

*Friday,
23rd October, 1903*

ABSTRACT OF THE PROCEEDINGS

OF THE

Council of the Governor General of India,

LAWS AND REGULATIONS

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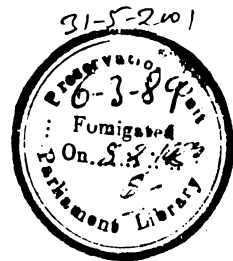
ABSTRACT OF THE PROCEEDINGS
OF
THE COUNCIL OF THE GOVERNOR GENERAL OF INDIA:
ASSEMBLED FOR THE PURPOSE OF MAKING
LAWS AND REGULATIONS

1903

VOLUME XLII



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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 the Viceregal Lodge, Simla, on Friday, the 23rd October, 1903.

P R E S E N T :

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

His Excellency General Viscount Kitchener of Khartoum, G.C.B., O.M., G.C.M.G., Commander-in-Chief in India.

The Hon'ble Mr. T. Raleigh, C.S.I.

The Hon'ble Sir E. F.G. Law, K.C.M.G., C.S.I.

The Hon'ble Major-General Sir E. R. Elles, K.C.B.

The Hon'ble Mr. A. T. Arundel, C.S.I.

The Hon'ble Sir Denzil Ibbetson, K.C.S.I.

The Hon'ble Sir C. L. Tupper, K.C.I.E., C.S.I.

INDIAN FOREIGN MARRIAGE BILL.

The Hon'ble MR. ARUNDEL moved that the Bill to give effect to the Foreign Marriages Order in Council, 1903, be taken into consideration.

The motion was put and agreed to.

The Hon'ble MR. ARUNDEL moved that in clause 2, sub-clause (2), of the Bill, the following words be substituted for the words "and description" in head (a):

"surname, age and profession or condition".

He said:—"The only suggestion that has been received in response to the publication of the Bill and the reference to Local Governments is from the Government of Bombay that in clause 2, sub-clause (2), the words 'and description' should be amplified. This has been accepted, and in lieu of the words I have quoted it is proposed to substitute the words 'surname, age and profession or condition.' The amendment is of a purely verbal and formal character."

The motion was put and agreed to.

The Hon'ble MR. ARUNDEL moved that the Bill, as amended, be passed.

The motion was put and agreed to.

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[*Sir Denzil Ibbetson.*]

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✓ ANCIENT MONUMENTS PRESERVATION BILL.

The Hon'ble SIR DENZIL IBBETSON moved for leave to introduce a Bill to provide for the preservation of Ancient Monuments and of objects of archæological, historical or artistic interest. He said:—"My Lord, during the past three-quarters of a century, Archæology, which has been defined as the study of the material remains of the human past, has received an enormous impetus, if indeed it may not be said to have sprung into existence in Europe. The æsthetic value of works of ancient art has always been recognised, though never studied with such intelligent care as now-a-days. But the civilised world has only lately learnt that what has come down to us from the past has a value and a lesson for us independent of its beauty, and that there is hardly any object of antiquity which may not teach us something about the people who made and used it.

"In pursuance of this belief, almost every nation with any pretensions to civilisation has recently taken measures to conserve its ancient buildings and to protect from dissipation, loss or injury the archæological material contained within its territories, and has founded or enlarged museums in which objects of archæological interest are collected and displayed for the information of the intelligent and for the study of the learned. Moreover, the buried relics of the past are being systematically explored under the guidance and supervision of the most competent scholars; and within the last thirty years excavation has become a science, and has added enormously to our knowledge of the history of the human race. In furtherance of the objects which I have indicated, legislation has everywhere been found necessary. At the present moment there is hardly a country in Europe which has not made legal provision for the protection of objects of artistic, historical or archæological interest, even Turkey and Crete having followed the example of their neighbours. The laws are in all cases based upon the recognition of the principle that the nation possesses an interest in such objects, even although they may be the property of private persons. They are, as might be expected, most stringent in Greece and Italy, as being the two countries which have most to protect. In Greece the law goes so far as to declare that 'antiquities possessed by private persons, either in their collections or situated on their property, are considered as national property'; and if an ancient building is in danger owing to the neglect of the owner, the Government will step in and repair it, in which case the building becomes the property of the public. In Italy the owner of an old picture cannot sell it without the permission of Government, even though it may have been in the possession of his family ever since it was painted, and no antique or artistic object can be taken out of the country without

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obtaining leave. In both countries the Government has powers of compulsory acquisition, and excavation is strictly regulated by law, the State having the first claim to what is found.

“My Lord, India is surpassed by few countries in the beauty, the importance, and the interest of her ancient monuments, or in the wealth of archæological material which she possesses. There are very many buildings in this country of which the whole Indian people may be justly proud; there are some which the world could ill afford to spare. As at any rate one of the cradles of the Aryan race, India's early history possesses an absorbing interest for European as well as for Indian scholars, while the fact that the genius of her people has never turned in the direction of history, renders us peculiarly dependent upon survivals from the past for information regarding events previous to the Mahomedan invasion. Yet India alone, or almost alone, among civilised countries, has made no legislative provision for the protection of her priceless treasures. The principle upon which such legislation must rest is indeed not unknown to the Indian Statutes, since section 23 of Act XX of 1863 expressly recognises the right of Government to ‘prevent injury to and preserve buildings remarkable for their antiquity, or for their historical or architectural value.’ But no effective provision has yet been made for the performance of this duty.

“The reason certainly is not because our antiquities stand in no need of protection. The history of India has not been of a nature to promote the conservation of her ancient monuments, or to foster a regard for them in the minds of her people; and every traveller must have been struck with the frequent sight of buildings of the greatest beauty, or interest, or both, crumbling to decay, simply because nobody is interested in their preservation. Irreparable injury has in many cases already been done by such neglect. Nor is the injury always merely passive. In 1899 some foreigners visited one of the ancient capitals of Burma, and not content with removing detached objects of interest, chiselled from the walls unique tiles and frescoes illustrative of events in the life of Buddha, many of which they destroyed in the process, but some of which they succeeded in carrying to Europe. This was no doubt an exceptional instance of barefaced and dishonest vandalism; but wanton or ignorant disfigurement of ancient monuments is by no means uncommon.

“Again, when in 1895 our troops marched through the Swat Valley, which lies beyond our border, sculptures and inscriptions of the greatest archæological interest and value were discovered in considerable numbers. Some of them were removed by those who might have known better; and as soon as it became

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apparent that a value was attached to them, enterprising Punjabis made a business of importing and offering them for sale on a very extensive scale, while some years later, a considerable collection of sculptures from Swat and Yusufzai was exhibited in one of the capitals of Europe. This, again, is only an aggravated instance of a process which has been steadily going on, on a smaller scale, for very many years past. It is common for the land surrounding an ancient building in India, to be strewn with figures, carvings, and inscriptions which have once formed portions of the building or its appanages; and similar objects are often discovered on ancient sites. Such fragments, if collected and preserved in the immediate vicinity of the building or site to which they appertain, or, if that is impossible, removed to a museum with full information as to the place from which they came and the position in which they were found, may shed invaluable light upon the history of the site or building and of the people by whom it was inhabited or erected. Yet there is no one of us but has seen such objects in the hands of private individuals, where, in the absence of all definite information concerning them, they degenerate into mere curiosities; while many of them are taken out of the country or even disappear altogether.

“So again, the buried sites of deserted towns and buildings are common all over India; and there can be little doubt that systematic excavation under competent guidance would cast a flood of light upon the ancient history of the country, as it has done in Europe; and indeed results of value have already been obtained in this country when such operations have been undertaken with knowledge. But at present these sites lie at the mercy of the villager, who digs in them for bricks with which to build his houses, or for soil impregnated with nitre to spread upon his fields; or, even worse, of the enthusiastic but ignorant amateur, who destroys in his well-meaning but misguided efforts, evidence which, in competent hands, might have been of the utmost archæological value.

“It is in order to supply the deficiency in our Statute Book which I have indicated, and to prevent a repetition of occurrences such as I have described, that the Bill which I am about to ask leave to introduce has been drafted. As long ago as 1898 proposals for legislation were made to Lord Elgin's Government, and the Secretary of State was asked to supply us with information as to the law on the subject in European countries; but it was not till 1900, when Your Lordship took the matter up, that any real progress was made. Such legislation as is proposed is especially appropriate, and especially desirable, now that, at Your Lordship's personal initiative, so much more has been done than ever was done before to conserve and restore the precious monuments of Indian history and

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architecture. Within the past few years systematic attention has been paid to the condition of the more important of those buildings which link the present with the past; and in the Imperial and Provincial Budgets of the current year, no less than Rs. 4,68,000 are provided for the conservation of Ancient Monuments.

"Some further information was procured from Europe, and at the end of 1901 our first draft of the Bill was referred to Local Governments for opinion. There was a good deal of criticism on points of detail, but the general principles found universal acceptance, while the Bengal Government sent us a draft of a Bill which it had been preparing independently with the same object, from which we have borrowed several valuable suggestions.

"The details of the present Bill are so fully discussed in the Statement of Objects and Reasons that I need not notice them at any length. The Bill is divided into four distinct Parts:—The first Part deals with Ancient Monuments: a term which includes, not all ancient buildings, but only those which possess a historical, archæological or artistic interest. But, as a matter of fact, its provisions relate, not to all ancient monuments, but only to such of them as Government declares to be Protected Monuments; that is to say, monuments the importance of which is such that their preservation is a public interest. This Part of the Bill is framed upon the model of the English Act, which is said to be working well, and to have prevented a great deal of mischief. The idea upon which it rests is to depend in the main upon the voluntary action of the owner. It is hoped that the owner of a building such as we are considering will not unfrequently be willing to make it over to the guardianship of a high official, on condition that it is managed as a public trust, that it is maintained at the cost of Government, that it is not used for any purpose inconsistent with its character or object, and that the public shall have free access to it. When the owner is not prepared to go so far, it is hoped that Government will often be able to come to an understanding with him as to the conservation of the monument on terms which are fair to both parties.

"When neither of these courses is possible, the Bill provides two methods whereby the building may be preserved from destruction. If an endowment exists for the purpose of its maintenance, the Collector may invoke the aid of the Civil Court to enforce its application to that purpose. And in the last resort, when all other means have failed, when the owner has refused to enter into an agreement, and when, but not until, it appears that the intervention of Government is necessary in order to the preservation of a Protected Monument, the Government may acquire the monument under the Land Acquisition Act, subject, however, to

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the important exception that no monument of which any part is periodically used for religious observances can be so acquired. The Part further confers upon Government the right of pre-emption whenever a Protected Monument is being sold otherwise than within the family of the owner, or within any religious association to which he may belong.) Finally, provision is made for the enforcement of agreements under this Part of the Act, and a penalty is provided for damaging or defacing a Protected Monument.

"The second Part of the Bill deals with antiquities of a moveable nature, and is intended to provide for the case of sculptures, carvings, inscriptions and the like, to which I have already alluded. It empowers the Governor General in Council, whenever he has reason to believe that antiquities are being sold or removed to the detriment of India or of any neighbouring country, to prohibit or restrict the importation into or exportation out of any part of British India of any specified class of antiquities. It is not proposed to follow the example of Italy, and to attempt to prevent the removal from India of all antique or artistic objects; for it is recognised that in the case of large classes of such objects, while their value to the country is great and their removal from it to be deplored, it would be impossible to enforce a prohibition, while an attempt to do so would involve inquisitorial measures which the circumstances of the case would fail to justify.) The definition of antiquities, therefore, makes no mention of artistic value, but is confined to objects which, by reason of their historical or archæological interest, Government deems it proper to protect. Even this definition will cover certain objects of the sort to which I have just alluded, and with which it is not ordinarily intended to interfere. The main object of the provision is to enable us to deal with the case of archæological remains.

"The third Part of the Bill also deals with these remains, whether moveable or immoveable, and is designed to prevent their removal from the vicinity of the site or building to which they belong, and upon their connection with which their value to the student depends, and to protect them from injury or decay. The Government may prohibit the removal of any such objects, on condition of being compelled to purchase them, if moveable, at the option of the owner, and of compensating him for any loss that may result from the prohibition in the case of an immoveable object. A power of compulsory purchase is also vested in Government when it appears that any object notified under the Part is in danger of injury or destruction; subject, however, to the important exception that the power shall not extend to anything used for

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the purpose of religious observance, or to any object which is rendered valuable to the owner by family associations.

“The fourth Part of the Bill deals with excavation, which it empowers Government to restrict or regulate within any local area, subject to payment of compensation for any resulting loss. The necessity for such powers I have already explained.

“Such, my Lord, are the provisions of the Bill which I propose to lay before the Council. That some such powers are desirable in the public interest, I think few will be found to deny. They necessarily involve a certain degree of interference with private property. But the man who is fortunate enough to be the owner of a monument of national importance owes a duty to the public; and we have endeavoured to confine the powers of interference which we propose to confer upon Government to cases in which they can be justified upon public grounds, to restrict their exercise where religious feeling or family associations are involved, and to limit them to what is essential in order to secure the public end in view.”

The motion was put and agreed to.

The Hon'ble SIR DENZIL IBBETSON introduced the Bill.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

LOCAL AUTHORITIES LOAN BILL.

The Hon'ble SIR EDWARD LAW moved for leave to introduce a Bill to make further provision regarding the borrowing powers of certain local authorities. He said :—“The object of this Bill is to provide for the borrowing of money by certain local authorities, with the previous sanction of the Government of India, by means of the issue of short-term bills, and also to enable the same authorities to borrow money in any manner authorized by law, for the purpose of discharging loans previously contracted.”

The motion was put and agreed to.

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The motion was put and agreed to.

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CO-OPERATIVE CREDIT SOCIETIES BILL.

The Hon'ble SIR DENZIL IBBETSON moved for leave to introduce a Bill to provide for the constitution and control of co-operative credit societies. He said : —“ My Lord, one of the most difficult problems with which the small agriculturist is everywhere confronted is, to obtain the money which is necessary for his operations at a reasonable rate of interest. This is a state of affairs by no means peculiar to India. The petty agriculture of Europe is for the most part financed by borrowed capital, and there too the money-lender takes advantage of the exigencies of the cultivator to demand exorbitant terms. In India, however, the problem is aggravated by the fact that Indian rates of interest are to some extent survivals from times when the security which the agriculturist had to offer was of far smaller value than at present, and partly perhaps by the fact that into most Indian contracts there enters an element of oriental hyperbole, for which full allowance is made when the settlement is by mutual consent, but which our Courts of Justice are for the most part unable to recognise.

“ Some fifty years ago, the establishment of agricultural banks and of co-operative credit societies for small men was initiated in Germany by Schulze Delitzsch and Raffeisen respectively. The experiment passed through twenty years of struggle and uncertainty ; but eventually it succeeded beyond all expectation, the institutions of both classes now exceeding 5,000 in number ; and the example thus set has been imitated, with more or less modification, in many European countries where land is commonly in the hands of men of small means.

“ Madras was the Indian province in which attention was first turned to the subject. In that province an indigenous institution called a Nidhi had sprung into existence at about the same time as the movement to which I have just referred began. These Nidhis are modelled very much upon the lines of English building societies, and they find their clients among a more educated and advanced class than that of the rural agriculturist, to whose needs their constitution is not well adapted. But the fact that, notwithstanding numerous failures, and much discredit attendant upon a period of speculation, they have attained a very considerable degree of success, since at present they include some 36,000 members with a paid up capital of 75 lakhs, is encouraging as suggesting the possibility of establishing true co-operative credit societies among an Indian people.

“ It was the Madras Government, then, who, towards the end of 1899, forwarded for the consideration of the Government of India a report upon the subject which had been prepared under their orders by Mr. (now Sir Frederick) Nicholson, and

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which is a monument of research and a perfect storehouse of information; while about the same time Mr. Dupernex, a civilian in the United Provinces, published a book upon 'Peoples' Banks for Northern India.'

"The Government of India fully realised the doubts and difficulties which must attend any attempt to introduce the Raffeisen system into rural India. But they also recognised the enormous advantage which would result to the Indian cultivators if by any means they could be induced to utilise their combined savings under a system of co-operative credit, and so be freed, even partially, from the necessity of recourse to the professional money-lender. They therefore referred the subject in its most general form to Local Governments for preliminary consideration and suggestions.

"After some intermediate discussion, the opinions of Local Governments were considered in June 1901 by a strong Committee under the presidency of my Hon'ble colleague Sir Edward Law; and it was in the report of this committee, to which were attached a draft Bill, and draft model schemes of management for co-operative credit societies with limited and unlimited liability respectively, that proposals for action first took a form sufficiently definite to allow of detailed discussion. These proposals were referred to Local Governments for criticism, and it is upon a consideration of the replies which have been received to this reference that the Government of India now propose to take action.

"While the subject had thus been under discussion, a certain amount of experience had been gained from experiments which had been made with varying success in several provinces of Northern India. In some cases failure had ensued, or was only averted by official support; but in a few instances genuine success had been achieved, and real co-operation for the purpose of utilising the combined credit had been arrived at among a cultivating community.

"One thing, however, soon became apparent—that no real advance was possible without legislation. The Companies Act at present in force (Act VI of 1882) contains 256 sections, and its elaborate provisions, however necessary in the case of combinations of capital on a large scale, are wholly unsuited to societies of the kind which we desire to encourage. The first thing to be done, therefore, was to take such societies out of the operation of the general law on the subject, and to substitute provisions specially adapted to their constitution and objects. In the second place, it was desirable to confer upon them special privileges and facilities, in order to encourage their formation and assist their operations. And, thirdly, since they were to enjoy exemption from the general law and facilities

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of a very special nature, it was very necessary to take such precautions as might be needed in order to prevent speculators and capitalists from availing themselves, under colourable pretexts, of privileges which were not intended for them. These three ends were the objects which we kept in view in framing the legislation that I am about to propose.

"When we came to consider the details of our Bill, we found that we had before us an extraordinary diversity of opinion, which extended in many cases to matters of principle, and which reflected, not only the individual convictions and experiences of the authorities consulted, but also the infinite variety that characterises the conditions with which we have to deal and the material with which we have to work. But such diversity of opinion was only to be expected. The fact is that the whole business is of the nature of an experiment, upon which we are entering with very scanty knowledge and very little local experience, and in which we shall have to feel our way cautiously, and to gain our experience as we advance. We have, it is true, European results to guide us, and European models to imitate. But it by no means follows that what succeeds in Europe will succeed also in India. Nor indeed is it probable that what is best suited to one part of this great country will always be best suited to another. The conditions and the character and habits of the people vary infinitely; and we shall probably find that the institutions which we desire to promote will take widely differing forms among such widely different classes as, for instance, the yeomen of the Punjab, the raiyats of Southern India, and the tenants of Bengal. If an institution of this sort, which depends upon the people themselves combining for their mutual advantage, is to succeed, it must be as far as possible an indigenous and a natural growth. An exotic type may be forced by artificial stimulus to flourish for a while, but we can never expect it to take vigorous root, or to continue to flourish when that stimulus is withdrawn. Certain broad principles must be laid down, and certain precautions must be insisted upon; but within those principles and subject to those precautions, the people must in the main be left to work out their own salvation on their own lines, the function of Government being confined to hearty sympathy, assistance and advice.

"Guided by these considerations, we have kept two cardinal objects in view in framing the present Bill. The first is simplicity. Some of the schemes which were laid before us were far too elaborate for the comprehension of the classes for whom they were intended, but who certainly could never have complied with their provisions. Simplicity is the first essential for success. The second is elasticity.

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Our aim has been to lay down merely the general outlines, and to leave the details to be filled in gradually, on lines which the experience of failure or success and the natural development of the institutions may indicate as best suited to each part of the country. So far, therefore, as it deals with the constitution of the societies, we have confined the provisions of our Bill to those general principles which we consider that all co-operative credit societies should accept as the condition of being permitted to enjoy the advantages afforded by our special legislation. There are other matters in respect of which some guidance and some restriction will be necessary; but we have left them to be dealt with by Local Governments in accordance with local needs, in the exercise of the rule-making power which the Bill confers upon them. If the Bill passes into law, we shall impress upon those Governments that simplicity and elasticity are as essential in the rules framed under the law as they are in the law itself, and that especially in the first instance, and until further experience has been gained, the regulative interference of Government should be limited strictly to essentials, so as to leave spontaneous growth unhampered. Experiment is as necessary within the province as it is within the Empire.

“ Before turning to the actual provisions of the Bill, it will be well to define as exactly as possible the precise nature of the institutions which we desire to create, and that we shall best do by defining the precise object with which we desire to create them. That object may perhaps be defined as the encouragement of individual thrift, and of mutual co-operation among the members, with a view to the utilisation of their combined credit, by the aid of their intimate knowledge of one another's needs and capacities, and of the pressure of local public opinion.

“ The main object of our endeavours is to assist agricultural credit, which presents a far more important and more difficult problem than does industrial credit. But we recognise that artisans, employés on small pay, and other persons of small means residing in towns, may very properly be admitted to the benefits of our legislation. We therefore provide for two classes of societies—rural, which are composed of agriculturists (a term which is not intended to include the wealthy rent-receiver), and urban, which consist of artisans or other persons of limited means. The members of a rural society may live in a town: so also the members of an urban society may live in a village, but it must be one single village—a condition which will exclude in practice all villages that are not sufficiently large to possess an urban character. In the case of both classes we provide that the members must be small men, for we are not legislating for capitalists; that they must be residents of the same neighbourhood, else

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the knowledge of one another which is to guide them in their operations will be wanting; that new members shall be admitted by election only, thus securing that mutual confidence which is the only possible foundation of co-operation; that a man must be a member before he can borrow from the society, and must in that capacity have contributed to the funds of the society, since our basis is mutual co-operation; that money shall not be lent on mortgage, so that the capital may be liquid, and capable of ready realisation; that the interest in a society which may be held by a single member is to be limited, in order to prevent an individual from obtaining control; and that shares can be transferred subject only to certain restrictions which are intended to prevent speculation. We provide for a simple form of registration; for compulsory dissolution, subject to appeal to the Local Government, in order to meet the case of fraud, or of bogus co-operative societies which may have obtained the benefits of the Act while not pursuing its objects; and for liquidation under a simple procedure, and subject to appeal to the Civil Courts.

"In the case of rural societies we further insist upon unlimited liability, as best suited to the agricultural classes to whom they are confined, and most consonant with the mutual confidence which is to form their basis; we lay down that no profit is to be directly divided among the members, since their object is not to make money but to assist one another, and any surplus that may accrue should either be carried to a reserve fund, or be applied to reducing the rate of interest upon loans; and we forbid the society to borrow money without sanction, for it would often be worth the while of a money-lender to risk his money in order to get a successful society into his power, and so to rid himself of a rival. We prohibit pawnbroking, since the basis of the operations should be personal and not material security; but we allow agricultural produce to be received as security or in payment, and to be converted into money at any time by the society, which will generally be in a position to get a better price for it than an indebted cultivator could obtain.

"In the case of urban societies we allow of limited liability and the distribution of profits, subject to the creation of a sufficient reserve fund, and we allow them to lend money to a rural society which is situated in the same district, and with the circumstances of which they have therefore the opportunity of being acquainted.

"Having thus provided for the constitution of our societies, and regulated their operations, we proceed to confer upon them certain privileges. We exempt the shares or other interests of members in the capital of a society from attachment for

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their private debts, thus encouraging thrift, and giving stability to the operations of the society; we relieve societies from the necessity for letters of administration or a succession certificate; we give them a lien upon certain forms of property when created or acquired by means of a loan from them, until the loan is repaid; and we make an entry in the books of a society *prima facie* evidence in a suit to recover money due to it. We take powers for the Governor General in Council to exempt societies and their operations from income-tax, stamp-duties, and registration-fees; and it is our intention to act upon those powers, at any rate in the first instance.

“ Finally, we provide for compulsory inspection and audit by a Government officer, in order to provide against mismanagement and fraud, to give the members and the public confidence in the societies, and to justify the privileges which we confer upon them; we make Government advances recoverable as arrears of land-revenue; we confer a wide rule-making power upon Local Governments while indicating certain heads under which it will probably be advisable to exercise it; and we declare that the provisions of the Indian Companies Act shall not apply to societies registered under the new law.

“ There are four points of some importance as to which the Bill is silent, but which have been much discussed, and with great diversity of opinion; and I may perhaps briefly indicate why our proposals include no provisions regarding them. The first is, the objects with which these societies may make loans to their members. It has been strongly urged that no loans should be permitted except for productive expenditure, and especially that they should not be granted for such purpose as marriages and the like. We recognise that there is much to be said both for and against the proposal; but we have finally decided to reject it, mainly on the ground that whatever restrictions might be imposed by law, it would be impossible to enforce them, while their mere existence would encourage evasion and deceit. Moreover, we are not without hope that the fact that a society refuses to lend more than Rs. 50 to a member for a marriage, as being as much as he can hope to repay, may not unfrequently lead to his limiting his expenditure to Rs. 50 instead of going to the money-lender for Rs. 100.

“ In the second place, it has been suggested that a summary procedure for the recovery of debt should be placed at the disposal of these societies. It is true that the recovery of debt by civil suit is a tedious process, and that a society of the sort we are considering is perhaps the least fitted of all agencies to conduct such a suit. But it is a serious matter to place our executive

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machinery at the disposal of a private creditor. And, above all, such artificial assistance would discourage the exercise of that vigilance and caution upon which these societies should depend for their security. With the local knowledge which will be at their command, they should, if they conduct their affairs prudently, hardly ever need to have recourse to a Court. Their strength should lie in that knowledge, and not in any special process of recovery. In the rule-making section we have authorised Local Governments to provide for the settlement of disputes by arbitration if a society so wishes; and we do not propose to go further.

"In the third place, we have been urged to prohibit compound interest. We have had no hesitation in rejecting this suggestion. Compound interest is a devilish engine in the hands of a creditor whose whole object is to involve his debtor in his meshes. But fairly used, it is just enough; and prompt recovery of debt is essential to the working of these societies. There is a danger that they may be too slack in dealing with their friends and neighbours, and compound interest will provide a useful stimulus to the debtor.

"In the fourth place, we have been asked, with the object of giving special encouragement to thrift, to extend to mere deposits made by members with their societies, the same exemption from attachment for debt for which we have provided in the case of contributions that have merged in the capital funds of the society; and the precedent of Provident Funds has been quoted in support of the proposal. We do not admit the analogy. Provident Funds are protected, not for the benefit of the subscriber, but because they form a provision for the widow and the orphan; and we do not think that thrift should be encouraged wholesale at the expense of the legitimate creditor. The exemption for which we have provided is confined within definite limits, and we do not propose to extend it.

"Such, my Lord, are the outlines of the legislation which I am about to propose to Council. But legislation is useful only as the basis of subsequent action; and the subject is of such great and general interest and importance that I think I shall be justified in asking the Council to bear with me a little longer, while I briefly sketch in outline the action which we propose to take if our Bill becomes law. I have said that the whole matter is an experiment, and that we shall have to gain our experience as we go. Under these circumstances it is essential to proceed gradually and with the greatest caution. We cannot hope to escape failures, which will involve loss to individuals; and many failures would set back the cause which we have at heart, while a few successful societies

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will speedily find spontaneous imitators. If by a stroke of the pen I could cover the country tomorrow with a network of these societies, I should decline to do so until we know more about the forms which will best suit the conditions with which we have to deal. And that knowledge only experience can teach us.

"On the other hand, it is abundantly clear that no real advance will be made without the active encouragement and assistance of Government. We propose therefore to ask Local Governments to select a few places in each province in which to try the initial experiments. They should present some variety of conditions, so as to afford a wide experience; and an important element in the choice will be the personal character of the District Officer, and the degree in which he possesses the confidence of and exercises influence over the people. I shall explain presently how we propose to relieve the District Officer when the societies have once been formed. But it is he who must give the first impulse; he must explain the new law and preach the new gospel; he must select the places in which the experiment is most likely to succeed, and must suggest to the people that they should try it, putting it to them as action to be taken, not by Government but by themselves, while explaining how far and in what way Government is ready to help them.

"Indeed, the active assistance and support of the District Officer will be necessary in every case, until the new plant has taken firm root and is strong enough to stand alone, and the officer who is in immediate charge must work in constant consultation with him. But we do not propose to burden him with the detailed care of the societies. Hon'ble Members will observe that the Bill provides for the appointment in each province of a Registrar, to whom somewhat extensive powers have been given in order to secure that our legislation is not taken advantage of by bogus societies. We propose that he should be a whole-time officer specially selected for the work, and that to him should be entrusted the care and supervision of all the societies in the province. The advantage of concentrating this duty in a single pair of hands will be, that the experience of all the societies will be placed at the disposal of each, since by watching developments under various conditions the Registrar will gain experience which will render him an invaluable adviser; he will know what has succeeded in one place or failed in another, and will be in a position to point out defects and suggest remedies, and to prevent the repetition of mistakes. For the first few years at least he will constantly be going round, visiting the societies and watching their progress, criticising and assisting them, but as a friendly adviser rather than as an inspecting officer. As experience is accumulated and the societies

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gain strength and are able to stand alone, and as their numbers multiply, the 'dry-nurse' element will disappear from his duties, which will become more purely official.

"I have only one more point to touch upon. The first question that will be asked—that has indeed been asked already—is, what is Government going to do for these societies in the way of financial assistance? I have already said that we propose to exempt for the present their profits and operations from income-tax, stamp-duties, and registration-fees. We shall also authorise them to open public accounts in the Post Office Savings Banks; and these measures will apply equally to urban and to rural societies. In the case of urban societies we propose to go no further.

"As to whether Government should contribute to the capital of rural societies the most opposite and extreme views have been urged upon us. It has been suggested that we should finance them entirely; but such a procedure would be destructive of that thrift and co-operation and mutual self-help which it is our object to encourage. It has been proposed that the distribution of Government takavi advances should be entrusted to these societies; and I think it quite possible that some day we may be able to make use of those among them which have taken root and flourished, and which stand on a strong and independent basis of their own, as valuable agencies for the purpose. But they must learn to swim before they are thrown into deep water; to take care of their own money before they are trusted with much of ours; and to allow them to regard themselves as mere agencies for the distribution and recovery of Government advances would wholly defeat the object of their creation.

"From the opposite point of view it has been argued that any financial assistance whatever from Government must obscure the co-operative principle, and weaken the spirit of self-dependence which we desire to foster; and it has been urged that Government should confine itself to sympathy and encouragement and moral support. To this it has been replied, and not without reason, that assistance thus restricted would be but cold comfort. We fully recognise the danger which is pointed out; and we propose so to limit our assistance as to minimise that danger as far as possible, by laying down that it must be preceded by and must depend in its amount upon a genuine subscription by the people themselves. But, subject to these conditions, we are prepared to give financial assistance at the start. We believe that such assistance will have a value beyond its mere use as capital on easy terms, since it will be an earnest of the reality of the interest which Government takes in the matter, while the terms to which it will be subject will stimulate the thrift and self-help that are to be a condition

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precedent. We do not contemplate that our aid will always be needed. Both in the matter of detailed guidance and of the provision of funds, we shall not feel that we have succeeded unless we eventually find ourselves able to withdraw; for, as has been well said, 'co-operation must be built up from the bottom, and not from the top.' But, for the present, we shall be prepared to advance money to rural societies in even fifties of rupees, subject to the condition that the total advance outstanding shall at no time exceed the total amount subscribed or deposited by the members of the society, or a limit of Rs. 2,000 in the case of any single society. It may be said that the first condition will greatly restrict the advances; but at any rate they will double the resources at the disposal of the society. During the first three years of the life of any society, the advances will be free of interest, and will not be recoverable except in the case of the society being wound up; while after that period they will ordinarily bear interest at 4 per cent., and will be recoverable in annual instalments not exceeding one-tenth of the total amount due. The Registrar will have power to suspend the payment of any instalment of capital on payment of any interest that may be due, and such suspension will simply postpone the payment of the suspended instalment and of all subsequent instalments by one instalment period.

"Such, my Lord, are the outlines of the legislation which we propose, and of the executive action which we intend to base upon it. I must crave pardon of the Council for having trespassed on their patience, and for having travelled somewhat outside the limits of my legislative brief; but the subject is one of such great and general interest that I have thought it well to lay our whole scheme, so far as it has already been matured, before the public. I believe that it would be hard to exaggerate either the importance or the difficulty of the experiment upon which we are about to embark. I feel by no means certain of success. And if we do achieve success, I do not expect to find in it a panacea for all the difficulties of the Indian cultivator. But I am convinced that if we can succeed in inducing him to combine with his fellows to utilise their collective credit for the benefit of each, we shall have done a great deal to lessen those difficulties and to improve his condition. At any rate I hold it to be the bounden duty of Government to give the experiment a fair trial, and to do all that lies in its power to make it successful. But it must be remembered that success or failure lies in other hands than ours. We can do nothing of ourselves. We can offer encouragement, advice, legal facilities, and executive and financial assistance. It is for the people to decide whether they will avail themselves of our offer."

The motion was put and agreed to.

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The Hon'ble SIR DENZIL IBBETSON introduced the Bill.

The Hon'ble SIR DENZIL IBBETSON moved that the Bill, together with the Statement of Objects and Reasons relating thereto, be published in the Gazette of India in English, and in the local official Gazettes in English and in such other languages as the Local Governments think fit.

The motion was put and agreed to.

The Council adjourned to the 4th November, 1903.

SIMLA;
The 26th October, 1903. }

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