

Railways Act, 1890

9 of 1890

[21st March, 1890]

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Railways Act, 1890

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STATEMENTS OF OBJECTS AND REASONS Amending Act of 1950. See under S. 27A.--Gaz. of Ind.. 25-2-1960, Pt. V. p. 55. Amending Act 22 of 1954. See under S. 53.-Gaz. of Ind., 10-12-1953, Pt. II. S. 2, Ext.. p. 1132. Amending Act 50 of 1956 See under S. 71A.-Gaz. of ind.. 2S-8-1053, Pt. II. S. 2. Ext. p. 474. Amending Act 53 of 1957 There has been a public feeling that the Railway Rates Tribunal as now functioning has tended to be too formal and legalistic in its approach and that proceedings before it have been unduly prolonged and expensive. The Railway Freight Structure Enquiry Committee, which was set up in the year 1955, was. therefore, asked to examine what changes were needed in the existing constitution, jurisdiction and rules of procedure of the Railway Rates Tribunal, so that the Tribunal might be a more expeditious instrument for adjudication of railway freight matters at a reasonable cost to the litigant. The recommendations made by the Committee relating to this matter have been examined and it is proposed to suitably amend the Indian Railways Act, 1890, in regard to the constitution and jurisdiction of the Tribunal. The present Bill seeks to achieve this object. 2. This Bill also seeks to remove certain lacunae and defects in the provisions of Chapter V of the Indian Railways Act: that have come to notice in the working of the Act-SOR-Gaz. of Ind., 28-11-1957. Pt. II, S. 2. Ext., p. 893. Amending Act 13 of 1959. See under S. 108.-Gaz. of Ind.. 8-12-1958, Pt. II. S. 2. Ext.. p. 1240. Amending Act 39 of 1961. See under Ss. 73. 78E. 77 and 77B.--Gaz. of Ind., 2-5-1961. Pt. II. S. 2. Ext, p. 564. Amending Act 7 of 1962 Under S. 82 A of the Indian Railways Act, 1890. the maximum liability of the railway administration for loss occasioned by the death of a passenger

(lying as a result of railway accident and for personal injury and loss of property is limited to Rupees 10,000 in respect of any one person. In view of the present increased cost of living and per capita income, it is proposed to raise the limit to Rs. 20,000. Since S. 82H of the Act provides that the right to claim compensation under S. 82A does not affect the right to claim compensation under the Workmen's Compensation Act or any other law for the time being in force. This has been interpreted to mean that, in respect of the same accident, claims may be made for compensation under the Railways Act as well as under the Workmen's Compensation Act or any other law. Prima facie, there seems to be no reason why compensation should be paid under more than one law especially when the railway has assumed liability whether there is negligence on the part of railway or not and also when the maximum limit of liability is to be increased to Rupees 20,000/-. It is accordingly proposed to restrict the right to claim compensation under any one of the laws referred to above. This does not, however, affect the right to claim compensation under any contract or scheme or policy of insurance. Section 126 of the Act provides a penalty of imprisonment which may extend to 10 years. In practice, however, the courts have usually let off the criminals with lighter punishments which have not proved to be sufficiently deterrent. It is, therefore, proposed to amend the section so as to provide for a minimum punishment unless there are special and adequate reasons for not awarding the minimum sentence. It is also proposed to amend S. 128 (which deals with a cognate offence) on similar lines. The Bill is intended to give effect to the above proposals. Opportunity has also been taken to make certain amendments of a formal nature.-Gaz. of Ind., 28-11-1961 Pt II, S. 2. Ext., p. 849. Amending Act 12 of 1964

Several complaints have been received in recent years that in big cities, tickets for railway journeys are purchased and seats or berths are reserved in railway trains by persons other than bona fide passengers. Such tickets and reservations are subsequently transferred unauthorisedly to others for illegal consideration. Such malpractices, apart from causing great hardship and inconvenience to genuine passengers, have subjected the Railway to criticism.

2. The Indian Railways Act, 1890, does not contain any provision to deal with such malpractices. It is, therefore, felt, in these circumstances that in order to deal with these malpractices effectively, penal provisions for these malpractices should be incorporated in the Indian Railways Act, 1890.

3. The present Bill seeks to achieve this object.-Gaz. of

Ind.. 9-12-1963. Pt. II, S. 2, Ext.. p. 961. Amending Act 52 of 1968 Chapter IX of the Indian Railways Act, 1890, contains provisions for penalties for certain offences such as maliciously wrecking or attempting to wreck a train, maliciously hurting or attempting to hurt persons travelling by railway, endangering safety of persons travelling by railway by wilful act or omission endangering the safety of persons travelling by railway by rash or negligent act or omission etc. These provisions are however not adequate to deal effectively with obstruction to the running of trains by abandonment thereof by railway servants, or by squatting, picketing or other means either by railway servants or by others, in order to provide penalties for such obstructions also, the Indian Railways (Amendment) Ordinance. 1968. was promulgated by the President on 14th September, 1968. 2. The Bill seeks to replace the Ordinance by an Act of Parliament.-Gaz. of Ind., 15-11-1968. Pt. II, S. 2, Ext.. p. 1183. Amending Act 21 of 1969 The problem of passengers travelling without tickets or with improper tickets on railways has become more aggravated in recent years. A recent review of incidence of ticketless and other types of irregular travel on the railways has revealed that, despite all possible efforts made during the last ten years to curb the evil, the position has deteriorated. The loss on this account to Government is estimated to be between rupees ten crores and rupees fifteen crores per annum. 2. Sections 112 and 113 of the Indian Railways Act. 1890. contain provisions for punishment, and the levy of excess charges, for travelling without tickets or passes or with insufficient tickets or passes. Experience has shown that the punishments are not sufficient deterrents. It is, therefore, proposed to make the penalties by way of fine more stringent and to increase the minimum limits of excess charges. The Bill seeks to give effect to these proposals.-Gaz. of Ind.. 2-12-1968. Pt. II, S. 2, Ext.. p. 1585. Amending Act 71 of 1972 S. 77 of the Indian Railways Act provides that, but for certain descriptions of traffic specifically excluded, the railways continue to be liable as bailee for the loss, destruction, damage, deterioration or non-delivery of goods up to thirty days after termination of transit. The experience of the railways has been that this tends to encourage trade not to remove goods from railway premises for fairly long periods, resulting in congestion in goods sheds, hold-up of wagons, causing slower movement and shortage of wagons elsewhere, and, more serious than anything else, artificial scarcity and rise in prices. The Bill seeks, therefore, to reduce the period of liability, after termination

of transit, from thirty days to seven days.- S.O.R-Gaz. of Ind., 29-11-1872. Pt. II, Section 2. Ext.. p. 1188. Amending Act 45 of 1973

It has been found that the Indian Railways Act. 1890 has no provision authorising recovery of cancellation charges when reservations made for rail journeys are cancelled or tickets are otherwise returned for cancellation without being used. Such a provision authorising recovery of cancellation charges is essential, particularly to curb speculative reservations, which cause inconvenience to the general public. In fact, the recovery of such cancellation charges is already provided for in the rules framed by the Railways, but in the absence of an enabling provision. In this behalf in the Act, it is doubtful whether such rules could validly be made. This lacuna is proposed to be removed by a suitable amendment of section 47 of the Act, with a further provision for validating all past recoveries of cancellation charges.

2. It is also considered necessary to amend suitably Chapter VII of the Act to secure prompt relief in the shape of interim payment of compensation in cases of accidents to trains carrying passengers. This interim payment will, of course, be taken into consideration by the Claims Commissioners in making the final settlement of compensation.

3. Experience has shown that the penal provisions for offences covered under sections 47, 108, 118, 120A, 122 and 126, relating to carrying inflammable articles in trains, unjustified pulling of the alarm chain, entraining or detraining in unauthorised places, unauthorised hawking, trespass and tampering with railway track and wilful wrecking of trains are not sufficiently deterrent considering that the incidence of such offences on the railways has been increasing and causing serious concern, the relevant penal provisions are sought to be made more stringent. In the case of wrecking of trains, it is proposed to provide for imposition of the death penalty where deaths have occurred as a result of the wrecking of a train or where the person committing the act knows that it will be so imminently dangerous that it would in all probability, cause death or such bodily injury as is likely to result in death.

4. As it is, there is in the Indian Railways Act no provision to cover cases of destruction of railway property except if it endangers, or is likely to endanger, the safety of any person travelling or being upon the railway. A new section 126A is proposed to be inserted to cover such offences.

5. The Bill seeks to give effect to the above objects.-S.O.R.-Gaz of Ind., 8-1-1973. Pt. II, S. 2, Ext.. p. 123. Amending Act 54 of 1973 Under section 82A of the Indian Railways Act, 1890. the maximum liability of the

railway administration for loss occasioned by the death of a passenger dying as a result of a railway accident and for personal injury and loss of property is limited to Rupees 20,000 in respect of any one person. Having regard to the increased cost of living and the limits applicable in the Case of air crash victims, this limit has been criticized In and outside Parliament as being low. It is, therefore, proposed to raise this limit to Rs. 50,000.

2. Section 82J empowers the Central Government to make rules to provide inter alia for the Injuries for which compensation shall be payable and the rates at which compensation shall be payable for such injuries and for death or total disablement. Under the existing rules, the compensation payable, both in case of death and in case of injuries is closely related to the earning capacity of the passenger involved in the accident. and the rates of compensation, therefore, vary according to the earning capacity of the passenger. The determination of the earning capacity of a passenger involves elaborate investigations and lead to considerable delays in the settlement of claims for compensation. With a view to avoiding such delays and also to provide for a system of uniform rate of compensation irrespective of the earning capacity of the victims it is proposed to amend the section to provide for the prescribing of compensation solely with reference to the nature of injuries or, as the case may be, death.

3. The Bill seeks to achieve the above objects. - S.O.R.-Gaz. of Ind., 22-11-1973. Pt. II. S 2. Ext. p. 916. Amending Act 9 of 1976. Under sections 55 and 56 of the Indian Railways Act. 1890, a Railway administration can dispose of unclaimed non-perishable goods by public auction only after giving the owner of the goods a notice and allowing a reasonable time to elapse. In addition, the Administration has also to give fifteen days' notice of the auction in the local newspapers. The delay, involved in this procedure has been taken undue advantage of by traders, from time to time. with a view mainly to creating artificial ' scarcity of essential goods. Apart from the resultant hardship to the community, such delay in taking delivery of goods books by Railways has other consequences also. It leads to heavy congestion in stations, having a large volume of traffic and inadequate storage space. Further, it results in a number of wagons being held up at such stations and other wagons carrying goods being held up en route.

2. In 1972 the Indian Railways Act was amended, inter alia to reduce the period of liability of a Railway Administration as bailee for the loss, destruction, damage, deterioration or non-delivery of goods carried by Railways from thirty days after the

termination of the transit of the goods to seven days. Experience has shown that this has not been helpful in dealing with the problem of delays in clearance of goods booked by Railways. 3. During the Emergency, it became urgently necessary, inter alia, to avoid scope for creating any artificial scarcity of essential commodities and to ensure speedy clearance of goods; from stations. Hence the President promulgated on the 25th September, 1975 the Indian Railways (Amendment) Ordinance, 1975. The Ordinance amended the Indian Railways Act, 1890 to provide a special procedure for speedy disposal of goods which are not cleared within seven days after the termination of their transit. It also provided that such disposal should be by transfer to the Central Government or to a State Government or to an agency nominated, by such Government in the case of essential commodities required to be made available at fair prices and by public auction in all other cases. The Ordinance also provided that the special procedure would be applicable only at such stations where there is need for quick clearance of goods having regard to the volume of traffic and storage space available and other relevant factors. 4. The Bill seeks to replace the Ordinance. S.O.R-Gaz. of Ind.. 6-1-1976. Pt. II. Sec. 2, Ext, p. 106. Amending Act 16 of 1982. There had been persistent complaints from the public regarding black-marketing in reservations by unauthorised travel agents or other persons. The issue had also been raised in Parliament on many occasions and suggestions had been made that the Indian Railways Act, 1890 should be suitably amended to check effectively the activities of unauthorised travel agents or other persons indulging in this malpractice. It is proposed to accept this Suggestion and include, as an offence under the Indian Railways Act, 1890, the carrying on of the business of procuring and supplying tickets or reserved accommodation for a journey by a train unless so authorised by the railway administration and to provide for the arrest of persons committing this offence without a warrant. 2. Opportunity is also being availed of to amend section 131 of the Act to include a reference to S. 114 of the Act (penalty for transfer of tickets by unauthorised persons) so that a person committing that offence may also be arrested without a warrant. 3. The Bill seeks to achieve the aforesaid objects.-S.O.R.-Gaz. of Ind" 14-5-1979, Pt. II. S. 2. Ext,. p. 551. Amending Act 44 of 1983. Under section 83A of the Indian Railways Act, 1890, the maximum liability of the railway administration for loss occasioned by the death of a passenger dying as a result of a railway accident and for

personal injury and loss of property is limited to Rs. 50,000 in respect of any one person. Having regard to the increased cost of living and the limits applicable in the case of air crash victims, this limit is considered to be very low. It is, therefore, proposed to raise this limit to Rs. 1,00,000. Section 82B of the Act provides for the appointment of Claims Commissioners for inquiring into and determining claims for compensation payable as a result of accidents on the railways. The section provides for the appointment by notification in the Official Gazette, of a Claims Commissioner for such local area as may be specified in the notification. The Railway Accidents (Compensation) Rules, 1950 made under Section 82J of the Act make a distinction between minor accidents and major accidents and provide for the appointment of a standing Claims Commissioner for claims arising out of a minor accident and for the appointment of an ad hoc Claims Commissioner for claims arising out of a major accident. A major accident involves a large number of claims and it is necessary, for the expeditious disposal of such claims, to provide for the appointment of an ad hoc Claims Commissioner for dealing with such claims. A doubt has been expressed as to whether section 82B of the Act, which envisages the appointment of a Claims Commissioner for a local area, permits the appointment of ad hoc Claims Commissioners. Though the practice of appointing ad hoc Claims Commissioners has been adopted over a long period of time and has not come up for challenge before courts, in view of the doubts expressed, it is proposed to amend section 82B suitably to spell out expressly the power to appoint Claims Commissioners for particular accidents and also validate appointments of ad hoc claims Commissioners made in the past.

3. Under Section 82-C of the Act, an application for compensation, can be entertained by the claims Commissioner even if it is not made within the prescribed period of limitation, namely, three months from the date of the occurrence of the accident provided the application is made within one year from the date of the occurrence of the accident. In cases where for unavoidable administrative reasons, there is a delay in appointing an ad hoc claims Commissioner for dealing with claims arising out of major accidents, the benefit available to the claimants under the provision, namely, of making an application within one year from the date of the occurrence of the accident is, according to the period of delay in the appointment of the claims Commissioner either completely lost or, as the case may be, curtailed. Through the practice of entertaining claims made even after one year from

the date of occurrence of the accident has been adopted in a few cases in which difficulty has arisen, the same is not strictly in accordance with the provisions of section 82 (3) of the Art. It is therefore, proposed to suitably amend this provision to provide for computation of the period of one -year from the date on which the ad hoc claims Commissioner assumes charge of this office and make necessary validating provision for regularising action taken in the past on applications received after one year from the date of assumption of office by the claims Commissioner instead of from the date of the occurrence of the accident in cases of accidents for which ad hoc claims Commissioners have been appointed. 4. The Bill seeks to achieve the aforesaid objects. SOR- Gaz. of Ind" 3-8-1983. Pt. II. S. 2, Ext., v. 2 (No. 22).

CHAPTER 1
PRELIMINARY

1. Title, extent and commencement :-

(1) This Act may be called The INDIAN RAILWAYS ACT, 1890.

[(2) It extends to the whole of India [* * *].]

(3) It shall come into force on the first day of May, 1890

2. Repeal :-

Repealed by the Repealing Act, 1938 (1 of 1938), Section 3 and Sch.

3. Definitions :-

In this Act, unless there is something repugnant in the subject or context,-

(1) "tramway" means a tramway constructed under the Indian Tramways Act, 1886, or any special Act relating to tramways;

(2) "ferry" includes a bridge of boats, pontoons or rafts, a swing-bridge, a flying bridge and a temporary bridge, and the approaches to, and land- ing-places of a ferry.

(3) "inland water" means any canal, river, lake or navigable water [* * *];

(4) "railway" means a railway, or any portion of a railway, for the public carriage of passengers, animals or goods, and includes-

(a) all land within the fences or other boundary-marks indicating the limits of the land appurtenant to a railway;

(b) all lines of rails, sidings or branches worked over for the purposes of, or in connection with, a railway;

(c) all stations, offices, warehouses, wharves, workshops, manufactories, fixed plant and machinery and other works constructed for the purposes of, or in connection with, a railway; and

(d) all ferries, ships, boats and rafts which are used on inland waters for the purposes of the traffic of a railway and belong to or are hired or worked by the authority administering the railway:

(5) "railway company" includes any persons, whether incorporated or not, who are owners or lessees of a railway or parties to an agreement for working a railway:

(6) "railway administration" or "administration", in the case of a railway administered by the Government [* * *], means the manager of the railway and includes the Government [* * *], and, in the case of a railway administered by a railway company, means the railway company:

(7) "railway servant" means any person employed by a railway administration in connection with the service of a railway:

(8) "Inspector" means an Inspector of Railways, appointed under this Act;

(9) "goods" includes inanimate things of every kind;

(10) "rolling-stock" includes locomotive engines, tenders, carnages, wagons, trucks and trollies of all kinds:

(11) "traffic" includes rolling-stock of every description as well as passengers, animals and goods:

(12) "through traffic" means traffic which is carried over the railways of two or more railway administrations;

(13) "rate" includes any fare, charge or other payment for the carriage of any passenger, animal or goods;

(14)[* * * * *]

(15) "pass" means an authority given by a railway administration, or by an officer appointed by a railway administration in this behalf, and authorizing the person to whom it is given to travel as a passenger on a railway gratuitously:

(16) "ticket" includes a single ticket, a return ticket and a season ticket:

(17) [* * * * '* * .]

(18) "Collector" means the chief officer in charge of the land-revenue administration of a district, and includes any officer specially appointed by the [State Government] to discharge the functions of a Collector under this Act:

[(19) to (22) * * * * *.]

CHAPTER 2

INSPECTION OF RAILWAYS

4. Appointment and duties of Inspectors :-

(1) The a[Central Government] may appoint persons, by name or by virtue of their office, to be Inspectors of Railways.

(2) The duties of an Inspector- of Railways shall be-

(a) to inspect railways with a view to determine whether they are fit to be opened for the public carriage of passengers, and to report thereon to the [Central Government] as required by this Act:

(b) to make such periodical or other inspections of any railway or of any rolling-stock used thereon as the [Central Government] may direct:

(c) to make inquiry under this Act into the cause of any accident on a railway;

(d) to perform such other duties as are imposed on him by this Act or any other enactment for the time being in force relating to railways.

5. Powers of Inspectors :-

An Inspector shall, for the purpose of any of the duties which he is required or authorized to perform under this Act. be deemed to be a public servant within the meaning of the Indian Penal Code and, subject to the control of the [Central Government], shall for that purpose have the following powers, namely:-

(a) to enter upon and inspect any railway or any rolling-stock used there- on;

(b) by an order in writing under his hand addressed to the railway administration, to require the attendance before him of any railway

servant, and to require answers or returns to such inquiries as he thinks fit to make from such railway servant or from the railway administration;

(c) to require the production of any book or document belonging to or in the possession or control of any railway administration (except a communication between a railway company and its legal advisers) which it appears to him to be necessary to inspect.

6. Facilities to be afforded to Inspectors :-

A railway Administration shall afford to the Inspector all reasonable facilities for performing the duties and exercising the powers imposed and conferred upon him by this Act.

CHAPTER 3

CONSTRUCTION AND MAINTENANCE OF WORKS

7. Authority of railway administrations to execute all necessary works :-

(1) Subject to the provisions of this Act and, in the case of immovable property not belonging to the railway administration to the provisions of any enactment for the time being in force for the acquisition of land for public purposes and for companies., and, subject also, in the case of a railway company, to the provisions of any contract between the company and the Government, a railway administration may, for the purpose of constructing a railway or the accommodation or other works connected therewith, and notwithstanding anything in any other enactment for the time being in force,-

(a) make or construct in, upon, across, under or over any lands, or any streets, hills, valleys, roads, railways or tramways, or any rivers, canals, brooks, streams or other waters or any drains, water-pipes, gas-pipes or telegraph lines, such temporary or permanent inclined planes, arches, tunnels, culverts, embankments, aqueducts, bridges, roads, [lines of railway], passages, conduits, drains, piers, cuttings and fences as the railway administration thinks proper;

(b) alter the course of any rivers, brooks, streams or water-courses, for the purpose of constructing and maintaining tunnels, bridges, passages or other works over or under them, and divert or alter, as well temporarily as permanently, the course of any rivers, brooks, streams or water-courses or any roads, streets or ways, or raise or

sink the level thereof) in order the more conveniently to carry them over or under or by the side of the railway, as the railway administration thinks proper;

(c) make drains or conduits into, through or under any lands adjoining the railway for the purpose of conveying water from or to the railway:

(d) erect and construct such houses, warehouses, offices and other buildings and such yards, stations, wharves, engines, machinery, apparatus and other works and conveniences as the railway administration thinks proper;

(e) alter, repair or discontinue such buildings, works and conveniences as aforesaid or any of them, and substitute others in their stead; and

(f) do all other acts necessary for making, maintaining, altering or repairing and using the railway.

(2) The exercise of the powers conferred on a railway administration by sub-section (1) shall be subject to the control of the [Central Government].

8. Alteration of pipes, wires and drains :-

A railway administration may, for the purpose of exercising the powers conferred upon it by this Act, alter the position of any pipe for the supply of gas, water or compressed air or the position of any electric wire or of any drain not being a main drain: Provided that-

(a) when the railway administration desires to alter the position of any such pipe, wire or drain it shall give reasonable notice of its intention to do so, and of the time at which it will begin to do so, to the local authority or company having control over the pipe, wire or drain, or, when the pipe, wire or drain is not under the control of a local authority or company, to the person under whose control the pipe, wire or drain is;

(b) a local authority, company or person receiving notice under proviso (a) may send a person to superintend the work, and the railway administration shall execute the work to the reasonable satisfaction of the person so sent and shall make arrangements for continuing during the execution of the work the supply of gas, water, compressed air or electricity or the maintenance of the

drainage, as the case may be.

8A. Protection for Government property :-

Nothing in the two last preceding sections shall authorize the doing of anything on or to any works, lands, or buildings vested in, or in the possession of, [* * *] the Central Government without the consent of that Government, or the doing of anything on or to any works, lands or buildings vested in, or in the possession of, [* * *] a c[State] without the consent of the [State Government] [* * *].

9. Temporary entry upon land for repairing or preventing accident :-

(1) The [Central Government] may authorize any railway administration, in case of any slip or other accident happening or being apprehended to any cutting, embankment or other work under the control of the railway administration, to enter upon any lands adjoining its railway for the purpose of repairing or preventing the accident, and to do all such works as may be necessary for the purpose.

(2) In case of necessity the railway administration may enter upon the lands and do the works aforesaid without having obtained the previous sanction of the [Central Government], but in such a case shall, within seventy-two hours after such entry, make a report to the a[Central Government], specifying the nature of the accident or apprehended accident, and of the works necessary to be done, and the power conferred on the railway administration by this subsection shall cease and determine if the a[Central Government],,, after considering the report, considers that the exercise of the power is not necessary for the public safety.

10. Payment of compensation for damage caused by lawful exercise of powers under the foregoing provisions of this Chapter :-

(1) A railway administration shall do as little damage as possible in the exercise of the powers conferred by any of [the foregoing provisions of this Chapter], and compensation shall be paid for any damage caused by the exercise thereof.

(2) A suit shall not lie to recover such compensation, but in case of dispute the amount thereof shall, on application to the Collector, be determined and paid in accordance, so far as may be, [with the

provisions of sections II to 15, both inclusive, SIZE ERROR , both inclusive, and s.53 of the Land Acquisition Act, 1894 , Section 54 of the Land Acquisition Act, 1894 , and the provisions of sections 51 and 52 of that Act shall apply to the award of compensation].

11. Accommoddation works :-

(1) A railway administration shall make and maintain the following works for the accommodation of the owners and occu- piers of lands adjoining -the railway, namely,-

(a) such and so many convenient crossings, bridges, arches, culverts and passages over, under or by the sides of, or leading to or from, the rail- way as may, in the opinion of the [State Government], be necessary for the purpose of mating good any interruptiions caused by the rail- way to the use of the lands through -which the railway is made, and

(b) all necessary arches, tunnels, culverts, drains, water-courses or other passages, over or under or by the sides of the railway, of such dimensions as will, in the opinion of the [State Government], be sufficient at all times to convey -water as freely from or to the lands lying near or affected by the railway as before the making of the railway, or as \\ nearly so as may be.

(2) Subject to the other provisions of this Act) the works specified in clauses (a) and (b) of Sub-sectiion (1) shall be made during or immediately after the laying out or formation of the railway over the lands traversed thereby and in such manner as to cause as little damage or inconvenience as possible to persons interested in the lands or affected by the works.

(3) The foregoing provisions of this section are subject to the following provisos, namely:-

(a) a railway administration shall not be required to make any accommo- tion worits in such a manner as would prevent or obstruct the working or using of the railway, or to make any accommodation works with respect to- which the owner's and occupiers of the lands have agreed to receive and have been paid compensation in consieration of their not requiring the works to be made;

(b) save as hereinafter in this Chapter provided, a railway administration shall not, except on the requisition of the [State

Government], be compelled to defray the cost of executing any further or additional accommodation works for the use of the owners or occupiers of the lands after the expiration of ten years from the date on which the railway passing through the lands was first opened for public traffic;

(c) where a railway administration has provided suitable accommodation for the crossing of a road or stream, and the road or stream is afterwards diverted by the act or neglect of the person having the control thereof, the administration shall not be compelled to provide other accommodation for the crossing of the road or stream.

(4) The [State Government] may appoint a time for the commencement of any work to be executed under sub-section (1), and if for fourteen days next after that time the railway administration fails to commence the work or, having commenced it, fails to proceed diligently to execute it in a sufficient manner, the [State Government] may execute it and recover from the railway administration the cost incurred by [it] in the execution thereof.

12. Power for owner, occupier or local authority to cause additional accommodation works to be made :-

If an owner or occupier of any land affected by a railway considers the works made under the last foregoing section to be insufficient for the commodious use of the land, or if the [State Government] or a local authority desires to construct a public road or other work across, under or over a railway, he or it, as the case may be, may at any time require the railway administration to make at his or its expense such further accommodation works as he or it thinks necessary and are agreed to by the railway administration or as, in case of difference of opinion, may be authorized by the [Central Government].

13. Fences, screens, gates and bars :-

The [Central Government] may require that, within a time to be specified in the requisition or within such further time as [it] may appoint in this behalf,-

(a) boundary-marks or fences be provided or renewed by a railway administration for a railway or any part thereof and for roads constructed in connection therewith:

(b) any works in the nature of a screen near to or adjoining the

side of any public road constructed before the making of a railway be -provided or renewed by a railway administration for the purpose of preventing dan- ger to passengers on the road by reason of horses or other animals be- ing frightened by the sight or noise of the rolling-stock moving on the railway;

(c) suitable gates, chains, bars) stiles or hand-rails be erected or renewed by a railway administration at places where a railway crosses a public road on the level;

(d) persons be employed by a railway administration to open and shut such gates, chains or bars.

14. Over and under-bridges :-

(1) Where a railway administration has constructed a railway across a public road on the level, the [Central Govern- ment] may at any time if it appears to [it] necessary for the public safety, require the railway administration, within such time as [it] thinks fit, to carry the road either under or over the railway by means of a bridge or arch. with convenient ascents and descents and other convenient approaches, instead of crossing the road on the level, or to execute such other works as, in the circumstances of the case, may appear to the [Central Government] to be best adapted for removing or diminishing the danger arising from the level- crossing.

(2) The [Central Government] may require, as a condition of making a requisition under sub-section (1). that the local authority, if any, which maintains the road, shall undertake to pay the whole of the cost to the railway administration of complying with the requisition or such portion of the cost as the [Central Government] thinks just.

15. Removal of trees dangerous to or obstructing the working of a rail- way :-

(1) In either of the following cases, namely:-

(a) where there is danger that a tree standing near a railway may fall on the railway so as to obstruct traffic,

(b) when a tree obstructs the view of any fixed signal, the railway administration may, with the permission of any Magistrate, fell the tree or deal with it in such other manner as will in the opinion of the railway administration avert the danger or remove the obstruction, as the case may be.

(2) In case of emergency the power mentioned in sub-section (1) may be exercised by a railway administration without the permission of a Magistrate.

(3) Where a tree felled or otherwise dealt with under sub-section (1) or sub-section (2) was in existence before the railway was constructed or the signal was fixed, any Magistrate may, upon the application of the persons interested in the tree, award to those persons such compensation as he thinks reasonable.

(4) Such an award, subject, where made in a presidency-town by any Magistrate other than the Chief-Presidency Magistrate or where made elsewhere by any Magistrate other than the District Magistrate, to revision by the Chief Presidency Magistrate, or the District Magistrate, as the case may be, shall be final.

(5) A Civil Court shall not entertain a suit to recover compensation for any tree felled or otherwise dealt with under this section. :

CHAPTER 4

OPENING OF RAILWAYS

16. Right to use locomotives :-

(1) A railway administration may, with the previous sanction of the [Central Government], use upon a railway locomotive engines or other motive power, and rolling-stock to be drawn or propelled thereby.

(2) But rolling-stock shall not be moved upon a railway by steam or other motive power until such general rules for the railway as may be deemed to be necessary have been made, sanctioned and published under this Act

17. Notice of intended opening of a railway :-

(1) Subject to the provisions of sub-section (2), a railway administration shall, one month at least before it intends to open any railway for the public carriage of passengers, give to the [Central Government] notice in writing of its intention.

(2) The [Central Government] may in any case if [it] thinks fit, reduce the period of, or dispense with, the notice mentioned in sub-section (1).

18. Sanction of the Central Government a condition precedent to the opening of a railway :-

A railway shall not be opened for the public carriage of passengers until the [Central Government], or an Inspector empowered by the [Central Government] in this behalf, has by order sanctioned the opening thereof for that purpose.

19. Procedure in sanctioning the opening of a railway :-

(1) The sanction of the [Central Government] under the last foregoing section shall not be given until an Inspector has, after inspection of the railway, reported in writing to the [Central Government]-

(a) that he has made a careful inspection of the railway and rolling-stock;

(b) that the moving and fixed dimensions -prescribed by the [Central Government] have not been infringed.

(c) that the weight of rails, strength of bridges, general structural character of the works, and the size of and maximum gross load upon the axles of any rolling-stock are such as have been prescribed by the [Central Government]:

(d) that the railway is sufficiently supplied with rolling-stock:

(e) that general rules for the working of the railway when opened for the public carriage of passengers have been made, sanctioned and published under this Act: and

(f) that, in his opinion, the railway can be opened for the public carriage of passengers without danger to the public using it.

(2) If in the opinion of the Inspector the railway cannot be so opened without danger to the public using it, he shall state that opinion together with the grounds therefor to the [Central Government], and the [Central Government] may thereupon order the railway administration to postpone the opening of the railway.

(3) An order under the last foregoing sub-section must set forth the requirements to be complied with as a condition precedent to the opening of the railway being sanctioned, and shall direct the postponement of the opening of the railway until those requirements have been complied with "r the [Central Government] is otherwise satisfied that the railway can be opened without danger to the public using it.

(4) The sanction given under this section may be either absolute or subject to such conditions as the [Central Government] thinks necessary for the safety of the public.

(5) When sanction for the opening of a railway is given subject to conditions and the rail-way administration fails to fulfil those conditions, the sanction shall be deemed to be void and the railway shall not be worked or used until the conditions are fulfilled to the satisfaction of the [Central Govern- ment].

20. Application of the provisions of the three last foregoing sections to material alterations of railway :-

(1) The provisions of section 17 , section 18 , section 19 with respect to the opening of a railway shall extend t« the opening of the works mentioned in sub-section (2) when those works form part of, or are directly connected with, a railway used for the public carriage of passengers and have been constructed after the inspection which preceded the first open- ing of the railway.

(2) The works referred to in sub-section (1) are additional lines of railway deviation lines, stations, junctions and crossings on the level, and any alteration or reconstruction materially affecting the structural character of any work to which the provisions "f section 17 , section 18 , section 19 apply or are extended by this section.

21. Exceptional provision :-

When an accident has occurred resulting in a temporary suspension of traffic, and either the original line and works have been rapidly restored to the original standard, or a temporary diversion has been laid for the purpose of re-storing communication, the original line and works so restored, or the temporary diversion, as the case may be. may, in the absence of the Inspector, be opened for the public carriage of passengers, sub- ject to the following conditions, namely:- :

(a) that the railway servant in charge of the works undertaken by reason of the accident has certified in writing that the opening of the restored line and works, or of the temporary diversion, will not in his opinion be attended with danger to the public using the line and works or the diversion; and

(b) that notice by telegraph of the opening of the line and works or the diversion shall be sent, as soon as may be, to the Inspector appointed for the railway.

22. Power to make rules with respect to the opening of railways :-

The [Central Government] may make rules defining the cases in which, and in those cases to the extent to which, the procedure prescribed in section 17 , section 18 , section 19 , section 20 (both inclusive) may be dispensed with.

23. Power to close an opened railway :-

(1) When, after inspecting any Open railway used for the public carriage of passengers, or any rolling-stock used thereon, an Inspector is of opinion that the use of the railway or of any specified rolling-stock will be attended with danger to the public using it, he shall state that opinion together with the grounds therefor, to the [Central Government] and the [Central Government] may thereupon order that the railway be closed for the public carriage of passengers, or that the use of the rolling-stock so specified be discontinued, or that the railway or the rolling-stock so specified be used for the public carriage of passengers on such conditions only as the [Central Government] may consider necessary for the safety of the public.

(2) An order under sub-section (1) must set forth the grounds on which it is founded.

24. Reopening of a closed railway :-

(1) When a railway has been closed under the last foregoing section, it shall not be reopened for the public carriage of passengers until it has been inspected, and its reopening sanctioned, in accordance with the provisions of this Act,

(2) When the [Central Government] has ordered under the last foregoing section that the use of any specified rolling-stock be discontinued, that rolling-stock shall not be used until an Inspector has reported that it is fit for use and the [Central Government.] has sanctioned its use.

(3) When the Central Government¹ has imposed under the last foregoing section any conditions with respect to the use of any railway or rolling-stock, those conditions shall be observed until they are withdrawn by the [Central Government].

25. Delegation of powers under this Chapter to Inspectors :-

(1) The [Central Government] may, by general or special order, authorize the discharge of any of [its] functions under this Chapter by an Inspector, and may cancel any sanction or order given by an Inspector discharging any such function or attach thereto any condition which the [Central Government] might have imposed if the sanction or order had been given by [itself]

(2) A condition imposed under sub-section (1) shall for all the purposes of this Act have the same effect as if it were attached to a sanction or order given by the [Central Government].

CHAPTER 5

TRAFFIC FACILITIES

26. Bar of jurisdiction of ordinary Courts in certain matters

:-

]. .-Except as provided in this Act, no suit shall be instituted or proceeding taken for anything done or any omission made by a railway administration in violation or contravention of any provision of this Chapter [* * *].

27. Duty of railway administrations to arrange for receiving and forwarding traffic without unreasonable delay and without partiality :-

]. .-

(1) Every railway administration shall, according to its powers, afford all reasonable facilities for the receiving, forwarding and delivering of traffic upon and from the several railways belonging to or worked by it and for the return of rolling-stock.

(2) * * * * *

(3) A railway administration having or working railways which form part of a continuous line of railway communication, or having its terminus or station within [one kilometre] of the terminus or station of another railway administration, shall afford all due and reasonable facilities for receiving and forwarding by one of such railways all the traffic arriving by the other at such terminus or station, without any unreasonable delay, and without any such preference or advantage or prejudice or disadvantage [as is referred to in section [28]] and so that no obstruction may be offered to the public desirous of using such railways as a continuous line of communication and so that all reasonable accommodation may by means of such railways be at all times afforded to the public

in that behalf.

(4) The facilities to be afforded under this section shall include the due and reasonable receiving, forwarding and delivering by every railway administration, at the request of any other railway administration,, of through traffic to and from the railway of, any other railway administration at through rates:. . . Provided as follows:-

(a) the railway administration requiring the traffic to be forwarded shall give written notice of the proposed through rate to each forwarding railway administration, stating both its amount and its apportionment and the route by which the traffic is proposed to, be forwarded.. The proposed through rate for animals or goods may be per truck or per quintal (100 kilograms)];

(b) each forwarding railway administration shall, within the prescribed period after the receipt of such notice, by written notice inform the railway administration requiring the traffic to be forwarded whether it agrees to the rate, apportionment and route, and, if it has any objection, what the grounds of the objection are:

(c) if at the expiration of the prescribed period no such objection has been sent by any forwarding railway administration, the rate shall come into operation at the expiration of that period:

[(d)if an objection to the rate, apportionment or route has been sent within the prescribed period, the ^Central Government] shall, on the request of any of the railway administrations, decide the matter]:

(e) if the objection is to the granting of the rate or to the route, the [Central Government]] shall consider whether the granting of the rate is a due and reasonable facility in the interests of the public, and whether, regard being had to the circumstances, the route proposed i.i a reasonable route, and shall allow or refuse the rate accordingly or fix such other rate as may seem to j[the [Central Government]] to be just and reasonable:

(f) if the objection is only to the apportionment of the rate, [* * *] the rate shall come into operation at the expiration of the prescribed period, but the decision [of the Central Government]] as its apportionment shall be retrospective; in the case of any other objection the operation of the rate shall be suspended [until the [Central Government]] [makes its order] in the case;

(g) the [Central Government] in apportioning the through rate shall take into consideration all the circumstances of the case, including any special expense incurred in respect of the construction, maintenance or working of the route or any part of the route, as well as any special charges which any railway administration is entitled to make in respect thereof;

(h) [Central Government] shall not in any case compel any railway administration to accept lower [*] rates than the [**] rates which the administration may for the time. being legally be charging for like traffic carried by a like mode of transit on any other line of communication between the same points, being the points of departure and arrival of the through route:

(i) subject to the foregoing provisions of this sub-section, the [Central Government] shall have full power to decide that any proposed through rate is due and reasonable, notwithstanding that a less amount may be allotted to any forwarding railway administration out of the through rate than the maximum rate which the railway administration is entitled to charge, and to allow and apportion the through rate accordingly;

(j) the prescribed period mentioned in this sub-section shall be one month, or such longer period as the Central Government] may by general or special order prescribe.

[(5) Any decision given by the Central Government under sub-section (4) shall be final and binding on all parties concerned.]

27A. Power of Central Government to give directions in regard to transport of goods by railway administration :-

[(1) The Central Government may, if in its opinion it is necessary in the public interest so to do, by general or special order, direct any railway administration -

(a) to give special facilities for, or preference to, the transport of any such goods or class of goods consigned to the Central Government or to the Government of any State or of such other goods or class of goods, as may be specified in the order;

(b) to carry any goods or class of goods by such route or routes and at such rates as may be specified in the order.]

(2) Any order made under sub-section (1) shall cease to have effect after the expiry of six months from the date thereof, but it may be

renewed from time to time.

(3) Notwithstanding anything contained in this Act, every railway administration shall be bound to comply with any direction given under sub-section (1), and any action taken by a railway administration in pursuance of any such direction shall not be deemed to be a contravention of section 28 .]

28. Prohibition of undue preference :-

] . A railway administration shall not make or give any undue or unreasonable preference or advantage to, or in favour of, any particular person or railway administration, or any particular description of traffic, in any respect whatsoever, or subject, any particular person or railway administration or any particular description of traffic to any undue or unreasonable prejudice or disadvantage in any respect whatsoever. [* * * *]

29. Power of the Central Government to fix maximum and minimum rates :-

] .--

(1) The [Central Government] may by general or special order fix maximum and minimum rates for the whole or any part of a railway, [* * *] and prescribe the conditions in which such rates will apply.

[(2) The Central Government may, by a like order, fix the rates of any other charges for the whole or any part of a railway and prescribe the conditions in which such rates of charges shall apply.

(3) Any complaint that a railway administration is contravening any order issued by the Central Government under sub-section (1) shall be determined by the Central Government.]]

30. Undue preference in case of unequal rates for like traffic for services :-

Repealed by the Indian Railways (Amendment) Act, 1949 (56 of 1949), . S. 2 (w. e.f. 1-2-1950).}

31. Provision for facilities and equal treatment where ships or boats are used which are not part of a railway :-

] .-Where a railway administration is a party to an agreement for procuring the traffic of the railway to be carried on any inland water by any ferry, ship, boat or raft which does not belong to or

is not hired or worked by the railway administration, the provisions of [section 28] applicable to a railway shall extend to the ferry, ship, boat or raft in so far as it is used for the purposes of the traffic of the railway.

32. Power of Central Government to fix terminal and other charges :-

Repealed by the Indian Railways (Amendment) Act, 1957 (53 of 1957), S. 5.]

33. Decisions in accordance with this Chapter shall be binding :-

Re-pealed by the Indian Railways (Amendment) Act, 1957 (53 of 1957), S. 5.) [* * * * *]

34. Constitution of the Tribunal :-

(1) There shall be a Tribunal, called the Railway Rates Tribunal, for the purpose of discharging the functions hereinafter specified in this Chapter.

[(2) The Tribunal shall consist of a Chairman and two other members to be appointed by the Central Government.

(3) A person shall not be qualified for appointment as the Chairman of the Tribunal unless he is or has been, a Judge of the Supreme Court or of a High Court and the other two members of the Tribunal shall be chosen from among persons who, in the opinion of the Central Government, have special knowledge of commercial, industrial or economic conditions of the country or of the commercial working of the railways.

(4) The Chairman and the other members of the Tribunal shall hold office for such period, not exceeding five years, as may be specified in the order of their appointment: and if the Chairman or any other member is by infirmity or otherwise rendered incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the Central Government may appoint another person to act in his place during his absence.

(5) A person who holds office as the Chairman or other member of the Tribunal shall, on the expiration of the term of his office (not being an office to fill a casual vacancy), be ineligible for re-appointment to that office.

(6) Subject to the provisions of sub-section (4) and sub-section (5), the Chairman and other members of the Tribunal shall hold office on such terms and conditions as the Central Government may, by general or special order, prescribe.

(7) No act or proceedings of the Tribunal shall be deemed to be invalid by reason merely of any vacancy in, or any defect in the constitution of the Tribunal.]

35. Constitution of panels of assessors :-

Repealed by the Indian Rail- ways (Amendment) Act, 1957 (53 of 1957), S. 7.]

36. Staff :-

The Tribunal may with the sanction of the Central Govern- ment. appoint such staff, and in such terms and conditions, as the Central Government may determine.

37. Headquarters :-

The headquarters of the Tribunal shall be at such place as the Central Government may fix.

38. Sittings of the Tribunal :-

The Tribunal may sit at such place or places as it may find convenient for the transaction of business.

39. Jurisdiction :-

For the purpose of exercising the jurisdiction confer- red on it by this Chapter, the Tribunal may pass such interim and final orders as the circumstances may require, including orders for the payment, subject to the provisions of this Chapter, of costs; and it shall be the duty of the Central Government, [*] [* * *] on whom any obligation is imposed by any such order, to carry it out.

40. Powers of the Tribunal :-

The Tribunal shall have the powers of a Civil Court under the Code of Civil Procedure, 1908, -for the purposes of tak- ing evidence (in oath, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the exa- mination of witness and shall be dncmed to be a Civil Court for all the purport's of section 195 and Chapter XXXV of the Code of Criminal Proce- dure, 1898, and any reference to the presiding officer of a Court shall be deemed to include a reference to the ^Chairman] of the Tribunal.

41. Complaints against a railway administration :-

(1) Any complaint that a railway administration-

(a) is contravening the provisions of section 28 , or

[(b) is charging for the carriage of any commodity between two stations a rate which is unreasonable, or

(c) is levying any other charge which is unreasonable,] may be made to the Tribunal, and the Tribunal shall hear and decide any such complaint in accordance with the provisions of this Chapter.

(2) In the case of a complaint under clause (a) of sub-section (1),-

(i) whenever it is shown that a railway administration charges one trader or class of traders or the traders, in any local area lower rates for the same or similar animals or goods, or lower rates for the same or similar services, than it charges to other traders or classes of traders, or to the traders in another local area, the burden of proving that such lower charge does not amount to an undue preference shall lie on the railway administration,

(ii) in deciding whether a lower charge does or does not amount to an undue preference, the Tribunal may, in addition to any other consideration affecting the case, take into consideration whether such lower charge is necessary in the interests of the public.

[(3) In the case of a complaint under clause (b) or clause (c) of sub-section (1), the Tribunal may fix such rate or charge as it considers reasonable: Provided that the rate to be fixed under clause (b) of sub-section (1) shall be within the limit of the maximum and minimum rates fixed by the Central Government under sub-section (1) of section 29 .]

(4) A complaint under this section may be made jointly against two or more railway administrations.]

41A. Revision at orders by Tribunal :-

Where a railway administration, bound by an order of the Tribunal, considers that since the order was made there has been a material change in the circumstances' on which it was based, the railway administration may, after the expiry of one year from the date of the order, make an application to the Tribunal for revision of the order and the Tribunal may, after making due inquiry into the matter in accordance with the provisions of this Chapter, vary

or revoke the order.]

42. Power to classify or re-classify commodities or to alter rates :-

The Central Government alone shall have power-

(a) to classify or re-classify any commodity:

(b) to increase Or reduce the level of class rates and other charges.

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43. Tribunal to decide matters with aid of assessors :-

Repealed by the Indian Railways (Amendment) Act, 1957 (53 of 1957) ,S. 12]

44. Procedure :-

(1) With the approval of the Central Government, the Tribunal may make rules regarding its practice and procedure and generally for the effective discharge of its functions under this Charter.

(2) Inparticular and without prejudice to the generality of the forego- ing power, such rules may provide for- [* * * * *]

(c) the award of costs by the Tribunal:

(d) the reference of any question to a member or officer of the Tribunal or any other person appointed by the Tribunal, for report after hold- ing a local inquiry:

(e) the right of audience before the Tribunal, provided that any party shall be entitled to be heard in person, or by a representative duly auth- orized in writing, or by a legal practitioner;

(f) the disposal by the Tribunal of any proceedings before it, notwith- standing that in the course thereof there has been a change in the persons sitting as members of the Tribunal [* *];

(g)a scale of fees for and in connection with the proceedings before the Tribunal.

(3) The Central Government shall give to the Tribunal such assistance as it may require, and shall also place at its disposal any information in the possession of the Central Government which that Government may think rel- evant to the matter before the Tribunal.

(4) Any person duly authorized in this behalf by the Central Government shall be entitled to appear and be heard in any

proceedings before the Tribunal.

(5) The Tribunal shall make annually a report to the Central Government of its proceedings under Chapter .

45. Bar of jurisdiction of the Tribunal :-

(1) Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of-

(a) classification or re-classification of any commodity,

(b) fixation of wharfage and demurrage charges (including conditions attached to such charges)',

(c) scales of charges levied by a railway administration for the carriage of passengers and their luggage, parcels, military traffic and traffic railway materials and stores,

(2) Notwithstanding anything contained in sub-section (1), the Central Government may make a reference to the Tribunal in respect of any of the matters specified in that sub-section and where any such reference is made in respect of any matter, the Tribunal shall make an inquiry into matter and submit its report thereon to the Central Government.

(3) On receipt of a report under sub-section (2), the Central Government may take such action as it considers suitable in respect of the matters dealt with in the report.]

46. Alteration and cancellation of certain station to station rates :-

Notwithstanding anything contained in this Chapter, a railway administration may, in respect of the carriage of any merchandise by goods train,-

(i) quote a new station to station rate: or

(ii) increase or reduce [or cancel after due notice in the manner prescribed by the Central Government] an existing station to station rate, not being a station to station rate introduced in compliance with an order made by the Tribunal; or [* * * * *]

(iv) withdraw, alter or amend the conditions attached to a station to station rate other than conditions introduced in compliance with an order made by the Tribunal.

46A. Decision of the Tribunal :-

The decision of the Tribunal shall be by a majority of the members sitting and shall be final: [* * * *]

46B. Execution of orders of the Tribunal :-

The Tribunal may transmit any order made by it to a Civil Court having local jurisdiction and such Civil Court shall execute the order as if it were a decree.

46C. Definitions :-

In this Chapter, unless there is anything repugnant in the subject or context,-

[(a) "classification" means the grouping of commodities into classes (both for smalls and wagon loads) as duly authorised by the Central Government and notified in the Indian Railway Conference Association's Goods Tariff in force for the time being for the purpose of - determining the rate to be charged;]

(b) "class rate" means a rate fixed according to the class given to a commodity in the classification of goods,

(c) "commodity" includes livestock;

(d) "demurrage" means the charge levied after the expiry of the free time allowed for loading or unloading a wagon;

(e) "parcel" means any package or merchandise or other goods entrusted for carriage by passenger or parcels train; [* * * *]

(g) "station to station rate" means a special reduced rate applicable to a specific commodity booked between two specified stations.

[(h) "wharfage" means the charge levied on goods for not removing them from the railway premises after the expiry of the free time allowed for such removal.}]

CHAPTER 6

WORKING OF RAILWAYS

47. General rules :-

(1) [[The Central Government or in the case of a railway administered by a railway company, the railway company] shall make general rules consistent with this Act for the following purposes, namely]:-

(a) for regulating the mode in which, and the speed at which, rolling-stock used on the railway is to be moved or propelled;

(b) for providing for the accommodation and convenience of passengers and regulating the carriage of their luggage;

[(bb) for the cancellation of tickets (whether with reservation of accommodation or not), the circumstances under which, and the time-limit within which, such cancellation may be allowed and the charges payable therefor;];

(c) for declaring what shall be deemed to be, for the purposes of this Act, dangerous or offensive goods, and for regulating the carriage of such goods;

(d) for regulating the conditions on which the railway administration will carry passengers suffering from infectious or contagious disorders, and providing for the disinfection of carriages which have been used by such passengers;

(e) for regulating the conduct of the railway servants;

(f) for regulating the terms and conditions on which the railway administration will [warehouse goods or retain goods or animals! at any station on behalf of the consignee or owner: 'and (g) generally, for regulating the travelling upon, and the use, working and management of, the railway.

(2) The rules may provide that any person committing a breach of any of them shall be punished with fine which may extend to any sum not exceeding [one hundred and fifty rupees] and that, in the case of a rule made under clause (e) of sub-section (1), the railway servant shall forfeit a sum not exceeding one month's pay, which sum may be deducted by the railway administration from his pay.

[(3) A rule made under this section, whether by the Central Government or a railway company, shall not take effect until it is published in the Official Gazette, and in the case of a rule made by a railway company, unless before such publication it has also received the sanction of the Central Government.] [* * * * *]

(5) Every rule purporting to have been made for any railway under section 8 of the Indian Railways Act, 1879, and appearing from the Official Gazette to be intended to apply to the railway at the commencement of this Act, shall, notwithstanding any irregularity in the making or publication of the rule, be deemed to have been made and to have taken effect under this section.

(6) Every railway administration shall keep at each station on its

railway a copy of the general rules for the time being in force under this section on the railway, and shall allow any person to inspect it free of charge at all reasonable times.

48. Disposal of differences between railways regarding conduct of joint traffic :-

Where two or more railway administrations whose railways have a common terminus or a portion of the same line of rails in common, or form separate portions of one continued line of railway communication) are not able to agree upon arrangements for conducting at such common terminus, or at the point of junction between them, their joint traffic with safety to the public, the [Central Government], upon the application of either or any of the administrations, may decide the matters in dispute between them, so far as those matters relate to the safety of the public, and may determine whether the whole or what proportion of the expenses attending on such arrangements shall be borne by either or any of the administrations respectively.

49. Agreements with Central Government for construction or lease of rolling stock :-

Any railway company, [* * *] may from time to time make and carry into effect agreements with [the Central Government] for the construction of rolling-stock, plant or machinery used on, or in connection with, railways, or for leasing or taking on lease any rolling-stock, plant, machinery or equipments required for use on a railway, or for the maintenance of rolling-stock.

50. Powers of railway companies to enter into working agreements :-

Any railway company, [* * *] may from time to time make with the [Central Government], and carry into effect, or, with the sanction of the [Central Government], make with any other railway administration, and carry into effect, any agreement with respect to any of the following purposes, namely-

(a) the working, use, management and maintenance of any railway;

(b) the supply of rolling-stock and machinery necessary for any of the purposes mentioned in clause (a) and of officers and servants for the conduct of the traffic of the railway;

(c) the payments to be made and the conditions to be performed with respect to such working, use, management and

maintenance;

(d) the interchange, accommodation and conveyance of traffic being on, coming from or intended for the respective railways of the contracting parties, and the fixing, collecting, apportionment and appropriation of the revenues arising from that traffic;

(e) generally, the giving effect to any such provisions or stipulations with respect to any of the purposes hereinbefore in this section mentioned as the contracting parties may think fit and mutually agree on: Provided that the agreement shall not affect any of the rates which the railway administrations, parties thereto, are, from time to time, respectively authorized to demand and receive from any person, and that every person shall, notwithstanding the agreement, be entitled to the use and benefit of the railways of any railway administrations, parties to the agreement, on the same terms and conditions, and on payment of the same rates, as he would be if the agreement had not been entered into.

51. Establishment of ferries and roadways for accommodation of traffic :-

Any railway company, [* * *] may from time to time exercise with the sanction of the [Central Government] all or any of the following powers, namely:-

(a) it may establish, for the accommodation of the traffic of its railway, any ferry equipped with machinery and plant of good quality and adequate in quantity to work the ferry;

(b) it may work for purposes other than the accommodation of the traffic of the railway any ferry established by it under this section;

(c) it may provide and maintain on any of its bridges roadways for foot-passengers, cattle, carriages, carts or other traffic;

(d) it may construct and maintain roads for the accommodation of traffic passing to or from its railway;

(e) it may provide and maintain any means of transport which may be required for the reasonable convenience of passengers, animals or goods carried or to be carried on its railway;

(f) it may charge tolls on the traffic using such ferries, roadways, roads or means of transport as it may provide under this section, according to tariffs to be arranged from time to time with the

sanction of the [State Government].

51A. Additional power to provide and maintain transport services :-

(1) Any railway company, [* * *] may frame a scheme for the provision and maintenance of a motor transport or air-craft service for passengers, animals or goods with a terminus at or near a station on the railway owned or managed by such company.

(2) The scheme shall be submitted to the [Central Government], which may sanction it, subject to such modifications and conditions as it may prescribe.]

(3) The scheme shall be published in the Official Gazette and thereupon the railway company shall, subject to sub-section (4), have the power to provide and maintain a service in accordance therewith.

(4) In respect of any service provided and maintained by any railway company under this section,-

(a) the company shall be deemed not to be a railway administration for the purposes of this Act or of any other enactment affecting railways, and no property used exclusively for purposes of the service shall be deemed to be included in the railway or its rolling-stock: and

(b) all enactments and rules for the time being in force relating to motor vehicles, air-craft and roads shall apply accordingly.

(5) The [Central Government] may, by notification in the Official Gazette, after giving to the railway company six months' notice of [its] intention so to do, withdraw [its] sanction to any scheme sanctioned under sub-section (2) or may modify the scheme or impose further conditions on it.]

52. Returns :-

Every railway administration shall, in forms to be prescribed by the [Central Government], prepare, half-yearly or at such intervals as the [Central Government] may prescribe, such returns of its capital and revenue transactions and of its traffic as the [Central Government] may require, and shall forward a copy of such returns to the [Central Government] at such times as [it] may direct.

53. Maximum carrying capacity for wagons :-

(1) The gross weight of every wagon or truck bearing on the axles when the wagon or truck is loaded to its maximum carrying capacity shall not exceed such limit as may be fixed by the Central Government for the class of axle under the wagon or truck.

(2) Subject to the limit fixed under sub-section (1), every railway administration shall determine the normal carrying capacity for every wagon or truck in its possession and shall exhibit the words and figures representing the normal carrying capacity so determined in a conspicuous manner on the outside of every such wagon or truck.

(3) Every person owning a wagon or truck which passes over a railway shall similarly determine and exhibit the normal carrying capacity for the wagon or truck.

(4) Notwithstanding anything contained in sub-section (2) or sub-section (3), where a railway administration thinks it necessary or expedient so to do in respect of any wagon or truck carrying any specified class of goods or any class of wagons or trucks of any specified type, it may, by notification, vary the normal carrying capacity for such wagon or truck or such class of wagons or trucks and, subject to such conditions as it may think fit to impose, determine for the same such carrying capacity as may be specified in the notification and it shall not be necessary to exhibit the words and figures representing the carrying capacity so determined on the outside of such wagon or truck or such class of wagons or trucks: Provided that in no case the gross weight of such wagon or truck or such class of wagons or trucks shall exceed the limit fixed under sub-section (1) for the class of axle under the wagon or truck.]

54. Power for Railway administrations to impose conditions for working traffic :-

(1) Subject to the control of the [Central Government], a railway administration may impose conditions, not inconsistent with this Act or with any general rule thereunder, with respect to the receiving, forwarding or delivering of any animals or goods.

(2) The railway administration shall keep at each station on its railway a copy of the conditions for the time being in force under sub-section (1) at the station, and shall allow any person to inspect it free of charge at all reasonable times.

(3) A railway administration shall not be bound to carry any animal

suffering from any infectious or contagious disorder.

55. Lien for rates and other charges :-

(1) If a person fails to pay on demand made by or on behalf of a railway administration any rate, [*] or other charge due from him in respect of any animals or goods, the railway administration may detain the whole or any of the animals or goods or, if they have been removed from the railway, any other animals or goods of such person then being in or thereafter coming into its possession.

(2) When any animals or goods have been detained under subsection (1), the railway administration may sell by public auction, in the case of perishable goods at once, and in the case of other goods or of animals on the expiration of at least fifteen days' notice of the intended auction, published in one or more of the local newspapers or, where there are no such newspapers, in such manner as the [Central Government] may prescribe, sufficient of such animals or goods to produce a sum equal to the charge, and all expenses of such detention, notice and sale, including, in the case of animals, the expenses of the feeding, watering and tending thereof.

(3) Out of the proceeds of the sale the railway administration may retain a sum equal to the charge and the expenses aforesaid, rendering the surplus, if any of the proceeds, and such of the animals or goods (if any) as remain unsold, to the person entitled thereto.

(4) If a person on whom a demand for any rate, [*] or other charge due from him has been made fails to remove from the railway within a reasonable time any animals, or goods which have been detained under subsection (1), or any animals or goods which have remained unsold after a sale under subsection (2), the railway administration may sell the whole of them and dispose of the proceeds of the sale as nearly as may be under the provisions of subsection (3).

(5) Notwithstanding anything in the foregoing sub-sections, the railway administration may recover by suit any such rate, [*] or other charge as aforesaid or balance thereof.

56. Disposal of unclaimed things on a railway :-

(1) When any animals or goods have come into the possession of a

railway administration for carriage or otherwise and are not claimed by the owner or other person appearing to the railway administration to be entitled thereto, the railway administration shall, if such owner or person is known, cause a notice to be served upon him, requiring him to remove the animals or goods.

(2) If such owner or person is not known, or the notice cannot be served upon him, or he does not comply with the requisition in the notice, the railway administration may within a reasonable time, subject to the provisions of any other enactment for the time being in force, sell the animals or goods as nearly as may be under the provisions of the last foregoing section, rendering the surplus, if any, of the proceeds of the sale to any person entitled thereto.

56A. Disposal of perishable goods in certain circumstances

:-

(1) Where by reason of any flood, landslip, breach of any line of rails, collision between trains, derailment of or other accident to a train or any other cause, traffic on any route is interrupted and there is no likelihood of early resumption of such traffic, nor is there any other reasonable route whereby traffic of perishable goods may be diverted to prevent loss or deterioration of, or damage to, such goods, the railway administration may, after obtaining wherever practicable instructions from the person appearing to the railway administration to be entitled to the goods, sell them by public auction.

(2) Out of the proceeds of the sale, the railway administration may retain a sum equal to the charge due in respect of the goods and the expenses of and incidental to the sale rendering the surplus, if any, of the proceeds to the person entitled thereto.

(3) The provisions of this section shall be without prejudice to the claim or right which the person entitled to the goods may have against the railway administration under any other, enactment for the time being in force,]

56B. Special provisions as to goods booked to notified stations :-

(1) In this section and in section 56C , section 56D , unless the context otherwise requires,-

(a) "essential commodity" means essential commodity as defined in

clause (a) of Section 2 of the Essential Commodities Act, 1955 ;

(b) "State Government", in relation to a notified station, means the Govern- ment of the State in which such station is situated or where such sta- tion is situated in a Union territory, the Administrator of that Union territory appointed under Article 239 of the Constitution;

(c) "notified station" means a station declared to be a notified station under sub-section (2);

(d) "prescribed" means prescribed by rules made by the Central Govern- ment under . section 56E ;

(e) "termination of transit" means termination of transit determined in ac- cordance with the provisions of clause (a) of sub-section (5) of section 77 .

(2) The Central Government may, if satisfied that it is necessary that goods booked by trains intended solely for the carriages of goods to any railway sta- tion should be removed without delay from such railway station, declare, by notification in the Official Gazette, such railway station to be a notified station for such period as may be specified in the notification; Provided that before declaring any railway station to be a notified sta- tion under this sub-section, the Central Government shall have regard to all or any of the following factors, namely:

(a) the volume of traffic and the storage space available at such railway sta- tion;

(b) the nature and quantities of goods generally booked to such railway sta- tion;

(c) the scope for causing scarcity of such goods by not removing them for long periods from such railway station and the hardship which such scarcity may cause to the community;

(d) the number of wagons likely to be held up at such railway station if goods are not removed therefrom quickly and the need for quick move- ment and availability of such wagons;

(e) such other factors (being factors relevant from the point of view of the interest of the general public) as may be prescribed: Provided further that the period specified in any notification Issued under this sub-section in respect of any railway station shall not

exceed six months in the first instance but such period may, by a like notification) be extended from time to time by a period not exceeding six months on each occasion-

(3) If any person delivering to a railway administration any goods to be carried to a notified station makes an application in such form and manner as may be prescribed and specifies therein the address of the person to whom intimation of the arrival of the goods at the notified station shall be given and pays the postage fee required for giving such intimation, the railway administration shall, as soon as may be after the arrival of the goods at the notified station, send such intimation by registered post.

(4) There shall be exhibited at a conspicuous place in each notified station a statement in the prescribed form setting out the description of the goods which by reason of the fact that they have not been removed from the station within a period of seven days from the termination of transit thereof are liable to be sold, in accordance with the provisions of sub-section (1) of section 56C . by public auction and the dates on which they would be so sold: Provided that different statements may be so exhibited in respect of goods proposed to be sold on different dates.

(5) If the goods specified in any statement prepared under sub-section (4) include essential commodities, the officer preparing the statement shall, as soon as may be after the preparation of such statement, forward a copy thereof to-

(a) the representative of the Central Government, nominated by that Government in this behalf,

(b) the representative of the State Government, nominated by that Government in this behalf: and

(c) the district magistrate within the local limits of whose jurisdiction the railway station is situated.

56C. Disposal of unremoved unremoved goods at notified stations :-

(1) If any goods booked for carriage by railway to any notified station by a train intended solely for the carriage of goods are not removed from such station by a person entitled to do so within a period of seven days after the termination of transit thereof at such station, the railway administration may, subject to the provisions of

sub-section (2), sell such goods by public auction and apart from exhibiting in accordance with the provisions of sub-section (4) of section 56B a statement containing a description of such goods, it shall be necessary to give any notice of such public auction, but the dates on which such auction may be held under this sub-section may be notified in one or more local newspapers, or where there are no such newspapers, in such manner as may be prescribed: Provided that if at any time before the sale of such goods under this sub-section the person entitled thereto pays the rates or charges and the expenses due in respect thereof to the railway administration, he shall be allowed to remove such goods.

(2) If any essential commodities which may be sold by public auction under sub-section (1) at a notified station are required by the Central Government or the State Government for its own use or if the Central Government or such State Government considers that it is necessary for securing the availability of all or any such essential commodities at fair prices so to do, it may, by order in writing, direct the officer in charge of such auction to transfer such goods to it or to such agency, co-operative society or other person (being an agency, co-operative society or other person subject to the control of the Government) engaged in the business of selling such essential commodities, as may be specified in the direction.

(3) Every direction issued under sub-section (2) in respect of any essential commodity shall be binding on the officer to whom it is issued and the railway administration and it shall be a sufficient defence against any claim by the person entitled to the delivery thereof that such essential commodities have been transferred in compliance with such direction: Provided that-

(a) such direction shall not be binding on such person or the railway administration--

(i) if it has not been received by such officer sufficiently in time to enable him to prevent the sale of the essential commodities to which it relates: or

(ii) if before the time appointed for such sale the person entitled to such goods pays the rates or charges and the expenses due in respect thereof and claims that he be allowed to remove the goods, or

(iii) if the price payable for such goods (as estimated by the Central

Government or, as the case maybe, the State Government) has not been credited to- the railway administration in the prescribed manner and the railway administration is not indemnified against any additional amount which it may become liable to pay towards price by reason of the price not having been computed in accordance with the provisions of sub-section (4);

(b) where directions are issued in respect of the same goods both by the Central Government and the State Government, the directions received earlier shall prevail.

(4) The price payable for any essential commodity transferred in compliance with a direction issued under sub-section (2) shall be the price calculated in accordance with the provisions of sub-section (3) of Section 3 of the Essential Commodities Act, 1955 : Provided that-

(a) in the case of any essential commodity being a food stuff in respect whereof a notification issued under sub-section (3A) of Section 3 of the Essential Commodities Act, 1955 is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of clauses (iii) and (iv) of that sub-section;

(b) in the case of an essential commodity being any grade or variety of foodgrains, edible oil-seeds or edible oils in respect whereof no notification issued under sub-section (3A) of S.3 of the Essential Commodities Act, 1955 is in force in the locality in which the notified station is situated, the price payable shall be calculated in accordance with the provisions of sub-section (3B) of that section;

(c) in the case of an essential commodity being any kind of sugar in respect whereof no notification issued under sub-section (3A) of section 3 of the Essential Commodities Act, 1955 is in force in the locality in which the notified station is situated, the price payable shall, if such sugar has been booked by the producer to himself, be calculated in accordance with the provisions of sub-section (3C) of that section. Explanation.- For the purposes of this clause, the expressions "producer" and "sugar" shall have the meanings assigned to those expressions in the Explanation to sub-section (3C) of section 3, and clause (e) of S.2, of the Essential Commodities Act, 1955 respectively.

56D. Price to be paid to person entitled after deducting dues :-

(1) Out of the proceeds of any sale of goods under sub-section (1) of section 56C or the price payable therefor under sub-section (4) of that section, the railway administration may retain a sum equal to the rates or charges due in respect of the goods and the expenses incurred in respect of the goods and the auction thereof and render the surplus, if any, to the person entitled thereto.

(2) Notwithstanding anything contained in sub-section (1), the railway administration may recover by suit any such rate or charge or expenses referred to therein or balance thereof.

(3) Any goods sold under sub-section (1) of section 56c or transferred in compliance with directions issued under sub-section (2) of that section shall vest in the buyer or the transferee free from all encumbrances but subject to a priority being given for the sum which may be retained by a railway administration under sub-section (1), the person in whose favour such encumbrance subsists may have a claim in respect of such encumbrance against the surplus, if any, referred to in that sub-section,

56E. Power to make rules :-

(1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of giving effect to the provisions of section 56B , section 56C , section 56D .

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:-

(a) the factors to which the Central Government shall have regard under clause (e) of the first proviso to sub-section (2) of section 56B ;

(b) the form and manner in which an application may be made under sub-section (3) of section 56B ;

(c) the form in which a statement required to be exhibited under sub-section (4) of section 56B shall be prepared;

(d) the manner in which the dates of public auctions may be notified under sub-section (1) of section 56C ; and

(e) the manner of crediting to the Railway Administration the price

of goods referred to in sub-clause (iii) of clause (a) of the proviso to sub-section (3) of section 56C .

(3) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]

57. Power for railway administrations to require indemnity on delivery of goods in certain cases :-

Where any animals, goods or sale-proceeds in the possession of a railway administration are claimed by two or more persons. or the ticket or receipt given for the animals or goods is not forthcoming, the railway administration may withhold delivery of the animals, goods or sale-proceeds until the person entitled in its opinion to receive them has given an indemnity, to the satisfaction of the railway administration, against the claims of any other person with respect to the animals, goods or sale proceeds.

58. Requisitions for written accounts of description of goods :-

(1) The owner or person having charge of any goods which are brought upon a railway for the purpose of being carried thereon, and the consignee of any goods which have been carried on a railway, shall, on the request of any railway servant appointed in this behalf by the railway administration, deliver to such servant an account in writing signed by such owner or person, or by such consignee, as the case may be, and containing such a description of the goods as may be sufficient to determine the rate which the railway administration is entitled to charge in respect thereof.

(2) If such owner, person or consignee refuses or neglects to give such an account, and refuses to open the parcel or package containing the goods in order that their description may be ascertained, the railway administration may, (a) in respect of goods which have been brought for the purpose of being carried on

the railway, refuse to carry the goods unless in respect thereof a rate is paid not exceeding the highest rate which may be in force at the time on the railway for any class of goods or, (b) in respect of goods which have been carried on the railway, charge a rate not exceeding such highest rate.

(3) If an account delivered under sub-section (1) is materially false with respect to the description of any goods to which it purports to relate, and which have been carried on the railway, the railway administration may charge in respect of the carriage of the goods a rate not exceeding double the highest rate which may be in force at the time on the railway for any class of goods.

(4) If any difference arises between a railway servant and the owner or person having charge, or the consignee, of any goods which have been brought to be carried or have been carried on a railway, respecting the description of goods of which an account has been delivered under this section, the railway servant may detain and examine the goods.

(5) If it appears from the examination that the description of the goods is different from that stated in an account delivered under sub-section (1), the person who delivered the account, or, if that person is not the owner of the goods, then that person and the owner jointly and severally, shall be liable to pay to the railway administration the cost of the detention and examination of the goods, and the railway administration shall be exonerated from all responsibility for any loss which may have been caused by the detention or examination thereof.

(6) If it appears that the description of the goods is not different from that stated in an account delivered under sub-section (1), the railway administration shall pay the cost of the detention and examination, and be responsible to the owner of the goods for any such loss as aforesaid-

59. Dangerous or offensive goods :-

(1) No person shall be entitled to take with him, or to require a railway administration to carry, any dangerous or offensive goods upon a railway.

(2) No person shall take any such goods with him upon a railway without giving notice of their nature to the station-master or other railway servant in charge of the place where he brings the

goods upon the railway, or shall tender or deliver any such goods for carriage upon a railway without distinctly marking their nature on the outside of the package containing them or otherwise giving notice in writing of their nature to the railway servant to whom he tenders or delivers them.

(3) Any railway servant may refuse to receive such goods for carriage and when such goods have been so received without such notice as is mentioned in [sub-section (2)] having to his knowledge been given, may refuse to carry them or may stop their transit.

(4) If any railway servant has reason to believe any such goods to be contained in a package with respect to the contents whereof such notice as is mentioned in sub-section (2) has not to his knowledge been given, he may cause the package to be opened for the purpose of ascertaining its contents.

(5) Nothing in this section shall be construed to derogate from the Indian Explosives Act, 1884, or any rule under that Act, and nothing in sub-sections (1), (3) and (4) shall be construed to apply to any goods tendered or delivered for carriage by order or on behalf of the Government or to any goods which an officer, soldier, sailor, [airman] or police-officer or [a member of [the Territorial Army or of the National Cadet Corps]]:, may take with him upon a railway in the course of his employment or duty as such.

60. Exhibition to the public of authority for quoted rates :-

At every station at which a railway administration quotes a rate to any other station for the carriage of traffic other than passengers and their luggage, the railway servant appointed by the administration to quote the rate shall, at the request of any person, show to him at all reasonable times, and without payment of any fee, the rate-books or other documents in which the rate is authorized by the administration or administrations concerned.

61. Requisitions on railway administrations for details of gross charges :-

(1) Where any charge is made by and paid to a railway administration in respect of the Carriage of goods over its railway, the administration shall, on the application of the person by whom or on whose behalf the charge has been paid, render to the applicant an account showing how much of the charge comes under

each of the following heads, namely:-

(a) the carriage of the goods on the railway, ' [* *]

(c) demurrage; and

(d) collection, delivery and other expenses; but without particularising the several items of which the charge under each head consists.

(2) The application under sub-section (1) must be in writing and be made to the railway administration within one month after the date of the payment of the charge by or on behalf of the applicant, and the account must be rendered by the administration within two months after the receipt of the application.

62. Communication between passengers and railway servants in charge of trains :-

The [Central Government] may require any railway administration to provide and maintain in proper order, in any train worked by it which carries passengers, such efficient means of communication between the passengers and the railway servants in charge of the train as the [Central Government] has approved.

63. Maximum number of passengers for each compartment :-

Every railway administration shall fix, subject to the approval of the [Central Government], the maximum number of passengers which may be carried in each compartment of every description of carriage, and shall exhibit the number so fixed in a conspicuous manner inside or outside each compartment, [in Hindi and in English and also, if considered necessary by the railway administration, on one or more of the regional languages in common use in the territory traversed by the railway].

64. Reservation of compartments for females :-

(1) On and after the first day of January, 1891 every railway administration shall, in every train carrying passengers, reserve for the exclusive use of females one compartment at least of the lowest class of carriage forming part of the train.

(2) One such compartment so reserved shall, if the train is to run for a distance exceeding [eighty kilometres] be provided with a closet.

65. Exhibition of time-tables and tables of fares at stations

:-

Every rail- way administration shall cause to be posted in a conspicuous and accessible place at every station on its railway, [in Hindi and in English and also in a regional language in common use in the territory where the station is situate, if Hindi is not in common use therein], a copy of the time-tables for the time being in force on the railway, and lists of the fares chargeable for travelling from the station where the lists are posted to every place for which card-tickets are ordinarily issued to passengers at that station.

66. Supply of tickets on payment of fares :-

(1) Every person desirous of travelling on a railway shall, upon payment of his fare. be supplied with a ticket, [by a railway servant or an agent authorised by the Railway Ad- ministration in this behalf] specifying the class of carriage for which, and the place from and the place to which, the fare has been paid, and the amount of the fare.

(2) The matters required by sub-section (1) to be specified on a ticket shall be set forth-

(a) if the class of carriage to be specified thereon is the lowest class, then [in Hindi and in a regional language in common use in the territory traversed by the railway]; and

(b) if the class of carriage to be so specified is any other than the lowest class, then [in Hindi and in English].

67. Provision for case in which tickets have been issued for trains not having room available for additional passengers

:-

(1) Fares shall be deemed to be accepted, and tickets to be issued, subject to the condition of there be- ing room available in the train for which the tickets are issued.

(2) A person to whom a ticket has been issued and for whom there is not room available in the train for which the ticket was issued shall on return- ing the ticket within three hours after the departure of the train be entitled to have his fare at once refunded.

(3) A person for whom there is not room available in the class of car- riage for which he has purchased a ticket and who is obliged to

travel in a carriage of a lower class shall be entitled on delivering up his ticket to a re- fund of the difference between the fare paid by him and the fare payable for the class of carriage in which he travelled.

68. Prohibition against travelling without pass or ticket :-

[(1)] No person shall, without the permission of a railway servant, [empowered in this behalf by the railway administration] enter [or remain in] any carriage on a railway for the purpose of travelling therein as a passenger unless he has with him a proper pass or ticket.

[(2)] A railway servant when granting the permission referred to in sub- section (1) shall ordinarily, [* * *] grant to the passenger a certificate that the passenger has been permitted to travel in such carriage upon condition that he subsequently pays the fare payable for the distance to be travelled.]

69. Exhibition and surrender of passes and tickets :-

Every passenger by railway shall, on the requisition of any railway - servant appointed by the rail- way administration in this behalf, present, his pass or ticket to the railway servant for examination, and at or near the end of the journey for which the pass or ticket was issued, or, in the case of a season pass or ticket, at the expiration of the period for which it is current, deliver up the pass or ticket to the railway servant.

70. Prohibition against transfer of certain tickets :-

A ticket against which reservation of a seat or berth has been made, or a return ticket or season ticket, shall not be transferable and may be used only by the person for whose journey to and from the places specified thereon it was issued: Provided that nothing herein shall prevent mutual transfer of seats or, berths reserved against proper tickets by passengers travelling by the same train.]

71. Power to refuse to carry persons suffering from infectious or contagious disorder :-

(1) A railway administration may refuse to carry, except clause (d), a person suffering from any infectious disorder.

(2) A person suffering from such a disorder shall not enter or travel upon a railway without the special permission of the station-master or other rail- way servant in charge of the place where he enters

upon the railway.

(3) A railway servant giving, such permission as is mentioned in sub-section (2) must arrange for the separation of the person suffering from the disorder from other persons being or travelling upon the railway.

CHAPTER 6a

LIMITATION OF EMPLOYMENT OF RAILWAY SERVANTS

71A. Definitions :-

In this Chapter, unless the context otherwise requires,-

(a) the employment of a railway servant is said to be "continuous" except when it is excluded or has been declared to be essentially intermittent or intensive;

(b) the employment of a railway servant is said to be essentially "intermittent" when it has been declared to be so by the prescribed authority on the ground that the daily hours of duty of the railway servant normally include periods of inaction aggregating six hours or more (including at least one such period of not less than one hour or two such periods of not less than half an hour each), during which the railway servant may be on duty, but is not called upon to display either physical activity or sustained attention;

(c) the employment of a railway servant is said to be "excluded", if he belongs to any one of the following categories, namely:-

(i) railway servants employed in a confidential capacity;

(ii) armed guards, or other personnel subject to discipline similar to that of the armed police forces;

(iii) staff of the railway schools imparting technical training or academic education:

(iv) such categories of class IV staff as may be specified by the Central Government by rules made under section 71-E;

(v) such staff as may be specified as supervisory staff by the Central Government by rules made under section 71-E:

(vi) such categories of staff of the Health and Medical department as may be specified by the Central Government by rules made under section 71-E;

(d) the employment of a railway servant is said to be "intensive" when it has been declared to be so by the prescribed authority on the ground that it is of a strenuous nature involving continued concentration or hard manual labour with little or no period of relaxation

.

71B. Chapter VI-A not to apply to certain railway servants

:-

This Chapter shall not apply to any railway servant to whom [* *] the Factories Act, 1948 or the Mines Act, 1952 [or the Merchant Shipping Act, 1958] applies.

71C. Limitation of hours of work :-

(1) A railway servant whose employment is essentially intermittent shall not be employed for more than seventy-five hours in any week.

(2) A railway servant whose employment is continuous shall not be employed for more than fifty-four hours in a week on the average in any month.

(3) A railway servant whose employment is intensive shall not be employed for more than forty-five hours a week on the average in any month

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(4) Subject to any rules that may be made under section 71-E, temporary exemptions of railway servants from the provisions of sub-section (1) or sub-section (2) or sub-section (3) may be made by the prescribed authority if it is of opinion that such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway or in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling-stock, or in any emergency which could not have been foreseen or prevented, or in other cases of exceptional pressure of work: Provided that a railway servant so exempted shall be paid for over-time at not less than one and one-half times his ordinary rate of pay.

71D. Grant of periodical rest :-

(1) Subject to the provisions of this section, a railway servant-

(a) whose employment is intensive or continuous shall be granted, each week commencing on Sunday, a rest of not less than thirty consecutive hours;

(b) whose employment is essentially intermittent shall be granted, each week commencing on Sunday, a rest of not less than twenty-four consecutive hours including a full night:

(c) whose employment is excluded under sub-clause (iv) of clause (c) of section 71-A shall be granted a rest of not less than forty-eight consecutive hours each month, or a rest of not less than twenty-four consecutive hours each fortnight.

(2) Notwithstanding anything contained in sub-section (1), locomotive or traffic running staff shall be granted, each month, a rest of at least four periods of not less than thirty consecutive hours each, or at least five periods of not less than twenty-two consecutive hours each including a full night.

(3) Notwithstanding anything contained in sub-section (1), the Central Government may, by rules made under section 71-E, specify the railway servants to whom periods of rest may be granted on a scale less than laid down under sub-section (1) and may prescribe, the periods of rest to be granted to such railway servants.

(4) Subject to any rules that may be made under section 71-E, temporary exemptions of railway servants from the provisions of sub-section (1) or sub-section (2) may be made by the prescribed authority if it is of opinion that such temporary exemptions are necessary in the cases or circumstances specified under sub-section (4) of section 71-C: Provided that a railway servant so exempted shall, as far as may be possible, be granted compensatory periods of rest for the periods he has foregone.

71E. Power to make rules :-

(1) The Central Government may make rules'-

(a) prescribing the authorities who may declare that the employment of any railway servant is essentially intermittent or intensive; and providing for appeals against any such declaration and the manner in which, and the conditions subject to which, any such appeal may be filed and heard;

(b) specifying the railway servants or classes of railway servants to

whom sub-clauses (iv), (v) and (vi) of clause (c) of section 71-A may apply;

(c) prescribing the authorities by whom exemptions under sub-section (4) of section 71-C or sub-section (4) of section 71-D may be made;

(d) providing for the delegation of powers by the prescribed authorities referred to in clause (c):

(e) specifying the railway servants or classes of railway servants to whom sub-section (3) of section 71-D may apply and prescribing the periods of rest to be granted to them;

(f) providing for appointment of supervisors of railway labour and their functions;

(g) providing for any other matter which has to be, or may be, prescribed under this Chapter.

(2) The rules made under sub-section (1) shall be subject to the provisions of section 143 .

71F. Railway servant to remain on duty :-

Nothing in this Chapter or the rules made thereunder shall authorize a railway servant to leave his duty where due provision has been made for his relief, until he has been relieved.

71G. Supervision of railway labour :-

(1) Subject to any rules that may be made under section 71-E, the Central Government may appoint persons to be supervisors of railway labour.

(2) The duties of supervisors of railway labour shall be-

(a) to inspect railways in order to determine if the provisions of this Chapter and of the rules made thereunder are duly observed: and

(b) to perform such other functions as may be prescribed.

(3) A supervisor of railway labour shall be deemed to be an Inspector for the purposes of sections 5 and 6.

71H. Penalty :-

Any person under whose authority any railway servant is employed in contravention of any of the provisions of this Chapter or of the rules made thereunder shall be punishable with fine which may

extend to five hundred rupees.]

CHAPTER 7

RESPONSIBILITY OF RAILWAY ADMINISTRATION AS CARRIERS

72. Execution of forwarding notes in respect of animals or goods carried on a railway :-

Any person delivering to a railway administration any animals or goods to be carried by railway shall,-

(a) if the animals or goods are to be carried by a train intended solely for the carriage of goods, or

(b) if the goods are to be carried by any other train and consist of articles of any of the following categories, namely:-

(i) articles carried at owner's risk rates,

(ii) articles of a perishable nature,

(iii) articles mentioned in the Second Schedule,

(iv) article in a defective condition or defectively packed,

(v) explosives and other dangerous goods, execute a note (in this Act referred to as the forwarding note) in such form as may be prescribed by the railway administration and approved by the Central Government, in which the sender or his agent shall give such particulars in respect of the animals or goods so delivered as may be required.

73. General responsibility of a railway administration as a carrier of animals and goods :-

Save as otherwise provided in this Act, a railway administration shall be responsible for the loss, destruction, damage, deterioration or non-delivery, in transit, of animals or goods delivered to the administration to be carried by railway, arising from any cause except the following, namely:-

(a) act of God;

(b) act of war;

(c) act of public enemies;

(d) arrest, restraint or seizure under legal process;

(e) orders or restrictions imposed by the Central Government or a State Government or by any officer or authority subordinate to the

Central Government or a State Government authorised in this behalf;

(f) act or omission or negligence of the consignor or the consignee or the agent or servant of the consignor or the consignee:

(g) natural deterioration or wastage in bulk or weight due to inherent defect, quality or vice of the goods;

(h) latent defects;

(i) fire, explosion or any unforeseen risk: Provided that even where such loss, destruction, damage, deterioration or non-delivery is proved to have arisen from any one or more of the aforesaid causes, the railway administration shall not, be relieved of its responsibility for the loss, destruction, damage, deterioration or non-delivery unless the administration further proves that it has used reasonable foresight and care in the carriage of the animals or goods.

74. Responsibility of a railway administration for animals or goods carried at owner's risk rate :-

(1) When any animals or goods are tendered to a railway administration for carriage by railway and the railway administration provides for the carriage of such animals or goods either at the ordinary tariff rate (in this Act referred to as the railway risk rate) or in the alternative at a special reduced rate (in this Act referred to as the owner's risk rate), the animals or goods shall be deemed to have been tendered to be carried at owner's risk rate, unless the sender or his agent elects in writing to pay the railway risk rate.

(2) Where the sender or his agent elects in writing to pay the railway risk rate under sub-section (1), the railway administration shall issue a certificate to the consignor to that effect.

(3) When any animals or goods are deemed to have been tendered to be carried, or are carried, at the owner's risk rate, then, notwithstanding anything contained in section 73, the railway administration shall not be responsible for any loss, destruction, damage, deterioration or non-delivery, in transit, of such animals or goods, from whatever cause arising, except upon proof that such loss, destruction, damage, deterioration or non-delivery was due to negligence or misconduct: on the part of the railway administration

or of any of its ser- vants.

75. Responsibility of a railway administration as carrier of luggage :-

A railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of any luggage belonging to a passenger unless a railway servant has booked the luggage and given a receipt therefor and in the case of luggage which is carried by the passenger in his charge, unless it is also proved that the loss, destruction, damage or deterioration was due to the negligence or misconduct on the part of the railway administration or of any of its servants.

75A. Responsibility of a railway administration for goods carried in open vehicles :-

When any goods which, under ordinary circumstances, would be carried in covered vehicles or vessels and would be liable to damage if car- ried otherwise, are, at the request of the sender or his agent recorded in the forwarding note, tendered for carriage by railway in open vehicles or vessels, the railway administration shall nut be responsible for any destruction, deterioration or damage which may arise only by reason of the goods being so carried.

76. Responsibility for delay or detention in transit :-

A railway administration shall be responsible for loss, destruction, damage or deterioration of animals or goods proved by the owner to have been caused by delay or deten- tion in their carriage unless the railway administration proves that the delay or detention arose without negligence or misconduct on the part of the railway administration or any of its servants.

76A. Responsibility for deviation of route :-

Where, due to a cause be- yond the control of a railway administration or due to congestion in the yard or other operational reasons, animals or goods delivered to the railway admin- istration to be carried by railway are carried over a route other than the route by which they are booked or the usual or customary route, the railway administration shall not be deemed to have committed a breach of the con- tract of carriage by reason only of the deviation of route,

76B. Responsibility for wrong delivery :-

Where a railway administraction to which animals or goods are delivered to becarried by railway delivers them in good faith to a

person who produces the original railway receipt, the railway administration shall not be responsible on the ground that such person is not legally entitled thereto or that the endorsement on the railway receipt is forged or otherwise defective.

76C. Responsibility for goods to be delivered at siding :-

In the case of goods to be delivered by a railway administration at a siding not belonging to the administration, the railway administration shall not be responsible for loss, destruction, damage, deterioration or non-delivery of such goods, from whatever cause arising, after the wagon containing the goods has been placed at the point of interchange of wagons between the railway administration and the owner of the siding and the owner of the siding has been informed in writing that the wagon has been so placed.

76D. Responsibility of two or more railway administrations for through traffic :-

Where any animals or goods delivered to a railway administration to be carried by railway have been booked through over the railways of two or more railway administrations or over one or more railway administrations and one or more transport systems not belonging to any railway administration, the person tendering the animals or goods to the railway administration shall be deemed to have contracted with each one of the railway administrations or the owners of the transport systems concerned, as the case may be, that the provisions of this Chapter shall apply, so far as may be, in relation to the carriage of such animals or goods in the same manner and to the same extent as they would have applied if the animals or goods had been carried by the railway of only one railway administration: Provided that--

(a) where there is a deviation in the route by which the animals or goods are to be carried, such deviation was due to a cause beyond the control of the railway administration, or the owner of the transport system concerned, as the case may be, or to congestion in the yard or other operational reasons:

(b) for the purpose of making the provisions of this Chapter relating to the carriage of animals or goods at the owner's risk rate applicable, the benefit of the railway risk rate and the owner's risk rate was available in the alternative to the sender on each of the railway administrations or transport system concerned at the time of the delivery of the animals or goods to the railway administration

for the purpose of carriage.

76E. Responsibility of railway administration in case of traffic passing over railways in India and railways in foreign countries :-

Where in the course of carriage of animals or goods from a place in India to a place outside India or from a place outside India to a place in India or from one place outside India to another place outside India or from one place in India to another place in India over any territory outside India, the animals or goods are carried over the railway of a railway administration, the railway administration shall not be responsible under any of the provisions of this Chapter for loss, destruction, damage or deterioration of the animals or goods, from whatever cause arising, unless it is proved by the owner of the animals or goods that such loss, destruction, damage or deterioration arose on the railway of the railway administration.

76F. Burden of proving misconduct in case of non-delivery or pilferage in transit of goods carried at owners risk rate :-

Notwithstanding anything contained in section 74 ,-

(a) where the whole of a consignment of goods, or the whole of any package forming part of a consignment, carried at owner's risk rate is not delivered to the consignee and such non-delivery is not proved by the railway administration to have been due to fire or to any accident to the train, or

(b) where, in respect of any consignment of goods or of any package which had been so covered or protected that the covering or protection was not readily removable by hand, it is pointed out to the railway administration on or before delivery that any part of such consignment or package had been pilfered in transit, the railway administration shall be bound to disclose to the consignor how the consignment or the package was dealt with throughout the time it was in its possession or control, but if negligence or misconduct on the part of the railway administration or of any of its servants cannot be fairly inferred from such disclosure the burden of proving such negligence or misconduct shall lie on the consignor.

77. Responsibility of a railway administration after termination of transit :-

(1) A railway administration shall be responsible as a bailee under S.151 of the Indian Contract Act, 1872 , S.152 of the Indian

Contract Act, 1872 , S.161 of the Indian Contract Act, 1872, for the loss, destruction, damage, deterioration or non-delivery of goods carried by railway within a period of [seven days] after the termination of transit: Provided that where the goods are carried at owner's risk rate, the railway administration shall not be responsible for such loss, destruction, damage, deterioration or non-delivery except on proof of negligence or misconduct on the part of the railway administration or of any of its servants.

(2) The railway administration shall not be responsible in any case for the loss, destruction, damage, deterioration or non-delivery of goods carried by railway, arising after the expiry of the period of [seven days] after the termination of transit.

(3) Notwithstanding anything contained in the foregoing provisions of this section, a railway administration shall not be responsible for the loss, destruction, damage, deterioration or non-delivery of the goods mentioned in the Second Schedule, animals and explosives and other dangerous goods carried by railway after the termination of transit.

(4) Nothing in the foregoing provisions of this section shall relieve the owner of animals or goods from liability to any demurrage or wharfage for so long as the animals or goods are not unloaded from the railway wagons or removed from the railway premises.

(5) For the purposes of this Chapter,-

(a) unless otherwise previously determined, transit terminates on the expiry of the free time allowed (after the arrival of animals or goods at destination) for their unloading from railway wagons without payment of demurrage, and where such unloading has been completed within the free time so allowed, transit terminates on the expiry of the free time allowed for the removal of the animals or goods from railway premises without payment of wharfage;

(b) 'demurrage' and 'wharfage' have the meanings respectively assigned to them in clause (d) and clause (h) of section 46-C

77A. Further provisions with respect to the responsibility of a railway administration as a carrier of animals :-

(1) Notwithstanding anything contained in the foregoing provisions of this Chapter, the responsibility of a railway

administration for the loss, destruction, damage, deterioration or non-delivery of any animal delivered to the administration to be carried by railway shall not exceed the amount respectively specified in column (2) against the item relating to the animal in column (1) of the First Schedule, unless the person delivering the animal to the railway administration declares in writing a higher value in the forwarding note and has paid or engaged to pay to the railway administration a percentage specified by it upon the excess of the value so declared over the respective sums mentioned in column (2) of the said Schedule.

(2) Where such higher value has been declared, the railway administration may charge, in respect of the increased risk, a percentage upon the excess of the value so declared over the respective sums aforesaid-

(3) Nothing contained in this section shall render the railway administration liable for any loss, destruction or damage arising from fright or restiveness of the animal or from overloading of wagon by the consignor or his agent.

77B. Further provision with respect to the responsibility of a railway administration as a carrier of articles of special value :-

(1) Notwithstanding anything contained in the provisions of this Chapter, when any articles mentioned in the Second Schedule are contained in any parcel or package delivered to a railway administration to be carried by railway and the value of such articles in the parcel or package exceeds five hundred rupees, the railway administration shall not be responsible for the loss, destruction, damage or deterioration of the parcel or package unless the person sending or delivering the parcel or package to the administration caused its value and contents to be declared in writing or declared them in writing at the time of the delivery of the parcel or the package for carriage by railway and if so required by the administration, paid or engaged to pay in writing a percentage on the value so declared by way of compensation for the increased risk.

(2) When any parcel or package of which the value has been declared under sub-section (1) has been lost, destroyed, or damaged or has deteriorated, the compensation recoverable in respect of such loss, destruction, damage or deterioration shall not

exceed the value so declared.

(3) A railway administration may make it a condition of carrying a parcel or package declared to contain any article mentioned in the Second Schedule that a railway servant authorised in this behalf has been satisfied by examination or otherwise that the parcel or package actually contains the article declared to be therein.

(4) The Central Government may, by notification in the Official Gazette, direct that any article mentioned in the Second Schedule may, without being contained in any parcel or package, be delivered to a railway administration to be carried by railway and upon the issue of such notification, the provisions of this section shall apply in relation to such article as they apply in relation to any article mentioned in the Second Schedule and contained in any parcel or package.

77C. Responsibility of a railway administration for damage, deterioration, etc., of goods in defective condition or defectively packed :-

(1) When any goods tendered to a railway administration to be carried by railway,-

(a) are in a defective condition as a consequence of which they are liable to damage, deterioration, leakage or wastage, or

(b) are either defectively packed or packed in manner not in accordance with the general or special order, if any, issued under sub-section (4), and as a result of such defective or improper packing are liable to damage, deterioration, leakage or wastage) and the fact of such condition or defective or improper packing has been recorded by the sender or his agent in the forwarding note, then, notwithstanding anything contained in the foregoing provisions of this Chapter, the railway administration shall not be responsible for any damage, deterioration, leakage or wastage, or for the condition in which such goods are available for delivery at destination, except upon proof of negligence or misconduct on the part of the railway administration or of any of its servants.

(2) When any goods delivered to a railway administration to be carried by railway are found on arrival at destination to have been damaged or to have suffered deterioration, leakage or wastage, then, notwithstanding anything contained in the foregoing provisions of this Chapter, the railway administration shall not be

responsible for the damage, deterioration, leakage or wastage of the goods on proof by the railway administration,- (a) that the goods were, at the time of delivery to the railway administration in a defective condition or were at that time either defectively packed or packed in a manner not in accordance with the general or special order, if any, issued under sub-section (4) and as a consequence of such defective condition or defective or improper packing were liable to damage, deterioration, leakage or wastage, and ' that such defective condition or defective or improper packing was not brought to the notice of the railway administration or of any of its servants at the time of delivery of the goods to the railway administration for carriage by railway: Provided that the railway administration shall be responsible for any such damage, deterioration, leakage or wastage if negligence or misconduct on the part of the railway administration or of any of its servants is proved.

(3) A railway administration shall not be responsible under sub-section (1) or sub-section (2) for any damage, deterioration, leakage or wastage occurring after the expiry of the period of [seven days] after the termination of transit as defined in sub-section (5) of section 77 .

(4) The Central Government may, by general or special order, prescribe the manner in which goods delivered to a railway administration to be carried by railway shall be packed.

78. Exoneration from responsibility in certain cases :-

Notwithstanding anything contained in the foregoing provisions of this Chapter, a railway administration shall not be responsible-

(a) for the loss, destruction, damage, deterioration or non-delivery of any goods with respect to the description of which an account materially false has been delivered under sub-section (1) of section 58 if the loss, destruction, damage, deterioration or non-delivery is, in any way., brought about by the false account, nor in any case for -an amount ex- ceeding the value of the goods if such value were calculated in accord- ance with the description contained in the false account; or

(b) for the loss, destruction, damage, deterioration or non-delivery of animals or goods in cases where there has been fraud practised by the consignor or the consignee or an agent of the consignor or the con- signee, or

(c) for the loss, destruction, damage, deterioration or non-delivery of animals or goods proved by the railway administration to have been caused by or to have arisen from-

(i) improper loading or unloading by the consignor or the consignee or by an agent of the consignor or the consignee, or

(ii) riot, civil commotion, strike, lock-out, stoppage or restraint of labour from whatever cause, whether partial or general, or

(d) for any indirect or consequential damages or for loss of particular market.

78A. Burden of proof in suits for compensation :-

In any suit against a railway administration for compensation for any delay, loss, destruction, damage, deterioration, or non-delivery, the burden of proving-

(a) in the case of animals, the value thereof, or the higher value declared under section 77A, and where the animal has been injured, the extent of the injury, or

(b) in the case of any parcel or package, the value of which has been declared under section 77-B or any article mentioned in the Second Schedule not contained in any parcel or package, the value of which has been declared under that section, that the value so declared is its true value. shall lie on the person claiming the compensation, but, subject to the other provisions contained in this Act, it shall not be necessary for him to prove how the delay, loss, destruction, damage, deterioration or non-delivery was caused.

78B. Notification of claims to refunds of overcharges and to compensation for losses :-

A person shall not be entitled to a refund of an overcharge in respect of animals or goods carried by railway or to compensation for the loss, destruction, damage, deterioration or non-delivery of animals or goods delivered to be so carried, unless his claim to the refund or compensation has been preferred in writing by him or on his behalf-

(a) to the railway administration to which the animals or goods were delivered to be carried by railway, or

(b) to the railway administration on whose railway the destination station lies, or the loss, destruction, damage or deterioration occurred, within six months from the date of the delivery of the

animals or goods for carriage by railway: Provided that any information demanded or inquiry made in writing from, or any complaint made in writing to, any of the railway administrations mentioned above by or on behalf of the person within the said period of six months regarding the non-delivery or delay in delivery of the animals or goods with particulars sufficient to identify the consignment of such animals or goods shall, for the purposes of this section, be deemed to be a claim to the refund or compensation.

79. Settlement of compensation for for injuries to officers, soldiers, sailors, airmen and followers on duty :-

Where an officer, soldier, [SAILOR], [airman] or follower, while being or travelling as such on duty upon a railway belonging to, and worked by, the Government, [* * *] loses his life or receives any personal injury in such circumstances that if he were not an officer, soldier [sailor], [airman] or follower being or travelling as such on duty upon the railway compensation would be payable under Act No. XIII of 1855 or to him, as the case may be, the form and amount of the compensation to be made in respect of the loss of his life or his injury shall, where there is any provision in this behalf in the military, [naval] [or air-force] regulations to which he was immediately before his death, or is, subject, be determined in accordance with those regulations, and not otherwise.

80. Suits for compensation :-

A suit for compensation for loss of the life of, or personal injury to, a passenger or for loss, destruction, damage, deterioration or non-delivery of animals or goods may be instituted,

(a) if the passenger was, or the animals or goods were, booked from one station to another on the railway of the same railway administration, against that railway administration;

(b) if the passenger was, or the animals or goods were, booked through over the railway of two or more railway administrations against the railway administration from which the passenger obtained his pass or purchased his ticket or to which the animals or goods were delivered for carriage, as the case may be, or against the railway administration on whose railway the destination station lies, or the loss, injury, destruction, damage or deterioration occurred; and, in either case, the suit may be instituted in a court having jurisdiction over the place at which the passenger obtained his pass or purchased his ticket or the animals or goods were delivered for carriage, as the case may be, or over the place in

which the destination station lies, or the loss, injury, destruction, damage or deterioration occurred.]

81. Limitation of liability of railway administration in respect of traffic on inland waters by vessel not being part of railway :-

Repealed by the Indian Railways Act (1890) Amendment Act, 1896 (9 of 1896), Section 5 .]

82. Limitation of liability of railway administration in respect of accidents at sea :-

(1) When a railway administration contracts to carry passengers, animals or goods partly by railway and partly by sea, a condition exempting the railway administration from responsibility for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea from the act of God, [public enemies], fire, accidents from machinery, boilers and steam and all and every other dangers and accidents of the seas, rivers and navigation of whatever nature and kind soever shall, without being expressed, be deemed to be part of the contract, and, subject to that condition, the railway administration shall, irrespective of the nationality or ownership of the ship used for the carriage by sea, be responsible for any loss of life, personal injury or loss of or damage to animals or goods which may happen during the carriage by sea, to the extent to which it would be responsible under [the Merchant Shipping Act, 1958, if the ship were registered under that Act] and the railway administration were owner of the ship, and not to any greater extent.

(2) The burden of proving that any such loss, injury or damage as is mentioned in sub-section (1) happened during the carriage by sea shall lie on the railway administration.

82A. Liability of railway administration in respect of accidents to trains carrying passengers :-

(1) When in the course of working a railway an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then, whether or not there has been any wrongful act, neglect or default on the part of the railway administration such as would entitle a person who has been injured or has suffered loss to maintain an action and recover damages in respect thereof, the railway administration

shall, notwithstanding any other provision of law to the contrary, be liable to pay compensation to the extent set out in sub-section (2) and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction or deterioration of animals or goods owned by the passenger and accompanying the passenger in his compartment or on the train, sustained as a result of such accident.

(2) The liability of a railway administration under this section shall in no case exceed [rupees one lakh in respect of any one person.]

82B. claims Commissioners :-

The Central Government may, by notification in the Official Gazette, appoint any person to be a Claims Commissioner for such local area [or for such accident or accidents] as may be specified .in the notification]

82C. Application for compensation :-

(1) An application for compensation under section 82-A arising out of any accident of the nature specified therein [may be made to the claims Commissioner]-

(a) by the person who has sustained the injury or suffered any loss, or

(b) by any agent duly authorized by such person in this behalf, or

(c) where such person is a minor, by his guardian, and

(d) where death has resulted from the accident, by any dependant of the deceased.

(2) No application for compensation under this section shall be entertained unless it is made within three months of the occurrence of the accident, but the Claims Commissioner may on good cause shown allow any application to be made at any time within one year of such occurrence. [Explanation.- Where a Claims Commissioner is appointed under section 82-B with respect to any particular accident or accidents, the references in this sub-section to the occurrence of the accident shall be construed as references to the date on which the Claims Commissioner so appointed assumes charge of his office.]

[(2A) If an applicant desires to be paid interim relief under section 82HH , he may send to the railway administration a copy of the

application made under sub-section (1) with a request for payment of such interim relief.]

(3) If in an application for compensation under this section, any person makes a statement which is false and which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term which may extend to three years, or with fine; or with both. Explanation.- In this section, [and section 82HH] the word "dependant" has the meaning assigned to it in clause (d) of section 2 of the Workmen's Compensation Act, 1923.

82D. Procedure and powers of Claims Commissioners :-

(1) In inquiring into and determining any claim for compensation payable under section 82-A, the Claims Commissioner may, subject to any rules that may be made in this behalf, follow such summary procedure as he thinks fit.

(2) The Claims Commissioner shall have all the powers of a Civil Court for the purpose of taking evidence on oath (which the Claims Commissioner is hereby empowered to impose) and of enforcing the attendance of witnesses and compelling the discovery and production of documents and material objects and the Claims Commissioner shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898.

(3) Subject to any rules that may be made in this behalf, the Claims Commissioner may, for the purpose of determining any claim for compensation, choose one or more persons possessing special knowledge of any matter relevant to the inquiry to assist him in holding the inquiry.

82E. Interim orders for compensation :-

(1) Where, in the opinion of the Claims Commissioner, circumstances exist which require relief to be afforded to an applicant for compensation immediately, he may, pending determination of the actual amount of compensation payable, direct the railway administration to deposit with him forthwith such sums as he considers reasonable for affording such relief: Provided that the Claims Commissioner is satisfied, that-

(i) no grounds exist for doubting the correctness of the facts stated

by the applicant;

(ii) on the facts so stated, it proved, the applicant would be entitled to compensation; [*]

[(iii) the payment by way of interim relief, if any, made to the applicant by the railway administration under section 82HH is not adequate; and

(iv) the amount of compensation directed to be paid under this section together with the payment by way of interim relief, if any, made under section 82HH is not likely to exceed the actual amount of compensation that may ultimately become payable.]

(2) Any sum directed to be paid under sub-section (1) by way of interim payment shall be deducted from the amount of compensation that may ultimately become payable.

82F. Liability to pay compensation, etc., to be decided by Claims Commissioner :-

(1) Any question as to the liability of the railway administration to pay compensation under section 82-A, or as to amount thereof, or as to the person to whom such compensation is payable, shall be decided by the Claims Commissioner.

(2) Any person aggrieved by a decision of the Claims Commissioner refusing to grant compensation, or as to the amount of compensation granted to him, may prefer an appeal to the High Court having jurisdiction in the place where the accident occurred: Provided that nothing in this sub-section shall be deemed to authorize the High Court to grant compensation in excess of the limit specified in section 82-A.

(3) The period of limitation for an appeal under this section shall be ninety days.

(4) The provisions of S.5 of the Limitation Act, 1908, shall be applicable to appeals under this section.

(5) Subject to the decision of the High Court in cases in which an appeal is preferred under sub-section (1), the decision of the Claims Commissioner on any question referred to in sub-section (1) shall be final and shall not be called in question in any Court.

82G. Recovery and payment of compensation :-

(1) A railway administration shall comply with an order for compensation, including an interim order for compensation under section 82-E forthwith by depositing the amount of the compensation with the Claims Commissioner.

(2) Where any compensation has been deposited as required by sub-section (1), the railway administration shall, notwithstanding anything in any other law for the time being in force, be discharged from all liability to any person whatsoever in respect of any compensation so deposited.

(3) Any compensation deposited with Claims Commissioner under section 82-E or this section shall, with the least possible delay, be paid to the applicant for compensation to whom it is payable.

(4) Where there are more applications than one for compensation, the compensation may be apportioned amongst the applicants in such manner as the Claims Commissioner thinks fit, or may be allotted to the applicant who in the opinion of the Claims Commissioner is best entitled thereto: Provided that the Claims Commissioner shall in any case in which he proposes to proceed under this sub-section require as a condition precedent to the granting of compensation that the person to whom the compensation is to be paid shall give to the Claims Commissioner a bond with one or two sureties, or other sufficient security, for rendering an account of the compensation received by him and for indemnity of persons who may be entitled to the whole or any part of the compensation.

(5) The Claims Commissioner may, on application made to him by petition and on cause shown to his satisfaction, and upon such terms as he thinks fit, assign the bond or other security given under sub-section (4) to some proper person, and that person shall thereupon be entitled to sue thereon in his own name as if it had been originally given to him instead of to the Claims Commissioner, and to recover, as trustee for all persons interested, such amount as may be recoverable thereunder.

82H. Saving as to certain rights :-

(1) The right of any person to claim compensation under section 82-A shall not affect the right of any such person to recover compensation payable under the Workmen's Compensation Act, 1923, or any other law for the time being in force; but no person shall be entitled to claim compensation more than once in respect

of the same accident.

(2) Nothing in sub-section (1) shall affect the right of any person to claim compensation payable under any contract or scheme providing for payment of compensation for death or personal injury or for damage to property or any sum payable under any policy of insurance. 1

82HH. Interim relief by railway administration :-

(1) Where on receipt of an application under sub-section (2A) of Section 82C and after making such enquiry as it may deem fit, the railway administration is satisfied that circumstances exist which require relief to be afforded to an applicant for compensation immediately, it may, pending determination of the actual amount of compensation payable under section 82A , pay to any person who has sustained injury or suffered any loss, or where death has resulted from the accident, to any dependent of the deceased, such sum as it considers reasonable for affording such relief, so however, that the sum paid shall not exceed the amount of compensation payable at the rates prescribed under the rules made under section 82J .

(2) The railway administration shall, as soon as may be, after making an order regarding payment of interim relief under sub-section (1), send a copy thereof to the Claims Commissioner-

(3) Any sum paid by the railway administration under sub-section (1) shall be taken into account by the Claims Commissioner while determining the amount of compensation payable.]

82I. Bar of certain legal proceedings :-

No suit, prosecution or other legal proceeding shall lie against any person for anything in good faith done or intended to be done in pursuance of sections 82-A to [82HH] inclusive or of any rules made under section 82-J.]

82J. Power to make rules :-

(1) The Central Government may, by notification in the Official Gazette, make rules'* to carry out the objects of sections 82-A to 82-H inclusive.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for-

- (i) the qualifications and conditions of service of Claims Commissioners;
- (ii) the compensation payable for death;
- (iii) the nature of the injuries for which compensation shall be paid and the amount of such compensation;]
- (iv) the manner in which claims for compensation may be inquired into and determined by the Claims Commissioner;
- (v) the matters in respect of which any person may be chosen to assist the Claims Commissioner under section 82-D, and the functions exercisable by such person;
- (vi) generally for the effective exercise of any powers conferred on the Claims Commissioner.

[(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session [or in two or more successive sessions], and if before the expiry of the session [im- mediately following the session or the successive sessions aforesaid], both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.]]

CHAPTER 8 ACCIDENTS

83. Report of railway accidents :-

When any of the following accidents occurs in the course of working a railway, namely,-

- (a) any accident attended with loss of human life, or with grievous hurt as defined in the Indian Penal Code, or with serious injury to property;
- (b) any collision between trains of which one is a train carrying passengers;
- (c) the derailment of any train carrying passengers, or of any part of such a train;
- (d) any accident of a description usually attended with loss of

human life or with such grievous hurt as aforesaid or with serious injury to property;

(e) any accident of any other description which the [Central Government] may notify in this behalf in the Official Gazette; the railway administration working the railway and, if the accident happens to a train belonging to any other railway administration, the other railway administration also shall, without unnecessary delay, send notice of the accident to the State Government and to the Inspector appointed for the railway; and the station master nearest to the place at which the accident occurred or, where there is no station-master, the railway servant in charge of the section of the railway on which the accident occurred shall, without unnecessary delay, give notice of the accident to the Magistrate of the district in which the accident occurred, and to the officer in charge of the police-station within the local limits of which it occurred, or to such other Magistrate and police-officer as the [Central Government] appoints in this behalf.

84. Power to make rules regarding notices of and inquiries into accidents :-

The [Central Government] may make rules, consistent with this Act and any other enactment for the time being in force, for all or any of the following purposes, namely:-

(a) for prescribing the forms of the notices mentioned in the last foregoing section, and the particulars of the accident which those notices are to contain;

(b) for prescribing the class of accidents of which notice is to be sent by telegraph immediately after the accident has occurred;

(c) for prescribing the duties of railway servants, police-officers, Inspectors and Magistrates on the occurrence of an accident.

85. Submission of return of accidents :-

Every railway administration shall send to the [Central Government] a return of accidents occurring upon its railway, whether attended with personal injury or not, in such form and manner and at such intervals of time as the [Central Government] directs.

86. Provision for compulsory medical examination of person injured in railway accident :-

Whenever any person injured by an accident on a railway claims

compensation on account of the injury, any Court or person having by law or consent of parties authority to determine the claim may order that the person injured be examined by some duly qualified medical practitioner named in the order and not being a witness on either side, and may make such order with respect to the costs of the examination as it or he thinks fit.

CHAPTER 9

PENALTIES AND OFFENCES

87. Penalty for default in compliance with requisition under section 13 :-

If a railway company fails to comply with any requisition made under section 13, it shall forfeit to the [Central Government] the sum of two hundred rupees for the default and a further sum of fifty rupees for every day after the first during which the default continues.

88. Penalty for contravention of section 16, 18, 19, 20, 21 or 24 :-

If a railway company moves any rolling-stock upon a railway by steam or other motive power in contravention of section 16 , sub-section (2), or opens or uses any railway or work in contravention of section 18 , section 19 , section 20 or .section 21, or reopens any railway or uses any rolling-stock in contravention of section 24 , it shall forfeit to the [Central Government] the sum of two hundred rupees for every day during which the motive power, railway, work or rolling-stock is used in contravention of any of those sections.

89. Penalty for not having certain documents kept or exhibited at stations under section 54 or 65 :-

If a railway company fails to comply with the provisions of [* * *] section 54 , sub-section (2), or section 65 , with respect to the books or other documents to be kept open to inspection or conspicuously posted at stations on its railway, it shall forfeit to the [Central Government] the sum of fifty rupees for every day during which the default continues.

90. Penalty for not making rules as required by section 47 :-

If the railway company fails to comply with the provisions of section 47 with respect to the making of general rules [and the keeping thereof open to inspection] it shall forfeit to the [Central Government] the sum of fifty rupees for every day during which

the default continues: [* * * * *]

91. Penalty for failure to comply with decision under section 48 :-

If a railway company refuses or neglects to comply with any decision of the [Central Government] under section 48 , it shall forfeit to the [Central Gov- ernment] the sum of two hundred rupees for every day during which the refusal or neglect continues.

92. Penalty for delay in submitting returns under section 52 or 85 :-

If a railway company fails to comply with the provisions of section 52 or sec- tion 85 with respect to the submission of any return, it shall forfeit to the [Central Government] the sum of fifty rupees for every day during which the default continues after the fourteenth day from the date prescribed for the submission of the return.

93. Penalty for neglect of provisions of section 53 or 63 with respect to carrying capacity of rolling-stock :-

If a railway company contravenes the provisions of section 53 or section 63 with respect to the maximum load to be carried in any wagon or truck, or the maximum number of passengers to be carried in any compartment, or the exhibition of such load on the wagon or truck or of such number in or on the compartment, or knowingly suffers any person owning a wagon or truck passing over its railway to contravene the provisions of the former of those sections, it shall forfeit to the [Central Government] the sum of twenty rupees for every day during which either section is contravened. [* * * * *]

94. Penalty for failure to comply with requisition under Section 62 for maintenance of means of communication between passengers and railway servants :-

If a railway company fails to comply with any requisition of the [Central Government] under section 62 for the provision and maintenance in proper order, in any train worked by it, which carries passengers, of such ef- ficient means of communication as the [Central Government] has approved, it shall forfeit to the [Central Government] the sum of twenty rupees for each train run in disregard of the requisition.

95. Penalty for failure to reserve compartment for females under sec- tion 64 :-

If a railway company fails to comply with the requirements of sec-

tion 64 with respect to the reservation of compartment for females or the provision of closets therein, it shall forfeit to the [Central Government] the sum of twenty rupees for every train in respect of which the default occurs.

96. Penalty for omitting to give the notices of accidents required by section 83 and under section 84 :-

If a railway company omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, it shall forfeit to the [Central Government] the sum of one hundred rupees for every day during which the omission continues.

97. Recovery of penalties :-

(1) When a railway company has through any act or omission forfeited any sum [* * *] under the foregoing provisions of this Chapter, the sum shall be recoverable by suit in the District Court having jurisdiction in the place where the act or omission or any part thereof occurred.

[(2) Nothing in this Chapter shall be construed as requiring any authority to recover any penalty in any case in which it thinks it proper to refrain from so doing.]

98. Alternative or supplementary character of remedies afforded by the foregoing provisions of this Chapter :-

Nothing [in the foregoing provisions of this Chapter] shall be construed to preclude the [Central Government] from resorting to any other mode of proceeding instead of, or in addition to, such a suit as is mentioned in the last foregoing section, for the purpose of compelling a railway company to discharge any obligation imposed upon it by this Act.

99. Breach of duty imposed by section 60 :-

If a railway servant whose duty it is to comply with the provisions of section 60 negligently or wilfully omits to comply therewith, he shall be punished with fine which may extend to twenty rupees.

100. Drunkenness :-

If a railway servant is in a state of intoxication while on duty, he shall be punished with fine which may extend to fifty rupees, or, where the improper performance of the duty would be likely to endanger the safety of any person travelling or being upon a railway, with imprisonment for a term which may extend to one year, or

with fine, or with both.

100A. Abandoning train, etc., without authority :-

If a railway servant, when on duty, is entrusted with any responsibility connected with the running of a train, rail-car or any other rolling-stock from one station or place to another station or place, and he abandons his duty before reaching such station or place, without authority or without properly handing over such train, rail-car or rolling stock to another authorised railway servant, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees or with both.

100B. Obstructing running of train, etc :-

If a railway servant, when on duty or otherwise, or any other person obstructs or causes to be obstructed or attempts to obstruct any train, rail-car or other rolling-stock upon a railway, by squatting, picketing, keeping without authority any rolling-stock on the railway or tampering with signal gear or otherwise, he shall be punishable with imprisonment for a term which may extend to two years, or with fine which may extend to five hundred rupees, or with both.]

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 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.

102. Compelling passengers to enter carriages already full :-

If a railway servant compels or attempts to compel, or causes, any passenger to enter a compartment which already contains the maximum number of passengers exhibited therein or thereon under section 63, he shall be punished with fine which may extend to twenty rupees.

103. Omission to give notice of accident :-

If a station-master or a railway servant in charge of a section of a railway omits to give such notice of an accident as is required by section 83 and the rules for the time being in force under section 84, he shall be punished with fine which may extend to fifty rupees.

104. Obstructing level-crossings :-

If a railway servant unnecessarily-

(a) allows any rolling-stock to stand across a place where the railway crosses a public road on the level, or

(b) keeps a level-crossing closed against the public, he shall be punished with fine which may extend to twenty rupees.

105. False returns :-

If any return which is required by this Act is false in any particular to the knowledge of any person who signs it, that person shall be punished with fine which may extend to five hundred rupees, or with imprisonment which may extend to one year, or with both.

106. Giving false account of goods :-

If a person requested under section 58 to give an account with respect to any goods gives an account which is materially false, he and, if he is not the owner of the goods, the owner also shall be punished with fine which may extend to [one hundred and fifty rupees for every quintal or part of a quintal] of the goods, and the fine shall be in addition to any rate or other charge to which the goods may be liable.

107. Unlawfully bringing dangerous or offensive goods upon a railway :-

If in contravention of section 59 a person takes with him any dangerous or offensive goods upon a railway, or tenders or delivers any such goods for carriage upon a railway, he shall be punished with fine which may extend to five hundred rupees, and shall also be responsible for any loss, injury or damage which may be caused by reason of such goods having been so brought upon the railway.

108. Needlessly interfering with means of communication in a train :-

If a passenger, without reasonable and sufficient cause, makes use of or interferes with any means provided by a railway administration for communication between passengers and the

railway servants in charge of a train, he shall be punished "{with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both}. [Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court where a passenger, without reasonable and sufficient cause, makes use of the alarm chain provided by a railway administration, he shall be punished-

(a) in the case of conviction for the first offence, with fine which shall not be less than twenty-five rupees; and

(b) in the case of conviction for the second or subsequent offence, with imprisonment for a term which shall not be less than one month.]

109. Entering compartment reserved or already full or resisting entry into a compartment not full :-

(1) If a passenger, having entered a compartment which is reserved by a railway administration for the use of another passenger, or which already contains the maximum number of passengers exhibited therein or thereon under section 63 , [or having unauthorisedly occupied a berth or seat reserved by railway administration for the use of an other passenger, refuses to leave it when required to do so by any railway servant, he may be removed from the compartment or the berth or seat, as the case may be, by any railway servant authorised by the railway administration in this behalf or by any other person whom such railway servant may call to his aid and he shall also be punishable with fine which may extend to twenty rupees].

(2) If a passenger resists the lawful entry of another passenger into a compartment not reserved by the railway administration for the use of the passenger resisting or not already containing the maximum number of passengers exhibited therein or thereon under section 63 , he shall be punished with fine which may extend to twenty rupees.

110. Smoking :-

(1) If a person, without the consent of his fellow-passengers, if any, in the same compartment, smokes in any compartment except a compartment specially provided for the purpose, he shall be punished with fine which may extend to twenty rupees.

(2) If any person persists in so smoking after being warned by any rail- way servant to desist, he may, in addition to incurring the liability mention- ed in sub-section (1), be removed by any railway servant from the carriage in which he is travelling.

111. Defacing public notices :-

If a person, without authority in this be- half, pulls down or wilfully injures any board or document set up or posted by order of 'a railway administration on a railway or any rolling-stock, or obliterates or alters any of the letters or figures upon any such board or document, he shall be punished with fine which may extend to fifty rupees.

112. Fraudulently travelling or attempting to travel without proper pass or ticket :-

[(1) If a person, with intent to defraud a railway administra- tion,-

(a) enters [or remains in any carriage on a railway in contravention of section 68], or

(b) uses or attempts to use a single pass or single ticket which has already been used on a previous journey or, in the case of a return ticket, a half thereof which has already been so used, he shall be punished [with imprisonment for a term which may extend to three months or] with fine [which shall not be less than ten rupees but which may extend to five hundred rupees] [and shall also be liable to pay the excess charge hereinafter in this section mentioned in addition to the ordi- nary single fare for the distance which he has travelled, or where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or if the tickets of passengers travelling in the train have been examined since the original start- ing of the train, the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined:]

[(1A) The excess charge referred to in sub-section (1), shall be a sum equivalent to the ordinary single fare referred to in that sub- section or [ten rupees], whichever is greater.}

[(2) Notwithstanding anything contained in Section 65 of the Indian Penal Code, 1860 , the Court convicting an offender under this section may direct that the offender in default of payment of any fine inflicted by the Court, shall suffer imprisonment for a term

which may extend to three months.]

113. Travelling without pass or ticket or with Insufficient pass or ticket or beyond authorized distance :-

(1) If a passenger travels in a train without having a proper pass or a proper ticket with him, or, being in or having alighted from a train, fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition being made therefor under section 69 , he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to the ordinary single fare for the distance which he has travelled or, where there is any doubt as to the station from which he started, the ordinary single fare from the station from which the train originally started, or, if the tickets of passengers travelling in the train have been examined since the original starting of the train the ordinary single fare from the place where the tickets were examined or, in case of their having been examined more than once, were last examined.

(2) If a passenger travels or attempts to travel in or on a carriage, or by a train of a higher class than that for which he has obtained a pass or purchased a ticket, or travels in or on a carriage beyond the place authorized by his pass or ticket, he shall be liable to pay, on the demand of any railway servant appointed by the railway administration in this behalf, the excess charge hereinafter in this section mentioned, in addition to any difference between any fare paid by him and the fare payable in respect of such journey as he has made.

[(3) The excess charge referred to in sub-section (1) and sub-section (2) shall be a sum equivalent to the amount otherwise payable under those sub-sections, or [ten rupees], whichever is greater: Provided that where the passenger has immediately after incurring the charge and before being detected by a railway servant notified to the railway servant on duty with the train the fact of the charge having been incurred, the excess charge shall be one-sixth of the excess charge otherwise payable calculated to the [nearest multiple of five paise, or five rupees], whichever is greater: Provided further that if the passenger has with him a certificate granted under sub-section (2) of section 68 , no excess charge shall be payable.]

(4) If a passenger liable to pay the excess charge and fare mentioned in sub-section (1), or the excess charge and any difference of fare mentioned in sub-section (2), fails or refuses to pay the same on demand being made there- for under one or other of those sub-sections, as the case may be, [any rail- way servant appointed by the railway administration in this behalf may ap- ply to [any Presidency Magistrate or Magistrate of the first or second class] for the recovery of the sum payable as if it were a fine, and the Magistrate if satisfied that the sum is payable shall order it to be so recovered, and may order that the person liable for the payment shall in default of pay- ment suffer imprisonment of either description for a term which may extend to one month. Any sum recovered under this sub-section shall, as it is re- covered, be paid to the railway administration.]

113A. Power to remove persons from railway carriage :-

Any person who, without having obtained the permission of a railway servant, travels or attempts to travel in a carriage without having a proper pass or ticket with him, or in a carriage of a higher class than that for which he has obtained a pass. or purchased a ticket, or in a carriage beyond the place authorized by his pass or ticket, or who being in a carriage fails or refuses to present for examination or to deliver up his pass or ticket immediately on requisition be- ing made therefor under section 69 , may be removed from the carriage by any railway servant authorized by the railway administration in this behalf or by any other person whom such railway servant may call to his aid, unless he then and there pays the fare and the excess charge which he is liable to pay under section 113 : Provided that nothing in this section shall be deemed to preclude a per- son removed from a carriage of a higher class from continuing his journey in a carriage of a class for which he holds a pass or ticket: Provided further that women and children, if unaccompanied by male passengers, shall not be so removed except either at the station at which they first enter the train or at a junction or terminal station or station at the headquarters of a civil district and only between the hours of 6 am. and 6 p.m.)

113B. Security for good behaviour in certain cases :-

(1) When a Court. convicting a person of an offence under section 112 or section 113 finds that he has been .habitually committing or attempting to commit that offence and the Court is of opinion that

it is necessary or desirable to require that person to execute a bond for good behaviour, such Court may at the time of passing the sentence on the person order him to execute a bond, with or without sureties, for such amount and for such period not exceeding three years as it thinks fit.

(2) An order under this section may also be made by an appellate court or by the High Court when exercising its powers of revision.}

114. Penalty for transfer of tickets :-

(1) If a person, not being a railway servant or an agent authorised by the railway administration in this behalf,-

(a) sells or attempts to sell any ticket or any half of a return ticket, or

(b) parts or attempts to part with the possession of a ticket against which reservation of a seat or berth has been made, or any half of a return ticket, or a season ticket, in order to enable any other person to travel therewith, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both, and shall also forfeit the fare which he may have paid and the ticket which he may have sold or attempted to sell.

(2) If a person purchases any-ticket referred to in clause (a) of sub-section (1), or obtains the possession of any ticket referred to in clause (b) of that sub-section, from any other person, not being a railway servant or an agent authorised by the railway administration in this behalf, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two hundred and fifty rupees, or with both, and if the purchaser or holder of any ticket aforesaid travels or attempts to travel therewith, he shall forfeit the ticket which he may have purchased or obtained and shall be deemed to be travelling without having a proper ticket with him, and shall be liable to be dealt with under section 113 .1

114A. Penalty for unauthorised carrying on of business of procuring and supplying railway tickets :-

(1) If a person, not being a railway servant or an agent authorised by -the railway administration in this behalf,-

(a) carries on the business of procuring and supplying tickets for

travel on a railway for reserved accommodation for journey in a train: or

(b) purchases or sells or attempts to purchase or sell tickets with a view to carrying on any such business either by himself or by any other person, he shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to one thousand rupees, and shall also forfeit the fare which he may have paid for any ticket and the ticket which he may have purchased, supplied or sold Or attempted to supply or sell.

(2) Whoever abets any offence punishable under this section shall, whether or not such offence is committed, be punishable with the same punishment as is provided for the offence.]

115. Excess charge and single fare collected to be paid to railway administration :-

Out of any amount recovered under section 112, the excess charge and single fare referred to in that section shall be paid to the railway administration before any portion of that amount is credited as fine to the Government; and that portion of any fine imposed under section 114 which represents the single fare therein mentioned shall, as the fine is recovered, be paid to the railway administration before any portion of the fine is credited to the Government.

116. Altering or defacing pass or ticket :-

If a passenger wilfully alters or defaces his pass or ticket so as to render the date/number or any material portion thereof illegible, he shall be punished [with imprisonment for a term which may extend to three months or with fine which may extend to two hundred and fifty rupees, or with both].

117. Being or suffering person to travel on railway with infectious or contagious disorder :-

(1) If a person suffering from an infectious or contagious disorder enters or travels upon a railway in contravention of section 71, sub-section (2), he, and any person having charge of him upon the railway when he so entered or travelled thereon, shall be punished with fine which may extend, to twenty rupees, in addition to the forfeiture of any fare which either of them may have paid, and of any pass or ticket which either of them may have obtained or purchased, and may be removed from the railway by any railway servant.

(2) If any such railway servant as is referred to in section 71 , sub-section (2), knowing that a person is suffering from any infectious or contagious disorder, wilfully permits the person to travel upon a railway without arranging for his separation from other passengers; he shall be punished with fine which may extend to one hundred rupees.

118. Entering carriage in motion, or otherwise improperly travelling on. a railway :-

(1) If a passenger enters or leaves, or attempts to enter Or leave, any carriage while the train is in motion, or elsewhere than at the side of the carriage adjoining the platform or other place appointed by the railway administration for passengers to enter or leave the carriage, or opens the Side-door of any carriage while the train is in motion, he shall be punished [with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with both].

(2) If a passenger, after being warned by a railway servant to desist, persists in travelling on the roof steps or footboard of any carriage or on an engine, or in any other part of a train not intended for the use of passengers, he shall be punished [with imprisonment for a term which may extend to three months, or with fine .which may extend to one hundred and fifty rupees, or with both] and may be removed from the railway by any railway servant.

119. Entering carriage or other place reserved for females :-

If a male person, knowing a carriage, compartment, room or other place to be reserved by a railway administration .for the exclusive use of females, enters the place without lawful excuse, or, having entered it, remains therein after having been desired by any railway servant to leave it, he shall be punished with fine which may extend to one hundred rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

120. Drunkenness or nuisance on a railway :-

If a person in any railway carriage or upon any part of a railway-

(a) is in a state of intoxication, or

(b) commits any nuisance or act of indecency, or uses obscene or abusive language, or

(c) wilfully and without lawful excuse interferes with the comfort of any passenger or extinguishes any lamp, he shall be punished with fine which may extend to fifty rupees, in addition to the forfeiture of any fare which he may have paid and of any pass or ticket which he may have obtained or purchased, and may be removed from the railway by any railway servant.

120A. Canvassing or hawking on a railway :-

(1) If a person canvasses for any custom or hawks or exposes for sale any article whatsoever, in any railway carriage or upon any part of a railway, except under and in accordance with the terms and conditions of a licence granted by the railway administration in this behalf, he shall be punishable with fine which may extend to two hundred and fifty rupees. [Provided that in the absence of special and adequate reasons to the contrary to be mentioned in the judgment of the court, such fine shall be not less than fifty rupees.]

[(1A) If any person convicted of an offence under sub-section (1) commits a like offence afterwards, he shall be punished with imprisonment for a term which may extend to six months, or with fine which may extend to two hundred and fifty rupees, or with both.]

(2) Any such person as is referred to in sub-section (1) [or sub-section (1A)] may be removed from the carriage or part of the railway by any railway servant authorised by the railway administration in this behalf or by any other person whom such railway servant may call to his aid.]

121. Obstructing railway servant in his-duty :-

If a person wilfully obstructs or impedes any railway servant in the discharge of his duty, he shall be punished [with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both].

122. Trespass and refusal to desist from trespass :-

(1) If a person unlawfully enters upon a railway, he shall be punished [with imprisonment for a term which may extend to one month, or with fine which may extend to fifty rupees, or with

both].

(2) If a person so entering refuses to leave the railway on being request- ed to do so by any railway servant, or by any other person on behalf of the railway administration, he shall be punished [with imprisonment for a term which may extend to three months, or with fine which may extend to one hundred and fifty rupees, or with both] and may be removed from the railway by such servant or other person.

123. Disobedience of omnibus drivers to irections of railway servants :-

If a driver or conductor of a tramear, omnibus carriage or other vehicle while upon the premises of a railway disobeys the reasonable directions of any rail- way servant or police-officer, he shall be punished with fine which may ex- tend to twenty rupees.

124. Opening or not properly shutting gates :-

In either of the following cases, namely:-

(a) if a person knowing or having reason to believe that an engine or train is approaching along a railway, opens any any gate set up on either side of the railway across a road, or passes or attempts to pass, or drives or takes, or attempts to drive or take, any animal, vehicle or other thing across the railway,

(b) if, in the absence of a gatekeeper, a person omits to shut and fasten such a gate as aforesaid as soon as he and any animal, vehicle or other thing under his charge have passed through the gate, the person shall be punished with fine -which may extend to fifty rupees.

125. Cattle-trespass :-

(1) The owner or person in charge of any cattle straying on a railway provided with fences suitable for the exclusion of cattle shall be punished with fine which may extend to five rupees for each head of cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(2) If any cattle are wilfully driven, or knowingly permitted to be, on any railway otherwise than for the purpose of lawfully crossing the railway or for any other lawful purpose, the person in charge of the cattle or, at the option of the railway administration, the owner

of the cattle shall be punished with fine which may extend to ten rupees for each head of the cattle, in addition to any amount which may have been recovered or may be recoverable under the Cattle-trespass Act, 1871.

(3) Any fine imposed under this section may, if the Court so directs, be recovered in manner provided by Section 25 of the Cattle trespass Act, 1871 .

(4) The expression "public road" in S.11 of the Cattle-trespass Act, 1871 , S.26 of the Cattle-trespass Act, 1871, shall be deemed to include a railway, and any railway servant may exercise the powers conferred on officers of police by the former of those sections.

(5) The word "cattle" has the same meaning in this section as in the Cattle-trespass Act, 1871.

126. Maliciously wrecking or attempting to wreck a train :-

[(1)] [(Subject to the provisions of sub-section (2), if a person unlawfully],-

(a) puts or throws upon or across any railway any wood, stone or other matter or thing, or

(b) takes up, removes, loosens or displaces any rail, sleeper or other matter or thing belonging to any railway, or

(c) turns, moves, unlocks or diverts any points or other machinery belonging to any railway, or

(d) makes or shows, or hides or removes, any signal or light upon or near to any railway, or

(e) does or causes to be done or attempts to do any other act or thing in relation to any railway, with intent, or with knowledge that he is likely, to endanger the safety of any person travelling or being upon the railway, he shall be punished [with imprisonment for life or with rigorous imprisonment for a term which may extend to ten years: Provided that in the absence of special and adequate reason to the contrary to be mentioned in the judgment of the Court, where a person: is punished with rigorous imprisonment, such rigorous punishment shall,-

(a) in the case of a first conviction, be not less than three years, or

(b) in the case of a subsequent conviction, Be not less than seven years.]

[(2) If a person unlawfully does any act or thing referred to in clause (a) or clause (b) or clause (c) or clause (d) or clause (e) of sub-section (1),-

(i) with intent to cause the death of any person and the doing of such act or thing causes the death of any person; or

(ii) with knowledge that such act or thing is so imminently dangerous that it must in all probability cause the death of any person or such bodily injury to any person as is likely to cause the death of such person, he shall be punished with death or imprisonment for life.]

126A. Damage to, or destruction of certain railway properties :-

(1) Whoever, with intent to cause or knowing that he is likely to cause damage or destruction to any of the properties of a railway referred to in sub-section (2) causes by fire, explosive substance or otherwise, damage to such property to the amount of one hundred rupees or upwards, or destruction of such property, shall be punished with imprisonment for a term which may extend to ten years.

(2) The properties of railway referred to in sub-section (1) are railway track, bridges, station buildings and installations, carriages or wagons locomotives, signalling, telecommunication, electric traction and block equipments and such other properties as the Central Government, being of opinion that damage thereto or destruction thereof is likely to endanger the operation of a railway, may, by notification in the Official Gazette, specify,

(3) Every notification issued under sub-section (2) shall be laid before each House of Parliament immediately after it is made if it is in session and on the first day of the commencement of the next session of the House if it is not in session, and shall cease to operate at the expiration of forty days from the date of its being so laid or from the reassembly of Parliament, as the case may be, unless before the expiration of that period a resolution approving the issue of the notification is passed by both Houses of Parliament.

Explanation.- Where the Houses of Parliament are summoned to re-assemble on different dates, the period of forty days shall be reckoned from the inter of those dates.]

127. Maliciously hurting or attempting to hurt persons travelling by rail- way :-

If a person unlawfully throws or causes to fall or strike at, against, into or upon any rolling-stock forming part of a -train any wood, stone or other matter or thing with intent- or with knowledge that he is likely, to en- danger the safety of any person being in or upon such rolling-stock or in or upon any other rolling-stock forming part of the same train, he shall be punished with [imprisonment for life] or with imprisonment for a term which may extend to ten years.

128. Endangering safety of persons travelling by railway by wilful act or omission :-

If a person, by any unlawful act or by any wilful omission or neglect, endangers or causes to be endangered the safety of any person travelling or being upon any railway, or obstructs or causes to be obstructed or attempts to obstruct any rolling-stock upon any railway, he shall be punished [with imprisonment for a term which extend to five years: Provided that in the absence of special and adequate reasons to the con- trary to be mentioned in the judgment of the Court, such imprisonment shall-

- (a) in the case of a first conviction, be not less than six months, or
- (b) in the case of a subsequent conviction be not less than two years.]

129. Endangering safety of persons travelling by railway by rash or negligent act or omission :-

If a person rashly or negligently does any act, or omits to do what he is legally bound to do, and the act or omission is likely to endanger the safety of any person travelling or being upon a railway he shall be punished with imprisonment for a term which may extend to one year, or with fine, or with both.

130. Special provision with respect in the commission by children of acts endangering safety of persons travelling by railway :-

- (1) If a minor under the age of twelve years is with respect to any railway guilty of any of the acts or omissions mentioned or referred ti) in any of the four last foregoing sections, [the Court convicting

him may require] the father or guardian of the minor to execute, within such time as the Court may fix, a bond binding himself, in such penalty as the Court directs, to prevent the minor from being again guilty of any of those acts or omissions.

(2) The amount of the bond, if forfeited, shall be recoverable by the Court as if it were a fine imposed by itself.

(3) If a father or guardian fails to execute a bond under subsection (1) within the time fixed by the Court, he shall be punished with fine which may extend to fifty rupees.

131. Arrest for offences against certain sections :-

(1) If a person commits any offence- mentioned in Section [100, 100-A, 100-B, 101,][108, 112[Section 114 , 114A]] 119, 120, 121, 126 [Section 126A] 127, 128 or 129 or in section 130 , subsection (1), he may be arrested without warrant or other written authority by any railway servant or police-officer, or by any other person whom such servant or officer may call to his aid.

(2) A person so arrested shall, with the least possible delay, be taken before a Magistrate having authority to try him. or commit him for trial.

132. Arrest of persons likely to abscond or unknown :-

(1) If a person commits any offence under this Act, other than an offence mentioned in the last foregoing section, or fails or refuses to pay any excess charge or other sum demanded under section 113 , and there is reason to believe that he will abscond, or his name and address are unknown, and he refuses on demand to give his name and address, or there is reason to believe that the name or address given by him is incorrect, any railway servant or police-officer, or any other person whom such railway servant or police-officer may call to his aid, may, without warrant or other written authority, arrest him.

(2) The person arrested shall be released on his giving bail or, if his true name and address are ascertained, on his executing a bond without sureties, for his appearance before a Magistrate when required.

(3) If the person cannot give bail and his true name and address are not ascertained, he shall with the least possible delay be taken before the nearest Magistrate having jurisdiction.

(4) The provisions of Chapters XXXIX and XLII of the [Code of Criminal Procedure, 1898] shall, so far as may be, apply to bail given and bonds executed under this section.

133. Magistrate having jurisdiction under Act :-

No Magistrate other than a Presidency Magistrate or than a Magistrate whose powers are not less than those of a Magistrate of the second class shall try any offence under this Act.

134. Place of trial :-

(1) Any person committing any offence against this Act or any rule thereunder shall be triable for such offence in any place in which he may be or which the State Government may notify[^] in this behalf, as well as in any other place in which he might be -tried under any law for the time being in force.

(2) Every notification under sub-section (1) shall be published in the Official Gazette and a copy thereof shall be exhibited for the information of the public in some conspicuous place at each of such railway stations as the State Government may direct.

CHAPTER 10

SUPPLEMENTAL PROVISIONS

135. Taxation of railways by local authorities :-

Notwithstanding any- thing to the contrary in any enactment, i>r in any agreement or award based on any enactment, the following rules shall regulate the levy of taxes in res- pect of railways and from railway administrations in aid of the funds of local authorities, namely:-

(1) A railway administration shall not be liable to pay any tax in aid of the funds of any local authority unless the [^]Central Government] has, by notification in the Official Gazette, declared the railway administration to be liable to pay the tax.

(2) While a notification of the [Central Government] under clause (1) of this section is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or, in lieu thereof, such sum, if any, as an officer appointed in this behalf by the [Central Government] may, having regard to all the circumstances of the case, from time to time determine to be fair and reasonable.

(3) The [Central Government] may at any time revoke or vary a

notifica- tion under clause (1) of this section,

(4) Nothing in this section is to be construed' as debarring any railway administration from entering into a contract with any local authority for the supply of water or light, or for the scavenging; of railway pre- mises, or for any other service which the local authority may be ren- dering or be prepared to render within any part of the local area under its control.

(5) "Local authority" in this section means a local authority as defined in the General Clauses Act. 1887, and includes any authority legally en- titled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river.

136. Restriction on execution against railway property :-

(1) None of the rolling-stock, machinery, plant, tools, fittings, materials or effects used or pro- vided by a railway administration for the purpose of the traffic on its railway, or of its stations or workshops, shall be liable to be taken in execution of any decree or order of any Court [or of any local authority or person having by law power to attach or distrain property or otherwise to cause property to be taken in execution] without the previous sanction of the [Central Govern- ment].

(2) Nothing in sub-section (1) is to be construed as affecting the authority of any Court to attach the earnings of a railway in execution of a decree or order.

137. Railway servants to be public servants for the purposes of Chapter IX and section 409, of the Indian Penal Code :-

[(1) Every railway servant, not being a public servant as defined in Section 21 of the Indian Penal Code, 1860 , shall be deemed to be a public servant for the purposes of Chapter IX and section 409 of that Code.]

(2) In the definition of "legal remuneration" in section 161 of that Code the word "Government" shall, for the purposes of sub-section (1), be deemed to include any employer of a railway servant as such.

(3) A railway servant shall not-

(a) purchase or bid for, either in person or by agent, in his own name or in that of another, or jointly or in shares with others, any property put up to auction under section 55 or section 56, [or section 56-A] or,

(b) in contravention of any direction of the railway administration in this behalf, engage in trade. [* * * * *]

138. Procedure for summary delivery to railway administration of property detained by a railway servant :-

If a railway servant is discharged or suspended from his office, or dies, absconds or absents himself, and he or his wife or widow or any of his family or representatives, refuses or neglects, after notice in writing for that purpose, to deliver up to the railway administration, or to a person appointed by the railway administration in this behalf, any station, dwelling-house, office or other building with its appurtenances, or any books, papers or other matters, belonging to the railway administration and in the possession or custody of such railway servant at the occurrence of any such event as aforesaid, [any Presidency Magistrate or Magistrate of the first class] may, on application made by or on behalf of the railway administration, order any police officer, with proper assistance, to enter upon the building and remove any person found therein and take possession thereof, or to take possession of the books, papers or other matters, and to deliver the same to the railway administration or a person appointed by the railway administration in that behalf.

139. Proof of entries in records and documents :-

Entries in the records or other documents of a railway administration shall be admitted in evidence in all proceedings by or against the railway administration, and all such entries may be proved either by the production of the records or other documents of the railway administration containing such entries or by the production of a copy of the entries certified by the officer having custody of the records or other documents under his signature and stating that it is a true copy of the original entries and that such original entries are contained in the records or other documents of the railway administration in his possession.]

140. Service of notices on railway administrations :-

Any notice or other document required or authorized by this Act to be served on a railway administration may be served, in the case

of a railway administered by the Government [* * *] on [the Manager or the Chief Commercial Superintendent] and, in the case of a railway administered by a railway company, on the Agent in India of the railway company-

(a) by delivering the notice or other document to [the Manager or the Chief Commercial Superintendent] or Agent; or

(b) by leaving it at his office; or

(c) by forwarding it by post in a prepaid letter addressed to [the Manager or the Chief Commercial Superintendent] or Agent at his office and registered under the Indian Post Office Act, 1898].

141. Service of notices by railway administrations :-

Any notice or other document required or authorized by this Act to be served on any persons by a railway administration may be served-

(a) by delivering it to the person; or

(b) by leaving it at the usual or last known place of abode of the person; or

(c) by forwarding it by post in a prepaid letter addressed to the person at his usual or last known place of abode and registered [under the Indian Post Office Act, 1898].

142. Presumption where notice is served by post :-

Where a notice or other document is served by post, it shall be deemed to have been served at the time when the letter containing it would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the letter containing the notice or other "document was properly addressed and registered.

143. Provisions with respect to rules :-

(1) A rule under section 22 [* *] or section 84 , or the cancellation, rescission or variation of a rule under any of those sections or under section 47 , "[* *], shall not take effect until it has been published in the Official Gazette.

(2) Where any rule made under this Act, or the cancellation, rescission or variation of any such rule, is required by this Act to be published in the Official Gazette, it shall, besides being so published, be further notified to persons affected thereby in such

manner as the [authority making, cancelling, rescinding or varying the rule], by general or special order, directs. [* * * * *]

144. Application of Act to Part B States :-

Repealed by the Part B States (Laws) Act, 1951 (3 of 1951), Section 3 and Schedule.]

145. Representation of Managers and Agents of Railways in Courts :-

(1) The Manager of a railway administered by the Government [* *], and the Agent in India of a railway administered by a railway company, may, by instrument in writing, authorize any railway servant or other person to act for or represent him in any proceeding before any Civil, Criminal or other Court.

(2) A person authorized by a Manager or Agent to conduct prosecutions on behalf of a railway administration shall, notwithstanding anything in section 495 of the [Code of Criminal Procedure, 1898], be entitled to conduct such prosecutions without the permission of the Magistrate.

146. Power to extend Act to certain tramways :-

(1) This Act or any portion thereof may be extended by notification in the Official Gazette-

[(a) to any tramway which is wholly within a municipal area or which is declared not to be a railway under clause (20) of article 366 of the Constitution, by the State Government: and

(b) to any other tramway by the Central Government.]

(2) This section does not apply to any tramway not worked by steam or other mechanical power.]

147. Power to exempt railway from Act :-

* * *] The [Central Government] [may], by notification in the Official Gazette, exempt any railway from any provisions of this Act: [* * * * *]

147A. Power to amend the Second Schedule :-

The Central Government may, by notification in the Official Gazette, add any article to, or omit any article from, the Second Schedule, and on the publication of such notification, such article shall be deemed to be included in or, as the case may be, omitted from the said Second Schedule.]

148. Matters supplemental to the definitions of "railway" and "railway servant" :-

"-

(1) For the purposes of section 3 , clauses (5), (6) and (7), and sections 4 to 19 (both inclusive), 47 to 52 (both inclusive), 59, 79, 83 to 92 (both inclusive), 96, 97, 98, [100, 100-A, 100-B, 101], 103, 104, 107, III, 122, 124 to 132 (both inclusive), 134 to 138 (both inclusive), 140, 141, [* *], 145 and 147, the word "railway", whether it occurs alone or as a prefix to another word, has reference to a railway or portion of a railway under construction and to a railway or portion of a railway not used for the public carriage of passengers, animals or goods as well as to a railway falling within the definition of that word in section 3 , clause (4).

(2) For the purposes of SIZE ERROR ,sub-sections (1), [and (2)] and section 138 , the expression "railway servant" includes a person employed upon a railway in connection with the service thereof by a person fulfilling a contract with the railway administration.

149. Amendment of the Indian Penal Code :-

Repealed by the Repealing Act, 1938 (I of 1938), S.2 and Schedule]. Section amended Ss. 194 and 195, I.P.C., which have been carried out in the texts of those sections.

150. Amendment of the Sindh-Pishin Railway Act, 1887 :-

Repealed by the Repealing Act, 1938 (I of 1938), S.2 and Schedule.]

SCHEDULE 1

THE FIRST SCHEDULE

[(See section 77-A.)]- LIMITS OF RESPONSIBILITY OF RAILWAY ADMINISTRATION FOR LOSS, DESTRUCTION OR DETERIORATION OF ANIMALS WHEN HIGHER VALUE HAS NOT BEEN DECLARED IN THE FORWARDING NOTE (1) (2) Description of animals Limit of responsibility of railway administration Rs. Elephants, 1,500 per head. Horses 750 per head. Mu'es, horned cattle or camels 200 per head. Dogs, donkeys, goats, pigs, sheep or other animals not mentioned above, or birds 30 per head.]

SCHEDULE 2

THE SECOND SCHEDULE

[(See section 77-B)] ARTICLES TO BE DECLARED AND INSURED (a) Gold and silver, coined or uncoined, manufactured or unmanufactured; (b) plated articles; [(c) Cloths and tissue lace of which gold and silver form part, not being the uniform or part of the uniform of the personnel of armed forces or

the police force, or of any public officer, Indian or foreign, entitled to wear uniform;] (d) pearls, precious stones, jewellery and trinkets; (e) watches, clocks and timepieces of any description; (f) Government securities; (g) Government stamps; (h) bills of exchange, hundies, promissory-notes, bank-notes, and orders or other securities for payment of money; (i) maps, writings and title-deeds; (j) paintings, engravings, lithographs, photographs, carvings, sculpture and other works of art; (k) art pottery and all articles made of glass, china or marble. (1) silks in a manufactured or unmanufactured state, and whether wrought up or not wrought up with other materials; (m)[* * *] (n) [* *] furs: (o) opium; (p) ivory, ebony, coral and sandalwood; (q) musk, sandalwood oil and other essential oils used in the preparation of its or other perfume; (r) musical and scientific instruments, [* * * *] [Postal Order:] [Transistors (radio component part); amplifiers; tape recorders; electrograms and ampligrams; electronic instruments NOC:] '. [Terylene, Tericot, Tere-wool, and Nylon and their fabrics.] [Cardamom and pepper,] [Diamond Bits Tungsten Carbide Bits Drilling Tools.]