

The motion was adopted.

Clause 2 and the Schedule were added to the Bill.

Clause 1, the Title and the Enacting Formula were added to the Bill.

SHRI C. C. BISWAS: Sir, I move:

"That the Bill be passed."

MR. DEPUTY CHAIRMAN: The question is:

"That the Bill be passed."

The motion was adopted.

THE RAILWAY STORES (UNLAWFUL POSSESSION) BILL, 1954

THE DEPUTY MINISTER FOR RAILWAYS AND TRANSPORT (SHRI O. V. ALAGESAN): Sir, I beg to move:

"That the following amendments made by the Lok Sabha in the Railway Stores (Unlawful Possession) Bill, 1954 be taken into consideration:—

Enacting Formula

1. Page 1, line 1, for 'Fifth' substitute 'Sixth'.

Clause 1

2. Page 1, line 4, for '1954' substitute '1955'.

Clause 2

3. Page 1, for clause 2, substitute—

'2. *Definition*.—In this Act, "railway stores" means any article,—

(a) which is the property of any railway administration; and

(b) which is used or intended to be used in the construction, operation or maintenance of a railway.'

Clause 3

4. Page 1, for clause 3, substitute—

'3. *Unlawful possession of vail-way stores*.—If any person is found, or is proved to have been, in possession of any article of railway stores reasonably suspected of being stolen or unlawfully obtained, and cannot account satisfactorily how he came by the same, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.'

Sir, the House will recall the la it occasion on which it had discussed this Bill thoroughly and gave its consent. It was in fact intended to replace the Railway Stores Unlawful Possession Ordinance of 1944 which is still valid.

SHRI J. S. BISHT (Uttar Pradesh): On a point of order. May I draw attention to the agenda for today? The item set out as the second after the Prevention of Corruption (Amendment) Bill is the Manipur (Courts) Bill and then the River Boards Bill.

MR. DEPUTY CHAIRMAN: The consideration of any business left over is also there. These come in only after the previous list is exhausted.

SHRI O. V. ALAGESAN: The other object of the Bill was to make the provisions of that legislation applicable throughout the Union. After a full discussion, this House consented to the measure. Then when this was taken to the Lok Sabha, there also it received a large measure of support but some hon. Members of that House expressed some genuine doubts and fears. They pleaded that the definition is rather too wide and also, the burden of proof on the accused is a little too much.

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In order to meet these genuine apprehensions, I undertook to go to the Select Committee in which the Bill was amended to a certain extent. The objections raised on the floor of

[Shri O. V. Alagesan.]

the other House were sought to be met and certain important changes have been made by the Select Committee. Then the Bill as it emerged from the Select Committee was placed before the other House and received its approval.

Sir, here I shall briefly explain the amendments that I seek to introduce in the measure as it was passed by this honourable House.

As far as the definition goes, it has been made more clear. In the previous Bill, if a person was in possession of any article of railway stores and if the court sees reasonable grounds for believing such article to be or to have been the property of any Railway Administration, the court could punish the person, unless, of course, he proved that he came into possession of that article lawfully. But here, in this Bill the definition has been made more tight. Also the amendment relating to clause 3 provides that the prosecution should also prove that the property is reasonably suspected of being stolen or unlawfully obtained. Formerly this additional responsibility was not there on the prosecution. Now, if a conviction is to arise out of this measure, the prosecution will have to definitely establish three things. First, that the property is the property of the Railway Administration, second, that the accused was in possession of such property, and third, that the property is reasonably suspected of being stolen or unlawfully obtained. This improves this measure, if I may say so, from the point of view of the accused and satisfied even those hon. Members of the other House who raised objection to it in its previous form.

I hope, Sir, since the measure has been fully discussed on the floor of this House on the prior occasion, the House will agree to this motion.

Sir, I move.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the following amendments made by the Lok Sabha in the Railway Stores (Unlawful Possession) Bill, 1954 be taken into consideration:—

Enacting Formula

1. Page 1, line 1, for 'Fifth' substitute 'Sixth'.

Clause 1

2. Page 1, line 4, for '1954' substitute '1955'.

Clause 2

3. Page 1, for clause 2, substitute—

"2. Definition.—In this Act, "railway stores" means any article,—

(a) which is the property of any railway administration; and

(b) which is used or intended to be used in the construction, operation or maintenance of a railway."

Clause 3

4. Page 1, for clause 3, substitute—

"3. Unlawful possession of railway stores.—If any person is found, or is proved to have been, in possession of any article of railway stores reasonably suspected of being stolen or unlawfully obtained, and cannot account satisfactorily how he came by the same, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both."

SHRI H. C. MATHUR (Rajasthan): Mr. Deputy Chairman, I welcome the improvement which has been effected in clause 3 of this Bill. When the Bill was discussed, we were very much definitely of the opinion that it was not a correct thing to throw the burden of proof from the prosecution to

the accused, and we very strongly resented that type of an enactment. But I am glad that a little improvement has now been made in this respect. Though it is not as satisfactory as it should be, under the very abnormal conditions which are obtaining in matters of railway thefts we would, for some time, permit the authorities to have an enactment which will enable them to combat this evil in an effective manner.

In this connection, however, I would further like to invite your attention. Sir, to the observations made by the Railway Enquiry Committee on this particular issue. They had observed:

"During the course of our tours, we received evidence to the effect that systematic thefts of Railway property were taking place quite often in collusion with the staff or by the staff themselves. To get some idea of the magnitude of such thefts, we asked the Railway administration to furnish us data regarding the thefts detected during the last three financial years."

And then they have given certain facts and certain figures which confirm this observation. And in conclusion, they have said:

"That Railway property should continue to be stolen day in and day out, in spite of such an elaborate machinery of Watch and Ward, the Government Railway Police and the Anti-Corruption Department, is itself an indication that these departments are most ineffective in preventing crime on the Railways. The steps to be taken for purifying and strengthening these departments have already been discussed."

Sir, this is a very important observation made by the Railway Corruption Enquiry Committee and it is one based on a very thorough investigation by persons who were inspired by nationalist motives and who were very keen to help the Railway administration and very keen in purifying the Railway administration and they have

also suggested ways and methods for helping the administration.

As I said, we have no hesitation to support the present proposal, though as I said, I do not agree at all in principle to the change which is involved, of course to a lesser extent now, in the amendment made by the Lok Sabha, and though we do not subscribe to the change in principle, yet we will support it, because of the special circumstances obtaining at the present moment. But while giving that support under the special circumstances, I wish the Railway administration pays proper attention to the recommendations made by the Railway Corruption Enquiry Committee in this particular respect. It is mostly the railway employees who are unfortunately at it. The facts and figures prove it. So I wish the Railway administration gets more vigilant about it.

Sir, you will remember that I asked the other day a question on the floor of this House, of the hon. the Railway Minister about gazetted officers of the Northern Railways against whom cases of corruption were pending.

The Deputy Minister for Railways told me that he knew of only one case and I had to shut my mouth against all further supplementaries. I did, however, mention here that even I myself knew of another two cases which were already under investigation for a number of months. I mention this case because in one instance property of the railways was involved. It was found to be in the possession of not a lesser grade officer but in the possession of a gazetted officer. How very unfortunate it is that even when a number of gazetted officers, two or three, are involved, this information is not known to the Ministry or the Railway Board. Even when a question is specifically tabled in this House, such matters continue not to come to their notice. This is a very alarming sort of situation and that is not the sort of administrative control and vigilance which will put down the

TS. H. C. Mathur.] theft of railway materials. If the gazetted officers are permitted to go on like this, even when railway property is found in their possession, that is a most remarkable state of affairs and that is why I wish to emphasise that it is most essential that as suggested by this Committee, strict action should be taken on the administrative side so that we will be able to get over this unfortunate type of evil which is prevalent so much on the railways.

SHRI KISHEN CHAND (Hyderabad) : Sir, I support this Bill. It had been pointed out when this Bill came up in this House not only by the Opposition Members but by almost all the speakers on the Congress Benches, that we should not condemn a person as guilty without proving him to be guilty. The burden of proof should not lie on the poor man who is supposed to have stolen the article. In spite of that, the hon. Minister did not consider it and the Bill was passed by a majority. I think, Sir, that when Bills of this type come where there is no question of party politics, the hon. Minister should give the fullest opportunity to all the hon. Members and they should be given every opportunity to move amendments and the Government should accept the amendments. It so happened that such an obvious mistake was committed by us and when it went to the other House, it had to be rectified resulting in the Bill coming back to us. We did a wrong thing here. Putting the burden of proof on the accused is most unfair. I am very glad that it has been rectified to some extent. Now I want to find one or two things from the hon. Minister. For instance, it is said, " 'railway stores' includes any article used or intended to be used in the construction, operation or maintenance of a railway". The word "operation" is used here; now, everybody knows that coal is used in the operation of the railways. If we go to any railway platform, we would find during the cold weather, small

lumps of coal being burnt by the porters. Will that be considered to be an unlawful possession of railway property because, after all, that coal is being burnt not for the maintenance and operation of the railways but for keeping the railway servants warm. Does it come under this definition? That way, there are so many other things which are all required in the maintenance of a railway and which are used in the house also. I am requesting the hon. Minister to redefine it for my information.

Clause 3 says, "If any person is found, or is proved to have been, in possession of any article or railway stores reasonably suspected of being stolen or unlawfully obtained, and cannot account satisfactorily how he came by the same, he shall be punishable.....". Supposing the article is no longer possessed by him. Take, for example, coal again. Supposing a man steals a lump of coal, brings it to his house and cooks his meals with that. It is burnt out and is no longer in his possession but it must have been in his possession. In such case, if circumstantial evidence of one or two people is produced that he must have stolen that lump of coal because he did not purchase any but, all the same, he had his meals cooked, what will happen? In such a case, will he be hauled up because it is reasonably suspected to be stolen property? That suspicion is also correct inasmuch as he has not purchased any coal but has, at the same time, cooked his food. How can that man prove that he is innocent? We must punish the man who is guilty, the man who has stolen railway property but the moment you put down the words, "used or intended to be used in the construction, operation and maintenance of a railway" from the smallest to the biggest things get included. The words "or is proved to have been" should be removed. If that is done, it will be all right. If it is found in his possession, he can be hauled up. Therefore, I support this Bill but I would like further clarification from the hon. Minister.

SHRI T. BODRA (Bihar): Mr. Deputy Chairman, I support this Bill even though the enactment of this law will not stop the theft of railway stores. Previously stolen property of the railways was dealt with under section 411 of the I.P.C. The first point is that the prosecution must prove that the property in question is the property of the railways. Unless the prosecution is able to prove this fact that the property in question is railway property, the other things cannot stand. Just as my hon. friend mentioned about coal, I can mention the case of bolts and nuts, kerosene, asbestos sheets, etc.,—all articles which are being used for the construction of railway stations and for which there is no special stamp or mark of identification. There is no indication on those goods and it becomes very difficult for the Government to prove that these goods belong to them. I may inform you that recently one M.L.A. in the District of Palamau in the State of Bihar detected a huge amount of bolts and nuts and that matter was reported to the Railway Ministry. The Railway Ministry sent its officers. So many officers went there and made enquiries but up till now the offender has not been brought to book, the reason being that the property which was found in his possession has not been proved to be the railway property. My point is that unless you have some special mark or label, especially on these iron goods like bolts and nuts, the whole purpose for which we are enacting measures here will be frustrated.

Secondly, Sir, it must be proved that it is stolen property. These things must be proved to the hilt and beyond all reasonable doubts. What actually happens is that the railway staff and the Government Railway Police are always at logger heads. The Government Railway Police is not co-operating with the railway staff and the railway staff is not co-operating with the Government Railway Police. Whenever there is any theft, it is in collusion either with the Gov-

ernment Railway Police or with the railway staff. Unless some action to ensure peaceful co-operation between the Government Railway Police and the railway staff is taken, I do not think this Bill will help us.

MR. DEPUTY CHAIRMAN: Mr. Alagesan.

SHRI KANHAIYALAL D. VAIDYA (Madhya Bharat): I want to speak for a minute or two, Sir. There has not been a single Member who has spoken from this side. Only Opposition Members have spoken.

MR. DEPUTY CHAIRMAN: We have only two minutes left, Mr. Vaidya.

SHRI O. V. ALAGESAN: The hon. member Mr. Mathur has extended his support to this measure. It is a very encouraging sign especially after the speech I heard that he made yesterday and the broadside that he opened against the Railway Ministry. I was going through the proceedings of the House on the last occasion. At that time he felt a little doubtful about the usefulness of this measure and he added whether this would be justified at all in the circumstances. I am glad that he has been convinced by the case made out by at least the Anti-corruption Enquiry Committee if not by the Railways. I have to thank him for the support he has extended.

One other point was made by my hon. friend, Mr. Kishen Chand, which, I think, has been effectively replied by the hon. Member who followed him. We have to prove I.P.M. that it is railway property. Then only everything else follows. Unless we are able to establish that it belongs to the Railway whether it is coal or bolt or whatever it is, the rest of the thing does not follow. So that primary responsibility on the prosecution is there.

Then, Sir, the hon. Member who followed Mr. Kishen Chand said that

[Shri O. V. Alagesan.] we should put some distinguishing marks on our stores.

SHRI T. BODRA: Identity marks.

SHRI O. V. ALAGESAN: While such marks are put on some goods it is not possible to have these distinguishing marks on all the stores of the railways. In fact my undertaking to prove that it belongs to me is a little onerous responsibility, but still, Sir, we did not want to burden the defence and we wanted to be a little more reasonable than what the circumstances of the case would warrant. But I shall see, wherever it is possible so to do, that a distinguishing mark is put on all such railway stores so that when any case is taken up we shall be able immediately to prove, if the distinguishing mark is there, unless it is erased completely out, that it belongs to the railways. I have nothing more to say. I hope the motion will be agreed to.

MR. DEPUTY CHAIRMAN: The question is:

"That the following amendments made by the Lok Sabha in the Railway Stores (Unlawful Possession) Bill, 1954, be taken into consideration: —

Enacting Formula

1. Page 1, line 1, for 'Fifth' substitute 'Sixth.'

Clause 1

2. Page 1, line 4, for '1954' substitute '1955.'

Clause 2

3. Page 1, for clause .2, substitute—

'2. *Definition*.—In this Act, "railway stores" means any article,—

(a) which is the property of any railway administration; and

(b) which is used or intended to be used in the construc-

tion, operation or maintenance of a railway.'

Clause 3

4. Page 1, for clause 3, substitute—

'3. *Unlawful possession of railway stores*.—If any person is found, or is proved to have been, in possession of any article of railway stores reasonably suspected of being stolen or unlawfully obtained, and cannot account satisfactorily how he came by the same, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.'

The motion was adopted.

SHRI O. V. ALAGESAN: Sir, I move that the amendments made by the Lok Sabha in the Bill be agreed to.

MR. DEPUTY CHAIRMAN: I will put the amendments one by one.

The question is:

"That the following amendment made by the Lok Sabha in the Railway Stores (Unlawful Possession) Bill, 1954, be agreed to: —

Enacting Formula

1. Page 1, line 1, for 'Fifth' substitute 'Sixth.'

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That the following amendment made by the Lok Sabha in the Railway Stores (Unlawful Possession) Bill, 1954, be agreed to: —

Clause 1

2. Page 1, line 4, for '1954' substitute '1955.'

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That the following amendment made by the Lok Sabha in the

Railway Stores (Unlawful Possession) Bill, 1954, be agreed to: —

Clause 2

3. Page 1, for clause 2, substitute—

'2. *Definition*.—In this Act, "railway stores" means any article,—

(a) which is the property of any railway administration; and

(b) which is used or intended to be used in the construction, operation or maintenance of a railway."

The motion was adopted.

MR. DEPUTY CHAIRMAN: The question is:

"That the following amendment made by the Lok Sabha in the Railway Stores (Unlawful Possession) Bill, 1954, be agreed to: —

Clause 3

4. Page 1, for clause 8, substitute

's. *Unlawful possession of railway stores*.—If any person is found, or is proved to have been, in possession of any article of railway stores reasonably suspected of being stolen or unlawfully obtained, and cannot account satisfactorily how he came by the same, he shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.' "

The motion was adopted.

**THE MANIPUR (COURTS) BILL,
1955**

THE DEPUTY MINISTER FOR HOME AFFAIRS (SHRI B. N. DATAR) : Sir, I beg to move:

"That the Bill to provide for the establishment of a Judicial Commissioner's Court and other Courts

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in Manipur, as passed by the Lok Sabha, be taken into consideration."

[THE VICE-CHAIRMAN (SHRI H. C. MATHUR) in the Chair.]

Sir, this Bill is an important measure in the sense that in this Bill attempt has been made to have a uniform system of administration for the whole of Manipur State. Manipur State, as you are aware, Sir, consists of the plains area and the hilly areas, and formerly, under the administration of the Ruler of Manipur, as also till now to a certain extent, the same distinction in administration was maintained under two Acts. One was known as the Manipur State Courts Act of 1947. Some amendments were made in this by the Manipur State Courts (Amendment) Order, 1950. So far as the hilly areas were concerned, we had got during the Ruler's regime an Act known as the Manipur State Hill Peoples (Administration) Regulation, 1947. Though these two Acts were there, they were to a certain extent inter-connected in the sense that in the first Act of 1947 in Part V all that has been stated is "administration of Justice for the hilly tracts." This Act dealt principally with the plains area and in Chapter V it has been stated: "Section 32.—Administration of justice for the hilly tracts shall be governed by the Manipur States Hill Peoples (Administration) Regulation, 1947" and we have section 33 according to which whenever any case has to be tried, the Judicial Commissioner has to sit with two assessors nominated for each particular case by the Chief Commissioner. In other words more or less an anomalous position was there. Now you will find, Sir, whenever a particular case has to be heard, someone like a Sessions Judge under the old Criminal Procedure Code was sitting there. For example, the Judicial Commissioner there shall be assisted by two assessors, and then, suppose he gave a particular judgment, either conviction or say acquittal or anything else, then it was very funny—note the anomalies—that ultimately the matter came before the