

**JOINT /SELECT  
COMMITTEE REPORTS OF  
LEGISLATIVE ASSEMBLY -  
1948**

**The Indian Railways  
(Second Amendment) Bill**

List of Reports of Select Committees presented to  
the Constituent Assembly of India(Legislative)  
in 1948.

S. No.	Short title of the Bill.	Date of presentation.	Date of publication.
1.	The Minimum Wages Bill./	28.1.48.	7.2.48.
2.	The Industrial Finance Corporation Bill.	28.1.48.	7.2.48.
3.	The Dock Workers (Regulation of Employment) Bill.	28.1.48.	7.2.48.
4.	The Pharmacy Bill.	28.1.48.	7.2.48.
5.	The Damodar Valley Corporation Bill.	28.1.48.	7.2.48.
6.	The Indian Army and the Indian Air Force(Amenment) Bill. /	28.1.48.	14.2.48.
7.	The Dentists Bill. /	28.1.48.	14.2.48.
8.	The Rehabilitation Finance, Administration Bill.	9.2.48.	21.2.48.
9.	The Workmen's State Insurance, Bill.	11.2.48.	21.2.48.
10.	The Electricity(Supply) Bill./	4.3.48.	20.3.48.
11.	The Taxation on Income(Investigation Commission) (Amdt.)Bill,	8.3.48.	20.3.48.
12.	The Provincial Insolvency (Amendment) Bill.	16.3.48.	20.3.48.
13.	The Indian Finance Bill.	22.3.48.	27.3.48.
14.	The Delhi and Ajmer-Merwara Land Development Bill.	29.3.48.	3.4.48.
15.	The Estate Duty Bill. (PRELIMINARY REPORT)	9.8.48.	14.8.48.
	The Factories Bill./	9.8.48.	21.8.48.

S. No.	Short title of the Bill.	Date of presentation.	Date of publication.
17.	The Hindu Code.	12.8.48.	21.8.48.
18.	The Income-tax and Business Profits Tax (Amdt.) Bill.	13.8.48.	21.8.48.
19.	The Indian Railways (Second Amendment) Bill.	24.8.48.	11.9.48.
20.	The Mines and Minerals (Regulation and Development) Bill.	25.8.48.	11.9.48.
21.	The Central Silk Board Bill.	26.8.48.	11.9.48.

358

# CONSTITUENT ASSEMBLY OF INDIA (LEGISLATIVE)

## REPORT OF THE SELECT COMMITTEE ON THE INDIAN RAILWAYS (SECOND AMENDMENT) BILL, 1948

We, the undersigned, members of the Select Committee to which the Bill further to amend the Indian Railways Act, 1890, was referred, have considered the Bill, and have now the honour to submit this our Report, with the Bill as amended by us annexed thereto.

The most important change we have made is the omission of clause 4 of the Bill which provides for the appointment of Claims Commissioners, defines their powers and lays down their procedure. Many difficult questions arise in regard to these provisions and in our opinion the Government should reconsider the whole matter and bring in fresh legislation on the subject. We have, therefore, confined the present Bill to the provisions relating to the Railway Rates Tribunal. We consider these provisions to be urgent and that a Bill confined to them should be passed into law without delay.

We have recast the clauses relating to the Tribunal so as to make the meaning quite clear and improve the drafting wherever necessary. The only change of substance is in regard to the redefinition of the respective spheres of the Tribunal and of the Government. As regards the alteration of the general level of class rates, schedule rates and terminal and other charges, it is our view that powers should vest exclusively in the Government, and be controlled by the Legislature. As regards the classification of commodities which have not been classified before, the power will, as under the Bill as introduced, vest in the Central Government. The power to reclassify any commodity in a lower class will however be exercisable both by the Tribunal as well as by the Government. The other changes made by us, though numerous, are not important enough to call for comment.

2. The Bill was published in Part V of the *Gazette of India*, dated the 17th April, 1948.

8. We think that the Bill has not been so altered as to require re-circulation under Standing Order 41(5) and we recommend that it be passed as now amended.

- JOHN MATTHAI
- SHIRBAN LAL SAKSENA
- V. SUBRAMANIAM
- K. SANTHANAM
- M. ANANTHASAYANAM AYYANGAR
- RANBIR SINGH CHAUDHARI
- THAKUR DAS BHARGAVA
- H. N. KUNZRU
- \*BISWANATH DAS
- M. SATYANARAYANA
- N. G. RANGA.

NEW DELHI;  
The 24th August, 1948.

\*Subject to a Minute of Dissent.

359

MINUTE OF DISSENT

I am sorry I differ from the decision of my friends in accepting the constitution of a Rates Tribunal. A Rates Court is provided under the British Railways Act of 1920 and the subsequent Act. The Acworth Committee recommended the constitution of a Tribunal as a body subordinate to the Governor-General in Council. Such a Tribunal is a necessity in Britain or the U. S. A. where railways are private owned. The State therefore takes upon itself the responsibility of fixing reasonable rates and facilities as between the Railway Companies and trade and industries of the country. Recommendations of the Acworth Committee were necessary because India was then a dependency of Britain. None of these considerations prevail today. India is free and Railways are a national concern. The economic policy of the Railways is hereafter bound to be the national economic policy of the Government of India, on whom devolves the duty of fostering Indian trade and industries. There can, therefore, be little justification for a Rates Tribunal under the changed circumstances.

Added to these, the Railway Ministry has now prepared a table of standard rates that are being demanded by the people since the days of the Acworth Committee. This has been done so soon after the 15th August 1947 demonstrating the anxiety of the Ministry to attempt to solve age-old problems of agitation for fair rates.

*Double forum*

In a responsible Government, the Legislature is an important forum. This is specially so in all commercial undertakings of nationalised concerns. A Standing Railways Committee is functioning besides the Railways Ministry to control the activities of the Railway Board. A Rates Court is thus an additional forum. Such a Tribunal is not useful nor is it helpful, unless and until the National Government lays down its economic policy to be followed by the Railways not only to remove such advantages at present, provided for agriculture and industries of Britain, her dominions and dependencies but also to afford all possible help to our agriculture and industries. Considered from any point of view, a Rates Tribunal, as devised, looks to me unnecessary and provides a safety valve for the Ministry which is solely responsible to the Legislature.

The jurisdiction of the Tribunal, its division of work and the provisions for appeal renders the machinery a forum for needless delay and expensive for the people and additional work for the Railway administration.

*Revision of the Act*

It is regrettable that urgent problems, such as wagon allotment, etc., which are the need of the hour, have not been able to catch the eye of the Ministry. Since 1931, Government have promised the revision of the Railways Act of 1890. Under the changed circumstances this has been the pressing need of the hour and a thorough revision of the Act is called for.

BISWANATH DAS.

NEW DELHI:

The 24th August, 1948.

[As Amended by the Select Committee]

(Words underlined or sidelined indicate the amendments suggested by the Select Committee and asterisks indicate omissions.)

A  
BILL

for further to amend the Indian Railways Act, 1890

WHEREAS it is expedient further to amend the Indian Railways Act, 1890 (IX of 1890), for the purposes hereinafter appearing:

It is hereby enacted as follows:—

1. **Short title and commencement.**—(1) This Act may be called the Indian Railways (Second Amendment) Act, 1948.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint \* \*.

2. **Amendment of Chapter V, Act IX of 1890.**—(1) In Chapter V of the Indian Railways Act, 1890 (hereinafter referred to as the said Act), section 46 shall be omitted, and sections 41, 42, 42A, 42B, 43, 44, 45 and 46A shall be renumbered respectively as sections 26, 27, 28, 29, 30, 31, 32 and 33.

(2) In sub-section (3) of section 27, as so renumbered, for the figures and letter "42A" the figures "28" shall be substituted.

(3) In section 28 as so renumbered, sub-section (2) and the figure and brackets "(1)" in sub-section (1) shall be omitted

\* \* \* \* \*

3. **Insertion of new heading and new sections 34 to 46A inclusive in Act IX of 1890.**—After section 33, as renumbered by section 2, the following heading and sections shall be inserted, namely:—

**'RAILWAY RATES TRIBUNAL**

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

(2) The Tribunal shall consist of a President, and two other members, appointed by the Central Government; and they shall hold office for such periods and on such terms and conditions as the Central Government may, by general order, prescribe.

(3) A person shall not be qualified for appointment as a member of the Tribunal unless he is or has been, or is qualified for appointment as, a Judge of a High Court.

35. **Constitution of panels of assessors.**—(1) The Central Government shall constitute two panels of assessors, namely, (a) the trade, industry and agriculture panel; and (b) the railway panel.

(2) The trade, industry and agriculture panel shall consist of not more than sixty persons chosen by the Central Government; one-third of the number chosen shall represent trade, one-third industry, and one-third agriculture, the representatives in each group being chosen after consulting such associations representing trade, industry or agriculture (as the case may be), as the Central Government may consider necessary.

(3) The railway panel shall consist of not more than thirty persons with railway experience, chosen by the Central Government.

(4) Any appointment to either panel shall be notified in the official Gazette; and the notification shall specify the term for which the appointment is made. The term shall not exceed two years, but the member shall be eligible for re-appointment after the expiry of his term.

361  
36. *Staff.*—The Tribunal may, with the sanction of the Central Government, appoint such staff, and on such terms and conditions, as the Central Government may determine.

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

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

39. *Jurisdiction.*—For the purpose of exercising the jurisdiction conferred on it by this Chapter, the Tribunal may pass such interim and final orders as the circumstances may require, including orders for the payment, subject to the provisions of this Chapter, of costs; and it shall be the duty of the Central Government, the Provincial Government or the Government of an Acceding State (as the case may be) on whom any obligation is imposed by any such order, to carry it out.

40. *Powers of the Tribunal.*—The Tribunal shall have the powers of a Civil Court under the Code of Civil Procedure, 1908 (V of 1908), for the purposes of taking evidence on oath, enforcing the attendance of witnesses, compelling the discovery and production of documents and issuing commissions for the examination of witnesses and shall be deemed to be a Civil Court for all the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (V of 1898), and any reference to the presiding officer of a Court shall be deemed to include a reference to the President of the Tribunal.

41. *Complaints against a railway administration.*—(1) Any complaint against a railway administration, or jointly against two or more railway administrations, that such administration or administrations is or are—

(a) contravening the provisions of section 28; or

(b) charging—

(i) unreasonable rates, or

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

(c) levying unreasonable charges excluding terminal charges which are, or may hereafter be, standardised; or

(d) unreasonably refusing—

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

(ii) to grant an alternative owner's risk rate; or

(e) unreasonably placed a commodity in a higher class

shall be heard and decided by the Tribunal in accordance with the provisions of this Chapter.

(2) In the case of a complaint under sub-clause (i) of clause (d) of sub-section (1), the Tribunal may fix a new station to station rate.

42. *Power to alter rates or reclassify commodities.*—(1) The Tribunal alone shall have power to reclassify any commodity in a higher class, but such power shall not be exercised except on the application of the Central Government.

(2) The Central Government alone shall have power—

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

(b) to reclassify any commodity which has not been classified before

48. *Tribunal to decide matters with aid of assessors.*—(1) All matters shall be decided by the Tribunal with the aid of assessors.

(2) Where, in the opinion of the President of the Tribunal, any matter *prima facie* appears to involve a question of principle, it shall be decided by a Full Bench consisting of the President and the other two members, with the aid of not less than four assessors, selected by the President in equal numbers from the trade, industry and agriculture panel and from the railway panel.

(3) All other matters may \* \* \* be decided by a single member of the Tribunal with the aid of not more than four assessors selected by the President of the Tribunal in equal numbers from the trade, industry and agriculture panel and from the railway panel:

Provided that the President may, in his discretion, direct that any such matter shall be decided by the Full Bench:

Provided further that where a single member of the Tribunal hearing any matter considers that it involves a question of principle, he shall refer the matter to the President who shall direct that it shall be decided by the Full Bench, in the manner referred to in sub-section (2).

(4) It shall be the duty of each assessor to advise the Tribunal and state his opinion on all questions arising in the matters before the Tribunal, but the Tribunal shall not be bound to act on the advice, or to conform to the opinion, of all or any of the assessors.

44. *Procedure.*—(1) With the approval of the Central Government, the Tribunal may make rules regarding its practice and procedure and generally for carrying into effect its duties and powers under this Chapter \* \* \*.

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

(a) the preparation of panels of assessors;

(b) \* the terms and conditions of the appointment of assessors;

(c) the award of costs by the Tribunal; \* \* \* \*

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

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

(f) the disposal by the Tribunal of any proceedings before it notwithstanding that in the course thereof there has been a change in the persons sitting as members of the Tribunal or as assessors;

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

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

(4) Any person duly authorised in this behalf by the Central Government shall be entitled to appear and be heard in any proceedings before the Tribunal.

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



263

45. *Bar of jurisdiction of the Tribunal.*—Nothing in this Chapter shall confer jurisdiction on the Tribunal in respect of scales of charges levied by a railway administration under the authority of the Central Government for the carriage of passengers and their luggage, parcels, military traffic and traffic in railway materials and stores, and demurrage charges, except on a reference made to the Tribunal by the Central Government.

46. *Alteration and cancellation of certain station to station rates.*—Notwithstanding anything contained in this Chapter, a railway administration may, in respect of the carriage of any merchandise by goods train,—

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

(ii) increase or reduce an existing station to station rate, not being a station to station rate introduced in compliance with an order made by the Tribunal; or

(iii) after due notice in the manner prescribed by the Central Government, cancel any station to station rate which has not been introduced in compliance with an order made by the Tribunal, unless the Tribunal has, after notice has been given as aforesaid, granted an injunction against such cancellation: or

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

46A. *Decision of the Tribunal.*—The decision of the Tribunal shall be by a majority of the members sitting and shall be final:

Provided that where a single member of the Tribunal has heard and decided any matter, he may, in his discretion, give leave to any party to appeal to the Full Bench: and if an appeal is filed in pursuance of such leave, the decision of the Full Bench or of a majority of the members thereof, as the case may be, shall be final:

46B. *Execution of orders of the Tribunal.*—The Tribunal may transmit any order made by it to a Civil Court having local jurisdiction: \* \* and such Civil Court shall execute the order as if it were a decree.

46C. *Definitions.*—In this Chapter, unless there is anything repugnant in the subject or context.—

(a) "classification" means grouping of commodities into classes as notified in the Indian Railway Conference Association's Goods Tariff with the approval of the Railway Board and as in force at the commencement of the Indian Railways (Second Amendment) Act, 1948, for the purpose of determining the rate to be charged:

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

(c) "commodity" includes livestock:

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

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

(f) "schedule rate" means a rate lower than the maximum or class rate applied on a commodity basis;

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

\* \* \* \* \*

**THE CONSTITUENT ASSEMBLY OF INDIA  
(LEGISLATIVE)**

---

**A**

**BILL**

**further to amend the Indian Railways Act, 1890**

---

*(As amended by the Select Committee)*