

Affairs put down in the List of Business for tomorrow may be extended by three hours on Friday, the 27th August 1954, from 8-15 A.M. to 11-15 A.M. Private Members' Resolutions put down for the 27th August will then be taken up at 11-15 A.M. on that day.

Does the House concur?

HON. MEMBERS: Yes.

MR. DEPUTY CHAIRMAN: So the External Affairs debate will be extended for 3 hours on Friday and Private Members' Resolutions will be taken up at 11-15 A.M. on that day.

SHRI H. P. SAKSENA (Uttar Pradesh): It will begin tomorrow all the same?

MR. DEPUTY CHAIRMAN: Yes. Tomorrow for four hours and three hours more on Friday.

THE RAILWAY STORES (UNLAWFUL POSSESSION) BILL, 1954

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

"That the Bill to provide for the extension of the law relating to the punishment of the offences of unlawful possession of railway stores, as now in force, to the whole of India and to re-enact its provisions, be taken into consideration."

Sir, the Bill is a non-controversial one. It has two aims:

(i) To replace the Railway Stores (Unlawful Possession) Ordinance promulgated on 13th May 1944, which is still valid and applies to the whole of what was British India; and

(ii) To make the provisions of the legislation applicable throughout the Republic.

With a view to preventing persons from having unlawful possession of

Railway Stores and trading in them thereby seriously endangering the safety of railway operation, it became necessary during the last war to provide that whoever is found or proved to have been in possession of any article of railway stores shall be punishable with imprisonment for a term, which may extend to 5 years or with fine or with both, if the court see reasonable grounds that such article is to be or to have been the property of any railway administration, unless he proves that the article came into his possession lawfully. But being an Ordinance, although not restricted to 6 months only in validity, some of the States were not aware of its continuance. Its application was also not extended to most of the present Part B States. The Police and Security Organisations have, therefore, met with serious difficulty in curbing the unsocial element, who have been making a profit at the expense of railway revenues by stealing railway articles and trading in them. In certain important railway centres the States have experienced serious difficulties in launching prosecution against the smugglers or culprits on account of the provisions of the Ordinance not being applicable to some of the Part B States.

The Bill is intended to remedy these defects. When it is passed into law, the Railway Stores (Unlawful Possession) Ordinance will cease to be operative and the provisions of this Bill will apply throughout the Indian Union including the Part B States as a permanent measure.

Sir, I move.

MR. DEPUTY CHAIRMAN: Motion moved:

"That the Bill to provide for the extension of the law relating to the punishment of the offence of unlawful possession of railway stores, as now in force, to the whole of India and to re-enact its provisions, be taken into consideration."

SHRI RAJENDRA PRATAP SINHA (Bihar): Mr. Deputy Chairman this

is a Bill no doubt to validate the Ordinance and to extend its operation to Part B States. But Sir, the provisions of the Ordinance have been in existence since 1944 and this is an extraordinary measure to punish the culprits who are in possession of railway stores. We would like to know from the hon. Railway Minister how many such cases have been reported and what is the worth of the railway property that has been detected as having gone into unlawful possession? Sir, I tried to get an idea of these figures from the published reports of the Government and I find that the Railway Board in their annual reports have given some figures of the theft of railway property. In 1952-53 we find that 27 cases of thefts were reported and the value of the property involved was put down as Rs. 1,26,749. In 1951-52, 17 cases were reported and the value of the property was Rs. 47,397. In 1950-51, 14 cases were reported and the value of the property involved was Rs. 64,248. In 1949-50, four cases were reported and the value of that property is not given. Sir, my submission is this, that if this is the value of the railway property that is being stolen, then there is no point in having an extraordinary legislation. This, Sir, is an extraordinary legislation and quite apart from the Criminal Code. You want to make the culprits prove their innocence, not that the prosecution has to prove that the culprits are guilty. You will agree with me, Sir, that if the instances are so small as has been reported by the Railway Board, then there is no point in having on the Statute Book such an extraordinary measure as this one. I also find that 10 cases were reported to the police, out of the 27 cases that occurred in the year 1952-53, and out of those ten, only two resulted in conviction. And though there were 17 cases in 1951-52, 14 cases in 1950-51 and 4 cases in 1949-50, none of them were reported to the police. That you cannot secure conviction is another matter, but if there was theft, why was not the matter reported to the police? That, Sir, is a pertinent question. I also find that in 1951-52, three cases were

caught red-handed. I do not find from the reports that even these three cases have been reported to the police. I would like to have an explanation from the Minister as to how these matters stand.

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Sir, if these are the facts and figures, then I do not see any point in having this legislation. The general impression that we all carry is that there is a large amount of theft going on of railway property. The Railway Minister has also said so and he has stated it in the Statement of Objects and Reasons that unlawful possession of articles of railway stores was a thing of frequent occurrence towards the end of the last war. If that be the fact, then such thefts of railway property have been going on on a very large scale, and the matter has not been reported to the Railway Board and also to the police. Why is that?

There is another point which arises out of this legislation. This is going to be a cognizable offence, I take it. We all know how the theft of railway property has been going on. As far as my information goes, mostly the thefts take place in the mechanical and engineering sections. The railway stores department is also involved. How do these thefts take place? I understand—and this is common knowledge and it is happening also in private industries—that the store materials are indented for the purposes of maintenance and repairs or for new manufactures and they are taken from the stores much in excess of the actual consumption. And then the surplus finds its way into this nefarious trade. Sir, if you catch hold of a man and he makes a submission to the court that he has found out these stores in such and such manner from such and such a person, which may involve railway officials, both high and low, will those officials, whether they are high or low, come under the terms of this Act? Or is it the case that only those persons will be convicted who are found in actual possession of the stores?

Sir, there is another question. It is a matter of common knowledge that most of the railway employees—I would not say all of them, for there are conscientious railway employees as well—in every department, do possess articles in their houses found or manufactured out of railway materials. The possession of those materials or stores or articles made out of railway stores will become an offence under this Act. Those are materials which they have got from the railway stores not through lawful means but through irregular channels, as I have already explained.

Now, who will take care of them? Who will take cognizance of that? Will the police go into the house of the Chief Engineer or the Works Manager or a labourer or a subordinate officer and find out how they came to possess such stores? Is it the intention of the Government to launch an investigation on that scale? I feel that the loss due to such pilferage is very much bigger than what is usually anticipated or reported. Is it the intention of the Government to authorise the police to go to the house of any railway officer or labourer and ask him to prove that all the materials, the furniture or articles that he has in his house were secured lawfully and, that if it is found that they came into possession of such articles wrongly they will be prosecuted? If you are only going to treat such cases as ordinary cases of theft as they were not for the purpose of trading—that is the word used by the hon. Minister—and if no action is going to be taken on articles found in the houses of railway officials, there is going to be a discrimination because this is as much a theft as ordinary theft by a person for the purpose of trading.

These are the points on which I would like to seek clarification from the hon. Minister.

SHRI B. GUPTA (West Bengal): Mr. Deputy Chairman, it is understandable that the Government should be interested in saving the railway stores but what is more important here is to

devise measures which will check theft at the very source. We have got experience of a number of stores, ordnance stores and such others under the Government. In many cases it is found that the gentlemen who are in charge of such stores are themselves engaged in some kind of underground trade in such articles. Some time back I drew the attention of the House to the fact that certain materials were being passed off illegally from an Ordnance Factory in West Bengal. No satisfactory answer was given except that two Ministers spoke differently and all of them wobbled equally. The same thing is equally true of the railway stores. I would not try to fix the offence on the small employees. After all, if you enter their houses you would find very little of furniture. They live in dire need and want and they are neglected by the high officials of the railway administration. If you were to go into some railway colony and enter the houses of big officials you would immediately come across a number of articles, a large number of materials.

MR. DEPUTY CHAIRMAN: This Bill relates to railway stores, Mr. Gupta, not to furniture; stores used in the construction, operation and maintenance of railways.

SHRI KISHEN CHAND (Hyderabad): Wooden sleepers can be used for making furniture.

SHRI B. GUPTA: They can be used; there will be expert hands. You will find such materials there which, shall we say, are taken from the railway stores and put to private use without any lawful justification whatsoever. Such materials are there and we cannot expect that the police or the administration would go after such people in order to detect such theft. What will happen, we fear, is that people who may have come into possession of such articles from different persons without knowing anything about their origin will be arrested and put into prison. It may so happen that such materials which had been stolen from the stores are sold by agencies which operate and take it as a sort of trade. Innocent people may

[Shri B. Gupta.]

get them and they will be arrested merely because they have come into possession of such articles and they will be liable to be sentenced to five years' imprisonment. There is no protection against this kind of thing. Innocent elements are more liable to come into the operation of this law than those people who are really responsible for the systematic disappearance of the railway stores from the godowns and other places. It is provided here that as soon as one is found in possession of such article he will be liable to imprisonment unless, of course, he can prove that he had come into such possession lawfully. I do not know how he is going to prove it. The onus of proof should be placed on the Government; the Government should prove as in ordinary criminal law that not only it is the case of possession but it is unlawful possession. The burden of proof should lie on the Government and not on the person who may have been arrested. It will be impossible for a person to prove. Suppose some gentleman very high-up in the railway has got his agency; he removes certain stores from a railway store in Kanchrapara and I buy such materials which may be of some use to me in private life. I buy them in Diamond Harbour and then some policeman catches me and asks me to prove that I have come into possession lawfully. How can I do it? The man from whom I bought the stores may have disappeared. I can only say that I bought it but that would have no legal validity. When I am asked to prove such things which are impossible of being proved, I feel that this measure is going to work very harshly on those who may be arrested on such flimsy charges and on such suspicion.

The danger is also there that in order to show that they are carrying on anti-corruption drive they will go after the small men in the Railways, the railway workers, arrest them and then advertise before the whole world how like Cæsar's wife, the administration is above suspicion and, has started arresting its own employees and that it does not tolerate any corruption.

We know, Sir, that all this is sheer bunkum because until and unless the big ones who are responsible for this kind of corruption in the administration are hauled down, arrested, brought before the court of law and penalised no good will come out of such show-bottle measures as the Government sometimes take. Even if I take it that the Government would try to save railway stores, the Bill does not offer any solution. After all, there are people who have, in recent years, become past masters in mishandling such stores and they know how to throw dust in the eyes of the hon. Ministers and Deputy Ministers. Some of the eyes do not require any throwing of dust; but I am talking of those which may be a little vigilant and they can throw dust even in those eyes. That is being done almost everywhere. It is not only today that there is a great deal of corruption in the department; lots of material get out of the godowns and stores and nobody can trace them. If you go into this matter and enquire into this matter, talk to the employees, the workers, etc., you will inevitably find that somebody high-up and highly placed is responsible for such acts. This Bill provides no measures whatever to track them down and to find such guilty persons who are highly placed. I know that the Minister will try to give an answer and say a few good things; but the practice so far has proved that such measures have failed to produce any result whatsoever and those people who are really responsible for this kind of malpractices go on merrily, carrying on their trade at the cost of the public exchequer. Whenever a charge is brought against them by the smaller employees, Union officials, etc., there are frowns on them on the part of the Ministers and the big ones of the Railway Board. Never such accusations, never such allegations are taken seriously when they are brought against the big men. But when such allegations are brought against the poor men, the railway employees and the public, the heavy hand of law comes down upon them with all its severity. When these allegations are made against the big ones,

the Ministers try to justify their conduct by raising all kinds of fantastic arguments and explanations which convince none but themselves, and ultimately we lose our stores, and as a result the public exchequer also suffers. That is all I have to say in this matter.

SHRI BISWANATH DAS (Orissa):
Sir, I rise to support with a warning that my hon. friend the Minister-in-charge has come with a Bill which falls short of what the situation demands.

Sir, railway thefts have become alarming in the country, thefts not only from Railway Stores, not only from Workshops but even from running trains. You enter into a First or a Second Class or Inter Class or Third Class compartment, you find even the nuts and bolts are not to be found there. Therefore it would be idle to say that this is confined only to high officials or to middle-class officials and that the lower strata are absolutely free from it. It is merely speaking against facts. I am not here to plead in favour of any one class of officials. Sir, my complaint against the hon. Minister and the Ministry is that the Bill gives very little powers to himself to check this alarming mischief that is going on with all its intensity. I had expected the hon. Minister to come forward with an all-embracing Bill with more powers than what are contained in this Bill. Sir, the Bill is a very very restricted one, awfully limited in its scope. It confines itself only to railway stores. Even there the scope is limited. I explain it. Railway stores are stolen. It is sold to a businessman or a shop-keeper. I lawfully purchase it from the shop-keeper. I am safe provided I can prove that I purchased it lawfully. But what about the person who received the stolen property? There is nothing in the Bill. Therefore looked at from any point of view I consider that the Bill is inadequate and will not be able to meet the needs of the situation. It is not merely gangs and gangsters that are operating in railways to remove things either from the workshop or from the stores or from run-

ning trains, but the officials are to a great extent also responsible. Unfortunately, Sir, ours is a country where you have only rights, rights for everybody and responsibility for none. In the result you have all rights and everyone is out to have his own rights. The labourer is out for his rights so the officials are and thus few people are to enforce responsibilities. Well, I would have expected that the hon. Minister should have tried in the course of this Bill to make it, namely, the enforcement of responsibilities effective. Thus persons who are in charge either of the stores or of the workshops or in charge of running trains are also held liable and responsible for goods lost. Unless this liability is enforced rigidly and strictly, I warn the Rajya Sabha as also the Ministry that nothing good awaits our fate and much less of this Bill. Railway officials, I know, and I have reason to believe, that there are many who are also co-culprits in this. But there are also cases wherein they are free, they are innocent. Against these two classes of persons, namely, the gangsters and innocent railway officials, the Bill must be effective. Any powers that you seek to have should be made effective so as to be really enforceable easily. Sir, on behalf of most of the Members on this side of the House, I am prepared to give any power that the Government desire and need to fight against this tendency. I do not believe that even friends on the other side of the House will very much mind to give any such powers for the purpose. Under these circumstances I feel that the powers, that the Government have come for, are not adequate, nor are they sufficient; and I would beg of them to have a Bill which will give them all necessary powers to cope with the situation. Sir, I know of cases where even the railway engine drivers and guards were responsible for thefts committed in the running trains. They have been caught but only to escape. Either the law that we have is inadequate or the vigilance that is being exercised by the railway officials is not sufficient. Whatever it is, the fact

[Shri Biswanath Das.]

remains that railway thefts have become disproportionately high. Certain cases have been quoted by my hon. friends. I consider, Sir, that those are only a few that come to the notice of the public. Very many cases go unnoticed, unnoticed either by the authorities or by the vigilance police. I have information that even the vigilance police, the very protectors of the railway materials and stores, are the persons who are the culprits. Under these circumstances I feel that the Ministry should take a very serious view of the existing situation and try to fight against the evil if they really mean business. I know they are trying to tackle the problem. But need I say that mere trying will not do; they have to fight and reduce the evil to the minimum.

With these words I support the Bill.

SHRI KISHEN CHAND: Sir, I welcome this Bill in so far that the hon. Minister wants to protect the railway property. But before I go further, I would like to draw the attention of the House to the fact that the quantity of stores purchased for the maintenance and repairs is of the scale of about Rs. 10 crores. Sir, in the total quantity of stores worth about Rs. 10 crores, if the theft amounts to Rs. 64,000 worth of stores, as pointed out by a previous speaker, then there is absolutely no need for this Bill. But the theft that is going on is of a much bigger scale, and it is something like Rs. 20 to Rs. 25 lakhs worth of stores that are being stolen from the railways. Over and above this, I may bring another fact to your notice about coal. Every railway employee purchases some quantity of coal, much less than his normal requirement. The rest of the coal is stolen by him and burnt every day. On paper he says that he has purchased coal worth eight annas per month. His real requirement is about Rs. 2 worth of coal every month. That means the remaining Rs. 1-8-0 worth of coal is stolen every month from the railway stores. Similarly, Sir, go

to any big or small officer's house. You will see buckets for carrying water. All this is railway stores, which is being utilised by him. It amounts to theft. Near any workshop, wherever there is a railway workshop, in the cities round about that workshop, you can get files and various other instruments and implements at one-fourth the price. They are all stolen from the railways. What I am trying, Sir, to point out is that the scale of theft is much higher....

SHRI B. GUPTA: Wholesale.

SHRI KISHEN CHAND: Then, Sir, the second fact is that only Rs. 64,000 worth of theft is shown here. The officer-in-charge has got to save his skin. And how does he do that? He says, "Well, the normal requirement of files is 100 per month." The actual requirement may be only ten files per month. He is trying to cover up the theft of 90 files by saying that the normal requirement of files is 100 per month. That means that all the requirements of stores are really being increased in order to cover up these thefts. Therefore, I submit, Sir, that if the hon. Minister comes forward with a still more comprehensive Bill, I am sure the House will.....

SHRI B. GUPTA: The hon. Minister believes in gossiping.

SHRI KISHEN CHAND:give him full support. But just to bring a one-clause Bill whereby you shift the burden of proof from the prosecution to the suspected person is most unfair. It is so unfair, Sir, and the difficulties of proving one's innocence are so great that innocent persons will really be involved and the guilty persons will go scot-free. An hon. Member has already pointed out that the stealing is done in league with shopkeepers. An innocent man goes to a shop, purchases a thing. Normally these small shopkeepers never give you a receipt. He comes. A policeman finds the article in his possession. He is immediately asked to satisfy the court where he got it from. He names a shop; the shopkeeper denies.

How is the innocent man going to prove that he purchased it from that shop, when the shopkeeper does not give a receipt or a cash voucher? Sir, I think that this Bill is absolutely inadequate and wrongly conceived, because by this Bill we are trying to convict the innocent persons and let off the guilty persons. I welcome the spirit behind the Bill. I welcome that measures should be taken for protecting public money because the railways are nationalised. That is the nation's money, and we must save every rupee of nation's money, but this measure is not going to save that money. This measure, as pointed out by an hon. Member, is brought forward to justify that the Railway Administration is doing its level best to root out corruption and all that. We will have to take much stronger measures for rooting out corruption, because the menace is very serious. I would therefore request the hon. Minister for Railways to carefully go into all the causes and all the devices by which the railway stores are being stolen by its employees and take adequate measures for rooting out this evil.

SHRI H. P. SAKSENA (Uttar Pradesh): Sir, I welcome this measure more on moral than on administrative grounds.

[THE VICE-CHAIRMAN (SHRI R. C. GUPTA) in the Chair.]

The Railway Ministry has, at long last, been awakened to the necessity of making an attempt to remove a very evil practice of stealing things by its numerous employees whose number is legion, that is, more than 9 lakhs. If this example is followed by other Ministries of the Government, I am confident that the shape of things will materially and favourably change in a very short span of time. It was for this reason that I suggested to the hon. the Railway Minister that henceforth he should introduce a practice in his Ministry that whenever a new person was appointed, in any capacity whatsoever, high or low, he was to sign a pledge to the effect that he will, throughout

his service career, remain honest, loyal and faithful. That will have a very salutary effect upon the person whenever he tries to commit some sinful act of pilfering, theft or stealing things.

SHRI B. GUPTA: No thief will find any difficulty in signing such a pledge.

SHRI H. P. SAKSENA: That may be your experience, but my experience is that a good advice and a good teaching does have its effect sooner or later, if not in all cases, at least in some cases. So, the pains taken and the service rendered is rewarded, if not wholly, at least partially. I will, for my part, continue hammering the fact that honesty is the best policy, stealing is bad. And I am quite positive and certain that it will have its effect.

Sir, the hon. friend who preceded my friend, Mr. Kishen Chand, enumerated a list of persons who are very very conscious of their own rights, and he rightly complained that it is unfortunately a common practice with us that we are over-conscious of our own rights and privileges, but we are very neglectful and oblivious of our duties and responsibilities. In that connection, he gave a list and he mentioned specifically the labour class and the official class. Sir, with your permission, I would add a class, a very important and prominent class, and that is the class of the Members of Parliament who are equally conscious of their rights and privileges but unfortunately very neglectful of their duties and responsibilities. That is no reflection upon any hon. friend. It is a general and sweeping remark (Interruption). Sir, to say that property to the tune of Rs. 20 or Rs. 25 lakhs is stolen every year from the railway storehouses and workshops is, to my mind, only a guess work. Otherwise, how can you give the exact figure—Rs. 20 to Rs. 25 lakhs? Unless of course a person is, in some respect or the other, in touch with those who deal in that sort of thing, nobody can say that that property is worth Rs. 20 to Rs. 25 lakhs. And in

[Shri H. P. Saksena.]
 this I wish to humbly and respectfully submit that I do not include the small amount of coal that a railway worker takes from the scattered coal on the railway platforms or the few ounces of kerosene for his use in order to lit up his dark cell. This is not theft. The question of theft comes in where Executive Engineers, District Engineers, Managers and all that plethora of officers appropriate or misappropriate for their own use property worth lakhs and lakhs of rupees such as teakwood for building houses and for making furniture, which is transported to the home district of the officer concerned.

SHRI KISHEN CHAND: How does the hon. Member himself know that they are lakhs and lakhs?

SHRI H. P. SAKSENA: I have not specified the figure. I only said lakhs and lakhs of rupees.

What has left a bad taste in my mouth so far as this Bill is concerned is clause 3 'Unlawful possession of railway stores'. It is not in consonance either with equity or justice or commonsense to put the onus of proof of innocence upon the accused person. If our Law Ministry thinks that it should be the responsibility and the duty of the accused person to prove that he came into possession of the allegedly stolen property lawfully, then I am afraid many innocent people will be sent to reformatories known as jails. As a matter of fact, the Railways themselves auction their property periodically, and I have myself many a time purchased railway property on which the number and the name of the railway are given, but that does not mean that I came by them unlawfully. So, the onus of proof should not be on the accused person but on the prosecution. It is not for the accused person to prove that he came into the possession of that property lawfully; it is for the prosecution to prove that the property came into his possession unlawfully. So, unless this clause is amended, it will work against many innocent

persons. I am in full agreement with my friend, Mr. Bhupesh Gupta, when he says that the one result of this Bill will be to enable the police to wreak vengeance on those persons with whom they happen to disagree, and to prosecute them.

DR. SHRIMATI SEETA PARMANAND (Madhya Pradesh): Will not this apply to almost every piece of similar legislation?

SHRI H. P. SAKSENA: It is beyond my comprehension to understand the logic of my hon. friend, Dr. Seeta Parmanand, because I am a small fry, and her arguments are so high, so lofty and so elevating that they are beyond me to comprehend.

DR. SHRIMATI SEETA PARMANAND: Read the Penal Code.

SHRI H. P. SAKSENA: This clause, as I said, will work to a very great extent for the oppression of the poorer classes of people, especially the railway employees, and therefore I would beg of the hon. the Deputy Minister for Railways to change the language of this clause in such a manner that the burden of proof of guilt lies, as it should, on the shoulders of the prosecution rather than on the shoulders of the accused.

This Bill reminds me of the huge amount of stealing, corruption, bribery and nepotism that is going on in the railway administration which is indescribable.

The truth of the matter is that my hon. friend, Mr. Sinha, stole a march over me not only in the matter of the substance of what I was going to say but also in the matter of the phraseology that I was wanting to use. Pilfering there is in the railway administration, and from the Railway Minister downwards, nobody will be found who is not conscious of it. Everybody knows it and yet the whole Railway Administration is helpless and absolutely incapable of dealing with the matter. I wish there were some

stronger hands somewhere in the administration, even in the much maligned officialdom itself, to deal with this. The approach to the officials should not be that of a master and a servant; the approach should be that of a brother to a brother. Here is a family known as the Railway Administration. They have all got to administer it. It is for the higher-ups to appeal to the second in rank and so on.

SHRI B. GUPTA: But they don't do it. They only issue semi-fascist circulars.

SHRI H. P. SAKSENA: I am positive that they will respond. They have got a heart in their bosom and it is not a stone that lies there. It will melt. The officials will come to the rescue of the Administration. My approach will be to appeal to them, to admonish them, to counsel with them, and to devise ways and means by which we can put an end to this thing. After all, as I said, it is not the very small quantity of coal or kerosene that makes for the theft. It is the bigger things, it is the stores, precious and costly stores, which are stolen not only on the railways but in the Communications Department and perhaps in every other Ministry. So, if this whole thing is totalled up for any twelve months, it will be—I agree with my friend, Mr. Kishen Chand—not Rs. 20 to Rs. 25 lakhs but about Rs. 50 crores, if I am not mistaken.

SHRI GOVINDA REDDY (Mysore): So, the hon. Member is in touch with it.

SHRI H. P. SAKSENA: My appeal not only to the Railway Administration, not only to the Railway Minister, but to all the Ministries is that, since a start has been made by the Railway Ministry in the matter of moral teaching, it should be continued and this contagion should spread to other Ministries also I hope that the officialdom will take the cue from this and mend its ways. With that appeal and hope, I support the Bill.

SHRI S. MAHANTY (Orissa): Mr. Vice-Chairman, I am regretful of the fact that I could not extend my support to the hon. Railway Minister in this Bill, which is certainly unexceptionable in concept. Now, Sir, if I may be presumed to be opposing the Bill, it is for one reason alone, that it does not take a realistic appreciation of the situation. In the first place, Sir, it is quite fit and proper that righteous indignations have been hurled at the thieves, but I expected the hon. Members, who have also to depend on the votes of thieves and pilferers who constitute the bulk of the electorate nowadays, to have a proper appreciation of the thief's point of view. Now, Sir, the position is like this. The Indian Railways is a national property of the Indian taxpayer—the higher income group, the middle income group and the lower income group. The passengers are being fleeced by the hon. Railway Minister in the increased passenger fares. To that extent they are contributing to the growth of the national wealth. But when they do not get anything in return, certainly they try to solve the problem in an oriental manner, namely, obviating a theft by another theft. Well, Sir, it can be said, with some justification, that the Railway Ministry is indulging in a little bit of pinching, in a little bit of pick-pocketing, when that Ministry does not provide the average passengers with the amenities that are due to them. Sir, what to speak of third class travel, even second class travel is horrible. 'Horrible' is hardly the word that I can use. Therefore, Sir, the thief can as well argue: "If you consider that independent India is a banquet hall where only those with the stamp of a party or of a group can enter, for the others who provide for that banquet, there is no other way, but pinching all that is possible and make the best of the worst."

SHRI GOVINDA REDDY: Others can enter as uninvited guests.

SHRI S. MAHANTY: Quite so. Therefore, I venture to think that

[Shri S. Mahanty.]

before we hurl these moral indignations in a Puritanic manner, we should also be critical of our own thefts.

Secondly, Sir, this Bill puts a premium on the inefficiency of the Police and the Railway Administration at the cost of high judicial principles, namely, putting the onus of proof, that he is innocent, on the man who is found in possession of the railway property. This has been very eloquently and very ably condemned and I do not wish to go into that matter.

Thirdly, Sir, I gathered from some of the speeches of hon. Members that the theft of the railway property has been to the extent of Rs. 25 lakhs only. This is an insignificant fraction of Rs. 200 crores of railway revenue. Sir, crores of rupees worth of national property is being robbed. Such of those who have not a Puritanic attitude towards these oriental problems, I would invite them to come with me to many of the river valley projects or other big projects where crores of rupees worth of stores are being purloined. Now, the hon. Minister wants to save his little bit of coal which is being pilfered by the railway labourer, probably to save his fuel bill. Man is essentially a moral animal. He should ask his colleagues in the Cabinet why they cannot control the rising spiral of prices and why they force men to take to these sordid means. This is a very big problem. By your lethal weapon of legislation you are hardly going to solve it. When you are giving awards to persons, when you are conferring distinctions on persons who can be indirectly said to have pilfered national wealth, what is the meaning of coming here with a Bill to save a few bits of coal, or a mirror, or a bolt or whatever it may be from the alleged thieves who can legitimately consider these as their own property. Since you are not giving them in a direct manner, they are trying to take them in an indirect manner. Let me not be misunderstood as saying

that I am defending that the railway property should be purloined, that there should be progressive thefts of railway property. That is not my desire. But, Sir, I only plead that there should be an overall view taken. You should not prescribe a mud pack cure for high blood pressure.

SHRI J. S. BISHT (Uttar Pradesh): Mr. Vice-Chairman, I fully sympathise with the anxiety of the Railway Administration to stop these pilferings and stealings of railway stores, but in the Statement of Objects and Reasons, the Deputy Minister has said or conceded that it was almost at the end of the last War that this evil grew, and an Ordinance was promulgated in May 1944. The Ordinance says: "whereas an emergency has arisen which renders it necessary to make special provision for the punishment of the offence of unlawful possession of railway stores." This shows that a certain evil had grown up suddenly towards the end of the last War and the Government thought that to meet this emergency, a temporary law should be enacted to cope with the situation and to that end they promulgated this Ordinance. It must further be noted, Sir, that there was an Indian Legislature in existence then—the Indian Legislative Assembly and the Council of State. The Government never thought of bringing this Ordinance in the form of a Bill in order to put it permanently on the Statute Book. That in itself shows that the original intention of the Government was just to cope with the temporary situation or an emergency that had arisen. The emergency is not a permanent one. Now, at this stage the Railway Administration has come forward with a Bill in order to put it permanently on the Statute Book, to cover the whole of India. Whether there would be sufficient facts and figures to justify this step or not, this law is of an unusual nature. We are attempting to change the basic concept of the criminal law, namely, that every accused is presumed to be innocent, unless he is proved to be

guilty. Whereas, here, every person who is found in possession of certain railway stores is presumed to be guilty, unless he proves his innocence. That is rather a dangerous doctrine. It is gradually creeping into our criminal law and I think it is the duty of Parliament to be vigilant in this matter and to see that this does not spread too much and that every accused is not at the mercy of the Criminal Code.

Now, Sir, when this Bill has been brought forward in order to make it a permanent law, we should have liked to know the amount of the stores involved; the amount of the thefts and of the smugglings that are going on; the number of prosecutions launched; and the number of convictions, so that we would be in a position to gauge the dimensions of the evil. If it is of an ordinary nature, say, stores worth Rs. 20 crores or Rs. 40 crores, and the pilferings and stealings going on to the extent of Rs. 1½ lakhs or so, nobody would care very much about it because after all there is the Indian Penal Code in existence. It provides for punishment in the case of thefts and the ordinary law of the land would take care of that. Apart from that, Sir, the Railway Department is not the only department which deals with stores. There is the Defence Department which has considerable stores. There are the other departments which have considerable stores covering all sorts of goods. There are departments like the Public Works Department, the Irrigation Department and other spending departments which have vast amount of stores which probably are also being stolen or abused or misappropriated just as the railway stores are being abused or misappropriated. Is it contended that every department should come forward with this sort of law so that anybody who is found in possession of anything from a pin to a motor-car should be presumed to be guilty unless he proves himself to be innocent or he has to keep a regular account and register of every receipt etc. so that in any unforeseen event when a

policeman hauls him up, he must prove that he came into possession of those things by some lawful means?

Having said that much, I wish to bring one other important point. The definition that has been put here is so very comprehensive, so omnibus that it makes it rather very unfair for an ordinary citizen. Definition 2 says:

“In this Act, ‘railway stores’ includes any article used or intended to be used in the construction, operation or maintenance of a railway”.

I should like to know whether there is any article that is not covered by it. There is the question of coal or fuel, petrol, timber, screw, boards, iron, steel, brick, lime and cement. What is the meaning of ‘intended to be used in the construction, operation or maintenance of a railway’? In this case even when a man is found in possession of something and it is said that it is railway property, the man would be put in the dock and he has to prove his innocence. If the Railway Department want to come in for a permanent law, they should have limited these things. There must be certain particular articles that are probably being stolen in large quantities than any other and those things should have been scheduled carefully. If they are pilfered from the carriages, there must be some marks in them to identify them. There should have been some such schedule with regard to those particular items which are the subject-matter of too much thefts and then it would have limited this Bill to those particular articles so that everybody who wants to buy any thing would be in a position to identify whether that article could possibly be a stolen property from the railway stores. That has not been done. Then if they really want to be very serious in this matter—and I think they should be in order to stop this pilfering—I believe they have a number of magistrates called Railway Magistrates who are always running with the trains. They are at present doing only one part of the

[Shri J. S. Bisht.]

job, viz., that of dealing with ticketless travellers. Immediately a man is caught, he is put before them and he is fined. As my friend Mr. Das said why is not any special procedure laid down for this. The articles that are being stolen are like screws, bolts, electric bulbs, etc., and I think they are done by the passengers. If that is so, and if they are caught there should be Railway Magistrates specially provided to punish them. That is the quicker method of stopping these thefts. I have had some experience of prosecuting people under the municipal laws. We found that if you asked the district magistrate to depute a particular magistrate he does it and when you find a guilty man, you bring him up before this magistrate and the man is given punishment then and there. It had a very good effect and it stopped the crimes, much better than by the ordinary procedure of reporting to the magistrates, issuing the summons and the prosecution taking 2 or 3 months and ultimately the man is fined a

1 P.M. little. The better way of dealing with this is to arm these railway magistrates with the power to hold a summary enquiry and punish the guilty at the same spot. Sometimes I saw this being done in Delhi itself. The traffic magistrate is standing, say, in Connaught Place and if there is any traffic violation, the man is immediately arrested and put before the magistrate and he is punished immediately. This is having a very good effect and it stops it quickly. So that would be a more effective method of stopping these pilferings. With these remarks I submit that the hon. Railway Minister would be well advised to revise this Bill and put it in a more comprehensive form and confine it to those particular goods that are being very much stolen from the railway stores and adopt a procedure which will stop it effectively.

SHRI GOVINDA REDDY: Though I agree with the object of this Bill, I doubt very much whether it will be really useful. For one thing as hon.

Mr. Biswanath Das pointed out, it is totally inadequate. It does not bring into operation of this Bill people who have been in possession of the Railway Stores articles or stores and passed on to others. It is only those who are actually found in possession of these railway stores that would be prosecuted and would come under the operation of this Bill but those who are responsible for passing them on—if the article is passed from one hand to the other—all those who are not then in possession will not be brought under this Bill. It is very difficult to trace those who pilfer articles. It would have been better if the Railway Ministry had given us the kind of things that are generally being stolen and the incidents that have occurred. In the absence of such particulars I deem it that generally the articles which are stolen can be classed into two—one is engineering stores and two, other articles. Many of the hon. Members who have spoken have made mention of this. With regard to articles of engineering, it is very difficult to trace thefts. That is because people who pilfer these things do not pilfer such patent things which can be easily identified and found out, as for instance, pieces of rail, etc. The things that they pilfer will be very small engineering parts and these parts will go out of the stores and then find a place in shops which deal with engineering stores and those people know very well that they have been stolen and so they take every precaution to see that these goods are not sold to such people from whom it could be discovered. So it is very difficult to find out the theft of these articles. With regard to other articles, most of the other articles are not identifiable. For instance, you cannot identify wooden sleepers. The Railway Department gets them on tender basis, and the rejected sleepers are with the contractors and they sell them to others. Then these contractors not only supply to the Railways but they supply to others as well. That is an articles which is not easily identifi-

able. These things are stolen most. With regard to the first category of articles i.e., engineering stores instead of depending upon this measure to check these thefts, it would be better to use preventive and precautionary measures. Hon. Members have pointed out the reasons why and the manner in which these articles are pilfered. Mostly they are pilfered with the connivance of those who are in charge of the stores or by people who are themselves in charge of these stores or by officers who are above them. Much has been said about the officers. I also know of some cases where officers, though they had not connived at the stealing of these items of engineering stores, still made use of them themselves. Sir, it would be very interesting to see by examination in how many cases all those who own cars and who reside at headquarters where there are workshops, have sent their cars for repairs to outside workshops. It would be very interesting to find this out. Sir, generally the cars of these officers would be repaired at the railway workshops and the spare-parts which could be fitted into that car would be taken out from the railway stores.

AN. HON. MEMBER: They are charged for.

SHRI GOVINDA REDDY: Not generally; may be that in a few honourable cases they are charged and they pay both for the labour and for the spare-parts.

Well, one method to check this sort of theft or pilferage of engineering stores is to exercise proper scrutiny and supervision of all the stores. One clear fact that comes out from the reports of the Railway Board as well as from the reports of other departments is that they draw in excess of the requirements. As has been pointed out by other hon. Members this is what happens. Whenever sending in their returns or making indents, they generally ask for an excess, they make an excess indent and since these excess indents are

not properly checked the excess items and spare-parts are pilfered.

Another method by which this evil can be checked is by making proper returns and verification of the stores, every now and then. It is borne out from the reports that this sort of verification has not been exercised too frequently at present. This is true not only of the railway stores, but also about the stores in other departments. There also proper verification of stores is not being conducted. Every year, of course, according to rules they have to check these stores and then balance the accounts. But this verification is formally done. In some cases even this is not being done. But even in cases where it is done, it is done in a formal way. The stores clerk brings up the books to the checking or supervising authority and he simply signs it. The checking should be actually done.

Another method that can be adopted is the one of keeping proper index cards. There is a lot to say about these index cards. I do not know what methods are adopted by our railway stores, but recently I had occasion to go into the details of the stores of another department where we found that the index cards kept were kept in a very improper and inefficient manner. The latest method of keeping index cards was not followed by that department. In most of the advanced countries of the West where they have very large stores they have got a fool-proof method of preserving those stores and of keeping the index cards. This, I think is a line which may be examined by the Railway Board much more closely with good results.

With regard to engineering stores, there also some precaution has to be exercised. There is some force in the argument that most of the officers or people in charge of these stores will naturally connive at these things. On one occasion when I was travelling, I found wooden sleepers being

[Shri Govinda Reddy.]

taken off from a pile by the side of the railway line and put into a wagon. I immediately wrote to the Traffic Superintendent about this and he also immediately took action and found my suspicion well-founded. Then from the very next day, I found that the whole staff over that entire railway line, they shunned me as they shun a plague-stricken person. Then it became very clear to me that all these people over there must have been conniving at this sort of thing; otherwise there was no reason why they should have shunned me like that.

The other thing that is commonly pilfered is coal. I had noticed that at every watering station coal was being dropped by the engine driver or other people—assistants there—and I thought at first that it might have been an accident, or may be there was some purpose. And on the branch lines I found them do it at wayside places where they stop for watering, especially when there is no watering facility at the stations proper. At such wayside places, in between stations, I observed them drop the coal. I personally saw the District Traffic Superintendent about it and asked him to go into the matter. I found later that the coal was being deliberately dropped like this from the engine so that it could be collected later and that there was some arrangement with some people for that.

Things like coal being not identifiable this law will not help the Government to check these things. It is by enforcing stricter supervision and by creating better morale among the establishment that this evil can be checked. My hon. friend Shri Saksena suggested a very moral method for creating this better morale; but I do not believe that that method would succeed, because we are not very

prone to be moral when something profits us but when we are not going to be profited by anything, then we have no objection to be moral. Therefore, mere moral teaching will not be useful. As I said, proper checking must be made. All the stores and other materials should be properly checked periodically, either once in three months, or once in six months, or at least once a year. If this is done, then there will be a very salutary effect on the staff and this will exercise a good influence on the people who deal with these things and such pilferage would be lessened.

It would be very good to try the system suggested by an hon. Member of having travelling magistrates on the railways. But even this may not be very helpful for the reason I just now stated, that some of the articles are not identifiable and even if found in the possession of those who are supposed to be in charge of the work—say for instance oil in the house of one of the members of the station staff, or engineering parts in the house of a stores clerk. Even if I find a stores clerk going out with some parts, I cannot necessarily hold him up and say that he is a pilferer. He may say that he was going to deliver them to that section or this section. So I feel the method of having travelling magistrates may not be very successful. On the whole there is need to check this pilfering. This evil is there.

THE VICE-CHAIRMAN (SHRI R. C. GUPTA): The hon. Member may continue his speech on Monday.

The House now stands adjourned to 8-15 A.M. tomorrow.

The House then adjourned at a quarter past one of the clock till a quarter past eight of the clock on Thursday the 26th August 1954.

Editor of Debates,
Bajya Sabha Secretariat