

**FIFTY-FOURTH REPORT
PUBLIC ACCOUNTS COMMITTEE
(1986-87)**

(EIGHTH LOK SABHA)

LAND MANAGEMENT IN RAILWAYS

**MINISTRY OF TRANSPORT
(DEPARTMENT OF RAILWAYS)
(RAILWAY BOARD)**



Presented in Lok Sabha on 31.7.1986

Laid in Rajya Sabha on 31.7.1986

**LOK SABHA SECRETARIAT
NEW DELHI**

July, 1986/Sravana, 1908 (Saka)

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CORRIGENDA TO FIFTY-FOURTH REPORT OF PUBLIC
ACCOUNTS COMMITTEE (EIGHTH LOK SABHA).

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*Note printed. One cyclostyled copy laid on the Table of the House and five copies placed in the Parliament Library.

**COMPOSITION OF THE COMMITTEE ON
PUBLIC ACCOUNTS (1986-87)**

CHAIRMAN

Shri E. Ayyapu Reddy

MEMBERS

Lok Sabha

2. **Shri J. Chokka Rao**
3. **Shri Amal Datta**
4. **Shri Ranjit Singh Gaekwad**
5. **Shrimati Prabhawati Gupta**
6. **Shri G.S. Mishra**
7. **Shri Vilas Muttemwar**
8. **Shri G. Devaraya Naik**
9. **Shri Rameshwar Neekhra**
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11. **Shri H.M. Patel**
12. **Shrimati Jayanti Patnaik**
13. **Shri S. Singaravadivel**
14. **Shri Simon Tigga**
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Rajya Sabha

16. **Shri Bhuvnesh Chaturvedi**
17. **Shri K.L.N. Prasad**
18. **Shri Ghulam Rasool Kar**
19. **Shri A.K. Antony**
20. **Shri Nirmal Chatterjee**
21. **Shri M.S. Gurupadaswamy**
22. **Shri Virendra Verma**

SECRETARIAT

1. **Shri N.N. Mehra**—*Joint Secretary*
2. **Shri K.H. Chhaya**—*Chief Financial Committee Officer*
3. **Shri Krishnapal Singh**—*Senior Financial Committee Officer.*

INTRODUCTION

1. the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this 54th Report of the Committee on Paragraph 19 of the Advance Report of the Comptroller and Auditor General of India for the year 1982-83, Union Government (Railways) on Land Management in Railways.

2. The Advance Report of the Comptroller and Auditor General of India for the year 1982-83, Union Government (Railways) was laid in Lok Sabha on 24 February, 1984.

3. The Committee in this Report have noted with concern that maintenance of accurate land plans of all railway lands duly accepted by the Revenue authorities of the State Governments is far from satisfactory on all the Zonal Railways. In the absence of proper land plans periodical verification of boundaries by the Railway administrations as per extant rules, was well neigh impossible. The Committee are informed that land plans for about 80% of total lands owned by the Indian Railways were available with the Zonal Railways. Work on preparation and certification of remaining land plans had been taken up by the Zonal Railways and target of 31-3-1986 had been set for the purpose, which has apparently not been achieved. As the certified land plans are *sine quo non* for proof of ownership of land, the Committee have recommended that work on preparation, certification and verification of boundaries of the remaining land plans should be done on priority basis.

4. The Committee have been distressed to find that in spite of adopting various measures for checking and preventing encroachments, the encroachments on Railway land have increased from 64,000 in 1975 to 98,000 in 1985 though more powers having been delegated to Estate Officers and provision made for punishment for unlawful occupation of public premises through amendments of the Public Premises Eviction Act, 1971 in 1984. That such a thing should have happened is a matter of regret. The Committee have recommended that the proposal of the

Department of Railways for delegation of more powers to the Estate Officers in regard to giving magisterial authority to summon police/assistance and powers to Railway Magistrates for eviction of encroachments, being in the interest of preventing effectively the encroachments of public premises, should be examined by the Government in all aspects and implemented, if found feasible.

5. At present the total outstanding dues on account of rent/licence/fee on various Railways as on 31-3-1985 are Rs. 6.94 crores. The Committee have felt deeply concerned over this state of affairs. The Committee have desired that determined efforts should be made by the Zonal Railways for expeditious recovery of outstanding dues.

6. The Committee have observed that various facets of land management on Indian Railways have suffered in the past due to lack of adequate attention being paid to this subject. The Committee have recommended that to begin with the existing set up at the Board level and at the Zonal levels should be suitably strengthened with qualified personnel so as to bring about a marked improvement in land management. Any overlooking of land management will continue to deprive the Railways of a valuable source of revenue, which cannot be allowed to go unchecked in national interest.

7. The Public Accounts Committee (1985-86) examined this Paragraph at their sitting held on 8 November, 1985. The Public Accounts Committee (1986-87) considered and finalised this Report at their sitting held on 11 July, 1986. The Minutes* of the sittings form Part II of the Report.

8. For reference facility and convenience, the observations and recommendations of the Committee have been printed in thick type in the body of the Report and have also been reproduced in a consolidated form in Appendix IV to the Report.

9. The Committee place on record their appreciation of the commendable work done by the Public Accounts Committee (1984-85) in obtaining information for the Report.

*Not printed. One cyclostyled copy laid on the Table of the House and 5 copies placed in Parliament Library.

10. The Committee would like to express their thanks to the Officers of the Ministry of Transport (Department of Railways) (Railway Board) for the cooperation extended by them in giving information to the Committee.

11. The Committee also place on record their appreciation of the assistance rendered to them in the matter by the Office of the Comptroller and Auditor General of India.

NEW DELHI ;

24 July, 1986

2 Sravana, 1908 (Saka)

E. AYYAPU REDDY,

Chairman,

Public Accounts Committee.

REPORT

LAND MANAGEMENT IN RAILWAYS

Audit Paragraph

1.1. The Audit Paragraph 19 on Land Management in Railways as appearing in the Advance Report of the Comptroller and Auditor General of India for the year 1982-83, Union Government (Railways) is reproduced as Appendix I of this Report.

Introductory

1.2 The Indian Railways own vast areas of land throughout the country. The total land holding as on 31st March 1983 was 8.30 lakhs of acres valuing Rs. 50,000 crores at present day cost. The area of land under Railway's own utilisation viz., railway tracks, service buildings, railway colonies etc. is about 5.56 lakhs of acres.

Land in excess of the present and prospective requirements is classified as 'eligible for disposal' on commercial basis. Area of such lands works out to 2.74 lakhs of acres, valuing about Rs. 15,000 crores.

1.3 The Ministry of Transport (Department of Railways) in a note have explained the position on available lands as follows :—

"The Indian Railways own about 8.3 lakhs acres of land spread over the length and breadth of the country along its network over 60,000 route kilometres of railway lines. About 5.56 lakh acres of land are under railways assets like tracks, workshops, offices, staff colonies, etc. Where as the remaining 2.74 lakh acres are non-functional and fall in the category of available lands as defined in para 1008 of the Indian Railways Code for the Engineering Department. By and large, these lands are required for the Railways' own maintenance needs and for future developments and cannot thus be classified as 'Eligible for Disposal' in terms of para 1035 of the Indian Railways Code for the Engineering Department.

The land use of these 2.74 lakh acres of available land is broadly as under :

	Approx. area
(a) Lincensed for GMF to State Govt. Railway employees & weaker sections of Society.	93400 acres
(b) Afforestation	32900 ,,
(c) Commercial licensing	4600 ,,
(d) Encroachments	7300 ,,
(e) Vacant areas including area covered by borrow-pits & cut spoils	135800 ,,
	<hr/>
	27400 ,,

1.4 Summary of the issues raised in the Audit Paragraph is given below :—

- “ (1) Non-maintenance of up-to-date land plans by the Railways, duly accepted by Revenue Authorities of the State Governments, led to disputes/litigations, damage to Railway's title of land and loss of revenue accruing therefrom.
- (2) Encroachments on railway land have been increasing from year to year. There was 40 per cent increase in encroachments at the end of March 1983, as compared to that at the end of March 1978.
- (3) Outstanding on account of rent of land/licence fees aggregated to Rs. 4.48 crores (March 1981 to March 1983). There were delays in revision of rents; retrospective revisions of rent without observing proper formalities led to disputes and litigations.
- (4) Afforestation of railway land and pisciculture in railway tanks have not been developed as an effective source of revenue by the respective Railway Administrations, as contemplated by the Ministry of Railways (Railway Board). Even by utilising half the surplus railway land for eucalyptus and Sub abool plantations, earning potential of over Rs. 111 crores per annum could be tapped.

- (5) Against the estimated earnings of Rs. 15 crores from licencing of railway land for shopping, commercial plots etc., during the year 1980-81, the actual earnings were only Rs. 54.26 lakhs.
- (6) Out of 73,115 cases of land licensed (March 1982), in 40,348 cases (i.e. 55.18 per cent) formal agreements have not been executed with the parties to whom the land was licensed. The absence of agreements is likely to impair Railways' title to legal enforcement of recovery of their dues.
- (7) The achievements of the Railways in management of railway land have been far below the expectations, despite new administrative machinery having been set up since June 1980 in the offices of both the Ministry of Railways and the respective Railway Administrations."

Land Plans

1.5 According to Audit Paragraph responsibility to press unimpaired title to all land in its occupation and to keep it free from encroachments devolves on the Engineering Department. Where, however, the management of any land has been accepted by a State Government, this duty rests on that authority during the period of such management. With a view to obviate any litigation, accurate land plans of all railway lands are required to be maintained and boundaries adequately demarcated and verified therewith at regular intervals.

1.6 The work of preparation of land plans and getting them accepted by the Revenue Authorities of the State Government is far from satisfactory on all the Zonal Railways. The review done by Audit showed that the Railway Administrations are not in possession of up-to-date and complete records to prove the ownership of the entire land belonging to them. In the absence of proper and relevant records could not be known if periodical verification of the boundary of the land, as per the extant rules, was regularly done by the Railway Administrations. While on South Eastern and Northern Railways, out of 5672 and 7248 land plans—as many as 2932 and 3736 (51 per cent of the total plans) plans are still to be got certified by the revenue authorities. On North Eastern Railway, the percentage of land plans yet to be certified is 33.5

per cent (1036 land plans out of 3090). On Southern Railway, land for track including the colonies and yards falling within the length of about 1540 route kms. is yet to be re-surveys for updating the land plans. Similar re-surveys ordered by South Central Railway Administration in 1969, 1970 and 1981 for drawing up the land plans in respect of Vijayawada, Hubli and Guntakal Division respectively, involving 752 kms. of track are yet to be completed (July 1983). The re-survey work for Secunderabad and Hyderabad Divisions for 9.22 and 9.72 miles of land respectively is also yet to be taken up.

1.7 Non-maintenance of up-to-date and complete land plans and wrong demarcation of land resulted in unnecessary litigation and loss of title of land etc., in many cases.

1.8 The Ministry of Transport (Department of Railways) (Railway Board) at the instance of the Committee have furnished a note stating the position on the maintenance of the land plans and verification of boundaries as follows :—

“(a) Maintenance of land plans

- (i) Detailed instructions vide paras 3713 and 3714 of Indian Railways Way & Works Manual already exist for safe custody and maintenance of land plans.
- (ii) Taking into account the overall position obtaining on Zonal Railways, land plans for about 80% lands owned by the Indian Railways are available with the Zonal Railways.
- (iii) Zonal Railways have already taken in hand the work of preparing and getting certified land plans for the remaining about 20% lands. Southern, S.E. and Western Railways have already made good progress in this direction.
- (iv) Railway Board have laid down target of 31-3-1986 for pulling up the arrears.
- (v) Instructions have also been issued to the Zonal Railways to transfer all land plans on micro films so that loss/damage in storage is minimised.

- (vi) Watch is being kept in the Board's office on progress made by Zonal Railways in pulling up the arrears. For this purpose, a quarterly progress report has been introduced.
- (b) *Verification of land boundaries*
 - (i) Detailed instructions already exist *vide* paras 3715-3720 of Indian Railways Way & Works Manual and *vide* paras 1047 & 1048 of Indian Railways Code for the Engineering Department.
 - (ii) Verification of land boundaries is done by the Permanent Way Inspectors and the Inspectors of Works once a year and they required to furnish certificate of having verified land boundaries with reference to certified land plans every year. The Asstt. Engineers, during inspections check that land boundaries are demarcated and that there are no encroachments.
 - (iii) Decision has been taken to maintain the certificates of IOWs/PWIs in the form of a Register similar to the Registers used for bridge inspection etc. so that permanent record is maintained and inspection notes/observations of senior officers are available for ready reference."

1.9 During evidence, Member (Engineering), Railway Board, further informed the Committee that :

"Consequent to reorganisation of States after Independence, bifurcation/amalgamation of villages, creation of new Railway Divisions, merging of State owned Railways, updated certified land plans are in arrears and are available only for about 80% total Railway lands. A systematic review has been undertaken by the Zonal Railways for updating and certification of land plans which involves site verification jointly with Civil Revenue staff. This exercise is of primary importance to preserve Railway's title on its lands."

1.10 Audit para brings out 8 cases of dispute on Central, Northern, North-Eastern, Northeast-Frontier, Southern and South Eastern Railways arising out of each Railways' inability to prove its

title of land. The Committee desired to know the further developments in each of these cases and the prospects of the Railway land being retrieved. The Ministry of Transport (Department of Railways) (Railway Board) furnished the detailed position of all the cases. The gist of each case is given below :

(1) *Central Railway*

Birlanagar siding at Gwalior

- (a) The siding was correctly taken over by the Central Railway as per the Schedule accompanying the sale deed, but it was detected that one Khasra No. 436 involving 2 Bighas and 15 Biswas land was not incorporated in the schedule. To confirm the Railways boundary a joint verification was conducted in the year 1961 itself, alongwith the Revenue authorities as shown in Plan No. DS (W) JHS/R/30552 wherein it has been clearly shown that the land falling in Khasra No. 436, 505 and 506 is the Railway land. This plan has been duly verified in 1961 by the Revenue authorities and signed by them in token of correctness.
- (b) Only M/s. J.C. Mills, Gwalior are using the land for unloading of coal etc , which is being brought by railway wagons and it is a narrow strip of land about 20' wide including track, flanked on either side by land of M/s. J.C. Mills. It is used by J.C. Mills only for unloading of coal etc., from Railway wagons. The materials remain temporarily along the siding mostly in party's land.
- (c) The case has since been decided by the Tehsildar, Gwalior in favour of the Railways for mutation. It was decided on 9-9-1985.
- (d) Mutation for plot No. 436 has been done in Revenue Records in Railway's favour.
- (e) Now that the Railway's ownership has been established, it is proposed to license the Railway land to J.C. Mills on annual licence fee with retrospective effect from 1961. Central Railway has been asked to work out the arrears and realise the same from the party.

(2) *Northern Railway**Land occupied by Notified Area Committee at Loharu*

(a) The Railway land situated opposite Loharu station building on Northern Railway was encroached some time in 1947 by the Notified Area Committee Loharu at the time of the ex-Bikaner State Railway. The land in question remained in the jurisdiction of the Bikaner State Railway upto 1952 when it was merged with Northern Railway.

(b) The land plans of the area were not available at the time of merger of Bikaner State Railway with Northern Railway in 1952. It was in 1956 that the encroachment came to the notice of Northern Railway. Gazette notification etc. were consulted to establish Railway's Title to the land in dispute. Joint survey was also carried out with the Representative of Deputy Commissioner, Hissar on 4-10-56 which established that the encroachment was on land which belonged to the Railway.

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(c) A notice was served on the President of the Notified Area Committee Loharu by D.S., Bikaner *vide* letter No. 32/A dated 3-5-1958 for eviction of the encroachment.

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(d) Suit for injunction was filed in Civil Court at Bhiwani on 15-6-1976 for injunction and restraining the Municipal Committee for construction of pucca structure on the encroached railway land.

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(e) The Civil suit was decided in August 1980 and the judgement was against the Railway. In the circumstances appeal was then filed with District Judge Bhiwani within the stipulated period (October 1980).

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(f) Tehsildar, Bhiwani demarcated the land on 12-10-85 and submitted his report to the Court on 24-10-85. The Court has

heard both the parties. Next date has been fixed on 4-1-1986 for arguments.

(3) *North-Eastern Railway*

(i) *Non-payment of licence fee by the Provincial Armed Constabulary at Gorakhpur for the Railway land used for Rifle Range at Gorakhpur.*

(a) 7.27 acres of land in village jungle Tulsi Ram was acquired by the Ex. B. & N.W. Co. Railway in the year 1887 *vide* acquisition plan No. 634 and G.O. No. 163 W.R. dated 20-1-1887 for utilising it as Rifle Range. The possession of the land was taken over by the Railway on 27-5-1887 as per item No. 13 of land Register maintained by the Railway with certification and signature of the Collector, Gorakhpur.

(b) This area of land was licensed to Military Department by the Railway sometime in 1927 under an agreement duly executed between B & N.W. Railway and the GOC Lucknow. The land was licensed to Military authorities to utilise it for Rifle Range and when it was no longer required by them. the land was returned to Railway on 1-2-1968.

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(c) In June, 1975, the Dy. Inspector General of Police, Gorakhpur range was asked whether the State Government was agreeable for permanent transfer of the Railway land on payment of its market value and till such time, the transfer does not get materialised, the licence fee at 6% of the value of the land would be realised.

(d) In March, 1978, Commandant, PAC Gorakhpur pointed out that the land in question has been shown in Lekhpal's records as "Chandmari Rajya Sarkar" and hence question of payment of cost of land to the Railway does not arise. Therefore, the steps were taken to resolve the issue at various administrative channels and when nothing

tangible happened, the Railway has filed a civil suit in the court of Sub Divisional Officer (Sadar) Gorakhpur in October, 1981.

The matter is being vigorously pursued by the Railway, but being *subjudice* in a court of Law, it is not possible to have any intervention done.

(ii) *Land of station approach road under dispute at Chupra*

(a) The land in question comprises a part of the main approach road to Chupra Railway Station measuring 366 ft. in length and 100 ft. in width. Ex-B. & N.W.R. Company Railway had handed over this strip of land in August 1901 to the District Board, Saran, Chupra through the District Magistrate, who was also functioning as the Chairman of District Board with the stipulation that the fencing and the trees on the ground will remain the property of the company Railway.

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(b) It came to the notice of Railway in April 1974, that the District Board authorities were getting permanent construction done for shopping purposes on both sides of the road. Immediate action was taken by the Railway asking the District Board Authorities to stop construction of shops which were causing a state of congestion on the station approach road.

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(c) The Railway has taken appropriate action to safeguard the Railway's interests in spite of the fact that technically in question now vests with the State Government. Notwithstanding the above technical position, the Railway has pursuing the matter vigorously with the Civil Authorities at Chupra for returning the land along with proportionate earnings after adjusting the legitimate charges towards construction and maintenance. As the utilisation of this land is intimately connected with adequate acces-

sibility and congestion of the station approach road, the Railways cannot part with its rights and title to the station approach road. The Civil Authorities at the level of the District Magistrate have favourably appreciated the Railway's point of view in insisting on the return of this land which is being actively pursued.

(4) Northeast Frontier Railway

The Tezpur-Balipara Railway

(a) The land of Tezpur-Balipara Railway line with all its assets was purchased by the Union Government from Tejpur-Balipara Tramway Company in 1952. As per the terms of the agreement, the land and assets belonging to the Ex-Tezpur-Balipara Tramway Co. Ltd. had been transferred to the Railway. When the Deputy Commissioner, Tezpur, was requested in 1962 for arranging mutation of the same, it transpired that an area of 85B-IK-15L of patta land was in the name of Tezpur-Balipara Railway and an area of 153B-OK-1L of sarkari land was in actual possession of N.F. Railway making a total of 23B-IK-11L as under the actual occupation of N.F. Railway for which the railway are required to pay the cost of the sarkari land which was never acquired earlier and capitalised land revenue for patta land as well as for the sarkari land.

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(b) They demanded about Rs. 4,20,867.10 from the G.M./N.F. Railway *vide* his letter No. 479/SO dated 8-2-79. The contention of the Settlement Officer was that the State sarkari lands were never acquired by TBR Company/N.F. Railway and, therefore, N.F. Railway was liable to pay the capitalised land revenue for 25 years together with prevailing market value and for patta lands 25 years capitalised land revenue has to be paid before the mutation is done in the name of the Railway. The matter is still under correspondence with State Government. It is not correct that the Railway approached the State Government for mutation only in 1972 as verification of land records with the State Government as well as actual field veri-

fication could be done only in 1979 though the State authorities were pursued continuously after purchasing assets in 1952. Efforts are being made to settle the matter with the State Government as early as possible.

(5) *Southern Railway*

(i) *Tellicherry licensing of Railway land to M/s. Small Coir Industries*

(a) The land measuring 108 sqm. (1162 sq. ft.) at Tellicherry was licensed on 4-10-1979 to M/s Small Coir Industries (one Sri A.K. Prakash) for construction of a temporary shed subject to the condition that the firm will offer traffic of their goods at 35 quintals per day.

The licencees started construction in March 80 on the licensed land violating the conditions of the agreement ignoring repeated warnings by Railways from 2-4-80 onwards. They did not offer any traffic to the Railways.

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(b) The licence was terminated on 6-8-80 after the expiry of the necessary notice. However, the party requested for grant of fresh licence in their favour duly fixing the licence fee on a higher rate based on the prevailing rate of ground rent, as for shops in the locality.

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(c) The party instead of paying the revised licence fee and entering into fresh agreement went to the High Court of Kerala and obtained a stay on 25-11-1983. This was granted subject to their depositing Rs. 14,400/- with the Railway Administration.

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(e) The amount demanded from the firm is Rs. 3,55,872.00.

(ii) *Encroachments on land on Millers Road, Bangalore*

(a) The piece of railway land measuring 1.39 acres is located on the Millers Road at Bangalore. This is low-lying area and gets filled up with water during the rainy season. The Railway boundary is demarcated with Railway boundary stones. It is now fenced

where it abuts adjacent property but is open where it abuts public road. The land is in the possession of Railway and is being used for two tubewells which are supplying water to cantonment railway quarters. Four hoardings have been given to private organisations which yield revenue of Rs. 10,000/- per annum. Being water-logged, it is unsuitable for buildings. There are no encroachments.

(b) The Corporation have not sold the land so far. By a Government order No. HMA 338 MNG 74 dated 17th September, 1974, the Government of Karnataka accorded sanction to the resolution No. APD/Sub No. 69 (394)/74-75 dated 20th July, 1974 of the Bangalore Corporation to "grant" this land in Millers Road to Shri J. Sanjeева Rao @ Rs. 40/-per square yard.

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(c) After the Government turn down the Railway's plea and issued the sanction the G.M./Southern Railway approached the C.M. and when this too failed, suit No. O/5162 of 1975 was filed by Railways in the Court of Addl. Munsiff, Bangalore, Civil Station.

(d) In his judgement delivered on 4-12-1979, the Munsiff held that all ponds and tanks are deemed to belong to Corporation unless proved otherwise and opined that Railway did not give adequate proof of ownership.

Railways then filed appeal No. RS6 of 1980 dated 19-1-80 in the Court of Civil Judge, Civil Station, Bangalore.

(e) The judgement in the case has been pronounced by the Hon'ble Judge on 26-3-85 allowing the appeal of the Railway. Necessary follow up action is being taken in this regard.

(6) South Eastern Railway

Land Acquisition Registers

(a) During the period 1964 to 1978 several construction estimates worth Rs. 429 lakhs for acquiring 5,256 acres of land were sanctioned by the Ministry of Railways (Railway Board). Accordingly, project-wise land acquisition proposals were

submitted by the Railway Administration to the State Governments, the land acquisition proceedings were completed, and physical possession of land was taken by the Railway Administration. Though the projects were completed long back, land acquisition registers have not been maintained.

- (b) Land acquisition registers have been maintained from June, 1980 project-wise. They could not be maintained earlier due to scanty staff strength. Railways have now been directed by the Board to send proposals for strengthening the land Management Organisation in the Divisions as well as Zonal Headquarters. It is expected that with the strengthening of the Organisations, the position on all Railways will improve.
- (c) The Railway has taken over 5258 acres of land. Out of 306 plans involved, only 17 are left to be collected from the Revenue Department.
- (d) The Revenue Department of the State Government have to furnish certified plans. The Railway is chasing the revenue department and now only 98 plans remain to be collected out of 6114 plans for the entire S.E. Railway.

II. *Encroachments on Railway Land*

1.11 The Public Accounts Committee (7th Lok Sabha) had in Para 1.24 of their 3rd Report (1980-81) adversely commented upon the growing incidence of encroachments of large chunks of Railway land, and had asked the Ministry of Railways (Railway Board) not only to get the existing encroachments cleared but also to check further encroachments on railway land. Again, the Public Accounts Committee (7th Lok Sabha) in Para 53rd of their 94th Report (1982-83) stressed that it is imperative for the Railways to protect their land against all encroachments.

However, it is observed that the encroachments had been increasing from year to year. The total number of encroachments which stood at 67,911 for all Zonal Railways as at the end of 31st March 1978 shot

up to 95025 by the end of 31st March, 1983, involving 39.91 per cent increase, as indicated below :

Railway	No. of encroachments as at the end of March 1978	No. of encroachments as at the end of March 1982	No. of encroachments removed during 1982-83	No. of encroachments made during 1982-83	No. of encroachments as at the end of March 1983
1	2	3	4	5	6
Central	13,261	20,095	272	82	19,905
Eastern	11,465	12,134	1,747	1,412	11,799
Northern	4,387	8,796	1,289	5,797	13,304
North Eastern	2,268	1,671	52	2,049	3,668
Northeast Frontier	19,001	23,523	1,037	1,182	23,668
Southern	3,086*	3,531	661	683	4,553
South Central	3,877*	5,059	486	42	4,615
South Eastern	7,211	8,040	348	29	8,021
Western	3,355	5,964	3,477	3,005	5,492
TOTAL :	67. 11	88,813	9,369	15,581	95,025

*Figures at the end of September, 1978.

1.12 The total area of land under encroachment was assessed (October, 1982) at 7,032 acres. Its value was, however, not assessed by the Railways.

1.13 The Ministry of Transport (Department of Railways) at the instance of the Committee furnished the following note explaining the factors contributing to encroachments, preventive measures taken by the

Railways and the major issues involved in checking and preventing encroachments :

"I. BACKGROUND

It has not been possible for the Railway Administration to effectively prevent the encroachments on their land specially in the metropolitan cities and major towns. The present assessment shows increase in encroachments from 64,000 in 1975 to nearly 98,000 in 1985. Although the migration of labour to urban areas to seek employment and other sociological factors are primarily responsible for large scale encroachments on public lands, there are certain special reasons for the proneness of railway land as easy targets for unauthorised occupation, which are summarised as under :

- (a) *Factors contributing to encroachments—either inherent or within our control*
 - (i) Proneness of railway land to encroachments, being unfenced and scattered across the length and breadth of the country, specially in big cities ;
 - (ii) Inadequate machinery in the field for preventive checks and evictions;
 - (iii) Indifference of field staff in taking timely action/ staff involvement in certain cases ;
 - (iv) Lack of up-dated land plans and boundary demarcations :
 - (v) Knowledge among the people and sense of defeatism among the staff due to helplessness of the Railway Administration in carrying out evictions ;
 - (vi) Delay in expeditious settlement of encroachment cases due to heavy workload of District Officers, nominated as Estate Officers, in addition to their functional duties.
- (b) *Factors contributing to encroachments outside our control*
 - (i) The basic and inherent shortcomings in the Public Premises

Act of 1971 for eviction of unauthorised persons. These *inter alia*, relate to :

- (a) Time consuming eviction proceedings ;
- (b) Lack of magisterial authority with the Railway to summon police assistance in the event of failure to carry out eviction orders issued by the Estate Officer.
- (c) Lack of authority for punishments by the Estate Officers; the power to convict vested in a Magistrate.
- (d) Lack of powers to appoint persons (like Court Bailiffs) to execute the orders of the Estate Officers.

- (ii) Pressure of increasing population;
- (iii) Encouragement and interference from pressure groups;
- (iv) Lack of adequate cooperation and apathy of the State Governments and Police including GRP and Revenue officials in preventing/removing encroachments which pose a social/law and order problems;
- (v) Lack of powers with RPF to assist in prevention/removal of encroachments.

(2) With a view to meeting the shortcomings in the P.P.E. Act, the Department of Railways informed in a note that a number of basic and inherent shortcomings in the P.P.E. Act of 1971 have since been amended after pursuing with the Works & Housing Ministry in May, 1984. These relate, *inter alia*, to :

- "(a) Staying the unauthorised construction of Public Premises during the pendency of the case before the Estate Officer. The powers for staying the unauthorised constructions were not stipulated in the earlier Act.
- (b) Powers to order dismantlement of structures unauthorisedly put up by the encroachers.

- (c) Powers to make an order directing the sealing of public premises after making an order of demolition.
- (d) More deterrent punishments for unlawful occupation of public premises upto a maximum of six months imprisonment & fine upto Rs. 5,000/- or both (There was no provision for such punishment in the earlier Act).
- (e) In case of re-occupation of premises, the punishment will be upto 1 year's imprisonment or fine upto Rs. 5,000/- or both (against one year imprisonment and fine of Rs. 1000 stipulated earlier).
- (f) Jurisdiction of civil courts has been barred to entertain any suit in respect of evictions from unauthorised occupation of premises, demolition of unauthorised structures, sealing of premises, etc.

(3) However, the following serious shortcomings and leakinesses in the P.P.E Act have still not been removed.

- (a) Lack of specific powers (Magisterial or judicial to summon police assistance in the event of failure to execute eviction orders passed by the Estate Officers).
- (b) For actual eviction (involving in most cases a law and order problem), help of police and presence of a magistrate are necessary and often such help is not forthcoming.
- (c) P.P.E. Act. at present, only provides (vide Rule 7) that a Estate Officer or any officer duly authorised by him, obtain Police assistance if any obstruction is offered while taking possession of any public premises under the Act. In addition, it is provided in Section 5 that the Estate Officer may evict a person from and take possession of the public premises and may for that purpose use such force as may be necessary.

(4) The above provisions are vague and ineffective leading to inherent weaknesses which should be removed by taking following action :

- (a) Estate Officers should have authority like to a Civil Court (not a quasi judicial authority as at present) to issue directions to the local Police to evict the unauthorised occupants and take possession of the public premises. Like a Civil Court, non-compliance of instructions should be treated as a contempt of the court punishable under the Law.
- (b) The Act should provide for appointment of persons like Bailiffs or court Amins to execute the orders of the Estate Officers.
- (c) Alternatively, Railway Magistrates should be authorised by an Act of the Parliament to deal with such cases of eviction under orders of the Estate Officer. This is necessary as it may not be proper to invest both the judicial and executive powers to the same agency, viz., the Estate Officer.

It is reiterated that the P.P.E. Act has failed to give relief in the actual process of eviction. The Railways have been insisting, time and again, the indifference and ineffectiveness of the Civil authorities and the police in eviction after the Estate Officer has issued the verdict in favour of railways.

(5) In this regard the Ministry have pleaded that the following powers be given to R.P.F. :

- (a) In respect of old encroachments, RPF should be given powers for eviction of the encroachments, after the Estate Officer has given a verdict in favour of the Railways.
- (b) In respect of fresh encroachments, powers should be given to R.P.F. to investigate and submit a charge-sheet to the Magistrate for criminal trespass.

(6) However it has also been stated that according to the legal opinion, physical eviction of the unauthorised encroachments from

government premises, is regarded as the function of the Police of the State Government who are responsible to supply police force for such eviction as well as to keep law and order. Under the circumstances, the subject of 'law and order' falls under State List. It may, therefore, not be legally permissible to give such powers to RPF unless the Constitution is amended after inviting comments from the State Governments.

(7) In another note pleading for strengthening of the land management organisation the Department stated :

"At present the officers of the Engineering Department are generally appointed as Estate Officers under the P.P.E. Act to deal with encroachments cases, in addition to their normal duties. The Engineering Officers are busy with their day-to-day routine work like maintenance of tracks and buildings and hardly get any time for specifically dealing with eviction cases which consequently got delayed. There is no separate organisation on the railways to deal with eviction cases which on a preliminary assessment come to around 1500 to 2000 cases for each important Division of Railways. It is, therefore, essential that Estate Officers are exclusively entrusted with the task of dealing with encroachment cases."

1.14 Speaking on encroachments, the Member (Engineering) Railway Board stated during evidence as follows :

"Unfortunately the number of encroachments on Railway lands has increased from 64000 in 1975 to 98000 in 1985 due to (a) Railway land being unfenced and scattered, (b) pressure of population. (c) interference by pressure groups, (d) inadequate administrative machinery and (e) completely ineffectiveness of the P.P.E. Act. A number of corrective steps have been taken to protect Railway land against encroachments. These include appointment of additional Estate Officers (100 to 125) large-scale afforestation on vacant land in sensitive areas close to metropolitan cities, construction of houses around the periphery of the Railway land, fencing and boundary walls for protecting Railway land,

amendment of the Public Premises Act to give more powers to the Estate Officers, follow-up at appropriate level with the State Government for eviction from Railway lands."

1.15 He further informed the Committee that Railway officers from the Engineering cadre who were Senior Divisional Engineers were nominated to function as Estate Officers under the Public premises Eviction Act, 1971. These Estate Officers functioned like Courts. At the zonal level, a monthly review was done and they did monitor the progress made by the Estate Officers.

1.16 In reply to a question, the Member (Engineering) stated :

"We found that Estate Officers are overburdened because they are also Railway officers with certain other duties. We earmark certain officers to function as Estate Officers. We have now increased the number from 100 to 280 on the Indian Railways."

1.17 The Member (Engineering) submitted that they wanted further powers for the Estate Officers. When asked to state the objection made by the Ministry of Works and Housing, in increasing the powers of Estate Officer, the witness stated :

"The Estate Officers appointed under the PPE Act are not criminal courts who could award punishments to the unauthorised occupants of public premises. Section 11 of the Act, however, contains provisions for imposing punishments of simple imprisonment and/or fine for a certain offence for which appropriate courts of law to be approached. As regards summoning of police assistance, provision is already available in rule 7 of PPE Rules, 1971 whereby the Estate Officer or any officer duly authorised by him may obtain police assistance if any obstruction is offered while taking possession of any public premises under the Act. It is, therefore, not necessary to amend the Act as suggested by the Ministry of Railways."

1.18 On an enquiry, the Railway Board have stated the position

of encroachments both in terms of numbers and areas Railway-wise, as follows :

Railway	No. of encroachments as on 31.3.84	No. of encroachments as on 31.3.85	Area covered by encroachers
C.R.	19812	19691	113.0 hectares
E.R.	12972	12246	146.0 hectares
N.R.	12783	14377	404.85 "
N.E.	4293	4342	120.21 "
N.F.	24455	24385	243.20 "
S.R.	4681	4977	283.00 "
S.C.	4703	4364	55.00 "
S.E.	6264	9028	56.00 "
W.R.	5393	5327	626.54 "
TOTAL :	95356	9873 *	2048.28 "

*1984-85 : Removed = 12444
Added = 15825

1.19 Giving the break-up of land occupied unauthorisedly by offenders in metropolitan cities (upto March 1984) alongwith its value, the Railway Board have stated the position as follows :

"The total area reported to be encroached on various Zonal Railways is approx. 2960.20 hectares (7311.69 acres). The Railway lands are mostly occupied by petty shopkeepers and juggies & jhompris. There are no major encroachers.

Out of 2960.20 hectares, 112.31 hectares are encroached in Metropolitan Cities of Delhi, Bombay, Madras and Calcutta by 24942 encroachments. The approx. commercial value is reported to be about Rs. 25 crores. The encroachments are existing for the last 10-20 years or so.

Present position is indicated below :

City	Nos.	Area	Approx.	Cost
			Rs.	
Bombay (WR & CR)	15365 Nos.	14.73 ha.	2.95	crores
Calcutta	1785 "	2.83 "	2.83	crores
Madras	1104 "	1.15 "	0.45	crores
Delhi	6688 "	93.6 "	18.60	crores
Total :	24942 "	112.31 "	24.83	crores

1.20 On being asked to state whether the Department of Railways (Railway Board) have thought of any steps to counter the interference in respect of encroachments on Railway land from various pressure groups by stern action, the Ministry in a note have stated as follows :

"Hon'ble Minister of Transport and the Minister of State for Railways have reviewed the question of encroachments recently and it was decided that the encroachments wherever existing on railway land must be removed at all costs. This stand has been taken by Department of Railways in reply to all VIPs and other pressure groups whenever they represent against removal of encroachments from railway lands and strict compliance to the above orders is being followed."

1.21 The Committee enquired whether the Ministry of Transport (Department of Railways) (Railway Board) had taken up the matter at higher (Minister's) level with those State Governments from whom the support from the law and order enforcement machinery was not forthcoming. The Ministry in a note has stated as follows :

"Wherever the problems requiring support from the State Government for eviction of encroachments from railway lands have been faced, the matter has been taken up at the highest level between the Ministry of Railways and the respective State Government. To quote a few typical cases, the issues regarding removal of encroachments from railway land including those posing hazards to safety have been taken up

at Minister/Board's level with the State Governments of West Bengal (Malda and Calcutta), Maharashtra (Bombay), Tamilnadu (Madras), Assam (Guwahati), Andhra Pradesh (Lalaguda) and Delhi etc. In all such cases, the Chief Ministers have been requested to help in the removal of encroachments but adequate response has not been forthcoming due to various problems including social and law and order. In other cases efforts are being regularly made by the zonal Railways at the General Managers' level to sort out the encroachment problems from the railway lands."

1.22 There is a Railway Board's policy circular No. 21 (80/W2/14/0 dated 30.8.1980) according to which suitable rewards may be given to the Railway employees for good work done in the removal of encroachments. The circular suggest that a reward of Rs. 5 per encroachments removed can be given to individual or groups responsible for removal of encroachments.

But no awards have been given under this Circular so far.

1.23 In regard to provision for licensing of land by auction/bids in metropolitan commercial areas with a view to getting the maximum possible revenue, the Ministry in a note have stated :

"Railway lands in most cases are licensed to rail users to facilitate storage, loading and unloading of goods. At places where there is no demand for plots by rail users, such available lands are being licensed to outside parties. In case the system of licensing plots by auction/bidding is introduced, there will be no certainty that highest bids are offered by the railway users and the plots may get allotted to non-rail users even when there is a genuine need of rail users.

Under our present system, the licence fee is so fixed that a reasonable rate of return on the market value of land is obtained. Licensing of plots by auction/bidding with a view to maximise revenue, may possibly drive away rail users due to high costs. Moreover, all temporary licensing unconnected with Railway working has been stopped from 7.6.1984."

1.24 Audit Para has mentioned certain illustrative cases of encroachments on Railway's lands on Central, Eastern, Northern and Northeast Frontier Railways. The Committee desired to know the further developments in all these cases. The Ministry of Transport (Department of Railways) (Railway Board) furnished their position in details. The gist of these cases* is given below :

Eastern Railway—Encroachment of Railway land at Jamalpur by Bihar Military Police :

- (a) Immediately after the land was unauthorisedly occupied by the Bihar Military Police, Collector/Monghyr and I.G. of Police were contacted by the railway in the matter. Subsequently, the railway in their letter No. W. 313/1 dated 30.4.70 requested the Chief Secretary, Government of Bihar to take necessary action so that the land unauthorisedly occupied by the Bihar Military Police may be returned to the Railway and protracted correspondence went on between the Railway and the Bihar Government. The matter has also been taken up by the Railway Board with the State Government in their letter No. 76/W2/13/49 dated 13.5.77 and No. 76/W2/13/49 dated 23.6.81.
- (b) The Bihar Government in the meeting held in this connection in May'85, have clearly stated that they are not in a position to vacate this land. However, the Bihar Government offered to return the money paid by the Railway initially for the acquisition of this land and have advised that the Railway may approach Bihar Government for fresh acquisition of land for a specific purpose if necessary. This is being examined by the Railways.
- (c) In this connection a reference has been made by the Minister of Transport to the Chief Minister of Bihar for sorting out the problems. The Chief Minister has been requested to provide alternative piece of land of equivalent area adjacent to the Railway boundary and also arrange payment of licence fee from 1965 onwards.

*The case of Railway land at Wadi Bunder, Bombay on Central Railway forms Para 20 of the same Advance Report and there is a separate Report.

Northern Railway

- (i) **Land at Rosa (Moradabad Division)**
 - (a) 373.02 acres of land was acquired by EIR in the year of 1949 for the development of yard and construction of staff quarters. The proposal was dropped.
 - (b) Land measuring 136.15 acres (out of 373.2 acres) was handed over to the Collector for safe custody in 28.3.51 (with approval of State Governor) who in turn allotted the land to the cultivators on lease. The payment of Rs. 656.5 annas 2 paise was received on 18.10.1954 and Rs. 3053.51 paise was received by Divisional Accounts Officer, Moradabad *vide* Bank Draft dated 29.7.1980 from Tehsildar, Sahajahanpur. In 1984, Distt. Magistrate, Shahjahanpur was approached for getting back the 186.15 acres of land given to him for safe custody.
 - (c) During the discussion by D.R.M./Moradabad with Distt. Magistrate, Sahajahanpur, the Distt. Magistrate pointed out that he can take over the land from the cultivators only if the Railways required the same immediately for its use, otherwise such an action will be taken as harassment to the cultivators and will bring in criticism. Further efforts are being made to take back the land from Collector, Sahajahanpur.
 - (d) Out of 373 acres of land, *all but* 136 acres are in the possession of Railway now. Regarding 136 acres of land, the Railway is in correspondence with the Collector for taking back the land and it is expected that the land will be given back shortly, as assured by the Civil Authorities.
- (ii) **Railway land in front of New Delhi Railway Station Licensed to Municipal Corporation, Delhi.**
 - (a) Two plots of Railway land measuring 5072.99 sq. yds. situated in front of New Delhi Railway Station were

licensed to the then Municipal Committee in 1948, on the recommendation of the Ministry of Health at a nominal fee of Rs. 2/- per annum for the re-settlement of refugees from West Pakistan temporarily. Last extension for one year ending 7.4.54 was granted as a special case under clear warning that licence fee @ 6% of the market value of land would be charged w.e.f. 8.4.1954 if the land was not vacated. In spite of a number of meetings at the high level, the Municipal Corporation of Delhi have neither vacated the land nor paid the Railway dues.

(b) Since attempts at Northern Railway's level failed to get back the land and recover arrears of rent from the Municipal Corporation of Delhi, the matter was brought to the notice of the Railway Board. The Railway Board brought the matter to the notice of Lt. Governor, Delhi, through D.O. letters from the Minister of Railways on 19.1.1984 and 1.4.1985. In his latest communication on 24/25.5.1985, the Lt. Governor informed the Minister of Railways that the matter regarding rehabilitation markets including Amrit Kaur Market has been pending settlement with the Ministry of Rehabilitation and that a Committee has been appointed to look into the various aspects concerning grant of lease/ownership rights to the shop-keepers of these markets, and the issue of payment of licence fee to the Railways is also under consideration of this Committee. He further informed the Railway Minister that it would not be possible for the Delhi Municipal Corporation to take any decision about Amrit Kaur Market at present pending decision from the Ministry of Rehabilitation. Accordingly, the matter has been referred to the Ministry of Rehabilitation on 7.8.1985 for settling the issue on priority. A further communication has also been sent on 5.11.1985, to which reply is awaited. Although the land was originally given at a nominal licence fee, the amount of arrears calculated on the basis of 6% of the market value of land w.e.f. 8.4.1954 works out to Rs. 43.7 lakhs upto the period ending 31.12.1984.

- (c) Ministry of Railways is actively pursuing the matter with the Ministry of Rehabilitation and the Ministry of Urban Development.
- (iii) Railway land near Connaught Place, New Delhi, occupied by M/s. Pure Drinks (P) Ltd. New Delhi.

Position of the court case

- (a) The Arbitrator gave an award of Rs. 34.01 lacs upto 31.12.82 and further interest @ 12% from 1.1.83 onwards to the date of filings award in the Court, and party was required to hand over vacant and peaceful possession of land. For the period beyond 31.12.82 (not covered by award) the parties are at liberty to take appropriate steps.
- (b) After receipt of award from Arbitrator, application was filed in Delhi High Court seeking directions to the Arbitrator to file original award. Another application was moved under Section 17 of Arbitration Act that Arbitrators award be made rule of the Court. Both the issues namely getting vacant possession of land and recovery of dues can be implemented after Delhi High Court orders. However, the party was served with a notice to give vacant and peaceful possession of land and their liability to pay damages but they replied that the case was *subjudice*. It was felt that the making of award, rule of the Court may take considerable time as the litigant party would create numerous difficulties by raising many objections on one pretext or the other and it would unnecessarily prolong the unauthorised occupation of Rly. land. Therefore, action under P.P.E. Act 71 has also been initiated. An application under Section 4 of P.P.E. Act, 1971 has been filed with the Estate Officer, Northern Rly. to get land vacated. Another application for recovery of damages from 1-1-83 for unauthorised occupation under Section 7 of P.P.E. Act 1971 has also been filed with the Estate

Officer. The case under P.P.E. Act has been fixed for hearing on 2-9-85.

- (c) Delhi High Court in the instant case had held several hearings but due to delaying tactics adopted by the litigant party, not much headway has been made.
- (d) Last hearing took place on 19-11-85. Next date of hearing in the High Court is fixed on 28-4-86. For eviction case and recovery of dues w.e.f. 1-1-83, next date of hearing by the Estate Officer is fixed on 31-12-1985.

Findings of the High Powered Committee

In pursuance of the recommendations of the Public Accounts Committee (1982-83) Ministry of Transport (Department of Railways) (Railway Board) constituted a high powered body to investigate the matter and fix responsibility of the defaulting Railway Officers in the case of land in occupation of M's. Pure Drinks (P) Ltd., New Delhi.

The High Powered Committee have since submitted their final Report. The Ministry have furnished a statement (See Appendix II) indicating the recommendations of the High Powered Committee pointing out administrative laxity/irregularities/lapses/inordinate delays, fixing up the responsibility for administrative irregularity or lapse on the officers who committed them and action suggested against them.

Northeast Frontier Railway—Encroachment of Railway land by Kachari-gaon Tea Estate at Rangapara North.

- (a) The Survey and Construction Organisation acquired 131 bighas of land at Rangapara North in 1965 from the Kacharigaon, Tea Estate at a cost of Rs. 4.82 lakhs. The Railway Administration, however, could not take possession of a part of land measuring nearly 49 bighas which is under unauthorised occupation of the Tea Company. The matter was taken up with the Deputy Commissioner, Darrang by Divisional Supdt. (W), Alipurduar Jn. vide his letter No. W—3, No. 557/RPAN/W—3 dt. 28/10/78 and again by Deputy Chief Engineer, N.F.

Railway, New Jalpaiguri vide his letter No. W/207/60/1/S&C/
W-4 dt. 26/3/79 advising Deputy Commissioner, Darrang
that in spite of repeated requests the Kacharigaon Tea Estate
had not vacated unauthorised occupation of the railway land.

- (b) The Railway has presented its case for a claim of Rs. 23.4 lakhs preferred against the said Tea Garden authorities for the period from 1-4-1967 to 13-3-1982.
- (c) Manager, Kacharigaon Tea Estate had filed writ petition along with Misc. case stated above before the Hon'ble High Court, Gauhati. The said Misc case was disposed of on 4/6/84/ staying the operation of Settlement Officer, Tezpur, Asstt. Settlement Officer, Tezpur & the Board of Revenue, Assam, Gauhati's order for demarcation of Railway land as sought for by this Railway administration as per land Acquisition Officers order. In this suit Railway Administration was not impleaded as a party.
- (d) Since the matter relates to Railway and Railway Administration's interest is fully involved a petition was filed before the Hon'ble High Court, Gauhati praying for impleading the Railway as one of the Respondents and accordingly the Hon'ble High Court allowed the Union of India as a party to the suit.
- (e) Thereafter, Affidavit-in-opposition in reply to the Writ petition was prepared, sworn in by a competent official of 19.7/85 and copies made over to Railway Advocate, Gauhati for submission before the Hon'ble High Court and doing the needful. The next date of hearing has not yet been fixed and we are awaiting information from RA/GHY in this regard
- (f) Now, N F. Railway Administration have submitted on 19.7.85 before the Hon'ble Court to allow fresh survey and demarcation of Railway land as the petitioner has no right to prevent a survey and demarcation of the boundary and the entire proceeding for survey and demarcation of the land in question was in accordance with law.

South Eastern Railway—Land occupied by Howrah-Amta Light Railway.

- (a) In the year 1939, 4.58 acres of land was leased to the Howrah-Amta Light Railway Co. and a proper agreement was executed. Again in the year 1942, 7.8 acres of land was given to Howrah-Amta Light Railway Co. for running their trains between Howrah Maidan and Das Nagar. In the year 1966, Eastern Railway took back 4.21 acres for construction of a fly-over and the Howrah-Amta Light Railway was given 8.62 acres of land for realignment of their narrow gauge. Thus, the Light Railway is in actual possession of 8.62 acres of Railway land for which no agreement was finalised and 4.58 acres of railway land for which agreement has been executed in 1939. Now an official liquidator has been appointed by the Calcutta High Court for the Howrah-Amta Light Railway the matter is being pursued with the Liquidators Office for taking back 13.2 acres of land from the company. The balance 12 acres of land has already been under S.E. Railway's possession.
- (b) The case is being pursued with the official Liquidator for recovery of Railway's dues.

IV. Utilisation of surplus land and Realisation of Revenue therefrom.

1.25 Audit para points out that the Department of Railways (Railway Board) had anticipated an additional revenue to the extent of Rs. 1 crore from items like licensing of land for shopping, commercial plots etc. during the year 1980-81 on each of North Eastern and Northeast Frontier Railways. Similarly earnings of about Rs 1.5 crores each from Eastern, Southern and South Central Railways and about Rs. 2 crores each from Central, Northern, South Eastern and Western Railways were expected. The total extra revenue during 1980-81, after placing the land management cells under the control of the Chief Engineer/Additional Chief Engineer, by way of licensing land for shopping and commercial plots etc.. was expected to be about Rs 15 crores for all Railways.

1.26 The Committee desired to know why the earnings did not materialise to the extent as expected despite administrative machinery

having been set up for the purpose. Explaining the position, the Ministry of Transport (Department of Railways) in a note have stated.

"A high and ambitious target of Rs. 15 crores of earnings per year was stipulated by the Railway Board so that Railways strive hard to maximise the earnings. The Railways have made efforts and shown improvement in earnings. Though the ambitious target of Rs. 15.0 crores has not been reached, the earnings in 1983-84 have touched a high figure of Rs. 6.9 crores from land use.

It may be mentioned that hardly any additional organisation of Zonal Railways for land management was created. The existing posts of Chief General Engineers/Additional Chief General Engineers were assigned the job of land Management in addition to other duties. In the Ministry of Railways, new directorate with two posts of officers transferred from Zonal Railways has been created in 1982."

1.27 When asked as to what steps were proposed to be taken to achieve the expected earnings, the Ministry have stated :

"It has been decided to strengthen existing organisation on the Divisions and Zonal Railways headquarters for land management so that commercial potential of Railway lands is better exploited."

1.28 According to Audit Paragraph, in June 1980, Ministry of Railways (Railway Board) urged the Railway Administrations to maximise revenue from the railway lands, and directed that licence fees for shopping commercial plots, special plots or godowns should be near about the rents in the market and not merely based on the low rate worked out on the basis of 6 per cent of capital cost of land. In November, 1980 Ministry Railways (Railway Board) suggested to the Railway Administrations that increase in licence fees to the extent of 15 to 20 per cent be effected every year in metropolis and other cities.

A review of the position of rent recoverable for land leased on various railways showed that in a number of cases the periodical revision had not been done regularly with reference to the above norms.

1.29 The Committee enquired from the Ministry whether periodical revision of rent from time to time had been carried out by the Zonal Railways by issuing advance notice in all cases. In a note the Ministry have intimated revision of rent and date from which it was required to be done, as follows :

“The periodical revision of rent in most cases has been carried out by the Zonal Railways as indicated below :

Central Railway	1.1.80
Eastern Railway	20.11.82.
Northern Railway	1982-83
N.E. Railway	1.1.77 & then from 1.1.82
N.F. Railway	1.4.81
Southern Railway	Revised from 24.1.81.
S.E. Railway	1.7.83.
Western Railway	Sept. 1980, but reviewed in Sept. 1983.
S.C. Railway	1.1.80.

The Central Railway's circular on the subject issued by the Board in June 1980 as guideline to Zonal Railways for suitable adoption had resulted in manifold increase in rentals and subsequent disputes and litigation. These instructions are being reviewed by the Board and comprehensive guidelines are under issue. This is expected to avoid future disputes and litigations.”

1.30 In a further note Department of Railways have given the number of cases in which revisions are still due and the amount involved, as follows :

“In the case of commercial licensing review of licence fees has been done in all cases on all Zonal Railways except the following for which position has been given against each Railway :

- N.R.* : 75% cases done and remaining are being processed
- N.E.* : 52 out of 100 cases done. Remaining 48 cases are under process. The amount involved is Rs. 5.03 lakhs.
- W.R.* : 90% cases done remaining are being processed.
- N.F.* : 66% cases done and remaining are under process. Amount involved is Rs. 4.17 lakhs.

Concerted efforts are being made by the concerned Zonal Railways for revision of remaining cases as early as possible."

1.31 On being asked whether the Department of Railways had thought of any ways to cut short delays arising due to non-receipt of market value from the State Government authorities, the Ministry in a note have informed :

"The revised policy under consideration with the Ministry of Railways envisages the following provisions to obviate any delay in obtaining realistic market value of land. The land value will henceforth be obtained and determined on the basis of data to be ascertained from one or more of the following agencies or sources.

- (a) Revenue Authority valuation.
- (b) Town Planning Department Valuation.
- (c) Actual transactions as per PWD or CPWD.
- (d) Actual transactions, as per documents filed in the Sub-Registrar's office.
- (e) The value of land assessed by professional evaluators of the State or Central Government.

It is further proposed to have a permanent committee of 3 Principal Officers of the Engineering, Commercial and Accounts Departments in each Zonal Railway for considering realistic value of land keeping in view the factors location, encumbrances of land, developed/undeveloped land purpose of licensing etc."

1.32 The Committee desired to know the present position in regard to short/non-recovery of licence fee in respect of the cases mentioned in the Audit Para. The Ministry of Transport (Department of Railways) have given details of the cases as follows :

Central Railway

- "(i) The total outstanding dues as on 31.3.85 were Rs. 15.64 lakhs as against Rs. 92.86 lakhs, in December, 1982.

This land was licensed to DGS&D. They have paid Rs. 10 lakhs on *ad hoc* basis. They have also agreed to make a further payment of Rs. 26.86 lakhs. This payment is expected shortly.

(ii) (a) It was found necessary to reduce the licence. Fee in respect of M/s. TISCO and SAIL as these firms were giving lot of traffic to the Railways and as such were treated separately from those using the land for their own private purposes. With regard to M/s. Nathani Steel Private Ltd., the land licensed to them required heavy filling for development and was of no use to the Railway. There was no approach road also for this land and downgradation was, therefore, justified.

In re-fixing the licence fee, every aspect of the land and its location, as also Railway's interest, have been kept in view. Downward revision was done as the same was considered justified.

The licence fee so fixed for a plot is recoverable at double the rate if the party erects any structure on the land for getting added benefit. However, a small temporary goomty structure not more than 8' x 8' size is allowed as shelter to Chowkidars etc.

(b) Regarding revision of rates in Wadi-Bunder area etc., the rates were revised as per recommendations of the DRMS. There were many protests from the parties due to abnormal rise in the rates and the DRMS expressed difficulties in collecting licence fee and wanted re-consideration of the same. The matter was gone into by a Committee of HODs under the guidance of AGM and taking all aspects into consideration, downward reduction of rates was suggested by the Committee on the merits of each case. In the case of Bharat Petroleum also the rate was reduced to Rs. 6000/- per 100 Sqm. (ord.) and Rs. 24,000 per 140 sqm. realised on account of retail outlet (4 times the ordinary rate).

It cannot be said that a difference in the earning on account of original rates and the revised rates is a loss,

as it is only notional. In view of the high rates originally fixed, there were many protests for example. SAIL & TISCO were paying Rs. 64.54 per 100 sqm. prior to 1980 which were raised to Rs. 4000/- per 100 sqm. (ord.) and Rs. 8000 per 100 sqm. for covered area but subsequently reduced. Similarly, M/s. Nathani Steel Ltd. were paying Rs. 1200/- per 100 sqm. prior to 1980 which was raised to Rs. 4000/- per 100 sqm. and subsequently reduced to Rs. 1500/- per 100 sqm. (ord.). It was, therefore, justified and necessary to go into whole question of fixing realistic and reasonable rates which could be recoverable from the party amicably. Since the cases have been gone in detail by a high powered committee who have suggested the realistic and reasonable rates, the difference would not amount to loss as stated by the Audit.

South Central Railway

It may be stated that although the amount realised as a result of the review by the Committee appointed for the purpose may appear to be less, yet the return obtained as a result of the revision of rates is not less than 11% as against 6% of the market value as envisaged in para 1823-E and the same appears to be very reasonable.

Western Railway

- (i) There has been some delay in the revision of licence fee in respect of land in Rajkot Division in view of the fact that the Division was under the impression that the Head Quarters' prior approval was required for this purpose which has since been clarified to the Division. Headquarters's directive was only a guideline based on the Railway's letter of 1980 and rates indicated therein were applicable where cost of land was not readily available from Revenue Authorities.

No revised directive was issued in May/83. Clarification of earlier letter of September 80 was given by the Western Railway Headquarters in their letter No. W3/ 18 (Commr)/W/S dated 30.9.83. The Division was asked to fix the licence fee

on a realistic basis in consultation with the Commercial and Accounts Departments and arrange for recovery of the outstanding disputed recoveries from the licencees.

- (ii) As per guidelines issued by the Western Railway Headquarter in 1980, the licence fee was revised from January 81. As such, it was not possible for the Division to give six months advance notice.

When the licence fee was revised by the Division and the parties advised of the same, they protested against the enhancement of the licence fee due to which reason the licence fee has remained unpaid by the parties. However, clear instructions have been issued to the Division for fixing licence fee on a realistic basis *vide* Railway's letter No. W340/0/A (Plans) dated 30.9.83 The licence fee is to be revised and fixed in consultation with the Associate Finance.

The Western Railway had referred the matter to the Railway Board giving the factual position. The Railways Board, *vide* their letter No. 82/W2/18/82 dated 15.7.83 desired that the Railway could review the position in consultation with the FA&CAO and fix the licence fee on a realistic basis. Accordingly, instructions were issued by the Railway to the Divisions.

It is not clear as to how the so-called short recovery has been arrived at by the Audit as Rs. 6 lakhs per annum. However, the Division will fix the licence fee on a realistic basis and recover the necessary dues from the various parties.

- (iii) Though the plot of land measuring 32664 sqm. was licensed to M/s. Hindustan Steel Ltd. at Sabarmati without entering into formal agreement, the terms and conditions fixed by the Railway were accepted by the party and they have paid licence fee at Rs. 2139.26 per annum upto 5.10.81. Further, the SAIL *vide* their letter No. 1/15/82 dated 19.11.82, have advised the Division, that they will honour the bills at the revised rates.

Revision of rent at Rs. 6000/- per 100 sqm. was advised to the party by the Division on 12.11.82 and the party has advised that they will honour the bills on receipt of the same. Sr. DAO prepared the bills amounting to Rs. 51,21,442.20 as per the revised rates from 1.1.1981 to 5.11.1983. However, the bills are under further revision in view of the Board's letter No. 82/W2/18/82 dated 5.7.1983.

(iv) M/s. IFFCO were moving fertiliser traffic ex. Kandla to B.G. destination *via* transhipment point Sabarmati as per CRB's instructions given in the Meeting held in GM's chamber on 17.9.81. In the meeting, it was also decided to earmark a special shed at Sabarmati transhipment point for the purpose of unloading and stacking of goods received from M.G. route ex. Kandla for onward transmission *via* Sabarmati with a view to attract traffic to the Railway which would have otherwise gone to the road. The empty haulage of B.G. stock to Kandla was also thus saved. Besides, transhipment charges were also saved as the transhipment was done by the party. The Railway Board, *vide* their letter No. TCR/1073/81/22 dated 25.3.82 had granted the facility at telescopic rates to M/s. IFFCO although the traffic was received and then despatched onward to B.G. destinations. The rental of Rs. 10,000 p.m. for the use of transhipment shed at Sabarmati was also fixed by the Railway Board only and confirmed *vide* their letter No. TCR/1078/81/29 dated 2.4.1983. Thus, it will be seen that this facility was given as a very special case to encourage traffic to be moved by rail. This facility was also not granted on a permanent basis but was to remain in force till such time IFFCO were to receive imported fertilizer at Kandla Port. Granting of such facility, to one of the biggest concerns for encouraging movement of traffic by rail cannot be compared with allotment of commercial plots to the trade units for stacking their goods received or carried by them."

1.33 The Committee enquired whether the extant rules and orders provided for downgrading the licence fee and whether any guidelines

had been prepared to decide such cases. The Ministry in a note have explained the position as follows :—

“In any Organisation if there is genuine hardship due to certain decision it becomes necessary to review such decisions. When the rates were initially fixed from 1.1.1980 on the basis of classifications of Stations, there were representations from a number of parties stating that there was abnormal rise in the rates. DRMs also expressed difficulties in getting licence fees and wanted reconsideration of the issue. As the difficulties appeared to be genuine, the matter was gone into by a Committee of three MODs under the guidance of AGM and taking all the aspects into consideration reduction of rates was suggested by the Committee on merits of each case. The Committee examined all the cases and rates were revised downwards wherever considered suitable. No guidelines were prepared for review of cases which were examined by the Committee of three MODs on merits of each case. 422 cases were reviewed in all and in 387 cases licence fee was lowered.”

Security Deposits and Liquidated Damages

1.34 Audit para points out that the extant instructions (April 1967) of Ministry of Transport (Department of Railways) (Railway Board) provide that in all cases of licensing of land, security deposit equivalent to 12 months licence fee should be recovered from outsiders (other than Government Departments). On Central Railway recovery of such security deposits was outstanding (June 1982) to the tune of Rs. 89.22 lakhs against Oil Companies and other Private parties.

1.35 Enquired whether any recovery had been effected against Rs. 89.22 lakhs due from oil companies and other private parties on account of security deposits on Central Railway, the Ministry in a note have explained :

“On Central Railway, Rs. 29.37 lakhs of arrears in S.D. have already been recovered. It may be mentioned that in case of oil companies where the same is being exempted from pay-

ment of security deposit but is required to produce only a guarantee from the Ministry of Energy. The Ministry of Energy has given guarantees in favour of the nationalised oil companies and individual cases are being looked into for exemption of security deposit."

1.36 Giving Railway-wise position in regard to enforcement of Railway Board's instructions of April 1967 relating to security deposits and liquidated damages alongwith outstandings on this account, the Ministry in a note have stated :

"All the Zonal Railways are following the instructions of the Railway Board in regard to the security deposit and liquidated damages. The arrears on this account are listed below :—

Railway	Outstanding Security Deposit	Liquidated Damages
N.E.	1.02 lakhs	0.067 lakhs
E.R.	0.58 lakhs	1.34 lakhs
W.R.	5.91 lakhs	—
C.R.	49.44 lakhs	7.08 lakhs
N.F.	NIL	NIL
S.C.	38 73 lakhs Oil Cos)	0.61 lakhs
S.E.	—	9.86 lakhs
N.R.	7.00 lakhs	12.32 lakhs
C.R.	45 00 lakhs	8.24 lakhs
Total	147 68 lakhs*	39.51 lakhs

The Railways which have reported nil outstanding dues are, however, being requested to once again check up their records and confirm."

Outstanding Dues

1.37 Audit paragraph states that recovery of Rs. 4.88 crores towards rent of plots licence fee was outstanding on Zonal Railways. The Committee desired to know the break-up of the outstanding dues on

* Mostly pertaining to Oil Companies who will be exempted from payment of security deposit after they have cleared their outstanding dues of over Rs. 4.0 crores.

account of rent/licence fee, etc. and whether any staff responsibility had been fixed, the Ministry in separate notes have informed :

"The position of outstanding dues as on 31-3-1985 is as under :-

CR	65.64	lakhs
ER	24.60	lakhs
NR	129.87	lakhs
NE	78.81	lakhs
NF	12.76	lakhs
SR	192.48	lakhs
SE	14.91	lakhs
SC	54.86	lakhs
WR	120.00	lakhs
	693.93	lakhs

The position varies from time to time due to clearance/accruals."

It has also been stated that no staff member has been held responsible on this account.

138 When asked to explain the reasons why necessary action was not taken to enforce recoveries concurrently and what special steps Railways proposed to take for expeditious recovery of outstanding dues, the Ministry in a note have stated :

"(a) The annual earnings from land are of the order of Rs. 7.0 crores. The outstanding dues are Rs. 6.41 crores as on 31-3-1984. The rates fixed by Zonal Railways in terms of 1980 instructions from Railway Board, were considerably higher than old rates. Many licencees have disputed the increase and are either paying at old rates or are not paying at all. Some of the major defaulters are :

M/s. Pure Drinks, New Delhi (over Rs. 44 lakhs approx)

M/s. Kirit Enterprises (Rs. 36 01 lakhs)

Bihar Military Police (Rs. 16.84 lakhs) and

Oil Companies (Outstanding over Rs. 4.00 crores approx)

- (b) (i) For Major defaulters like M/s Pure Drinks, New Delhi, M/s. Kirit Enterprises etc. cases are being pursued in the Court.
- (ii) In case of Oil Companies, chasing is being done by Zonal Railways directly and also by the Ministry of Railways with the Ministry of Energy Secretary, Ministry of Energy has been reminded by C.R.B.
- (iii) Railways have appointed Committees of Sr. Officers to examine disputed cases so that disputes are settled quickly and dues realised.
- (iv) G.Ms. of Zonal Railways in meetings with the H.ODs review periodically position of outstanding dues to clear arrears.

- (c) At present there are not exhibited in Railway's Balance Sheet. Bills recoverable are being watched through separate register being maintained at the divisional level and outstanding position is regularly reviewed at the level of Principal Officers both in the Divisions and Headquarters of Zonal Railways."

Retrieving Land Given for Cultivation Under Grow More Food Scheme

1.39 Audit para mentions that as a part of Grow More Food campaign surplus cultivable land measuring 3,508 acres was handed over to the State Governments by the various Railway Administrations. The para has pointed out a few cases in which the Railway land could not be got back and continued to be in unauthorised occupation. The Committee when enquired about the latest position in regard to restoration of Railway land and recovery of dues of these cases, was informed as follows :

"Position of land given to State Governments, Railway employees and outsiders in respect of Central, South Central and South

Eastern Railways is given as under :

Railway	Land given to State Govts. (acres)	Land given to Rly. employees (acres)	Land given to outsiders (acres)	Total area	Annual income (Rs)
1	2	3	4	5	6
Central	1775	4772	1083	7630	5,82,287
S.E. Rly.	2560	10796	4545	17901	5,02,287
S C. Rly.	1780	4628	646	7054	4,17,059
Total on all Rlys.	26700	50433	16260	93393	39,08,072

It is, stated that the State Govts. are not giving details of lands licensed, dues realised and payments due to Zonal Railways. All the Zonal Railways have been chasing State Government with not much outcome.

Railways are now trying to get back Railway land from State Governments for afforestation through State Forest Departments. The problem is expected to get solved in few years with withdrawal of all lands and recoveries of dues from State Governments for past years will have to be chased. About 3740 acres of land has been taken back from State Governments during 1982-83.

Regarding specific cases mentioned in CAG's Report the position is as follows :

Bhusaval Division of C. Rly. has realised Rs. 66,814/- from State Govts. upto 1980. Further recoveries are being chased.

Regarding lands of Sholapur Division, State Government had paid upto 1970-71. Further recoveries are being chased. State Government is working out the dues to be paid to Railway.

South Central Railway has taken back 177 hectares out of 698 hectares of land handed over to State Government for G.M.F.

Latest position of statement in para 1 is as under :

(area in acres)	Rs. in lakhs					
	1	2	3	4	5	6
Central Railway	287	4839	924	6050	5.31	
South Eastern	2560	6100	4545	17901	13.45	
South Central	1621	4628	499	6748	6.00	
Total on all Railways	26265	38909	12483	77657	51.47*	

1.40 Explaining the position on retrieving land given for cultivation, the Member (Engineering), Railway Board, stated during evidence :

"Railway had given for temporary cultivation nearly 80,000 acres of Railway land to State Governments, outsiders and Railway employees under the Grow More Food Scheme. The return from these lands has been extremely poor at the level of about Rs. 40.50 per acre per annum, apart from the problems of unsatisfactory management of large number of agreements, disputes and inherent risk of permanently losing Railway land given for cultivation. Based on the facts and figures collected by the Land Management Directorate, the Railway Board have taken a decision to take back this land for afforestation purposes. During last one year about 4000 acres of land have been retrieved."

Afforestation

1.41 The Ministry of Transport (Department of Railways) at the instance of the Committee in a note have given Railway-wise position of plantations (both departmentally and through State Forest Departments) and earnings achieved by Railways through sale of matured trees and sale of fruits as follows :

<i>Plantations (Departmental as well as Forest Deptt.)</i>								
Railway	1980-81		1981-82		1982-83		1983-84	
	Plantation done (in lakhs)	Total earnings by Rly. from Plantation (in 1000s)	Plantation done (in lakhs)	Total earnings (in 1000s)	Plantation done (in lakhs)	Total earnings (in 1000s)	Plantation done (in lakhs)	Total earnings (in 1000s)
Central	3.87	54	2.61	32	5.40	52	11.0	65
Eastern	7.15	10	3.46	46	3.70	32	6.71	24
Northern	5.00	11	3.65	10	16.50	16	28.42	85
Northeastern	6.59	1328	1.61	1756	4.70	655	9.00	424
Northeast	3.21	54	4.35	10	2.50	9	0.88	87
Frontier								
Southern	4.28	4	2.88	3	4.50	5	11.02	478
South Eastern	6.59	—	2.75	—	5.90	—	10.99	12
South Central	3.40	38	1.85	56	3.00	55	6.50	55
Western	4.59	84	1.40	52	5.70	83	21.13	28
Total	44.68	1583	24.56	196	51.90	907	107.34	1258

Details of expenditure incurred on each Railway are not available and will be collected from the Railways.

1.42 The Committee enquired as to how the scheme of afforestation on Railways was being monitored by the Directorate of Land Management in the Ministry of Transport (Department of Railways). The Ministry in a note have stated :

"Targets for annual tree plantation by different Zonal Railways including plantation by the State Forest Department are set by the Railway Board.

The progress is monitored through monthly progress reports.

An annual meeting with Zonal Railways and State Forest Departments is held by the Land Management Directorate for stock taking and laying down of targets, etc.

Number of trees surviving at the end of each rainy season in the past few years done Departmentally and by State Forest Deptts. is as under :

Year	No. of trees planted
1981-82	25 lakhs
1982-83	52 lakhs
1983-84	107 lakhs
1984-85	*103 lakhs (Target)
	*Actual = 132 lakhs
1985-86	120 lakhs (Target)"

1.43 In a further note explaining the existing arrangements, survival rate of trees planted and expenditure incurred, the Ministry have stated :

"The Ministry of Railways have approved launching of two-pronged drive, involving judicious combination of the aforesaid two agencies, viz., the Railways and the State Forest Departments bearing (i) the scope of tree plantation by the Railway will be confined to compact block afforestation in big colonies and within station limits where land and water are available, (ii) strip plantation on vacant land along the railway track falling between stations shall be handed over to the Forest Departments of the respective States.

The number of trees that have survived yearwise are as follows :

1981-82	...	25 lakhs
1982-83	...	52 lakhs
1983-84	...	107 lakhs
1984-85	...	132 lakhs

The survival of trees planted by the State Forest Department is in the range of 60 to 65%, while the survival of trees planted by the railways is 70 to 75%.

The expenditure incurred by the Railways on afforestation including staff expenditure and maintenance of lawns, hedges, parks in colonies is allocated under Revenue Head of expenditure to B-640. No separate accounts for expenditure exclusively on tree plantation have been maintained so far.

In respect of compact block afforestation by the railways in the stations and colonies, the tree plantations are protected by wire fencing, live hedges, earthen bunds, tree guards, watering arrangements are also provided and where required, saplings are protected by posting watchmen at vulnerable locations. Similar protection is done by the Forest Department also.

Maintenance of track involves safety and it has not been considered prudent to divert the attention of gangmen and gatemen on track maintenance to tree plantation which requires additional men both for plantation protection and after care."

1.44 According to the Audit paragraph, the Directorate of Land Management in Railway Board has yet to compile data regarding areas covered and areas yet to be covered under the afforestation scheme, earnings and expenditure of such plantations etc. for the effective monitoring of the scheme. The Committee when enquired as to how, in the absence of the above data the Directorate of Land Management in the Ministry of Transport (Department of Railways) was monitoring the scheme, was informed as follows :

"Project report prepared for afforestation on Indian Railways envisages use of 88,000 hectares of land for the purpose. The report has identified areas, zonal-railway-wise.

(ii) Areas of land handed over to State Forest Department so far, for afforestation by various railways are as under :

Railway	Area of land handed over
C.R.	240 Hec.
E.R.	640 Hec.
N.R.	5500 Hec.
N.E.	2500 Hec.
N.F.	111 Hec.
S.R.	694.0 Hec.
S.C.	236.0 Hec.
S.E.	1011 Hec.
W.R.	4954 Hec. (2685 hec. utilised)
Total	15885 Hec.

(iii) Areas to be used for afforestation during 1985-86, zone-wise have also been identified and details are available with the Railway Board.

(iv) Once a year, Directorate of Land Management holds meeting with State Forest Departments and Zonal Railways to fix targets of plantation and areas of land to be available for the same.

(v) For afforestation done through Forest Departments as per policy now adopted, expenditure is to be incurred by the Forest Departments and earnings kept by them. Railways have only to charge nominal licence fee of Rs. 1/- per hectare per annum.

(vi) For afforestation done departmentally, expenditure is met from revenue budget head B-640 along with expenditure on lawns, hedges etc. Earnings from sale of trees are reported by the Railways every month to the Railway Board.

(vii) Instructions have been issued to the Zonal Railways to reflect position on afforestation in G.M's annual narrative reports."

1.45 In a subsequent note, the Ministry of Transport (Department of Railways) have explained the position further :

"Keeping in view the difficulties encountered by the Railways with the State Governments in 'Grow More Food' scheme, the Ministry of Railways have given detailed instructions to the zonal railways to enter into proper agreements with the State Forest Departments in respect of lands given for afforestation. These agreements, duly vetted by the Legal Cell, specifically provide for railway's right towards resumption of land as and when required without payment of any compensation and also safeguard railway's rights to the title of land.

The railway plantations are primarily for improving the ecological and environmental balance and their primary aim is social rather than monetary. The primary objectives are to beautify the country side, make the travel by trains more pleasant, development of social forestry and reducing the incidents of encroachments.

According to expert's opinion strip plantation on railway land requires—

- (a) Higher input by labour in initial plantation and after care;
- (b) Have difficult access; and
- (c) Have problems of biotic interference, water supply and maintenance.

"Keeping in view these difficulties, the Railway Ministry have agreed to licence lands to State Forest Departments on a nominal licence fee of Rs. 1/-per hectare of land. However, there is likelihood of some earnings in due course from the Railway's own Block plantations in stations and Railway-colonies, which is being done at the rate of about 50-60 lakhs trees per annum."

1.46 About the targets set for tree plantation, the Member (Engineering) (Railway Board), informed the Committee during evidence as follows :

"Afforestation—an important national objective of the P.M's 20-Point Programme. The level of tree plantation has been raised from 20-25 lakh trees annually to more than 100 lakhs by sharing the afforestation work with the State Forest Departments. With close liaison with the Ministry of Forest and Environment and the States, it is proposed to plant nearly 10 crore trees on Railway land in the next 10 years."

Energy Plantations—Proposals have been mooted for setting up special farms on 50-100 acres Railway plots for cultivation of energy plantation, by planting quick-growing trees like Eucalyptus and Subabool with viable return in a time frame of 5-7 years."

1.47 In regard to earnings from pisciculture the Member (Engineering) informed that the earnings from pisciculture have shown an increase of Rs. 8 lakhs in 1980-87 to Rs. 15 lakhs per annum in 1984-85.

IV Non-execution of Agreements

1.48 Audit para points out that out of 73,115 cases of plots licensed, in 40,348 cases formal agreements had not been executed with the parties, as on 31.3.82. The Committee desired to know from the Department of Railways as to the compulsions that prompted the Railway Administrations to had over the land even without executing informal agreements and whether any action had been taken to fix staff responsibility for giving possession of land before execution of agreements by the parties. Explaining the position Department of Railways in a note have stated as follows :

"The latest position of agreements still to be executed is as under:

Railway	No. of cases in which plots have been licensed	No. of cases in which agreements have been executed	No. of cases in which agreements have not been executed	Remarks
C.R.	5712	4247	1465	
E.R.	3024	3024	...	1178 Nos need renewal.
N.R.	9841	5275	4566	
N.E.	16510	8422	8088	
N.F.	8157	5373	2784	
S.R.	5277	1947	3330	
S.C.	4516	4235	281	
S.E.	24316	16231	8085	
W.R.	5221	4581	640	
C.L.W.				
Total :	83824	54272 (65%)*	29552 (35%)	
		(As on 31.3.85)		

(*Against 46% as on 31.3.84)

(a) A large number of agreements are involved specially for plots licensed for Grow More Food to private individuals and Railway employees on year to year basis. Due to meagre establishment, it is not possible for the Railways to keep pace with the workload.

Under PM's 20-Point Programme, decision has been taken to take back lands given for Grow More Food to State Govts., private individuals and some categories of Railway staff and use the same for afforestation. Workload for execution of agreement is likely to come down considerably with this. Proposals are also being finalised to strengthen the Land Management Organisation in Divisions and Zonal Railway's Headquarters for more efficient control on land licensing.

- (b) For taking land on licence, all parties apply to the concerned Railway authorities and after considering their request, a letter for temporary licensing of land indicating terms and conditions is issued. The party, thereupon, gives acceptance letter and deposits the dues. The conditions thus become binding on the performance. Further instructions have already been given to the Zonal Railways not to hand over land without entering into licence agreements in future.
- (c) In view of the position given in (a) & (b) above, no action has been considered necessary or fix staff responsibility as most of the current cases are renewal cases and instructions have been given in Jan, 85 that in future no land should be given without formal execution of agreements by the parties. The position has improved from 46% as on 31.3.84 to 65% as on 31.3.85."

1.49 On signing of agreements, the Member (Engineering), Railway Board, during evidence informed the Committee :

"Special drive was initiated for liquidating the arrears in execution of agreements. As a result of concerted efforts, the percentage of agreements executed has been improved from 46% to 65% (total agreements being about 84000). Instructions have also been issued not to part with land before execution of agreements."

1.50 On enquiry whether any final decision had been taken on instructions for commercial licensing of lands and whether the Ministry of Law consulted on the Licence Agreement, the Railway Board have stated :

"The Railway Ministry has recently issued detailed guidelines to the Zonal Railways for fixing licence fee and for review of old cases involving disputes".

"All licence agreements in force on the Zonal Railways are generally vetted by the Law Officers of the Zonal Railways. Since different Railways are following different formats of agreements, copies of the agreement forms were obtained from the Railways and have been examined in the Board's office in consultation with

the Legal Cell. These are now being sent to the Ministry of Law for vetting so that uniform proformas can be issued to the Zonal Railways for adoption in future".

Land Management Organisation

1.51 According to Audit paragraph the Ministry of Railways (Railway Board) directed the Railway Administrations (June 1980) to give highest priority to the management of land by exercising greater control and taking dynamic action to eliminate encroachments and also make concerted efforts to derive maximum revenue from Railway land. To ensure efficient land management and to maximise the revenue from the available land, the Board decided (June 1980) to set up land management cells. Railways under the control of Chief Engineer (General) in level II on Central, Western, South Eastern and Northern Railways, and under Additional Chief Engineer in level II on other Railways.

1.52 Admitting the existing inadequate organisation on Indian Railways for land management, the Ministry of Transport (Deptt. of Railways) have stated as follows :

- “(1) It is a fact that land management on Railways has suffered over the years due to completely inadequate and virtually insignificant land management organisation in the fields, in the face of mounting problems connected with complex laws, encroachments, optimum utilisation of land assets, commercial licensing.
- (2) A current review shows that the total land management organisation on the Railways, both at the headquarters level and in the field, consist of 12 gazetted and 181 non-gazetted staff. Considering the vast land assets of the Railways comprising of nearly 3.36 lakhs hectares, unfenced and spread all over the vast Railway network, pressure of population, the complicated land laws relating to title and ownership between the Centre and the States, enormity of the work involving certification of land plans etc., the land management organisation is completely inadequate for its protection, management and development.
- (3) *Setting up of a new Directorate*—Since 1982 a number of important measures have been adopted in streamlining and nationalising the land management on the Railways which will

have far-reaching impact in the near future. Some of the more important measures include *inter alia* the following :

- (i) A new Directorate of Land Management has been created under a separate Director assisted by a Joint Director in the Railway Board for overall review and implementation of the land management policy.
- (ii) Chief Engineers (General) of the respective Railways have been entrusted the subject of land management in addition to their duties.
- (4) The proposals for strengthening the land management organisation on the Zonal Railways at the Headquarters as well as in the Divisions have since been submitted by the Zonal Railways. These proposals have been examined in the Board's office and after in-depth study, suitable norms have been evolved for sanctioning the additional staff for land management on the basis of overall workload of each Zonal Railway and the workload of each Division.

Action is being taken to submit a Memorandum to the Railway Board/Cabinet for creation of the required posts.

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- (5) Due to administrative constraints and ban on creation of posts, the Department of Railways is not in a position to create the organisational infrastructure for management of land."

1.53 The Committee desired to know whether the officers and the staff appointed for the land management were equipped with States' land laws and rules thereunder. The Ministry of Transport (Department of Railways) in a note have stated as follows :

"Since inception of railways, management of land is entrusted to the Civil Engineering Department who are officials generally conversant with the rules and regulations of land. No separate organisation in the Zonal Railways exclusively for land management has, however, been created so far. In the proposed

strengthening of organisation, it is proposed to induct some officials from revenue department of State Government like Patwaris, Kanungo and Law Assistants who are fully conversant with and regularly dealing land laws."

1.54 Elaborating the position, the Member (Engineering) informed during evidence :

"The rules very from State to State. We appoint a land Acquisition Officer chargeable to our estimates."

1.55 Explaining the staff requirements for land management, the Member (Engineering) stated during evidence :

"We have done this exercise after consulting all the Zonal Railways, how to strengthen the Railways at the Zonal and the Divisional levels; because the Committee of Secretaries has not allowed me to set the land management authority. Here we have assessment and decided that we require ninety six gazetted officers solely if they have to do this apart from being wholetime officers. This would mean that 84 additional gazetted and 570 non-gazetted posts will have to be created which under the present constraints I am not able to do."

1.56 In a subsequent note, the Railway Board have stated as follows :

"It is expected that with proposed strengthening of the Land Management Organisation in the field Zonal Railways, on the annual earnings are likely to be augmented from the present level of Rs. 6 crores to around Rs. 10-12 crores in about 3 to 5 years time. The additional annual earnings of 4 to 6 crore anticipated from updating and realisation/monitoring of licence fees from commercial plots would largely justify the strengthening of the land management organisation at an additional cost of Rs. 1.5 crores. Apart from the increased earnings, the strengthened organisation will play a vital role in carrying out large scale departmental afforestation on Railway lands. In actively purusing the evication of encroachments, surveying of demarcation of land boundaries, updating of land records and in checking fresh encroachments on Railway lands."

1.57 During evidence, the Member (Engineering), Railway Board informed the Committee that Railway Reforms Committee (RRC) in their Report recommended that the Railways should set up a Land Management Authority for effective management of their land and for mobilisation of resources. Keeping in view the recommendation of RRC, the Railways proposed to create a Land Management Authority through enactment of Parliament. The proposal, however, was not accepted by the Committee of Secretaries to the Government on the consideration that real estate activity was not the legitimate function of the Railways. Instead, they recommended for appropriate strengthening of the existing organisation for better management of Railway lands.

1.58 The Committee desired the representatives of Railway Board to furnish a detailed note stating the justification for setting up of Land Management Authority.

1.59 In their note, (*See Appendix III*) the Ministry of Transport (Department of Railways) explaining *inter alia* objectivities/functions of the proposed Land Management Authority have stated as follows :

“Lack of Financial Resources :

Railways have remained deficit of funds for even their basic needs such as replacements and renewals. There are practically no funds available for developing land for commercial use.

The Railways have no powers to raise resources through borrowings from other than the General Exchequer for development of their land assets or to construct multi-storey buildings by taking advances from the prospective buyers/hirers of the floors space. The principles embodied in the Constitution stipulate that all receipts of Railways should be credited into the Consolidated Fund of India and expenditure incurred only from the funds as voted by the Parliament. The Department of Railways, therefore, cannot execute works for development of vacant land by raising resources through borrowings from other than the General Exchequer.

Objectives/Functions of the Land Management Authority

(1) Railways, therefore, proposed to create a Land Management Authority for proper protection, development and management of their land assets and air space.

(2) It was considered that such an organisation would not be able to discharge its responsibilities effectively within the framework of Departmental working. The need for specialised bodies has been accepted all over the world and a number of Railways including the British Railways, the Hong Kong Railways (Metro), Canadian Pacific and Canadian National Railways among others have set up specialised bodies in connection with utilisation of real estates belonging to the Railways. In India also, the need for specialised bodies (DDA, CMDA and BMRDA) has been accepted for management of real estates, in view of the complex land laws.

(3) The Authority would be set up by an Act of Parliament functioning under the administrative control of the Department of Railways. The following are the primary objectives and functions of the proposed Authority :

(a) Objectives :

- (i) Scientific management of Railway lands;
- (ii) Creation of a self-sustained organisation with efficient infrastructure through its own financial resources; and
- (iii) Organising development of railway land by commercial borrowings not permissible to the Ministry/Department of the Government of India.

(b) Functions :

- (i) Protection/development and management of railway lands.
- (ii) Completion of land records, undertaking accurate land demarcation for preserving railway's title on lands;
- (iii) Removal of prevailing encroachments and prevention of future encroachments;
- (iv) Commercial utilisation of vacant land and air space in metropolitan cities and other important towns;
- (v) Planning joint ventures, mobilisation of resources for development of vacant railway lands from commercial borrowings and commercial participation with other undertakings and entrepreneurs; and

(vi) Exploitation of large scale afforestation on Railways.

Rejection of proposals by the Secretaries Committee

(4) The Committee of Secretaries to the Government of India, however, did not accept the proposal primarily on the consideration that real estate activity is not the legitimate function of the Railways. The Committee made certain recommendations, including, *inter alia*, the following :

- (i) Ways and means should be found for effective and efficient management of railway lands;
- (ii) Every care should be taken to prevent unauthorised encroachments of railway properties;
- (iii) Expeditious steps should be taken in consultation with the State authorities to remove existing encroachments;
- (iv) In vulnerable locations, fencing of railway properties would have to be resorted to;
- (v) There is no particular advantage in creating a separate Board to manage railway lands. Eviction of encroachments might become more difficult if the land is not treated as Government property. It is also necessary that in such a far flung organisation, the management of railway lands is closely linked with the Zonal and Divisional Railway Managers so that the General Managers and Divisional Railway Managers are fully in the picture."

1.60 The Committee enquired as to what would be increase in their income if the Land Management Authority as suggested by them was established. In reply, the Member (Engineering), Railway Board during evidence stated :

"On a rough estimate, we expect that we can increase straightaway Rs. 50 crores per year."

1.61 Elaborating the source of income, the Member (Engineering) stated :

"In between the stations, we have authorised various Departments

of the State Government on a nominal payment of Rs. 1/- per hectares for strip plantation. We are doing it every year. We have assessed after seven years, we will have a potential of Rs. 40—Rs. 50 crores per year.”

1.62 Referring to the position prevailing in U.K., the Member, (Engineering) stated :

“They have a division called Land Review Board in the United Kingdom. I can just read out from the report. The cash contribution, net, to the British Railways from this land management is reported to be from 42 million pounds in 1979 to 103 million pounds in 1983. They have more than doubled the income. They have a separate authority called the British Railway Property Board. We went to the Committee of Secretaries and we wanted this Land Management Authority. As a Government Organisation it will be able to raise the financial resources. There are other objectives about protecting the land, beautifying the railway track and also to earn from the land.”

Observations/Reccommendations

1.63 The Indian Railways own about 8.3 lakhs acres of land spread over the length and breadth of the country along its network of over 61,850 route kilometers of railway lines. About 5.56 lakh acres of land are under railway assets like tracks, workshops, offices, staff colonies, etc. whereas the remaining 2.74 lakh acres are non-functional and fall in the category of available lands as defined in Para 1008 of the Indian Railways Code for the Engineering Department.

1.64 The Committee note that as a result of review of the land management of the various Railways, Audit has raised four basic issues. The first is inadequate and inefficient maintenance of land plans leading to disputes/litigations, damage to Railway's title of land and loss of revenue accruing therefrom. The second is high incidence of encroachments and inadequacy of action for its removal. The third is lack of concerted efforts to exploit surplus land to derive maximum revenue and the fourth is non-execution of agreements for land licensed.

1.65 The Committee have noted with concern that maintenance of accurate land plans of all railway lands duly accepted by the Revenue authorities of the State Governments is far from satisfactory on all the Zonal Railways. In the absence of proper land plans it was not known whether periodical verification of boundaries as per extant rules, was regularly done by the Railway administrations. The Committee are informed that land plans for about 80% of total lands owned by the Indian Railways were available with the Zonal Railways. Work on preparation and certification of remaining land plans had been taken up by the Zonal Railways and target of 31-3-1986 had been set for the purpose, which has apparently not been achieved. During their visit in July, 1985 to South Central Railway, it was learnt by the Committee that to prepare authenticated land plans it was necessary to have a joint survey made by the officials of the Railways and the Revenue Department of the State Governments. At an approximate cost of Rs. 8,000/- per km., the joint survey of 1597 kms., for which land plans were not available, would cost the Railway Administration Rs. 1.28 crores. The entire amount was to be found from within Revenue expenditure which suffered from acute shortage of funds. The Committee were also informed that the joint survey had been completed over a length of 201 kms. only.

1.66 The Committee have a feeling that position of updating the land plans on other Railways may not be different. As the certified land plans are the elementary requirement for ownership proof of the land belonging to the Railways, the Committee recommend that work on preparation, certification and verification of boundaries of the remaining land plans should be done on priority basis. The Committee would also like to be apprised of the progress achieved by the Zonal Railways in clearing the arrears in this regard within six months.

1.67 As regards specific cases of non-maintenance of upto-date and complete land plans mentioned in the Audit Paragraph, the Committee are informed that in the case of plot No. 436 of Birlanager siding at Gwalior, the Railways's ownership has now been established and mutation done in their favour. It is proposed to license the railway land to J.C. Mills who are using the land for unloading of coal etc. on annual licence fee with retrospective effect from 1961. Central Railway has been asked to work out the arrears and realise the same from the party. The Committee desire the Ministry to expeditiously work out the arrears and to ensure the

payment thereof by the party to the Railway. The Committee may be informed of the amount recovered.

The cases of land occupied by Notified Area Committee at Loharu, non-payment of licence fee by Provincial Armed Constabulary at Gorakhpur, licensing of Railway land to M/s. Small Coir Industries at Tellicherry, and land on Millers Road, Bangalore are still subjudice at various stages in the courts of law. The cases of land at Chupra and mutation of land of Tezpur-Balipara Railway are being pursued with the State authorities concerned in the matter. The Committee trust that Railways will vigorously pursue all such cases as mentioned in the Report which are subjudice and pending with the State Government authorities and take appropriate remedies, administrative and legal, available to them to safeguard the Railway's interest.

The Committee observe that two plots of Railway land measuring 5073 sq. yards situated in front of New Delhi Railway Station were licensed (1948) to the then Delhi Municipal Committee on the recommendations of the Ministry of Rehabilitation, at a nominal fee of Rs. 2 per annum, for temporary resettlement of refugees from West Pakistan. The Committee have been informed that the matter is under correspondence between the Ministries of Railways and Rehabilitation and the Lt. Governor of Delhi. Keeping in view the considerable delay and the continued adverse possession of the land, the Committee recommend that the matter should be resolved at the earliest to set at rest the uncertainty about this area of prime land which may be very essential for railway operations.

1.68 Another important matter which the Audit Paragraph has raised is that encroachments on Railway land had been increasing from year to year. According to the Ministry of Transport (Department of Railways) number of encroachments on Railway land have increased from 64000 in 1975 to about 98,000 in 1985. The Ministry have sought to explain the position by saying that although migration of labour to urban areas to seek employment and other sociological factors are primarily responsible for large scale encroachments on public lands, there are certain special reasons for the proneness of railway land to unauthorised occupation. These are—Railway land being unfenced and scattered, interference by pressure groups, inadequate administrative machinery at the grass-root

levels, indifference of the field staff in taking timely action and ineffectiveness of the Public Premises Eviction Act, 1971.

The Ministry of Transport (Department of Railways) (Railway Board) have further stated that a number of corrective steps have been taken to protect Railway land against encroachments. These include appointment of additional Estate Officers, large scale social forestry on vacant land in sensitive areas close to metropolitan cities, provision of boundary walls/fencing for protecting Railway land and follow-up at appropriate levels with State Governments for eviction from Railway lands. However, in spite of adopting various measures the encroachments have increased and it has not been possible for the Railway Administration to effectively prevent the encroachments on their land especially in the metropolitan cities and major towns.

1.69 In their note to the Committee, the Ministry of Transport (Department of Railways) have suggested the following three major steps to check and prevent encroachments :—

- (i) Amendment of P.P.E. Act to give more effective judicial powers to the Estate Officers so that their direction to summon police help is an obligation under the law and not a simple direction, which may or may not be complied with.
- (ii) The relevant Act should be amended to give powers to the Railway Magistrates for eviction of encroachers.
- (iii) Separate posts of Estate Officers with minimum supporting organisation may be created on the Zonal Railways to deal full time with the encroachment cases instead of nominating Engineering Officers as Estate Officers in addition to their normal duties/functions.

The Committee feel that the proposal of the Department of Railways for delegation of more powers to the Estate Officers in regard to giving magisterial authority to summon police/assistance and powers to Railway Magistrates for eviction of encroachments, being in the interest of preventing effectively the encroachments of public premises, merit serious consideration. The Committee recommend that the proposals should be examined by the Government in all aspects and implemented, if found feasible.

1.70 The Committee are distressed to find that in spite of adopting various measures for checking and preventing encroachments, the encroachments on Railway land have increased. The seriousness of the situation can be seen from the fact that there is increase in encroachments from 64,000 in 1975 to 98,000 in 1985 through/some more powers having been delegated to Estate Officers and provision made for punishment for unlawful occupation of public premises through amendments of the Public Premises Eviction Act, 1971 in 1984. That such a thing should have happened is a matter of regret. This only strengthens the views of the Committee that all these years land management in the Railways has been poor.

1.71 In their Report on the unauthorised occupation of Railway land in New Delhi by M/s. Oriental Building and Furnishing Co, the High Powered Committee have held responsible a large number of railway officers even at the highest level who dealt with the case at various stages and at different points of time from the very beginning since forties. The Report also points out all the Railway Officers except one—who have been held responsible in the case, have since retired. Departmental action is proposed to be taken against the only one officer—the then Divisional Engineer (Estate) who is still in service.

The following are glaring instances of administrative irregularities/lapses which have been pointed out :

- (i) Extension of lease of land for a period of 20 years notwithstanding that eviction proceedings were in progress with the competent authority during early sixties;
- (ii) Further extension of lease by the then Chairman, Railway Board beyond 31-12-1972 in spite of recorded orders of the then Minister for Railways that the lease of the firm be terminated with effect from 31-12-1972 which had already been notified to the firm; and
- (iii) The letter dated 26-10-74 over the signature of Divisional Engineer (Estate) should have never been issued to the firm.

1.72 The Committee observe that findings of the high Powered Committee is a sad commentary on the functioning of the Railway

Administration in such matters of vital consequence. It has been established beyond doubt that the whole case had been handled in a lax and perfunctory manner, that there were serious lapses by Railway Officers at the highest level which the Committee feel could be the result of pressure or influence exercised from outside and that the various inordinate delays and lapses that have taken place at various stages could not have been possible without the active collusion on the part of some Railway Officers. The Committee take a very serious view of it and urge that stern action may be taken against those officers who are responsible for grave and costly lapses irrespective of the fact whether they are in service or not under the extant rules.

1.73 In the case of unauthorised occupation of Railway land by M/s. Oriental Building and Furnishing Company (M/s. Pure Drinks), New Delhi, the Committee further note that the Arbitrator had given an award on 24th September 1984, directing the party to hand over vacant and peaceful possession of the land and pay Rs. 34.01 lakhs to the Railway Administration on account of rent arrears and interest thereon upto 31 December, 1982.

The Ministry of Transport, Department of Railways (Railway Board) have stated that on receipt of the award, two applications were filed in Delhi High Court, seeking (i) directions to the Arbitrator to file the original award and (ii) making the award the rule of the Court. The Department of Railways (Railway Board) have further stated that since proceedings in the High Court were likely to take time due to delaying tactics adopted by the party, two applications were filed with the Estate Officer, Northern Railway under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (i) for getting the land vacated and (ii) for recovery of damages from the 1st January, 1983 for unauthorised occupation of land. The Committee would like to be apprised of the further developments along with a chronological resume of the hearings both by the Delhi High Court and the Estate Officer.

1.74 The Committee note that at present the total outstanding dues on account of rent/licence fee on various Railways as on 31-3-1985 are Rs. 6.94 crores. The Railway Board have taken these accumulations lightly in view of annual earnings from land being of the order of Rs. 7 crores. The rates fixed by Zonal Railways in terms of instructions issued by the

Railway Board in 1980, were considerably higher than old rates. Many licencees have disputed the increase and are either paying at old rates or are not paying at all. Besides there are some major defaulters. The Ministry have further stated that Railways have appointed Committees of Senior Officers to examine the disputed cases so that disputes are settled and dues realised. For major defaulters like M/s. Pure Drinks, New Delhi and M/s. Kirit Enterprises, Bombay, cases are being pursued in the courts. In case of oil companies, the matter has been taken up at Secretary's level.

The Committee feel deeply concerned over this state of affairs. In this connection, the Committee note that Department of Railways have recently issued detailed guidelines to the Zonal Railways for fixing licence fees and for review of old cases involving disputes. The Committee expect that with the issue of recent broad guidelines old cases involving disputes will be settled quickly. In addition, the Committee desire that determined efforts should be made by the Zonal Railways for expeditious recovery of outstanding dues. The Committee also desire that the Directorate of Land Management in the Railway Board should keep a close watch and review quarterly the position of settlement of disputed cases and clearance of outstanding dues.

The Committee observe from the replies furnished by the Ministry regarding outstanding rent/licence fee from the major defaulters that an amount of Rs. 4 crores is outstanding from the oil companies. The oil companies and public undertakings being the major rail users, the Committee wonder why such large outstandings should have been allowed to accumulate. Immediate action in this direction is called for to ensure that these outstandings are liquidated at the earliest. The Committee are surprised at the lack of concern in settling accounts between different arms of the Government. This does not speak well about the system of accounts.

1.75 The Committee note that afforestation is an important national objective. Railways are contributing their mite to the national efforts to improve the ecological and environmental balance of the country through plantation of trees. According to Railway Board, the primary aim of Railway plantations is social rather than monetary. The level of tree plantation has been raised from 20-25 lakh trees annually to more than

100 lakhs by cooperating afforestation work with the State Forest Departments. The Ministry have further stated that with close liaison with the Ministry of Forest and Environment and the States, it is proposed to plant nearly 10 crores of trees on Railway land in the next ten years. The Committee trust that suitable look after arrangements have been made to ensure better survival rate of the trees planted. The Committee while appreciating the laudable efforts of the Railways desire that the tempo of the plantation should be ensured and priority may be given to plantation of trees on Railway lands along the Railway tracks passing through populated areas with a view to checking pollution and encroachments.

From the replies furnished by the Railway Board, the Committee observe that the project report prepared for afforestation on the Indian Railways envisages use of 88,0.0 hectares of land for the purpose. Of this, 15,885 hectares of land has been handed over to the State Forest Departments by the Zonal Railways for afforestation on a nominal licence fee of Rs. 1/- per hectare per annum. The Committee note from the Advance Report of the Comptroller & Auditor General of India for the year 1982-83, Union Government (Railways) that in accordance with the projections made by Audit, the surplus railway lands have a potential of earning of Rs. 111 crores per annum by utilising half of the surplus railway lands. This being the potential of earnings of these surplus lands and the fact that the railways themselves have been running through difficult financial conditions during these years for their activities and expansion, the Committee consider that economical and gainful exploitation of such lands through afforestation should also be examined and considered to augment the railway finances.

1.76 In June 1980, the Department of Railways (Railway Board) directed Railway Administrations to give highest priority to the management of land by exercising greater control and taking dynamic action to eliminate encroachments. From the information furnished by the Ministry of Transport (Department of Railways), the Committee are greatly concerned to find that the Railways do not have adequate organisation for management of their valuable land assets on sound and economic lines. At the Divisional Headquarters and in the field, there is hardly any staff provided exclusively for land management. Since June, 1980, at the Zonal Railway Headquarters, Chief General Engineers have

been entrusted with full responsibilities of land management in addition to their normal duties. Existing strength of officers and staff for all the nine Zonal Railways is 12 Officers and 181 non-gazetted staff against their total requirement of 96 gazetted and 750 non-gazetted staff which is totally inadequate and virtually insignificant in view of vast unfenced land assets spread all over the vast Railway network, comprising of nearly 3.36 lakhs hectares.

1.77 The Committee further note that the proposals for strengthening the land management organisation on the Zonal Railways at the Headquarters as well as in the Divisions have since been submitted by the Zonal Railways. These proposals have been examined in the Board's Office and action is being taken to submit a memorandum to the Cabinet for creation of these required posts. However, due to ban on creation of posts, the Department of Railways is not in a position to create the required organisational infrastructure for management of land.

1.78 The Committee regret to have to observe that various facets of land management on Indian Railways have suffered in the past due to lack of adequate attention being paid to this subject. The incumbents in the existing posts of Chief General Engineers/Additional Chief General Engineers who were assigned the job of land management in addition to their normal duties, have not been able to do the work as efficiently as was expected of them. The Ministry have also pointed out that at present Officers of the Engineering Department are generally appointed as Estate Officers under the P.P.E. Act to deal with encroachment cases in addition to their normal duties. They hardly get any time for specifically dealing with eviction cases which consequently get delayed,

1.79 The Committee are informed that in accordance with the recommendations of the Railway Reforms Committee, the Railways proposed to create a Land Management Authority through an enactment of the Parliament for proper protection, development and management of their land assets and air space. The Committee of Secretaries to the Government of India which considered the matter, however did not accept the proposal primarily on the consideration that the main function of the Railways was to carry traffic and the real estate activities were not the legitimate function of the Railways. That Committee has further observed

that such an organisation would not be able to discharge its responsibilities effectively within the framework of Departmental working. Railways as the Department of the Government would be more effective in tackling the problems of encroachments than a new undertaking or authority. Instead it recommended strengthening of existing organisation both at Zonal and Divisional levels for better management of Railway lands.

The Committee feel that in the present situation when the value of land is increasing throughout the country particularly in big towns, it is really astonishing that the Railways are not in a position to protect their lands from unauthorised occupation/encroachments. It is imperative for the Railways to preserve and protect all Railway land which ultimately form part of assets of the public exchequer.

1.80 The Committee have been informed that proposals for creation of about 90 gazetted and 600 non-gazetted posts involving additional expenditure of Rs. 1.5 Crores per annum are under consideration. With the proposed strengthening of the Land Management Organisation in the field on Zonal Railways, the annual earnings are likely to increase from the present level of Rs. 7 crores to around Rs. 10—12 crores in about 3 to 5 year's time. Apart from the increased earnings, the strengthened organisation will play a vital role in carrying out large scale departmental afforestation on Railway lands, in actively pursuing the eviction of encroachments, surveying of demarcation of land boundaries, updating of land record and in checking fresh encroachments on Railway lands.

The Committee after taking into consideration all aspects of the matter feel that to begin with the existing set up at the Board level and at the Zonal levels should be suitably strengthened with qualified personnel so as to bring about a marked improvement in land management. The Committee also feel that the proposal for setting up independent Land Management Organisation may be given a second thought. Any over-looking of this fact will continue to deprive the Railways of a valuable source of revenue, which cannot be allowed to go unchecked in national interest.

NEW DELHI :

24 July, 1986

2 Sravana, 1908 (Saka)

E. AYYAPU REDDY,

*Chairman,
Public Accounts Committee.*

APPENDIX I

(See Para 1.1 of the Report)

[Paragraph 19 of the Advance Report of CAG & for the year 1982-83, Union Government (Railways)—Land Management in Railways]

The Indian Railways own vast areas of land throughout the country. The total land holding as on 31st March, 1983 was 8.30* lakhs of acres valuing Rs. 50,000 crores at present day cost. The area of land under Railway's own utilisation viz., railway tracks, service buildings, railway colonies etc. is about 5.56* lakhs of acres.

Land in excess of the present and prospective requirements is classified as 'eligible for disposal' on commercial basis Area of such lands works out to 2.74* lakhs of acres. valuing about Rs. 15,000 crores.

The Ministry of Railways (Railway Board) directed the Railway Administrations (June 1980) to give highest priority to the management of land by exercising greater control and taking dynamic action to eliminate encroachments, and also make concerted efforts to derive maximum revenue from Railway land. Hitherto, the Railways were realising licence fee for Railway land on the basis of 6 per cent of the capital cost of land as assessed by civil authorities. Keeping in view that the licence fee being realised was too low with reference to the price prevailing in the market, the Ministry of Railways (Railway Board) decided (June 1980) to recover licence fee for shopping/commercial plots, special plots or godowns on Railway land etc.. near about the rate in the market instead of merely on the basis of 6 per cent of the capital cost of land as advised by the civil authorities. To ensure efficient land management and to maximise the revenue from the available land, the Board decided (June 1980) to set up land management cells on Railways under the control of Chief Engineer (General) in level I

*Railway-wise details are given in Annexure I.

on Central, Western, South Eastern and Northern Railways, and under Additional Chief Engineer in level II on other Railways.

The Ministry of Railways (Railway Board) had anticipated an additional revenue to the extent of Rs. 1 crore from items like licensing of land for shopping, commercial plots etc. during the year 1980-81 on each of North Eastern and Northeast Frontier Railways. Similarly earnings of about Rs. 1.5 crores each from Eastern, Southern and South Central Railways and about Rs 2 crores each from Central, Northern, South Eastern and Western Railways were expected. The total extra revenue during 1980-81, after placing the land management cells under the control of the Chief Engineer/Additional Chief Engineer, by way of licensing land for shopping and commercial plots etc., was expected to be about Rs. 15 crores for all Railways.

A review of the land management records of the various Railways by Audit revealed the following :

- (i) Inadequate and inefficient maintenance of land plans
- (ii) High incidence of encroachments and inadequacy of action for its removal
- (iii) Lack of concerted efforts to exploit surplus land to derive maximum revenue
- (iv) Non-execution of agreements for land licensed.

1. *Land Plans*

Responsibility to preserve unimpaired title to all land in its occupation and to keep it free from encroachments devolves on the Engineering Department. Where, however, the management of any land has been accepted by a State Government, this duty rests on that authority during the period of such management. With a view to obviate any litigation, accurate land plans of all railway lands are required to be maintained and boundaries adequately demarcated and verified therewith at regular intervals.

The work of preparation of land plans and getting them accepted by the Revenue Authorities of the State Government is far from satisfactory on all the Zonal Railways. The review done by Audit showed

that the Railway Administrations are not in possession of up-to-date and complete records to prove the ownership of the entire land belonging to them. In the absence of proper and relevant records it could not be known if periodical verification of the boundaries of the land, as per the extant rules, was regularly done by the Railway Administrations. While on South Eastern and Northern Railways, out of 5672 and 7248 land plans—as many as 2932 and 3736 (51 per cent of the total plans) plans are still to be got certified by the revenue authorities. On North Eastern Railway, the percentage of land plans yet to be certified is 33.5 per cent (1031 land plans out of 3090). On Southern Railway, land for track including the colonies and yards falling within the length of about 1540 route kms. is yet to be re-surveyed for updating the land plans. Similar resurveys ordered by South Central Railway Administration in 1959, 1970 and '81 for drawing up the land plans in respect of Vijayawada, Hubli and Guntakal Divisions respectively, involving 752 kms. of track are yet to be completed (July 1983). The re-survey work for Secunderabad and Hyderabad Divisions for 9.22 and 9.72 miles of land respectively is also yet to be taken up.

Non-maintenance of up-to-date and complete land plans and wrong demarcation of land resulted in unnecessary litigation and loss of title of land etc., in many cases. Instances of such cases are given in the succeeding paragraphs :

1. Central Railway

Railway siding at Birla Nagar was opened in the year 1920 for the Gwalior State Trust Limited. The siding was taken over by the Central Railway in 1961. Even after the take over, the land along the siding was being used by various industries for storing coal and other goods. Notices served by the Railway Administration on the parties concerned to remove the goods and to pay wharfage charges were challenged by some of the firms, disputing the Railway's title to the land. The parties have moved the court.

Non-examination of land records, while taking over the siding in the year 1961 and at the time of registration of sale deed in 1962, was the root cause of dispute to the Railway's ownership of the land.

2. Northern Railway

Notified Area Committee, Loharu occupied (1947) unauthorisedly 13,465 sq yards of railway land opposite to station building and built shops thereon. The Railway Administration was unaware of this encroachment which was brought to their notice by an outsider in 1956. The Railway Administration filed an eviction application (February 1957) under the Government Premises (Eviction) Act 1950. But this Act was declared 'Ultra Vires' by the High Court in 1957. Though new eviction Act was promulgated by Government in 1958, the Railway Administration did not file a fresh application under the new Act. Action for eviction under the new Act could not be taken by the Railway Administration as the land plans, indicating the Railway Administration as the sole and absolute owner of the property as per revenue records and joint demarcation carried out by the Railway and the Revenue Authorities in 1960, corroborating Railway's clear title to land could not be produced. A fresh declaratory suit claiming possession of the land filed by the Railway Administration (1977) was decided (August 1980) against the Railway Administration.

The Railway Administration went in appeal (October 1980), which is still (December 1983) sub judice.

The non-realisation of revenue so far (upto March 1981) is Rs. 11 lakhs.

3. North Eastern Railway

- (i) A big plot of land (area not known) near Gorakhpur was licensed to the Provincial Armed Constabulary on or about 1968 on a nominal rent of Rs. 20 per annum. No payment of rent was, however, made by the Provincial Armed Constabulary, after December 1974. In the revenue records, the land is now being shown as "Rajya Sarkar Ki Chandmari" meaning that the land belongs to the State Government. The Railway Administration has since filed a writ in the Civil Court for correction of revenue records.
- (ii) Railway land measuring 366' x 100' near Chhupra Junction was handed over (August 1901) by the Railway Administration (ex B.N.W.R.) to Chhupra Municipal Board for management,

with the stipulation that the trees, fencing etc., on the land would remain the property of the railway. The Railway Administration noticed (January 1974) that permanent structures were being constructed by the Chhupra Municipality on the railway land without obtaining permission from the Railway Authorities. The Municipal Authorities, despite Railway Administration's request (October 1975) to stop further construction, completed the construction of shops and rented them out to outsiders. The opportunity value unrealised for the period 1974 to 1980 works out to Rs. 14.42 lakhs (approx).

The Railway Administration stated (April 1981) that eviction proceedings could not be initiated for want of proof of the Railway's ownership of the land.

4. *Northeast Frontier Railway*

• The Tezpur-Balipara Railway with all its assets was purchased by the Union Government from T.B. Tramway Co. Ltd., in 1952. As per the terms of the agreement, the land belonging to the Ex. T.B. Tramway Co. Ltd., had been transferred to the Railway, but the actual mutation in favour of the Railway had not been done immediately. On being approached for actual mutation in 1972 (20 years after transfer of the land), the Settlement Officer, Darrang requested (July 1972) the Railway Authorities to deposit an amount of Rs. 2.90 lakhs towards the cost of Sarkari Land and capitalised value of land revenue before transfer of the said land in favour of the Railway Administration in the records of the Civil Authorities. No payment was due from the Railway, as the assets already stood transferred in the name of Union Government. The dispute has not yet been resolved, though the land had been acquired 30 years before.

5. *Southern Railway*

(i) A plot of land measuring 1163 sft. (108 sqm.) was leased to a firm at Tellicherry in May 1979 for erecting a temporary shed for stacking materials (coir) to be booked by Railway, on an annual licence fee of Rs. 124 per annum. The firm, however, constructed permanent structures including three shops and let out the same on a monthly rent of Rs. 1200. The Administration terminated the licence agreement with effect from August 1980

and preferred (October 1982) claim for Rs. 3.56 lakhs towards damages etc. The firm obtained a stay order in November (1983)

- (ii) On borrow pits dug on Railway land near Miller's Road, Bangalore, getting filled up with water during rainy season, the City Corporation of Bangalore deemed it a pond and brought it under the purview of the Government land and sold it to a private party for the construction of a cinema house. The case is stated to be pending in the court of Civil Judge, Bangalore since 1975.

6. *South Eastern Railway*

During the period 1964 to 1978, several construction estimates worth Rs. 429 lakhs for acquiring 5,258 acres of land were sanctioned by the Ministry of Railways (Railway Board). Accordingly, project-wise land acquisition proposals were submitted by the Railway Administration to the State Governments. the land acquisition proceedings were completed, and physical possession of the land was taken by the Railway Administration. Though the projects were completed long back, land acquisition registers have not been maintained. Some of the certified plans are still due from the Revenue Department. As a result, the actual acreage for which land acquisition proceedings had been initiated and how much of land was actually handed over to the Railway Administration by the State Government, are not ascertainable. Further, 100 court cases have also come up for enhancement of compensation for the land taken over from private parties. In the absence of up-to-date land acquisition registers maintained by the Railway Administration, and receipt of certified land plans from the State Government, the Railway Administration's defence against the claims for enhanced compensation is likely to present difficulties.

ii. *Encroachments on Railway Land*

The Public Accounts Committee (7th Lok Sabha) had in para 1.24 of their 3rd Report (1980-81) adversely commented upon the growing incidence of encroachments of large chunks of Railway land, and had asked the Ministry of Railways (Railway Board) not only to get the existing encroachments cleared but also to check further encroachments on railway land. Again, the Public Accounts Committee (7th Lok Sabha) in

para 53rd of their 94th Report (1982-83) stressed that it is imperative for the Railways to protect their land against all encroachments.

However, it is observed that the encroachments had been increasing from year to year. The total number of encroachments which stood at 67,911 for all Zonal Railways as at the end of 31st March 1978, shot up to 95,025 by the end of 31st March 1983, involving 39.91 per cent increase, as indicated below :

Railway	No. of encroachments as at the end of March 1978	No. of encroachments as at the end of March 1982	No. of encroachments removed during 1982-83	No. of encroachments made during 1982-83	No. of encroachments as at the end of March 1983
1	2	3	4	5	6
Central	13,261	20,095	272	82	19,905
Eastern	11,465	12,134	1,747	1,412	11,799
Northern	4,387	8,796	1,289	5,797	13,304
North Eastern	2,268	1,671	52	2,049	3,668
Northeast Frontier	19,001	23,523	1,037	1,182	23,668
Southern	3,086*	3,531	661	1,683	4,553
South Central	3,877*	5,059	486	42	4,615
South Eastern	7,211	8,040	348	329	8,021
Western	3,355	5,964	3,477	3,005	5,492
Total	67,911	88,813	9,369	15,581	95,025

The total area of land under encroachment was assessed (October 1982) at 7,032 acres. Its value was however, not assessed by the Railways.

*figures at the end of September 1978.

Some illustrative cases of encroachments on Railways' land are narrated below :

1. *Central Railway*

Railway land measuring 9502 sq. metres at Wadi Bunder, Bombay, taken back (January 1980) by the Railway from the Defence Department for its own operational needs for development of Wadi Bunder Goods Yard, was licensed out (January 1980) to a firm for three years (upto December 1982). The party was reluctant to pay licence fee as agreed to by it, but made payments at a much lower rate. The Railway Administration terminated the agreement with effect from 31st August, 1981. The outstanding dues against the firm amounted to Rs. 28.56 lakhs. The land continues (October 1983) to be in unauthorised possession of the party (cf. Paragraph 20).

2. *Eastern Railway*

34 acres of land were acquired in February 1960 by the Collector, Monghyr on behalf of Eastern Railway for the purpose of construction of Staff quarters. After completion of acquisition proceedings, vacant possession of the land was given to the Railway Administration in July 1961. But, before construction could begin, it was unauthorisedly occupied (1965) by Bihar Military Police. Bihar Government's directive to release immediately 20 acres of land under cultivation by them, as also to pay "Rs. 4.17 lakhs (upto 1973) towards accrued licence fee has been ignored by the Bihar Military Police. In the meantime, the outstanding licence fee has gone up to Rs. 8.67 lakhs (upto March 1981).

3. *Northern Railway*

- (i) Land measuring 136 acres out of 373 acres acquired in 1949 for yard development and staff quarters at Rosa, Moradabad Division was handed over to District Magistrate in 1951 For management on deduction of 10 per cent of the proceeds for administrative expenses. Except two payments of Rs. 656 and Rs. 364 (October 1954 and September 1980 respectively), no further payment has been received from the civil authorities, while the land continue to be in their possession.
- (ii) A sum of Rs. 25.41 lakhs was paid (March 1968) by the

Railway Administration to the Land and Housing Department of Delhi Administration for transfer of 75 acres of land for construction of staff quarters in Patparganj area, @ Rs. 7 per sq. yard. The work of allotment of land was later on transferred to the Delhi Development Authority and the rate of land was revised upward from Rs. 7 to Rs. 25 per sq. yard. The Delhi Development Authority handed over only 15 acres of land worth Rs. 18.15 lakhs to the Railway Administration. The refund of the balance amount of Rs. 7.26 lakhs is yet (September 1983) to materialise.

- (iii) Two plots of the Railway land measuring 5073 sq. yards situated in front of New Delhi Railway Station were licensed (1948) to the then Delhi Municipal Committee on the recommendations of the Ministry of Rehabilitation, at a nominal fee of Rs. 2 per annum, for temporary resettlement of refugees from West Pakistan. Last extension for one year ending on 7th April 1954 was granted as a special case, under a clear warning that licence fee at 6 per cent per annum of the market value of the land would be charged with effect from 8th April, 1954, if the land was not vacated. Though 29 years have elapsed, yet the Municipal Corporation of Delhi has neither vacated the land nor paid the railway dues amounting to Rs. 21.79 lakhs (upto 31st December, 1980).
- (iv) A firm of Delhi had been given on lease by Railway an area of 2743 sq. yards near Connaught Place, for a period of 10 years from 1st January 1963 to 31st December 1972. The agreement provided for revision of licence every five years. On the party's failure to pay the revised licence fee with effect from 1st January 1968, the lease was terminated with effect from 31st December, 1972. The firm, however continues (September 1983) to be in unauthorised occupation of the railway land. The case was referred to Arbitration in July 1981, in terms of the lease agreement which had already been terminated. The total outstanding dues against the firm amount to more than Rs. 61 lakhs.

The Public Accounts Committee of Seventh Lok Sabha (1982-83) recommended in para 56 of their 94th Report that the case should be investigated by a high powered body independent of the Railway Board. This is yet to be done (September 1983).

4. Northeast Frontier Railway

For construction of Railway Hospital and staff quarters, the Survey and Construction Organisation acquired 131 bighas of land at Rangapara North from the Garden Authority through the State Government in October 1965 at a cost of Rs. 4.82 lakhs. However, at the time of taking physical possession of land, the Railway Administration omitted to take over a part of the land measuring 49 bighas under tea cultivation. Retaining adverse possession of the land the Garden Authority, filed an appeal for enhancement of the compensation. Consequent on Court's decree, the Railway Administration deposited Rs. 1.45 lakhs with the State Government for disbursement to the Garden Authority, though the part land had not been still handed over to the Railway. The Railway Administration is losing the amount of licence fee that could have been earned, if it had licensed this land on commercial basis. The bills preferred by the Railway Administration on this account for Rs. 23.24 lakhs for the period from June 1976 to June 1982 on the Garden Authority are yet (September 1983) to be paid.

5. South Eastern Railway

South Eastern Railway was unaware of its ownership of 25 acres of land between Howrah maidan and Dasnagar, which came to their notice (July 1981) only when they proceeded to acquire 43 acres of land (which included 25 acres owned by South Eastern Railway also) in this area for construction of B G. Railway line on Howrah-Amra Light Railway alignment. The land was under encoachment by the Light Railway Company from 1939. As the Light Railway Company had gone into liquidation, South Eastern Railway could not recover any compensation.

III. Utilisation of surplus land and realisation of revenue therefrom.

The Ministry of Railways (Railway Board's) instructions of October

1952 enjoined that Railway land be leased to outsiders at the highest rent that could be secured, subject to a minimum of six per cent of the local market value of the land, as assessed by the local Revenue Authorities at the time of leasing out. The market value of the land was to be reviewed every five years, and the rents revised accordingly. These orders were modified in June 1962 to the extent that the rent should be fixed at a uniform rate of 6 per cent of the market value of the land as assessed by the local Revenue Authorities. The revision of rent was to be done quinquennially in the case of land situated in large towns and commercial centres while for other locations the rent was to be revised at an interval of 10 years only. It was further enjoined that in order to avoid complaints against recovery of higher rent with retrospective effect, six months notice in advance of the proposed revision should be given to the parties and their unconditional acceptance obtained to pay the revised rent as may be fixed subsequently, or alternatively the party should be called upon to vacate the premises during the currency of the existing licensing agreement. Subsequently, in June 1971, Ministry of Railways (Railway Board) decided that the return of 6 per cent on the market value of land as assessed by the local Revenue Authorities should be treated as the standard rent, but in actual licensing out, the Railway Administration should aim at obtaining the best possible rent. In individual cases variations from the standard rent may be accepted on merits. In June 1980. Ministry of Railways (Railway Board) urged the Railways Administrations to maximise revenue from the railway lands, and directed that licence fees for shopping/commercial plots, special plots, or godowns should be near about the rents in the market and not merely based on the low rate worked out on the basis of 6 per cent of capital cost of land. In November 1980 Ministry of Railways (Railway Board) suggested to the Railway Administrations that the increase in licence fees to the extent of 15 to 20 per cent be effected every year in metropolis and other cities.

A review of the position of rent recoverable for land leased on various railways showed that in a number of cases the periodical revision had not been done regularly with reference to the above norms. On eastern Railway, the last revision was done with effect from January 1977 ; next revision due from January 1982 is still to be done (August 1983). Revision of rent due with effect from January 1982 on North

Eastern Railway and from April 1982 on Northeast Frontier Railway has not been done so far (August 1983). No action to identify stations/locations where the annual licence fee could be increased by more than 10 per cent, has been initiated by the Northeast Frontier Railway Administration. On Southern Railway, rents had not been revised at seven stations for want of the market valve. In many cases the value of land was advised by the Revenue Department of the State Government after a lapse of as long as 2 to 3 years, and in some cases the intimation regarding the value of land as obtaining in 1976 is still (September 1983) to be received. A few illustrative cases of short/non-recovery of licence fee are given below :—

1. Central Railway :

- (i) Rs. 92.86 lakhs were due (December 1982) to be recovered from various parties on account of rent of plots. The oldest case pertained to the year 1968.
- (ii) the land licensed to M/s. Tata Iron and Steel Company (TISCO), M/s. Steel Authority of India Ltd., (SAIL) and M/s. Nathani Steel Private Steel at Vidyavihar in Bombay, which had been originally classified by the Divisional Authorities in category II was down graded to category III from 1st April 1979 by the Head Quarters office. Consequently, the rate of licence fee was reduced from Rs. 4000 to Rs. 3000 per sq. metres per annum in respect of M/s. TISCO and SAIL and Rs. 1500 per 100 sqm. for M/s. Nathani Steel Private Ltd. The prices of land in the entire Bombay area having risen steeply since 1975, downward revision was not called for. Besides, the rules provide that, if all the sheds are covered, the rent has to be recovered at double the rate for the entire land. But in this case it has been decided by the Railway Administration to recover extra charges for the covered portion only. Further, the rates recommended by the Divisional Authorities in other case, to have been reduced from Rs. 8,000 to Rs. 6,000 in Mazgaon area and Rs. 12,000 to Rs. 6,000 in Wadi Bunder area for M/s. Bharat Petroleum, while in case of Byculla area (for M/s IOC), the rate has been kept at Rs. 12,000 per annum per 100 sq. M/r. On other Divisions also,

the original recommendations of the Divisional Authorities for fixations of rates of rent of land have been drastically reduced. In view of the increasing land prices during the last 5 years, the rates originally recommended by the Divisional Authorities did not warrant such reduction. The reduced rates resulted in approximate loss of revenue to the tune of Rs. 22.41 lakhs per annum.

2. South Central Railway

Instructions were issued (August 1980) by Head Quarters to Divisions to the effect that stations should be classified into seven categories, depending on their commercial importance, and licence fee fixed accordingly between Rs. 250 and Rs. 4,000 per annum for a standard plot of 100 sq. metres. The proposals received from Divisions were approved by Headquarters office in May 1982. The total outstanding dues were assessed at Rs. 96.68 lakhs in March 1983. As many licensees represented against increase in licence fees and did not pay the revised fee, the revised rates were not implemented fully. In some cases the parties filed cases in the courts. The position of each station was reviewed by a committee. As a result of the review, the stations were re-classified (May 1983) into nine categories and the fees initially fixed were revised as ranging between Rs. 75 and Rs. 4,000 per annum per 100 sq. metres. The revised fees were to be effective from 1st January 1982. The Railway Administration assessed (June 1983) that re-classification would result in a significant scaling down of the dues by Rs. 33.78 lakhs. The amount of licence fee outstanding even at the reduced scale amounted to Rs. 62.90 lakhs.

3. Western Railway

(i) Proposals for revision of licence fee were sent by Divisional Authorities, Rajkot to the Headquarters in April 1981, classifying the stations for charging licence fee at the revised rates in accordance with the Headquarter's directive of September 1980. After a lapse of two years, in May 1983, the Headquarters office made certain modifications in their directive of September

1980. Accordingly, fresh proposals were submitted by the Division in June 1983, involving recovery of licence fee at higher rates than proposed earlier for certain stations. In the meantime licence fee continued to be charged at the lowest rate in all the cases, resulting in short recovery of licence fee to the tune of Rs. 3 lakhs per annum.

- (ii) On Baroda Division of Western Railway, the licence fee for commercial plots already licenced was revised (May 1981) retrospectively with effect from January 1981 without giving six months advance notice of proposed revision. Out of 127 plots licensed, only two parties have so far (August 1983) paid licence fee at the revised rates, and the remaining parties continue to pay at the rates fixed some time in 1966. The resultant short recovery works out to about Rs. 6 lakhs per annum.
- (iii) A plot of land measuring about 32,664 sq. metres was handed over (November 1974) at Sabarmati to M/s. Hindustan Steel Ltd., (HSL) on provisional rent of Rs. 12 per sq. m. per annum. No agreement has so far (September 1983), been entered into with the party. Though it is about 9 years since the plot was handed over to the party, and one quinquennial revision of licence fee under usual terms had also fallen due in 1979, the original licence fee has not been finally determined on the basis of the cost of land then existing. The licence fee recoverable for this plot of land at Sabarmati should be Rs. 60 per sq. m. per annum as per approved norms. Based on this rate, the extra amount recoverable from Hindustan Steel Ltd., works out to Rs. 47 lakhs for the period March 1980 to August 1983 at the rate of Rs. 15.67 lakhs per annum. Besides, the Railway Administration had decided (September 1980) that in cases where plots of land were licensed for longer periods, and the licensees were allowed to erect installations or temporary structures thereon (as in the case of oil depots, steel yards etc), the rate chargeable should be double the ordinary rate. If this factor is also taken into account, the extra amount recoverable from Hindustan Steel Ltd. upto August 1983 would work out to Rs. 1.05 crores.

(iv) The Railway Administration had permitted IFFCO to use transhipment platform No. 2 at Sabarmati for storage of their fertiliser consignments received from Gandhidham in MG rakes and consigned for subsequent booking in BG rakes. The Railway Administration decided (August 1982) to recover licence fee at the rate of Rs. 10,000 per month. The area of platform No. 2 at Sabarmati being 4319 sq. mtrs. the rate of licence fee due in terms of Chief Engineer's directive of September 1980 works out to Rs. 21,600 per month or Rs. 2.59 lakhs per annum. The short recovery at that rate amounts to Rs. 1.39 lakhs per annum.

Security Deposits

The extant instructions (April 1967) of Ministry of Railways (Railway Board) provide that in all cases of licensing of land, security deposit equivalent to 12 months licence fee should be recovered from outsiders (other than Government Departments). On Central Railway, recovery of such security deposits was outstanding (June 1982) to the tune of Rs. 89.22 lakhs against Oil Companies and other Private parties.

Liquidated Damages

The extant instructions (April 1967) of Ministry of Railways (Railway Board) also provide that in all cases of licensing of land to outsiders, liquidated damages at the rate of 1 per cent per month should be recovered for delayed payments. However it was seen on Central Railway that no action had been taken till February 1982 to recover liquidated damages or even to include provision for recovery of such charges in the licence agreements.

Outstanding Dues

The total outstanding on account of rent/licence fee on various

railways were as under :—

Railway	Amount in lakhs of rupees	As on
Central	172.87	December 1982
Eastern	14.17	Not given (for 3 Divisions)
Northern	78.49	March 1981
North Eastern	36.50	March 1981
Northeast Frontier	13.91	March 1981
Southern	10.75	December 1982
South Central	63.00	March 1983
South Eastern	82.51	March 1981
Western	15.47	1982
Total	487.67	
		or Rs. 4.88 crores

Grow More Food

As a part of grow more food campaign surplus cultivable land measuring* 73,508 acres was handed over to the State Governments by the various Railway Administrations. A few illustrative cases in which the railway land could not be got back and continued to be in unauthorised occupation, are listed below :—

1. Central Railway

- (i) Railway land measuring 997 acres in Bhusaval Division was handed over (1964-65) to the Maharashtra State Government for 'Grow More Food' (GMF) purposes. The Railway Administration did not receive any rent from the State Government right from the year 1964-65. Generally, the rate of rent charged for comparable land is around Rs 100 per acre per annum. At this rate Rs. 99,700 per annum would be payable by the State Government. The amount due for the past 1 years works out to Rs. 17.94 lakhs.
- (ii) Railway land measuring 1028 acres in Sholapur Division was handed over to Maharashtra State Government from

*Details of total area licensed out under GMF Scheme are furnished in Annexure II.

1958 onwards. Taking into account the low fertility of the soil the licence fee recoverable from the State Government was fixed at Rs. 25 per acre per annum. On this basis, the arrears of rent to be recovered from the State Government (from 1971 to 1983) work out to Rs. 3.28 lakhs.

The Railways Administration, however, does not have detailed records indicating parties to whom the land had been leased by the State Government for cultivation.

2. South Central Railway

Out of 4456 hectares of cultivable land available on South Central Railway as on 31st March 1983, land measuring 698 hectares had been handed over to the State Governments for licensing to cultivators. The terms of agreement provided State Government Authorities to retain 5 per cent of the licence fee collected from cultivators and remit balance 95 per cent to the Railway. The amount received from the State Governments during the years 1976-77 to 1982-83 were only Rs. 27,000. The exact amount due from the State Governments could not be known to the Railway Administration as no particulars regarding auction of land and the amount realised were furnished by the State Governments. On the basis of the minimum rate of Rs. 150 per acre (Rs. 375 per hectare) applicable in Vijayawada Division, the total amount outstanding against State Governments towards licence fee for land handed over under GMF Scheme (excluding 5 per cent of the receipts as incidental charges to be retained by State Governments) for the years 1976-77 to 1982-83 would work out to Rs. 20.16 lakhs. The Railway Administration's attempts to get back the lands from the State Governments are yet to fructify, as only 98 hectares out of 796 hectares could be taken back so far (upto March 1983).

3. South Eastern Railway

The total land brought under cultivation under GMF Scheme upto June 1982 was 7250 hectares. Out of it, 1034 hectares were handed over to the State Governments, 4485 hectares allotted to the Railway employees and 1719 hectares to outsiders by the Railway Administration itself for cultivation purposes. The licence fee charged from Railway employees and outsiders was Rs. 150 per acre per annum for single crop. As regards 1034 hectares handed over to the State Governments

for licensing to the cultivators, rates of rent were to be fixed by the State Governments. The State Governments have not been making any payments to the Railway Administration and, therefore, efforts are being made to take back the Railway land so that the same can be profitably utilised by the Railway itself. The outstandings in recovery of rent due from outsiders and railway employees, as on 31st March 1981, amounted to Rs. 14.22 lakhs. The figures of the outstandings against the State Governments are not available.

Afforestation

Tree Plantation is an important national objective. The tree produces fuel, food-stuffs, fibres and building materials etc. Tree Plantation on the surplus railway land had been discussed by the Ministry of Railways (Railways Board) in a Conference held with the Chief Engineers of the Railways in May 1959. Thereafter, orders were issued to the Railway Administration (July 1959) to hand over the surplus land along the railway track to the Forest Departments of the respective State Governments for plantation of trees. The Way and Works Staff of the Railways was also to be deployed for growing trees along the railway lines, in yards and in railway colonies etc. On South Central and Northeast Frontier Railways no land had been handed over to the Forest Department for plantation of trees till March 1981. On South Eastern Railway 9.32 lakhs of trees during the years 1980-81 and 1981-82 had been planted, out of which 6.30 lakhs of trees (68 per cent) survived. On Western Railway, surplus land to the extent of 15.2 acres had been handed over to the Forest Department during 1982-83. However, the number of trees planted had not been assessed by the Railway Administration so far. The North Eastern Railway Administration had expected (July 1978) an annual income of Rs. 7-10 crores to accrue from plantation of 15 to 20 lakhs of trees along its total route kilometrage of over 5,000 kms. until December 1982 about 17 lakhs of trees were stated to have been planted. However, no progressive details of the plantation done from year to year, and the income, if any, realised therefrom were furnished by the Railway Administration. 9208 acres of Northern Railways land along the railway track, was licensed to the Forest Departments of Punjab and Uttar Pradesh for afforestation, on moiety of profits, but there was loss amounting to Rs. 27.95 lakhs during the period from 1961 to 1979. Though the railway land had been handed over to the Forest Department of Uttar Pradesh in 1977, the final agreement between the

Northern Railway Administration and the Uttar Pradesh Government has not been executed so far (September 1983). Directorate of Land Management in Railway Board has yet to compile data regarding areas covered and areas yet to be covered under the scheme, earnings and expenditure on such plantations etc. for the effective monitoring of the scheme.

To mitigate the risks involved in land exploitation by commercial uses, recourse to social forestry on large scale would appear to be a better medium. The Railways have nearly 2.74 lakhs of acres (1.14 lakhs of hectares) of surplus land which can be profitably utilised for growing trees like Subabool and eucalyptus which thrive not only in fertile lands of Punjab and Uttar Pradesh but also in arid regions of deserts of Rajasthan and Gujarat and which are quick yielding species not requiring much nursing. Such plantations would yield revenue and would check land erosion and establish the embankments all through the length of Railway tracks.

According to an assessment of an expert, the yield from Subabool per hectare per year is 30 tonnes. At the rate of Rs. 300 per tonne of firewood, it would give an income of Rs. 9,000 per hectare per year. Plantation of eucalyptus trees is stated to have yielded an income of Rs. 25,000 in Delhi area and Rs. 35,000 in Gujarat per hectare per year. Computed on that basis, earning potential of well over Rs. 111 crores per year by utilising even half of the Railways' total surplus land holding remains untapped.

Pisciculture

The Ministry of Railways (Railway Board) laid down (1965, 1968 and 1981), procedure for licensing of railway tanks/borrow pits for pisciculture. According to this procedure, licences were to be given firstly to the Railwaymen's co-operative societies, secondly to the Fishermen's co-operative societies (on limited tender basis) and lastly to the outsiders (through public auction). Eastern, Northern and Northeast Frontier Railways had been licensing the railway tanks for pisciculture on a small scale while no action had been taken for development of pisciculture on Central, North Eastern, Southern, South Eastern and Western Railways. As such, revenue and production potential from this source remains to be harnessed.

Earnings

The Ministry of Railways (Railway Board) had assessed (June 1980) an additional revenue of Rs. 15 crores from items like licensing of land for shopping, commercial plots etc., during the year 1980-81. The expected earnings were Rs. 1 crore from each of North Eastern and Northeast Frontier Railways, Rs. 1.5 crores from each of Eastern, Southern and South Central Railways and about Rs. 2 crores from each of Northern, South Eastern and Western Railways. A review of the earnings actually realised, however, showed that on Northeast Frontier Railway, the earnings were only Rs. 6.51 lakhs (against Rs. 1 crore), while on South Central, Southern and Western Railways, the earnings were Rs. 18.95, Rs. 21.71 and Rs. 7.09 lakhs only (against Rs. 1.5 crores and 2 crores) respectively. The figures of earnings realised on other railways were not furnished by the respective Railway Administrations. It is obvious that the Railways' achievements during the year 1980-81 were far below the expectations despite administrative machinery having been set up for this purpose, in the offices of both the Ministry of Railways and the respective Railways Administrations.

IV. Non-Execution of Agreements

The rules provide that each licensee should execute an agreement for the plot licensed to him by the Railways Administration. However, it is noticed that in a number of cases agreements have not been executed between the licensees and the respective Railway Administrations. Railway-wise position is given below :—

Railway	No. of cases in which plots have been licensed	No. of cases in which agreements have been executed	No. of agreements executed	No. of agreements not been executed
1	2	3	4	(As on 31st March 1982)
Central	2655	2288	367	
Eastern	3026	1722	1304	

1	2	3	4
Northern	9841	5275	4566
North Eastern	14817	4041	10776
Northeast Frontier		Not available	
Southern	6355	2301	4054
South Central	4532	4231	301
South Eastern	24316	10204	14112
Western	5842	1605	4237
C.L.W.	1731	1100	631
<hr/>			
Total	73,115	32,767	40,348

In the absence of formal agreements, recovery of railway dues may not be legally enforceable.

Summing up

1. Non-maintenance of up-to-date land plans by the Railways, duly accepted by Revenue Authorities of the State Governments, led to disputes/litigations, damage to Railway's title of land and loss of revenue accruing therefrom.
2. Encroachments on railway land have been increasing from year to year. There was 40 per cent increase in encroachments at the end of March 1983, as compared to that at the end of March 1978.
3. Outstandings on account of rent of land/licence fees aggregated to Rs. 4.88 crores (March 1981 to March 1983). There were delays in revision of rents; retrospective revisions of rent without observing proper formalities led to disputes and litigations.
4. Afforestation of railway land and pisciculture in railway tanks have not been developed as an effective source of revenue by the respective Railway Administrations, as contemplated by the Ministry of Railways (Railway Board). Even by utilising half the surplus railway land for eucalyptus and Subabool plantations, earning potential of over Rs. 111 crores per annum could be tapped.

5. Against the estimated earnings of Rs. 15 crores from licensing of railway land for shopping, commercial plots etc., during the year 1980-81, the actual earnings were only Rs. 54.26 lakhs.

6. Out of 73,115 cases of land licensed (March 1982), in 40,348 cases (i.e. 55.18 per cent) formal agreements have not been executed with the parties to whom the land was licensed. The absence of agreements is likely to impair Railways' title to legal enforcement of recovery of their dues.

7. The achievements of the Railways in management of railway land have been far below the expectations, despite new administrative machinery having been set up since June 1980 in the offices of both the Ministry of Railways and the respective Railway Administrations.

Ministry of Railways (Railway Board) stated (December 1983) that the existing expertise on the Railways was not adequate for proper land management.

ANNEXURE—I
Total holding of land of Indian Railways

Sl. No.	Railway	Under occu-	Land under	Surplus
		occupation of Railway Adminn.	Railway's own utilisation	land available with Railway Administration
1	2	(In lakhs of acres)	(In lakhs of acres)	(In lakhs of acres)
1. Central	1.09	0.83	0.26
2. Eastern	0.89	0.56	0.33
3. Northern	0.54	0.31	0.23
4. North Eastern	1.62	0.67	0.35
5. Northeast Frontier	0.61	0.48	0.13
6. Southern	0.59	0.40	0.19
7. South Central	0.83	0.48	0.35
8. South Eastern	1.60	0.94	0.66
8. Western	1.13	0.89	0.24
Total		8.30	5.56	2.74
Land under Railway's own utilisation 67.06%				

ANNEXURE-II
(of Paragraph 19.HH)

Total area licensed out under G.M.F. Scheme

Sl. No.	Railway	Area in Acres
1	2	3
1.	Central	7,148
2.	Eastern	13,036
3.	Northern	11,923
4.	North Eastern	8,822
5.	Northeast Frontier	3,783
6.	Southern	3,715
7.	South Central	1,724
8.	South Eastern	15,897
9.	Western	7,460
	Total	73,508

APPENDIX II

(See para 1.24 (iii) of the Report
*Recommendations of the High Powered Committee investigating into the unauthorised occupation of
 Railway land in New Delhi by M/s. Oriental Building and Furnishing Co.*

Recommendations	Officer/staff responsible	Action to be taken	All D.Ss & DENS
1	2	3	
1. The lax and perfunctory manner in which the lease was being dealt with in the early stages (late forties) led the firm to believe that they could do anything with the land and get away with it. The Divisional Engineer and the Divisional Supdt. are responsible for this. (Para-41) (1941-49)	S/Shri F.G. Griffith S/Shri P.L. Behl	(a) There were 9 Divisional Supdts. during 1941-50 Viz. : S/H. Khan " S.S. Gyani " K.P. Muhamram Lt. Col. D.N. Mullan " Rangit Singh " Daya Chand " H.K.L. Sethi	have retired.

1. (b) There were 4 DENs:

S/Shri Daya Chand

“ K.P. Mushram
Arya Bhushan

PN 500d

During this period 1

N.W. Rly/E.P. Rly. under their own rules & powers. We have no comments.

2. The Hd. Qrs. office (Engineering) is responsible for the delay of nearly three years in the disposal of the Division's letter dt. 6.2.1951 seeking the advice of the Hd. Qrs. on the action to be taken for removal of the encroachment. (Para-42) (1951-54)

3. The Divisional Engineer and the Divi. Supdt. are responsible for the delay of 8 months in submitting the ejectment documents asked for by the Hd. Qrs. on 29.1.1954. (Para 43) (Jan '51 Sear 1054)

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No comments.

4. No comments are being offered on the delay of one year and 9 months in disposal of the eviction petition from 24.9.54 to 20.6.56 by the competent authority. (Para-44)

No comments

5. No comments are being offered on the failure of the Chairman, Rly. Board (Quasi-Judicial authority) to dispose of the firm's appeal against the order of eviction even after a period of 15 months from June 1956 to Sept. '52. (Para-45)

No comments.

6. The delay of 14 months from October 1957 to January 1959 during which the Railways did not take any action for recovery of possession by instituting a

Civil Suit against the firm, is not considered to be very material.
(Para-46)

7. The Divisional Engineer and the Divl. Supdt. are responsible for the delay of 8 months from May 1959 to January 1960 in filing an eviction petition. (Para-47)

8. The concerned office in the Railway Board, who issued telephonic instructions to the Rly. Hd. Qrs. to go slow with the eviction proceedings is responsible for the resulting delay in disposal of the eviction petition. No comments are being offered on the long period of two years from 29.1.1960 to Feb. 1962 during which the eviction proceedings were pending with the competent authority. (Para-48)

Lt. Col. P.N. Mathur DS Shri D.C.H. Mathur DEN have been dealing with this case.

Both have retired

Information called from the notings in the relevant files shows that it was the then Director/Civil Engineer/Rly. Board Shri. V. Venkataramayya who had conveyed telephonic instructions to the GM/N. Rly. for staying proceedings and submission of a report on the encroachments to Board. DCE/Rly. Bd. had discussed with Addl. Member (Works) and recommended that the land be licensed for a further period of 20 years at annual rental of 6% of the present day lease-hold value and that the rent be revised every 5 years based on the value of the land.

It would therefore, appear that the following officers are responsible for the decision

3

to go slow and subsequently to allot extension of the lease of this land for a period of 20 years notwithstanding that eviction proceedings were in progress.

		All Officers have retired.
S/	Shri V. Venkataramayya	DCE
"	K.S. Bhadar	...DF (B)
"	D.N. Chopra	...AM (W)
"	G.P. Shahani	...M.E.
"	Karnail Singh	...C.R.B.
"	D.C. Bajaj	...C.R.B.

9. It is true that the agreement of lease for the period starting from 1.1.63 was executed with the firm only in May, 1969. This delay was due to prolonged correspondence with the firm, who were indulging in delaying tactics, and several meetings were held with the representatives of the firm during this period. The Railway Administration had to consult their Law Officer also and all this took considerable time. There was, however, no financial loss to the railway on account of this delay as the rent was being regularly paid

9. As regards the delay over six years till 9.5.1969 in the execution of the lease agreement, the Railway Board is responsible for the initial delay of 2 years and 3 months till March, 1965 ; the Divisional Engineer and the Divl. Supdt. are responsible for a delay of one year till March, 1966 ; the Chief Engineer and the Divl. Supdt. are responsible for a delay of one year till March, 1966 ; the Chief Engineer and his

sub ordinate in the Headquarters were responsible for a delay of 16 months till 29.7.1967 (Para 51) and the Divisional Engineer and Divisional Supdt. and the Chief Engineer and his subordinate in the Headquarters are responsible for the delay of 21 months till 6-5-1969. (1963-1969) (para 51 & 52)

by the firm. There had been no legal complications affecting railway's interests due to late execution of the Agreement.

The following officers have been dealing with this case :—

Railway Board			All retired
C.R.B.	—	Shri D.C. Baijal	
M.E.	—	” G.M. Shahani	
D.C.E.	—	” V. Venkataramayya	
A.M.W.	—	” D.N. Chopra	
A.M.F.	—	” C.T. Venugopalan	

N.R. Headquarter			
C.E.	—	”	Shri B.D. Gaur
Dy. C.E.	—	”	S.K. Gandotra
	—	”	P.K. Jain
	—	”	P.N. Sud
ENC/G	—	”	D.C.H. Mathur
L.C.O.	—	”	B.R. Nagpal

1	2	3
	Division	
	<p>D. Ss — S/Shri G.B. Singh V.P. Sawhney Shiv Kishore K.L. Berry K.S. Rajan</p> <p>DENs — S/Shri M.V. Basrur S.R. Mehta Kartar Singh R.L. Anand (Died)</p>	
10.	<p>Instead of resting content with giving broad directions on the lease to the General Manager, the Railway Board unnecessarily involved themselves in matters of detail and this was capitalised by the firm. This was an error of judgement on the part of Railway Board and, in particular, the then Addl. Member (Finance) (para 53)</p>	<p>Shri C.T. Venugopalan Addl. Member (Finance) Railway Board (Since retired)</p> <p>In this context, following note of the A.M.F. recorded on 31.5.63 in N-18 of Case No. 62-WII/LE/4 is reproduced below and is relevant to the case.</p>

"I discussed with H.M. yesterday the letter from Oriental Building & Furnishing Co. Pvt. Ltd. addressed to him dated 6th May, 63. H.M thought that continuance of the lease on terms suitable to us would be the best alternative as the party is now showing signs of coming to an amicable settlement.

HM suggested that matter be dealt with by me calling for a representative and D.E.C. and myself discussing jointly with representative. The latter I have signed to the party may issue and pending my return D.C.E. may fully go into the case, and discuss with me when I am back. Sd. A.M.F. 31.5.63 From the above, it is clear that the then A.M.F. Shri Venugopalan had only acted on the instructions of the then M.R.

11. The Divisional Engineer, Estate, and the Divisional Supdt., are responsible for delay in the issue of notice till December, 1967, to the firm intimating him of the increase in rental w.e.f. 1.1.1968 and also the delay till Sept., 1968.

D.S.
S/Shri K.L. Berry
Shiv Kishore
K.S. Rajan
DEN/Estate-Sh. Kartar Singh

Since retired

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in issuing him a formal demand letter asking for the increased rental.

12. The Divisional Supdt. and the Divisional Engineer (Estate) and the Headquarters office (Engineering) are responsible for failure to determine the leases as per the provisions of clause 7 for violation of the terms of the lease, which should have been done in 1968 itself or soon thereafter.

The case was under constant consideration of the G.M. and the Board. The HQ and the Division could not have taken a decision of termination of the contract. Following HQ and Divisional Officers were, however, dealing with the case.

C.E.—Shri B.D. Gaur
ENC (G)—Sh. D.C.H. Mathur
", P.N. Chopra

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S/Shri Shiv Kishor
K.S. Rajan
J.N. Kohli
M.S. Gujral
H.L. Verma

All have retired

13. The Railway Board is responsible for the delay of 3 years and 5 months in replying to the Head-quarters letter dated 30.12.71 asking for specific directions on the rate to be made effective from 1.1.1968.

The Railway Board has been in correspondence with the Northern Railway and the Law & Development Office of the Ministry of Works and Housing for nearly 3 years. A number of meetings were held and after personal chasing, final reply could be obtained from L & DO's office in May/74. Northern Railway submitted details of rent to be recovered based on L & DO's reply in June/74. Board asked for certain clarifications from Northern Railway and finally decided in April, 1975 that if the firm is not willing to pay the Railway dues as per details furnished by L & DO's office, the Railway should resort to legal action. The Railway initiated action under PPE Act on 10.7.1975.

The following officers of the Board, however, dealt with the case :—

CRB/ME—S/Shri B.S.D. Baliga
M.N. Berry
DCE/—S/Shri Kalicharan } All have

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2

1

T.M. Thomas
B. Mohanti

A.M.F.—K.S. Bhandari

Chairman/Railway Board, Shri B.S.D. since retired

14. The Railway Board and in particular, the Director (Civil Engineering) is responsible for proposing extension of the lease beyond 31.12.72 in spite of the recorded orders of a Minister for Railways that the lease of the firm be terminated with effect from 31.12. 1972 which had already been notified to the firm.

Baliga had given orders to the General Manager on 1.1.1973 for extending the lease by 3 months and DCE had only conveyed these orders to the Railway. These orders were subsequently approved by the then M.R. on 18.1.73. As such, only the then CRB can be held responsible for this (Sh. B.S.D. Baliga, CRB).

Since retired.

CRB : Sh. B.S.D. Baliga

Minister for External Affairs, S. Swaran Singh had telephoned to CRB on 1.1.1973 giving the background of the case and requested for giving extension, CRB gave extension for 3 months and asked for Railway's report. CRB had also put up the note to the then MR who had approved extension of lease further. In this case, CRB appears to have taken decision

15. The Chairman, Railway Board erred in judgment in directing the General Manager to extend the period of lease beyond 31.12 1972 on a provisional rental calculated ~~at~~ the basis of a reduced value of Rs. 200/- per sq. yard without properly appreciating facts already in possession of the Board and without placing

matter before and seeking the specific orders, of the current Minister and bringing it to his notice that an earlier Minister had already passed orders that the lease should be terminated with effect from 31.12.1972.

16. *Prima facie* the eviction proceedings which were in progress from July, 1975 to August, 1977, appeared to be proceeding far too slowly. But no comments are being offered on this aspect, as the Estate Officer was acting in quasijudicial capacity.

17. The Railway Administration could and should have examined the desirability of seeking arbitration against the firm during the period from 1972 to 1975 when precious time was lost in unnecessary correspondence with the L & DO.

18. The letter dated 26.10.74 over the signature of the Divisional Engineer (Estate) should have never been issued to the firm.

without consulting the relevant files and discussing the case with DMR/MR before conveying the orders to the Railway.

No comments.

Railway terminated the agreement in 1972 and, therefore, question of arbitration did not arise. The action was taken up under PPE act in July 1975 after Board's direction to evict the party. As a matter of fact, Railways were considering to appeal against High Court's order who ordered for arbitration in 1981.

Shri N.S. Hirani, the then DEN/Estate.

Departmental action will be taken against the officer.

Addl. points raised by Shri C.S.P. Sastri, Engineering Officer, L & D Office, New Delhi, and Member High Powered Committee.

Recommendations/point raised	Officer/Staff responsible	Action to be taken
1	2	3
1. All actions from 1942 to 1951 regarding lease of the land were taken under the direct approval of Divl. Supdt. with leases signed by him and, therefore, he was responsible for regularization of encroached land by subsequent leases, thus regularising an encroachment. However, it appears to be the policy of the Dep'tt. of Railways to temporarily lease out the land not required by them for immediate use.	This point is covered by recommendation No. 1 given above. From 1942 to 1951, following 11 DSS dealt with this case : S/Shri F.G. Griffith, Z.H. Khan, S.S. Gyani, K.P. Mushran, D.N. Mullan, P.L. Behl, Ranjit Singh, Daya Chand, H.K.L. Sethi, D.N. Chopra & S.L. Kumar.	All DSS have since 104 retired.

Since retired

Shri Daya Chand, CAO/Engg.
E.P. Railway dealt with this case.

2. The Divl. Supdt. requested the Rly. HQ (Chief Admin. Officer Engineering, Eastern Punjab Rly.) on 18.4.51 for permission to build a compound wall along the Railway boundary between the regularly leased area and Railway land to prevent encroachment on Railway land by the firm. On 25.4.51, the Rly. HQ (Eastern Punjab Railway) instructed the Divisional Supdt., New Delhi not to build the compound wall. This is a clear lapse on the part of HQ, Eastern Punjab Railways. Had the compound wall been built, the extent of encroachment would have been contained and further encroachment prevented. The responsibility for this lapse clearly involves on the HQ (E.P. Railway)/New Delhi.

3. The Divl. Supdt. terminated the lease effective from 31.5.1951 and eviction orders also were obtained in 1955 under PPE Act, 1950 as the land was required for Railway use. Eviction was stayed in 1956 by Secy. pending disposal of appeal by the firm. Meanwhile new PPE Act, 1958, was passed and action for eviction and recovery of damages was initiated in 1959. However, in 1962, Railway Board decided to give the land on lease for another period of 20 yrs. after regularising the unauthorised occupation from 1.6.1951, in spite of earlier eviction order and further eviction proceedings. This action of Railway Board in effect takes into account and condones all delays, inaction lapses if any

The following officers of the Railway Board dealt with this case from 1951-1962 :

D.C.E.

S/Shri N.K. Roy, B.C. Ganguli,

R.M. Wilson, H.D. Awasthy,

M.N. Berry, D.R. Kohli.

A.V. D'Costa, V. Venkatarammaya

& M.R. Redy.

C.R.B.

S/Shri F.C. Badhwar, G. Pande,

P.C. Mukherjee, K.B. Mathur,

Karnail Singh & D.C. Baijal.

M-E.

S/Shri F.C. Badhwar, P.C.

Mukherjee & Karnail Singh

No specific responsibility has been fixed by Shri Sastry on any individual officer.

All have since retired.

etc. in retrieval of land. Therefore, for all the actions from 1951 onwards till the lease was again authorised in 1962 and for the fresh lease of land for 20 years from 1962, the Railway Board are responsible. No Office at lower levels can be held responsible for the same.

APPENDIX III

(See para 1.59 of the Report)

[*Setting up of an independent Authority for Land Management under the aegis of Department of Railways (Railway Board)*].

I. Background :

(i) Total land with Indian Railways — 3.42 lakh hectares

(ii) Break up :

(a) Under Track, Structures, etc. — 2.20 lakh hectares

(b) Under cultivation for Grow more food scheme — 0.44 lakh hectares

(c) Vacant unused land — 0.78 lakh hectares

II. Problems in Management of Railway Land :

I. Encroachments :

(i) Railway lands are highly prone to encroachments being unfenced and scattered along the Railway's vast network across the country ; specially in metropolitan cities and major towns.

(ii) Encroachments on railway land have risen over the years.

1975 — 64,000

1983 — 95,000 (Area 2,500 hectares).

This involves financial stakes to property worth about Rs. 1,500 crores even assuming a conservative value of Rs. 60 lakhs per hectare (Rs. 500/- per sq. m.).

- (iii) The Public Premises Eviction Act is completely ineffective in dealing with encroachments on Railway lands as the Estate Officers appointed under this Act do not have Magisterial powers to order eviction and, therefore, are not in a position to summon police assistance in the event of eviction orders not being carried out. RPF also do not have powers to deal with eviction of encroachers from Railway lands, this being the function of the State Police who are responsible to maintain law and order.
- (iv) Due to financial constraints, Railways have to undertake the various schemes in a phased manner and are, therefore, not in a position to fully exploit its land assets which never the less have to be protected.

2. Lack of Demarcation of Land Boundaries and non-availability of Land Records :

Railway lands do not stand demarcated at a large number of places. Consequent to re-organisation of States after independence, bifurcation/amalgamation of villages, creation of new Railway Divisions, merging of State owned railways, updated certified plans being in arrears, Railways are not in a position often to pursue in the Court of Law their title to ownership of such lands.

3. Lack of Organisation :

Railways do not have any adequate organisation for management of their valuable land assets on sound and economic lines. There is no sufficient machinery or Authority at the grass-root or other level to pursue eviction of several thousand of encroachers on Railway lands and to check fresh encroachments under pressure of population specially in the metropolitan towns and urban areas.

There is practically no land management culture on the Railways.

A current review shows that the total land management organisation of Railways consists of 12 gazetted and 191 nongazetted staff both at the Headquarters and in the field. Considering the vast land assets of the Railways, the complicated land laws relating to title and ownership between the Centre and the State, enormity of the work

involving certification of the land plans, realisation of and updating of income from licensed lands, the Land Management Organisation is rather inadequate. Due to administrative constraints and ban on creation of posts, the Department of Railways is not in a position to create the organisational infrastructure for management of land.

4. Unsatisfactory Development and Utilisation :

National development and fruitful commercial utilisation of Railways' vast land assets and air space for augmenting their resources have not made any significant progress due to lack of effective machinery for its management, as discussed earlier and scarcity of financial resources to develop the vacant land.

5. Lack of Financial Resources

Railways have remained deficit of funds for even their basic needs such as replacements and renewals. There are practically no funds available for developing land for commercial use.

The Railways have no powers to raise resources through borrowings from other than the General Exchequer for development of their land assets or to construct multi-story buildings by taking advances from the prospective buyers/hirers of the floors space. The principles embodied in the Constitution stipulate that all receipts of Railways should be credited into the Consolidated Fund of India and expenditure incurred only from the funds as voted by the Parliament. The Department of Railways, therefore, cannot execute works for development of vacant land by raising resources through borrowings from other than the General Exchequer.

III. Objectives/Functions of the Land Management Authority :

1. Railways, therefore, proposed to create a Land Management Authority for proper protection, development and management of their land assets and air space.

2. It was considered that such an organisation would not be able discharge its responsibilities effectively within the framework of Departmental working. The need for specialised bodies has been accepted all over the world and a number of Railways including the

British Railways, the Hong Kong Railways (Metro), Canadian Pacific and Canadian National Railways among others have set up specialised bodies in connection with utilisation of real estates belonging to the Railways. In India also, the need for specialised bodies (DDA, CMDA and BMRDA) has been accepted for management of real estates, in view of the complex land laws.

3. The Authority would be set up by an Act of Parliament functioning under the administrative control of the Department of Railway. The following are the primary objectives and functions of the proposed Authority :

(a) Objectives :

- (i) Scientific management of Railway lands ;
- (ii) Creation of a self-sustained organisation with efficient infrastructure through its own financial resources ; and
- (iii) Organising development of railway land by commercial borrowings not permissible to the Ministry/Department of the Government of India.

(b) Functions :

- (i) Protection/development and management of railway lands ;
- (ii) Completion of land records, undertaking accurate land demarcation for preserving railway's title on lands ;
- (iii) Removal of prevailing encroachments and prevention of future encroachments ;
- (iv) Commercial utilisation of vacant land and air space in metropolitan cities and other important towns ;
- (v) Planning joint ventures, mobilisation of resources for development of vacant railway lands from commercial borrowings and commercial participation with other Undertakings and entrepreneurs ; and
- (vi) Exploitation of large scale afforestation on Railways.

IV. Rejection of Proposals by the Secretaries, Committee :

1. The Committee of Secretaries to the Government of India, however, did not accept the proposal primarily *on the consideration that real estate activity is not the legitimate function of the Railways*. The Committee made certain recommendations, including, *inter-alia*, the following :

- (i) Ways and means should be found for effective and efficient management of railway lands ;
- (ii) Every care should be taken to prevent unauthorised encroachments of railway properties ;
- (iii) Expeditions steps should be taken in consultation with the State authorities to remove existing encroachments ;
- (iv) In vulnerable locations, fencing of railway properties would have to be resorted to ;
- (v) There is no particular advantage in creating a separate Board to manage railway lands. Eviction of encroachments might become more difficult if the land is not treated as Government property. It is also necessary that in such a far flung organisation, the management of railway lands is closely linked with the Zonal and Divisional Railway Managers so that the General Managers and Divisional Railway Managers are fully in the picture.

In view of the above considerations, instead of a separate Board, *the existing organisational set up in the Railways for land management needs to be strengthened. Officers exclusively in-charge of railway lands should be posted not only at the Headquarters of the General Managers but also in the office of Divisional Railway Managers*. Department of Railways should form suitable proposal for strengthening their organisational set up for management of railway lands and discharge of the functions set out above.

V. Current Thinking :

- 1. As directed by the Secretaries' Committee, Board are currently considering strengthening of the land organisation. Proposals for

creation of about 90 gazetted and 600 non-gazetted posts involving additional expenditure of Rs. 1.5 crores per annum are under consideration.

2. It is expected that with proposed strengthening of the Land Management Organisation in the field on Zonal Railways, the annual earnings are likely to be augmented from the present level of Rs. 6 crores to around Rs. 10-12 crores in about 3 to 5 year's time. The additional annual earnings of Rs. 4 to 6 crores anticipated from updating and realisation/monitoring of license fees from commercial plots would largely justify the strengthening of the land management organisation at an additional costs of Rs. 1.5 crores. Apart from the increased earnings, the strengthened organisation will play a vital role in carrying out large scale departmental afforestation on Railway lands, in actively pursuing the eviction of encroachments, surveying of demarcation of land boundaries, updating of land records and in checking fresh encroachments on Railway lands.

VI. Resource Mobilisation : RRC's Insistence on Setting up Land Management Authority.

1. The scope of the strengthened land management organisation, as explained above is essentially from operational activity and operational income. There is tremendous potential or commercial utilisation of land assets from self-financing projects, including those relating to air space, shopping complexes, etc., with joint financial participation from Entrepreneurs which will convert the land assets into liquid financial resources. The Railway Reforms Committee (Report No. XVIII—Chapter Resource Mobilisation) have made an exercise to bring out the tremendous potential of resource generation in case the Railways enter into Real Estate activity with the setting up of an efficient and effective Land Management Authority. It is estimated that the proposed Authority should be in a position to select around 20 important places including four metropolitan cities for commercial exploitation of land. Assuming that by the turn of the century, the Authority is able to construct about 60 such buildings at a cost of around Rs. 600 crores, the gross income at the rate of return of 25% from this investment would be around Rs. 150 crores per annum. Assuming that out of this gross income, the authority has to pay back interests on sums raised from market at the rate of 15% per annum, the annual revenue earning comes to the tune of Rs. 60 crores per annum.

2. The Land Management Authority would be legally and Constitutionally in a position to muster up resources for development from commercial borrowings which the Ministry is unable to do. It will also set up self-sustained organisational infrastructure which the Ministry is unable to create due to administrative constraints. The Authority can also be vested with the suitable and effective powers under a separate Act of Parliament so as to :

- (i) Remove the existing deficiencies in the P.P.E. Act in checking fresh encroachments and accelerating eviction of unauthorised encroachers with creation of its own eviction squads.
- (ii) Adopt suitable legislative measures to enable railway to retain and utilise lands for commercial purposes which are not needed for its own operational purposes.
- (iii) Change extant Business Allocation Rules to facilitate real estate activity by the Authority.

VI. Summing up :

It is requested for consideration of PAC that Railway's original proposal for setting up of the Land Management Authority, may be supported as being more efficient and effective for sound and scientific management of railway lands, *vis-a-vis*, the simple strengthening of the Organisation under the present set up. It is also doubtful if the proposal for strengthening is at all a feasible proposition, in the face of general ban on the creation of posts by the Government.

APPENDIX IV

Statement of Observations Recommendations

Sl. No.	Para No.	Ministry Concerned	Observations/Recommendations
1	2	3	
1	1.63	Transport (Deptt. of Railways) (Railway Board)	The Indian Railways own about 8.3 lakhs acres of land spread over the length and breadth of the country along its network of over 61,850 route kilometres of railway lines. About 5.56 lakh acres of land are under railway assets like tracks, workshops, offices, staff colonies, etc. whereas the remaining 2.74 lakh acres are non-functional and fall in the category of available lands as defined in Para 1008 of the India Railways Code for the Engineering Department.
2	1.64	-do-	The Committee note that as a result of review of the land management of the various Railways, Audit has raised four basic issues. The first is inadequate and inefficient maintenance of land plans leading to disputes/litigations, damage to Railway's

title of land and loss of revenue accruing therefrom. The second is high incidence of encroachments and inadequacy of action for its removal. The third is lack of concerted efforts to exploit surplus land to derive maximum revenue and the fourth is non-execution of agreements for land licensed.

3 1.65 Transport (Deptt.
 of Railways)
 (Railway Board)

The Committee have noted with concern that maintenance of accurate land plans of all railway lands duly accepted by the Revenue authorities of the State Governments is far from satisfactory on all the Zonal Railways. In the absence of proper land plans it was not known whether periodical verification of boundaries as per extant rules, was regularly done by the Railway administrations. The Committee are informed that land plans for about 80% of total lands owned by the Indian Railways were available with the Zonal Railways. Work on preparation and certification of remaining land plans had been taken up by the Zonal Railways and target of 31.3.1986 had been set for the purpose, which has apparently not been achieved. During their visit in July, 1985 to South Central Railway, it was learnt by the Committee that to prepare authenticated land plans it was necessary to have a joint survey made by the officials of the Railways and the Revenue Department of the State Governments. At an approximate cost of Rs. 8,000/- per km., the joint survey of 1597 kms., for which land plans were not available, would cost the Railway Administration Rs. 1.28 crores. The entire

amount was to be found from within Revenue expenditure which suffered from acute shortage of funds. The Committee were also informed that the joint survey had been completed over a length of 201 kms. only.

4 1.66 -do-

The Committee have a feeling that position of updating the land plans on other Railways may not be different. As the certified land plans are the elementary requirement for ownership proof of the land belonging to the Railways, the Committee recommend that work on preparation, certification and verification of boundaries of the remaining land plans should be done on priority basis. The Committee would also like to be apprised of the progress achieved by the Zonal Railways in clearing the arrears in this regard within six months.

5 1.67 -do-

As regards specific cases of non-maintenance of upto-date and complete land plans mentioned in the Audit Paragraph, the Committee are informed that in the case of plot No. 436 of Birlanagar siding at Gwalior, the Railway's ownership has now been established and mutation done in their favour. It is proposed to license the railway land to J.C. Mills who are using the land for unloading of coal etc. on annual licence fee with retrospective effect from 1961. Central Railway has been asked to work out the arrears and realise the same from

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the party. The Committee desire the Ministry to expeditiously work out the arrears and to ensure the payment thereof by the party to the Railway. The Committee may be informed of the amount recovered.

The cases of land occupied by Notified Area Committee at Loharu, non-payment of licence fee by Provincial Armed Constabulary at Gorakhpur, licensing of Railway land to M/s. Small Coir Industries at Tellicherry, and land on Millers Road, Bangalore are still subjudice at various stages in the courts of law. The cases of land at Chupra and mutation of land of Tezpur-Balipara Railway are being pursued with the State authorities concerned in the matter. The Committee trust that Railways will vigorously pursue all such cases as mentioned in the Report which are subjudice and pending with the State Government authorities and take appropriate remedies, administrative and legal, available to them to safeguard the Railway's interest.

The Committee observe that two plots of Railway land measuring 5073 sq. yards situated in front of New Delhi Railway Station were licensed (1948) to the then Delhi Municipal Committee on the recommendations of the Ministry of Rehabilitation, at a nominal fee of Rs. 2 per annum, for

temporary resettlement of refugees from West Pakistan. The Committee have been informed that the matter is under correspondence between the Ministries of Railways and Rehabilitation and the Lt. Governor of Delhi. Keeping in view the considerable delay and the continued adverse possession of the land, the Committee recommend that the matter should be resolved at the earliest to set at rest the uncertainty about this area of prime land which may be very essential for railway operations.

6 1.68 Transport (Deptt.
of Railways)
(Railway Board)

Another important matter which the Audit Paragraph has raised is that encroachments on Railway land had been increasing from year to year. According to the Ministry of Transport (Department of Railways) number of encroachments on Railway land have increased from 64,000 in 1975 to about 98,000 in 1985. The Ministry have sought to explain the position by saying that although migration of labour to urban areas to seek employment and other sociological factors are primarily responsible for large scale encroachments on public lands, there are certain special reasons for the proneness of railway land to unauthorised occupation. These are—Railway land being unsfenced and scattered, interference by pressure groups, inadequate administrative machinery at the grassroots levels, indifference of the field staff in taking timely action and ineffectiveness of the Public Premises Eviction Act, 1971.

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The Ministry of Transport (Department of Railways) (Railway Board) have further stated that a number of corrective steps have been taken to protect Railway land against encroachments. These include appointment of additional Estate Officers, large-scale social forestry on vacant land in sensitive areas close to metropolitan cities, provision of boundary walls/fencing for protecting Railway land and follow-up at appropriate levels with State Governments for eviction from Railway lands. However, in spite of adopting various measures the encroachments have increased and it has not been possible for the Railway Administration to effectively prevent the encroachments on their land especially in the metropolitan cities and major towns.

7 1.69 -do-

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In their note to the Committee, the Ministry of Transport (Department of Railways) have suggested the following three major steps to check and prevent encroachments :—

- (i) Amendment of P.P.E. Act to give more effective judicial powers to the Estate Officers so that their direction to summon police help is an obligation under the law and not a simple direction, which may or may not be complied with.

- (ii) The relevant Act should be amended to give powers to the Railway Magistrates for eviction of encroachers.
- (iii) Separate posts of Estate Officers with minimum supporting organisation may be created on the Zonal Railways to deal full time with the encroachment cases instead of nominating Engineering Officers as Estate Officers in addition to their normal duties/functions.

The Committee feel that the proposal of the Department of Railways for delegation of more powers to the Estate Officers in regard to giving magisterial authority to summon police/assistance and powers to Railway Magistrates for eviction of encroachments, being in the interest of preventing effectively the encroachments of public premises, merit serious consideration. The Committee recommend that the proposals should be examined by the Government in all aspects and implemented, if found feasible.

The Committee are distressed to find that in spite of adopting various measures for checking and preventing encroachments, the encroachments on Railway land have increased. The seriousness of the situation can be seen from the fact that there is increase in encroachments from

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64,000 in 1975 to 98,000 in 1985 though some more powers having been delegated to Estate Officers and provision made for punishment for unlawful occupation of public premises through amendments of the Public Premises Eviction Act, 1971 in 1984. That such a thing should have happened is a matter of regret. This only strengthens the views of the Committee that all these years land management in the Railways has been poor.

9 1.71 -do-

In their Report on the unauthorised occupation of Railway land in New Delhi by M/s. Oriental Building and Furnishing Co, the High Powered Committee have held responsible a large number of railway officers even at the highest level who dealt with case at various stages and a different points of time from the very beginning since forties. The Report also points out all the Railway Officers except one—who have been held responsible in the case, have since retired. Departmental action is proposed to be taken against the only one officer—the then Divisional Engineer (Estate) who is still in service.

The following are glaring instances of administrative irregularities/lapses which have been pointed out :

- (i) Extension of lease of land for a period of 20 years notwithstanding that eviction proceedings were in progress with the competent authority during early sixties ;
- (ii) Further extension of lease by the then Chairman, Railway Board beyond 31.12.1972 in spite of recorded orders of the then Minister for Railways that the lease of the firm be terminated with effect from 31.12.1972 which had already been notified to the firm ; and

- (iii) The letter dated 26.10.74 over the signature of Divisional Engineer (Estate) should have never been issued to the firm.

The Committee observe that findings of the High Powered Committee is a sad commentary on the functioning of the Railway Administration in such matters of vital consequence. It has been established beyond doubt that the whole case had been handled in a lax and perfunctory manner, that there were serious lapses by Railway Officers at the highest level which the Committee feel could be the result of pressure or influence exercised from outside and that the various inordinate delays and lapses that have taken place at various stages could not have been possible without the active collusion on the part

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10 1.72

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of some Railway Officers. The Committee take a very serious view of it and urge that stern action may be taken against those officers who are responsible for grave and costly lapses irrespective of the fact whether they are in service or not under the extant rules.

11 1.73 -do-

In the case of unauthorised occupation of Railway land by M/s. Oriental Building and Furnishing Company (M/s. Pure Drinks), New Delhi, the Committee further note that the Arbitrator had given an award on 24th September 1984, directing the party to hand over vacant and peaceful possession of the land the pay Rs. 34.01 lakhs to the Railway Administration on account of rent arrears and interest thereon upto 31 December, 1982.

The Ministry of Transport, Department of Railways (Railway Board) have stated that on receipt of the award, two applications were filed in Delhi High Court, seeking (i) directions to the Arbitrator to file the original award and (ii) making the award the rule of the Court. The Department of Railways Board) have further stated that since proceedings in the High Court were likely to take time due to delaying tactics adopted by the party, two applications were filed with

the Estate Officer, Northern Railway under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (i) for getting the land vacated and (ii) for recovery of damages from the 1st January, 1983 for unauthorised occupation of land. The Committee would like to be apprised of the further developments along with a chronological resume of the hearings both by the Delhi High Court and the Estate Officer.

12 1-74 -do-

The Committee note that at present the total outstanding dues on account of rent/licence fee on various Railways as on 31.3.1985 are Rs. 6.94 crores. The Railway Board have taken these accumulations lightly in view of annual earnings from land being of the order of Rs. 7 crores. The rates fixed by Zonal Railways in terms of instructions issued by the Railway Board in 1980, were considerably higher than old rates. Many licencees have disputed the increase and are either paying at old rates or are not paying at all. Besides, there are some major defaulters. The Ministry have further stated that Railways have appointed Committees of Senior Officers to examine the disputed cases so that disputes are settled and dues realised. For major defaulters like M/s. Pure Drinks, New Delhi and M/s. Kirit Enterprises, Bombay, cases are being pursued in the courts. In case of oil companies, the matter has been taken up at Secretary's level.

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The Committee feel deeply concerned over this state of affairs. In this connection, the Committee notes that Department of Railways have recently issued detailed guidelines to the Zonal Railways for fixing licensee fees and for review of old cases involving disputes. The Committee expect that with the issue of recent broad guidelines old cases involving disputes will be settled quickly. In addition, the Committee desire that determined efforts should be made by the Zonal Railways for expeditious recovery of outstanding dues. The Committee also desire that the Directorate of Land Management in the Railway Board should keep a close watch and review quarterly the position of settlement of disputed cases and clearance of outstanding cases.

The Committee observe from the replies furnished by the Ministry regarding outstanding rent/licence fee from the major defaulters that an amount of Rs. 4 crores is outstanding from the oil companies. The oil companies and public under takings/being the major rail users, the Committee wonder why such large outstandings should have been allowed to accumulate. Immediate action in this direction is called for to ensure

that these outstandings are liquidated at the earliest. The Committee are surprised at the lack of concern in settling accounts between different arms of the Government. This does not speak well about the system of accounts.

13 175

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The Committee note that afforestation is an important national objective. Railways are contributing their mite to the national efforts to improve the ecological and environmental balance of the country through plantation of trees. According to Railway Board, the primary aim of Railway plantations is social rather than monetary. The level of tree plantation has been raised from 20-25 lakh trees annually to more than 100 lakhs by cooperating afforestation work with the State Forest Departments. The Ministry have further stated that with close liaison with the Ministry of Forest and Environment and the States, it is proposed to plant nearly 10 crores of trees on Railway land in the next ten years. The Committee trust that suitable look after arrangements have been made to ensure better survival rate of the trees planted. The Committee while appreciating the laudable efforts of the Railways desire that the tempo of the plantation should be ensured and priority may be given to plantation of trees on Railway lands along the Railway tracks passing through populated areas with a view to checking pollution and encroachments.

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From the replies furnished by the Railway Board, the Committee observe that the project report prepared for afforestation on the Indian Railways envisages use of 88,000 hectares of land for the purpose. Of this, 15,885 hectares of land has been handed over to the State Forest Departments by the Zonal Railways for afforestation on a nominal licence fee of Rs. 1/- per hectare per annum. The Committee note from the Advance Report of the Comptroller & Auditor General of India for the year 1982-83, Union Government (Railways) that in accordance with the projections made by Audit, the surplus railway lands have a potential of earning of Rs. 111 crores per annum by utilising half of the surplus railway lands. This being the potential of earnings of these surplus lands and the fact that the railways themselves have been running through difficult financial conditions during these years for their activities and expansion, the Committee consider that economical and gainful exploitation of such lands through afforestation should also be examined and considered to augment the railway finances.

14 1-76

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In June 1980, the Department of Railways (Railway Board) directed Railway Administrations to give highest priority to

the management of land by exercising greater control and taking dynamic action to eliminate encroachments. From the information furnished by the Ministry of Transport (Department of Railways), the Committee are greatly concerned to find that the Railways do not have adequate organisation for management of their valuable land assets on sound and economic lines. At the Divisional Headquarters and in the field, there is hardly any staff provided exclusively for land management. Since June, 1980, at the Zonal Railway Headquarters, Chief General Engineers have been entrusted with full responsibilities of land management in addition to their normal duties. Existing strength of officers and staff for all the nine Zonal Railways is 12 Officers and 181 non-gazetted staff against their total requirement of 96 gazetted and 750 non-gazetted staff which is totally inadequate and virtually insignificant in view of vast unsfenced land assets spread all over the vast Railway network, comprising of nearly 3.36 lakhs hectares.

The Committee further note that the proposal for strengthening the land management organisation on the Zonal Railways at the Headquarters as well as in the Divisions have since been submitted by the Zonal Railways. These proposals have been examined in the Board's Office and action is being taken to submit a Memorandum to the Cabinet for creation of these

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required posts. However, due to ban on creation of posts, the Department of Railways is not in a position to create the required organisational infrastructure for management of land.

16 1.78 -do-

The Committee regret to have to observe that various facets of land management on Indian Railways have suffered in the past due to lack of adequate attention being paid to this subject. The incumbents in the existing posts of Chief General Engineers/Additional Chief General Engineers who were assigned the job of land management in addition to their normal duties, have not been able to do the work as efficiently as was expected of them. The Ministry have also pointed out that at present Officers of the Engineering Department are generally appointed as Estate Officers under the P.P.E. Act to deal with encroachment cases in addition to their normal duties. They hardly get any time for specifically dealing with eviction cases which consequently get delayed.

17 1.79 -do-

The Committee are informed that in accordance with the recommendations of the Railway Reforms Committee, the Railways proposed to create a Land Management Authority thro-

ugh an enactment of the Parliament for proper protection, development and management of their land assets and air space. The Committee of Secretaries to the Government of India which considered the matter, however, did not accept the proposal primarily on the consideration that the main function of the Railways was to carry traffic and the real estate activities were not the legitimate function of the Railways. That Committee has further observed that such an organisation would not be able to discharge its responsibilities effectively within the framework of Departmental working. Railways as the Department of the Government would be more effective in tackling the problems of encroachments than a new undertaking or authority. Instead it recommended strengthening of existing organisation both at Zonal and Divisional levels for better management of Railway lands.

The Committee feel that in the present situation when the value of land is increasing throughout the country particularly in big towns, it is really astonishing that the Railways are not in a position to protect their lands from unauthorised occupation/encroachments. It is imperative for the Railways to preserve and protect all Railway land which ultimately form part of assets of the public exchequer.

The Committee have been informed that proposals for creation of about 90 gazetted and 600 non-gazetted posts involving

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additional expenditure of Rs. 1.5 crores per annum are under consideration. With the proposed strengthening of the Land Management Organisation in the field on Zonal Railways, the annual earnings are likely to increase from the present level of Rs. 7 crores to around Rs. 10-12 crores in about 3 to 5 year's time. Apart from the increased earnings, the strengthened organisation will play a vital role in carrying out large scale departmental afforestation on Railway lands, in actively pursuing the eviction of encroachments, surveying of demarcation of land boundaries, updating of land record and in checking fresh encroachments on Railway lands.

The Committee after taking into consideration all aspects of the matter feel that to begin with the existing set up at the Board level and at the Zonal levels should be suitably strengthened with qualified personnel so as to bring about a marked improvement in land management. The Committee also feel that the proposal for setting up independent Land Management Organisation may be given a second thought. Any over-looking of this fact will continue to deprive the Railways of a valuable source of revenue, which cannot be allowed to go unchecked in national interest.