

Thursday, 19th August, 1926

THE  
COUNCIL OF STATE DEBATES

VOLUME VIII

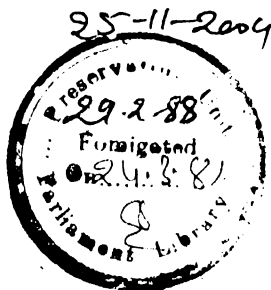
*(17th August 1926 to 31st August 1926)*

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SECOND SESSION

OF THE

SECOND COUNCIL OF STATE, 1926



**THE  
COUNCIL OF STATE DEBATES**

**(Official Report)**

**VOLUME VIII**

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## COUNCIL OF STATE.

*Thursday, the 19th August 1926.*

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

### INDIAN EVIDENCE (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS : (Law Member), Sir, I move for leave to introduce a Bill further to amend the Indian Evidence Act, 1872, for a certain purpose.

This is a Bill introduced with a view to give effect to a recommendation of the Civil Justice Committee. Under section 68 of the Indian Evidence Act as at present enacted, if a document has been attested, an attesting witness has to be called to prove it if the attesting witness is alive and is available. The object of this amending Bill is to provide that if the document is registered, then it is not necessary to call an attesting witness unless the attestation or the execution is expressly denied.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS : I introduce the Bill.

### ADMINISTRATOR GENERAL'S (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS : (Law Member): Sir, I move for leave to introduce a Bill further to amend the Administrator General's Act, 1913.

Under the Administrator General's Act, 1913, the Administrator General has power when a person dies leaving assets to the value of Rs. 1,000, to grant a certificate to a claimant entitling him to receive the assets and he is not under any obligation to take out letters of administration or a succession certificate. The Civil Justice Committee recommended that the power of the Administrator General in that respect should be increased so as to entitle him to give a certificate in the case of assets to the value of Rs. 3,000. The Government, after taking the views of Local Governments and other authorities, are now introducing this Bill increasing the limit to Rs. 2,000, that is to say, if a person dies leaving assets to the value of Rs. 2,000 or less, then it would not be necessary for the claimant to go to Court and take out letters of administration or a succession certificate, but he can go to the Administrator General and get his certificate and thereafter collect the assets.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS : I introduce the Bill.

### INDIAN COMPANIES (AMENDMENT) BILL.

THE HONOURABLE MR. G. L. CORBETT: (Commerce Secretary): Sir, I move for leave to introduce a Bill further to amend the Indian Companies Act, 1913, for a certain purpose.

This small Bill inserts a single word in section 26 of the Indian Companies Act, 1913. This section enables an association formed for charitable or other similar purposes and not for profit to be registered without the addition of the word "Limited" to its name. Doubts have been expressed whether the section as now worded covers associations formed for religious purposes. The object of the Bill is to remove this doubt.

The motion was adopted.

THE HONOURABLE MR. G. L. CORBETT: I introduce the Bill.

### SIND COURTS (SUPPLEMENTARY) BILL.

THE HONOURABLE MR. J. CRERAR (Home Secretary): Sir, I move for leave to introduce a Bill to supplement the Sind Courts Act, 1926.

A measure has recently been enacted in the Bombay Legislative Council with the object of promoting the status of the Court of the Judicial Commissioner of Sind to that of a Chief Court. Certain formal amendments in the Acts of the Governor General in Council are consequently necessitated. These effect the necessary change in the designation of the Court wherever it appears in an Act of the Governor General in Council. This is the object of the Bill which I now ask for leave to introduce.

The motion was adopted.

THE HONOURABLE MR. J. CRERAR: Sir, I introduce the Bill.

### CANTONMENTS (AMENDMENT) BILL.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: Sir, I move for leave to introduce a Bill further to amend the Cantonments Act, 1924, for certain purposes.

The objects for which these amendments are introduced are fully set forth in the Statement of Objects and Reasons appended to the Bill, which is in the possession of all the Members of the House, and I would, therefore, not detain the House with any remarks.

The motion was adopted.

HIS EXCELLENCY THE COMMANDER-IN-CHIEF: I introduce the Bill.

### INDIAN LIMITATION (AMENDMENT) BILL.

THE HONOURABLE MR. S. R. DAS (Law Member): Sir, I move for leave to introduce a Bill further to amend the Indian Limitation Act, 1908, for certain purposes. The Civil Justice Committee recommended *inter alia*—

"that the proviso to sub-section (1) of section 20 should be amended so as to make the payment of interest also subject to the condition that the fact of payment should appear in the handwriting of the person making the same."

At the present moment, under the Limitation Act, it is only in the case of part payment of the principal that the part payment has to be in the handwriting of the person making the same. The Civil Justice Committee recommended that that rule should apply also in the case of payment of interest.

They also recommended :

“ that limited owners under the Hindu law, and the *Karta* or manager of a joint Hindu family should be enabled to make acknowledgments and payments under sections 19 and 20 ;

that article 132 should be amended so as to make it clear that a suit to recover the value of paddy and such like produce charged on immoveable property comes within this article ; and

that article 166 should be amended so as to make it clear that it applies to a petition by a judgment debtor under section 47 of the Code of Civil Procedure, 1908.”

The object of this Bill is to give effect to these recommendations.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS : I introduce the Bill.

### HINDU FAMILY TRANSACTIONS BILL.

THE HONOURABLE MR. S. R. DAS (Law Member) : Sir, I move for leave to introduce a 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.

The Bill gives effect to certain recommendations of the Civil Justice Committee. That Committee recommended that in the case of a joint Hindu family, if the value of the immoveable property belonging to it exceeds Rs. 1,000, no separation of interest so as to make the members of the family or any of them cease to be undivided should be effected otherwise than by a registered instrument, whether any actual division of property be or be not made or agreed on in connection therewith ; and that no partition of the whole or any part of the immoveable property belonging to such family should be valid unless the same be made by registered instrument, but that exception from these requirements should be permitted in the case of any decree or order of a Court, and any instruments of partition made by a Revenue Officer. The Committee also recommended that Local Governments should be empowered to prescribe rules for valuation for this purpose, and that in the case of persons governed by the Hindu Law, surrenders by a widow, a release by a co-parcener, family settlements, and grants for maintenance should be effected only by a registered instrument, if immoveable property of the value of more than Rs. 100 is effected thereby. As the Civil Justice Committee pointed out in their Report, these are matters which leave room for a great deal of conflict of evidence and take up a great deal of the time of the Courts, and they have suggested that all these transactions should be effected by registered instruments. The object of the Bill is to give effect to these recommendations.

The motion was adopted.

THE HONOURABLE MR. S. R. DAS : Sir, I introduce the Bill.

## STATEMENT OF BUSINESS.

THE HONOURABLE SIR MUHAMMAD HABIBULLAH (Education, Health and Lands Member): Sir, Monday, the 23rd, is a non-official day, and the business ballotted for that day has already been communicated to Honourable Members. On Tuesday, the 24th, a statement will be made by the Honourable the Law Member on the subject of the League of Nations, and motions will be made for the considering and passing of all the Bills introduced to-day, with the exception of the Hindu Family Transactions Bill, about which a motion will be made for circulation for eliciting opinions. It is also hoped that on that day a number of Bills will be laid on the table after passage in another place. On Wednesday, the 25th, the Honourable Mr. Jukes will move his Resolution regarding the Report of the Indian Taxation Enquiry Committee.

The Council then adjourned till Eleven of the Clock on Monday, the 23rd August, 1926.