

5

**STANDING COMMITTEE ON RAILWAYS
(2009-10)**

FIFTEENTH LOK SABHA

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

'THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) AMENDMENT BILL, 2008'

FIFTH REPORT



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2009/ Agrahayana, 1931 (Saka)

FIFTH REPORT

**STANDING COMMITTEE ON RAILWAYS
(2009-10)**

FIFTEENTH LOK SABHA

**MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

'THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) AMENDMENT BILL, 2008'

*Presented to Lok Sabha on 09.12.2009
Laid in Rajya Sabha on 09.12.2009*



**LOK SABHA SECRETARIAT
NEW DELHI**

December, 2009/ Agrahayana, 1931 (Saka)

CONTENTS

	<u>PAGE</u>
COMPOSITION OF THE COMMITTEE.....	(iii)
INTRODUCTION.....	(v)
REPORT.....	1
OBSERVATIONS/RECOMMENDATIONS.....	5

ANNEXURES

I	The Railway Property (Unlawful Possession) Amendment Bill, 2008..	7
II	The Railway Property (Unlawful Possession) Act, 1966.....	12

APPENDICES

I	Minutes of the Sittings held on 15.01.2009.....	18
II	Minutes of the Sittings held on 30.01.2009.....	20
III	Minutes of the Sittings held on 26.11.2009.....	22
IV	Minutes of the Sittings held on 03.12.2009.....	24

COMPOSITION OF THE STANDING COMMITTEE ON RAILWAYS (2009-10)

Shri T. R. Baalu - Chairman

MEMBERS

LOK SABHA

2. Shri Khiladi Lal Bairwa
3. Shri Kameshwar Baitha (Palamau)
4. Shri K. Bapiraju
5. Smt. Rajkumari Chauhan
6. Dr. Ram Chandra Dome
7. Smt. Maneka Gandhi
8. Smt. Botcha Jhansi Lakshmi
9. Shri Pralhad Joshi
10. Dr. Nirmal Khatri
11. Shri Anand Prakash Paranjpe
12. Shri Somabhai G. Koli Patel
13. Shri Rudramadhab Ray
14. Smt. Satabdi Roy
15. Smt. Sushila Saroj
16. Smt. Yashodhara Raje Scindia
17. Shri Gopal Singh
18. Chaudhary Lal Singh
19. Shri Umashankar Singh
20. Shri Lalji Tandon
21. Dr. Girija Vyas

RAJYA SABHA

22. Ms. Sushila Tiriya
23. Shri Nandi Yellaiah
24. Shri Ishwar Singh
25. Shri Lalit Kishore Chaturvedi
26. Shri Om Prakash Mathur
27. Shri Tarini Kanta Roy
28. Shri Ambeth Rajan
29. Shri N. Balaganga
30. Shri K.E. Ismail
31. Shri Abani Roy

SECRETARIAT

- | | | | |
|----|-----------------------|---|------------------|
| 1. | Shri K. Vijaykrishnan | - | Joint Secretary |
| 2. | Shri Abhijit Kumar | - | Director |
| 3. | Shri Arun K. Kaushik | - | Deputy Secretary |

INTRODUCTION

I, the Chairman of the Standing Committee on Railways (2009-10), having been authorized by the Committee to present the Report on their behalf, present this Fifth Report of the Committee on 'The Railway Property (Unlawful Possession) Amendment Bill, 2008'.

2. The Railway Property (Unlawful Possession) Amendment Bill, 2008 was introduced in the Lok Sabha on 18.12.2008 and referred to the Standing Committee on Railways (2008-09) for examination and Report by the Hon'ble Speaker, Lok Sabha under Rule 331-E of the Rules of Procedure and Conduct of Business in the Lok Sabha. In the process of examination of the Bill, the Committee (2008-09) took evidence of the representatives of Ministry of Railways (Railway Board) on 15.01.2009 and the representatives of All India RPF Association on 30.01.2009. However, due to dissolution of Lok Sabha, that Committee could not complete the examination.

3. The Bill was again referred by the Hon'ble Speaker, Lok Sabha for examination and Report. The Committee took evidence of the representatives of Ministry of Railways (Railway Board) on 26.11.2009.

4. The Committee considered the draft Report at their sitting held on 03.12.2009 and adopted the same. Minutes of the sittings of the Committee held on 15.01.2009, 30.01.2009, 26.11.2009 and 03.12.2009 are appended with the Report.

5. The Committee wish to express their thanks to the officers of the Ministry of Railways (Railway Board), and the representatives of All India RPF Association for appearing before the Committee and furnishing the material and information which the Committee desired in connection with the examination of The Railway Property (Unlawful Possession) Amendment Bill, 2008' and sharing with them the issues concerning the subject which came up for discussion during evidence.

NEW DELHI;
08 December, 2009
17 Agrahayana, 1931(Saka)

T. R. BAALU
Chairman,
Standing Committee on Railways

REPORT

THE RAILWAY PROPERTY (UNLAWFUL POSSESSION) AMENDMENT BILL, 2008

The Railway Property (Unlawful Possession) Amendment Bill, 2008 was introduced in the Rajya Sabha on 18.12.2008 and was referred to the Standing Committee on Railways (2008-09) on 29.12.2008 by the Hon'ble Speaker, Lok Sabha for examination and report thereon. Due to the dissolution of the 14th Lok Sabha, the Committee could not complete the examination of the Bill. The Bill was again referred to the Standing Committee on Railways on 14.09.2009 for examination and report. A copy of the Bill is at Annexure-I.

Purpose of the Bill

2. In the statement of objects and reasons of the Bill, it has been stated that since the enactment of the Railway Property (Unlawful Possession) Act, 1966, the Railway Protection Force (RPF) has safeguarded the Railway property against unlawful possession, theft, etc. and has gained adequate expertise in handling such matters. At present, sections 3 and 4 of the Act which relate to the offences of unlawful possession and theft of Railway property do not cover the offences due to abetment or conspiracy to an offence of theft and misappropriation of Railway property. It has been realized that the ambit of sections 3 and 4 needs to be enlarged so as to cover all facets of crime related to the theft of Railway property to make the Act more effective in curbing the offence of theft of railway property. It is also necessary to amend section 8 of the Act so that an inquiry officer can proceed to inquire into thefts of railway property on receipt of information about the commission of an offence punishable under the Act.

3. Briefing the Committee about the need for the proposed amendments in the Railway Property (Unlawful Possession) Act, 1966, the Member (Staff), Railway Board, informed as under:

"Hon. Chairman and hon. Members of the Committee, I would just briefly say as to what exactly is being proposed in the Railway Property (Unlawful Possession) Act, 1966. In this Act, in total there are 16 Sections. We propose to modify only three Sections, that is, Section 3, Section 4 and Section 8.

The most important amendment is of Section 8. The amendments of Section 3 and Section 4 are very minor. In fact, any Act relating to policing lays down the procedure as to how an offence will be registered and then inquired into. But in this particular RPUP Act, there is no procedure laid down, and it starts with the arrest of a person. After the person has been arrested, then the RPF Officer is empowered to inquire into the offence. So, this deficiency is being removed by making this amendment in Section 8.

In Section 3, it is only penalty for unlawful possession of Railway property. So, here 'unlawful possession' is a vague term. Therefore, 'theft' and 'dishonest misappropriation' are also being added in addition to this 'unlawful possession'.

In Section 4, punishment for connivance is only mentioned. If somebody is conniving with the offence, and punishment for 'abetment', 'conspiracy' or 'connivance' – these two words are being added to make it more explicit and clear."

4. The existing Section 3 of the Railway Property (Unlawful Possession) Act, 1966 reads as under:

"Whoever is found, or is proved to have been, in possession of any railway property reasonably suspected of having been stolen or unlawfully obtained shall, unless he proves that the railway property came into his possession lawfully, be punishable –

- (a) for the first offence, with imprisonment for a term which may extend to five years, or with fine, or with both and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than one year and such fine shall not be less than one thousand rupees;
- (b) for the second or a subsequent offence, with imprisonment for a term which may extend to five years and also with fine and in the absence of special and adequate reasons to be mentioned in the judgment of the court, such imprisonment shall not be less than two years and such fine shall not be less than two thousand rupees."

5. As per clause (d) of Section 2 of the Act, Railway property has been defined as under:

"railway property" includes any goods, money or valuable security or animal, belonging to, or in the charge or possession of, a railway administration"

6. When the Committee desired to know whether 'land' is property or not, the DG, RPF accepted during evidence that 'land' is also property.

7. When asked whether land property is also dealt with under the Railway Property (Unlawful Possession) Act, 1966, the Member (Staff), Railway Board, informed the Committee that at present it is not there.

8. In this regard, the DG, RPF, informed the Committee as under:

“The definitions of movable and immovable property are different. We are proposing changes for movable property. What railway property means movable property. Provision for immovable property will have to be made separately. I request that for the land, a separate amendment can be made.”

9. However, Member (Staff), Railway Board, informed the Committee that one of the reasons (for non-inclusion of land property) may be that there is a separate Act – the Eviction from Public Premises Act, 1971.

10. However, during the evidence tendered before the Standing Committee on Railways (14th Lok Sabha), the Chairman, Railway Board had informed the Committee as under:

“Sir, the RPUP Act, 1966 gives powers of inquiry and instruction to the Railway Protection Force for the theft of railway property offences. The Railway Protection Force has been doing a good job over the years by recovering the railway property and also by apprehending the culprits. We have a very good record. About four crores of property was recovered during this current year and similarly in the previous years.”

11. The Standing Committee on Railways (14th Lok Sabha) had desired to know the need for the proposed amendment. The Member (Staff), Railway Board, had informed the Committee that the words 'unlawful possession' used in Section 3 were neither defined in the Railway Property (Unlawful Possession) Act, 1966 nor in the IPC. Since

'theft' and 'dishonest misappropriation' are well defined in IPC, the inclusion of these words will facilitate the Railways in the Court.

12. When asked by the Committee (14th Lok Sabha) as to why this point was not emphasized in the statement of Objects and Reasons, the DG, RPF, informed the Committee as under:

"...I fully agree that this point should have been emphasized. I apologize for the same and repeat that this point should have been emphasized in Section 3."

13. During informal discussions with the representatives of the All India RPF Association, the Committee (14th Lok Sabha) desired to know whether there was any coordination between the RPF and GRP and the General Secretary, RPF Association had stated that so long as the RPF is weak in respect of legal power, one cannot expect cooperation from a powerful agency.

14. When the Committee asked for suggestions in this regard, the General Secretary, AIRPFA, stated as under:

"My suggestion is we should have a unified force. Once you have a very powerful agency, then they will cooperate. The district police are cooperating, but the GRP is not cooperating because they want to be there without any accountability."

15. On being asked about the coordination between GRP and RPF, the Ministry of Railways informed the Committee in a written reply as under:

"A Committee has been constituted comprising of officers from Railways, RPF, IB and Police. This Committee is deliberating upon the issues involved including better policing and coordination between RPF and GRP.

However, it is desirable to have a unified police force to protect Railways, passengers and property of passengers."

RECOMMENDATIONS

The Committee examined the Railway Property (Unlawful Possession) Amendment Bill, 2008 referred to them by the Hon'ble Speaker, Lok Sabha. The Bill seeks to amend Section 3, Section 4 and Section 8 of the Railway Property (Unlawful Possession) Act, 1966 so as to bring within its ambit the Unlawful Possession of goods entrusted to the Railways and to make the punishment for such offences more deterrent. It is also intended to equip the Railway Protection Force with requisite powers for investigation and prosecution of offences related to Railway Property.

2. The Committee, after hearing the views of the Ministry of Railways (Railway Board) and the representatives of the All India RPF Association feel that the proposed amendments are insufficient to provide sufficient powers to the Railway Protection Force. They also feel that unless more powers are given to the Railway Protection Force and some statutory mechanism is devised to have a better coordination among the State Police, Government Railway Police and Railway Protection Force, the proposed amendments may not be able to fulfill the requirements of the Railway Protection Force.

3. Section 2 of the Railway Property (Unlawful Possession) Act, 1966 defines 'railway property' as 'goods', 'money', or 'valuable security' or 'animal', belonging to, or in the charge or possession of, a Railway administration. The Committee have been informed that the Railway Property (Unlawful Possession) Act, 1966 does not include immovable property. According to the Railways, one of the reasons for the non-inclusion of land property may be that there is a separate Act to deal with the matter, viz. the Eviction from Public Premises Act, 1971. The Committee feel that there is some ambiguity in the definition of 'Railway Property' in the Act which is required to be rectified. They, therefore, recommend the Government to bring a comprehensive Bill before Parliament widening the definition of 'property' in the Act, giving more powers to the Railway Protection Force relating to the security and property of passengers as well, and devising a better coordination mechanism among the State Police, the Government Railway Police and the Railway Protection Force.

**NEW DELHI;
8 December, 2009
17 Agrahayana, 1931 Saka**

**T.R. BAALU
Chairman,
Standing Committee on Railways**

MINUTES OF THE TWELVETH SITTING OF THE STANDING COMMITTEE ON RAILWAYS (2008-09)

The Committee sat on Thursday, the 15th January, 2009 from 1500 hrs. to 1630 hrs. in Committee Room 'D', Parliament House Annexe, New Delhi.

PRESENT

SHRI BASUDEB ACHARIA - CHAIRMAN

MEMBERS

LOK SABHA

2. Dr. Dharendra Agarwal
3. Shri S. Ajaya Kumar
4. Smt. Suman Mahato
5. Shri Ananta Nayak
6. Shri Laxmanrao Patil
7. Shri Kishan Singh Sangwan
8. Shri K. Subbarayan

RAJYA SABHA

9. Shri Motilal Vora
10. Shri Nandi Yellaiah
11. Shri Satyavrat Chaturvedi
12. Shri Lalit Kishore Chaturvedi
13. Shri Shreegopal Vyas
14. Shri Tarini Kanta Roy
15. Shri N. Balaganga
16. Shri Abani Roy

SECRETARIAT

1. Shri V.S. Negi - Director
2. Shri Y.M. Kandpal - Deputy Secretary - II

Representatives of the Ministry of Railways (Railway Board)

1. Shri Praveen Kumar - Member Mechanical, Railway Board & Ex-officio Secretary to the Govt. of India.
2. Shri S.S. Khurana - Member Staff, Railway Board & Ex-officio Secretary to the Govt. of India.
3. Sh. Ranjit Sinha - Director General, RPF
Ex-officio Secretary to the Govt. of India

2. At the outset, the Chairman welcomed the representatives of the Ministry of Railways (Railway Board) to the sitting of the Committee. Thereafter, the representatives of the Ministry briefed the Committee about the objects and reasons for bringing the proposed "Railway Property (Unlawful Possession) Bill, 2008. After the briefing, Members raised certain points for clarification to which the representatives of the Ministry replied.

3. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

MINUTES OF THE FOURTEENTH SITTING OF THE STANDING COMMITTEE ON RAILWAYS (2008-09)

The Committee sat on Friday, the 30th January, 2009 from 1100 hrs. to 1215 hrs. in Committee Room 'B', Parliament House Annexe, New Delhi.

PRESENT

SHRI BASUDEB ACHARIA - CHAIRMAN

MEMBERS

LOK SABHA

2. Shri S. Ajaya Kumar
3. Shri A. Sai Prathap
4. Shri Iqbal Ahmed Saradgi

RAJYA SABHA

5. Shri Motilal Vora
6. Shri Nandi Yellaiah
7. Shri Satyavrat Chaturvedi
8. Shri Lalit Kishore Chaturvedi
9. Shri Shreegopal Vyas

SECRETARIAT

1. Shri V.S. Negi - Director
2. Shri Y.M. Kandpal - Deputy Secretary - II

Representatives of All India RPF Association (AIRPFA)

1. Sh. A. Kalai Arasan, President/AIRPFA.
2. Sh. U.S. Jha, Secretary General/AIRPFA.
3. Sh. S.R. Reddy, General Secretary/AIRPFA/CR.
4. Sh. K.K. Singh, General Secretary/AIRPFA/ER.
5. Sh. Sanjay Singh, General Secretary/AIRPFA/ECR.
6. Sh. N. Hota, General Secretary/AIRPFA/ECoR.
7. Sh. A.P. Singh, General Secretary/AIRPFA/NR.
8. Sh. Dharamvir Singh, President/AIRPFA/NR.
9. Sh. Ali Abbas, General Secretary/AIRPFA/NCR.
10. Sh. Om Prakash, President/AIRPFA/NCR.
11. Sh. R.N. Sharma, General Secretary/AIRPFA/NER.
12. Sh. Rana Bhattachargee, General Secretary/AIRPFA/NFR.
13. Sh. Ram Dayal, General Secretary/AIRPFA/NWR.
14. Sh. P.M. Ramdass, General Secretary/AIRPFA/SR.
15. Sh. Parthasarathi.K, General Secretary/AIRPFA/SCR.
16. Sh. Pramod Kumar, General Secretary/AIRPFA/SER.
17. Sh. M.L. Yadav, President/AIRPFA/SECR.

2. At the outset, the Chairman welcomed the representatives of the All India RPF Association (AIRPFA) to the sitting of the Committee. Thereafter, the Committee held informal discussion with the AIRPF Association on the subject 'Railway Property (Unlawful Possession) Amendment Bill, 2008'. In the course of discussion, representatives of AIRPFA put forward their views/suggestions relating to subject and also responded to the queries raised by Members of the Committee thereupon.

3. A verbatim record of the proceedings has been kept.

The Committee then adjourned.

**MINUTES OF THE EIGHTH SITTING OF THE STANDING COMMITTEE ON
RAILWAYS (2009-10)**

The Committee sat on Thursday, the 26th November 2009, from 1500 Hrs. to 1540 Hrs. in Committee Room '139', Parliament House Annexe, New Delhi.

PRESENT

SHRI T.R. BAALU - CHAIRMAN

MEMBERS

LOK SABHA

2. Shri Khiladi Lal Bairwa
3. Shri K. Bapiraju
4. Smt. Botcha Jhansi Lakshmi
5. Dr. Nirmal Khatri
6. Shri Somabhai G. Koli Patel
7. Shri Rudramadhab Ray
8. Shri Lalji Tandon
9. Dr. Girija Vyas

RAJYA SABHA

10. Shri Nandi Yellaiah
11. Shri Ishwar Singh
12. Shri Om Prakash Mathur
13. Shri Tarini Kanta Roy
14. Shri Abani Roy

SECRETARIAT

- | | | |
|--------------------------|---|------------------|
| 1. Shri K. Vijaykrishnan | - | Joint Secretary |
| 2. Shri Abhijit Kumar | - | Director |
| 3. Shri Arun K. Kaushik | - | Deputy Secretary |

Representatives of the Ministry of Railways (Railway Board)

- | | | | |
|----|----------------------|---|------------|
| 1. | Smt. Sowmya Raghavan | Financial-Commissioner, Railways & Secretary to the Government of India | Ex-officio |
| 2. | Shri Rakesh Chopra | Member-Engineering, Railways & Secretary to the Government of India | Ex-officio |
| 3. | Shri Sudesh Kumar | Member-Electrical, Railways & Secretary to the Government of India | Ex-officio |
| 4. | Shri Praveen Kumar | Member-Mechanical, Railways & Secretary to the Government of India | Ex-officio |
| 5. | Shri A.K. Goyal | Member-Staff, Railways & Secretary to the Government of India | Ex-officio |
| 6. | Shri Shri Prakash | Member-Traffic, Railways & Secretary to the Government of India | Ex-officio |

2. At the outset, the chairman welcomed the members and the officers who had come to attend the sitting of the Committee.

3. Thereafter the Committee took oral evidence of the representatives of the M/o Railways (Railway Board) in connection with examination of 'The Railway Property (Unlawful Possession) Amendment Bill, 2009'. The representatives of M/o Railways (Railway Board) briefed the Committee about the reasons for bringing the proposed amendments in the Railway Property (Unlawful Possession) Act, 1966 and clarified the various points raised by the members.

4. The Committee felt that the proposed amendments were insufficient to provide sufficient powers to Railway Protection Force. The Committee also felt that there was some ambiguity in the definition of 'Railway Property in Section 2 of the Act which did not include the 'Immovable Property'. The Committee decided to make a recommendation to this effect and recommending the Government to bring a more comprehensive Bill before the Parliament.

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

The Committee then adjourned.

**MINUTES OF THE NINTH SITTING OF THE STANDING COMMITTEE ON
RAILWAYS (2009-10)**

The Committee sat on Thursday, the 3rd December 2009, from 1500 Hrs. to 1530 Hrs. in Committee Room No. '139', First Floor, Parliament House Annexe, New Delhi.

PRESENT

SHRI T.R. BAALU - CHAIRMAN

MEMBERS

LOK SABHA

15. Shri Khiladi Lal Bairwa
16. Shri K. Bapiraju
17. Dr. Ram Chandra Dome
18. Smt. Maneka Gandhi
19. Smt. Botcha Jhansi Lakshmi
20. Dr. Nirmal Khatri
21. Shri Somabhai G. Koli Patel
22. Shri Rudramadhab Ray
23. Smt. Yashodhara Raje Scindia
24. Shri Gopal Singh Shekhawat
25. Chaudhary Lal Singh

RAJYA SABHA

26. Ms. Sushila Tiriya
27. Shri Ishwar Singh

SECRETARIAT

- | | | |
|---------------------------|---|------------------|
| 4. Shri K. Vijayakrishnan | - | Joint Secretary |
| 5. Shri Abhijit Kumar | - | Director |
| 6. Shri Arun K. Kaushik | - | Deputy Secretary |

2. At the outset, the Chairman welcomed the members and the officers who had come to attend the sitting of the Committee.

3. XXXX XXXX XXXX XXXX XXXX

7. XXXX XXXX XXXX XXXX XXXX

5. Thereafter, the Chairman referred to the sitting of the Committee held on 29.11.2009 in which the evidence of the representatives of the Ministry of Railways (Railway Board) was taken in connection with the examination of 'The Railway Property (Unlawful Possession) Amendment Bill, 2008' and recalled that the Committee had decided to recommend the Government to bring a more comprehensive Bill in view of the inadequacies in the Bill. Since a draft Report on the subject was prepared by the Committee Secretariat, the Chairman proposed that in view of the paucity of time, this Report could also be considered by the Committee in the sitting. The Committee considered and adopted the draft Report without any modifications. The Committee also authorized the Chairman to finalize the Report and present the same to the House.

6. XXXX XXXX XXXX XXXX XXXX

The Committee then adjourned.
