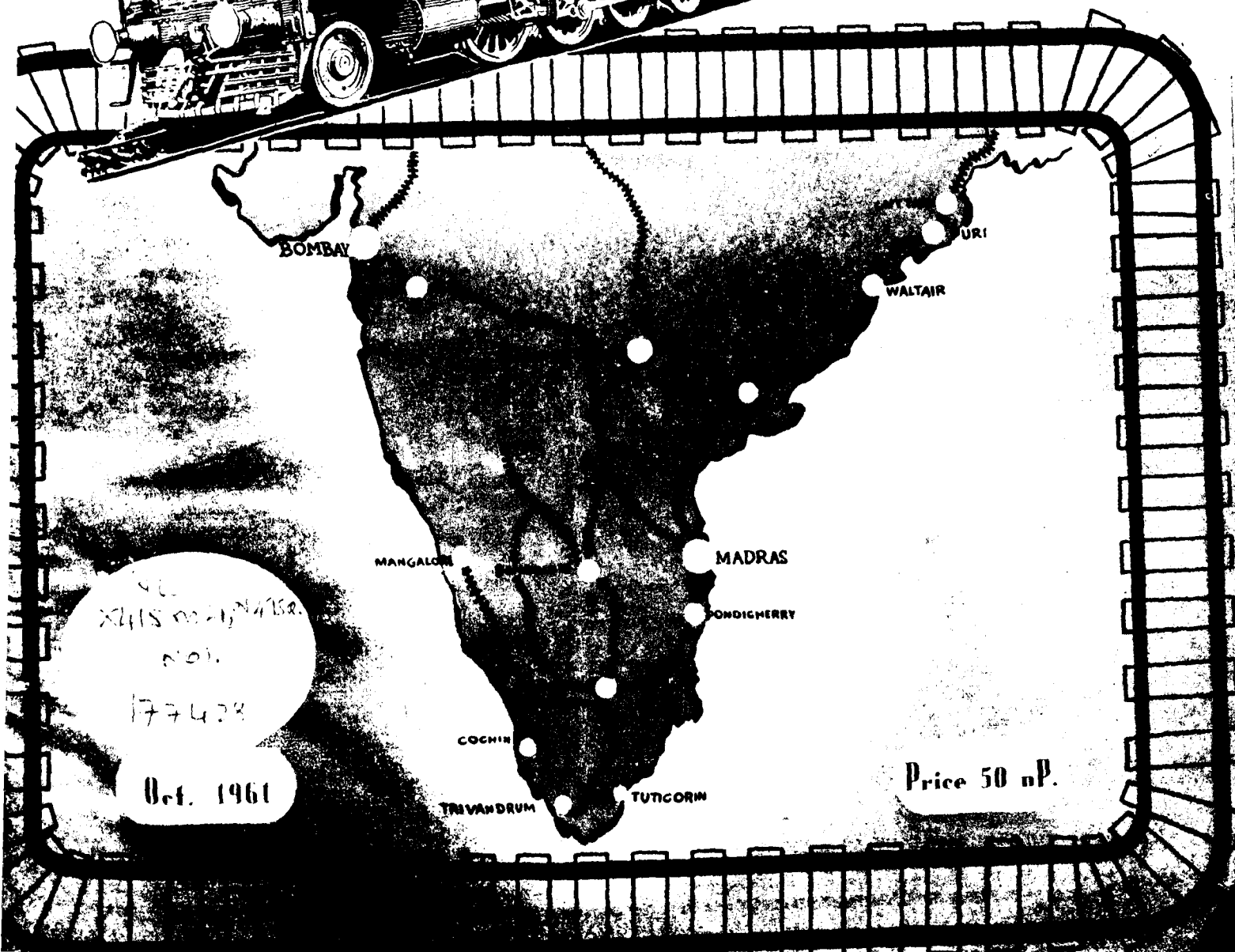
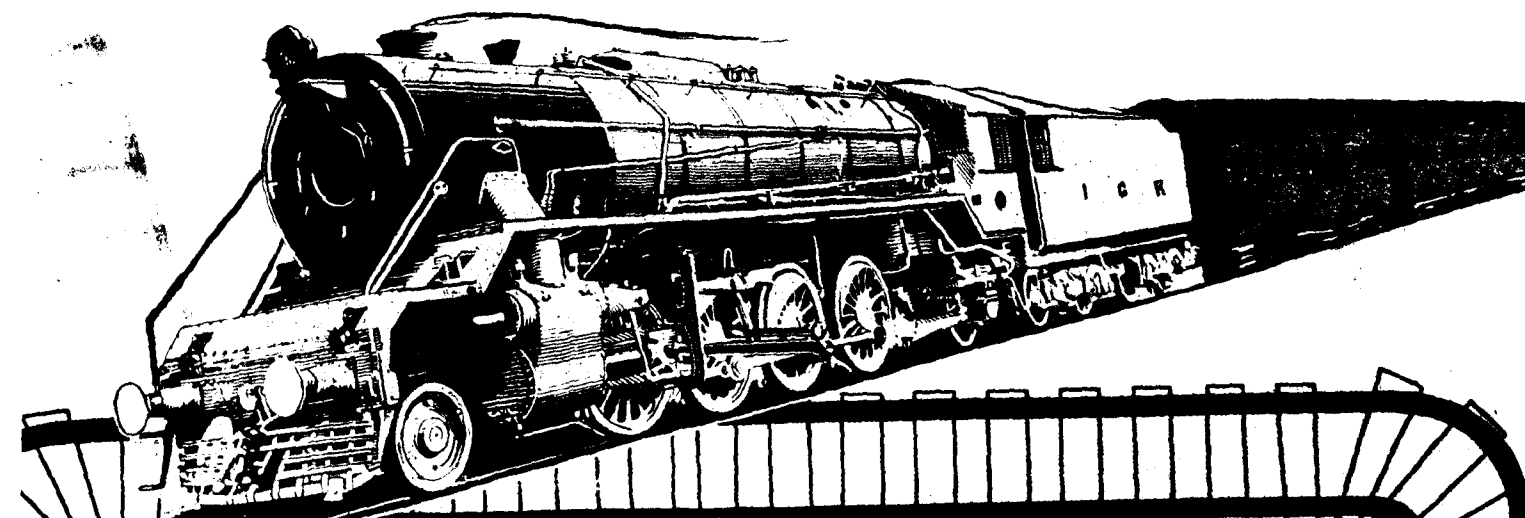


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SOUTHERN RAILWAYS

Magazine



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Oct. 1961

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HOW TO RESERVE ACCOMMODATION ?

1. Unless you reserve your berth (I Class) or Seats (II and 3rd Class long distance) in advance, you may not be sure of getting accommodation on the train you wish to travel by.
2. Application should be made to the Station Master of your starting station at least 3 days in advance specifying the date and train by which you intend travelling and the tickets must be bought in advance. The reservation fee leviable is 50 nP. per seat or berth.
3. Reservation by I and II Class from intermediate stations by Express trains can also be made similarly, but reservation ticket can be issued only after getting an advice from the Reservation Centre that the reservation has been made.
4. Tickets will be issued only if accommodation is available.
5. If the reserved seats or berths are not occupied at least 5 minutes before the booked departure of the train the reservation will be cancelled and the seat or berth given away to another.
6. **Reservation fee is not refundable.**
7. III Class seats are also reservable on Express and certain other important trains for long distance passengers from the train-starting stations on payment of a reservation fee of 25 nP. per seat.
8. Do not occupy a berth or seat reserved for another, as you are liable to be displaced at the last moment.
9. If you find another person occupying the berth or seat reserved for you and if he will not vacate it on demand, report it to the Guard or Station Master. They will help you.

(INSERTED IN THE INTERESTS OF TRAVELLING PUBLIC)

Guided by one side only

THE working hours of the Trichinopoly Goods Shed have been extended up to 21 hours. Some merchants of Trichinopoly addressed the Southern Railway to the following effect :—

“It is understood that the working hours of the Trichinopoly Goods Shed have been extended up to 21 hours. If so, it entails serious and severe hardships and extra expenditure to the merchant community of Trichinopoly.

Neither the merchants nor their Association or the Chamber of Commerce appear to have been consulted in the matter prior to the innovation.

You know that we merchants and businessmen are governed by the Madras Shop Act, by which our offices, business-houses and employes, can work only for certain stipulated hours; and we usually have to close down between 18 and 19 hours, with 8 hours work for our staff, which we dare not violate, except on pain of consequences.

If we are to take delivery upto 21 hours, we can close our offices etc. only by about 24 hours, as in this city the Goods Shed is under 3 miles off from the market area, and delivered goods must reach the godowns in satisfactory condition, and stacked in their places and checked before closing.

We wish you to realise that if we work uptill midnight, it will become physically impossible for us to be ready at the Goods Shed for the next day's work at 7 hours, let alone our own work in the bazar.

As no staff can be made to work for more than 8 hours a day, merchants will have to engage staff for another shift, if the railway's new orders are to be complied with, which is not consistent with our economy, and will land us in severe losses.

So, this extension up to 21 hours, will naturally mean 4 hours extra for demurrage, and 1 day extra for wharfage for the defaulting merchants, which is thus a punishment to inno-

cents. What was free time until now thus becomes penalisable time hereafter — that will be in short the only nett result, so far as the majority of merchants are concerned. This sort of indirect pressure or penal payment on merchants is not warranted.

Further, the railway staff who are doing things fairly briskly now, because the Goods Shed closes for the public by 17 hours, can in future afford to be lethargic, as they get time till 21 hours for their jobs. There are already bad practices even now, even to do their legitimate jobs within day light hours. The evil will only worsen the more in the new arrangements, as they get an implement to brandish, and as rivalry to get day-time service is sure to set in.

Please realise all these evil repercussions consequent upon the innovation, and please cancel the same with immediate effect. Thanking you, etc.”

The following reply has been received from the Southern Railway :—

“In acknowledging receipt of your letter quoted above, I have to inform you that this system of extended working hours at Trichinopoly Goods Shed has been introduced in the interests of quicker turn round of wagons. It is also essential to make two effective placements in a day. After the introduction of the revised working hours the releases of the wagons have been stepped up. It has become imperative to do so on account of increase in the inward traffic handled at Tiruchirapalli Goods. I would request you to take the larger interests of the country into account and to kindly co-operate with the railway in stepping up releases and ensuring better turn round of the wagons by clearing the goods currently.”

EDITORIAL COMMENTS

We have already made known our views in a similar case in our July Issue of the *Supplement*. If the railway wants night work to be done by the merchants, it is definitely seeking a concession of the merchants.

(Continued on page 38)



Assessment of Damage to Consignments of Grains, Gram and Pulses, carried by Railways

WHEN a consignment of Grains, Gram or Pulses reaches the destination in a damaged condition, the Railway grants Open Delivery, accompanied with a Survey and Assessment through its Commercial Inspector or Officer, who grants a Certificate or copy of the Survey Report.

Most often the Inspector or the Officer of the Railway has the leading part or final say in the matter, and the consignee is a passive, silent and helpless onlooker; for, his position is such.

We happened to be the consignees of one such consignment — 220 bags Gram Dall from a station on the Northern Railway, Bikaner Division, Metre Gauge. The consignment arrived at the destination (Southern Ry.) very badly damaged by water. Naturally we applied for Open Delivery at once. The Inspector demanded that we engage labour to bring the damaged bags to a convenient area in the premises of the Goods Shed, open the bags, sort out the good stuff from bad, rebag, weigh, etc. which we had to do at our costs consistent with the practice that has sprung up.

Over a 100 bags had been wet and dried. But the Inspector would consider only the 60 bags very heavily damaged, and wanted us to take as sound the other 40 bags, which he considered did not warrant survey. Naturally we had to succumb.

He mercilessly cut open the 60 bags as he pleased, separated the clots and cakes only, treating the other

portion as sound, with which view we must fall in. The cakes and clots picked out at his command weighed only 50 mds. whilst the weight of the 60 bags in question was 150 Mds.

He said these 50 mds. had been damaged only to the extent of 40 per cent. In our heart of hearts we felt those clots and cakes very foul-smelling would not yield anything except as manure. We protested against his 40%; he raised it to 50%; we pointed out to him it was rather too low, and suggested that the railway might as well take possession of it and make its own disposal. He got annoyed that we should be bold and cheeky enough to disobey him, and threatened to go away, as he had other works to do.

Eventually he made out a certificate thus:

“Examined the consignment — found 60 bags heavily damaged by water, with the bags wet, dried and discoloured. Cut open the 60 bags, and separated the clots and cakes and heavily damaged parts from all the 60 bags. The damaged quantity weighed 50 mds. The damage on the 50 mds. was assessed at 50%.”

This certificate entitles us to the price of 25 mds only or Rs. 400/- at Rs. 16/- per md. or Rs. 40/- per bag f. o.r/destination.

We claimed compensation on the Chief Commi

(Continued from page 37)

No concession may be asked for by an *unilaterally decided upon Order*. There would have been grace and beauty, if this had been achieved by their consent, which presupposes that the Merchants' Association or the Chamber of Commerce should have been first consulted in the matter, placing before them the full facts of the case, the remedial measures suggested, and their co-operation and consent obtained prior. We do not think the merchants are any the less patriotic than the Railway Administrations. What exactly prevents or prevented them from the joint consideration or consultation is beyond our ken. Obviously

they have looked at the case only from one angle their own. There is much however in the arguments against advanced by the merchants. But that is the other side of the case. We also feel that there is bound to be in the end only more of demurrage and wharfage than quicker turn-round. But what is demurrage and wharfage but an additional levy on the price of the goods, and commodities, which are already far above the ceiling and very near the sky. But are the present working hours fully utilised with additional improvements to yards, etc.?

—Editor

Supdt. submitting our accounts of purchase and sale of this consignment.

Our outlay on the consignment: Rs. 8800/-

We realised by sale: Rs. 7700/-

Our loss: Rs. 1100/-

But the Chief Commi. Supdt. went by the Inspector's Certificate and calculated thus:

50% of 50 mds. : 25 mds.

Price per md. at Source (Booking Station): Rs. 35/- per bag

: Rs. 14/- per md.

For 25 mds. : Rs. 350/-

Thus against a loss of Rs. 1100/- we got from the railway a compensation of only Rs. 350/- The snags herein are:

1. It was the railway that caused the damage to our goods; and yet the railway forced us to engage labour at our expenses instead of they themselves incurring that expenditure.

2. The Inspector has poor knowledge of commodities, and his estimates are often pro-Railway and anti-consignee. Firstly he would not consider the 40 less-damaged bags. Next he would consider only the 50 mds. of clots and cakes picked out from the 60 bags, which he surveyed. The 100 mds of the 60 bags, which he forced us to accept as sound, was not really sound, but was also damaged, though to a lesser degree than the clots and cakes. By no reasoning can it be said that these 100 mds. were as sound as the really sound goods nor that they would sell at the full market price.

3. One hundred gunnies of the 100 bags had been punctured at the spot where caking and clotting had taken place; so were useless for packing; they had to be replaced with fresh new gunnies at Rs. 125/- which the railway has not paid. Of these 60 gunnies were slashed and sliced with his knife by the Inspector for his processes.

4. Why is compensation paid at the Source-price, whilst the goods had been brought into the destination, and every expense on it had been actually already incurred, each of which is a charge on the consignment is not known to us, nor told to us by the railway. On 60 bags Rs. 300/- was the freight paid — the price of 60 bags was reduced by the railway by Rs. 300/-

5. The Inspector was in a beastly hurry, did the examination inside the busy goods-shed, and very roughly estimated and his estimates were all wrong. But reason and logic all was of no avail with him. If we argue with him, he will go away, and wharfage will accrue on your goods. So, you have to suffer the loss of Rs. 750/-

A merchant-sufferer.

FOR RAILWAY CLAIMS, REFUNDS, ETC.

Consult:

T. A. NARAYANAN, B.A., L.T.
(Retd. Claims Officer, Southern Railway)

7, Pugalia Pillai St., Teppakulam, Trichinopoly

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QUESTION BOX

"One consignment of peas booked from Mathura Cantt. on 20—7—61 has not yet arrived, whilst a subsequent consignment of the same commodity from the same station to the same station arrived within a month of booking, and was sold out by a fellow-merchant at a very favourable price. The price has already fallen in the market by Rs. 4/- per bag, and still continues to fall. This delay is also fraught with possibilities of shortage and damage to the goods inside the iron wagon in this monsoon weather.

We have thus been subjected to losses on various counts — price fall in the market, possible shortage and damage, loss of business, loss of interest on capital for the period of delay in transit, etc.

Please advise us on the law relating to delay in transit and consequent loss.

— Grain Merchant."

** ** *

Unfortunately for the consignors and consignees, the Railways have rules and laws more often in their favour; there are rules to levy penal charges on the merchants for "Delayed Loading", "Delayed Unloading", "Delayed Removal from Railway Premises", "Wrong description of Goods", etc. but there are no rules operating against the railways and making them liable to any penal charges for "Delayed Transit or Delayed Delivery".

They have a Rule in their Goods Tariff by which the Railways are not responsible for delays in transit (of course ordinarily) because they have not guaranteed to carry by any particular train or trains, nor guaranteed to deliver at destination on any specific date or within any specific time, at the time the contract to carry the consignment in question was entered into.

Rule No. 8, I.R.C.A. Goods Tariff:

"Dispatch of goods by any particular train not guaranteed.

Railways do not guarantee the dispatch of goods by any particular train, nor will they be responsible

(Continued on page 41)

for the arrival of goods at any station within any definite time".

But there are known instances where gross delays have been taken cognisance of by the railways, and courts, and reasonable compensation awarded against losses incurred.

In effect, therefore, minor delays in transit are of no consequence; major delays that have resulted in hardships and loss to the consignees alone will be considered.

The Case-Law on the point may be summed up as follows. A railway is bound to carry the goods entrusted to it for carriage with all the expedition possible under the ordinary circumstances. Undue delay in the movement of wagons, for example at the Transshipping stations, or due to misdespatch and miscarriage to wrong destinations, often cause a monetary loss to the consignees. Even though no train or trains by which to carry, no time and date by which to deliver at destination, is a term of the contract of this consignment, *the railway is not entitled to take its own time for transit*. In cases of undue delay to deliver at destinations, the railway is liable to compensate the merchant for the loss due to such late arrival.

The Railway Board have fixed time-limits for carriage to determine normal transit times necessary and sufficient, — 100 miles per day in the case of Goods and 250 miles per day in the case of parcels by passenger train. A goods consignment for instance must ordinarily be carried a distance of 1000 miles in 10 days, excluding the day of booking and the day of delivery. If the destination is 1000 miles away from the booking station, the railway is bound to deliver the goods on the 12th day of booking. Every additional day is a day of delay in transit.

The consignee is not entitled to any speculative profit he may have dreamed of, if the goods had reached him at the expected time. But he is entitled to get the price on the due date of arrival. If there has been a fall in price between "the due date of arrival" and the "actual date of arrival", he is entitled to get the difference, which represents his loss.

Visual Test of Wagons for water-tightness

Our readers are by now aware that their claims for compensation against loss due to damage of their goods by rainwater entering wagons in transit are often repudiated by the Railways for the reason:

"Wagon jointly examined by visual test with sender and found water-tight."

A claimant, who got such a repudiation, complained to the Railway Board that such a test with mere naked eyes by lay ignorant sender jointly with the equally lay Booking Goods Clerk is not satisfactory, that such a test cannot discover the water-tightness or otherwise of a covered wagon, that there exist other perfect and unquestionable methods of testing wagons for their water-tightness, that the Railways have their own Mechanical Staff, who are experts in this work, whose services can always be requisitioned by them, and that a repudiation of claims based on the visual test with naked eyes by ignorant laymen should not be resorted to, etc.

The merchant has received the following advice from the Railway Board:

"As regards your contention that visual test of wagons is not satisfactory, I am to add that such a test consists of going inside a wagon, closing it and seeing whether any chinks or rays of light are visible, and the same is considered as quite a reliable test to determine the water-tightness of a wagon."

This test would not have been considered sufficient even in the 18th Century. We all know that wagons are made of iron sheets, and that in their construction

one sheet overlaps another by a few inches, and the two sheets are riveted together by a series of rivets all along the joint. At the time of construction some water-proof material like asbestos or rubber may have been placed between the two sheets at the joint, but in course of time, with the ravages of time and weather this material wears out and leaves a gap. This gap is between the two sheets.

For one standing on the floor of the wagon and looking up at the roof the gap will not be visible; no light can come in, because Light travels only in straight lines (So says Science); but rainwater falling on the lower sheet can enter through the gap and trickle down into the wagon. As the walls of the wagon also are similarly constructed, water can come into the wagon through the wall joints also. Evidently, the Railway Board has not thought about this.

Nor has the Railway Board answered the other questions referred to by the claimant, viz.

1. Why lay and ignorant men like the Sending Merchant and the Booking Goods Clerk should be made to do this wagon-test.
2. How this visual test is superior to the pucca mechanical test, that was in vogue all the railways over ever since the railway first came into India.
3. How this defective and imperfect test is enough to bank upon for the conclusion of repudiation of the claimant's compensation, the damage having been accepted.

(Continued from page 40)

This apart from the damage, shortage etc. which are separate questions to be decided on their merits.

Perishable goods come under a different category and are to be given preference over other goods and moved with particular expedition.

To make the railway liable for delays in transit the circumstances must be such as would easily lead to an inference of negligence or misconduct on the part of the railway or its servants.

The onus of proving that proper movement was given to the consignment lies on the Carriers. For, the failure to deliver at the proper and reasonable time is breach of one of the contractual obligations implied in the contract of booking.

Delay in transit must be distinguished from Delay to delivery. What concerns the consignee is the time and date the consignment is made available for delivery.

— Editor

Technical men, whether on the railways or on the Railway Board, say Mechanical Engineers, will easily agree with us, and will not adopt this method of "Test with naked eyes by laymen for water-tightness" either for wagons or in other spheres, where water-tightness has to be ensured.

The Chief Commercial Superintendents of Railways will do well to take such verdicts only from the Technical Men of their own railways, instead of banking upon primitive tests and methods, and making their judgements also primitive, and causing widespread ill-will amongst their customers, among whom many are like the "hens that lay the golden egg everyday", seeing that lots of traffic have gone to this road.

We are aware that some claimants who had the grit to take such repudiations to Courts have been more than amply rewarded. The *visual test by the sender and the goods clerk* has not so far passed muster with the Courts. Knowing this the railway invariably tries "compounding" and "compromising" outside the court, immediately the suit is lodged.

This behaviour and the gracelessness attached to it could be avoided, and in their place good-will, prestige dignity and the like earned.

We invite the attention of the Railway Board also to this aspect of railway working in the matter of claims, that has sprung up within recent times, of which they cannot be unaware. The earlier they knock out the *visual test with naked eyes by laymen like the sending-merchants*, the sooner it will redound to their credit and prestige also.

SHORTAGE OF TRANSPORTATION

The HINDU of 9-9-61 has the following under the caption *Shortage of Coal for the Steel Industry, though production has not been affected*. Evidently it is shortage of Transport.

PROBLEM OF TRANSPORT

"Transport of raw materials to the integrated steel works is in itself a stupendous task. This has been made more difficult because of the limited sources from which coal and limestone can be obtained. Every million tons of steel requires about five million tons of raw mate-

rials. Apart from this a variety of railway wagons is required for the transport of other materials and finished products to the numerous destinations. Railway transport for the steel industry at present forms approximately 15 per cent of the total goods traffic and will be about 30 per cent in the next few years.

SHARP INCREASE IN TRAFFIC

"The sharp increase in traffic on account of the steel plants all confined to one part of the country has thrown a great strain. Government has taken various steps to meet the situation. Several long sections of the railway line have had to be doubled and new yards constructed. Certain sections have been electrified. New special type of heavy wagons has been introduced so that each train will carry more than double the quantity it used to. It takes time for the collieries, the steel works and the Railways themselves to adjust to these new innovations, the new methods of working, and the new equipment. These teething troubles have disturbed to some extent the rhythm of movement of coal and limestone to the plants in the private sector but they have not led to any dislocation of production."

Obviously therefore the above position has its repercussions on the general public traffic in all parts of India. Merchants are experiencing the severity and restrictions in the transport doled out to them. The Railways must evidently be ensuring the maximum utilisation of the wagons available, and increasing their turnover to the maximum. It is hoped that the authorities, smaller and higher, are seeing to it that wagons are not idling at stations, yards, depot stations, marshalling yards, workshop areas, inside factories, etc. and that wagons are kept moving in service. The merchants and other wagon-users amongst the public can and must serve the railways in this hour of need. They can co-operate earnestly to a maximum in the matter of (i) strictly limiting their demands to their actual needs, and (ii) keeping the wagons in their charge, say for loading and unloading of consignments, for a minimum time only, without insisting on the full utilisation of their rightful periods. A lot depends also on the vast railway personnel whose timely and prompt actions can increase tremendously the available quantum of transport in the country.

ADVICES TO CLAIMANTS (2)

8. PERFECT HONESTY

As in every other matter, so in claims on the carriers also, perfect honesty should be maintained by both parties — Claimants and Carriers. No statement should be made as a certainty, which cannot be proved. But statements may be made as probables and possibles "under the circumstances described".

The discrepancies should not be exaggerated; claim amounts should not be inflated; nor accusations made which are untrue; nor deliberate attempts made to belittle and diminish the amounts correctly due. All calculations should be correct; undue additions and subtractions should both be avoided.

No inferences or conclusions may be drawn from non-facts or guesses; facts must first be established, and the correct logical inferences only be drawn.

Dishonesty includes not only expression of a wrong statement, but also suppression of a true fact, which may be injurious to self, and thus giving a wrong impression. One can by silence also be dishonest. Honesty, internal and external, in expression and impression taken and given, is what is meant herein.

Loss in the shape of actual outlay, loss in the shape of probable profits, loss by way interest on money invested, loss due to fall in price in the market, etc. may be claimed, if appreciable, but must be separately shown with reasons why they should be paid. The Railways also should, in cases where they pay less than the amounts claimed, explain why they have paid less, where the difference came in and how. Often it is not done, leaving the claimant to guess or write again, which is only extra work for both sides.

9. WITHOUT PREJUDICE

This phrase is being often indiscriminately used. "Without prejudice to the legal rights of..." is the full meaning and significance of the phrase. It would be advisable to write out the full phrase instead of the ambiguous "without prejudice" only.

Very often Railway Representatives write one-sidedly "without prejudice to the legal rights of the Railway". This is selfish; in a claim case, actual or potential, the two parties — claimant and carrier — are equal partners; the law is equally applicable to them, though one may be a private individual or firm, and the other a limb of the Government. In the eye of law there is no difference. Hence, the proper phraseology to use is "Without prejudice to the legal rights of either side" — at any rate, this is the real implication of the abridged "Without Prejudice."

10. OPEN DELIVERY

At Open Deliveries, Surveys and Assessments, the consignee has as much right to press his honest opinion as the Railway's Representative. There is no reason why the Consignee's Representative should be content with a passive and submissive part, allowing the Railway's Representative to be the active and asserting or over-riding partner, much to your disadvantage. You need show no concession to anybody, either to the Consignor or to the Railway, either in the number of bags/articles short/damaged, or in the assortment, or in the extent of damage or percentage of assessment. You must protect your own interests by all means, but not at the expense of honesty, fairplay and straightforwardness.

11. TAMPERAGE

In the case of tamperage and consequent loss, it is not enough if the nett resultant loss alone is recorded, for the judge who adjudicates and passes the compensation is far away in time and distance, and must have sufficient evidence (facts and figures) to arrive at a correct conclusion.

You must give a brief description of the outward signs of tamperage, and support it with reweights, compared with weights of normal bags, existence of empty space, or substitute articles; if damage is the case, a packet of sample sealed and certified by the railway representative. The Certificate

(Continued on page 44)

Buying Goods Through Railway Receipts

THE best method of buying goods is to go to the source, examine the goods, and if satisfied with the quality, weight, measurement, etc. then fix the price and buy outright paying cash down, and then yourself arrange for the transport to your own place. There is no method equal to this.

But in the commercial world of today it has become a necessity to buy goods in transit by buying the Railway Receipt under which it is consigned, after examining the sample tendered at your own place by the Canvassing Agent.

This method has serious drawbacks. First and foremost, there have come to light many cases of Bogus Railway Receipts being sold, cash collected, and the unknown canvassing agents making themselves scarce. Police and Railway enquiries have shown that they were bogus receipts, made out on stolen foils from stations, or foils specially manufactured for the purpose. (It is futile to imagine that railways will pay claims on Bogus RRs.) Buying merchants will therefore be well advised not to trust unknown agents, but to scrutinise the receipts brought by them, and on the slightest suspicion inform the police; at any rate never to part with their money, but to agree to payment after delivery of goods.

The buyer has to be careful even in buying genuine Railway Receipts through known agents. The RR is transferred by the Invoiced Consignee to A by an endorsement in favour of A on the back of the RR. Then A becomes the first-endorsed consignee. A sells the consignment to B by another endorsement on the back of the RR thus: "Please deliver to B."

In this manner the goods can be successively sold by successive endorsements. With each new sale the responsibility of the seller is diluted, and eventually the last buyer (the last endorsed consignee) feels unable to look up to any of the sellers for any of the defects the consignment may contain.

What usually happens is the V. P. System, under which the original consignor, who books the consignment to SELF, draws a Hundi for the amount of value due on a Bank, and endorses the RR in favour of the Bank, instructing the Bank who the actual buyer is, so that the Bank may transfer it by a Bank's endorsement to the actual buyer, realising from him the Hundi amount.

One defect in this form of buying is that the goods arriving may not tally identically with the sample shown. Another defect often is that the RR is not a clean, clear and unqualified one.

The former defect leads to a dispute between the Consignor and Consignee involving lapse of time, during which the goods remain on railway premises accruing wharfage to the railway, which the railway may not be prepared to forego.

The latter defect gives rise to a claim on the railway, which the railway may refuse to entertain owing to the qualification (or conditional acceptance) on the rail receipt.

The different kinds of qualifications on the RR are given below, if any of which exists on the RR, the buyer should think twice before accepting such a kind

(Continued from page 43)

or Remarks made must contain all this evidence on record. The picture must be complete for the judge who is far away in time and distance.

In the case of bags, if you write merely "loose", the claim will not be paid, for mere looseness does not establish loss conclusively. Only if there be signs of pilferage, and loss of weight the conclusion can be reached.

12. PARTIAL DELIVERY

In case of complete bags missing, you must take the Partial Delivery Certificate, in the interests of your yourself and the Railway. For you do not know, when the missing bags will arrive or the claim paid. Future disputes also must be avoided in such a manner must be your working, as well as the railway's working.

of RR, and must make due deduction or withhold payment.

1. The consignment may have been booked at OR (Owner's Risk), and not at RR (Railway Risk).

2. It may be a *said-to-contain* RR. That is to say, the RR does not specifically state the railway having accepted 200 bags of sugar (say); the RR only says "Said to contain 200 bags sugar — loaded in siding of the senders — loading not supervised by the railway, etc." This is a disqualification for the RR, and the buyer should not rush into buying this RR. For, if there be a shortage of few bags, then the railway will not pay claim compensation for the bags short, for as per the remarks on the RR, the consignor is responsible for the shortage. But the moment you have bought the RR and paid the seller (Consignor) in full, he may not compensate you for the short number; he may ask you to look up to the railway and say "My duty ends with obtaining the RR—thereafter it is the railway's responsibility."

3. The same remarks as above apply also to cases of partial shortages in bags, if you should find at destination some of the bags "torn loose and pilfered". For, the loading was done by the Senders inside the factory, on the factory siding, and loading was not supervised by the Railway. Hence it was not a clear RR, but a qualified RR that was granted by the railway and meekly accepted by the Sender. This is against the interests of the buyer. There is always this danger in *said-to-contain* RRs.

4. "Open wagon or NWT (Non-Water-Tight)

Wagon elected by the Sender" may be another endorsement on the RR by the Railway. This means that the railway is not responsible for any claim arising due to damage by sun or rain or pilferage from the open wagon.

5. "Wagon jointly tested by visual test by Sender and found water-tight or fit." is a new kind of endorsement being adopted by the railways within recent times. The railway rarely pays claim for any damage through rain water in such cases. For, the Sender deemed the wagon fit and water-tight, and so he becomes responsible for the damage. Here too the buyer of the RR must protect his interests by withholding enough amount to meet the probable damage.

The ethics of such an endorsement on the RR, and on the basis of that rejecting claims will be discussed elsewhere. Suffice it to say here that morally, legally, and technically, the railway's position is weak.

Any kind of qualification on the RR means it is a defective RR and detracts from the value of the RR, and hence from the value of goods. Either the buyer should refuse to buy that kind of RR or must withhold sufficient amount to meet his probable loss, consequent on the qualification entered on the RR. Or get in writing from the seller his undertaking to compensate you for such and such a probable loss. You must ask for a true and complete copy of the RR for examination, prior to buying.

N.B.— RR stands for either *Railway Receipt* or *Railway Risk*.

Indian Railways Act. Lok Sabha passes Amendment Bill

The Lok Sabha today (Sep. 5) passed a Bill to amend the Indian Railways Act, seeking among other things to change the responsibility of the Railways as carriers of animals and goods from that of a *bailee* to that of a *common carrier*.

The Bill, as reported by the Select Committee, was generally welcomed by the members, some of whom described it as a "definite improvement" on the existing position.

They were, however, critical of the clause which widened the scope of exemptions to the provision under which the Railways would be responsible for the loss, destruction or damage to the goods in transit.

A few members wanted the wagon position to be improved to help movement of coal and other goods. Replying to the three-hour debate, the Deputy Minister for Railways, Mr. S. V. Ramaswami said that the Bill was generally patterned after the standard terms and conditions existing in the British Railways. These standard terms, introduced in 1928, had well withstood the test of time.

In the whole scheme of things, he said, a broad shield of protection had been given to the Railway-Users. Hereafter there would be no distinction between goods accepted on "Railway Risk" and "Owners' Risk"

—HINDU of 9-9-61

The Recent Accidents to Passenger Trains The Killed and Injured — Claim Compensation

Three major accidents to passenger trains involving loss of lives and serious injuries to passengers have occurred recently, and there must be many wanting to know the law relating to claim-compensation hereof:—

1. No. 83 Up Howrah-Ranchi Express went off the track at about 2/30 on the morning of October 20, near Ghatsila Station; Engine and seven bogies derailed; 51 killed and 195 injured.

2. No. 2 Tundla-Farukkabad Down Passenger — Engine and three front bogies were derailed near Mainpuri at 10/45 on the morning of Oct. 29 — 20 killed and 63 injured.

3. Madras-Bombay Janata Express on November 9th at Kosgi — Engine and three bogies involved, 3 killed and 8 injured.

Sections 82 A, 82 B, and 82 C govern the grant of compensation here. They read:—

82 A. *Liability of Railway Administration in respect of accidents to trains carrying passengers.*

(1) When in the course of working a railway an accident occurs, being either a collision between trains of which one is a train carrying passengers or the derailment of or other accident to a train or any part of a train carrying passengers, then, *whether or not there has been any wrongful act, neglect or default on the part of the railway administration* such as would entitle a person who has been injured or has suffered loss to maintain an action and recover damages in respect thereof, *the railway administration shall, notwithstanding any other provision of law to the contrary, be liable to pay compensation* to the extent set out in sub-section (2) and to that extent only for loss occasioned by the death of a passenger dying as a result of such accident, and for personal injury and loss, destruction and deterioration of animals or goods owned by the passenger and accompanying the

passenger in his compartment or on the train, sustained as a result of such accident.

(Italics — ours)

(2) The liability of a railway administration under this section shall, in no case, exceed Ten Thousand Rupees in respect of any one person.

82 B. *Claims Commissioners*

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

This is obviously to ensure impartial investigation and prompt payment of all claims for compensation arising out of accidents to trains carrying passengers.

82 C. *Application for compensation*

(1) An application for compensation under section 82 A arising out of any accident of the nature specified therein may be made —

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

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

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

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

(2) No application for compensation under this section shall be entertained unless it is made *within three months of the occurrence of the accident*, but the Claims Commissioner *may on good cause shown allow any application to be made at any time within one year of such occurrence.*

(Continued on page 47)

Madras High Court - Decision

(Allotment of wagons — Petition against Railway fails)

Section 28 — Indian Railways Act:—

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

The Madras High Court dismissed on 17th Nov. 1961 a writ petition filed on behalf of the Potato Chamber of Commerce, Coimbatore, to quash the order passed by the Chief Goods Clerk, Mettupalayam, which was subsequently approved by the General Manager, Southern Railway.

The petition arose under the following circumstances. Members of the Potato Chamber of Commerce are merchants trading in potatoes and agriculturists cultivating and growing potato crops. For the benefit of its members the Chamber makes arrangements with the Southern Railway for the allotment of wagons at Mettupalayam for the despatch of potatoes from the Nilgiris area to various stations. The Nilgiris Cooperative Marketing Society (the Second Respondent in the case) is also obtaining allotments of wagons from the railway at Mettupalayam for their despatch of potatoes to various stations in India. The petitioner (Chamber) received a copy of the Order dated

8—10—1960, which mentioned that the Cooperative Marketing Society had been permitted to load a minimum of five wagons per day, subject to certain restrictions.

The Society, therefore, according to the petitioner, obtained priority in the matter of wagons over other consignors from Mettupalayam. The Petitioner sent a telegram to the Railway Authorities at Madras on 8—10—1960 protesting against the preference shown to the Society, and the consequent discrimination in favour of the Society by the Railway. It was also stated that the allotment of wagons to the Society was done on a priority basis on instructions from the Railway Board. The proceedings of the Railway Authorities were challenged in the writ petition.

Dismissing the petition, His Lordship observed that the scheme of distribution of agricultural produce through the medium of Cooperative Societies was

(Continued on page 48)

(Continued from page 46)

(3) If in an application for compensation under this section, any person makes a statement which is false and which he knows or believes to be false or does not believe to be true, he shall be punishable with imprisonment for a term, which may extend to three years, or with fine, or with both.

Explanation—In this section the word “dependant” has the meaning assigned to it and in clause (d) of section 2 of the Workmen's Compensation Act, 1923 (VIII of 1923).

(Italics — ours)

Features of other provisions of the Act—

The Claims Commissioner shall have all the powers of a Civil Court, and shall be deemed to be a Civil Court.

Where circumstances warrant immediate relief to the applicant, the Claims Commissioner may direct the railway administration to afford such interim compensation, pending fuller investigation and determination of amount payable.

Any person aggrieved by the decision of the Claims Commissioner may prefer an appeal to the High Court. The period of limitation for an appeal shall be 90 days.



"Act of God" and The Indian Railways Act

The expression "Act of God" appearing in the Indian Railways Amendment Bill, 1961, was strongly objected to by a Member in the Lok Sabha today (Sep. 5).

He was referring to Clause 73 of the Bill, which lays down among other things that the Railway Administration shall not be responsible for the loss, destruction or non-delivery in transit of goods carried by the Railway, if the mishap was "an act of God".

"God is kind. Why should the Railways think that He is after them?", asked the Member in protesting tones.

He urged that the expression "act of God" be deleted and the term "Natural Calamity" be used in its place.

This suggestion was not accepted by the Deputy Railway Minister, Mr. S. V. Ramaswami, who in firm tones said that the expression "act of God" was a legal term. It had been used in many of the statutes and Acts and it meant an irresistible act of Nature, he said.

—HINDU of 8—9—61.

But why this wrangle in firm tones and protesting tones over mere names, over mere words and phrases? God is Nature, and Nature is God. Nature as we perceive it through our senses and interpret it with our intellect is only the outer manifestation of the Inner Being. God or Nature — the labels alone are different, the contents or the substance is the same. In this multi-lingual country, it has become the fashion to quarrel over names and labels.

The term "act of God" entered the British Statutes many years ago, when Communism had not been born, and all the peoples of the whole world had

infinite faith in the existence of one and only God, though there were individual atheists here and there. The British who held India until recently, imported the term into the Indian Statutes also, where it remains, because India was and is a highly religious country, reposing infinite faith in the One God and His manifold manifestations. Communistic thinking or influences of communism has shaken out God from certain countries, and perhaps is trying to shake Him out of India too. We do not think it will be of any avail, for He has taken too deep roots here. But, of what avail is it — our acceptance or denial of Him?

The Member said "God is kind". We would slightly modify it "God is usually, normally, kind." He is not *always* kind. His Laws operate automatically, inexorably. He should not be always kind — those who violate His Laws do not get His kindness, but His punishment. He is like a Wise Parent, who uses the rod when necessary. "He that spareth the rod hateth his son" or "Spare the rod and spoil the child". But He is all-kindness to those who act within his Laws. Hence, it is clear that He can be after Railways too, if Railways violate His Laws. Accidents may be His punishments to Railways.

But, what about the loss or destruction of Good by "King's Enemies"? The modern equivalent to this phrase is perhaps "Enemies of India". Does this include Civil Rebellions, such as the one that arose when Potti Sriramulu died of fast, and rebellion wrought havoc in railway stations and the goods therein? What is Sabotage?

But even in the circumstances of "act of God", "Natural Calamity", and "Enemies of India", prudent railways can to a certain extent safeguard and property by forethought and preparation.

(Continued from page 47)

designed to improve the economic prosperity of the country as a whole, and any statutory measure to develop and work out such a scheme must be held to be intimately concerned with public interest. "It is not necessary", His Lordship observed, "for me to refer to the Directive Principles of the Constitution encouraging and recommending Co-operation nor to the various plans introduced by the Government recognising the importance of Co-operation in a Welfare State." His Lordship stated that he was satisfied that

the terms of the preferential general order fell squarely within the statutory powers of the Central Government and observed that the petitioner had failed to substantiate that the action of the first respondent (Union of India represented by the General Manager of the Southern Railway) in the matter of allotment of wagons to the second respondent (Marketing Society) was in any way invalid, *ultra vires*, and unconstitutional.

"HINDU" of 21—11—61

IN YOUR OWN INTERESTS

HOW TO PURCHASE TICKETS

Buy your tickets only at the proper place. The authorised offices are

- (i) the Booking offices at the railway stations, (ii) the Town or City Booking Offices, (iii) the Out-agencies, (iv) Travel Agents. Never buy tickets from any other source as that may lead you to trouble. Please note that tickets are not transferable.

Buy your tickets in the proper time. You can avoid unnecessary excitement and trouble if you come to the station in good time, that is at least half an hour before the scheduled departure of your train. The Time Tables of the Railway are on sale at Booking Offices and Bookstalls.

Buy your tickets in the proper manner. Queue up at the Booking Window and you can get your ticket easier and quicker than by crowding at the counter.

By handing in the *exact fare in good coins or currency* you get the ticket easier and quicker, and save for yourself and the Booking Clerk time and trouble.

Check up your ticket and money before leaving the counter and draw the attention of the Booking Clerk to any discrepancy you may notice.

(Inserted in the interests of Travelling Public)

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