

*Friday,  
5th January, 1900*

**ABSTRACT OF THE PROCEEDINGS**

**OF THE**

**Council of the Governor General of India,**

**LAWS AND REGULATIONS**

**Vol. XXXIX**

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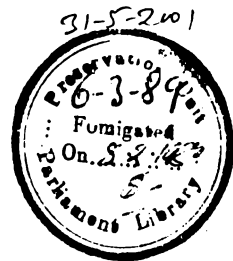
ABSTRACT OF THE PROCEEDINGS  
OF  
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA:  
ASSEMBLED FOR THE PURPOSE OF MAKING  
LAWS AND REGULATIONS

1900

VOLUME XXXIX



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*Proceedings of the Council of the Governor General of India, assembled for the purpose of making Laws and Regulations under the provisions of the Indian Councils Acts, 1861 and 1892 ( 24 & 25 Vict., c. 67, and 55 & 56 Vict., c. 14).*

The Council met at Government House, Calcutta, on Friday, the 5th January, 1900.

PRESENT :

His Excellency Baron Curzon of Kedleston, P.C., G.M.S.I., G.M.I.E., Viceroy and Governor General of India, *presiding*.

His Honour Sir John Woodburn, K.C.S.I., Lieutenant-Governor of Bengal.

The Hon'ble Major-General Sir E. H. H. Collen, K.C.I.E., C.B.

The Hon'ble Sir A. C. Trevor, K.C.S.I.

The Hon'ble Mr. C. E. Dawkins.

The Hon'ble Mr. T. Raleigh.

The Hon'ble Mr. Denzil Ibbetson, C.S.I.

The Hon'ble Mr. P. M. Mehta, C.I.E.

The Hon'ble Nawab Mumtaz-ud-daula Muhammad Faiyaz Ali Khan.

The Hon'ble Mr. J. K. Spence, C.S.I.

The Hon'ble Mr. G. Toynbee.

The Hon'ble Mr. D. M. Smeaton, C.S.I.

The Hon'ble Mr. J. D. Rees, C.I.E.

The Hon'ble Maharaja Rameshwara Singh Bahadur of Darbhanga.

The Hon'ble Nawab Bahadur Sir Khwaja Ahsanullah, K.C.I.E.

The Hon'ble Kunwar Sir Harnam Singh Ahluwalia, K.C.I.E., of Kapurthala.

The Hon'ble Mr. J. T. Woodroffe.

The Hon'ble Mr. J. Buckingham, C.I.E.

The Hon'ble Mr. H. F. Evans, C.S.I.

The Hon'ble Raj Bahadur B. K. Bose, C.I.E.

The Hon'ble Mr. Allan Arthur.

NEW MEMBER.

THE Hon'ble MR. ALLAN ARTHUR took his seat as an Additional Member of Council.

QUESTION AND ANSWER.

The Hon'ble MR. ALLAN ARTHUR asked :—“ In view of the great public importance of the questions discussed at the recent conference between the

[*Mr. Allan Arthur; Mr. Dawkins.*] [5TH JANUARY, 1906.]

Finance Department, the Secretaries of the three Presidency Banks and representatives of certain Chambers of Commerce, *vis.*, the possibility of relaxing certain restrictions placed on the business in which the Presidency Banks may engage, and the sufficiency or insufficiency of their capital for such an extension of their operations, together with other questions consequent thereon, and in view of the close attention with which this discussion is being followed by the Banking and Mercantile communities throughout India, I desire to ask if any indication can be furnished of the results of the recent conference, and any intimation given of the policy which the Hon'ble the Financial Member is prepared to recommend to the Government of India in the matter.

"I would also enquire, if the proposed new Bank is formed, what restrictions will be placed on the Bank as regards its operations in Exchange."

The Hon'ble MR. DAWKINS replied:—"I am glad to have the opportunity given to me by the Hon'ble Member's question to offer some general explanation, and if my answer assumes the form of statement of some length, the importance of the subject and the desirability of taking the public into our confidence in the matter may, I hope, be regarded as a sufficient excuse. I must commence by a brief reference to the history of the subject touched on in the question. Several of the witnesses before the recent Currency Committee expressed apprehension whether the banking resources of India had kept pace with the growing requirements of the country, and a separate Minute was appended to the Report of that Committee by Mr. Hambro, advocating the establishment of a strong central bank in India. The Secretary of State, in introducing the Budget in Parliament, associated himself with Mr. Hambro's recommendation, and expressed a decided opinion that the export trade of India was being financed on too narrow a basis. I may perhaps be permitted to quote his words \* \* \* 'Undoubtedly banking in India has not kept pace with the growth of trade and commerce. The Presidency Banks do their work very well, but their capital is small, and, as regards their available cash balances, these are almost entirely supplied by one account, namely, that of the Government. \* \* \* The Government account forms a very much larger proportion of the cash balances of the Presidency Banks in India than is the case here, for at times the Bank of England could almost dispense with the Government account and still carry on their business; and it must be remembered that the cash balances of the Presidency Banks in India form a far more important banking factor there than do the Bank of England cash balances here, and that the flow and movement of cash in India is very much slower than is the case in England

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I have certainly come to the conclusion from my experience that we are endeavouring to finance the export commerce and trade of India on too narrow a cash basis. . . . .

"The *ex*-Secretary of State and Chairman of the Currency Committee, Sir Henry Fowler, took the same line, and explained that he himself would have signed Mr. Hambro's recommendation, had his position as Chairman not precluded him from so doing.

"It was obviously due to such high authorities that their views should be examined with the greatest attention in India. Moreover, the receipt of these views synchronized with a request from the Banks of Bengal and Madras for a relaxation of the restrictions placed on the class of business they may transact. They desired authority to extend their operations beyond the securities of Guaranteed Railways, to securities of Assisted Railways and District Boards, and, as regards Railways, the request made by the Banks found a powerful advocate in the Acting Public Works Member of Council, Colonel Gardiner, who held strongly that the existing restrictions have seriously hampered railway development.

"The Government of India therefore proceeded to consult the Chambers of Commerce and the Presidency Banks on these important questions, and answers have been received from the three Presidency Banks, the Presidency Chambers of Commerce, and the Upper India Chamber of Commerce, containing valuable information and suggestions. But any one reading these papers would be struck by the fact that certain of the suggestions require further elucidation, and still more by the fact that several of the opinions expressed are conditional in their character. It was therefore arranged, with the authority of His Excellency, that an informal and free discussion should take place between the Finance Department and the Chambers and Banks, with the object of an interchange of views and explanations.

"My Hon'ble Colleague, Mr. Allan Arthur, representing the Bengal Chamber, the Secretaries of the Banks of Bengal and Bombay and Madras, the latter in the double capacity of representative of the Chamber and of the Bank of Madras, met Mr. Finlay, Mr. O'Connor and myself. The Bombay Chamber, I am sorry to say, was unable, owing to the shortness of the notice, to send a representative.

"I think my Hon'ble Colleague would bear me out if I say that the discussion was of great utility, and enabled those who took part in it to arrive

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at a better understanding of the questions involved, and also at a very much greater degree of agreement than had previously seemed possible.

"With regard to the first question, that of relaxing existing restrictions in certain directions, the Chambers and Banks are unanimous in considering that the extension of the Banks' operations to the securities of Assisted Railway and District Boards is desirable. But the Bank of Bengal accompanied their expression of opinion with a note of caution. Their letter states, 'My Directors are of opinion that these restrictions might be withdrawn with safety and advantage without, in ordinary circumstances, overtaxing the resources of the Banks.'

"I may say that the Government of India have also regarded the question with caution. Personally, I am in entire sympathy with the demand for relaxation, if that can be accomplished without risk, and I look at the demand much more from the point of view of the general development of the country than from the special standpoint of the Banks. But—and on this point I may speak for the Government of India as a whole—however much existing restrictions may hamper development, no proposal could be entertained, which might lead to locking up the resources of the Banks in securities not easily realizable, unless those resources can be shown to be amply sufficient in both dull and busy seasons. The disadvantage of the existing restrictions, as matters now stand, would be less serious than the risk of creating difficulties for the existing volume of business.

"To come to the second question. The letters received reveal, and the discussion accentuated, a general consensus that, though the Banks find it difficult to employ their existing capital in the dead season, yet in times of pressure in the busy season it is often inadequate, and that some means of temporarily expanding resources—some final banking resort—is absolutely necessary if the stringencies of the last few years are not to recur, and if the extreme and violent variations in the rate of discount—the very worst enemy to sound and progressive business—are to be avoided. I may quote from the letters of the Madras Chamber of Commerce and Bengal Chamber of Commerce. In the Madras letter I find that 'the Chamber is specially impressed with the urgent need for legislation which will enable the Presidency Banks to expand their supply of loanable funds in time of pressure.' The Committee of the Bengal Chamber 'are convinced that in the busy season the banking facilities in India are not sufficient for the trade and the satisfactory development of the country, and at times of pressure the existing arrangements for giving relief seem to them quite inadequate.' But if the resources of the Banks are often inadequate for

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existing business, if the ordinary requirements of trade and commerce can only be met *on the average*, where is the margin for financing railways, and municipal and district enterprizes, to say nothing of new industrial enterprizes, proposed on all sides ?

“ Three means of expanding resources in time of pressure were suggested.

“ The first was that the Government should definitely undertake to make advances to the Banks in time of pressure. I lay stress upon the word “ definite,” and I may quote a passage from the letter of the Madras Chamber of Commerce. ‘ It is absolutely necessary,’ writes the Chamber, ‘ that any arrangement of this kind should be definite, so that the Banks could obtain funds when necessary at a moment’s notice.’

“ The Madras letter hits the nail on the head, but—and I need not labour the point which was unanimously recognized in our discussion last week—it is simply impossible for the Government to pledge themselves by any definite assurance, and to give the Banks an open credit to operate upon. When pressure occurs in India, it is usually general and extends to the Government, and the Government might very well find itself absolutely unable to provide loans. The limits of Government action in this direction have, moreover, recently been laid down by the Secretary of State, and it is within these limits that Government assistance must necessarily be confined.

“ An alternative remedy has been proposed by the Bank of Bengal, that Government should undertake, when the Bank rate rises to a certain height, to give loans from the coin reserve of the Paper Currency Reserve. The proposal is open in my mind to fatal objections. It is the duty of Government to keep a coin reserve sufficient to ensure the convertibility of its notes. If the proportion of coin to securities in its total reserve is large enough to allow of loans being made, then that proportion is unnecessarily large. In such a case securities should be substituted for surperfluous coin, and the general tax-payer, not any particular section of the tax-payers like the Banks, should benefit thereby. The coin reserve should be exclusively devoted to ensuring convertibility, should be limited to what is necessary for that purpose, and should be held sacred. The answer was made last week in the course of our discussion that the German system—now so generally, and, in my opinion, rightly, held up to admiration—of issuing uncovered notes on payment of a tax, implied possible resort to the currency reserve for cashing such notes. This may be admitted. But the difference is that in Germany the notes circulate freely

as currency, whereas it is very doubtful whether this would be the case in India, where the demand is for hard cash. The mere existence of this doubt, which was, I think, admitted by every one who took part in the discussion, makes an enormous difference, and, moreover, if Berlin or Paris want reinforcements of gold, they can procure it in a few hours from neighbouring centres. India is cut off and isolated, and must proceed with great caution. Her cash reserve must be regarded with the utmost jealousy.

"The third remedy proposed was that the Banks should be given access to London—in other words, should be allowed to pledge securities and raise money in London. It was argued that the permission to pledge and borrow in India, which had been extracted from the Secretary of State in 1878, after years of correspondence, had remained a dead letter, owing to the peculiar circumstances of India. The objection taken by the Secretary of State to extending this permission to the London market, the risk that the Banks might engage in exchange business into which, owing to the great uncertainty of exchange, a large element of speculation entered, may also, it was urged, and I certainly believe, be considered to have disappeared. But I was obliged to point out that the Secretary of State had founded his refusal not only on the question of exchange, but had no less strongly objected to the risk of the resources of the Banks being locked up in London. Nothing had happened since 1878 to meet that particular objection. On the contrary, the trade and needs of India have largely increased, and banking resources have scarcely increased *pari passu*. I was also compelled to draw attention once more to the relation of the Government deposit to the Banks' cash balance in the busy season, and to cite Sir J. Westland's well known criticism. That criticism has been a good deal disputed. It has been said that the cash balance is not derived principally from one account, but is made up from all accounts. I am perfectly certain that Sir J. Westland would be the first to admit this obvious truism. It has also been said that the Government would not deplete its balance with the Banks of, say, 1½ crores, exclusively and primarily, but would draw upon its general balance of eight to ten crores, of which the balance with the Banks only forms a part. This is an equally obvious truism, and it is absurd to suppose that my predecessor had not reckoned with it. But Sir James Westland's criticism is really unshaken, inasmuch as he insisted that a situation is unsound when one depositor—and that depositor a depositor peculiarly exposed to sudden calls and contingencies—is placed in a position in which he could, and, indeed, might be obliged, very suddenly, to deplete the cash balance to a serious extent.



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"Indeed, on looking closely into the figures, I find that there have been months in which the Government deposit exceeded the whole cash balance of the Banks. Not long ago, at one Bank the Government deposits exceeded the cash balance by 17 per cent.

Nowhere is such a position so unsound as in India—where, as the Secretary of State has pointed out, the cash balance is so important a banking factor. The Banks have excellent reserves; but could their securities be converted into liquid cash in India at a moment's notice? The Bank of England is far more fortunately situated, but the Bank of England, nevertheless, keeps the proportion of the exchequer balance to the cash balance within such limits that the sudden total withdrawal of the exchequer balance would hardly affect the Bank.

"I am, therefore, compelled to the conclusion that it would be out of the question for the Banks to press this proposal, greatly advantageous as its concession would be, unless they propose it under circumstances that may allow of its being entertained with safety, and couple it with the prospect of some increase in capital. That an increase of capital should be expected to go straight away into a cash balance and reinforce it for any period is, of course, absurd. I only mention this, because the imputation has been made that misapprehension exists on this point. But an increase of shareholders' capital, which would obviously find employment in the busy season at any rate, would involve a corresponding increase in the cash balance, and would relegate the Government deposits to a position of less dangerous importance.

"Another objection to the proposal of the Banks under existing circumstances would, I think, be the consideration that, though access to London might conceivably be granted to one strong Indian Bank connected with Government, the question would wear another aspect if three Banks are to seek for access. The Government could follow and, if necessary, perhaps influence the operations of one Bank. It would not be so easy to do this with three Banks, and the possibility of three Presidency Banks, each connected with Government, competitively pledging Indian securities against each other in London, could scarcely be viewed with favour.

"It seems, therefore, that if access to London is of paramount importance, and it would appear to be so, as I am convinced of the absolute necessity of the Banks having a last resort, the fusion of the Banks and an increase of their capital are conditions that are inevitably precedent. I may say that if those

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conditions were complied with, access to the London market for the purposes indicated by the Banks would undoubtedly seem to be highly desirable and strongly to be recommended.

"Another point which was discussed at our meeting last week, that of the desirability or otherwise of transferring the note issue to the Banks, immediately confronted us again with the question of their fusion and expansion. A transfer which might be advantageous and feasible if made to one central Bank would probably be impracticable and attended rather with disadvantage than otherwise if three Banks were concerned. The conditions of a transfer of the note issue that were discussed were that the existing note issue should be made over to a single Bank, Government retaining the profit on the present currency investment, but indemnifying the Bank for the cost thereof from the sum now allotted for that purpose. And, as regards any further issue of notes, the Bank would be obliged to keep a reserve, partly in coin and partly in securities, and would gain the profit on this investment after defraying the cost of the additional notes. Whether a Central Bank should or should not undertake to cash its notes without discount at the three Presidency Capitals, is to my mind a matter for further examination. It would be much to the public advantage if this could be done, and possibly the expenditure involved in such a liability could be made up to the Bank in one form or another.

"To recapitulate, I may now say that it seems to me most desirable in the interest of the general development of India, and of railway construction and municipal enterprise in particular, that the class of business in which the Banks may engage should be extended. It is even more important that an ultimate banking resort should be afforded to the Banks, and that access to London should be authorized. I am therefore prepared to press these questions earnestly upon the Government of India, provided that the conditions are forthcoming, which would justify and render practical such important changes, namely, that the Presidency Banks should amalgamate and should undertake some increase of their capital. It would also, I think, be to the general advantage to transfer the note issue to a Bank, but this question is not so essential, although I should be ready to support such a measure. I may perhaps before concluding advert to some objections that have been made to any scheme of this kind. It has been stated that the Banks would be sacrificed to some financial Moloch in London. As the existing shareholders, I imagine, would have some prior right to subscribing to new capital,—as much of this capital, I hope, would be subscribed in India,—it seems to me that this apprehension melts into thin air, so long as we deal with a scheme based upon amalgamation.

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Moreover, I take it that the interests of existing shareholders would assuredly not be prejudiced. It is to be surmised that they would receive new shares equivalent to the average market value of the old shares that would be cancelled, while, at the same time, they would participate in the prospects and advantages opened out to a larger institution.

" It has also been objected that local requirements would receive less attention, and that union would mean subordination of one or two Presidencies to a third. I cannot conceive for a moment that the Government of India would tolerate any scheme of fusion involving the subordination of one Presidency to another, or the neglect of local requirements. I would certainly, Your Excellency, never have the hardihood to bring a proposal of this nature before you. The amalgamated Banks in my view would have the advantage of an expert direction in London particularly conversant with both the English and Indian money-markets, elected by and responsible to the shareholders who would be mainly in India. In India itself there would be a central management apportioning its time and energies between the various centres, and in close relation to local directorates at the Presidency-towns. Nothing would be more unwise for such a Bank, as I have ventured to foreshadow, than to deprive itself of the valuable local knowledge, skill and experience of the existing directorates and managements of the Presidency Banks. Nothing would better safeguard local interests, wants and requirements than a continuance in a new form of existing local experience.

" In so roughly summing up the policy which may be recommended to the Government of India, a last objection appears to be entertained in some quarters outside the Presidency Banks themselves—and is specifically touched upon in my Hon'ble Colleague's question—the objection that a Bank formed from the union of the three Presidency Banks would monopolize exchange business of all kinds. I would remind those who may be apprehensive on this point that, when the Presidency Banks in 1877 addressed the Government of India upon the question of borrowing in London, they themselves proposed restrictions which would confine them to raising money by pledge of assets and to making remittances in payment of stock or other authorized investments, and in repayment of loans. I see no reason why these restrictions should not be maintained.

" I am painfully aware that in so rough a sketch and in so rapid a survey of a matter of this magnitude and importance many details have been omitted, and many points passed over, which require explanation. But if the policy I have attempted to indicate should find favour, I believe that with the able co-operation

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of the Chambers of Commerce and of the Banks, these details could be filled in, and any outstanding differences could be adjusted. That co-operation, I know, is always willingly given to the Government of India, and perhaps I may express the sincere hope that Your Excellency's Viceroyalty may see the establishment of the gold standard followed by a comprehensive measure which will give India the full advantage, through access to London, of the new currency upon which she has embarked, and will remedy a situation which is on all hands admitted to be wholly unsatisfactory, to be daily becoming more unsatisfactory, and to be gravely prejudicial to the development of the country."

#### INDIAN REGISTRATION OF SHIPS BILL.

The Hon'ble MR. RALEIGH moved that the Bill to make better provision for the Registration of British Ships in British India be referred to a Select Committee consisting of the Hon'ble Mr. Dawkins, the Hon'ble Mr. Mehta, the Hon'ble Mr. Smeaton, the Hon'ble Mr. Allan Arthur and the mover.

The motion was put and agreed to.

#### TELEGRAPHIC PRESS MESSAGES BILL.

The Hon'ble MR. IBBETSON moved that he be substituted for the Hon'ble Mr. Rivaz as a Member of the Select Committee on the Bill to provide for the protection of certain telegraphic press messages, and that the Hon'ble Mr. Mehta, the Hon'ble Maharaja of Darbhanga, the Hon'ble Mr. Evans and the Hon'ble Mr. Allan Arthur be added to the Committee. He said:—"MY LORD,—Hon'ble Members are aware that the Telegraphic Press Messages Bill was referred to a small Select Committee at the end of last July, with instructions to report after one month. It was found, however, that the Bill attracted a considerable body of comment, and, in some quarters, of criticism; and it was therefore thought advisable to postpone its further consideration, as being one of those measures which can more properly and effectively be discussed in full session of the Council.

"Meanwhile, the opinions which have been received from Local Governments and from the representative bodies which have been consulted, as well as the discussions which have taken place in the Press, have rendered it desirable that the Bill should be examined by a Select Committee of a wider and more representative character than that which was at first constituted.

"Under these circumstances, the Government of India propose to add to the Committee the four Hon'ble Members whose names I have submitted to

the Council. It will also be convenient that I should take the place of the Hon'ble Mr. Rivaz, whose duties I am at present discharging."

The motion was put and agreed to.

#### LOWER BURMA COURTS BILL.

The Hon'ble MR. IBBETSON moved for leave to introduce a Bill to consolidate and amend the law relating to the Courts in Lower Burma. He said:—  
 "MY LORD,—As long ago as 1880 the judicial system in force in Lower Burma was found to be defective, and it was proposed to remedy its defects by constituting a High Court at Rangoon. In 1887 a Bill with that object was actually introduced in this Council; but the proposal was presently abandoned, as being too costly, and in advance of the immediate necessities of the Province, and a Bill of a less ambitious character was substituted, which is still in force as the Lower Burma Courts Act of 1889.

"While that Act effected many improvements in the judicial system of the Province, it practically left untouched the complex and unsatisfactory constitution of the superior Courts. I need not trouble the Council with a description of what is a somewhat complicated system. It will be enough to say that the existing arrangements are open to two serious objections. In the first place, it is, in very many cases, necessary to incur the expense and inconvenience of a reference to Calcutta, in order to obtain a final decision; and in the second place, appeals are heard by a Court of only two Judges, one of whom is the Judge whose order is being appealed against.

"It is obvious that such a system could only be temporary; and, apart from the increase of work, which has grown too heavy for the existing machinery, the Government of India have decided, with the full concurrence of the Local Government and the approval of the Secretary of State, that in view of the growing importance of Rangoon as a centre of commerce, of the geographical separation of Burma from peninsular India, of the recent erection of the Province into a Lieutenant-Governorship, and of the constitution of a Provincial legislature, the time has come to provide Lower Burma with a Chief Court which shall be empowered to give final orders, and to speak with the authority of an ultimate tribunal.

"It is not proposed, at present, to extend the jurisdiction of the new Chief Court to Upper Burma. In that Province the civil administration has only recently been organized; the law, both statutory and indigenous, and the local conditions, differ substantially from those obtaining in the Lower Province; the people

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regard Mandalay as their capital, and would feel it a hardship if they were compelled to carry their appeals to Rangoon; and the circumstances of Upper Burma are in many respects better provided for by its present judicial system than they would be by a Chief Court, for which the Province is not yet ripe.

"The Bill has been framed upon the most recent legislative models, and the opportunity has been taken of making certain minor modifications in the present law. The details are fully explained in the Statement of Objects and Reasons and I need not refer to them now. There is one point only upon which I wish to give a word of explanation—and that is, the law of second appeal as contained in section 30 of the Bill. Under the law as it at present stands, the Judicial Commissioner may receive a second appeal upon the facts, in every case in which the first appellate Court has reversed or modified the original order, however trifling or unimportant the nature of the suit may be. It is agreed that the liberty of appeal thus given is too wide, and the precise manner in which it should be restricted, has formed the subject of discussion between the Government of India and the Government of Burma. We are awaiting an expression of the views of the Secretary of State on the matter, in a despatch which is now on its way from England. But it is most important to pass the Bill into law during the present session, and, for this purpose, it is necessary to introduce it immediately. The present provisions, therefore, which restrict the existing right of second appeal by excluding suits of the less important classes and of trifling value, are inserted tentatively and subject to further consideration."

The motion was put and agreed to.

The Hon'ble MR. IBBETSON introduced the Bill.

The Hon'ble MR. IBBETSON moved that the Bill and Statement of Objects and Reasons be published in the Gazette of India in English and in the Burma Gazette in English and in such other languages as the Local Government thinks fit.

The motion was put and agreed to.

The Council adjourned to Friday, the 19th January, 1900.

CALCUTTA;  
The 5th January, 1900.

J. M. MACPHERSON,  
*Secretary to the Government of India,*  
*Legislative Department.*