

[Shri Alagesan]

trains and goods wagons are reported to have suffered hardly any damage.

Crowbars had to be used to open out certain doors and windows of the two bogie coaches which were telescoped, in order to take out the passengers.

One, Shri Shiv Charan Singh, retired Principal of Government College, Rupar, a II class passenger in the third coach, unfortunately died, and thirty-four other passengers holding different classes of tickets received minor injuries. The injured were given first aid on the spot by the Guard and further medical attention by the Railway Assistant Medical Officer who arrived with the first relief train at about 16.25 hours from Bayana. The dead body of Shri Shiv Charan Singh was taken over by the Police and it is understood was taken to Ludhiana according to the address found on his person. Our sympathies go to the bereaved family and to the injured.

31 Down Frontier Mail left Fateh Singhpura station about 5 hours 30 minutes late with all the passengers. The three damaged coaches were left behind and the passengers were accommodated in the remaining coaches which came through.

The General Manager of the Western Railway who was also on the train personally supervised the arrangements for giving requisite medical attention and assistance to passengers.

The cause of this accident will be known only after the completion of the enquiry by the Government Inspector of Railways which will be held shortly.

#### ESSENTIAL COMMODITIES BILL

—concl'd.

#### Clause 8.—(False statements)

**Mr. Speaker:** We will now proceed with the business left over from yesterday, that is, clause by clause consideration of the Bill to provide, in the interests of the general public, for the control of the production, supply and

distribution of, and trade and commerce in, certain commodities as reported by the Select Committee.

Clauses 2 to 7 have been disposed of. We will now take up clause 8.

**The Minister of Parliamentary Affairs (Shri Satya Narayan Sinha):** May I request you to fix up the time, taking the sense of the House with regard to this Bill?

**Mr. Speaker:** As regards the request for a time-limit, I think the matter is not likely to take long, in no circumstances exceeding at the most half an hour. If we can finish earlier, so much the better so that we can discuss the Demands for Grants and we will not have to sit for longer hours for that purpose.

**Shri Satya Narayan Sinha:** In that case, what about the time taken up by this Bill? We will have to sit a little longer and finish both the Demands today. Otherwise, the whole thing will be upset.....

**Mr. Speaker:** The time may be curtailed, if they want to rise at five O'clock, or it may be extended if they want to have the full time.

**Shri T. B. Vittal Rao (Khammam):** We have to rise at 5.30 today.

**Mr. Speaker:** We will see to it. Let us now proceed with the Bill.

**Shri K. K. Basu (Diamond Harbour):** We cannot sit till 6 p.m.

**Mr. Speaker:** We will dispose of this Bill first. There are no amendments to clause 8.

The question is:

"That clause 8 stand part of the Bill."

*The motion was adopted.*

*Clause 8 was added to the Bill.*

**Clause 9.—(Offences by Companies)**

**Pandit Thakur Das Bhargava (Gurgaon):** I beg to move:

- (1) In page 6, lines 5 and 6, for "was in charge of, and was responsible to, the company for the conduct of the business

of the company" substitute "was under the succeeding section nominated by the company to be responsible for the compliance of direction under the Act"

- (ii) In page 6, lines 17 and 18, omit "or is attributable to any neglect on the part of"
- (iii) In page 6, line 17, for "Any neglect" substitute "any culpable neglect"

With your permission, I propose to move my amendment regarding the new clause 9A as part of these amendments. That will practically save time and will not require any further discussion. I will move all my amendments and then make a speech thereon.

**Mr. Speaker:** What is the new amendment for?

**Pandit Thakur Das Bhargava:** It is for a new clause—9A. This is referred to in the previous amendment as the 'succeeding section'. So with your permission, I propose to move that also.

I beg to move:

In page 6 after line 26, insert:

"9A. (1) It shall be the duty of every company and other body corporate to nominate any of its directors, managers or other officers of the company or other body corporate to be responsible for the compliance of the orders made under this Act. Such nomination shall be subject to approval by the Government.

- (2) In case the company or other body corporate fails to make nomination as required by sub-section (1) persons in charge of the conduct of the business of the company or other body corporate shall be deemed

to be guilty of the contravention under this Act and shall be liable to be proceeded against under section 9.

- (3) If the person contravening the orders made under this Act is a company or other body corporate any person nominated under sub-section (1) shall be deemed to be guilty of such contravention unless he proves that the contravention took place without his knowledge or that he exercised due diligence to prevent such contravention."

Now, as I submitted yesterday at the time of the consideration of the Bill—I do not want to repeat what I said there—as a matter of fact, the present provisions are certainly an improvement upon the previous provisions and I am thankful to the Minister for kindly taking this line of action and improving the Bill so far. At the same time, I do not think this argument is fair, that because there are two points of view, therefore take the balance, the average out of the two and make a provision which will be satisfactory to both. I plead with the hon. Minister and my hon. friend, Shri Venkataraman, who is said to be responsible for the other view, to kindly consider it on merits and not be guided by any consideration of this nature.

Now, I claim that this amendment is better than the original provisions of this Bill. First of all, if the real purpose of the law is to secure compliance with the directions and to operate this Act rather peacefully, then this is the better course, because if you appoint a person who will be responsible for the due compliance of the directions, then he will realise his responsibilities and you will not have to find out from a number of persons as to who is guilty. I think the real purport of the Act is that it may be complied with and not that certain persons should be brought to book.

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From this point of view, my humble submission is that if you nominate a certain person, then the Company knows who is the responsible person, who is the person on whom the responsibility is fixed. He will realise what is his function and duty; he also will realise that the responsibility becomes his if there is no due compliance. Whereas, if there are a number of persons and each one of them does not realise that he will be responsible or when there is a difference of opinion as to which of them is responsible, in that case there will be no due compliance with the directions of the Act.

The second argument that I propose to give is this. As a matter of fact, it is the business of the law to make the rule clear and at the same time to fix the responsibility. The words in the original provision are:

"Every person, who, at the time the contravention was committed, was in charge of and was responsible to the company for the conduct of the business of the company."

These words 'in charge of' and 'was responsible to' are really very vague. They are not capable of exact definition. At the same time, the words, 'for the conduct of the business of the company' are still more vague. There may be 20 branches of administration in the company and there may be 100 persons in charge of conduct of the business of the company. What is the business of the company? The business of the Company is of a far-reaching nature and any part of its business may be regarded as business of the company. Therefore, when there is a contravention, I should say it may be of a very very unreal nature.

I know that when the Control Orders in regard to cloth were there, it was very difficult to construe any of the rules rightly. Even those who framed the rules were not able to understand the full import and meaning of those rules. I remember

an occasion when the question arose whether a certain piece of cloth, as big as the palm of my hand, was manufactured on a handloom or on a power-loom. If it was manufactured on the handloom then there was no contravention of the rules but if it was manufactured on power-loom there was contravention. Even when they were shown to be experts they could not say whether it was handloom manufacture or power-loom manufacture. Even the addition of a yarn in wasp and wool would make a lot of difference of lakhs and lakhs. The rules are so complex. It is most difficult for any person to know whether they are contravened or not. Therefore to know what the business is not certain. The import of the rule is not certain. It will be most difficult to work out when there is more than one person who will be responsible for or who is in charge of the business of the company. But, if you have got a certain person to whom you can look up to as being responsible, then it will not be difficult to bring conviction home to this person. The same thing will not happen as has been complained by the hon. Minister for Commerce and Industry, that the courts do not co-operate with the Government fully in this matter. They let off persons because they do not realise the gravity of the offence and they do not realise in a matter that, in matters of controls, the law has to be strictly enforced. When there are a number of persons from whom they have to make a choice, it will be very difficult for them. The result will be more and more acquittals than even now. Moreover, my submission is that there was one obstacle pointed out in the Select Committee which has been plugged by me.

It was said that demies may be put up and that the really responsible person may not be brought in. I have no soft corner for any person who offends these laws and rules which are rules for the safety of the whole community. My friends are not right

when they ascribe to me motives and say that I am unduly influenced by considerations of jurisprudence and I want to see that every guilty person gets off. It is not right to think so. I am at one with them that so far as these control rules are concerned, they ought to be strictly enforced. I have, therefore, provided the same punishments and there is no difference. The only difference is that I want that no one should be punished who is innocent. From this point of view, my humble submission is that it is not possible to set up dummies because I have said that this nomination will be subject to the approval of the Government. If Government thinks that a spurious person has been put forward, as in Factories Act then the Government will see that right man is nominated. If the Managing Director is not nominated, the Government will say, 'we do not want to have any other person nominated.' It is subject to the approval of the Government that the man will be there. So, there is no point in saying that dummies will be put forward. This is all that I have to submit in respect of clause 9A.

I have got other amendments which I have moved saying that the words 'or is attributable to any neglect on the part of' may be omitted. Only yesterday, we passed an amendment, which we had omitted in the Select Committee, to the effect that any attempt or even abetment of a contravention is an offence. According to section 9, so many persons will be responsible. Firstly, the company, secondly, those persons who are in charge of or responsible for the business of the company and thirdly, managing directors etc. if they consent to the contravention or if they connive at it. I have no objection so far as that is concerned because, as a matter of fact all those persons who offend must be brought to book. What I object to is the words, 'or is attributable to any neglect on the part of' being there. I do take very strong exception to neglect being made an offence in offences of this nature. If

you kindly see the whole of our penal law, so far as neglect is concerned, you will find in the Indian Penal Code, out of 511 sections there are only 5 or 6 sections which relate to this ingredient of an offence and they relate substantially to one principle alone. If you see section 279, it says:

"Whoever drives any vehicle, or rides...in a manner so rash or negligent as to endanger human life...."

and the punishment is six months.

Section 280:

"Whoever navigates any vessel in a manner so rash or negligent as to endanger human life....."

and the punishment is six months.

Section 283:

"Whoever by doing any act, or by omitting to take order with any property....."

Section 284:

"Whoever does, with any poisonous substance, any act in a manner so rash or negligent...."

Here also the punishment is six months.

Section 285:

"Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life...."

Similarly, 287 and 288. In all these six or seven sections there is the question of neglect apart from two other sections relating again to human life, where a person dies as result of neglect 304A and in respect of 336 and 337. These are the only sections which deal with neglect. My submission is that so far as the jurisprudence of this country or any other country is concerned, in the matter of neglect amounting to an offence there is no question of *mens rea*, there is no question of knowledge, there is no question of intention or any such thing in neglect. According to the notions of

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jurisprudence, a person does not advert to the consequences unless it is an intentional omission. Intentional omission is different from neglect. Neglect is that state of mind in which a person does not advert to the consequences of what he is doing. He does not remember his duty. My submission is that as a matter of fact neglect should never be penalised in ordinary offences except where human life is endangered.

Kindly look to the nature of the offences that we are dealing with in this Essential Commodities Bill. You will see that certain directions will be issued. Those directions are to be obeyed by the company or other person—some responsible person in the provisions of the Bill and some more responsible in my amendment—I can understand that. They may not have done anything but they shall be deemed to be guilty because they are in charge of the business. First there is the company, then there are the persons who are in charge of the business and then there are directors etc. The only question is when there is neglect. Supposing there is a clerk or a manager. He is ordered to remind the managing director that on the 5th of February, 1956, a certain statement has to go to the Controller. And, if on that day, as a result of routine business, the clerk does not remember it and does not do his part. If he does not remember it, what does he get? He gets one year's imprisonment, if it is a question of information etc. and three years if it is in relation to other contraventions. So far as this is concerned, with your permission, I want to quote a very high authority, that is a *sloka* from *Bhagwat Gita*, Chapter 18, *sloka* 17:

यस्य नाहं हतो भावो बुद्धिरस्य न लक्ष्यते ।  
ह वापि स इव हिलोकान्न हन्ति न निबध्यते ॥

I want to submit that, according to this *sloka*, if his mind does not go with the act, even if he kills the three worlds he is not guilty. Do you mean to suggest that when I never thought

of the consequences and I am as innocent as any other person, I should be sent to jail for three years for neglect? But for a neglect of this character to visit a person with three years' imprisonment is simply atrocious. It is not justified by any canons of jurisprudence. After all what would happen? My hon. friends were speaking of dummies. As soon as a case comes to a court the persons in charge will say: "We exercised all diligence, but this devil of a clerk who was ordered to remind us, forgot about it." In such cases, the bigger persons will be let off and the clerk will be punished. So, in their own interests, to get at the right man, this provision should be amended. Otherwise, the courts are not going to punish both the persons. So, even the purpose which they have in view will not be served by a provision of this nature, and I would very humbly beg of the hon. Commerce Minister to kindly look into this matter and not to take up this attitude that because you have a similar provision in several Acts, we should have a provision like this here too. This provision is not justified by any canons of jurisprudence.

I am entirely at one with my hon. friends that we should be strict in regard to control legislation. Therefore, even in matters where ordinary penal law contained in sections 176 and 178 of the Indian Penal Code provides for only one month imprisonment, I am prepared to enhance it to one year. So, while agreeing with them that we should be as strict as possible, I would request them to bring to bear a dispassionate outlook on my amendment.

**Shri N. B. Chowdhury (Ghatal):** I beg to move: In page 6, line 18, after "part of" insert "or is also attributable to the want of deliberate and conscious effort to prevent such contravention which could have been normally or ordinarily done on the part of"

We think that this amendment is necessary in view of what has been

provided for in sub-clause (1) of clause 9. The proviso to sub-clause (1) says that in case a person exercises all due diligence to prevent such a contravention, there would be no punishment. If we are going to retain the proviso the amendment which I have moved should be taken into consideration.

We do not support what has been said by Pandit Thakur Das Bhargava with regard to negligence on the part of Director, Manager, etc., of a firm, because we know that in many cases dummies are put up to go through the period of punishment, or suffer any other punishment which may be inflicted for contravention of such orders. In the past it has happened in many cases: where control orders were violated by companies only ordinary persons working under the control of such companies were made to undergo imprisonment or other kinds of punishments. The big bosses like the Directors and Managers invariably escaped. So, in order to make the law effective an amendment of the type I have proposed is very necessary.

**Mr. Speaker:** All these five amendments are now before the house for discussion.

**Shri Mulchand Dube** (Farrukhabad Dist.—North): In regard to the contention of my hon. friend Pandit Thakur Das Bhargava, my submission is that *mens rea*, or intention, does not come into the picture of control legislation. Another point which I wish to make is that when the punishment of imprisonment and fine is imposed, I do not know how the company will be punished with imprisonment. Therefore the word "company" should be deleted from clause 9.

**Shri Raghavachari** (Penukonda): I want to support the amendment No. 13 of Pandit Thakur Das Bhargava suggesting the omission of the words "or is attributable to any neglect on the part of". You will see, Sir, that this is a vicarious punishment that is contemplated by this section. Sub-clause (2) of clause 9 begins with the words:

"Notwithstanding anything contained in sub-section (1), etc."

Therefore, the only thing that will have to be proved under this clause will simply be that some offence has been committed and it may be attributed to the negligence of one of these people. So, this is very wide and very expansive, particularly when it is a question of a person being held responsible for an offence. "Negligence" is a very general word and anything may be brought within its scope. Almost anybody interested in a concern, or an institution like a company—and we know that firms include joint families—may be brought within the purview of this provision. Therefore, the scope of this provision will be so wide that it is liable certainly to be misused or abused.

**The Minister of Commerce and Industry (Shri T. T. Krishnamachari):** Mr. Speaker, Sir, I am afraid I am unable to accept the amendments proposed by my hon. friend Pandit Thakur Das Bhargava. It is not in any spirit of compromise that I suggested yesterday that Government have adopted a course in between the course suggested by my hon. friend Mr. Venkataraman and that of Pandit Thakur Das Bhargava. Sir, the present provision in regard to clause 9 has been framed after careful thought and in this we are also backed by suggestions made by the Commodities Control Committee which in paragraph 50 has dealt with the provisions of Section 9 of the Act as it stood before the 26th January 1955. The Committee says:

"These provisions are analogous to the provisions contained in the Defence of India Rules, but it was urged that while such provisions may have been necessary during war time, they involve unjustified hardship now. The corresponding provisions in section 15 of the Supply and Prices of Goods Act are different: Under these provisions presumption of guilt arises only in respect of persons who during the

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relevant period were in charge of and were responsible to the corporation for the conduct of the business of the establishment in or in relation to which the offence is committed. The other officers of the corporation are liable only if it is proved that the offence has been committed with their consent or connivance, or is attributable to any neglect on their part."

That is the basis for the present amendment which has been copied from similar enactments that this House has approved of.

I would now like to deal with the neglect aspect of the provisions. Neglect is a very important factor in a control legislation. It might happen that a firm might have a branch which they might entrust to a person who is illiterate not conversant with the control orders and that man might without knowing the existence of those orders commit a flagrant breach of the control orders. Is it or is not a case of negligence of the person responsible at the Head Office or the nearest office which controls that particular branch?

**Pandit Thakur Das Bhargava:** So far as neglect is concerned, you do not bring it under 9(1). If you had done so, I would not have said anything.

**Shri T. T. Krishnamachari:** The point really is that ultimately if the person who is running a firm or the persons who are running the firm do not see that responsible persons having knowledge of the law of the land are placed in charge of the business, I am afraid somebody has got to be brought to book, and it does not necessarily mean that if it is found that the managing director of a company or the general manager of a company has been negligent, that he will be punishable with three years' imprisonment is not likely. The other aspect of the amendment moved by my friend, Pandit Thakur Das Bhargava, namely, the question of nominating a person, bristles with difficulties, apart from

anything else. Apart from the merits of the problem, it is a wholly impracticable suggestion, and it is impossible for Government to approve of the nomination of a responsible person in the case of every firm and in the case of every branch of every firm. There may be hundreds of firms involved and each one of them might have four or five branches, and so it is an administrative impossibility to ask Government to approve of names. Therefore, we have naturally to presume certain facts before bringing the parties who are to blame, to book.

Again, my hon. friend has been at pains to try to convince the House that such nomination would not be for the nomination of a stooge. Unfortunately, he has seen the practice of these firms from one point of view, namely, as a person who defended an accused. I have seen the practice of firms from the point of view of one who has had to rub shoulders with them and the question of providing a stooge is a very common occurrence wherever somebody has to be responsible and somebody will ultimately have to go to jail. It is quite easy for a firm to go and find out a person who has gone to prison three times and make him responsible or nominate him; he will go to prison for three months or three years and nothing will happen, but in the meantime, the benefits accruing to the company may be, in terms of lakhs of rupees. It may be high-lighting a picture which may not be a common occurrence but it is quite a possibility and for the same reason I am not in a position to accept the amendment of Shri N. B. Chowdhury to expand 'neglect' into something which is rather difficult of definition, and as lawyers will understand, a provision of this nature will probably defeat the ends that we have in view. I am, therefore, unable to accept the amendments that have been proposed.

**Mr. Speaker:** Now, I shall put the amendments to the vote of the House. Do I put them separately?

**Pandit Thakur Das Bhargava:** The one amendment moved by me relating to clause 9A may be put separately.

**Mr. Speaker:** I put the amendments Nos. 12, 13 and 14 together and I shall put No. 15 about clause 9A separately, but there is no need for putting that amendment to the vote if the first three amendments are defeated.

**Shri T. T. Krishnamachari:** If the amendments to clause 9 fall through, there will be no room for putting in the amendment relating to clause 9A.

**Mr. Speaker:** The question is:

In page 6, lines 5 and 6, for "was in charge of, and was responsible to, the company for the conduct of the business of the company" substitute "was under the succeeding section nominated by the company to be responsible for the compliance of directions under the Act".

*The motion was negatived.*

**Mr. Speaker:** The question is:

In page 6, lines 17 and 18, omit "or is attributable to any neglect on the part of".

*The motion was negatived.*

**Mr. Speaker:** The question is:

In page 6, line 17, for "any neglect" substitute "any culpable neglect".

*The motion was negatived.*

**Mr. Speaker:** As the basis for the amendment relating to clause 9A has fallen through, I do not put the amendment to the vote of the House.

What about the amendment of Shri N. B. Chowdhury?

**Shri N. B. Chowdhury:** I would like to withdraw my amendment No. 6.

**Mr. Speaker:** The hon. Member wants the leave of the House to withdraw his amendment.

*The amendment was, by leave, withdrawn.*

**Mr. Speaker:** Motion is:

"That clause 9 stand part of the Bill."

*The motion was adopted.*

*Clause 9 was added to the Bill.*

*Clauses 10 to 14 were added to the Bill.*

**Mr. Speaker:** Has Shri Raghavachari anything to say about clause 15?

**Shri Raghavachari:** I do not wish to move my amendment No. 16.

*Clause 15 was added to the Bill.*

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

**Shri T. T. Krishnamachari:** I beg to move:

"That the Bill, as amended, be passed."

**Mr. Speaker:** The question is:

"That the Bill, as amended, be passed."

*The motion was adopted.*

#### DEMANDS FOR GRANTS FOR 1955-56\*

##### DEMANDS re. MINISTRY OF WORKS, HOUSING AND SUPPLY

**Mr. Speaker:** The House will now take up discussion of the Demands for Grants, Nos. 99, 100, 101, 102, 103, 136, 137 and 138 relating to the Ministry of Works, Housing and Supply. As the House is aware, two hours have been allotted for the Demands of this Ministry.

Regarding the time-limit for speeches, the usual practice has been to fix a time-limit of fifteen minutes for all the Members, including Movers of cut motions, and twenty minutes if necessary, for Leaders of Groups.

There are a number of cut motions to these various Demands. Hon. Members may hand over the numbers of the selected cut motions which they propose to move at the Table within fifteen minutes. I shall treat them as moved, if the Members in whose

\*Moved with the recommendation of the President.