

15.32 hrs

INDIAN RAILWAYS (AMENDMENT) BILL—Contd.

Mr Deputy-Speaker: The House will now resume further discussion of the motion moved by Shri Jhulan Sinha on the 20th March, 1959 'ha' the Bill further to amend the Indian Railways Act 1890, be taken into consideration

Out of 1 hour allotted for the discussion of the Bill, 18 minutes have already been taken up on the 20th March, 1959 and 42 minutes are now available

Shri Jhulan Sinha may now continue his speech—rather he should try to conclude his speech

Shri Jhulan Sinha (Siwan) Sir the other day while I was moving my motion for the consideration of the Bill I was referring to the third point that I had intended to embody in this amending Bill. The third point had just begun. That referred to overcrowding in trains.

Sir the House knows that the discussion on the Railway Budget has ended only a few weeks back and the position relating to overcrowding is so very disappointing. The report says that there has been some decrease to the extent of some 5 per cent in broad gauge lines and to the extent of 10 per cent in metre gauge lines. In this state of things, with very limited resources at the disposal of the Railways and the still limited scope for relief in this respect owing to the limit of the availability of material, rolling-stock and coaching etc we do not expect much improvement in respect of overcrowding in the coming years of the Second Plan.

Then, what is to be done, was the question I was just posing the other day. It appears that we will have to put up with the position as it obtains. The Railway Ministry have certainly

done what they could in the circumstances. They have tried to make an even distribution of the trains on the lines concerned and tried to lessen overcrowding in the trains by running more trains on the existing lines. But, I think that is not all. Something more has to be done and I hope that will be done in due course.

The position is that there is a section in the Indian Railways Act, section 118 which makes it penal for anybody on the footboards or on the roofs of moving trains. I note the section embodies very wholesome principles. It is neither safe to board a moving train or to remain on the footboard or to climb the tops of the compartments. And the attention of the Ministry has been drawn to this thing in this House more than once. It is not only the ticketless travellers that go to the top of compartments, but it is also those who have to travel as a matter of necessity but who due to lack of accommodation have no option but to climb to the top and traverse the distance. That is a position which is never desirable.

But as the law stands now they can be very easily penalised under section 118 of the Indian Railways Act. What this Bill seeks to provide is that these may continue to remain as offences but there shall be valid defences also.

I personally know of a case. Some years ago when I was a member of the Bihar Assembly this happened. A gentleman in the first class compartment went out to take water from the tap that was at some distance. While he was returning, the train steamed off and he just ran. He could not run up to his compartment. He got hold of the handle of a third class compartment. In the meantime he was caught and was put up before the Railway Magistrate and fined Rs 10. I know the whole history of the case. You will excuse me for a few seconds. He said "I am a first class passenger. I was just running to get into my compartment, why should I be penalised?" He was told "If you take

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this plea, you may have to come so many times and you will lose your time and money. Therefore, you kindly plead guilty and have a lesser fine.' Neither the court nor the passenger had other option. In these circumstances, what this Bill seeks to provide for is that if the passenger can give a valid defence for travelling on the foot-board, on the roof or any other places mentioned in section 118 of the Indian Railways Act, then, that valid defence has got to be accepted. This is the third thing which this Bill seeks to provide.

The fourth thing that this Bill seeks to provide is a change in the Schedule. I do not know when Schedule I of the Indian Railways Act was enacted and when it was amended. My impression is that it was enacted as early as 1890 and there has been no change thereafter. The responsibility of the Railways for the articles mentioned in that seems to be based on the price-level prevailing in the last quarter of the 19th century. I have, therefore, sought to provide for the amendment of that and tried to bring it to the level of the present prices of the articles enumerated therein.

These are the provisions embodied in this Bill. I may just sum it up in a minute or two and finish because the debate has been continued for two days and I should sum it up. To sum it up, it seeks to provide, firstly, for pilfering being made an offence under the Indian Railways Act.....

Mr. Deputy-Speaker: The hon Member has described all the 4 points that are contained in the Bill.

Shri Jhulan Sinha: I may just sum it up in a minute or two, if you will put up with me. Otherwise I will finish.

Mr. Deputy-Speaker: Summing up should be done if there were time for it. Now, there is no time. Out of one hour he could not expect more.

Shri Jhulan Sinha: If you do not allow me to sum up, I say these are the things that have been provided for in this amending Bill. I will not take any more time of the House. I will just finish by quoting from a speech which my hon. friend the Deputy Minister, Shri Ramaswamy, made which has come in the News Letter. This is what he says:

"Four persons out of every hundred passengers travel without ticket or without a proper ticket" and

"The loss of revenue from ticketless travelling is 4.5 crores annual."

And the compensation paid every year by the Railways to the persons whose goods are lost in transit has been stated in the report and it comes to nearly Rs. 3 crores and odd. This huge loss has to be prevented in the interests of the nation and for enabling the Railways to carry on more efficiently

I think the Railway Minister would think it desirable to consider these aspects, especially when the Railway revenue has been dwindling and there is keen competition from the roadways also, which has got to be faced. In the circumstances I would urge upon the Minister to consider all these points in the light in which I had placed them. With these words I commend my motion to the acceptance of the House.

Mr. Deputy-Speaker: Motion moved:

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

Now, the hon. Member has taken about half an hour—28 minutes to be more exact. It is time that I call the hon. Minister because he will take the other half an hour and thus we finish one hour.

Shri Braj Raj Singh (Ferozabad)
Five minutes for some Members.

Mr. Deputy-Speaker: All right
five minutes for each hon Member

Shri Tangamani (Madurai) I am in general agreement with the objects of the Bill. During the last session, an amendment of the Indian Railways Act was brought by the hon. Minister himself and it was passed. There the purpose was to prevent the pulling of alarm chains and prevent ticketless travel and also the unauthorised hawkers travelling in the trains. When the Ministry has considered it wise to prevent certain abuses by the public I do not know why it should have overlooked these three very important points which have been brought forward by way of an amendment to the Indian Railways Act.

So far as the railway property is concerned, we would like to know from the hon. Minister whether pilfering has been on the increase or decrease since the watch and ward and other restrictive measures were adopted because they have given us figures about the loss of income due to ticketless travel and they have also given us figures about losses due to payment of damages to the merchants for articles which were entrusted to them for conveying. They have given us an indication whether such a measure is necessary or not. I would like to include the question of vandalism being practised by a section of the travelling public. We find in the trams that a bulb is missing suddenly or in the bath room certain material parts are also missing. When such acts are detected really a deterrent punishment is called for. Another instance is in the workshops where articles worth several lakhs are stored. We have received some reports and I could not verify the authenticity of those reports and so I have not informed the Ministry. We do receive reports of articles missing from the workshops. I would like to know whether there are arti-

cles missing from the stores and from the workshops. The addition of section 99-A in this Bill envisages that any person who indulges in pilferage should be punished with a term of imprisonment which may extend to one year, it is a very salutary provision. A certain emphasis has got to be placed where the accused persons are railway employees. The railway employees, by and large, have been doing a very patriotic service. If the unsocial elements could be caught while pilfering the railway property or the articles entrusted to the railways' care, they must be given a deterrent punishment.

Another point—the last one which he referred to—is regarding overcrowding. How can we penalise the passengers who enter into compartments which are already full? That was the question asked. It will come within the mischief of sections which I am not able to place my hands upon just now. There is a provision in the Indian Railways Act whereby if a particular compartment is already crowded and if a person attempts to enter it, he will come within the mischief of that section. I do not think the Railway Ministry can provide adequate and enough accommodation for all the passengers because of the provisions contained in section 118. If a passenger, after being warned by a railway servant to desist, persisted in travelling on the roof, steps or the footboard of any carriage or of an engine or in any part of the train not intended for the use of the passengers, he shall be punished with a fine. I can understand it if it is the footboard or roof. But a passenger may be standing in the corridor when he is not finding enough space inside and he will also come within the mischief of that section. It is necessary that we are serious about the penal clauses which we have already passed. I should like some proviso to be there so that where it is very much crowded and if a passenger is standing in the footboard or he is forced to stand in the corridor, he should not come within

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the mischief of that section. I believe that is the intention of the hon. Mover of this Bill. The three penal clauses which we have passed had received wide publicity and the people have generally welcomed it.

With these words, I support this measure.

श्री बजराल सिंह : उपाध्यक्ष महोदय, मैं पांच मिनट में पहले ही खत्म करने की कोशिश करूंगा। मैं इस विवेक की धारा ३ का हृदय में समर्थन करता हूँ—इस लिए कि जहाँ तक बिना टिकट चलने वाले का सवाल है उन को सजा दी जानी चाहिए और उस में ज्यादा में ज्यादा सज़ा होनी चाहिये। लेकिन हम देखते हैं कि रेलवे विभाग में सम्बन्ध रखने वाले कुछ लोग यह समझ लेते हैं कि यह उन की ज़िम्मेदारी है। इस सम्बन्ध में मैं एक केस का जिक्र करना चाहता हूँ। कानपुर में एक साहब हैं जिन्हें रेलवे मैजिस्ट्रेट कहा जाता है। वह दिल्ली बिना टिकट घाने जाते हैं और अगर कोई उन में चार्ज करने की कोशिश करता है, तो उस पर झूठा मुकदमा चलाने की बात की जाती है।

श्री स० म० बनर्जी (कानपुर) : सम्प्रेड करने की बात की जाती है।

श्री बजराल सिंह : जैसा कि मैंने मिनट में कहा है जो रेलवे का टिकट चैकर उस से चार्ज करने की कोशिश करता है, उस को सम्प्रेड करने की बात की जाती है। पहले भी ऐसा हुआ कि वह और उन की श्रीमती जी ने इसी प्रकार यात्रा की। जहाँ तक रेलवे सरबैंट्स का सवाल है, उन के लिए तो कड़ी सजा की व्यवस्था होनी ही चाहिए।

रेलवे उपमंत्री (श्री साहगनबाबू साँ) : क्या मामलीय सदस्य ने इस केस की कोई तकसीलात मिनिस्टर साहब को भेजी है?

श्री स० म० बनर्जी : कानपुर की युनिवर्सिटी में भेजी है। श्री जगदीश प्रबस्थी ने सायब इस बारे में पत्र भी लिखा है और क्वेश्चन भी पूछा है।

श्री बजराल सिंह : जहाँ तक रेलवे से भेजे जाने वाले सामान को खराब करने और चोरी करने का प्रश्न है, उस में भी कुछ सज़ा की आवश्यकता है। मुझे ऐसा डर लगता है कि जिन लोगों को सामान की रक्षा के लिए रखा जाता है, कभी कभी उन लोगों का भी ऐसी घटनाओं में हाथ रहना है। इस लिए उस बारे में ज्यादा सावधानी बरतने की आवश्यकता है। अगर रेलवे का वाच एण्ड वाई डिपार्टमेंट रेलवे के सामान की रक्षा न कर सके और सामान खराब होता रहे और चोरी होता रहे तो यह एक ऐसी स्थिति है जिस की तरफ मिनिस्टर साहब को ज्यादा ध्यान देना चाहिए। उन लोगों पर कृपा भी लवें हा और सामान भी चोरी होता रहे, यह उचित नहीं है।

जहाँ तक ओवर-क्राउडिंग का सम्बन्ध है, यह तथ्य है कि हम अभी तक रेलों की भीड़-भाड़ को कम नहीं कर सके हैं। यह कोई व्यापारिक नीति नहीं है कि ग्राहक को जिस बीज की आवश्यकता है, वह हम न दे सकें। गवर्नमेंट का एक डिपार्टमेंट रेलवेज को चला रहा है। वह यात्रियों को सफर करने के लिए पूरी जगह और सुविधायें नहीं दे पाया है और अब गवर्नमेंट यह व्यवस्था करे कि जो लोग भीड़-भाड़ के कारण ट्रेन के फुट-बोर्ड पर या उस के ऊपर चढ़ कर यात्रा करे, उन को सजा दी जाय, तो यह उचित नहीं है। जो भी व्यक्ति फुट-बोर्ड पर या ट्रेन के ऊपर या इंजिन पर चलेते हैं, वे मजबूरी में ही ऐसा करते हैं। उन को ऐसा करना कभी भी अपेक्षा नहीं लगता, क्योंकि वे जानते हैं कि अगर गिर पड़े, तो जान बची जावेगी। इस तरह ध्यान दिया जाना चाहिए कि जब तक भीड़-भाड़ को खत्म नहीं कर सकते,

तब तक कानून को ठिपवाई से, मानवीय दृष्टिकोण से लागू करे। इस लिए यह मान लेना चाहिए कि जो व्यक्ति ऐसी परिस्थितियों में सफर करता है कि वह रुक नहीं सकता है, तो उस के केंस पर विचार करने समय इस बात का ध्यान रखा जाना चाहिये। नीचे दूँ के यात्रियों के लिए जितनी जगह मिल सकती है, वह उपलब्ध करनी चाहिए। लेकिन जो जगह मिल सकती है, अगर उन को एयर कन्डीशनिंग या सेलरज में लगाते रहे तो इन में शोवर-क्राउटिंग की समस्या हल नहीं होगी।

श्री मरजू पांडे (रमरा) उपाध्यक्ष महोदय, मैं तो समझ नहीं पाया हूँ कि इस बिल की आज इतनी आवश्यकता क्यों है। अगर माननीय सदस्य यह बिल लाते कि रेलवे डिपार्टमेंट जिन लोगों को जगह नहीं दे पाता है और जो इस कारण पटरियों और छतों पर चलते हैं, उन को रेलवे डिपार्टमेंट के खत्याक क्लेम करने और मुकदमा चलाने का हक हो तो यह बान समझ में आ सकती थी। लेकिन उन्टी बान की जा रही है और वह यह कि एक तो रेलवे डिपार्टमेंट मुसाफिरो को जगह न दे और उन्टे उन पर मुकदमा चलाने का प्रयत्न नाया जाये। यह एक भजीब बात है। आज तक ऐसा कोई कानून नहीं बनाया गया है, जिन में उन रेलवे अधिकारियों को पनिशमेंट देने की व्यवस्था हो, जो कि मुसाफिरो को जगह न दें। इस बिल के पास करने का मतलब यह है कि रेलवे अधिकारी बहुत सारी किस्म के काम करे, जैसा कि अभी माननीय सदस्य ने कहा कि एक अधिकारी ने जगह न देने पर एक टी० टी० को सस्पेंड कर दिया। यह भी हो सकता है कि रेलवे अधिकारी मुसाफिरो को स्वाभस्वाह तग करने के लिए, जैसा कि हमारे देश में होता है, कहे कि तुम फुट-बोर्ड या छत पर चढ़े हुए थे। इस प्रकार सब प्रकार की करप्शन बढ़ेगी। मैं नहीं समझता कि इस बिल की आवश्यकता क्या है, बल्कि बिल यह होना चाहिये या

कि अगर किसी को जगह न मिले, तो उसके लिए रेलवे डिपार्टमेंट जिम्मेदार है।

इस मिलमिले में हमारा दूसरा आवश्यकता यह है कि केवल सजा देने में अपराध नहीं रुकते हैं। यह तो दुनिया पर काफी जाद्वि हा चुका है कि अगर लोगों का बाग बाग सजा दी जाए और उन कारणा का दूर न किया जाय जिन में लाग अपराध करने के लिए मजबूर होते हैं तो फिर कानून का कार्ड गय नहीं है—जैसे बन्दूक ले कर बैठे रहे अपराध दूर नहीं होगा। इस लिए यह आवश्यक है कि विभाग के डिफेन्स का और मुसाफिरो को तकनीको को दूर किया जाय। इस लिए अगर सरकार पक्ष की तरफ में कानून नाया जाय तो ज्यादा अच्छा होगा; बनिस्वत इस में कि उन लोगों को सजा दी जाय, जो कि चढ़ते हैं। मैं समझता हूँ कि इस बिल की आज कार्ड आवश्यकता नहीं है। बल्कि जो प्रजेन्ट बिल है उस में सजा की व्यवस्था है और उस में जुर्माने वगैरह का प्रबन्ध किया गया है।

Shri Jagannatha Rao (Koraput, Mr Deputy-Speaker, Sir, I do not think that the amendment in the Bill as moved by the hon Mover would meet the ends of justice. He wants to have the insertion of a new section 99A which seeks to provide for higher punishment. In the Indian Penal Code under sections 379 and 380 the punishment provided is up to three years. The proviso to the proposed new section 99A, according to the hon. Member, seeks to give a higher punishment to railway employees who commit an offence of theft. This also would be met if we apply section 381 of the Indian Penal Code which provides for seven years imprisonment.

Sir, the offence of theft is not being committed on the railways because the sentences provided under the Indian Penal Code are light. It is a matter of detection. It is

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true that railway properties worth Rs. 10 lakhs have been stolen last year. Therefore, it is a question of detection of the offence and not the leniency of the sentences provided for under the existing sections of the Indian Penal Code. Therefore, I am not in favour of the insertion of this new section 99A.

Under clause 3 of the Bill the hon. Mover wants to introduce a proviso to section 113 of the principal Act. In this proviso he says that if any railway employee travels without ticket he shall be liable for imprisonment which may extend to one month and fine. Sir, even railway servants if they travel without a pass come within the category of ticketless travellers. Therefore, no distinction need be made for providing a special penalty for railway servants who travel without tickets. I am not, therefore, in favour of this clause.

Clause 4 of the Bill is more contentious than the previous clauses. Here he wants to introduce a proviso which says.

"... it shall be a valid defence for the passenger concerned to prove that he committed the offence as a matter of unavoidable necessity."

A necessity cannot condone an offence. If travelling without a ticket is an offence, certainly it is an offence whatever be the necessity on the part of the traveller. If he travels without a ticket he would be punished.

Shri Jhulan Singh: My amendment relates to section 118 and not to ticketless travel.

An Hon. Member: Please read the Bill again.

Shri Jaganatha Rao: You can apply it to section 118. Supposing a person who holds a ticket gets into the train while it is in motion or, under section 118 where he is forbidden to do

certain things, he travels on the roof, steps or footboard, certainly, whatever be the necessity, he is liable to be punished. He should not do so. There is a danger to life. Therefore, mere necessity cannot compel a man to do a thing which is forbidden by law. So, Sir, if we accept this proviso it would amount to legalising the offences which a person would commit under the existing law.

Shri Narasimhan (Krishnagiri): Can we not change the law, improve it?

Shri Jaganatha Rao: Why should we change it?

Mr. Deputy-Speaker: We can do everything. Whether it would be an improvement is the question.

Shri Jaganatha Rao: This Parliament can pass any law, but it should not legalise such a thing as to allow a person to travel on footboard if he says that there was necessity for it. Certainly, no Parliament should countenance such a necessity whatever be the urgency of it. Therefore, I am not in favour of this clause also.

By the last clause of the Bill he wants to introduce an amendment to the Schedule. Even now under the existing section 72 if the consignor gives a higher value to the animal that he has consigned by the railways, certainly the Railways would accept the value of the animal. I do not think there is any need for changing the Schedule as it exists under the present Act.

Therefore, Sir, I oppose the Bill.

The Deputy Minister of Railways (Shri S. V. Ramaswamy): Mr. Deputy-Speaker, Sir, Shri Jhulan Sinha in moving his Bill has made certain points. Certain hon. Members on the other side were generally in agreement with him. The main points urged are these. With regard to section 99 he wants to introduce a new clause 99A in order that pilfering may

be checked by means of enhanced punishment. The object is laudable, but I submit, Sir, the purpose will not be served and it is superfluous also to have such a clause as the hon. Member has proposed.

Now, he seeks to introduce a new clause by which pilfering from consignments on the Railways shall, notwithstanding anything contained in any law for the time being in force and irrespective of the value of article pilfered be punished with imprisonment for a term which may extend to one year and the person concerned shall also be liable to fine. The language of the clause that he seeks to introduce is itself very extensive. He says: "irrespective of the value". Then, the proviso says that if it is in the case of railway employees the enhancement of punishment shall be two years.

I submit, there is already the general law, the Indian Penal Code Section 379 provides for theft and section 381 provides for punishment of a clerk or servant employed. The railway servants will certainly come under section 381 of the Indian Penal Code.

The point that Shri Jhulan Sinha has been driving at is this, that the losses are high, the petty cases of theft have increased. The Indian Penal Code, according to my esteemed friend, Shri Jhulan Sinha, is of no help. He said that goods worth crores of rupees are being pilfered. I submit that the facts on which he has proceeded are not correct. The allegation that goods worth crores of rupees are lost by pilferage is not true. Actually, if you analyse the figures which have been given at page 51 of the report it may be analysed under different heads. Actually the loss has come down. In 1956-57 it was Rs. 333 lakhs. It has come down to Rs. 327 lakhs. Hon. Members may say that this is not very appreciable.

18 LSD—7.

16 hrs.

Shri Jhulan Sinha: In 1955-56 it was about Rs. 653 lakhs.

Shri S. V. Ramaswamy: Yes; but in answer to that, I would very respectfully submit that the volume of traffic has increased and from 1956-57 to 1957-58 there has been an increase of 11 per cent more in the traffic— from 39 million ton miles to 44 million ton miles. Added to that, the value of goods has also gone up. Considering that, it is in a sense a fall in the loss.

Shri T. B. Vittal Rao (Khammam): There are no proper places to keep the parcels also. They are thrown on the platform.

Shri S. V. Ramaswamy: That is a separate issue. It is a question of accommodation. At page 51 of the report the losses have been analysed under six heads. The first is, "Claims paid on account of goods lost and stolen." The fifth is, "Claims paid on account of parcels and luggage lost and stolen." These items account only for Rs. 163 lakhs, out of Rs. 327 lakhs which is the total. The balance is made up of claims paid on account of goods damaged by wet and claims paid on account of goods damaged by fire and breakage and other causes. Actually, the claims paid on account of theft, stealing or pilferage account only to Rs. 163 lakhs.

I do not argue that this is an inconsiderable sum. It has got to be brought down. My only submission is that actually the figures have come down in this respect from Rs. 179 lakhs in 1956-57 to Rs. 164 lakhs in 1957-58. Therefore, I would submit to this House that we are making every effort and we are having a drive to see that there is no pilferage. We are tightening up our vigilance and protection and are doing everything which will go to reduce the pilferage on the railways.

Shri T. B. Vittal Rao: Tighten the claims section also so that false claims cannot be passed.

Shri S. V. Ramaswamy: Yes; we are doing it, and it is also operating. A multi-pronged drive is being made to reduce this. We have impressed upon the railways that this figure of loss should be reduced. It comes to about 1.5 per cent. of the total earnings of the goods traffic. In other countries it is much less. We have impressed upon the railways that in Japan, in the British railways, in Australia and in Canada the figure is much less than 1 per cent. In Japan we found that it is 0.1 per cent. It is a remarkable achievement. We have impressed on the railways that we should aim at reducing it to as low a figure as possible.

I would submit that it would be very incongruous to have a separate section to deal with the railway employees alone under the Railways Act, when there is a general Act to provide for all. In the first place, it is discriminatory and in the second place it would not fit in with the scheme of things. Supposing there is a theft in the Defence department or supposing there is a theft in the Posts and Telegraphs department, are we going to have separate rules and statutes governing these things in regard to public employees as distinct from the general public? It would be a wrong thing, and there will be a conflict of laws, and it will lead to an anomalous position.

The point that may be urged is that the railways may prosecute diligently in those cases where the railway employees are involved. I submit that we have been prosecuting railway employees also under section 381 and whether we have been putting up enough number of cases, is a matter for difference of opinion. But I would assure the House that we are trying to do our utmost to prosecute our own employees if they are found guilty of pilferage. I have to submit therefore that no separate distinction

need be made on this ground. As a matter of fact, the punishment that the hon. Member proposes is less than what is provided for in section 381. In section 381, it is seven years. It reads thus:

“Whoever being a clerk or servant or being employed in the capacity of a clerk or a servant commits theft in respect of any property in the possession of his master or employer shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.”

This certainly imposes a greater punishment than the one which the hon. Member has proposed in his Bill. Therefore, the general provision that one finds in the Penal Code under sections 379 and 381 is more than enough and is quite adequate.

Then there has been another point. My hon. and learned friend has sought to amend section 113 by adding a proviso that if the passenger belongs to the railway—the passenger without tickets—he shall be liable in addition to a penalty provided under the section, to imprisonment for one month and fine. I do not know why some hon. Member has brought forward this proposition. Perhaps the hon. Members on the other side also have come across instances of cases where some railway employees have travelled without tickets or passes. From that experience of a particular Member in individual cases, to make a general proposition that railway employees travel like that and that therefore the punishment should be more stringent is a dangerous and fallacious argument.

Shri Jhulan Sinha: We never meant that.

Shri S. V. Ramaswamy: We are not providing for exceptions. Law must provide for the general rule and not for the exceptions. These cases where railway employees themselves

defy the law and travel without passes are certainly exceptional cases, but that does not mean even they go scot-free. When the law is tight enough under section 112 of the Railways Act, they can be booked and they cannot escape liability to be prosecuted. A special provision that is sought to be made will not in any way improve the position. On the other hand, there are certain legal difficulties in accepting it. There is one thing, it may be challenged on the ground of its being discriminatory. Why should the railway employees alone be spotted out and separated for special treatment? On the ground of discrimination this might be challenged. Also, to assume that railway employees as a general rule travel like this must be refuted, and it cannot be accepted. Thirdly, if railway employees travel without tickets or passes and if they are caught there are certain other penalties for them. Not merely will they be liable under the existing law under section 112 of the Railways Act to pay an enhanced fare, etc., but, if they are found to be railway officers, and traveling as such, there is disciplinary action. They are liable to dismissal. There is, therefore, the double danger of their travelling without a pass. When all these considerations are there, I do not think there is any special need for introducing this Bill.

My hon. friend might think that the railway employees may have an *esprit de corps*, that there may be a sort of trade union spirit and each will help the other. That is a thing we will have to meet. The supervisory staff and the superior staff will certainly see to it that railway employees by virtue of the fact that they are railway employees will not be allowed to escape. We shall as far as possible see that our employees do not misbehave as has been suggested and we shall try to enforce the provisions that have been provided under the law.

The mover of the Bill has sought to introduce a proviso which cuts at the very root of the provision of sec-

tion 118. On all accounts, travelling by foot-board is a dangerous and illegal thing. You cannot allow a man to travel by the foot-board for any reason, unless it be at his peril. But to legalise it by saying that he shall be given the option to defend it before a court of law saying, "the train was overcrowded and so I travelled by the foot-board" is not correct. It would be trying to legalise a patently illegal thing and the argument that because the train was overcrowded and so he travelled by foot-board will not hold water.

He is not under any necessity to travel by a foot-board. Who compels him? He has got the option to travel or not to travel. If he does not find enough room in the train, there is section 67(2) of the Indian Railways Act. If he applies for a refund within three hours, he will get it. How many of the passengers exercise that right given to them to ask for a refund?

श्री रघुनाथ सिंह (वागमसी) प्रगर
टिकट का दाम ही मिर्फ दो आना हो तो क्या होगा ?

उपाध्यक्ष महोदय दो आना ही हो तो वह बन कर जा सकता है।

Shri S. V. Ramaswamy: Sitting on roof tops, hanging on to the railings, standing on foot-boards, etc.—are we going to legalise all these things? Obviously not, we must punish those who travel like that. If there is overcrowding, it would be right for him to ask the railways to provide more trains.

Shri T. B. Vittal Rao: They do not do it.

Shri S. V. Ramaswamy: That is a different matter.

Mr. Deputy-Speaker: Why should he invite hon. Members and others to ask for more trains when he knows that he cannot provide them?

Shri Prabhat Kar (Hooghly) Particularly the sub-urban trains in the big cities where the employees go to offices are very overcrowded

Shri S. V. Ramaswamy: It is a fact that there is overcrowding and it may be taken as a fact that we are not able to provide more trains. But still, we cannot legalise an illegal thing. Travelling in foot-boards is statutorily prevented in the interests of safety. There would be grievous accidents and many people will be knocked out like a bunch of grapes. There may be very serious accidents, sometimes it has happened. So, we cannot accept the position that this should be legalised. No sort of valid defence can be permitted in regard to travelling by foot-boards.

Shri Birendra Bahadur Singhji (Raipur) The hon. Deputy Minister said that he can apply for refund. But how long does it take for him to get the refund? He has to wait for a very long time.

Shri S. V. Ramaswamy: Let me read section 67(2).

A person to whom a ticket has been issued and for whom there is no room available in the train for which the ticket is issued, shall on returning the ticket within three hours after the departure of the train be entitled to have his fare at once refunded."

So, he can apply and get the refund at once. Nobody compels him to travel by that train. If he travels on the foot-board, it is not only at his peril, but he is also liable to pay a penalty.

Mr. Deputy-Speaker: Their asking the customers that he has this option to come or not to come would not look sound. (Interruption)

Shri S. V. Ramaswamy: The station master knows and everybody knows that there is overcrowding and he could not get in.

Shri T. B. Vittal Rao: Why should they issue the tickets when they know that the train is overcrowded?

Shri S. V. Ramaswamy: It is not always possible to know the occupation ratio and the number of people travelling. Some people may get down and some people may board the train elsewhere.

Mr. Deputy-Speaker: Even if it is known, the railways cannot afford to refuse tickets.

Shri T. B. Vittal Rao: They want more money.

Mr. Deputy-Speaker: Why should they not?

Shri S. V. Ramaswamy: Then my hon. friend seeks to amend the schedule on the ground that the prices have risen. I do not know if my hon. friend is quite right in saying that the price of donkeys has risen from Rs. 40 to Rs. 200.

Mr. Deputy-Speaker: Why should he discriminate about donkeys?

Shri S. V. Ramaswamy: He wants to amend the schedule. Sometime ago, prior to 1950, dogs, donkeys, goats, pigs, sheep or other animals were priced at Rs. 10 per head. I do not know whether the price of donkeys has risen to Rs. 200.

Shri Jhulan Sinha: I have said it should be Rs. 40 per head and not to Rs. 200.

Shri S. V. Ramaswamy: I do not know why he has reduced the price of mules, horned cattle and camels from Rs. 200 to Rs. 40. I do not know whether he can get a camel for Rs. 40 anywhere.

An Hon. Member: He has not raised

Shri Jhulan Sinha: I have not raised it at all. I have said, it should remain at Rs 200.

Mr. Deputy-Speaker: Another zero has been left out at the end. If he corrects that mistake, is the hon. Deputy Minister accepting the Bill?

Shri S. V. Ramaswamy: No, Sir. Probably there will have to be an assessment of the value of donkeys by Government. My hon friend has also sought to reduce the price of a horse from Rs 750 to Rs. 500. I thought the price of horses was going up and not coming down. It may be correct with regard to the elephant. On the whole, the schedule has been prepared with great care and I do not think there is any justification for altering the schedule.

For all the reasons I have urged, the Government opposes the Bill.

Shri Jhulan Sinha: I am grateful to those hon Members who have supported the Bill. As for those Members who opposed it, I will only say that they could not follow the provisions in the Bill and have misunderstood it.

Mr. Deputy-Speaker: They require further education.

Shri Jhulan Sinha: It seems like that. So far as Mr. Jaganatha Rao is concerned, I can only say that he accepted the Government brief in a hurry . . .

Shri Jaganatha Rao: No.

Shri Jhulan Sinha: . . . and probably has not been able to do justice to the provisions. Whenever he was referring to ticketless travel, I was really meaning penalty for foot-board travelling. There was absolutely no connection between the two. So, it is a clear indication of his acceptance of Government brief in a hurry.

So far as the hon. Deputy Minister is concerned, I do not want to refute his arguments. I can only say that there is a vital and fundamental difference in the very outlook that we possess on this point. I know the Government is making strenuous effort . . .

Mr. Deputy-Speaker: Who are included in this word "we"?

Shri Jhulan Sinha: The Members on the benches on this side of the House.

Mr. Deputy-Speaker: That would include Mr. Jaganatha Rao and the Deputy Minister also.

Shri Jhulan Sinha: I mean the non-officials, those who are in the higher level.

Mr. Deputy-Speaker: Let the question be put to see who are included in "we".

Shri Jhulan Sinha: This fundamental difference in the outlook was responsible for the opposition of the hon. Deputy Minister to this Bill. I only want that the evils enumerated in the Bill should be studied a little more vigorously. I have absolutely no intention to embarrass the Government or myself. As might have been apparent to anybody from the speeches I made while moving this Bill for consideration, I only wanted to impress certain points on the Treasury Benches in a way in which they may catch up and try to put them into action. Now it appears that the matter has gone home to them. But certainly there are difficulties which they pleaded in accepting the suggestion that I have made. I shall be satisfied if the Government takes it in the spirit in which I moved it. Now I only seek the permission of the House, in view of the general sense expressed by the House, to withdraw my Bill.

Mr. Deputy-Speaker: Has the hon. Member the leave of the House to withdraw the Bill?

Some hon. Members: Yes.

The Bill was, by leave, withdrawn.

16.21 hrs.

CHILD SANYAS DIKSHA RESTRAINT BILL

Shri D. C. Sharma (Gurdaspur): Before moving my motion I would request you that the time allotted for my Bill may be increased for 1 hour to 2 hours.

Mr. Deputy-Speaker: He should leave some time at least for the next Bill to be moved. Whatever time is remaining, I can give to him. Therefore, he need not now refer to that. He might proceed straight with the Bill.

Shri D. C. Sharma: I beg leave to move....

Shri Vajpayee (Bairampur): On a point of order.

जैसे पहले कि श्री दी० च० शर्मा बाल सन्यास, दीक्षा प्रतिबन्धक विधेयक के सम्बन्ध में अपना भाषण दें, मैं निवेदन करना चाहता हूँ कि प्रस्तुत विधेयक भारत के संविधान की धाराओं २५, २६ और २८ में स्वीकृत नूतनमत अधिकारों के विरुद्ध है.....

उपरोक्त महोदय : मगर भोक्षण तो माने दीजिये ।

Shri D. C. Sharma: I beg leave to move.....

Mr. Deputy-Speaker: Leave is already granted.

Shri D. C. Sharma: I beg to move:

"That the Bill to provide for the restraint on sanyas diksha of a child be taken into consideration."

Shri Vajpayee: May I know....

Mr. Deputy-Speaker: I will give him an opportunity. Let the hon.

Member finish his speech. Then I will place the motion before the House. Then he can say why it cannot be considered.

Shri D. C. Sharma: Sir, Obviously it appears that this Bill has something to do with religion. Of course, it has everything which can be related to religion. But I look upon this Bill more as a social measure than as a religious measure. At the same time, I wish to say that religion does not only mean orthodoxy; religion does not mean only adherence to practices which have gone on for years; religion does not mean a kind of standstillism in matters which need reformation; religion is not the negation of anything. I think the conception of religion, as it is today, is that religion is something which changes in the social context of the age, something which changes in the context of other conditions. If religion were invoked I think most of our social legislation would have gone to pieces. Did not people say that there was religious sanction behind Sati? Still, we abolished it. Did not people say there was religious sanction behind keeping the age of consent very low? And yet we raised the age of consent. Did not people say that there was religious sanction for child marriage? And yet we have done something to abolish child marriage.

Therefore, the cry of religion is a cry which I think, especially in the case of this Bill, is a very obstructive cry and has absolutely nothing to do with this Bill. Now, sanyas, child and diksha—look at these words, child sanyas and diksha; can these two words co-exist—child and sanyas?

Shri Sanyakar (Sambalpur): I do not want to interrupt him. But may I know whether sanyas and diksha should be the monopoly of old people only?

Shri D. C. Sharma: Well, I may say one thing. It need not be the monopoly of old persons, but I would say that it should be the monopoly