

THE LAW RELATING TO
RELIEF & PROTECTION OF
DEBTORS

Being a Commentary on

THE USURIOUS LOANS ACT, 1918

[As amended by the Madras Amending Act of 1936]

THE MADRAS DEBTORS' PROTECTION ACT, 1934

[As amended by the Madras Act IV of 1936]

THE MADRAS DEBT CONCILIATION ACT, 1936

[Madras Act XI of 1936]

TOGETHER WITH

(1) *All Enactments in India relating to interest and the relief of debtors, including the latest amendments of the Civil Pro. Code.* (2) *Parallel Enactments, English and Indian, with Rules, and* (3) *Rules framed by Government under the Agriculturists' Loans Act, The Madras Debtors' Protection Act and The Debt Conciliation Act.*

BY

K. V. RAMASUBRAHMANYAM, B.A., B.L., MADURA

Author of "The Evolution of the Indian Constitution"

WITH A FOREWORD

By The Hon'ble Mr. Justice

S. WADSWORTH, I.C.S.,

High Court, Madras

PUBLISHED BY

THE LAW PUBLISHING COMPANY

MYLAPORE

: : :

MADRAS

1937

All Right Reserved]

[*Price Rs. 3*

ADVERTISEMENT S

Now Ready !

Now Ready !!

A. S. AIYER'S

MADRAS
DISTRICT MUNICIPALITIES ACT

(MADRAS ACT V OF 1920)

[AS AMENDED BY MADRAS ACT X OF 1930 AND OTHER
AMENDING ACTS UPTO JANUARY, 1936]

*With Notes, Case-law, Appendices and Rules framed
under the Act upto January, 1936*

WITH A SUPPLEMENT FROM 1931—1936

The amended sections have been recast in the light of various amending Acts passed by the Legislature and inserted in their proper places in the body of the main book.

PRICE RS. 3-8. CHARGES EXTRA

POST FREE to those who remit the value in advance

THE LAW PUBLISHING CO.,

MYLAPORE

: :

MADRAS.

ADVERTISEMENT S

THE
INDIAN
SALE OF GOODS ACT

(ACT III OF 1930)

*With exhaustive, analytical and critical
Commentaries*

BY

P. S. NARAYANASWAMI AIYER, B.A., B.L.,

AND

A. S. SRINIVASA AIYER, B.A., B.L.

Advocates, High Court, Madras.

Brought up to January, 1936

With a supplement.

Royal 375 pp

Full Cloth.

Price Rs. 4.

Reduced Price Rs. 2 Charges extra.

THE LAW PUBLISHING COMPANY,

MYLAPORE

MADRAS.

PRINTED AT THE
ROYAL PRINTING WORKS,
MOUNT ROAD, MADRAS.

FOREWORD.

Almost since the dawn of history, the problem of indebtedness has been one of the major difficulties of society. Public men and private economists have been groping in the mist, hoping to hit on some practicable way of reducing debt, other than the too obvious method of paying hard cash. There is, of course, the brutally simple solution of bankruptcy, which may be practised either by individuals or by states, in the latter case often disguised as currency devaluation. But bankruptcy, quite rightly, carries with it a stigma and a penalty. What publicists are looking for is some practicable way of dealing with the difficulties of the honest man, who wants to pay his debts without losing the land which is his livelihood, but cannot do so because, for reasons which are beyond his control, the debts have swollen to an impossible size. The problem has been aggravated since the War by rapid fluctuations of prices, exchanges and currency values. A man borrows Rs. 100 in 1922 when this sum represents 300 measures of grain. Grain prices slump, and in 1930, when he is constrained to pay his debt, he has to sell 600 measures of grain to pay the principal and as much again to pay the arrears of interest. Thus, since he lives on a grain basis, the fall in prices has doubled both his debt and the interest on it. Nevertheless his taxes call for the same number of rupees as in 1922, his surplus crops sell for half the amount which they used to fetch, and the balance from which he hoped to repay the debt is non-existent. Moreover, his very indebtedness drives him into uneconomic courses. He sells at the wrong time owing to the imperative need for

cash. His land is badly tilled owing to the lack of means to procure good bulls, proper manure and efficient labour. He flounders in a morass of difficulties, from which he can be extricated only by a sudden rise of prices or unexpected windfall; and it is the hope of the windfall which too often leads him to gamble away the remains of his patrimony.

In seeking a remedy for such hard cases, the legislator is embarrassed by the fact that similar symptoms are presented by other cases which are not really hard cases at all. There is the man who borrows with neither the intention nor the means of repaying, deluding his creditor with false promises and mendacious guarantees. There is the man who is able to pay but dishonestly refuses to do so, if he can take refuge under any statutory defence. Such men are little better than common thieves and deserve no sympathy. Another source of embarrassment is the practice whereby the borrower is compelled to sign for much more than he receives, a practice which is very widespread, but is often pleaded falsely. It is an error to assume that all lenders are rogues and all borrowers honest men. The converse is more often the truth. A money-lender who systematically swindles his clients, soon gets a bad name and cannot hope to build up a sound business. The professional sowcar is frequently hard and grasping, but he generally has the sense to realise that flagrant dishonesty does not pay. The borrower labours under no such restriction.

Foremost amongst the dangers of all usury legislation is the danger of unduly restricting credit. Some measure of restriction would probably be beneficial in India, particularly if it could be applied to unremunerative borrowing for marriages etc., without adversely affecting commercial credit. But India is a land which

lives on borrowed money to an extent which is unknown in the West. Any serious disturbance of the credit system would shake the whole basis of the social fabric, and is not to be attempted without the gravest consideration.

This little book is an attempt to put together in a handy form those measures of the Indian legislatures which have been enacted in the attempt to relieve the honest debtor. Some of these measures are defective or inadequate. None of them are more than palliative. It is the hope of all who have studied the subject that the wisdom of future legislators will evolve some practicable scheme, whereby the load of debt may be lifted, without destroying the facilities for reasonable credit, and without doing injustice to the honest lender.

“COTTINGLEY,”
ANDERSONS ROAD,
NUNGUMBAUKAM, MADRAS }
}

S. WADSWORTH.

TABLE OF CONTENTS

	Page
1. Foreword	... i—iv
2. Introduction	... 1—16
3. The Usurious Loans Act with Commentaries	... 17—32
4. The Madras Debtors' Protection Act with Commentaries	... 33—50
5. The Madras Debt Conciliation Act with Commentaries	... 51—100
6. Appendices :—	
I. The English Moneylenders Act, 1900	...103—105
II. The English Moneylenders Act, 1927	...106—120
III. The English Pawnbrokers Act, 1872, (relevant sections)	...121—130
IV. The Agriculturists' Loans Act, (India Act XII of 1884 as amended by Madras Act, XVI of 1935)	...131—152
V. (a) Bengal Moneylenders Act (Act VII of 1933)	...153—155
(b) Central Provinces Debt Conciliation Act, 1933	...156—175
(c) Central Provinces Moneylenders Act, 1934	...176—186
VI. The Civil Procedure Code (relevant sections)	...187—189
VII. The Provincial and Presidency Towns Insolvency Acts (relevant sections)	... 190

	Page
VIII. Enactments allowing interest :—	
(a) The Interest Act, ...	191
(b) Madras Estates Land Act, ...	191
(c) The Negotiable Instruments Act ...	191
(d) The Insolvency Acts ...	191
(e) The Indian Succession Act ...	192
(f) Land Acquisition Act ...	193
IX. Enactments disallowing interest :—	
(a) Civil Procedure Code ...	193
(b) Succession Act ...	193
(c) Transfer of Property Act. ...	193
X. Enactments where interest is in the discretion of the Court :—	
(a) Civil Procedure Code ...	194
(b) Land Acquisition Act ...	194
XI. The Punjab Regulation of Accounts Act, 1930 ...	194—198
7. Table of Cases ...	199—200
8. Index ...	201—204