The Brown Committee says

"The practice of transferring to watch and ward department totally unsuitable staff from other departments where they have become redundant should be eschewed"

That was the process by which staff was recruited to the watch and ward department, unsuitable staff from other departments were taken in. That was not the case only in the case of the lower staff, that was also the case as regards those who can be called officers. The report of the Brown Committee says

"The inspectors do not evince due sense of responsibility in the discharge of their duties, and this leads to the increase of compensation claims"

The same thing applies to the lower staff as also to the inspecting staff. By simply taking over the watch and ward department and giving them a new name I do not think the real purpose would be served.

This department was constituted about 35 years ago. That was also on the recommendation of a Committee. I think the Railway Police Enquiry Committee, in about 1921. Moreover, the Mullick Committee has said that about 80 per cent of the claims and compensation cases are due to internal causes, that is to say, due to dishonesty among the railway officials including those of the watch and ward department. The Kripalani Committee has also upheld the view, that nearly 80 per cent of the claims and compensation cases are due to internal causes. Therefore, by simply taking over the watch and ward department I do not think the real purpose of the Government would be served.

There are certain other things in respect of which I have given notice of

amendments. For each Railway the entire recruitment of the staff is to depend on one official. It is the Chief Security Officer of each Railway who will recruit the entire staff. I think that is a very bad practice. Recently we have had occasion to notice in another organisation that posts are being created simply at the sweet will of that organisation, which is an autonomous body. If this statute gives authority more or less similar to that of an autonomous body to the Chief Security Officer to recruit staff I think that would be setting a bad example and it will not lead to any efficient working of the organisation.

Clause 7 of the Bill says that members of the lower staff in the proposed Police Force will carry a certificate showing that they have been employed in this Police Force. I do not know whether such a certificate is carried by the police or military people. Even if that has to be done in this case, I do not know why the senior officers should be excluded from that. They also should be given such a certificate to be carried with them and surrendered to the office when they quit the service. I do not think there should be any qualitative difference in treatment regarding members of the lower rank and officers.

With these few observations I generally give my support to this Bill. I hope in the course of the second reading some of my amendments and those submitted by other Members will be sympathetically considered by the hon. Minister. I expect that the Bill will be improved during the course of the discussion in this House, so that it may achieve the real purpose which the hon. Minister and this House have in common.

Mr. Speaker: May I know how many hon. Members would like to participate in the general discussion? I find that there are eleven Members. May I have a rough idea as to how long this Bill will take for general discussion and for clause-by-clause consideration? There are about 58 amendments and 21

clauses. I think we may give two hours for general discussion and one hour for clause-by-clause consideration. Let us see if we can finish this in three hours.

Shri Bimal Ghose (Barrackpore): The impression we had was that the time fixed was six hours.

Mr. Speaker: There is no question of giving six hours for this Bill. We shall try to finish it today. We will have four hours in all. We can have 2½ hours for general discussion and 1½ hours for clause-by-clause consideration. Therefore, the general discussion will conclude by 15.30 hours. I would, request hon. Members to try and be brief; of course, they need not leave any important point that they would like to point out.

Shri Tangamani (Madurai): Mr. Speaker, Sir, the hon. Deputy Minister for Railways while introducing the Bill has stated that this Bill seeks to convert the existing watch and ward department into the new organisation with added powers. The purpose, I submit, is very laudatory, but the method suggested is not at all going to end in success. As the previous speaker pointed out, the idea of giving enlarged powers to the watch and ward department was conceived by the Mullick Committee and, if I may say so, that Committee in suggesting the Bill stated that the compensations claimed from the railway authorities were mainly due to losses which may be called 'internal'—80 per cent of the losses were not due to external causes but due to internal causes—Corruption, inefficiency among the staff and various other factors which they have mentioned have led to these losses. When that is the case, merely by giving added powers to the watch and ward staff will the purpose be served?

The Government of India are now seriously thinking of associating the workers in the management of the various industries. Railways, as one of the biggest nationalised industries, may be the starting point. Only today

during the question hour the hon. Deputy Minister for Labour was pleased to state that in associating the workers nationalised industries will also be included. Therefore, my submission is that the Bill as it is conceived of is not going to serve the purpose which has been mentioned in the Statement of Objects and Reasons.

As the previous speaker pointed out, there are four departments, the Railway Police, the Watch and Ward Department and two special departments. If all these four Departments are not able to check these thefts and losses due to these causes, I am afraid giving more powers to the Watch and Ward will not serve the purpose.

13 hrs.

Having said this I would like to go into the details of the various clauses of this Bill. This morning I had sent notices of fifteen amendments and I do not know whether those amendments would be allowed to be moved. In any case, though the amendments may not be allowed, I would like to mention certain points arising from those amendments. In the first place, there appears to be confusion about this new protection force which is going to be set up. Clause 3 deals with this Railway Protection Force which is really railway property protection force. From sub-clause (2) of clause 3 it is not clear whether these superior officers would be the existing officers or a new type of officers. Clause 4 adds further to this confusion because we find there is the post of an Inspector-General which is being created; then there are separate Chief Security Officers, Security Officers and Assistant Security Officers. How co-ordination is going to be brought about among the Inspector-General, the Chief Security Officer and the various Security Officers and the General Manager is not very clear in this Bill. So if this Department is created directly under the General Manager with an Inspector-General and certain subordinate officers it could be understood. But how this force is going to

[Shri Tangamani]

operate as it is proposed to be constituted is not very clear

The next point I would like to emphasise is the enormous powers that are being conferred upon this new force. These powers are mentioned in clause 12. They are given powers to arrest without warrant, they are given powers as if any offence that is likely to be committed would be a cognizable offence. They are also given powers to effect a search without taking the necessary precautions. When such powers are given they are likely to be abused. I may, in this connection, mention one instance. A worker, or even a passenger when he crosses over from one side of the railway station to the other side may use the track. This Bill confers power, as a precautionary measure, to arrest such persons. These extraordinary powers which are being conferred makes me feel that the railways are now sought to be converted into a military zone. So, the militarisation of the railways is taking place.

The settled policy of the Government is that even in nationalised industries the employees should be associated, but in the case of the railways militarisation would take place. So, it will be keeping a watch not only over the employees, not only over those people who are likely to pilfer, but even the bona fide passengers.

Having said this about the new powers that are being conferred upon this force, I would also like to add that this new force which is going to comprise about 36,000, is going to get no protection at all, like any other ordinary citizen of the country. Whenever a Central Government employee or a railway employee seeks protection for collective bargaining, he has been given protection under the Indian Trade Unions Act and the railway employees have formed themselves into several trade unions. Here this new force which is being created is more or less exempted from all those

Acts which give protection to the employees. I would like to refer to clause 19 which says that "nothing contained in the Payment of Wages Act, 1936, or the Industrial Disputes Act, 1947, or the Factories Act, 1948, shall" apply to the members of this force. What are these Acts? The Payment of Wages Act, 1936, merely gives protection to the employees to the extent of the payment of wages. No employer whether it be a Government or a private employer, is allowed to keep the wages of those workers for a longer period than is necessary. If the wages are approved for a particular month the worker has to be paid the wages on the 10th of next month. Where the worker has not been paid his wages, he gets a remedy; he can approach the Labour Commissioner through a petition and the Labour Commissioner will make an order that the unpaid wages or the delayed wages shall be paid. Even that protection which has been extended to the ordinary worker is being denied, as soon as he becomes a member of this force.

The Industrial Disputes Act which has been amended from time to time is being extended to Central Government employees. Recently it was also extended to the Posts and Telegraphs employees. When all the other sections of workers, whether they are Central Government employees, or Provincial Government employees, or employees under private management are getting this protection, I do not know why these rights are being taken away so far as these workers are concerned.

Again the workers, or members of this force have to submit themselves to any order of a superior which is more rigorous than obtains in the military. My point is that while giving indefinite and enormous powers to this force you want to deny them of even the rights which are extended to an ordinary citizen.

Lastly I would like to submit that already the Watch and Ward is being looked upon with suspicion by the rest

of the employees. The real thing that is needed is the cooperation of twelve lakhs of railway employees for the protection not only of the goods entrusted to them but the protection of the railway property also. I would have been happy if the definition of railway property included not only the goods and many valuable property, etc., entrusted to them but also materials in the nature of fixtures, in the nature of machineries, spare parts, etc. For the protection of this property the real thing that is needed is the cooperation of the employees. The willing cooperation of the employees alone will be the real protection against these thefts and other losses.

In conclusion, I would like to say that although Government's purpose is laudable, the way the Bill has been brought will only cause suspicion in the minds of members of this force. I would in this connection like to mention clauses 13 and 22. I suggest that these clauses will have to be deleted. If the amendments that I have given are allowed to be moved such of the amendments as can be accepted may also be accepted when the Bill is taken up for the second reading.

Shri D. C. Sharma (Gurdaspur) The first observation that I want to make on this Bill is that the general provisions of the Bill are not so significant as the provisions given under clause 21, so far as the rule-making power is concerned. I feel, therefore, that this Bill suffers from a great deal of vagueness. I should say that it has been prepared in a hurry and the various implications of this Bill have not been taken into account.

For instance, I find that there is no provision as to the classes, grades, remuneration of the superior officers, etc. All these have been left to the rule-making power of the executive. I believe this rule-making power takes away greatly from the legislative power of this House, to which I and many others have the honour to belong. There is also no provision as to what are going to be the powers, duties, etc. of the officers. The thing has been left vague. Again, we are

not told what is going to be the period of service of the superior officers. Most probably they will be taken from the existing police service and they will be retired officers given another chance of service. I, therefore, want that all these points should have been made clear in the Bill. Nothing has been mentioned about the punishments that are going to be awarded and the appeals that are going to be made. All these things have been left vague. When these things are left vague, this Bill loses much of its value and significance. I wish there should have been a memorandum giving us all the details.

I come to clause 1. One omnibus word has been used here—"goods". I wish that the word "goods" should have been adequately defined. At least the main headings of this word "goods" should have been given here so that we should have known what are the things which the railway authority want to protect and what are the things which the members of the railway protection force are going to guard. This Bill does not say what they are going to guard and what they are going to be careful about. I feel that this most important aspect of the Bill should have been carefully elaborated upon in order that the railway protection force would have known what to do and the public also should have known what it can expect from them. There should be an elaborate clarification of the word "goods".

I find that in clause 4 we have given a very imposing list of the officers and other ranks who are going to constitute this force. In the present Government we find a strange habit of multiplying agencies of the executive. This tendency of multiplying departments and officers has gone into the soul of our Government. The other day I was discussing the Copyright Bill on the floor of this House and there I found that ample provision had been made for the appointment of officers of all grades. Here also we are falling into the same trap. We are going along the same path and we are going to commit, if I may be permitted to

[Shri D C Sharma]

say so with due respect, the same mistake. The multiplication of departments, officers and other things does not constitute efficiency. I think it is a wrong idea which has crept into our head, that these things are conducive to better functioning of our Government. I would say, therefore, that all these officers are not needed, because the railway protection force is going to get assistance from the railway police. It is also to be linked up with the anti-corruption department and with the special intelligence staff that we have got. I can understand if they had scrapped all these departments and given the entire thing to this force with different cells to deal with different problems. I do not see any reason how this is going to help. When it comes to co-ordination between one department and another department of Government, there are inordinate delays. There are so many procedural defects and roundabout processes and what I may call red-tapism, creating all problems of co-ordination between one department and another. Therefore, I would say that so many officers are not needed.

There is one thing which I find in the railway protection force. It is a strange mixture of Hindi-English co-operation. Some officers have been given English names and others Hindi names. I welcome all those Hindi names, but I wish the Government of India adopt a general policy. Either they should give all the officers Hindi names or they should call them by English names which are familiar and well-known. Now, we call it 'Rakshak'.

An Hon. Member: It is a gradual change.

Shri D. C. Sharma: It is gradual change, but I would like this change to be made in some rational way and all along the line. We should not have one half of our house labelled as one thing and another half as another thing.

I now come to the powers which have been given to the Chief Security Officer. Of course rules will be made, but I do not want that anybody should have autocratic powers even subject to rules, so far as appointments are concerned. We have Public Service Commissions. Sometimes they function very well and sometimes they do not function well at all. All the same, I think that it is better to have a Public Service Commission which should make the appointments than to vest this power in one officer however good, exalted and experienced he may be. After all, in the matter of appointments, we have to face the public. When the appointment rests only with one person, I think it becomes very difficult to make out a case for the appointment which any person makes.

I do not understand what is meant by saying that everybody will carry a certificate. I should have thought that like the Members of Parliament, they should carry an identity-cum-railway pass which will enable them to travel from one place to another. We Members of Parliament have to carry that and we are not very unhappy about it. But I do not know in what way this certificate is going to be a magical thing which will open all the gates to them, how it is going to help them and how they are going to benefit by that. I think that between the committing of an act and the apprehending of a person, the showing of the certificate may take such a long time that the purpose for which the certificate is meant may altogether disappear. I do not know why this certificate is to be there. Are they not going to have a uniform which will show that they belong to the Railway Protection Force? Are they not going to have any insignia like that? Are they going to be in plain clothes? Is that the reason why we require this certificate? I do not quite understand what is going to be the value in effectiveness, in efficiency, in the prompt discharge of their duty, of the certificate which has been given. I am not yet a socialist.

to that extent that I should say that everybody from the Railway Minister to the rakshak should show a certificate of that kind

Shri Jagjivan Ram: No harm in having a certificate

Shri D. C. Sharma: As far as we know, it is going to be cumbersome. We should adopt a less difficult method for revealing the identity of the members of the Railway Protection Force

It has been said on the floor of this House that Committees after Committees have made a plea for a drastic approach to this drastic problem. A desperate disease requires a desperate remedy. Desperate remedy means that we should make the punishment as deterrent as possible. But, I find that the punishments which have been prescribed in clause 9 are child's play—seven days' pay, reduction in pay scale and all that. As it has been said on the floor of this House, some of the members of the Watch and Ward have been accomplices in the commission of these very offences which they are appointed to guard against. Taking into account that fact—and this fact has been mentioned in the floor of this House and in the other House also—I wish that more drastic punishments had been prescribed for both persons who are found to be careless in their duty or negligent in their duty and those who are found to be accomplices.

It has been said that the powers that have been given to these persons are too much. While discussing clause 13, an hon. Member said that the powers vested in these persons are not normal and that they are powers given to persons who are operating in a militarised zone. I do not think so. I believe that on the railways, there is a danger of sabotage and there is the danger of having property tampered with. We are sometimes told about railway tracks being tampered with and so many other things done to the railways. I believe that, without using the word militarise, we can say that this is our sacred national property and that we have to deal with those

persons who tamper with the sacred national property in a way which proves to be deterrent in the case of other wrong-doers. I, therefore, believe that the powers which have been given under clause 13 are justified and that the law should be administered in such a way that no one dares to do any damage to railway property, which is our national property. That would give the people the conception of national property and how we are keen on protecting and guarding it.

In clause 17 it is said that a person shall be liable on conviction, to simple imprisonment or a period not exceeding three months. All these things are there. But I would say that they are not going to serve the purpose. In the first place, it becomes very difficult to prove negligence of duty. Our lawyers are there to protect the people. Our courts are there to protect the people. I am glad that they protect the people. But, I would say that the period of imprisonment should be enhanced in this case, because, we are not dealing with normal dereliction of duty, with normal offences, with a normal breach of the law, but with things which are beyond the pale of normal law.

When a Bill is presented in this House, there are, sometimes, cross references made to other Acts which are already in force. I remember it was said once on the floor of the House that whenever there are any cross references to other Acts which are in force, those cross references should be included in an appendix to the Bill. In clause 19, there is reference to three Acts. Of course, we can consult the library and all that. But, I think that for purposes of ready reference, it should be the duty of the sponsors of a Bill to give those references as an appendix.

Therefore, while I welcome this Railway Protection Force Bill, I do not know if it is going to stop pilfering, thefts and all those offences about which we have been talking for such a long time here and also outside, and about which so many Committees have

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been appointed I think that it is a very mild measure which has been brought to deal with a virulent disease. It is a measure brought for a localised disease whereas the disease is to be found in an epidemic form. I wish the sponsors of this Bill had devoted more time and attention to the framing of this Bill and had given us a Bill by means of which railway property would have been adequately protected and all these pilferings and other things could have been stopped.

13.28 hrs.

[Mr DEPUTY-SPEAKER in the Chair]

Shri B. S. Murthy (Kakinada—Reserved—Sch Castes) Mr Deputy-Speaker, I consider this Bill is a Bill of duplication and complication. It duplicates the work of certain departments that are now already carrying on the work and complicates the work that has so far been normally carried on. The object of this Bill, as stated in clause 3, is to create a Railway Protection Force for the better protection and security of the railway property. Nothing has been said about the protection of passengers. The passengers are being protected by local police known as the Railway Police now. If there is a conflict between the Railway police who are always available on the platform and sometimes by the side of the railway property, and this new Railway Protection Force, who is to be the arbitrator as to the rights and privileges of each force? That has not been stated here. I do not know why the Government should have thought of establishing a protection force to be administered from the Centre by a newly created Inspector-General for this purpose. I do not know why the Government have not thought it fit to entrust this work also to the Railway Police who have been doing good work for a long time, who have not only given protection, but also been able to find out some times cases of corruption, thefts etc. Therefore I consider that it would have been a wiser move on the part of the Central Government and the Railway Department if they

had given a trial to the existing Railway Police to see whether they could not give, as has been stated here, better protection and security to railway property.

Having said that, I would like to know from the Deputy Minister how this force is going to be administered. Here at the Centre they want to have an officer known as the Inspector-General of the Railway Protection Force, and his subordinates are the Chief Security Officer and Assistant Security Officer, but this Bill says in clause 8(2) that everything will be under the general supervision of the General Manager of Railways. Therefore, if the General Manager of the zone is responsible for the superintendence of the force and its activities under the Chief Security Officer, why should there be an officer known as the Inspector-General of Railway Protection Force? Why should not this work of co-ordination, if it is co-ordination, be entrusted to the Member in charge of staff who is a Member of the Railway Board or one of his subordinates known as Directors. I consider it is a rather very unhealthy sign of creating new posts when the whole country is trying to practise austerity to economise and see that every pie available is spent for the fulfilment and fruition of our Second Five Year Plan. Therefore, I would like to know why this supernumerary post of the Inspector-General of Railway Protection Force is being created when he is not directly in charge of the administration carried on in the different zones by the Chief Security Officer or the Assistant Security Officer. This post may be done away with.

Again, most of these governmental undertakings, such as the one coming into force, have become pinjrapoles where a number of sinecure jobs are being created for those people who have either been debilitated or retired prematurely for some reason or other. I hope that this Railway Protection Force will not be a protection force for corruption, but that on the other hand,

it will really protect railway property and see that better security is provided

Then, about these names, my friend Shri D C Sharma has already spoken. Why borrow two types of names? For "A" Class officers, the names are Inspector, Sub-Inspector, Assistant Sub-Inspector etc. Immediately after for the "B classes of other ranks"—I cannot understand what that is—the names are Head Rakshak, Senior Rakshak and Rakshak. In Andhra "Rakshak" means God. That is if one is a "Rakshak", everybody will call him God. I cannot understand it. After all, having borrowed an English name like Inspector etc., what is the harm in calling these people Constables? I think the originators of some of these names in Hindi do not understand how Sanskrit is being used in different parts of India. Sanskrit is a common heritage for all people in India. I am told the Wireless Office is known as "Vitantu Karyalay". "Vi" means without, and "tantu" means wire. But in Andhra "Vitantu" means a widow. Suppose some one goes to the Wireless Office, he says, "All widows are here." I want these protagonists of Hindi should be careful and consult literatures of other languages before rushing in with words like "Kant langot", "Vitantu" etc. In Andhra "langot" is never used for the neck.

Shri Shree Narayan Das (Darbhangā): What is the Telugu name?

Shri B. S. Murthy: If the hon. Member wants the Telugu name as pure Telugu or Sanskritised Telugu or Sanskrit Telugu, I can give him three types of names if he meets me in the lobby, but I do not want the time of the hon. House to be wasted.

Mr. Deputy-Speaker: That is good counsel.

Shri B. S. Murthy: Therefore, this name "Rakshak" should not be given to these people. "Rakshak" means always God. I do not know whether this man comes as a God to protect the

property or protect himself or protect the corrupt officials.

As has been already stated, the appointing authority should not be either the Inspector-General of the Force, who I think has no work because the General Manager is doing all the work, or his Chief Security Officer. Nowadays there is a lot of nepotism and favouritism. It is true, I know, because there is a lot of unemployment and people who are in a place of vantage would like to use their influence to get appointments to their people. There may not be anything wrong in it, but taking the situation as it is, we must see that no scope is given to any officer to exercise his discretion in his own favour. Therefore, I say that neither the Chief Security Officer nor his Assistant nor his superior, the Inspector-General of the Railway Protection Force, should be given any authority to appoint any of these Members of the Force. There are the Railway Commissions, one at Madras, and the others at Bombay, Calcutta and Allahabad. If necessary, some more may be created, and this task of selecting the Members of the Force, the senior officers of the Force, may be left to these Service Commissions which will certainly infuse confidence in the public as to the mode and method of selection of these officers.

I think clause 12 is rather serious because it gives enormous powers into the hands of all people. It does not say anything about a senior officer, or a superior officer. It says any Member of the Force can without a warrant arrest any person whom he thinks is suspicious. I think such powers may be necessary under emergent circumstances, but in the normal course of affairs such powers should not be given in the hands of these Rakshaks etc. All these people should not be entrusted with such powers.

I am surprised how the Minister of Railways, who is known for his thoroughness, has been able to bring forward a Bill of this nature, without

[Shri B. S. Murthy]

giving us any inclination as to the details of clause 21. I am, therefore, very much anxious that the rules should always be such as would not make this Force a Force for giving protection to corruption, lethargy and indifference.

With these words, I support this Bill, and I would urge the Minister to see that the defects that have been pointed out are rectified, and this Force is brought into existence so that the properties of the railways may be better protected and better secured.

श्री ब. एस. मूर्थी (हिसार)

जनाब डिप्टी कमिश्नर माहब, मुझे आफिस के माथ कहना पडना है कि जो बिल हमारे नामने रख गया है, वह भीयर स्कैनेटन है। इस में जो बातें होनी चाहिए थी और जिन पर हम हाउस में बहस हानी चाहिए थी, वे इस में मौजूद नहीं हैं। इस बिल के जरिये एक नई फोर्म पैदा की जा रही है, लेकिन इस में मेम्बरज आफ दि फोर्म के कुछ आफेन्सिबल और सजाओ का कुछ जिक्र है, लेकिन उन के अलावा जो दूसरी जरूरी तकमीलात हममें होनी चाहिए थी, वे मौजूद नहीं हैं।

दरअसल यह बिल कुछ आधा मिनिस्टरी और आधा सिविल सा है। हम नेवी एक्ट और आर्मी एक्ट पढ़ने हैं। उस में जो दफाये दी हुई है, उस में जो सजाये वगैरह दर्ज हैं—जैसे चौदह (१४) दिन का क्वारंटाइन और काबरडिस के मुत्तजक सजा वगैरह, हालांकि हम नहीं जानने कि काबरडिस क्या है, क्योंकि बिल इस बारे में माइलेंट है और उसकी कोई डेफिनिशन नहीं दी गई है—वे इस में रख दी गई है। इस की वजह शायद यह हो कि हमारे आनरेबल मिनिस्टर माहब खुद मिनिस्टरी के आदमी हो और सिविल तो वह है ही। शायद इसी लिए यह बिल सिविल और मिनिस्टरी सा. का एक मूरकब बन गया है।

इस बिल में सब से पहले आफिसर्स की रिट्यूमेंट का प्रोवीजर दर्ज होना चाहिए था,

लेकिन इस बारे में यह बिल बिल्कुल साइलेंट है। लूससन सुपरियर आफिसर्स की रिट्यूमेंट के मुआलिक यहाँ कुछ नहीं कहा गया है। स्टेटमेंट आफ आनरेबल एड रीजन्स में कहा गया है कि चूकि कोरिया बहुत बढ़ती जा रही है और बाच एण्ड वाउ के स्ट्राफ का कोई स्पेशल स्टेटस नहीं है, इस लिए यह बिल लाया गया है। रेलवे करप्शन एम्बवायरी कमेटी की रिपोर्ट को देखने से पता चलता है कि असा फोसदा कोरिया रेलवे स्ट्राफ वे: कालूशन में होता है—रेलवे के आदमी करन है। अगर इस बिल में यह प्रोवाइड किया जाता कि जो एरस किमी बुम के मरफिब होंगे, सब से पहले उन का खबर ली जायेगी; और अगर उन के लिए कोई इस्टिक सजा रखी जाती, तो मैं समझता कि गवर्नमेंट वाकई इस मामल में मरियम है। लेकिन मैं इस में अजीब अजीब बातें देख रहा हूँ। ऐसा मालूम होता है कि जेमे फेच नेजिम-अर के सामने कोई ना रखा जा रहा हो। इस में स्ट्राफ की तीन क्लासिफिकेशन्स को गई है—सुपरियर आफिसर्स, आफिसर्स और अदर रैंक। दफा ६ और १७ में मेम्बरज आफ दि फोर्म के जरायम और सजाओ का जिक्र किया गया है, लेकिन सुपरियर आफिसर्स के लिए कोई कायदे और सजा वगैरह दर्ज नहीं है। शायद आनरेबल मिनिस्टर माहब इसका यह जबाब देंगे कि उनके लिए आडिनरी ला मौजूद है और वही काफी है। लेकिन मैं समझता हू कि आडिनरी ला से तो हमारे रैंक्स भी मुबरी नहीं हो सकते हैं, उनके लिए खास तीर पर प्राविजन क्यों रखा गया है।

बेहतर होता कि इस बिल में मुकम्मल तीर पर हम को यह बताया जाता कि किस तरह रिट्यूमेंट होगी, क्या जुर्म है और क्या सजाये है, क्या इयूटीज है, वगैरह। दफा ११ में इयूटीज दर्ज की गई है, लेकिन मैं यह अर्ज करना चाहता हू कि नौकर का काम है मालिक के हुकम की औरन तामीक

करना और प्रोटेक्शन क्रोस का काम ही प्रापर्टी की हिफाजत करना, वे बातें कहीं नहीं समझता है। इस के बावजूद हम देखते हैं कि कहीं-कहीं जेम्बर्ज ब्राऊ दि क्रोस की इयूटीय में दर्ज की गई है और इस के अलावा और कोई तकलीफत नहीं दी गई है।

हम को मालूम होना चाहिए था कि बाब एण्ड बार्ड के महत्त्व को जो पावरज दी गई है, उन के साथ क्या सेकुराई रखे गए हैं। जब कभी कोई बिल हमारे सामने आता है तो सब से पहले हम यह देखते हैं कि क्या लिबर्टी ब्राऊ की सबजेक्ट के लिए उसमें कोई गुजायश है या नहीं। मैं देख कर दंग रह गया कि इस में ऐसी बातें दर्ज हैं, जो कि लिबर्टी ब्राऊ दि सबजेक्ट के सब्त खिलाफ है, अनहर्ब ब्राऊ है। रलाक, सीनियर रलाक और इन्स्पेक्टर जेनरल को जो पावरज दी जा रही है वे किसी मुल्क में किसी ब्राऊसर को नहीं दी गई है। उन को पुलिस से भी ज्यादा पावरज दी जा रही है। जब तक मैजिस्ट्रेट की तरफ से प्रस्ति-यार न दिया जाय किसी भी शख्स को डीटेन नहीं किया जा सकता है। मुझे नहीं मालूम कि इन्स्पेक्टर, सब-इन्स्पेक्टर और असिस्टेंट सब-इन्स्पेक्टर क्या काम करेंगे। शायद उन का यह फर्ज नहीं होगा कि वे इन्वेस्टीगेशन करे। जहां तक मैं समझता हूँ, इस बिल में उन को यह पावर नहीं दी गई है कि वे इन्वेस्टी-गेशन करें। अगर यह दुस्त है, तो मैं जानना चाहता हूँ कि यह बड़े बड़े सिक्वोरिटी ब्राऊसरज क्या काम करेंगे। मुझे नहीं मालूम कि बाब एण्ड बार्ड वाले इन्वेस्टीगेशन की पावर रखते हैं या नहीं। जहां तक मैं समझता हूँ, वे नहीं रखते। इस की वजह यह है कि अपनी जायदाद की हिफाजत के लिए डेमेन्-सेसी में कोई नई तरह की पावरज नहीं होती। मैं जानता हूँ कि कंट्रैक्ट एण्ड के मातहत रेलवेज का यह फर्ज है कि वह लोगों की जाय-दाद एक जगह से दूसरी जगह ले जाने वगैरह के लिए जो और अपनी जायदाद की तरफ उस की हिफाजत करे और इसी तरह अपनी

जायदाद की भी हिफाजत करे। आप उस को यह एक्स्ट्राडिनरी पावर दे रहे हैं कि वह बिल को चाहे अरेस्ट कर लें, अगर उस को किसी बात के होने का डर हो। अगर आप उन को ये पावरज देना चाहते हैं, तो आप को वे सेकुराई भी साथ रखने चाहिए, जिन को क्रिमिनल प्रोसीजर कोड में तस्वीम किया गया है। मैं यह सीधा सवाल करना चाहता हूँ कि क्या किसी ब्राऊसर को अगर अरेस्ट करने की इजाजत है। कांस्टीबुशन की दफ्ता २२ के मातहत या प्रिवेंटिव डिटेन्शन एण्ड की दफ्ता के मातहत सास हालात में डिटेन्शन वगैरह का प्राबिजन है, लेकिन उन के अलावा कोई भी शख्स अगर अरेस्ट किए हुए डीटेन नहीं किया जा सकता है। कांस्टीबुशन की दफ्ता २२ हमारे सामने है। उस में भी यह दर्ज किया गया है कि अरेस्ट किए जाने के चौबीस घंटे के अन्दर उस शख्स को मैजिस्ट्रेट के सामने पेश किया जाये। लेकिन अरेस्ट किए अगर आप किसी को डीटेन कर लें, यह अन-नोन है। कम से कम हिन्दुस्तानी ला में यह अन-नोन है। क्रिमिनल प्रोसीजर कोड की दफ्ता ५१, ५४, ५५ और ५६ में इन बातों का बिक्र है। पुलिस वालों को सर्व करने का प्रस्तिवार नहीं है, जब तक कि वे अरेस्ट न कर लें। आपने इस बिल में यह अजीब प्रस्तिवार दिया है कि सर्व कर लिया जाये और फिर चाहे बाद में छोड़ दिया जाय। फर्ज कीजिए कि मेरे पास पांच हथार रुपए है। कोई ब्राऊसर मुझे सर्व करे और पांच हथार रुपए निकाल लें। उस हासत में मेरे पास क्या सबूत है कि मेरे पास पांच हथार रुपए थे। इस तरह की पावरज किसी पुलिस ब्राऊसर के पास नहीं है। मैं बौनेब करता हूँ कि कोई मुझे बसए कि बिना अरेस्ट किए किसी को सर्व का राइट है। मैं समझता हूँ कि आप जो पावर ले रहे हैं, वह अनहर्ब ब्राऊ है। मैं धर्ज करना चाहता हूँ कि यह मामला लिबर्टी ब्राऊ दि सबजेक्ट का है। आप डिटेन्शन और सर्व की इतनी अजीब और एक्स्ट्राडिनरी पावरज से रहे हैं,

[पंडित ठाकुर दास भागवंश]

जो कि किसी भी मुल्क में किसी भी आफिसर को हासिल नहीं है।

आपको अख्तियार है कि आप अरेस्ट की पावर दें। लेकिन अरेस्ट के बाद क्या करना होता है। अरेस्ट के बाद फौरन मैजिस्ट्रेट के सामने पेश करना होता है। फौरन ही मैजिस्ट्रेट के पास रिपोर्ट करनी होती है और बतलाना होता है कि फला सरकारमस्ट्रांसिस में अरेस्ट किया है। आपने प्रिवेंटिव डिटेनशन एक्ट बनाया है। उसके अन्दर भी आप ने लिखा है कि Grounds of arrest must be furnished to that man as soon as possible. अगर उसको अरेस्ट किया जाएगा तब तो आपने यह लिखा है कि उसकी मैजिस्ट्रेट के पास रिपोर्ट की जाएगी। लेकिन अगर किसी को डिटेन किया जाएगा तो कही भी आपने नहीं लिखा है कि कितनी मुद्त के लिए उसको डिटेन किया जा सकेगा। अब तो आपने इस के बारे में कुछ भी नहीं लिखा है और अगर आप इस के बारे में कुछ लिख भी देते तो भी मैं समझता हूँ कि यह कास्टी-ट्यूशनली राग होता क्योंकि डिटेनशन को पावरम किसी को नहीं है जब तक कि अरेस्ट न कर लिया जाए। दफा १३ में आपने लिखा है

"Whenever any superior officer, or any member of the Force, not below the rank of a Senior Rakshak, has reason to believe that any such offence as is referred to in section 12 has been or is being committed and that a search-warrant cannot be obtained without affording the offender an opportunity of escaping or of concealing evidence of the offence, he may detain and search, and, if he thinks proper, arrest any person whom he has reason to believe to have committed the offence".

इसके भागें चल कर आपने लिखा है —

"has reason to believe that any such offence as is referred to in section 12 has been or is being committed".

ये जो लफ्ज़ है Has reason to believe to have committed, or been committing the offence'.

ये दोनों जगहों पर होने चाहियें, तभी लाजिक बनता है, नहीं तो नहीं बनता है। और, यह तो एक माइनर चीज़ है। मैं अर्थ कर रहा था कि इसके अन्दर जो अख्तियार आपने सौनियर रक्षक को दिए हैं वे अख्तियार हिन्दुस्तान में किसी शख्स को नहीं हैं, न पुलिस आफिसर को और न ही मैजिस्ट्रेट को। ये अख्तियार इतने बेसीह हैं कि इनसे लिबर्टी आफ दो सबजेक्ट ही खत्म हो जाती है। आप यहां पर कह रहे हैं कि अरेस्ट करे या न करे लेकिन डिटेन कर लें। अगर आप क्रिमिनल प्रोसीजर कोड में इसके बारे में जो कारेस्पॉन्डिंग सैक्शंस हैं उनको देखें तो आपको पता लगेगा कि सर्व का अख्तियार उमी वूरत में दिया गया है जब अरेस्ट हो जाए। बिना किसी को अरेस्ट किए सर्व नहीं हो सकती है। अरेस्ट का मतलब यह होता है कि मैजिस्ट्रेट के सामने लं जाया जाए। लेकिन यहां आप यह कहते हैं कि मैजिस्ट्रेट के पास जानों की जरूरत ही नहीं है। डिटेनशन और सर्व के बाद आप कहते हैं कि किसी के पास जाने की जरूरत नहीं है। मैंने पुलिस बानों को मुशतबाह लोगों को सात सात दिन तक डिटेनशन में रखते देखा है और उन पर मूकदमा बनते देखा है और जब उन कैसों को अदालतों में पेश किया जाता है तो अदालत उसका बहुत सीरियस ब्यू लेती है और कई कैसिस में तो बानेदारों को कैद भी इस जुर्म में हुई है। इसकी वजह यही दी गई है कि डिटेन किया गया था। डिटेनशन का ऐसा कोई कानून नहीं है जैसा कि आप बनाने जा रहे हैं। इस वास्ते मैं बड़े अदब के साथ अर्थ करूंगा कि आप इसको दुबारा एम्प्लोय करायें। यह जो डिटेनशन है यह बिल्कुल नाजायज़ है। इसका अख्तियार तो आपको इन्स्पेक्टर जनरल को भी नहीं देना चाहिए जबकि यहां पर आप इस अख्तियार को सौनियर रक्षक को दे रहे हैं। आप अरेस्ट का अख्तियार देते हैं,

इसके बारे में मैं बाद में अर्ज करूंगा। अगर एरेस्ट हो जाए तो २४ घंटे के अन्दर मैजिस्ट्रेट के सामने पेश किया जाए। आप जो कुछ करने जा रहे हैं उससे तो यहां के बाशिन्दों का रहना भी नामुम्किन हो जाएगा।

अनरेबल मिनिस्टर साहब नं जो कुछ दूसरे हाउस में कहा है उसके लिए मैं उनकी मुबारकबाद देता हूँ। उन्होंने कहा है कि इस फोर्स को जब वे बना देंगे ता जो चोरिया है वे बन्द हो जाएगी। अगर ऐसा हुआ तो इससे ज्यादा और खुशी किस को होगी। पार्लियामेंट के सभी मੈम्बर खुश होंगे अगर ऐसा होगा। तो आपने वहा पर कहा है कि जो लोग रूके जायेगे वे बहुत अच्छे होंगे। अगर आप डेमी मोडस भी मैनुफैक्चर कर ले तो भी सब एक जैसे नहीं हो सकते। सी० आर० पी० मी० में ऐसी कोई प्राविजन नहीं है जिस के मातहत बगैर एरेस्ट के सबं हो जाए या डिटेनशन हो जाए। इस बास्ते मैं अर्ज करना चाहता हूँ कि आप इसको एग्जैमिन करायें।

आपकी यह जो प्राविजन है यह अन-कास्टीट्यूशनल करार दे दो जाएगी अगर इसको सुप्रीम कोर्ट में ले जाया गया। इनकी आपको जरूरत भी नहीं है। आपने जो दफा १२ रखी है वह काफी है या नहीं, इसके बारे में अर्जी दिक्र करूंगा। लेकिन जो दफा १३ रखी गई है और इसमें जो डिटेनशन की पावर आपने दी है वह अनहर्ब है, अननोन है, अनप्रेसिडेबल है। अगर आप दफा १२ को देखें तो आपको पता चलेगा कि इसका जो दायरा है वह काफी बनीह है। इसमें आपने लिखा है —

"Any superior officer or member of the Force may, without an order from a Magistrate and without a warrant, arrest—

9 (a) any person who has been concerned in an offence relating to railway property punishable with imprisonment for a term exceeding six months—that is a

cognisable offence—“or against whom a reasonable suspicion exists of his having been so concerned”

यहां तक तो आप वही पावर्स दे रहे हैं जो कि एक पुलिस आफिसर को दी जाती है दफा ५४ के मातहत।

श्री सिंहासन सिंह : (गान्धपुर) ये पावर्स तो सब इस्पेक्टर आफ पुलिस को हासिल हैं, शरीर को नहीं।

पंडित ठाकुर दास भार्गव : (ए) में जो पावर दी जा रही है, वह पुलिस आफिसर को हासिल है।

श्री सिंहासन सिंह : लेकिन ये अख्तयार सब-इस्पेक्टर को है।

पंडित ठाकुर दास भार्गव : पुलिस आफिसर की मी० आर० पी० मी० में कोई डिफिनिशन नहीं है। यही कहा गया है कि आफिसर इचार्ज हो या एस० एच० शी० हो। लेकिन जो पावर आप (बी) में देने जा रहे हैं य पावर्स एस० एच० शी० के सिवाय किसी को नहीं है। इसके बारे में दफा ५४ और ५५ है। दफा ५४ में हर पुलिस आफिसर है और दफा ५५ में सिर्फ एस० एच० शी० ही आता है। एम० एच० शी० कौन है इसके बारे में लिखा है

He must be above the rank of Constable

अगर पुलिस स्टेशन में सब इस्पेक्टर न हो और हैड-कास्टेबल हो तो उसको यह अख्तयार दिया गया है। यह अख्तयार बड़े आफिसर को दिया गया है मामूली आदमी को नहीं दिया गया है। यहां पर आप यह अख्तयार रखक को दे रहे हैं जिसको मैं मुनासिब नहीं समझता हूँ।

श्री जगजीवन राम : अगर उसको ये अख्तयार नहीं देंगे तो बिल की ही जरूरत नहीं रह जाएगी। उसे यह अख्तयार देना ही होगा।

बंधित ठाकुर हास धर्मेश : भगर बिल इसके बिना नहीं चलेगा तो इसका मुझे सख्त भफसोस होगा। इसके साथ ही साथ भगर चोरी न दकेगो तो भी मुझे बहुत ज्यादा भफसोस होगा। लेकिन साथ ही साथ मैं बड़ूंगा कि आप कास्टीट्यूशन के खिलाफ न जायें, सी० धार० पी० सी० के खिलाफ न चले। मैं लिबर्टी आफ दी सबजेक्ट को कही ज्यादा सुपीरियर, कही ज्यादा इम्पॉर्टेंट समझता हूँ। मैं आपको मुबारकबाद दूंगा भगर आप दफा १३ को वापिस ले लेंगे। भगर आप इसको वापिस लेन को तैयार नहीं हैं तो बिल को खत्म कर दे। भगर आपने १३ को रखा तो यह कास्टीट्यूशन के खिलाफ होगा, लिबर्टी आफ दी सबजेक्ट के खिलाफ होगा।

दफा १२ के अन्धर आपने रक्षक को कास्टेबल से ज्यादा पावर देने की बात कही है। हमारे धानरेबल डिप्टी मिनिस्टर सहाब ने कहा है कि रक्षक ऐसे होंगे जो कि बहुत ईमानदार होंगे। भगर ऐसा हो तो मैं ज्यादा हज्जत नहीं करूंगा। लेकिन ऐसा तो हो नहीं सकता कि सभी देवता होंगे। ऐसा भी होगा कि भगर एक ब्रह्म बैगन के पास खड़ा होगा तो उसको यह कह दिया जाएगा कि वह बैगन का चोर है। जूमें कोई नहीं किया है, पता नहीं करेगा भी या नहीं लेकिन कह दिया जाएगा कि खयाल है इसने करना था। पूरा डिफेंस न कर सकेगा क्योंकि बहुत केसेज में वह एविडंस भी कोई नहीं दे सकेगा।

मैं एक बात और भर्ष करना चाहता हूँ। आप किसी मामूली पँसजर का खयाल करें। पँसजर के पास कोई सफाई पेस करने के लिए जवाह तो होते नहीं हैं और वह भकेला ही होता है, ऐसी सूरत में भगर उसको पकड़ लिया जाएगा और कहा जाएगा कि वह छिपने को कोसिस कर रहा था, तो उसका क्या बनेगा। बहा पर कौन सी जगह हो सकता है जहा वह छिप सकता है।

मैं अब से भर्ष करूंगा कि भगर आप यह समझते हैं कि ऐसा करने से बिल ही

खत्म हो जायगा तो मैं यह कहने पर तयबूर हूँ कि मैं इस बिल के सेक्शन १३ के वास्तु कोई कम्योमाइस करने को तैयार नहीं हूँ।

14 hrs.

इसके अलावा जनाब मुवाहिबा क्र-मायेने कि इस के अन्धर एक खास नई तरह का उसूल रक्सा है जो दफा २० में है और जिस पर मुझे सख्त भीषणेशन है। जहा दफा ६ और १७ में डिसेमिनल, रिमूबल आफ मेम्बर ऑफ दी क्रोस और पेनल्टीज और नेगलेक्ट आफ इयूटी इगैरह का बिलक भाया है बहा दफा २० में उनको एक हक दिया गया है। दूसरे यह हमारे देश के कानून के बरखिलाफ है। हमारे बहा यह कानून है कि भगर कोई धार्मिक भपने सुपीरियर आफिसर का आर्डर मान कर किसी को स्लाटर कर देता है तो उस कोर्ट मार्शल किया जा सकता है और सिविल कोर्ट उसको फासी की सजा दे सकता है। गलत हुकम की तामील भगर वह करता है तो वह सजावार ठहराया जायगा और गलत हुकम की तामील में भगर वह किसी को गोली मार देता है तो सिविल कोर्ट उसको उस स्लाटर के लिए फासी की सजा दगा हालांकि उसने भपने भफसर का हुकम माना। हिन्दुस्तान का कानून यह है कि इग्नोरेंस आफ ला डज नोट एक्सक्यूज ऐनी-बीडो हिन्दुस्तान और इग्लंड का कानून यह है कि इग्नोरेंस आफ ला डज नोट एक्सक्यूज ऐनी परसन्। भगर ऐसा कानून न हो तो उसका बहुत खराब नतीजा निकलेगा और भफसरपन भपनी बदउनवानियो और बेइमानियो में पड़ कर गलत हुकम दे दंगे और चीजे के कर्मचारी उनका हुकम बजा लायेंगे। वह बिल्कुल गलत चीज है और इसीलिए मैं कहता हूँ कि दफा २० ठीक और मुनासिब नहीं है।

मैं जनाब की तबज्जह वीनेल कोड की दफा ७६ और ७६ की तरफ दिसाना चाहता हूँ कि भगर कोई ब्रह्म कानून के मुताबिक कोई काम करे तो उसकी कोई पकड़ नहीं होगी, अट्टीफाइड जूरी या इस्तसाम को

समझें तो उसकी कोई पकड़ नहीं होगी लेकिन इससे विपरीत जाकर कोई शर्क यह कहे कि अफसर के गलत हुकम की तामील करने वाले की पकड़ नहीं होगी तो यह चीज गलत है। हिन्दुस्तान के सारे कानून इसी उसूल पर बेस्ठ हैं और दफ़ा २० की सी चीज न तो भारतीय ऐक्ट में है और न नेबी ऐक्ट में है। दफ़ा २० में बिल्कुल एक नयी चीज हमने लाकर रख दी है और इस को पढ़ कर जैसा मने अर्ज किया था ऐसा मालूम होता है मानों इसे फ्रेंच असेम्बली के वास्ते तैयार किया गया हो कि अफसरान के वास्ते एक क़ानून और पब्लिक के वास्ते दूसरा क़ानून। हमारे वहाँ तो चाहे वह पब्लिक हो या अफसर गैर क़ानूनी काम करने वाले को एकसक्यूज नहीं किया जायगा और उसका बराबर सज़ा मिलेगा। आप एक बिल्कुल नया किस्म का कानून बरो बनाते हैं। नये किस्म के उसूल कायम न कीजिये। हमारे यहाँ तो यह चीज बिल्कुल माफ है कि

Unlawful orders of any superior officer may be disobeyed; even the orders of the Minister may be disobeyed even by the smallest man if they are illegal.

इस लिहाज़ से मेरा कहना यह है कि दफ़ा २० आपकी माने जाने के काबिल नहीं है।

इस बिल की दफ़ा ६ में इस तरह बदज़ है

"Subject to the provisions of article 311 of the Constitution and to such rules as the Central Government may make under this Act, any superior officer may—

(i) dismiss, suspend or reduce in rank any member of the Force whom he shall think remiss or negligent in the discharge of his duty, or unfit for the same; or"

मैं अदब से अर्ज करना चाहता हूँ कि इसमें यह प्रोवाइडेड है कि अगर कोई मेम्बर अफसर की फोर्स अनफिट है या अपनी ड्यूटी के डिचार्ज में नैग्लिजेंट या रिमिस

समझा जाता है तो उसका सूपीरियर अफसर उसको डिसमिस कर सकता है रडयूस इन रैंक कर सकता है

There is no course for an honest officer but to dismiss an unfit man. Are you putting a premium on unfitness and inefficiency?

मैं यह समझ नहीं सकता कि आप एक तरफ तो जो अनफिट हो उसका रैंक आप कम कर दें और दूसरी तरफ जैसा कि आजकल हमारी गवर्नमेंट करती है कि अगर कोई शर्क बहुत रिस्वत लेता है और पब्लिक के साथ बहुत मरुनी से पेश आता है और बड़ा ज़ालिम है जैसे कि पुलिस के महकमे में कुछ लोग होते हैं तो शिकायत आने पर सरकार ऐसे लोगों को उम जगह में दूसरी जगह तबदील कर देती है मानो वह दूसरी जगह जाकर फिर वही रिस्वत लेना और दूसरी किस्म की बदमाशिया करना छोड़ देंगे। मैं समझता हूँ कि जो अनफिट है उसको रखना जुर्म है और उसको आप बाहर निकालिये। अब इसमें यह दर्ज नहीं है कि जो कि नेगलेक्ट अफ ड्यूटी या कावरडिस के जुर्म में गिरफ्तार किये जायेंगे उनका क्या होगा सिर्फ अफिसर्स को पावर्स डिफाइंड है। कोवरडिस का जो गिल्टी पाया जायगा वह लाए बुल टु पनिसमेंट होगा, ऐसा दफ़ा १७ में रख दिया गया है। अब व्हाट इज़ कोवरडिस, उसको यहाँ पर डिफ़ाइन नहीं किया गया है। मैं अदब से अर्ज करूँगा कि उसको अगर मिलेटरी ला में लेना था तो कोवरडिस की इसमें तारीफ़ कर देनी चाहिए थी। मैं आपसे पूछना चाहता हूँ कि अगर किसी आदमी को गिरफ्तार कर लिया गया तो उसका क्या होगा? इसमें यह दर्ज होना चाहिए था कि वह गिरफ्तार होने के बाद कहाँ जायगा?

Shri H. C. Mathur (Pali): To the Police.

बंधित ड कुर हाल भारतीय: मुझे बडलाया जाय कि इसके अन्दर कोई पावर्स है कि पुलिस क्यों करेगी?

श्री सिंहासन सिंह (गोरखपुर) १४
दफा है।

पंडित ठाकुर बाल भार्गव पुलिस को जाकर दे दे यहा तक पावर्स है। इस बिल के अन्दर यह कहा लिखा है कि क्रिमिनल प्रोसी-ज्योर कोड एप्लाई करेगा। इसके अन्दर यह बात लिखी जानी चाहिए थी कि आगे क्या होगा क्या गीअरेस्ट होगा। जहा तक इस बिल के अकसद का सवाल है मुझे उसके साथ पूरी हमदर्दी है क्योंकि मैं चाहता हू कि हमारे देश में जो रेलवे प्रापर्टी चोरी जाती है वह प्रोटेक्ट हो लेकिन उनके साथ ही मैं यह चाहता हू कि बिल में इस तरह की नई चीज न रखी जाय जिससे आगे चल कर गडबडी का इम-कान हो क्योंकि हममें सेट्रल पुलिस, स्टेट पुलिस और रेलवे पुलिस तीनों आयेगी और उनके अफसरान में आपस में झगडा उठ सडा हो सकता है। अब आप मुलाहिजा फरमायेकि इसमें ऐसा लिखा हुआ है any person concerned in an offence relating to railway property अगर टिकटलेस टैबिल हो तो It is an offence against railway property रेलवे को जो आमदनी होती है उससे रेलवे महरूम हो जाती है। रेलवे प्रापर्टी की इममें कोई डेफनीशन नहीं है। यह सिर्फ दर्ज है कि रेलवे प्रापर्टी इनक्लूड्स ऐनी गुड्स एटसेटरा। आज एक शस्म रेलव पर एक क्लेम करता है रेलवे वाले जानते हैं कि बोगस क्लेम है, मंजे पत्थर है और क्लेम कर रहा है उम्दा उम्दा चीजों की कीमत और चूकि अफसर मिल जाते हैं और उसका वह बोगस क्लेम पास हो जाता है। अब ऐसे लोग जो कि इस तरह की बेईमानिया करते हैं और इस तरह के जर्म के डिम्मेदार हैं उन पर ४२०, ४०३ और ३७६ दफा ऐप्लाई करेगी और ऐसे मुजरिओं को गिरफ्तार कर लिया जायगा और उसमें यह अक्लाब दर्ज है “reasonable suspicion existing

of his having so committed” अगर यह शर्त है तो मैं अर्ज करता हू कि यह ऐसी पावर नहीं है कि एक आमदनी किमी को चोरी करते देखेगा तो उसको पकड लेगा। आप देखिए उन गुड्स क्लर्कस और स्टेशन मास्टर्स को जो रोज बेईमानी करते हैं। एक स्टेशन मास्टर को बहुत थोड़े रुपए मिलते हैं लेकिन दिल्ली में सराय रहेला के पाम उन के महल के महल खडे हैं। एक बुकिंग क्लर्क का लडका फारेन कट्टी में पडता है। जो बुकिंग और गुड्स क्लर्क होते हैं उन की आमदनी का आप अम्दाजा नहीं लगा सकते हैं। मैं इन चीजों को जानता हू। वह सब की सब इस बिल की जद में आयेगी। अगर किसी को यह ख्याल हो जाए कि किसी बुकिंग क्लर्क में बेईमानी की है, चाहे वह जर्म कभी भी किया गया हो, तो वह शस्म गिरफ्तार किया जा सकता है। आज अगर आप ऐसी पावर्स ले रहे हैं तो मैं आप के बखिल,फ नहीं हू, अगर ला ने आप के जिम्मे डाला है कि आप सरकार की प्रापर्टी की हिफाजत करे तो जरूर कीजिए। लेकिन जैसे आप को अपनी प्रापर्टी की हिफाजत का अस्त्यार है, वैसे ही हर एक आमदनी को अपनी प्रापर्टी की हिफाजत का हक है। आज हम ने हाउस ने गवर्नमेंट प्रेमीसिज एक्विशन ऐंड रिक्विजिशन बिल पास किया जिस की वजह से दिल्ली में बड़ी अनइजीनेस है। सरकार खुद फेमला करे कि क्या डेमेजम लिये जावे और खुद ही उस में मे जिम को चाहे निकाल दे। मैंने कल एक स्कूल की कहानी सुनी। जाकर उस की छत तोड दी, यह कर दिया, वह कर दिया। आज गवर्नमेंट अपने काज की खुद आप मालिक बन गई है, यह आडिनरी क्लस से डिपार्चर है। लेकिन आज हम उसे इस तरह के अस्त्यार दे रहे हैं, जान बूझ कर दे रहे हैं, ताकि रेलवे प्रापर्टी की हिफाजत हो सके। आज हम देख रहे हैं कि एक रेलवे मिनिस्ट्री है और एक रेलवे बोर्ड है, गवर्नमेंट विबइन ए गवर्नमेंट है। आप का जो रेलवे बोर्ड है, हमारे रेलवे मिनिस्ट्र, खुद उस के अस्त्यार है, लेकिन मैंने

बोर्ड को बहुत बड़ी ताकतें हैं। आज मैं उसूलन इस अस्त्यार के देने के खिलाफ नहीं, हालांकि यह हम बिल्कुल उसूल के खिलाफ दे रहे हैं। आज गवर्नमेंट और प्राइवेट पर्सन दोनों को अपनी अपनी प्रापर्टी की डिफाजत का अस्त्यार है, लेकिन अगर मैंने देख भी लिया कि मेरी घड़ी किसी आदमी के हाथ में है, जेवर किसी आदमी के हाथ में है, तो भी मैं उस को टच नहीं कर सकता। पर आप को पूरा अस्त्यार है, आप का अफसर दब ले कि रेलवे की ईंट किमा शल्म के पास है, जिम पर एन० डब्ल्यू० आर० लिखा हुआ है, ता उसे फौरन गिरफ्तार किया जा सकता है। पिछली दफा आप ने पास कराया कि एंमे मामलो में बर्टन आफ प्रूफ बदल दिया जाय। खास चीजों के वास्ते ज्यादा अस्त्यार दिए जाते हैं, लेकिन जितने ज्यादा आप को अस्त्यार दिए जाते हैं, उतने ही आप को मोहताज रहना होगा। हम यह अस्त्यार इसी लिए दे रहे हैं ताकि रेलवे को बहुत पैसा देना पड़ता है। लॉगो के क्लैम्स चल जाते हैं और उन को रुपया देना पड़ता है। मैं यकीन रखता हू कि हमारे मिनिस्टर साहब ऐसे लोग ट्रेन करेगे जो वाच व वाई व पुलिस से बिल्कुल मुस्तलिफ किस्म के होंगे। आज हम देखते हैं कि जो लोग आई० ए० एस० वगैरह में दूसरे महकमो में जाते हैं, वह लेंस करप्ट होते हैं। मैं उम्मीद करता हू कि जो नई फोर्स बनेगी वह अच्छी बनेगी, लेकिन उस में पुराने एलिमेंट को न दाखिल किया जाए जिस को आप कडम करते हैं।

आपने इस बिल में यह नहीं लिखा है कि किस तरह की फोर्स बनेगी। आपने इसमें इस तरह से लिखा है जिस कोई समझ भी नहीं सकता।

"regulating the punishments and providing for appeals from, or the revision of, orders of punishments, or the remission of fines or other punishments;"

अ क्या यह समझ कि यह ६ और १७ के लिए है? यह सारी दुनिया के जरायम के

वास्ते लिब दिया गया। और क्या लिब आपने.

"regulating the powers and duties of officers authorised to exercise any functions by or under this Act".

तो पावर और इप्टीज तो बनेगी रूल्स के मुताबिक। तो आखिर इस ऐक्ट में क्या रक्खा है? सिर्फ यह रक्खा गया है कि इस तरह के क्लासेज होंगे। मैं कहता हू कि यह काफो नहीं होगा। आप को यह मामले बिल में स्पष्ट करने चाहिए थे—और देखिये:

"All rules made under this section shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following."

मैं पूछना चाहता हू कि कौन शल्स इस देश में है कानून के बनाने के वास्ते? कौन इस के लिए जिम्मेदार है कि यहां कानून ठीक बने? आखिर यह हाउस जिम्मेदार है या नहीं? एक दफा आपने रूल बना दिया कि अगल सेशन में तरमीम की जा सकती है। अगर तीन सेशनो के बाद किसी पार्लियामेंट के मेम्बर का पता लगे कि यह रूल हिन्दुस्तान के वास्ते खराबी पैदा करने वाला है तो उस को अस्त्यार नहीं कि वह उस को दुरस्त करवा सके। इस तरह से पार्लियामेंट की पावर को सलब किया जा रहा है। मेम्बर को अस्त्यार है कि मारे बिल का रिपॉलिंग बिल भी लाए, लेकिन यह दफा एक रूल को खास अर्थ के बाद तबदीली की इजाजत नहीं देती। इतने कम वक्त में आप के रूल को जो खराबियां हैं या अच्छी चीजें हैं उस का पता नहीं लगेगा। इस के लिए मैंने अमेंडमेंट भेजा। और इस तरह के अमेंडमेंट होना चाहिए। जो रूल्स यहां पर बने, उनके लिए हर एक को अस्त्यार है कि यहां पर अमेंडमेंट ले आए, पर उस में

[पंडित ठाकुर दास भार्गव]

एक सेशन की मियाद क्यों ? बहुत से में तो आठ दिन का बिक्र है। किसी में एक सेशन है, अब जाकर एक सेशन से दूसरा सेशन किया गया है। मैं कहता हूँ कि जो बिल यहाँ पेश है, वह बेअर स्केलेटन के अलावा और कुछ नहीं है। इसके अन्दर जब हमें पता ही नहीं कि क्या है तो इस तरह के रूल बना देने के क्या मानी हैं? यहाँ रूल रक्खा जाएगा, लेकिन हमारे फरिश्तों को भी पता नहीं लगेगा कि रूल क्या बना। आप वायदे के मुताबिक यहाँ पर रूल रखते हैं, लेकिन यहाँ पर लेजिस्लेशन इतना होता है कि मेम्बरों के पास पूरी चीजें पहुँचते हुए भी उन को इतनी फुर्लत नहीं कि वह रूल में जाए। इस लिए मैं अर्ज करूँगा कि गूड गवर्नमेंट के वास्ते और पार्लियामेंट के जो अस्त्यारब फराइज है उन को अदा करने के वास्ते आप को इन रूल में तरमीम करनी चाहिए और इस चीज को हमारे मिनिस्टर साहब अपने डिपार्टमेंट से ही शुरू करें। निहायत मुबारक डिपार्टमेंट है, यह सब की सेवा करता है। इस में वह शिकायतें नहीं हैं जो दूसरी जगहों पर हैं। आप अच्छे ट्रेडिशन को कायम कीजिए कि जो रूल रक्खे जाएं, वह ऐसे ही कि किसी भी वक्त पर पार्लियामेंट उन रूल के बारे में कोई तब्दीली कर सके।

मुझे एक और चीज अर्ज करनी है। रेलवे प्रापर्टी की तारीफ हमारे मामने आई है।

“including—in the charge or in possession of a railway administration”.

मैं अर्ज करना चाहता हूँ कि मैंने यह अमेन्डमेंट मेवा है कि यह काफी नहीं है। मान लीजिए एक मुसाफिर रेलवे प्रेमिसिज में से जाता है। उसकी रास्ते में कोई चीज गिर पड़ी है, जिसे अपनी पुलिस ने उठाया नहीं है, किसी के कब्जे में नहीं आई है। वह रेलवे के भी क्लिबिकल पब्लिसन में नहीं है, पब्लिसन तो गेन्टल एक्ट से होता है। इसलिए मैंने लिखा है कि कोई प्रापर्टी जो रेलवे प्रेमिसिज में

हो, उस के मुताबिक अस्त्यार दिया जाए, रेलवे प्रापर्टी की नैरो डिफिनिशन न हो। आपने ‘इनक्लूडिंग’ लिखा है। ऐसी चीज इन चार्ज भी नहीं है, न पब्लिसन में है, मिअरली लाइंग इन दि रेल है। मैं चाहता हूँ कि इस डिफिनिशन को ठीक किया जाए। मैं चाहता हूँ कि आप इसे कबूल फरमाएँ।

जहाँ तक मेरे अर्ज करने का सवाल है, मैं एक चीज पर ही सब से ज्यादा इतरार करना चाहता हूँ, वह यह कि दफा १३ में जो चीजें हैं, उन को ठीक किया जाए। आप ला डिपार्टमेंट से कसल्ट कर लें कि वह लीगल होगी या नहीं। तब तक कोई प्रादमी सच नहीं किया जा सकता जब तक वह अरेस्ट न हो, और डिटेसन तो कर ही नहीं सकते। इसलिए मेरी गुजारिश इन दो चीजों को ठीक करने के लिए है।

Shri Naushir Bharucha (East Khadesh): I am afraid it is not possible for me to appreciate the justification for this Bill as given in the Statement of Objects and Reasons or the scheme of the Bill as has been explained. At a time when this House is considering anxiously ways and means for effecting economy everywhere, I am afraid the hon. Railway Minister's proposal laid before this House would mean addition in the recurring expenditure of the order of Rs. 2.3 crores and a capital expenditure of Rs. 3.5 crores in the course of five years. At first, it may be necessary, it would appear, that some sort of a drastic action is taken to check the growing thefts and pilferages which take place and to safeguard the Railway property. Nobody is opposed to the principle of it but the method and manner and the cost of it are such that one feels that this Bill were better withdrawn.

In the first place, if you turn to the implications of the Bill, it will be found that a totally new Force is sought to be created and for this

Force buildings, offices, police stations, residential accommodation, etc. will be required. I would like to ask the hon. Railway Minister this question: how is it that we have so far managed to get on without this additional expenditure? It has been mentioned in the financial statement that each railway will get every year Rs. 10 lakhs making a total of Rs. 70 lakhs of capital expenditure on offices and buildings, that is, Rs. 3.5 crores in five years. I am also not satisfied that creating a Protection Force of this character is going to solve any problems. As some hon. Member speaking before me observed, merely changing labels is not going to create any additional efficiency, nor is it likely to serve the purpose the hon. Minister for Railways has in view.

I would ask the hon. Minister as to how he is going to reconcile, what I might term, the conflicting jurisdiction, firstly of the State police, secondly of the Railway Police, and thirdly of this new Force that is going to be created. I am of the opinion that far from improving efficiency this division of responsibility between various forces is likely to lead to further relaxations. Take, for instance, the case as my hon. friend Pandit Thakur Das Bhargava pointed out. Supposing a member of your Protection Force arrests a person, who is going to collect the evidence and who is going to conduct the prosecution? I presume, from the scheme of the Bill, that the provisions of the Code of Criminal Procedure will apply and the Protection Force will simply hand over the arrested person to the State Police. If that is the case, then where does the State Police come in? In the matter of investigation who is going to conduct the investigation? If investigations are to be conducted by the Railway Protection Force—which should be the case for the simple reason that they know the circumstances under which the arrest was effected and they know from where witnesses will be available and other evidences might be available—are we going to leave the investigations of

the offence in the hands of the Protection Force or the State Police? The State Police may not be interested in prosecuting such cases with diligence for the simple reason that it is not accountable for the arrest. Secondly, who steps into a witness box in a court of law assuming for the moment that the question of arrest is to be proved or it is challenged that the arrest is illegal? The State Police will not be interested in defending the case for the simple reason that the arrest has been effected by the Protection Force. Therefore, one set of police conducting a case and another set of police trying to justify the arrest will make a mess of it. I am of the opinion that instead of creating a totally different Railway Protection Force a separate department within the Police Department should have been organised charged with the protection of railway property or whatever else the hon. Minister desires to have. I am convinced that there will be conflict of jurisdictions, because we know that even between Government departments there is rivalry or indifference. The State Police will not bother to go into the case diligently. They will not go into the details of investigation of a case which has been passed on. And, since your Protection Force cannot do anything beyond effecting the arrest, I am afraid the powers given in one sense are too inadequate and in another sense they are far greater, as has been pointed out by my friend Pandit Bhargava. Therefore, taking all these facts into consideration the desirability of creating such a Force at such a cost at this time is open to serious question.

If you go into the details of the Bill, firstly there is the question of discipline of the Force. I am surprised that these sections relating to discipline have been framed in such a manner. Take for instance clause 17. It says:

“Without prejudice to the provisions contained in section 9, every member of the Force who shall

[Shri Naushir Bharucha]

be guilty of any violation of duty...."

The categories of offences which are sought to be punished are:

"...violation of duty or wilful breach or neglect of any rule or regulation of lawful order made by a superior officer, or who shall withdraw from the duties of his office without permission, or who, being absent on leave, fails without reasonable cause, to report himself for duty on the expiration of the leave, or who engages himself without authority in any employment other than his duty as a member of the Force...."

If any member is found guilty of any of the above offences, what is the punishment prescribed? He is likely to incur punishment of simple imprisonment for a period not exceeding three months. What I want to point out is that in clause 17 the hon. Minister has mixed up very grave offences with minor offences. Overstaying one's leave is not so serious an offence as wilful breach or neglect of any rule or regulation, or violation of duty. Violation of duty may consist in actually organising a band of pilfering dacoits who may commit thefts on railways and that may be a very serious offence. To provide a punishment of three months simple imprisonment for such an offence is totally inadequate. What should have been done is, the categories of offences should have been clearly separated. Grave offences should have been given greater punishments.

What will happen now is, suppose a member of the Force is guilty of violation of duty, in fact, he actually connives at a gang of pilfering thieves in breaking open wagon, or receives stolen property from the gang as his share, that is a grave offence. If he is taken to a court of law he will claim to be tried under clause 17 of this Bill, because there is a specific statute which provides punishment for a specific offence. That man has therefore to be tried under the specific

law and not under the general law; otherwise there is no meaning in having a specific statute for a specific offence. Therefore, for the gravest offence the offender is given only a maximum punishment of three months simple imprisonment. He cannot be tried under the Penal Code or any other law of the land, because under article 20 of the Constitution no man can be tried twice for the same offence. Therefore, the mistake that has been done in clause 17 is that all grave and simple types of offences have been lumped together and one common punishment prescribed. That ought to be rectified.

Similarly, clause 9 says:

"(i) dismiss, suspend or reduce in rank any member of the Force whom he shall think remiss or negligent in the discharge of his duty, or unfit for the same;"

Here also, various categories of offences like remissness, negligence in the discharge of duties are all lumped together and one set of punishment provided. What should have been done is, simpler offences should have been set apart and simpler punishments provided. That would have been reasonable, because, if a man is unfit for a particular post by reason of the fact that he has been found to be taking bribes or conniving at pilferage, or he has been remiss or negligent, remiss in the sense that he actually connives at pilferage, then, I submit, the punishment provided is very inadequate. I am not satisfied with the punishment provided here, to suspend or dismiss the man. He should be prosecuted and sentenced.

Therefore, the creation of this new offence and a new punishment under a specific statute takes away the sting from the offence altogether and entitles a member of the Force to feel that he shall not be exposed to that grave punishment which normally would be due in case of any other man guilty of a similar offence. Therefore, I submit that these penal

clauses require to be very carefully gone into and modified.

We are told that a new Force of nearly 36,000 persons will be created. I should like to know what is going to be the present position of the Protection Force and how the recruitment is going to take place. Why is it that power is vested in individuals and not given to anybody whether you call it by the name of a Public Service Commission or Recruitment Committee? Vesting powers in the hands of an individual or a few individuals may lead to various types of corruption, particularly nepotism. There may be people who may be inclined to draw members of the Force from their own community. There may be people who may be inclined to recruit members from their own relations. These things are common; we have noticed them in bigger institutions where recruitment has to take place on an enormous scale. The powers of recruitment should have been vested in a body totally independent, a body which has nothing to do with the management of the Protection Force. I should like to know whether this recruitment is going to take place independently from outside or within your own existing Protection Force or within your own existing Police Force. Let us consider for a moment that there is going to be recruitment partly from outsiders or from the existing force and partly from the Police force. I ask this House to consider whether it would not be much wiser if the people who are selected have the necessary experience in crime detection. The State Police has got at their disposal certain resources for detection, and an entire machinery. Is it not desirable, I ask, that people experienced should be placed on the job instead of people with limited experience in the Watch and Ward personnel of the Railways? We are going to spend Rs. 2½ crores by way of recurring expenditure to detect crime and would it not be better to spend it on experienced Police personnel with the resources that they command, who know what is

crime detection, the modus operandi and things like that?

Is it not desirable to make this Force a part of the regular Police Department because in addition to their experience, they have resources at their disposal? I am not at all satisfied with the Bill. That is why I am objecting to the creation of the Protection Force. The reasons given are not sufficient to justify the expenditure of this order in these stringent times.

It has been stated that the claims for compensation paid by the Railways came to Rs. 4 to 5 lakhs and I would like to know that after spending this huge sum, what are we going to gain. Is it contended that thefts and pilferages will totally subside? I have got my doubts. There may be some improvement, because 36,000 people are going to be employed. But will the improvement be commensurate with the incurring of expenditure of Rs. 2½ crores? In these days when people are asked to impose voluntary cuts on their salaries, when the Governments are going about begging for coppers for running the administration of a huge sub continent, I am not prepared to say that this expenditure is legitimate or justifiable or that the hon. Minister of Railways has made a case for the constitution of a Protection Force. I still appeal to the hon. Minister to think over the whole matter again, and if necessary, refer this Bill to a Select Committee and the various defects pointed out may be considered more closely and a few months' delay in constituting such a force will not make any material difference, and I suggest that all these suggestions may be looked into with thoroughness and accuracy.

श्री श्रीनारायण दास : उपाध्यक्ष महोदय रेलवे की सम्पत्ति या उस के द्वारा हैडल की जाने वाली दूसरों की सम्पत्ति की जो क्षति होती है, और उस के लिए साल-ब-साल रेलवे को जो मुआबजा देना पड़ता है, उस को देखते हुए सब को यह प्रावश्यक मानूँ

[श्री श्रीनारायण दास]

हीसा है कि कोई ऐसा संगठन हो, जो कि इस को रोक-बाम करे। हम जानते हैं कि दूसरे सरकारी महकमों की तरह रेल ने भी एक मन्दरूनी संगठन कायम किया हुआ है, जिस को वाच एंड वार्ड कहते हैं और जो बहुत दिनों से काम कर रहा है। वाच एंड वार्ड और रक्षाक दल में, जो कि इस कानून के शरिये से संगठित किया जा रहा है, इतना ही फर्क है कि वाच एंड वार्ड संस्था को कोई पुलिस पायजं प्राप्त नहीं है और इस रक्षाक दल को पुलिस पायजं ी जा रही है, जिन के अनुसार उन को गिरफ्तार करने, संच करने और कुछ देर तक रोक रखने बगैरह का अधिकार होगा। जैसा कि हम सब ने सा है, रेलवे के सम्बन्ध में कई एन्वय-यरी कमेटीज बैठ चुकी है और बता चुकी है कि इस विभाग में जो चोरिया हाती है या अन्य प्रकार के जो अप्टाचार प्रचलित हैं, उन को रोकने के क्या उपाय हैं। लेकिन जैसे जैसे वे उपाय किए जा रहे हैं अप्टाचार की बीमारी बढ़ती जा रही है। एक कहावत है कि मर्ग बढ़ता ही गया ज्यो ज्यो दवा की। बाहर के लोग यह कहते हैं कि रेलवे में जो चोरिया होती है, उन को या तो रेलवे वाले स्वयं करते हैं, या वे रेल वाले की कानाइजेंस से होती हैं, उन के तत्पर न रहने से होती है। इस के विपरीत रेलवे वाले कहते हैं कि ये चोरिया बाहर वाले करते हैं। इस बीमारी को दूर करने के लिए एक नया संगठन कायम किया जा रहा है और उस को ऐसे अधिकार दिए जा रहे हैं, जो कि केवल पुलिस की प्राप्त हैं। साधारणतया सरकार, समाज और व्यक्ति की सम्पत्ति की रक्षा का उत्तरदायित्व पुलिस को सौंपा गया है। पुलिस उस की रक्षा करे या न करे, उस में अप्टाचार हो या न हो, यह दूसरी बात है। किन्तु प्रश्न यह है कि यदि सरकार के दूसरे महकमों में यह मांग करें कि अपनी सम्पत्ति की रक्षा करने के लिए उन के यहाँ भी कोई

ऐसा संगठन हो, जिस को पुलिस की— गिरफ्तार और संच करने बगैरह की—पावर्ष प्राप्त हों, तो मैं समझता हूँ कि फिर इस का अन्त होने वाला नहीं है।

माननीय मंत्री जी का कहना है कि रेलवे में होने वाली चोरियों को रोका जाय। हम उन से सहमत हैं, लेकिन इस तरह महकमों को बढ़ाए चले जाने से यह बुराई रुक नहीं सकती है। इस सम्बन्ध में हम को एक छोटी सी कहानी याद आती है। एक सज्जन अपने नौकर से सेर भर दूध मंगवाया करने थे। वह नौकर पाव भर पानी और तीन पाव दूध ला कर उन को दे देता। उन महानुभाव ने मोचा कि नौकर चोरी करता है, उस की निगरानी करने के लिए एक दूसरा नौकर रखा जाय। नतीजा यह हुआ कि एक दूसरा नौकर यह देखने के लिए रख लिया गया कि पहला नौकर दूध में पानी न मिलाए। ो चार दिन तो उस ने पहले नौकर पर निगाह रखी, लेकिन फिर पहले नौकर ने उससे मेल-जोल कर लिया और उस को कहा कि क्यों तुम तकलीफ सहते हो और तरद्द करते हो, तुम भी पाव भर दूध ले लिया करो, हम पाव की जगह घ्राथ सेग पानी मिला दिया करेगे। चुनाचे ऐसा ही होने लगा। उन महानुभाव ने जब देखा कि पहले तो पाव भर पानी और तीन पाव दूध मिला करता था, जब कि अब निगरानी करने के लिए दूसरा नौकर रखने के बाद पानी की मात्रा बढ़ गई है और दूध की मात्रा कम हो गई है—यहा तक कि तीन पाव पानी मिलता है और एक पाव दूध मिलता है, तो उस ने महसूस किया कि इस प्रकार नौकर के ऊपर दूसरा नौकर—सब-इंस्पेक्टर, एसिस्टेंट सब-इंस्पेक्टर, इंस्पेक्टर और इंस्पेक्टर जेनरल इत्यादि रखने की कोई जरूरत नहीं है। मैं निवेदन करना चाहता हूँ कि माननीय मंत्री को उर्ध्वव डीक हो सकता है कि प्रस्तावित संगठक

दूसरों की चोरी करने से रोकेगा, लेकिन उन को वह बात भी स्मरण रखनी चाहिए कि प्रायः रक्षक ही भ्रष्टक बन जाते हैं। ऐसा दूसरी जगहों में भी है, लेकिन रेलबे में रक्षक के भ्रष्टक बन जाने के बहुत उदाहरण हैं। टी० टी० आई० का काम है कि बिना टिकट यात्रा करने वालों को पकड़े और उन से रुपया वसूल कर के सरकार के खजाने में जमा कराए, लेकिन हम देखते हैं कि ऐसा नहीं होता है। हम टी० टी० आई० और टी० ई० की संख्या बढ़ाए जाते हैं, सरकार का खर्चा बढ़ रहा है, लेकिन सरकार के खजाने में रुपया नहीं जाता है। हम अपने पुलिस विभाग को जानते हैं। हम उस के सब कर्मचारियों की निन्दा नहीं कर सकते। हो सकता है कि उस में बहुत से आदमी अच्छे हो, देशभक्त हो, लेकिन ग्राम लोगों का क्याल यह है कि पुलिस का जो काम है अर्थात् व्यक्ति, समाज और सरकार की सम्पत्ति की रक्षा करना, उस को वह नहीं कर रही है और अपने कर्तव्य का पालन नहीं कर रही है। माननीय मंत्री जी ने बताया है कि रक्षक दल के संगठन में खर्चा बढ़ने वाला नहीं है और जो खर्चा वर्तमान समय में होता है, उससे ही काम चल जायगा और प्रतिरिक्त घन व्यय नहीं होगा। फिर भी अगर लगभग दो करोड़ रुपए इस पर व्यय होते हैं, यदि काम उस के मुताबिक न हो, सरकार की आमदनी न बढ़े जो कम्पेंसेशन है, जो मुद्रावजा है, उसकी अगर हमें बड़ी हुई रकम देनी पड़े तो वैसी हालत में इस तरह के बिल की कोई जरूरत नहीं रह जाएगी और यह कारणर साबित नहीं होगा। मैं मानता हू कि रेलबे की सम्पत्ति को चोरी होने से रोकने का जो मामला है यह महत्व रखता है। इसको रोकने के लिए माननीय मंत्री जी असाधारण अधिकार लेना चाहते हैं, मैंने पहले कहा है कि मैं कोई बर्षीय नहीं हूँ और इसके जो भीषण एपेपेकस हैं उन पर मैं नहीं आ सकता हूँ। लेकिन मैं समझता हूँ कि अगर

हमने रेलबे विभाग को असाधारण अधिकार दिए तो फिर दूसरे विभाग भी जेंते कि पोस्टल डिपार्टमेंट है या और दूसरे विभाग है वे भी कहेंगे कि अपनी सम्पत्ति की रक्षा करने के लिए हमें भी ऐसे ही अधिकार दिए जाने चाहिये। वे भी कह सकते हैं कि हमें भी दल रखने का अधिकार हो और गिरफ्तार करने का अधिकार हो। इस तरह से इसका कहीं अन्त नहीं होने वाला है। अच्छा होता कि इस तरह के बिल को लाने के बजाय, इस तरह की पावसं मरझक दल को देने के बजाय, रेलबे के जो दूसरे कर्मचारी हैं, उनका ध्यान उनके कर्तव्य की ओर दिलाया जाता।

अभी एक माननीय सदस्य ने कहा है कि हमारी जो साधारण पुलिस है और जो वाच एंड वार्ड है, उसके बीच मतभेद रहता है मनुमुटाव रहता है और दोनों ही एक दूसरे को अच्छी तरह से नहीं समझते हैं और दोनों ही कहते हैं कि दूसरा हमारे काम में दखल देता है। असल में जो यह उद्देश्य इस बिल का है कि गिरफ्तार करने के बाद फिर पुलिस के हवाले करना पड़ेगा और जो देश का साधारण कानून है, उसके मुताबिक मुकदमा चलेगा, उसको देखते हुए मैं समझता हूँ कि यह बिल इतना कारगर सिद्ध नहीं हो सकेगा।

इस बिल के अन्तर्गत रक्षक दल को जो पुलिस के अधिकार देने की बात कही गई है, उसको मैं पसन्द नहीं करता। लेकिन जैसाकि पंडित ठाकुर दास जी ने कहा कि जो अधिकार दिए जायें वे प्रयोग के तौर पर दिए जायें और मैं चाहता हूँ कि इस प्रयोग की कोई अवधि निश्चित कर दी जायें तो अच्छा रहेगा। इस अवधि के खतम हो जाने के बाद हम इस पर पुन विचार कर सकते हैं और देख सकते हैं कि यह विभाग कारगर सिद्ध हुआ है या नहीं और किस तरह से इसने कार्य किया है। मैं समझता हूँ कि तीन या पांच वर्ष की अवधि अवधि नियत कर दी जायें तो अच्छा रहेगा। इस अवधि के बीत जाने के बाद यह

[श्री श्रीनारायण दास]

पुन. महा पर विचारार्थ धाती और हम देखने का मौका मिलता कि जो पुलिस अधिकार हमने इसे दिए हैं उनका प्रयोग इसने ठीक तरह से किया है या नहीं। अगर ध्वषि के बीत जाने के बाद यह साबित हुआ कि इसने अच्छा काम किया है, रेलवे की सम्पत्ति की रक्षा की है, मुआवजे की रकम कम देनी पड़ी है, तब यह सब इस अवस्था में होगा कि इस कानून की ध्वषि को या तो और बढ़ा दे या फिर देश के बाकी कानूनों की तरह से इस कानून को भी उनके बराबर ल आए।

पंडित ठाकुर दाम जी ने अभी अपनी तकरीर की है। उसको देखते हुए मुझे कुछ ज्यादा नहीं कहना है। उन्होंने कई बातें कही हैं, मैं चाहता हू कि उन पर ध्यान के विचार किया जाए। यहां पर एक शब्द कार्बोडिस आया है जिसका प्रयोग क्लाउड १७ में किया गया है। मैं कोई बकील नहीं हू लेकिन मैं समझता हू कि यह एक अस्पष्ट भा शब्द है और इसको हटा दिया जाना चाहिए। यह एक रेलेटिव टर्म है और यदि इसका प्रयोग न किया गया होता तो अच्छा रहता।

आपने प्रापर्टी की डेफिनिशन में एनिमल्स को तो ले लिया है लेकिन जो बर्ड्स होते हैं उनको आपने छोड़ दिया है। आपने गुड्स शब्द का प्रयोग किया है। उसमें अगर बर्ड्स आ सकते हैं तो एनिमल्स भी, मेरे विचार से आ सकते हैं। बर्ड्स भी तो बॉरी होते हैं, उनका जिक्र भी तो यहां पर आपको करना चाहिए था। अगर बर्ड्स की जरूरत नहीं है तो एनिमल्स की भी जरूरत नहीं है वे भी गुड्स में आ सकते हैं। इस बीच को मैं आपके विचारार्थ रखता हू।

श्री झाहनबाज खां वे गुड्स में आ जाते हैं।

Mr. Deputy-Speaker: You have put in animals there; why should there not be birds also. (Interruption).

Shri H. C. Dasappa (Bangalore): Why not fish also be put in?

श्री श्रीनारायण दास यह जी महा मगठन बनने जा रहा है, इसमें रिस्कटमेंट के बारे में, मैं समझता हू, बहुत तरह की गलतफहमिया हैं। इसमें जो अफसर हों, वे बहुत ऊंचे दर्जे के हों चाहिए, साधारण पुलिस आफिसर इस काम को अच्छी तरह से नहीं कर सकते हैं। इस फोर्स के जो कर्मचारी हों चाहे वे रक्षक हों, चाहे उप-रक्षक हों, चाहे इस्पेक्टर जनरल हों, उन सब की निरुक्तिया बहुत अच्छे ढंग से होनी चाहिये। अगर अच्छे लोग इसमें नहीं लिए जायेंगे जमी की प्राधिका रहती है कि कई बाग नहीं लिये जाते हैं, तो इस मगठन का कोई फायदा नहीं होगा। साधारणतया जितने भी रेलवे कर्मचारी भर्ती किए जाते हैं, जिनकी निरुक्तिया की जाती हैं वे अच्छी तरह में टोक बजा कर के, अच्छी तरह में जांच करके क्वालिफिकेशन देख करके रेलवे सर्विस कमिश्नर द्वारा या दूसरी कमिश्नरी द्वारा नियुक्त किए जाते हैं, लेकिन फिर भी जो हम नजारा देखते हैं उससे हमें कमी कमी निराशा ही होती है। मुझे पता नहीं कि इस मगठन के चीफ सिक्वोरिटी आफिसर को या सिक्वोरिटी आफिसर को जो नियुक्त क अधिकार बिंबे गये हैं, वे कहा तक कारीगर सिद्ध होंगे। इस बास्ते अगर इस मगठन में नियुक्तियों का कार्य यदि ऐंम लोगों के हाथ में दिया जाता जो ईमानदार भी अच्छे होते, तो इसका कार्य अच्छी प्रकार में चल सकता था और यह मगठन सफल भी हो सकता है। इसके विपरीत यदि साधारण तरीके में नियुक्ति होती रही जैसे कि किसी कास्टेबल को होती है, तो मैं समझता हू कि यह न तो उचित होगा और न ही मुनासिब।

ठाकुर दाम जी ने बहुत से कानूनी नुक्ते उठाये हैं। मैं चाहता हू कि उन सब पर ध्यानपूर्वक विचार कर लिया जाये, कहीं ऐसा न हो कि जल्दबाजी में हम कुछ

ऐसे अधिकार इस दल को देने जो हमारे संविधान के खिलाफ हो, हमारे मालिक अधिकारों के खिलाफ हों तथा जिन अधिकारों का ठीक प्रकार से प्रयोग न हो। यदि सरकार ने ऐसा न किया तो इसका नतीजा यह होगा कि जो बीमारी आज है वह धीरे धीरे बढ़ जायेगी। आज जिस तरह का पुलिस का व्यवहार लोगों के प्रति है जिस तरह की दिक्कतें लोगों को उठानी पड़ती है, जिस तरह की कठिनाइयों का सामना कारन। पड़ता है, यदि उसी तरह का व्यवहार स हल का रहा तो मैं समझता

कि इस वक्त जो चार पाय लाख रुपया साल हमको कम्पेंसेशन के तौर पर देना पड़ता है यदि उसको ही जारी रखा जाय तो अर्थसाथ होगा बनिस्वत उनके कि नाजायज तौर से साधारण नागरिक इस रक्षक दल द्वारा तग किये जायें। साथ ही साथ इस बात का भी ध्यान रखा जाना चाहिये कि फर्ही ये रक्षक भक्षक न बन जायें। कहावत है कि यदि बागवान ही चोर हो तो रखवाली कौन करे। फुलवाडों की देख भाल रुज वाला ही यदि चा. हो तो उसकी रक्षा कौन कर सकता है। इस वास्ते जो विधायिकाधिकार दिये रड़े हैं, वे बड़े सोच विचार के बाद ही दिये जान चाहियें।

अन्त में मैं इतना ही कहना चाहता हू कि इस बिल का जो उद्देश्य है, उसका तो मैं समर्थन करता हू लेकिन इस कानून की जो अवधि है, उसको तीन वर्ष के लिए कर दिया जाए और तीन वर्ष के बाद फिर इस पर विचार किया जाए और देखा जाए कि इस रक्षक दल ने ठीक तरह से अपना कार्य किया है या नहीं किया है।

Shri A. S. Sarhadī (Ludhiana) Mr Deputy-Speaker, there are two aspects from which this Bill can be considered. The first is the intent and the object of the Bill and the second is the powers that it confers on the members of the force that it creates. Taking the first aspect, the intent or

the object of the Bill is only to provide for the creation of a force with a view to better safeguard and protect the railway property. But the functions of the force which this Bill seeks to create are contained in clause 14 and these functions only limit it to the extent that the members of this force will, after making the arrest, without unnecessary delay, make over the person so arrested to the police officer, and no further. The machinery provided by the Criminal Procedure Code will come into application the moment the person is handed over by the members of the force to the police. This means that the function of the force that is being created will be only to the extent of the arrest. Can this object be met otherwise than by this Bill? I submit that it can otherwise be met with under the ordinary law. Under section 59 of the Criminal Procedure Code, even a private person has got the power to arrest a person who is concerned in the commission of an offence which is cognizable and which is non-bailable. Even if the members of the Watch and Ward force of the railways are considered to be private persons they can arrest the culprit in the commission of an offence which is cognizable and non-bailable. If the offences which pertain to railway property are made cognizable and non-bailable—most of them are already cognizable and non-bailable—the object of the Bill can be easily met and a member of the Watch and Ward can easily arrest a person and take him to the nearest police officer. Where is the need for a Bill like this?

Clause 12 of the Bill gives powers to a member of the Force to a great extent. It also empowers the members of the Force to arrest an individual about whom they have got a reasonable suspicion. It also empowers them to the extent that they can arrest a person who, according to them, is trying to conceal himself with a view to commit an offence. I would submit that these powers are far too high. These powers have not been conferred even under the Criminal

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Procedure Code. As my hon. friend Pandit Thakur Das Bhargava put it, section 55 of the Cr. P.C. only confers power of arrest while a person is trying to conceal himself on a S.H.O. or Officer in charge of a police station. He cannot be a person less than a head constable. To confer these powers under clause 12 (a) and (b), later part, is too much. I think this is infringing the liberties of individuals. It is, I submit, empowering the members of the Force to a far greater extent.

The Bill postulates that all the members of the Watch and Ward will become members of this Force which is purported to be created under this Bill. But, the persons who are recruited in the Watch and Ward are of a different category. To empower them to such an extent, I submit, would be very dangerous. My submission is that the intention of the Bill can be easily achieved, if we make the offences relating to railway property cognizable and non-bailable. The members of the Watch and Ward can arrest them.

Coming to the second aspect, as I said, the powers conferred under clause 12 are too high and they are very dangerous. But, the Bill goes farther. As has been very strongly and seriously put by the hon. Member, Pandit Thakur Das Bhargava, clause 13 empowers the Senior Rakshak to detain a person and search him. No limit is laid down as to how long he can detain. According to the definition of arrest, detention comes within arrest. According to the Constitution, there cannot be an arrest for more than 24 hours, and the person must be taken before a magistrate. This clause does not provide a period for which a person can be detained. Of course, clause 13 (2) says:

“(2) The provisions of the Code of Criminal Procedure, 1898, relating to searches under that Code shall, so far as may be, apply to searches under this section.”

This provision only governs searches and not detention. Any detention which is contrary to the provisions of the Constitution would be *ultra vires* and illegal. Therefore, as the hon. Member Pandit Thakur Das Bhargava put it, this would definitely be held to be unconstitutional and *ultra vires* as it does not lay down the period for which there can be detention.

I would go further and submit that the provisions of this Bill are very vague. This has already been discussed by the speakers who have preceded me and I need not go into that. I submit that there can be no objection to the principle of the Bill. There has been a lot of loss of railway properties and that is a national loss. That has to be met with and met with even by emergency legislation if it is called for. But, the question is, do the circumstances call for a legislation of that kind? Do the circumstances call for a duplication of the Force without a division of functions? This Bill concedes that the Police force will have the overall supervision. The Police force will be the investigating agency; the Police force will be the prosecuting agency. For the purpose of only arrest, we are having a duplication of authority without division of functions. Naturally, as Shri Bharucha put it, there will be conflict between them, and this conflict may lead to confusion. I submit that this aspect should be looked into and I hope the hon. Minister, the sponsor of the Bill will see whether it is at all necessary to have this Bill.

Shri Parulekar (Thana): Mr. Deputy-Speaker, I rise to oppose this Bill. The object of the Bill, as has been stated in the Bill itself, is to provide for better protection and security of railway property. So far as the object is concerned; it is laudable. There can be no two opinions as regards its importance. Railway property is national property and measures have got to be taken to protect it and secure it. But, the moment

we pass on from the realm of the objective as stated in the Bill to the realm of the provisions which are contained in the Bill, three questions which are very pertinent arise. They need to be carefully scrutinised and considered. These questions are: (i) whether the provisions of the Bill are such as to achieve the object of the Bill; (ii) whether the powers conferred under the Bill are such as to give scope for abuse and open a field for corruption to flourish; and (iii) whether the rules of conduct for the members of the security staff which have been incorporated in the Bill are reasonable. I will take these three questions in the order in which I have stated and deal with them.

As regards the question whether the provisions of the Bill are such as to secure the objective of the Bill, I will not speculate. I will leave it for the future to judge and it will be judged by the results it yields. But I can anticipate the results. I do not think that the provisions are such as will enable the object to be realised in course of time. Because, I do not believe and it is not true, that the members of this Force are unable to protect the property of the railways because they do not possess the powers that are being conferred on them by this Bill. It is not the contention of the Government that for want of these powers it has not been possible for the members of the security staff to protect the property of the Railways. That cannot be the contention. I leave it at that. I do not want to enter into greater details of this aspect.

I pass on to the second question namely whether the powers conferred on the members of the security staff are so wide that they are likely to be abused, that they are likely to be used for harassing people, for persecuting them. That is the question I would like to go into briefly. The clauses which relate to this question are clauses 12, 13 and 14. I would like to draw your attention to sub-clause (b) of clause 12. I admire the

ingenuity of those who have drafted this clause. It says:

"any person found taking precautions to conceal his presence within railway limits under circumstances which afford reason to believe that he is taking such precautions with a view to committing theft of, or damage to, railway property"

Such a person is liable to be arrested. A member of the staff can arrest anybody who is found to be in the railway limits, and it is enough for him to say that that person was found to take precautions to conceal himself with a view to commit theft. The arrest of a person found within railway limits depends entirely on the subjective factor, that is the subjective satisfaction of the individual member of the staff who will be an ordinary constable, though new names have been given, who has only to say that he has arrested the person because he believed that he was taking precautions to conceal himself with a view to commit theft of or cause damage to railway property. The phraseology of this whole clause is a novel one, and it confers powers so wide on the entire staff that they are bound to be abused, and people are bound to suffer because of these wide powers.

15 hrs.

Now, I will refer to clause 13. I am not a lawyer, but applying my commonsense I must say that this clause is again a novel one. It gives power to a certain section of the members of the staff to arrest an offender, to detain him, to search him and then release him, if they think that it is not proper to arrest him. What will it mean in practice? They will arrest innocent persons, they will detain them and as soon as a bribe is given, they will release them, and the clause itself gives them power to release them. The clause even does not take the precaution to say that they are entitled to detain a person suspected of committing a theft, or committing an offence. There, the word which has been used is "the offender". When an

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officer has reasons to believe that a person has committed a certain offence, he has been given power to detain that person, search him, and then afterwards the clause says that if he thinks proper, he can release that person. Now, you can well imagine, knowing as we do how such departments function, how this will work as a licence for releasing offenders after taking bribes from them.

Now I pass on to clause 14. This clause takes away the protection which has been given by article 22(2) of the Constitution. If it remains there, it is bound to be declared *ultra vires* by the Supreme Court, but I would like to read article 22(2) before I comment on this clause. It says:

"Every person who is arrested and detained in custody shall be produced before the nearest magistrate within a period of twenty-four hours of such arrest excluding the time necessary for the journey from the place of arrest to the court of the magistrate and no such person shall be detained in custody beyond the said period without the authority of a magistrate."

What does this clause say? He will be arrested, he will be detained. I will not labour on the point of detention, because the hon. Member Pandit Thakur Das Bhargava has pointedly pointed out how unjust the provision for detention is in this clause. How long he will be detained, nobody knows. The Bill does not say anything about it. It is silent about it. Then what will be done to the person arrested? He will be taken to a police station and handed over to the police. Can we not under the provisions of this clause conceive that a man arrested by a member of the staff may be detained for four days? It may take two days to take him to the police station after his arrest.

Shri Basappa: May I say in clause 4 it is stated specifically "without unnecessary delay"?

Shri Parulekar: I would like to point out to the hon. friend who has intervened that "unnecessary delay" is capable of being interpreted as one likes.

Mr. Deputy-Speaker: It is better to point it out to me.

Shri Parulekar: So, he may be detained for a long time and then it may be argued that the delay was necessary, and this plea will be accepted because nobody can define what is unnecessary delay and what is necessary delay, what I want to point out is that this clause is a violation of the protection given by article 22(2) of the Constitution. That article says that as soon as a man is arrested, he has to be produced before a magistrate within 24 hours and without the order of the magistrate he cannot be kept in custody. In this clause the same word "arrest" is used. What difference is there between the arrest which is contemplated in article 22(2) and arrest which is made according to clause 14? There is no difference.

I cannot say whether this clause has been hurriedly drafted or purposely drafted. It is very difficult to imagine the motives of those who have drafted the Bill. But at the same time, it must be said that it has been drafted in such a way that even the sanctity of the rights which have been conceded by the Constitution has been violated.

Now I come to clause 20. Clause 20, curiously enough, gives a free licence for the abuse of these powers. See how the sub-clauses (1) and (2) read:

"(1) In any suit or proceeding against any member of the Force for any act done by him in the discharge of his duties, it shall be lawful for him to plead that such act was done by him under proper authority or order."

As soon as the plea is advanced that he has done a particular act under the order of an authority, whatever he may have done his act cannot be an offence.

Further it says:

"(2) Any such plea may be proved by the production of the order directing the act, and if it is so proved, the member of the force shall thereupon be discharged from any liability in respect of the act so done by him, notwithstanding any defect in the jurisdiction of the authority which issued such order"

I do not know whether this clause can be interpreted to mean, and perhaps it means, that even the courts are bound under this clause to discharge a person when any proceedings either of a civil or criminal nature are taken against a member of the staff if he produces an order of a superior officer. Will it be right to take away the jurisdiction of the courts, over offences committed by the Members of the staff? It is a very serious proposition for this House to consider

I will conclude by saying that the potential capacity of this Bill for doing mischief is enormous and immense. The powers are so wide and so vague that they are likely to be abused and are bound to be abused, and there are no safeguards against any abuse of these powers which have been conferred by this Bill upon the Members of the staff. The common man will be the victim of the abuse of these powers. It may be that we Members of Parliament or Members of the Legislative Assemblies or the gentry will not be the sufferers, but it is the common illiterate man who will suffer. Because a member of the security staff enjoys all powers to detain him, to arrest him, to search him and do all the other things under the Bill

There is another point which I would like to make, and that is that the powers are so wide that they open a new field for corruption to the staff. These powers are given on the assumption that the members of the staff are honest, and they are not likely to abuse these powers for supplementing their incomes, but these assumptions have been proved to be

untrue and baseless by reality. The truth is that in conditions where mercenary considerations are the motive force for discharging duties, corruption flourishes where the coercive powers of the State can be easily abused. Applying this principle which we have learnt from experience at a very great cost, we can safely say that the powers which are being given to the members of the staff are so wide and so vague that they furnish them with the source for supplementing their income by bribes, particularly so, when the salaries drawn by them are so low that they are not able to live, unless they make money by such means. I do not approve of the ways by which they will make money, but nonetheless, the reality is such, and the reality has to be faced, it cannot be ignored.

15.00 hrs.

[SHRI BARMAN in the Chair]

I can anticipate the reply of the Minister. He will give us assurances that these powers will not be abused. Whenever criticism is levelled that the provisions of a Bill are likely to be abused, the common answer, and the most fashionable answer in this House has been that they are not intended to be abused, and that they will not be abused. But assurances are no safeguards against abuse of these powers. Assurances of the Ministers will not come to the rescue of the man who has been a victim to the abuse of such powers. The powers which are being given under clauses 12 to 14 are so wide that it will be a wonder if they are not abused, it will be a wonder if they do not result in increasing corruption which is already rampant among people who enjoy coercive powers of the State.

I now come to the third point, namely whether the rules governing the conduct of the members of the staff are reasonable. Clause 11 lays down the duties of the members of the staff, and clause 9 provides for punishment when there is failure on

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the part of the staff in discharge of those duties. In this connection I should like to draw attention to one particular point.

One of the duties mentioned in sub-clause (d) of clause 11 reads thus:

"to do any other act conducive to the better protection and security of railway property."

Again, I think this is a specimen of vagueness which can be imitated by those who want to enact vague legislation. Does this sub-clause define the duties? Sub-clauses (a) to (c) are definite, but sub-clause (d) is so vague that anything can be included within it, and a member of the staff will be entirely at the mercy of the superior officer. If he is found to have neglected the duties as defined in clause 11, and if the officer comes to the conclusion that he has not done something which was conducive to the better protection and security of railway property, he can be punished; and there is no protection to the member of the staff.

Shri B. S. Murthy: Sin of omission.

Shri Farulekar: I wish that the principle of this rule of conduct is applied from top to bottom to the state machinery; then the whole Government will improve.

Shri B. S. Murthy: Give them scope for sin of commission.

Shri Farulekar: Then, I would like to draw your attention to clause 16. This is also a novel clause. Suppose a member of the staff is suspended either because he is found to be unfit to discharge his duties or because he is guilty of some other offence which comes within the purview of the provisions of clause 9. After he is so suspended, the clause says:

"and he shall, during that period, be subject to the same responsibilities, discipline and penalties to which he would have been subject if he were on duty."

When a person is suspended, he will get only half the salary to which he is entitled, till his case is disposed of. But he is asked to discharge all the duties as before during the period of his suspension. The clause goes a step further and says that if he fails to discharge the duties, he will be liable to be punished, and the penalties are the same as if he had been in service.

I would like the Minister to point out to me any other legislation which says that after a person is suspended his responsibilities will continue, and the penalties that would be imposed on him would be the same as if he had been in service. I do not think he would be able to point out any such instance; but if he can, I shall be glad to be enlightened on the point. Perhaps, there may be some piece of legislation which contains such provisions and which may be purely of a military character; but I shall come to that point later. I would like to know whether there is any other piece of ordinary legislation which contains a provision of this nature...

Pandit Thakur Das Bhargava: The Police Act.

Shri Farulekar: ...namely that after suspension, the man will be liable to the same penalties to which he would have been subject to if he had been in service.

I now come to clause 17 which lays down penalties for neglect of duty etc. Already, clause 9 provides for punishment for various offences on the part of the members of the staff, of commission and omission. Not satisfied with those provisions, here is a new clause which the Bill contains, namely sub-clause (1) which says that a member will be liable to simple imprisonment for three months, if he is found to be guilty of the offences mentioned in this sub-clause. Some Members are not satisfied with the period of three months specified therein. Of course, I do not agree with them, and they are free to disagree with my views.

One of the offences mentioned here is 'neglect of any rule or regulation of lawful order made by a superior officer'. So, if a person neglects a rule or a regulation, and he is found to be guilty of such neglect, he is likely to be sent to prison for three months. Again, I would like to point out that such provisions are not found in common law.

Another funny thing in this clause is:

"or who, being absent on leave, fails, without reasonable cause, to report himself for duty on the expiration of the leave...."

If he overstays after taking leave, without reasonable cause, then also he is likely to be sent to jail for three months. I would like to pose one question to the Minister in this connection. Suppose a person remains absent without taking leave, then he is not likely to be sent to jail, because there is no provision to that effect in the Bill. But if he goes on leave with permission, and then he overstays without reasonable cause, he is to be sent to jail for three months. I do not know whether this is an ideal code of conduct. If these are the ideal measures for running Government efficiently, I would ask the Minister whether he will recommend the same code of conduct for the whole of the Government machinery from top to bottom.

Another ground on which he can be sent to jail is cowardice. Again, this is a phrase which it is very difficult to define, and which is very vague.

For these reasons, I oppose the Bill. In short, the Bill seeks to add a military wing to the Railway Administration. The members of the security staff, in the noble name of protecting the railway properties are being given powers which are likely to be used against the people, which are likely to be used against the workers, which are likely to be abused in every possible way, and which will open up, as I have said already, a new field for corruption. And since the Bill does

not contain any safeguards whatsoever against any of these evils, I oppose the Bill.

Mr. Chairman: I am now calling the Minister to speak. Hon. Members who could not speak so far may take their chance in the second reading stage.

Shri Shah Nawaz Khan: I am very grateful to the hon. Members who have taken so much pains to go through the provisions of the Bill so thoroughly. That shows their very deep interest in the Railway Protection Force, and also their deep anxiety to ensure that the losses incurred by the nation are stopped as early as possible.

A number of hon. Members wanted to know the justification for bringing forward such a legislation. Also my hon. friend, Shri Bharucha—he is not here—wanted to know whether in actual fact the amount of expenditure involved would be in keeping with the work that this Force would do. As hon. Members already know, every year we have to pay something like Rs. 3 crores as claims for goods lost, stolen etc. This is not all. I may tell the House that in addition to these goods for which we have to pay this amount of compensation, there are other huge losses of railway property.

I have recently had the opportunity of travelling over almost the entire section of the North Eastern Railway from Gorakhpur to Dibrugarh and I was amazed—I inspected various goods and passenger trains—at the number of stations fittings, fans, fan belts, dynamos, vacuum gauges etc. had been stolen. The thefts are very heavy. Not only is the country incurring huge losses on account of these thefts, but the safety of train running is also being affected. When vacuum gauges are removed, we cannot replace them because lots of the parts have to be imported.

Shri Simhasan Singh: These losses have been going on in spite of their Watch and Ward.

Shri Shah nawas Khan: That is what we are trying to stop. These are the huge losses in which not only huge sums of the nation's money are involved, but also the safety of passengers travelling in those trains and other trains is jeopardised.

Also, as the House is aware, there have been instances where goods trains carrying valuable commodities have been attacked. If I may say so, thefts in running trains have become an art, people have made a regular art of it. *(An Hon Member Fine art)* There have been cases where regular, organised gangs have actually attacked the trains and railway staff with fire-arms.

Recently, I had an opportunity of going into the areas classified as 'danger zones', that is, operational areas where the Naga trouble is going on. There have been instances where Naga hostiles have infiltrated through and fired at our stations and running trains and caused loss of human life. All those persons working in such areas have to be properly protected, and their safety has to be guaranteed by us.

Also, the situation has changed immensely since the Watch and Ward department was initially organised. We have found by experience that the old Watch and Ward will not serve our purpose.

In view of these circumstances and the facts I have just narrated to the House, it has become absolutely essential to reorganise the Watch and Ward and to equip this Force which may be required even to face hostile gangs or elements like the Nagas armed with modern fire-arms. Therefore, we wish that we should have such a force which would be able to deal with such elements.

Pandit Thakur Das Bhargava: Is this Bill required for protection of persons also?

Shri Shah nawas Khan: Yes, because I may tell the House that at present we are utilising a large number of

persons who are classified as the Railway Protection Force; that is the police force taken from the State Governments. This Force is asked for by the railways from various States, and it has to be paid for by the Railway Administration.

Shri A. C. Guha: What will happen to the Railway Protection Force which is already existing?

Shri Shah nawas Khan: It will be returned to the States.

It is in order to perform these duties, which include 'arming' a certain percentage of this Force, that this Bill has been brought forward. We have to subject the members of this Force to strong discipline, more or less on the same lines as the discipline of the regular police.

I am very glad to tell the House that I have recently gone and inspected a very large number of our young men who are under training. A large number of hon Members of this House have expressed their anxiety as regards proper selection, they feel that mere reorganisation of the old Watch and Ward will not be enough. I quite agree with them. I am very glad to inform the House that after my inspection of the Force at Lucknow, Gorakhpur, Kharagpur and Calcutta, I came back feeling rather pleased, because I saw educated young men who have joined this Force being given excellent training, I might say that in some places, their training and standard of drill are as good as any of the best military units. It is no exaggeration to say that their living conditions and turn-out are very satisfactory. Although it is rather too early to give any assurance, I hope that this Force will be able to live up to the expectations of this hon House.

Shri B. S. Murthy: The point is not about training, it is about selection.

Shri Shah nawas Khan: If the hon. Member would let me go on, that was the very point I was going to make next.

Mr. Chairman: It is better that questions are asked at the end; otherwise he might lose the thread.

Shri B. S. Murthy: He made a reference to selection; that was why I asked the question.

Shri Shah Nawaz Khan: A number of hon. Members referred to the method of selection. In this Force, there are various categories of officers and Rakshaks. Gazetted officers or those who are termed as 'superior officers' are selected by the U.P.S.C. like any other gazetted officers of the Government of India. They are subject to the same rules and regulations and the same discipline as any other Central Government officers.

As regards the other category which might be termed as class II, that is, sub-inspector, assistant sub-inspector, etc., the posts are advertised in various newspapers and they have to be selected by the Railway Service Commissions. That is the method and procedure for their selection.

We have had to say in this that the Chief Security Officer will be the recruiting authority. That is necessary because later on when dealing with such classes of people for any offence it will be held that only the appointing authority is empowered to dismiss them. It is with that end in view that these words have been included in the Bill. The actual recruitment is being done by the Railway Service Commission on a very fair basis by a competent Board.

Then remains the recruitment of class IV rakshaks or the sainiks. That is being done by the Railway Officers. I would like to submit here that I had the honour of belonging to the Indian Army at one time and at that time it was customary for the Units to send their own officers to certain selected areas to pick and choose and make recruitment. This was because those officers knew that in time of war or any grave emergency they will have to rely on these men. Therefore, they were specially cautious to make the

best selection. That was the point of view of the officers.

Shri B. S. Murthy: Was that not there during foreign rule?

Shri Shah Nawaz Khan: The same thing holds good now.

From the point of view of the person recruited it gives a sort of loyalty to the officer who recruits him; it creates a sort of bond and that is what we used to call in the Army as the *esprit de corps*.

Shri Feroze Gandhi (Rai Bareilly): Why did you leave the Indian Army?

Shri Shah Nawaz Khan: That was due to circumstances beyond my control.

The selection of sainiks is being done by the Security Officers and that is also the system now prevailing for the recruitment of class IV employees, in the railways. It is done by the railway officers in co-operation with other officers. Therefore, I do not think there is any grave irregularity in the recruitment of the members of this Force.

My hon. friend Shri Guha wants to know why it was necessary to issue a certificate to the members of this Force. This is nothing new because every member of the regular Police Force is also issued such a certificate. It is not an innovation that we are making here.

My revered friend, Pandit Thakur Das Bhargava said that the powers that were being given to the members of this force were too drastic, especially the powers of detention, search, arrest etc. The hon. Member is fully aware that even now in various workshops or an Ordnance Factory when people enter they are searched and whenever they leave them, again, they are searched in the interests of the nation.

Pandit Thakur Das Bhargava: Especially in mints.

Shri Shah nawas Khan: I may add that it is nowhere being provided in the Bill that the detention may be in violation of the Constitution. The provisions of the Bill are always subject to the provisions of the Constitution. The detention is for search and if some officer or member of the Force takes it into his head to detain a man in violation of article 22 of the Constitution, then, that man will have his constitutional remedy. But, actually, there is nothing wrong with clause 13 as it is in the Bill.

A number of hon. Members referred to the absolute protection which has been extended to the members of this Force and expressed apprehension that they would misuse the protection given. This protection, I would like to submit again, is nothing new that is proposed for the members of this Force. The same protection is extended to members of almost every security service. Therefore, there is no reason for their misapprehension that this is probably too great a protection for the members of this Force.

With these words I again thank the hon. Members who have taken part in this debate and I would request them to pass this Bill.

Shri Dasappa: The hon. Minister has not shown how the requirement under article 117 of the Constitution is met here in this Bill because the recommendation of the President is not there. It is obligatory that the President's recommendation should be to both Houses, not only to one House.

Mr. Chairman: I understand that yesterday it had been notified that President's assent has since been given.

Shri A. C. Guha: There was a news item in the Press also that President's assent has been obtained.

Shri B. K. Galkwad (Nasik): The hon. Deputy Minister said that recruitment has already been made. I just want to know as a point of information whether the percentage reserved for members of the Scheduled Castes

and Scheduled Tribes had been taken care of by the hon. Minister while recruiting these persons. He has said in his speech that certain persons were sent for making recruitment and they recruited the persons according to their choice. I want to know whether in selecting these persons sufficient thought was given to this point or not. That is the information that we want.

Shri Shah nawas Khan: The hon. Member is fully aware how anxious and keen our Government is to give proper representation to the Scheduled Castes and Scheduled Tribes. This is the basic policy of our government and that is always kept in view; especially in the Railways we allow no laxity in this rule.

Shri Feroze Gandhi: It is very lax. You look at the number of Scheduled Castes and Scheduled Tribes who are actually recruited and then compare it with what you are saying.

Shri Shah nawas Khan: I have not looked into it for the Railway Protection Force, from this particular angle. If there is any need, we will not spare any effort.

Shri B. S. Murthy: May I know from the hon. Deputy Minister whether when he made a visit to the training camps, he enquired of the trainees whether any proper representation has been given to the Scheduled Castes and Scheduled Tribes and if so what did he find?

Mr. Chairman: I think he has said that.

Shri B. S. Murthy: He said he went to the camps. But did he find out whether there were Scheduled Caste trainees there or not?

Shri Shah nawas Khan: I frankly admit that I did not make any specific enquiries because when I went into that camp I was looking at them as members of the Railway Protection Force. But, as I said, if there is need, I shall look into it.

Shri B. B. Murthy: We thank you for the frankness

सेक अन्वय सिंह (भागल) इस रेलवे प्रोटेक्शन पुलिस फोर्स पर प्रतिवर्ष कितना खर्च आयेगा?

श्री झाहनशाज खाँ उसको मैं शय्ये करने पाई मे तो नहीं बतला सकता लेकिन जैसा मैंने शर्ष किया कि यमी जो खर्च हुआ है उस से बहुत ज्यादा खर्च होने वाला है।

Mr. Speaker: The question is

"That the Bill to provide for the constitution and regulation of a Force called the Railway Protection Force for the better protection and security of railway property be taken into consideration"

The motion was adopted

Clause 2

Mr. Chairman: We shall now take up clause-by-clause consideration There are four amendments to clause 2—Nos 19, 20, 21 and 22

Pandit Thakur Das Bhargava: I beg to move

Page 1, line 9,—

after "Railway" insert "Property"

Page 1, line 17,—

after "includes" insert "engine vehicles truck machinery,"

Page 1, line 18,—

after "animal" insert "or other property"

Page 1, line 19,—

add at the end—"or lying on railway premises"

This is not the first time that this House is being treated like this I wish that all these statements that have been made by the hon Minister now were made earlier so that we could have understood the full implications I am very sorry that the information that he has given now was never given before. Then the objections to the Bill would perhaps

have been of a different nature Anyhow, I am thankful to him that he has given the information now

This is a Bill according to its preamble to provide for the constitution and regulation of a Force called the Railway Protection Force for the better protection and security of railway property I understood that the main purpose of this Bill was that the property be secured better and not that the force should become a supplementary police force to what we have already got But, it appears that the hon Minister wants in emergencies this force may be utilised for the protection not only of properties but of persons also That was the interruption that I made You cannot have this Bill passed with such mental reservations If it is a force of a different character and if it will discharge the functions of a police force or the army in times of emergency, the objections that we would have would have been much more serious Under section 20, you can fire on people and they may be given immunity which has not been given to the army or the police If it is only a Bill for the better protection and security of railway property, the angle of vision is quite different If it is a different thing, you ought to have said that this Bill is of a different nature Then, you will have to change this entirely and a different Bill will have to be brought Therefore, I put that question Not that I am averse to it

I know that the Railway Administration is working under very great handicaps and you have to give police protection not only to property but to persons in certain circumstances They have to perform some extraordinary duties sometimes So, I would rather like to give them all the powers which a small army or police force has got while fighting the Nagas on the Frontier In certain circumstances they have to perform these duties and you should give them power But, you have no right to come in this House with a Bill for the security of the railway property and now turn round and say that it is

[Pandit Thakur Das Bhargava]

for a different purpose. The entire thing has changed. We shall have to revise our opinion about the nature of this Bill as well as the purpose of this Bill.

The purpose now disclosed is quite different. Had we known this earlier, the criticism would have been of a different nature and so, I submit that I never thought that behind this Bill would be concealed a different purpose. The hon. Minister referred to the Naga difficulties etc. We never knew that this force would have to fight also.

Shri A. C. Guha: May I draw the attention of my hon. friend to sub-clause (e) of clause (2). The railway property has been defined and I do not think the purpose of the Bill can go beyond protecting the railway property as defined in sub-clause (e) of clause 2.

Pandit Thakur Das Bhargava: The hon. Member has been hearing the purpose given by the Minister.

Shri A. C. Guha: Whatever anybody may say, the scope of the Bill cannot go beyond what is contained in this clause.

Pandit Thakur Das Bhargava: I quite agree.

Shri Shah nawaz Khan: May I make a submission? All the duties which I have stated that they will have to perform and which the hon. Member is now referring to as something which we had concealed, will be performed primarily during the task of protecting the railway properties. For instance, the members of this Force will escort trains and thus protect the railway property. If during the course of the performance of their duties, certain conditions arise which necessitate their firing in order to protect the railway property, then they will have to do those duties. Similarly, when I referred to the situation in danger zones, the primary duty of the members would be to protect the railway properties—stations and other

railway properties. If anybody comes to damage the railway property in the course of performance of their duties in relation to the protection of the railway property, they may have to fire. There is nothing new in this.

Pandit Thakur Das Bhargava: If during the course of any attempt to secure a definite railway property some firing has to be done to defend the persons, I am the last person to object to it. That is not my purpose. At the same time, if he had previously told us, when I interrupted that it was meant for protection of persons also, the angle of vision would be quite different. I am not here for the purpose of making a point in discussion. If you really mean this force should be able to supplement your railway police force, you have it. We have no objection. We want the personnel and the property to be defended. We are not out only to secure the property or the personnel.

I intended to take away my amendment, after hearing the hon. Member, I did not want to press this amendment. But, now, after hearing him again I am strengthened in my arguments. I should feel that the word 'property' should be added after the word 'railway'. It may then become "Railway Property Protection Force", and it may have the exact meaning which the Railway Minister has got in his mind, otherwise this Force may be used for the very purpose which the hon. Deputy Minister just now said is not the purpose for which the Protection Force is meant. It is meant for the protection of the Railways according to the present wording, whether it be personnel or property. If you really mean that it should be for the protection of railway property then you must add the word "property" and make it "Railway Property Protection Force". If you leave it as it is then it is liable to be interpreted that it is meant for a different purpose. I would, therefore, request that my amendment may be accepted by the House.

So far as "railway property" is concerned, the words are:

"includes any goods, money or valuable security "

I am glad that the word "includes" is used and, therefore, any other thing which may come under it will have to be included. My friend said that the word "birds" is not there. The word "includes" does not exclude "birds". If birds and animals are there, they are also included. But they have specifically mentioned money, valuable security and animals. I have therefore said that the most prominent things are engine, vehicles, truck and machinery. These must be specifically mentioned. As a matter of fact, it is for the protection of these things that the Force is being created. We do not lose anything if we add these words. We just include these things and do not exclude anything.

However, I submit that the words "or lying on railway premises" should be included. I have already submitted for your consideration, Sir, that all things may not be in the charge or possession of a railway administration. A railway administration comes to be in possession of a thing when it is specifically made over and taken charge of by that administration. But they are in possession of a thing if the mental element is there. Supposing some goods are lying on railway premises which have not been taken possession of by the railway administration, who will protect them? If a passenger has lost something and the railway administration has not taken charge of it, would it be wise not to protect it and subsequently hand it over to the person who claims it? The railways are discharging very onerous duties of a different nature. They must also take charge of the property lying on railway premises. The legal interpretation of the word "possession" is quite different. Only when there is a will to possess, when there is power to possess and the person says that a thing is being possessed that there is actual possession of

a thing. Only to obviate that difficulty I am suggesting the words "or lying on railway premises".

Shri Shah Nawaz Khan: There is already provision for looking after properties like those mentioned by my hon. friend. Things that are dropped by passengers on the platform are known as lost properties. There is the Lost Property Office at all big stations to look after such things. All articles found without owners are sent to that office and they are handed over to proper claimants. Therefore, I submit there is no reason why these words should be included in this Bill.

Mr. Chairman: Then shall I put the amendments to the vote of the House?

Pandit Thakur Das Bhargava: Certainly.

Shri A. C. Guha: Before you put the amendments to vote, Sir, I would request the hon. Minister to at least accept the last amendment seeking to include the words "or lying on railway premises". I think that clarifies the purpose of the Bill. The Lost Property Office only deals with articles that are taken possession by the railway authorities. When things are lying in a carriage or on the platform they are not in the possession of the railway authorities. At that stage somebody may pilfer them. The inclusion of these words will not in any way complicate the position, rather it would clarify the responsibility of this Force in regard to such properties.

Shri Pattabhi Raman (Kumbakonam): I think clause 11(b) says

"It shall be the duty of every superior officer and member of the Force to protect and safeguard railway property."

'Railway property' has been defined as:

"Railway property includes any goods, money or valuable security, or animal belonging to, or in the charge or possession of, a railway administration."

[Shri Pattabhi Raman]

So, the goods with the passenger will not come in. I beg to submit that this amendment is, therefore, well worth considering.

Shri Shahnawas Khan: Anything which is not in the charge of the Railways cannot be railway property. If a thing is lying on railway premises there are other staff to look after it. The whole of the station staff is there and then there is also the Government Railway Police. The Railway Protection Force will not replace the Government Railway Police, whose responsibility it is to maintain law and order and deal with such cases. That Police will also continue to remain at railway stations and this will, therefore, be more a part of their job.

Shri A. C. Guha: Are we to understand that when a property left by a passenger on the platform or waiting room is being stolen by somebody the Railway Protection Force will not interfere?

Pandit Thakur Das Bhargava: They may themselves take possession of it and go away with it.

Shri A. C. Guha: I would again request the Railway Minister to accept this amendment as this will not make the position worse and it will only clarify the position.

Shri Jagjivan Ram: It may not make the position worse but it may create certain complications. I am not able to understand what properties the hon. Members are thinking of except lost properties. The instances that have been quoted relate to properties lost and we have an establishment in the Railways to take care of such properties. This is primarily intended to give protection to railway properties from mischief makers. That is the whole intention of this Bill. I do not think it will come in conflict with the railway staff or create any complications.

Mr. Chairman: I shall now put amendments numbers 19, 20, 21 and 22 to the vote of the House.

The question is:

Page 1, line 9,—

after "Railway" insert "Property"

The motion was negatived.

Mr. Chairman: The question is:

Page 1, line 17,—

after "includes" insert "engine vehicles, truck machinery,"

The motion was negatived.

Mr. Chairman: The question is:

Page 1, line 18,—

after "animal" insert "or other property".

The motion was negatived.

Mr. Chairman: The question is:

Page 1, line 19,—

add at the end—"or lying on railway premises".

The motion was negatived.

Mr. Chairman: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clause 3

Mr. Chairman: There is only one amendment, amendment No. 23 to clause 3 standing in the name of Pandit Thakur Das Bhargava.

Pandit Thakur Das Bhargava: As the House has already taken a decision on my previous amendments and has not agreed to include the word "property" before the word "protection", this amendment cannot be moved.

Mr. Chairman: The question is:

"That clause 3 stand part of the Bill."

The motion was adopted.

Clause 3 was added to the Bill

Clause 4

Mr. Chairman: There are two amendments to clause 4.

Shri Vajpayee (Balrampur): I beg to move:

Page 2, line 13,—

for "may" substitute "shall"

Mr. Chairman: The question is

Page 2, line 13,—

for "may" substitute "shall"

The motion was negatived

Mr. Chairman: The question is:

"That clause 4 stand part of the Bill"

The motion was negatived

Clause 4 was added to the Bill

16 hrs.

Clause 5

Shri A. C. Guha: I have two amendments to this clause.

Sir, I beg to move:—

Page 2, lines 29 to 31,—

(i) for "Head Rakshak" substitute "Head Constable"

(ii) for "Senior Rakshak" substitute "Senior Constable"

(iii) for "Rakshak" substitute "Constable".

Page 2,—

(i) in line 29 for "Head" substitute "Pradhan"

(ii) in line 30 for "Senior" substitute "Upa-Pradhan".

My suggestion is that either make them all English or all Hindi. I suggest that you either make it "Pradhan" or "Upa-Pradhan" or make it all English. I do not like that this hybrid language should be retained in our statute book.

Shri Shah nawas Khan: We are all advancing in that direction when all the definitions and all the names will be in Hindi; we have made a start in this direction.

Shri A. C. Guha: I think the words may be in English or the proper Hindi words may be available.

Shri Jagjivan Ram: There is no difference between 'Head' and 'Mukhya'.

Shri A. C. Guha: They begin at the tail and not at the head. But if the hon. Minister does not like to accept my amendment, I do not press it.

Shri Vajpayee: Sir, I move:

Page 2,—

for lines 25 to 27, substitute—

"(i) Nireekshak,

(ii) Upa-Nireekshak,

(iii) Sahayak Upa-Nireekshak."

Page 2,—

(i) line 29, for "Head" substitute "Pradhan", and

(ii) line 30, for "Senior" substitute "Mukhya"

श्री वाजपेयी। इस धारा में अंग्रेजी और हिन्दी दोनों के शब्दों का समावेश करके जो खिचड़ी पकायी गई है उसको हटाने के लिये मैंने ये सुझाव प्रस्तुत किये हैं। इन्स्पेक्टर के स्थान पर निरीक्षक और सब-इन्स्पेक्टर के स्थान पर उपनिरीक्षक, तथा असिस्टेंट सब-इन्स्पेक्टर के स्थान पर सहायक उपनिरीक्षक होना चाहिये।

इस धारा की उपधारा बी० में हिन्दी का शब्द रक्षक तो लगाया गया है मगर उस रक्षक के स्थान पर अंग्रेजी बैठा दी गई है और उसे हटाने का प्रयत्न नहीं किया गया है। वही दबा नीचे सीनियर रक्षक की भी है। इसके सम्बन्ध में मेरा निवेदन यह है कि "हैड रक्षक" के स्थान पर "प्रधान रक्षक" होना चाहिये और "सीनियर रक्षक" के स्थान पर "मुख्य रक्षक"

श्री जगजीवन राम : "मुक्ता" और "प्रधान" में क्या फर्क है।

श्री साध्वी, यदि हम हिन्दी को ला रहे हैं तो हिन्दी का स्वरूप विकृत न करें। हुंड रखक कोई बज नहीं हो सकती। यदि प्रमैज का मोहू धम बाक है तो हम सीधे सीधे प्रमैज रखे जी। यदि हिन्दी का प्रेम प्रकट करना चाहते हैं तो उसे बखुद रति से लायें। खिचड़ पकाने से काम नहीं चलेंगा।

Shri A. C. Guha: The idea in Head Rakshak is to protect the head.

Shri Jagjivan Ram: We do not accept them

Pandit Thakur Das Bhargava: After all the reason advanced by the hon Member is very nice and very sound Can't we find a suffix for 'head'?

Shri Jagjivan Ram: The hon Member has not followed. He has created more complications

Pandit Thakur Das Bhargava: Even if hon Member has not found suitable Hindi words, I suggest that we may have anything but not the hybrid "Head Rakshak"

Mr. Chairman: Anyhow, I understand that the hon Minister is not accepting any of the amendments. Shall I take it that Nos 1 and 2 are not pressed?

The amendments were, by leave withdrawn

Shri A. C. Guha: That is so

Mr. Chairman: Then I shall take up amendments Nos 26 and 27

Mr. Chairman: The question is:

Page 2,—

for lines 25 to 27, substitute—

"(i) Nireekshak,

(ii) Upa-Nireekshak,

(iii) Sahayak Upa-Nireekshak".

The motion was negatived

Mr. Chairman: The question is:

Page 2,—

(i) line 29, for "Head" substitute "Pradhan", and

(ii) line 30, for "Senior" substitute "Mukhya"

The motion was negatived.

Mr. Chairman: The question is:

"That clause 5 stand part of the Bill"

The motion was adopted.

Clause 5 was added to the Bill

Clause 6.

Shri A. C. Guha: Sir, I beg to move

Page 2, line 34,—

add at the end—

"and on the recommendation of a Service Commission constituted by the Central Government with non-departmental persons".

Clause 6 says: "The appointment of members of the Force shall rest with the Chief Security Officers who shall exercise that power in accordance with rules made under this Act".

That means that the Chief Security Officer will appoint the men. There will be 6 or 7 Security Officers, one for each zone and they will select nearly about 35,000 men comprising of inspectors, sub-inspectors, assistant sub-inspectors and three categories of Rakshaks. I think this is giving wide powers to some individual officer. The hon Minister may say that he will put some limitation under the rules to be framed, but I think there should be some statutory provision, because the rules can be changed; today this Minister may frame one rule and tomorrow there may be another Minister who may be framing another set of rules. I think there should be some statutory provision to check the whims and caprices of these officers.

Very recently we have seen in one organization there were two posts, each carrying Rs 1,300 to 1,600 as salary. They proposed that the two posts should be amalgamated into a post carrying a pay of Rs 1,600 to Rs. 2,000. They did not advertise the post, they selected the man from amongst themselves through a Committee of the Department and then after a few months they created another post and in about a year they created yet another post.

Shri Jagjivan Ram: In this Department?

Shri A. C. Guha: No. In another department. They may do like that here also. Therefore I suggest that there should be some statutory provision and limitation on the powers of this appointing authority.

I can understand the difficulty of the hon. Minister, that technically the authority of appointment should rest with the Chief Security Officer because in case of giving any punishment such as dismissal or suspension etc., every time they cannot go to the Service Commission. That has to be done through the appointing officer of the Department. So, technically this thing may remain, but I would like to add that he shall exercise that power in accordance with the rules made under this Act, and on the recommendation of a Service Commission, constituted by the Central Government with non-departmental persons.

Even if the hon. Minister does not feel his way to accept my amendment, I suggest that the spirit of this should be retained. In the Railway department, class III posts are appointed by Service Commissions and, I think class IV posts are also appointed through some Committees. Why should not have a provision in the statute itself to that effect?

The hon. Minister at least gave me an indication that he would accept something like this and I gave notice of another amendment which would read like this: "The appointment of

members of the Force shall be made in accordance with the rules made under this Act," but to this the difficulty will arise in the case of giving any punishment to those men. That is why I have now moved my original amendment No. 3.

Mr. Chairman: I think the latter one is the amendment he moves.

Shri A. C. Guha: I am not moving that amendment. I am told there is some technical difficulty for the department accepting that amendment, I gave notice of it after consulting the hon. Minister, but I appreciate there may be some difficulty. So, I do not like to press that, but if the hon. Minister feels that he can accept that amendment, I have no objection.

Pandit Thakur Das Bhargava: I support the amendment moved by Mr. Guha. I understand the reason given by the hon. Minister when he made the reply is that article 311 of the Constitution is there. It lays down that the appointing authority only can be the dismissing authority. That was a very good rule that we adopted, but now efforts are being made to circumvent that provision of the Constitution in some ways which are not free from doubt.

I do not want to place any difficulty in the way of the Government, but I would rather agree with the amendment moved by Mr. Guha. As a matter of fact, it does not expose the department to the difficulty of contravening article 311. Every hon. Member who has taken part in the debate has submitted that the manner in which recruitment has to be made is not given in this Bill. Also, other criticisms have been made, some of which have really been met by the hon. Minister pointing out that the method of recruitment is one which is quite satisfactory. For instance, he has said that higher officers will be appointed by the UPSC. So far as inspectors are concerned, they will be appointed by the Railway Service Commissions. So far it is quite satisfactory, but at the same time, it must

[Pandit Thakur Das Bhargava]

be put in the statute itself and not left to the him and fancy of individual officers. If Mr. Guha's amendment is accepted, that will be much more satisfactory. I think it is a very modest demand and must be accepted.

Shri Jagjivan Ram: As a matter of fact, all the appointments on the railways are made either by the U.P.S.C. or by the Railway Service Commissions, except Class IV staff. This force being part of the railway establishment, it will be governed in matters of recruitment by the procedure by which the railways are governed. Here also, the superior officers will be appointed through the U.P.S.C. and Class III staff will be appointed through the Railway Service Commission.

The amendment of Mr. Guha proposes that appointments should be made on the recommendation of a Service Commission on which officials will not be represented; I think it goes too much and I cannot accept that amendment. I give this assurance that recruitment to Class III posts will be made on the recommendation of the Railway Service Commission and that can be taken care of even under the existing clause of the Bill, "the appointment of members of the Force shall rest with the Chief Protection Officers who shall exercise that power in accordance with rules made under this Act". We will see that the rules that we frame under the Act are more or less on the lines suggested here, namely, that the appointment of Class III staff in the Railway Protection Force will be made on the advice of Service Commissions.

As regards the recruitment of Rakshaks, I will see if it is feasible to have some committee for that purpose. I cannot make any categorical statement at this stage regarding that, but if feasible, I will try to have some committee for the recruitment of the Rakshaks.

Shri A. C. Guha: In view of the assurance given, I do not like to press my amendment. I will withdraw it.

The amendment was, by leave, withdrawn.

Shri Naushir Bharucha: Amendments 28 and 29 also relate to clause 6. They must be either withdrawn or negatived or disposed of somehow.

Mr. Chairman: They have not been moved at all. I will put the main clause.

The question is:

"That clause 6 stand part of the Bill".

The motion was adopted.

Clause 6 was added to the Bill.

Clause 7—(Certificates to members of the Force)

Shri A. C. Guha: I have amendment No. 4. I want some clarification and I cannot do so without moving the amendment.

Mr. Chairman: Even without moving the amendment, he can ask for the clarification.

Shri A. C. Guha: The hon. Minister said that in the police force also, every constable is carrying a certificate. I was not sure of the position; my information was that there was nothing like that. If he can give me the assurance that the practice in the police force also is the same, I have no objection to the members of the force carrying a certificate. Then, I do not know why the superior officers should be exempted from this privilege or obligation, whatever it may be. I think they will also function in the same manner and they also may be challenged. So, it is better that they also should carry a certificate. I do not know whether it is a privilege or an obligation, but what is the idea in exempting the superior officers from this? Of course, I can understand the Inspector General of Police being exempted, because he will not be so much in the field and I do not like to drag his name in this list. But the other superior officers should not be exempted from this.

Mr. Chairman: I think the other amendments are not moved.

Shri Jagjivan Ram: I do not think there can be any objection to certificates being issued to the staff. At times it may be helpful. Of course, we have provided that they will be deemed to be on duty all the 24 hours, but we do not expect that they will be in the uniform all the 24 hours. It may be that at a particular time he may be walking near about the train...

Shri A. C. Guha: It is equally true for the superior officers also.

Shri Jagjivan Ram: If my friend, Mr. Guha, feels that there is some kind of discrimination, unless that is his feeling, there is not much force in his argument. The superior officers receive their appointment letter too.

Pandit Thakur Das Bhargava: If he is a gazetted officer, he is known all over and there is no need to carry a certificate.

Shri Jagjivan Ram: It is something more or less in the nature of an appointment letter. I do not think there should be any objection to the superior or gazetted officers not keeping a certificate.

Mr. Chairman: No amendment has been moved to this clause.

The question is:

"That clause 7 stand part of the Bill".

The motion was adopted.

Clause 7 was added to the Bill.

Clause 8

Shri A. C. Guha: I move amendments Nos 5, 6 and 7. I beg to move:

Page 3, lines 12 and 13, omit—

"The superintendence of the Force shall vest in the Central Government, and subject thereto."

Page 8, line 15, add at the end—

"and with the help of the Chief Security Officers of different Railways."

Page 3, for lines 17 to 22 substitute—

"(2) Subject to the above, the General Manager of the Railway

will have supervisory authority over the Force within his jurisdiction."

I think the wording of clause 8 is somewhat clumsy and there may be occasions of overlapping and conflicting authorities. The superintendence of the Force shall rest in the Central Government; I do not think that requires any restatement in this Bill. Because the force is created by the Central Government, it will be under the control of the Central Government and naturally, the superintendence of the Force shall vest in the Central Government. Then, it is said:

" subject thereto the administration of the Force shall vest in the Inspector-General and shall be carried on by him in accordance with the provisions of this Act and of any rules made thereunder.

In sub-clause (2) it is said:

"Subject to the provisions of sub-section (1) the administration of the Force within such local limits in relation to a railway as may be prescribed shall be carried on by the Chief Protection Officer in accordance with the provisions of this Act and of any rules made thereunder, and in the discharge of his functions he shall be guided by such directions as the General Manager of the Railway may issue in this behalf "

There will be four authorities, who will exercise some control over this. I think this may create some difficulties and so I have moved some amendments which the hon. Minister may consider.

If the hon. Minister is working here on the idea that any amendment accepted in this House would mean that the Bill will have to be taken to the other House and so, no amendment should be accepted, it is no use arguing. I think the hon. Minister should not have any such mental reservation. The Bill has come to this House and he should examine the amendments with an open mind and open to conviction.

Shri Jagjivan Ram: I would like to make it clear that I am not working with that intention. If I will be convinced of the suitability of any amendment, I will be prepared to accept that. As the hon. Member Shri A. C. Guha is arguing, I do not know what difficulty he is labouring under. What are the authorities that you find here? Four authorities: the Central Government, the Inspector-General, Chief Security Officer and the General Manager. Is it too much? The general superintendence of the Central Government should be there. The Inspector-General will be in overall administrative control of the Forces of the different Railways. Then, we will have one officer for each Railway, who will be under the superintendence of the General Manager of the Railway concerned. I do not think there is multiplicity of authority involved in this case, though I do concede that, perhaps, it may have been improved upon, but not in substance. I do not think there is much force in his amendments which requires to be accepted. We cannot cut out the Central Government; we cannot cut out the Inspector-General. The general superintendence of the General Manager will have to be retained to some extent. Then, the actual man to administer on the particular Railway will be the Chief Protection Officer. These are the authorities we have provided. I do not think there are too many. In any administrative machinery, you will find the same thing. Take the State Police Forces. The State Government is there, the Inspector General is there, then the D.I.G., the Superintendent and all these people.

श्री बाबूजी समापति महोदय, इन धारा ८ के अनुबन्ध १ और २ के बारे में मुझे यह कहना है कि जैसा कि बृह साहब ने कहा है कि इस क्वॉर्टर का जो निवर्तन करने उनकी पदस्थापना के सम्बन्ध में कुछ विरोधाभास है। अनुबन्ध में १ में कहा गया है।

The superintendence of the Force shall vest in the Central

Government, and subject thereto the administration of the Force shall vest in the Inspector General

अनुबन्ध २ में कहा गया है:

"the administration of the Force within such local limits in relation to a railway as may be prescribed shall be carried on by the Chief Security Officer—"

इसमें जो अस्पष्टता है उसके निराकरण के लिये मैंने यह सल्लोचन प्रस्तुत किया है कि धारा ८ के अनुबन्ध २ में चीफ सिक्योरिटी आफिसर के स्थान पर यदि हम ये शब्द जोड़ दें।

"such superior officer as the Inspector General of the Force may specify in this behalf and"

तो जो प्राप्ति है उसका निराकरण हो जाएगा और कोई बठिनाई उत्पन्न न होगी।

श्री जगजीवन राम यदि माननीय सदस्य के सल्लोचन को मान लिया गया तो मुझे भय है कि मामला कुछ गोलमाल हो जाएगा। इन समय मामला बहुत साफ है। जो चीफ सिक्योरिटी आफिसर है वह किसी एक रेलवे पर प्रबान आफिसर होगा इन फॉर्म के अनुबन्ध में अगर आपका सल्लोच मान लिया जाए तो मामला गोलमाल हो जाएगा और एंवा करने में कोई फायदा नहीं है।

Mr. Chairman: Shall I put amendments 5, 6 and 7 to the House?

Shri A. C. Guha: I would like to withdraw. If you like, you may put.

Mr. Chairman: I shall put amendments 5, 6 and 7.

The question is

Page 3, lines, 12 and 13, omit—

"The superintendence of the Force shall vest in the Central Government, and subject thereto."

The motion was negatived.

Mr. Chairman: The question is:

Page 3, line 16,—
add at the end—

"and with the help of the Chief Security Officers of different Railways."

The motion was negatived.

Mr. Chairman: The question is:

Page 3,—
for lines 17 to 22 substitute—

"(2) Subject to the above, the General Manager of the Railway will have supervisory authority over the Force within his jurisdiction."

The motion was negatived

Shri Vajpayee: I do not press amendment No. 31.

Mr. Chairman: I shall now put clause 8 to the House.

The question is:

"That clause 8 stand part of the Bill.

The motion was adopted.

Clause 8 was added to the Bill.

Clause 9.—(Dismissal, removal, etc. of members of the Force)

Shri A. C. Guha: I am not moving amendments 8 and 9.

Mr. Chairman: Nor 10 and 11.

Pandit Thakur Das Bhargava: I beg to move:

Page 3, for lines 26 to 28, substitute—

"(i) dismiss, suspend or reduce in rank any member of the Force whom he shall think remiss or negligent in the discharge of his duty;"

"(1) (a) dismiss any member of the Force whom he shall unfit for the same."

Page 3, lines 31 and 32, omit—

"or who by any act of his own renders himself unfit for the discharge thereof."

Mr. Chairman: So, only two amendments.

Pandit Thakur Das Bhargava: The words are:

"(i) dismiss, suspend or reduce in rank any member of the Force whom he shall think remiss or negligent in the discharge of his duty, or unfit for the same;"

My submission is, if a person is unfit for a particular post, either because he is physically unfit or mentally unfit, or he has lost his head, etc., in that contingency, no question of suspending or reducing in rank comes in. He ought to be dismissed. There is no occasion for putting a premium on unfitness or inefficiency. I submit that the words 'unfit for the same' should be taken away from here. This is not only useless, but it shows that we have not given full thought to the subject. If a person is unfit, he ought not to be kept. I agree that the officers may be given powers to give these punishments to the members of the Force. At the same time, if a person has disabled himself or rendered himself unfit for the discharge of his duty, the first thing is, he should be dismissed and he may also be punished. I can understand that. But, when a person is unfit, we cannot allow him to be reduced in rank or to be suspended. I give an example now. If a person is corrupt, what does the present Government do? Send him to another place in the district when he may have his propensities fully satisfied and go on taking bribes. He is only transferred or reduced in rank. The person is unfit, takes bribes, is not of sound mind. Will you keep him or reduce him? If a person is unfit, he ought to be told that he will be dismissed. Forthwith he should be dismissed. I cannot understand the meaning of the words here. If a person is unfit, physically or mentally, the only course is

[Pandit Thakur Das Bhargava]

to discharge him or dismiss him I cannot understand how this clause is framed I, therefore, submit that this clause should be amended

Mr. Chairman: I think there is some printing mistake It is not for lines 26—28, but for lines 23 to 25 Am I correct? That is, the question of dismissal, suspension comes under sub-clause (1) Lines 26 to 28 relate to something else

Pandit Thakur Das Bhargava: Lines 26 to 28 is correct

Mr. Chairman I want you to verify

Shri Basappa: Obviously

Pandit Thakur Das Bhargava. My amendment is clear

Mr. Chairman: Dismissal has been dealt with in the Bill by clause 9 sub-clause (1)

Mr. Chairman: That is the dismissal clause

Pandit Thakur Das Bhargava: The dismissal clause is in lines 26 to 28 The words are "is unfit or the same" This is in line 28 And similarly in line 31 also, the words are there "unfit for the discharge " This is all right

Mr. Chairman: We are dealing with clause 9 Sub-clause (1)(1) reads

"dismiss, suspend or reduce in rank "

and sub clause (1)(ii) reads

"Award any one or more of the following punishments "

Pandit Thakur Das Bhargava: Then further on

Shri Jagjivan Ram: If I say a few words, his difficulty may be solved

I was going to suggest that I do not find any incongruity in the clause as it stands at present The difficulty of my friend is that he thinks that if a person is unfit for the discharge of his duties, he should be given no other punishment except dismissal That is

the difficulty he is labouring under. He perhaps forgets that it covers officers under different ranks. A person may be unfit for discharging the duties of an Inspector, but may be quite suitable to discharge the duties of a Sub-Inspector So, the capital punishment of dismissal should not be awarded He may be reduced

Pandit Thakur Das Bhargava: Suppose he is not fit even for being a Rakshak

Shri Jagjivan Ram: Then he may be dismissed The provision is there already

Pandit Thakur Das Bhargava: If he is unfit, why do you keep him? How can he be suspended?

Shri Jagjivan Ram: If he is found to be unfit, why should he be reduced or suspended? He will be dismissed

Pandit Thakur Das Bhargava: If he is not of sound mind, you will go on keeping him for any post?

Shri Jagjivan Ram: Obviously he will be dismissed

Mr. Chairman. The question is

Page 3,—

for lines 26 to 28 substitute—

"(1) dismiss, suspend or reduce in rank any member of the Force whom he shall think remiss or negligent in the discharge of his duty,"

"(1) (a) dismiss any member of the Force whom he shall think unfit for the same"

The motion was negatived.

Mr. Chairman: The question is:

Page 3, lines 31 and 32, omit—

"or who by any act of his own renders himself unfit for the discharge thereof"

The motion was negatived.

Mr. Chairman: The question is:

"That clause 9 stand part of the Bill."

The motion was adopted.

Clause 9 was added to the Bill.

Clause 10 was added to the Bill.

Clause 11.— (Duties of members of the Force)

Shri Vajpayee: I beg to move:

Page 4, omit lines 17 and 18.

समापति मद्दीय, इस विधेयक की धारा ११ में अधिकारियों के कर्तव्यों का निर्देश किया गया है। यह स्पष्ट है यह निर्देश निश्चित और स्पष्ट होना चाहिए। जहाँ तक इसके उपधारा अ और ब का सम्बन्ध है, मुझे उनके सम्बन्ध में कोई आपत्ति नहीं है। परन्तु उसकी उपधारा डी की जो शब्दावली रखी गई है वह नितान्त अस्पष्ट है और उसके अन्तर्गत इस धरती और आसमान के बीच में जो कुछ भी है वह सब का सब इसके अन्तर्गत समाविष्ट हो सकता है। उपधारा 'डी' की शब्दावली इस प्रकार है;

"To do any other act conducive to the better protection and security of railway property"

जब अधिकारियों के कर्तव्यों का निर्देश कर रहे हैं तो वह स्पष्ट होने चाहिये और शब्दावली निश्चित होनी चाहिए जिससे कि उसका दुरुपयोग न किया जा सके। मैं समझता हूँ कि प्रस्तावित विधेयक जिस अल्पराजी में उसकी रचना की गई है, उसका यह एक उदाहरण है और इसकी अगर इस विधेयक में से निकाल दिया जाय तो बहुत अच्छा होगा।

16.34 hrs.

[MR. SPEAKER in the Chair]

Mr. Speaker: Any reply to this?

Shri Shahnawaz Khan: I do not think it is necessary.

Mr. Speaker: The question is:

Page 4,—

omit lines 17 and 18.

The motion was negatived.

Mr. Speaker: The question is:

"That Clause 11 stand part of the Bill"

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12.— (Power to arrest without warrant)

Shri A. C. Guha: I beg to move

Page 4, line 21, before "any person" insert "within railway limits"

Page 4, line 26, after "within railway limits" insert "or found running away from railway limits".

Pandit Thakur Das Bhargava: I beg to move:

Page 4, line 24, for "or" substitute "and"

Page 4, line 25, before "any person" insert—

"Any superior officer or member of the Force above the rank of a Rakshak may without an order from a magistrate and without a warrant of arrest."

Shri A. C. Guha: I am not so much interested in amendment 12, that is for the hon. Minister, if he can accept it, I think it may improve his position, but as for amendment 11, I do not think the House should agree to the wide power given in clause 12(a).

"Any superior officer or member of the Force"—that means even a Rakshak can arrest without warrant any person who has been concerned in an offence relating to railway property punishable with imprisonment for a term exceeding six months, or

[Shri A. C. Guha]

against whom a reasonable suspicion exists of his having been so concerned. A Rakshak can arrest any person anywhere. So, I want to limit their authority to within the railway limits as has been done in sub-clause (b). Why that limitation of within the railway limits has been omitted in sub-clause (a) I cannot understand. I think this limitation will be all the more necessary here. So, I hope he will accept this amendment of mine.

Of course, in clause 13 they have wider powers, I do not mind that, but I humbly request the hon. Minister to accept this amendment to put a limitation on the authority of the Rakshak or the Class IV staff to arrest any person anywhere.

QUESTION OF PRIVILEGE

Mr. Speaker: May I interrupt the proceedings of the House for a time?

A serious breach of privileges of the House occurred this morning, when a person by the name of Mr. Majumdar took the oath as a member of this House. His name was not in Secretary's list and when the Secretary pointed it out to him, he replied that he had been elected a member and that a Member of Parliament, Mr. Khuda Baksh, knew him. He then immediately proceeded to shake hands with the Chair and signed the Roll of Members. Immediately an enquiry was made whether in fact he was a member and whether an intimation had been received from the Returning Officer. Meanwhile, on further questioning the person concerned, it appeared that he was mentally not sound. An enquiry was also made from Mr. Khuda Baksh, who confirmed about his mental state and said that although Mr. Majumdar had contested the election he had lost it. A further enquiry was made by the Watch and Ward Officer in the matter and that report also confirms the same conclusion. In view of this, the name of Mr. Majumdar may be expunged

from the list of members who have taken oath this morning and also his signature may be expunged from the Roll of Members.

The action of Mr. Majumdar is a serious affront to the dignity of the House and constitutes a contempt.

I suggest that the House may take cognizance of the matter and take such further action as it deems fit.

The Prime Minister and Minister of External Affairs (Shri Jawaharlal Nehru): Mr Speaker, as you have rightly said, this is a serious matter involving a contempt of this House. With your permission, I would beg to move the following motion for adoption by this House:

"This House is of opinion that Shri Majumdar who posed as an elected Member of this House and took oath and signed the Roll of Members this morning has committed contempt of this House and the Speaker is authorised to send him to a Medical Board for examination of his mental state and to take such further action as the Speaker may think fit on receipt of the report of the Medical Board."

Shri S. N. Dwivedy (Kendrapara): What is his full name? Is it only 'Shri Majumdar'?

Shri Mohamed Imam (Chitadrug): Has he given his genuine name, or any other assumed name?

Shri Jawaharlal Nehru: May I suggest an amendment to this? It may be said:

"that a person who gave his name as Birendra Kumar Majumdar."

That will be more proper.

Shri Jaipal Singh (Ranchi West—Reserved—Sch. Tribes): The words 'and who has signed as such' may be added.