

[Shri Shree Narayan Das]

the Bill, when it comes before the House for consideration, amendments can be moved and the provisions changed or amended.

Here I would like to refer to only one point. Shri Warior said that I was trying to perpetuate the representation of vested interests. There is already provision in the Constitution for representation of particular interests. I am only trying to give representation to labour, commerce and some other important elements of society, which are playing a very important part in the social structure of our country. As it is, representation is given only to a few elements. I have tried to give representation to as many elements as possible.

Then I do not understand what the hon. Minister meant by saying that I have given representation not to loose element. I have made provision for the representation for the various bodies like commerce, business and tillers of the soil. Further, the representatives of these interests will be elected by their organised bodies.

With these words, I again request hon. Members to support my motion as I have moved it.

Mr. Deputy-Speaker: The question is:

"That the Bill to provide for the composition of the Legislative Councils of States and for matters connected therewith be circulated for the purpose of eliciting opinion thereon by the 31st December, 1962."

The motion was adopted.

16.29 hrs.

INDIAN POST OFFICE (AMENDMENT) BILL

(Amendment of sections 68 and 69
by Shri S. C. Samanta)

Shri J. B. S. Bist (Almora): What is the time allotted for this Bill?

Mr. Deputy-Speaker: I think one hour will be sufficient.

Shri S. C. Samanta (Tamluk): I beg to move:

"That the Bill further to amend the Indian Post Offices Act, 1898 be taken into consideration."

I think there is one amendment to this Bill, which should be moved.

Mr. Deputy-Speaker: The amendment can be taken up after the Bill is moved.

Shri S. C. Samanta: My proposal to amend the Post Office Act is very simple.

16.29 ½ hrs.

[SHRI MULCHAND DUBE in the Chair]

In the Statement of Objects and Reasons, I have stated:

"Under the present Act no effective and quick action can be taken against a person who knowingly receives or opens any letter or postal article which ought to have been delivered to any other person."

16.30 hrs.

The Bill also seeks to make the provisions of the present Act more effective so that quick and immediate action may be taken against the offenders under this Act. I think the House will agree to the proposal which I am putting before it.

In the rules I find that section 52, 53 etc. provide penalty for the offenders of the post offices for infringing the law. I want to help the Government by taking the responsibility upon ourselves, that is, if we the public, who are benefited by the postal system in the country, do not help them to carry out their work, I

think, the good name that the Posts and Telegraphs Department has cannot be had. In this respect it will not be needless to say that the Posts and Telegraphs Department in this country is playing a vital role in making this vast sub-continent into one single unit and in linking it with the rest of the world. This Department as we all know is well-known for its honesty and efficiency. So, we must try to help this Department as much as we can. For that end I have brought this amendment that is, to help the Department.

I may refer to section 68 of the Indian Post Office Act in which it is said:

"Whoever, fraudulently retains, or wilfully secretes or makes away with, or keeps or detains, or when required by an officer of the Post Office, neglects or refuses to deliver up, any postal article in course of transmission by post which ought to have been delivered to any other person, or a mail bag containing a postal article, shall be punishable with imprisonment for a term which may extend to two years, and shall also be punishable with fine."

This is the existing provision and in it I want that the words "or when required by an officer of the Post Office, neglects or refuses to deliver up" be replaced by "or does not return to Post Office." By this I am bringing the responsibility on the person who wilfully secretes or makes away with, or keeps or detains a letter or any post article. We all know how we are benefited by the Postal Department when from thousands of miles away we receive things which are dear and near to us and which are essential to us. Specially in the rural areas we have found that where there are two parties in a village or in a place, one party in order to teach a lesson to the other because of the animosity that they have tried to get destroyed any secret thing which one sends in a letter or through a postal

article. This is a thing which is not unknown to any of us. If the Indian Post Office Act imposes some penalty for the collusion of officers or other persons of the post office, why should not we who collude with them be also penalised? How can this evil be remedied if we do not come forward to take the responsibility?

In the Act, in clause (3) under the Definitions, the meaning of "in course of transmission by post and delivery" is given. It says:

"For the purpose of this Act, a postal article shall be deemed to be in course of transmission by post from the time of its being delivered to a post office to the time of its being delivered to the addressee or of its being returned to the sender or otherwise disposed of under Chapter VII".

This transmission does not end when a postman delivers or misdelivers a letter. If he misdelivers a letter or, in collusion, delivers a letter to somebody he will be punished. But I find that the man who is in collusion, who is secreting the things wilfully, who is knowingly destroying the thing, is not punished.

Then, as regards penalty for unlawfully delivering letters, section 69 of the Act says:

"Whoever, not being an officer of the Post Office, wilfully and maliciously, with intent to injure any person, either opens or causes to be opened any letter which ought to have been delivered, or does any act whereby the due delivery of a letter to any person is prevented or impeded, shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both."

Sir, here I want to replace the words "wilfully and maliciously" by the word "knowingly". Even if he knowingly does it, he should be

[Shri S. C. Samanta]

punished. In the Act the words used are "wilfully and maliciously". I am sure when Government brings a suit against any person in this respect, they generally cannot prove the man having done it "wilfully and maliciously". So I want to make it more simple and say that "knowingly" should be substituted for "wilfully and maliciously".

My hon. friend Shri B. K. Das has given an amendment. He says that wilfully and maliciously should be retained and he wants to add 'knowingly'—wilfully, maliciously and knowingly—so that he cannot escape.

Shri Nambiar (Tirchirapalli): He wants to make it worse.

Shri Hari Vishnu Kamath (Hosangabad): Foolproof and knaveproof.

Shri S. C. Samanta: I think I have been able to put the matter before the hon. Minister who has vast experience in Communications and Transport. I know he was the Communications Minister before. Then, Transport was not with him. Then, he went to Transport and Railways. Again, he has come back to Transport and Communications.

Shri Hari Vishnu Kamath: Re-transported.

Shri S. C. Samanta: I have great faith in his experience in these matters and I hope he will give due consideration to the proposals that I have put before him and the House.

This is a department which can brag that it is the only institution which can move to the remotest corners of villages of India. It is not a matter of joke that it has improved in such a way. We know, in the olden days, communications were carried by horses and pigeons and other things. It took months and years. The vehicles used to take time, a year even. Now, within a day, within a few hours, the Posts and Telegraphs department can send

communications thousands of miles. This is a dear department to all of us. The progress made during the First and Second Plans, this department itself can brag of. In order to give this department a real help from us, the public, I put this proposal before the House for acceptance.

Mr. Chairman: Motion moved:

"That the Bill further to amend the Indian Post Office Act, 1898 be taken into consideration."

Shri Nambiar: Sir, I have great pleasure in supporting this Bill and I congratulate the Mover of the Bill.

Shri B. K. Das (Contai): There is an amendment. I will only say a few words in moving the amendment before the House. In page 1, line 11...

Mr. Chairman: The amendments are to certain clauses. They will be taken when the clauses are considered.

Shri Nambiar: I support the Mover of the Bill for the reason that he has placed the matters squarely before the Government and the people. The Communications department takes a very important responsibility when it handles letters, money orders or whatever articles we give to them for safe transit. If the Postal Department itself begins to tamper with the documents and the letters and whatever else we give in its hands, then there is no remedy. The Mover of the Bill seeks a remedy through this Bill that if a particular letter or a message is handed over to the Postal Department and it is tampered with and is not handed over to the addresses, the person who is responsible for it should be severely dealt with. That is the purpose of this Bill.

The amendment that my hon. friend wants to make in section 68 of the parent Act is this. Instead of the words 'or when required by an officer of the Post Office, neglects or refuses to deliver up', he wants to insert

the words 'or does not return to Post Office'. With the present provision, it is difficult to prove in a court of law that when required by an officer of the Post Office to do so, the person neglected it or refused to deliver it up; that would mean that it would be the responsibility of the prosecutor to prove that an officer wanted it, but there was a neglect of his orders and so on, and all these complications would come in the way of punishing the person who does the harm. Therefore, my hon. friend wants an amendment which will make the matter straight, by providing that when a person does not return an article which is entrusted with him, to the person concerned, he must be punished.

Smiliarly, in section 69 of the parent Act, my hon. friend wants to substitute the word 'knowingly' instead of the words 'wilfully and maliciously'. The present section provides that if there is an accusation that an officer or somebody who is entrusted with the work of transmission wilfully or maliciously does not do his job, he can be punished. But that is very difficult to prove at present. It is very difficult to prove that it was done wilfully and maliciously. Therefore, my hon friend now wants to substitute the word 'knowingly' in place of 'wilfully and maliciously'.

Here, I want to add that we have got a grouse, and a right grouse that our letters are tampered with. That is what is happening to the letters written to many Members of the Opposition. I remember that many of the letters addressed to me with express delivery stamps reached me four or five days later, and not only that, they were tampered with, repasted, and even photostat or other copies had been taken of the same; in many cases, the letters did not reach me at all. Afterwards, when the person who wrote the letter came by train or by aeroplane and asked me 'I had sent you a letter. Did you not receive it?', I had to give the answer 'No. I did not receive it'.

It is not only a deliberate case of tampering, but I may use even a harsher word, and say that it is stealing away of the letter.

The Minister of Transport and Communications (Shri Jagjivan Ram): That is not relevant at all to the present Bill.

Shri Nambiar: That was being done during the election days. Many of our telegrams did not reach the addressees, and many of our letters too did not reach the addressees. The reason is that anybody could tamper with those things. The Postal Department under instructions from the highest authority and from the Home Ministry colluded in this matter, and the Secret Service Department took away the letters and tampered with the letters as they liked, without giving an opportunity to the addressees even to read them. This is a thing which has been brought up on the floor of the House on many an occasion in the past. I want to submit that there must at least be a guarantee that we should get those letters. At least, the secrecy which is inside the letters should not be revealed, and if Government want to know the activities of their political opponents, they must do it by other methods, and not by this method of naked stealing and robbing away of letters which are in transmission between two persons or two parties.

Shri P. N. Kayal (Joynagar): That can be covered under the common law.

Shri S. C. Samanta: May I correct my hon. friend? The things to which he is referring can be dealt with under sections 52 and 53 of the parent Act. I am not going to amend those sections at all, and take the responsibility for that on ourselves.

Shri P. K. Deo (Kalanandi): At least in regard to love letters.

Shri Nambiar: I am within my limits and within my bounds.

Shri C. K. Bhattacharyya (Raiganj): My hon. friend is arguing his case without having gone through his brief.

Shri Nambiar: Yes, it is very clear. I am arguing my case, and I know that I am within my limits.

I submit that there should be a guarantee that the tamperer will be dealt with seriously, as my hon. friend likes to provide, and also a guarantee that my letters will not be tampered with, and that I shall get the secret letters entrusted to me intact, maybe even from my wife. In fact, there were occasions when many of the letters addressed to me by my wife did not reach me at all. I cannot prove it today because the letters did not reach me at all. I can say what has happened only if the letters reached me, but they did not reach me at all.

On this occasion, I may be permitted to say also that now the latest method has been introduced for spying the political opponents by tape-recording their telephone talks. Not only that, on many occasions, I could not even get the telephone connected. As soon as I dial and listen in through the receiver, there will be plugging from the CID and the whole thing is disturbed.

Shri Jagjivan Ram: How is that relevant here?

Shri Nambiar: Though it may not be directly relevant, I want to bring this to the notice of the hon. Minister.

Mr. Chairman: This is not relevant to the Bill. He can refer to it on another occasion.

Shri Nambiar: Tampering has become the order of the day and political opponents are dealt with in this manner. Whatever provision is there in the Act has been misused and abused by the Ministry of Communications.

I thank the hon. Mover for having brought forward the Bill. His amendment gives some relief, though not all the relief needed. Therefore, I support the motion.

Shri C. K. Bhattacharyya: As I heard the previous speaker and the great enthusiasm he showed for his lost letters, I did not know whether those lost letters were associated with lost loves. I was reminded of the lines of Goldsmith:

"Still they gazed and still their wonder grew.

That one small head could contain all he knew".

The scope of this Bill is very simple. I do not know how all these things, tampering, telephone dialling, tape-recording, could be brought into this very simple proposition that a member of the public who received a letter wrongly delivered to him should take care to see that the letter is returned to the post office so that it may reach the actual addressee. That is the long and short of the whole proposal that Shri S. C. Samanta has brought before the House and which Shri B. K. Das seeks to amend. How within the scope of the small Bill, so many other things could be brought in was evoking my admiration. But as I stated, he was arguing at times without going through the brief and at times beyond the brief. He did both the things.

Shri Bade (Khargone): This is the only window for the Opposition.

Shri C. K. Bhattacharyya: That is the only tactics of the Opposition. Will they have any satisfaction if I say that it happens not only with the Opposition, but also with Members on this side who at times do not receive things addressed to them? This happens accidentally. Even now I am in correspondence with the postal department over a very important thing I did not receive. The Returning Officer in my election sent me a whole list of polling booths. This did not reach me at all. Accidentally, I came to know that this was addressed to me. Then I began correspondence which is continuing. But while I am carrying on correspondence, I do not caste aspersions on the *bona fides* of the department itself. I take it this was done by an accident. I have been

trying to find out where and how it occurred. The same grievance is with me also, but the outlook is completely different. I do not get angry in the way of one who has just been deprived of a love letter he was eagerly expecting to have, which somebody had carried away.

Shri Bade: You have to be romantic.

Shri C. K. Bhattacharyya: The Opposition is nothing if it is not romantic.

I congratulate the Mover. We are a bit realistic people dealing with realistic day to day things, carrying on the system of administration, sometimes getting praises and sometimes getting abuses. We do not mind it. This is the real state of the world. This happens usually.

Shri Samanta was congratulating the department on the faithfulness and integrity with which it does its work. I may give an example which Shri Samanta and Shri B. K. Das, both of whom come from Midnapore, will relish. During the civil disobedience movement in Midnapore, while houses and paddy were being set on fire, I got a bunch of photographs made of them. Somehow I got them. I put them together and dropped them by post to the editors of different papers, and the editor of a very distinguished paper, the late Shri Ramananda Chatterjee of the *Modern Review*, came out with this comment: "The postal department of the Government of India has faithfully brought to us a bunch of photographs like this". These photographs could not be referred to under the law, but the astute editor of the paper made a reference to them in this way. Both Shri Samanta and Shri B. K. Das will remember the things that happened there, and how we had to carry on the publicity with the help of the postal department itself.

I do not know whether the Opposition takes the same advantage now of the department that is being manned by the hon. Minister. I say this so that he may take care to see that

the Opposition, whatever the value of their complaints may be, may not get the same advantage from the postal department now. That is why I bring this to his notice.

So far as the actual proposal that Shri Samanta has made is concerned, I believe this has some very real value. But one difficulty that I find is this: who will enforce the penal provisions? Actually, it is the members of the public who should be sufficiently careful and sufficiently honest to themselves. I am not honest to myself if I destory somebody else's letter, unless I am disposed in the way that Shri Nambiar ascribes to the postal department. Usually, people are not inclined that way. So, the only difficulty is: how and by whom this penal provision is to be enforced. Otherwise, the amendment that he has suggested is unexceptionable and should be accepted. That is my whole comment.

Dr. L. M. Singhvi (Jodhpur): I crave leave to express myself through an extempore free verse on the subject. In order to be brief I have chosen this medium. The Verse is as follows:—

Because epistles, amorous and otherwise,

Are wilfully intercepted,

Deeply perturbed, Mr. Samanta proposes.

That an amendment should be enacted.

It would make love and politics safe;

That is why, for Mr. Nambiar's sake,

I beg to support the Bill,

Although its passage is uphill,

Unless the minister's benign smile,

Is meant to accept the reason of my rhyme.

With this, I support the Bill.

श्री बड़े सभ्यति महोदय, जो बिल
मदन के सामने उभरिये किया गया है, उसका
मैं अत्यन्त दुःख से विरोध करना हूँ, क्योंकि

[श्री बडे]

मैं मानता हूँ कि इस का जो उद्देश्य है, वह अच्छा है। अभी अपोजीशन के आनरेबल मेम्बर साहब ने जो कुछ कहा है, उसकी मैं तार्किक करता हूँ। अपोजीशन के मेम्बर के पत्रों और तारों को पोस्ट आफिसिज में पड़ा जाता है। जहाँ तक पत्रों का सम्बन्ध है, पोस्ट आफिसिज के हैड आफिस में एक यन्त्र से पानी की भाप देकर पत्रों को खोला जाता है और उनकी फोटो लेकर बन्द कर के ट्रेनों को भेज दिया जाता है। पुलिस में अनडिजायरेबल पर्सन्स की यदि (लिस्ट) रहती है और उसके अनुसार हम अनडिजायरेबल पर्सन्स समझे जाते हैं। इसलिए पोस्ट आफिसिज में हमारे पत्र खोल कर देखे जाते हैं। लेकिन इस बिल का उद्देश्य इस कार्यवाही को ठीकना नहीं है। अभी जिस कांग्रेस सदस्य ने भाषण दिया है, मैं समझता हूँ कि उनके लैट्रज टेम्पर विद नहीं होते हैं और इसलिए उन को इस बारे में प्रोबेस नहीं है।

इसके अनिश्चित मैं इस बिल के वर्डिग्न का विरोध करता हूँ। ऑरिजनल वर्डिग्न इस तरह है:—

"Whoever, fraudulently retains, or wilfully secretes or makes away with, or keeps or detains or when required by an officer of the Post Office, neglects or refuses to deliver up....."

.....or when required by an officer of the Post Office, neglects or refuses to deliver up" की जगह "or does not return to Post Office.

शब्दों को रखना चाहते हैं। डब्लू नाट रिटर्न टू पोस्ट आफिस का मतलब यह है कि कि कोप्स और डिटेनर। इसका मतलब हुआ कि अगर वह रक्ता है तो इसको डिटेन करता है और डिटेनर का साजिकल कन्क्लूजन यह निकलता है कि हो डब्लू नाट रिटर्न टू पोस्ट आफिस। इसके अलावा और कोई मतलब हो ही नहीं सकता है।

दूसरी बात यह है कि जो बकील हैं, जो एडवोकेट हैं वे जानते हैं कोप्स एण्ड डिटेनर

का अर्थ यह है और इस पर जो केस डिसाइड हुए हैं वे भी इसी तरह से हुए हैं कि

keeps and detains means not delivered again to the person who has sent the letters.

इस वास्ते कोप्स एण्ड डिटेनर होने से जो उद्देश्य है वह पूरा हो जाता है। इतना ही नहीं जो १८६८ का एक्ट है उसको गोरिंग प्रभुओं ने बनाया था। उन को भी इस प्रकार की एंजमेंट करने की आवश्यकता महसूस नहीं हुई जबी अब हो रही है। इसका कारण यह है कि keeps and detain का मतलब does not deliver to the original sender ही होता है।

दूसरे आपने मंगशन ६६ में एंजमेंट करने का बत कही है। आपने कहा है:—

"whoever, not being an officer of the Post Office, wilfully and maliciously, में "wilfully and maliciously" का जगह "knowingly" रखना चाहें हैं। विलफुली एण्ड मैलिशसली शब्द ऐसे हैं कि जिन में मैसूरिया होना चाहिये। जो पीनल कोड है और जो डी.के.टेक राइट्स हैं, वहाँ भी जब तक मैसूरिया नहीं होता है तब तक पनिशबल आफेंस नहीं होता है। विलफुली एण्ड मैलिशसली होने के बाद देयर मस्ट बी मैसूरिया। इक देयर इन्नो मैसूरिया तो कभी भी पनिशमेंट नहीं हो सकती है। जब तक मोटिव क्रिमिनल नहीं है तब तक कभी भी पनिशमेंट नहीं मिलनी चाहिये। यही पीनल ला का और जुरिसप्रुडेंस का उद्देश्य है, ध्येय है। इसलिये विलफुली एण्ड मैलिशसली करके भी टू इंजर एनी परसन होना चाहिये। अब विलफुली का कनोटेसन डिफिनेशन किया जाए तो दरअसल नोइंगली होता है। उसके साथ एण्ड मैसूरिया जो ड देने से वह मैसूरिया नहीं होगा। अगर वह मैसूरिया नहीं होगा तो वह पनिशबल नहीं होगा।

मैं इसका इसलिये विरोध करता हूँ कि जुरिसप्रुडेंस का जो ध्येय है उसके यह खिलाफ है। जहाँ तक पहली एमेंडमेंट का सम्बन्ध है, वह सुपरफ्लुअस है। दूसरी जो एमेंडमेंट है उसका मैं इस वास्ते विरोध करता हूँ कि विलकुर्ना एण्ड मैलिगमर्न्स के जो वडिंग हैं वे आर्डिनरी मिद्दलन जो हैं, जो कामन प्रिंसिपल्स हैं, उनके अनुसार हैं। अगर ये नहीं रहते हैं तो फिर पोलिटिकल पार्टीज गांव गांव में हैं, कोई कंसटमैन जनमन्दा है, कोई कम्युनिस्ट है, कोई काग्रेशंस है और किसी के खिलाफ कोई भी शिकायत कर सकता है और उस पर यह कहना है कि यह नोइंगनी है, ठीक नहीं होगा। विलकुर्नी के साथ मैलिगसली शब्द का होना बहुत जरूरी है। अगर वह चीज होरी है तभी वह पनिगेवल है वरना नहीं हो सकता है। इस वास्ते मैं इसका आंखी टैलॉकल प्रॉपर्टी पर विरोध करता हूँ।

Shri R. Barua: (Jorhat): I rise to speak a few words just to oppose the Bill. It has become our normal practice to presume that people are always at fault. So far as the postal articles or the delivery of the postal letters are concerned, specific provisions have been made to punish the guilty persons. My hon. friend on the other side has brought out this Bill in order to punish non-postal people who may have occasionally destroyed the papers or the parcels. That is the intention.

Before we launch upon a legislation on this subject, we must realise that in our country the people are not taught proper civic rights. More often than not, what do our village people do? They do not realise the responsibility: even if some papers or articles are handed over to them, they forget to do what is required. It is not that they have any criminal intention. It is not that they have any wilful intention. It is only because we have not yet been able to educate them on the civic rights and so some error may be committed here and there. I do not deny that there are

some persons who may wilfully destroy the papers or wilfully mis-deliver things, but then the primary responsibility of delivering the postal articles is of the postal department. Very rarely private persons come into the picture. That again may be possible if he intentionally accepts something by misrepresenting an addressee. In such an event, he cannot escape the liability of law, because there is the provision for abetment of certain offence and in that way he can be brought to book.

But if we make a law of the pattern which my friend on the other side wants, it would simply mean harassment to many innocent people. On the top of it, people in the villages may falsely bring out allegations saying that so and so intentionally mis-delivered paper or received articles in conjunction with the peon. Somebody may lodge a complaint with the postal department and the postal department may throw the responsibility on some innocent person. So, it may create confusion and a vicious circle, in which poor innocent people may be brought into harassment. Moreover, such cases are not very much to warrant a legislation of the type which my friend on the other side wants to bring at the moment.

Let us remember that our people are not as bad as we take them to be. What we lack here is that we have not been able to educate them properly about their civic rights. Therefore I oppose the Bill. I think too many legislations have already spoiled our statute-book and there should not be any more, especially in regard to such matters which may be otherwise dealt with very efficiently.

With these words, I oppose the Bill.

Shri Oza (Surendranagar): Sir, I share the anxiety of the mover of the Bill, but at the same time, it is my unfortunate duty to oppose it. I share the anxiety in so far as it has also been my experience that nowadays it

[Shri Oza]

has become very easy to tamper with postal articles. So many anti-social elements nowadays somehow or other manage to get hold of the post addressed to some other person and then try to blackmail him. These incidents are becoming very frequent. That was my experience during the last elections also. But the remedy that he is suggesting is worse than the disease.

The last but one speaker—Shri Bade, I think—brought out the very points which I wanted to make out. He has rightly pointed out that unless the *mens rea* or guilty conscience is there, to amend the law as it is proposed will be very drastic and it is unnecessary, in view of purpose that the mover of the Bill expressed on the floor of the House, to amend the law as it stands. His purpose is served, as pointed out by the previous speaker, by the words of the section as it stands at present.

If a person intentionally and fraudulently detains a letter, of course he should be punished. But suppose I am out of my place. Just as the postman can be induced to tamper with postal articles illegally, in the same way, if the postman is induced to throw away the letters addressed to some other person into my house because I am away, the police will come and say, "Here are letters addressed to some other persons and you have not cared to return them. So, you are guilty." This is not a happy state of affairs, because the postal people are prone to such mischief also. So, section 68 is absolutely adequate and if people are vigilant those persons who tamper with the post of others can be brought to book.

Also, section 69 contains the words "wilfully and maliciously". The hon. mover wants to add the word "knowingly" also. I do not agree with him. Suppose I open an envelope without seeing the address. In so many instances, I have found that I have opened an envelope with-

out reading the address. But as soon as I start reading the letter, I realise it is not my letter. So, I apologise, saying that it has come to me by mistake. So the words "wilfully and maliciously", should be retained. Unless they are there, sometimes innocent persons will stand to be punished.

Therefore, though, as I said in the beginning, I entirely agree and share the anxiety expressed by the mover of the Bill, if we try to amend the law as it stands today, there will be more scope for mischief and innocent people will stand to suffer. Sometimes anti-social elements will have a larger scope for creating more troubles. Therefore, it is my unfortunate duty to oppose the Bill.

Shri A. S. Alva (Mangalore): Mr. Chairman, Sir, as far as the objective of the mover is concerned, the provision is already there. Here, each one of them is an offence. The first is, "fraudulently retains". Then there is "wilfully secretes or makes away with". The third is: "keeps or detains". All these will cover the point which the mover wants to make out. "Keeps or detains" means that a man should not keep or detain any letter.

The other thing is: "when required by an officer of the Post Office, neglects or refuses to deliver up..." When an officer of a post office asks a person to give the letter, he is bound to give it. That is one more item added for a person not to retain another man's postal articles.

The amendment sought here is only this. He says that for the words "or when required by an officer of the Post Office, neglects or refuses to deliver up", he wants to insert the words "or does not return to Post Office". But this will be covered by the other two clauses, namely: "keeps or detains". Therefore, even if "fraudulently" or "wilfully" is not mentioned, there is absolutely no need to amend section 68.

As far as section 69 is concerned, really it is a penal offence where a man is punished for doing certain things. Unless there is some element of wilfulness or maliciousness simply for knowing a man should not be punished.

Shri Nambiar: The words: "with intent to injure any person" are there. Even if the other words are deleted, the words "with intent to injure any person" are sufficient to prove the malice or wilfulness of it.

Shri A. S. Alva: It is a penal provision. The words are: "whoever, not being an officer of the Post Office, wilfully and maliciously.....". The amendment that is sought is, for the words "wilfully and maliciously" the word "knowingly" be substituted. "Wilfully and maliciously" means something more than "knowing".

Shri Nambiar: It will read: "knowingly with intent to injure any person".

Shri A. S. Alva: I submit that in this section the words "wilfully and maliciously" are absolutely necessary. After all, when we punish a certain person for this offence, unless there is an element of wilfulness or malice in the act he should not be punished. I submit that the section in its present form is ample enough to meet the ends of justice. Of course, if another man's letter is wilfully or maliciously tampered with, the person concerned requires some punishment. Therefore, the present section should remain as it is.

I, therefore, oppose this Bill. I oppose the amendment of section 68 on the ground that the object of the mover is served by the present section and I oppose the amendment of section 69 on the ground that it should not be lightly changed because a man should not be punished for simply doing something knowingly.

The Deputy Minister in the Ministry of Transport and Communications

(**Shri Bhagavati**): Mr. Chairman, Sir, I appreciate the good intention of the mover in moving this Bill. His intention is to ensure quick and immediate action against the offenders under the Act. He also wants to lessen the burden of postal officials by imposing some responsibilities on the members of the public who keep the postal articles delivered to them wrongly. But, I am afraid, the amendment he has suggested will not improve the position in any way. Rather, it may be more difficult to prevent the offence. At present, an offence is committed under the section, firstly, when there is a criminal intention, as shown by the use of the words "fraudulently and wilfully". Secondly, an offence is committed when there is neglect or refusal to deliver when required by an official of the post office. It is clear that an offence under the second clause is much easier to be proved than under the first. Under the first clause, the criminal intention has to be proved, and it is not always easy to prove criminal intention. Under the second clause, when a postal official requests a member of the public to deliver certain postal articles to the post office, he is bound to do so. If he refuses to do so, he is liable to be punished under this Act. So, I do not see how the amendment will help in making the task easier for the postal department to bring the offenders to book. Perhaps, it will make it more difficult to prove the offence.

In section 69 the hon. Member wants to replace the words "wilfully and maliciously" by the word "knowingly". I submit that the import of the word "knowingly" is there in the word "wilfully". So, it would be rather redundant to introduce a new word into this section. Again, it would be less forceful and will not be conducive to proving the offence easily.

Some other difficulties which may arise out of this amendment have been mentioned by some hon. Members. Some innocent people may be harassed

[Shri Bhagavati]

under this provision. They may, through some mistake, open such letters and they may be hauled up for diverting letters wrongfully or unlawfully, even though they may not be really guilty, their intention may not be bad and there is no *mala fide*. So, the words "wilfully" and "maliciously" should be there. First there must be *mala fide*. If there is *mala fide*, then the penal provision will be applicable.

My hon. friend opposite has referred to tampering and other malpractices. I do not see how these complaints can be made in a discussion on this Bill, because the amendment is a very simple one. As my hon. friend, Shri Bhattacharyya has stated, it is for ensuring that speedy action is taken against offenders for not delivering up postal articles wrongly delivered to them. So, the complaints have nothing to do with the Bill under discussion.

Shri Nambiar: Section 69 says: "whoever, not being an officer of the post office, wilfully and maliciously with intent to injure a person". So, a CID officer, who is not an officer of the post office, with the intention of injuring me, tampers with my letters. So, it is strictly relevant. So, section 69 comes under the orbit of the mischief of that police officer who tampers with my letter. With the malicious intent to defeat me in the elections he does not want to hand over the letter to me.

Shri Jagjivan Ram: Is it not open to him to prosecute such a person under this Act?

Shri Nambiar: Yes; here it says "not being an officer of the Post Office", and a CID officer is not an officer of the Post Office. When he, with the intent to injure me as a political opponent, does this, he must be prosecuted.

Dr. L. M. Singhvi: It is not open to him to prosecute such an officer of

the Home Ministry unless consent or sanction of the State Government or of the Central Government is obtained. Therefore the hon. Minister is not right in saying that it is open to him to prosecute such an officer.

Shri Jagjivan Ram: Shri Nambiar is quite aware of all the procedure that is followed. He simply wanted to parade his grievance.

Shri Nambiar: This amendment gives me an opportunity to do so. If it is amended, I might get a relief. That is what my point is.

Shri Jagjivan Ram: He will not get any relief.

Shri Bhagavati: What he has said may not be fully relevant here, but he wanted to say whatever grievance he has. But I have to say that mostly these complaints, possibly, are not so wellfounded because I do not believe that letters or postal articles addressed to hon. Members of the Opposition are tampered with or are misdelivered. Accidentally such mistakes occur but I do not think that intentionally letters or postal articles addressed to hon. Members of the Opposition are tampered with or are misdirected.

Shri C. K. Bhattacharyya: These are the phantoms of their imagination.

Shri Bhagavati: I do not think that sections 68 and 69 of the Indian Post Office Act, 1898, need be amended in any way. So, I would request the hon. Mover of the Bill to withdraw the Bill.

Shri S. C. Samanta: Sir, in these days of democracy when I find that most of the hon. Members are opposing my proposal, I would request them to give me leave to withdraw the Bill.

Mr. Chairman: Has the hon. Member the leave of the House to withdraw the Bill?

Some Hon. Members: Yes.

Shri Nambiar: No.

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

Shri Nambiar: We may have a voice vote.

Mr. Chairman: The question is:

"That the Bill further to amend the Indian Post Office Act, 1898 be taken into consideration."

The motion was negatived.

17:24 hrs.

INDIAN PENAL CODE (AMENDMENT) BILL

(Amendment of sections 405 and 406 by Shri D. C. Sharma).

Mr. Chairman: The House will now take up the Indian Penal Code (Amendment) Bill. Shri D. C. Sharma.

Shri Siddiah (Chamarajanagar): Sir, what is the time allotted for this?

Mr. Chairman: How much time do hon. Members think should be allotted for this Bill?

An Hon. Member: Half an hour.

Shri D. C. Sharma (Gurdaspur): Two hours.

Mr. Chairman: Let it be one hour.

Shri D. C. Sharma: No, Sir; two hours. It is a very important Bill.

Shri Sonavane (Pandharpur): Half an hour will be sufficient for this.

Shri D. C. Sharma: I will speak for half an hour.

Mr. Chairman: There are only two clauses in this Bill. I think one hour will be sufficient.

The Minister of State in the Ministry of Home Affairs (Shri Datar): Let us have one hour.

Shri D. C. Sharma: I am going to speak for half an hour.

Mr. Chairman: He should begin and then we will think of the time.

Dr. L. M. Singhvi (Jodhpur): Sir, on a point of order. If only one hour is going to be allowed for the entire discussion of the Bill, then the Mover cannot be allowed half an hour.

Mr. Chairman: It is not a point of order.

Shri D. C. Sharma: I request you, Mr. Chairman, to give two hours for this Bill, because there are so many persons who are going to take part in the discussion.

Mr. Chairman: As we proceed, we shall see whether there is any necessity to extend the time.

Shri Datar: "Extend the time" means how much time has been given already?

Mr. Chairman: One hour.

Shri Sonavane: Sir, the next Bill is very important. Half an hour is enough for this.

Mr. Chairman: I have already said that as we proceed we shall see whether it is necessary to extend the time.

Shri D. C. Sharma: If it is important, that Bill also will get time.

Mr. Chairman: I beg to move:

"That the Bill further to amend the Indian Penal Code, 1860 be taken into consideration."

Sir, I come to the subject of this Bill with a very heavy heart. The first reason for my sadness is this, that in spite of the fact that we have now got a Law Commission, some of the laws of this land have not come under