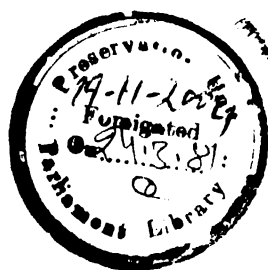


Wednesday, 14th March, 1928

THE  
**COUNCIL OF STATE DEBATES**  
(OFFICIAL REPORT)  
**VOLUME I, 1928**

*(1st February 1928 to 22nd March 1928)*

**FOURTH SESSION**  
OF THE  
**SECOND COUNCIL OF STATE, 1928**



CALCUTTA : GOVERNMENT OF INDIA  
CENTRAL PUBLICATION BRANCH  
1928

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# COUNCIL OF STATE.

*Wednesday, 14th March, 1928.*

The Council met in the Council Chamber of the Council House at Eleven of the Clock, the Honourable the President in the Chair.

## QUESTIONS AND ANSWERS.

**MINIMUM EDUCATIONAL QUALIFICATIONS NECESSARY FOR A PERSON FOR ADMISSION INTO MEDICAL COLLEGES AND SCHOOLS AS MILITARY ASSISTANT SURGEONS, CIVIL ASSISTANT SURGEONS AND MILITARY SUB-ASSISTANT SURGEONS, ETC.**

**121. THE HONOURABLE MR. P. C. DESIKA CHARI :** Will Government please state :

- (a) the minimum educational qualifications necessary for a person for admission into Medical Colleges and Schools in the following classes :
  - (i) Military Assistant Surgeons ;
  - (ii) Civil Assistant Surgeons ; and
  - (iii) Military Sub-Assistant Surgeons ;
- (b) whether the requisite qualifications in the case of (a) (i) above are inferior to those in the case of (a) (ii) and (a) (iii) above ;
- (c) whether the Diploma granted to Military Assistant Surgeons on passing the final examination is recognised by the British Medical Council ;
- (d) whether it is a fact that Military Assistant Surgeons are not employed (or considered fit to be employed) in the Army in Great Britain ?

**HIS EXCELLENCY THE COMMANDER-IN-CHIEF :** (a) (i). The Intermediate Examination in Science of a recognised University, or the Cambridge Senior Local Examination, or the European High School Examination of the Madras Presidency, or any other examination which is accepted by the Local Government as equivalent.

(ii) The Intermediate Examination of the Science Faculty of a recognized University.

(iii) The Matriculation Examination of an Indian University.

(b) No.

(c) No.

(d) Military Assistant Surgeons are not employed or intended for employment in the Army in Great Britain. The question of their fitness for such employment does not arise.

# **SANCTIONED AND ACTUAL STRENGTH OF MILITARY ASSISTANT SURGEONS, ETC.**

122. THE HONOURABLE MR. P. C. DESIKA CHARI : Will the Government please state :

- (a) the sanctioned and actual strength of Military Assistant Surgeons ;
- (b) the number of those who possess the M.B.B.S. degree ;
- (c) the annual cost per head for training Military Assistant Surgeons ; and
- (d) the average number of persons who qualify as Military Assistant Surgeons every year ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF. : (a) The sanctioned number of Military Assistant Surgeons is 585, against the total strength of 584.

(b) Two.

(c) The average annual cost of training a Military Assistant Surgeon is approximately Rs. 2,850.

(d) The average number for the last five years is seven.

# **PERFORMANCE BY CIVIL ASSISTANT SURGEONS OF THE DUTIES OF MILITARY ASSISTANT SURGEONS AND MILITARY SUB-ASSISTANT SURGEONS.**

123. THE HONOURABLE MR. P. C. DESIKA CHARI : Will the Government please state whether the duties of Military Assistant Surgeons and Military Sub-Assistant Surgeons, while on military duty, are such as cannot be carried out by Civil Assistant Surgeons ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : The answer is in the affirmative so far as Military Assistant Surgeons are concerned. Civil Sub-Assistant Surgeons could be used for service with Indian troops, but they would first have to receive a certain amount of military training and be granted military rank.

# **GRANT OF STUDY LEAVE ABROAD OF MILITARY SUB-ASSISTANT SURGEONS.**

124. THE HONOURABLE MR. P. C. DESIKA CHARI : Will the Government please state :

- (a) the facilities and concessions granted to Military Assistant Surgeons in the matter of study leave abroad ; and
- (b) its reasons for not extending these facilities and concessions to Military Sub-Assistant Surgeons ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : (a) The concessions, etc., admissible to Assistant Surgeons of the Indian Medical Department in the matter of study leave are fully given in Appendix V-A of the Regulations for the Medical Services of the Army in India, a copy of which is in the Library.

(b) The course of instruction received by Sub-Assistant Surgeons in India is not such as to make it necessary to take special leave for study abroad. They have adequate facilities for further study in India at the School of Tropical Medicine, Calcutta.

ADMISSION OF INDIANS TO THE MILITARY ASSISTANT SURGEONS' CLASS.

125. THE HONOURABLE MR. P. C. DESIKA CHARI : Will the Government please state if it is prepared to admit Indians to the Military Assistant Surgeons' class ? If not, why not ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : No, Sir, because the duties of Military Assistant Surgeons are wholly confined to the medical care of British troops and their families.

THE INDIAN BAR COUNCILS ACT, 1926.

126. THE HONOURABLE MR. P. C. DESIKA CHARI : Will the Government please state :

- (a) whether a notification has been issued to bring into force sections 8 to 16 of the Indian Bar Councils Act ;
- (b) if the answer to (a) is in the negative, when do the Government propose to give effect to the Indian Bar Councils Act ; and
- (c) the provinces in which the said Act is to be put into force ?

THE HONOURABLE MR. H. G. HAIG : (a) and (b). As the Honourable Member is no doubt aware, rules have to be framed by the High Courts under certain provisions of the Act. The intention is to bring the sections in question into operation when these rules are ready, and Local Governments and High Courts have been consulted on this point. Some portions of the Act are in operation already—*vide* section 1 (3). All the remaining provisions have been brought into force in respect of the Chief Court of Oudh with effect from the 1st March 1928 ; and sections 3 to 7 in respect of the Calcutta High Court with effect from the same date. For the rest, the provisions in question will be brought into force with effect from the dates on which the rules referred to above will be ready.

(c) The Act applies to the chartered High Courts mentioned in sub-section (2) of section 1, and in addition it has been applied to the Chief Court of Oudh.

SCALES OF PAY AND RATES OF ALLOWANCES OF INCOME-TAX OFFICERS IN BURMA, MADRAS, BENGAL AND BOMBAY.

127. THE HONOURABLE MR. P. C. DESIKA CHARI : Will the Government please state :

- (a) the differences, if any, between the rates and scales of pay and of increments of Income-tax Officers in Burma, and of the scales, rates and increments of pay for similar officers in Madras, Calcutta and Bombay ; and
- (b) the difference, if any, between the travelling and other allowances given to Income-tax officers in Burma and the allowances allowed to similar officers employed in Madras, Bombay and Bengal ?

THE HONOURABLE MR. E. BURDON : A statement showing the scales of pay and rates of allowances of Income-tax Officers in Burma, Madras, Bengal and Bombay is laid on the table.

*Statement showing Scales of Pay and Rates of Allowances of Income-tax Officers in Burma, Madras, Bengal and Bombay.*

Province.	Scale of pay.	*Allowances.
Burma . .	Rs. 350—25—750—50—950	Conveyance allowance at Rangoon, Moulmein and Mandalay at Rs. 50 per mensem.  Rangoon compensatory allowance at the Local Government rates.
Madras . .	300—40—500—50—900	Presidency allowance at Madras at Rs. 100 per mensem.
Bengal . .	500—50.2—900 (probationers Rs. 450).	Conveyance allowance to Income-tax Officers in charge of some of the Calcutta Districts at Rs. 100 per mensem.
Bombay . .	Senior 1,000—100—1,500 Others 300—50.2—900	Conveyance allowance at Bombay and Karachi Rs. 100 per mensem; at Ahmedabad, Hyderabad, Sukkur and Poona Rs. 50 per mensem.  Compensatory allowance at the Local Government rates.

\*Travelling allowance is admissible to all Income-tax Officers according to the Supplementary Rules of the Government of India, and daily allowance at the rates sanctioned for the Provinces by the Local Governments concerned.

**NUMBER OF APPLICATIONS IN BURMA UNDER SECTION 27 OF THE INDIAN INCOME-TAX ACT, ETC.**

128. THE HONOURABLE MR. P. C. DESIKA CHARI: Will the Government please state:

- the number of applications in Burma under section 27 of the Indian Income-tax Act for reopening best judgment assessments under section 23 during the year 1926-27 and the number of successful applications thereof, and
- the number of appeals and of revision applications preferred against orders on objections to assessment during the year 1926-27 in Burma and the number of cases thereof in which the orders were modified or set aside in appeals and revisions?

THE HONOURABLE MR. E. BURDON: (a) and (b). The Honourable Member is referred to Returns Nos. VII and VIII in the All-India Income-tax Report and Returns for the year 1926-27 which contain all the information that he requires. He will find a copy of the Report in the Library.

**LEASES PASSED BY CAPTAIN DAVIES FOR NO. 3, THEATRE ROAD, IN THE CANTONMENT OF RANGOON.**

129. THE HONOURABLE SIR EBRAHIM JAFFER: (a) Will Government be pleased to place on the Council table a copy of the leases passed by Captain Davies for the plots of lands Nos. 57 and 58, Theatre Road, now known as No. 3, Theatre Road, in the Cantonment of Rangoon?

(b) Who built a bungalow on the site, and has it changed hands several times ?

(c) Is there any history sheet in the Cantonment Register ? If so, will they place a copy of the same on the table ?

(d) Was sanction given to such transfers by the Government ? If so, under what orders ?

(e) What is the present registered rent of this bungalow ?

(f) Is it the intention of the Government to sell land in the Cantonment of Rangoon or rent sites or land on long leases ?

(g) Will they give an opportunity to the public to bid for this site in question ?

# BURIAL OF THE LAST MOGHUL EMPEROR IN THE COMPOUND OF No. 3, THEATRE ROAD, RANGOON.

130. THE HONOURABLE SIR EBRAHIM JAFFER : Will Government be pleased to state :

(a) under what circumstances the Government allowed the dead body of the last Moghul Emperor, a political prisoner, to be buried in the compound of old plots of land Nos. 57 and 58 and now No. 3, Theatre Road, Rangoon ;

(b) whether the lease of this land was granted to Captain Davies after or before such burial ?

(c) if after the burial, what conditions were attached regarding the tomb of the last Moghul Emperor buried there ?

(d) whether the right of occupation of the whole compound including the site of the graves is vested in the Government ? If not, in whom ?

(e) whether any correspondence passed between the Chief Secretary to the Burma Government and the present tenant about giving up the land of the graves in exchange for the other land ?

HIS EXCELLENCY THE COMMANDER-IN-CHIEF : With your permission, Sir, I propose to answer questions Nos. 129 and 130 together.

I am making enquiries and will let the Honourable Member know the result as soon as possible.

## INDIAN LIMITATION (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I move that the Bill further to amend the Indian Limitation Act, 1908, as reported by the Select Committee, be taken into consideration.

The House will remember that this Bill was introduced with a view to amend section 10 of the Indian Limitation Act and Articles 133 and 134 of that Act. Section 10 deals with limitation of suits with regard to alienations by trustees, and a question arose—in fact it was held—that it did not apply to alienations by trustees of religious endowments. The object of this Bill is to provide that that section applies also to trustees of religious endowments. With regard to that there has been no difference of opinion in the Select Committee or even outside when the Bill was circulated for opinion. With regard to Articles 133 and 134, they deal with alienations by trustees for consideration, and in the original Articles the period when limitation began was stated

[Mr. S. R. Das.]

to be the date of the transaction. Now, obviously, if the date of the transaction is given as the beginning of the period of limitation, it works a certain amount of hardship, because it is difficult for the beneficiary to know when the alienation takes place. The result has been that there has been a difference of opinion in different High Courts. Some have tried to stretch the meaning of that Article by holding that the period commences not from the actual date of the transaction but from the completion of the transaction by making over possession. The Select Committee went into the question very thoroughly and they have decided that it ought to be from the date when the sale becomes known to the plaintiff; because obviously if the trustee and the person who buys from the trust are in collusion it is very difficult for the beneficiary, who is affected by the sale, to know of the transaction, and it is only right that limitation so far as he is concerned should begin to run from the date he comes to know of it. There is also a difference so far as Articles 133 and 134 <sup>tax</sup> concerned. Article 133 has been omitted and the two Articles have been <sup>atta</sup> up into 48A and 48B and Articles 134A, 134B, and 134C. One deals v suits by beneficiaries in case of a transfer for valuable consideration, and the other deals with suits by the successive manager in case of transfer <sup>me</sup> and valuable consideration. In both cases the period of limitation is stated <sup>ra</sup> commence from the date when the transaction becomes known to the plaintiff. Only in the case of a sale of moveable properties the period is three years, and in the case of immoveable properties 12 years, from the date of the transaction becoming known to the plaintiff. In the case of a suit by a successive manager the period of limitation commences from the death, resignation or removal of the transferor, that is to say, when the new manager comes in, he ought to look into the transactions of the previous manager and he ought to be in a position to know whether any illegal alienation has taken place or not—and that is the Report of the Select Committee and this is how it has been altered. I may mention that the matter has been twice before the Select Committee and has been circulated also twice.

Sir, I move.

THE HONOURABLE THE PRESIDENT: I venture to suggest to the Honourable the Law Member that, as there are two Bills reported by the Select Committee, he should move (I presume that is what he intends) that the Bill reported by the Select Committee after re-commitment be taken into consideration.

THE HONOURABLE MR. S. R. DAS: I think so. I move that the Bill further to amend the Indian Limitation Act, 1908, as reported by the Select Committee after re-commitment, be taken into consideration.

The motion was adopted.

Clauses 2 and 3 were added to the Bill.

Clause 1 was added to the Bill.

The Title and the Preamble were added to the Bill.

THE HONOURABLE MR. S. R. DAS: Sir, I move that the Bill, as amended by the Select Committee after re-commitment, be passed.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Monday, the 19th March, 1928,