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PART VI.

Bills introduced into the Council of the Governor General of India and Bills published before introduction in that Council.

PUBLIC WORKS DEPARTMENT.

NOTIFICATION.

The 11th June 1936.

No. 1329—XIIA-1-36-Ry.—The following Indian Railways (Amendment) Bill as introduced in the Legislative Assembly on the 23rd March 1936, with the statement of Objects and Reasons is published for information of the general public.

[As introduced in the Legislative Assembly.]

A

BILL

Further to amend the Indian Railways Act, 1890, for certain purposes.

IX of 1890. Whereas it is expedient further to amend the Indian Railways Act, 1890, for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Railways (Amendment) Act, 1936.
Short title.

IX of 1890. 2. Section 68 of the Indian Railways Act, 1890 (hereinafter referred to as the said Act), shall be re-
Amendment of section 68, Act IX of 1890.

numbered as sub-section (1) of that section and to the section as so re-numbered the following sub-section shall be added, namely:—

“(2) A railway servant when granting the permission referred to in sub-section (1) may, if empowered in this behalf by the railway administration, grant to the passenger a certificate that the passenger has been permitted to travel in such carriage upon condition that he subsequently pays the fare payable for the distance to be travelled.”

3. For section 112 of the said Act the following section shall be substituted, namely:—

“112. (1) If a person enters in contravention of section 68 travelling or attempting to travel without proper pass or ticket, on a railway, he shall, unless he satisfies the Court that he had no intention to defraud the railway administration, be punished with imprisonment which may extend to two months, or with fine which may

extend to one hundred rupees in addition to the amount of the single fare for any distance he may have travelled.

- (2) If a person uses or attempts to use a single pass or single ticket which has already been used on a previous journey, or, in the case of a return ticket, a half thereof which has already been so used, he shall be punished with imprisonment which may extend to two months, or with fine which may extend to one hundred rupees in addition to the amount of the single fare for any distance he may have travelled.

- (3) Any railway servant authorised by the railway administration in this behalf or any other person whom such railway servant may call to his aid may remove from a carriage a person found travelling therein without having a proper pass or ticket with him, unless he then and there pays the fare and the excess charge which he is liable to pay under the provisions of section 113."

Amendment of section 4. In section 113 113, Act IX of 1890. of the said Act.—

- (a) to sub-section (2) the following proviso shall be added, namely :—

" Provided that the excess charge referred to in sub-section (1) and this sub-section shall not be payable if the passenger has with him a certificate issued under sub-section (2) of section 68 "

and

- (b) after sub-section (4) the following sub-section shall be added, namely :—

"(5) An application made under sub-section (4) shall contain a statement, certified as correct by the railway servant, of the sum payable by the passenger, and such statement shall unless the contrary is proved, be proof that the sum so stated is recoverable from the passenger."

Amendment of section 5. In section 131 131, Act IX of 1890. of the said Act,—

- (a) in sub-section (1), after the figures " 101 " the figures " 112 " shall be inserted, and after the word, brackets and figure " sub-section (1) " the following words shall be inserted, namely :—

" or if a person fails or refuses to pay any excess charge or other sum demanded under section 113 and there are reasonable grounds for believing that except by his arrest he cannot be placed before a Magistrate without undue delay, trouble or expense,";

and

- (b) to sub-section (2) the following words shall be added, namely :—

" or, in the case of a person arrested on failure to satisfy a demand made under section 113, before the Magistrate to whom the application under sub-section (4) of section 113 is to be made "

6. In sub-section (1) of section 132 of the said Act the words " or fails or refuses to pay any excess charge or other sum demanded under section 113 " shall be omitted.

STATEMENT OF OBJECTS AND REASONS.

The Bill is intended to permit of more effective and deterrent action being taken than is possible under the existing law when persons are found travelling by railway without proper tickets. Although Railways have provided an elaborate and expensive organisation for the check of tickets both at stations and in trains, the number of cases detected of passengers travelling without proper tickets has tended to increase, and the amount recovered from them approximates to the amount spent on the organisation for check in trains. Experience has shown that any expenditure incurred on additional checks by the appointment of more travelling ticket checkers results in an increase of revenue proportionate to the increased expenditure. This indicates to some extent the seriousness of the evil which, it has been estimated, causes a loss of about 50 lakhs annually.

2. The sections of the Act under which action can be taken at present are 112 and 113. The former refers to cases in which there is intent to defraud a Railway and the latter to cases where there is no such intent. In cases in which action is taken under section 112 the onus of proving intent to defraud rests on the railway staff, the discharge of which is not always practicable. It is proposed, therefore, that the onus of proving that there was no intent to defraud should rest on the person found travelling without a proper ticket. The penalty of a fine extending to Rs. 100 prescribed under section 112 has proved, in

practice, to be ineffective and the Bill therefore provides for a sentence of imprisonment to be inflicted.

3. Most cases in which passengers found travelling without proper tickets are, however, dealt with under section 113 under which a passenger is liable to pay in addition to the fare due an excess charge equal to the amount of the fare but not exceeding the maxima provided in section 113, sub-section (3). The maximum excess charge in the case of a third class passenger is one rupee when he is detected before he has notified his liability, and two annas otherwise. A passenger who declines to pay the amount demanded can, under the present law, only be asked to give his name and address. If these are disbelieved, arrangements have to be made to hand the man over to the police to be placed before a magistrate. In many cases, such passengers are found to have no assets and are discharged. Where a distress warrant is issued against any person, the results are usually quite incommensurate with the time, trouble and expense involved in court proceedings, etc., as the amount payable is frequently not realised. To deal effectively with such cases, it is necessary that railway servants should be empowered to arrest such persons as refuse to pay the charges due if there is reason to believe that it will not be possible to get them to appear before a magistrate without undue delay, trouble or expense. Provision for this has been made in the proposed amendment to section 131 of the Act.

NEW DELHI :

ZAFRULLAH KHAN.

The 18th March, 1936.

By order of His Excellency the Governor,

A. VIPAN,

Secretary to Government.