

**PUBLIC ACCOUNTS COMMITTEE
(1968-69)**

THIRTY-SECOND REPORT

(FOURTH LOK SABHA)

[Action taken by Government on the recommendations of the Public Accounts Committee contained in their 72nd Report (Third Lok Sabha) relating to Appropriation Accounts (Railways), 1964-65 and Audit Report (Railways), 1966.]



**LOK SABHA SECRETARIAT
NEW DELHI**

October, 1968. Ashvina, 1890 (Saka)

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PUBLIC ACCOUNTS COMMITTEE
(1968-69)

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SECRETARIAT

Shri Avtar Singh Rikhy—*Deputy Secretary.*
Shri K. Seshadri—*Under Secretary.*

*Declared elected on 19th August, 1968 *vice* Shri M. M. Dharia who resigned from the Committee.

INTRODUCTION

1. the Chairman of the Public Accounts Committee, as authorised by the Committee, do present on their behalf this 32nd Report on the action taken by Government on the recommendations of the Public Accounts Committee contained in their 72nd Report (Third Lok Sabha) relating to Appropriation Accounts (Railways), 1964-65 and Audit Report (Railways), 1966.

2. On 12th June, 1968, an "Action Taken" Sub-Committee was appointed to scrutinise the replies received from Government in pursuance of the recommendations made by the Committee in their earlier Reports. The Sub-Committee was constituted with the following Members:

- | | | |
|---------------------------------------|---|----------|
| 1. Shri D. K. Kunte— <i>Convener.</i> | } | Members. |
| 2. Shri C. K. Bhattacharyya | | |
| 3. Shri K. K. Nayar | | |
| 4. Shri Narendra Kumar Salve | | |
| 5. Shrimati Tarkeshwari Sinha | | |
| 6. Shri N. R. M. Swamy | | |

3. The draft Report was considered and adopted by the Sub-Committee at their sitting held on 2nd September, 1968 and finally adopted by the Public Accounts Committee on 28th September, 1968.

4. For facility of reference the main conclusions/recommendations of the Committee have been printed in thick type in the body of the Report. A statement showing the summary of the main conclusions recommendations of the Committee is appended to the Report (Appendix I).

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

NEW DELHI:
October 10, 1968.
Asvina 18, 1890 (Saka).

M. R. MASANI,
Chairman,
Public Accounts Committee.

CHAPTER I

REPORT

(i) *General*

This Report deals with the action taken by the Government on the recommendations contained in their 72nd Report (Third Lok Sabha) on the Appropriation Accounts (Railways), 1964-65, and Audit Report (Railways), 1966 which was presented to the House on 28th March, 1967.

1.2. The statement received from Government showing action taken on the recommendations of the Committee contained in their 72nd Report (Third Lok Sabha) have been categorised under the following headings:—

- I. Recommendations Observations that have been accepted by the Government. (S. Nos. 2--7, 9--12, 14--17, 21--24, 27--30, 34--38, 39 (S. Nos. 17 & 38 of the 53rd Report), 40 (S. Nos. 18-21, 33 & 41 of the 53rd Report), 41 & 42.
- II. Recommendations Observations in respect of which replies of Government have not been accepted by the Committee and which require reiteration (S. Nos. 1, 31 & 32 of 72nd Report and 39 of 53rd Report).
- III. Recommendations Observations to which Government have furnished interim replies (S. Nos. 8, 13, 18, 19-20, 25-26, 28A (Para No. 3.206), 33 and 40 (S. Nos. 22, 24 and 34 of 53rd Report).

1.3. The Committee hope that final replies duly vetted by Audit in regard to the recommendations/observations to which only interim replies have so far been furnished will be submitted to them early.

1.4. The Committee will now deal with the recommendations in respect of which Government's replies, have not been accepted by the Committee and which require reiteration.

(ii) *General Review of the Financial working of Railways during 1964-65—Revenue Receipts—Paras 1.9 and 1.10 of the 72nd*

Report of Public Accounts Committee—Third Lok Sabha (S. No. 1).

1.5. The Public Accounts Committee had in paras 1.9 and 1.10 of their 72nd Report commented on the inability of the Railway Board to achieve their target of carrying additional goods traffic during 1964-65. In this connection they had made the following observations:—

“The Committee note that the Railway Board were unable to achieve their target of carrying additional goods traffic during 1964-65. The actual increase in the originating traffic was 2.7 million tonnes only while the target for additional goods traffic during the year was fixed at 17 million tonnes. Since this target was fixed in consultation with various other Ministries etc., which made their own assessments in respect of various items, it would seem that the assessment made by the other Ministries etc., were wide off the mark. The short-fall in the originating traffic occurred mainly under coal and general merchandise including Railways own traffic of coal. The Committee feel that the Railways could have foreseen the decrease in their own coal traffic at least and could have suitably reduced the target of goods traffic to that extent. They feel that the reasons for such a huge shortfall in the target for goods traffic as well as in respect of other earnings require to be gone into in greater detail by Railway Board for future guidance. It is worth nothing in this connection that but for the increased actual earnings of the Railways from the passenger traffic, which amounted to Rs. 15.28 crores over the budget estimates, the gap between the budget estimates and the actuals would have been further accentuated.”

“The Committee also make a note of the increasing percentage of variations between the budget estimates and the actuals from year to year (—3 per cent in 1961-62 to +5.3 per cent in 1965-66), and feel that the percentage of variation between the budget estimates and the actuals could be reduced by having closer co-ordination with other concerned Departments Ministries in assessing the position better.”

1.6. In their reply to the Committee's observations the Ministry of Railways (Railway Board) have stated as under:—

“The recommendations of the Committee are noted. Close liaison is maintained with other Departments Ministries

to assess the anticipated quantum of specific traffic like coal and iron and steel (both raw material and finished products), cement etc. Continuous efforts are also being made to improve the estimating of traffic and refinements are being introduced wherever possible. In regard to the Railways' traffic of materials for their own consumption, the freight earnings are adjusted as a reduction in working expenses and variations in the Railways' own traffic do not affect the estimates of gross traffic receipts."

1.7. The Committee would like to draw attention to Chapter I of their 22nd Report on the Third Five Year Plan of Railways where they have discussed at length the question of "Traffic Forecasts" and the responsibility of Railways in that behalf. The Committee reiterate that it is not business-like for a commercial organisation like the Railways merely to accept the statements/assessments of traffic requirements made by other Ministries without critically examining the position themselves. Besides, as is evident from the Railways own estimates of traffic of materials required to be carried on railway account, there was a persistent tendency to over-estimate the traffic requirements with the result that the Railways investment during the Third Plan period rose to Rs. 1,686 crores as compared to Rs. 1,325 crores envisaged in the Third Five Year Plan whereas the actual traffic moved was only 203 million tonnes in the last year of the Plan as compared to 249 million tonnes mentioned in the Plan document. The Committee cannot too strongly stress the need for realistic estimation of traffic by the Railways so as to avoid over-investment of scarce resources badly needed for more productive use.

(iii) *Eastern Railway—Outstanding dues from National Coal Development Corporation for works done by the Railway—Paras 3.243 and 3.244 of the 72nd Report of Public Accounts Committee—Third Lok Sabha (Sl. No. 31).*

1.8. In connection with the construction of five sidings in Karanpura Coal-fields of National Coal Development Corporation, sanctioned in April, 1959, the share of cost payable by National Coal Development Corporation amounted to Rs. 186.74 lakhs against which recovery of Rs. 163.10 lakhs has been effected leaving a balance of Rs. 23.64 lakhs. In para 3.243 of their 72nd Report the Public Accounts Committee had made the following observations on this case:

"The Committee regret to find that there has been delay at various stages, with the result, that 7 years had passed and yet the Railways had not been successful in coming

to a final settlement with the National Coal Development Corporation. They hope that there would be no further delay in the matter now."

1.9. In their reply, the Ministry of Railways (Railway Board) have stated:

"The observations of the Committee are noted. As submitted to the Committee earlier, vide note at Appendix IX of the 72nd Report (Third Lok Sabha) of the Committee, the proposal of the National Coal Development Corporation that a portion of the sidings constructed for them in this case should be treated as a branch line of the Railways was under active consideration in consultation with the Eastern Railway Administration. After careful examination of the case, it has now been decided by the Ministry of Railways that there is no justification for treating that portion of the siding across the Damodar river upto the take off point of Gidi 'B' siding as a branch line. The Eastern Railway Administration have been advised of this decision and instructed that the N.C.D.C. should be advised to accept the siding on assisted siding basis and pay the balance amount due from them to the Railway without any further delay."

1.10. Now that a decision has been taken by the Railway Board not to treat the particular portion of the siding across the Damodar river upto the take off point of Gidi 'B' Siding as a Branch line, the Committee hope that the recovery of the balance of Rs. 23.64 lakhs due from the National Coal Development Corporation will be pursued by the Railway Administration vigorously, as this matter has been pending for several years.

1.11. In another case of construction undertaken in Bhurkunda and Bokaro Collieries a sum of Rs. 81,987 was claimed by the Railway Administration from the National Coal Development Corporation, being the expenditure incurred by the Ministry of Railways in the construction of a submersible bridge on the Damodar river, which was later abandoned. There were two other claims amounting to Rs. 71,711, being cost of certain works involving extension of sidings and temporary facilities, and Rs. 6,435 being cost of renewal of sleepers, etc., in the sidings, pending recovery from 1945 and 1957 respectively. The total amount was thus Rs. 1.60 lakhs but the recovery was stated to be pending as the position was not clear. In

para 3.244 of their 72nd Report the Public Accounts Committee had observed as under:

“.....the Committee learn with regret that the position was still not clear. They would like this matter which is pending for a long time to be finalised.”

1.12. In their reply, the Ministry of Railways (Railway Board) have stated:

“The observations of the Committee are noted.”

1.13. In a further note, the Ministry have stated:

“It is regretted that there has been no appreciable progress in regard to the recovery of the amount of Rs. 1.60 lakhs from N.C.D.C. mainly on account of the difficulty of sorting out piecemeal claims of the N.C.D.C. as against the claims of the various Departments of the Railway. The Chief Operating Superintendent, Eastern Railway has been nominated as the co-ordinating officer to ensure early settlement. The matter is being actively pursued with the N.C.D.C.”

1.14. The Committee note with regret that no headway has been made in the recovery of the amount of Rs. 1.60 lakhs from the National Coal Development Corporation since the Committee presented their Report in March, 1967. It is only recently that the Chief Operating Superintendent, Eastern Railway has been nominated as the Co-ordinating Officer to ensure early settlement. The Committee desire that the matter should be pursued vigorously with the National Coal Development Corporation so that these long pending claims are settled without any further delay.

(iv) *North-East Frontier Railway—Non-recovery of licence fee and rent on Railway Bazars—Para 3.253 of the 72nd Report of the Public Accounts Committee—Third Lok Sabha (S. No. 32).*

1.15. Referring to the arrears of license fee and rent due for the period 1950-51 onwards in respect of the land and stalls leased out in the Railway Bazars on the North-East Frontier Railway, the Committee had made the following observation in para 3.252 of their 72nd Report:

“The Committee regret to observe that at no time during these years any serious attempt seems to have been made by the Railways to maintain a proper and up-to-date record of the occupants of the lands and stalls in the bazaars

Proper steps were also not taken to prevent the accumulation of the arrears. They note that only with effect from 28th October 1965, a whole-time Estate Officer was appointed to finalise these cases and that there were also some difficulties in finding additional staff to attend to **these cases**. The Committee hope that vigorous attempts would now be made to liquidate the arrears without further delay. They trust that the steps, such as the introduction of checks to prevent sub-letting, obtaining advance deposits, etc., taken would improve the position."

1.16. In their reply the Ministry of Railways (Railway Board) have stated:

"The observations of the Committee are noted. Vigorous efforts are being made by the Railway Administration to realise the arrears of rent for the Railway Bazaar at different places. The Railway Administration have reported that consequent on the issue of notices by the Estate Officer as required under the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, an increasing number of occupants are coming up to pay their dues in instalments or otherwise. The balance of dues outstanding as at the end of April, 1967 are about Rs. 71,081 relating to the period upto 1959 and about Rs. 4.84 lakhs relating to the period from 1960-61 to 1964-65. The Railway Administration expect that with the finalisation of the large number of cases that have been filed before the Estate Officer, the position will improve to a considerable extent."

1.17. In a further note, the Ministry have stated:

"Further to the position as at the end of April, 1967 indicated in this Ministry's earlier memorandum dated 1st August, 1967, it is stated that a further sum of Rs. 3,452 relating to the period upto 1959-60 and a further sum of Rs. 2,380 relating to the period from 1960-61 to 1964-65 was realised till end of June, 1968, leaving a balance of Rs. 67,629 relating to the period upto 1959-60 and Rs. 4,81,358 relating to the period from 1960-61 to 1964-65 in arrears."

1.18. The Committee note with concern that even after the appointment of a whole time Estate Officer and the authority available to him under the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, the pace of recovery of the arrears of rent in respect of lands and stalls leased out in the Railway Bazars on the

North-East Frontier Railway, has been very slow. During the period May 1967 to June 1968, only a sum of Rs. 5,832 relating to the period upto 1964-65 was realised leaving a balance of Rs. 5,48,987 in arrears. The Committee see no reason why it should not be possible to recover these arrears of rent more expeditiously and in a businesslike manner.

1.19. The Committee need hardly stress that simultaneously the Railways should ensure that the collection of current licencing fees and rents from the lease holders of land and stalls in railway lands are not allowed to get into arrears.

1.20. The Committee also suggest that the Railway Administration should consider the question of charging interest by way of penalty on the lessees who do not pay rent within a specified time limit.

(v) *Arrears in the recovery of the rent for land leased for growing food crops, para 4.8 of the 53rd Report of the P.A.C.—Third Lok Sabha (Serial No. 39).*

1.21. The recovery of rent for railways land leased for growing food crops has been engaging the attention of the Public Accounts Committee since 1959-60. The Committee (1959-60) in para 52 of their 21st Report had deplored the tardy manner in which the Railway Administration had been maintaining the land records and keeping watch over realisation of rents. They had expressed the hope that the Railway Board would pursue the matter vigorously and arrive at a settlement at an early date. The Public Accounts Committee (1964-65) were informed that the Railway Board was considering a proposal whether fixed lump sum amount could not be recovered annually from the State Governments on the basis of past recoveries. They, therefore, desired to be informed of the outcome of this proposal. In a note, the Minister of Railways (Railway Board) had stated that the proposal to recover lump sum amounts from the State Governments was under consideration and that Railway Administration had been in contact with the proposal with the State Governments. It was added that as the problem was rather complicated and many State Governments were concerned, it would take some time before a final decision could be arrived at.

1.22. In para 4.9 of their 53rd Report, the Committee had made the following observation:

"The Sub-Committee desire that the final decision in the matter may be expedited and communicated to them."

1.23. As only interim reply was received; the Committee observed in para 4.5 of their 72nd Report (Third Lok Sabha), that they would await further note on the subject.

1.24. In their reply dated 15th September, 1967, the Ministry of Railways (Railway Board) have stated:

"The best means of effecting recoveries of outstanding amounts representing rents on surplus railway land handed over to the State Governments for being leased out to cultivators has been under correspondence between the Railway Administration and the State Governments concerned. It may be recalled that in a note submitted to the Public Accounts Committee in January, 1967 it was indicated that while the Kerala Government had agreed to the proposal of fixed lump-sum amount being recovered annually from the State Government on the basis of past recoveries, the Mysore Government had indicated their decision to retransfer the railway land to the Railways. The Madras Government had, however, a different suggestion of engaging a whole time Assistant for the purpose of watching over the recoveries, etc. The Southern Railway Administration has since requested the Kerala and Madras Governments to implement the proposals agreed to by them. In respect of other State Governments, no substantial progress could be made. It may, however, be mentioned that out of the remaining States, arrears are mainly with the State Governments of Bihar, U.P., Punjab and Andhra Pradesh, and the matter is being pursued with them. The outstanding dues of Southern Railway against the State Governments of Madras, Kerala and Mysore on 31st March, 1967 were Rs. 1,08,195, Rs. 18,692 and Rs. 243 respectively. It will be seen that there is appreciable improvement."

1.25. Asked to indicate the progress made, the Ministry of Railways in a note dated 24th August, 1968, have stated:

"The matter is still being pursued by the railways with the State Governments. In particular, this Ministry would like to report the following development that has taken place in regard to recoveries from the Government of Uttar Pradesh. The North Eastern Railway had approached the State Government to agree to the formula of a lump sum payment. The State Government desired that they be addressed in the matter by Railway Board as a number of railways passing through Uttar Pradesh were concerned. Accordingly, a letter has been issued to Uttar Pradesh Government recently to agree to pay to Railway Administrations concerned a lump-sum amount

every year, to be fixed every five years, on the basis of average rent being realised by them after deducting some percentage, say 10 per cent, for the management."

1.26. The Committee note that the Ministry of Railways have reached an understanding with the Kerala and Madras Governments about the recovery of outstanding amounts representing rents on surplus railway lands handed over to the State Governments for being leased out to cultivators. The Committee also note that the Uttar Pradesh Government have recently been addressed by the Ministry of Railways to fix a lump-sum amount every year on the basis of the average rent being realised by them, after deducting 10 per cent as management charges; the arrangement being subject to review after every five years.

1.27. The Committee also note that the amounts outstanding are the heaviest in the case of railway lands handed over to the States of Andhra Pradesh, Bihar and Punjab. The Committee desire that the Ministry of Railways should take up the matter directly with the State Governments concerned so as to reach an early settlement about recovery of rent for the surplus railway land handed over to these State Governments.

1.28. The Committee also suggest that in the light of the experience gained, the Ministry of Railways should evolve suitable guidelines for determining the rent which should be recovered on surplus railway land handed over to State Government for being leased out to cultivators so as to avoid complications of the nature which have arisen in the present case. The Committee need hardly emphasize that not only vigorous efforts should be made to recover the past arrears but also sustained efforts should be made to ensure that the rent is recovered regularly and is not allowed to get into arrears.

1.29. The Committee would also like the Railway Board to examine the feasibility of directly leasing the lands to cultivators instead of through the agency of the State Government.

CHAPTER II

RECOMMENDATIONS/OBSERVATIONS THAT HAVE BEEN ACCEPTED BY GOVERNMENT

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

Recommendation

At the instance of the Committee notes explaining the reasons for the excesses over Voted Grants and Charged Appropriations during 1964-65 have been furnished by the Railway Board (Appendix I). The Committee note that after taking into accounts the misclassifications, the real excess comes to Rs. 4,13,68,948.

The Committee regret to note that excess expenditure in respect of these four Voted Grants are recurring although the percentage of excess expenditure in these cases has gone down from the previous years. It is all the more surprising that the Supplementary Grants obtained in March, 1965 under each of these grants proved inadequate. This leads to the conclusion that the expenditure in respect of these grants was not properly assessed at the time of preparing budget estimates and at the time of preparation of estimates for supplementary grants.

The Committee hope, that in view of the excesses recurring year after year in 'open line works', the Railway Board would frame their budget estimates on a more realistic basis.

The Committee recommend that subject to these observations, the excess expenditure of Rs. 4,13,68,948 under Voted Grants Nos. 5, 8, 12 and 15 incurred during 1964-65 be regularised by Parliament in the manner prescribed under Article 115 of the Constitution.

(S. No. 2, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. The Ministry of Railways would, however, respectfully submit once again that some degree of variation between estimates and actuals is inevitable,

despite the maximum care in formulating the estimates, because of the large number of spending units spread over the length and breadth of the country, the variety and multiplicity of items and works on which expenditure is incurred, uncertainties in regard to supply of material and progress of work by thousands of contractors and the volume of adjustments between the Railways and other Government Departments, which go on even after the year closes etc. However, the Ministry of Railways would like to assure the Committee that every effort will be made to improve the standard of budgetting at various stages as well as control over expenditure so that the gap between the Estimates and Actuals is reduced to the very minimum.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC.III|72(O) Dated 19.8.1967]

Recommendation

The Committee are surprised to find that the savings, which was 8.6 per cent under these 14 voted grants, was the highest during 1964-65 as compared with previous years. The Committee would like the Railway Board to take suitable measures to bring down the percentage of savings by improving the technique of budgetting and by exercising more effective financial control over the expenditure on Railways.

(S. No. 3, Appendix XIII, to 72nd Report, 1966-67).

Action taken

The observations of the Committee have been noted. The Ministry of Railways would however like to mention that the savings in 1964-65 under these grants were mainly a reflection of the deliberate decision of the Government taken during the course of the year (subsequent to the presentation of the Budget) to effect the maximum economies possible in revenue as well as capital expenditure in the effort to arrest the tendency towards inflation during the course of the year.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC.III|72(O) Dated 19.8.1967]

Recommendation

The Committee hope that with the implementation of the proposed decision, the situation will improve and no unnecessary provision will be made under 'Charged appropriations'.

(S. No. 4, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. Commencing from the year 1967-68 no *ad-hoc* provision is being made for charged appropriation under any of the Demands.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC|III|72(O) Dated 19-8-1967]

Recommendation

The Committee feel that the continuous saving during the last five years in respect of grant No. 2 relating to the non-utilisation of funds by the Research, Design and Standard Organisation and attribution of more or less the same reasons during the previous four years for the savings under this grant clearly indicates that the provisions are being made year after year without relation to facts. Similarly, the extent of savings that occurred on the four Railways, under Grant No. 13 particularly on the Southern and South Eastern Railways during the last five years indicate that the control over expenditure is far from satisfactory. Such a situation needs to be remedied forthwith.

(S. No. 5, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. The chief causes of surrenders in the provision for R.D.S.O. were (i) shortfall in the supply of equipment and (ii) delay in finding technical staff. With the re-organisation of the R.D.S.O. and its centralisation at Lucknow, it is hoped that the position will improve. In regard to the savings under grant No. 13, the Ministry of Railways would respectfully submit once again that one of the contributory factors that militate against effective control over the grant is that this demand covers expenditure on roughly over a thousand minor works each year on each railway. However, the Ministry of Railways are continuously reviewing the position under this grant and improvements wherever necessary would be effected. Meanwhile the Committee's observations have been specifically brought to the notice of the four Railways on which the savings under this grant were unsatisfactory.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC|III|72(O) Dated 15-9-1967].

Recommendation

From the note furnished in this connection (Appendix III) the Committee learn that the percentage of foreign equipment now in use in the Research, Design and Standard Organisation is as high as 82 per cent. Since it is desirable that the Research, Design and Standard Organisation should lay more stress to design and develop indigenous parts and equipment for use by the Railways, the Committee view with concern the use of such a high percentage of foreign equipment by that Organisation. The Committee feel that greater reliance on indigenous equipment should be encouraged. The Committee would like the Railway Board to apply their mind to this question and take suitable steps in the matter.

(S. No. 6, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. A further review was undertaken of the more important items of foreign equipment in use for research purposes in the Research, Designs and Standards Organisation.

The equipment used in the Research, Designs and Standards Organisation is mainly for research, testing and trials, particularly for recording phenomena and parameters. General purpose instruments required for routine measurements in the Research, Designs and Standards Organisation have been consistently obtained only from indigenous sources whenever possible. But sophisticated types of recording instruments and auxiliary measuring instruments required to maintain and calibrate the former, have had to be imported to the minimum extent necessary. Continuous liaison is maintained with the Directorate of Technical Development, the various National Laboratories and the indigenous manufacturing firms which have recently entered the field of manufacture of sophisticated equipment and wherever possible the latter are asked to develop the equipment required, restricting import to when it is inescapable. For example, it has been decided to manufacture indigenously track recording cars, three for the BG and two for the MG, including their instrumentation, importing only the very minimum of items which cannot be obtained locally, and this is expected to save about Rupees thirty lakhs of foreign exchange. With regard to electronic instrumentation an order for data logging system has also been placed with the National Aeronautical Laboratory, Bangalore, which will save Rs. 40,000 in foreign exchange. This even in

the matter of sophisticated equipment, active steps are being taken to develop indigenous manufacture.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC|III72(O) Dated 19-8-1968].

Recommendation

The Committee note with concern that under grant No. 13, apart from the saving due to economy measure, a number of savings were attributed to slow progress of works due inter-alia to non-receipts or delay in the receipt of materials, late finalisation of plans, estimates, contracts etc. These savings, therefore, reflect lack of proper planning. The delays in obtaining raw materials and other delays require the immediate attention of the Railway Administrations so that progress of work does not suffer on these grounds.

(S. No. 7, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee have been noted.

The Railway Ministry would, however, point out (a) that this grant is only for about Rs. 13 crores out of the total works grant of Rs. 370 crores in 1964-65, i.e., barely 3.5 per cent of the total, and (b) that the works included under this grant are very small works the completion of which to schedule does not materially affect transport capacity and which therefore taken very low priority in the allotment of scarce materials and of funds and even in the matter of the time and attention of the engineering officers in the matter of planning and execution.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC|III 72(O) Dated 10-7-1967].

Recommendation

The Committee hope that with the changes in definition of "Arbitral Tribunal" there will be improvement in the position.

(S. No. 9, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observation of the Committee is noted.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC|III|72(O) Dated 10-7-1967].

*Recommendation**Para 2.59*

The Committee are not convinced of these reasons, especially when definite instructions were issued by the Railway Board in 1961 with regard to collection of sales tax. In case of doubts and difficulties, these should have been referred by the Railway Administration to the Railway Board for directions. The Committee hope that such cases will not recur in future.

Para 2.60

The Committee regret the delay on the part of the Railway Board in issuing instructions to all General Managers to recover sales-tax from passengers if the State Governments refused to grant exemption for payment of sales tax to the Railways. The Sales Tax was levied by some of the States as early as 1956 but the Railway Board issued instructions only in 1961. Not only that, inspite of this directive to recover sales tax, no sales tax was recovered by Railway Administration on sales for which cash vouchers were issued but the Administration had to pay sales tax on the total turnover of all the sales made by their catering units.

Para 2.61

The Committee would like to be informed of the final outcome of the cases taken up with State Governments and in Courts with regard to payment of sales tax amounting to Rs. 4 lakhs.

Para 2.62

They hope with the issue of instructions in January, 1964 by the Railway Board for including in the tariff the element of sales tax, there would be no further difficulty.

(S. No. 10, Appendix XIII to 72nd Report, 1966-67).

*Action taken**Paras 2.59, 2.60 and 2.62*

The Committee's observations have been noted, and further instructions have again been issued to all Railway Administrations reiterating that for all sales from the Catering units for which bills are issued, sales tax must be recovered by showing the same separately in the bills, and for such of the sales for which separate bills are not issued prices of the items should be so fixed as to cover

the element of sales tax that is payable to the State Government. Accordingly where exemptions have not been granted by the State Governments concerned Sales Tax on the sales effected by the Departmental catering and vending organisations is now being recovered from the passengers and paid to the State Government. In the case of Madhya Pradesh, however, who had granted exemption to the Central Railway from payment of Sales Tax up to 14.4.65 and expressed their inability to continue the same beyond that date, efforts are still being made to persuade that Government for the continuance of the exemption. Pending the State Government's final decision, the Central Railway was not recovering Sales Tax on sales effected through mobile units in that State. The Railway has been asked to ensure recovery of Sales Tax for sales made in the mobile catering units in the State of M. P. and also pursue vigorously the question of exemption with the State Government. The Railway has started recovery of Sales Tax from 1st February, 1968.

Para 2.61

The final outcome or up-to-date position, as the case may be, of course taken up with State Governments or which were taken to Courts in regard to payment of sales tax of approximately Rs. 4 lakhs is given in the Annexure.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 8-5-1968].

ANNEXURE

Position of cases regarding payment of sales tax taken up by the Railway administration with State Governments and in Courts.

I. SOUTHERN RAILWAY

| <i>Period for which sales tax was paid but not recovered</i> | <i>Amount of sales tax</i> |
|--|----------------------------|
| 1.10.1957 to 14.6.1962 | Rs. 1,96,017.40 |

Of the total amount of Rs. 1,96,017.40 paid as sales tax by the Southern Railway, the amounts paid to Madras and Mysore States were Rs. 1,41,121.64 and Rs. 54,895.76 respectively.

Writ petitions filed by the Southern Railway challenging the levy of sales tax during the above mentioned period by the Madras State have been dismissed by the Madras High Court. The Court held that profit motive is not the criterion and the assessment cannot be set aside.

Arrears of sales tax amounting to Rs. 54,895.76 were paid to Mysore State after appeals made by the Railway against the assessment were turned down by the Appellate Commissioner. The question of filing a writ petition in the High Court of Mysore for the refund of Rs. 54,895.76 paid to the State Government is under consideration of the Southern Railway Administration.

II. EASTERN RAILWAY

| <i>Period for which sales tax was paid but not collected</i> | <i>Amount of sales tax</i> |
|--|----------------------------|
| 1957-58 to 31.3.1964 | Rs. 1,55,858 |

As already explained, the State Governments of West Bengal, Bihar and Uttar Pradesh were requested by the Eastern Railway to grant exemption of payment of sales tax on sales effected by that Railway's departmental catering and vending units, but all the State Governments regretted their inability to comply with the requests. Sales tax was duly recovered from the passengers on all sales where a case memo was issued, from the very inception of departmental

catering on that Railway. Sales tax, was, however, not recovered in respect of sales made from platform stalls, trolleys and vendors from where it was not possible to issue cash memo for the sale. The amount of Rs. 1,55,858 was paid as sales tax in regard to such sales for the period from 1957-58 to 31-3-1964. In 1964 the tariff was revised to include the element of sales tax and sales made from platform stalls, trolleys and vendors. Sales tax is thus being levied on these sales now and the amounts are being paid to the State Governments concerned.

III. CENTRAL RAILWAY

| <i>Period for which sales tax was paid but not collected</i> | <i>Amount of sales tax</i> |
|--|----------------------------|
| 1.4.1956 to 31.5.1962 | Rs. 13,352 |

The payment of arrears of sales tax amounting to Rs. 13,352 was made to the Maharashtra Government under protest. A revision appeal was filed before the Deputy Commissioner of Sales Tax, Nagpur, but he dismissed the same on the ground that in the old C.P. and Berar Sales Tax Act, the Central Government was defined as a "dealer" and that Railway was doing the "business" of departmental catering. The Central Railway thereupon referred the matter to the Department of Legal Affairs, Ministry of Law, Bombay for advice in regard to the filing of further appeal against the same. The latter, however, expressed doubt about the success of the case, and did not consider it advisable to take risk of litigation in a doubtful case as the amount involved was small. No further appeal has been filed in this case.

IV. NORTH EASTERN RAILWAY

| <i>Period for which sales tax was paid but not collected</i> | <i>Amount of sales tax</i> |
|--|----------------------------|
| 1956-57 to 31-3-1964 | Rs. 22,412 |

The amount of Rs. 22,412 was paid to the State Government of Bihar by the North Eastern Railway. In addition to this, a sum of Rs. 2,576 was paid to the State of Uttar Pradesh by this Railway.

The payments in each case were made under protest on receipt of Demands Orders from the Sales Tax authorities and appeals were filed in the respective courts. All the cases are still pending in the courts at Samastipur, Bhagalpur and Muzaffarpur in Bihar and at Gorakhpur in Uttar Pradesh.

Representations were made by the North Eastern Railway to the State Governments of Uttar Pradesh and Bihar to exempt railway catering units from payment of sales tax but both the State Governments did not agree.

Recommendation

The Committee appreciate the efforts being made by the Railway Board in improving their catering but they feel that much remains to be done yet particularly in maintaining hygienic conditions in their catering units. The Committee trust that greater attention will be paid to this aspect of the problem also.

(S. No. 11, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. Suitable instructions have been issued to the Railway Administration *vide* Board's letter No. 67-B(C)-PAC/III/72(11) dated 20th May, 1967. (Annexure).

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 10-7-1967]

ANNEXURE
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 67-B(C)-PAC/III/72(11). **New Delhi, dated 20th May, 1967.**
30th Vaisakha 1889.

The General Managers,
All Indian Railways.

Sub:—Recommendation No. 11 of 72nd report of Public Accounts Committee—Maintenance of hygienic conditions in the Railway catering units.

The Public Accounts Committee have made the following recommendation in their 72nd report:—

“The Committee appreciate the efforts being made by the Railway Board in improving their catering but they feel that much remains to be done yet particularly in maintaining hygienic conditions in their catering units. The Committee trust that greater attention will be paid to this aspect of the problem also.”

The Board desire that special attention should be paid and supervision should be intensified with a view to effecting improvement in this aspect of the working of the departmental catering. When any lapses come to notice, action should be taken to fix responsibility and severe punishments imposed to set the matters right.

DA: Nil.

Jt. Director Traffic General,
Railway Board.

No. 67-B(C)-PAC/III/72(11) **New Delhi, dated 3 June, 1967.**
13 Jyaistha 1889.

Copy (with 40 spare copies) forwarded to the A. D. A. I. (Rlys), New Delhi, with reference to recommendation No. 11 contained in

Appendix XIII to the 72nd Report (3rd Lok Sabha) of the Public Accounts Committee (1966-67).

DA: As above.

*Dy. Director, Finance (BC),
Railway Board.*

Recommendation

Para 2.70

The Committee feel that more effective checks should be provided so that these under charges are detected immediately and are not allowed to accumulate.

Para 2.71

They would also like to be informed of the steps taken for the expeditious recovery of the undercharges.

(S. No. 12, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. Railways have been directed to take suitable steps to secure correct invoicing of freight and other charges at the stations and also for avoidance of delay in the calculation, and advice to the stations of the amount of under-charges. In this connection the Ministry of Railways would like to point out that the Goods & Passenger accounting on the Railways is now being done on machines and the instructions issued include the procedure for prompt issue of error sheets against stations.

2. To help in expeditious clearance of under-charges debited to stations special squads have been formed of Accounts Inspectors (and Commercial Inspectors where necessary), to investigate on the spot debits disputed by the station staff.

3. The outstanding items are also reviewed in the meeting of Divisional and Principal Officers.

4. The Railways have also been asked to report the extent of clearance of the balance of under-charges outstanding as on 31st March 1966, along with the measures taken by them for further clearance of the remaining balance. A copy of the instructions to the Railways is at Annexure-A.

5. Recovery of debits already admitted by station staff are being made in suitable instalments within the provisions of the Payment of Wages Act, and recoveries from private bodies are being made in instalments as ordered by Court or as mutually agreed to.

6. As a result, 58.7 per cent of the undercharges outstanding on 31.3.66 have been cleared by 31.3.67 (i.e. out of 131.50 lakhs 77.21 lakhs have been cleared).

7. This has been seen by Audit.

[O.M. No. 67-B(C)-PAC. III/72 (O) Dated 27-9-1967].

ANNEXURE 'A'
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 67-ACIII|30|2.

New Delhi, dated 4th May, 1967.

The General Managers,
All Indian Railways.

Sub: Appropriation Accounts—Annexure 'B'—Statement of undercharges detected by Accounts and Audit-1964-65 (Pt. II).

In connection with the amount of undercharges detected by Accounts etc., featuring in Annexure 'B' to the Appropriation Accounts for 1964-65, the Public Accounts Committee have remarked in their 72nd Report that more effective checks should be provided so that these undercharges are detected immediately and are not allowed to accumulate. The Board have observed with concern that the amount of undercharges reported in the Appropriation Accounts for 1965-66 also was appreciably higher than that for the previous two years and desire to emphasise the importance of the need for correct invoicing of freight and other charges at the stations at initial stage. They, therefore, reiterate that suitable steps should be taken to achieve this objective urgently particularly where payment of freight and other charges is made by credit notes and warrants (c.f) Board's letter No. TCI/1398/63/AR/Pt. dated 12.12.1963). In this context, attention is invited to the instructions contained in Board's letters No. DSDA '62 (Proc) Goods-IV dated 26.11.1966, 1.3.1967 and 8.4.1967 in the matter of expeditious calculation of the amount of undercharges and their immediate advice to the stations etc. in the light of the mechanisation of Goods and Passenger accounting introduced on the Railways.

2. The Board also desire that the clearance made during the months of February and March, 1967 out of the balance of undercharges outstanding as on 31st March, 1966 should be advised to them at an early date, also indicating the balance still left therefrom and the measures taken for further clearance.

*Deputy Director, Finance (Accounts),
Railway Board.*

Recommendation

The Committee feel that the omission on the part of the tenderers in not supplying the samples as required under the terms of the tenders should have been noticed at the time of opening the tender on 15th September, 1964 and immediate action taken to call for the samples. They regret to note that samples were not immediately called at the time of opening the tenders. If that had been done, a period of 5 weeks which the authorities of the Chittaranjan Locomotive Works took in calling for the samples could have been saved. The Committee feel that this period of avoidable delay of 5 weeks was one of the important contributory reasons which made the offer of the acceptable tender time-barred and thus enabled him to get out of his offer. As a result of that Government had to get the material at higher prices which involved avoidable extra expenditure of Rs. 2.57 lakhs. The Committee cannot but deprecate the careless manner in which this case was handled in the office of the Chittaranjan Locomotive Works. This clearly indicates that there was lack of proper supervision on the part of those who were responsible for finalising the tender. The Committee are, however, glad to note that the matter was investigated and the persons responsible for mis-handling the case have been punished.

The Committee are also not convinced that because of the ban on the export of tapioca by the Government of Kerala, the tender had to be treated as frustrated since there is nothing in the evidence to show that any effort was made by the Railway Administration to obtain enough material to meet their requirements either by negotiations with the Kerala Government direct or at Government level. The Committee feel that had the administration made such an effort they would have been able to persuade the tenderer not to increase the prices till the outcome of their negotiations was known. They desire that the Railway Board should take necessary action to avoid repetition of such cases in future.

(S. No. 14, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. Suitable instructions in the matter have been issued to the Railway Administrations vide Railway Board's letter No. 67-B(C)-PAC/III/72 (14) dated 31.5.67 (Annexure).

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 10-7-67].

ANNEXURE

GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

No. 67-B(C)-PAC. III|72(14). New Delhi, dated 31st May, 1967.

*The General Manager,
All Indian Railways,
D.L.W., I.C.F. & R.E.

*The C. A. O. & C. E.
D. B. K. Rly. Project,
Waltair.

*The Director General,
R. D. S. O.,
Lucknow.

Sub: Recommendation No. 14 contained in the 72nd Report of the Public Accounts Committee (1966-67) on para 13(i) of Audit Report (Railways) 1966—Delay in finalisation of tenders.

Attention is invited to para 13(i) of the Audit Report (Railways) 1966 on the above subject. In this case the order for the supply of the material (Dextrine) was not placed on the acceptable tenderer within the period of validity and the reasons for the delay as furnished during the evidence before the Public Accounts Committee are summed up in para 3.39 of the Committee's 72nd Report (extract enclosed).

While commenting on this case, the Public Accounts Committee have, apart from pointing out the delay in calling for the samples in this case, made the following observations in para 3.46 of their 72nd Report (Third Lok Sabha):—

“The Committee are also not convinced that because of the ban on the export of tapioca by the Government of

*With 2 spares.

Kerala, the tender had to be treated as frustrated since there is nothing in the evidence to show that any effort was made by the Railway Administration to obtain enough material to meet their requirements either by negotiations with the Kerala Government direct or at Government level. The Committee feel that had the Administration made such an effort they would have been able to persuade the tenderer not to increase the prices till the outcome of their negotiations was known. They desire that the Railway Board should take necessary action to avoid repetition of such cases in future".

2. The Board desire that the above observation of the Committee should be noted and circulated for the information of all officers connected with purchases. There is no reason why the period of validity of tenders should not be fixed even initially with due regard to all circumstances of the case, and tenders finalised within that period.

As for the Committee's suggestions that the Railway should directly approach the government imposing restrictions on the supply of essential raw materials subsequent to the opening of tenders, the Board desire that the Railway should, immediately on receipt of advice of such a ban/restriction explore the possibility of meeting the Railway's requirements by approaching the state government direct for a relaxation of the ban in the Railway's favour. If the state government agrees, the successful party may be helped to procure the required quantity of raw material from the state on the Railway's recommendation. If, however, the raw material can be issued by the State Government only to the Railway and not the tenderers, the question of calling fresh tenders on the basis of free supply of the raw material items should be considered. The condition suggested by the Committee in the penultimate sentence of their recommendation about the price being kept at the tendered rate should be carefully noted and enforced where it is proposed to finalize action on the basis of the original tender.

3. Please acknowledge receipt.

*Director, Railway Stores,
Railway Board.*

No. 67-B(C)-PAC. III/72(14).

New Delhi, dated 31 May, 1967.

Copy to:

1. The General Manager, C.L.W., Chittaranjan for future guidance, with reference to paras 3.36 to 3.46 of the 72nd Report of the Public Accounts Committee (1966-67) (With 2 spares).

2. The A.D.A.I. (Rlys), New Delhi, with reference to Recommendation No. 14 contained in the 72nd Report of the Public Accounts Committee (1966-67) (with 40 spares).

*Director, Railway Stores,
Railway Board.*

Extract of para 3.39 of the 72nd Report of the Public Accounts Committee (1966-67).

The Committee desired to know the reasons for the delay of 5 weeks in asking the tenderer to supply samples. The representative of the Railway Board stated that the tender was opened on the 15th September, 1964 and it was on the 23rd of the same month that they were able to tabulate the prices and the conditions that had been indicated in the quotations received. While the tabulation was being done, they had also obtained the freight rates from the Eastern Railway. In view of the fact that the suppliers had indicated that they would be supplying the materials at different points, the freight also had to be added to get a comparative idea of the total cost that would have to be incurred. Thereafter it was discovered that out of 11, only four tenderers had supplied samples, in spite of the fact that while calling for tenders it had been specifically mentioned that samples must be submitted in such case. This case was put up to the officer concerned. In the meantime, this particular file got misplaced by the Stores Clerk concerned and the intervening periods were Durga Puja holidays. It was only after the Durga Puja holidays that the letter was issued to the various suppliers for the supply of samples. This period of five weeks was being counted from the date when the tenders were opened, but there was an initial period when the tabulation was being done. The tabulation was completed on the 23rd September, 1964 and after one month of that on 23rd October, 1964 it was discovered that all the samples were not received from all the tenderers. During the period of one month, 10 days consisted of Durga Puja holidays and 3 days after the holidays, the letter calling for samples was issued. In reply to a question, the witness stated that the matter was investigated and responsibility fixed on the persons who were handling the cases and they had been punished.

Recommendation

The Committee regret to find that it was because of lack of co-ordination between the D.G.S.&D and the Railway Administration that there was considerable delay in finalising the tender and this delay ultimately led to an extra expenditure of Rs. 25,855. The D.G.S.&D. should have given full technical data to the Railways when acceptance of Railways was asked for the deviations in specifications. The Railways should also have not taken 13 weeks or so in communicating their acceptance. The Committee hope that there will be better coordination amongst the concerned Ministries/Departments in future and that such cases will not recur.

(S. No. 15, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. This has been seen by Audit.

[O.M. No. 67-B(C)-PAC. III/72 (O) dated 10-7-1967].

MINISTRY OF WORKS, HOUSING & SUPPLY

(DEPARTMENT OF SUPPLY)

The observation made by the Committee has been noted.

[No. 43 (5)/66-P1 dated 15-6-1967].

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

Recommendation

Para 3.64

The Committee regret to note that the Railway Board could not finalise the itemwise distribution of imported steel items for which global tenders were invited within the period the lowest offer was open for acceptance even though they were aware that the overseas supplier was not prepared to extend the delivery period beyond a certain date. As a result they had to obtain certain items of steel at higher price than what was offered by the lowest tenderer. The Committee desire that the Railway Board should take suitable steps to ensure that tenders of such nature are processed more expeditiously and within the prescribed time limit, to avoid the possibility of loss due to the validity period of the tender expiring.

Para 3.67

The Committee feel that the Railway Board could have saved some valuable time by seeking all the clarifications at one time instead of in piecemeal. In this way they could have reduced the period of two months which they otherwise took in finalising the tender.

Para 3.68

The Committee hope that the Railway Board would issue instructions for the expeditious processing of such tenders in future so that piecemeal clarifications are not sought from tenderers.

[S. No. 16 & 17, Appendix XIII to 72nd Report, 1966-67].

Action taken

The Committee's observations have been noted and suitable instructions issued (Annexure). The Ministry of Railways would, however, respectfully submit that the finalisation of the tender was done promptly enough in the first case, i.e. within 36 days after the opening of the tender, against the validity period of 60 days stipulated in the tender notice. The subject firm made it virtually impossible for the Railway Board to accept their offer for the 29 items in question by the delay in giving clarifications and in the withdrawal of unacceptable conditions and also by granting piecemeal short extensions of the validity period which they had initially kept unduly short.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC./III/72(O) dated 19-8-1967.]

ANNEXURE
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 67-B(C)-PAC/III/72(16-17). *New Delhi, dated 29/31-7-1967.*

To

The General Managers,
All Indian Railways,
C.L.W., D.L.W., I.C.F., R.E.,
& C.A.O. & C.E., D.B.K.R. Project.

The Director General,
R.D.S.O.,
Lucknow.

*SUB: Recommendations No. 16 & 17 of 72nd Report of the
Public Accounts Committee—Need for finalisation of tenders
within the validity period.*

Commenting on para 14 of Audit Report (Railways) 1966 in their 72nd Report, the Public Accounts Committee have, *inter alia*, observed (i) that it should be ensured that tenders are processed expeditiously and within the prescribed time limit to avoid the possibility of loss due to the expiry of the validity period of the tender, and (ii) that clarifications should not be sought piecemeal from tenderers.

2. The Board desire that the above observations of the Committee should be carefully noted and would draw the Railway's attention to the letters Nos. (1) 66/777/RS(G), dated 13th February 1960, (2) 61B(C)/E/43 dated 19th March, 1962, (3) 65PAC/III/32 (29-30), dated 14th May, 1965, (4) 65-B(C) PAC/III/32 (29-30), dated 2nd June, 1965, issued from time to time in which the need for avoiding delay in the finalisation of tenders had been stressed. The Board particularly desire that, as recommended by the Public Accounts

Committee, even in cases where the period of validity quoted is less than the period notified by the Railway in the tender documents, every effort should be made to persuade the tenderer to extend the validity period suitably and also decide on the offers within the limited validity period itself. Further, the scrutiny of the terms and conditions offered by all the tenderers should be done in all details at the initial stage itself, so that all the information necessary for consideration of offers is called for at one time and leaving no occasion for seeking further extensions in regard to any one of the offers at a later stage, on this account.

*Dy. Director Finance (BC),
Railway Board.*

No. 67-B(C)-PAC/III/72 (16-17). *New Delhi, dated 29/31-7-1967.*

Copy (with 40 spare copies) to A. D.A.I. (Railways), New Delhi.

*Dy. Director, Finance (BC),
Railway Board.*

Recommendation

3.122. From the evidence, the Committee find that even though it was general rule in all the railways to recover crane charges from the consignors and the consignees, the Central Railway tried to realise the same from the contractor also and incorporated a provision to that effect in the agreement, which later on was contested by the contractor and the Railway lost their case both before the arbitrator and also in the High Court on the grounds of equity and because of defective wordings of the agreement. Since a clause toward realisation of crane charges from the contractor was provided in the contract; it would have been prudent for the Central Railway Administration to obtain legal advice beforehand as recovery on account of crane charges was being made from the consignors and consignees in all such cases including in this case. The Committee regret that this essential aspect was not given due thought even when the contractor protested in September, 1958. If the legal advice was obtained in time, the Committee feel that a great part of the amount of Rs. 59,000 which was awarded by the arbitrator three years later, could have been reduced, substantially, either by terminating the contract or by amending the provisions of the contract suitably. The Committee hope that the Railway Administration

would be more careful in future in such cases. The Railway Administration should also ensure that before any agreement is entered into with any party, all the provisions of the same are spelt out in clear and unambiguous terms. The Committee also feel that the Railways should have asked for two rates—one with supply of cranes and other without that while inviting tenders initially in this case. This would have avoided later controversy as it arose in this case.

3.123. The Committee are not convinced with the arguments put forward in defence of the delays of 2½ years in this case, and they feel that much of the delay could have been avoided, if prompt action was taken at appropriate stages.

(S. No. 21 Appendix XIII to 72nd Report, 1966-67).

Action taken

Para 3.122.

The observations of the Committee have been noted and brought to the notice of the Railway Administrations also for future guidance.

Para 3.123.

The observations of the Committee are noted for future guidance. Necessary instructions have also been issued in the matter *vide* Railway Board's Office Order No. 49 of 1967. (Annexure).

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72(O) dated 19-8-1967.]

ANNEXURE

GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

OFFICE ORDER NO. 49 OF 1967.

In the recent past, cases of delay in the Board's office in arriving at decisions on references made by Railways extending over two years have been reported in the Railway Audit Report and commented on adversely by the Public Accounts Committee. On a scrutiny of two such cases, it has been observed that the final decision was delayed owing to piecemeal collection of information required for examining and deciding the issues. These cases indicate the need for examining the issues raised by the Railway Administrations exhaustively even at the initial stage so that further information required on possible details could be obtained in one lot instead of in stages and thus delaying the decision. It is desired that this aspect should invariably be borne in mind in dealing with cases, particularly references received from the Railway Administrations calling for approval of or a decision by the Board. This would incidentally also help in adhering to the time-limit prescribed for disposal of references from Railways etc. in Office Order No. 32 of 1964.

[Case No. 67/O&M/31 dated 12-7-1967].

To

All Officers & Branches of Board's Office (10 spares to G/Acc. Branch).

Copy with 70 spares to B(C) Branch.

Copy with 20 spares to O&M Unit.

Recommendation

The Committee find from the notes that the Chittaranjan Locomotive Works had requested the foreign firm on 6th April, 1962, to

obtain competitive quotations for the supply of 12 items of crimping tools from the U.K. and the continental firms to be purchased through the foreign firm. This was, however, met with a delayed reply from the firm. They gave one quotation and requested the Chittaranjan Locomotive Works to make purchase directly. The Legal Adviser to the High Commissioner in London had held that "this inability to perform the contract fully constituted a breach of contract on the part of the foreign firm" and the Railway Administration "would have been justified in rescinding the contract on such breach". The Railway Board, however, terminated the contract by giving six months' notice w.e.f. 31st May, 1963.

The Committee feel that if the Railway Board had taken timely legal advice on 16th April, 1962, when they had first received the intimation regarding the firm's proposal to go into voluntary liquidation and keeping in view the breach of contract—committed by the firm, the Railway Board would have been in a better position and the amount of money which was paid to the firm owing to legal implications could have been minimised.

(S. No. 22, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC III/72(O) dated 19-8-1967].

Recommendation

In this case the Committee feel that even though the increase in the quantum of earth work done at the Itarsi end was caused due to the unexpected resistance of the landlord to allow the Railway to make use of his land, the increase on the other end of the bridge where the work was done with better type of soil, could have been foreseen and this was also the case with the work done at Juneta. The Committee feel that if the estimates of work done at these two sites were correctly made and tenders were invited on that basis, the Railway Administration could have got better competitive rates. The Committee are not inclined to accept the plea that reinviting of tenders would have been in all cases disadvantageous to the Railway Administration. Even though in the present case the Administration

succeeded in reducing the rates quoted by the contractor through negotiation, yet the Committee feel that such a practice of fixing of contract rates through negotiation should be utilised sparingly, with utmost caution and under proper supervision and the practice of inviting tenders should not be dispensed with. The Committee also feel that it would have been more appropriate for the Railways to call for fresh tenders when the quantity of earth work increased from 50,000 cft. to 55 lakhs cft. under item No. 2 mentioned in the Audit para. Alternatively negotiations should have been carried out with all the original tenderers and not with one tenderer only.

(S. No. 23, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. In this connection attention is invited to this Ministry's detailed reply to the Committee's observations contained in paras 3.150 and 3.151 (Recommendation Sl. No. 24) and the instructions issued to the Railway Administrations as referred to in that reply.

This has been seen by Audit.

[O.M. No. 67—B(C)—PAC.III/72(O), Dated 11-12-1967]

Recommendation

Para 3.150.

The Committee fail to understand how the South Eastern Railway could finalise a contract on 5th August, 1963 on the assumption that a normal hump would be provided in the Nimpura yard when they themselves approached the Railway Board almost immediately thereafter on 31st August, 1963 that it was essential to provide a mechanised hump there. Moreover, the expectation of the Railway Administration that it would be easy to switch over and the process would not entail much variation does not appear to have been formulated on sound technical advice because the whole scheme could not be finalised before November, 1964. As a result of sudden change in the Plan, the cost of the work had gone up from Rs. 3.55 crores to Rs. 5.3 crores. Though it had become apparent to Railway Administration in August, 1963 that as a result of increase in the quantities, this contractor became the highest among the tenderers, the extra work was allowed to be executed by him. The Committee understand from Audit that neither fresh tenders were invited nor attempts were

made to negotiate with all the original tenderers and the negotiations were confined to the existing contractors only.

The Committee feel that there was no justification for the Railway Administration to finalise the contract on 5th August, 1963 when the Administration were well aware that it would undergo substantial changes as a result of their own proposal for the provision of mechanised hump. The contract, as an alternative, should have envisaged the provision of a mechanised hump in so far as the earth works were involved. The Committee would strongly urge upon the Ministry that in all cases where the work varies substantially from the estimates and if calling for fresh tenders is not considered advisable adequate opportunities should be given to all the original tenderers to offer rates for the revised work instead of negotiating the rates with the existing contractors only. The Committee would like the Railway Board to issue suitable instructions in this regard.

(S. No. 24. Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Public Accounts Committee in paras 3.150 and 3.151 of their 72nd Report have been noted and they have also been brought to the notice of the South Eastern Railway Administration for their guidance. The Ministry of Railways have also carefully examined the substantive recommendation made by the Committee and have issued comprehensive instructions to the Railway Administrations detailing the procedure to be followed in dealing with the tenders for works at different stages vide letter No. 67-B(C)-PAC|III|72(24), dated 29-11-1967 (enclosure). The Ministry of Railways, however, respectfully submit that in the said instructions the Railway Administration have had to be given the discretion to negotiate with the existing contractor in cases where a second agency cannot be brought in to complete the additional work which become necessary subsequent to the award of the original contract. It is considered necessary to do so in view of the practical difficulties that the Administration may have to face in implementing the Committee's recommendation in toto while executing various works, as briefly explained below.

When it is found after contracts have been awarded and work is already in progress that there are likely to be substantial variations from the quantities of work originally estimated (and on the basis

of which the tenders were considered and decided), it may not always be practicable to bring into the working area a second contractor for carrying out the additional quantities of work found necessary. There would also be cases, namely earthwork contracts, where while the total quantity of work remains substantially the same, there may be substantial variations in the cost of the work, due to the break-up of the quantities under the various classifications of soils, being different from that estimated at the time of letting out the contract; in such cases also, it would not be practicable to call in a second contractor for executing only those items of earthwork where the variation in quantities is appreciable. If the original contractor has already made substantial progress with the works in the entire area covered by the contract or when the whole work is concentrated physically within a small area, experience shows that the entrustment of the additional quantities of work to another contractor at the same time would not only lead to a degree of competition for the labour force between the two contractors but would also complicate the measurement of work done by each of them. If the Committee's recommendations are to be implemented in such cases there would be no alternative to the Railway but to either cancel the original contract or to wait till the existing contractor finishes the work under the original contract and then invite fresh tenders for the balance quantities. Cancellation before the contracted work is completed would invariably result in claims from the existing contractor. The alternative of waiting till the original contract is executed fully would result in delay in the completion of the work. The practical difficulties in measuring the work would be there under both the alternatives. Hence, if it is not considered practicable in a particular case to introduce a second agency, the only course left to the Railway will be to try to negotiate fresh rates for the increased quantities with the existing contractor.

2. The instructions issued to the Railways, however, make it perfectly clear that if the progress made by the original contractor and the nature and layout of the work is such that the Railway Administration finds it is practicable to bring in a second agency to carry out the additional quantities of work, one or other of the alternatives proposed by the Committee should be implemented.

This has been seen by Audit.

ENCLOSURE

GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

No. 67-B (C)-PAC.III|72 (24).

New Delhi, dated 29-11-1967.

*The General Managers,
All Indian Railways including
C.L.W., D.L.W., L.C.F., and
Railway Electrification.

*The Chief Administrative Officer &
Chief Engineer,
D.B.K. Railway Projects,
Waltair.

*The Director, General,
R.D.S.O.,
Lucknow.

SUB.:—Procedure in dealing with large excesses over the estimated cost of earth work contracts as a result of developments subsequently to the award of contracts.

In recent years audit has criticised several cases in which due to developments after the award of the contracts, there were large variations from the estimates on which earth work contracts were let, and heavy extra expenditure was incurred in the execution of the extra quantities of earth work and these extra quantities were executed by the same contractor without the Railway Administrations testing the market once again. The later developments leading to the increase in quantities of earth work and consequently in the monetary value of the work arose either because the scope of the work was revised significantly after the contract was awarded or because of change in the composition of the contracted work in terms of quantities, say, as between earth work in formation and earth work in cutting or between earth work by head lead and by carting, or due to variations in the lead, or due to variations in the quantities under the various classifications of soils. Arising from two cases in the Railway Audit Report 1966, the Public Accounts Committee have observed that, where the quantities of work vary substantially from the original tender, the Railway should call for fresh tenders, and that, if the calling of fresh tenders is not considered feasible, adequate opportunities should be given to all the

*With 5 spare Copies each.

original tenderers to offer rates for the revised items of work, instead of negotiating the rates only with the contractor who is doing the work

2. In the light of the various cases mentioned in the Audit Report recently and the observations of the Public Accounts Committee quoted above, the Railway Board desires that the Railway Administrations should be guided by the following broad general principles while dealing with tenders for works at different stages, in order to ensure that the most economical rates are obtained, consistent with the nature of the work and the practicability of its execution through more than one agency:—

- (a) Planning for the work should invariably be done with adequate care and in sufficient detail even in the initial stages and the final scope of the work should be fully determined before tenders are invited. This aspect is most important as it is considered that large variations in the quantities generally result mainly due to inadequate initial planning. Proper scrutiny of the estimates should precede the invitation of tenders to ensure that clerical mistakes have not crept into the basic calculations of quantities, necessitating large scale revision of the quantities at a later stage.
- (b) After the award of the contract, if, due to unavoidable circumstances, the initial quantities are expected to vary substantially, a check should be made immediately by comparing the value of the revised work as per the rates quoted by the original tenderers to determine whether the decision to award the contract to the particular tenderer is vitiated by the variations in the quantities. Whether the quantities have varied substantially or not should be determined in accordance with Board's letter No. 63/WII/CT/4, dated 6th May, 1963 (Annexure). If such a variation of the award of the contract as between tenderers is noticed, the Railway should immediately examine with reference to the progress of the work on the original contract and the nature and layout of the work, whether it is practicable to bring in a new agency to carry out the extra quantities of work. If this is not practicable the reasons for the same should be recorded and approved by the competent authority. Prompt action should also be taken to obtain the sanction of the competent authority to the excess in the contract value/estimate as a result of increase in the quantities.

(c) If it is found that there will be no serious practical difficulties in getting the additional quantity of work done by another agency, one of the following two alternatives as found feasible may be adopted:—

- (i) inviting fresh tenders for the extra quantities;
- (ii) negotiating the rates for the extra quantities not only with the existing contractor but also with all the other tenderers who had initially quoted for the work.

(d) If however, in the circumstances mentioned in (b) above it is decided by the Railway Administration that a second agency cannot be brought in, negotiations should be carried out with the existing contractor for arriving at a reasonable rate for the additional quantities of work.

3. The above instructions should be brought to the notice of all concerned. Receipt of this letter should be acknowledged.

Jt. Director, Civil Engg., Railway Board.

ANNEXURE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 63/WII/CT.4.

New Delhi, dated 6th May, 1963.

The General Managers,
All Indian Railways including
C.L.W., D.L.W., I.C.F. and
D.B.K. Railway Project.

The General Manager & Chief Engineer,
Railway Electrification Project,
Calcutta.

SUB:—*General conditions of Works Contract.*

A case has been referred to the Railway Board by a Railway in which one of the contractors has challenged the right of the Railway to vary quantities of items in a certain work beyond reasonable extent from those indicated in the tender document. In the case in point, the quantities of certain items of work have increased by more than 100 per cent and some of the items of work on the other hand have been altogether deleted, even though provided in the schedule accompanying the tender notice. It was stated by the Railway that generally speaking, in a works contract variations in quantities bet-

ween 15 per cent and 25 per cent, depending upon the merits of each case, should be considered as reasonable and beyond this as unreasonable and not falling within the scope of the contract. In holding this view, the Railway was guided by clause 6 of the Indian Railways Standard Conditions for Running Contract for Stores given as Appendix III at page 523 of the Indian Railway Code for Stores Department.

2. The matter has been examined in consultation with the Ministry of Law, Government of India, and the Board have been advised that the word 'approximate' connotes a quantity as near as possible to the quantity specified. In other words, it may be a little more or a little less than the quantity specified. But no rigid rule can be prescribed as to what should be reasonable limits of such increase or decrease. The extent of such reasonable limit of increase in a works contract may not be the same in every case. It would depend on the nature of works contracted to be done. Perhaps a variation between 15 per cent and 25 per cent depending on the nature of the particular category of work to be done would not be unreasonable.

3. The Railway Board desire that the above advice may be kept in view while disposing of cases of similar nature, in consultation with your F.A. & C.A.O., on the merits of each case.

Joint Director, Civil Engineering, Railway Board.

Recommendation

3.187. The Committee had expressed their anxiety over a majority of cases referred to arbitration going against the Railways in para 30 of their 32nd Report (Third Lok Sabha) and in para 3.39 of their 53rd Report (Third Lok Sabha). They are perturbed to find that in this case also the award of the arbitrator went against the Railways. The Committee would like the Railway Administration to have this case examined thoroughly once again to see if there were grounds on which the award of the arbitrator could be challenged successfully.

3.188. From the statement furnished at the instance of the Committee, (Appendix VIII), they find that even the provisional figures of cases referred to Arbitration during the last five years (1961-62 to 1965-66) disclose that out of 737 cases, only 119 were decided in favour of Railways as against 459 in which amounts were awarded to contractors while 158 cases are still pending. These figures indicate an unsatisfactory state of affairs. The Committee would however like to await the result of detailed study and review being made at present by the Efficiency Bureau of the Railway Board on this question. They would like to be informed, in due course, of the findings

of the Efficiency Bureau, and the action initiated thereon to improve the position.

S. No. 27, Appendix XIII to 72nd Report, 1966-67).

Action Taken

Para 3.187.

The case has been thoroughly examined again by the South Eastern Railway Administration in consultation with their Law Officer. A copy of his opinion is attached Annexure 'A'. In view of the further arguments advanced by the Law Officer in support of the previous legal opinion on the basis of which the Railway Administration satisfied the awards of the Arbitrators, it is submitted that the Railway Administration do not have valid grounds for challenging the awards of the arbitrators.

Para 3.188.

The Study in question has since been completed by the Efficiency Bureau, and a copy of their conclusions and recommendations is attached Annexure 'B'. These have been generally accepted by the Railway Board and the individual recommendations are under detailed examination with a view to issuing suitable instructions to the Railway Administrations.

This has been seen by Audit.

[O.M. No. 67-B(C)—PAC-III/72(O), dated 10th October, 1967].

ANNEXURE 'A'

Copy of Law Officer South Eastern Railway's opinion dated 3-5-1967

"I have re-examined the suit No. 966 of 1960 out of which matter No. 255 of 1963 arose which related to Agreement No. 75/CON/SER/56 between M/s. Ganesh Construction Co. and Union of India. The suit which was filed by the contractor was stayed on an application under section 34 of the Arbitration Act by the Union of India; by an order of the Calcutta High Court and matter No. 255 of 1963 was thereby originated. In the said suit a sum of Rs. 3,90,059 was claimed by the contractor and the same amount was referred to the arbitration of Shri A. N. Bhattacharjee as sole arbitrator by the High Court. In the statement of claim filed before the learned Arbitrator the contractor submitted an additional claim amounting to Rs. 6,15,388 which was objected to, by the Union of India on the ground that the claim did not form part of reference of the claim as per orders of the High Court. The learned arbitrator did not take any notice of the additional claim and examined the claim which was referred to him viz. 3,90,059 and published an award of

Rs. 2,34,200 in favour of the contractor. The said amount was paid to the contractor without challenging the award. Thereafter the contractor made another reference to the Hon'ble High Court for reference of his additional claims of Rs. 6,15,388 to arbitration and the learned Court made an order of reference to the same arbitrator Shri A. N. Bhattacharjee.

In the arbitration proceedings a point was taken as preliminary objection that the entire claim of the contractor was barred by the law of limitation and also under order 2 Rule 2 of the Code of Civil Procedure and the learned arbitrator was requested to refer a special case for opinion of the court on the question of law as referred to above. The learned Arbitrator rejected the prayer of the Union of India and gave an award of Rs. 95,700. Thereafter, the question arose whether the second award *viz.* Rs. 95,700 will be challenged on the ground of misconduct on the part of the arbitrator for his failure to make a reference by way of a special case for opinion of the Court and there was a mistake of law which was apparent on the face of the award. The question was examined both by this office and the Railway Solicitor.

It was considered that a reference to Court by the Arbitrator for opinion under section 13(b) of the Arbitration Act is discretionary on the part of the Arbitrator. The arbitrator cannot be compelled to do so—AIR 1951 CAL 230, AIR 1957, CAL 692, AIR 1956, CAL 476. It was held in a number of cases that an arbitrator is a judge both of law and of fact and his decision cannot be challenged on merits. It was therefore difficult to contend that the claims in the second arbitration were barred under order 2, rule 2 C.P.C., especially in view of the fact that the second reference was made by the Court which amounted to granting of leave for making out a subsequent claim on the self same transaction.

From the aforesaid facts it was clear that there was no error apparent on the face of the award which might have called for any interference by the Court. It may be noted in this connection that the Arbitrator need not formally express the decision on each point of law placed before him at the time of proceeding in the form of a judgment which is usually given by a Court (A.I.R. 1963 S.C. 1677). The fact that the arbitrator has given the award would imply that the arbitrator decided that the claim was admissible to the claimant and the same was not barred either by the law of limitation or under order 2, rule 2, C.P.C.

Analysing the above position of law it was decided not to challenge the award. The prospect of success being bleak, it would involve infructuous expenditure. The same position of law *viz.* that
1852 (Aii) L.S.—4.

there was no error apparent on the face of the award also applies to the award given by Shri N. S. Tyabji, Sole Arbitrator, in disputes between the self same parties in Agreement No. 491/CON/SER/58 which was referred to arbitration by the Calcutta High Court in suit No. 1472 of 1963. It may, therefore, be contended that there was sufficient justification to allow the said awards unchallenged".

ANNEXURE 'B'

Conclusions and Recommendations contained in the Railway Board's Efficiency Bureau Study No. 4/1967 on Arbitration cases on Indian Railways.

(May 1967)

5.01. Various conclusions drawn in this study are given below for ready reference. Where necessary the reference to paragraph number of the study has been given at the end within brackets.

1. In the period 1960-61 to 1965-66 the percentage of contract cases pertaining to Civil Engineering Department which were accepted for arbitration as compared to the number of contracts entered in that year has come down to 2 per cent in 1965-66, which is almost the lowest figure in this period. (Para 2.02).
2. For the Civil Engineering contracts the percentage of cases which are referred to Arbitration and go substantially against the Railways has been gradually coming down and was 56 per cent only for the year 1965-66 as compared to 90 per cent for the year 1965-66. (Para 2.04).

5.02. Various recommendations drawn in this study are given below for ready reference. Where necessary the reference to paragraph number of the study has been given at the end within brackets.

1. Existing clause 17(2) of the General Conditions of contract requires to be slightly modified to cover certain contingencies as indicated in para 3.06 for which a fair and reasonable extension of time should be allowed for by the Railways.
2. Certain administrative instructions should be issued in regard to application of the penalty under clause 17(4) so that its application is done on an equity basis. The ceiling to the penalty leviable under this clause may also be specified as 10 per cent of the contract value. (Para 3.07).

3. Clause 62(1) of General Conditions of Contract should be modified to make clear the method of assessment of the excess cost on determination of the contract chargeable from the contractor. A simplified and quick method of this assessment has been suggested in paragraph 3.08.
4. Decisions for taking action under Clauses 17(4) and 62(1) should not be taken at a level lower than that who signed the contract on behalf of the President. (Para 3.09).
5. It is recommended that confidential reports on contractors (in the proforma in Annexure III) are made every year and necessary departmental action taken on the basis of these reports. (Para 3.09).
6. Certain modifications to clause 39 of General Conditions of Contract and corresponding departmental instructions should be made for finalising special item rates expeditiously. (Para 3.10-a).
7. Certain modifications as suggested in para 3.10(c) should be made in clause 63 of the General Conditions of Contract to cover the measurements and classification as "excepted matters".
8. The limit for appointing joint arbitrators should be raised for claims upto Rs. 3 lakhs instead of claims upto Rs. 50,000 at present with suitable modification in clause 64 of General Conditions of Contract. (Para 3.10-d)
9. The items of earthwork classifications in various categories payable at different rates should be limited to a practically workable limit to avoid any ambiguity in interpretation and classification due to subtle differences. Certain guidelines have been included in para 3.11(a).
10. Method of assessment of quantities of soil for various classification should be included in the special conditions of contract for clarity and uniformity of practice. Certain guidelines have been indicated in para 3.11(a).
11. The description of the items of work should generally include all lead for various materials to be supplied by the contractor to avoid any disputes on account of difference of lead that was actually involved at the time execution of work from what would have been foreseeable at the time of tendering. (Para 3.11-b).

12. When a decision regarding change of site of work is taken subsequent to tendering, the applicability of the rates already tendered or accepted should be examined afresh and settled before execution of works. (Para 3.11c).
13. In cases of various items of work about which there can be likelihood of more than one interpretation in respect of the method of measurement (some examples of which are given in para 3.11d) the detailed method of measurement should be included as part of special conditions of contract.
14. A Committee of officers in the headquarters of the Railway should review cases of such ambiguity and necessary administrative instructions can be issued to avoid any misinterpretation in future (Para 3.11d).
15. Stress should be laid on prompt execution of supplementary agreements as soon as variations in quantity of works provided in the original agreements are anticipated. Administrative measures, some of which are enumerated in para 3.11(e), should be taken for this purpose.
16. For all major contracts, agreements should include Schedule of Items operatable under the contract indicating approximate quantities against each such items. (Para 3.11e).
17. The special conditions of contract should specify the place where various materials to be supplied by the Railway are to be handed over to the contractor and should cover all lead and lift from that place to the site of work at the expense of the contractor. (Para 3.11f).
18. All items of work in the Schedule of Rates should have corresponding details in the Railways' Standard Specification or in the specifications as part of special conditions of contract to avoid any wrong interpretation. (Para 3.11g).
19. The issue of materials to the contractor whenever such a supply is to be made by the Railway should be fairly well regulated and controlled *vis-a-vis* the quantity of work to be done where such materials are to be used. (Para 3.11h).
20. Certain amplifying instructions to clause 33(1) of General Conditions of Contract should be made to hold the contractor responsible for any issue of the material drawn

by him for use on Railway works in excess to the requirement for the works. Guidelines of such modification are given in para 3.11(h).

21. It is suggested that settlement of dispute in a contract may be made by a committee of officers with necessary delegation of powers as suggested in para 4.03.
22. Where the defence is likely to be assisted by the officers who have been incharge of a work (administrative and executive officers and inspectors) they may be associated in the preparation of the defence when the cases go to arbitration. For this purpose an incumbancy register should be maintained for construction works also. (Para 4.04).

Recommendation

Para 3.197

The Committee are unhappy to note that without assessing all the factors, an agreement for the work of providing structures, etc. on a piece of land on which acquisition proceedings had not been completed was executed in this case. They feel that had the question of having a fencing instead of a compound wall been decided before awarding the contract, the Government would not have suffered a financial loss of Rs. 58,103 in this case where haste in awarding the contract resulted in waste.

Para 3.198

The Committee regret that in this case also the arbitration award went against the Railways. In evidence, it was stated that in the arbitration case while the party was represented by a lawyer, the Railways were represented by an Accounts Officer and this was a handicap.

Para 3.199

The Committee would like the Railway Board to examine the position obtaining on all the Railways and take steps to remove this handicap.

(S. No. 28, Appendix XIII to 72nd Report, 1966-67)

Action Taken

Para 3.197

The observations of the Committee are noted.

Para 3.198

The Committee's observations are noted. The Ministry of Railways would, however, like to clarify that the statement in para 3.196

that while the party was represented by a lawyer, the Railways were represented by an Accounts Officer, seems to be based on some misapprehension as in this particular case, it has been ascertained that the Railway was represented by the Divisional Engineer of the Rajkot Division and not by an Accounts Officer.

Para 3.199

The position obtaining on all the Railways in regard to the arrangements for the defence of arbitration cases has been examined and it is observed that ordinarily the Railway cases are defended by officers of the Technical Department concerned (generally at the administrative level) after due consultation with the Law Officer. However, in respect of cases involving legal issues or which are complicated and involve heavy claims, professional lawyers are engaged. General instructions on these lines have also been reiterated to Railways. (Annexure).

This has been seen by Audit.

[O.M. No. 67-B(C)—PAC-III/72(O), dated 19-8-1967]

ANNEXURE

**GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)**

No. 67-B(C)PAC/III/72(28) *New Delhi, dated 24th July, 1967.*

The General Managers,
All Indian Railways,
CLW, DLW, ICF and RE,
The C.A.O. & C.E.,
D.B.K. Railway Projects,
Waltair.

Sub: *Recommendation No. 28 contained in the 72nd Report of the Public Accounts Committee (1966-67)—Procedure for defence of arbitration cases.*

Arising from a recent recommendation of the Public Accounts Committee about the need for engaging lawyers for representing the Railway in arbitration cases, the Railway Board have examined the actual procedure obtaining on all Railways and have decided that in simple cases involving no complicated legal issues, the Railway could be represented before the Arbitrator by a suitable officer from the Technical Department

concerned at the appropriate level. It should however be ensured that before filing the Railway's statement of case before the Arbitrator and finalising the line of defence at the hearings before the Arbitrator, the Law Officer is consulted when necessary. In important cases involving legal points or issues of complicated nature or involving heavy claims the need for engaging a lawyer should be considered.

*Dy. Director, Finance (BC),
Railway Board.*

Recommendation

3.214. The Committee desire that instructions should be issued to the various Railway Administrations by the Railway Board to the effect that orders issued by them should be promptly implemented by the various authorities and in case of doubt or anomaly it should be brought to the notice of the Railway Board immediately for necessary action.

3.215. The Committee would also like the Railway Board to consider the feasibility of incorporating in their instructions suitable provisions for disposal of rejected stores if they were not removed within a reasonable period.

(S. No. 29, Appendix XIII to 72nd Report, 1966-67).

Action Taken

Para 3.214

The observations of the Committee are noted and suitable instructions have been issued to the Railway Administrations *vide* attached copy of Railway Board's letter No. 67-B(C)PAC/III/72(29), dated 12th May, 1967. (Annexure A).

Para 3.215

Relevant provision in this regard is already incorporated in the Indian Railway Stores Code. However, this provision has since been amplified as under:

*“Rejected Stores.—*Rejected stores should be removed to a place set apart for the purpose to avoid any possibility of getting mixed up with other stores. In a stores Depot the Inspecting Officer should see that this is done in his presence.

The supplier should be warned that such stores will lie at his risk and that he should arrange for their removal within 21* days from the date of issue of rejection memo.

If the stores are not removed within this period, the Administration shall have the right to dispose of such stores as thought fit, at the contractor's risk and on his account and recover ground rent/demurrage charges.

In cases where full or part payment for the stores has already been made to the supplier, the rejected stores should not be delivered them unless:

- (i) The rejected supply is replaced by an equivalent quantity of acceptable quality, or
- (ii) The supplier refunds the amount already received, which fact should be verified by the Accounts Officer concerned, or
- (iii) The purchasers authorise the removal after taking adequate steps to safeguard the interests of the government."

*NOTE: For contracts finalised by the Directorate General, Supplies and Disposals, this period should be taken as "fourteen days from the date of receipt of rejection memo."

Necessary provision has been made in the Indian Railway Standard Conditions of Contract also, and Railway Administrations advised accordingly *vide* Board's letter No. 67/RS(G)/385, dated 24th July, 1967 (Annexure-B). After the wording of these conditions is finally approved in consultation with the Law Ministry, they will also be incorporated in the Indian Railways' Stores Code.

This has been seen by Audit.

[O.M. No. 67-B(C)PAC/III/72(O), dated 15th Sept., 1967]

ANNEXURE-A

GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

No. 67-B(C)PAC/III/72(29).

New Delhi, dated 12th May, 1967/22 Vaisakha, 1889

The General Managers, All Indian Railways, C.L.W., D.L.W., and I.C.F.

The General Manager, Railway Electrification, Calcutta.

The Chief Administrative Officer and Chief Engineer, D.B.K. Railway Projects, Waltair.

The Director General, R.D.S.O., Lucknow.

The Principal, Railway Staff College, Baroda.

The Deputy Directors, Rail Movements Calcutta/Mughalsarai.

The Railway Liaison Officer, New Delhi.

The Chairman, All Railway Service Commissions.

The Principal, Advanced Permanent Way Training School, Poona.

The Secretary, Railway Rates Tribunal, Madras.

The General Secretary, I.R.C.A., New Delhi.

SUB.: Recommendations No. 29 contained in the 72nd Report of the PAC (1966-67)—Delay in the implementation of Board's orders.

Attention is invited to this office letter No. 65-B(C)PAC/III/32 (45), dated 14th May, 1965 (Enclosed) wherein, in the light of the PAC's comments on a case of abnormal delay in implementation of certain orders issued by the Board resulting in payment of arrears for a period of 10 years and more to staff concerned, the Board had pointed out that it was the direct responsibility of the zonal Railway Administrations to ensure correct and expeditious implementation of their orders and that the orders should be invariably implemented within the target time wherever fixed and in any case within the least possible time. Yet another case of delay in implementation of Board's orders has been reported in para 27 of the Audit Report (Railways) 1966. In this case, instructions issued by the Board in September, 1961 regarding fixing of rates for ground rent to be levied on rejected stores not removed by the Suppliers from the Railway premises within the prescribed grace period were implemented by a Railway Administration only in January 1964, after a lapse of more than two years, the delay being attributed by the Railway Administration to consideration of a uniform basis to be adopted for fixing the ground rent and correspondence with the Board in the matter, etc. Commenting on this case, the Public Accounts Committee have *inter alia* observed as under, in para 3-214 of their 72nd Report:—

“The Committee desire that instructions should be issued to the various Railway Administrations by the Railway Board to the effect that orders issued by them should be promptly implemented by the various authorities and in case of doubt or anomaly it should be brought to the notice of the Railway Board immediately for necessary action.”

The Board, while reiterating their instructions contained in their letter dated 14th May, 1965, desire that the observations of the Committee quoted above should be brought to the attention of the various authorities under you for strict compliance in future.

The receipt of this letter should be acknowledged.

Dy. Director, Finance (BC).
Railway Board.

ENCLOSURE TO ANNEXURE-A

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 65-B(C)PAC/III/32(45). *New Delhi, dated 14th May, 1965.*

To

The General Managers, All Indian Railways, C.L.W., D.L.W. & I.C.F.

The General Manager & Chief Engineer, Railway Electrification, Calcutta.

The Chief Administrative Officer & Chief Engineer, D.B.K., Railway Projects, Waltair.

The Director General, R.D.S.O., Lucknow.

The Principal, Railway Staff College, Baroda.

The Deputy Directors, Rail Movements, Calcutta/Moghalsarai.

The Railway Liaison Officer, New Delhi.

The Chairman, All Railways Service Commissions.

The Principal, Advanced Permanent Way Training School, Poona.

The Secretary, Railway Rates Tribunal, Madras.

The General Secretary, I.R.C.A., New Delhi.

A case of abnormal delay in the implementation of certain orders issued by the Board resulting in payment of arrears for a period of 10 years and more to staff concerned has come in for adverse comments of the Public Accounts Committee. The Public Accounts Committee, in this connection, have, *inter alia*, observed that the authorities concerned should watch the implementation of the orders within a reasonable time and "that the Board should have prescribed a time limit for the implementation of their instructions".

The importance of the expeditious implementation of all such orders has been repeatedly stressed and even in cases where target

dates have been fixed by the Board, it has been observed that such targets have not been worked up to. The Board also observes that the actual implementation of their orders rests with the Zonal Railway Administrations and it is their direct responsibility to ensure that the orders are implemented correctly and expeditiously. It is needless to reiterate that wherever targets have been prescribed, the orders should invariably be implemented within the target time and even in cases where for administrative reasons, such target dates are not laid down, it should be ensured that the implementation is completed within the least possible time and in any case there is no undue delay.

The receipt of this letter may please be acknowledged.

Director, Establishment,
Railway Board.

No. 65-B(C)PAC/III/32(45). *New Delhi, dated 14th May, 1965.*

Copy forwarded to:

The F.A. & C.A.Os., All Indian Railways, CLW, DLW, ICF., and Railway Electrification and Dy. FA & CAO, DBK, Railway Projects, Waltair.

ANNEXURE-B
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 67/RS(G)/385.

New Delhi, dated 24th July 1967/Sravana 2, 1889

To

The General Managers, All Zonal Railways, CLW, DLW, ICF & RE.

The Chief Administrative Officer & Chief Engineer, DBK Railway Projects, Waltair.

SUB: Removal of rejected stores—Amendment to the existing provisions in the Indian Railway Code for the Stores Deptt.

Advance correction slips Nos. 37-S to 39-S to clause 21, clause 19 and clause 19 of the I.R.S. conditions of contract for contracts for stores Serial Nos. A1-63, A2-63 and A3-63 respectively are sent herewith for information and guidance.

2. It is also requested that the existing para 762-S may please be substituted as per advance correction slip No. 40-S, enclosed.

Please acknowledge receipt.

DA/4 Correction Slips

Joint Director, Railway Stores,
Railway Board.

No. 67/RS(G)/385.

New Delhi, dated 24th July, 1967/
Sravana 2, 1889.

Copy together with its enclosure is forwarded for information to All Heads of Attached and Subordinate Offices of the Board's office.

2. F(X)I&III, F(S)I&II, All Branches of Stores/Wagon Production Directorates A|C(Comp), A|C(App), A|C(BO), A|C(Ptn), A|C(Insp) with 5 spare copies, A|C II with 5 spare copies, A|C III with 10 spare copies, G(Acc), M(L), Track and WII Branches of Board's office.

3. Code Cell, RS(G) Branch.

DA/As above.

Jt. Director, Railway Stores,
Railway Board.

No. 67/RS(G)/385

New Delhi, dated 24th July, 1967/Sravana B, 1889

Copy together with 140 spare copies, is forwarded to the A.D.A.I. (Railways), Bahadur Shah Zafar Marg, New Delhi for information and necessary action.

DA/As above

Joint Director, Railway Stores,
Railway Board.

ADVANCE CORRECTION SLIP TO THE INDIAN RAILWAY
CODE FOR THE STORES DEPARTMENT

A.C.S. No. 37-S.

Substitute the following for existing clause 21 of the IRS Conditions of contract for contracts for Stores Serial No. A1-63.

"Removal of Rejected Stores.

Any stores submitted for inspection at a place other than the premises of the contractor and rejected shall be removed by the contractor subject as hereinafter provided within **twenty one days from the date of issue of intimation of such rejection.* If it is proved that letter containing such intimation is addressed and posted to him at the address mentioned in Purchase Order/Acceptance of Tender/Contract it will be deemed to have been served on the contractor at the time when such letter would in the course of ordinary post reach the contractor. It shall be competent for the Purchaser or the Inspector to call upon the contractor to remove what he con-

siders to be dangerous, infective or perishable stores within 48 hours of the receipt of such intimation

Such rejected stores shall under all circumstances lie at the risk of the contractor from the moment of such rejection and if such stores are not removed by the Contractor within the period aforementioned, the Inspector may either return the same to the contractor at his risk and cost by such mode of transport as the Purchaser or the Inspector may select or dispose of such stores at the contractor's risk on his account and retain such portion of the proceeds as may be necessary to cover any expense incurred in connection with such disposal. The purchaser shall also be entitled to recover ground rent/demurrage charges on the rejected stores after the expiry of free time mentioned above.

Stores that have been despatched by rail and rejected after arrival at destination may be taken back by the Contractor either at the station where they were rejected or at the station from which they were sent. If the Contract is placed for delivery f.o.r. station of despatch the Contractor shall pay the carriage charges on the rejected consignments at Public Tariff Rates from the station of despatch to the station where they were rejected. If the Contractor elects to take back the goods at the station from which they were despatched, the goods shall, in addition be booked back to him freight to pay at Public Tariff Rates and at Owner's risk. The property in goods shall not pass from the Contractor unless and until accepted by the Purchaser after inspection."

*NOTE—For contracts finalised by the Directorate-General, Supplies & Disposals, this period should be taken as "fourteen days from the date of receipt of intimation of such rejection".

[Authority: Board's letter No. 67RS(G)385, dt. 24-7-1967.]

ADVANCE CORRECTION SLIP TO THE INDIAN RAILWAY
CODE FOR THE STORES DEPARTMENT

A.C.S. No. 38-S.

Substitute the following for existing clause 19 of the IRS Conditions of contract for contracts for Stores Serial No. A2-63.

"Removal of Rejected Stores.

Any stores submitted for inspection at a place other than the premises of the contractor and rejected shall be removed by the contractor subject as hereinafter provided within **twenty one days from the date of issue of intimation of such rejection.* If it is proved that letter containing such intimation is addressed and posted to him at the addressed mentioned in Purchase Order/Acceptance of Tender/Contract it will be deemed to have been served on the con-

tractor at the time when such letter would in the course of ordinary post reach the contractor. It shall be competent for the Purchaser or the Inspector to call upon the contractor to remove what he considers to be dangerous, infective or perishable stores within 48 hours of the receipt of such intimation.

Such rejected stores shall under all circumstances lie at the risk of the contractor from the moment of such rejection and if such stores are not removed by the Contractor within the period aforementioned, the Inspector may either return the same to the contractor at his risk and cost by such mode of transport as the Purchaser or the Inspector may select or dispose of such stores at the contractor's risk on his account and retain such portion of the proceeds as may be necessary to cover any expense incurred in connection with such disposal. The purchaser shall also be entitled to recover ground rent/demurrage charges on the rejected stores after the expiry of free time mentioned above.

Stores that have been despatched by rail and rejected after arrival at destination may be taken back by the Contractor either at the station where they were rejected or at the station from which they were sent. If the Contract is placed for delivery *f.o.r.* station of despatch the Contractor shall pay the carriage charges on the rejected consignments at Public Tariff Rates from the station of despatch to the station where they were rejected. If the Contractor elects to take back the goods at the station from which they were despatched, the goods shall, in addition be booked back to him freight to pay at Public Tariff Rates and at Owner's risk. The property in goods shall not pass from the Contractor unless and until accepted by the Purchaser after inspection."

*NOTE—For contracts finalised by the Directorate-General, Supplies & Disposals, this period should be taken as "fourteen days from the date of receipt of intimation of such rejection."

[Authority: Board's letter No. 67/RS(G)/385, dt. 24-7-1967.]

ADVANCE CORRECTION SLIP TO THE INDIAN RAILWAY
CODE FOR THE STORES DEPARTMENT

A.C.S. No. 39-S.

Substitute the following for existing clause 19 of the IRS Conditions of contract for contracts for Stores Serial No. A3-63.

"Removal of Rejected Stores.

Any stores submitted for inspection at a place other than the premises of the contractor and rejected shall be removed by the contractor subject as hereinafter provided within **twenty one days from the date of issue of intimation of such rejection.* If it is proved that letter containing such intimation is addressed and posted to him at the address mentioned in the Purchase Order/Acceptance of

Tender/Contract it will be deemed to have been served on the contractor at the time when such letter would in the course of ordinary post reach the contractor. It shall be competent for the Purchaser or the Inspector to call upon the contractor to remove what he considers to be dangerous, infective or perishable stores within 48 hours of the receipt of such intimation.

Such rejected stores shall under all circumstances lie at the risk of the contractor from the moment of such rejection and if such stores are not removed by the Contractor within the period aforementioned, the Inspector may either return the same to the contractor at his risk and cost by such mode of transport as the Purchaser or the Inspector may select or dispose of such stores at the Contractor's risk on his account and retain such portion of the proceeds as may be necessary to cover any expense incurred in connection with such disposal. The purchaser shall also be entitled to recover ground rent/demurrage charges on the rejected stores after the expiry of free time mentioned above.

Stores that have been despatched by rail and rejected after arrival at destination may be taken back by the Contractor either at the station where they were rejected or at the station from which they were sent. If the Contract is placed for delivery f.o.r. station of despatch the Contractor shall pay the carriage charges on the rejected consignments at Public Tariff Rates from the station of despatch to the station where they were rejected. If the Contractor elects to take back the goods at the station from which they were despatched, the goods shall, in addition be booked back to him freight to pay at Public Tariff Rates and at Owner's risk. The property in goods shall not pass from the Contractor unless and until accepted by the Purchaser after Inspection."

*NOTE—For contracts finalised by the Directorate-General, Supplies and Disposals, this period should be taken as "fourteen days from the date of receipt of intimation of such rejection."

[Authority: Board's letter No. 67/RS(G)/385, dt. 24-7-1967.]

**ADVANCE CORRECTION SLIP TO THE INDIAN RAILWAY
CODE FOR THE STORES DEPARTMENT**

Para 762-S:

A.C.S. No. 40-S.

Substitute the existing para 762-S by the following:

"Rejected Stores.

Rejected stores should be removed to a place set apart for the purpose to avoid any possibility of getting mixed up with other

stores. In a Stores Depot, the Inspecting Officer should see that this is done in his presence.

The supplier should be warned that such stores will lie at his risk and that he should arrange for their removal within *21 days from the date of issue of rejection memo. If the stores are not removed within this period the Administration shall have the right to dispose of such stores as thought fit, at the contractor's risk and on his account and recover ground rent/demurrage charges.

In cases where full or part payment for the stores has already been made to the supplier, the rejected stores should not be delivered to them unless:

- (i) The rejected supply is replaced by an-equivalent quantity of acceptable quality, or
- (ii) The supplier refunds the amount already received, which fact should be verified by the Accounts Officer concerned, or
- (iii) The Purchaser authorises the removal after taking adequate steps to safeguard the interests of the Government."

*NOTE—For contracts finalised by the Directorate-General, Supplies and Disposals, this period should be taken as "fourteen days from the date of receipt of rejection memo."

[Authority: Board's letter No. 67/RS(G)/385, dt. 24-7-1967.]

Recommendation

3.231. The Committee regret to find that in spite of their recommendation made in para 74 of their 1st Report (Third Lok Sabha), the Railways had not been prompt in realising their dues, and large amounts are still to be recovered from various Governments, Departments, etc.

3.232. In view of the abnormal delays in realising the dues and in settlement of various points, the Committee feel that before entering into any agreement with Government Departments, etc. the Railways should ensure that there are no lacunae which might come in the way of prompt realisation of the dues.

3.233. The Committee also desire that special steps should be taken at a sufficiently high level to liquidate old outstandings.

(S. No. 30, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee have been noted and have also been brought to the notice of all the Railway Administrations. As the amounts to be recovered from the West Bengal Government by the Eastern Railway Administration are considerable, they have been particularly instructed to make renewed efforts to effect early recovery of the outstanding Railway dues.

2. The latest position regarding realisation of Railway dues from the various Governments etc. is indicated below:—

Bhakra Dam Project.

3. The entire amount due from the Bhakra Dam Authorities has since been recovered from them.

West Bengal Government.

I. *Rent of Land, Municipal taxes, establishment and maintenance charges in respect of Cossipore Siding.*

(Figures in lakhs of Rs.)

| | Amount due | Amount recovered | Amount still outstanding |
|--|------------|------------------|--------------------------|
| <i>(a) Rent of land.</i> | | | |
| (i) 15-8-47 to 31-3-60 | 7.59 | 7.59 | .. |
| (ii) 1-4-60 to 31-3-65 (@ Rs. 25/- per kottah per month). | 25.04 | .. | 24.00 |
| <i>(b) Municipal taxes.</i> | | | |
| (i) 15-8-47 to 31-3-49 | 0.05 | .. | 0.05** |
| (ii) 1-4-49 to 30-9-56 | 0.22 | 0.22 | .. |
| <i>(c) Establishment charges.</i> | | | |
| April '60 to April '65 | 0.34 | 0.34 | .. |
| <i>(d) Maintenance charges.</i> | | | |
| (i) 1-4-60 to 31-3-63 | 0.06 | .. | 0.06 |
| (ii) 1-4-63 to 31-3-65 | 0.07 | .. | 3.07 |
| (iii) 1-4-65 to 31-3-67 | 0.06 | .. | 0.06 |

Note 1—(1) *Pending settlement of the increased rate of rent viz. Rs. 25/- per kottah per month claimed by the Railway w.e.f. 1-4-60, the orders for payment @ 3/- per kottah per month have been issued by West Bengal Government for the period April '60 to March '66 and accordingly the Eastern Railway is preferring the bills for the period April '60 onwards against the Food Department, Government of West Bengal.

(2) **Realisation of Municipal Tax from 15-8-47 to 31-3-60 is subjudice in the Calcutta High Court.

(3) ***Orders have since been issued by the Government of West Bengal for payment of the amount to the Railway.

II. Recovery of the cost of foodgrains (not supplied|short supplied)

The matter is being vigorously pursued by the Railway Administration with the concerned Department of the West Bengal Government through inter-departmental meetings and by personal contacts at a sufficiently high level.

Ministry of Defence.

S. E. Railway's claims on account of rent, conservancy cess and municipal taxes in respect of Railway land at Waltair.

4. Provisional debits upto 1964-65 have already been raised against the Ministry of Defence, and the matter is being vigorously pursued by the Board with Ministry of Defence to arrive at a final settlement in the matter.

This has been seen by Audit.

[O. M. No. 67-B(C)-PAC.III.72(O) dated 15-9-1967]

Recommendation

The Committee would like the Ministry of Railways to ensure that correct and complete factual information is furnished to Audit when draft Audit paragraphs are sent to the Ministry and that such instance would not recur.

(S. No. 34, Appendix XIII to 72nd Report, 1966-67).

Action taken

5. The Committee's observations are noted. The Ministry of Railways would, however, like to clarify that in the subject case at the initial stage when the Audia para was proposed by the Chief Auditor, the General Manager, North Eastern Railway did bring out that "the work on this siding was completed in the month of April 1963 and not on 31st December, 1961 as mentioned by Audit." The Railway also added the following:—

"The completion date of 31st December, 1961 is probably based on DEN:Samastipur's letter No. W|10|II|12461 dated 17th September, 1964 which was based on incorrect premises. The records, however, indicate that even in March, 1963, the siding was not completed and certain stay wires both of electric and telegraph posts had to be shifted in order to complete the provision of the siding."

6. In this connection, it may be further clarified that the work of approximately 1300 feet length of track of the engineering siding was carried out after December 1961. The completion of this work

took time because the site at which the siding had to be linked was occupied by the building and track materials of the IOW and the PWI, headquarters at this place. Some guy wires of the electric poles were also coming in the way. After the site was cleared of the above obstructions, the balance of the siding was linked and the siding completed by April, 1963.

7. This has been seen by Audit subject to local verification of the information furnished in the proceeding para.

[O M. No. 67-B(C)-PAC|III|72(O) dated 31-1-1968].

Recommendation

The Committee note that a scheme for the expansion of the existing Sleeper Cresoting Plant at Naharkatiya by erecting another plant with a capacity of 5 lakhs cubic feet per shift per year was included in the Final Works Programme of 1958-59 at an estimated cost of Rs. 9.93 lakhs. The Ministry of Railways instructed the Railway Administration in February, 1958 not to start the work as the justification was to be examined in greater detail. After a delay of over 2 years the Ministry accepted the proposal in March, 1960. A further delay of 2 years occurred in calling for tenders for the supply of machinery required for the scheme and the lowest tender of a firm was accepted after another years' delay on 25th May, 1963. The agreement with the firm was executed about a year later on 21st March, 1964. They further note that the financial implication of the Plant worked out by the Railway Administration had shown that the scheme was expected to yield a return of 51.9 per cent on the capital investment and also a saving of about Rs. 6 lakhs per year due to longer life of sleepers treated in the Plant. The Committee fail to understand as to why the Railways did not take steps to eliminate the delays that occurred at various stages in this case, when the scheme was considered to be a highly remunerative one.

The Committee are not convinced with the arguments in justification of the delay that took place in this case. It is unfortunate that due to delay which occurred at various stages the estimated cost of Rs. 9.93 lakhs had increased to Rs. 17.11 lakhs and the Railways had also to incur a loss of over Rs. 3 lakhs in 1964 and 1965 by the treatment of the sleepers being entrusted to the contractor. The Committee suggest that the Ministry of Railways should investigate in detail the reasons for the delay of several years and take steps to locate the responsibility for the abnormally long time taken in the execution of the scheme.

(S. No. 35, Appendix XIII to 72nd Report of 1966-67).

Action taken

The Committee's observations have been noted and also brought to the notice of the Railway Administration. A detailed investigation to find out the reasons for the delay and to locate responsibility, has already been undertaken, and a report has been submitted by a Committee of Administrative Officers of the N. F. Railway appointed for the purpose. The report is under consideration.

This has been seen by Audit.

[O. M. No. 67-B(C)-PAC/III/72(O) dated 10-10-1967].

Further information received with Ministry of Railways O.M. No 67-B-(C)-PAC/III/72(35) dated 27-3-1968.

In the Memorandum submitted to the Lok Sabha Sectt. with the Ministry of Railways (Railway Board's) Office Memorandum No. 67-B(C)-PAC/III/72(O) dated 10-10-1967, the following remarks were conveyed:—

“The Committee's observations have been noted and also brought to the notice of the Railway Administration. A detailed investigation to find out the reasons for the delay and to locate responsibility, has already been undertaken, and a report has been submitted by a Committee of Administrative Officers of the Northeast Frontier Railway appointed for the purpose. The report is under consideration.”

The present position of the case is indicated below:—

In the light of the report it has been held by the Railway Board that, of the various officers who had handled this case during the period of 1958 to 1966, responsibility for the delay during the period 1960 to 1962 could be definitely traced only to two officers and that for the rest of the delay no individual officer could be held responsible. One of the two officers expired in the year 1964. The Board's displeasure has been conveyed to the other officer.

This has been seen by Audit.

Recommendation

While the Committee are glad to note that suitable action has been taken against delinquent officials and steps were being taken to

recover the amounts from the officers responsible, they would like to point out that the following lapses had occurred in this case:

- (i) no record of the authority letters issued to the Stores Issuer was being maintained by the Loco Shed;
- (ii) proper arrangement for the safe custody of important forms and rubber stamps did not exist in the office of the Loco Foreman;
- (iii) the procedure for checking the receipt of stores drawn by special messenger was not effective in the Loco shed; and
- (iv) the Loco Foreman reported to the Local Stores Depot on a number of occasions the non-receipt of stores for which debits had been received, but the latter did not deal with the reference promptly.

The Committee desire that all these defects be remedied early. The Committee would also like the Ministry of Railways to examine in general what further steps are needed to plug the loopholes to avoid such instance in the various Stores Depots under the Railway Administrations.

(S. No. 36, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee have been noted and necessary instructions in the matter have been issued to the Railway administrations vide Railway Board's letter No. 67-B(C)-PAC|III|2(36), dated the 20th June, 1967. (Enclosure).

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC|III|72(O) dated 10-7-1967].

ENCLOSURE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 67-B(C)-PAC|III|72(36).

New Delhi, dated 20-6-1967.

To

The General* Managers,
All Indian Railways including
C.L.W., D.L.W., I.C.F. and R.E.
The Chief* Administrative Officer and
Chief Engineer, D.B.K. Railway Projects,
Waltair.

SUBJECT:—Loss due to misappropriation of stores.

The Public Accounts Committee in connection with a case of loss due to misappropriation of stores on the South Eastern Railway

*With 2 spare copies.

reported in Paragraph 33 of the Railway Audit Report 1966 (copy at Annexure 'I') have made the following recommendations in paragraphs 3.284 and 3.285 of their 72nd Report (3rd Lok Sabha):

"While the Committee are glad to note that suitable action has been taken against delinquent officials and steps were being taken to recover the amounts from the officers responsible, they would like to point out that the following lapses had occurred in this case:—

- (i) no record of the authority letters issued to the stores Issuer was being maintained by the Loco Shed;
- (ii) Proper arrangement for the safe custody of important forms and rubber stamps did not exist in the office of the Loco Foreman;
- (iii) the procedure for checking the receipt of stores drawn by special messenger was not effective in the Loco Shed; and
- (iv) the Loco Foreman reported to the Loco Stores Depot on a number of occasions the non-receipt of stores for which debits had been received, but the latter did not deal with the reference promptly.

The Committee desire that all these defects be remedied early. The Committee would also like the Ministry of Railways to examine in general what further steps are needed to plug the loopholes to avoid such instance in the various Stores Depots under the Railway Administration."

In this connection, attention is also invited to Board's letters No. (i) 60/779/13/RS(G), dated 13.12.1962 (ii) 61/ACIII/25/125 dated 17-9-1963 and (iii) 67/RS(G)/167 dated 3-6-1967, in which the need for taking adequate precautions for stores arranged through special messengers has been emphasised to prevent misappropriation of stores drawn against forged requisitions and letters of authority by impersonation, etc.

The remedial measures taken by the South Eastern Railway in order to plug the loopholes in the procedure which facilitated the perpetration of the fraud are detailed in Standing Office Order No. 51 dated the 11-12-1964 as subsequently amended *vide* their letter No. S257/A4/97/22671 dated 18-8-1965, letters No. S.257/A/4/35058 dated 29-12-1964 and MLS/490/13395 dated 6-8-1965 copies of which are enclosed as Annexure II, III and IV respectively for your guidance.

With a view to avoid occurrence of such cases on your Railway in future, the Board desire that suitable remedial measures similar to those taken by the South Eastern Railway should also be taken by you.

Please acknowledge receipt.

D.A./As above.

Jt. Director Railway Stores,
Railway Board.

EXTRACT FROM RAILWAY AUDIT REPORT, 1966.

ANNEXURE I

33. South Eastern Railway—Loss due to misappropriation of Stores.

In April, 1961, it was noticed that a Stores Issuer had misappropriated during the period August, 1960 to March, 1961, stores valued at Rs. 34,232 drawn by him from the Central Stores Depot, Kharagpur for use in the loco shed at the same place. The stores were drawn against 37 issues notes and at least on six occasions the letters of authority were suspected to have been forged. On further investigation by a Departmental Enquiry Committee, constituted in April, 1962, a further loss of stores valued at Rs. 7,643 drawn on two occasions in August and September, 1960, was detected bringing the total loss to Rs. 41,875. The Stores-Issuer is reported to have absconded from 17th March, 1961.

The Railway Administration explained (September 1965) that the Loco Foreman had reported to the Stores Depot on a number of occasions, the non-receipt of the stores but as the latter had not dealt with these references promptly, the fraud remained undetected. The procedure for checking the receipt of stores from the Central Stores Depot, drawn by special messenger was not also free from defect. Remedial action to prevent recurrence of such losses has been taken by the Administration in December, 1964.

Among the staff found responsible for lack of supervision, one Loco Inspector and a Stores Clerk of the Loco Shed have been dismissed from service and it was proposed to recover Rs. 3,177 from one of the Ward Keepers, from whom recovery at Rs. 30 p.m. was being made from September, 1963. The question of recovering the balance amount of loss from the Provident Fund bonus of the dismissed employees and of the absconding Stores-Issuer is under consideration of the Railway Administration (September, 1965).

ANNEXURE II

Standing Office Order No. 51. S.E. Rly. DCOS/KGP Dt. 11-12-1964.

The following orders are issued for strict compliance by all concerned:

- (1) Ward Keepers, while delivering the material to special messengers from the consuming parties will obtain their acknowledgements on all copies of the Issue Notes. The extent procedure of disposal of copies of Issue Notes and progressing for verified copies from the consignees will, however, continue to be followed. It is the personal responsibility of the Ward Keeper to progress receipt of the verified copies from the consignees. DSK-ASK will ensure action in this regard. Copies, not received within a period of three months will be brought to the notice of the Officer-in-Charge for orders.
- (2) Ward Keepers are to ensure timely supply of non-ferrous items to local loco carriage and wagons sheds so that there is no need for collection of such materials through special representatives. In cases, where such delivery becomes essential, the same will be effected by the Ward Keepers through their own representatives. Transport for the same will be supplied by DSK Gr. I.
- (3) Where consumer's representatives report to the depot for the collection of materials, the Ward Keepers will ensure that such authority memo are for single item only and that the same are posted at the back of the block foil of Issue Notes concerned. They will also ensure that the consumer's representatives deputed to collect the material are in possession of proper Identity Card bearing their photographs.
- (4) Material will be passed out of the General Stores through the following Gates only:
 - (a) Material issued to Work-Shops, Reclamation Yard and New Wagon shop through Lister Gate i.e. Gate No. 5.
 - (b) Material issued from Depot and Wards situated inside Workshop area will be passed through Workshop Gate only.
 - (c) All non-ferrous items will be covered by a Gate pass signed by a Gazetted Officer indicating I>Note No., Name

of person through whom material is being issued, Vehicle No., Authority for collection, if any, and signature of the person removing the material etc.

- (d) As per the extent practice a copy of the Issue Notes serves as a Gate Pass for other than non-ferrous materials provided the same is removed within 24 hrs. of preparation of the Issue Note. With immediate effect Gate Passes will be prepared for any such material also which is not removed on the date of preparation of the Issue Note.
- (e) The Store Gate Clerk will maintain a register as at present showing details of Issue Notes, materials, name of party by whom collected, vehicle in which removed etc., and obtain the signature of the messenger in a register indicating the time of such transaction.
- (f) Where the party bring their own transport for collection of materials, particulars of such vehicles and names of Drivers etc., will also be recorded by the Stores Gate Clerk in his register irrespective of whether such transport is brought inside the store premises or is parked outside. Correspondence regarding non-receipt of material for which debits are received by the consignees will be given special attention. A record of such cases will be maintained by the Head Clerk concerned and the progress of clearance of the cases personally watched by him.
- (5) The Numerical Ledger Card Clerk of CAS will ensure that imprest material is supplied only during the month in which supply was due to be made, particularly in case of messenger delivery.
- (6) Sanctioned imprest proforma is being made available for each shed by CME from time to time. Such advices or sanctioned imprest will be maintained by the Head Clerk concerned and imprest demands, when received, will be checked 100 per cent in case of non-ferrous items and 10 per cent for the rest.

Sd|-

Distt. Cont. of Stores.

(LOCO)

Sd|-

Distt. Cont. of Stores

(C&W)

Sd|-

Distt. Cont. of Stores

(GENERAL)

ENCLOSURE TO ANNEXURE II
SOUTH EASTERN RAILWAY
OFFICE OF THE CONTROLLER OF STORES,
GARDEN REACH, CALCUTTA-43.

No. S. 257|A4|97|22671

Dated 18-8-1965.

To

The Distt. Controller of Stores|G,
 South Eastern Railway, Kharagpur.

RE:—*Recommendations of the Enquiry Committee.*

Further to this office letter No. S|257|A|4|97|21967 dated 9-8-1965 and in reference to 'phone conversation of 7-8-1965' please arrange to immediately carry out the following corrections:—

Your Standing Office Order No. 51 dated 11-12-1964.

(a) Delete the sentences commencing with the word "Correspondence" in 1st line of page 2 of the office order and ending with "by him" in line No. 5.

(b) Add para 4(g) as below:—

4(g) Correspondence regarding non-receipt of material of which debits are received by the consignees will be maintained by a nominated Head Clerk and the progress of clearance of the cases personally watched by him. Any reference relating to non-receipt or short receipt of non-ferrous items as well as those cases where the value of an individual item is over Rs. 500 should be brought to the notice of the DCOS|G immediately. All letters should be replied to within 15 days normally and within 7 days in the case of non-ferrous items and other items valued over Rs. 500|-.

This Register should be put up to the ACOS|G on the 5th and 20th of every month showing clearly the outstanding letters to be replied. The ACOS|G should ensure suitable follow-up to ensure reply as per the above time schedule. Cases, if any, notice of the DOCS|G who should immediately investigate and personally ensure a reply.

Sd|-

for CONTROLLER OF STORES.

Copy to CME|GRC. Instructions reg. Recommendation No. 9 have been incorporated in para 4(f) of Standing Order No. 51 dated 11-12-1964. This has been elaborated as indicated above. Suitable instructions from his side reg: watching of such cases by the Identifying Officer at gazetted level may also be issued if not already done. Instructions may also be issued to all identors of his Deptt. that correspondence re. non-receipt of materials for which debits are being received should be addressed for each Class separately so that this can be dealt with by particular ward keepers individually.

Copy to F.A. and C.A.O.|GRC for information.

Sd|-

for CONTROLLER OF STORES.

ANNEXURE III

Copy of letter No. S. 257|A|4|35058 dated 29-12-1964 from COS to CME-GRC C|-DCOS-GRC—KGP: for information.

REG:—*Suspected misappropriation of Railway materials supplied to Loco Foreman—Kharagpur.*

In connection with the above, an Enquiry was held by the Committee consisting of Dy. COS|M and Dy. CME|HQ. The Committee have made the following suggestions pertaining to Mechanical Department:—

- (i) Whenever authority slips are issued for collection of materials it is necessary that it should be in the form of regular letters bearing the office reference numbers. Authority letters should also show specimen signature of the party authorised to collect stores. Each authority letter should cover one item only so that the same can be paired|pasted with issue note concerned.

Suitable machinery should exist at the consignee's end to ensure that materials covered by authority letter is correctly received or else the letter itself is returned and cancelled.

- (ii) Existing imprest requisition forms are machine numbered but no records are maintained in the shed to ensure their safe custody. Suitable instructions may be issued for

their safe custody including record of particulars of the machine Nos. of forms utilised during individual months.

- (iii) It is observed that supplies against imprest demand during a particular month are made upto the end of the subsequent month. Being a local shed, the special messenger had taken advantage of drawing stores during a particular month on two demands pertaining to consecutive months. This had temporarily made available comparatively excess quantity over the immediate requirements of the sheds facilitating misappropriation of part quantity. This can only be avoided by making the imprest supply available only during the month for which supply is scheduled to be made when it is a case of messenger delivery.
- (iv) It is observed that although according to Joint Procedure Order issued in 1958 the entire imprest should be revised once in 6 months, in actual practice imprest of important items only was revised at KGP shed as and when considered necessary. The Committee is of the opinion that the provisions of the Joint Procedure Order may be strictly enforced. It is observed that a record of sanction imprest authorised for various sheds is not available for ready reference in the DCOS Office. It is desirable that a list of sanctioned imprest for each shed should be made available to the Stores Depot, once a year to enable a check to be made at the time of issue of imprest. This check should be made cent per cent in case of non-ferrous items and on a percentage basis for other items.
- (v) Suitable instructions should be issued for the safe custody of Loco Foreman's rubber stamp.

2. Kindly issue necessary instructions to all the Divisions to comply with the recommendations as made above, with a copy to DCOS|KGP so that he may enforce the provisions wherever necessary.

3. With regard to suggestion No. (iii) above, instructions may please be issued that imprest holders should not draw supplies through messengers against more than one imprest demand during the month.

4. Please acknowledge receipt.

ANNEXURE IV

(COPY) No. MLS|490|13395. S.E. Rly. GRC, Dt. 6.8.1965.

DS (Mech: P)|KGP, CKP, ADA & BSP.

DS (Mech: C&W)|KGP, CKP, ADA, & BSP.

DS (Mech:)|KUR, WAT & NGP.

**Reg: PROCEDURE TO BE FOLLOWED WHILE SENDING
SPECIAL MESSENGERS TO GENERAL STORES TO DRAW
MATERIALS.**

The following instructions are issued for information and guidance of all concerned, which should be adhered to strictly.

(i) Whenever authority slips are issued for collection of materials from General Stores, it is necessary that it should be in the form of regular letter bearing the office reference number. The authority letter should also bear the specimen signature of the messenger. The messenger should invariably possess the Identity card with his photo. Each authority letter should cover one item only so that the same can be paired with issue note concerned by the staff of the Stores department.

(ii) It will be the personal responsibility of the Shed Incharge to ensure that the materials covered by such authority letters are correctly received and accounted for. In all cases of non-supply of materials by General Stores against such authority letter should be returned by General Stores through the messenger with suitable remarks and the shed Incharges will see that such authority letters are correctly received back from Stores department and cancelled duly pairing them with the office copy of the letters.

(iii) Existing imprest demand forms (S. 1830) are machine numbered as such they should be kept in safe custody and a record of particulars of the machine numbers of forms utilised during individual months should be maintained.

(iv) Some sheds are in the habit of drawing stores during a particular month against two Imprest demands pertaining to consecutive months. This practice must be stopped immediately. DGOS-KGP is being advised to make the imprest supply available only during the month for which supply is scheduled to be made when it is a case of messenger delivery.

(v) According to instructions contained in Joint procedure order issued in 1958 the entire imprest should be revised once in six months. It should be ensured that the provisions of the joint procedure order should be strictly adhered to, and a list of sanctioned

imprest for each shed should be made available to DCOS|KGP once a year as on 1st April, to enable Stores Depot to have an efficient check being conducted at the time of issue of imprest. This check should be made cent percent in case of non-ferrous items and on a percentage basis for other items.

(vi) The Shed Incharges should be instructed to ensure safe custody of their designation Rubber Stamps and observe the above instructions strictly.

Please acknowledge receipt.

Sd/-

Chief Mechanical Engineer.

Encl: Nil.

C/- DCOS-KGP for inf. This has ref: to COS-GRC's letter No. S. 257|A|4|37|35058 of 29.12.64. He will please see that the provisions referred to in para 2, 4 and 5 above are enforced. C|- DME (R)-KGP for information.

Recommendation

The Committee are not convinced with the arguments advanced that a major portion of the expenditure incurred in the opening of the Robertsgang-Garhwa Road Railway Project was on publicity activity. In their opinion all the items of expenditure related to inauguration ceremony. The Committee regret that the Railway Administration did not abide by the instructions issued by the Ministry of Railways in March, 1963 restricting the expenditure on inauguration ceremony to Rs. 500 only. In the opinion of the Committee, in case there was difficulty on the part of the Railways in restricting the expenditure to the ceiling fixed, the matter should have been taken up with the Department of Finance and suitable relaxation obtained instead of violating the instructions issued by the Ministry of Railways themselves.

(S. No. 37, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee have been noted and have also been brought to the notice of all the Railway Administrations for future guidance.

This has been seen by Audit.

[O.M. No. 67-D(C)-PAC. III|72(O) Dated 10.7.1967].

*Recommendation**Para 3.299*

The Committee hope that with the introduction of the mechanised system of linking the losses due to missing wagons and the credit due to unlinked wagons, the losses on this account would be eliminated. The Committee feel that the increase in the amount of loss due to thefts in the Railways indicates the lack of proper vigilance by the Railway Protection Force. They hope that with the increase in the detection staff, the Railways would be in a position to reduce thefts of Railway property substantially.

Para 3.300

The Committee also note that out of the total loss of Rs. 30.95 lakhs attributed to thefts, 89 per cent of this loss occurred on three Railways (Central, Southern and Northern). The Committee would like the Ministry of Railways to investigate the reasons for such a disproportionately high incidence of thefts on these three Railways and take suitable remedial measures.

(S. No. 38, Appendix XIII to 72nd Report, 1966-67)

Action taken

In regard to the losses on account of theft of Railway property, the Ministry of Railways would, in the first instance, like to clarify that the magnitude of losses reported in para 35 of the Audit Report Railways, 1966, as indicated in the preamble of the Audit Para itself, were the cases of losses adjusted in the accounts for the year and reported in the Appropriation Accounts for that year; to that extent these figures cannot be taken to fully indicate the losses which actually occurred during the year as all losses are not necessarily written off in the year in which incurred.

In the light of the observations made by the Public Accounts Committee, the position with particular reference to the three Railways in being examined in consultation with them and a further report will be submitted.

In addition, the observations of the Committee were brought to the notice of all General Managers vide Board's letter No. 67-Sec. (Cr.)14/1|POL dated 15.5.67 (Annexure).

In the annual conference of the Chief Security Officers, the observations of the P.A.C. were also brought to their notice and it was emphasised on them to curb incidence of crime by intensive yard patrolling, posting of pickets at vulnerable spots, collection of

intelligence about criminals, better vigilance particularly by the plain clothes staff and patrolling by the Dog Squad etc.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC. III|72(O) Dated 28.12.1967]

ANNEXURE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 67-Sec (Cr)|14|1|Pol.

New Delhi, dt. 15 May, 1967

25 Vaisakha, 1889 (S).

The General Managers,
All Indian Railways.

The Public Accounts Committee, in their 72nd Report observed that there has been a sharp increase in the total amount of losses due to thefts (including deficiencies in fittings of Rolling Stock attributable to thefts) which amounted to Rs. 30.95 lakhs in the year 1964-65. Out of the total loss of Rs. 30.95 lakhs, losses to the tune of Rs. 27.65 lakhs, or 89 per cent of the total loss, occurred on three Railways (*viz.* Central 11.81 lakhs, Southern Rs. 10.62 lakhs and Northern Rs. 5.22 lakhs). The Committee feel that the increase in the amount of losses due to thefts is due to lack of proper vigilance by the Railway Protection Force.

2. The Board, therefore, desire that the Chief Security Officers' pointed attention should be drawn to the observations of the Public Accounts Committee, and they may be asked to take immediate preventive steps to reduce thefts of railway property satisfactorily. The Chief Security Officers of Central, Southern and Northern Railways, should also investigate reasons for such a disproportionate high incidence of thefts on their Railways.

3. *The Board should be advised of the action taken in the matter by 1.6.67, as a reply to the Lok Sabha Secretariat has to be sent within three months of the presentation of the Report of the P.A.C.*

4. Please acknowledge receipt.

Joint Director (Security),
Railway Board.

No. 67-Sec (Cr)|14|1|Pol.

New Delhi, dt. 15 May 1967

25 Vaisakha, 1889 (S).

Copy to the Chief Security Officers, All Indian Railways, for information and necessary action.

Dy. Inspector General (R.P.F.),
Railway Board.

Further information received with Ministry of Railways O.M. No. 67-B(C)-PAC. III/72(O) Dated 5.8.1968.

Question:

The Report of the further investigation conducted by the Railway Board to ascertain reasons for such a disproportionately high incidence of thefts on the Central, Southern and Northern Railways may be furnished.

Reply:

The Public Accounts Committee was advised that the losses on account of thefts, with particular reference to the three Railways (Southern, Central and Northern) was being examined in consultation with them and a further report would be submitted.

Further examination showed that the increase in the amount was partly due to the comparative deterioration in the law and order situation in certain parts of the country.

Another reason is that as a result of the general instructions that such of the items of deficiencies, as were attributable to thefts, should be treated on par with other losses due to thefts and shown in the Appropriation Accounts, while formerly bulk of the deficiencies/shortages of fittings used to be made up in the process of repairs/overhauling in the form of replacements etc. as a normal charge against the replacement account.

Various measures for prevention and detection of thefts of fittings from rolling stock have been further augmented, such as, in introduction of intensive patrolling in selected yards and vulnerable spots by dog squads and armed parties, and strengthening of Crime Intelligence on the Zonal Railways.

MINISTRY OF WORKS, HOUSING & SUPPLY

(DEPARTMENT OF SUPPLY)

Recommendation

The Committee are unhappy at the manner of placing the contract in this case by the Director General of Supplies and Disposals which resulted in the purchase of unsuitable stores at a cost of Rs. 2.18 lakhs excluding sales tax involving foreign exchange element of Rs. 1.96 lakhs. There was failure on the part of the officer responsible for the purchase, to mention in the accepted tender the primary requirement of the indenter that the drill steel rods should be "suitable for drilling in hard rocks". In view of the fact that the description of the store given in the firm's tender was not entirely indential with

that in the tender enquiry, the officer should have consulted the indenter before obtaining a clarification from the firm. Moreover, having obtained a clarification from the firm that specifications given in the tender would suit the requirement, the officer should have acted in a businesslike manner and made a reference to this in the accepted tender.

Another failure of the officer was that he did not inform the Director of Inspection in Tokyo about the clarification given by the firm. The Director of Inspection on the basis of whose inspection report, 90 percent of the payment was to be made was thus precluded from satisfying himself about the suitability of the stores for drilling in hard rocks before passing them. The fact that on receipt of the indenter's complaint later, the Director of Inspection was able to verify from the manufacturer that the rods of the particular quality were meant for drilling in hard rocks, indicates, that if the officer had been posted with the requirement of the indenter he would have been effective in the inspection of stores. The Committee desire that the necessary action should be taken against the Officer concerned for the lapses.

The Committee are surprised that even after the receipt of the complaint from the indenter on the 11th February, 1963, regarding the unsuitability of stores, six more contracts of the value of Rs. 99,298/- were placed on the same firm before the matter was referred to the Law Ministry for advice. The firm was later suspended for one year. In view of the fact that wrong statement was made by the firm, the Committee feel that its suspension for one year was not adequate punishment. The Committee suggest that the D.G.S. & D. should consider the question of blacklisting the firm.

(S. No. 39 of 72nd Report—S. No. 17 of Appendix XIX, to the Fifty-third Report, III Lok Sabha)

Action taken

1. The Disciplinary aspect of the case was examined in detail. As decided by the Director General, the Assistant Director of Supplies concerned has been administered a warning which has been placed on his C. R. Dossier.

2. As regards the question of taking administrative action against this firm, viz. S|S. it has been decided, in consultation with the Central Vigilance Commission, to blacklist them for a further period of two years with immediate effect.

[No. 45 (5) 166-PI dated 12.5.1967].

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

Recommendation

The Committee are surprised to learn that no enquiry was held in regard to the loss of 21,014 bags. They would like that an enquiry should be held to ascertain the circumstances leading to the loss, before the amount is written off.

[S. No. 39 of 72nd Report—S. No. 38, Appendix XIX to 53rd Report, 1965-66.]

Action taken

At the outset, the Ministry of Railways would like to express their regret for the incorrect presentation of the factual position at the earlier stages, as explained below.

2. As desired by the Committee, the Northeast Frontier Railway was directed to constitute an Enquiry Committee to go into the question of the reported loss of 21,014 cement bags. Accordingly an Enquiry Committee was formed in July, 1966 who have since submitted their report (Annexure).

3. It would be observed that according to the balance sheet attached to the Enquiry Committee's report there is practically no non-accountal of empty cement bags as initially reported. It is understood that the initial discrepancy was due to some wrong figures supplied initially to Audit by the office of the Executive Engineer (Construction), Pandu. The then Head Clerk (Stores) of that office was found to have failed in his duties in checking up the figures and for this lapse he has been punished.

4. The A. D. A. I. (Railways), while vetting the Memorandum, has observed as under:—

“The Chief Auditor, N. F. Railway has reported that his office could not verify the figures mentioned in the numerical ‘Balance Sheet’ of the empty cement bags (enclosed with the Report of the Enquiry Committee) in absence of systematic and complete records and following observations were made by the Local Audit while vetting the figures:—

“The following figures have been verified with records as far as available in the Executive Engineer|Construc-

tions Office, Pandu.

| | | |
|---|----------|----------------|
| (a) Total Gross Receipts. | | 6,08,566 bags. |
| (b) Cement bags in stock :-- | | |
| (i) with cement. | 21,701 } | 35,913 |
| (ii) empties. | 64,212 } | |
| (c) Empty cement bags returned to DCOS/Pandu. | | 1,92,131 |
| (d) Issued to other Districts. Departments etc. | | 1,56,355 |
| (e) Issued to O.L. Subordinates. | | 79,292 |

Other figures could not be verified for want of systematic records at this stage. Hence the complete accounts cannot be vetted.'

It is requested that the draft memorandum may kindly be suitably amplified in the light of the position indicated above."

(O.M. No. 66-B(C)-PAC. III/53 (Main) Dated 8.3.1967)

ANNEXURE

REPORT OF THE ENQUIRY COMMITTEE

SUB:—Para 25 of Audit Report (Railways) 1964—Loss due to deterioration of empty cement bags.

History

As a result of the Audit Inspection of the XEN|CON's office held in January, 1962 it was detected that there was some loss due to damage of empty cement bags. This was later on converted into a draft para in which there was a mention of an alleged loss of 21014 empty bags. In the numerical balance sheet submitted along with the draft para these 21014 bags were shown as not accounted for i.e., which had either been lost or completely decayed. The Sub-Committee of the PAC desired an enquiry to be conducted in regard to the alleged loss of 21014 bags to ascertain the circumstances leading to the loss before writing off the amount. Accordingly, an Enquiry Committee was formed under CE's Memorandum No. W|34|1|A|W-3|P-III dated 27-7-1966 with the following officers as members.

1. Shri J. M. Sharma, XEN|CON|PNO.
2. Shri S. S. Das, T.S.O.|PNO.
3. Shri S. Chattopadhyaya, SAO|CTC|PNO.

Proceedings and reasons for findings

After going through the available records in the XEN|CON's office, the Enquiry Committee came to the conclusion that the figures which were earlier submitted required to be re-checked. Accordingly, the figures in the numerical balance sheet submitted along with the draft para by the Audit were checked. It was found that there was some variation between the figures given earlier and the figures arrived at now on the basis of available records. A copy of the revised numerical balance sheet is attached along with this report.

It will be found from the balance sheet that there is now no figure in the balance sheet which could not be accounted for. In fact, on the basis of the available data the Committee have come to the conclusion that there was an excess of 4950 empty cement bags. It is found that the closing balance of empty cement bags in stock i.e., 64,217 Nos. includes a quantity of 6950 scrap empty cement bags. The condition of these bags was such that they could not be properly counted during Stock Verification in March, 1962 vide Stock Sheet No. IOW|Con|S|8, dated 16-3-1962. It is likely that the difference in figures i.e., 4950 was due to the fact that the actual number of scrap bags was less than 6950 as accounted for due to the rotten condition of the bags. The Committee have not taken into consideration 10,000 empty cement bags the cost of which was said to have been recovered from the Contractor, as, on examination of the available records, it was found that there had been no recovery from the Contractors on account of empty cement bags for the period upto 31-12-1961. The Committee have, therefore, decided not to consider this figure which cannot be substantiated by the available records.

Two figures appearing in the original numerical balance sheet could also not be proved. These are:—

| | |
|--|-------|
| (1) Empty bags due from the contractors | 36221 |
| (2) Empty bags sold out as per DGS & D's rate contract. | 7,950 |

Though the Committee have not found any records to substantiate these two figures they have considered these two figures in the revised numerical balance sheet as these have appeared in the original Audit Objection which preceded the preparation of the draft paragraph. The relevant extract from the Audit Objection forward-

ed under CA's D.O. No. I|100|13|61-62 dated 1-5-1962 addressed to Shri Inder Singh, CE|PNO is given below:—

“Out of the balance cement bags, 7,950 Nos. were sold out to various parties and another 36,221 Nos. were still due from Contractors.”

(Sub-para 8, Sentence 1 of item-3)

No record could be traced proving the fact of sale to the Bag Collecting Agents as per DGS&D's Rate contract. But the Committee feel that as the Audit Inspection took place in January, 1962 they were in a better position to check up the available records from the subordinates' offices and there must have been some basis for Audit who had taken this figure in their Inspection Report. The figure viz., 36,221 empty bags due from the contractors is difficult to prove as it will require a thorough examination of the numerous returns from all the works during the period from 1958 to 1961. But unfortunately, at this distant date all the returns are not readily traceable. Hence, this figure could not be proved on the basis of the available records. But this figure can be considered on the basis of the argument given earlier in connection with the sale of cement bags at DGS & D's rate.

The Committee have examined Shri, the then Hd. Clerk Stores Sec. of XEN|CON's office and Shri, Divisional Accountant of XEN|CON's office. The then IOW|CON. Shri, could not be examined by the Committee as he has retired from Railway Service.

Observation of the Committee

The Committee have noted with regret that though the COS was requested to depute an officer of the Stores Department to appear before the Enquiry Committee, no officer from the Stores Department appeared before the Enquiry Committee. CE may like to take up the matter with COS so that necessary co-operation may be extended in similar cases in future by the COS. In this particular case, however, the Enquiry Committee found the discrepancies in figures and so appearance of the Stores Officer was ultimately not considered necessary.

Findings of the Committee

The Committee have, therefore come to the unanimous conclusion that there was no non-accountal of these 21014 bags and consequently there was no loss of these bags.

Recommendation

The Committee have noted with concerned that the earlier figures submitted by the XEN|CON's office to Audit were not thoroughly checked up before submission to Audit. The figures were also adopted by Audit in the draft para.

It is, therefore, recommended that adequate steps should be taken so that such inaccuracies do not creep in during the submission of figures to audit or during the factual verification of draft paras by the administration in future.

Sd|-

S. C. Chattopadhaya
Member,

SAO|CTC|PNO

Sd|-

S. S. Das,
Member,

T.S.O.|PNO

Sd|-

J. M. Sharma,
Member,

XEN|CON|PNO.

NORTH EAST FRONTIER RAILWAY

Numerical Balance Sheet of Empty Cement Bags in the Accounts of Construction Subordinates as on 31-12-61.

| Receipt | | | Issues and Stock | | |
|--|---|--|--|---|--------------------------------|
| Particulars | Figures shown in the Balance sheet attached to the draft para | Revised Figures | Particulars | Figures shown in the balance sheet attached to the draft para | Revised Figures |
| 1 Total No. of cement bags received from Cement Companies & other sources during 1958, 1959, 1960 & 1961 . | 6,17,594 Nos. | 6,08,566 Nos.* (+4,950 Nos. (See note 1 below) | 1 Cement bags in stock :— (a) With cement 22,996 Nos. (b) Empty bags 75,901 Nos. | 98,797 Nos. (See note 4 below) | 21,701 Nos. 64,217 Nos. |
| 2 Difference in stock . | — | — | 2 Cement stock despatched to other Districts, Deptts., Oil Refinery & Open Line Subordinates for which empty bags were not received back | 1,92,832 Nos. | 85,918* Nos. 2,35,647* Nos. |
| | | | 3 Empty cement bags used up departmentally | 5,149 " | 5,149 " (See note 2 below) |
| | | | 4 Empty bags for which cost was recovered from the contractors | 10,000 " | — |
| | | | 5 Empty bags due from the contractors | 36,221 " | 36,221 " |

| | | |
|--|--------------------------------|---|
| 6 Empty bags sold out as per DGS&D rate contract. | 7,950 " | 7,950 " |
| 7 Empty bags despatched to other engineering Distts. | 53,500 Nos. | 50,500 " (See note 3 below) |
| 8 Empty bags sent to District Controller of Stores | 1,92,131 " | 1,92,131* " |
| 9 Empty bags remained un-accounted for | 21,014 " (See note 4 below) | Nil. |
| | <hr/> | <hr/> |
| 6,17,594 Nos. | 6,13,516 Nos. | 6,17,594 6,13,516 Nos. |

[*—These figures have been vetted by Audit.]

NOTE :—(1) The closing balance of empty cement bags in stock i.e. 64,217 Nos. includes a quantity of 6,950 Nos. scrap bags. The condition of these bags was such that they could not be properly counted during stock verification in March 62 (*vide* Stock Sheet No. IOW/CON/S/8 dated 16-3-62). The Stock verifier had remarked on the body of the stores return for the month of Dec. 61-Jan.62 which was the latest return available at that time, that these bags have become dust and unaccountable. It is quite likely that the difference in figures i.e. 4,950 Nos. was due to the fact that the actual number of scrap bags was less than 6,950 Nos. scrap bags as accounted for due to the rotten condition of the bags.

- (2) Out of 5,149 Nos. bags used for departmental purpose, 4,000 Nos. were used for rebagging the cement bags torn out during handling and the balance 1,149 Nos. were used for stacking cement in the godown of IOW/EAST's siding (*vide* remarks in the XEN's working sheet).
- (3) A quantity of 3,000 Nos. bags transferred from the stock of Open Line Subordinates was wrongly included in the earlier figures of 53,500 which have now been deducted as suggested by the Audit Officer to arrive at the figure of 50,500 Nos.
- (4) There is a totalling mistake of 100 in the figure of 98,797 which should have been 98,897 Nos. Similarly the figure against item 9 should have been 20,914 Nos. instead of 21,014 Nos.
- (5) In regard to the figures under items 4,5 & 6 (10,000, 11,221 & 7,950) the remarks contained in the enquiry Committee's report may be referred to.

FURTHER INFORMATION RECEIVED WITH MINISTRY OF RAILWAYS O.M.
No. 67-B(C)-PAC/III/72(O) DATED 10-7-1967

The observations of the Committee are noted. The Ministry of Railways would, however, respectfully submit that the "action taken note", on Recommendation No. 38 of the 53rd Report of the Committee (Third Lok Sabha) was furnished to the Lok Sabha Sectt. *vide* this Ministry's O.M. No. 66-B(C)-PAC/III/53 (Main) dated 8-3-1967. It is regretted that the note on the subject could not be furnished earlier as the facts in regard to this case had to be specially checked both by the Railway Administration and Audit.

This has been seen by Audit.

Recommendation

The Committee are not convinced of the explanation for making 90 per cent payment not on the basis of the provisional rates mentioned in the supply order but on the basis of assured prevailing market rate. In view of the fact that the provisional rates were fixed on the basis of the lowest rates prevailing at the time, the Committee feel that 90 per cent of payment should have been made on the basis of those rates to safeguard the interests of Government, pending fixation of final rates by the Iron and Steel Controller. In case the provisional rates are unrealistic the remedy lies in improving the machinery for fixing them.

(Sl. No. 40 of 72nd Report—Sl. No. 18 of Appendix XIX to 53rd Report, (Third Lok Sabha).

Action taken

An amplified note prepared by the Ministry of Steel, Mines and Metals by way of comments on the Ministry of Railways' Memo is attached, which brings out the factual position more clearly. (Annexure I).

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 28-2-1968].

ANNEXURE I

Recommendation S. No. 18—53rd Report (1965-66)

Comments of the Ministry of Iron and Steel

The Northern Railway placed orders on a firm direct for supply of imported materials at a provisional rate of Rs. 700 per ton with the stipulation that the rate would subject to verification by Iron and Steel Control, Calcutta. *The basis of fixation of provisional price by the Railways is not known to Iron and Steel Controller, Calcutta.*

A report on the subject was received from the Northern Railway in Iron and Steel Controller's office for the first time on the 31st January|1st February, 1958, intimating that some overpayments had been made by them to the firm while making 90 per cent advance payment. Northern Railway also wanted to know *inter alia* whether the rates charged by the firm were verified by the Iron and Steel Controller. The case was examined in the office of the Iron and Steel Controller and on the 1st May, 1958 it was intimated to the Northern Railway that no documents had been received from the firm for fixation of rates.

Regarding the additional information furnished by Railways in respect of direct purchase of imported steel, the correct procedure is indicated below:—

- (i) Whenever an indent is received by the Joint Plant Committee they plan on the producers to the extent of indigenous availability and inform the indenter about their in ability to plan for the rest.
- (ii) The indenter then takes up this matter with Iron and Steel Controller, for clearance from indigenous angle with a view to importing the remaining quantity.
- (iii) Iron and Steel Controller then gives the clearance after informally discussing the matter with Joint Plant Committee.
- (iv) The indenter takes steps thereafter to import the materials after obtaining Import Licence.

It would thus appear that a Joint Plant Committee do not take any steps for obtaining clearance, from indigenous angle, from Iron and Steel Controller, to enable the indenter to import the quantity of the material not available from indigenous sources. The entire initiative in this regard rests with the Indenter himself (which in the present case was the Railway Board).

Recommendation

The Committee regret to note that this is another case where 90 per cent of payment was made on the proof of despatch of goods, although the goods were found to be on receipt not according to specifications. They desire that the present system of making advance payments should be revised in consultation with the Iron and Steel Controller and D.G.S. & D. to ensure that interests of Government are adequately safeguarded in case of defective supplies.

(S. No. 40 of 72nd Report—S. No. 19 of Appendix XIX to
53rd Report (Third Lok Sabha)].

Action taken

The memorandum already submitted to the Committee on this recommendation may be treated as final. The policy issue regarding the system of advance payments is, however, still under consideration in consultation with the Ministers concerned.

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 28-2-1968].

FURTHER INFORMATION RECEIVED WITH MINISTRY OF RAILWAYS O.M. No. 67-B(C)-PAC/III/72(O) DATED 5-8-1968.

Question:

Please intimate the result of the review of the question of making advance payments in such cases.

Reply:

In an earlier memorandum submitted to the Committee on 28-2-1968, furnishing further remarks with reference to Recommendations Sl. Nos. 18—22 of P.A.C.'s 53rd Report, it was stated in regard to Recommendation No. 19 that the policy issue regarding the system of advance payments was under consideration in consultation with the Ministries concerned.

The matter has since been reviewed in consultation with the Ministry of Works, Housing and Supply (Deptt. of Supply) and the Ministry of Steel (Deptt. of Iron and Steel). Ministry of Works, Housing and Supply have stated that advance payments are generally made in the contract entered into by D.G.S.&D. only after inspection and against proof of despatch. It is only in a very small number of contracts involving purchase of stores from East European countries where the department is not having inspection arrangements, that advance payments are made on the strength of makers' test certificate. In such cases also these certificates are accompanied by a suitable warranty in respect of quality, workmanship, conformity to the prescribed specifications etc. Under the terms governing the contracts entered into by D.G.S. & D., the contractors are responsible for the correctness of the stores until they are received and accepted by the consignee. Further, the warranty furnished by the supplier operates for a period of 15 months after delivery and 12 months after arrival of the stores at the ultimate destination and survives inspection and acceptance of stores by the consignee. In view of this, the Department of Supply is of the view that there is no necessity for modification in the system of payment obtaining in the D.G.S.&D.

Ministry of Steel (Deptt. of Iron and Steel) in their reply have stated that so far as Iron and Steel materials are concerned, in the case of supplies by main producers and these Re-Rollers who have

come under the orbit of Indian Standards Institution's certification procedure, for all standard and commercial materials the onus of certification lies with the works subject to certain percentage check by the Director of Inspection (metallurgy) on behalf of Indian Standards Institution. In respect of other assorted Re-Rollers and small producers no real check appears to be possible.

The extent procedure regarding the system of advance payment on the Railways has been reviewed in the light of the views expressed by the Department of Supply and Ministry of Iron and Steel. The instructions, as already existing, permit advance payment only on proof of inspection and despatch. Advance payment on proof of despatch without inspection is permitted only in very rare cases and under special circumstances with the approval of the General Manager and this is not the normal practice in contracts placed by the Railways. Thus, the case examined by the P.A.C. is not typical or representative of the contracts entered into by the Railways for supply of Stores. Instructions have now been issued to the Railways in Ministry of Railways (Railway Board) letter No. 67/RS(G)/753/3 dated 21-3-1968 (Annexure), reiterating that, as a rule, advance payments can be authorised only in cases where goods are inspected and passed before despatch. Railways have also been advised that where, in exceptional cases, advance payments have to be authorised on mere proof of despatch, sufficient safeguards should be provided so that interests of Government are protected in cases of defective supplies.

This has been seen by Additional Deputy Comptroller and Auditor General (Railways) subject to the portions of the memorandum concerning Department of Iron and Steel and Department of Supply being vetted by the Accountant General, Commerce, Works and Miscellaneous. The portion of the Memorandum relating to Department of Iron and Steel has since been vetted by A.G., C.W.&M. His advice relating to Department of Supply is awaited.

ANNEXURE

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 67/RS(G)/753/3.

New Delhi, dated 21-3-1968.

The General Managers,

All Indian Railways, including CLW, DLW, ICF & R.E., CAO & CE., D.B.K. Rly. Projects, Waltair.

SUB:—Acceptance of terms of payment stipulated by tenders.

A case has come to the notice of the Public Accounts Committee wherein 90 per cent payment was authorised by Railway on proof

of despatch of goods and the goods were found to be, on receipt, not according to the specifications. The Public Accounts Committee have desired that the present system of making advance payment should be revised in consultation with the Iron and Steel Contraller and D.G.S. & D. to ensure that interests of Government are adequately safeguarded in case of defective supplies. In the said case, the safeguards of getting supplies inspected prior to despatch had not been exercised nor incorporated in the conditions governing the contract.

In this connection, attention is invited to Railway Board's letter No. 63|RS(G)|753 dated 22-4-1965 in which Board have stated that a policy decision has been taken to follow the existing procedure of making only 90 per cent payment of proof of despatch after inspection in respect of direct purchases in terms of Board's letter of same number dated 6-1-1964. It has also been stated therein that the powers vested in the General Managers to accept the non-standard terms of payment including payment beyond 90 per cent on proof of despatch in terms of paragraphs 419-S and 420-S although holding good, such cases should be very few and properly justified. As a rule, as laid down in I.R.S. conditions of contract, advance payment can be authorised only in cases where goods are inspected and passed before despatch. In exceptional cases, which would indeed be very rare, where the advance payments are authorised on proof of despatch, the provisions contained in Board's letters Nos. 64|RS(G)/385/1 dated 9-6-1966, 4-10-1967 and 5-10-1967 should be followed. The main intention is that sufficient safeguards should be provided so that interests of Government are protected in case of defective supplies.

For steel items ordered on main procedures who allow cash discount on prompt payment, procedure laid down in 61-ACIII/30/7 dated 29th August, 1964 will apply.

Receipt of this letter may please be acknowledged.

Director, Railway Stores,
Railway Board.

Recommendation

3.90. The Committee are unhappy over the failure of the officer concerned to follow the proper procedure in calling tenders and over his recommending the particular firm for placing the order. According to the procedure limited tenders should have been called for from approved or recognised registered dealers. The Committee are surprised how the officer happened to invite tenders from the particular firm in question, the credentials of which were not verified and

with which neither the Northern Railway nor any other, Railway had dealings in the past. The Committee, therefore, cannot rule out the possibility of collusion of the officer with the firm. They note that the officer has been prematurely retired on the basis of his whole record of service. The Committee, however, suggest that action should also be taken against the officer who approved the tender finally. They also hope that necessary remedial measures have been taken to prevent the recurrence of such cases.

3.91. It is also disquieting that the early period of delivery which was an important consideration for placing the order on the firm was actually not adhered to by the firm in making deliveries. The Committee suggest that imposing of some penalty on the firm of this account should also be considered.

3.94. The Committee are constrained to observe that this was yet another failure in this case that further payment was not stopped after April, 1957 when a Department Enquiry was appointed to investigate whether the material was imported. In view of the facts that the firm had not furnished the manufacturer's test certificates as stipulated in the purchase order, the samples sent to Railway Metallurgist had not passed the test, and 90 percent of the money had been paid on earlier consignments, the officers should have stopped payments in respect of further consignments. It is regrettable that the officers concerned were not watchful about the financial interest of Government. The Committee desire that responsibility should be fixed for this lapse.

[Sl. No. 40 of 72nd Report—Sl. Nos. 20 and 21 of Appendix XIX to 53rd Report (Third Lok Sabha)].

Action taken

No further remarks. The memoranda already submitted to the Committee on these recommendations may be treated as final.

[O.M. No. 67-B(C)—PAC/III/72(O) Dated 28-2-1968].

Recommendation

The Committee are perplexed to learn during evidence that "officers examined the files but found that neither the Bihar Government Gazette nor circular was traceable anywhere and they could not fix any responsibility on any particular individual" and that there were lapses at every stage of this case. They are of the opinion that the manner in which the case has been dealt with leaves much scope for improvement in the procedure laid down by the Railway Administration to tackle such issues. They, therefore, desire that the official procedure should be streamlined with utmost speed so that lapses may not recur in future.

The Committee are surprised that a warrant of attachment of the station earnings was issued by the Certificate Officer, Muzaffarpur for the realisation of Rs. 59,969. The propriety of such an action is open to question. The Committee suggest that this case may be brought to the notice of Bihar Government at the highest level and that certain healthy conventions laid down for settlement of issues between State Govt. and Central Govt. by correspondence and/or discussions at appropriate levels.

[S. No. 40 of 72nd Report—Sl. No. 33 of Appendix XIX to 53rd Report (Third Lok Sabha)].

Action taken

As earlier submitted to the Committee in the Ministry of Railway's Memorandum of 13-10-1966, the Ministry of Finance had been requested to consider issuing appropriate instructions to the State Governments in consultation with the Ministry of Law and the Ministry of Home Affairs. The draft instructions are still under their consideration.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 15-9-1967].

Further information received with Ministry of Railways O.M. No. 67-B(C)-PAC/III/72(O) Dated 26-3-1968.

In pursuance of the earlier Memorandum on the above Recommendation submitted with this Ministry's Office Memorandum No. 67-B(C)-PAC/III/72(O), dated 15-9-1967, it is stated that the Ministry of Finance have since suitably addressed the State Governments on the procedure that may be followed in settling the outstanding claims between the State Governments and the Central Government amicably, without undue delay and without recourse to coercive processes such as attachment of property etc. The Ministry of Railways have also issued necessary instructions to the Railway Administrations.

This has been seen by Audit.

Recommendation

In this case also it is not clear from the reply whether the procedure is being properly followed or not and what is the periodicity of the Reports sent by the Purchase Organisations abroad to the Railway Board. The Committee desire that the intervals at which the information is being supplied by the Purchase Organisations, the nature of the Reports (whether they contain up-to-date information

or not) and the number of Reports received by the Ministry in the last six months of the financial year 1965-66 may be intimated to them. They would also like to know if the Ministry of Railways have formulated any plans/proposals for the improvement of the existing procedure and if so the details thereof may be furnished.

[S. No. 40 of 72nd Report—Sl. No. 41 of Appendix XIX to 53rd Report (Third Lok Sabha)].

Action Taken

This matter is under consideration in consultation with the Ministry of Works, Housing and Supply, (Department of Supply) and a further communication will be sent as soon as the matter is finalised.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC III 72(O) Dated 19-8-1967].

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O.M. No. 67-B(C)-PAC III 72(O) Dated 5-8-1968.

In their fifteenth Report (Second Lok Sabha) the Public Accounts Committee had recommended a procedure of periodical reports—fortnightly from the end of January and weekly reports in the month of March—by the Purchase Organisations abroad to the indenting Ministries regarding the availability of stores and Shipments etc. Suitable instructions were issued by the Ministry of Works, Housing & Supply to the Purchasing Agencies abroad to comply with the Committee's recommendations.

In reply to item 2 of the points raised in Lok Sabha Sectt's O. M. No. 2/IX/7/PAC. dated 11-3-1966, the Committee were informed that a procedure for receiving information through periodical reports from Foreign Agencies had been formulated and had been working for the last four/five years. It was also added that the possibilities of obtaining a forecast of likely payments in addition to the particulars of actual payments would be explored in consultation with the Deptt. of Supply which might assist still further in improving the accuracy of estimation of the Railways' requirements towards the close of the year.

The Committee, in recommendation No. 41 of their 53rd Report (Third Lok Sabha) sought clarification regarding the periodicity of the Reports and the number of Reports received in the last six months of the financial year 1965-66 and whether any plans or proposals had been formulated by the Ministry of Railways for the improvement of the existing procedure.

The information asked for by the Public Accounts Committee regarding the number of reports received during the last six months of 1965-66 was elicited from the Railways. As there was delay in collecting the information, a provisional reply was sent to the Lok Sabha Secretariat on 21-1-1967 to the effect that only 88 reports were received as against 200 reports due from the Purchasing Missions abroad during the six months from October to March.

From further information since received, it is seen that in furnishing the total number of reports due from the Foreign Agencies, the Railways had confused the periodical reports due from the end of January according to the P. A. C's recommendations with the monthly reports of actual payments received throughout the year even prior to the Committee's recommendation. The frequency of reports as recommended by the Public Accounts Committee in 1959 is fortnightly from the end of January and weekly in the month of March, i.e., only one report is due in January, two in February and 4/5 in the month of March, no report being due prior to January in each financial year.

The total number of Reports due with reference to the Committee's recommendations in the last quarter of the financial year (and not during last six months as asked for by the Committee) thus comes to 7 or 8 for each Railway Unit, separately from each Supply Mission located at London/Washington. No report to the Railway Unit who have no purchase order on one or both of these Agencies would, however, be necessary. On this basis, it has now been reported by the Railways that 136 reports (80 from I. S. M., London, and 56 from I. S. M., Washington) were due for the last quarter of 1965-66, against which only 73 reports (57 from I. S. M., London and 16 from I.S.M., Washington) were received. I.S.M., London and I.S.M., Washington have, however, intimated that 104 and 56 reports, respectively were sent by them. In any case the number of reports sent or received is not of much significance as even such reports, as were received from Foreign Missions, could not be used by the Railways as the form in which the information is being furnished does not suit the requirements of the Railways in framing their estimates in a realistic and accurate manner.

For instance, while the actual payments made to end of the period for which the report is received would be useful in fixing the final estimate, what is even more important is the likely payment *before the close of the year* as distinguished from the balance of payment due under the contract on which information is furnished (this could easily be calculated as total value of contract less the payments already made). This aspect of the matter was therefore, pur-

sued with the Ministry of Works, Housing & Supply, for obtaining forecasts of likely payments during the last two months of the year in addition to the fortnightly|weekly reports required to be furnished by the Supply Missions abroad with reference to the Committee's recommendations made in 1959. so that further improvement may be effected in the accuracy of the Railway's estimates of requirements towards the close of the year. The Ministry of Works, Housing and Supply (Deptt. of Supply), in consultation with the Purchase Missions abroad, have, however, expressed the inability of these Organisations due to administrative difficulties, to furnish forecast of likely payments during the last two months of the year as pressed for by this Ministry.

In respect of budgeting for the indigenous stores purchased through the D.G.S. & D. for which the initial payment to the vendors is done by the Pay & Accounts Officers, the Ministry of Works, Housing & Supply have been repeatedly requested to furnish to the railways by the 10th February each year the details of payments made to vendors to the end of January and the forecast of payments likely to be made to vendors during February and March. The Ministry of Works, Housing & Supply have intimated that while weekly information of actual payments made till the middle of March and daily intimation of actual payments thereafter is being given to the railways, it is not possible to give any forecast of payments likely to be made during February and March, as desired by the Railways.

In view of what has been stated above, no further refinement of procedure in improving the accuracy of estimation (both indigenous as well as imported) towards the closing of the year seems possible. The Railway Administrations will, however, be advised to make the best use of the information being supplied to them in estimating their requirements of funds as realistically as possible.

This has been seen by Audit.

Recommendation

The Committee are unhappy to note that out of Rs. 1,58,213 outstanding from the State Governments of Madras and Andhra Pradesh as on 31-1-1965, only Rs. 4,940 have been realised upto 30-6-1966. They are not satisfied with the progress made in this direction.

The Committee desire that special steps should be taken by the Railways so that the full amount is recovered from the State Governments expeditiously.

(Sl. No. 41, Appendix XIII to 72nd Report, 1966-67).

Action taken

The amount of Rs. 1.53 lakhs outstanding on 30-6-1966 has since been reduced by recoveries subsequently made, to Rs. 28,239 only

on 30-4-67. Efforts are continuing to recover this balance amount also expeditiously.

This has been seen by Audit.

Recommendation

The Committee regret to find that the India Supply Mission, London and India Supply Mission, Washington had furnished during the six months (October, 1965 to March, 1966) 88 periodical reports to different Railways against 200 such reports which they were supposed to send. They also find that the information furnished by these Missions to some of the Railways was incomplete.

[O.M. No. 67-B(C)-PAC/III/72(O). Dated 19-8-1967].

The Committee need hardly emphasise that in order to avoid wide variations between estimates and actuals on account of materials purchased from abroad, it is essential for the Supply Missions abroad to furnish the periodical reports about the placement of orders, despatch particulars and payments effected promptly and regularly. They also desire that such reports should be complete in all respects so that the Railways may be able to estimate correctly their financial commitments.

(S. No. 42, Appendix XIII to 72nd Report, 1966-67).

Action taken

The above recommendatin is marked to both the Ministry of Railways and the Department of Supply & Technical Development. As further action in terms of the Committee's recommendation rests with the Ministry of Works, Housing & Supply (Deptt. of Supply) who are the administrative Ministry concerned with the India Supply Mission, London and the India Supply Mission, Washington, that Ministry has been requested to pursue the matter.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC III/72(O). Dated 19-8-1967].

MINISTRY OF WORKS, HOUSING AND SUPPLY

DEPARTMENT OF SUPPLY

The submission of these reports by the Purchasing Missions abroad was started as a result of the recommendations of the Public Accounts Committee as contained in the 15th Report (Sl. No. 4, Para 5). This recommendation *inter alia* stated as follows:—

“If the purchasing organisations abroad furnished reports regarding the availability of stores and shipments to the indenting Ministries every fortnight from the end of January and weekly reports in the month of March

it would keep the indenting Ministries informed of the latest supply position and enable them to estimate their financial commitments more precisely....”

The frequency of the reports, as recommended by the Committee is, therefore, one in January, fortnightly in February and weekly in March, no report being due prior to January in each financial year. This frequency has been maintained by India Supply Missions abroad right from 1959 onwards.

The figure of 88 periodical reports supplied by the India Supply Mission London and Washington, against the figure of 200 such reports which they were supposed to send, was based on a provisional reply sent to the Lok Sabha Secretariat by the Ministry of Railways on 21st January, 1967. In their O. M. No. 67-B (C)-PAC-III|72 (O) to the Lok Sabha Secretariat on 2nd May, 1968, however, the Ministry of Railways have stated that in furnishing the total number of reports due from the foreign agencies, the Railways had confused the periodical reports due from the end of January according to the PAC recommendations with the monthly reports of actual payments received throughout the year even prior to the Committee's recommendations. The Ministry of Railways have also affirmed that the frequency of the reports as recommended by the Public Accounts Committee in 1959, is fortnightly from the end of January and weekly in the month of March, no report being due prior to January in each financial year. It would be noted from the same O.M. from the Ministry of Railways that I.S.M., London and Washington have sent 104 and 56 reports respectively to the Railways.

The Ministry of Railways, Railway Board, to whom this Note was shown have, however, made the following remarks:—

“The Railways have, however, reported that only 73 reports (57 from ISM London & 16 from ISM, Washington) were received by them.”

To enable the Ministry of Railways to formulate their estimates the Reports are being sent in a prescribed form, a copy of which is enclosed. The Ministry of Railways have, however, stated that the information furnished by the Mission abroad in the form prescribed does not suit the requirements of that Ministry. According to them, the form does not give any information about the likely payments to be made by 31st March and cannot be used for an assessment of requirements of funds from the point of view of budgeting for the final estimate. In this connection, it is stated that the I.S.M.,

Washington place the contracts on FOB Factory/FAS Port of Shipment basis and due to the following variable factors, it is difficult to furnish to the Railways the precise information which they want:—

- (i) The delivery dates generally quoted by the suppliers are unguaranteed on the basis of which contracts are placed.
- (ii) The Suppliers in North America securing contracts, prior to delivery of the stores, have to approach the Missions forwarders—Shipping Company for obtaining shipping space by submitting their invoices indicating weights and cubic contents of the consignments offered for shipment.
- (iii) The Forwarders—Shipping Company—have to line up cargo on the basis of the conditions stipulated in Loan Agreement/Credits under which supplies are financed, other than those financed through free resources. The shipments have to be ensured on an overall 50-50 basis through U.S. flag vessels/Indian flag vessels. There is a time lag on this account of 2 to 3 weeks.
- (iv) After receipt of shipping instructions, the suppliers deliver the stores F.O.B. factory/F.A.S. port of shipment. Till the point of actual shipment there is a further time lag of two to three weeks.
- (v) The suppliers have to obtain inland bills of lading from carriers by road or bills of lading/Dock Receipts from the Forwarders/Shipping Company for submission along with their documents for claiming payments.
- (vi) Time lag in the matter of submission of complete documents by the suppliers for obtaining their payments either through the Banks against letters of credit in their favour or from Chief Accounts Officer, I.S.M.
- (vii) Time lag in receipt of actual payments by the suppliers from the date of submission of requisite documents in terms of the contracts to Banks/C.A.O., I.S.M. Sometimes, the suppliers delay submission of their invoices/documents for an appreciable period or the documents are not complete to enable releases of payments."

According to the India Supply Mission, London, most of the information required by the Railways which could help them in making forecasts, would be available with them in India in the form of inspection certificate copies sent to the Railway Board at the time of inspection, copies of advance packing account invoices sent direct

to the Railway consignees at the time of packing and shipment and finally, copies of "Mech. Forms". The office of the C.A.O. also sends monthly account statement of payments made to the respective Accounts Offices. These extracts give information about the contract No., Store, Cost, Vessel and the Name of the Consignee and are supported with copies of "Mech-I Forms".

The Ministry of Railways, Railway Board, to whom this Note was shown have, however, made the following remarks:—

"The Ministry of Railways, however, consider that the information at present available in India in respect of the inspections etc., and the actual monthly payments made, does not enable the Railways to assess in a realistic and accurate manner the payments likely to be made by the foreign missions before the close of the year."

These and other practical difficulties of the two Missions in sending more detailed information have been communicated to the Ministry of Railways and it has been explained that with their present set-up, the Missions would not be in a position to supply more precise data. It is noted from the Ministry of Railways O.M. dated the 2nd May, 1968 that the Railway Administrations will be advised by the Ministry of Railways to make the best use of the information being supplied to them in estimating their requirements of funds as realistically as possible.

O.M. No. P-II-3(2) 66 dated 5th August, 1968.

(SPECIMEN)

Report regarding Payment in respect of Railway Orders As on 31st January, 196 .

| S. No. | In tenting Offi- cer & Reference | Contract No. | Country in which ordered | Total value of orders out- standing on 31-12 | | Payment made between 1-1 and 31-1 | | Total value of orders out- standing on 31-1 |
|-------------------------------------|-------------------------------------|--------------|-----------------------------|---|-----------|--------------------------------------|-----------|--|
| Statement Number | 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| For period ending | 31st Jan. | 13th Feb. | 27th Feb. | 6th Mar. | 13th Mar. | 20th Mar. | 27th Mar. | 3rd. Apr. |
| Date to be des- patched to India | 21st Feb. | 23rd Feb. | 9th Mar. | 16th Mar. | 23rd Mar. | 28th Mar. | 4th Apr. | 12th Apr. |

CHAPTER III

RECOMMENDATIONS/OBSERVATIONS IN RESPECT OF WHICH REPLIES OF GOVERNMENT HAVE NOT BEEN ACCEPTED BY THE COMMITTEE AND WHICH REQUIRE REITERATION

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

Recommendation

The Committee note that the Railway Board were unable to achieve their target of carrying additional goods traffic during 1964-65. The actual increase in the originating traffic was 2.7 million tonnes only while the target for additional goods traffic during the year was fixed at 17 million tonnes. Since this target was fixed in consultation with various other Ministries etc., which made their own assessments in respect of various items, it would be seen that the assessments made by other Ministries etc. were wide off the mark. The shortfall in the originating traffic occurred mainly under coal and general merchandise including Railway's own traffic of coal. The Committee feel that the Railways could have foreseen the decrease in their own coal traffic at least and could have suitably reduced the target of goods traffic to that extent. They feel that the reasons for such a huge shortfall in the target of goods traffic as well as in respect of other earnings require to be gone into in greater details by Railway Board for future guidance. It is worth noting in this connection that but for the increased actual earnings of the Railways from the passenger traffic, which amounted to Rs. 15.28 crores over the budget estimates, the gap between the budget estimates and the actual would have been further accentuated.

The Committee also make a note of the increasing percentage of variations between the budget estimates and the actuals from year to year (—3 per cent in 1961-62 to +5.3 per cent in 1965-66), and feel that the percentage of variation between the budget estimates and the actuals could be reduced by having closer co-ordination with other concerned Departments/Ministries in assessing the position better.

(S. No. 1, Appendix XIII to 72nd Report, 1966-67).

Action taken

The recommendations of the Committee are noted. Close liaison is maintained with other Departments|Ministries to assess the anticipated quantum of specific traffic like coal and iron and steel (both raw materials and finished products), cement etc. Continuous efforts are also being made to improve the estimating of traffic and refinements are being introduced wherever possible. In regard to the Railway's traffic of materials for their own consumption, the freight earnings are adjusted as a reduction in working expenses and variations in the Railways' own traffic do not affect the estimates of gross traffic receipts.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC|III|72(O) Dated 19-8-1967].

*Recommendation**Para 3.243*

The Committee regret to find that there has been delay at various stages, with the result, that 7 years had passed and yet the Railways had not been successful in coming to a final settlement with the National Coal Development Corporation. They hope that there would be no further delay in the matter now.

Para 3.244

As regards recovery of an amount of Rs. 1.60 lakhs [para 29(ii)], the Committee learn with regret that the position was still not clear. They would like this matter which is pending for a long time to be finalised.

(S. No. 31, Appendix XIII to 72nd Report, 1966-67).

*Action taken**Para 3.243*

The observations of the Committee are noted. As submitted to the Committee earlier, *vide* note at Appendix IX of the 72nd Report (Third Lok Sabha) of the Committee, the proposal of the National Coal Development Corporation that a portion of the sidings constructed for them in this case should be treated as a branch line of the Railways was under active consideration in consultation with the Eastern Railway Administration. After careful examination of the case, it has now been decided by the Ministry of Railways that there is no justification for treating that portion of the siding across the Damodar river upto the take off point of Gidi 'B' siding as a branch line. The Eastern Railway Administration have been advised of this decision and instructed that the N.C.D.C. should be advised to accept the siding on assisted siding basis and pay the balance amount due from them to the Railway without any further delay.

Para 3.244

The observations of the Committee are noted.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 23-9-1967].

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O.M.
No. 67-B(C)-PAC/III/72(O) DATED 5-8-1968.

Question:

Please intimate the latest position regarding the recovery of the amount of Rs. 1.60 lakhs.

Reply:

It is regretted that there has been no appreciable progress in regard to the recovery of the amount of Rs. 1.60 lakhs from N.C.D.C. mainly on account of the difficulty of sorting out piecemeal claims of the N.C.D.C. as against the claims of various departments of the Railway. The Chief Operating Superintendent, Eastern Railway has been nominated as the co-ordinating officer to ensure early settlement. The matter is being actively pursued with the N.C.D.C.

Recommendation

The Committee regret to observe that at no time during these years any serious attempt seems to have been made by the Railway to maintain a proper and upto date record of the occupants of the lands and stalls in the bazars. Proper steps were not taken to prevent the accumulation of the arrears. They note that only with effect from 28-10-1965, a whole time Estate Officer was appointed to finalise these cases and that there were also some difficulties in finding additional staff to attend to these cases. The Committee hope that vigorous attempts would now be made to liquidate the arrears without further delay. They trust that the steps, such as the introduction of checks to prevent sub-letting, obtaining advance deposits etc. taken would improve the position.

(S. No. 32, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted.

Vigorous efforts are being made by the Railway Administration to realise the arrears of rent for the Railway Bazaars at different places. The Railway Administration have reported that consequent on the issue of notices by the Estate Officer as required under the Public Premises (Eviction of unauthorised occupants) Act, 1958, an

increasing number of occupants are coming up to pay their dues in instalments or otherwise. The balance of dues outstanding as at the end of April, 1967 are about Rs. 71,081 relating to the period upto 1959 and about Rs. 4.84 lakhs relating to the period from 1960-61 to 1964-65. The Railway Administration except that with the finalisation of the large number of cases that have been filed before the Estate Officer, the position will improve to a considerable extent.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 19-8-1967].

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS
O.M. No. 67-B(C)-PAC/III/72(O) Dated 5-8-1968.

Question:

Please state the latest position about recovery of arrears of rent.

Reply:

Further to the position as at the end of April, 1967 indicated in this Ministry's earlier memorandum dated 1st August, 1967, it is stated that a further sum of Rs. 3,452 relating to the period upto 1959-60 and a further sum of Rs. 2,380 relating to the period from 1960-61 to 1964-65 was realised till end of June, 1968, leaving a balance of Rs. 67,629 relating to the period upto 1959-60 and Rs. 4,81,358 relating to the period from 1960-61 to 1964-65 in arrears.

(Not Vetted by Audit).

Recommendation

The Committee desire that the final decision in the matter may be expedited and communicated to them.

[Sl. No. 40 of 72nd Report—Sl. No. 39 to Appendix XIX of 53rd Report (Third Lok Sabha)].

Action taken

The best means of effecting recoveries of outstanding amounts representing rents on surplus railway land handed over to the State Governments for being leased out to cultivators has been under correspondence between the Railway Administration and the State Governments concerned. It may be recalled that in a note submitted to the Public Accounts Committee in January 1967 it was indicated that while the Kerala Government had agreed to the proposal of a fixed lumpsum amount being recovered annually from the State Government on the basis of past recoveries, the Mysore Government had indicated their decision to retransfer the railway land to the

Railways. The Madras Government had, however, a different suggestion of engaging a whole time Assistant for the purpose of watching over the recoveries etc. The Southern Railway Administration has since requested the Kerala and Madras Governments to implement the proposals agreed to by them. In respect of other State Governments, no substantial progress could be made. It may, however, be mentioned that out of the remaining states, arrears are mainly with the State Governments of Bihar, U.P., Punjab and Andhra Pradesh, and the matter is being pursued with them. The outstanding dues of Southern Railway against the State Governments of Madras, Kerala and Mysore on 31st March, 1967, were Rs. 1,08,195, Rs. 18,692 and Rs. 243 respectively. It will be seen that there is appreciable improvement.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC III 72(O) Dated 15-9-1967].

FURTHER INFORMATION RECEIVED WITH THE MINISTRY OF RAILWAYS O.M.
No. 67-B(C)-PAC III 72(O) DATED 24-8-1968.

Question:

Please indicate the latest position regarding recovery of rent for land leased to State Governments for growing crops.

Reply:

The matter is still being pursued by the railways with the State Governments. In particular, this Ministry would like to report the following development that has taken place in regard to recoveries from the Government of Uttar Pradesh. The North Eastern Railway had approached the State Government to agree to the formula of a lumpsum payment. The State Government desired that they be addressed in the matter by Railway Board as a number of railways passing through Uttar Pradesh were concerned. Accordingly, a letter has been issued to Uttar Pradesh Government recently to agree to pay to Railway Administrations concerned a lump sum amount every year, to be fixed every five years, on the basis of average rent being realised by them after deducting some percentage, say 10 per cent for the management.

CHAPTER IV
RECOMMENDATIONS|OBSERVATIONS TO WHICH GOVERN-
MENT HAVE FURNISHED INTETRIM REPLIES
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

Recommendations

According to the note furnished (Appendix IV) the total overtime allowance paid to the Railway staff during 1965-66 amounted to Rs. 4,74,48,794. 77 P. This amount appears, prima facie, to be on the high side what is more, the amount paid as overtime fluctuates very widely from Railway to Railway. The Committee suggest that the question of the incidence of overtime work on the Railways may be analysed by the Efficiency Bureau of the Railway Board.

(S. No. 8. Appendix XIII to 72nd Report, 1966-67).

Action taken

As suggested by the Public Accounts Committee the Efficiency Bureau of the Railway Board has been entrusted with the investigation and analysis of the incidence of over-time on the Railways. A further communication will follow as soon as their Report is submitted and considered by the Board.

Incidentally, it is stated that the figures of overtime allowance paid during 1965-66 on the Northern and Western Railways and Railway Electrification may be read as under:—

| | <i>As already furnished</i> | <i>Revised figures</i> |
|-------------------------|---|------------------------|
| | [vide this Ministry's O.M. No. 66-B/C/(PAC) Genl (4) dt. 20.1.67] | |
| Northern | 39,58,154.82 | 43,76,898.89 |
| Western | 37,88,613.62 | 51,68,018.83 |
| Railway Electrification | 4,800 00 | 5,575.61 |

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72(O) Dated 16-12-1967].

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O. M.
No. 67-B(C)-PAC/III/72(O) DATED 5-8-1968.

Question:

Whether the Report of Efficiency Bureau has since been received. If so, what action has been taken by the Railway Board thereon.

Reply:

The report has not yet been completed. The Efficiency Bureau has collected information from almost all the Railways and certain discrepancies noticed in the information are being sorted out with the Railway Administrations concerned. The Efficiency Bureau is making special efforts to expedite completion of the study.

Recommendations

Para 3.33.

From the evidence and the notes furnished to them, the Committee find that there were various irregularities in allotting works to firm 'A' the highest tenderer in this case. Briefly, they are as under:—

1. The Tender Committee rejected the offer of firm 'B' (4th lowest) which has all the requisite qualifications to undertake the job mainly on the grounds that there had been a labour trouble in a sister concern of the firm and they had apprehension that because of this firm 'B' would not be able to carry out the work involved in the contract. Curiously enough, the Committee find that the same sister firm were able to procure orders for steel castings and wheel centres valued at Rs. 1.74 lakhs from the Chittaranjan Locomotive Works during the same period viz. November-December, 1962. In view of this, the Committee feel that the plea about their rejection of the offer of firm 'B' on ground of labour trouble in a sister concern lacked justification.
2. The quantum of work involved was revised piecemeal. Initially the tenders were invited for 1425 tons of steel structures in connection with electric locomotive project. They were opened in May, 1962. Before a decision was taken on these tenders, quantum of fabrication work to be done underwent an increase from 1425 tons to 2100 tons. Subsequently, this fabrication work was increased from 2100 tons to 2800 tons in August, 1963. Similarly the quantum of work was revised in the case of Steel Foundry Project from 1530 tons, at the time of invitation of tenders to 3009 tons. Every time the estimates were revised upwards, the Chittaranjan Locomotive Works got

the approval of the Railway Board to negotiate with the firm 'A'. The Committee have not been given any justifiable reasons for this upward revision of the fabrication work piecemeal. Had the estimates been prepared realistically ab-initio the Committee feel that better competitive rates could have been obtained.

3. In October, 1962 when estimate of the fabrication work was revised from 1425 tons to 2100 tons, the Railway Board suggested negotiations with the present tenderers. It is strange to note that the negotiations were carried out only with firm 'A' which was the highest and not with firm 'C' which was the lowest and with firm 'B' which even according to the initial assessment of the Tender Committee in August, 1962, had all the requisite qualifications to carry out the work and was proposed to be accepted. The Committee have not been given any convincing justification for carrying out negotiations with the highest tenderer only to the exclusion of other tenderers. This, the Committee feel, was a violation of the directive of the railway Board.
4. The Committee have also not been given conclusive evidence that the firm 'C' the lowest tenderer, was totally incapable of undertaking the work. On the other hand, they find that the Hindustan Steel had recommended this firm for being relied upon to do any big works and the technical officers of Diesel Locomotive Works, Varanasi, who inspected the firm's workshop on 24th November, 1962, had found the fabrication work in progress satisfactorily. It is also evident from the notes furnished and the evidence tendered that the delay in carrying out the works in the case of a contract placed by the Southern Railway in April, 1959 was mainly due to the delay in the supply of the matching steel items to the firm. Adequate justification therefor did not exist for the Chittaranjan Locomotive Works to reject the lowest tender.
5. In October, 1964, General Manager, C. L. W. wanted to allot work for additional 1200 tons of steel fabrication to firm 'A' after negotiations, but the Railway Board favoured calling of limited tenders. No reasons were recorded for this decision.
6. The Committee also learn from Audit that the tenders were considered in this case on the basis of steel being procured by the contractors themselves and one of the reasons for

not considering certain tenderers was that they had no stock of steel. After allotting the contract to Firm 'A' the Railway Board arranged the requirements of steel for the works. This aspect also needs looking into.

Para 3.34.

The Committee understand from the evidence and the notes furnished by the Ministry that they had decided not to investigate further so far as consideration of various factors concerning the tenders is concerned but the procedural lapses noticed are under examination by a high level Committee of two additional members of the Railway Board. In view of the various irregularities mentioned above, the Committee feel that the entire transaction leading to the allotment of the contract to the firm 'A' which was highest tenderer, needs further investigation. The Committee suggest that a representative of Audit should also be associated with this body and this transaction should be examined in all its details, keeping in view the various lapses mentioned above. The Committee also desire that learning from the experience of this case, the Railway Board should also streamline their procedure to avoid recurrence of such cases.

(S. No. 13, Appendix XIII to 72nd Report, 1966-67).

Action taken

As suggested by the Public Accounts Committee, the high level Enquiry Committee of three Additional Members of the Railway Board was enlarged to include the Additional Deputy Comptroller & Auditor General (Railways) also. The report of the re-constituted Committee is expected shortly, and on its receipt, the Public Accounts Committee will be advised further in the matter.

2. This has been seen by Audit.

[O.M. No. 67-B(C)—PAC. III/72(O), Dated 23.9.1967].

FURTHER INFORMATION RECEIVED Vide MINISTRY OF RAILWAYS O.M.
No. 67-B(C)-PAC.III/72(O), DATED 5-8-1968.

Question:

A copy of the Report of High Level Enquiry Committee, if received, may be furnished. The action taken by the Railway on the findings of the Committee may also be intimated.

Reply.

It is expected that the High Level Enquiry Committee will finalise their report in the near future. Action on the report will be taken as necessary.

A copy of the report and details of action taken on the findings therein will be advised as soon as possible.

*Recommendation**Para 3.94.*

The Committee find that in this case it was primarily the issue of 1500 tons of pig iron by the Railways themselves which was responsible for the excess issue of 879 tons of pig iron. The Committee are disappointed to note that due to various administrative lapses, the Railways did not ask the Iron & Steel Controller to adjust the excess issue of pig iron to the firm. Corresponding reduction was also not made in the firm's quota against the 1957 order which was still under execution. The subsequent adjustment of this excess against the order placed in 1961 did not curtail the substantial benefit which had accrued to the firm as pig iron was then available at considerably cheaper controlled rates. The unfortunate part of the whole case is that even when the Railway Board came to know that the quantity of pig iron had been issued in excess, they could neither recover the excess cost from the firm nor could they realise any liquidated damage because the Railways could not prove that they had suffered any loss. Even the Railway Board was not prompt enough to initiate any action against the defaulting official with the result that the latter had retired without accounting for the various lapses committed by him.

Para 3.95.

The Committee hope that keeping in view the various lacunae found in this case, the Railway Board would issue comprehensive instructions regarding disposal of the surplus materials issued to the contractors at controlled rates by the Railways. This is very essential to prevent misuse of materials in short supply.

Para 3.96.

The Committee also hope that in consultation with the Ministry of Law, the Railway Board will devise a suitable procedure regarding levy of liquidated damages. In this connection, the Committee would also like to draw the attention of the Railway Board to their observation contained in Para Nos. 4.144 and 4.156 of their 68th Report (Third Lok Sabha) wherein they have given their comments on the general case of liquidated damages.

(S. No. 18, Appendix XIII to 72nd Report, 1966-67).

*Action taken**Para 3.94.*

The observations of the Committee are noted for future guidance.

Para 3.95.

The observations of the Committee have been noted and suitable instructions have been issued to the Railway Administrations, *vide* Railway Board's letter No. 67-B(C)-PAC.III|72(18) dated 14.9.1967 (Annexure—I).

Para 3.96.

The procedure regarding levy of liquidated damages has been examined in consultation with the Ministry of Law and certain instructions have been issued to the Railway Administrations, *vide* Railway Board's letter No. 58|RS(G)|775 dated 19.5.67, (Annexure—II).

The matter will be further considered in the light of the action taken by the Ministry of Works, Housing and Supply (Department of Supply) in consultation with the Ministry of Law on the observations made by the Committee in paras 4.144 and 4.156 of their 68th Report (Third Lok Sabha).

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC|III|72(O) Dated 15.9.1967].

ANNEXURE—I

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
 (RAILWAY BOARD)

No. 67-B(C)-PAC|III|72(18) New Delhi, dated 14.9.1967.

*The General Managers,
 All Indian Railways,
 C. L. W., D. L. W., I. C. F., and
 Railway Electrification.

*The Chief Administrative Officer &
 Chief Engineer,
 D. B. K. Rly. Project,
 Waltair.

Sub:—Supply of controlled raw material to the contractors for fabrication into Railway Stores.

Attention is invited to Board's letter No. 61|746|56|Track dated 6.4.63 (enclosure), arising out of a case commented upon by the Public Accounts Committee, regarding incorporation of a clause in the

*W ith two Spares.

relevant contracts to safeguard against the contingency of contractors/suppliers diverting raw materials secured with government assistance to works other than those for which they were intended.

2. In para 15 of the Audit Report (Rlys) 1966, a case pertaining to the period 1956-57 was reported, the basic point being that the Ministry of Railways supplied (on full payment) a certain quantity of pig iron out of the imports made by them through the Indian Steel Purchase Mission to the fabricators of C. I. Sleeper plates & simultaneously, the fabricators had also received pig iron from the Iron & Steel Controller which resulted in the firm receiving excess supply of pig iron. The excess was not adjusted immediately against current contracts but was adjusted only against contracts placed about 5 years later, there being no provision in the contract for action of any other type.

3. Commenting on this case, the Public Accounts Committee (1966-67) have observed as under in paras 3.94 and 3.95 of their 72nd Report:—

Para 3.94

“The Committee find that in this case it was primarily the issue of 1500 tons of pig iron by the Railways themselves which was responsible for the excess issue of 879 tons of pig iron. The Committee are disappointed to note that due to various administrative lapses, the Railways did not ask the Iron & Steel Controller to adjust the excess issue of pig iron to the firm. Corresponding reduction was also not made in the firm's quota against the 1957 order which was still under execution. The subsequent adjustment of this excess against the order placed in 1961 did not curtail the substantial benefit which had accrued to the firm as pig iron was then available at considerably cheaper controlled rates. The unfortunate part of the whole case is that even when the Railway Board came to know that the quantity of pig iron had been issued in excess, they could neither recover the excess cost from the firm nor could they realise any liquidated damages because the Railways could not prove that they had suffered any loss. Even the Railway Board was not prompt enough to initiate any action against the defaulting official with the result that the later had retired without accounting for the various lapses committed by him.”

Para 3.95

“The Committee hope that keeping in view the various lacunae found in this case, the Railway Board would issue comprehensive instructions regarding disposal of the surplus materials issued to the contractors at controlled rates by the Railways. This is very essential to prevent misuse of material in short supply.”

4. The above observation of the Committee should be noted. Though the subject case commented upon by the Public Accounts Committee relates to a period much earlier to the Boards instructions of 6th April, 1963 referred to in para 1 above, it is yet another instance to prove the need for effective steps being taken by the Railways in the direction indicated in the said instructions. The Board trust that suitable steps will accordingly be taken.

5. Please acknowledge receipt.

Deputy Director, Track.
Railway Board.

ENCLOSURE TO ANNEXURE—I

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 61/746/56/Track.

New Delhi, dated 6-4-1963.

The General Managers,

All Indian Railways including

C. L. W., I. C. F., D. L. W. &

D. B. K. Rly. Project.

Sub:—Use of Raw materials secured with Government Assistance.

Arising out of a recent case, the Public Accounts Committee, have recommended that suitable measures should be devised to safeguard against the contingency of contractors|suppliers diverting raw materials secured with Government Assistance to works other than those for which they were intended. In order to take adequate precautions to ensure that the contractors|suppliers do not misuse such material supplied to them for fulfilment of their contractual obligations, the matter was referred to the Ministry of Law for advice. The Law Ministry have suggested that a provision might be made in the standard forms of contract by including therein a clause

analogous to the one which is adopted by the D. G. S. & D. in their contracts. The relevant clause is reproduced below:

"Use of Raw Materials secured with Government Assistance."

Where any raw materials for the execution of the contract are procured with the assistance of Government either by issue from Government stocks or purchase under arrangements made or permit(s) or licence(s) issued by Government, the Contractor shall hold the said materials as trustee for Government and use such materials against which they are issued and not dispose of them without the permission of the Government and return if required by the Purchaser, all supplies or unserviceable materials that may be left with him after the completion of the contract or at its termination for any reason whatsoever, on his being paid such price as Government may fix with due regard to the condition of the materials. The freight charges for the return of the materials according to the directions of the Purchasers shall be borne by the contractor, in the event of the contract being cancelled for any default on his part. The decision of the Government shall be final and conclusive.

In the event of a breach of the aforesaid conditions, the Contractor shall in addition to throwing himself open to action for contravention of terms of the licence(s) or the permits(s) and/or for criminal breach of trust be liable to account to Government for all moneys, advantages or profits resulting or which in the usual course would have resulted to him by reason of such breach."

2. The Board have decided to include the above clause in contracts of this nature and desire that this clause may be incorporated by the Railways also in their future contracts of similar nature.

3. Receipt of this letter may please be acknowledged.

*Joint Director (Track),
Railway Board.*

ANNEXURE II
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 58'RS(G)'775.

New Delhi, dated 19.5.1967.

Vaisakha 29, 1889.

To
The General Manager,
Chittaranjan Locomotive Works.
Chittaranjan.

Sub: Levy of Liquidated Damages.

Reference is invited to your letter No. AC|SFY|O|25 Pt. I dated 7.8.1965 on the subject indicated above, soliciting Board's decision as

to the quantum of liquidated damages to be levied—

- (i) Where the buyer has incurred loss due to delay in supplies and where such loss can be assessed.
- (ii) Where the buyer has suffered loss due to delay in supplies but the loss cannot be estimated or where the buyer has been put to inconvenience due to delayed supplies.
- (iii) Where there has been no loss or inconvenience to the buyer due to delay in supplies.

2. It was also suggested in your letter that Purchase Officers may be permitted to deal with all cases of delayed deliveries in respect of purchase orders within their powers of purchase and to waive liquidated damages without obtaining Financial concurrence or recording any specific reasons.

3. The points at items (i) to (iii) of para 1 above have been considered in detail, in consultation with the Ministry of Law, and the liquidated damages recoverable in each case are as under; these are based on the opinions expressed by the Ministry of Law:—

- (i) The actual loss sustained subject to the maximum of liquidated damages legally leviable under the contract.
- (ii) Token liquidated damages i.e. 10 per cent of maximum liquidated damages legally leviable in terms of the contract; and
- (iii) Nothing is recoverable.

4. In view of what is stated above, the decision conveyed in Board's letter of even number dated 19.11.1962 against points (i) and (v) thereof may be deemed to have been modified accordingly.

**5. As regards the suggestion made in para 2, the purchase Officers may waive liquidated damages in cases of delayed deliveries, to the extent of powers delegated to them by the Controller of Stores under the second sub-para of para 132-S, but while doing so, the reasons herefor must be fully recorded on the relevant files and the stores bill forwarded to the Accounts Officer suitably endorsed, in terms of item 4(1) of the Schedule below para 132-S.

*Deputy Director, Railway Stores,
Railway Board.*

**As revised vide board's letter No. 58/RS(O)/775, dated 5-6-1967.

NO. 58/RS(G)/775.

New Delhi, dated 19.5.1967.

Vaisakha, 9, 1889.

Copy together with a copy of General Manager, C. L. W.'s letter under reply, is forwarded to the General Managers, All Zonal Railways including DLW, ICF, RE and the Chief Administrative Officer and Chief Engineer, D. B. K. Railway Projects for information and guidance.

2. Copy to the Heads of all attached and subordinate offices of the Railway Board.

3. DDV (S), F (X) I, & III, F (S) I (With 5 spare copies), F (S) II, all branches of Stores and Wagon Production Directorates, M (L), W (I) and Track Branches of the Board's office.

DA/AS above.

*Deputy Director, Railway Stores,
Railway Board.*

Copy of General Manager, Chittaranjan Locomotive Work's letter No. AC SFY/O 25 Pt. I dated 7th August, 1965 addressed to the Secretary (RS), Ministry of Railways, Railway Board, New Delhi.

SUBJECT:—Liquidated Damages.

The Audit have raised certain points regarding the levy of liquidated damages in contracts entered into by this Administration and it has therefore become necessary to seek the clarification of the Board.

The levy of liquidated damages is regulated in terms of Board's orders indicated from time to time on the subject and in particular to the clarifications embodied in the following 2 letters:

- (1) No. 58 775 RS (G), dated 4.5.1960.
- (2) No. 58 775 RS (G), dated 19.11.1962.

Cases of delay in the supply of stores against contracts beyond the stipulated dates of delivery in the contracts may be divided into three categories.

- (i) Where the buyer has incurred loss due to the delay and where such loss can be assessed.
- (ii) Where the buyer has suffered loss due to the delay but the loss cannot be estimated or where the buyer has been put to inconvenience due to delayed supplies.
- (iii) Where there has been no loss or inconvenience to the buyer due to delay in supplies.

Where there is loss and it can be assessed the rules provided for the recovery of the amount of loss subject to the maximum of $\frac{1}{2}$ per cent per week of the value of the stores not supplied in time in terms of IRS Conditions of Contract. However, where such loss cannot be estimated or where there has been inconvenience due to delayed supplies, token liquidated damages to the extent of 10 per cent or 20 per cent of $\frac{1}{2}$ per cent per week should be levied. With regard to these two categories the proposition is clear and the Audit have not raised any objection. With regard to the third category where there has been no loss or inconvenience due to delayed supplies, it would appear that item V Para 1 of Board's letter No. 58/775/RS(G) dated 19.11.1962 would apply and that 10 per cent to 20 per cent of the amount stipulated in the contract may be recovered from the defaulting firm as liquidated damages.

The Audit have expressed the view that even in cases where there is no loss at all, a token penalty ranging between 10 per cent to 20 per cent of $\frac{1}{2}$ per cent should be levied. The Audit have drawn attention to Item V of para 1 of Board's letter No. 58 775/RS(G) dated 19.11.1962 referred to above and have inferred that even if no loss is incurred 10 per cent to 20 per cent of the amount stipulated in the contract may be recovered. The Audit have further stated that they cannot agree to any proposition that the levy of the penalty should not be enforced in cases where no loss is involved.

The Audit have of course admitted that in exceptional circumstances where the merits of the case justified such action, imposition of the penalty may be waived for valid recorded reasons. They have also pointed out that such non-imposition of the penalty amounts to liberalising the contract in favour of the suppliers and as such the directive contained in Railway Board's letter No. 58-B(C)—3081 dated 30.6.1960 would become applicable in all such cases and therefore the decision in each of such cases would have to be taken in consultation with Finance.

It would appear from Sections 73 & 74 of the Indian Contract Act as well as the opinion of the Learned Solicitor General of India dated 5.7.1958 as conveyed in enclosure to Board's letter No. 58 775/RS(G) dated 19.11.1962 that the IRS Conditions of Contract entitle the Administration to levy a reasonable compensation on the defaulting firm; this reasonable compensation has been indicated as 10 per cent or 20 per cent of the amount stipulated in the contract *vide* item V of Board's letter No. 58/775/RS(G) dated 19.11.1962.

The above legal provisions as well as interpretations thereof appear to indicate the right of the buyer to impose a reasonable compensation to the extent of 10 per cent or 20 per cent of the amount

stipulated in the contract in cases of delays even if there is no loss or inconvenience. While the legal position is so, it is necessary to examine the practical implications of the subject.

In the first instance it is pointed out that where there is a loss or inconvenience, compensation would appear to be compelling provision to make good the loss to the extent permissible in the contract; where there is no loss or inconvenience it would appear to be merely an enabling provision. It is further stated that when there is no loss or inconvenience there can be no "liquidated damages" because there has been no damages; whatever levy may be made on the defaulting firm is only a penal provision. It is not clear whether a penal provision is legally permissible.

Secondly it is pointed out that a large number of leading manufacturers have been unwilling to accept IRS Conditions of Contract. They always point out to unstable conditions in regard to procurement of raw materials, tools etc. and ask with some justification how they accept contracts involving penalties for delayed supplies when timely supplies of controlled and essential stores cannot be assured by the Government. It is with considerable difficulty and delay that we have been persuading such leading firms to accept the IRS Conditions of Contract. It, therefore, stands to reason that penal and other provisions in the contract should be regulated in a reasonable manner.

Thirdly the Railway Administrations are placing several thousands of purchase orders every month and in several cases extensions of delivery dates become necessary. It is essential that no elaborate procedure should be stipulated for granting extensions which would involve heavy paper work and delay in payment of firm's bills.

In the context of the above it is proposed that purchase Officers should be permitted to deal with all cases of delayed deliveries in respect of Purchase Orders within their powers of purchase and be permitted to waive liquidated damages where no loss or inconvenience has been involved without the need to obtain Financial concurrence or record any specific reasons.

The Board is requested to confirm the above. FA&CAO has commented as under:

"The proposal is in effect to say that no liquidated damages even as a token measure should be levied in such cases,

that is, where no loss or inconvenience has been caused to the Administration. This no doubt should aid in a simple and non-controversial disposal of such cases, and should also by and large be equitable. Further a rigid procedure requiring levying of liquidated damages, even if only of a token nature, where no loss or inconvenience has been caused to the Administration, apart from rendering business relations difficult, is bound to result in putting up the general level of quoted rates, as provision would naturally be made in the quotations by the tenderers to cover this new aspect. It must be conceded that this positively would not be in the financial interests of the Administration. However, this is a matter requiring Board's decision in view of their previous orders on the subject."

FURTHER INFORMATION RECEIVED FROM MINISTRY OF RAILWAYS O. M.
No. 67-B(C)—PAC. III|72(O) DATED 5.8.1968.

Question: Whether the procedure regarding levy of liquidated damages has been examined in the light of the action by the Ministry of Works, Housing & Supply (Deptt. of Supply) in consultation with the Ministry of Law on the observations made by the Committee in paras 4.144 and 4.156 of their 68th Report (Third Lok Sabha) and if so, the details thereof.

Reply:

The latest advice from the Ministry of Works, Housing & Supply indicates that the authoritative interpretation with regard to the levability of liquidated damages sought for by them from the Ministry of Law is still awaited by them.

Further action in this regard will be taken by the Ministry of Railways when the matter is finalised by the Ministry of Works, Housing (Deptt. of Supply) in consultation with the Ministry of Law.

Recommendation

Para 3.110.

From the details of the case as brought out during evidence and in the subsequent note, the Committee cannot but observe that the existing channels of co-ordination between the Railway Board, the Iron and Steel Controller and the Coal Controller need considerable improvement. It was primarily the lack of coordination which resulted in the non-supply of coal|coke in this case and this enabled the contractor to delay the supply of sleepers. The Committee feel

that in the contracts involving heavy quantities of pig iron, coal|coke, it should have been ensured that adequate arrangements for the supply had been made even though it was the responsibility of the contractor to obtain the raw materials.

Para 3.111.

Another disquieting aspect of the case is that the supply of pig iron was not related to the supply of coal|coke. As a result of this more pig iron was supplied to the Firm though the corresponding quantities of coal|coke were not forthcoming. The Committee feel that this contingency could have been avoided if the Railways had kept a proper watch over the supply of raw materials. The Committee also regret to note that even when the performance of the firm since 1960 did not give any indication about their being in a position to effect the supplies because of the non-availability of coal or coke, the Railway Board did not restrict the supply of pig iron. Alternatively, the firm could have been asked to return the surplus pig iron issued to them on the recommendation of the Railways after 9th April, 1965, when the firm asked for higher prices for sleepers to be made out of the surplus pig iron as that proposal was not acceptable to the Railways. Even this was not done and the firm was asked to return the pig iron only on 21st May, 1966. In the meanwhile the firm is stated to have gone into liquidation in July, 1966. The failure to take timely action in this case is likely to jeopardise the Financial interest of the Railways to some extent. The Committee hope that the Railways would now file the claims against this firm before the receiver/liquidator and also take adequate action to safeguard their financial interest. The Committee would like to be informed of the final outcome of this case.

Para 3.113.

The Committee regret to note that due to non-supply of pig iron, Railways had to cancel this contract. They hope that with more co-ordination with the office of the Iron and Steel Controller, such cases will not recur in future.

Para 3.114.

The Committee also feel that if the policy adopted by the Iron & Steel Controller was detrimental to the procurement of C.I. Sleepers by the Indian Railways the Ministry of Railways should have pursued the matter with the Ministry of Iron & Steel.

(S. Nos. 19 & 20, Appendix XIII to 72nd Report, 1966-67).

Action taken

The observations of the Committee are noted. It is, however, submitted in this connection that pig iron, coal and hard coke have since been decontrolled and are freely available in the market and in view of this position, the difficulties of the nature encountered in this case in the procurement of pig iron, coal and coke are not likely to occur in future. The Ministry of Railways would also respectfully invite the attention of the Committee to the reply submitted in respect of the Committee's recommendation contained in para 3.95 of the 72nd Report (Third Lok Sabha). As stated therein, instructions have been reiterated to the Railway Administrations regarding incorporation of a clause in the relevant contracts to safeguard against the contingency of contractors/suppliers diverting raw materials secured with government assistance to works other than those for which they were intended.

With reference to the concluding portion of the observations made by the Committee in para 3.111 of the Report, it is submitted that instructions have already been issued to the Railway Administrations for filing their claims against the firm before the Receiver/Liquidator in time. The final outcome of the claims to be filed will be intimated to the Committee after the claims are heard and finalised by the Liquidators.

This has been seen by Audit.

O.M. No. 67-B(C)-PAC/III 72(O) dated 15.9.1967.

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O. M.
No. 67-B(C)—PAC. III 72(O) DATED 5.8.1968.

Question:

Whether the Railways have since filed the claims against the firm before the Liquidator/Receiver. If so, the final outcome of the claims filed, may be intimated.

Reply:

Four Railways viz. Western, Central, Southern and South Eastern have their claims against Messrs Shree Hanuman Foundries Ltd., Calcutta. Whereas Western Railway have already filed their claims with the official liquidator appointed by the Calcutta High Court, Central and Southern Railways have sent their claims to the Solicitor to Government of India in Calcutta for being filed with the official liquidator. South Eastern Railway are also arranging to file the claims with the official liquidator.

The official liquidator appointed in the matter of the above firm has, however, advised Western Railway, who have already filed their claim, that the claims would be considered only when the same are invited by his office after obtaining sanction from the Calcutta High Court.

MINISTRY OF STEEL, MINES AND METALS

(DEPARTMENT OF IRON & STEEL)

Action taken on Para 3.110

The recommendations|conclusions of the Public Accounts Committee relate to Paragraph 16(i) of the Audit Report (Railways) 1966, the Iron and Steel Controller was neither called upon to give evidence before the Committee nor was a detailed note given by him subsequently on this paragraph. However, the Committee's recommendation regarding coordination between the Railway Board and the Iron and Steel Controller is noted.

Incidentally, it may be mentioned that in so far as indigenous Iron and Steel is concerned price and distribution control of all categories (including defective and scrap of those categories) of Iron & Steel contained in the Schedule to the Iron and Steel (Control) Order, 1956 as amended from time to time have since been lifted with effect from 1-5-67.

Action taken on Para 3.113

The Committee's recommendation regarding coordination between the Ministry of Railways and the Iron and Steel Controller is noted.

Incidentally, it may be mentioned that in so far as Iron and Steel available in the country is concerned the Price and Distribution Control of all categories (including defectives and scrap of these categories) of Iron and Steel contained in the schedule to the Iron and Steel (Control) Order, 1956 as amended from time to time have since been lifted with effect from 1-5-67. Iron and Steel Control would not, therefore, come into the picture in future.

Action taken on Para 3.114

This concerns the Ministry of Railways and Iron & Steel Deptt., have no remarks to offer in this regard.

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

Recommendation

3.159. The Committee feel that it would have been better if deviations from the original outline drawings (supplied by the firm) which the Railway did at their own initiative in the working drawings, were specifically brought to the notice of the firm even though it had been shown in the drawings clearly and was approved by the firm. It appears that in September, 1958, the firm raised some doubts regarding the strength of the turbine foundations, the matter was not very carefully examined. The Committee feel that this aspect needs careful looking into. The Committee are surprised to find that though the cracks started appearing in 1963, it had taken nearly 3 years for the Ministry of Railways to find out from the D.G.S.&D. that the responsibility for the defects rested with the firm. The Committee hope that the Ministry of Railway would not take up the matter with the firm for payment of damages.

3.160. The Committee would like to be informed whether the dismantling of the existing foundations and construction of new foundations was subsequently found necessary, and if so the extra expenditure incurred on that account.

(S. No. 25, Appendix XIII to 72nd Report, 1966-67)

Action taken on Para 3.159

1. The observations of the Committee have been noted and also brought to the notice of the Railway Administration concerned. With reference to the Committee's specific observation that the action taken after the firm raised some doubts in September 1958 regarding the strength of the turbine foundations should be carefully looked into, the Ministry of Railways would like to submit as follows:

2. In September 1958, the turbine erector of the Firm orally informed the District Electrical Engineer of the Western Railway that the foundations appeared to be weak. The matter was therefore, immediately referred to the firm by the Railway Administration on 29-9-1958 and 17-11-1958. The firm was also specially requested to state whether any lateral stress was expected to come on the foundations although the same was not shown in the outline and loading diagram of the machines supplied by the firm and to consult their Principles immediately before advising the Railway Administration.

3. After protracted correspondence, the Firm advised on 20-5-1959 as under:—

“We reproduce below the instructions given by our suppliers, Messrs. in their drawing No. 2122170 for calculating the strength of the foundations:—

‘The loads given on the drawing are the actual weights of the machinery. For calculating the strength of the foundation it is usual to add to these weights a margin of 400 per cent in order to allow for vibration stresses and add to the resulting figures a four times safety margin.

The increase of 400 per cent to machinery weights makes allowance for the dynamic actions which may appear when plant is working. The degree of safety 4 is conformed to the difference between the safe stress of the reinforced concrete constructions according to the norms of calculation and the ultimate straining.

If the foundations are designed in accordance with the actual weights of the machinery and the instructions given by our suppliers in their above drawing, the mass of the concrete for the foundation will be sufficient to absorb all vibrations and in doing so whatever are the lateral stresses, they will be within the permissible stress limit. Therefore, we do not see any point in referring this matter to our suppliers’.”

4. In view of the Firm's advice referred to above and in view of fact that the foundations had been designed to take the vertical loads shown in the Firm's drawing, no further action was considered necessary. The adequacy of the foundation according to the above requirement was duly confirmed by the Survey and Construction Department of the Railway.

5. As desired by the Committee, the matter has again been carefully gone into and, the case taken up directly with the principal suppliers of the equipment, namely M/s. of Switzerland. It would appear from the data supplied by M/s. that M/s. who were the contractors for the work, did not pass on some vital information supplied by the manufacturers in connection with the foundations. During September and October, 1958, M/s. had advised M/s. that the foundations provided did not have suitable reinforcements for the columns and the bed plates and the reinforcement provided for the top plates also appeared to be far too weak. M/s. Ltd., also disowned any responsibility whatsoever in respect of the normal working of the

machines on the conditions existing and hoped that inspite of the inappropriate state of the foundations, the normal working of the machines will ensure.

6. It is surprising that M/s. did not bring this aspect to the notice of the Railway even though this had been specifically raised with them for confirmation and they advised the Railways vide their letter dated 20-5-1959 referred to earlier, that if the foundations are designed according to the actual weights of the machines and the instructions given by the suppliers in the drawings supplied, the mass of concrete for the foundation would be sufficient to absorb all vibrations and in doing so the lateral stresses would also be within the permissible stress limit. On this plea M/s. did not refer this matter to the suppliers.

7. These developments have confirmed the responsibility of M/s. for the defects of foundations.

8. The delay of 3 years in deciding upon the responsibility about the defects and taking up the matter with the contractors is very much regretted. This has been mainly due to the fact that cracks developed in 1963 long after the guarantee period of one year from the date of commissioning had expired and M/s. had also confirmed the adequacy of the foundations. The investigations were however carried out by the Railway by seeking the assistance of experienced engineers of the Maharashtra State Electricity Board.

9. The contractual obligation of the entire work rests between M/s. and the D.G.S. & D. who placed the A/T. The latter are now being addressed by the Railway Administration to settle the following issues with the firm in consultation with the Law Ministry:—

- (a) The expenditure incurred by the Railway for strengthening of foundations, which has already been done;
- (b) The cost of dismantling and rebuilding of foundation if the manufacturers so insist; and
- (c) The cost of re-erecting the turbines and other incidental charges arising out of (b).

10. Meanwhile the D.G.S. & D.'s special attention has already been drawn specially to the following outstanding payments and disputes regarding this contract:—

- (i) Rs. 10,000/- which is due to the firm to be held back.
- (ii) The firm and D.G.S. & D. have gone for arbitration for the firm's claim on the Central Government regarding taxes. The D.G.S. & D. have been asked not to make any payment

on this account if arbitration is fully and wholly in favour of the firm until the above disputes are settled.

Para 3.160.

The Ministry of Railways would also submit that it has not far been found necessary to dismantle the existing foundations and construct new foundations. The present position is what the foundations have been strengthened by the Railway Administration taking into consideration the horizontal loads mentioned in the notes of Maharashtra State Electricity Board Engineers after their inspection of the foundations. A reference has been made by the Railway Administration to M/s. the manufacturers of the turbines, regarding the adequacy of the strengthened foundation. Further action will depend on manufacturer's final reply.

11. This has been seen by Audit, subject to verification of the facts brought out in the Memorandum by the local Audit.

[O.M. No. 67-B(C)-PAC. III/72(O) Dated 8-11-1967].

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O.M. No. 67-B(C)—PAC. III/72(O) Dated 5.8.1968.

Question:

Please indicate the latest position.

Reply:

Para 3.159.

It has been indicated in the reply furnished earlier that the D.G.S. & D. who had placed the accepted tender on M/s. Dodsai Pvt. Ltd. for the work, were being addressed by the Railway Administration to settle the issues connected with the recovery of the expenditure incurred by the Railway for strengthening of the foundations, the cost of dismantling and rebuilding of the foundations if the manufacturers so insist and also the cost of re-erecting the turbines and other incidental charges arising out of the dismantling and rebuilding of the foundations. A claim has been made on the D.G.S. & D. to recover the amount due to the Railway on account of the loss due to the failure of the foundations. This matter is under the consideration of D.G.S. & D.

Para 3.160.

It had been stated that a reference had been made by the Railway to M/s. the manufacturers of the turbines regarding the adequacy of the strengthened foundations. A reply has been received only recently (May 1968) from the manufacturers and the same is under consideration.

ADDITIONAL INFORMATION RECEIVED WITH MINISTRY OF RAILWAYS
O.M. No. 67-B(C)-PAC|III|72(O) DATED 30-9-1968

It had been indicated in the reply furnished earlier *vide* Office Memorandum No. 67-B(C)-PAC|III|72(O) dated 5-8-1968 that the reply received from M/s. the manufacturers of the turbines, regarding the adequacy of the strengthened foundations was under consideration. This matter has now been carefully considered by the Government who have accepted the recommendations of the manufacturers that the foundations should be rebuilt as per the detailed designed to be obtained from the manufacturers. The cost involved in this work has also been included in the claims made on the D.G.S. & D. who have since taken up this matter with M/s.

(Not vetted by Audit)

Recommendation

Para No. 3.174.

The Committee are distressed to find that contracts for a total sum of Rs. 52.49 lakhs were entered into by the Railway Administration, South Eastern Railway, with a firm for execution of earth work, bridges etc. even though it was brought to their notice that this particular firm had not tendered for bridge work and as such similar work had not been entrusted to them by the Northern Railway to whom a reference was made. The Chief Engineer (Construction) of Northern Railway had clearly stated that the firm had not tendered for any bridge work. As such, the Committee do not understand how the Tender Committee could come to the conclusion that "from the credentials produced by them, they are capable of completing this bridge work in addition to other doubling works that had been given to them on the South Eastern Railway". The net result of awarding the contract without proper and complete verification of the capacity of the firm to undertake the work was that as the firm could not complete the work, the Railway Administration had to rescind all the contracts and get the work completed at an extra cost of Rs. 6.43 lakhs.

Para 3.175.

They are also unhappy to note that the Railway Administration could not recover the balance of Rs. 3.72 lakhs from the firm due to wrong advice given to them by the Law Officer for going for arbitration as it was found later that arbitration proceedings were untenable.

Para 3.176.

The Committee trust that the Railway Administration would benefit by the experience gained in this case and would ensure in future that the capacity of the firms to execute particular work is

fully and properly verified before awarding contracts to them. They also desire that immediate action should be taken for the recovery of the balance of Rs. 3.75 lakhs.

Para 3.177.

In this connection, the Committee suggest, that the question of suitably strengthening the Legal Wing of the Railway Administration be considered so as to avoid financial loss to the Railways owing to wrong legal advice.

Para 3.178.

The Committee further desire that the question whether all other Railway Administrations should be informed about the non-completion of the work by the firm in the South Eastern Railway, may be examined.

(S. No. 26, Appendix XIII to 72nd Report, 1966-67).
Action taken

Para 3.174.

While noting the observations of the Committee, the Ministry of Railways would respectfully submit as under:—

In recommending the award of the contracts to the successful Tenderer, the Tender Committee apparently relied on the following credentials also, in addition to the information furnished by the Chief Engineer (Construction), Northern Railway regarding the performance of the firm on the Robertsganj—Garhwa Road new line construction:—

- (i) The two Directors of the Firm were engineers with more than 15 years of experience of handling various large and important earthmoving projects within the time schedule successfully and the firm had experience in carrying out large scale land reclamation works for the Government of Bihar.
- (ii) The Bridge Engineer of the firm had experience of bridge work as he had successfully completed many bridges on some Railways, including open foundations, well sinking etc., on behalf of other reputed firms in the past, as mentioned in the Firm's covering letter to the tender for Bagh Nadee bridge.

(iii) As brought out during the evidence *vide* the concluding sentence of Para 3.164 of the Committee's 72nd Report, 'out of 14 items of work, in six items the firm was the only single tenderer and as regards the remaining items, its offers were lower compared to those of other contractors'. A part from the fact that overlooking the subject contractor's offers for the eight items for which others had also tendered would have immediately resulted in an extra expenditure of Rs. 12.51 lakhs, it was felt that there was no prospect at that stage of obtaining wider response or more reasonable rates, if retendering was attempted.

Further in retrospect, the Tender Committee's decision in awarding the contracts to the subject contractors has to be appreciated also in the light of the following:

- (a) Out of a total number of 71 bridges entrusted to the firm, 5 bridges that had been fully completed and 16 bridges that had been partially completed by the firm before the termination of the contracts in the instant case, had been carried out by them according to the specifications. This should help to appreciate their technical potentialities.
- (b) Incidentally the extra expenditure of Rs. 6.48 lakhs to get the works completed is well within the difference of Rs. 12.51 lakhs in favour of the successful tenderer's over those of the next higher tenders of *only eight out of the fourteen items* for which a few other than the subject contractor had quoted.

Para 3.175.

While noting the observations of the Committee, the Ministry of Railways would respectfully submit that at the initial stage they were advised by their Law Officer on 3-7-1965 that though in some cases it had been seriously disputed whether the Railway had any right to ask for arbitration under the arbitration clause, the question had not, yet been finally settled and he accordingly advised taking advantage of that clause. A judicial pronouncement by the Calcutta High Court in another case debarring the Railway Administration from availing of the particular arbitration clause became available only in June 1966. In the circumstances the Ministry of Railways would respectfully submit that the Railway Administration's action in referring the claims to arbitration on the consideration that arbitration proceedings would be cheaper and render relief

more quickly in obtaining an injunction and a decree for attaching the assets available with the Bihar Government than a suit which would necessarily be a long-drawn-out process and entail considerable expenditure could not be considered altogether unreasonable. In view, however, of the judicial pronouncement subsequently available as mentioned above, the Railway Administration is taking action to file a suit as explained in the note under para 3.176 below.

In this connection, it is also submitted that, in the light of the ruling given by the Calcutta High Court as mentioned above, the question of suitably amending the relevant clause of the General conditions of contract in order to remove any ambiguity about the Railway Administration's right to ask for arbitration is under the consideration of this Ministry in consultation with the Ministry of Law.

Para 3.176.

The observations of the Committee are noted.

As regards the recovery of the balance of Rs. 3.72 lakhs from the firm, the case has been handed over to the Railway's counsel and solicitors, who have been instructed to take steps to file a suit. In fact a statement filed by the Union of India in the Calcutta High Court defending a suit filed by the firm against the adjustment towards the outstanding Railway dues of a sum of Rs. 25,000 deposited by them, it has already been indicated that a suit is being filed for the recovery of the balance of Rs. 3.47 lakhs.

Para 3.177.

The circumstances under which the Railway Administration referred its claims to arbitration have been explained in the remarks against para 3.175 above. However, the question of suitably strengthening the Legal Wing has been under the consideration of the Railway Administration for some time in view of the heavy increase in its workload during recent years, and the Committee's specific recommendation has been noted for compliance.

Para 3.178.

In this connection, the Ministry of Railways would respectfully invite the attention of the Committee to the note earlier submitted by the Ministry of Railways [vide item (v) of Appendix VII to the 72nd Report] the relevant portions of which are reproduced below:—

“In June 1963, all Railway Administrations were addressed by

the South Eastern Railway to withhold any dues available with the Railways in favour of the firm in question. The Railway Administrations replied to say that no assets of the contractor were available with them.

It will be appreciated that contracts are dealt with at various levels of each Zonal Administration. Where formal black-listing of firms is ordered on the circumstances of the case, suitable advice is sent to all concerned; in other cases where contractors fail but are not blacklisted, the matter is—and has necessarily to be left to individual Tender Committees to decide with reference to the nature and magnitude of the particular works in question and the antecedents of the contractor whether they have the capacity to undertake the work. It is usual, however, to ask the contractor about his previous experience and what works he has executed before, and where the contractor refers to work he had done for other Railways or Government Departments etc., their experience of the contractor's work is enquired into to the extent necessary."

The matter has again been carefully examined as directed by the Committee. It is considered that the inability of a firm to complete a particular work in a particular Zone or area is conditioned by several local circumstances and if tenderers are overlooked just because they may have failed to complete a work in some other area, it may also give rise to complaints and acceptance of higher rates. In view of these considerations, the Ministry of Railways are of the view that this aspect should be left to individual Tender Committees to decide with reference to the nature and magnitude of the particular works in question and the antecedents of the contractor.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC/III/72/(O) dated 15-9-1967].

FURTHER INFORMATION RECEIVED FROM MINISTRY OF RAILWAYS O. M. No. 67-B(C)—PAC. III/72 (O), DATED 8.8.1968.

Question:

Please state whether suit has been filed against the firm for recovery of Rs. 3.72 lakhs.

Reply:

The suit has not yet been filed. The plaint is being finalised by a senior counsel engaged by the South Eastern Railway.

Recommendation

The Committee desire that all efforts should be made to settle the remaining claims as early as possible.

[S. No. 28-A (Para 3.206), Appendix XIII to 72nd Report, 1966-67].

Action taken

The observations of the Committee are noted. Instructions have again been issued to the Northeast Frontier Railway Administration that all efforts should be made to settle the remaining claims as early as possible and the progress of settlement is being watched.

This has been seen by Audit.

[O.M. No. 67-B(C)—PAC. III/72(O) Dated 10-7-1967].

FURTHER INFORMATION RECEIVED *vide* **MINISTRY OF RAILWAYS** [O. M. No. 67-B(C)—PAC|III|72(O) Dated 5.8.1968].

Question:

Please state the progress made in the settlement of remaining claims of the Survey & Construction Organisation.

Reply:

Further to the position stated in para 3.205 of the 72nd Report (Third Lok Sabha) of the Committee, 52 items amounting to about Rs. 22,417 have since been fully cleared and one item amounting to Rs. 12,415 has been partially cleared. A concerted effort is being made by the Chief Engineer and the Chief Commercial Superintendent of the Railway Administration to settle the remaining claims expeditiously.

(Not vetted by Audit).

Recommendation**Para 3.265.**

The note has been furnished (Appendix X). The Committee find from the Note that the complete figures of actual earnings from goods and passenger traffic have not been furnished. The Committee also find that the financial returns are not based on figures of actual additional earnings but earnings estimated on the basis of statistical data.

Para 3:266.

The Committee would like to be furnished with a detailed and comprehensive note giving the figures of financial returns from February 1962 till the year for which accounts are complete, as prescribed in the Rules.

Para 3.267

The Committee fail to understand as to why the line had not been opened to goods traffic when the line was considered financially justified on the basis of normal goods and passenger traffic. When it was known that the traffic would be diverted if the line was not extended beyond Samastipur, the Committee fail to understand as to why steps were not taken during all these years to extend the line. Further, it appears that the question of road competition was not examined by the Ministry of Railways at the proposal stage. All these indicate that a thorough examination of all aspects of the project was not made before it was taken up for execution.

(S. No. 33, Appendix XIII to 72nd Report, 1966-67).

*Action taken***Paras 3.265 & 3.266.**

The Committee's observations have been noted. The Ministry of Railways wish to clarify why it has not been possible to furnish actual figures of earnings and expenditure specifically with reference to the broad gauge line:—

- (a) According to the procedure laid down for the preparation of the Annual Capital and Revenue Accounts by different gauges, an item of expenditure which cannot be directly allocable to a particular gauge, the same should be divided in the ratio of total expenditure directly allocable to different gauges. On the North Eastern Railway the broad gauge line between Barauni and Samastipur is composed of mixed gauge from Barauni to Bachhwara and B. G. from Bachhwara to Samastipur. Although the length of the B. G. section is only a little over 52 Kms, covering 10 stations, it falls under the jurisdictions of three Civil Engineering, two Mechanical and two Operating Districts. The section falls under the same districts for Signal, Electrical, Security and Medical departments. The staff employed for maintenance of track, station buildings, signals, etc. are the same for both the

gauges. The engine crew for the Broad Gauge trains belong to the Eastern Railway which also supplies the fuel. Shed fitting and Carriage staff relating to this portion belongs to the N. E. Railway and perform duties both for the B. G. and M. G. stock. The same set of Operating and Running staff perform duties both for B. G. and M. G. trains. Similarly, the staff for Electrical, Signal, Medical and Security departments perform duties for both the gauges.

It will be clear from the above that there is no direct expenditure allocable to B. G. and M. G. The entire expenditure on this section is combined for both the gauges. As a result, obtaining figures of working expenses separately (BG & MG) is difficult. However, based on certain general principles for allocating different types of expenditure to different services, the N. E. Railway Administration have been deriving the working expenses of the B. G. and M. G. portions separately for each gauge with effect from 1964-65.

- (b) The ascertainment of earnings by gauges offers still greater difficulties. No separate records are being maintained for the traffic over each section of line. Similarly, at the stations outside the section separate records are not maintained. Therefore, it is not possible to work out the earnings separately from the accounts.

2. An attempt was made to collect information from the original records and, by making certain assumptions, to arrive at an assessment of the earnings for B. G. and M. G. The Ministry of Railways, however, consider that it would not lead to satisfactory conclusions and have accordingly decided to explore the possibilities of keeping separate Accounts for B. G. as far as possible for the year 1968-69. Suitable instructions are proposed to be issued in time in consultation with Audit, so that on the basis, as far as possible, of actuals of 1968-69, the return on the capital outlay on the B. G. section could be furnished to the Committee.

Para 3.267

3. The Ministry of Railways would respectfully submit that the project of providing a B. G. link to Samastipur was conceived essentially from an operating angle to relieve the M. G. single line on

the main route Barauni-Bachhwara-Samastipur-Darbhanga which had reached near saturation and had little capacity for carrying any additional traffic. Taking a long term view of the industrial and economic growth anticipated in North Bihar it was considered that the extension of the B. G. line across the Ganga would be a logical course so that in the long run the adverse economical and operational features inherent in the Metre Gauge for higher densities of traffic would be eliminated. This also fitted in with the general policy of the Ministry of Railways at the time that for all areas contiguous to major break-of-gauge transshipment points, where the need arose for doubling on a M. G. route, the second line should be of B. G. The actual traffic handled shows that if the capacity had not been augmented it would not have been possible to cope with the traffic needs of this area.

4. As regards the non-introduction of a goods train on the B. G., the Ministry of Railways have nothing further to add to what has been brought out in paras 3.260 and 3.261. The Committee's observations are noted. The question of extension of B. G. line from Samastipur to Darbhanga was continuously under consideration since 1960. But as brought out in para 3.260 since sufficient funds were not available to extend the line to Darbhanga it has not been possible to do so. The proposal for extending the line further is again under examination.

[O. M. No. 67-B(C)—PAC/III/72(O) Dated 31.1.1968].

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O. M. No. 67-B(C)—PAC. III/72 (O). DATED 8.8.1968.

Question:

Please furnish a copy of the instructions issued.

Reply:

With reference to the concluding portion of this Ministry's reply to paras 3.265 and 3.266 of the 72nd Report earlier submitted to the Committee, the matter has been examined in consultation with the Audit who agree that, in view of the difficulties involved in working out in absolute terms the actual earnings and expenses of the B. G. Line separately from the earnings and expenses of the M. G. Line, the earnings and expenditure accounts for B. G. and M. G. combined should be maintained for the year 1968-69 separately for the Barauni-Samastipur section. The intention is to compare the

actual combined net earnings for 1962-63 with those for either 1961-62 or 1962-63 relating only to M. G. traffic so that on the basis of the difference, which would be attributable to B. G. line (after making necessary allowances for the increase in revenue due to the enhancement in fares and freights etc. and also the line capacity works undertaken during the intervening years), the return on the capital invested on the B. G. line can be worked out. A copy each of the instructions issued to the North Eastern Railway Administration in this regard [letters No. 67-B(C)-PAC. III/72 (33-34) dated 14.5.68, 24.5.1968 and 7.8.68] are at Annexure A & B.

This has been seen by audit.

ANNEXURE—A

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

New Delhi, dated 14-5-1968.

No. 67-B(C)—PAC. III/72 (33-34).

The General Manager,
North Eastern Railway,
Gorakhpur.

Sub:—P. A. C. Recommendations No. 33—34 contained in their Seventy-Second Report (Third Lok Sabha)—Inadequate utilisation of B. G. line between Barauni Jn. and Samastipur (Para 31 of Railway Audit Report 1966).

Reference correspondence resting with your letter No. AJ|64|1182|117|2052 dated 27-12-1967 on the above subject. The Board desire that action may be taken immediately as indicated below:—

1. The relevant records on the basis of which information was furnished in your letter No. AJ|64|1182|117|1480 dated 11th January, 1967 including statement of traffic data relating to the period 7-2-1962 to 1965-66 should be preserved until further orders of the Board. In addition, records relating to the traffic for the year 1961-62 should also be preserved.

2. For the year 1968-69, **immediate** arrangements may be made to maintain **the earnings and expenditure** accounts of Barauni-Samastipur section (BG—MG combined) on the analogy of the accounts for New lines to be maintained for the purpose of para 721-G1.

Please acknowledge receipt.

*Dy. Director Finance (Accounts),
Railway Board.*

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

New Delhi, dated 24-5-1968.

No. 67-B(C)—PAC. III/72 (33-34).

The General Manager,
North Eastern Railway,
Gorakhpur.

Sub:—Inadequate utilisation of B. G. line between Barauni Jn. and Samastipur.

Reference Board's letter of even number dated 14th instant. The question of bringing out a self-contained report on the subject for submission to the P. A. C. has been further considered in consultation with Audit and the Board desire that in case 1961-62 figures are not available, those for 1962-63 may be taken reducing therefrom the traffic relating to the B. G. route for the year and the earnings and expenses assessed on a statistical basis. As regards 1968-69, necessary records of the figures of traffic, should be maintained separately for the section besides those in respect of the earnings| expenses thereof as already indicated in Board's letter of 14th instant referred to above. Board's intention in this regard is that the actual combined net earnings for 1968-69 should be compared with those for 1961-62 and the difference attributed to the B. G. line after making necessary allowances for the increase in revenue due to the increase in the fare and freights etc. and also the line capacity works undertaken during the intervening years.

The receipt of this as also Board's previous letter of 14th instant should please be acknowledged.

*Dy. Director, Finance (A),
Railway Board.*

No. 67-B(C)—PAC/III/72 (33-34).

New Delhi, dated 24-5-1968.

Copy to the A. D. A. I. (Railways), New Delhi for information, this has reference to his U. O. I. No. 568-RR/12-33/PAC/III/72 (R) | 33 & 34/67 dated 2.3.1968.

for Secretary, Railway Board.

ANNEXURE—B
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

16 Sravana, 1890 (SE)

7th August, 1968.

No. 67-B(C)—PAC. III/72 (33-34).

The General Manager,
 North Eastern Railway,
 Gorakhpur.

Sub:—Inadequate utilisation of B. G. line between Barauni and Samastipur.

Reference is invited to Board's letters of even number dated 14.5.1968 and 24.5.1968. In para 2 of the Board's letter of 14.5.68, the Railway has been asked to make immediate arrangements to maintain the earnings and expenditure accounts of the above section (BG|MG combined) on the analogy of the accounts for new lines to be maintained in terms of para 721-GI.

2. It is presumed that the earnings of the section will include not only (a) the earnings of the Branch line proper and (b) that portion of the traffic received from the Branch line and of the traffic from the main line to the Branch which arises solely from the construction of the Branch line, but also proportionate earnings in respect of cross traffic passing over the Barauni-Samastipur section based on the information available in the transshipment records etc. This may please be confirmed and necessary action taken to compile the information accordingly.

Dy. Director, Finance (Accounts);
Railway Board.

No. 67-B(C)-PAC. III|72 (33-34)

New Delhi, dated 7-8-1968.

Copy forwarded to D. D. R. A., New Delhi for information. This has reference to our discussion on 6.8.68.

Sd/-
 (Kapur Chand)

for Secretary, Railway Board.

ADDITIONAL INFORMATION RECEIVED *vide* MINISTRY OF RAILWAYS O. M.

No. 67-B(C)—PAC. III|72(O), DATED 24.8.1968.

Question:

The final decision taken on the question of extending B. G. line from Samastipur to Darbhanga.

Reply:

Regarding extension of the Broad Gauge line from Samastipur to Darbhanga, it is submitted that a survey for the conversion of the entire length from Samastipur to Darbhanga and Raxaul is proposed to be taken up in 1970-71. The final decision in regard to the conversion will be taken after the survey has been completed.

*Recommendation**Para 3.97*

The Committee are not satisfied over the tardy manner in which the matter has been pursued since the Departmental Enquiry Committee concluded in October, 1957 that material supplied by the firm was actually of indigenous origin. The case was referred to the Iron & Steel Controller only in February, 1958 and authorisation for the return of the material was taken from him only in March, 1959. In view of the financial difficulties expressed by the firm and their failure to deposit the amount by April, 1960, a formal demand on the firm to produce the original shipping documents was made by the Iron and Steel Controller in February, 1961, but the firm having failed to do so, the rate as for untested indigenous steel was fixed by him in October, 1961. In view of the fact the contract provided for fixation of the final rate by the Iron and Steel Controller, the Committee cannot help observing that there was avoidable delay of about four years in enforcing the provision in the agreement. They would like to know about the recovery made of the balance of Rs. 32,000 out of Rs. 77,000 payable by the firm.

Para 3.98

The Committee would also like to know about the outcome of the criminal proceeding launched against the firm by the Special Police Establishment.

[Sl. No. 40 of 72nd Report—Sl. No. 22 of Appendix XIX to 53rd Report (Third Lok Sabha)].

Action taken

An amplified note by way of comments on the Ministry of Railways' memorandum, prepared by the Ministry of Steel, Mines & Metals to bring out the factual position more clearly is attached (Annexure).

The criminal case launched against the firm by the Special Police Establishment, referred to in Recommendation No. 22, is still pending trial according to the advice received from the Central Bureau of Investigation in August, 1967.

This has been seen by Additional Deputy Comptroller & Auditor General (Railways) and the Accountant General, Commerce, Works & Miscellaneous.

[Ministry of Railways—O.M. No. 67-B(C)—P.A.C.III/72(O), dated 28.2.1968].

ANNEXURE

Comments of the Ministry of Iron & Steel

In February 1958 the case was reported by Northern Railway to Iron & Steel Controller's office intimating that some over-payment had been made by them to the firm while making 90 per cent advance payment. Northern Railway wanted to know whether rates charged by the firm were verified by Iron & Steel Controller's office and also whether Iron & Steel Controller's office would like to control the disposal of steel in case the same was returned to the firm after getting refund of the payment made to them. The case was examined by Iron & Steel Controller and on 1-5-1958 a final reply was issued to Northern Railway intimating that no documents had been received from the firm for fixation of rates and as regards disposal, since the materials had been supplied by Registered Stockists, the same come under the distribution control of the Provincial Steel Controller. The materials were lying at Lucknow and Delhi. The Provincial Steel Controllers of these two areas were contacted by Northern Railway and a report in this connection was made by Northern Railway to this office on the 2nd December, 1958.

On the 6th December, 1958 the Northern Railway informed Iron & Steel Controller's office that an Agreement had been made with the firm in the matter of releasing the materials on receipt of dues from the firm and accordingly requested Iron & Steel Controller's office to issue necessary authorisation for returning the materials to the firm. As desired by Iron & Steel Controller's office, the Northern Railway also confirmed in February, 1959 that dues as per settlement arrived at with the firm would be released before returning the materials to the firm. The authorisation to return the materials was then issued by Iron & Steel Controller's office on the 20th March, 1959 and at the same time a direction was given to the firm that the materials on receipt from the Railway would remain frozen in their stock and the same should not be disposed of without specific permission of Iron & Steel Controller's office.

As it appears there was a long dispute between the firm and the Northern Railway in the matter of finalising the terms of transfer of the materials. On 27th December, 1960, Northern Railway

intimated that no mutual settlement was possible with the firm and requested Iron & Steel Controller's office to take action against the firm as per Iron & Steel Controller Order 1956 i.e., on the strength of the powers vested in the Iron & Steel Controller. Under the above Order the firm might be asked to furnish full particulars about the source of supply of the materials and in case of their failure to prove that the materials were of imported origin they might be asked to show cause why they should not be prosecuted for charging more than Col. III controlled rate chargeable for materials of indigenous origin. An Order was accordingly issued by the Iron & Steel Controller in February, 1961 asking the firm to furnish necessary shipping documents etc., in respect of the supply made by them to the Northern Railway. The firm failed to comply with that order. All the producers were thereupon advised on 18th July, 1961 for suspension of despatches to the firm until further instructions from Iron & Steel Controller. On a reference being received from the firm it was made clear to them on the 28th August, 1961 that if any person other than the importer wanted to sell any imported steel at a price higher than Col. III price, he should approach the Iron & Steel Controller for finalisation of a separate price and pending fixation of such a separate price, Col. III price should be charged and anybody charging more than that without specific permission of the Iron & Steel Controller should be held liable for prosecution under Iron & Steel Control Order. This position was also intimated to Northern Railway on the 6th September, 1961. On 23rd September, 1961 the Northern Railway stated that financial adjustment with the firm would be made at Col. III rate and enquired whether Iron & Steel Controller had any objection in the Railways recovering the balance amount from the firm and finalise the case so far as the financial liability of the firm towards the Railway was concerned. On the 26th October, 1961 it was intimated to the Northern Railway that the position in this regard had already been clarified to them on the 6th September, 1961 and that regarding the price aspect of the case there was no objection from Iron & Steel Controller if a settlement was made at Col. III rate.

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O. M.
No. 67-B(C)—PAC/III 72(O) Dated 5.8.1968].

Question:

The latest position regarding the criminal case launched against the firm by Special Police Establishment which was pending trial, may be intimated.

Reply:

It has been ascertained from the S.P.E. that there is no change in the position as earlier advised to Public Accounts Committee in February, 1968. The case is still pending trial.

Recommendation

From the note furnished by the Ministry (Appendix XII) the Committee find that out of 269 cases the value of claims outstanding on 31 October 1965 was Rs. 9.72 lakhs and the number of cases involved was 142. The Committee hope that earnest efforts would be made to settle these cases without any undue delay. They would also like the Ministry to consider whether any uniform policy could be evolved in regard to insuring railway goods from risks.

The Committee are also of the view that 12 months is a sufficiently long period to arrive at a settlement of the claim, failing which prompt steps should be taken to file the suit to recover the claim.

[Sl. No. 40 of 72nd Report—Sl. No. 24 of 53rd Report (Third Lok Sabha)].

Action taken

In continuation of the Memorandum submitted by the Ministry of Railways with their O. M. No. 66-B(C)-PAC/III(Main) dated 17-12-1966, the present position of the action taken on the recommendations made by the Committee is indicated below:

- (i) *Formulation of a uniform policy in regard to insurance of Railway goods against risks of sea transit.*

Necessary instructions indicating the policy and procedure to be followed in this regard have been issued to the Railway Administrations etc. *vide* Railway Board's letter No. F. (X) II-65/IS/3 dated 21-12-1966, circular No. 67/RS(F)/163/1 dated 7-5-1967 and letter No. 67/RS(F) 163/1 dated 17-5-1967 (Annexures I, II and III)

- (ii) *Filing of suits to recover claims which are not settled within a period of 12 months.*

The Railway Administrations have been directed to take vigorous steps to establish the shipping claims and to process them expeditiously.

With regard to the claims which are at present considered time barred under the Gold Clause Agreement as well as under Indian Carriage of Goods by Sea Act, the settlement of these claims would be pursued with the shipping companies. Ministry of Law had opined that limitation of 30 years under Limitation Act 1963 for contracts where the Union of India is a party could come to the rescue of the Railways even if the suit have not been filed within one year time limit prescribed under Indian Carriage of Goods by Sea Act; the advice given by that Ministry is that it is only a test case in a court

of law that could establish their opinion and set the issue at rest. Such cases have arisen on the Eastern and Central Railways and the results of suits that have been filed by these Railways are awaited. If the Law Courts uphold the view that the limitation period in such cases is 30 years, suits will be filed in respect of all outstanding cases where the merits of the case otherwise justify such a course. Incidentally in respect of the claims also where the suits cannot be filed within a period of 12 months due to reasons beyond the Railways control, such a judgement will come in useful to the Railways.

Further in respect of Indian shipping lines through whom Government of India consign cargo, the Ministry of Transport have approached Indian National Steamship Owners Association to allow the benefits of the Gold Clause Agreement to the same extent to be availed of in India under the Indian Carriage of Goods by Sea Act through a mutual agreement with the shipping lines but the final agreement has not yet been arrived at. The matter is being vigorously pursued by that Ministry. This would facilitate settlement of claims within India.

This has been seen by Audit.

[O. M. No. 67-B(C)-PAC-III (7)(O) dated 19-8-1967].

ANNEXURE I

GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. F(X) II-65|IS|3.

New Delhi, dated the 21st December, 1966.

The General Managers,
All Indian Railways including CLW, DLW and ICF.
The General Manager & Chief Engineer,
Railway Electrification,
Calcutta.
The C.A.O.R., & C.E.,
D.B.K. Rly. Projects,
Waltair.
The Director General,
R.D.S.O.,
Lucknow.

SUB:—*Marine Insurance of goods, plant and Machinery etc.. imported by the Railways from foreign countries*

The Public Accounts Committee in its 53rd Report, 1965-66, suggested to the Ministry of Railways to consider whether any uniform

policy could be evolved in connection with the insurance of imported railway stores against maritime risks. The Board have considered the matter and have decided that imported railway stores should be insured against maritime risks as under:

- (a) The basis of insurance should be the value of each shipment, as that is the maximum risk incurred at a time.
- (b) For shipments of steel, rails and other bulky cargoes which are less susceptible to damage, only an F.P.A. cover may be taken, provided the value of each shipment is Rs. 3 lakhs or above. Shipments valued upto Rs. 3 lakhs need not be insured.
- (c) Plant, machinery, diesel and electric locos. components, spares and other items of stores which are liable to damage in transit may be insured under an 'all risks' cover, irrespective of the value of each shipment. Under this cover, inland transit risk upto the destination is also covered.
- (d) The Railways may take an Open Cover against their anticipated shipments during the next twelve months. This will afford a continuous and automatic cover in respect of shipments during the year. A specific policy against each shipment will be issued separately by the L.I.C. The advantage in this scheme is that in case of any delay or genuine omission in declaring a cargo, the cover will be operative and the Railway's interest fully protected.

2. At present, the Railways have to obtain the approval of the Board for taking out insurance. It has now been decided by the Board that this power may be exercised by the General Manager in consultation with his F.A. & C.A.O. This has the sanction of the President. The Railway Administrations may also decide the type of Insurance cover necessary in a particular case.

3. These instructions will, in the first instance, be applicable for one year with effect from 1-1-1967 and to enable the Board to review the results thereof, Railways should submit a report to the Board by the end of January, 1968, furnishing information regarding the value of shipments insured during the year 1967 (Calendar Year), the premia paid, the number of cases involving losses and the amounts of losses claimed from and re-imbursed by the L.I.C.

4. The Insurance policies will be taken with the Life Insurance Corporation of India only, as stipulated in Board's letter No. F.(X) I-65/IS/1 dated 19-11-1965. Wherever necessary, details of the policies may be furnished to the India Supply Mission, London; Washington and/or the Indian Embassy concerned abroad arranging shipment of imported stores.

5. The details procedure regarding advice of shipments to L.I.C., examination of stores for deficiencies, reporting of losses, lodging of claims and watching recovery thereof etc., etc., may be laid down locally by the Railway Administrations.

6. Please acknowledge receipt.

Dy. Director, Finances (S),
Railway Board.

ANNEXURE II
GOVERNMENT OF INDIA
MINISTRY OF RAILWAYS
(RAILWAY BOARD)

No. 67 RSE/163/1

New Delhi, dated 7th May, 1967.

CIRCULAR

SUB:—Marine Insurance of goods, Plant and Machinery etc., imported by the Railways from foreign Countries.

In pursuance of Board's decision conveyed to all concerned in their letter No. F.(X) I-65/IS/3, dated 21.12.1966, two open covers for marine insurance of railway cargoes, ordered by Board have been taken out with the Life Insurance Corporation from RSE Branch File No. 67 RSE 162/1. Life Insurance Corporation's reference numbers for these covers are as under:—

- (a) No. PSB/110/OCN/107—Open cover for "all risks".
- (b) No. PSB/110/OCN/108—Open cover for "F.P.A. risks".

A copy of letter addressed to the different shipping authorities and port consignees is enclosed which will speak for itself. All Branches in the Railway Board's office dealing with the import of railway materials and stores may please note for guidance and also ensure that every shipment is duly covered by a suitable advice sent to the Life Insurance Corporation quoting their references as above. It will be noted in the case of F.P.A. covers that all shipments valued at Rs. 3 lakhs and above should only be insured. It is possible that

different shipping agencies may load consignments valued individually less than Rs. 3 lakhs in the same vessel without the knowledge of each other and consequently they may not send any advice to the Life Insurance Corporation in such cases whereas the total of such consignments loaded in the same vessel might exceed Rs. 3 lakhs.

At present, only the following branches are ordering materials which will have to be covered under F.P.A. Cover.

(i) RS (Steel)

(ii) Track (who perhaps do not have any order outstanding at present).

R.S. (Steel) Branch will therefore, ensure that advice is given to the Life Insurance Corporation whenever the consignments loaded in the single ship exceed Rs. 3 lakhs. Other Branches in Board's office whenever they order any item which will have to be covered under F.P.A. cover shall intimate the details of shipment made in each vessel but valued less than 3 lakhs to RS (Steel) Branch so that covering advice, if necessary can be sent by RS (Steel) Branch after totalling up the particulars received.

In all other cases, the respective Branches will themselves arrange to keep a watch on the action taken by the shipping authorities, Port consignees and advise the Life Insurance Corporation of India suitably wherever necessary to ensure proper coverage.

*Deputy Director, Railway Stores,
Railway Board.*

All Branches of Civil Engg., Electrical, Finance, Mechanical, Signal and Telecommunication, Stores and Wagon Production directorates in Board's office.

ANNEXURE III

GOVERNMENT OF INDIA

MINISTRY OF RAILWAYS

(RAILWAY BOARD)

No. 67|RSF|163|1

New Delhi, dated 17-5-1967.

1. M|s. Dyson Shipping Company, 17, Battery Place, New York 10004, U.S.A.

2. M|s. Schenker and Co., GMBH, 2000 Hamburg All, West Germany.

3. Embassy of India, in Japan, Tokyo, Japan.

4. M/s. Turnbull Gibson & Co. Ltd. 128—9, Minoris, London EC3.

5. The Director General, India Supply Mission, 2536, Massachusetts Avenue, Washington DC.

6. The Director General, India Supply Mission, Government Building, Bromyard Avenue, Acton, London—W3.

SUB:—*Insurance of shipments made against Railway Board's contracts.*

REF:—(a) No. PSB|110|OCN|107—Open cover for all risks.

(b) No. PSB|110|OCN|108—Open cover for F.P.A. risks.

It has been decided that all imported Railway Stores ordered by Railway Board should be insured against Maritime risks as under:—

- (i) All signalling materials, Plans, Machinery, diesel locomotives, electric locomotives, components and spares, wheel sets, cranes etc. by an 'All Risks' cover.
- (ii) All bulk cargoes such as Steel, Rails etc. by FPA cover.

An open insurance cover has been granted by the Life Insurance Corporation of India under their references quoted at (a) and (b) above. According to the terms of this open cover the necessary closing particulars giving details of materials shipped, name of ship, bills of lading, numbers and dates invoice Nos. and dates, value (stating also F.O. Boost, ocean freight etc.) are to be intimated to the Life Insurance Corporation of India, General Insurance Department, Jeevan Vihar Building, Parliament Street, New Delhi to enable a separate policy being issued by them covering each shipment. You are therefore, hereby requested to please furnish full particulars to the Life Insurance Corporation in respect of shipments falling under item (i) above, irrespective of the value involved and those under item (ii) above, valued at Rs. 3 lakhs and above. For assessing the value of the shipment in the latter case, the total value of all the consignments being loaded in a particular vessel irrespective of the different sources or different supplying firms, or different contracts of the Railway Board, is the criterion. The particulars in question should be sent to the Life Insurance Corporation immediately after shipment on the form as per specimen attached. Life Insurance Corporation's reference Nos. for these covers are as under which should be quoted in letters addressed to them.

(i) No. PSB/110/OCN/107—Open cover for all risks.

(ii) No. PSB|110|OCN|108—Open cover for F.P.A. risks.

As per the terms of the insurance cover granted by the Life Insurance Corporation the cover will apply only if shipments are made per first-class steamers and in vessels which are not overaged and or under tonnage. The Life Insurance Corporation have stated that if a vessel is over 20 years of age and/or is under 2000 tons, the appropriate loading as per tariff will be levied. These conditions may kindly be borne in mind while arranging shipments and as far as possible, shipment should not be arranged in such vessels.

Please acknowledge receipt confirming that action will be taken as above.

Sd/-

for Secretary, Railway Stores
Railway Board.

No. 67/RSF/163/1.

New Delhi, dated 17-5-1967.

Copy to the General Managers, Eastern, Central and Southern Railways for necessary action, with copy of Life Insurance Corporation's letter quoted above.

Copy to Ministry of Transport (Shipping Co-ordination Officer) for information.

Sd -

Dy. Director, Rly, Stores,
Railway Board.

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O. M.
No. 67-B(C)1.-PAC III 72(O) DATED 5-8-1968

Question:

Please state the outcome of the cases filed in the courts of law and the position about recovery of claims from shipping companies.

Reply:

Three suits filed in Calcutta were decided by the courts in favour of the Eastern Railway (total value Rs. 5,122.14). One suit filed in Madras was also decreed in favour of the Southern Railway but is again sub-judice as the carrier had submitted an appeal before the High Court. Total number of suits still pending at Calcutta, Madras as well as Bombay is 37. Suits in respect of 10 more cases will be filed in due course, after the question of limitation as brought out in the Ministry's earlier Memorandum dated 5-8-1967 is settled in the test cases already filed at Calcutta.

The overall position of recovery of claims preferred against the shipping companies has been brought out in the statement at Annexure. Not vetted by Audit.

ANNEXURE

Value in thousands of Rupees

| Railway | No. of cases outstanding on 31/10/65 as shown in P.A.C.'s Recommendation No. 24 of the 5th Report | | No. of cases awaiting settlement as on 31.7.68 (The rest have been settled) | | | Total | Value |
|---------------------------------|--|------------|--|--|-------------|-----------|------------|
| | No. | Value | No. of cases pending in law court, | No. of cases awaiting filing of suits in the Law Courts | Other cases | | |
| | | | | | | | |
| Central . . . | 38 | 399 | 6 | 1 | 17 | 24 | 235 |
| Eastern . . . | 86 | 410 | 25 | 3 | 10 | 38 | 261 |
| Southern . . . | 12 | 298 | 6 | .. | .. | 6 | 59 |
| Integral Coach Factory . . . | 6 | 45 | .. | 6 | .. | 6 | 45 |
| Total . . . | 142 | 972 | 37 | 10 | 27 | 74 | 600 |

Recommendation

The Committee are distressed to find that due to the non-observance of the prescribed procedure a Pay Clerk could misappropriate a sum of Rs. 94,561. The main points of abuses, in this case were:

- (i) There was no Inspector of Pay Clerks to inspect the work of this pay clerk while all other pay clerks were under an Inspector;
- (ii) The work of this pay clerk did not come under accounts check even during the five months when "normally a pay clerk should come under accounts check once in three months";
- (iii) The pay clerk could escape the inspection of Additional Divisional Accounts Officer on a plea of making payment outside and it was not checked up at that time for afterwards whether the plea was genuine or not; and
- (iv) Even then the lacuna came to light, the department did not freeze the books and accounts of the clerk and instead allowed him time to complete the books when the conduct of this man was grievously wrong and there was an adverse report from SPE.

From all these the Committee feel that the present procedure should be tightened up so that such incidents do not recur. They further feel that the time taken by the department to finalise departmental investigation, to fix responsibility on the individual officials and to take disciplinary action against the guilty persons is unduly long. The Committee would like to be informed of the final outcome of the case.

(Sl. No. 40 of 72nd Report, Sl. No. 34 of Appendix XIX to 53rd Report (Third Lok Sabha).

Action taken

In the Memorandum submitted to the Public Accounts Committee with reference to Recommendation Sl. No. 34 contained in the 53rd Report (Third Lok Sabha), the Ministry of Railways had indicated the final position regarding departmental action taken against the various staff, excepting the pay clerk and the Divisional Pay Master, Delhi, held responsible in the case of embezzlement of cash by the pay clerk. The latest position of departmental action against the two employees is as under:—

Pay Clerk.

He has been found guilty by the court (Special Judge, Delhi) and sentenced to 5 years R.I. under Section 409 IPC and 5 years R.I. and

a fine of Rs. 20,000 under Section 5(2) read with 5(I) (c) of Act II of 1947. The substantive sentences are to run concurrently.

The Pay Clerk has, however, since filed an appeal in the High Court at Delhi against his conviction by the lower court. Any departmental action against him will, therefore, be possible only after his appeal is disposed of by the High Court.

Divisional Pay Master, Delhi.

Departmental action against him which was kept pending until the court case against the pay clerk was disposed of has not yet been finalised. Every effort is being made to expedite the disciplinary proceedings against him.

This has been seen by Audit.

[O.M. No. 67-B(C)-PAC-III|72(O) dated 19-8-1967].

FURTHER INFORMATION RECEIVED VIDE MINISTRY OF RAILWAYS O.M.

No. 67-B(C)-PAC|III|72(O) DATED 5-8-1968

Question: Please intimate the latest position of the cases.

Reply.

The latest position of departmental action against the two employes, viz., Pay Clerk and Divisional Pay Master, Delhi, is as under:—

Pay Clerk: The S.P.E. have advised the Railway on 2-7-1968 that the appeal filed by the Pay Clerk against his conviction by the lower court is still pending in the High Court of Delhi. Departmental action against him will be taken after the appeal is disposed of.

Divisional Pay Master: He has been exonerated of the various charges and the disciplinary case against him has been closed.

NEW DELHI;
October, 10, 1968.
Asvina, 18, 1890 (Saka).

M. R. MASANI,
Chairman,
Public Accounts Committee.

APPENDIX I

Summary of main Conclusions/Recommendations

| S. No. | Para No. of Report | Ministry Department concerned | Conclusion/Recommendations |
|--------|--------------------|-------------------------------|--|
| 1 | 2 | 3 | 4 |
| 1 | 1.3 | Railways | The Committee hope that final replies duly vetted by Audit in regard to the recommendations/Observations to which only interim replies have so far been furnished will be submitted to them early. |
| 2 | 1.7 | -do- | The Committee would like to draw attention to Chapter I of their 22nd Report on the Third Five Year Plan of Railways where they have discussed at length the question of "Traffic Forecasts" and the responsibility of Railways in that behalf. The Committee reiterate that it is not businesslike for a commercial organisation like the Railways merely to accept the statements/assessments of traffic requirements made by other Ministries without critically examining the position themselves. Besides, as is evident from the Railways own estimates of traffic of materials required to be carried on railway account, there was a persistent tendency to over-estimate the traffic requirements with the result that the Railways investment during the Third Plan period rose to Rs. 1,686 crores as |

compared to Rs. 1,325 crores envisaged in the Third Five Year Plan whereas the actual traffic moved was only 203 million tonnes in the last year of the Plan as compared to 249 million tonnes mentioned in the Plan document. The Committee cannot too strongly stress the need for realistic estimation of traffic by the Railways so as to avoid over-investment of scarce resources badly needed for more productive use.

3 1-10

-do-

Now that a decision has been taken by the Railway Board not to treat the particular portion of the siding across the Damodar river upto the take off point of Gidi 'B' Siding as a Branch Line, the Committee hope that the recovery of the balance of Rs. 23.64 lakhs due from the National Coal Development Corporation will be pursued by the Railway Administration vigorously, as this matter has been pending for several years.

4 1-14

-do-

The Committee note with regret that no headway has been made in the recovery of the amount of Rs. 1.60 lakhs from the National Coal Development Corporation since the Committee presented their Report in March, 1967. It is only recently that the Chief Operating Superintendent, Eastern Railway has been nominated as the Co-ordinating Officer to ensure early settlement. The Committee desire that the matter should be pursued vigorously with the National Coal Development Corporation so that these long pending claims are settled without any further delay.

| 1 | 2 | 3 | 4 |
|---|------|----------|--|
| 5 | 1-18 | Railways | <p>The Committee note with concern that even after the appointment of a whole time Estate Officer and the authority available to him under the Public Premises (Eviction of Unauthorised Occupants) Act, 1958, the pace of recovery of the arrears of rent in respect of lands and stalls leased out in the Railway Bazaars on the North-East Frontier Railway, has been very slow. During the period May 1967 to June 1968, only a sum of Rs. 5,832 relating to the period upto 1964-65 was realised leaving a balance of Rs. 5,48,987 in arrears. The Committee see no reason why it should not be possible to recover these arrears of rent more expeditiously and in a business like manner.</p> |
| | 1-19 | -do- | <p>The Committee need hardly stress that simultaneously the Railways should ensure that the collection of current licencing fees and rents from the lease holders of land and stalls in railway lands are not allowed to get into arrears.</p> |
| | 1-20 | -do- | <p>The Committee also suggest that the Railway Administration should consider the question of charging interest by way of penalty on the lessees who do not pay rent within a specified time limit.</p> |
| | 1-26 | -do- | <p>The Committee note that the Ministry of Railways have reached an understanding with the Kerala and Madras Governments about the recovery of outstanding amounts representing rents on</p> |

surplus railway lands handed over to the State Governments for being leased out to cultivators. The Committee also note that the Uttar Pradesh Government have recently been addressed by the Ministry of Railways to fix a lump-sum amount every year on the basis of the average rent being realised by them, after deducting 10 per cent as management charges; the arrangement being subject to review after every five years.

1-27

-do-

The Committee also note that the amounts outstanding are the heaviest in the case of railway lands handed over to the States of Andhra Pradesh, Bihar and Punjab. The Committee desire that the Ministry of Railways should take up the matter directly with the State Governments concerned so as to reach an early settlement about recovery of rent for the surplus railway land handed over to these State Governments.

153

7

1-28

-do-

The Committee also suggest that in the light of the experience gained, the Ministry of Railways should evolve suitable guide-lines for determining the rent which should be recovered on surplus railway land handed over to State Government for being leased out to cultivators so as to avoid complications of the nature which have arisen in the present case. The Committee need hardly emphasize that not only vigorous efforts should be made to recover

| 1 | 2 | 3 | 4 |
|---|---|---|---|
|---|---|---|---|

the past arrears but also sustained efforts should be made to ensure that the rent is recovered regularly and is not allowed to get into arrears.

| | | | |
|---|------|----------|--|
| 8 | 1-29 | Railways | <p>The Committee would also like the Railway Board to examine the feasibility of directly leasing the lands to cultivators instead of through the agency of the State Government.</p> |
|---|------|----------|--|
