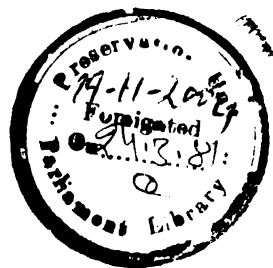


Monday, 6th February, 1928

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
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COUNCIL OF STATE.

Monday, 6th February, 1928.

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

MEMBER SWORN.

The Honourable Mr. H. A. B. Vernon (Madras : Nominated Official).

QUESTIONS AND ANSWERS.

FINAL ORDERS OF HIS MAJESTY'S GOVERNMENT ON THE REPORT OF THE INDIAN SANDHURST COMMITTEE.

1. THE HONOURABLE SIR PHIROZE SETHNA : Will Government please state whether they have received the final orders of His Majesty's Government on the report of the Indian Sandhurst Committee ? If not, when are they likely to be received ?

THE HONOURABLE MR. H. G. HAIG : His Excellency the Commander-in-Chief has been unavoidably detained elsewhere. With your permission, Sir, I will answer this question.

The final orders have not yet been received but are expected in time for Government to announce them during the present Session.

QUESTIONS CONSIDERED AT THE CONFERENCE OF MINISTERS HELD IN DELHI IN JANUARY LAST.

2. THE HONOURABLE SIR PHIROZE SETHNA : Will Government please state what questions were considered at the Conference of Ministers held at Delhi on or about 9th January, 1928 ?

THE HONOURABLE KHAN BAHADUR SIR MUHAMMAD HABIRULLAH : Questions connected with education and local self-government.

RECOMMENDATIONS OF THE INDIAN AUXILIARY AND TERRITORIAL FORCES COMMITTEE.

3. THE HONOURABLE SIR PHIROZE SETHNA : Will Government please lay on the table a statement showing the progress made in each province in the matter of giving effect to those recommendations of the Indian Auxiliary and Territorial Forces Committee which have been accepted by His Majesty's Government ?

THE HONOURABLE MR. H. G. HAIG (on behalf of His Excellency the Commander-in-Chief) : In the Army Department resolution dated the 20th August last, Government stated that, as the present financial year was now

well advanced, it would not be possible to introduce the scheme as a whole before the 1st April 1928 ; but that they would endeavour to introduce portions of the scheme during the current year, if funds could be reappropriated for the purpose.

I am afraid that it has not been possible so far to allot any money towards these measures during the expiring financial year. They will therefore be taken in hand from the beginning of the financial year 1928-29, and full budget provision is being made for the purpose.

We are, however, proceeding with the necessary legislation and hope that it will be passed early in this Session.

CONSTRUCTION OF A RAILWAY BETWEEN MANMAD AND MALEGAON.

4. THE HONOURABLE SIR PHIROZE SETHNA : Will Government please state whether the Government of Bombay have recommended that a railway should be constructed between Manmad and Malegaon ? If so, what action has been taken in the matter ?

THE HONOURABLE SIR GEOFFREY CORBETT : The Government of Bombay recommended the construction of a line from Manmad *via* Malegaon to Satara, but this alignment was found to be unremunerative. A proposal for a line of railway from Manmad *via* Malegaon and Dhulia to Nardhana has now been received from the Agent and is at present being considered by the Railway Board.

CONSTRUCTION OF THE BELAPUR NASIK RAILWAY.

5. THE HONOURABLE SIR PHIROZE SETHNA : Will Government please state what progress has been made in the construction of the Belapur Nasik Railway ?

THE HONOURABLE SIR GEOFFREY CORBETT : Engineering and Traffic reports have been received and are under consideration in the Railway Board's office.

THE STATUTORY COMMISSION.

6. THE HONOURABLE SIR PHIROZE SETHNA : Will Government please state if, in view of the movement for boycotting the Statutory Commission on Reforms, they have made any recommendations to the Secretary of State for India ? If so, what are those recommendations ?

THE HONOURABLE MR. H. G. HAIG : The answer is in the negative.

RECOMMENDATIONS OF THE TAXATION INQUIRY COMMITTEE.

7. THE HONOURABLE SIR PHIROZE SETHNA : Will Government please state what action has so far been taken on the recommendations of the Taxation Inquiry Committee ?

THE HONOURABLE MR. E. BURDON : The attention of the Honourable Member is invited to Mr. McWatters' reply to the question asked in the Council of State by the Honourable Mr. Suhrawardy on the 30th August 1927. That reply gave a full account of the general position, and since then there has been no development of special importance to record.

THE POST OFFICE GUARANTEE FUND.

8. THE HONOURABLE MR. G. S. KHAPARDE : Will the Government be pleased to state :

- (a) whether it is true that a fund called " The Post Office Guarantee Fund " was collected by annual contributions from all the employees of the Postal Department below the grade of Deputy Postmaster General ;
- (b) whether Government were the custodians of the said Fund ;
- (c) whether Government ceased taking contributions for the Fund since 1905 ;
- (d) whether the Fund was abolished in 1926 ;
- (e) if the answers to (a), (b), (c) and (d) are in the affirmative, what was the balance on account of the Fund at the date of its abolition ; and
- (f) what became of the balance of the Fund ?

THE HONOURABLE MR. A. C. McWATTERS :

- (a) to (d) Yes.
- (e) Rs. 10,75,654.
- (f) The balance of the Fund was credited to the Capital Account of the Posts and Telegraphs Department.

NUMBER OF OFFICES IN A POSTAL INSPECTOR'S SUB-DIVISION.

9. THE HONOURABLE MR. G. S. KHAPARDE : Will the Government be pleased to state :

- (a) whether there was a rule that one Postal Inspector's sub-division should not ordinarily consist of more than 40 offices ;
- (b) whether this rule was observed for a number of years ;
- (c) whether this rule was abrogated ; and
- (d) if so, why ?

THE HONOURABLE MR. A. C. McWATTERS : (a) This is substantially correct though the rule was worded differently.

- (b) Yes, from 1889 to 1895.
- (c) Yes, in 1906.
- (d) The rule became obsolete in 1895 when a new standard was introduced based on the number of days' actual inspection which an Inspector was expected to carry out, but it was not formally cancelled until 1906.

DUTIES OF INSPECTORS OF POST OFFICES.

10. THE HONOURABLE MR. G. S. KHAPARDE : (a) Is it a fact that, with a view to extend and improve postal facilities in rural areas since the last 4 or 5 years, the number of new post offices, letter boxes, postmen, village postmen and runners, etc., is being increased every year ?

(b) Is it a fact that the Inspectors of Post Offices are now required to inspect each post office twice a year instead of only once a year ?

(c) Is it a fact that they are also required to pay as many surprise visits to post offices as possible ?

(d) Is it a fact that they are also required to take up investigation, inquiries and conduct prosecution cases relating to the Post Office ?

(e) Is it a fact that during recent years they were vested with full powers of transfers, appointments, punishments and dismissals of all officials of lower rank including postmen and village postmen, etc., etc. ?

(f) Will the Government be pleased to state the number of additional appointments of Inspector of Post Offices sanctioned throughout India and Burma during the years 1925, 1926, 1927 according to each Circle and also in the Central Circle separately for the same period ?

THE HONOURABLE MR. A. C. McWATTERS :

(a) Yes.

(b) Yes ; the second inspection, however, is not detailed.

(c) No, but when on tour Inspectors are required to pay unexpected visits to post offices at places through which they travel.

(d) Inspectors are required to take up investigations and inquiries, but do not conduct prosecutions in all cases.

(e) Yes.

(f) 3 in 1925, 2 in 1926 and 6 in 1927. 7 more appointments are being sanctioned. The sanctioned number includes 2, 1 and 1, respectively, for the Central Circle.

APPOINTMENT OF CLERKS FOR THE OFFICES OF INSPECTORS OF POST OFFICES.

11. THE HONOURABLE MR. G. S. KHAPARDE : (a) Is it a fact that no clerk is sanctioned for the office of the Inspector of Post Offices ?

(b) Is it a fact that they are in consequence required to do in addition to other legitimate duties correspondence, copying work, filing papers, pasting of correction slips, maintenance of records, preparation of due statements and returns and issuing of reminders ?

(c) Is it a fact that the All-India Postal Union and various Provincial associations have been pressing hard for the urgent necessity of sanctioning at least one clerk for the office of Inspector of Post Offices since the last several years ?

THE HONOURABLE MR. A. C. McWATTERS :

(a) Yes.

(b) Yes, but work of the nature described does not take up much of the Inspectors' time.

(c) Yes.

INCREASE OF THE TRAVELLING ALLOWANCE OF POSTAL OFFICIALS IN BERAR.

12. THE HONOURABLE MR. G. S. KHAPARDE : (a) Is it a fact that the Central Provinces Government have increased the travelling allowance of officials subordinate to it by over 100 per cent. ?

(b) Is it a fact that the travelling allowance of touring officials in the Postal Department in Berar has not been specially increased ?

(c) Are the Government aware that the postal officials in Berar have in consequence suffered serious loss and hardship since the last several years ?

(d) Do the Government propose to sanction a similar increase to postal officials at least with effect from 1st January, 1928, if not with retrospective effect ?

THE HONOURABLE MR. A. C. McWATTERS :

(a) No.

(b) So far as mileage and halting allowances are concerned touring officials of the Post Office in Berar draw the same rates as those prescribed by the Central

Provinces Government for its own officials except that postal officials for whom special rates have been prescribed in the Civil Service Regulations are allowed the option of drawing those special rates, which have not been increased, if more advantageous to them.

(c) No.

(d) The question of the revision of the rates of travelling allowance admissible to Government servants in the Posts and Telegraphs Department for journeys on tour is under examination.

TIME-TESTS FOR SUB AND HEAD POST OFFICES, THE RAILWAY MAIL SERVICE, ETC.

13. THE HONOURABLE MR. G. S. KHAPARDE: Will the Government be pleased to lay on the table the old and the revised time-tests prescribed for the sub and the head post offices, the Railway Mail Service, Dead Letter Offices and Divisional Offices?

THE HONOURABLE MR. A. C. MCWATTERS: A copy of letter No. C. F.-4, dated the 15th August 1922, from the Director General of Posts and Telegraphs, to all Postmasters-General dealing with the old and revised time-tests for head and sub-post offices is laid on the table. A statement showing the time-test in force for the Railway Mail Service is also laid on the table. The question of revising it is under consideration. A statement showing the old and revised time-tests for Dead Letter Offices is laid on the table. A further revision of this time-test is under consideration. Owing to the difficulty in finding a suitable formula, there is no time-test for Divisional Offices.

LETTER FROM THE DIRECTOR GENERAL OF POSTS AND TELEGRAPHS, SIMLA, TO ALL POSTMASTERS GENERAL, AND DEPUTY POSTMASTER GENERAL, SIND AND BALUCHISTAN, NO. C. F.-4, DATED THE 15TH AUGUST 1922.

With reference to the Director-General's demi-official letter No. C. F.-4, dated the 21st September 1921, I am directed to say that the suitability of the time allowances for dealing with the various classes of work done by the Post Office was investigated by Messrs. Shout and Naidu, whose recommendations, as shown in the two accompanying statements, have been accepted by the Director General. This time-test will now replace the one hitherto in use.

2. Reductions have been effected in the time-allowances in respect of paid unregistered articles of the letter mail posted for despatch and received for delivery, the most marked instance being that applicable to paid articles received for delivery addressed in a *vernacular*, the time to be allowed for which has been nearly halved. The time allotted to a head office in respect of money orders issued by its sub-offices has also been considerably reduced, while the allowances for insured letters received in sorting and posted for despatch have been slightly curtailed. On the other hand, the allowances for value-payable registered articles of the letter mail received for delivery as well as for parcels in general have been increased and a small increase has been allowed for telegraphic and value-payable money orders paid. A head office will be allowed an extra 5 minutes for each sub-office in account with it and an additional 2 minutes will be given to the account office in respect of every one of its branch offices. Further, the period of 8 minutes credited to an office in respect of its dealings with each village postman on his return from his beat has been raised to 18 minutes, this allowance also being intended to cover the work on the day of departure of which no account has been taken hitherto. In addition, provision has now for the first time been made for work performed in connection with Cash Certificates and Government Securities.

3. The Director General has also been pleased to approve of the adoption of the following new principles in connection with the application of the time-test :

- (1) Deputy and Assistant Postmasters are not to be reckoned as part of the clerical staff of a post office.
- (2) A head clerk, who has been vested with the powers of a Postmaster in any branch or branches is to be taken as the equivalent of only *half* a clerk for purposes of the time-test.
- (3) All offices with more than 15 clerks are to have a separate correspondence clerk.
- (4) Every head office is to have an accountant outside the scope of the time-test.
- (5) A separate treasurer in all 1st class head offices and in other offices if justified by the amount of treasury work.

4. Further, it has been decided that when as usually happens, the total staff of an office as justified by the time-test includes a fraction, an additional clerk should be sanctioned for the following fractions :

- (a) in single-handed offices 1/3 or more.
- (b) in offices with 1 or 2 clerks in addition to the Postmaster $\frac{1}{4}$ or more.
- (c) in other offices $\frac{1}{4}$ or more.

HEAD OFFICE.

No.	Class of work.	Daily average amount of work as per statistical statement.	Time allowance for each article or transaction.		Total time for work in column 3.	Grand total for each Department.
			Pre-sent.	As accepted by the D. G. on the recommendations of Messrs. Shout and Naidu on conditions existing before simplification.		
1	2	3	4	5	6	7
	SORTING.					
	<i>Unregistered letter mail articles.</i>					
1	Received in sorting .		·08	·08	..	..
	Posted for despatch at the office itself—					
2	Addressed in English .		·16	·12	..	..
3	Addressed in vernacular		·33	·3		..
	DELIVERY.					
	Received for delivery from the office itself—					
4	Paid articles addressed in English . . .	..	·16	·12	..	..
5	Paid articles addressed in vernacular .		·33	·18	..	..
6	All unpaid articles .	..	·5	·5	..	..

HEAD OFFICE—*contd.*

No.	Class of work.	Daily average amount of work as per statistical statement.	Time allowance for each article or transaction.		Total time for work in column 3.	Grand total for each Department.
			Pre-sent.	As accepted by the D. G. on the recommendations of Messrs. Shout and Naidu on conditions existing before simplification.		
1	2	3	4	5	6	7
	REGISTRATION.					
	<i>Ordinary registered letters.</i>					
7	Received in sorting .		1	1		..
8	Posted for despatch .		3	3		..
9	Received for delivery .		2.5	2.5		..
	INSURED LETTERS.					
10	Received in sorting .		3	2.5	..	..
11	Posted for despatch .	..	9.5	8	..	..
12	Received for delivery .		6.5	6.5	..	
	<i>V. P. Registered Articles of the letter mail.</i>					
13	Received in sorting .	..	1.16	1.16	..	..
14	Posted for despatch .		3.5	3.5	..	..
15	Received for delivery .		4	5		..
	PARCEL,					
	<i>Ordinary registered parcels.</i>					
16	Received in sorting .	..	1.16	1.16	..	
17	Posted for despatch .	..	3	3.25	..	..
18	Received for delivery .	..	2.5	3	..	..
	<i>Insured parcels.</i>					
19	Received in sorting .	..	3	3	..	..
20	Posted for despatch .	..	6.5	7	..	..
21	Received for delivery .	..	5.5	7	..	..

HEAD OFFICE—*contd.*

No.	Class of work.	Daily average amount of work as per statistical statement.	Time allowance for each article or transaction.		Total time for work in column 3.	Grand total for each Department.
			Pre-sent.	As accepted by the D. G. on the recommendations of Messrs. Shout and Naidu on conditions existing before simplification.		
1	2	3	4	5	6	7
	PARCEL—<i>contd.</i>					
	<i>V. P. registered parcels.</i>					
22	Received in sorting .		1·16	1·3		..
23	Posted for despatch .		3·5	3·75	..	..
24	Received for delivery .		4	5		
	<i>V. P. unregistered articles.</i>					
25	Received in sorting .		·66	Abolished.		
26	Posted for despatch .		2·5			
27	Received for delivery .		3·5			
	<i>Ordinary unregistered parcels.</i>					
28	Received in sorting .	..	·3	·3	..	..
29	Posted for despatch .	..	1	1		..
30	Received for delivery .	..	·8	1	..	
31	Receipts for inward foreign parcels and inland parcels charged with customs duty delivered by sub-offices .	..	·3	·3	..	..
	MONEY ORDER.					
	<i>Ordinary and v. p. money orders (Inland and foreign.).</i>					
32	Issued by h. o. . .	..	3·5	3·5	..	..
33	Issued by s. o. . .	..	·57	·35	..	..
34	Paid by h. o. Ordinary .		2·5	2·5	..	..
35	Paid by h. o. v. p. .	..	3	3·1	..	..
36	Paid by s. o. . .	..	·5	·5	..	..

HEAD OFFICE—*contd.*

No.	Class of work.	Daily average amount of work as per statistical statement.	Time allowance for each article or transaction.		Total time for work in column 3.	Grand total for each Department.
			Pre-sent.	As accepted by the D. G. on the recommendations of Messrs. Shout and Naidu on conditions existing before simplification.		
1	2	3	4	5	6	7
	MONEY ORDER—<i>contd.</i>					
	<i>Telegraphic money order.</i>					
37	Issued by h. o. . . .		9	9	..	..
38	Issued by s. o. . . .		1	1	..	..
39	Paid by h. o. . . .		5.5	6	..	..
40	Paid by s. o. . . .		1	1	..	..
	<i>British Postal Orders.</i>					
41	Sold . . . . .	..	2.5	2.5	..	..
42	Paid . . . . .	..	3	3	..	..
	SAVINGS BANK.					
43	H. O. deposits . . . .	..	5	5	..	..
44	S. O. deposits . . . .	..	4	4	..	..
45	H. O. withdrawals . . .	..	8	8	..	..
46	S. O. withdrawals . . .	..	5	5	..	..
	SUB-ACCOUNT.					
47	Dealing with each s. o. .	..	25	30	..	..
48	Dealing with each b. o. direct account		11	13	..	..
49	Dealing with each village postman to cover both departure on and return from beat . . . . .	..	8	18	..	..
	CASH CERTIFICATES.					
50	Issued by h. o. itself . .	..		6.25	..	..
51	Issued by s. o. in account with it . . . . .	..	..	3.3	..	..
52	Discharged by h.o. itself . .	..	..	5.25	..	..
53	Discharged by s. o. in account with it . . . .	..	..	2.3	..	..
	GOVERNMENT SECURITIES.					
54	Bought . . . . .	..	..	9	..	..
55	Sold . . . . .	..	..	9	..	..

SUB-OFFICE.

No.	Class of work.	Daily average amount of work as per statistical statement.	Time allowance for each article or transaction.		Total time for work in column 3.	Grand total for each Department.
			Pre-sent.	As accepted by the D. G. on the recommendations of Messrs. Shout and Naidu on conditions existing before simplification.		
1	2	3	4	5	6	7
	SORTING.					
	<i>Unregistered letter mail articles.</i>					
1	Received in sorting .		·08	·08	..	..
	Posted for despatch at the office itself—					
2	Addressed in English .	..	·16	·12	..	..
3	Addressed in vernacular	..	·33	·3	..	..
	DELIVERY.					
	Received for delivery from the office itself—					
4	Paid articles addressed in English . .	..	·16	·12	..	..
5	Paid articles addressed in vernacular . .	..	·33	·18	..	..
6	All unpaid articles .	..	·5	·5	..	..
	REGISTRATION.					
	<i>Ordinary registered letters.</i>					
7	Received in sorting .	..	1	1	..	..
8	Posted for despatch .	..	3	3	..	..
9	Received for delivery .	..	2·5	2·5	..	..
	<i>Insured letters.</i>					
10	Received in sorting .	..	3	2·5	..	..
11	Posted for despatch .		9·5	8	..	..
12	Received for delivery .	..	6·5	6·5	..	..

SUB-OFFICE—*contd.*

No.	Class of work.	Daily average amount of work as per statistical statement.	Time allowance for each article or transaction.		Total time for work in column 3.	Grand total for each Department.
			Pre-sent.	As accepted by the D. G. on the recommendations of Messrs. Shout and Naidu on conditions existing before simplification.		
1	2	3	4	5	6	7
	REGISTRATION— <i>contd.</i>					
	<i>V. P. registered articles of the letter mail.</i>					
13	Received in sorting .	..	1·16	1·16	..	..
14	Posted for despatch .		3·5	3·5	..	..
15	Received for delivery .	..	4	5	..	..
	PARCELS.					
	<i>Ordinary registered parcels.</i>					
16	Received in sorting .	..	1·16	1·16	..	..
17	Posted for despatch .		3	3·25	..	..
18	Received for delivery .	..	2·5	3	..	..
	<i>Insured parcels.</i>					
19	Received in sorting .	..	3	3	..	..
20	Posted for despatch .		6·5	7	..	..
21	Received for delivery .	..	5·5	7	..	..
	<i>V. P. registered parcels.</i>					
22	Received in sorting .	..	1·16	1·3	..	..
23	Posted for despatch .	..	3·5	3·75	..	..
24	Received for delivery .		4	5	..	..
	<i>V. P. unregistered articles.</i>					
25	Received in sorting .	..	·66	Abolished	..	..
26	Posted for delivery .	..	2·5			
27	Received for delivery .	..	3·5			
	<i>Ordinary unregistered parcels.</i>					
28	Received in sorting .	..	·3	·3	..	..
29	Posted for despatch .		1	1	..	..
30	Received for delivery .	..	·8	1	..	..

SUB-OFFICE—contd.

No.	Class of work.	Daily average amount of work as per statistical statement.	Time allowance for each article or transaction.		Total time for work in column 3.	Grand total for each Department.
			Pre-sent.	As accepted by the D. G. on the recommendations of Messrs. Shout and Naidu on conditions existing before simplification.		
1	2	3	4	5	6	7
	MONEY ORDER.					
	<i>Ordinary and V. P. money orders (Inland and Foreign).</i>					
31	Issued		3.5	3.5		..
32	Paid Ordinary . .	..	2.5	2.5	..	
33	Paid V. P. . . .	..	3	3.1	..	..
	<i>Telegraphic Money Orders.</i>					
34	Issued . . . .	..	9	9	..	..
35	Paid . . . . .	..	5.5	6		..
	<i>British Postal Orders.</i>					
36	Sold . . . . .	..	2.5	2.5		..
37	Paid . . . . .	..	3	3		..
	SAVINGS BANK.					
38	Deposits . . . .	..	4	4	..	..
39	Withdrawals . .	..	5	5	..	..
	SUB ACCOUNT.					
40	Dealing with each Branch Office . . . .	..	11	13	..	..
41	Dealing with each village postman to cover both departure and return from beat . . .	..	8	18	..	..
42	Dealing with the Head Office . . . .	..	80	80		..
	CASH CERTIFICATES.					
43	Issued . . . .	..		5.75		..
44	Discharged . . .		..	5	..	..
	GOVERNMENT SECURITIES.					
45	Bought . . . .	..	..	6.75	..	..
46	Sold . . . . .	..	..	6.75	..	..

Introduction of a time-test for determining the strength of sorting sections and sorting mail offices.

TIME BASIS.

For computing the work of a Railway Mail Service sorting section or sorting mail office.

Department and class of work.

Time-basis.

MAIL DEPARTMENT.

	M.	S.	
Bags received	0	10	each.
Bags despatched	0	10	"
Transit bags opened	3	0	"
Transit bags closed	3	0	"
Mail lists received	0	30	"
Mail lists despatched	3	20	"
Mail bags opened	3	0	"
Mail bags closed	3	0	"
Return train bags opened	10	30	"
Return train bags closed	10	30	"

SORTING DEPARTMENT.

Unregistered articles received	0	2½	"
Unregistered articles despatched	0	2½	"

REGISTRATION DEPARTMENT.

Registered bags opened	1	5	"
Registered bags closed	1	15	"
Registered letter mail articles received	0	20	"
Registered letter mail articles despatched	0	15	"

PARCEL DEPARTMENT.

Parcel bags opened	1	30	"
Parcel bags closed	2	25	"
Insured bags opened	4	15	"
Insured bags closed	4	40	"
Registered parcel mail articles received	0	40	"
Registered parcel mail articles despatched	0	25	"
Unregistered parcel mail articles received	0	20	"
Unregistered parcel mail articles despatched	0	10	"

TIME-TEST FOR DEAD LETTER OFFICE.

Old Time-Test.

(i) The total average number of articles to be disposed of daily by a disposing clerk should be 120 of all classes after excluding those transferred to other Dead Letter Offices and foreign countries.

(ii) This standard takes into account transcription work for which, therefore, no further allowance should be made.

(iii) In the calculation head clerks should be left out of account but deposit clerks included.

(iv) The staff of non-disposing clerks should be dependent on the number of disposing clerks, the existing ratio between the two being maintained.

New Time-Test.(1) *Unregistered letters—*

- 1 disposing clerk for every 160 articles.
- 1 head clerk for a group of 10 clerks. He should deal with all irregularities noticed, supervise the work of the clerks under him and examine a certain percentage of work done by each disposing clerk.
- 1 deposit clerk for 30,000 articles.

(2) *Registration Branch—*

- 1 disposing clerk for every 45 registered letters.
- 1 head clerk for a group of 7 to 10 clerks. He should open the registered bags, check the articles received, note irregularities, etc., distribute the articles among the disposing clerks, keep undisposed of articles in his custody and check the books and records.
- 1 Deposit clerk for 1,000 to 1,500 registered letters in deposit.

(3) *Parcel Branch—*

- 1 disposing clerk for every 30 parcels.
- 1 head clerk for a group of 5 to 10 clerks. He should open the parcel bags, check the number of articles received, notice irregularities, weigh all damaged and insured articles and have them protected in the presence of the manager if they cannot readily be disposed of, distribute the articles among the disposing clerks and check the books and records.
- 1 deposit clerk for 600 to 1,000 parcels kept in deposit and in store.

(4) *Mail and sorting.*—The same standard as fixed for the post office. According to the revised time test of 1922, 12, 18 or 5 minute is allowed to the sorting branch of a post office for each article posted for despatch according as it is a paid article addressed in English, a paid article addressed in vernacular, or an unpaid article, respectively.

(5) *Reference Branch.*—1 reference clerk for 35 references and enquiries.

(6) *Correspondence and Translation.*—It was considered to be difficult to fix any standard for this branch. Roughly speaking 1 clerk for 100 cases received and sent was considered to be necessary.

MINIMUM PAY OF THE CLERICAL CADRE OF THE POSTAL DEPARTMENT IN THE BERAR, WARDHA AND KHANDWA DISTRICTS OF THE CENTRAL PROVINCES.

14. THE HONOURABLE MR. G. S. KHAPARDE: (a) Is it a fact that the minimum pay of the clerical cadre of the Postal Department in the Berar, Wardha and Khandwa Districts of the Central Provinces has not been raised at all during the recent revision?

(b) Do the Government intend to grant similar relief to the postal and Railway Mail Service clerks in Berar, Wardha and Khandwa, etc., in the Central Circle by providing for an increase in the ensuing Budget?

(c) Did the head of the Circle recommend any special pay for the officials of these places?

THE HONOURABLE MR. A. C. MCWATTERS:

(a) Yes.

(b) and (c) No.

GRANT OF HOUSE RENT ALLOWANCE TO POSTMEN AND OTHER LOWER GRADE OFFICIALS IN THE BERAR, KHANDWA AND WARDHA DISTRICTS OF THE CENTRAL PROVINCES.

15. THE HONOURABLE MR. G. S. KHAPARDE: (a) Is it a fact that no house rent allowance is sanctioned for postmen and other lower grade officials in the Berar, Khandwa and Wardha Districts of the Central Provinces?

(b) Is it a fact that the officials of the class mentioned in (a) serving in Nagpur and Jubbulpore head offices have been given a small house rent allowance ?

(c) Will the Government be pleased to make provision for the grant of house rent allowance mentioned above in the ensuing Budget ?

THE HONOURABLE MR. A. C. McWATTERS :

(a) Yes.

(b) Yes.

(c) Provision is being made in the ensuing Budget to remove any grievances of this nature that may be found on further investigation to require action.

TOTALS OF THE FACE VALUES OF SECURITIES OF THE GOVERNMENT OF INDIA
HELD IN THE CURRENCY RESERVE.

16. THE HONOURABLE SIR PHIROZE SETHNA : Will Government be pleased to give :

(a) a list showing the totals of the face values of the different securities of the Government of India held in the Currency Reserve (excluding Indian Treasury Bills) on 1st April 1927 and also on 31st December 1927 ?

(b) the average price paid for each different class of securities ?

(c) information if the amount of such securities held on 31st December 1927 was smaller than that held on 1st April 1927 and, if so, when and which class of securities were sold and at what average prices ?

(d) information if the Currency Reserve suffered any loss by reason of sales referred to in (c) above and, if so, the total amount of such loss ?

(e) information if the amount of loss, if any, on sale of securities was made up by the creation of Treasury Bills ?

THE HONOURABLE MR. E. BURDON : I would refer the Honourable Member to the Report of the Controller of the Currency for 1926-27, which gives the face values and cost price of the different securities of the Government of India held in the Reserve on the 31st March, 1927. Similar information regarding the securities held on the 31st March 1928 will be given in the Report for 1927-28. I regret that I cannot give the further information for which the Honourable Member asks or indeed any information beyond that which is contained in the annual reports of the Controller of the Currency and in the published weekly accounts of the Paper Currency Reserve. It would not be in the public interest to do so.

PROVISION AGAINST DEPRECIATION IN SECURITIES HELD IN THE CURRENCY
RESERVE.

17. THE HONOURABLE SIR PHIROZE SETHNA : Have Government considered the advisability of starting an investment Reserve Account to provide against depreciation in securities held in the Currency Reserve on the lines of a similar account maintained in England in relation to the Currency Notes ?

THE HONOURABLE MR. E. BURDON : I invite the attention of the Honourable Member to clause 25 of the Gold Standard and Reserve Bank of India Bill as approved by the Joint Committee which provides for the gold and rupee securities in the Reserve being valued at the market rate from time to time instead of at cost price as now provided in the Paper Currency Act.

RE-INTRODUCTION OF ONE-RUPEE NOTES.

18. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state if they propose to accept the recommendations for the re-introduction of one-rupee notes made in paragraph 72 of the Royal Currency Commission's Report? If so, from when? If not, why not?

THE HONOURABLE MR. E. BURDON: I invite the attention of the Honourable Member to the note on clause 21 in the Statement of Objects and Reasons appended to the Gold Standard and Reserve Bank of India Bill, 1927.

GOLD HELD IN THE GOLD STANDARD RESERVE.

19. THE HONOURABLE SIR PHIROZE SETHNA: Will Government be pleased to state:

- (a) what was the amount of gold held in the Gold Standard Reserve on the last day of each month during the calendar year 1927?
- (b) if they propose to give effect to the recommendations made in the Royal Currency Commission's report to fortify the gold holding in the Reserves?
- (c) if not, why not?

THE HONOURABLE MR. E. BURDON: (a) This information is contained in the monthly communiques issued by the Controller of the Currency. The amount of gold held on the last day of each month during the year 1927 was as follows:

	£
January	Nil
February	424,083
March	1,730,134
April to December	2,152,334

(b) Yes.

(c) Does not arise.

MESSAGE FROM HIS EXCELLENCY THE GOVERNOR GENERAL.

THE RAILWAY BUDGET.

THE HONOURABLE THE PRESIDENT: I have a message to the Council from His Excellency the Governor General. The Message is in the form of the following order:

"For the purposes of sub-section (1) of section 67A of the Government of India Act, and in pursuance of Rules 43, 46 and 47 of the Indian Legislative Rules and of Standing Order 70 of the Council of State Standing Orders, I, Edward Frederick Lindley, Baron Irwin, hereby appoint the following days for the presentation to the Council of State and to the Legislative Assembly of the statement of the estimated annual expenditure and revenue of the Governor General in Council in respect of Railways and for the subsequent stages in respect thereof in the Council of State and in the Legislative Assembly, namely:

Monday, 20th February	Presentation in both Chambers.
Wednesday, 22nd February	General discussion in the Legislative Assembly.
Thursday, 23rd February	General discussion in the Council of State.
Friday, 24th February	} Voting of demands for grants in the Legislative Assembly.
Saturday, 25th February	
Monday, 27th February	
Tuesday, 28th February	

IRWIN,

Viceroy and Governor General."

Delhi;

The 26th January 1928.

(The Message was received by the Members of the Council standing.)

CHITTAGONG PORT (AMENDMENT) BILL.

THE HONOURABLE SIR GEOFFREY CORBETT (Commerce Secretary) : Sir, I move for leave to introduce a Bill further to amend the Chittagong Port Act, 1914, for certain purposes.

This Bill, Sir, is mainly of local interest. It has for some years been desired to develop and improve the port of Chittagong so as to make it an adequate outlet to the sea for the eastern part of Bengal and the Province of Assam. At present the port is a minor port, and is therefore a provincial subject under the Devolution Rules. The Government of India have been requested by the Government of Bengal, with the concurrence of local interests, to declare it to be a major port and to become responsible for its future development and administration. The Government of India have agreed to do this, and the object of this Bill is to give statutory effect to this undertaking. Its main provisions are a formal transfer of statutory powers from the Local Government to the Governor General in Council. At the same time, provision is made to reconstitute the Board of Commissioners for the port so as to give more effective representation to local interests.

Sir, I move.

The motion was adopted.

THE HONOURABLE SIR GEOFFREY CORBETT : Sir, I introduce the Bill.

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 re-committed to the Select Committee.

Honourable Members will remember that this Bill was introduced with a view to amend section 10 of the Indian Limitation Act and Articles 133 and 134, both of which relate to action against trustees. In the Select Committee considerable alterations were made in the Bill, and it was suggested that the Bill should be re-circulated. It has since been re-circulated and a variety of opinions have been received. I therefore now move that the Bill be re-committed to the Select Committee with a view to consider the views which have been expressed with regard to the new amendments.

Sir, I move.

The motion was adopted.

HINDU FAMILY TRANSACTIONS BILL.

THE HONOURABLE THE PRESIDENT : The Council will now resume consideration of the Hindu Family Transactions Bill, of which they began consideration in the Simla Session. The position is not entirely clear as to what happened in Simla. The Honourable the Law Member moved that the Bill, as reported by the Select Committee, be taken into consideration. There was a motion then that the consideration of the Bill be adjourned. The House, as a matter of fact, had not yet decided to take the Report of the Select Committee into consideration, and I think, if the House is now prepared to do so, I should put a motion to that effect so that we may proceed with the Bill and the amendments of which notice has been given.

THE HONOURABLE MR. P. C. DESIKA CHARI (Burma : General) : I want to oppose the consideration of the Bill, Sir.

THE HONOURABLE THE PRESIDENT : The Honourable Member made one speech in Simla and he then entered into a good deal of detail. But I understand that his chief object then was to obtain the postponement of the consideration of the Bill. I hope if I call him that he will not repeat what he has already said on the Bill.

THE HONOURABLE MR. P. C. DESIKA CHARI : Sir, I shall be very brief. Here I do not want to quote from Mayne's Hindu Law which I quoted on the last occasion to show that this measure, though it appears to be a small measure, proposes to take away the substantive right of a vast section of the people, that is, the Hindus. Under the Hindu law it is now well settled by decisions of Courts which are re-affirmed in the Privy Council that partitions need not be evidenced by writing nor need they be registered. They can be evidenced by overt acts of all or any of the individual members forming the coparcenery, or they may be left to be inferred by a course of conduct. That was the position that I took up then, and I do not think it is necessary to labour this point. Proceeding from this what I state is that this is a substantive right which the people have been enjoying for ages. Now, the object of the present Bill is to simplify the work of the Courts ; that is, on the grounds of public convenience or inconvenience the substantive rights of the people are proposed to be affected and curtailed. I say, Sir, on principle that such a thing ought not to be allowed in a Bill which has got a humbler object in view, and that is to minimise the work of the Courts. It may no-doubt be inconvenient to have a large number of cases and to have some complications in those cases ; but after all, the Bill affects properties of joint undivided families of the value of one thousand rupees. If Honourable Members will give their support to this measure they will see that if a Hindu has a small dilapidated house in a small village and an acre of land, that property will come under the mischief of this section. Most of our people are illiterate and ignorant, and I think it will be a great hardship upon these small landed proprietors or labourers who have some income from these properties to be put to trouble by compelling them to reduce all their partitions to writing. If all their partitions are to be reduced to writing, to make them suffer the penalty of paying stamp duty and registration fee would be a further hardship. Sir, when questions of substantive rights are involved, I submit considerations of public expediency and convenience of Courts ought not to override substantive rights. That is my position, and I do not see any reason why the Government should introduce a measure of taxation in the shape of stamp duty and try to penalise this section of the Hindu public. Why do not the Government introduce a measure like this for the other communities as well ? Why take hold of the Hindu community alone ? Is it because the Government think that they will tamely submit to these measures, even though it may be a great hardship to them ? I submit, Sir, that this measure should not be considered especially when it is not understood by the people at large. I further submit that Government should not hasten with this measure which will cause untold hardship to the small zemindars in the villages.

Sir, I oppose this motion.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA (United Provinces Northern : Non-Muhammadan) : Sir, being new to the Council, I do not know through what previous stages the Bill has passed, and if I say anything which does not conform to the regulations I hope, Sir, you will correct me. I oppose the consideration of the Bill on the ground that it goes to affect the personal law of the Hindus. The very cherished rights that the Hindus have, namely, of a unilateral declaration to sever the status of the joint Hindu family, is being affected by this Bill and the opinions that have been expressed

from various quarters, including the opinion of an eminent Chief Justice, the only Hindu Chief Justice in the whole of India, those opinions expressly say that the measure is not one suited to the requirements of the Hindus. All other opinions that have been collected, mostly of Hindu judges and of Hindu lawyers, also go to oppose the Bill. I would place the opposition on the ground that, inasmuch as it is not a question of procedure but of the personal law of the Hindus, it should not be legislated in this manner. The effect of legislation of this sort would be that the poor families of Hindus would be prejudicially affected; they will have not only to pay the stamp duty and registration fees, but they will also have to consult a lawyer or some clever draftsman for the purpose of drafting a partition deed or drafting other instruments of this sort. I think that legislation of this sort which is highly controversial should have proceeded from the popular Chamber, and in my opinion the Civil Justice Committee exceeded their jurisdiction in going about affecting the personal law instead of the procedure of the Courts.

Sir, I oppose the consideration of the Bill.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN (Punjab : Nominated Non-Official) : Sir, there are always two sides of the shield, and naturally where a thing prejudicially affects one society or set of people it is good for the other. We, Sir, the zemindars do feel that, though we have to pay on every biggah or every half a biggah of land, the society which is the wealthiest do not pay till they get an income of Rs. 2,000; and I think everybody in India does feel that. Now, of course, when the wealthy people have to pay, they naturally do not like it, and I do feel, Sir, that really where the money lies, that is the place to tackle for the Government revenues.

THE HONOURABLE THE PRESIDENT : The Honourable Member seems to misunderstand the Bill. It is not a fiscal measure.

THE HONOURABLE COLONEL NAWAB SIR UMAR HAYAT KHAN : I am for the consideration of the Bill and not against it; that is what I want to say.

THE HONOURABLE RAI BAHADUR LALA RAM SARAN DAS (Punjab : Non-Muhammadan) : Sir, I rise to oppose the Bill and fully endorse what my Honourable friend, Mr. Narayan Prasad Ashthana, has said in this respect. In my opinion Government ought not to intervene in the religious law of the Hindus.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I do think there is considerable misapprehension and misunderstanding of the Bill on the part of the Honourable Members who have spoken. No attempt whatever is made in this Bill to affect the rights of any Hindu to partition his property. All that it attempts to do is that in the case of partition of immoveable property of the value of more than one thousand rupees, it should be in writing. Now, Hindus like any other communities have the right to sell properties, but the Registration Act says if they are to sell properties, immoveable properties, it has got to be registered. All that it does is to make a similar condition. It does not prevent any Hindu from partitioning his property in any manner he likes. Every lawyer knows that nothing gives rise to so much litigation and uncertainty as these cases of partition; whether a certain property has been partitioned or not generally comes into question years after the partition has taken place, and if there is nothing in writing it is very often difficult to prove whether there has been a partition or there has not been a partition. We know many instances in which joint brothers have lived separately and at the same time the properties have been kept together. But years afterwards a question is raised that there has been a partition, and evidence is given that

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so and so lived separately and so and so messed separately and all sorts of questions are gone into with a view to ascertaining whether there has been a partition or not. A simple writing would prevent all that, and if the Honourable Members have read the Bill they will find that this Bill is to come into operation only after the Registration Act has provided a very small fee for the purpose of registration; so that it is not intended for the purpose of raising revenue in any manner. The sole object of the Bill is not to take away the existing rights of the Hindus but merely to see that those rights are made definite in writing. Therefore, I am sorry that Honourable Members have opposed it. I think if they will reconsider the matter they will find that there has been some misapprehension. So far as this part of the Bill is concerned the Hindu Members of the Select Committee, such as Sir Sankaran Nair, Mr. Ramadas Pantulu, Mr. Kumar Sankar Ray Chaudhury, and Sir Manmohandas Ramji, have no objection. They have put up a minute of dissent on other points in regard to which there is a notice of amendments, but so far as the main framework of the Bill is concerned, that is to say that the partition of immovable property over a thousand rupees should be registered, no objection was taken and they felt that it was a very useful provision.

THE HONOURABLE THE PRESIDENT : The question is :

“ That the Bill to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu Law shall, in certain cases, be effected by written and registered instruments, as reported by the Select Committee, be taken into consideration.”

The motion was adopted.

THE HONOURABLE THE PRESIDENT : The question is :

“ That clause 2 do stand part of the Bill.”

THE HONOURABLE MR. P. C. DESIKA CHARI : Sir, I beg to move the amendment that stands in my name and which runs as follows :

“ (a) That the following words be added at the end of the proviso to sub-clause (1) of clause 2, namely :—

‘ or in any written notice claiming partition ’.”

(b). . . .

THE HONOURABLE THE PRESIDENT : I think we had better take the amendments one at a time.

THE HONOURABLE MR. P. C. DESIKA CHARI : Sir, this is only a simple amendment. Under the present law notice in writing claiming partition effects the severance of status of a member of a joint Hindu family, and I do not think it is necessary for me to quote any authority in support of this position. Since the object of the present measure is to have something in writing to show that there has been a partition, I think the old law as regards the giving of a written notice may be allowed to stand as it is because the notice will be in writing and unless this amendment is made it will be necessary to have the notice also registered. I find the Select Committee was also anxious that it should not affect the right of any member of a Hindu family to effect a partition by giving written notice claiming partition. That is the general trend of opinion among the members of the Select Committee, and various opinions have been expressed with a view to keep intact the rights which people have of claiming partition by written notice also.

Sir, I move my amendment.

THE HONOURABLE MR. S. R. DAS : Sir, I oppose this amendment. This matter was very fully considered in the Select Committee. I would point out to Honourable Members that section 2 after requiring that partition should be by a written and registered document further provides that if there is any unilateral declaration or expression of intention to separate that should also be in writing. Now it was necessary according to the Select Committee to consider what sort of unilateral declaration or expression of intention should be in writing and what should not. They felt that so far as that declaration or expression of intention was embodied in a public document, that is a document of which people may be said to have notice, or of which proof can be easily given, or of which copies can be obtained, that a declaration made in such a document should not require registration, and the proviso therefore provided:

“ Provided that a unilateral declaration or expression of intention to separate shall not require to be registered if it is contained in a public document, or in a plaint or written statement of defence presented in a suit before a Civil or Revenue Court, or in any written submission of any matter to arbitration.”

That is to say, according to the opinion of the Select Committee, if it was in a document, either a public document, or a document like a plaint, or a written statement, or a submission to arbitration, which has to be in writing, and of which copies can be obtained, and of which notice has to be given to the other side, then there was no necessity for registering it, but all other documents of which other parties may not have notice should be registered. Now, a notice claiming partition may be merely a private notice which may not reach the other side at all, and therefore, if you do not require registration of that notice, it puts the other side in a difficulty, and questions may arise whether as a matter of fact there has been a notice or not. Therefore, this matter of excluding notice was considered by the Select Committee and they felt that that should require registration so as to affect the other parties who are entitled to the property with notice and that registration should be excluded only in the case of public documents of the sort I have mentioned. I accordingly oppose this amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

“ That clause 2 do stand part of the Bill.”

To which an amendment has been moved :

“That the following words be added at the end of the proviso to sub-clause (1), namely, ‘ or in any written notice claiming partition.’”

The question that I have to put is that that amendment be made.

The motion was negatived.

THE HONOURABLE MR. P. C. DESIKA CHARI : Sir, I beg to move the other amendment which stands in my name and which runs as follows :

“ That the following words be added as an additional proviso to sub-clause (1), namely :

‘ And provided further that nothing contained in this section shall preclude the acquisition of separate status by a member of a Hindu undivided family in respect of the whole or part of the family properties by conduct other than the execution of an instrument evidencing an intention to acquire it.’”

I find considerable support for this amendment by the apprehension expressed by very many members of the Select Committee who have agreed to the principle of the Bill.

THE HONOURABLE MR. S. R. DAS : Two members.

THE HONOURABLE MR. P. C. DESIKA CHARI : This is what the report of the Select Committee says :

"Many of the opinions express apprehension that this clause would abrogate the right of a member of a Hindu undivided family which has been specifically recognised by Their Lordships of the Privy Council to separate himself from the other members by a mere declaration or expression of intention to do so. We think that this apprehension is clearly unfounded."

Later on, they say :

"All that sub-clause (1) of this clause does is to require that such a unilateral declaration must be made in writing and registered. After a careful consideration, however, of the provision contained in the last part of this sub-clause, we have come to the conclusion that considerable hardship would be caused to the Hindu community by a provision which precluded the acquisition of separate status by conduct other than the execution of an instrument evidencing an intention to acquire it."

THE HONOURABLE MR. S. R. DAS : Will the Honourable Member kindly read the next sentence ?

THE HONOURABLE MR. P. C. DESIKA CHARI :

"We have accordingly limited the operation of this part of the sub-clause to the case of an unilateral declaration or expression of intention to separate which we agree should invariably be reduced to writing and registered."

That is on another portion of the clause. I find fortunately two members at least of the Select Committee have been careful enough to put it in writing that this ought to have been embodied in an amendment to the provisions of Clause 2. This is what the Honourable Mr. Ramadas Pantulu and the Honourable Sir Manmohandas Ramji say in their Minute of Dissent :

"I feel that the intention of the Committee to exclude from the operations of the Bill transactions whereby a family can become divided in status, such as conduct, partial alienations of joint interest by one or more members of a coparcenary, business transactions between the coparceners, and so forth, has not been given effect to by the Bill even as amended. The right to become partially divided, either in respect of the members of the coparcenary property, leaving the family joint in respect of the other members and the undivided property is now recognised by the decisions. It is desirable to insert a proviso to clause 2 to make the intention of the Committee clear in respect of these matters."

Sir, a careful perusal of the opinions will make this point clear. The section as it stands is far too wide, and having regard to the language of the section, the section will bring within its mischief all those cases which the Select Committee wants to exclude, and unless a proviso to this effect is put in specifically excluding from the operation of the measure those cases which we are all agreed ought to be excluded, there is the danger of an interpretation bringing all those other cases under the mischief of the section. There is nothing lost by putting in a proviso because it merely carries into effect the intention which we have. I know the Honourable the Law Member will presently get up and say, it does carry out the intention. Unfortunately he will not be in all the Courts to decide, and after all, we cannot go into the speeches and other proceedings of the Legislature to help us in interpreting an Act. Again, there are judges and judges, and when I think—and also a large number of other people think—that it is quite possible to bring all those other cases within the mischief of this section, it is necessary to have the proviso ; there is nothing wrong in it. I am only asking for the exclusion of those cases which the Honourable the Law Member, the Select Committee and all of us are interested in excluding from the operation of this present measure.

Sir, this is a very reasonable amendment and I do not know if the Government will hurry the Bill through without an amendment of this kind which is considered necessary. If they do it, I leave it to the other House to deal with it. With these words I move my amendment.

THE HONOURABLE MR. S. R. DAS : Sir, I think I can make this quite clear to the House in a very few words. Now, separate status under the Hindu Law can be acquired by a written declaration or expression of intention to separate as well as by conduct, by partial alienations of joint interest by one or more members and by business transactions between a coparcener and so forth in various ways. Now, the section as drafted by the Select Committee requires only that if there is a separation of interest by a declaration or expression of intention to separate, that should be in writing and registered. The learned Mover of the amendment suggests that it should be made clear that separation of interest acquired by conduct should not require to be registered. The section itself does not suggest that separation by conduct should be registered. As a matter of fact, I do not know how acquisition of separate status by conduct can be registered. Conduct is something which is not in writing. However, the Honourable Member suggests that the section should be made clear and that a provision should be put in to suggest that if such separate interest is acquired by conduct, no registration or written document should be necessary. The Select Committee considered this point carefully. They were of opinion that the section as drafted by them did not deal with acquisition of separate interest by any other means than that of declaration or expression of intention.....

THE HONOURABLE MR. P. C. DESIKA CHARI : The language is not quite clear.

THE HONOURABLE MR. S. R. DAS : The language is quite clear because it says :

“ After the commencement of this Act, no partition of the whole or any part of the immoveable property of any Hindu undivided family and no unilateral declaration or expression of intention.....”

THE HONOURABLE MR. P. C. DESIKA CHARI : No partition agreement ; it merely says partition.

THE HONOURABLE MR. S. R. DAS : Perfectly correct ; no partition. It does not require an agreement to be registered at all. It says :

“ No partition of the whole or any part of the immoveable property and no unilateral declaration shall be effected otherwise than by a written and registered instrument.”

It does not deal with conduct at all. Now, my learned friend says : “ But why not make it clear by putting in a proviso that acquisition of separate interest by conduct should also not require to be registered ?”

THE HONOURABLE MR. P. C. DESIKA CHARI : Not intended to be affected by this Act. That is what I meant.

THE HONOURABLE MR. S. R. DAS : I take it that not intended to be affected by this Act means that it need not be registered. My friend suggests to make it quite clear that there should be a proviso that acquisition of separate interest by conduct should not require registration or be effected under this Act. Now, the danger of a proviso of this description is that if you provide for exclusion of one manner of acquiring separate interest, such as conduct, you thereby under a very well known rule of law include others ; that is to say, if you put down here merely the amendment that my friend suggests,

[Mr. S. R. Das.]

which refers only to acquisition by conduct, you do not thereby exclude separation by partial alienations of joint interest, by business transactions and the numerous other ways by which the Privy Council has suggested a person can acquire separate status. That is the reason why the Select Committee would not have this provision, because you cannot provide for all manner of means by which separate interest can be acquired. Therefore, we thought it was safer to confine this section to particular methods of acquiring separate interest which should be in writing registered and we entirely left aside other methods which would not be affected by this section. I therefore submit there is no reason whatever for this amendment.

THE HONOURABLE MR. NARAYAN PRASAD ASHTHANA : Sir, I rise to support the amendment which has been moved. It has been said that section 2 of this Act only provides for the registration of a partition or of a unilateral declaration for partition or for separation. But I think that this will be interpreted to mean that the partition of a joint Hindu family or acquiring separate status can only be done by means of a registered document ; and if it is made clear in the section that separation by conduct or by any other means will not be affected by this section, I think the object of the Select Committee will be made clear. The Honourable the Law Member has already said that the object of the Select Committee was that separation by conduct or other means could not be registered. Of course it could not be registered. But there will be no harm done if it is made clear in the section itself. I think that the ambiguity which will arise by the operation of this section, namely, that the separation or partition can only be effected by a registered instrument, will be removed. The difficulty will arise in this way that even where there have been dealings between the different members of the same family, it will be contended that there has been no separation of the joint Hindu family because there is no registered instrument in existence. It will also be said that though a man has been living separately for so many years and has been dealing separately with his properties, it still remains a joint Hindu family because there is no registered deed in existence. That being so, and to remove this difficulty and to meet this contention, it is necessary that the proviso that has been proposed by my Honourable friend, Mr. Chari, should be embodied in the section itself. The Hindu joint family can be looked at from two sides, from the inside as well as from the outside ; from the inside, namely, with respect to the members themselves ; and from outside by their dealings with other people. In both respects this provision would be useful, because a man who deals with a member of a Hindu family will come to know that there has been such conduct in the past between the members of the family that he can safely deal with one member in the hope that the family is separate, while among the members themselves it would be quite clear that one is separated from the others. But if the proviso is not added, there will still remain a doubt that inasmuch as there is no registered instrument in existence the family still continues to be joint and as such a member who, by conduct, has shown that he is separate, might suffer. I therefore support the amendment.

THE HONOURABLE THE PRESIDENT : The original question was :

"That clause 2 do stand part of the Bill,"

Since which an amendment has been moved :

"That the following be added as an additional proviso to sub-clause (1), namely :

'And provided further that nothing contained in this section shall preclude the acquisition of separate status by a member of a Hindu undivided family in respect of the whole or part of the family properties by conduct other than the execution of an instrument evidencing an intention to acquire it.'

The question I have to put is that that amendment be made.
The Council divided :

AYES—5.

Ashtana, The Honourable Mr.
Nassyan Prasad.
Desika Chari, The Honourable Mr.
P. C.
Khaparde, The Honourable Mr. G. S.

Ram Saran Das, The Honourable
Rai Bahadur Lala.
Rampal Singh, The Honourable
Raja Sir.

NOES—18.

Akram Hussain Bahadur, The
Honourable Prince A. M. M.
Bardon, The Honourable Mr. E.
Charanjit Singh, The Honourable
Sardar.
Corbett, The Honourable Sir Geoffrey.
Das, The Honourable Mr. S. B.
De, The Honourable Mr. K. C.
Habibullah, The Honourable Khan
Bahadur Sir Muhammad.
Halg, The Honourable Mr. H. G.
Hatch, The Honourable Mr. G. W.
Latifi, The Honourable Mr. A.

McWatters, The Honourable Mr. A. C.
Mia, The Honourable Rai Bahadur
Pandit Shyam Bihari.
Stew, The Honourable Mr. A. M.
Symons, The Honourable Major-
General T. H.
Umar Hayat Khan, The Honourable
Colonel Nawab Sir.
Vernon, The Honourable Mr. H.
A. B.
Wecha, The Honourable Sir Dinshaw.
Weston, The Honourable Mr. D.

The motion was negatived.

Clauses 2, 3 and 4 were added to the Bill.

Clause 1 was added to the Bill.

The Title and Preamble were added to the Bill.

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

THE HONOURABLE MR. P. C. DESIKA CHARI : Sir, though I realise the weakness of my position in this House, I feel it is my duty to oppose this measure at the third reading. Sir, I consider, as I have already stated on the motion for consideration that though this Bill was originally intended to alter the procedure of Courts or to simplify the procedure, it is attempted to take away the substantive rights of the people. It brings in taxation in an indirect way. Those are the grounds, Sir, on which I mainly oppose this Bill. After all, what will be the percentage of litigation out of the separations that are effected that will come into the Courts? Perhaps very much less than one per cent, and it is only the rich who will fight their battles in the Courts, and the poor people, most of whom would want to separate their interests—there will be thousands of them all over India—will have to pay registration fee and stamp duty. The Honourable the Law Member has been saying that attempts will be made to take steps to put on a nominal fee.

I do not know what that nominal fee is going to be and whatever assurances they may give, if it is a source of revenue—it may be in 12 NOON. dribs and drabs, it comes to a pretty large figure,—we know very well Government is not going to give up this source of income, and after all the poor people and the villagers will suffer. They may not be aware of it now, but when the Act is put into operation the significance of these provisions will be felt. But, however hard we may try, it will not be possible afterwards for us to relieve the sufferings of these people because Government will not budge an inch when it is a question of revenue.

[Mr. P. C. Desika Chari.]

Sir, I hope that the Government will take note of the non-official view, however weak it may be in this House, and will be chivalrous enough to heed the feeble voice of protest of non-officials, but I have not very much hopes and I find that after all they are out to have one more love set, to use an expression used on a former occasion in this House by an official Member, and we are out to give them the pleasure of having one more game and it is after all a very poor pleasure in having to fight such a weak body of non-officials. The Government may be obsessed by the strength of their position here, but they must remember they will have to face in a different corner the non-officials under altered conditions. The tables will be turned and I know full well they will give a knock-out blow to this Bill and this Bill well deserves it. And I have this consolation, and though I have not very much hope of having my object achieved by opposing it, I feel it my duty to oppose it.

Sir, I have one word more to say. I would appeal to Honourable Members belonging to other communities who are not affected by this measure to come to our rescue at this juncture. We have done so on other occasions for people belonging to other communities, and I think in fairness to us they will come to our rescue in order to defeat the Government. And I make one appeal to the Government Benches, and it is this. There is no question of policy involved in this Bill and it is after all a simple measure affecting the partition of property in which no question of Government policy is involved. I therefore hope and trust that the official block will not be brought into operation and the individual official Members will be given the freedom of voting as they like. With these words, Sir, I oppose the passage of this Bill.

THE HONOURABLE THE PRESIDENT : The question is :

"That the Bill to provide that partitions and separations of interest among the members of Hindu undivided families and other transactions among persons governed by Hindu Law shall, in certain cases, be effected by written and registered instruments, as amended by the Select Committee, be passed."

The Council divided :

AYES—18.

Akram Husain Bahadur, The Honourable Prince A. M. M.
Burdon, The Honourable Mr. E.
Charanjit Singh, The Honourable Sardar.
Corbett, The Honourable Sir Geoffrey.
Das, The Honourable Mr. S. R.
De, The Honourable Mr. K. C.
Habibullah, The Honourable Khan Bahadur Sir Muhammad.
Haig, The Honourable Mr. H. G.
Hatch, The Honourable Mr. G. W.

Latifi, The Honourable Mr. A.
McWatters, The Honourable Mr. A. C.
Miara, The Honourable Rai Bahadur Pandit Shyam Bihari.
Stow, The Honourable Mr. A. M.
Symons, The Honourable Major-General T. H.
Umar Hayat Khan, The Honourable Colonel Nawab Sir.
Vernon, The Honourable Mr. H. A. B.
Wacha, The Honourable Sir Dinshaw.
Weston, The Honourable Mr. D.

NOES—6.

Ashthana, The Honourable Mr. Narayan Prasad.
Desika Chari, The Honourable Mr. P. C.
Khaparde, The Honourable Mr. G. S.

Ram Saran Das, The Honourable Rai Bahadur Lala.
Rampal Singh, The Honourable Raja Sir.
Suhrawardy, The Honourable Mr. M.

The motion was adopted.

The Council then adjourned till Eleven of the Clock on Wednesday, the 8th February, 1928.