

Thursday
8th December, 1949

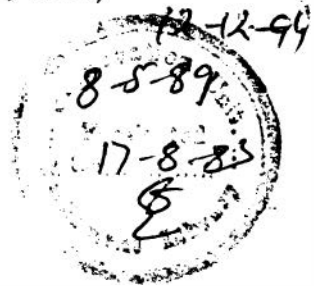
THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE) DEBATES

(PART I—QUESTIONS AND ANSWERS)

OFFICIAL REPORT

VOLUME IV, 1949

(28th November to 24th December, 1949)



SIXTH SESSION
OF THE
CONSTITUENT ASSEMBLY OF INDIA
(LEGISLATIVE)

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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART I—QUESTIONS AND ANSWERS)

Thursday, 8th December, 1949

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

STARRED QUESTIONS AND ANSWERS

(a) ORAL ANSWERS

COLOURING OF VEGETABLE GHEE

*408. **Shri R. K. Sidhva:** (a) Will the Honourable Minister of Agriculture be pleased to state whether it is a fact that Government have agreed to the colouring of vegetable ghee?

(b) If so, what is the process by which the vegetable ghee will be coloured?

(c) What steps are taken to see that the process of colouring is strictly adhered to?

The Honourable Shri Jairamdas Doulatram: (a) to (c). The possibility of using turmeric and *Katanjoti* as colouring materials for *Vanaspati* is being discussed with the manufacturers.

Shri R. K. Sidhva: May I know, Sir, whether the Government of the United Provinces have introduced a Bill in connection with the colouring of vegetable ghee and have asked for the views of the Government of India? Have they not also suggested a particular colour—yellow probably? What action have the Government of India taken in this matter?

The Honourable Shri Jairamdas Doulatram: The United Provinces have some legislation with regard to the colouring of *vanaspati*. But they have not come to any final decision with regard to the colour.

Shri R. K. Sidhva: Have they not approached the Government of India as to their view on this matter?

The Honourable Shri Jairamdas Doulatram: They have not approached us for our views. But we have given them permission to use whatever colour they consider to be proper.

Shri R. K. Sidhva: May I know whether the Scientific Research Institute has been consulted in this matter as to what kind of colour could be used which would distinguish the vegetable product from pure ghee?

The Honourable Shri Jairamdas Doulatram: About twelve colours were considered and we have asked for the views of the industry on two of them.

Shri R. K. Sidhva: May I know whether it is now finally settled as to which colour will now be used in the vegetable product?

The Honourable Shri Jairamdas Doulatram: That can only be decided after the suitability of the colour has been finally determined.

Shri Deshbandhu Gupta: In view of the fact that this question has been coming up time and again before this Assembly for so many years past, will Government either take a decision or give up the whole question of colouring of vegetable ghee?

The Honourable Shri Jairamdas Doulatram: There is no question of taking any decision. We can only decide upon a colour which is not injurious to health, which does not disappear on heating and which does not after heating resemble cow's ghee.

Ultimately we have suggested two colours and we are discussing the matter with the industry.

Shri H. V. Kamath: Has Government, Sir, banned the use of the term 'ghee' in connection with this product?

The Honourable Shri Jairamdas Doulatram: Yes.

Shri H. V. Kamath: But have Government taken any steps to see that their decision to ban the use of the term 'ghee' in connection with this product is being observed by the sellers and merchants?

The Honourable Shri Jairamdas Doulatram: Government are taking steps to see that the word ghee is not used.

Pandit Thakur Des Bhargava: In view of the fact that no colour has yet been decided upon, may I ask, what objection has the Government to stop the adulteration process at least?

Shri Mahavir Tyagi: Has the Government got any scientific investigation made into the question as to whether the consumption of vegetable ghee is injurious to public health?

The Honourable Shri Jairamdas Doulatram: Yes, investigations have been made and have been completed. I will be placing in the Library of the House a few copies of the results of the detailed tests which have been carried out in the laboratories.

Shri S. V. Krishnamoorthy Rao: Is it not a fact that the colour used in the vegetable product can be easily de-coloured?

The Honourable Shri Jairamdas Doulatram: There are some colours which can be de-coloured by heating or by chemical treatment.

Shri Jaspal Roy Kapoor: Sir, may we know, in brief, the results of the investigations made by Government?

The Honourable Shri Jairamdas Doulatram: The Vanaspati Research Planning Committee considered the report from the various institutes and have come to certain conclusions. They have said that in comparative feeding experiments carried on at four different research centres, on rats for three generations with raw groundnut oil, refined groundnut oil and vanaspati at melting points 37° Centigrade and 40° Centigrade, the results are that there is no deleterious effect produced by vanaspati as compared with raw or refined oil.

With regard to human feeding trials carried out at four different centres, they indicate that vanaspati at melting point 37 has no harmful effect, as compared with raw groundnut oil.

With regard to the relative nutritive value of raw groundnut oil, refined groundnut oil, vanaspati and ghee, the matter is being further examined and the data collected is being analysed.

Shri Mahavir Tyagi: In view of the fact that the result of the test was that *vanaspati* is quite fit for human consumption, why should it be decolourised at all? Why are the Government anxious to colour vegetable ghee when the commodity is so useful for human consumption?

The Honourable Shri Jairamdas Doulatram: There is no question of its being so useful. The question was whether it was having any harmful effect. With a view to finding this out, tests have been carried out and the fullest data will be placed in the Library of the House for the examination by members of the Assembly.

The object of colourising *vanaspati* is to prevent adulteration.

Shri Upendranath Barman: May I know, Sir, whether Government have taken any steps meanwhile to prevent adulteration of *vanaspati* with ghee and also to prevent dishonest traders from selling *vanaspati* as ghee?

The Honourable Shri Jairamdas Doulatram: Steps have been taken. The use of the word 'ghee' has been banned in the case of the vegetable product and anybody who sells *vanaspati* is not allowed to sell ghee in the same shop. Then the Provincial Governments have got full powers to prevent adulteration and take steps against adulteration.

Shri Mahavir Tyagi: From the reply of the Honourable Minister may I conclude that the consumption of this vegetable product is neither useful nor harmful?

Shri Raj Bahadur: Do Government consider the results of these tests as final and absolute?

The Honourable Shri Jairamdas Doulatram: They are before Government for consideration.

Shri H. J. Khandekar: Is it not a fact, Sir, that some consumers of vegetable ghee have contracted T.B.?

Mr. Deputy-Speaker: The Honourable Minister has already answered that question.

Shri H. V. Kamath: What is the result of the experiments carried on at the Izatnagar Laboratory?

The Honourable Shri Jairamdas Doulatram: The experiments carried on by the Izatnagar Institute were on a different diet. Ultimately all the specialists agreed to prescribe common diets and the results which I gave are based on those diets.

Prof. Shibban Lal Saksena: The Honourable Minister said that two colours have been suggested to the manufacturers. Will Government decide which colour to choose after the approval of the manufacturers?

The Honourable Shri Jairamdas Doulatram: Government will decide.

ADVISORY COMMITTEES AT HEADQUARTERS OF POSTMASTER GENERAL

*409. **Shri R. K. Sidhva:** (a) Will the Honourable Minister of Communications be pleased to state whether Advisory Committees have been set up at the headquarters of each Postmaster General?

(b) If so, what are the names of such headquarters and do these Committees consist of official or non-official members?

(c) What are the functions of these Committees?

(d) Are Government aware of the complaints made of the delay in the delivery of letters and does that matter come within the purview of the Committee?

Shri Khurshed Lal (Deputy Minister of Communications): (a) Yes.

(b) A statement giving the headquarters of Heads of Postal Circles is placed on the Table of the House. (See *Appendix XI, annexure No. 1.*)

These Advisory Committees consist of both official and non-official members.

(c) The function of these Committees is advisory; a statement showing the subjects which come within the purview of the Committees is laid on the Table of the House. (See *Appendix XI, annexure No. 2.*)

(d) Yes.

Prof. N. G. Ranga: What is the answer to part (b) that there are non-official members also? I could not hear it.

Shri Khurshed Lal: Yes. These Advisory Committees consist of both official and non-official members.

Shri R. K. Sidhva: What is the answer to part (d)?

Shri Khurshed Lal: Yes.

Shri R. K. Sidhva: May I know, Sir, whether in the statement showing the functions which he has laid on the Table, include the question of delay of delivery of letters, money orders and V.P.Ps. and are these questions also referred to the Advisory Committees?

Shri Khurshed Lal: Yes.

Shri R. K. Sidhva: May I know how many money orders and V.P.Ps. were pending disposal, that is to say not delivered to the addressees?

Shri Khurshed Lal: I would be able to answer this question if I get notice. It does not arise out of this question.

Shri R. K. Sidhva: Thousands of money orders and letters have not yet been delivered to the addressees and were these matters referred to the Advisory Committees?

Mr. Deputy-Speaker: That is not strictly relevant to the issue.

Shri R. K. Sidhva: It is the function of the Advisory Committee to consider this. May I know whether the Advisory Committee ever consider these matters in any Province?

Shri Khurshed Lal: It is not one Advisory Committee. In each Province there is a separate Advisory Committee and these committees consider matters which are brought up by the various members.

Shri R. K. Sidhva: I want to know whether any of the Provincial Committees consider these matters.

Shri Khurshed Lal: I require notice of this.

Shri H. V. Kamath: May I ask, Sir, how often do these Committees meet?

Shri Khurshed Lal: Once a quarter.

Shri H. V. Kamath: Is the Honourable Minister aware of a suggestion made by the Post Master General, Nagpur that the Committee should meet oftener?

Shri Khurshed Lal: If the members certainly brought more work, the Committee could meet more often.

Shri M. Tirumala Rao: Have Government received any complaints that letters posted in Delhi do not go anywhere and we do not know what has happened to those letters?

Mr. Deputy-Speaker: All these are not relevant to this issue. It is the business of the Advisory Committee.

Thakur Krishna Singh: Is the Government aware of the complaint that a telegram that contained the word "immediately" was changed into "soon" by the Telegraph Department?

Mr. Deputy-Speaker: It does not arise out of this question.

Shri R. K. Sidhva: May I know whether a firm named Morgan Miller Ltd. in Bombay, made a representation to the Government that they sent a parcel on the 14th December, 1948 and they issued reminders up to the 9th February, 1949, when it was not even delivered and asked for further information and despite many letters, the postal authorities have not replied?

Mr. Deputy-Speaker: The Honourable Minister need not answer that question. If Members address their complaints to the Minister in charge, he will certainly give an answer. If after all these methods are exhausted, and they do not get the necessary information, then this is the forum to which they may come. I think that matters of policy generally must be agitated here and not individual cases.

Shri R. K. Sidhva: I have got 15 complaints where the matter has been referred for a number of months and no attention is paid to them.

Mr. Deputy-Speaker: I do not know but if in spite of these complaints the Honourable Minister does not care to look into the complaints then the Honourable Member will have an opportunity in the Budget Session and he can then do what he likes.

Shri M. Tirumala Rao: In view of the fact that the Speaker has admitted these questions in spite of their being repeatedly raised, is it fair that this thing should be ruled from the Chair again?

Mr. Deputy-Speaker: The question that is admitted is of a general nature, and is regarding Advisory Committees.

GEOLOGICAL SURVEY OF INDIA

*410. **Shri R. K. Sidhva:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state the total strength of geologists in India?

(b) How many geologists are provided in each province?

(c) Have Government considered any proposal to explore various parts of the country for rich minerals and if so, what is the scheme?

(d) Has the Director, Geological Survey of India, explored the area in Assam and Rajputana for petroleum and other minerals and made a report?

(e) If so, what is the nature of the report?

The Honourable Shri N. V. Gadgil: (a) I am not aware of the total strength of Geologists in India. The number of Geological Officers at present employed in the Geological Survey of India which is a Central Government Organisation, is 145. According to the information collected by the Geological Survey of India in September, 1949, the number of Geologists employed all over India is about 315, including the 145 employed in the Geological Survey of India itself. I understand that the Department of Scientific Research maintains a register

of unemployed technical personnel, but this includes only those who care to get themselves registered, and is not therefore a correct index of the total number of personnel available in the country.

(b) The geological staff is allocated to the different provinces each year according to the investigations intended to be carried out during the field season which commences in November and lasts till the end of April. A statement showing the allocation of the officers to the different provinces during the current field season is laid on the Table. (See *Appendix XI, annexure No. 3.*)

(c) The Government of India have already approved a five year plan drawn up by the Director, Geological Survey of India in 1946, of the work to be pursued by that Department, and the plan is being followed generally subject to the modifications necessitated by *ad hoc* demands for urgent investigations. The programme of work to be undertaken during each field season is drawn up every year by the Director, Geological Survey of India, in consultation with the Governments of the Province and States, and is approved by the Government of India. A copy of the programme of investigations intended to be undertaken during the current field season is laid on the Table. (*Copy placed in the Library. See No. IV.R.2(4)/50.*)

(d) The answer is in the affirmative.

(e) A copy of the report is laid on the Table. (See *Appendix XI, annexure No. 4.*)

Shri R. K. Sidhva: May I know whether the Honourable Minister considers the number of geologists in Government service, namely 145 a sufficient number in view of the large research required and the potential wealth of the country? If not, what efforts Government are making to increase the number of geologists and do training facilities exist?

The Honourable Shri N. V. Gadgil: I agree with the Honourable Member that the number is insufficient in view of the circumstances mentioned by him, but I would like to tell him that the number was just 30 in the year 1941 and as great efforts were made during the last six years the number has come to 145. The Five year plan that has been referred to in part (c) of the reply contemplates the number being taken up to 250 and whether we will be able to implement it largely depends upon the finances of the country.

Shri R. K. Sidhva: In reply to my question to part (d), may I know whether the Geological Officer to the Government of India has stated that there is large petroleum and other minerals in Cutch (Gulf of Cambay), Rajputana and South Assam? If that is so, may I know whether any report has been made and to what effect?

The Honourable Shri N. V. Gadgil: As already stated, copies are laid on the Table.

Shri R. K. Sidhva: What is the result of the research, any idea, Sir?

The Honourable Shri N. V. Gadgil: Roughly the idea is that so far as Rajputana area is concerned, there is not much to encourage as regards striking of petrol but there are other minerals in plenty. As regards Assam the prospects are really bright.

Sjt. Kuladhar Chaliha: How many Geologists have been allocated to the Province of Assam and where are they working now?

The Honourable Shri N. V. Gadgil: All that information is laid on the Table. I may inform the Honourable Member that seven Geologists have been allotted for Assam.

Shri Mahavir Tyagi: Have any fresh research of any minerals been found by our 145 experts?

The Honourable Shri N. V. Gadgil: Yes, Sir.

Shri Mahavir Tyagi: What are they?

The Honourable Shri N. V. Gadgil: Well, if the Honourable Member is anxious he might read the reports, copies of which are always to be found in the Library of this House.

Shri Arun Chandra Guha: Have any explorations been made in the Dooars region in Jalpaiguri district?

The Honourable Shri N. V. Gadgil: I require notice of that question.

Shri H. V. Kamath: Do the rich minerals referred to in the answer include the radio-active minerals such as thorium, uranium as well as precious stones and diamonds?

The Honourable Shri N. V. Gadgil: The minerals are there and whether they are radio-active or whether they are diamonds it is for the Honourable Member to make out.

Shri V. I. Munishwamy Pillay: May I know whether the Government has any proposal to send a few geologists to foreign countries for advanced studies?

The Honourable Shri N. V. Gadgil: That has been the policy, subject to financial consideration.

Dr. P. S. Deshmukh: May I know what these geologists do from April to November?

The Honourable Shri N. V. Gadgil: They write their reports at the headquarters.

Prof. Shibban Lal Saksena: May I know the total cost incurred on these geologists?

The Honourable Shri N. V. Gadgil: I require notice.

Shri Raj Bahadur: Have any efforts been made by them to find out whether there are any water-currents beneath the desert in Rajputana?

The Honourable Shri N. V. Gadgil: Not by this Department in particular.

ARREARS OF RENT

*411. **Shri R. K. Sidhva:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state the arrears of rent and other dues to be recovered from various departments and individuals upto now for buildings and other properties in their possession?

(b) Will Government please lay on the Table of the House a statement giving the details of such arrears referred to in part (a) above year by year for the last ten years?

(c) What is the cause for these arrears and what steps do Government intend to take for their recovery?

(d) How much of the outstanding amount is expected to be recovered?

The Honourable Shri N. V. Gadgil: (a) to (d). The information desired by the Honourable Member is being collected and will be placed on the Table of the House in due course.

Shri B. K. Sidhva: May I ask whether these statistics are not available in the Estate Office to give the House the information regarding the total amount of arrears of rent?

The Honourable Shri N. V. Gadgil: I never said that the information is not available. It is being collected.

Shri B. K. Sidhva: Generally if information is asked for from a Department it is made available within ten days. If the information is to be collected from the various Provinces and so on it may take time. This information is available in Estate Office in Delhi. I want to know the arrears that have to be collected. Unless it is an inconvenient answer that has to be given, there is no need to evade giving the information.

Mr. Deputy-Speaker: I would like Honourable Members not to cast aspersions against other Honourable Members or Ministers. We must accept the statement of an Honourable Minister at its face value. If it is possible to answer the question now the Honourable Minister would do so. It will probably take sometime to collect the information regarding past years. Therefore the Honourable Member will have to wait for an answer.

Shri Mahavir Tyagi: Is it not possible to give the total amount of the arrears? Would the Honourable Minister oblige us by telling us in round sum what the arrears are likely to be?

Mr. Deputy-Speaker: That is the very question he has answered. He wants some more time to give the information.

Shri B. K. Sidhva: I did not cast any aspersions on the Minister. I only wanted to know whether I am entitled to have an information which is important. I only wanted to know the total amount of arrears.

The Honourable Shri N. V. Gadgil: I will give him all the details department-wise, city-wise, etc., as soon as the information is available. It may not take more than a week to collect it.

Shri M. Tirumala Rao: As regards part (c) of the question, Sir, which relates to the cause of these arrears, does the Honourable Minister require time to give an answer?

Mr. Deputy-Speaker: Once for all these matters will arise again in connection with the steps taken for the recovery of the arrears, if any.

Shri Mahavir Tyagi: Will the Honourable Minister kindly give an answer to part (c) at least?

Mr. Deputy-Speaker: What is the good of knowing that? When lakhs are to be collected, a certain policy may be adopted. If the arrears are only Rs. 100 there will not be room for any change in policy of collection. It is no good further cross-examining the Minister. Even when more than once the Honourable Minister has answered that he is taking time to collect the information, it is no good pursuing the matter. It seems unseemly to do so.

Pandit Hirday Nath Kunzru: May I know how we are bound to accept the statements of Ministers at their face value?

Mr. Deputy-Speaker: Otherwise no work of the Assembly will go on. I am not prepared to allow further discussion on this question.

PETROL AND KEROSENE OIL

*412. **Dr. Mono Mohon Das:** Will the Honourable Minister of Works, Mines and Power be pleased to state:

- (a) the sources of supply of Petrol and Kerosene oil in the Indian Union;
- (b) the quantities of Petrol and Kerosene oil supplied by different countries to India; and
- (c) what percentage of the total quantities consumed in India is produced in India?

The Honourable Shri N. V. Gadgil: (a) The sources of supply of petrol and kerosene are as follows:

- (i) The Middle East countries, i.e., Iran and Bahrein Island.
- (ii) The Far East countries, i.e., Malaya, Sumatra, N.E.I.
- (iii) Indigenous production, i.e., Digboi in Assam.

(b) Imports of petrol and kerosene into India during January to August, 1949 were as follows:

	Petrol		Kerosene	
		Tons		Tons
Iran	278,229		295,748	
Bahrein	58,154	"	61,382	"
Malaya	3,340	"	1,930	"
N.E.I.	7,444	"	...	"
Saudi Arabia	"	7,029	"
Sumatra	41,770	"	45,775	"
	388,937	"	411,864	"

(c) 6.8 per cent. of the total quantity of petrol and kerosene consumed in India during the first eight months of 1949 were produced in India.

Dr. Mono Mohon Das: In part (a) of the question I wanted to know the sources of petrol and kerosene in the Indian Union and not outside the country.

The Honourable Shri N. V. Gadgil: I have given the answer under (a) (iii). Indigenous production, i.e., Digboi in Assam.

Shri Mahavir Tyagi: From which areas these are bought, from hard currency areas or soft currency areas?

Mr. Deputy-Speaker: Order. order. My submission to the consideration of Honourable Members is that I propose to give the first preference to the Member who has tabled the question and after he has exhausted his questions, give a chance to other Members. It will be inconvenient if all Members rise as soon as the Minister has answered the main question.

Dr. Mono Mohon Das: May I know whether the production of petrol and kerosene in our own country has increased, decreased or has remained stationary after we became Independent?

The Honourable Shri N. V. Gadgil: It has not increased so far. Before the Partition, the percentage was obviously higher, but after Partition it is steady. It is expected that after the completion of railway link with Assam the production will increase.

Dr. Mono Mohon Das: May I know whether, in addition to the companies that are already operating, there is scope for any new company in our country?

The Honourable Shri N. V. Gadgil: Obviously there is scope; but no new company has so far applied for a prospecting licence.

Dr. Mono Mohon Das: What are the causes for the scarcity of kerosene oil in our country today?

The Honourable Shri N. V. Gadgil: The scarcity is due to shortage of foreign exchange. If we have sufficient foreign exchange we can import any quantity.

Shri Mahavir Tyagi: What is the total cost of petrol and kerosene at the source and whether payment is made in dollars or in sterling?

Mr. Deputy-Speaker: We are on the quantities of petrol and kerosene and we not to the realm of foreign exchange.

Shri Kishorimohan Tripathi: May I know what portion of trade in kerosene and petrol is handled in India by purely foreign concerns?

The Honourable Shri N. V. Gadgil: So far as distribution is concerned, it is entirely in foreign hands.

Mr. Frank Anthony: May I know what stage has been reached in the matter of Government's hope of producing synthetic petrol?

The Honourable Shri N. V. Gadgil: This question should be directed to the Honourable Minister in charge of Industries.

Sjt. Kuladhar Ohalha: Is it a fact that in Digboi the production has gone down from 8 crores of gallons to 6 crores of gallons, and if so, what is the reason? Is it due to labour trouble?

The Honourable Shri N. V. Gadgil: I want notice of the question.

Sjt. Kuladhar Ohalha: I was supplied this information the other day. I am asking for the reason for the reduction.

The Honourable Shri N. V. Gadgil:—I require notice.

Shri S. V. Krishnamoorthy Rao: The Honourable Minister stated that no fresh companies have applied for licences. In view of the fact that oil is an essential commodity, will the Government of its own accord try to tap these sources?

The Honourable Shri N. V. Gadgil: We are making all possible efforts but this industry is not an easy one. It requires technical personnel of a very high character and the capital required is enormous.

Ch. Ranbir Singh: Is there any possibility of any improvement in the supply of kerosene oil in the near future for the rural areas?

Mr. Deputy-Speaker: It is already answered.

Prof. Shibban Lal Saksena: Is the Digboi Oil Company an Indian company or a foreign company?

The Honourable Shri N. V. Gadgil: It is not an Indian company; it is a British company.

DAMODAR VALLEY CORPORATION

***413. Dr. Mono Mohon Das:** Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) whether it is a fact that the Damodar Valley Corporation is confronted with some difficulty regarding the acquisition of land as the normal procedure delays acquisition even of such lands as are not cultivated or do not contain buildings;

(b) whether it is a fact that the matter was being pursued with the Bihar Government; and

(c) if so, with what results?

The Honourable Shri N. V. Gadgil: (a) Yes.

(b) Yes.

(c) Special legislation is under consideration of the Bihar Government in consultation with the Damodar Valley Corporation.

Dr. Mono Mohon Das: May I know what is the normal procedure for land acquisition on the part of the Damodar Valley Corporation?

The Honourable Shri N. V. Gadgil: The normal procedure is laid down in the Land Acquisition Act. What I understand is that the Land Acquisition Act makes special provision for the acquisition of land for purposes of a company. Inasmuch as the Damodar Valley Corporation has been considered by the Bihar Government as a company, it was found very difficult to go through the whole procedure. In order to obviate this difficulty and to expedite the acquisition of land, the Bihar Government has now agreed to pass special legislation enabling the Corporation to get the land much quicker.

Dr. Mono Mohon Das: May I know whether the Damodar Valley Corporation has had to face some litigation on account of this land acquisition?

The Honourable Shri N. V. Gadgil: I require notice of that.

Sardar Bhopinder Singh Man: May I know what alternative arrangements are being made by the Damodar Valley Corporation for the displaced agriculturists?

The Honourable Shri N. V. Gadgil: I think that question was dealt with when the Bill bringing into existence the Damodar Valley Corporation was under consideration. The assurance given by the Government of India was that, as far as possible, alternative land will be given to those who will be expropriated and model villages will also be established. I understand that all efforts on these lines are being made by the Corporation.

Shri H. V. Kamath: May I know whether any instances have been brought to the notice of the Government where *kisans* have been evicted from their land without payment of due compensation to them?

The Honourable Shri N. V. Gadgil: No, Sir.

Shri Arun Chandra Guha: What is the total number of persons displaced?

The Honourable Shri N. V. Gadgil: If it can be only approximate, it is expected to be about 1,50,000 will be affected.

Shri Arun Chandra Guha: So many families or people?

The Honourable Shri N. V. Gadgil: Families.

Shri H. V. Kamath: How many dams are under construction at present?

The Honourable Shri N. V. Gadgil: I do not know whether it arises from this question.

Mr. Deputy-Speaker: This question covers only land acquisition and not the entire field of the Damodar Valley Corporation. Next question.

ARTIFICIAL RAINS

*414. **Dr. Mono Mohon Das:** (a) Will the Honourable Minister of Agriculture be pleased to state what experiments have been carried out by Government for inducing artificial rains?

(b) What are the results of such experiments, if carried out?

(c) Is there any possibility of successfully inducing artificial rains in this country as has been done in countries like Australia?

The Honourable Shri Jairamdas Doulatram: (a) to (c). No experiments for inducing artificial rainfall have been carried out by Government. The usual method followed in the course of experiments in Canada, Australia and U.S.A. is to drop dry ice on to clouds above the freezing level from aeroplanes. For this purpose the aircraft must fly above 17,000 feet and upto 25,000 feet above sea level. It has not been possible for the R.I.A.F. to undertake the necessary operations for experimental work nor are satisfactory machines available with the Air Service Companies. In other countries the work is at the experimental stage. No large scale agricultural operations are reported to have been undertaken with the aid of artificial rain in these countries.

Shri H. V. Kamath: Is the Honourable Minister in a position to state whether the sacrifice of *Yagna* performed recently in Saurashtra or somewhere thereabout was part of these experiments, or whether the *Yagna* was in pursuance of the Gita injunction यज्ञाद् भवति पर्जन्यो ("yajnad bhavati parjanya")?

Mr. Deputy-Speaker: The Honourable Member is casting an aspersion on *Yagna*. This question deals with artificial rain. He is talking of spiritual rain.

Sardar Bhopinder Singh Man: Will the Honourable Minister kindly state that no money will be wasted on such experiments which are of doubtful utility?

The Honourable Shri Jairamdas Doulatram: No large amount of money will be spent.

INDIAN AIRWAYS COMPANIES

*415. **Dr. Mono Mohon Das:** (a) Will the Honourable Minister of Communications be pleased to state what are the Indian Airways Companies that are wholly owned by Indians?

(b) In how many of them do the Government of India hold shares and what are the respective amounts of shares owned by them?

(c) What are the total number of Pilots and Engineers employed in those companies?

(d) What is the percentage of foreigners amongst such employees?

Shri Khurshed Lal (Deputy Minister of Communications): (a) A statement giving the names of the companies registered in India, 15 in all, is placed on the Table. (See Appendix XI, annexure No. 5.)

In the case of all of them except two the capital is owned wholly or almost wholly by Indians, though a few shares may be held by non Indians. Of the two exceptions, one, *viz.*, the Air Survey Company of India Limited, is British owned, and in other, namely the Himalayan Aviation Limited, over 60 per cent. of the share capital is held by two persons from Nepal who are now settled in India and the remaining shares by Indians and Europeans.

(b) Only in the Air India International Limited. The Government of India hold 49 per cent. of the share capital of this Company, amounting to Rs. 98 lakhs out of Rs. 2 crores subscribed, with an option to acquire another two per cent. at any time.

(c) 276 pilots and 289 engineers.

(d) 27.54 per cent. and 9.69 per cent. respectively.

DELHI TRANSPORT SERVICE

*416. **Dr. Mono Mohon Das:** Will the Honourable Minister of Transport be pleased to state:

(a) the total expenditure incurred by Government for Delhi Transport Service upto date;

(b) the number of employees discharged for bribery and corruption after Government took up the administration from the G.N.I.T.; and

(c) the total number of employees at present?

The Honourable Shri K. Santhanam: (a) Rs. 99,05,949 upto the 30th September, 1949. This figure includes Capital and Revenue expenditure but does not include depreciation and interest for period, 1st April to 30th September, 1949.

(b) 83 upto 10th November, 1949.

(c) 1,452 as on 31st October, 1949.

Dr. Mono Mohon Das: May I know how many of these persons belong to the manual labourers group, including drivers, conductors, etc., and how many of them belong to the clerical staff?

The Honourable Shri K. Santhanam: The number is made up as follows:

Traffic Inspector—1, Travelling Ticket Examiners—3, Clerk—1, Booking Agents—2, Conductors—67, Drivers—5, Fitters—2, Assistant Fitter—1 and Upholsterer—1.

Dr. Mono Mohon Das: What is the total number of female employees in the D.T.S. and how many of them were evicted on charges of bribery and corruption?

The Honourable Shri K. Santhanam: I require notice of that question.

Dr. Mono Mohon Das: May I know the salaries of the drivers, the conductors and mechanics and also the chief executive officer of the concern?

The Honourable Shri K. Santhanam: All these things are beyond the scope of the question. I cannot keep all information relating to the D.T.S. in my head.

GOVERNMENT WORKSHOP AT CONNAUGHT CIRCUS

*417. **Shri Deshbandhu Gupta:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether it is a fact that there is a Government-owned workshop situated in Connaught Circus?

(b) If so, for how many years has it been there and what has been the investment made by Government on it and what is the amount realised therefrom by way of rent?

(c) Is it a fact that during the last seven years Government have not run it?

(d) Is it a fact that it was let out to a private firm on a small monthly rental? If so, when did the lease expire?

(e) Has it been lying idle since the expiry of the lease? If so, why? If not, what has been the total output of work done in the workshop since the lease expired?

The Honourable Shri N. V. Gadgil: (a) There are four workshops—three for repairing fans, air-conditioners and automobiles, and a fourth for mechanical jobs. They are situated contiguous to each other in an area which also contains two godowns.

(b) The mechanical workshop was established at its present site at Barakhamba in 1914 and came under the control of the Central Public Works Department in 1935. The machinery and shed is part of the original workshop installed in 1914 in connection with the New Capital Project, and as the cost was charged to that project, it is not possible to find out the actual investment made for the workshop. The present value of the tools and machines is about Rs. 8,000. Rent realised from the contractors who ran this workshop under a contract was Rs. 300 p.m.

(c) and (d). The mechanical workshop was run by a contractor, Sardar Mohan Singh on behalf of Government under a contract which expired on the 30th September, 1948. The other workshops and godowns have always been run departmentally.

(e) The workshop remained idle only from October to December, 1948, as the question of running it departmentally by the Central Public Works Department was under consideration by Government. The total output from January, 1949 to October, 1949 is Rs. 7,250 approximately.

Shri Deahbandhu Gupta: May I know whether it is a fact that the Ministry of Agriculture requested the Works, Mines and Power Ministry to place this workshop at their disposal for making implements and manufacture of hand rotary rigs last year and the Works, Mines and Power Ministry has not yet been able to come to a decision during the past one year with the result that the workshop has been lying idle?

The Honourable Shri N. V. Gadgil: I require notice of that question. I cannot say off-hand whether such a request was received by my Ministry.

Shri Deahbandhu Gupta: How long will it take the Works, Mines and Power Ministry to make use of this workshop?

The Honourable Shri N. V. Gadgil: My reply to part (e) of the question clearly states that the income from this workshop during the period January to October was Rs. 7,250 approximately. The workshop has not been lying idle.

Shri B. L. Sondhi: It was lying idle for fifteen months.

POSTS AND TELEGRAPHS DEPARTMENTS IN STATES

*418. **Shri R. L. Malviya:** (a) Will the Honourable Minister of Communications be pleased to state if there are still any States who have their own Posts and Telegraphs Department?

(b) If so, do Government propose to consider the advisability of taking over such units?

Shri Khurshed Lal (Deputy Minister of Communications): (a) Yes, Sir.

(b) Some of the State Post Offices and Telephone Systems have already been taken over, while others will be integrated in course of time.

RIVER PROJECTS AND SCHEMES

*419. **Shri Basanta Kumar Das:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state what river projects or other schemes have been abandoned or slowed down by Government as a result of its recent economy drive?

(i) What projects or schemes have been given or are to be given lesser grants than originally fixed for the current year and to what extent?

(c) How far has the progress of the projects or schemes thereby been affected?

The Honourable Shri N. V. Gadgil: (a) to (c). A statement giving details of the schemes sponsored by the Works, Mines and Power Ministry is placed on

† Answer to this question laid on the table, the questioner being absent.

the Table, which gives an idea of the proposed budget provision for 1950-51. (See Appendix XI, annexure No. 6.) It will be seen that no budget provision will be made for some of the schemes for the year 1950-51, while the provision for river valley schemes will be considerably reduced. The reduction in the amount of money allotted for various projects is likely to affect the progress of the schemes to a considerable extent.

Shri Basanta Kumar Das: What was the total demand made by the Works, Mines and Power Ministry and what was the sum granted?

The Honourable Shri N. V. Gadgil: The figures given in the statement will show the budget provision for 1949-50. As to any reduction by way of revised budget I may say that we were asked to reduce in a rough way our budget by 20 per cent.

Dr. P. S. Deshmukh: What is going to be the consequence of that reduction in the way of the extension of the period of the completion of these projects?

The Honourable Shri N. V. Gadgil: It cannot be stated precisely but broadly it may be said that there is bound to be delay in the completion of the various schemes.

Shri Basanta Kumar Das: What will be the amount of loan that will be received from the International Bank this year for the Damodar Valley Project?

The Honourable Shri N. V. Gadgil: So far as the Damodar Valley Corporation is concerned I think the proposal is still under consideration by the International Bank.

Shri Mihir Lal Chattopadhyay: May I know whether the slow down is due to sterling, dollar or rupee difficulties?

The Honourable Shri N. V. Gadgil: All put together.

Shri Mihir Lal Chattopadhyay: Do Government contemplate floating any loan for financing these projects?

The Honourable Shri N. V. Gadgil: This question should rather be addressed to the Honourable Finance Minister.

Shri Satis Chandra Samanta: How many projects have been totally abandoned?

The Honourable Shri N. V. Gadgil: So far no project has been totally abandoned. The three main projects, *vis.*, Bhakra, Damodar Valley and Hirakud—are still being pursued at the proposed rate. The rate of progress may be less in course of time if we are not able to have sufficient rupee finance. So far as investigation and other related matters are concerned with respect to the other schemes, there has been considerable reduction in the staff and consequently the rate of investigation will be slower.

Shri Suresh Chandra Majumdar: Are we to understand that if the loan from the International Bank is not granted the Damodar Valley Project will be scrapped?

The Honourable Shri N. V. Gadgil: Nothing of that kind.

Prof. Shibban Lal Saksena: What is the total expenditure up till now on these projects?

The Honourable Shri N. V. Gadgil: I require notice but if the Honourable Member would be satisfied with some rough estimate, I may tell him that over the Damodar Valley Corporation we spent four crores last year. On Hirakud we have spent about the same amount till now.

Ch. Ranbir Singh: Are Government aware of the fact that if a sum of eight crores are not given to East Punjab for the Bhakra Dam there is danger of the tunnel bursting?

The Honourable Shri N. V. Gadgil: There is no such danger.

Shri Basants Kumar Das: In view of the paucity of funds what portion of the work will be towards flood control, what portion towards irrigation and what portion for water power?

The Honourable Shri N. V. Gadgil: So far as the Damodar Valley scheme is concerned the first preference is already being given to the generation of power.

Shri Mihir Lal Chattopadhyay: May I know whether it was contemplated by Government that irrigation and flood control measures should be given preference over other measures?

The Honourable Shri N. V. Gadgil: There was no such cut-and-dried proposal but when the Corporation came into existence, it being a fairly autonomous body, it came to the conclusion that the power aspect of the project should come into existence first, because it will bring in money much quicker.

Shri Mihir Lal Chattopadhyay: What is the reaction of the Bengal and Bihar Governments regarding this?

The Honourable Shri N. V. Gadgil: I think the Honourable Member himself knows it better than I do.

Ch. Ranbir Singh: What is the total amount spent on the Bhakra Dam?

The Honourable Shri N. V. Gadgil: I require notice.

Shri Suresh Chandra Majumdar: Is it possible now to switch over the scheme from generating of power to flood control and irrigation?

The Honourable Shri N. V. Gadgil: It is possible but it will be an act of sheer madness.

DAMODAR VALLEY AND BHAKRA DAM PROJECTS

†*420. **Seth Govind Das:** Will the Honourable Minister of Works, Mines and Power be pleased to state (a) the progress made in the Damodar Valley and Bhakra Dam Projects; and (b) when the first increased yield of Food Grains with the improved irrigation is likely to come?

The Honourable Shri N. V. Gadgil: (a) Two statements (Nos. I and II) giving the progress made in the Damodar Valley and Bhakra Dam Projects are placed on the Table of the House. (See Appendix XI, annexure No. 7.)

(b) The irrigation schemes of the Damodar Valley Project are expected to yield partial results from 1951. As regards the Bhakra Dam Project the entire work could be completed by 1955-56 and first instalment of perennial irrigation started in the year 1954, while *Kharif* irrigation over considerable areas could be provided by 1952.

POSTAGE RATES

†*421. **Seth Govind Das:** Will the Honourable Minister of Communications be pleased to state the amount of profit that has accrued to Government on account of increased rate of postage on envelopes and post-cards?

Shri Khurshed Lal (Deputy Minister of Communications): Detailed particulars of income and expenditure separately for each item of traffic are not maintained. As such, it is not possible to furnish the information asked for.

† Answer to this question laid on the table, the questioner being absent.

DELHI TELEPHONE SYSTEM

*422. **Seth Govind Das:** Will the Honourable Minister of Communications be pleased to state (a) if Government are aware that there have been complaints about the telephone system in Delhi and New Delhi areas, and (b) if so, what steps are being taken to improve the system?

Shri Kaushed Lal (Deputy Minister of Communications): (a) and (b). There were many complaints against the telephone systems of Delhi and New Delhi some months back; but their number went down appreciably after introduction of message rate system of charging and consequent reduction of load on the switchboards. The effects of a special efficiency drive which was launched in September last are also being noticed. The number of complaints in New Delhi has now been reduced by 60 per cent. In Old Delhi the results are not so good on account of the equipment being old but the number of complaints there also is decreasing. Steps have been taken to replace the old equipment.

IMPORT OF LOCOMOTIVES

*423. **Shri C. Subramaniam:** (a) Will the Honourable Minister of Railways be pleased to state what is the total number of B.G. and M.G. locomotives imported during the half year ended 30th September, 1949 from

(i) hard currency areas; and

(ii) soft currency areas?

(b) How many more locomotives are expected to arrive in India during the course of this year?

(c) Has the devaluation of the rupee affected the import programme of the locomotives?

The Honourable Shri N. Gopalaswami Ayyangar: (a) Total number of broad and metre gauge locomotives imported during the half year ending September, 1949 are as under:

(i) From hard currency areas: Broad Gauge—202, Metre Gauge—Nil.

(ii) From soft currency areas: Broad Gauge—Nil, Metre Gauge—4.

(b) Further locomotives which are expected to arrive in India from 1st October, 1949 to 31st March, 1950 are:

(i) From hard currency areas: Broad Gauge—138, Metre Gauge—170.

(ii) From soft currency areas: Broad Gauge—52, Metre Gauge—Nil.

(c) No.

Shri C. Subramaniam: Is it a fact that the Canadian engines which have been imported are found to be too heavy for our rails?

The Honourable Shri N. Gopalaawami Ayyangar: No, Sir.

Mr. Frank Anthony: Is it a fact that some of these locomotives, particularly the broad gauge ones, have given excellent results in the matter of power and speed but that the castings are rather inferior and hence they are showing rapid signs of deterioration?

The Honourable Shri N. Gopalaswami Ayyangar: I do not know anything very definite about castings but I think what the Honourable Member said in the first part of his question is perfectly right.

Prof. Shibban Lal Saxena: When will India be able to produce her own locomotives?

† Answer to this question laid on the table, the questioner being absent.

The Honourable Shri N. Gopalaswami Ayyangar: The first Indian locomotive will be out of our workshop at Chittaranjan at the end of 1950-51.

Shri V. C. Kesava Rao: May I know how these engines were distributed?

The Honourable Shri N. Gopalaswami Ayyangar: According to the needs of the different Railways.

Shri M. Tirumala Rao: Is the experience of the service rendered by these engines satisfactory so far?

The Honourable Shri N. Gopalaswami Ayyangar: Perfectly satisfactory, except for small minor defects here and there.

Dr. P. S. Deshmukh: How does the price of locomotives on the broad gauge compare between the hard currency and the soft currency areas?

The Honourable Shri N. Gopalaswami Ayyangar: I can give the prices in certain hard currency areas and in certain soft currency areas. I have got a whole statement. I can let the Honourable Member have the whole of the statement if he would like to have it.

Shri B. K. Sridha: May I know what is the maximum speed of the Canadian locomotives?

The Honourable Shri N. Gopalaswami Ayyangar: I would invite the Honourable Member to get on to the foot-plate of one of these engines and see how fast it goes.

Shri B. K. Sridha: I only wanted to know the maximum speed of the Canadian locomotives which the manufacturers have guaranteed.

The Honourable Shri N. Gopalaswami Ayyangar: I think the permitted speed is sixty-five miles.

Shri V. C. Kesava Rao: May I know how many engines were given to M. and S. M. and S. I. Railways?

The Honourable Shri N. Gopalaswami Ayyangar: I should like to have notice of the question.

Shri Raj Bahadur: With reference to the reply given to part (c) of the question may I know how the devaluation has affected the contracts already entered into between our country and the other countries with which we have contracted?

Mr. Deputy-Speaker: I believe that is the subject-matter of investigation by the Devaluation Committee.

Ch. Ranbir Singh: Are there sufficient number of coaches and wagons to make full use of the locomotives that have been bought?

The Honourable Shri N. Gopalaswami Ayyangar: I think the capacity of the locomotives is really much greater than the number of wagons and coaches to be drawn that we have at the present moment. They certainly can draw more coaches and wagons if they were available.

COLLAPSE OF REFUGEE QUARTERS

*424. **Shri C. Subramaniam:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether any enquiry was made into the collapse of the Karol Bagh Refugees Quarters during the last rainy season?

(b) If so, who were the persons who made the enquiry?

(c) What are the findings of the Enquiry Committee?

(d) What is the total estimated loss?

The Honourable Shri N. V. Gadgil: (a) Yes.

(b) The enquiry was made jointly by Shri B. S. Puri, Chief Engineer, Central Public Works Department, and Dr. O. H. Koonigsberger, Director of Housing under the Ministry of Health.

(c) A copy of the Press Note issued by the Ministry of Works, Mines and Power, in which the findings of the Enquiry Committee were announced, is placed on the Table of the House. (See Appendix XI, annexure No. 8.)

(d) The total estimated amount for the repairs to be carried out by the Government is about Rs. 9,000, and this will be met from within the normal maintenance grant. As regards the damage due to sub-standard work for which contractors were responsible, the cost of repair and reconstruction will be borne by the contractors concerned, payment of whose final bills have been withheld.

Shri C. Subramaniam: Was not the Chief Engineer himself responsible for the design and the estimate?

The Honourable Shri N. V. Gadgil: Undoubtedly he is, along with several others.

Shri C. Subramaniam: Then why was he put on the Enquiry Committee?

The Honourable Shri N. V. Gadgil: For the simple reason that a technical man was required.

Shri R. K. Sidhva: May I know whether any penalty was imposed on the contractor for the defective work carried out?

The Honourable Shri N. V. Gadgil: That is under consideration. In the first place the step that was taken immediately on the submission of this Report was to withhold the final bill. They have been asked to make good the damages. After that is done the question of imposing a penalty will certainly be taken into consideration.

Sardar Bhopinder Singh Man: May I know whether the structures that were built were according to the specifications and whether the Chief Engineer himself passed those structures?

The Honourable Shri N. V. Gadgil: No, the Chief Engineer is not directly responsible for the construction because there is a special wing of the Rehabilitation Ministry concerned with this. Certain defects by way of sub-standard constructions were brought to the notice of the authorities. But in spite of that, probably on account of some fraud or negligence, it was still done and those officers who were found to be negligent are being taken departmental action against.

Shri C. Subramaniam: May I know whether no other person with the necessary technical qualification was available to make this enquiry?

The Honourable Shri N. V. Gadgil: Not that. But it was found that inasmuch as the thing required to be done quickly it was thought better to put him on the Committee. And that was done without incurring any extra cost.

Shri Jaspal Roy Kapoor: According to the final bill, may I know what amount is yet to be paid to the contractors?

The Honourable Shri N. V. Gadgil: I require notice for that.

Shrimati Dakshayani Velayudhan: If a person responsible for the crime is put on the Committee may I know whether the enquiry will be impartial?

Mr. Deputy-Speaker: It is a matter of opinion.

Shri Mahavir Tyagi: May I know whether any Engineer of the P.W.D. was in charge of the supervision of this work and if so whether he has been punished for the negligence?

The Honourable Shri N. V. Gadgil: As I have already stated, there is a Superintending Engineer allotted to the Rehabilitation Ministry. He is in charge of the work done on behalf of the Rehabilitation Ministry, including the construction of houses for refugees. The immediate Executive Engineer and the Sub-Divisional Officer who were responsible for slack of supervision are being proceeded against.

Shri Deshbandhu Gupta: Is it not a fact that this is not the first occasion when houses built under the supervision of the C.P.W.D. have been found defective? There were a large number of quarters built by the C.P.W.D. for the Delhi Improvement Trust, for the clerks, in Model Basti and the amount spent on repairs to them is more than the income fetched through rent.

The Honourable Shri N. V. Gadgil: I am not aware of this, but I shall make enquiries.

Sardar Bhopinder Singh Man: In view of the reply given that the Chief Engineer is ultimately responsible and that he was also put on the Enquiry Committee, may I know what steps Government have taken to see that his opinion as given in this Enquiry Committee is impartial?

The Honourable Shri N. V. Gadgil: The findings of this Committee as recorded in the Press Note are so impartial that I am sure the Honourable Member himself will accept them. The causes of the damage as stated by them are:

- (i) Construction of the buildings on filled in ground and adoption, in the interests of speed, cheapness and economy in building materials, of specifications representing a minimum in structural strength and comfort;
- (ii) The abnormal rainfall on the 20th and 21st July, 1949, and the inability of the drainage system to drain the large flow of water which was unprecedented;
- (iii) Delay in completion of the work (particularly sullage and storm water drainage works), before the rains started in July, 1949, due to forcible occupation of about 700 quarters by displaced persons;
- (iv) Defective design of the junctions between the sloping roofs of the main houses, and the roofs of the outhouses;
- (v) Sub-standard construction work, not conforming to prescribed specifications, in respect of cement pointing of outside walls and in flooring of some houses.

Sardar Bhopinder Singh Man: May I know whether it has been brought to the notice of the Government that instead of cement, more sand was used and the cement was sold in the black-market?

The Honourable Shri N. V. Gadgil: It is possible. Some such thing might have been done. But to the extent it was possible to find out sub-standard construction, as I have stated, the officers are being proceeded against.

Shri Raj Bahadur: May I know whether any houses in the surrounding locality also collapsed on account of the heavy rains referred to in the said report?

The Honourable Shri N. V. Gadgil: Not in the surrounding area because there were no houses there. But in Old Delhi several houses collapsed, as also

in New Delhi—houses constructed by Government on similar specifications, which were war specifications, six years ago.

Shri H. J. Khandekar: Were they all new houses?

The Honourable Shri N. V. Gadgil: The question of my Honourable friend was whether on account of the heavy rain other houses collapsed similarly. Heavy rain makes little difference between old and new houses.

Mr. Deputy-Speaker: The question hour is over.

(b) WRITTEN ANSWERS

DAMODAR VALLEY CORPORATION

***425. Shri C. Subramaniam:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to lay a statement on the table of the House regarding the work so far done by the Damodar Valley Corporation?

(b) Were any targets of work fixed by the Damodar Valley Corporation; and if so, were the targets reached within the time fixed?

The Honourable Shri N. V. Gadgil: (a) A note giving the up-to-date progress of the work done by the Damodar Valley Corporation is laid on the Table of the House [*Copy placed in the Library. See No. IV.M.4(2)/II*]. Copies of the monthly progress reports of the Corporation are also placed in the Library of the House for the information of the Honourable Members.

(b) The important targets in a multiple-purpose project are seldom immediately realisable. The Damodar Valley Corporation is certainly trying to keep up to its schedule of work; but whether or not its construction programme will be strictly adhered to depends to a large extent on the availability of foreign exchange and other factors.

M. L. A. QUARTERS

***426. } Sardar Hukam Singh:
Shri Lakshminarayan Sahu:**

(a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether, from March 1949 to the first week of October 1949, charges were made for flower beds in M.L.A. quarters at the rate of Rs. 2/8/- per month?

(b) Are Government aware that flower seeds have never been put in the beds for the last seven months?

(c) If so, do Government propose to consider the advisability of refunding the money charged to the Honourable Members?

The Honourable Shri N. V. Gadgil: (a) Yes, approximately.

(b) Flowers are not planted in these beds during summer, but only in winter.

(c) No. The charges levied cover only the expenditure for the six months' service, though recovery is spread over 12 monthly instalments.

GROWING OF FOOD IN THE COMPOUNDS OF M. L. A. QUARTERS

***427. } Sardar Hukam Singh:
Shri Lakshminarayan Sahu:**

(a) Will the Honourable Minister of Works, Mines and Power be pleased to state how far the 'Grow More Food Campaign' has been pursued in the grounds of M.L.A. Quarters?

(b) Will the open space in M.L.A. Quarters be utilised for the purpose and if so, when and how?

(c) Has it been utilised so far in any case?

The Honourable Shri N. V. Gadgil: (a) to (c). The open courtyards in the M.L.A. Bungalows can be utilised for growing vegetables and other food crops, and it is understood that some tenants have in fact used them for this purpose. It is, however, for the tenants themselves to take the initiative in the matter, although Central Public Works Department will render all possible assistance. A copy of Government orders on the subject is placed on the Table of the House. (See Appendix XI, annexure No. 9.)

SUGAR INDUSTRY (PROTECTION)

*428. **Shri Ajit Prasad Jain:** (a) Will the Honourable Minister of Agriculture be pleased to state when the protective duty on sugar was imposed?

(b) What is the total amount of money which the consumer has to pay as a result of the imposition of protective duties over and above what he would have paid if no protective duty had been imposed on sugar?

The Honourable Shri Jairamdas Doulatram: This question pertains to the Ministry of Commerce, and will be answered by the Honourable Minister for Commerce on the day allotted.

RATIONING OF ACCOMMODATION

*429. **Shri Lakshminarayan Sahu:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether in view of acute housing difficulty in Delhi the question of rationing of accommodation has been taken up by Government?

(b) If so, when do Government propose to announce and enforce the decision?

The Honourable Shri N. V. Gadgil: (a) The question of rationing of accommodation in Delhi has been considered and discarded, as an impracticable proposition.

(b) Does not arise.

IMPORTED TRACTORS

*430. **Dr. P. S. Deshmukh:** Will the Honourable Minister of Agriculture be pleased to state:

(a) whether it is a fact that the Government of India have permitted the Bombay Government to import some 23 tractors;

(b) whether the tractors so imported were new or reconditioned;

(c) the firm through which the Bombay Government placed the order;

(d) the steps taken to ascertain that the price offered was fair;

(e) whether it is a fact that complaints have been made to the effect that the Bombay Government were cheated by the firm who supplied these tractors;

(f) the date on which the order was placed;

(g) whether the tractors have arrived and if so, what was the total cost incurred by the Bombay Government; and

(b) when the payment was made? .

The Honourable Shri Jairamdas Doulatram: (a) The Government of Bombay had asked Messrs. J. N. Marshall Company to import 16 tractors for them. At the request of the Bombay Government the Ministry of Agriculture recommended to the Chief Controller of Imports the grant of an import license for the tractors required by the Provincial Government.

(b) The tractors were reconditioned tractors.

(c) The Bombay Government placed the order through Messrs. J. N. Marshall Company, Bombay.

(d) The Government of Bombay have informed us that the prices quoted by the firm for the tractors were considered reasonable by them and were agreed to by them.

(e) No complaint has been brought to the notice of Government.

(f) Order for twelve tractors was placed on the 28th April, 1949, and for four on the 30th April, 1949.

(g) Yes; the total cost of the tractors comes to about Rs. 6,70,000.

(h) An amount of Rs. 6,19,000 was paid to the firm in July, August and September, 1949.

TRACTORS (PURCHASE AND MANUFACTURE)

*431. **Dr. P. S. Deshmukh:** Will the Honourable Minister of Agriculture be pleased to state:

(a) whether any steps are being taken for the manufacture of tractors in India;

(b) what is the amount of loan taken from the World Bank for the purchase of tractors;

(c) the number of tractors purchased out of this loan and the date by which they are expected to arrive in India;

(d) the names of the manufacturers, the horse power of each tractor, and the number of units and cost per unit of these tractors; and

(e) through what channel the purchases have been made?

The Honourable Shri Jairamdas Doulatram: (a) Yes. The matter is being dealt with in the Ministry of Industry and Supply.

(b) Ten million dollars.

(c) The total number of tractors to be purchased out of the Bank Loan is 375. Orders for 180 tractors have already been placed and all of these are expected to reach India by February, 1950. Orders for the balance of 195 tractors will be placed shortly and these are expected to be received between August and October, 1950.

(d) A statement showing the required information in respect of 180 tractors for which orders have already been placed is laid on the Table.

(e) The indents were placed on the Director-General of Industries and Supplies who in turn placed orders on the Indian Agents of the manufacturers concerned.

STATEMENT

Names of Manufacturers, Horse Power and Number of Units and Cost Per Unit of 180 Tractors Ordered with the help of the Loan from the World Bank.

Description of Tractors	Number	Name of manufacturers	Horse Power at the Draw Bar	Cost per tractor at which purchased (Rs.)
Allis Chalmers, Model HD-19.	90	Allis Chalmers Manufacturing Co., Springfield, Illinois, U.S.A	125 approx.	73,500
Cletrac, Model FDE.	90	Oliver Corporation, Chicago, Illinois, U.S.A.	110	60,000

SCARCITY OF SUGAR

*432. **Dr. P. S. Deshmukh:** Will the Honourable Minister of Agriculture be pleased to state:

(a) whether Government have ascertained the reasons for the widespread and intense scarcity of sugar in India;

(b) whether Government are aware that this has led to great suffering and hardship to the people of India; and

(c) whether Government have considered the matter, and if so, with what result?

The Honourable Shri Jajramdas Doulatram: (a) and (b). Yes.

(c) Yes. The crux of the problem is increased production of sugar and towards this end, the Government of India are taking all possible measures.

PRINTING OF OFFICIAL PUBLICATIONS

*433. **Lala Raj Kanwar:** Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) the number of Official Publications printed at the Government of India Printing Presses during each of the past three years;

(b) the number of Official Publications of the Government of India printed at private presses during the same period;

(c) whether the policy of Government favours printing of all publications at Government's own press; and

(d) if so, what steps Government propose to take to ensure the implementation of this policy?

The Honourable Shri N. V. Gadgil: (a) 1946-47—4,091. 1947-48—4,011. 1948-49—3,467.

(b) 1946-47—650. 1947-48—399. 1948-49—319.

(c) Yes.

(d) To attain self-sufficiency in the matter of printing of Government work, it is under the active consideration of Government to expand the existing presses

and/or set up one or two new Presses with modern machinery. To achieve the end in view, an Expert Committee on printing was set up over six months ago to examine the existing machinery in the Presses and their methods of work and to make recommendations for improvement. The Committee have almost completed their deliberations and their report is expected shortly.

REGROUPING OF RAILWAYS

*434. **Dr. V. Subramaniam:** (a) Will the Honourable Minister of Railways be pleased to state whether it is a fact that railways are being regrouped so as to have six railway regions for the whole of India?

(b) What is the proposed mileage for each railway region?

(c) What will be the type or nature of administration proposed? Will it be departmental or divisional system?

(d) If it be divisional system of administration, into how many divisions the southern group will be divided?

(e) Where will the headquarters be and where will the workshop be located?

The Honourable Shri N. Gopalaswami Ayyangar: (a) The regrouping of railways into a smaller number of administrative units than now is contemplated.

(b) to (e). The whole question is under consideration and no final decisions have as yet been taken.

SERVICE COMMISSIONS (RAILWAYS)

*435. **Dr. V. Subramaniam:** (a) Will the Honourable Minister of Railways be pleased to state the number of Service Commissions set up for all the railways in India?

(b) What is the annual expenditure incurred thereby every year?

The Honourable Shri N. Gopalaswami Ayyangar: (a) Four.

(b) 1947-48—Rs. 7,52,921-2-9. 1948-49—Rs. 7,53,826-3-9.

RAILWAY REFUGEE CONTRACTORS (CLAIMS)

*436. **Shri H. V. Kamath:** Will the Honourable Minister of Railways be pleased to state:

(a) what progress has been made so far in connection with railway refugee contractor's claims for payment in connection with works executed during the pre-partition period;

(b) whether it is a fact that not a single refugee contractor has so far been paid for work done by him on the North Western Railway during the pre-partition period;

(c) whether Government propose to arrange for the scrutiny and payment of such claims made by refugee contractors; and

(d) if not, why not?

The Honourable Shri N. Gopalaswami Ayyangar: (a) Out of 1,362 pre-partition claims for Rs. 77,28,954 registered by Refugee Contractors for work done on both Ex. E.A. and Ex. N.W. Railways, 338 for Rs. 10,12,779 have been settled.

(b) No. Twenty-six claims worth Rs. 41,498 have been settled against 829 claims for Rs. 61,28,954 registered for work done on Ex. N.W. Railway.

(c) Yes. The machinery set up for this purpose is at work.

(d) Does not arise.

APPLICATION OF CERTAIN ACTS TO AJMER-MERWARA

*437. **Pandit Mukut Bihari Lal Bhargava:** Will the Honourable Minister of Agriculture be pleased to state:

(a) whether it is a fact that the Bombay Money Lenders Act and the Bombay Agricultural Indebtedness Relief Act have been applied with suitable modifications to the Province of Ajmer-Merwara, if so, from which date;

(b) whether it is a fact that notwithstanding the extension of these measures to the Province no steps have been taken so far to enforce the provisions thereof in the Province; if so, the reasons for this delay; and

(c) by which date it is expected to enforce the provisions of these Acts in the Province?

The Honourable Shri Jairamdas Doulatram: (a) Yes, the Bombay Money Lenders Act and the Bombay Agricultural Debtors' Relief Act were extended to Ajmer-Merwara with suitable modifications on 9th November, 1948 and 5th July, 1949, respectively.

(h) Arrangements for enforcing the provisions of the Acts have been delayed because the proposals for appointment of staff had to be revised in view of financial stringency.

(c) As soon as financial provision can be made.

HALDIBARI-SILIGURI LINE (RAILWAYS)

*438. **Pandit Mukut Bihari Lal Bhargava:** Will the Honourable Minister of Railways be pleased to state:

(a) whether it is a fact that Haldibari-Siliguri Section of Indian Railways in North-West Bengal is being administered by the Government of Pakistan;

(b) whether it is a fact that the Pakistan Government is charging seven annas per rupee extra from the passengers travelling over this Section since the Rupee devaluation; and

(c) if so, what steps the Government of India have taken or intend to take in the matter?

The Honourable Shri N. Gopalaswami Ayyangar: (a) Yes; this section of line is worked by the E.B. (Pakistan) Railway.

(b) Government have received complaints to this effect.

(c) As regards refund of surcharges on fares and freights collected for that portion of the journeys performed on Indian worked railways, representations have already been made to the Pakistan Government and the matter will, if necessary, be pursued at Inter-Dominion Railway Conferences.

COLLISIONS AND ACCIDENTS ON THE RAILWAYS

*439. **Pandit Mukut Bihari Lal Bhargava:** Will the Honourable Minister of Railways be pleased to state:

(a) the number of new trains that have been introduced and the lines on which they are running and the result of the punctuality drive in the running of trains;

(b) the number of collisions and accidents by derailment and otherwise that have taken place on the different Railways during the current financial year and how these figures compare with the figures for last year; and

(c) the main causes for such collisions and accidents and the loss of property and life resulting therefrom?

The Honourable Shri N. Gopaldaswami Ayyangar: (a) A statement showing the number of new trains as such introduced and of existing trains extended on each of the Indian Government Railways during the current financial year is placed on the Table of the House. (See Appendix XI, annexure No. 10.)

Another statement showing the monthly percentages of trains not losing time is also placed on the Table. (See Appendix XI, annexure No. 11.)

It will be observed that there has been a considerable improvement in the punctual running of trains.

(b) The number of serious accidents to Passenger and Mixed trains involving loss of life or serious injury is six during the current financial year up to date. During the corresponding period of 1948-49, thirteen serious accidents had occurred.

(c) Of the six accidents this year, four were due to malicious tampering with the track by some person or persons unknown and one to faulty working on the part of station staff. In the sixth case, the cause could not be determined with certainty.

The approximate cost of damage to engine, rolling stock and permanent way, resulting from these accidents, amounted to Rs. 2,55,000. Loss of life was fifteen.

JUTE

***440. Shri Satis Chandra Samanta:** Will the Honourable Minister of Agriculture be pleased to state:

(a) the acreage under jute cultivation in the years 1948-49 and 1949-50 and the quantity of jute produced in the Indian Union in the year 1948-49;

(b) the additional acreage that has been brought under cultivation in the year 1949-50—state and province-wise; and

(c) what are the jute substitutes which are being experimented with?

The Honourable Shri Jairamdas Doulatram: (a) and (b). A statement for the years 1947-48 and 1948-49 showing the acreage and crop of jute in each area is placed on the Table of the House. (See Appendix XI, annexure No. 12.)

The area under jute in 1949-50 is at present being surveyed by special field parties detailed for this purpose, and the figures are not yet available.

(c) The possibilities of growing fibre plants like mesta, Roselle, *Urena lobata* in areas where jute cannot be grown, with a view to their use as substitutes for or in admixture with jute are being explored. Experiments are also being conducted with linseed fibres which mix well with jute. Mesta is the best known amongst these substitutes, and a scheme for increasing its production is under consideration.

DAMODAR VALLEY PROJECT

***441. Shri Lakshminarayan Sahu:** Will the Honourable Minister of Works, Mines and Power be pleased to state why navigation has not been provided in the lower Damodar and what action is being taken for the control of malaria in that area?

The Honourable Shri N. V. Gadgil: Navigation will be provided for the lower Damodar Valley by a navigation canal. Malaria control is one of the main functions of the Damodar Valley Corporation. A malaria survey has been completed and other measures will follow as and when necessary.

CANAL WATERS (DISTRIBUTION)

*442. **Shri Mahavir Tyagi:** (a) Will the Honourable Minister of Transport be pleased to state the terms of the agreement between India and Pakistan with regard to the distribution of canal waters?

(b) Had the Government of Pakistan agreed to pay India any royalty on the volume of water they used from our resources?

(c) If so, what have they paid India so far?

The Honourable Shri N. Gopalswami Ayyangar: (a) A copy of the Inter-Dominion Agreement dated 4th May, 1948 on the Canal Water Dispute between East and West Punjab is placed on the Table of the House. The undisputed sums referred to in paragraph 5 of the Agreement comprise current maintenance charges, interest on the adjusted capital cost of works relating to the Divalpur Canal and half the interest on the adjusted capital cost of works leading to the Central Bari Doab Canal. The disputed amounts comprise the other half of the interest on account of the Central Bari Doab Canal and the seigniorage charges on account of both canals.

(b) Reference is invited to paragraphs 2 and 5 of the Agreement. The seigniorage charges are being deposited for the present with the Reserve Bank of India.

(c) To end of September, 1949, the Government of West Punjab have paid to East Punjab a sum of Rs. 70,08,775 as undisputed charges and have also deposited a sum of Rs. 21,25,207 with the Reserve Bank of India, as amount in dispute, pending resolution of the dispute.

Inter-Dominion Agreement, dated the 4th May, 1948, on the Canal Water dispute between the East and West Punjab

A dispute has arisen between the East and West Punjab Governments regarding the supply by East Punjab of water to the Central Bari Doab and the Depalpur canals in West Punjab. The contention of the East Punjab Government is that under the Punjab Partition (Apportionment of Assets and Liabilities) Order, 1947, and the Arbitral Award the proprietary rights in the waters of the rivers in East Punjab vest wholly in the East Punjab Government and that the West Punjab Government cannot claim any share of these waters as a right. The West Punjab Government disputes this contention, its view being that the point has conclusively been decided in its favour by implication by the Arbitral Award and that in accordance with international law and equity, West Punjab has a right to the waters of the East Punjab rivers.

(2) The East Punjab Government has revived the flow of water into these canals on certain conditions of which two are disputed by West Punjab. One, which arises out of the contention in paragraph 1, is the right to the levy of seigniorage charges for water and the other is the question of the capital cost of the Madhopur Head Works and carrier channels to be taken into account.

(3) The East and West Punjab Governments are anxious that this question should be settled in a spirit of goodwill and friendship. Without prejudice to its legal rights in the matter the East Punjab Government has assured the West Punjab Government that it has no intention suddenly to withhold water from West Punjab without giving it time to tap alternative sources. The West Punjab Government on its part recognises the natural anxiety of the East Punjab Government to discharge the obligations to develop areas where water is scarce and which were under-developed in relation to parts of West Punjab.

(4) Apart, therefore, from the question of law involved, the Governments are anxious to approach the problem in a practical spirit on the basis of the East Punjab Government progressively diminishing its supply to these canals in order to give reasonable time to enable the West Punjab Government to tap alternative sources.

(5) The West Punjab Government has agreed to deposit immediately in the Reserve Bank such *ad hoc* sum as may be specified by the Prime Minister of India. Out of this sum, that Government agrees to the immediate transfer to East Punjab Government of sums over which there is no dispute.

(6) After an examination by each party of the legal issues, of the method of estimating the cost of water to be supplied by the East Punjab Government and of the technical

survey of water resources and the means of using them for supply to these canals, the two Governments agree that further meetings between their representatives should take place

(7) The Dominion Governments of India and Pakistan accept the above terms and express the hope that a friendly solution will be reached.

Jawaharlal Nehru.
Swaran Singh.
N. V. Gadgil.

Ghulam Mohd.
Shaukat Hyat Khan.
Mumtaz Daultara.

NEW DELHI, I
May 4, 1948.

TARGETED FOOD PRODUCTION

*443. **Shri Upendranath Barman:** (a) Will the Honourable Minister of Agriculture be pleased to state the provincial overall target for five years and planned target for 1947-48, 1948-49 and 1949-50, of increased food production decided in Provincial Ministers' Conference early in 1947?

(b) Which are the Provinces and States which have carried out the same and to what extent?

The Honourable Shri Jairamdas Doulatram: (a) The overall provincial target fixed at the Food Production Conference held in January, 1947 was 3.6 million tons. This was before the partition, and the target was modified to 3 million tons after the partition. A statement showing planned targets for Provinces during 1947-48 and 1948-49 under the modified 5 year plan referred to above is placed on the Table of the House. (See *Appendix XI, annexure No. 13.*) Another statement showing the Provincial targets for 1949-50 under the present self-sufficiency plan is also placed on the Table of the House. (See *Appendix XI, annexure No. 14.*)

(b) As States were not eligible for financial assistance under the original 5 year plan of Food Production, no figures of extra production are available from the States. The actual extra production reported by Provinces to have been achieved in 1947-48 and 1948-49 is shown in a statement placed on the Table of the House. (See *Appendix XI, annexure No. 15.*)

The figures of extra production achieved during the first six months of 1949-50 will not be available until January, 1950 when the first six monthly reports will be received from Provinces and States.

The total overall target of additional production for 1947-48 was 9.09 lakh tons against which the actual extra production reported was 6.72 lakh tons, giving a performance percentage of 73.9. Similarly, in respect of 1948-49, as against a target of 8.86 lakh tons for that particular year, the extra production was 7.27 lakh tons, which shows the achievement to be 82.1 per cent. of the target aimed at.

IMPORT OF WHEAT (PRICE)

*444. **Shri Ajit Prasad Jain:** Will the Honourable Minister of Food be pleased to state:

(a) whether it is a fact that the Government of Australia have been trying to increase the export price of wheat fixed under the International Wheat Agreement;

(b) if the answer to part (a) above be in the affirmative, what are the grounds urged by Australia for such increase;

(c) whether the Government of India have lodged any protest against Australia's effort to increase the export price of wheat; and

(d) if so, what has been the result?

The Honourable Shri Jairamdas Doulatram: (a) Yes.

(b) Prices of wheat under the International Wheat Agreement are fixed in terms of Canadian currency at the parity for the Canadian dollar determined for the purposes of the International Monetary Fund as at March 1st, 1949. It has been urged that under this provision of the Agreement the price of wheat in terms of U.S. currency will remain unchanged; in terms of Canadian currency it will go up by ten per cent. and in terms of Australian currency by 44 per cent. in accordance with the changes in the gold parities of Canadian and Australian currencies. In terms of rupees, the increase in the prices of wheat under the Agreement works out to 44 per cent. from all sources.

(c) and (d). The matter is under negotiation and I hope Honourable Member will not wish me to say more than that we are trying to obtain the best terms practicable.

CORRUPTION (C. P. W. D.)

***445. Sardar Bhopinder Singh Man:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state the number of cases relating to corruption, fraud and bribery brought to his notice during the years 1948 and 1949?

(b) How many of them were sent to the court and how many of them were convicted?

(c) Against how many did the Government take departmental action?

(d) Do these malpractices show a decrease or an increase in the crimes in the Central Public Works Department?

The Honourable Shri N. V. Gadgil: (a) Seventy-six.

(b) Sixteen. Nine have been decided and six officials have been convicted.

(c) Twenty-eight. In addition, thirty-two cases are being investigated either departmentally or through Special Police Establishment.

(d) Most of the cases aforesaid are in connection with the irregularities committed during the war years. Very few cases have come to notice during the last two years. It can be stated that the number of cases of corruption and fraud in the Central Public Works Department is decreasing and the general tone of the department is definitely improving.

STADIUMS AND CINEMA HOUSES

***446. Sardar Bhopinder Singh Man:** (a) Will the Honourable Minister of Works, Mines and Power be pleased to state whether it is a fact that a sports stadium is proposed to be built in Delhi?

(b) If so, what is its estimated cost?

(c) Is it a fact that the country is short of building materials?

(d) If so, what is the policy of Government regarding such structures as stadiums and cinema houses?

The Honourable Shri N. V. Gadgil: (a) Yes. There is a proposal for the construction of a stadium in Delhi, known as "The Nehru Stadium and Park", by the National Sports Club of India.

(b) The Government of India have no information regarding the estimated cost of the stadium.

(c) Yes. There is a general shortage of building materials, particularly cement and steel.

(d) The policy of Government is to discourage all non-essential and luxury constructions, including cinema houses. Sports stadiums, if not luxuriously designed and intended to foster national health and well-being, however, stand on a different footing from cinema houses.

DAMODAR VALLEY CORPORATION

*447. **Shri H. V. Kamath:** Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) whether the attention of Government has been drawn to a report from Lake Success which appeared in the *Hindu*, dated the 20th April 1949, at page 5 thereof, regarding the efforts of a representative of the Damodar Valley Corporation to raise a huge loan in the United States of America; and

(b) if so, whether the report is correct?

The Honourable Shri N. V. Gadgil: (a) Yes.

(b) A representative of the Damodar Valley Corporation did make certain enquiries of a preliminary nature in the United States of America. But when the matter was referred to the Government of India, it was decided that these enquiries should not be pursued further as they might jeopardise the loan application already submitted by the Government of India to the International Bank.

KANDLA PORT

*448. **Prof. K. T. Shah:** (a) Will the Honourable Minister of Transport be pleased to state what stage the Kandla Development scheme has reached, with particular reference to the construction of Railways connecting Kandla with the main Railway systems of India?

(b) How far and in what manner does the present financial stringency affect the scheme or any part thereof?

The Honourable Shri N. Gopaldaswami Ayyangar: (a) Attention is invited to the answer given to part (a) of starred question No. 274 on the 5th December, 1949. The B.B. & C.I. Railway carried out traffic and engineering surveys for a railway line connecting Kandla with Deesa on the Palanpur-Dessa Metre Gauge line of the B.B. & C.I. Railway and with Raniwara on the Jodhpur Railway. It is proposed to construct the line between Kandla and Deesa in the first instance. Earthwork on certain sections of the line is already in hand as a famine relief measure.

(b) In view of its importance, the Government of India, have, in spite of the financial stringency, included a provision of Rs. 1 crore for expenditure on the scheme in the budget for 1950-51.

RAILWAYS OR ROADS LINKS OF CATCH PORTS

*449. **Prof. K. T. Shah:** (a) Will the Honourable Minister of Transport be pleased to state what steps are being taken to develop and utilise the other ports of Cutch by constructing appropriate connecting railways or roads from the ports to the interior?

(b) What grants have been made to supplement the finances of the Chief Commissioner's province of Cutch during 1948-49, and budgeted for during the

current year (1949-50) with special reference to building of roads and railways or irrigation works to guard against the frequent threat of famine in Cutch?

The Honourable Shri N. Gopalaswami Ayyangar: The question should have been addressed to the Honourable Minister for States and has been transferred to the Ministry of States.

NEW HOUSES (LODI COLONY)

***450. Prof. N. G. Ranga:** Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) whether it is a fact that Government have constructed new houses for officers in Lodi Colony;

(b) whether it is a fact that construction of these houses was completed a few months back with the exception of minor sanitary fittings;

(c) whether it is a fact that some officers had preferred to occupy these houses pending installation of those sanitary fittings; and

(d) when these houses are expected to be ready for occupation by officers?

The Honourable Shri N. V. Gadgil: (a) and (d). A statement showing the houses now under construction near about Lodi Road, and the dates by which the houses are expected to be ready for occupation, is placed on the Table of the House. (See Appendix XI, annexure No. 16.)

(b) No.

(c) No.

ALLOTMENT OF RESIDENTIAL ACCOMMODATION

***451. Shri Damodar Swarup Seth:** Will the Honourable Minister of Works Mines and Power be pleased to state:

(a) since when the allotment of quarters in Delhi has been held up due to the contemplated revision of allotment rules; and

(b) when the revised rules are likely to be issued and the reasons for the delay in their issue?

The Honourable Shri N. V. Gadgil: (a) Allotment of quarters in Delhi has not been held up at any time. Only the submission of the usual six-monthly applications to the Estate Officer was stopped in February, 1949, pending revision of rules for allotment and forms of applications. Allotment of quarters however continue on the basis of existing rules and applications received by the Estate Officer.

(b) The revised rules are likely to be issued during this month. The consideration of objections and suggestions, in consultation with the Ministries concerned was primarily responsible for the delay which was unavoidable.

INDIAN RAILWAY ENQUIRY COMMITTEE, 1947

***452. Giani Gurmukh Singh Musafir:** (a) Will the Honourable Minister of Railways be pleased to state the action taken by Government on the recommendation of the Indian Railway Enquiry Committee, 1947, at page 171 of their Report in regard to the major part of the personnel work being decentralised and made over to the Divisional Officers as far as the Eastern Punjab Railway is concerned?

(b) What is the number of personnel officers working on each division of the Eastern Punjab Railway on 1st August, 1947 and on 1st November, 1949?

The Honourable Shri N. Gopalaswami Ayyangar: (a) The recommendations of the Indian Railway Enquiry Committee, 1947, contained in para. 194 of their Report in regard to the question of decentralisation of personnel work have been under the consideration of Government in consultation with the Railways but no decision has yet been reached. In view, however, of the decision to re-group the railways, this question will need further examination.

(b) On the partition of the N.W.R. and the formation of the E.P. Railway on 16th August, 1947, there were two Personnel Officers on each of the two divisions on the E.P. Railway, viz., Delhi and Ferozepur. On 1st November, 1949, there were three Personnel Officers on each of the two Divisions.

RAILWAY ADVISORY COMMITTEE

***453. Giani Gurmukh Singh Musafir:** Will the Honourable Minister of Railways be pleased to state the functions of the Advisory Committee?

The Honourable Shri N. Gopalaswami Ayyangar: The Honourable Member is presumably referring to the Railway Local Advisory Committees. The functions of these Committees are to advise Railways in connection with matters relating to the provision of amenities to the public, proposals in regard to new projects and extensions, the opening of new stations and halts, arrangements regarding time-tables and reservation of accommodation on trains and any subject of general public interest or convenience peculiar to the area with which a Committee is concerned.

LINKING OF RAILWAYS ON E. P. R.

***454. Giani Gurmukh Singh Musafir:** (a) Will the Honourable Minister of Railways be pleased to state whether Government have got any scheme to link the railway station Khem-Karan with Ganda Singh Wala, and Chaman Wala with Hindu-Mul-Kot on the Eastern Punjab Railway, so as to complete the Western Railway defence line along with the boundary of Pakistan?

(b) If the answer to part (a) above be in the affirmative, how much time will it take to complete the execution of the scheme?

(c) If the answer to part (a) above be in the negative, what are the reasons therefor?

The Honourable Shri N. Gopalaswami Ayyangar: (a) No.

(b) In view of the reply to part (a), the question does not arise.

(c) The lines are not considered necessary.

UNSTARRED QUESTIONS AND ANSWERS

RAILWAY INCOME (AS AFFECTED BY RECLASSIFICATION)

9. Shri O. Subramaniam: Will the Honourable Minister of Railways be pleased to state:

(a) the number of passengers who travelled during the three quarters ended 30th September, 1949 by (i) class three, (ii) class two, and (iii) class one and the corresponding earnings of the Railways under each head;

(b) the number of passengers who travelled during the corresponding periods in the preceding year by (i) third class, (ii) intermediate class, (iii) second class and (iv) first class and the corresponding earnings under each head; and
(c) how the reclassification has affected the earnings of the Railways?

The Honourable Shri K. Santhanam: (a) and (b). A statement is placed on the Table of the House. (See *Appendix IX, annexure No. 17.*)

(c) The reclassification has not affected the earnings of the Railways to any appreciable extent.

RESIDENTIAL AND OFFICE ACCOMMODATION

10. { **Sjt. Kuladhar Ghaliha:**
Shri Lakshminarayan Sahu:

Will the Honourable Minister of Works, Mines and Power be pleased to state:

(a) whether it is a fact that the number of Government residential quarters in Delhi was 6,472 in 1938-39 and whether it has increased now to 15,404 in 1948-49;

(b) whether it is a fact that the office accommodation in 1938-39 was only 7,57,000 sq. feet and whether it is 56,34,000 sq. feet in 1948;

(c) the causes for the increase; and

(d) what is the number of Government employees that have increased year by year from 1939 to 1949?

The Honourable Shri N. V. Gadgil: (a) No. The number of Government residential quarters in Delhi in 1939 was 5,469, which has increased to 13,547 in 1948.

(b) No. The office accommodation in Delhi in 1939 was 7,41,274 sq. feet while it was 27,25,424 sq. feet in 1948.

(c) The increase is due to increase in demands for accommodation as a result of expansion of the work and activities of the Government of India, more especially because of problems created by the war and on account of the establishment of foreign Missions, diplomatic and otherwise in Delhi.

(d) The information is not readily available, and for an accurate figure the question would have to be addressed to the Honourable Minister for Home Affairs. The number of applications received by the Estate Officer for allotment of accommodation in 1939 and 1948 in Delhi and Simla which gives some indication of this increase are as follows:

	<i>1939</i>	<i>1948</i>
Delhi	75,92	65,687
Simla	26,20	3,338
Total	<u>10,112</u>	<u>68,925</u>

Thursday
8th Decemnr, 1949

THE CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS
AND ANSWERS)

Official Report

Volume VI, 1949

(28th November to 17th December, 1949)

Sixth Session
of the
CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)
1949



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CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE) DEBATES

(PART II—PROCEEDINGS OTHER THAN QUESTIONS AND ANSWERS)

Thursday, 8th December, 1949

The Assembly met in the Assembly Chamber of the Council House at a Quarter to Eleven of the Clock, Mr. Deputy-Speaker (Shri M. Anant_hasayanam Ayyangar) in the Chair.

QUESTIONS AND ANSWERS

(See Part I)

11-45 A.M.

MINES BILL

The Honourable Shri Jagjivan Ram (Minister of Labour): Sir, I beg to move for leave to introduce a Bill to amend and consolidate the law relating to the regulation of labour and safety in mines.

Mr. Deputy-Speaker: The question is:

"That leave be granted to introduce a Bill to amend and consolidate the law relating to the regulation of labour and safety in mines."

The motion was adopted.

The Honourable Shri Jagjivan Ram: Sir, I introduce the Bill.

Mr. Deputy-Speaker: Before we proceed further, may I request hon. Members to continue to be present in the House? Their presence in the House is of interest and will encourage other people also to speak. So, unless they have got urgent business outside I would request them to continue sitting in the House and take part in the deliberations.

INDIAN RAILWAYS (AMENDMENT) BILL

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): Sir, I move:

"That the Bill further to amend the Indian Railways Act, 1890, as reported by the Select Committee, be taken into consideration."

Sir, in spite of the dissenting minutes of my friends Dr. Tek Chand and Pandit Thakur Das Bhargava, I hope to be able to convince the House that the Bill is entirely non-contentious and that it is mainly in the interests of the public—the business community as well as the general public.

The Bill is largely procedural. It does not make any difference regarding the existing rights and liabilities of Railways towards the business community or towards the public. The main provisions are two-fold. It seeks to make changes in the procedure regarding the consignment of goods by goods trains. Secondly, it seeks to evolve a procedure in the matter of compensation for victims of Railway accidents.

{Shri K. Santhanam}

At present when goods are consigned, a forwarding note has to be sent. Besides a forwarding note, if goods are inadequately packed or are in a defective condition or if they are despatched in open vehicles of traffic normally carried in covered vehicles and liable to damage or loss when carried in open vehicles, or, animals are booked without paying the percentage charge and excess value which the Railways levy to carry at Railways' risk, or when goods are consigned at owners' risk, besides the forwarding note risk notes of various kinds have to be executed. Except in the matter of sending goods at owner's risk, these risk notes are compulsory. Every consignor who has to send a defectively packed article or other articles mentioned, has to execute this forwarding note of a stereotyped form, and in the case of goods which are being sent at owner's risk—where there are two risks, the Railway's risk and the owner's risk—the consignor in 99 per cent. of the cases chooses to send only at owner's risk because the freight rate is much lower. Therefore, in all these cases it has been found that the execution of these risk notes is a superfluous labour for the Railway staff; and it leads to a lot of harassment of the business community because many of them are illiterate people and when they are asked to bring witnesses to attest the risk notes it is open to the Railway staff to say that they don't know the attesting witnesses and ask them to bring somebody known to the staff, thus resulting in a lot of trouble. The proposal in this Bill is to abolish all these risk notes and insert the liability of those risk notes within the Statute itself.

Now, there are two kinds of liability when the Railways carry goods. One is the ordinary liability of a bailee. If things are delivered in well-packed condition and at Railway's risk, the Railway's liability is that of a bailee. If goods are damaged or lost in transit, the Railway has to prove that it took proper care and that the loss or damage occurred in spite of all its care and owing to causes beyond its control. If it cannot prove that it must pay the compensation for loss or damage. When goods are sent with the risk note the liability is diminished in varying proportions as stated in the risk note. The proposal in the Bill is that these varying liabilities be inserted in the Statute so that no consignor need execute these risk notes, thereby simplifying the entire procedure. The liabilities and rights of both the Railway and of the consignor will continue to remain as they were except in certain minor particulars in which the Select Committee have increased the liability of the Railway and reduced the liability of the consignor. According to the present risk notes, if an article is sent at owner's risk, then the consignor has to prove that the damage occurred owing to the misconduct of the Railway officials. The Select Committee has made it into *negligence* or misconduct so that in the future it would be enough for a consignor to prove that the Railways were negligent in dealing with his goods and then he will be eligible for compensation. Similarly, when whole consignments are lost, the original Bill had stated that only if the goods had been delivered in a properly packed condition would the Railway be liable to pay compensation, or that the Railway should prove that the loss occurred for reasons beyond its control. The Select Committee has increased the liability of the Railway and has said that if whole consignments are lost even though the goods had been delivered in a defective condition, the Railway has to prove that the loss occurred for reasons beyond its control. In these two matters the liability of the Railway has been increased as a result of the scrutiny of the Bill by the Select Committee. In all other respects, the old rights and liabilities continue to be the same except that the execution of various kinds of risk notes involving thousands and thousands of useless documents executed every day is being dispensed with.

The second important matter is in relation to procedure in dealing with compensation to claims due to Railway accidents. Up to 1943, the Railways

were not liable for accidents, unless it could be proved that the accident occurred owing to the negligence or misconduct or failure of duty of the Railway Administration or the officials in charge of that Administration. Therefore, even though a thousand people may die no one may be able to get any kind of compensation. Some of us protested in the old Legislature against this state of affairs and said that when an accident occurred, whatever the reasons the poor people travelling in the Railway should have some compensation. In 1943 the Legislature inserted Section 82A in the Railways Act, by which whenever there is a Railway accident anyone who incurs any kind of loss either by death or by injury will be entitled to compensation. At the same time, the Legislature limited the compensation to a maximum of Rs. 10,000/-. But unfortunately, when this Section was inserted there was no procedure laid down for prompt payment of compensation. Therefore, at present whenever there is an accident, though the people who incur loss have a right of compensation, they have to do it either by negotiation with the Railway or by going to a Court of law, neither of which is satisfactory. This Bill proposes that compensation commissioners will be appointed in all parts of the country and where there is a big accident special commissioners will be appointed. These commissioners will call for all particulars and award compensation which will be binding on the Railway. I suggest that this is a most salutary provision which ought to be enacted into law as early as possible.

I may now say a few words regarding the minutes of dissent of my hon. friends Pandit Thakur Das Bhargava and Dr. Bakshi Tek Chand. In regard to compensation, both of them want that besides the general right to compensation irrespective of the cause of accident, the old ordinary liability to get unlimited compensation whenever the accident is proved to have been due to negligence or failure of duty on the part of Railways should be preserved. This matter came up when these provisions were considered in connection with the Select Committee on the Bill which enacted the Railway Rates Tribunal. This also formed part of the Bill. I was also a member of the Select Committee, and then it was decided that these provisions should be reconsidered in relation to this liability. We undertook a careful re-examination of this question and the Railways came to the conclusion that it is not possible to have a two-fold liability, that it will lead to various complications, if the Railways should have the old liability of paying unlimited compensation when it is due to negligence and they should have a liability to pay irrespective of the cause of accident to all people limited compensation. In the last six years, there has been no claim for compensation in excess of Rs. 10,000. Therefore, actual experience has shown that this Rs. 10,000 is a reasonable limit under the present economic conditions. Then there are also further complications if we have a two-fold liability. Suppose somebody is dead and he has two sons. One may go to the Commissioner for the summary process and try to get compensation; another may go to a court of law, and between the two the Railways will be in great difficulty. It will lead to all kinds of complications, confusion and uncertainty. Therefore, the Select Committee wisely decided that the present rule that there should be only one system of compensation and it should apply to all persons and that it should be limited to Rs. 10,000 and should be awarded by the Commissioners. But the Select Committee has made another change. It has made a provision that the compensation as awarded by the Commissioner should be liable to an appeal. Under these circumstances, I suggest that it is not possible for us to extend the liability. Even if we want to do it, this will not be the proper Bill, because Section 82-A which provides for the limitation—we are assured by our legal advisers—limits the liability of compensation to Rs. 10,000 in all cases. Therefore, unless we bring a separate Bill to change Section 82-A, it cannot be done. What all can be done is to drop again this procedure for Claims Commissioners and then

[Shri K. Saithanam]

leave it to the future when the Railways Act is to be amended. I do not think it is a satisfactory procedure. In a recent accident, for instance, we were not able to settle the compensation claims quickly because no machinery was there. The installation of this machinery as quickly as possible is in the interests of those poor people who may meet with accidents.

One other point which Pandit Thakur Das Bhargava has tried to make is that the railway liability in the case of owner's risk and other consignments on risk-note should be extended to something near that of a bailee. I think it is not possible. If we are to take same liability for consignments on railway risk and also on consignments on owner's risk, there is no reason why the Railways should do anything on owner's risk. It will lead to the abolition of the owner's risk and the reduced rates on owner's risk. I personally think that it will not be a bad thing for Railways as such. Railways will be getting some more crores of revenue. On the other hand, the business community will be put to great hardship. They are now getting reduced rates on account of owner's risk and though the Railways carry less liability it is found in practice that 99 and odd percentage of articles reach their destination safely. The mercantile community thinks it is a risk worth taking in view of the reduced 12 Nook. rates. Therefore, abolition of the owner's risk will not be advantageous to the business community. Again, any increase of Railway liability in this matter will mean that the Railways will always insist on things being properly packed and they will refuse to take goods which are defectively packed, in which case many people, particularly those in rural areas who have not got up to date machinery for packing, will be put to great difficulties. Therefore, it is in the interests of the business community to keep alive the difference between railway risk and owner's risk and let the present liabilities remain.

Dr. Tek Chand has suggested that our idea of abolishing these risk notes is not quite sound. We have consulted the business community and there is agreement that it will be helpful to them to take away this present cumbersome procedure of executing risk notes for everything. It only causes a great deal of harassment and difficulty for them, and for the Railways themselves it means that their staff have to take and get executed thousands and thousands of useless forms which serve no useful purpose whatsoever, as the liabilities are the same all over the year and all over the country. Therefore, it is a cumbersome procedure which has been handed down from the past and which it is certainly useful to simplify.

Shri Jaspal Roy Kapoor (U. P.; General): Will the hon. Minister be pleased to state which particular business community's representatives have been consulted?

The Honourable Shri K. Saithanam: The Indian Federation of Chambers of Commerce was consulted. This matter has been under discussion for the past three years and more and all these proposals were circulated to the various Chambers of Commerce in different parts of the country. So far many of them have supported and no one is in opposition to them. This is a thing generally welcomed. It was put before the Standing Railway Finance Committee. That Committee also supported it, but it made one stipulation that in order to keep up the difference between the railway risk and the owner's risk, whenever goods are sent on railway risk, a special certificate should be given, so that it may be produced when necessary for purposes of compensation. We have incorporated that suggestion in the Bill and therefore though an article may be sent with a single forwarding note, the owner will say there whether it is railway risk or owner's risk and if he says it is railway risk a

special certificate will be handed over to him saying that his consignment was sent by railway risk. Besides, the actual freight paid will show whether he has sent it by owner's risk or railway risk. Therefore, there is no difficulty about confusing these risks. The actual risk on which the consignment was sent will be clear from the forwarding note and also from the freight and the certificate given to him.

For all these reasons I suggest that the Bill is purely non-contentious and beneficial and should be passed into law. With respect to particular points that may be raised during discussion, I shall answer them when the consideration is taken up clause by clause. Sir, I commend the motion to the acceptance of the House.

Sbri Suresh Chandra Majumdar (West Bengal: General): Will it be open to the sender of the goods to choose whether it should be sent on railway risk or owner's risk?

The Honourable Shri K. Santhanam: Yes, Sir. There are certain articles in which there is no owner's risk, which a person has to send only under railway risk, but for other articles there are both risks and where for any article there are both risks, it is always entirely optional on the part of the sender to choose either the railway risk or the owner's risk.

Mr. Deputy-Speaker: Motion moved:

"That the Bill further to amend the Indian Railways Act, 1890, as reported by the Select Committee, be taken into consideration."

Pandit Thakur Das Bhargava (East Punjab: General): Sir, I welcome the provision in this Bill about the institution of Claims Commissioners and the expeditious method of settling the claims of those people who suffer injuries or death on account of accidents on the Railways. There is no doubt about the fact that these provisions are very salutary in their effect and will benefit the general public.

So far as the question of compensation by way of social insurance is concerned, this has already been enacted in 1942-43 when Section 82A was incorporated. As far as that aspect of the case is concerned, I do not think there is any reason why we should confuse the two issues. When in 1942-43 this question was taken up it was not even incidentally signified that this right of the ordinary citizen to claim adequate compensation in a court of law will be taken away by that provision. I may in this connection refer the House to the speeches made at that time—the speeches of Mr. Lalchand Navudrai and Sir Cowasji Jehangir. It will appear from a perusal of those speeches that when Section 82A was incorporated in the Railways Act, there was no case made out for taking away the rights of the ordinary citizen, so far as he was entitled to receive compensation on account of death or injury.

Now I do not know wherefrom my hon. friend the Mover of this Bill got the impression that when Section 82A was incorporated in the Act in 1942 this right was taken away. I join issue with him on this matter and I beg to assure this House that as a matter of fact this right was never taken away at that time.

Now when this Bill is being enacted we have got proposed Sections 82F and 82H. In regard to Section 82F I do not think that even that section takes away this right, because sub-clause (5) of this Section reads:

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

[Pandit Thakur Das Bhargava]

Sub-clause (1) of 82F reads:

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

Supposing an aggrieved person does not prefer a claim before the Claims Commissioner. I do not know whether he will be entitled to have the right to take his case to a law court and get adequate compensation. But when we refer to proposed section 82H we find certain rights are specified. By implication it means that such of the rights as are not saved may be deemed to have been taken away. I have, therefore, sent an amendment to proposed section 82H so that these rights may be saved.

Now, Sir, I agree with the hon. the Mover of this Bill that this provision 82A is a very salutary one and in all cases such compensation should be given by way of social insurance. This has been the stand of the hon. the Mover since a very long time. I have read his speeches of 1939, which are to the same effect—and I congratulate him on the success that he has attained while he has become a Minister of the Government. He has not only supported that measure, but has at the same time made that measure very salutary and wholesome, in so far as he has succeeded in providing a ready remedy for giving compensation. But at the same time I do not agree with him in his view that the common law right which has been enjoyed for more than half a century by the citizens of this country should be taken away in this manner. Because after all the remedy provided in this Bill differs materially from the common law remedy which the citizen has been enjoying for the last more than fifty years.

In the first place, Sir, the limitation is changed. The limitation is only three months in proposed section 82C and the procedure is summary and the limit is 10,000; whereas, according to the present law the limitation period is one year, the remedy is a regular suit and the amount of compensation may be more than 10,000. There is no reason whatsoever that the rights which have been enjoyed by the citizens of India for such a long time should be taken away in this matter. There is no inter-dependence between the two provisions; both the provisions are not mutually destructive. One can exist along with the other, because if a person chooses to have recourse to a law suit he can be allowed to do so. I am very much opposed to this right being taken away in this form.

Sir, now I come to the other question—the question of the amendments of sections 74A to 74D contained in clause 10. The present system, which is based on section 72 of the Indian Railways Act, is now sought to be amended. In regard to section 72 it is clear that the responsibility of the railway administration for the loss, destruction, etc., of the goods carried shall be the same as that of a public carrier under sections 151 and 152 of the Indian Contract Act. Now, Sir, if you refer to sections 151 and 152 of the Contract Act it will be clear that there is no difference between an ordinary carrier and the railway and the amount of care and circumspection to be exercised by the railways is the same as that of a man of ordinary prudence under similar circumstances. Section 151 of the Indian Contract Act reads:

"In all cases of bailment the bailee is bound to take as much care of the goods bailed to him as a man of ordinary prudence would, under similar circumstances, take of his own goods of the same bulk, quality and value as the goods bailed."

My humble submission is that this responsibility of the bailee should not be tampered with. It is an incident of the ordinary contract and though the Railway Act.....

The Honourable Shri K. Santhanam: May I point out to my hon. friend that we have not changed Section 72 (1) and it is only Section 72(2) relating to limitation of responsibility that we are seeking to amend.

Pandit Thakur Das Bhargava: I am coming to that. If you make a change in section 72(2) then you can certainly have a change in section 72(1) also, because these two sections are somewhat ancillary to each other. Section 72(2) says:

"An agreement purporting to limit that responsibility shall, in so far as it purports to effect such limitation, be void, unless it—

- (a) is in writing signed by or on behalf of the person sending or delivering to the railway administration the animals or goods, and
- (b) is otherwise in a form approved by the Governor General in Council."

My humble submission is that though this provision gives authority to the Railways to limit their responsibility by an agreement, those who enact such legislation should see that the responsibility is not destroyed entirely. These provisions which you are now enacting substantially give you immunity from any sort of responsibility.

Sjt. Rohini Kumar Chaudhuri (Assam, General): May I ask whether it is possible for anybody to send things in a leaky tin and then expect the full quantity at the delivery station?

Pandit Thakur Das Bhargava: I have no quarrel with section 72(2). After all the law gives them the right and they may curtail the responsibility if there is an agreement in writing and the form is approved by the Governor General in Council. This was the original proposal. Now section 72(2) is being changed. They want that ordinarily the goods may be sent at the owner's risk and in a few cases only the responsibility of the Railway may remain as it ought to be under section 72(1) of the Railways Act. According to the present practice whenever a person happens to book his goods for carriage the Railways take advantage of getting a risk note signed by him in the presence of witnesses almost mechanically. The various forms of risk note have been approved by the Governor General in Council. When a person comes to the Railway Station and sends certain goods he does not stand on the same equal footing with the Railway and when he goes there he is very anxious to see his goods sent, he wants to put the goods on the railway train and wants that the goods are sent away. But the Railways are in a dominant position and they are also the monopolists for carriage of goods.

The Railways can refuse to take the goods as my hon. friend just threatened, the business community may be threatened and the business community are in the hollow of the hand of the Railways; they can dictate any terms to them and whenever a person is anxious to send goods through the Railway he is confronted with the question whether the goods will be sent or not and when he is in such a helpless state, I do not see how he can resist the demand of the Railways. He shall have to execute the risk note. Now the change to be made is that even the Station-Master or the goods clerk need not say anything to him. The forwarding note will have an implicit clause and it is at owner's risk, unless and until he chooses to see to it that the railway risk note is executed and secures the certificate. The change now sought to be made in section 74C is:

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

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

This ordinarily every person shall be asked to sign the owner's risk note without his attention being called to the fact that he is running a risk, that is the position, Sir.

This is not all. When we look at the sections which are sought to be incorporated in this Bill you will be pleased to see that every effort has been made to diminish the responsibility of the Railways.

Now I come to the question put by my hon. friend, Mr. Robini Kumar Chaudhuri. Proposed section 74A says:

“(1) When any goods tendered to a railway administration for carriage by railway—

- (a) are in a defective condition as a consequence of which they are liable to deterioration, leakage, wastage or damage in transit, or
- (b) are either defectively packed or packed in a manner not in accordance with the general or special order, if any, issued under sub-section (2) and, as a result of such defective or improper packing, are liable to leakage, wastage or damage in transit,

and the fact of such condition or defective or improper packing has been recorded by the sender or his agent in the forwarding note, the railway administration shall not be responsible for any deterioration, leakage, wastage or damage, or for the condition in which such goods are available for delivery at destination, except upon proof of negligence or misconduct on the part of the railway administration or of any of its servants.”

If the goods are in a defective condition or they are not rightly packed, the direct result which will flow from such a condition or defective packing will be that some of them may have deteriorated or wasted or there may be leakage. As a direct result of such a bad condition or defective packing certainly the consignors are responsible for that. Supposing the Railway administration by their misconduct or negligence bring about a state or a condition in those goods which is not direct result of the defective nature or defective packing who will be responsible? The natural thing is that when a thing is given to be under my possession and I have to give it at a certain stage, then the natural effect of those conditions which obtain during the transit is not the responsibility of the consignor. Suppose there is a very small leakage and when the matter is brought before the Court it may come to the conclusion that only five maunds out of 85 maunds should have been wasted and for the 80 maunds the Railway must prove that they took care, which care a man of ordinary prudence could have taken. Whatever may result from the condition of defective packing the consignor is responsible and I have no quarrel with that, but when they say that all this is due to the defective packing, I think the Railway should not avoid this responsibility and say that it is diminished because of the defective packing.

Then again they say that the packing will be such as will be ordered by the Railways. These conditions are good so far as they go but in the rural areas nobody shall be able to pack goods in that way. Only if they make the rules, no goods will be regarded as packed in a non-defective way. Even if this power is given to the Railways, yet the hon. Minister must see that the responsibility, when the goods are sent at owner's risk, is not diminished. What is the result? The result is that even now we know what care the Railways have shown, we know that thefts do take place and no proper care is taken of these goods. The result will be that the present condition will become still worse. If you lessen this responsibility the bad results will be that so far as public standards of public conduct are concerned they will further be

lowered. My hon. friend says that the business community like it and he further says that there are not many cases where such damages occur. If the cases are very few, then why do you take these powers? How will they benefit if the cases are few and so I am opposed to give you this power. At any rate, I should say that we are not justified in enacting this measure. As for the business community liking it, I must say that it does not like it. I have received some representations from the business community and in the replies which my hon. friend has got from the Federations etc., the business community do insist that the responsibility of the Railways may not be diminished and whatever the business community may say, I stand here for safeguarding the rights of the public and I do not want that the responsibility of the Railways should be diminished. If we go further and look at proposed section 74B we will see what the Railways Act has allowed them to have. Look at the manner and the spirit in which this provision has been made. After all what we want to have is a square deal between the Railway which is a monopolist and the ordinary man. Now the Railway has got a responsibility. The Railway charges freights from consignors for covered wagons and when the consignors agree to goods being carried in open wagons on account of the inability of Railway to supply wagons it fixed the responsibility upon the consignors. Section 74B says:

"When any goods which, under ordinary circumstances, would be carried in covered vehicles or vessels and would be liable to damage if carried otherwise, are at the request of the sender or his agent recorded in the forwarding note, tendered for carriage by railway in open vehicles or vessels, the railway administration shall not be responsible for any destruction, deterioration or damage which may arise by reason of the goods being so carried."

Now, Sir, I cannot conceive of a proposition more unreasonable than this. First of all the charge is for the transport of goods in covered wagons and, if a person agrees that his goods may be carried in any other way, the railway should not take it that the responsibility for the transport of such goods with all ordinary care and prudence is waived. In such cases only the damage that the goods might sustain while in transit in open wagons may not be laid at the door of Railway but if by the misconduct of the railway administration and its servants any damage is sustained the liability of the railway for the same should be there as before.

Then I come to proposed section 74C. As indicated above I am not in favour of this provision because it takes away the responsibility of the Railways in cases where a helpless consignor agrees to certain conditions. You will see that this is not a contract between two equals. In such circumstances it has been held that there is a certain amount of undue influence. In these cases we should consider that the Railways are monopolists and the consignors are helpless. In such cases we should see that equity in favour of the consignor is not toned down. If you refer to section 74C this point becomes clear. The Railways want to lessen their responsibility. May I know how a consignor will be able to prove this misconduct or negligence of the railway administration? He does not know how his goods were handled. Therefore this provision means that he will not be able to ask the Railway for damages. It is the railway that should show that there has been no negligence on their part. The burden of proof should be put on the Railways and not on the consignor. The attempt of the Railway Administration has been in all these proposed sections 74A to 74D to shift their responsibility. If the business community likes it, what is the use of inserting these new provisions? Why enact all these things? If things are to go on as before there is no occasion for changing this substantive part of the law. Dr. Bakhshi Tek Chand would have further explained his point of view if he were present. The enactment of clause 8 is objectionable. It makes a change in the substantive law of

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the land. If in other departments we set up a standard of public conduct; we will be lowering our morals if we do not hold the Railways responsible in these cases. I look at the question from a moral standpoint also. I do not want that in regard to Railways and other public administrations it should be said that they are corrupt and negligent. If you add provisions of this kind here, you will be encouraging the tendency to do immoral things and commit thefts. We will not be justified in putting these provisions on the Statute Book. I am clearly of opinion that in so far as this clause is concerned we should be very cautious. Unless we are convinced that there will be no lowering of the moral standards, I submit to the consideration of the Minister that he may please to withdraw these objectionable features from this Bill.

I want to say a word in relation to sections 41 and 42 of the Railways Act. It is not very long ago that we made this change which reads:

"Any complaint against a railway administration, or jointly against two or more railway administrations, that such administration or administrations—

(a) is or are contravening the provisions of section 28; or

(b) is or are charging—

(i) unreasonable rates, or

(ii) rates which are unreasonable by reason of any condition attached to them regarding minimum weight, packing, assumption of risk or any other matter....."

Similarly in section 42 (2):

"The Central Government alone shall have power—

(a) to increase or reduce the level of class rates, schedule rates and terminal and other charges."

Now a change is sought to be made in section 41 also and the Tribunal which was entrusted with certain powers lately is to be deprived of those powers or those powers are sought to be curtailed.

I should think there is nothing to warrant a change of this nature. Considering that it was only in the year 1948 that we made this change, unless and until there is something before us which will justify us in changing it, I am disposed to think that we should not divest the Tribunal of this power. We are not justified in taking away this power from the Tribunal when there is nothing to show that this power has not been rightly used by the Tribunal or there has been some abuse. The Select Committee was quite clear on this point. The Select Committee says:

"Under Section 42(2) of the Indian Railways Act, the Central Government alone has the power to increase or reduce the level of class rates, schedule rates and terminal and other charges and, although it is reasonably clear that the Tribunal has no jurisdiction in respect of these matters we would like clause (b) of section 41 to be recast so as to remove any doubt that may exist on this point."

My submission is that there is no justification for this change. When we have given these powers only in 1948, I think, we are not justified in taking them away, unless there is any particular reason for it. That is all I have to submit.

Shri Jaspal Roy Kapur: Sir, I want to associate myself with all that has been said by my hon. friend, Pandit Thakur Das Bhargava. I have read the two minutes of dissent appended to the Report of the Select Committee by Pandit Thakur Das Bhargava and by another member of no less eminence

than Dr. Pakhshi Tek Chand. These two notes have convinced me, though I was myself, even before reading these notes, of the view contained in these two notes, but after having read these notes of dissent, if there was even the slightest doubt in my mind with regard to the correctness of my view, that doubt was completely removed. I think, Sir, that many an hon. Member of this House must have read these notes and those who have read these notes, I am sure, must be feeling convinced that they must fall in agreement with the views contained therein.

Sir, the hon. Minister of State for Transport and Railways has stated that this matter had been brought before the Railway Standing Finance Committee. Now, it is so, not only once but twice, if I am right. Once about the middle of last year and then early this year. Sir, if my memory has not failed me, I think the hon. Minister of State—now of course he is the hon. Minister of State for Transport and Railways but about the middle of 1948 he was not occupying this dignified position—was then not in favour of introducing a change in the legislation which is now being incorporated in this Bill. I think he was then of the view that all goods should be carried at railway risk. He was on the other extreme then. Now, of course, having been elevated to the position of Minister of State for Transport and Railways, his views seem to have undergone a complete change.

The Honourable Shri K. Santhanam: I must state that even now I would like to have only Railway risk, but the rates will prove a handicap to the business community.

Shri Jaspal Roy Kapoor: I am very glad, Sir, that Mr. Santhanam still holds the same views. If he does hold the same views, I see no reason why he should not insist on them and why those views should not be incorporated here. (*Interruption*). My hon. friend Mr. Sidhva tries to teach us something even during the course of this debate by his interruption.

Shri B. K. Sidhva (C. P. and Berar: General): I only wanted to state that in that case the rates would have to be increased. That is what the hon. Minister says.

Pandit Thakur Das Bhargava: Railway risk rates should be the same as the present owners' risk rates.

Shri Jaspal Roy Kapoor: I hope my hon. friend, Mr. Sidhva, will have the patience to hear me out. I know he has very strong views on every subject, and he takes every possible opportunity of expressing his views on every possible subject whether it be questions, whether it be any Bill, or amendment, or whether it be a resolution or whether it be any other matter, and he would like to avail himself of every possible opportunity of even interrupting other Members. I do not grudge him any satisfaction that he may derive from his interruptions.

I was stating that if the hon. Mr. Santhanam still holds the views which he held then, I think he owes it to himself and he owes it to the Government to insist on those views and have legislation which would incorporate those views. If he had brought forward a Bill with such provisions, I would have whole-heartedly supported him, but as it is, not only he has not brought forward a Bill incorporating his strong views, but he has brought forward a Bill which contains provisions which go absolutely contrary to those views and which go the other way about. The present position was a middle one. It neither incorporates the views of Mr. Santhanam, nor does it incorporate the provisions that are to be found in this present Bill. The present position is

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a middle one and I think it is a satisfactory position. I think that one important principle of any legislation is that no new legislation should be brought forward unless firstly there is a demand for it and secondly the new legislation must lead to some very good results. None of these two conditions, I think, have been fulfilled in this case.

The Honourable Shri K. Santhanam: This House referred it to a Select Committee.

Pandit Thakur Das Bhargava: There were certain good provisions also in the Bill.

Shri Jaspat Roy Kapoor: The House did refer it to a Select Committee. I am referring to the report of the Select Committee. I wish that the Select Committee had incorporated certain important amendments which have been referred to by my hon. friends, Pandit Thakur Das Bhargava and Dr. Bakshi Tek Chand. Sir, a number of amendments have been tabled by Pandit Thakur Das Bhargava to this Bill as it has emerged from the Select Committee and I hope Government will be good enough to seriously consider those amendments and accept all of them, if not all of them, at least a large number of them. What I was submitting was that there was no demand either from the general public or from the business community for having legislation in the form in which it has been proposed according to the report of the Select Committee. I want to know whether any member of the business community, any responsible body, has stated that they want this change. Of course, my hon. friend, Mr. Santhanam, stated that some responsible bodies have not expressed their disagreement with it. That is another thing. My question is, has there been any insistent demand for the enactment of this new legislation? I am sure no demand was made by the business community. Another point is as to whether any good is going to result from the new legislation. In the Statement of Objects and Reasons it was pointed out that the necessity for this change in legislation is due to the fact that the present procedure is very cumbersome and leads to delay. It is cumbersome owing to the fact that two witnesses have to be secured to attest the signature of the consignor. That argument has been completely answered by Dr. Bakshi Tek Chand, who in his minute of dissent has very ably put down that it is not legally necessary, according to the decision of the Privy Council, that there should be any attestation by witnesses. If that was a great difficulty it could have been easily met by accepting the argument of Dr. Bakshi Tek Chand.

One other advantage has been mentioned by the hon. Mr. Santhanam and that is that there will be a saving of paper in that many unnecessary forms would be eliminated. I must confess that I have not been able to understand or appreciate the argument. There is to be a risk note in every case. The only point is whether that particular risk note or railway receipt should be considered as a railway receipt, according to which the consignor has agreed to send his goods at the owner's risk rate or whether it should be presumed that the consignor has agreed to send his goods at the railway risk rate. In every case there must be a railway risk note and I do not see any force in the contention that there will be saving of paper.

As I submitted before there was never a demand for this legislation from the business community. My hon. friend the Minister of State says that the business community is in full agreement with it. I had had occasion to talk to many a businessman and I have yet to come across one who will say that

this legislation is in the interests of the business community. No doubt that the Select Committee report has been signed by all the members except two, who have appended a minute of dissent. With due respect to the other members I am afraid I cannot attach much importance to their views, so far as the interests of the business community are concerned. I do not think that any one of the members of the Select Committee was a businessman who could have been expected to bring before the Select Committee the views of the business community. (*An hon. Member: Why?*) My hon. friend Mr. Sridhva again asks why. I do not know whether he claims to represent the business community.....

Shri R. K. Sridhva: Sir, he is again using my name and says that I am interfering with his speech. You can now understand.

Shri Jaspal Roy Kapoor: I thought he had put the question "Why?" As my hon. friend Pandit Thakur Das Bhargava rightly pointed out in his minute of dissent and also in the course of his speech that the railway and the consignor do not stand on the same footing. When a consignor goes to the railway station to book his goods all sorts of pressure is put on him. He has to fill in a form according to which he should agree to send his goods only at the owner's risk. Though I have no direct personal knowledge, this has been represented to me by persons in business. That being so, it is not a very fair proposition to say that the railway and the consignor stand on the same footing and that it is always open to the consignor to say that he wants to send his goods at railway risk rate. If we had agreed to the proposition that all goods must invariably be sent at railway risk, that would have been of very great advantage to the railway. They would have gained tremendously thereby as their income would have increased considerably. The increase in their income would have been more than sufficient to pay any claims that may have arisen by reason of having adopted that course. I think it was in the interests of the Railways not to have brought forward a legislation like this but to have brought forward a legislation according to which the owner's risk rates should have been eliminated altogether and there should have been only one rate and that should have been the railway risk rates.

As we all know there is a great deal of theft and pilferage on the railways. By having this new legislation I am absolutely sure that there will be greater theft and pilferage in the railways. The railway staff will hereafter think that they can steal more and perform their duties with much less efficiency, because the railways' responsibility will not then be to the same extent as heretofore.

Not only are risk notes being eliminated but even in the matter of burden of proof a very undesirable legislation is sought to be enacted. The consignor hereafter will carry the burden of proof in many cases and that seems to be unfair. I do not wish to dilate on the subject, because it has been so ably placed before the House by Pandit Thakur Das Bhargava and Dr. Bakhshi Tek Chand in their minutes of dissent. A minute of dissent on the legal aspect coming from such an eminent lawyer and retired judge of a High Court like Dr. Bakhshi Tek Chand ought to carry very great weight. In matters like burden of proof and other technical matters relating to law it is the view of eminent lawyers that should prevail and not the views of those who are not very competent to speak on the subject. I would very much like, if possible, to have on this subject, the views of my hon. friend Mr. Alladi Krishnaswami Ayyar, who is sitting sandwiched between the two Railway Ministers. Though wedged in between them I hope he will give his free and frank opinion on the subject.

The Honourable Shri N. Gopalaswami Ayyangar (Minister of Transport and Railways): I may assure the hon. Member that neither of us is exercising any influence on him.

Shri Jaspal Roy Kapoor: I know that none of the two Railway Ministers is capable of exercising any undue influence on Mr. Alladi Krishnaswami Ayyar and even if they had made that attempt surely Mr. Krishnaswami Ayyar is not the person to be unduly influenced. (*Hear, hear*). They may not have influenced him by any arguments or by any persuasion, but the good and amiable personality of these two Railway Ministers of course carries with it its own influence.

There is only one point to which I would refer and that is the third aspect of the Bill—compensation. Of course I must associate myself with Pandit Bhargava when he congratulates the Railway Ministry for providing for compensation to all persons who may receive injury, irrespective of whether it is due to Railway negligence or not. But then we can congratulate the Railway Ministry only to that extent and no more. They have acted in this manner with very great ingenuity for what they intend to give by one hand they intend to take away by the other. I wish they had gone only to the extent of doing good to the general public and had not incorporated this provision here to the effect that the general law of the land with regard to compensation shall not be operative hereafter. The one argument that has been given by the hon. Minister of State in the course of his speech, for incorporating this provision, is that during the last ten years there has not been one case in which compensation for more than Rs. 10,000 was claimed. I am glad to hear that but I think that should have been an argument for not incorporating any change. If there were a large number of cases in which compensation for more than Rs. 10,000 was demanded, if there were a large number of decrees against the Railways for big sums, then there would have been some ground for incorporating this provision, for then it could have been argued and reasonably argued that the taxpayer is suffering heavily, that there is a heavy drain on the public exchequer with the large number of cases in which the Railway has to pay very heavy compensation. But that not being so I see no reason for incorporating this change. It appears to be absolutely unnecessary. The fact, which appears to be an argument in respect of this change to the hon. Mr. Santhanam, appears to me to be just an argument for not having this change. It is what we call in Hindi *Gunaah Belazat*. You are creating an impression on the public that you are withdrawing from them a certain right whereas you are not going to gain anything thereby. Why not let this general right remain which has been in existence for so many years, whereby the Railways have not suffered anything but at least the public has the satisfaction that if there is any heavy loss to anybody due to an accident owing to negligence of the Railway then they are going to have this compensation? I therefore submit that the hon. Minister would be well-advised not to insist on this new change and would request him to accept the amendment of Pandit Bhargava on this subject when it is moved. Sir, I have nothing more to add.

The Assembly then adjourned for Lunch till Half Past Two of the Clock.

The Assembly reassembled after Lunch at Half Past Two of the Clock. Mr. Deputy-Speaker (Shri M. Ananthasayanam Ayyangar) in the Chair.

INDIAN RAILWAYS (AMENDMENT) BILL—Contd.

Mr. Nasiruddin Ahmad (West Bengal: Muslim): Sir, before the proceedings begin may I refer to a certain thing that happened yesterday? Today in the course of the debate two hon. Members, Pandit Thakur Das Bhargava and Mr. Jaspal Roy Kapoor said that there is corruption in Government departments. That was the only thing I said yesterday. But Mr. Ananthasayanam Ayyangar in his private capacity said that if any Member thought that the Government was corrupt (which I never said) and "if he finds it impossible to correct the Government, then I think he may as well give up this country and go to some other place." Sir, I have the highest respect for Mr. Ananthasayanam Ayyangar.

An Honourable Member: It is a purely hypothetical case. How does it affect anybody?

Mr. Deputy-Speaker: May I state that he (Mr. Ananthasayanam Ayyangar) is in a different capacity here? What one Member says against another when he is on the floor of the House arises when he is present on the floor of the House to defend himself. The matter does not arise here.

Mr. Nasiruddin Ahmad: I would like you to consider whether I deserved this.

Mr. Deputy-Speaker: So far as the Chair is concerned, it is not concerned with this.

Mr. Nasiruddin Ahmad: Why should not Pandit Thakur Das Bhargava also leave the country and go to Pakistan?

Mr. Deputy-Speaker: I never said Pakistan.

Sjt. Kuladhar Chaliha (Assam: General): Sir, I have a very few short points to make as one who uses the Railways and that too very rarely. In the very good old days there was a ruling of a High Court—I won't say which—that if a crate arrives and the perambulator contained in it is missing the Railway is exempted from liability. That was in the very good old days. Subsequently it was over-ruled. Possibly we are now coming back to the same stage that when a crate arrives without the contents probably the Railway will be exempted from the liability. Are we coming to that stage or not, I am just thinking. I know the hon. Mr. Santhanam as one who championed the cause of the poor and the weak, the downtrodden and the oppressed, and I think he has not changed very much even now. I therefore think he will look into the plight of business people and people who go to railway stations to book goods and under what conditions they are forced to sign railway risks 'A' and 'B'. Then he will probably have some sympathy for all those who have to deal with railways. If the proposed clause 10 is allowed to remain as it is, probably it will be unsafe for anyone to book goods and in every case the Railways will go away scot-free from any liability. If you see the dissenting minutes of Pandit Thakur Das Bhargava and Dr. Pakhshi Tek Chand they have given cogent reasons against this. I shall read from Pandit Thakur Das Bhargava's minute. He says:

"Ordinarily speaking, the burden of proving proper care and diligence should be on the railway administration when the goods remain in their possession while in transit and they possess special means of knowledge.....It does not, however, follow that the policy of

[Sgt. Kuladhar Chaliha]

law should allow such presumptions to be raised in their favour as do not necessarily follow from a given set of circumstances so as to destroy the entire or substantial responsibility of the railway administration."

People have perforce to deal with the railways for booking their goods and they are obliged to sign risk forms 'A' and 'B'. If we have a common form in which the Railway's liability is there it will be much better than to ask the consignors to sign forms 'A' and 'B' and to absolve yourselves from all responsibility. I should like to suggest to the hon. Minister that it should be a uniform risk note in which the liability of the Railway should not be taken away. They should be responsible. For example I book a certain engine from here in an open truck. From Delhi it comes and reaches me at Jorhat with the crank shaft missing. The whole thing is spoiled. When such a valuable part is missing the engine cannot be run. You cannot exempt yourself from the liability. The engine may cost Rs. 40,000 or 50,000 and if the crank shaft is not there you cannot run the engine. Under the present law you will not be liable at all. Would you not like to see whether in such circumstances you should not modify it? I cannot but whole-heartedly support my hon. friend Pandit Thakurdas Bhargava's suggestion. Unless it is given effect to, probably it will be doing a great deal of mischief to the business community and to the people who have to deal with railways. People do not like it but they have to use the railways. If there were alternative methods of transport or communication they will certainly use them. But when they are obliged to book heavy goods by rail it is not fair that the railway should be exempted from the liability. I had my own experience when a shaft was booked for me from Calcutta in January 1948. It did not reach me till October 1949. Three or four crates were given, but the shaft was missing. It is the most valuable part. Then they said that they were not responsible at all, that they have no liability and so forth. I said 'I shall sue for Rs. 1,200'. The shaft came afterwards in October. Everyone cannot bring a case against the Railways. Of course the station-masters were all very angry and said they were not responsible. The shaft is fifty feet or so long and two or three inches in circumference and it was lost on the way. And they wanted to wriggle out of it.

Under the present circumstances, they will not at all be liable and the business people will be ruined. I appeal to my hon. friend to consider the other side also. He is the man who is championing our cause always. He ought to consider the business people also. Otherwise, small trade and business will be ruined. In our part of the country, we have not got very big businesses. But we send oranges and potatoes. We send them in a basket. They are stolen. It cannot be said that it is defective packing that is responsible for it. If you exonerate your officers like this, perhaps there will be no potatoes or oranges. They are always going in gunny bags or baskets. I should therefore like my hon. friend Mr. Santhanam to reconsider this matter and bring in a fresh Bill or an amendment and withdraw this. That is my suggestion.

Shri Krishna Chandra Sharma (U. P.: General): I have seen the minutes of dissent of my hon. friends Pandit Thakur Das Bhargava and Dr. Bakhsh Tek Chand. I am sorry I find nothing very substantial in them which can be called detrimental to the public interest or the interest of industry and business. I have read clause 10. It says that in case of defective packing or something of that sort, the Railways would not be responsible. It is a commonsense proposition. If anything is sent ill-packed and the sender suffers loss, only he is to blame.

Shri Mahavir Tyagi (U.P.: General): Let the sender go along with his goods to the destination.

Shri Krishna Chandra Sharma: He cannot go. The railway is a public institution and the sender is as much responsible for the good administration of Railways as any railway servant himself. He has to perform a duty himself, that is, he must pack his things well. (*Interruption.*) I do not mean to yield to questions without substance.

Sjt. Kuladhar Chaliha: How can oranges be packed well? Can your enlighten?

Shri Mahavir Tyagi: Thieves do not look into packing at all.

Shri Krishna Chandra Sharma: It is not a question of theft. It is a question of defective packing. It is only ordinary commonsense that if something is to be sent, it should be properly packed; if one does not do that, he must suffer. After all, everybody has to do his bit and after doing his bit, he can claim liability from the other person who is responsible for doing his job. If one does not do his duty and thereby suffers, he cannot say that the other man has not done his duty and therefore he should be paid compensation. If the Railway authorities are found negligent or guilty of misconduct, they should certainly be held responsible. There is no saving clause that Railways would not be responsible in cases of negligence or misconduct. But in ordinary law there is such a thing as "contributory negligence". If a man is responsible for injury to himself, if he contributes to it, the other fellow who is responsible for the injury would not be responsible. If there is defective packing, Railways alone cannot be responsible. If the Railways are negligent or are guilty of misconduct, that is a different matter.

As regards animals, the Railway Administration simply wants that if there is more value of the animal than is given in the Schedule, the claimant has to prove that claim. It is a simple proposition. Ordinarily, there is a formula that a bullock will cost so much; a horse will cost so much and so on. If a claim is made over and above that formula, certainly the claimant must prove it. There is nothing detrimental to public interest in this.

In the matter of goods it has been argued that goods would be lost and the claimant would not be in a position to find out how they were lost or how injury was caused to them. There is a clause that the Railway Administration shall be bound to disclose to the consignors how the consignment was damaged in transit. This is a safeguard against the consignor being shut up from the knowledge of how the goods were damaged or lost. In these circumstances, I feel that only in case of negligence or misconduct on the part of the Railway in carrying or handling goods they should be liable. More than that, I think, in fairness to them, you cannot put a greater burden on the Railways.

About clause 12 relating to value of the packages, I do not find anything here with regard to compensation that is unjust or unfair to the public. It gives a fair deal. Neither the Railway nor the public has any advantage which cannot be called just and fair.

Regarding the insertion of new sections mentioned in clause 13. It is said that appeal shall lie to the High Court. Under the old section, the liability of the Railways shall in no case exceed Rs. 10,000 in respect of any one person. Now, the liability is kept as it is, but it is provided that there shall be a Commissioner for Compensation. He will visit the spot, meet the people, take the help of certain people who are in a position to assess the liability, and after consultation with them, he will adjudge the claim and pay the money on the spot. It is just to expedite the payment of the claim. It is to make claims much more easy than at present. But why should there be any provision for jurisdiction of the court to adjudge the claim? I do not

[Shri Krishna Chandra Sharma]

see any reason for having two remedies—one the claim to the Commissioner and the other the court. The Railway Administration would be put to trouble for nothing. The question may be that the Rs. 10,000 limit should not have been imposed. But that is already in the law. Nothing new has been done. When you put that limit, you should take into account the fact that the Railways are not something strange and foreign to us. They are a public concern and any money saved by them would be utilised for public purposes.

Pandit Thakur Das Bhargava: Take away Section 77

Shri Krishna Chandra Sharma: Do not lose patience. Even in proposed section 82J there is power to the Central Government to make rules. You know under the new Constitution the Central Government would be composed of representatives of the people. The list of the items is very comprehensive. In making rules, public opinion, as it exists at that time, would certainly be taken into consideration. The law will not be exercised in a manner injurious to the people or without a general sense of the good of the people. As such, I do not think any harm will be done by the new proposal.

Sir, I support the Bill.

Mr. Naziruddin Ahmad: Sir, I have to explain that I am a signatory to the majority report of the Select Committee. I have, however, carefully considered the two very weighty dissentient minutes of Pandit Thakur Das Bhargava and Dr. Bakhsh Tek Chand and heard the arguments of Pandit Thakur Das Bhargava and I must confess that I have to change my opinion.

Shri E. K. Sidhva: What were you doing in the Select Committee?

Mr. Naziruddin Ahmed: I had the weighty example of the Minister of State himself who has had the courage to admit that his official opinion is contrary to his public opinion.

The Honourable Shri K. Santhanam: I am afraid the hon. Member is misrepresenting me. Short of abolishing the owner's risk altogether, my opinion is that the Bill is the best thing available.

Mr. Naziruddin Ahmed: All right, Sir. But a little while ago the hon. Minister made a more pointed statement. Now it is more diplomatically put. I would not waste the time of the House over that. The whole thing must depend on merits. I shall beg leave of the House to dissent from a part of the Bill, namely, the change of onus of proof or responsibility of negligence or misconduct on the part of the railway. This is a very important part of the Bill.

The Honourable Shri K. Santhanam: May I point out to the hon. Member that there is no change whatever in the Bill. Whatever there was in the risk note, is now in the Bill and if the Bill is withdrawn, things which are now in the Bill will still be there.

Mr. Naziruddin Ahmad: Now the provision in the present Bill is that if there is a loss to a consignor—and it may happen in a variety of ways—the onus of proof is on the consignor. My hon. friend Mr. Kuladhar Cbaliha pointed out a certain instance where a crate containing a perambulator arrived without the perambulator. The High Court gave a verdict that the railway was responsible for the crate and not for the contents.

Now the whole point of the provision in the Bill is that if the Railway Administration is guilty of negligence or misconduct, in that case certainly the consignor would be entitled to some kind of compensation for the loss. There is no difficulty as to the law, but the question is who is to prove it. Now the onus is on the consignor. My hon. friend Mr. Krishna Chandra Sharma

thought that it was a very simple thing for anyone to prove negligence or incompetence or misconduct on the part of the Railways, but negligences of a Railway are an extremely complicated and technical affair. If there is an accident on a railway—I have taken part in some trials involving railway accidents—there are a large number of documents, registers, notes and things of that sort which have got to be carefully considered in order to find out whether the railway was responsible or not. I ask you: "How can an ordinary consignor be in a position to prove negligence which can be done only by the books and other papers in the possession of the Railway Administration?" It would be impossible for anyone to go to a court and prove it. Although the liability is laid down that negligence and misconduct of the railway would justify payment of compensation for loss, still the method of proof which has been laid down here, the onus that that is on the consignor, makes it impossible, to my mind, for anyone to prove negligence. Well, the Railway Administration will merely say: "Just prove my negligence. While the proof lies in my own hands, you have to prove it." The books and other papers will not be available to the consignor and therefore he will miserably fail. He will not be in a position to prove negligence or misconduct on the part of the railway in any case.

It is from this practical point of view that I think that this part of the Bill should require reconsideration. The ordinary law, the law of offence, places the onus upon persons who have special knowledge of a certain thing. The railway has the special knowledge, the railway has all the facts, all the documents and all the papers in their possession and, therefore, it is only proper that the ordinary principle of asking a party which has special knowledge of a certain fact to prove that it had no negligence or misconduct should be followed. If this is not done, then it would be denying the benefits given to the consignor of getting compensation in case of negligence or misconduct on the part of the railway. I submit that from this practical point of view this provision would require a slight reconsideration.

श्री गोकुलभाई दौलतराम भट्ट: माननीय उप सभापति जी, इस बिल का मैं स्वागत करता हूँ। इसमें जो संशोधन किये गये हैं उस कमेटी में मैं भी एक था। हम सबने सोच विचार करके, पं० ठाकुर दास भागव की दलीलें सुनने के बाद दस्तखत किये। और अब हमारे भाई नजीरुद्दीन साहब अपने विचारों से बदल रहे हैं और उन्हें पण्डित ठाकुर दास भागव साहब की दलीलों में बहुत कुछ बज्रूद लग रहा है तो वह अपने विचारों को जरूर बदल सकते हैं। लेकिन मैंने दो तीन बार उनके मिनट आफ डिस्ट्रेंस को देखा है। मैं यह कहना चाहता हूँ कि उसका कोई असर मेरे ऊपर नहीं हुआ और मेरे विचार में कोई फरक नहीं पड़ा।

मैं एक दो बातें जिसके मुतालिक यहाँ पर खास नहीं कहा गया है, कहना चाहता हूँ। मेरे भाई मिस्टर चालीहा जो कि पंकिंग के बारे में ज्यादा नहीं जानते हैं, अगर वह बम्बई की तरफ आ जायें या नागपुर चले जायें या दूसरी जगह जहाँ से हज़ारों करन्डे नारंगियों के, आमों के और दूसरे फलों के रोजाना पैक होते हैं, अगर वह उनको देखें तो जो यहाँ पर दलीलें पेश की गई हैं वह सब बेकार जाती हैं। यह मैं जरूर मानता हूँ कि रेलवे में कुछ अंशों में लापरवाही आई है। जो हम हाल

[श्री गोकुलभाई दौलतराम भट्ट]

वह कुछ ज्यादा लापरवाही से काम करते हैं। लेकिन अभी चन्द महीनों से रेलवे की गड़बड़ी सुधरती जा रही है। वह तो आप खुद ही यहां पर कह चुके हैं कि अब रेलवे में आने जाने में सहूलियत हो गई है और माल लाने ले जाने में भी सहूलियत हो गई है और रिक्वतखोरी भी कुछ कम हो गई है। तो मैं यह कहता हूँ कि चार पांच महीनों से कुछ बदल हुआ है। मैं एक मेम्बर के अलग अलग प्रश्न का तो उत्तर नहीं दे सकता हूँ। वह तो मिनिस्टर साहब का काम है। लेकिन मैं यह कहना चाहता हूँ कि किस चीज की जिम्मेवारी रेलवे पर नहीं है वह इस प्रकार से है। एक तो वह आदमी जो अपनी जिम्मेवारी में माल ले जाता है। एक वह जो सेकण्ड शिड्यूल (Second Schedule) में बताया गया माल है जो कि मूल्यवान चीजें हैं और ऐसी चीज जो टूट फूट जाय तो उसके लिये रेलवे कभी भी जिम्मेवार नहीं हो सकती है। तीसरी चीज वह है जो नष्ट हो जाती है। फल जैसी चीजें। पके हुये चीकू। वह जरा सा धक्का लगने से, दबने से नष्ट हो जाता है। और चौथी चीज यह है। (defectively packed)। मैंने देखा है कि कई मतवा रेलवे में लगेज (luggage) बुक (book) करवाने के लिये आदमी आते हैं। वह आदमी कहते हैं कि लगेज बुक करवाना है। तो लगेज वाला बुकिंग क्लर्क कहता है कि इसको अच्छी रीति से बांधो, इसमें यह ठीक नहीं सिला है इसमें वह कीजिये, वह कीजिये, और इस तरह बारदाने में सी कर दीजिये। लेकिन हमारे आदमी ऐसे होते हैं कि वह कहते हैं "भाई" लें लो और चार आने आठ आने दे दिये और वह आदमी फिर उसको ले लेता है। तो इस तरह की चीज यानी डिफेक्टिव पैकिंग वाली चीजों की सारी जिम्मेदारी हम रेलवे पर डालें तो मैं समझता हूँ कि वह बहुत बड़ा बोझ सरकार पर डालना होगा। इसका ख्याल हमें रखना चाहिये। मैं मानता हूँ कि जितनी जिम्मेदारी रेलवे पर आ सकती है उतनी तो जरूर आनी चाहिये लेकिन उससे ज्यादा जिम्मेदारी रेलवे पर डाल कर अगर हम यह ख्याल करें कि हम लोगो का भला करते हैं या फायदा करते हैं तो वह ठीक नहीं होगा। इस तरह तो हम लोगो को काहिल बनाते हैं सुस्त बनाते हैं। और इस प्रकार लोगो को आलसी बनाना ठीक नहीं है इस लिये मैं इस चीज का समर्थन करता हूँ और यह मानता हूँ कि जो हमारी विशिष्ट कमेटी ने पास किया है वह ठीक है।

पण्डित ठाकुरदास भार्गव : आप जो फरमा रहे हैं यह उसके खिलाफ है जो हमने सिलेक्ट कमेटी की मंजूरि से पास किया है।

श्री गोकुलभाई दौलतराम भट्ट : मेरी दलील खिलाफ है। अच्छी बात है। यहां जानवरों की कीमत के बारे में चर्चा हुई थी और मैंने खुद यह सुझाया था कि

उसकी कीमत बढ़ा दी जाय। लेकिन जब यह कहा गया कि जो कीमत हमने यहां रखी है अगर उस कीमत से बढ़ कर अमाउण्ट (amount) वाली चीज आयेगी, जैसे समस्त लीजिबे कि जो घोड़े की कीमत यहां रखी है उससे ज्यादा कीमत का घोड़ा हमारे लगेज (luggage) गुड्स (goods) के लिये आवे तो उस आदमी को इसके लिये अपना बिल वगैरह लाना पड़ेगा और कहना पड़ेगा कि उसका घोड़ा इतनी कीमत का है। अगर वह कहता है कि हजार रुपये का है तो उसे उतने रुपये की रसीद वगैरह बतानी पड़ेगी और फिर हजार रुपये के मुताबिक चार्ज भी देना पड़ेगा। तो मैंने मान लिया कि यह चीज यहां आ गयी है और इसमें बहस की जरूरत नहीं है क्योंकि एकट में इसकी गुंजाइश रखी गयी है कि यदि कोई आदमी कहे कि उसकी एक हजार की चीज है और हमने यहां २०० रुपये ही रखे हैं तो वह हजार रुपये १ इन्स्योरेंस (insurance) करा लेगा और उसके मुताबिक उसकी मुआवजा भी मिलेगा अगर वह चीज खो जाय।

इसमें एक बात और है। शायद इसमें ऊंट तो दाखिला हो गये हैं लेकिन दूसर जानवर जैसे शेर और रीछ वगैरह ऐसे जानवर जो अधिक कर के सरकस आदि के लिये ले जाये जाते हैं उनका भी कहीं उल्लेख हो जाता तो अच्छा होता। शायद यह दूसरे शब्दों में भी आ जाय जो यहां लिखे हैं 'अदर एनोमल्स' (other animal,) शायद इसमें उनका समावेश हो जायगा।

अब मैं कम्पनसेशन (compensation) के बारे में एक शब्द कहना चाहता हूं। हम लोग हमेशा आवाज उठाते हैं कि न्याय जल्दी से मिलना चाहिये। जब हम इधर समरी ट्रायल्स (summary trials) की तरफ जाते हैं

Shri Mahavir Tyagi: Justice should not be made cheap.

श्री गोकुलभाई दौलतराम भट्ट: तब तो फिर आप पंचायत वगैरह की बात ही छोड़ दीजिये और महात्मा गांधी की बात भी आप लोग छोड़ दें। जब हम कहते हैं कि कम्पनसेशन (compensation) के लिये एक कम्पनसेशन कमिश्नर (Compensation Commissioner) नियुक्त होगा और यह जल्दी से इसका फंसला करेगा तब हम उज्र उठाते हैं और कहते हैं कि नहीं, मामूली तौर से जो कोर्ट में अब तक चला आता है यही हक रखना चाहिये। मैं मानता हूं कि यहां जो संशोधन किया गया है वह बेहतर के लिये किया गया है और उसमें किसी को कोई नुकसान हुआ हो तो उसको जो मुआवजा मिलने को है वह जल्दी से मिलेगा। इसमें कोई शक नहीं है। दूसरी बात यह है कि इस विषय में यहां बहुत सस्त अल्फ्राज कहे गये हैं और पण्डित बाकुर दास जी ने जो आज तकरीर की वह भी पुरजोर थी और ऐसे

[श्री गोकलभाई दौलतराम भट्ट]

कहा जैसे वह कोई घोर विरोध कर रहे हों। और उनके मिनट आफ़ डिसेंट (Minutes of Dissent) में जो भाषा इस्तेमाल की गयी है "सैक्रिफ़ाइस आफ़ जस्टिस" (Sacrifice of Justice) ब्रगैरह, मैं समझता हूँ कि वह भी पसन्द करने के लायक़ बात नहीं है और ऐसे बजुर्ग़ आदमी से वह चीज़ निकलती है तो मुझे थोड़ा रंज भी होता है। खैर, उनका विरोध वह रख सकते हैं और चाहे उस भाषा में रख सकते हैं। मैं मानता हूँ कि अदालत के बजाय जो क्लेम्स कमिश्नर (Claims Commissioner) का सुझाव रखा गया है वह ज्यादा अच्छा सुझाव है। इसके साथ वह भी है कि तीन महीने के अन्दर ऐप्लीकेशन (application) करनी चाहिये। लेकिन साथ ही एक साल के लिये भी गुंजाइश रखी गयी है। अगर क्लेम्स कमिश्नर को मालूम हो कि यह आदमी बाहर का रहने वाला है, दूर देहात में रहता है और ऐप्लीकेशन पहले नहीं कर सका तो वह उस आदमी के हक़ को स्वीकार कर सकता है और इसके लिये एक साल की मीआद रखी गयी है। तीसरी बात यह है कि कई मित्रों ने भी इसको बताया है कि मामूली कोर्ट में एक आदमी अपना हक़ रखता है और वहाँ फ़ैसला करा लेता है लेकिन आखिर अपील तो हाई कोर्ट में होती है। तो वहाँ भी क्लेम्स कमिश्नर अगर कोई ग़लत बात करता है तो अपील हाई कोर्ट में होती है। तो ऐसी सूरत में मैं नहीं समझता कि कौन सा हक़ छीन लिया जाता है कि जिसके लिये इतना शोर व गुल होता है।

एक आखिरी बात मुझे वह कहनी थी और उस विषय में मैं अलग राय भी रखता हूँ लेकिन बाद में जो और मित्रों की राय थी उसको मैंने मान लिया। वह है धारा ११४। यह धारा सीजन टिकट (season ticket), हाफ़ रिटर्न टिकट (half return ticket) और सिंगल टिकट (single ticket) के बारे में है। मेरा वह ख्याल है कि आप चाहे जितनी पाबन्दियां रखें, चाहे जितना अपने क़ानून को सख्त बनायें, लेकिन जो चोरी करने वाले हैं, जो ग़लत इस्तेमाल इन टिकटों का करने वाले हैं वह तो करते ही रहेंगे। आप किसी तरह भी उनको नहीं पकड़ सकते। मैंने बम्बई में देखा है कि सीजन टिकट पर दस्तख़त कराते हैं। तो वह आदमी उसी तरह हू बहू दस्तख़त कर लेता था और जो आदमी पहले लेते समय दस्तख़त करता था वह इस तरह करता था कि दूसरा कोई भी आदमी उस तरह से दस्तख़त कर ले। तो आप चाहे जो भी करें, ज़रमाना या सज़ा चाहे कुछ रखें न तो कोई इसको पकड़ सकता है और न इन बातों से कोई फ़ायदा होता है। लेकिन मैंने इस पर इस लिये जोर नहीं दिया कि जो चीज़ चलती है उसको चलने दिया जाय। आगे जब हम सुघर जायेंगे तो इस चीज़ को निकाल देंगे क्योंकि वह बहुत ज़रूरी और आवश्यक चीज़ नहीं है। जो चीज़ चली आ रही है उसको नहीं बदलना चाहिये इस लिये भी मैंने इस पर जोर

नहीं दिया। लेकिन यह एक बात थी जो मैंने आपके सामने रखी है। विशिष्ट कमेटी ने इतनी ही बातें इसमें रखी हैं। इसलिये मैं मानता हूँ कि जो संशोधन रखे गये हैं वह ठीक रखे गये हैं और वह हमारी अंतर्ज्ञानी की भलाई के लिये ही रखे गये हैं।

(English translation of the above speech)

Sri Gokubhai Daulatram Bhatt (Bombay States): Sir, I welcome this Bill. I was also one of the Committee which amended this Bill. All of us signed the Report after careful consideration and after hearing the views of our hon. friend Pandit Thakur Das Bhargava. Now my hon. friend Mr. Naziruddin Ahmad is changing his views and he is feeling a great force in the arguments of Pandit Thakur Das Bhargava. He can surely change his views. But I have gone through his minute of dissent two or three times. I would like to say this much that it has not at all appealed to my mind and hence it could not affect my views.

I would like to say something in regard to two or three things which have not been particularly mentioned here. If my hon. friend Mr. Chaliha, who is not very much conversant with packing business, happens to go to Bombay side or visit Nagpur or any other place, where thousands of baskets of oranges, mangoes and other fruits are daily packed, and looks at these, then he will find that all the arguments which have been expressed here become nugatory. I do admit that slackness has crept in certain ranks of the Railway. The porters discharge their duty little more carelessly. But since the last few months, the mismanagement on the Railways is showing some marked improvement. This you have yourself stated here that the travelling on the Railways has become convenient now and the transport of goods also has been facilitated and the corruption too has somewhat decreased. I, therefore, say that a change has been made for the last four or five months. I cannot reply to the questions of every member individually. It is for the hon. Minister to do this. But I would like to refer to certain things for which the Railway is not responsible, and they are these: firstly, one who carries the goods on his own responsibility; secondly, the goods referred to in the Second Schedule which are valuable and such other articles which are liable to breakage, and for which the Railway Administration can never be responsible; and thirdly, the articles which are perishable, like fruits etc. The ripe *cheekos* perish even as a result of rough handling and stacking, and fourthly, defectively packed articles. I

3 P.M. have seen that very often persons come to get their luggage booked by the Railway. They say that luggage is to be booked. Then the luggage clerk tells them to pack it properly; points out that it is not properly sewn, asks them to do this or that and advises them to wrap it in a bag in a particular manner. But our people are of such a nature that they insist upon him to accept the consignment and grease his palms and he then accepts it. I, therefore, feel that if we put the entire responsibility for such sort of defective packing on the Railway administration, this would tantamount to imposing a huge burden on the Government. We should bear this in mind. I admit that the Railway administration should be held responsible to a specified limit, but if by thrusting upon it the responsibility beyond that, we feel that we are doing good to the people, then it would be a wrong notion. In this manner we encourage the people to become negligent, careless and idle and this is not a right method. It is, therefore, that I support this and confess that whatever the Select Committee has passed, is quite in order.

Pandit Thakur Das Bhargava: What you are saying is contrary to what we passed by a majority in the Select Committee.

Shri Gokulbhai Daulatram Bhatt: My views are to the contrary. It is good.

[Shri Gokulbhai Daulatram Bhatt]

During the course of the discussion on the valuation of the animals, I myself had suggested that it should be raised. But when it was pointed out that in the event of an article the value of which is more than the amount mentioned therein, for instance, when a horse carrying more value than that which has been specified here is tendered for booking, the consignor shall have to bring along with him the bill, etc., and make a declaration about the value of his horse. In case he declares that it costs Rs. 1,000, then that person shall have to produce a receipt etc. for that amount and further pay the charges on the basis of Rs. 1,000. Therefore I confessed that since this thing has been provided here, there is no need of entering into any discussion over it, because provision to this effect has been made in the Act that in case any person declares that his article carries a value of Rs. 1,000, and whereas we have specified only Rs. 200 here, then he shall have to get it insured for Rs. 1,000 and in case of the loss of the article, he shall have to be paid the compensation on the basis of that sum.

There is another thing in this. Perhaps camels have been included in it, but it would have been better if other animals such as tigers, bears, etc., which are mostly carried for the purpose of circus shows had also been mentioned somewhere. Perhaps this might be included in the words 'other animals' which have been mentioned here. They might be covered by these words.

Now I would like to say something in regard to compensation. We people always clamour that justice should be done speedily. When we provide for a summary trial here.....

Shri Mahavir Tyagi: Justice should not be made cheap.

Shri Gokulbhai Daulatram Bhatt: Then you should set aside the idea of Panchayat etc., and the ideology of Mahatma Gandhi too. When we say that a Compensation Commissioner shall be appointed to determine the compensation and he will hold a summary trial, then we raise an objection and say 'no', and assert that the long and established right to get compensation from the ordinary courts should be preserved. I admit that the amendment which has been made here is for good and if anybody sustains any loss on that score, then he shall get early payment of the compensation thus due to him. There is no doubt in it. Another thing is that very strong words have been used here in this connection and the speech delivered by my hon. friend Pandit Thakur Das Bhargava was also very forceful and he spoke as if he was opposing vehemently. I feel that the language used in his minute of dissent *viz.*, 'sacrifice of justice' is also not appreciable and I am a little pained when such a thing comes from a veteran like him. Well, he is at liberty to oppose it, and may, if he so desires, use such a language. I confess that the provision of a Claims Commissioner in place of a law court is a much better proposition. Along with this, provision has been made that an application should be submitted within a period of three months. But simultaneously it also stipulates the time-limit of one year. If the Claims Commissioner comes to know that a certain person comes from a way-side place, or lives in a remote village and thus could not submit his application before-hand, then he can entertain his claim and to cover such a contingency, the time-limit of one year has been laid down. Thirdly, just as many of my friends have also pointed out that a person has got the right to approach the ordinary law court and secure its judgment, but virtually the appeal lies to the High Court. So here also if the Claims Commissioner does anything wrong, then the appeal lies to the High Court. In such circumstances I, therefore, fail to understand what right is taken away for which so much hue and cry is raised.

Lastly, I had to say one thing and in that respect I also hold my individual opinion, but afterwards I acquiesced to the opinion expressed by my other

friends, and that is Section 114. This Section refers to season ticket, half of a return ticket and single ticket. I personally feel that whatever restrictions you might impose, how much rigorous law you might enact, but one who is habituated to commit a theft or misuse the tickets, he shall continue doing so. You cannot in any way detect him. I have seen in Bombay that people are required to sign on a season ticket. Then a certain person forges his signature in exactly the same manner in which the one who signed while purchasing the season ticket and the latter affixed his signature in such a way that this was susceptible of being forged. Therefore, you may do whatever you like, you may provide for a fine or imprisonment, neither can anybody detect them nor can any advantage accrue from such things. But I have not laid stress upon this for the reason that whatever practice is in vogue, it may be allowed to continue. In future when we are in a position to effect some improvement, we shall eliminate this thing, because it is not very essential and necessary. That the existing practice should not be changed is also one of the considerations which has induced me not to emphasize upon this. But this was one of the things which I have placed before you. The Select Committee have made a provision in it to this effect only. Therefore, I feel that the amendments which have been made, are quite in order and these are intended for the benefit of our people.

Dr. P. S. Deshmukh (C. P. and Berar: General): I am conscious, Sir, that there has been a prolonged discussion on this motion and I therefore want to be as brief as possible. I sympathise fully with the minutes of dissent of two hon. Members of this House and Members of the Committee, and I agree with the substance of their dissent. My friend, Pandit Thakur Das Bhargava has also elucidated his dissent by a speech with which also I agree. My hon. friend, Mr. Sharma probably did not wish to revise his former opinion and he, therefore, wanted to stick to what he had done in the Select Committee, but we had one brave hon. Member of this House who admitted the force of the arguments advanced on the other side and was prepared to confess a change of opinion, Mr. Naziruddin Ahmad. Sir, the whole matter, as Mr. Naziruddin Ahmad pointed out, is one of the burden of proof, as to who as a result of these amendments is going to be saddled with the burden of proof, so far as negligence is concerned. As he pointed out, the railway authorities are in the best know of the causes of the deterioration or loss and the burden should naturally be upon them and not upon the poor man who takes the risk of sending anything that belongs to him by the Railways. Mr. Gokulbhai Bhatt has said that if we do not have these provisions then we will be encouraging negligence on the part of the people. My submission is that if you leave the provisions as they are, you will be increasing the bad habits from which the railway administration now suffers. You will be giving a direct incentive to such bad habits. With the existing checks the administration of the railways is bad enough; if on the other hand by this amendment the burden of proving negligence is thrown on the consignors, the administration will tend to become worse. From that point of view I suggest that some, at any rate, of the amendments given notice of may be considered at the appropriate stage. For instance in proposed section 74A, and in sub-clause (3) of proposed section 74C, in spite of the fact that the railway authorities have special knowledge of the circumstances, the responsibility is thrown on the consignors. It will have very bad results.

So far as clause 15 is concerned, I am glad that Shri Gokulbhai Bhatt has admitted that there is no point in continuing this provision. In fact the amendment seeks to enhance the penalty. If he agrees to leave the matter as it stands then there will be no enhancement in the penalty brought about by this clause also. I would, therefore, like that any amendment to section 114 of the Railways Act should not be considered except for the addition of season tickets. Apart from that, there is an attempt to enhance the penalty. I do

[Dr. P. S. Deshmukh]

not think any fruitful result will be obtained by this. I for one do not think that we should try to frighten our people by enhancing the penalties and rectifying their morals by this means. It is all futile and would not do much credit to ourselves. From that point of view I would urge the withdrawal of this amendment to section 114.

So far as compensation payable for the various animals is concerned. Shri Gokulbhai Bhatt also admitted that the rates proposed were low. Not only that. The grouping of the animals has been very funny. For instance you will find that dogs, donkeys and birds have been grouped together and a minimum value of Rs. 30 for each has been fixed. I do not think there can be any comparison between a goat and a bird. Rs. 30 minimum value fixed is also low. The value of Rs. 200 fixed for mules, cattle and camels per head is also inadequate. I do not think any good cow or bullock can be purchased for such a low price. I think there should be a revision of the prices. I do not think people are in the habit of sending bad cattle for the sake of getting compensation from the railways. I do not think there is any truth in that allegation. There should therefore be a better classification and raising of the rates. From this point of view I would urge that the amendments of which notice has been given by Pandit Thakurdas Bhargava should be acceptable to the hon. Minister. By accepting these amendments he will not only be obliging the general public who use the railways and whose cause he used to champion, but he will also contribute to the improvement of the railway administration.

Shri Upendranath Barman (West Bengal: General): May I put one question to the hon. Minister, Sir? Clause 10 refers to the burden of proving misconduct. I find there that only in three cases is the Railway administration bound to disclose to the consignor how the goods were carried.

Mr. Deputy-Speaker: What is the question of the hon. Member?

Shri Upendranath Barman: I do not find any provision in regard to cases other than where the whole consignment or package is lost or is secured, covered or protected. In such cases will the railway administration be not responsible?

The Honourable Shri K. Santhanam: I may answer the last question first. Whenever an article is.....

Babu Ramnarayan Singh (Bihar: General): I have to say something.

Mr. Deputy-Speaker: I did not notice the hon. Member rising when I called upon the hon. Minister to reply. He may take his chance at the stage when the Bill is discussed clause by clause.

The Honourable Shri K. Santhanam: I may answer my hon. friend Mr. Barman first. The position is this: Whenever any article is sent by railway risk, even when the article is delivered at the other end and there is damage or loss, the railway is to disclose the particulars of its carriage and must be responsible for the loss unless it proves that it is not due to its negligence or anything. Similarly, when an article is sent at owner's risk or is lost then also the railway will have to say that the loss happened owing to an accident or fire or some cause beyond its control. Similarly in the contingency provided by (b). The Bill does not deal with articles sent by railway risk at all. The liability of the railway for articles sent under railway risk is not being dealt with in this Bill. That is the first point to be made clear.

Shri Mahavir Tyagi: So the liability is not altered now?

The Honourable Shri K. Santhanam: No. The onus of proof is on the railway unless it can show that it is due to causes beyond its control.

Now I will read from the opinion received from the Chambers of Commerce. I am reading from a letter dated 6th April 1949 from the Federation of Indian Chambers of Commerce and Industry: 'The Committee consider that the proposed changes would constitute an improvement on the existing position since they would enable the consignor who has executed a risk note to avail himself of the existing alternative owner's risk note'. I think they mean the forwarding note.

Pandit Thakur Das Bhargava: What is the meaning of 'the proposed changes'? What are they referring to?

The Honourable Shri K. Santhanam: In this letter the subject heading is 'Elimination of risk notes.'

Pandit Thakur Das Bhargava: I have also got something from that very body.

The Honourable Shri K. Santhanam: They have said something on the changes considered by the Select Committee. We are not concerned with the changes which they have suggested to the other sections. On this question of the general principle of eliminating risk notes they say that it would constitute an improvement in the existing position. Then this is from the Associated Chamber of Commerce of India whose composition you know and who will not be easy to accept any change in the responsibility of railways:

"The proposed modifications are in general welcome and acceptable."

Then they go on with some amendments to the clauses. Sir, before I proceed to answer some criticisms made, I would like the House to listen to me on this point. There is a great deal of confusion caused by my friend, Mr. Naziruddin Ahmad and following him by my friend, Dr. Deshmukh, saying that the onus of proof has been shifted. It is not at all the case. Now the position is that every time a man sends articles at owners' risk, he signs a risk note in which it is said that the railway will not be liable for anything unless misconduct is proved by the consignor or the consignee. This causes a great deal of harassment. My friend, Mr. Jaspal Roy Kapoor, spoke about corruption and difficulty of sending consignments. I say this Bill will materially reduce it. Today it is in the interests of the goods clerk and the parcel clerk to induce people to send things at owners' risk and sign the form. Some hon. members say that attestation is not legally necessary. It is quite true. There are many illiterate people and the signature may be denied and to safeguard themselves every railway station master, every goods clerk, insists that the consignor should bring two witnesses and he insists that the witnesses should be persons known to him. Therefore, in order to escape these difficulties, generally the consignor is tempted to pay a few annas so that the thing may be accepted. Hereafter it will be in the interests of the goods clerk to advise people to send things at railway risk because they will be able to show some increased revenue for the railways and they can say, "See, we have increased the revenues of the railways."

Shri Jaspal Roy Kapoor: Now they will save a few annas but lose the goods.

The Honourable Shri K. Santhanam: Again I say the railway are no more liable than they will be under the Bill. Everytime he signs a note now. Instead of that, he will only say whether he chooses to send it at owners' risk. Every time to ask every consignor to sign the forms is a waste of national time, national energy and national resources. I think the whole thing is a very cumbersome procedure. We are not altering the liability at all except to the extent that he has to prove misconduct or negligence.

Pandit Thakur Das Bhargava: The present law is that even if negligence is proved, the railway is liable.

The Honourable Shri K. Santhanam: I have not gone into the legal aspects of the case. The consignor signs a risk note saying that the railway shall not be liable unless he proves misconduct.

Mr. Deputy-Speaker: What hon. Member seems to want is that in spite of the risk note, the railway must be liable.

The Honourable Shri K. Santhanam: I am coming to that. Therefore so far as the existing liability is concerned, it is kept intact. There is no increased liability. There is no change in the onus of proof. Only instead of signing a useless document, people are free from harassment. Now, we come to the question of liability itself. Sir, so far as this question of changing the existing law is concerned, I can understand Members going into the general question of responsibility if we bring in a comprehensive legislation. Here this is a purely procedural Bill. It is not fair to ask that I must make a fundamental change in a procedural Bill. This is not the time to ask for it.

Then coming to 74A, sub-clause (2), Pandit Thakur Das Bhargava complained that the controlling authority will have power to make rules for packing goods. Today the position is that because there are no regulations on the subject, it is open to any station master or goods clerk to say that the goods are not properly packed. Therefore, if you lay down a general uniform basis, that will be the standard by which every man will judge whether his consignment is properly packed or not, and if the Station Master rejects the things, he will have a legitimate room for complaint. It is for the facility of the mercantile classes that we want this regulation. It will be a great convenience to them. Then, if somebody sends a leaky thing, it is open to the man to say that the leakage ought to have been only five seers and not 10 seers. Now, if the whole thing to be decided by a court of law, it has to be impounded, we must take the package to the court and then the court will decide after so many months or years whether the leakage ought to have been five seers or ten seers. This will make the railway administration come to a standstill. Otherwise we will have to have a court at every station which is an absolutely impracticable proposition. If a man sends a leaky package, he must take his chance. Otherwise the railways will simply refuse to take the package. Therefore the result will be that poor people who are not able to pack their things well will not be able to send their goods by railway or the railways will refuse to deliver the goods at the other end. In other words, it will be the business community that will suffer and not the railways. About the general administration of railways, hon. Members will have plenty of opportunities to discuss, and the defects of the general administration should not be brought in when we are considering the question of legal rights and responsibilities.

Take for instance the other clause 74 B. Ordinarily certain things should be carried only in covered wagons, e.g., sugar, salt, etc. The consignor wants a wagon. The railway says, "No covered wagon is available now. Please wait till we can provide you with a covered wagon." The consignor says, "Send it by an open wagon. It is only a dry season now. There is no risk of rains. Please move it in an open wagon to the destination." Then the railway could only carry that thing on the district understanding that if there is any damage or loss, the responsibility will be that of the consignor. Now Pandit Thakur Das Bhargava wants that the railway should prove that it was not due to its negligence or misconduct.

Pandit Thakur Das Bhargava: My amendment has nothing to that effect. In such cases the onus is on the consignor.

The Honourable Shri K. Santhanam: Anyone may say that the railway ought to have made an effort to save it and ought to have covered it with tarpaulin or something. In such case, the railways will refuse to give an open wagon. The railway would not suffer. The man knows that there is a 99 per cent. chance of the thing going to the destination safely. There is only one per cent.

risk. He willingly takes that risk. This is only a facility. It is purely optional. There is no compulsion about it. In that case for providing a facility at the instance of the consignor the railways cannot undertake a higher responsibility.

As regards clause 74D, I am afraid Pandit Bhargava has misunderstood the meaning of the words "the Railway administration shall be found to disclose to the consignor how the consignment or package was dealt with throughout the time it was in its possession or control." This is only another way of declaring a bailee's responsibility. We have put in these words, because they are there in the original Act and in similar railway Acts. We did not want to change the wording. No railway will undertake to make this disclosure, unless it is absolutely certain that no proof of negligence or misconduct can even be inferred, from such disclosure. Ordinarily the railway will pay the damage; but it is only when it is sure that it is due to accident or some other cause, it will take cover under this clause. Therefore it is an expression of bailee's responsibility. The wording is taken from the existing Act and I do not think that at this stage we should change it.

As regards accident claims I want to suggest that my hon. friends are mistaken in their enthusiasm for retaining the old common law liability. I put a specific question: What is to happen to the Railway if one son went to the Commissioner and another son went to a court of law? Neither Pandit Bhargava nor Mr. Kapoor tried to meet such a contingency. We are not asking anyone to lose their common law rights. Today the common law liability is that if you can prove negligence or failure of duty you will get some kind of damages. Now he has exchanged it for a certain right. Even a rich man may become poor in an attempt to prove that an accident is an act of failure or negligence. It is only in very rare cases that any accident can be proved as part of negligence. When a train is in motion the guard, the driver and other staff on the train value their lives as much as the passengers in the train do. It will be hardly possible to prove any negligence on their part. Regarding station staff their responsibilities are so clear that no station staff will ordinarily be failing in their duty and if they do they are liable to be prosecuted, dismissed or otherwise taken action against. Therefore in almost all cases it will be practically impossible to prove any negligence or failure of duty. Even the richest millionaire will get no compensation ordinarily. It is only in the extraordinary circumstance of his proving negligence or misconduct on the part of the railway that he will get anything. In exchange for that very vague and uncertain chance of getting a big lumpsum he today gets a certain sum of Rs. 10,000 without going to a court or proving anything whatsoever. He can say "I went by that train and there was an accident and therefore give me Rs. 10,000." If any gentleman thinks that his life is no precious that every time he travels by train he must cover his life for a larger sum, there are insurance companies to help him. Just as people insure themselves for an air travel he can do so for his train journeys by insuring himself for as many lakhs as he wants. The insurance companies will be glad to take his premium and insure him for as much as he desires. This provision is intended for the mass of the people of India. The railways are used by 100 crores of people. 99 per cent. of them will be glad to get Rs. 10,000 or part of it by a very quick and speedy process. Besides this, we cannot allow the railways to go before a court also whenever an accident happens. You cannot put on a public institution like the railways various kinds of liabilities which will distract them from their normal work. It is intended to do justice to the people and absolve the railways of responsibility, as soon as the Commissioner has done his work. I think it is a simple and rational process. We should not extend the liability.

I hope I have explained all the points. If the Bill is withdrawn, as I have said, except for some tons of paper every year and some additional work for

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the railway staff, the railways do not lose anything but the commercial community will lose a great deal and people who meet with accidents will lose the great facility which we want to give—a facility which is universally accepted as a necessary facility.

In conclusion I may also say that so far as this or any other Bill is concerned I have not changed by coming over to this side. In fact I have looked into it with the same eyes as I used to from there before and it is because I think the business community will gain by this process that we have increased the responsibility of the railway by fixing it in this way. Today it is open to the railway administration to lessen their responsibility further by changing the form of the risk note. Now it cannot be changed except by a change in the statute. In that way there is a fixation of rights and responsibilities. This ought to have been done by statute and it was rather wrong hitherto for the Government of India to have allowed these rights and responsibilities put down by the administration on a mere risk note, which had to be signed by poor people who could not understand it. Now the legislature is making the present position legal. Hereafter whenever any change is needed it is open to us to come to you and say that we will have to readjust our responsibility. It may be possible within the next two or three years to undertake a comprehensive revision of the Railways Act. When that comes about it will be open to Pandit Bhargava and others to raise the general question of responsibility and how far the responsibility should be further shifted over to the Railways. But this is not the Bill or the occasion to do that.

Shri M. Tirumala Rao (Madras: General): On a point of information, Sir, is it contemplated to frame rules for the guidance of the authority that fixes the compensation?

The Honourable Shri K. Santhanam: So far as accidents are concerned, any person who is injured in an accident will be entitled to compensation. Under the rules we are contemplating we will authorise the district magistrate or others in the case of minor accidents immediately to take action and award compensation. But where it is a case of a big accident we shall appoint special commissioners because the work may be heavy, a large number of people may be involved and it would not be possible for local officials to deal with it.

Shri M. Tirumala Rao: Is it contemplated to evolve a set of rules for the guidance of these people by the department itself?

The Honourable Shri K. Santhanam: Section 82J empowers the Central Government to frame rules. They will have to frame rules consistent with the rights and responsibilities conferred by the Act.

Dr. P. S. Deshmukh: The payment of compensation is likely to make accidents very attractive!

Mr. Deputy-Speaker: It remains to be seen.

The question is:

"That the Bill further to amend the Indian Railways Act, 1890, as reported by the Select Committee, be taken into consideration."

The motion was adopted.

Mr. Deputy-Speaker: The question is:

"That clause 2 stand part of the Bill."

The motion was adopted.

Clause 2 was added to the Bill.

Clauses 3 were added to the Bill.

Pandit Thakur Das Bhargava: Sir I move:

"That in clause 5 of the Bill, in clause (b) of sub-section (1) of the proposed new section 41 of the Indian Railways Act, 1890, for the words 'is charging station to station rates or wagon load rates which are unreasonable' the words 'is charging unreasonable rates', be substituted."

Sir, the Act of 1948 made this change and the tribunal was invested with powers to interfere when the railways were charging unreasonable rates. The relevant portion of section 41 enacted in 1948 reads:

"Any complaint against a railway administration, or jointly against two or more railway administrations, that such administration or administrations—

- (a) is or are contravening the provisions of section 28; or
- (b) is or are charging—
 - (i) unreasonable rates, or etc."

Therefore you will be pleased to see that under section 41 the words are absolutely clear and unambiguous that in case of a complaint in respect of unreasonable rates the Tribunal shall have the power. This power is now sought to be taken away by this amendment in clause 5 of the Bill where the words "station to station rates or wagon load rates which are unreasonable" are sought to be substituted in their place. Thus the work of the Tribunal is sought to be circumscribed. At the consideration stage I stated that no material has been provided to us as to why these words should be changed. So far as the question of the Tribunal is concerned, I have more confidence in the Tribunal and Government also seems to have that confidence in the Tribunal as they have enacted the law in 1948. Nothing has happened since then to lead us to think that we had made a mistake then and that we should rectify it now. As a matter of fact the claim has been made in the Select Committee Report that it is the doubt in the interpretation of section 41 which is now sought to be removed by virtue of this clause. To my mind the interpretation of these words is quite clear. They do not admit of the interpretation which is sought to be placed upon them by the Select Committee. I therefore submit that this amendment be accepted.

The Honourable Shri K. Santhanam: Sir, it is a pity that we have to discuss this matter which was elaborately discussed in the Select Committee. Under section 42(2) of the Indian Railways Act it is stated:

"The Central Government alone shall have power.—

- (a) to increase or reduce the level of class rates, schedule rates and terminal and other charges.
- (b) to classify any commodity which has not been classified before."

This power is given exclusively to the Central Government. Under this clause, as it was in section 41(b), a complaint can be made where the administration or administrations are charging unreasonable rates. But it is the business of law-making to make the position unambiguous and clear. In section 42(2) this question of level of class rates is given exclusively to the Central Government. We did not want that so far as the level of class rates is concerned it should go to the Tribunal. It is only station to station rates or wagon load rates or the question whether a particular article should be put in a particular class or in another class which are matters for the Tribunal. So we have tried to take this opportunity of making the position clear. Our legal advisers say that this is the meaning but that there is a little ambiguity in the words "unreasonable rates". Some people, as you know, Sir, are fond of litigation and they may go to the Tribunal and begin to argue that an "unreasonable rate" may include the level of class rates also. It is to avoid that ambiguity that the position is made clear. I do not think there is any change whatsoever in the provision.

Mr. Deputy-Speaker: May I know if the hon. Member wants to enlarge the scope of the powers of the Tribunal?

Pandit Thakur Das Bhargava: The powers are already contained in section 41 in the Act of 1948. I do not want to enlarge them. On the contrary the new Bill seeks to shorten those powers.

Mr. Deputy-Speaker: The hon. Minister feels that the revision of class rates, schedule rates and terminal and other charges was in the peculiar jurisdiction of the Central Government, that the Tribunal had nothing to do with it and that he is only clarifying the position. But if the hon. Member says that the meaning is otherwise and that this is unnecessary it is another matter.

Pandit Thakur Das Bhargava: Sir, there were some legal authorities existing when the Bill was passed.

The Honourable Shri K. Santhanam: There was no authority at that time.

Pandit Thakur Das Bhargava: Sir, after all there is no justification why a Tribunal should not be given these powers. The Tribunal has been given the other powers in section 41. There is no reason why the power should be taken away from the Tribunal when once they have been given the powers. Let them change section 42.

Mr. Deputy-Speaker: The hon. Minister said that they never exercised these powers but to clear any doubt in the interpretation of the section he is giving the details "station to station rates or wagon load rates which are unreasonable etc."

Pandit Thakur Das Bhargava: Of course no Tribunal exercised the powers under section 41 before because though the powers were granted originally the Tribunal came into existence by virtue of the 1948 Act. I don't see any reason why these powers should be taken away.

The Honourable Shri K. Santhanam: It is not a question of taking away any powers. But my friend wants the ambiguity to continue so that the power may be extended by the Tribunal. I do not want that ambiguity to continue and I do not want to bring in another Bill to remove that doubt.

Mr. Deputy-Speaker: The hon. Minister is not willing to accept the amendment. Does the hon. Member want to press his amendment?

Pandit Thakur Das Bhargava: If he is not accepting it, I need not press it.

Mr. Deputy-Speaker: The question is:

"That clause 5 stand part of the Bill."

The motion was adopted.

Clause 5 was added to the Bill.

Clauses 6 to 9 were added to the Bill.

Pandit Thakur Das Bhargava: Sir, I beg to move:

"That in clause 10 of the Bill, in sub-section (1) of the proposed new section 74A of the Indian Railways Act, 1890, for all the words occurring after the word 'destination', the following be substituted:

'directly resulting from such defective condition or defective packing'."

In regard to this amendment I have to submit that whereas it may be quite true, as Mr. Santhanam has contended, that in the owner's risk notes certain provisions were there which may have been substantially the same as those which are contained here, it is absolutely clear, as is borne out by the speeches of the other hon. Members, that when these owner's risk notes are got signed by the consignors the consignors never read them. It is well known that they are written in such style that no consignor can read those notes. It is only

when the matter comes to court that they are read by lawyers and interpretations are placed on them. All the same, if my hon. friend Mr. Santhanam, as he has expressed, is the same Mr. Santhanam as before—and I have no doubts in the matter, we have the same confidence in him as we had before; he has certainly not changed, in this matter also—he could have, if he liked, shortened the responsibility of the Railways still further, I know that—all the same I would respectfully beg of him to consider that there is no difference between a procedural Bill and a substantive Bill. When the matter is brought to your notice why should you wait till Doomsday when you will have a comprehensive rectification of the whole railway law? If he agrees with the remarks of the other members in regard to the question of onus of proof let him have the courage of his conviction and make up the deficiency in this Bill. I can never imagine that Mr. Santhanam can have any less desire in safeguarding the rights of the public than we members have here. As a matter of fact we look up to him for safeguarding these rights. If our interpretations are correct and our fears are not unfounded I would beg of him not to give more weight to this one aspect namely that it is a procedural Bill but to look to the substance. This has come before the Assembly though it was implicit before, but now it is explicit that the owner's risk note is certainly a piece of artistic fraud, I should say. People do not understand what the responsibilities are. We always think that the goods booked will always reach their destination, whatever is contained in the note. It is only when the thing is stolen that one remembers the risk note he has signed and he is taken aback, I should say. He does not know what he has signed. Let us be quite fair, let us look at the question in a square manner. If the law has imposed a responsibility on the Railway under section 72, let us live up to that responsibility. What does it matter if you take signatures from a man while you know full well that it does not carry his consent? Mr. Santhanam knows too well how these signatures are taken. I don't accuse Mr. Santhanam of trying to have a dig at us in bringing forward this Bill. As he says it may probably be perfectly true that the provisions of the owner's risk note were already there. But now you want our consent to these measures which we cannot agree to. The provisions may have been there and the people may not have cared for them—it is folly to be wise when ignorance is bliss. But now the thing has come to us for our consent. I ask, is there any Member in the House who can agree to this lessening of the responsibility of the Railway as compared to the responsibility under Section 72? It should not be the policy of the Legislature that the Railway may be armed with such large powers that there may not be any responsibility even if negligence were proved? If we go to the original principles and the facts as they are and the equities as they should be, then we have to come to the conclusion that something is rotten in the present day policy of the Legislature or the present day practice of the Railway Administration. I therefore submit that instead of taking shelter in saying that previously the practice was this, he should, if the practice was bad, now take away this Bill and bring another Bill. Why wait for five or ten years? If the thing is wrong today, it will be wrong tomorrow. Mr. Santhanam said I am really attacking the principles of the Railway administration. That is perfectly right. I said so in the Select Committee also. When the Bill is before us if we put our imprint on it, then it is our imprint for all time. If we subsequently bring another measure of this kind then there will be the difficulty that we agreed today. What is the justification for saying that now we agree and after two years we won't agree? How can the question of the principle of Railway administration be differentiated from the procedural question? I would go to the original principles and have my say on the matter and tell Mr. Santhanam that though he may be right on the technical point that previously this law was there, so far as the moral question of the justifiability of this is concerned, I do submit that he is not justified in bringing forward and getting this measure passed by the House.

[Pandit Thakur Das Bhargava]

He said the business people were in his favour. 'I have got here the opinion of the Federation of Indian Chambers of Commerce and Industry. I do not want to take much of the time of the House by reading it—it is a long document. They sent it to all Members of the Select Committee, and in regard to Sections 74A and 74D their opinions are substantially the same as what I have submitted. They may have agreed to the elimination of the risk notes. "Take away all your risk notes. I pay you the hire which you demand and I demand that I get my things at the destination". That is the right thing. The Federation may agree to abolish the risk notes but so far as the responsibility is concerned, this is what they say:

Clause 74A.—This Clause provides that when goods tendered for carriage by a railway are in bad condition or are defectively packed, the Railway Administration shall not be responsible for any damage, leakage, wastage or any loss arising from the same except upon proof that the loss was due to misconduct on the part of the Railway Administration or any of its servants. In this connection, the Committee are informed that, under Risk Note Form A, which has to be executed by the consignors, the consignor has to declare, in case the railway considers the goods to be defectively packed or in bad condition, the packing of goods to be as such, and that the consignor undertakes to hold the Railway Administration harmless and free from all responsibilities for the condition, in which the goods may be delivered to the consignee. It may be pointed out here that when the consignors are asked by the railway to give the necessary remarks in regard to the packing conditions in the forwarding note, the consignors, even though the materials might have been securely packed, cannot protest because in case they do, they stand to lose the wagon space and thus take the risk of the goods being delayed. It is very difficult, if not impossible, for the consignors to prove that the loss during transit was due to misconduct on the part of the Railway Administration or any of its servants. The consignors have practically no means to prove the misconduct on the part of the Railway Administration. It is, therefore, suggested that, instead of consignors having to prove that loss or damage was due to misconduct on the part of Railway Administration, it should be the responsibility of the latter to prove that loss or damage was directly attributable to the conditions noted in the Forwarding Note."

That covers exactly the amendment which I have suggested. If the goods are defectively packed, then as my friend Mr. Krishna Chandra Sharma stated, if the Railway accepts goods which are defectively packed, then they are as much contributive to negligence. Why should they accept these goods? If they accept these goods, then the very argument which my friend raised regarding contributive negligence comes in. One contributive negligence is equalled by the other and the principle of section 72 should hold the field. In the present condition all that is required is that when goods that are defectively packed deteriorate or are damaged due to the defective packing, then the responsibility must be laid at the door of the consignor. But if the Railway have failed to take that caution and care which the law imposes on them, there is no occasion for our saying that the whole effect of it, to whatever cause the loss is due, should be laid at the door of the consignor. The Railway should accept that responsibility and discharge it. In my amendment I only say that these words may be inserted:

"directly resulting from each defective condition or defective packing."

I don't mention the consignor there, but all the same because the goods are defectively packed there is no occasion for the Railway to come up and say, "We are absolved from all our responsibility". There is no earthly connection between the two. If the goods are bad and become worse owing to defective packing, the consignor takes the consequences. But it does not mean that the goods were bad and therefore the Railway can play with them and deal with them in any manner. The defectiveness of the thing has no relation to theft etc. In matters like this when it is a question of policy, the law should be clear that the logical consequences of bad packing may be laid at the door of the consignor but there should not be a premium on acts of misconduct and negligence.

Sir, my submission is that this amendment be accepted.

The Honourable Shri K. Santhanam: Sir, I don't know if you would permit me to begin again to explain the entire principles on which the Bill is based. According to Pandit Thakur Das we cannot bring in a minor Bill at all. Sir, when we bring in a minor Bill to rectify certain defects, we cannot go into the larger questions every time and take out everything by the root and put everything in anew. The Railways are a very complicated undertaking. I don't think even Pandit Thakur Das will claim that when things are delivered in a defective condition the Railway should be responsible for the entire loss. On the other hand, he may ask why the Railways should take goods in a defective condition. Unfortunately, as my friend Mr. Gokulbhai Bhatt has explained, a large number of people in this country have not got the mechanical means of regulation packing; they pack in the manner which is just available to them. Either you must say that however defective it may be, the Railway should automatically accept the goods and take the full responsibility. Then everybody will bring leaky tins and claim for the full tin at the other end, which is not possible and which no Railway will accept, or when a defectively packed thing is given the Railways may refuse to accept, in which case all the people, especially the rural people, will suffer tremendously. Therefore, the present provision is a *via media* which circumstances have practically forced on the Railways. If between two ideological extremes we forget the actual existing conditions, I do not think we shall be doing any good. As regards this particular amendment, I have already explained how it is absolutely impossible to enforce it. When there is some defective packing and there is some loss, what is the procedure by which we can determine that so much of it is directly due to the defective condition of packing and so much to other causes? If the thing is delivered then there is no proof; if it is not delivered then it deteriorates. So, in a thing which is moving, which has to be delivered as soon as it arrives at the destination, it is impossible to enforce this amendment. If you put it in, it will either force the Railway Administration to stop taking defectively packed things, or at the other end no stationmaster will deliver any goods unless the consignee gives it in writing that everything arrived in safe condition. Otherwise, he will say, "Go to a Court and establish to what extent the loss is due to defective packing" and will then keep the goods in the railway goods shed. I do not think that is what Pandit Thakur Das wants.

4 P. M. I think if any businessmen in this Assembly are consulted, they will know that this particular amendment is wholly impracticable.

Mr. Deputy-Speaker: If the Assembly wants to discuss this amendment, I will put it formally before the House.

Shri Prabhu Dayal Himatnagar (West Bengal: General): I just want to ask one question of the hon. Minister. I want to draw his attention to the fact that certain booking clerks make a note on the railway receipt even when the goods are properly packed—"insecurely packed—liable to damage".

The Honourable Shri K. Santhanam: I may cut that question short by pointing out that under this Bill, the sender has to make the statement saying that it is defectively packed. Unless the sender's signature is there, no railway clerk will be allowed to say it is defectively packed or anything. "Has been recorded by the sender" is the exact wording.

Mr. Deputy-Speaker: What is the object in obtaining the signature of the sender if in addition he has to prove that there is negligence on the part of the Railway?

The Honourable Shri K. Santhanam: It is not open to the Railway to declare a package defective. It is only when the sender accepts that it is defective.

Shri Mahavir Tyagi: The sender will never sign it. He will refuse to sign it.

The Honourable Shri K. Santhanam: If he does not sign it, then the Railways may refuse that package.

Sardar Bhopinder Singh Man (East Punjab; Sikh): Who is the authority to say that it is defectively packed?

The Honourable Shri K. Santhanam: It is only where there is agreement between the Railway and the consignor that the consignor will agree to endorse it. If there is a dispute, it is open to the consignor to appeal to the higher officials saying that it is packed according to regulation, yet it is being refused, and then the higher official, if he is convinced, will ask the railway official to accept it. It is all very difficult in administration, but we cannot change the morality of railway administration by provisions in this Bill.

Shri Mahavir Tyagi: Does the hon. Minister seriously feel that a consignment on which the consignor has certified that it is not properly packed will really reach the destination? He might much rather send it by money order.

The Honourable Shri K. Santhanam: According to 74-D a consignment even if it is defectively packed must reach the destination.

Shri Mahavir Tyagi: Whether the contents are there or not? The package will reach without the contents.

The Honourable Shri K. Santhanam: If he says it is defectively packed and there is some leakage, then we cannot help it. I do not see what we can do in the matter.

Mr. Deputy-Speaker: It seems to be the state of the law at present that whatever might have been done, the burden is upon the consignor to prove negligence on the part of the Railway Administration. The hon. Member evidently wants to know why the hon. Minister is so anxious to continue a clause which does not seem to be fair, proper or reasonable.

The Honourable Shri K. Santhanam: I explained that the question of Railway responsibility is a big issue which is being debated in all other countries. I cannot give an undertaking off-hand to overhaul the entire question of rights and responsibilities. As I said, in the case of defective packing, to put the whole burden on the railway for all losses will be unfair to the public and public revenues. This is a matter which has to be investigated by a proper enquiry committee and when the Railway Act comes for revision that will be the proper occasion to discuss this question. We cannot simply throw enormous burdens on the railways which they cannot undertake. I am only continuing the *status quo*. The only difference is there would not be any risk notes. The responsibility which is now lessened by risk notes is provided in the Statute itself. That is all that the Bill does.

Shri Mahavir Tyagi: Why not make the responsibility fifty fifty.

Mr. Deputy-Speaker: Let there be no talk across the Benches. In view of the fact that the hon. Minister thinks this is a procedural matter and contemplates bringing forward a Bill later on after sufficient investigation, may I know if the hon. Member would insist upon putting his amendment to the House?

Pandit Thakur Das Bhargava: I leave it to you, Sir.

Mr. Deputy-Speaker: Personally I am not in favour of this clause, but that is another matter.

Shri B. Das (Orissa; General): Better place it before the House. You can tell the Minister. He is here.

Mr. Deputy-Speaker: I cannot interfere in a matter of this kind. All that I can do is, whenever there is an occasion, where the substance is not carried out by form, I can suggest to the hon. Minister what the other Members have in mind, but when it is clearly a matter involving substance, I cannot interfere. I have no right to do so. Therefore the amendment is not pressed.

Before I call upon the other amendments of Pandit Bhargava, which I find are all of the same level, I may mention that notice of an amendment to sub-clause (1) of this clause has been received at 10.45 a.m. this morning from Sjt. Chaliba and Shri Lakshminarayan Sabu. Is the hon. Minister agreeable to accept it?

The Honourable Shri K. Santhanam: I have not got a copy.

Sjt. Kuladhar Chaliba: It was given yesterday, Sir.

Mr. Deputy-Speaker: No. Notice was received this morning at 10.45 a.m. But if the hon. Minister is agreeable to accepting it, there is no harm. I will allow it.

The Honourable Shri K. Santhanam: I have just now seen the copy of the amendment. It is very similar to one of the amendments tabled by Pandit Bhargava. It simply puts into one clause all the questions of legal responsibility which Pandit Bhargava has been explaining so many times.

Mr. Deputy-Speaker: I quite agree with the hon. Minister. It covers the same ground as the amendment of Pandit Thakur Das Bhargava. There is no difference except that it puts the same point in different form. I rule it out. Pandit Bhargava may move his amendment.

Pandit Thakur Das Bhargava: Sir I beg to move:

"That in clause 10 of the Bill, in the proposed new section 74B of the Indian Railways Act, 1930, the following words be added at the end:

'except upon proof of negligence or misconduct on the part of the railway administration or of any of its servants.'"

I do not see how this amendment also can be objected to. After all, it is quite clear that 74B visualises that the person whose goods are carried has agreed. If such goods as would ordinarily be sent in closed vehicles are sent at the request of the consignor in open vehicles and if there is deterioration or damage or destruction caused in transit, the consignor takes the consequences. But if there is any misconduct or negligence on the part of the Railway Administration, my submission is that there is no use trying to give protection to the railways simply because the burden of proof is upon the consignor. So far as the question of negligence is concerned, the hon. the Mover of the Bill said that the risk notes only speak of misconduct. But so far as the legal position is concerned, if negligence is proved, the Railways are as much liable as in the case of misconduct.

The Honourable Shri K. Santhanam: May I point out that so far as risk note in covered wagons, is concerned, there is no misconduct or anything? It is absolute as it is.

Mr. Deputy-Speaker: Why?

The Honourable Shri K. Santhanam: So far as covered wagons are concerned, if a person sends by open wagons what should be sent by covered wagons, railways under the present risk note do not take any kind of responsibility. We are only continuing the same position.

Pandit Thakur Das Bhargava: May I just give an example? Supposing sugar or wheat is sent in open wagon and there is theft while the trains are moving. The railways do not appoint any watchman. No protection is

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given. No precaution is taken. Supposing there is no tarpaulin used for protecting the wagon, it is negligence on the part of the railway. Suppose the Station Master himself, after loading takes to his house four or five bags of sugar. It is clearly misconduct. My submission is that in the case of occurrences of this nature, there is no reason why a consignor who puts his signature only because he agrees in a state of helplessness to see his goods carried should undergo loss. By reason of the goods being carried in open wagon, I can understand that it must not be the responsibility of the Railways, but in regard to misconduct or negligence the railway cannot be protected.

Shri C. Subramaniam (Madras: General): May I point out that it only says:

"...the railway administration shall not be responsible for any destruction, deterioration or damage which may arise by reason of the goods being so carried."

As far as the other liability by negligence or misconduct is concerned, it is always there. It is not abrogated. I do not see how it is abrogated.

Pandit Thakur Das Bhargava: I wish the interpretation of the hon. Member had been accepted by the Mover of the Bill.

The Honourable Shri K. Santhanam: It is not my business to interpret the law. This is the present position. We cannot afford to change the existing position for the simple reason that we cannot take the entire responsibility on ourselves. Suppose valuable items like wheat, rice, sugar, or even salt, are sent by open wagons. It is not possible for us to post armed guards to every wagon. It is even just possible that the goods may be pilfered in the process of shunting, or at a wayside station. It is humanly not possible for the Railway administration to post guards at every place.

The result of the amendment proposed by Pandit Thakur Das Bhargava would be that Railways will be instructed not to allot open wagons and the people will suffer. It is not obligatory on the part of anyone to send their goods in open wagons. It is only in certain contingencies—for instance where a man wishes to have his goods moved quickly rather than storing them—that a man takes the risk of sending them in the open wagons. Therefore, by putting more responsibility on the Railways the public get less facilities. That will be the result. We for our part don't want that to happen. But when once the Railway has to pay more damages, naturally the Railway Board will pull up the Railway Administrations and ask them why their damages are mounting up. We would, therefore, ask them not to take any unnecessary responsibility.

We are not bound to supply open wagons—there is no liability on the part of the Railways to do that. We do it just to help the consignor. If you want to make the Railways responsible, we won't help the consignor—that is all.

Pandit Thakur Das Bhargava: When questions of that kind go before the courts and there is a question of interpretation of the onus, the conditions which are contained in the risk note are not absolute. The courts have to pronounce whether the conditions that are laid down are good enough or not. It appears that there is no mention of negligence in that owner's risk note relating to section 74B.

The Honourable Shri K. Santhanam: In any case we have included negligence in this. Therefore the point does not arise. So far as the present Bill is concerned, we have not changed the position as it was. We have simply kept the position intact.

Prof. N. G. Ranga (Madras: General): What is the position, Sir? Does the amendment that is sought to be made by the hon. Minister help those people who wish to send their goods to some other place, or does it worsen their position?

The Honourable Shri K. Santhanam: It definitely helps the consignors. Suppose a merchant wants to move some commodities in summer and there are not sufficient number of covered wagons available. The consignor welcomes the idea of despatching them in open wagons.

Pandit Thakur Das Bhargava: Why, people utilise open wagons in winter and even in rainy seasons because they are helpless.

The Honourable Shri K. Santhanam: How can we remedy the helplessness of a person if we have no wagons.

Shri H. V. Pataskar (Bombay: General): The Railways do have wagons, but do not allot them.

The Honourable Shri K. Santhanam: Sir, I think it is a wrong allegation to make that the Railways have got covered wagons but do not supply them to the public.

Shri H. V. Pataskar: When a man agrees to send his goods by open wagons, it is because closed wagons are not available. Having accepted that position, naturally the normal liability for negligence ought to be on the part of the Railways.

The Honourable Shri K. Santhanam: According to the interpretation of Shri Subramaniam that responsibility is there.

Shri H. V. Pataskar: Sir, the wording used here is "by reason of the goods being so carried." Suppose somebody steals the goods *en route*. It will be open to the railways to argue that it happened because the goods were carried in an open wagon.

The Honourable Shri K. Santhanam: I am inclined to think that the hon. Member's interpretation is probably a more correct one. But does the hon. Member want that open wagons should be systematically refused to everyone? That will be the result. I do not think any businessman wants that to happen.

Pandit Thakur Das Bhargava: All that we want is that the statutory liability of the Railways should be continued. Suppose the loss happened not because it was carried in an open wagon, but because of ordinary negligence on the part of the Railways, then the Railway Administration should be made liable for payment of compensation.

The Honourable Shri K. Santhanam: The word "negligence" is too wide a term. When things are carried in an open wagon, unless we put an armed guard in every wagon, the consignor may say that we have not taken proper care. A man who takes the risk of sending a thing by open wagon should take the responsibility for it. The entire responsibility of sending a thing by open wagon should squarely rest on the consignor. Otherwise we will have to issue a fiat order to all the Railway Administrations "Never give open wagons; for goods ought to have to be sent by covered wagons." That will only harm the business community.

Shri H. V. Pataskar: Or at least the hon. Minister can accept an amendment to the effect "merely by reason of the goods being so carried."

The Honourable Shri K. Santhanam: That will only make the clause wider and I am not prepared to accept it. My own feeling is that when a consignor chooses to send his goods by an open wagon, he must take all the incidental responsibilities.

Mr. Deputy-Speaker: Does the hon. Member wish me to put his amendment to the House?

Shri Raj Bahadur (United State of Rajasthan): Sir, the hon. Minister just now observed that he is not bound to interpret law here; but he is definitely bound to interpret and explain the Bill that is before the House.

Mr. Deputy-Speaker: The language that has been used in a Bill which has been sponsored by a Minister ought to be explained by a Minister.

The Honourable Shri K. Santhanam: I have already explained that according to my interpretation, the entire responsibility for any damage rests on the consignor. I am prepared to stick to the words—that is the meaning according to our legal advice—and if the court interprets it otherwise I am not responsible.

Mr. Deputy-Speaker: The hon. Minister must make his point clear. The hon. Minister said that it is open to the interpretation which Mr. Subramaniam had suggested. Instead of having these two interpretations and leaving it to the courts to decide, it would be better if the hon. Minister makes up his mind and says that where a consignor chooses to send his goods in an open wagon the responsibility is his irrespective of the reason of the loss or damage; that notwithstanding anything that may happen, irrespective of any negligence, the Railway administration is not liable to any damages. Illusory and indecisive language ought not to be allowed in the House.

The Honourable Shri K. Santhanam: With due respect to you, Sir, we have to take the opinion of our legal advisers and frame our Bill according to their advice. According to their advice the meaning is clear. I cannot, however, prevent the courts from interpreting any law according to their discretion. We can only do the best according to our lights.

Prof. N. G. Ranga: In view of this prolonged discussion that we have had first which later on degenerated into a multi-lateral one, may I suggest, Sir, and in view also further of the fact that the whole issue hinges or hangs on just that one word 'only' whether it should be inserted or not, may I suggest that the further discussions on this Bill may be postponed till tomorrow, so that the Honourable Minister as well as the Members concerned may have another opportunity of discussing this matter, without any heat and may be able to come back again to this House with some solution which would be more generally agreeable to this House?

Mr. Deputy-Speaker: I would like to know what is the reaction of the hon. Minister.

The Honourable Shri K. Santhanam: Of course, if the House wants, I cannot object to it, but I do not think there is any purpose going to be served because I am not prepared to extend the responsibility of the Railway. If hon. Members want to make it clear, it will restrict it further and if the House is prepared, I have no objection.

Mr. Deputy-Speaker: If there is any purpose in negotiating, I would like to allow this Bill to stand over.

The Honourable Shri K. Santhanam: Mr. Alladi Krishnaswami Ayyar says the words "by reason of the goods being carried" may be omitted.

An Honourable Member: But it will make the thing worse.

Mr. Deputy-Speaker: I would like to know the sense of the House Order. As the Bill is set out here, it is more a procedural Bill and it raises a number of points here though it has emerged out of the Select Committee. I find a number of amendments have been tabled and a number of hon. Members are taking part in it. If it is the wish of the House that it should stand over so that overnight there may be some negotiations regarding this, I have no objection.

Some Honourable Members: Yes.

Mr. Deputy-Speaker: Then this clause will stand for consideration tomorrow. There are no amendments to clauses 11 and 12.

The question is:

"That clause 11 stand part of the Bill."

The motion was adopted.

Clause 11 was added to the Bill.

Clause 12 was added to the Bill.

Pandit Thakur Das Bhargava: Sir, I beg to move:

"That in clause 13 of the Bill, the proposed new section 82H of the Indian Railways Act, 1890, be re-numbered as sub-section (1) and the following new sub-section be added as sub-section (2):

- (2) Nothing contained in the preceding sections relating to the right of any person to claim compensation shall affect the right of any person or his heirs to maintain an action and recover damages from the railway administration for any injury or loss which he or his heirs, in case of his death, may have sustained on account of any accident or collision between trains on account of the wrongful act, neglect or default on the part of the railway administration or of any of its servants, except in cases where application for such compensation has been made and decided on merits by the Claims Commissioner."

As already submitted for the consideration of the House this is one of the main objections that I had to this clause. When the section 82(a) was considered in the House, as I submitted already, some speeches were made by Mr. Latchand Naval Rai and Sir Cowasjee Jehangir and then the speech of the hon. Member who was in charge of the Bill was also made but in all these discussions this point was never brought out that as a matter of fact the Bill is taking away the right and with your permission I may just quote you, when we were considering another Bill, in respect of this matter, you were pleased to bring out this point at the time that section 82(a) did not take away the common law right of every person to claim damages against the Railway in such cases. Now, if you kindly look at the provisions of 82(a) and the proceedings of the Assembly at that time, it would become quite clear that it was not the intention of 82(a) to take away the ordinary common law right of the citizen in respect of such loss or injury. Now, Sir, section 82(f) (5) and this section give rise to a necessary implication that if this amendment is not made, it will take away the rights of the ordinary citizen. It may be that my interpretation may be wrong, but I am supporting this interpretation because the hon. Mover of the Bill when he replied at the consideration stage, did not accept the fact that this Bill does not take away that right. On the assumption that if this amendment is not accepted then the right will be taken away, I beg to submit that the reasons advanced by the hon. Mover of this Bill in regard to taking away the rights are not sound. It was said in the first place that it is only one case in a lakh of cases in which such a claim is made. I join issue on this matter. I am a student of law. I have seen many cases going to courts and even to the high courts, wherein decrease were made in respect of such injury or death. It is not unoften that a person goes to a court of law

[Pandit Thakur Das Bhargava]

and gets his decree. In all cases where such cases came to the court before the question of section 82(a) came, there was of course a decree on merits. It is wrong to say that it was not brought. The simple question is that in case a person claims more than Rs. 10,000 and wants to establish the right by mere common law and brings his case after three months or more, should he be denied this right? The only reason that has been advanced by my hon. friend is that if both these cases co-exist, that is the right to claim from a Claims Commissioner as well as a right from the court, there will be multiplicity of proceedings. I do not think that it is beyond his ingenuity to find out a way. If a person claims here, his rights can be considered here and if in another place he claims certain things there is nothing wrong in it.

I like this provision only because it is a speedy remedy and there is an arrangement for an interim compensation but at the same time it does not mean such provision should take away the rights of the common man which he has been in enjoyment for a number of years. May I enquire what the position was before section 82A was enacted and why has this provision of Claims Commissioner come after such a long time, if the Railway Act was enacted in 1890. This rule or this right which the people have enjoyed for a long time should not thus be taken away summarily and there is no reason why it should be taken away. You can benefit the people if you want to benefit them by speedy proceedings and in a summary manner but any person who agrees to travel by railway if he thinks that his injuries have cost him more or his life is more precious, there is no reason why he should not get adequate compensation. This argument that in exceptional cases you will give adequate damages is going against the provision. I am not convinced of the utility or the advisability of taking away this common law right from the ordinary citizen. It may be said that it is only a loss to the rich man. It is not a question of the rich man or the poor man. If you are so generous minded, why not pay Rs. 10,000 to every person, in case of death or injury. You yourself have put the upper ceiling. If it is a democratic piece of legislation I can understand, but then.....

Shri C. Subramaniam: Therefore there should be no restriction at all.

Pandit Thakur Das Bhargava: The provision today is that the upper ceiling is given but nowhere is it laid down that every person shall be given in case of death, damage or injury so much, for a leg injury so much. If it is a uniform rule, then I can understand your argument and when you yourself are not providing a uniform rule, why should you take away the right of a person? It may be that Rs. 10,000 may be a very inadequate compensation and in the case of persons on the common level there is no reason why that right should be taken away. You have conferred this right. All right. I congratulate you on this occasion. I therefore suggest that this amendment should be accepted.

Mr. Deputy-Speaker: Amendment moved:

"That in clause 13 of the Bill, the proposed new section 82H of the Indian Railways Act, 1890, be re-numbered as subsection (1) and the following new sub-section be added by subsection (2):

(2) Nothing contained in the preceding sections relating to the right of any person to claim compensation shall affect the right of any person or his heirs to maintain an action and recover damages from the railway administration for any injury or loss which he or his heirs, in case of his death, may have sustained on account of any accident or collision between trains on account of the wrongful act, neglect or default on the part of the railway administration or of any of its servants, except in cases where application for such compensation has been made and decided on merits by the Claims Commissioner."

The Honourable Shri K. Santhanam: Sir, I have already explained. I may simply quote the opinion of Sir Satyendra Roy on this section 82A of the Railway Act. He said:

"On the point as to whether the liability of the ordinary law still subsists, of course the answer is in the negative."

This Bill definitely limits the liability of the Commission to the figure mentioned in clause 2.

Pandit Thakur Das Bhargava: What is my friend reading from?

The Honourable Shri K. Santhanam: This is from the speech of Sir Satyendra Roy in the Council of State on the insertion of section 82A.

Pandit Thakur Das Bhargava: I would like my friend to read from the speech of the Mover of the Bill. I have some of his speeches in my possession.

Mr. Deputy-Speaker: How can the hon. Member object to the reading of that speech?

The Honourable Shri K. Santhanam: That is a legal opinion on the purely legal aspect of the matter. He went on further to observe:

"It is obvious that the financial burden of the railways could not be indefinitely increased. If you are going to accept a liability in all cases where there has been no negligence, it is reasonable that there should be some set-off by having the liability limited to cases where negligence has been proved."

Sir, this is an essential principle. The Railway is not a Solicitor's office. It cannot be engaged in carrying on litigation in all cases of accidents. We have provided a very equitable remedy in the case of accidents. The hon. Member wants that we should also provide for endless litigation which will make the railways a lawyer's paradise. I do not think it should be done.

As I have already suggested, people who place a very high value on their lives are free to insure themselves for unlimited sums. They want to pay an ordinary ticket fare and get an insurance for an unlimited amount. That is what the proposal amounts to. I do not think I can accept the amendment.

An Honourable Member: Will not the railway be liable in case of death even if there is no negligence? Is there any additional liability cast on the railways in the suggestion of Pandit Thakurdas Bhargava?

The Honourable Shri K. Santhanam: He is wrong. Even if there is no negligence we are liable to pay up to Rs. 10,000.

Shri Mahavir Tyagi: If a person dies suddenly, will you have to pay Rs. 10,000?

The Honourable Shri K. Santhanam: Here is a limited liability up to Rs. 10,000. But for section 82A those who go to court to claim compensation will not succeed unless they prove negligence on the part of the railways. That is not the present provision on the railways. Therefore that will be an absolutely different claim and that is not permitted by the present provision.

Shri Mahavir Tyagi: May I get one point clarified? Does Pandit Thakur Das Bhargava want that every one should be paid Rs. 10,000 even if he commits suicide?

Mr. Deputy-Speaker: That question does not arise.

Pandit Thakur Das Bhargava: When the railway is guilty of negligence and misconduct then alone a person can sue them.

Mr. Deputy-Speaker: Is it open under this clause for a person to go before a Commissioner or to a court?

The Honourable Shri K. Santhanam: There is only one remedy and that is to go to the Claims Commissioner and the limit of compensation is Rs. 10,000. We are shutting out all other things as the only condition on which we can provide a remedy. The Claims Commissioner may grant any amount up to Rs. 10,000.

Shri Mahavir Tyagi: Suppose a man is injured, he must be paid some compensation.

The Honourable Shri K. Santhanam: Yes.

Shri Mahavir Tyagi: If Mr. Kamath commits suicide, will he get compensation?

The Honourable Shri K. Santhanam: If the suicide and an accident coincide, his heir may get some compensation.

Mr. Deputy-Speaker: I do not think my hon. friend the Minister wants to restrict the amount of compensation to Rs. 10,000. There are other ways open to one for getting sufficient compensation by way of insurance, etc. That is the object of the Bill. I do not think the Mover wants to press his amendment.

The Honourable Shri K. Santhanam: That is the object of the Bill. The amount is already restricted by section 82A. But as a quick remedy we have provided this.

Mr. Deputy-Speaker: It is already there in the existing Act. Now a cheap remedy has been given.

Pandit Thakur Das Bhargava: The remedy is there in section 82A.

Mr. Deputy-Speaker: It is now limited to Rs. 10,000. Does the Honourable Member wish me to put the amendment to the House?

Pandit Thakur Das Bhargava: You may put it to the House.

Mr. Deputy-Speaker: I will put the amendment to vote.
The question is:

“That in clause 13 of the Bill, the proposed new section 82H of the Indian Railway Act, 1930, be renumbered as sub-section (1) and the following new sub-section be added as subsection (2):

- (2) Nothing contained in the preceding sections relating to the right of any person to claim compensation shall affect the right of any person or his heirs to maintain an action and recover damages from the railway administration for any injury or loss which he or his heirs, in case of his death, may have sustained on account of any accident or collision between trains on account of the wrongful act, neglect or default on the part of the railway administration or of any of its servants, except in cases where application for such compensation has been made and decided on merits by the Claims Commissioner.”

The motion was negatived.

Mr. Deputy-Speaker: The question is:

“That clause 13 stand part of the Bill.

The motion was adopted.

Clause 13 was added to the Bill.

Clauses 14, 15 and 16 were added to the Bill.

Mr. Deputy-Speaker: The rest of this Bill will stand over till tomorrow.

BUSINESS OF THE HOUSE

Shri Jaspal Roy Kapoor (U. P.: General): May I make a request, Sir. The next item that may be taken up may not be item 14 which, I suppose, is going to be sponsored by Sri N. Gopaldaswami Ayyangar and that the item next after that may be taken up. If this Bill is taken up today, it is not likely to be finished today and will have to be continued tomorrow. Many of us who are interested in it would not be here tomorrow. We have to attend a Provincial Congress Committee meeting. I had a talk with the hon. Minister in charge of the Bill. The Chief Whip is also agreeable to postpone this item for consideration next week.

Mr. Deputy-Speaker: Does the hon. Minister in charge of the Bill, for any reason, think that it is desirable to postpone it for tomorrow?

The Honourable Shri N. Gopaldaswami Ayyangar (Minister of Transport and Railways). So far as I am concerned, I am quite willing to meet the convenience of any large section of Members who want this postponement to be made. I would not stand in their way. Surely this Bill cannot be finished today. We shall have to go on with it tomorrow. But if any large number of Members who are interested in the Bill wish it to be postponed, I shall have no objection.

Shri Jaspal Roy Kapoor: I also understand that the hon. Minister in charge of the Bill proposes to introduce some new amendments of which we have had no formal notice.

The Honourable Shri N. Gopaldaswami Ayyangar: That will not be a correct way of putting it. As a matter of fact, since notice of the various amendments had been received, I have had conversations with those responsible for those amendments; and we have certainly agreed upon certain different amendments which can be moved and accepted on both sides. Those amendments will certainly be moved when the amendments of which notice has been given are put before the House, but as I said, I do not want to stand in the way of this thing being postponed till next week.

Mr. Deputy-Speaker: May I know if those agreed amendments are ready?

The Honourable Shri N. Gopaldaswami Ayyangar: They are ready.

Mr. Deputy-Speaker: Then what is the objection to our going on with it today.

Prof. Shibban Lal Saksena (U.P.: General): We want to go for a conference.

Shrimati G. Durgabai (Madras: General): In view of the fact that more important Bills will be coming next week and there may not be much time for this Bill to go through, I suggest that the fact that a few members will be absent tomorrow need not prevent us from taking it up today. I suggest that the House accepts the proposal that it be taken up today.

Shri Jaspal Roy Kapoor: The Hindu Code Bill is coming up only on Monday and Tuesday.

Shri Mahavir Tyagi (U. P.: General): I want to make a representation to the Chair. In fact the speed at which Bills are thrown at us, is too much for me at least. We are getting such an amount of legislation that every time one or two Bills come up for discussion, it becomes very difficult for us to go at that speed. I submit that before these Bills are taken into consideration by the House, you might be pleased to see whether we can really do any justice to the legislation that is being undertaken.

Mr. Deputy-Speaker: In spite of the speed with which things are supposed to be rushed, there are something like one hundred amendments, and I do not

[Mr. Deputy-Speaker]

know if more time is granted, we would not have a larger number of amendments to this Bill and have got very acute feelings about it. It so happens that most of us who are interested in this Bill will be absent tomorrow. It is only for that reason that we would like this to be taken up later.

Sardar Bhopinder Singh Man (East Punjab: Sikh): I want to submit, Sir, that people coming from East Punjab have got very important amendments to this Bill and have got very acute feelings about it. It so happens that most of us who are interested in this Bill will be absent tomorrow. It is only for that reason that we would like this to be taken up later.

The Honourable Shri K. Santhanam: I have got a simple resolution standing in my name. It can be finished within these fifteen minutes.

An Honourable Member: It is not so simple.

Mr. Deputy-Speaker: One hon. Minister says that he is not insistent on his Bill being taken up today, and another hon. Minister wants to go forward with his resolution. So, let him move his resolution.

The Honourable Shri N. Gopalaswami Ayyangar: Before that resolution is moved, I would like you, Sir, to fix a definite date for the taking up of this Bill.

Mr. Deputy-Speaker: Tomorrow.

The Honourable Shri N. Gopalaswami Ayyangar: Only I do not want it to hang in the air.

Shrinmati G. Durgabai: I do not see any objection to this Bill being taken up tomorrow.

Mr. Deputy-Speaker: After all I do want sufficient discussion. Several of the Members who are taking an interest in this Bill say that they would be unable to be present here tomorrow, and I should think that it is only reasonable that we should not hustle them. So, let this stand over and it is for the Government to fix a date after the Hindu Code Bill is taken up.

The Honourable Shri N. Gopalaswami Ayyangar: If you direct, Sir, today that this business which was to have been taken up today should stand adjourned as the first item on a particular day next week, that would be the best thing to do.

Prof. N. G. Ranga (Madras: General): The Chief Whip and the Leader of the House are not here now. May I have some indication from the Ministers present as to when the Hindu Code Bill will come up for discussion and for how many days. Then we can say that as soon as that discussion is over, this will be taken up.

Mr. Deputy-Speaker: The Chief Whip is not here, nor the Leader of the House. I would say it is for the Government to fix up the business of the Government. So far as this Bill is concerned, I would only advise the Government to bring it up immediately after the Hindu Code Bill is disposed of.

RESOLUTION RE CENTRAL ROAD FUND

The Honourable Shri K. Santhanam (Minister of State for Transport and Railways): Sir I beg to move:

That this Assembly hereby resolves that the Resolution regarding the continuance of the Central Road Fund adopted by this Assembly on the 19th November 1947, be amended as follows:

in sub-clause (a) of clause (1) of paragraph 3 of the Resolution, for the words 'fifteen per cent.' the words 'twenty per cent.' shall be substituted, and the words 'this percentage being applicable with effect from the allocation due for the financial year 1948-49', shall be added at the end.'

This is a very simple resolution. The Road Fund was constituted in February 1930 as a result of the Jayakar Committee Report. In the course of these 19 years the Road Fund has remained practically in the same form. Sir, the main features of the Fund are that a certain portion of the petrol tax collected by the Central Government is handed over to this Fund. Formerly the tax handed over was 2 annas per gallon. Now it is 2½ annas per gallon. A part of this Fund is kept as a reserve fund to be distributed among all those projects which require urgent relief. The balance of it is distributed to the provinces according to their petrol consumption. The third point is that the Central Government has got a control over the projects on which this amount is spent. The provinces have to submit their projects to the Central Government for their approval before they can draw from this Fund for expenditure thereon. The fourth point about this Fund is that it is nonlapsing. The Central Government does not say, 'I give so many lakhs which have got to be spent this year.' If the amount is not spent in one year, then it is carried over to the next year and then it is spent whenever the projects are ready. These are the main features of this Fund.

There is one point which has been under discussion between the provinces, not between the Centre and the provinces, between what may be called the well-developed provinces and those that may be called the less developed provinces. The well-developed provinces have always insisted that the distribution should be on the basis of petrol consumption, while the less well-developed provinces have argued that because they have no roads, they have no motor cars and because there are no motor cars, there is not much of petrol consumption. Therefore they could not get any amount. This is a vicious circle which ought to be broken. In the year 1935 there was an attempt to see if we could evolve a new formula. Then it was not possible. Again we had a revised Resolution in 1947, the main feature of which was that the tax collected on aviation petrol was handed over to the Civil Aviation Department so that it can spend it for the improvement of Civil Aviation. Then the Minister in charge undertook again to see if a new formula which is more acceptable to the less developed provinces can be evolved. In the Transport Advisory Council we did raise the question. We put forward a formula which took into account not only petrol consumption but also the area and population. But unfortunately we could not get the provinces to agree. But they made an alternative suggestion. They said that instead of 15 per cent., which went to the reserve fund, we can increase the fund to 20 per cent., so that we can distribute the 20 per cent. of the total sum on the less developed provinces. As this was the only item on which we could arrive at an agreement we have enforced it and brought this resolution for the ratification of the House. This fund is purely for the provinces and the Centre does not derive any benefit out of it. The Centre only distributes it with the consent of the provinces. This is a matter which has been approved by the Standing Committee on Roads and approved by all the provinces. I hope the resolution will be readily accepted by the House.

Mr. Deputy-Speaker: Resolution moved:

"That this Assembly hereby resolves that the Resolution regarding the continuance of the Central Road Fund adopted by this Assembly on the 19th November 1947, be amended as follows:

In sub-clause (a) of clause (1) of paragraph 3 of the Resolution for the words 'fifteen per cent.' the words 'twenty per cent.' shall be substituted, and the words 'this percentage being applicable with effect from the allocation due for the financial year 1948-49', shall be added at the end."

[Mr. Deputy-Speaker]

There are two amendments. I am not sure if they are in order. This Resolution is intended to raise the percentage of the fund from 15 to 20. That is the scope of the Resolution. The amendments relate to the utilisation of the fund in tribal areas and undeveloped areas. Whatever may have been the original object of the Fund it will be utilised for that purpose. It is open to the hon. Minister to make note of the subject of these amendments and consider them. Otherwise I am unable to accept the amendments as being in order.

Prof. N. G. Ranga (Madras: General): Sir, I am very glad to support this Resolution and I hope the House will accept it without demur. As is well known ours is a very big country with many provinces of varying degrees of development. In addition to the fact that there are some provinces which are less developed than others, we have come to have many more areas and large populations on account of the recent integration of the States and accession by other States. It is a notorious fact that a large number of these States have been undeveloped and therefore it is necessary that the Centre should have sufficient funds at its disposal to distribute between these various undeveloped provinces and States in accordance with their needs and not in accordance with their capacity to consume petrol.

Secondly, I am also glad that all the provincial governments have agreed on this special reservation and it speaks very highly in favour of their sense of patriotism. Those provinces which are supposed to be somewhat more developed have got to make this sacrifice and they have agreed to do in. Therefore I hope the House will find it easy to accept this resolution unanimously and without any amendments.

Shri Mahavir Tyagi (U.P.: General): Sir, I am in support of this resolution. Perhaps my hon. friend Prof. Ranga comes from a province which is better developed and therefore they will not get the benefit which the less developed ones may get. On a point of information, are not the provinces also entitled to levy some duty or excise on the sale of petrol till now? Are there provinces which are making some money over petrol over and above what the Central Government distributes to them?

The Honourable Shri K. Santhanam: The provinces have no right to levy customs or excise duty but they have the right to levy sales tax. Some provinces are levying a sales tax.

An Honourable Member: As much as three annas per gallon.

Shri Mahavir Tyagi: Petrol is a Central subject practically for excise duty and for the distribution of the money. Is it the intention of the Government to see that provinces are not allowed to realise any income out of petrol sale?

The Honourable Shri K. Santhanam: It is not a matter for me. It is a matter for the Finance Ministry, in the light of the provisions of the new Constitution to decide how far the provinces shall be allowed to collect petrol tax. We only take the money from the Finance Ministry and spend it for purposes of roads according to the Resolution adopted by this House in 1947.

बौधरी रणबीर सिंह: सभापति महोदय, इस प्रस्ताव का समर्थन करते हुए एक बात मैं कहना चाहता हूँ वह यह है कि जोवैल डेवेलप्ड (well-developed) बूबे हैं उनका ब्याल ही न रखा जाय बल्कि खासतौर से जो बौण्ड्री (boundry) के सूबे में स'हदो सभ ह. उनका भी ब्याल रखना चाहिये। मिसाल के तौर पर ईस्ट पंजाब है, बीकानेर रियासत है, जोधपुर की रियासत है, वेस्ट बंगाल है, आसाम का इलाका

है, बीकानेर रियासत है, जोधपुर की रियासत है, वेस्ट बंगाल है, आसाम का इलाका है, वहाँ सड़कें बनाना ज्यादा जरूरी है, डिफेंस (defence) के नुकते निगाह से। तो मैं और ज्यादा न कहते हुए मन्त्री महोदय से इस बात के लिये प्रार्थना करता हूँ कि वह इसके ऊपर लाइट (light) डालें।

(English translation of the above speech.)

Ch. Ranbir Singh (East Punjab: General): Sir, while supporting this motion, I would like to say one thing and that is that attention should not only be paid to those provinces which are well-developed, but also to the border provinces, viz., East Punjab, West Bengal and Assam and Bikaner and Jodhpur States. It is all the more necessary from the point of view of defence to construct roads there. Without saying anything more, I would request the hon. Minister to kindly throw light on this point.

Shri Suresh Chandra Majumdar (West Bengal: General): Ch. Ranbir Singh has said that the border roads in the border provinces should get special consideration along with the undeveloped provinces in the matter of attention to their needs. I want to bring this to the notice of the hon. Minister.

An Honourable Member: They do get special consideration.

Mr. Deputy-Speaker: I am sure the hon. Minister will take it into his consideration.

The Honourable Shri K. Santhanam: I may inform my friend Mr. Majumdar that a substantial part of this reserve fund has been given to the border roads in Bengal. In fact our intention is that as far as possible this 20 per cent will be used for all undeveloped areas. I think East Punjab consumes a lot of petrol and if it does not get its usual share we shall certainly take it into consideration.

This is a non-controversial resolution. We are glad that we were able to persuade the more prosperous provinces to surrender five per cent of the fund which they are entitled to have under the previous resolution. I hope that in course of time we may be able to make them yield a little more. This can be done only by persuasion and not by compulsion. I hope the House will unanimously accept the Resolution.

Ch. Ranbir Singh: What about Rajasthan?

The Honourable Shri K. Santhanam: On 1st April, 1950, Rajasthan will be entitled to claim its due share.

Mr. Deputy-Speaker: The question is:

"That this Assembly hereby resolves that the Resolution regarding the continuance of the Central Road Fund adopted by this Assembly on the 18th November 1947, be amended as follows:

In sub-clause (a) of clause (1) of paragraph 3 of the Resolution, for the words 'fifteen per cent,' the words 'twenty per cent,' shall be substituted, and the words 'this percentage being applicable with effect from the allocation due for the financial year 1948-49,' shall be added at the end."

The motion was adopted.

The Assembly then adjourned till a Quarter to Eleven of the Clock on Friday, the 9th December, 1949.