

**STANDING COMMITTEE ON RAILWAYS
(2003)**

THIRTEENTH LOK SABHA

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

**THE RAILWAY PROTECTION FORCE (AMENDMENT) BILL, 2003
AND
THE RAILWAYS (SECOND AMENDMENT) BILL, 2003**

FOURTEENTH REPORT



**Presented to Hon'ble Speaker on 03.10.2003
Presented to Lok Sabha on 03.12.2003
Laid in Rajya Sabha on 05.12.2003**

**LOK SABHA SECRETARIAT
NEW DELHI**

September, 2003/Bhadrapada, 1925 (Saka)

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PART-III

The Railway Protection Force (Amendment) Bill, 2003

The Railways (Second Amendment) Bill, 2003

STANDING COMMITTEE ON RAILWAYS (2003)

Shri K. Yerrannaidu - Chairman

MEMBERS

LOK SABHA

2. Dr. (Smt.) Anita Arya
3. Shri Ramdas Athawale
4. Dr. Baliram
5. Shri Avtar Singh Bhadana
6. Shri M. Chinnasamy
7. Smt. Santosh Chawdhary
8. Shri Priya Ranjan Dasmunsi
9. Shri Manikrao Hodlya Gavit
10. Shri Anant Gudhe
11. Shri Moinul Hassan
12. Dr. Madan Prasad Jaiswal
13. Shri Muni Lall
14. Smt. Abha Mahato
15. Shri Salkhan Murmu
16. Smt. Ranee Narah
17. Shri Laxmanrao Patil
18. Shri Jaibhan Singh Pawaiya
19. Shri Sohan Potai
20. Shri G. Ganga Reddy
21. Dr. Jayanta Rongpi
22. Shri Prabhat Samantaray
23. Smt. Sushila Saroj
24. Dr. Nitish Sengupta
25. Shri Shashi Kumar
26. Shri Bahadur Singh
27. Shri Rajo Singh
28. Shri Bhupendra Sinh Solanki
29. Smt. Sangeeta Kumari Singh Deo
30. Shri Suresh Chandel

RAJYA SABHA

31. Maulana Obaidullah Khan Azmi
32. Shri Karnendu Bhattacharjee
33. Shri Nabam Rebia
34. Shri Raju Parmar
35. Dr. A.K. Patel
36. Shri Abhay Kant Prasad
37. Shri Surendra Lath
38. Shri Tarini Kanta Roy
39. Shri Ravula Chandra Sekar Reddy
40. Shri N. Jothi
41. Shri S.R. Bommai
42. Dr. Arun Kumar Sarma
43. Shri Abani Roy
44. Shri Harendra Singh Malik
45. Shri Bashistha Narain Singh

SECRETARIAT

- | | | | |
|----|----------------------------|---|-------------------|
| 1. | Smt. P.K. Sandhu | - | Joint Secretary |
| 2. | Shri V.S. Negi | - | Deputy Secretary |
| 3. | Smt. Abha Singh Yaduvanshi | - | Under Secretary |
| 4. | Shri. U.C. Bharadwaj | - | Reporting Officer |

INTRODUCTION

I, the Chairman of the Standing Committee on Railways (2003), having been authorised by the Committee to present on their behalf, this Fourteenth Report of the Standing Committee on Railways (2003) on “the Railway Protection Force (Amendment) Bill, 2003 and the Railways (Second Amendment) Bill, 2003” to the Hon’ble Speaker.

2. The Railway Protection Force (Amendment) Bill, 2003 and the Railways (Second Amendment) Bill, 2003 were introduced in Rajya Sabha on 9th May, 2003 and referred to the Standing Committee on Railways for examination and Report. The Committee invited Memoranda on the Bills from the Chief Secretaries, the Home Secretaries and the DGs, General Railway Police of State Governments of Assam, West Bengal, Bihar, Uttar Pradesh, Punjab, Madhya Pradesh, Maharashtra and Tamil Nadu. Besides this, the view/comments of All India RPF Association, ASSOCHAM, CII and FICCI were also invited. They took evidence of the representatives of the Ministry of Railways, the Ministry of Home Affairs and the Ministry of Law and Justice.

3. The Committee considered and adopted the Report at their sitting held on 2nd September, 2003. Minutes of the sittings held on 11th July, 13th August, and 2nd September, 2003 form Part-II of the Report.

4. The Committee wish to express their thanks to the officers of the Ministry of Railways (Railway Board), the Ministry of Home Affairs and the Ministry of Law and Justice for appearing before the Committee and furnishing the material and information which the Committee desired in connection with the examination of these Bills and sharing with them the issues concerning the subject which came up for discussion during evidence.

NEW DELHI;
2 September, 2003
11 Bhadrapada, 1925 Saka

K. YERRANNAIDU,
Chairman,
Standing Committee on Railways

Part-I

THE RAILWAY PROTECTION FORCE (AMENDMENT) BILL, 2003 & THE RAILWAYS (SECOND AMENDMENT) BILL, 2003

Report

Introductory

A secured and conducive ambience is the first requisite for running a smooth business. The Indian Railways are operating throughout the country having a very vast network. With the phenomenal upsurge in their multi functions of business on the one hand and overstretched Government Railway Police (GRP) with constraints of resources on the other hand, an expedient responsibility of the Indian Railways to ensure safe travel of the passengers has also increased manifold. It has become a challenging job for the Railways to operate smoothly in view of the increasing crimes viz. jeopardizing security of passengers and their belongings by anti social elements, terrorist activities, unscheduled stoppages and delays due to law and order problems such as dharnas, bands, demonstrations enroute, crimes and offences on the railway premises, operating areas and running trains. Under the Constitution, the responsibility to provide protection, safety and security to the travelling passengers has been vested with the Government Railway Police (GRP) of the respective State Governments. However, to safeguard and protect the railway property, including booked goods, a special armed force- Railway Protection Force (RPF) was created in 1957 by an Act of Parliament viz. the Railway Protection Force Act, 1957. Unfortunately, RPF also could not deliver the desired goods due to the limited powers not allowing them to investigate and prosecute the accused. To address this, the Parliament passed the Railway Property (Unlawful Possession) Act-RP(UP) in 1966 empowering the RPF to investigate and prosecute the accused. When RP(UP) Act came into being, its sphere of activity was confined only to

the Railway property. Till date the RPF is handling the RP(UP) Act very effectively delivering the desired goods.

2. As far as the security of passengers is concerned, the status quo still prevails entrusting the requisite authority to the GRP to investigate and prosecute the accused under the Indian Penal Code (IPC), 1860 and Code of Criminal Procedure (CrPC), 1973 for the offences occurring on the railway premises and in the running trains. Over the decade it has been felt that since the GRP having limited manpower and inadequate financial resources is already overstretched with umpteen responsibilities namely passenger safety & security, crime prevention & detection and maintenance of law and order, the customers i.e. railway passengers are not getting desired response from the former. Therefore, it has become quite essential for the Ministry of Railways to explore the way out to supplement the efforts of the Government Railway Police in ensuring secured atmosphere of traveling to the railway passengers.

3. The Ministry of Railways are having an armed force i.e. RPF consisting of about seventy thousand personnel at their disposal. However, the Railway Protection Force, not having the powers to investigate and prosecute the persons committing crimes under the Railways Act, 1989, are unable to help the Railways to ensure their smooth functioning. Though the RPF personnel or the railway employees are empowered under Section 179 of the Railways Act, 1989 to arrest the offenders without warrant or written authority for the crimes enumerated under the Sections mentioned therein, ultimately they have to handover the accused to the GRP for investigation and prosecution.

4. Having realized the acuteness of the security problem to the passengers and the inability of the RPF in handling the security problems without legal authority to investigate and prosecute the offenders, the Ministry of Railways have brought out two Bills (i) The Railway Protection Force (Amendment) Bill, 2003 (Appendix-I) and (ii) The Railway (Second Amendment) Bill, 2003 (Appendix-II) and introduced the same in Rajya Sabha on the 9th May, 2003 proposing empowerment to the RPF personnel to investigate and prosecute the offenders under Section 179(2) (proposed to be substituted)

of the Railway Act, 1989 and also empowering them to search and seize any property of the accused. The aforesaid Bills will also enable 'the officer authorized' on behalf of the Central Government to arrest any person who commit offence(s) mentioned under the Section 179(2) (proposed to be substituted) without warrant or other written authority of the competent authority notified by the Central Government. However, the officer authorized shall carry out searches, seizures and arrest in accordance with the provision of the Code of Criminal Procedure, 1973.

5. The Hon'ble Speaker, Lok Sabha in consultation with Chairman, Rajya Sabha referred the aforementioned Bills to the Standing Committee on Railways on 26.05.2003 to examine and report thereon under the Rule 331E(b) of Rules of Procedure and Conduct of Business in Lok Sabha. Some of the important amendments/additions proposed in the Railway Protection Force (Amendment) Bill, 2003 and the Railways (Second Amendment) Bill, 2003 as mentioned in the Statements of Objects and Reasons appended to these Bills are as under:-

- (a) Extension of jurisdiction of the Railway Protection Force to the 'passengers' and 'passenger areas' besides Railway property.
- (b) Empowering 'the officer authorized' of the Central Government i.e. personnel of RPF to arrest, investigate and prosecute the offenders under Section 179(2) (proposed to be substituted) for the offences enumerated under Section 137 to 139, 141 to 147, 153 to 157, 159 to 167 and 172 to 176 of the Railway Act, 1989.
- (c) Arresting of the persons committing the offence under the aforesaid Sections of the Railway Act, 1989 without warrant or other written authority by the officer authorized by a notified order of the Central Government.
- (d) Substitution of words 'any railway servant authorized in this behalf or any police officer not below the rank of a head constable' by the words 'the officer authorized' to carry out arrest, investigate and prosecute the accused.

- (e) Empowering 'the officer authorized' to search the accused and his premises and seize any property or document relevant to the subject matter of the inquiry.

6. The Committee examined both the Bills in depth Clause by Clause. During the course of examination of the these Bills, the Committee heard the views of the Ministries of Railways, Home Affairs and Law & Justice. As the subject matter involves a very delicate sphere of security concerns of the Railways for their passengers on the one hand and the constitutional obligation of the State Governments to maintain law and order including safety of railway passengers within their jurisdiction on the other hand, the Committee examined the subject minutely and analytically so as to avoid any friction between the delicate Centre-State constitutional jurisdiction.

7. The Committee during the course of examination noted that the proposed Amendment Bills have been brought out in the backdrop of the recommendations of the Report of the High Level Committee on Security of Railways constituted by Minister of Railways for improving the security of Railway Passengers. This High Level Committee inter-alia consisted of Chief Secretary/Director General of GRP/Home Secretary/Principal Secretary of various States including Special Secretary Ministry of Home Affairs (Union Government) under the Chairmanship of Chairman, Railway Board was constituted on 19.04.2000. This Committee submitted their Report in February, 2001. The essence of the recommendations of the said Committee is that the operation area of the RPF needs to be enhanced to passengers and passenger areas to ensure security and safety of the passengers.

8. The Ministry of Railways submitted before the Committee that the general perception of the public is that the Railways provide security not only to the railway property and booked goods but also to the railway passengers and their belongings, actually it is not the case. The security of passengers and their belongings lies with the Government Railway Police of respective State Governments. Some times it is difficult for the State Governments to provide adequate security to the railway passengers due to a

number of constraints faced by them allowing the general public to conclude that the Railways are not competent enough to provide foolproof security to the passengers and their belongings. Therefore, to ensure the image of Railways as a safe and secured mode of travel, it became necessary for the Railways to supplement the efforts of the GRP in consonance with the Constitutional provisions. However, the Railways have to maintain harmony without overlapping the efforts of GRP. In pursuance of this foresight, the Ministry of Railways have drafted these Bills.

9. Justifying the reasons for increasing the operational area of the RPF from ‘railway property’ to ‘railway property, passenger area and passengers’, the Ministry of Railways stated that the offences under the Railways Act, investigation of which is proposed to be entrusted to RPF, are committed in large numbers requiring a lot of efforts and manpower in their detection and prosecution. These offences are “minor” in legal parlance. Nevertheless, they greatly affect the passengers and the running of trains. GRP, being a wing of the State Police, view these ‘minor’ offences with less seriousness. These offences also do not get serious attention from the State Administration/the DGs of Police/State Assembly, who are more concerned about serious offences like dacoity, murder, rape etc. With RPF taking over the responsibility for these minor offences under the Railway Act, 1989, GRP can concentrate on serious offences, thus ensuring safer and more secure atmosphere for the passengers.

10. The Ministry further added that once the RPF Act is amended, RPF will get statutory preventive authority for the safety of passengers and passenger area. They will also have legal authority to arrest, investigate and prosecute offenders under the prescribed Sections of the Railways Act. Therefore, RPF will take appropriate action to prevent dacoity/Robbery etc. and also help the affected passengers if such crimes are committed. Proper co-ordination will be ensured between the Forces by the supervisory officials of RPF, Railways and GRP. With statutory authority, RPF, as a Force, will be able to render all necessary assistance to GRP and the State Police more effectively, as it is specialized in Railway working. RPF will thus be supplementing and, by no means, supplanting the efforts of GRP in controlling crime on Railways.

11. Responding to a query of the Committee relating to the rank/level of ‘the officer authorized’ by the Central Governments to arrest, investigate and prosecute the persons accused under the Sections mentioned in proposed Section 179 of the Railways Act, the Ministry of Railways submitted that the officials of RPF of and above the rank of Asstt. Sub-Inspectors (ASIs) are proposed to be empowered to inquire and investigate the offences under the specified Sections. Constables and Head Constables of RPF will, however, have the authority to apprehend the offenders and hand them over to ASIs and above for further necessary action. The purpose is to give authority to Central Government to add or delete from the list of ‘authorised officers’ depending on ground realities, without bothering the Parliament again and again for this purpose.

Further assuring the same, the Chairman, Railway Board also submitted before the Committee as under:-

“As regards authorization, this can be taken as an assurance – that it will be not below the rank of Assistant Sub-Inspector (ASI), because if we change by way of an amendment to the Bill, then we will have to again go through the rigmarole of going to the Cabinet, the Law Ministry, the Home Ministry, etc. So, we do not want to touch it”.

12. Allaying the fear of the Members of the Committee regarding any possible incursion in the constitutional domain of the GRP and the State Police, the Chairman, Railway Board stated as under:-

“We are not touching any of the provisions of the Indian Penal Code (IPC). The police, or the GRP, would continue to do what they have been doing under the IPC. Railways Act covers only 29 types of offences. Out of these, three types of offences – under Sections 150, 151, 152 – are serious offences like train-wrecking, attempting sabotage of the train, etc. We have excluded them in consultation with the Ministry of Home Affairs. The remaining 26 are of minor nature. There have been a lot of public complaints under GRP who have to handle offences like ticketless travel, etc. We have found that they have not been

that effective in those cases. Complaints come to us with regard to maintenance of law and order in the stations and to tackle the crimes. In regard to offences pertaining to these two things, passengers and passenger area, we have been finding difficulty, although we have been having liaison and coordination meetings with them. We have got our disciplined Force, RPF, who are also handling cases under Railway Property (Unlawful Possession) Act. They have been handling it very successfully. Although it is confined only to the property, they are doing investigation, examination. With that in the background, the Indian Railways have proposed this Bill to see that these 26 offences are easily handled by our own RPF without bothering and encroaching upon the jurisdiction of GRP.”

13. The Committee also called the Secretary, Ministry of Home Affairs and the representatives of the Ministry of Law & Justice to ensure that there is no transgression of Centre-State constitutional powers with the enactment of the proposed Bills. The Secretary, Ministry of Home Affairs supporting the proposals in question submitted before the Committee as under:-

“At the outset, I would like to say that the Ministry (Home Affairs) has supported the proposals. The issue which arises is whether this transgresses the Centre-State issues; whether the extended powers, sought to be given, in any way, come into conflict with the regular police force of the State. I am of the view that this need not be so. I say this because earlier itself the Railway Protection Force had the powers to investigate the offences of unlawful possession of the Railway properties. Now, what is proposed to be extended is within the prescribed area or within the Railway premises, the passenger area as well as the passengers belongings. So, that is the area to which this provision is being extended. In our view, it is not such as to create an area of friction.”

He also added.

“In respect of more serious offences, there are always things in which the RPF can do whatever they think and they have to submit it to the local jurisdiction of the police. Therefore, we do not think that there is any serious problem”.

14. Supplementing the Secretary, Home Affairs, the Joint Secretary & Legislative Counsel, Ministry of Law and Justice submitted as under:-

“As a draftsman, I am submitting before this Committee that I drew the precedent from the RP(UP) Act - Railway Property (Unlawful Possession) Act. It was basically concerning railway offences. This is a separate Act where the RPF is authorized to investigate and prosecute the wrong doers. On the same lines, as I was told by the Railway Ministry that they are not going to deal with very serious offences, normal offences in the course of normal working of the Railways be looked into.”

RECOMMENDATIONS/OBSERVATIONS

The Committee note that at present the Railway Protection Force is empowered to investigate offences relating to unlawful possession of only the Railway Property. However, under the proposed Bills – (i) The Railway Protection Force (Amendment) Bill, 2003 and (ii) The Railway (Second Amendment) Bill, 2003, the powers of the Railway Protection Force are proposed to be further extended to the passenger area and passengers, so that the officers authorized by the Central Government can take cognizance of and launch prosecution in respect of offences specified in the Railway Act, 1989.

After having examined the subject matter of the aforementioned Bills analytically and comprehensively and heard the expert views of the representatives of the Ministries of Railways, Home Affairs and Law & Justice, the Committee are of the considered view that the amendments/additions in the proposed Bills will enable the Railway Protection Force to discharge their functions relating to security of the passengers and protection of railway property more effectively. Besides, these do not contravene in any manner with the constitutional powers which already

stand conferred upon the Government Railway Police and the State Police of the respective States. Moreover, under the proposed powers, the Railway Protection Force will be empowered to deal with only 'Minor offences' as enumerated under section 179 of the Railway Act, 1989 and the serious offences which fall within the domain of the Indian Penal Code, 1860 will continue to be dealt with by the State Police/GRP in accordance with the Code of Criminal Procedure, 1973. The Committee, rather, are of the firm view that empowering the Railway Protection Force to deal with the 'minor offences' affecting productivity, efficiency and the general perception of the security in the Railways will go a long way in supplementing the efforts of the Government Railway Police. It will also bring about sufficient improvement in the ambience of the overall security of the Railways. However, they impress upon the Ministry of Railways to ensure proper safeguards so that the powers proposed to be conferred upon the Railway Protection Force are not misused in any manner. The Committee also emphasize that the Ministry of Railways, through administrative instructions/regulations must ensure that the powers to arrest, investigate and prosecute be entrusted to an officer not below the rank of an Assistant Sub-Inspector of Police.

New Delhi
2 September, 2003
11 Bhadrapada, 1925 (Saka)

K. YERRANNAIDU,
Chairman,
Standing Committee on Railways

PART-II

MINUTES OF THE FOURTEENTH SITTING OF STANDING COMMITTEE ON RAILWAYS (2003)

The Committee sat on Friday, the 11th July, 2003 from 1100 hours to 1300 in Committee Room 'A', Parliament House Annexe, New Delhi.

PRESENT

SHRI K. YERRANNAIDU - CHAIRMAN

MEMBERS

LOK SABHA

1. Dr. (Smt.) Anita Arya
2. Shri Ramdas Athawale
3. Shri M. Chinnasamy
4. Shri Priya Ranjan Dasmunsi
5. Shri Moinul Hassan
6. Shri Muni Lall
7. Shri Salkhan Murmu
8. Smt. Ranee Narah
9. Shri Jaibhan Singh Pawaiya
10. Dr. Nitish Sengupta
11. Shri Bahadur Singh
12. Shri Suresh Chandel

RAJYA SABHA

13. Shri Nabam Rebia
14. Shri Raju Parmar
15. Dr. A.K. Patel
16. Shri Abhay Kant Prasad
17. Shri Surendra Lath
18. Shri S.R. Bommai
19. Dr. Arun Kumar Sarma
20. Shri Abani Roy
21. Shri Harendra Singh Malik
22. Shri Bashistha Narain Singh

SECRETARIAT

- | | | |
|-------------------------------|---|------------------|
| 1. Smt. Paramjeet Kaur Sandhu | - | Joint Secretary |
| 2. Shri V.S. Negi | - | Deputy Secretary |
| 3. Smt. Abha Singh Yaduvanshi | - | Under Secretary |

Representatives of the Ministry of Railways (Railway Board)

- | | | |
|----|--------------------------|--|
| 1. | Shri R.K. Singh | Chairman, Railway Board & Ex-officio
Principal Secretary to the Govt. of India. |
| 2. | Shri B.S. Sudhir Chandra | Member Staff & Ex-officio Secretary
to the Govt. of India. |
| 3. | Dr. A.K. Pandey | Director General (R.P.F.) |
| 4. | Shri P.K. Malhotra | Legal Advisor |

2. At the outset, the Chairman welcomed the representatives of the Ministry of Railways to the sitting of the Committee and congratulated Shri R.K. Singh on his appointment as Chairman, Railway Board.

3. The Chairman, on behalf of the Committee, shared concern over the steeply increasing trend in Rail accidents. The Committee also expressed their grief over the loss of precious lives in the Karwar-Ahmedabad Holiday Special and Golconda Express accidents that occurred on 23rd June and 2nd July 2003, respectively. They stood in silence for a short while as a mark of respect to the departed soul.

4. The Committee then briefly discussed the safety and security scenario in Indian Railway and sought certain clarifications from the Railway Board. It was decided that since the Committee is examining 'Safety and Security' separately as a priority subject, the matter might be further discussed in the sittings to be held exclusively for the said subject.

5. Thereafter, the representatives of the Ministry of Railways (Railway Board) briefed the Committee about the RPF (Amendment) Bill 2003 and Railway (Second Amendment) Bill 2003 and replied to the queries of the Members of the Committee.

6. The Committee then decided to hold their next sitting on the subject after the receipt of Memoranda from the States which face law and order problems the most. It was also decided to call the representatives of the Ministry of Home Affairs/Ministry of Law and Justice on a subsequent date during ensuing Session.

7. The verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE FIFTEENTH SITTING OF STANDING
COMMITTEE ON RAILWAYS (2003)**

The Committee sat on Friday, the 13th August, 2003 from 1500 hours to 1630 in Committee Room 'E', Parliament House Annexe, New Delhi.

PRESENT

SHRI K. YERRANNAIDU - CHAIRMAN

MEMBERS

LOK SABHA

1. Dr. (Smt.) Anita Arya
2. Shri Ramdas Athawale
3. Shri Manikrao Hodlya Gavit
4. Shri Anant Gudhe
5. Dr. Nitish Sengupta
6. Shri Bahadur Singh
7. Shri Bhupendra Sinh Solanki
8. Smt. Sangeeta Kumari Singh Deo

RAJYA SABHA

9. Shri Karnendu Bhattacharjee
10. Dr. A.K. Patel
11. Shri Abhay Kant Prasad
12. Shri Surendra Lath
13. Shri Tarini Kanta Roy

SECRETARIAT

1. Shri V.S. Negi - Deputy Secretary
2. Smt. Abha Singh Yaduvanshi - Under Secretary

Representatives of the Ministry of Home Affairs

1. Shri N. Gopaldaswami Home Secretary
2. Shri Durgadas Gupta Joint Secretary (Judl.)
3. Shri A.K. Jain Joint Secretary (Police)

Representatives of the Ministry of Law and Justice

1. Dr. Santokh Singh Joint Secretary & Legislative Counsel
2. Shri N.K. Ambastha Deputy Legislative Counsel

Representatives of the Ministry of Railways (Railway Board)

1. Shri R.K. Singh Chairman, Railway Board & Ex-officio Principal Secretary to the Govt. of India.
2. Shri B.S. Sudhir Chandra Member Staff & Ex-officio Secretary to the Govt. of India.
3. Dr. A.K. Pandey Director General (R.P.F.)
4. Shri P.K. Malhotra Legal Adviser

2. At the outset, the Chairman welcomed the representatives of the Ministry of Home Affairs and the Ministry of Law and Justice and invited their attention to the provisions contained in Direction 58 of the Directions by the Speaker.

3. The representatives of the Ministries then briefed the Committee on the Railways (Second Amendment) Bill, 2003 and the RPF (Amendment) Bill, 2003. Thereafter, the Committee sought clarifications from the representatives of these Ministries on the subject.

4. After withdrawal of the representatives of the Ministries of Home Affairs and Law and Justice, the Committee also took oral evidence of the representatives of the Ministry of Railways on the concerned Bills.

5. The verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE SIXTEENTH SITTING OF STANDING
COMMITTEE ON RAILWAYS (2003)**

The Committee sat on Tuesday, the 02.09.2003 from 1500 hours to
1600 hours in Committee Room No. 139, Parliament House Annexe, New Delhi.

PRESENT

SHRI K. YERRANNAIDU - CHAIRMAN

MEMBERS

LOK SABHA

1. Dr. (Smt.) Anita Arya
2. Shri Ramdas Athawale
3. Shri Manikrao Hodlya Gavit
4. Shri Moinul Hassan
5. Dr. Madan Prasad Jaiswal
6. Shri Muni Lall
7. Smt. Abha Mahato
8. Smt. Ranee Narah
9. Shri Jaibhan Singh Pawaiya
10. Shri G. Ganga Reddy
11. Dr. Jayanta Rongpi
12. Shri Suresh Chandel

RAJYA SABHA

13. Maulana Obaidullah Khan Azmi
14. Shri Karnendu Bhattacharjee
15. Shri Nabam Rebia
16. Dr. A.K. Patel
17. Shri Tarini Kanta Roy
18. Shri N. Jothi
19. Dr. Arun Kumar Sarma
20. Shri Abani Roy
21. Shri Harendra Singh Malik
22. Shri Bashistha Narain Singh

SECRETARIAT

1. Smt. Abha Singh Yaduvanshi - Under Secretary

2. At the outset, the Chairman welcomed the Members to the Sixteenth Sitting of the Committee and informed them that the draft Report on the Bills- (i) Railway Protection Force (Amendment) Bill, 2003 (ii) Railway (Second Amendment) Bill, 2003 has already been circulated to them to consider for adoption. He also invited the Members to give their suggestions if any, on the said draft Report.

3. The Committee considered the draft Report and adopted the same without any change/additions/amendments. It was decided that the Chairman may, on behalf of the Committee, present this Report to the Hon'ble Speaker during this inter-session and subsequently present the same during the winter session of the Parliament.

4. The Committee also finalised the next Study Tour of the Committee to Chennai, Thiruvananthapuram, Bangalore and Mumbai, which would be undertaken w.e.f. 13.10.2003 to 18.10.2003.

5. Thereafter, the Committee decided to hold sittings of the Committee on 12.09.2003 and 24.09.2003 to take oral evidence of the Ministry of Railways on the subject – 'Safety & Security' and to adopt the draft Report on the subject – 'Pending and Ongoing Projects' respectively. They also decided to hold a sitting of the Committee on 08.10.2003 for which the agenda will be decided in the preceding two meetings.

6. The Committee also pondered over the need of constituting a Sub-Committee on 'Safety & Security' particularly in view of the forthcoming Kumbh Mela at Haridwar during the next year. However, they decided to take a final view in this regard after the oral evidence with the representatives of the Ministry of Railways scheduled to be held on 12.09.2003 relating to the aforesaid subject.

The Committee then adjourned.

**MINUTES OF THE SIXTEENTH SITTING OF STANDING
COMMITTEE ON RAILWAYS (2003)**

The Committee sat on Tuesday, the 02.09.2003 from 1500 hours to
1600 hours in Committee Room No. 139, Parliament House Annexe, New Delhi.

PRESENT

SHRI K. YERRANNAIDU - CHAIRMAN

MEMBERS

LOK SABHA

Dr. (Smt.) Anita Arya
Shri Ramdas Athawale
Shri Manikrao Hodlya Gavit
Shri Moinul Hassan
Dr. Madan Prasad Jaiswal
Shri Muni Lall
Smt. Abha Mahato
Smt. Ranee Narah
Shri Jaibhan Singh Pawaiya
Shri G. Ganga Reddy
Dr. Jayanta Rongpi
Shri Suresh Chandel

RAJYA SABHA

Maulana Obaidullah Khan Azmi
Shri Karnendu Bhattacharjee
Shri Nabam Rebia
Dr. A.K. Patel
Shri Tarini Kanta Roy
Shri N. Jothi
Dr. Arun Kumar Sarma
Shri Abani Roy
Shri Harendra Singh Malik
Shri Bashistha Narain Singh

SECRETARIAT

1. Smt. Abha Singh Yaduvanshi - Under Secretary

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4. xx xx xx

5. xx xx xx

6. xx xx xx

The Committee then adjourned.

PART-III

AS INTRODUCED IN THE RAJYA SABHA

09 MAY 2003

Bill No. XLI of 2003

THE RAILWAY PROTECTION FORCE (AMENDMENT) BILL, 2003

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BILL

further to amend the Railway Protection Force Act, 1957.

BE it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follow:—

- | | | |
|-------------|---|-------------------------------|
| | 1. (1) This Act may be called the Railway Protection Force (Amendment) Act, 2003. | Short title and commencement. |
| 5 | (2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. | |
| 23 of 1957. | 2. In the Railway Protection Force Act, 1957 (hereinafter referred to as the principal Act), in the long title, for the words "railway property", the words "railway property, passenger area and passengers" shall be substituted. | Amendment of long title. |
| 10 | 3. In section 2 of the principal Act, after clause (c), the following clauses shall be inserted, namely:— | Amendment of section 2. |
| 24 of 1989. | (ca) "passenger" shall have the meaning assigned to it in the Railways Act, 1989; | |

(cb) "passenger area" shall include railway platform, train, yard and such other area as is frequently visited by passengers;'

Substitution of new section for section 11.

4. For section 11 of the principal Act, the following section shall be substituted, namely:—

Duties of members of Force.

"11. It shall be the duty of every superior officer and member of the Force— 5

(a) promptly to execute all orders lawfully issued to him by his superior authority;

(b) to protect and safeguard railway property, passenger area and passengers;

(c) to remove any obstruction in the movement of railway property or passenger area; and 10

(d) to do any other act conducive to the better protection and security of railway property, passenger area and passengers."

Amendment of section 12.

5. In section 12 of the principal Act, for the words "railway property" wherever they occur, the words "railway property, passenger area and passengers" shall be substituted. 15

Amendment of section 14.

6. In section 14 of the principal Act, for the words "to a police officer", the words "to a police officer together with a detailed report of the circumstances leading to the arrest of such person" shall be substituted.

STATEMENT OF OBJECTS AND REASONS

The problem relating to security of the railway passengers has increased manifold during the last decade. It is difficult for the State Governments to provide adequate security cover to the railways due to a number of constraints. It has, therefore, become necessary that the Ministry of Railways should supplement the efforts of the State Governments in ensuring better security to the railway passengers.

2. As of now, the Railway Protection Force is empowered to investigate offences relating to unlawful possession of only the railway property. It is now proposed to enable the Railway Protection Force to also perform these functions in relation to the passenger area and passengers so that the officers authorised by the Central Government can take cognizance of and launch prosecution against offenders in respect of the offences specified in the Railways Act, 1989. It is, accordingly, proposed to amend the Railway Protection Force Act, 1957.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 7th May, 2003.

NITISH KUMAR.

ANNEXURE

EXTRACTS FROM THE RAILWAY PROTECTION FORCE ACT, 1957

(23 OF 1957)

An Act to provide for the constitution and regulation of an armed force of the Union for the better protection and security of railway property and for matters connected therewith.

	* * * * *
Definitions.	2. (1) In this Act, unless the context otherwise requires,—
	* * * * *
	(c) "member of the Force" means a person appointed to the Force under this Act;
	* * * * *
Duties of members of the Force.	11. It shall be the duty of every superior officer and member of the Force—
	(a) promptly to execute all orders lawfully issued to him by his superior authority;
	(b) to protect and safeguard railway property;
	(c) to remove any obstruction in the movement of railway property; and
	(d) to do any other act conducive to the better protection and security of railway property.
	* * * * *
Power to arrest without warrant.	12. Any member of the Force may, without an order from a Magistrate and without a warrant, arrest—
	(i) any person who voluntarily causes hurt to, or attempts voluntarily to cause hurt to, or wrongfully restrains or attempts wrongfully to restrain, or assaults, threatens to assault, or uses, or threatens or attempts to use, criminal force to him or any other member of the Force in the execution of his duty as such member, or with intent to prevent or to deter him from discharging his duty as such member, or in consequence of anything done or attempted to be done by him in the lawful discharge of his duty as such member; or
	(ii) any person who has been concerned in, or against whom a reasonable suspicion exists of his having been concerned in, or who is found taking precautions to conceal his presence under circumstances which afford reason to believe that he is taking such precautions with a view to committing a cognizable offence which relates to railway property; or
	(iii) any person found taking precautions to conceal his presence within the 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; or
	(iv) any person who commits or attempts to commit a cognizable offence which involves or which is likely to involve imminent danger to the life of any person engaged in carrying on any work relating to railway property.
	* * * * *

14. Any member of the Force making an arrest under this Act, shall, without unnecessary delay, make over the person so arrested to a police officer, or, in the absence of a police officer, take such person or cause him to be taken to the nearest police station.

**Procedure to
be followed
after arrest.**

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09 MAY 2003

Bill No. XLII of 2003

THE RAILWAYS (SECOND AMENDMENT) BILL, 2003

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BILL

further to amend the Railways Act, 1989.

Be it enacted by Parliament in the Fifty-fourth Year of the Republic of India as follows:—

1. (1) This Act may be called the Railways (Second Amendment) Act, 2003.

Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

24 of 1989. 5 2. In section 2 of the Railways Act, 1989 (hereinafter referred to as the principal Act),—

Amendment of section 2.

(a) after clause (26), the following clause shall be inserted, namely:—

“(26A) “officer authorised” means an officer authorised by the Central Government under sub-section (2) of section 179;”

10 (b) in clause (34), after the words “service of a railway”, the following shall be inserted, namely:—

23 of 1957. “including member of the Railway Protection Force appointed under clause (c) of sub-section (1) of section 2 of the Railway Protection Force Act, 1957”.

Substitution of new section for section 179. Arrest for offences under certain sections.

3. For section 179 of the principal Act, the following section shall be substituted, namely:—

“179. (1) If any person commits any offence mentioned in sections 150 to 152, he may be arrested without warrant or other written authority by any railway servant or police officer not below the rank of a head constable. 5

(2) If any person commits any offence mentioned in sections 137 to 139, 141 to 147, 153 to 157, 159 to 167 and 172 to 176, he may be arrested, without warrant or other written authority, by the officer authorised by a notified order of the Central Government.

(3) The railway servant or the police officer or the officer authorised, as the case may be, may call to his aid any other person to effect the arrest under sub-section (1) or sub-section (2), as the case may be. 10

(4) Any person so arrested under this section 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.”

Amendment of section 180.

4. In section 180 of the principal Act, — 15

(a) in sub-section (1), —

(i) for the word and figures “section 179”, the words, brackets and figures “sub-section (2) of section 179” shall be substituted;

(ii) for the words “any railway servant authorised in this behalf or any police officer not below the rank of a head constable”, the words “the officer authorised” shall be substituted; 20

(b) in sub-section (2), for the words “The railway servant or the police officer”, the words “The officer authorised” shall be substituted.

Insertion of new sections 180A to 180G.

5. After section 180 of the principal Act, the following sections shall be inserted, namely:— 25

“180A. For ascertaining facts and circumstances of a case, the officer authorised may make an inquiry into the commission of an offence mentioned in sub-section (2) of section 179 and may file a complaint in the competent court if the offence is found to have been committed.

Inquiry by officer authorised to ascertain commission of offence.

Powers of officer authorised to inquire.

180B. While making an inquiry, the officer authorised shall have power to, — 30

(i) summon and enforce the attendance of any person and record his statement;

(ii) require the discovery and production of any document;

(iii) requisition any public record or copy thereof from any office, authority or person; 35

(iv) enter and search any premises or person and seize any property or document which may be relevant to the subject-matter of the inquiry.

Disposal of persons arrested.

180C. Every person arrested for an offence punishable under sub-section (2) of section 179 shall, if the arrest was made by a person other than the officer authorised, be forwarded, without delay, to such officer. 40

Inquiry to be made against arrested person.

180D. (1) When any person is arrested by the officer authorised for an offence punishable under this Act, such officer shall proceed to inquire into the charge against such person.

2 of 1974. (2) For this purpose, the officer authorised may exercise the same powers and shall be subject to the same provisions as the officer in charge of a police station may exercise and is subject to the provisions of the Code of Criminal Procedure, 1973, when investigating a cognizable case:

5 Provided that —

(a) if the officer authorised is of the opinion that there is sufficient evidence or reasonable ground of suspicion against the accused person, he shall either admit him to bail to appear before a Magistrate having jurisdiction in the case, or forward him in custody to such Magistrate;

10 (b) if it appears to the officer authorised that there is not sufficient evidence or reasonable ground of suspicion against the accused person, he shall release the accused person on his executing a bond, with or without sureties as the officer authorised may direct, to appear, if and when so required, before the Magistrate having jurisdiction.

15 2 of 1974. 180E. All searches, seizures and arrests made under this Act shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973, relating respectively to searches and arrests made under that Code.

Search, seizure and arrest how to be made.

180F. No court shall take cognizance of an offence mentioned in sub-section (2) of section 179 except on a complaint made by the officer authorised.

Cognizance by Court on a complaint made by officer authorised.

20 180G. Whoever intentionally insults or causes any interruption in the inquiry proceedings or deliberately makes a false statement before the inquiring officer shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both."

Punishment for certain offences in relation to inquiry.

STATEMENT OF OBJECTS AND REASONS

The railway administration has at its disposal seventy thousand personnel of the Railway Protection Force which is an armed force of the Union. The Railway Protection Force has been given limited powers under the Railway Property (Unlawful Possession) Act, 1966 to take action against any person who is found in unlawful possession of railway property. However, the Railway Protection Force is not able to actively help the railway administration in dealing with day to day problems and to ensure smooth running of trains. Though the Railways Act, 1989 empowers the railway servants, including a Member of the Railway Protection Force, to arrest without warrant the persons committing offences mentioned in section 179 of the said Act and to produce them before the nearest Magistrate, such persons are not empowered to either investigate or inquire into cases or launch prosecution in a court of law. These functions are performed by the State police.

2. For effectively dealing with certain offences under the Railways Act, 1989, it is proposed that the officers authorised by the Central Government may be empowered to inquire and launch prosecution against the persons committing offences directly related to the functioning of the railways by amending the said Act. It is also proposed to empower these officers to search and seize any property and to file complaint in a court of competent jurisdiction in respect of these offences. The authorised officers would not have the power in respect of certain serious offences namely, offences under sections 150 to 152 of the Railways Act, 1989.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 7th May, 2003.

NITISH KUMAR.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 3 of the Bill seeks to empower the Central Government to issue notification for authorising an officer to take cognizance of certain offences under the Railways Act, 1989. The power to issue a notification for taking cognizance of offences would not pertain to any matter of substance and as such the delegation of legislative power involved there is of a normal character.

ANNEXURE

EXTRACTS FROM THE RAILWAYS ACT, 1989

(24 OF 1989)

Definitions.

2. In this Act, unless the context otherwise requires,—

(34) "railway servant" means any person employed by the Central Government or by a railway administration in connection with the service of a railway;

Arrest for offences under certain sections.

179. (1) If a person commits any offence mentioned in sections 137, 141 to 147, 150 to 157, 160 to 162, 164, 166, 168 and 172 to 175, he may be arrested without warrant or other written authority by any railways servant or police officer not below the rank of a head constable.

(2) The railways servant or the police officer may call to his aid any other person to effect the arrest under sub-section (1).

(3) Any person so arrested under this section 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.

Arrest of persons likely to abscond, etc.

180. (1) If any person who commits any offence under this Act, other than an offence mentioned in section 179, or is liable to pay any excess charge or the sum demanded under section 138, fails or refuses to give his name and address or there is reason to believe that the name and address given by him are fictitious or that he will abscond, any railway servant authorised in this behalf or any police officer not below the rank of a head constable may arrest him without warrant or written authority.

(2) The railway servant or the police officer may call to his aid any other person to effect the arrest under sub-section (1).

RAJYA SABHA

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farther to amend the Railways Act, 1969.

(Shri Nitish Kumar, Minister of Railways)