

## INDIAN RAILWAYS (AMENDMENT) BILL

*omission of section 71A etc.*

**Shri Nambiar** (Mayuram): I beg to move:

“That the Bill further to amend the Indian Railways Act, 1890, be taken into consideration.”

While moving for the consideration of this Bill, I think I shall continue my speech which I started during the time of the Railway Budget discussion this morning.

**An Hon. Member:** The same reply will come.

**Shri Nambiar:** I am overwhelmed by emotions and feelings that it again fell to my lot to pursue this Bill. In this very Assembly, in 1929, a Bill of this type was presented and there was a discussion. After several years, history has changed; India has become an independent country. Even now we cannot bring in any radical changes. Let us attempt to make some changes which are overdue.

[SHRIMATI SUSHAMA SEN *in the Chair*]

I would draw the attention of the House to the Statement of Objects and Reasons of the Bill. It will be seen that the Bill aims at two things—firstly, limitation of the hours of employment of the railwaymen who number more than ten lakhs in this country and secondly giving them protection while discharging their duties in the interest of the country.

My purpose here is that the Factories Act must be brought into operation and all should work for 48 hours in a week. Whatever be the category, whether one works inside a factory or outside a factory, one must work only for 48 hours a week. At present it is not so. There are workers who work for 84 hours, workers who work for 44 hours and then again, 48 hours. There are these three categories. This distinction should not be allowed to exist. This case came up for discussion and Justice Rajadhyaksha looked into this question and he had given his opinion.

By the first clause of my Bill, I seek to remove sections 71A and 71B of the Indian Railways Act. These two sections

say that a section of the railwaymen can be asked to work more than 48 hours. I shall read out these sections. Section 71A says:

“The employment of a railway servant is said to be essentially intermittent when it has been declared to be so by the authority empowered in this behalf, on the ground that it involves long periods of inaction; during which the railway servant is on duty but is not called upon to display either physical activity or sustained attention.”

I want this to be omitted. Section 71B reads:

“This Chapter applies only to such railway servants or classes of railway servants as the Central Government may, by rules made under section 71E, prescribe.”

I want this also to be removed. Accordingly, I have got these things incorporated in my Bill and the rest of the clauses are only amendments of a consequential nature.

I also mean bringing an amendment to section 101 of the Indian Railways Act. Section 101 of the Indian Railways Act is widely known to the railwaymen. That is something like a code. 101 can be written anywhere and the railwaymen will laugh at it because they at once understand it. There is a reason for that. In the days of the Britishers they brought in this section which is a very obnoxious one. From a mere look at the section you will understand the nature of it. I shall read that for the information of the House.

“101. *Endangering the safety of persons* :—If a railway servant, when on duty, endangers the safety of any person—

(a) by disobeying any general rule made, sanctioned, published and notified under this Act, or

(b) by disobeying any rule or order which is not inconsistent with any such general rule, and which such servant was bound by the terms of his employment to obey, and of which he had a notice, or

(c) by any rash or negligent act or omission,

he shall be punished with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.”

[Shri Nambiar]

4 P.M.

The sum total of the section is this. In the name of safety in the working of the railway system the railwaymen for commission or omission, wilful or otherwise, wanton or not, knowing or unknowing, can be hauled up if he has done or intended to do anything which can be termed as endangering the safety of the public. Prosecution can be launched against them and they can be punished with two years' imprisonment under this section. It looks at first sight as though it is necessary. Is it not necessary on the part of the railwaymen to safeguard the safety of the millions of people who travel by the railways? It is so. But, why should there be such a clause that for anything and everything a railwayman can be hauled up? I can quote one example. Supposing a station master has finished his job and another station master is to relieve him but that man came five minutes late. If something happens during these five minutes, an accident for instance, the first station master will say: "I worked beyond 8 hours and therefore I was tired. Because the other man did not come to relieve me this accident took place." The prosecution will say that the second station master who came five minutes late was responsible because if he had come at the proper time the accident could have been avoided. They can thus say that he was also partially responsible for the accident and punish him. This sort of argument can always be brought up. Not only that. What I say is, anything that is done should not be brought under an omnibus sort of clause. Therefore, I have moved an amendment to that.

I take serious note of the necessity of safety in the working of the railways. I do not at all undermine the importance of that. But, what happens today? To-day because of the fear complex, because of nervousness, because of the fear that if he does something he may be hauled up and if he does not do it even then he may be hauled up and prosecuted, the person concerned operates the engine or the machine in such a way that he commits mistakes. I know of a case. A locomotive driver was working the Indo-Ceylon Express, what is known as Boat Mail in South India. It was during the days of the Britishers. The driver was facing Vilupuram Station. He was just passing an overbridge. There was a signal which showed that he must go on the loop line. The speed

on the loop line must be 15 miles or not more than 20 miles according to rules. Because this is a through train it was going at a very high speed. There was a train, a goods train, standing on the platform. While taking the curve the driver saw the engine. He regulated and controlled the speed but it was a down gradient and therefore he could not bring the speed to 20 miles. It was physically impossible to do it and the speed came only to 30 miles. The result was that there was derailment and about 50 to 60 people died. Afterwards the driver was convicted and made to undergo imprisonment for two years. He was present in the jail when I was also in the jail where we talked enough about it. Subsequently he came out and he still lives. Therefore, what I say is that a driver, station master or any other man who operates something must have certain amount of courage in him that he will be supported if he does a thing. Then only he can do his work; otherwise he finds it very difficult. For this purpose I wanted to bring in an amendment which will be of such a nature that it will instil confidence in the minds of the railway servants. If that is there he will do his job with confidence and with success. That is all that I have sought to do in my amendment. I have also added a proviso to this section 101 which reads :

"Provided that this section shall not apply to a railway servant who while discharging the normal duties assigned to him meets with accident under unforeseen circumstances beyond his control and that in such cases he shall be given sufficient protection against prosecution."

This proviso read along with the amendments to section 101 proposed in this Bill will create more confidence among the railwaymen. They will do their work with more success and the black number 101 will be removed. This section will thus be made into a very satisfactory one without in any way doing any harm to the working of the railway system.

Coming to the question of hours of employment in 1929 there was a discussion in this august House on this subject and I would like to bring to the notice of the House what actually happened here in 1929. In 1929 when the Indian Railways (Amendment) Bill was considered by a Select Committee of the Legislative Assembly, the Committee reported like this :—I do not want to read that—and there two members

of the Select Committee, Messrs. Abdul Matin Chowdhury and Harbildas Sarada, in a minute of dissent, suggested a 48-hour week for continuous and 60-hour week for intermittent workers. Mr. Kelkar also considered this demand not unreasonable, but on practical grounds persuaded himself to agree to the provisions of the Bill as only a first instalment. This is what is said in the notes prepared on the Adjudicator's Award given by Justice G. S. Rajadhyaksha—this is given on page 43. The House will be interested to hear what the labour leader Dewan Chamanlal and Maulvi Abdul Matin Chowdhury had to say. Here it is said :

"When the Bill came up for discussion, both Dewan Chamanlal and Maulvi Abdul Matin Chowdhury made a vehement plea for fixing the weekly hours of continuous workers at 48."

This happened in 1928. 27 years after that now I have the privilege to still plead for the same 48 hours which our own present Congress leaders wanted the other day. Dewan Chamanlal is still a Member of the other House. I think.

**Shri T. B. Vittal Rao (Khammam):** He is re-elected; he is coming back.

**Shri Nambiar :** I am very glad. But, unfortunately, India's future depends upon us. What we could not do in the days of the British in 1929 let us do now at least.

Not only that. This question of hours of work for the railwaymen came up before the International Labour Organisation, along with the very birth of the International Labour Organisation. The International Labour Organisation was born just after the war in 1919, according to the Versailles Treaty. In the very first meeting of this organisation this question came up.

The meeting was in Washington. There also every one felt that 48-hour week should have been given. But, unfortunately for India, the employers, that is the British Government, who represented India there demanded that an exception must be made and in India they should be allowed to work up to 60 hours a week. Under the factories Act, the ceiling limit must be 60 hours, and what is known as the 'essentially intermittent hours' could go to any extent which the Government could fix.

I shall also quote what exactly the veteran, the great, labour leader, the late Shri N. M. Joshi, is reported to have said :

"Mr. Joshi, the workers' delegate, observed that personally he did not approve of excluding India from the 48-hour week and felt that Indian workers would produce in 48 hours what was required in a 60-hour week."

Let us remember the words of the great trade union worker.

"But he recognised that the country as a whole might not accept this view and for practical considerations temporarily concurred in the Commission's report. He expressed his pleasure at the reduction of hours from 72 to 60 and congratulated Government delegates for putting forward this proposal."

That was started in the year 1929 and has continued till date. The All-India Railwaymen's Federation and the trade union organisations in India working on the railways made a representation to the Government and they pressed that there must be a reconsideration of the hours of employment. It was as a result of that pressure that the matter was referred to Justice Rajadhyaksha for adjudication. In this connection, I would also read a few lines to show what the desire of the railwaymen was.

"These demands were more or less echoed in the Statements of Demands received from several unions affiliated to the All-India Railwaymen's Federation, . . . . .

It is exactly that Federation that the Railway Ministry wants to kill or rather destroy and they have partially succeeded in it. That Federation had started the battle earlier which the Government did not like.

"... namely, N.W. Railway Employees' Union, N.W.R. (Registered and Recognised) Union, E.I.R. Employees' Association, G.I.P. Railway Accounts Staff Union, G.I.P. Railwaymen's Union, B.B. & C.I. Railwaymen's Union, B.B. & C.I. Railway Employees' Union, O.T. Railwaymen's Union, B.N. Railway Indian Labour Union"—

of which the great Kelappa was one of the leaders, and "the M. & S. M. Railway Employees' Union."

Shri Nambiar]

Some of these unions went one step further and asked for a still shorter limit where the work was very onerous. Some of the unions not affiliated to the Federation wanted some restriction of hours. Among them,—

“The B.B. & C.I. Railway Employees' Association asked for a 48-hour week for skilled and semi-skilled workers and inferior and daily rated staff generally. The National Union of Railwaymen of India and Burma asked for a 48-hour week for all workers.”

The S.I. Railway Guards' Association demanded a 42-hour week. The Telegraph Association, Allahabad, asked for the working hours of signallers to be reduced to 36 hours a week, while the S.I. Railway Clerks' Association demanded a 33-hour week for clerks.

From these facts, you can find how keen the demands were. What I request now is a very reasonable thing. It has not come from my brain. It has come from the brains of those trade unionists from those workers who, out of their own suffering, out of their hardships, requested the Government to give them at least this minimum consideration when the country was free. Today, what is the justification that the Government may ask for? The Government will ask why a worker on a wayside station, say, a pointsman, who works only when the train comes, should be given only eight hours' duty, and why he cannot be asked to work for more hours. They may say, “Let him work for 12 hours, because he does not have much of work to do”. But the fact remains that he must be in the place for all the 12 hours. He is, shall I say, tied down to his post with a rope. He cannot leave the place. If he leaves the place, he will be charge-sheeted and punished. He cannot relax and sleep. Sleeping while on duty means dismissal on the spot. That is the disciplinary action according to the rules. He cannot relax. So, what is the use of saying, “You have no work to do. You are just there for 12 hours and so you can work for 12 hours”. There is no argument in saying so. If he is there, he is there for the work. Therefore, there is no point in saying that it is essentially intermittent. This term ‘essentially intermittent’ was introduced by the Britishers, by the western capitalists, if I may say so. They did so to exploit the working classes of Europe first, and then other countries.

We copied it because we had that tradition and we are having that legacy. Now, the time has come when from 12 hours, the period must be reduced to eight hours.

Another submission that I have to make is with regard to the running staff. When we say, ‘running staff’, people may laugh at it and ask whether the staff is all the time running. There is another term, ‘fireman’. Perhaps you may not go near him because, being a fireman, he may burn you! It is not like that. Running staff means, those persons who run the train, who take the train, the guard, the driver and all those persons who take the train out on its journey. So also the fireman. In Hindi, we call him as *agwala*. He is a person not to burn you but who deals with fire in the engine. He is all the time on the foot-plate of the engine. These people are now asked to work for 54 hours even after the award of the Justice Rajadhyaksha. That is the ceiling limit given. What I submit is this. A driver or a guard does not work according to day or night. The railway system functions all round the clock. It is a movement which is all round the clock—all the 24 hours, all the 30 days and all the 365 days of the year, and for all the centuries it must work like that. When once the system starts, it does not stop. It is a system of eternal working. In that system, we must realise that a worker works hard, and we must realise that a worker works against Nature and the natural phenomena and natural forces. A driver works also in the night. You would be surprised to hear that a driver runs the train for something like 300 to 400 miles. He runs the Grand Trunk Express or a fast passenger for about 400 miles in the night. We get into the train after our dinner and we will be reaching Madras or Delhi for our breakfast or our tea the next day, but during all those hours, the driver has to keep himself awake and run the train. The slightest mistake on his part will endanger the travellers, the life of the whole lot of people travelling in the train. So, it is such a hard job that he does. He has to work, yet, for 54 hours a week. That is the present time-limit that is fixed. Why cannot that be reduced? While I argued this case on another occasion the hon. Deputy Minister told me that the drivers may not like that, because they would lose some allowance. So if the Government want to reduce the working hours, they

are thinking of the reduction in emoluments. That is what they mean. If the hours of employment are to be reduced, immediately, Shri Alagesan, the hon. Deputy Minister of Railways, will think in terms of the amount—the rupees—that could be cut from the wages of the workers. It is not for that that I have moved the Bill. I have moved the Bill with the hope that without affecting the emoluments, the hours of work must be reduced to a reasonable level or limit, a limit which is accepted by the world today. The working class today is a big force in the world. We should not forget it. It is not only in India but everywhere in the world that it is a big force. The working class is today not only a force but a decisive force. The exploiters—the mill-owners or the money-bags—cannot keep the workers under their thumb for ever. A stage has come when we must recognise that if a worker, today, demands an 8-hour day in India or anywhere, he demands it as a matter of right. If the hon. Minister has not got the heart to allow it, the workers will never leave it, and what they want will take place. A day will come when the worker will establish his right to a 48-hour week. I cannot say how many days or how many years later it will take place. Therefore, let us see how the time moves. We are not asking for a wrong thing. It is a thing which was promised in this very hall, in this very august House, by great men who adorn the Treasury Benches today. When the International Labour Organisation was born in the year 1919 in Washington, after the Versailles Treaty, I think I was not even born, but today, I have got the inspiration and the fortune to fight for a cause which was taken up well in advance. You may be interested to know that I myself was a victim of this 12-hour-day duty.

In 1940-41, I was working as a clerk in the loco shed at Tanjore. I had to go at 7 in the morning and I was supposed to be on duty till 7 in the night, *i.e.*, for 12 hours. There was no break for lunch or for breakfast and there was no time for doing any other work. Therefore, I have myself enjoyed the privilege of being a worker on intermittent duty. I have also worked in continuous duty—60 hours' employment regulation—while I was a loco clerk in Madura where I worked day and night, in rain and sun. Therefore, I know the sufferings of a worker. With all vehemence, but with all humility and emotions, I request the hon. Minister to

enforce 8-hour duty. There must be some change in the total number of working hours.

The question that is posed is, "What about finance? Wherefrom is the money to come?" When the question of finance is there for everything. But, when the question of workers comes, this finance question comes to the top. When the consideration of the workers' rights, concessions and privileges comes, all other factors go into the background and the question of money comes at the top. Why should it be so? If we are marching towards socialism—I am using the term in all seriousness—let us march towards it in reality. Socialism means that those who work must get a reasonable return according to the work they do. All that is produced in the country belongs to the State, *i.e.*, to the people. That is the common man's meaning of socialism. If we are embarking on the first and second Five Year Plans in order to march towards that kind of socialism, let us give the worker, who is the toiler and who produces wealth, his rightful share. That will be the starting point for creating socialism in the country. When we are demanding 8-hour duty, we are not doing anything against socialism. We demand it on the same pattern on which we march towards socialism.

Let the Government take this matter seriously into consideration. Let them start thinking of doing a thing which the railwaymen will appreciate and for which they will be thankful and grateful. Let them not think that if they yield, then the credit will go to the Opposition, since this demand is coming from the Opposition Benches, let them not think that they will be doing harm to their party. I do not want such a consideration to come in the way. Let them take the credit, I do not mind. I shall be pleased to live in a society where the workers get the benefit of 8-hour work a day and 16 hours relaxation. I do not want to say that it must be done under my personal leadership or any such thing. I do not claim any credit for this. I submit that this consideration must prevail upon them in supporting or opposing the Bill.

Finally, a word with regard to the duties of the workers, I have dealt with the working hours; I now come to arrests and prosecutions. Prosecutions have started in many cases. Anything

[Shri T. B. Vittal Rao]

is termed as "accident". A thorough derailment killing 200 people is an accident; if a driver hits a bullock and kills the bullock, it is also an accident. There is difference between one accident and another. If any passenger pulls the chain and stops the train, that is also termed as an accident and the driver and the guard should go to the spot. For all these things, there should not be the same sort of punishment.

Therefore, I submit that all these things must be taken into consideration dispassionately and without any political approach in all earnestness and sympathy. There will be no difficulty in accepting the spirit of my Bill. You may not accept the wording which I have given; I am prepared to change it. I am prepared to leave it to the Government to put it in any fashion they like, but the spirit and the content of my Bill must be there. That is all my submission.

**Mr. Chairman:** Motion moved:

"That the Bill further to amend the Indian Railway's Act, 1890, be taken into consideration."

**Shri T. B. Vittal Rao:** I am only support the Bill sponsored by my friend, Shri Nambiar. In doing so, I will say a few words. I will be very brief.

I want just to go into the background of the fixation of hours of work for the workers engaged in running this great national undertaking. It was in the year 1946—I am not quite sure about the date—when our Deputy Minister was a Member of the Legislative Assembly, that the railwaymen wanted to go on an All-India strike. Then the Government appointed a Central Pay Commission to go into the question of wages, an adjudicator to go into the question of the working hours and a high power committee to make recommendations as to how best they could absorb the surplus staff. After that, the strike was withdrawn.

Before this, there was an International Labour Organisation convention that was adopted several years ago. That has not yet been ratified—I am glad the Deputy Minister of Labour is here—and there is no statutory provision. We are always told about our international prestige. Our international prestige can be measured not only by our role in international affairs; though we play a very notable part there, it will also depend on how we treat the

workers and how we respect the conventions and the recommendations adopted by the International Labour Organisation. Unfortunately for us, our Government have ratified only 20 conventions as against the 110 conventions adopted by the I.L.O. Even such a small country like Bulgaria has ratified 65 conventions.

**The Deputy Minister of Labour (Shri Abid Ali):** How far have those conventions been enforced there?

**Shri T. B. Vittal Rao:** I am only quoting that 65 conventions have been ratified by Bulgaria. This is from the notes given to me by the Minister of Labour when I attended the 13th session of the Indian Labour Conference at Mysore. I do not know how far they have been implemented in Bulgaria. That is a different point.

Regarding the hours of work, the adjudicator went into the whole question coined terms like "Intermittent", "continuous", "essentially intermittent" etc. and gave an award. The recommendations contained in the adjudicator's award given in 1948 have been implemented to some extent in 1955. It took seven long years even for the recommendations of the adjudicator to be implemented on some of the Railways. There is a lacuna. Those who perform overtime work, more than the hours stipulated in the adjudicator's award, referred to by my hon. friend Shri Nambiar, receive only 1½ times the normal rate. Under the Factories Act, when a worker puts in overtime, he is paid twice the normal rate. Why has this exception been made here? Overtime is overtime. Even this overtime has been implemented on some of the Railways only since 1954, for the guards and some running staff. Even the Bill that they have brought with a view to see that the I.L.O. convention concerning hours of work is ratified by our Government, was brought in only after Shri Nambiar gave notice to move this Bill. Even then, it is not useful. As provided under the Factories Act, whenever any worker puts in more than 48 hours of work, he must be paid twice the normal rate. When a worker is in a station, say the pointsman, how do they calculate the work? The pointsman, waiting for the arrival of the train after setting the points, is required to give sustained attention. So also is the station master. May I ask, can a pointsman or the station master leave the place of duty? Especially in these days when trains are

running late, he has to be continuously at the station. This arbitrary fixing of 48 hours, 52 hours, 54 hours, continuous and intermittent, asking that he must for 6 hours or 10 hours, does not hold good. At least in these days when we are told that we are moving towards a socialist pattern of society, the worker should get what is normally due to him. In this Bill, we are not asking anything which is not prevailing in any other industry. We are asking what is given under the Factories Act. Nothing more than that. The running staff perform not only arduous duties, but in many cases, they perform most hazardous duties. Even the benefits enjoyed by the loco staff before 1948 have been taken away. The loco shed staff have been removed from the purview of the operation of the Factories Act. Is this justifiable? Can so many hundreds of workers in the loco running sheds be removed from the purview of the Factories Act? By which Act are they governed. Goodness only should know.

With reference to the next clause which my hon. friend Shri Nambiar has brought forward, I shall only refer to the speech made by the hon. Railway Minister some years ago. He said that he is much concerned with the rate of accidents in the Indian Railways, and therefore he is appointing a committee. He did appoint a committee under the Chairmanship of Shri Shahnawaz Khan. He has submitted his report. In that report, he wanted that all accidents should be enquired into by a judicial authority. He said that a judge should preside over the enquiry and that he should be assisted by two assessors, one technical expert from the railways and another from the public. So far, that recommendation has not been implemented. Take the Mines Act. There is a provision that, whenever the Government thinks that a serious accident has taken place, the Government may appoint a court of enquiry presided over by a High Court Judge and assisted by two assessors, one a technical expert and another a public man. This would go a long way to improve the situation. We should know who is responsible. If a Court of enquiry is appointed and if they hold that the railway staff are responsible, straightway you can punish them. In the communications Ministry, we have the Inspectors. These inspections are statutory. I recognise that. But, so far, these inspections have not minimised the rate of

accidents. There is something wrong somewhere. Therefore, it is very necessary that at least a judicial authority should be appointed. The way in which Government is moving creates a little suspicion in us. There was a major accident in Hyderabad, in 1954 when so many people were killed. Not a single man has been punished so far. For a small accident at Dornakal, when the Janata Express bumped into a stationary through carriage and one man was injured, the assistant station master is being prosecuted. I do not say that you should not take action. Whoever is at fault should be punished. For that, there must be a proper enquiry. I raised this issue in the discussion on the Railway Budget also as to why the Government is not willing to publish the Accident Enquiry Committee's report when it was under the Chairmanship of Shri Shahnawaz Khan. Shri Shahnawaz Khan is a person who is well known all over the country for his honesty. I do not say that the Railway Board is hushing it. It creates a suspicion when a well known person like Shri Shahnawaz Khan has made a report and you are not going to publish it. If there are any strictures made against any staff or the Railway Board, the Railway Board is strong enough to defend itself. Why should that report not be published? We see that many accidents are taking place. But still we do not do anything. I have been speaking on this Railway Budget for the last 3 days. I had a little hesitation also when I stood up to support this Bill. However, I wanted to say these few things. I commend the Bill for the acceptance of the House.

**The Deputy Minister of Railways and Transport (Shri Alagesan):** It so happens that this Bill is coming up before the House when we are still in the midst of the discussion on the Railway Budget. It looks as though it is a continuation of the discussion on the Railway Budget. But, the difficulty with my hon. friend Shri Nambiar is that he refuses to see the facts. He refuses to acknowledge facts. A person who deliberately closes his eyes to facts, naturally, is led to false conclusions and false positions.

**Shri T. B. Vittal Rao:** Let us go to a judicial authority.

**Shri Nambiar:** I shall open my eyes now.

**Shri Alagesan:** I hope they are not deliberately closed and they will open at least when an attempt is made to open them.

**Shri Nambiar:** I shall open them.

**Shri Alagesan :** This Bill was introduced in the year 1953. Unfortunately we have had another Bill which was passed by the other House and which is waiting for entry into this House. That also was done in the year 1953. That shows the congestion of business in the Houses of Parliament. We have been discussing the congestion of passengers on the railway trains. The congestion of business in this House seems to be much more than the congestion of passengers on railway trains.

There is an Act, the Indian Railways Act, which was amended in the year 1930 with regard to the provisions regarding which the hon. Member has again brought forward an amendment before us. It is true the Statement of Objects and Reasons agrees with the letter of the Act, *i.e.*, the Indian Railways Act, but it does not agree with the existing state of affairs. Though certain hours of work etc., are stated in the body of the Act itself, they have been changed long ago and I was expecting that both the hon. Members would make a reference to the existing state of affairs.

**Shri T. B. Vittal Rao:** I made.

**Shri Alagesan:** I did not expect Shri Nambiar who is always carried away by his emotions and his own self-assumed leadership of the workers of this country to acknowledge the facts, but I expected a much more sober person like Shri Vittal Rao to acknowledge the existing state of affairs and tell the House what improvement has been made and what further steps have been taken in this direction.

I should only like to mention the position after this Act was passed. Since then much water has flowed under the Yamuna bridge and my friends completely close their eyes to it.

**Shri T. B. Vittal Rao:** I said it.

**Shri Alagesan:** I do not know how they can take up such a position.

The adjudicator's award has been given. It was given in the year 1947, it was accepted in the year 1948. The adjudicator himself has envisaged that

some time had to elapse before the whole thing can be given effect to, because it has to be done in slow stages, etc. After the acceptance of the award, during the course of 2 or 2½ years, the recommendations of the adjudicator have been given effect to on the Indian Government Railways by amending the hours of employment regulations. Without doing anything to the Act, they have been given effect to, and changes,—very significant changes and very far-reaching changes,—have been introduced.

Formerly, there were only three classifications, namely, "continuous", "essentially intermittent" and "excluded". Another classification has been added to them as a result of the adjudicator's award, and that is "intensive", and they are asked to work only for 45 hours. Regarding the continuous workers, the hours of work have been reduced from 60 to 54, and regarding the essentially intermittent workers, the hours of work have been reduced from 84 to 75.

He was talking about the running staff and explaining the terms "fireman", "running staff" etc. I was a bit amused as to what he took this House to be. He was enlightening the House about the running staff, giving the meaning of running staff, defining them as also "fireman" etc. Anyhow, I have no objection to his amusing himself and trying to amuse others, but I should like to say that the running staff who were excluded from the scope of the hours of employment regulation have been brought within the scope of the hours of employment regulation as a result of implementation of the adjudicator's award and they are classified as "continuous".

He also referred to overtime payment. That also has been increased from 1½ times to 1½ times as a result of the adjudicator's award.

**Shri T. B. Vittal Rao:** It must be made twice.

**Shri Alagesan:** I shall be dealing with that.

Then, regarding the periods of rest as a result of giving effect to the award, here also the conditions have been improved. I do not want to go through the position before and the position now obtaining. My hon. friends know that very well. Only a small number have



been called excluded staff, and I understand that they go to make a very small percentage of railwaymen.

My hon. friend Shri Kamath mentioned one case. He will live for a hundred years. He is just entering the House when I was thinking of him and mentioning his name.

**Shri Kamath (Hoshangabad):** Your thought is very powerful. There was telepathic communication between us.

**Shri Alagesan:** I hope so. All sincere thoughts are very powerful thoughts.

He was this morning quoting the case of a gateman. Perhaps he has obstructed him in his election work a lot.

**Shri Kamath:** In spite of that, I got through. In spite of all the obstructions, I am back here. Not merely he but many others also obstructed.

**Shri Alagesan:** He must have suffered at his hands and so he made a full speech regarding that one small level-crossing....

**Shri Kamath:** About all "C" class crossings not that one only.

**Shri Alagesan:** ... as if all our Demands running into crores were hanging on the behaviour of that one person.

**Shri Kamath:** I said all "C" class crossings. It was only representative.

**Shri Alagesan:** It so happens that people like that person who has given such a lot of trouble to Shri Kamath, come under this excluded category. They do not have much work to do, and as he said they are expected to do only about six hours of work in the course of the day, and they are classified as "excluded".

**Shri Kamath:** I wanted to know how this "six hours" is calculated.

**Shri Alagesan:** I shall refer him to the adjudicator's award where this particular subject has been dealt with. I can read the paragraph for the hon. Member's edification. This is what it says. I have got it here typed and I shall read it :

"Again as a result of the diversity of occupations, the nature of the work varies considerably. At one extreme, for example, is the Train Controller of a heavy section, who has to work in a state of

constant mental tension, in recognition of which certain Administrations have already introduced 6-hour shifts for such controllers."

**Shri T. B. Vittal Rao:** Certain ?

**Shri Alagesan:**

"At the other extreme are a few categories of staff such as the rest-house chowkidars, saloon attendants and gatekeepers at unimportant level-crossings...."

—I mean Shri Kamath's friend—

**Shrimati Renu Chakravartty (Basirhat) :** Enemy!

**Shri Alagesan:**

"...whose work is so light, both in its nature and volume, that it will be wasteful even to have two shifts. Between these two extremes come the bulk of the railway staff such as the majority of Station Masters...."

So, this has been dealt with. How it has been calculated etc., can be known if the adjudicator's award is gone through. So, except these, the others have been put in the categories already mentioned by me and most of them find themselves in the category of continuous workers. A good percentage has been put in the category of intensive workers. So, here, if you are going to adopt the system of 48 hours to these men at unimportant level-crossings, it will so happen that you will have to have not two men but three men at these level-crossings. I should not like to put it higher than this, that it will mean a criminal waste, and it will be demoralising to a very great extent.

**Shri Kamath:** Have two men, not three.

**Shri Alagesan:** Even at present, the reaction that this kind of work produces is as follows: I have seen many of the peasants who do agricultural work in the villages, and I have heard from them what they have to say. Some of them happen to have their brothers as gate-keepers, and they envy their brothers very much, because whereas they sweat and toil in the fields to earn their livelihood, these people do simply the act of closing the gate and opening the gate for a few minutes in the day, and yet they are paid so much. That is the type of reaction that this kind of work produces even at present.

**Shri Kamath:** That applies perhaps to several government employees.

That applies not merely to gatemens but to some other Government employees also, both of the Central and the State Governments.

**Shri Nambiar:** Including Ministers.

**Shri Alagesan:** I hope also Members of Parliament.

**Shri T. B. Vittal Rao:** We are losing our lunch also every day.

**Shri Kamath:** I never said, Members of Parliament. I only said that that applies to several Government employees.

I shall now say Ministers also. You invited it yourself; you asked for it, and you got it.

**Shri Alagesan:** My hon. friend Shri Kamath was able to hear what I had to say, but he has not been able to hear what Shri Nambiar who is sitting behind him said. He said, including Ministers. I added, Members of Parliament.

**Shri Kamath:** He only whispered in my ear. It was not meant for you. You have been concentrating your attention on me.

**Shri Alagesan:** Naturally, because you concentrated yours on me.

**Shri Kamath:** Your thoughts got me here.

**Shri Alagesan:** I heard what Shri Nambiar said. I was not all along concentrating my attention on Shri Kamath. I hope my hon. friend Shri Kamath will oblige me by not interrupting me any more.

**Shri D. C. Sharma (Hoshiarpur):** He cannot help that.

**Mr. Chairman:** Order, order.. Let there be no interruptions.

**Shri Alagesan:** Barring these few categories of workers, all others have been put in the proper categories, and this award has been given effect to.

There was some delay in giving effect to it on the ex-State Railways, because they were integrated at a later stage, but even there I think before the Bill was introduced, or nearabout that time, it has been given effect to.

So, I should like to say that Shri Nambiar is by means of this Bill trying to fight a phantom which does not exist. He is trying to paint a picture which does not correspond with the actual state of affairs.

**Shri D. C. Sharma:** That is what he always does.

**Shri Alagesan:** If that is an indication of the measure of that doings of my hon. friends on that side, I think I can only be sorry for them.

Regarding overtime payment, I should like to say that it is true that under the Factories Act, it is twice the usual wage. But there the purpose of fixing it at twice the usual wage is completely different. There, it is expected to act as a deterrent. The employer is not expected to take work from the employees for more than 48 hours a week, and that is why twice the usual wage has been fixed there. But here in a huge organisation like the railways, my hon. friend will concede that they are bound to overstep the hours of employment; and as the basis and purpose of the two overtime payments differ, there is difference in the quantum also.

The third object of the Bill introduced by my hon. friend is that people should not be taken to task if accidents occur. Here, I would like to say two things. First, we are trying to blow hot and cold at the same time. My hon. friend has talked about the Accidents Enquiry Committee's report and their findings, and has been demanding the publication of that report, as if we are trying to hide something from the view of the House. There is absolutely nothing of that kind. Whatever recommendations have been made are already out in the other committee's report. There, we want that the recommendations of those reports should be given effect to, and those who are responsible should be punished. That is what we say.

If the position taken up by Shri Nambiar is accepted, then it will not be possible to punish anybody. It may be the worst accident which may involve many people in serious injuries or minor injuries or even deaths, but under this Bill we shall not be able to punish anybody, unless it could be established that the person concerned has wilfully

disobeyed the rules, and wilfully neglected his duties. It will not be possible to establish that anywhere, that a person has wilfully caused an accident to a train.

Some time back, I had answered a question on accidents. And in connection with that question, in a particular group of accidents on a particular railway, on analysis it was found that a good number of those accidents was due to the fault of our staff. If we are not going to punish them, or if we are going to amend the Act in such a way that it will not be possible to punish them, then we shall be simply placing a premium on inefficiency and callousness. So, I humbly submit that it will not do to blow hot and cold at the same time, if we want to prevent accidents.

If we want to ensure greater safety in railway operation, surely we should place squarely the responsibilities on the shoulders on which they should rest; and the persons concerned should be made responsible for seeing that safety is guaranteed cent. per cent.

As the term 'accident' itself denotes, it is not possible at all times to see that nothing untoward happens. At times, accidents do occur, and they occur not only due to the fault of the staff, but also due to other defects as well. The House cannot upbraid the Ministry for the accidents, and at the same time plead that those who are found responsible for the causing of these accidents should not be punished. That will be a very untenable position to adopt. I hope that point will be easily appreciated.

All these recommendations have been given effect to, and they have been in operation over a number of years. We thought that it would be better that such a vital thing which refers to the actual conditions of work of a large number of workers should not be dependent merely on what are called the hours of employment regulations but should find a place in the Act itself. It is for that purpose that the other Bill was introduced and passed in the other House, and it is now awaiting passage through this House. I did not take the trouble of hurrying the Minister of Parliamentary Affairs and others, because by doing so, I am not going to get anything done, or add to anything that exists at present by making it a part of the Act. So, I

thought that we could wait. But that seems to have been a mistake, because this sort of thing would not have occurred, if the actual amendment had taken place, and it had become a part of the Act.

Therefore, I hope—though I am not very confident—that my hon. friend will be good enough to withdraw the Bill. If he is not good enough to withdraw the Bill, I should like to oppose the Bill.

**Mr. Chairman :** Does any other Member want to speak ?

**Shri S. C. Samanta (Tamluk) :** Mr. Chairman, . . .

**Shri Alagesan :** Now, it is for the Mover to reply.

**Shri Kamath :** No, the Minister was only intervening. Shri Samanta can speak.

**Shri Alagesan :** It is for the Mover to speak now. You had asked earlier whether any Member wanted to speak, and nobody stood up. And then I was called to place Government's case before the House. Now it is for the Mover to reply to the debate, and then wind it up.

5 P.M.

**Shri Nambiar :** I was rather amused to hear the reply of the Deputy Minister. I can understand the stand of the Government, but I could not understand how the capacity of the Deputy Minister to hear was so bad. He said that I was blind, I must open my eyes. But he proved himself a deaf man. I may be excused for saying this. The reason for my saying this is this. What I said is borne out by the records. What I said was that there are three categories of railwaymen: one working for 48 hours a week, another working for 54 hours a week and the third working for 84 hours a week. And he tells me a story that I did not know these facts. Whether he did not grasp what I said or his capacity was so low, I cannot say.

**Shri Alagesan :** I was referring to the Statement of Objects and Reasons.

**Shri Nambiar :** Since the Statement of Objects and Reasons was written, the changes took place. The Deputy Minister himself said that. Now, it is not due to my fault that the Bill which was introduced then is taken up for consideration today. The Deputy Minister must

[Shri Nambiar]

have humility, sagacity, a certain capacity to understand and grasp and then talk. That would be a great contribution—if he would make a study of these things.

**Shri Raghunath Singh** (Banaras Distt. —Central): On a point of order. There is no quorum in the House.

**Mr. Chairman:** The bell is being rung—Now there is quorum. The hon. Member may proceed.

**Shri Nambiar:** Therefore, I would request the Deputy Minister to understand. I can understand his difficulty. The railway problem is such a technical problem that it is not easy for a Minister to understand it in a few months. Of course, he must make a study and understand.

Leaving aside that point, I will try to explain my position. The Bill had a purpose to go beyond the adjudicator's award. He says that whatever has been given by the adjudicator has been put into practice. He perhaps forgot that I quoted 1919 happenings in this House and the deliberations of the first ILO Convention in Washington immediately after the Versailles Treaty. He could not understand what I was referring to. What I said was that the demand for an 8-hour day and 48-hour week for the Indian workman, whether he belonged to the railway or otherwise, was raised as early as 1919 immediately after World War I. What was demanded then has not yet been achieved. The adjudicator, Mr. Justice Rajadhyaksha referred to all these facts, but he came to the conclusion that, unfortunately, for so many reasons he was not in a position to award an 8-hour day but that he would give some consideration and concession. He gave some concession. That is the position with regard to the adjudicator. That concession which was given by the adjudicator is not satisfactory in view of the fact that there is a strong case for a 48-hour week.

[**MR. SPEAKER** *in the Chair*]

For whatever Mr. Justice Rajadhyaksha has given in his award, we are thankful, but it is far below the expectations we had. If the Deputy Minister had answered that point clearly, I would have tried to satisfy myself.

**Shri Alagesan:** There is not one word in the Statement of Objects and Reasons, which I went through again, about the Rajadhyaksha award.

**Shri Nambiar:** At the time of introducing this Bill, the Rajadhyaksha award was not even implemented nor was there anything in writing in the form of an order.

**Shri Alagesan:** I said it had been given effect to three years before the Bill was introduced.

**Shri Nambiar:** Even today the Rajadhyaksha award is not fully implemented. Let him contradict me. That is the unfortunate situation. Now he comes and says that even three years before it was given effect to. Of course, when there is a long rope one tries to take advantage of it. I have no objection to that. But he must at least now understand what is happening.

Leaving aside that dispute, the question is whether the Government are in a mood to accept the 8-hour day and 48-hour week or whether they want to allow 84 hours or 75 hours a week or 54 hours a week to continue. If they accept the first alternative, there is no difficulty. If they say that there is no case for a 48-hour week or 8-hour day, then it is up to them. Of course, whether we are here talking on a self-imposed or presumed leadership can be judged. Of course, he may be a leader imposed, but I am here exactly because of the misdeeds of the previous Railway Ministers. Otherwise, I would not have been here. If this is self-imposed leadership, I would say that only they can think in that way. I leave it at that.

Coming to the question, I would submit that there are today workmen who do 12 hours a day and still they are treated as "essentially intermittent" workers. This is in spite of the fact that these cases have been brought to their notice. Take the case of a rolling-stock fitter in a junction like Tanjore. Olavakot or even Chengelpet wherefrom the Deputy Minister is elected. That area is his own constituency, his junction station. A rolling-stock fitter there is working 12 hours, though that is a junction. Perhaps he does not know it. Unfortunately, it is not his fault. Anyhow, it is there. Why should there be such a condition? I want that to be reduced. That was the purpose of my Bill.

Coming to the other question, I have to submit with much sorrow that I heard what I exactly expected from the Deputy Minister. He said that those people who talked tall about railway efficiency wanted to see that there were more accidents, and they did not worry what

happened. He can very easily brush aside my argument by simply making this statement. But I say I never intended to support nor do I ever intend to support, any idea to increase accidents or to reduce the responsibility of the railwaymen. I never said any such thing; that was not at all my argument. If he had carefully read my speech, he would have found that I said that there should not be unnecessary harassment. Therefore, he should not be prosecuted for anything and everything. That fear complex that the pistol is being pointed at him should not be there. You should remove that and tell him that if he commits an offence he will be punished. Punish him if he has to be punished; hang him if he has to be hanged (*Interruption*). The point is give them that much of freedom to act in the circumstances.

**Shri Velayudhan** (Quilon *cum* Mavelikkara—Sch. Castes) : The hon. Minister is not attending.

**Shri Nambiar**: Therefore, my submission was that there should be an attempt to remove that fear complex. That was the purpose of my Bill. I will again read my amendment for the benefit of the hon. Deputy Minister.

“Provided that this section shall not apply to a railway servant who while discharging the normal duties assigned to him meets with ‘accident under unforeseen circumstances beyond his control and that in such cases he shall be given sufficient protection against prosecution.”

What is meant, ‘beyond his control’ and ‘unforeseen circumstances’? What is the meaning of this? It means that if anything happens beyond his control then he should be given protection, so that he may be courageous enough to run the train. Supposing a pilot who takes a plane is not given the right to take the plane as he likes when he is in the air, and if he is to be controlled by the Minister and the Minister wants to tell him that should not take the plane in a particular way, then he will only end in a crash. So, also a driver who takes a train must be given certain rights and privileges and certain protection. That is what I want. Without understanding that—or, as he said,

rather deliberately confusing the issue if he does not want to pretend not to have understood it—he says something, it is not my funeral. I only . . . . .

**Mr. Speaker**: It is nobody’s funeral here, unfortunately.

**Shri Nambiar**: I submit that these things must be taken in the light and the spirit in which they are given out and not in a spirit of opposition for opposition’s sake. Let them take my Bill if it has got any worth in it; but if they do not like it because it comes from a person whom they do not like for political reasons, then I have nothing more to add. Therefore, I submit I am not in a position to withdraw my Bill.

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

“That the Bill further to amend the Indian Railways Act, 1890 be taken into consideration.”

*The motion was negatived.*

#### FACTORIES (AMENDMENT) BILL (Substitution of section 59)

**Shrimati Renu Chakravartty** (Basirhat) : I beg to move :

“That the Bill further to amend the Factories Act, 1948, be taken into consideration.”

As stated in the Statement of Objects and Reasons the amendment is a small one. It is a coincidence. I think, that today when we have been discussing the question of at least a minimum of 48 hours’ working week, I have brought forward this Bill saying that there should be an amendment of the Factories Act which grants overtime allowance for work above 48 hours, demanding that this should be changed for those industries where the conditions of work are so strenuous, or where there has been collective bargaining, whereby a lesser number of hours of work have been prescribed and agreed to between the management and the workers and that overtime should be granted for work above that number of hours.

For example, in our country there is in Andhra in the tobacco curing industry an understanding in certain areas where because of the strenuous nature of the work, the workers actually work for less than 48 hours a week. A worker