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G.O., No. 481

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[Despatch Abstract.]

Recording prop, judt defft, on the
resolution of the Govt of India commencing
on the sudden growth of a number
of small Provedent Societies & the purposes
for which they have been founded.

BACK PAPERS.

G.O.	No.	Department.	Date.	G.O.	No.	Department.	Date.

FURTHER PAPERS.

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98 CURRENT NO. 1306

Government {1900} of Madras. JUDICIAL.

Recd.

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1900.

Enclosures

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G.O., No. 1289, 11th September 1900.

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order no 481 d/28.9.00

Recorded.

24/9/00

26-9-1900

Cpy to the ...

Provident Societies.

Communicating to the Registrar of Joint Stock Companies and to all District Magistrates, with remarks, resolution of the Government of India commenting on the sudden growth of numbers of small — and the purposes for which they have been founded.

GOVERNMENT OF MADRAS.

JUDICIAL DEPARTMENT.

READ—the following paper:—

Resolution of the Government of India, Finance and Commerce Department, dated Simla, 25th August 1900, No. 4317-S.R.

In reviewing the reports on the working of the Indian Companies Act for the year 1893-94 and subsequent years, the Government of India have frequently commented on the sudden growth of numbers of small provident societies in Bengal and Bombay, and have expressed the fear, which inquiry has since justified, that many of these societies have been founded for fraudulent purposes. Considerable attention appears to have been paid to the question in Bengal, where the movement began, and in November 1897 the Government of India received a preliminary report on the subject from the Government of Bengal, a second and more complete report being submitted in October 1898. A consideration of these reports led the Government of India to suggest to the Governments of Bengal and Bombay that legislation should be undertaken to ensure responsibility for the management and control of these companies, the outlines of the proposed legislation being indicated in a rough sketch of a Bill based on the English Friendly Societies Act. The suggestion was accepted by the Government of Bengal, though it was considered that the abuses which the Bill was intended to prevent could to a large extent be obviated by executive action. The Government of Bombay cordially approved of the proposal to legislate and cited facts in support of it, but they also pointed out various defects in the rough draft of the Bill.

2. The Government of India have carefully examined the opinions and reports above referred to and are now disposed to modify the views which they at first entertained. It is significant that the proposal to embark on immediate legislation finds least support in the province in which these provident societies have been longest under observation. The Government of Bengal has throughout been of opinion that investigation into their condition would probably suffice to put an end to all the companies which were on an improper basis, and that the growth of new companies in the future might be checked by the strict enforcement of the provisions of the Indian Companies Act. These views have been strikingly borne out by recent developments in Bengal and there appear to be strong grounds for postponing legislation till the character and prospects of the movement are more clearly established.

3. At the beginning of the year 1897-98 there were 356 native provident funds in Bengal registered as joint stock companies, of which 114 ceased to exist in the course of the year, the number of new companies started being 27. In 1898-99 the number added was one only, while 182 more companies collapsed, leaving only 88 still at work at the end of the year. The rapid collapse of so many of these funds is not entirely a matter for regret. The companies were started in many cases with dishonest intent and in almost all on utterly unsound principles, and their speedy failure has reduced to a minimum the loss and disappointment which were from the first inevitable. It remains to be seen whether this somewhat remarkable movement will show any real vitality. If it has arisen from a genuine desire among the people to combine for purpose of mutual help, it may be hoped that the better types of organization will survive and form the nucleus from which, with the possible aid of

legislation, a system of friendly societies may ultimately be developed. But the constitution of most of the companies suggests that their popularity has been due rather to a love of speculation than to habits of thrift and providence. The companies have offered more than they could possibly give, and the subscribers have grasped at the chance of getting more than they were prepared to pay for, hoping to be the first in the field as claimants and to retire with their claims paid up before the general collapse. It is possible that legislation might accelerate the dissolution of companies formed on such a basis, though in Bengal executive action and their own faulty constitution have apparently been found sufficient. But there would be serious objections to a merely prohibitive enactment, and till the ground is cleared by the removal of those types of societies which are most defective and time has been allowed for the lesson that they teach to be taken to heart, it is impossible to say in precisely what other ways the legislature might usefully intervene. It would be essential that an Indian Friendly Societies Act should not be capable of being used to give a cover of respectability and soundness to a society which even under honest management could not possibly attain success. Subject to this condition the aim of the Government would be to conserve existing types rather than to attempt to impose the English system on a class of people who have so far shown no desire for it, and whose circumstances are such that it would probably be found unworkable. The problem is one which, in its early stages, must be worked out by the people themselves, in the light of their own recent experience and under the advice and instruction of the educated classes.

4. The Government desire that any powers of control which their own officers already possess should be fully exercised. Cases of obvious fraud and embezzlement should be brought to light and, if possible, punished; the provisions of the Indian Companies Act should be stringently enforced; the complaints of injured parties should be heard and inquired into; and subordinate officers should be warned of the consequences of connecting themselves with institutions which must clearly end in disgraceful failure.

5. These measures have been effective in Bengal, and there seems no reason to believe that they will be less successful in Bombay if energetically carried out; and in provinces where the question has as yet scarcely arisen they should suffice to prevent it from ever assuming serious proportions. The action now suggested will also serve the useful purpose of bringing together the materials on which sound legislation can be based. The reports which have so far been received are in some respects deficient in exact information. They show that the bulk of the companies carry out insurance in various forms and are based on an incorrect principle. The regular monthly subscriptions are devoted almost entirely to current expenses, while the fulfilment of the contract made with the insured person is dependent on the proceeds of special collections made from all survivors as each claim arises. The inevitable result is that the members of the fund withdraw after meeting the first few calls and the association is rapidly dissolved. The reports also show that in many cases the sums appropriated by directors, managers and others as their remuneration are extravagant to the point of fraud. This side of the question has been fully placed before the Government of India, and a case has thus been established for the intervention of the executive and for the stricter exercise of existing statutory powers. Attention should now be turned to the successful companies. It should be explained in what way their methods differ from those of the companies which have failed. Any genuine attempts to apply actuarial principles should be carefully noticed. It should be ascertained whether a company is building up a reserve from its monthly subscriptions and is relying on this reserve rather than on special calls for the fulfilment of its obligations. If so, how is the reserve invested? Is caution exercised by any companies in deciding whether to accept or refuse a proposed insurance? Have any of the companies a caste organisation, or do any companies limit membership to a particular village or locality? If no attempt is being made in these or in similar ways to ensure the observance of sound business principles or to create some feelings of mutual obligation, legislation would probably be ineffective and it would be better to let the movement run its natural course. The prospect is not hopeful so far as can be seen from the reports hitherto received. But it is possible that this aspect of the question has not yet been fully examined.

6. The Indian friendly societies, however, are not all insurance companies, though this appears to be the general rule in Bengal and Bombay. In Madras there are numerous loan societies and there are possibly a few in other Provinces. There are also societies conferring other benefits, as, for example, the grant of money to pilgrims. There will thus be cases to which actuarial considerations cannot well be applied. The methods of these societies should be fully stated, as without this information it would be difficult to frame a comprehensive enactment. Finally little attention appears to have been given as yet to the friendly societies which have not been registered under the Indian Companies Act. A passing reference in one or two reports shows that unregistered societies are to be found both in Bombay and Bengal. They may possibly exist unobserved elsewhere. It is important to ascertain whether their numbers are large and whether their principles differ materially from those of the societies which have submitted themselves to official observation by claiming the status of companies.

7. The mention of the unregistered societies suggests another question. It has been frequently stated that the registered societies have obtained their large following through the prevalent belief that the concession of the status of a company implies official recognition and approval. No doubt this idea has been sometimes entertained, but the Governor-General in Council believes that the significance of registration to the popular mind has been exaggerated, and that it furnishes no sufficient argument for further and special legislation. Such legislation would give real ground for the supposition that the soundness of a friendly society was to some extent guaranteed by the Government, and the Government would be involved in a heavy responsibility if they took special powers of control and those powers proved ineffective. It must be remembered that registration is not a privilege conceded only to the better regulated class of partnership. It is an obligation to which a company must submit as the condition of its legal existence if its constitution is such as to render registration compulsory under the Act. The law requires that all associations must be registered which consist of more than 10 persons and are "formed for the purpose of carrying on the business of banking" or which consist of more than 20 persons and are "formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the association or by the individual members thereof." It seems clear that in many, possibly in most, instances these provident associations are carried on by certain of the members with the substantial purpose of acquiring gain. Such associations if unregistered are absolutely illegal. They cannot sue as a partnership in a civil court and if the members or any portion of them are prosecuted for a criminal offence, such as cheating, their failure to obtain registration might be held to justify an unfavourable presumption as to their motives in starting and carrying on their insurance business. If this were realized by the subscribers these unregistered companies would probably lose much support and would either cease to exist or would apply for registration and thus submit themselves to official observation. On their applying for registration the question will arise whether they comply with the conditions of the Act and can legally be registered. If not, registration must be refused.

8. The Governor-General in Council trusts that this question will not be lost sight of. He does not wish to make it the subject of a new annual report, but it is an important practical problem and it should be given prominence in the reports on the working of the Indian Companies Act. The Government will welcome a full statement of the facts which may come to the notice of the local officers. The question is still almost a new one though it appears to be already passing out of its earliest phase. The English Friendly Societies Act of 1896 was based on the experience of a century of statutory control and friendly societies still exist in England which date their origin back to the beginning of the 18th century. If friendly societies are to have more than an ephemeral existence in India, they must be adapted to the special conditions of this country, and it will probably take at least some years of waiting and of close observation before the legislature can materially assist in the attainment of the conditions of success.

Order—Ordered that this Resolution be communicated to all Local Governments and Administrations, to the Resident in Mysore and to the Director-General of Statistics.

(Signed) J. F. FINLAY,
Secy. to the Govt. of India.

ORDER—No. 1289, Judicial, dated 11th September 1900.

Communicated to the Registrar of Joint Stock Companies and to all District Magistrates whose special attention will be drawn to the remarks in paragraphs 4 and 8 of the resolution read above.

2. In future reports on the working of the Indian Companies Act, the Registrar of Joint Stock Companies will be requested to furnish full information on the points referred to in paragraphs 5 and 6 of the resolution.

(True Extract.)

[Signature]
for Chief Secretary.

To the Registrar of Joint Stock Companies.

" all District Magistrates.

" the Inspector-General of Registration.

Copy to all Departments of the Secretariat, with reference to the concluding sentence of paragraph 4 of the resolution. (*Educational*)

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STATEMENT WITH DITTO.

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